

ISTITUTO PAPIROLOGICO "G. VITELLI"
FIRENZE

ATTI DEL
XXII CONGRESSO INTERNAZIONALE
DI PAPIROLOGIA

Firenze, 23-29 agosto 1998

a cura di

Isabella Andorlini	Guido Bastianini
Manfredo Manfredi	Giovanna Menci

Volume I

Two Contracts of Marriage of Papyrus Collections
in Cairo and Copenhagen

ALIA HANAFT

1. A GREEK CONTRACT OF MARRIAGE

Pl. XXV

P.Cair. inv. s.r. 3733 (22)
23.3 x 15.5 cm

Provenance Hermopolis
VI AD

The papyrus is badly mutilated and has many lacunae in various parts. Peeling, particularly at the left-hand-side, has damaged the surface. The papyrus has no margins except on the right-hand side. The loss on the left hand side holds the beginning of all the lines. It is to be noted that there is a space of one line between lines one and three.

The handwriting is a good, regular, upright type executed by an expert hand. The hand is similar to that of *P. Gen. inv. No. 210* (Aphrodite 551?) Seider, *Paläographie der griechischen Papyri*, No. 59 (525 AD Hermopolis = BGU IV 1094, and Thompson, *Greek and Latin Palaeography*, Facsimil No. 39 (595 AD) the upper part, p. 179.

The document is a marriage contract. According to H. I. Bell *P. Lond. V* 1710, introduction, and O. Montevicchi, "Ricerche di sociologia nei documenti dell'Egitto Greco-Romano", *Aegyptus*, 16, 1936, p. 6, marriage contracts of the sixth century are rare in Byzantine period (see O. Montevicchi, *La papirologia*, Milan, 1988, pp. 206-207, and Taubenschlag *The Law*, pp. 101-103). In that case the rarity of this kind of contract in the Byzantine period makes this fragment worthy of publication. It has in particular the name of the locality that is Hermopolis (cf. l. 1 Ἑρμοῖ πόλει), and the form that declares the purpose of marriage (cf. l. 7 ἐπ[ὶ] [χ]ρ[η]σ[τ]α[ί]ς [ἐ]λ[π]ί[σ]ι κ[α]ὶ τέκνων ἀγαθῶν αἰσία σπορά, and see O. Montevicchi, *ibid.* p. 19).

This contract is an agreement between a certain Victor and Eucharistia. Both the bride and the bridegroom are Greeks as their names referred to. The latter seems to have been accompanied by a guardian (κύριος) (cf. l. 1 μετὰ τῷ Παρθενίῳ, l. 6 ἐξε]δόμην Βίκτορι τῷ υἱῷ Σούτου Taubenschlag, *ibid.* p. 48). His name is Parthenion and it seems that he is connected with the ducal τάξις (cf. ll. 5-6 τῆς σεμ[ν]ῆς ἡ[γ]εμονικῆς

(τάξεως). Usually κύριος is the bride's father. He acts for her either in contract of marriage or divorce (cf. *P. Oxy.* 129 = *M. Cbr.* 296 (VI AD) where the indignant father felt bound to inform his erring son-in-law that the marriage was dissolved). One may think of a contract of divorce because there is no sign clearly indicating the kind of the contract (e.g. the word ὁ γάμος in marriage contracts or περίλυσις in divorce contracts). The evidences, especially, the phrases lines 7, 8, 9, 10 [good hopes and auspicious seed of good children, good concord both life and inhabiting without envy, and in one well-living family and inhabiting] indicate that this is a contract of marriage more than a contract of divorce. The contract, almost, collects the statements matched a contract of marriage.

For a list of deeds of marriage occurring in papyri see O. Montevicchi, *op. cit.* II, "I contratti di matrimonio e gli atti di divorzio", *Aegyptus*, 16, 1936, p. 6, Taubenschlag, *op. cit.*, p. 101. For Byzantine period, there have survived at least nine not eight as C. Kuehn says in *ZPE* 97, 1993, p. 105, because *P. Vind. Bosw.* 5 (305 AD) should be added to the list of C. Kuehn (see C. Kuehn, *op. cit.*, p. 105, and note 11).

On the subject of marriage and divorce see, J.G. Winter, *Life and letters in the Papyri*, p. 127 ff.; Paul Collinet, *La Papyrologie et l'histoire du droit*, 2 *La famille*, A. *Le mariage, le contract de mariage et le divorce*, pp. 196-199 in *Münchener Beiträge zur Papyrusforschung und antiken Rechtsgeschichte*, München 1934), L. Mitteis, "Papyri aus Oxyrhynchos" (*Hermes*, 34, 1899, pp. 105, 106) who discusses the ρεπούδιον in *P. Oxy.* 129.

The verso is blank.

recto

→ [] ἐβ[δ]όμ[ης] ἰνδ(ικτίονος) ἐν Ἐρμού πόλει
 [τῆ λαμπροτάτῃ?] vac.
 [] ἐπάνω τοῦ Ἐρμού λάκκου
 [] μετὰ τῷ Παρθενίῳ
 5 [] τῆς σεμ[ν]ῆς ἡ[γ]εμονικῆς
 [τάξεως ἐξε]δόμην Βίκτορι τῷ υἱῷ Σούτου
 [ἐπ]ὶ [χ]ρ[η]σ[τ]α[ί]ς [ἐ]λ[π]ί[σ]ιν κ[α]ὶ τέκνων ἀγαθῶν αἰσία σπορᾶ
 [ἐν? ε]ὐ[ν]ομία ὁμονοία καὶ βιώσει καὶ οἰκῆσει ἀφθόνως ὅπερ
 [] μοι τῆς κοινῆ[ς] ὑμῶν σ[υ]μβιώσεως καὶ συνοικῆσεως
 10 [] ἐν μιᾷ ε[ὐ]ζωίᾳ κ[α]ὶ οἰκ[ή]σει πρὸς τὴν ἀγαθὴν αὐτῶν
 [] ..[...] Βίκτορος ἐπεζητήσατε πρὸς ἐμὲ
 [] ν[.]ν τὴν Εὐχαριστίαν παρὰ
 [] τα .[...] η[.] η κ[α]ὶ τὴν παροῦσαν
 [] .. μητ[.]λου τινος πράγμα[τ]ος

15 [] ἰθ[υ]γ[α]τρι[] λ[] τ[ο]τ[.]..
 [] .σ[] π[ο] .[] ο[υ] .[]
 [] η[.]...[]
 [] .π[]

Translation:

.....] of the 7th indiction in Hermopolis
 [the most illustrious city] vac.
] in front of the cistern of Hermes
] with Parthenion
] of the august Prefect's
 officium]] I gave to Victor son of Soutes
] with good hopes and auspicious seed of good children
 [in good] concord both life and inhabiting without envy wherefore
] of your common wedded life and cohabitation
] in one well-living family and inhabiting towards their good
 of Victor. You required before me
] the well born? Eucharistia
] and her present

Traces of more 4 lines

Commentary:

1.] ἐβ[δ]όμ[ης] ἰνδ(ικτίονος) ἐν Ἐρμού πόλει: This part of the date indicates that only the date has been lost from the beginning of the document. Dotted letters are very doubtful, and it is noticeable that there are two dots of ink under the doubtful letters εἰ of πόλει. If the reading of Ἐρμού πόλει is right, the provenance is Hermopolis.

2. There is a space between lines one and three which perhaps held the word τῆ λαμπροτάτῃ (cf. *P. Lond.* 1712, 3, and 1713, 4) or ὁ γάμος (cf. *P. Lond.* V 1710, 4), or it may have nothing (cf. *P. Herm.* 29, 3),

3. ἐπάνω τοῦ Ἐρμού λάκκου: This line perhaps bears the address of the bride and her κύριος, whose name is Parthenion according to the order of the document (see l. 4). In Hermopolis, the documents mention some λάκκοι. Sometimes as a cistern, from which the water was distributed on vineyard (cf. *BGU XII* 2160 note 12), or as a small reservoir made by a dam (see *P. Herm.* 34 note 12). Here I think this λάκκος is the main cistern of Hermopolis, and it is one of the outstanding marks of the city. The bride and her κύριος lived south (ἐπάνω) to the cistern. For λάκκος see Danielle Bonneau, "L'administration de l'irrigation dans les grands domaines en Égypte au VIe siècle de N. E.", in *Proceedings of the twelfth international Congress of Papyrology*, Toronto 1978, pp. 50-51.

4.] μετὰ τῷ Παρθενίῳ: This may be the name of κύριος who

accompanies the bride, and acts for her (cf. *P.Cair. Preis.* 2 (262 AD), and see the introduction). Parthenion may be also a member of the ducal staff (cf. l. 5 τῆς σεμ[ν]ῆς ἡ[γ]εμονικῆς / [τάξεως]).

5.] τῆς σεμ[ν]ῆς ἡ[γ]εμονικῆς / [τάξεως: In *P. Lond.* 1710, 11, the bridegroom was a *singularis*, possibly in the ducal τάξις (see *P. Lond.* 1710, the introduction). Here, it seems that Parthenion, the κύριος, acts in the ducal τάξις. For] τῆς σεμ[ν]ῆς ἡ[γ]εμονικῆς applied to the τάξις see *PCM* 67019, 2 “τὴν ἐ[πι]χώριον σεμνήν πολι[τι]κὴν τάξιν”, 67057, II, 18 “τῆς ἡγεμονικῆς τάξεως” (= the *officium* of the Prefect: ἡγεμών or ἄρχων). For the role of the Prefect's *officium* see Rouillard, *L'administration civile de l'Egypte byzantine*, pp. 46-47, *P. Graz*, in *Archiv* II, p. 183).

6. ἐξε]δόμην Βίκτορι τῷ υἱῷ Σούτου: (I gave to Victor son of Soutes). Usually, contract of marriage is directed to the bridegroom (cf. *P.Oxy.* 129, 2 “ἐγ[ὼ] Ἰωάννης πατὴρ Εὐφημίας τῆς ἐμῆς ὑπεξουσίου θυγατρὸς σοι Φοιβάμμωνι τῷ εὐδοκ(ιμω)τ(άτω) μου γαμβρῷ”). So the name of the bridegroom is Victor. The name Σούτης in Greek document is rare. At my knowledge, only one name appears from the fourth century (see *P. Cairo Goodsp.* 12, III, 13). W. Clarysse mentions it in his article “Greek Accents on Egyptian Names” (see *ZPE* 119, 1997, p. 180) to the Egyptian names ending in -ης, and their genitive is -ου.

7. ἐπ[ι] [χ]ρ[η]σ[τ]ι[α]ίς [ἐ]λ[π]ι[σ]ί[ν] κ[α]ι τέκνων ἀγαθῶν αἰσία σπορῶ: The traces of this line are meagre, but seem enough to confirm this formula which was of common occurrence in the 6th and 7th centuries in contracts of marriage and divorce, to announce the aim of the marriage. (See, Montevecchi, *op. cit.*, *Aegyptus* 16, 1936, p. 75). In contract of marriage see *P. Flor.* 93, 10 (569 AD) “πρώην συνήφθημεν ἀλλήλοις πρὸς γάμου καὶ βίου κοινωνίαν ἐπὶ χρησταῖς ἐλπίσι καὶ τέκνων ἀγαθῆ σπορῶ”. In contract of divorce see *P.Herm.* 29, 9-10 (586 AD) “ἐπεὶ περ πρώην συνήφθημεν ἀλλήλοις πρὸς ἔννομον γάμον καὶ βίου κοινωνίαν καὶ τέκνων σπορῶς χάριν κατὰ τὴν ἐν ἀνθρώποις ἐπὶ χρησταῖς ἐλπίσιν, ...”; *BGU XII* 2203, 8 (571 AD) “ἐπειδὴ πρώην συνήφθησαν ἀλλήλοις πρ[ὸ]ς ἔννομον [γάμον καὶ βίου κοινωνίαν τέκνω]ν σπορῶς χάριν ἐπὶ χρησταῖς ἐλπίσιν.

8.] .[.]ομια ὁμοιοία καὶ βιώσει καὶ οἰκήσει ἀφθόνως ὅπερ:] .[.]ομια: The reading of the letter *omicron* is uncertain. It is either *omicron* or *nu*. ἐν ε]ὐ[ν]ομια ὁμοιοία (= in loyalty concord) may be read. For the expression, see *Caria*: Halikarnassos 4, 8. One may read ἐν μία ὁμοιοία (= in one concord). The letter η of οἰκήσει: *corr.* from οἰκέσει.

9. τῆς κοινῆ[ς] ὕμων σ[υ]μβιώσεως = βίου κοινωνίαν = Community of life (cf. *PCM* 155, 11; *BGU XII* 2203, 9; *P.Lond.* 1713, 16. η of συνοικήσεως: *corr.* from ε of συνοικέσεως.

11-14. These lines have suffered some losses and abrasion, so that the text cannot be read except for a few words on the right side.

11. ἐπεζητήσατε πρὸς ἐμὲ: This line indicates that this contract was drawn up in an official place where the verb ἐπιζητέω means request (= πρὸς τινὰ ὁμολογίαν) (see *LSJ*, and *PCM*, 156,76 (VI AD)), and the proposition πρὸς itself with the accusative case indicate a legal or other business transacted before a magistrate. According to *Gnom.* 100, contracts should be registered in an official office. The contract should be either two copies for both parties or one copy that may the wife should keep it, the taxes and the registration fees should be paid by both parties (cf. *P.Oxy.* XII 1473, 17-20). The traces before Βίκτορι are so meagre that cannot be read.

12.]ν[.]ν. τὴν Εὐχαριστείαν παρά: The traces before Εὐχαριστείαν, the bride's name, are unreadable, except for a few letters. εὐγέ]ν[ε]ια]ν may be read, but the trace of one letter after the *nu* makes the reading doubtful. εὐγε]ν[ε]σ[τ]άτην is not a possible reading. The title εὐγενεστάτη occurs especially in the 6th/7th centuries AD as a regular use for women (see *P. Wisconsin* I, p. 32). Εὐχαριστείαν (*l.* Εὐχαριστίαν): The name Εὐχαριστία is very common in Hermopolis (cf. *BGU XII* 2157, 2; 2159, 2; 2165, 8; 2166, 8).

13.]τα .[.] η κ[α]ι τὴν παροῦσαν: Two certain letters begin the line, after which is 1) a trace of one letter. 2) a gap suitable for one letter. 3) two feet of uprights fairly close together, which might well be taken together as η. 4) a gap suitable for 1 to 3 letters. 5) an uncertain η. 6) a doubtful κ or ε. 7) a gap suitable for 1 to 2 letters; it is not κατὰ τοῦτο εἰς τὴν παροῦσαν ἔγγραφον (cf. *PCM* 67211, 17).

14.] .[.] μητ[ε]ρ[ος] τινος πράγμα[τ]ος: The legible part begins with the traces of two letters perhaps τε, after which are two feet of one letter close together under a gap. It is more suitable for μ than β. It is followed by η. After that there is an oblique foot that appeared to be a half of the letter τ followed by a gap big enough for about five letters. A doubtful λ and two letters that may be ου. A letter may be τ or γ. Two clear letters ιν. Another two doubtful letters may be ος. Five letters are clearly πραγμ. An uncertain letter may be omicron or α. Two letters above the line may be ου or ος. μὴ π[ε]ρὶ ἄλλου τινὸς πράγμα[τ]ος may be possible reading. In divorce contract we may find a clause but not very similar to ours here. Cf. *PCM* 67153, 19 “μὴ περὶ ἄλλου οἰουδήπο[τε] πράγματος” *P.Lond.* 1713, 27 “μήτε περὶ ἄλλου τινὸς πάποτε πράγματος”.

2. AN ARABIC CONTRACT OF MARRIAGE

Pl. XXVI

Parch. Haun. Inv. Arab. 15

No. (A) 27 x 11.2 cm.

No. (B) 17.7 x 9.3 cm.

No. (C) 12.4 x 10.2 cm.

No. (D) 12.6 x 5.5 cm.

Provenance unknown
20th- 30th Ragab 413 AH
(= 20th-30th Oct. 1023 AD)

White vellum. Four fragments. The text of the document is written on the flesh side, in sixteen lines, in black ink. The back that is yellow colored is blank. The vellum had doubled vertically at first, and then it has been folded 5 times, parallel to the lines.

The document has been written by more than one hand. The first hand is of the scribe. He wrote the text in a fair *naskh*, large and clear letters. He used a thick pen and heavy black ink in written the text. The other hands that are of the witnesses are about sixteen. They are extremely cursive with peculiar ligatures and some typical abbreviations (see *APEL*, II. Index "Abbreviations" and "ligatures"). They used either a fine pen or a thick pen. Usually Diacritical points, except for a very few instances, are lacking.

The place of discovery is unknown, but it is situated in Upper Egypt where the contracting parties have lived (cf. L. 3).

The document is a contract of marriage. It is drawn up according to the usual Muslim law and procedure. It is dated in Muslim era, in the period of the Fātimid Chalif, Abūl-Hassan 'Aly Ez-Zāhir Li-I'zāz Dīn-Allah الظاهر لإعزاز دين الله أبو الحسن على (from the 10th Dūl-Hiġġa 411 AH to 15th Sa'bān 427 AH = 27th March 1020 AD to 13th June 1035 AD). See L. Poole, *The Mohammadan Dynasties*, p. 71, and F. Wüstenfeld, pp. 219-226. The contract is witnessed entirely by Muslims. Marriage's contracts are not so common in Arabic papyri because marriage's contracts are generally merely verbal; but sometimes a certificate is written and sealed by the qādee (see E. Lane, *Arabic Society in the Middle Ages*, p. 230).

Among the Arabs this kind of contract called *nikāh* (see سنن الترمذی, vol. 3, no. 1085, p. 386). The contract itself has been written in nine lines. The structure of the contract resembles that of most the marriage's contracts, which have been published previously. It conforms most closely in structure and phraseology to those of other contract's marriage published in *APEL* I 38 - 50. The witnesses used up the space at the end of the lines. Nearly, their signs were arranged in four columns. One may conclude that the witnesses, when they have signed the contract, have arranged themselves, one from the family of the bridegroom and the follower is from the family of the bride. This conclusion is according to the statement of each witness. We find that always the first witness testifies on the acknowledgment of the *wāli* and the husband, and the follower assigned on behalf of the bride (see ex. Ll. 17; 18). To my knowledge, this arrangement in this kind of contract is new. It is noticeable also that the witnesses when they signed the contract they dated their signs by the year thirteen only, ignoring the year four hundred as we do to day.

The sum stipulated as dowry is lost, but the balance is 8 *dinars* (see L. 5). According to *Shāfi'ite* school, the half of the dowry has to be paid down (see, D. Santillana, p. 170, 173 ff.). Probably, the dowry was 16 *dinars*. It could be also less than this sum because the sum 8 *dinars* could be 1/2 or 2/3 or 3/4 or 3/5 or 7/8 etc., according to the list registered in *APEL*, I, 38, note 6.

FRONT

- ١- بسم الله الرحمن الرحيم وما توفيقى < إلا بالله عليه توكلت وهو رب < العرش > العظيم .]
- ٢- [هذا ما أصدق [دق نجيم بن حد وفه الوانى زوجته ملكه ابنت حسين ولـ {يـ} و {ا} ليها الضويدى؟ وهما يومئذ اجتمعوا بالـ]
- ٣- [..... بصعيد مصر أصدقها صداق تزوجها وتملك به عصمتها و...]
- ٤- [دنانـ]ير وازنة جيادا بالذى ذهب به النكاح وثبت العقدة قبل دخوله عليها وإصابته ايا [ها
- ٥- [نقدها من ذلك دينارا و]ازنة نقدا بالجديد حـ < ا > لا معجلا مقبوضا قبضت منذ ذلك وأخرت ثمانية دنانير إلى انقضاء سنين < متـ > < ليـ > {ـ} بات أولهن سنة ثما [تية
- ٦- [عشر وأربعمائة؟ وسلمهـ]ـها إليه وعليه أن يتقى الله العظيم فيها وتكون عنده فى أمان الله وأمان نبيه محمد صلى الله عليه وسلم تسليما سلـ [مت] [إليك بخير وحسن الـ] صحبة بالمعروف؟]
- ٧- [فى صحة عقولهما وأبدا [هما و]جواز أمورهمـ]ـا طايعين فى الدين راغبين غير مكرهين ولا مجبرين [ولا مضطهدين]
- ٨- [طيبة بذلك] نفسها وذلك فى العشر الأخير من رجب سنة ثلاث عشر وأربعمائة شهد على إقرار الولى والزوج والشاهدين جميعا [الشيخ؟
- ٩- وكفى بالله شهـ]ـدا

Col. I

- ١٠- فشهدوا ، شهد على إقرار الولى والزوج
- ١١- عنها قنيد <ة> كيبية عيد الذيل [عقد فى ثلاث عشر
- ١٢- شهد أبو حليم بن حسين على إقرار [الولى والزوج
- ١٣- [عنها] ... بن؟ عبدون اليسـ [عقد فى ثلاث عشر

Col. II

- ١٤- شهد أبو بكر بن بعـ]ـر على إقرار [الوالـ]ـى والزوج
- ١٥- عنها عبد الله بن حسن عقد؟ فى ثـ [ثلاث عشر
- ١٦- شـ]ـهد [فلان بن فلان [على إقرار [الوالـ]ـى والزوج

Col. III

- ١٧- شهد قاسم بن محمد بن عامر على إقرار الولى والزوج
- ١٨- عنها عبد الله بن أحمد عقد فى ثلاث عشر
- ١٩- شهد [عبد الملك بن العمير [على إقرار الولى والزوج
- ٢٠- [.....]
- ٢١- [عنها عثر بن؟ أحمد بن حسن عقد؟ فى ثلاث عشر
- ٢٢- شهد [بن ثمير <ا> بن بكر بن سوار
- ٢٣- [عنها] عقد فى ثلاث عشر

Col. IV

- ٢٤- شهد ماشاء الله بن بكر بن الجواز [على إقرار الولى والزوج
- ٢٥- عنها [فلان بن فلان عقد] فى ثلاث عشر

TEXTUAL NOTES:

Line (2) The *qaf* of *أصدق* is dotted.

نجيم: The letter *nūn* of *نجيم* is dotted. It takes the form *فعليل*. It is diminutive of *نجم* (see W. Wright, p. 166).

حذوفة: The letter *fa`* is dotted. I could not find a proper name called *حذوفة*. There is *حذيفة* (see *Ībn Mānzūr*, vol. 2, p. 811 'رجل' *أو حذيفة اسم رجل*). Could the scribe mean *حذيفة*? The proper name can be an epithet also. (See W. Wright, p. 108). So, *حذوف* which means the swift and fat camel may be meant (see *Ībn Mānzūr*, vol. 2, p. 811 'الدواب: السريعة'). *حذافة* (والسمينة) is registered in *kitāb nāsāb Kūraish* p. 3751.

الوانى: the letter *nūn* is dotted. *الوانى* is a proper name here. In *Ībn Mānzūr* *الوانى* is an epithet. It means the weak one (see *Ībn Mānzūr*, vol. 6, p. 4928, 'فهو وان'). The letter *ta`* of *زوجته* is dotted.

ابنت: Usually *ابنة* is used when a genitive follows. It is formerly preferred except at the beginning of a sentence. The form *ابنت* occurs in the Holy *Qūr'ān* (see *Sūrat. التحريم*. 66: 12 'الخ' *ومريم ابنت عمران*...) and often in Manuscripts as here.

ولـ {يـ} و {اـ} ليها: The scribe used the letter *ya`* instead of *kasra*, and *alif* instead of *fāthā* of *wāw*.

الضويدي: Although the letter *ya`* is too small the reading seems good. *الضويدي* is a family name for one family of *أل محلف* which is a part of the tribe of *'Anza*. *'Anza* is one of the tribes lived in *Arabia insula* (see *كنز الأنساب*, p. 78). One may read *الصيداوى* (see *Al-Dhababī*, p. 413). If this reading is acceptable, we may conclude that some members of this family had lived in Egypt in that time

Line (3): There are heads of about four letters above the lacuna at the beginning of the line. They belong to same line.

إصداقها: The letter *qāf* is dotted. Usually, *صداقها* is used in thus kind of contract (see *APEL*, vol. I, 38, 2). *إصداقها* could be used grammatically. It takes the form *أفعال* (see W. Wright, I, p. 116). Better to be read *أصد {ا} قها* see *APEL* 38, 5.

تزوجها: The *ta`* of *تزوجها* is dotted.

After *وتملك* only the letter *wāw* appear. After it there are heads and legs of about four letters.

Line (4). Only the *yā`* and *rā`* of *ير [د نائـ] ير* appear. The *yā`* is dotted.

وثبت (L. وثبت): The letter *thā`* was written *tā`*.

Line (5) متواليات (parch. توليلات).

Line (6) وسلمـ[ها إليه]: The letter *alif* appears after the lacuna.

Line (7) في صحة عقولهما وأبدا[نهما] و [جواز أمورهما]: The beginning of the line is lost. Only heads of some letters remain at the lower edge of piece (A), but the rest of the letters occupies the first line of piece (B) and (C).

وأبدا[نهما]: the heads of the letters *dal*, *alif*, and *nun* are at the lower edge of the first line of piece (A) while the letters *ha`*, *mim*, and *alif* are at the first line of piece (B).

و [جواز أمورهما]: the letter *wāw* is before the lacuna and the letter *alif* is after the lacuna.

طانعين L. In manuscripts we find traces of a softer pronunciation, or total rejection, of the *hēmza* (تخفيف الهمزة) as *منة* for *منة* (see W. Wright, pp. 18, 73).

Line (8) ثلاث: This word falls in lacuna. The legs of its letters are at the edge of piece (D), while the heads at the edge of the second line of piece (B).

والشاهدين: The letter *wāw* was written twice, one above the other; the first is with faint ink, the second with bold.

Line (9) وكفى (parch. وكفا).

Line (10) After شهد there is a letter could be *sîn* or *shîn*.

Line (11) قنيد < > : قنيدة or قنيدة is found in Al- Dhahabî, p. 536).

كبيبة: The reading of the letter *kaf* is doubtful. It looks like the letter *dal* of قنيد but there the head of the letter *kaf* is above the lacuna. كبيبة or كتيبة or كنيبة may be read (see Al- Dhahabî, p. 543).

الدئل or الدئل or الدئل: الدئل may be read (Al- Dhahabî, p. 292).

Line (13) عيذون or عيذون may be read (see Al- Dhahabî, p. 434).

Line (14) بعد شكر: The reading is doubtful. There is a dot under the letter 'Ayn. It may be the dot of the letter *bâ*'. Another dot is above the letter *râ*'. It may denote to the letter *thâ*'. بعثر or بعثر may be read (see Al- Dhahabî, p. 86).

Line (15) ثلاث عشر (pap. ثلاث) should be here as in lines 18; 21.

Line (17) قاسم بن محمد: The final *mîm* of قاسم is ligature to the initial *bâ*' of بن

عامر: The reading is doubtful. The final *nûn* of بن is ligature to the second letter *alif* of عامر where it is written down it.

Line (19) العمير: See Al- Dhahabî, p. 474.

Line (22) سوار See Al- Dhahabî, p. 376.

Line (24) ماسا: There is ماسى and ماشى in Al- Dhahabî, p. 565. Al- Dhahabî says these two names look like *nesba*. One may read ماشاء الله which I prefer although there is a doubt in reading the *hamza*.

بيبة: البيبة and بيتة may be read (see Al- Dhahabî, p. 45.)

الجواز: See Al- Dhahabî, p. 187.

TRANSLATION:

- 1- In the name of Allah, the Compassionate, the Merciful, and my success is only with Allah, in Him do I trust, and He is the Lord of the Mighty [Throne].
- 2- This is what Nûgeim son of Hadhûfah al-Wany has assigned as a dowry to his wife Malakah daughter of Hussein and her guardian, al-Dûaydy, and in that date they assembled in
- 3- [] in Upper Egypt. He has assigned to her in exchange for her marriage a dowry, and with it he holds her prevention and
- 4- [.....] *dinars*, full weight, good pieces in exchange of the marriage and of declaring that the marriage is valid, before going into and obtaining his enjoyment from her.....
- 5- [He paid cash down from this ... *dinars*] full weight, cash according to the new (standard), an immediate payment cash down, taken now and she has taken over in the same time and eight *dinars*, the reminder of her dowry are outstanding to his debit till the expiration of successive years reckoning from the year [four hundred and] eighteenth
- 6- [and he gave her?] to him, and it is obligation in respect of her to fear Allah, the most High and to be in his home in the safety of Allah, and of His Prophet Muhammed - may the blessing of Allah be upon him and may He give peace, with full peace. She was given to you in good state, and to render relation with pleasure in kindness?
- 7- [..... They, being in a state of (sound) mind, and] body, and [capable of transacting their business,] voluntarily according to the religious, willingly, without compulsion and not against their will, [and not under constraint]

- 8- [and with her consent she gave] herself, and this is in the last decade of Ragab of the year four hundred and thirteenth. [So-and-So] has testified to the acknowledgment of the trustee and the husband and so all the witnesses.
9- and Allah is sufficient as Witness. Vac.

Col. I

- 10- They testified. He has testified to the acknowledgment of the trustee and the husband.
11- On behalf of her, Qunida Kubibah Eed al-Dil, [(the contract of marriage) has been written in thirteenth].
12- Abû Halîm ben Hîssein has testified to the acknowledgment of [the trustee and the husband].
13- On behalf of her] ... ben? Abdûn Al- Sa[, (the contract of marriage) has been written in thirteenth].

Col. II

- 14- Abû Bakr ben Bu`thur has testified to [the acknowledgment of the trustee] and the husband.
15- On behalf of her, Abdou-Allah son of Hassan, (the contract of marriage) has been written in [thirteenth].
16- [So and So] has testified to the acknowledgment of [the trustee] and the husband.

Col. III

- 17- Kasim ben Muhammed ben 'Amer has testified to the acknowledgment of the trustee and the husband.
18- On behalf of her, `Abdu-Allah ben Ahmed, (the contract of marriage) has been written in thirteenth.
19- 'Abdel-Malîke ben Al-Omîr [has testified to the acknowledgment of the trustee and the husband].
20-].....
21-] On behalf of her, 'Athr ben? Ahmed ben Hassan, (the contract of marriage) has been written in thirteenth.
22-] ben Thûmeira ben Bakr ben Swar [has testified to the acknowledgment of the trustee and the husband].
23-] On behalf of her, (the contract of marriage) has been written in thirteenth.

Col. IV

- 24- Mashâ' Allah ben Bakr ben al-Guâz has testified [to the acknowledgment of the trustee and the husband].
25- On behalf of her, [So and So], (the contract of marriage) has been written in thirteenth.

COMMENTARY:

L.1- وما توفيق إلا بالله (توفيق parch. توفيقى :وما توفيق-ى>): Grammatically, the sentence is correct. Better is to use the arrangement of *Sûrat Hûd* no. 11: 88 "وما توفيقى إلا بالله",

وهو (العرش). For وهو (رب) should be written if we did not add the genitive (العرش العظيم (see *Sûrat At-Tûba* 9:129. It was a custom to join the *Basmala* to another religious formula (cf. *APEL*, I 37, note 3, p. 63-64; also cf. the formula وما توفيقى إلا بالله which occurs on a cornelian seal published by J. V. Hammer - Purgstall, I, p.16 (sep. p. 26), see *Sûrat Hûd* 11: 89, and *Sûrat At-Tuba* 9: 129-130). At

the end of the line, there is a trace of a letter. It may be a part of another glorified word like *الحكيم* or *الكريم*.

L. 2- هذا ما اصدق [صدق] : For the restoration see *APLE* I, 38, 2, *ibid.* 40, 2, *ibid.* 41, 2.

أصدق (= He has assigned as a dowry) is a verb from the noun *صداق* *sadāq*. In Islam *sadāq* means dowry and is synonymous with both the common word *مهر* *mahr* (see Ibn Mānzūr, vol. 6, p. 4286 "المهر = الصداق") and the rare word *الباءة* (see الترمذى, vol. 3, no. 1081, p. 383). Seven synonymous for *sadāq* appeared in one poem (صداق ومهر نحلة) (see الترمذى, vol. 3, no. 1081, p. 383). Seven synonymous for *sadāq* appeared in one poem (صداق ومهر نحلة) (see الترمذى, vol. 3, no. 1081, p. 383). Fyze says that the word *صداق* is a gift to the wife, and *مهر* to the parents of the wife which is unusual (see, Fyze, pp. 132 ff.).

هذا ما اصدق فلان زوجته فلانه is very common formula in contracts of marriage (cf. *APLE* I 45, 7 "قبضته منه لنفسها" (= She has taken over from him for herself), *ibid.* 42, 4 "براءة قبض = a receipt (= acknowledging that she has received and taken it over fully). Of course, it is known that the father or the guardian of the girl, under age, receives the dowry which is considered as her property, and generally he expends it, with an addition sum from his own purse, in purchase of necessary furniture, dress...etc, for her. The husband can never take it from her against her own wish (see *Sūrat An-Nīsā* 4:21 "وان أردتم استبدال زوج مكان زوج وآتيتم إحداهن قنطارا فلا تأخذوا منه شيئا (= and if you desire to take one wife in place of another and you have given one of them a treasure, take not ought there form).

ولوليتها: It seems that the bride *Mālākāh* was under the age of puberty and she was orphan. So, it is absolutely necessary to appoint a *wākeel* (= deputy) to the compact and conclude the contract, for her, with her proposed husband. Therefore, *الضويدي*, the *walī*, the sponsor has concluded, as her agent, the contract with her proposed husband (see Fyze, p. 208 ff.). As a rule, if a female is about to marry and she is under the age of puberty, it is necessary to have a sponsor or *walī*. In Muslim's law, as the prophet Mohammed said: "لا نكاح إلا بولي" (see الترمذى, vol. 3 no 1101, p. 398). Usually, the *walī* is her father. He owns the *wilāyat al-ijbār* or *patria potestas*, if he is living (cf. *APEL* 39, 3). Or her nearest adult male relation (cf. *APEL* 44, 10 "الولى هو العم" = the sponsor is her uncle), or a guardian appointed by will, or by the *kādee* if her father died (see E. Lane, *Manners and Customs of the Modern Egyptians*, p. 163). The purpose is to perform the office of *wākeel*. But if she be of age, she appoints her own *wākeel* (cf. *APEL* 40, 3-5 "وهي امرأة أيم بالغ تلى نفسها.. أشهدت له شهودا بتوكيلها إياه" (= She being an unmarried, adult woman, acting for herself.... And has called witnesses for him with respect to her having entrusted him to act for her), *ibid.* 44, 10; 41, 4; 42, 8), or may even make the contract herself, although the *Mālekite* school considers that marriage without *walī* is null (*fāsid*) cf. D. Santillana, I, p.178).

L. 3- Only head of about eight lines remains after the lacuna. The lacuna should contain the name of the town where the bride resides. Of course the town should be one of those in Upper Egypt (بصعيد مصر) as the document states.

[بصعيد مصر] الساكنين مدينة الأشمونين [بصعيد مصر] may be restored (cf. *APEL* 45, 15).

Ll. 4/5- The giving of the dowry is indispensable (see *Sūrat An-Nīsā* 4:5 "وأتوا" = and give the woman their dowries willingly"). The dowry (*sadāq* or *mahr*) might be at least 16 *dīnārs* since by custom, the half of the dowry might be paid cash down before making the contract (cf. L. 4 "قبل دخوله عليها" and L. 5 "قبضت"). The balance due (in our case 8 *dīnārs* cf. L.5) should be paid after a definite time, determined in the contract. Usually the balance held in reserve to be paid to the woman in case of her divorce or in case of the husband's death. The highest dowry we know is 90 *dīnārs* (see Nabia Abbott, p. 59-81). The documents show us different sums of

dowry (see *APEL* 38, note 6). *Mālikite* school sets minimum of 3 *dirhams* (1/4 of a *dīnār*) while the *Shāfi'ite* of ten *dirhams*. Any way there is no limit for the dowry (see *Sūrat An-Nīsa* 4, 237 "ومتعوهن على الموسع قدره وعلى المقتر قدره" (= But provide for them the rich man according to his means and the poor man according to his means).

L.5 : وازنة نقدا بالجديد (= according to the new stander) mentions to the new *dīnār*. It had been minted under the *Fātimid* Caliph *Ez-Zāhir li-I'zāz Dīn-Allah* in the year 423 AH in Alexandria (see J. Karabacek, no. 1-2, pp. 619-620).

Many varied terms are used in connection with *dīnār*. وازنة (= full-weight), جيد (= good pieces), معسولة (= true), عينا (= current coins), صحاحا (= correctly-minted) and مثاقيل (= *Mathāqīl*) see *APEL* 38, note 6, and N. Abbott, pp. 72, ff.

معجلا: For the term معجل (*mu'ajjal* = prompt) and مؤجل (*mu'ajjal* = deferred) (see *Fyzee*, p. 139).

وأخرت ثمانية دنانير إلى انقضاء سنين متواليات أولهن سنة ثمانية عشر وأربعماية: It is clear that the payment of the balance should be given after the expiration of five successive years, reckoning naturally from the date of the act (cf. *APEL* 45, 8-10 where the balance of 3 *dīnār* is payable within five successive nights from the date of the document). Payment of the balance in marriage contracts has varied forms (see *APEL* 38, note 6, p. 72).

L.6- This is an extension to the usual formula عليه أن يتقى الله العظيم فيها وتكون في أمان الله وأمان نبيه محمد صلى الله عليه وسلم (= and it is obligation in respect of her to fear Allah, the Most High and to make his relationship to and life with her pleasing). See *APEL* 38, 10-12; 39, 2; 41, 12-13; 42, 5-6; 44, 6-7, and *Nuzhat an-Nāzīrīn*, p. 140.

محمد صلى الله عليه وسلم تسليما: The formula of *Tasliḥa* is to be found in conjunction with *Basmala* in later official documents (see *APEL* 64, note 3).

سلمت إليك بخير: This expression, at my knowledge, did not appear in other contracts of marriage.

وحسن الصحبة بالمعروف: could be restored (see the same note above).

L. 7- في صحة عقولهما وأبدانتهما و[جواز أمورهما]: This guarantee of mental and bodily health, capacity for transacting affairs, consent ...etc. is necessary to the validity of contract (see *Fyzee*, pp. 112 ff.). The completion of this passage has been given on the analogy of *APEL* 39, 11-12; 42, 11; *P. Berol.* 8055, 21 ff. "في صحة عقولهما وأبدانتهما (= They being in a state of (sound) mind and body, and capable of transacting their business, voluntarily, without compulsion and not against their will and not under constraint).

L. 8- العشر الأخير من رجب سنة ثلاث عشر وأربعماية: The last decade of Ragab began on 20th September 1022 and ended 30th September 1022 A.D. For the fashion of dating dividing the month in three decades see *As-Suyūṭy*, p. 9, *APEL* 40, note 11). Usually, the most approved or propitious period for this act is the month of *Shawwāl*, and the most unpropitious *Moharram* (see E. Lane, *Arabian*, p. 230).

والشاهدين جميعا: The sentence [شاهد على إقرار الولي والزوج والشاهدين جميعا] needs a subject like القاضي (=the judge) or الشيخ (=Sheikh) which must falls in the lacuna (see *APEL* 45, 20 "شاهد على إقرار الزوجين والمتولى الشيخ"). It may be at the end of the line.

According to the Islamic law, marriage contract may be either Valid (*ṣāhiḥ*) or Void (*bāṭil*) or Irregular (*fāsid*), see *Fyzee*, p.112. A marriage without two Muslim witnesses becomes irregular marriage (*fāsid*) see *Al-Aḥkam Al-Sar'iyā* p. 3, no.7: لا يصح عقد النكاح إلا بحضور شاهدين حرين أو حر وحرتين عاقلين بالغين مسلمين... الخ (= and two just witnesses have testified on his behalf with regard to her consent). Another method for the announcement of marriage is to play the

tambourine besides witnessing as the prophet Mohammed said: "فصل ما بين الحرام والحلال" (= "the tambourine and voice separate between the illegal and legal marriage, see الترمذى vol. 3, no. 1188, 1089 pp. 389).

This contract contains more than sixteen witnesses although two are sufficient to validate the contract. N. Abbott in her article said, "It is difficult to see why so many witnesses were called on when a few were sufficient to validate the contract (see N. Abbott, p. 76). The answer seems to me that to sign a contract by so many witnesses is a sort of honoring for both the bride and bridegroom. For the dating of the witness's sign see introduction.

REFERENCE:

A- Primary sources:

- The Holy Qûr'ân (= القرآن الكريم):
 - *Sûrat Hûd* (= هود) no. 11.
 - *Sûrat An-Nisâ* (= النساء) no. 4.
 - *Sûrat At-Tahrim* (= التحريم) no 66.
 - *Sûrat AT-Tûba* (= التوبة) no. 9.
- Al-Dhahabi, *Kitab al-Mûshâtâbâh fi Asmâ al-Rijâl*, (= المشتبه), Cairo, 1962.
- *Al-Ahkam Al-Sar`ya* (= الأحكام الشرعية فى الأحوال الشخصية على مذهب الإمام أبى حنيفة النعمان) Cairo 1911.
- Ibn MANZÛR, *Lisân Al-'Arab* (= لسان العرب), ed. By 'Abdallâh 'Ali al-Kabîr, Muḥammad Ahmad Hasaballâh & Hâšim Muhammad aš-Šādîli, 6 vols., Cairo: Dâr al-Ma'ârif, 1981.
- As-Suyûfî, *Kitâb aš-Šamârih fi 'ilm at-Ta'rih* (= الشمارىخ فى علم التاريخ), ed. F. Seybold, Leiden, 1894.
- Taqî ad-Dîn 'Abd al-Malik b. Abi'l-Munâ, *Kitab Nuzhat an-Nâzîrîn* (= كتاب نزهة الناظرين), Cairo, 1308.
- Al-Turmudhy, *al-Gami' al-Šahih wa hwa Sunân al-Turmudhy* (= الجامع الصحيح (وهو سنن الترمذى), li-Aby `Ysa Mohammed ben `Ysa ben Sura (209-297 AH) Tahqiq Fuad Abdel-Baqy, Cairo

B- Secondary sources:

- Asaf A. A. Fyzee, *Outlines of Muhammadan Law*, 4th ed., Delhi, Oxford University Press.
- Al-Azhary, al-Sheikh Abdel-Baqy Aly Hassan, *Ag-Gwâher An-Naqyya fi A`mal Al-Ma`zwein As-Sar`ya wa An-Nidhamya* (= الجواهر النقية فى أعمال المأذونين الشرعية (والنظامية), Cairo, 1329 AH.
- D. Santillana, *Istituzioni di diritto musulmano Malichite con riguardo anche al sisteme sciafiita*, Rome, 1926.
- Edward William Lane, *Arabic Society in the Middle Ages*, London, 1883.
- E. Lane, *Manners and Customs of the Modern Egyptians*, London.
- F. Wûstenfeld, *Geschichte der Fatimiden-Chalifen*, Goettingen, 1881.
- Grohmann, Adolf (ed.) 1934-61. *Arabic Papyri in Egyptian Library*. Cairo.

- Hamad Ibrahim ben Abdoullah al-Huqyl, *Kinz al-Ansab wa magma` al-Adab* (= كنز الأنساب ومجمع الآداب), 12th ed. 1993, Ar-Riad, 1933.
- J. V. Hammer-Purgstall, *Abhandlung über die Siege der Araber, Perser und Türken*, *Akad. Wien Denkschr.* I (1850).
- J. Karabacek, *Bericht über zwei kufische Münzfunde*, *ZDMG* XXI 1867, no. 1-2)
- *Mûs'ab al-Zûbairi, kîtab nâsâb Kûraish* (= كتاب نسب قريش), *Dhakha'ir al-'Arab* 11, Le Caire, 1953, edited by E. Levi-Provençal.
- Nabia Abbott, *Arabic Marriage Contracts among Copts*, *ZDMG*, 95, 1941, p. 59-81).
- Stanley Lane Poole, *The Mohammadan Dynasties Chronological and Genealogical Tables with Historical introductions*, Paris, 1925.
- Wright, William. 1967. *A Grammar of the Arabic Language*, Ed. By W. R. Smith & M. J. de Goeje. 2 vols. London: Cambridge University Press.

اسم الله العظيم
 في يوم القدر وهو شهر رمضان المبارك
 في ليلة القدر وهو ليلة مباركة
 في شهر رمضان المبارك وهو شهر
 مبارك في كل عام
 في ليلة القدر وهو ليلة مباركة
 في شهر رمضان المبارك وهو شهر
 مبارك في كل عام
 في ليلة القدر وهو ليلة مباركة
 في شهر رمضان المبارك وهو شهر
 مبارك في كل عام
 في ليلة القدر وهو ليلة مباركة
 في شهر رمضان المبارك وهو شهر
 مبارك في كل عام
 في ليلة القدر وهو ليلة مباركة
 في شهر رمضان المبارك وهو شهر
 مبارك في كل عام

Parch. Haun. Inv. Arab. 15