

Arnaoutoglou, Ilias

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Ilias Arnaoutoglou

MARITAL DISPUTES IN GRECO-ROMAN EGYPT*

The conventional approach to the study of marital relationship and of divorce is largely confined to the study of marriage instruments (whereby the spouses and their parents arrange their patrimonial affairs and their duties towards each other) and divorce agreements (whereby they reaffirm the settlement of the property affairs and their freedom to remarry). This approach underlines par-

* References:

- J. BEAUCAMP (1990-92) — *Le statut de la femme à Byzance (4^e-7^e siècle)*, Paris 1990, 1992.
- J. BOSSY (1983) — *Disputes and Settlements. Law and Human Relations in the West*, ed. J. BOSSY, Cambridge 1983.
- B. EGGER (1994) — 'Women and Marriage in the Greek Novels: The Boundaries of Romance' in J. TATUM (ed) *The search for the ancient novel*, London 1994, pp. 260-280.
- W. ERDMANN (1941) — 'Die Ehescheidung im Recht der gräko-ägyptischen Papyri', *ZSS.RA* 61, 1941, pp. 44-57.
- G. HÄGE (1968) — *Ehegüterrechtliche Verhältnisse in den griechischen Papyri Ägyptens bis Diokletian*, Köln – Graz 1968.
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- E. KUTZNER (1989) — *Untersuchungen zur Stellung der Frau im römischen Oxyrhynchos*, Frankfurt a. M. 1989.
- J. LESQUIER (1906) — 'Les actes de divorce gréco-égyptiens' *RPhil* 30, 1906, pp. 5-30.
- E. LEVY, (1925) — *Der Hergang der römischen Ehescheidung*, Weimar 1925.
- A. MERKLEIN (1967) — *Das Ehescheidungsrecht nach den Papyri der byzantinischen Zeit*, Diss. Erlangen 1967.
- J. MODRZEJEWSKI (1961) — 'Les Juifs et le droit hellénistique. Divorce et égalité des époux (C. P. Jud. 144)', *Iura* 12, 1961, pp. 162-93.

ticularly the legalistic — formal aspect of drafting the divorce agreement while it sets aside essential features of the process that lead to this result. Although rich in content and clauses, these documents tell us only one part of the story; they reveal what was the socially accepted and expected conduct in marriage and illustrate the consensual end of the marital link. What, however, is not revealed is the process through which the spouses reached the brink of divorce, the disputes that fuelled the conjugal discontent, the party or parties who sought the separation and whose behaviour initiated it. In this respect, the corpus of petitions addressed to a variety of officials is very instructive, since it provides an insight into the mundane realities of everyday marital life.¹ Two contrasting cases will illustrate this point; *CPR I 22* (A.D. 138-161) is the marriage instrument of Syros and Syra, in which there is a detailed description of all the items of the dowry and provisions about them in case of divorce. A few years later the couple decided to end their marriage and a divorce settlement was agreed (*CPR I 23 = M. Chr. 284*, A.D. 138-161). These two documents, although preserving the two essential points of the marital relationship,

J. MODRZEJEWSKI (1970) — 'Zum hellenistischen Ehegüterrecht im griechischen und römischen Ägypten' *ZSS.RA* 87, 1970, pp. 50-84.

J. MODRZEJEWSKI (1984) — 'La structure juridique du mariage grec' [in:] *Scritti in onore di O. Montevicchi*, Bologna 1984, pp. 231-268.

O. MONTEVECCHI (1936) — 'Ricerche di sociologia nei documenti dell'Egitto greco-romano' *Aegyptus* 16, 1936, pp. 3-83.

O. MONTEVECCHI (1973) — *La Papirologia*, Milano 1973.

R. B. MORRIS (1981) — 'Reflections of citizen attitudes in petitions from Roman Oxyrhynchus' [in:] *Proceedings of the XVI International Congress of Papyrology*, New York 1981, pp. 363-370.

H.-A. RUPPRECHT (1971) — *Studien zur Quittung im Recht der gräko-ägyptischen Papyri*, München 1971.

E. SEIDL (1973) — *Rechtsgeschichte Ägyptens als römischer Provinz*, Sankt Augustin 1973.

E. SEIDL (1975) — 'Zur Vorgeschichte der *actio rerum amotarum*', *ZSS.RA* 92, 1975, pp. 234-38.

L. STONE (1990) — *The road to divorce. England 1530-1987*, London 1990.

R. TAUBENSCHLAG (1955) — *The law of Greco-Roman Egypt in the light of the Papyri (332 B.C.—A.D. 640)*, 2nd edition, Warsaw 1955.

¹ About the value of petitions in our understanding of social history in Egypt see already H. I. BELL (1935) 'Proposals for a social history of Graeco-Roman Egypt' [in:] *Proc. IV International Congress of Papyrology*, Florence 1935, p. 35. J. G. WINTER, *Life and letters in the papyri*, 1933, pp. 46-136 and especially 117-128 and ERDMAN (1941), pp. 52-55, both discuss briefly some documents.

do not explain why the marriage was dissolved, and who had the initiative. On the contrary, the dossier of Tryphon² including his complaint about the elopement of his first wife, the marriage agreement with his second wife and petitions against his ex-wife for assault, provides a rare glimpse into the precious minutiae of everyday life.

A. DOCUMENTS³

The corpus of documents is not particularly homogeneous as far as chronology, origin, and subject matter are concerned. My aim is to cover the whole of Egypt from the period of Greek conquest to the Arab conquest. I will not differentiate along ethnic lines,⁴ although I am aware of the danger from such generalisations, but I will consider all these documents as if they constitute a coherent body of evidence. The common denominator of the corpus is that one of the spouses petitions one official (local or not is irrelevant at this point) on an affair arising from a dispute between the spouses. By the term marital disputes I mean any disagreement between spouses, concerning their conduct to each other and in relation to the dowry and the common property, perceived as inflicting injury and attributable to the other spouse.⁵ A dispute is qualified

² See M. V. BISCOTTINI, 'L' archivio di Tryphon tessitore di Oxyrhynchos' *Aegyptus* 46, 1966, pp. 60-69 and 186-292 and J. E. G. WHITEHORNE, 'Tryphon's second marriage (*P. Oxy.* II 267)' [in:] *Atti del XVII Congresso Internazionale di Papirologia*, III, Napoli 1984, pp. 1267-1274. For the importance of petitions see BEAUCAMP (1990-92), II, pp. 146-48.

³ In ancient novels there is only one case of divorce (*Ach. Tat.* 8. 8). The necessities of the genre did not leave room for naturalistic accounts of everyday marital life (EGGER [1994]). Egger's account of the legal position of women is inaccurate in two respects: (i) she claims that women's consent was unnecessary either to marriage or to divorce while there is plentiful evidence that women could initiate divorce and (ii) the dowry was returned to the woman only in cases in which the original provider was dead. For a more balanced approach see E. KARABELIAS, 'Le roman de Chariton d'Aphrodisias et le droit. Renversements de situation et exploitation des ambiguïtés juridiques' [in:] G. NENCI and G. THÜR (eds) *Symposion 1988 (Siena - Pisa 6.-8. Juni 1988)*, pp. 369-96.

⁴ P. W. PESTMAN, *Marriage and matrimonial property in ancient Egypt*, pp. 155-161, Leyden 1961 (= *Papyrologica Lugduno-Batava* IX) discusses the provisions for the dowry in demotic marriage agreements, in case of divorce. For a summary of such disputes in demotic documents see SEIDL (1975). For a comparison of women's position in an enchoric and Greek environment see H. MAEHLER, 'La posizione giuridica della donna nell'Egitto tolemaico' *Quaderni di Storia* 30, 1989, pp. 5-24.

⁵ For a detailed account on dispute theory see S. ROBERTS, 'The study of dispute: Anthropological perspectives' [in:] BOSSY (1993), pp. 1-24.

as marital even when the spouses have separated from each other but they have not settled a divorce agreement;⁶ however, this statement does not imply that divorce agreement is regarded as a constitutive act. Therefore it was possible for a petition to be submitted long after the actual abandonment or elopement. Under (i) I list all those documents in which accusations against a spouse are made irrespective of their content in the period from the 4th century B.C. to the 6th century A.D. I have excluded documents such as *SB* VI 9065 (*cf. BL* V 107, VII 201, VIII 538, Herakleopolites, 1st century B.C.); *SB* XIV 12201 *frg* (2nd century A.D.), and *P. Par.* 13 (= *M. Chr.* 280, *UPZ* I 123, Memphis, 157 B.C.) because they contain petitions for return of dowry when one of the spouses is dead; thus the ground for claiming the dowry is not separation but the death of one of the spouses.⁷ In category (ii) I collect documents which record particularly interesting procedural matters arising from the expressed intention of the spouses to separate; in particular they may shed some light in two areas; (a) arbitration leading to some kind of settlement or (b) to a hearing in front of a court of *crhmatistaà* which would eventually issue an enforceable decision. The remaining categories are auxiliary in the sense that they provide an up to date collection of documents connected directly or indirectly to the material discussed.

(i) petitions of spouses (or on behalf of them)

P. Sorbonne inv. 2402 (= J. Scherer, *YCS* 28, 1985, No 2, pp. 59-60, Mouches, 224/3-219/8 B.C.); *P. Enteux.* 23 (= *CPJ* I 128, Magdola, 218 B.C.); *SB* XVI 12687 (Arsinoites, 3rd century B.C.); *PSI* II 116b (*cf. BL* VIII 393, Thoinites, 118 B.C.); *P. Tebt.* I 51 (Tebtynis, 113 B.C.); *P. Tebt.* III 776 (*cf. BL* VIII 495, Oxyrhynchos, 2nd century B.C.); *P. Cair.* inv. 10331 (= G. Bastianini and C. Gallazzi, *NAC* 16, 1987, pp. 167-74, Panopolis, 77/76 B.C.); *BGU* VIII 1820 (Herakleopolites, 56/55 B.C.); *BGU* VIII 1848 (Herakleopolites, 48-46 B.C.); *BGU* IV 1105 (*cf. BL* VI 15, Alexandria, 11 B.C.); *PSI* I 64 (Oxyrhynchos, 1st century B.C.); *P. Oxy.* II 282 (= *M. Chr.* 117, *BL* VI 96, VIII 234, Oxyrhynchos, A.D. 30-35); *SB* X 10239 (= *P. Oxy.* II 315 *descr.*, *BL* VII 217, VIII 357, Oxyrhynchos, A.D. 37); *P. Mich.* V 227 (Tebtynis, A.D. 47); *P. Oxy.*

⁶ Cases in which application was submitted after the actual separation but before any divorce arrangement: *BGU* VIII 1820 and 1848; *P. Tebt.* II 334 and III 776; *P. Oxy.* II 281, 282 and LI 3770; *PSI* I 41; *P. Lips.* 41; *P. Heid.* I 13 (237) and *SB* XII 11221; XIV 11392; XVI 12505 and 12687. Petitions addressed after divorce: *P. Cair.* inv. 10331, *PSI* III 166 and IX 1075; *P. Lips.* 39 and *P. Oxy.* L 3581.

⁷ See the relevant provisions in the marriage instruments (e. g. *P. Oxy.* III 496, 13-15) and MONTEVECCHI (1936), pp. 78-81.

II 281 (= *M.Chr.* 66, Oxyrhynchos, A.D. 20-50); *P. Bon.* 21 (? , 1st century B.C.); *P. Coll. Youtie* I 24 (cf. *BL* VII 37, Arsinoites, A.D. 121/22); *SB* XVI 12627 (Oxyrhynchos, A.D. 127/8); *PSI* V 463 (Arsinoites, A.D. 157-160); *PSI* X 1104 (cf. *BL* VIII 406, Fayum, A.D. 175); *P. Heid.* I 13 (237) (cf. *BL* V 43, Theadelphia, 2nd century A.D.); *SB* XIV 11392 frg (Bacchias, 2nd century A.D.); *P. Tebt.* II 334 (Tebtynis, A.D. 200/201); *SB* XVI 12505 (Lykopolis, A.D. 221); *PSI* VIII 893 (Arsinoites, A.D. 315); *SB* XII 11221 (Panopolis, A.D. 329); *P. Oxy.* LI 3770 (Oxyrhynchos, 334 B.C.); *P. Harr.* II 218 frg (Oxyrhynchos, A.D. 350); *P. Cair. Preis.* 2 and 3 (Hermopolis, A.D. 362); *P. Lond.* V 1651 (Hermopolis, A.D. 363); *PSI* VIII 944 (cf. *BL* V 125, VIII 403, ?, A.D. 364-366); *P. Lips.* 39 (cf. *BL* VIII 170-171, *M.Chr.* 127, Hermopolis, A.D. 390); *PSI* I 41 (Antioe, 4th century A.D.); *P. Oxy.* L 3581 (Oxyrhynchos, 4th/5th century A.D.); *PSI* IX 1075 (Oxyrhynchos, A.D. 458).

(ii) procedural affairs

SB III 7267? (cf. *BL* VII 192, Upper Egypt, 226 B.C. letter mentioning a *συγγραφή συννοικισίου*); *P. Mert.* II 59 (cf. *BL* VII 104, Krokodilopolis, 154-143 B.C. extrajudicial settlement); *P. Tor.* (= *M.Chr.* 29, *UPZ* I 118, Memphis, 147 B.C.); *BGU* VIII 1825 (Herakleopolites, 59/8 or 55/4 B.C. petition to avoid the issue of court decision enforceable on mortgaged land); *BGU* VIII 1826 (Herakleopolites, 52/51 B.C. enforcement of court decision); *BGU* VIII 1827 (cf. *BL* VI 18, Herakleopolites, 52/51 B.C. enforcement of court decision); *BGU* VIII 1845 (Herakleopolites, 51-49 B.C. enforcing previous court decision?); *P. Oxy.* II 268 (= *M.Chr.* 299, Oxyrhynchos, A.D. 58 settlement after the death of the husband); *SB* XII 10887 frg (Fayum, A.D. 119-138 return of dowry); *P. Coll. Youtie* II 67 (cf. *BL* VIII 885, Oxyrhynchos, A.D. 260/261 return of dowry); *P. Oxy.* VI 903 (= *CPJ* III 457d, Oxyrhynchos, 4th century A.D. affidavit); *P. Lips.* 41 (cf. *BL* VII 79, VIII 171, *M.Chr.* 300, Hermopolis, 4th century A.D. affidavit?); *P. Flor.* I 36 (= *P. Sakaon* 38, Theadelphia, 4th century A.D. petition aiming to safeguard agreement concerning the payment of dowry).

(iii) marriage agreements

(in addition to those mentioned by Montevicchi [1936], pp. 4-6, and [1973], pp. 204-205): *SB* XII 11053 (Tholthis, 267 B.C. ?); *P. Hib.* II 208 (? , 270-250 B.C.); *SB* VI 8974 (Abusir el-Melek, beginning 1st century B.C.); *P. IFAO* I 13 (Oxyrhynchos, 23 B.C.); *P. Oxy.* XLIX 3487 (Oxyrhynchos, A.D. 65); *P. Oxy.* II 372 descr. (Oxyrhynchos, A.D. 74/5); *SB* XIV 11846 (= *P. Oxy.* 371 descr., Oxyrhynchos, A.D. 97); *P. Strasb.* IX 807 (Arsinoites, A.D. 98-117);

P. Strasb. VIII 764 (Arsinoites, A.D. 109/110); *SB* XII 10924 (Theadelphia, A.D. 114); *P. Yadin* I 18 (? , A.D. 128); *P. Yadin* I 37 (? , A.D. 131); *SB* VI 9353 (? , A.D. 140); *P. Mich.* XV 700 (Karanis, A.D. 143); *P. IFAO* 30 (Arsinoites, A.D. 138-160); *P. Oxy.* XLIX 3491 (Oxyrhynchos, A.D. 157/8); *SB* XVI 12334 (Philadelphia, late 2nd century A.D.); *SB* VI 9264 (Tebtynis, 2nd century A.D.); *P. IFAO* III 5 (Oxyrhynchos, 2nd century A.D.); *P. Strasb.* VI 533 (? , 2nd century A.D.); *P. Strasb.* VII 668 (? , 2nd century A.D.); *P. Amst.* I 38 (? , 2nd century A.D.); *SB* VI 9372 (Oxyrhynchos, 2nd century A.D.); *PSI* V 450 (? , 2nd/3rd century A.D.); *P. Col.* VIII 227 (? , 2nd/3rd century A.D.); *P. Hamb.* III 220 (Arsinoites, A.D. 223-234); *P. Oxy.* XLIX 3500 (Oxyrhynchos, 3rd century A.D.); *SB* V 8013 (Arsinoites, A.D. 363); *SB* XVIII 13886 (Oxyrhynchos, A.D. 489/490); *SB* XII 11075 (Oxyrhynchos, first half of 5th century A.D.); *BGU* XIII 2328 (? , mid 5th century A.D.); *SB* VI 8986 (Apollonopolis Magna, A.D. 640/1).

(iv) divorce agreements

(in addition to those mentioned by Montevecchi [1936], p. 20, and [1973], p. 206): *P. Oxy.* Hels. 35 (cf. *BL* VIII 274, Oxyrhynchos, A.D. 151); *P. Tebt.* II 460 descr. (Tebtynis, A.D. 138-161); *P. Flor.* I 24 (Arsinoe, 2nd century A.D.); *SB* XIV 11891 (Arsinoites, 2nd century A.D.); *P. Amst.* I 38 (? , 2nd century A.D.); *P. Oxy.* XLIII 3139 (Oxyrhynchos, 3rd/4th century A.D.); *BGU* XII 2203 (Hermopolis, A.D. 571); *SB* XIV 12043 frg (? , 6th century A.D.); *P. Cair. inv.* 3733 (22) frg (= A. H. Hassanein, *The edition of unpublished Greek papyrus documents*, Diss. Thessaloniki 1979, Hermopolis, 6th century A.D.); *SPP* III 405 frg (Herakleopolites, 6th/7th century A.D.).

v) miscellanea

P. Fay. 22 (= *M. Chr.* 291, *BL* VIII 121, Ptolemais, 1st century B.C. *psephisma* regarding registration of marriage and divorce acts?); *SB* V 8010 (Alexandria, 1st century A.D. appointment of guardian), *P. Mert.* II 72 [*PSI* X 1116] (Tebtynis, A.D. 162); *P. Oxy.* II 237 (cf. *BL* VI 95, VIII 233, Oxyrhynchos, A.D. 186 petition of Dionysia); *P. Oxy.* XII 1473 (cf. *BL* VI 102, Oxyrhynchos, A.D. 201 remarriage contract); *P. Cairo Masp.* III 67295 (Antinoopolis, A.D. 491-493 affidavit); *P. Cairo Masp.* I 67092 (cf. *BL* VII 34, Aphrodito, A.D. 553); *P. Lond.* V 1725 (= *P. Mon.* 3, Syene, A.D. 580 acknowledgement of debt from dowry); *P. Lond.* V 1731 (Syene, A.D. 585 receipt/acknowledgement of an amount of money [dowry?]); *P. Cairo Masp.* I 67088 (? , Aphrodito); *P. Cairo Masp.* I 67005 (? , Antinoe); *P. Amst.* I 40 (? , ? return of dowry).

Before proceeding with the examination of these petitions⁸ it seems to me necessary to review briefly what may be called divorce clauses in marriage agreements (under B) and the particular terms of the divorce agreements (under C). Finally, I will elaborate on the kind of complaints addressed to different officials and their significance to our understanding of separation (under D). This examination will enable us to put the facts into a legal and social perspective indispensable to understand the importance of these petitions. It will also help to establish what was socially expected behaviour through the contrastive analysis of, on the one hand, conduct sanctioned in the marriage agreements and, on the other hand, the disputes developed among ordinary couples in their everyday life as unfolded in the petitions.

B. DIVORCE CLAUSES IN MARRIAGE AGREEMENTS⁹

In the marriage instruments a set of expected rules of behaviour for both spouses is designated and accompanied by sanctions of pecuniary character. According to the earliest marriage agreement (*P. Eleph.* 1, 311/10 B.C.), the husband had to provide whatever befits a free woman (παρεχέτω δὲ Ἡρακλείδης Δημητρίαι ὅσα προσήκει γυναικὶ ἐλευθέραι πάντα), not to have child(ren) from other woman (μηδὲ τεκνοποιεῖσθαι ἐξ ἄλλης γυναικός), not to have a concubine (μὴ ἐξέστω δὲ Ἡρακλείδῃ γυναικᾶν ἄλλην ἐπεισάγεσθαι ἐφ' ὕβρει Δημητρίας), and, finally, not to maltreat his wife (μηδὲ κακοτεχνεῖν). The wife was expected to avoid anything that could bring shame on her husband (εἰὰν δὲ τι κακοτεχνούσα ἀλίσκηται ἐπὶ αἰσχύνῃ τοῦ ἀνδρὸς Ἡρακλείδου). These clauses did not alter radically in the course of the next centuries; some documents contain a more detailed description of the wife's duties as in *P. Tebt.* I 104, 13-15: [Ἔ]στω δὲ Ἀπολλωνία π[α]ρὰ Φιλίσκῳ πειθαρχούσα ἀ[ὐ]τῷ ὡς προσή[κ]όν ἐστιν γυναικᾶ ἀνδρὸς, κυρ(ι)εύουσα(ν) μετ' αὐτοῦ κοινῇ τῶν ὑπαρχόντων αὐτοῖς ...; 27-30: Κατὰ τὰ αὐτὰ δὲ μηδὲ Ἀπολλωνία ἐξέστω ἀπόκοιτου μηδ[ὲ] ἀφήμερον γίνεσθαι ἀπὸ τῆς Φιλίσκου οἰκίας ἄνευ τῆς Φιλίσκου γνώμης, μηδ' ἄλλω[ι] ἀνδρ[ι] συνεῖναι, μηδὲ φθε[ί]ρειν τὸν κοινὸν οἶκον, μηδὲ αἰσχύνεσθ[αι] Φιλίσκον ὅσα φέρει ἀνδρῖ

⁸ For a "formulaic" study see A. DI BITONTO, 'Le petizioni al re' *Aegyptus* 47, 1967, pp. 5-57 and 'Le petizioni al funzionari nel periodo tolemaico' *Aegyptus* 48, 1968, pp. 54-56.

⁹ See TAUBENSCHLAG (1955), pp. 120-121 and for the Byzantine period BEAUCAMP (1990-92), II, pp. 83-89).

αισχύνην.¹⁰ Thus the sanctioned conduct consisted of prohibitions and duties which can be classified into three broad categories: (i) those concerned with the provision of material goods to a married woman according to the means of the husband, (ii) those envisaging the preservation of fidelity and erotic exclusivity of both spouses, although there is a differentiation of the imposed prohibition; the husband is banned from another marriage, to have a concubine, or child(ren), whereas the wife is restricted into the house, and (iii) those prescribing respect for the personality of the woman and especially for her property and personal rights. Modrzejewski (1984), p. 251, claims that these stipulations are not more than “clauses morales”. However, in most of the documents any violation of these clauses is followed either by the immediate restitution of the dowry, in case the husband repudiates his spouse and if he fails to return it in the prescribed period he has to pay 50% more, or loss of the dowry, when the wife initiates the separation. Clearly they had a normative power in the sense that they were illustrating what was expected from the spouses and they were enforced by penalties. They cannot be considered as grounds for divorce in a modern technical sense, but can be regarded, at least, as a kind of quasi-legal contractual norms, whose lack will render possible and justify abandonment or elopement and thus the eventual breaking of marriage.¹¹ It is impossible to

¹⁰ Similarly see *P. Freib.* III 30 (179/8 B.C.), *P. Giss.* 2 (173 B.C.), *P. Gen.* 21 (= *M. Chr.* 284, 2nd century B.C.), *P. Tebt.* II 386 (12 B.C.) and in the Alexandrian συγχωρήσεις of the 1st century B.C. (*BGU IV* 1050, 1051, 1052, 1098, 1099, 1100, 1101) but not in the συγγραφαὶ τροφίτιδες from Tebtynis. For the contracts from Oxyrhynchus see KUTZNER (1989), pp. 29-34. In documents from our era a more concise formulation is observed as in *M. Chr.* 289, 11-14: Συμβιωσασαν οὖν ἀλλήλοις οἱ γαμοῦντες ὁ τε Ἰσιδῶρος καὶ ἡ Θαισαρίου ἀμέμπτως τοῦ Ἰσιδώρου [ἐπιχορηγοῦντος] αὐτῇ τὰ δέοντα πάντα καὶ τὸν ἱματισμὸν καὶ τὰ ἄλλα ὅσα καθήκει γυναικὶ γαμετῇ κατὰ δύναμιν [τοῦ βίου] καὶ αὐτῆς δὲ τῆς Θαισαρίου ἀμεμπτον καὶ ἀκατηγόρητον ἑαυτὴν παρεχομένην ἐν τῇ συμβιώσει and similarly in *BGU IV* 1045, 17-21 and *P. Strasb.* III 131, 12-14. The marriage instruments of the early Byzantine era are morally coloured and reflect the imperial legislation about the reasons for divorce (*P. Lond.* V 1711, 26-40: [μήτε] [ἐκβάλλει]ν σε ἐκ τοῦ ἐμοῦ συνοικεσίου] παρεκτὸς λόγου πορνείας] καὶ [αἰσχρᾶς πράξεως καὶ σωματικῆς ἀταξίας ἀπο]δ[ειχθ]ή[σομ]ένης and similarly in *P. Cairo Masp.* I 67006). *P. Lond.* VII 1976, 6-11 and 17-20 (253 B.C.), a request of a mother whose daughter was deceived by an already married man with children and followed him, proves that these terms were not a mere formality.

¹¹ Compare for example *P. Oxy.* II 281, 16-20: οὐ διέλειπεν κακοχῶν με καὶ ὑβρίζων καὶ τὰς χεῖρας ἐπιφέρων καὶ τῶν ἀναγκαίων ἐνδεῆ καθιστὰς, with *P. Tebt.* I 104, 22-23: μηδ' ἐγβάλλειν μηδὲ ὑβρίζειν μηδὲ κακοχεῖν αὐτὴν μηδὲ τῶν ὑπαρχόντων μηδὲ ἐξαλλοτ[ρ]ισιὸν ἐπ' ἀδικαίᾳ τῇ Ἀπολλωνία. In this respect see

understand otherwise the insistence of the petitioners on proving violation of these norms by the fleeing spouse.¹²

C. RESULTS OF DIVORCE AGREEMENTS¹³

The dissolution of marriage was a *de facto* situation, a *fait accompli*, as was the marriage itself, rather than the outcome of the decision of another person with constitutive power.¹⁴ Divorce agreements most often acknowledge the receipt of the dowry by its original provider or his legitimate successor (as in *BGU* 1104, 6-7) and designate the obligations of the ex-spouses in the future. These obligations can be divided into three categories:¹⁵

— personal, concerning the declaration of divorce (*P. Lips.* 27, 14-15: *συν-ἦρσθαι τὴν πρὸς ἀλλήλους συνβίωσιν* and similarly *BGU* IV 1104, 6-7; 975, 15-16; *P. Mil. Vogl.* II 85, 9-10; *P. Lond.* V 1712, 10) and annulment of the marriage agreement (*P. Fam. Tebt.* 13, 28-29: *ἀκύρων ὄντων ὧν ἔχουσι οἱ δύο Λυσίμαχος καὶ Κάστωρ ἀλλήλων χιρογράφων* and similarly *BGU* IV 1104, 14-15; *P. Oxy.* II 266, 14-16; *P. Lips.* 27, 19; *P. Mil. Vogl.* II 185, 17, whereas in *P. Oxy. Hels.* 35, 20-21: *[τὴν δὲ ἀποζ]ιγγήν*

J. MODRZEJEWSKI, 'La notion d'injustice dans les papyrus grecs', *Iura* 10, 1959, pp. 67-85 and especially pp. 78-79 where he claims that the failure of the husband to provide for his wife is considered as injustice not because of any law but "parce que, dans son groupe, pareil comportement est blâmable, vu la structure et la fonction sociales du mariage à cet époque et à cet endroit".

¹² See, for example, *SB* XIV 11392, 6-9: *ἐγβαλὼν με ἐκ τῆς οἰκίας μετὰ τῶν τέκνων μου βαστάξαντα πάντα τὰ ἐν τῇ οἰκίαι, P. Tebt.* II 334, 8-9: *ἐξ οὗ καὶ (ἐ)παιδο- [ποιησάμην πα]ιδία δύο, μ[ὴ] ἔχουσα κατὰ νοῦν ἄλλον, P. Oxy.* II 281, 9-14: *ἐγὼ μὲν οὖν ἐπίδεξαμένη αὐτὸν εἰς τὰ τῶν γονέων μου οἰκητήρια λειτὸν παντελῶς ὄντα ἀνέγκλητον ἐματῆν ἐν ἀπάσει παρειχόμεν and P. Oxy.* II 282, 6-8: *καὶ ἐγὼ μὲν οὖν ἐπεχορήγησα αὐτῇ τὰ ἐξῆς καὶ ὑπὲρ δύναμιν.*

¹³ See TAUBENSCHLAG (1955), pp. 121-25 and SEIDL (1973), pp. 219. For the Byzantine "liquidations de la situation matrimoniale" see BEAUCAMP (1990-92), II, pp. 89-91 and 139-158.

¹⁴ For the declaratory character of the divorce agreements see LEVY (1925), p. 111, ERDMAN (1941), p. 49, MODRZEJEWSKI (1961), p. 177, RUPPRECHT (1971), p. 45). For their private character see ERDMANN (1941), p. 45. Note the close analogies of these divorce agreements with the private separation deeds of early modern England discussed by STONE (1990), pp. 153ff, in respect of economic and personal freedom, as well as immunity from litigation.

¹⁵ See ERDMANN (1941), pp. 46-48 and RUPPRECHT (1971), pp. 45-51.

τοῦ γάμου αὐτόθεν κυρίαν εἶναι]; *P. Dura* 31, 20-24 and *P. Lond.* V 1712, 24 the divorce agreement is declared valid and the clause of annulment is missing), the freedom to administer their own affairs as they like (*P. Mil. Vogl.* III 184, 19-20: καὶ ἐξεῖναι ἑκατέρωι αὐτῶν τὰ καθ' ἑαυτὸν οἰκονομῖν ὡς ἐὰν αἰρήται; and similarly *P. Mil. Vogl.* III 185, 18; II 85, 10-12; *SB* VIII 9740, 15-16; *PSI* VIII 921, 29; *P. Fam. Tebt.* 13, 13-14; *P. Dura* 31, 13-14), and the right to remarry (*BGU* IV 1102, 30-34: καὶ ἐξεῖναι τῆι μὲν Ἀπολλωνίαι ἄλλωι ἀνδρὶ καὶ τῶι δὲ Ἐρμογένει ἐτέραι γυναικι ἀμφοτέροις ἀνυπευθύνοις οὖσι, and similarly *BGU* IV 1104, 22-25; *P. Mil. Vogl.* II 85, 12-14; *PSI* VIII 921, 30; *P. Oxy. Hels.* 35, 42-45; *P. Oxy.* VI 906, 7-8; *P. Dura* 31, 13-16; *P. Lond.* V 1712, 17-19);

— property related, concerning the return of the dowry (*SB* VIII 9740, 18-20: Ἀφροδισία δὲ ἀπέχειν παρὰ Πτολεμαίου ἦν προσηνέγκαντο φερνῆν χρυσικὴν καὶ ἀργυρικὴν καὶ παράφερνα παντοῖα and similarly *P. Freib.* III 29a, 13-15; *BGU* IV 1102, 14-17; 975, 20-22; *P. Oxy. Hels.* 35, 13-19). It should be noted that this clause was included only when the dowry was refunded in full; in *P. Mil. Vogl.* II 85, 14-21, for example, an explicit obligation to return the dowry in the next sixty days¹⁶ is agreed, which implies that the separation was initiated by the wife. In this case, the actual return of the dowry was confirmed with the issue of a receipt.¹⁷

— procedural, concerning the mutual resignation of the spouses from any legal remedy in view of property or any other aspect (*PSI* VIII 921, 30-31: καὶ μηδὲν ἀλλήλοισ ἐνκαλεῖν περὶ μηδενὸς τῶν εἰς τὴν συμβίωσιν ἀνηκόντων μηδὲ μὴν περὶ ἄλλου μηδενὸς ἀπλῶς πράγματος μέχρι τῆς ἐνεσ-

¹⁶ The explanation for this extraordinary period for restituting the dowry cannot be found in the endogamous character of these unions as MONTEVECCHI (1936), p. 77 has suggested. The exceptional period appears in the following documents: *SB* VI 9264; 9353 and possibly 8974, 10; *P. Oxy.* III 497 and 603; VI 905; X 1273 and XLIX 3491; *P. Mil. Vogl.* II 71 and 85; *P. IFAO* I 30; *M. Chr.* 284; *P. Mich.* V 340, *PSI* X 1115; from these only in *P. Mil. Vogl.* II 85 and *PSI* X 1115 the spouses are siblings. A similarly prolonged period of return is stipulated in *P. Oxy.* III 496:13-14; in case the wife deceases before her husband he has to reconstitute the dowry in 60 days. In *SB* VI 9065, 10 an equally extended period is provided to the brother of the deceased husband, by virtue of will, to refund the dowry in case the dead person's daughter dies before his wife. Therefore, an alternative interpretation should take into account that in most of the cases the extended return period is connected with separation initiated by the wife (*SB* VI 9264; *P. Oxy.* III 497; *P. Mil. Vogl.* II 71; *P. IFAO* 30; *P. Mich.* V 340 and *M. Chr.* 284). In addition, some of these dowries rise to substantial amounts. In these cases a longer period was provided due to no-fault behaviour of the husband.

¹⁷ For example see *CPR* XVIII 9 of the year 232 B.C. from Theogonis.

τώσης ἡμέρας, and similarly *P. Freib.* III 29a, 18-19; *BGU* IV 1102, 23-31; 975, 18-20; *P. Mil. Vogl.* II 85, 23-30; *P. Oxy.* Hels. 35, 21-24 and 30-36; *P. Dura* 31, 16-20 and *P. Lond.* V 1712, 12-17).

In short, then, divorce was a strictly private affair regulated on the basis of the original marriage agreement with significant implications on the personal status of the spouses, their property relations and their procedural immunity against claims concerning their marital life. Any transgression of these obligations may have resulted in paying a fine as it seems to be the case in *BGU* IV 1103, 27-29: ἔτι καὶ ἐνέχεσθαι τὸν παραβαίνοντα τοῖς τε βλάβεσι καὶ τῶι ὠρισμένῳ προστίμῳι.

D. PETITIONS

Usually the petitions include complaints both for personal and property-related affairs. The distinction is made for methodological reasons, in order to facilitate the exposition of particular aspects of these petitions. To my knowledge there is no instance of a complaint about procedural matters arising from infringement of the corresponding clause in divorce agreements. However, procedural matters are often interwoven with property affairs as in *SB* XVI 12687, 11-13: ἐλθὼν κατ' ἐμοῦ δέ[δωκε] προσαγγελίαν Θ[....]ρωι τῶι ἀρχιφ <vac.> and possibly *P. Mert.* 59, 19. The petitions were submitted normally by one of the spouses or more rarely by one of their surviving parents.¹⁸

D.I. Complaints concerning property relations

The main complaints addressed to the local official concern appropriation and squander of the dowry by the husband (*P. Oxy.* II 281, 14-15: ὁ δὲ Σαραπίων καταχρησάμενος τῇ φερνῇ εἰς ὄν ἐβούλετο λόγον) or the non-return of it (*BGU* VIII 1820, 10-11: [οὐδὲ τήν] τῆς φερνῆς ἀπόδοσιν πε[ποιήται]). Some even more “inventive” husbands did proceed to sell some items included in the dowry, as in *PSI* IX 1075, 5-6: ἅπερ ἐδυνήθη ἐπιγυνῶναι ἐκ τῆς διαπράσεως τῶν τε προοικῶν μου καὶ τοῦ φθορίου ἔδνον or in another case when the

¹⁸ Petitions submitted by husbands: *P. Oxy.* II 282; *P. Heid.* I 13; *PSI* VIII 893; *P. Cairo Preis.* 2 and 3; *SB* XVI 12505 and 12627; *P. Lond.* V 1651 and possibly *P. Tebt.* I 51; petitioner in *P. Oxy.* LI 3770 is the wife's mother while in *SB* XII 11221 the father and guardian of the wife lodged the complaint. The remaining petitions were submitted by the wives themselves. B. ANAGNOSTOU-CANAS, 'La femme devant la justice provinciale dans l'Égypte romaine', *RHD* 62, 1984, pp. 337-60 provides a general discussion of cases of women appearing in courts of justice as plaintiffs and/or defendants.

husband failed to do so (*P. Tebt.* III 776, 15-23: ὁ ἐγκαλούμενος βούλομενός με ἀποστερέσαι ἕως μὲν προσπορευόμενος ἐνὶ καὶ ἐκάστωι τῶν ἐκ τῆς αὐτῆς κώμης ἢ βούλετο αὐτὴν ἐξαλλοτριῶσαι, τούτων δὲ οὐχ ὑπομενόντων ἕνεκα τοῦ μὴ συνεπικελεύειν ἐμέ), he attempted to use them as security for various payments (23-25: μετὰ ταῦτα ἐξείργασθαι τοῦ δοῦναι ἐν διεγγυήματι ὑπὲρ Ἡρακλείδου τελώνου εἰς τὸ βασιλικόν). In *BGU VIII* 1848, the husband of Dionysia asked his father to liquidate his house and his plot of land (σε)σήμαγκε δὲ τῶι πατρὶ αὐτοῦ δι' ἐπιστολῆς ἐκκερματίσαντα τὴν οἰκίαν αὐτοῦ καὶ τὸν κλῆρον) on which probably any enforceable decision would have to rely for satisfaction of the wife's claims.

In these cases the requested intervention is limited to the restitution of the dowry (e. g. *BGU VIII* 1848, 26-30: ἀξιῶ ἐὰν φαίνηται συντάξαι μεταπέμψασθαι αὐτὸν ἐπὶ σε καὶ συναναγκάσαι ἀποδοῦναί μοι εἰς τὰ ἀναγκαῖα τὴν φερυρῆν, ἢν' ὦι ἀντειλημμένη) in one case increased by 50% (*P. Oxy.* II 281, 23-28: διὸ ἀξιῶ συντάξαι καταστήσαι αὐτὸν ἐπὶ σὲ ὅπως ἐπαναγκασθῆι συνεχόμενος ἀποδοῦναι [μ] μοι τὴν [φ]ερυρῆν σὺν ἡμιολίαι).¹⁹ It seems that the requested remedy was not intended to exhaust all the available legal means and an explicit reservation for exercising their full rights was made (*P. Oxy.* II 281, 28-30: τῶ[v] μὲν γὰρ ἄλλων τῶν [ὄντων πρὸς αὐτὸν] ἀντέχομαι[καὶ ἀνθέξομαι] and similarly *P. Oxy.* II 282, 18-21).

D.II. Complaints concerning personal relations

Complaints concerning harassment come exclusively from women.²⁰ Usually it was men who abused, physically and verbally, their wives, (*BGU IV* 1105, 14-21: [Ἄ]πὸ μηδενὸς καταχρησάμενος τοῖς προκειμένοις κακουχίας (sic!) με καὶ καθυβρίζει καὶ τὰς χεῖρας ἐπιφέρων χρῆται ὡς οὐδὲ ἀργυρωνήτωι) expelled them from their houses, and some deprived them of the necessary means for survival (*BGU VIII* 1820, 7-10: ἐξέβαλέ με [ἐ]κ τῆς οἰκίας οὐδ' ἐπὶ ταύτηι ἤρκεσται οὐδέ[ν] μοι παρέσχε τῶν δεόντων καὶ ἱματισμόν, *P. Oxy.* II 281, 16-20: οὐ διέλειπεν κακουχῶν με καὶ ὑβρίζων καὶ τὰς χεῖρας ἐπιφέρων καὶ τῶν ἀναγκαιῶν ἐνδεῆς καθιστάς and *PSI* 463, 9). In some cases, husbands used excessive force as the following two examples reveal; in *P. Oxy.* L 3581

¹⁹ Ἡμιολία clauses appear as penalties in marriage instruments of Ptolemaic and early Roman period (*M. Chr.* 284, 8-9 and 12-14; *M. Chr.* 286, 16-17; *M. Chr.* 287, 9) when the husband fails to return the dowry by the agreed period of time.

²⁰ For any kind of violence by or against women see KUNTZEL (1989), pp. 106-107.

Aurelia Atteiaene complains²¹ that Paulos, her husband, has abandoned her and his daughter and lived with another woman (7-8: καταλείπων με μετὰ καὶ τῆς νηπίας θυγατρὸς ... συνῆλθεν [ἐ]τέροι γυναικεὶ καὶ εἵσέν με χηρεύουσαν); later he returned and agreed to live together with his wife, because otherwise he would have to pay a fine and his father provided surety for it.²² But as soon as he came back the situation for the woman was worse than before (11-15: καὶ εἰσαγαγούσα αὐτὸν [εἰς] τὸν ἡμέτερον οἶκον χίρονα τῶν πρώτων αὐτοῦ σφαλμάτων ἐπεχείρησεν διαπράξασθαι καταφρονήσας τῆς ὀρφανίας μου οὐ μόνον ὅτι ἐρήμωσιν εἰργάσατο κατὰ τοῦ οἴκου μου ἀλλὰ καὶ στρατιωτῶν ἐπιξενευσάντων τῶι οἴκῳ μου ἀπεσύλησεν αὐτοὺς καὶ ἀνεχώρησεν καὶ ὕβρις καὶ ζημίας ὑπέστην ἄχρις οἷ συνχωρήσουσίν μοι τὸ ζῆν). However, the abuse did not end there, because after the dispatch of a “repudium” Paulos abducted and confined her in his house, and when she became pregnant he abandoned her once more, threatening to stir up malice against her. A case of physical abuse is preserved as well in *P. Lips.* 39, 9-13: [μ]ε[τὰ] τὸ δοθὲν αὐτῶι ῥιπούδιον [ὑ]π’ ἐμοῦ μετὰ [τῆ]ν γεν[ο]μένην μεταξὺ ἡμῶν διάλυσιν εἰσέ[φ]ρησεν ἑαυτὸν εἰς τὴν ἐμὴν ἐστίαν, [ὡς] ἐν βαρβάροις παρ’ οὐδὲν [ἡγεῖ]ται τὴν τῶν νόμων ἐπιστρέφε[ιαν] τύψας με [ἀν]ελεῶς, κλά[σα]ς καὶ χεῖραν μου ὡς καὶ τὰ ὑπώπια ἔχω ἀφ’ ὄλων τῶν ...

It seems that in petitions from Ptolemaic and Roman Egypt abuse is reported always in the same manner (ἐκβάλλειν, κακουχεῖν, ὑβρίζειν) in the context of wider property-related contention and therefore there is no recourse or request to a separate legal remedy. Settlement of property affairs implies the end of the dispute and seemingly satisfaction for the abuse which has occurred. The situation seems to be quite different in documents from the early Byzantine period. In particular, although in some of them abuse is reported together with appropriation of dowry, there are two documents (*P. Oxy.* L 3581, *P. Lips.* 41) recording almost exclusively personal harassment of the wife. Whereas the requested action of the official is lost in *P. Lips.* 41, the petitioner in *P. Oxy.* L 3581, 21-23 asks the tribune of Oxyrhynchus to secure the payment of the two ounces of gold and any other damages caused according to the agreement the spouses have earlier signed. Although a satisfactory explanation of this shift

²¹ For the substantially different style of petitions from the Byzantine era see A. B. KOVELMAN, ‘From Logos to Mythos: Egyptian Petitions of the 5th-7th centuries’ *BASP* 28, 1991, pp. 135-52.

²² Similar provision is agreed in *P. Lond.* V 1711 (lines 66-68: προσομολογῶ ἀπὲ ἐγὼ ὁ [π]ρογεγ[ραμμένος] γαμέτης Ὀρουνωγχίς μὴ δύνασθαι μήποτε καιρῶι ἢ χρόνῳ ἐνεγκεῖν ἀλλοδαπὰς γυναίκας ἐπάνω τῆς ἐμῆς ἐλευθέρως εἰ δὲ τοῦτο πράξω ἐπιδώσω τὸ αὐτὸ πρόστιμον) of the year A.D. 570 from Antinoopolis.

may be elusive, the change in the dominant perception of marriage may be one of the reasons. What is important is that even in these cases where seemingly no damage to any property occurred, the requested action did not aim at the restitution of any personal situation or at restoring the marital link, but at the enforcement of an existing agreement in pecuniary terms.

In some petitions (*BGU* VIII 1848, 11-12; *P. Heid.* I 13 (237), 15-16; *SB* XII 11221, 5; *SB* XIV 11392, 6-7 possibly *SB* XVI 12627; *P. Oxy.* LI 3770, 6-7) there is an explicit mention of the fact that the deserted spouse had to take care of and provide for their children; what rarely arises in these petitions is a dispute about the custody of children. Two possible explanation(s) can be traced, (i) the widespread phenomenon of child-exposure (e.g. *BGU* 1104, 23-24), and (ii) custody conferred on the father up to a certain age either in marriage instruments²³ (*P. Oxy.* III 496, 1273, 267 and 603 and *M. Chr.* 297) or in divorce agreements (*P. Oxy. Hels.* 35, 36-42 and *P. Oxy.* VI 906, 5-7).

D.III. Applications against women

The only petitions submitted by men²⁴ concern property complaints; women have deserted their husbands taking away property belonging to them (*P. Oxy.* II 282, 9-13: ἡ δὲ ἀλλότρια φρονήσασα τῆς κοινῆς συμβιώ[σεως] κατὰ πέρ[α]ς ἐξῆ[λθ]ε καὶ ἀπηνέ(γ)καυτο τὰ ἡμέτερα ὧν τὸ καθ' ἐν ὑπόκειται, *P. Heid.* I 13 (237), 3-9: Ἡ συνοῦσά μοι γυνή [], ἐξ ἧς καὶ ἐπαιδοποίησα, ἀλλότρια φρονήσασα τῆς πρὸς μὲ συνβιώσεως εὐκαιρία [] ... ν μου ἐξῆλθέ μου τῆς οἰκίας πρὸς μνηῶν δίχα τῆς καλουμένης ἀπ[]. ν βαστάξασα{s} τὰ τε ἑαυτῆς καὶ πλεῖστα τῶν ἡμετέρων and *SB* XVI 12505, 9-11 in which the wife sold some common property and fled) although in some cases husbands provided even more than their resources allowed. In *P. Lond.* V 1651, 6-10 the wife of the deserted husband not only deprived him from goods but also took with her documents concerning a plot of land. As expected, what usually was requested was return of the stolen property (*P. Oxy.* II 282, 14-18: διὸ ἀξιῶ ἀχ[θ]ῆναι ταύτην [ἐ]πὶ σὲ ὅπως τύχηι ὧν προσήκει] καὶ ἀποδῶι μοι τὰ ἡμέτερα) or in the case of *P. Lond.* V 1651, 16-20 the safe return and deposit of these documents. However, a question remains over the legal ground of the

²³ See S. ADAM, 'La femme enceinte dans les papyrus' [in:] F. J. F. NIETO (ed.) *Symposium 1982 (Santander 1-4. 09. 1982)*, Köln 1989, pp. 195-203. In the 6th century Justinian with his *Novella* 117 (A.D. 542) will regulate the question of children's guardianship in case of divorce.

²⁴ BEAUCAMP (1990-92), II, p. 155 rightly points out that "dans l'ensemble des récits de divorce, le phénomène qui se dégage le plus clairement est la passivité féminine".

husbands' claim in these cases; whereas wives had their claim of having their dowry returned enshrined in the marriage contract, we are not particularly well informed about husbands' claims. Seidl (1975), pp. 236-238, argued that both in the Gortynian law-code and in demotic contracts the fraudulent removal of property by the wife is not treated as theft but as something similar to the Roman *actio rerum amotarum*. In the former the woman removing objects belonging to her ex-husband had to pay a fine of five staters, while in the latter a different term is used to distinguish it from theft. In Greek documents there is no differentiation in the terms used to denote theft and removal of husband's property; in both cases ἀποφέρειν (e. g. *P. Oxy.* II 282, 12), among others, is used and we do not know of any particular penalty imposed on the wife. Moreover, the phraseology of the requested action is almost identical with the one in petitions for theft.²⁵ Therefore, there is no indication of husbands having a remedy similar to the *actio rerum amotarum*, but they relied, for the recovery of their property, principally on the provision for theft.

D.IV. Authorities

The range of officials to whom these petitions were addressed may seem bewildering. The time span of the examination and often recurring administrative reforms give this impression. During the Ptolemaic rule some petitions were addressed to the βασιλεύς (*P. Enteux.* 23, *P. Sorbonne inv.* 2402, *SB XVI* 12687) and some other to the στρατηγός (*BGU VIII* 1820, *VIII* 1848, and possibly *P. Cair. inv.* 10331). Two cases deserve special mention: (a) *P. Tebt.* III 776 which is addressed to the οἰκονόμος, an official responsible for those with tax obligations, because the husband of the petitioner has put her property up as security for taxes owed and (b) the mutilated *P. Tebt.* I 51 addressed to the κωμογραμματεὺς, a local official with mainly arbitration authority. In the Roman period the majority of the petitions were addressed to the στρατηγός (*SB XVI* 12505, 12627, *P. Oxy.* II 282, *P. Coll. Youtie* 24) asking for restitution of appropriated property. *BGU IV* 1105 preserves the appeal of Tryphaina to the εἰσαγωγεὺς Πρώταρχος²⁶ to arrange for the return of her dowry and to secure a lawful ἕξιδος. *P. Oxy.* II 281 is addressed to the ἀρχιδικαστῆς since the marriage agreement between Syra and Sarapion was drafted as a συγχώρη-

²⁵ See TAUBENSCHLAG (1955), p. 457, *P. Oxy.* II 282, 15-18 and *P. Heid.* I3 (237), 19-21.

²⁶ So H. J. WOLFF, *Das Justizwesen der Ptolemäer*, München 1961, pp. 81-82.

σις.²⁷ In *P. Tebt.* II 334 a deserted wife petitions the local *ἐκατόνταρχος* most probably in order to investigate the whereabouts of her husband. In the early Byzantine era petitions are addressed to a variety of officials (*ἡγερμῶν* [*PSI* VIII 944, *SB* XII 11221 and mention of a future petition in *P. Lond.* V 1651], *ἔπαρχος* [*PSI* VIII 893], *σύνδικος* [*P. Oxy.* LI 3770]²⁸ *τριβοῦνος* [*P. Oxy.* L 3581],²⁹ *στρατηγός* [*P. Lond.* V 1651]). This variety possibly reflects the confusion of the population and the erosion of trust in the judicial system.³⁰ In two cases petitions are addressed to officials with policing authority (*ῥιπάριος* [*P. Cair. Preis.* 2 and 3] and *νυκτοστρατηγός* [*P. Lips.* 39]).

What is important and crucial to understand is that spouses submitting complaints do not ask for remedy for their broken relationship but for means to redress personal and property-related affairs. Divorce lay in the private sphere, an affair for the spouses to regulate.

D.V. The settlement of the dispute

Although there are more than two modes for settling a dispute,³¹ the available documentation on marital disputes designates clearly two of them: arbitration and adjudication. Certainly these two ways are, in a sense, privileged since they require the issue of a written agreement, but they represent only the final stage

²⁷ For the jurisdiction of the *ἀρχιδικαστής* see A. CALABI, 'L' *ἀρχιδικαστής* nei primi tre secoli della dominazione romana', *Aegyptus* 32, 1952, pp. 406-424, with list of *ἀρχιδικασταί* on pp. 410-418. Calabi argues convincingly that the jurisdiction of *ἀρχιδικαστής* extends over all the disputes arising from documents drawn up as *συγχωρησις*. TAUBENSCHLAG (1955), p. 489 n. 64, thinks that the *ἀρχιδικαστής* exercised the function of an arbitrator at the request of the parties.

²⁸ For the origin of the *defensor civitatis* (*σύνδικος*, *ἔκδικος*) see R. M. FRAKES, 'Late Roman social justice and the origin of the *defensor civitatis*' *CJ* 89, 1994, pp. 337-49. List of officials in B. KRAMER, 'Liste der *Syndikoi*, *Ekdikoi* and *Defensores* in den Papyri Ägyptens' *Miscellanea Papyrologica* 19, 1990, pp. 305-29 and *P. Oxy.* LIV 3771 p. 203.

²⁹ The title implies that he was a military officer with police authority. It is possible that the petitioner addresses the tribune because of the earlier incident involving soldiers.

³⁰ MORRIS (1983), pp. 367-370, notes this gradual decline already in the second century A.D.

³¹ Anthropologists describe seven stages: "lumping", avoidance, coercion, negotiation, mediation, arbitration and finally adjudication. These concepts in the context of the Greco-Roman Egypt are discussed by HOBSON (1993), pp. 199-200 and more recently in T. GAGOS and P. VAN MINNEN, *Settling a dispute. Toward a legal anthropology of late antique Egypt*, Ann Arbor 1994, especially pp. 35-46.

of the dispute;³² surely at earlier stages the involvement of family³³ and friends may have been greater, exercising pressure on both sides for a compromise.³⁴

Arbitration may arise on the ground of provisions in the marriage agreement, as in the earliest marriage document, *P. Eleph.* 1, 7-8: ἐπιδειξάτω δὲ Ἡρακλείδης ὅτι ἂν ἐγκαλήῃ Δημητρίαί ἐναντίον ἀνδρῶν τριῶν, οὓς ἂν δοκιμάζωσι ἀμφότεροι and 10-11: εἰὰν δέ τι ποῶν τούτων ἀλίσκεται Ἡρακλείδης καὶ ἐπιδείξῃ Δημητρίαί ἐναντίον ἀνδρῶν τριῶν, οὓς ἂν δοκιμάζωσι ἀμφότεροι.

Nevertheless, *P. Mert.* 59 preserves the extrajudicial settlement of a quite complicated dispute between Asklapon and Antigona. Probably both sides have sued each other on different grounds. A day before the hearing of the case, they reached an agreement concerning the return of the dowry and the return of a slave girl to Antigona. This settlement was submitted to and accepted by the court of *χρηματισταί*. Since only the decision of the court survives in this case and *SB XVI* 12687 is fragmentary we cannot test the conclusion reached in the study of other societies that judicial proceedings are initiated as a first step to settlement.³⁵

In the case of adjudication, the documentation is rather inadequate. During the hearing of the case affidavits may have been submitted (e. g. *P. Oxy.* VI 903; *P. Cairo Masp.* III 67295). There are a few examples of decisions of *χρηματισταί* with which they order the local *στρατηγός* to ensure the execution of their decision; these were immediately enforceable by *πράκτορες ξενικῶν* (*BGU VIII* 1826 and 1827) on the property of the defendant.

³² So HOBSON (1993), p. 200.

³³ See for example the letter, written on an ostrakon, of a wife complaining to her brother and guardian about her husband's conduct (*SB VI* 9271 of the 1st or 2nd century A.D.). The vast number of private letters may preserve similar complaints and mention of quarrels between spouses [illustrative is a letter of the third century A.D. from a mother to her daughter (*P. Mich.* VIII 514, 17-19: ἤκουσα ὅτι ἀηδίαν πεποίηκες μετὰ τοῦ ἀνδρός σου χάρις τοῦ πατρός σου)] or the heartbreaking letter of a deserted husband to his wife (*P. Oxy.* III 528 of the 2nd century A.D.); for a collection of letters between husbands and wives see H. ZILLIACUS, *Zur Sprache griechischen Familienbriefe des III. Jahrhunderts n. Chr.*, Helsinki 1950, p. 10. In addition, people even "used" magic powers in order to initiate a separation (*P. Oslo II* 15 of the 2nd century A.D.). Anthropological studies attest the intervention of kin in such circumstances in other societies; for early modern Andalusia see CASEY, 'Household disputes and the law in early modern Andalusia' [in:] BOSSY (1983) pp. 189-217.

³⁴ See *SB I* 4658.

³⁵ See J. A. SHARPE, '»Such disagreement betwix neighbours«: Litigation and human relations in early modern England' [in:] BOSSY (1983), pp. 167-187.

While in the Ptolemaic and Roman period the main concern was restitution of dowry, in the Byzantine era there are some hints of a change in the requested action; so in *PSI IX 1075*: καὶ τύπον μοι δοῦναι περὶ τοῦ συνοικεσίου the petitioner asks for the issue of a certificate about the continuing validity of the marriage³⁶ while in the affidavit preserved in *P. Lips. 41, 15-16*: Τούτων γὰρ οὕτω πεπραγμένων εἰκότως ἡμῖν καὶ ἡ [τοῦ γ]άμου ἀρμολογία τέλει[os] ἔσται the final statement seems to encapsulate the shift from attributing importance to property to the marital link per se.

In brief, the majority of petitions was submitted by women claiming their dowry (or part of it) which had been appropriated by their ex-husbands. These women may have been abused, sometimes brutally. However, and most significantly, they never asked that their marriage be dissolved. Their claims were satisfied either with the actual return of the dowry or with the execution of a court's decision on the husband's property. The marriage instrument was the legal basis of any claim. Any complaint was brought, usually, to the στρατηγός, or taking into account particular circumstances, to the relevant official; in the course of time we see that the confidence of the people in the administration of justice was eroded and individuals applied to the higher echelons of the administration in the hope of a settlement.

[Oxford]

Ilias Arnaoutoglou

³⁶ ERDMANN (1941), pp. 56-7 claims that this phrase does not refer to the restoration of the marriage but to the satisfaction of the claimant if her case is accepted. However, the word *τύπος* in early Byzantine Egypt designates a decision taken by judicial authorities. According to TAUBENSCHLAG (1955), p. 494, such *τύποι* were passed by the municipal *proximi*, who acted as police officers. Cf. *PSI VIII 876, 15-16*; *SB IV 7449*; *VI 9239*.