

# A CANCELLED MARRIAGE CONTRACT FROM THE JUDAEAN DESERT

(XHev/Se Gr. 2)\*

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(Plates I–II)

## I

With the publication of the Greek part of the Babatha Archive in 1989<sup>1</sup> and some of the documents from the Greek-Syriac archives of Mesopotamia and the Middle Euphrates in 1989–1991,<sup>2</sup> the contribution of perishable material from places other than Egypt to the study of the Roman Near East and the Roman Empire in general has become obvious. But this is just the tip of an iceberg that has been surfacing for a while. The parchments and papyri from Dura Europus, discovered in the 1920s, were published in final form in 1959:<sup>3</sup> they range from the first century C.E. to the middle of the third century C.E.<sup>4</sup> with texts mainly in Latin and Greek, a few in Aramaic and Iranian and one in Syriac. The literary and non-literary papyri discovered in Nessana in the western Negev in Palestine in 1935 were published in the 1950s: they date to the sixth and seventh centuries C.E. and with the exception of Latin literary texts are all in Greek.<sup>5</sup> From the 1950s onwards documents from the Judaeen Desert in Aramaic, Hebrew, Greek, Latin, and Arabic have appeared in various publications<sup>6</sup> — among these one should single out the texts from Qumran. In 1989 the Aramaic, Greek and Latin documents from Masada appeared in *The Yigael Yadin Excavations 1963–1965. Final Reports*.<sup>7</sup> A glance at the tables on pp. 17–72 of the newly published *The Dead Sea Scrolls on Microfiche: A Comprehensive Facsimile Edition of Texts from the Judaeen Desert. Companion Volume* gives an idea of the quantity of texts, both published and unpublished, discovered in the caves of the Judaeen Desert.<sup>8</sup> The multilingual aspect of the finds makes them all the more significant. Surely Egypt has ceased to be the only *locus* of papyri and other perishable documents from the Roman Empire. A corollary of this is that the material from Egypt can now be collated with similar material discovered elsewhere, and often shown not to be unique to that province. This serves as another blow to the concept of *die Sonderstellung Agyptens* which stood in the way of using the information obtained from the Egyptian material in order to understand various aspects of Roman government and society elsewhere in the Roman Empire.<sup>9</sup>

The greatest surprise caused by the final publication of the Greek part of the Babatha Archive has been the striking similarity between the documents from the province of Arabia and those from Egypt, notwithstanding the fact that the people who wrote these documents or are attested in them were mostly Jews. Their ‘Jewishness’ is expressed in nothing except their names.<sup>10</sup> As I have tried to show elsewhere, Babatha and her litigants show no awareness of an

\* This paper owes much to Dr John Rea’s patience, kindness, and generosity. I would like to thank the Advisory Committee for the Dead Sea Scrolls of the Israel Antiquities Authority for entrusting me with the publication of the Greek part of the so-called *P. Se’elim* and the Editorial Committee of the Journal for constructive criticism. I alone am responsible for the many imperfections which remain.

<sup>1</sup> N. Lewis, *The Documents from the Bar Kokhba Period in the Cave of Letters. Greek Papyri* (1989) = *P. Yadin*.

<sup>2</sup> D. Feissel and J. Gascou, ‘Documents d’archives romains inédits du moyen Euphrate (III<sup>e</sup> siècle après J.-C.)’, *CRAI* (1989), 535–61; J. Teixidor, ‘Deux documents syriaques du III<sup>e</sup> siècle après J.-C. provenant du moyen Euphrate’, *CRAI* (1991), 144–64; *Semitica* 41–42 (1991–2), 195–208; cf. B. Aggoula, *Syria* 69 (1992), 391–9.

<sup>3</sup> C. Bradford Welles, Robert O. Fink, and J. Frank Gilliam, *The Excavations at Dura. Final report v. Part 1*.

<sup>4</sup> With one exception: No. 15 is from the second century B.C.E.

<sup>5</sup> L. Casson and E. L. Hettich, *Excavations at Ness-*

*ana II: Literary Papyri* (1950), Nos 1–13; C. J. Kraemer Jr., *Excavations at Nessana III: Non-Literary Papyri* (1958), Nos 14–195.

<sup>6</sup> See especially P. Benoît, J. T. Milik, J. T. and R. de Vaux, *Discoveries in the Judaeen Desert (DJD) II: Les Grottes de Murabba’at* (1961): the majority date from the first and second centuries C.E. The Bar Kokhba documents published so far are now all listed in F. Millar, *The Roman Near East* (1993), Appendix II: ‘Documents from the Bar Kochba War’.

<sup>7</sup> Y. Yadin, and J. Naveh, *Masada I: The Aramaic and Hebrew Ostraca and Jar Inscriptions*; H. M. Cotton and J. Geiger, *Masada II: The Latin and Greek Documents*.

<sup>8</sup> Edited by Emanuel Tov with the collaboration of Stephen J. Pfann, appeared in 1993; see there S. J. Pfann, ‘History of the Judaeen Desert discoveries’, pp. 97–108, and ‘Sites in the Judaeen Desert where texts have been found’, pp. 109–20.

<sup>9</sup> See H. Cotton, ‘The Guardianship of Jesus son of Babatha: Roman and local law in the province of Arabia’, *JRS* 83 (1993), n. 1 for recent bibliography.

<sup>10</sup> True, Babatha’s orphaned son is called Ἰουδαῖος in *P. Yadin* 12, l. 7.

existing normative rabbinic law, but are strongly influenced by Roman law, while their diplomatics resemble those of Egyptian papyri.<sup>11</sup> The degree of assimilation of non-Hellenized Jews — most of them do not know Greek — into their environment seems to upset some deeply entrenched views about the contrast between Jews and non-Jews in the Greco-Roman world.

The document published here was written in the province of Judaea and not in Arabia, but we should not overlook the essential unity of the Jewish society reflected in all the papyri from the Judaeen Desert, whether they originate in Arabia or in Judaea; nor should we lose sight of the fact that we are talking about areas which are very close to each other,<sup>12</sup> and where borders had very little inhibiting effect on movement. The Jews who hid their documents in these caves not only shared a similar fate, but throughout their lives they exhibited similar assimilation to certain aspects of the society in which they lived. The official names, Arabia, Judaea, and Syria-Palaestina, represent artificial divisions which did not seem to matter very much in reality. The Babatha Archive amply demonstrates that the Jews living in Zo'ar and the Jews living in the province of Judaea belonged to one and the same Jewish society whose internal ties overrode provincial boundaries: they disregarded the provincial boundaries in their residence, marriages, property holdings, and even in their litigation.<sup>13</sup>

This essential unity permits us to treat together the information obtained from the documents from the Judaeen Desert, regardless of the place where they were originally written, and to try to use them in order to understand Jewish society better. Here, in the first publication of another marriage contract from the Judaeen Desert, I shall attempt to do so on the basis of documentary marriage contracts of which we now possess eight samples. The names in the document published here, well-known Jewish names, leave no room for doubt that this is a marriage contract between Jews, like *DjD* II, Nos 115 (124 C.E.) and 116 (first half of second century C.E.), two marriage contracts discovered at *Murabba'at*, written in Greek. Together with the two marriage contracts from the Babatha Archive (*P. Yadin* 18 and 37), it brings the number of marriage contracts between Jews written in Greek to five — all of them from the first half of the second century C.E. We also have three marriage contracts written in Aramaic: *DjD* II, Nos 20 (117 C.E.?)<sup>14</sup> and 21 (no date),<sup>15</sup> and Babatha's marriage contract with her second husband, Judah son of Eleazar Khthousion (between 122 and 125 C.E.).<sup>16</sup>

The time is ripe, I believe, for an attempt to use this relatively wide sample as the base for an examination of the form, content, and legal framework of the Jewish marriage contract during the period in which the rules which were later on formulated in the tractate *Ketubbot* ('marriage contracts') of the *Mishnah*<sup>17</sup> must have developed.<sup>18</sup> Such an exploration should enable us to see whether or not, or to what extent, the legal rules and social customs reflected in these documents harmonize with those which underlie the Mishnaic text. The results of the investigation may have important consequences for the study of the authority exercised by the Rabbis at the time and for the development of normative Judaism.

It must be said at the outset that there exists even to the cursory observer a striking resemblance between 'Jewish'<sup>19</sup> marriage contracts in Greek from Arabia and Judaea and those which were written in Egypt at the time: a greater assimilation of the Jews into their environment than has hitherto been assumed is thereby suggested.

<sup>11</sup> Cotton, *op. cit.* (n. 9).

<sup>12</sup> The distance between Aristoboulias of our papyrus (see below) and Zo'ar is 57 km, as the crow flies; between Aristoboulias and 'En-Gedi 23 km; between Zo'ar and 'En-Gedi 50 km; between Zo'ar and Livias in the Peraea (Transjordan, *P. Yadin* 37) 87.5 km; between Aristoboulias and Livias 61 km — a day's walk or two days at most between the furthest destinations (see Fig. 1).

<sup>13</sup> See Appendix 1.

<sup>14</sup> If the 'year eleven' at the opening refers to the era of the province of Arabia; K. Beyer, *Die aramäischen Texte vom Toten Meer* (1984), 309 takes it as 'year eleven to Nero', i.e. 64 C.E.; cf. *DjD* II, No. 18: 'year three to Nero'.

<sup>15</sup> The editor very tentatively suggests 'before the First

Revolt', *DjD* II, p. 114; Beyer, *op. cit.* (n. 14), 310: 'spätestens 135 n. Chr., wahrscheinlich auch nicht viel früher'.

<sup>16</sup> *P. Yadin* 10 to be published shortly by Jonas Greenfield and Ada Yardeni in *IEJ*. I am grateful to Professor Greenfield and Dr Yardeni for allowing me to quote from this as well as from the other unpublished Aramaic documents.

<sup>17</sup> On the *Mishnah*, see below Appendix II.

<sup>18</sup> See M. A. Friedman, *Jewish Marriage in Palestine: A Cairo Geniza Study* I (1980), 7-9.

<sup>19</sup> I use 'Jewish' here simply to indicate that the personalities are Jewish, not to describe the character of the document.

## II

*XHev/Se Gr.* 2, Inv. No. 870: A CANCELLED MARRIAGE CONTRACT FROM THE JUDAEAN DESERT

JUDAEA

130 C.E.

References: E. Tov with the collaboration of S. J. Pfann, *The Dead Sea Scrolls on Microfiche. Companion Volume* (1993), 66; *DJD* II No. 115, p. 250 (*Commentaire*); p. 253, n. 5 (cf. M. A. Friedman, *Jewish Marriage in Palestine: A Cairo Geniza Study* I (1980), 8, n. 17); *JRS* 83 (1993), 106, n. 5.

The document published for the first time here is among the few Greek papyri which together with Aramaic and Nabataean papyri were brought to the Rockefeller Museum in Jerusalem (their present location) in August 1952 by Bedouin, who claimed to have found them in Wadi Seiyal,<sup>20</sup> whence the designation *P.Še'elim*;<sup>21</sup> nevertheless they are now generally believed to come from the Caves of Naḥal Hever.<sup>22</sup> With the exception of the present papyrus, all other documents which belong to this group come from the Roman province of Arabia and seem to belong to the same Jewish and Nabataean milieu as the Babatha Archive.<sup>23</sup>

Marriage contracts on papyrus are a well-known type of contract.<sup>24</sup> The marriage concluded in this document has been terminated by death or divorce, as attested by its cancellation by a number of crossing diagonal strokes of the pen over the document as well as through the signatures on the back. It must be stressed, however, that the cancellation by crossing diagonal strokes (χίταμός) does not in itself invalidate the document thus crossed. It is merely a visual representation of the fact that it is no longer in force, so that it will no longer be used.<sup>25</sup> Presumably there was also a deed of divorce<sup>26</sup> or a receipt for the return of the dowry.<sup>27</sup>

The date of cancellation of our contract is unknown, except that it was after 130 C.E. The Bar Kokhba Revolt, 132–135, which might have caused Babatha to hide her precious documents in a cave in the Judean Desert, may explain the preservation of our document too. If so, the marriage did not last long. One may only speculate whether the cancellation had something to do with the revolt.

<sup>20</sup> Pfann, op. cit. (n. 8), 98.

<sup>21</sup> Wadi Seiyal or Naḥal Še'elim flows into the Dead Sea about four km north of Masada; it is south of Naḥal Hever and Naḥal Mishmar (see Fig. 1).

<sup>22</sup> See J. C. Greenfield, 'The Texts from Naḥal Še'elim (Wadi Seiyal)', in J. Trebolle Barrera and L. Vegas Montaner (eds), *The Madrid Qumran Congress: Proceedings of the International Congress on the Dead Sea Scrolls, Madrid 18–21 March, 1991* (1992), 662: 'There can . . . be little doubt that Naḥal Hever is the source for the so-called Še'elim texts. However, for convenience and because the plates are so labeled in the Rockefeller Museum, the designation Še'elim will be maintained'; see also Y. Yadin, 'Expedition D — the cave of Letters', *IEJ* 12 (1962), 228–9. I follow the designation in Tov, op. cit. (n. 8), 64–6: *XHev/Se*.

<sup>23</sup> Three of the Greek so-called *P.Še'elim* are published in successive issues of the *ZPE*: 'Another fragment of the declaration of landed property from the province of Arabia', *ZPE* 99 (1993), 115ff. (for the first fragments, found among the papers of the late Professor Yadin, see 'Fragments of a declaration of landed property from the province of Arabia', *ZPE* 85 (1991), 263ff.); 'Rent or tax receipt from Mahoza', *ZPE* 100 (1994), 547ff.; 'Loan with hypothec', *ZPE* 101 (1994), 53ff.; two other papyri constitute part of the archive of Salome daughter of Levi (*XHev/Se Gr.* 1 and 5), which also includes a receipt in Aramaic *P.Še'elim* 12 (= *XHev/Se* 12) and *P. Yadin* 37. The archive will be published in *ZPE*. The entire find of the so-called *P.Še'elim* will be republished in the *DJD* series.

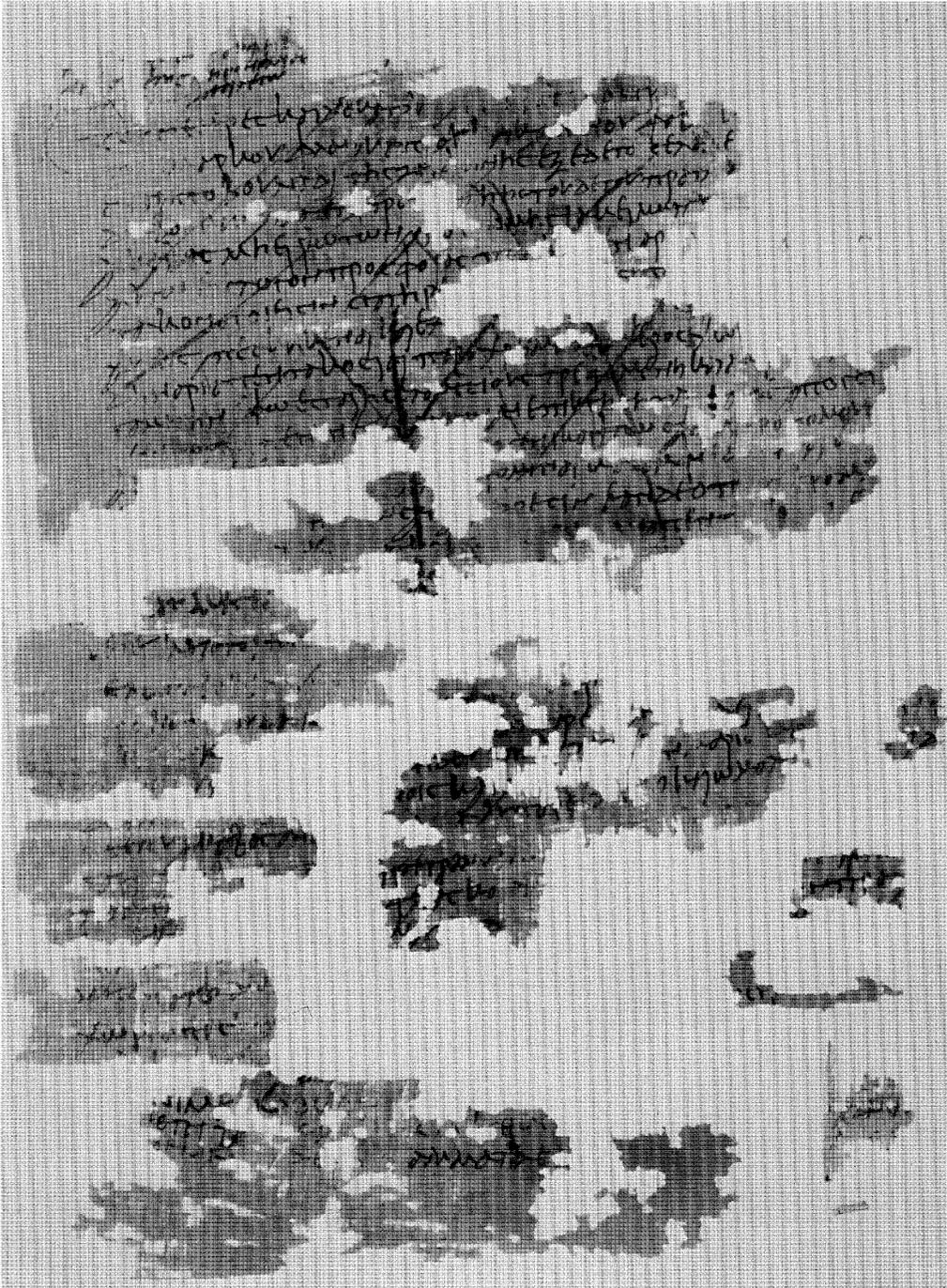
<sup>24</sup> The bibliography is huge. For lists of marriage contracts and bibliography until 1988 see O. Montevicchi, 'Ricerche di sociologia nei documenti dell'Egitto greco-

romano, II: I contratti di matrimonio e gli atti di divorzio', *Aegyptus* 16 (1936), 3–83; *La Papirologia* (1973), 205–5; *Addenda* (1988), 568.

<sup>25</sup> H. A. Rupperecht, *Studien zur Quittung im Recht der græco-ägyptischen Papyri* (1971), 80–1; see also a list of cancelled documents in K. Maresch and Z. M. Packman (eds), *Papyri from the Washington University Collection II: Papyrologica Coloniensia XVIII* (1991), 75–8, ad No. 79.

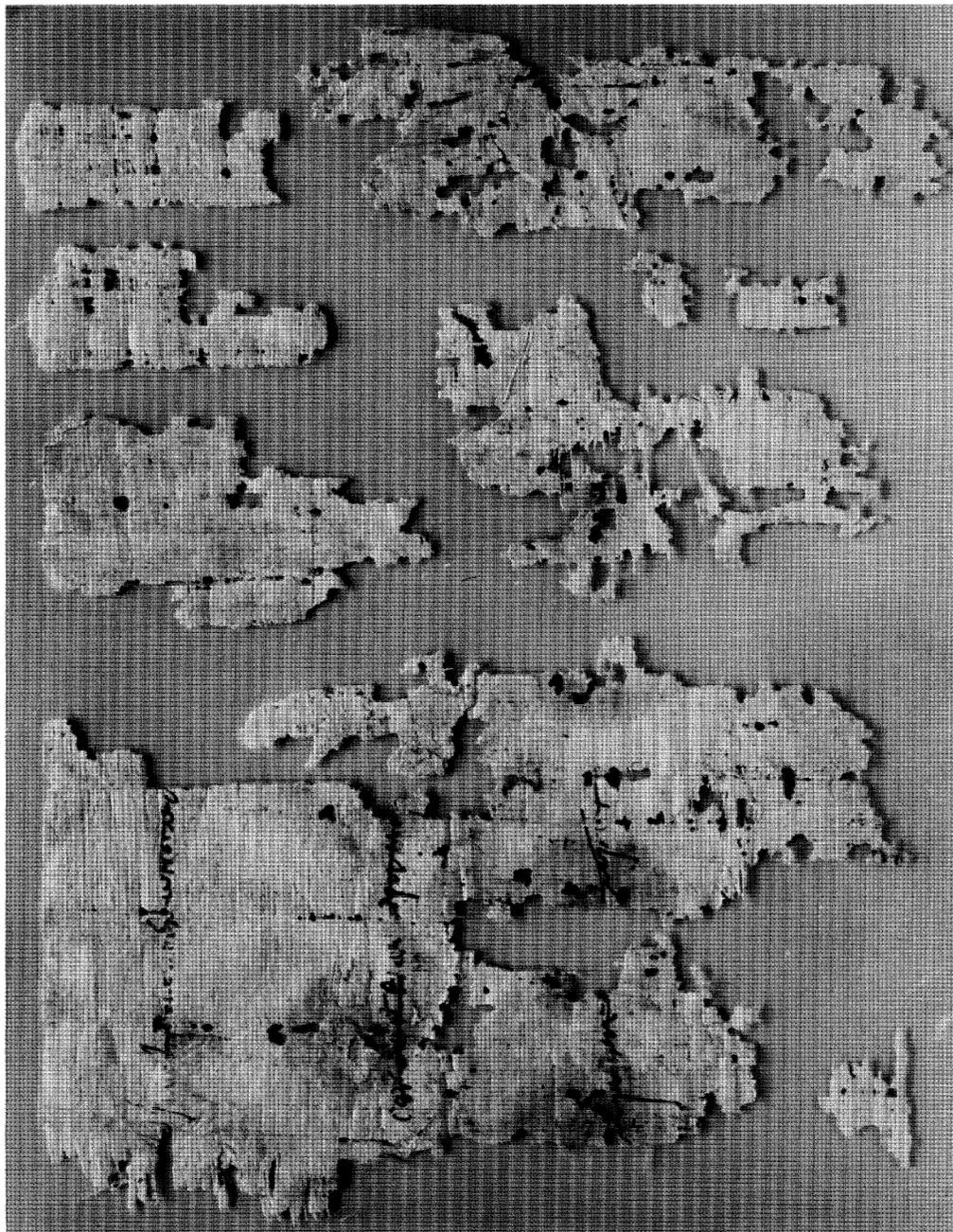
<sup>26</sup> e.g. *P.Oxy.* II. 266 from 96 C.E., where the ex-wife acknowledges that in accordance with a contract of marriage she received the money she had brought her husband as a dowry; this contract she is now returning to him cancelled: ἦς τὴν ἐπίφορον (scil. ὁμολογίαν) αὐτὸθεν ἀναδεδωκέναι [κεχίταμένην εἰς] ἀκύρωσιν (ll. 14–15); cf. *P.Oxy.* 362; 363; *P.Lips.* 27 (= *M.Chr.* 293, 123 C.E.). On acts of divorce on papyri see Rupperecht, op. cit. (n. 25), 43ff.; Cl. Préaux, 'Un acte de divorce du Brooklyn Museum (*P.Brooklyn gr.* 4 = *SB* 9740)', *Chron. d'Ég.* 37 (1962), 323–33.

<sup>27</sup> In *P.Oxy.* 268 from 58 C.E. the widow and her daughter acknowledge the receipt of the mother's dowry from the dead man's nephew (ll. 7–9); the marriage settlement is now void: καὶ εἶναι ἀκύρον τὴν δηλουμένην τοῦ γάμου συγχώρησιν, ll. 12–13; cf. *P.Lond.* 178 (145 C.E.); *P.Oxy.* 460; *P.Col.Youtie* II. 67; *P.Tebt.* II. 460. The *Mishnah* also knows of a receipt given to the husband once he pays the *ketubba*, cf. *mKet.* 9.9; *mGittin* 2.5; 8.8. *P.Še'elim* 13 (= *XHev/Se* 13), 135 C.E., is in fact such a quittance given by a wife to her husband to acknowledge that she has no further claims on him (to be published by Ada Yardeni and Jonas Greenfield in *Memorial Volume for Menahem Stern*).



A CANCELLED MARRIAGE CONTRACT FROM THE JUDEAN DESERT: RECTO.

*Photo Israel Antiquities Authority (copyright).*



A CANCELLED MARRIAGE CONTRACT FROM THE JUDEAN DESERT: VERSO.  
*Photo Israel Antiquities Authority (copyright).*



## Translation:

## Recto, outer text:

1. In the fourteenth year of the Emperor T[rajan Hadrian Caesar Augustus, in the consul-
2. ship of Marcus Flavius Aper and Quintus Fabius [Catullinus
3. in Aristoboulias of the Zephine. Sela.e[ ] gave in marriage[ her daughter (?) Selampious
4. through Bork.. 'Agla, her guardian for this matter[
5. to 'Aqabas son of Meir from the village of Iaqim [of the Zephene .... she bringing
6. to him on account of bridal gift of the dowry(?) in si[lver and gold ... all appraised in money
- value as five
7. hundred denarii which are the equivalent of [one hundred and twenty five] staters, [and the
- groom acknowledges
8. to have received and to hold from her[ ....
9. five hundred denarii forthwith by hand [
10. wedded (wife) so that Selampious is nourished and cloth[ed ... upon the security of all his
- posse-
11. ssions both those which he has now and those which he will acquire. And in the event of the
- death of[
12. [ ] the male children or if heirs
13. [ ] the daughters will be nourished and clothed[
14. [ ] and if he who is mentioned before[
15. [ ] five hundred denarii [
16. [ ]

## Verso:

1. Joseph son of S..demon, witness.
2. Sou[mai]os son of Eleazar, witness.
3. Maro.es ... witness.
- 4.
- 5.

## Recto:

1. The restoration of the imperial titulature is based on *P. Yadin* 14, ll. 15–16; 15, l. 1 = l. 14; 20, l. 1 = ll. 18–19; 21, ll. 1–2; 22, ll. 1–2; and on *DjD* II, No. 115, l. 1. The suggested restoration means that we have lost thirty four letters in l. 1. If the restoration is accepted, then we know the approximate length of a line and are able to calculate the loss in all the other lines.
2. The restoration of the cognomen of the second consul as Κατουλλίνου<sup>30</sup> (i.e. Catullinus) does not correspond to the practice found in the Babatha Archive where it is rendered Κατηλίνου: *P. Yadin* 20, l. 2 = l. 19; 21, l. 3; 22, l. 3 (it is restored in *P. Yadin* 23, ll. 20–1).<sup>31</sup> The Roman day and month followed, perhaps also the Macedonian month and day as often in the Babatha Archive: e.g. *P. Yadin* 14, ll. 15–19; 15, ll. 1–2 = ll. 14–16 etc. The space which needs to be allowed for the restoration of the month and day conforms to the loss calculated in l. 1 and the suggested restoration of the imperial titulature there.
3. On Aristoboulias and Zif see below.  
 ἐξέδετο — for the formation of the third person of the second aorist middle of ἐκδίδωμι in -ετο instead of -οτο see F. Th. Gignac, *A Grammar of the Greek Papyri of the Roman and Byzantine Periods* II (1981), 394. Many of his examples are, predictably, from marriage contracts.  
 Cελα. — is the name of the mother. Restored as Cελα[μ] it will give us the Aramaic word Shlam (שלם), the equivalent of the Hebrew Shalom (שלום), which means 'peace'. Hebrew Shalom is a well-known female name. In two Aramaic papyri which belong to the so-called *P. Se'elim* group we find: Salome daughter of Levi — לוי ברה שלם — *P. Se'elim* (=XHev/Se) 12, l. 1<sup>32</sup> and Salome daughter of Shimeon — שמעון ברה שלם — *P. Se'elim* (=XHev/Se) 8a, l. 12.<sup>33</sup> Note, however, that in a deed of sale written in Hebrew (*DjD* II, No. 30) the name of the woman is written twice as Shalom — שלום (ll. 6 and 25), and once without the *waw* as שלם, but it is to be pronounced Shalom rather than Shlam; the same is true of a housesale in Hebrew (*P. Se'elim* 8a) where the wife's name is spelled once as שלם (l. 12) and once as שלום

<sup>30</sup> Alternatively Κατυλλείνου, see *IGR* III. 81; cf. *IGR* I. 623 Κατυλλείνου, a *libertus* of the emperor.

<sup>31</sup> All of them written by Germanus the μβλάριος (sic!), on which term see Lewis ad *P. Yadin* 15, l. 38, p. 64.

<sup>32</sup> Unpublished. Admittedly, her name is transcribed in Greek as Καλωμή in *XHev/Se Gr.* 1, a deed of gift in Greek, see above (n. 23): the normal way of rendering

Hebrew Shalom in Greek, see P. B. Bagatti and J. T. Milik, *Gli scavi del Dominus Flevit* 1 (1958), 81 on transcriptions of the name in Greek.

<sup>33</sup> *P. Se'elim* 8a was first published by J. T. Milik, 'Un contrat juif de l'an 134 après J.-C.', *RB* 61 (1954), 183 (= *Biblica* 38 (1957), 264–5). It is now going to be republished by Dr Ada Yardeni.

(l. 14).<sup>34</sup> Thus the spelling  $\epsilon\lambda\psi$  may not after all express an Aramaic rendering of the Hebrew name  $\epsilon\lambda\psi$ , but the Hebrew name written in defective spelling.<sup>35</sup> This consideration, combined with the fact that the name Shalom, spelled with or without the *waw*, is usually rendered in Greek Καλωμή (see n. 32), may suggest that another name is behind the text here. The first four letters look like one of the Greek transliterations of the name Shelamzion —  $\epsilon\lambda\psi\mu$  — but the  $\epsilon$  after the missing  $\mu$  does not occur elsewhere in the transcription of that name. If it is Shelamzion, then mother and daughter have the same name, albeit transliterated differently: see *Κελαμπιου* in l. 10.<sup>36</sup>

$\epsilon$  [if the restoration *Κελα[μ]* is accepted then this could be the beginning of the patronym.

4. Βορκ.. — the two uncertain letters may in fact not be two letters, but an  $\omega$ . In l. 5 we find another name in the genitive ending in an  $\omega$ : Μηριω. It is hard to know whether the name comes from the root *brkh* (ברך bless) or *brq* (ברק light). The former root is attested in *P. Se'elim* (= *XHev/Se*) 10, l. 1 which has Shmoka son of Brukha (שמוקה בר ברוכה). Greek inscriptions from Egypt attest the names Βοραχίας, Βορσούχ,<sup>37</sup> and Βορχίας,<sup>38</sup> for Jews — all from the root *brkh* — but also Βοράκου<sup>39</sup> which comes from the root *brq*. H. Wuthnow, *Die semitischen Menschnennamen in griechischen Inschriften und Papyri des vorderen Orients* (1930), 37 has Βορκαιος and Βόρκου and see also on pp. 132–3. An inscription on a tag from Masada, and thus before 73 or 74 c.e., reads 'Jehu(?) the son of Barqay — יהוא בר ברקי',<sup>40</sup> Barqay meaning the "morning star".<sup>41</sup> An ossuary inscription from Jerusalem attests the name: Καφίρα Βορκου.<sup>42</sup> An Amora<sup>43</sup> by that name is mentioned in the Palestinian Talmud:<sup>44</sup> Bourqi, Bourqai (ברקי, בורקאי).<sup>45</sup> Josephus records a friend of Agrippa II called Βόρκιος (*Bj* II. 524; 526). On an altar from the Beqa' valley in Lebanon we find a dedication by two brothers, Βορκεος και Καβας (*IGLS* 2962).<sup>46</sup>

Αγλα — could it be *Egla*? Cf. 'Ιωάνης *Egla*, 'John son of *Egla*', one of the guardians of Babatha's orphaned son, named thus in *P. Yadin*. 12, l. 8; 13, ll. 21–2; 27, l. 6, as well as in the Aramaic subscription of *P. Yadin* 15, l. 33:  $\epsilon\lambda\psi$  בר עגלא 'my colleague John, son of *Egla*'. But in *P. Yadin* 14, l. 23 and 15, ll. 3–4 = l. 18 it is 'Ιωάνης 'Ιωσήπου τοῦ *Egla* 'John son of Joseph 'Egla'. 'Egla must have been Joseph's nickname, 'the Calf'.<sup>47</sup>

διὰ ... ἐπιτρόπ[ου] αὐτῆς τοῦδε τοῦ πράγμα[τος] — cf. *P. Yadin* 14, l. 22; 15, ll. 31–2; see also *P. Yadin* 20, ll. 25–7: διὰ ἐπιτρόπου αὐτῆς 'Ιουδακ δε και Κίνβερ 'Αγαγίου 'Ην[γ]αδηνου τοῦδε τοῦ πράγματος χάριν;<sup>48</sup> cf. *XHev/Se Gr.* 1 (a deed of gift, 129 c.e., unpublished), ll. 4–5: συναρόντος αὐτῆ ἑπιτρόπου τοῦδε τοῦ πράγματος χάριν 'Ιωσήπου Σίμωνος ἀνὴρ αὐτῆς.<sup>49</sup> Perhaps we should restore here, too, the word χάριν. The use of ἐπίτροπος to describe the guardian of a woman, whereas in Greek-speaking lands the traditional term was κύριος, is thus not peculiar to the Babatha Archive and to the province of Arabia, as assumed by H. J. Wolff.<sup>50</sup>

In the space left after the break would come the name of the bride, *Κελαμπιου*, followed or preceded by τὴν ἰδίαν θυγατέρα αὐτῆς or τὴν ἑαυτῆς θυγατέρα, cf. *P. Yadin* 18, ll. 32–8 = ll. 3–5: ἐξ[έδ]οτ[ο] 'Ιούδα[ς] 'Ελεαζάρου τοῦ και [Χθουσί]ων[ος] *Κελαμπ[ι]ώνην* τὴν ἰδίαν θυγατέρα ... 'Ιούδατι ἐπικαλουμένω Κίμβερι.

<sup>34</sup> Pointed out to me by Dr Ada Yardeni.

<sup>35</sup> For the spelling  $\epsilon\lambda\psi$  see E. L. Sukenik, 'A Jewish burial cave on the northern slope of Nahal Qidron, near Kfar Shiloah', *S. Krauss Festschrift* (1936), 92:  $\epsilon\lambda\psi$ ; Y. L. Rahmani, 'Jewish rock-cut tombs in Jerusalem', *Atiqot* 3 (1961), 104:  $\epsilon\lambda\psi$ , to be read as  $\epsilon\lambda\psi$  followed by another name; Bagatti and Milik, op. cit. (n. 32), 88, No. 19:  $\epsilon\lambda\psi$  בת עי ('Salome daughter of 'Awiy?'); 95, No. 31:  $\epsilon\lambda\psi$  בת עי ('Salome the proselyte').

<sup>36</sup> On the names Shalom and Shelamzion see Bagatti and Milik, op. cit. (n. 32), 79–81; G. Mayer, *Die jüdische Frau in der hellenistisch-römischen Antike* (1987), 106–7; 109–10; T. Ilan, 'New ossuary inscriptions from Jerusalem', *Scripta Classica Israelica* 11 (1991/92), 156–7.

<sup>37</sup> *CPJ* 3, No. 1438 = W. Horbury and D. Noy, *Jewish Inscriptions of Graeco-Roman Egypt* (1992), No. 15, late Roman.

<sup>38</sup> *CPJ* 3, No. 1454 = Horbury and Noy, No. 43, 5 c.e.

<sup>39</sup> Horbury and Noy, No. 156, 78 b.c.e.

<sup>40</sup> Yadin and Naveh, op. cit. (n. 7), No. 398.

<sup>41</sup> *ibid.*

<sup>42</sup> E. Peuch, 'Inscriptions funéraires palestiniennes: Tombeau de Jason et ossuaires', *RB* 90 (1983), 527, No. 39.

<sup>43</sup> *Amoraim* the ... commentators of Tannaitic [Mishnaic] teachings', *Strack-Stemberger, Introduction to the Talmud and Midrash* (1991), 7.

<sup>44</sup> Strack-Stemberger, op. cit. (n. 43), 182ff.

<sup>45</sup> *yYoma* ('the Day', scil. the Day of Atonement, *Yom Kippur*) 43.1; *yQiddushim* ('betrothal') 63.4; *yAbodah Zarah* ('idolatry') 43.1.

<sup>46</sup> Βουκερου in *IGLS* 2973, also from the Beqa', is said to be a diminutive of Βορκακος, see ad loc.

<sup>47</sup> See R. Hachlili, 'Names and nicknames in Second Temple times', *Eretz Israel* 17 (1984), 203 (Hebrew with an English summary on pp. 9\*–10\*). Could the nickname refer to his place of origin, the district of 'Agaltain (עגלתא) mentioned in Nabataean and Aramaic documents? See J. Starcky, 'Un contrat nabatéen sur papyrus', *RB* 61 (1954), p. 163, l. 2; Y. Yadin, 'Expedition D — the Cave of Letters', *IEJ* 12 (1962), 250–1; *idem*, 'The Nabataean kingdom, provincia Arabia, Petra and En-Gedi in the documents from Nahal Hever', *Ex Oriente Lux* 17 (1963), 230–1; cf. G. Bowersock, 'The Babatha papyri, Masada and Rome', *JRA* 4 (1991), 340–1.

<sup>48</sup> 'through Judah (also known as Cimber) son of Ananias, En-Gedian, her guardian for the purpose of this matter'.

<sup>49</sup> 'present with her, her guardian for the purpose of this matter, Joseph son of Simon, her husband'.

<sup>50</sup> 'Le droit provincial dans la province romaine d'Arabie', *RIDA* 23 (1967), 279ff., and in 'Römisches Provinzialrecht in der Provinz Arabia', *ANRW* II.13 (1980), 793ff., but he is right to point out that this cannot be accounted for by the influence of the local language, since the Aramaic makes the distinction: the guardian of a woman is called אדון — 'adon — κύριος; e.g. *P. Yadin* 15, l. 37: יהודה בר כחשין אדון בבתה — 'Yehudah son of Khthou-sion "lord" of Babatha'.

5. 'Aqabas — the name occurs also on Frag. D of this document. The most famous bearer of the name is R. 'Aqiba son of Joseph, who died in the Bar Kokhba Revolt (132–135 c.e.).<sup>51</sup> The name is attested in Hebrew letters on several inscriptions from Palestine: (1) an ostraca found at Masada carries the inscription: 'Ha[nani] as the High Priest, 'Aqabia his son — תְּחִינָה כְּהֵנָה רַבָּא עֲקִיבָא בְּרִיָּה;<sup>52</sup> (2) Jo'ezer 'Aqabiah (spelled with aleph — יוֹעֵזֶר אֲקִיבִיָּה) is found written eight times in Hebrew letters in a first-century tomb in Jericho;<sup>53</sup> (3) 'Aqiba — עֲקִיבָא — is attested on a tomb from Jerusalem.<sup>54</sup> Finally 'Aqabiah son of 'Elioenai — עֲקִיבִיָּה בֶן עֲלִיּוֹנַי — is attested in Hebrew letters in Egypt.<sup>55</sup>

Μηειρω — Hebrew Meir מֵאִיר. This is the name of one of the most famous rabbis who 'played a significant part in the redaction of the *Mishna*'.<sup>56</sup> Nonetheless we are informed that the name 'does not appear in the Bible, nor in any reliable Jewish literary, or legible and datable epigraphical material before the Geonic period [i.e. seventh century]'.<sup>57</sup> Hence it has been suggested that it is a transcription of an Anatolian (Phrygian) name Μείρος, Μίρος, and that Rabbi Meir belonged to the family of a proselyte from Asia Minor.<sup>58</sup> The Meir of our document, being the father of the groom, belongs to a generation earlier than the famous Rabbi. In view of the other names in the document, the more likely assumption is that Meir too is a Jewish name. Perhaps we should lend more credence to the other attestations of the name in Josephus and the inscriptions.<sup>59</sup>

τῶν ἀπὸ κ(ώμης) Ἰακείμων see *DJD* II, No. 115, l. 2: Ελεῖτος Σίμωνος τῶν ἀπὸ κ(ώμης) Γαλωδῶν; *P. Yadin* 5, ll. 5–6: Ἰώσηπος τοῦ Ἰωσή[του ἐπι]καλουμένου Ζαβούδο[υ] τῶν ἀπὸ Μαωζῶν. For οἱ ἀπὸ κ(ώμης) see Preisigke, *Wörterbuch* s.v. ἀπό and Wilcken, *Grundzüge* 43. On Yaqim or Yaqum see below.

If τῆς Ζειφηνῆς followed and προσφερομένην came at the very end of the line, about nine or ten letters are left unaccounted for; too few for πρὸς γάμου κοινωνίαν which is most attractive here, see *P. Yadin* 18, ll. 6–7 = ll. 38–9. One might suggest κατὰ (τοὺς) νόμους as in *P. Yadin* 18 before the προσφερομένην: εἶναι τὴν Σελαμψιῶνη<ν> Ἰουδαίη Κίμβροι γυναικῶν γαμετὴν πρὸς γάμου κοινωνί[α]ν κατὰ τοὺς νόμους, προσφερομένην αὐτῷ εἰς λόγον προσφορᾶς κτλ. (ll. 6–8 = ll. 37–40).<sup>60</sup>

6. εἰς λόγον προσφορᾶς προικ[ός] — προσφορά here means gold and silver dowry objects as we can see from what follows. The same usage is found in *P. Yadin* 18, ll. 7–8 = ll. 39–40: προσφερομένην αὐτῷ εἰς λόγον προσφορᾶς κοσμίαν γυναικίαν ἐν ἀργύρῳ καὶ χρυσῷ καὶ ἱματισμῷ.<sup>61</sup> In *P. Mil. Vogl.* 71 (Marcus Aurelius 161–180) φερνή and προσφορά are used interchangeably for jewelry and clothes.<sup>62</sup> An alimentary contract from 42 c.e. also records jewelry as προσφο(ραὶ) ἄνευ δ(ιατιμῆσεως) (*P. Mich.* 121, recto, col. III, xii, l. 3).<sup>63</sup> Thus there are four exceptions to G. Häge's claim that *prosphora* always means either slaves or landed property, and is fundamentally different from either *pherne* or *parapherna* in that it does not pass into the groom's hands but remains legally the property either of the wife or of the giver.<sup>64</sup>

προικ[ός] — the reading is not certain and the combination εἰς λόγον προσφορᾶς προικός is not attested elsewhere as far as I know.<sup>65</sup> The term προῖξ for dowry appears in two other marriage contracts found in the Judaean Desert. In *P. Yadin* 18, ll. 12–15 = ll. 45–9 the groom undertakes 'to add to the dowry consisting of jewelry and clothes just mentioned (πρὸς τῇ τῆς προγεγραμμένης

<sup>51</sup> See Strack-Stemberger, op. cit. (n. 43), 79–80; E. Schürer, G. Vermes, and F. Millar, *History of the Jewish People at the Time of Jesus Christ* II (1979), 377–8. There are others: R. 'Akabiah (אֲקַבְיָה) son of Mahalalel, *mAbot* ('fathers'), 3.1; *mEduyot* ('testimonies'), 5.6f., see Strack-Stemberger, 73 for his date; perhaps father of R. Hananyah son of 'Akabiah (c. 130–160), *mKet.* 8.1, see Strack-Stemberger, 86; R. Issi son 'Akabiah (אֲקַבְיָה) (c. 130–160) is mentioned in *bPesahim* ('Passover offerings') 113.2 and *bYoma* ('the day'), 52.2, see Strack-Stemberger, 86.

<sup>52</sup> *Yadin* and Naveh, op. cit. (n. 7), No. 461; cf. No. 645: [ ]- ; 'perhaps the beginning of the name 'Aq[iva]l'.

<sup>53</sup> R. Hachlili, 'The Goliath family in Jericho: funerary inscriptions from a first-century A.D. monumental tomb', *BASOR* 235 (1979), 48; 54. The spelling with *aleph* is probably wrong, see Beyer, op. cit. (n. 14), 348.

<sup>54</sup> J. T. Milik, 'Trois tombeaux juifs récemment découverts au sud-est de Jerusalem', *Liber Annus* 7 (1956), 247, No. 13, fig. 16:2, cf. *RB* 65 (1958), 409.

<sup>55</sup> *CPR* 3, No. 1424 = Horbury and Noy, op. cit. (n. 37), No. 3, early Ptolemaic?

<sup>56</sup> See Strack-Stemberger, op. cit. (n. 43), 84; he belonged to the third generation of Tannaite, c. 130–160 c.e.

<sup>57</sup> See N. G. Cohen, 'Rabbi Meir, a descendant of Anatolian proselytes', *JJS* 23 (1972), 52–3, and esp. nn. 7–8 there, where the epigraphical material is collected.

<sup>58</sup> *ibid.*, 53–9.

<sup>59</sup> See note 57.

<sup>60</sup> 'Shelamzion to be wedded wife to Judah Cimber for the partnership of marriage according to the laws, she bringing to him on account of bridal gift etc.'

<sup>61</sup> 'She bringing to him on account of bridal gift feminine adornment in silver and gold and clothing'.

<sup>62</sup> In l. 7 the groom acknowledges that he has received from Tephrosais daughter of Eudaimon (ἐν προσφ[ορᾷ]) a dowry (τὴν φερνήν) in gold measured in the scales of Arsinoe etc. (ἔχειν ... παρὰ [Τεφροσαίτου τῆς καὶ] Εὐδαιμονίδος ἐν προσφ[ορᾷ] τὴν φερνήν χρυσίου δοκιμίου εἰ[σ]θμῷ Ἀρσινουετικῷ κτλ.); in the case of a divorce he will return to her τὴν προκειμένην φερνήν (l. 11); finally the wife says that she wants to bring to her husband ἐν προσφ[ορᾷ] jewelry and clothes (l. 21ff.).

<sup>63</sup> The editor objects that 'the term προσφορά here is used to designate the objects elsewhere classed as *parapherna*' and therefore 'this may be a scribal error'.

<sup>64</sup> *Ehegüterrechtliche Verhältnisse in den griechischen Papyri Ägyptens bis Diokletian* (1968), 250–89; J. Modrzejewski, 'Zum hellenistischen Ehegüterrecht im griechischen und römischen Ägypten', *ZRG RA* 87 (1970), 50ff. and esp. 69; E. Gernet, *Beiträge zum Recht der Parapherna, Münchener Beiträge zur Papyrusforschung und antiken Rechtsgeschichte* 38 (1954), 19–32; see also the very lucid presentation of J. L. Rowlandson, *Landholding in the Oxyrhynchite Nome, 30 B.C.–c. 300 A.D.* (unpub. D.Phil., Oxford, 1983), 128–51.

<sup>65</sup> In *CPR* 24 (136 c.e.) = *M. Chr.* 288, l. 8 a mother gives her daughter some property ἐν φερνή κατὰ προσφορᾶν ἀναφαίρετον.

προσφορᾶς αὐτῆς) three hundred denarii, and everything together will go towards Shelamzion's dowry (πάντα εἰς λόγον προικὸς αὐτῆς); *DJD* II, No. 115, ll. 5–6: ἃ ὠμολόγησεν ὁ αὐτὸς Ἐλαῖος Σίμωνος ἠριθμηθεῖσθαι ... π[ρογε]γραμμ[ένα] ἧς εἰς λόγον προικὸς παρὰ Καλώμης Ἰωάν[ου] Γαλγ[ου]λά.<sup>66</sup> It describes the dowry in Egyptian papyrus as well, e.g. *P.Lond.* 178 (145 C.E., receipt for the return of part of the dowry), ll. 20–2: ἀπέχ[ω] τὰς τοῦ ἀργυρίου δραχμὰς τετρακοσίας εἰς τὸν λόγον τῆς προοικῶ μου; *P.Oxy.* 2133 (late third century C.E., a woman complains that her uncle did not give her a dowry): μηδὲν μοι καθ' ὄνητότ' οὐδὲν τρόπον εἰς λόγον προ[ικ]ῶς ἐπιδεδωκότος; *P.Grenf.* 76 (305–6 C.E.), ll. 13–14: [εἰς λό]γον προικῶς.<sup>67</sup>

ἐν ἀργύρῳ καὶ χρυσῷ — in *P.Yadin* 18, ll. 8–11 = ll. 39–43 we read: προσφερομένην αὐτῷ εἰς λόγον προσφορᾶς κομίαν γυναικειάν ἐν ἀργύρῳ καὶ χρυσῷ καὶ ἱματιεῶν διατετιμημένην ἐν ἄλλή[ι]λοις, ὡς λέγουσιν οἱ ἀμφοτέροι, ἀξιοχρεῶν εἶναι ἀργυρίου δηναρίων διακοσίων.<sup>68</sup> Some shorter phrase expressing the money value of the gold and silver objects of the dowry will fit the space allowed by fifteen missing letters: ἐν διατιμήσει or ἐν συντιμήσει (see J. E. G. Whitehorne, 'The valuation of gold dowry objects in papyrus of the Roman period', *Archiv* 32 (1986), 50–3).

6–7. δηνάρια πεντακόσια οἱ εἰς ἐκατὸν εἰκοσιπέ[ν]τε — the restoration is quite certain as we see from ll. 9 and 15. The conversion to staters (*sela'im*- סֵלָאִים) is well attested in documents from the Judaean Desert, e.g. in Babatha's own Aramaic marriage contract to her second husband, *P. Yadin* 10, the sums of money are given in these two denominations: 'money four hundred *zuzim* which are *sela'im* one hundred' (ll. 8–9).<sup>69</sup>

The acknowledgment by the groom now follows as is clear from what comes in the following line. In *P. Yadin* 18, ll. 10–11 = 43–4 the evaluation of the dowry objects is followed by: ἦν τεμογραφίαν ὠμολόγησεν ὁ γήμας Ἰούδας Κίμβερ ἀπειληθέναι παρὰ τῆς αὐτῆς Σελαμψιούς γυναικὸς αὐτοῦ;<sup>70</sup> similarly in *DJD* II, No. 115, ll. 5–6: ἃ ὠμολόγησεν ὁ αὐτὸς Ἐλαῖος Σίμωνος ἠριθμηθεῖσθαι. The repetition of the sum of money in l. 9 excludes the use of relatives like ἦν τεμογραφίαν and ἃ here. Καὶ ὠμολόγησεν Ακαβας Μειρῶ παρ' would fit admirably the space of twenty eight letters left till the end of the line. In *Frag. B*, l. 5 we read καὶ ὠμολόγησεν, but unfortunately the fragment does not fit here. 8. ἀπεσκηθέναι = ἀπεσχηθέναι see Gignac, *A Grammar of the Greek Papyri of the Roman and Byzantine Periods* I (1976), 86.

ἀπεσκηθέναι καὶ ἔχ[ειν]: the repetition 'to have received and to hold' is not found in Greek marriage contracts from Egypt and may be influenced by the Semitic language of the writer.<sup>71</sup> Since the sum of money at which the dowry was evaluated appears in l. 9, it seems reasonable to assume that the rest of this line contained exactly the same text as l. 6, now seen from the point of view of the groom: εἰς λόγον προσφορᾶς προικὸς ἐν ἀργύρῳ καὶ χρυσῷ valued at etc.

9. παραχρήμα διὰ χερσὸς — cf. *P. Yadin* 18, l. 12 = l. 45: διὰ χερσὸς παραχρήμα; we find the expression in Egyptian marriage contracts as well, e.g. *P.Mich.* 5.339 (46 C.E.), ll. 2–3, where the groom acknowledges that he has received from the bride, Taorsenouphis daughter of Aphrodisios, as dowry (φερονήν) a hundred drachmae of marked silver παραχρήμα διὰ χερσὸς.<sup>72</sup> χωρ[ε] — Perhaps χωρ[ε] πάσης ὑπερθέσεως, i.e. without delay.<sup>73</sup> But for the accusative of γυναῖκα γαμετήν, it would be tempting to put a full stop after διὰ χερσὸς, and restore here some form of the verb χωρηγεῖν, such as χωρηγείτω.<sup>74</sup> Still the accusative might be accounted for by the example of *BGU* 1050 (= *M.Chr.* 286, 13 BCE), ll. 12–14: <ἐφ' ᾧ> τὸν Διονύσιον ἀπεσχηκότα τὴν προκειμένην φερωνήν

<sup>66</sup> 'And the same Eleaios acknowledges that he has been paid . . . the said two hundred (?) drachmae as dowry by Salome daughter of John Galgoula'.

<sup>67</sup> For προίξ and φερνή used interchangeably for dowry in the papyrus see A. Wasserstein, 'A marriage contract from the province of Arabia Nova: Notes on Papyrus Yadin 18', *Jewish Quarterly Review* 80 (1989), 106–7, n. 44.

<sup>68</sup> 'The bringing to him on account of bridal gift feminine adornment in silver and gold and clothing appraised by mutual agreement, as they both say, to be worth two hundred denarii of silver'.

<sup>69</sup> cf. *DJD* II, No. 115, ll. 4–5; *P.Yadin* 11, ll. 14–15 = ll. 2–3; *DJD* II, No. 30 (134 C.E.), l. 21; *DJD* II, No. 114 (171 C.E.), ll. 10–11; Milik, op. cit. (n. 33), ll. 7–8; M. Broshi and E. Qimron, 'I.O.U. Note from the time of the Bar Kochba Revolt', *Eretz Israel* 20 (1989), 256, ll. 6–7 (Hebrew); idem, 'A house sale deed from Kefar Baru from the time of Bar Kochba', *IEJ* 36 (1986), 206, ll. 5–6 and notes on pp. 210–11.

<sup>70</sup> 'Which appraised value the bridegroom Judah called Cimber acknowledges that he has received from the said Shelamzion his wife'.

<sup>71</sup> See Benoit, *DJD* II, p. 252 ad No. 115, ll. 3–6: 'Ces accomplissements de termes [i.e. ἀπαλλαγῆναι καὶ

ἀπαλύειν; ἔξ ἀνανέσεως καταλλάξαι καὶ] προσλαβέσθαι] ainsi que leur parallélisme antithétique ne manque pas de saveur sémitique'.

<sup>72</sup> ὀμολογῶ εἶχεν παρὰ τῆς . . . Ταορσενουφειος τῆς Ἀφροδισίου παραχρήμα διὰ χερσὸς ἔξ οἴκου ἐν προσδόσει ἐφ' αὐτῆ φερωνήν ἀργυρίου ἐπισημίου δραχμὰς ἑκατόν; cf. *CPR* 24 (= *Stud.Pal.* 20.57p = *M.Chr.* 288, 136 C.E.), l. 4f.: ὁ μὲν Σουχάμ[ι]μων εἶχεν παρὰ [τῆς Ἀφροδείτη] ἐπὶ τῆ θυγατρὶ αὐτῆς Ἀφροδε[ι]τοῦτι Ἀμμωνίου παρ[ο-] [θῆν[ω] οὐκ παρ]αχρήμα διὰ χερσὸς χρυσοῦ κτλ.; *BGU* 1052, l. 9; *BGU* 1103, l. 11; *P.Lond.* 178, l. 9; *P.Hamb.* 3.220, l. 4.

<sup>73</sup> cf. *SB* 9353 (140 C.E.), l. 21, where the groom promises to give back the dowry without delay.

<sup>74</sup> It is true that the technical term for a husband providing for his wife is the compound ἐπιχωρηγεῖν, e.g. *P.Oxy.* 3500 (third century C.E.), ll. 8–9: ὁ δὲ [γαμῶ]ν καὶ ἐπιχωρηγ[ε]ίτω τῆ γυναικὶ τὰ δέοντα πάντα κατὰ δ[ύ]ναμιν ('the husband is further to provide his wife with all necessities according to his means'); *BGU* 1045 (= *M.Chr.* 282, 154 C.E.), ll. 18–19; *P.Mil.Vogl.* 71 (161–180 C.E.), ll. 9–10; *P.Oxy.* 905, l. 10. But the simple verb occurs too in the same context, cf. *P.Oxy.* 1273 (260 C.E.), l. 24: χωρηγ[ε]ίτω τῆ γυναικὶ τὰ δέοντα πάντα; cf. *P.Oxy.* 3491 (157/8 C.E.), ll. 16–17.



2. Cou...oc E[...]αρου — Cou[λαί]oc? 'E[λεαζ]άρου — the suggested restoration renders the name Shullai שולאי, found twice in Hebrew letters as a patronym in the so-called *P.Şe'elim* group: 'son of Shullai wrote this' (*P.Şe'elim* = *XHev/Se* 10, l. 5); 'Yehosef son of Shullai, witness — יהוסף בר שולאי, שהה' (*P.Şe'elim* = *XHev/Se Gr.* 1, verso, l. 6). It has been suggested that this is a Nabataean name.<sup>86</sup> One may recall the powerful minister of the Nabataean realm, Syllaues Συλλατος, Jos., *Ant.* xvi.220–5; *Bḡ* 1.487; 574f. It is also possible to restore Cou[μαί]oc. An Abdereus son of Soumaios serves as a witness in *P.Yadin* 12, l. 16 and a Soumaios son of Ka.abaios serves as a witness in *P.Yadin* 19, l. 34 — both sign their names in Greek letters. Both are Nabataeans.<sup>87</sup> Soumaios is restored as the name of the writer of one of the two Greek letters from Naḥal Ḥever from the time of the Bar Kokhba Revolt.<sup>88</sup> The letter implies that he could communicate in Greek only.<sup>89</sup> It has been suggested that he too was a Nabataean.<sup>90</sup> Whether we restore Cou[μαί]oc or Cou[λαί]oc, in view of the restoration of the patronym, our man seems to be a Jew.<sup>91</sup>

## III. COMMENTARY

*Place and Date: Aristoboulias, Zif, and Yaqim (or Yakum) in 130 C.E.*

The marriage contract was written 'in Aristoboulias of Zeiphênê'.<sup>92</sup> The location is not without interest. Zeiphênê is biblical Zif: the name stands both for a city<sup>93</sup> as well as for the adjoining desert.<sup>94</sup> It is into this desert that St Euthymius wandered, according to his biographer, to see the caves where David hid from Saul.<sup>95</sup> While sojourning there, he succeeded in exorcizing an evil spirit which had taken possession of the son of one of the headmen of the village of Aristoboulias.<sup>96</sup> This is in fact the only other attestation from antiquity for the Aristoboulias of our document.

The biblical city of Zif is identified with present-day Tel Zif,<sup>97</sup> a well protected hill which rises seventy metres above its hilly surroundings (880 m), situated on the north–south road from Hebron to Carmel-Ma'on as well as on an important road which passes through the desert to the Dead Sea. Aristoboulias is generally identified with Khirbet Istabûl which lies not far from Tel Zif.<sup>98</sup> The presence of Aristoboulias in this document should restore confidence in the Hasmonaean foundation suggested by M. Avi Yonah.<sup>99</sup>

The bridegroom in our document, 'Akabas son of Meir, is said to come from κώμη 'Ιακείμων. It seems possible to identify the place with Kh. Yuqin (also called Kh. Bani Dar) two and a half km north of Zif and three and a half km north of Aristoboulias.<sup>100</sup> An Aramaic

<sup>86</sup> G. Mussies, 'Jewish personal names in some non-literary sources', in J. W. van Henten and P. W. van der Horst (eds), *Studies in Early Jewish Epigraphy* (1993), 252.

<sup>87</sup> D. Obbink, 'Bilingual literacy and Syrian Greek', *BASP* 28 (1991), 57.

<sup>88</sup> B. Lifshitz, 'Papyrus grecs du désert de Juda', *Aegyptus* 42 (1962), 240 (= Y. Yadin, 'Expedition D', *IEJ* 11 (1961), p. 42, No. 3 = *SB* No. 9843), l. 1: Cou[μαί]oc; it could also be restored as Cou[λαί]oc, see Mussies, loc. cit. (n. 86).

<sup>89</sup> Ll. 11–15: ἐγράφη δ[ε] Ἑλληνικτὴ διὰ τ[ὸ] ἄφορ]μάς μὴ εὐρηθ[ῆ]ναι Ἐβραετικτὴ γ[ρα]ψάσθαι, 'The letter has been written in Greek on account of no opportunity having been found of having it written in Hebrew', Obbink's restoration and translation, op. cit. (n. 87), 54–5; see also G. Howard and J. C. Shelton, 'The Bar-Kochba letters and Palestinian Greek', *IEJ* 23 (1973), 102.

<sup>90</sup> Obbink, op. cit. (n. 87), 57.

<sup>91</sup> Admittedly there is no safe evidence for the use of Nabataean names by Jews: in *CIS* II. 219 'Omraḥ is the wife of a man who declares himself a Jew; it is not at all certain though that she too is Jewish, see H. Z. Hirschberg, 'New Jewish inscriptions in the Nabataean sphere', *Eretz Israel* 12 (1978), 144–5 (Hebrew).

<sup>92</sup> For the following discussion I am much indebted to Professor B. Isaac for putting me on the right track.

<sup>93</sup> Joshua 15:24, 55; II Chron. 11:8; Jos., *Ant.* VIII.246:

Ζιφά. Zif is one of the four cities whose names appear on the LMLK stamps from Lachish all dated to c. 700 B.C.E.: O. Tufnell, *Lachish III: The Iron Age* (1953), 342ff.; N. Na'aman, 'Hezekiah's fortified cities and the LMLK stamp', *BASOR* 261 (1986), 5–24. I owe this information to my friend Tsvi Schneider.

<sup>94</sup> I Sam. 23:14–24; 24:2.

<sup>95</sup> Kyrillos of Skythopolis, *Vita Euthymii* (ed. E. Schwarz, 1939), 11.

<sup>96</sup> *ibid.* 12.

<sup>97</sup> M. Kochavi (ed.), *Judaea, Samaria and the Golan: Archaeological Survey 1967–1968* (1972) (Hebrew), p. 68, No. 178; F.-M. Abel, *Géographie de la Palestine* II (1938), 490.

<sup>98</sup> Abel, op. cit. (n. 97); Kochavi, op. cit. (n. 97), p. 70, No. 190. For a fuller and updated bibliography on Aristoboulias and Zif see Y. Tsafir, L. di Segni and J. Green (eds), *Judaea, Palaestina, Eretz Israel during the Hellenistic, Roman and Byzantine Periods: Maps and Gazetteer* (forthcoming); the maps form part of the *Tabula Imperii Romani*. I am very grateful to the editors for letting me consult their manuscript.

<sup>99</sup> *Gazetteer of Roman Palestine* (= *Qedem* 5) (1976), p. 31, s.v. Aristoboulias.

<sup>100</sup> Kochavi, op. cit. (n. 97), p. 64, No. 162 who identifies it with Biblical Haqqayin חקין mentioned together with Ma'on, Carmel, Zif, and Yuta in Joshua 15:57 (*ibid.*, p. 29).

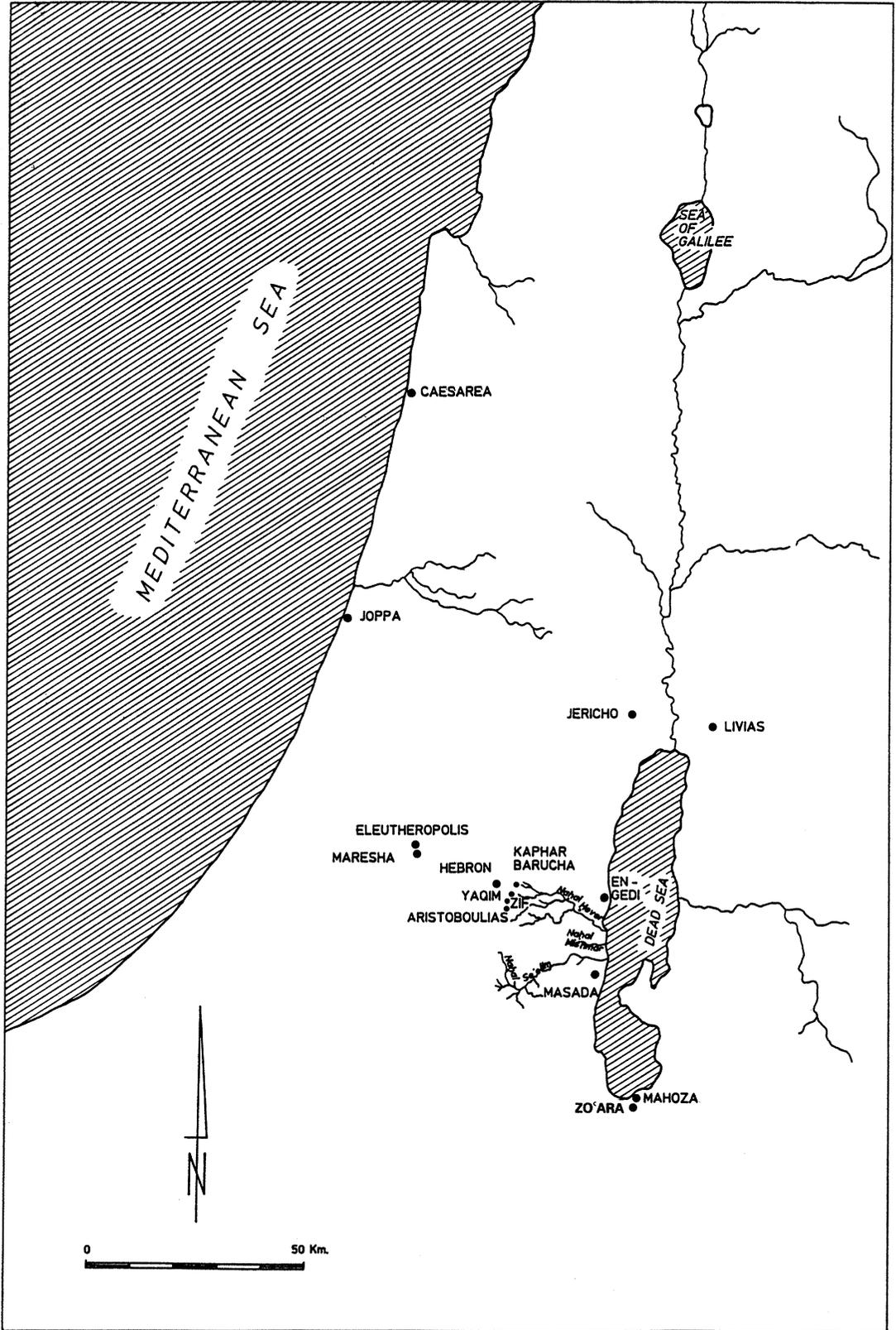


FIG. 1.

deed of sale which also belongs to the so-called *P. Se'elim* group was written 'in Yaquim' בִּיקוּם or 'in Yaqim' בִּיקִים.<sup>101</sup>

The relationship between Aristoboulias and Yaqim on the one hand and Zeiphênê on the other must be one of dependency (or hierarchy); presumably Zeiphênê is the capital of the provincial subdivision to which both Aristoboulias and Yaqim belonged. The phrasing in our document is all but identical to that of the other marriage contract from Judaea: the present marriage contract is concluded 'in Aristoboulias of the Zephênê' and the groom Aqabas son of Meir is 'from the village of Yaqim [of the Zephênê]' whereas the other contract was concluded 'at Bethbassi in the toparchy of Herodium', and the groom Eleaios son of Simon, is 'from the village of Galoda of Akrabatta, but is an inhabitant of Batharda of Gophna'.<sup>102</sup> However, unlike Herodium, Akrabatta and Gophna, which are well-known subdivisions of Judaea,<sup>103</sup> designated as toparchies, there is no information about Zif as a toparchy.

Idumaea, the subdivision to which Aristoboulias and Yaqim are most likely to have belonged, is absent from the list of toparchies in Pliny (as well as from all later evidence),<sup>104</sup> as is 'En-Gedi. The reason may well be that Pliny's list reflects the conditions prevailing in Judaea after 70 C.E.<sup>105</sup> At least for 'En-Gedi we know from a document from 127 C.E. that it ceased to function as a toparchy and was included in the subdivision of Jericho: '[Judah son of Eleazar] of the village of 'En-Gedi in the district of Jericho in Judaea' (*P. Yadin* 16, ll. 15–16).<sup>106</sup> Both *DJD* II, No. 115 and *P. Yadin* 16 prove that the system of toparchies, i.e. the division of Judaea into districts, which took their names from their capital villages,<sup>107</sup> remained virtually unchanged after the First Revolt.<sup>108</sup> Could Zif have now given its name to what used to be the subdivision of Idumaea — or part of it — and become its centre, until replaced by Beth Govrin when the latter was given city status under Septimius Severus and its name was changed to Eleutheropolis?<sup>109</sup> After this, as we know from Eusebius, Zif was included in the territory of Eleutheropolis,<sup>110</sup> to which what used to be Idumaea as well as other districts were subordinated.<sup>111</sup>

Comparing two provinces which had previously been two different kingdoms<sup>112</sup> calls for caution; nevertheless, the striking similarity in the phrasing of the relationship between Aristoboulias/Yaqim and Zif on the one hand and that between Maḥoza and Zo'ara in the province of Arabia on the other is inescapable. The ἐν Ἀριστοβουλιάδι τῆς Ζηφεινῆς (l. 2 of the present document) is closely paralleled by ἐν Μαω[ζου] τῶν περὶ Ζ[οα]ραν;<sup>113</sup> ἐν Μαωζα περὶ Ζοαραν;<sup>114</sup> ἐν Μαωζα περὶ Ζοορων;<sup>115</sup> ἐν Μαωζα τῆς περὶ Ζοαρα;<sup>116</sup> ἐν Μαωζα περιμέτρῳ Ζοορων of *P. Yadin*.<sup>117</sup> In each case one village is subsumed in the subdivision to which another village gave its name. Twice, however, Petra is mentioned as the centre to which both Zo'ara and its daughter village, Maḥoza, belonged.<sup>118</sup> It is likely that both villages were included in the territory of Petra which possessed the legal status of a

<sup>101</sup> *P. Se'elim* (= *XHev/Se*) 9, kindly shown to me by Ada Yardeni. It opens with 'Jacob son of Simon son of the Beard (?) (*digna* דִּיגְנָא 'the beard') said to Judah in Iaquim (or Iaqim)'. The name of the place also appears in the first signature.

<sup>102</sup> *DJD* II, No. 115, ll. 2–3. The place-name Bethbassi still survives, see Abel, op. cit. (n. 97), 269.

<sup>103</sup> All three appear both in Josephus' list, *BJ* III.54–5 and in Pliny the Elder's, *NH* v.70 = M. Stern, *Greek and Latin Authors on Jews and Judaism* 1 (1974), No. 204; see Stern's comparison of the two lists and their respective dates on pp. 473f. and in great detail, Schürer-Vermes-Millar, op. cit. (n. 51), 184–98.

<sup>104</sup> B. Isaac, 'The Babatha archive', *IEJ* 42 (1992), 68.

<sup>105</sup> *ibid.*

<sup>106</sup> κώμησι Αἰνγαδδῶν περὶ Ἱερεϊχούντα τῆς Ἰουδαίας, see Isaac, op. cit. (n. 104).

<sup>107</sup> See Schürer-Vermes-Millar, op. cit. (n. 51), 190–3.

<sup>108</sup> Isaac, op. cit. (n. 104), 67ff.

<sup>109</sup> The coins fix the era of the city to 199–200, A. Spijkerman, *Studi Biblici Franciscani, Liber Annus* 22 (1972), 369–84. Schürer-Vermes-Millar, op. cit. (n. 51), 194, n. 39, suggest tentatively that 'the toparchy [of Idumaea] was administered from Beth Govrin' — there is no evidence for this.

<sup>110</sup> 'A village (κώμη) in Daroma, in the territory of Eleutheropolis, eight miles east of Hebron', *Onom.* 92. 19–22 (ed. E. Klostermann, reprint, 1966) see map of

Palestine 'nach dem Onomasticon' attached to the back cover.

<sup>111</sup> For the territory of Eleutheropolis, see A. H. M. Jones, 'The urbanization of Palestine', *JRS* 21 (1931), 83 and n. 1 there, and pl. VII, and Abel, op. cit. (n. 97), 173. Presumably Eleutheropolis is the *polis* suggested by the title of Kynoros son of Diodotos on the bilingual ossuary from Khirbet Zif: Κύνωρος Διοδότου πρωτοπολείτης — published by L. Y. Rahmani, 'A bilingual ossuary inscription from Khirbet Zif', *IEJ* 22 (1972), 113–16, pls 18–19; see also E. Y. Kutscher, 'Note on the title מרום ר'ר', *IEJ*, 22 (1972), 117, who takes מרום ר'ר, the Aramaic equivalent of πρωτοπολείτης, to mean 'head of masters'; *contra* Y. Yadin, *IEJ* 22 (1972), 235–6 who reads מר'ר (ע'ר) and takes it to mean 'head of dwellers' (ע'ר = 'amr = dwell).

<sup>112</sup> There is no evidence for toparchies in Arabia.

<sup>113</sup> *P. Yadin* 5, ll. 4–5.

<sup>114</sup> *P. Yadin* 14. l. 20; 15, l. 3 = ll. 16–17; 17, ll. 2–3 = ll. 19–20; 18, l. 3 = l. 32.

<sup>115</sup> *P. Yadin* 25, l. 28 = l. 64.

<sup>116</sup> *P. Yadin* 19, ll. 10–11.

<sup>117</sup> *P. Yadin* 20, ll. 22–3; 21, ll. 5–6; 22, ll. 5–6; 26, l. 18; 27, ll. 3–4.

<sup>118</sup> *P. Yadin* 16, ll. 13–14; Βαβθα ... Μαωζηνη τῆς Ζοαρηνης περιμέτρῳ Πέτρας; *P. Yadin* 37, ll. 2–3: ἐν Μαωζα τῆς Ζοαρηνης τῆς π[ε]ρι Πέτραν.

*polis*.<sup>119</sup> But we cannot be sure of what is implied by these concentric circles and by the subordination of villages to each other (or to a city): the functions performed by central villages such as Zo'ara and Zif vis-à-vis their subordinate villages, Maḥoza and Aristoboulias, are unknown.<sup>120</sup> None the less, the role of capital villages (or sub-*polis* agglomerations) as points of reference for less important villages is very important and worth stressing.

Thus this marriage contract takes us to a very definite part of Judaea: Yaqim (or Yaqum), Zif and Aristoboulias — all located in the area south-east of Hebron, along the eastern ridge of the Hebron mountains and a well-preserved north-south road.<sup>121</sup> We may recall that *DJD* II, No. 43 possibly mentions the nearby Kaphar Barucha — present-day Bani Na'im, two km north of Kh. Yuqim<sup>122</sup> — in a letter from the leader of the second Jewish Revolt: 'Shim'on son of Koseba to Jeshu'a son of Galgala and the people of The-Baruk (הברך)'.<sup>123</sup> The identification of Jeshu'a son of Galgala of *DJD* II, No. 43 with his homonym, the addressee of *DJD* II, No. 42 'Commander of the Camp' (רוש המחנה) means that there was a rebel camp in Kaphar Barucha.<sup>124</sup>

The south-eastern part of the Hebron hills, in which all these places are located, is described as 'the South' in Eusebius' *Onomasticon* (Δαρωμα)<sup>125</sup> and in Jewish sources (דרום).<sup>126</sup> It is located within the territorial boundaries of the Bar Kokhba Revolt, namely 'Judaea in the narrow and proper sense' (see Fig. 1).<sup>127</sup> It is true that no man-made subterranean hiding complexes — the hallmarks of settlements which participated in the Revolt<sup>128</sup> — were found in this area. The reason is not far to seek: the bedrock geology is quite different here and prevented their creation.<sup>129</sup> Instead, the Jewish inhabitants who lived here escaped into the caves of the Judaeian Desert, where their documents were found. In fact this very document proves the participation of people from Aristoboulias in the Revolt.<sup>130</sup> This was a densely populated Jewish area, not less so than the northern and western parts of the Hebron hills and the Judaeian *Shephelah* (the Judaeian lowlands), where these hideouts were found.<sup>131</sup> Thus in 130 C.E., the date of this marriage contract, we are not only some two years away from the outbreak of the Bar Kokhba Revolt, a revolt which was carefully prepared some

<sup>119</sup> The evidence for its status as a *polis* is *P.Yadin* 12, ll. 4–5 (114 CE): 'Verified exact copy of one item of [guardianship] from the minutes of the council (βουλή) of Petra the metropolis'.

<sup>120</sup> cf. Schürer-Vermes-Millar, op. cit. (n. 51), 195f. It is tempting to compare Zo'ara and Zif to the *καπιταλια* ('capital villages') of the Trachonitis, but again the responsibilities of the latter towards the *πόλις* are unknown, see H. I. MacAdam, *Studies in the History of the Roman Province of Arabia*, BAR 295 (1986), 82–3. See Z. Safrai, 'The village in the time of the *Mishnah* and the *Talmud*', in M. Stern (ed.), *Nation and History: Studies in the History of the Jewish People* (1983), 173–95 (Hebrew) for an attempt to use archaeology and Jewish sources in order to describe the relationship between 'mother villages' and 'daughter villages'.

<sup>121</sup> 'The Bani Naim — Zif Road', see Kochavi, op. cit. (n. 97), p. 67, No. 170.

<sup>122</sup> See Kochavi, op. cit. (n. 97), p. 62, No. 151 and p. 29. Kaphar Barucha is north of Zif and five km east of Hebron; cf. Abel, op. cit. (n. 97), 288; Kyrillos of Skythopolis, *Vita Euthymii*, 12; and see the description of the pilgrimage of St Paula, Jerome, *Ep.* 108.11.

<sup>123</sup> See *DJD* III, Copper Scroll, col. xii, l. 8 on p. 298, and commentary on pp. 269 and 301. However, some read the *beth* as *khaf*, i.e. not The-Baruk הברך but the *krakh* הכרך i.e. the large city, maintaining that here the word has its original meaning of 'a fortress', see S. Yevin, 'Documents from Wadi Murabba'at', *Atiqot* 1 (1955), 105; cf. H. L. Ginsberg, 'Notes on two published letters to Jeshua Galgolah', *BASOR* 131 (1953), 25; J. Naveh, *On Sherd and Papyrus: Aramaic and Hebrew Inscriptions from the Second Temple, Mishnaic and Talmudic Periods* (1992), 108–9 (Hebrew).

<sup>124</sup> See *DJD* II commentary ad No. 43. The Arabic name of the place is Kafar Barik, see Abel, op. cit. (n. 97), 269.

<sup>125</sup> e.g. p. 26, ll. 10, 12; p. 68, l. 19; p. 70, l. 11; p. 78, l. 21; p. 86, l. 9; p. 130, l. 12 (Kostermann).

<sup>126</sup> See J. Schwartz, *Jewish Settlement in Judaea after*

*the Bar-Kochba War until the Arab Conquest 135 C.E.–640 C.E.* (1986), 38f. (Hebrew).

<sup>127</sup> See B. Isaac and A. Oppenheimer, 'The Revolt of Bar Kokhba: ideology and modern scholarship', *JJS* 36 (1985), 53–4; A. Kloner and Y. Tepper, *The Hiding Complexes in the Judaeian Shephelah* (1987), 366–72 (Hebrew). For the numismatic evidence, see D. Barag, 'A note on the geographical distribution of Bar-Kokhba coins', *Isr. Num. Jour.* 4 (1980), 30–3, and below (n. 130).

<sup>128</sup> See Kloner and Tepper, op. cit. (n. 127); Isaac and Oppenheimer, op. cit. (n. 127), 42–3.

<sup>129</sup> See Kloner and Tepper, op. cit. (n. 127), 23–9, for the geological structure of the hideouts in the foothills of the Judaeian Hills.

<sup>130</sup> In December 1991 excavations carried out in a cave in the upper part of Nahal Hever (only three km east of Khirbet Istabul) revealed evidence for occupation during the Bar Kokhba Revolt, the most important of which was a tetradrachm from 134/5. Hanan Eshel informs me that it became obvious to the excavators that they had been preceded by the Beduin: could this cave be the source of the marriage contract we are discussing here? See *AJA* 97 (1993), 152–3; D. Amit and H. Eshel, 'A tetradrachm of Bar Kokhba from a cave in Nahal Hever', *Isr. Num. Jour.* 11 (1990–91), 33–5.

<sup>131</sup> It is necessary to emphasize the Jewish character of the area before the Revolt, since it has been mistakenly claimed that it became overwhelmingly Jewish only afterwards, when refugees from the northern parts of the Hebron hills and from Jerusalem moved there, Schwartz, op. cit. (n. 126), 98; 106f.; cf. M. Mor, *The Bar-Kochba Revolt: Its Extent and Effect* (1991), 146; Z. Safrai, 'The Bar Kokhba Revolt and its effect on settlement' in A. Oppenheimer and U. Rappaport (eds), *The Bar-Kokhba Revolt: A New Approach* (1984), 190–2 (Hebrew), is more cautious. Professor Amos Kloner assures me that the archaeological evidence clearly shows continuous Jewish settlement in this area from the Second Temple period until the Bar Kokhba Revolt.

years in advance,<sup>132</sup> but we are in the very area in which it was prepared and organized. We are in what can justly be called the heartland of this national-religious resurgence. The fact that there are Jews here writing their marriage contract in Greek raises the same questions as the Greek letters and documents of the Jewish officers of the Bar Kokhba Revolt,<sup>133</sup> or the Greek ostraca of the *sicarii* who occupied Masada between 66 and 73 or 74 C.E.<sup>134</sup> Factors other than the Hellenization of the writers may well have made the use of Greek obligatory, or at least desirable, in documents of a legal nature, for example the need to make them accessible (or valid?) in a non-Jewish court of law.<sup>135</sup> The Babatha Archive has taught us that the resort to Greek in legal documents does not reveal Hellenized Jews: their signatures and subscriptions in Aramaic prove the opposite.<sup>136</sup>

### Marriage Practices

#### (i). The mother gives away the bride

The αὐτῆς in l. 4 shows that it is a woman,<sup>137</sup> and in all likelihood the mother, who is giving (ἐξέδeto, l. 3) her daughter in marriage. There are examples in papyri from Egypt: *P.Oxy.* 1273, ll. 1–6: ‘Aurelia Thaësis daughter of Eudaemon and Heraïs, of Oxyrhynchus, acting with Aurelius Theon also called Nepotianus . . . has given (ἐξέδeto) her daughter Aurelia Tausiris in marriage to the groom Aurelius Arsinoüs son of Tryphon and Demetria, of the said city, to whom the said giver contributes as the dowry of her said daughter, the bride, etc.’; *P.Oxy.* 372 (74–5 C.E.) is reported to begin with ἐξέδeto Ταωννῶφρις (‘the mother of the bride’, *ibid.* p. 312); see also *PSI* 1117 (second century C.E.), where the groom acknowledges the receipt of φερνή and παράφερνα from the mother, and the mother declares in ll. 18ff.: ‘I acknowledge that I have given my daughter Thenapynchis as dowry by the terms of this agreement a house that will be hers from this day and for ever etc.’<sup>138</sup> There are examples of both parents giving away the daughter: *BGU* 1100 (time of Augustus), l. 7: ἐγδέδονται . . . τὴν ἑαυτῶν θυγατέρα; *P.Oxy.* 3491 (157/8 C.E.), ll. 1–2: ἐξέδοντο . . . τὴν ἀμφοτ(έρων) θυγ(ατέρα). The *ekdosis* remained a standard feature of the matrimonial institution, even when it lost its original meaning and was reduced to a mere formula.<sup>139</sup>

Rabbinic legal practice provides for Jewish mothers to give away their daughters in marriage when still under-age — presumably because the father has died<sup>140</sup> — as is clear from *mKet.* 6.6: ‘If an orphan was given in marriage by her mother or her brothers with her consent, and they assign to her as her portion a hundred *zuz* or fifty, when she comes of age she may exact from them what should rightfully have been given to her’.<sup>141</sup> Minority is assumed also in

<sup>132</sup> Dio LXIX.12.2–3; Isaac and Oppenheimer, *op. cit.* (n. 127), 49–52.

<sup>133</sup> Lifshitz, *op. cit.* (n. 88), 240–58 (= *SB* 9843–4); *idem*, ‘The Greek documents from Nahal Seelim and Nahal Mishmar’, *IEJ* 11 (1961), 53–61; J. N. Sevenster, *Do You Know Greek? Novum Testamentum*, suppl. 19 (1968), 168ff.

<sup>134</sup> See Cotton and Geiger, *op. cit.* (n. 7), 113–27 (cf. pp. 9–10). The content of at least one group of Greek ostraca, Nos 772–7, closely resembles the Aramaic ostraca, Nos 557–84, see Yadin and Naveh, *op. cit.* (n. 7), 52–7. Both series contain delivery instructions which no doubt reflect the rationing of food among the *sicarii* who occupied the fortress.

<sup>135</sup> See Cotton, *op. cit.* (n. 9), 112; cf. Sevenster, *op. cit.* (n. 133), 155ff. on the official character of the Greek texts from Wadi Murabba‘at.

<sup>136</sup> cf. Wasserstein, *op. cit.* (n. 67), 124ff.

<sup>137</sup> In Fragment C, which belongs to the bottom of the document, we read γράμματα in the last line. It is reasonable to assume that we have here some version of the formula attested in *P.Yadin* 15, ll. 34–5 for example: Ἐλεάζαρος Ἐλεάζαρου ἔγραψα ὑπὲρ αὐτῆς ἐρωτηθεῖς διὰ τὸ αὐτῆς μὴ εἶ<I>δένα<I> γράμματα (‘I, Eleazar son of Eleazar, wrote for her by request, because she is

illiterate’); see J. C. Greenfield, ‘“Because he/she did not know letters”: Remarks on first millennium C.E. legal expression’, *Journal of Ancient Near Eastern Studies* 22 (1993), 39–44.

<sup>138</sup> For active participation of the mother in the marriage contract see e.g. *P.Eleph* 1 (311 B.C.E.) = *Select Papyri* 1.1 = *M.Chr.* 283; *CPR* 24 (136 C.E.) = *Stud.Pal.* 20.5rp = *M.Chr.* 288; *P.Oxy.* 496 (127 C.E.) = *M.Chr.* 287 (the grandmother); *BGU* 183 (85 C.E.) = *M.Chr.* 313; *BGU* 251 (81 C.E.); *P.Stras.* 237 (142 C.E.).

<sup>139</sup> See Modrzejewski, *op. cit.* (n. 77), 252; cf. H. J. Wolff, *Written and Unwritten Marriages in Hellenistic and Post Classical Roman Law* (1939), 18; 25ff.; see the examples of *ekdosis* in the Roman Period cited there on p. 17, in n. 48. The use of ἐξέδοτο in *P.Yadin* 18, l. 3 = ll. 32–3, does not call, therefore, for an *interpretatio Hebraica*, given by Katzoff in N. Lewis, R. Katzoff, and J. Greenfield, ‘*Papyrus Yadin* 18’, *IEJ* 37 (1987), 240–1 and in ‘*Papyrus Yadin* 18 again: a rejoinder’, *JQR* 82 (1991), 173–4.

<sup>140</sup> See *Yebamot* (‘sisters-in-law’) 13.2 with S. Lieberman, *Tosefta Ki-Fshutah: Part vi Seder Nashim* (1967), 153–4 (Hebrew).

<sup>141</sup> cf. *mYeb.* 13.2.



the children that she has and will have by him, sons or daughters, which she has or will have by him, will be fed and clothed from the property of the said Eleaios'.<sup>151</sup>

However, the combination of the maintenance formula and the expression 'as befits a wedded wife', is now found in Babatha's own Aramaic marriage contract (*P.Yadin* 10), ll. 9–10: 'with appropriate food and conjugal rights(?) and clothes befitting a freeborn woman' — עם דין [לחמן] ופרשך וכסתך כ[א]ונה ברה חורין. It is striking to find here an echo of *P.Eleph.* 1, 1.5 (cited above) with 'freeborn' rather than 'wedded' wife.<sup>152</sup>

It has been claimed that the maintenance clause was included in the Jewish *ketubba* tradition under the influence of Demotic marriage deeds.<sup>153</sup> In view of the persistence of the formula in Greek marriage contracts from Egypt from the late fourth century B.C.E. onwards, there is no reason to exclude their influence as well. There is no other evidence for its inclusion in the Jewish marriage contract before the time of Babatha's *ketubba*, that is 122–125 C.E.

### (iii). The liability clause

Ll. 11–12: ἐπὶ τῶν οὐ ἐπὶ πάντων ὑπαρχόντων ὧν τε νῦν ἔχει καὶ ὧν ἂν ἐπικτήσῃται. No such clause, which earmarks the husband's entire property as security for his wife's maintenance, is found, as far as I know, in Greek marriage contracts from Egypt, where it is stated that the husband will provide for all that is necessary according to his means. No such entailment is meant by the phrase found in *P.Tebt.* 1. 104, ll. 16–18 (= *M.Chr.* 285, 92 B.C.E.), and used to restore the text in others (e.g. *P.Gen.* 21 = *M.Chr.* 284, ll. 2–3): 'Let Philiskos provide Apollonia with all the necessities, with clothing and with all other things as many as befit a wedded wife, both at home and abroad, according to the magnitude of their possessions',<sup>154</sup> especially since later on it is stated that unless he does provide for her clothing and nourishment, as promised before, he will have to return the dowry immediately (ll. 24–7). Nor, when the maintenance clause is explicitly included in it, does the rabbinic marriage contract place the husband's property in lien to it.<sup>155</sup> The only exception — apart from our document and *P.Yadin* 18 and 37 — is the Jewish marriage contract of 417 C.E. from Antinoopolis, written in Aramaic and containing many Greek words transcribed in Hebrew letters, known as the *Ketubba* from Köln, where the husband's possessions are said to guarantee the feeding and clothing of the wife.<sup>156</sup>

The liability clause which entails the husband's entire property to guarantee the upkeep of the wife sets this marriage contract as well as *P.Yadin* 18 and 37 (and the much later *Ketubba* from Köln) apart from all other marriage contracts both Jewish and non-Jewish. The liability clause is used in Greek marriage contracts from Egypt simply to guarantee the return of the dowry in the event of a divorce or death.<sup>157</sup> It is also a standing feature of the Jewish *ketubba* where it guarantees the paying of the postponed bride-money (*mohar*, see below).<sup>158</sup>

It is important to point out that the particular turn of phrase which extends the liability clause to cover not only the property possessed at the time of concluding the contract, but also property acquired after its conclusion — [ἐπὶ τῶν ὑπαρχόντων ὧν τε νῦν ἔχει καὶ ὧν ἂν ἐπικτήσῃται] — is not found in contracts from Egypt, but only in contracts from the Judean

<sup>151</sup> καὶ τέκνων αὐτῆς οὐκ ἔ[χ]ει καὶ οὐκ ἂν εἴη ἀπ' αὐτοῦ υἱοῦς ἢ θυγατέρας οὐκ ἔχ[ ... ] οὐκ ἂν εἴη ἀπ' αὐ[τ]οῦ τραφῆσονται καὶ ἀμφιασθῆ[σ]ονται ἐκ τ[ῶ]ν ὑπαρχόντων τῷ αὐτῷ Ἐλεαί[ω].

<sup>152</sup> cf. the much later *SB* 4658 (*Arsinoe*, 323–642 C.E.), ll. 10–13: ὄν καὶ ἐγγυσοῦμεθα ἐτοιμῶς ἡμᾶς ἔχειν παρασκευάσαι αὐτὸν φιλοθῆναι τῇ [αὐ]τοῦ γαμετῇ Μαρίᾳ καὶ θάλπειν αὐτὴν ὡς ἀξιό[β]ον ἐστίν τῶν ἐλευθέρων γυναικῶν ('for whom we readily vouch that we are ready to make him beloved by his wife, Maria, and cherish her as befits freeborn women').

<sup>153</sup> M. J. Geller, 'New sources for the origin of the Rabbinic *Ketubah*', *Hebrew Union College Annual* 49 (1978), 227–45.

<sup>154</sup> [Τ]ὰ δὲ δεόντα π[ά]ντα καὶ τὸν [ι]ματικὸν καὶ τὰλλα ὅσα προσήκει γυναικὶ γαμετῇ παρεχέσθω Φιλίσκος Ἀπολλωνίαν ἐνδημίῶν καὶ ἀποδημίῶν κατὰ δύναμιν τῶν ὑπαρχόντων αὐτοῖς.

<sup>155</sup> See Friedman, op. cit. (n. 18), 167–78.

<sup>156</sup> C. Sirat, P. Cauderlier, M. Dukan, and M. A. Friedman, *La Ketouba de Cologne: Un contrat de mariage juif à Antinoopolis, Papyrologica Coloniensia* 12 (1986), pp. 20–1, ll. 23–5; יהוון אחרין ונתבין למותין והסתין; cf. pp. 13 and 57f.

<sup>157</sup> e.g. *P.Elph.* 1 = *M.Chr.* 283 = *Sel.Pap.* 1. 1 (311 B.C.E.), ll. 12–13; *P.Tebt.* 1052, ll. 19–22; *P.Ryl.* 154 (66 C.E.), ll. 33–5; *P.Oxy.* 1273 (260 C.E.), ll. 35–6; *P.Oxy.* 237 (186 C.E.). In fact it is a standing feature of all bills of debt, see H. Kühnert, *Zum Kreditgeschäft in den hellenistischen Papyri Ägyptens bis Diokletian* (Diss. Freiburg im Breisgau, 1965), *passim*.

<sup>158</sup> See Friedman, op. cit. (n. 18), 451ff.; Koffmahn, op. cit. (n. 28), 68f. The phrasing is: 'All properties which I have are surety and guarantee for your *ketubba*' — ויהוון אחרין ונתבין למותין והסתין דאין לי אחראין ונתבין לכותבין; *tKet.* 12.1; cf. *mKet.* 4.7.

Desert, where we find it in marriage contracts in both Greek and Aramaic,<sup>159</sup> as well as in contracts of sale or debt in both languages.<sup>160</sup> In other words we find it only when the contracting parties are Jews.<sup>161</sup>

(iv). Provisions for male and female children (ll. 11–13)

These lines which might have clarified many issues concerning the different rights of male and female children are unfortunately badly preserved. It is clear though that as a result of the prior death of one partner — probably the wife — the male children are to become heirs — probably of her dowry. It is *not* certain whether the wife's prior death is also the condition for the next stipulation, namely that female children will be nourished and clothed — presumably until they get married — or whether that stipulation is independent of it. It seems to be independent of it in the other documentary marriage contracts between Jews (see below).<sup>162</sup> These clauses are amongst 'the so-called court stipulations' (תנאי בית דין) of the Jewish *ketubba*,<sup>163</sup> i.e. 'tacit conditions, binding upon all, even if not written in a specific marriage contract'.<sup>164</sup> The specific clauses, which distinguish between male and female children, are attested, until now, only in the Jewish *ketubba* tradition,<sup>165</sup> and, as it seems, already in the early Mishnaic period. The phrase 'The sons inherit and the daughters are provided for' — הבנים ירשו והבנות יזונו — (*mKet.* 4.6) is said there to have been expounded on by R. Eleazar b. Azaryah, a second generation Tannah (90–130), and thus must have existed for a while. We read in *mKet.* 4.10–11: 'If he had not written for her: "Male children which you will have by me shall inherit thy *ketubba* besides the portion which they received with their brethren", he is still liable [thereto], since this is a condition enjoined by the court. [If he had not written for her:] "Female children which you will have by me shall dwell in my house and receive maintenance from my goods until they marry husbands", he is still liable [thereto], since this is a condition enjoined by the court'.<sup>166</sup> The distinction between the rights of sons and daughters is attested in different ways in all four marriage contracts from Wadi Murabba'at, in both Aramaic and Greek. However, these clauses are curiously absent from the two Greek marriage contracts of the Babatha Archive, *P.Yadin* 18 and 37. The order of the relevant clauses concerning provisions for the children in the case of the prior death of the wife, and sometimes without reference to it, in the four documents varies: (1) the heavily restored *DJD* II, No. 20 (Aramaic), ll. 7–9 seems to say that if the wife predeceases her husband the sons will inherit her bride-price (*ketubba*); the daughters will be provided for; (2) *DJD* II, No. 21 (Aramaic), ll. 10–14: the daughters will stay in his house and be provided for; if the wife predeceases her husband, the sons will inherit her bride-price (*ketubba*) and whatever else belongs to her; (3) *DJD* II, No. 115 (Greek), ll. 8–14: the children will be provided for; if the husband dies first, the widow will be provided for; if the wife dies first, the sons will inherit [her dowry?]; (4) *DJD* II, No. 116 (Greek), ll. 4–6: the daughters will be provided for and given in marriage; if the wife dies first, the sons will inherit her dowry etc. In Babatha's Aramaic marriage contract, *P.Yadin* 10, after a space of two lines, now almost completely obliterated, which may well have contained a reference to the prior death of the wife and the stipulation that her male children

<sup>159</sup> *P.Yadin* 18, ll. 16–18 = ll. 51–4; 37, ll. 10–11, quoted above ad ll. 9–10, in both as part of the guarantee of upkeep. In *DJD* II, No. 115, l. 17 it seems to be part of the guarantee of the return of the dowry: ἐκ τῶν ὑπαρχόμενων αὐτῆς [ὅν δ]᾽ ἔχει καὶ ὧν ἂν ἐπιπληρήσῃται...'; *DJD* II, No. 20, l. 12 (Aramaic).

<sup>160</sup> *P. Yadin* 11, ll. 10–11 = ll. 25–7; 17, ll. 12–15 = ll. 34–7; *DJD* II, No. 114, ll. 19–21 (Greek); *DJD* II No. 18, l. 8; No. 26, l. 6; No. 30, ll. 23–4; M. Broshi and E. Qimron, 'A house sale deed from Kefar Baru from the time of Bar Kokhba', *IEJ* 36 (1986), p. 206, l. 6; J. T. Milik, 'Deux documents inédits du désert de Juda', *Biblica* 38 (1957), 259, l. 11 (Aramaic).

<sup>161</sup> See Friedman, op. cit. (n. 18), 452 and nn. 5–6 for this liability formula in the Jewish sources.

<sup>162</sup> The condition of the wife's prior death is also absent from *mKet.* 4.11 (cited in the text), which provides for the daughters' maintenance. In this as well as in what follows I

rely on the detailed discussion in Friedman, op. cit. (n. 18), 356–91.

<sup>163</sup> *mKet.* 4.6–12.

<sup>164</sup> Friedman, op. cit. (n. 18), 15. Friedman maintains there that 'some of them reflect similar marital obligations elsewhere in the ancient Near East'.

<sup>165</sup> Recently an Idumaeen marriage contract, eleven lines long, from 176 B.C.E., written in Aramaic, was discovered on fragments of a jar in Maresha (near Eleutheropolis). The people involved are not Jewish as the *Kos* — the Idumaeen God — element in their names demonstrates. In l. 6 male children seem to be singled out as heirs. Its publication, it is hoped, will illuminate for us the kind of environment in which the Jewish *ketubba* tradition evolved. I am very grateful to Professor Amos Kloner and Mrs Esther Eshel for allowing me to refer to this exciting discovery.

<sup>166</sup> cf. *mKet.* 13.3.

will inherit her dowry, it is stipulated that the daughters will stay in the husband's house and be fed from his property until taken by husbands (ll. 14–15).

It seems that the provision concerning male children as heirs to their mother's property had entered Jewish law under the influence of other Near Eastern traditions, where — unlike the situation under Jewish law — the wife's children were her heirs.<sup>167</sup> The provision certainly contravenes the biblical law of inheritance which made the husband sole heir to his wife's property; upon his death all his sons, including those from another woman, would divide his property equally between them.<sup>168</sup> Thus the provision for male sons to inherit their mother's dowry/or her bride-money was meant to protect male sons in polygamous marriages against the loss of part of their mother's property to sons of another woman.<sup>169</sup> This can be safely read in one of the Greek marriage contracts from the Judean Desert: '[And if Salome dies before Aurelius], the sons that she will have from him will inherit her dowry and the things written above .... [in addition] to inheriting all of Aurelius' property together with their future brothers [from another woman]' (*DJD* II, No. 116, ll. 4–8).<sup>170</sup>

The stipulation that the daughters are to be fed and clothed may have replaced an earlier one which provided for all children to be fed and clothed from the father's property.<sup>171</sup> This original situation is reflected in one of the marriage contracts from Murabba'at: 'And the children that she has and those that she may have from him will be fed and dressed from the property of the same Eleaios' (*DJD* II, No. 115, ll. 8–10),<sup>172</sup> as well as in the two marriage contracts from Arabia, both of which use an almost identical terminology: 'pursuant to his undertaking to feed and clothe both her and the children to come in accordance with Greek custom' (*P.Yadin* 18, ll. 16–17 = ll. 49–51; *P.Yadin* 37, ll. 9–10).<sup>173</sup> This is not the place to enter into the intricate explanation of the reasons for the change which limited the maintenance clause to daughters only. It may well have been a consequence of the introduction of the provision in favour of male sons vis-à-vis their mother's property.

Notwithstanding the fragmentary condition of some of the documentary evidence we have surveyed here, one may detect a lack of uniformity regarding this clause in contemporaneous documentary marriage contracts between Jews, which suggests that things were then still in a state of flux.

#### IV. THE MARRIAGE CONTRACT AND THE RABBINIC *KETUBBA*<sup>174</sup>

No model text of the rabbinic *ketubba* has been preserved in the Tannaitic sources,<sup>175</sup> the *Mishnah*, the *Tosefta*, and the *Barayta*.<sup>176</sup> The reconstruction of the rabbinic *ketubba* has been based on various comments on the *ketubba* in the Tannaitic sources and on later Jewish marriage contracts (*ketubbot*).<sup>177</sup> The discovery of documentary marriage contracts between Jews in both Aramaic and Greek, contemporary with the scholarly activity reflected in the rabbinic sources, raises the question whether or not they reflect the rabbinic rules as found in the Tannaitic sources and later *ketubbot*. In other words did there exist a rabbinic *ketubba* at the time whose form and content were recognized as prescriptive? Do the documentary marriage contracts from the Judean Desert manifest the uniformity that the existence of a normative form of *ketubba* would lead us to expect?

<sup>167</sup> See Friedman, op. cit. (n. 18), 38off. and nn. 5–6 on p. 381.

<sup>168</sup> Friedman, op. cit. (n. 18), 382.

<sup>169</sup> See Z. Falk, 'The inheritance of the daughter and the widow in the Bible and the Talmud', *Tarbiz* 23 (1952), 9–15 (Hebrew).

<sup>170</sup> [ἐάν δὲ ἡ Καλώμη πρὸ τοῦ Αὐρηλίου] τὸν βίον μετὰ-λάξει υἱ[ι]οῦς οὓς ἂν ἔξει ἀπ' αὐτ[ο]ῦ ... κληρονομήσουσιν] τὴν φερὸν καὶ τὰ προ[ο]γε[γ]ραμμένα [c. 40 letters missing] τῆς τοῦ Αὐρηλίου οὐ[κ] [c] [i]α[ς] π[α]ρα[ν] κληρονομίαν μεθ' ὧν ἂν ἔξωσιν ἀ[δ]ελφῶν.

<sup>171</sup> Friedman, op. cit. (n. 18), 369.

<sup>172</sup> καὶ τέκνων αὐτῆς οὓς ἔ[χ]ει καὶ ο[φ]θ[ε] ἂν] c[η] ἂπ' αὐτοῦ υἱοῦς ἢ θυγατέρας οὓς ἔ[χ] [c. 28 letters missing] οὓς ἂν c[η] ἂπ' αὐ[τ]οῦ τραφῆσονται καὶ ἀμφιασθῆ[σ]ονται ἐκ τ[ῶ]ν ὑ[π]αρχόντων τῷ αὐτῷ Ἐλεα[ί]ω.

<sup>173</sup> The Greek texts are cited above in n. 148.

<sup>174</sup> Although we disagree on many points, this discussion has gained immensely from Professor Jonas Greenfield's incisive criticism.

<sup>175</sup> Aramaic *tanna*: "to repeat, learn"; *tannaim*: 'the masters of teaching transmitted by continual oral repetition', Strack-Stemberger, op. cit. (n. 43), 7. The *Tannaim* were active in the first two and half centuries of our era.

<sup>176</sup> On the Jewish sources, see Appendix II.

<sup>177</sup> The *ketubbot* from the Cairo Geniza are now conveniently collected in the second volume of M. A. Friedman, *Jewish Marriage in Palestine* (1981): the earliest are from the tenth century c.e.

Now there is no doubt at all that the marriage contract published here is between Jews who lived, as we have seen, in Judaea on the eve of the outbreak of the Bar Kokhba Revolt. Nevertheless it must be stated at once that this is not a Jewish document, if by that we mean the presence of explicit formulae which would put it in a Jewish framework and which would impose on it the sanction of Jewish law,<sup>178</sup> such as we find in the opening lines of two of the contemporary Aramaic marriage contracts. Thus in *DJD* II, No. 20 (117 C.E.?) the groom declares: '[you] will be my wife according to the law of M[oses and the Jews]' — [אתי יהודאי] — and in *P.Yadin* 10 (122–125 C.E.), l. 5 Judah son of Eleazar, Babatha's second husband, declares that he is taking her 'for a wife [according to the law] of Moses and the Jews' — לאנתה כדן משה ויתודאי.<sup>179</sup>

No such statement is made in our papyrus. There is no room to insert it where it should traditionally have appeared, even if we allow for some fluidity.<sup>180</sup> It is not as though the formula could not be expressed in Greek. Moreover, the formula is not absent from our contract only, but also from the other marriage contracts between Jews written in Greek. No trace of it can be found in *DJD* II, No. 115 or in *P.Yadin* 18 and 37. The claim that the Greek phrase κατὰ τοὺς νόμους in *P.Yadin* 18, l. 7 = l. 39<sup>181</sup> replaces the traditional Jewish formula cited above is, of course, unfounded.<sup>182</sup> This most 'conventional Greek phrase' means there no more than what it says.<sup>183</sup> In papyri from Egypt the phrase συνεῖναι γυναικὶ κατὰ τοὺς νόμους means to live with her lawfully, even when there is no marriage contract.<sup>184</sup>

It is not only the absence of the identifying formula 'according to the law of Moses and the Jews' from marriage contracts between Jews written in Greek which makes it impossible to describe them as Jewish documents. They embody and reflect an essentially different marriage settlement from that which is reflected and embodied in the Jewish marriage contract written in Aramaic. The essence of the Jewish marriage contract is the sum of money that the groom undertakes to pay for the bride, the bride-price, *mohar* (מָהָר) as it is called in Hebrew. As one writer puts it: 'the legality of a marriage is dependent on the payment of bride-money'.<sup>185</sup> With time the *mohar* was transformed from an immediate payment (to the wife's father) into an 'endowment pledge, a divorce payment',<sup>186</sup> due to the wife upon the dissolution of the marriage, and was written as such into the marriage contract, the *ketubba*. The traditional and almost universally accepted view is that the process reached its conclusion when Simeon b. Shetah (first century B.C.E.) put a clause in the *ketubba* that the husband's entire property is liable for the payment of the *mohar*.<sup>187</sup> Be this as it may, in Babatha's Aramaic marriage contract we have the earliest documentary evidence<sup>188</sup> for the *mohar* being conceived as a standing debt: *P.Yadin* 10 (122–125 C.E.), l. 6: 'And I owe you (ולך עלי) four hundred *zuzim* (drachmae) which equal one hundred Tyrian (tetradrachmae)', which are to be paid by the heirs after the husband's death (l. 16). The central position of the bride-price, *mohar*, is well illustrated by the fact that the term *ketubba* stands both for the written contract,<sup>189</sup> and

<sup>178</sup> Friedman, op. cit. (n. 18), 163–4.

<sup>179</sup> Jonas Greenfield translates the word יתודאי 'Judeans' rather than 'Jews'. 'According to the law of Moses and the Jews' is the earlier formula: it was later replaced by 'according to the law of Moses and Israel', see Friedman, op. cit. (n. 18), 162ff.; cf. D. Flusser and Sh. Safrai, 'In the image of the form of his likeness (כצילם דמות הניחוח)', *Isac Leo Seeligman Volume* II (1983), 453–6 (Hebrew). This alone should render suspect the story in *tKet.* 4.9 of Hillel the Elder, first century B.C.E.(?), and the Alexandrian *ketubbot* in which there occurred the words 'according to the law of Moses and Israel'. *P.Ent.* 23 = *CPJ* No. 128 (218 B.C.E.), l. 2 is heavily restored to yield [κατὰ τὸν νόμον π]ολιτικὸν τῶν [Ιου]δαίων ἔχειν με γυν[αῖκα; the editor of *CPJ* is rightly sceptical about the possible deductions to be drawn from such a poorly preserved text, since 'no trace of any mention of Jewish law concerning marriage can be found in the remaining parts of the papyrus'; moreover, this will be 'the only instance in the Greek papyri of Jewish national law being applied to the legal life of members of the Jewish community', p. 238; cf. *CPI* I (*Prolegomena*), 33–4; see also II, 4–5; cf. Cotton, op. cit. (n. 9), 105. It is regrettable that those who cite the papyrus fail to point out that this is a heavily restored text, e.g. Z. Falk, *Introduction to Jewish Law of the Second Commonwealth* II (1978), 286.

<sup>180</sup> See Friedman, op. cit. (n. 18), 155–67.

<sup>181</sup> The full context is: ἐξ[έδ]ισ[τ]ο Ἰουδαί]ς Ἐλεάζαρου ... Σ]ελαμψ[ι]ώνηγν τὴν ἰδίαν θυγατέρα αὐτοῦ παρθένον Ἰουδαί]τι ἐπικαλουμένω Κίμβερι ... εἶναι τὴν Σ]ελαμψιόν[η]ν Ἰουδαί]τι Κίμβερι γυναῖκα γαμετήν πρὸς γάμου κ[οι]νωσίαν κατὰ τοὺς νόμους.

<sup>182</sup> So Katzoff, op. cit. (n. 139, 1987), 241; he retracted later: '*Papyrus Yadin* 18 again: A rejoinder', *JQR* 82 (1991), 173.

<sup>183</sup> See Wasserstein, op. cit. (n. 67), 113.

<sup>184</sup> See Wolff, op. cit. (n. 139), Addenda, p. vi (*P.Cair.* 10388, l. 5); 28–9, n. 96 (*P.Grenf.* 21, 126 B.C.E. = *M.Chr.* 302, ll. 4 and 13, and see Mitteis there, p. 341, n. 1); 54, n. 192a; 67, n. 238 (*BGU* I. 232 (108 C.E.), l. 2ff.: ὁμ[ολογεῖ] Ἀπολλώνιος ... τῇ προσούη κ[αὶ] συν[ίσ]τη αὐτῷ κατὰ τοὺς νόμους γυναικί); cf. J. Modrzejewski, 'Le règle de droit dans l'Égypte ptolémaïque', *Essays in Honor of C. Bradford Welles, Am.Stud. in Pap.* I (1966), 154.

<sup>185</sup> Friedman, op. cit. (n. 18), 239.

<sup>186</sup> *ibid.*, 258.

<sup>187</sup> *ibid.*, 257 ff. and n. 71 for the sources; Geller, op. cit. (n. 153), 227ff.; cf. L. J. Archer, *Her Price is Beyond Rubies: The Jewish Woman in Graeco-Roman Palestine*, (1990), 159–63.

<sup>188</sup> *DJD* II, Nos 20 and 21 are too fragmentary to be used safely in evidence here.

<sup>189</sup> This is its literal meaning.



bride-price of a virgin; it is merely a coincidence, as demonstrated by the five hundred denarii of our document and the ninety six denarii of *P.Yadin* 37. It is impossible to identify the three hundred denarii which the husband, Judah Cimber, adds to his wife's dowry (*P.Yadin* 18, ll. 13–14 = ll. 46–7) as the Jewish 'addition to the *ketubba*' (חוספה כחובה),<sup>198</sup> since the first two hundred were not *ketubba* but dowry brought in by the bride. If anything they are *donatio ante nuptias in dotem redacta*.<sup>199</sup>

I do not claim that dowry and bride-price are mutually exclusive social institutions.<sup>200</sup> Jewish women were provided with dowries; fifty *zuzim* were set as the minimum with which a daughter should be provided (*mKet.* 6.5; *tKet.* 6.4).<sup>201</sup> Conversely, we find bride-price in Greek marriage contracts from Egypt.<sup>202</sup> It is still necessary, I believe, to point out the different focal points in Jewish as against Greek marriage contracts. It is intriguing to discover that people who belong to the same social circles, indeed to the same families, practice both social institutions, that of dowry on the one hand and that of bride-price on the other, according to whether the document was written in Greek or in Aramaic. In fact we find the same person writing both kinds of deeds: Judah son of Eleazar writes with his own hand an Aramaic *ketubba* (*P.Yadin* 10), in which he takes Babatha for his wife in 122–25 C.E. Some years later, in 128 C.E., he gives away his daughter, Shelamzion, in marriage to Judah Cimber in a document that cannot be described by any stretch of the imagination as a Jewish *ketubba* (*P.Yadin* 18). These Jews felt free to use legal forms which went together with the use of the Greek language. They did not seem to be conscious of the existence of a prescriptive form for the writing of their marriage contracts.<sup>203</sup> This is not to deny what the contemporary marriage contracts in Aramaic reveal to us, namely that the rabbinic marriage contract had by then developed its own special form; but it had not yet become normative.<sup>204</sup>

It seems reasonable to assume that Jews used one language rather than the other because of their wish to have their marriage contracts enforceable either in a Jewish or in a gentile court.<sup>205</sup> Furthermore, unless we assume that the use of Greek necessarily implies the absence of Jewish courts in Maḥoza, Aristoboulias, and Bethbassi (as well as in the districts to which they belonged, namely Zo'ara, Zephênê, and Herodium respectively),<sup>206</sup> we may account for the use of Greek as an attempt on the part of the Jews to leave their options open: with their marriage contracts written in Greek they could go to the court of their choice, Jewish or gentile — perhaps that of the governor, as Babatha seemed to have desired throughout her career.<sup>207</sup> Alternatively, the employment of Greek might have been more than a matter of personal preference. The liability clause, which entailed the husband's entire property to guarantee the upkeep of the wife and the return of the dowry in case of death or divorce, might have made it desirable — if not obligatory — to deposit the contracts

<sup>198</sup> Pace Katzoff, op. cit. (n. 139, 1987), 242 and n. 35. Note also that the sum of money in *DJD* II, No. 115, l. 6 is not certain, see text above at n. 66.

<sup>199</sup> See Wasserstein, op. cit. (n. 67), 114.

<sup>200</sup> A. M. Snodgrass, 'A historical Homeric Society?' *JHS* 96 (1976), 114–25, uses the co-existence of these two institutions in the Homeric poems to dispute their historicity, but he does allow for the possibility of co-existence in certain circumstances. Wasserstein, op. cit. (n. 67), 127–8, n. 91, gives the example of Cowley, op. cit. (n. 192), No. 15 for several marriage institutions conflated in the same document: bride-price to the bride's father, gift to the bride herself and dowry received by groom; see above, n. 192.

<sup>201</sup> Friedman, op. cit. (n. 18), 288–311. And see *P.Yadin* 18 for the addition of 300 denarii.

<sup>202</sup> cf. F. de Visscher, 'Document sur la *donatio ante nuptias*', *Chr. d'Eg.* 37 (1944), 101–7, on *P.Mich.* 434, early second century C.E.; L. Mitteis, *Reichsrecht und Volksrecht* (1891), 256–312.

<sup>203</sup> cf. Cotton, op. cit. (n. 9), 105–6 on the total absence from the Babatha Archive of any awareness of the existence of the rabbinic law on guardianship. To say that there could have existed a parallel Aramaic *ketubba* (see Greenfield apud Isaac, op. cit. (n. 104), 72 and n. 35) is to assume that such prescription did exist. N. Lewis for

different reasons strongly denies that there could have existed a parallel Aramaic *ketubba* in the case of *P.Yadin* 18, 'The World of *P.Yadin*', *BASP* 28 (1991), 39f.

<sup>204</sup> The case of a bill of divorce may well have been different because of the fundamental distinction between the two instruments: a bill of divorce creates in itself (constitutes) a new legal situation, whereas the marriage contract merely records (declares) financial transactions and sometimes mutual obligations. Perhaps this is why no Jewish bills of divorce written in Greek have so far been found, although even a bill of divorce could have been written in Greek: see *mGittin* ('divorce certificates'), 9.8; cf. Wasserstein, op. cit. (n. 67), 125, n. 86. So far only one bill of divorce in Aramaic, *DJD* II, No. 19, and one quittance in Aramaic, *P.Se'elim* 13 (n. 27) have been found. It is also true that divorce takes place less often than marriage.

<sup>205</sup> See Friedman, op. cit. (n. 18), (472–80), on the formula attested in late *ketubbot* 'valid wherever produced'.

<sup>206</sup> On Jewish courts in villages and towns in Palestine see Schürer-Vermes-Millar, op. cit. (n. 51), 184ff.; M. Goodman, *State and Society in Roman Galilee, A.D. 132–212* (1983), 155ff. Perhaps those that existed had very limited jurisdiction.

<sup>207</sup> cf. Cotton, op. cit. (n. 9), 106–7.

in the city archives.<sup>208</sup> Such a procedure is known from Egypt, where wives were ordered in the prefects' edicts cited in the celebrated petition of Dionysia (*P.Oxy.* II. 237, col. VIII, ll. 21–43; see also *P.Mert.* III. 101) to deposit a copy of their marriage contract in the same public archives in which their husbands' properties were registered in order to warn prospective buyers that these properties were entailed.<sup>209</sup> We can only speculate that the deposit of copies in the city archives called for the use of Greek rather than Aramaic.

It is argued here that the marriage contract published — like other Greek marriage contracts between Jews — is not a Greek translation of an Aramaic *ketubba*.<sup>210</sup> It is an independent legal instrument with a spirit of its own: not only the Greek language but the entire ethos and diplomatics of the Greek marriage contract have been adopted by the contracting parties, as is made clear by the parallels drawn throughout the commentaries to marriage contracts from Egypt.<sup>211</sup> Furthermore, there is nothing specifically Jewish about this marriage contract apart from the clauses concerning the distinction between male and female children, for which until now no parallels from the environment have been found (but note the newly discovered Idumaeian marriage contract mentioned in n. 165). These clauses seem to be closely connected to the Jewish law of succession and inheritance. Unlike the legal practices governing marriage and the writing of marriage contracts, the Jewish rules of succession and inheritance might have been felt to be binding.

It is quite true that some of the clauses found in the Greek marriage contracts discussed here have Halakhic parallels (i.e. attested in Tannaitic sources), as has been seen in the commentary. Nevertheless, it would be methodologically unsound to claim that because the documents reflect Halakhic rules, familiar to us from Tannaitic literature, these rules should be described as Jewish. The fact that there are many points of resemblance between Greek marriage contracts from Judaea and Arabia and contemporary marriage contracts from Egypt suggests that the traditions which came to be crystallized in the final redaction of the *Mishnah* by the end of the second century were not uniquely Jewish. It is not so much that our documents reflect the Halakhah, but rather that the Halakhah was not created *in vacuo*: it reflects mixed local traditions which were later absorbed into Judaism.<sup>212</sup> Once they received Halakhic sanction, they could be described as Jewish, but not before. We are still in the period of flux.<sup>213</sup>

### *The Hebrew University of Jerusalem*

#### APPENDIX I. THE JEWS OF ARABIA

The Jews of Arabia disregarded the provincial boundaries in their residence, marriages, property holdings, and even in their litigation.

*Residence*: note the frequent occurrence in the archive of the expression 'an 'En-Gedian residing here', meaning Maḥoza, e.g. *P.Yadin* 18, ll. 5–6 = ll. 36–7; or 'an 'En-Gedian residing in Maḥoza', e.g. *P.Yadin* 19, ll. 11–12.

*Marriages*: Judah son of Eleazar from En-Gedi marries Babatha from Maḥoza (*P.Yadin* 10), where he too resides (e.g. *P.Yadin* 17, ll. 5–6 = l. 24); his first wife, Miriam, continues to live in En-Gedi (*P.Yadin* 26); his daughter from his first wife, Shelamzion, marries an En-Gedian, like herself, but both reside in Maḥoza (*P.Yadin* 18, ll. 5–6 = ll. 36–7); Salome daughter of Levi (n. 23) lives in Maḥoza (*XHev/Se Gr.* 1) but marries Jesus son of Menahem from the village of Soffathe, in the district of the city of Livias in the Peraea (*P.Yadin* 37, ll. 3–4). The Peraea, although east of the Jordan river, belonged to the province of Judaea, see Schürer-Vermes-Millar, op. cit. (n. 51), 12–13. Isaac, op. cit. (n. 104), 69, is

<sup>208</sup> It is hard to believe, though, that there might have been a general rule which made it obligatory to deposit contracts and deeds in the city archives in order to make them valid, see Mitteis, op. cit. (n. 202), 173ff.; A. Gulak, *Towards a Study of the History of Jewish Law in the Talmudic Period* 1 (1929), 54ff. (Hebrew); cf. G. Alon, *The Jews in their Land in the Talmudic Age (70–640 C.E.)*, II (1984), 553–7.

<sup>209</sup> cf. Cotton, 'Rent or tax receipt from Maḥoza', *ZPE* 100 (1994), nn. 14–15 on *P.Yadin* 24, ll. 4–6: ἀπεργράψατο Ἰουδακ ... ἐπ' ὀνόματός σου ἐν τῇ ἀπ[ι]ογραφή.

<sup>210</sup> contra Friedman, op. cit. (n. 18), 8.

<sup>211</sup> The argument that a marriage contract written in Greek was valid in a Jewish court is irrelevant: it does not make it a Jewish document, as Katzoff, op. cit. (n. 139, 1991), 176 seems to imply.

<sup>212</sup> Goodman, op. cit. (n. 206), 13; 159ff. See the penetrating remarks of Wasserstein in the conclusion of his paper on *P.Yadin* 18, op. cit. (n. 67), 121–30.

<sup>213</sup> See R. Yaron, 'The Mesadah bill of divorce', *Studi in onore di E. Volterra* VI (1971), 438: 454–5.

surely right to restore: τῆς Π[ερσείας at the end of Ἰησοῦς Μαναήμου τῶ[ν οἰκούντων ἐν κώ]μη Σοφφάθε[.]... περὶ πόλιν Λιουιάδος τῆς π[ερσείας] despite Lewis ad loc.

*Property holding*: Judah son of Eleazar owned property in 'En-Gedi which he gives to his daughter who resides in Maḥoza (*P.Yadin* 19); he also owned orchards in Maḥoza; these orchards are claimed by the late Judah's nephews before the governor of Arabia (*P.Yadin* 23–5).

*Litigation*: in *P.Yadin* 26 Miriam, who is an 'En-Gedian, and Babatha from Maḥoza sue each other before the governor of Arabia over their late common husband's possessions (τὰ ὑπάρχοντα) which, as we have seen, he owned in both provinces; one expects the governor's jurisdiction not to be valid anywhere except in his own province. See B. Isaac, *The Limits of Empire: the Roman Army in the East* (1990), 396–7, on provincial borders.

#### APPENDIX II. A NOTE ON THE JEWISH SOURCES

In the course of the commentaries I draw heavily on Jewish sources, some of which may be unfamiliar to readers of the Journal. It may, therefore, be helpful to add a few words of explanation as well as an indication of the method of citation.

The *Mishnah* is the authoritative collection of religious law which had been formulated in the rabbinic schools in Palestine for several centuries until its final redaction by Judah the Prince (R. Yehudah *ha-Nasi*) c. 200 C.E. It is written in what is commonly called Mishnaic Hebrew: see H. L. Strack and G. Stemberger, *Introduction to the Talmud and Midrash* (1991), 111–66. The *Tosefta* — 'addition, supplement' — is a collection of rabbinic teachings and sayings outside the *Mishnah* but from approximately the same period. It is much more extensive than the *Mishnah*; the relationship between the two is still far from clear. Both the *Mishnah* and the *Tosefta* as we now have them consist of six main divisions or orders (*sedarim*), each of which consists of tractates, subdivided into chapters and paragraphs. The method of citation is by work (*m* or *t*), tractate, chapter and paragraph, but the 'order' is omitted. The Talmuds are later commentaries on Mishnaic material. The two Talmuds are also cited by work (*y* for *Yerushalmi*, i.e. the Palestinian Talmud and *b* for the Babylonian Talmud), and respective Mishnaic tractate. In the Babylonian Talmud tractate is followed by page-number, with the front and back of each leaf counted as a and b; in the Palestinian Talmud (the Venice edition) the tractate is followed by page-number; each page has four columns (a–d). The *Barayta* — 'lit. the "outside" teaching (short for Aramaic *matnita baraita*)' 'designates all Tannaitic teachings and sayings outside the *Mishnah*', Strack-Stemberger, 195. The term usually refers to Tannaitic teachings quoted *verbatim* and commented on in the Palestinian and Babylonian Talmuds.

*N.B.* Because of the lack of a single authoritative and accepted scheme for transliteration of Hebrew and Aramaic into Latin script, and also because of citations from a variety of secondary sources, there will appear to be some slight inconsistencies in the transcription of Aramaic and Hebrew.