

CHAPTER 1

FAMILY LAW

The Ancient Egyptians placed a great value on being married and on having many children. It was common for a person to marry again after divorce or after a spouse had passed away. Little is known of the rights and duties the husband and wife had towards each other, as the deeds drawn up only pertains to matrimonial property and not to their actions towards each other. The duties husband and wife had towards each other seemed to lie between morality and the law, as will be illustrated in a few texts. No documentation resembling the formalities and requisites necessary for the establishment of a valid marriage is available to us and it seems that a marriage came into existence only by the consent of the relevant parties and the drawing up of deeds.

1) MATRIMONIAL LAW

1.1) General

Even though the legislators were men, the system protected the financial position of the women and children and aimed to protect and promote the family. Breasted (1905: 85) notes that the basic social unit was the family. A husband only had one legal wife and she was the mother of his heirs. She was his equal in every way and she was also treated with the highest respect and consideration.

Defining “marriage” in Ancient Egypt is difficult (Robins 1993 : 56), seeing that we have no reference in our sources to legal or religious ceremonies¹ to formalize a marriage. Pestman (1961 : 7) states that this difficulty does not seem untenable; the

¹ “Ceremonies” is here understood as a formal act or ritual, set by custom or tradition, performed in observation of a marriage.

data currently known to us may be limited, but this position could change over time if new evidence comes to light. The only significant action seems to be cohabitation, and in particular, the entry of one party² into the household of the other. We can find evidence for the above in some of the Egyptian terms, which we then assume to mean “to marry”³.

According to Ward (2001), there is no evidence that a marriage was formalized with some kind of ceremony, nor for formal marriage ceremonies or marriage certificates. Ward furthermore suggests that there were property agreements in the absence of marriage contracts, based on social custom and the law. These agreements were to protect the rights of the husband and wife, should the marriage be dissolved.

According to Baines and Malek (1984 : 205)⁴ the legal status of a couple living together was different from that of a married pair, even without proof of a marriage ceremony. Ward (2001) on the other hand, concludes that the marriage:

“... was not a legal but social institution ...”.

It is surmised by a few scholars⁵ that Egyptians were monogamous, but that no prohibition was placed on multiple marriages. Simpson (1974) suggests that monogamy was not the only rule, and that even commoners could have more than one

² Usually the woman.

³ Robins (1993 : 56): For example: “to establish a household”, “to enter a household”, and later on “to live together”. See Pestman (1961 : 9-10), where he states that the most common terms used for marrying someone is: “ to give A to B as a wife” and “ to take X as a wife” and later on also “to take as a husband”. The Love Poems also make mention of the possession of ...” your goods as the mistress of your house, with your arm laid on my arm...”, thus showing that a woman could only lay claim to a man’s goods if they were married and she then, with the title of being a married woman, became the *nbt pr*, the mistress of the house.

⁴ Also see Baines (1991 : 144).

wife. Also, Budge (1961 : 213) is of the opinion that polygamy was very common. The control thereof, however, was an economic question, as a husband usually could only support and maintain one wife (Robins 1993 : 64). The productive capacity of a woman had to be weighed against the cost of her maintenance before it could be ascertained whether a man could support more than one wife. If a husband was very rich, he could also have concubines, but the principal wife always enjoyed preference. Concubines had no legal rights and could be dismissed by will (Cottrell 1958 : 78, 80).

The duties a husband had towards his wife lied in between the law and morality. For example the teachings of Ptahhotep (Lichtheim 1973:1: 69) stipulated that:

“When you prosper and found your house, and love your wife with ardor, fill her belly, clothe her back, ointments soothes her body. Gladden her heart as long as you live, she is a fertile field for her lord”.

The following example, a letter from a husband to his deceased wife⁶, indicates how a husband should act morally towards his wife, and also may, show the legal duties of a husband:

“What have I ever done against you? I have taken you as my wife, when I was a young man; **you were still with me, when I filled all (kinds of) offices**; you were with me, **I have not repudiated (you), I have not injured your heart**. I did it when I was a young man and **I filled all (kinds of) important offices for the Pharaoh - Life, Prosperity, Health! - without repudiating (you), saying: she must always be with (me)**, so did I speak. **Everything I made come to me, was at your feet**; did not I receive it on your behalf saying:” **I live up to your heart?**” But behold, you do not leave my heart in peace, I will litigate with you and they will distinguish wrong from right. Behold, when I taught the officers of the

⁵ Robins (1993), David (1999), Baines & Malek (1984), Lissner (1957).

⁶ P. Leid. 371 as translated by Pestman from Gardiner-Sethe (1928: Plate VII and VIII).

infantry of the Pharaoh... and of his cavalry I let them come in order to throw themselves on their bellies before you, while they brought all (kinds of) beautiful things to lay them before (you); **I did not hide anything**

from you during your day of life; I did not make you suffer pain in all I did with you as (your) master; **you did not find me while I deceived you like a peasant, entering into another house**; I did not make a man steal (?) all I acquired with you. When they placed me in the post where I am (now) and I was in the situation in which I could not go out according to my habit I did what somebody like me does, while he is at home (?) **(concerning) your oil and bread and your clothes: it was brought to you**, I did not let it brought to another place, saying [], I have not deceived you. Behold, you do not know the good I did to you, I write you in order to make you see what you are doing. **When you were ill with the illness which you had I (let be fetched) the chief physician and he treated (you) and he did everything of which you said: do it.** When I followed the Pharaoh... on the journey to the south and you fell into this condition, I spent the period (?) of eight months without eating or drinking, as people do. And when I returned to Memphis, I begged (leave) of the Pharaoh... and (went) to the palace where you were and cried much with my people before my residence. **I gave dresses and clothes to wrap you in. I had many dresses made and I left nothing good undone in order not to let it be done for you.** Behold, I have lived (alone) (since), for three years without entering a house, although it is not suitable that such a one is compelled to do that. Behold, I have done it for your sake. Behold, you do not know right from wrong, one will judge between you and me. **Behold, the women in the house, I had no intercourse with them**'.

The above examples are thus not rules of law but rules of morality. They show that a husband should keep his wife even though he has gained some importance in the offices he performs, although it was customary for men to divorce their wives if their position changed favourably. It also shows that the husband should provide his wife with maintenance - all and everything he acquired should be given to the wife, nothing should be kept from her. A husband should also not commit adultery and he should attend to her needs, providing health care when she fell ill, providing her with food and clothes and undertaking her burial after her death. It can thus be deduced

that a rule only becomes law if a penalty can be imposed when a duty is not fulfilled (Pestman 1961 : 53).⁷

In a letter, contained in Papyrus Deir el-Medina IV (Sweeney 1998 : 104-106)⁸, it is maintained that a husband should:

“Look after her and don’t do what you have usually done!”

implying thus that a husband should take care of and provide for his wife and should he not do so, any request by him for her return, after she has left him because of maltreatment, would be weakened.

1.2) Prerequisites for the establishment of a legal marriage

1.2.1) Consent

The consent of both parties was necessary to make the marriage legal. In the New Kingdom it is clear that a man approached the father and asked the girl’s hand in marriage, whereafter the father then gave his consent. It is the men’s consent that was necessary and the girl did not have any say therein. A mother who had adopted a girl could also give her consent if her husband was deceased.⁹ An uncle could also give

⁷ Also see Wilson (1968 : 94).

⁸ According to White (2002 : 173), it is stated that the love poems show that gentleness and consideration between the sexes were highly regarded. In the Song of the Harper, it is said that one should: “Adorn the neck and arms of your wife with lotus flowers and keep your loved one seated always at your side”.

⁹ This was the case where a husband and a wife adopted a slave-girl’s children as their own. The wife gave her consent to her brother to marry one of her adopted daughters: “I accepted him for her...” (P. Ashm. Mus).

his consent if the girl's father was deceased.¹⁰

We only find "marriage contracts" from the 26th Dynasty onwards, and the contracts not only contained the stipulation "I have made you into a wife", but also the stipulation, "You have made me into a wife" (Pestman 1961 : 9-10). The consent of the father from then on does not seem necessary. Marriage was thus based on consensus between the father of the bride and the husband-to-be and from the 26th Dynasty onwards, only the consent of the bride and groom was necessary.

The principles by which marriages took place were thus developed by custom, because there is no evidence of a legal form for these acts.

"The marriage comes into existence therefore only by the consensus of the husband and the father-in-law or the husband and wife themselves, without there being any question of a requisite form".
(Pestman 1961:52)

There might, however, have been conditions that the parties must have adhered to, in order to enter into a valid marriage.

1.2.2) Drawing up of a matrimonial deed

The next step to legitimize a marriage was to put it into writing by way of a deed, which Pestman (1961 : 33) regards as a condition for the validity of the marriage.

These deeds can be divided into two groups:

¹⁰ A case where an uncle, a hairdresser of the Pharaoh, gave his consent to a manumitted slave, he stated that: "I have given him for wife the daughter of my sister..." (P. Louvre E 11673).

1. Deeds wherein the husband gives his wife a *sp*, and
2. Deeds where the husband confirms the receipt of an amount¹¹.

The first group of deeds stipulates the consequences of marriage and divorce, how the children's inheritance will be affected and how the property of both the parties will be dealt with at the time of divorce. The second type of deeds containS the agreement between the husband and wife, whereby the wife gives the husband a sum of money to become his wife:

“You have given to me 500 (*deben*) of money....24 (*obols*) of copper, **as your money to become a wife to me** (*hd n ir n-y hm.t*)... I [have received] it from your hand, my heart is content with it, (for) it is complete and without any remainder...”¹²

This money is to be paid back to the wife should she request it after divorce. The husband thus enters into an obligation to pay his wife an annual sum of maintenance during the existence of the marriage. On the day of the divorce the money the wife gave her husband becomes due and he has to pay it back to her within 30 days after she has claimed back the money. Should he not respond to his wife's request he has to keep on paying her maintenance. It must however be noted that the money only had to be paid back after the woman claimed it from the husband:

“I have the loan from my wife: a dower, clothes inclusive, to the value of 24 *drachms* of silver, which I will also return. If a divorce from each other will take place, **I shall pay it within 30 days after she will claim it**

¹¹ According to Pestman (1961 : 38) these deeds can be divided into two kinds: 1) where the husband should pay back the money his wife gave him, 30 days after their divorce and after she requested it from him and 2) where the same rule applies as in 1), but a stipulation regarding the succession of his property is also noted: “ To you belongs (on behalf of) the children, whom you have borne to me and which you will (still) bear to me, the 1/3 part of all and everything that I possess and I shall acquire; (and that) in the house which you desire...”(P. Louvre 3265 & 2419) .

¹² P. Cairo 50129 as translated by Erichsen & Nims (1958 :123-125).

from me, without any delay or pretext, in accordance with what is written above”¹³.

These deeds can thus be referred to as deeds of maintenance. It is sometimes stated in these deeds that the husband’s present and future property will serve as security.

It is agreed with Pestman that these two kinds of deeds were indeed necessary to establish a valid marriage. Because of the transfer of money and goods to each other, it seems that a husband and wife bought and sold themselves to each other, thus thereafter being the owners of each other. A mutual contract was entered into and both parties thus gave consent to enter into the marriage.

One such maintenance contract, mentioned in Papyrus Hausswaldt, also contained the stipulation that:

“... I shall give you (a sum of “money”) apart from (a sum of “money” listed) which I have given you as your *sp n s.hm.t* ... and I give you 1/3 (part) of all and everything which will be between you and me from this day onwards.”

Pestman (1961 : 13) states that a gift was also given by the husband to the wife: it usually consisted of silver and sometimes a quantity of corn was given together with the silver. This gift was a present a man gave to his wife when her father gave her as wife to him. Some scholars propose that this was payment to a father for the “price or compensation for (marrying) a woman”. Also see Pestman (1961 : 16-17), where he states that the husband paid *sp* to obtain rights in the wife from the father and that those rights vested in the husband after payment of the *sp*, and thus the woman

¹³ P. Tebt. 386 as translated by Pestman (1961 : 36) from the Greek.

became the property of the husband. The bond with the wife's family was broken after payment of the *sp* and she then became part of the family of the man.

Before the 26th Dynasty a girl's consent to marriage was not necessary. The woman could thus not act independently before the end of the 26th Dynasty and she was given in marriage by her father. It is uncertain whether there was a period of engagement and whether the father, as guardian of the girl, conducted all the negotiations of the marriage. The father of the bride was closely connected with the marriage arrangements and usually a marriage deed was drawn up, generally reading as follows (Papyrus Libbey):

“On this day the choachyte A entered the house of choachyte C in order to make his... for the woman, B, his daughter, as wife, today”.

Sometimes the father of the bride added his personal touch to the marriage contract; for example, one father made his prospective son-in-law swear an oath that, should a divorce take place, the son-in-law would renounce the right to his share of the communal estate accrued during the marriage and that he would receive a beating of 100 strokes with a stout stick (Papyrus. Bodl.). Another father, dubious about the intentions of his prospective son-in-law, promised his daughter a place to live should her husband decide to leave her (Papyrus Petrie 61). Another example where a father intervened on behalf of his daughter, is found where he took his son-in-law to court and requested the court to make his son-in-law take the oath:

“... saying that he will not treat my daughter badly”.¹⁴

According to David (1999 : 95), the women kept their own property and sometimes, according to the marriage contract, the husband had to transfer the total of his property to his wife for her to keep and then to transfer it to their children after his death. The transfer of the property was more theoretical - it did not happen in actual fact - and in the most cases a husband had the right to administer and use his own property, at least until divorce. Pestman (1961 : 153) states that the wife shared in all the property the husband acquired, but that she only became entitled to the property if the marriage was dissolved.

2) DIVORCE

Divorces were expressed in terms like “expulsion” and “departure” (Robins 1993 : 62-64), and according to Cottrell (1958 : 83), there is no evidence to suggest that marriage was seen as indissoluble. Just as the marriage had no legal or state-religious sanctions, the divorce also had none, even though the court could be witness to the dissolution of a marriage (Robins 1993 : 62-64).

If the marriage was ended by divorce the cohabitation of the wife and husband came to an end. The conjugal house usually belonged to the husband¹⁵ and therefore the wife left the home on her own accord or by being repudiated by her husband:

“You will be in **my** house while you are with me as a wife...”

Pestman (1961: 60) argues that divorce was always possible in Egypt and that both

¹⁴ O. Bodl. 253 as translated by Pestman (1961 : 55).

¹⁵ O. Strassb. 1845 as translated by Pestman (1961 : 79).

parties had the right to initiate divorce. He contends that the right of a man to divorce his wife is first seen in the Instructions of Ptahhotep and that the right of the woman to divorce her husband can first be seen in marriage deeds dating from about 500 B.C. Tyldesley (1995 : 59) argues that the right of women to divorce men is only seen from about 500 B.C., but that given the fact that the Egyptian Law saw women as independent individuals, it would seem that divorce actions by women merely went unrecorded in earlier times.

2.1) Grounds for divorce

It is not certain what all the grounds for divorce were, but adultery¹⁶ and the barrenness of a woman were two definite reasons. The maxims of Ankhsheshonq¹⁷ learned later on that a barren woman should not be divorced:

“Do not divorce a woman of your household who does not conceive a child”.

Pestman (1961 : 55) argues that a spouse who thought that he was treated wrongly in terms of his right possessed the right to leave and have the marriage dissolved. Watterson (1991 : 71) states that a wife apparently may have been beaten regularly, but if she was beaten in excess she had the right to take her husband to court and even to request that she be divorced from him. A case is known where a wife took her husband to court as he had apparently assaulted her physically, her chief witness being her mother-in-law. Usually the spouses entered into an agreement that they would not treat the other unjustly. For example, a husband agreed that:

¹⁶ See Chapter 5 for Adultery. The major duty of the spouses was not to commit adultery.

“If I shall ever treat the daughter of Tener-Montu unjustly again, I shall receive 100 strokes and be deprived of everything that I shall acquire with her”.¹⁸

A husband could also divorce his wife if she had a disability, for example:

“I repudiate you, for behold, you are blind of one eye, they say”¹⁹.

“I have taken you as a wife... If I repudiate you as a wife, be it that I hate you, be it that I want another woman as a wife instead of you...”²⁰

- this extract from a marriage contract shows that a husband could divorce his wife on virtually any grounds and that it could be done by a relative agreement.

As men moved up the bureaucratic ladder, it was also not uncommon for them to divorce their wives to marry a wife who was more appropriate or advantageous for their higher position, and it seems that this was a customary ground for divorce.

“...you were still with me, when I filled all (kinds of) offices...and filled all (kinds of) important offices for the Pharaoh...without repudiating (you)...”²¹

The “grounds” on which a woman could divorce her husband are not clearly set out, but are also widely included with the words (Papyrus Berlin 3145):

“ ... you wish to go yourself...”

¹⁷ The adoption (sometimes) of a wife was to insure that she was not reduced to the inferior status of a divorced woman, seeing that her husband repudiated her due to her barrenness.

¹⁸ O. Bodl. 253 as translated by Pestman (1961: 75).

¹⁹ P. Bibl. Nat. 198.

²⁰ P. Hausw. as translated by Pestman (1961 : 21-24).

²¹ P. Leid. 371 as translated by Pestman (1961 : 53).

Any reason thinkable, imaginable and conceivable by the woman would suffice as a ground for divorce.

It is thus clear, according to Pestman (1961 : 76), that spouses might divorce each other, without being bound by any grounds:

“In short, in Egyptian law both the husband and the wife are free to put an end to the marriage by means of divorce, whenever they want to”.

2.2) Disposal of matrimonial property after divorce

The marriage contracts were of an economic nature and were concerned with the disposal of property and the economic rights of the spouses, especially in the case where a husband repudiated his wife.

Even though the husband administered the communal accrued property, it was acknowledged that part thereof was the property of the wife: she could claim it when the marriage was dissolved (Tyldesley 1995: 56).

It is clear that a wife could reclaim her money after divorce:

“whenever the *causa* why the money was given - becoming a wife - lapses”.
(Pestman 1961 : 67)

According to Ward (2001)²², the legal system moved in when the marriage was dissolved in order to assure a fair settlement. The application of the law was twofold. Firstly, the husband and wife took back everything they had brought into the

²² Also see David (1995 : 95) and Pestman (1961 : 157).

marriage. Secondly, the property accrued during the marriage was divided between them; two-thirds to the husband and one-third to the wife. The wife's right to a third of her husband's property meant that she was not forced to make use of her children's charity or to move back to her father's house. She thus became financially independent and could even be considered a good prospect for a second marriage (Tyldesley 1995 : 57).

Pestman (1961 : 155-156) states that:

“If the husband repudiates his wife, a complete settlement of account follows: she takes her possessions along with her, that is to say, her private property”.

She might also claim, if deeds were drawn up, the money she had paid her husband to become his wife, as well as her maintenance. If a deed was also drawn up in the wife's favour, stating that her husband would pay her an amount if he repudiates her, the amount would now become due and payable.

“If I repudiate you as my wife from this day and afterwards [or] you will go (away) yourself, I shall give you (back) the above (mentioned) 750 (*deben*) of money, on a day within 30 days after the day I shall repudiate you as a wife and after the day that you will go (away) yourself”²³.

The wife, after the husband had met all his obligations to her, gave him a deed stating that he was being discharged from his duties and she might also give him back the original marriage deeds, thus showing that the marriage was annulled. One husband also had to make a statement that:

²³ P. Bibl. Nat. 236, as translated by Pestman (1961 : 156) and also P. BM 10609 translated by Erichsen & Nims (1958 : 125-127).

“I have repudiated you as a wife; I am far from you regarding (the) right to (you as my) wife; I am the one who has said to you: “take yourself a husband”; I shall not be able to stand in your way in any place where you will go to in order to take yourself a husband there; I have no claim whatever in the world against you in virtue of (the fact that you are my) wife from today and afterwards, definitely, without delay and without any blow”²⁴.

The rights and status of the woman are set out in these statements by her husband: she will be able to remarry again, without any limitations, from the date of the divorce. These statements or deeds served as proof that a woman was free to remarry after divorce and thereby also concluded the divorce act.

In a case wherein a man renounced his wife, the husband stated that:

“I swore concerning her in the court of the temple, and I made 2/3 to 1/3 of everything I had made together with her.”²⁵

According to McDowell (1990 : 35), the above mentioned example was the usual property settlement after a divorce. This also meant that the husband had complied with his obligations towards his former wife and that he could now transfer any of his property to his new wife. The duty of the husband was to maintain his wife, and this duty ended with the divorce. This duty of maintenance continued if the husband did not return the things given to him by his wife within 30 days after she had demanded it from him.

According to Pestman (1961 : 68-69) the value of the maintenance was very high in comparison to the money she had paid to her husband – he was thus being penalized

²⁴ P. Cairo 30665 as translated by Pestman (1961 : 72).

if he did not pay her back the money she requested from him, and she also had all his property as security. Her rights were thus firmly protected.

If a marriage was dissolved, because the husband repudiated his wife, he also gave her an amount other than the one she received as her *sp*:

“ If I repudiate you as a wife, be it that I hate you, be it that I take another woman than you as my wife, I’ll give you 5 *kite* of silver, that is 2 ½ *stater*, that is 5 *kite* of silver again, **apart from** the 5 *kite* of silver as mentioned above, **which I have given to you as your *sp n s.hm.t***”²⁶.

Another example is found in Papyrus Cairo 30601, where the husband stated:

“If I repudiate you as a wife, I shall give you 10 (*deben*) of money, is 50 *stater*, is 10 (*deben*) of money again, (and) 400 *artabas* at 40 *hin-jars* of *boti*; **If I want another wife than you, I will (moreover) give you 10 (*deben*) [of money], is 50 *stater*, is 10 (*deben*) of money again, (and) 400 *artabas* at 40 *hin-jars* of *boti*, in total 20 (*deben*) of money again, is 100 *stater*, is 20 (*deben*) of money again, (and) 800 *artabas* of 40 *hin-jars* of *boti*, is [53]3 1/3 (*artabas*) [of it] (is) 800 *artabas* at 40 *hin-jars* of *boti* again”²⁷.**

It is clear from the above mentioned example that a husband should pay an added amount if he repudiates his wife for another woman.

If the husband wants to divorce his wife, he has to give her certain goods, except when she has committed the great sin, adultery:

“ ...(because) I wish to repudiate her, or (because) I wish another wife than her - except on account of the great sin which is found in a wife - I shall have to give her...”²⁸

²⁵ P. Turin 2021 as translated by McDowell (1990 : 35).

²⁶ P. Hausw. as translated by Pestman (1961 : 21-24).

²⁷ As translated by Pestman (1961 : 63).

²⁸ P. Hausw. 15, as translated by Pestman (1961).

Should a wife thus be repudiated due to her adultery or any other crime, she did not receive the one third of the property accrued during the marriage.

3) CHILDREN

We do not know who had guardianship of the children and who had the obligation to pay for their upbringing and education, even though it is generally accepted that the children were left in the care of the mother: if this is true, according to Tyldesley (1995 : 58), it is a further indication of the liberated Egyptian attitude towards women's rights.

Egyptians never did adopt the tradition of overt female infanticide²⁹. This legal form of murder was for its enforcers nothing more than a late form of abortion. This gave the father the full right to refuse the rearing of a child, just as the father had the sole right to force his wife to undergo an abortion. The mother had no say in this matter and the unwanted baby was then exposed on the waste dump shortly after birth (Tyldesley 1995 : 69).

Egyptian "law" (Papyrus British Museum 10591) states that:

"If a man marries a woman (*hms irm*) and he draws up a deed for her concerning a *s'nh* and he has a child by her and he divorces her and he marries another woman and he draws up a deed concerning a *s'nh* for her and he has a child by her and said man dies: his possessions shall be given to the children of the first wife (*hm.t*) for whom he first drew up a deed concerning a *s'nh*."

²⁹ Infanticide is the abandoning of babies just after birth.

The rights of the children to their father's property and possessions, as their inheritance, were thus firmly secured by the law.

The following formula also appears in divorce deeds given to women by their husbands:

“You are contented as regards to your deed (for) a wife on account of your children whom you have borne to me”³⁰.

Unfortunately no conclusion can be drawn as to which parent had to support and maintain the children after divorce, although an assumption can be made from the above mentioned text that it was the mother who usually took care of the children after divorce.

4) ADOPTION

Adoption, as Westbrook (1991 : 127) remarks, was a versatile tool. It was sometimes used for other reasons than familial concerns, for example:

“It was frequently used as a device to overcome certain legal disabilities, such as the lack of capacity to bequeath family property to anyone other than his legitimate heirs”.

It was even possible for the husband, if there were no children of his own, or if he did

³⁰ P. Turin 6094, as translated by Pestman (1981 : 77).

not require that his brothers or sisters inherited his two-thirds of the communal estate, to legally adopt his wife as his child and heir and then bequeath all his property to her. Even if he had children, he could still adopt his wife, so that she, as one of his offspring, could receive a part of the two-thirds in addition to her normal one-third of the communal estate.

The Adoption Papyrus tells of the adoption of a wife by her husband, Nebnefer. He formally adopted her as his child, seeing that they did not have any children of their own. He gave her all rights to his property, even to the exclusion of his relatives. The wife then quotes the gifts given to her by her husband and she also lists the names of the witnesses³¹.

Later on³² they added an addendum. They had bought a slave-girl who gave birth to three children, a boy and two girls, and they brought up the children as their own. The wife's brother married the elder of the two girls. The wife states that she made the children free from slavery, and that she also adopted her brother as her child. All the property of the parents was bequeathed to the four children³³:

“If I have fields in the country, or I have any property in the land, or if I have goods, these **shall be divided among my four children, Padiu being one of them**. As regards these matters of which I have spoken, they are entrusted in their entirety to Padiu, the son of mine who dealt well with me when I was a widow and when my husband had died”.

³¹ See also Watterson (1990: 32).

³² The first deed of the papyrus served as a preamble for the second one, 18 years later.

³³ Also see Westbrook (1991 : 125).

This adoption was binding as it was made before witnesses. The arrangement was “notarized” by publicity as a special measure to safeguard it from any challenges by other parties (Pestman 1961 : 8). This deed exhibits elements of a marriage contract and a will, but the key element is that of adoption.

The adoption of Amenardis I³⁴, a daughter of Kashata, is known to us. Amenardis I chose as her heiress Seshepenupet II, an Ethiopian. When Psammetichus I took over control of Thebes he forced Seshepenupet to adopt his daughter, Nitocris, as her heiress. Psammetichus states:

“So I have given this maiden (Nitocris) to be her (Seshepenupet) to be her Great Daughter”.

Nitocris also adopted a daughter, Ankhnesneferibra, the daughter of Psammetichus III.³⁵

After the adoption children were treated as the adoptive parent’s children and enjoyed all the rights of such: for example, the inheritance of property. Nitocris has, however, received both Seshepenupet and Amenardis’s real property.

SUMMARY

There is still much information outstanding that may shed light on how the Family Law of the Ancient Egyptians operated.

³⁴ Stela 36327, Cairo.

³⁵ Also see Caminos (1964 : 74): his discussion of the adoption stela is extremely comprehensive and sets out the detail of the formalities of adoption very clearly.

It can be concluded that a valid marriage was entered into only by consensus between the parties and the drawing up of a matrimonial deed. Nothing furthermore is known about the acts of the husband and wife towards each other and it is presumed that these obligations lay between morality and the law.

It suffices to say that it did not matter which party wanted to end the marriage by divorce and that they could end the said marriage whenever they wanted to, with or without valid reasons. Divorce in ancient Egyptian times was thus a very simple procedure.

It can furthermore be concluded that it seems as if the mother had guardianship of the children, but no conclusions can be reached about on whom the obligation fell to support and maintain the children after divorce. The children's rights in their father's property were, however, firmly protected by the "law".

Adoption was used, not only for the childless, but also mainly to circumvent certain eventualities and probabilities. It was mostly used to place the wife in a better position with regard to her husband's property.

Seeing that a woman possessed extended rights in family life, and obtained certain property from her husband, we shall now try and establish if women were able to bequeath property and to whom it could be made over.

