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Self-ekdosis of the Bride in Hellenistic and Roman Egypt (auto-ekdosis): The Reasons for a Divergence¹

The transition from classical *oikos* to a new family organization in Hellenistic and Roman Egypt is manifested in the evolution of marriage documents. The written marital instrument was created to satisfy the needs of the Greek settlers in Egypt, namely: guaranty of the quality of the spouse as a legitimate wife («*gynê gametê*») destined to give birth to legitimate children («*paidas gnêsious*»), the document thus additionally functioning as the Attic «*engyê*»; ² publicity of the marital union; manifestation of the *ekdosis*, i.e. the

1. This paper was presented at the Fourth Meeting of Young Historians of Ancient Greek Law, which took place in Athens (September 4-5, 2014), under the auspices of the Greek Society of Legal Historians, having as a general theme: "Unity and Diversity in the Laws of the Greeks". Therefore, I would like to thank yet once again both the Organizing Committee for their invitation as well as the other participants for their valuable comments. It actually consists of a more detailed English version of the corresponding chapter of my doctorate thesis (A CONTRIBUTION TO THE STUDY OF WOMEN'S LEGAL CONDITION IN HELLENISTIC AND ROMAN EGYPT: Family Legal Relations, Juridical Capacity, Women as Litigants), sustained and approved by the Department of History and Theory of Law (Faculty of Law) of the National and Kapodistrian University of Athens in June 2014.

2. J. Méléze-Modrzejewski, «Le mariage et la condition de la femme mariée dans l'Égypte grecque et romaine», *Papyrologie et Histoire des droits de l'Antiquité, Annuaire des années 1978-1979 de la IV^e Section de l'École Pratique des Hautes Études* [p. 297-316], p. 303-304; *Idem*, «La structure juridique du mariage grec», [in]: *Scritti in onore di Orsolina Montevicchi*, Bologna 1981 [p. 231-268] (= *Symposion 1979*, Köln-Wien 1983, p. 39-71), p. 53; cf. also, by the same author, «Le droit de famille dans les lettres privées

giving away of the woman by her father ³ or another male relative ⁴ or both her parents ⁵ or even by her mother alone ⁶ to the future husband, the latter becoming her lawful *kyrios* (guardian), in conformity with the authority of disposal («Verfügungsermächtigung»), one of the main characteristics of Greek law;⁷ definition of the reciprocal obligations of the spouses through moral and financial clauses; description and appraisal of the dowry combined with provisions for its restitution in case of dissolution of the marriage either by divorce or by death of one of the spouses;⁸ possibly hereditary

grecques d'Égypte», *The Journal of Juristic Papyrology (JJP)*, IX-X (1956)[p. 339-363], p. 340-341, particularly n. 6 and, more recently, *Droit et Justice dans le monde grec et hellénistique (JJP, Supplements, X)*, Varsovie 2011, p. 363-364. H. J. Wolff [«Die Grundlagen des griechischen Eherechts», *Tijdschrift voor Rechtsgeschiedenis (Tijd. v. Rg)*, 20 (1952), p. 168 n. 29] had already postulated the survival of the classical «*engyê*» in the Ptolemaic marital instruments, an opinion followed later by Cl. Vatin (*Recherches sur le mariage et la condition de la femme mariée à l'époque hellénistique principalement en Égypte*, Paris 1970, p. 166 ff.).

3. In seven cases; see U. Yiftach-Firanco, «*Marriage and Marital Arrangements: A History of the Greek Marriage Document in Egypt, 4th century BCE - 4th century CE*» («*Münchener Beiträge zur Papyrusforschung und antiken Rechtsgeschichte*» 93, München 2003), p. 43, n. 13.

4. In seven cases; see n. 3 above.

5. In seven cases; see n. 3 above.

6. In four cases; see n. 3 above.

7. The major importance of this «*Verfügungsermächtigung*» was pointed out by J. Herrmann («*Verfügungsermächtigungen als Gestaltungselemente verschiedener griechischer Geschäftstypen*», *Symposion 1971*, Köln - Wien 1975, p. 321-332). Moreover, the constitution of the marital link is also based on a disposition aiming to a determined purpose («*Zweckverfügung*», «*disposition à finalité déterminée*») – i.e. the birth of legitimate descendants – also a basic element for the undertaking of contractual obligation in Greek law, according to H. J. Wolff («*La structure de l'obligation contractuelle en droit grec*», *Revue historique de droit français et étranger (RHD)*, 44 (1966), p. 569-583, particularly n. 1). Cf. J. Méléze-Modrzejewski, «*Le mariage et la condition de la femme mariée dans l'Égypte grecque et romaine*», *Annuaire 1978-1979*, p. 314-315. *Idem*, «*La structure juridique du mariage grec*» (*Symposion 1979*), p. 68-69, n. 140.

8. During the Ptolemaic era the dowry is commonly termed as «*phernê*» – although the term «*proix*» is also well attested – consisting exclusively of movables; the use of the classical term «*proix*» spreads widely in Roman Egypt, along with terms such as: «*prosphora*» for the slaves and the immovables that were offered in use, mainly by the father of the bride, for the maintenance of the married couple; «*prosodos*», which constituted an addition to the dowry; «*parapherna*» was used in both eras to denote the personal items of the wife. See U. Yiftach-Firanco, «*Marriage and Marital Arrangements*», p. 105-175; 263-264; 281-311; 336 n. 3. Cf. G. Häge, *Ehegüterrechtliche Verhältnisse in den griechischen Papyri Aegyptens bis Diokletian*, Köln – Gratz 1968, p. 209-210; J. Modrzejewski, «*Zum hellenistischen Ehegüterrecht im griechischen und römischen Ägypten*», *Zeitschrift der Savigny Stiftung, Romanistische Abteilung (ZSS RA)*, 87 (1970),

provisions.⁹ Thus, according to the aforementioned, the *syngraphê synoikisias* or *synoikesiou/synoikisiou*¹⁰ constitutes the marital instrument exclusively connected with *ekdosis*.¹¹ During the second century BC this evolution reaches the point where *ekdosis* is no longer generally considered to be a necessary condition of a lawful marriage. The above stated concerning *ekdosis* seem to constitute the dominant opinion in research.¹² U. Yiftach-Firanco – on the contrary – expressed the opinion that *ekdosis* was inherent in every act of marriage, even when not at all mentioned in the marriage document itself.¹³ Before him, the French historians A.-M. Vérilhac and Cl. Vial, in their excellent study of the Greek marriage, seem to have sustained a similar opinion postulating the *ekdosis* to maintain its juridical value as an act constitutive

p. 50-84 (= *Statut personnel et liens de famille dans les droits de l'Antiquité* (Aldershot 1993) no VI.

9. J. Méléze-Modrzejewski, «La structure juridique du mariage grec», *Symposion* 1979, p. 39-71.

10. The term *syngraphê* (συγγραφή) is already attested in classical Greek law, e.g. in the famous «ναυτική συγγραφή» in Demosthenes' speech «Against Lakritos». The word *synoikisia* («συνοικισία») is new. It possibly derives from the verb *synoikein*, which in classical times denoted the joint marital life after the performance of the *engyê*. Cl. Vatin (*Recherches sur le mariage*, p. 165) postulated *synoikisia* to derive from the verb *synoikizein* («συνοικίζειν»), which denotes the cohabitation in a lawful marriage, being used for the father who gives his daughter away for the purpose of marriage. Cf. J. Velissaropoulos – Karakostas, *Droit grec d'Alexandre à Auguste (Personnes – Biens – Justice)* [I-II, Athènes 2011], I, p. 265-271.

11. The *ekdosis* is usually denoted by the medial voice of the verb *ekdidômi*, when described from the point of view of the deliverer and (less frequently) by the verb *lambanô*, seen from the future husband's viewpoint. See also U. Yiftach-Firanco, «Marriage and Marital Arrangements», p. 41, n. 3, 4 & 5.

12. H. J. Wolff, *Written and Unwritten Marriages in Hellenistic and Postclassical Roman Law*, Haverford 1939. *Idem*, «Die Grundlagen des griechischen Eherechts», *RHD* 20 (1952), p. 1-29 & 157-181 (= *Atti del Terzo Congresso di Diritto Comparato* I, p. 213-257, Roma 1953 = *Zur griechischen Rechtsgeschichte*, Darmstadt 1968, p. 620-654). Cl. Préaux, «Le statut de la femme à l'époque hellénistique, principalement en Égypte», *Recueils de la Société Jean Bodin pour l'histoire comparative des Institutions, La Femme (2ème Partie)*, Bruxelles 1962, [p. 127-175], p. 147-161. J. Méléze-Modrzejewski, «La structure juridique du mariage grec» (= *Symposion* 1979, p. 39-71). J. Velissaropoulos, *Alexandrinoi Nomoi*, Athens – Komotini 1981, p. 111-125. E. Karabelias, «Le roman de Chariton d'Aphrodisias et le droit. Renversements de situation et exploitation des ambiguïtés juridiques», *Symposion* 1988, p. 369-396. (= E. Karabelias, *Études*, p. 49-82). J. Velissaropoulos – Karakostas, *Droit grec d'Alexandre à Auguste (Personnes – Biens – Justice)*, [I-II, Athènes 2011], I, p. 263-306.

13. U. Yiftach-Firanco, «Marriage and Marital Arrangements: A History of the Greek Marriage Document in Egypt, 4th century BCE - 4th century CE» («Münchener Beiträge zur Papyrusforschung und antiken Rechtsgeschichte» 93, München 2003), mainly p. 41-54; p. 261.

of marriage independently of the form of the marital instrument.¹⁴ This interesting hypothesis – tempting as it might be – is not corroborated by the papyrological evidence itself; it abolishes the differences between marriage documents based on *ekdosis*, namely the *syngraphai synoikisiou* and those aiming primarily to certify the delivery of the dowry (*homologiai gamou*); it also seems to abolish the evolution that leads to the latter becoming the main marital document in the Egyptian *chôra*, under the name of *syngraphê homologias gamou*, probably due to its official registration (*anagraphê*) from the end of the 2nd century BC.¹⁵ Moreover this theory seems to render out of place and time phenomena such as: the performance of the *ekdosis* by the mother of the bride,¹⁶ the paternal *aphairesis*¹⁷ as well as the giving away of the bride

14. A.-M. Vérilhac – Cl. Vial, *Le mariage grec du VI^e siècle av. J.-C. à l'époque d'Auguste*, «Bulletin de Correspondance Hellénique» (BCH), Supplément 32, Athènes 1998. See, especially, p. 258 with reference to the *BGU* IV 1050, 1051, 1052, 1099 and 1101: «...la formule employée privilégie dans le mariage la constitution du couple et non l'*ekdosis* qui a créé le couple. Cela ne signifie pas que l'*ekdosis* avait perdu sa valeur juridique et que la mariée n'avait pas fait l'objet d'une dation. Cela signifie simplement que les Alexandrins attachaient plus d'importance à la création d'un couple qu'à l'acte juridique qui l'avait produit, puisque même dans leurs contrats de mariage, documents de nature juridique, ils mentionnaient l'union du couple et non l'acte juridique». However, their theory seems unable to explain why the *ekdosis* is explicitly mentioned in *BGU* IV 1100, performed by both parents of the bride, both also deliverers of the *phernê*, in contrast with the five other *synchorêseis* mentioned above (*BGU* IV 1050; 1051; 1052; 1099; 1101), where the spouses declare their mutual consent to their marital union, the husband acknowledging delivery of the *phernê* from the wife only. Cf. also *ibid.*, p. 259: «les contrats de ce type» – i.e. the *homologiai*, in which the husband acknowledges delivery of the *phernê* without any mention of the *ekdosis* – «ne peuvent rien nous apprendre sur l'acte juridique du mariage»; p. 264: «Ainsi, dans toute l'Égypte, tant à Alexandrie que dans la chôra, l'acte juridique du mariage était une dation comme à Athènes ou à Sparte, et il en était encore ainsi à l'époque impériale».

15. Cf. Cl. Vatin, *Recherches sur le mariage*, p. 178. U. Yiftach-Firanco, *Marriage and Marital Arrangements*, p. 39; 71; 151.

16. See note 6 above.

17. On paternal *aphairesis*, i.e. the right of the father to retrieve his daughter and – most probably – her dowry as well after her marriage, see: U. E. Paoli, «Les limites juridiques del'«aphéresis» paternelle dans le droit attique», *Recueil de l'Académie de Législation*, Toulouse 1953, p. 3 ff. (= *Altri studi di diritto greco e romano*, Milano 1976, p. 381-391). B. Anagnostou-Canas, «La femme devant la justice provinciale dans l'Égypte romaine», *RHD* 62 (1984), p. 337-360. E. Karabelias, «Le roman de Chariton d'Aphrodisias et le droit. Renversements de situation et exploitation des ambiguïtés juridiques», *Symposion* 1988, p. 369-396 (= E. Karabelias, *Études*, p. 49-82). *Idem*, *L'épiclerat attique*, p. 45, especially n. 88 & 89; p. 185, especially n. 47. J. Méléze-Modrzejewski, «Le mariage et la condition de la femme mariée dans l'Égypte grecque et romaine», *Annuaire 1978-1979*, p. 312. *Idem*, «La structure juridique du mariage grec», (*Symposion 1979*), p. 62-65. Cf. J. Velissaropoulos, *Alexandrinoi Nomoi*, p. 115-116, especially n. 16. Cf. U. Yiftach-Firanco,

herself (auto-ekdosis). In any case unanimity seems to have been attained in research as to the merely probative and not constitutive value of the marital document.¹⁸

The self-ekdosis of the bride constitutes a partial manifestation of the *ekdosis*. The purpose of this paper is: first, to analyse it in conformity with what has been called the prevalent opinion, *i.e.* only in cases where the verb *ekdidōmi* – as *terminus technicus* – is explicitly mentioned in the marriage document itself. Secondly, to examine the particular circumstances under which the giving away of the bride herself (auto-ekdosis) became possible.

As already stated, the transition from classical *oikos* to a new, individually orientated, family organization led to the alteration of the strict patriarchal family pattern. The mother of the bride participates in the *ekdosis* as early as 310 BC (*P. Eleph.* I). This participation – considered by H. J. Wolff to be the manifestation of a quasi *materna potestas*¹⁹ is also attested in other documents of the Ptolemaic era²⁰ as well as in some of the Alexandrian *synchôrêseis* of Augustan times,²¹ ending with the mother's appearance as legal *ekdōtis* in Roman Egypt.²²

«*Marriage and Marital Arrangements*», p. 46-52. See, more recently, Claudia Kreuzsaler & J. Urbanik, «Humanity and Inhumanity of Law: The Case of Dionysia», *JJP* 38 (2008), p. 119-155.

In the case of Dionysia it is repeatedly stated that the *ekdosis* of the bride by her father deprives the latter of any authority on his daughter, *e.g.* *P.Oxy.* II 237, col. VII, l. 28-29: «Προβατιανὸς ὑπὲρ Ἀντωνίου προσέθηκεν, εἰς ἀπερίλυτος ἦν ὁ γάμος, τὸν πατέρα μήτε τῆς προικὸς μηδὲ τῆς παιδὸς τῆς ἐκδοδο/μένης ἐξουσίας ἔχειν»; col. VIII, l. 3-6: «Δ[ιον]υσία / ὑπὸ τοῦ πατρὸς ἐκδοθεῖσα [πρ]ὸς γάμον ἐν τῇ τοῦ π[α]τρὸς ἐξουσίᾳ οὐκέτι γε/ίνεται. καὶ / γὰρ εἰ ἡ μήτηρ αὐτῆς τῷ πατρὶ ἀγράφως / συνώκησε [κ]αὶ διὰ τοῦτο αὐτὴ δοκεῖ ἐξ ἀγράφων γάμων γεγενῆσθαι, τῷ ὑπὸ τοῦ πατρὸς / αὐτὴν ἐκδόσθαι πρὸς γάμον οὐκέτι / ἐξ ἀγράφων γάμων ἐστίν».

18. H. J. Wolff, *Written and Unwritten Marriages in Hellenistic and Postclassical Roman Law*, Haverford 1939, p. 51. See also U. Yiftach-Firanco, *Marriage and Marital Arrangements*, p. 82-83; 90; 259-260.

19. H. J. Wolff, *Written and Unwritten Marriages*, p. 5-6. Cf. the revision of the Solonian law concerning «*engyê*» by Plato, who ranks mother (or maternal grandmother according to a different interpretation) – as an *ekdotis* – right after the bride's brothers (from the same father); (*Laws*, 6, 774 E): «Ἐγγύην δὲ εἶναι κυρίαν πατρὸς μὲν πρῶτον, δευτέραν πάππου, τρίτην δὲ ἀδελφῶν ὁμοπατρίων, εἰ δὲ μηδεὶς ἢ τούτων τὴν πρὸς μητρὸς μετὰ τοῦτο εἶναι κυρίαν ὡσαύτως· εἰ δ' ἄρα τύχη τις ἀήθης συμβαίνει, τοὺς ἐγγύτατα γένους αἰεὶ κυρίους εἶναι μετὰ τῶν ἐπιτρόπων».

20. *E.g.*, *P. Petr.* II 25 (will of a cleruch, Krokodilopolis, 226/225 BC); *UPZ* I 2 (*enteuxis*, Memphis, 163 BC); cf. *P. Lond.* VII 1976 (*enteuxis*, Philadelphia, 253 BC); see also n. 6 above.

21. *BGU* IV 1100 (30 BC – 14 AD); *BGU* IV 1105 (petition, Alexandria, 30 BC – 14 AD); *P. Oxy.* XLIX 3491 (157/158 AD).

22. *P. Oxy.* X 1273 = *Sel. Pap.* I 5 (260 AD); *P. Vind. Bosw.* 5; *P. Cair. Preis.* 2+3

Remaining within the frame of *ekdosis* a new phenomenon appears: women start to give themselves away in marriage. Nevertheless, in Athens, at the time of Menander, a woman who gives herself away for the purpose of marriage cannot acquire the status of a legitimate wife («*gynê gametê*»). Her legal position is that of a concubine («*pallakê*»), which is probably the case of *Glykera* in *Perikeiromenê* of Menander: in spite of the fact that her companion considers her to be his legitimate wife (Körte, 247: «ἐγὼ γαμετὴν νενόμικα ταύτην»), she remains mistress of herself (Körte, 247: «ἐαυτῆς ἐστ' ἐκείνη κυρία»).²³ This is also the case of women who are given away by their father or brother to an Athenian as concubines («*epi pallakêia*»), i.e. without the legal guaranty («*engyê*»), as reported by Isaeus in his speech «*On the Estate of Pyrrhus*».²⁴ Moreover, the legal purpose – «*Zweckverfügung*» as stated by H. J. Wolff –²⁵ of the act of *ekdosis* «*epi pallakêia*» differs from the one prescribed by the Solonian law («*epi dikai- ois*»).²⁶ Herodotus himself associates self-*ekdosis* with prostitution. This is how he characterizes Lydian women who make their dowries by vending their charms (Herod. I, 93): «ἐκδίδουσι δὲ αὐταὶ ἑωυτάς» («*they give themselves away*»).²⁷

In sharp contrast with Hellenistic Athens, self-*ekdosis* in Hellenistic and Roman Egypt as well as in Syria seems to lead to a perfectly lawful marriage. Although the surviving evidence is scanty, it merits a thorough analysis for our understanding. According to the criteria laid aforehead, we will consider self-*ekdosis* to take place only in cases where the verb *ekdidômi* – as *terminus technicus* – is explicitly mentioned in the marriage document itself. This is the reason why, in conformity with H. J. Wolff²⁸ and J. Méléze-Modrzejewski,²⁹ we will reject the existence of self-*ekdosis* in the following cases:³⁰

(petition, *Hermoupolis Magna*, 362 AD); *P. Oxy.* LIV 3770 (petition, 334 AD); probably *P. Oxy.* XII 1579 (3rd century AD); *P. Oxy.* III 496 (127 AD) concerns the grandmother of the bride. Cf. U. Yiftach-Firanco, «*Marriage and Marital Arrangements*», p. 43, n. 13.

23. Cf. Cl. Vatin, *Recherches sur le mariage*, p. 148-157.

24. Isaeus, III, 39: «οἱ ἐπὶ παλλακίᾳ διδόντες τὰς ἑαυτῶν».

25. H. J. Wolff, «La structure de l'obligation contractuelle en droit grec», *RHD* 44 (1966), p. 569-583. Cf. J. Méléze-Modrzejewski, «La structure juridique du mariage grec» (*Symposion* 1979), p. 68-69, n. 140.

26. Cf. Chariton, 3.1.6.

27. J. Méléze-Modrzejewski, «La structure juridique du mariage grec», (*Symposion* 1979), p. 44· p. 51, n. 57· p. 52, especially n. 61 & 62· p. 53· p. 57, n. 87.

28. H. J. Wolff, «Die Grundlagen des griechischen Eherechts», *Tijd. V. Rg.* (20), 1952, p. 168, n. 127.

29. J. Méléze-Modrzejewski, «La structure juridique du mariage grec» (*Symposion* 1979), p. 57-58, especially n. 89.

30. Cf. U. Yiftach-Firanco, «*Marriage and Marital Arrangements*», p. 271-272, as to the

– BGU VI 1463 (Elephantine, 247/246 BC), where marital provisions take the form of separate statements (*homologiai*) emanating from the bride (no reference of a *kyrios*) and the groom respectively.³¹

– P. Freib. III 29 (Philadelphia, 179/178 BC); although claimed by Cl. Vatin – due to the former restitution by J. Partsch³² – to be the first demonstration of auto-ekdosis,³³ this marriage contract actually consists of a mutual agreement (*homologia*) between the spouses *Adrastos* and *Isidôra*; the bride, *Isidôra*, also delivers the *phernê*, her brother acting merely as her *kyrios* (guardian).³⁴

– *Syngraphai homologias gamou*, in which the bridegroom acknowledges receipt of the dowry (*phernê*) by the bride, assisted by her guardian (*kyrios*).³⁵

– Those of the Alexandrian *synchôrêseis gamou*, where no *ekdosis* is mentioned, the woman appearing to act on her own behalf for the conclusion of the marriage assisted by her father (or brother or another male relative) as *kyrios*.³⁶ In all these cases the bride always appears as the deliverer of the dowry (*phernê*). Although the Alexandrian *synchôrêseis gamou* date at the time of Augustus, they bear no Roman influence. They are based on the mutual agreement of the spouses for a joint marital life, from this point of

formulaic features of the *ekdosis*-clause in documents from and outside Egypt. Of these twelve from Egypt are marital instruments: eleven are *syngraphai synoikêsias* and one is an Alexandrian *synchôrêsis gamou*; two, also from Egypt, are dowry receipts. Four documents outside Egypt are marital instruments.

31. BGU VI 1463, l. 1-2: «ὁμολογεῖ Φιλωτέρα Φίλωνος Κρήσσα Ἀκεσάνδρῳ / Νικάνορος Μακεδόνι.»; l. 8-10: «ὁμολογεῖ [Ἀκεσάνδρος Νικάνορε (l. [Νικάνορος) Μακεδὼν Φιλωτέραι / Φίλωνος [Κρήσση] ἢ ἔξειν σὲ γυναῖκα καὶ πα/ρέξειν...».

32. P. Freib. III 29, l. 6: «[εἶναι γυναῖκα γαμετήν, ἐγδομένην ἑαυτήν].».

33. Cl. Vatin, *Recherches sur le mariage*, p. 170-171.

34. P. Freib. III 29, l. 5-7: «...ὁμολογοῦσιν Ἀδραστος Μυήσιος τῶν Γαλέστου ἀρουρος καὶ Ἰσιδώρα τοῦ δεινός -ca.- / [-ca.- μετὰ κυρίου] τ[ο]ῦ αὐτῆς ἀδελφοῦ Απ[. τοῦ δεινός, -ca.- , κονταρούρου συνεληλυθέναι ἀλλήλοις πρὸς] / [γάμον(?) Ἀδραστος δὲ] ἔχειν φερνὴν παρ' αὐτῆς χαλκοῦ νομίσματος ὀφθαλμοφανοῦς τάλαντ -ca.- /]».

35. E.g. P. Tebt. I 104 = M. Chr. 285 (Kerkeosiris, Arsinoite nome, 92 BC), l. 8-13: «... ὁμολογεῖ / Φιλίσκος Ἀπολλωνίου Π[έρσης] τῆς ἐπιγονῆς Ἀπολλωνίας τῇ / Κελλαύθει Ἡρακλείδου Περσίνῃ μετὰ κυρίου τοῦ ἑαυτῆς / ἀδελφοῦ Ἀπολλωνίου ἔχειν παρ' αὐτῆς εἰς χαλκοῦ νομίσματος λόγον τάλαντα δύο καὶ δραχμὰς τετρακισχιλίαις τὴν / διω/μολογουμένην αὐτῷ φερνὴν ὑπὲρ αὐτῆς Ἀπολλωνίας».

36. BGU IV 1050 (30 BC – 14 AD); BGU IV 1051 (30 BC – 14 AD); BGU IV 1052 (13 BC); BGU IV 1099 (30 BC – 14 AD); BGU IV 1101 (13 AD); SB XXIV 16073 (12 BC); BGU IV 1098 (30 BC-14 AD) constitutes a doubtful case due to the lacunae of the papyrus, whilst BGU IV 1100 contains an explicit mention to the *ekdosis* by both parents of the bride. See also n. 14 above.

view bearing a striking resemblance to the *syngraphai homologias gamou* of the Egyptian *chôra*,³⁷ this agreement formed as an official declaration in front of the court.^{38 39}

According to the aforementioned, we will accept the existence of *auto-ekdosis*, regarding papyrological evidence, in three cases only: *P. Giss.* I 2; *P. Dura* 30; *P. Oxy.* XLIX 3500. Of these, *P. Giss.* I 2 and *P. Oxy.* XLIX 3500 emanate from Egypt, dating at the Ptolemaic and Roman era respectively,

37. A.-M. Vérilhac – Cl. Vial, *Le mariage grec du VIe siècle av. J.-C. à l'époque d'Auguste*, BCH (32), 1998, p. 258-259.

38. E.g. BGU IV 1052, l. 5-6: «Πρωτάρχῳ / / παρὰ Θερμίου τῆς Ἀπίωνος μετὰ κυρίου / τοῦ Ἀπολλωνίου τοῦ Χαιρέου καὶ παρὰ Ἀπολλωνίου τοῦ Πτολεμαίου. συνχωροῦσιν Θέρμιον / καὶ Ἀπολλώνιος Πτολεμαίου συνεληλυθέναι ἀλλήλοις πρὸς βίου κοινωνίαν, ὁ δὲ αὐτὸς Ἀπολλώνιος Πτολεμαίου εἰληφέναι παρὰ τῆς Θερμίου διὰ χιρὸς (l. χειρὸς) ἐξ οἴκου φερνάριον ἐνωτίων χρυσῶν ζεῦγος τετάρτων τριῶν καὶ ἀργ(υρίου) (δραχμῶν) ...». As to the character of the *synchôrêseis* as contracts concluded before the court («Gerichtsnotarielle Urkunde»), see H. J. Wolff, *Das Recht der griechischen Papyri Ägyptens in der Zeit der Ptolemäer und des Prinzipats. II: Organisation und Kontrolle des privaten Rechtsverkehrs* (München 1978), p. 91-95.

39. Some of these contracts (BGU IV 1050; 1098; 1101) mention an agreement of the spouses to deposit a *syngraphê synoikesiou* or *peri gamou syngraphê* in front of the *hierothytai*, within five consequent days after giving notice to each other; the content of this second document comprises the registration of the *phernê* as well as everything else which is customary to register, followed by death provisions, e.g., BGU IV 1050· Mitteis, *Chrest.* 286· P. Meyer, *Juristische Papyri* 19, l. 24-30: «...θέσθαι [δ]ὲ / αὐτοῖς καὶ τὴν ἐφ' ἱεροθυτῶν περὶ γάμου / συγγραφήν ἐν ἡμέραις χρηματιζούσαις πέντε / ἀφ' ἧς ἂν ἀλλήλοις προείπωσιν, καθ' ἣν ἐνγραφῇσεται ἡ τε φερνὴ καὶ τὰλλα τὰ ἐν ἔθει ὄντα καὶ / τὰ περὶ τῆς ὁποτέρου τῶν γαμούντων τελευτῆς, ὡς ἂν ἐπὶ τοῦ καιροῦ κοινῶς κριθῇ»; BGU IV 1101 (13 BC), l. 19-23; BGU IV 1098 (30 BC-14 AD), l. 39-44. As to the different opinions concerning the legal importance of this second contract between the spouses and the function of the *hierothytai*, see: P. M. Fraser, *Ptolemaic Alexandria*, Oxford 1972, p. 72; 96. Cl. Vatin, *Recherches sur le mariage*, p. 177. W. Edrmann, «Die Eheschliessung im Rechte der gräko-ägyptischen Papyri von der Besetzung bis in die Kaiserzeit», ZSS RA (1940) [p. 151-184], p. 44-57. Cl. Préaux, «Le statut de la femme», p. 156. H. J. Wolff, «Die Grundlagen des griechischen Eherechts», *Tijd. v. Rg* (20), 1952, p. 178-179. *Idem*, «Written and Unwritten Marriages», p. 34-47. J. Mélèze-Modrzejewski, «La structure juridique du mariage grec», *Symposion* 1979, p. 61. *Idem*, *Droit et Justice dans le monde grec et hellénistique* (JJP, Supplements, X), Varsovie 2011, p. 365-366, n. 26. A.-M. Vérilhac – Cl. Vial, *Le mariage grec*, p. 20, n. 13. U. Yiftach, «The Role of the Syngraphê “compiled through the Hierothytai”. A Reconsideration of W. Schubart's Theory in Light of a Recently Published Alexandrian Marriage Contract (P. Berol. 25423)», *Zeitschrift für Papyrologie und Epigraphik* (ZPE) 115 (1997), p. 178-182. J. Velissaropoulos, *Alexandrinoi Nomoi*, p. 61-62; p. 74; p. 121, n. 42; p. 124· p. 167. J. Velissaropoulos – Karakostas, *Droit grec d'Alexandre à Auguste*, I, p. 280-282.

whilst *P. Dura* 30 originates from Roman Syria.⁴⁰ They are to be examined in chronological order.⁴¹

P. Giss. I 2, a matrimonial contract made up in Crocodilopolis, capital of the Arsinoite nome, on September 17th of the year 173 BC, is a private *syngraphofylax* document bearing the type of an *hexamartyros syngraphê synoikisiou*.⁴² The beginning of the papyrus contains its chronology according to the names of the *eponymous* priests and priestesses of the royal cult, its place of writing as well as the wish for good luck («ἀγαθῇ τύχῃ»);⁴³ the latter,

40. Y. Yiftach-Firanco («*Marriage and Marital Arrangements*», p. 44, n. 15) considers *P. Murrabba'at* 115 (Beit Bassa, Judea, 124 AD, resumption of joint life), as a possible case of auto-ekdosis. The bridegroom acknowledges having taken the woman to be his lawful wife, acknowledging simultaneously receipt of the dowry characterized as *proix* (l. 4-5): «ὁμολογεῖ ὁ αὐτὸς Ἐλαῖος Σίμων[ος] / ἐξ ἀνανεώσεως (l. ἀνανεώσεως) καταλλάξαι καὶ προσλαβέσθαι τὴν αὐτὴν Σαλώ[μην] Ἰω[άν]ου Γ[αλγο]υλὰ εἰς γυναικα γαμετὴν σὺν προικὶ (δραχμῶν) σ». This case constitutes a renewal of a previously dissolved marriage.

41. U. Yiftach-Firanco («*Marriage and Marital Arrangements*», p. 271-272) – possibly driven by the fact that papyrological evidence has preserved the *ekdosis* – clause in only fifteen documents (eleven from and four outside Egypt) – literally admits the existence of auto-ekdosis only in the three cases mentioned by the dominant theory, adding the possibility of a fourth one from the Judean desert papyri (see n. 40 above.).

42. The «*hexamartyros syngraphê*» – as results from its name – was constituted in the presence of six witnesses ; it was a private document of objective styling. In its strict formal aspect it was written twice: the internal writing (*scriptura interior*) bore the signatures of the witnesses, whereas the external writing (*scriptura exterior*) was visible to everyone. It was given for keeping to a third person of confidence, usually one of the six witnesses, the *syngraphofylax*. The latter evolved to a witness of major importance, since he was summoned to court in case of litigation between the contracting parties. Later on (middle of the 2nd century BC) he probably assumed the responsibility for the deposition of the document in a public archive. *P. Giss. I* 2 (col. 2, l. 1-14) has preserved, written by a second hand, the name of the *syngraphofylax* (the guardian of the document) as well as those of the six witnesses (col. 2, l. 1-14): «Ἀπολλώνιος Μακεδὼν τῶν / Κινέου τῆς δευτέρας ἱππαρχίας ἑκατοντάρουρος. Μάρτυρες / Φίλιος Μακεδὼν, Δημοκρατίδης / Θεσσαλὸς οἱ δύο τῶν Κινέου / τῆς δευτέρας ἱππαρχίας, / Διογένης Κυρηναῖος τῶν / Διοδώρου τῆς α ἱπ(παρχίας) οἱ τρεῖς / ἑκατοντάρουροι, Μηνόφιλος / Μακεδὼν τῶν πρότερον / Ἀριστονίκου τακτόμισθος, / Ἀλέξανδρος Ὀρίωνος Κρήτης, / Σαραπίων Ζωπύρου / Πέρσης οἱ δύο τῆς ἐπιγονῆς».

43. *P. Giss. I* 2, 1, 1-8: «ἔ[τους] ὀγδόου[υ] ἐφ' ἱερέως Ἡρακλεοδώρου τοῦ Ἀπολλοφάνου Ἀλεξάν[ρ]ου καὶ θεῶν / Σ[ωτ]ήρων καὶ θεῶν Ἀδελφῶν καὶ θεῶν Εὐεργετῶν καὶ θεῶν Φιλοπ[α]τόρων καὶ / θεῶν Ἐπιφανῶν καὶ θεῶν Φιλομητόρων, ἀθλοφόρου Βερενίκης Εὐεργέτιδος Σαρα/πιάδος τῆς Ἀπολλωνίου, κανηφόρου Ἀρσινόης Φιλαδέλφου Ἀριστοκλείας τῆς / Δη[μ]ητρίου, ἱερείας Ἀρσινόης Φιλοπάτορος Εἰρήνης τῆς Πτολεμαίου, μηνὸς / Περ[ι]τίου ἑπτακαιδεκάτῃ Μεσορῇ ἑπτακαιδεκάτῃ ἐν Κρο[ο]κιδίῳ πόλει / τοῦ Ἀρσινόιτου νομοῦ. ἀγαθῇ τύχῃ». Cf. Y. Yiftach-Firanco, «*Marriage and Marital Arrangements*», p. 41, n. 2.

as illustrated in the work of H. J. Wolff – a point of general acceptance – is closely connected with *ekdosis*.⁴⁴

The point of differentiation from other *syngraphai synoikesiou* is located in col. 1, l. 8-12: Olympias offers herself to marriage («ἐξέδοτο ἑαυτὴν»), whereas her father acts merely as her *kyrios* («μετὰ κυρίου τοῦ ἑαυτῆς πατρὸς») in order to give the indispensable legitimacy to the act performed by his daughter.⁴⁵ That means that the father of Olympias acts as her legal guardian (*kyrios*), as he would have acted in any other legal transaction performed by his daughter, e.g. a sale or a lease of land.⁴⁶

Olympias, performing her own *ekdosis*, simultaneously guarantees her quality as a legitimate wife (l. 11: «[εἶναι] γυναῖκα γαμετὴν») ⁴⁷ and also delivers a dowry (l. 11-12: «φερνὴν / π[ρ]οσφερομένην»). H. J. Wolff was the first to point out the connection between the act of *ekdosis* and the delivery of a dowry in the *syngraphê synoikesiou*.⁴⁸ The dowry (*phernê*) brought in by Olympias consists of ninety-five talents in bronze money, her slave girl named Stolis as well as the nursing infant (l. 13-14: «ὑποτίθιον») of the latter. The slave girl and her infant are appraised to the amount of five talents of bronze, which means that the total appraisal of the dowry reaches the amount of a hundred talents of bronze.⁴⁹ U. Yiftach-Firanco in his thorough analysis of the dowry system in Hellenistic and Roman Egypt has proved the *phernê* of Olympias to be of the largest value in the Ptolemaic era.⁵⁰

44. H. J. Wolff, *Written and Unwritten Marriages*, p. 56. See also U. Yiftach-Firanco, «*Marriage and Marital Arrangements*», p. 41, n. 2.

45. J. Velissaropoulos, *Alexandrinai Nomoi*, p. 118-119. Cf. Cl. Vatin, *Recherches sur le mariage*, p. 171. J. Méléze-Modrzejewski, «La structure juridique du mariage grec», *Symposium 1979*, p. 59, particularly n. 97.

46. Regarding the necessity of *kyrios* in legal transactions performed by women in Hellenistic and Roman Egypt, see R. Taubenschlag, «La compétence du *kyrios* dans le droit greco-égyptien», *AHDO* 2 (1938) (= *Opera minora*, Varsowie 1959, II, p. 353 – 377). Cl. Préaux, «Le statut de la femme à l'époque hellénistique, principalement en Égypte», [in:] *Recueils de la Société Jean Bodin pour l'histoire comparative des Institutions, La Femme (2ème Partie)*, Bruxelles 1962, p. 127-175, particularly p. 139 ff. H. J. Wolff, *Das Justizwesen der Ptolemäer*, München 1962 (reedition in *Münchener Beiträge zur Papyrusforschung und antiken Rechtsgechichte*, 44· 1970), p. 135, n. 41. A. Arjawa, «The Guardianship of Women in Roman Egypt», *Archiv für Papyrussforschung (AfP)* (3) 1997, p. 25-30.

47. Cf. J. Méléze-Modrzejewski, «La structure juridique du mariage grec», *Symposium 1979*, p. 53-57.

48. H. J. Wolff, *Written and Unwritten Marriages*, p. 16-17. See also U. Yiftach-Firanco, «*Marriage and Marital Arrangements*», p. 42, n. 9 & 10.

49. P. Giss. I 2, 1, 12-15: «εἰς χ[αλκοῦ] λόγον τάλαντα ἐνενήκοντα πέντε / καὶ παιδίσκην-Ιχαλκοῦ τάλάντοις πέντε ὥστ' εἶναι τὰ πάν/τα χαλκοῦ τάλαν[τα ἑκατόν]».

50. U. Yiftach-Firanco, «*Marriage and Marital Arrangements*», p. 114. As to the possibility of including slaves in the Ptolemaic *phernê* – a point of controversy in research– see *ibid.*, p. 107-111.

The clauses proclaiming the moral and financial obligations of the spouses (l. 15-24) are similar to those of their contemporaneous marital documents, thus providing no explanation as to this extraordinary *ekdosis*. In case of violation of any of these clauses from the part of Antaios, the contract stipulates the immediate restitution of the *phernê* increased by half (*hêmiolion*). This violation will be subjected to proof, possibly by arbitrators of common approval, as in the P. *Eleph.* I, although not explicitly stated.⁵¹

The second papyrological evidence of the self-*ekdosis* of women originates outside Egypt, namely from Syria. P. *Dura* 30 has preserved the marital contract between the widow Markellina and the soldier Alexander. Both of them are new Roman citizens: the contract is dated on October 1st of the year 232 AD, i.e. twenty years after the Edict of Caracalla, which expanded the *civitas Romana* to almost all free inhabitants of the Roman empire;⁵² in addition, both spouses are characterized as *Aurelii* («Αὐρήλιοι»), *Aurelius* being one of Caracalla's *praenomina*. Nevertheless, as indicated by the editors, the document is drawn up according to the Hellenistic notarial practice, without a single trace of either Roman or Eastern law.⁵³ The marriage of a soldier is undoubtedly legitimate seen from the Hellenistic legal point of view. On the contrary, seen from the Roman viewpoint, it would never constitute a *justum matrimonium* (a lawful marriage), remaining a case of pure and simple *concubinatus*. That means that the newly wedded couple of P. *Dura* 30 clearly defies the prohibition of marriage imposed by the prevailing Roman law on soldiers during their service.⁵⁴ The contract was written in Qatna, near Doura-Europos, winter residence of the soldiers of the twelfth cohort («*speira*»);⁵⁵ In line 5 the wish for good luck («ἀγαθὴ τύχη») is also pre-

51. P. *Giss.* I 2, 1, 24-27: «ἐὰν δέ τι τούτων ἐπιδει/[χθῇ] ποιῶν ἢ τὰ [ἐπιπλα ἢ τὸν ἱματισμὸν ἢ τ]ὰ[']λλα (l. τὰ ἄλλα) μὴ παρέχηι αὐτῇ καθὰ / [γέγραπται, ἀποτεισάτω Ἀνταῖος Ὀλυμπιάδι παραχρῆμα τῇ]ν φερνὴν / [ἡμιόλιον]».

52. On the subject of the *Constitutio Antoniniana* see J. Mélèze-Modrzejewski, *Droit et Justice dans le monde grec et hellénistique* (JJP, Supplements, X), Varsovie 2011, p. 475-496 (chapter XXIV, Un empire universel).

53. Cf. J. Mélèze-Modrzejewski, «La structure juridique du mariage grec», *Symposion* 1979, p. 57-58· p. 59, n. 95.

54. Cf. J. Mélèze-Modrzejewski, «La structure juridique du mariage grec», *Symposion* 1979, p. 58, n. 91. Papyrological evidence in Egypt has brought to light a large number of conflicts emanating from the inexistence of a *justum matrimonium*, a legitimate marriage. These conflicts, concerning the dowries, the legitimacy of the children as well as inheritance matters, oppose the soldiers to their companions or both of them or just the soldiers' widows to the Roman authorities. Cf. B. Anagnostou-Canas, *Juge et sentence dans l'Égypte romaine*, Paris 1991, p. 43-45; 59-60; 61-63; 73-74; 77-79; 95-100; 174-178; 184; 197; 201-202; 243; 255; 271; 274.

55. P. *Dura* 30, 2-4: «[ἐπὶ ὅ]π[α]των Θούριου Λούπου καὶ Μαρίου Μ[α]ξίμου, Καλάνδαι Ὀκτώβριαι, μηνὸς / [Υ]περ[β]ερ[ε]ταίου νουμηνία, ἐν Κάτνῃ παρ[α]χειμασία σπείρης Δωδεκάτης / ... ξα. ια. γων Παλαίστεινων Σεουηριαν[ι]ῆς Ἀλ[ε]ξανδριανῆς. vac. ? / ».



served, as in *P. Giss. I 2*. According to Cl. Vatin⁵⁶ the marital contract of *P. Dura 30* is a *syngraphê synoikêsiās*, which probably explains the coexistence of the *ekdosis* – clause along with that of the mutual consent of the spouses («*homologia*»)⁵⁷. Markellina, a widow, gives herself away for the purpose of marriage to Alexander.⁵⁸ In sharp contrast with Olympias of the 2nd century BC, Markellina performs her own *ekdosis* without the assistance of a *kyrios*, at this point being in conformity with the prevailing Roman law, which had abolished the *tutela mulierum* exercised by the *adgnati* since the reforms of Claudius.⁵⁹ However, the *ekdosis* takes place in the presence of her mother – whose name has not been preserved – as well as her brother Agrippinus, both being qualified as «*συμπαρόντες*».⁶⁰ *Symparôn* or *synestôs*, far from being a *terminus technicus*, signifies in the eastern provinces of the Roman Empire, especially after the *Constitutio Antoniniana*, a male relative or acquaintance being present at a legal transaction conducted by a woman without a *kyrios*, often in connection with the appeal to *jus liberorum*.⁶¹ The giving away of Markellina is expressed with the verb *paradidômi* («*παραδίδωμι*»), which H. J. Wolff maintained to be an equivalent of the verb *ekdidômi* («*ἐκδίδωμι*»)⁶².

56. Cl. Vatin, *Recherches sur le mariage*, p. 180.

57. *P. Dura 30*, 6: «ἐξωμολογήσαν[το καὶ συνεγράψαντο πρὸς ἀλλήλους τῇ ἐνεστώσῃ ἡμέρᾳ]» (they mutually agreed and undertook a written obligation to each other on the present day).

58. *P. Dura 30*, 10-11: «τὴν μὲν / Μ[αρκελλ]εῖναν παραδεδωκέναι ἑαυ[τῇ]ν ἐκ χηρείας πρὸς γάμ[ου] κοινοῦ/ν[ύ]αν (l. κοινω|νίαν) [. . .] σὶ τῷ Ἀλεξάνδρῳ».

59. R. Taubenschlag, *The Law of Greco-Roman Egypt in the Light of the Papyri*, 2nd edition, Warszawa 1955, p. 172.

60. *P. Dura 30*, 8-9: «συμπαρόντ[ω]ν ἀ[ν]δ[ρ]ῶν/τῇ]ν[ης], μητρ[ὸ]ς αὐτῆς, καὶ Ἀγριππείνου, ἀδελφοῦ αὐτῆς».

61. For the *jus liberorum* in Egypt, see J. Sheridan, «Women without Guardians: An Updated List», *Bulletin of the American Society of Papyrologists* 33 [BASP] (1996), p. 117-131. P. J. Sijpesteijn, *Michigan Papyri XV*, Zutphen 1982, p. 158 – 169. *Idem*, «Die XΩΠΙΣ ΚΥΡΙΟΥ ΧΡΗΜΑΤΙΖΟΥΣΑΙ ΔΙΚΑΙΩ ΤΕΚΝΩΝ in den Papyri», *Aegyptus* 45 (1965), p. 180 – 187. P. J. Sijpesteijn – K. A. Worp, «Papyri aus den Giessener Papyrussammlungen», *Aegyptus* 56 (1976), p. 44-45. J. Beaucamp, *Le statut de la femme à Byzance. II. Les Pratiques Sociales*, Paris 1992, p. 198 n. 24. For the *symparôn* see A. Arjawa, «The Guardianship of Women in Roman Egypt», *AfP*, 3, 1997, σ. 25-30; see also E. Karabatsou, «Συμπαρόν» ἢ «συνεστὼς»: ἡ ανάμνηση τοῦ «κυρίου» στα δικαιοπρακτικά έγγραφα τῆς Αἰγύπτου τοῦ 3^{ου} αἰ. μ.Χ., [in:] *Πνεύματος δώρημα Γεωργίῳ Π. Νάκῳ*, Thessaloniki 2010 [NOMOC, Επιστημονικὴ Επετηρίδα Τμήματος Νομικῆς ΑΠΘ (13)], p. 233-244.

62. H. J. Wolff, «Marriage Law and Family Organization in Ancient Athens», *Traditio* 2 (1944), p. 43-95. Cf. J. J. Méléze-Modrzejewski, «La structure juridique du mariage grec», *Symposion* 1979, p. 58, particularly n. 95. Cf. Y. Yiftach-Firanco, «Marriage and Marital Arrangements», p. 41, n. 3. See also H. G. Lidell – R. Scott, *A Greek English Lexicon (LSJ)*, s.v. *παραδίδωμι* as to its equivalence to the latin *tradere*.

Both spouses undertake the obligation – frequently found in marriage documents of the Roman times – to stay together “forever”.⁶³ In line 12 Markellina, in close connection with her self-ekdosis, also appears as sole provider of the dowry (l. 12: «π[α]ραφερομένη[ην] I . . .»); the verb used (παράφερεσθαι), meaning to deliver, to hand over, is the equivalent of προσφέρεισθαι, which is mainly recorded in marriage documents from Egypt.⁶⁴ The contract explicitly stipulates that Markellina’s dowry emanates from her own property,⁶⁵ which might lead us to suppose that it coincided with the dowry from her first marriage, Markellina being a widow. It also contains the clause according to which the dowry will be returned to Markellina in case Alexander takes the initiative to dissolve the marriage by driving her away, the verb ἐξαιρεῖν used for the husband being the equivalent of ἀποπέμπειν of the Ptolemaic era.⁶⁶ The term used to designate the dowry is that of Ptolemaic times (*phernê*), in this case consisting of garments and movable goods appraised by competent arbitrators.⁶⁷ The reference to arbitrators constitutes a striking resemblance to the *P. Eleph.* I. This element, combined with the *ekdosis*-clause and the use of the term *phernê* instead of *proix*, commoner in Roman times, led Cl. Vatin to characterize the *P. Dura* 30 as “archaic”.⁶⁸ As stated in l. 14 («γένη τὰ ὑπογεγραμμένα»), an inventory of the relevant items follows in lines 14-22. They consist of clothing, home utensils, jewellery and money, amounting to a total value of seven hundred and fifty denarii. This is a dowry that can be easily transferred from one place to another, in other words a dowry befitting a soldier’s wife, resembling that of Olympias, almost four hundred years before.

U. Yiftach-Firanco righteously pointed out that although marital documents make explicit reference to the appraisal of the *phernê*, the *P. Dura* 30 constitutes the one and only case in which we are actually informed about the persons who were to perform this appraisal.⁶⁹

63. *P. Dura* 30, 11-12: «καὶ συνπ[α]ραμένειν ἀλλήλοις ἐπὶ τὸν ἅπαντα / [χρόνον – ca.13 -]».

64. Cf. H. G. Lidell – R. Scott, *A Greek English Lexicon (LSJ)*, s.v. παράφέρω (medial voice): to deliver, to hand over.

65. *P. Dura* 30, 12-13: «π[α]ραφερομένη[ην] I . . . ἐκ τῶν ὑπαρχόντων / αὐτῆς . . .».

66. *P. Dura* 30, 27-34: «συμφώγου γενομένου μεταξὺ αὐ[τ]ῶν / [ὅτι ἐὰν] βο[υλ]ηθῇ ὁ Ἀλέξανδρος ἐξερεῖν (l. ἐξαιρεῖν) [τ]ὴν Μαρκε[λ]λεῖναν . . . ἀποδώσ[ε]ι[ν] [ἂ] ἐ[δ]έξατο δηνά[ρ]ια I».

67. *P. Dura* 30, 13: «ἐσθῆσι καὶ εἴδεσι διατ[ι]μηθέ[ν]τα, ἀνδρῶν ἱκανῶν μεσιτῶ[ν]».

68. Cl. Vatin, *Recherches sur le mariage*, p. 180.

69. Y. Yiftach-Firanco, «*Marriage and Marital Arrangements*», p. 267, n. 24. About the term μεσίτης, meaning arbitrator in Roman Egypt, see B. Anagnostou-Canas, *Juge et sentence dans l’Égypte romaine*, Paris 1991, p. 197. *P. Eleph.* 1 (310 BC) also mentions arbitrators selected unanimously by the contracting parties, whose duty is to examine the violation of moral clauses

The false *stipulatio* at the end of the document written by a third hand, that of the veteran Faustinus Avianus, on behalf of Markellina, who is illiterate;⁷⁰ the presence of Markellina's mother and brother as *symparôntes*; some of the witnesses' signatures written in latin in the *verso* of the papyrus: these are probably the only marks of the document that do justice to its dating in the Roman era, the rest of it being eminently "archaic" – as characterised by Cl. Vatin – for the reason that it contains purely Greek provisions.

Self-*ekdosis* is also mentioned in the novel of Chariton, *Chaereas and Callirhoe*.⁷¹ This novel, whose writer originated from Aphrodisias in Caria and worked as a clerk (or secretary) of the orator Athenagoras (Χαρίτων Ἀφροδισιεύς, Ἀθηναγόρου ῥήτορος ὑπογραφεύς),⁷² dates most probably between 150 to 250 AD.⁷³ The action is supposed to take place towards the end of the 5th century BC and is located in Syracuse, Miletus, Asia Minor, Babylon and Phoenice.⁷⁴ In his writing of this «roman d'amour juridique», as characterized by E. Karabelias,⁷⁵ Chariton is inspired by his knowledge

by the spouses (l. 7-8): «ἐπιδειξάτω δὲ Ἡρακλείδης ὅτι ἂν ἐγκαλῇ Δημητρίῳ ἐναντίον ἀνδρῶν τριῶν, / οὓς ἂν δοκιμάζωσιν ἀμφοτέροι»; (l. 10-11): «εἰὰν δὲ τι ποιῶν τούτων ἀλίσκηται Ἡρακλείδης καὶ ἐπιδείξῃ Δημητρίῳ ἐναντίον ἀνδρῶν τριῶν, οὓς ἂν δοκιμάζωσιν / ἀμφοτέροι».

70. P. Dura 30, l. 36-39: «Φαυστίλ[υ]ος Αὐιανός, οὐστρα[γ]ός, ἐρωτεθίς (l. ἐρωτηθείς), ἔγραφα / [ὑπὲρ Αὐρηλίας] Μαρεκελλ[ε]ίνης Μα[ρκελ]λείνου, ἀγ[ρ]αμμάτου / [οὔσης, καὶ] εὐδο[χ]οῦσης κατὰ τὰ προ[γεγραμμένα]». Then follows the *hypographê* of the husband (l. 39-40): «[Αὐρήλιος] Ἀλέξ[ανδρος] εὐδοκῶ κατὰ τὰ προ[γεγραμ]μένα», the verb *εὐδοκῶ* expressing the consent of each spouse to the provisions of the marital instrument.

71. For more details see E. Karabelias, «Le roman de Chariton d'Aphrodisias et le droit. Renversements de situation et exploitation des ambiguïtés juridiques», *Symposion 1988*, p. 369-396 (=E. Karabelias, «Études», p. 49-82). The author refers to the edition of the novel by W. E. Blake (*Charitonis Aphrodisiensis, De Chaerea et Callirhoe amatoriarum narrationum libri octo*, Oxford 1938) in comparison with that of G. Molinié (*Le roman de Chéréas et de Callirhoé*, Paris 1979).

72. B. P. Reardon (2003) [1996] ("Chariton", in Gareth Schmeling (ed.). *The Novel in the Ancient World* (revised ed.). Boston: Brill Academic Publishers, pp. 309-335, pp. 312-317).

73. E. Karabelias («Le roman de Chariton d'Aphrodisias et le droit», *Symposion 1988*, p. 369-370, n. 2) seems to incline towards the dating of the novel between the last quarter of the 1st century AD and the first quarter of the 2nd. Also cf. Ewen Bowie (2002), "The chronology of the earlier Greek novels since B.E. Perry: revisions and precisions". *Ancient Narrative* 2: 47-63. S. Tilg (2010), *Chariton of Aphrodisias and the Invention of the Greek Love Novel*. Oxford: Oxford University Press. Reardon, Bryan P. (2004). *Chariton Aphrodisiensis: De Callirhoe Narrationes Amatoriae Chariton Aphrodisiensis*. Bibliotheca scriptorum Graecorum et Romanorum Teubneriana. K.G. Saur.

74. E. Karabelias, «Le roman de Chariton d'Aphrodisias et le droit», *Symposion 1988*, p. 371-372.

75. E. Karabelias, «Le roman de Chariton d'Aphrodisias et le droit», *Symposion 1988*, p. 373.

of the Athenian law of classical times. This, of course, inevitably implies several anachronisms on the author's part.⁷⁶ The novel, which narrates the extremely romantic adventures of the couple of Chaireas and Callirhoê, with emphasis to the latter,⁷⁷ is based on the constant movement of the heroes and on the successive reversals of their legal status.⁷⁸

The first marriage of Callirhoê, the one to Chaireas, occurs in her native city of Syracuse in accordance with the pattern of the Athenian law of classical times, meaning that both «*engyê*»⁷⁹ and «*ekdosis*» take place (Chariton, 5.8.50): «*πατήρ ἐξέδωκεν*»; this is the argument brought forward by Chaireas in front of the Great King of Persia Artaxerxes II in defence of the legitimacy of his marriage to Callirhoê. After her dramatic separation from Chaireas, the second marriage of Callirhoê, that to Dionysius, which takes place in Miletus, constitutes a further testimony about the self-*ekdosis* of women (Chariton, 5.8.5): «*ἐμοὶ δὲ ἑαυτὴν (scil.) ἐξέδωκεν*»; she gave herself in marriage to me; this is how Dionysius contradicts Chaireas during the trial in front of the Great King, the quality of Callirhoê as a lawfully wedded wife being the object of litigation between the two men. Dionysius, ignoring the first marriage of Callirhoê as well as the fact that she is expecting a child from her first husband, has already thought of a similar argument, considering the possibility of a trial.⁸⁰ Dionysius explicitly states his intentions towards Callirhoê from the very beginning of their acquaintance. He wants her to be his lawfully wedded wife, who will give him legitimate children according to "Greek laws".⁸¹ The similarity of this expression to the

76. Cf. E. Karabelias, «Le roman de Chariton d'Aphrodisias et le droit», *Symposion* 1988, p. 371, n. 5· p. 372, n. 10.

77. This fact obviously led K. Plepelits (*Chariton von Aphrodisias, Kallirhoe, eingeleitet, übersetzt und erläutert von K. Pl.*, Stuttgart 1976), to rephrase the title of the novel as "Kallirhoe". Cf. E. Karabelias, «Le roman de Chariton d'Aphrodisias et le droit», *Symposion* 1988, p. 369, n. 1.

78. E. Karabelias, «Le roman de Chariton d'Aphrodisias et le droit», *Symposion* 1988, p. 369-374.

79. As for the public «*engyê*» of the *dêmos* of Syracuse, which – according to the novelist's imagination – is given to Chaireas simultaneously with the private «*engyê*» of the bride's father, see E. Karabelias, «Le roman de Chariton d'Aphrodisias et le droit», *Symposion* 1988, p. 374-375, particularly n. 15.

80. Chariton, 3.2.8: «*Ἐγὼ γυναῖκα ἐλευθέραν ἐπιδημήσασαν οὐκ οἶδ' ὅπως ἤκουσα· ἐκδομένην ἑαυτὴν ἐν τῇ πόλει φανερώς κατὰ νόμους ἔγνημα*» (I heard that a woman of free status came to the city, I have no knowledge as to how she arrived here; after giving herself to me in marriage, I married her openly, in the city, according to the laws); cf. Chariton, 8.1.1: «*ὥς μὲν οὖν Χαιρέας ὑποπτεύσας Καλλιρρόην Διονυσίῳ παραδεδόσθαι*».

Cf. also J. J. Méléze-Modrzejewski, «La structure juridique du mariage grec», *Symposion* 1979, p. 58, n. 93.

81. Chariton, 3.2.1: «*ἔξω σε γαμετὴν παίδων ἐπ' ἀρότῳ κατὰ νόμους ἑλληνικούς*»; cf. Chariton, 3.3.8: «*νόμῳ γαμηθεῖσαν*».

wording in Menander's *Dyskolos*⁸² as well as to the spirit of the Solonian law concerning *engyê* is worth noticing.⁸³ There can be no doubt that Chariton's reference to "Greek laws" means the juridical *koinê* of the Hellenistic era.⁸⁴ E. Karabelias has dexterously pointed out that the expression νόμοι ἑλληνικοί is most probably the equivalent of πολιτικοί νόμοι, the latter signifying the common law of Greek origin practiced by the Greek settlers in the Egyptian *chôra* during the Ptolemaic era.⁸⁵

As regards the legal interpretation of self-*ekdosis*, several opinions have been supported in research. U. Wilcken sustained that Olympias of *P. Giss.* I 2, who is referred to as «Μακέτα», i.e. of Macedonian origin, her father Dionysius being qualified as «Μαχεδών», proceeds to her own *ekdosis* to the "Athenian" Antaios on the base of some Macedonian custom.⁸⁶ The editor of the Giessen papyri, E. Kornemann, attributes the phenomenon to Egyptian influence.⁸⁷ H. J. Wolff sustained that self-*ekdosis* should be attributed to the evolution of Greek family law during the Hellenistic era,⁸⁸ an opinion followed by J. Méléze-Modrzejewski.⁸⁹ The latter reached the conclusion that self-*ekdosis* in Chariton's time, that of the Principate, seems to constitute a perfectly legitimate form of *ekdosis*, at least in the case of a woman lacking a guardian who finds herself alone in a foreign country, as in the case of *Callirhoê*.⁹⁰ J. Méléze-Modrzejewski also supports that a similar case exists in the novel of Achilles Tatius, «*Leucippe and Clitophon*» («Τὰ κατὰ Λευκίππην καὶ Κλειτοφῶντα»), dating most probably towards the end of the third century AD.⁹¹ The beautiful and rich Melite from Ephesos, having recently lost her

82. V. 842-843: «ἀλλ' ἐγγυῶ παίδων ἐπ' ἀρότῳ γνησίων τὴν θυγατέρ' ἤδη».

83. Cf. E. Karabelias, «Le roman de Chariton d'Aphrodisias et le droit», *Symposion* 1988, p. 377, n. 32.

84. The expression «juridical *koinê*» is due to L. Gernet, «L' introduction à l'étude du droit grec ancien», *AHDO* 2 (1938), p. 261-292, particularly p. 278.

85. E. Karabelias, «Le roman de Chariton d'Aphrodisias et le droit», *Symposion* 1988, p. 377, n. 33.

86. U. Wilcken, *Grundzüge und Chrestomathie der Papyruskunde*. I. *Historischer Teil*: 1. *Grundzüge*, Leipzig-Berlin 1912, p. 216.

87. E. Kornemann, III, p. 159.

88. H. J. Wolff, «Die Grundlagen des griechischen Eherechts», *Tijdschr. V. Rechtsg.*, 20 (1952), p. 167-168. Cf. *Idem*, *Written and Unwritten Marriages*, p. 26-27, n. 92.

89. J. Méléze-Modrzejewski, «La structure juridique du mariage grec», *Symposion* 1979, p. 57-58, particularly n. 89.

90. J. Méléze-Modrzejewski, «La structure juridique du mariage grec», *Symposion* 1979 p. 59.

91. J. Méléze-Modrzejewski, «La structure juridique du mariage grec», *Symposion* 1979 p. 59, n. 95.

husband at sea, is willing to give herself away to Clitophon, also providing her whole fortune as a dowry.⁹²

J. Méléze-Modrzejewski's opinion as to self-*ekdosis* being a special form of *ekdosis*, thus a perfectly legitimate equivalent to the "traditional" *ekdosis*, seems more than justified. Nevertheless the same author also admits that the scanty documentary evidence makes it difficult to consider self-*ekdosis* as an extended phenomenon.⁹³

This is the reason why J. Velissaropoulos sustained that "not every woman had the ability to participate actively in the constitution of her own marriage contract, but only those pertaining to one or more categories risking, at a given time, to find themselves without a legitimate *ekdotês*. These women – according to the aforementioned papyrological evidence – were – as a rule – daughters or widows of military men, who often did their service away from their place of origin. They ran the risk to find themselves without a legitimate guardian (*kyrios*), in the case that their father or husband died and there was no male relative at hand to exercise the guardianship and represent them legally".⁹⁴

J. Méléze-Modrzejewski contradicted that auto-*ekdosis* can be justified by practical reasons in the case of Chariton's novel, due to the fact that Callirhoê is alone in a foreign country, having no relatives who could give her to marriage. The same does not account, however, for Olympias, whose father is alive and participates in his daughter's *ekdosis* as her guardian (*kyrios*). Neither does it account for Markellina, who seems to have a brother of age, the *P. Giss. I 2* papyrus making no allusion to Olympias being a widow like Markellina.⁹⁵ According to J. Méléze-Modrzejewski's reasoning, it is difficult to sustain that the Hellenistic tradition accepted self-*ekdosis* of the bride only in the case of a new marriage or in the lack of a male relative able to function as *ekdotes* of the bride.

The French historians A.-M. Vérilhac and Cl. Vial claimed self-*ekdosis* of the bride to constitute a perfectly exceptional case not corresponding to an evolution of the Hellenistic law.⁹⁶

92. Ach. Tat. 5, 11, 9-10: «καὶ δίδωσι ἑαυτὴν καὶ πᾶσαν ἑαυτῆς τὴν οὐσίαν».

93. J. Méléze-Modrzejewski, «La structure juridique du mariage grec», *Symposion* 1979, p. 59 n. 95; p. 62, n. 108. *Idem*, *Droit et Justice dans le monde grec et hellénistique* (JJP, Supplements, X), Varsovie 2011, p. 373.

94. J. Velissaropoulos, *Alexandrinoi Nomoi*, p. 119.

95. It is remarkable that Markellina's mother, in accordance to other evidence of the same period, could be the legitimate *ἐκδότις* of her daughter. The fact that her brother could also perform the *ekdosis* of his sister goes without saying. However, the participation of both mother and brother in the marital document as *symparôntes* confirms the self-disposal of Markellina.

96. A.-M. Vérilhac – Cl. Vial, *Le mariage grec du VI^e siècle av. J.-C. à l'époque d'Auguste*, BCH (32), 1998, p. 261-264.

Y. Yiftah-Firanco postulated that «an increasing tendency towards auto-ekdosis might be expected as the bride grows older and gains some financial, intellectual and social independence».⁹⁷ This assumption can be accepted only if we follow the afore mentioned theory, according to which *ekdosis* was inherent in every act of marriage, even when not at all mentioned in the marriage document itself. Otherwise, *i.e.* according to the traditional theory, which demands the explicit mention of the verb *ekdidômi* in the marital instrument, this assumption constitutes clearly an *argumentum ex silentio*, which is not corroborated by the evidence. The same author later sustained that auto-ekdosis would be the most likely scenario, if the bride was not a *παρθένος* – *i.e.* a “young girl”⁹⁸ – and especially if she had already been married before, admitting, at the same time, that only in the case of *P. Dura* 30 “we are directly informed that the auto-ekdosis took place on the occasion of the second marriage”.⁹⁹

In my opinion, the interpretation of this phenomenon lies in the examination of similarities and differences between both marriage contracts constituting the principal cases of auto-ekdosis, *i.e.* *P. Giss.* I 2 and *P. Dura* 30.

First: In both documents women appear as able to be given away for marriage by a legitimate *ekdotes*. That would be the father of Olympias in *P. Giss.* I 2 (who, as already stated, acts only as her *kyrios*) and the brother or even the mother of Markellina or even both of them in *P. Dura* 30 (acting only as *symparôntes*).

Secondly, in spite of the fact that the two documents are separated by a

97. Y. Yiftach-Firanco, «*Marriage and Marital Arrangements*», p. 44.

98. Y. Yiftach-Firanco, «*Judean Desert. Marriage Documents and Ekdosis in the Greek Law of the Roman Period*», *Law in the Documents of the Judean Desert, Supplements to the Journal for the Study of Judaism* (96), Leiden· Boston 2005. Cf. H.-A. Rupprecht, «*Marriage Contract Regulations and Documentary Practice in the Greek Papyri*», *SCI* 17 (1998), p. 60-76 [= «*Eheverträgliche Regelungen und urkundliche Praxis*», [in:] *Mélanges en honneur Panagiotis D. Dimakis: Droits antiques et société* (Athènes 2002), p. 543-563], p. 66· p. 67 n. 31. According to the latter, who translates *παρθένος* as virgin, not as a young girl, the virginity of the bride is seldom referred to in the marriage documents, possibly because of the frequency of the marriages as well as to the transformation of an unwritten (*agraphos*) to a written (*engraphos*) marriage: *P. Amst.* I 40 (1st century AD), l. 7-9: «*παρθένω οὔσῃ / ἐγδεδομένη ὑπ’ αὐτοῦ Βακχύλου*»· *M. Chr.* 288· *M. Chr.* 289. Cf. also LSJ, s.v. *παρθένος*. Cf. U. Yiftach-Firanco, «*Marriage and Marital Arrangements*», p. 44 n. 15 & 16. The French historians A.-M. Vérilhac and Cl. Vial (*Le mariage grec du VI^e siècle av. J.-C. à l’époque d’Auguste*, BCH (32), 1998, p. 261, n. 74) in their analysis of BGU IV 1100, the only Alexandrian *synchôrêsis* mentioning an *ekdosis* of the bride, correctly point out that it refers to an adult (l. 10-11): «*[τ]έλειον (l. τέλειον) οὔσα (l. οὔσα<ν>) πρὸς βίου κοινωνίαν [ἀν]/δρῆ*».

99. U. Yiftach-Firanco, «*Marriage and Marital Arrangements*», p. 44.

time interval of about four centuries as well as their different provenance, they both originate from military environments. In *P. Giss. I 2* (173 B.C.) the father of Olympias, Dionysius, her husband Antaios, the guardian of the contract («συγγραφοφύλαξ») Apollonios as well as three of the six witnesses (Philios, Demokratidês and Diogenês) are described as *hekatontarouroi*, whilst the fourth witness, Ménophilos, had also been a military man.¹⁰⁰ In *P. Dura 30* (232 C.E.) Markellina proceeds to her own *ekdosis* in Qatna, winter residence of the soldiers of the twelfth cohort, one of which is her husband, the soldier Aurelius Alexander; Markellina being illiterate, the veteran («οὔετρανός») Faustinus Avianus signs the contract on her behalf; the witnesses – some of their signatures are preserved on the *verso* of the papyrus – are most probably the fellow soldiers of Aurelius Alexander.

The comparative analysis of the two main documentary items concerning self-*ekdosis* of women (*P. Giss. I 2* and *P. Dura 30*) seems to give serious credit to the opinion of J. Velissaropoulos, according to which auto-*ekdosis* is a marginal phenomenon, allowed to daughters and widows of military men. A further development of this interpretation might lead us to the second crucial issue to be taken into consideration, that of the restitution of the *phernê*. After divorce or death of the husband, the dowry was customarily restituted to its provider, *i.e.* the father or another relative of the bride – had the latter still been alive – or the bride herself. This could be the reason for the wives being designated as providers of the *phernê* in about 53% of the marital instruments, regardless of their particular form.¹⁰¹ Olympias and Markellina, as legitimate *ekdôtides* of themselves, are also the providers of the *phernê*. This fact bears its indispensable consequence: in case of dissolution of the marriage either by divorce or by death of their respective husbands, the *phernê* would be restituted directly to them. The possibility of dissolution of the marital link by death of the husband being highly elevated in the case of military men, self-*ekdosis* gave those women the advantage that no male relative had to intervene between them and the restitution of the *phernê*. This was also an advantage in case of divorce, since the possible residence of Olympias or Markellina in a military settlement away from their family combined with the fact that the *ekdôtes* – deliverer of the *phernê* is other than themselves would constitute a major practical difficulty as to its restitution.¹⁰² The dowry is returned directly to them under their double

100. *P. Giss. I 2*, l. 9-11: «Μηνόφιλος / Μακεδών τῶν πρότερον / Ἀριστονίκου τακτόμισθος».

101. See Y. Yiftach-Firanco, «*Marriage and Marital Arrangements*», p. 276-280.

102. We know that in the majority of cases the dowry was restituted to its provider – was he (or) she alive – in case of divorce or death of the husband. Cf. *CPR I 25* trpl. (136

capacity as wives-providers of the *phernê* and legitimate *ekdôtidēs* in their respective *syngraphai synoikisiou*.¹⁰³ I think that this interpretation comes to terms with two of Y. Yiftach-Firanco's conclusions about dowries in marital instruments: first that the woman usually appears as provider of the *phernê*, when she is of age and/or financially independent; secondly that jewellery comprised in dowries was usually the object of a *restitutio in integrum* in case of dissolution of the marital link.¹⁰⁴

The third papyrological testimony about self-*ekdosis* of the bride – the second for Egypt – is preserved in *P. Oxy.* XLIX 3500 (3rd century AD).¹⁰⁵ It is the marital contract of two new Roman citizens from Oxyrynchos, evidently dating after the Edict of Caracalla of 212 AD, since both spouses are characterized as *Aurelii*: Kyrilla, daughter of Isidôros and Sinthônīs and Pasionis, son of Paeis(?) and Taues, exercise both the profession of embalmer (ἐνταφιαστής).¹⁰⁶ In close similarity to *P. Giss.* I 2 and *P. Dura* 30, the

AD), l. 19-20: «ἐὰν δὲ διαφορᾷς τοῖς γαμοῦσι γενομένης / [χωρίζονται ἀπ' ἀλλήλων ἀποδότω Σουχάμμων τῇ μητρὶ [Ἀφροδείτῃ ἢ μὴ περιούσῃ τῇ θυγατρὶ Ἀφροδιτοῦτι -ca.-]»; *P. Oxy.* X 1273, l. 25-28: «ἐ[ὰν δ]έ, ὃ [μὴ ε]ἴη, ἐκ διαφορᾷς ἀπα[λλαγή τῶν γ]αμοῦντων γένηται, / ἀπ[οδότω] ὁ γαμῶν τῇ ἐκδότιδι, [ἐὰν περιῇ, εἰ δ]ὲ μὴ, τῇ γαμουμένη, / τῇ[ν π]ρ[οκει]μένην φερνήν π[λήρη ἐν ἡμέρ]αις ἐξήκοντα ἀφ' ἧς ἐὰν / α[ἴτη]μα γένηται». In *P. Oxy.* X 1273, where the mother is the legitimate *ekdôti*s of the bride, in case of divorce the dowry is to be restituted to her as its provider. Only if the mother is not alive, the dowry must be returned to the ex-wife. Cf. also *P. Freib.* III 29^a, *homologia* for the restitution of the *phernê* after divorce (Philadelphia, 179/178 AD), constituted by the woman Alexandra herself, assisted by her father Dionusius as her legal representative (*kyrios*); Alexandra had delivered the *phernê*, which is returned to her because of the divorce (l. 11-18): «[ὁμολογεῖ Ἀλεξάνδρα] \[. υ Σ]υρακοσία μετὰ κυρίου / [.] υ τοῦ Διονυσίου Συρ[ακο]/[σίου -ca.-] κο[ν]ταρούρου \[hand 2] τοῦ πατρὸς αὐτῆς / \[hand 1] ἀπέχειν π[αρά] / [-ca.-] τοῦ -ca.- Πέρ]σου τῆς ἐπιγονῆς τῇ[ν] / [φερνήν, ἣν προσηνέγκατο Ἀλ]εξάνδρα ἢ προγεγρα[μμέ] / [ν]η χαλκοῦ δραχμὰς δισχιλ(?)ίας πε[ν]ταχοσίας του [.] / [-ca.-] ἰω[ν] η[. . .] δι Παχῶν δευ[τέραι -ca.-] κατὰ συγγρα[φὴν] ὁμ[ολογί]ας, ἣ καὶ ἐν[ή]ν[εκται εἰς ἀθ[ε]τήσιγ ὑπ[ὸ] Ἀλεξ[άνδρ]ος». See also *M. Chr.* 292 = *P. Oxy.* II 266 (96 BC), l. 3-9: «ὁμολογεῖ.../...τῷ γενομένῳ αὐτῆς ἀνδρὶ.../... ἀπέχειν / παρ' αὐτοῦ ἀργυρίου Σεβαστοῦ νομίσματος δραχμὰς τετρα/χοσίας κεφαλαίου ᾧς προσηνέγκατο αὐτῷ ἐφ' ἑαυτῇ ἐν φερνή».

103. Cf. Cl. Vatin, *Recherches sur le mariage*, p. 180: «à l'origine, ce type de contrat (scil. la *syngraphè synoikesias*) est fondé sur l'*ekdosis* qui est sa raison d'être, et la mention en est conservée alors même que l'acte n'est plus dressée que pour les stipulations dotales qui étaient primitivement accessoires».

104. U. Yiftach-Firanco, «*Marriage and Marital Arrangements*», p. 153-159; p. 294-297.

105. J. Méléze-Modrzejewski, «Dryton le Crétois et sa famille ou les mariages mixtes dans l'Égypte hellénistique», [in:] *Aux origines de l'hellénisme, la Crète et la Grèce. Mélanges Henri van Effenterre*, Paris 1984 [p. 353-377] (=Statut personnel, no VIII), p. 361, n. 39.

106. A hereditary Egyptian profession relating to the burial of the dead, like that of the *χοαχύται*, which was related to the cult of the dead. Both professions were also exer-

contract bears the form of a *syngraphê synoikisiou* beginning with the invocation for good luck (l. 1: «ἀγαθῇ τύχῃ») immediately followed by the *ekdosis*-clause (l. 1: «ἐξέδοτο ἑαυτὴν»); the *ekdosis* is performed by the woman herself without the help of a guardian. Mutual obligations of the spouses are summarized in a stereotyped for the Roman Oxyrhynchus formula¹⁰⁷ (l. 5-7): «συμβιού/τωσαν οὖν ἀλλήλοις οἱ γαμοῦντες φυλάσ/σοντες τὰ τοῦ γάμου δίκαια» [the spouses have to live together abiding by the (customary) marital law].¹⁰⁸ The husband undertakes the obligation to provide the wife with all the necessary according to his means (l. 7-9): «ὁ δὲ [γαμῶ]ν / καὶ ἐπιχορηγ[εῖ]τω τῇ γυναικὶ τὰ δέοντα / πάντα κατὰ δ[ύ]ναμιν».

In the case of Aurelia Kyrilla no members of her family are mentioned in the *syngraphê*. Therefore we might suppose that she lacks a legitimate *ekdotes*, as does Callirhoê in Chariton's novel. However the marriage agreement is mentioned to take place in the presence of two *συνομόφυλοι* of the spouses, *συνομόφυλοι* meaning here probably members of the same profession;¹⁰⁹ they are both *Aurelii*, Diogas son of Diogenes and Sarapion son of Paulinus.¹¹⁰ This fact led A.-M. Vérilhac and Cl. Vial to form the hypothesis that

cised by women. For a woman belonging to the τάξις ἐνταφιαστική see also UPZ II 190 = M.Chr. 225 = P. Paris 7 (Thebes, 98 BC), l. 4-6: «τῇ καὶ Σενι[μούθει τῇ] / Πανᾶτος Περσίνῃ μετὰ κυρίου Ἀρπαήσιος τοῦ / Χεσθώτου τῶν ἀπὸ τῆς αὐτῆς Διὸς πόλεως ἐνταφιαστῶν».

107. Cf. H.-A. Rupprecht, «Marriage Contract Regulations and Documentary Practice in the Greek Papyri», *SCI* 17 (1998), p. 66, particularly n. 24 and 22, according to whom the expression «φυλάσσοντες τὰ τοῦ γάμου δίκαια» is reported exclusively in marital documents from Oxyrhynchus. The author also sustains that the disappearance of the detailed moral clauses in marital documents of Roman Egypt requires further explanation. W. Erdmann (*Die Ehe im alten Griechenland* (Münchener Beiträge zur Papyrusforschung und Antikenrechtsgeschichte, 20· München 1934, p. 182 n. 17) and G. Häge (*Ehegüterrechtliche Verhältnisse in den griechischen Papyri Aegyptens bis Diokletian*, Köln – Gratz 1968, p. 164 n. 10) both postulated that the sanctions of marital documents constituted a violation of the Roman law principle «libera matrimonia esse antiquitus placuit». H.-A. Rupprecht contradicted their opinion sustaining that similar penal clauses were provided for in the marital contracts of classical Roman law.

108. The brevity of moral clauses in Roman Egypt could be attributed to the fact that they were used also by Egyptians. Cf. H.-A. Rupprecht, «Marriage Contract Regulations and Documentary Practice in the Greek Papyri», *SCI* 17 (1998), p. 66. About the preservation of the *ekdosis*-clause in Roman Oxyrhynchus, see also U. Yiftach-Firanco, «Marriage and Marital Arrangements», p. 41.

109. See *LSJ*, s.v. ὁμόφυλος, ον: emanating from the same race or gens. According to J. Grubbs (*Women and the Law in the Roman Empire, A Sourcebook on Marriage, Divorce and Widowhood*. London and New York: Routledge 2002, p. 129) *συνομόφυλοι* in the case of P. Oxy. XLIX 3500 probably means: of the same kind.

110. P. Oxy. XLIX 3500, l. 9-12: «ἐστάθη δὲ ἐν ἀλ[λ]ήλοις μεταξὺ [Αὐ]ρηλίων Διογᾶτος Διογέ[ινους] καὶ Σαραπ[ίδωνος] Παυλείνου ἀμφ[ο]λ[τέρ]ων συνομοφ[ύλων]».

self-*ekdosis* of the bride might emanate from rules of their profession.¹¹¹

The agreement is mentioned to take place “on condition that” (l. 13: «ἐπὶ τῷ ἐὰν μὲν»), an allusion being made to an eventual divorce on the initiative of Aurelia Kyrilla without a reasonable cause.¹¹² That possibly denotes that the *συνομόφυλοι* would play the role of arbitrators between the spouses in case of divorce, thus approximating to the *ἱκανοί μεσίται* of the *P. Dura* 30 and to the probative procedure concerning violation of the marriage clauses from the part of Antaios in the *P. Giss.* I 2. It is true that there is no mention of a dowry, at least where it should be, *i.e.* right after the *ekdosis* – clause.¹¹³ However, the fact that both spouses belong to the *τάξις ένταφιαστική* could mean that a sort of arrangement relating to their common profession might be the object of arbitration from the part of the *συνομόφυλοι*. Unfortunately the lacunae of the papyrus after line 13 make it impossible to reach to a certain conclusion in this matter. In any case the *syngraphê synoikisiou* of this pair of embalmers – clearly a case of Hellenized Egyptians – constitutes a further testimony as to the survival of the *ekdosis* in marriage documents from Oxyrhynchos until the second half of the 3rd century AD, thus confirming the unity of Greek laws attained throughout the Hellenistic world, at least in the field of family law.¹¹⁴ J. Méléze – Modrzejewski, who righteously proclaimed Hellenistic law to be the “law of the notaries”, sustained that this survival was due to the conservatism of the Oxyrhynchos’ notaries combined with the wish of its inhabitants to add social prestige to the marital union by proving the performance of the «*ekdosis*».¹¹⁵ It should be added that this conservative attitude can also be attributed to the fact that the inhabitants of Roman Oxyrhynchos – Greeks or Hellenized Egyptians – were among those wishing to preserve their Greek linguistic and cultural identity; an identity prescribed by the Roman administration of Egypt as an essential prerequisite for the inhabitants of the *chôra* in order to belong to the fiscally and socially privileged community of *Hellênes*.¹¹⁶

111. A.-M. Vérilhac – Cl. Vial, *Le mariage grec du VI^e siècle av. J.-C. à l’époque d’Auguste*, BCH (32), 1998, p. 261-264.

112. *P. Oxy.* XLIX 3500, l. 13-14: «ἐπὶ τῷ ἐὰν μὲν / [ἡ Κύ]ριλλα ἀνέ[υ] τινὸς εὐλόγου αἰτίας [. . .]/».

113. *P. Oxy.* XLIX, 3500 (στ. 9-13): «ἐστάθη δὲ έν ἀλ[λ]ήλοις μεταξὺ (l. μεταξὺ) [Αὐ]ρηλίων Διογᾶτος Διογέ[ινους] καὶ Σαραπ[ί]ωνος Παυλείνου ἀμφ[ο]/[τέρ]ων συνομοφύλων ἐπὶ τῷ ἐὰν μὲν / [ἡ Κύ]ριλλα ἀνέ[υ] τινὸς εὐλόγου αἰτίας [. . .]/».

114. Cf. J. Velissaropoulos-Karakostas, *Droit grec d’Alexandre à Auguste*, I, p. 43-45.

115. J. Méléze – Modrzejewski, «La structure juridique du mariage grec», *Symposium* 1979, p. 56; 59-60. Cf. A.-M. Vérilhac – Cl. Vial, *loc. cit.*, see n. 111 above, p. 261-265. Cf. also Cl. Vatin, *Recherches sur le mariage*, p. 171.

116. J. Méléze – Modrzejewski, “Entre la cité et le fisc: le statut grec dans l’Égypte

As a conclusion: The scarcity of the evidence does not allow, in my opinion, to define self-*ekdosis* of the bride as an expanded phenomenon in the Hellenistic customary law practice even as late as the 3rd century AD. However, even as a marginal phenomenon, due to particular circumstances, it certainly does constitute a further evolution and a perfectly legitimate manifestation of the *ekdosis*. Regarding the two papyri which constitute our main documentary evidence (*P. Giss.* I 2 and *P. Dura* 30) we can reach the conclusion that – in spite of the variations in place and time – they both bear a striking resemblance: a conservative character – “archaic”, as Cl. Vatin phrased it in connection with the *P. Dura* 30 – mainly connected with the performance of the *ekdosis* and the provisions for the *phernê*. Consequently, one thing seems to be certain: if all these apparently self-minded and financially independent women were motivated to constitute their marriage in the most traditional Greek manner, *i.e.* through a *syngraphê synoikisiou*, it is because *ekdosis* was of great importance to them, even if – for various reasons – they were to perform it themselves: Olympias and Markellina, spouses of military men, aiming to facilitate the satisfaction of their potential claims for restitution of the *phernê*; Aurelia Kyrilla of the *P. Oxy.* XLIX 3500, a professional, member of the *τάξις ένταφιαστική*, abiding by the conservative Greek tradition of Oxyrhynchos, probably for eventual claims related to the common profession with her husband. As for the literary evidence, Callirhoê, in Chariton’s novel, seemed to have no alternative. Self-*ekdosis* of the bride sets the limits of the evolution of the Hellenistic marital law practice; it also sets the limits of those women’s emancipation: even performing their own *ekdosis* they remain the object of a *δόσις*. A second conclusion seems certain and inevitable: both documentary and literary evidence of auto-*ekdosis* of women constitute a further testimony as to the unity of Greek laws attained throughout the Hellenistic times to the first three centuries of the Roman era.

Key-words: women; self-*ekdosis*; bride; spouses; Hellenistic Egypt; Roman Egypt; auto-*ekdosis*; *ekdosis*; *kyrios* (guardian); *syngraphê synoikisias* or *synoikisiou/synoikisiou*; *homologiai gamou*; *ekdidômi*; *synchorêseis gamou*; *syngraphai homologias gamou*; matrimonial contract; marriage documents; dowry (*phernê*); *symparôn*; “Greek laws” (*νόμοι έλληνικοί*); *πολιτικοί νόμοι*.

romaine», *Symposion* 1982, Valencia 1985, p. 241-280, particularly p. 256, n. 54; p. 257, n. 59. See also *Idem*, *Droit et Justice dans le monde grec et hellénistique* (JJP, Suppléments, X), Varsovie 2011, p. 419-444; p. 475-496. Cf. A.-M. Vérilhac-Cl. Vial, *loc. cit.*, see n. 111 above, p. 261-265, according to whom the phrasing of the contracts corresponds to the mentality of the contracting parties.

ΠΕΡΙΛΗΨΗ

ΕΛΕΝΗ Δ. ΚΑΡΑΜΠΑΤΣΟΥ: *Αυτοέκδοση των γυναικών στην Ελληνιστική και Ρωμαϊκή Αίγυπτο: οι αιτίες μιας παρέκκλισης*

Στην ελληνιστική και ρωμαϊκή Αίγυπτο η μετάβαση από τον οίκον της κλασικής πόλεως σε μια νέα ατομικά προσανατολισμένη μορφή οικογενειακής οργάνωσης αποτυπώνεται στη σταδιακή εξέλιξη των εγγράφων που πιστοποιούν το γάμο και τη δόση της προίικας, καθορίζοντας ταυτόχρονα και τις αμοιβαίες υποχρεώσεις των συζύγων. Η έγγυη, απαραίτητη συστατική πράξη του γάμου στο αττικό δίκαιο, εξαφανίζεται, καθόσον οι λειτουργίες της – εγγύηση της γυναίκας ως νόμιμης συζύγου («γυνῆς γαμετῆς») προορισμένης να φέρει στον κόσμο νόμιμα τέκνα («παῖδας γνησίους») – επιτελούνται από το ίδιο το γαμικό έγγραφο, η δε γυναίκα δίνεται σε γάμο μέσω της έκδόσεως από τον πατέρα της ή άλλο άρρενα συγγενή ή αμφοτέρους τους γονείς ή και από μόνη τη μητέρα. Η συγγραφή συνοικισίας ή συνοικισίου συνιστά λοιπόν το γαμικό έγγραφο που συνδέεται αποκλειστικά με την έκδοσιν. Στη διάρκεια του 2^{ου} αι. π.Χ. η εν λόγω εξέλιξη οδηγεί στο να μη θεωρείται πλέον η έκδοσις ως αναγκαία προϋπόθεση ενός νόμιμου γάμου. Αυτό έχει ως συνέπεια, αντί της συγγραφῆς συνοικισίου να καταρτίζεται μόνο μια όμολογία γάμου, έγγραφο που πιστοποιούσε αρχικά τη λήψη της προίικας. Τα ανωτέρω συνιστούν την εν γένει κρατούσα άποψη στην έρευνα, όπως αυτή εκφράσθηκε κυρίως από τους H. J. Wolff, Cl. Préaux, J. Mélèze-Modrzejewski, I. Βελισσαροπούλου-Καράκωστα και Ε. Καραμπελιά.

Σε αντίθεση με την ανωτέρω κρατούσα άποψη, οι Γαλλίδες ιστορικοί Α.-Μ. Vérilhac και Cl. Vial και, πλέον πρόσφατα, ο U. Yiftach-Firanco, υποστήριξαν ότι η έκδοσις ενυπήρχε σε κάθε γαμικό έγγραφο, ακόμη και όταν παραλειπόταν οιαδήποτε αναφορά σε αυτήν.

Στην παρούσα μελέτη υποστηρίζεται ότι η δεύτερη αυτή άποψη, πέραν του ότι δεν βρίσκει επαρκές έρεισμα στις ίδιες τις παπυρολογικές μαρτυρίες, φαίνεται να καταργεί τις διαφορές μεταξύ της συγγραφῆς συνοικισίου και της όμολογίας γάμου, αλλά και να αδυνατεί να ερμηνεύσει επαρκώς φαινόμενα όπως: η έκδοσις της θυγατέρας από την μητέρα της, το δικαίωμα άφαιρέσεως και η αυτοέκδοση των γυναικών, το να προσφέρουν δηλαδή οι ίδιες τον εαυτό τους σε γάμο. Κατ' ακολουθία των ανωτέρω, η παρούσα μελέτη πρώτον, αναλύει την αυτοέκδοση σύμφωνα με την κρατούσα άποψη, δηλαδή μόνο στις περιπτώσεις όπου το ρήμα ἐκδίδωμι – ως *terminus*

technicus – αναφέρεται ρητά στο έγγραφο που αποδεικνύει τη σύναψη του γάμου (*P. Giss. I 2· P. Dura 30· P. Oxy. XLIX 3500*) και, δεύτερον, επιχειρεί να εξετάσει τις ειδικές συνθήκες που οδήγησαν στην εμφάνιση αυτής της ειδικότερης εκδήλωσης της έκδοσεως.

Στον *P. Giss. I 2*, γαμικό συμβόλαιο καταρτισμένο στην Κροκοδιλόπολη το έτος 173 π.Χ. με την μορφή μιας έξαμαρτύρου συγγραφής συνοικισίου, η καταγόμενη από την Μακεδονία («Μακέτα») Ολυμπιάς εμφανίζεται να προσφέρει η ίδια τον εαυτό της σε γάμο, ενώ η συμμετοχή του πατέρα και κυρίου της Διονυσίου περιορίζεται στο να προσδώσει με την παρουσία του την αναγκαία νομιμότητα στη δικαιοπραξία. Η Ολυμπιάς, ως έκδοτις του εαυτού της, εγγυάται ταυτόχρονα και την ιδιότητά της ως νόμιμης συζύγου, ενώ παράλληλα προβαίνει και στην δόση της προίκας (φερνής).

Ο *P. Dura 30* διασώζει το γαμικό συμβόλαιο (συγγραφή και όμολογία) μεταξύ δύο νέων Ρωμαίων πολιτών, της χήρας Μαρκελλείνας και του στρατιώτη Αλεξάνδρου, που καταρτίζεται στην Κάτνη, τόπο χειμερινής διαμονής των στρατιωτών της δωδέκατης σπείρας, κοντά στην Δούρα Ευρωπό (Συρία). Η Μαρκελλείνα προβαίνει στην έκδοσή της χωρίς κύριον ενώ η μητέρα της και ο αδελφός της Αγριππείνος εμφανίζονται ως συμπαρόντες.

Στη μελέτη γίνεται επίσης αναφορά στην κύρια φιλολογική μαρτυρία για την αυτοέκδοση, περιεχόμενη στο μυθιστόρημα του καταγόμενου από την Αφροδισιάδα της Καρίας Χαρίτωνα, *Χαιρέας και Καλλιρόη* (μέσα 1^{ου} και 2^{ου} αι. μ.Χ.). Σε αυτό η Καλλιρόη, ευρισκόμενη μόνη και χωρίς νόμιμο εκδότη σε ξένη χώρα, εκδίδει τον εαυτό της με σκοπό το γάμο «κατά νόμους έλληνικούς».

Για την ερμηνεία του φαινομένου εξετάζονται οι ομοιότητες αμφοτέρων των βασικών παπυρολογικών μαρτυριών (*P. Giss. I 2· P. Dura 30*). Και στα δύο έγγραφα οι γυναίκες αυτοπροσφέρονται σε γάμο ενώ εμφανίζονται να έχουν τη δυνατότητα διενέργειας της έκδοσής τους από το νόμιμο εκδότη, πατέρα ή αδελφό, προερχόμενο, όπως και οι σύζυγοι τους οποίους λαμβάνουν, αλλά και οι μάρτυρες των συμβολαίων, από στρατιωτικό περιβάλλον. Η ερμηνεία του φαινομένου αναζητείται λοιπόν σε αυτό το στρατιωτικό περιβάλλον σε συνδυασμό με το ζήτημα της επιστροφής της προίκας σε περίπτωση λύσης του γάμου. Τόσο η Ολυμπιάς, όσο και η Μαρκελλείνα, ως νόμιμες έκδοτίδες του εαυτού τους, είναι ταυτόχρονα και νόμιμες προικοδοτίδες, με αποτέλεσμα η αυτοέκδοση να τους επιτρέπει να διαφύγουν τον ενδεχόμενο κίνδυνο απουσίας ή έλλειψης του νόμιμου προικοδότη – η ιδιότητα του οποίου ως στρατιωτικού θα δημιουργούσε προφανώς ιδιαίτερη επισφάλεια – σε περίπτωση λύσης του γάμου: η προίκα επιστρέφει στις ίδιες υπό την διπλή τους ιδιότητα, της συζύγου αλλά και της νομίμου έκδοτιδος. Για τον ίδιο λόγο οποιαδήποτε δικαστική ενέργεια σε περίπτωση μη επιστροφής, θα γίνει με δική τους πρωτοβουλία και επ' ονόματί τους και

όχι με την πρωτοβουλία ή επ' ονόματι ενός πατέρα ή αδελφού, η παρουσία ή και η ύπαρξη του οποίου τελεί σε καθεστώς μόνιμης αβεβαιότητας. Με τον τρόπο αυτό παρακάμπτεται κάθε δυσκολία που θα δημιουργούσε ενδεχομένως η έλλειψη ή απουσία του νομίμου εκδότη – και προικοδότη της γυναίκας – κατά την λύση του γάμου.

Η τρίτη κατά σειρά – δεύτερη για την Αίγυπτο των ελληνορωμαϊκών χρόνων – παπυρολογική μαρτυρία για την αυτοέκδοση περιέχεται στον *P. Oxy. XLIX 3500* (3^{ος} αι. μ.Χ.), συγγραφή συνοικισίου μεταξύ δύο νέων Ρωμαίων πολιτών, της Αυρηλίας Κυρίλλης και του Αυρηλίου Πασιγόνου, οι οποίοι ασκούν αμφότεροι το παραδοσιακό αιγυπτιακό επάγγελμα του ένταφιαστοῦ. Η Αυρηλία Κύριλλα προβαίνει μόνη στην έκδοσή της χωρίς κύριον. Δεν πιστοποιείται η δόση προίκας, ωστόσο, η αναφορά σε συνομοφύλους (προφανώς μέλη της αυτής τάξεως ένταφιαστικής), οι οποίοι θα διαιτητεύσουν σε περίπτωση λύσης του γάμου, οδηγεί στην υπόθεση ότι οι ενδεχόμενες διαφορές προς επίλυση θα προέκυπταν από την κοινή άσκηση επαγγέλματος.

Η μελέτη καταλήγει στο συμπέρασμα ότι η αυτοέκδοση των γυναικών, ακόμη και ως περιθωριακό φαινόμενο συνυφασμένο με ιδιόζουσες συνθήκες, συνιστά μια περαιτέρω εξέλιξη καθώς και μια απόλυτα νόμιμη εκδήλωση της έκδόσεως. Περαιτέρω, τόσο οι παπυρολογικές όσο και οι λογοτεχνικές μαρτυρίες για την αυτοέκδοση πιστοποιούν, για μια ακόμη φορά, την ενότητα των ελληνικών δικαίων κατά τους ελληνιστικούς χρόνους αλλά και τους τρεις πρώτους αιώνες της ρωμαϊκής κατάκτησης.

Λέξεις-κλειδιά: γυναίκες· αυτοέκδοση· ελληνιστική Αίγυπτος· ρωμαϊκή Αίγυπτος· έκδοσις· κύριος· συγγραφή συνοικισίας ή συνοικεσίου/συνοικισίου· όμολογία γάμου· εκδίδωμι· συγχωρήσεις γάμου· συγγραφαί όμολογίας γάμου· γαμικό συμβόλαιο· γαμικά έγγραφα· προίκα· φερνή· συμπάρων· νόμοι έλληνικοί· πολιτικοί νόμοι.