From the Nile to the Rivers of Babylon

A comparative study of the marriage contracts from the Judean family archives found at Elephantine

BY

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Table of Contents

1. Introduction

1.1 Relevance and aim

This thesis is concerned with studying the marriage contracts from two Judean family archives discovered in Elephantine,[1] located in Ancient Egypt. The exact date of the arrival and settlement of this group of Judeans in Ancient Egypt is unknown. However, much information can be gained from the archival documents, all written during the Persian period (525 – 332 BCE).[2] Together, the documents cover most of the fifth century BCE, allowing one to follow the Judeans throughout most of their interactions in a multi-ethnic and multi-linguistic environment.[3] While a socio-historical study on the Judeans of Elephantine has been written in the 1960's,[4] no one has tried to write an updated study, using new insights gained through various smaller studies and newly discovered material. This thesis serves as such a study, trying to answer some of the questions that have risen throughout the years. The research itself will focus on a specific case-study concerned with marriage, placing its various aspects into the broader context of Mesopotamian and Egyptian legal practices. The main objective will be *to discover which elements of the Elephantine Judean identity can be traced back to Biblical-Judaism and how the Judean identity in Egypt developed under the influence of its environment.*

The aims of this thesis are threefold. The first and most important goal is to write a study on the marriage contracts found at the two Judean family archives in Elephantine. While it has been acknowledged since the early discovery of the Aramaic documents that the Judean identity in Egypt differed significantly from that from the Hebrew Bible,[5] none of the marriage contracts have been used to fully study the differences between Egyptian Judaism and Biblical Judaism, in the context of the neighbouring cultures. Documents drawn up privately amongst the colonists would show more conservative elements of the tradition,[6] opposed to the documents of trade which have been extensively studied.[7]

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[1] For the discussion on terminology used regarding 'Judean and Judaism', see 1.3.5: Identity and identification.

[2] This timeframe refers to the Persian dominion over Egypt, starting with king Cambyses. This timeframe is often used in Egyptology to indicate a separate period within the overarching time period, called the 'Late period' (664 BCE-332 BCE).

[3] Cf. the society of Judena exiles in Babylonia in Alstola (2017).

[4] The study by Porten (1968) has been the most extensive until today, often referenced by scholars studying Elephantine.

[5] Mostly as a result of the pass-over letter, as seen in the study by Cowley (1967). Later scholars like Porten (1968) included intermarriage and the marriage crisis in Ezra. Most recently Kratz (2016) and Granerød (2016) have included various other aspects into the discussion.

[6] An important comparative aspect to establishing this, are the Babylonian marriage contracts containing Judeans.

[7] Most recently by Botta (2009).

Therefore, a study of the marriage contracts will fill this gap, shedding light on the development of the socio-cultural identity of the Judeans in Egypt. This thorough study of the contracts will consist of an analysis of their contents and place in the archives, comparing their formulae with neighbouring traditions and determining which elements can be seen as stemming from a tradition shared with Biblical-Judaism. The latter will not only bring us closer to understanding the background of the colonists, but will also shed light on how the Judeans of Elephantine identified themselves within their multi-ethnic and multi-linguistic environment. Since evidence is not as elaborate, this part of the study will be supplemented with similar case studies from Mesopotamia.

Determining which elements from the Egyptian-Judean tradition are related to the traditions from the Hebrew Bible and Biblical-Judaism requires defining the two forms of 'Judaisms'. Different forms of Judaism co-existed, each with their own cultural peculiarities. A characteristic that was shared between these separate forms of Judaism, was the so-called 'cult of 'יהוה'.[8] This cult adhered to a certain set of laws, which developed over time and was interpreted in various ways, until the crystallization of the Jewish religion during Hellenistic times.[9] Therefore, when I refer to Biblical-Judaism, I refer to the form of Judaism that is seen in the Hebrew Bible, whereas Elephantine Judaism refers to the Judaism as reconstructed from the Aramaic papyri from Egypt.

The second aim is to place the documents into the wider context of the legal practices of the Ancient Near East and Ancient Egypt. Comparing the contents of the contracts with similar contracts might help us to trace certain formulae within one of the other traditions, pointing towards a shared root of law. If formulae do not compare, we can assume that these are stemming from an Aramaic original. When this is established, the Aramaic roots can be compared to the laws preserved in the Hebrew Bible to determine whether it found its way into Judean law.

The third aim is to use the newly gained information to enhance our knowledge about the development of the socio-cultural identity of the Judeans of Elephantine, a group that has been studied by various scholars, but still puzzles various academic fields, due to the multi-cultural contents of their documents. These steps will ultimately lead to a better understanding of how the colonists at Elephantine identified themselves as being part of the collective Judean identity and how they adapted their behaviour to what they thought to be in lines of the laws of Biblical Judaism. Ultimately, this will shed light on the period

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[8] See Alstola (2017) pp. 34-35.
[9] Becking (2011) p. 129.

in which the Judeans settled in Egypt, due to the fact that new innovations in the Hebrew Bible would not have been known to the colonists.

This thesis will be structured in the following way. The first chapter will give an overview of the political history of Ancient Egypt. How did the events of the Third Intermediate and Late Period influence the socio-political situation of Egypt and how did traditions evolve in these periods of intercultural contact? These aspects are important since the colonists entered Egypt in a period in which the country stood under influence of several foreign traditions, which might have influenced its local culture. The next step is to give an overview of the research history of the most important studies on the Judeans of Elephantine. This chapter will be concluded with an overview of the sources under study.

The first part of the second chapter will contain a study of the first family archive: the archive of Miftahiah. This means that I will conduct a study on the family members and their social status and interaction and the documents preserved. While the focus will be on the study of the marriage documents, it is important to consider and analyse the other documents as well, since, by doing this, the contracts can be placed in their larger archival context. The latter part of this chapter will have a similar structure, but will study the second family archive, namely the archive of Ananiah b. Azariah. The third chapter will contain a comparison between the results of chapter two. Chapter three will study the archives from Babylonia, focusing on the tablets containing Judeans. The focus will be on the five marriage contracts, but to be able to reconstruct a full socio-historical background of the protagonists, other documents will be taken into account as well. The fourth chapter will be a re-study of the available material from Ancient Egypt, from the Old-Kingdom until the Demotic Period. The fifth chapter will focus on the legal formulae from the marriage contracts from all three cultures.

This chapter will also use the legal aspects from the Hebrew Bible to shed light on the extent to which the Elephantine marriage contracts are dependent on the legal traditions of the Hebrew Bible. Furthermore, by including the Hebrew Bible in this chapter, new information can be gained on the relation between the Judean legal traditions from the Hebrew Bible and the broader Mesopotamian traditions. The final chapter will conclude with a re-vision of the interpretation of Judean faith at Elephantine.

The first and foremost discipline that this study will supplement is that of the Biblical studies. The Aramaic sources from the two Judean family archives from Elephantine contain elements that points towards a practice of Judaism other than that in the Hebrew Bible. A second temple and the questions of the inhabitants surrounding pass-over are but few examples. Studying how the Judeans at Elephantine adhered to their

(religious) laws, might help scholars in the field to understand how Ancient Judaism developed under different circumstances. It might shed light on how different forms of Judaism developed parallel to each other and how the different forms responded to each other. It might offer an alternative view to what the Hebrew Bible perceives to be Judean. If we follow the dating of modern scholarship and place the settlement of the Judeans in Elephantine around the destruction of the temple of Jerusalem, the documents from Elephantine might offer an alternative view to the period in which Biblical literature came into being and Judaism as presented in the Hebrew Bible crystallized.

The second field to which this study might contribute, is the field of Assyriology. The documents from Elephantine will be studied in light of documents from Mesopotamia. Their laws and legal formulae will be compared. Not only will this help getting a better understanding of the documents from Elephantine, it will also shed light on the development of the Mesopotamian laws themselves. Marriage law will be traced from the Old-Babylonian period up until the Neo-Babylonian period, closely reading the laws and tracking its developments. Furthermore, if we assume that the Elephantine legal formulae adopted traditions from Mesopotamia, one might argue that these sources might also shed light on how Mesopotamian law developed over time, in foreign environments, under foreign influences. In this view, the documents illuminate developments, in periods from which no native Mesopotamian evidence is known.

Lastly, this thesis might attribute to field of Egyptology, enhancing our knowledge about how Egyptian law was influenced by Mesopotamian or Aramaic traditions. The Late Period has not yet received the attention it deserves, leaving gaps in our understanding of this period, a period in which Egypt was united, yet stood under influence of much foreign influence. On the other hand, tracing the Egyptian concepts of marriage throughout the various documents, Egyptian, Mesopotamian and Aramaic, might show us how Egyptian customs were adopted by and later adapted to other, foreign, traditions.

1.2: Historical background

This chapter will be divided into two parts. First, an overview of the political history of Ancient Egypt and its interaction with the Ancient Near East will be given, to shed light on the socio-political situation in which the Elephantine documents were written. An important aspect of this political history is the migration history. The Judeans were not native to the land of Egypt, but were either brought there or moved there after the Mesopotamian Empires scourged the Levant. The second part consists of an introduction into the research history and state of the art.

1.2.1: Political history

The documents relevant to this study cover a period of around a hundred years, all centred in the fifth century BCE. Cambyses had ended the rule of the Saite dynasty (664-525 BCE), and had made Egypt a province of the Persian Empire, a so-called satrapy. The Saite dynasty had been forged by Psamtik I, under whose rule Egypt was reunited after the third intermediate period (1069-665 BCE). While the Persian Empire was the first to incorporate Egypt into its political system for over a century (525-404 BCE), it was not the first Ancient Near Eastern civilization with which Egypt came into contact. Egypt had already encountered military forces from the Ancient Near East, both abroad and at home. Even though the documents under discussion are written during the Late period (664-332BCE), looking at the third intermediate period offers insights into social dynamics and foreign encounters which helped shape Egypt's culture during the periods of Persian rule.

1.2.1.1: Third Intermediate Period

The third intermediate period was the longest intermediate period in Ancient Egyptian history, leaving Egypt divided in two separate political units.[10] It was during this period that Egypt came into close military contact with the Ancient Near East and eventually became part of the Assyrian Empire. In 701 BCE the Kushites, kings of the 25th dynasty, send an army of Egyptians and Nubians towards Palestine to support the Judean king Hezekiah against the Assyrians.[11] The forces of Sennacherib withdrew, but were provoked by the interference of the Egyptians and keen on attacking Egypt when circumstances would allow.[12] It was under Esarhaddon, Sennacherib's son, that Egypt would endure severe attacks by the Assyrians and would become vassal to the Assyrian rulers.

The Assyrians would invade Egypt three times, of which two attacks would prove to be successful. The first attack in 674 BCE, led by king Esarhaddon, was warded off by an Egyptian army. The second attack three years later was successful,[13] forcing Taharqa to retreat to Nubia.[14] The escape of Taharqa left Egypt without a central government, giving way to the Assyrians to assimilate Egypt into their system of vassalage. According to this new framework of government, they would put a king, who was loyal to the Assyrian king,

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[10] Thompson (2000) p. 83; the intermediate character of this period was mainly characterized by absence of the central authority and administrative unity as were present during the Old-, Middle-, and New-Kingdom.

[11] Bard (2015) p. 289.

[12] Thompson (2000) p. 90; The battle at Eltheke, in which Sennacherib attacked the Egyptian and Nubian forces once more, ended the Egyptian interference in the Levant. Jerusalem was spared, only to be made into a vassal of the Assyrian king, Frahm (2017) p. 184.

[13] Frahm (2017) p. 187.

[14] Bard (2015) p. 289; Thompson (2000) p. 90.

on the throne, entrusting local power to local authorities. In the case of Egypt, Sais was elected to the seat of power.[15] The third attack reached as far south as Thebes and was organized by a coalition of the army of the Assyrian king Assurbanipal and Saitic forces. They defeated the new 25th dynasty, which meant that the Saite rulers were now the only force to rule Egypt under Assyrian vassalage.[16]

Meanwhile in Mesopotamia, Nabopolassar organized a series of rebellions supported by a coalition of Chaldeans and Medes against the local Assyrian king. Under Assyrian rule, three kings had ruled Babylonia. Eserhaddon was the only true Assyrian king; the others were mere puppet kings, dependent on the Assyrian rulers.[17] Despite the fact that Eserhaddon and the puppet king Šamaš-šuma-ukīn tried the rule Babylonia as true Babylonian kings, initiating building projects according to the Babylonian frame of kingship, hatred towards the Assyrians was growing amongst Babylonian society.[18] This hatred, sparked by an increasing and common negative response to Assyria allowed Nabopolassar to unite the tribes, which formed the society of Babylonia. With this force, Nabopolassar was able to evict the Assyrians from Babylonian soil and defeat the Assyrians in 612 BCE. During this period, Asshurbanipal had to retreat from Egypt back to his homeland, to try and restore his rule.

1.2.1.2: The Saite Dynasty

The departure of Assurbanipal back to Mesopotamia gave Psamtik I, one of the kings of the new 26th dynasty who ascended the throne with Assyrian aid,[19] the opportunity to break the vassalage with the Assyrian empire in 664 BCE.[20] Under his rule, Egypt would enjoy a period of governmental independence and unity that would last until the invasion by Cambyses in 525 BCE. Prosperity returned quickly after the Assyrians had been defeated, due to the steady foundation laid by the Kushites. As in Mesopotamia, Egyptian kings would legitimize their authority by conducting various building projects and showing interest in the archaic models of the Old- and Middle-Kingdom.[21] These models were closely imitated, a trend which would also be adopted by the kings of the 26th dynasty and

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[15] Thompson (2000) p. 90; also see Frahm (2017) p. 187.
[16] Thompson (2000) p. 90.
[17] Frame (1992) p. 214; Frame (1992) p. 261.
[18] Waerzeggers (2011) p. 726; Frame (1992) p. 214-17.
[19] Lloyd (2003) p. 365; he did so, with the help of Gyges of Lydia.
[20] Bard (2015) p. 292.
[21] A similar example is Nabopolassar, a non-native Babylonian who chose the Old-Babylonian 'topoi' of wise king and care-taker of the gods, rather than the Assyrian model of the king as soldier of Aššur. Example is the usage of the well-established epithets 'Šar Babili and Šar māt Sumeri u Akkadi'. For further information on this topic, see Van der Iest (2017) pp. 19-20.

even the Persians.[22] After he freed himself from the Assyrian rule, Psamtik I continued to expand his power throughout Egypt. In 660 BCE he succeeded and took control of the Nile Delta and from there the whole country.[23]

Lloyd (2003) describes the campaigns as being diplomatic operations, but adds that 'the wheels of diplomacy were oiled with a well-equipped military force'.[24] An important chain in the diplomatic events, were the foreign mercenaries.[25] The Egyptian king hired these mercenaries for two reasons, of which the first and most important was to protect Egypt from foreign, mainly Asiatic, attacks.[26] The second reason was to keep the *Machimoi*, an Egyptian-Nubian warrior class, from gaining too much influence in the empire.[27] Cowley (1967) argues that this was the period in which the Judean mercenaries were hired for duty and moved to Elephantine.[28]

1.2.1.3: The Persian Period

These political situations and military interactions had led to Egypt losing its more or less isolated position in the diplomacy between the north of Africa and Asia. During the Third Intermediate Period, Egypt had to endure severe attacks of a new powerful, Asiatic, enemy. The Assyrians gained control in Egypt resulting in Egypt being included in the military campaigns of the empires of the Ancient Near East. Despite the fact that these periods were periods of interaction between Egypt and foreign enemies, these were also periods of cultural continuation. The 25th dynasty was able to conduct major building operations and revive Ancient Egyptian culture. Psamtik I continued in this fashion and under his rule, economic prosperity would quickly return. The Persian period would allow Egypt's identity to develop further, albeit with a Persian overlay. Egypt would once again lose its sovereignty to a foreign leader, but would keep its nation-wide unity,[29] being able continue even its legal practices.[30]

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[22] Thompson (2000) pp. 89-90.
[23] Lloyd (2003) p. 366.
[24] Lloyd (2003) p. 366.
[25] Also see chapter 1.2.2.1 on mercenaries in Ancient Egypt.
[26] Egypt had to endure several Babylonian attacks on Egyptian soil, between 629 and 627 BCE, probably due to Psamtik I's support to the Assyrians, Thompson (2000) p. 91.
[27] Lloyd (2003) p. 366; Lloyd presents the ambitions of Asiatic rulers and Nubian warriors to gain control in Egypt, as one of the inherited problems with which Psamtik I had to deal. Further problems were economic weakness and erosion of the ancient ideal of a unified Egypt.
[28] Cowley (1967).
[29] Wilkinson (2007) p. 458.
[30] This is reflected by the codification of Egyptian law by the Persians, see Manning (2003) p. 821.

1.2.1.4: Persian Dominion over Egypt

The Persian king Cambyses, who made his entry into Egypt in 525 BCE, prematurely ended the reign of the last king of the Saite dynasty, Psamtik III, at the battle of Pelusium.[31] Captured and firstly offered clemency, Psamtik III was eventually executed and Cambyses became the first foreign king of Egypt,[32] after a period of independence and unity. With his victory at Pelusium, Cambyses could include Egypt into his empire and the land of the Pharaohs became one of Persia's many provinces. Fully integrating Egypt into this provincial system meant changing some of the organization at the top of the Egyptian government, a Persian overlay controlled by the presence of military force.[33]

In the highest layers of Egyptian authority, a satrap was installed: a Persian governor who was to rule the new province in absence of the king.[34] The centre over which the satrap ruled was almost always identical to that of the capital of the conquered area. It served as an administrative centre where taxes were collected and letters were sent to keep the king on top of the affairs in the provinces.[35] Installing a satrap in the Egyptian capital included introducing the Aramaic language in Ancient Egypt as language of the chancellery.[36] The Aramaic language used by the scribes of the chancellery was uniform. Letters from Bactria show the same formulae as the Aramaic letters from Egypt, pointing towards central scribal training. The existence of schools for such scribal training is also supported by one of the Persepolis Fortification Tablets (PFT), which discusses 'Persian apprentices copying texts'.[37] In Elephantine, this unity is reflected by several texts, like the letters send between the Elephantine religious leaders and local officials in Samaria and Jerusalem, all following the same standard format.[38]

But despite the unity of the satrapal system, much diversity between the provinces is known. Below the level of official state administration, the Persian king had no intention to innovate, resulting in the continuation of the Egyptian culture.[39] Egyptian law was preserved and Egyptians could occupy important positions within the government. They

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[31] Lloyd (2003) p. 374.

[32] Psamtik III was shown clemency in accordance to the Persian policy of including conquered sovereigns into vassalage. He was executed due to a rebellion initiated by the young king, Bresciani (1985) p. 502.

[33] Bard (2015) p. 293; the military forces controlling the new Persian province included Judean mercenaries settled at Elephantine.

[34] Bard (2015) p. 293.

[35] Radner (2014) p. 117.

[36] Lloyd (2003) p. 275.

[37] Radner (2014) p. 130; for the unity in the physical form of the documents, see Radner (2014) p. 130; PFT 871.

[38] C21, C27, C30, C31, Radner (2014) p. 123.

[39] Good examples of the continuation of Egyptian legal terms are shown best in the public domain. For the influence of Egyptian legal terms on Aramaic in the context of trade, see the study by Muffs (2003).

could act, for example, as translator to translate Egyptian concepts into Aramaic and vice versa.[40] As the first to conquer the land of the Nile, Cambyses was the first to show great interest in Egyptian culture and wanted to present himself as an Egyptian Pharaoh. Along these lines, he initiated building projects and pursued an Egyptian policy inspired by the 26th dynasty.[41] One of the letters from Elephantine, a petition for the renovation of the Judean temple at Elephantine, gives a good example of the mentality of Cambyses towards foreign temples, stating that Cambyses himself was not responsible for the sacking of the Judean temple.[42]

The Persian kings after Cambyses continued to rule Egypt with the same tolerant and respectful mind-set as their predecessor. Darius I, after oppressing a rebellion initiated by Aryandes between 510 and 492 BCE, ordered the Egyptian laws to be codified.[43] He ordered his satrap to gather all the wise-men, priests and scribes, to write down the previous Egyptian legal system. The collection of laws, probably written in hieroglyphs and/or the hieratic script, was transcribed into Demotic and Aramaic. The latter transcription was especially useful to the Egyptian satrap and governmental officials who were supposed to serve in legal cases.[44] After the death of Darius I, rebellions were held due to the absence of a Persian ruler. While rebellions were being held occasionally, it was not until the reign of Darius II that such rebellions would be successful in overthrowing Persian influence in Egypt.

The documents from Elephantine are of key importance in reconstructing significant events during the reign of Darius II. He is mentioned in seven documents written during his rule.[45] C21, a letter from Hananiah to the Judean military garrison, describes the decree by Darius II which obliges the Judeans to observe the feast of the Unleavened Bread.[46] Another letter is concerned with a petition by the Judeans send to the king, in order to rebuild the temple of יהוה at Elephantine, which had been destroyed by temple priests of the ram-headed god Khnum.[47] The act was the result of growing unrest amongst the Egyptian, native, population. While the Persian approach towards provincial government

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[40] Lloyd (2003) p. 275.
[41] Bresciani (1985) p. 503.
[42] Bresciani (1985) p. 505.
[43] Bresciani (1985) p. 507; for building projects initiated by Darius I and the relevant sources, see Bresciani (1985) pp. 508-509. One of the bigger projects was the building of the great temple to Amon-Ra in the oasis of El-Kharga. Xerxes might be an exception to the rule, see Lloyd (2003) p. 375.
[44] Bresciani (1985) pp. 507-508; it also proves that Egyptian law was available in Aramaic, making it a channel for possible influence of Egyptian law on the Aramaic law preserved in the Elephantine papyri.
[45] C17, C21, C26, C27, C30, C31, C32.
[46] Bresciani (1985) p. 511; also see Cowley (1967) pp. 60-62.
[47] Bresciani (1985) p. 512.

was to allow local authorities to rule with their own sets of law,[48] local dynasties still had to oppress their ambitions to rule the country.[49] This led to a revolt, which included the episode of the destruction of the Judean temple at Elephantine. Eventually Darius II was overthrown in 404 BCE by the Egyptian rebels, ending Persian influence Egypt until the Second Persian Period in 343 BCE.[50]

1.2.2: Migration in antiquity

Migrations, as common as they were in the world, clearly helped to shape the demographic of the Ancient Near East, as well as Ancient Egypt.[51] One of the triggers for migrations was the search for better resources to help and upkeep ones society as reflected by the many Greek and Phoenician colonies around the Mediterranean.[52] While these migrations were undertaken from a voluntary basis, many migrations were also involuntary, with the most famous example being the Babylonian Exile, during which many members of the Judean populations were forcefully migrated to the Babylonian outskirts in order to tend Babylonian farms.[53]

The Assyrian empire was the first to start with such deportations, as part of their system of vassalage. They would split up an entire population, relocating its members all across their empire, integrating them into their society. The Babylonians took over and adopted this way of handling their conquered territories. The fall of the Assyrian Empire into the hands of the Babylonian king Nabonidus the Great, greatly increased the migrational process in the Ancient Near East.[54] Already during the long sixth century,[55] various factors, like a stable political situation and thriving economy, caused the mobility in the ancient world to increase. Traders would travel to the major cities to engage in trade with people from all around the empire, while mercenaries were already hired to serve the Babylonian army.[56]

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[48] Thompson (2000) p. 95.
[49] Thompson (2000) p. 95; also see Lloyd (2003) p. 376; Lloyd adds that the Egyptians probably saw the Persian king as an absent landlord, despite his efforts to act according to the frame of Egyptian kingship.
[50] Lloyd (2003) p. 376; Thompson (2000) p. 95; see Lloyd (2003) pp. 377-382 for an overview of the intermediate period of Egyptian independence. While Darius II was the last king of the 27th dynasty of Persian kings to rule Egypt, Aramaic papyri from Elephantine still acknowledged Artaxerxes II as king, Bresciani (1985) p. 512; see K10, K11, K12.
[51] Alstola (2017) p. 7.
[52] Botta (2009) p. 2.
[53] For a recent study on the Babylonian Exile and the Judean Exiles, see Alstola (2017); for specifics on the deportations themselves, see Alstola (2017) pp. 8-14.
[54] Botta (2009) p. 9.
[55] For a description of the long sixth century, see Waerzeggers (2011) p. 59.
[56] Alstola (2017) p. 7.

Foreigners also settled in Ancient Egypt and foreign colonies are well documented, of which the Ionian colony is the most well-known example.[57] The Ionians and Carians from Asia Minor probably entered Egypt as part of a well-planned military operation initiated by the Egyptian king Psamtik I. He settled his mercenaries on the Eastern Delta to protect the borders, in so-called *Stratopeda*.[58] The mercenaries probably stayed permanently, marrying indigenous women, soon to be replaced by more waves of Greek mercenaries.[59] Much like the Greeks, people from the Ancient Near East were also settled in camps, like Elephantine and Syene. Judeans, Arameans, Babylonians and Medes were all settled in Egypt together with their families, according to a specified socio-military organization.[60] This specific organization of the resettled Near Eastern population gives away the general purpose of their presence: they were there to serve the Egyptian king in his endeavours against the enemy.

1.2.2.1: Mercenaries

An important factor in all the political and military events mentioned in the previous sections, are the mercenaries hired by the Egyptian and Persian rulers to strengthen the army and protect themselves from external as well as internal attacks. Questions surrounding mercenary services are relevant to the Elephantine community as well. Questions range from the chronology and reasons for immigrating into Egypt, to questions about the length of the soldiers' stay. The service was not only a matter of military activity, the soldiers and their families were transformed by contact with Egyptian culture.[61] The process of hiring mercenaries started under Psamtik I, the first Pharaoh of the 26th dynasty, who needed soldiers with new military techniques.[62]

1.2.2.2: Judean mercenaries

The first possible date for the settlement of the Judean mercenaries in Egypt is therefore during the rule of Psamtik I (664 BCE-609 BCE).[63] His current Egyptian mercenaries stationed at Elephantine seemed to have had no furlough for over three years and decided to rebel and desert. They joined the Ethiopians, leaving Psamtik I in need of new forces.

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[57] Botta (2009) p. 9.
[58] Fischer-Bovet (2014) p. 19.
[59] Fischer-Bovet (2014) p. 19; it is to be debated whether or not the Greeks were discharged after Cambyses' failed campaign against Ethiopia. See Fischer-Bovet (2014) pp. 19-20.
[60] Porten (1968) p. 29.
[61] Fischer-Bovet (2014) p. 18.
[62] Fischer-Bovet (2014) p. 19.
[63] The only certain date within this discussion is an *ante quem* date for the establishment of the Jewish temple at Elephantine, since it was built before Cambyses entered Egypt, see Botta (2009) p. 13.

He then would have hired new Asiatic soldiers, including a 'Jewish' contingent.[64] This early dating is supported by the Deuteronomic law,[65] which mentions the 'Jews of Egypt'. Kraeling argues that it was probably Josiah or Manasseh who had furnished Psamtik I with Judean manpower.[66]

Cowley dates the settlement of the Judean mercenaries in Egypt to the rule of Psamtik II (595 BCE-589 BCE), based on the Letter of Aristeas,[67] which mentions that Psamtik II used Judean mercenaries in a campaign against an Ethiopian king. He therefore dates their arrival in Egypt to a period between 595 BCE and 590 BCE, shortly before the fall of Jerusalem and the Babylonian Exile.[68] Cowley further argues that while the documents were written in the fifth century BCE, the community had already intergrated into Egyptian society. They could sell houses and married the local population.[69]

Porten (1968) proposes three possible periods in which the Judeans could have settled in Egypt.[70] Rather than strictly following the patterns of the pharaonic employment of Judeans into their army, Porten proposes a first possible date in the thirty-five year period between the Syro-Ephaimitisch War in 735 BCE and the siege of Jerusalem in 701 BCE. The second proposed period is the period in which Psamtik I was trying to throw off the yoke of the Assyrian Empire, releasing himself from vassalage. Porten proposed that Manasseh supported Psamtik in his campaign against this common enemy by gifting him Judean troops. The third and last proposition is the period shortly after the death of Gedaliah ben Ahikam in 609 BCE. Of these propositions, the second would be the most probable, since sources from the reign of Psamtik explicitly mention Judeans and Phoenicians being part of the mercenary army.[71]

1.2.3: Research history

Scholarly interest in the Aramaic documents of Elephantine was sparked by the discovery of the first of two Judean family archives, which were published in two different text editions. The archive of Miftahiah was published by Cowley in the early nineteen twenties,

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[64] Kraeling (1953) p. 43.

[65] This book, preserved in Deuteronomy, is dated to 621 BCE, a date which belongs to the reign of Psamtik I.

[66] Kraeling (1953) pp. 43-44; however, it is to be noted that Kraeling also argues that Judean elements were introduced almost a century later in an already existing Aramaic camp under Amasis (570 BCE – 526 BCE).

[67] Letter of Aristeas §13; further supported by Herodotus II:30.

[68] Cowley (1967) p. xvi.

[69] Cowley (1967) pp. xvi-xvii.

[70] Porten (1968) p. 13; for the introduction leading to the propositions of these periods, see Porten (1968) pp. 1-13.

[71] Lloyd (2003) p. 366.

while the second archive, the archive of Anaiah ben Azariah, was published by Kraeling, thirty years later in the nineteen fifties.[72] With the publication and critical editions of the Aramaic papyri by Cowley, came a discussion on the historical background in which the documents came into being.[73] Amongst the papyri edited are those mentioning the temple at Yeb. These documents have puzzled scholars for many centuries and were the main reason why (Biblical) scholars were interested in studying Elephantine. While both authors offer an extensive overview of the contents of the different documents, it was the study by Kraeling that offered the historical background used in later studies on the origins of the colony and various other aspects, like the political, religious and social backgrounds of the colonists.[74]

The nineteen sixties gave way to three important studies, focusing on both the legal aspects of the Elephantine papyri and the social background of the Judean colonists. Now that both archives were un-earthed, scholars could base themselves on documents that covered a time period of sixty-nine years, describing the lives of two different Judean families. The first was the study by Reuven Yaron, published in 1963.[75] Yaron was the first to give a full reconstruction of the legal system as presented by the documents from the two Judean family archives. He gave an overview of the various courts with which the Judeans came into contact and discussed several legal procedures linked to various aspects of their social lives, ranging from marriage and family life to the law of property. Yaron studied the legal system as reflected by the Elephantine documents, as a self-contained system, limiting himself to the Aramaic papyri. He only compared their contents to contemporary, non-Judean documents, to point out analogies. The reasoning behind this was that the colony at Elephantine was a social group that lived remote from any centers of commerce, making it unlikely that they had an indigenous system of law. Similarities did not imply dependence, since similar social and economic traditions might lead to similar legal institutions.[76]

Bezalel Porten published the second study on the Judeans of Elephantine, in 1968.[77] His study, called 'The Archives of Elephantine', aimed at reconstructing the lives of the Judeans of Elephantine, based on the Aramaic papyri found at both of the archives. His study offers an historical background, based on texts from the Hebrew Bible, as well as Egyptian steles and the Greek historian Herodotus. After the extensive discussion on the

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[72] Cowley ((1923), Kraeling (1953).
[73] See Cowley (1967) pp. xiii - xxxii.
[74] Yaron (1961) p. 1; see Kraeling (1953) pp.3-111 for the historical introduction.
[75] Yaron (1961).
[76] Yaron (1961) pp 99-100.
[77] Porten (1968).

historical background, Porten continues with a reconstruction of the lives of the two Judean families. He does so, in a thematic way, covering themes like marriage and commerce to family relations. A valuable addition is 'Appendix VI', which offers a comparison between the legal schemas of Aramaic and Demotic documents.[78]

The third and last study from the nineteen sixties is the study by Muffs,[79] published in 1969. Muffs focused on a specific phrase within the Aramaic papyri, linked to the completion of a transaction. The phrase 'my heart is satisfied',[80] was studied from an Assyriological viewpoint, comparing the phrase to similar occurrences in cuneiform evidence. In his conclusion, Muffs dismisses the statement made by Yaron that similarities in legal phraseology are the result of coincidence rather than influence, by arguing that due to the close similarities between the different legal terms, historical connections between the Aramaic evidence and either cuneiform or Demotic legal traditions are evident.[81] It is therefore that Muffs shed new light on the legal practices of the Aramaic papyri, showing that studying the documents in a comparative way, is still fruitful. Yet, while arguing that the formulae of the cuneiform evidence had their influence on the Demotic traditions as well, he also states that the Aramaic and Demotic formulae together agree against the Akkadian tradition.[82] This gives way to a discussion on what aspects of the Aramaic legal traditions were influenced by Egyptian law and which were influenced by cuneiform law.

Modern scholarship continues to study Elephantine, using new methodologies to enhance and complement the studies of the past.[83] The work by Muffs was supplemented with a prolegomenon, written by Baruch A. Levine, to give an overview of studies that shed new light on the comparative methods to study legal phraseology.[84] Along these lines is the publication on the legal system of Elephantine by Porten, in Westbrook's book on Ancient Near Eastern Law.[85] Porten gives, like Yaron did in the nineteen sixties, a thematic overview of several aspects of the legal system of the Judeans of Elephantine.[86] He bases himself on the text edition, in which he compiled documents relevant to the (comparative)

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[78] Porten (1968) pp. 334-343.

[79] Muffs (1969); Muffs (2003) refers to the new print, which includes a new extended introduction by B.A. Levine.

[80] Aram. טיב לבבי.

[81] Muffs (2003) p. 173; he mainly bases his argument on the similarities between the Aramaic term לבבי טיב and the Akkadian term *libbašu ṭāb*.

[82] Muffs (2003) p. 174.

[83] For the history of archeological approaches, see Kratz (2006) pp. 247-249; Kratz also gives an overview of the ground plan of the colony and it's temple. On the archeology of Judean temple at Elephantine, see Rosenberg (2004).

[84] Muffs (2003) pp. xi – xli.

[85] Westbrook (2003).

[86] See Porten (2003) in Westbrook (2003).

study of Elephantine.[87] This new addition allows scholars to not only read and study the documents of Elephantine in new translation, but also compare the contents to contemporary documents of a similar nature.

Other valuable new studies on the Elephantine documents are those with a linguistic approach. Muraoka and Porten have published a grammar on Egyptian Aramaic,[88] using the Elephantine documents to gain new insights in the Aramaic as used in Egypt during the Persian period. Appended to this book is a helpful list with loanwords, giving both the original word as well as the Aramaic adaptation of the term. This makes it easier for scholars to recognize loanwords, or to argue how words were adapted to fit the Aramaic language and discover new loans. Another important linguistic study is the study by Holger Gzella, who gives an overview of the history of the Aramaic language.[89] He does this by giving an overview of the stages that the language went through in chronological perspective as well as its use throughout the various regions of the ancient world. Amongst these regions are the Levant, including northern Palestina and Judah, and Ancient Egypt. This study not only helps to determine the possible identity of the colonists, since knowing their linguistic background might help scholars to learn more about their place of origin, but also about the linguistic system and legal usage of Aramaic during Persian rule in Ancient Egypt.

Continuing the discussion on the way in which different legal systems influenced each other, Botta offers an Egyptological approach to see to what degree the Aramaic legal system was influenced by its Demotic counterpart.[90] This approach was new in the sense that it offered an approach different from the three previously used. Although the documents were already studied from an Egyptological perspective, Botta was the first to do it to such an extent.[91] By doing so, Botta offered in an important alternative view to previous studies, which mostly compared the Elephantine documents to either the Aramaic legal tradition or Babylonian and Assyrian contracts. Botta has shown that various terms and laws can be traced back to Egyptian predecessors, even that some Egyptian formulae might have entered the contracts via Mesopotamia, rather than through direct contact between both Egyptians and Judeans in Elephantine. Not only did this reinforce the idea of

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[87] Porten (1996).
[88] Muraoka (1998).
[89] Gzella (2015).
[90] Botta (2009).
[91] See Botta (2009) pp. 2-4; the earlier three approaches were the study of the Aramaic legal system in the light of later Aramaic legal traditions (Kutcher), the study of the legal system as self-contained system (Yaron), or the study of the Aramaic legal traditions (and more specifically, specific phrases) in the light of the cuneiform legal system (Muffs).

direct influence of Egyptian culture on the Judeans of Elephantine, it also nuanced the arguments made by Porten that Judean marriage contracts differed strongly from their Egyptian counterparts.

1.2.3.1: How 'Jewish' were the colonists?

Another group of studies on the Judeans of Elephantine tries to answer the question surrounding the 'Jewishness' of the Judeans of Elephantine and to what extent they held on to 'Jewishness' as expressed in the Hebrew Bible. It was already noted by Cowley that the Judeans of Elephantine wrote in Aramaic, but that their Aramaic contained Hebraisms as well as that their names were Hebrew.[92] Porten suggests that the Judeans adopted the Aramaic language during their stay in Egypt, but held on to their Hebrew names and Israelite identity.[93] That the colonists were indeed Judean is generally accepted in modern scholarship, but it has also been acknowledged that the way in which the Judeans of Elephantine practiced their form of Judaism offers an interesting analogy to that of the religious practice in the Hebrew Bible.[94] Kratz has recently noted that Judaism as attested in the Aramaic papyri differs significantly from Judaism as found in the Hebrew Bible, with the Elephantine temple as second temple as prime example.[95] While contemporary scholarship considers Elephantine to be the one exception that proves the rule, it is Kratz who points out an important alternative:[96]

> Yet a different explanation seems far more reasonable to me: rather than
> Elephantine and the Judeans of Egypt, it was the Hebrew Bible and
> biblical Judaism that were the exception to the rule, even into the Persian
> period. Accordingly, the situation at Elephantine would typify Judaism
> of the Persian epoch, a standard manifestation not only in the Israelite–
> Samarian region but also in Judah itself. Biblical Judaism, then, would

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[92] Cowley (1967) p. xv; Cowley also argues that 'יהודי' might be used to label the colonists as 'Jewish'. Yet, the geographical term 'ארמי' is also used to indicate the colonists. It is for this reason that I would like to argue that Judean as well as Aramean are used as purely geographical terms, while the names were used in a religious context.

[93] Porten (1968) p. 299; The idea of the Judeans taking on the Aramaic language in Egypt is to be debated (see Gzella (2015) pp. 190-193), due to the reconstructed linguistic situation in Israel en Judah.

[94] Kratz (2016) p. 147.

[95] Kratz (2016) p. 139; he does however, note that there are striking similarities as well, like the Aramaic correspondence on the destruction and building of a temple of יהוה (cf. Ezra 4-6);

Further examples include the attitude of the Judeans of Elephantine towards foreign government (Kratz (2016) p. 140) and differences in religious practice, including possible polytheism. Kratz (2016) pp. 141-143).

[96] Kratz (2016) p. 144.

stand as one specific faction's ideal. By no means presupposed by all Judeans or Yhwh-devotees during the post-state period, this ideal would have developed slowly and alongside other forms in pre-exilic and post-exilic times, achieving general acceptance only in the Hellenistic–Roman era.

The fact that the Elephantine papyri present a view on daily life is given as a possible objection against this statement, while,[97] it might prove to be the most important aspect in acknowledging the statement made by Kratz.[98] With these statements, Kratz follows up on statements made in earlier works, like the studies by Cowley and Porten, but allows new scholarship to work on an alternative view, in which the Elephantine documents offer insight into a form of Judaism that was performed in daily life, rather than offering a version of Judaism that diverted from 'true-Judaism' as presented in the Hebrew Bible.[99]

[97] Kratz (2016) p. 144.
[98] See section 1.4.
[99] On the Hebrew Bible as historical source, see 1.4.2.4.

1.3: Methods

This dissertation is concerned with studying one of the various social aspects of the lives of the Judean community in Elephantine. The main sources for this study are the Aramaic papyri, found at the two Judean archives. The corpus will be supplemented with a number of cuneiform texts and relevant sources written in Demotic. Since the nature of these texts is legal, many of the people referred to are historical figures, featuring the protagonists and witnesses. The prime method for historians working with ancient sources is the historical method. Combined with archaeological evidence, the historian is able to reconstruct the historical setting in which the source was written and the environment in which the protagonists were living. Therefore, the first chapters of this dissertation will focus on illuminating the historical background in the light of which further findings of this study will be placed. The second method is that of the archival approach. The marriage contracts were found at family archives and are therefore part of a bigger group of texts. Placing the texts in their archival context will offer a panoramic view of the events, rather than a microscopic view offered by just a single text.[100]

1.3.1: The Historical Method

Using ancient sources requires method that first and foremost assesses the reliability of the sources under study. Therefore, one of the subdisciplines of the historical method is source-criticism. Garraghan gives a list of questions, which the historian can use to assess and test the reliability of his sources.[101] The questions are concerned with the date of composition of the text and the location where the texts were written. If the texts were written in an overarching timeframe, in close quarters to each other, it is more likely that the historian can create a plausible dialogue between the documents. Further questions are asked to test the credibility, discussing by whom the texts were produced as well as the evidential value. The latter is important when using a broad corpus in texts, in which the genres of the texts range from contracts to royal inscriptions, since contracts are more reliable in reconstructing historical events than royal inscriptions.

After the sources have been studied in light of the historical method, the historian can attempt to reconstruct the events, which the sources narrate. Each source tells its own story about a specific aspect of history, while all the sources together can be used to highlight larger historical events. Each reconstruction can answer different historical questions to a certain extent, but the historian should constantly keep the plausibility of his

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[100] See Alstola (2017) p. 22.
[101] Garraghan (1974) p. 168.

sources in mind. If the historian uses his sources critically, he will be able to use sources that do not seem as credible at first hand, but are important in giving significant information on events of which no other sources are available. Contracts are the most trustworthy, since they were composed to give an overview of a sale or other legal transaction, only to be used when, for example, one of the parties would want to cancel the deal. Royal inscriptions, on the other hand, were used to legitimize the authority of a king or to teach the people about the great deeds of the throne.[102]

For this dissertation however, sources other than mere contracts play an important role.[103] Whereas many contracts from Mesopotamia and Egypt are available on topics relevant to this study, few to none are available from the Levant. From the Levant, literary texts and compilations of different genres do exist, with the most famous being the Hebrew Bible. The most obvious problem with these types of texts might be that the author and composition date is unknown to us. Furthermore, we are not as certain about the function of the texts, as we are with contracts. Yet, if one takes the texts into consideration with a certain critical methodology, these texts can give important information about historical events. While a literary text which tells the story about the sacred marriage between a god and goddess might not seem like a trustworthy source on marriage practices in Ugarit at first hand, it does present us with the general attitude of people of Ugarit towards marriage and the way in which the institution of marriage was organized.

The last important aspect of studying ancient sources is being critical about the viewpoints evident from the texts. The elite, a social group with a specific view on society, wrote royal inscriptions and literary texts, as well as the cuneiform texts found at their family archives. The Hebrew Bible was written by scribes often belonging to the higher echelons of society, just as the elite families from Babylonia. This presents us with a limited view on society and practices of the time. Other sources, like the documents from Elephantine, can offer a counterweight to this perspective. The documents from Elephantine present us with protagonists that were part of several layers of society, ranging from the elite to slaves. Cuneiform evidence from the rural outskirts of Babylonia offers an alternative view to that of the urban elite. When using these sources, however, it should be kept in mind that the contracts containing Judeans were written by Babylonian scribes, in a Babylonian format, found at Babylonian family archives.

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[102] On the reliability of these, see Van der Iest (2017) p. 9.
[103] For a full overview of the sources, see section 1.4.

1.3.2: The Archival Approach

The archival approach is used in Assyriology to create an overarching view of the social interactions of members of Mesopotamian society. This method was the result of Assyriologists trying to reconstruct ancient archives, from tablets stored in Museum archives, often acquired through illegal and illicit excavations.[104] The goal of this method is to place a single tablet into the social context of a larger group of texts, an ancient archive.

While this method is very relevant for reconstructing archives from Mesopotamia,[105] it will also prove to be an important method for reconstructing the two Judean family archives at Elephantine. Alstola distinguishes between two important principles within this approach.[106] First, the dispersal history of texts that are connected through their contents is to be traced from available catalogues, starting with the excavation to their storage in museums. The second principle is to cluster texts together, on the basis of their contents. This can be done by both looking at the attested protagonists as well as by looking at the general events presented by the documents. For example, texts of a different nature but describing the same event, like the sale of a house and its aftermath, can still be clustered together. For the documents of Elephantine, this would mean looking at the dispersal history of both of the Judean family archives.

Using the archival approach means placing the marriage contracts in the broader context of the documents of the archives. They will be studied together with contracts and letters related to the documents; a context in which each document might offer information that otherwise might have seemed insignificant. This information might shed new light on the protagonists attested in the marriage contracts. Through this information, it is possible to reconstruct their social status, their interaction with people of other cultures, as well as their own family relations.

1.3.3: Comparative Method: Assyriology

Two of the most recent comparative studies on Elephantine are the studies by Botta and Muffs, each presenting their own methodology, based on research in the fields of Assyriology and Egyptology.[107] The Assyriological approach offers an alternative to the

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[104] Alstola (2017) p. 24.
[105] See Van Driel (1992) for an example on the texts from. See Goddeeris (2002) pp. 28-29 for using this approach in reconstructing Old-Babylonian archives. See Du Toit (2011) for ancient archives and libraries in general.
[106] Alstola (2017) p. 24.
[107] Botta and Muffs (2003).

studies of Rabinowitz and Kutcher,[108] who studied the documents in the context of later Aramaic legal traditions, like the Nabatean, Talmudic and Dura documents, and Yaron who studied the documents as a self-contained legal tradition. He approaches the papyri in light of the millennia old cuneiform tradition[109]. The reasoning behind this method is that the Ancient Near East, despite being subject to constant shifts in power, witnessed relatively stable cultural continuation in which norms did not simply fade out, but were put into 'a new linguistic garb'. [110]

According to Muffs, age-old Akkadian legal terms and traditions were preserved in the Aramaic papyri, therefore being a recipient of legal traditions of over to millennia's old. The papyri are therefore not only a palimpsest of older traditions, but also shed light on the development of Mesopotamian legal traditions outside of Mesopotamia and the development of these traditions in a period in which less evidence is known from Mesopotamia itself.[111] While Muffs' approach is an effective method for studying the Elephantine documents, documents that were written in a context in which various cultures lived in close contact to each other, several aspects are to be taken into account when comparing these documents.

When comparing traditions to similar traditions from an environment that is linguistically close to that of the documents under study, few aspects are to be kept in mind. Yaron had already noted this when listing the possible pitfalls of comparing documents. Yaron noted that similarity does not imply dependence, since two could arrive at the same solution. He also argues that there might even be a third source on which the identical systems are dependent.[112] The fact that similar legal systems are not always dependent on each other, or that contact between systems is difficult to determine, is proven by one of the Aramaic papyri. C15 contains a clause of manumission that is also attested in Greco-Egyptian papyri. While contact between both is difficult to prove, it is more likely that general events lead to similar phraseology.[113] therefore, Yaron proposes that similarities and contact can only be proven for terms that are not likely to arise independently.[114]

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[108] The Assyriological approach is named after the material with which the papyri are compared. Assyriological implies here that the papyri are compared with cuneiform evidence.
[109] Muffs (2003) p. 12.
[110] Muffs (2003) p. 13.
[111] Muffs (2003) p. 14.
[112] Yaron (1961) p. 100.
[113] Yaron compares this solution to the motive of a dwelling god. Many cultures believed that gods dwelled in the temples and the statues which the ancients worshipped. This does not mean that these cultures adopted this way of worship from each other, but rather that this way of worship was a suitable way for independent people to worship their gods.
[114] Yaron (1961) p. 101.

1.3.4: Comparative Method: Egyptology

Botta (2009) tries to balance the study of the Elephantine papyri and the Aramaic legal tradition by offering a new approach: the Egyptological approach. This approach studies the Elephantine documents in light of older Egyptian legal traditions, trying to trace Aramaic formulae back to Egyptian roots. Furthermore, this approach has also been used to trace down the direct influence of Egyptian traditions on the broader legal formulae of Mesopotamia. The goal of his methodology is to compensate for the lack of attention which scholars have offered to the study of Aramaic legal traditions in the light of (similar) Egyptian legal formulae.[115] Botta argues that such an approach will lead scholars to find the Ancient Egyptian roots of some of the West-Semitic legal terminology.[116] While his methodology does view the laws retained in the Aramaic papyri in the light of the Egyptian counterparts, he also uses Mesopotamian material to determine which tradition most likely influenced the Aramaic formulae. This is a step forward from the works of older Egyptological studies using a similar approach to offer an alternative to the studies conducted mostly by Aramaists and Assyriologists.[117] Combined with the Assyriological approach, it will give the most comprehensive results on the marriage contracts, since the comparative methods will point out which formulae retained in the papyri have roots in either an older Egyptian or Mesopotamian tradition. Formulae that do not have any established connection with either of the other traditions can most likely be seen as 'indigenously Aramaic'.[118]

1.3.5: Identity and identification

To extract elements that are part of a specific identity one needs to define the specific term for the identity that one is studying. For this thesis, it is therefore necessary to define what is meant with 'elements of Biblical-Judaism' and the 'Judeans of Elephantine'. The terminology used in the study of Ancient Judaism is problematic in the sense that many of the terms can be seen as being ambiguous. The term Judah, for example, can be used as either a geographic region, or a political entity.[119] The term used for its inhabitants is also ambiguous. Mason proposed to use the term Judean, since 'Jews' and 'Judaism' stem from

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[115] Botta (2009) p. 5.
[116] Botta (2009) p. 5.
[117] Revillout defended his arguments of Egyptian influence on the papyri in light of *'locus regit actum.'* Seidl went on and stated that due to the similarity and legal practices and the chronological precedence of some of the Demotic papyri, Aramaic formulae must have been dependent on Egyptian formulae, for a full overview of the research history see Botta (2009) pp. 2-3.
[118] Botta (2009) p. 6.
[119] Berquist (2006) p. 53.

Ἰουδαῖος', a term which carried a different meaning in their Ancient Greek and Latin context.[120] Later studies, like the study by Alstola, used this term to indicate that people under discussion were members of the kingdom of Judah.[121] 'Jews' and 'Jewish' are used for people and the monotheistic religion from later periods.

When discussing Elephantine, however, these terms need an even closer look. Becking has recently argued that the Judeans at Elephantine identified themselves as 'YHWDY', thus choosing the translation Yehudite. This Aramaic word can also be translated as 'Judean' or 'Jewish'.[122] Becking reserves the latter for the religion constructed during Hellenistic times. While these terms might seem suitable for Judeans as stemming from the tradition that arose in Ancient Judah, they are not that suitable for the Judeans at Elephantine. Despite the fact that it is unknown from whence the settlers came, members of the colony referred to in this study will be termed Judeans. It is unknown whether they came from the Northern Kingdom of Israel or from the Southern Kingdom of Judah, but due to the many references made to Judah/Yehud,[123] it seems that the colonists themselves associated their identity with that of the territory of the province of Judah.[124] Choosing 'Judean' would therefore indicate that the members of the colony would have felt a certain connection to the province of Judah, rather than the earlier Southern Kingdom of Judah. Yehudite, as defined by Becking, indicates that the Judeans of Elephantine came from the geographical area of the Persian province 'Yehud', which covered both the former Southern as well as the Northern Kingdom, leaving the question of their precise place of origin in the middle.

Therefore, 'Judean' will refer to the inhabitants of the colony, as 'Jewish' will refer to elements of their religious identity and religious system. Furthermore, using the term Judean to refer to certain elements of the religious practice as 'purely-Judean', could imply that these elements are the same as attested in the Hebrew Bible. It has already been argued by Kratz that the version of Judaism attested in Egypt, differed strongly from that reflected in the Hebrew Bible. Therefore, the terms used here to refer to members of the colony are the most appropriate in the study of Judeans Elephantine - for now -, despite its anachronistic nature.[125]

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[120] Mason (2007) p. 511.
[121] Alstola (2017) p. 1; when referring to the Judeans in cuneiform-evidence, the term 'Judean' will be used, since members of this community were deported by king Nbk II during the Babylonian exile, directly from the Southern Kingdom.
[122] Becking (2011) p. 129.
[123] or 'Yehud'.
[124] Kratz (2016) p. 139.
[125] Becking (2011) p. 129.

1.3.5.1: Yahwistic names

Within the sources available, both Akkadian and Aramaic, Judeans are easily recognized if they bear Yahwistic names. The elements '-yah' and '-yahu' are most often used[126] to refer to the divine name יהוה and are often used as a construct suffix in so-called theophoric names. The element '-yah' can rather easily be distinguished from other, mainly West-, Semitic names and was indicative of a person's Judean origin.[127] The Yahwistic names are not only attested in the Hebrew Bible, but also in other sources, like inscriptions and ostraca, indicating that Israel and Judah were the centers of the worship of יהוה.[128] From Judah and Israel, the names were continued being used in the Judean diaspora's. Clear examples of this are the diaspora's in Babylon, like Āl-Yāhūdu and the Judean colony of Elephantine in Ancient Egypt.

Akkadian sources

Sources written in Akkadian use different orthographic conventions to render the divine name יהוה into either the Assyrian or Babylonian dialects,[129] depending on the place in the compound. In the first place, Neo-Babylonian sources spell it ia-(a-)-hu-(u/ú),[130] as seen in the Akkadian rendering of the name 'Yehonatan'.[131] In final position, it is most often spelled '-ia-a-ma'.[132] These elements and their spellings are to be taken into account, since not all names containing '-ia', are to be interpreted as Yahwistic names. Bānia (spelled with the first person possessive suffix '-ia') is not a Yahwistic name. The same can be said for Eblaite and Amorite names, which occur with similar elements resembling the Yahwistic theophoric element '-ia'. There is too little linguistic evidence to state that these are indeed Yahwistic names.[133]

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[126] In final position.
[127] Alstola (2017) p. 34; furthermore, elements deriving from the tetragrammaton יהוה do not occur in the North of Syria and neither in the body of the Phoenician and Punic names. The names attested in the Neo-Babylonian corpus cannot be Phoenician due to phonetic reasons, Zadok (1979) p. 5; Fowler presents the element '-אל' as a Hebrew theophoric element as well. This is true, yet it is impossible to determine whether the bearer of a name containing '-אל' is Judean or West-Semitic in general. For an overview of the usage of '-אל' as theophoric element, see Fowler (1988) pp. 38-44.
[128] Alstola (2017) pp. 34-35.
[129] Assyrian spellings will be left out, since this thesis focuses on Judeans in Babylonian sources, for Assyrian spelling conventions, see Zadok (1979) pp. 11-13.
[130] For the orthographic variations, see Alstola (2017) p. 35 n. 254.
[131] Zadok (1979) p. 7; Zadok notes that the Yahwistic element is omitted in a few cases referring to the same person. The logogram 'DINGIR' is used, but only the second part of the name is spelled out Hu-ú-na-tan. Whether the scribe omitted the Yahwistic element on purpose, or whether the scribe left it out due to phonetic reasons (as argued by Zadok) remains to be debated. The logogram 'DINGIR' is used consistently with Yahwistic names in the documents from the Murašû archive. According to Zadok, this was due to the fact that the scribes were aware of the divine status of יהוה, Zadok (1979) p. 9.
[132] For the orthographic variations, see Alstola (2017) p. 35 n. 255.
[133] Alstola (2017) p. 36.

Aramaic sources

Recognizing Judeans in the Aramaic sources works in a similar way as with the sources written in Akkadian. The Judeans in Elephantine settled amongst other Aramaic-speaking peoples, bearing similar Aramean names. Here, the Yahwistic element is again of great importance. As with the Akkadian counterparts, Judean names often contained either the element '-yah' or 'yahu', like in the name Miftahiah. Porten had noted that there are fifteen cases in which the bearer of a Yahwistic name had children with a non-Yahwistic name.[134] These cases show the importance of analyzing the so-called patronyms of each individual. Intermarriage was common amongst the Judeans of Elephantine, causing children to have non-Yahwistic or Hebrew names. Looking into patronyms might trace people with non-Yahwistic names back to parents with Yahwistic names. In addition to the names and patronyms, Judeans can be recognized by the gentilic 'יהודי'.

A significant problem with this methodology was already raised by Porten, who stated that people who married into Judean families could adopt 'Hebrew-names'.[135] The example he uses, is that of Asḥor, who adopted the Hebrew-name 'Nathan'.[136] Closely related to this matter is the question whether or not non-Judeans would marry into Judean families to assimilate into Judaism and therefore taking on Yahwistic names.[137] It is, however, not proven that these pagans would actually adopt Yahwistic names to show their devotion to the God of Israel. Nathan might be a Hebrew-name, but it is as general as every other West-Semitic name, leaving out the Yahwistic element.[138] Evidence on this matter has been presented by Fowler, who bases herself on the fact that Arameans were constant borrowers of the religions of others, stating that 'it would be inconceivable that Arameans did not borrow from the Judean onomasticon at Elephantine'.[139] Fowler uses gentilics as a way to indicate that Arameans might have had Yahwistic names.[140]

This argument however, has proven to be insufficient in showing that Arameans indeed adopted Judaism. Alstola has shown that an Aramaic name does not necessarily

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[134] Porten (1968) p. 149, for the list of names, see Porten (1968) p. 149 n. 133.

[135] Hebrew names are to be distinguished from Yahwistic names, since Hebrew names are linguistically dependent, rather than dependent on one's religious preferences.

[136] Porten (1968) p. 251-252; similar is the case in which Judeans would take on a second name for interactions outside of the Judean-context.

[137] 'They felt capable of absorbing a small number of pagans into their community', Porten (1968) p. 250.

[138] Cf. Nathanel 'God has given'. This could in a similar way refer to any person of West-Semitic origins. The element 'el' just refers to a god in general, whereas '-yah' refers to a specific deity.

[139] Fowler (1988) p. 326.

[140] For the overview of this argument, see Fowler (1988) pp. 326-327; for a total overview of theophoric names at Elephantine, see Fowler (1988) pp. 328-330.

point towards the Aramean origins of the bearer.[141] Aramaic was the lingua franca of the Ancient Near East during the period in which the Elephantine documents were written, so Aramaic names would have been a common phenomenon. Furthermore, it is known that bearers of Yahwistic names referred to as Arameans in one context, are referred to as 'Judeans' in other contexts.[142] The situation in Elephantine is complex and Judeans could have assimilated into the larger Aramaic social context, as argued by Porten. This could lead to Judeans being referred to as Arameans, giving the impression that Arameans adopted Judaism, rather than that Judeans started to identify themselves as Arameans. It is for this reason, that using Yahwistic names in a plausible way to recognize Judeans in the Aramaic sources even if they would internally be referred to as Aramean.

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[141] Alstola (2017) p. 36.
[142] Alstola (2017) p. 36.

1.4: Introducing the Sources

Sources on marriage in the ancient world are plentiful. They range from laws governing every aspect of marriage and the parties involved and the contracts that are composed to make sure that none of the parties is able to commit fraud to beautifully composed literary texts which tell the stories about the marriages of the gods or the sacred marriage between king and goddess. Relevant to this study are those texts that are, in a broad sense, contemporary to the contracts from Elephantine. Texts from earlier or later periods will be taken into consideration, since these texts will allow one to track changes and developments in the institution of marriage from the ancient world. The focus will be on the Aramaic documents from Egypt, while documents from Mesopotamia and the Levant will be used as comparative material.

1.4.1: Ancient Egypt

1.4.1.1: The Judean Family Archives

The most important documents for this study are the documents found in the two Judean family archives at Elephantine. The documents can be divided amongst each of the two reconstructed archives, the archive of Miftahiah and the archive of Anani b. Azariah.[143] The archive of Miftahiah covers a period of sixty years (471 - 411 BCE), with a total of ten documents. The archive of Anani covers a period of forty-nine years (451 - 402 BCE), with a total of eleven documents.[144] Together, the archives can offer insight into the lives of the Judeans of Elephantine, from the beginning to the end of the fifth century BCE. This allows one to carefully track and trace changes throughout various generations of Judean families. Since these documents belong to archives and are either contracts or letters, they are all dated. This makes it easier to place them in their historical contexts. Furthermore, since contracts were merely written to use as evidence of facts, they mostly reflect practical situations, while its format shows ideology to a lesser extent than other documents, like royal inscriptions

Of the preserved documents, three belong to the category of 'marriage contracts', one from the archive of Miftahiah, and two to the archive of Anani. The contract from the archive of Miftahiah comprises the marriage of Asḥor and Miftahiah and is dated to 441 BCE.[145] The other two documents comprise the marriage of a man to an Egyptian

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[143] Conveniently, each of the archives has been published by different authors. The documents from the Miftahiah archive are published by Cowley and will therefore be abbreviated with a 'C', while the documents from the Anani-archive, abbreviated with a 'K', were first published by Kraeling.
[144] Yaron (1961) p. 5; for a further categorization, see Yaron (1961) pp. 7-8.
[145] C15.

handmaiden and the marriage of their son.[146] The documents are well preserved with K7 being the most elaborate.[147] While only three marriage contracts have survived, other documents from the archives can be used as supplements to enhance the understanding of the contents of the three contracts under study.

From the archive of Miftahiah four documents remain, which can be used to reconstruct the events surrounding the actual marriages presented in the contracts. C8, for example, contains the conveyance of a house, which is given to Miftahiah by her father as dowry. Not only does this show that women received property as dowry, it also shows that women could, independently from their husbands, hold property. Furthermore, it also shows that Miftahiah was married before she married her new husband in C15. C14 shows that she was married twice, since C14 is a document of separation, in which Miftahiah divorces the Egyptian man Pi. The archive of Anani contains a contract of manumission, K5, in which the slave woman is released following her marriage. Her new rights are explained and her former master explains her and her future children's newly gained rights. Other documents, like contracts of sale, will be used to reconstruct the social network in which the protagonists of the marriage contracts were active, to get a full understanding of their interaction with neighboring cultures.

1.4.1.2: Egyptian Demotic Law

The first real Egyptian law codes stem from the period in which Demotic took over as the dominant writing system in administration.[148] The Hieratic script, from which Demotic developed, was still used, but only in religious writings.[149] Documents written in Demotic can be divided into three separate periods, based on internal dating. Later texts, mostly those from the Roman period, depend on paleographical dating. The first, Early Demotic, period (650-332) is the most relevant to this study, since this period includes the Saite and Persian periods.[150] The laws of Egypt were codified during the Early and Middle Demotic periods,[151] under influence of various political leaders, of which the most famous is Darius

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[146] K2, dated to 441 BCE and K7, dated to 420 BCE respectively.

[147] Other fragmentary documents are also found. Three in the archive of Miftahiah (C18, C36 and C48) and one in the archive of Anani (K14). These contracts will be used, but to a limited extend.

[148] For an introduction on the law of the Old Kingdom and First Intermediate Period, see Jasnow (2003); for an introduction on the law of the Middle Kingdom and Second Intermediate Period, see Jasnow (2003); Demotic developed in administrative texts, due to its cursive character.

[149] Hence it was designated as 'priestly writing', see Allen (2014) p. 7.

[150] The other two periods are the Middle Demotic (332 BCE-30 BCE) and Late Demotic (30 BCE-250CE) periods, Manning (2003) p. 820.

[151] For problems with the terms "compilation" and "codification", see Botta (2009) p. 72 and Manning (2003) p. 821.

I, but unfortunately, none of these codes are preserved.[152] It is proposed by Manning that during this period of rule by non-Egyptian leaders some influence of foreign legal systems entered the Egyptian legal tradition, despite the cultural continuity that Egypt had shown throughout the Third Intermediate and Late periods.[153] The Legal Code of Hermopolis,[154] a text stemming from the Middle Demotic period, is the closest in resembling an Egyptian legal code. The text is a legal handbook used by priest-judges to solve disputes over property,[155] since it contains models for contracts and judicial decisions.[156]

Due to the lack of available law codes, Egyptologists interested in the legal practices of the Ancient Egyptians have to reconstruct bodies of law from evidence preserved in contracts and private documents. These documents can be divided between two categories, the group of the so-called 'written texts' (sḫ-texts) and texts written in an epistolary form (the so-called šʿt-texts). Most relevant for this study are the sḫ-texts, since these record the conveyance of (private) property and marriages.[157] In the domain of marriages two types of sḫ-texts van be distinguished, the 'document concerning money' (*sḫ n Db3 ḥD*) and the endowment deed (*sḫ n sʿnḫ*). In comparison to the Aramaic marriage contracts from Elephantine and marriage contracts from Mesopotamia, the Demotic contracts mainly focus on the distribution of goods between husband and wife.[158] The clauses safeguarding the wife and her offspring give the documents the character of business documents rather than the narrative character of the Ancient Near Eastern documents.

1.4.1.3: Egyptian Literary Texts

Other texts that will be taken into account are texts that are not truly contracts, in the sense that they were not composed like the Demotic contracts or are of a more literary character. The first text is a statuette inscribed during the 27th year of Thotmes III (1479 BCE–1425

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[152] Others were Bocchoris and Amasis, Manning (2003) p. 821; For the discussion on the Demotic Chronicle, a primary source from the third century BCE discussing the codification of Egyptian law before the Persian conquest by Darius I, see Botta (2009) p. 73 n. 8; see Botta (2009) pp. 72-73 for information on Diodorus Siculus, a Greek writer who wrote about Egyptian law and describes Egyptian legislation.

[153] Manning (2003) p. 820; for cultural continuation in Ancient Egypt during the Late period, see 1.2.1.3.

[154] P. Mattha; for the so called "Zivilprozeßordnung" (consisting of P. Berlin 13621 and P. Cairo 50108 recto) see Manning (2003) p. 821 and especially p. 821 n. 13.

[155] Manning (2003) p. 821.

[156] Botta (2009) p. 74.

[157] Manning (2003) p. 823-824.

[158] Manning (2003) p. 836; also see Pestman (1961); Note that papyri with common formulae are discovered as well. P. Berlin 3048, a Hieratic source dated to 879 BCE, contains phrases from various marriage contracts similar to the phrases form the marriage contracts from Elephantine. In a similar fashion P. Cairo 30907/9, dated to 676 BCE lists similar phrases. Most strikingly is the similarity in the phrase of 'entering the house of PN'. Also see Jasnow (2003) p. 799.

BCE).[159] It is a combination of a contract-like text and a literary text. In the text, about the manumission of a slave, the slave-owner recalls to memory the events that had taken place earlier in the life of the slave, including his marriage.[160] The second text is an adoption papyrus in which a widowed woman bequeathed her possessions to her adopted children, while mentioning their antecedents.[161] Included in her story is the marriage of her younger brother. The last texts are a petition by Peteesi,[162] who tells the story of him and his ancestors and the injustice done to his family.

1.4.2: Mesopotamia and the Levant

The texts from Mesopotamia are mostly law-codes and contracts from (family) archives, while the most important sources for reconstructing marriage in the Levant, are the Hebrew Bible and a literary text from Ugarit. Since these texts differ somewhat in their nature, it is important to keep in mind the purpose for which they were composed and the situations in which they served their users. Law-codes were composed to make the laws of the king public, while contracts were merely written to enforce the arrangements made between the individuals. Literary texts are, however something else. Literary texts were composed for various reasons, like teaching the audience about the deeds of certain gods and goddesses, or about the meaning of life, as seen in the Epic of Gilgamesh. This should be kept in mind, but when the source is critically handled, it can give the reader quite some information about the topics in which he is interested.

1.4.2.1: Mesopotamia: Law Codes

The law-codes from Mesopotamia cover a timeframe from the Old- to the New-Assyrian and Babylonian periods. From the Old-Babylonian period, three law codes have been handed down. Two of the three, the codes Lipit-Ishtar and Eshnunna have been found on later copies, while the famous code of Hammurabi was preserved on a stele made out of diorite. An important aspect emphasized in these codes is the importance of a contract in marriage.[163] All three codes give a good overview of the laws of the Old-Babylonian period. The laws of the Old-Assyrian period, however, are harder to comprehend, since they were not as neatly compiled as their Old-Babylonian counterparts, but were found in

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[159] Louvre E. 11673.
[160] Pestman (1961) pp. 7-8.
[161] For the text edition, see Gardiner (1940) JEA 26.
[162] P. Ryl. 9.
[163] Westbrook (2003) p. 361.

the commercial centre, or *kārum,* of the ancient Anatolian city of Kanish.[164] Due to the fact that the tablets were found in family archives and most tablets are composed in the context of trade, their contents cannot be equated with Old-Assyrian law, but can be used to reconstruct the laws governing family-life and non-commercial conveyance.[165]

The Middle-Assyrian and -Babylonian periods present us with textual evidence of a different nature. From the Middle-Babylonian period, a period in which Babylon was ruled by foreign rulers,[166] no law-codes remain, but laws were still written down and publicly presented. During the Middle-Babylonian period, *kudurru's* were used to govern transactions and were stored in temples. They were composed in official and formulary language, but are still a valuable source for the legal practices of the period.[167] From the Middle-Assyrian period only a collection of tablets remains. These preserved tablets are organized and categorized on the basis of their contents according to themes of the laws. These Middle Assyrian Laws are eleventh century copies of originals from the fourteenth century BCE.[168]

No law-codes are known from the Neo-Babylonian and Neo-Assyrian periods. Only one tablet from the Neo-Babylonian period is known, which can be seen as a code of law.[169] Younger texts, mainly from the Persian and Seleucid periods, mention a *'dātu ša šarri'*, a 'law code of the king'.[170] Law-codes were known in the Neo Assyrian period, since copies of older codes, like the Laws of Hammurabi, were kept safe in specialized libraries. It is, however, to be doubted if these ancient, or even the Middle Assyrian, Laws were actually consulted.[171]

1.4.2.2: *Mesopotamia: Contracts*

The contracts from Mesopotamia that will be part of the comparative study are roughly contemporary to the contracts from Elephantine. Roth published forty-five tablets in her text edition, dividing the contracts into two distinct groups, each with its own style of formulating its contents.[172] The first style is an objective style, written in the third person.

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[164] Veenhof (2003) p. 431 mentions of law codes are made, however, since the sources refer to 'words written on a stele'.
[165] Veenhof (2003) p. 431; the international character of the Old-Assyrian contracts, containing many mixed marriages, might also explain the different legal customs present in the tablets, Veenhof (2003) p. 450.
[166] The Kassite kings and Isin II, Slanski (2003) p. 485.
[167] Slanski (2003) p. 486.
[168] Lafont (2003) p. 521.
[169] See Roth (1989) p. 29; the tablet referred to is BM 56606, published in Borger (1982) pp. 92-95; the tablets cover a period of over 400 years (635 BCE – 203 BCE).
[170] Oelsner et al. (2003) p. 912.
[171] Radner (2003) p. 883.
[172] Roth (1989) p. 1.

A statement of volition (*ina hud libbišu*) is added, which distinguishes it from earlier contracts. The second style is a more subjective style, written in the second person,[173] comparable to that of the contracts from Elephantine.

There are five marriage contracts containing the marriages of various women,[174] in which most of the witnesses were Judean, or in which one or more of the family members of the bride bore a Yahwistic name. All contracts were drawn up in Akkadian, according to Babylonian law, with Babylonian formulae. One of the contracts, however, differs from the others, in the sense that it uses formulae of a more archaic nature. The contract, drawn in up in the Judean town in Babylonia called Āl-Yahudu, uses phrases that go back to the Old-Babylonian period and are very similar to phrases used in the papyri from Elephantine and Hosea.[175] This similarity might be explained by the fact that the contract was drawn up in a Judean town, rather than a Babylonian town. The other contracts, drawn up in the Babylonian towns of Sippar, Ālu-ša-banê and Ālu-ša-Rab-ša-Reši,[176] are more similar to each other.[177]

1.4.2.3: The Levant: Law Codes

The law codes from the Levant will be discussed in two parts. The first part will be on the law codes from the second millennium BCE, while the second part comprises the law codes from the Hebrew Bible, a unique source, since it is the only law code preserved from the Levant during the first millennium BCE.

1.4.2.3.1: Second Millennium BCE

The only law code from the Levant known to us, is preserved in the Hebrew Bible. That law codes were used in other areas as well, is reflected in the legal documents which have survived. In Ugarit, modern day Rās Shamra, two basic types of legal texts were preserved, namely, domestic documents and international documents. Of the latter, only few are written in languages other than Akkadian, and two thirds are royal deeds.[178] Unfortunately, none of the private nor domestic documents discuss marriage. Canaan, where only few sources have been found, presents a similar situation. The Hazor tablet and Tanaach letters are all written in Akkadian, with Akkadian law being the prime source for solving the legal

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[173] Roth (1989) p. 1.
[174] These contracts include the marriages of Nanaya-Kānat (MC), Kašša (BMA 26, BM 68921), Tallâ-Uruk (BMA 17) and Nabê-hinni (BaAr 2,5).
[175] Abraham (2005/2006) p. 203.
[176] BMA 26 and BM 68921, BMA 17 and BaAr 2,5 respectively.
[177] For an overview of these tablets and their general content, see Abraham (2005/2006) p. 207.
[178] Rowe (2003) p. 719.

cases. In the Hazor tablet it is said that the parties entered before the king (*ana pāni šarri*) and in Tanaach letter no. 2 an arranged marriage (*hatnūtu*) is discussed.[179]

More evidence is known from Emar, modern day Meskene, in Syria. All texts known are, with a few exceptions, part of larger archives and were all written in Akkadian.[180] With this evidence, Emar is the only place from the Levant known today that discusses marriage during the second millennium BCE in its documentation. The sources discuss a range of topics concerned with marriage, from the formation of marriage to particular cases of ethnicity and consanguinity.[181] All legislation is phrased in accordance with the laws of the Old-Babylonian law codes and phraseology. It might therefore be probable that the evidence presented so far points towards the tablets as a possible channel through which the Akkadian marriage traditions entered the Levant.

1.4.2.3.2: The Marriage of Yarhu and Nikkal

KTU 1.24 retells the story of the marriage between Yarhu and Nikkal. While this source does not belong to the category of legal texts, it does shed light on marital practices in the Levant, especially those from Ugarit. The text itself lists the necessary steps for marriage,[182] steps which are very similar to those found in the marriage contracts from the Mesopotamian tradition. First the bridegroom goes to the father of the bride to ask his permission to marry his loved one. When the father agrees on their marriage, the bride price (מהר) is paid. Due to their similarities, the text is often compared with Gen. 34.[183]

1.4.2.4: The Levant: The Hebrew Bible as Law Code

The only known law codes from the Levant are preserved in the Hebrew Bible and reflects the legal practices of the people of Ancient Israel.[184] It is an important, yet difficult source, as shown already by the fact that the law codes preserved in the Hebrew Bible differ from each other and the use of these law codes is different throughout the literary texts. Therefore, reconstructing a 'proto-law code' for Ancient Israel is difficult, but still, it is possible to determine which sources are the oldest and could point towards more ancient legal traditions as practiced in Israel. There are no written contracts known, since they were

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[179] Rowe (2003) pp. 737-738.
[180] Westbrook (2003) p. 657.
[181] Westbrook (2003) p. 668.
[182] Rowe (2003).
[183] Wyatt (1998) pp. 336-337 n. 5.
[184] For the reception of the concept of betrothal in later Jewish writings, see Satlow (2001) pp. 69-89.

written on perishable material. Yet it is not unlikely that contracts were written to support and ensure the legal transactions between different parties involved in legislation.[185]

The most famous example of legal guidelines for the people of Israel are the ten commandments (Ex 20:2-17). Part of the Ten Commandments gives prohibitions presented in the second person masculine imperative, directly aimed at each individual.[186] The commandments can be divided into two groups, the guidelines for living a proper religious life (commandments one to five) and the commandments for social life (commandments six to ten). Closely related to the ten commandments is the Book of the Covenant (Ex. 21:1-22:16), the earliest of the Biblical law collections, which consisted of independent laws that were later inserted into the Exodus narrative.[187]

Two other legal collections are found in Leviticus-Numbers and Deuteronomy. The laws of the Deuteronomic code (Deut. 12-26) are closely bound to the narrative,[188] which Frymer-Kenski presents as evidence for the fact that the book was produced as a unit.[189] Deuteronomy has three sections which relate to marriage and family law. Deut. 22:13-29 focuses on marriage and sexual relations and can be divided further into sub-sections, each with their own theme concerned with either marriage or the nuclear family. These topics range from adultery (Deut 22:22 and Deut. 22:23-24) to rape (Deut. 22:25-27 and Deut. 22:28-29). The laws on exclusion from the community include a paragraph on forbidden marriage (Deut. 23:1)[190]

Related to these laws are the so-called Deuteronomic curses (Deut. 27:15-26), a book cursing those who act in violence against the laws as given by the God of Israel. While the curses do not relate to marriage itself, they do list curses that will afflict those who violate female members of the nuclear family, namely, one's wife (Deut. 27:20), one's sister (Deut. 27:22), and one's daughter in law (Deut. 20:23). The curses start with the statement 'cursed is he who', followed by the curse which will fall upon the one transgressing the law. The fact that such curses were added to certain transgressions, supplementing only a few of the total amount of laws, leads to the conclusion that the transgressions with which these curses were concerned were seen as particularly gruesome acts in the eyes of the Ancient Israelites.

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[185] Frymer-Kenski (2003) p. 975.
[186] Frymer Kenski (2003) p. 975; the imperative second person, negated with LO, indicates..
[187] Frymer-Kenski (2003) p. 977; family law is discussed in Ex. 21:1-8.
[188] For date and authorship of the book, see Craigie (1976) pp. 24-29.
[189] Frymer-Kenski (2003) p. 978.
[190] Labuschagne (1990) p. 6; cf. Deut. 22:30.

The priestly codes, Leviticus 1-15 and Numbers 1-9, are two codes which are mainly concerned with prescriptions for ritual (Lev. 1:1-7:38)[191] and rules of purity for members of the priestly families (Lev. 11:1-16:34). The latter part of Leviticus' law codes are devoted to prescriptions of practical holiness (Lev. 17:1-27:34).[192] The neat division between priestly prescriptions and guidelines for practical holiness has been explained by the editorial process, in which two sources were merged together into one book. Lev. 1-15 is attributed to the Priestly-source 'P', a (post-)Exilic source responsible for a priestly view on Biblical events and contents, while source H, a more ancient source, was concerned with the so-called 'holiness code' and is therefore seen as the prime source for Lev. 17-27.[193]

1.4.2.4.1: Same Law, Different Form

The laws presented by the different Biblical books differ strongly in form. Some of the laws are casuistic, in which the law is embedded into a case study with the remedies for the transgressions envisioned by the authors. The second type is apodictic, meaning that the prescription could not be changed. Prescriptions and proscriptions are listed, directly addressing the hearer, while possible punishments are left out. The third type is what Frymer-Kenski calls 'participial', in which 'the one who will do x' will be punished by 'punishment y'.[194]

1.4.2.4.2: The Writings and Interpretations of the Law

The Writings were written in the light of the Torah and offer interpretation of the laws of the Writings of Moses. Proverbs gives advice on legal matters, as do Ezra and Nehemiah, each with their own views on the laws and the legal practices related to them.[195] Therefore, the Writings do not only offer summaries of the history of Ancient Israel, but also the reception and possible usage of these laws. Most relevant to this thesis is the discussion on mixed marriages in Ezra and Nehemia.[196] Ezra 9 addresses the problem of intermarriages

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[191] Direct instructions for the priests are included as well, in Lev. 6:1-7:38.
[192] Wenham (1979) p. 4.
[193] Frymer-Kenski (2003) p. 977; Wenham (1979) pp. 6-7 argues that due to its internal incohesion, Leviticus resembles the Babylonian law code of Eshnunna, which has more variations in style between different sections than the code of Hammurabi. If this results from direct dependence on the Babylonian law code remains to be debated, it does however, point towards a certain degree of influence from Babylonian law and the way in which they wrote down their legal prescriptions. Whether or not this points towards Israelite law being influenced by Eshnunna, or that Hammurabi was less well known, remains to be debated.
[194] Frymer-Kenski (2003) p. 978; cf. the 'šumma' and 'tukumbi'-clauses in Mesopotamian law; also see Roth (1997) p. 3.
[195] To reach this goal, various exegetical techniques were used to harmonize internal differences between the book that make up the totality of the Pentateuch, Frymer-Kenski (2003) p. 980.
[196] Ezra 9-10, Nehemia 13:12-13:27.

between the Israelites and foreign women, causing the holy seed to be mixed with the peoples of the land (עם הארץ).[197] The only possible solution to this problem is to dissolve the marriages.[198] These texts, while not being law-codes in themselves, are relevant to this thesis, since Ezra and Nehemia are concerned with a period roughly contemporary to the documents from Elephantine. Each of the groups, one represented by Ezra-Nehemia and one represented by the Judeans of Elephantine, points towards a different interpretation of the law. The intermarriage discouraged by Ezra, is widely practiced in Elephantine, for example.[199]

1.4.3: Nature of the contract

Before the actual contents of the contracts can be discussed, it is important to shed light on the nature of the marriage documents from both Mesopotamia and Egypt. Greengus was the first to argue that the Old-Babylonian marriage contracts were not drawn up as evidence for the actual conclusion of marriage, but rather to support the rights of the legally vulnerable.[200] He concludes this from the fact that the documents all refer to rather abnormal family situations, since most of the time the wife is referred to as a manumitted slave, or one of both parties is adopted. Added to this is the fact that other related documents are expanded receipts for bridal gifts. Therefore, the purpose of the actual writing of the documents must have been to record the important legal transactions that could affect the legal status, or wealth, of either the husband or wife.[201]

In this light, the interpretation of the Old-Babylonian word for contract should be revised. The laws of the Old-Babylonian period[202] clearly state that without a riksātum marriage cannot be seen as official and the woman cannot be seen as a wife. The Laws of Eshnunna phrase it as follows:[203]

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[197] Becking (2011) p. 58.

[198] Becking (2011) p. 60; Becking also addresses the fact that Ezra omits the possibility of foreign women to enter the Israelite community, a possibility that The Holiness Code and Deutoronomic texts do offer.

[199] Further indications are present that the Jewish inhabitants of the ancient world saw themselves differently from the image that Ezra presents in the Hebrew Bible. It is probable that the division between 'Israel' and the 'Peoples of the land' were categories which included the same people and both referred to Judahites. In a similar vein, it is important to keep in mind that the categories presented by the Biblical writers are not necessarily the categories of the each member of Judean society. Also see Grabbe (2007) p. 19.

[200] Greengus (1969) p. 512.

[201] Greengus (1969) pp. 512-513; the absence of a contract had its influence on legal cases already in the Ur III period. The Laws of Ur-Namma state that if a man had sex with a widow, without a formal contract, he does not have to pay the sum of money mentioned in the preceding law which dealt with a situation in which the man wanted to divorce the widow.

[202] The Laws of Eshnunna and the Laws of Hammurabi. Laws concerned with marriage contracts are absent from the Laws of Lipit-Ishtar.

[203] Greengus (1969) p. 505.

šumma awīlum mārat awīlim balum šal abīša u ummīša ihussima u kirram ū riksātim ana abīša u ummīša la iškun u$_4$-mi MU.L.KAM ina bissu lišimma ul aššatum

If a man took another man's daughter without asking her father and mother and did not arrange for (lit. establish) a libation and marriage contract with her father and mother, though she live in his house for a year, she is not a wife.

The code of Hammurabi only mentions the need of a contract (§128):[204]

šumma awīlum aššatam ihuzma riksātīša lā iškun sinništum šī ul aššat

If a man took a wife and did not arrange for her marriage contract, that woman is not a wife.

With the code of Hammurabi, it is to be mentioned that the possessive suffix '-ša',[205] is used. This might be a further specification for whom the contract was drawn up.[206] This is probable, since Greengus had already shown that the documents were drawn up for the protection of parties of a lower legal status. Whether or not the 'riksātum' was a written document, was subject to discussion until Greengus argued that 'riksātum' had to denote an oral agreement. Greengus bases himself on the fact that when the code refers to actual written documents, different terms are used, like ṭuppum kanikum 'a sealed document' or kunnukum 'a document'. [207]

The Neo-Babylonian laws support this view, in the sense that they explicitly refer to a 'ṭuppi' when the dowry, and thus a transmission of wealth, is being discussed.[208] Laws 8 and 9 are concerned with the importance of the composition of the contracts. Law 9 for

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[204] Roth (1997).
[205] Third person female singular.
[206] Cf. the 'document of wifehood' in this chapter below.
[207] Greengus (1969) p. 507; another argument used, is the fact that the Sumerian cognate of riksātum, INIM KÁ.KEŠ.DA, clearly refers to an oral agreement. The phrase šibi u riksātum 'witnesses and contract' therefore refers to the fact that an oral agreement needed witnesses to prove the act had actually taken place.
[208] Both 'IM.DUB' and 'ṭuppi' are used side by side.

example, clearly shows the need for a contract to protect the (financial) status of one of the parties involved:[209]

> LÚ šá nu-dun-nú a-na DUMU.SAL-šú iq-bu-ma lu-ú Tup-pi iš-Tu-ru-šu u
>
> ar-ki NIG$_2$.ŠID-šú šá re-e-hi nu-dun-nu-ú a-na DUMU.SAL-šú i-nam-din
>
> e-me u ha-ta-nu a-ha-meš ul in-nu-ú

> *(Concerning) a man who has orally declared the dowry for his daughter, or has written a tablet (to that effect) for her, and later his total estate has decreased – he may give his daughter a dowry in accordance with the remaining assets of his estate. The father-in-law and the groom may not (otherwise) change the mutually agreed upon terms.*

The other laws are concerned with the situations in which a marriage document might be used, like the division of the dowry in the case of the death of either the daughter who received the dowry (§10),[210] or in the case of the death of the father who awarded the dowry (§ 11).[211] More complex situations are discussed as well, like a case in which the husband takes the dowry of his wife. When the husband dies, the wife will be compensated with an amount equal to the dowry (§12).[212] In addition, §15 shows what happened when a woman married a second man and bore him sons. The sons of the first marriage still have right to a significant part of the dowry.

All in all, these laws show continuation of the legal purpose of the Old-Babylonian contracts and marriage documents. The lack of evidence that a written document was needed to legally marry, points towards the need of such documents only in atypical situations. The fact that the Neo-Babylonian laws only mention situations in which wealth is concerned, together with the fact that the composition of tablets is only discussed when the dowry is being mentioned, documents were probably only used to record the transmission of wealth.[213] This reflects the same use of the documents in the Old-Babylonian period. Furthermore, the need for the documents is also expressed by the laws,

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[209] Roth (1989) pp. 30-31.
[210] This might point towards the ultimate function of the dowry, namely, to serve as starting wealth for the grand-children, cf. Egypt in 1.4.3.1.
[211] While the law itself is only fragmentary, the other lines point toward this interpretation.
[212] A similar case is sketched in §13.
[213] Roth (1989) pp. 26-28.

since the laws are concerned with the people who need protection in securing a certain amount of goods and/or money.

1.4.3.1 Egypt

In Ancient Egypt, the contracts concerned with marriage were of a similar nature, since the institution of marriage was of legal and economic importance to Egyptian society.[214] As with the documents from Mesopotamia, most documents drawn up sketch situations associated with marriage, rather than the marriage itself. In the Old-Kingdom, women could ask for contract agreements of support, which would secure them with enough means to raise their children. An example of such an agreement is reflected in a letter from the sixth dynasty:[215]

> "This maid servant of Meriri is surely elated whenever she sees her lord's
> agent. Mehu, however, has set forth his legal commitment to support her
> [in] this letter which I had him bring to me."

The legal and economic importance and especially the protection of the wealth of the weaker party in marriage are also evident in documents from the New-Kingdom. An ostracon is known in which a man swears that his wife laid her hands upon his property when he was severely ill.[216] In court, the wife has to swear that she would give up any claim to his property.[217] After marriage supporting documents were to secure a division of set amounts of property amongst the newlyweds. It has been argued, based on P. Turin 2021, that both spouses had to contribute property to their newly founded household. The husband had to contribute two-third, while the wife had to contribute one-third, securing her at least one-third of the conjugal property in case of a divorce.[218] In the case of the death of one of the spouses, the surviving spouse could only freely distribute his or her own contributed goods.[219]

As with the documents from Mesopotamia, the Egyptian documents show one clear characteristic: all transactions involved in concluding the marriage between bridegroom

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[214] Jasnow (2003) p. 129.
[215] Cairo CG 58043, see Jasnow (2003) p. 129.
[216] O. Petrie 18.
[217] Jasnow (2003) p. 323.
[218] Jasnow (2003) p. 324.
[219] The power that each Egyptian had over his own property is clearly seen in P. Turin 2021, in which a vizier states: "Even if it were not his wife, but a Syrian or a Nubian whom he loved and to whom he gave his property, who can annul what he did?" see Jasnow (2003) p. 324.

and bride are discussed between the bridegroom and the head of the family of the bride.[220] Yaron has argued, however, that the Egyptian way of composing the contracts evolved during the Saite period. He argues that during this period, the wife gained more influence in the transaction. Older contracts are like their Mesopotamian counterparts,[221] while newer contracts start to reflect influence from the bride's side.[222] The difficulty in determining whether this development would have influenced the Aramaic contracts or not, lies in the fact that the Aramaic contracts follow a highly archaic format. If the contracts were indeed composed after the marriage had been concluded, the format itself would not shed new light on whether or not the wife would have had any influence on the decisions made.

1.4.3.2 The legal status of 'wife'

Contracts and laws written in Akkadian, clearly distinguish between the legal status of women. An unmarried woman was referred to as 'sinništu', while the married wife was referred to as an 'aššatum'.[223] This clear distinction is seen in one of the laws of Hammurabi:

šumma awīlum aššatam iḫuzma riksātīša lā iškun sinništum šī ul aššat

If a man took a wife and did not arrange for her marriage contract, that woman is not a wife.

If a man took a wife (aššatum), but did not arrange a contract of marriage, that woman (sinništum ši) is not a wife. The words sinništum and aššatum are furthermore used in many different contexts, in which each refers to the legal status of these women.[224] An example of a less clear distinction is seen in:

šumma awīlum aššat awīlim ša zikaram la idûma ina bīt abīša wašbat ukabbilšima ina sūniša ittatīlma iṣṣabtušu awīlum šû iddâk sinništum šî ūtaššar

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[220] Cf. the marriage of Miftahiah and Asḥor.
[221] Yaron (1961) pp. 45-46; P. Berlin 3048, P. Cairo 30907 + 30909, P. Louvre 7849 and P, Louvre 7846.
[222] P. Berlin 13614.
[223] Cf. the Sumerian DAM 'wife', NITA.DAM 'first-ranking wife' and DAM.EGIR-RA 'second wife'. Ana ittišu lists 'NAM.DAM', which would literally translate to 'the status of wife'. It is to be noted that DAM could refer both to 'husband' or 'wife', but in combination with LÚ 'man' it is obvious that the law giver would refer to a wife.
[224] Also see Levinson (2011) p. 105 n. 33.

If a man pins down another man's virgin[225] wife who is still residing in her

father's house, and they seize him lying with her, that man shall be killed;

that woman shall be released.

Here, both terms are used to refer to the same woman. First, she is referred to as a married woman. The second time, she is referred to with sinništum. This could be due to the fact that the woman when referred to on her own could be referred to as sinništum. Another explanation could be that she lost the status of married woman, due to her intercourse with another man, despite the fact that it was involuntarily.[226]

The status of wife came with certain legal rights, which are clearly phrased in the Mesopotamian codes from the laws of Ur-Namma onwards. The Laws of Ur-Namma indicate that the first-wife was equal in status to her husband, when the husband wanted to initiate a divorce. In such a case, he had to weigh and deliver 60 shekels of silver, a significant amount of money.[227] The Laws of Lipit Ishtar add laws that protect the first spouse in the case of disease. §28 states that if a first-wife would lose her sight or would be struck by paralysis, she would not be evicted from the house. The husband is allowed to marry a second wife who would thereafter take care of the sick first-wife. §142 of the Laws of Hammurabi show that a wife could divorce her husband. The legally significant status was paired with certain duties and responsibilities, mainly focused on proper sexual behavior.[228] Violation would often result in the death of one of the parties.

1.4.3.3 Document of Wifehood

The link between the noun aššatum 'wife' and the conclusion of marriage is further explicated by the phrase 'ana aššūtim', literally meaning 'for wifehood'. The phrase is used in contracts to state that PN_1 took PN_2 as a wife and she now has the legal status of aššatum. The phrase 'ana aššūtim', occurs together with the verb 'ahāzum', 'to take'. The exact nature of the action is unclear. It implies that the man would take the woman of his choosing

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[225] Lit: 'which does not know a man'.
[226] Cf. Stol (2016) p. 74; Stol states that the woman was seen as wife from the moment of her betrothal.
[227] §9.
[228] Roth (2014) p. 146.

into marriage or wifehood, thus making her a wife with the connected legal rights.[229] In the same case, it could also mean that the woman was taken in a more physical sense.[230]

The possible link between the Mesopotamian nature of ana aššūtim and its Aramaic cognate found in the contracts from Elephantine was first noticed by Ungnad, who links the Aramaic אנתותא to the Babylonian aššûtu, translating it as 'Stellung als Ehefrau'.[231] Further indications of the relationship between the Akkadian and Aramaic phrases for referring to marriage and the actual taking of a wife, are the prepositions 'ana' and the proclitic preposition לי. The Neo-Babylonian rendering 'ana aššûti' is paralleled with the Aramaic 'לאנתו'.[232] Cowley translated the phrase as 'in marriage', but adds in a note that it could also be translated as 'for wifehood'.[233] If it is assumed that the Aramaic follows the lines of its Akkadian counterpart, the latter translation would be more fitting, since the wife would gain the legal rights of a married woman.

This raises the question of the purpose of the documents. Cowley and Kraeling interpreted the documents as contracts to describe the conveyance of goods, due to the extensive discussion on the goods and inheritance rights. This is also seen in their Egyptian counterparts.[234] One of the contracts itself, points towards another interpretation of the documents. K2:17 states on the verso that the document was written as 'Document of Wifehood (ספר אנתא) by Anani for Tamet. Seen in the light of the Akkadian contracts, these documents might be written for the purpose of protecting the legal status of the legally vulnerable, as already seen in the Old-Babylonian contracts discussed by Greengus. His main criteria for the conclusion that the written documents served to protect the weaker parties involved, rather than concluding the marriage, were the abnormal situations sketched by the documents.

If one looks closer at the documents from Elephantine, similar situations might be seen. The earliest marriage contract, dated to August 449 BCE, describes the marriage between Ananiah b. Azariah and the hand-maiden Tamut. The contract serves not only to protect Tamut against harsh divorce, but also to protect Pilti, the son of Tamut. Meshullam,

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[229] Only the first-wife could share the social status of her husband, due to the monogamous nature of Mesopotamian marriage, Versteeg (2000) p. 86; for the special marriage rights of women of a certain social standing, like priestesses and slave-women, see Versteeg (2000) p. 87.

[230] Roth (2014) p. 147; cf. the Sumerian 'TUK/DU$_{12}$' 'to take', in combination with the object DAM 'wife'. Roth addresses the fact that the verb is used with a sexual connotation in §30 of the Laws of Lipit Ishtar, addressing its ambiguous nature.

[231] 'The position of married woman', Ungnad (1911) p. 54 n. 5.

[232] The use of the לי in the Aramaic contracts reflects a certain archaic, yet official nature. The לי as preposition of the direct object is often omitted. In the marriage contracts, it is always present, Muraoka (1998) pp. 261-262.

[233] Cowley (1967) p. 47.

[234] Cowley (1967) p. 44.

the owner of Tamut, will not be able to reclaim Pilti as a slave, unless Anani expels Tamut (K2:13-14). The second contract, dated to October 449 BCE, recounts the marriage between Miftahiah and the Egyptian royal builder Asḥor. Asḥor had been married before and special clauses were included to fully guarantee the rights and status of Miftahiah as wife.[235] Despite the fact that Miftahiah was a widow, Asḥor had to negotiate with Miftahiah's father, Jedaniah. The last contract, written in October 420 BCE, is 'abnormal' in the sense that the negotiating parties are not the bridegroom and his father-in-law, but the bridegroom and the adoptive brother of the bride. Taking these contracts into consideration, it is easily stated that the contracts were drawn up on special occasions, namely, marriage between a free-man and a handmaiden (K2), a woman and previously married man (C15) and a marriage in which an adoptive brother had to negotiate with the bridegroom (K7). These situations reflect that the contracts were to support the legally weak, as seen in the Old-Babylonian contracts. Special clauses were needed and were even adapted during the writing of the contracts themselves.[236]

 The name 'Document of Wifehood' is therefore not a misleading title, despite its character, which is more similar to that of a conveyance of goods than to an actual contract of marriage. Cowley and Kraeling were right that the documents list quite extensively the goods involved in the conclusion of marriage. On the other hand, it could be said that the goods are part of the rights of the married woman, but to say that the documents were purely drawn up as evidence of the transfer of goods, is too limited of a conclusion. The documents clearly list other aspects as well, like the inheritance rights in case of the death of one of the parties, or the rights of a former master to the children of the slave-woman. Therefore, Porten might have been right to assume that the documents were drawn up after the actual conclusion of the marriages,[237] but it should be added that this was not only the case in marriages in which one of the parties already had a child.

1.4.4 Marrying abroad

1.4.4.1: Foreigners marrying in Babylonia

Various marriage contracts from the Neo-Babylonian and Persian periods have been found, referring to the marriages of Egyptians, West-Semites and Judeans. This section serves to

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[235] Porten (1996) p. 177.
[236] See K2:13-14.
[237] Porten (1968) p. 208; Porten also notes that by marrying Tamut, Anani also had to support her. Here the possible influence of the Egyptian contracts on the Aramaic documents is clearly seen, since Egyptian documents were mainly drawn up to fix the property rights of parents and children. These clauses are not known from the marriage contracts from Babylonia containing Judeans, neither from other contracts from Mesopotamia.

study the aforementioned contracts and see whether or not they deviate from the standard Neo-Babylonian format used to draw up marriage contracts. This will be done by analyzing the format and contents of the contracts. Table 1 gives an overview of the contracts under study.

Ethnicity bride	Ethnicity groom	City/Town	Date	Tablet no.
Babylonian[238]	West Semitic	Neireb	555-539 BCE	BMA 11
West Semitic	Babylonian	Alu-ša-Lane	542 BCE	BMA 17
Iranian[?]	Egyptian	Babylon	512-486 BCE	BMA 23
Judean	Babylonian	Sippar	x	BMA 26
Egyptian	Egyptian	Susa	x	BMA 34
Egyptian	Egyptian	Susa	x	BMA 35
Judean	Babylonian	Āl-Yāhūdu	534	MC

Table 1: Mesopotamian-Judean marriage contracts

Abraham (2015) organized the contracts on the basis of their contents, according to ethnic and socio-economic standards. She distinguishes between (1) marriages between members of the same ethnic minority, (2) members of different ethnic communities, but with the same socio-economic status and (3) members of different ethnic communities with different socio-economic status.[239] The documents under study all belong to either the first or the second category. Based on these contracts and categories, I will try to answer the question whether contracts drawn up in closed circles of a certain ethnicity show more deviation from the standard contract form than contracts drawn up in a context in which more ethnicities are involved. The first section is concerned with marriage contracts from Mesopotamia, during the Late Neo-Babylonian period and Persian period. The second section will focus on the marriage contracts from Elephantine. The results will be discussed to see whether the information gained from the first section can be used to interpret the data from the second section and shed light on the question whether or not contracts from both areas exhibit elements that points towards a Judean tradition. This tradition can be either close to that found in Biblical-Judaism or deviate from it.

1.4.4.2: Form and style

The Neo-Babylonian format only changed slightly throughout the relatively long period it was used. The most significant distinction that can be made between the styles used in the

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[238] Based on the names of other family members.
[239] Abraham (2015) p. 47.

preserved documents, are the objective and subjective style. The objective style presents the process of marriage arrangements from a third person perspective, only stating that PN$_1$ 'took' (ahāzu) PN$_2$ in marriage,[240] or that the agent of the bride gave (nadānu) the bride for/into wifehood (ana aššūti).[241] The second style differs from the objective style, in that it places the request to the agent of the bride in the first person:[242]

> Bar-ahhā, son of Kukizza, came before Nabû-eṭir, son of Ea-zēr-iddin, and spoke (iqbi) as follows: "Please give me Bazīti, your sister, the lass. Let her be a wife (lū aššatum šī)

When the party consents with the request, the bride will be given into wifehood (ana DAM-ūtu), as seen in the objective style.

The format itself can be split upin various units, of which some are compulsory whereas others could be used in specific cases. The objective style opens with the promise of PN$_1$ to marry PN$_2$, which corresponds with the request of the groom in the subjective style. Consent of the agent of the bride is not needed in contracts written in the objective style, probably due to the difference in social standing of both of the parties.[243] The dowry clause follows, giving a detailed overview of the items promised to the groom. The contract ends with a list of witnesses and the date on which the tablet was composed.[244] Optional clauses are a penal-clause in the case of adultery committed by the wife and an oath to Marduk and Zapanitu to curse the person who would interfere in the recently concluded marriage.[245]

1.4.4.3: Egyptian marriage in Babylonia[246]

The two contracts referring to the marriages between Egyptian brides and grooms follow the Babylonian format and structure in the subjective style. Both tablets are broken, with BMA 35 being in such state that only the broader lines can be deduced. BMA 34 contains

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[240] BMA 9 and BMA 22; this style seems to be used in contracts in which one of the parties is of lower social standing, since only the dowry is being discussed, rather than the bride-price in other contracts.
[241] BMA 15.
[242] BMA 11.
[243] See n. 3.
[244] Late Persian and Hellenistic contracts contain the seals (unqu) of the witnesses, impressed into the clay with the rings.
[245] The penal clause only occurs in few documents, mainly in those with an early dating. The clause is found in BMA no's. 1, 2, 5, 15, 17, 19, 20 (the mentioning of the iron dagger is omitted), 26, 30. The oath is found only rarely, but interestingly enough, also in contracts with participants of different religious system. This clause is found in BMA no's. 5, 6, 8, 18, 19, 26, 30.
[246] For the presence of Egyptians in Babylonia, see Hack and Jursa (2015).

broken lines, but many of the lines (including the name of the bride and groom) have been reconstructed.[247] Both tablets start with the request of the groom the head of the bride's family, to give his future bride in marriage. In the case of BMA 34, the request is made to the brother of the bride, Pisisamaska, and in BMA 35 to the parents of the bride.[248] The parties to which the request is made consent and give their daughter or sister in marriage where after the list of goods promised by the groom is listed. No. 35 breaks off after the list of goods, but No. 34 continues with divorce clauses, one of which is once again unique. The first divorce clause follows the same structure as divorce clauses in other marriage contracts. It starts with the sentence wherein the groom wants to 'release' his wife (aššassu undaššir) and prefers a second wife (aššatam šanitum ana UGU-hišu ultešibbi), followed by the amount of money he has to pay the bride in order to settle the divorce.[249] The second clause deviates from the standard pattern, not in form, but in itself as an attested part of the contract. The second clause focuses on what steps are to be taken when the wife initiates divorce.[250]

1.4.4.4: Intermarriage: an Egyptian groom and Iranian (?) bride

BMA 23 presents us with a case of intermarriage between an Egyptian groom and what seems to be an Iranian bride. While the ethnicity of the bride is reconstructed with uncertainty, the fact that the tablet presents us with an intermarriage is certain non the less. The list of witnesses shows a broad range of ethnicities, ranging from Iranian to Egyptian, Babylonian and West-Semitic.[251] The tablet was drawn up in Babylon, one of the major cities in the region, a city where one would expect a wide range of ethnicities living together, all with their own customs. The contract follows the general pattern similar to

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[247] Roth (1989) p. 110, also see Roth (1989) for further bibliography on the reconstruction of this tablet; note that Abraham (2015) does not follow Roth in reconstructing the names of the parties involved.

[248] The request of the groom to both parents of the bride is unique. BMA 35 is the only contract in which such a request occurs. Preferably, the request is made to the father, as seen in BMA no's. 3, 6, 7, 12, 19, 21, 23, 24a, 33, 35, 37, 40, 42. In absence of the father, the request could be made to the brothers of the bride, with or without mentioning the mother of the bride. When male members of the family were in complete absence, the request could be made directly to the mother, as seen in BMA no's. 4, 10, 13 (also mentions daughter), 20, 24b, 36. An explanation for the unique case in no. 35 can thus be that the Egyptian customs peak through the Babylonian format. Man and wife were of more or less equal status in Egyptian society. By addressing both father and mother, the groom will receive the consent of both legal parties.

[249] BMA 34:29-31.

[250] According to Roth, it is the only contract known from the Neo-Babylonian period in which such a case occurs. Another rare aspect of this contract is the mentioning of the marriage gifts as *biblu.* According to Waerzeggers (2001) the *biblu* was used to cover expenses in the course of the arrangement of marriage, a practice common to the Old-Babylonian and Middle-Assyrian period, but rarely seen in the Neo-Babylonian period, Waerzeggers (2001) p. 69.

[251] Examples are Baga-pāta (Iranian), Siniptiš (Egyptian), Ina-qātē-Nabû-šakin (Babylonian) and Qūsu-jada (West Semitic).

other contracts from the Neo-Babylonian period and does not have similar derivations that are present in BMA 34 and BMA 35. It starts with the request made to the head of the bride's family, followed by the consent and list of goods to serve as dowry. The contract ends with a list of witnesses and the date on which the tablet was composed.

1.4.4.5: West-Semitic marriages in Babylonia

All the contracts concerned with the marriages in which West-Semitic parties are involved, all refer to intermarriages. The first contract, BMA 11, refers to the marriage between a Babylonian bride, Bazīti, and West-Semitic groom, Bar-ahhā(ya). The document was drawn up in Neireb,[252] a town in the southeastern region of Aleppo,[253] according to the standard Neo-Babylonian format.

1.4.4.6: Judean marriages in Babylonia

Two marriage contracts from Babylonia refer to the marriage of Judean brides with Babylonian grooms. BMA 17[254] and MC[255] are noteworthy because of various reasons. Not only does each of the contracts show internal variations, but the contracts also deviate in various ways from the standard Babylonian format. This section will first discuss the contract drawn up in Sippar and secondly the contract drawn up in the Judean community of Āl-Yāhūdu. Table 2 gives an overview of the persons referred to, in order of occurrence, and their function during the conclusion of the marriages.

BMA 26[256]		
Name	**Ethnicity**	**Function**
Gūzanu[257]	Babylonian	Groom
Arraru	Babylonian	Father groom
Bēl-uballiṭ	Judean	Brother bride

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[252] Akk. Town of the Neirabeans (ālu-ša-Nērebāya) or Town of Neireb (āl-Nēreb).
[253] Tolini (2015) p. 58.
[254] Roth (1989).
[255] Abraham (2005/2006).
[256] The document was copied one month later, with only minor changes (BM 65149). Published in Jursa (2001).
[257] Gūzanu/Kiribtu//Ararru.

Gudadadītu	Unknown	Mother bride
Amušē[258]	Judean	Father bride
Kaššāya	Judean	Bride
Ahiyāma	Judean	Witness
Bānija	Babylonian	Witness
Arad-Gula	Babylonian	Witness
Kalbā	Babylonian	Witness
Niqūdu[259]	West-Semitic	Witness
Bēl-iddin	Babylonian	Witness
Šamaš-apla-uSur	Babylonian	Witness
Nabû-iddin	Babylonian	Witness
Marduk-zēr-iddin	Babylonian	Witness
Šamaš-apla-uSur	Babylonian	Witness
[xxx]/Amušē	Judean	Witness
Nabû-mukīn-[xxx]	Babylonian	Scribe

Table 2: overview of BMA 26

The first contract, BMA 26, reports the marriage of the Judean bride Kaššāya and the Babylonian groom Gūzanu. It was written in Sippar in accordance to the standard Babylonian format, with only minor deviation. The list of witnesses clearly refers to some of the witnesses as being royal merchants (tamkāru ša šarri), leaving the impression that both groom and bride belonged to wealthy members of Babylonian society. The name Kaššāya is typically Babylonian, but her patronym allows for a reconstruction of her family tree, tracing her origins back to a Judean ancestor.

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[258] This is the Akkadian rendering of Hosea, according to the regular Late Babylonian sound change of pre-consonantal <w> to <m>. See Reiner (2013) p. 36 for further information.
[259] Niqūdu/Mušallammu, cf. Mešallam in MC. Both names are clearly of Aramaic origins.
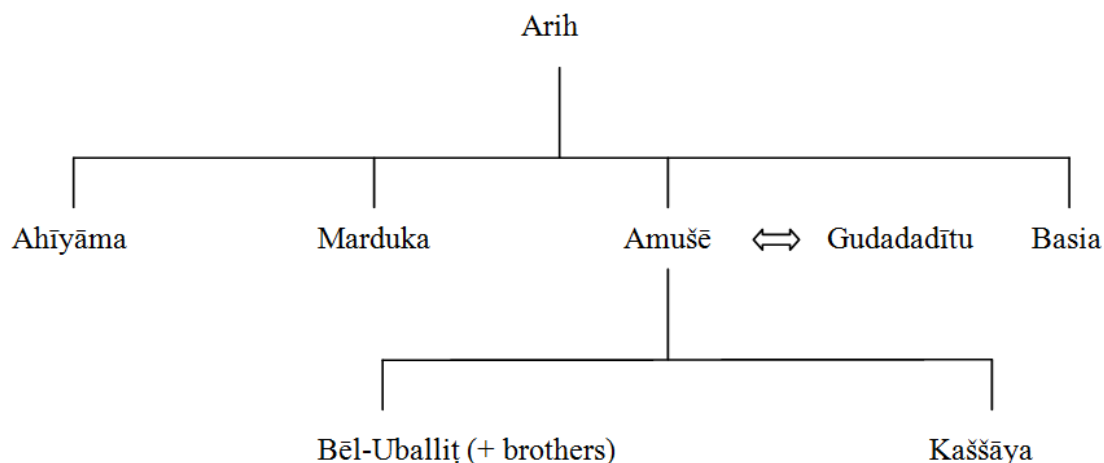
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                          Arih
                           |
      ┌──────────┬──────────┴──────────┬──────────┐
   Ahīyāma     Marduka              Amušē  ⟺  Gudadadītu    Basia
                                        |
                              ┌─────────┴─────────┐
                      Bēl-Uballiṭ (+ brothers)          Kaššāya
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Figure 1: The Arih family

Furthermore, her father is called Amušē, the Babylonian rendering of the Biblical name Hosea.[260] Judean traders could climb the social ladder through various enterprises, assimilating into Babylonian culture, taking on Babylonian names.[261]

The contract is written in the subjective style, opening with the request to the agents of the bride in the first person. What follows, are the consent by the agents and a penal-clause in case of adultery committed by the bride. The latter part consists of the divorce clause, dowry clause and list of witnesses. The format of the contract leads Abraham to the conclusion that the contract was drawn up in complete accordance to the Neo-Babylonian format, because of the social status of the bride and her family. She argues that due to the fact that the family had an immigrant background, the bride had to marry up and 'buy their way into the world of Babylonian matchmaking'.[262] When analyzing the family history of the bride, it might be stated that the social status of the bride was not as minor as Abraham assumes and marriage between bride and groom was rather one of people of similar social status. Kaššāya was the daughter of Amušē, the son of the royal merchant Arih. While the precise function that was related to this title remains uncertain, it is clear that the title was one of prestige.[263] Therefore, the argument of Abraham should be nuanced. The family of Kaššāya did not use her marriage to climb the social ladder, but rather enforced their position in Babylonian society, marrying their daughter to Babylonians from a similar social context, using a full Babylonian legal format for their contract.[264]

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[260] See n. 258.
[261] See Alstola (2017).
[262] Abraham (2015) p. 45; this is supported by the penal-clause which was almost only included when the bride was of a lower social standing, see Fitzpatrick-McKinley (2015) p. 271, n. 63.
[263] Alstola (2017) p. 28.
[264] This argument is supported by the fact that the family already seemed to be assimilated into Babylonian society. Amušē, who married a non-Judean bride, gave his children Babylonian name. He inherited his position as royal merchant from his father Arih. Alstola argues in a similar way, stating that

MC		
Name	**Ethnicity**	**Function**
Nabû-bān-ahi	Babylonian	Groom
Kīnā	Babylonian	Father groom
Dibbî	unknown	Mother bride
Nanaya-kānat	West-Semitic[265]	Bride
Mukīn-Apli	Babylonian	Witness
Šillēmyah	Judean	Witness
Yarīmyah	Judean	Witness
Natanyah	Judean	Witness
Ṣidqiyah	Judean	Witness
Mešallam	Judean	Witness
Aṣīlyah	Judean	Witness
Pillelyah	Judean	Witness
Adad-šamā	West-Semitic	Scribe
Mešallam	West-Semitic	Witness

Table 3: Overview MC

The second contract, MC, was drawn up in Āl-Yahūdu, during the reign of king Cyrus the Great. The contract differs from BMA 26, since it refers to a marriage that was concluded in a town specifically inhabited by Judeans, rather than a city of trade and social interaction like Sippar. Babylonian witnesses were present, but most were of West-Semitic or Judean descent.[266] The contract is written in the subjective style, as with BMA 26 and follows a similar structure, including the same penal-clause and oath to Marduk and Zarpanitu.[267] The first clause that differs in its phrasing from the clauses found in the majority of the contracts is the divorce clause.[268] The clause combines two phrases used in contracts: the clause in which the groom sets the bride free and the clause in which the groom declares that his former wife no longer has the status of being a/his wife. While used separate from

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both parties were of a certain social standard, but not very wealthy. The dowry is rather modest, as is the amount of money that Gūzanu had to pay in case of a divorce. This might explain the presence of the penal-clause in a contract of parties of the same social status, see Alstola (2017) p. 35; also see Waerzeggers (2016).

[265] Not Babylonian, as one might suspect. See Abraham (2005/2006) p. 216, 2.3 for the discussion on the West-Semitic origins of her name.

[266] The scribe also bears a West-Semitic name, but whether this had its influence on the way in which the contract deviates from the standard format remains to be debated.

[267] Here, Abraham's explanation for the presence of such a penal-clause might fit better, since both parties differ in social status, more significantly than the parties in BMA 26.

[268] For two other special clauses and variations of the Neo-Babylonian format, see Abraham (2005/2006) pp. 203-204.

each other, MC is the first contract to combine both phrases. Abraham argued that the phrase as used in the Babylonian context would mean that the man did not fully dispose his wife, but rather downgraded her status of first to second wife, to be able to marry a new first-wife with all the legal aspects.[269]

1.4.4.7: Preliminary conclusion

The contracts discussed in this section all point towards derivation from the standard Babylonian format as result of the context in which the contracts were composed. Abraham has already argued that all parties agreed to marry according to the standard Babylonian notary tradition and law, but that specific cases required changes to fit in non-Babylonian traditions and other special cases, under influence of economic and cultural circumstances.[270] This argument can now be expanded and defined, since the analysis has shown that certain changes in the format come to the surface in special cases. The Egyptian marriages, when concluded in a circle of Egyptians, showed variations to the standard format, variations which are not found in the case of the intermarriage of the Egyptian groom and Iranian bride. An Egyptian groom could request the agent of the bride's family according to his own traditions, given that the agent would actually understand these. In a multi-cultural context, it would be more probable that inter-cultural interaction was done on the basis of a general, well-known set of phrases.

The case of the Egyptian marriages also shows that Judeans were not the only ethnic group to preserve their culture while sojourning in Babylonia. As with the Egyptian marriages, the Judean marriages show different formats according to the social context in which they were composed. The categories coined by Abraham,[271] can therefore be expanded. Not only does the social status and ethnicity of the parties influence the contracts, but also the social and geographic context in which the scribe would draw up the contract. The contract of Kaššāya refers to a marriage of equals, in a city of trade and inter-cultural contact. It is drawn up according to the standard Babylonian format and leaves no clause open to alteration. Kaššāya's family had assimilated into Babylonian society and adopted Babylonian customs. Marrying according to Babylonian law would only enforce their position in society. The contract of Nanaya-kānat on the other hand, was drawn up in a community of Judeans, resulting in alterations in the format. New formulae and

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[269] Abraham (2005/2006) p. 203.
[270] Abraham (2015) p. 49.
[271] Abraham (2015) p. 47.

combinations of Babylonian standards shed light on how other traditions could pierce through a standardized format to make it suitable for non-native traditions.[272]

1.4.5: The documents from Elephantine

Three marriage contracts from the Judean archives of Elephantine remain to be discussed/analysed,[273] one from the Miftahiah family archive and two from the family archive of Ananiah. Both families belonged to different echelons of Egyptian society. Miftahiah descended from a wealthy family, receiving property from her father as dowry, whereas the family from the Ananiah archive was of unknown status. As with the contracts from Mesopotamia, this social context will be taken into account when analysing the contracts, together with the categories coined by Abraham. The documents will be discussed in the context of their archival history, rather than on the basis of their chronology.

1.4.5.1: Form and style

The Aramaic contracts all include similar clauses, but do not have a single form as seen in the cuneiform contracts from Mesopotamia. Contracts C15 and K2, contracts that were written only two months from each, for example, other show significant variations in the way they structure the clauses. Each contract opens with the date and place on which the contract was drawn up. The clause that follows is the request to the agent of the bride, in a style comparable to that of the subjective style found in the Mesopotamian contracts. The consent of the agent is omitted, since the groom continues with the *verba solemna*, stating that he and his beloved are now husband and wife. What follows are extensive descriptions of the mohar, a gift from the groom to the bride, and the dowry.

The second part of the contract serves to guarantee the legal rights of both husband and wife. Here the clauses are based on situations that might occur during their marriage, like death of the husband or wife, divorce and expulsion. Here, the clauses are dependent on the social status of man and wife, since additional clauses are included when someone married a slave-woman or an adoptive child. The contract is concluded with the name of

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[272] It is to be noted that despite the Judean background of the bride, many Babylonian aspects still remain. Most noteworthy is the oath to Marduk and Zarpanitu. The groom and bride would swear an oath to Babylonian gods, to safeguard their marriage. This might show that weaker parties, or minorities, would still safeguard themselves under the law and religion of the region they inhabited.

[273] Aram. ספר אנתא, cf. Dem. sẖ n hm.t; Other, more fragmentary contracts remain, but will not be taken into account in this section.

the scribe and a list of witnesses.[274] In form, the contracts are comparable to the known Egyptian matrimonial documents.[275]

1.4.5.2: The marriage of Miftahiah and Asḥor

The first contract, C15 (449 BCE), describes the marriage between the Judean woman Miftahiah and her soon to be husband, the Egyptian builder Asḥor. The document was drawn up in 449 BCE at Elephantine, to secure the newly gained status of Miftahiah as wife. The table below gives an overview of all participants.

C15			
Name	Ethnicity	Function	Social status
Asḥor	Egyptian	Groom	Royal builder
Mahseiah	Judean	Father bride	Man of wealth
Miftahiah	Judean	Bride	
Nathan	Judean	Scribe	
Penuliah	Judean	Witness	
[xxx]-iah	Judean	Witness	
Menahem	Judean	Witness	
Vyzblw	Unknown	Witness	

Table 4: Overview C15

This marriage was concluded between parties of a similar social status, but of a different ethnic background. Asḥor was a royal builder, whereas Miftahiah was the daughter of a wealthy Judean. This is reflected by the fact that Miftahiah's father Mahseiah does not only give Miftahiah the means to be a independent woman,[276] but also was approached by Asḥor for a loan for one of his building projects.[277]

The contract itself follows a standardized format with no additional clauses to further secure the legal status of any of both parties. Porten argued that some of the clauses were included to secure Miftahiah's property from alienation to one of Asḥor's former wives or children.[278] This is improbable since the clauses are present in other contracts and should rather be seen as general propositions, than as clauses added for this special case. All witnesses but one is Judean, giving the impression that the contract was drawn up in a

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[274] K2 adds an additional clause concerning the dowry, to the end of the contract.

[275] P. Berlin 13614 (537 BCE) and P. Berlin 13593 (198 BCE).

[276] Seen in C8, where Mahseiah gives Miftahiah a house as dowry for her marriage with her former husband Jezaniah.

[277] See Porten (1996) p. 177.

[278] Porten (1996) p. 177.

Judean context. This is further supported by the fact that Judean phrases are included.[279] Whether or not Asḥor really made the request to the father of Miftahiah is such a fashion, or that the conclusion of marriage was poured into this format afterwards, remains to be debated.[280]

1.4.5.3: The marriage of Ananiah and Tamet

K2			
Name	Ethnicity	Function	Social status
Ananiah	Judean	Groom	
Mešullam	Judean[281]	Agent of the bride	Slave owner
Tamet	Egyptian	Bride	Slave girl
Pilti	Egyptian	Son of Tamet	Son born to slave
Nathan	West-Semitic	Witness	
Menahem	Judean	Witness	
Gemariah	Judean	Witness	

Table 5: Overview K2

The second marriage contract, K2, describes the marriage between the Judean groom Ananiah and Egyptian handmaiden Tamet. Tamet's master, Mešullam was a Judean,[282] and quite possibly the brother of one of the witnesses, Menahem. The marriage contract itself presents a special case, because of the several aspects it contains. Firstly, it seems like the contract itself was a draft, rather than the final product itself. Lines 24-26, which discuss the rights to Pilti, a child born between a free man and slave woman, show signs of editing, giving the impression that the contract was written on the spot when the conditions of marriage were being negotiated. The additions and changes led Porten to conclude that the contract was not drawn up after marriage, but after the birth of Pilti.[283] Furthermore, he concludes that the rights to children clause had been altered, since the parents would not have agreed with the conditions proposed by Mešullam.[284]

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[279] Specifically the *verba solemna.*
[280] See 1.4.5.1 for the discussion on the format of the Judean contracts.
[281] Mešullam is being referred to as Aramean in K2, while in the document of manumission for Tamet written 20 years later he is referred to as Judean. The double identity of Judeans is not uncommon, but noteworthy. This also leads to the conclusion that Menahem is Judean, since both Menahem and Mešullam are descendents of Zaccur and therefore could belong to the same family.
[282] See n. 281.
[283] Porten (1968) p. 208.
[284] Porten (1996) p. 208.

The first significant deviation from the format seen in C15 is the omission of the Mohar.[285] Normally, Judeans would pay a mohar to the agent of the bride, since in a certain way they would take away working force from the bride's family. As compensation, the groom would present gifts of various natures to compensate for any loss of income.[286]

1.4.5.4: The marriage of Ananiah and Jehoishma

K7		
Name	Ethnicity	Function
Ananiah	Judean	Groom
Zaccur	Judean	Brother bride
Jehoishma	Judean	Bride
Mauziah	Judean	Scribe
Haggai	Judean	Witness
Islaḫ	West-Semitic	Witness
PN$_1$/PN$_2$	Unknown	Witness
Haggai	Judean	Witness
Menahem	Judean	Witness
Jedaniah	Judean	Witness

Table 6: Overview K7

K7, a marriage contract written in the month of October in 420 BCE, documents the marriage between the Judean bride Jehoishma and Judean groom Ananiah. Jehoishma was the daughter of Tamet and Mešullam, and thus was a daughter born in slavery. Mešullam manumitted both Tamet and Jehoishma on his deathbed, which is specified in K5. The contract follows the normal pattern seen in the other contracts, but adds a new significant phrase to the divorce clause. Whereas the other contracts only use the verb 'to hate' this contracts adds the negative form of the *verba solemna*, namely 'You are not a wife to me'.

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[285] Often translated as 'bridal payment'.
[286] Satlow (2001) p. 200.

1.4.5.5: Discussion

Now that the contents of the various contracts have been analysed, we can discuss their similarities and differences, to see whether certain elements can be traced back to a shared root in (Biblical) Judaism.

1.4.5.6: When forever is cut short

The most strikingly similar clause found in the Elephantine papyri, Hebrew Bible and one of the cuneiform contracts from Babylonia, is the clause to initiate divorce. When the husband wanted to divorce his wife,[287] he could stand up in the congregations and declare his hate towards his spouse. In the Elephantine papyri, the divorce clause is normally initiated with the phrase 'I hated (שנא) followed by the name of the party that is to be divorced.[288] Despite the fact that the exact nature of the verb 'שנא' has been debated and its meaning remains uncertain,[289] one can safely assume that the marriage itself would come to an end. This is explicated further in one of the Elephantine documents, namely, K7. The contract does contain the standard phrases seen in the other two documents, but adds two new clauses. If the husband would initiate divorce, he would add that 'she [Jehoishima] will not be a wife to me [Ananiah]',[290] whereas the wife would state that 'I will not be to you a wife'.[291]

These additional phrases parallel one of the documents from Babylonia and a phrase found in the Hebrew Bible in a significant way and might point towards a root in a shared tradition. As already pointed out by Abraham, the occurrence of a similar phrase in the marriage contract of Nanaya-kānat in combination with a phrase more common is unique.[292] The phrase 'she is not a wife' is used, but not in a way similar to Nanaya-kānat's contract and may thus be seen as a foreign, Judean tradition added to the standard format. Reason for assuming that the occurrence of the phrase in both Elephantine and Babylonia might go back to a shared root in Biblical Judaism, is a phrase attested in the book of Hosea.

Hosea 2 presents marriage as a metaphor for the new everlasting covenant between Israel and her God.[293] The passage starts with God initiating divorce (Hos. 2:4) concluding with the new wedding between God and his chosen people (Hos. 2:16-25). Reason for the

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[287] In Elephantine, the wife could also initiate divorce, possibly due to Egyptian influence.
[288] C15:26-27, K2:7, K7:21-22.
[289] For a recent overview of the discussion see Botta (2014).
[290] K7:21-22.
[291] K7:25.
[292] Abraham (2005/2006) pp. 202-203.
[293] Friedman (1980).

divorce is the unfaithful behavior of Israel towards another god, Baal (בעל).[294] Despite the fact that the divorce clause itself is phrased in the third person, resembling the objective style found in the contract from Mesopotamia, its contents are the same as the clauses found in Elephantine and Babylonia. Kelle has argued against the proposition of seeing Hos. 2:4 as an oral declaration actually used by ancient Israelites, since: 1) There is no proper court setting, 2) there is no provision for defence, and 3) there is a failure to execute the death penalty for adultery. [295] He further argues that, accordingly to the arguments given above, one should interpret the separation of man and wife in Hos. 2:4 as a temporary situation in which the wife could make up for her mistakes.[296] Judging by the way in which the divorce formula is used in Elephantine, it would fit the description given by Kelle and there could indeed be an oral declaration that was actually used in legal settings within Israel.

Now that a possible 'root-clause' has been established, it is necessary to explain the differences in form and occurrences. Abraham has argued that the Judeans adhered to the Babylonian format to safeguard themselves under the laws of the governing system, going as far as invoking the local gods. Derivation was allowed, as long as the parties remained within the boundaries of acceptable Babylonian practice and legal jargon.[297] The occurrence of the Judean divorce-clause might be the result of the social context in which the contract was written. A scribe of West-Semitic origins wrote the contract of Nanaya-kānat in the town of a specific ethnic entity. This might have allowed a non-native phrase to enter the format more easily than in the cases of the other contracts. For Elephantine, another explanation might be used to argue why the formula is found in the relevant documents found there. Yaron proposed that due to the absence of any reference to a written marriage contract in the Bible, the colonists followed the Egyptian practices they knew,[298] while preserving the oral forms they already acknowledged.[299]

In both contracts, Elephantine and Babylonian, we thus find remainders of a possible older Israelite oral tradition, preserved within the lines of a new format used in a foreign country. The occurrence of a similar formula in the book of Hosea, points towards a possible shared root in Biblical Judaism, which was also known to the Judeans in Egypt

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[294] The metaphor of Israel as faithless wife is given in Hos. 2:9. The use of איש instead of בעל in the divorce clause might be the result of the Biblical writer distancing himself from the cult of Baal, not wanting to associate God as husband with a heathen cult, see Friedman (1980) p. 201.
[295] Kelle (2005) pp. 54-55.
[296] Kelle (2005) p. 55.
[297] Abraham (2015) pp. 49-50.
[298] See Yaron (1961) p. 49.
[299] Yaron (1961) pp. 49-50.

and Babylonia. They preserved both the formula and the values attached, shaping it to fit into the new format used in the social context in which they were now living.

1.5 Conclusion

This thesis was concerned with laying out a methodological foundation for a comparative study of marriage contracts from various regions of the ancient world. An additional goal was to shed light on whether this methodology would be sufficient to determine if the contracts which discuss the marriages of Judeans contain elements which point towards a shared Judean (legal) tradition. This was firstly done by explaining how the political and historical background of the documents caused the various regions, Egypt and Mesopotamia especially, to come into contact with each other determining through which channels possible influences could have originated. Part of the first chapter was an overview of all the sources relevant to the study of marriage in ancient Mesopotamia and Egypt. The importance of such a discussion is reflected in the various approaches of each culture towards marriage and family law. The documents from Egypt cannot be seen as marriage contracts in the same way as the marriage contracts from Mesopotamia, each has its own way of phrasing the same events.

The second part of the thesis was focused on discussing the general phraseology and nature of the various Babylonian, Egyptian and Aramaic contracts. The first step was to determine the exact nature of each of the documents, to see whether it they could be compared. Why was a contract needed and what was the exact function of these documents? It was determined that the Mesopotamian contracts were drawn up mostly is special cases to protect the weaker party in their newly acquired legal status, whereas the Egyptian documents were mostly drawn up as protection for the property of either of the parties involved. When foreigners would marry abroad in a circle of their own ethnicity, elements from their own tradition could pierce through the official format used, as seen in the contract which documented an Egyptian marriage (BMA 34/35).

A similar phenomenon was seen in one of the Mesopotamian contracts, namely, the contract which was drawn up in the town of the Judeans. This contract contained a phrase unique to the known Mesopotamian contracts and rather than seeing it as a local innovation, one should see it as the preservation of an older, Judean tradition. The occurence of similar phrases in both the Hebrew Bible, in Hosea and in one of the Aramaic contracts from Elephantine. All these occurences combined, point towards a shared tradition, which was preserved by the colonists in Elephantine and the exiles in Babylonia. When the opportunity allowed it to manifest itself, the Judeans would use its phrase to

include part of their homeland tradition in their new environment. Ultimately, this tradition must have been close to the one preserved in Biblical Judaism. Whether or not the formula itself got new meaning in its new social context, remains to be debated.

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