



MARRIAGE I. THE MARRIAGE CONTRACT IN THE PRE- ISLAMIC PERIOD II. SOGDIAN MARRIAGE CONTRACT.

ii. SOGDIAN MARRIAGE CONTRACT

The Sogdian marriage contract (Nov. 3), together with the accompanying guarantee letter (Nov.4), was found, together with many other documents and letters, during the excavations on Mount Mugh located some hundred kilometers east of Samarkand, in present-day northern Tajikistan. These two documents, taken together, represent the longest legal text available in the Sogdian language. It is dated by the tenth regnal year of Tarkhun, king of Samarkand (ca. 709-10 CE). Consequently, it is likely that the marriage agreement between Ot-tegin and Chat was concluded in Samarkand, shortly before its surrender to the Arab armies of Qotayba b. Moslem. The find-spot of Nov. 3-4 probably implies that one or both of the spouses eventually threw their lot in with Dewashtich (see [DĒWĀSTĪČ](#)), a ruler of Panjikent and a pretender to the throne of Samarkand, and was/were beside him when he was besieged in the castle of Mount Mugh by the Arabs and their allies. It is possible, although by no means certain, that Ot-tegin is the same person as Ot, the *framānδār* “steward” of Dewashtich and the addressee of numerous Mugh



letters.

Nov. 3 refers to Chat as “a lady possessing authority (*pāt[ə]xšāwan waδu*) in his (= Ot-tegin’s) own house,” a title that has a semantic parallel in the Bactrian marriage contract. Both titles are likely to be functionally equivalent to Middle Persian *kadagbānūg* “mistress of the house,” a term defining a woman who has entered a *pādixšāy*-marriage, which was a regular type of arranged matrimony in the Sasanian period. Unfortunately, we do not know whether alternative forms of marriage, such as the temporary marriage aiming at providing substitute children for the deceased husband, were recognized by the Sogdian legal system.

The social status of the two spouses was possibly not quite equal. Chat is a stepdaughter of Wiyus, Prince of Nawekat, which can be identified with a prosperous Silk Road town in Semirechye. Ot-tegin, on the contrary, is not introduced as a prince. One can hypothesize that this difference in social standing is one of the reasons for the unusually high degree of independence granted to Chat by the marriage agreement. Its most salient manifestation is her right to initiate a divorce without forfeiting her dowry, a stipulation that would be unthinkable in Sasanian law.

Some passages of Nov. 3-4 seem to reflect the transitional political situation in Sogdiana in the early 8th century CE. Thus the clause “this document is valid wherever produced” can be taken as a reference to the political fragmentation of the country. The explicit promise of Ot-tegin to release Chat if she is taken hostage or given away as tribute reveals to us some grim realities of Sogdian everyday life. It is interesting that Ot-tegin has to appoint a guarantor of his obligations towards Cher, who, ironically, is called Nipak, literally “hostage.”

From the formal point of view, the Sogdian marriage contract exhibits many features of the Hellenistic administrative tradition. Unlike the Bactrian and Pahlavi marriage agreements, and like their Hellenistic counterparts found in Egypt, it does not fall apart into a series of declarations by the parties involved, but rather represents a connected narrative. The practice of special guarantee letters accompanying a transfer, such as Nov. 4, is also familiar from the Hellenistic world. The formulaic obligations taken by Ot-tegin and Chat in the beginning of Nov. 3 find striking parallels in Greek marriage contracts. This makes one suspect that the official institutions of Samarkand were thoroughly Hellenized in the Greco-Bactrian period, so that the legacy of Greek scribes can still be felt some nine centuries after the demise of Greek power in this region.



TEXT (Nov. 3)

It was the tenth year [of the reign] of King Tarkhun, month Masbogich, day Asman, when Ot-tegin, also called Zhedan, took for himself a wife from Cher, son of Wankhanak, Prince of Nawekat, [namely] a woman under [Cher's] guardianship, a wife, who is called as follows: Dgutgonch, also called Chat, daughter of Wiyus. And Cher gave him [his] ward in accordance with the traditional law and on such a condition that Ot-tegin will treat Chat as his dear and respected wife, [providing her] with food, garments, and ornaments, with honor and love, as a lady possessing authority in his own house, the way a noble man treats a noble woman, his wife. (12-16) And Chat must treat Ot-tegin as her dear and respected husband; she must always conform to his wellbeing and obey his orders as befits a wife, the way a noble woman treats a noble man, her husband.

If, however, Ot-tegin, without sending Chat away, should take another wife or concubine, or keep another woman that does not please Chat, then Ot-tegin, as husband, will be owing and pay Chat, his wife, a fine of thirty good, pure dirhams of [the type] *Den* and will not keep that aforementioned woman either as a wife or as a concubine, but will send her away. (22-V 2) But if it should occur to Ot-tegin that he will not have Chat as a wife [anymore], but send her away, he will release her with [her] *inherited and acquired* property, [as well as] with the *gifts* received, without compensation, and [he] will [also] not be owing or pay any *compensation* [to her], and after that he may marry such a woman as pleases him. (V 2-9) And if it should occur to Chat at that she will not remain with Ot-tegin, but will go away from him, she will leave him the undamaged garments and ornaments, all that, which is the portion received by her from Ot-tegin, but she will take [back] her own share *with an indemnity* and will not be owing or pay any other *compensation*, and after that she may marry such a man as pleases her.

And if Ot-tegin commits a misdeed, then [he] will suffer and pay for it himself. (11-13) And if he becomes somebody's slave, hostage, *prisoner*, or *dependent*, then Chat at with her progeny will become free without [paying] *compensation*. (13-14) And if she should commit a misdeed, then [she] will suffer and pay for it herself. (14-17) And if she becomes somebody's slave, hostage, *prisoner*, or *dependent*, then Ot-tegin with his progeny will become free without [paying] *compensation*, so that one will not suffer and pay for the other one.



And this marriage contract [was] made in the *Foundation Hall* before the elder Ukhushukan, son of Barkhuman. (19-20) And there were present Skatch, son of Sheshch, Chakhren. son of Ramch, and Shaw. son of Makhak. (20-21) And [it was] written by Ramtish son of Akhushfarn.

TEXT (Nov. 4)

(Tenth year [of the reign] of King Tarkhun, month Masbogich, day Asman. From Ot-tegin, also called Zhedan, son of *Qishiq*, to Cher, son of *Wankhanak*, Prince of Nawekat, and to his son(s) and family. (5-7) Mylord, I took from you Dgutgonch, also called Chat, daughter of Wiyus, as a wife. (7-12) And then, to you, Cher, I promised and made obligation that henceforth and for evermore, so long as Chat remains with me as [my] wife, mylord, by the Lord Mithra, I shall not sell her, give her as hostage, *give her away as tribute, or place her under [another's] protection*. (12-15) And if someone, from my [side] or from the enemies' side takes her and detains her, I shall have her immediately released without damage or injury.

And if [it] is not agreeable for Chat to remain with me, or if I send her away, I shall deliver her and give her to you, Cher, to your son(s) and family *with her portion (of the property)*, without damage or injury. (18-22) And if I do not give her, do not deliver her *with her portion (of the property)*, I shall be owing, and give, and pay you 100 approved, good, pure silver dirhams of [the type] *Den*. (22-V 1) And, until I pay, I shall hold them at the rate of 12to 10.

And Ot-tegin, with his son(s) and family, appointed for Cher, and for his son(s) and family, Nipak, also called Nibodak, son of Burz, [who will be] responsible for these conditions and for these 100 dirhams, and from whom Cher with his family, if he wishes, may request this woman, without injury, or these dirhams, with interest. (9-10) And this document [is] valid and authoritative for all people. (10-12) And [it was] made in the *Foundation Hall* before the elder Ukhushukan, son of Barkhuman. (12-14) And there were present Skatch, son of Sheshch, Chakushak, son of Nanch, and Chakhren, son of Ramch. (14-16) And [it was] written by Ramtish, son of Akhushfarn by the order of Ot-tegin and with [his] authorization.



BIBLIOGRAPHY

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