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Sandra Lippert

Erbrecht
Succession

In ancient Egypt inheritance was conveyed either through the legal order of succession, favoring sons over daughters, children over siblings, and older over younger, or through written declarations that allowed for individualized arrangements. Adoption was the common means by which a childless person could acquire an heir. The initial tendency towards a sole heir (preferably the eldest son) was replaced by the division of parental property among all children, although the eldest son continued to play an important role as trustee for his siblings and received a larger or better share according to the legal order of succession. Documents used for the bequeathing of inheritance varied over time and were gradually replaced by donations and divisions after the Middle Kingdom. Effectiveness only after the death of the issuer is rarely mentioned explicitly.

لقد اعتمد نظام التّوريث في مصر القديمة إما على نظام التّوريث التسلسلي، مفضّلاً البنين على البنات والأولاد على الأخوة والكبار على الصغار، أو على الوصايا الفردية المكتوبة من قبل المتوفّين قبل وفاتهم والتي تسمح بنَظْم حالات بعينها. لقد كان التبنّي الطريقة الشائعة لمن ليس عنده أطفال ليكون لديه وريثاً. إن النّحو صوب التوريث لشخص وحيد (غالباً الإبن الأكبر) قد تم التخلّي عنه بتقسيم ممتلكات الأسرة بين الأبناء جميعاً، على الرّغم من أن الإبن الأكبر بقي يلعب دوراً هاماً كوصيّ على إخوته حاصلاً بينهم إمّا على حصة أكبر أو أفضل، وذلك تبعاً لنظام التّوريث التسلسلي. إن المستندات التي عمل بها لتوثيق عملية التوريث قد تنوّعت على مر العصور وتم استبدالها تدريجيّاً بمستندات الهبات والعطايا، وذلك بعد عهد الدولة الوسطى. نادراً ما تم القول بوجوب العمل بوثيقة التوريث بعد وفاة صاحبها.

In ancient Egypt the process of inheritance was ideally represented in the scenario of the firstborn son (*sꜣ smsw*, later also *šr ꜥꜣ*) inheriting the property of his deceased father, while at the same time carrying out the duty to bury him and take care of the other family members. This situation (with the exception of the care for siblings) was portrayed prototypically in the mythological constellation of Osiris and Horus. Since in reality various factors could render this ideal scenario impossible or at least undesirable to execute—perhaps there were no male children, or no children at all, or the eldest son was not trustworthy or was otherwise unsuited—Egyptian law prepared for these eventualities and allowed for intentional changes in the succession. Like modern societies, that of ancient Egypt developed two complementary systems of inheritance, which can be traced back almost to the beginning of Pharaonic history: the legal order of succession and that established through a written declaration of intent, with the last overruling the first. The Egyptian word *jwꜥw* was used not only for the factual heir after the death of the bequeather but also for the possible or future heir, i.e., the person who, through either the legal order of succession or a will document, was supposed to become an heir (cf. Mrsich 1975: col. 1239).

Although the basic principles of inheritance seem to have remained quite stable, there were particular developments in the practice and the details of the laws. However, since sources are rare

before the Late Period, it is difficult to deduce exactly how and when changes occurred.

Legal Order of Succession

In earlier periods the purpose of the legal order of succession seems, tentatively speaking, to have been the creation of a sole (male) heir. It is to be assumed that he had a certain moral, although probably not legal, obligation to care for his non-inheriting relatives. The defendant in Papyrus Berlin P 9010 from the 6th Dynasty alludes to this system when he claims, without referring to any documents, that his father's property should remain with him because the will brought forth by the other party was not authentic.

In the early New Kingdom this principle is already weakened: the heir is no longer a sole one with mere moral obligations to support his siblings, but rather acts as *rwḏw*—that is, caretaker administrating the estate—who must deal out the profits equitably. However, the *rwḏw* did not always meet his obligation towards his siblings. In such cases, the law courts of the later New Kingdom went even further to strengthen the siblings' position. This stance might lie behind the developments described in the 19th Dynasty *Inscription of Mes*: some disputed land had originally (i.e., in the 18th Dynasty) been passed, undivided, to heir after heir who acted as *rwḏw*-caretakers for their non-inheriting relatives, but when arguments arose concerning the distribution of the income, a later court decided to split the land into parcels for each descendant, thus allowing those who belonged to the same level of kinship as the main heir more direct access to a share of the inheritance. This decision was later contested by the decendants of the original caretakers, who wanted to be reinstated into their more advantageous position. A similar case is treated in the broadly contemporaneous P. Berlin P 3047: one member of the community of heirs sues his brother/caretaker because he had not been allowed to profit from his share of the inheritance. In court, the *rwḏw* admits the brother's right and declares his consent to splitting the plaintiff's share off the inheritance; it is then rented to a temple to ensure an income.

The struggle between the older principle of sole heirship and the later one of division between the descendants still had not been fully resolved in the 20th Dynasty, as can be seen in the complaint on P. Cairo CG 58092 recto: The writer recounts how he refuted the demands of his siblings for their shares of the inheritance from their parents. Interestingly, his argument is not that he is the eldest but that he alone had borne the financial burden of the parents' burials.

The *Codex Hermupolis*, a third century BCE manuscript transmitting to us a part of the Egyptian law code collected under Darius I, also covers the topic of inheritance (cols. 8.30-9.26, 9.29-30, 9.32-10.17). The passages concerning the legal order of succession show that, by the Late Period, the rights of the other siblings as co-heirs have finally been fully acknowledged: the eldest son (here always used as prototypical legal heir) still takes possession of the property of his father and may even sell part of it, but as soon as his younger siblings demand their shares, even without any allusion to mismanagement on his part, he is obligated to divide it (or the price received), although he himself retains the most advantageous position, being entitled to a better or larger (e.g., double) share (cols. 8.30-9.4; 9.19-9.21; 9.23-9.26).

While inherited land could be split up into single plots (even if this was sometimes avoided), division was difficult when the inherited object was a house. In *Codex Hermupolis*, column 9.19-9.21, such a case is dealt with. The pattern of division followed that of other possessions but, as many documents of the Ptolemaic and Roman Periods show, the shares were virtual, the house itself remaining "without division" (*n wš pš*, e.g., P. Rylands Dem 44, document of payment and document of cession l.6): it was not converted into separate apartments for each co-owner but was held jointly, and the profit, if the eldest son sold it, had to be divided by him among his siblings according to the size of their shares when they demanded to receive them (col. 9.23-9.26).

The eldest son additionally received the shares of those siblings who died childless (*Codex Hermupolis*, col. 9.5-9.9; cf. for the correct understanding of this passage Collombert 2004: 30). This privilege was, however, not shared by a

daughter if she, in the absence of male children, became legal heir (col. 9.14-9.17). Furthermore, the eldest son was the only heir allowed to prove his claims to objects simply by referring, without documentation, to the fact that he inherited them from his father (col. 9.32-9.33); all other heirs had to prove their title by producing the document through which they had gained it. In sales documents, this title by legal succession seems occasionally to be referred to as ***nty mtw.y (n) wš sḫ***, "which belongs to me without document" (e.g., P. Marseille 298 + 299, document of payment l.13).

Property that the father had given as a gift to one of the younger children before his death was no longer considered part of the estate; if no donation document existed, the presentee had to take an oath (*Codex Hermupolis* col. 9.17-9.19).

1. Requirements for the legal heir.

In the ideal case, the legal (i.e., the sole or principal) heir was the firstborn male child of the deceased. If there was no person fulfilling these requirements, the next best candidate stepped into his place. Of the three categories in which the heir had to qualify, a closer degree of kinship was more important than gender, which in turn was more important than order of birth. Thus, for example, a daughter became legal heir only if there were no male children, whether older or younger than herself (Codex Hermupolis col. 9.14-9.16), and a brother became legal heir only if there were no children, whether male or female. The most complete evidence for this hierarchy comes from the Late Period, but it is plausible that it had not changed over time, as occasional glimpses from earlier periods show.

2. The role of kinship.

Children of the deceased preceded siblings of the same as legal heirs (cf. Janssen and Pestman 1968: 165 - 166), as can already be seen in the Old Kingdom from the order in which they were listed in enumerations of possible heirs (cf. the *Inscription of Kaemnofret*). Gödecken (1976: 188 - 190) assumes an equality between the inheritance rights of children and siblings by referring to the *Inscription of Penmeru* and P. Berlin P 9010, but these texts deal with dispositions of property by document, not with legal succession, while the *Inscription of Kaemnofret*, as mentioned above, consistently names children before brothers and sisters (Lippert 2008: 17). That siblings inherited if there were no children is mentioned explicitly in *Codex Hermupolis* column 9.3-9.4 and 9.17. It is possible that parents inherited if there were neither children nor siblings, but such a scenario is not attested and was probably quite rare. Spouses were not considered heirs in the legal order of succession.

3. The role of gender.

While Egyptian women held property independently from their husbands and there are numerous attestations of their ability to pass it on to whomever they liked (e.g., *Inscription A of Metjen* from the 3rd/4th Dynasties and P. Ashmol. Mus. 1945.97 from the 20th Dynasty), in the legal order of succession there is a clear preference for male children: male children preceded female children as legal heirs (*Codex Hermupolis* col. 9.29-9.30), regardless of their age. When the inheritance was divided into lots among the siblings according to Late Period practice, sons chose their lots before daughters (cols. 8.30-9.4). Only if there were no sons could a daughter step into the position of legal heir and administer the estate for her younger sisters (col. 9.14-9.17; cf. also the woman who acted as administrator for her co-heirs, mentioned in the *Inscription of Mes*). In such a situation a daughter was not allowed to take the shares of sisters who had died childless; instead the whole inheritance was divided by the number of surviving siblings plus one and she received a double share (*Codex Hermupolis* col. 9.17). It is possible that the rule "male before female" also applied to other categories of relatives (siblings and parents), but there is no evidence to support it. 4. The role of the order of birth.

4. The role of the order of birth.

Among children of the same gender, older children always preceeded younger ones in the legal order of succession; the ideal heir was the ***sꜣ smsw/šr ꜥꜣ***, "eldest son." In some monuments of the Old Kingdom, there can, however, be found more than one ***sꜣ smsw***. Whether this is to be explained by the first one having died and the second having then

taken his title, by multiple marriages each resulting in one "eldest son," or even by a sort of testamentary decision of the father who, by artifically creating more than one "eldest son" (the testator's ability to name an "eldest son" is explained below), decided to divide the property equally between them (Moreno García 2003: cols. 345 - 346), is yet to be determined.

This preference of older over younger also applied to siblings, at least partially: if someone died childless, his share of the paternal property fell to his eldest brother, but the same was not true for an all-female group of siblings.

5. The role of the organization and financing of the burial.

The strong connection between the burial of the deceased and the inheritance of his property is already visible in the *Inscription of Tjenti* of the 5th Dynasty. But from at least the Second Intermediate Period onwards, when the injunction "Bury him, succeed into his inheritance!" is attested on a ceramic bowl in the Pitt Rivers Museum (see list of *Sources* below), this connection took on a life of its own, ultimately resulting in a law, "The property is given to the one who buries," cited in P. Cairo CG 58092 recto and referred to obliquely in Ostracon Petrie 16 of the 20th Dynasty. Thus the duty to bury changed from being a consequence of the inheritance to a prerequisite. This law seems mainly to have been invoked to defend the position of sole heir against relatives who would have had a right to a share under the later legal practice.

6. Adoption as a way to establish an heir for the childless.

Although Egyptian laws on legal succession allowed the inheritance to fall to siblings if there were no descendants, a child, especially a son, as heir was considered much more desirable. Childless Egyptians were expected to adopt an orphan, who would then act for them as their "eldest son" (cf. O. Berlin P 10627). In the case of the 19th Dynasty couple Ramose and Mutemwia, an adoption seems to have followed after several prayers for a child had remained unanswered (Bierbrier 1982: 32 - 33).

An adopted child had the same rights of inheritance as a biological child. An exception is given in the priestly rules resumed in the Roman Period *Gnomon of the Idios Logos* (§ 92): a foundling adopted by a priest could not become a priest himself because the candidates for this office had to be from pure priestly bloodlines.

Since wives could not inherit from their husbands in the legal order of succession, there are one or two cases from the New Kingdom of a childless husband actually adopting his wife (P. Ashmol. Mus. 1945.96; possibly also P. Turin 2021 + P. Geneva D 409). Slaves could also be adopted for the same purpose: After her husband's death, the childless Nanefer emancipates and adopts a slave woman and her children, most likely fathered by Nanefer's husband; additionally, she marries the eldest of the girls to her (Nanefer's) brother whom she also adopts (P. Ashmol. Mus. 1945.96).

It remains unclear whether adoption was only possible through a written declaration of the adopter or could also have become effective without a document, e.g., by public announcement.

Disposition of Inheritance by Document

If a person wanted to bequeath his property to a person or persons other than the one who would have inherited in the legal order of succession, or to ensure and stress the inheritance rights of a certain person (even though he might have been the legal heir anyway), to allot objects or shares of different sizes to specific persons, to impose special terms, or to exclude someone from the inheritance, he had to draw up a document (cf. also P. Berlin P 9010 under "Legal order of succession"). Depending on the era, but also on how the inheritance was to be distributed, different types of documents were used. Modern legal historians are sometimes reluctant to use the term "testament" for these documents since they do not conform to the Roman legal definition of "testamentum" (Seidl 1951: 58; Théodoridès 1970: 119 - 124). In fact, the Egyptians avoided stating explicitly within such documents that they were meant to become effective only upon the death of the issuer—the reason being the well-known Egyptian belief in the power of the written word to create reality. However, Egyptian documents did not usually become effective upon

the date of their being drawn up but at the moment they were handed over to the beneficiary, which might easily have been delayed until after the issuer's death by depositing it with a trustworthy third party (Lippert 2008: 17; cf. also Darnell 1990). There are only two known Egyptian will documents in which the death of the testator is alluded to: P. Vienna KHM Dem. 9479, a division document, and P. Moscow 123, a fictitious sale. Both date to the first century BCE and seem influenced by Greek wills (Bingen 1968: 422).

As a measure against later litigation among heirs, testators sometimes had all beneficiaries (and sometimes even those relatives who did not inherit) agree on a document (e.g., P. Turin 2021 + P. Geneva D 409).

1. *jmt-pr* documents.

The ***jmt pr*** is the best-known type of will document. The term ***jmt pr*** has variously been interpreted as "that which is in the house" or "that which the house is in" (Allen 2000: 90 - 91), both of which are equally unsatisfactory translations. The assets that are transferred through ***jmt-pr*** documents are typically land, sometimes with appurtenant personnel, but also offices. Opinions about the purpose of ***jmt-pr*** documents differ, they being variously interpreted as documents regulating complicated situations, including donations and property transfers against payment (Mrsich 1968: 69; see also Goedicke 1970: 204), documents for the incomplete transfer of rights among family members and co-opted persons (Gödecken 1976: 213 - 215 and 1980: col. 143), and wills in favor of persons who otherwise would not inherit (Johnson 1996: 177). In considering all the evidence, there can be no doubt that ***jmt-pr*** documents were used as wills:

a) ***jmt-pr*** documents transfer property gratuitously: "to give away by ***jmt pr***" is regularily contrasted with "to give for a price (i.e., to sell)" in regulations relating to private funerary foundations (*Inscription of Kaemnofret* l.8-1.9; *Inscription of Senenuankh* l.2) from the Old Kingdom. Since in earlier periods offices could not be sold but only transferred by ***jmt pr***, there are a few cases of ***jmt-pr*** documents having been drawn up in connection with deposits or loans that were not repaid, with the office (or rather the will concerning the office) acting as security (P. UC 32055) or compensation (*Stèle Juridique*), but this does not mean that the ***jmt pr*** itself documented a transfer against payment.

b) ***jmt-pr*** documents did not become effective immediately but after the death of the issuer: In Papyrus UC 32037 of the 12th Dynasty, an earlier ***jmt-pr*** document was revoked and a new one put in its place; this would not have been possible if the first one had already been valid from the date of writing. Moreover, the ***jmt pr*** was so closely linked to succession and inheritance that it had to be mentioned explicitly if any of the provisions were to be executed immediately, like the institution of the son as "staff of old age" (assistant to an offical going into partial retirement) in P. UC 32037.

c) The beneficiaries of ***jmt-pr*** documents are almost always relatives and mainly children (*Inscription A of Metjen*; *Inscription of Harkhuf* A l.4). The only known possible exception is the above-mentioned P. UC 32055. Johnson's statement (1996) that only those persons who would not otherwise inherit received ***jmt-pr*** documents is contradicted by the standard phrase in Old Kingdom regulations relating to private funerary foundations (e.g., *Inscription of Kaemnofret*, *Inscription of Nikaankh*), in which it is forbidden for the funerary personnel to sell or to give their office by ***jmt-pr*** document to anyone except a son (in the *Inscription of Senenuankh*, ***msww*** "children" are mentioned instead of the son): thus it was possible to write such documents even for primary heirs.

Although ***jmt-pr*** documents are first mentioned in inscriptions of the 3rd and 4th Dynasties (e.g., *Inscription A of Metjen*), no document of the Old Kingdom identifies itself as an "***jmt pr***." The phrase ***jmt pr tn*** "this ***jmt-pr*** document" occurring in *Inscription A of Nebkauhor* does not refer to the text itself but to the underlying document of which the text is but an additional provision (Lippert 2008: 25). There exist on tomb walls, however, transcripts of documents in which property is transferred gratuitously to relatives (i.e., donations) and which therefore might be ***jmt-pr*** documents (*Inscription of Wepemnofret*; *Inscription of Nikaura*).

From the Middle Kingdom, there are two ***jmt-pr*** documents labeled as such by their introductory

formula ***jmt pr jrt.n*** NN ***n*** NN, "***jmt-pr*** document that NN made for NN." In P. UC 32037, the eldest son inherits the office of his father (he is introduced as his assistant already during his lifetime), while an older ***jmt-pr*** document for a first wife is canceled and a new one in favor of the children of a second wife put in its place. In P. UC 32058 a husband bequeaths his property to his wife, stipulating that she is allowed to pass it on to her children as she likes. In phrasing, these ***jmt-pr*** documents therefore resemble the documents for gratuitous property transfer of the Old Kingdom, thus strengthening the argument for the aforementioned identification, but contain additional provisions, which in the Old Kingdom seem to have been laid down in separate documents (Lippert 2008: 41). The first known ***jmt-pr*** document drawn up in connection with a payment, most likely as a security (P. UC 32055, mentioned above), dates from the 12th Dynasty, and this practice seems to have continued since there is a somewhat similar case documented on the 17th Dynasty *Stèle Juridique,* where an ***jmt pr*** transferring the office of mayor of Elkab is used to pay back a loan from one brother to another.

In the New Kingdom, ***jmt-pr*** documents continued to be used. The *Instruction for the Vizier* states that ***jmt-pr*** documents had to be sealed by this official, a task that was quite likely obligatory for all deeds of this kind and not just for those in which an office was transferred, as van den Boorn (1988: 180 - 181) assumes (Lippert 2008: 73). Purely due to the randomness of preservation and findings, no actual ***jmt-pr*** documents from the New Kingdom are known, but there is a possible draft of one on an ostracon (O. DeM 108) and a transcript of another on a stela (Stela Cairo CG 34016). The latter text, unfortunately damaged, seems to be a fairly accurate copy of the original document: The husband allots his property to his wife and children, stipulating that the wife is to hold it during her lifetime and that it should be divided among the children when she dies (euphemistically expressed as "after her old age"). The inscription on the *Stela of Ahmose-Nefertari*, however, which deals with the sale of the office of the Second Prophet of Amun by Queen Ahmose-Nefertari to her husband, King Ahmose, is neither a full nor a partial transcript of an ***jmt-pr*** document: the queen inherited the office through an ***jmt-pr*** document (cf. Gitton 1976: 66 - 70 and Trapani 2002: 152 - 165), but sells it through a ***swnt*** document cited in excerpts on the stela.

The last attestation of an ***jmt-pr*** document within a real-world context can be found on the *Adoption Stela of Nitocris*: After Nitocris, daughter of Psammetichus I, was adopted by the designated successor of the reigning God's Wife, the devolvement of the sinecure to her subsequent to her adoptive mother's death was secured by ***jmt pr***. Later, ***jmt-pr*** documents became purely symbolic (e.g., in epithets of a god or king), indicating that the recipient took on the role of son and heir and was therefore the chosen successor of the god(s) (cf. Leitz 2002: 291).

2. Donations.

During the New Kingdom, ***jmt-pr*** documents appear side by side with donations that are not explicitly qualified as ***jmt pr***. The reasons for this are not entirely clear; it seems, however, that the ***jmt pr*** by then (if not much earlier) had become a type of document virtually reserved for the bequeathing of offices and important possessions. The requirement to have it sealed by the vizier made the procedure more costly and complicated and might also have contributed to a limited use by the lower classes. A draft (or preliminary notes) for such a donation is preserved on the fragmentary O. Gardiner 55: after recapitulating his modest possessions and how he came by them, a man assigned his complete property to his wife and children. P. Turin 2021 + P. Geneva D 409 provide another example of a donation that might also include an adoption of the beneficiary wife.

On the other hand it is possible that, as in the Old Kingdom, there are documents belonging to the ***jmt-pr*** type that are not explicitly identified as such within the (surviving) text. Thus, the probably abbreviated transcripts of two wills in the form of donations on the so-called *Amarah Stela* may well go back to original ***jmt-pr*** documents, but they are simply called ***r*** "declaration" within the stela itself. In a similar way, the underlying document of the divine decree commemorated on Stela Cairo JE 31882, the so-called *Stèle de l'apanage*, might have been an ***jmt-pr*** document or a simple donation

document. There are no clear examples for the use of donation documents as wills after the New Kingdom: P. BM 10827, an early Ptolemaic donation document concerning "tombs" (i.e., in reality the income from choachyte services at these tombs) may be connected to inheritance since the beneficiary was the niece of the donator and the transferred objects at least partly derived from the property of her grandfather.

3. Fictitious sales.

As Demotic sales documents (*sḫw ḏbꜣ ḥḏ*) never mention prices, we can only suspect that most of the documents ostensibly dealing with a sale of property from a parent to a child, although mentioning neither the death or burial of the "vendor," functioned as wills, without excluding the possibility that some of them might have been real sales or transfers during the parent's lifetime (e.g., in connection with the marriage of a daughter). Perhaps it is merely by chance that such fictitious sales as wills seem to become more frequent during the Late Period and especially the Ptolemaic and Roman Periods, while at the same time donations as wills practically disappear, but on the other hand this might reflect a shift in the perception of the strength of titles based on the respective documents. In some cases the "sold" object is specified as a certain part of the property of the "vendor" (cf. P. Rylands Dem. 44), and sometimes one or more particular objects (e.g., a house or fields) are named (cf. P. Berlin P 6857 + 30039). The documents thus may resemble the typical Late Period division documents and can even mention the recipients of the other shares/objects, but purport that the transfer of property was for money. P. Vienna KHM Dem. 9479 is the single example that openly declares that the transfer is only effective after the death of the "vendor." The same may safely be assumed for P. Philadelphia 2, in which a clause is added at the end that the "buyer" has to supply five silver pieces for the mummification of the "vendor," who is her mother-in-law.

A special type of fictitious sales document is the so-called "Verpfründungsvertrag mit Vermögens-abtretung" (contract for sinecure with cession of property) (Spiegelberg 1923; Pestman 1961: 122 - 123 with footnote 8), through which a husband made over his complete property to his wife in exchange for her taking care of him in life and for burying him after his death. Since there is usually no cession document (*sḫ n wy*), the beneficiary wife probably came into the property only after the death of the issuer of the document. These documents therefore play the same role as those for the adoptions of wives from the New Kingdom: they put the wife in the place of "eldest son" both as sole heir of the property and as responsible for the funeral. Since there is nothing in the document itself that shows that the beneficiary was the wife of the issuer (although this was deduced by Pestman [ibid.] from external evidence), it is theoretically possible that these documents could also have been used for other persons; in fact, a very similar arrangement (although without the stipulation of lifetime care) is entered into by a woman with her daughter-in-law through P. Philadelphia 2.

4. Divisions.

Through division documents, equal or unequal shares of property are allotted to several prospective heirs (usually the children of the testator). One of the earliest real divisions of property between children of the deceased is documented on Clay Tablet 3689-7 + 8 + 11 from Balat from the 6th Dynasty (see list of *Sources* below): of at least four sons, one receives eight water wells, one four, and two received two each. It remains unclear how this division came about: the person (***Kmj***) who announces the division to the authorities is neither the testator, named ***Tšjw*** (who is probably already dead at this point), nor is he one of the inheriting children (named ***Wsḫw, Mdw-nfr, Jdwj***, and ***Ḥḏw***). In fact, he seems to be no relation of the family at all but rather a minor official. Therefore it cannot be determined whether the division had already been decided by the father and perhaps deposited with ***Kmj***, or whether the children themselves wished to divide their inheritance in specie. It cannot, moreover, be excluded that the division was enacted by the administrative council to whom the clay tablet was addressed.

The examples for testamentary divisions from the New Kingdom show that the procedure at that time consisted of a public oral declaration of intent

(*r*) by the testator about what items of his property should be given to whom, which was then recorded in writing (e.g., P. Cairo CG 58092 verso). P. Ashmol. Mus. 1945.97, also known as the *Will of Naunakhte*, calls itself ***hry n ꜣḫt***, "document about property"; it is a protocol of a division, although including the disinheritance of some children as well. A similar deed, cited on the occasion of a later redistribution of property among the heirs, is referred to on O. Louvre E 13156 as ***tp n pš***, "account of division," a term that remained in use until at least the 26th Dynasty (e.g., in the abnormal hieratic documents Papyri Vienna D 12003 and 12004).

During the Late Period, possibly coinciding with the switch from abnormal hieratic to Demotic (cf. Lippert 2008: 136), the practice of testamental division changed from a public declaration to the setting up of individual documents (called ***sḫ n dnjt, sḫ n pš,*** or ***sḫ n dnjt pš***) for each heir, and from the allotment of specific objects to a division of the property into proportional shares, e.g., one half, one third, or the like. (It is, however, possible that simply another type of document was used if the testator wanted to allot specific objects—namely, fictitious sales documents.) Sometimes the recipients of the other shares were also mentioned. This type remained the standard for the Demotic division documents of the Ptolemaic Period (Lippert 2008: 154 - 155). Examples of division documents from the same testator to different beneficiaries are Papyri Bibl. nat. 216 and 217 of the 27th Dynasty, and P. BM 10575, together with the original of the transcript in P. BM 10591 verso 5.1-5.24 of 181 BCE. It was even possible to make the size of the share dependent on the total number of children at the time of the death of the testator (P. BM 10120 B).

A remarkable exception to this pattern is P. Moscow 123 (68 BCE), not only because it states clearly that the division is to become effective "after [the] lifetime" of the testator (*m-sꜣ pꜣy.y ʿḥ ʿ*) and "when [he is] dead" (*jw.y mwt*), respectively, but also because it rather resembles the New Kingdom divisions: one document, addressed to the eldest son as main heir, specifies the whole division for all co-heirs; there seem to have been no additional documents for each beneficiary.

The division documents used as wills should not be confused with another type of division document known from the Late Period onwards that was drawn up between co-owners in order to specify their shares within a jointly owned property (cf. Lippert 2008: 154 - 155). This second type was also quite often connected to inheritance (cf. Papyri Vienna D 6937 and 10085), since inheritance was the most common cause for joint ownership.

5. Declarations of a sole heir.

In order to institute a person as sole heir other than the one who would be the legal heir or, from at least the Late Period onwards, to institute the legal heir as sole heir while excluding his siblings from any rights to the inheritance, it was necessary to draw up a document. The legal act could take the form of an adoption; this was probably the usual way if the bequeathing person was childless and wanted to prevent the inheritance from falling to his or her siblings as legal heirs. If, however, the intended heir was a child of the testator, but not the firstborn son, his parent could (from at least the Late Period onwards) declare him or her ***šr ʿꜣ*** "eldest son" (cf. *Codex Hermupolis* cols. 9.21-22); here the phrasing ***wʿ (n) nꜣy.f ḫrdw*** "one of his children," instead of "sons" or "male children," explicitly includes daughters as well. Since, by the Late Period, the "eldest son" was no longer sole heir, the additional clause "I have given you everything that I possess" had to be added if other siblings were to be prevented from claiming their shares. Thus, such a declaration document could also be used for the true firstborn son if he was to be sole heir. No actual document of this type seems to have survived, but a comparable phrase is used in some marriage documents.

6. Declarations of a trustee for a group of heirs.

The disputed document in P. Berlin P 9010 of the 6th Dynasty was a will establishing a certain person, most likely a relative, as trustee for the estate, with the task of satisfying the children of the deceased according to their order of birth with regard to the profits of the property without touching the resources. His function is called ***wnm n sbjn.n.f***, literally "one who eats without being able to damage." Such a will would have ensured that all

children and the wife benefited from the inheritance, something the testator seems to have deemed unlikely if the eldest son had inherited by legal succession. The precise term for this kind of document is not known; in P. Berlin P 9010 it was probably referred to simply as ***sḫ*** ("document") (Sethe 1926: 72).

7. Disinheritance.

Complete disinheritance of close relatives is not attested before the New Kingdom, although wills through which the inheritance of eldest sons was curtailed in favor of other children were possible from at least the 6th Dynasty onwards (cf. P. Berlin 9010). In the *Will of Naunakhte* (P. Ashmol. Mus. 1945.97) from the 20th Dynasty the testatrix specified in detail which of her children should receive none, or only a smaller share, of her property because they had neglected her. This explanation was probably not due to legal requirements, as Allam thinks (1973: 272), but to the feeling that some sort of justification was necessary towards the local community or the disinherited children themselves.

8. Requirements for the designated heirs.

There seems to have been no legal objection against appointing someone as heir who was not a blood relative or an adopted child; indeed at least in the New Kingdom there was a law, cited in P. Turin 2021 + P. Geneva D 409 col. 2.11 as **[***jmm jr s***]** ***nb ꜣbt.f m ꜣḫt.f*** "Let every man do what he wants with his property," and on the Third Intermediate Period statue Cairo CG 42208 c, 14 as ***jmm jr s nb sḫr n jšt.f*** "Let every man dispose (freely) of his property." However, in cases where a non-blood relation was established as heir, it was usually the wife: in P. UC 32058 a husband bequeaths the property that he himself had inherited from his brother to his wife by means of an ***jmt-pr*** document. In P. UC 32037, a similar ***jmt-pr*** document for the mother of the eldest son was canceled and replaced by one favoring the children of another wife, probably because by then the first wife had died or had been divorced. Both documents date to the Middle Kingdom. It is noteworthy that in the two similar cases of wives being established as heirs from the New Kingdom this was effected not by ***jmt-pr*** document but through adoption, while in the Late and Ptolemaic and Roman Periods fictitious sales with burial obligation or special clauses within marriage documents were used.

The only known ***jmt-pr*** document not drawn up for a blood relation seems to have been P. UC 32055, concerning a priestly office as security for a loan; from the fragmented text it does not appear which, if any, kinship relation there was between both parties.

Marriage and Inheritance

1. Benefits for the spouse.

The division of matrimonial property between the spouses with one third belonging to the wife—first attested in the 17th Dynasty (stela Cairo JE 52456; cf. also Vernus 1986: 84 - 85), attested several times in the New Kingdom (e.g., P. Turin 2021 + P. Geneva D 409, P. Ashmol. Mus. 1945.97, and O. DeM 764; cf. also Eyre 2007: 230), and commonly mentioned in Late Period and Ptolemaic marriage documents (e.g., P. BM 10120 A, P. Cairo CG 30650 + 30688 + 30800)—has often been seen as a matter of inheritance. In reality, however, the wife did not inherit a third of her husband's property. Rather, she was endowed with it already during her husband's lifetime, as can be seen from the fact that the third also fell to her in the case of divorce (P. Turin 2021 + P. Geneva D 409). Since the attestation of the one-third/two-thirds division far predates the earliest marriage documents and is there given as a well-known fact, it can be safely assumed that it was not dependent upon individual arrangements but legally binding from at least the New Kingdom onwards, as is also suggested by the peculiar phrasing of O. DeM 764, in which this division is set up as a general rule with the typical conditional protasis and injunctive or future apodosis structure of later law texts: "If the children are small, the property will constitute three parts: one for the children, one for the man, one for the woman. If he (i.e., the man) provides for the children, give to him the two thirds of all property, the one third being for the woman" (after Kruchten 2004: 42).

In Late and Ptolemaic and Roman Period marriage documents, the wife could be allotted to inherit larger parts or even all of her husband's property, but her right of disposal was usually restricted so that the property would after her death fall automatically to the children (Pestman 1961: 120 - 121).

2. Benefits for the children.

As seen above, some ***jmt-pr*** documents of the Middle and New Kingdoms, and some marriage documents of the Late and Ptolemaic and Roman Periods through which inheritance was allotted to a wife, state that all property is ultimately to fall to the children.

In certain types of marriage documents that became current from the 26th/27th Dynasties onwards (types A and C after Pestman 1961: 21 - 32, 37 - 50), the inheritance rights of the children from the marriage in question were established, sometimes even before the children were born. Often it was stressed that the firstborn son of this marriage would be counted as "eldest son" in the sense of the legal order of succession and therefore be the main or even sole heir: the phrasing "Your eldest son is my eldest son [among the children you will bear to me] . . ." was often extended to ". . . the master of all that I possess and will acquire." In other documents of this type, all children (or occasionally only the sons) were instituted as heirs of the paternal property (Pestman 1961: 117 - 121). If a man who had made a marriage settlement of the above-mentioned kind married a second time (either because he had divorced his first wife or because she had died), he could only draw up another marriage settlement if the first wife and/or his eldest son agreed to it in writing because he had already pledged his property as security for the maintenance of his first wife and promised it as inheritance to the wife and/or the children from his first marriage. This is explicitly stated in a law cited by the judges of the so-called Siut trial (P. BM 10591 recto cols.10.7-9).

Objects of Inheritance

The kind of property that could be bequeathed included real estate, movables, and certain offices with the benefices belonging to them. Since the possibility of free disposal either through sale, donation, or bequeathing was the main criterion for personal property in a society where, ultimately, everything belonged to the king, the declaration that basically all types of personal property could be bequeathed and inherited is a circular statement. By examining at what period which types of property appear as objects of inheritance and by which means they were transferred, we can, however, learn more about the development of personal property.

1. Real estate (buildings and land).

Already in the Old Kingdom, real estate was an object of inheritance. In the *Inscription of Metjen A*, Metjen recounts how his mother made an ***jmt-pr*** document for her children, most likely concerning fields, since Metjen either received 50 aurourai out of this (Gödecken 1976: 11) or gave them to her for that purpose (Strudwick 2005: 192). Real estate in the Old Kingdom usually included personnel who, however, should not be labeled as slaves since these people could not be sold independently from the land to which they belonged.

2. Moveables.

Although the main focus of documents of inheritance was usually on real estate, items of lesser value, such as furniture and household implements, were occasionally mentioned, especially if there seems to have been no other property (P. Ashmol. Mus. 1945.97; O. Gardiner 55). From the Middle Kingdom onwards, there are attestations that slaves (P. UC 32058) could be inherited.

3. Offices and appurtenant income.

Not all offices were inheritable, and even those that were usually held restrictions either as to the way in which they were bequeathed and/or to whom; with higher offices, royal (or, during the Third Intermediate Period, divine) approval was also neccessary.

During the Old Kingdom, inheritability of offices is attested for priestly functions of private funerary cults that, in the regulations, are usually stipulated to fall to the eldest son alone. The standard phrasing for this is "I do not give power to sell or to bequeath by ***jmt pr*** to anyone except the eldest son" (*Inscription of Kaemnofret*, *Inscription of*

Nikaankh). Rarely "children" in general is substituted for "eldest son" (*Inscription of Senenuankh*). It remains unclear whether this actually means that they could not be conveyed in any other way (i.e., through legal succession). For priestly offices at royal funerary temples, and supposedly for offices in the royal administration as well, their inheritability seemingly had to be granted in writing by the royal chancellery (P. Cairo JE 97348 frame 41), most likely in consequence of a royal decree (Posener-Kriéger 1991: 112).

From the Middle Kingdom onwards, occasionally also state and temple offices such as the mayorship of Elkab (*Stèle Juridique*) or the office of Second Prophet of Amun (*Stela of Ahmose-Nefertari*) appear as objects of inheritance, usually through ***jmt pr***. Perhaps this was in fact a legal requirement, because, at least until the early New Kingdom, it meant that the bureau of the vizier had to give its agreement. The incomes of funerary priests (choachytes) for their sevices at private tombs appear quite often in inheritance documents from the Late Period onwards (e.g., P. BM 10026).

Bibliographic Notes

The present essay explores in depth the diachronic development of inheritance patterns in ancient Egypt, while earlier treatises deal with inheritance within the wider framework of Egyptian legal history as a whole, such as the recent overviews in the *Handbuch der Orientalistik 72* by Jasnow (2003a: 124 - 126; 2003b: 278 - 279; 2003c: 333 - 336; 2003d: 803 - 804) and Manning (2003: 839 - 842), or Lippert's introductory volume in the series *Einführungen und Quellentexte zur Ägyptologie* (2008: 16 - 18, 36, 61 - 63, 125 - 127). Other essays (e.g., Pestman 1987) discuss the topic in connection with particular sources or archives, or make no chronological differentiation at all (Allam 1999 and 2001). In his lengthy entry in the *Lexikon der Ägyptologie*, Mrsich (1975) refers very rarely to actual legal documents as sources so that his ideological, socio-political, and etymological speculations about the spirit and purpose of the Egyptian inheritance system appear somewhat unrelated to the real-life cases that are known to us. Among the relevant texts, the ***jmt-pr*** document has received special attention (Mrsich 1968, Gödecken 1980, Logan 2000), but opinions on its nature remain divided. The phraseology of sales documents of the Ptolemaic Period has been studied by Zauzich (1968), and of the Roman Period, by Lippert and Schentuleit (2010: 11 - 58), while other types of instruments to bequeath property have never been analyzed in depth. For a short overview of the phraseology of documents of division among heirs from the Ptolemaic and Roman Periods, see Lippert and Schentuleit (2010: 59 - 65).

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