An Arabic Will Written on a Ship
Alia Hanafi

P.ACPSI. No. 16 = P.Rag. 6 Plate I  28 x 21.3 cm
Dhū al-Ḥijah 102 AH / June AD 721 Provenance Unknown

This light brown papyrus is well preserved, except for the top which is broken off and several small holes throughout. There are three vertical folds measuring (from right to left) 5.4 cm, 8.5 cm, and 7.4 cm. At the bottom, there is a blank space of 10.3 cm. On the bottom left side, under the last line, there is a circular seal that may be clay or wax.

The heading of the document is lost. The text was written against the fibers in 13 lines, in black ink, by a neat, elegant hand, showing semi-Cufic characters (cf. APEL III 174 pl. XIV). Diacritical marks are absent. The other side is blank.

This document was written in Dhū al-Ḥijah, the month of Muslims’ ḥajj, dated in the Umayyad period (AD 661–750) (Hawting 1986, 24 ff.) in the reign of Yazid II (AD 720–724) who appointed Bishr b. Ṣafwān al-Kalbī as ruler of Egypt (101 AH). However, according to some rebels of the tribe of Qudāāh, after the death of ʿUmar b. Abdel-ʿAzīz (d. AD 720) he travelled to north Africa by the order of the caliph Yazid II, leaving his brother Ḥanṣālah b. Ṣafwān as a ruler (Ibn Iyās 1982, 126, and Ibn Khaldūn s.d., 76). The caliph Yazid II approved the decision of Bishr. It is said that Ḥanṣālah b. Ṣafwān ruled Egypt three times and the last one was the year 128 AH (Al-Kindī 1908, 71).

The document is drawn up in the form of a private letter (see ll. 8–9n.), but it includes the manumission of a slave-girl (see l. 1n.) and sets aside a waqf, a house and vineyard for her benefit. By adding the seal and witnesses at the end, the letter becomes official. The testator is a female, a testatrix (see l. 5n.), whose name is not preserved. She has put a condition that she will live in her house for as long as she is alive, but after her death the house and a vineyard will be given to the manumitted slave.

The mention of locking the testatrix and other pilgrims on the ship means that the government prevented them from reaching the shore. Plague or some other epidemic disease might have dictated this sort of situation. The Islamic world had suffered at least five major plague epidemics before the Black Death in the 14th century. In 639, one of these outbreaks killed 25,000 Muslim soldiers in the army of ʿOmar, the second Muslim caliph, yet the Black Death was far more deadly than any of the previous plague epidemics that had hit the Islamic world (see Dols 1977, 23). Islamic theology held different views about the plague. A Muslim should neither enter nor flee a plague-stricken land (see Dols 1974, 371–383). But in our text the possibility of a plague remains a pure speculation.
then and I really have manumitted and I could not, so I wrote to you
to entrust to you what has been made for Allah (act of charity i.e. manumission),
dependant on our blood relation

and I made the house and the grape (i.e. the vineyard) not to be sold for
her to inhabit after me (my death) and for me to inhabit as long as I live. I wrote
to you this letter while we are locked in our ships.
So, I ask Allah to ameliorate our companionship and our health

and our course and confer its benefit on you. Write for us
about your news and your safety.
Witnessed on this saḥifah Al-Ḥarib bin ’Uqāib
and ’Abdullah bi[n] Salim, and Gharib bin Dwal,
and ‘Aṣr bin Ḥajaj[r] and it was written by dictation.
Dhū al-Hijah year one hundred and two.

1: In Islam, it is necessary that the person who makes a waqf should be balīgh (mature),
sane, and should be doing so of his free will. Earlier, in Greco-Roman Egypt, both Egyptians and Greeks
had the right to make wills too (see Taubenshlag 1971, 201 ff.). According to shari’ah, the testator should
also have the right of disposal and discretion over his property. A feeble-minded person cannot make a
valid waqf. There are hundreds of ḥadith that deal with issues of slavery. In Saḥīḥ al-Bukhārī, entire
chapters of ḥadith are dedicated to dealing with the taxation, treatment, sale, and jurisprudence of slaves.
Furthermore, numerous ḥadith mention slaves and their relation to their Muslim masters. Islam opened
many ways for the emancipation of the slaves (Al-Tabataba’i 1390/1971, 338–358). Islam's followers
treated their slaves humanely because it is part of their fundamental faith. The Qur’ān admirably recognizes
that there are no differences between human beings regardless of their culture or color and it makes
no suggestion as to which race is superior (Q. 49:13). The faith is generally tolerant of others and slave-owners were promised rewards in heaven for showing their piety and treating their slaves well. The Qurʾan also instructs Muslims not to force their female slaves into prostitution (Q. 4:24). Emancipation of slaves was also declared to be expiation as a penalty for crime or sin (Q. 4:92, 5:89, 58:3). For instance, if a man failed to fast without any reasonable excuse during the month of Ramadan, or if he failed to observe the fast of ʾiʿtikaf or vow, etc, he had to free a slave, in addition to fasting afterwards (Al-Khūʾi 1974, 328–331, and Q. 4:92, 5:89, 58:3). Islam allows slaves to buy their liberty as it happened with the captives of the very first Islamic battle, Badr (who were freed on ransom in the form of money or work such as teaching ten Muslim children how to read and write), or to free them without buying their freedom as those of the tribe of Tayʿ (Al-Wâqidī 1966, 129; and Ibn Saʿd 1912, 11, 14). The Prophet Muhammad, in his Farewell Sermon, exhorted Muslims to feed slaves with the same food as they eat and to clothe them with what they wear, and if the slaves commit a fault which they are not inclined to forgive, then they part with them, for they are servants of the Lord and are not to be treated harshly (Ibn ʿAbdel-Barr 1412, vol. 4, p. 1573).

3   : In Islamic law, a will or testament is a document by which a person (the testator) regulates the rights of others over his property after the death or before his travel to ḥajj. Usually, the pilgrim wrote his will before ḥajj, but it seems that the testatrix did not do it before her travel.

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5   : Here the testatrix put a condition in her will that she will live in the house as long as she is alive. After that the house will be waqf for the girl.

6    : One can conclude that the testatrix was in ḥajj because the document was dated in Dhū al-Hijjah the month of ḥajj, but she was locked on a ship perhaps because of an epidemic disease. In the middle of the sixth century AD the Mediterranean world was struck by the so-called Plague of...
Justinian, an epidemic that would recur in further successive waves until the mid-eighth century. During the reign of the Emperor Justinian I (AD 527–565), the waves of bubonic plague first reached the Roman world in the spring of AD 541. It has taken its name "the Plague of Justinian" from the name of the Emperor (Russell 1968, 174–184). According to the historian Procopius, secretary to Justinian’s General Belisarius, the first outbreak of the Plague that killed hundreds of thousands of people began in Constantinople in AD 542 (Bray 2000, 22–23). Russell estimates a 20–25 percent population during the first epidemic of AD 541–544, and a total loss of 40–50 percent of the pre-plague population over the period AD 540–700 (Russell 1968, 174–184). After that the Islamic world suffered from recurring epidemics of plague up to the 19th century (Biraben and LeGoff 1969, 1484–1510). The Muslim historian, Ibn Khaldûn, who lost his parents to the Black Death, wrote of its devastation (Dols 1977, 67). The Middle East as well was hit by successive outbreaks of the plague. Dols lists six "major" epidemics between 627 and 717 (Dols 1974, 371–383). According to Islamic law, a Muslim should neither enter nor flee a plague-stricken land. Therefore, in Egypt, the ships in the harbor that bear ḥajj passengers on board might have been shut up according to the quarantine regulations. (see Dols 1974, 371–383). Anyhow, pilgrimage is required by every Muslim who can afford it at least once in a lifetime.

7: This sentence may confirm our suggestion that there was an epidemic disease in that time.
8: This sentence means that the addressee is one of the heirs who may be also the guardian.

8–9: It is clear that the formula here is that of a letter, but since the sender asks the addressee to reply with his news, one wonders how this letter was delivered to the recipient since the sender was locked on the ship. I assume that the sender used pigeons (homers). The first actual records of using homing pigeons to carry messages come from Egypt (Herodotus 8.98). Pigeons provided the only method of communication, and the success of the pigeon post appeared in both official and private communications. Various governments established systems of communication for military, especially naval purposes to send messages between coast stations and ships at sea by pigeon post (James and Thorpe 1994, 526). The governor’s pigeons flew straight for the houses where they were trained to reach their original nests. Egypt organized its first formal postal system and called it "al-Barîd" with designated routes starting (or ending) at the Cairo Citadel under the Arab caliphate of Mu’awiyya (d. 679) (Râfât 1995, 2).

10: To my knowledge, the use of the word al-ṣaḥīla is an hapax.

10–12: These lines contain the signatures of the witnesses and the scribe. The witness must be adult, mature, sane, just etc, (see Ibn al-Ṣirāfi 1994, 4, 364). Although the testament must include two witnesses at least, according to the Islamic law, the conclusion of a contract required four witnesses. Written agreements which were not formally witnessed and signed by capable persons were not regarded as binding. Contracts could be made orally, but to avoid conflict, people were encouraged to put them in writing, witnessed and signed by capable persons (Q. 2: 282).

12: The name المَسْتَعْلَى appears in Al-Zarkly 1980, 225, but one may think that the word is a verbal adjective instead (nomina patientis) (see Wright 1967, 134, 236) meaning "it (i.e. the letter) was written by dictation," which I prefer because the name in Al-Zarkly has an article.
Works Cited:

Ibn ‘Abdel-Barr 1412 = Ibn ‘Abdel-Barr, Al-Ist‘ā‘ab fī Ma‘rafat al-Aṣḥāb (Beirut 1412).
Ibn Khaldūn = Ibn Khaldūn, *Tārikh Ibn Khaldūn al-Musama bi-kitāb al-‘Abar, wa Dīwān al-Mutada‘ wa al-Khabar wa al-Ayyam al-‘Arab wa al-Agam wa al-Barbar*, vol. 3 (Beirut, s.d.).
Ra‘fat 1995 = S. Ra‘fat, A Snapshot of Egypt’s Postal History: The Egyptian Mail (Cairo 1995).
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Plate I