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## The Persian Tradition of Marriage Documentation: A Comparative Survey of the Pre-Islamic and Islamic Marriage Contracts

### Introduction

Marriage documentation has been an ancient tradition in the history of Iran. It can be traced back pre-Islamic era. The oldest reference to marriage is made in the *Gathas* (the Zoroastrian religious hymns) in which advice is given to all marriageable youths and virgins and mention has been made of the marriage of the daughter of Zoroaster<sup>1</sup>.

The tradition continued during the Islamic era with great interest and eventually gave way to the emergence of a unique form of art, the Art of Marriage Documentation. Historical sources inform us about the custom of marriage documentation in Iran throughout the Islamic era. As marriage, in Islamic jurisprudence, is viewed as a kind of 'contract' or 'agreement' with certain financial implications, it is but natural to assume that some system of 'recording' was being implemented. The recording system in the small communities and the rural areas was most probably in the way of oral agreement of the two parties that was endorsed – and became legally valid – by the presence of a few respected members of the community. The preparation of a written form of agreement, 'the marriage contract', was practiced among the learned and elite

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<sup>1</sup> - Anklesaria, Ervad Tehmures Dinshaw, *The Social Code of the Parsees in Sasanian Times on the Madigân-I-Hazar Dadistan* (Bombay: 1912, Reprint Edition, Tehran: 1976)



who resided in big cities. A handful of Safavid marriage contracts have been preserved, yet the greatest body of historical marriage contracts of Iran, belong to a rather late phase, the Qajar period (A.D. 1794–1925).

The terms “contract” or “document” sound dry and rather too harsh when what we are referring to are exquisite, ornamented and sometimes sumptuous pieces of art. But as these fine examples of art, aside from their exquisite style of writing and impressive appearances, carry with them information of historical importance and commitments of socio-economic nature, among other religious issues, they are classified as ‘documents’.

### **Marriage Documentation in Pre-Islamic Iran \***

Marriage was considered a sacred act bestowing man and woman with everlasting life through their children and their children’s children. It was believed that the good deeds of children were recorded in the name of their father; therefore by raising good children and providing them with proper education and moral values, the parents were actually doing good to themselves.

Amid the Pahlavi and Pazand texts, the number of the marriage documents—to the best of our knowledge—does not exceed six. The oldest among these beautiful texts belongs to 1278 A.D. Unfortunately, no older documents have been found; but from the few available ones, a fair amount of information concerning the traditions, customs, conditions and the structure of the marriage documents in the Sasanian period (A.D. 224–651) can be extracted. The study of these documents reveals a rather unified structure that can be classified as follows:

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\* In the preparation of this section I have benefited from Dr. Saeed Oryan’s paper, entitled “The Structure of Marriage Documents in Pahlavi and Pazand Texts”



*A. raise of the Lord*

The marriage document starts with the praise of Ohormazd, the Creator; wishing for His satisfaction, and supplication for the couples.

*B. Introduction of the newly weds:*

The main text after praising the Lord gives a detailed account of the marriage: It records the date (day, month, and year) of the marriage and provides the genealogical tree of the marrying couple.

*C. Declaration of agreement:*

The declaration and agreement of the wedding couple in accepting the responsibility of a mutual life and the commitment of the two parties to all the conditions involved<sup>2</sup> constitute another section of the Zoroastrian marriage contracts.

*D. Bride's dower:*

An important aspect of the marriage contracts, which involved financial commitment, was called '*the rate of the marriage portion*' (the dower). The amounts of a bride's dower varied between 2000 & 3000 silver *drachmas* in different periods. It is interesting to note that though the dower amounts changed over time, however, the general rate of the "marriage portion" within each period remained standard within the society. The necessity of the payment of dower (regardless of the amount) by the

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<sup>2</sup> Anita, Ervard Edalji Kersaspji, 1909, *Pazand Texts*, Bombay pp. 170-171.



groom is strongly stressed upon in the religious texts of the pre-Islamic Iran. In the text of *Nikah az Ravis-i-Iran*, it is stated that: “if such and such a person demands her property at night, or during day time, or if she commands it to be given to someone else, the husband should give it to her and he may not act otherwise”<sup>3</sup>. According to the stipulations in the marriage contracts, the brides actually received their “marriage portion” and exercised full authority in transferring or spending it<sup>4</sup>.

A survey of the literature available to us is indicative of a decline in the marriage portion. This seems to be so, owing to the fact that divorce was and still is difficult to attain in Zoroastrian religious law. Divorce is considered illegal and is almost impossible to get unless under the following four conditions: treachery, hiding of menstruation, witchcraft, and infertility<sup>5</sup>.

E. *Prayer and advice:*

The concluding part of the marriage documents bore advice to the bridal couple and prayers for them.

F: *Names of witnesses:*

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<sup>3</sup> - Anita 1909, pp. 170-171.

<sup>4</sup> - Abar Paymanag-e Kadg-xwadayih 7-9; Oryan 1992, pp. 174-175, 363-364; Jamasp Asana 1897, pp. 142-143.

<sup>5</sup> - Saddar Bundelesh 34/8-7.



And finally the names of the witnesses whose presence was in the form of a group<sup>6</sup> bore testimony to the fulfillment of the marriage ceremony.

#### Marriage Documentation in the Islamic Era

Marriage in Islam is referred to as an act of sacred nature. It is a blessing bestowed by His Providence to man in order to ease his life, console the soul, to relieve his pain and to provide him with children to care for. *“It is He who created you out of one living soul, and made of him his spouse that he might rest in her. Then, when he covered her, she bore a light burden and passed by with it; but when it became heavy, they cried to God their Lord, if Thou givest us a righteous child, we indeed shall be of the thankful”* (The Qur’an, 7:189). *“And of His signs is that He created for you, of yourselves spouses, that you might repose in them, and He has set between you love and mercy, surely in that are signs for a people who consider”* (The Qur’an, 30:21).

Marriage is referred to in the Qur’an as an eternal reward in the life of the hereafter.

According to the Divine Words, the believers *“shall be admitted to gardens underneath which rivers flow, therein dwelling forever, and spouses purified”* (3:15, 4:57). A Prophetic Tradition (*hadith*) indicates “among all established assemblies in Islam, no assembly is as loved and favored by the Glorious and Dignified God as “the marriage”.<sup>7</sup> Another *hadith* refers to marriage as an act that saves half of one’s faith.<sup>8</sup>

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<sup>6</sup> - Abar Paymanag-ī Kadag-xwadayih 1,11; Oryan 1992, pp. 174-175, 363-364; Jamasp Asana 1897, pp. 142-143.

<sup>7</sup> - *Wasa’īl al-Shī’ah* vol. 14, pp. 3-4.

<sup>8</sup> - Ibid



In the course of studying the narrated Traditions, we come across values based upon which a man is advised to select his life partner. These values in respect to both the physical as well as the spiritual aspects of a woman have been clearly defined. A perfect woman is introduced with attributes such as: piousness, politeness, wisdom, chastity, and generosity. Having an honorable family background, beauty, the ability to fulfill the husband's sexual needs and the capacity to bear children are also counted among such esteemed qualities.<sup>9</sup>

The same attributes have been embodied in the numerous titles of honor for the brides in the beautiful literature of the marriage certificates of the Qajar period. Titles such as "*Kameleh*" and "*Bālegheh*" for example, refer to a bride's fertility. "*Afifeh*" and "*Esmat Panah*" allude to her chastity; "*Khorshid Neqab*" and "*Qamar Neqab*" to her beauty; and "*Sherafat Dastgah*" to her noble genealogy.

The importance given to marriage in Islam, and the Persian aesthetic sense, were combined and manifested in the Persian marriage certificates that are no less than exquisite works of art. These beautiful documents were executed in the forms of "scrolls" and "booklets". Artists have adorned them with the lavish use of lapis lazuli, cinnabar and gold. The texts were written in beautiful calligraphy and the whole document was composed in a beautiful, artistic manner. In my experience, the Persian marriage certificates are among rare examples where a text of documentary nature, of poetic structure, bearing social, cultural, and financial aspects; laced liberally with sacred verses and religious quotations and embodied in attractive inscriptions is interlocked with colorful, delicate and precise illuminations of high quality – forming a multidimensional object of historical, literal, and artistic value.

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<sup>9</sup> Ibid., pp. 13-14.



The analysis of these documents could thus best be pursued from two different angles, i.e. the “Literature” and the “Art”. In this paper, however, we will only deal with the content of the literature and leave the artistic aspects of the works to another time.

### **A Survey of the “Literature”**

Marriage contracts from the Qajar period are treasures that provide us with valuable information embodied in a poetic style of literature. Since these documents celebrated the happiest and the most meaningful events of the lives of people, they were therefore, prepared with great precision and elaborate attention. Though the earlier examples of such documents are rather simple and lack any form of decoration (Figure 1), the calligraphic quality of such works are almost always superb. As marriage documentation became more popular, along with it grew the urge for more artistic elaborations of the pieces; while comparing the contracts of different dates one will observe a considerable increase of decorative elements, colors and an overall sophistication in the layout compositions. (Figure2)

The literature of these charming pieces, too, is in no way inferior to their sumptuous appearances. The text of these documents comprises the following sections:

- A. Tahmidiyeh**
- B. Pish-neveshtar**
- C. Introduction of the marrying couples**
- D. Bride’s dower**
- E. Concluding prayer and date**
- F. Endorsement of witnesses**



A. *Tahmidiyeh*

This Arabic word –from the root “*hamada*”– may be translated as “vote of praise”. This section always appears in Arabic. The most important part of *Tahmidiyeh* displays the popular phrase

"هو المؤلف بين القلوب والابصار"

“*He is the One Who brings together the hearts*” “*and the eyes*”

in a most beautiful script (Figure3). It is amazing that the above phrase precedes the

“*bismillah al-Rahman al-Rahim*” (In the name of God, the Compassionate, the Merciful) in

terms of location in the page; it appears on the very top, while the *bismillah* follows on the

following row. The way God is perceived in the above phrase is certainly unique, and one

can hardly come across such form of expressions (placed on such prominent position) except

in the Gnostic context in the literatures pertaining Islamic mysticism. Love, in mystical

context, has a divine origin; the union of a couple, therefore, must be considered an act of a

divine nature rather than an attraction solely based upon animal instincts. Addressing the

Divine Principle by the pronoun “هو” (literally “He”), is a common Sufi tradition; it refers to

God on a level that transcends the domain of “names”. The Sufis chant the word "هو"

repeatedly in their meditations as a kind of mantra in their process of invocation or *zikr* (ذکر).

The high location of this quotation on the *sarlowh* section (the ornamented heading of a

marriage contract) is also supposed to remind the marrying couples about the exalted nature

of their affection for one another, that the essence of love appears before it’s expressed in

words, and encourages them to make every effort to maintain that sacred bond. The former



quotation is then followed by the “*bismillah al-Rahman al-Rahim*” and a vote of praise and thanks giving to the Lord (in the Arabic language) for blessing people with the boon of marriage. Two brief examples of such statements are presented below:

"الحمد لله الذي اباح النكاح وسيلة الفلاح و النجاح"

“*Praised be the Lord Who announced marriage a means for fortune and prosperity.*”

"الحمد لله الذي احل لنا النكاح و حرم الزنا و السفاح بعدله"

“*Praised be the Lord Who declared marriage legitimate (according to the divine law) for us and prohibited adultery and fornication by His justice.*”

The same concept is expressed in different wordings and sentences of varying lengths. This, along with the previous quotation usually adorns the *sarlowh* in the documents.

### **B. Pish-neveshtar**

The *Pish-neveshtar* or preface usually appears in Persian and Arabic languages, complementing each other and creating a floral literature. It is the longest part of the text, describing the aims and objectives of marriage in a most beautiful manner; using metaphors in the Persian language and supporting it with Qur’anic verses, *hadith* and prayers in Arabic. The following *hadith*, narrated from Prophet Muhammad stresses on the act of marriage as a religious duty; it is quoted in the majority of the contracts.

“النكاح سنتي فمن رغب عن سنتي فليس مني“

“*Marriage is my tradition;*

*Then whosoever does not favor my tradition is not with me.*”



Our survey reveals over 20 different verses that have been quoted – in full or in part – in the marriage certificates. The subjects of these Qur’anic verses vary from “*God’s creation of man in fairest stature*” (37: 6) to “*The creation of man of a sperm drop ... making him hear and see, and guiding him ...*” (76: 2) to a range of other subjects relating to creation of nature, man’s obedience to God and the like. But again the emphasis has been made upon the unity of the two souls in wedlock. “*Glory be to Him, Who created all in pairs ...*” (35: 36).

### **C. Introduction of the Marrying Couples**

This section is the starting point where the word “document” becomes justified in identifying the contracts, for it is in this part that we have the names and other formal information of the bride and the groom and their respective fathers rather than praises and prayers. This part, too, usually starts with a statement referring to the auspicious timing of the ceremony.

The timing of the ceremony was selected on the basis of two factors:

- Commencement of a married life on days of mourning, be it religious (*A<shu>ra*, the 10th day of *Muharram* – the date of martyrdom of Imam *Hussayn*) or the demise of a grand member of the marrying couples’ family, was not deemed proper. On the other hand, days of religious festivities (like *Aid al-Qurban* and *Aid al-Fitr*) were – and still are – considered auspicious, many families would prefer to arrange the marriage ceremony of their beloved ones on such days of good omen.



- Locating and suggesting the precise timing (month, day and hour) for the commencement of the *nikah* was also a duty of the astrologers. It has been a tradition to consult an astrologer before taking action on important matters. Due to this very reason, we come across statements indicating the auspiciousness of the timing of the marriage before actual mentions are made of the names of the groom and the bride. The wordings of this section too is floral; although the writing structure is Persian but the usage of Arabic expressions is abundant; this is due to the important status of Arabic with regard to religious issues. The style of writing is in the form of rhymed prose and is very different than what modern Persian reader is used to, yet the rhythmic phrases and the musical tone created by the rhymed composition of words – when read aloud – make the passages pleasing even to the ears of a non-Persian-speaking audience. An example is presented bellow:

در بهترین وقتی از اوقات و نیکوتر ساعتی از ساعات به مبارکی و فیروزی عقد مناکحه مبارکه صحیحه صریحه  
شرعیه و مزوجه دائمه میمونه ملیه اسلامیه علی کتاب الله الکریم و وافق الشرع القویم و الدین المستقیم واقع و منحقق  
شد فیما بین ...

*“in the happiest of all days and in the most auspicious hour of the hours, when the planets are cleared from misfortune and the stars are adorned with felicity and bliss, the ceremony of marriage was held according to the divine law between ...and...”*

After this statement, the introduction of the marrying couples begins. The groom’s name comes first followed by that of the bride’s. The names, however, do not ever appear without the embellishment of elaborate prose; and sometimes we have up to two lengthy lines and over ten attributes counted before we reach the actual name. Titles of honor at the first glance



appear as mere ornate language of no significance, but studying them in detail would reveal otherwise: titles such as “*Kamileh*” (perfect) and “*Baligheh*” (of mature age) for example, refer to a bride’s fertility. “*Effat Panah*” (protected by purity) and “*Esmat Dastgah*” (of excellent chastity) allude to her chastity; “*Khorshid Neqab*” (the sun-veiled) and “*Golguneh chehreh*” (rose-faced) to her beauty; and “*Sherafat Dastgah*” (of noble essence) to her noble genealogy.

The name of each partner is then followed by his/her father’s name, again preceded by a few titles of honor and several exalting attributes.

#### **D. Bride’s Dower**

The dower of the bride follows her and her father’s introduction in the marriage contracts. In this part, there is no trace of the floral language and the poetic literature as the issue is purely financial in nature. A detailed description is presented in this section, of the items included in the bride’s dower. We read about silver, gold, cash, land, real estate, houses, carpets, kitchenware, furniture, streams, walnut trees and even male and female servants, as part of the bride’s dower. The accounts are given with great precision in this section and the



payment, from the groom's side and the receipt from the bride's, of any part of the total dower is testified by the seal impressions of a few witnesses.

### **E. Concluding Prayer and date**

The text of the documents continues into its final stages with a prayer for the increase in love between the newly weds and their children to come. The Arabic text of the prayer is pretty much the same in most of the contracts with minor additions or modifications. A common form of the said prayer reads:

الهم بارك لهما و الف بينهما و طيب و كثر نسلهما و طول عمرهما و وسع رزقهما...

“O Lord; bestow your blessings upon them, and strengthen the love between them, and purify and expand their generation, and give them long life, and increase their daily bread.”

The concluding statement of every marriage document is the date of the marriage. Most contracts give a full account of the date including the day, the month and the year, specified according to the lunar calendar.

### **F. Endorsement of witnesses**

Witnesses were those who gave legality and credibility (in the social and religious sense of the word) to the *nikah*. They were among the respected members of the community, and in many cases, selected from the elderly and the pious. They endorsed the *nikah* ceremony by putting their seal impressions on the contract, without whose endorsement the marriage did not carry social or religious validity (according to most of Islamic system of jurisprudence



the presence and confirmation of at least two witnesses are required to validate an agreement between parties, be it a business contract or a lifetime partnership agreement between husband and wife.

### **A Survey of the physical structure**

Another aspect of the marriage contracts is the physical structure. The historical marriage certificates came in different sizes, some with minor or no decorations at all, while others were highly decorated and illuminated using intricate geometrical and / or floral motifs and arabesque designs embellished with gold, silver, lapis lazuli and cinnabar. However, in order to introduce the physical aspects of the marriage certificates, one could best do so by dividing them into two main categories:

- The Scroll-type Marriage Certificates
- The Booklet-type Marriage Certificates

The two categories share the same literal structure that we discussed earlier. However, the formal and artistic side of the works certainly deserves to be looked upon individually. The time-volume restrictions of the present study do not allow a thorough discussion of the artistic aspect of the certificates (a topic that I hope to discuss in detail in another time). I will therefore limit myself to the physical structure of the contracts in order to initiate the subject for further enhancement in the future.



### The Scroll-type (Figures 1, 2, 4)

The majority of the historical marriage contracts up to the 19<sup>th</sup> century are of scroll type. The surface that supports the text and decoration, in almost all examples that I have examined, is paper; although in rare cases cloth was also used. The text of the contract is usually placed slightly to the left of the center and closer to the bottom of the page; although there are exceptions with symmetrical space arrangement. The size of the scrolls vary as do their decorations; the dimensions of the smallest scroll that I have come across is 44.5 cm. x 31 cm. while the largest one, that I believe may be the largest ever recorded marriage certificate measures 162 cm. x 105 cm. The former, dated 1208 AH/1792 AD, is very simple (see Figure 4... Page 34 my book), while the latter is colorful and highly decorate. The larger format scrolls provided the artist more freedom in the usage of visual elements. The treatment of such works is similar to that of a painting since the whole idea needs to be reflected and embodied on a single surface.

### The booklet type (Figures 5,6)

The booklet type certificates were prepared in much smaller dimensions and had a rather unified format. Most of the booklet-type contracts possess similar features, probably since the designers' hand was not as free, and the work was confined within the framework of the limited sizes and proportions of a book. However the long and rich tradition of layout and illumination of manuscripts guided the artists to revive the old artistic tradition. For this, the general appearance of such contracts usually conforms to the style of layout and composition



of the traditional Persian manuscripts. The first two pages of *iftitah* (= literally 'opening')—as a rule—comprise the *Tahmidiyeh* and *Pish-neveshtar*, adorned with elaborate illuminations with gold, cinnabar and lapis lazuli. The rest of the pages carry the rest of the text.

### Conclusion

A comparative study of the history of marriage documentation in Iran, and the content of such documents would lead to the following conclusions:

- The Persians have always looked at marriage as an act of sacred nature.
- From the few available Zoroastrian sources (Pahlavi and Pazand texts), a fair amount of information concerning the traditions, customs, conditions and the structure of the marriage documents in the Sassanian period (A.D. 224 – 651) can be extracted. This would indicate that the tradition of Marriage documentation in Iran must be at least 1700 years old.
- The literal structure (the content) of both the pre-Islamic and the Islamic marriage contracts follow a similar pattern: there are three basic aspects to the certificates;
  - I. The spiritual/religious aspect: this aspect is manifested in the praise of Ohormazd, the Creator; wishing for His satisfaction, and supplication for the couples, in the pre-Islamic marriage contracts and in the abundant use of Qur'anic verses, hadith and Arabic and Persian accounts prayer and praise in the *Tahmidiyeh* and *Pish-neveshtar sections* of contracts pertaining to the Islamic era.



- II. The financial aspect: this aspect is reflected in the section of ‘bride’s dower’ (*the rate of the marriage portion*) according to the Zoroastrian documents, and “*Sadaq*” section of the Islamic contracts).
- III. The legal aspect: The presence of witnesses is stressed upon and is given due weight in both the Islamic and pre-Islamic marriage contracts. The seal impression over the text, in the Qajar marriage certificates turned the texts into a proper ‘legal documents’. The civil judicial system recognized the validity of such documents and could take action upon them if any dispute was raised say with regard to the items indicated in the “*Sadaq*” section. For this, we find all transactions concerning the brides dower, even after the time of *nikah*}, were made official and legal by recording them on the reverse of the marriage certificates attested by the seal impressions of the witnesses. Even if a divorce was to take place, the process of separation of husband and wife was made legal recording it on the back of the document with the testament of a few witnesses. Such system secured the right of woman with regard to the financial support from the side of man, to the extent that the bride could, with her marriage contract, bring such disputes to the court of law.

