KAREN RØRBY KRISTENSEN (ODENSE)

INHERITANCE, PROPERTY, AND MANAGEMENT: GORTYNIAN FAMILY LAW REVISITED[1]

The role played by women in relation to the acquisition and management of property is endlessly emphasised in modern scholarship. Their precise role, however, is much debated. The question I am addressing is more or less what we may find embraced by the concept of *kyrieia* within fifth century Gortynian society. *Kyrieia* in Gortyn covers the capacity to control and dispose of property (ones own), to manage property on behalf of other members of the *oikos* (female members' property, and minor children's property) and to provide legal representation for women and children in the household. Strictly speaking the dependent labourers, whether termed *woikees* or *doloi*, were not included in the *kyrieia*. Economically *kyrieia* was expressed by the phrase '*karteron emen*' (that is the equivalent to the Athenian expression '*kyrion einai*'). The master of a dependent labourer was called *pastas*, and the term *pastas* only applied in this capacity. I shall return to the question of *kyrieia* in relation to the dependent population at the end of my paper.

I have argued elsewhere that all Gortynian women in fact had a *kyrios*. He would be the woman's father, brother, husband or son.[2] The alleged freedom of Gortynian women whether in respect to non-economic matters or mattes of economics is to be observed only in marginal situations. In other words, women acting in their own right are to be found when no *kyrios* existed or when their *kyrios* violated the confidence entrusted to him. The most clear-cut example of the former concerns the divorcee during divorce proceedings. The famous oath of denial in III.5-12 of the Law Code[3] serves as a substitute for a process of litigation between her *kyrios* and her previous husband. The text is as follows:

But as regards things, which she denies (the judge) shall decree that the woman take an oath of denial by Artemis, before the statue of the Archeress in the Amyklaian temple.

---

[1] Whilst the available space does not allow for a thorough comment on Alberto Maffi's response, I shall confine myself to clarify one point only. This concerns no. 2b in Maffi's response, see below in n.7. The remainder, I shall return to in future papers.

[2] Kristensen 1994.

[3] All references are columns of the Law Code = IC IV 72, unless otherwise indicated. All translations are from the edition of the Law Code by R.F. Willetts, besides slight modifications of XII.13-17. The translation of II.16-20 is my own, though.

The circumstance for this oath is further elaborated in the supplementary section of the Code in XI.46-55.

Some women apparently had a relative as *kyrios*. We learn in II. 16-20 that

If someone assaults a free woman under the guardianship of a relative with the intent of forceful intercourse, he shall pay 10 staters if a witness testifies.

Many interpretations exist with respect to this law. Amongst these, we find the suggestion that the law dealt with the attempted rape of an heiress.[4] However, besides the problem relating to whatever issue the witness was to testify (the status of the relative as *kyrios* for the woman, or the attempted rape)[5] I believe that this law was not intended for heiresses. It encompassed, however, other cases of free women under the *kyrieia* of a relative. II.16-20 could be applied to all women who had no 'natural' *kyrios*, that is to say no father, no brother, no husband and no son. If we do not distinguish between, on the one hand, a biological father, brother or son, and, on the other hand, these relatives in a legal-social capacity we would, nonetheless, end up with only heiresses. Yet if we were to interpret the free woman as an heiress we would have more problems to answer than we would solve. A very evident problem is to explain why rape or seduction of an heiress only amounts to a tenth of the value of the fine for the same offence if the woman were not an heiress. One could argue that the offence was even more serious in case of an heiress; that is to say for her relatives. If an heiress became pregnant and gave birth to a child, she would have an heir to her property. There would no longer be any need for a groom-elect. The Law Code does, however, provide a hint to the meaning of the law of II.16-20. Within the Code, we find a number of free women who only had maternal relatives in a legal sense. These could be the offspring of a mixed marriage – the father would then be a dependent labourer who could not represent his daughter. Assuming the *dolos*-father, although he had married a free woman, still had a *pastas* like all dependent labourers in Gortyn we cannot expect this *pastas* in his capacity as *pastas* representing a free women in a case of rape. By analogy to the conditions of debt-bondage, it becomes clear that the *pastas* was the term for the master of a dependent labourer (or for the women and children of his household). In connection with debt

[4] See Gernet (1955) 51-59 (arguing that this was a case of rape of an heiress, whilst we should pay attention to the preposition *epi* of *epiperetai*), and Willetts (1967) 58-59 (who holds this was a case of attempted seduction of an heiress, since *kartei* is omitted in this law). Cautadella (1973) holds that the offence is committed under the supervision of the relative acting as guardian. The witness was then to give evidence of the role played by the guardian in the case. Finally, Maffi (1984) and (1997) 24-29, holds that the law deals (interpreting *epiperetai* as *epipheretai* in the sense of 'respond to an accusation') with a mitigation of sentence, which is caused by the complicity of the guardian of the woman. Along these lines, see most recently also Link (2004). I find, nonetheless, the suggestion as 'make an attempt upon with force' as the sense of *epiperetai* the most favourable.

[5] See Headlam (1892-93) 48-69, especially p. 59 (witnesses were only testifying to procedural or contractual matters). This is refuted in Gagarin (1984) who holds that II.16-20 is an example of a witness testifying to the facts of a case.

bondage, we learn that a free *katakeimenos* did not acquire a *pastas* but a *katathemenos*, whilst the *dolos* who became a *katakeimenos* would retain his *pastas* along with an additional master, the *katathemenos*.[6] Even if a free woman with a free mother and a dependent father had a brother, it is far from certain he would be able to represent her in court. He would certainly not be a citizen, but an *apetairos* somebody who was not admitted to an *etaireia* for the lack of paternal relatives.[7] In addition, it is striking that rape or seduction of a member of an *apetairos'* household amounts to the same as the fine in II.16-20: 10 staters.

Other women to whom this law could apply were women who were rejected by their fathers at birth when born after divorce. We learn in III.44-49:

If a wife who is separated (by divorce) should bear a child, (they) are to bring it to the husband at his house in the presence of three witnesses; and if he should not receive it, the child shall be in the mother's power either to rear or expose;

Whether this really was an option for a woman to raise a child on her own need not concern us here. The legal implication does, however. If a family for whatever reason chooses to let a daughter keep her rejected child that girl or boy would not automatically have a *kyrios*. The relative of II.16-20 could, nonetheless, be the child's maternal grandfather or uncle. In reality the Gortynians made use of three kinds of *kyrioi*: a 'natural' *kyrios* (father, brother, son or husband – the latter two obviously applied to women only), an 'appointed' *kyrios* that is a relative as in II.16-20, and a 'nominated' *kyrios*, namely the evasive *orpanodikastas* of XII. 6-19.

Did an heiress have a *kyrios*? To answer this question we need to consider on the one hand the heiress ripe for marriage, on the other the minor heiress. Much of the legislation on the heiress deals with the minor heiress. She was by definition deprived of a *kyrios* (no father, no brother) and as minor obviously also without a husband or son. It is not clear whether she was to be raised by her paternal family, if a groom-elect existed. We are told that the paternal relatives should be in charge of the administration of the heiress' property, whilst she would receive half the income (VIII.42-46). She was, nonetheless to be raised by her mother or her maternal relatives, if no groom-elect existed, being in control of her own property (VIII.47-53). We find, however, this to be modified in the supplementary legislation in case no groom-elect existed, or she did not enjoy the protection offered by the *orpanodikastai* (whom we may suspect to be a rather novel institution in Gortynian society). She was to be raised by her mother, whilst

---

[6] See Kristensen (2004).

[7] It is true that an *apetairos* could offer legal representation to female members of his household (see Maffi'a response no. 2b). Maffi's objection is, however, only valid on the presumption that this son of a mixed marriage automatically would become head of his mother's *oikos* and, thus, *kyrios* for his mother and sister(s). At least before the son became of age, these women would need other legal representation. In addition, one may wonder if the son of a mixed marriage could replace his father as head of the family, although his father could not represent his family legally.

The prescribed paternal and maternal relatives shall administer the property and the income to the best of their ability until she is married. (XII.13-17).

It seems, however, far from certain that the minor heiress had one specific person appointed as her *kyrios*. She had, nonetheless, clearly a range of relatives to conduct the management of her property. It seems likely that one or several of these would act as her *kyrioi* if needed. We may consider the fact that the relatives of the heiress assisted in arranging her marriage, in at least two respects: if the groom-elect resisted marrying the heiress (VII.40-45) and no one from the *pula* was willing to marry her, or if there were no groom-elects (VIII.13-17). Her relatives would assist her if needed. An heiress' admission to refuse to marry a groom-elect also supports the *ad hoc*-based nature of *kyrieia*. In other words, before she became heiress her father or brother would be her *kyrios* (as is evident from VIII.20-30),[8] and at the time of her marriage, her husband. In between, she could rely on the help from her relatives as '*ad hoc kyrioi*' or possibly from the otherwise evasive *orpanodikastai*. A minor heiress did not have a specific *kyrios* until the time of her marriage.[9]

The father of an heiress could leave an indebted estate to her (that is the law of IX.1-24).

We learn in IX.1-7 that

If someone owing money should leave behind an heiress, she either personally or through her paternal and maternal relatives shall mortgage or sell to the value of the debt, and the purchase and mortgage shall be legal. (IX.1-7).

The last statement underlines the unusual nature of the act. Obviously, heiresses did not commonly sell or mortgage their property. They may not legally have been able to, unless out-standing debts were to be paid. We may compare to the case of the divorcee who was accused by her husband for stealing. Her oath settled the matter before she legally returned to her father. The heiress could act on her own (or choose the assistance of her relatives) to settle debts, before the property was legally hers and she was to marry in due course. There is, thus, the possibility that the heiress only could engage in one particular economic transaction – that of covering the debt of her father. The law also stipulates the consequences if either her relatives or her husband (we may assume the law was intended for both situations: the minor as well as the married heiress) violated the economic responsibility entrusted to them. If they did, she would be *kyria* of her own property. The law is parallel to VI.2-46 to which I shall return shortly.

Like the heiress, other women acquired property as inheritance. The year when Kyllos and his colleagues from the Aithaleus-*startos* held the office as *kosmoi*,

---

[8] See Maffi (1987) for an interpretation of VIII.20-30.

[9] We may wonder if that mattered. Most likely the property of the minor heiress could not be subject to sale, nor to any kind of transaction of mortgage. Despite her freedom of choice of husband, she would have to give a rejected groom-elect half her property. Additionally, although her property in a sense belonged to her, she also had an obligation towards her future sons.

statutory female inheritance rights were introduced in Gortyn. It has been argued that this meant a deterioration of the rights for women, as has the opposite case – that women's rights were improved.[10] Without resorting to the arguments beyond what is found in the Code itself, it is clear that dowry existed in the pre-Kyllonian Gortynian society. That is in fact what we learn in V.1-9, which is the law introducing statutory female inheritance rights:

Whatever woman has no property either by gift from father or brother or by pledge or by inheritance as (enacted) when the Aithalian startos, Kyllos and his colleagues, formed the kosmos, such women are to obtain their portion; but there shall be no ground for actions against previous female beneficiaries.

It is evident that some women gained from inheritance becoming statutory. Since an upper limit was imposed on the female share of the inheritance, it is equally evident that others lost compared to what they might have received prior to the law. In addition, an upper limit was also imposed on gifts to women otherwise not entitled to inherit (wives and mothers) at 100 staters. However, the consequences for the redistribution of wealth within Gortynian society would not have been affected significantly. The law regulated the sizes of female property, which had an impact on the size of male property. Every *oikos* would absorb female contributions, which in some cases were returned; in others, they were part of the new redistribution of inheritance amongst children of both sexes. This property would then form part of the sons' *oikoi* and become daughters' contributions to their husbands' *oikoi* as well. Eventually the property ended up as inheritance divided amongst children of both sexes.

The Gortynian man was *kyrios* for the women in his household: his wife, his widowed mother, divorced, widowed or immature sisters or daughters, and finally his immature sons. It meant clearly that he would represent them in legal matters as long as they were members of his household. Their individual properties were also to some extent within his *kyrieia*.

The law in IV.23-V.1 commences stipulating the status of the properties in the *oikos*:

The father shall be in control of the children and the division of the property and the mother of her own property. So long as they are living, there is no necessity to make a division; but if anyone should be fined, the one fined shall have his share apportioned to him as is written. (IV.23-31).

This is further elaborated in the law of VI.2-46: In VI. 2-12 we learn that:

As long as the father lives, no one shall offer to purchase any of the paternal property from a son nor take out a mortgage on it; but whatever (the son) himself

[10] In respect to a weakening of women's rights (and strengthen of the power of the *kyrios*) see for example Gagarin (1994), whilst for example Schaps (1979) 58-60 and Link (1994) 53-58, 62-66, argue that *kyrieia* was abolished in the Law Code. Maffi (2003) 187-201 in discussing the point of view presented by Link dismisses this interpretation of the condition of Gortynian *kyrieia*. Mostly I agree with Maffi (2003).

may have acquired or inherited, let him sell, if he wishes. Nor shall the father sell or mortgage the possessions of his children, whatever they have themselves acquired or inherited. Nor shall the husband sell or pledge those of his wife, nor the son those of his mother.

In VI.31-36, we learn that:

If a mother dies leaving children, the father is to be in the control of the mother's property, but he shall not sell or mortgage unless the children consent and are of age (i.e. dromees).

There is a small adjustment to this law: the mother's debt was to be covered from the maternal inheritance, whilst the father's debt was to be levied from the paternal inheritance as we learn in the supplementary section of the Code: XI.31-45.

Except for one single case, children had no claim on their parents' property before it became their inheritance: if someone[11] was fined that child was entitled to the prescribed share of the inheritance. The unpleasant alternative would be to enter the state of debt bondage, for example. On the other hand, the head of the household (whether in the capacity as father, husband or son) had no rights to sell or mortgage property, apart from what was legally his own. Several times, it is emphasised that the management of property is to be transferred to the rightful owner (wife, mother, or children) if the *kyrios* exceeds the powers entrusted to him. A father could not legally dispose of his children's maternal inheritance before they consented and were *dromees*! Does this mean that a man was not legally mature before he became a *dromeus*, or was the state as *ebion* sufficient for a young man to become a *kyrios* in his own right? We are facing some inconsistencies relating to the terms *ebion* on the one hand and *dromeus* on the other.[12] The term *dromeus* is otherwise found in the Law Code as qualifying witnesses along with *eleutheros*.[13] There are, however,

[11] Although the participle *toi atamenoi* is in the masculine, we may assume that daughters were included as well. Women could also be fined, see for example IV.8-14: if a divorced woman exposes her baby before it is presented according to what is written, she is to pay 50 staters in case of a freeborn child, in case of a slave-born child 25 staters, if she is convicted.

[12] Tzifopoulos (1998), argues that *dromees* constituted yet another age group: 'By becoming a *dromeus* the Cretan was perhaps only entering adulthood that entailed certain privileges mainly inheritance rights, but not yet full citizenship.' (p.155). He holds that '*dromees*' in a sense served as a negative qualification. The cases where *dromees* could appear as witnesses were limited to those involving matters of inheritance, whilst non-qualified witnesses meant 'adult citizens with full rights.' (p.154). I do not find his argument at all conclusive, although I must admit to his critique (p. 154n50) of my assumption that all witnesses were *dromees* (1994) 11: I do, however, believe they were, as it has become clear above. *Dromees* served as a condition of the requirement for witnesses. See further Maffi (2003) 163-166.

[13] Witnesses are required to be *dromees eleutheroi* in I.41-42, III.21-22, and V.52-54, whilst in XI.53-55, the witness was required to have been *dromeus* for at least fifteen years. It is not mentioned that he should be an *eleutheros*, but it is implicit in the requirement of being a *dromeus*.

far more examples when witnesses are not qualified at all. Some of these refer to the very existence of one or more witnesses and, therefore these would not need any qualification.[14] In several cases, we would, nonetheless, expect witnesses to be qualified. The number of these cases exceeds the amount of cases where qualification of witnesses exists.[15] The explanation for this is rather that need arose for specifying who could serve as witnesses. It hardly constituted a difference in specific requirement for the witnesses in relation to the subject matter of a particular case.[16] There is one puzzling example where the witnesses were to be *ebiontes* (in IX.46-47) instead of *dromees*. In the law on agreement of commerce we learn that in cases exceeding 100 staters three adult witnesses were to testify, two in cases exceeding 10 staters and in lesser cases only one witness was required to testify.

As part of the law on adoption, it is stated that neither a woman nor an *anebos* can adopt or can be adopted. There are two problems: why is the minor termed *anebos* instead of *apodromos*, and what is the sense of *ampaineththo*? Are we to take it as active or passive?[17] If we take it as passive, I do not need to reflect further, why an *anebos* cannot be adopted. The adoption law in Gortyn did not include posthumously adoptions. Contrary, it clearly had other purposes than provide the heir to the *oikos*.[18] An adoption could be annulled including a small compensation paid to the rejected adoptee. Adoption could also be upheld even though legitimate children of either sex were born. In respect to inheritance, it meant for the adoptee that the effect of his status as heir was diminished. He would then become a 'female' heir receiving the same portion, which was allotted to women and had no further obligations towards family and cult and so on. The explanation for this peculiarity is the dual purpose of adoption. Adoption also served the purpose of admitting non-citizens to the citizenry. Such persons were embraced by the evasive expression *opo ka til lei* 'from whatever source one wishes' – *anpansin emen* 'one may adopt'.[19]

---

[14] This is at issue in I.13-14, I.20-21, II.19-20, XI.26-28, and finally in X.31-32, as it is in IC IV 41 V.10-11 and IC IV 46B.4-5.

[15] This concerns the proclamation of the capture of a seducer (whether free or servile) in II. 28-33 as well as it is the case in relation to the presentation of a child born after its parents divorce (III.44-IV.7). In addition, no qualification is attached to witnesses in IC IV 41 II.9-10, IC IV 47.22, IC 75A.1-3, 6-8 (= IC IV 81.4-5, 9-11). In IX.24-40 the witnesses are indirectly qualified, namely as the heirs of the deceased.

[16] There is one exception: the case of XI.46-55 where the witness is required to be *pentekaidekadromeus*. This law is part of the supplementary section of the Code and deals with the divorcee's oath of denial. The sensitivity of the matter (a woman's oath of denial settling a legal issue) is stressed in two respects. On the one hand, a specific requirement is attached to the witness, on the other hand, the fact that a further piece of legislation was needed, namely this particular law.

[17] See Maffi (2003) 202-204.

[18] Contra Maffi (1997) who disregards the *inter vivos* aspect of the adoption law.

[19] Some scholars interpret this clause as embracing only citizens (for example Maffi (1997) 75-76, and (2003) 201, or only members of the same phyle, see Koerner (1993) 549), whereas others believe members of the dependent population (Nomima II (1995) no. 40

Whilst women probably were *eleutherai* regardless of their father's legal status (that is whether he was a citizen or an *apetairos*), men could not become citizens without a paternal relative admitting them to an *etaireia*. A man could, for example, choose to adopt his sister's non-citizen offspring.[20]

If we are to take *ampaineththo* in the active sense, that is 'can adopt' we need to seek an explanation why the minor is an *anebos* instead of an *apodromos*. Whilst the Gortynians in the Law Code applied two sets of age distinctions (one biological, another political), it seems, nonetheless, most logical that the non-reproductive aspect of the minor is emphasised. Since the *etaireia* is involved, the political aspect is stressed in the first place.

Beside this evidence, we find age terminology only in relation to the marriage of an heiress. The crucial piece of legislation is VII.29-40:

As long as the groom-elect or the heiress is too young to marry, the heiress is to have the house, if there is one, and the groom-elect is to obtain half the revenue from everything; but if the groom elect should not wish to marry the heiress, though they both are of an age to marry, on the ground that he is still an minor, all the property and the produce shall be at the disposal of the heiress until he marries her.

The law continues in stipulating the legal action on part of the relatives, if the groom-elect was a *dromeus* refusing to marry the heiress. It is evident that an *ebion* could marry, although he still was an *apodromos*. It is equally evident that the intention behind the law encouraged him not to postpone the marriage to the time where he became a *dromeus*. The law favoured only the delay of the minor groom-elect. We cannot, however, argue that an *ebion* became *kyrios* in his own right while still an *apodromos*, or that young men commonly married before they were *dromees*. The case of an heiress was in many respects out of the ordinary. Although an heiress could denounce her groom-elect, her property was generally subject to great interest, particularly who would become the father of her children.

We are left with one case where a legal action is conducted by persons who were not *dromees* or *ebiontes* qualified as *poliateuontes*.[21] The context provided this criterion of *poliateuontes* in IX.46-47. I maintain then that a man was not legally mature before he reached the age where he became a *dromeus*. The precise age remains obscure.

---

p. 146), or even strangers (Link (1994) 55-59) were included as well). Most logically, however, the adoptee would have to be free as well as Gortynian. A rejected adoptee was to receive his compensation from the *mnamon* of the *ksenios kosmos*. This fact further supports that a potential adoptee could be a non-citizen. At least it is clear that an annulled adoption meant dismissal of the adoptee from the citizenry. He might of course, if initially a citizen, become member of the citizenry again through admission to his original family.

[20] Ogden (1996) 264-266 has suggested this previously.

[21] In IC IV 51 (which is a fragment stipulating conditions relating to the swearing of oaths) we find *êbiontes* qualified as *poliateuontes*.

There are several examples where persons within the *kyrieia* of another suddenly were granted the power as *kyrios* over their own property: the wife, the mother, the minor children, and the heiress. Children would become *kyrioi* over their own property, if the father illegally disposed of their maternal inheritance or he remarried (VI.37-39, and VI. 44-46). A wife and a mother became *kyria* if a husband or a son respectively exceeded the rights of management attempting either to sell or to mortgage property (VI. 9-24). The course of this action making non-legally mature persons *kyrioi* of their own property did not come about automatically, but involved court-proceedings. As it is the case a number of times, we lack information concerning the procedural measures. Whilst the women or minor children were not compensated beyond the simple restoration of their property, the purchaser or recipient of the mortgage was compensated with twice the amount of the goods in question, and an additional compensation for potential damages worth the simple value. Non-retroactive force of the law is stated in IV.24-25. We find the parallel situation in the law of IX.1-24 concerning the heiress. Both laws were most likely enacted making previous custom indisputable as the consequence of the introduction of female inheritance rights. This seems also to be the case with IV.23-31 stipulating the status of the properties within the *oikos*. Obviously, we can imagine a situation where the *kyrios* had extensive rights over the properties entrusted to him, but there is no certain indication that this was the case in the period immediately prior to the enactment during Kyllos' and his colleagues' time of office. Rather we should see the shaping and adjustment of *kyrieia* as a gradual process developing over time. We can for example observe how the segregation of the property of husband and wife is further emphasised, as it is articulated in XI.31-45: claimants could not levy execution on the maternal property to cover the debt of the husband or vice versa, nor could a husband use the property of his deceased wife to cover debt of his own.

Property could then be transferred into the *kyrieia* of a wife, a mother, minor children or an heiress. Whatever implication this had for the practical management of the property remains obscure. We may guess that new *kyrioi* were appointed (for a wife or a mother this could be their previous *kyrios*). There is also the possibility that the property in question became indisposed for sale or mortgage until the owner or the *kyrios* had been replaced. In other words, a wife's property as well as a mother's property was indisposed until it became the inheritance of the children. Children's property became transferable when, in case of girls, they got married; in case of boys when they became of age. There is, however, another possibility. In several cases, we learn that relatives were acting on behalf of women: for example, when a divorcee had given birth to a child, or an heiress had trouble getting married. This does not necessarily mean that a relative was appointed *kyrios* for a woman (as the case of II.16-20) but it would serve the immediate purpose of de facto property management. We cannot decide whether or not the *kyrios* was deprived of more than his capacity to manage property – would he for example also loose his right to represent the woman legally? That was probably not the case. The consequence of

this would be that a father could not arrange the marriage for his own daughter, or apprehend his wife's seducer. We may, then, suggest a fourth category of *kyrioi*: those appointed on a strictly *ad hoc* basis amongst a woman's or a child's maternal uncles or cousins for the sole purpose of economic transactions.

So far I have addressed *kyrieia* within the citizenry. Gortynian family law did also embrace a dependent population whether termed *woikees* or *doloi*. It is quite evident that all legal representation required the *pastas* of a dependent man or woman. Apprehension of a seducer involved the *pastas* (II.42-43). Presentation of a child born after the dissolution of a *woikees*-marriage required apparently the *pastas* (although we cannot decide unequivocally that he was to be one of those presenting the child, see III.52-IV.3). A servile *katakeimenos* retained his *pastas* during debt-bondage and so on. Yet the organisation of the families in the dependent population is similar to the citizenry's family-structure. The *pastas* of the children's father would also become their *pastas*.[22] Dissolution of marriage implied the same procedures: the *woikea* went back along with whatever she had brought with her into the marriage (although no surplus were evidently the case, IV.40-44). We cannot know if she shared the *pastas* of her husband during marriage or she retained the *pastas* of her father. We may argue equally well for both cases. One example exists where the servile person acted in her own rights. This is the case of II.11-16. If the *dola endothidia* was raped, she enjoyed preference in oath. Whilst the compensation was extremely low if she was no longer a virgin, her preference in oath provided probably far more protection.[23] She could point her finger at the rapist, and did not need her *pastas* to settle the matter of guilt, though she would most certainly need him with respect to the compensation. There is, nonetheless, one question of *kyrieia* in respect to the dependent population. Who managed the property of a *woikeus*?[24] Like free women, *woikees* could be fined for offences committed in their own rights, whilst illegal actions committed on their master's order were an offence on part of the master. Cattle owned by *woikees* were excluded from sons' inheritance. In respect to *kyrieia*, we may benefit from the comparison to free women. The property of a *woikeus* was legally his, consisting of moveable property (cattle and contents of his house). However, if he for example were to sell his cattle, he would most likely need his *pastas*' legal representation.

In conclusion, we may observe many analogous cases within the Gortynian *kyrieia*-structure. We can identify several kind of *kyrioi*: natural, appointed, nominated and those serving on *ad hoc* basis. It is evident that compared to Athens we are facing a limited *kyrieia* in Gortyn where women, children, heiresses and

[22] We may infer this from IV.3-6, and IV.18-23.

[23] The right of preference in oath swearing was only given in special circumstances. Either one of the parties did not enjoy full legal rights or the matter has to be solved urgently. See further III.49-52, IV.6-8, IC IV 41 II.12-16, IC IV 42B and IC IV 45.

[24] For example Link (1994) 39-41claims that no real property rights were at issue here. He regards the property of a *woikeus* as a *peculium* with clear reference to the Roman world.

dependent labourers in some cases were able to act in their own rights.[25] The law presented a few alternatives to proper litigation: oath of denial or preference in oaths. The most striking feature of Gortynian law is a paradox. On the one hand, we find very sharp definitions for categories of property and legal status; on the other hand, a remarkable flexibility was embedded in the system.

BIBLIOGRAPHY

Cautadella, M.R. (1973) 'L'interpretazione della parole ἀκεύοντος κηδεστᾶ e il ruolo del tutore nel codice di Gortina. Col.II.17-20' *RIL* 107: 799-809.

Gagarin, M. (1984) 'Witnesses in the Gortyn Laws' *GRBS* 25: 345-349.

Gagarin, M. (1994) 'The Economic Status of Women in the Gortyn Code: Retroactivity and Change' in G. Thür, *Symposion 1993* Köln: 61-72.

Gernet, L. (1955) *Droit et société dans la Grèce ancienne* Paris.

Guarducci, M. (1950) *Inscriptiones Creticae IV* Rome.

Headlam, J.W. (1892-93) 'The Procedure of the Gortynian Inscriptions', *JHS* 13: 48-69.

Koerner, R. (1993) *Inschriftliche Gesetzestexte der frühen griechischen Polis* Köln.

Kristensen, K.R. (1994) 'Men, Women and Property in Gortyn: the *karteros* of the Law Code' *C & M* 45: 5-26.

Kristensen, K.R. (2004) 'Gortynian Debt Bondage. Some New Considerations on IC IV 41 IV-VII, 47, and 72 I.56-II.2, X.25-32' *ZPE* 149: 73-79.

Link, S. (1994) *Das griechische Kreta. Untersuchungen zu seiner staatlichen und gesellschaftlichen Entwicklung vom 6. bis zum 4. Jahrhundert v. Chr.* Stuttgart.

Link, S. (2004) 'Die Nötigung des Mündels in Gortyn (IC IV 72, col. 2, 16-20)' *DIKE* 7: 169-178.

Maffi, A. (1984) 'Le "Leggi sulle donne" IC.4.72. 16-20, Plut., Sol. 23.1-2' *Sodalitas*: 1553-1567.

Maffi, A. (1987) 'Le mariage de la patrôoque "donnée" dans le Code de Gortyne (col. VIII.20-30)' *RD* 65 (4): 507-525.

Maffi, A.(1997) *Il diritto di famiglia nel Codice di Gortyna.* Milano.

Maffi, A. (2003) 'Studie recenti sul Codice di Gortyna' *Dike* 6: 161-226.

Ogden, D. (1996) *Greek Bastardy* Oxford.

[25] Edward Cohen made a comment on my application of 'limited *kyrieia*' and referred to a recent paper by D.M. Schaps (1998). Schaps has many interesting observations in respect to the freedom of Athenian women. His paper does not, however, alter the understanding of the general legal condition (including *kyrieia*) of Athenian women. I maintain then that legally Gortynian *kyrieia* was limited in comparison to Athenian. This is not to say that women were freer in Gortyn than they were in Athens. Limited *kyrieia* refers to the fact that in Gortyn some women could legally act in their own rights, namely women who were in a marginal position one way or the other.

Schaps, D. (1979) *Economic Rights of Women in ancient Greece* Edinburgh.
Schaps, D.M. (1998) 'What was Free about Free Athenian Women?' *TAPhA* 128: 161-188.
Tzifopoulos, Y.Z. (1998) ''Hemerodromoi' and Cretan 'Dromeis': Athletes or Military Personnel? The Case of the Cretan Philonides' *Nikophoros* 11: 137-170.
Van Effenterre, H. & Ruzé, F. (1995) *Nomima II* Rome.
Willetts, R.F. (1967) *The Law Code of Gortyn* Berlin.