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WOMEN, PROPERTY AND STATUS IN DEMOSTHENES 41 AND 57

Recent scholarship has begun to give us a more differentiated view of the various kinds of relations to property and economic activity possible for Athenian women ¹. While a good deal of previous research had focused too exclusively on the juridical norms which seemingly excluded all citizen women from meaningful economic roles, scholars like Lin Foxhall have pointed us to the far more complicated social reality of classical Athens ². We may, then, take several points as given. First, we cannot assume that legal norms reflect behavior, but must rather make the relations between norms and practice one of the principal objects of investigation ³. Further, we must recognize how differences of wealth, status, locality, personal and familial attitudes, and other factors shaped the economic possibilities and imperatives for Athenian women. Finally, it is important to explore further the ideological dimensions of social norms and expectations regarding women and economic life. As in all other societies, Athenian values, ideals, and beliefs were characterized by ambivalence, contradiction, and conflict. This is nowhere more ap-

¹ For a review of the literature and an excellent discussion of a number of points see R. Brock, *The Labour of Women in Classical Athens*, «CQ» 44 (1994), pp. 336-346.

² L. Foxhall, *Household, Gender and Property in Classical Athens*, «CQ» 39 (1989), pp. 22-44.

³ See, e.g., D. Schaps, *Economic Rights of Women in Ancient Greece*, Edinburgh 1979, for the more positivistic formalist approach.

parent than in practices and norms concerning women and sexuality⁴. This paper can not deal exhaustively with these three points; that would be a task for a work of far greater scope. Instead, I will attempt to show how these three perspectives can help us to interpret two texts which offer a starting point for appreciating the complexity of women's roles in economic life of classical Athens.

The first of these texts is Demosthenes oration, *Against Spudias*. This suit arises out of a conflict between members of a family concerning the proper shares of an estate to be divided among them. Some time after the death of the testator (Polyeuctus) his wife died as well, leaving two daughters and their husbands to sort out what each of them should receive. Demosthenes' oration alleges on behalf of one of the parties that part of a dowry (10 minae), as well as other money and property, is owing to them. Of particular interest here, are not so much the financial and legal transactions themselves, but rather the role which the women of the family play in shaping and implementing them. As such, the oration offers considerable insight into the dynamics of intra-familial disputes among the Athenian well-to-do and the way in which the women of the family were key players in them⁵. As we will see, their actions stand in sharp contrast to what scholars regard as social and legal norms which relegated women permanently to a child-like status in which, passive, powerless, ignorant, and ignored, they could only stand helplessly by while their destinies and those of their families were decided alone by the men to whom they were related.

Against Spudias describes four transactions in which the women's role is noteworthy. The first involves a loan made by the wife of the deceased, Polyeuctus, to the defendant, Spudias, for 1.800 drachmas. The plaintiff, of course, is arguing that the loan was not repaid and is still owing to the estate. While Athenian law purportedly prohibited an Athenian women from entering into a contract with a value of more than a bushel of barley⁶, this norm seems to have played

⁴ See D. Cohen, *Law, Society, and Sexuality*, Cambridge 1991, chapters 6-7.

⁵ On kinship and intra-familial disputes, see, e.g., S. Humphreys, *Kinship Patterns in the Athenian Courts*, «GRBS» 27 (1986), pp. 57-91.

⁶ For the type of discussion which takes literally the function of such norms (including the role of the *kýrios*) in the actual day to day lives of families, see, e.g., Schaps

no role in shaping the transaction described by Demosthenes as follows: «He had borrowed the money from the wife of Polyeuctus, and there are papers that she left behind at her death, and her brothers are witnesses (*mártyres*), for they were there the whole time and questioned her on each point so that there might be no difficulties between us» (41.9).

This passage is interesting in a number of ways. First, of course, is the obvious point that the money (*tó argýrion*) is described as being lent by the woman herself. Of equal interest is the fact, of which more will be said later, that she is described as leaving behind documents (*grámmata*) at her death. The fact that she possesses the documentation for legal transactions in which she participated indicates that she was no mere passive bystander, but rather confirms the active and determining role implied in the description of her as lending the money⁷. Moreover, the very idea of a woman keeping important legal documents in her personal possession goes against the typical role described to women by contemporary scholars. The «unorthodox» role played by this woman becomes even more apparent when we later learn (21, 24) that she had authenticated the papers she left behind with her seal. Seals, of course, were the primary juridical means for individuals to authenticate their participation in legal transactions. The possession and use of a seal on financial and legal documents are acts which express self-consciousness as an independent juridical agent. This particular woman not only lent her money, and not only kept the records of these transactions, but also verified them as *hers* by stamping her identity upon them.

Finally, there is the presence of her brothers. It is of the most significance that they are described as being present as witnesses,

(*Economic Rights of Women in Ancient Greece* cit., pp. 52ff). Brock (*The Labour of Women in Classical Athens*, «CQ» 44 (1994), p. 341), notes that the consent of the *kýrios* must have been taken for granted, but isn't this precisely the point? If it was taken for granted the norm had no practical meaning. He goes on to say, however, that since large scale trade by women was unknown then the norms must have had practical effect. But there might be many other reasons for this, and although the sellers of the market place did not perhaps engage in «large scale trade» such norms can have had little, if any, meaning for their daily transactions.

⁷ Foxhall (*Household, Gender and Property in Classical Athens*, «CQ» 39 (1989), pp. 35-36) forcefully makes the point that women are often portrayed in orations as regarding their dowry as *their own* property.

not as her *kýrioi*. Any man engaging in such a transaction would also call upon close relatives or friends as witnesses. Nowhere in this passage is it implied that they approved or managed the transaction. Instead, they formalized the transaction by going over the details with her in the presence of all the interested parties so as to avoid future disputes. It is she, however, not they who provides the answers. Moreover, it is in the plaintiff's interest to present this transaction in the most unassailable way. If the judges would expect such a transaction to have been decided upon and executed by the woman's *kýrios*, then surely the speaker would have presented it in this way. That this is not the only such transaction which this woman entered into appears from the ensuing sentence where the speaker matter of factly says that he himself received funds from her and later paid them back.

The second transaction involves not the widow of Polyectus, but the wife of the speaker: «My wife disbursed in advance a mina of silver for the Nemesia for her (deceased) father ...» (11). Again, the speaker does not say «we advanced», nor did he indicate his having approved or in any other way been involved in the transaction. He describes his wife as advancing a substantial sum of money as if it were her own⁸. If he anticipated that the judges would be surprised at a woman acting in this way he certainly would have chosen other words to bring the transaction within the purview of the legal norm.

The third transaction involves the other daughter of Polyectus, the wife of the defendant. When Polyectus proclaimed the terms of his will he called together witnesses, including the closest members of his family. This was, of course, normal on such an important occasion. The speaker tells us that although the defendant was invited to attend, «He said that he was too busy and that it would be sufficient if his wife was present» (17). The speaker goes on to say that her presence and lack of protest either at the time or later, at the terms of the will clearly indicate her acquiescence and that of her husband (18-19). A number of points are significant here, and although it must be emphasized that this is the speaker's construction, he nonetheless expected it to be plausible to the judges. First, he

⁸ See Foxhall (*Household, Gender and Property in Classical Athens*, «CQ» 39 (1989), p. 36).

argues that the wife's presence is sufficient for notice to her husband, for she represents them both. Second, he presents her as attending not as a passive observer but rather as a witness and active, interested party. Third, he portrays her not as ignorant and uninformed, but rather as being capable of and entitled to protest if she found the terms of the will unfair. Fourth, he repeatedly states that it was not just the husband's lack of protest but also her's as well that was conclusive (18-19). Finally, he portrays her husband as willing to absent himself on an important occasion because he trusts his wife to be both legally and substantively capable of representing their interests. None of this accords well with the usual picture of the powerless, ignorant Athenian wife sitting home alone, ignored by her husband and male relatives.

The fourth transaction can be dealt with briefly. Upon the death of the wife of Polyuctus all the interested parties convened to examine the papers she left behind. In the presence of the appropriate official her seals were broken and the copies made of the documents. Upon this occasion it was the role of the two daughters to acknowledge the authenticity of the seals (21, 24). The speaker throughout treats the verification by the wife of the defendant as decisive and legally effective.

In *Against Spudias*, then, we see widows, wives, and daughters playing a variety of roles in important legal and financial transactions within and concerning the family. These women are portrayed both as acting independently, disposing over their property, and as partners and representatives of their husbands. They engage in serious financial transactions with their own money, they exercise their judgment, and they play important legal roles in various capacities. Nowhere is it suggested, or even hinted at, that they do so at the instigation of or with the approval of their *kýrioi*. They lend money, witness transactions, possess documents and seals, and so on. They certainly seem to inhabit a different world than those women rhetorically described by Lysias, and so lovingly invoked by scholars, who were «embarrassed to be seen even by their male relatives».

Demosthenes' oration *Against Eubulides* apparently arises out of the general examination of citizenship rolls undertaken in 346/345. This general purge of the citizenry seems to have led to much litigation, including this oration appealing the decision of the deme to exclude the speaker from Athenian citizenship. As the speaker ar-

gues, the problem for Athenian courts was to distinguish those who were legitimately excluded from those who were actually citizens but whose status had been attacked because of «rivalry, envy, enmity or some other pretext» (6). Rivalry, envy, and enmity are the fuel of conflict and competition in agonistic societies⁹. In this oration we clearly see the way in which civic identity services as the focal point of social conflict and social control in a face to face community. In this oration proving who one is a (free/slave; citizen/non-citizen) depends not upon official administrative documents as in modern bureaucratic societies, but rather upon the testimony of others about oneself and one's parents, and the social judgments made of one's manner of life.

What this all has to do with women and economic activity arises from considering the nexus of social status, civic identity, honor, gender, and labor. Whereas in *Against Spudias* we saw the opportunities for relative independence afforded women in some propertied families, in *Against Eubulides* we see how antiegalitarian values about work and honor shape social and legal judgments about who one is and about one's claims to membership in the political community defined by Athenian citizenship.

For present purposes the most pertinent aspect of the attack on the speaker's citizenship concerns the status of his mother. Eubulides apparently claimed that because the speaker's mother sold ribbons in the *agorá* and had previously worked as a nurse she was therefore not a citizen (30, 35). Indeed, the speaker contends that no other evidence was offered about his mother apart from the allegation of these economic activities.

Eubulides, as the speaker presents him, offers no evidence at all about *who* this woman is, rather merely about what she *does*. In other words, on Eubulides' view inferences from economic activity are themselves sufficient to establish social status and, hence, civic identity.

The speaker in defending his claim to citizenship freely admits, though with an appropriate tinge of shamefacedness, that his mother did in fact sell ribbons and worked as a nurse (30-31, 35). The thrust

⁹ See D. Cohen, *Law, Violence, and Community in Classical Athens*, Cambridge 1995, for a discussion of the way in which these forces shaped Athenian litigation.

of his defense denies the essential connection between economic activity and civic identity. He attempts to confute this connection by adducing a law, known to us from other sources, which makes anyone liable who reproaches «either a male or female citizen with doing business in the *agorá*» (31)¹⁰. This law testifies to one of the fundamental and paradoxical tensions or contradictions in Athenian society. Despite its radical democratic institutions and its egalitarian ideology of equality before the law and so on, and despite the fact that poorer Athenians could and did play a vital role in civic institutions, aristocratic/oligarchic values concerning the demeaning quality of laboring for one's livelihood persisted. In this oration we see how they were not confined to critics of democracy like Aristotle, who suggested that in a properly democratic society only those with the leisure to devote themselves to political life should be citizens. Apart from Aristophanes' famous sniping at Euripides because his mother sold produce in the *agorá*, this law itself testifies to the vitality of such tensions. In this period of the mid-fourth century, when Athens was purging the «unworthy» from citizenship, such social prejudices could be mobilized to support attacks on individuals like the speaker.

It cannot be emphasized enough that the law introduced by the speaker explicitly includes both male and female citizens. From the standpoint of the law, both men and women of citizen status might be working in the *agorá*, and they might both be subject to derogatory judgments for doing so. The gist of such judgments is that such commercial activity is servile, and thus appropriate for slaves, freedmen, or foreigners, but not for citizens. Having introduced the law as his first line of defense, the speaker then moves to a more general statement of the underlying meaning of the legislation. His strategy is to openly admit their poverty, tacitly admit that this poverty diminishes their social status and honor, but to deny that this has anything to do with civic identity, because citizenship is purely a matter of birth¹¹. He thus says, for example, that he and his mother do not

¹⁰ On women as citizens, see C. Patterson, *Hai Attikai: The Other Athenians*, «*Helios*» 13 (1986), pp. 49-67, which on my view definitively resolves this much misunderstood point.

¹¹ See Foxhall's (*Household, Gender and Property in Classical Athens*, «CQ» 39 (1989), p. 40) brief but stimulating discussion of property, gender and status.

live in the way they would wish (31), and he acknowledges the accusation that because his mother sells ribbons she is «visible to everyone» (34). He also tacitly admits that working as a nurse would not be regarded as honorable (35, 45). He then sums up his whole line of argument with the rhetorical question: «If we were rich we would not be selling ribbons ... But what does this have to do with our descent?» (35, and cf. 45: «... this trial has to do not with our property but with our birth»).

The other main strand of argument he employs to defend his mother's civic status is equally significant. Here, the speaker focuses upon social judgments about poverty, and about poverty and gender. He first introduces this argument by linking his mother's work as a nurse to the general misfortune that had beset Athens at that time, noting that many Athenian women now engage in such activities (35). He concludes this section of his argument by asking the judges not to «dishonor the poor», especially those who work to live honestly (36). Having then extensively reviewed his mother's genealogy (36-44), he returns to this theme, linking the troubles of the city with the necessity that the ensuing poverty produces to force citizen women to work outside of their homes. This argument is similar to the famous passages in Aristotle's *Politics*, where he comments that in a democracy the wives of the poor must leave their houses to work, and that in such families women and children take the place of slaves as the labor force of the *oikos*. In *Against Eubulides*, the speaker argues that although poverty compels free persons to perform servile labor (*douliká prágmata*) they should be pitied rather than punished (45). He goes on to say how such circumstances have led citizen women to work as nurses, weavers, or agricultural laborers (45).

Anthropologists have frequently noted the way in which women from wealthy or aristocratic families may enjoy considerably greater freedom than their poorer counterparts. In Athens, while poor women may have worked outside of the house in a variety of professions, their economic activity was likely to be subjected to the same negative social judgments as the poverty which produced it. Under normal circumstances the women of the *agorá* may have cared little what their social «betters» thought of them. *Against Eubulides*, however, reveals how in time of crisis such social judgments could have the severest legal and political consequences. In classical Athens the

fact that identity was dependent upon the testimony and judgment of others made it a focal point of contestation, enmity, and social control. For both men and women «demeaning» economic activity afforded a lever for those who wished, for whatever reason, to attack an individual's claims to membership in the *pólis*. Both the wealthy and the poorer women of Athens seem to have enjoyed opportunities for economic activity and relative independence beyond the strictures of juridical norms. *Against Spudias* suggests that such activity within the realm of the extended family was viewed as unproblematic. *Against Eubulides*, on the other hand, demonstrates how ideological tensions about poverty, honor, and claims to «a share in the *pólis*», to use the language of the law of citizenship, overshadowed the economic activity of the poor in general and of poor women outside of the *óikos* in particular. Taken together these orations also demonstrate how dangerous are generalizations about «Athenian women» as a collectivity, and particularly generalizations that treat legal norms as if they reflected the far more complicated and ambiguous world of social practices.