

# The Gortyn Code and Greek Kinship

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ANCIENT GREEK KINSHIP remains a controversial field. The old orthodoxy that Dark Age societies were 'tribal' and evolved into more political systems in Archaic times<sup>1</sup> has now been challenged, and a new consensus is emerging. This view holds that kinship groups larger than the family were relatively unimportant in structuring life in the Dark Age, and that the *phylai* and *gene* of Classical Greece were late and 'artificial' developments.<sup>2</sup> This reconstruction, however, has its own problems. One of the chief among them is Ronald Willetts' argument, drawing on Marxian evolutionary theory, that the Gortyn law code reveals a society practicing cross-cousin marriage, part of a kinship system where tribes and clans are of the greatest importance.<sup>3</sup> Roussel's refusal (*supra* n.2:

<sup>1</sup> E.g. G. Glotz, *La cité grecque* (Paris 1928); H. Francotte, *La polis grecque* (Paderborn 1907); and, before the discovery of the Mycenaean world, N. D. Fustel de Coulanges, *La cité antique* (Paris 1864).

<sup>2</sup> M. I. Finley, *The World of Odysseus*<sup>2</sup> (New York 1979) and *Ancient History. Evidence and Models* (London 1985) 90–93; W. Donlan, "The Social Groups of Dark Age Greece," *CP* 80 (1985) 293–308, "The pre-state Community in Greece," *SymbOslo* 64 (1989) 5–29, and especially F. Bourriot, *Recherches sur la nature du génois* (Paris 1976); D. Roussel, *Tribu et cité* (Paris 1976). Cf. A. M. Snodgrass, *Archaic Greece* (London 1980) 25–28.

<sup>3</sup> The "Great Code" is *ICr* IV 72, edited by R. F. Willetts, *The Law Code of Gortyn* (= *Kadmos* Supp. 1 [Berlin 1967]): his arguments are presented at 18–27 and in *Aristocratic Society in Ancient Crete* (London 1955) 71–84; "Cretan *kadestas*," *KretChron* 15/16 (1961–62) 241–47; *Cretan Cults and Festivals* (New York 1962); *Ancient Crete: A Social History* (London 1965) 88–91; "Marriage and Kinship at Gortyn," *PCPS* 191 (1965) 50–61; "Cretan Laws and Society," in *CAH*<sup>2</sup> III.3 (Cambridge 1982) 245. Many of his papers have been republished in R. F. Willetts, *Selected Papers* I–II (Amsterdam 1986–88). Willetts rarely cites Marx and Engels directly, preferring to draw on them via G. Thomson, *Aeschylus and Athens*<sup>2</sup> (London 1946) and *Studies in Ancient Greek Society I: The Prehistoric Aegean*<sup>2</sup> (London 1954). Other fifth-century Gortynian laws are published in *ICr* IV. The general background is discussed in M. Gagarin, *Early Greek Law* (Berkeley 1986) ch. 4. For a full bibliography see M. Bile, *Le dialecte crétois ancien* (= *Études crétoises* 27 [Paris 1988]) 22–27. Willetts dates the code *ca* 480–460, but a date of 450–400 is more

257ff) to accept Willetts' position was based more on assertion than argument; and he was forced to conclude rather lamely that "on comprend mal le sens et la portée de ces dispositions concernant le mariage dans la phyle."

Willetts' interpretation of the Code has five major consequences for our understanding of early Greek kinship: (1) that Classical Gortyn, Sparta, and Athens represent three successive stages along an evolutionary scale of kinship practices; (2) that there was enormous variety between *poleis* in the most basic institutions of the family; (3) that the types of family structures familiar to us from Classical Athenian literature were fairly recent developments, dating back only a few centuries; (4) either that little had changed in Cretan social structure for thousands of years, or else that incoming Dorians succeeded in imposing an elementary kinship system on more complex Minoan structures;<sup>4</sup> and either way, (5) that the growing consensus that kinship groups like the *genos* and *phyle* were relatively unimportant in Dark Age and Archaic Greece would prove to rest on foundations of sand.

Willetts' theory has rarely been challenged, and it is even enshrined in the new edition of the *Cambridge Ancient History*.<sup>5</sup> In this paper I defend the views of early Greek

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widely accepted. Apart from some damage to the top of column 10, the inscription seems to be complete (*Aristocratic Society* 3–6; *Law Code* 3–8).

<sup>4</sup> The idea that the Gortyn Code preserves extremely primitive laws was given wide currency by G. Glotz, *La solidarité de la famille dans le droit criminel en Grèce* (Paris 1904) 261–70. He built on a belief already well established by 1820 that Cretan society was 'primitive': see D. Halperin, *One Hundred Years of Homosexuality* (London 1990) 3. Aristotle (*Pol.* 2.1271b31) believed that the Cretan *perioikoi*, whom he equated with the Spartan helots (2.1272a1), still followed the laws of Minos. This might be explicable in Willetts' model as a Dorian tribal elite ruling over a downtrodden class with more complex Minoan structures of kinship, although that is not the way he presents it. But for a brilliant attack on the idea of "primitive herd" organization even in Early Bronze Age Crete, see T. M. Whitelaw, "The Settlement at Fournou Korifi Myrtos and Aspects of Early Minoan Social Organization," in O. Krzyskowska and L. Nixon, edd., *Minoan Society* (Bristol 1983) 323–45.

<sup>5</sup> The most explicit challenges are the reviews of *Law Code* by H. J. Wolff (*ZSav* 85 [1968] 418–28) and H. Meyer-Laurin (*Gnomon* 41 [1969] 160–69). Other reviews (e.g. *JHS* 78 [1958] 153; 85 [1965] 214f; 87 [1967] 174f; *Gnomon* 29 [1957] 270–73; 39 [1967] 520f; *Mnemosyne* SER. 4 10 [1957] 266ff; *GGA* 225

kinship proposed by Bourriot, Roussel, and others by arguing that Willetts was mistaken in assuming that cross-cousin marriage was important in Gortyn. I begin by clarifying some general limitations of the Code as a source for social history, and then move on to a more detailed account of Willetts' arguments before explaining why I cannot agree with them.

## I. The Gortyn Code as a Source

The Gortyn Code, our only substantial non-Athenian source for Classical kinship,<sup>6</sup> is difficult to use. It differs *qualitatively* from the Athenian evidence. Most scholars of the Greek family, sticking to the 'facts' and implicitly treating the Code as simply an inadequate version of the Athenian material, have produced little more than re-descriptions of the regulations for heiresses.<sup>7</sup> This is both more and less than the Code can really tell us.

Comparison with the Athenian evidence for kinship brings out the problems. Attica from the late fifth to the fourth century provides dozens of plays, about one hundred law court speeches, and thousands of inscribed tombstones. These offer us rich data on marriage and family structure; but as Humphreys has accurately observed, "what they present is not raw data on kinship, but the patterns refracted through a specific medium: private relations processed for public

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[1973] 177ff) have been more circumspect, as has D. Schaps in *Economic Rights of Women in Ancient Greece* (Edinburgh 1979) 86, 89f.

<sup>6</sup> Sparta is the next best case: see D. M. Macdowell, *Spartan Law* (Edinburgh 1986) ch. 3; S. Hodkinson, "Land Tenure and Inheritance in Classical Sparta," *CQ* n.s. 36 (1986) 378-406; "Inheritance, Marriage and Demography: Perspectives upon the Success and Decline of Classical Sparta," in A. Powell, ed., *Classical Sparta: Techniques Behind Her Success* (Norman 1989) 79-121; R. Sealey, *Women and Law in Classical Greece* (Chapel Hill 1990) ch. 4. For other states see W. K. Lacey, *The Family in Classical Greece* (London 1968) chs. 8-9; S. C. Humphreys, *Anthropology and the Greeks* (London 1978) 193-208.

<sup>7</sup> E.g. Lacey (*supra* n.6) 208-16; S. Pomeroy, *Goddesses, Whores, Wives and Slaves* (London 1975) 39-42; E. Cantarella, *Pandora's Daughters* (Baltimore 1987) 42f. The list could be lengthened; I single out these books as among the best studies of the Greek family.

consumption.”<sup>8</sup> The legalities of kinship have been pieced together,<sup>9</sup> but the real strength of the Athenian evidence is the way it allows us to see how these norms were manipulated and represented in different contexts. The legal or customary norms into which people are born are only one part of the structure of daily life. In Athens we have a unique opportunity to see the interaction between individuals pursuing their own goals and this framework of rules.<sup>10</sup> The ideals of kinship, the actual functioning of the system, and the tensions generated between *polis* and household can all be studied in a variety of different social contexts.

This is not true of Gortyn. All we have are formal, state-sanctioned rules. We can have no idea of how they worked out in real life. Any attempt to use the laws to describe everyday practice, even when limited to heiresses, is bound to fail. The best analogy to use for studying the Code would be not the Athenian law court speeches, but the funeral orations. Loraux has shown how these give a unique insight into the ‘official’ ideology of democratic Athens.<sup>11</sup> Through the Gortyn Code we approach the ideology of a different kind of community,

<sup>8</sup> S. C. Humphreys, “Kinship Patterns in the Athenian Courts,” *GRBS* 27 (1986) 58. On tombstones see her *The Family, Women and Death* (London 1983) 79–130; T. H. Nielsen *et al.*, “Athenian Grave Monuments and Social Class,” *GRBS* 30 (1989) 411–20; I. Morris, *Death Ritual and Social Structure in Classical Greece* (Cambridge 1992) ch. 6. On kinship in tragedy see Humphreys, *The Family*; S. Goldhill, *Reading Greek Tragedy* (Cambridge 1986).

<sup>9</sup> See especially A. R. W. Harrison, *The Law of Athens* I (Oxford 1968) and most recently D. M. MacDowell, “The *oikos* in Athenian Law,” *CQ* n.s. 39 (1989) 10–21; Sealey (*supra* n.6) ch. 2.

<sup>10</sup> The interaction between rules and actions is the key to understanding social structure: see D. Kelly, *Etoro Social Structure* (Chicago 1974); A. Giddens, *The Constitution of Society* (Oxford 1984). For examples of this sort of analysis see e.g. R. Osborne, “Law in Action in Classical Athens,” *JHS* 105 (1985) 40–58; S. C. Humphreys, “Social Relations on Stage: Witnesses in Classical Athens,” *History and Anthropology* 1 (1985) 313–72, and “Kinship Patterns” (*supra* n.8); L. Foxhall, “Household, Gender and Property in Classical Athens,” *CQ* n.s. 39 (1989) 37ff; J. Ober, *Mass and Elite in Democratic Athens* (Princeton 1989); S. Johnstone, *Social Relations, Rhetoric, Ideology: the People’s Power and the Athenian Courts* (diss. University of Chicago 1989). The richer Roman sources allow an even clearer picture of the tactical uses of kinship: R. P. Saller and B. D. Shaw, “Tombstones and Roman Family Relations in the Principate,” *JRS* 74 (1984) 124–56; but see also J. C. Mann, “Epigraphic Consciousness,” *JRS* 75 (1985) 204ff.

<sup>11</sup> N. Loraux, *The Invention of Athens* (Cambridge [Mass.] 1986).

and can see how some of the basic institutions of family and marriage were reinterpreted in a more aristocratic setting.

Interpreting the Gortyn Code, then, is very different from interpreting the Athenian evidence for kinship, let alone ethnographic data. Through detailed analysis of the text we may penetrate the ideology of a ruling group, but we shall never understand the workings of the kinship system on a day-to-day level. This weakens Willetts' case; but alone it is not sufficient defence of the Bourriot/Roussel model from the challenge posed by his arguments. Even if an ideal of cross-cousin marriage was transformed beyond recognition in practice, the very existence of this custom as part of the dominant-class ideology in fifth-century Crete would compel us to seek a different history of Greek kinship. Therefore I now turn to a more detailed discussion of Willetts' views.

## II. Cross-cousin Marriage

To understand the importance of Willetts' argument, we must define some of its terms. Willetts draws on Lewis H. Morgan's distinction between 'descriptive' and 'classificatory' kinship terminologies.<sup>12</sup> *Fig. 1* shows the distinction, using Morgan's own examples. In 'descriptive' systems, as in modern English, lineal relatives are distinguished from collateral kin, while in 'classificatory' systems, they are merged. In English, I would call both my mother's brother and father's brother 'uncle', but keep this collateral term separate from the words for my mother and father, lineal relatives. In the Turanian system I would call my father's brother by the same name as my father; and in the Malayan system both the mother's brother and the father's brother are called by the same word as the father.

Willetts follows Morgan in believing that classificatory systems represent a very ancient survival. Morgan suggested that in prehistory lineal and collateral kin were not distinguished because monogamous marriage and the family were unknown. In primitive times, Morgan argued, human society was promiscuous, and kin terminology reflected this. Later, groups began to be marked off, and rules developed to restrict the pos-

<sup>12</sup> L. H. Morgan, *Systems of Consanguinity and Affinity of the Human Family* (Washington 1871) and *Ancient Society* (New York 1877).

Descriptive: (English)	<table border="1"><tr><td>MB</td><td>FB</td></tr></table> uncle	MB	FB	<table border="1"><tr><td>F</td></tr></table> father	F	<table border="1"><tr><td>M</td></tr></table> mother	M	<table border="1"><tr><td>MZ</td><td>FZ</td></tr></table> aunt	MZ	FZ
MB	FB									
F										
M										
MZ	FZ									
Classificatory: (Turanian):	<table border="1"><tr><td>MB</td></tr></table> uncle	MB	<table border="1"><tr><td>FB</td><td>F</td></tr></table> father	FB	F	<table border="1"><tr><td>M</td><td>MZ</td></tr></table> mother	M	MZ	<table border="1"><tr><td>FZ</td></tr></table> aunt	FZ
MB										
FB	F									
M	MZ									
FZ										
Classificatory: (Malayan):	<table border="1"><tr><td>MB</td><td>FB</td><td>F</td></tr></table> father		MB	FB	F	<table border="1"><tr><td>M</td><td>MZ</td><td>FZ</td></tr></table> mother		M	MZ	FZ
MB	FB	F								
M	MZ	FZ								

Figure 1. Descriptive and classificatory kinship system (after Trautmann, fig. 10). F=father; M=mother; FB=father's brother; FZ=father's sister; MB=mother's brother; MZ=mother's sister.

sibilities of marriage. No examples of primitive promiscuity survive,<sup>13</sup> but Morgan believed that kinship terminology changed more slowly than institutions, and so vanished social forms could be read off from contemporary language—an idea that Radcliffe-Brown later castigated as “conjectural history.”<sup>14</sup>

Willets argues that in the Gortyn Code *kadestas* is a classificatory term, meaning ‘one whom we may marry’, in opposition to *epiballon*, ‘one whom we may not marry’. Gortyn is thus placed earlier on an evolutionary scale than Athens, where *kedestes* was a general term for male relatives by marriage.<sup>15</sup>

<sup>13</sup> Herodotus (4.104; cf. 1.2.16; 4.172, 180) refers to promiscuous marriage among the Agathyrsi, but this is not to be taken at face value. On the Scythians (but without comment on this passage) see F. Hartog, *The Mirror of Herodotus* (Berkeley 1988) *passim*; J. M. Redfield, “Herodotus the Tourist,” *CP* 80 (1985) 97–118; M. Rosellini and S. Saïd, “Usage de femmes et autre nomoi chez les ‘sauvages’ d’Hérodote,” *AnnPisa* SER. 3 8 (1978) 949–1005. Plato (*Resp.* 461E) has Socrates propose a classificatory system, but this is even more problematic: see N. H. Bluestone, *Women and the Ideal Society: Plato's Republic and Modern Myths of Gender* (Amherst 1987).

<sup>14</sup> A. R. Radcliffe-Brown, *Structure and Function in Primitive Society* (London 1952) ch. 3, esp. 59, where he describes Morgan's method as “a hypothesis that is one of the most fantastic in a subject that is full of fantastic hypotheses.”

<sup>15</sup> E.g. son-in-law (*Ant.* 6.12; *Isoc.* 10.43), father-in-law (*Ar. Thesm.* 74, 210; *Dem.* 19.118), brother-in-law (*Eur. Hec.* 834; *Andoc.* 1.50; *Lys.* 13.1; *Isae.* 6.27; *Dem.* 30.12), step-father (*Dem.* 36.31). *Kedestia* is used by Xenophon (*Hell.* 2.4.21) to describe connection by marriage. Hesychius glosses *kedestai* as *πενθεροί, οἱ τῆς κόρης γονεῖς*, sometimes confused with *syngeneis*. Xenophon (*Ages.* 11.13) also describes Agesilaus as *philokedemon*, which seems to have much wider connotations: see P. A. Cartledge, *Agesilaos and the Crisis of Sparta* (London 1987) 143f. Sealey (*supra* n.6: 57f) sensibly suggests that “*epiballontes* and *kadestai* ... are relatives regarded from different aspects.” In

Morgan's classificatory/descriptive division retains its value,<sup>16</sup> and forms the basis for a second crucial distinction, between 'elementary' and 'complex' structures of kinship. Elementary structures have classificatory terminologies and rules of exogamy compelling members to choose spouses from one or more specified kinship groups within the community, thus restricting the field of partners. Complex structures have descriptive terminologies and allow a much freer choice of spouses.<sup>17</sup>

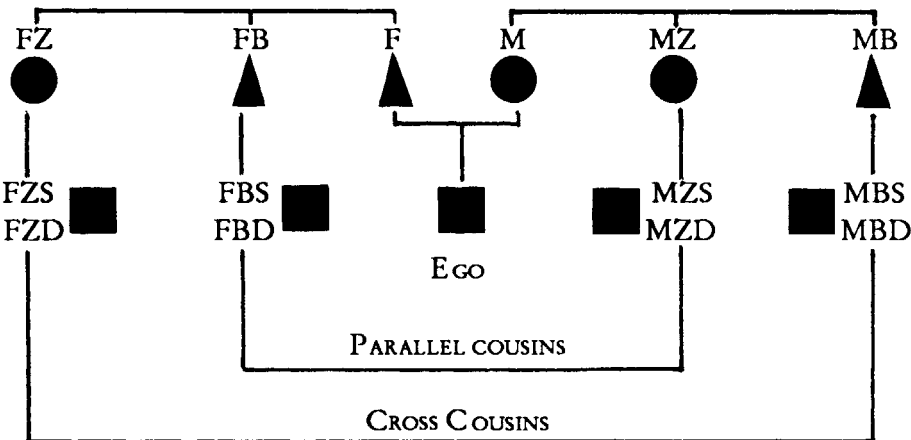


Figure 2. Parallel cousins and cross cousins (after Fox [*supra* n.17] fig. 41). FBS=father's brother's son; FBD=father's brother's daughter; FZS=father's sister's son; FZD=father's sister's daughter; MBS=mother's brother's son, etc. All kinship terms are described from ego's perspective.

Willettts proposes that Gortynians practiced cross-cousin marriage. The custom can take many forms, but Willettts seems

general see Humphreys (*supra* n.6) 205f and "Kinship Patterns" (*supra* n.8) 76–82; Meyer-Laurin (*supra* n.5).

<sup>16</sup> D. M. Schneider, "Rivers and Kroeber in the Study of Kinship," in W. H. R. Rivers, ed., *Kinship and Social Organization* (London 1914; repr. New York 1968) 7ff; E. Terray, *Marxism and "Primitive" Societies* (London 1972) 5–92; T. R. Trautmann, *Lewis Henry Morgan and the Invention of Kinship* (Berkeley 1987); and more critically, A. Kuper, *The Invention of Primitive Society* (London 1988) ch. 2 and 173ff.

<sup>17</sup> For important qualifications to these definitions, see C. Lévi-Strauss, *The Elementary Structures of Kinship*, tr. J. H. Bell et al. (Boston 1949) xxiii–xlii; R. Fox, *Kinship and Marriage* (Harmondsworth 1967) ch. 8; A. Gottlieb, "Cousin Marriage, Birth Order and Gender," *Man* 21 (1986) 697–722.

to describe what is known as double cross-cousin marriage.<sup>18</sup> In this system, clans form pairs (in Willetts' view, the Gortynian *startoi*). These clans give their daughters to each others' sons to marry. A Gortynian would divide relatives in the same generation into two groups (*fig. 2*)—'parallel cousins', the children of his or her father's brother and mother's sister (those whom he or she could not marry), and 'cross cousins', the children of his or her father's sister and mother's brother (those from whom the Gortynian must choose a spouse). Willetts suggests that *epiballontes* corresponds to the parallel cousins (for whom he uses the antiquated term "ortho-cousins") and lineal descendants, while *kadestai* refers to the mother, mother's brother, and cross cousins. A Gortynian would marry his or her double cross cousin—that is, a man would marry a woman who was simultaneously his father's sister's daughter and his mother's brother's daughter, while a woman would marry a man who was her father's sister's son and mother's brother's son.

This apparently implausible arrangement is in fact very simple. Two clans, A and B, exchange daughters. In the second generation, if they repeat the exchange, the children will all marry their double cross cousins (*fig. 3*). The point is that the Gortynians would simply exchange daughters between clans. They would not necessarily think of a woman's husband-to-be as her mother's brother's son and father's sister's son; this is the anthropologist's or historian's perception, not the actors'.

But demographic realities rarely allow the system to work so smoothly. The particular family to which clan A gives a daughter may not have a daughter to return; and in large clans, it is usually enough for clan A to give some women to clan B and to get some back without fuss about the details. All would be classified simply as *kadestai*. Marriage to a double cross cousin might be the ideal, but no man would worry too much so long as he got a woman of the right clan and age group.<sup>19</sup>

<sup>18</sup> Willetts makes his model clearest in "Marriage and Kinship" (*supra* n.3). Systems of this type are often called *Kariera*, from an aboriginal Australian group studied by A. R. Radcliffe-Brown, "Three Tribes of Western Australia," *Journal of the Royal Anthropological Institute* 43 (1913) 143–94. See also A. K. Romney and P. Epling, "A Simplified Model of *Kariera* Kinship," *American Anthropologist* 60 (1958) 59–74; Lévi-Strauss (*supra* n.17) esp. ch. 11.

<sup>19</sup> Willetts is vague as to the exact type of marriage he envisages. It is apparently a case of "restricted exchange," where two clans swap women directly, rather than "generalized exchange," which involves more groups and



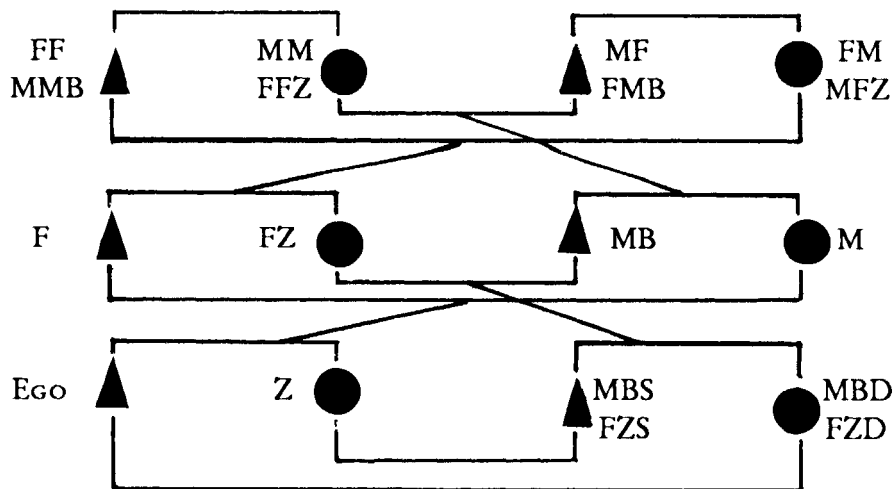


Figure 3. Double cross-cousin marriage (after Fox, fig. 42).

Willets suggests that Gortynians divided their peers into two groups:

CLAN A

ego's *startos*  
*epiballontes*  
 parallel cousins  
 those we may not marry

CLAN B

a paired *startos*  
*kadestai*  
 cross cousins  
 those we may marry

Several paired exogamous *startoi* would form a *phyla* or tribe.

A Gortynian male, then, had little choice in finding a wife. Regardless of wealth, love, attraction, or any other factors, he would have to marry a woman from a very small group of families. The contrast with Athens could scarcely be greater. The speaker in Lysias' *On the Property of Aristophanes* (ca 387), for example, says that he and his father Nicophemus

indirect exchanges—or Lévi-Strauss' intermediate type of "delayed reciprocity." See R. Needham, *Structure and Sentiment* (Chicago 1962); Fox (*supra* n.17) chs. 8–9; A. Kuper, *Anthropology and Anthropologists*<sup>2</sup> (London 1983) 174–77; E. Lipuma, "On the Preference for Marriage Rules," *Man* 18 (1983) 766–85. The heated "alliance" vs "descent" debate among anthropologists over the extent to which marriage prescriptions are actually followed in practice is not relevant here; as pointed out in Section I *supra*, the evidence does not allow us to establish this.

turned down the chance of rich dowries, preferring to get *kedestai* “of an orderly and self-respecting character”; and Nicophemus scorned rich suitors prepared to take his daughters without dowries, “because he judged them to be of inferior birth” (Lys. 19.14–17). These men claim that they chose a strategy of pursuing honor (the sort of honor that might win over a jury?) rather than pursuing wealthy kin. Xenophon has his character Ischomachus choose his wife with an equally lofty aim: “I for myself and your parents for you considered who was the best partner for home and children that we could get” (Xen. *Oec.* 7.11). We may doubt their claims, but Athenians could, within limits, look for marriage alliances that suited their needs.<sup>20</sup> Gortynians, Willetts says, could not. They were tied to a stable system, exchanging cross cousins with a linked clan. A vast distance thus separated Gortyn from Athens. Willetts’ theory has enormous implications for our understanding of early Greek kinship, and it is also crucial for our views of Classical Cretan society. Even in Athens and Rome, where wealth was often a decisive factor in marriage strategies, it was rare for families to succeed in preserving their position for more than two or three generations.<sup>21</sup> If we assume that Gortynians were not able to select partners with wealth in mind, it becomes very difficult to see how the powerful Cretan families mentioned by Aristotle (*Pol.* 2.1272a33–b16) could have maintained their dominance, and we need to recast radically our ideas about the institutions of Classical Crete.

### III. Cross Cousins in Gortyn

I did not refer to the Gortyn Code in Section II, for the good reason that no direct mention of cross-cousin marriage occurs.

<sup>20</sup> For a wide range of other motives in choosing wives and sons-in-law, see Andoc. 1.119; Lys. 5.15; Pl. *Pol.* 310b–c; Isae. 7.11f; [Dem.] 44.10; Isoc. 19.46; Men. *Dysc.* 336ff, fr.532, 654 Kock; [Eur.] fr.953 Nauck. On the theme of love, P. Walcot, “Romantic Love and True Love: Greek Attitudes to Marriage,” *AncSoc* 18 (1987) 5–33. On property and the complexities of Athenian choices, D. Schaps (*supra* n.5) 76f; R. Osborne, *Demos: the Discovery of Classical Attika* (Cambridge 1985) 131–35; C. A. Cox, “Sisters, Daughters and the Deme of Marriage,” *JHS* 108 (1988) 185–88; Foxhall (*supra* n.10) 37ff.

<sup>21</sup> J. K. Davies, *Athenian Propertied Families, 600–300 B.C.* (Oxford 1971) and *Wealth and the Power of Wealth in Classical Athens* (New York 1981); K. Hopkins, *Death and Renewal* (Cambridge 1983) chs. 2–3, challenged by J. Hahn and P. Leunissen, “Statistical Method and Inheritance of the Consulate under the Early Roman Empire,” *Phoenix* 44 (1990) 60–81.

Willetts' theory depends on a three-stage argument: (1) Morgan's method of "conjectural history" is used to supply a meaning for *kadestas*; (2) that meaning is used to locate Gortyn in an evolutionary sequence; (3) Gortyn's evolutionary position is used to interpret ambiguous passages and to explain away any problems as recent interpolations.

One of the few pieces of evidence Willetts cites is the statement that "The *epiballon* is to have one heiress, and no more" (7.27ff: μίαν δ' ἔκεν πατρῷ[ὸ]κον τὸν ἐπιβάλλοντα, πλῖαδ δὲ [μ]ῆ). Merriam suggested that the clause was necessary because 7.24–27 was clumsily expressed; Comparetti, that if the *epiballon* married an heiress and she died, he could not remarry another; Dareste, that if there were more heiresses than *epibal-lontes*, the surplus women remained unmarried. Willetts rejects all these, seeing it as a new law restricting polygamy.<sup>22</sup> He even interprets the laws on heiresses as changes in more "primitive" practices, using as an analogy Briffault's opinions on parallel-cousin marriage: "the custom of marriage with the daughter of one's father's brother among the Arabs and some converts to their religion, although manifestly serving an economic interest, is in reality derived in the first instance from an older rule of cross-cousin marriage, and is, in fact, essentially an adaptation of the matriarchal rule to a patriarchal organization of kinship."<sup>23</sup>

Willetts deduces that

On the basis of comparative evidence, therefore, it is possible to advance the hypothesis that the existence of

<sup>22</sup> Willetts, *Aristocratic Society* (*supra* n.3) 71 and *Law Code* (*supra* n.3) 24, 71; A. C. Merriam, "Law Code of the Kretan Gortyn, II," *AJA* 2 (1886) 24–45; D. Comparetti, "Le leggi de Gortyna e le altere iscrizioni archaiche cretesi edite e illustrate," *MA* 3 (1894) 1–490; R. Dareste, "La loi de Gortyne," *BCH* 9 (1885) 301–17.

<sup>23</sup> R. Briffault, *The Mothers* (London 1927) 581 n.1. For more recent interpretations of Arab parallel-cousin marriage, see P. Bourdieu, *Outline of a Theory of Practice* (Cambridge 1977) 30–72; G. M. Kressel, "Prescriptive Patrilineal Parallel-Cousin Marriage: the Perspective of the Bride's Father and Brothers," *Ethnology* 25 (1986) 163–80. Willetts makes no mention of the apparent frequency of patrilineal cross-cousin marriage at Athens, which would weaken his argument: see C. A. Savage, *The Athenian Family* (Baltimore 1907) 47–50; R. J. Littmann, "Kinship in Athens," *AncSoc* 10 (1979) 5–31. The differences between the literary and epigraphic sources for imperial Roman marriage (B. D. Shaw and R. P. Saller, "Close-Kin Marriage in Roman Society?" *Man* 19 [1984] 432–44), however, suggest that caution is needed with the anecdotal Athenian data.

ortho-cousin [*i.e.*, parallel-cousin] marriage within the patriarchal household presupposes an original system of cross-cousin marriage within a matrilineal system, the result of a process of repeated modifications.... cross-cousin marriage begins to break down when the mode of production becomes more and more individualized, and so comes increasingly into conflict with the collective organization of the producers.<sup>24</sup>

Further evidence is sought in Strabo, citing Ephorus' testimony that "all those selected from the *agela* of boys in the same year have to get married at the same time."<sup>25</sup> Willetts sees this as a collective marriage of all eighteen-year-old males, itself a dilution of an earlier group marriage, where all the boys in the tribe would communally wed all the girls.

Evolutionism is imposed to explain away the evidence of the Code: at 7.40 we read that a man could marry an heiress while still an *apodromeus*, and Willetts argues from Strabo that "If the general rule was derived from primitive custom, the passage of the Code that we are discussing provides us with clear evidence of a novel provision."<sup>26</sup> But even assuming that Strabo and Ephorus got the story straight, we cannot make up a conjectural history based solely on speculation. As in the case of the Spartan *agoge*, so-called "primitive" features can have clear functions in Classical society and need not be relics from a tribal prehistory.<sup>27</sup> Supposed matrilineal survivals could simply show the

<sup>24</sup> *Aristocratic Society* (*supra* n.3) 73; cf. Thomson, *Studies* (*supra* n.3) 71.

<sup>25</sup> Strabo 10.4.20. Willetts cites Thomson (*Aeschylus and Athens* [*supra* n.3: 106]) and H. Jeanmaire (*Couroi et courètes* [Lille 1939] 423) as the background to his interpretation.

<sup>26</sup> *Aristocratic Society* (*supra* n.3) 8. Strabo's account is often accepted rather uncritically as a "prehistoric survival," even in such excellent studies as W. Burkert, *Greek Religion*, tr. J. Raffan (Cambridge [Mass.] 1985) 261f, and R. Koehl, "The Chieftain Cup and a Minoan Rite of Passage," *JHS* 106 (1986) 99–110. Nanno Marinatos has shown that some of the Thera frescoes probably depict female initiation rituals ("The West House as a Cult Center," *AM* 98 [1983] 1–19; *Art and Religion in Thera* [Athens 1984]), but we should not leap to the conclusion that the rites described by Ephorus were continuous across a millennium, and still less that their functions were constant.

<sup>27</sup> M. I. Finley, "Sparta," in J.-P. Vernant, ed., *Problèmes de la guerre en Grèce ancienne* (Paris 1968) 143–60 (= *The Use and Abuse of History* [London 1986] 161–77, and B. D. Shaw and R. P. Saller, ed., *Economy and Society in*

importance of bilateral kindred, which is a crucial feature in most peasant kinship systems.<sup>28</sup>

The only explicit marriage regulations are for heiresses, defined as women with no father or brother from the same father (8.40ff). The law prescribes that

The heiress is to be married to the brother of her father, the oldest of those living. And if there be more heiresses and brothers of the father, they are to be married to the next eldest. And if there should be no brothers of the father, but sons of the brothers, she is to be married to that one (who is the son) of the oldest. And if there should be more heiresses and sons of brothers, they are to be married to the next after the son of the oldest (7.15–27, tr. Willetts).<sup>29</sup>

Figure 4 shows the rule: the heiress marries not her mother's brother's son but her father's brother; or if her father's brother is already dead, she marries his son. In both cases, the proposed rule of clan exogamy is broken.

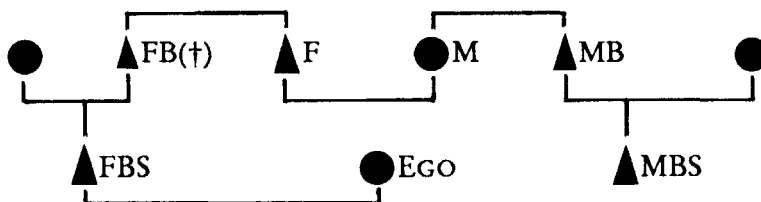


Figure 4. *Patroiokos* marriage.

Nor do other regulations for inheritance (5.9–28) imply cross-cousin marriage. Property devolved to direct lineal descendants. If there was no son, the daughter would be a *patroiokos*

*Ancient Greece* [London 1981] 24–40); S. Hodkinson, "Social Order and the Conflict of Values in Classical Sparta," *Chiron* 13 (1983) 239–81.

<sup>28</sup> M. Segalen, *Historical Anthropology of the Family* (Cambridge 1986) 61–71. The importance of the Athenian *anchisteia* and *syngeneia* are described in Harrison (*supra* n.9) 143–49; Humphreys, "Kinship Patterns" (*supra* n.8) 88ff; Foxhall (*supra* n.10) 42.

<sup>29</sup> τὰμ πατρῶι[ὸ]κον ὀπιέθαι ἀδελπιῶι τῷ πατρὸς τῶν ἰόντων τῷ πρειγ[ί]στῷ. αἱ δὲ κα πλίες πατρῶιῶκοι ἰὼνη ἀδελπι[ο]ῖ τῷ πατρὸς, [τ]ῷ ἐπιπρειγίστῷ ὀπιέθαι. αἱ δὲ κα μὲ ἰόντι ἀδελπιῶι τῷ π[α]τρὸς, υἱέεδ δὲ ἕκς ἀδελπιῶν, ὀπιέθαι ἰῶι τῷ [έ]ς τῷ πρειγίστῷ. αἱ δὲ κα πλίες ἰὼντι πατρῶιῶκοι κυῖέες ἕκς ἀδελπιῶν, ἄλλῶι ὀπιέθαι τῷ ἐπὶ τῷ ἕς [τ]ῷ πρειγ[ί]στῷ.

(8.40ff), and would marry her father's brother. If there were no children at all, the *kremata* went to the deceased's brother, his children or their children; and if there were none of these, to the deceased's sister or her descendants. The Code applied to men and women (5.9f: ἔ κ' ἀποθάνει ἀνὴρ ἢ γυνὴ), but at 5.14f and 5.19 the masculine ἀποθάνοντος is used for "the deceased." This may be a generic usage covering women too, allowing the whole estate (not just the portion and gifts given to a daughter) to pass into the hands of the *kadestai*, as would be normal in cross-cousin marriage. But at 5.25ff we read that "If there are no *epiballontes*, the *kremata* will go to the *woikias* who are on the *klaros*."<sup>30</sup> There are two ways to look at this: either the *woikees* were considered closer to the deceased than the *kadestai*; or *epiballon* means simply "he who inherits," and so in this context *epiballontes* and *kadestai* are synonyms. Neither view works if the words distinguished two exogamous clans.

Willetts argues (*Law Code* 23) that while *epiballon* and *kadestas* were distinct as social categories, the lawgivers used *epiballon* in three different ways—"as kinsman in the general tribal sense, or as kinsman within the confines of the *oikos*," or as groom-elect. Words certainly were used loosely,<sup>31</sup> but the easiest interpretation is that *kadestas* was a broad term for male affines, while *epiballontes* were those kin who inherited.

The Code can take us no further. The five passages where *kadestai* are mentioned allow us neither to rule out Willetts'

<sup>30</sup> Some commentators balk at the idea of an estate passing to serfs, and alter the sense by adding punctuation; Willetts shows (*Law Code* [*supra* n.3] 15, 66) there is no good reason for this. H. B. Rosén ("Questions d'interprétation de textes juridiques grecs de la plus ancienne époque," *Symposion* 1977 [Cologne 1982] 9–32 at 14, supported by H. van Effenterre in *Symposion* 1979 [Cologne 1983] 115–25 and *RevHistDrE* 62 [1984] 47–52) goes to the opposite extreme, arguing that slaves could even bring lawsuits, but M. Gagarin ("The First Law of the Gortyn Code," *GRBS* 29 [1988] 335–43) refutes this.

<sup>31</sup> Finley (*Economy and Society* [*supra* n.27] 136) disputes this, with particular reference to the *dōlos/woikeus* sections: "Vagueness of this order in legal matters is perfectly possible in poetry and even in historical writings, but not in a law code." The evidence is analyzed in great detail in R. H. Metzger, *Untersuchungen zum Haftungs- und Vermögensrecht von Gortyn* (Basel 1973). Gagarin ("The Organization of the Gortyn Law Code," *GRBS* 23 [1982] 129–46 at 145) is probably right, however, to warn against "expecting too systematic a presentation of, say, marriage laws at Gortyn."

hypothesis nor to support it.<sup>32</sup> At 6.55–7.10 we see a woman taking a *dōlos* as husband. This is unlikely to be cross-cousin marriage, but again the context is unclear, and the text could perhaps be made to fit Willetts' model. The only clear evidence is the *patroiokos* rules, which are incompatible with Willetts' theory. Given the complete absence of cross-cousin marriage in the Code, we must ask why anyone should wish to supply the concept. This requires a brief historiographical digression.

#### IV. Evolution and Devolution

Morgan's evolutionary framework has not stood the test of time, and the only school where he has kept a place of honor is orthodox Marxism. Engels wrote that "Morgan in his own way had discovered afresh in America the materialistic conception of history discovered by Marx forty years ago, and in his comparison of barbarism and civilization it had led him, in the main points, to the same conclusions as Marx."<sup>33</sup> Engels' book has in turn been called "a kind of Marxist gloss on Morgan."<sup>34</sup> Morgan's sequence has few western adherents, least of all among Marxists. The trend has been to apply to simpler societies the methods that Marx used to analyze capitalism, while subjecting Marx's and Engels' actual statements about antiquity and non-western peoples to devastating attacks.<sup>35</sup> It is

<sup>32</sup> 2.16.20, 28–31; 3.49–52; 7.40–45; 8.13–17. Willetts points out ("Kinship and Marriage" [*supra* n.3] 56) that *kadestai* often occur in a funerary context, although the distinction between *epiballontes* in *ICr* IV 76 B.1ff and *kadestai* is impossible to explain with such scanty evidence. The Athenian *kadestai* were closely associated with mourning for the members of the wife's *anchisteia*: see M. Miller, "Greek Kinship Terminology," *JHS* 73 (1953) 46–52. We should also beware of guessing at normative behavior. Demosthenes (43.57f) calls the relatives responsible for burial *prosekountes*. As at Gortyn, if they failed in this duty, a state official would step in. Carrying out funeral rites, however, was a sign of the right to inherit, which could lead to low practices (e.g. Dem. 44; Isae. 4, 6–7). There is no reason to assume that Gortyn was any less complex.

<sup>33</sup> F. Engels, *The Origin of the Family, Private Property and the State* (Hottingen/Zürich 1884; repr. London 1972) 71. See also L. Krader, *The Ethnological Notebooks of Karl Marx* (Assen 1972).

<sup>34</sup> E. R. Leach, *Social Anthropology* (London 1982) 241 n.1.

<sup>35</sup> Among the most recent and most penetrating accounts are: M. Bloch, *Marxism and Anthropology* (Oxford 1983); M. Godelier, *The Mental and the Material* (London 1986). Non-Marxists have treated Morgan even more

hard to fault Firth's comment: "[Marx's] pre-capitalist economic formations are not an empirical outline of early types of economy and society, but an imaginative sketch, selecting out the main themes which Marx regarded as foils in his war against capitalism."<sup>36</sup>

Where does this leave Gortyn? We might take it as a warning against incautious sociologizing, and let the whole matter drop; but the question is too important for that. Even at the risk of merely replacing yesterday's borrowing with today's,<sup>37</sup> a different sort of analysis can make sense of the data.

As anthropologists lost faith in "conjectural history," they turned away from social evolution. In a series of papers published in the 1960's, however, Jack Goody, a leading expert on African kinship, offered a new approach.<sup>38</sup> He distinguished between two types of property systems, which he called "homogeneous" and "diverging" devolution, and suggested that as a broad generalization we could say that the former had evolved through time into the latter.

Diverging devolution occurs in societies practicing plough agriculture, which allows some households to become

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harshly: see Kuper (*supra* n.16) ch. 2; E. Gellner, *The State in Soviet Thought* (Oxford 1988).

<sup>36</sup> R. Firth, "The Sceptical Anthropologist?" in M. Bloch, ed., *Marxist Analyses and Social Anthropology* (London 1975) 40. E. Gellner emphasizes this in regard to Engels' moralizing use of Morgan's stage of primitive communism: "How Did Mankind Acquire its Essence? or the Palaeolithic Order," in W. Outhwaite and M. Mulkay, ed., *Social Theory and Social Criticism* (Oxford 1987) 31-52 (=Gellner [*supra* n.35] ch. 1).

<sup>37</sup> Or not even today's: kinship has lost its dominant position within anthropology (Kuper [*supra* n.19] 207), and the very idea of kinship as a valid field of inquiry has been attacked by D. M. Schneider (*A Critique of the Study of Kinship* [Ann Arbor 1984]; but see A. Good's review: *Man* 20 [1985] 582f). Feminist anthropologists, however, are now leading a very different revival of kinship studies: A. L. Tsing and S. J. Yanagisako, "Feminism and Kinship Theory," *Current Anthropology* 24 (1983) 511-16; J. Sayers, M. Evans, and N. Redclift, ed., *Engels Revisited: New Feminist Essays* (London 1987); H. L. Moore, *Feminism and Anthropology* (Oxford 1988) chs. 3-4.

<sup>38</sup> J. R. Goody, *Production and Reproduction* (Cambridge 1976), collects these papers: "Bridewealth and Dowry in Africa and Eurasia," from J. R. Goody and S. J. Tambiah, ed., *Bridewealth and Dowry* (Cambridge 1973) 1-58; S. J. Tambiah, "Bridewealth and Dowry Revisited: the Position of Women in Sub-Saharan Africa and North India," *Current Anthropology* 30 (1989) 413-35.



significantly richer than others in the same community. One result is the growth of economic and social stratification through parents' desire to preserve their children's status within the group. This is managed by diverging devolution, which allows children of both sexes to be matched in marriage with those of equally rich or even richer families. Sometimes women are only residual heiresses, like the Athenian *epikleros*, although more generous treatment, as at Gortyn, is frequent (see n.45 *infra*). There is a general tendency for marriage within a fairly narrow descent group—at Gortyn, the *epiballontes*, extendable as far as the limits of the *pyla*. Dowry is normally important in this system, acting as a sort of pre-mortem inheritance. Monogamy and a descriptive terminology that helps isolate the nuclear family from other kin are emphasized.

His second system is homogeneous devolution. This is found with simple subsistence strategies, especially among hoe cultivators, where there is little chance for major differences in wealth to arise. Property is passed down through one sex, with the non-inheriting sex not even acting as residual heirs. When there is no lineal heir of the right sex, property moves out to collaterals, so that in a patrilineal group, if a man has no sons, what he owns will go to his brothers rather than to his daughters. Polygamy is common and bridewealth (gifts from the groom's kin to the bride's) is normal, acting partly as a way to ration out women. The bridewealth contributes nothing to the status of the newly married couple, and often consists of items which can only be used for another bridewealth payment. Exogamy and classificatory terminology are normal.

Goody's attempt to relate these two forms in a chronological sequence is based on highly suspect statistical methods, and has been harshly criticized.<sup>39</sup> Further, although the strength of the correlations between the institutions he looks at cannot be questioned, these practices have very different functions in different societies, and Goody and Tambiah's sweeping

<sup>39</sup> Goody draws on the information coded in the Human Relations Area Files: see G. Murdock, *Ethnographic Atlas* (Pittsburgh 1967) and "Ethnographic Atlas: a Summary," *Ethnology* 6 (1967) 109-236. For a sample of criticisms see Leach (*supra* n.34) 180f.

generalizations about women need to be broken down.<sup>40</sup> But Goody's analysis keeps its value when we remember that it is a tool to be employed only at the most abstract level. We cannot 'retrodict' from it behavior for which no evidence survives, but ancient historians using this model critically have made significant advances in our understanding of kinship in both Greece and Rome.<sup>41</sup>

Given the sharp division in the modern world between Goody's two general systems of marriage and inheritance, it is worthwhile to examine the code in terms of the institutions that Goody groups as "diverging devolution." The Gortyn laws fall entirely within this category. This does not prove anything; but it does suggest that the balance of probability is strongly against Willetts' theory of cross-cousin marriage, which is found as part of homogeneous devolution. In the absence of evidence for the custom and its unlikeliness on comparative grounds we must assume that the lawmakers had no such institutions in mind.

(1) *Stratification*. Gortynian society was complex. This part of Crete had for centuries been used to law codes, political offices, and trade with the Near East.<sup>42</sup> We cannot tell exactly what *dōloi*, *woikees*, *katakeimenoι* and *nenikamenoι* were, but they were certainly disadvantaged servile groups.<sup>43</sup> Within the

<sup>40</sup> E.g. K. Sacks, *Sisters and Wives* (Westport 1979); C. Oppong, ed., *Female and Male in West Africa* (London 1983); D. Siddle, "Inheritance Strategies and Lineage Development in Peasant Society," *Continuity and Change* 1 (1986) 333-61.

<sup>41</sup> Goody's discussion of Greece and Rome in *The Oriental, the Ancient and the Primitive* (Cambridge 1990) 386-428 oversimplifies the evidence and makes no reference to Gortyn, but his methods have been fruitfully applied by other historians: e.g. R. P. Saller, "Roman Dowry and the Devolution of Property in the Principate," *CQ* NS. 34 (1984) 195-208; Hodkinson (*supra* n.6) 378-406, and "Inheritance, Marriage and Demography: Perspectives upon the Success and Decline of Classical Sparta," in A. Powell, ed., *Classical Sparta: Techniques behind her Success* (Norman 1989) 79-121. A. M. Snodgrass ("An Historical Homeric Society?" *JHS* 94 [1974] 118-21) is less cautious; I discuss his arguments in "The Use and Abuse of Homer," *CSCA* 5 (1986) 104-15.

<sup>42</sup> Willetts, "Cretan Laws and Society" (*supra* n.3) and *Aristocratic Society*, chs. 3-6; for Phoenician trade beginning by 900, see J. W. Shaw, "Phoenicians in Southern Crete," *AJA* 93 (1989) 165-83.

<sup>43</sup> Finley, *Economy and Society* (*supra* n.27) 135-39; Willetts, "The Servile System of Ancient Crete," in R. F. Willetts, ed., *Geras G. Thomson* (Prague 1963) 257-71; Metzger (*supra* n.31); Y. Garlan, *Slavery in Ancient Greece* (Ithaca 1988) 99ff.

*eleutheroi*, the song of Hybrias and the restrictions on access to the *kosmos* indicate an aristocracy of birth.<sup>44</sup>

(2) *Dowry*. Gifts, dowry and post-mortem inheritance were combined to transfer property, including land but excluding the familial home, to daughters as well as to sons (4.31–54). The law guaranteed each daughter half of a son's share (4.37–43; cf. Strab. 10.4.20). The Code seems to have introduced a new law, limiting either the size of dowry or the gifts a father could give to a married daughter, depending on how *opuiomenai* (4.50) is understood. Both readings suggest that some fathers wanted to give still more property to their daughters. When women inherited debts, they were free to sell property to clear them (9.1–7), improving their marriage chances; and when a woman had no man to dower her, the state perhaps stepped in (5.1–9). The woman perhaps had more control over her dowry than at Athens. *Tawa* remained with her if she divorced, plus half of the revenue they generated and half of "what she has woven within"; and, if the husband was blamed for the divorce, he had to pay a fine of a further five staters (2.46–3.44). The receipt of a dowry cancelled out the daughter's right to post-mortem inheritance (4.54–5.1), and Schaps has shown that all the forms of property transfer to women had the same function, of ensuring her economic status and making her more marriageable.<sup>45</sup>

(3) *Preserving klaroi*. Guardians were forbidden to break up properties (6.2–46). The law banning multiple marriages to *patroiokoi* (7.27ff) makes most sense in this context, preventing concentration of property in a single estate through repeated remarriage.<sup>46</sup>

<sup>44</sup> Ath. 695F–96A, with Willetts, *Cretan Cults* 223–37; H. van Effenterre, "Y a-t-il une 'noblesse' crétoise?" *Recherches sur les structures sociales dans l'antiquité classique* (Paris 1970) 19–28; contra, D. L. Page, "The Song of Hybrias the Cretan," *PCPS* 191 (1965) 62–65; on the *kosmos*, Arist. *Pol.* 2.1272a28–35.

<sup>45</sup> Schaps (*supra* n.5) 85–88. For the contrast with Athenian dowry, Harrison (*supra* n.9) 45–60, 130–55; Sealey (*supra* n.6) 77–80. Foxhall (*supra* n.10: 32–39) disagrees with Schaps, suggesting that Athenian women were in a position rather like Gortynian women.

<sup>46</sup> These measures, along with the state-supported *sysstitia*, no doubt partly account for the Cretans' avoidance of the Spartan *oliganthropia*. See Schaps (*supra* n.5) 88; Hodkinson (*supra* n.6).

(4) *Heiresses*. Close-kin marriage was enforced, to the father's brother or father's brother's sister (7.15–9.24). The rules here are not a survival of tribalism, but an attempt to keep the *kremata* as close as possible to the male line of descent. The *patroiokos* achieved this effect far more than the Athenian *epikleros*, who, as Schaps points out, did little to preserve the *oikos* or help the *kyrios*. Athenians who wanted to rescue the *oikos* from extinction relied on adoption, although this was not particularly effective.<sup>47</sup>

(5) *Adoption*. This is critical in diverging devolution. Procreation regularly fails to produce appropriate heirs,<sup>48</sup> and the Code deals with this at length (10.33–11.31). A father could find a more desirable heir even if he had legitimate sons (10.48–11.10), unlike the situation at Athens (Dem. 44.49). The regulations were innovations, but adoption laws had existed before (11.19–23). Another common strategy for finding a male heir, using the daughter as an 'appointed son' in a filiacentric union, may be behind 6.55–7.2, where a free woman can use a *dōlos* to produce free children.<sup>49</sup>

(6) *Extra-marital sex*. Groups practicing diverging devolution commonly ban adultery and emphasize female virginity and monogamy. The penalties for adultery were harsh (2.40–45). Extra fines if the offense occurred in the woman's father's, brother's or husband's house (2.20–23) show the symbolic force of the offense as an assault on the household of the *kyrios*.

(7) *Kinship terminology*. The final element in Goody's model is a descriptive kinship terminology, one of the cultural features that isolates the descent line and helps prevent the dissipation of its wealth. As I hope I have demonstrated, nothing in the Code supports Willetts' theory of a classificatory terminology; and while looking at the inscription in the light of Goody's model cannot disprove Willetts' case, it certainly makes the argument for cross-cousin marriage appear very implausible.

<sup>47</sup> Schaps (*supra* n.5) 31–47. On Athenian adoption see Harrison (*supra* n.9) 82–96.

<sup>48</sup> Goody (*supra* n.38) 66–98; Humphreys, *The Family* (*supra* n.8) 7f, 154.

<sup>49</sup> Goody (*supra* n.38) 81f, 93ff. Greek examples include Bellerophon (*Il* 6.192–95) and Polydeuces (Dem. 41.3ff).

## V. Conclusion

I have argued that Willets was wrong to see *kadestas* as a classificatory kinship term and to identify cross-cousin marriage in the Gortyn Code. The state-approved ideals of Gortynian kinship were what we now call a complex structure with a descriptive terminology. Gortynian citizens were legally as free to choose spouses as Athenians, and perhaps did so on much the same grounds, although we are unable to add nuances to this picture.

There is no need to see great differences in kinship patterns between Greek communities. The evidence indicates complex patrilineal structures from at least the eighth century onwards. We shall not find evidence for a transition from matri- to patrilineal descent, nor from elementary to complex systems. If there ever was such an evolution in Greece, it occurred in the very distant past. Nor need we imagine primitive, tribal Dorians setting the clock back millennia in Crete and Sparta. The Gortyn Code does not challenge the new consensus that politics, rather than kinship groups larger than the household, dominated social relations in Dark Age and Archaic Greece.

This paper is not an attempt to discredit comparative analysis. Few would deny that ancient historians must be aware of other disciplines and must understand the implications of the ideas that they borrow. Conjectural history is discredited in anthropology, and shifting it to classics does not improve it. The information in the Code must be studied as an ideal system, working at a single point in time.<sup>50</sup> This is a plea not for a functionalist ancient history, but for facing up to the source problem. The Code gives crucial evidence for fifth-century Cretan ideology, and is not a fossil of some earlier evolutionary stage. I leave the last word to the old master of kinship studies, Radcliffe-Brown:

<sup>50</sup> Gagarin makes a good case (*supra* n.31: 130 n.10) for some parts of the Code going back to the early sixth century, but this does not give us enough material to take an evolutionary view of Gortynian law. The fact remains that this is a mid-fifth-century text and not a stratified relic of earlier worlds. Willets' wish to see it as a very ancient system transmitted orally for centuries is misleading. G. Camassa ("Aux origines de la codification écrite des lois en Grèce," in M. Detienne, ed., *Les savoirs de l'écriture en Grèce ancienne* [Lille 1988] 130–55) tries to revive long-term verbatim oral transmission in Crete.

My objection to conjectural history is not that it is historical, but that it is conjectural. History shows us how certain events or changes in the past have led to certain other events or conditions, and thus reveals human life in a particular region of the world as a chain of connected happenings. But it can do this only when there is direct evidence for both the preceding and succeeding events or conditions and also some actual evidence of their interconnection. In conjectural history we have direct knowledge about a state of affairs existing at a certain time and place, without any adequate knowledge of the preceding conditions and events, about which we are therefore reduced to making conjectures. To establish any probability for such conjectures we should need to have a knowledge of laws of social development which we certainly do not possess and which I do not think we shall ever attain.<sup>51</sup>

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<sup>51</sup> Radcliffe-Brown (*supra* n.14) 50. I would like to thank Paul Cartledge, David Cohen, Michael Gagarin, and Richard Saller for their comments on an earlier draft of this paper. All the errors that remain are of course my own.