

INTRODUCTION

The object of dissertation is to establish whether the women of ancient Egypt possessed any legal rights, and if so, what kinds of rights they had. Their role in society and the law, as well as their attitude towards and role in the legal system, will be traced. An attempt will thus be made to place these women in the legal sphere; although there will be a general overview, specific emphasis will be laid on certain issues in the context of everyday life.

The legal rights of the common woman were mostly considered, as far as possible, although some reference was made to certain higher ranked women in order to highlight certain aspects of the law. It is well known that the latter enjoyed much freedom and considerable rights, but not much is known about the rights the commoners had. Therefore, this dissertation is mostly dedicated to the common woman's rights.

It is hoped that in this study, the rights of women will have been adequately portrayed, and the reasons for the assessment of the legal rights of women made clear. It is the intention of this work to show, although the laws were made and orchestrated by men, that women indeed had extensive legal rights and also had a life more equal than their female counterparts in the rest of the ancient Near East.

The study of the ancient women of Egypt is problematic, for numerous reasons, for example: although we have a great amount of source material, Egyptologists lack a understanding of the functioning of the Egyptian society, the general functioning of

the government, the law and the economy. It is thus difficult to perceive the role, place and importance of women in a system we do not fully understand.

Robins (1993 : 15) notes that due to the male dominated society, its norms were provided by men for men. Men could perpetuate their control over the political sphere, while women could not officially gain access to the bureaucracy. Whether women were consciously aware of the gender differentiation in their society is uncertain, and whether they resented this as well will never be known, because no written record survives that reflects their opinions and feelings. (Tyldesley 1995 : 29) notes that because of the illiteracy of most of the women, some of the cases of interest purely to women were excluded from the written records

In the study of legal and economic rights it must be remembered that ancient Egyptian women did not form a homogenous group. While the women of elite families possessed extended legal rights, could possess property and could run a business, other sources indicate that lower ranked women found their position insecure (Robins 1993 : 138). A consideration of the legal system and its treatment of women could, however, provide us with an understanding of how they were treated in society.

The biggest problems in Ancient Egyptian studies are, according to Robins (1993 : 11-12):

1. The nature of the source material, and
2. The interests and biases of Egyptologists.

TEXTUAL SOURCES

Trigger, Kemp, O'Connor & Lloyd (1983 : 185) states that:

“ The archival texts - usually on fragile papyrus or small ostraca (pottery or limestone fragments) include the varied records of government at all levels (e.g. official reports, court proceedings, land registers) and the mass of letters, memoranda, agreements and wills generated by the population as a whole. A related category of more specialized texts includes literary works, religious material, mathematical and medical records and the like”.

Due to the wealth of texts available for study they were used as the primary source for writing this dissertation. Documents (papyri, ostraca, tomb inscriptions, stelae, graffiti, decrees etc.) from the Old, Middle and New Kingdom were referred to, and as such, no restriction to certain periods and places was applied in looking at the legal and/or other documentation. Texts such as legal documentation, wisdom literature and more general texts were used throughout this dissertation to support statements made.

Mostly documentation that refers to women was used, although other sources and documentation were also employed, as it is believed that all law, morality and ethics were also applicable to women, even though they do not always specifically refer to women.

Non-monumental texts were usually written in Hieratic, or later written in Demotic, on papyri or ostraca and this provides us with important information on the functioning of the temple and government institutions, law cases and economic

affairs, but we must remember that the selection of texts at our disposal is due to the chance of survival and that many more texts may be lost (Robins 1993 : 14). We also lack the context that would have been clear when the document was written.

All written evidence should thus be treated with a due degree of caution. We must remember that our records are incomplete and randomly chosen - even more texts have been destroyed than have survived, which has left some aspects of everyday life unrecorded (Tyldesley 1995 : 28). Moscati (1963 : 123) also mentions that:

“...we have reason to believe that what we know of Egyptian literature is only a small and fragmentary part of the original heritage: the reconstruction which we offer is only a collation of the known elements, involved as they are in considerable obscurity”.

Unfortunately, no Egyptian Law Codex has survived¹, but there is enough evidence in the form of court documents and law correspondence, as Montet (1964 : 71) states :

“Ancient Egypt has, however, bequeathed us a wealth of texts carved on stone or written on papyrus which can be said to be legal documents: contracts, inventories, wills, decrees stating the king’s will and the punishments that would be the price of disobedience, and also reports of proceedings”.

We find the largest number of private economic and legal documents at the workman’s village of Deir el-Medina and they date back to the New Kingdom.

Even though it is possible for us to literally translate a lot of Egyptian words, we do not come from the same cultural and social background and we may therefore miss

¹ Montet (1964 : 71) remarks that: “So far, no collections of law have been found, although neighboring countries of the Near East abound in legal codes. The absence of an Egyptian code may be a pure

some of the more subtle nuances and colloquial expressions that were meant for the intended reader.

The so called Wisdom Literature², although not legally ordained, also sheds some light on how a person should behave in public and in society. Fensham (1962 : 129) remarks that:

“The wisdom literature was used to instruct people how to behave. Legal material, on the other hand, comes with a casuistic stipulation on a transgression of normative conduct prescribed by wisdom literature”.

Texts of Wisdom Literature do not form a comprehensive moral code, but as Lichtheim (1973 Vol I : 62), puts it:

“ ... they touch upon the most important aspects of human relations and they focus on the basic virtues. The cardinal virtues are self-control, moderation, kindness, generosity, justice, and truthfulness tempered by discretion. These virtues are to be practiced alike toward all people”.

Baines (1991 : 131) states that:

“Official pronouncements and works of literature are often oriented towards ethics, while more indirect sources reveal a little of the workings of morality”.

We can therefore assume that the law was based on precedent and on customary law (Moscati 1963 : 138), owing to the lack of a written Code of Law. The law found in Egypt can thus be defined as the *Ius Gentium*, the law that is found in all nations, based on morals and ethics.

accident, so that one day the gap in our knowledge may be remedied. It may well be, however, that justice was administered somewhat empirically”.

THE DEFINITION OF LEGAL CATEGORIES

The definition of ancient Egyptian legal categories also poses a problem as Thèodoridès (1971 : 320) mentions, as does VerSteeg (1994 : 42), who states regarding:

“... civil procedure, tort, contract, property, persons and family, and crime. Clearly, the ancient Egyptians did not recognize these discrete legal categories. Admittedly, they are modern constructs. Egyptian law was imbued with custom, religion, magic, and complex power hierarchies more than independent areas of law such as property, torts or contracts”.

We shall now investigate various legal aspects that influenced the everyday life of women by way of making use of our modern classification of the law, as was set out in the index, and we shall mainly concentrate on the textual sources left to us by the ancient Egyptians.

OUTLINE OF THE DISSERTATION

In Chapter 1 an investigation will be conducted into the ancient Egyptians' family life. The rights and duties the husband and wife had towards each other will be researched to discover where they were derived from. The matrimonial deeds that were drawn up will also be examined, as well as the formalities and prerequisites necessary for the establishment of a valid marriage.

² For example the Instructions of Any, Ptahhotep, Merikare, Amenemotpe.

Chapter 2 endeavours to seek an answer to the question whether a woman could bequeath her own and her husband's property to whomever she wished. It will also consider the disinheritance of any of her children from her private property. Could she determine who should inherit and could she also selectively bequeath specific property to certain heirs?

In Chapter 3 an effort will be made to establish the property rights of women. The right to be involved in transactions and the different ways of obtaining property will be traced. Questions regarding full ownership, restriction on property and alienation will be considered. The question whether a woman needed the intervention of a guardian in her actions regarding property will also be investigated.

Chapter 4 attempts to answer whether a woman could indeed conclude contracts, and whether she could do so on her own, without the help and assistance of a guardian. The types of contracts concluded will also be examined.

Chapter 5 investigates the question regarding a woman's access to the legal system. It will discuss the different crimes for which a woman could be tried for and examine what punishments were meted out for certain crimes, considering whether women were treated the same under the law as men.

