

WOMEN AND NATURALISATION IN FOURTH-CENTURY ATHENS: THE CASE OF ARCHIPPE*

What we know of citizenship, marriage and political status in Athens in the fourth century¹ suggests that they were matters of no little public concern governed by a body of law which left few, if any, significant loopholes or anomalies. The ‘descent group’ criterion for citizenship had triumphed over the possible alternatives.² The fundament of the system was the Periklean law (or laws) of 451/0, re-enacted in 403/2, and prescribing double endogamy – that is, citizen birth through both parents – as the normal qualification for a citizen (*astos*).³ Whether this fifth-century legislation declared mixed marriages (*astos* with *xene*, *xenos* with *aste*) positively invalid⁴ or merely deterred them indirectly, through the disabilities falling upon the children,⁵ remains unclear. It is certain, however, that by the time [Demosthenes] 59 was delivered, in the 340s,⁶ both the parties to and the accessories in such marriages were breaking the law. ‘At that time an alien who joined the *oikos* of a citizen as husband or wife (the word *synoikein* implies a purported marriage, not mere concubinage) could be prosecuted by *graphe* and, if found guilty, was sold as a slave; the citizen man who thus received an alien woman into his *oikos* as his wife was fined 1000 drachmas. A man who, acting as her *kyrios*, gave an alien woman to a citizen for marriage could also be prosecuted by *graphe*, and if he was found guilty he was disfranchised and his property was confiscated’.⁷

* John Davies, Signe Isager and Michael Osborne each offered helpful criticisms of an early draft of this paper, but share no responsibility for the exploratory line of argument adopted. In addition to the standard abbreviations, note the following: Davies = J. K. Davies, *Athenian Propertied Families 600–300 B.C.* (Oxford, 1971); Harrison = A. R. W. Harrison, *The Law of Athens: the family and property* (Oxford, 1968); Osborne II = M. J. Osborne, *Naturalization in Athens*, vol. II (Brussels, 1982); Osborne III–IV = M. J. Osborne, *Naturalization in Athens*, vols. III–IV in one (Brussels, 1983).

¹ To be precise: between the restoration of democracy in 403/2 and its suppression in 322/1. ‘Fourth-century Athens’ hereinafter will refer to this period.

² See J. K. Davies, ‘Athenian citizenship: the descent group and the alternatives’, *CJ* 73 (1977–8), 105–21.

³ For a recent discussion of both the legislation and (more briefly) its re-enactment see Cynthia Patterson, *Pericles’ Citizenship Law of 451–50 B.C.* (New York, 1981). While it is now generally accepted that Perikles’ law was not retroactive in the sense of disfranchising anyone registered before 451/0, it very probably did disfranchise (and disinherit) those born at any time after 469/8, whom the demes would reject when they came up for enrolment: thus S. C. Humphreys, ‘The Nothoi of Kynosarges’, *JHS* 94 (1974), 88–95, esp. 92–4. By contrast it would seem that the 403/2 re-enactment was entirely non-retroactive, thus allowing *metroxenoi* born before that year to qualify as citizens until 385/4; cf. Osborne III–IV, 152, cf. 184.

⁴ Thus (e.g.): C. Hignett, *A History of the Athenian Constitution to the End of the Fifth Century B.C.* (Oxford, 1952), 343; D. M. MacDowell, *The Law in Classical Athens* (London, 1978), 67 and 87.

⁵ Thus (e.g.): Harrison, 26; Patterson, op. cit. (note 3, above) 29 n. 3, 95 + n. 57, 99.

⁶ The *termini* are 349/8 ([Demosth.] 59.3–8; cf. in general M. H. Hansen, *GRBS* 17 [1976], 235–46) and 339/8 (Philochorus, *FGrHist* 328 F 56a).

⁷ MacDowell, op. cit. (note 4, above), summarising [Demosth.] 59.16 (ἐὰν δὲ ξένος ἀστῇ συνοικῇ τέχνη ἢ μηχανὴ ἡτινιοῦν, γραφέσθω πρὸς τοὺς θεσμοθέτας Ἀθηναίων ὁ βουλόμενος οἷς ἔξεσιν. ἐὰν δὲ ἄλῳ, πεπράσθω καὶ αὐτὸς καὶ ἡ οὐσία αὐτοῦ, καὶ τὸ τρίτον μέρος ἔστω τοῦ ἐλόντος. ἔστω δὲ καὶ ἐὰν ἡ ξένη τῷ ἀστῷ συνοικῇ κατὰ ταῦτά, καὶ ὁ συνοικῶν τῇ ξένῃ

It would seem obvious, then, that within the law – I am not concerned here with the many forms of illegal behaviour – the political status of and marriage options for the overwhelming majority of free persons, men and women, in fourth-century Athens were predetermined by the circumstances of their birth. The most important (though numerically minor) exception to this arose with the category of *demopoiētoi*, foreigners who either as individuals or in groups were granted Athenian citizenship by special decree of the Assembly. From c. 369/8 – and apparently in accordance with legislation perhaps to be dated in the mid 380s – what had previously been a haphazard feature of such grants, their explicit extension to the honorand's descendants (*ekgonoi*), is found specified regularly and automatically.⁸ This, it might naturally be assumed, eliminated any residual ambiguities of status surrounding both the *demopoiētos* himself and also his family, present and future. If unmarried, he could now take an *astē* to wife; and his sons, whether born before or after his award, were equally free, as naturalised Athenians, to marry other Athenians and produce Athenian offspring. The case of Archippe, however, prompts the question: was the clarity of this situation in respect of the honorands themselves and their *male* descendants similarly pellucid when it came to their womenfolk?

Archippe, it will be remembered, was the wife of much the best-known *demopoiētos* of them all, the banker Pasion of Acharnai.⁹ Born (by 430) a slave, Pasion secured metic status through manumission¹⁰ before the end of the 390s, and Athenian citizenship in the 380s or 370s,¹¹ before dying in 370/69. In that year his elder son Apollodoros was aged 24, which yields 395 as *terminus ante quem* for the marriage between Pasion and the young Archippe; another son, Pasikles, was born in c. 381/0. Both Apollodoros and Pasikles, as well as the latter's son Pasion II, are individually attested as Athenian citizens, which satisfactorily corroborates the statement of [Demosth.] 59.2 that the enfranchisement of Pasion had extended to his *ekgonoi*. We may also note that Theomnestos of Athmonon, who delivered [Demosth.] 59.1–15, was by that time not only the brother-in-law of Apollodoros but also the husband of one of his two known daughters, which would seem sufficient guarantee of that woman's citizen status. But what of the status of her grandmother Archippe? She had died in February 360, a matter of months before or after (we cannot tell which) her second husband Phormion had emulated her first by securing the prize of Athenian citizenship. The likelihood that this grant too covered the honorand's *ekgonoi* must be very strong, both because such a provision was by now, as stated already, regular and also in view of the good grounds for identifying one of the two sons born to Archippe and Phormion with Phormion of Peiraieus, a man of known citizen status.¹²

ἀλούση ὀφειλέτω χιλίας δραχμᾶς) and 52 (ἐὰν δέ τις ἐκδῶ ξένην γυναῖκα ἀνδρὶ Ἀθηναίῳ ὡς ἑαυτῷ προσήκουσαν, ἄτιμος ἔστω, καὶ ἡ οὐσία αὐτοῦ δημοσία ἔστω, καὶ τοῦ ἐλόντος τὸ τρίτον μέρος. γραφέσθων δὲ πρὸς τοῖς θεσμοθέταις οἷς ἔξεσιν, καθάπερ τῆς ξενίας).

⁸ See M. J. Osborne, 'Attic citizenship decrees: a note', *ABSA* 67 (1972), 128–58, at 140 + n. 49 and 147–8 + n. 75; cf. now Osborne II, 59 and (esp.) Osborne III–IV, 150–4.

⁹ PA 11672; but see rather, for full data (and chronological inferences which I follow here), Davies, 427–42 (with bibliography) and S. Isager and M. H. Hansen, *Aspects of Athenian Society in the Fourth Century B.C.* (Odense, 1975), 176–91 and 225–6. What we know of the history of Pasion and his family is intimately interwoven with that of his bank, but here I ignore the latter as far as possible.

¹⁰ For ex-slaves in Athens as metics see D. Whitehead, *The Ideology of the Athenian Metic*, *PCPhS* suppl. vol. 4 (Cambridge, 1977), 16–17.

¹¹ Perhaps before 386: see Davies, 430.

¹² See Davies, 436–7. We may discount Apollodoros' suggestion, amid so much other spiteful innuendo, that it would have been improper for these sons to marry his own daughters (Demosth. 45.75).

Yet a perplexing question poses itself if we consider the actual marriage of Archippe and Phormion, in *c.* 368: *how was this legally possible?* The marriage was required by Pasion's will (Demosth. 36.8; cf. 45.28) – but was it not an illegal marriage between a *xenos* and an *aste*, Phormion a metic (albeit the lessee, now, of Pasion's bank and shield-workshop), Archippe the widow and mother of citizens?

The context for formulating any answer to this question must be Apollodoros' bitter hatred, all too obvious to readers of his speeches, for the man who thanks to Pasion was now his stepfather. Otherwise a great hindrance to a clear view of many of the issues involved, Apollodoros' palpable loathing of Phormion makes it inconceivable that he could have failed to charge him with a breach of the law quoted in [Demosth.] 59.16, or indeed any of the laws dealing with citizenship and marriage, had such a breach actually occurred. Instead we find Apollodoros contenting himself with asserting, suspiciously vaguely, that for Pasion to have arranged the marriage of Archippe and Phormion without foreknowledge that Phormion would one day be enfranchised would have shown contempt for his (Pasion's) gift of citizenship and disregard for 'the laws' ([Demosth.] 46.13; cf. Demosth. 45.35–6). But *what* laws? In 45.3–4 Apollodoros recalls his action, and reaction, upon returning to Athens in 368 from trierarchic service in Sicily to discover that Phormion had in fact married Archippe. He was unable, he says, to bring a private lawsuit (*dike idia*) against Phormion because such suits had been suspended at that time 'because of the war' (*sc.* against Thebes); so instead he brought a *graphe hybreos* against him – but ultimately withdrew it. That Apollodoros' initial response to the distasteful situation which confronted him was to contemplate a *private* suit against Phormion (perhaps a *dike aikeias*) is surely significant; only when thwarted in that did he resort to the more weighty and all-embracing *graphe hybreos*,¹³ which he then did not press to a conclusion. There is no suggestion whatever that in marrying Archippe Phormion had infringed the citizenship-law of [Demosth.] 59.16 – so as to incur, presumably, a *graphe xenias*¹⁴ – or indeed any other specific piece of Athenian legislation.

For this there might, I concede, be a ready explanation. If (a) the law in [Demosth.] 59.16 was not yet on the statute-book in *c.* 368 and if (b) the fifth-century legislation concerning citizenship had contained no analogous provision, the marriage of Phormion and Archippe, no matter how vexatious to Apollodoros personally, will have been a perfectly legal one. The couple will simply have entered into their marriage in the knowledge that any children born to them would be categorised as aliens unless and until Phormion's benefactions to the Athenian State elicited the same grateful response as had Pasion's. However, while neither condition (a) nor condition (b) could be described as demonstrably unreasonable, one cannot help thinking that, if a law expressly forbidding a marriage between an *aste* and a *xenos* had been first promulgated between *c.* 368 and the 340s, it was superhuman restraint on the part of Apollodoros – a man for whom restraint was scarcely second nature – not to have commented, in [Demosthenes] 59, how much its existence at the time of his mother's remarriage would have strengthened his arm against Phormion.

At all events, the point we must cling to is that the marriage of Archippe and Phormion was *not in itself illegal*. If the reason for this should indeed be that no law

¹³ On the nature and scope of the *hybris* law see most recently M. Gagarin, 'The Athenian law against *hybris*', in *Arktouros: Hellenic studies presented to Bernard M. W. Knox on the occasion of his 65th birthday* (Berlin and New York, 1979), 229–36. On the concept of *hybris* in general see D. M. MacDowell, 'Hybris in Athens', *G&R* 2nd ser. 23 (1976), 14–31; N. R. E. Fisher, 'Hybris and dishonour', *ibid.* 177–93, and 2nd ser. 26 (1979), 32–47.

¹⁴ See A. Diller, *Race Mixture among the Greeks before Alexander* (Urbana, 1937), 95–6.

preventing mixed-status marriages was in existence at the time, that fact would be of some interest *per se*, for what it would reveal of the Athenians' attitude to such things in the first half of the fourth century. But in view of Apollodoros' silence on the matter the alternative demands consideration – that such a law did exist but was not infringed by the case of Archippe; and the consequences of *this*, if true, plainly call for further comment. Two possible lines of explanation suggest themselves. One of them has recently been adumbrated by Michael Osborne, the other will be tentatively proffered here.

As Osborne sees it,¹⁵ the act of naturalising an alien did not (even after 369/8) affect in any way the status of his wife, only that of his children. On this view Archippe will have remained a *xene* in the eyes of the law even after Pasion had become *demopoietos* – and for that matter (if she was still alive at the time) even after Phormion had become one too; and her marriage to Phormion was thus, uncontroversially, a union between *xene* and *xenos*.

There are undoubted attractions in this way of envisaging the case of Archippe, and her like.¹⁶ The step, acceptable to other Greek cities in the fourth century, of positively enfranchising women in their own right was never taken in Athens:¹⁷ so, it can be argued, if the wives of men created *demopoietoi* were clearly understood to be excluded from the grants to their husbands and children, such grants brought these women none of the attributes of an *aste* but left them quite unambiguously as aliens. What is more, it may be felt that if the wives of *demopoietoi* had become naturalised along with their spouses, this would make it rather difficult for us to understand the reasoning behind the eligibility rules for archonships and priesthoods, which were closed both to *demopoietoi* themselves and also to their descendants, unless those descendants were 'born of an Athenian woman betrothed in accordance with the law'.¹⁸ If women in Archippe's position remained – however anomalously, to our modern eyes – simple *xenai* even after their husbands had become Athenian citizens, these eligibility rules would arguably make reasonable sense; and, analogously, one could appreciate something of the reason for (if not necessarily the justice in) Archippe's being restricted to marriage to the metic Phormion whereas her granddaughter was subsequently free to marry the citizen Theomnestos.

Yet for all that, there remain certain aspects of the case of Archippe which do not seem to fit at all comfortably into Osborne's scenario, and which therefore compel the search for an alternative conception. For one thing, we read in Demosth. 45.28 that under Pasion's will Archippe was left a tenement-house (*synoikia*), valued at the 'enormous sum' of 100 *mnai*.¹⁹ This, together with two talents in cash, some female slaves and some personal effects, was part of her dowry to Phormion – and, as far as we are concerned, a problematical part. Unless Pasion's intention was that the *synoikia* be immediately sold (and there is no reason to think this), either Archippe or Phormion had to be reckoned its owner. The only people, of course, who could own landed

¹⁵ Osborne III–IV, 150–4 (cf. *ABSA* 67 [1972], 147 n. 75). I have taken the liberty of expanding his discussion somewhat, and applying it to the specific case of Archippe, with points made in personal correspondence with me.

¹⁶ Since, as admitted at the outset, the *demopoietoi* were themselves a very small group in absolute terms, to consider their widows – indeed, the sub-category thereof which remarried – is to deal with an extremely small group indeed. I concede the point, but would observe that Archippe's status during Pasion's lifetime is also at issue.

¹⁷ Osborne III–IV, 150 (cf. *ABSA* 67 [1972], 147 n. 75), citing *SEG* XV 384 (Dodona, 370/69).

¹⁸ [Demosth.] 59.92 (ἐκ γυναικὸς ἀστῆς καὶ ἐγγυητῆς κατὰ τὸν νόμον); cf. 104–6; see Osborne III–IV, 173–6.

¹⁹ Davies, 431 (rightly expressing, none the less, no disbelief in the authenticity of the will).

property were citizens, together with that tiny, élite group of metics and other foreigners who had been explicitly awarded rights of landownership (*enktesis*) by the Athenian Assembly; yet in 370/69 Phormion's own acquisition of full citizenship was still entirely within the realms of clairvoyance (cf. [Demosth.] 46.13), and to see him as already the possessor of the right of *enktesis* at Pasion's death makes less, not more, sense of the arrangements made then. Thus, notwithstanding both the severe restrictions in general upon the property-owning rights of women in Athens²⁰ and the likelihood in particular that the owner of a dowry was considered to be the husband on his wife's behalf,²¹ to envisage Archippe herself as in some sense the owner of the *synoikia* would appear to be all but inescapable.

Was Archippe therefore an *aste* or was she a *xene*? There is a passage in [Demosthenes] 46 which suggests a curious answer: she was either. In 46.22 Apollodoros calls for a reading of the law requiring the assignment of *epikleroi*, citizen and alien – the former by the (eponymous) archon, the latter by the polemarch. After the law has been read out, he then goes on, in 46.23, to say that if Phormion had wanted to proceed properly he should have entered his claim for Archippe *qua* heiress 'before the archon, if he claimed her as an *aste*, and before the polemarch, if as a *xene*'.²² Since in 46.23 the generalities of the preceding chapter have plainly given way to statements about this specific case, it would appear that Apollodoros is saying that his mother's status, as *aste* or *xene*, was one of genuine and intrinsic ambiguity.

To present Archippe as a potential *aste* on no factual basis whatsoever might not, I recognise, be considered beyond Apollodoros' capacity for making mischief and sowing confusion; but in conjunction with 45.28 on the *synoikia* I submit that it cannot be brushed aside without ceremony. Archippe's (apparent) ability to inherit the *synoikia* would seem to militate against one possible way of our comprehending her position at the time, namely, that the death of Pasion had transformed her, Cinderella-like, from *aste* to *xene* again; and yet, as *aste*, how can she legally have married Phormion? To be sure, one must keep in view the possibility, conceded above, that as regards the particular case of Archippe in c. 368 the law of [Demosth.] 59.16 was not yet in force; but even if it was not, the ambivalence which we have exposed in Archippe's status would substantially remain, and for her counterparts a generation later would merely be embodied in, not eradicated by, the law of the land. In any case the crucial question is: had it not been arranged for her to marry a metic, could Archippe in fact – like her granddaughter, later – have married an Athenian? My own answer would be that we have seen reason, here, to suppose that her status was sufficiently indeterminate to have allowed her second spouse to be *either* citizen *or* alien – a particularly striking illustration of a point recently made by John Gould, that 'it is characteristically through her relationship to males or...by evidence of her marriage that a woman's status is upheld in [Athenian] courts of law'.²³ The law itself,

²⁰ See G. E. M. de Ste. Croix, 'Some observations on the property rights of Athenian women', *CR* 20 (1970), 273–8; cf. more generally D. M. Schaps, *Economic Rights of Women in Ancient Greece* (Edinburgh, 1979).

²¹ Thus H. J. Wolff, 'Marriage law and family organization in ancient Athens', *Traditio* 2 (1944), 43–95, at 53–65 (reprinted in German translation as *Beiträge zur Rechtsgeschichte Altgriechenlands und des hellenistisch-römischen Ägypten* [Weimar, 1961], 155–242, at 173–91); cf. his standard treatment of the topic in *RE* XXIII.1 (1957), s.v. *προίξ*, cols. 133–70, and 147ff. For a more nuanced view see Harrison, 45–60, esp. 52–4 (cf. 113).

²² [Demosth.] 46.23: οὐκοῦν αὐτόν, εἴπερ ἐβούλετο ὀρθῶς διαπράττεσθαι, λαχεῖν ἔδει τῆς ἐπικλήρου, εἴτε κατὰ δόσιν αὐτῷ προσήκεν εἴτε κατὰ γένος, εἰ μὲν ὡς ὑπὲρ ἀστῆς, πρὸς τὸν ἀρχοντα, εἰ δὲ ὡς ὑπὲρ ξένης, πρὸς τὸν πολέμαρχον.

²³ J. P. A. Gould, 'Law, custom and myth: aspects of the social position of women in classical Athens', *JHS* 100 (1980), 38–59, at 46.

in fact, seemingly conceived the status of women like Archippe in this same vicarious and – potentially – shifting way. That Archippe, inheritor of real property and widow and mother of Athenian citizens (albeit *demopoietoi*), could, had she so chosen, have taken an Athenian as her second husband is a possibility which one would be exceedingly rash to deny; and if indeed she could, her actual marriage to Phormion the metic would seem to betray her status at the time as one of Janus-like duality – to be ‘defined’ one way or the other only by the advent of a second husband with, necessarily, a clear status of his own. As to the communal mentality which gave rise to this state of affairs, it could best be described as unconcern, on the Athenians’ part, about the long-term status of the wives of *demopoietoi* – unconcern which, ironically, allowed to these women a wider range of marriage options than was enjoyed by the rest of their sex.

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