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TABLE OF CONTENTS

Béatrice CASEAU and Sabine R. HUEBNER A Cross-Cultural Approach to Succession and Inheritance in the Ancient and Mediaeval Mediterranean	5
ILLEGITIMATE CHILDREN, GENDER ISSUES	9
Maria NOWAK The Hereditary Rights of the Extramarital Children in light of the law of papyri	11
Judith EVANS GRUBBS Illegitimacy and Inheritance Disputes in the Late Roman Empire	25
Lahcen DAAÏF L'égalité entre hommes et femmes dans les <i>waqfiyyāt</i> mameloukes Un défi à la loi ?	51
Yves SASSIER Conflit de succession entre héritières et sentence du parlement royal au XIII ^e siècle: la partition du grand comté de Nevers-Auxerre-Tonnerre (Toussaint 1273)	67
Cameron SUTT <i>Parentela</i> , kindred, and the crown: Inheritance practices in Árpád-era Hungary	75
KINSHIP AND CONFLICTS OVER INHERITANCE	89
Brenda GRIFFITH-WILLIAMS Matrilineal kinship in Athenian inheritance disputes: two case studies	91
Sabine R. HUEBNER <i>'It is a difficult matter to be wronged by strangers, but to be wronged by kin is worst of all'</i> Inheritance and Conflict in Greco-Roman Egypt	99
Giles ROWLING Babatha's archive: inheritance disputes in second century Roman Arabia	109
Nicholas A. E. KALOSPYROS Towards the Allegory of Idealized <i>Oikos</i> : Nuclear and Extended Family Versions, Succession and Inheritance Issues and Their Cognates in Philo Judaeus	117

CHRISTIAN INFLUENCE OVER PARTITIVE INHERITANCE	139
Fotis VASILEIOU	
For the Poor, the Family, the Friends: Gregory of Nazianzus' Testament in the Context of Early Christian Literature	141
Jean-Claude CHEYNET	
Les conflits d'héritage d'après les tribunaux ecclésiastiques (XI ^e -XV ^e s.)	159
INHERITING POWER	177
Amber GARTRELL	
Unequal Brothers: An Exploration of a Succession Strategy of Augustus	179
Christian SETTIPANI	
Pouvoir, religion et conflits familiaux à Byzance autour du IX ^e siècle	191
Gerhard LUBICH	
Inceste, meurtre en famille et guerres civiles. L'héritier, la famille et la dynastie mérovingiens au début du VI ^e siècle	215
TESTAMENTS	227
Carlos SÁNCHEZ-MORENO ELLART	
The Late Roman Law of Inheritance: the Testament of Five or Seven Witnesses	229
James HOWARD-JOHNSTON	
Partitive Inheritance in Principle and in Practice in Eleventh-Century Byzantium	259

A CROSS-CULTURAL APPROACH TO SUCCESSION AND INHERITANCE IN THE ANCIENT AND MEDIAEVAL MEDITERRANEAN

Béatrice CASEAU and Sabine R. HUEBNER

Socio-historical scholarship on the family has been flourishing in recent decades among scholars of the ancient and medieval world. Scholarly attention turned above all to the definition of the 'family', families of the social elite, family memories, family networks, the structure and organization of the *oikos/domus*, and representations of the family. We propose to work on patterns of and conflicts over succession and inheritance in a cross-cultural comparative perspective, a topic which so far has received surprisingly little attention by historians and anthropologists interested in the family, but which lies, we believe, at the heart of all family strategies affecting household composition, intergenerational relations, and the organization of old age care.

By studying inheritance and succession patterns for a society, region, or locality, we obtain a new grasp on family dynamics and learn more about cultural and social expectations ingrained in a society, such as women's rights and status, organization of family support networks, and the potential for intergenerational conflict. When the law provided for equal sharing between children, in what ways and to what effect could parents favor one child over others? What conflicts could arise among siblings? What was the place of girls in the distribution of the patrimony? How could the elderly generation assert their role in the family by using their property as leverage for securing old age support from their heirs? We know of various forms of succession and inheritance patterns for ancient and pre-modern societies laid out in the legislation and often adjusted to and modified in everyday practice.

The last two decades have seen the publication of a number of studies on wills and inheritance in the classical world, such as those by Rubinstein (1993) on classical Athens or Champlin on Roman wills (1991), or the set of papers on property transmission in the Mediterranean medieval world edited under the direction of Joelle Beaucamp and Gilbert Dagron (1998). However, inheritance and succession strategies among the common population, peasants, laborers, small traders, and craftsmen, which indubitably constituted about 95 percent of all ancient and medieval societies, have been almost entirely neglected in scholarship. Kreller's groundbreaking study (1919) on inheritance and succession in Greco-Roman Egypt,

for example, for which we have probably the richest source of information on the social strata below the elite, was published almost a century ago, and no one has ever advanced an update or extension of the topic.

Moreover, the interconnection of family and household forms, on the one hand, and succession and inheritance patterns, on the other hand, has not been discussed at all, even though such a diachronic comparative study is certainly to be desired.

Across societies of the ancient Mediterranean, the next of kin from the male line usually inherited. The system of primogeniture in ancient Israel let only the eldest son inherit. In ancient Egypt the firstborn male was granted a double share and the right to succeed to his father's office and household headship, while his brothers and sisters received a smaller share of their father's estate. Greek and Roman societies, however, did not recognize the right of the firstborn. Children usually inherited equally, but girls often received their share of movable property as a dowry, while their brothers often inherited land – whether they kept their patrimony undivided or divided it up was another question and depended on the number of brothers, the size of the estate, whether it was a rural or urban setting, and custom. Legitimate children were entitled to inherit but fathers often found a way to provide a share of their inheritance to their illegitimate children. A widow was usually barred from inheriting from her husband but was granted a lifelong usufruct that secured her old age. Whether daughters could inherit at all varied from society to society. A dowry given to them at their wedding usually represented their premortem share in their father's estate. If they had not yet been married, their father's heirs made provision for their maintenance and a dowry. In the absence of sons, daughters generally succeeded to their father's patrimony but were obliged to marry one of their father's kinsmen. In the absence of children, brothers or fathers' brothers inherited. If children had died but had left grandchildren, those inherited in their stead. No matter how the succession was organized, however, more or less serious internal conflicts within the family were often the result. Wills were challenged.

Ancient and medieval societies based legal succession on the degree of family relations, but they also introduced some testamentary freedom which allowed the bequeathal of goods and properties to institutions or to persons other than relatives. What conflicts could arise when a childless bequeather, for example, chose to adopt a person outside the family as heir (e.g. testamentary adoption) or decided to leave his assets to an institution, such as a monastery or a waqf?

Considering the role of religion is a particularly fascinating aspect when studying inheritance and succession conflicts. Bequests to religious institutions disregarding succession rules based on the degree of kinship often caused difficulties over inheritance, but sometimes religious leaders by their active involvement in family affairs also helped to resolve family disputes.

In this volume, based on a conference held in March 2013 at the Institute of Byzantine Studies at the Collège de France, in Paris, a number of distinguished ancient and medieval historians engage with the subject, spanning the period from archaic Greece up to the late Middle Ages, taking into account jurisprudence and legal cases in the civil laws of the Greeks, the Romans, and the Byzantines, and studying the religious laws of pagans, Jews, Christians, and Muslims.

The book is organized by themes. The first section deals with the inheritance rights of illegitimate children and with the unequal treatment of women. The chapter by Maria Nowak concerns Greco-Roman Egypt and shows the rights of illegitimate children to inherit in that

region. She concludes that, in the Hellenistic period, extramarital offspring could inherit and that they were also mentioned in wills written by Roman soldiers. The question of illegitimate children is also the topic chosen by Judith Evans Grubbs for the late Roman period. The legislation changed from the time of Constantine to that of Justinian: Constantine had refused senators the right to transmit property to children born to lowborn women, but Justinian wanted to allow parents to provide for their illegitimate children – a man could leave up to half of his property to his natural children if he had no legitimate ones.

The unequal right of women to inherit is the topic of the three following articles. Lahcen Daaif shows how donations to a waqf could help provide funds to girls and bypass the Islamic law. Yves Sassier shows how, in the absence of a male heir, succession was organized in the county of Nevers in the 13th century. Cameron Sutt shows how estates were divided in Arpad-era Hungary, with special attention to the place of daughters within the inheritance system in the 13th century.

The next section is devoted to kinship conflict over inheritance. Brenda Griffith-Williams deals with inheritance rights of adoptive sons and of daughters, in ancient Athens, and the difficulty for heirs from matrilineal kinship to inherit. Sabine R. Huebner's article focuses on family conflicts over inheritance in Greco-Roman Egypt. It shows that in that region, daughters received dowries but also inherited a share of their father's estate. Documents preserved on papyri show different cases of family members fighting in court over inheritance, siblings but also parents and children, guardians and wards. Nicholas Kalospyros studies inheritance issues in Philo of Alexandria, while Giles Rowling studies inheritance disputes appearing in the 2nd century Babatha archive.

The following section deals with how the Christian authorities encouraged giving part of one's estate to the poor or to religious institutions. Religious ideas of caring for the poor by making them heirs appear in the will of Gregory of Nazianzus, studied by Fotis Vasileiou. Jean-Claude Cheynet uses records from ecclesiastical tribunals to study conflicts between families and monasteries, when a donation was made to a religious institution in a will.

Conflicts arose in ruling families, when the succession also involved transmitting power.

Amber Gartrell tackles the succession strategy of Augustus, whose succession was marred with scandals and even deaths. Christian Settapani studies how imperial power was transmitted inside the imperial family, during the Byzantine iconoclastic era. Conflicts or preventive measures to avoid conflicts led to exile, confiscation of properties, or even executions. Gerhard Lubich deals with the Merovingian period and shows how family murders and civil wars were part of the inheritance process.

The last section is devoted to the forms of testaments and the practice of law. Heinz Barta writes on the form of testaments in ancient Greece and Ptolemaic Egypt. He deals with the question of the influence of the Greek form of testaments on the Roman practice. Carlos Sanchez-Moreno Ellart discusses the forms of Roman testaments and the rule to have either five or seven witnesses. He studies both forms in Roman law and in barbarian law codes. James Howard-Johnston presents an 11th century document, the *Peira*, made of compiled decisions of the Byzantine judge Eustathios Romaios.

This collection of articles does not aim to provide a thorough study of all aspects of conflicts over inheritance but to throw light on different aspects of family conflicts over inheritance. It examines gender issues, the evolution of law, and the influence of religions in partitive inheritance. This volume is based on a jointly organized international conference hosted at the Collège de France, in Paris, in March 2013. We firstly would like to thank all participants of this conference who made valuable substantive contributions by presenting papers or serving as chairpersons and the institutions, which provided generous funding: on the French side, the LABEX RESMED, ‘Religions en Méditerranée’, the Research Center “Orient & Méditerranée” (UMR 8167), the Institut Byzantin at the Collège de France and the University of Paris-Sorbonne, and for the German side, the German Research Foundation (DFG). We wish to thank Jean-Claude Cheynet, head of the Research Center and of the LABEX RESMED, for welcoming this Franco-German research project. We wish to thank as well Constantin Zuckerman for accepting this book in the collection of the ‘Monographies du Centre de recherche d’histoire et civilisation de Byzance, Collège de France – CNRS.’ Our gratitude goes to Artyom Ter-Markosyan and Fotis Vasileiou for harmonizing the notes of the articles, and to Artyom Ter-Markosyan for his patient and very professional typesetting work. Finally, our thanks go to the institutions, which provided the funds to publish this book: the LABEX RESMED, the Associations des amis du Centre d’histoire et de civilization de Byzance and the University of Paris-Sorbonne.