



GONEIS IN ATHENIAN LAW (AND PERCEPTION)

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Abstract:

This paper aims to establish what the laws of classical Athens meant when they used the term *goneis*. A longstanding and widespread orthodoxy holds that, despite the simple and largely unproblematic “dictionary” definition of the noun *goneus/goneis* as parent/parents, Athenian law extended it beyond an individual’s father and mother, so as to include – if they were still alive – protection and respect for his or her grandparents, and even great-grandparents. While this is not a notion of self-evident absurdity, I challenge it on two associated counts, one broad and one narrow. On a general, contextual level, genre-by genre survey and analysis of the evidence for what *goneus* means (and implies) in everyday life and usage shows, in respect of the word itself, an irresistible thrust in favour of the literal ‘parent’ sense. Why then think otherwise? Because of confusion, in modern minds, engendered by Plato and by Isaeus. In Plato’s case, his legislation for Magnesia contemplates (I argue) legal protection for grandparents but does not, by that mere fact, extend the denotation of *goneis* to them. And crucially for a proper understanding of the law(s) of Athens itself, two much-cited passages in the lawcourt speeches of Isaeus, 1.39 and 8.32, turn out to be the sole foundation for the modern misunderstanding about the legal scope of *goneis*. They should be recognised for what they are: passages where law is secondary and rhetorical persuasion paramount.

1.1. Addressing an Athenian jurycourt at some time between 383 and 363,¹ a direct descendant (*ekgonos*) of a certain Kiron endeavours to prove (Isaeus 8.30-32) that he has a better claim to Kiron's estate than does his opponent, who as a nephew of the deceased is merely a collateral relative (*syngenês*) — to use the distinction of terminology in the didactic 8.30 itself. More precisely, Kiron is the speaker's maternal grandfather, and this fact² is deployed in a two-part argument which purports to stem 'from the laws themselves' (ἐξ αὐτῶν τῶν νόμων: 8.30):

εἰ γὰρ ἔζη μὲν ἢ ἐμὴ μήτηρ, θυγάτηρ δὲ Κίρωνος, μηδὲν δὲ ἐκεῖνος διαθέμενος ἐτελεύτησεν, ἦν δὲ ἀδελφὸς οὗτος αὐτῷ, μὴ ἀδελφιδοῦς, συνοικῆσαι μὲν ἂν τῇ γυναικὶ κύριος ἦν, τῶν δὲ χρημάτων οὐκ ἂν, ἀλλ' οἱ γενόμενοι παῖδες ἐκ τούτου καὶ ἐξ ἐκείνης, ὅποτε ἐπὶ διετὲς ἤβησαν· οὕτω γὰρ οἱ νόμοι κελεύουσιν, εἰ τοίνυν καὶ ζώσης κύριος αὐτὸς μὴ ἐγένετο τῶν τῆς γυναικὸς, ἀλλ' οἱ παῖδες, δῆλον ὅτι καὶ τετελευτηκυίας, ἐπεὶ παῖδας ἡμᾶς καταλέλοιπεν, οὐ τούτοις ἀλλ' ἡμῖν προσήκει κληρονομεῖν τῶν χρημάτων 8.31

If my mother, Kiron's daughter, were alive but he had died intestate, and if my opponent were his brother, not his nephew, he would have the authority to marry the woman but not to possess the property; it would instead belong to the children born of his and her marriage, once they were two years past puberty;³ for so the laws order. If, then, the children and not my opponent himself would hold authority over the woman's property while she was alive, it is obvious that now she is dead and has left children, us, it is we and not these men who should inherit the property.

As the Loeb editor E.S. Forster puts it, the speaker here 'takes the case of the nearest collateral, namely, a brother, and argues that a daughter's

¹ All three-figure dates are BC.

² The claim was doubted by Wyse (1904) 585-8 (and apparently also by Forster (1927) 282) but needlessly so, in the opinion of Davies (1971) 313.

³ The original meaning, and procedural implications, of the phrase ἐπὶ διετῶς ἤβησαι (here and elsewhere: for a dossier of instances see Harrison (1968) 113 n.2) have been the subject of debate, in antiquity and modern times alike, but there seems no doubt that in post-Kleisthenic Athens it had come to signify the eighteenth year. See e.g. Wyse (1904) 610-611; Golden (1990) 26-29; Rubinstein (1993) 90 n.2.

child has a better claim to his grandfather's estate than the grandfather's brother, and therefore, *a fortiori*, a better claim than a nephew'.⁴ Evidently the opponent — speaking first — had contended the opposite: that in law the claims of a brother's son were stronger than those of a daughter's son.⁵ Whether the opponent had actually quoted or cited a law to this effect is obviously indeterminable. If he had, there would be a parallel with Isaeus 7.18-22, which included several extracts from a law giving precedence to males and their descendants; a law presented more fully (though in a textually unsatisfactory state) in [Demosthenes] 43.51. But here in Isaeus 8.31, despite 8.30's ἐξ αὐτῶν τῶν νόμων, there is no such presentation, and Wyse's warning that the law 'was not properly applicable to the present case'⁶ should be borne in mind when we turn to 8.32, which is my prime concern here:

οὐ τοίνυν ἐκ τούτου μόνον, ἀλλὰ καὶ ἐκ τοῦ περὶ τῆς κακώσεως νόμου δῆλόν ἐστιν. εἰ γὰρ ἔζη μὲν ὁ πάππος, ἐνδεῆς δὲ ἦν τῶν ἐπιτηδείων, οὐκ ἂν οὗτος ὑπόδικος ἦν τῆς κακώσεως ἀλλ' ἡμεῖς. κελεύει γὰρ τρέφειν τοὺς γονεῆς· γονεῖς δ' εἰσὶ μήτηρ καὶ πατήρ καὶ πάππος καὶ τήθη καὶ τούτων μήτηρ καὶ πατήρ, ἐὰν ἔτι ζῶσιν· ἐκεῖνοι γὰρ ἀρχὴ τοῦ γένους εἰσὶ, καὶ τὰ ἐκείνων παραδίδοται τοῖς ἐγγόνιοις· διόπερ ἀνάγκη τρέφειν αὐτούς ἐστι, κἂν μηδὲν καταλίπωσι. πῶς οὖν δίκαιόν ἐστιν, ἐὰν μὲν μηδὲν καταλίπωσιν, ἡμᾶς ὑποδίκους εἶναι τῆς κακώσεως, ἢν μὴ τρέφωμεν, εἰ δέ τι καταλελοίπασι, τόνδ' εἶναι κληρονόμον ἀλλὰ μὴ ἡμᾶς; οὐδαμῶς δῆπουθεν 8.32

Not only this (law), then, but also the one concerning maltreatment makes the situation clear. For if my grandfather were alive, but in want of life's necessities, it is not our opponent who would be liable to prosecution for maltreatment but us. For (the law) orders that *goneis* be supported; and *goneis* are mother and father and grandfather(s) and grandmother(s) and, if they are alive, their mother(s) and father(s); for they are the source of the *genos*, and their property is handed down to their *ekgonoi*; hence it is necessary to support them, even if they are handing nothing down. How then is it right that, if they are handing nothing down, we are liable to prosecution for maltreatment if we do not

⁴ Forster (1927) 284.

⁵ Wyse (1904) 585-586; Forster (1927) 283.

⁶ Wyse (1904) 585.

support them, yet if they have handed something down the heir is our opponent and not us? Impossible, of course.

1.2. The thrust of the argument in Isaeus 8.32, invoking the fact that Athenian law recognised a crime called maltreatment of *goneis* (γονέων κάκωσις), is plain enough. One's *goneis*, the contention is, are not merely one's parents but also one's grandparents, and even any surviving great-grandparents. But is this actually true? Wyse's commentary on the passage was brisk. 'For the strained use of γονεύς compare Hdt. 1.91[.1] Κροῖσος δὲ πέμπτου γονέος (Gyges) ἀμαρτάδα ἐξέπλησε. In Attic prose γονεῖς never means anything but "parents"'.⁷ Sections 2 and 3 of this paper will address these points in reverse order. First Wyse's generalisation will be set in a broader context; this will show it to be somewhat too categorical but nonetheless robust enough to establish the commonly-understood meaning and scope of the word *goneus*. Then I will argue that Isaeus in 8.32 is not, as has been widely supposed, reminding the jurors of the accepted denotation of *goneis* in the law in question. On the contrary: he is seeking, for his own forensic and rhetorical ends, to stretch it.⁸

2.1. For purposes of reference it will be appropriate to begin with the first (substantive) part of the LSJ entry:

γονεύς, -έως, ὁ, *begetter, father*, mostly in pl., *parents*, *h.Cer.240*, *Hes.Op.235*, *Pi.P.6.27*, *Pl.Symp.178b*, etc.: in sg., of a serpent, *Hdt.3.109*; of a man, *Pl.R.457d*; φράζε τίνοϛ γονέωϛ *IG12(5).310*: generally, *progenitor, ancestor*, πέμπτοϛ γ. *ancestor* in the fifth generation, *Hdt.1.91*, cf. *Is.8.32*; οἱ ἄνωθεν γ. *Arist.GA722a8*.

2.2. The earliest attested instances of the noun γονεύς occur, then, in the Homeric Hymns (there are none in Homeric epic itself) and in Hesiod.

⁷ Wyse (1904) 611.

⁸ From Wyse's 'strained' here (Wyse (1904) 611) it might have been inferred that he anticipates my argument; however, in the commentary on 1.39 (Wyse (1904) 219) he has already accepted the interpretation of 8.32. See further, section 4.

The *Hymn to Demeter* 240 tells how, by night, Demeter would hide Demophöon in the fire ‘unknown to his dear *goneis*’, λάθρα φίλων γονέων. And Hesiod, *Works and Days* 235 declares that the womenfolk of the just bear offspring ‘like their *goneis*’, τίκτουσιν δὲ γυναῖκες εὐκότα τέκνα γονεῦσιν. See also Hesiod fr.193.19 Merkelbach-West, from the *Catalogue of Women*: after the death of her brothers only Alkmene left was left as a ‘delight to (her) *goneis*’, Ἀλκμήνη δ’ ἄρα] μούνη ἐλείπετο χάρμα γο[νεῦσι.⁹ In each of these cases it can be seen that while the scope of the word is not, by the strictest standards, demonstrably limited to the father and mother of the individuals in question,¹⁰ that is the most natural construction to put upon it. Concerning Demophöon, for example, his parents Keleus and Metaneira are frequently mentioned, by name, between lines 96 and 300; and it is precisely this sort of contextual clue which, when present, reinforces the presumption of ‘parent(s)’ being the default meaning of the word.

2.3. Other internal evidence of this kind occurs in other genres of poetry.

Pindar, *Nemean* 11.22-23: the *goneis* of the Tenedian athlete Aristagoras were too apprehensive to let their son (*pais*) compete at Delphi or Olympia, ἐλπίδες δ’ ὀκνηρότεροι γονέων παιδὸς βίαν | ἔσχον ἐν Πυθῶνι πειράσθαι καὶ Ὀλυμπία ἀέθλων.¹¹

Sophocles, *OT* 436-7 (Teiresias’ mention of Oedipus’ *goneis* refers explicitly to those who gave birth to him) and 1495 (*if* the transmitted γονεῦσιν is correct¹² it again means parents). Sophocles, *Electra* 145-6 (a generalisation about *goneis* is expanded by reference to Itys and his mother Prokne) and 241-2 (Electra’s concern about dishonouring her *goneis* means in practice her father Oedipus).

⁹ Name of Alkmene restored here by Wilamowitz. Another fragment from the same work, 174.4 M-W, preserves the contextless genitive plural γονήων.

¹⁰ And still less so in Hesiod, *Works and Days* 331-2: woe betide him who abuses and insults an aged, moribund *goneus* (γονῆα γέροντα).

¹¹ Contrast *Pythian* 6.26-27 (cited in LSJ), which lacks such indicators: Cheiron commands Achilles to honour Zeus and likewise, during their lifetime, his *goneis* (ταύτας δὲ μή ποτε τιμᾶς | ἀμείρειν γονέων βίον πεπρωμένον).

¹² As recent editors accept, i.e. rather than emending to γόνουσιν or γοναῖσιν.

Euripides, *Alkestis* 714: having just cursed his father Pheres, Admetos is rebuked for cursing his *goneis* (ἀρῶ γονεῦσιν οὐδὲν ἔκδικον πάθων).¹³ Euripides fr.853 Nauck: the three *aretai* are ‘to honour the gods and the *goneis* who bore (you) and the common *nomoi* of Hellas’ (θεοὺς τε τιμᾶν τούς τε φύσαντας γονῆς | νόμους τε κοινούς Ἑλλάδος).

Aristophanes, *Clouds* 994 (the only instance in this author): Right urges Pheidippides not to misbehave (σκαίουργεῖν) towards his *goneis*. By this stage of the play the audience will naturally relate this to what they have seen of the relationship between the youth and his father Strepsiades (within which the motif of Strepsiades being struck a blow by his son has been, and remains, prominent: see further under 3.2.).

2.4. Turning to prose — but before focusing on Attic prose as the sub-category of especial relevance to Athenian law — it is salutary to dwell for a moment on Herodotus. His 1.91.1 has been quoted already (under 1.2). Wyse’s characterisation of it as displaying a ‘strained’ use of *goneus* is entirely fair comment, and this fact — which in modern typography would perhaps be marked by inverted commas: ‘his “father” four generations ago’ — emerges with particular force if one widens the perspective from this passage itself to take in how Herodotus uses the word elsewhere, on seven occasions. 1.146.2 recounts how Athenian colonists to Ionia married Karian women after murdering their *goneis*, and the term is later (146.3) glossed as ‘fathers (and husbands and children)’; 2.43.2 has the phrase ‘both of the *goneis*’ of Herakles, named as Amphitryon and Alkmene; 3.38.4 describes the Indian Kallatai eating their dead *goneis*, the equivalent of Greeks eating their dead fathers (πατέρας, 38.3); 3.109.2 has the singular *goneus* as a snake’s male progenitor; and 4.26.1 on the Issedones uses πατήρ and γονεύς as synonymous. That leaves only 5.6.1 (Thracians buy wives ‘from the (women’s) *goneis*’) and 6.61.3 (a Spartan girl’s *goneis* are dismayed by her ugliness), where the contextual clues are less helpful, but a restriction to parents could be argued to be implicit.

¹³ Contrast the vagueness of *Andromache* 676 (women are protected by their *goneis* and *philoï*) and *Electra* 257 (E. insists that, by not seeking to consummate their marriage, her lowly husband has taken care not to dishonour her *goneis*).

2.5. Attic prose itself can be restricted for present purposes to material earlier than or contemporary with Isaeus. I consider in turn oratory (of prime importance in establishing generally-accepted usage), Xenophon,¹⁴ and Plato.

2.5.1. ORATORY. All ten of the canonical Attic orators offer passages germane to this enquiry, and there are sufficient clues as to what their audiences — juries, for the most part — will have understood by the word γονεύς.¹⁵

First in chronological order comes Antiphon, whose *Second Tetralogy* envisages a case of accidental homicide, that of a boy struck by a javelin thrown by another boy. The first and third speeches are delivered by the dead boy's father, and each concludes (3.1.2, 3.3.12) with an appeal for the court's pity for the now-childless *goneis*.

In Lysias 12.96 it is only probable, not certain, that the speaker (Lysias himself) means parents when he speaks of people losing 'children and *goneis* and wives' under the Thirty; but 13.45 leaves no room for doubt in a similar depiction of 'elderly *goneis* who had expected to be supported in their old age by their own *paides*'.

Isocrates provides nothing in the speeches proper (nos.16-21) but passages of relevance elsewhere. Most of them turn out to use *goneus*-vocabulary as if its meaning were self-evident,¹⁶ but for contextual clues see 1.11 and 10.28 (*goneis* and their *paides*); and cf. *Letter* 7.2 (fathers glossed, in effect, as *goneis*).

¹⁴ There are no instances of *goneus* in Thucydides.

¹⁵ I separate out here, if questions are not to be begged, inconclusive mentions of maltreatment of *goneis*: Andocides 1.74; Demosthenes 10.40-41, 24.60 & 103; Dinarchus 2.17-18 (where Aristogeiton's father may only be an example of his *goneis*, not a means of defining them); Hyperides, *Euxenippus* 6; Isocrates 7.49, 14.48. (Where these passages mention or presuppose the law(s) on the subject they will be noted again in section 3.)

¹⁶ So 1.14 & 16, 4.111, 5.32, 6.73 & 110, 8.93 & 113, 15.88; and cf. *Letter* 2.4.

Demosthenes, like Isocrates, frequently refers to *goneis* without indicating exactly what he means by the word.¹⁷ Such indications do, however, occur in 18.205 (praise of the Persian-War generation, who considered themselves born not of a particular father and mother but with the *patris* as a whole as their *goneis*). 24.107 (*paides* and their *goneis*), 39.33 & 39 (the same), 57.51 & 70 (in context, Euxitheos' *goneis* are his parents Thoukritos and Nikarete).

The Amphictionic curses in Aeschines 3.111 include one wishing that the womenfolk of the Kirrhaians and Kragalidai will give birth to monsters, not *tekna* who resemble their *goneis*.

Finally I note the artful use of the term *goneis* in Lysurgus, *Against Leokrates*. First, in §15, the Athenians are described as a people set apart from the common run of humanity by behaving piously towards their gods, reverently towards their *goneis*, and zealously towards their country (τῶ πρός τε τοὺς θεοὺς εὐσεβῶς καὶ πρός τοὺς γονέας ὅσιως καὶ πρός τὴν πατρίδα φιλοτίμως ἔχειν). That this means — or could, at least, mean — parents seems confirmed when the topic returns at §94: the gods are said there to preside over all human affairs, particularly piety towards one's *goneis* and the dead and the gods themselves; §§95-97 then illustrate this with a story about an eruption of Mt Etna which was survived by one man carrying his elderly father but which killed those who had abandoned their own *goneis*, just like Leokrates himself who 'abandoned his *goneis* to the enemy and denied the dead their customary observances'. His (unnamed) father, we learn in §§136-7, was dead by the time of the trial. Whether he had still been alive seven years earlier is left obscure amidst the outrage Lysurgus wishes to whip up about Leokrates having abandoned the bronze statue of his father in the precinct of Zeus Soter; but in any event, after the confusion deliberately sown by §144 (which tries to extend the scope of Leokrates' crimes to 'the older generation' as a whole, ἡ τῶν πρεσβυτέρων *sc.* ἡλικία)¹⁸ §147 declares the defendant guilty of maltreatment of *tokeis* (sic)¹⁹ 'by effacing their memorials and depriving them of the customary

¹⁷ So 14.32; 25.24, 65 (where father and mother may be only a subset of *goneis*), 66; 36.47; 60.16, 29, 32; and cf. *Letters* 3.45, 4.11.

¹⁸ For this passage see section 3.4 at *e*.

¹⁹ §§15, 94, 96 and 97 have used the word *goneis*; but since *tokeis* invariably means parents its use here, with specific reference to Athenian legal procedure, is highly significant. See further, Appendix.

observances’ — a ringing phrase which may simply be a *pluralis magnificentiae*.²⁰

2.5.2. *XENOPHON*. Pride of place here must go to *Memorabilia* 2.2, which one scholar has cited for its insights into ‘the moral obligations underlying Attic law’.²¹ It opens (2.2.1) with Sokrates noticing that his own son Lamprokles was behaving discourteously (*χαλεπαίνοντα*) towards his mother, Sokrates’ wife Xanthippe (here unnamed). This prompts, from 2.2.3 onwards, what amounts to a sermon on the obligations owed by *paides* to their *goneis*; these two words and their cognates (e.g. *παιδοποιεῖσθαι*) and synonyms (e.g. *τέκνα*) proliferate in what follows, together with further mentions of Lamprokles’ mother and the duty he owes her. By the time the section ends, at 2.2.14, an equivalence between *goneis* and parents has been reinforced in every possible way. And the importance of this is of particular note in relation to 2.2.13, where law is brought into the picture. If a man does not take care of his *goneis*, the polis — Athens, in this context — renders him liable to prosecution and rejects him as a potential office-holder (*ἐὰν δέ τις γονέας μὴ θεραπεύῃ, τούτῳ δίκην τε ἐπιτίθησι* (*sc.* ἡ πόλις) *καὶ ἀποδοκιμάζουσα οὐκ ἔσθ’ ἄρχειν τοῦτον*); furthermore, anyone failing to tend the graves of *goneis* is found out in pre-office scrutiny for archons (*καὶ νῆ Δία ἐὰν τις τῶν γονέων τελευτησάντων τοὺς τάφους μὴ κοσμήῃ, καὶ ταῦτα ἐξετάζει ἡ πόλις ἐν ταῖς τῶν ἀρχόντων δοκιμασίαις*).

The topic of *goneis* re-surfaces later in the same work, at 4.4.17-23, where Sokrates is debating with the sophist Hippias of Elis. First, in 4.4.17, *goneis* stand first in an exemplary list of six categories of people who receive their just deserts (*τὰ δίκαια*) *via* law(s). The perspective from 4.4.8 onwards has been a general one, not confined to Athens (in fact Sparta is the only city named: 4.4.15), and 4.4.20 still refers to the honouring of *goneis* as a universal custom (*πανταχοῦ νομίζεται*). Immediately thereafter, however, the focus shifts to the undesirability of sexual relations between *goneis* and their *paides*. For this subject see also *Lac.Pol.* 2.13 (*ἀπέχεσθαι...γονεῖς παίδων*), and for more innocent

²⁰ Compare e.g. *μνημεῖα* in Isaeus 7.40 and *ὑπομνήματα* in [Demosthenes] 12.4, in reference, respectively, to a single tripod and statue.

²¹ Morrow (1960) 467 n.222.

dealings between *goneis* and *paides* see *Hiero* 3.7, *Anabasis* 5.8.18 (γονεῖς υἰοῖς).²²

In *Oeconomicus* 7.10-11 there is reiterated reference to the *goneis* of Ischomachos' young wife, who from her side have arranged the marriage; parents is the implicit sense, and a mother is mentioned shortly afterwards (7.14).

Cyropaedia 1.2.7 mentions (in a putative Persian context) neglect of *goneis* and *patris* and *philoï*, but greater specificity appears in subsequent passages where, implicitly or explicitly, children come in (8.3.49, 8.7.14, 8.7.24).

2.5.3. *PLATO*. Here²³ one finds plenty of instances where 'parents' as the appropriate translation of *goneis* is at best implicit,²⁴ but also some where

²² Contrast the vaguer *Anab.* 3.1.3 (the troops cannot sleep because they are worried about (and miss) *patrides*, *goneis*, *gynaikes*, *paides*) and elsewhere *Apol.*20 (on matters of health men take the advice of their doctors rather than that of their *goneis*).

²³ It is unnecessary for present purposes to separate the genuine works of Plato from those merely attributed to him, with whatever degree of probability. I point out nonetheless that none of the manifest *spuria* come into play.

²⁴ *Gorgias* 480B: mention of *adikia* against oneself or *goneis* or *hetairoi* or *paides* or *patris*. *Hippias Major* 291A: one of the universal blessings for a man is to reach old age, having provided a fine funeral for his deceased *goneis*, and get the same from his own *ekgonoi*; repeated at 293A. *Hippias Minor* 364A: Hippias' reputation will be a monument of wisdom for Elis and for his *goneis*. *Menexenus* 239D: the Persian invasions encountered 'the *ekgonoi* of this land, our own *goneis*' (but see below, in text, under discussion of *Laws* 643A); 247B: honouring *goneis* is a fine treasure-house for *ekgonoi*; 248D: address to children and *goneis* of the dead; 249C: the polis stands as a guardian towards the *goneis* of the dead. *Meno* 91A: Meno wants to look after (θεραπεύειν) his own *goneis*. *Laws* 839A: current (*sc.* Athenian) law governs τὰς τῶν γονέων συμμειξίεις (i.e. with a *goneus* as one of the parties); 854E: offences concerning gods or *goneis* or polis; 885A: attacks on *goneis*; 886C: γονέων θεραπείας καὶ τιμᾶς; 917A: *goneis* are superior to their *ekgonoi*; 933B; the graves of *goneis*. *Republic* 386A: honouring the gods and *goneis*; 425B: γονέων θεραπείας; 443A: γονέων ἀμέλεια; 465B: respect prevents attacks on (one's) *goneis*; 538C: good beliefs are like *goneis*; 615C: impieties and pieties towards gods and *goneis*. *Symposium* 188C: *goneis* both alive and dead.

such a translation is required by the context. I exclude from this second category a few passages where (e.g.) fathers are mentioned immediately before *goneis* and thus might, at a pinch, be deemed to signify a subset of them,²⁵ but that still leaves:

Protagoras 346A-B: ‘mother or father or country’ is immediately varied, twice, as ‘*goneis* or country’.

Symposium 178B (cited in LSJ): Eros has no *goneis* (glossed as ‘mother or father’ at 199D, and see also 203Aff); 190B: the hermaphrodites were globular because of their similarity to their *goneis*.

Republic 457D: children to be held in common, with no *goneus* knowing his own *ekgonos* and no *pais* his *goneus*; 538A: an adoptee discovers he is not the offspring of his so-called *goneis* but does not know his ‘real begetters’; 541A: *paides* and their *goneis*; 574A-D: robbing and deceiving one’s *goneis*, a term repeatedly varied as one’s elderly father and mother.

Timaeus 18D: the phrase ‘*goneis* and the *progonoi* of *goneis*’ means in this context ‘parents and grandparents’. (This harks back, in other terms, to *Republic* 461D.)

Laws 717B-D: the topic of ‘honours for living *goneis*’ is expanded as consideration for ‘those who bore and bred’ one, and this glosses the term *goneis*, dead or alive, throughout this section and later references back to it (724A, 730B); 868E: ‘*goneis* and *ekgonoi*’ varied as *goneis* and *paides*, i.e. parents and their children; 869C: *goneis* are glossed as ‘father or mother’ (and the term has been preceded, in 869A-B, by γεννήσαντες, γεννήτορες, γεννητής, πατροφόνος and μητροφόνος); 877B: what should happen when a *pais* wounds his *goneis* (again 878E, with *ekgonoi* and *goneis* — they are to go before judges who have *paides* of their own); 887D: the *neos* sees his own *goneis* engaged in religious activities.

There are two other phenomena of note in Plato, however. One is the use of *goneis* to indicate forebears who must be, or at least include, persons more remote in time than parents or even, arguably, grandparents.

²⁵ *Lysis* 213A; *Republic* 463D, 562E; *Laws* 690A (and 714E).

Menexenus 239D (cited in n.24 above) is a possible instance of this, given that the dramatic date of the dialogue is 386 and that Aspasia's *epitaphios* in it, from which this passage comes, is described by Sokrates as recent then (236A) — in defiance, to be sure, of biographical probability *vis-à-vis* Aspasia and of simple biographical fact *vis-à-vis* Sokrates. But a firmer one is *Laws* 643A, from a composition set in the mid-fourth century. Claiming the purifier Epimenides as a relation of his, Kleinias the Cretan places his Athenian activities (wrongly, but no matter) in c.500, and says that Epimenides' predictions about the first Persian invasion brought about ties of guest-friendship then between the Athenians and 'our *progonoi*' and goodwill from then on (ἐκ τούτου) towards the Athenians on the part of 'myself and our *goneis*'. It thus emerges that the 'progenitor, ancestor' meaning for γονεὺς noted in LSJ (see 2.1 above) has no absolute need of the sort of explicit flagging-up which it receives in Herodotus 1.91.1 (and Aristotle, *de generatione animalium* 722a7-8, τοῖς ἄνωθεν γονεῦσιν); and plain too is the fact that Attic prose can, *pace* Wyse,²⁶ furnish instances of *goneis* who are not parents.

But can it also furnish instances of *goneis* who are (or include) grandparents? The second facet of Plato's evidence which needs closer scrutiny in this regard is shown in two sections of *Laws* not considered so far. In his commentary on Isaeus 1.39 (a passage to be discussed later, in section 4). Wyse asserts that Isaeus 8.32 'is careful to explain to the judges that the term γονεῖς would include a grandfather' and adds that 'Plato (*Laws* 931 A D E) concurs with this interpretation'.²⁷ Let us see.

I draw attention first to a section not cited by Wyse but which appears to support his position: the section on *aikia*, i.e. assault or (perhaps more accurately) battery, 879Bff. 881D prescribes what happens when someone in Magnesia is convicted of *aikia* of his *goneis*: he will be permanently exiled from the *asty* to some other part of the territory and banned from all sacred places. This point occurs in the middle of Plato's presentation of the offence. The remainder of 881 contemplates a situation where these exclusions are disregarded, while 881B-C has already laid down in some detail the immediate response required of the residents of Magnesia, and the whole section has begun with these

²⁶ See above, at n.7.

²⁷ Wyse (1904) 219.

words: ‘if some who is not in the grip of insanity dares to strike his father or mother or their fathers or mothers, the first requirement is that the passer-by renders assistance’ (ὅς ἂν τολμήσῃ πατέρα ἢ μητέρα ἢ τούτων πατέρας ἢ μητέρας τύπτειν μὴ μανίαις ἐχόμενος, πρῶτον μὲν ὁ προστυγχάνων...βοηθείτω). Earlier still in the section, a situation has been envisaged where someone ‘dares to lay hands on his father or mother or their *progonoi*’ (880E), and mention has been made of ‘assaults on mothers (μητραλοῖαι) and unholy and rash blows against one’s other *gennētores*’ (881A). Either, therefore, the resumptive 881D (with αἰκίας γονέων) is carelessly phrased or else Plato is using the term *goneis* in a broad way to encompass the offender’s grandparents.

The issue then re-surfaces at 930E, which include the three particular passages noted by Wyse (above). 930E itself begins by asserting that neither god nor, if in his right mind, man would ever advise neglecting *goneis* (γονέων ἀμελεῖν). On the contrary, says Plato, the following preface (to a law on neglect) will show that paying due attention to the gods is highly relevant to the matter of ‘honouring and dishonouring one’s begetters’ (τὰς τῶν γεννησάντων τιμάς τε καὶ ἀτιμίας); yet the preface itself speaks of a father and mother ‘or [sic] their fathers or mothers’ in the house (931A, the first of Wyse’s passages). With the preface over and dialogue resumed, the Athenian participant alludes briefly (in 931B-C) to mythological episodes of bad blood between fathers and their children (not grandchildren): Oedipus and his *tekna*, Amyntor and Phoenix, Theseus and Hippolytos; ‘and there are thousands of similar cases which make it plain that the gods take the side of *goneis* against *tekna*, for there is no more effective curser than a *goneus* cursing his *ekgonoi*’. 931C adds further comment on fathers (and mothers) and their badly-behaved *paides*, with mention, twice, of the prayers (εὐχαί) of the former, and 931E appears to refer back to this in the phrase ‘prayers of *goneis*’ (γονέων εὐχάς) — but only after the other two Wyse passages which bring in grandparents: ‘a man has no more honourable an object of worship than a father and grandfather weak with age and mothers [sic] in the same condition’ (931D); ‘he who treats properly his father and grandfather and all suchlike (πᾶσι τοῖς τοιούτοις) has the most effective possible objects of worship in winning the favour of the gods’ (931E). 931D and 932A further muddy the waters by applying the word *progonoi* to these elderly (but still living) family-members, while 932A also expresses the hope that this law and its accompanying rationale will lead every man to honour his own *gennētores*. Finally

932A and 932C bring the matter back full circle to the concept of neglect of *goneis*.

I have summarised 930E-932C in some detail to show what a switchback of confusion it rides. A further point to notice is that nearly all this material is discursive, preparatory to the articulation of the law itself, which begins only at 932A. Since the law itself does not define who precisely a man's *goneis* are to be understood to be, one will look to the preliminaries to do so; but they do not, or at any rate not with any clarity or consistency. To my mind, therefore, Wyse's case that Plato's Magnesian law on neglect of 'parents' *embraces grandparents in that very term* is not proven. Rather, Plato appears to want the law on neglect of parents, like the law on battery of them (above), *to provide legal protection for grandparents also*.

2.6. The findings of section 2 may be encapsulated as follows. At the very end of his long life and extensive output, in *Laws*, Plato slips into using the word *goneis*, unqualified, to mean what others would have meant by *progonoi*: ancestors in the direct line (643A). In the same work, and though not a grandparent (or indeed a parent) himself, he twice displays concern for that generation: seeking to bring it under the sort of legal protection which expressed itself — in Athens and in Magnesia alike — as protection for *goneis*. However, if one asks what — certainly in Athens and apparently in Magnesia also — would have been understood by the term *goneis*, a clearcut answer emerges from every genre of evidence: parents.

3.1. "Solonian" law²⁸ in Athens recognised a crime called maltreatment (*kakôsis*) of *goneis*, activated by any public-spirited citizen who chose to lodge a *graphê* or *eisangelia*,²⁹ and heard by a court presided over by the eponymous archon (?Aristot. *Ath.Pol.* 56.6). The scope of the legislation which underpinned it is well summarised by Rhodes: 'Athenians were

²⁸ For the attribution to Solon see e.g. Demosth 24.103. Aeschin. 1.23, Plut. *Solon* 22.1, Diogenes Laertius 1.55; but for the difficulty of grasping what such an attribution means (and meant, in classical Athens) see Hansen (1989) 79-81.

²⁹ On this vexed procedural issue see most recently Avotins (2004).

required by law [a] to care for their parents while alive and [b] to give them a proper burial when they died'.³⁰

For lack of any grounds to think otherwise, it is economical to suppose that the oft-mentioned term neglect (*ameleia*) was synonymous with *kakôsis* in this context. Under either description, at any rate, duty *a* appears to have embraced two specific ways in which children might neglect/maltreat their parent: one sin of commission, striking a blow (*tuptein*); one of omission, failure to provide food and housing (*trephein*).³¹ Duty *b*, though more uniform, did extend to the negligent upkeep of graves; but for present purposes it can be summarised as burial (*thaptein*).

Here are dossiers, set out in broad chronological order, of the main items of evidence for the Athenian legislation which covered duties to parents under these three heads.

3.2. *Tuptein*.

(a) Aristophanes, *Clouds*. The topic of Strepsiades being beaten occurs in general terms as early as lines 494-5, but it takes on a sharper, familial focus at 1321-1446: confident that his newly-acquired sophistic education will enable him to evade any blame, Pheidippides first beats his father and then, having justified it, threatens to do the same to his mother (1443-6).

(b) Aristophanes, *Birds* 757-759: εἰ γὰρ ἐνθάδ' ἐστὶν αἰσχρὸν τὸν πατέρα τύπτειν νόμῳ, | τοῦτ' ἐκεῖ καλὸν παρ' ἡμῖν ἐστὶν, ἢν τις τῷ πατρὶ | προσδράμων εἴπη πατάξας 'αἶρε πλήκτρον, εἰ μαχεῖ' ('For if here (*sc.* in Athens) it is disgraceful by law to strike one's father, there amongst us this is a fine thing, if someone runs to his father and strikes him and says "raise your spur, if you are going to fight" '). The topic returns at 1337-71: a rebellious son arrives, keen to take advantage of the bird-community's laws in this area to beat his father, and in the course of

³⁰ Rhodes (1993) 629.

³¹ The latter requirement 'presumably did not apply until the parents were elderly or incapacitated' (MacDowell (1978) 92). There were also exemptions from the requirement if the parents themselves — in practice the father — had been neglectful or was otherwise at fault (Aeschines 1.13, Plut. *Solon* 22.1).

the scene Peisthetairos gives him ‘the same advice I myself learned when I was a *pais*: don’t strike your father’ (1363-4, οἴαπερ αὐτὸς ἔμαθον ὅτε παῖς ἦ. σὺ γὰρ | τὸν μὲν πατέρα μὴ τύπτε).

(c) Aristophanes, *Frogs* 149-150: Herakles describes part of the underworld where various categories of wrongdoer lie mired in excrement; they include anyone who has ever ‘beaten his mother, or struck his father’s jaw’ (ἢ μητέρ’ ἠλόασεν, ἢ πατρὸς γνάθον | ἐπάταξεν).

(d) Lysias 13.91: ἐκ παντὸς δὲ τρόπου ἔμοιγε δοκεῖ οὐχ ἑνὸς θανάτου ἄξιος εἶναι, ὅστις φησὶ μὲν ὑπὸ τοῦ δήμου <πεποιήσθαι>, τὸν δὲ δῆμον, ὃν αὐτὸς φησὶ πατέρα αὐτοῦ εἶναι, φαίνεται κακώσας, καθυφεῖς καὶ προδοὺς ἐξ ὧν ἐκεῖνος μείζων καὶ ἰσχυρότερος ἐγίγνετο. ὅστις οὖν τὸν τε γόνω πατέρα τὸν αὐτοῦ ἔτυπτε καὶ οὐδὲν παρείχε τῶν ἐπιτηδείων, τὸν τε ποιητὸν πατέρα ἀφείλετο ἃ ἦν ὑπάρχοντα ἐκείνῳ ἀγαθὰ, πῶς οὐ καὶ διὰ τοῦτο κατὰ τὸν τῆς κακώσεως νόμον ἄξιός ἐστι θανάτῳ ζημιωθῆναι; (‘From every standpoint, or so it seems to me, (Agoratos) deserves more than a single death. While he claims to have been <adopted> by the demos, he has plainly maltreated that demos whom he himself calls father, by surrendering and betraying the resources which would have enabled it to grow greater and stronger. So this is a man who struck his own natural father and provided him with none of life’s necessities, and who deprived his adoptive “father” of the goods belonging to him: how, because of this, does he not deserve to be condemned to death, having contravened the law on maltreatment?’). There is no preceding allusion to Agoratos having struck his father Eumares (§64), and that fact might be one reason amongst others to agree with Blass that §91 (quoted here in its entirety) is a late, rhetorical interpolation into the speech. Nevertheless I present it for what it is worth; and see further in footnote 50 below.

(e) Lysias 10.8 (cf. 11.5), in the course of an argument to the effect that juries need to note not words *per se* but their meaning(!), puts the following rhetorical point to the defendant: οὐ γὰρ δήπου, ὦ Θεόμνηστε, εἰ μὲν τις σε εἴποι πατραλοῖαν ἢ μητραλοῖαν, ἠξίους ἂν αὐτὸν ὀφλεῖν σοὶ δίκην, εἰ δὲ τις εἴποι ὡς τὴν τεκούσαν ἢ τὸν φυσάντα ἔτυπτες, ὧου ἂν αὐτὸν ἀξίμιον δεῖν εἶναι ὡς οὐδὲν τῶν ἀπορρήτων εἰρηκότα (‘For obviously, Theomnestos, you would not expect to get legal satisfaction from anyone who called you a father-beater or mother-beater, while thinking that if he said you were beating the woman or man who begot

you he should go unpunished because he had not uttered one of the forbidden words’).

(f) Aeschines 1.28: the scrutiny of public speakers (*dokimasia rhētorôn*) denies that role to anyone ‘who beats his father or his mother’ (τὸν πατέρα τύπτων ἢ τὴν μητέρα). For the continuation of this passage see 3.3, under *f*.

3.3. *Trephein*.

(a) Aristophanes, *Birds* 1353-57. During the scene mentioned above (3.2, at *b*) Peisthetairos speaks as follows: ἀλλ’ ἔστιν ἡμῖν τοῖσιν ὄρνισιν νόμος | παλαιὸς ἐν ταῖς τῶν πελαργῶν κύρβεσιν· ἐπὴν ὁ πατήρ ὁ πελαργὸς ἐκπετησίμους | πάντας ποιήσῃ τοὺς πελαργιδέας τρέφων, | δεῖ τοὺς νεοττοὺς τὸν πατέρα πάλιν τρέφειν (‘but with us birds there is an ancient law on the *kyrbeis* of the storks: “when the father stork has reared and made all the young storks able to fly, the chicks must in turn support their father” ’). It is generally (and plausibly) supposed that this wording, notably *kyrbeis*, is chosen to assimilate the storks’ law to the laws of Drakon and Solon.

(b) Lysias 24.6: ἐμοὶ γὰρ ὁ μὲν πατήρ κατέλιπεν οὐδέν, τὴν δὲ μητέρα τελευτήσασαν πέπαυμαι τρέφων τρίτον ἔτος τουτί, παῖδες δέ μοι οὐπω εἰσὶν οἱ με θεραπεύσουσι (‘For my father left me nothing, and I have stopped supporting my mother only when she died, two years ago, and I have as yet no sons who will take care of *me*’).

(c) Xenophon, *Memorabilia* 2.2.13: quoted already (under 2.5.2); and see also 3.4, at *b*.

(d) Demosthenes 24.107: Timokrates is ‘defiling the laws that protect old age, the ones which compel *paides* to support their *goneis* while they are alive, and when they die, ensure that they receive the customary observances’ (τοὺς τῷ γήρᾳ βοηθοὺς λυμáινει, οἳ καὶ ζῶντας ἀναγκάζουσι τοὺς παῖδας τοὺς γονέας τρέφειν, καὶ ἐπειδὴν ἀποθάνωσιν, ὅπως τῶν νομιζομένων τύχῳσι, παρασκευάζουσιν). Shortly beforehand, §103 has invoked a putatively Solonian stipulation that anyone convicted of *kakôsis goneôn* who enters the agora shall be imprisoned, while §105 purports to quote a legislative miscellany which

(*inter alia*) sets out the procedural underpinning and aftermath of the arrest.

(*e*) Aeschines 1.13: καὶ μὴ ἐπάναγκες εἶναι τῷ παιδί ἡβήσαντι τρέφειν τὸν πατέρα μηδὲ οἴκησιν παρέχειν, ὅς ἂν ἐκμισθωθῆ ἔταιρεῖν ('(the law) exempts a son, when he has become adult, from the necessity to support or house a father who has hired him out as an escort'). He must, however, still bury him: see 3.4, at *d*.

(*f*) Aeschines 1.28: the scope of the *dokimasia rhētorôn* in respect of a father or mother (see 3.2, at *f*) also covers anyone 'not supporting or providing a home' (μὴ τρέφων ἢ μὴ παρέχων οἴκησιν).

(*g*) Dinarchus 2.8: καὶ τίς ὑμῶν οὐ πολλάκις ἀκήκοεν, ὅτι Κυδιμάχου μὲν τοῦ πατρὸς τοῦ Ἀριστογείτονος θανάτου καταγνωσθέντος καὶ φυγόντος ἐκ ταύτης τῆς πόλεως ὁ χρηστός οὗτος υἱὸς περιεῖδε τὸν αὐτοῦ πατέρα καὶ ζῶντα τῶν ἀναγκαίων σπανίζοντα καὶ τελευτήσαντα οὐ τυχόντα τῶν νομίμων, ἅπερ αὐτοῦ πολλάκις κατεμαρτυρεῖτο ('And which of you has not often heard that after Kydimachos, Aristogeiton's father, had been condemned to death and had fled from this city, this admirable son allowed his own father both to go short of life's necessities while he was alive and go without the customary observances once he was dead'). Further references to Aristogeiton's neglect of his father, both *ante* and *post mortem*, come at §§11, 14, 18 and 20.

(*h*) Plutarch, *Solon* 22.1: νόμον ἔγραψεν υἱῷ τρέφειν τὸν πατέρα μὴ διδαξάμενον τέχνην ἐπάναγκες μὴ εἶναι ('he enacted a law (saying) that it was not to be compulsory for a son to support his father if (the father) had not taught him a skill').

3.4. *Thaptein*.

(*a*) Lysias 31.21: in making the arrangements for her burial, Philon's mother paid a man (Antiphanes) who was not even a relative — passing over her own son in the belief that he would not perform what was required of him (τὰ δέοντα).

(*b*) Xenophon, *Memorabilia* 2.2.13: quoted already (under 2.5.2); and see also 3.3, at *c*.

(c) Demosthenes 24.107: see already under 3.3, at *d*.

(d) Aeschines 1.13-14: a father who has prostituted his son forfeits the right to be supported during his lifetime (see 3.3, at *e*), ‘but when he dies (the son) is to bury him and perform the other customary observances. Observe, men of Athens, how finely (thought-out this is). While the father is alive it deprives him of the benefit of his fatherhood [...] but when he has died — once he is not aware of the benefits he is receiving, and what is being honoured is law and religion — then the son must bury him and perform the other customary observances’ (ἀποθανόντα δὲ θαπτέτω καὶ τᾶλλα ποιείτω τὰ νομιζόμενα. σκέψασθε δὴ, ὡς καλῶς, ὧ ἄνδρες Ἀθηναῖοι. ζῶντος μὲν αὐτοῦ ἀφαιρεῖται τὴν ὄνησιν τῆς παιδοποιίας, [...] τελευτήσαντα δὲ αὐτόν, ἥνικα ὁ μὲν εὐεργετούμενος οὐκ αἰσθάνεται ὧν εἶ πάσχει, τιμᾶται δὲ ὁ νόμος καὶ τὸ θεῖον, θάπτειν ἤδη κελεύει καὶ τᾶλλα ποιεῖν τὰ νομιζόμενα).

(e) Demosthenes 57.70: τοὺς ἐννέα ἄρχοντας ἀνακρίνετε, εἰ γονέας εἶ ποιοῦσιν. ἐγὼ δὲ τοῦ μὲν πατρὸς ὀρφανὸς κατελείφθην, τὴν δὲ μητέρ’ ἱκετεύω ὑμᾶς καὶ ἀντιβολῶ διὰ τοῦτον τὸν ἀγῶν’ ἀπόδοτέ μοι θάψαι εἰς τὰ πατρῶα μνήματα (‘You ask the nine archons at their preliminary hearing whether they treat their *goneis* well. For my part, I was left orphaned as regards my father, but in respect of my mother I beg and beseech you: through this trial give me back the right to bury her amongst the ancestral monuments’). On the archons’ *dokimasia* see also Xen. *Mem.* 2.2.13 (= *b* above), Din. 2.17 and especially Aristotle, *Ath. Pol.* 55.3 for the full set of questions asked. They begin with questions about the identity of the candidate’s father and mother and, for each parent, their fathers; nevertheless, given the weight of countervailing evidence adduced here, that fact should not affect one’s understanding of the subsequent question γονέας εἰ εἶ ποιεῖ.

(f) Lycurgus, *Against Leocrates* 147: Leocrates is guilty of maltreatment of *tokeis*³² ‘by effacing their memorials and depriving them of the customary observances’ (τὰ μνημεῖα αὐτῶν ἀφανίζων καὶ τῶν νομίμων ἀποστερῶν). For this passage see already the discussion at the end of section 2.5.1. It appears to pick up §§136-7 on the bronze statue of the defendant’s father, but note also §144, where, in a far-fetched rhetorical conceit, it is all Athenians of an older generation to whom Leocrates has

³² For *tokeis* see above, at n.19, and the Appendix.

denied both sustenance in old age (γηροτροφηθῆναι) and burial at home (ἐν ἐλευθέρῳ ἐδάφει τῆς πατρίδος...ταφῆναι).

(g) Dinarchus 2.8 has been quoted already (3.3, at g), and Aristogeiton's abuse of Kydimachos *post mortem* is emphasised again in §18: 'for instead of "treating his *goneis* well" this man has treated his own father badly: when you were all on military service, this man was in prison; and far from being able to point to any memorial of his father, Athenians, he did not even, after his father had died in Eretria, perform the customary observances for him there' (ἀντὶ μὲν γὰρ τοῦ γονέας εὖ ποιεῖν κακῶς οὗτος τὸν ἑαυτοῦ πατέρα πεποίηκεν· ὅτε δ' ὑμεῖς ἐστρατεύσθε πάντες, οὗτος ἦν ἐν τῷ δεσμωτηρίῳ· τοσοῦτον δ' ἀπολέλοιπε τοῦ πατρὸς μνήματι ἔχειν, ὧ Ἀθηναῖοι, δεῖξαι, ὥστ' οὐδ' ἐν Ἐρετρίᾳ τοῦ πατρὸς αὐτοῦ τελευτήσαντος ἐκεῖ τὰ νομιζόμενα ἐποίησεν αὐτῷ).

4. Besides incidental points of note, the evidence adduced in section 3 has corroborated the principal finding of section 2. The overwhelmingly dominant meaning of *goneis* in Athenian law (and perception) is parents.³³ Why then do Wyse,³⁴ Lipsius,³⁵ Thalheim,³⁶ Harrison,³⁷ Lacey,³⁸ MacDowell,³⁹ Garland,⁴⁰ Golden⁴¹ and Rhodes,⁴² amongst

³³ Though this study has confined itself almost entirely to Athens, one may note in passing that there is every reason to suppose that the same was true elsewhere too. For example, Lene Rubinstein has drawn my attention to a relevant document (dating from the late fourth or early third century) from Delphi, published by L.Lerat in *RPh* 69 (1943) 62-86, and as it little-known — not in any of the Delphian corpora, or on the PHI epigraphy CD-ROM — it merits a mention here. A decree is passed to inscribe 'the law concerning one's *goneis*', τὸν νόμ[ον]...περὶ τῶν γονέων, and this is immediately glossed with the phrase 'whoever does not support his father and his mother', [ὅστ]ις καὶ μὴ τρέφῃ τὸν πατέρα καὶ τὴν μητέρα.

³⁴ Wyse (1904) 219.

³⁵ Lipsius (1905-1915) 343.

³⁶ Thalheim (1919) 1527.

³⁷ Harrison (1968) 77-8, cf. 131.

³⁸ Lacey (1968) 290 n.113.

³⁹ MacDowell (1978) 92.

⁴⁰ Garland (1990) 261.

⁴¹ Golden (1990) 137.

⁴² Rhodes (1993) 618, 629.

others,⁴³ all assert that the scope of the Athenian legislation which dealt with maltreatment of *goneis* extended its reach back further than that generation?⁴⁴

When one looks at the sources they cite, what becomes clear is that everything rests on two passages from Isaeus: 8.32, with which my enquiry began, and 1.39, mentioned *en passant* (in section 2.5.3). But neither can bear the inference that has been drawn from it.

The undatable Isaeus 1 is a speech delivered by one of the grandsons of a certain Polyarchos, deceased, whose own son Kleonymos had died intestate. Polyarchos' grandsons, now claiming Kleonymos' estate in competition with various other (and evidently more distant) relatives, are the sons of a sister of Kleonymos. §39 reads as follows:

καὶ εἰ μὲν Πολύαρχος ὁ πατὴρ ὁ Κλεωνύμου, πάππος δ' ἡμέτερος, ζῶν ἐτύγγανε καὶ τῶν ἐπιτηδείων ἐνδεής ὢν, ἢ Κλεώνυμος ἐτελεύτησε θυγατέρας ἀπορούμενας καταλιπών, ἡμεῖς ἂν διὰ τὴν ἀγχιστείαν καὶ τὸν πάππον γηροτροφεῖν ἠναγκαζόμεθα καὶ τὰς Κλεωνύμου θυγατέρας ἢ λαβεῖν αὐτοὶ γυναικᾶς ἢ προῖκα ἐπιδιδόντες ἑτέροις ἐκδιδόναι, καὶ ταῦθ' ἡμᾶς καὶ ἡ συγγένεια καὶ οἱ νόμοι καὶ ἡ παρ' ὑμῶν αἰσχύνη ποιεῖν ἠνάγκαζεν ἄν, ἢ ταῖς μεγίσταις ζημίαις καὶ τοῖς ἐσχάτοις ὀνειδέσι περιπεσεῖν

And if Polyarchos, Kleonymos' father and our grandfather, had happened to be alive and in need of the necessities of life, or (if) Kleonymos had died leaving daughters unprovided-for, we would have been compelled by family ties both to support our grandfather's old age and, with Kleonymos' daughters, either to marry them ourselves or provide them with a dowry and find other husbands for them. These are the actions which family ties and the laws and shame in your eyes would have compelled us to

⁴³ The most recent editor of the speech, Ferrucci (2005) 190, indicates — by his reference to Harrison (1968) 131-2 on intestate succession — implicit acceptance of the orthodoxy.

⁴⁴ For subliminal scepticism, not followed through, see Thomas (1989) 105-6; Rubinstein (1993) 64 n.3. Amongst those who pass over the matter without discussion (of this point): Bonner and Smith (1938) 103; Finley (1981) 167; Carey (1989) 194-5; Todd (1993) 107; Hunter (1994) 111 with n.30, 125; Fisher (2001) 137, 159-60; Avotins (2004) 462; Edwards (2007) 133, 142.

take, or else incur the greatest punishments and the ultimate disgrace.

As Rubinstein observes, these two hypothetical situations camouflage the fact that Athenian law evidently did not prescribe such a duty of care *vis-à-vis* Kleonymos himself, who as the uncle of the speaker and his brothers was merely their collateral relative.⁴⁵ Instead, in a speech which as a whole shows an experienced logographer striving to disguise a weak case,⁴⁶ §39 patently sets out to conflate legal requirements — ‘the laws’ are invoked, but none are specified or cited — with moral and social norms. To extract from it the factual conclusion that a failure on the part of Polyarchos’ grandsons to support him would have rendered them liable to prosecution for *κόκωσις γονέων* would have brought a smile of satisfaction to Isaeus’ face as he pocketed his fee, but is surely nonsense.

And so finally back to Isaeus 8.32. In this speech even more than in speech 1, Isaeus is seeking to capitalise on the usually warm relations which existed between grandparents and grandchildren in classical Athens.⁴⁷ The very word *pappos* occurs in the second sentence and another 23 times thereafter, which is to say, with four times the frequency of any other surviving speech; the jury has heard it a dozen times before §32 arrives. Personal closeness between Kiron and his grandsons (the speaker and his brother) during the old man’s lifetime is claimed at §§15-17, while §§21-27 describes the beginnings of the

⁴⁵ Rubinstein (1993) 65: ‘[t]he speaker’s point is that, since his family tie with Kleonymos implied that he had certain financial and social obligations to Kleonymos’ father and daughters, it would not be fair to deprive him of Kleonymos’ inheritance. Now, if the speaker could have demonstrated that he would have had a legal obligation to provide for *Kleonymos*’ needs as well, this would obviously have strengthened his argument (cf. Isaios VIII.32). The fact that he does not claim that this was the case, but instead stresses his (hypothetical) obligation to provide for Kleonymos’ father who was also his own grandfather and his (hypothetical) obligations to his daughters (who would have been *ἐπίκληροι*) points to the conclusion that collaterals were not under any legal obligation to take care of their aged and childless relatives’.

⁴⁶ Wyse (1904) 177.

⁴⁷ On this topic see generally the evidence and insightful discussion in Golden (1990) 136-140. (It is marred by the standard misinterpretation, as I am arguing it to be, of the present passage (Golden (1990) 137 with n.96), but see further, next note.) For the opposite forensic scenario, a case brought against a grandfather by his daughter’s children, see Lysias 32.

inheritance struggle precipitated by his death, with the unseemly jockeying between rival claimants to take charge of (and pay for) the obsequies. And shortly thereafter comes the argumentation of §31 and §32, quoted at the outset of my study. Just as in 1.39, the court must be persuaded that the claims of a direct descendant outweigh those of a collateral one.⁴⁸ So one can readily believe the speaker when he says (§32) that any neglect of Kiron during his lifetime by his nephew would not have rendered the nephew open to prosecution for *κάκωσις γονέων*. What one cannot — should not — believe is the other half of the assertion (made twice in §32): that such neglect *would* have exposed the speaker and his brother, Kiron's grandsons, to that charge.

Laws, whether ancient or modern, must use words which have a commonly-understood meaning; either that or else redefine them if, in context, they are to bear a different meaning.⁴⁹ That the Athenian law(s) on *goneis* had attempted such a redefinition is a notion which, in a wide expanse of evidence to the contrary, is confined to Isaeus 8.32. Reminding jurors of what a law had to say was every logographer's stock-in-trade. Inducing the jurors, in a sort of Emperor's New Clothes ploy, to believe that a law meant something other than what it plainly said would be dared only by a master.⁵⁰

⁴⁸ cf. Golden (1990) 138: '[t]he speaker's relationship with Ciron is itself one of the issues in this lawsuit, as is the strength of a grandson's claim in relation to those of other family members. Detail and tone are therefore chosen to convince a jury'. In general terms see also Christ (1998) 201: 'litigants often urge jurors to consider "the law itself"' [he gives examples which could have included Isaeus 8.30, ἐξ ἀδῶν τῶν νόμων, cited at 205]. What they mean, of course, is that jurors should heed *their* rhetorical interpretations of laws'. And see next note.

⁴⁹ I acknowledge the fact that '[o]ne of the most notable features of Athenian statutes is that they do not generally define their terms' (Todd (1993) 61). Some scholars, indeed, go well beyond that, to a position which sees the import of all Athenian law as to a greater or lesser extent rhetorically negotiable: so e.g. Cohen (1995) 178; Johnstone (1999) 22-33. For protests against this see e.g. Harris (1994) and Carey (1998). But both sides in this debate would surely agree that in an instance like the present one an everyday noun is being used in an everyday sense.

⁵⁰ The same scholars who accept from Isaeus 8.32 the idea that *κάκωσις γονέων* covered ascendants prior to parents tend to accept also, from Lysias 13.91, that it covered adoptive parents. (For this see explicitly e.g. Lipsius (1905-1915) 343; Thalheim (1919) 1527.) Unfortunately the textual credentials of the passage —

Appendix: *tokeis* in classical prose

Reviewing Forman (1897), Sandys (1900) listed various passages in Lycurgus where emendations — cogent ones, in his view — had been adopted in Blass’s 1899 Teubner edition of that orator but had passed unmentioned by Forman. And Sandys also took the opportunity to add one of his own: γονέων for the transmitted τοκέων in *Against Leocrates* 147. Leocrates, the jury is urged there, should be deemed guilty of several very serious crimes: treason (προδοσίας μὲν ὅτι τὴν πόλιν ἐγκαταλιπὼν τοῖς πολεμίοις ὑποχείριον ἐποίησε), counter-revolution (δήμου δὲ καταλύσεως ὅτι οὐχ ὑπέμεινε τὸν ὑπὲρ τῆς ἐλευθερίας κίνδυνον), impiety (ἀσεβείας δ’ ὅτι τοῦ τὰ τεμένη τέμνεσθαι καὶ τοὺς νεῶς κατασκάπτεσθαι τὸ καθ’ ἑαυτὸν γέγονεν αἴτιος), maltreatment of parents (τοκέων δὲ κακώσεως [ὅτι] τὰ μνημεία αὐτῶν ἀφανίζων καὶ τῶν νομίμων ἀποστερῶν), and military desertion and dereliction (λιποταξίου δὲ καὶ ἀστρατείας οὐ παρασχὼν τὸ σῶμα τάξαι τοῖς στρατηγοῖς).

Sandys’ reason for making this change was that *tokeis* is a ‘poetic word’ for parents; and he observed that he had ‘made the same suggestion in [Dem.] 35 §48; in both passages it may be supported by κάκωσις γονέων in Aristotle’s *Const. of Athens* 56 §6 and οἱ περὶ τῶν γονέων νόμοι in Dem. 39 §33’. In fact ‘the same suggestion in [Dem.] 35 §48’ — which states, as transmitted, that the eponymous archon has charge of cases ἐπικλήρων καὶ ὀρφανῶν καὶ τῶν τοκέων — goes much further back in the nineteenth century than Sandys:⁵¹ to Peter Paul Dobree (1782-1825). In his OCT of Demosthenes, Rennie printed τοκέων at 35.48, adding in the apparatus: ‘γονέων Dobree, recte puto, sed cf. Lyc. §147’. Likewise, Blass’s successor (1970) as Teubner editor of Lycurgus, N.C. Conomis, noted Sandys’ γονέων there but declined to adopt it.

The situation, then, is that the transmitted τοκέων in these two passages from lawcourt speeches delivered in Athens during the third quarter of

quoted in section 3.2, at *d* — have been questioned. My opinion is that, even if it is authentic, it is another palpable item of special pleading, but I leave to others the factual question of whether this protection extended to adoptive *goneis*. (For rare instances of grandfathers who adopted their grandsons see Wyse (1904) 617.)

⁵¹ Sandys in Paley (1896) 79.

the fourth century⁵² might be regarded as mutually corroborative of each other except on the view that the word is so intolerable in such a context that it demands to be emended (to γονέων) in both places. So was Sandys justified in characterising τοκεύς as (*sc.* exclusively) poetic vocabulary?

That the word is not alien to classical prose *per se* is plain to see from the fact that it appears eight times in Herodotus: 1.5.2, 1.122.3, 1.137.2, 2.35.4, 3.52.5, 4.5.1,⁵³ 4.114.2, 4.114.5. (He uses γονεύς on eight other occasions — 1.91.1, 1.146.2, 2.43.2, 3.38.4, 3.109.2, 4.26.1, 5.6.1, 6.61.3 — and it would be uphill work to argue that, for him, there was any across-the-board difference in connotation or tone.) But one should note also, and more importantly for present purposes, the following instances in other writers:

(a) Gorgias fr.6 DK (from his Funeral Speech): the Athenian war-dead are, *inter alia*, ‘devout towards their *tokeis* in their solicitude’ (ὄσιοι...πρὸς τοὺς τοκέας τῇ θεραπέῳ).

(b) Gorgias fr.11a DK (from the *Defence of Palamedes*): the word *tokeis* is used three times in emotive treatments of salvation *vs.* betrayal, right *vs.* wrong (3, σώζει πατρίδα, τοκέας, τὴν πᾶσαν Ἑλλάδα; 19, προὐδίδουν ἑμαυτὸν, τοκέας, φίλους, κτλ; 36, εἰς ἐμὲ καὶ τοὺς τοκέας τοὺς ἐμοὺς ἀμαρτήσεσθε δικάσαντες ἀδίκως).

(c) Thucydides 2.44.1: Pericles in the Funeral Speech declares that he will encourage rather than mourn for any *tokeis* of the war-dead who are in his audience (τοὺς τῶνδε νῦν τοκέας, ὅσοι πάρεστε, οὐκ ὀλοφύρομαι μᾶλλον ἢ παραμυθήσομαι).

(d) Lysias 2.75: near the close of another Funeral Speech, purportedly relating to the Corinthian War, it is asserted that the only way to return *charis* to the dead is to hold their *tokeis* in the same esteem as they did (εἰ τοὺς...τοκέας αὐτῶν ὁμοίως ὥσπερ ἐκεῖνοι περὶ πολλοῦ ποιούμεθα).

⁵² Lycurgus, *Against Leocrates*, was delivered early in 331, seven years after the Chaeronea crisis to which it relates. Speech 35, *Against Lacritus' Special Plea*, in the Demosthenic corpus belongs between 355 and 338, perhaps in the 340s; see Isager and Hansen (1975) 169-170; MacDowell (2004) 130-131.

⁵³ But see n.57 below.

(e) Xenophon, *Memorabilia* 2.1.33 (= Prodicus fr.2 DK; Stobaeus, *Florilegium* 3.1.205B): the story, credited to an *epideixis* by the sophist Prodicus of Ceos, of Heracles' choice between *Arete* and *Kakia* ends with *Arete* (who has been chosen) addressing the hero as 'o son of fine *tokeis*' (ὦ παῖ τοκέων ἀγαθῶν).

(f) Xenophon, *Cynegeticus* 13.17: the conclusion of this treatise in praise of hunting avers that the young who follow its advice will be 'fine to *tokeis* and to the whole of their own polis' (τοκεῦσιν ἀγαθοὶ καὶ πάση τῇ ἑαυτῶν πόλει).

What emerges from these passages is that *τοκεύς* is a perfectly suitable choice of vocabulary for epideictic oratory, particularly a *logos epitaphios* (a, c, d),⁵⁴ and, by extension, for any prose writing which seeks a similarly elevated, "poetic" effect.⁵⁵ Why the logographer responsible for Demosthenes 35.48⁵⁶ might have wanted to create such an effect is unclear, and the possibility that he actually wrote γονέων should not, accordingly, be discounted.⁵⁷ But Lycurgus, *Against Leocrates* — described by a recent translator as containing 'a lengthy civics lesson about the importance of patriotism and respect for one's parents and ancestors'⁵⁸ — is another matter altogether. Irrespective of the fact that the actual wording of the law to which Lycurgus is so

⁵⁴ I say 'suitable' choice rather than mandatory one because sometimes in this same genre γονεύς is the word chosen: so in Plato, *Menexenus* 239D, 247B, 248D, 249C; Demosth. 60. 16, 29, 32.

⁵⁵ Passage *e* represents a particular problem (flagged up, indeed, at *Mem.* 2.1.34 itself): there can be no certainty whether the words used, including *tokeis*, were used by Prodicus or Xenophon. In any case the dactylic παῖ τοκέων ἀγαθῶν might well be a quotation from poetry; cf. Plato, *Republic* 390C, quoting φίλους λήθοντε τοκήας from Homer, *Iliad* 14.296.

⁵⁶ Sandys, as we have seen, was sure that this individual was not Demosthenes himself. Others, more reasonably in my view, merely incline to this position; so e.g., most recently, MacDowell (2004) 15.

⁵⁷ On the potentiality for confusion between Γ and T and between N and K in Greek uncial script see summarily West (1973) 25. I have not made a comprehensive search for actual manuscript discrepancies between *τοκεύς* and *γονεύς* but there is an instance in Herodotus 4.5.1.

⁵⁸ E.M. Harris in Worthington et al (2001) 160. Note also Usher (1999) 328: 'a rich and triumphant marriage of epideictic and forensic rhetoric [...] its debt to earlier oratory in both genres is always apparent'.

hyperbolically alluding was more prosaic,⁵⁹ no reader of (or listener to) the speech could be surprised or offended by encountering the phrase *τοκέων κάκωσις* at this near-climactic stage of it.

⁵⁹ That the Athenian law(s) about the protection of parents did use the word *goneis*, not *tokeis*, is beyond question. Besides the two passages invoked by Sandys (Demosth. 39.33; ?Aristot. *Ath.Pol.* 56.6) see e.g. Andoc. 1.74; Isae. 8.32; Demosth. 24. 60, 103, 105, 107; Hyp. *Eux.* 6; Din. 2.17-18.

BIBLIOGRAPHY

- Avotins, I. (2004) 'Athenaion Politeia 56.6 and the protection of the weak'. *Classical Quarterly* 54, 461-469
- Bonner, R.J. and G.Smith (1938) *The Administration of Justice from Homer to Aristotle*, vol.2. Chicago: Chicago University Press
- Carey, C. (1989) *Lysias: selected speeches*. Cambridge: Cambridge University Press
- Carey, C. (1998) 'The shape of Athenian laws'. 48, 93-109
- Christ, M.R. (1998) *The Litigious Athenian*. Baltimore: Johns Hopkins University Press
- Cohen, D. (1995) *Law, Violence and Community in Classical Athens*. Cambridge: Cambridge University Press
- Davies, J.K. (1971) *Athenian Propertied Families 600-300 BC*. Oxford: Oxford University Press
- Edwards, M.J. (2007) *Isaeus, translated by Michael Edwards*. Austin: University of Texas Press (The Oratory of Classical Greece, 11)
- Ferrucci, S. (2005) *Iseo, La successione di Kiron: introduzione, testo critico, traduzione e commento a cura di Stefano Ferrucci*. Pisa: Edizioni ETS
- Finley, M.I. (1981) 'The elderly in classical antiquity'. *Greece and Rome* 28, 156-171
- Fisher, N.R.E. (2001) *Aeschines: Against Timarchos*. Oxford: Oxford University Press (Clarendon Ancient History Series)
- Forman, L.L. (1897) *Index Andocideus, Lycurgeus, Dinarcheus*. Oxford: Oxford University Press
- Forster, E.S. (1927) *Isaeus*. London and Cambridge Mass.: Loeb Classical Library
- Garland, R. (1990) *The Greek Way of Life from conception to old age*. London: Duckworth
- Golden, M. (1990) *Children and Childhood in Classical Athens*. Baltimore and London: Johns Hopkins University Press
- Hansen, M.H. (1989) 'Solonian democracy in fourth-century Athens'. *Classica et Mediaevalia* 40, 71-99
- Harris, E.M. (1994) 'Law and oratory'. In I. Worthington (ed.), *Persuasion: Greek rhetoric in action*. London: Routledge
- Harrison, A.R.W. (1968) *The Law of Athens: family and property*. Oxford: Oxford University Press

- Harrison, A.R.W. (1971) *The Law of Athens: procedure*. Oxford: Oxford University Press
- Hunter, V.J. (1994) *Policing Athens: social control in the Attic lawsuits, 420-320 BC*. Princeton: Princeton University Press
- Isager, S. and M.H. Hansen (1975) *Aspects of Athenian Society in the Fourth Century BC*. Odense: Odense University Press
- Johnstone, S. (1999) *Disputes and Democracy: the consequences of litigation in ancient Athens*. Austin: University of Texas Press
- Lacey, W.K. (1968) *The Family in Classical Greece*. London: Thames and Hudson
- Lipsius, J.H. (1905-1915) *Das attische Recht und Rechtsverfahren*. Leipzig: O.R. Reissland.
- MacDowell, D.M. (1978) *The Law in Classical Athens*. London: Thames and Hudson
- MacDowell, D.M. (2004) *Demosthenes, speeches 27-38, translated by Douglas MacDowell*. Austin: University of Texas Press (The Oratory of Classical Greece, 8)
- Morrow, G.R. (1960) *Plato's Cretan City*. Princeton: Princeton University Press
- Paley, F.A. and J.E. Sandys (1896) *Select Private Orations of Demosthenes*, 1 (third edition). Cambridge: Cambridge University Press
- Rhodes, P.J. (1993) *A Commentary on the Aristotelian Athenaion Politeia*. (2nd edition) Oxford: Oxford University Press
- Rubinstein, L. (1983) *Adoption in IV. Century Athens*. Copenhagen: Museum Tusulanum Press
- Sandys, J.E. (1900) Review of Forman (1897) in *CR* 14, 65-65
- Thalheim, T. (1919) *κἀκωσις*, *RE* 10.2, 1526-1528
- Thomas, R. (1989) *Oral Tradition and Written Record in Classical Athens*. Oxford: Oxford University Press
- Todd, S.C. (1993) *The Shape of Athenian Law*. Oxford: Oxford University Press
- Usher, S. (1999) *Greek Oratory: tradition and originality*. Oxford: Oxford University Press
- West, M.L. (1973) *Textual Criticism and Editorial Technique*. Leipzig: Teubner
- Worthington, I., C. Cooper and E.M. Harris (2001) *Dinarchus, Hyperides, and Lycurgus*. Austin: University of Texas Press (The Oratory of Classical Greece, 5)

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Wyse, W. (1904) *The Speeches of Isaeus*. Cambridge: Cambridge University Press.