

## THE LAW IN EURIPIDES' *MEDEA*<sup>1</sup>

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**Abstract:** This paper investigates appeals to law in Euripides' *Medea*, dramatic elements which seem to point to two distinct aspects in the development of Greek Law. The text seems to appeal to: a) archaic law when the oath appears adequate (or sufficient) to establish wedlock, and b) classical law with respect to other aspects of familial jurisprudence. I argue that Euripides has intentionally contrasted these legal perspectives as part of a larger contrasting narrative. Euripides begins by introducing the essential features of the myth of *Medea* in terms of its archaic context. In the latter half, he then in turn contrasts this narrative with contemporary views, and thus offers a critical reflection upon his own culture and society. These contrasting narratives are further supported by highlighting an important transition in the text, which focuses on *Themis* and *Dike* and the importance of laws.

**Keywords:** Euripides, *Medea*, Ancient Greek Law, *Themis*, *Dike*, Oath, Dowry, Divorce, Exile, *Gorgias*.

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## 1. TRAGEDIES AND LAW: THE CASE OF *MEDEA*

Medea is such a complex character that her heuristic power seems to be an inexhaustible font, inspiring ancient and modern commentators to this very day.

The aim of this paper is to investigate Euripides' *Medea*. This play has already received extensive treatment in relation to its philological, literary, psychological, cultural, political, and of course ethical aspects. From a less treated point of view, I will discuss the elements of law that can be traced: I would like to show how Euripides' *Medea* may be a significant source for the study of ancient Greek law (See Leão, 2011; Hall, s.d.).

Tragedies are in most cases fertile grounds for analyzing the application of law, since they regularly involve all the important stages of life which the law generally applies to, albeit in the context of rather tragic scenarios: cases of murder, dispossession, theft, betrayal, alterations in political power, and everything else that can relate to the range of law may be involved. There is a trend in the past two decades that suggests that it is wrong to think of the tragedy as a means used by the poets to talk about their present (see Allen, 2005; but also Pepe, 2007): in this sense, the poets would have not written tragedies to talk about their contemporary culture; on the contrary, they would have written purely poetic works. However, tragic authors undoubtedly wrote from their contemporary viewpoints and their works are undeniably connected with political and social elements and references. In the particular case of *Medea*, the play may certainly be connected with or be inspired by its present; for

instance when at vv. 120 ss. Euripides criticizes the power abuses with a typical 5<sup>th</sup> century B.C. lexicon.<sup>2</sup>

*De facto*, the tragic context bears remarkable resemblance with the judicial one and is connected with it: in fact, both take place as a clash of unsolvable and opposite positions. As the scholar Allen points out well, Euripides adopts the style and instruments of contemporary court procedures (Allen, 2005, p. 375) and the legal discussion seems to be a premise for Euripides' same works (Allen 2005, p. 375 n. 3). This is most readily demonstrated in *Hecuba*, the *Trojan Women*, *Heracles* and *Heracleidae*. Like tragic characters, the subjects involved in a court controversy defend antithetical positions on the same topics. In the case of the *Medea*, an emblematic dialogue, evidently antilogic, is the one between Medea and Jason from v. 446. For all this, I would say that the Sophistry-molded antilogy, made for the court, can also be found in the tragic scheme. Tragedy and judicial context share the same antilogic form. Being both antilogies, there cannot be a synthesis of the two positions: what in the law stands as a structural element of judgment, in the tragedy becomes the site of the conflict and the tragic.

In addition, focusing on *Medea*, the lexicon leads us to ponder over the law because terminology for laws, justice, and murder is well-represented. I will just give some examples to show some variations, beginning with “killing/murder” words. The term φόνος, for example, is present in v. 852 (in the third stasimon when the chorus tries to persuade Medea not to kill the children) and the verb κτείνω appears at least fourteen times (e.g. v. 1411); ἀποκτείνω appears three times (e.g. v. 486); κατακτείνω, at least twice (e.g. v. 505).

The written law, νόμος, appears at least three times, and also in another forms and contexts: in effect, there is an idea of acting «against the law» – ἄνομος in v. 1000 – when in the fourth stasimon the chorus argues that the abandonment of Jason is outside the margins the law; there is the variant «παράνομος» – “against any norm,” which occurs when the Messenger declares Medea has killed/murdered Glauce and Creon at v. 1121.

As for the lexicon related to justice, the term δίκη appears seven times. Forms of it are used, e.g., at v. 1390, where Jason recalls the persecution of the Erinyes for justice; also in v. 219 and in v. 1316 when Jason says to Medea that she has to pay what she deserves; ἔνδικος appears twice, once at v. 1232, when the chorus deems the action of the divinity that inflicts so much suffering to Jason to be right.

Given the pervasive usage of such terminology in the noted contexts, the work is clearly deeply concerned with portraying the sense of injustice connected to Medea's unease in relation to Jason's deceptive betrayal, as well as the revenge motivating her own extreme actions. More broadly, this further demonstrates that Euripides is concerned with incorporated themes of law and justice in his work, and that there are grounds to investigate in this direction.

These are the general ways in which Euripidean tragedy tends to parallel legal aspects of Greek culture. But, what can *Medea*, in particular, aid us in understanding with respect to ancient law?

Medea is a mythological character rooted in the deep past of Greek culture; a past in which, with respect to the

juridical plane, the laws are still part of the oral dimension. The transition from the oral, essentially customary law, to the written one was very investigated and some scholars attempted to produce a scan of this transition.<sup>3</sup> Hence, the issue will be to figure out what belongs to the archaic dimension and what to the classical one, that is, if the law of which, intentionally or not, Euripides tells us is part of the archaic phase or the classical one.

On the basis of these considerations, we can already identify two key points:

- i. Euripides' *Medea* may insert in a context of unwritten law and the same way in one of written law;
- ii. the *Medea*, though not intended to be a work of critical reflection upon its political or juridical present, was yet nevertheless most likely inspired by its social and political contemporaneity.

## 2. THEMIS AND DIKE

At v. 160, *Medea* notably appeals to both Themis and Artemis, speaking of the marriage oaths which bound her to Jason<sup>4</sup>:

ὦ μεγάλα Θέμι καὶ πότνι Ἄρτεμι,  
λεύσσεθ ἅ πάσχω, μεγάλοις ὄρκοις  
ἐνδησαμένα τὸν κατάρατον  
πόσιν;

O mighty Themis and my lady Artemis, do you see what I suffer, I who have bound my accursed husband with mighty oaths? (Kovacs, 1994).

It is fitting for Medea to appeal to Themis. Themis is the alter-ego of justice, as is clear from etymological analysis. Themis is derived from the verb τίθημι, which means “what is set” or “what is in line with the order of the world.” By extension, ‘themis’ then refers to a sort of cosmic justice found in nature itself; it is the way things should properly be. So, Themis as goddess is the personification of the natural justice that arises from the cosmic order. In addition, as emphasized by Biscardi, the name of the deity and the word θέμιστες, that identifies the magical-religious formulas used to express the gods’ will, have the same root. Here, then, the reference to Themis is the recall of a total, natural order of justice. Themis is the center of Medea’s invocation for the injustice caused by Jason’s behavior. Artemis is then invoked as the goddess who is linked to the female. So Themis and Artemis are referred to together for the discovery of justice for a woman, that is the same Medea. Why doesn’t Medea appeal to Dike? In mythology, Dike is the daughter of Themis and Zeus, and is thus a more particular and narrow identity concerning rightness and justice. Whereas Themis is the original sense of cosmic justice found in nature, Dike is the particular sense of justice realized in mortal court proceedings. But Medea appeals to Themis, the law of nature: this is connected to the force of nature and, in that sense, to the latter’s own magical power. This recall is in line with the nature of Medea, woman-sorceress in whom the natural balance is taken away when the man she loves leaves her. So there is an archaism in this recall to Themis that circumscribes the figure of Medea and that evokes before us a very specific area of the law, that of an archaic sense of justice that aspires to be in line with the cosmic order: evidently, this is a choice by Euripides. We should note that in v. 764 Medea refers

to Dike after meeting Aegeus, when she explains what her intent is. This is interesting because Dike, as the realization of justice is called just when Medea decided the fate of her loved ones, that is, when she sees justice becoming true: when she decides the penalty, like after a trial, even if a personal one.

### 3. THE OATH

The second element recalled in v. 160 is the oath.<sup>5</sup> The oath is the covenant that has made the marriage bond between Medea and Jason. The oath represented in Greek culture the means through which relationships among people became increasingly concrete or the status of a single person was consolidated. It is believed that the oath represented a way of governing the relations, with the aim of avoiding private revenge (see Zucconi, 2000, p. 9-19). Chronologically, this orally-based custom must belong to the archaic era (6<sup>th</sup> century B.C. and before), prior to the establishment of a robust written legal system. It was not until the late VII-V centuries that the initial legal instruments began to be settled upon – i.e. from the *Laws of Draco* of 621 B.C. to the reform of the Aeropagus of 462/461 B.C. by Ephialtes. The *Laws of Draco* seek to regulate the relations after the homicides to replace the revenge: this step will be a slow process of advancement of the judicial system with a progressive disappearance of the revenge, and therefore, of the need of the oath (Giordano, 2014, p. 464) which was, in 5<sup>th</sup> century B.C., practically no longer in force. By the 5<sup>th</sup> century B.C., in fact, the relevance and value of oath-taking, along with its practice, had largely disappeared. The oral agreements of oaths had been effectively replaced by written transcription of agreements, filed in court, and effectively enforced by tribunals.<sup>6</sup>

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Based upon Medea's appeal to her oaths with Jason, she is still operating under an archaic context. Oaths are valid, sacred, and cannot be questioned or undone. On the one hand, the oath is a covenant between humans (in which the roles are not specified), and thus to break them is to break one's Word, and damage one's reputation. On the other hand, and perhaps more importantly, oaths are secured in the name of the gods: thus, the oath is elevated from being a human fact and becomes a religious fact, a covenant between mortal and divine. Any transgression goes against the will of the gods, and it follows that the transgressor is thereby impious and subject to divine retribution.<sup>7</sup> Given that all should fear angering the gods, all should be careful to follow and uphold their oaths, making sure their conduct does not violate them. So, oaths cannot be broken without harsh penalty, unless both parties that initially made an oath explicitly agree to modify or dissolve it. Given this, it is entirely understandable what Medea expects from Jason: that he complies his promise of love.

If the marriage between Medea and Jason is solemnized via oaths between themselves, then their marriage arrangement would be highly irregular: there were not the ceremony<sup>8</sup> and the practices that are necessary to sanction the marriage bond, neither in the archaic modality nor in classical one.

In ancient times the wedding took place through either abduction<sup>9</sup> or a purchase (ἔεδνα, a practice of the Homeric era<sup>10</sup>; that will be examined more closely later) by the bridegroom. These are not the cases of Medea and Jason: in fact, the abduction is actually recalled by Euripides at vv. 255-256, but this



is the only passage where Medea seems willing to deresponsibilize herself and be seen as a prey. Given that Euripides only briefly mentions the abduction in these verses, and otherwise portrays Medea as a responsible agent,<sup>11</sup> it would seem that, other than referencing the version of the Medea myth provided by Herodotus (I 2, 2; see Cerbo-Di Benedetto, 2012, p. 29 n. 65), this reference is to be understood as part of an accusation game, which will be developed further below.

Otherwise the marriage could be celebrated according to the classical period practice (see Oakley – Sinos, 1993) which replaced the previous archaic ways of marriage. A classical marriage began with the promise, ἐγγύη, between the κύριος of the woman and her future husband: this would have included a proper liturgy, along with and definite gestures. As the verb ἐγγυάω literally means to «put in the palm of the hand» (γυή), it is likely that the practice initially included the bride's father placed the hand of his daughter in the hand of his future son-in-law. The fulfillment of the covenant should follow the solemn practice of this agreement. There were long feasts and, most of all, the couple was bound to go to cohabit. Again, Medea's description differs greatly from the classical traditions. Medea makes reference to a private oath, a μέγας ὄρκος, in which she, on her own, tied herself to Jason. Such private oaths did not serve to sanction marriage in either archaic nor classical times. Thus, from a legal perspective, it would seem correct to say that the relationship between Jason and Medea does not properly count as a marriage. It was a pact, archaically inviolable and sacred to Medea (and the gods), and likely remains binding

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upon Jason: however, it would not have served as a marriage contract. We do not know the content of the oath between Medea and Jason (or if it was one-way, Medea's promise to Jason as vv. 162-163 might suggest) but we can imagine that if the agreement was bilateral then it would have included agreements to remain loyal, share and build a life together, as well as the possibility to have and take care of any children. At least because in vv. 340-345 Medea, explaining to Creon the difficulties of an immediate exile, says that the father of her children, Jason, does not bother to provide for them: so, this must have been allegedly part of their relationship and their pact.

As the drama unfolds, Medea refers back to her oaths with Jason at vv. 440 and 492. The importance of oaths to Medea is emphasized with the oath of Aegeus (vv. 735-749), which Medea fervently insists upon.<sup>12</sup> The oath of Aegeus, strongly required by Medea, goes from v. 735, and especially from v. 749. The oath of Aegeus is short and easy: no more guarantees are required than the spoken words and the gods invoked directly in the same oath. Medea dictates the words of the oath, and Aegeus repeats them: so, she is completely satisfied with the oath, that is the main guarantee for her. Jason has contravened the oath (so that Medea says that "the magical power of an oath has gone" in v. 440 and v. 492, and tells of the "charm of an oath that vanishes"), but here Medea clearly holds Aegeus to not betray. At least because, in turn, Aegeus has had the commitment of Medea to solve his problem of not having children.

#### 4. THE STATUS OF WOMEN

Leaving now the issue of the oath aside, let's go back to Medea's speech, the beautiful and long peroration

that starts at v. 214, in which she wants to ponder the status of women paying a special attention to the difficulties women face in their relationships with men and with society. Among other things, and this must be highlighted, Medea's speech seems clearly addressed to the Greek women while she is barbarian. Her role as a barbarian is relevant for the whole length of the work, but it becomes very touching in vv. 536-538 when Jason highlights that he brought Medea among the Greeks who are superior and because of them she has learned about justice (δίκη) and laws (νόμοι).

Consider closely the text from v. 232-237:

ἄς πρῶτα μὲν δεῖ χρημάτων ὑπερβολῇ  
πόσιν πρίασθαι, δεσπότην τε σώματος  
λαβεῖν [...]

v. 236  
οὐ γὰρ εὐκλεεῖς ἀπαλλαγαι  
γυναιξιν οὐδ' οἶόν τ' ἀνήρασθαι πόσιν.

First at an exorbitant price we must buy a husband and master of our bodies [...]

For divorce is discreditable for women and it is not possible to refuse wedlock. (Kovacs, 1994).

In the speech, Medea refers to the suffering of women: a woman must pay to get married because

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her family is obliged to bring a dowry to her future husband, so her family must provide the dowry to the groom of the daughter. Furthermore, even after purchasing a husband, a woman cannot repudiate him, while the man can divorce his wife at will. In such a case, the woman ends up dishonored by a divorce, unwanted by her husband.

I examine the elements of Medea's claims in turn below, beginning with the practice of providing a dowry. Euripides does not use the proper term for dowry, i.e. *προίξ*, but he instead uses a phrase that immediately recalls it (vv. 232-233). The dowry is seen as the money needed to buy a man by a woman. Medea obviously expresses the point of view of the women, and certainly not the one of the society which sees the dowry as a quantity of goods accompanying the woman at the time of marriage and that will then be used to establish the following rights on the family property. The *προίξ* was necessary to ensure marriage realization (see e.g. Paoli, 1953) and in fact here Medea characterizes it as the first necessary condition to the marriage bond: she says that «we [the women] must (buy)»; thus, she highlights its necessity. The Greek word is just *δεῖ* that means «it is necessary», «it must.» Of course, this peculiar case cannot be decisive in determining whether the dowry was really binding for the construction of marriage, still it is a record that we can take into account. The dowry should naturally be accompanied by *ἐγγύη*, that is the marriage pact between the father (or who was in his stead) of the bride and the groom. The dowry had not a stable consistency, neither a precise nature. Usually it was made up of personal property such as money, slaves and the trousseau (as a personal

possession of the woman), that should stay substantially intact during the woman's growth and that were needed for her sustenance once married. The husband could directly keep his wife's dowry as long as he guaranteed her an interest rate of the 18% of its capital (Pomeroy, 1978, p. 66). The dowry could also be real estate, though it rarely was, and in some peculiar situations, the dowry could be not paid. In the latter case the husband provided a “bogus” contract in which he attested a conveyance that did not take place in reality. The dowry corresponded to a total agreed value; so in the case of dissolution, the husband was supposed not to return the goods but the corresponding value as agreed.

Yet here, in Medea's speech, we have a very particular interpretation of the dowry. Medea speaks of marriage in reference to dowry (paid by the woman to the man) but in archaic terms. Indeed, in the archaic era, the marriage was contracted through the purchase of the woman. Here, Medea just uses *πρίσσειν*, the verb “to buy”, therefore she conceptually recalls the “purchase” in the strict sense. The “buying and selling” was the practice through which an archaic wedding was taken out (as in Arist. *Pol.* II 1268 b 39): the marriage was stipulated by the man who bought the woman; she, therefore, was purchased by the future husband. In this step of *Medea*, we find, therefore, an archaic vocabulary that refers to the act of purchase of a woman by a man: here, however, the sense is turned upside down. In fact, it is the woman who acquires the right to have a husband through the dowry, according to the desperate Medea. In the archaic time, the most important part of marriage, from the economic point of view, was covered by the original family of the

groom (in fact, he is buying), later it is the bride's one to provide a dowry (with any necessary exceptions, of course). An archaic vocabulary to criticize a contemporary practice: Euripides seems to propose this with a clever reversal of the parts.

Let's now treat the possibility of disavowal and divorce (see Leão, 2011 and Cox, 2011). Even here Euripides seems to refer to the classical era custom. The man could disavow his wife. Repudiation, ἀπόπεμψις, took place without any justification: the man could disown his wife whenever he wanted; he only needed to pay her dowry back. The wife on the other hand could not divorce her husband but as a choice she could leave the household, ἀπόλειψις. And there is a clear note: in the repudiation by the husband, the wife is sent back to her family; in the case of abandonment of the household, the wife goes back to her family. This means that, in consequence of each choice, the outcome does not change. She always takes on the shame of returning to its original οἶκος, while her husband stays in their house or wherever he wants, according to his own free choice.

It could be the father (or who was in his stead) of the woman to file for the divorce, through ἀφαίρεσις; so, a third element is inserted in the process of separation. This, though, only applied if the woman had not already had children by her husband; then, in this case, the new family could not be questioned by her father. We also know that, even if the separation was requested by the woman, the support of her family was necessary: the father or who was in his stead (a brother for example) had to follow her to court in order to file for the divorce. In fact, in the practice of ἀπόλειψις she needed the

intercession of her father or some other male citizen to bring the case before the Archon (Arist. *Ath Pol.* 59: probably one of the *Thesmothétai*). The Archon recorded the separation (γράμμα ἀπολείψεως). The procedure of transcription was meant to secure the woman, who, supported by her family and for specific reasons, needed to get out of the marriage without dishonor. (see Is. 3, 78 and Dem. 30, 17). She would have surely incurred dishonor if she, on her own, tried to get a divorce: she could not access the legal transcription of the separation act, being thus linked forever to her husband who would, eventually, reject her later. In the *Medea*, we possibly have a mention of a wife-wanted divorce that could put the blame on her, but I think that it must be conceived in the context of the classical era: Medea's reflection is no exception, but it falls within the rules of classical divorce: a woman could not divorce for her 'only' will (v. 236).

It is likely this interest in the details of dowry and divorce does not have much to do with the mythical character of Medea. After all, if Medea and Jason united through an oath, they did not follow the traditional practice of marriage: so why should the normal practices of marriage dissolution be relevant, if there was no marriage? Rather, Euripides is offering proposes an insightful and didactic take on classical legislation – a reflexion that combines with the experience of its audience as the work treats what it is happening in its time. Hence, I ascribe these elements of law as a detail proposed by Euripides about the Attic classical law, on which he testifies. Euripides reflects on himself, he seizes the opportunity of letting the same Medea speak, but it is not about

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herself, about her story that Medea actually talks. So that the speech of Medea follows with what we might call the reflections of a woman with an almost universal character who complains that a man tired of the house life goes out and has fun, recalls the pain of giving birth, envies men's life in the war. Here we can find the society of the classical period and consequently its law.

## 5. THE EXILE

At vv. 252-8, Medea explains the particular difficulties she will face as a foreigner, barbarian, if Jason abandons her.

ἀλλ οὐ γὰρ αὐτὸς πρὸς σὲ κάμῃ ἤκει λόγος:  
 σοὶ μὲν πόλις θ' ἦδ' ἐστὶ καὶ πατρὸς δόμοι  
 βίου τ' ὄνησις καὶ φίλων συνουσία,  
 ἐγὼ δ' ἔρημος ἄπολις οὐσ' ὑβρίζομαι  
 πρὸς ἀνδρός, ἐκ γῆς βαρβάρου λελησμένη,  
 οὐ μητέρ, οὐκ ἀδελφόν, οὐχὶ συγγενῆ  
 μεθορμίσασθαι τῆσδ' ἔχουσα συμφορᾶς.

But your story and mine are not the same: you have a city and a father's house, the enjoyment of life and the company of friends, while I, without relatives or city, am suffering outrage from my husband. I was carried off as booty from a foreign land and have no mother, no brother, no kinsman to shelter me from this calamity. (Kovacs, 1994).

Here Medea addresses the women's chorus; a chorus composed of women like her, but from Corinth,



and thus Greeks who possess certain privileges and safeguards she lacks. In emphasizing her foreign background, Euripides is emphasizing Medea's tragic loneliness (see Leão, 2011). These points, in addition to the fact that Medea and Jason have children together, may be Euripides' way of referencing how laws for Athenian citizenship developed, and their effects upon mixed-marriages and their progeny.

A further interesting analysis by Tarditi (1957) shows that Euripides might have thought about Medea's tragedy in relation with the facts of 451/450 B.C. when in Athens, Pericles proposed a law, approved by the citizens, about citizenship.<sup>13</sup> This law established that the Athenian citizenship must necessarily be reserved for the newborns whose parents were both citizens (for the possible non-centrality of this law in *Medea's* plot, see Lushnig, 2001). The law was probably not retroactive because otherwise Cimon (whose mother was a foreigner), would not have been tasked with leading the Athenian army against Cyprus, at Pericles' own prompting. Moreover, we can see a subsequent wheat regulation that accounts for the number of people in the various demes, even after the law mixed births can be found: in the 445/444 B.C. the Athenians had to divide the wheat donated by the king of Libya, Psammeticus, and to this purpose lists of the inhabitants of the demes, which included mixed-provenience citizens, were compiled.

But the law was made and was later carried on even after Pericles. In fact, we know from the pseudo-Demosthenes' speech *Against Neera* that mixed marriages were even forbidden by law (*Against Neera*

16; see Bakewell, 2008-2009). It is possible that as a result of this law, many foreign women were repudiated by Athenian men who were going to marry local women and have children with Athenian citizenship as well.

Perhaps, Tarditi may have fallen a bit in the game of thinking of Euripides' work as a disapproval towards this law: and I do not think that this can be done in an all-encompassing way, of course. But what he claims is relevant, many scholars have shared his reflection, and above all, this would also account pretty well for the reflections on the classical law we met in Medea's speech to the chorus. So, I do not think we can exclude that the outcome of Pericles' law may have influenced and stimulated the drama of Medea.

In the conversation between Medea and Creon, this, the king of Corinth, compels Medea to go into exile immediately (v. 271 *et seq.*). Medea cleverly persuades him to allow her to remain one more day, during which she kills her children. However, here the concern is the language used with respect to exile. The vocabulary seems to be direct and occurs throughout the play: φυγή (exile), φυγάδα (from φυγάς-δος, exiled); ἔξω (outside, over, beyond), περᾶν (beyond, on the opposite side). So, the recall to the exile seems not only correct but also legally clear. Creon in v. 276 uses the formula ἔξω βάλω (ἔξω βάλλω - to kick out) and similar forms elsewhere. That legal exile is demanded is clear. However, why is this the case? Medea has not committed a crime punishable by exile in Corinth.

There isn't any murder before, when Creon speaks with Medea. No wrongdoing has been attained yet.

For sure Medea threatened; Creon makes it clear: «I hear you threaten [...] to do something against who gave his daughter in marriage (i.e. Creon himself), against who married her (Jason) and against the wife (Creon's daughter, Glauce)» (v. 286). Prior to listening the threats Medea has made, Creon notes: «in no way shall we mask the words (*the speeches*)» (v. 282). Thus, it seems the grounds upon which Creon orders her exile rests solely upon Medea's threats. Here, the idea that language is efficacious on reality returns (it is a performative action, bringing things to pass). Medea's words do not remain mere promises or threats, but become facts, that which remains yet unaccomplished, but will indeed occur. It is on these facts that Creon imposes the exile, as confirmed by Jason's comment to Medea that her expulsion was due to her reckless speeches in v. 450.

The ancient world has always known the practice: voluntary exile in order to escape enemies and revenge was a stable custom. But an innovation of sense and use of the exile takes place with the Draconian legislation. In the *Laws of Draco*, the first table reads that the exile is the punishment for those who commit homicide  $\mu\eta\ \acute{\epsilon}\kappa\ \pi\rho\nu\nu\omicron\iota\alpha\varsigma$  i.e. without the intention to kill (involuntary homicide). Pepe thinks otherwise (2012, p. 22 *et seq.*), since she identifies the verb  $\phi\epsilon\upsilon\gamma\omega$ , in the first line of the code, with going to trial, while she recognizes in the verb  $\acute{\epsilon}\xi\acute{\epsilon}\rho\chi\omicron\mu\alpha\iota$  (and the alike derivations) the appropriate missing lexicon. It must be emphasized, though, that the text of Draco also talks about exile when it says that the family that was affected by the murder can forgive the murderer, in which case he is not required to go into exile: that if the 51  $\acute{\epsilon}\phi\acute{\epsilon}\tau\alpha\iota$  (Ephets) would have him readmitted into his homeland. Therefore, the theme of

exile is present. Of course, there is no need to go deeply in Draco's legislation: what we are hereby interested in is to fix the end of the custom of revenge; the Athenians are satisfied with getting something that is not revenge in exchange for the wrong they suffered. Thus a real re-conformation, a remodeling of the revenge takes place: revenge is now sanctioned by the qualified branches and when the exile occurs, the offender can not be prosecuted once out of the country (from line 26 of the *Laws*) and this remodeling just starts with and after the Draconian legislation. Here in the text of Euripides, however, in my opinion, there is just an act of kicking out of the land of the kingdom by the king (that would be the legal authority delegated). The exile therefore is no longer only a getaway but an adequate punishment to a fault. But Medea has not committed a murder, not even an unintended one. She has yet to accomplish it: but she declared her will in point, so there is full intentionality. Thus a paradoxical situation emerges. Creon, justifying with the fear of the crime that could be accomplished, more easily chooses the most feasible option, and the right one from his point of view, when he prefers the exile to the death penalty. In fact, the death penalty cannot be applied, since it would look like a big injustice, but the exile could be a feasible option and a good compromise.

Several conclusions can thus be drawn from this passage. First, Creon does not seek revenge, or even punishment for Medea: he but tries to protect his kingdom and family. When there cannot be a trial for murder (i.e. no killing has occurred), yet one threatens violent harm to others, exile is a preferred and just solution.<sup>14</sup> Euripides here, buries the dynamics of revenge (see Terradas Saborit, 2008; for its legal

status, see Giordano, 1999) and recalls the exile, a well-known practice for the audience: the public gets the legal aspect, the political and social value and this helps understanding the author's poetical and even political reflection. Here, the recalled law might not be the archaic one but the classical one; and must therefore be placed between the legal elements that were contemporaneous to the author. Second, Euripides seems to be saying something important about the value and power of words and speech. As noted above, the power of speech and the way it turns into reality seems to be what Creon bases Medea's punishment upon, and this is of course a power that was heavily emphasized by the 5<sup>th</sup> century B.C. sophist, Gorgias. In the *Encomium of Helen*, at § 12, he explicates how language can be used to compel, in such a way that speech that becomes coercion. Whoever exercises the words this way is thereby guilty of the actions that the words led to. The responsibility lies on who has used them, because their use was voluntary, as dictated by the need to compel. Those who were compelled, on the other hand, are innocent, having been involuntarily moved by speech. The reflection of Gorgias on the power of speech is interesting not only because the responsibility for the use of the word as a means to coercion is set up, but also because it connects to the Greek idea of speech as a function of the law. In fact, there is no law if there is no word. The law is built on the word and the word becomes action. Even in the case of Euripides, the word has a result, it foresees an outcome and thus forces others, in this case Creon to provide and to get the outcome, the legal result of such legal words. In the case of *Medea*, speech has a result; it points to an anticipated future outcome, compelling others - in

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this case, Creon - to respond to the speech in order to avoid the unwelcome outcome, by making a decree to counter it. Medea's speech in-itself sullied and tainted the city by creating their own miasma, a "murder in words", which Creon attempted to wash away by the removal of the one who engendered the evil, and promised to make it actual. Miasma is thus an implicit premise to the exile, though Euripides doesn't explicitly refer to it.

Through these reflections, though, we are maybe going into a purely interpretive context; hence, it is perhaps more appropriate to refer to ostracism. Being Creon the very holder of legal power, he meets out the exile; still, such a decision can be referred to as ostracism only if the legal practices needed are overlooked. He could have thought such a decision as ostracism, but he could only have done so on an entirely intimate and personal level. A recall to ostracism can be useful to decode the king's decision. However, no akin procedure in the actual practice of ostracism can be found: there is no assembly, no vote, no *ostrakon*. The option of ostracism might therefore be assumed as part of the king's executive autonomy, to a bigger extent, but it cannot be directly connected to the actual procedure, especially for what concerns the law of classical era.

## 6. MEDEA LIKE HELEN

One final point should be considered regarding how Euripides at times portrays Medea as lacking responsible autonomy. In a 2014 article, *Medea's Four Reasons*, Gemin shows that, according to Euripides, Medea followed Jason for at least one of four causes.

The first is the cause of Love, evidenced at vv. 6-8, when the nurse regrets the past events that led to the meeting of Medea and Jason and the birth of their love. The second cause is the Force (βία), as found in vv. 255-256, which claims Jason took Medea away with coercion to bring her along with him. The third cause is the divine will that in Medea mentions at vv. 526-531. The fourth and final possible cause is the persuasion of Jason's words, noted at vv. 800-802. This structure of possible causes is remarkably similar to the one Gorgias developed in his *Encomium of Helen*.

The *Encomium of Helen* is set up as a defense of the mythical character of Helen built by Gorgias on four main lines of argument: Helen either fled to Troy for the will of gods, case or necessity, or she was compelled through the use of force, or she was convinced by the words of Paris or she was beguiled by Love. For each of these reasons, Helen is innocent. Similarly, Euripides, though not providing a programmatic statement of reasoning, as it instead can be found in Gorgias at § 6 of the *Encomium*, offers the same arguments.

Let's add further remarks, since there are more similarities between both texts. I am referring not only to what I said before about the responsibilities of the words, but also to the fact that the two women who are chosen for these works are mythical female characters who do not enjoy a good reputation: both authors argue so, in the *Encomium* in § 2 and in *Medea* in v. 293.

Moreover, I suggest that there is a similarity in the argumentative form of "demonstrandum" (i.e. when the autor declares what is to be demonstrated). This form is intensively used by Gorgias, but it

is also present in Euripide's *Medea*, e.g. in v. 535 where Jason announces that he will prove what he says.<sup>15</sup> There is also the theme of the requirement of knowledge, similarly to: "if we do not know everything we need to know, we fall into error". In fact, *Medea* talks about the bride towards the groom (v. 239 as the woman needs to foresee), Gorgias speaks in general of knowledge at § 11. Finally, there is the reference to φάρμακον: as real poison in v. 385 of *Medea*, while on 14 of the *Encomium* as a parallelism between this and the speech. Long story short, the two works seem to come from the same conceptual and lexical context, showing a relevant affinity.

If the case can be made for these texts paralleling each other, we must then wonder who followed who: which author wrote first? There is no doubt that *Medea* was shown at the Great Dionisya of 431 B. C. On the other hand, the composition of Gorgias' *Helen* lacks any precise date. I have already considered this question at some length: my point of view is that Gorgias wrote it at the peak of his career, and thus while in Athens serving as ambassador, after his arrival in 427 B.C. (Giombini, 2012, p. 68-70). Thus, I think it was Gorgias who read Euripides' *Medea* four or more years later its composition, and found inspiration for his *Helen*. There is no reason to doubt that Gorgias could read Euripides's play, as we know that there was a fair circulation of texts at that time (see Turner, 1977, p. 21-22). However, given the wide circulation of texts, could not Gorgias have read Euripides at an earlier time, while still abroad, and before arriving in Athens? And, could not Euripides have read Gorgias and mimicked him (if it is thought that he had written earlier, and was the more novel thinker)?



Yes. However, there is no evidence of this. Efforts at more precise chronologies have not yielded any valid indications based upon similarities between Gorgias' works with other Euripides' tragedies, *Helen* and the *Trojan Women*. In any case, if my original proposal is correct (I have no reason to doubt it), then Gorgias wrote his *Encomium* after the year 427 B.C., and thus it would seem, based upon the arguments above, Euripides becomes a source of direct inspiration for Gorgias to develop his argumentative exercises. That both authors were able to use the myth of Medea in their own unique ways is important, allowing us insights into aspects of logical exercises, the power of speech, and the development of laws.

## 7. CONCLUSIONS

Euripides' *Medea* ultimately seems an interesting source for reflection upon various aspects (oaths, marriage, dowry, exile) of criminal and family law in Athenian contexts, under both archaic and classical frameworks. The work is also marked by the distinct references to Themis and Dike: this lexis precisely leads us in two different fields. In fact, Euripides is able to play on a double range: on the one hand he recalls elements of the archaic law as in the case of the oath, on the other he refers to the 5<sup>th</sup> century B.C. Athenian laws. The two planes interact because they get a modulation within the character of Medea. Medea the barbarian, the sorceress, the figure of myth adapts to the archaic law; but when she looks for a comparison with the Greek woman (in the dialogue with the chorus in the parodos) Euripides inserts the elements of his contemporaneous law. Finally, this inquiry into the *Medea* also offers insight into how

language informs and grounds the law, and how Greeks were responding to the recognition of that power, in terms of legal guilt or innocence.

## NOTES

1 I am grateful to Delfim Leão and Jeremy DeLong for their careful reading and their helpful comments. Any inconsistency or carelessness remains my responsibility.

2 In particular, at v. 122, he uses ἐπ'ἴσοισιν, "on terms of equality"; see Cerbo-Di Benedetto (2012, p. 15, n. 31).

3 Michael Gagarin (1989) did so, distinguishing between the proto-legal stage, the pre-legal one, and the last, fully legal one, trying to show that legal procedure developed before and the content of the law after. Not everybody agreed with Gagarin, but he posed the issue of the demarcation between the statement of customary practices and the presence of the written law well.

4 On the relationship Themis-Dike, the literature is wide but for our juridical approach, see Biscardi (1982), *Appendice III*.

5 For a discussion see Sommerstein-Torrance (2014); see also the project "The Oath in Archaic and Classical Greece" of the University of Nottingham.

Available at: URL = <http://www.nottingham.ac.uk/Classics/Research/projects/oaths/intro.aspx>. Available on: July 15, 2016.

6 Like, just for instance, in the practice of adoption, when the document was recorded in court in the proper register.

7 See Fletcher (2014), esp. p. 165 s.: 7.1.5.1 *Unofficial oaths in Athens*.

8 The myth states that the Argonauts threw a big party, but this feast and the practices that might follow could not fit as a regular marriage.

9 There is an extensive literature on this issue. See e.g. Carey (1995); Pierce – Deacy (2002).

10 There are four recalls in point in the *Odissey*, I 277, II 196, VIII 318, XV 18, and two more in Hesiod, fr. 199, 9 e fr. 200, 4.

11 In its various forms and telling, the myth of Medea regularly shows complete autonomy of the woman, also in the killings she performs herself, or is the proximal cause of. Just a list of her actions: Medea personally kills her brother Apsyrt after Jason's arrival at Colchis (this episode is recalled by the same Euripides, v. 167). Apsyrt's limbs are then thrown overboard by the two lovers as they flee by ship. In his pursuit, Medea's father Aeëtes, is forced to pick up Apsyrt's body piece-by-piece, slowing him down enough to prevent his capture of the two fugitives. Medea also personally kills Talos, the bronze giant Minos placed as a guard for Crete. She indirectly kills Pelias by convincing his daughters that were they to kill him, their father would resurrect as a younger man (in *Med.* v. 486, 504-505). She is the one ultimately responsible for killing the dragon guarding the fleece (in *Med.* v. 480), and then goes on to kill Glauce and her father, King Creon. She causes Perses' death, giving his son Medo a sword (another version conveys that she killed him). Finally, and perhaps most notably and controversially, she kills her own two children (according to one version of the myth, she also kills Jason because he would die of grief over the loss of his children).

12 For the centrality of this episode, see Rizzatti (2016).

13 This law is handed down by Aristotle in *Ath. Pol.* 26.4 and is also recalled in Plutarch, *Per.* 37.3.

14 Precautionary detention was not reckoned in the 5<sup>th</sup> century B.C.: see Giombini (2012, p. 228) on this issue in Pl. *Lg.* IX, 871e-872b and Gorg. *Pal.* 35.

15 Here the verb is φράζω. It must be stressed that the lexicon is not the same because Gorgias, in fact, uses the verb επιδείνυμι; see Giombini (2012, p.72 *et seq.*).

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