

To Debate the Status of Women in Ancient Egypt— Investigation Based on Litigation

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Abstract: In domestic Egyptology academic circle, the analysis of the status of women in ancient Egypt is usually carried out from the aspects of family, social and political status, but rarely takes the legal status as the starting point. However, in the research results on the legal status of women in ancient Egypt, the academic circle focuses on the substantive rights of life and health, property inheritance and marriage autonomy, but ignores that women also enjoy the procedural rights such as the right of action and testimony to a certain extent. Based on the cases recorded in the original historical materials, this paper tries to further examine the legal rights enjoyed by ancient Egyptian women, and to promote the in-depth cognition and rational discrimination of the status of ancient Egyptian women.

1. The Origin of the Problem

In the 19th century, the Orientalist Max Muller said, “No people, ancient or modern, has given women so high a legal status as did the inhabitants of the Nile Valley.”[1] Ancient Egyptian women enjoy a unique and high status, which is not only one of the hot research fields in the foreign Egyptian academic field, but also attracted the attention of many domestic scholars. Recently, the domestic Egyptian academic achievements have been made on the status of women in ancient Egypt, mainly from the dimensions of women's family status, social status, political status and other research. In the legal dimension, scholars usually analyze the substantive rights such as property inheritance rights enjoyed by ancient Egyptian women according to the legal cases such as marital conflicts, property inheritance and economic disputes, so as to investigate the legal status of ancient Egyptian women [2]. It can be seen that the discussion on the legal status of ancient Egyptian women still stays on the rights of their legal entities, but ignores the “procedural rights” enjoyed by ancient Egyptian women, as an important part of the category of legal rights, is also an important perspective to study their status. As the British archaeologist Tyldesley said, “At a more down-to-earth level, a consideration of the legal system and its treatment of females gives us an understanding of how, in practice, women were treated within the community.”[3] In this respect, this paper tries to explore the two-way interaction between the women's group and the “procedural justice” in the ancient Egyptian legal practice based on the case records in the original legal documents, so as to further understand and distinguish the status of women in ancient Egypt.

2. Investigate Women's Right to Sue (equality) from the Perspective of the Plaintiff (defendant)

Ancient Egyptian women had a free right to sue. According Tyldesley, “Where women do appear as plaintiffs they seem to have been well aware of their legal rights.”[4] In the case of economic disputes, the Medina 235, which can be traced back to the reign of Ramses IV, has the following records: On January 30, summer, Isis, a female citizen, filed a lawsuit against three craftsmen: “Return my husband's place to me.” The judges said “This woman is right!” and return her husband's place to her. In short, she regained the place [5]. In a case of marriage conflict, a case proves that women's right of action. A legal document dating back to the time of the New Kingdom documents a woman's complaint against her husband. A woman who had suffered from domestic violence sued her husband for beating her in court. She said, “As for me, my husband [...] Then he beat, he beat [...] and I called his mother, the [...]”[6] It can be seen that ancient Egyptian women had the courage and right to publicize the domestic violence in court in order to protect their legitimate rights and interests. The above two cases reflect that the woman enjoys the right to sue, exercise the right to sue granted by the law, assert her legitimate rights and interests, and win the lawsuit.

The right of action not only guarantees women's economic autonomy, but also shows that the law does not bias the trial results due to the plaintiff's identity, gender and other factors. Wiesner-Hanks once said: “Thus though they were always a tiny minority of those appearing in legal records, women did control their own property to some degree, act as independent legal persons bringing cases to court, serve as guarantors for the loans of others, and work in public.”[7] A case of a property dispute within the family documented that, “One court document records that a wife loaned some of silver to her own husband but required that it be repaid over three years at a 30 percent interest rate.”[8] In 1786 BC, a daughter sued her father when her father wanted to give her property to his second wife [9]. These two cases reflect women's initiative in legal practice. Another case suggested the ancient Egyptian woman's right to action, but this time she was not so lucky: A woman was unhappy by her daughter for giving her property to her worker. As a result, the daughter accused the worker, but she failed [10]. It can be seen that ancient Egyptian law allowed women to file lawsuits, but did not indulge their “vexatious”.

When women are accused of a crime, they will enjoy equal punishment with men. For example, the foreman (Hay) of the Medina accused three workers and a woman of slandering him, all four of whom received the same punishment, being beaten regardless of gender [11]. In the sixth year of the reign of Seti II, a woman (Heria) was accused of stealing. Despite the oath, the evidence showed that the court considered "death" but had no right to directly deprive him of her life, but submitted the case to Vizier for a final ruling [12]. According to Wang liang, the court tried the case fairly, and the outcome was not affected by the sexual differences between men and women in the trial. It is clear that the defendant's gender factor does not affect the outcome of the trial of the court. Even women, as defendants, enjoy certain equal rights.

Considering the legal rights of women in ancient Egypt alone, the status of men and women in ancient Egypt has achieved relative equality in legal process. Patricia D. Netzley hold the point that, “There appears to have been no gender bias in the courts; men and women were treated equally and had equal right under the law.”[13] However, although women have the right to Sue, but it does not mean that the legal status of women and men are completely equal. Even if “Theoretically, they stood equal with their menfolk before the court. They could bring a case, be questioned as a witness and be charged with a crime.”[4] Professor Jin Shoufu believes that when a widow encounters injustice, she appeals to litigation, let alone the only way to do it may be to tell her late husband [14]. Therefore, according to the above cases, it can only be concluded that women enjoy a certain right of action, and there is a possibility of winning the lawsuit, but only by clarifying the frequency, opportunity and specific ways of their prosecution, can the true legal status of ancient Egyptian women be clarified.

3. Investigate Women's Right to Petition from the Perspective of the Victim

Whether in terms of property control, or rights protection, when women are in a weak position, they can freely express their wishes to the judge or the pharaoh. During the reign of Ramses V, a lady Naunakhte inherited a large inheritance from her deceased former husband and married a craftsman in the Medina. After her present husband's death, Naunakhte divided her property to four children to support her and the other four children were deprived of their inheritance [15]. The trial recorded as follows: She said, "As for me, I am a free woman of the land of Pharaoh. I brought up these eight servants of your and gave them an outfit of everything such as is usually made for those in their station. But see, I am grown old, and see, they are not looking after me in my turn. Whoever of them has aided me, to him I will give of my property, but he who has not given to me, to him I will not give of my property." [16] She considered a free woman and, like other ancient Egyptian women, had the right to dispose of her property. The ending was that Naunakhte received the express ruling of the court and that the will made by Naunakhte as to her property was true and valid. It can be seen that in the court, women clearly show their will, which is a form of petition, which effectively protects the substantive rights such as property rights.

Professor Guo Zilin believes that petition is one of the traditional ways of pharaoh Egypt's judicial litigation, and the main form of litigation in Ptolemy Egypt is petition [17]. One source shows that women at the bottom of society in Ptolemy Egypt could petition the king directly if they were unfair. In 220 BC, in a village in the Hayum area, a woman was seriously injured by a pot of boiling water dumped by a scrub worker. Therefore, the woman petitioned the king to ask the king to order the policeman to deal with the matter, hoping that the king acted as the supreme justice to order the local officials to hear the case fairly. The petition reads as follows: "For as I was bathing in the baths of the aforesaid village on Tubi 7 of year 1, and had stepped out to soap myself, he being bathman in the women's rotunda and having brought in the jugs of hot water emptied one over me and scalded my belly and my left thigh down to the knee, so my life was in danger...I beg you... Therefore, O king, if it please you, as a suppliant who has sought your protection..." [18]

The petition right of women in ancient Egypt was an effective way to defend their legal status, indicating that the ancient Egyptian society valued the rights and interests of women to a certain extent. However, the above cases show that women still rely on male relatives or official agencies to protect their rights. This partly limits women's autonomy and independence in the petition process. In ancient Egypt, women were free, but they relied largely on men. But the same thing happened in other countries of the same time, and women only got worse. In Mesopotamia, women and children are treated as property and can be sold or leased by husbands to pay debts. While in Asria, the husband had the right to beat his wife, whip him, pull her hair, and hurt her at will, and if she was known to kill her [19].

4. Investigate Women's Right to Participate from the Perspective of Witnesses and Agents

Women acting as witnesses and agents in court is an important perspective on their judicial participation and an important part of the proceedings in ancient Egypt. Ancient Egyptian women had the right to testify in court. As Egyptologist Gay Robins said, "Not only could women inherit, own, and dispose of property in their own right, they could enter into business deals, and they could go to court as plaintiff, defendant, or witness, on an equal footing with men." [11] As Maulana Karenga said, "The legal capacity of women of ancient Egypt was expressed in their right to initiate court cases, to offer testimony equal in value to men, to witness and sign legal documents." [9] For example, in a tomb robbing case, a woman bought a slave woman from the silver. The woman was taken to the court to state the source of the money she bought from the slave woman. Three men and three women appeared to testify for her as witnesses [20]. During the trial of the tomb robbery in the late twentieth

Dynasty, a woman gave the following testimony: “And they divided a mass of treasure and made it into four parts, ten *deben* of silver and 2 *deben* of gold and 2 seals falling to each man among them.”[21] In the time of Ramesses, the wife of the official, Irynofret, bought a slave girl in the form of goods, but her neighbor, Bakmut, claimed that she bought the goods. To this end, Bakmut sued Irynofret and called a series of witnesses, including four female friends and relatives of Bakmut [22]. In his doctoral thesis, McDowell said, “It seems unlikely to me that court hearings took place in the Valley of the Kings, particularly since many of the workday hearings involved women, whom we are less likely to find there.”[23] The above shows that women, as participants in legal cases, have the right to testify and the right to hear hearings. Their testimony was persuasive in the court and reflected the ancient Egyptian society's recognition of women's intelligence and ability.

Women enjoy certain rights of agency, which is recognized and protected by law. In court, ancient Egyptian women were able to defend her children and minor siblings. Meanwhile, women become designated trustees for their children. The mother is the agent and the child is the principal, and there is a relationship between the agent and the agent. It also shows that women enjoy property rights. Similar to the agency power is the executive power. Mose's court case shows that, under ancient Egyptian law, women older than the other six siblings could be chosen as the executors of the other siblings [24]. This case only demonstrated the active participation of ancient Egyptian women in the legal process, but also their importance in the judicial system.

In conclusion, ancient Egyptian women could become witnesses or agents in the court like men and enjoy the right to participate in the court. This legal capacity is in sharp contrast to Israeli women, who could not act as witnesses in court or as guardians or agents of others [25]. In ancient Greece, women had no legal status or behavior and needed guardians in all important matters.

5. Conclusion

To sum up, ancient Egyptian women enjoyed extensive legal right , court participation opportunities, and enjoyed higher status. As legal scholar Theodorides commented: “she was a ‘person’ in every sense of the word; a holder of rights, an owner of goods, a subject of respect, aware of having authority over her property, conscious of her surrounding...”[9] The rights and interests of women in ancient Egypt in the right to prosecution, petition and participation have been protected by law and recognized by the society. These rights were not only conducive to their exercise of economic autonomy and enhance their social status, but also enabled them to play a more active and important role in the ancient Egyptian society. It can be said that without these “procedural rights”, women's “substantive rights” cannot be effectively exercised. It can be said that, on the surface, ancient Egyptian women enjoyed almost the same legal status as men. But it has to be admitted that in actual cases, ancient Egyptian women were attached to men. As the French writer Jean Duche argued, although the fate of ancient Egyptian women was enviable, they were still legally unequal for nearly 2,000 years before the New Kingdom [26]. Therefore, it is far from enough to distinguish the status of ancient Egyptian women only from the legal level, but more thorough research is needed.

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