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# What is the relationship between the meanings 'pledge' and 'sacrifice' in the semantics of the root represented in κοῖον, κοιᾶται, etc.?

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## Abstract

A review of the *Hesychii Alexandrini Lexicon* reveals the presence of two distinct groups of words sharing a common etymological root. One group of words (κοιάζει, etc.) is associated with the pledge. A further set of words (κοίης, etc.) is linked to the context of sacred rites. The relationship between the meanings conveyed by the two groups of words has not yet been adequately elucidated. The article puts forth the suggestion of referring to the *Institutes* of Gaius, which provides a detailed account of the archaic Roman institution of "taking a pledge", *pignoris capio*, which was utilized, among other purposes, to secure a sacrifice. The article posits that in archaic times, a pledge could be used to secure a sacrifice, thereby establishing a semantic connection between the two groups of words in the *Hesychii Alexandrini Lexicon*.

## Keywords

ancient Greek law; Hesychius; sacrifice; pledge; archaic Roman law; Gaius

In the *Hesychii Alexandrini Lexicon*, there is a group of cognate words that are hapaxes and are related to the pledge (ἐνέχυρον)<sup>1</sup>: κοιάζει· ἐνεχυράζει<sup>2</sup> (Hsch. 3223), κοῖον· ἐνέχυρον (Hsch. 3264), κοῦα· ἐνέχυρα (Hsch. 3821), κῶα· ἐνέχυρα (Hsch. 4766), κῶάζειν· ἀστραγαλίζειν, ἐνεχυράζειν (Hsch. 4767), κῶασθεις· ἐνεχυρασθεις (Hsch. 4768), κῶιον· ἐνέχυρον, ἱμάτιον (Hsch. 4794)<sup>3</sup>. Another group of words, which is likely to contain the same root, is associated by Hesychius with the sacred sphere: κοίης· ἱερεὺς Καβείρων, ὁ καθαίρων φονέα (Hsch. 3230), κοιόλης· ὁ ἱερεὺς (Hsch. 3265)<sup>4</sup>, κοιᾶται· ἱερᾶται (Hsch. 3226), κοιῶσατο· ἀφιερῶσατο, καθιερῶσατο (Hsch. 3280). A. Walde and J. B. Hofmann (1938: p. 186) proposed that the Homeric word θυοσκόος “Opferschauer” (Führer 1989–1990: p. 1092) in *Il.* 24. 221,<sup>5</sup> *Od.* 21. 145, 22. 318, 321 was a cognate. It seems reasonable to conclude that Dionysius

1 See on the legal nature of ἐνέχυρον Hitzig (1895: p. 1), Lipsius (1915: pp. 690–691), Fine (1951: pp. 61–62), Harrison (1968: p. 254), Colorio (2013: p. 46; 2014: p. 84; 2018: pp. 29ff., 44ff., 49–50).

2 The following text is taken from the Latte (1966) edition of Hesychius.

3 In the *Law Code of Gortyn* there is a hapax [ἐν]κ|ιοιτᾶνς/ἐνκοιτᾶν (see the dictionary entry for ἐγκοιτός in Rodríguez Adrados and Rodríguez Somolinos (1989–2019)), which may be a cognate word. This word appears in *IC IV Col. IX 24–28* among the designations of persons who were bound by some obligation and then died: αἱ ἀν[δ]εκσ-

ἀμ[ε]νος ἔνευκαμένον[ς] ἔν[κ]-  
ιοιτᾶνς ὁπέλον ἔδιαβαλόμε-  
νος ἔδιαφειπάμενος ἀποθά-  
νοι (the text of the *Law Code of Gortyn* is taken from the edition of Gagarin and Perlman (2016)).

In the same column (*IC IV 72 IX 33–36*), the witnesses (μαίτυρες) of legal acts (κένκοιτᾶν καὶ διαβολᾶς καὶ διρέσιος) are mentioned: αἱ μὲν κα νίκας ἐπι-

μολει, ὁ δικαστὰς κὼ μνάμον,  
αἱ κα δόει καὶ πολιατεύει, οἰδὲ μ-  
αίτυρες οἱ ἐπιβάλλοντες, ἀνδοκ-  
ᾶδ <δ> ἐκένκοιτᾶν καὶ διαβολᾶς κ-  
αὶ διρέσιος μαίτυρες οἱ ἐπιβ-  
άλλοντες ἀποπονιόντων.

It is not possible to understand the meaning of ἐν[κ]ιοιτᾶνς/ἐνκοιτᾶν in these contexts (Gagarin & Perlman 2016: p. 403). In order to elucidate the meaning of these words, the evidence provided by Hesychius is typically employed. M. Guarducci (1950: p. 166), R. Willets (1967: p. 74), M. Bile (1988: p. 330), M. Gagarin and P. Perlman (2016: p. 403) posited that these words probably signified a pledge. G. Genevros (2017: p. 38) proposes that this term signifies any form of real or personal security (gages ou garanties). However, an examination of the laws of Gortyn reveals the presence of specialized terminology pertaining to the pledges: ἐνεκυράδδω and κατατίθεμαι, as well as their cognate words (Loginov, Davydov & Zbaratskiy 2022: pp. 65–68). The distinction between the terms and ἐνεκυράδδω/κατατίθεμαι as pledge designations remains unclear. A. Maffi (1983: p. 133) proposed that the term ἐν[κ]ιοιτᾶνς/ἐνκοιτᾶν should be understood to signify “ciò che è oggetto di calcolo”, “calcolato”. The obscurity of the context in the *Law Code of Gortyn* renders the use of the term ἐν[κ]ιοιτᾶνς/ἐνκοιτᾶν ineffective in elucidating the meaning of the words in the *Hesychii Alexandrini Lexicon*.

4 The same is in *Suid.* 2565.

5 οἱ μάντιές εἰσι, θυοσκόοι ἢ ἱερεῖς: Thiel (1996).

of Halicarnassus referred to the *haruspices* as *θυοσκόοι*.<sup>6</sup> In *IG V 1*, 210, 57, the cognate *κοακτήρ* is mentioned (Frisk 1960: p. 893; Chantraine 1970: p. 553; Beekes 2010: p. 732), which should also be interpreted as a priest.

A. Blumenthal (1930: p. 41) appears to have been the first to propose that the two groups of words from the *Hesychii Alexandrini Lexicon* have the same root. This position was endorsed by the compilers of etymological dictionaries (Walde & Hofmann 1938: p. 186; Chantraine 1970: p. 553). The meaning of *κοέω* and its cognates has been proposed to have evolved from 'to regard, take care of' to 'to serve as a surety' (Frisk 1960: p. 894; Beekes 2010: p. 732) as in the Latin *cavere*, which is usually considered to be a cognate of *κοέω* (Boisacq 1916: p. 480; Walde & Hofmann 1938: p. 186; Ernout & Meillet 1939: p. 165; Frisk 1960: p. 890; Chantraine 1970: p. 551; Beekes 2010: p. 729).<sup>7</sup>

Does the term *cavere* have any connection to the religious sphere, as in the notion of *κοιᾶται*? Despite careful examination, a single context was identified in which the root of the word *cavere* could be associated with a religious ritual. The *Lexicon of Festus* contains the word *caviares*, which may be a cognate and which denotes a part of the victim: *caviares hostiae dicebantur, quod caviae, [id est] pars hostiae cauda tenus dicitur, et ponebatur in sacrificio pro collegio pontificum quinto quoque anno* (Lindsay 1997: pp. 50, 16). *Cavere* has related words in other ancient Indo-European languages associated with the sacred sphere. For example, besides *κοίης*, *κοιᾶται*, Sanskrit has *kaví-*, meaning 'poet-seer, priest';<sup>8</sup> Avestan has *kauui*, meaning 'poet-priest'; and Lydian has *kaveś*, meaning 'kind of priest'.<sup>9</sup> Therefore, a connection between *cavere* and the sacred sphere can be postulated.

However, the word *cavere* did not signify 'pledge'<sup>10</sup> (Heumann 1891: pp. 61–62; Berger 1953: pp. 384–385). *Cavere* and *cautio* in the era of classical Roman jurisprudence meant in particular the security of the fulfillment of obligations (Heumann

6 Ῥωμαῖοι μέντοι ἄλλαις αὐτὸ προσαγορεύουσιν ὀνομασίαις: καὶ γὰρ ἐπὶ τῆς χώρας, ἐν ἣ ποτε ᾤκησαν, Ἐτρουρίας προσαγορευομένης Ἐτρούσκους καλοῦσι τοὺς ἀνθρώπους: καὶ ἐπὶ τῆς ἐμπειρίας τῶν περὶ τὰ θεῖα σεβάσματα λειτουργιῶν, διαφέροντας εἰς αὐτὴν ἐτέρων, νῦν μὲν Τοῦσκους ἀσαφέστερον, πρότερον δ' ἀκριβοῦντες τοῦνομα ὥσπερ Ἕλληνες Θυοσκόους ἐκάλουν (D. H. 1. 30. 3). The text is taken from the edition of Jacoby (1885).

7 The reconstruction that is most usually proposed is *caveo* ← \**coveo* = \**koFéw* → *κοέω*. For an explanation of the alteration of the vowels "a" and "o" in Latin, see Havet (1885: pp. 1–33), Thurneysen (1887: pp. 154–162), Solmsen (1904: pp. 1–26), Leumann, Hofmann and Szantyr (1977: pp. 49–50).

8 An examination of the connections between Indo-European poetry and the sacred sphere can be found in Watkins (1995: pp. 241–246) and West (2007: pp. 26–45).

9 Watkins (1995: p. 88). Pokorny (1959: p. 587) reconstructed the Indo-European root \**keu-*, \**skeu-* with the semantics 'worauf achten (beobachten, schauen)' and 'hören, fühlen, merken'. Similarly, H. Rix (2001: p. 561) reconstructed the root \*(s)*keu*h<sub>1</sub> 'wahrnehmen, schauen'.

10 The names of the pledge in Roman law are *pignus* and *hypotheca* (Heumann 1891: pp. 229–230, 397–398; Berger 1953: pp. 490, 630).

1891: pp. 61–62; Gradenwitz, Kübler & Schulse 1903: pp. 641, 699; Berger 1953: p. 385), and pledge is a way of securing obligations.<sup>11</sup> There are many examples of the use of *cavere* and *cautio* in this meaning ('security') in the *Digest*.<sup>12</sup> It is logical to assume that the general concept of security appeared in the era of jurisprudence as a result of scientific reflection and systematization<sup>13</sup> of methods of security developed in Rome from the earliest times (for example, pledge).<sup>14</sup> As far as one can see, this meaning of *cavere* and *cautio* is only fixed since the time of Cicero: Heumann (1891: pp. 61–62), Leonhard (1899: pp. 1805, 1814–1820), Gradenwitz, Kübler and Schulze (1903: pp. 641–642, 700–703), Glare (1968: pp. 287–288, 299).

A comparison of κοιάζει, κοῖον, etc. with *cavere* suggests an evolution in the semantics of these Greek words, from 'to regard, take care of' to 'to serve as a surety'. The present study seeks to explore the potential existence of a direct connection between the sacrifice and the pledge in archaic times. It is our position that an examination of the archaic Roman institution of *pignoris capio* is warranted.

## Pignoris capio

In the *Institutes* of Gaius, among other cases, two examples of the application of the process *legis actio per pignoris capionem* are provided:

*Lege autem introducta est pignoris capio uelut lege XII tabularum aduersus eum, qui hostiam emisset nec pretium redderet; item aduersus eum, qui mercedem non redderet pro eo iumento,*

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- 11 For further elucidation regarding the security of obligations, kindly direct your attention to the following text of Zimmermann (1992: p. 114): "The creditor will therefore normally try to minimize the risk of losing out in one of two ways: he will either ask to be allocated a specific item belonging to the debtor (or to a third party) from which he will, in case of default or non-performance, be able to obtain satisfaction; or he may ask some other party (or parties) to guarantee fulfillment of the principal obligation. In other words, he will try to secure his position either by way of a real right (ownership, right of pledge, mortgage) or by actions in personam against one or more additional debtors (personal security). Traditionally, the most important type of personal security is the contract of suretyship."
- 12 For example (Krüger & Mommsen 1872): 1) *Plus cautionis in re est, quam in persona* (Dig. 50. 17. 25); 2) "*Cautum*" *intellegitur, sive personis sive rebus cautum sit* (Dig. 50. 16. 188); 3) *Iubet autem praetor ita fieri collationem, ut recte caveatur: caveri autem per satisfactionem oportere Pomponius ait. An pignoribus caveri possit, videamus: et Pomponius libro septuagesimo nono ad edictum scripsit et reis et pignoribus recte caveri de collatione, et ita ego quoque puto* (Dig. 37. 6. 1. 9).
- 13 For further insight, one might consult the book of F. Schulz (1963: pp. 62–64) on the genesis of the categories *genera* and *species* in Roman jurisprudence, which was influenced by Greek philosophy.
- 14 For those seeking to understand the history of the Roman pledge and surety, the following sources may prove useful: Kaser (1955: pp. 151–152, 552–558; 1959: pp. 330ff.), Wieacker (1988: pp. 418, 441), Nelson and Manthe (1999: pp. 154–195), De Iuliis (2017: pp. 13ff.), Verhagen (2022: pp. 111–149).

*quod quis ideo locasset, ut inde pecuniam acceptam in dapem, id est in sacrificium, inpenderet...*  
(Inst. 4, 28).<sup>15</sup>

This passage states that the procedure *pignoris capio* is carried out with relation to two categories of individuals: those who purchased a sacrificial animal (*hostiam*) and failed to pay the fee (*nec pretium redderet*), and those who similarly failed to pay for a hired beast of burden (*iumentum*<sup>16</sup>). In the latter case, the fee (*pecuniam*<sup>17</sup> *acceptam*) was to be used to finance the organization of a religious feast (*in dapem*). This is the typical interpretation of this passage by translators.<sup>18</sup>

The text presents a significant interpretive challenge.<sup>19</sup> It is noteworthy that Gaius was undoubtedly well-versed in the *Laws of the Twelve Tables*, as evidenced by his

15 The text is taken from the edition of E. Seckel and B. Kübler (1969).

16 The term *iumentum*, however, was originally used to refer not only to cattle but also to a cart: *iumentum quoque non id solum significat, quod nunc dicitur; sed vectabulum etiam, quod a iunctis pecoribus trahebatur, veteres nostri 'iumentum' a 'iungendo' dixerunt* (Gell. 20. 1. 28, Hertz & Hosius 1903). It is notable that this word (in the form *iouxmenta*) is present in one of the earliest known inscriptions in Latin *Lapis Niger* (Mommsen & Lommatzsch 1918: pp. 367–369). It is also possible that the word *merces* may have been in use since ancient times: Fiori (2018: p. 129, n. 576). John the Lydian has preserved the testimony of Cincius that the month of November was called in ancient times *μερκηδῖνον*. This is because in this month the rent (*μισθόφορος*) was paid: Wuensch (1898: p. 164).

17 In the context of *ius sacrum*, R. Fiori (2018: p. 129, n. 574) argues that *pecunia* should be understood as “offerta sacrificale di vegetali”. R. Fiori (2018: p. 129, n. 574) proposes that Cato employs the term *pecunia* in this sense with relation to *daps*: *daps Iovi: assaria pecunia, urna vini* (Agr. 132, 2; Mazzarino 1982).

18 Domenget (1866: p. 493–494), Muirhead (1880: p. 282), Abdy (1885: p. 289), Poste (1890: p. 484), Poste, Whittuck and Greenidge (1904: p. 470), Zulueta (1958: p. 245), Reinach (1965: p. 146), Gordon and Robinson (1988: p. 425).

19 The mention of consensual contracts *emptio-venditio* and *locatio-conductio* in the era of the *Laws of the Twelve Tables* seems to be anachronistic: Talamanca (1987: p. 21, n. 141), Fiori (2018: pp. 129–130), Corbino (2019: p. 173). As M. Kaser (1955: p. 182) posited, the genesis of consensual contracts can be traced back to the early republic and is linked to the concept of *bona fides*. Furthermore, the *bonae fidei iudicia* were sanctioned through the formulary process: Kaser (1955: p. 182). M. Kaser and K. Hackl (1996: p. 147, n. 14) were of the opinion that the sale and lease mentioned in the *Laws of the Twelve Tables* were not private law contracts, but were used in public law relations. If we assume that *emere* and *locare* are not used here in the same sense as in later times, then the evidence cited by Gaius is not anachronistic. According to R. Fiori (2018: p. 131), it cannot be said that *locare* here denotes only a temporary appropriation of *iumentum*. The verb *emere* here can mean any kind of alienation: *sed verissimum est, quod et Aristo Celso rescripsit, posse dari pecuniam heredi ab intestato, secundum quem sententia dicta est, quoniam lex duodecim tabularum emptionis verbo omnem alienationem complexa videretur* (Dig. 40. 7. 29. 1). R. Fiori points out that *venditiones* in the *Lexicon* of Festus means *censurum locationes*: *Venditiones* ... dicebantur censurum locationes; quod vel<ut fr>uctus locorum publicorum venibant (Lindsay 1997: p. 516). Festus also writes that *redemptores proprie atque antiqua consuetudine dicebantur, qui, cum quid publice faciendum <a>ut praebendum condixerant effecerantque, tum demum pecunias accipiebant. Nam antiquitus emere pro accipere ponebatur*: Lindsay (1997: p. 332). In the work of Hyginus Gromaticus, *emere* and *conducere* are used as synonyms in the passage on *vectigales agri*: ...qui superfuerant agri, vectigalibus subiecti sunt, alii per annos ....., alii vero mancipibus ementibus, id

commentary on the *Laws of the Twelve Tables*, presented in six books: Schulz (1963: p. 187).

Gaius' *pignoris capio* is evidently associated with the arrangement of the sacrifice (*hostia*) and the religious festival (*daps*). *Daps* is a very archaic word.<sup>20</sup> It is obvious that for Gaius' contemporaries this word was incomprehensible, when Gaius explains *in dapem, id est in sacrificium*. Festus writes: *Daps apud antiquos dicebatur res divina, quae fiebat aut hiberna sementi, aut verna. Quod vocabulum ex Graeco deducitur, apud quos id genus epularum δαίς dicitur. Itaque et dapatice se acceptes dicebant antiqui, significantes magnifice, et dapaticum negotium amplum ac magnificum* (Lindsay 1997: p. 59). In Cato's treatise *De agri cultura*, which contains data on very archaic religious practices (Watkins 1995: pp. 197–213), there is a description of the *daps* ritual: Agr. 131–132. It is also possible that the *daps* ritual could be a public act, as Martial makes mention of *daps* performed by pontiffs: *nec Capitolinae pontificumque dapes* (Mart. 12, 48, 12, Heraeus 1976).

In addition to the cases described in Gaius' *Institutes*, the practice of *pignoris capio* was employed by officials of the Roman Republic as a means of punishing citizens who had disobeyed their orders: Mommsen (1876: pp. 152–153), Steinwarter (1941: pp. 1234–1235), Kaser (1967: pp. 41–42). This type of *pignoris capio* is exemplified by numerous passages in the writings of Roman and Greek historians.<sup>21</sup> For example, according to Titus Livy, in 449 BC, the senators declined to attend a meeting of the Senate called by the decemvirs:

*postquam citati non conveniebant, dimissi circa domos adparitores simul ad pignera capienda sciscitandumque, num consulto detrectarent, referunt senatum in agris esse. laetius id decemviris accidit, quam si praesentes detrectare imperium referrent. iubent acciri omnes senatumque in diem posterum edicunt* (Liv. 3. 38. 12–13, Weissenborn & Müller 1898).

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*est conducentibus, in annos centenos. plures uero finito illo tempore iterum veneunt locanturque ita ut uestigialibus est consuetudo* (Blume, Lachmann & Rudorff 1848: p. 116). However, the *Lex agraria* of 111 B.C. distinguishes between *emptio-venditio* and *locatio-conductio* of public lands: 1) *quam L. Caecilius Cn. Domitius cen[s](ores) agri aedificii loci vectigalibusve publiceis fruendeis locandeis vendundeis legem deixerunt, publicano dare oportuit* (Riccobono (1909: p. 100)); 2) *Mag(istratus) prove mag(istratu), que-ive pro eo imperio iudicio [potestateve erit, ..... queiquomque, quae] publica populi Romani in Africa sunt eruntve, vectigalia fruenda locabit vendetve...* (Riccobono 1909: p. 100); 3) *Sei quis faxsit, quotiens faxit, in agri iugra singula L [HS n(ummos) ..... dar]e debeto ei, queiquomque id publicum fruendum redemptum comductumve habebit* (Riccobono 1909: p. 91). According to R. Fiori (2018: p. 130, n. 587), the terms of sale and lease are also distinguished in the *Lex a Vicanis Furfensibus templo Iovis dicta* and *Lex Ursonensis*.

20 E. Benveniste believed that *daps* was an extremely archaic ritual, similar to a potlatch: Benveniste (1969: pp. 75–76). See about *daps*: Meillet (2009: pp. 78, 223).

21 The most complete overview of places in historians and orators with a description of *pignoris capio*: Küstner (1742: pp. 7–45).

It is important to note that there is a debate among historians about whether *pignoris capio* could be applied in private law relations during the era of the *Laws of the Twelve Tables*.<sup>22</sup>

## Ἐνεχυρασία

L. Mitteis (1891: p. 413) posited that the Greeks had an institution analogous to *pignoris capio*. H. Hitzig (1895: pp. 56–57, 63, n. 3) and L. Beauchet (1897: pp. 224–225, 233, n. 2) undertook a comparison between the ancient Greek institution ἐνεχυρασία<sup>23</sup> and *pignus in causa iudicati captum* in the era of post-classical Roman

22 It is not possible to provide a full review of the literature on *pignoris capio* within the confines of this paper. The primary literature on *pignoris capio* can be accessed via the references provided in the book of F. De Iuliis (2017: p. 19, n. 51). In this paper, we will only cite opinions that reflect different answers to the question of whether private *pignoris capio* could have existed in the era of the decemvirs. H. Maine (1880: p. 322) proposed that *pignoris capio* was originally an institution of self-defense of right, which subsequently evolved to be utilized primarily when there was a public interest. In the view of M. Kaser (1955: p. 127), *pignoris capio* could not have a private law effect. This idea was subsequently reiterated by M. Kaser and K. Hackl (1996: p. 146). However, M. Kaser (1976: p. 239) posited that, according to post-classical sources, *pignoris capio* could be utilized in private law relations with the consent of the debtor, but not in the form of *legis actio per pignoris capionem*. V. Carro puts forth the proposition that *pignoris capio* was an institution that served the public interest. The cases of *pignoris capio* implemented by private individuals exhibit a clear imprint of the public character of the institution: Carro (2018: p. 44). As A. Corbino notes, *pignoris capio* was originally applicable only in certain cases that lacked a contractual foundation. However, the utilization of *pignoris capio* in contractual contexts cannot be dismissed: Corbino (2016: p. 17). F. De Iuliis (2017: pp. 28–30) posits that the use of *pignus* between private individuals in the archaic period, outside of the cases cited by Gaius, cannot be definitively excluded. R. Fiori agreed with the interpretation that *pignoris capio* in the *Laws of the Twelve Tables* refers to public law and posited that *Inst.* 4, 28 pertained to public sacrifices, the purchase of sacrificial cattle by the temple, and the leasing of temple cattle: Fiori (2018: pp. 129–130). Nevertheless, R. Fiori (2018: p. 129, n. 580) directs attention to *Inst.* 4, 31, where *pignoris capio*, in his estimation, can be referenced in the context of civil law relations.

23 The legal nature of ἐνεχυρασία is the subject of differing opinions. L. Mitteis (1963: p. 144) posited that the terms ἐνεχυρασία and ἐνεχυράζω are used to denote the seizure of property. This idea has been reiterated by Th. Thalheim (1905: p. 2561), L. Wenger (1913: pp. 369–370), P. Jörs (1913: p. 107, n. 4), J. H. Lipsius (1915: pp. 949–950), E. Weiss (1919: p. 2496), J. V. A. Fine (1951: p. 90, n. 108), M. Finley (1973: p. 222, n. 6), A. R. W. Harrison (1971: p. 244). L. Gernet (1957: pp. 196–197) defined ἐνεχυρασία as a “moyen de contrainte destiné à peser sur la volonté du débiteur”. G. Thür (2004) posits that ἐνεχυρασία is “die Zwangsvollstreckung durch privates Pfandrecht des Gläubigers”. In his works, A. Colorio (2013: pp. 46–47) advances the thesis that ἐνεχυρασία is “una forma di pignoramento forzato” and postulates that the Greeks did not differentiate between a guarantee, a seizure, and the self-defense of rights: Colorio (2018: p. 58). A. Colorio (2018: p. 44) proposes that ἐνεχυρασία preceded pledge as a private law institution.

law (Kaser & Hackl 1996: pp. 512–514) and *pignoris capio*. A. Colorio (2018: p. 57) drew a parallel between ἐνεχυράσια and *pignoris capio*.<sup>24</sup>

As with *pignoris capio*, the question of whether ἐνεχυράσια could have constituted a private law institution is a matter of contention. A. Böckh (2010: p. 597) has already highlighted the connection between ἐνεχυράσια and the demarchs who defended the public interest as evidenced in the inscriptions. The first opinion posits that ἐνεχυράσια can be used in relations between private individuals: Mitteis (1891: p. 413), Hitzig (1895: p. 56), Lipsius (1915: p. 950). Nevertheless, A. Harrison (1971: p. 246) proposed that the absence of evidence pertaining to ἐνεχυράσια by private landlords was merely fortuitous. A. Colorio (2018: p. 31) posited that ἐνεχυράσια in Athens was possible in both private and public legal relations.

There is another opinion on this matter. L. Beauchet proposed that ἐνεχυράσια in Attic law could only be carried out in connection with public debts. There are no examples of private ἐνεχυράσια in Attic law, although there are two examples outside of Attica related to the liability of the owner of an animal if this animal caused damage: Beauchet (1897: pp. 233–234). J. Partsch (1909: p. 223, n. 1) observed that ἐνεχυράσια was a practice documented in contracts with communities and was conducted by officials.

An examination of the contexts in which ἐνεχυράσια is employed reveals that there is substantial evidence to support Colorio's assertion that ἐνεχυράσια was utilized in both private and public legal relations.<sup>25</sup>

24 J. Fine (1951: pp. 90–91, n. 108) and A. Colorio (2018: p. 30) propose that the violent seizure of a pledge by a creditor was already a known practice in Homeric times and was called ῥύσιον. See the interpretation of ῥύσιον in the *Iliad* of Hainsworth (1993: p. 299) and Markwald (2006: p. 54).

25 When analyzing texts in which ἐνεχυράσια is referenced, a challenge emerges due to the fact that the terms ἐνεχυράζω and ἐνέχυρον possess two distinct meanings. On the one hand, ἐνεχυράζω and ἐνέχυρον denote a pledge within the context of private law. On the other hand, the terms ἐνεχυράζω and ἐνέχυρον refer to the seizure of property (*pignoris capio*): Finley (1973: pp. 28, 29, 222, n. 6), Colorio (2018: pp. 42–50). It is frequently difficult to ascertain the denotation of these terms when they are employed in discourse. It is therefore evident that contexts in which the word ἐνεχυράσια is used are perfectly suited to the analysis of ἐνεχυράσια as a legal institution. It is believed that, in classical times, the term ἐνεχυράσια had but a single meaning: Mitteis (1963: p. 144), Thalheim (1905: p. 2561), Lipsius (1915: pp. 949–950), Wenger (1913: pp. 369–370), Jörs (1913: p. 107, n. 4), Fine (1951: p. 90, n. 108), Thür (2004), Gernet (1957: pp. 196–197), Colorio (2013: pp. 46–47). Nevertheless, in numerous locations where ἐνεχυράζω and ἐνέχυρον are documented, there is a consensus among historians that these terms refer to the act of enforcement (ἐνεχυράσια). A search for inscriptions containing a mention of ἐνεχυράσια was conducted on the website packhum.org. A total of thirteen inscriptions were identified: <https://inscriptions.packhum.org/search?latt=ἐνεχυράσια> (date of access 12.07.2024). In the Attic inscription IG II<sup>2</sup> 1168, lines 8–13, which is likely to date from the 3rd century BC, the rent is collected by the officials of the phyle, who are also responsible for producing the ἐνεχυράσια. The Attic inscription IG II<sup>2</sup> 2492 345/4 BC describes the leasing of land belonging to the deme (Αἰξωνεῖς) and ἐνεχυράσια, which was likely undertaken by the deme's inhabitants (lines 7–8). The decree of the assembly (Migeotte (1984: pp. 306–311)) from Miletus (Milet I 3, 147) from 205/4 BC (lines 38–41, 43–45) makes mention of ἐνεχυράσια, which involved the participation of officials of the polis. In the

A passage from Plato's *Laws* (Pl. *Leg.* 949 δ-d) offers a valuable point of comparison between ἐνεχυρασία and *pignoris capio*:

περὶ δὲ χορείας τινῶν φοιτήσεων ἢ πομπεύσεων ἢ τοιούτων τινῶν ἄλλων κοινῶν κοσμήσεων ἢ λητουργιῶν, ὅποσα περὶ θυσίας εἰρηνικῆς ἢ πολεμικῶν εἰσφορῶν εἵνεκα, πάντων τῶν τοιούτων τὴν πρώτην ἀνάγκην ἰατὴν εἶναι τῆς ζημίας, τοῖς δὲ μὴ πειθομένοις ἐνεχυρασίαν τούτοις οἷς ἂν πόλις ἅμα καὶ νόμος εἰσπράττειν προστάτῃ, τῶν δὲ ἀπειθούντων ταῖς ἐνεχυρασίαις πρᾶσιν τῶν ἐνεχύρων εἶναι, τὸ δὲ νόμισμα γίνεσθαι τῇ πόλει<sup>26</sup>

The interpretation of this location presents a significant challenge.<sup>27</sup> Nevertheless, one may draw a comparison between ἢ πομπεύσεων ἢ τοιούτων τινῶν ἄλλων κοινῶν κοσμήσεων ἢ λητουργιῶν, ὅποσα περὶ θυσίας εἰρηνικῆς ἢ πολεμικῶν εἰσφορῶν εἵνεκα and the aforementioned passage in the *Institutes* of Gaius about *hostia* and *daps* (*Inst.* 4, 28). Additionally, one may examine other instances of *pignoris capio* documented in Gaius' work, such as the following:

26. *Per pignoris capionem lege agebatur de quibusdam rebus moribus, de quibusdam rebus lege.*<sup>28</sup>

inscription MDAI(A) 27 (1902) 47,71 (Col. II, 94–97) from Pergamon (Klaffenbach 1954: pp. 13–14) from the 2nd century BC (before 133 BC), it is evident that ἐνεχυρασία was carried out by officials for public offenses. An inscription from Delos (IG XI,4 543) dating to the beginning of the 3rd century BC describes the granting of a privilege to the euergetes and proxenos of the polis, namely exemption from ἐνεχυρασία (lines 10–18). The inscription from Thera circa 210–195 BC IG XII, 3 330 (lines 175–176, 218–221) offers little conclusive evidence as to whether officials participated in ἐνεχυρασία. In IEph 14 (Heberdey 1904; Weiss 1915: p. 285) of the 1st century BC, the term κατενεχυρασία is referenced in relation to the costs associated with the services of temple employees. The inscription from Olymos IMyl 801, which is a decree of the assembly (Walther 1889: pp. 381–384) on the purchase of land for a temple, mentions an ἐνεχυρασία, about which it is difficult to say anything more definite. The remaining inscriptions that make a direct reference to ἐνεχυρασία are from a period that is relatively late in comparison to the others (2–3rd century AD): MDAI(A) 27 (1902) 78,72; MAMA IV 297. There are also some that are poorly preserved: FdXanthos VII 86; ID 1419; IvP II 279.

A synthesis of the evidences from the greek literature reveals that ἐνεχυρασία is employed as a means of safeguarding public and private interests. It is noteworthy that ἐνεχυρασία is frequently conducted by officials or individuals authorized to perform such actions: Pl. *Leg.* 949 ξ-d; D. 47. 80; D. 22. 56; D. 24. 197; Aeschin. 3. 21. In some instances, it is uncertain whether the ἐνεχυρασία was carried out by private individuals or by officials: D. 21. 10; Ar. *Nub.* 33–35, 239–241; Ar. *Ec.* 565–567; Ath. XIII 612 c. In the sole instance of ἐνεχυρασία documented in the literary sources, it is unambiguously perpetrated by private individuals: Theophrastus' seizure of the plaintiff's property, as detailed in D. 47. In Egyptian papyri, ἐνεχυρασία is conducted by officials in the context of private law relations: Mitteis (1963: pp. 159–161); Schwarz (1911: pp. 95–96); Wolff (2002: p. 154, n. 51), Taubenschlag (1955: pp. 526–527), Keenan, Manninguri and Yiftach-Firanko (2014: p. 260).

26 The text is taken from the edition of J. Burnet (1903).

27 For an interpretation of this passage, see: England (1921: p. 588); Schöpsdau (2011: pp. 548–550).

28 The text is taken from the edition of E. Seckel and B. Kübler (1969).

27. *Introducta est moribus rei militaris. nam [et] propter stipendium licebat militi ab eo, qui aes tribuebat, nisi daret, pignus capere; dicebatur autem ea pecunia, quae stipendii nomine dabatur, aes militare. item propter eam pecuniam licebat pignus capere, ex qua equus emendus erat; quae pecunia dicebatur aes equestre. item propter eam pecuniam, ex qua hordeum equis erat comparandum; quae pecunia dicebatur aes hordiarium.*

28. ... *item lege censoria data est pignoris capio publicanis uectigalium publicorum<sup>29</sup> populi Romani aduersus eos, qui aliqua lege uectigalia deberent.*

In returning to the discussion of κοιάζει, κοῖον etc., it is once again pertinent to recall the definitions provided by Hesychius. According to this source, κοιάζει is ἐνεχυράζει, but κοιᾶται is ἱεράται. At the beginning of the article, we posed the question of how two such disparate meanings could be combined within the semantics of a single root.

A comparison of the Roman archaic institution<sup>30</sup> of “seizing a pledge” (*pignoris capio*) and the ancient Greek institution ἐνεχυράσῃα reveals a significant degree of overlap in their defining characteristics. In the absence of evidence concerning the earliest history of ἐνεχυράσῃα, we do possess evidence pertaining to the history of *pignoris capio* in the *Institutes* of Gaius. In this text, Gaius describes instances where, according to the *Laws of the Twelve Tables*, *pignoris capio* was a possibility. In two instances, *pignoris capio* is linked to a religious rite. *Pignoris capio* is employed to guarantee the payment of the fee for the sacrificial animal or to guarantee the pay-

29 It is worthy of note that one of the liturgies observed in Athens involved a single citizen assuming the responsibility of paying the εἰσφορά of numerous individuals (προεἰσφορά). Thereafter, after paying the προεἰσφορά, the citizen proceeded to collect the amount from these individuals: Hansen (1991: pp. 112–115).

30 *Pignoris capio* is a legal institution found in many archaic legal systems: ancient Indian law (Maine 1875: pp. 298ff.; Collinet 1883: p. 11), Hebrew law in biblical times (Collinet 1883: pp. 11–12), *Lex Salica* (Hessels 1880: pp. 316, 325, 409–410), *Lex Burgundionum* (Walter 1824: pp. 313–314), *Edictum Theoderici Regis* (Walter 1824: p. 410), *Lex Wisigothorum* (Walter 1824a: pp. 527–528), *Lex Baiuvariorum* (Walter 1824: p. 275), *Edictum Rotharis* (Walter 1824a: p. 729), according to Blackstone's treatise on common law (Blackstone 1771: pp. 144ff.; Oldham & La Trobe Foster 1889: pp. 342ff.; Maine 1875: p. 261). An examination of Early Irish law reveals the existence of *pignoris capio*. Among its various functions, *pignoris capio* was a mechanism employed by the king to confiscate the assets of individuals who did not participate in the war (D'Arbois Jubainville 1892: pp. 12–13). This practice can be compared with *Introducta est moribus rei militaris* (Inst. 4, 27). The Early Irish law (D'Arbois Jubainville 1892: p. 10) also recognized the right of *pignoris capio* in relation to the tenant of cattle (Gaius: *mercedem non redderet pro eo iumento, quod quis ideo locasset...* (Inst. 4, 28)). The poet *fili* was also entitled to *pignoris capio* (D'Arbois Jubainville 1892: pp. 11, 13; D'Arbois Jubainville 1895: p. 269). The praxis of the *fili* bore resemblance to the practices of the druids (Mac Airt 1958: pp. 139ff.; Stewart Macalister 1937: pp. 11–12), who, according to historical sources, engaged in ritual sacrifices (Stewart Macalister 1937: p. 10). This can be compared with *pignoris capio* for *hostia* and *daps* (Inst. 4, 28). There is evidence to suggest a connection between the poets (*fili*) and sacrifices (D'Arbois Jubainville 1883: pp. 251ff.; O'Rahilly 1946: pp. 323–325, 334). The etymology of the term *fili* demonstrates its relationship with religious terminology in other Indo-European languages (Jakobson 1985: p. 40).

ment of the rent for the animals that is to be allocated towards the organization of the religious feast. A review of the cases of *pignoris capio* as defined by the *Laws of the Twelve Tables* reveals a connection between pledges and sacrifices. In the original context, pledges could serve as guarantees for sacred rites. This connection can be projected onto the history of security in Ancient Greece, which will elucidate how the semantics of the root represented in κοῖον, etc., could combine the meanings of pledge and sacrifice ('to guarantee the sacrifice', 'to organize the sacrifice'). As society and the economy developed, the pledge emerged as a civil law institution.<sup>31</sup> This development resulted in a divergence in the semantics of the root represented in κοῖον, etc.

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31 The rise of private law institutions from practices where the religious, ethical and legal spheres were not clearly delineated is discussed by P. Bourdieu (1980: pp. 191–200).

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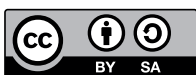
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