TO THE MEMORY OF

Alexander Fuks

CONTENTS

PREFACE

Gabriel Herman

This volume originated in an international conference of the same name, *Stability and Crisis in the Athenian Democracy*, held at the Hebrew University of Jerusalem on 29–30 October, 2008. The conference, organized by Israel Shatzman and the present writer under the auspices of the Hebrew University's Authority for Research and Development, was dedicated to the memory of Alexander Fuks (1917–1978), beloved teacher of some of the participants, source of inspiration to others. All the articles, barring that of the present writer, were delivered as papers at the conference.[1] Comprehensive coverage of the subject matter was never claimed, but all the contributions were composed with the question of the stability of the Athenian democracy in mind. Each article was critically reviewed by the remaining participants, at first orally, immediately after delivery, and later by email, following the circulation of the final written versions.

As the reader will observe, none of the participants have adopted the view that has lately won some currency in research, namely that Athenian society was much given to lawlessness and feuding, and as such was unstable. In the present writer's opinion the reason for this non-concurrence would appear to be the extreme difficulty, if not impossibility, of reconciling that view with the picture that emerges from an overview of Athens' performance through almost two hundred years of democratic rule (508–322 B.C.), a picture whose details point to unusual stability, as judged by the standard of ancient states.

The articles assembled in this volume fall into two groups, in accordance with the questions they address. Wallace and the present writer tackle problems of method, asking which approaches would be the most appropriate (and by implication, the most inappropriate) for assessing the stability of a social system, with the example of classical Athens foremost in mind. Rhodes, Low, Epstein, Zelnick-Abramovitz, Schaps and Yakobson confront the issue of stability head-on, asking how the Athenians coped with the forces which threatened to de-stabilize their society, in all its multifarious compartments and fields of activity. It will be up to the reader to judge the extent to which these authors have succeeded in their enterprise.

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1   The paper that I originally delivered, "The Best Few and the Bad Many: Decision Making in the Athenian Democracy" was already committed when the conference took place. It is now published in H. Lohmann and T. Mattern (eds.), *Attika – Archäologie einer 'zentralen' Kulturlandschaft* (Philippika. Marburger altertumskundliche Abhandlungen 37, Wiesbaden 2010) 231–244.

ALEXANDER FUKS

1917–1978

Alexander Fuks was born on 30th May, 1917 in Włocławek, Poland. His father, a physician, was a Zionist activist and a leading member of the Jewish community. Young Alexander went to the local Hebrew Gymnasium, and joined the *Hashomer Hatzair* youth movement. Upon obtaining his General Certificate of Education, he was granted a stipend by the Jewish community which made it possible for him to immigrate to what was then Palestine. He studied classical studies, history and philosophy at the newly-founded Hebrew University, meeting students from similar backgrounds with whom he would become lifelong friends: Chaim Wirszubski, Joshua Prawer and Samuel N. Eisenstadt. When World War II broke out in 1939, his stipend was discontinued and he had to earn his living doing occasional work.

Having completed his M.A. studies *summa cum laude* in 1942, Alexander Fuks enrolled in a Ph.D. program under the supervision of Prof. Victor A. Tcherikover. He successfully defended his thesis ("The Political Parties at Athens at the End of the Fifth Century B.C.") in 1946. During this time, he taught Greek and Latin for beginners at the H.U., as well as classes in Greek and Roman History. In September 1950, he obtained a two-year research fellowship to Oxford, which resulted in the publication of *The Ancestral Constitution, Four Studies in Athenian Party Politics at the End of the Fifth Century B.C* (London 1953).

From that time on, Alexander Fuks devoted most of his academic life to research, to teaching, and to guiding younger students. His main fields of interest were Greek Classical and Hellenistic History, as well as Jewish History in the Hellenistic Age. His book, *The Athenian Commonwealth,* published in Hebrew in1957, was an immediate success. Addressed to the student and the general reader, it furnished an admirable, fully-rounded picture of the city's political regime, society and culture. Five editions were published up to 1975.

Early in his career Fuks was asked by Tcherikover to join him in his effort to complete the monumental *Corpus Papyrorum Judaicarum,* a project begun during the war. The first volume was published in 1957. Tcherikover was able to read some enthusiastic reviews by the world's leading papyrologists before his sudden death a year later. The second volume appeared in 1960, also under the editorship of Tcherikover and Fuks, with Menahem Stern assuming the position of third editor for the publication of the third volume in 1964. The collection as a whole was greeted as a landmark in papyrological publications.

Fuks spent the last fifteen years of his life writing an extensive synthesis on social conflicts in late Classical and Hellenistic Greece. He collected a great deal of evidence regarding some seventy cases of revolution or social unrest in the Greek cities, along with details of their ideological background as reflected in the writings of the Attic Orators and the historians of the age. He published a series of ground-

breaking articles on selected aspects of this vast subject, but contracted a serious disease in 1978 and died unexpectedly before he was able to complete the project. His articles were collected and published posthumously in a volume entitled *Social Conflict in Ancient Greece* (Jerusalem and Leiden 1984).

Alexander Fuks' enthusiasm for ancient history was genuine, and his scholarship was of the highest standard. Fellow scholars thought his chief character trait was his exactness or precision, which could most appropriately be encapsulated by the Greek term ἀκρίβεια. His perseverance was a source of admiration for his friends and colleagues. His was a radiant personality, gentle and kind to all, his blue eyes smiling onto the world with optimism and courage. A friend in need, a wise counselor and an arbitrator whose affinity for compromise never induced him to compromise with principles, his counsel was much sought and his friendship highly valued.[1] His memory is cherished by all who knew him.

Moshe Amit

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1   Cf. also *SCI* 5 (1979/80) 1.

1. APPEALS TO THE PAST IN CLASSICAL ATHENS

Peter J. Rhodes

I never met Alexander Fuks, but I have read *The Ancestral Constitution* and other publications of his, and I was pleased and honoured to be invited to take part in this commemoration of him. In the light of that book I chose "Appeals to the Past in Classical Athens" as my topic within our overall theme of Stability and Crisis in the Athenian Democracy.[1]

I. THE FIFTH CENTURY AND BEFORE

Human societies seem to experience periods in which they are confidently proud that they are doing better than in the past and periods in which they are nostalgically regretful that they are doing less well than in the past. The time of Pericles seems to have been a time when the Athenians were proud of their latest achievements. Thucydides represents Pericles as beginning his funeral speech with the standard praise of ancestors, but then adding

> Particularly worthy are our fathers, who by their efforts gained the great empire which we now possess

and

> We ourselves, who are still alive and have reached the settled stage of life, have enlarged most parts of this empire, and we have made our city's resources most ample in all respects both for war and for peace.[2]

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1   My thanks to the organisers for inviting me to take part, to the British School at Athens for inviting me to read a version of this paper in November 2008, and to those who listened to me and discussed these matters with me on both occasions – particularly to Dr. S. Epstein for alerting me to an oversight – and to him and other contributors for their comments on my penultimate draft. What is published here is based on the longer version read in Athens.
I cite frequently A. Fuks, *The Ancestral Constitution* (London 1953); E. Ruschenbusch, "πάτριος πολιτεία: Theseus, Drakon, Solon und Kleisthenes im Publizistik und Geschichtsschreibung des 5. und 4. Jahrhunderts v. Chr.", *Historia* 7 (1958) 398–424, which analyses somewhat rigidly who was regarded as what kind of democratic hero when. M. I. Finley, *The Ancestral Constitution* (Cambridge 1971) = his *The Use and Abuse of History* (London 1975) 34–59 with 217–224, is a stimulating investigation but not of direct relevance to the enquiry which I pursue here.
2   Thuc. 2.36.3–4.

Similarly, in his last speech in Thucydides Pericles says:

> Your fathers secured this empire. … You must show that you are as good as them. … | Athens
> … has built up the greatest power of any city up to the present time. … All posterity will be able
> to recall that we ruled over a larger number of Greeks than any other Greeks have ruled, that we
> held out against the Greeks, separately and all together, in the greatest wars, that we lived in the
> city that was greatest and best provided in all respects.[3]

In fact, in the earliest attested invocation of the past in an Athenian political crisis
reformers and their opponents invoked different views of the past. When Ephialtes
took important powers from the council of the Areopagus, in 462/1, I have argued
that it was he and his supporters who described those powers as *epitheta*, "added",
i. e. improperly added to the Areopagus' original and proper powers, while his op-
ponents described them as part of the established order.[4] In addition, when Cimon
on returning from Sparta tried to undo the change, he is described as "trying to raise
up the aristocracy of the time of Cleisthenes".[5] There is good reason to think that
the term *demokratia* was coined about this time, and that *aristokratia* and *oligarchia*
were coined in response to characterise régimes which were not democratic.[6] We do
not know what Plutarch's source was here: Cleisthenes is more usually seen as an
advancer of democracy;[7] Plutarch attributes the linking of Cimon with Cleisthenes
and aristocracy to the reformers, but it could equally be due to their opponents. At
any rate I find it credible that in 462/1 the opponents were seen by themselves or by
the reformers, or indeed by both, as championing a dispensation of Cleisthenes
which could be called aristocratic. In fact Cleisthenes' aristocracy was not brought
back, but the dispute was a bitter one, with Ephialtes murdered, Cimon ostracised
and rumours of an anti-democratic plot a few years later.[8]

How people interpreted the Pisistratid tyranny is hard to make out, because our
evidence is tantalisingly incomplete. Probably the commemoration of Harmodius
and Aristogeiton as tyrannicides was originally uncontroversial: statues of them
were set up soon after the liberation, taken by the Persians in 480 and replaced soon
after that.[9] By the second half of the fifth century Athenians who did not want to be
grateful to the Spartans and the Alcmaeonids for expelling Hippias were misrepre-
senting the killing of Hipparchus as the act which ended the tyranny. Both Herodo-
tus and Thucydides protest that after that act the tyranny did not end but became

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3   Thuc. 2.62.3, 64.3.
4   *Ath. Pol.* 25.2, Plut. *Cim.* 15.2, with P. J. Rhodes, *A Commentary on the Aristotelian Athenaion
     Politeia* (Oxford 1981) 314.
5   Plut. *Cim.* 15.3.
6   E. g. K. A. Raaflaub in K. A. Raaflaub *et al.*, *Origins of Democracy in Ancient Greece* (Berke-
     ley/Los Angeles 2007), 107–108, 112, 139. But for an earlier date see, e. g., M. H. Hansen, "The
     Origin of the Term *Demokratia*", *LCM* 3 (1986) 35–36.
7   E. g. Hdt. 6.131.1, *Ath. Pol.* 22.1 cf. 41.2.
8   Antiph. 5 (*Herodes*) 68, *Ath. Pol.* 25.4, Idomeneus *FGrH* 338 F 8 *ap.* Plut. *Per.* 10.7; Plut. *Cim.*
     15.3–5, 17.3, *Per.* 9.5; Thuc. 1.107.4, 6.
9   Set up, Plin. *N. H.* 34.17; taken by Xerxes and returned by Alexander the Great, Plin. *N. H.*
     34.70, Arr. *Anab.* 3.16.7–8, 7.19.2 (but returned later, Val. Max. 2.10 ext. 1, Paus. 1.8.5); re-
     placements, Marm Par. *FGrH* 239 A 54, cf. Simonides fr. i Page, *IG* I³ 502.

worse[10] – but what was it like before? Herodotus depicts Pisistratus as a law-abiding ruler after his first seizure of power, but his mention of mercenaries, hostages and exiles suggests that the tyranny as finally established was not so benign,[11] and he gives no clear picture of the régime between Pisistratus' death and Hipparchus' assassination. Thucydides claims (though not all the details even in his own account support the claim) that Hipparchus was killed for personal, not political reasons, and accordingly that the régime was good not only under Pisistratus but until Hipparchus' death in 514.[12]

In the fourth century *Ath. Pol.* repeats Herodotus' favourable comment on Pisistratus' first period in power, and extends it to his whole tyranny,[13] and seems to conflate different versions by reporting one degeneration after Pisistratus' death and a further degeneration after Hipparchus' assassination;[14] while yet another view surfaces when we are told in a later chapter that the tyranny obliterated Solon's laws by not using them.[15] Plato says nothing about Pisistratus, but the Platonic *Hipparchus* applies to the tyranny down to 514, in agreement with Thucydides, the description "age of Cronus" which *Ath. Pol.* applies to Pisistratus' own rule.[16] Aristotle's references in the *Politics* include the story of Pisistratus' turning up to stand trial for homicide; his remark on the tyranny's being overthrown because of *hybris* may be an allusion to Hipparchus, Harmodius and Aristogeiton, mentioned shortly before.[17] Apart from a few mentions of the overthrow, the orators have remarkably little to say about the tyranny, but there are two strongly hostile references to Pisistratus by Isocrates.[18]

Everybody agreed that the eventual ending of the tyranny was a good thing; it is easy to see why some Athenians chose to focus on the killing of Hipparchus rather than the expulsion of Hippias, and why Thucydides (in this matter less than perfectly rational) persuaded himself that there was nothing wrong with the tyranny until 514. Beyond that we are in the dark: it seems that there were different views of Pisistratus, but we cannot tell who adopted which view, or how those views fitted into later debates. It does seem from Aristophanes, from Euripides' *Supplices* and from Thucydides' invocation of tyranny in connection with the religious scandals of 415, that down to that point tyranny rather than oligarchy was what the Athenians feared as the alternative to democracy (though they might sometimes conflate the two[19]); but after their experiences in the late fifth century it was oligarchy which loomed larger, and that will explain why we hear so little about the Pisistratid tyranny from the orators.

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10   Hdt. 5.55, 62.2, 6.123.2; Thuc. 1.20.2, 6.53.3–60.
11   Hdt. 1.59.6 contr. 64.
12   Thuc. 1.20.2, 6.53.3–60.
13   *Ath. Pol.* 14.3, 16.
14   *Ath. Pol.* 16.7, 19.1.
15   *Ath. Pol.* 22.1.
16   [Pl.] *Hipparch.* 229B3–7 cf. *Ath. Pol.* 16.7.
17   Arist. *Pol.* 5. 1315B21–22 cf. *Ath. Pol.* 16.8; 5.1312B29–32 cf. 1311A36–39.
18   Isoc. 16 (*Big.*) 25–26, 12 (*Panath.*) 148.
19   As Thucydides does in 6.60.1.

II. THE OLIGARCHIC REVOLUTIONS

This brings us to the oligarchic revolutions of the late fifth century, and to the theme of the traditional constitution (*patrios politeia*) which was explored by Fuks. According to Thucydides, while Alcibiades in his first approach to the Athenians on Samos talked of not having a democracy (εἰ μὴ δημοκρατοῖντο/μὴ δημοκρατουμένων),[20] what was said publicly in Athens was more circumspect: "not having the same form of democracy" (μὴ τὸν αὐτὸν τρόπον δημοκρατουμένοις); and "having a more prudent form of government and entrusting the offices rather to a few men" (πολιτεύσομέν τε σωφρονέστερον καὶ ἐς ὀλίγους μᾶλλον τὰς ἀρχὰς ποιήσομεν) – with the reassurance that this would be an emergency measure and could be changed later.[21] Before the actual revolution the programme formulated was that there should be no stipends except for military service and that "having a share in affairs" (μεθεκτέον τῶν πραγμάτων) should be limited to not more than five thousand, able to serve with their wealth and with their persons.[22] We first meet an explicit appeal to the past in the appointment of the thirty *syngrapheis* (on which I believe *Ath. Pol.* is reliable): Pythodorus instructed them to make proposals *peri soterias* (which I believe gave them freedom to make whatever proposals they thought fit[23]); and Cleitophon's amendment added that they were also to *prosanazetesai* (which probably means "look for" what was expected to exist rather than "look at" what was known to exist) "the traditional laws which Cleisthenes enacted when he established the democracy" (τοὺς πατρίους νόμους οὓς Κλεισθένης ἔθηκεν ὅτε καθίστη τὴν δημοκρατίαν).[24] The comment which follows, that Cleisthenes' democracy "was not populist but much like the constitution of Solon" I believe (more firmly than Fuks) was not part of Cleitophon's amendment, or even based on something in it or in Cleitophon's speech,[25] but simply the author's explanation of the paradoxical fact that one of the men behind the revolution cited Cleisthenes' democracy as a model. The régime adopted was based on a council of four hundred: in that respect the revolutionaries departed from Cleisthenes. The "immediate constitution" of *Ath. Pol.* 31 said, "There shall be a council of four hundred in accordance with tradition" (βουλεύειν μὲν τετρακοσίους κατὰ τὰ πάτρια); it was believed that Athens had been given a council of four hundred by Solon; and that, surely, is why the new council was made a body of four hundred.[26]

Before I go any further, I should say something about the argument of K. R. Walters, that the traditional constitution as an oligarchic ideal was an invention of

20   Thuc. 8.48.1–2. We must remember throughout that Thucydides was in exile and dependent on what informants told him.
21   Thuc. 8.53.1, 3.
22   Thuc. 8. 65.3.
23   Cf. P. J. Rhodes, *The Athenian Boule* (Oxford 1972) 231–235.
24   *Ath. Pol.* 29.2–3. K. R. Walters, "The 'Ancestral Constitution' and Fourth-Century Historiography in Athens", *AJAH* 1 (1976) 129–144 at 136–137, may well be right in inferring from "also" that Pythodorus' motion had referred to the laws of Draco and Solon.
25   Fuks, *Ancestral Constitution* (as in n. 1) 1–13, esp. 6–7.
26   *Ath. Pol.* 31.1 cf. 8.4.

the fourth century, which has been taken over by modern scholars from Androtion via *Ath. Pol.*[27] Walters was an exponent of the extreme scepticism about early Athens which was fashionable in some quarters in the mid twentieth century: he thought that already in the fifth century "the laws of Draco and Solon" meant simply the laws currently valid, and there was no interest in or knowledge of the laws actually enacted by Draco and Solon;[28] he disbelieved in Solon's council of four hundred;[29] and he thought the purpose of Cleitophon's amendment was simply to see whether the oligarchs' proposed changes would conflict with any existing laws – which they would, and so the *syngrapheis* suspended the *graphe paranomon* and other safeguards.[30] I believe that the laws of Solon were accessible in the fifth and fourth centuries and Athenians who wanted to distinguish between them and later laws could; that there was a Solonian council of four hundred and that is why the oligarchs of 411 chose to have a council of four hundred;[31] and more generally that Pythodorus and Cleitophon were suggesting that Draco, Solon and Cleisthenes might offer institutions which could be revived or adapted in 411. Thucydides was more interested in the realities of power than in façades of respectability, and his silence is not enough to discredit this evidence that Athens' past was invoked by the oligarchs.

By talking of "not the same form of democracy" and of the democracy of Cleisthenes, and by settling on a council of four hundred "in accordance with tradition", the oligarchs were trying to reassure doubters that they intended to return to a past which was better than Athens' present rather than introduce something dangerously new; and probably there were some doubters who did accept this reassurance. But how serious were the oligarchs in their use of this *motif*? Fuks distinguished between moderates who were serious and extremists who were not; I should refine this by suggesting that the difference between moderates and extremists did not crystallise until they reached the stage of working out how they intended the state to be governed, and that in the meantime they were all happy to use the language of tradition in their propaganda. I conclude from the two constitutions of *Ath. Pol.* 30–1 (which I think were promulgated in 411, perhaps at the formal inauguration of the régime) that those who emerged as extremists insisted that in the immediate crisis things must be done as they wanted but allowed others to draw up a plan for the indefinite future, a plan which in fact owed more to contemporary Boeotia than to earlier Athens.

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27 Walters, "The 'Ancestral Constitution'" (as in n. 24). P. Harding, "O Androtion, You Fool!", *AJAH* 3 (1978) 179–183, is an effective reply to Walters, though I think he attributes too much in *Ath. Pol.*'s historical account to the author and not enough to the author's (plural) sources.
28 Walters, "The 'Ancestral Constitution'" (as in n. 24) 132–133.
29 Walters, "The 'Ancestral Constitution'" (as in n. 24) 135.
30 Walters, "The 'Ancestral Constitution'" (as in n. 24) 136–137.
31 P. J. Rhodes, "The Reforms and Laws of Solon: An Optimistic View", in J. H. Blok/A. P. M. H. Lardinois (eds.), *Solon the Athenian: New Historical and Philological Approaches* (*Mnemosyne*. Supp. 272. Leiden 2006), 248–260; and on the four hundred *Commentary* (as in n. 4) 153–154.

Before long some men who disliked what was happening insisted that that was not the traditional constitution. The message sent to the Athenians on Samos was that the régime would be based on the Five Thousand, not the Four Hundred[32] (there was no traditional precedent for the Five Thousand); but the men on Samos, recommitted to democracy, saw themselves as the true city of Athens, and claimed that the oligarchs "were at fault in abolishing the traditional laws" (τοὺς πατρίους νόμους καταλύσαντας), while they themselves were trying to preserve them.[33] When Alcibiades reached Samos, he said he would accept the Five Thousand, but the Four Hundred should be abolished and the Five Hundred restored.[34] Similarly, when discontent broke out in Athens the demand was for a more equal constitution (τὴν πολιτείαν ἰσαιτέραν καθιστάναι) based on the Five Thousand.[35] After the naval battle in the Euripus the Four Hundred were deposed and an intermediate régime to be based on the Five Thousand was set up – about which we are told disappointingly little.[36]

So there were objections that the extreme oligarchy was not the traditional constitution, but what was first advocated by Alcibiades and then demanded and implemented in Athens was not a restoration of the full democracy.[37] Whether simply out of fear, as Thucydides thought,[38] or more sincerely, many Athenians were at this stage willing to accept something other than that.

The first indication that democrats saw the past as something which they could lay claim to came after the full democracy was restored in 410. The oligarchic revolution had exposed the fact that on many matters it was not clear what the current law was, and so a recodification was undertaken. According to Lysias the *anagrapheis* were instructed to write up the laws of Solon;[39] since in 409/8 the homicide law of Draco was inscribed,[40] it may well be that their instruction actually specified the *thesmoi* of Draco and the *nomoi* of Solon. However, from the time which the work took, and from the collection of laws about the council of five hundred and from rubrics in the religious calendar,[41] it appears that what they actually did (and probably had actually been expected to do) was compile a code of all the laws currently valid – and what is most important for us here is that the laws of Draco and Solon were now claimed as the basis of the democratic state. The oli-

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32   Thuc. 8.72.1, 86.3.
33   Thuc. 8.76.6.
34   Thuc. 8.86.6.
35   Thuc. 8.89.2, cf. 92.11, 93.2.
36   Thuc. 8.97.1–2, *Ath. Pol.* 33.
37   Against G.E.M. de Ste. Croix, "The Constitution of the Five Thousand", *Historia* 5 (1956) 1–23, who argued that the intermediate régime was virtually identical with the democracy, see P.J. Rhodes, "The Five Thousand in the Athenian Revolutions of 411 B.C.", *JHS* 92 (1972) 115–127.
38   Thuc. 8.92.11.
39   Lys. 30 (*Nicomachus*) 2.
40   M&L 86 = *IG* I³ 104.
41   Council, *IG* I³ 105; religious calendar, S. Dow, "The Law Codes of Athens", *Proc. Mass. Hist. Soc.* 71 (1953–57), 3–36 at 15–21, S.D. Lambert, "The Sacrificial Calendar of Athens", *ABSA* 97 (2002) 353–399 at 356–357.

garchs had alleged, and some of them may have believed, that what they wanted was not something dangerously new but a restoration of Athens' respectable past: the democrats now claimed continuity between that respectable past and the democracy of the late fifth century. How many people this mattered to, we cannot tell, but there were people on both sides who thought it worth claiming that their régime was the traditional constitution, which went back to Draco and Solon. (Cleisthenes now largely drops out of the picture; but he appears in Isocrates as expeller of the tyrants and as founder or refounder after Solon of the earlier and better kind of democracy.[42])

We come next to the peace treaty with Sparta at the end of the Peloponnesian War and the régime of the Thirty. Some texts, but not those which seem best informed, and in particular not those closest in time to the event, claim that one clause in the treaty required Athens to be governed under the traditional constitution.[43] Fuks was certainly right to argue that this was not a clause in the treaty, and he may have been right to suggest that the texts which have it are misrepresenting a clause which said something like, "The Athenians shall be autonomous in accordance with tradition" (τοὺς Ἀθηναίους εἶναι αὐτονόμους κατὰ τὰ πάτρια).[44] *Ath. Pol.*'s distinction between democrats who tried to preserve the *demos*, *gnorimoi* in the *hetaireiai* and returned exiles who wanted oligarchy, and distinguished men outside the *hetaireiai* who were looking for the traditional constitution is suspect, if only because in the last group it names with Theramenes men who could have held a moderate position, but who did not become members of the Thirty as Theramenes did and who indeed in all cases but one were among the democrats who went into exile.[45] A threefold division is found also in Lysias (hostile to Theramenes as *Ath. Pol.* is favourable), who has ten of the Thirty chosen by Theramenes, ten by the "ephors" appointed by the members of the *hetaireiai* and ten chosen from those present in the assembly.[46] Diodorus, on the other hand, has a twofold division in which oligarchs wanted to return to "the ancient dispensation" (τὴν παλαίαν κατάστασιν) and democrats championed "the constitution of their fathers" (τὴν τῶν πατέρων πολιτείαν), which they said was agreed to be democracy.[47]

The Thirty were appointed with a double commission, to work out a new constitution (Xenophon and Diodorus both say "to draft laws in accordance with which they were to be governed"),[48] and to govern the state themselves in the meantime.

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42   Isoc. 16 (*Big.*) 26, 7 (*Areop.*) 16, 15 (*Antid.*) 232, 306: cf. Ruschenbusch, "πάτριος πολιτεία" (as in n. 1) 418–421.

43   *Ath. Pol.* 34.3, Diod. Sic. 14.3.2, 6: those which lack this clause include Xen. *Hell.* 2.2.20, Andoc. 3 (*Peace*) 11–12.

44   Fuks, *Ancestral Constitution* (as in n. 1) 52–63. The reference to the overthrow of the existing constitution in Lys. 12 (*Eratosthenes*) 70 does not claim to report the content of the treaty.

45   *Ath. Pol.* 34.3, with Rhodes, *Commentary* (as in n. 4) 431–433.

46   Lys. 12 (*Eratosthenes*) 76. The last group was presumably intended to appear but not actually to be representative of the *demos* in general.

47   Diod. Sic. 14.3.3.

48   Xen. *Hell.* 2.3.2, 11, Diod. Sic. 14.4.1. Xen. has "draft [as *syngrapheis* had done earlier in the fifth century] or compile [as Prof. Schaps suggests] the traditional laws according to which they were to be governed" in §2 but omits "the traditional" in §11: P.M. Krentz, *Xenophon, Hel-*

The first phase of their rule was relatively benign, but only *Ath. Pol.* claims that they pretended to pursue the traditional constitution. Of the two examples which *Ath. Pol.* gives, one could easily be represented as harking back to older and better ways (the annulment of the laws of Ephialtes and Archestratus about the Areopagus), but the other could not (removing from Solon's laws clauses which required interpretation in particular cases). Another way in which they tried to improve the judicial system was by acting against sycophants.[49] But a scholiast on Aeschines gives a democratic slant on what they did: "the Thirty Tyrants [an expression which was not current in fourth-century Athens but seems to go back to Ephorus[50]] … overthrew the traditional constitution of the Athenians and defiled the laws of Draco and Solon".[51]

The silence of Xenophon and Lysias should not lead us to rule out all this talk of the ancient or the traditional constitution as later invention. Pythodorus and Cleitophon in 411, and the recodification begun in 410, are evidence that the Athenians had begun to think about their older laws; what the Thirty did with the laws of Ephialtes and Archestratus and those of Solon shows that they were not simply interested in power for themselves but did have some ideas of their own about the older laws. Our different sources are biased in different ways, but I think we should accept that how Athens had been governed in the past, and how that related to the present, did form one part of the argument about how Athens ought to be governed in the present. This was not the main reason for the the establishment of oligarchic régimes in 411 and 404: in 411 the democracy was no longer justified by success, and oligarchy would save money and (some Athenians believed) might secure Persian support; in 404 the democracy had lost the war, the power of the navy and of the poorer citizens seemed to be at an end, and the Spartan Lysander had a particular liking for narrow oligarchies. However, there was a debate as well as a struggle for power, the traditional constitution became an element in that debate, and it was an element which enabled people on one side to claim that present-day Athens was true to its traditions and people on the other to claim that it was not.

III. THE RESTORED DEMOCRACY

When the oligarchy came to an end and the democracy was restored again, men such as Archinus were determined to prevent vindictiveness against all those who had accepted the oligarchy,[52] and the debate on the constitution was not immediately resolved in favour of full democracy. *Ath. Pol.*'s summary of the initial reconciliation agreement is framed in terms of Athens and a semi-independent commu-

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lenika, 1–2.3.10 (Warminster 1989) 190, regards § 2 as interpolated but seems willing to accept it as correct on this point; I find "draft traditional laws" self-contradictory.

49   *Ath. Pol.* 35.2–3: in support of διώκειν rather than διοικεῖν see Rhodes, *Commentary* (as in n. 4) 439–440.

50   Cf. P. M. Krentz, *The Thirty at Athens* (Ithaca, NY 1982) 16 n. 2.

51   Schol. Aeschin. 1 (*Timarchus*) 39 (82 Dilts).

52   *Ath. Pol.* 40.1–3.

nity at Eleusis, without any mention of democracy or oligarchy; "in accordance with tradition" appears in clauses concerning the sanctuary at Eleusis and trials for homicide.[53] Andocides reports the appointment of an interim government of Twenty, and the decree of Tisamenus, which provided for Athens to be governed "in accordance with tradition", for the use of the laws of Draco and Solon, and the enactment of such additional laws as might be needed, and for the entrusting of the completed code to the Areopagus.[54] We have no evidence that the Areopagus ever did anything to look after the code of laws, but this revival of its old status as guardian of the laws[55] recalls the annulment of the laws of Ephialtes and Archestratus by the Thirty.

There was a proposal by Phormisius, apparently supported by Sparta, that citizenship should be limited to those who owned some land – continuing, apparently less restrictively, the idea behind the Five Thousand in 411–410 and the Three Thousand in 404–403. The proposal was evidently defeated; Dionysius of Halicarnassus quotes part of a speech written by Lysias for an opponent of it, in which it is assumed that the constitution is now to be a democracy and the previous régimes are referred to as oligarchies.[56] In his introduction Dionysius says that the speech is "about not abolishing the traditional constitution at Athens" (περὶ τοῦ μὴ καταλῦσαι τὴν πάτριον πολιτείαν Ἀθήνησι): he may have found the traditional constitution somewhere in the speech, or as a title attached to it,[57] but there is no mention of it in the extracts which he quotes. Fuks notes that the citizenship was a live issue, with Thrasybulus wanting to enfranchise all non-citizens who had fought on the democratic side and Archinus securing a much less generous outcome.[58] Another speech by Lysias is a defence, perhaps in the *dokimasia* for some office, of a man who stayed in Athens but did not hold office under the Thirty: the speaker argues in terms of democracy and oligarchy, claiming that nobody is inclined to either by nature but each man will prefer whichever is more to his advantage, and does not use the *motif* of tradition at all.[59]

Tradition does appear in Lysias' speech *Against Andocides*, written for his trial in 400: what has been restored in Athens is regarded as the traditional constitution, so that the speaker can say, "It is not possible for you to use at the same time the traditional laws (τοῖς τε νόμοις τοῖς πατρίοις) and Andocides".[60] Tradition appears also in *Against Nicomachus*, who after the restoration resumed his position as one of the *anagrapheis* of the code of laws. The speaker accuses Nicomachus of inserting some laws and wiping out others in his first term of office, and of omitting traditional sacrifices and inserting new ones in his second term – whereas the speaker

53   *Ath. Pol.* 39.
54   Andoc. 1 (*Mysteries*) 81–85. On the Areopagus cf. R. Zelnick-Abramovitz, ch. 6 in this volume.
55   *Ath. Pol.* 3.6, 8.4, 25.2; also 4.4, in the "constitution of Draco", which seems to have been invented about this time (cf. Fuks, *Ancestral Constitution* [as in n. 1] 84–101).
56   Lys. 34 *ap.* Dion. Hal. 525–534. *Lys.* 31–34 (pp. 48–53 Usener & Radermacher).
57   Cf. Fuks, *Ancestral Constitution* (as in n. 1) 40–48.
58   Fuks, *Ancestral Constitution* (as in n. 1) 46. See *Ath. Pol.* 40.2 with Rhodes, *Commentary* (as in n. 4) 474–477, R&O 4.
59   Lys. 25. (*Overthrowing Democracy*).
60   Lys. 6 (*Andocides*) 8.

claims that sacrifices ought to continue in accordance with tradition.[61] A favourable view of Nicomachus would be that (as I suggested above) he and his colleagues were trying to incorporate changes which had been enacted since the time of Solon and that this was what they had been expected to do, but that this made him vulnerable to an attacker who insisted on the letter of the instructions and claimed that the *anagrapheis* ought simply to have transcribed the original laws of Draco and Solon.

In spite of that speaker, by committing themselves to the traditional constitution and to the laws of Draco and Solon, the Athenians did not seriously intend to go back to the régime of the early sixth century and abandon all subsequent developments: they were claiming that the democracy as it had developed was the culmination of tradition rather than a departure from it, but they were not immediately closing all doors. There was some room for negotiation over how this commitment was to be applied in the post-403 world, and this may have helped to secure the peaceful acceptance of the settlement.

And room for negotiation was to become increasingly important in this new world. Immediately, Phormisius' citizenship proposal was defeated; whatever became of Nicomachus, the new code of laws was accepted, and there is no indication that the Areopagus needed to act or did act to guard it. Various early-fourth-century changes,[62] such as the introduction of pay for attending the assembly,[63] and the use of men in their last year on the army lists as arbitrators for the higher-value private lawsuits,[64] were in the spirit of the fifth-century democracy; what could have been seen as a departure from democratic tradition, the institution of a procedure of *nomothesia* separate from the decree-making of the assembly, to change or add to the code of laws, was probably accepted as a defence of the democracy, to save it from being intimidated into abolishing itself as it had been in 411 and 404.

As the speaker against Phormisius predicted, the Athenians' experiences of oligarchy were such as to prevent even their descendants from wanting a change of constitution:[65] nobody active in politics would now admit to being opposed to democracy. But the discourse had changed. As R. Osborne has argued, one result of the debate which had been going on was that there was no longer a polarisation between democrats and oligarchs, which had made men who disliked one form of constitution feel bound to engage in a revolution to introduce the other; instead it became possible, while adhering to the principles of democracy and the traditional constitution, to argue for improvements in particular respects.[66] Plato and Aristotle, not active in politics, were both critical of democracy and particularly of extreme

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61   Lys. 30 (*Nicomachus*) 2, 17–21.
62   On the changes mentioned in this and the following paragraphs see P. J. Rhodes, e. g., in *C. A. H.* VI (2nd ed. Cambridge 1994) 567–572.
63   *Ath. Pol.* 41.3.
64   *Ath. Pol.* 53.2–6.
65   Lys. 34 (*Traditional Constitution*) 1.
66   R. Osborne, "Changing the Discourse", in K. A. Morgan (ed.), *Popular Tyranny: Sovereignty and Its Discontents in Ancient Greece* (Austin, TX 2003) 251–272 = his *Athens and Athenian Democracy* (Cambridge 2010) 267–287(–288). I develop this idea in P. J. Rhodes, "Stability in the Athenian Democracy after 403 B. C.", *Denkschrift* for W. Eder (forthcoming). Contrast the view of the Old Oligarch, written (I believe) in the mid 420's, that beyond minor tinkering it

democracy – in general terms, rather than focusing on Athens in particular, but the fact that such comments were made and tolerated no doubt made it easier for men who were active in politics to suggest that the current dispensation was not necessarily ideal.

By the middle of the century, some of the improvements introduced were in fact departures from democracy as the late fifth century had understood it: for instance, the move towards comparative experts in the principal secretaryship of the state,[67] the appointment of powerful elected treasurers, first *epi to theorikon* and later *epi tei dioikesei*,[68] and most strikingly the resurgence of the Areopagus, as a body which made *apophaseis* to the assembly on the assembly's initiative or its own.[69] There was room for manoeuvre and room for dispute in the interpretation of these changes. The office *epi to theorikon* seems to have been accepted while it was held by Eubulus and his associates, though Demosthenes wanted surplus revenue to be paid not to the theoric fund but to the stratiotic fund, as probably it had been before the theoric fund was created;[70] but after Demosthenes had become theoric treasurer, in 337/6,[71] the office was perceived as undemocratic, and it is probably here that we should place the law of Hegemon which weakened it.[72] From their beginning in the mid 340's the *apophaseis* of the Areopagus were frequently supportive of Demosthenes: this too came to be seen as undemocratic by his opponents, and that I think explains the law of late 337/<u>6</u>, enacted when they were in the ascendant, which threatened the Areopagus with suspension if the democracy were overthrown.[73] I do not think there was any danger that the democracy would be overthrown, either by a group within Athens or by Philip of Macedon; but Demosthenes was identifying democracy with freedom from external control rather than with an internal state of affairs, and while he used the language of democracy to label his opponents unpatriotic they responded by claiming that it was in fact he who was undemocratic.

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would not be possible to modify the constitution while retaining the democracy: [Xen.] *Ath. Pol.* 3.8–9.

67 *Ath. Pol.* 54.3 with Rhodes, *Commentary* (as in n. 4) 599–603.

68 *Epi to theorikon*, *Ath. Pol.* 43.1; *epi tei dioikesei* not in *Ath. Pol.* There were, as Dr. Epstein reminds me, already some elected civilian officials earlier, but these treasurers were powerful men active where elected officials had not been used before.

69 Not in *Ath. Pol.* On the Areopagus see ch. 6 in this volume by R. Zelnick-Abramovitz.

70 On how money was provided for the theoric and the stratiotic fund see the discussions of M. H. Hansen, "The Theoric Fund and the *Graphe Paranomon* Against Apollodorus", *GRBS* 17 (1976) 235–246; E. M. Harris, "Demosthenes and the Theoric Fund", in R. W. Wallace/E. M. Harris (eds.), *Transitions to Empire … in Honor of E. Badian* (Norman, OK 1996) 57–76 = his *Democracy and the Rule of Law in Classical Athens* (New York 2006) 121–139. I believe that before the creation of the theoric fund the stratiotic fund had received an allowance in the *merismos* and any surplus revenue; when the theoric fund was created it received an allowance in the *merismos* and surplus revenue was redirected to it; but in time of war surpluses could once more be paid to the stratiotic fund.

71 Aeschin. 3 (*Ctesiphon*) 24–26, Dem. 18. (*De Cor.*) 113.

72 Aeschin. 3 (*Ctesiphon*) 25: see Rhodes, *Boule* (as in n. 23) 235–240.

73 *Agora* XVI 73 = R&O 79. On the Areopagus ch. 6 see in this volume by Zelnick-Abramovitz.

Appeals to the past had a part to play in this new world and its new discourse. If the time of Pericles was one when the Athenians were proud that the present was better than the past, the fourth century was a time when various Athenians claimed that in various ways the past had been better than the present. In the past Athens had ruled the Aegean and had kept the Asiatic Greeks free from Persia, but after the Peace of Antalcidas in 387/6 the Asiatic Greeks were returned to Persia, and (a complaint already sometimes made during the Peloponnesian War[74]) instead of uniting to fight against Persia the Greeks were divided and fighting amongst themselves. The politicians of the past were far greater than those of the present (Pericles was commonly, in accordance with Thucydides, regarded as the last of the good old politicians, though in Plato's *Gorgias* Socrates argues that he and his fifth-century predecessors were bad too, and Isocrates puts him at the beginning of the decline[75]); and in the past the state had not honoured great men with statues and even great men had been content with modest houses.[76]

The Athenians did in foreign affairs invoke the history of the fifth century as they tried to work out how to live in the world of the fourth century. Athens' role in the Persian Wars of the early fifth century, and in the Delian League seen as a continuation of the patriotic struggle against the barbarian enemy, was already a subject for mention and for *aposiopesis* in Athenian speeches in Thucydides,[77] and it was deployed in various ways in the fourth century. Isocrates in his *Panegyric* of *c.* 380, while nominally arguing for reconciliation between Athens and Sparta and cooperation in a new war against Persia, devoted much of his space to boasting of Athens' record in the Persian Wars and the Delian League, and to criticising Sparta's more recent conduct[78] – shortly before the foundation of the Second Athenian League, but that League combined with a promise to champion the freedom of the Greeks against Sparta a promise to abstain from practices which had made the Delian League unpopular,[79] which implies a less favourable view of the Delian League than was given by Isocrates. The *Panegyric* was written shortly after the Peace of Antalcidas, in 387/6, had finally returned the Asiatic Greeks to Persia, and it contains the earliest certain mention of the alleged mid-fifth-century Peace of Callias between Athens and Persia,[80] which was invoked (and, I should say, invented) after

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74   Ar. *Pax* 195–196, 406–408, *Lys.* 1128–1135; Gorg. *Olymp.*, *Epitaph.* (82 ᴀ 1. iv–v DK). The theme then appears in Lys. 33 (*Olymp.*), and in Isocrates from 4 (*Paneg.*) onwards.

75   Thuc. 2.65, cf. e.g. *Ath. Pol.* 28.1, 3; contr. Pl. *Grg.* 515ᴄ–517ᴀ, Isoc. 8 (*Peace*) 126–133.

76   Statues: Conon after the battle of Cnidus in 394 the first Athenian since Harmodius and Aristogeiton to be publicly honoured with a statue, Dem. 20 (*Leptines*) 68–70, cf. (not mentioning Conon but contrasting fifth and fourth centuries) 23 (*Aristocrates*) 196–198, also Aeschin. 3 (*Ctesiphon*) 181–182. Houses: Dem. 23 (*Aristocrates*) 206–209, 3 (*Ol. 3*) 25–26. Archaeological evidence suggests that in Greece generally the rich did start to build grander houses from the middle of the fourth century: S. von Reden in W. Scheidel *et al.* (eds.), *The Cambridge Economic History of the Greco-Roman World* (Cambridge 2007) 400–401.

77   Thuc. 1.73.2–74.4, cf. 5.89, 6.83.1–2.

78   Persian Wars, Isoc. 4 (*Paneg.*) 85–99; Delian League, 100–9; Sparta, 110–28.

79   *IG* II² 43 = R&O 22. 9–12, 19–46.

80   Isoc. 4 (*Paneg.*) 120 cf. 85: for later fourth-century references see *Staatsverträge* 152 or R. Meiggs, *The Athenian Empire* (Oxford 1972), 487–488.

the Peace of Antalcidas to point the contrast between the shame of that and the glory of the time when Athens had driven the Persians out of the Aegean. Over the next half-century a number of fifth-century documents for which there is no fifth-century evidence were discovered or (more probably) constructed to make the past more vivid, and they begin to appear in the literature.[81] Here again the prospectus of the Second League reflects a different viewpoint: the new League accepts the Peace of Antalcidas, and proposes to defend it against Spartan abuse of it.[82]

On the whole, it seems, in the 370's the League tried to live up to its promises, but it did not afterwards, when there was no longer any need to champion the Greeks against Sparta. At the end of the Social War of 356–355, in *On the Peace* Isocrates rejected a policy of naval empire as disastrous; but *c*. 353 in his *Antidosis* there are again brief references to the Delian League as something to be proud of,[83] and in the *Panathenaic* of *c*. 340 he claims that fifth-century Athens rightly decided that it was better to develop its naval power, in spite of the attendant disadvantage, than to submit to Sparta; Athens contributed more than Sparta to the defeat of the Persians, and both behaved better and was more successful against Persia in its period of supremacy than Sparta afterwards.[84]

Philip of Macedon could be seen as a new barbarian threat to the Greeks, and so the Persian Wars could be recalled in connection with resistance to him. Aeschines, in the period after the fall of Olynthus in 348 when he was eager for action against Philip, read out in the assembly the decrees of Miltiades and Themistocles, and the ephebic oath.[85] It was probably in the 340's that the ephebic oath and a version of the oath sworn before the battle of Plataea were inscribed together.[86] Aeschines says that in the debate on the Peace of Philocrates with Philip, in 346, when he was in favour of peace, other speakers invoked the Propylaea, the battle of Salamis and the tombs and trophies of the ancestors, but he himself said the Athenians should emulate past achievements, including those in the Persian Wars, but also should avoid past mistakes, such as the Sicilian expedition of 415–413 and the refusal to make peace towards the end of the Peloponnesian War, when Athens was still in a good position.[87] The Athenian decree condemning Arthmius of Zelea for

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81 See especially C. Habicht, "Falsche Urkunden zur Geschichte Athens im Zeitalter der Perser-kriege", *Hermes* 89 (1961) 1–35.

82 *IG* II² 43 = R&O 22. 12–19.

83 Isoc. 15 (*Antid.*) 233, 307.

84 Better to develop naval power, Isoc. 12 (*Panath.*) 114–118; Athens did better than Sparta, 49–69. Cf. below in this volume, p. ■■.

85 Dem. 19 (*F.L.*) 303.

86 R&O 88. (H. van Wees argues that the inscribed version of the oath, as opposed to the literary versions, is the oath actually sworn in 479: "The Oath of the Sworn Bands: The Acharnae Ste-la", in A. Luther/M. Meier/L. Thommen [eds.], *Das frühe Sparta* [Stuttgart 2006] 125–164. P.M. Krentz, "The Oath of Marathon, Not Plataia", *Hesperia* 76 [2007] 731–742, thinks the inscribed oath was the Athenian oath before Marathon, which served as a precedent for the Greek oath before Plataea, and dates the inscription to the second quarter of the century, but I should not expect the singling-out of Thebes in an oath before Marathon.)

87 Aeschin. 2 (*F.L.*) 74–77. Similarly, examples of mistakes in Athens' past policies were given (with factual errors) in Andoc. 3 (*Peace*) 3–12, repeated by Aeschin. 2 (*F.L.*) 172–176 – or, if

taking Persian gold to the Peloponnese receives its first surviving mention in Dem-osthenes' *Embassy* speech against Aeschines in 343, and further mentions by him and others over the next twenty years.[88] In the "crown" trial of 330, Demosthenes had to defend his making an alliance with Athens' former enemy Thebes in 339, on terms apparently more favourable to Thebes than to Athens. This provided another opportunity to recall the burdens which Athens had borne on behalf of all the Greeks in the Persian Wars – and we now know from the recently deciphered palimpsest that Hyperides invoked the Persian Wars in exactly the same way in his own de-fence against Diondas a few years earlier.[89]

To return to the government of Athens. Although, as I have said above, I believe that those who wanted could and did distinguish between laws of Solon and later laws, the orators frequently attributed to Solon any laws which they claimed to be good laws which ought to be obeyed and to be upheld by the courts, including en-actments which were demonstrably later.[90] And this was not just a manner of speak-ing: Solon was taken seriously as the author of these laws. *Ath. Pol.* remarks on Cleon as the first man to adopt a flamboyant manner when speaking in the assembly;[91] and Aeschines, after invoking Solon as the author of various laws and making typi-cal comments on his intentions, went on to contrast the manner of Timarchus with the dignified manner of earlier leaders, and cited in support of this a suitably sober statue of Solon on Salamis – to which Demosthenes replied that the statue was less than fifty years old and reflected no genuine knowledge of Solon, and that in more important matters than posture Aeschines had himself fallen short of the Solonian model.[92]

The first time we encounter new suggestions that the government of Athens was better in the past than in the present is in the writings of Isocrates; and with the late fifth century in mind he is careful to insist that he is not calling for an oligarchy. In *On the Peace* he complains that men favouring peace are suspected of oligarchy and men favouring war are admired as democrats, though it was in war that the democracy had been overthrown before.[93] About the same time he focused directly on internal affairs in his *Areopagitic*. Here the theme is that the democracy of the present day has been corrupted from that of the ancestors, the one which was estab-lished by Solon and re-established after the tyranny by Cleisthenes, and which made Athens the greatest power in Greece.[94] It was based on equal rights for those who

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E. M. Harris is right, first by Aeschines and then repeated by the spurious Andoc. 3: "The Au-thenticity of Andokides' *De Pace*: A Subversive Essay" in P. Flensted-Jensen/T. H. Nielsen/L. Rubinstein (eds.), *Polis and Politics … Presented to Mogens Herman Hansen* (Copenhagen 2000) 479–505.

88   Dem. 19 (*F. L.*) 271; for later references see Meiggs, *Athenian Empire* (as in n. 80) 508–512.

89   Dem. 18 (*De Cor.*) 199–208, 238 (cf. 96–99, citing occasions in the early fourth century when Athens had stood up for the right in spite of past enmities); Hyperides, C. Carey *et al.*, "Frag-ments of Hyperides' *Against Diondas* from the Archimedes Palimpsest", *ZPE* 165 (2008) 1–19.

90   Most glaringly, the decree of Demophantus of 410/09: Andoc. 1 (*Mysteries*) 95–98.

91   *Ath. Pol.* 28.3.

92   Aeschin. 1 (*Timarchus*) (6–)25–32, Dem. 19 (*F. L.*) 251–256.

93   Isoc. 8 (*Peace*) 51.

94   Isoc. 7 (*Areop.*) 15–17.

were equally deserving, and on election rather than allotment;[95] on traditional sacrifices rather than expensive new-fangled celebrations;[96] and on a supervision of *eukosmia* by the Areopagus, which leads him to regret the fifth-century reduction in the Areopagus' powers.[97] He ends by defending himself against the charge of desiring an oligarchic revolution: experience of the Thirty shows that even the worst democracy is better than oligarchy, and what he wants is the *patria dioikesis*.[98] His view of Athens' past is naïve and distorted, but the rise of the elected theoric treasurer soon after this speech and the revival of the Areopagus as a politically important body in the 340's suggest that he was in touch with men active in politics.

The *Antidosis* is not much concerned with Athens' government, but it mentions great leaders of the past: Solon created a *dioikesis* which is still admired, and Cleisthenes expelled the tyrants and established the democracy which was the cause of the greatest blessings for the Greeks; Themistocles was responsible for the defeat of the Persians which laid the foundation for the empire, and Pericles adorned Athens with fine buildings and created a financial surplus.[99] What is particularly denounced in present-day Athens is the influence of sycophants[100] – and we may remember, though of course Isocrates does not remind us, that curbing sycophants was one of the things which the Thirty had done in the early, good phase of their rule.

There is evidence in other texts of this time that Solon's régime was distinguished from the present-day democracy. It is worth noticing here the one clearly biased fragment from Androtion, a politician who about the middle of the century wrote an *Atthis*: the admired Solon cannot have been a revolutionary who cancelled debts; he merely alleviated debts by juggling with the currency.[101] Also in Aristotle's *Politics* and the *Ath. Pol.* it is argued that not all the features of the later democracy were intended by Solon.[102]

Isocrates' last major work, the *Panathenaic*, is devoted to "the achievements of the city and the virtue of the ancestors", and more specfically to the claim that Greece has benefited more from Athens than from Sparta.[103] When he turns to constitutions, he begins with the surprising remark that "our fathers, while considering the constitution of the ancestors generally superior, justifiably thought it better to change to a constitution which would enable Athens to develop its naval power and get the upper hand over Sparta".[104] The constitution of the ancestors is this time attributed to Theseus, and it is said that the régime in force from then until the tyranny of Pisistratus combined democracy with the selection of worthy men as leaders –

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95 Isoc. 7 (*Areop.*) 21–23.
96 Isoc. 7 (*Areop.*) 29–30; cf. earlier 2 (*Nicocles*) 20, and Lys. 30 (*Nicomachus*) (above).
97 *Eukosmia*, Isoc. 7 (*Areop.*) 37–39; fifth-century, 50–51.
98 Isoc. 7 (*Areop.*) 56–78.
99 Isoc. 15 (*Antid.*) 232–236, cf. 306–308.
100 Isoc. 15 (*Antid.*), e. g. 174–175, 230, 237, 288, 300, 309, cf. 8 (*Peace*) 130, 133.
101 Androt. *FGrH* 324 F 34 *ap*. Plut. *Sol.* 15.3–4.
102 Arist. *Pol.* 2.1274A3–21, *Ath. Pol.* 9.2.
103 Isoc. 12 (*Panath.*) 5; 41–112.
104 Isoc. 12 (*Panath.*) 113–118.

and that it was imitated by Lycurgus in Sparta when he created a mixture of democracy and aristocracy (τήν τε δημοκρατίαν … τὴν ἀριστοκρατίᾳ μεμιγμένην).[105] Theseus had been associated with democracy before, in Euripides' *Supplices* and in Isocrates' *Helen* and *Panegyric*:[106] about the same time as the *Panathenaic* he appears as founder of the democracy in Apollodorus' speech *Against Neaera*,[107] and in the *Ath. Pol.*, written in the 330's, he takes one of the early steps towards democracy.[108]

The cult of Demokratia was instituted perhaps at the restoration in 403, perhaps earlier than that;[109] but it is particularly in the 330's that we find direct evidence of it. The relief on the *stele* carrying the anti-tyranny law of 337/6 has been identified as Demos crowned by Demokratia,[110] a statue of Demokratia was set up by the council in 333/2,[111] and the generals sacrificed to Demokratia in 332/1 and 331/0.[112] This was a decade in which there was a great deal of visible attachment to democracy, but with the renewed interest in Theseus and Demosthenes' identification of democracy with external freedom there must have been increasing uncertainty as to precisely what democracy was.

In the years after Athens' defeat at Chaeronea and incorporation in the League of Corinth appeals to the past had a part to play in the restoration of Athens' pride and morale. Lycurgus was a man interested in every aspect of Athens' religion and Athens' heritage, and among other things at this time texts of Aeschylus, Sophocles and Euripides were edited, and festivals were reorganised and their funding secured.[113] The one speech of Lycurgus which survives is *Against Leocrates*, the prosecution of a man who had left Athens after Chaeronea, and more than a third of this is devoted to an amazing series of *exempla* from the past, beginning with the ephebic oath and the oath allegedly sworn before the battle of Plataea, including Homer, Tyrtaeus and their influence on the men who fought at Marathon and Thermopylae, and ending with a catalogue of appropriately severe punishments inflicted

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105 Isoc. 12 (*Panath.*) 119–152; 153–155.

106 Eur. *Supp.* 381–441; Isoc. 10 (*Helen*) 32–37, 4 (*Paneg.*) 38–40 (without the name in the latter).

107 [Dem.] 59 (*Neaera*) 75.

108 *Ath. Pol.* 41.2 cf. fr. 2 Kenyon, with Rhodes, *Commentary* (as in n. 4) 74–76. Cf. also the Oligarchic Man of Theophr. *Char.* 26.6, who blames Thesus for the rise of demagogues.

109 Restoration, A. E. Raubitschek, "Demokratia", *Hesperia* 31 (1962) 238–243 = his *The School of Hellas* (New York 1991) 223–228; earlier, M. H. Hansen, "Thucydides' Description of Democracy (2.37.1) and the EU-Convention", *GRBS* 48 (2008) 15–26 at 21–22. A painting of Theseus, Demos and Demokratia was placed in the Stoa of Zeus, apparently about the middle of the fourth century (Paus. 1.3.3 with 4): because of the inclusion of Theseus this was dated *c*. 340 by Ruschenbusch, "πάτριος πολιτεία" (as in n. 1) 418 with n. 74, and that suggestion has been revived by N. Humble, "Redating a Lost Painting: Euphranor's Battle of Mantineia", *Historia* 57 (2008) 347–366.

110 *Agora* XVI 73 with *Agora* XIV pl. 53. a = R&O 79 with pl. 7.

111 *IG* II² 2791.

112 *IG* II² 1496. 131–132, 140–141.

113 Tragedians, [Plut.] *X. Orat.* 841ꜰ; festivals, e. g. *Agora* XVI 75 = R&O 81 (Little Panathenaea), and the attention devoted to the cult of Amphiaraus at Oropus after it had been returned to Athens, *IG* VII 4252, 4253, 4254, *Agora* XV 49.

in the past.[114] It was hoped that Athens' loss of power would not be permanent after 338 any more than it had been permanent after 404, and Athens had to be ready to reassert its independence when the opportunity arose; and the reform of the *ephebeia* in the mid 330's was a contribution to Athens' patriotic needs and its military needs.

IV. CONCLUSION

What part, then, did appeals to the past play in classical Athens? At the time of Ephialtes' reform the two sides appealed to different views of the history of the Areopagus, and Cimon was seen by himself and/or by the democrats as wanting to return to the aristocracy of Cleisthenes. In 411 the invocation of Solon (perhaps) and Cleisthenes (certainly) formed part of the propaganda of the oligarchs, trying to assure the people at large that what they were promoting was not a dangerous revolution, and probably this was taken more seriously by some men than by others, both among the oligarchs and among the rest of the citizen body. But then the democrats in turn laid claim to the past, objecting that the oligarchic régime was not the traditional constitution, and on the restoration of the democracy in 410 embarking on a recodification of what were called the laws of Draco and Solon but were in fact the laws which had accumulated down to 411. Thus once more, as in the time of Ephialtes, the past had become an element in the conflict. The traditional constitution was still something to be contested in 404–403, but the dispute was finally resolved in favour of the democrats: the restored democracy claimed to be the traditional constitution based on the laws of Draco and Solon – and here I think it is possible that what had been a matter of dispute came to be something which gained acceptance for the settlement, that the traditional constitution was something which both staunch democrats and men who had dallied with oligarchy could declare their allegiance to.

After that nobody in politics would admit to favouring oligarchy, but there was an increasing realisation that the democracy could be modified, and could even be modified in ways which the fifth-century democracy would have perceived as counter to democracy. And so we find Isocrates claiming that the government of Athens was better in the past than in the present, but insisting that he means an earlier and more respectable form of democracy, not oligarchy; and some of the changes actually made were in line with suggestions which he had advanced. Remarkably, Chaeronea did not lead to a change of régime as defeat in the Peloponnesian War had done: instead we find in the 330's a strong insistence on democracy (combined with uncertainty as to what democracy was) and a strong emphasis on Athens' heritage. Appeals to the past in the fourth century helped to create an atmosphere in which Athens' government could be modified without a revolution, and after Chaeronea they helped Athens to live with a setback which it was hoped would be only temporary.

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114 Oaths, Lyc. *Leocrates* 75–82 (cf. above); Homer and Tyrtaeus, 102–109; punishments, 110–30.

V. POSTSCRIPT

This is not the end of our story. Athens did not join the rising against Macedon led by Agis of Sparta in 331–330, but when Alexander died in 323 it did think the opportunity had come, and it led another unsuccessful rising, in the Lamian War. In 322/1 the settlement with Antipater of Macedon included the installation of a régime based on a property qualification for citizenship. There is no sign that anybody in Athens had been seriously opposed to the democracy, and there is no reason to suppose that Antipater cared much about Greek forms of constitution. I think the reason for the change is that, thanks to Demosthenes, democracy had come to be identified with opposition to Macedon, so that it was thought that a less democratic régime would be better able to collaborate with Macedon. For the next half-century the régimes in Athens which were most hostile to Macedon were also the most insistent in declaring themselves democratic,[115] and when the régime of 321 was overthrown in 318 Diodorus writes that "the people … filled the offices with the most democratic men and condemned those who had held office under the oligarchy".[116]

But in the accounts of 322/1 there is no mention of oligarchy. Diodorus writes that Antipater "changed the constitution from the democracy" and that the Athenians "were governed in accordance with the laws of Solon", and Plutarch writes that Antipater demanded "the traditional constitution based on a property qualification".[117] Here we are back in the situation of 411: after a quarter of a century in which invocation of the past had helped the Athenians to make changes in their form of government without undergoing a revolution, when they did once more undergo a revolution the past was once more used to make the revolution more palatable by suggesting that it was less of a revolution than it actually was. But yet again the "traditional constitution" was reclaimed for democracy: according to Plutarch, Demetrius Poliorcetes restored the "traditional constitution" when he liberated Athens from Cassander and Demetrius of Phalerum in 307.[118] Finally, in 26<u>8</u>/7 the decree of Chremonides for an alliance between Athens and Sparta represented Antigonus Gonatas as an enemy of "the laws and the traditional constitutions" in every city, and that meant the current régime, free from outside interference, which was democratic in Athens but not in some other places.[119]

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115   On 322/1 and after cf. P. J. Rhodes, "'Classical' and 'Hellenistic' in Athenian History", in E. Dąbrowa (ed.), Greek and Hellenistic Studies (Electrum 11. Kraków 2006) 27–43 at 31–34.

116   Diod. Sic. 18.65.6 (cf. the references to democracy and oligarchy in Polyperchon's intentions for the Greek cities, 18.55.2–4). The *diagramma* quoted in 18.56 refers to the constitutions of the time of Philip and Alexander; Plut. *Phoc*. 32.1 writes of Polyperchon's sending a letter to Athens "giving back to them the democracy and ordering them all to be governed in accordance with tradition".

117   Diod. Sic. 18.18.4–5, Plut. *Phoc*. 27.5.

118   Plut. *Demetr.* 8.7, 10.1.

119   *Staatsverträge* 476. 14–16, cf. (restored) 72–74.

2. INTEGRATING ATHENS, 463–431 BC

Robert W. Wallace

I. FREEDOM AND DISCRIMINATION

In contemporary democracies, hostility to immigration, foreigners, and the equal status of women is typically – even by definition – associated with political conservatism. In the United States, the Republican Party openly proclaims itself anti-liberal on these issues, in contrast to liberal Democrats. France's National Front and Berlusconi's Forza Italia (since 2008, "Partito delle Libertà") embrace similar attitudes. It may therefore seem paradoxical that in ancient Athens, discrimination against women, foreigners, and immigrants, as well as the expansion of chattel slavery, are commonly linked with the growth of democracy and citizens' freedoms. So for example Josiah Ober has observed, in democratic Athens "the political cohesiveness of the citizenry was partly a product of the oppression of non-citizen groups within the polis." Sarah Pomeroy has written,

> a comparison between archaic and classical Athens gives the impression that women were forced into obscurity in the later period. … some women – at least those of the upper class – flourished in an aristocratic society, while none fared as well under the democracy … The will to dominate was such that [men] had to separate themselves as a group and claim to be superior to all nonmembers: foreigners, slaves, and women.

Victoria Wohl calls classical Athens a "homogeneous and homosocial" society, attained "through the rigorous marginalization and disenfranchisement of … slaves, barbarians, and women." In *The Discovery of Freedom*, Kurt Raaflaub adds that, born in 480, the concept of political liberty evolved from the negative idea of not being ruled, into the positive notion of a citizen as equal partner in ruling, and then to a sense of unbridled freedom to do and say whatever one liked, including dominating others – women, slaves, and Athens' allies, now openly labelled "subjects," *hupêkooi*.[1] Just as the extreme right (and others) in 1930s- and Vichy France linked

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1   S. Pomeroy, *Goddesses, Whores, Wives and Slaves* (New York 1975) 78; V. Wohl, *Intimate Commerce. Exchange, Gender, and Subjectivity in Greek Tragedy* (Austin TX 1998) 177–178; D. Schaps, *Economic Rights of Women in Ancient Greece* (Edinburgh 1979) esp. chs. 1 and 6; K. A. Raaflaub, *The Discovery of Freedom*, rev. ed. (Ann Arbor MI 2004) *passim*; see also, e. g., D. Halperin, *One Hundred Years of Homosexuality* (New York and London 1990) 95–96; P. Cartledge, *The Greeks: a Portrait of Self and Others* (Oxford 1993) *passim*; I. Morris, "The Strong Principle of Equality and the Archaic Origins of Greek Democracy," in J. Ober and C. Hedrick (eds.), *Dêmokratia. A Conversation on Democracies, Ancient and Modern* (Princeton 1996) 19–49.

various minorities including Jewish citizens with *métèques*,[2] so the National Front has publicly adduced the discriminatory attitudes of Athens' democracy against foreigners in support of its anti-immigration policies.[3] Similarly, classical Athens' hostility to homosexuals – also outsiders subject to public discrimination in official contexts and the theatre – was an argument in the "Colorado Gay Rights Case" (Evans v. Romer) of 1993.[4]

The current essay seeks to reinforce but also circumscribe these perspectives on ancient Athens. Discriminatory attitudes marked the first two generations of Athens' democracy more systematically than scholars have recognized, also targeting the aristocracy, a development that might have interested Alexander Fuks, a student both of Athens' fifth century constitution and of Greek social and economic strife. In later decades, despite the National Front and its ilk, with important exceptions Attic society became more inclusive and open, for reasons we shall consider, and some of the early democracy's discriminations were seen as aberrant.

II. KLEISTHENES' HERRENDEMOKRATIE

However deep the roots of democracy in early Greece, most scholars agree that following the tyranny of Peisistratos and his sons, Athens became democratic in 508/7 under Kleisthenes' leadership.[5] In the new democracy, male citizens explicitly relegated to themselves an egalitarian civic status that therefore they denied to all others.

Symptomatic is the Kleisthenic institution of deme citizen lists, which registered 18-year-old Athenian males. For the first time Athens now officially stated that women and foreign residents were not counted. Hereditary membership in demes meant that outsiders were no longer accepted into the citizen body.

Disbanded under Peisistratos, Athens' hoplite army was now reconstituted.[6] Henceforth all male citizens fought side by side in mass battle lines regardless of

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2   Charles Maurras, head of *Action française*, denounced "l'anti-France: juifs, Protestants, maçons, métèques". In Jean Renoir's 1939 *La Règle du jeu*, "aux yeux du cuisinier, être 'juif,' 'métèque' – les deux adjectifs s'enchaînent immédiatement dans son propos …", "à l'époque, l'association métèque-juif est trop bien établie": P. Sorlin, "Présence des juifs dans le cinéma français à la veille de la seconde guerre mondiale", in M. Yardeni, *Les juifs dans l'histoire de France* (Leiden 1980) 194, 206.

3   In the final chapter of *Born of the Earth: Myth and Politics in Athens* (trs. S. Stewart, Ithaca NY 2000) = *Né de la terre. Mythe et politique à Athènes* (Paris 1996), N. Loraux critiques the National Front's abuse of ancient Athens to promote its anti-immigration policies.

4   See R. Posner, *Public Intellectuals: a Study of Decline* (Cambridge, Mass. 2003) 367 and his bibliography in notes 21 and 22.

5   See K. A. Raaflaub, J. Ober, and R. W. Wallace (eds.), *The Origins of Democracy in Early Greece* (Berkeley and Los Angeles 2007).

6   ([Arist.] *Ath. Pol.* 15.3–4, 18.4, cf. Thuc. 6.56.2 and 58. See H. van Effenterre, "Clisthène et les mesures de mobilisation", *REG* 89 (1976) 1–4, P. Siewert, *Die Trittyen Attikas und die Heeresreform des Klesithenes*, *Vestigia* 33 (Munich 1982) 154, and F. Frost, "The Athenian Military before Cleisthenes", *Historia* 33 (1984) 283–294.

personal status, reinforcing their egalitarian and dominant sense of self. After an impressive series of victories in 506, Herodotos comments, "Athens went from strength to strength, and proved … how noble a thing everyone's equal voice in politics [*isêgoria*] is … when freedom was won" (5.78). Inspired by even more spectacular victories at Marathon (490), Salamis (480), and Plataia (479), down to 449 Athens' hoplites and increasingly also its poorer citizens fought intensely on behalf of some 300 allied city-states which mostly preferred to avoid military service, paying instead a small contribution for Athens' protection. In Aeschylus' *Eumenides* (458 BC), line 864, the goddess Athena offers an extraordinary blessing to her people: "may you have external war and plenty of it."

Bernhard Zimmermann, Peter Wilson, and others have called attention to the expanded role that all-male civic festivals played in the new democracy.[7] In 508/7 itself (*Marm. Par.* 46, see also *Souda*, s.v. "Lasos" of Hermione), the Athenians instituted annual dithyrambic contests at the Great Dionysia, for which Athens' ten new civic tribes each supplied choruses of fifty men and fifty boys, singing what Zimmermann calls "the songs of the polis." The democracy did not fund similar choruses for women, although in archaic Greece female choruses were more important.[8]

Between 510 and 470, many Attic vases depict what has been called "a strictly male-oriented, egocentric eroticism," active hostility toward prostitutes and their abuse and degradation, ugly whores being beaten with slippers while satisfying two men, and so forth.[9] Other vases show violence against women, such as Achilles stabbing Penthesilea. While not "snap shots" of daily life, still, these paintings, often on symposion crockery, will illustrate some men's social fantasies and ideologies about women. (So much for the glorious *Marathonomachoi*.)

In these decades the Athenians "invented the barbarian."[10] The admittedly not wholly consistent contrast between bad Persians and good Athenians in Aeschylus' *Persians* (472 BC) makes this the one play of his I do not like. A well-known vase of the 460s shows what might be a trousered Persian saying "I am Eurymedon, I stand bent over," as a naked Athenian approaches distending his penis, linking sexual with military domination over foreigners.[11] The Eurymedon was the site of a great Athenian victory over the Persians ca. 467.

The Athenians also now claimed to be autochthonous, conveying a sense of superiority over other Greeks, such as the Sicilians whom Thucydides' Alkibiades

7   B. Zimmermann, "Das Lied der Polis: zur Geschichte des Dithyrambos", in A.H. Sommerstein, J. Henderson, and B. Zimmermann (eds.), *Tragedy, Comedy and the Polis* (Bari 1996) 42–43; P. Wilson, "The Politics of Dance: Dithyrambic Contest and Social Order in Ancient Greece", in D.J. Phillips and D.M. Pritchard (eds.), *Sport and Festival in the Ancient Greek World* (Swansea 2003) 182.

8   See C. Calame, *Les Chœurs de jeunes filles en Grèce archaïque* (Rome 1977).

9   See R. Sutton, Jr., "Pornography and Persuasion on Attic Pottery", in A. Richlin (ed.), *Pornography and Representation in Greece and Rome* (Oxford 1992) 3–35.

10 E. Hall, *Inventing the Barbarian: Greek Self-Definition through Tragedy* (Oxford and New York 1989); J. Hall, *Ethnic Identity in Greek Antiquity* (Cambridge 1997) 45–47.

11 For references and controversies, see A.C. Smith, "Eurymedon and the Evolution of Political Personifications in the Early Classical Period", *JHS* 119 (1999) 128–141.

called a mixed and swollen rabble (6.17.2), and over women, as man born from earth precludes man born from woman.[12] Athens' elite international aristocracy sometimes married wealthy non-Athenians and non-Greeks (for example, Thucydides' father married a Thracian, inheriting gold mines). In 451/0 the democracy legislated that future citizens must have Athenian blood on both sides ([Arist.] *Ath. Pol.* 26.4). As we shall see, as well as opposition to the aristocracy, ethnocentrism was a factor behind this measure.

Even earlier, in the 480s after the great hoplite victory at Marathon, the democratic assembly tasted the pleasure of ostracizing prominent aristocrats seven years in a row (*Ath. Pol.* 22). As Ober notes, whomever "Cleisthenes designed the weapon to be used against, those who ended up ostracized were members of the elite."[13]

While Solon made it illegal to enslave Athenians already in the early sixth century, under the fifth-century democracy chattel slavery increased, not least because citizens' greater liberties now limited exploitation within the civic community and participation in democratic government implied freedom from physical toil.[14] Although untenable, the report that Demetrios of Phaleron's census counted 21,000 citizens, 400,000 slaves in 317 (Athenaios 272c) may at any rate imply that Athens appeared to have many more slaves than citizens. Moses Finley concluded, "the cities in which individual freedom reached its highest expression – most obviously Athens – were cities in which chattel slavery flourished," noting "the advance, hand in hand, of freedom *and* slavery."[15]

III. TOWARDS INTEGRATING ATHENS: THE EVIDENCE OF TRAGEDY, 463–431 BC

Despite excellent work on civic harmony between elite Athenians and the citizen masses especially during the fourth century, many scholars (including those cited at the beginning of this essay) believe that the exclusionist attitudes of the early fifth century remained characteristic of the classical period.[16] In this essay I shall argue

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12   See N. Loraux, *Born of the Earth* (as in n. 3), id., *The Invention of Athens*, tr. A. Sheridan, (Cambridge, Mass. 1986) = *L'invention d'Athènes* (Paris 1981), and id., *The Children of Athena. Athenian Ideas about Citizenship and the Division between the Sexes*, tr. C. Levine (Princeton 1993; pp. 53–56 discuss the Kleisthenic period) = *Les enfants d'Athéna* (Paris 1984).

13   J. Ober, *Mass and Elite in Democratic Athens* (Princeton 1989) 75, and see M. Christ, "Ostracism, Sycophancy, and Deception of the Demos: [Arist.] *Ath. Pol.* 43.5", *CQ* 42 (1992) 337–338.

14   Y. Garlan, *Slavery in Ancient Greece*, tr. J. Lloyd (Ithaca NY 1988 = *Les Esclaves en Grèce ancienne*, Paris 1982) 39.

15   M. I. Finley, "Was Greek Civilisation Based on Slave Labour?", *Historia* 8 (1959) 145–164, rev. in B. Shaw and R. Saller (eds.), *Economy and Society in Ancient Greece* (New York 1982) 114–115 (his emphasis), see also G. E. M. de Ste. Croix, *The Class Struggle in the Ancient Greek World* (Ithaca NY 1981) 141–142, and Garlan (as in n. 14) 39. See also in this volume chap. 3 by Herman.

16   Cf. G. Herman, *Morality And Behaviour in Democratic Athens: A Social History* (Cambridge 2006) 66–70, that metics and slaves were not total outcasts.

that some public reaction against some of these attitudes began already in the 460s, in defense of women and metics, and in later decades came to include slaves and (very occasionally) foreigners. This public opposition either changed or reflected a change in at least some public attitudes by the democracy. To be sure, when citizens addressed citizens in the Assembly or courtroom, discriminatory attitudes especially against slaves and foreigners sometime resurfaced. Yet especially after 450, much evidence documents a growing public sense of sympathy or even respect for those outside democracy's privileged group, in ways consistent with the Athenians' fundamental respect for others[17] and developments in democratic ideology. A related development is a public aversion to war, starting from the early 440s.

Enmeshed within their political and social contexts,[18] tragedies constitute our principal source for the issues preoccupying Athens before orators began publishing their speeches toward the end of the fifth century. Although the bonds between tragedy and Athenian democracy have been challenged,[19] the reasonable assumption that tragic poets wrote about issues that were important to them and their audiences, including political and social issues, is borne out by the texts. In particular, every extant tragedy between 463 and 431 protests men's mistreatment of women, bringing before the Athenians brave, strong, and victimized women, and appalling, sometimes outrageous men. Most of these plays also challenge other exclusionary attitudes of post-508/7 Athens.

Aeschylus' *Suppliant Women* (463 BC) is set in Argos "which does not like long speeches" (273) and which has a ruler (251, 252, 259) Pelasgos (all "distancing" elements in early lines of the drama[20]). However, Pelasgos acts as the Danaids' *proxenos* (a formal although not only democratic status) and defers to the vote of the assembled demos: Argos' government is a democracy.[21] The Danaids have fled to Argos, preferring to die rather than be forced into hateful marriages. "Whatever happens, let me never come under the sway of the males" (392–93, also 643–45, 816–21). The Argive demos votes to protect them. Furthermore, although they look like barbarians (235 ff., 276 ff.), different from the locals against whom their father Danaus seeks protection (490–99), their genos originated in Argos (324–25) and so their status is ambiguous (they are *astoxenoi,* "native foreigners" [356],

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17 See Herman (as in n. 16) and *passim.*

18 See most conspicuously S. Goldhill, "The Great Dionysia and Civic Ideology", in J. Winkler and F. Zeitlin (eds.), *Nothing to Do with Dionysos? Athenian Drama in its Social Context* (Princeton 1990) 97–129. Contrast J. Griffin, "Sophocles and the Democratic City", in J. Griffin (ed.), *Sophocles Revisited: Essays presented to Sir Hugh Lloyd-Jones* (Oxford 1999) 73–94.

19 P. J. Rhodes, "Nothing to Do with Democracy: Athenian Drama and the *Polis*", *JHS* 123 (2003) 104–119, critiques aspects of the performances and plays that some have considered democratic. Here I discuss dramatic themes that are anti-democratic.

20 On "zooming" and "distancing" elements, see C. Sourvinou-Inwood, "Assumptions and the Creation of Meaning: Reading Sophocles' *Antigone*", *JHS* 109 (1989) 134–148.

21 See *Suppl.* 365–75; 396–401; 425; 600–605, including the democratic assembly formula *edoxen Argeioisin,* "it seemed best to the Argives"; 699: the people *kratunei,* "rules" the polis; 739–40: the Argives' vote is final, and so 942–44; 485: its people enjoy criticizing the government. For the many elements in the play recalling democratic Athens, see G. W. Bakewell, "*Metoikia* in the *Supplices* of Aeschylus", *Class. Ant.* 16 (1997) 209–210.

xenikon aston th'hama, "foreign and native at once" [618], kin [652]). Just as *prox-enoi* are charged with representing resident foreigners, so Pelasgos (419, 615 ff., 963) and finally the whole people (964) commit to protecting the Danaids, and they themselves pray that the Argives will be kind to *xenoi*, giving them the right of due process in lawsuits (701–3). By unanimous vote the Danaids become metics (609), both free and protected (610–14).

Suppliant Women's main theme is a democracy's defense of helpless women. A second main theme is its legal protection of resident foreigners. Although White-head and others date the institution of the metic status at Athens to the Kleisthenic period, Bakewell has more recently argued for its establishment shortly before 463 – an establishment which *Suppliant Women* celebrates.[22] By contrast, *Suppliant Women* extends little sympathy to "barbarians" – or at least, barbarian men. Pelasgos says to the Egyptian herald, "Do you imagine it is a city of women you have come to? Barbarian that you are, you go too far in insulting the Greeks" (913–14). "Males you shall find in this land – not people who drink barley-brew!" (951–52).

Aeschylus' *Oresteia* of 458 brings on stage a brutal, adulterous Agamemnon who abandoned his wife for 10 years, killed their daughter, returns home with a barbarian captive concubine, and walks on a red carpet. Early in the play Aeschylus condemns him, once he decides to kill Iphigeneia: "when he had put on the yoke of necessity, his spirit veered impious, unholy, unsanctified, from that hour his purpose shifted to resolve that deed of uttermost audacity … wretched delusion … he hardened his heart" (217–23). Agamemnon is in fact appalling throughout. As for Clytemnestra, in Homer she does not kill Agamemnon (Aegisthos does), so Aeschylus' audience will be uncertain how to judge her many words of loving devotion (e. g., "I must make best haste to receive my honored husband on his return – for what day's light dawns sweeter for a woman than this, when a god has brought her man safe home from a campaign and she unbars the door?": 601–14). She addresses the lot of women sympathetically ("First and foremost, an evil full of terror is it for a wife to sit forlorn at home, severed from her husband, forever hearing many terrible rumors …": 861–76). She prays that the army return safely (341–49). And if at the play's finale she proves to be "transgressive," killing her husband, admitting adultery, aspiring to power, she is at the same time bold, strong, and justified. Her speech is the greatest in tragedy: "Much have I said before to serve my need and I shall feel no shame to contradict it now. For how else could one, devising hate against a hated foe who bears the semblance of a friend, fence the snares of ruin too high to be overleaped? This is the contest of an ancient feud …": 1374–95). She had no alternative recourse against her husband. As Winnington-Ingram observes, "It is hard to believe that Aeschylus, whose women have such powers and courage, regarded with complacency … the degraded status of women, … an injustice which damaged their society."[23] As for Cassandra, a female barbarian slave, Clytemnestra cannot manipulate her (see lines 1055, 1066, 1068) and she bravely

22   D. Whitehead, *The Ideology of the Athenian Metic* (Cambridge 1977) 143–47; Bakewell (as in n. 21) 219–228.

23   R. P. Winnington-Ingram, "Clytemnestra and the Vote of Athena", *JHS* 68 (1948) 147.

goes to meet her fate. "Thus the slave proves herself superior to the conqueror, the barbarian to the Greek, the woman to the man" (Winnington-Ingram, ibid. 134). Later in *Choephori* the captive slave-women chorus say that their masters are sometimes unjust but they have nonetheless become loyal to them (75–81), implying the injustice of slavery and the Greeks' desire to think that slaves felt some good will toward their masters (see also Electra at 99–105, and the chorus's comments *passim*). At the end of *Eumenides*, the Furies become honored metics, bringing prosperity to Athens (*Eum.* 1011). They proclaim, "Inhabiting the city of Pallas and honoring my *metoikia* you will not fault the outcomes of your lives in any way" (1017–20). They put on purple clothes (1027), recalling the metics' purple cloaks in the Panathenaic procession.[24]

Sophokles' *Ajax*, probably of the 440s[25] and his first extant play, contains a series of almost Euripidean debates on democracy's outsiders. Its main controversy is whether an aristocrat who tried to slaughter his own people deserves an honorable burial. Along with Ajax's enemy Odysseus, the play concludes that he does. A second issue, in the play and in Athens' democracy,[26] is whether aristocrats must obey city officials, which in his great "deception speech" Ajax says he will but then kills himself (666–71). In a subsequent debate, Menelaus (an official) argues that everyone must obey officials, calling Ajax an *anêr dêmotês*, an "ordinary man" (1052–85), while Ajax's half-brother Teuker hotly denies that the nobleman (*esthlos*) Ajax was subject to anyone (1093–1117). Menelaus also challenges the merits of Athens' new democratic ideology of "living as you like," first attested in *Ajax* and which Athens' conservatives misrepresented as "doing what you want."[27] "Laws will never be rightly kept in a city that knows no fear or reverence … Insubordination and doing as you like … invariably … drive a city on … into the sea … Let's not think we can do just what we please" (1071–86).

As for Athens' other outsiders, women, slaves, and foreigners, in a poignant speech "marked both by intense pathos and by the persuasiveness of its arguments,"[28] Ajax's loving and devoted captive slave concubine, the mother of his dear son Eurysakes, Tekmessa appeals to him not to kill himself as she will "no longer have anywhere to look for help" (515). "You are my only safety." All brutal Ajax can say is she will gain his approval "if only she sets her mind to do what I order her" – she immediately says she will obey. When Tekmessa laments his upcoming death, he exclaims, "What a plaintive creature woman is!," and tells her she's growing tedious trying to save him (579–96). She asks, "*despot' Aias*, what are you thinking of

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24 See Bakewell (as in n. 21) 222.
25 A. Garvie, *Sophocles Ajax* (Warminster 1998) 6–8 with references ("nothing contradicts a date in the 440s").
26 See my "'Listening to the *Archai* in Democratic Athens", in R. W. Wallace and M. Gagarin (eds.), *Symposion* 2001. *Akten der Gesellschaft für Griechische und Hellenistische Rechtsgeschichte* (Vienna 2005) 147–158.
27 See R. W. Wallace, "Law, Freedom and the Concept of Citizens' Rights in Democratic Athens", in J. Ober and C. Hedrick (eds.), *Dêmokratia. A Conversation on Democracies, Ancient and Modern* (Princeton 1996) 105–119.
28 Garvie (as in n. 25) 169.

doing?" to which he replies, "Do not question me, do not examine me. Self control [*sôphronein*] is good" (586). We – and the Athenians – surely sympathize with Tekmessa.

In the same speech Tekmessa addresses the issue of slaves. She begins, "Ajax, my *despotês*, for people there is no greater evil/than to be at the mercy of compelling fortune. I was born of an *eleutheros patêr* [free father]; if any man in Phrygia was strong and prosperous, he was. Now I'm a *doulê* [slave] … But since I've come to share your bed with you, my thoughts are loyal to you and yours" (485–92). If he dies, she says, she will be a slave of his enemies and someone of the *despotai* will make a hateful comment that she is now in servitude, *latreia*. This speech echoes Andromache and Hektor in *Iliad* 6.406–96. However, Andromache is not a slave but Hektor's loving wife – the play thus assimilates these women – and Hektor says not a *despotês* with hate but a Greek will see her and comment sympathetically on her captive state. Later, Teuker also fears returning home to his father Telamon, because his mother was a captive slave. "Bastard and gotten by the warspear, coward, nerveless deserter and abandoner … In the end I'll be cast into exile and denied by country, shown to be *doulos logoisin* – a slave by words–and not an *eleutheros* [free man]" (1013–20). He later remarks, "Men, I never shall be amazed again to see a man of humble birth go wrong, When those who claim the noblest birth of all utter such wrongful speech" (1093–96). Finally, Agamemnon addresses Teuker, "You there! Are you the one they tell me of, who has made bold to yawp these powerful speeches, unpunished, so far, against me? You, the son of a captive slave-woman! What if your mother had been a princess? Then I think you'd strut, then you'd talk big! … These are quite some taunts to hear from a slave." Teuker replies, "The slave, yes! the barbarian mother's son!" (1226–35; 1289). Sophokles here addresses slavery sympathetically, noting the arbitrariness of their unfortunate status. Tekmessa's expressions of loyalty match those of the chorus in *Choephori*.

If Tekmessa mentions that she is of Phrygian (that is, Trojan) origin, on the issue of foreigners Teuker bears the most powerful witness in *Ajax*, responding to Agamemnon, "The slave, yes! the barbarian mother's son! Wretched man, why do you light upon that taunt? Aren't you aware that your own grandfather, Old Pelops, was a barbarous Phrygian? … You yourself had a Cretan for your mother, in whose bed an interloping foreigner was discovered … These are your origins. Can you censure mine?" (1289–98).

I shall argue elsewhere that *Ajax* relentlessly opposes Athens' democratic ideologies because it was performed in 444, when democratic Perikles' contest with the conservative Thucydides son of Melesias was most intense, and a major grain donation by Psammetichos the preceding year had induced the Athenians to drive some 5000 men and their families off the citizen rolls as foreigners (Philochoros *FGrHist* 328 fr. 119 = schol. Ar. *Wasps* 718, see also Plut. *Per*. 37.4). *Ajax*'s defense of democracy's outsiders including the aristocracy reflects the turmoil of these developments.

Following Thucydides' ostracism in 443, *Antigone* of 442 reprises *Ajax*'s main theme, that an aristocrat who tried to kill his own people should nonetheless receive an honorable burial. However, unlike *Ajax* Sophokles' *Antigone* no longer mentions

Polyneikes' aristocratic status (clearly, not a winning argument for the playwright) but only once Ismene's (*eugenês, esthlê*: 38), stressing instead family ties and the family gods. *Antigone*'s main issue is women. Reflecting Sophokles' dramatic genius, if Antigone herself is sometimes offensive and inconsistent (in anger she straightway says she hates her sister Ismene [94], while later claiming that she was born to love [523] and defends her family), she is nonetheless proven right. Kreon's first word is *andres*; again and again he says he refuses to yield to a woman; "I am no man and she the man instead" if she prevails (485); "I won't be called weaker than a woman" (525) etc.; and yet a woman is proven right. As Mark Griffith says, "as we hear Kreon shrilly – and erroneously – berating his nieces and son, and insisting on the need for men always to 'be master' of women, even the most misogynistic and paternalistic Athenian must have felt some qualms."[29]

As for later plays, down to the outbreak of the Peloponnesian War in 431, the gods terribly victimize Io in *Prometheus Bound*, probably written ca. 445–435. In Sophokles' *Women of Trachis,* everyone is undone because of brutal, adulterous Herakles' infidelity to his devoted wife Deinaneira. In Euripides' *Alcestis* of 438, all the male characters are appalling: Jason, Pheres, Admetos. Only Alcestis is brave, generous, and strong, sacrificing herself for her husband and then staring silently as he betrays his vows to her. And if Euripides' Medea is more complex than Alcestis and ends up a killer like Clytemnestra, in 431 BC she too delivers cogent arguments against women's difficult circumstances, while both Kreon and Jason speak and behave disgracefully.[30] Written by men to audiences of men, all these plays protest men's mistreatment of women.

IV. TOWARDS INTEGRATION

What were the historical contexts of tragedy's debates over Athens' outsiders? As recent work by Cynthia Patterson, David Cohen, Virginia Hunter and others has shown, from the 450s down through the fourth century Athenian women's lives often improved and public consideration of women increased, on stage, in cemeteries, and in courtrooms.[31] Robin Osborne has documented the more sympathetic treatment of women on white figure *lekythoi* from the later 460s and Attic funerary monuments after mid-century.[32] He writes, a person entering an Attic cemetery in the late sixth century would see monuments almost entirely of men. A century later,

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29   M. Griffith, *Sophocles Antigone* (Cambridge 1999) 51.

30   See recently C. A. E. Luschnig, *Granddaughter of the Sun: A Study of Euripides Medea* (Leiden 2007).

31   D. Cohen, *Law, Sexuality and Society. The Enforcement of Morals in Classical Athens* (Cambridge 1991) see especially ch. 6; the essays in V. Hunter and J. Edmondson (eds.), *Law and Social Status in Classical Athens* (Oxford 2000); C. Patterson, "*Hai Attikai*: the Other Athenians", *Helios* 13 (1986) 49–67, and ead., "Other Sorts: Slaves, Foreigners, and Women in Periclean Athens", in L. J. Samons (ed.), *Cambridge Companion to the Age of Pericles* (Cambridge 2007) 167–171.

32   R. Osborne, "Law, the Democratic Citizen, and the Representation of Women in Classical Athens", *P&P* 155 (1997) 3–37.

he would see mostly women and children. As Robert Sutton has showed, porno-graphic vases slow in the 460s and stop by 450. Later vases typically depict polite romantic scenes of courting, bathing, and weddings, which Sutton thinks were "aimed in good part at a feminine audience that had previously been neglected" and which he compares to the Hollywood films of Doris Day and Rock Hudson.[33] He concludes that the growth of democracy promoted restraint, channeling emotions into socially beneficial avenues. Perikles' 451/0 citizenship law not only valued Athenian women, but (re)admitted them to citizen status. The point of Osborne's 1997 article is that this law reflected rather than produced this revaluation. Con-versely, some laws affecting women sometimes ceased to be enforced. Although much of our evidence for this phenomenon is fourth century, David Cohen showed that lots of adultery by wives did not result in the legal penalty of divorce but was ignored.[34]

Some evidence suggests that democratic ideology was itself changing. In Hero-dotos' "Constitutional Debate," a defining sin of the *monarchos* is that he abuses women (3.82). In his debate with Aeschylus in *Frogs*, Euripides remarks, "right from my first plays I had women speak and slaves no less, and the master and the girl and the old lady." When Aeschylus (a *Marathonomachos*) objects, "Ought you not to die for such audacity?," Euripides states, "No, by Apollo, for it was demo-cratic what I was doing" (948–52). Thus, at least by the end of the fifth century, if someone asked what is democracy, the answer might not only mention men. Of course, contrary examples occur, here most conspicuously in the brief, dismissive comment about women in the Funeral Oration (2.45.2) which Thucydides wrote for Perikles in 430, parodying outdated Kleisthenic traditions in ways actually counter-indicated for Perikles (contrast his citizenship law and his devoted love for Aspasia [Plut. *Per*. 24, 32]).

Finally, the fifth-century democracy was itself behaving more as an elite, as citizens governed, fought, received *epitaphioi,* funeral orations (possibly from 464) or a burial mound as at Marathon, attended intellectually sophisticated theatrical productions, and had slaves to work for them. In some contexts they came to wel-come not the severe, post-Kleisthenic vision of women, but a more tolerant, gentle, and inclusive one, more typical of elites.

As for slavery, we have become ever more aware of Athens' public ideologies to treat slaves well, although again much of our evidence is late fifth- or fourth-century.[35] Ps.-Andokides 4.21 (*Against Alkibiades*) claims that Alkibiades "carries his criminal excess so far that, after recommending that the Melians be sold into slavery, he purchased a woman from among the captives and has had a child by her." This child's family is "divided between those who have committed and those who have suffered the most extreme wrongs … this woman he turned from free into

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33 Sutton (as in n. 9) 4.
34 Cohen as in n. 31.
35 So for example in [Dem.] 47 the speaker is pleased to mention to his fellow citizens that the old slave nurse eats in the courtyard together with the family (55), drinks and eats from the same costly vessel (58), her master expresses confidence in her (56), and when she becomes sick, the family doctor cares for her (67).

slave, whose father and male relatives he killed, and whose polis he obliterated."
Ps.-Andokides here echoes the morality of *Ajax*'s Tekmessa, and he expects his
audience to be sympathetic. Remarkably, he also expresses sympathy for the Meli-
ans. In tragedy, again just outside our period, Euripides especially expresses sym-
pathy for slaves.[36] In *Andromache* 648–49 the wicked Spartan Menelaus expresses
outrage that Peleus should be at odds with him over "a *barbaros* woman" – Hek-
tor's captured wife Andromache, whom Homer defined as a sympathetic person.
Trojan Women bitterly indicts the Greeks' mistreatment of captive women. *Ion* and
several fragments mention that slaves were such in name only and might be as wor-
thy as free persons. Old Comedy, a rougher, more populist genre, mostly represents
slaves harshly, although this too will change in the fourth century.

Only on foreigners does the picture remain fairly gloomy. Although the regu-
larization of the status of resident foreigners in or before 463 was a bright spot, still,
in the *parabasis* of Aristophanes' *Acharnians* (lines 507–8), of 425 BC, Dikaiopolis
likens metics – present in the audience – to husks of grain: citizens are the kernals.
Euripides' Ion prays, "May I have free speech (*parrhêsia*) from my mother. For if
some foreigner fall into the pure city, even if he be an *astos* in name, his mouth will
be slave, and he has no *parrhêsia*" (*Ion* 671–75). In 403 the Athenians could not
bring themselves to enfranchise the metics and slaves who had fought for the de-
mocracy (cf. [Arist.] *Ath. Pol.* 40). After *Ajax*, Sophokles' extant plays never again
defend foreigners or slaves. A second bright spot is that, as with women, the Athe-
nians sometimes ignored their own exclusionary laws against foreigners, most no-
tably Perikles' citizenship law during the Peloponnesian War. And again, the situa-
tion improves in the fourth century.[37]

By contrast, a more positive picture of slaves, metics, and foreigners in Athens'
democracy is provided by some well known if rhetorical statements by elite anti-
democratic conservatives, who once had lamented the democracy's mistreatment of
women but now lamented what they decried as the elevated status of women, slaves,
and metics. "At Athens," the Old Oligarch complained ca. 424, "there is the greatest
licentiousness among the slaves and metics" (1.10). Despite their "maximum *ako-
lasia* [licentiousness]," "you cannot hit slaves, and a slave will not stand aside for
you."

> For the people are no better dressed than the slaves and metics, nor are they better looking. …
> They allow the slaves to live luxuriously there and some of them to enjoy a grand lifestyle, …
> and to let them go free … . we have made 'equal speech' (*isêgoria*) for the slaves in relation to
> the free, and for the metics in relation to the citizens (*astoi*). (1.10–12)

These complaints echo down into the fourth century. "Even in private homes," Xen-
ophon complains, slave owners, "though nominally masters, were quite unable to

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36 W. K. C. Guthrie, *A History of Greek Philosophy* III (Cambridge 1969) 155–159, argues from
    Euripides' many passages protesting slavery that he must have thought it should be abolished.
37 Demosthenes 22.54 lambasts the tax-collector Androtion "for imprisoning and outraging (*hu-
    brizein*) Athenian citizens and the unfortunate metics, whom you have treated with greater *hu-
    bris* than your own slaves." [Demosthenes] 25.56–57 indignantly takes Aristogeiton to task for
    striking, driving out, and dragging away to auction a female metic who had once been his con-
    cubine and taken him in.

assert their authority over" their slaves (*Cyr*. 1.1). Plato bitterly complains "how much equality (*isonomia*) and freedom (*eleutheria*) there is among women toward men and among men toward women" in democracies (*Republ*. 563b). For Plato, Athens' democracy meant excessive freedom for everyone. Slaves, women, metics, even Athens' horses and donkeys were "full of freedom," bumping into everyone they met and refusing to step aside for citizens on the street (*Republ*. 562c–64a). Plato's indignation produced the provocative inversion that in democratic Athens slaves were free (*Republ*. 563b).

Thus, while Kleisthenic democracy began in an exclusionary mode, distinct from aristocratic culture, starting already in the later 460s protests were raised against this, and society became more inclusive. By contrast, Athens' anti-democratic elite first protested against the democracy's civic and social exclusions, but then perversely, came to embrace them.

V. THE WANING OF ATHENIAN MILITARISM

One final note, on the new democracy's fighting spirit after 508/7. Following some disastrous military campaigns and poor military leadership in the 450s (see [Arist.] *Ath. Pol*. 26.1), in particular the 454 catastrophe in Egypt where perhaps 8,000 citizens died – one in five (Thuc. 1.109–10), the Athenians' earlier sentiments of "gung-ho" militarism seem to have shifted. They made peace with Persia in 449. In 446 after a massive defeat in Boiotia including the death of their general Tolmides (ibid. 113), they ended their intermittent 15-year war with Sparta which they themselves had started. Although the outbreak of the Peloponnesian War in 431 should have marked a high point of Athenian militarism, the evidence suggests that Athens' militaristic spirit had continued to wane. Thucydides and other sources repeatedly state that before the Peloponnesian War both the Athenian demos and the Spartans tried hard not to fight, Sparta sending repeated embassies to Athens, in particular saying there would be no war if only the Athenians repealed the Megarian decree (Plut. *Per*. 29–30). In Thucydides 1.140 Perikles remarks, "Let none of you think that we should be going to war for a trifle if we refuse to revoke the Megarian decree. It is a point they make much of, and say that war need not take place if we revoke this decree." Thucydides himself admits that Perikles provoked the war. In 2.60 Thucydides' Perikles tells the Athenians, "you allowed me to persuade you to go to war." In 1.139 Thucydides writes, "[Perikles] was opposed to the Spartans in all things. He would not allow the Athenians to yield, but was always urging them on to the war." After the first year of conflict, Thucydides' Perikles repeatedly rebukes the Athenian for changing their minds about continuing the fight (2.59, 60, 61, 62). In *Per*. 18–28 Plutarch shows that in the period 448–431, Perikles had been Athens' main hawk, fighting against Thracians and Peloponnesians and Akarnanians; fighting in the Black Sea; "he set himself in opposition to the Spartans in every way," as in the Sacred War of ca. 448 (*Per*. 21); he was the principal driver behind Athens' war with Samos between 440 and 437 (ibid. 24–28). In 432 the Spartans tried to have him expelled from Attika, because they knew the path to peace would

be easier without him (ibid. 33). It is furthermore striking that Perikles' strategy involved virtually no role for the hoplites. Let the Spartans trash Attica, the Athenians must sit safely behind their walls and strike with their fleet. And so it happened. The Athenians watched the Spartans trample their farmland and burn their crops. In the course of the war, only two set hoplite battles are attested, at Delion and at Mantinea.[38] Why did the hoplites go along with this idea? Aristophanes' comedies offer bitter satire that the Marathonians were now too old and the young were not too competent or keen. In *Clouds* of 423, "Just Argument," a *Marathonomachos*, claims that young men now can scarcely hold their shields thigh-high (928). At *Memorabilia* 3.5, Xenophon's Sokrates mentions that instead of taking the war against their hated neighbors the Boiotians, "after the disaster sustained by Tolmides and the Thousand at Lebadea [= Coronea, 446] and by Hippokrates at Delion [424], the Athenians began to fear that the Boiotians might invade them." Mostly the lowest class, the thetes, now fought, in ships and for pay.[39]

Unlike standard hoplite warfare, an hour's clash in a barleyfield, the Peloponnesian war dragged on for 27 years. If Herodotos glorifies war, Thucydides talks of its nightmares. He calls war a teacher of violence (3.82) and recounts horrifying scenes of fathers against sons, Thracian mercenaries butchering women and children at Mykalessos (7.29–30), and in the Melian dialogue in 416 (5.84–113). Euripides staged *Trojan Women* in 415, on the Greeks' savage treatment of wholly innocent women prisoners of war. Some have read this play as a snapshot documenting men's brutalities. It is the opposite, as is Thucydides. Greeks had behaved savagely to the defeated long before Melos. Now for the first time Athenian men protest this.[40] Aristophanes' many peace plays, Euripides' *Suppliant Women*, *Andromache*, and *Hecuba* all fit with these developments, as does the diminution of violence in other areas. For example, the Athenians now replace their older methods of execution – exposure (nailless crucifixion on a plank) or precipitation from a high rock – by hemlock, like our quiet lethal injection. Although space precludes a detailed explication of fourth century developments, these trends continued, when war also mostly changed its nature, away from hoplite citizen battles to lengthy struggles, the development of siegecraft, and much fighting by mercenaries and "condottieri."[41]

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38   A. Andrewes, Th*e Greeks* (London 1967) 152.

39   On the low military status of thetes in Attic society, see W. R. Connor, "Early Greek Land Warfare as symbolic expression", *P&P* 119 (1988) 26–27. On the increased use of non-hoplite troops in the Peloponnesian War, see ibid. 27–29 and M. Moggi, "L'oplita e l'arciere (ideologia e realtà tra guerra antica e guerra moderna)", *Ktema* 27 (2002) 195–206.

40   War cranked up again in 415 with the Sicilian expedition. The Athenians sent three generals of contrasting opinions on the merits of this venture, and a huge armament to ensure success, notwithstanding their misgivings.

41   See M. Bettalli, "I 'condottieri' di Taranto e la guerra nel mondo greco", in *Alessandro il Molosso e i "condottieri" in Magna Grecia*, Atti del 43mo Convegno di Studi sulla Magna Grecia (Taranto 2004) 111–134. There were to be sure citizen-soldiers still in the 4th century: see L. Burckhardt, *Bürger und Soldaten. Aspekte der politischen und militärischen Rolle athenischer Bürger im Kriegswesen des 4. Jahrhunderts v. Chr.* (*Historia* Einzelschr. 101, Stuttgart 1996), and more compactly, id., "Söldner und Bürger als Soldaten für Athen", in W. Eder (ed.), *Die athenische Demokratie im 4. Jh. v. Chr.* (Stuttgart 1995) 107–133.

The Athenians now voted categorically that the major funding they set aside for theatrical subsidies must not be used for war. In Plutarch's *On the glory of the Athenians* (Mor. 349a–b = Dem. fr. 115), Demetrios of Phaleron, governor of Athens at the end of the fourth century, contrasted the meager resources directed toward fighting the barbarian with the ruinous costs of competing in theatrical productions. A major, significant innovation of this century was the Common Peace which the Greeks together made many times, as in 375, 371, 368, 366 – perhaps these agreements did not work very well, but nonetheless. When the armies of Philip of Macedon appeared on Greece's northern border, Demosthenes had tremendous difficulty, over many years, getting the Athenians to respond. His opponent Aeschines counseled compromise and peace. Demosthenes was finally able to assemble a Greek army in 338, but Macedon rolled over it at Chaironeia, the "dancing ground of Ares." Philip's son Alexander then conquered the east, with the brutish Macedonian army. The Greeks took no part.

3. THE PROBLEM OF MORAL JUDGMENT IN MODERN HISTORICAL WRITING ON ANCIENT GREECE

Gabriel Herman*

I. FANCY VALUE JUDGMENTS

My aim in this essay is to investigate the manner in which we, as historians active at the beginning of the twenty-first century, pass judgment on the ancient Greeks in general and on the Athenians in particular. In other words, how do we examine their actions and ideas – especially those themselves involved with issues of a moral nature – and categorize them as good or bad.

Historians of ancient Greece have surely wrestled with this problem through the ages, and it would be appropriate to start with a short survey of the strategies they have employed in search of a satisfactory solution. As it is impossible in the scope of this essay to cover the entire field, I shall confine myself to several landmark remarks made over the course of the last fifty or so years of historical writing concerning factors with some relevance to the stability of any social system: violence, sexuality, women, slavery and democracy. I have tried to avoid isolated statements on these subjects that did not arouse special attention, and to concentrate instead on examples that represent wider trends in research, even if they are to some extent controversial.

It would only be fair to note at this point that throughout this essay I shall be operating within a tradition that regards facts as something that happened or existed in the past, independent of the consciousness of their ancient recorder or modern interpreter. My argument would be powerless if confronted with the assumption that facts are conceptual constructions or literary artifacts that occur only in people's minds.[1] My general conclusion is that, provided we accept the reality of facts, it is possible to work out a method that enables us to turn fancy value judgments into reasoned moral evaluations.

5   Today, this position is primarily associated with postmodernism, but cf. the introduction by Sir George Clark to the second *Cambridge Modern History*, published more than fifty years ago: "… some impatient scholars take refuge in scepticism, or at least in the doctrine that, since all historical judgments involve persons and points of view, one is as good as another and there is no 'objective' historical truth", *The New Cambridge Modern History*, vol. 1 (1957) xxiv–xxv.

II. PERSONAL SELF-EFFACEMENT AND PERSONAL EXPERIENCE
AS STANDARDS OF MORAL EVALUATION

We may start with an approach that goes back to nineteenth-century positivism and persisted well into the following century. It rested on the assumption that since classical scholarship operated *sub specie aeternitatis*, the classical scholar who abided by its rules was necessarily detached and morally neutral. Shedding all prejudices and preconceptions, he (in those days there were almost no women historians), was expected to subordinate himself to the evidence and nothing but the evidence, to shield himself from contemporary influences and to refrain from moral judgment by exercising what has been dubbed "personal self-effacement".[2] It was believed that if this method was applied with sufficient rigour, then subjectivity, or bias resulting from tendentiousness, would be reduced to a negligible minimum. The wider theoretical foundations of the method were laid down by Eduard Meyer in the late nineteenth and early twentieth century,[3] but its central message is often cited in later works. For instance, the modern historian Sir Geoffrey Elton wrote: "The material left to us in the past must be read … in the context of the day that produced it … *The present must be kept out of the past* if the search for the truth of that past is to move towards such success as in the circumstances is possible".[4]

This method worked reasonably well up to a certain point, especially if the authors' assumptions were not called into question. Every now and then, however, some inadvertent aside threatened to unmask its futility. A good case in point is a remark made by Hermann Bengtson in his popular *Griechische Geschichte* (first published in 1950), concerning King Mithridates of Pontus:

> "Forty years of Roman rule in western Asia Minor provoked bitter hatred against the Romans, and this expressed itself in the frightful vespers of the year 88 B.C.: 80,000 Italians, men, women and children, fell victim to a pogrom instigated by Mithridates, *an idea which could only have occurred in the mind of an Asiatic barbarian*".[5]

At the time, this remark provoked an uproar, because Bengtson, though praised for his "sound" and "conspicuously cautious and sober" judgment,[6] was completely out of touch with post World War II mores. He chose rather to speak his mind, ac-

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2   M. I. Finley, *Ancient History. Evidence and Models* (London 1985) 48.
3   E. Meyer, *Geschichte des Altertums* I1 (6th ed., Darmstadt 1953); "Zur Theorie und Methodik der Geschichte", in his *Kleine Schriften* (2nd ed., Halle 1924) I 1–61 (original publication 1902); "Thukydides", in his *Forschungen zur Alten Geschichte* II (Halle 1899) 269–436.
4   G. R. Elton, *Return to Essentials. Some Reflections on the Present State of Historical Study* (Cambridge 1991) 27, 65, my italics.
5   H. Bengtson, *Griechische Geschichte*: *von den Anfängen bis in die römische Kaiserzeit*, Handbuch der Altertumswissenschaft iii.4 (Munich 1950) 480, my translation and italics. The original reads: "40 Jahre römischer Herrschaft hatten in Westkleinasien einen bitteren Römerhaß erzeugt, der sich in der furchtbaren kleinasiatischen Vesper des Jahres 88 v.Chr. Luft machte: 80000 Italiker, Männer, Frauen und Kinder, fielen als Opfer eines durch Mithridates befohlenen Pogroms, *wie es nur im Hirne eines asiatischen Barbaren erdacht werden konnte*".
6   See L. A. O. Larsen's review of Bengtson's *Griechische Geschichte*, CPh 49 (1954) 44–45, at 44, and M. Cary's review of the same work, CR 3/4 (1952) 192–195, at 193.

cepting and repeating, as a critique has put it, "racial interpretations of history".[7] Intent on keeping the present assiduously out of the past, he was totally insensitive to the fact that as a German in the wake of World War II, he was in no position to make such a remark.[8] That this was indeed an integral part of a systematic research strategy on his part, and not an unselfconscious slip of the tongue, became apparent from a remark he made years later concerning Mommsen's *Römische Geschichte*. In his own *Grundriss der römischen Geschichte*, published in 1968, Bengtson complained that the great nineteenth-century historian was introducing the reader "simultaneously to two pasts (*zwei Vergangenheiten*): to the time of the Romans and to the era of the political struggles of the nineteenth century".[9]

The next landmark in our survey of moral judgments passed by historians of ancient Greece is Sir Kenneth Dover, author of two major works that confront issues of Greek morality head-on. As he sought, early in the 1970s, to lay down the premises for his *Greek Popular Morality in the Time of Plato and Aristotle*, Dover must have realized that the nineteenth-century method was inadequate for his purposes. His decision to devise an alternative approach may be attributed to two ideas that were particularly influential at the time. First, there was Croce's compelling dictum, just become fashionable, that "every true history is contemporary history" (by which he meant to say that the study of the past was necessarily conditioned by contemporary considerations).[10] Second, there was E. H. Carr's admonition that to understand or appreciate the work of an historian, one has to understand the standpoint from which he himself approached it, that standpoint itself "being rooted in a social and historical background".[11] Dover did indeed acknowledge the relevance of contemporary perceptions for the history he was writing – at least *to some extent*. "To understand Greek morality", he wrote "is certainly to become capable of looking at morality through Greek eyes, but it is necessary also to switch off and become

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7   E. Bickerman, review of Bengtson's *Griechische Geschichte*, *AJPh* 74 (1953) 96–99, at 97. Bickerman also noted that Bengtson "never notices the ideological background of historiography" (98).

8   Cf. M. Smith in his review of the second edition of *Griechische Geschichte* (1960): "… it must be recorded that the author is himself … he can describe Mithridates' massacre as 'der furchtbaren kleinasiatischen Vesper des Jahres 88 …, wie es nur im Hirne eines asiatischen Barbaren erdacht werden konnte (p. 496*)*' – a judgment surprising from anyone familiar with Roman military history, particularly surprising here because of its connection with *Vesper*, and, from the pen of a modern German, tragic" (*AJPh* 84 [1963] 103–106, at 106). For Bengtson's service in the Wehrmacht in the Eastern front, his political views and further racist comments he made, see S. Rebenich, "Hermann Bengtson und Alfred Heuß. Zur Entwicklung der Alten Geschichte in der Zwischen- und Nachkriegszeit", in V. Losemann (ed.), *Alte Geschichte zwischen Wissenschaft und Politik* (Wiesbaden 2009) 181–206. Elsewhere in his *Griechische Geschichte* (as in n. 5) Bengtson characterized the court of Mithridates of Pontus as "eine Mischung von griechischer Zivilisation und orientalischen Barberei" (507).

9   H. Bengtson, *Grundriss der römischen Geschichte mit Quellenkunde*, Handbuch der Altertumswissenschaft iii.5.1 (Munich 1967) 6.

10   B. Croce, *Teoria e storia della storiographia* (7th ed., Bari 1954) 4: "ogni vera storia è storia contemporanea". Cf. D. Mack Smith, "Benedetto Croce: History and Politics", *Journal of Contemporary History* 8 (1973) 41–61, at 53.

11   E. H. Carr, *What Is History?* (Harmondsworth 1961) 39–40.

ourselves again whenever we want to know what, if anything, they thought about issues which are important to us".[12] In his other book dealing with a value-laden issue, *Greek Homosexuality*, written in the early 1970s, Dover carried this idea a little bit further: "So long as we think of the world as divided into homosexuals and heterosexuals and regard the commission of a homosexual act, or even the entertaining of a homosexual desire, as an irrevocable step across a frontier which divides the normal, healthy, sane, natural and good from the abnormal, morbid, insane, unnatural and evil, we shall not get very far in understanding Greek attitudes to homosexuality".[13] In making these comments Sir Kenneth deserves credit for having gone a long way in spelling out a principle that is valid for all studies of past moral systems: that the way we perceive them depends on the standards by which we judge them, and these standards are anchored one way or another in contemporary mores. The historian, in other words, must acknowledge that he or she cannot help viewing the past through the lens of the present.

Dover, however, refused to go much beyond that. To the question of *which* standards, precisely, would further our understanding of Greek attitudes – not only toward homosexuality, but also toward the entire baggage of rights, duties, ideals, norms and values that make up a society's three-dimensional profile – he gave an answer that most of his critics found problematic: one's own moral experience.[14] As he himself put it, "I took a deliberate decision not to treat Greek terminology and the ancient classification of virtues and vices as my starting point, but rather to formulate such questions about morality as were prompted by *my own moral experience*."[15] One obvious shortcoming of this approach is its subjectivity. If the idiosyncratic character traits of a single person were to serve as criterion for the evaluation of the moral character of an entire past society, then the evaluation by a person possessed of a different combination of character traits would yield dissimilar results – even if based on the same set of data. Dover made much in this book of his own permissiveness in sexual matters, of his not experiencing, as he put it, "moral shock or disgust at genital acts involving more than two partners".[16] Carried to its logical conclusion, this principle would imply that a person more sexually inhibited than Sir Kenneth, for instance a scholar who *did* perhaps experience moral shock or disgust at such acts, would have written a book considerably different from *Greek Homosexuality*. A central argument of this article will be that the adoption of less subjective standards of moral evaluation could substantially reduce such hypothetical polarity between rival estimations.

The notion that contemporary perceptions are, after all, relevant to historical writing, and could legitimately be used as yardsticks for making all sorts of evaluations struck a responsive chord, and was quickly assimilated into classical scholarship, the new trend of postmodernism no doubt acting as a catalyst. Very soon a

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12   K. J. Dover, *Greek Popular Morality in the Time of Plato and Aristotle* (Oxford 1974) 2.
13   K. J. Dover, *Greek Homosexuality* (Cambridge, Mass. 1978) 183.
14   E. g. the review by J. Gould of *Greek Popular Morality*, *CR* 28 (1978) 285–287.
15   Dover, *Greek Popular Morality* (as in n. 12) xii, my italics.
16   Dover, *Greek Homosexuality* (as in n. 13) viii. This was, predictably, met with sharp criticism which Dover answered in his *Marginal Comment. A Memoir* (London 1994) 114–115.

single, usually extremely narrow, aspect of that vast assemblage of contemporary perspectives, mores, sentiments, concerns, opinions, standpoints, theories, mentalities, mindsets, ideological agendas, climates of opinion and trends of thought which are usually subsumed under the umbrella heading *Zeitgeist*, was picked out as the preferred standard for passing moral judgments. It was then applied to the ancient evidence with such moral fervour that most other caveats concerning the historical method were forgotten. The result was that the dispassionate assessment of facts gave way to condemnation, and the search for explanations and causes gave way to moralizing and propaganda. A new era in the history of Greek historiography was thus ushered in.

III. THE ZEITGEIST AS STANDARD OF MORAL JUDGMENT

The first example illustrating this trend is the opening paragraph of a highly unusual book by Keuls. Published in 1985, it contains an indictment of Athenian society on account of its treatment of women:

> "In the case of a society dominated by men who sequester their wives and daughters, denigrate the female role in reproduction, erect monuments to the male genitalia, have sex with the sons of their peers, sponsor public whorehouses, create a mythology of rape, and engage in rampant saber-rattling, it is not inappropriate to refer to a reign of the phallus. Classical Athens was such a society".[17]

The second example is a passage from an article by Keith Bradley. Published in 1997, it provides a general overview of the predominant form of moral evaluation of slavery in research:

> "To the modern sensibility slavery represents the polar opposite of everything laudable in Greco-Roman civilization, an abomination for which no apology is possible and in which no redeeming features can be found".[18]

The third example, a passage from a book published in 2004 by Loren J. Samons, contains defamatory criticism of Athenian democracy:

> "… the actual history of Athens in the period of its democratic government is marked by numerous failures, mistakes, and misdeeds – most infamously, the execution of Socrates – that would seem to discredit the ubiquitous idea that democracy leads to good government. Anyone turning to Athens for political lessons must confront the facts that democratic Athens dominated and made war on the states most like itself, suffered two internal revolutions, exiled or executed many of its own leaders, squandered vast public resources, and preserved its autonomy for less than two centuries."[19]

17 E. C. Keuls, *The Reign of the Phallus: Sexual Politics in Ancient Athens* (New York 1985) 1.
18 K. Bradley, "The Problem of Slavery in Classical Culture", *CPh* 92 (1997) 273–282. I hasten to add that my objection is not to Bradley, but rather to the widespread view concerning slavery that he accurately reflects here. I detect a touch of irony in the almost religious terms in which he couches this generalization.
19 L. J. Samons, *What's Wrong With Democracy? From Athenian Practice to American Worship* (Berkeley 2004) 6.

The common feature of all these passages is that their authors pass moral judgment on Greek or Athenian society while making some political point. In other words, the explicit condemnation of this or that aspect of Greek society is linked with the implicit support of, or opposition to, some modern cause. While decrying classical Athens as a phallocratic society, Keuls denounces the (usually male) opponents of women's liberation movements; while branding ancient slavery as an abomination, the scholars cited by Bradley reprove today's conservatives or reactionaries in matters of human rights; while accusing Athens of collective aggressiveness and internal instability, Samons censures the advocates of his country's aggressive foreign policy from a liberal point of view. Lest I be misunderstood, I should perhaps make it clear that I have few objections to these, and a whole range of similarly oriented causes, that come up every now and then as a sort of background noise in ancient Greek historical writing, *insofar as they concern the present*. I dislike violence and war, support the equalization of the rights of women with those of men and that of homosexual consenting adults with those of heterosexuals, abhor slavery and racism, and think democracy is the worst form of government except for all the other forms. It seems to me, however, that the condemnation of an historic society is one thing, and the support of a modern cause – however noble or well-intentioned it may be – is another. They are *not* two sides of the same coin, nor should they be treated as such.

The point I wish to make is not really a new one. It is spelt out as a principle in the Weberian ideal of value-free science: "… the whole understanding of the facts is halted where the man of science introduces his personal value judgment"[20] It figures, furthermore, in E. H. Carr's *What Is History*? as part of the definition of the objective historian: "When we call a historian objective, … we mean that he has a capacity to rise above the limited vision of his own situation in society and history …".[21] Taking these ideas one step further, I wish to argue that the standards of moral judgment based on nothing but a narrow aspect of the historian's own Zeitgeist are bad standards, and are bound to yield erroneous historical evaluations.

Here are the reasons why. Even though it conveys a strong message of permanence, the Zeitgeist is, in fact, ephemeral in the extreme. The consensus concerning what is right or wrong with respect to most spheres of moral behaviour is subject to astonishingly quick shifts, which not only the layman but also the scholar tend to underestimate. It requires a deliberate mental effort to realize that what is today legally penalized as sexual harassment was classified until very recently as innocent flirtation; that gay people, who are now about to acquire the right of forming marital unions, were jailed as criminals less than half a century ago; that women who now have the right to vote as a matter of course in virtually all of the world's democracies, only acquired it relatively recently, and were without it throughout the entire

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20   M. Weber, *Wissenschaft als Beruf,* in his *Schriften 1894–1922,* (ed.) D. Kaesler (Tübingen 1922) 474–511 (originally delivered as a speech at Munich University, 1918): "Ich erbiete mich, an den Werken unserer Historiker den Nachweis zu führen, daß, wo immer der Mann der Wissenschaft mit seinem eigenen Werturteil kommt, das volle Verstehen der Tatsachen a u f h ö r t" (498).

21   Carr, *What is History?* (as in n.11) 123.

nineteenth century;[22] that hunting, so far from being defined as the recreational slaughter of innocent wild animals, was considered the most appropriate sport for the well-to-do gentleman (Theodore Roosevelt was lauded as the "The Hunting President" and the teddy-bear was named after him); and that, going still further back in time, the duel was thought to be the only acceptable, and the most honourable form of conflict resolution between upper-class men. Nothing, however, better exemplifies the shifting nature of the Zeitgeist than attitudes to race. The passages below are cited from a book entitled *Heredity and Human Affairs*, published in 1938 by Edward M. East, a distinguished Professor of Genetics at Harvard University:

> "Naturally, one must be very cautious in comparing negroes with whites, or Pygmies with Zulus. But making such allowances for conditions as appear to be desirable, the conclusion is that the negro averages about two grades lower than the English, the Scotch a fraction of a grade above, and the Athenians of the time of Pericles two grades above".

> "It is of no importance whether the negro or the white man is more closely related to the apes. The two are divergent groups. In the length of the arm, the degree to which the jaw projects, the form of the nose, and the shape, size, and thickness of the cranium, the negro stands closer to the higher anthropoids than the white; in hair form and shape of lips he stands further removed".

> "Mentally the African negro is childlike, normally affable and cheerful, but subject to fits of fierce passion. As an agriculturalist and craftsman he has made some progress under the influence of alien races, though his advancement is not comparable to that of his negroid relatives in the Philippines. His religion is a primitive fetishism combined with nature-worship. His whole history drives one to the conclusion that he is not a discoverer. In no case did he produce a written language."[23]

I have gone through the biographical data available on Professor East carefully, without having detected one single reference to his racism. This fact forces me to the conclusion that by the standards of his Zeitgeist he was no racist at all. Only when scrutinized through the lens of *today's* norms does his attitude appear to be so shockingly bigoted.

Of course, the objection might be raised that while the Zeitgeist is indeed ephemeral, its quick shifts often have positive outcomes. Most historians of ancient Greece today would agree that a world in which racism is checked is better than a world in which racism is allowed to run wild; a world in which women have the vote is better than a world in which they do not; a world in which slavery is abolished is better than a world in which slavery is widespread. Therefore, it is not only appropriate, but also desirable to turn these improved moral norms into standards by which to judge past societies.

The answer to this objection falls into two parts. In the first place, from the point of view of our present Zeitgeist, it would seem that shifts in past Zeitgeists have led to change for the better (although the experience of the last century shows

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22   Women were granted the vote in 1902 in Australia, 1920 in the United States, 1928 in Britain, 1945 in France, and only in 1971 in Switzerland.

23   E. M. East, *Heredity and Human Affairs* (New York 1938) 175, 189, 190, respectively. Some of East's ideas were borrowed from Francis Galtons' *Hereditary Genius* (1869).

that they could equally lead to change for the worse). The problem is, however, that in most cases this can only be seen in retrospect. From a contemporary perspective, these supposed improvements are usually invisible. People locked in the outlook of their times are generally blind to its shortcomings and unable to subject its tenets to critical examination; they view them as a kind of embodiment of eternal truth on earth. For this reason, for the majority of western history, the prevalence of slavery (or serfdom), the exclusion of women from public life, and the punishment of homosexuals, so far from being perceived as blatant examples of social injustice, were seen as manifestations of the normal, timeless order of things. Furthermore, it is interesting to note that the system of values that gave rise to these practices and served as their justification was shared not only by the public, but also by the majority of the victims themselves (that is to say, by the slaves, women and homosexuals).

My second point is that shifts in the Zeitgeist often lead not to improvements, but to outcomes that are confused; indeed, so confused as to preclude the possibility of any consistency in the passing of moral judgment. Was the male homosexual culture revealed by Dover, which flourished openly in Athens and in many other Greek states and was subject to surprisingly few legal restrictions, a good or a bad thing? Until the 1960s it seemed inconceivable that it could be anything but bad. At a time when people convicted of homosexual acts were punished by years in jail or subjected to chemical sterilization with few voices raised in protest, Greek homosexuality was decried as "an abomination", "repulsive to the virtuous life", "a Dorian sin", or as "an unspeakable vice".[24] Today, by contrast, Greek male homosexuality is often dangled as an ancient harbinger of sexual liberation, as the vanguard in the struggle that gay people wage for equal rights.[25] In itself, that might seem to be a good thing, or at least not a bad one; that is, until we are reminded that modern and ancient Greek male homosexuality are not really the same. The latter generally took the form of paederastic relations between a man and a youth who by our own legal criteria would often count as a *minor*. The spirit behind the ancient practice finds striking expression in an elegiac couplet attributed to the poet Theognis: "Happy is the man who is in love while he works out in nude (i. e. in the gymnasium), and returning home sleeps with a beautiful boy (*pais*) all day".[26] Should we, bearing this detail in mind, still think of Greek male homosexual culture as a model for emulation, or an ideal to which to aspire?

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24 It is hard today to understand the sentiment that Dover reports having heard expressed more than once while working on *Greek Homosexuality* (as in n. 13) is – "It's impossible to understand how the Greeks could have tolerated homosexuality", at 203.

25 See, e. g., J. Winkler, *The Constraints of Desire* (New York/London 1990); J. Boswell, *Same-Sex Unions in Premodern Europe* (New York 1994).

26 Thgn. 1335–36. For recent attempts at re-assessing Greek pederasty, see A. Lear and E. Cantarella, *Images of Pederasty: Boys Were Their Gods* (London/New York 2008) and J. Davidson, *The Greeks and Greek Love: A Radical Reappraisal of Homosexuality in Ancient Greece* (London 2007) who argues, problematically in my view, that in classical Athens sexual acts between adult males and males younger than 18 were prohibited by law.

Few people today would answer this question in the affirmative. It is not entirely inconceivable, though, that the Zeitgeist could move back towards less permissiveness and regard that of our generation as too permissive, or, alternatively, that it could move towards still more permissiveness in sexual matters. Imagine that it reaches the point at which pederasty is normalized or even legalized. In that case, Greek male homosexual culture would once again appear to us as a paragon of modern sexual behaviour, pederasty included.

Even more confusing than this is the issue of Greek nakedness and modern nudity. Athenian men, as Keuls rightly points out, "habitually displayed their genitals, and their city was studded with statues of gods with their phalluses happily erect".[27] Is this a good or a bad thing? Keuls is adamant that it was bad. For her, the display of genitals by Athenian men is one component of a wider phallocratic syndrome, a crude expression of the dominance of men over women in the public sphere. The trouble with this interpretation is that it clashes with some ancient ones. Thucydides ranked nudity highly, seeing it as a sign of the cultural refinement which distinguished the Greeks from non-Greek Asiatics and "foreigners".[28] Plato clearly states that in his own days, so far from being shameful and laughable for men to be seen nude, as it had been in the past, it was thought to be respectful.[29] Obviously, what both authors had in mind was the vision of the human body (including that of the female, at least in art) as a thing of beauty to be displayed and studied, not hidden as a source of shame, a conviction that informed archaic and classical Greek art and later, the art of the Italian Renaissance. It should come, therefore, as no surprise that one of the central masterpieces of that Renaissance – Michelangelo's David – was naked. And so were the main figures of the Sistine Chapel which Michelangelo depicted, incurring the wrath of some puritanical clergymen. The liberal Pope Julius II, who commissioned the frescoes, managed for a while to repel the charges of obscenity and sacrilege leveled against him, but after Michelangelo's death found it wiser to yield to the pressures that were brought to bear upon him and ordered that the genitals be painted over. I find it perplexing that Professor Keuls' stance in this matter, if transposed to sixteenth-century Rome, would involve siding with the conservative position of the Vatican in its reaction against liberalism and artistic freedom.

All these considerations would seem to reinforce the suggestion made earlier that the Zeitgeist is an unreliable guide for passing judgment on past societies. But then, one might retort, is there any alternative? Aren't we all, including those who come up with criticisms such as these, irredeemably imprisoned in the outlook created by our own immediate situation? Isn't it true that we cannot help but exercise value judgments? "The barest bones of any historical narrative," wrote Finley, "the

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27   Keuls, *Reign of the Phallus* (as in n. 17) 2.
28   Thuc. 1.6.
29   Pl. *Resp*. 5.452c. It is interesting to note that Rousseau held nakedness to be a mark of honesty. "The honest man is an athlete, who loves to wrestle stark naked; he scorns all those vile trappings, which prevent the exertion of his strength, and were, for the most part, invented only to conceal some deformity". *A Discourse on the Moral Effects of the Arts and Sciences*, trans. G. D. H. Cole (New York 1973: Everyman's Library) 6.

events selected and arranged in a temporary sequence, imply a value judgment (or judgments)."[30]

Of course, it is impossible for the historian to liberate him or herself totally from the tyranny of the Zeitgeist, or to eliminate entirely the intrusion of one or another of its aspects into the history he or she is writing. It might be possible, however, to minimize its effects, thus enabling moral judgments that would be considerably less value-laden and considerably less dependent on the Zeitgeist. This could be done through a two-staged process that involves a) *the use of an as-wide-as-possible spectrum of comparable historical societies or comparable human experiences as a standard of evaluation* and *b) the submission of the approach adopted to the subject at hand to critical, self-conscious examination, the Zeitgeist included.*

Before producing examples, I should perhaps make it clear that for the sake of the argument I do not contest in any significant way the truthfulness of the facts on which the above-cited judgments rest. I accept without question the details conducive to the generalization that Athenian women were not equal to men and were excluded from the public domain, that slaves were harshly exploited and inhumanly treated all over Greece, and that the Athenian democracy made wars and suffered internal revolutions. I do contest, however, the soundness of judgments based only on the details of the society examined, which partially or totally ignore the wider comparative perspective.

IV. ATHENS AS A PHALLOCRATIC SOCIETY

Keuls' invective against Athenian society as phallocratic is to the point if, and only if, no more than two factors are allowed to figure in the equation: Keuls' (just) indignation concerning the status of women in the western world at the time of her writing, and the ancient facts that constitute the Athenian female citizens' inferiority (such as domination by men, denigration of the female role in reproduction, humiliating, misogynic pornography – facts which, as noted, I do not contest). However, as soon as we cast a wider net, and include in our standard of evaluation a whole spectrum of historical western societies in which women fared as badly or even worse than in Athens, the invective stops being to the point and the entire equation breaks down. Take, for example, those women who in the time of the Crusades were forced to wear chastity belts that looked like metal underwear and bore all the signs of torture devices, while their husbands, usually knights or crusaders, were away for long periods of time on campaign.[31] Think of those older women, routinely charged with witchcraft during the witch-craze in early-modern Europe, the number of tortured and burnt victims reaching around 30,000 in Germany alone.[32] Consider those women in the Muslim world in general, and in Muslim-

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30   Finley, *Ancient History* (as in n. 2) 4.
31   Cf. E. J. Ding, *The Girdle of Chastity: A Medico-Historical Study* (London 1931).
32   H. R. Trevor-Roper, *The European Witch-Craze of the 16th and 17th Centuries* (Harmondsworth 1969). The figure cited also includes some men and children, but the overwhelming majority was older women.

occupied Europe in particular, who, as part of the so-called "harem culture", were trapped in an institutional triad of polygamy, ease of divorce and concubinage, and almost completely denied the option of stable monogamous marriage.[33]

If judged by reference to social situations and practices such as these, Athenian society will be found to be no more and no less repressive of women and sexually polarized than a handful of culturally advanced and economically prosperous agricultural communities that flourished in pre-modern Europe. In all these societies, women were excluded from the public domain and treated as inferior to men as a matter of course. However, the women of Athens were considerably better off physically, economically and perhaps even legally than women in those infinitely more numerous, culturally-backward, poverty-stricken peasant societies, who were denied an opportunity of doing anything beyond working in the fields and reproducing, or those in societies undergoing crises, subjection, pangs of accommodation or violent change.[34] The situation is regrettable but hardly condemnable: this was the norm throughout thousands of years of western history. Today's not-yet fully-attained ideal of the emancipated women is an unprecedented exception, an exception that arose as a serious alternative to the norm only towards the end of the nineteenth century. This alone should warn us against the advisability of judging ancient Athens solely by today's standards. For an historical judgment to be sound, it must proceed from the norm, from carefully researched and defined instances of comparable human behavior. Persisting nonetheless in judging the situation of the Athenian woman by the standard of its modern counterpart alone, in disregard of the comparative framework outlined above, is not really an option morally. For ignoring those vast chapters of non-Athenian female subservience, suffering and the lack of rights amounts in fact to tacitly approving them.

Let us now move on to the second procedure likely to reduce the "value" ingredient in judgments, namely the historian's ability to scrutinize him or herself. A more reflective approach towards her own methods, and a more open eye to certain practices widespread in her world would surely have compelled Keuls to mollify her judgment of Athenian society. Athenian pornography, however disturbing at first sight, simply shades into insignificance when compared with modern pornography. Today, hardcore, violent, sexual scenes including moving, not only static pictures, are available worldwide to almost everyone, including minors. People watch pornographic films, view pornographic magazine images, read pornographic writing, and even make homemade porn flicks in a way that has never before been possible. The statistics are staggering: "Every second – $ 3,075.65 is being spent on

33   Cf. V. Maher, *Women and Property in Morocco* (Cambridge 1974); L. Beck/N. Keddie (eds.), *Women in the Muslim World* (Harvard 1978); N. Tapper, "Matrons and Mistresses: Women and Boundaries in Two Middle Eastern Tribal Societies", *European Journal of Sociology* 21 (1980) 59–79; E. Gellner, *Muslim Society* (Cambridge 1981) 162–164; and esp. B. Lewis, *The Middle East: 2000 Years of History from the Rise of Christianity to the Present Day* (London, 1995) 66, 210 and 253; *What Went Wrong? Western Impact and Middle Eastern Response* (Oxford 2002) ch. 3; *Race and Slavery in the Middle East* (Oxford 1990) ch. 12.

34   Cf. G. Lerner, *The Creation of Patriarchy* (Oxford 1986) esp. ch. 4, "The Woman Slave". Athenian women, as I read the evidence, did not habitually work in the fields.

pornography. Every second – 28,258 Internet users are viewing pornography. Every second – 372 Internet users are typing adult search terms into search engines. Every 39 minutes a new pornographic video is being created in the United States."[35] The revenues from the pornography industry are larger than those from the top technology companies combined: Microsoft, Google, Amazon, Yahoo! and Apple.[36] Athenian pornography, by contrast, was only consumed by a rich minority, and a strong case can be made for the possibility that many of the pornographic artifacts produced in Athens were intended for export overseas.[37] Once the ancient evidence is re-examined with these data in mind, only very little will remain to justify singling out Athenian society as particularly "phallocratic".[38] Athenian society appears to be sexually more permissive than ours (even though it did not reach the stage of sanctioning same-sex marriages), but, by the very standards set by Keuls, considerably less phallocratic.

V. CHATTEL-SLAVERY AS AN ABOMINATION

The institution of slavery takes us into one of the darkest corners of ancient Greek society. But does the evaluation of ancient realities bear out its being singled out as an abomination? The question becomes all the more pregnant when placed in the context of the idealized picture, subsumed under the title "The Glory that was Greece", that was widespread in the Victorian age and during the first half of the twentieth century. Slavery conjures up metaphors such as cancer, poison or sin when it is contrasted with the cultural achievements of the Greeks in general, and with the creation of the first democracy in Athens, with its concomitant invention of political liberty and equality, in particular.

Apart from the fact that these condemnations mark a return to the "moral-spiritual approach", which was supposed to have been abandoned in slavery studies,[39] and apart from the fact that before the gay-liberation movement gained ground, the word abomination was reserved for Greek homosexuality, the rebuke creates further confusion by misidentifying its object. For it is by no means clear that the slave

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35   See http://internet-filter-review.toptenreviews.com/internet-pornography-statistics.html.

36   I have to be taken on trust while reporting something that I personally experienced concerning this matter. Having been asked to lecture to a group of non-specialist pensioners about the sex-life of the ancient Greeks, I resolved to make the talk livelier by projecting some of the pictures included in Keuls' book. To my great disappointment, the majority of the audience fell asleep nonetheless. After the lecture an elderly gentleman came up to me and said, by way of excuse, that my pictures were "a mere trifle" compared with the X-rated movies that they viewed regularly on their DVDs.

37   Keuls indiscriminately used fourth century South Italian vases as evidence for fifth-century Athenian life, cf. review by H. A. Shapiro in *AJA* 90 (1986) 361–363, at 362. For the issue of Athenian pornography see also in this volume Chap. 2 in this volume by Wallace.

38   For the habit of labeling the Athenians as "phallocratic" or "phallocentric", which under the influence of Keuls' book spread quickly in research, see my *Morality and Behaviour in Democratic Athens* (Cambridge 2006) 344–347.

39   Cf. M. I. Finley, *Ancient Slavery and Modern Ideology,* (ed.) B. D. Shaw (Princeton 1998) 80–81.

in ancient Greece was the lowliest creature in the social hierarchy. Unlike the slaves in the West Indies and the American mainland in modern times, who were employed predominantly as forced labourers in plantation agriculture, the slaves in ancient Greece were employed in a wide variety of economic activities,[40] only a small number of which were as demanding as forced labour. Furthermore, slavery represented but one form of exploitation out of many. In ancient Greece, slaves co-existed at all times with both free-labourers, (*misthotoi*, *thetes*, translatable roughly as wage-earners; *penetes*, "those who work with their hands", and hence "the poor"; *banausoi*, craftsmen),[41] and dependent labourers, (*pelatai* and *hektemoroi* in pre-Solonian Athens, *helotai* in Sparta, *penestai* in Thessaly, and *laoi* in Hellenistic Asia Minor, not to mention those mysterious *dorophoroi*, *gymnetes* and *korynephoroi* about whom we know next to nothing). Furthermore, there must have been numerous other sorts of labourers around, both dependent and independent, whose jobs or statuses were not conspicuous enough to earn special designations.[42] Within that range, the plight of the chattel slave was probably not the worst, and arguably was not as bad as that of the wage-labourer – particularly in the event that the latter happened to be an emancipated slave employed as a non-skilled, seasonal worker.

It is true that one of the critical, and most unenviable, features of the slave's circumstances was uncertainty and unpredictability: at any moment he could be stripped of his privileges, sold, hit, or even killed at the whim of his master (though not with impunity; at any rate, not in Athens). But the worst feature of the wage-labourer's circumstances was even worse than that: his very existence was at stake. One day he could be employed, another not. If unemployed for longer periods of time – and wage-labourers were routinely employed at short-term, seasonal works – he would remain in a condition of mere survival, or could even starve to death; nobody was there to care. "The *thes*, not the slave, was the lowest creature on earth that Achilles could think of. The terrible thing about the *thes* was his lack of attachment, his not belonging", wrote Finley with regard to the Dark-Age conditions reflected in the Homeric poems,[43] and little had changed in this respect with the advent of the Classical Age. Eutheros (in Xenophon's *Memorabilia*), having lost his property and inherited nothing from his father, was forced to work for his living with his hands. When hard pressed, he admits that he would not be able to carry on that way for long, and that when he would age, nobody would pay for his labour.[44]

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40 This crucial difference is usually forgotten when drawing comparisons between Greek and modern slavery. Cf. E. dal Lago/C. Katsari (eds.), *Slave Systems. Ancient and Modern* (Cambridge 2008) 15.

41 Cf. Y. Garlan, "Le travail libre en Grèce ancienne" and E. Ch. Welskopf, "Free Labour in the City of Athens", both in P. Garnsey (ed.), *Non-Slave Labour in the Greco-Roman World* (Cambridge 1980) 6–22 and 23–25, respectively.

42 Cf. M. I. Finley, "The Servile Statuses of Ancient Greece", in B. D. Shaw/R. P. Saller (eds.), *Economy and Society in Ancient Greece. By M. I. Finley* (Harmondsworth 1983) 133–149.

43 M. I. Finley, *The World of Odysseus* (2nd ed., Harmondsworth 1978) 57, referring to Hom. *Od.* 11.489–91.

44 Xen. *Mem.* 2.8. Eutheros as a self-employed worker was rated higher by Athenian standards than someone who worked for another (a *misthotos* or a *thes*). The latter's status came dangerously close to that of a slave, see n. 58 below.

The slave, by contrast, was routinely spared such a fate. His master, having bought him for good money,[45] had a vested interest in his well-being; it would have been worth his while to step in and save his property from starvation, if worse came to worst.[46] An incident from one of Plato's dialogues provides a hypothetical illustration of this point. Euthyphro startles Socrates by telling him that he is prosecuting his own father for murder in the interest of piety. The background for the accusation is an incident that took place at Naxos while he and his father were working on their land. One of their hired workmen (*thes*) got drunk and killed one of their house-slaves (*oiketes*). Euthyphro's father bound the murderer, threw him into a ditch, and sent a man to Athens to ask the religious adviser (*exegetes*) how to proceed. The workman, however, died of exposure before the errand was accomplished, simply because the father "paid no attention to [him] as he lay there bound, and neglected him, thinking that he was a murderer and did not matter if he were to die" (τοῦ δε-δεμένου ὠλιγώρει τε καὶ ἠμέλει ὡς ἀνδροφόνου καὶ οὐδὲν ὂν πρᾶγμα εἰ καὶ ἀποθάνοι, Pl. *Euthphr.* 1D). There are good reasons to suppose that if the murderer had been a chattel slave, Euthypro's father would have been far less likely to commit this act of criminal negligence.

The following remark gives the slave's point of view, as seen from the perspective of the twentieth century, but it may perhaps be applicable to slavery at all times: "People may at any moment find the security of slavery preferable to the starvation of freedom and sell themselves and their children".[47] It was precisely this property definition that gave the slave a slight advantage in the struggle for survival. This, at any rate, would be the verdict of a Darwinian biologist if asked to assess the slave's condition in strictly scientific, value-free terms.[48] The free wage-labourer, not the

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45 In Classical Athens a slave cost between 200 and 600 drachmas, a price roughly equivalent to the cost of maintaining him for one or two years; see Garnsey, "Introduction", in *Non-Slave Labour* (as in n. 41) 1. An ox for plowing cost between 50 and 100 drachmas, a small house in the city cost 2,000 drachmas; see also C. Mossé, *The Ancient World at Work* (London 1969) 117 and W. Scheidel, "Real Slave Prices and the Relative Cost of Slave Labor in the Greco-Roman World", *Anc Soc* 35 (2005) 1–17, esp. 11.

46 This argument holds even if, as calculated by Scheidel, "Real Slave Prices" (as in n. 46), Athenian slaves were relatively cheaper than Roman imperial slaves. The maintenance costs, though, were high, and these would provide a further incentive for the slave-owner to intervene on behalf of his slave(s) in emergencies.

47 S. Miers, *Slavery in the Twentieth Century* (Walnut Creek/Lanham/New York/Oxford 2003) iii. In Muslim society, "the life of the slave … was no worse, and in some ways even better, than that of the free poor" …, Lewis, *Race and Slavery* (as in n. 33) 78. D. B. Davis ("At the Heart of Slavery", *The New York Review of Books* 43/16, October 17, 1996) made the same point in more general terms: "Yet the condition of slavery itself has not always been the most abject form of servitude, and is not necessarily so today. Some contract labor, though technically free, is more oppressive than many types of conventional bondage".

48 In fact, Benjamin Franklin reached a very similar conclusion in the 1760s on the basis of simple bookkeeping analysis. Having calculated the cost of American slave labour in strictly economic terms, he discovered that it was far more expensive than free labour in England; see Leonard W. Labaree et al. (eds.), *The Papers of Benjamin Franklin* (New Haven 1959–2008) iv, 229–231.

slave, would turn out to be the lowest, weakest and most pitiable link in the social fabric of ancient Greece.

Yet few people today would seriously contemplate blaming the ancient Greeks for exploiting wage-labour, even though quantitatively, wage-labour was by no means an insignificant system of production.[49] Why? Because, not being Darwinian biologists, we make comparisons of well-being through a norm-tinted lens. We locate the slave at the bottom of the social hierarchy because the subjection, humiliation, and dependence that he underwent violate one of our civilization's most preeminent norms.[50] We judge the slave by the ideal of freedom that, since the Age of the Enlightenment, we exalt almost above all on our scale of values. "Free people can say 'no'", I read on a website designed to explain the idea of slavery to schoolchildren. "People don't have their freedom without the freedom to say 'no'. If someone demands that you do something and you can say 'no' and refuse to do it, then you are a free person".[51] The ideal, which must have passed through a multiplicity of channels until it reached the author of the website, can be traced back to the eighteenth century. Rousseau, for instance, could conceive of no worse form of degradation than the subordination of one individual to another. "To renounce liberty" he wrote on the subject of slavery, "is to renounce being a man, to surrender the rights of humanity and even its duties. For him who renounces everything no indemnity is possible. Such a renunciation is incompatible with man's nature; to remove all liberty from his will is to remove all morality from his acts".[52] At the time of Rousseau's writing, the African slave trade and West Indian plantation had reached their peak, but his stimulus probably came not from these, but from the classical texts of which he was an avid reader.[53]

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49   Cf. Garnsey, "Introduction", in *Non-Slave Labour* (as in n. 41) 4: "In Rome and other substantial cities in antiquity there must have been a considerable body of men who depended on their livelihood on casual work or seasonal employment in industry (especially the construction industry) and in agriculture". Nor for Cicero did wage labour differ significantly from slavery: "… unworthy of free men (*illiberales*) and low are the means of livelihood of all hired workmen whom we pay for mean manual labour, not for artistic skill, for in their case the very wage they receive (*ipsa merces*) is a pledge of their slavery (*auctoramentum servitutis*)" (*Off.* 1.42). Cf. S. Epstein, "Why Did Attic Building Projects Employ Free Laborers Rather than Slaves?", *ZPE* 166 (2008) 108–112. I have not been able to consult Ch. Feyel, *Les artisans dans les sanctuaires grecs aux époques classique et hellénistique à travers la documentation financière en Grèce*, *BEFAR* 318 (Athens 2006).

50   For an analysis of "how and why did freedom emerge, develop, and become institutionalized as our civilization's preeminent ideal", see O. Patterson, *Freedom: Freedom in the Making of Western Culture* (New York 1991), at xi.

51   http://www.visitandlearn.co.uk/topicalfactfiles/slavery3.asp.

52   J.-J. Rousseau, *The Social Contract and Discourses*, trans. G. D. H. Cole (New York 1973) 170. On p. 241 of the same volume, Rousseau wrote, with explicit reference to Sparta, that "the citizen can be perfectly free only when the slave is most a slave" (the original reads " … le citoyen ne peut être parfaitement libre que l'esclave ne soit extrêmement esclave)".

53   For the various meanings of freedom in the Middle Ages, some of which include true obedience, but none of which appear to present a clear-cut antithesis to either slavery or serfdom, see M. Bloch, *Liberté et servitude personelles au moyen-âge, particulièrement en France* (Madrid 1933) and Patterson, *Freedom* (as in n. 50) chs. 20–22.

There is a well-know story in Herodotus, with which Rousseau was probably familiar, according to which two brave Spartans reject an offer by Hydarnes, the Persian *strategos* in the service of the Great King, "to put themselves in the King's hands" and become important, highly rewarded dignitaries in his service. The reason they gave Hydarnes to justify their refusal is revealing: "You know well how to be a slave (*doulos*), but you have never tasted of freedom (*eleutheria*), to know whether it be sweet or not. Were you to taste of it, not with spears you would counsel us to fight for it, no, but with axes."[54] The point they were making was that by their scale of values, all the wealth and comfort they were likely to acquire in the King's service would be insufficient to compensate for the humiliation they would undergo by accepting a subordinate position in the social hierarchy.[55]

It has been cogently argued that the Greeks became capable of conceptualizing the ideal of freedom because of their deep involvement in a genuine slave society. Personal freedom in every field of existence could emerge as a majestic, fully-rounded idea because it presented a simple and sharply defined antithesis to chattel slavery.[56] As Finley has put it, "The Greeks … discovered both the idea of individual freedom and the institutional framework in which it could be realized. The pre-Greek world – the world of the Sumerians, Babylonians, Egyptians and Assyrians … was, in a very profound sense, a world without free men, in the sense in which the West has come to understand that concept. It was equally a world in which chattel slavery played no role of any consequence. That, too, was a Greek discovery. One aspect of Greek history, in short, is the advance, hand in hand, of freedom *and* slavery".[57] I detect a measure of inconsistency in blaming the ancient Greeks for employing chattel slavery, a judgment resting on a moral norm whose elucidation was only made possible by the very presence of that phenomenon in their society.[58]

Nor does the contrast drawn between the realities of chattel slavery and the cultural achievements of the Greeks appear to be particularly helpful analytically. Quite the contrary, it generates a whole series of problems, three of which I shall

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54   Hdt. 7.135. For similar story concerning Pharnabazus and Agesilaos, see Xen. *Hell*. 4.1.35–36.
55   It is not without significance that Rousseau also rejected an offer from King Louis XV to become his patron, and turned his back on the King and his money, to the great chagrin of his friends.
56   Cf. P. A. Cartledge, "Serfdom in Classical Greece", in L. J. Archer (ed.), *Slavery and Other Forms of Unfree Labour*, London/New York 1988) 35 and K. Raaflaub, *The Invention of Freedom in Ancient Greece* (Chicago 2004), the English version of the author's *Die Entdeckung der Freiheit. Zur historischen Semantik und Gesellschaftsgeschichte eines politischen Grundbegriffes der Griechen* (Munich 1985).
57   M. I. Finley, "Was Greek Civilization Based on Slave Labour?", in *Economy and Society* (as in n. 42) 97–115, at 114–115, his italics. Cf. his "Between Slavery and Freedom" 116–132 at 119–20, and "The Freedom of the Citizen in the Greek World", 77–96, both in the same collection. Cf. Chap. 2 in this volume by Wallace, who quotes the same passage in a somewhat different context.
58   The sequel of the above cited dialogue is significant for my demonstration. Socrates suggests that Eutheros could work, when old, as an assistant on the farm of somebody who is better off. Eutheros, like the noble Spartans before, turns down the offer, declaring that "I shouldn't like to make myself a slave" (Xen. *Mem*. 2.8.4).

examine in some detail. In the first place, the sad fact is that the co-existence of high cultural achievements and chattel slavery is not as uncommon as the condemnation itself might seem to suggest. The case of ancient Greece is far from unique. The great humanists and rationalists of seventeenth-century Europe composed their masterpieces while the African slave trade and West Indian plantations were in full swing. They, like their ancient Greek counterparts, detected no problem in slavery; far from raising a voice for its abolition, they sanctioned human bondage openly.[59] Hobbes and Locke even went so far as to argue that slavery could be reconciled with natural law and natural rights. On the other hand, it is clear that the equation does not work the other way round: chattel slavery is not a sufficient condition for the emergence of high culture or, to put it another way, there is no necessary correlation between the extent of chattel slavery and the level of cultural achievements. The scale of chattel slavery in nineteenth-century Africa, Arabia and the Persian Gulf countries equaled and probably even surpassed that of ancient Greece, yet insofar as I am aware, the contributions to world culture made in these parts of the world in this period were arguably less significant than those made in ancient Greece or in seventeenth-century Europe.[60]

In the second place, the condemnation of the Greeks for their reliance on chattel slavery carries a hidden wish. If we could only somehow purge ancient Greece of that abomination, so the idea runs, then Greek culture would again glow in its pristine glory. This idea rests on an under-estimation of the complexity of the institution of slavery and its degree of involvement in the social fabric. Researchers have only recently started to analyze slavery in terms of a system, the formation and functioning of which depends on the co-ordination of a whole series of disparate societal features.[61] In ancient Greece, for instance, the demand for slaves must have been produced by the coincidence of at least three, independently-generated conditions: the concentration of land ownership in fewer hands, to the extent that the employment of a permanent work-force outside the family was necessitated; the sufficient development of commodity production and markets; and the unavailability of an internal labour supply, compelling employers to turn to outsiders.[62] These were, however, only minimal requirements. The emergence of a full-blown slave system further required the prior existence of distinctive types of property, clearly defined legal categories, and moral norms by which the enslavement of one person by another would be acceptable.[63] Finally, the economy and society of those regions, countries, and states in which slavery occurred had to have been interconnected as parts of a unified market area.[64] By reason of this complexity and pervasiveness, the idea of cleansing Greek society from chattel slavery would appear to be unrealistic. The abolition of slavery in the West Indies and the American mainland in the nine-

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59   D. B. Davis, *The Problem of Slavery in Western Culture* (New York/Oxford 1966), 391.
60   Cf. Lewis, *Race and Slavery* (as in n. 33) esp. chs. 1, 5, 9, 10 and 11; Miers, *Slavery* (as in n. 47) esp. chs. 6, 7, 15 and 16.
61   Cf. Dal Lago/Katsari, *Slave Systems* (as in n. 40).
62   Finley, *Ancient Slavery* (as in n. 39) 154.
63   Shaw in Finley, *Ancient Slavery* (as in n. 39) 14.
64   Del Lago/Katsari, *Slave Systems* (as in n. 40) 5.

teenth century became possible largely because of the single-faceted integration of slave labour in the economy (the great majority of slaves were concentrated in one field of economic enterprise, plantation agriculture), and the presence of powerful nation-states whose executives could take effective steps to enforce decisions within the territories under their control.[65] None of these conditions obtained in ancient Greece. Chattel slaves were employed in an enormous variety of economic activities, and were unevenly distributed among a wide variety of independent political units. Furthermore, no central authority was in view that could realistically have been expected to implement the abolition of the institution, even if a decision to that effect had been taken. Nor was there at that time an alternative to slave labour analogous to the inventions of the industrial revolution that, starting from the eighteenth century, provided power greater than that of human muscles and gradually replaced manual labour. Slavery in ancient Greece was never abolished, and probably could never have been. Rather, it gradually metamorphosed into other forms of dependent labour that persisted in the West up to the Age of Enlightenment, at which time it was felt to clash unbearably with two, newly re-invented ideals: equality and freedom.

In the third place, it does not seem that we, while casting aspersions on Greek society for its reliance on slave labour, are keeping a sufficiently open eye to present-day realities. It is true that chattel slavery was formally abolished in the nineteenth century, and that "the unweary, unostentatious, and inglorious" crusade that England, spearheaded by the British Antislavery Movement, led against slavery, can possibly be regarded as "among the three and four perfectly virtuous pages comprised in the history of nations".[66] However, it is equally true that the situation has regressed during the twentieth century. Slavery grew at an alarming rate from 1919 to 2000, and today includes new forms many times crueler (such as forced labour, forced prostitution, forced marriage, and the exploitation of children, migrant and contract labourers), than the ancient or modern chattel slavery with which we were familiar.[67] Nor are these developments taking place in some remote corner of the world, hidden from the public eye. Like Greek chattel slavery, they form part of larger systems, whose details have far-reaching consequences for the most minute aspects of our lives. Perhaps few people are aware today that most of the fine clothes and shoes they wear, and the toys their children play with, are produced in sweatshops in Asia and Latin America by men and women (and often under-fed children) forced to work fourteen-hour days for nominal wages in conditions that constitute

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65   For the abolition of slavery in most Muslim countries during the nineteenth and twentieth centuries, see Lewis, *Race and Slavery* (as in n. 33) ch. 11. Lewis accounts for the black slaves having left little trace in today's Arab, Persian and Turkish lands by the high proportion of eunuchs and by the high death rate and low birth rate among them (p. 84).

66   Miers, *Slavery* (as in n. 47) iii, attributed to W. E. H. Lecky.

67   See, e. g., Miers, *Slavery* (as in n. 47); R. Sawyer, *Slavery in the Twentieth Century* (London/ New York) 1986. For a long list of publications by Anti-Slavery International concerning these matters see http://www.antislavery.org/english/resources/reports/download_antislavery_publications/default.aspx.

appalling violations of human rights.[68] This fact raises the question of whether we still think it reasonable to condemn the Greeks for employing slave labour, bearing in mind that such a condemnation necessarily entails a claim to moral superiority. Finley, in one of the most influential articles written on Greek slavery answered the question, "Was Greek Civilization Based on Slave Labour?",[69] with a resounding "yes". I think we can assert, in light of recent research developments, that Greek civilization was not only *based* on slave labour; it was *inconceivable* without slave labour. My modest contribution to this issue would be that precisely for this reason it is not particularly helpful to single out Greek civilization for condemnation *on account of* slave labour.

VI. ATHENIAN SOCIETY AS A FAILURE

This point takes us to Samons' rather negative judgment of the Athenian democracy in the general overview cited above (p. ■■),[70] which I now propose to juxtapose with another general overview of the Athenian democracy, comparable in scope and detail, but diametrically opposed in content and tenor, by M. I. Finley:

> "In those centuries Athens was, by all pragmatic tests, much the greatest Greek state, with a powerful feeling of community, which a toughness and a resilience tempered, even granted its imperial ambitions, by a humanity and sense of equity and responsibility quite extraordinary for its day (and for many another day as well). Lord Acton, paradoxically enough, was one of the few historians to have grasped the historic significance of the amnesty of 403. 'The hostile parties', he wrote, 'were reconciled, and proclaimed an amnesty, the first in history.' The first in history, despite all the familiar weaknesses, despite the crowd psychology, the slaves, the personal ambition of many leaders, the impatience of the majority with opposition. Nor was this the only Athenian innovation: the structure and mechanism of the democracy were all their own invention, as they groped for something without precedent, having nothing to go on but their own notion of freedom, their community solidarity, their willingness to inquire (or at least to accept the consequences of inquiry), and their widely shared political experience".[71]

The question I would like to pursue is this: must we resign ourselves to the claim that one judgment is as good as another, thus accepting the thesis that history is inherently subjective? Or, assuming that objectivity is at least possible, can we find a

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68   Here is a small selection: http://www.businessweek.com/2000/00_45/b3706008.htm ; http://www.youtube.com/watch?v=MljpjyQ-E-M ; http://www.youtube.com/watch?v=MljpjyQ-E-M.

69   Finley, "Was Greek Civilization …?" (as in n. 57) 97–115.

70   Samons' condemnation of Athens may be viewed as yet another link within a trend that started during the last years of the nineteenth century, aimed at revising the excessively enthusiastic picture of Athens that had prevailed up till then in scholarship, for which see my *Morality and Behaviour* (as in n. 38) 85–107.

71   M. I. Finley, "Athenian Demagogues", in *Studies in Ancient Society*, ed. M. I. Finley (London 1974) 1–25, at 24–25. The quotation is from Lord Acton's "The History of Freedom in Antiquity", first delivered as a lecture in 1877, and now available online: http://www.mondopolitico.com/library/lordacton/freedominantiquity/freedominantiquity.htm.

method, independent of the tendencies, inclinations or predilections of historians, which, if rigorously applied, will reveal one judgment to be better than the other?

One difference between the two views is that Finley's measures Athenian society by real, not imaginary standards. This is implied in the key phrases of his text "by all pragmatic tests" and "for its day (and for many another day as well)", by which he meant that, before passing judgment, he had mentally scanned a whole range of comparable contemporary and later-day political entities, and had found that *by reference to them*, Athens was outstanding with respect to greatness, feeling of community, toughness and resilience. This gives his evaluation the further advantage of being refutable: if you succeed in naming one society, which throughout western history has surpassed Athens in those respects, then his entire judgment will be undermined.

Samons, by contrast, measures Athens by the standard of a perfect society that functions without perpetrating "numerous failures, mistakes and misdeeds". The trouble is that no such a society has ever existed. Samons uses an imaginary, idealized standard. The consequence is that, not being grounded in any concrete reality, his judgment is irrefutable.

This holds true with regard to Samons' other accusations. He takes democratic Athens to task for domination and war-mongering (it "dominated and made war on the states most like itself"). Finley, quite to the contrary, detects in Athens a mark of greatness despite "the imperial ambitions", despite the verdict that he pronounced elsewhere (based, once again, on pragmatic tests), namely that "Athenian imperialism employed all the forms of material exploitation that were available and possible in that society".[72] Once again, the question arises of whose judgment we should prefer.

We should prefer Finley's, because it is based on the observation of concrete recurring historical patterns and is therefore refutable. We should reject Samons', because it is based on a declaration of faith or on wishful thinking and is therefore irrefutable. As intellectuals from Heraclitus to Churchill have noticed,[73] the sad truth is that the story of the human race coincides more or less with the story of wars. "For (as he would say) 'peace', as the term is commonly employed", wrote Plato, "is nothing more than a name, the truth being that every State is, by a law of nature (*kata physin*), engaged perpetually in an informal war with every other State".[74] Plato, quite uncharacteristically, based that generalization not on some kind of philosophical introspection, but on the observation of contemporary reali-

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72 M. I. Finley, "The Athenian Empire: a Balance Sheet", in Shaw/Saller (eds.), *Economy and Society* (as in n. 42) 41–61, at 61.

73 Heraclitus fr. 53: "War is the father of all and the king of all things"; Winston Churchill, "Shall We All Commit Suicide?" (1925): "The story of the human race is war. Except for brief and precarious interludes there has never been peace in the world; and long before history began murderous strife was universal and unending."

74 Pl. *Leg*. 626A.

ties. Finley, no great fan of Plato, followed suit: "War was endemic: everyone accepted that as fact, and therefore no one seriously argued, or believed, that surrender of the empire would relieve Athens of the miseries of war".[75] Today, a massive reappraisal of human nature is underway in the light of new insights in genetics, biology and evolutionary psychology. There seems to be overwhelming evidence that human nature is inherently violent.[76] We are, as William James put it more than one hundred years ago, "the lineal representatives of the successful enactors of one scene of slaughter after another",[77] or, as Edward O. Wilson put it more recently, "innately aggressive." Historians of ancient Greece cannot gratuitously turn their backs on these developments, nor can they proceed with outdated notions of human nature. They must acknowledge the relevance of contemporary perceptions to the history they are writing by integrating the new, emerging picture of human nature into their assessments. Samons' judgment would only be acceptable if at least one of the following conditions were met. First, if an example could be produced of an historical society that had accumulated a great deal of power and wealth and yet abstained, on pacifistic or humanistic grounds, from making war on others; second, if convincing evidence was produced that would overturn the prevailing paradigm in science and demonstrate that human nature is inherently non-violent. Unless Professor Samons or anyone else comes up with at least one example or one piece of evidence to that effect, we are obliged to retain Finley's judgment of Athens. Despite all her shortcomings, Athens was outstanding *by reference to comparable historical communities* with respect to greatness, feeling of community, toughness, resilience, humanity, sense of equity and responsibility.

VII. REASONED MORAL EVALUATIONS

I have attempted in this essay to outline the difficulties that confront us if we either ignore the Zeitgeist or rely on it exclusively while evaluating aspects of ancient Greek society that bear on the question of its stability. I have suggested that these difficulties can be avoided, or at least minimized, if we pass judgment according to standards that transcend our personal experiences or perspectives. This can be done by applying the comparative method, and by conducting a critical, self-conscious examination of the adopted approach. I cannot claim that this is the perfect recipe for turning fancy value judgments into reasoned moral evaluations. I can claim, however, that this method can yield results that are somewhat more balanced than the ones I have criticized in this essay. Linkage between some modern cause and a judgment passed on an ancient society is not as unavoidable as is generally thought.

75   Finley, "The Athenian Empire" (as in n. 72) 59. Cf. his *Ancient History* (as in n. 2) ch. 5.
76   The literature is conveniently assembled in S. Pinker, *The Blank Slate* (Harmondsworth 2002) esp. ch. 17.
77   W. James, *Principles of Psychology* (New York 1890).

On final analysis the soundest evaluations may turn out to be the ones that are the least politicized.[78]

78   Having completed this essay I was gratified to find out that Richard J. Evans has adopted a very similar approach in his study of the Third Reich: "For all these reasons, it seems to be inappropriate for a work of history to indulge in the luxury of moral judgment. For one thing, it is unhistorical; for another, it is arrogant and presumptuous. I cannot know how I would have behaved if I had lived under the Third Reich, if only because, if I had lived then, I would have been a different person from the one I am now. Since the early 1990s, the historical study of Nazi Germany, and increasingly that of other subjects too, has been invaded by concepts and approaches derived from morality, religion and the law. These … do not belong in a work of history. As Ian Kershaw has remarked: 'for an outsider, a non-German who never experienced Nazism, it is perhaps too easy to criticize, to expect standards of behaviour which it was well-nigh impossible to attain in the circumstances'. At this distance of time, the same principle holds good for the great majority of Germans, too. So I have tried as far as possible to avoid using language that carries a moral, religious or ethical baggage with it. The purpose of this book is to understand: it is up to the reader to judge" (*The Coming of the Third Reich* [Harmondsworth 2003] xx).

4. ATHENIAN FOREIGN POLICY AND THE QUEST FOR STABILITY

Polly Low*

I. INTRODUCTION

The "quest for stability" in fourth-century Athenian foreign relations took two different forms. First, there was the struggle to develop an overall strategy for foreign affairs which would enable Athens to maintain the benefits of active engagement with Greek world while avoiding the risks associated with such engagement – the quest, that is, to find a way out of the cycle of imperial boom and bust which had characterised fifth-century Athenian foreign policy.[1] In what follows, however, I address the problem of stability from the perspective not of strategy or policy, but rather of practice. More specifically, my aim is to explore the extent to which the behaviour (or misbehaviour) of those involved in the practical conduct of foreign politics – generals, ambassadors, and private citizens – threatened the stability not just of Athens' foreign policy, but also of the *polis* as a whole.

The idea that the behaviour of a *polis'* citizens overseas could exercise a strong destabilising force on their home city is familiar. In the classical period, however, it is most commonly associated not with Athens but with Sparta, which perhaps stands as the paradigm of a state whose failure to exercise proper control over those who carried out its foreign policy significantly contributed to (or, on some accounts, even single-handedly caused) its downfall.[2] Historians of Athens, on the other hand, have tended not to conceptualise the city's fourth-century problems in this way. But is that difference of approach simply an accidental consequence of histo-

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8   For fourth-century attempts at a solution to this problem, see especially Xenophon's *Poroi* and Isocrates' *On the Peace*. The socio-economic aspect of this quest for stability is explored in A. Fuks, "Isokrates and the Social-economic Situation in Greece", in *Social Conflict in Ancient Greece* (Jerusalem/Leiden 1984) 17–44; for an overview of recent work on the political side of the problem, see M. Jehne, *Koine Eirene: Untersuchungen zu den Befriedungs- und Stabilisierungsbemühungen in der griechischen Poliswelt des 4. Jahrhunderts v. Chr.* (Stuttgart 1994) 1–29.

2   For example: Xen. *HG* 5.2.28, 5.4.1 (Phoebidas' attack on Thebes and its disastrous consequences for Sparta); *Lak.Pol.* 14. The case for individual ambition being the root cause of Sparta's decline is put most persuasively by M. I. Finley, "Sparta", in J. P. Vernant (ed.), *Problèmes de la guerre en Grèce ancienne* (Paris 1968) 143–160; cf. G. L. Cawkwell, "The Decline of Sparta", *CQ* 33 (1983) 385–400; P. Cartledge, *Agesilaos and the Crisis of Sparta* (London 1987).

riographical focus, or does it reveal something about Athens' ability either to avoid entirely, or to successfully cope with, the destabilising effect of individual ambition on the conduct of foreign politics?

As will be seen in what follows there is evidence to suggest that the Athenians, no less than the Spartans, found it difficult to control the behaviour of their generals, diplomats and other citizens overseas. There is also evidence that this weakness was perceived, at least by some, as a potentially serious threat to Athens' stability. Demosthenes, for example, concludes one of his catalogues of the misbehaviour of Athens' generals with the claim that "the outcome is strife and contention among you … the interests of the community suffer" (τοίνυν ὑμῖν ἀλλήλοις ἐρίζειν καὶ διεστάναι … τὰ κοινὰ δ᾽ ἔχειν φαύλως: 2.29). The aim of this chapter, therefore, is first to assess how extensive a problem the misbehaviour of Athenians overseas really was;[3] and then to explore the validity of that Demosthenic claim: did the errant actions of Athenians overseas really represent a serious threat to the wellbeing of the Athenian *koinon*?

II. DIPLOMATIC MISBEHAVIOUR: QUANTIFYING THE PROBLEM

In the *Second Olynthiac*, Demosthenes claims that Athenian generals regularly took advantage of overseas service to enrich themselves at the expense of the city:

> τίνος γὰρ εἵνεκ᾽, ὦ ἄνδρες Ἀθηναῖοι, νομίζετε τοῦτον μὲν φεύγειν τὸν πόλεμον πάντας ὅσους ἂν ἐκπέμψητε στρατηγούς, ἰδίους δ᾽ εὑρίσκειν πολέμους, εἰ δεῖ τι τῶν ὄντων καὶ περὶ τῶν στρατηγῶν εἰπεῖν; ὅτι ἐνταῦθα μέν ἐστι τἆθλ᾽ ὑπὲρ ὧν ἐστιν ὁ πόλεμος ὑμέτερα (Ἀμφίπολίς γ᾽ ἂν ληφθῇ, παραχρῆμ᾽ ὑμεῖς κομιεῖσθε), οἱ δὲ κίνδυνοι τῶν ἐφεστηκότων ἴδιοι, μισθὸς δ᾽ οὐκ ἔστιν· ἐκεῖ δὲ κίνδυνοι μὲν ἐλάττους, τὰ δὲ λήμματα τῶν ἐφεστηκότων καὶ τῶν στρατιωτῶν, Λαμψάκος, Σίγειον, τὰ πλοῖ᾽ ἃ συλῶσιν. ἐπ᾽ οὖν τὸ λυσιτελοῦν αὐτοῖς ἕκαστοι χωροῦσιν.

> Why is it, think you, men of Athens, that all the generals you dispatch – if I am to tell you something of the truth about them – leave this war to itself and pursue little wars of their own? It is because in this war the prizes for which you contend are your own (if, for instance, Amphipolis is captured, the immediate gain will be yours) while the officers have all the dangers to themselves and no remuneration; but in the other case the risks are smaller and the prizes fall to the officers and the soldiers – Lampsacus, for example, and Sigeum, and the plunder of the merchant-ships. So they turn aside each to what pays him best. (2.28 f.; tr. Vince)

3   The related question – what provoked that misbehaviour? – will not directly be addressed in what follows (since my concern is primarily to investigate consequences rather than causes), but potentially relevant factors could (crudely) be summed up as: the practical difficulties of maintaining close communication between the *polis* and its operatives overseas, which allowed (and required) considerable latitude in behaviour (see, briefly and for further references, D. Hamel, *Athenian Generals: Military Authority in the Classical Period* [Leiden 1998] 40); the personal failings of the people and systems involved (R. A. Knox, "'So Mischievous a Beaste'? The Athenian 'Demos' and its Treatment of its Politicians", *G&R* 32 [1985] 132–161 [at 144–146]); the conflicting demands and temptations of service to the *polis* and cultivation of private ties of *xenia* and *philia* (G. Herman, *Ritualised Friendship and the Greek City* [Cambridge 1987] esp. ch. 5; L. G. Mitchell, *Greeks Bearing Gifts: the Public Use of Private Relationships in the Greek World, 435–323 BC* [Cambridge 1997], and further below p. ■■).

This sort of complaint appears elsewhere, both within and beyond Demosthenes' speeches, and in fifth- as well as fourth-century sources. Recurring accusations against generals are that they siphoned off the profits of campaigning into their own pockets (Erasinides, for example, one of the generals at Arginusae, was accused of embezzling the proceeds of his campaigns in the Hellespont);[4] or that they accepted bribes to disobey Athenian orders and thereby advantage a foreign power (as in the case of three of the generals of 425/4, accused of being bribed to make a truce with the Sicilians);[5] or that they had indulged in both activities. Lysias' speech *Against Ergocles* gives a very good sense of the way in which various charges of profiteering and more general misconduct might be heaped up into one incriminating pile,[6] and of the possibility (as in the *Olynthiacs*) of arguing for a connection between this bad behaviour and a threat to the safety of the democracy:

ἅμα γὰρ πλουτοῦσι καὶ ὑμᾶς μισοῦσι, καὶ οὐκέτι ὡς ἀρξόμενοι παρασκευάζονται ἀλλ᾽ ὡς ὑμῶν ἄρξοντες, καὶ δεδιότες ὑπὲρ ὧν ἀφήρηνται ἕτοιμοί εἰσι καὶ χωρία καταλαμβάνειν καὶ ὀλιγαρχίαν καθιστάναι καὶ πάντα πράττειν ὅπως ὑμεῖς ἐν τοῖς δεινοτάτοις κινδύνοις καθ᾽ ἑκάστην ἡμέραν ἔσεσθε·

No sooner are they [the defendants] rich than they hate you; they plan thenceforth not to be your subjects, but to be your rulers, and, apprehensive for the fruits of their depredations, they are ready to occupy strongholds, establish an oligarchy, and seek every means of exposing you, day after day, to the most awful dangers. (Lys. 28.7. tr. Lamb)

Such accusations are not restricted to generals: ambassadors, too, are often associated with similarly rogue activities, ranging from treason,[7] via bribery or corruption,[8] to more all-encompassing failures of breach of instructions, misconduct and mis-

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4 Xen. *HG* 1.7.2; M.H. Hansen, *Eisangelia: the Sovereignty of the People's Court in Athens in the Fourth Century B.C. and the Impeachment of Generals and Politicians* (Odense 1975) 84–86 (this was in addition to the collective charge of misconduct made against the generals after Arginusae).

5 Thuc. 4.65.3: the three generals were Eurymedon (who was fined), Pythodorus and Sophocles (who were exiled).

6 Lys. 28 (dated to 389; Ergocles served with Thrasyboulos, probably as general, in 390/89). On the campaign, see R. Seager, "Thrasybulus, Conon and Athenian Imperialism, 396–386 B.C.", *JHS* 87 (1967) 95–115, esp. 110–113; G.L. Cawkwell, "The Imperialism of Thrasybulus", *CQ* 26 (1976) 270–277; on the possible motivations for the allegations against Ergocles, J.T. Roberts, "The Athenian Conservatives and the Impeachment Trials of the Corinthian War", *Hermes* 108 (1980) 100–114. Generally on accusations of generals profiteering, see W.K. Pritchett, *The Greek State at War*, Part II (Berkeley, L.A., London 1972) ch. 5.

7 e.g.: Antiphon, Archeptolemus and Onomacles, envoys to Sparta in 411 (Hansen, *Eisangelia* [as in n. 4] 113–115); Timagoras, envoy to the Persian King in 368/7 (Dem. 19.31, 137, 191; Xen. *HG* 7.1.38). All were condemned to death.

8 Bribery and corruption featured in allegations made against Andocides and three fellow-ambassadors to Sparta in 392/1 (And. 3; Dem. 19.277–280; Hansen *Eisangelia* [as in n. 4] 87 f.); Timagoras in 367 (as in n. 7); Philocrates (for his embassies to Philip in 346: Dem. 19.116, Hyp. 3.29 f.). Dem. 24.12 alleges that Androtion, when serving as ambassador to Mausolus in 355/4, captured a cargo ship and attempted (unsuccessfully) to embezzle the proceeds: see P. Harding, *Androtion and the Atthis* (Oxford 1994) 21 f. and TT 8, 11. Generally on these allegations, S. Perlman, "On Bribing Athenian Ambassadors", *GRBS* 17 (1976) 223–233.

leading the assembly (accusations often subsumed under the umbrella heading of *parapresbeia*).[9]

An accusation of misconduct does not, of course, necessarily imply that such misconduct had really taken place – a proviso which is particularly important when so many of the recorded allegations revolve around the notoriously subjective question of bribery.[10] But some sort of control can be placed on this evidence by focussing only on those allegations of misconduct which resulted in formal legal proceedings.[11] And it is quite clear that the Athenians often found cause to put citizens on trial for their activities abroad: generals, trierarchs, ambassadors, and private citizens all found themselves facing charges of treachery, corruption, disobedience or simple ineptitude.[12]

Even with this more limited focus, however, establishing the exact scale of the problem remains difficult, as can be seen from the specific, and relatively well-at-

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9   Breach of instructions: e. g. Andocides and fellow envoys to Sparta in 392 (as in n. 8). *Parapresbeia*: most famously, Demosthenes' prosecution of Aeschines for his conduct on the second embassy to Philip II in 346 (Dem. 19, Aesch. 2; for the legal context, see A. Efstathiou, "Euthyna Procedure in Fourth-century Athens and the Case on the 'False Embassy'", *Dike* 10 [2007] 113–135); compare also the allegations made against Callias (probably in the 460s: Dem. 19.273; D. J. Mosley, "Callias' Fine", *Mnemosyne* 26 [1973] 57–58); Amynias (422: Σ. Ar. *Clouds* 691); Philo (date unknown: Isoc. 18.22).

10 On the fine line between gift-exchange and bribery, see F. D. Harvey, "*Dona ferentes*. Some Aspects of Bribery in Greek Politics", in P. Cartledge/F. D. Harvey (eds.), *Crux. Essays in Greek History presented to G. E. M. de Ste. Croix* (London 1985) 76–117 (at 106–111); Herman, *Ritualised Friendship* (as in n. 3) 75–81; Mitchell, *Greeks Bearing Gifts* (as in n. 3) 181–186.

11 Cf. Knox, "'So Mischievous a Beaste'?" (as in n. 3) 145, who suggests that even those accusations which reached court (and resulted in conviction) should be treated with extreme scepticism. His observation that the Athenian lawcourts' approach to relevance, evidence and hearsay in these cases would not satisfy a modern court is reasonable; but for my purposes here the key point is that these allegations could be made to seem sufficiently serious and substantive to make the (not risk-free) process of formal prosecution a worthwhile undertaking.

12 Disciplinary action against Athenian generals (by deposition, and in the context of *euthunai*) is catalogued and discussed in Hamel, *Athenian Generals* (as in n. 3) ch. 8; Pritchett, *Greek State at War* (as in n. 6) ch. 1 is less comprehensive, but usefully sets Athenian practice in its wider Greek context. Actions against ambassadors are briefly discussed by C. Phillipson, *The International Law and Custom of Ancient Greece and Rome* (London 1911) vol.1, 344 f.; D. Mosley, *Envoys and Diplomacy in Ancient Greece* (Wiesbaden 1973) 40 f.; D. Kienast, "Presbeia: griechisches Gesandtschaftswesen", *RE* Suppl. XIII (1974) 577 f. On control of trierarchs, see V. Gabrielsen, *Financing the Athenian Fleet: Public Taxation and Social Relations* (Baltimore 1994) esp. chs. 4, 8. Legal action for misbehaviour overseas, while predominantly aimed at holders of these three offices, was not restricted to them: Miltiades, for example, held no office when charged for his behaviour in the Chersonese in 493 (Hdt. 6.104); Callistratus was charged with treason after the Theban occupation of Oropos in 366/5, apparently because he was the orator who had suggested the policy which led to this disaster (Arist. *Rhet*. 1364a19–13, with Hansen, *Eisangelia* [as in n. 4] 92 f.). For a different approach to quantification, see Knox, "'So mischievous a beaste'?" (as in n. 3), who tackles the problem from the other direction (starting with a list of Athenian "politicians" and then assessing how many of those figures faced allegations of misconduct), and reaches an extremely (but perhaps unsurprisingly) high level of perceived political criminality: "a rate of political fall-out of more than 50 %" (143).

tested, case of trials of generals. Between 403 and 321, between 21 and 30 trials of generals are attested,[13] a figure which represents between 11.7 and 13.5 % of known *strategiai* in that period, or between 2.6 and 3.7 % of the total number (820) of *strategiai*. Determining the probability that a general would face some sort of disciplinary action therefore depends on how representative the extant evidence is thought to be. If the figures for known generals can be extrapolated to cover all generals then disciplinary action will have been so common as to be almost an occupational hazard.[14] If, on the other hand, it can be assumed that unknown generals are unknown precisely because they achieved nothing of note (whether good or – more relevant to the argument here – bad), then rates of prosecution become slightly less striking. The pattern of evidence makes the former option rather more likely, but absolute certainty is impossible.[15] The same difficulty applies, to an even greater extent, to establishing the proportion of other officials, or private citizens, whose activities provoked formal disciplinary action from the Athenian *demos*.[16]

The narrowly quantitative question is, therefore, hard to answer definitively. But framing the question in those terms is also potentially misleading. Even reliable crime figures do not simply and objectively indicate the level of criminal activity in a society, but also reflect the extent to which a society is interested in controlling criminal behaviour. Apparently high crime figures could, that is, be seen as evidence of a society teetering on the brink of collapse, or they could be seen as evidence of exactly the opposite – a society which is diligently and effectively patrolling the behaviour of its citizens.[17] It is not possible to establish which situation applied in fourth-century Athens by appealing to statistics alone. What is possible, though, is to look at some specific examples of attempts to exercise control over the

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13   Catalogued in Hamel, *Athenian Generals* (as in n. 3) 148–157 (who includes trials for treason and other misdemeanours, as well as *eisangeliai*). The margin of error in the figures arises because of uncertainty either on the question of the historicity of a trial or as to whether the defendant was serving as a general at the time.

14   This is the view taken by Hansen, *Eisangelia* (as in n. 4) 59–63.

15   Hansen, *Eisangelia* (as in n. 4) 63: evidence for the identities of generals comes from a range of sources (particularly inscriptions and historians), which are not particularly interested in recording legal action against these officials; it is therefore unlikely that our sample of named generals is disproportionately skewed towards those who found themselves in legal difficulty. (Evidence for trials of generals is preserved primarily in scholia and lexicographers.)

16   Of the *c.*217 known ambassadors dispatched by Athens between *c.*490 and 322 (as listed in Kienast, *Presbeia* [as in n.12] 595–612), approximately 16 are known to have faced trial as a result (0.07 %). But evidence for ambassadors generally is much less complete than that for generals (not least in that the total number of ambassadors who served in this period is unknown), and often appears in sources which have little interest in an impartial representation of Athens' past (or current) practice (notably Demosthenes' *On the False Embassy*).

17   For a well-documented example, compare the distorting effect of the extension of police forces and other means of control on apparent levels of crime in Victorian Britain: "it is clear that any increase in crime rates detectable over the first few years after any single police reform might reflect the consequence of improved police efficiency rather than a real increase in the actual incidence of crime": V. A. C. Gatrell and T. B. Hadden, "Criminal Statistics and their Interpretation", in E. A. Wrigley (ed.) *Nineteenth-Century Society. Essays in the Use of Quantitative Methods for the Study of Social Data* (Cambridge 1972) 336–396 (at 353).

conduct of Athenian foreign policy, and to explore their possible motivations and implications: are they evidence of a structure in crisis, or could they in fact be an essential element of a well-developed system of policing, punishment, and reward?

III. CONTROLLING MISBEHAVIOUR: THE CASE OF THE RAID ON ERETRIA

One particularly interesting, and complex, attempt to control Athenian behaviour overseas is recorded in an inscribed decree, of disputed date (probably the middle years of the 340s),[18] which records the Athenian response to some (allegedly) unauthorised activities in the Euboean city of Eretria.[19] The decree first sets out a procedure for imposing punishment on those who have already done wrong (lines 6–9):

περὶ μὲν τῶν ἐπιστρ[ατευσάντων ἐπὶ τ]-
[ὴ]ν χώραν τὴν Ἐρετριέων τὴν βουλ[ὴν προβουλεῦσα]-
σαν ἐξενε[γ]κεῖν εἰς τὸν δῆμον εἰ[ς τὴν πρώτην ἐκκ]-
λησίαν, ὅπως ἂν [δ]ίκην δῶσιν κατὰ [τοὺς νόμους (?).

Concerning those who have campaigned against the territory of Eretria, the council shall make a *probouleuma* and bring it forth to the people at the first assembly, so that they shall render justice in accordance with the laws.

It then goes on (in lines 9–17) to lay out the penalties for future transgressions:

                                     ἐὰν]
δέ τις τοῦ λοιποῦ χρόνου ἐπιστρατ[εύσηι ἐπὶ Ἐρέ]-
τριαν ἢ ἐπ᾽ ἄλλην τινὰ τῶν συμμαχίδ[ων πόλεων, Ἀθη]-
ναίων ἢ τῶν συμμάχων τῶν Ἀθηνα[ίων, θάνατον αὐτοῦ]
κατεγνῶσθαι καὶ τὰ χρήματα δ[ημόσια εἶναι καὶ τ]-
ῆς θεοῦ τὸ ἐπιδέκατον· καὶ εἶν[αι τὰ χρήματα αὐτοῦ]
ἀγώγιμα ἐξ ἁπάσων τῶν πόλεω[ν τῶν συμμαχίδων· ἐὰν]
δέ τις ἀφέληται πόλις, ὀφείλε[ιν τῶι συνεδρίωι (?) τ]-
ῶν συμμάχων.

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18   RO 69 (*IG* ii² 125). *IG* dates the inscription to 357/6, but more recent discussions favour a date in the 340s: D. Knoepfler ("Le décret de Hégésippe d'Athènes pour Érétrie", *MH* 41 [1984] 152–161) tentatively followed by RO, suggests a date of 343 for the decree, and 348 for the events to which it refers; M. Dreher, *Hegemon und Symmachoi. Untersuchungen zum Zweiten Athenischen Seebund* (Berlin 1995) 167–173, dates both event and decree to 348.

19   The targets of the first (retrospective) part of the decree are not specified in the extant text, and the exact nature of the activities which are being punished here is very hard to establish with any certainty. If the 340s date of the decree is correct (as seems likely), then the obvious historical context is Phocion's intervention in support of the Eretrian tyrant Plutarchus: Plu. *Phoc.* 12–14; for discussion, see J. M. Carter, "Athens, Euboea, and Olynthus", *Historia* 20 (1971) 418–429. The very confused (and ultimately unsuccessful) nature of this intervention makes it likely that various allegations of wrongdoing and corruption would have circulated in Athens in its aftermath (N. Fisher, *Aeschines: Against Timarchos* [Oxford 2001] 252 f.), but also make it extremely difficult to reconstruct the precise political motivations behind Hegesippus' decision to propose this decree.

> If any one in the future campaigns against Eretria or against any other of the allied cities, whether one of the Athenians or the Athenians' allies, he shall be condemned to loss of rights, and his goods shall be public and the tenth part shall belong to the goddess [Athena]; and his goods shall be liable to seizure from all the allied cities; and if any city expropriates them it shall owe them to the *synedrion* (?) of the allies.

The exact purpose of this new regulation is not immediately clear, since (as the first part of the decree shows) mechanisms already existed by which this sort of illegitimate activity could be punished.[20] It is possible that the fundamental aim of the decree was to make explicit Athens' claim to control the behaviour of its allies as well as its citizens.[21] But the fact that it was also thought necessary, or at least worthwhile, to reiterate the behaviour expected even of Athenian citizens is also worth emphasising. It might be assumed that there should be no need to specify that it is unacceptable for someone to wage war against a state with which his own *polis* has a formal treaty relationship: the individual citizen should, surely, count himself covered by the undertaking (a standard feature of many *summachiai*) that his city will not wage war against allied territory.[22] But there is evidence to suggest that the gap between the obligations of the *polis* and those of its individual citizens was open to exploitation. Mercenary activity, in particular, might lead to a possibly damaging clash between the policy of a state and the actions of some of its citizens.[23] Alcibiades' sophistic attempt to defend his defection to Sparta in 415/14 – it was not he who had betrayed his city, but rather his city which had betrayed him (Thuc. 6.92) – similarly relies on the possibility of accepting (or asserting) that a citizen might, in some circumstances, be able reject the decisions or policies of his own state.[24] The procedure set out in the second part of this decree could therefore be seen as an attempt to insist on the closure of that potential loophole, by emphasising the absolute overlap between the agreements entered into by the *polis* and the

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20 Hansen, *Eisangelia* (as in n. 4) 100 (followed by Dreher, *Hegemon und Symmachoi* [as in n. 18] 165) notes that the procedure referred to in the first part of the decree is likely to be *eisangelia*.

21 Noted by RO, *ad loc*. Some Athenian control over allied behaviour is, of course, implied in most treaty agreements, but the fact that responsibility for punishing transgressions is here asserted to lie not with the allied state but with Athens does mark a further (and more controlling) step in Athens' relationship with its allies.

22 The link between the actions of states and those of individual citizens is made more explicit by the fact that treaties are often framed as agreements between collections of individuals, rather than an abstract state ("the Athenians" rather than "Athens", for example): see A. Schiller, *Political Territoriality of the Classical Athenians, 508–338 BC* (PhD, University of Wisconsin, Madison 2006) ch. 3.

23 See, for example, Thuc. 1.35.4 (Corcyra complains to Athens about Athenian [and allied] mercenaries in Corinthian service), Xen. *HG* 5.2.7 (a Theban regulation preventing its citizens from mercenary service with Sparta); some further discussion in R. A. Bauslaugh, *The Concept of Neutrality in Classical Greece* (Berkeley 1991) 187. N. Toogood ("'Athens Aids Eretria': a State's Jurisdiction over its Citizens' Actions", *CQ* 47 [1997] 295–297) suggests that RO 69 is also primarily concerned with regulating mercenary service, but that seems an unnecessarily narrow reading of its intention.

24 Compare also the oligarchic Thebans' claim (Thuc. 3.62) that the decision to medize in the Persian Wars was taken when their state was under control of an illegitimate regime, and that blame for this policy could not therefore be attached to the city as a whole.

activities undertaken by its citizens. Certainly, one thing which emerges from this decree is an unusually clear and wide-ranging assertion of the principle that the foreign-policy decisions of the *polis* should also be considered binding on all of its citizens, and that a citizen who fails to behave accordingly will be liable to punishment.

Rather than creating distinctly new forms of regulation, therefore, the second part of this decree seems rather to reiterate existing expectations of the behaviour required of citizens, and to reinforce existing procedures by which the *polis* might exercise control over that behaviour. That duplication of procedure might in itself seem indicative of a poorly managed – even panicking – system. In some respects this decree might then seem to be little more than a knee-jerk reaction to a cry that "something must be done", and as such it could also suggest that there was at least a perception within the city that the measures currently available to it were not providing sufficient control over the activities of Athenians overseas.

But there is also scope for drawing more positive conclusions from this text. It is possible, indeed, that the decree's primary intention was not to create a formal procedure for punishing misbehaviour overseas, but instead to function as a conspicuous statement (and warning) of the city's willingness to enforce such punishment. At least two copies of the decree are to be set up: one on the Acropolis (line 18), and another in the Piraeus (line 19).[25] The latter copy was presumably intended to perform an explicitly admonitory and threatening function, reminding those setting out from Athens of the potentially dire consequences of misbehaviour.[26] Moreover, because the inscription also includes the retrospective reference to those who have already been punished for similar actions, it also serves to emphasise that these threats are not idle. The inscription, that is, contains its own answer to the concern (voiced most frequently by Demosthenes) that Athenian decrees tended to function rather as empty expressions of vague aspiration than statements of practical intent:

ψήφισμ᾽ οὐδενὸς ἄξιόν ἐστιν, ἂν μὴ προσγένηται τὸ ποιεῖν ἐθέλειν τά γε δόξαντα προθύμως ὑμᾶς.

a mere decree is worthless without a willingness on your part to put your resolutions enthusiastically into practice.[27]

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25 Kirchner (*ap. IG* ii²) restored the second half of line 18 to include a reference to a third copy of the inscription in the Agora; RO argue (p. 349) that publication in three locations "seems … excessive".

26 Suggested by RO, p. 349. The Piraeus is a relatively rare setting for Athenian state decrees: only 6 state decrees passed in the period 469–301 specify a location in the Piraeus in their publication clause (that is: 1.08 % of decrees from this period in which the publication clause is preserved); in all cases, the decision to place a copy in the Piraeus appears to be driven by the relevance of the content to activities associated with that part of the city: see P. P. Liddel, "The Places of Publication of Athenian State Decrees from the 5th Century B.C. to the 3rd Century A.D.", *ZPE* 143 (2003) 79–93 (at 82, 91).

27 See G. Mader, "Fighting Philip with Decrees: Demosthenes and the Syndrome of Symbolic Action", *AJPh* 127 (2006) 367–386.

How is that willingness created? In part, it depends on the actions of individuals: the presence of a Hegesippus, or someone like him, willing to pursue wrongdoers.[28] Indeed, by recording and advertising Hegesippus' actions on this occasion, the inscription could be seen to encourage others to perform similar actions in the future: here is someone who has shown a willingness to police and enforce the city's laws; his performance of this duty is now commemorated in the form of the inscribed decree, serving both as a testimony to Hegesippus' civic-mindedness and as a challenge to other Athenians to emulate this behaviour.[29]

The inscription therefore functions both as a warning to potential wrongdoers, and as an encouragement to the law-abiding. And finally, because the warning is expressed in the form of a decree – the collective will of the Athenian *demos* – it reinforces the claim that it is the Athenians as a whole, not just the specific interests of a few partisan politicians, to whom anyone contemplating rogue action will be setting himself in opposition. A contrast with Sparta might spring to mind – in particular with the Spartan response to Sphodrias' unauthorised raid on Attica of *c*.378. According to Xenophon's account, this was a highly destabilising action, which provoked the final collapse of the King's Peace and drove Athens into outright conflict with Sparta (and alliance with Thebes). Sphodrias' insubordination, however, was dealt with only by an unedifying process of secretive string-pulling and back-scratching, resulting in an outcome which was, for Xenophon, "the most unjust ever known in Sparta" (ἀδικώτατα ἐν Λακεδαίμονι: *HG* 5.4.24).[30] The example of the decree of Hegesippus suggests that the situation in Athens was significantly different: while personal, or even irrational, motivations might well have played a part in Athenian reactions to misbehaviour overseas, the response which dominates the public record of those reactions is one of conspicuous and collective effort, setting the shared values of the *polis* against those of any wrongdoers, and threatening those wrongdoers with the prospects of collectively-enforced policing and punishment.

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28 Compare (e.g.) Dem. 21.224, Lyc. 1.4 on the essential role of private initiative in enforcing Athens' laws (and see more generally V. Hunter, *Policing Athens: Social Control in the Attic Lawsuits, 420–320 B.C.* [Princeton, N.J. 1994] ch. 5). This motivation need not, of course, be entirely altruistic: it is quite possible that Hegesippus stood to gain some advantage against his personal or political enemies by pursuing this action against them: Fisher, *Timarchos* (as in n.19) 252f.

29 On decree-proposing as evidence of political service and political success, see P.P. Liddel, *Civic Obligation and Individual Liberty in Ancient Athens* (Oxford 2007) 242f.

30 Xenophon's reading of this episode was not, of course, the only one possible: Diodorus', almost certainly more accurate, account (15.28f.) suggests a different chronology (in which Sphodrias' raid is a response to rather than a catalyst for the alliance with Thebes and foundation of the Second Athenian Confederacy), and more official status for the action (it was, according to Diodorus, ordered by the Spartan king Cleombrotus). For discussion of the historical and historiographical problems, see A. MacDonald, "A Note on the Raid of Sphodrias: the Case for Diodoros", *Historia* 21 (1972) 38–44; G.L. Cawkwell, "The Foundation of the Second Athenian Confederacy", *CQ* 23 (1973) 47–60.

IV. REWARDING GOOD BEHAVIOUR: HONOURS AND PRIVILEGES

But if compliance is achieved partly through effective policing, it is also, and often even more effectively, created through the offering of rewards, and – just as important – the public recognition and commemoration of those rewards. The Athenian honorific habit is well-documented,[31] and although in the sphere of foreign politics it is Athens' honours for outsiders which have received most scholarly attention,[32] it is clear that the city was also prepared to reward its own generals and diplomats for their service to the city.

Most conspicuous among these rewards are the honours given to Athens' most successful generals in recognition of their achievements. In the fifth century, Cleon was reportedly granted *sitesis* and *proedria*, presumably for his successes at Pylos (Ar. *Eq.* 702–704). Conon was rewarded for his exploits in the 390s with a grant of *ateleia*, and with a statue in the agora (Dem. 20.70); the location of this statue, in close proximity to the Tyrannicides, particularly emphasised his service to the Athenian *demos*.[33] Twenty years later Conon's son Timotheus was similarly honoured, as was the general Chabrias (Dem. 20.75–86). Iphicrates was awarded the full set of honours (statue, *sitesis* and *proedria*) for his defeat of a Spartan *mora* in 390 (Dem. 13.22).[34] Several generals set up private dedications recording their activities,[35] but the processes of private and public commemoration were not necessarily oppositional: not only is it demonstrably the case that some generals received both forms of monument,[36] but it also seems that a more general connection

31 The evidence is usefully collected and analysed by C. Veligianni-Terzi, *Wertbegriffe in den attischen Ehrendekreten der klassischen Zeit* (Stuttgart 1997), with recent updates on the fourth-century epigraphic material in S. D. Lambert, "Athenian State Laws and Decrees, 352/1–322/1: I. Decrees Honouring Athenians", *ZPE* 150 (2004) 85–120; *id.*, "Athenian State Laws and Decrees, 352/1–322/1: III Decrees Honouring Foreigners. A. Citizenship, Proxeny and Euergesy", *ZPE* 158 (2006) 115–119; *id.,* "Athenian State Laws and Decrees, 352/1–322/1: III Decrees Honouring Foreigners. B. Other Awards", *ZPE* 159 (2007) 101–154. On the technicalities of Athens' honorific practice, see especially A. S. Henry, *Honours and Privileges in Athenian Decrees: the Principal Formulae of Athenian Honorary Decrees* (Hildesheim 1983); on the role of honours in Athenian democratic and civic ideology, Liddel, *Civic Obligation* (as in n. 29) 160–182.

32 Notably in the form of proxeny decrees, on which see M. B. Walbank, *Athenian Proxenies of the Fifth Century B.C.* (Toronto 1978); on honorary grants of citizenship, see M. J. Osborne, *Naturalization in Athens*, 4 vols. (Brussels 1981–1983).

33 [33] J. L. Shear, "Cultural Change, Space, and the Politics of Commemoration in Athens", in R. G. Osborne (ed.), *Debating the Athenian Cultural Revolution: Art, Literature, Philosophy, and Politics 430–380 B.C.* (Cambridge 2007) 91–115 (at 108).

34 P. Gauthier, *Les cités grecques et leurs bienfaiteurs* (Athens 1985) 95–103; Liddel, *Civic Obligation* (as in n. 29) 178.

35 Shear, "Cultural Change" (as in n. 33) 108, n. 64: privately dedicated statues on the Acropolis are attested for Diitrephes (Paus. 1.23.4); Pericles (Pliny *NH* 34, 74, Paus. 1.25.1, 28.2); Phormio (Paus. 1.23.10); Tolmides (Paus. 1.27.5); Xanthippus (Paus. 1.25.1); see also R. Krumeich, *Bildnisse griechischer Herrscher und Staatsmänner im 5. Jahrhundert v. Chr.* (Munich 1997) 226–244.

36 Shear, "Cultural change" (as in n. 33) 108, n. 65 draws attention to the case of Conon and Timotheus, who were commemorated with a public monument in the Agora, and a private

existed between private dedications and the recognition (and celebration) of the proper fulfilment of civic duties. Dedication after office-holding was a long-standing custom in Athens, but, according to Aeschines (3.21), it was not permitted until a magistrate had passed his *euthuna* – that is, until he had persuaded the *demos* that he had properly carried out his office.[37]

While the commemoration of generals' successes seems to have attracted most attention from contemporary writers, these were not the only rewards which the Athenians offered to those involved in overseas politics. The rewarding of trierarchs for conspicuously diligent fulfilment of their duties is quite well-attested: *IG* ii^2 1629 (RO 100), for example, includes among its provisions for the despatch of a colony to the Adriatic instructions for awarding a series of crowns, ranging in value from 200 to 500 drachmae, to the trierarchs who most diligently (and swiftly) carried out their prescribed duties, "in order that the competitive zeal of the trierarchs towards the people may be evident" (ὅπω|[ς ἂν ἦι] φανερὰ ἡ φιλοτι|[μία ἡ εἰ]ς τὸν δῆμον τοῖς | [τριηρ]άρχοις; lines 200–203).[38] Ambassadors were sometimes thanked for their services. For example, RO 48 (*IG* ii^2 124), part of an alliance between Athens and Carystus agreed in 357/6, records a vote of praise, and the award of dinner at the prytaneion, to the Athenian general and ambassadors who have negotiated the agreement (lines 11–12).[39] The vote of thanks was accompanied by the more tangible gesture of an apparently quite generous award of travel expenses (lines 12–17).[40]

monument on the Acropolis. For the form of the latter see C. Löhr, *Griechische Familienweihungen: Untersuchungen einer Repräsentationsform von ihren Anfängen bis zum Ende des 4. Jhdt. v. Chr.* (Rahden/Westf. 2000) 76 f.; a new fragment of *IG* ii^2 3774 (*SEG* 36.246) shows that the dedication was made by Conon and Timotheus, not the Athenian *demos*.

37 For an early example, note the dedication of the archon Peisistratus (ML 11, *c*. 521): discussion of this and other examples by Liddel, *Civic Obligation* (as in n. 29) 200, 257 f.

38 The decree also includes (at lines 233–246) directions for punishing (with fines of 10,000 dr.) those trierarchs who failed to carry out their responsibilities. On the intensity with which rewards for trierarchs could be pursued, see especially Demosthenes 51; compare also the list of dedicated trierarchic crowns in *IG* ii^2 1953 (357/6).

39 Praise for Athenian ambassadors is also recorded in *IG* ii^2 40 (37<u>8</u>/7; a trierarch is honoured alongside the ambassadors); *IG* ii^2 102 (370); *IG* ii^2 107 (368/7; the praise is added in an amendment to the decree); *IG* ii^2 149 (pre-355); *IG* ii^2 207 (349/<u>8</u>); possibly *IG* ii^2 116 (361/0; the praise is for [Th]e[ai]tetos of Erchia, who played some, unspecified, role in negotiating the treaty). Dem. 19.31 claims that a vote of praise and invitation to *deipnon* at the Prytaneion were absolutely routine for returning ambassadors, but his assertion is not borne out by the extant evidence: see further below p. ■■.

40 On ambassadors' pay and expenses, see W. L. Westermann, "Notes upon the Ephodia of Greek Ambassadors", *CPh* 5 (1910) 203–216; D. J. Mosley, *Envoys* (as in n. 12) 74–77, both of whom argue that the level of expenses granted to ambassadors was based (in the classical period) on more or less consistently applied formula of 1.5 dr. per day of service, rounded to the nearest multiple of 10. W. T. Loomis, *Wages, Welfare Costs and Inflation in Classical Athens* (Ann Arbor 1998) 219, tentatively suggests that a rate of 2 dr. per day might have been standard by the mid-fourth century. If the restoration in line 13 of [Δ]Δ δράχμας (20 dr.) expenses for the ambassadors sent to Carystus is correct, and if U. Koehler ("Attische Psephisma aus der ersten Hälfte des vierten Jahrhunderts", *MDAI(A)* 2 [1877] 197–213, at 211) is right to suggest that the mission will have taken about 6 days to complete, then the daily rate for this embassy would

It seems, then, that the balance between punishment and reward, carrot and stick, which various recent studies of Athenian democracy have identified as one of the key elements to the successful functioning of that system,[41] was also operational in the case of military and diplomatic service outside the *polis*: failure to keep to the city's specific commands or general precepts would be punished; reliable service would be praised; both praise and blame would be publicly advertised, the better to encourage citizens to behave in the appropriate manner in future. The success of this system is extolled by Lycurgus:

> ἐπίστασθε ὦ Ἀθηναῖοι μόνοι τῶν Ἑλλήνων τοὺς ἀγαθοὺς ἄνδρας τιμᾶν· εὑρήσετε δὲ παρὰ μὲν τοῖς ἄλλοις ἐν ταῖς ἀγοραῖς ἀθλητὰς ἀνακειμένους, παρ' ὑμῖν δὲ στρατηγοὺς ἀγαθοὺς καὶ τοὺς τὸν τύραννον ἀποκτείναντας. καὶ τοιούτους μὲν ἄνδρας οὐδ' ἐξ ἁπάσης τῆς Ἑλλάδος ὀλίγους εὑρεῖν ῥάδιον, τοὺς δὲ τοὺς στεφανίτας ἀγῶνας νενικηκότας εὐπετῶς πολλαχόθεν ἔστι γεγονότας ἰδεῖν. ὥσπερ τοίνυν τοῖς εὐεργέταις μεγίστας τιμὰς ἀπονέμετε, οὕτω δίκαιον καὶ τοὺς τὴν πατρίδα καταισχύνοντας καὶ προδιδόντας ταῖς ἐσχάταις τιμωρίαις κολάζειν

> You, Athenians, alone among Greeks know how to honour valiant men. In other cities, you will find, it is the athletes who have their statues in the market place, whereas in yours it is victorious generals and the slayers of the tyrant: men whose like it is hard to find though we search the whole of Greece for but a few, whereas the winners of contests for a wreath have come from many places and can easily be seen. It is then only right, since you pay the highest honours to your benefactors, that you should also punish with the utmost rigour those who dishonour and betray their country. (1.51; tr. Burtt)

Demosthenes' speech *Against Leptines* adds an important further observation (or allegation): this approach to honours (an approach whose efficacy is, of course, a central concern of the speech)[42] should, he claims, be seen as distinctively Athenian, and distinctively democratic. In Sparta (according to Demosthenes) the reward for good conduct involves separation of a citizen from his (former) peers, and elevation into the narrow ruling elite of the Gerousia:

> ἐπειδάν τις εἰς τὴν καλουμένην γερουσίαν ἐγκριθῇ παρασχὼν αὑτὸν οἷον χρή, δεσπότης ἐστὶ τῶν πολλῶν. ἐκεῖ μὲν γάρ ἐστι τῆς ἀρετῆς ἆθλον τῆς πολιτείας κυρίῳ γενέσθαι μετὰ τῶν ὁμοίων

> Whenever a man for his good conduct is elected to the so-called Gerousia, he is absolute master of the mass of citizens. For at Sparta the prize of merit is to share with one's peers the supremacy in the State. (20.107; tr. Vince)

have been 3.3 dr.: that is, significantly above the average rate. Certainty on this point is difficult to achieve, however, and it is equally possible to reconstruct either a text or an itinerary which makes the ambassadors' daily rate much less generous (see the careful discussion of this text in Loomis, *Wages* 211 f.). What is more clear is the existence of a popular perception that life on ambassadorial expenses could be very luxurious (see esp. Ar. *Ach.* 65–90), and not necessarily good value for money (see, e. g., Dem. 19.158 on the poor returns from the 1000 dr. of travel expenses paid to the ambassadors to Philip II in 346).

41   G. Herman, *Morality and Behaviour in Democratic Athens: a Social History* (Cambridge 2006); Liddel, *Civic Obligation* (as in n. 29). Cf. M. Christ, *The Bad Citizen in Classical Athens* (Cambridge 2006).

42   See briefly W. C. West, "The Decrees of Demosthenes' 'Against Leptines'", *ZPE* 107 (1995) 237–247; the fullest recent study of the speech is C. Kremmydas, *Commentary on Demosthenes' Speech Against Leptines, chapters 1–119* (PhD, University of London 2005).

Honour in Athens, by contrast, is an inherently more democratic affair: any citizen may compete for honour simply by doing their duty well:

παρὰ δ᾽ ἡμῖν ταύτης μὲν ὁ δῆμος κύριος, καὶ ἀραὶ καὶ νόμοι καὶ φυλακαὶ ὅπως μηδεὶς ἄλλος κύριος γενήσεται, στέφανοι δὲ καὶ ἀτέλειαι καὶ σιτήσεις καὶ τοιαῦτ᾽ ἐστίν, ὧν ἄν τις ἀνὴρ ἀγαθὸς ὢν τύχοι. καὶ ταῦτ᾽ ἀμφότερ᾽ ὀρθῶς ἔχει, καὶ τἀκεῖ καὶ τὰ παρ᾽ ἡμῖν. διὰ τἰ ὅτι τὰς μὲν διὰ τῶν ὀλίγων πολιτείας τὸ πάντας ἔχειν ἴσον ἀλλήλοις τοὺς τῶν κοινῶν κυρίους ὁμονοεῖν ποιεῖ, τὴν δὲ τῶν δήμων ἐλευθερίαν ἡ τῶν ἀγαθῶν ἀνδρῶν ἅμιλλα, ἣν ἐπὶ ταῖς παρὰ τοῦ δήμου δωρειαῖς πρὸς αὑτοὺς ποιοῦνται, φυλάττει.

… but with us the people is supreme, and any other form of supremacy is forbidden by imprecations and laws and other safeguards, but we have crowns and immunities and free maintenance and similar rewards, which anyone may win, if he is a good citizen. And both these customs are right enough, the one at Sparta and the other here. Why? Because in an oligarchy harmony is attained by the equality of those who control the State, but the freedom of a democracy is guarded by the rivalry with which good citizens compete for the rewards offered by the people. (20.107-8; tr. Vince)

Demosthenes' closing claim here is particularly important: not only does the Athenian system of rewards encourage citizens to do their duty to the democratic city, the very act of competing for those rewards serves as a way of safeguarding democratic freedom.

V. A FLAWED MODEL?

The model which has been sketched out so far, therefore, is one which sees Athens' soldiers and diplomats operating in a system which carefully balances risk and reward, punishment and praise. According to this model, the evidence which exists for the punishment of misbehaving generals and diplomats could indeed be seen as proof that the system was working exactly as it should: Athenians – collectively and individually – were keen to conspicuously reprimand those who acted improperly, and, in doing so, provided a paradigm of the proper way to behave; this positive model was further reinforced by the equally conspicuous celebration, through honours, and through dedications, of those who had performed their tasks in a suitable fashion.

Should, though, this exceptionally rosy picture of the health of the Athenian system be accepted without question? Even the *Against Leptines*, a speech which is generally keen to emphasise the dangers of tinkering with Athens' existing honorific culture, does concede that not everyone in Athens thought that the system was working properly. The objection seems not to have been that the combination of coercion and praise was inherently unworkable, but rather that, in practice, the balance of risk and reward was not properly calibrated. A recurring allegation in fourth-century texts is that Athenian honorific culture had become grossly inflated in recent years. At 20.112 ff, for example, Demosthenes represents his opponents as claiming that generals of the previous century would have been perfectly happy with a modest inscription, rather than requiring a full set of honours and privileges as recognition for their service. A similar criticism appears in Demosthenes' own voice in the speech *Against Aristocrates*:

ἄξιον τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, κἀκεῖν᾽ ἐξετάσαι, πῶς ποθ᾽ οἱ πάλαι τὰς τιμὰς ἔνεμον καὶ τὰς δωρειὰς τοῖς ὡς ἀληθῶς εὐεργέταις, καὶ ὅσοι πολῖται τύχοιεν ὄντες καὶ ὅσοι ξέ-νοι. κἂν μὲν ἴδητ᾽ ἐκείνους ἄμεινον ὑμῶν, καλὸν τὸ μιμήσασθαι, ἂν δ᾽ ὑμᾶς αὐτούς, ἐφ᾽ ὑμῖν ἔσται τὸ πράττειν. πρῶτον μὲν τοίνυν ἐκεῖνοι Θεμιστοκλέα τὸν τὴν ἐν Σαλαμῖνι ναυ-μαχίαν νικήσαντα καὶ Μιλτιάδην τὸν ἡγούμενον Μαραθῶνι καὶ πολλοὺς ἄλλους, οὐκ ἴσα τοῖς νῦν στρατηγοῖς ἀγάθ᾽ εἰργασμένους, οὐ χαλκοῦς ἵστασαν οὐδ᾽ ὑπερηγάπων.

> It is also opportune, men of Athens, to enquire how our forefathers bestowed distinctions and rewards upon genuine benefactors, whether they were citizens or strangers. If you find their practice better than yours, you will do well to follow their example; if you prefer your own, it rests with you to continue it. Take first Themistocles, who won the naval victory at Salamis, Miltiades, who commanded at Marathon, and many others, whose achievements were not on a level with those of our commanders today. Our ancestors did not put up bronze statues of these men, nor did they carry their regard for them to extremes. (23.196–8; tr. Vince)

Similar objections appear in Aeschines (3.186), while fragments of a speech (wrongly) attributed to Lysias (Fr. Sp. XX [Carey]) suggest that the honours voted to Iphicrates provoked a legal challenge from one of the descendants of Harmodi-us.[43]

But if one strand of argument seems to be that the Athenians have become excessively soft on their generals (and other politicians), it is also possible to find evidence for the diametrically opposed position: the Athenians are unreasonably, unbearably ungrateful; the balance between risk and punishment has swung too far in favour of punishment; and diplomatic or military service for Athens is now a disproportionately risk-laden activity. In his encomium of Timotheus in the *Antidosis* for example, Isocrates alleges that the general was highly regarded everywhere in the Greek world except in his native city, by which he was fined a record amount (15.129); Athens' treatment of Timotheus seemed, according to Isocrates, entirely unreasonable:

> εἰ μὲν ὑμεῖς πρὸς αὐτὸ τὸ δίκαιον ἀποβλέποντες σκέψεσθε περὶ τούτων, οὐκ ἔστιν ὅπως οὐ δεινὰ καὶ σχέτλια πᾶσιν εἶναι δόξει τὰ πεπραγμένα περὶ Τιμόθεον·

> If you consider the actions of the city by the standard of pure justice, no one of you can avoid the conclusion that her treatment of Timotheus was cruel and abominable. (15.130; tr. Norlin)

Faced with these mutually inconsistent positions, it is tempting to dismiss them both as the products simply of ill-founded disaffection, whether based on jealousy of the elite in the former case or mistrust of the democracy in the latter, and enhanced in both instances by the common fourth-century lament that things were much better in the good old days of the fifth century. Nevertheless, the general dissatisfaction which drives both of these complaints might, in fact, have some sort of solid basis.

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43   The evidence for Iphicrates' honours is collected and discussed by Gauthier, *Les cités grecques* (as in n. 34) Appendix 1 (who, however, believes that the Lysianic fragment is genuine; cf. K. J. Dover, *Lysias and the Corpus Lysiacum* [Berkeley 1968] 45 f.). On negative depictions of honours for generals (and the characterisation of such honours as a novelty of the fourth century), see Gauthier, *Les cités grecques* (as in n. 34) 121–125; Liddel, *Civic Obligation* (as in n. 29) 164 f.

First, the allegation that the Athenians fail to honour their generals and diplomats is, to some extent, supported by the extant evidence: honours for service overseas are not (as has been seen) non-existent, but they are uncommon. Perhaps even more important is that they seem to be substantially less common than honours for service in domestic politics. Of the twenty-nine inscribed honorific decrees passed for Athenian citizens between 352/1 and 322/1, for example, only two can be connected with rewards for foreign service: the rewards for trierarchs in *IG* ii[2] 1629 have already been noted; the other (and less secure) example is *IG* ii[2] 414a, which perhaps honours the general Diotimus for his successful action against pirates in 335/4.[44] Of course, not all Athenian honours were inscribed,[45] and not all inscribed honours are preserved,[46] but this pattern of the predominance of honours for domestic office-holding is repeated in the records of dedications of honorific crowns, which are dominated by prytaneis, diaiteitai and other similar office-holders.[47] Even the praises and offers of *deipnon* for ambassadors which sometimes appear in the context of inscribed treaties are probably best explained as being driven not by any particular desire to reward ambassadors in their own right, but rather by the need to provide hosts for the honorific dinners regularly awarded to visiting, non-Athenian, ambassadors.[48]

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44   Neither Diotimus' name nor the office held by the honorand are preserved in the extant part of the inscription; the argument for restoring them is based on the evidence of other epigraphic and literary testimonia: for discussion, see C.J. Schwenk, *Athens in the Age of Alexander: the Dated Laws & Decrees of "the Lykourgan Era", 338–322 B.C.* (Chicago 1985) 136.

45   The regular inscription of honours for Athenian citizens begins only in the 340s (in contrast to the inscribing of honours for non-Athenians, which is attested from the middle of the fifth century): Lambert, "Decrees Honouring Athenians" (as in n. 31) 86f.

46   For example: Dem. 20.69f claims to quote from the *stele* on which Conon's honours were inscribed (Lambert, "Decrees Honouring Athenians" [as in n. 31] 86), but no such inscription is extant.

47   Liddel, *Civic Obligation* (as in n. 29) 199–202. See above (n. 38) for the dedication of trierarchic crowns (apparently a unique example). Dem. 18.114 notes that the commanders Nausicles, Diotimus and Charidemus had been crowned by the Athenians for their (particularly financial) contributions to Athens' military efforts (the dedication of the crowns, if not the reason for their being awarded, is confirmed by the accounts recorded in *IG* ii[2] 1496, lines 18–51). Other examples are less straightforward: the Erechtheion inventories record dedications of crowns by Timotheus (*IG* ii[2] 1424, lines 21–3 [374/3]) and Conon (*IG* ii[2] 1424a, line 347 [371/0]), but it is not known whether these crowns were awarded by Athens or a foreign power (cf. D. Harris, *The Treasures of the Parthenon and Erechtheion* [Oxford 1995] 232f.); the same applies to the crown dedicated by "the ambassadors … who served with Dion" (οἱ πρέσβεις … οἱ μετὰ Δίωνος; *IG* ii[2] 1424a, lines 349f [371/0]). The one area where military/diplomatic crowning is commonplace (particularly in the late classical and Hellenistic periods) was among those performing garrison duties in Attica (see G.J. Oliver, *War, Food, and Politics in Early Hellenistic Athens* [Oxford 2007] 274–276), but the focus here is on rewarding service to and within a closely-defined military community, rather than service outside the *polis*.

48   Suggested by Lambert, "Decrees Honouring Athenians" (as in n. 31) 86, n. 5, who notes that the Athenian ambassadors in such clauses are not always even named: "the honour is incidental to the decree's main purpose". The impression that honours for Athenian ambassadors were an afterthought rather than a priority is particularly strong in *IG* ii[2] 107: the Mytilenean ambassa-

There was, however, an alternative source of honour for Athenians who served overseas – namely, awards from foreign *poleis* (or other powers), voted to Athenians in gratitude for their service to those powers. Conon, to take a well-known example, was honoured with statues at Ephesus, Samos and Erythrae.[49] As has already been seen, Conon was also honoured by the Athenians, so these foreign honours might be seen as complementary to his Athenian rewards (although, in the case of Erythrae at least, the benefits granted seem to outstrip what was on offer at Athens: a gilt statue rather than bronze, and a range of other benefits, including immunity from taxation, *proedria*, citizenship, and the status of *proxenos* and *euergetes*).[50] Perhaps rather more typical, however, was the experience of another Athenian famously honoured by a foreign *polis* for his overseas service, Androtion. After serving as Athenian governor on Amorgos, Androtion was awarded a 500 dr. gold crown (and other honours) by the people of Arcesine (*IG* xii.7 5 = RO 51). Yet, as far as the extant evidence shows, this was the only reward which Androtion received for his foreign service. In his home city, by contrast, his overseas activities provoked public censure, but never public honour.[51]

The regularity with which Athenians received honours from foreign states should not be over-emphasised: honours for Athenians were, for various reasons, rare during the fifth century,[52] but even in the fourth century the evidence for non-Athenian honours for Athenian citizens is not particularly rich.[53] Nevertheless, foreign honours do seem to have been a prominent enough concern in Athenian life

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dors are praised in the main body of the decree (lines 24–30); the praise for the Athenian ambassadors is added only in an amendment (lines 30–34).

49 Ephesus and Samos: Pausanias 6.3.14–16; Löhr, *Griechische Familienweihungen* (as in n. 36) 80–81 (Ephesus), 87 (Samos). Erythrae: *IK Erythrae* 6 (= RO 8).

50 Conon's statue at Erythrae is discussed by J. Ma, "A Gilt Statue for Konon at Erythrae?", *ZPE* 157 (2006) 124–126, who emphasises the significance of its material (if the, restored, reference to a gilt statue is correct then this would be the first example of a mortal receiving an honour previously reserved for the gods) and of the fact that Conon was allowed to choose the location of his statue (contrast the situation in Athens, where the positioning of Conon's statue seems to have been driven by the specific agenda of the *demos*: see n. 33).

51 See n. 8 for the allegations of corruption connected with his service as ambassador. He was also prosecuted (probably unsuccessfully) for *graphe paranomon* in 356 (P. Harding, "Androtion's Political Career", *Historia* 25 [1976] 186–200; *id.*,. *Androtion* [as in n. 8] 21); his exile to Megara at the end of his career has also been linked to his anti-Persian policies (F. Jacoby, *Die Fragmente der Griechischen Historiker*, vol. 3b [suppl.] vol. 1, text [Leiden 1954] 90–92; cf. Harding, *Androtion* [as in n. 8] 179 f.).

52 P.A. Low, *Interstate Relations in Classical Greece: Morality and Power* (Cambridge 2007) 242–248. The conspicuous exception is Themistocles (although his most striking honour, a monument in the *agora* at Magnesia (a μνημεῖον, "monument" in Thuc. 1.138.5; a τάφον, "tomb" in Plu. *Them.* 32.3, seems likely to have been awarded posthumously).

53 A full survey of the evidence is a desideratum (although made difficult by uncertainties in dating non-Athenian decrees), but a preliminary idea of the level of honorific activity can be found in Marek's survey of proxeny decrees (*Die Proxenie* [Frankfurt am Main 1984]): in the classical period, apart from the honours for Androtion and Conon already mentioned, Marek notes honours awarded to Athenian citizens by Alea (*IvO* 30); Arcadia (*IG* v.2 1); Argos (*BCH* Suppl. 6: 261, no.3); Cius (*IK Kios* 2); Ephesus (*IEph* 1421); Ilion (*IK Ilion* 23); Olbia (*IOlbia* 5, 6); Priene (*IPriene* 6).

to provoke legislation. Aeschines alleges the existence of a law stipulating that honorific crowns voted by foreign states be dedicated to Athena "lest any one set a higher value upon the gratitude of a foreign state than upon that of his own country, and so become corrupted" (ἵνα μηδεὶς ἀλλοτρίαν εὔνοιαν περὶ πλείονος ποιούμενος τῆς πατρίδος χείρων γένηται τὴν ψυχήν; 3.46). The award of these foreign crowns could also (according to Aeschines) be publicly announced only with the permission of the Athenian *demos*, "for so he who is proclaimed will be more grateful to you for permitting the proclamation than to those who confer the crown" (ὁ κηρυττόμενος μείζω χάριν εἰδῇ τῶν στεφανούντων ὑμῖν, ὅτι κηρύξαι ἐπετρέψατε. ὅτι δ᾿ ἀληθῆ λέγω, τῶν νόμων αὐτῶν ἀκούσατε; 3.47).

Aeschines' representation of the laws regulating the award of crowns may well be extremely tendentious.[54] Nevertheless, the way in which he chooses to justify these laws is telling: the threat posed by foreign honours is, for Aeschines, not one of financial corruption, but of the failure of a relationship of *charis* and *eunoia* between politician and people. A very similar idea appears in Isocrates' explanation for the "abominable" treatment meted out to Timotheus by the Athenian people. Isocrates identifies as the root cause of Timotheus' problems his unwillingness to foster the *charis* or *eunoia* of the Athenian demos, in spite of Isocrates' insistence on the importance of doing so (and in spite of his pre-eminent success in winning *eunoia* among all the other Greeks):[55]

"ὁρᾷς δὲ τὴν φύσιν τὴν τῶν πολλῶν ὡς διάκειται πρὸς τὰς ἡδονάς, καὶ διότι μᾶλλον φιλοῦσι τοὺς πρὸς χάριν ὁμιλοῦντας ἢ τοὺς εὖ ποιοῦντας, καὶ τοὺς μετὰ φαιδρότητος καὶ φιλανθρωπίας φενακίζοντας ἢ τοὺς μετ᾿ ὄγκου καὶ σεμνότητος ὠφελοῦντας. ὧν οὐδέν σοι μεμέληκεν, ἀλλ᾿ ἢν ἐπιεικῶς τῶν ἔξω πραγμάτων ἐπιμεληθῇς, οἴει σοι καὶ τοὺς ἐνθάδε πολιτευομένους καλῶς ἕξειν. τὸ δ᾿ οὐχ οὕτως ἀλλὰ τοὐναντίον φιλεῖ συμβαίνειν. ἢν γὰρ τούτοις ἀρέσκῃς, ἅπαν ὅ τι ἂν πράξῃς οὐ πρὸς τὴν ἀλήθειαν κρινοῦσιν ἀλλὰ πρὸς τὸ σοὶ συμφέρον ὑπολήψονται, καὶ τὰ μὲν ἁμαρτανόμενα παρόψονται, τὸ δὲ κατορθωθὲν οὐρανόμηκες ποιήσουσιν· ἡ γὰρ εὔνοια πάντας οὕτω διατίθησιν."

"You observe," I would say to him, "the nature of the multitude, how susceptible they are to flattery; that they like those who cultivate their favour better than those who seek their good; and that they prefer those who cheat them with beaming smiles and brotherly love to those who serve them with dignity and reserve. You have paid no attention to these things, but are of the opinion that if you attend honestly to your enterprises abroad, the people at home also will think well of you. But this is not the case, and the very contrary is wont to happen. For if you please the people in Athens, no matter what you do they will not judge your conduct by the facts but will construe it in a light favourable to you; and if you make mistakes, they will overlook them, while if you succeed, they will exalt your success to the high heaven. For goodwill has this effect upon all men." (15.133 f.; tr. Norlin).

Both Isocrates and Aeschines, therefore, build their (very different) arguments on a shared assumption: an Athenian general or diplomat need not, necessarily, seek his rewards – intangible as well as tangible – from the Athenian people, precisely because he was in such a good position to access other sources of *eunoia*. And yet that

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54 E. Harris, "Law and Oratory" in I. Worthington (ed.), *Persuasion: Greek Rhetoric in Action* (London 1994) 130–152 (at 140–148).

55 15.122, 135; J. de Romilly, "Eunoia in Isocrates or the Political Importance of Creating Good Will", *JHS* 78 (1958) 92–101.

failure to participate in the competitive quest for honours could itself be seen as something threatening, and something undemocratic. The neat, self-contained model of risk and reward sketched out by Demosthenes in the *Against Leptines* relied on "good citizens compet[ing] for the rewards offered by the people" (20.108), but in the sphere of foreign politics it is not only the Athenian people who can offer these rewards. Even if the majority of Athens' foreign politicians had not been corrupted by the gratitude of a foreign state, there might always be the lingering suspicion among the *demos* that they had. It is tempting, in fact, to speculate that a perception among Athenians that their generals and diplomats were being liberally honoured by foreign powers might explain, or at least contribute to, their relative reluctance to honour those men themselves. But even if there is no causal connection between the availability of foreign honours and the paucity of domestic reward for those who served Athens overseas, it does seem likely that those two phenomena could combine with corrosive effect to create an atmosphere of mutual suspicion and discontent between politicians and *demos*.

Such an atmosphere is not, it seems safe to assume, likely to be particularly conducive to the smooth conduct of foreign policy. It has the more specific consequence, too, of leaving the Athenian commander or diplomat in a potentially impossible position. The successful practice of interstate politics in the Greek world relied, to a great extent, on the careful cultivation and exploitation of precisely these reciprocal ties of *eunoia* and *xenia*, not just for the sort of wide-ranging project of winning over hearts and minds which Isocrates attributes to Timotheus in the *Antidosis* (121–128),[56] but also for much more pragmatic purposes. Andocides, for example, claimed (2.11 f) that he took advantage of a tie of *xenia* with the Macedonian royal house in order to secure a supply of oar-spars for the Athenian fleet in 411 B.C, "since Archelaus had hereditary connections with my family and offered me the right of cutting and exporting as many as I wished" (ὄντος μοι Ἀρχελάου ξένου πατρικοῦ καὶ διδόντος τέμνεσθαί τε καὶ ἐξάγεσθαι ὁπόσους ἐβουλόμην).[57] This sort of action could, of course, benefit the individual citizen as well as the *polis* as a whole (Andocides is careful to deny that he made any excessive financial gain from his arrangement with Archelaus, but it is clear nevertheless that the deal was not without benefit for him);[58] but individual and collective benefit are not, in this sort of context, mutually exclusive.

Conversely, it seems likely that failure to exploit those ties might contribute to lack of success in diplomatic or military activity, and that lack of success, in turn, might itself provoke strong criticism, or even formal indictment on grounds of fail-

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56   Compare the similar portrayal of Agesilaus' exploitation of *eunoia* in Xenophon's *Agesilaus* 1.20–22, 37 f.
57   I am grateful to Prof. Herman for the reference.
58   Andoc. 2.11: "I refused to charge more for them than they had cost me, although I might have obtained a price of five drachmae apiece" (παρόν μοι πέντε δραχμῶν τὴν τιμὴν αὐτῶν δέξασθαι οὐκ ἠθέλησα πράξασθαι πλέον ἢ ὅσου ἐμοὶ κατέστησαν). Herman, *Ritualised Friendship* (as in n. 3) 88 emphasises that this claim to *polis*-benefiting behaviour should not distract attention from Andocides' fundamentally self-interested motivations here.

ure to carry out orders.[59] An Athenian overseas was therefore in the uncomfortable situation of having a strong incentive to cultivate foreign *eunoia* in order to succeed in his diplomatic or military mission, while simultaneously knowing that the more successful he was in his employment of this basic and essential tool of interstate interaction, the more likely he would be to arouse the profound suspicion of the Athenian *demos*.[60]

VI. CONCLUSION

This chapter opened with two questions: was controlling the (mis)behaviour of its citizens overseas a serious concern for classical, and particularly fourth-century, Athens; and did the activities of Athenians overseas seriously threaten the stability of the state? The answer to both of those questions is, I would suggest, a qualified – but quite extensively qualified – "yes". The activities of Athenian generals, ambassadors, and private citizens were viewed with widespread (and sometimes justified) suspicion by the Athenian *demos*, and although the total number of complaints which culminated in formal legal proceedings seems to have been quite low, the regularity of those proceedings, and the seriousness of their consequences, does suggest the problem would rarely have been entirely absent from Athenian minds, and makes more understandable the occasional conspicuous demonstrations of public concern visible in our sources (as, for example, in the decree of Hegesippus). On the other hand, the very existence of those conspicuous acts of policing can be seen as a positive rather than a negative feature: repeated collective demonstrations of the community's unwillingness to accept misbehaviour from its citizens overseas could themselves function as a stabilising force.

But if the Athenians' solution to the problem of punishing misdemeanours seems to have been (relatively) effective, the city's approach to the encouragement and reward of good behaviour was less comprehensively successful – and it is here

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59   Action against generals and diplomats on grounds of incompetence and/or failure: see above p. ■■. The most famous example of disastrous failure to properly manipulate a (perceived) tie of *xenia* is non-Athenian but nevertheless instructive: Antalcidas' inability (in 367) to exploit his connection with the Persian King to Sparta's benefit is alleged to have provoked such shame, and such fear of the ephors, that the Spartan starved himself to death (Plutarch *Artaxerxes* 22, with Mitchell, *Greeks Bearing Gifts* [as in n. 3] 127 f.).

60   For evidence of awareness of this threat among Athenian practitioners of (as well as just commentators on) foreign politics, see G. Herman, "Nikias, Epimenides and the Question of Omissions in Thucydides", *CQ* 39 (1989) 83–93, who persuasively argues that Thucydides deliberately suppresses details of the *xenia* relationships of some of his protagonists, precisely to remove any scope among his audience for suspecting that their actions had been determined by those relationships. Mitchell, *Greeks Bearing Gifts* (as in n. 3) 107–110 observes that personal overseas connections can be established for only 18 % of Athenian ambassadors (compared to 34 % of Spartan ambassadors), and suggests that this lower figure is best explained as another manifestation of Athenian democratic uneasiness about the deployment of these ties; the fact that such connections can be established for a significant minority of appointments also indicates, however, that their utility was still admitted (albeit perhaps less enthusiastically than in other *poleis*).

that a more serious threat to the stability of the *polis* could be identified. The causes of Athens' at best haphazard, at worst simply unfair, approach to rewarding the overseas activities of its citizens are unclear, but its consequences are more obvious: a breach in the relationship of *eunoia* which should exist between the city and its politicians, which seems to have generated resentment on one side of the (failed) reciprocal relationship and mistrust on the other. This specific source of dissatisfaction does seem likely to have been more acute in the middle years of the fourth century, when changes in Athens' domestic honorific practice will have made the anomalous position of those involved in its foreign politics more conspicuous. It also seems plausible that this particular grievance might, in turn, contribute to a wider sense of unhappiness at the behaviour of Athenian citizens overseas, and at the city's ability to control that behaviour.

Unhappiness alone is not, of course, enough to destroy a city. The Athenians did not lose the battle of Chaeroneia simply because they failed to vote enough honorific decrees for their ambassadors and generals, just as the Spartans did not lose the battle of Leuctra simply because they failed to effectively discipline Sphodrias or Phoebidas. Nevertheless, the problematic relationship between the expectations of the *polis* and the actions of its generals and diplomats was, I would suggest, a factor in the politics of both cities, and warrants a more prominent place in narratives of Athens' fourth-century history than it has sometimes received.

5. DIRECT DEMOCRACY AND MINORITY RULE: THE ATHE-NIAN ASSEMBLY IN ITS RELATION TO THE DEMOS

Shimon Epstein

1. DIRECT DEMOCRACY AND THE PROBLEMS OF REPRESENTATION

It is a commonplace that the Athenian democracy was a direct democracy, where the citizens themselves were decision-makers in the most important affairs. But only a minority of the Athenian citizens attended any given meeting of the People's Assembly, at least on the Pnyx and at least throughout most of the democratic period. This fact seems to be more or less officially acknowledged, as expressed in the quorum of 6,000 and the size of the Pnyx before the Lycourgan era.[1] Athens, while by no means unique in this respect, must have differed from most Greek democracies where direct democracy could be (but was not necessarily) more direct, due to a smaller population and territory.[2] Of course, the exact same set of Athenians did not fill the Assembly on each occasion, but, while persons might change, some categories must have been systematically under-represented – first and foremost the inhabitants of the remote demes, sailors and cleruchs.[3] Similar problems seem to have existed with other organs of power at all levels. And while bouleutic quotas limited regional disproportions, those members of the distant inland and coastal

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1   See S. Epstein, "Quorum in the People's Assembly in Classical Athens", *C & M* 60 (2009) 69–98, with further bibliography. I am grateful to the organisers of the conference for inviting me to take part and to the participants for their comments and suggestions. Any remaining mistakes are, of course, mine.

2   Cf: Y. Papadopoulos, *Démocratie directe* (Paris 1998) 16: "… en réalité, la démocratie athénienne n'était pas *que* une démocratie directe". *Ibid.*: "La représentation en tant que synecdoque du peuple dans certaines instances … correspondait donc à un impératif que l'on retrouve dans les Etats modernes". Cf. J. S. Fishkin, *The Voice of the People* (New Haven/London 1995) 20: "It <Athenian democracy> identified groups of manageable size who could gather, deliberate on the issues face to face, and speak for the entire citizenry". On the relevance of the notion of synecdoche for relations between the demos and smaller groups representing it, see J. Ober, *The Athenian Revolution: Essays on Ancient Greek Democracy and Political Theory* (Princeton 1996) 118–119.

3   For (low) participation of the inhabitants of the distant demes, see Nicholas F. Jones, *The Associations of Classical Athens* (NY/Oxford 1999) 49, 95–115; cf. C. Taylor, "A New Political World", in: *Debating the Athenian Cultural Revolution*: *Art, Literature, Philosophy, and Politics, 430–380 BC.*, ed. R. Osborne (Cambridge/NY 2007) 75–76. Jones seems to me to exaggerate the absenteeism of the dwellers of the remote demes. In particular, he never mentions political pay as an incentive to participation. See also C. Starr, *The Birth of Athenian Democracy* (Oxford 1990) 35–36 and Barry S. Strauss, *Athens after the Peloponnesian War: Class, Faction and Policy* (NY 1986) 59–60, with further bibliography. For the cleruchs: M. H. Hansen, *Studies in the Population of Aigina, Athens and Eretria* (Copenhagen 2006) 21, 32–33.

demes who actually resided in the city were probably in a privileged position with regard to serving as councillors, and were less prone to absenteeism, in comparison with their fellow-demesmen who remained in their demes of affiliations.[4] Also, a citizen with a permanent paid job would often be unwilling to jeopardize it for the sake of the *dikastikon* which was never guaranteed.[5] Hence the strictures of Demosthenes at the expense of teachers or *hypogrammateis*: these groups were not supposed to sit on a jury, so that the orator was not concerned about alienating his listeners.[6] And, last but not least, there was no payment for attendance of the Assembly in the fifth century.[7] Of course, voluntary participation necessarily leads to unequal representation. This problem is acknowledged and discussed by modern theoreticians of deliberative democracy.[8] But the non-participation referred to here was not exactly voluntary. Besides these more or less usual and inevitable constraints, no doubt there were occasional, if frequent, disproportions due to specific circumstances, such as a military campaign or agricultural schedule. As a result, some categories of the citizenry could be especially heavily over- or under-represented at a particularly fateful *ekklesia*. The famous meeting at Kolonos in 411, when the fleet stayed in Samos, is a good example (Th. 8.67).

It has been suggested[9] that this exclusiveness of Athenian democracy was complemented and compensated by political activity on the level of demes, phratries and regional associations. However, while this activity could satisfy the political instincts of those citizens who found it difficult to exercise their political rights in the city, it would hardly solve the problem of diverging political interests. Surely, the decisions of the assembly at Kolonos could not be corrected on the sub-polis level, whereas the deme decisions could be overridden on the level of the polis. This is what Euxitheos of Dem.57 tries to do when he appeals to the *dikasterion* after his fellow-demesmen find him to be a foreigner. Besides, minority participation was not unknown on the deme level. Thus, a quorum of 100 *demotai* was prescribed for an Agora of Lower Paiania in the fifth century (*IG* I[3] 250.11–4), with its quota of 11 councillors, and in the fourth a quorum of 30 is required for some decisions of the Myrrhinousioi (*IG* II[2] 1183.22), who had six seats in the Boule, which probably corresponded to no fewer than 300 adult male citizens.[10]

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4   Jones (as in n. 3) 98–99; D. Whitehead, *The Demes of Attica 508/7 – ca. 250 B.C.: A Political and Social Study* (Princeton 1986) 305–326.

5   Cf. S. Todd, "Lady Chatterley's Lover and the Attic Orators: the Social Composition of the Athenian Jury", *JHS* 110 (1990) 146–173, at 168.

6   Dem. 18.257–62, 265. Cf. Todd (as in n. 5) 158. For strictures against other small categories, such as intellectuals, logographs, *rhetores* see, e. g., J. Ober, *Mass and Elite in Democratic Athens* (Princeton 1989) 165–177. For tensions between the demos and the makers of Athenian foreign policy, see Chapter 4 by P. Low in this volume.

7   For the Assembly pay in the fourth century see Todd (as in n. 5) 170–173; Epstein (as in n. 1) with further bibliography.

8   See, e. g., Papadopoulos (as in n. 2) 14, n. 1.

9   By Jones (as in n. 3) viii, 49–50, 149–150, 288–294.

10   Whitehead (as in n. 4) 95, 384–385.

Accordingly, democracy's smooth functioning[11] was predicated on the notion of essential unity of interests and patterns of behaviour of all the major groups of Athenians.

I shall try to substantiate two arguments:

1) Whilst different political orientations of various groups of citizens are frequently discussed in non-democratic sources, ignoring these differences was an important feature of Athenian democratic ideology. Exceptions were limited to extreme situations and/or small groups, unlikely ever to have a majority at any meeting.

2) Though, in principle, this ideology of harmony of interests could be a useful device regardless of the actual socio-political situation, I will argue that generally these democratic assumptions were consistent with historical reality, both in the fifth and the fourth centuries. For this purpose, several critical points in Athenian history will be examined, where opposing interests and styles of political behaviour are sometimes said to have come to the fore.

II. IDEOLOGY OF UNITY OF INTERESTS VERSUS IDEOLOGY OF ANTAGONISM

It is well known that elitist literary sources abound with references to diverging or even antagonistic political interests and inclinations of various social categories of Athenians. This is true, first of all, for pamphleteers and philosophers, but traces of the same attitude may be seen in the works of historians. The most popular dichotomies are: rich – poor, farmers – urbanites (sometimes – craftsmen), hoplites – sailors (sometimes supplemented by light infantry). These pairs tend to overlap, of course. The first element in these pairs is supposed to support an oligarchy or a moderate democracy and to prefer a peaceful policy, whereas the second one pushes for radical democracy combined with an imperialist policy.[12] Another pair, old – young, stands somewhat separately as will be seen below.

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11 For the view that the Athenian democracy did function smoothly, by and large, see recently G. Herman, *Morality and Behaviour in Democratic Athens* (Cambridge 2006) esp. ch. 2.

12 E. g. [XEN] *Ath.Pol. passim*; Th. 6.24.3; 8.48.1,3; [Herodes] *Peri Politeias* 30–31; Xen. *Mem.* 1.2.9,40–45; 3.7.6; *Oec.* 4 *passim*; *Hell.* 2.3.48; 4.40; *Vect.* 1.1; 6.1; Isoc. 7.21–2; 12.114–116; 145; 15.159–60; Pl. *R.* 551d; 552b,d; 557a; 558c; 565a; *Lg.* 707ab; 757; Arist. *Pol.* 1274a8–9, 12–15; 1279b–80a4; 1290b1–2; 1292a20–25; 1293a6; 1304a20–24, b27–31; 1309a30; 1317b30–35, 37 ff.; 1321a5–16; 1327a40–b15; cf. 1303a8–10, b12; 1304a28; [Arist.] *Ath.Pol.* 26.1; 27.1; 41.2; *Rhet.Ad Alex.* 1424a20–35; Thphr. *Chr.* 26.6; Plu. *Them.* 4.3–4; 19.4–6; *Arist.* 22.1. Cf. Hdt. 3.81.1; 81.3; 82.4; 5.66.2; 69.2. For affinity with hoplites by conservatives: V. D. Hanson, "Hoplites into Democrats: the Changing Ideology of Athenian Infantry", in: *Dēmokratia: A Conversation on Democracies, Ancient and Modern*, eds. J. Ober & C. Hedrick (Princeton 1996) 292, 295; H. van Wees, "Politics and the Battlefield: Ideology in Greek Warfare", in: *The Greek World*, ed. A. Powell (London 1995) 153–178, at 156, 162; L. B.Carter, *The Quiet Athenian* (Oxford 1986) 97–98; G. E. M. de Ste. Croix, *The Origins of the Peloponnesian War* (London 1972) 183–185, 355–376. Cf. H. Heftner, "Oligarchen, Mesoi, Autokraten: Bemerkungen zur antidemokratischen Bewegung des späten 5. Jh. v. Chr. in Athen", *Chiron* 33

In contrast with the aforementioned sources, the orators typically emphasize the unity of the citizens.[13] Diversity is mentioned only to stress ultimate cohesion. Thus, according to the Funeral Oration of Pericles, differences of wealth did not lead to different martial behaviour: "None of these was led into cowardice by the hope that he might continue to enjoy his wealth; nor did a poor man's hope that he might yet escape and grow rich prompt any one to delay the dreadful encounter".[14] Implied here is uniformity of political behaviour, too. And if wealth is politically and morally irrelevant, so is this or that branch of military service. Much was written by ancient and modern authors on the contrast between land and naval battles and their relative importance for Athenian history and ideology.[15] In comparison, in the Athenian speeches and drama all the citizens are heirs to the glory of Marathon and Salamis alike.[16] Vincent Gabrielsen recently suggested the existence of two ri-

(2003) 16–17; A. Fouchard, *Aristocratie et démocratie: Idéologies et sociétés en Grèce ancienne* (Paris 1997) 201, 235–241. Town versus Country: Strauss (as in n. 3) 59–63, with further bibliography.

13   On the democratic use of "the demos" as the name of the whole citizenry, as opposed to "the demos as the poor" of the critics of democracy, see M. H. Hansen, "The 2500th Anniversary of Cleisthenes' Reforms and the Tradition of Athenian Democracy", in: *Ritual, Finance, Politics: Athenian Democratic Accounts Presented to David Lewis*, eds. R. Osborne & S. Hornblower (Oxford 1994) 25–37; id., "The Ancient Athenians and the Modern Liberal View of Liberty as a Democratic Ideal", in: Ober & Hedrick (as in n. 12) 101; J. Ober, *Political Dissent in Democratic Athens: Intellectual Critics of Popular Rule* (Princeton 1998) 17, 71, cf. 87 with n. 68. See also I. Morris, "The Strong Principle of Equality and the Archaic Origins of Greek Democracy", in: Ober & Hedrick (as in n. 12) 19–48, at 21–24, on the value of *mesoi* and *metrioi*.

14   Th. 2.42.4. *Thucydides – History II*, edited with translation and commentary by P. J. Rhodes (Oxford 1988). The speech as we have it is, of course, written by Thucydides, but I assume that he would not have ascribed words that were too unpalatable to Pericles. Cf. below, n. 16.

15   See, e. g., N. Loraux, *L'invention d'Athènes. Histoire de l'oraison funèbre dans la "Cité classique"* (Paris/La Haye/NY 1981) 152, 213–5; J. H. Schreiner, *Two Battles and two Bills: Marathon and the Athenian Fleet* (Norwegian Institute at Athens 2004); cf. K. A. Raaflaub, "Equalities and Inequalities in Athenian Democracy", in: Ober & Hedrick (as in n. 12) 139–174, at 155–159; P. Vidal-Naquet, *The Black Hunter: Forms of Thought and Forms of Society in the Greek World* (Baltimore/London 1976) 90–91, 310–314. More sceptical approach: Frank J. Frost, *Plutarch's Themistocles: A Historical Commentary* (Princeton 1980) *ad* 4.3–4; 19.4–6; P. Ceccarelli, "Sans Thalassocratie, pas de démocratie?: le rapport entre thalassocratie et démocratie à Athènes dans la discussion du Ve et IVe siècle av. J.-C.", *Historia* 42 (1993) 444–470, esp. 467 n. 92; J. Ober, "Revolution Matters: Democracy as Demotic Action, Response to Kurt Raaflaub", in: *Democracy 2500? Questions and Challenges*, eds. I. Morris & K. A. Raaflaub, Archaeological Institute of America. Colloquia and Conference Papers, No. 2 (Dubuque, Iowa 1997) 77; C. Pelling, "Aeschylus' *Persae* and History", in: *Greek Tragedy and the Historian*, ed. C. Pelling (Oxford 1997) 1–20. On the issue of "fleet-democracy" connection generally see V. Gabrielsen, "Socio-economic Classes and Ancient Greek Warfare", in: *Ancient History Matters. Studies Presented to Jens Erik Skydsgaard on his Seventieth Birthday*, ed. K. Ascani (Rome 2002) 203–220, with further bibliography.

16   Common origins mean common glory: Loraux (as in n. 15) 152–153; Ober (as in n. 6) 263–264. For Ajax' association both with hoplites and Salamis see R. Scodel, "The Politics of Sophocles' *Ajax*", *SCI* 22 (2003) 31–42, at 34. See also A. *Eq.* 1334; *V.* 684 ff., 710 ff.; 1060–1101; 1115–20. Cf. Lys. 2.61: the men of Peiraeus in 403 BCE (many of whom were, of course, poor) emulated the *arete* of their ancestors.

val ideological constructs: according to one, the Athenian triremes were manned by citizens of the lowest socioeconomic class, whereas the other held "naval excellence to be a pan-Athenian trait".[17] I do not see these pictures as mutually contradictory in their assessment of the actual situation. In contrast to Gabrielsen, I believe that Athenian citizens comprised a significant proportion of the sailors,[18] and that the average citizen sailor (especially a rower) was poorer than the average Athenian citizen was.[19] In fact, the democratic sources never deny it, and sometimes even imply it.[20] And in fact there is nothing here to prevent all Athenians from claiming their part of the glory. Surely most Athenians were proud of the Parthenon, without pretending that they or their forefathers personally participated in constructing it. The phenomenon is well known today.

Edmund M. Burke speaks of "a thetic ideology" and "thetic discourse" in Classical Athens, centred on economic self-interest.[21] However, there is not even the slightest trace of this ideology and discourse in ancient sources. I would suggest that "demotic" should be substituted for "thetic" where ideology is concerned. In fact, whereas "the demos" and "the Many" of some elitist authors tend to be roughly equivalent to "the thetes",[22] the official language of democracy, familiar to us from the speeches and inscriptions, never represents the poor as thetes, nor does it even depict the rowers as "the poor" *par excellence*.[23]

The sources pertaining to archaic Attica convey an impression of regional divisions, contradictions and associations (Hdt. 1.59.3; [Arist.] *Ath.Pol.* 13.4; Plu. *Sol.* 13.1–3). Overcoming these divisions may well have been one of the main purposes of the Kleisthenic reforms. If so, the goal was achieved in the main: we hear very little of regional interests in the classical period. And this territorial integration

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17 Gabrielsen (as in n. 15) 210.

18 Cf. M. Amit, *Athens and the Sea: a Study in Athenian Sea-power* (*Collection Latomus* 74, Brussels 1965) 39, 60; H. van Wees, "Tyrants, Oligarchs and Citizen Militias", in: *Army and Power in the Ancient World*, eds. A. Chaniotis & P. Ducrey *(*Stuttgart 2002) 70. *Contra*: Gabrielsen (as in n. 15) 208–210.

19 Cf. van Wees (as in n. 18) 60. *Contra*: Gabrielsen (as in n. 15) 207–212.

20 For the sailors of Ajax as his followers see Scodel (as in n. 16) 35–37. Cf. Lys. 6.46: Andocides is expected to serve as a trierarch or marine, but not as a rower. Cf. Ar. *Eq.* 602; *V.* 909; *Ran.* 1073.

21 E. M. Burke, "The Habit of Subsidization in Classical Athens: Toward a Thetic Ideology", *C & M* 56 (2005) 5–47.

22 See, e. g., G. E. M. de Ste. Croix, "The Constitution of the Five Thousand", *Historia* 5 (1956) 1–23, at 206–208. The elitist authors not infrequently include the poorer section of the hoplites with the demos and the Many: e. g. Th. 2.65.2; [Arist.] *Ath.Pol.* 26.1; cf. Hdt. 5.66.2; 69.2; Xen. *Hell.* 2.4.40; *Vect.* 6.1.

23 Cf. above, n. 13. The democratic discourse sometimes admits that democracy is especially important for the poor, though not frequently: e. g. Isoc. 4.105; 20.19–21; Dem. 21.209. Cf. Aeschin. 1.27. But then the Solonian terms are not used. On diminished relevance of Solon's classes from the end of the fifth century on, see my "Solon's *Tele* and the Socio-economic Identity of the Citizen of Classical Athens", in *Identity in Antiquity*, ed. H. Ziche (Cambridge, forthcoming). I argue there that an ordinary Athenian citizen did not typically identify himself as a *thes*. Poverty makes better soldiers: Ar. *Pl.* 558–62. No distinction of military branch is made here.

seems to be accomplished not through fair representation of local interests, but rather through dissolution or weakening of regional allegiances and creation of new pan-Athenian loyalties. Thus, the Kleisthenic division into ἄστυ, παραλία and μεσόγειος is notoriously incongruous with the factions attested in the sixth century (παραλία, πέδιον and διάκριοι). The trittyes, especially of the Asty, are sometimes arbitrary and cut across the older divisions.[24] And though the system of bouleutic quotas in proportion to the population size of the demes might, on the face of it, have reflected awareness of local interests, this is, of course, not necessarily so: even in an altogether homogenous society, unfair representation of the demes would result in unequal opportunity for participation for the *demotai*. Rather, insistence on distinct interests of the demes would be reflected in equal quotas for large and small demes, as in the US Senate.[25] And we might expect that care for due representation of the demes would cause some tendency to bolster the power of the *Boule*, where participation of even small and remote demes was guaranteed, at the expense of the Assembly and the courts, with their predominance of large and nearby demes. As it is, we have rather the contrary trend.[26] And with the development of democracy, decision-making was gradually centralized, with the importance of subdivisions somewhat reduced. Thus, the generals, once elected one from each tribe, began to be elected from amongst all the Athenians.[27] The officials selected by lot, "who used to be divided among the demes", are at the time of *Ath.Pol.* allotted from the whole tribe (except for members of the Council and Guards) (62.1). These constitutional practices are indicative of an apparent lack of concern for regional distinctions and interests.

The younger citizens are sometimes presented as more warmongering (e. g. Th. 6.13.1). This proves to be wishful thinking from the side of more experienced statesmen: in the event, the vast majority supports the war (Th. 6.24.3; cf. 1.80.1; 87.3). In any case, the assumption that a war was decided upon at a particular meeting of the Assembly because the youths were overrepresented there would be far less damaging for legitimation of the regime and of the given decision than the contrary assumption, namely that the elder citizens send the youngsters to war, while they sit comfortably at home.

There are exceptional cases whereby the existence of antagonistic political interests or orientations is admitted more or less openly. Thus, we have both literary and epigraphic sources attesting to distrust towards the cavalrymen after the fall of

24 Jones (as in n. 3) 116–117, with further bibliography. Cf. G. Anderson, *The Athenian Experiment: Building an Imagined Political Community in Ancient Attica, 508–490 B.C.* (Ann Arbor 2003) ch. 1.

25 For the Council of Five Hundred as a body that is not "representative" in the constitutional sense of the word see Jones (as in n. 3) 48.

26 [Arist.] *Ath.Pol.* 45.3; 49.3. Cf. [Arist.] *Ath.Pol.* 45.1 with Rhodes' doubts *ad loc*: *A Commentary on the Aristotelian Athenaion Politeia* (Oxford 1981). *Contra*: M. H. Hansen, *The Athenian Ecclesia. A Collection of Articles 1976–83* (Copenhagen 1983) 168.

27 M. H. Hansen, "The Athenian Board of Generals. When was Tribal Representation Replaced by Election from all Athenians?", in: *Studies in Ancient History and Numismatics Presented to Rudi Thomsen*, eds. A. Damsgaard-Madsen, E. Christiansen, E. Hallager (Århus 1988) 69–70. On the tribes as instruments of representation of a kind see Jones (as in n. 3) 174–194.

the Thirty.[28] Demosthenes mentions opposite interests of the taxpayers and the poor (13.1). In both cases, the minority is numerically insignificant and is not likely to be able to carry the day through their votes alone. Even so, caution is needed: we are ignorant of the argumentation of Theozotides[29] and of the accuser in Lys.16, and Demosthenes' symbouleutic speeches might differ from their published versions. On another occasion, the defaulting *eisphora*-payers are meant to arouse sympathy (Dem. 22.65). Characteristically, when the contrasting interests are referred to, it is usually in the context of chiding the Athenians for their egoistic attitudes. In comparison, the pursuit of personal and class egoistic advantages is freely admitted in several non-democratic sources (e. g. [XEN] *Ath.Pol.* 1.6–9; 2.20; Antiph. Fragm. 1a; Pl. *Grg.* 482e–484a; Arist. *Pol.* 1310a9–10).

With no significant gap recognized among the citizens, it is no wonder that the composition of the body of the participants of a particular *ekklesia* is almost never mentioned in the official discourse of the Athenian democracy. To be sure, we have some references to packed assemblies or to what may be so interpreted.[30] Thus, Nikias in his famous speech draws attention to young citizens summoned by Alcibiades in support of the Sicilian expedition.[31] But he does not say that the youths are unusually numerous at this occasion, or that all or most of them are actually Alcibiades' followers. It would be absurd, of course, to suggest that, without Alcibiades, many young citizens would not arrive to decide upon an expedition in which they are soon to take part. Nikias says two things: a) any older man who has a young man ardent for the war sitting next to him should not be influenced by his neighbour, remembering that this youngster might have been summoned by Alcibiades; b) the older Athenians should know better than to be inflamed by the dream of conquest, more appropriate for the youths. These words would make perfect sense even assuming that there were, say, one hundred of Alcibiades' adherents (παρακελευστοί) dispersed among other participants in order to influence them. In fact, the decision to send off the expedition had already been taken five days previously, so if Nikias is to be understood as indicating an unrepresentative composition of the Assembly, he must mean it occurred twice. And in fact Alcibiades, about 35, was himself considered a youth by Nikias (Th. 6.12.2), so the latter's category of "the young" could include most citizens.

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28   See J. Ober, *Athenian Legacies: Essays on the Politics of Going On Together* (Princeton 2005) 240–245 with further bibliography.

29   See the previous note and Strauss (as in n. 3) 102, 117 n. 45.

30   The following examples are taken from P. J. Rhodes, "The Ostracism of Hyperbolus", in: Osborne & Hornblower (as in n. 13), ch. 5, at 93.

31   Th. 6.13.1. What follows is based on the assumption that παρακελευστούς may mean "summoned". As M. H. Hansen notes ("One Hundred and Sixty Theses about Athenian Democracy", *C & M* 48 [1997] 247–248), παρακελεύεσθαι means "to advise" or "to exhort", not "to invite". While this reading perfectly suits my thesis, I am willing to consider the possibility that the young citizens in question were "exhorted" in advance, and they are now present as Alcibiades' supporters.

Now, my point is not identical with Hansen's denial of the existence of large groups of followers whose votes could be controlled by a leader.[32] It is conceivable, for example, that the adherents of Thukydides, *son of Melesias*, surrounding him in the *ekklesia*, were more numerous than Hansen is prepared to believe.[33] Still, if they exerted their influence primarily through their votes, and not only through their social prestige, they had to include non-aristocrats, while some aristocrats surely supported Pericles. Likewise, the choices of those Athenians who cast their ostraka against Hyperbolos were not necessarily governed by distinct and long-standing group interests.[34] At any rate, the outcome of this ostracism was felt to be atypical and perplexing in its implications (Plu. *Arist*. 7.3; *Nic*. 11.5–6). And, in any case, we do not hear the democrats' voice in these stories.[35] I also leave aside allegations of mass bribery (e. g. Lys. 29.12; Aesch. 1.86) – this is not the same as unrepresentative assemblies or differing political interests. The same holds true for Demosthenes' assertion to the effect that the Athenians in the Assembly are divided among cliques of political leaders (2.29; 13.20) – it does not follow that the composition of the *ekklesia* is unrepresentative of the citizenry as a whole. Xenophon's story of the trial of the generals after Arginousai, with the Pnyx allegedly packed with the men pretending to be mourners,[36] is not necessarily relevant for the *democratic* ideology.

Allegations of packed assemblies *in propria persona* of the speaker are rare and inconclusive. More often, it is one's opponent who is represented as making such allegations or otherwise alluding to group contradictions. Thus, Alcibiades is quick to catch the opportunity to reproach Nikias for exploiting the generation gap. Meidias is made to shout "We, trierarchs!" and to state that the participants of the Assembly meeting in which he was convicted remained in the city instead of going to garrison troops (21.193).

In several sources we encounter a feeling that the low attendance has an adverse effect on the legitimacy of the decisions made, even if not on their legality: a remark of Demosthenes that "three or four hands" were held up for Aeschines (18.149) (compare Dikaiopolis' comment to the effect that Lamachos had been elected by three cuckoos: Ar. *Ach*. 598–9); the complaint made by Aesch. 3.125–6 that Demosthenes had a *probouleuma* approved at the end of a session of the assembly, when many participants had left (compare a similar complaint by Euxitheos: Dem. 57.13). The regime of the Thirty was established in the *ekklesia*, abandoned by some of the participants as a sign of protest or because of their powerlessness (Lys. 12.75; cf.

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32   M. H. Hansen, *The Athenian Assembly in the Age of Demosthenes* (Oxford 1987) 72–86; id., *The Athenian Democracy in the Age of Demosthenes. Structure, Principles and Ideology* (Oxford 1991) 280–287.

33   Plu. *Per*. 11.2; Hansen, *The Athenian Assembly* (as in n. 32) 76, 166 with n. 520.

34   Plu. *Arist*. 7.2–3; *Nic*. 11.3–6; *Alc*. 13.4–5. On this ostracism see Rhodes (as in n. 30); M. Munn, *The School of History: Athens in the Age of Socrates* (Berkeley/Los Angeles/London 2000) 109–110; C. Pelling, *Literary Texts and the Greek Historian* (London 2000) 44–60.

35   We are ignorant of the mechanism of the coalition against Hyperbolos. Th. 8.73.3 and a fragment of Plato Comicus, cited by Plu. *Nic*. 11.6; *Alc*. 13.5, mention no uniting of forces at all.

36   Xen. *Hell*. 1.7.8. See *infra*, n. 48 ff. No intrigue is mentioned in D. S. 13.101.6–7.

Xen. *Hell.* 2.3.2; D. S. 14.3; [Arist]. *Ath.Pol.* 34.3). Though, significantly, in none of these cases is it said that a specific category of the citizens was disproportionately weighty – the Athenians probably felt intuitively that *too small a sample is prone to be unrepresentative. As we have seen, it could be admitted that small minorities had their own particularistic interests. A series of constitutional measures, such as the quorum of 6,000,* the *graphe paranomon*, the new procedure of the *nomothesia* and the *ekklesiastikon* was probably intended, *inter alia*, to preclude the possibility of an accidental majority having too great an influence.[37] But, of course, the law of large numbers reduces the probability of accidental deviations only, whereas structural disproportions are quite likely to have been preserved. Accordingly, the assumption of harmony of interests remained vital.

Attic Drama reveals awareness of infinitely more complexity, diversity and tensions than is allowed for by the orators. Sometimes, of course, we hear the echo of non-democratic ideology, but what is especially interesting for our purpose is where the picture of a heterogeneous society seems to reflect the unofficial discourse of democracy. Thus, we see an archer, Teucer, claiming his share in the community on the basis of his military prowess (S. *Aj.* 1120–23) – a connection carefully avoided in public speeches. Significantly, however, Teucer was not an initiator of this dispute, and he does not deny the military usefulness of anyone. His attitude in this contest is doubtless meant to be perceived as more Athenian and more democratic in comparison with that of Menelaus. A typical Athenian democrat would probably not be eager to base his claim for political equality on considerations of military (or other) contribution,[38] but, if challenged, especially unofficially, would not acknowledge his uselessness. We have a theory of three classes and praise of the middling citizen, as well as of a peasant rarely caring to attend the Assembly in Euripides (*Supp.* 239–46; *Or.* 917–22). And though the theory may not be democratic in origin, and the encomium of the moderately passive peasant is voiced by Orestes, depicted as an aristocratic conspirator,[39] I would suggest that most spectators tended to identify themselves with both praised categories. Perhaps especially pertinent to the problem of minority participation during the Peloponnesian War is the picture of various categories' attitudes to war and peace. In Aristophanic comedies, it is sometimes stated that the husbandmen are more interested in peace than other categories.[40] Later on, in the *Ekklesiazousai*, Praxagora states that *hoi plousioi kai georgoi* are opposed to launching a fleet, whereas the poor man supports it (197–8). On the face of it, this is exactly what the Old Oligarch says (2.14). The interpretation in both cases depends, of course, on the force of *kai* and may differ in the two passages.[41] In any case, besides not using *demos* for "poor", Praxagora actually

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37 See Epstein (as in n. 1) with further bibliography.
38 Cf. J.K. Davies, "Athenian Citizenship: The Descent Group and the Alternatives", *CJ* 73 (1977–1978) 105–121.
39 See Pelling (as in n. 34) 184–188.
40 Strauss (as in n. 3) 61.
41 As Strauss (as in n. 3) 62–63 notes, there is no generic article before *georgois* in Ar. *Ec.* 197–8, so the correct translation should be "the wealthy, especially farmers". In comparison, both "the wealthy" and "the farmers" have their *kai* in [Xen.] *Ath.Pol.* 2.14: "the farmers and the wealthy".

chides the Athenians for their lack of unity and their shortsighted egoism. As we have seen, such a view of disunity as an aberration is characteristic of the official democratic discourse. In fact, Aristophanes is inconsistent in his political sociology: Dikaiopolis and the Acharnians belong to the same socioeconomic category, so the latter's opposition to peace is purely emotional.[42] The responsibility for the war is laid at the doors of individuals, isolated categories (sycophants, weapon-makers, politicians) or even of the demos itself (*Ach*. 519–22, 530–9, 819–20, 823–4, 827; *Eq*. 794–7, 1388–95; *Pax*. 545–9, 604–14, 620–50, 665–9, 1064–1125, 1209–1270).[43] The older citizens, whom Nikias and Archidamos preferred to see as more cautious in comparison with the younger generations, are depicted as war-mongers in some comedies, in particular in the Acharnians and the Lysistrata (*Ach*. 205–36; *Lys*. 420 ff.; cf. 266 ff.). This may be connected with their stereotyped role as staunch defenders of democracy, whereas Dikaiopolis and especially Lysistrata certainly contravene the law of the country. This image of the older Athenians corresponds to the official iconography, e. g. to Demos as a mature bearded man on the stele relief adorning the law against tyranny. And though the *ekklesia* depicted in the *Ekklesiazousai* is of course packed, the surprising prevalence of pale shoemakers (385–7, 431–4) does not make its decisions less legitimate. We may compare this situation with Polybius' inimical note on unusually numerous *ergasteriakoi kai banausoi* at the fateful assembly at Corinth in 146 BCE (38.12.5). All in all, I would suggest that, some disquieting implications apart, as far as the problem of minority participation and democratic legitimization goes, the picture of Athens as drawn by drama was broadly compatible with the basic assumptions of the official ideology.

As Gabriel Herman notes, the Athenian decision-making bodies met the conditions for being what modern social psychologists call *traditioned groups*, characterized by common symbols, values and commitments.[44] I believe that the Athenians themselves were aware of this feature of their society. When Alcibiades speaks contemptuously of "the motley rabble" of the Sicilian poleis, lacking common identity, purpose and allegiances (Th. 6.17.2–4), he says, in contemporary language, that these societies are not traditioned groups, unlike the Athenians. In a traditioned society, however heterogeneous,[45] the danger of seriously diverging sectoral interests is greatly reduced.

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42 *Ach*. 205–36. Cf. Todd (as in n. 5) 167; P. E. Harding, "In Search *of a Polypragmatist*", in: *Classical Contributions: Studies in Honour of Malcolm Francis McGregor*, eds. G. S. Shrimpton & D. J. McCargar (NY 1981) 41–50.

43 Cf. Ar. *Ec*. 193–6 and n. 6 above.

44 G. Herman, "The Best Few and the Bad Many: Decision Making in the Athenian Democracy", in: *Attika – Archäologie einer 'zentralen' Kulturlandschaft*, eds. Hans Lohmann and Torsten Mattern (*Philippika, Marburger altertumskundliche Abhandlungen* 37, Wiesbaden 2010) 231–244.

45 The Athenian society was surely heterogeneous: Herman, *ibid*.; Barry S. Strauss, "The Melting Pot, the Mosaic, and the Agora", in: *Athenian Political Thought and the Reconstruction of American Democracy*, eds. J. Peter Euben, John R. Wallach, and J. Ober (Ithaca/London 1994) 252–264; W. R. Connor, "The Problem of Athenian Civic Identity", in: *Athenian Identity and Civic Ideology*, eds. A. Boegehold & A. C. Scafuro (Baltimore 1994) 34–44. For democratic Athens's advantages in accumulating and using the scattered knowledge of the heterogeneous

III. UNITY OF INTERESTS: REALITY OR IDEOLOGY?

The assumption of basic unity of interests and styles of behaviour of all or almost all the citizens discussed above was an ideological construct. This construct probably could work with a modicum of success even as an ideological fiction. However, I will try to demonstrate that this assumption was grounded in reality to a considerable extent. To this end, I examine some episodes and developments where, according to some ancient and modern authors, different political orientations and habits of various groups were instrumental. It is my thesis that this was not the case, at least as far as the hoplites and the sailors are concerned. Due to lack of space, and since I discuss some crises in Athenian history elsewhere, while some of these were mentioned earlier in this paper, I deal here with the Arginousai trial and the constitutional changes after the restoration of democracy in 403 BCE.

The Arginousai trial

It has been stated by some distinguished scholars that the *peasant hoplite*s were better represented than usual during the debates on the fate of the *strategoi*. Specifically, Moshe Amit argues that the mass presence of the peasant relatives of the dead sailors (who, on this occasion, had been drafted from all the classes: Xen. *Hell.* 1.6.24–5) constituted "an important difference between the two sessions in which the question was dealt with", and the role of these small landowners was decisive. Similarly, C. Starr believes that it was the death of hoplites that provoked the wrath of the Assembly.[46] These suggestions, if accepted, strongly support my argument, since they destroy the theory of law-abiding moderate *peasant hoplite*s and radical unruly thetes.[47] However, I argue that caution is advisable here since our sources do not necessarily support the contention that the composition of the *ekklesia* was crucial for the outcome of the affair. First of all, two generals had fled after receiving the order to return, without knowing that the trial would be held after the Apatouria (or at all): Xen. *Hell.* 1.7.1. Surely they had already seen that the situation was dangerous, and their flight only made it more so for their colleagues who obeyed the order. And we do not know what the outcome of the first meeting would have been had it not been adjourned because of the fall of dusk (Xen. *Hell.* 1.7.7). Before the next meeting, the festival of Apatouria was held, and there are two main interpreta-

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(especially citizen) population, see J. Ober, *Democracy and Knowledge: Innovation and Learning in Classical Athens* (Princeton 2008). For the integration of other categories of Athenian population, see in this volume chapter 2 by Wallace.

46 Amit (as in n. 18) 68; Starr (as in n. 3) 47. Munn (as in n. 34) 185 suggests that the first Assembly dealing with the issue was packed with seamen loyal to the generals. But presumably they were intended to influence the outcome of the meeting primarily by dint of their evidence rather than through their votes. Many of these sailors could have been peasants.

47 Association of emotional assemblies of the late fifth century with active thetic participation: e.g. P.J. Rhodes, "The Five Thousand in the Athenian Revolution of 411 B.C.", *JHS* 92 (1972) 115–127, at 124–125.

tions of what occurred there.[48] According to one, Theramenes' followers arranged for many men with black dress and their hair cut to attend the next *ekklesia*, pretending to be the mourning relatives of the dead.[49] If so, what was important was not so much their number (the active supporters of Theramenes would arrive anyway) but their mourning apparel: their black garments and their shaven heads aroused animosity against the generals. Alternatively, the persons who arrived at the next session dressed as mourners were really relatives of the killed, persuaded by Theramenes and his clique to attend the *ekklesia*.[50] In this case, both the numbers and the appearance were instrumental, and the inhabitants of remote demes were probably less under-represented than usual (because the *phrateres* from all Attica met at Athens), though some of them would surely arrive in any case. However, we should remember that during the Dekeleian war many peasants lived in the city in any event, and these were the years of radical democracy. On the other hand, we do not know how soon after the festival the second meeting was held. Some of the mourners could have returned to their homes. Moreover, what occurred between the two debates was not the festival only, but also the probouleuma of Kallixenos, which had probably influenced the Assemblymen.[51] Lastly, the final vote took place by tribes, probably at the tribal meetings – this is suggested by the requirement to declare in each *phyle* the destination of two urns: ἐφ᾽ ἑκάστῃ δὲ τῇ φυλῇ κήρυκα κηρύττειν (Xen. *Hell*. 1.7.9). If so, the *psephophoria* did not need to be held on the day of the assembly in which the procedure was accepted.[52] In short, it seems that the composition of the body of the voters was not, after all, so exceptional.

Even more importantly, the emphasis on the mourning apparel suggests that purely political considerations, such as support of the moderately oligarchic Theramenes against radical democrats, played no significant part, at least for the rela-

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48   See M. H. Hansen, "Political Leaders and Followers. A Note on Xen. *Hell*. 1.7.8", in: *Bürgersinn und staatliche Macht in Antike und Gegenwart. Festschrift für Wolfgang Schuller zum 65. Geburtstag*, ed. M. Dreher (Konstanz 2000) 125–132 with bibliography. The book is not held by any of the libraries to which I have access, but Dr. M. H. Hansen kindly provided me with a copy of his article. For the trial generally see Munn (as in n. 34) 183–187, with further bibliography.

49   Many historians reject this version, but still think this is Xenophon's meaning: e. g. P. Cloché, "L'affaire des Arginuses", *RH* 130 (1919) 5–68, at 47–48, with bibliography; M. Lang, "Theramenes and Arginousai", *Hermes* 120 (1992) 267–279, at 273–274. Cf. Rhodes (as in n. 30) 93.

50   See Hansen (as in n. 48); Cloché (as in n. 49) 48–49; Lang (as in n. 49) 274; Munn (as in n. 34) 185. In fact, the genuine mourners whose dead relatives did not fall at Arginousai may have been significant. Hansen (as in n. 48) 8 calculates ca. 250 dead citizens a month, and he assumes a mourning period of about a month. However, the kinsfolk of the Arginousai dead were still in mourning at the time of the trial, probably more than two months following the battle. For the dating of the battle by the archon year 407/6 see Munn *ibid*., 337–338. With the mourning period of, say, three months, hundreds of Athenians in black garments were available without any risk or deception, but I doubt that many of them would have arrived merely because they were told to.

51   Xen. *Hell*. 1.7.8. See also Cloché (as in n. 49) 47, 49.

52   For the suggestion that Kallixenos' probouleuma was accepted not on the same day that it was introduced, see Munn (as in n. 34) 187. I am not convinced, even though it would strengthen my case.

tives of the killed. Indeed, many – probably most – peasants were below the hoplite level,[53] and had no independent reasons to support Theramenes, who, by the way, surely did not demand a hoplite politeia at this stage. And as relatives of the deceased, the mourners had no obvious distinct interests: if the generals were guilty, few would care to defend them, whereas otherwise the anger of the relatives could easily turn against Theramenes and Thrasyboulos.[54] This, in fact, was the hope of at least some generals when they accused the two trierarchs.

The demographic consequences of the Peloponnesian War and the nature of the fourth-century democracy

Barry S. Strauss suggested that the reduced proportion of the thetic class due to its heavier losses during the Peloponnesian War had much to do with the changed style of the post-war Athenian democracy, "which treated former oligarchs moderately and generously".[55] I argue against this hypothesis.

First, let us consider the demography. Strauss assumes approximately as many hoplites as thetes in 431 (about 20,000 each, counting only men fit for military service) and 14,000–16,000 Athenian citizens by the beginning of the fourth century, of whom ca. 9,000 were hoplites. In fact, in the last years of the war the ratio of Athenian citizens on board the triremes may have been lower, and the proportion of hoplites higher than Strauss supposes.[56] Even more importantly, Hansen's arguments seem more convincing: the Athenian losses during the Peloponnesian War were much heavier than Strauss calculates, while 16,000 citizens were not enough to run the Council of five hundred according to the rules, which prescribed that only citizens above thirty could serve, and no more than twice in their life, with a new *epistates ton prytaneion* every day.[57] Accordingly, the significant majority of Athenians must have been below the hoplite level before the war, and the hoplites were still a minority after the Athenian defeat.[58] Moreover, most citizens enfranchised since 406 certainly served as rowers (Ar. *Ran.* 33, 190, 686 ff., 701–2, 718–37; D. S. 13.97; Xen. *Hell.* 1.6.24; 2.3.48; Isoc. 8.88–90), and thousands of Athenians exiled from abroad further swelled the numbers of the thetes after 404 (Xen. *Mem.* 2.8.1; Plu. *Lys.* 13.3). And, of course, thousands were impoverished by the enemy invasions and by the loss of their slaves or overseas possessions, and later by the civil

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53   See *infra* in the text.
54   Lang (as in n. 49) 274.
55   Strauss (as in n. 3) 58, 70–86, 173, 179–182; id., "On Aristotle's Critique of Athenian Democracy", in: *Essays on the Foundations of Aristotelian Political Science*, ed. C. Lord & D. K. O'Connor (Berkeley 1991) ch. 8, at 226–228.
56   See Gabrielsen (as in n. 15) 207–212; M. H. Hansen, *Demography and Democracy* (Herning 1986) 21–24. Cf. B. Akrigg, "The Nature and Implications of Athens' Changed Social Structure and eEconomy", in: Osborne (as in n. 3), 27–43, at 35.
57   M. H. Hansen, "Three Studies in Athenian Demography", *Historisk-filosofiske Meddelelser* 56 (1988) 14–28. Cf. Akrigg (as in n. 56) 29–31.
58   Hansen (as in n. 57) 24–25, 27–28. Cf. Rhodes (as in n. 14) 271–277, allowing for the possibility that there were roughly as many hoplites as thetes in 431, if the field army was aged 20–39.

war.[59] In short, it is by no means obvious that the proportion of hoplites among Athenian citizens was much higher in 403 than in 431 BCE. With the increased level of urbanization, and the Assembly pay, the actual proportion of the poorer citizens who participated in running the democracy was probably higher after the war than before.[60]

Even supposing, for the sake of the argument, that the political strength of the "thetic class" was diminished because of greater war losses, what constitutional and political changes can we attribute to this effect? The allegedly undemocratic features of the fourth-century Athenian regime begin from the fifties.[61] The issue is controversial,[62] and, in any case, these late changes could hardly have been a direct result of much earlier demographic shifts. The new features of the Athenian political life that are relevant here are those introduced in the first decades of the restored democracy. Strauss names two "restrictions on popular power" introduced in this period: the process of *nomothesia*, and "an increasing divorce between generals and politicians" after the King's Peace.[63] In fact, in both cases, the new developments continued the processes begun in the fifth century,[64] and in neither of these cases is it easy to see how the change in question favoured hoplites more than thetes. Aristotle, it is true, argued that the farmers, being unable to participate frequently in the workings of the Assembly, were interested in the rule of law instead of the rule of men (*Pol.* 1292b25–34). Regarding farmers as hoplites, as some modern scholars

59 Strauss (as in n. 3) 45, 52–53, 55–58; Akrigg (as in n. 56) 41. For Athenian settlers and overseas possessions cf. recently L. Foxhall, "Access to Resources in Classical Greece", in: *Money, Labour and Land*, eds. P. Cartledge, E. Cohen, L. Foxhall (London/NY/2002) 209–220; R. Zelnick-Abramovitz, "Settlers and Dispossessed", *Mnemosyne* 57 (2004) 325–345. While some ex-clerouchs could have been zeugitai or above, presumably most those who actually returned from abroad have by now become thetes.

60 Rhodes (as in n. 30) 491–492; Taylor, "A New Political World" (as in n. 3) 72–90.

61 P. J. Rhodes, "Athenian Democracy after 403 BC", *CJ* 75 (1979–1980) 305–323, at 309–314, 319–320, and his chap. 1 in this volume, p. ■■. For the role of the Areopagus see also: J. Sullivan, "Demosthenes' Areopagus Legislation – Yet Again", *CQ* 53 (2003) 130–134; R. W. Wallace, "'Investigations and Reports' by the Areopagos Council and Demosthenes' Areopagos Decree", in: *Polis and Politics: Studies in Ancient Greek History*, *Presented to Mogens Herman Hansen on his Sixtieth Birthday*, eds. P. Flensted-Jensen, T. H. Nielsen, L. Rubinstein (Copenhagen 2000) 583–602; S. Saïd, "Le mythe de l'Aréopage avant la Constitution d'Athènes", in: *Aristote et Athènes*, ed. M. Piérart (Fribourg 1993) 155–184; Chapter 6 by R. Zelnick-Abramovitz in this volume, with further bibliography.

62 See P. C. Millett, "Mogens Hansen and the Labelling of Athenian Democracy", in: *Polis and Politics* (as in n. 61) 337–362.

63 Strauss (as in n. 55) 219–221. Allocation of funds on a prearranged basis to various departments was a result of the new procedure of *nomothesia*, the budget (*merismos*) now confirmed by a *nomos*: Hansen (as in n. 26) 191–192, 194–195.

64 The process of codification of laws began in 410/9: M. Ostwald, *From Popular Sovereignty to the Rule of Law: Law, Society and Politics in Fifth-Century Athens* (Berkeley 1986) 405–411. *Graphe paranomon* presupposes that a new proposal can be judged contrary to the existing body of *nomoi*, and perhaps an informal distinction between *nomos* and *psêphisma* is presupposed, too, and the procedure had been used at least since 415 BCE: And. 1.17, 22. Separation of functions of generals and rhetors from Periclean epoch: Ober (as in n. 6) 91–92. In fact, we know nothing of the military career of Thukydides son of Melesias.

tend to do,[65] we might suggest that the hoplites were indeed interested in restricting popular power to legislate. However, Aristotle's reasoning seems here rather schematic and idealized. There were seasons when many farmers from not too distant demes were willing to travel to the Agora and Pnyx, especially when encouraged by political pay, while artisans and especially hired workers would often prefer to take care of their private businesses.[66] And sailors would frequently be prevented from attending the Assembly meetings due to naval excursions. Moreover, the equation of landowners with hoplites is not sustained by close inspection of the sources. Thucydides' *demos* is contrasted to the *dynatotatoi*, and it lives mostly outside Athens (2.16.1–2, 65.2). Most of these common citizens living outside the Walls were surely involved in agriculture, as were some urban dwellers.[67] On the other hand, the thetes living in Attica were much more numerous than the hoplites, as we have seen. Since some urban dwellers surely served as hoplites or horsemen (e. g. Cleon, Cleophon, Socrates), very many, and perhaps most, peasants must have been thetes, and many (perhaps the majority) of thetes were peasants. Virtually all of these peasants were landowners, as is clear from the Thucydidean passage cited above. We have no sources for landless citizen agricultural workers.[68] A similar picture is apparent for the fourth century. Only 5,000 citizens are said to be landless in the wake of the democratic restoration (D. H. *hypoth*. Lys. 34). The equation, even approximate, of these landless Athenians with the thetes, proposed by Ruschenbusch,[69] is untenable not only for the demographic reasons stated above, but also because "many" of those whom Phormisius would have disenfranchised were supposed to serve as hoplites and even cavalrymen (Lys. 34.4). In fourth-century Athens, most citizens were still farmers,[70] but only 9,000 (out of probably ca. 30,000) were prosperous enough to retain their franchise under the oligarchy in 322.[71] Of course, many (perhaps, most) hoplites had to work for a living and could be counted with "the Many".[72] To sum up, the contrast which Strauss draws between 1) (hoplite) farmers = "propertied class" and 2) "the mass of ordinary working people"[73] seems unwarranted by our sources: most Athenian citizens seem to have been both "ordinary working people" and property owners, mostly landowners.

To return to political and constitutional changes in post-war Athens: whereas Aristotle's law-abiding agrarian democracy would (or should) have preferred only rare Assembly meetings, the real Athenians probably held more annual *ekklesiai* in

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65   E. g. Hanson (as in n. 12).
66   Todd (as in n. 5) 168–169.
67   Strauss (as in n. 3) 60 with bibliography at n. 98.
68   Citizen women hired for agricultural work in difficult post-war years (Dem. 57.45) need not have been from landless families.
69   E. Ruschenbusch, *Athenische Innenpolitik im 5. Jahrhundert v. Chr.* (Bamberg 1979) 135–136. Cf. Strauss (as in n. 3) 99.
70   S. Isager and M. H. Hansen, *Aspects of Athenian Society* (Odense 1975) 50–52.
71   D. S. 18.18.5. For 30,000 citizens in 322 see Hansen (as in n. 56). Cf. Hansen (as in n. 3) 19–60. Even if we accept Plutarch's figure of 21,000 citizens (*Phoc*. 28), the majority was disenfranchised.
72   Above, n. 22.
73   Strauss (as in n. 55) 226–228.

the fourth century than in the fifth. Besides, the *nomothetai* were ordinary Athenians, selected by lot and probably remunerated for their activity.[74] Accordingly, while the procedure of *nomothesia* was doubtless a step towards more constitutional democracy,[75] it does not seem to have been aimed at loosening the common citizen's grip over the regime. In any case, the introduction of Assembly pay surely outweighs any putative "moderate" features of the restored democracy.

As for the treatment of the ex-oligarchs, and general respect for private property, land hunger was certainly reduced when the population was halved. The impact probably helped to alleviate social tensions. To say this is not the same as to postulate conflicting interests and modes of political behaviour of hoplites and thetes. Sources inimical to democracy praise the *demos*, not the hoplites only, for its leniency (Pl. *Ep.* 7.325b; Xen. *Hell.* 2.4.40, 42, 43; [Arist.] *Ath.Pol.* 22.4; 40.3). After summing up the Athenian demographic losses during the Peloponnesian War, Strauss concludes: "It is small wonder then that hoi polloi were no more assertive after the restoration of democracy in 403".[76] I would suggest that they were. That the masses did not require land redistribution or the cancellation of debts is another matter: they probably did not regard these measures as fitting their interests.

IV. CONCLUSION

As is well known, a terror of *stasis* was a perpetual feature of Greek political life. However, Athens and many other democracies seem to have found a way of seriously reducing the probability of a violent civil conflict.[77] This, we may suggest, was one of the reasons that they were less fearful of diversity. Even so, *homonoia* remained an important part of democratic ideology.[78] In this respect, the ideology of Athenian democracy differed from that of the modern representative democracies, where the heterogeneous nature of society is freely cited as an argument in constitutional and political debates. I suggest that the phenomenon of minority participation stands behind this difference.

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74   For the debate on the details of *nomothesia* see M. H. Hansen, "Athenian Nomothesia", *GRBS* 26 (1985) 345–371, with the bibliography; G. Thür, "Die athenischen Geschworenengerichte – eine Sackgasse?", in: *Die athenische Demokratie im 4. Jahrhundert v. Chr.: Vollendung oder Verfall einer Verfassungsform? Akten eines Symposiums 1992*, ed. W. Eder (Stuttgart 1995) 321–331.

75   Strauss (as in n. 55) 229.

76   Strauss (as in n. 3) 81.

77   Ober (as in n. 28) 89–91.

78   See P. Funke, *Homónoia und Arché. Athen und die griechische Staatenwelt vom Ende des Peloponnesischen Krieges bis zum Königsfrieden* (Wiesbaden 1980). See also Morris (as in n. 13) 22 for *philia*.

6. THE GUARDIAN OF THE LAND:
THE AREOPAGOS COUNCIL AS A SYMBOL OF STABILITY*

Rachel Zelnick-Abramovitz

When thinking of crises in Athenian history we usually visualize wars and revolutions, whereas we often associate the word 'stability' with institutions. This tendency is as old at least as the author of the *Athenaion Politeia*, who in chapter 41 reviews the history of Athens as a series of eleven revolutions, each of which brought a change in the constitution and in the political institutions. The eleventh revolution – that of the democrats in 404/3 B.C. – established the constitution that still existed in the author's day, and in the following chapters he describes in detail its contemporary form. This constitution, then, was stable. Two of the revolutions the *Athenaion Politeia* names involved the Areopagos: the sixth revolution, which occurred "after the Persian War, when the Council of the Areopagos was in charge", and the seventh, which "followed the reform that was drafted by Aristeides but was effected by Ephialtes when he put down the Areopagite Council" (41.2; cf. *Ath. Pol.* 23.1, 25.1–26.1).

The institution of the Areopagos has raised vigorous disputes over intrinsic and difficult problems concerning the history and the capacities of this institution, both before and after the two stages described by the *Athenaion Politeia*. Questions such as the time of its establishment, its role before Solon, its competence in various stages of the history of Athens, what was taken from it by Ephialtes, etc., still keep the scholarly debate hot.[1] As frequently in the study of ancient institutions, the relative scarcity of evidence about the Areopagos and its often obscure nature impede tracing its history and nature. Nevertheless, scholars have contributed a great deal to our better understanding of this intriguing subject by re-examining the evidence and by offering important insights.

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34 For general studies of the Areopagos see P. J. Rhodes, *The Athenian Boule* (Oxford 1972); id., *A Commentary on the Aristotelian Athenaion Politeia* (Oxford 1981); G. L. Cawkwell, "NOΜΟΦΥΛΑΚΙΑ and the Areopagos", *JHS* 108 (1988) 1–12; R. W. Wallace, *The Areopagos Council, to 307 B.C.* (Baltimore – London 1989); O. de Bruyn, *La compétence de l'Aréopage en matière de procès publics*, Historia Einzelschriften 90 (Stuttgart 1995); M. Braun, *Die "Eumeniden" des Aischylos und der Areopag*, Classica Monacensia 19 (Tübingen 1998).

However, my concern here is not with these important problems, which I shall refer to only in passing. In this paper I aim to call attention to a fact that has to some extent been overlooked in discussions of Athenian history. Despite the *Athenaion Politeia*'s restriction of the Areopagos' political role to two constitutional changes, the most stable institution in the Athenian democracy was this one, even though it has been often presented as conservative and undemocratic, indeed anti-democratic.[2] Although it underwent changes and for long periods apparently functioned chiefly as a homicide law court, with a very small governmental role or none at all, the evidence suggests that the Areopagos acted to save democratic Athens and was looked on as a bastion in times of crisis. It evinced apparently undemocratic traits such as the life membership of the Areopagites, and in the political ideology of some fourth-century writers at least (such as Isocrates' *Areopagiticus*) it was the image of restricted democracy; nevertheless, I shall argue that the Areopagos was very much an institution of the democracy, inherited from aristocratic times and harnessed to the democratic administration. As a very old institution it was highly esteemed, because of its ancient image as a hub of aristocratic wisdom and integrity as well as a symbol of stability and security for the people.

I begin with a sketch of the Areopagos' history as far as we know it until the late fourth century B.C.,[3] while focusing on the evidence that seems to present the institution as conservative or undemocratic. I will then discuss the evidence that supports the role and image of the Areopagos as a bastion in times of crisis, and will suggest an explanation for its special position. I shall not go into a discussion of any of the aforementioned innumerable problems concerning the institution's entire history unless it bears directly on its role as a guardian of the land.

I. A SHORT HISTORY OF THE AREOPAGOS

Very little is known about the Areopagos before the fifth century B.C., but it is assumed that it existed as early as the eighth or seventh century, either as a council with some role in government, as described by the *Athenaion Politeia* 3.6 and accepted by some scholars, or as a homicide court only with no political powers until Solon's reforms, as R. W. Wallace argues.[4] Wallace in fact understands the comment

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2   This view is already found e.g. in Arist. *Pol.* 5, 1304a 17–14; Plut. *Sol.* 19.2; and cf. M. Ostwald, "The Areopagus in the Ἀθηναίων Πολιτεία", in: M. Piérart (ed.), *Aristote et Athènes* (Fribourg 1993) 139–153, at 140–141.

3   The Areopagos played an important role in Hellenistic and Roman times also, and in fact continued to exist for centuries; it is significant that the Supreme Court in modern Greece is called the Areios Pagos. However, I restrict myself to its place in archaic to classical times.

4   For the former view see e.g. Rhodes, *Commentary* (as in n. 1) 108, with bibliography. Wallace, *The Areopagos* (as in n. 1) argues his case at length on pp. 3–47. Cf. also Braun, *Die "Eumeniden"* (as in n. 1) 13–40, and see Ostwald, "The Areopagos" (as in n. 2), who argues that the Areopagos had no political function even after Solon and throughout the fifth century B.C. See also P. Harding, *The Story of Athens* (London 2008) 33–36, 205–209, on the apparently unanimous acceptance by the Atthidographers of the tradition that the Areopagos existed as a court of law already in the period of monarchy.

by Plutarch (*Sol*. 19) that according to the "common view" the Areopagos was founded by Solon to mean that Solon made what had hitherto been a law court into a council.[5] The *Athenaion Politeia* 3.6, referring to pre-Draconian times, assigns to the Areopagos the function of watching over the laws (διατηρεῖν τοὺς νόμους), and adds that it administered the most important matters in the state. It also notes that the archons – who automatically joined the Areopagites at the end of their office – had been elected from among the noble and the rich; "for this reason", it adds, the Areopagos is the only office in which membership is held for life "even now". No reason is actually offered for the life membership, but since this statement immediately follows the description of the criteria for electing archons, it may be assumed that for the author the social and economic background of the Areopagites seemed reason enough. The Areopagos' function as the guardian of the laws is restated in chapter 4.4, which is widely believed to be a later interpolation, forged in the late fifth or early fourth century B.C. by oligarchs.[6] Again, according to chapter 8.4, Solon – although he established the Council of Four-Hundred – made the Areopagos responsible for guarding the laws (νομοφυλακεῖν) "just as before, when it was an overseer (ἐπίσκοπος) of the *politeia*". The Areopagos is also described as watching over (διετήρει) the greatest and most important political issues; in particular it examined offenders, being authorized to fine and punish, and it tried those who conspired to overthrow the democracy – according to the law of *eisangelia* enacted by Solon.

A whole series of questions sparked a vigorous debate over the question of the Areopagos' political competence. Was the function of "watching over the laws" (διατηρεῖν τοὺς νόμους) the same as "guarding the laws" (νομοφυλακεῖν) and as being the overseer (ἐπίσκοπος) of the *politeia*? What was the practical meaning of each of these terms? Was the *nomos eisangeltikos* ascribed to Solon the same as that known to us from later times? And does the author of the *Athenaion Politeia* give an accurate report on the position of the Areopagos, or does he cast back onto archaic Athenian history fourth-century facts and ideas?[7] But whether the tradition told in the *Athenaion Politeia* can or cannot be trusted as reflecting the early history of this institution, in archaic times the Areopagos quite clearly was – or was later presented as – a most important and venerated aristocratic council, in a position somewhat above the constitution, whether we interpret the *nomophylakia* as a factual or merely an honorary role.

By this time, however, the composition of the Areopagos had started to change: Solon's opening the archonship to *pentakosiomedimnoi* filled the institution over the years with members who were not *eupatridai*. Significantly, although the Peisistratidai "always took care to have the offices (*archai*) in the hands of someone of the family" (Thuc. 6.54.6), so that – if we take this to mean the archonship – the tyrants' supporters constituted a substantial part of the Areopagos,[8] even after the

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5   Cf. Cic. *Off*. 1.75; Poll. 8.125.
6   See Rhodes, *Commentary* (as in n. 1) 53–56, 84–87, with bibliography.
7   See e.g. Wallace, *The Areopagos* (as in n. 1) 39–46.
8   Cf. Wallace, *The Areopagos* (as in n. 1) 76. Among the archons who served under the tyranny was, according to Thuc. 6.54.6–7, Pisistratus son of the tyrant Hippias. His name has been re-

expulsion in 511 B.C. of the tyrants we do not hear of any opposition to the Areopagos,[9] and the scant details we have of Cleisthenes' constitutional changes in 508/7 make no mention of this institution. Apparently, that former supporters of the tyrants also sat on the Areopagos did not damage its reputation, even if it did not activate its political powers.[10]

The composition of the Areopagos was further transformed by the introduction in 487 B.C. of appointment by lot to the archonship and by making the *zeugitai* eligible for the office in 457 B.C. The changed composition and the advance of democracy could not have left the Areopagos unaffected. The members of this ancient institution, which was entrusted with important judicial and political powers, were ex-archons who were now appointed from among a wider group of citizens. In the eyes of conservatives or opponents of the democracy, this change undoubtedly caused the old institution to lose prestige – a process that may have contributed to Ephialtes' reforms in 462/1 B.C., as claimed by some scholars.[11] But was that feeling shared by many in Athens? After all, in the long run, the introduction of appointment by lot and the extension of eligibility to the archonship made the Areopagos an institution of the demos: by 462/1 the Areopagites were ex-archons who served the democracy in the years of the rising power of the demos.

Still, the *Athenaion Politeia* 23.1, reports that after the Persian Wars the Areopagos "became powerful again and administered the state" (πάλιν ἴσχυσεν ἡ ἐν Ἀρείῳ πάγῳ βουλὴ καὶ διῴκει τὴν πόλιν) because it became responsible for the battle of Salamis: since the *strategoi* had been at a loss because of the circumstances

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stored by many in *IG* I[3] 1031.21 = ML 6 c. 6 ([…5…]στρατ[ος]) as the archon for the year 522/1 B.C. Also, the dedication by him on the altar he built to Apollo Pythios, discovered in 1877 in Athens (*IG* I[3] 948; text also recorded by Thucydides, ibid.), might suggest 522/1, but the dating of the inscription is controversial. See M. E. White, "Hippias and the Athenian Archon List", in: J. A. S. Evans (ed.), *Polis and Imperium. Studies in Honour of Edward Togo Salmon* (Toronto 1974) 81–95; M. F. Arnush, "The Career of Peisistratos son of Hippias", *Hesperia* 64 (1995) 135–162, who argues that the altar was dedicated in the 490's "as a response to the influence of the ruling Alkmaionid family". In *IG* I[3] 1031.18 = ML 6, c. 3, the name of the archon for the year 525/4 is Cleisthenes, the future reformer. See also below.

9   C. Hignett, *A History of the Athenian Constitution* (Oxford 1952) 92–95, suggested long ago that the council which resisted Isagoras and the Spartan king Cleomenes in their attempt to establish a new council of 300 members in ca. 508/7 B.C. (Hdt. 5.72.2) may have been the Areopagos. See further below. On the composition of the Areopagos under the tyrants, see White, "Hippias and the Athenian Archon List" (as in n. 8) 82.

10   Wallace, *The Areopagos* (as in n. 1) 72–76, believes that the Areopagos was inactive in politics between Solon and 480/79 B.C., but that Cleisthenes did not change its competence.

11   For the controversy over the impact of the reform of 487/6 B.C., see, e. g., E. Badian, "Archons and *Strategoi*", *Antichthon* 5 (1971) 1–34, who argues, on the basis of a prosopographical analysis of the eponymous archons after 487/6, that "the reform made no recognizable difference to the quality of the men who held the eponymous archonship" (16). Yet of the 28 eponymous archons studied by Badian only 8 are evidently of distinguished families, and 6 are more or less confidently identified with known political figures; of the others nothing definite can be said. It may well be that more citizens from families who previously had no (significant) political record were now eligible for office, and indeed were elected. For the argument that the changed composition of the Areopagos may have contributed to Ephialtes' reforms, see e. g. Rhodes, *Boule* (as in n. 1) 205; *Commentary* (as in n. 1) 311; and see below.

and had made a proclamation that every man should save himself, the Areopagos furnished and distributed eight drachmas to each man, and thus got them to board the ships. "For this reason", the text goes on, "they made way for its honour" (23.2). The increased power of the Areopagos is presented elsewhere in the *Athenaion Politeia* as a revolution (41.2: ἕκτη δ᾽ ἡ μετὰ τὰ Μηδικά, τῆς ἐξ Ἀρείου πάγου βουλῆς ἐπιστατούσης) and the council is described as overseeing and controlling the constitution (25.1; 26.1). The competing version of Cleidemus, quoted by Plutarch (*Them.* 10.4), makes Themistocles responsible for the distribution of the money. But the story of the Areopagos' rise in power is repeated elsewhere in Aristotle,[12] and he seems to have had no reason to invent it; those suggesting that he or his sources did so to explain Ephialtes' stripping the Areopagos of political power must also explain why a story about the distribution of money was needed. Even if that story in the *Athenaion Politeia* 23.1 is not true the increase in power may well be factual,[13] and the reason may possibly have been some action or advice on the part of the Areopagos in the difficult time before Salamis (see below). Other problems too crop up from this text: The words "became powerful again" suggest a period of decline in the Areopagos' powers between Solon and 480 B.C., for which we have no evidence – we just do not hear of the Areopagos being involved in politics;[14] yet such a decline might be implied by the *Athenaion Politeia* 8.2, where Solon's law on the appointment of the archons is said to have replaced the Areopagos' authority to appoint the archons.[15]

Furthermore, the way this change is juxtaposed in the *Athenaion Politeia* 23.1 with what seems to be a contradictory description of the rising power of the demos (τότε μὲν οὖν μέχρι τούτου προῆλθεν ἡ πόλις, ἅμα τῇ δημοκρατίᾳ κατὰ μικρὸν αὐξανομένη) may suggest that this increased power was in conflict with the process of democratization. Indeed, in *Politics* 2.9.2 (1273b 35–1274a 5) Aristotle describes

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12 *Ath. Pol.* 25.1; 41.2; Arist. *Pol.* 1304a 17–24. Isoc. 7.50–52, refers to the Areopagos' period of power during which the Athenians saved the Greeks and punished the barbarians.

13 Cf. Wallace, *The Areopagos* (as in n. 1) 78–83, who discredits the story about the Areopagos distributing the money, but accepts the tradition of its increased power; Ostwald, "The Areopagos" (as in n. 2) 140–143; Braun, *Die "Eumeniden"* (as in n. 1) 31, 60–68. See also *Hesperia* 36 (1967) 72–84, where B. D. Meritt suggests restoring the formula [ἔδοχσεν τεῖ ἐν Ἀρείοι πάγοι β]ολεῖ] in a fragmentary inscription, which he dates to soon after the Persian invasion (*IG* I³ 243 = *Agora* XIX LA1, line 1 – both do not adopt Meritt's restoration). But if correct, this restoration may support the evidence for the increased powers of the Areopagos. Many others reject the historicity of *Ath. Pol.* 23.1, e. g. Hignett, *History* (as in n. 9) 147–148, and Rhodes, *Commentary* (as in n. 1) 287–289, who comments (at 287) that "most probably the tradition of a period of Areopagite supremacy arose later to explain why Ephialtes had had to attack the Areopagus"; see also Cawkwell, "ΝΟΜΟΦΥΛΑΚΙΑ" (as in n. 1) 1, who comments that the story about the money distribution "looks bogus", and "the whole idea of an Areopagite ascendancy very improbable". See also below.

14 See above, and n. 10.

15 Cf. Rhodes, *Commentary* (as in n. 1) 287. But see M. Ostwald, *From Popular Sovereignty to the Sovereignty of Law: Law, Society, and Politics in Fifth-Century Athens* (Berkeley/Los Angeles/London 1986) 14, and Ostwald, "The Areopagos" (as in n. 2) 149–153, who argues that the judicial competence of the Areopagos was restricted by the demos even before Ephialtes' reforms; contra: M. H. Hansen, *The Athenian Ecclesia* II (Copenhagen 1989) 242–243.

the Areopagos as the oligarchic element in Solon's mixed constitution, and his re-marks in 5.3.5 (1304a17–24) are usually taken to mean that the increase in the Ar-eopagos' power during the Persian Wars bent the state towards oligarchy. But Aris-totle's judgement that the Areopagos was oligarchic should not be taken as neces-sarily reflecting fifth-century political reality and views; many scholars see the *Athenaion Politeia* 23.1 as fourth-century conservative propaganda or as retrojec-tion of later events to explain Ephialtes' reforms.[16] The two seemingly conflicting political tendencies, as implied by the *Athenaion Politeia* 23.1–2 and by Aristotle's *Politics* 1304a 17–24, can be reconciled, as I attempt to show below; but be that as it may, the Areopagos was never dissolved in previous constitutional reforms but was harnessed to the operation of the democratic machinery. As noted above, it is nowhere mentioned in the context of Cleisthenes' reforms, which may suggest that it was not regarded as obstructing the new political machinery.

The Areopagos' dominance is said to have lasted 17 years, until it was curtailed by Ephialtes in 462/1 B.C.[17] The Areopagos was deprived of some of its powers – described in the *Athenaion Politeia* 25.2 as τὰ ἐπίθετα, "added", generally be-lieved to be the *nomophylakia* and the right to hear *eisangeliai*; these powers were now given to the *Boule* of five hundred, to the law courts and to the Assembly. It is believed that after 462/1 the Areopagos' jurisdiction was limited to premeditated homicide, wounding, poisoning and arson, and to certain religious offences.[18]

Should we understand Ephialtes' reforms as putting an end to a rising oligar-chic element in a democratic state? Again, if the Areopagos indeed was an impedi-ment to the growth of democracy, if it was an undemocratic element, why was it not abolished completely? Or, if a homicide court of such prestige and experience was needed, why was life membership not cancelled? As it is, an ancient institution, whose members held office for life, was allowed to retain a most powerful right: to judge homicide and religious offences, crimes that concerned the safety of the whole community.

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16   See above, and Rhodes, *Commentary* (as in n. 1) 288–289, who explains the two versions of
      Athens' history (the 'Areopagite' and the 'democratic'), as they appear in *Ath. Pol.* 23.1–2, as
      the author's attempt to resolve the conflict by referring to an immediate and a long-term effect
      of Salamis, and sees the *Ath. Pol.*'s and Cleidemus' competing stories as one of the propaganda
      battles between Cimon and Themistocles. But see Wallace, *The Areopagos* (as in n. 1) 83, and
      Braun, *Die "Eumeniden"* (as in n. 1) 68, who claim that the Areopagos gained political power
      owing to the changing political conditions after Cleisthenes' reforms and the Persian Wars, and
      to the fact that powerful leaders, such as Themistocles and Aristeides, were its members. This
      increase in the Areopagos' power went hand in hand with the growing democracy – which fact
      may explain the apparent contradiction in *Ath. Pol.* 23.1–2. See also Ostwald, "The Areopagos"
      (as in n. 2) 140–141, who rightly comments that the tendencies to identify the Areopagos as
      conservative and oligarchic, irreconcilable with the progressive democracy, are modern presup-
      positions, influenced by our party-political perspective. On Cleidemus' version see also de
      Bruyn, *La compétence* (as in n. 1) 94–95, and J. McInerney, "Politicizing the Past: The 'Atthis'
      of Kleidemos", *Classical Antiquity* 13.1 (1994) 17–37, at 21, who argues that Cleidemus' *Atthis*
      belongs to the new discourse of the mid-fourth century B.C., caused by events in the 350s,
      which was characterized by tendentious interpretations of past events and forging documents.
17   *Ath. Pol.* 25.1–2; Plut. *Cim.* 15.2; *Per.* 9.3–4.
18   See *Ath. Pol.* 57.3; Wallace, *The Areopagos* (as in n. 1) 97–121 with bibliography.

We next learn from the *Athenaion Politeia* 35.2, that in 404 B.C. the Thirty "pulled down (καθεῖλον) from the Areopagos the laws of Ephialtes and Archestratus that related to the Areopagites". It has been suggested that this was part of the Thirty's scheme to use the Areopagos in their administration and restore to it its pre-Ephialtic competence.[19] But there is no evidence that the Areopagos collaborated with the Thirty; in fact – as I will try to show – in 405 the Areopagos was probably acting to save Athens and against attempts to humiliate her.[20] Moreover, as in 411, although the new regime was presented as a return to the ancestral constitution,[21] there is no hint that the Areopagos was to have any part in it; in both 411 and 404 the oligarchs planned to rely on the *Boule* – whether of 400 or of 500 members. And when democracy was restored in 404/3 the Athenians, on the motion of Teisamenus, passed a decree which, in addition to initiating a revision of the existing laws, entrusted the Areopagos with supervision of the laws (ἐπιμελείσθω ἡ βουλὴ ἡ ἐξ Ἀρείου πάγου τῶν νόμων), so that the magistrates would enforce only those laws that were ratified (Andoc. 1.84).[22]

In the fourth century B.C. the Areopagos played a greater role in politics, and it was the focus of discussions on the right constitution and the competence of magistracies. One major war and two oligarchic revolutions generated debates and controversies. This is the context for our reading Isocrates' *Areopagiticus*, describing a conservative constitution in the past in which the Areopagos played a central part. Few believe today that Isocrates' ideas and proposals reflect true events; his vision of an aristocratic council controlling political affairs may have simply reflected his wish to use the Areopagos to implement what he conceived the *patrios politeia* to have been.[23] Yet Wallace claims that the political debates exerted their influence on the political reality, and that the revival of the Areopagos' strength was a result of a shift towards ideological conservatism.[24]

The Areopagos *was* given more powers in the second half of the fourth century B.C., like the right to investigate and report (*apophasis*) crimes against the state – probably by force of a decree proposed by Demosthenes in the late 340s – as reported by Dinarchus 1.62, who also, perhaps falsely, says that Demosthenes' decree gave the Areopagos the right to punish offenders.[25] Dinarchus argues that Demosthenes – who will presently claim that the Areopagos was oligarchic –surren-

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19   See Wallace, *The Areopagos* (as in n. 1) 141–144.
20   Cf. Wallace, ibid., who although arguing that the restored competence of the Areopagos was part of the Thirty's program in 404, admits that there is no evidence that the Areopagos collaborated with them.
21   See discussion in Rhodes, *Commentary* (as in n. 1) 376–377, 427–434, 440–441, and his chap. 1 in this volume, pp. ■■–■■; Ostwald, *From Popular Sovereignty to the Sovereignty of Law* (as in n. 15) 337–411; Wallace, *The Areopagos* (as in n. 1) 131–144.
22   See D. M. MacDowell, *Andocides, On the Mysteries* (Oxford 1962), *ad loc.*; Wallace, *The Areopagos* (as in n. 1) 134–135, 143, 151.
23   See discussion in Wallace, *The Areopagos* (as in n. 1) 131–173.
24   Ibid., 194–195.
25   But see below on the executions by the Areopagos after Chaeronea. That the Areopagos exercised the *apophasis* procedure is known from several sources, especially in the affair of Harpalus of 324 B.C. See Din. 1.4, 50–1, 58–9, 61; 2.6.

dered the whole *polis* to this Council. In 338 B.C., after the battle of Chaeronea, the Areopagos executed men who left the *polis* during the war and thus were regarded as abandoning it to the enemy. Lycurgus (*Leoc.* 52–3) implies that these executions aroused anger among the Athenians, although, he says, the Areopagos' authority to impose capital punishment was legal.[26] On this affair see further below.

One event may bear out the undemocratic image of the Areopagos: in 336 B.C. a law was passed, on the motion of Eucrates, warning citizens against collaborating with whoever attempted to overthrow the democracy.[27] This law seems to re-affirm Demophantus' decree of 410 B.C., quoted by Andocides (1.96–8),[28] but adds a specific warning to the Areopagites not to sit in council should the democracy be overthrown. Whatever the motives behind this enactment, it is commonly believed that it reflects real distrust of the Areopagos, given its accumulation of powers in the preceding years.[29] Still, the law must have been annulled shortly afterwards since the stone was found in the fill of an early third-century building, whereas the Areopagos was still active and does not seem to have lost power. In 335 B.C. it was asked by the Assembly to conduct an inquiry into who of the citizens took Persian money. In the oligarchic governments following the Lamian War the Areopagos seems to have played an important though probably not central role.[30]

This evidence, I think, is not decisive proof that throughout the fifth and fourth centuries B.C. the Areopagos was considered undemocratic and opposed to the rule of the demos. On the contrary: although sometimes used as a target in political struggles, it emerges from this brief account as a prestigious and central institution

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26 Cf. Aescin. 3.252.

27 For the text of the law and interpretations see *Hesperia* 21 (1952) 355–359, no. 5; *SEG* 12.87; M. Ostwald, "The Athenian Legislation against Tyranny and Subversion", *TAPhA* 86 (1955) 103–128; R. Sealey, "On Penalizing Areopagites", *AJPh* 79 (1958) 71–73; Wallace, *The Areopagos* (as in n. 1) 179–184; P. J. Rhodes and R. Osborne, *Greek Historical Inscriptions, 404–323 BC* (Oxford 2003) 388–392, no. 79.

28 Cf. Andoc. 1.124–125, 127.

29 For discussions of the motives of the law and for more bibliography, see the studies mentioned in n. 27 above, and chap. 1 by Rhodes in this volume, p. ■■.

30 For the events of 335, see Din. 1.10, 18, 21; Aeschin. 3.239; Hyperid. 5.1–3. See Wallace, *The Areopagos* (as in n. 1) 196–197, 201–206, on the Areopagos in the time of Lycurgus and Demetrius of Phaleron. It may be significant, although I do not know what to make of it, that we first encounter Areopagites' names – other, that is, than those mentioned in the sources as archons – about mid-fourth century B.C.: first in literary sources (Autolycus: in Aeschin. 1.81–4 [346 B.C.]; Theagenes: in [Dem.] 59.72–84 [ca. 341/0 B.C.]), but later in public inscriptions, grouped under the heading "Areiopagitai" (e. g. *IG* II² 839.26, 51; 1492.127–30, 135, of ca. 305 B.C.; *IG* II² 2339 A.6, 17 + 1999.42, with J. H. Oliver, "Areopagites", *Hesperia* 27 [1958] 38–46, of the second half of the second century A.D.). We cannot be sure how many of the archons mentioned by name in our sources had passed their *euthynai* and entered the Areopagos. See M. H. Hansen & L. Pedersen, "The Size of the Council of Areopagos and its Social Composition in the Fourth Century BC", *C & M* 41 (1990) 73–78, at 77 n. 32, for a list of all known archons between 403 and 322 B.C. In a list of property sales in Lemnos of 370/69 (*SEG* 19.133, lines 1–6 = *Hesperia* 29 [1960] 25–29, no. 33) the names of all nine archons are listed, which might mean that all of them entered the Areopagos in the following year. One of these, Eubulus of Probalinthus (l.4), is probably the famous politician of this period.

in the Athenian democracy, and I now turn to the evidence that supports this statement.

II. THE AREOPAGOS AS AN INSTITUTION
OF THE ATHENIAN DEMOCRACY

Our earliest evidence on the Areopagos – lines 700–706 of Athena's speech in Aeschylus' *Eumenides*, which she addresses to the Athenians and from which I derive the title of this paper – seems to reflect the deep respect paid by the Athenians to this old institution, but it is also very controversial:

τοιόνδε τοι ταρβοῦντες ἐνδίκως σέβας
ἔρυμά τε χώρας καὶ πόλεως σωτήριον
ἔχοιτ᾽ ἄν, οἷον οὔτις ἀνθρώπων ἔχει,
οὔτ᾽ ἐν Σκύθησιν οὔτε Ϟέλοπος ἐν τόποις.
κερδῶν ἄθικτον τοῦτο βουλευτήριον,
αἰδοῖον, ὀξύθυμον, εὑδόντων ὕπερ
ἐγρηγορὸς φρούρημα γῆς καθίσταμαι.

Standing justly in awe of such a reverent body, you would have a bulwark to safeguard your land and salvation to your city such as no man possesses, either among the Scythians or in Pelops' realm. I establish this council as untouched by greed, worthy of reverence, quick to anger, awake on behalf of those who sleep, a guardian of the land (*phrourēma gēs*).

I am not concerned here with whether Aeschylus, who probably wrote the play in 458 B.C., intended to criticize or support Ephialtes' reforms.[31] I do wish to draw attention to the way this seemingly undemocratic institution, whose powers had been curbed just four years before the performance of the play, is described by Aeschylus: this council, says Athena, will be "a bulwark to safeguard your land and salvation of your city" (lines 701–2), and she depicts it as "worthy of reverence, quick to anger, awake on behalf of those who sleep, a guardian of the land" (lines 704–5). The words *phrourēma gēs*, "guardian of the land", do not necessarily refer to the capacity of *nomophylakia* – whether we believe that Aeschylus here advocated restoring it to the Areopagos or that this capacity still existed with the Areopagos in one way or another.[32] The depiction of the Areopagos as guardian and saviour is consistent in later sources and may well have been used by earlier authors too to convey this image to the Athenians.

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31 On this question see discussion and bibliography in A. J. Podlecki, *The Political Background of Aeschylean Tragedy* (Ann Arbor 1966); Wallace, *The Areopagos* (as in n. 1) 87–93; A. M. Bowie, "Religion and Politics in Aeschylus' Oresteia", *CQ* n. s. 43.1 (1993) 10–31; Braun, *Die "Eumeniden"* (as in n. 1) 134–244. D. Schaps, "Aeschylus' Politics and the Theme of the Oresteia", in R. M. Rosen and J. Farrell (eds.), *Nomodeiktes: Greek Studies in Honor of Martin Ostwald* (Ann Arbor 1993) 505–515. See also A. J. Podlecki (ed.), *Aeschylus: Eumenides* (Warminster 1989) 2–6, and Harding, *Story of Athens* (as in n. 4) 205–207, for Aeschylus' probable originality in locating Orestes' trial in Athens, by having Orestes and the Erinyes argue their case before a jury on the Areopagos, and by making Athena tell the jury that they are judging the first case of homicide, thus instituting the court of the Areopagos.

32 See the works quoted in the foregoing note.

For example, Xenophon in *Memorabilia* (3.5.20), Demosthenes in *Against Aristocrates* (23.65–6), and Lycurgus in *Against Leocrates* (1.12, 52) describe the Areopagos as most just, most venerable, and a bulwark, a saviour, of the city. Xenophon makes Socrates say that no other institution decides cases more honourably, more in accordance with law, or with more dignity and justice (κάλλιον ἢ νομιμώτερον ἢ σεμνότερον ἢ δικαιότερον) than the Areopagos. Demosthenes adds an important detail: this is the only court, he says, which no tyrant, no oligarchy, no democracy, has ever dared deprive of its jurisdiction in cases of murder. Demosthenes may have intended to distract his audience's attention from the fact that it was the democracy that deprived the Areopagos of its political power in 462 B.C., but what matters here is the image of the Areopagos as a most venerable (σεμνότατος) and – more important – the portrayal of this institution as the most stable one, which had survived all constitutional changes. Whatever speculations we make about these authors' political beliefs, they do not treat the Areopagos as an anti-democratic body, and Lycurgus describes a time of crisis (to which I shall return below) which could have given rise to a political (revolutionary) change under the leadership of the Areopagos, but did not. Even Xenophon, whose aversion to democracy is well known, in this passage depicts Socrates as advising the younger Pericles on how to improve the chances of democratic Athens winning the war.[33]

Seeing that the centuries that had passed since its beginning and the many revolutions that the Athenian constitution had undergone did not change the revered position of the Areopagos, it is worth exploring the role it played at critical stages of Athenian history. As mentioned above, Hignett suggested long ago that the council mentioned by Herodotus (5.72.2) as opposing Isagoras and the Spartan king Cleomenes in their attempt after the expulsion of the Peisistratids to abolish the existing council, and establish a new one of three hundred, may have been the Areopagos.[34] This possibility has since been dismissed by many, on the quite reasonable ground that it seems impossible that Herodotus could refer to the Areopagos by the word *Boule* and be understood. It has been further argued that the opposing council was that of the Four Hundred, allegedly established by Solon, since the council of the Five Hundred did not yet exist.[35] Consider, however, that the Areop-

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33   For the Areopagos' reputation see also Wallace, *The Areopagos* (as in n. 1) 126–127.

34   See Hignett, *History* (as in n. 9) 94–95, 128, 146, 149. The story is repeated almost word for word by *Ath. Pol.* 20.2–3.

35   E. g., Rhodes, *Boule* (as in n. 1) 208; *Commentary* (as in n. 1) 246, and his chap. 1 in this volume, notes 25 and 26, with further bibliography; E. M. Carawan, "*Eisangelia* and *Euthyna*: The Trials of Miltiades, Themistocles, and Cimon", *GRBS* 28 (1987) 167–208, at 184–185; Wallace, *The Areopagos* (as in n. 1) 246 n. 12; de Bruyn, *La compétence* (as in n. 1) 40–42. Against the existence of a Solonian council of Four Hundred see e. g. Hignett, *History* (as in n. 9) 92–96. G. Anderson, *The Athenian Experiment: Building an Imagined Political Community in Ancient Attica, 508–490 B.C.* (Ann Arbor 2003) 61, claims that it makes most sense that the body involved was the council of Five Hundred. Herodotus uses again the word *Boule* to refer to an Athenian institution in 9.5.1–2, where he describes the embassy in 480 of Murychides, sent by the Persians to the council of the Athenians assembled in Salamis. Since that event postdates Cleisthenes' reforms, it is plausible that in this case the council mentioned was that of the Five Hundred. This may be supported by the fact that Murychides appeared before it (see

agos at that time may have included supporters of Cleisthenes, and he himself – although he was later exiled by Hippias – must have been a member since he served as an archon under the tyrant in 525/4 B.C.[36] Moreover, to judge by Thucydides' claim (6.54.6) that the tyrants always made sure that their people be elected to the magistracies, by 508/7 the Areopagos was probably filled with their partisans, who were the enemies of Isagoras and the Spartans.[37] Indeed, as E.M. Carawan points out, the *Athenaion Politeia* 20.1 says that Isagoras "was a friend of the tyrants" (φίλος ὢν τῶν τυράννων), so an assumed coalition of the Areopagos and Cleisthenes is apparently ruled out; but as P.J. Rhodes shows, Herodotus (5.70.1) presents Isagoras as a *xenos* of Cleomenes and an enemy of the tyrants.[38] It is therefore equally reasonable that the Areopagos would resist Cleomenes and Isagoras, but we lack proof.

Above I discussed briefly the tradition noted by the *Athenaion Politeia* 23.1 on the Areopagos' rise in power after the Persian wars. Here I wish to return to this tradition and examine it in the wider context of the events of 480. As we have seen, it has been often claimed that the version of the *Athenaion Politeia* does not appear in Herodotus' account of the events. M. Braun even implies that Herodotus 8.40–41 refutes the *Athenaion Politeia*'s story about the confusion of the *strategoi*.[39] The *Athenaion Politeia* reports that because the *strategoi* were at a loss as to what to do because of the situation, and proclaimed that it was every man for himself (τῶν γὰρ στρατηγῶν ἐξαπορησάντων τοῖς πράγμασι, καὶ κηρυξάντων σῴζειν ἕκαστον ἑαυτόν), the Areopagos gave eight drachmas to each man and thus encouraged them embark on the ships.[40] According to Herodotus the Greek navy sailed from Artemisium to Salamis at the request of the Athenians, who wished to evacuate their wives and children from Attica[41] and to take counsel about what they should do; they then left the navy at Salamis and returned to Athens; on their arrival they made a proclamation (apparently after taking counsel) that every Athenian should

Rhodes, *Boule* [as in n. 1] 54 and n. 1, 57 and n. 4, 145 and n. 5, 190–191 and n. 1) and by the use of the word *bouleutes* to describe Lycides, who dared to suggest accepting the enemies' proposal. If this is correct, we may assume that the Athenians who moved to Salamis maintained their normal political life.

36   See *IG* I³ 1031.18 = ML 6, c. 3, and note 8 above; Rhodes, *Commentary* (as in n. 1) 220, 234, 244.

37   Hignett, *History* (as in n. 9) 94–95.

38   Carawan, "Eisangelia and Euthyna" (as in n. 35) 184–185; Rhodes, *Commentary* (as in n. 1) 242–243. On Isagoras being a *xenos* of Cleomenes, see also *Ath. Pol.* 20.2.

39   Braun, *Die "Eumeniden"* (as in n. 1) 63 and n. 221.

40   I render the participle ἐξαπορησάντων as "were at a loss", thus retaining the element of confusion and helplessness conveyed by the verb, and close to Rhodes' understanding of it in his *Commentary* (as in n. 1) 289, and in his English translation of the *Ath. Pol.* (*The Athenian Constitution* [London 1984]). But McInerney's argument (*Politicizing the Past* [as in n. 16] 34 n. 67], that it is about the *strategoi*'s lack of money, which is countered by the Areopagos' ability to provide (*porisasa*) money, makes sense; see also Ostwald, "The Areopagos" (as in n. 2) 142.

41   There seems to be a case of *hysteron-proteron* here, since the decision to evacuate Attica must have been the result of the consultation – as is made clear in 41.1; cf. R.W. Macan, *Herodotus: The Seventh, Eight and Ninth Books* (New York 1973) *ad loc.*

save his children and household as best he could; thereafter the Athenians returned to the navy. So there was apparently no confusion, which would have required the intervention of the Areopagos. It has also been pointed out that the evacuation of Attica was not, nor was it intended to be, total: Herodotus says (8.51.2) that on taking Athens the Persians found the city deserted except for a few Athenians: the treasurers of the temple of Athena and poor people who defended themselves on the Acropolis – some because they were too poor to leave for Salamis and some who believed they had discovered the true meaning of the oracle on the wooden wall.[42]

This story too has its difficulties, not least why, after the distribution of the money – whether by the Areopagos or by Themistocles – there were still Athenians who had to stay behind in Athens because they were destitute.[43] Moreover, the whole reconstruction of the events from the battle of Artemisium to the battle of Salamis is not easy, and Herodotus seems to have confused their order. What directly relates to our subject is this: if the Athenians, following their disappointment at not finding the Peloponnesian forces in Boiotia (40.2), decided to take counsel – which later led to the decision to let every man save his household – where did they do it, and in what form? How and Wells believe that the decision to evacuate Attica came soon after the news of the loss at Thermopylai, and not just before the battle of Salamis, because there was not enough time to prepare and carry out the evacuation of a mass of people.[44] Whatever the exact date of the decision, it must have been made when the Athenians realized that Athens was in danger of a land

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42   See Macan, *Herodotus* (as in n. 41) *ad* 40.1 and 41.1, who notes that "the evacuation of Attica neither was nor was intended to be complete in a strategic sense"; de Bruyn, *La compétence* (as in n. 1) 94–95, who concludes that Hdt. 51.2 discredits the stories of both the *Ath. Pol.* and Cleidemus. The "Decree of Themistocles" (ML 23.11–12), if it is a copy of an original decree passed in 481 or 480, contains a clause ordering the treasurers and priests to remain in Athens and defend the goddess' property. See N. G. L. Hammond, "The Expedition of Xerxes", *Cambridge Ancient History*, 2nd edition (Cambridge 1988) 518–622, at 558–559, and see below.

43   That is, if we understand that the money was distributed to each citizen for the purpose of evacuating the women and children; cf. Ostwald, "The Areopagos" (as in n. 2) 142. If, on the other hand, the money was intended as maintenance allowance to sailors only, as Plutarch (*Them*. 10.6) understood it, it may be that by the words "poor people" (πένητας ἀνθρώπους) Herodotus was referring to non-citizens who were not employed in the navy. But see ML 23.13, 30–31 ("The Decree of Themistocles"), which – if not a forgery – indicates an emergency policy of enlisting non-citizen residents. On the Athenians who stayed behind, see A. M. Bowie, *Herodotus, Histories Book VIII* (Cambridge 2007) 138. Macan, *Herodotus* (as in n. 41) *ad loc.*, remarks that those remaining in Athens were probably not so few and not so poor; he also believes that the two groups should be regarded as one.

44   W. W. How and J. Wells, *A Commentary on Herodotus*, vol. II (Oxford 1912) *ad* 40.2; cf. Bowie, *Herodotus* (as in n. 43) 131–132. See M. H. Jameson, "A Decree of Themistocles from Troizen", *Hesperia* 29 (1960) 198–233, at 204, who believes that the formal decision (which, he argues, was the basis for 'The Themistocles Decree' – see below) was made before Thermopylai, and that the proclamation was its implementation; *contra* W. Blösel, *Themistokles bei Herodot: Spiegel Athens im fünften Jahrhundert. Studien zum Geschichte und historiographischen Konstruktion des griechischen Freiheitskampfes 480 v. Chr.* (Stuttgart 2004) 241–247, who argues that the evacuation took place after Thermopylai, but *not* as a result of any official decision of the Assembly; he believes that the Athenians transferred their wives, children and slaves to other places on a private basis. C. W. Fornara, "The Value of the Themistocles De-

invasion. They persuaded the other Greeks to sail to Salamis, then came back to Athens and deliberated about what should be done in this difficult situation (ἵνα … πρὸς δὲ καὶ βουλεύσωνται τὸ ποιητέον αὐτοῖσι ἔσται: Herodotus, 8.40.1). In later political vocabulary, they discussed the subject of their safety, περὶ σωτηρίας.[45] It seems highly reasonable that the discussion took place in the Assembly; but the relation between the decision it reached and the proclamation that each man should save his own family and property is not clear: was the proclamation part of the formal decision, as presented in Plutarch's account (*Them.* 10.2) and in the so called 'Decree of Themistocles' (ML 23.6–9)[46] – although neither of these texts uses the verb or the noun of proclamation – and as implied by Herodotus 8.41.1? Or was it a separate act, as the *Athenaion Politeia* 23.1 relates? Furthermore, Herodotus says that the proclamation was made by "the Athenians" after they took counsel, according to the *Athenaion Politeia* it was made by the *strategoi* because they were at a loss what to do, and according to Plutarch it was part of the decree proposed by Themistocles. Now, as Rhodes rightly points out, Themistocles was one of the *strategoi*, but he was also an Areopagite, having been archon in 493/2.[47] If we accept that the *Athenaion Politeia* version was influenced by propaganda warfare, we must conclude that Themistocles, as an Areopagite – and doubtlessly in concert with his fellow-Areopagites – proposed a scheme to save the Athenians.[48] The proposal (with Themistocles' name as its mover) was brought before the people, who also made the final decision, the echoes of which we read in Plutarch and in ML 23. But I think it is not implausible that the idea was first brought up in the Areopagos, which was called on to give its advice on the subject of *soteria*.[49] When the people approved the proposal, it is not unreasonable to assume that the *strategoi* helped broadcast it by issuing a formal proclamation (and by providing ships for the evacuation); after all, it was a time of crisis.

   This is admittedly a very speculative reconstruction of the events, but it can also explain the discrepancies in our sources. Herodotus was not concerned with

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cree", *AHR* 73 (1967) 425–433, at 431–433, on the other hand, argues that Herodotus was influenced by the evacuation of Athens in 431 B.C. in describing the events before Salamis.

45   See below, and cf. Aesch. *Eum.* 701, speaking of the Areopagos (πόλεως σωτήριον).

46   On doubts concerning the date and authenticity of this inscription and discussions of its contents and date, see ML 23, pp. 51–52; Jameson, "A Decree of Themistocles" (as in n. 44); M. Chambers, "The Significance of the Themistocles Decree", *Philologus* 111 (1967) 157–169; Fornara, *The Value* (as in n. 44); A. J. Podlecki, *The Life of Themistocles: A Critical Survey of the Literary and Archaeological Evidence* (Montreal and London 1975) 147–167; Hammond, "The Expedition" (as in n. 42) 559, who believes that the original decree was passed not before the battle of Salamis but before the battle of Artemisium; Rhodes and Osborne, *Historical Inscriptions* (as in n. 27) 445; Blösel, *Themistokles* (as in n. 44) 247–254.

47   See Rhodes, *Commentary* (as in n. 1) 289. Rhodes implies that the purpose of the *Ath. Pol.* in claiming that the *strategoi* were at a loss was to discredit Themistocles (or the version that made Themistocles the instigator of the money distribution). See also Ostwald, "The Areopagos" (as in n. 2) 142–143.

48   I here follow Ostwald, ibid.

49   It is interesting to note that the verb used in the "Decree of Themistocles" to order the *Boule* to man the ships (ML 23.37), πληροῦν, is the same used by the *Ath. Pol.* 23.1 to describe what the Areopagos did (and hence gained in power).

constitutional details; his "Athenians" would cover all the institutions mentioned. The *Athenaion Politeia* may have separated artificially and intentionally the actions of Themistocles and the Assembly from those of the Areopagos.[50] And Plutarch relies on the *Athenaion Politeia* and on Cleidemus, who, judging by Plutarch's wording, recounted the events of that time as initiated by the cunning mind of Themistocles.[51] But why was the Areopagos called on to give its advice, if it really had played no political role since Solon's reforms despite its capacity as "guardian of the laws"? As mentioned above, Themistocles, who was one of the *strategoi*, was also an Areopagite and so was Aristeides. Such citizens, and probably many others like them who were members of the Areopagos, were greatly esteemed and their counsel was solicited. It may be that this was why Ephialtes began his assault on the Areopagos in 462/1 by prosecuting individual Areopagites (*Ath. Pol.* 25.2); attacking their integrity would have discredited the whole council.[52] Facing the invasion of the Persians in 480 and knowing that they could not hold out against them, what other institution could the Athenians appeal to except this old and prestigious symbol of stability?[53] Also, by 480 the Areopagos' members were no longer necessarily aristocrats.

It is therefore plausible, though not certain, that the Areopagos served as an advisory institution and a saviour in the difficult times of 480 B.C. But later events may attest more firmly to this role of the Areopagos. As we have seen above, despite its image as a conservative institution we do not hear of the Areopagos being used

50   A source hostile to Themistocles might have been responsible for belittling his part, and also for the unflattering anecdotes about him in Herodotus; see W. Blösel, "The Herodotean Picture of Themistocles: A Mirror of Fifth-Century Athens", in: N. Luraghi (ed.), *The Historian's Craft in the Age of Herodotus* (Oxford 2001) 179–197, at 181. But we should also consider that after his ostracism in ca. 471 and his later escape to Asia Minor, Themistocles' reputation must have suffered a serious blow. And see McInerney, "Politicizing the Past" (as in n. 16) 34–37, who explains the *Ath. Pol.*'s version as a "conservative nostalgia" (at 36).

51   In *Them.* 10.4 Plutarch cites Cleidemus' version of the story of the money distribution and says that Cleidemus presents this event too as the result of an artifice of Themistocles (Κλείδημος δὲ καὶ τοῦτο τοῦ Θεμιστοκλέους ποιεῖται στρατήγημα). For discussions of Cleidemus and other instances of competing versions presented by him, see Plut. *Thes.* 19.4, 27.3, 4; and see F. Jacoby, *Atthis: The Local Chronicles of Ancient Athens* (Oxford 1949) *passim* (esp. 74–77); McInerney, "Politicizing the Past" (as in n. 16), who sees Cleidemus' history as a democratic answer to antidemocratic writings, prompted by the Peloponnesian War.

52   But see Rhodes, *Commentary* (as in n. 1) 313–314, who believes that Ephialtes was prosecuting would-be Areopagites, that is, archons in their *euthynai*. See also C. Pecorella Longo, "Gli arconti: iterabilità della carica e accesso all'Areopago", *A & R* 36 (1991) 169–180, at 176–177.

53   Macan, *Herodotus* (as in n. 41) *ad* Hdt. 9.5.1–2, suggests that the *Boule* that convened in Salamis might have been not the Five Hundred but the Areopagos, "which performed some vague services in the Persian war". I can only guess that at least one reason for this suggestion is the story of Lycidas' execution by the *Boule* for treason before the battle of Plataea, and the fact that Dem. 18.204, which is generally assumed to refer to this case though the name of the traitor here is Cyrsilus, places the event before the battle of Salamis – thus in connection with the events related in Hdt. 8.40–41, and *Ath. Pol.* 23.1. Cf. Lycurg. *Leoc.* 122, which probably refers to the same case. But see Rhodes, *Boule* (as in n. 1) 35–36; M. A. Flower and J. Marincola, *Herodotus, Histories Book IX* (Cambridge 2002) 107–108. See also Wallace, *The Areopagos* (as in n. 1) 83, and Braun, *Die "Eumeniden"* (as in n. 1) 68, and n. 16 above.

as a tool to implement oligarchy, or as cooperating with the oligarchs, either in 411 or in 404. Of course, the silence of our sources cannot be used as decisive proof against the idea that this old institution had a part – active or passive – in the oligarchic revolutions, and as noted above Wallace believes that the Thirty Tyrants did mean to make use of the Areopagos in their regime.[54] Moreover, at least one of the Thirty Tyrants was probably an Areopagite in 404: if the Diocles mentioned by Xenophon (*Hell*. 2.3.2) as one of the Thirty is the same Diocles who was archon in 409/8, he was apparently a member of the Areopagos when the oligarchs got control of the city.[55] There might have been other Areopagites who supported the oligarchic cause, but it is practically impossible to tell. Usually, the only names of Areopagites known to us are those of the ex-eponymous archons; since we know very few names of other ex-archons and ex-*thesmothetai* at any given time,[56] there is no way to estimate the proportion of pro-oligarchs and pro-democrats in this council.

That there were pro-oligarchs among the Areopagites is not unreasonable. Serving under the democracy did not preclude the possibility that some of them welcomed the opportunity to change the constitution. Nor does this possibility contradict what was said above about the changed composition of the Areopagos after the introduction in 487 B.C. of lottery into the process of electing archons, and the opening in 457 of the office to candidates from among the *zeugitai*; a *zeugitic* or even *thetic* background did not guarantee a zealous democratic archon – later an Areopagite. As the cases of Phrynichus and Peisandrus show, one's political allegiance was often determined by changing circumstances;[57] or, in the words of the defendant in Lysias 25.8, "no man is by his nature either an oligarch or a democrat, but whatever constitution is advantageous to him, that one he is keen to establish". The Areopagos was a large body, and the distribution of political credos should not

54 See Wallace, *The Areopagos* (as in n. 1) 141–144.
55 But D. Whitehead, "The Tribes of the Thirty Tyrants", *JHS* 100 (1980) 208–213, does not mention such identification. Again, if Pythodorus, who in 404 moved the decree to appoint *probouloi* to suggest measures for the salvation of the state (*Ath. Pol.* 29.1–3), is the same as the archon of 432/1, he too was an Areopagite in 411 (another Pythodorus was archon under the Thirty Tyrants in 404/3). On possible identifications of Pythodorus who is mentioned in the *Ath. Pol.*, see Rhodes, *Commentary* (as in n. 1) 370, and his chap. 1 in this volume, p. ■■. On the other hand, it does not seem reasonable that Mnesilochus, who had been archon under the Four Hundred in the first two months of 411 B.C. but was removed once the democrats took over, would have entered the Areopagos; being an enemy of the demos, he must have been found not suitable by the *euthynoi* or *logistai*. On the scrutiny of Areopagites see Wallace, *The Areopagos* (as in n. 1) 94–95. Things seem to have changed in the fourth century B.C., because Euandrus, although he too was one of the Four Hundred, probably passed the *dokimasia* for the archonship before the *Boule* (Lys. 26), since the name Euandrus appears as the archon of 382/1; hence, he entered the Areopagos.
56 But see Aeschin. 1.81–4 for Autolycus, who spoke in the Assembly on behalf of the Areopagos in 346 B.C. against Timarchus' proposal to build houses on the Pnyx, and was later condemned for sending away from Athens his wife and children before the battle of Chaeronea (Lycurg. 1.53); [Dem.] 59.72–84, on Theogenes, the *basileus*, who was later fined by his fellow Areopagites for exposing his wife, Neaera's daughter, to the most sacred and secret rites. See also n. 30 above.
57 Phrynichus: Thuc. 8.48–51, 68; Peisandrus: Andoc. 1.36; 2.14; Thuc. 8.53–56, 63–68.

have been different from that among the *strategoi* in Samos or among the whole demos of Athens.[58]

So at least some of the Areopagites may have supported the oligarchs. Others, presumably like most of the other Athenians, sat on the fence, waiting to see which side won. But we have one piece of evidence, albeit obscure, that might attest that the Areopagos acted against the oligarchs. This is a passage from Lysias' *Against Eratosthenes* (12.69), the only speech delivered by Lysias himself after the restoration of democracy in 403 B.C. Referring to Theramenes' dealings with Sparta after Athens' defeat at Aigospotamoi in 405, Lysias says:

> ὑμεῖς δέ, ὦ ἄνδρες Ἀθηναῖοι, πραττούσης μὲν τῆς ἐν Ἀρείῳ πάγῳ βουλῆς σωτήρια, ἀντιλε-γόντων δὲ πολλῶν Θηραμένει, εἰδότες δὲ ὅτι οἱ μὲν ἄλλοι ἄνθρωποι τῶν πολεμίων ἕνεκα τἀπόρρητα ποιοῦνται, ἐκεῖνος δ᾽ ἐν τοῖς αὑτοῦ πολίταις οὐκ ἠθέλησεν εἰπεῖν ταῦθ᾽ ἃ πρὸς τοὺς πολεμίους ἔμελλεν ἐρεῖν, ὅμως ἐπετρέψατε αὐτῷ πατρίδα καὶ παῖδας καὶ γυναῖκας καὶ ὑμᾶς αὐτούς.

> And you, Athenians, while the Council of the Areopagos was acting for your safety [literally: doing things that contribute to safety] and many were speaking in opposition to Theramenes, although you were aware that whereas other people keep secrets to baffle the enemy, that man refused to tell his own fellow citizens what he was going to say to the enemy, nevertheless you entrusted to him your fatherland, your children, your wives and yourselves.

This passage is not easy to understand. Lysias is obviously hostile to Theramenes, and what the Areopagos did for the safety of the Athenians and what many said against Theramenes is here clearly contrasted with Theramenes' actions. We may safely guess that in referring to the speeches made against Theramenes Lysias means the debates in the Assembly on how best to deal with the Spartans who were besieging Athens.[59] But it is not clear why Lysias mentions the Areopagos or how exactly this institution worked for the safety of Athens. Its supposed role immediately after Athens' defeat at Aigospotamoi is mentioned nowhere else, but this is not a sufficient reason to reject Lysias' testimony. His offhandedness in bringing it up may indicate that he relied on his audience's knowledge of this detail, and there seems to have been no good reason for him to invent it. What motive could Lysias have for mentioning the Areopagos if this institution did not act against Theramenes, either in an attempt to save Athens or in the peace negotiations? Mentioning the Areopagos in a speech delivered after the restoration of democracy could, of course, have been stimulated by the council's increased power following Teisamenus' decree in 404 (Andoc. 1.83–4; see above). But it is unreasonable that Lysias would ascribe to the Areopagos a role it did not play, so soon after the events took place.

At first glance, Lysias seems to imply that the Areopagos was acting for the benefit of the democrats and as an anti-oligarchic body. In attacking Eratosthenes, one of the Thirty, it is reasonable that Lysias would want to contrast the oligarchs, including Theramenes, with democracy and the democrats. But this conclusion is

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58   On estimations of the number of the Areopagites, see Wallace, *The Areopagos* (as in n. 1) 96–97 ("somewhat more than 200 men"); Hansen & Pedersen, "The Size of the Council of Areopagos" (as in n. 30) 73–76 (between 145 and 175).

59   On the debates at Athens and the embassies to Sparta, cf. Lys. 13.8–17; Xen. *Hell*. 2.2.10–23; Aeschin. 2.76; Plut. *Lys*. 14.3–6.

not necessitated by the text. The Areopagos, says Lysias, was doing things concerned with the safety (*soteria*) of the people (πραττούσης μὲν τῆς ἐν Ἀρείῳ πάγῳ βουλῆς σωτήρια). Deliberating what actions to take for the safety of Athens was an intrinsic feature of times of crisis, and in the fourth century at least was a regular formula in recommendations of the *Boule*;[60] furthermore, the word *soteria* was often used as a political slogan,[61] and as we have seen, this very probably was the subject of the discussions in Athens in 480 and the context of the Areopagos' actions (*Ath. Pol.* 23.1). But we are not actually told what the Areopagos did, except for the vague expression *soteria*, and since no other source mentions a conflict between this council and the oligarchs, Lysias might have overstated the difference between the Areopagos and Theramenes. After all, he could not denounce this old and esteemed council, which had stood at the side of the Athenians before.

Yet I believe that precisely the great esteem enjoyed by the Areopagos, and possibly the role it played on previous occasions, make Lysias' report seem valid. It is reasonable that following Athens' defeat in 405 the Areopagos was called to give advice *peri soterias*; but by whom and with what competence?

O. de Bruyn suggests that like the many who talked against Theramenes, the Areopagos too tried to persuade the Athenians not to betray the city to that man.[62] But Lysias explicitly refers to *actions* that the council took (πραττούσης … τῆς ἐν Ἀρείῳ πάγῳ βουλῆς), in contrast to the *words* others uttered (ἀντιλεγόντων … πολλῶν). We are told in other sources[63] that following the defeat, and because of the shortage of food and funds and the Spartan siege, the Athenians restored citizen rights to those who had been disfranchised, made such preparations as were needed, and decided to hold out against the Spartans. And although starvation drove them to negotiate for peace, they were resolute not to agree to demolish the walls; according to Xenophon (*Hell.* 2.2.15) they even threw Archestratus into prison for saying in the *Boule* that it was best to accept Sparta's terms for peace – which meant razing a portion of each of the long walls – and also issued a decree forbidding anyone to make such proposals.[64]

I wish to argue that at this difficult time, very similarly to what happened in 480 B.C., the Areopagos was called on to intervene and was acting for the safety of the Athenians on account of its prestige – indeed, *because* it was an old and conservative institution, a symbol of stability that had stood by the citizens on former occasions. It may also be that as an emergency step the Areopagos was given back its old

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60   Ar. *Eccl.* 396–7; Isae. 5.37; *Ath. Pol.* 29.4; and see Rhodes, *Boule* (as in n. 1) 231–235; *Commentary* (as in n. 1) 373–374, for more evidence and for a discussion of the formula περὶ σωτηρίας τῆς πόλεως in an open *probouleuma*.

61   According to Pythodorus' decree (*Ath. Pol.* 29.2), the thirty *probouloi* were to write down suggestions for the safety (*soteria*) of the *polis*. Theramenes himself, according to Plutarch (*Lys.* 14.6), claimed that his agreement to the Spartan demand to tear down the walls was for the safety (*soteria*) of the Athenians. And see Hdt. 8.40–41 and above, on the deliberations in Athens before the battle of Salamis.

62   De Bruyn, *La compétence* (as in n. 1) 52.

63   Xen. *Hell.* 2.2.11; Andoc. 1.73–9.

64   The man who proposed this decree seems to have been Cleophon: see Lys. 13.8; Aeschin. 2.76. He was later prosecuted by the Thirty.

capacity of *nomophylakia*, which, it is believed, Ephialtes had taken away from it. Wallace suggests that the Thirty repealed the laws of Ephialtes and Archestratus in 404 as a symbolic act in a struggle to gain the Areopagos' support.[65] This would make more sense if the Areopagos was acting in 405 with a mandate of the demos, or at least following the demos' appeal to it.

This assumption may be sustained by later events: the circumstances and the low spirits in Athens in 405–404 recall those in the aftermath of Chaeronea in 338 B.C., when the Areopagos was given authority to prosecute and apparently even execute citizens suspected of abandoning the city in its time of crisis, as told by Lycurgus in *Against Leocrates* (1.52):

> ἡ μὲν γὰρ ἐν Ἀρείῳ πάγῳ βουλῆ καὶ μηδείς μοι θορυβήσῃ· ταύτην γὰρ ὑπολαμβάνω μεγίστην τότε γενέσθαι τῇ πόλει σωτηρίαν – τοὺς φυγόντας τὴν πατρίδα καὶ ἐγκαταλιπόντας τότε τοῖς πολεμίοις λαβοῦσα ἀπέκτεινε. καίτοι, ὦ ἄνδρες, μὴ νομίζετε τοὺς τὰ τῶν ἄλλων φονικὰ ἀδικήματα ὁσιώτατα δικάζοντας αὐτοὺς ἂν εἴς τινα τῶν πολιτῶν τοιοῦτόν τι παρανομῆσαι.

> For the council of the Areopagos – and let no one interrupt me; for that council was, in my opinion, the greatest salvation for the city at the time – seized and executed men who then had fled from the country and abandoned it to the enemy. You must not think, gentlemen, that these councilors who are so scrupulous in trying other men for homicide would themselves have taken the life of any citizen unlawfully.

It has been argued that Lycurgus' request to be heard uninterrupted implies that in ca. 330 B.C., when Lycurgus delivered the speech, the mention of these executions still aroused anger because it was thought that the Areopagos had exceeded its jurisdiction in 338.[66] Remarkably, however, Lycurgus describes this activity of the Areopagos as the greatest salvation, *megiste soteria*, and according to Lysias, as we have seen, acting for *soteria* was what this council did in 405. De Bruyn notes with interest the use of this term by both orators, and adds that its employment undoubtedly served to justify the intervention of the council.[67] But the word *soteria* is used by these orators not only in defence of the Areopgaos' actions;[68] I think it also refers to the actual mandate given to the council to act for the salvation of Athens, and this, I believe, is why Lycurgus finds it necessary to remind the judges that the Areopagos had acted in 338 according to the law. In any case, as Lycurgus' speech against Leocrates was delivered some eight years after Chaeronea, this excessively extraordinary right of the Areopagos may have been revoked in the meantime.

Now, it is highly likely that in a special meeting of the Assembly, called in 405 B.C. to deliberate *peri soterias*, the Areopagos was asked to help and perhaps was even voted special powers. Moreover, the decree mentioned by Xenophon (*Hell*. 2.2.15) possibly included a provision authorizing the Areopagos to investigate and

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65   Wallace, *The Areopagos* (as in n. 1) 141–144.
66   See Wallace, *The Areopagos* (as in n. 1) 182; de Bruyn, *La compétence* (as in n. 1) 161.
67   De Bruyn, *La compétence* (as in n. 1) 52 n. 197.
68   In his review of Wallace, *The Areopagos* (as in n. 1), R. A. Knox, "Review of R. W. Wallace, *The Areopagos Council, to 307 B. C.*", *JHS* 110 (1990) 252–253, notes "the excessive and near-uniform reluctance of the orators to criticize the Areopagus … the Areopagus had become politically formidable in the literal sense" (253).

perhaps even punish citizens urging acceptance of the Spartans' terms – thus practically suggesting betraying the city to the enemy – and that the case of Archestratus was referred by the *Boule* to the Areopagos under this capacity. In other words, I suggest that in 405 the Areopagos – as in the period after Chaeronea – was empowered to take emergency steps to save the *polis*, including the investigation and punishment of capital crimes.

This may be supported by Patrocleides' decree (quoted by Andoc. 1.77–9), which was passed in the wake of Aigospotamoi. The decree granted amnesty and ordered the destruction of the records of those who had lost their citizen rights or were liable to lose them shortly; destroying these records meant the restoration of civic rights to disfranchised Athenians. The decree further stipulated (§ 79) that whoever retained a copy of a record whose cancellation had been decided would be liable to the same penalty as those exiled by a verdict of the Areopagos (ἔνοχον εἶναι τὸν παραβαίνοντα ταῦτα ἐν τοῖς αὐτοῖς ἐν οἷσπερ οἱ ἐξ Ἀρείου πάγου φεύγοντες). This must mean that retaining copies of records of disfranchised citizens was considered a capital crime and was liable to the death penalty, which, as with homicide tried by the Areopagos, the condemned citizen could avoid by going into exile. Now this last proviso differs from that in section 78 of the oration, which excludes from the amnesty all who were condemned to death by the Areopagos or the Ephetai for homicide and were at that time in exile; the proviso in section 79 refers to possible violations of the amnesty, that is, to political crimes, not to homicide. There would have been no need to mention the Areopagos in the context of a political offence, unless, as I tend to understand it, this proviso referred to an extension of the Areopagos' juridical and punitive capacity in the difficult time following Aigospotamoi.

If my assumption is correct, it accords well with what emerges from Teisamenus' decree (Andoc. 1.83–4): after the restoration of the democracy, the Areopagos retained its prominence and was even granted the function of supervising the laws, a function perhaps similar to its former capacity of *nomophylakia*.[69] Thus, far from being considered an aristocratic institution and an obstacle to the full dominance of the demos, the Areopagos seems to have been treated as an important democratic institution that had worked for the safety of the city.

It is also remarkable that Patrocleides' decree is formulated as a re-enactment of a decree passed during the Persian Wars (Andoc. 1.77: ψηφίσασθαι τὸν δῆμον ταὐτὰ ἅπερ ὅτε ἦν τὰ Μηδικά, καὶ συνήνεγκεν Ἀθηναίοις ἐπὶ τὸ ἄμεινον). We do not know whether the older decree only ordered the restoration of exiles (for example, Aristeides, if it predates Salamis[70]), or also conferred on the Areopagos exceptional powers. But this clause in Patrocleides' decree brings to mind the story in the *Athenaion Politeia*, 23.1, discussed above, about the increased power and prestige of the Areopagos owing to its action in the critical time before the battle of Salamis. As we have seen, both the increase in the Areopagos' power and the reason the *Athenaion Politeia* gives for it are disputed. But in light of the above discussion

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69   See chap. 1 in this volume by Rhodes, p. ■■. For a discussion of Teisamenos' decree, see Wallace, *The Areopagos* (as in n. 1) 57–58, 134–135, 141.

70   On the possibility that this amnesty occurred in 490 B.C., before Marathon, see McDowell, *On the Mysteries* (as in n. 22) 115 (on § 107); Wallace, *The Areopagos* (as in n. 1) 21–22.

and Patrocleides' decree scholars seem over-suspicious; it may well be that as in 405 and 338 the Areopagos acted for the safety of Athens before or during the battle of Salamis, and in consequence had acquired greater prestige and powers.

So on at least three occasions – in 480 before the battle of Salamis, in 405 after Athens' defeat by Sparta, and in 338 after Chaeronea[71] – the Areopagos is described as acting for the safety of the state. It is noteworthy that in times of crisis the Athenians sometimes gave power to the Areopagos, or let it gain power. But when a crisis led to actual changes in the constitution, as in the two oligarchic revolutions in 411 and 404 B.C., it was not the Areopagos that became the sovereign body, nor – as far as we know – was its former competence restored; the revolutionaries were assisted by a council based on the Solonian Four Hundred or the Cleisthenic Five Hundred model.

But if this is acceptable, why was Eucrates' law of 336 enacted? Why does Lycurgus' audience (1.52) show dissatisfaction with the executions carried out by the Areopagos after Chaeronea? And why was the increased power of the Areopagos after the Persian wars presented by Aristotle (*Pol.* 5, 1304a17–24) and by the *Athenaion Politeia* (23.1–2) as conflicting with the growth of democracy?[72] Any increase in the Areopagos' power seemed to some if not most Athenians as endangering democracy. Nonetheless, precisely because it was so ancient and respected, and owing to the accumulated judicial and political experience of its members, it seemed to be the best, if not the only, institution to act for the safety of the *polis* in time of crisis. As to the way the Areopagos is described by Aristotle and the *Athenaion Politeia*, if my argument that in 480, in 405, and in 338 the Areopagos was acting *with* the demos and not against it, the seemingly conflicting trends described by Aristotle – the 'Areopagite' and the 'democratic-naval' – can be reconciled. Aristotle may have intended to contrast the Areopagos to the democracy, but the discrepancy caused by ascribing the two contradictory trends to the same time shows that they actually concurred: the Areopagos grew in prestige and power because it *helped* the demos, which, owing to the naval victory (to which, it should be remem-

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71 If not also during the struggle between Cleisthenes and Isagoras (see above).

72 Arist. *Pol.* 1304a 17–24: οἷον ἡ ἐν Ἀρείῳ πάγῳ βουλὴ εὐδοκιμήσασα ἐν τοῖς Μηδικοῖς ἔδοξε συντονωτέραν ποιῆσαι τὴν πολιτείαν, καὶ πάλιν ὁ ναυτικὸς ὄχλος γενόμενος αἴτιος τῆς περὶ Σαλαμῖνα νίκης καὶ διὰ ταύτης τῆς ἡγεμονίας διὰ τὴν κατὰ θάλατταν δύναμιν τὴν δημοκρατίαν ἰσχυροτέραν ἐποίησεν ("As, for example, the Council of the Areopagos, having gained esteem during the Persian Wars, appears to have made the constitution more taut, and, again, the naval multitude, having been responsible for the victory near Salamis and hence of [Athens'] hegemony due to her power at sea, made the democracy stronger"). *Ath. Pol.* 23.1–2: τότε μὲν οὖν μέχρι τούτου προῆλθεν ἡ πόλις, ἅμα τῇ δημοκρατίᾳ κατὰ μικρὸν αὐξανομένη … διὰ ταύτην δὴ τὴν αἰτίαν παρεχώρουν αὐτῆς τῷ ἀξιώματι, καὶ ἐπολιτεύθησαν Ἀθηναῖοι καλῶς καὶ κατὰ τούτους τοὺς καιρούς. συνέβη γὰρ αὐτοῖς κατὰ τὸν χρόνον τοῦτον τά τε περὶ τὸν πόλεμον ἀσκῆσαι, καὶ παρὰ τοῖς Ἕλλησιν εὐδοκιμῆσαι, καὶ τὴν τῆς θαλάττης ἡγεμονίαν λαβεῖν, ἀκόντων Λακεδαιμονίων ("At this time then the *polis* had advanced to this point, growing slowly together with the democracy … For this reason, therefore, they gave place to its honour. And the Athenians were well governed even in these days; for during this time it occurred that the people practised military activities and won high esteem among the Greeks and gained the hegemony at sea against the will of the Lacedaemonians"). See Rhodes' explanation (*Commentary* [as in n. 1] 287–288).

bered, the Areopagos made an important contribution), was able to advance the democracy.

The Areopagos was the most ancient of the Athenian institutions, always holding the most important role of judging homicide cases and religious crimes, frequently standing guard over the laws, and sometimes granted the authority to investigate and even punish crimes against the constitution. It is constantly described by different authors in different periods, but always under democracy, as most venerable, most just, and a bulwark of the state. The conclusion, therefore, must be that this seemingly undemocratic institution was the one called to intervene and save the democracy in times of crisis – hence it was looked upon as an icon of stability.[73]

III. THE HILL OF ARES

Before concluding I wish to examine the image of the Areopagos from a different angle, namely its topographic/physical role in the history of Athens. The 'Hill of Ares'[74] seems to have been a place of extreme importance. According to a tradition preserved by Aeschylus, the Amazons captured it when invading Athens (Aesch. *Eum*. 685–95). In Athena's speech, just before she describes the important position of the Areopagos in the state, she says:

> πάγον δ᾽ Ἄρειον τόνδ᾽, Ἀμαζόνων ἕδραν
> σκηνάς θ᾽, ὅτ᾽ ἦλθον Θησέως κατὰ φθόνον
> στρατηλατοῦσαι, καὶ πόλιν νεόπτολιν
> τήνδ᾽ ὑψίπυργον ἀντεπύργωσαν τότε,
> Ἄρει δ᾽ ἔθυον, ἔνθεν ἔστ᾽ ἐπώνυμος
> πέτρα, πάγος τ᾽ Ἄρειος· ἐν δὲ τῷ σέβας
> ἀστῶν φόβος τε ξυγγενὴς τὸ μὴ ἀδικεῖν
> σχήσει τό τ᾽ ἦμαρ καὶ κατ᾽ εὐφρόνην ὁμῶς,
> αὐτῶν πολιτῶν μὴ ᾽πιχραινόντων νόμους
> κακαῖς ἐπιρροαῖσι· βορβόρῳ δ᾽ ὕδωρ
> λαμπρὸν μιαίνων οὔποθ᾽ εὑρήσεις ποτόν.

> And this Hill of Ares, the seat and camp of the Amazons, when they came with an army in resentment against Theseus, and in those days built up this new citadel with lofty towers to rival his, and sacrificed to Ares, from which this rock takes its name, the Hill of Ares: on this hill, the reverence of the citizens, and fear, its kinsman, will hold them back from doing wrong by day and night alike, so long as they themselves do not pollute the laws with evil streams; if you stain clear water with filth, you will never find a drink.[75]

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73   D. M. Lewis, "Review of Robert W. Wallace, *The Areopagos Council, to 307 B.C.*", *CR* 40 (1990) 356–358, notes that "the Areopagus was generally in fact a prized part of the democratic constitution" (358).

74   For this and other etymologies of the name Areopagos see Wallace, *The Areopagos* (as in n. 1) 213–214; Harding, *Story of Athens* (as in n. 4) 205–207.

75   The English translation is that of H. Weir Smyth, Cambridge Mass.: Harvard University Press 1926.

The invasion of Attica by the Amazons was often equated with that of the Persians and presented as its mythical counterpart; in Attic literary sources it is often mentioned as one example in a series of past military deeds and implicitly equated to the Persian invasions.[76] Indeed, the Persians too, when invading Athens in 480, occupied the hill, from which they besieged the Acropolis (Hdt. 8.52.1). Amazons were also favourite subjects of sculptors and vase-painters. The war with them was represented by Phidias on the shield of Athena Parthenos (in 438/7 B.C.; Paus. 1.17.2) and on the west metopes of the Parthenon (ca. 439 B.C), and by Micon in the Stoa Poikile (in the 460s; Paus. 1.15.2) and the Theseion (470–465 B.C.; Paus. 1.17.2).[77] Although the Persian invasions of 490 and 480 probably inspired the story of the Amazon raid on Attica, it was the return of Theseus' bones in 476/5 (Plut. *Cim.* 8.5–6; Paus. 1.17.6), argues Boardman, that "could have been the occasion for the popularizing of the story of the Amazon invasion".[78] At any rate, it is most likely that the audience in the theatre of Dionysus, watching Aeschylus' *Eumenides* in 458 B.C., made the immediate association between the Areopagos – the hill and the council – and the two occasions on which the hill served as a siege-base for barbarian enemies, who were finally defeated.[79] Moreover, according to Herodotus (8.52.2), together with the Persians came the Peisistratids, whom Herodotus mentions here for the first time since 7.6.2–5, where he describes their efforts to persuade Xerxes to invade Greece.[80] The Peisistratids themselves were once besieged on the Acropolis by the Spartan king Cleomenes (Hdt. 5.64–65), who himself was

76   See e.g. Hdt. 9.27.4; Isoc. 4.68–70; Plut. *Thes.* 26–28 (who also quotes Cleidemus, at 27.3–4, as saying that the Athenians were driven by the left flank of the Amazons back to the "shrine of the Eumenides"). J. Boardman, "Herakles, Theseus and Amazons", in: D. Kurtz and B. Sparkes (eds.), *The Eye of Greece: Studies in the Art of Athens* (Cambridge 1982) 1–28, at 5–6, assumes according to literary sources that the story was current in Athens by at least 460 B.C. See also McInerney, "Politicizing the Past" (as in n. 16) 23–24, 29–31, on Theseus becoming a symbol of Athens, a focal point for discussions of the constitution and a sought-after ancestral figure by Athenian leaders, and on Cleidemus' version of the Amazon invasion. McInerney (29–30) also argues that Cleidemus does not mention the Areopagos, a symbol of "a less democratic *politeia*", as the site of the Amazons' camp, but instead relates that the right wing of the Amazons was routed at the Pnyx – "a more acceptable democratic location". This interpretation is in line with McInerney's theory that Cleidemus wrote a democratic version of Athenian history, but the "shrine of the Eumenides" cannot but be the one situated on the Areopagos and known also as that of the Semnai Theai (see below). So although Cleidemus does not mention the Areopagos as the invaders' camp – perhaps intentionally, as McInerney claims – he does refer to the site as one of the locations of fighting. See also Braun, *Die "Eumeniden"* (as in n. 1) 90–91.
77   On these paintings and sculptures and their possible dates see Boardman, "Herakles" (as in n. 76) 16–23.
78   Boardman, "Herakles" (as in n. 76) 28.
79   Macan, *Herodotus* (as in n. 41) *ad* Hdt. 8.52.1, comparing the siege of the Persians to Aesch. *Eum.* 685–90, says: "A passage which could hardly have been recited to an Athenian audience in 458 B.C. (Philokles) without vividly recalling the experiences of twenty-two years before (480, Kalliades)."
80   The Peisistratids who came with the Persians probably included Hipparchus son of Charmus (ostracized in 488/7), the seer Onomacritus (see Hdt. 7.6), and Dicaeus (ibid. 8.65). For the possible identity of these Peisistratids, see Arnush, "The Career of Peisistratos son of Hippias" (as in n. 8) 158.

besieged there later, together with Isagoras, by the other Athenians and by the council (5.72.2) – which, as I argued above, might have been the Areopagos operating from its physical site: The topographical position of the 'Hill of Ares' made it an excellent base for operations against the Acropolis, and although Herodotus does not say so, the Peisistratids, and later Cleomenes and Isagoras, might have been besieged from this hill.

The Areopagos was also the site of the shrine of the Semnai Theai, or the Eumenides,[81] which was also used as a place of refuge.[82] But the stories connected with this shrine again concern enemies of Athens: Pausanias (7.25.1–3), speaking of the gods' punishment for killing suppliants, relates how the Athenians received an oracle from Zeus in Dodona, warning them not to kill suppliant Lacedaemonians who would some day take shelter at the altars of the Eumenides on the Areopagos. The Athenians were reminded of this prophecy when the Lacedaemoninas invaded Attica in the reign of Codrus. Having learned of the death of Codrus and of the manner of it, most of the Lacedaemonians departed from Attica, but certain soldiers, who stole within the walls by night, took refuge in the Areopagos at the altars of the goddesses called Semnai. On this occasion the Athenians allowed the suppliants to depart unharmed, but on another occasion, continues Pausanias, they put to death Cylon and his supporters, who had seized the Acropolis. Some of Cylon's men, as we read in other sources (Thuc. 1.126.11; Plut. *Sol.* 12.1), fled from the Acropolis to the altars of the Semnai Theai on the Areopagos, whence they were dragged away and killed.

The Hill of Ares, therefore, was seen as a strategic stronghold – physically, and not only symbolically, being the seat of the council of the Areopagites. Reading together the two passages I quoted from Aeschylus' *Eumenides* (685–95 and 700–6), we realize that the playwright himself saw the council and its seat as a single significant unit: on this hill – where once was the camp of barbarian invaders, who were driven off by the victorious Athenians – the reverence and fear of the citizens (Areopagites and other citizens alike) will hold them back from doing wrong, so long as they themselves abide by the laws. This hill will serve both physically and politically as a guard post. As we have seen, the Areopagos acted several times for the safety (*soteria*) of the Athenians, a role perhaps alluded to by Aeschylus in *Eumenides*, 701: πόλεως σωτήριον. Aeschylus may well have intended his Athenian audience to remember past events, mythical and historical, so as to emphasize the value of the Areopagos: as long as the hill of Ares and the council held on, Athens would be safe. Both the physical site of the Areopagos, the scene of war and siege, and the council's image as an old, venerated and most stable institution, which

81 For the identification of the Semnai Theai, the Eumenides, and the Erinyes, see Braun, *Die "Eumeniden"* (as in n. 1) 168–203; H. Lloyd-Jones, "Erinyes, Semnai Theai, Eumenides", in id., *The Further Academic Papers of Sir Hugh Lloyd-Jones* (Oxford 2005) 90–99 (originally published in: E. M. Craik [ed.]), *"Owls to Athens": Essays on Classical Subjects Presented to Sir Kenneth Dover* [Oxford 1990] 203–211).

82 For the location of the shrine see Aesch. *Eum.* 855; Eur. *El.* 1270–72 (where the goddesses are called δειναὶ θεαί); *IT* 968–9; Scholion to Dem. 21.115; Paus. 1.28.5–6. For this shrine as a place of refuge, see also Ar. *Eq.* 1312 and schol.; *Thesm.* 224 and schol.

stood by the Athenians against enemies external and internal, were associated in the Athenian collective memory with crisis and salvation. It is therefore safe to conclude that the Areopagos was seen both as a symbol and a place of stability and safety, at least since the expulsion of the tyrants.

7. THE ATHENIANS AND THEIR GODS IN A TIME OF CRISIS

David M. Schaps*

I. DON'T PRAY, ORGANIZE!

When the Athenians realized the scope of the Sicilian catastrophe, they took, according to Thucydides, the following decisions:

> They would not give in, but would equip a fleet, getting timber from wherever they could, and raise money; and take measures to ensure the security of the alliance, and particularly Euboea; and do something to manage the expenditures in the city itself cheaply; and elect a governing body of elderly men who would propose measures for the current situation as the need arose.[1] (Thuc. 8.1.3)

Although they were angry at the oracle-mongers and seers who had misled them (ibid. 8.1.1), Thucydides records no form of retaliation against these false prophets; nor does he mention any action taken to appease the gods, or indeed any notice taken of their apparent hostility.

The Romans at first were similarly practical at their own moment of reckoning after the battle of Cannae:

> Quintus Fabius Maximus proposed to send light cavalrymen down the Appian and Latin Ways, who would report, having questioned those they met – for surely there would be some survivors scattered around – what had happened to the consuls and the army and, if the immortal gods[2] had had some pity on the empire and allowed something of the Roman name to survive, where that force was; where Hannibal had gone after the battle, what preparations he was making, what he was doing and what he was planning to do. … [The senators] would keep the mothers and wives out of the public domain and force everyone to stay inside his own home, should restrain lamentations of relatives, and restore quiet throughout the city. They should see to it that messengers about any matter would be brought to the praetors, and have individuals stay in their own houses until someone could tell them about their particular fate. They should post guards at the city gates to prevent anyone from leaving the city, and compel the people to expect no security unless the city and its walls were preserved. (Livy 22.55.4–8)

But this was not all that happened at Rome. Two vestal virgins were convicted of *stuprum*; one was buried alive, one killed herself, and a man involved was beaten to death by the priests. So far, for Rome, this was just the normal operation of justice; but it was not the end of the story.

Since this crime was turned into a divine omen by coming, as it did, together with such a calamity, the *decemviri* were instructed to consult the books and Quintus Fabius Pictor was sent to the oracle at Delphi to inquire by what prayers and atonements they could appease the gods, and what end there would be to such great calamities. Meanwhile some extraordinary sacrifices were performed on the basis of the prophetic books: among them, a Gallic man and woman and a Greek man and woman were buried alive in a place surrounded by cliffs that had previously been drenched with human sacrifices, a most un-Roman rite.[3] (ibid. 22.57.4–6)

It is easy to dismiss the Roman reaction as panicky or insane, but within the context of Roman religion it was neither. J. H. W. G. Liebeschuetz has explained convincingly[4] how the obsessively superstitious Roman religion managed to coexist with a levelheaded and eminently successful management of public affairs. The various forms of divination, prognostication and purification described by the Roman religion and prescribed by the Roman state were sufficiently vague to give the practitioners – experienced men from the most politically eminent families of Rome – enough room to exercise judgment about what exactly was the appropriate response. The various religious taboos did not necessarily introduce irrationality into Roman politics; they were undoubtedly open to political manipulation, but it may equally well be claimed that they encouraged calm and impartial deliberation, by forcing politicians to consult with senior statesmen and to accept their authority in times of crisis. Liebeschuetz's insight can be paralleled from many societies, including our own.[5] But this was not the way things were done in fifth-century Athens.

Religious scandals were known at Athens, but not the kind of reaction to military or political calamity that Livy describes. It is nothing new to observe that the Romans were particularly superstitious in their public behavior; Polybius even praises them for it.[6] But the behavior of the Athenians – and this was not the only case; the Persian invasions, the oligarchic revolution of 411, the catastrophes of Aegospotami and Chaeronea, were none of them associated with attempts to correct religious misdeeds – might seem at first glance to suggest either that the Athenians did not really believe that the gods intervened in their affairs, or that, motivated perhaps by some embryonic principle of separation of church and state,[7] they felt it improper for the state to take account of such intervention.

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3   The "most un-Roman rite" here is human sacrifice; burial alive, on the contrary, was a customary punishment (the man who had slept with the vestal was buried alive *uti mos est*, 22.57.2), and was in this case prescribed by the Roman religious books even though Livy gives no hint that the unfortunate Gallic and Greek couples had done anything wrong.

4   J. H. W. G. Liebeschuetz, *Continuity and Change in Roman Religion* (Oxford 1979) 7–54.

5   The Queen of England, powerless though she be, performs a similar function by virtue of the fact that the Prime Minister must discuss with her all the policies that he implements in her name; in chap.6 of this volume Zelnick-Abramovitz postulates a similar role for the Areopagus at Athens. But neither of these institutions was maintained by superstition as were their Roman counterparts.

6   Polyb. 6.6–15. He admits that the general opinion is the opposite (τὸ παρὰ τοῖς ἄλλοις ἀνθρώποις ὀνειδιζόμενον, ibid. 7). For a good sketch of the everyday operation of religion in Roman politics see Liebeschuetz, loc. cit. 1–3.

7   In fact no such claim could reasonably be made; the separation of church and state, so dear to Americans, arose as a way of achieving political unity among groups all of whom believed that

II. RELIGION AND THE ATHENIAN STATE

Such an opinion would surely be wrong. That the actual conduct of war was undertaken in a context of religious ritual, as copiously documented by W. K. Pritchett,[8] does not perhaps say very much; modern armies also have their chaplains and their prayers, who tend to recede into the background when military plans are being made or executed. Oracles were sometimes consulted, but were often ambiguous and only occasionally decisive.[9] More tellingly, the Athenians executed Socrates for impiety and may perhaps have prosecuted Anaxagoras,[10] and the popular panic surrounding the profanation of the mysteries and the mutilation of the herms in 415[11] was not the reaction of a public apathetic about religion or unwilling to involve it in the public sphere. These cases, however, all arose out of religious matters; the plague, insofar as it was seen as a divine visitation, seems also to have set off some religious soul-searching.[12] But never in Athens do we find political or

the state should follow religious principles but deeply divided among themselves upon the nature of those principles. Such a situation has no parallel in the Athenian democracy or the Roman republic; nor, for that matter, did either of those polities have a institution that could be called a "church" to compete with the state. I would not have mentioned the possibility were it not that the explicit avoidance of divine motivation in Herodotus and Thucydides occasionally misleads moderns into imagining Athens as a "secular democracy". On the significance of religion in the Peloponnesian War see particularly S. Hornblower, "The Religious Dimension of the Peloponnesian War", *HSCPh* 94 (1992) 169–197, who demonstrates what he attributes in id., *Thucydides* (Baltimore 1987) to his pupil Ashley Beck, that Thucydides' secularizing approach has tended to color the way modern historians see his period. Thucydides does, however, transmit quite a bit of information about religious matters, as shown and detailed by B. Jordan, "Religion in Thucydides", *TAPhA* 116 (1986) 119–147.

8 W. K. Pritchett, *The Greek State at War*, vol. 3 (Berkeley 1979).

9 R. C. T. Parker, "Greek States and Greek Oracles", in Cartledge and Harvey (eds.), *Crux: Essays Presented to G. E. M. de Ste. Croix on his 75th Birthday* (Sidmouth 1985) 298–326 at 307–309. Parker suggests (112) that oracles may "perhaps" have once been more influential; but J. E. Fontenrose, *The Delphic Oracle, its Responses and Operations, with a Catalogue of Responses* (Berkeley 1978) 42–44 considers these earlier oracles to be fictitious.

10 *FGrHist* 70 F 196, from Diod. Sic. 12.39.2, cf. R. Parker, *Athenian Religion: A History* (Oxford 1996) 209 n. 41; on the various alleged religious trials of the late fifth century see ibid. 207–210, but cf. R. W. Wallace, "Private Lives and Public Enemies", in A. L. Boegehold and A. C. Scafuro (eds.), *Athenian Identity and Civic Ideology* (Baltimore 1994) 127–155 at 136–137, whose argument about the case of Anaxagoras seems to me convincing.

11 Thuc. 6.27–8 presents the matter in his usual secularizing manner – according to his account the panic was due to a fear that the offenses were part of a plot to undermine the democracy, and if so not really religious at all – but the picture that emerges from Andoc. 1 and [Lys.] 6 is very different. This is one of the few places where independent contemporary sources offer us a perspective other than Thucydides', and although this is not the place to discuss which account is more reliable, the contrast does provide an illuminating example of how Thucydides imposes his own interpretation in a seemingly matter-of-fact narrative. On the mutilation of the herms see W. D. Furley, *Andokides and the Herms: A Study of Crisis in Fifth-century Athenian Religion* (= *Bulletin of the Institute of Classical Studies Supplement 65*, London 1996) with the discussion and bibliography there.

12 See below, n. 34.

military failures being dealt with by trying to discover and appease a cultic reason for the gods' hostility.[13]

III. CRISIS TRANSCENDS RELIGION

If anything, the Athenian reaction to secular calamity seems to have stressed the human level more than the divine. At the time of Xerxes' invasion, the Athenians voted to allow all exiles to return – a decision that allowed them to elect the ostracized Aristeides general.[14] In 431, the Spartans demanded that the Athenians exile the descendants of those who had put the Cylonian conspirators to death, and who were held to be accursed. The Athenians replied by demanding that the Spartans exile some of their own prominent citizens who were accursed; the exchange seems more rhetorical than religious.[15] At the time of the scandal of 415 the Athenians commanded the appropriate officials to curse the guilty parties and inscribed the curses on stone; when they decided that they needed Alcibiades after all for the war they commanded the same officials to revoke the curses, and threw the stelae into the sea.[16] In 404, after Aegospotamoi, they again passed a decree for the return of exiles. The decree, whose text we have, does not specifically mention those who had been exiled for impiety; this allowed Andocides to claim that it applied to them as well, and his opponents to deny it.[17]

Yet more, the Athenians seem often to have been willing to bend the rules in times of emergency. The treatment of the Cylonian conspirators, who were promised immunity and then executed,[18] was indeed scandalous, and at some point a curse, as already mentioned, was pronounced against them and their descendants; but if any regret was ever expressed over throwing the Persian heralds into a well,

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13   Thuc. 7.18.2–3 describes the Spartans, though not the Athenians, as having a bad conscience about their responsibility for the Archidamian war and suspecting that the gods had opposed them in consequence and now, when war was being renewed by the Athenians, would support them. Thucydides does not, however, suggest that the Spartans thought that the gods opposed them because of an omitted sacrifice, or that they could have been appeased by appropriate offerings. In the world of myth the Athenians thought quite differently; it suffices to mention the name of Iphigenia.

14   [Ar.] *Ath. Pol.* 22.8, cf. P. J Rhodes, *A Commentary on the Aristotelian Athenaion Politeia* (Oxford 1981) ad loc.

15   Thuc. 1.126–8, 134–5, 139.1. Thucydides himself, typically, explains the Spartan demand not as religiously motivated but as a bit of propaganda designed to embarrass Pericles (1.127). A similar demand, with no less obvious political motivation, had been made in the time of Cleisthenes, Hdt. 5.70.2

16   For the curses see [Lys.] 6.51, Plut. *Alc.* 22.4–5; for their revocation ibid. 33.3, Diod. Sic. 13.69.2, Nepos *Alc.* 6.5.

17   Andoc. 1.71–91; the decree is ibid. 77–9. Cf. D. M. MacDowell (ed.), *Andokides On The Mysteries* (Oxford 1962) pp. 200–203.

18   Hdt. 5.71.2, Thuc. 1.126.8–11, [Arist.] *Ath. Pol.* fr. ex Her. Lemb. 22–4 Chambers, Σ Ar. *Eq.* 445, Plut. *Sol.* 12.1.

Herodotus does not mention it.[19] Although the Athenians waxed indignant about the Persian treatment of the Greek temples,[20] they did not feel any great compunction about occupying the sanctuary of Delium in Boeotia in 424, and replied to the Boeotians' remonstrations with calm sophistry, not excluding the claim that "probably anything done in war and crisis would be forgiven even by the god."[21] Most striking of all is the suggestion Thucydides attributes to Pericles that the Athenians could, if necessary, denude their patron goddess of the gold on her statue to finance the war, so long as they later returned "at least as much" (Thuc. 2.13.5).

In this the Athenians were not untypical. The idea of "borrowing" sacred money from temples had already been broached by the Corinthians at the meeting of the Peloponnesian League that voted for war,[22] and the Phocians did so – with, indeed, dire consequences, but they surely considered themselves justified – in the fourth century. War, the *biaios didaskalos*, made palatable many actions that were normally reprehensible.

IV. AN OPPOSING ATTITUDE

There were those who thought otherwise. The Arcadians had at one time considered themselves justified in using the sacred money of Olympia to pay their troops; the Mantineans felt otherwise, and eventually carried their point when other Arcadians urged "that they should not leave to their children for all time an accusation before the gods."[23] The Phocians themselves, before laying their hands on the god's silver,

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19 Hdt. 7.133. He does express a probably ironic uncertainty as to whether or not the Athenians ever suffered any retribution from the gods; the Spartans, interestingly, felt otherwise, and went so far as to recruit volunteers to be delivered to Xerxes as atonement. The volunteers were spared by Xerxes but not, as Herodotus understands it, by Talthybius, the offended mythological hero: ibid. 134–7. J. Beloch, *Griechische Geschichte* (second ed., Strassburg/Berlin 1912–1927) I 40 and n. 6 doubted the story of the dispatching of the heralds, considering it a patriotic Athenian fiction; if he is right, it is even more telling about the Athenians' cavalier treatment of religion under stress. R. Sealey, "The Pit and the Well: The Persian Heralds of 491 B.C.", *CJ* 72 (1976) 13–20 thinks the anger was directed against Athens' great enemy of the time, Aegina.

20 Aesch. *Pers.* 809–815, Hdt. 8.144.2, Isoc. *Paneg.* 155–6. This is not the place to discuss the details and reliability of the story of the Persians' treatment of Greek temples, on which see G. Nenci, *Erodoto: Le Storie Libro V: La rivolta della Ionia* (Milan 1994) ad 5.102.1–3; M.A. Dandamaev and V.G. Lukonin, *The Culture and Social Institutions of Ancient Iran*, trans. Kohl and Dadson (Cambridge 1989) 352–360; P. Briant, *From Cyrus to Alexander: A History of the Persian Empire*, trans. Daniels (Winona Lake, Indiana 2002) 547–554.

21 Thuc. 4.98.6.

22 Thuc. 1.121.3. Jordan (as in n. 7) 127 is exaggerating to say that Pericles at 1.143.1 was "imput[ing] to Athens' enemies the illegal and sacrilegious conversion of the funds," but he is right that Pericles is speaking ill of them by using the verb κινήσαντες: see id., *Servants of the Gods: a Study in the Religion, History and Literature of Fifth-Century Athens* (*Hypomnemata* 55, Göttingen 1979) 45, 117.

23 Xen. Hell. 4.34; my thanks to P.J. Rhodes for directing me there. The Mantineans paid the soldiers out of their own funds rather than use the sacred moneys; the Arcadian officials, with

may have made some effort to raise an army without it;[24] certainly not all of them supported the action.[25] If their opponents in the Sacred War considered their sin venial or understandable, they did not indicate as much during the war or after it. Those few Athenians who remained to guard the acropolis[26] when the rest of the citizens abandoned the city seem to have thought that protecting the goddess's property was worth the severe risk of life and limb; and those who thought otherwise came to their decision not because they thought that the oracle promising that the wooden wall would remain unconquered could be ignored, but because they chose a different interpretation of the oracle.[27] If, as is not impossible, the entire oracle is a fabrication,[28] that only underscores the belief of those few old people who remained that the Persian peril did not justify the abandonment of the holy sites. The person who laid the first accusation about the profanation of the mysteries insinuated that the matter would endanger the Sicilian expedition:

> Pythonicus stood up in the assembly and said, "Athenians, you are sending out so great an army and fleet, and you are about to get yourselves into danger; but I shall demonstrate to you that the general Alcibiades has been performing the mysteries at home with others …" (Andoc. 1.11)

Perhaps the most striking, and most fateful, example of Athenian religious scruple in time of danger was the postponement of the retreat from Syracuse for twenty-seven days because of a lunar eclipse, a delay during which the opportunity of es-

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the self-righteousness of a bad conscience, condemned the Mantinean leaders for insulting the Arcadian community.

24 Philomelus, the general who fomented the Phocian attack on Delphi, sent embassies to the major states of Greece asking them to join him or remain neutral, and offered a complete accounting of the number and weight of the dedications to anyone who wished to check, an indication that at this point the sacred treasures were still inviolate. J. Buckler, *Philip II and the Sacred War* (*Mnemosyne Suppl.* 109, Leiden 1989) 38 is surely right that the Phocians could not have contemplated their action without a willingness to lay hands on the treasure, the only source of funds sufficient to field the army they needed; but they first tried to rely on other armies instead. We cannot say how realistically they took the possibility of other states' support. The request μάλιστα μὲν συμμαχεῖν, εἰ δὲ μή γε, τὴν ἡσυχίαν ἄγειν shows that they cannot have been too sanguine, and Buckler ibid. 26 considers that Philomelus cannot have been that fatuous; but people, and particularly nations, who are sure of their own righteousness often fool themselves about the opinions of others.

25 Abae, a Phocian town that, having its own oracle, was apparently more sensitive than others, remained aloof from the war and was spared from the general punishment at its end: Paus. 10.3.2.

26 I speak of the *tamiai* who remained to guard the temples; others, presumably the majority of those who remained, were simply too poor to go anywhere (Hdt. 8.51.2; cf. chap. 6 in this volume by Zelnick-Abramowitz, p. ■■.

27 Ibid. 7.140–4. The *chresmologoi*, in fact, thought that the Athenians should abandon Athens altogether and settle elsewhere (ibid. 143.3).

28 Fontenrose (as in n. 9) 124–128, but cf. J. A. S. Evans, "The Oracle of the 'Wooden Wall'", *CJ* 78 (1982) 24–29 at 29, who points out correctly that the fact that the form in which Herodotus preserves it is almost certainly heavily embroidered does not necessarily mean that the gist of the oracle is inauthentic. Evans adds that it would have been surprising if the Athenians, who had plenty of advance notice, had not consulted Delphi about the Persian invasion; but not every military threat sent Greek ambassadors scurrying to the oracle. Parker (as in n. 9) 308 notes that this is the last certainly attested Athenian military enquiry.

caping by sea was irrevocably lost. Later historians blamed Nicias for the decision, and Thucydides himself took this occasion to mention that he was "somewhat too inclined to divination and such like", but he admits that after the eclipse most of the Athenians urged the generals to wait.[29]

Obviously some Athenians were more religious than others, and politicians will have tried to raise or to quiet religious feelings as it suited their purposes. When things were going well, the easy presumption was that the gods were on the winning side, and while the Melian dialogue may present an extreme picture of the hubris to which this could lead – "Of the gods we believe, and of men we know clearly, that by a necessary law of their nature *they rule* wherever *they can*" (Thuc. 5.105.2) – the Athenians were quick, later that year, to believe the heady prophecies of the *chresmologoi* who predicted victory in Sicily, and in general do not seem to have been overly troubled in the days of their success by the danger that they would lose the gods' favor. The expedition sailed with the usual prayers and libations, and that sufficed. Or seemed to suffice.

V. CAUTIOUS SACRILEGE AND REPARATIONS

But when things went ill, although they did not search for scapegoats as the Romans did, the Athenians proceeded with a certain wariness. They did not abandon the city and its temples; if the language of the Themistocles decree is to be believed, they "entrusted the city" to "the protectress of Athens and all the other gods, to guard and to ward off the barbarian from the land."[30] When a speaker proposed coining the golden statues of Victory, he did not say, "let us cut up (κατακόψωμεν) the Victories", but "we shall make use of (συγχρησόμεθα)[31] the Victories", cleverly using an

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29 Thuc. 7.50.4, cf. A.W. Gomme, A. Andrews and K.J. Dover, *A Historical Commentary on Thucydides* (Oxford 1959–1981) ad loc. and particularly C.A. Powell, "Religion and the Sicilian Expedition", *Historia* 28 (1979) 15–31 at 25–31. Nicias' scruple can be contrasted with the anecdote told by Cicero *Rep.* 1.16.25 and elaborated by Plutarch *Per.* 35.2 to the effect that Pericles calmed the populace at the eclipse of August 3, 431 BCE, by explaining it as a natural phenomenon. The story itself is suspect: Thucydides, who mentions the eclipse, mentions neither panic nor Pericles in connection with it, and Plutarch does not help matters by putting it in a context that is dramatically effective but chronologically impossible. Plutarch's addition, moreover, that "at any rate, this is told in the schools of the philosophers" adds to the suspicion (a suspicion that Plutarch seems to share) that we are dealing with a dramatic fiction to impress students with the utility of philosophical understanding. But be that as it may, the physical explanation of eclipses had been known to philosophically educated Greeks for more than a century, and an astute and courageous leader could undoubtedly have used the knowledge to allay the soldiers' fears. Unfortunately for the Athenians, Nicias was not that leader.

30 ML 23, lines 4–6. This is not the place to discuss the authenticity of the decree; suffice it to say that the decree as we have it is a mid-fourth-century copy that has undergone at the very least a certain amount of linguistic updating, so that the phrasing we have may reflect nothing more than a patriotic fiction of more than a century later.

31 R. Zelnick-Abramovitz points out in a private communication that the verb συγχρησόμεθα, speaking of a god, would go down all the easier because of the common use of the uncompounded χράομαι to signify the consultation of an oracle.

expression that could also be taken to mean, "we shall borrow together with the Victories", making them allies rather than victims of his proposal.[32] When Pericles mentioned the forty talents of gold that covered the statue of the city's patron goddess, he was careful to add that when it became possible, they would return at least as much.[33]

The striking thing, however, is that the Athenians, when they had the chance, put their money where their mouth was. In 425 and shortly thereafter, when the victory at Sphacteria seemed to have guaranteed a successful outcome to the war, they undertook the construction and rebuilding of a number of sacred structures, at least one of which, the temple of Athena Nike, was undoubtedly intended in some sense as an expression of gratitude for the victory that seemed to be in their grasp.[34] In 422, with peace in sight but still not in their hand, the *logistae*, the Athenian "state accountants," inscribed a summary of the money borrowed from the sacred treasuries during the previous four years. The inscription accounts for all the moneys with the interest accrued on them, money that is apparently still owed.[35] The Athenians did not feel themselves secure enough to repay the money that had been borrowed, nor, indeed, would they immediately recoup all their war expenses when the Peace of Nicias was signed in the following year. But the inscription put on public and permanent record the state's indebtedness, an act which must have been intended to guarantee the eventual repayment of the funds, or at least to convince the goddess of the earnestness of their intentions.

Ancient historians, like criminal investigators, attempt to reconstruct plausible accounts from very fragmentary information. We are well advised to proceed as good investigators do, and to keep our eyes on the money. In the case before us, the accounts provide a very interesting detail. The money borrowed during the first years of the war appears to have been borrowed at the rate of about a drachma per talent per day, or about 6 % per annum. The goddess did not drive a hard bargain; she was giving the Athenians a rate commercially viable but not onerous. In the last

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32 Demetrius *De elocutione* 281, cited by D. B. Thompson, "The Golden Nikai Reconsidered", *Hesperia* 13 (1944) 173–209 at 173. Demetrius does not inform us who the speaker was, but it was striking enough to serve as a classic example of euphemism.

33 Thuc. 2.13.5. Had the Athenians ever actually carried out this suggestion, we might suppose that the promise Thucydides puts in Pericles' mouth was an anticipation of a promise actually made when the gold was taken; but in fact we have no reason to believe that it ever was (see Gomme, Andrews and Dover [as in n. 29] vol. 2, p. 25 n. 2).

34 On the various building projects of religious import undertaken at this time see J. D. Mikalson, "Religion and the Plague in Athens, 431–423 B. C.", in Boegehold et al. (eds.), *Studies Presented to Sterling Dow on his Eightieth Birthday* (Durham, NC 1984) 217–225, particularly pp. 222–224 with nn. 23–24 on p. 223. Mikalson attributes the virtual suspension of such works in the previous years, and the occupation of Delium in the following year, to the effect of the plague on Athenian religiosity mentioned at 2.53.4. The varying fortunes of war seem to provide no less satisfying an explanation, though of course the two explanations are not mutually exclusive; and the purification of Delos in the previous winter is explicitly mentioned by Diodorus 12.58.6–7, though not by Thuc. 3.104.1, as an effort to end the plague (Mikalson *ibid.* 221). R. Brock, "Thucydides and the Athenian Purification of Delos", *Mnemosyne* 49 (1996) 321–327, interprets the purification in political terms.

35 *IG* I³ 369 = ML 72; note [ὀ]φέλοσιν in line 114.

four years, however, the rate was only 1 drachma per day for five talents, a mere 1.2 %. As their debts increased and the likelihood of speedy repayment receded, apparently, the Athenians still considered themselves required to pay interest on the loans, but were willing to cut corners where necessary.[36] Religious scruple combined with practicality.

VI. A TEMPLE REBUILT.

Even more remarkable was something that happened in the course of the year 410/409 BCE. The Athenians, financially strapped since the Sicilian defeat, had undergone and overcome an oligarchic revolution, and in 410 they had won some naval victories – nothing entirely decisive, but enough to encourage them to think, as Thucydides puts it, that "it was still possible, if they worked at it wholeheartedly, that the situation might be saved." (Thuc. 8.106.5) After the victory of Cyzicus they spurned the Spartans' overtures for peace, just as they had after Sphacteria when victory seemed so certain;[37] but quite unlike the situation after Sphacteria,[38] they

36 P.J. Rhodes, *A History of the Classical Greek World 478–323 BC* (Oxford/Malden 2006) 93 compares the War Loan Stocks issued by the British government in World War I: originally issued at a 5 % coupon, they were converted in 1932 to yield only 3.5 %. There are, however, significant and instructive differences between the two cases. The British action required the agreement of the lenders who could, if they chose, continue to hold the old bonds (they were offered patriotic zeal, a cash bonus and a tax exemption to encourage them to take the new ones), whereas in the Athenian case the lender's decisions were made by the borrowers themselves, who could do as they pleased with the interest rate. The British bonds, moreover, were paying a coupon: the government was actually paying out 5 % per year to the bond holders, whereas the Athenians paid nothing to the goddess, but simply kept track of what would have to be paid in the end. Lastly, although reduction of the debt was a factor in the British decision (the bonds involved were a quarter of the national debt, and their conversion saved the government some thirty million pounds per year), a larger factor was the desire to lower the general interest rate in order to stimulate economic recovery, an idea whose time had not come in ancient Athens. This last point, indeed, underlines the danger in taking ancient parallels too literally: a modern financier whose economic sophistication was that of an ancient Greek would be woefully incompetent. For all that, Rhodes' parallel does highlight an important point: lowering the interest rate is a clear indication that the Athenians seriously intended to repay the debt, and so had reason to worry about its rate of increase. For details of the British conversion see F.H. Capie, T.C. Mills and G.E. Wood, "Debt Management and Interest Rates: The British Stock Conversion of 1932", *Applied Economics* 18 (1986) 1111–1126.

37 After Sphacteria: Thuc. 4. 41.3–4. After Cyzicus: Diod. Sic. 13.52.2–53, Nepos *Alc*. 5.5, Justin 5.4.4, Philochorus *FGrHist* 328 F 139. Xenophon says nothing about this Spartan proposal, but Jacoby's conclusion (ad loc.) is that "no doubt is possible". For an explanation and at least partial justification of the Athenians' decision in spite of the very different situation from that after Sphacteria, see D. Kagan, *The Fall of the Athenian Empire* (vol. 4 of *A New History of the Peloponnesian War*) (Ithaca/London 1987) 248–251; as he explains, it was probably not certainty of victory that was decisive at this point, but fear of the consequences if the current situation was to be frozen.

38 L. Kallet(-Marx), *Money, Expense, and Naval Power in Thucydides' History 1–5.24* (Berkeley 1993) 184–201 emphasizes that throughout the Archidamian War the Athenian treasury was

now felt themselves very short of money,[39] a consideration that had made saving money at home one of the first points decided when the decision to continue the war was made.[40] And at this point,[41] the Athenian assembly decided *to resume the construction of a new temple*. None of our literary sources mentions the fact, but the inscriptions describe in great detail what was done.[42]

The temple in question was the Erechtheum, though the inscriptions refer to it only as "the temple in the city in which the old statue stands" (*IG* I[3] 474 1). We do not know when it was first started; the obvious candidates are either before the beginning of the war or during the period of the Peace of Nicias.[43] Nothing tells us why the site had been abandoned, though the obvious presumption is that the Sicilian calamity required either the men or the money to be employed elsewhere. A board was appointed to survey the site and make an inventory of what was standing and what building materials were on the site; they made this inventory and inscribed it on stone, and in the ensuing years they resumed and completed the building of the temple, leaving one of the most detailed building accounts we have from Athens.

According to the impression with which we started this paper, this decision is astounding. Men were needed for the fleet; money was needed to pay them and equip them; the state was still in mortal danger, barely able to conceive of the possibility of victory. It is hard to imagine the Athenians, in the circumstances, draining off precious resources for a major project already in abeyance and unrelated to the war effort. I think the conclusion is unavoidable that the rebuilding of the Erechtheum, to the Athenians, was part of the war effort: that having suffered a devastating defeat in Sicily and having almost lost control of the state, the Athenian *demos* decided that it had to take action to keep its goddess on its side.

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never close to depletion, although the Athenians themselves were, not without reason, apprehensive about the long-term sufficiency of their resources.

39 Two years earlier they had unfrozen their thousand-talent fund that had been set aside for the ultimate emergency (Thuc. 8.15.1), and see the words of Alcibiades at Xen. *Hell.* 1.1.14, borne out by the Athenians' actions: as soon as they got control of the military situation, they fanned out to collect tribute and customs duties (ibid. 18–22). L. Kallet, *Money and the Corrosion of Power in Thucydides* (Berkeley 2001) 237 argues that the crisis was more one of perception than of reality; but in judging the willingness of the *demos* to undertake a new religious project, it is their perception that matters, not the reality.

40 Thuc. 8.1.3.

41 We do not in fact know when in the course of 410/409 (the date postulated by L. D. Caskey et al., *The Erechtheum* [Cambridge, Mass. 1927] 453) the original decision was taken; but by the first prytany of 409/8 the commissioners had completed their survey, so that the decision must have come after Alcibiades' victories and the rejection of the Spartan proposal, which were a year earlier. There were other bits of belt-loosening at this time: as Shimon Epstein points out in a private communication, the Great Panathenaea was celebrated rather lavishly in the first prytany of 410/9, and the next month the *diobelia* appears for the first time (ML 84). But both of these had a religious aspect to them; and in any event neither of them required the sort of long-term commitment that the completion of the Erechtheion did.

42 The major publication is Caskey et al. (as in n. 41); for a more recent text and bibliography see *IG* I[3] 474–9.

43 On the date see ibid. 453–6, where no firm basis for a choice between the alternatives is found.

The decision to proceed with the building of the Erechtheum is quite understandable in view of the discussion above, where we have seen how the Athenians merged a genuine feeling that the gods had to be treated well with a practical need to take care of the affairs of state. The *demos* had indeed been cavalier in its treatment of the gods; the older people will have remembered the great Periclean building program, and it will have been obvious to them that no such splendor had accompanied their recent efforts. Yet more, the oligarchs, who numbered among themselves the families in whose hands important priesthoods were held, undoubtedly presented themselves as representatives of the old-time religion under which Athens had prospered.[44] The *demos* decided to undertake the building of a new temple; but there was no more elegant way, and probably no cheaper way, than to resume the building of a temple already half-built, whose empty skeleton was a reproach to the Athenians and whose completed structure would be an honor to the goddess. The matter, apparently, was urgent; the state did not let itself off cheaply with a promise to build the temple when times improved, but got to work on the matter at once.

VII. CONCLUSION

The Athenian state was not riddled with superstition like the Roman, but the Athenians were not irreligious. They took seriously the idea that their success was dependent upon divine favor, and they were willing to do what was necessary to maintain good relations with their gods. But they tended, as many other peoples tend, to take a view of divine activity that was generous to themselves. When things were going well, they took it as a sign that the gods approved of their actions, or at least did not disapprove. They tried to behave circumspectly: they did not wantonly plunder temples or violate religious taboos. When forced or tempted into an act of obvious impiety, they expected the gods to take an understanding view of the situation. But they understood that they were expected to rectify matters, and if there is no record of their ever having repaid the "loans" they took from the goddess – on the contrary, the inscription we have mentioned can be taken as a sign that they did not have any realistic plan for repayment, so that it was necessary to put up a permanent indication of the indebtedness – they took some pains to indicate to her that they had not forgotten. In a time of deep political, military, and financial distress they undertook the building of a major temple. But even when discharging their religious duties, they tended to cut corners. They promised interest to the goddess, but as the debt mounted they were less generous about the rate. They built a temple, but decided to do so by finishing up a job much of which had already been done. And when times got better again, they tended to forget the promises they had made in time of distress. Do they sound familiar? They do to me.

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44   The fact that many of the nobility were notorious for their scandalous private behavior need not have prevented them from making this claim, as well-known modern parallels, which I blush to mention more explicitly, can demonstrate.

8. POLITICAL STABILITY AND PUBLIC ORDER – ATHENS VS. ROME

Alexander Yakobson

1. THE ATHENIAN "POLICE"

The political stability of any regime depends in large measure on its ability to preserve public order and prevent violence – above all, violence that is politically motivated and, in particular, one that interferes with the proper functioning of state institutions. The Athenian democracy in the 5th century featured what seems to have been an exception – or a qualification – to the well-known rule that a free polis in the ancient world had no police force at its disposal. These were the "Scythian archers", usually thought to have numbered 300 – public slaves who, among other things, are described as maintaining order in the Assembly, the Council of Five Hundred, and the popular Law Courts. The significance of this phenomenon may be appreciated by comparing this case with that of Rome. It seems worth enquiring why the Roman Republic, which – particularly in its turbulent last decades – was evidently in far greater need of it than Athens, never availed itself of any similar expedient for tackling its grave problems of law and order. What does this difference tell us about the two societies and their political systems?

A free self-governing community of citizens, it is usually said, lacked an organized enforcing agency. In M. I. Finley's formulation of this rule, "The ancient city-state had no police other than a relatively small number of publicly owned slaves at the disposal of the different magistrates, from archons and consuls down to market inspectors, and in Rome the lictors, normally lower-class citizens, in attendance on the higher magistrates. … [Moreover] the army was not available for large-scale police duties until the city-state was replaced by a monarchy."[1] The citizens themselves and, in the second instance, elected magistrates and their small staff of assistants were thus expected to be adequate to enforce the laws and keep the peace in a relatively small, face-to-face self-governing community such as the ancient polis. Armed guards keeping order within the city and protecting the powers-that-be were characteristic of tyrants – including tyrants in disguise like Augustus, whose praetorian guard, together with other forces in the city, clearly signified the transition from the free Republic to autocracy.

Can the Scythian archers in Athens be defined as a police force? In her book on *Policing Athens*, Hunter speaks, referring to them, of a "police force", though a

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1   M. I. Finley, *Politics in the Ancient World* (Cambridge 1983) 18. See, however, n. 42 below on ad-hoc armed militias of citizens in the city in grave emergencies, in both Athens and Rome.

"quite rudimentary one". Rounding up her discussion, however, she holds that the case of the Scythian archers confirms Finley's dictum that the ancient polis had no police force, with the qualification provided by Finley himself as regards the "small number of publicly owned slaves at the disposal of the different magistrates". A. Lintott, referring to the Scythian archers, holds that Athens "had few police".[2] Austin and Olson insist that "Athens had nothing we should recognize as a police force", and this is accepted by Hall.[3] Certainly, the Scythians' functions were much more limited than those of a modern police force. The sources that describe them in action are few, and do not make quite clear under whose command they operated. Part of their duties was to apprehend and guard prisoners. In Aristophanes' comedy *Thesmophoriazusae*, an archer, who accompanies a *prytanis*, is ordered by him to arrest a man, bind him to the plank and then stand guard. He is given explicit authority to use his whip on anyone approaching the prisoner, and is described as threatening the rather disrespectful onlookers with both his whip and his sabre.[4] However, the Scythians are most frequently described in our sources as maintaining order in the public assemblies – the *ekklesia* and the *boule*, as well as the popular courts. They "figure in the sources mainly as keepers of order in public places, rather than as enforcers of the law or apprehenders of malefactors".[5] Acting on orders of the presiding *prytaneis*, they are repeatedly described as ejecting those who spoke out of order or otherwise broke the rules. They also ensured proper attendance in the assembly by herding, with the help of a painted rope, those who lingered in the Agora into the Pnyx;[6] in this they are said by Pollux to have acted under the direction of "registers" (*lexiarchoi* – *Onomastikon* 8.104). Pollux defines the "archers" as "public slaves [gathered] in front of the public law-courts and the other assemblies [*alloi synodoi*], instructed to restrain the disorderly and to get rid of those who said something inappropriate" (8.131–2). Forcible removal is specifically mentioned in case of drunkenness or quarrelling (*Eccl.* 142–3). It is clear that wherever the archers were charged with maintaining order, their functions included not just enforcing the presiding officials' authority over the speakers, but, more generally, using force against anyone in the attending crowd who disturbed the proceedings.

In *Lysistrata* (387–475) they are described as confronting and trying – unsuccessfully – to put down a riot; the rioters are the rebellious women who had taken over the Acropolis, and the Scythians are acting on the orders of a *proboulos* (one of the "emergency" magistrates of 411). It is risky to draw far-reaching conclusions

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2   V. J. Hunter, *Policing Athens: Social Control in the Attic Lawsuits, 420–320* (Princeton 1994) 3, 149; A. Lintott, *Violence, Civil Strife and Revolution in the Classical City* (Oxford 1982) 258.

3   C. Austin and D. Olson (eds.), *Aristophanes' Thesmophoriazusae* (Oxford 2004) 292; E. Hall, *The Theatrical Cast of Athens: Interaction between Ancient Greek Drama and Society* (Oxford 2006) 234 n. 43.

4   929–46; 1084; 1125–27; 1135.

5   G. Herman, *Morality and Behaviour in Democratic Athens: A Social History* (Cambridge 2006) 232.

6   Ar. *Ach.* 22; 54–7; *Eq.* 665; *Eccl.* 143, 258–9; 378–9; Xen. *Mem.* 3.6.1; Pl. *Prt.* 319c; Pollux 8.104.

from Aristophanes' mock-account, but it does seem to indicate that Scythians would be employed by officials in dealing with disorderly behaviour not just of individual citizens but of groups or crowds – both within the assembly and elsewhere.

It is often assumed that the Scythians served as attendants of the Eleven, the board of officials who were in charge of the prison (including executions), had summary jurisdiction in certain cases and sometimes carried out criminal arrests. This makes sense considering the nature of the Eleven's functions – though no source directly connects the Scythians with these officials. Hunter suggests that whenever the Eleven are described as making an arrest with the help of public slaves, the latter should – in the 5th century – be assumed to have been Scythian archers.[7] The suggestion that the Scythians were under the overall authority of the Eleven seems hard to reconcile with the recurrent evidence of their acting on the orders of the *prytaneis* – different and higher officials – mainly in the Council and the Assembly, but also outside them (in carrying out arrests). This, however, does not mean that the Scythians – or some of them – were not available to the Eleven for the performance of the latter's functions.

It is usually thought that the force numbered 300 – on the strength of the testimony of Aeschines and Andocides who both speak of this number of Scythians, public slaves, being purchased and brought to Athens after the battle of Salamis (Aeschin. 2.173; Andoc. 3.5).[8] However, the number given by Suda is 1000: "Archers: The public slaves, guards of the city 1000 in number, who formerly lived in the Agora, but later moved to the Areopagus. These were called 'Scythians'" (Συδα ταυ, 772). The same number appears in Schol. in Aristoph. *Ach.* 54. E. Hall suggests that 300 was the original number that later rose to 1000, and perhaps even to 1200 (following Aeschin. 2.174 and Andoc. 3.7; though it is usually thought that the 1200 archers mentioned there were distinct from the Scythians)[9].

The Scythian archers were obviously a far cry from a modern police force. Nevertheless, they are perhaps better defined as a police force – however rudimentary – than merely as attendants to officials. No Athenian official is described as routinely accompanied by the Scythians in the same way that the Roman lictors accompanied the higher magistrates; the lictors' "police" functions were entirely contingent on their main function as attendants. The Scythians were a fairly large pool of men – even taking 300 as the right number – housed in some sort of barracks

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7   Hunter, *Policing Athens* (as in n. 2) 147. The same should presumably apply, at least partly, to punishments carried out by the Eleven. This is possibly indicated in Suda omega, 243: "I was distraught and had to wipe away tears when I saw an old man being beaten by another man, an archer" – though the context is lacking.

8   Thus, e. g., Hunter, *Policing Athens* (as in n. 2) 145; 235 n. 56.

9   Hall, *The Theatrical Cast* (as in n. 3) 233. She suggests that there may eventually have been "four *lochoi* (perhaps four companies as implied in *Lysistrata* 451–61), consisting of 300 archers each". Lysistrata speaks of four companies of women "warriors" who are summoned to confront the Scythians trying (unsuccessfully) to put an end to the women' occupation of the Acropolis. Four Scythian archers are mentioned in the account; presumably they stand for a larger number that could be expected to deal with a riot of some consequence (though hardly the whole force of four companies, 300 men each, even if this was the overall number at the time).

(according to Suda), that could be drawn on for performing various public-order functions on various occasions, some routine and some ad hoc, under the authority of, apparently, different officials. Of course, as public slaves they had no independent authority, and always needed to act under the direct command of an official (even when they were performing a routine public-order function like the "herding" of the citizens into the Pnyx). Their role in combating crime was clearly very limited. But their functions can be seen as going beyond physically enabling various public officials to enforce their decisions. They provided the Athenian state with an organized force that helped maintain public order, and, in particular, the orderly and smooth running of the Assembly – a task of obviously crucial importance. This offers an instructive comparison with the Roman Republic – particularly in its later years, when the absence of such a force had grave consequences for the political stability of the regime.

2. THE PROBLEM OF PUBLIC ORDER AND POLITICAL VIOLENCE IN REPUBLICAN ROME

Rome fully conformed to the classical model of a city-state in which law and order were maintained by the citizens themselves and by magistrates assisted by their attendants. It had no police force, and the army was strictly forbidden to enter the city. In the late Republic, the Roman state was an empire, and the city itself had grown into a megalopolis with hundreds of thousands of inhabitants (apparently approaching a million), including a large, and occasionally unruly, urban proletariat. It is often noted that the late Republic was characterized by severe tensions between the laws and institutions of a traditional city-state and the new realities. This is usually said in the context of discussing the impact of the empire, but seems to apply equally to our present topic. Social and official mechanisms reflecting the conditions in a small face-to-face community permeated by family and social ties were obviously insufficient to suppress crime and maintain order in a vastly changed landscape of the second- and first-century (B.C.) imperial capital. This generated criminality and violence of various kinds – including political violence, starting with the murder of Tiberius Gracchus by his opponents in 133 – gravely undermining the citizens' sense of security.[10] What concerns us here, however, is one specific aspect of a wider problem of late-Republican law-enforcement: the means – or lack of them – at the disposal of the state in the face of breaches of public order that had a political character, often interfering with the proper functioning of state institutions – in particular, bringing violent pressures to bear in the popular assemblies.

Members of the Roman elite, with their slaves and retainers, their personal attendants and houses that could be fortified and defended in situations of danger (phenomena with no Athenian counterparts), were naturally much better equipped

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10   See A. W. Lintott, *Violence in Republican Rome* (Oxford 1968); P. J. J. Vanderbroeck, *Popular Leadership and Collective Behavior in the Late Roman Republic (ca. 80–50 BC)* (Amsterdam 1987); W. Nippel, *Public Order in Ancient Rome* (Cambridge 1995).

to defend their persons and property than common citizens – both against general lawlessness and ordinary crimes and against politically motivated attacks.[11] This, surely, helps explain why no public force within the city responsible for maintaining law and order was introduced or even suggested (for all we know) at a time when the urgent need for it – at least from our modern point of view – was obviously there. It is nevertheless remarkable that no attempt was made to devise some effective way of protecting the public sphere and the institutions of the state from violence and intimidation – bearing in mind that breaches of public order in this field repeatedly produced, in the late Republic, political results injurious to the interests of the governing class. Violence often served, in this period, as a weapon in the hands of radical *populares*, opponents of senatorial ascendancy. Notably, it was used in the popular assemblies in order to push through anti-senatorial laws, often by brushing aside procedural obstruction on the part of *optimates*, defenders of the authority of the senate. The *optimates* responded by counter-violence on their part, eventually resorting to the use of hired armed gangs; of course, they were not at all above initiating violence when it suited them. Towards the end of the Republic, in the 50s of the first century B.C., Rome, and in particular its popular Assemblies, became an arena for gang warfare, whose outcome regularly dictated much of Rome politics and legislation – more often than not against the best interests of the Senate. The question of attendance in the Roman Assemblies is a vexed and controversial one, but it is in any case clear that for a typical assembly we should think in terms of attendance of thousands of people, rather than tens of thousands.[12] This is particularly true for the legislative tribal assemblies, where most of the violence occurred and where all the anti-senatorial legislation of the time was enacted; though there were instances of violence also in the Centuriate Assembly in which greater numbers of voters could perhaps be expected to take part.

It is obvious that a force of, say, 1000 men (whether public slaves or others), employed in order to protect order and prevent violence in the assemblies, could have made an enormous difference even in the most well-attended assembly.[13] But nothing of the sort was, for all we know, ever suggested.

"Most violence took place in [voting] assemblies … or at *contiones* to discuss matters [public gatherings where debates took place, but no voting was held]. It was used to stop proceedings or to force them to a favourable conclusion in face of a veto, religious obstruction, or superior voting power".[14] Tiberius Cracchus, who would be murdered by his senatorial enemies in the Assembly of the plebs, is described by Appian as initiating a violent interference with the pro-

11   See on this. Nippel, *Public Order* (as in n. 10) 37.
12   See on this H. Mouritsen, *Plebs and Politics in the Late Roman Republic* (Cambridge 2001) 27–35, with a survey of the controversy.
13   Cf. Livy's description of the frightful sight presented by the assembled force of 120 lictors accompanying the "tyrannical" decemvirs in 450: "The Ten suddenly appeared, each with his twelve lictors. The Forum was filled with one hundred and twenty lictors, and they bore the axes tied up in the fasces. The decemvirs … presented the appearance of ten kings, and manifold fears were entertained not only by the lowest classes but even by the foremost of the senators." – 3.36.
14   Lintott, *Violence* (as in n. 10) 69; cf. 70, with note 3 – breaking up the assembly with a mob of supporters; 72 with note 5: physical exclusion of undesirables from the assembly. On religious

ceedings of this Assembly in order to overcome the opposition of his fellow-tribunes of 133 and of "the rich" to his re-election. Following a sign given by him, his followers hitched up their clothing, snatched the rods and the staves from the attendants, broke them to pieces, and drove the rich from the Assembly. So great was the confusion and such the injuries, that the tribunes deserted their places, the priests shut the temple, and large numbers of people ran wildly to escape"(App. *B Civ*. 1.15).

If this account is accepted[15], it is hard to believe that Tiberius needed to remove "the rich" from the Assembly in order to ensure a majority for his re-election (though his popularity was no longer at its height); nor are the rich described as threatening to prevent the voting by force. It is more likely that the aim, or at least the main aim, was to intimidate the hostile tribunes, who claimed that the re-election was illegal and perhaps threatened to prevent the voting, and make them clear the way by leaving the assembly (without physically assaulting them). In the hundred years that followed, it appears that violence in Roman assemblies was aimed at overcoming a veto or religious obstruction more often than the opponents' "superior voting power", as Lintott has put it. Direct physical assaults on hostile tribunes (something that Tiberius' followers apparently avoided in 133) became commonplace. But removing the opponents, potential voters for the other side, was also often desirable – especially since both sides would accuse each other of violence or of an intention to use it, and both may often have been right.

In the last decades of the Republic it appears that most of the controversial *popularis* laws – and the most important ones – adopted at that time were pushed through with the help of violence (of various levels of intensity), either "offensive" or "defensive". Violence and intimidation are reported to have accompanied the legislative activities of Saturninus in 103 and 100, Livius Drusus in 91, Sulpicius Rufus in 88, Gabinius in 67, Julius Caesar and Vatinius in 59, Clodius in 58, as well as that of the "triumvirs" in 55.[16] Even when no overt violence or threats are reported, the potential for violence must often have been in the air. In 66, the Manilian bill giving Pompey his extensive imperium in the East was passed after most senators, according to Plutarch, forbore to speak against it in public "for fear of the people" (*Pomp*. 30.4). Senators were naturally reluctant to incur unpopularity, but their fear in this case may have been (also) that of physical violence.

Violence and intimidation thus played an important role in passing anti-senatorial laws – including the laws that gave Caesar and Pompey the vast military powers that paved the way for the civil war between them and for the demise of the Republic. There were, certainly, cases when violence in the assemblies was used by the *optimates*, in order to prevent an undesirable outcome (starting from the deadly at-

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obstruction in the Roman assemblies see L. R. Taylor, *Party Politics in the Age of Caesar* (Berkeley 1949) 76–98 (Chapter 4: "Manipulating the State Religion").

15 Plutarch's account is more favourable to Tiberius and acquits him of having deliberately instigated violence, cf. *Tib. Gr*. 18–19.

16 See Lintott, *Violence* (as in n. 10) esp. 67–73; 132–148; 209–216 (a survey of the known instances of political violence, with the sources). See also Vanderbroeck, *Popular Leadership* (as in n. 10) 218–267: an appendix on "collective behaviour" (including the known instances of violence) of the urban plebs from 78 to the end of the Republic.

tack on Tiberius Gracchus and his suporters in 133)[17], but Lintott's list (see note 16) clearly shows that in most cases violence was resorted to by *populares*. They were the ones who, typically, sought to change the status quo by legislation and thus needed the assembly to pass a measure, whereas the *optimates*, defending the status quo, would in most cases be content to prevent a vote by procedural obstruction rather than having to win it; the former thus had, in general, a greater incentive to use violence. Putting an end to violence by creating an effective mechanism able to curb it would have served – all in all, even if not in every particular instance – the collective interests of the governing class. While the popular assemblies in Rome were never as all-powerful as the Athenian *ekklesia*, they could on occasion be not just powerful but positively dangerous for the senatorial elite. One of the main reasons they were less formidable than the Athenian one was precisely the procedural tools developed by the senatorial elite for frustrating the will of the majority, mainly in the legislative tribal assemblies: the veto and the religious obstruction. The efficacy of these tools, however, was systematically undermined, in the late Republic, by violence and intimidation.

It is true that the senate started asserting, during that period, the right to annul laws passed illegally, either by violence or in violation of specific procedural requirements. Thus the right of veto and religious obstruction in the service of the senate could be vindicated by invalidating decisions passed in defiance of them. But passing a senatorial decree to this effect was subject to political difficulties and constitutional constraints, including the right of veto exercised by each of the ten tribunes. Under the ground rules of Republican politics, preventing the adoption of a controversial decision, either in the assembly or in the senate, was much easier (unless obstruction was overcome by violence) than having it passed. The senatorial decree of annulment was therefore of limited value to the ruling class – much less valuable than an effective mechanism of preventing the adoption of radical popular laws with the help of violence would have been. Most of the anti-senatorial laws adopted in this way, and the more important ones, were never invalidated. In the 50s, despite strong and persistent optimate claims against the validity of Caesar's laws passed in 59 and those of Clodius in 58, no senatorial decree was ever carried to this effect.[18]

Because of its potential for producing anti-senatorial legislation, violent interference with the work of the assemblies was more dangerous, from the viewpoint of the senate, than physical attacks on senior senators and even on the senate itself – both well attested in this period. In 67, as part of the fierce struggle over the adoption of the law of the *Lex Gabinia* conferring on Pompey his wide-ranging imperium against pirates, the senate was attacked by the mob while it was in session (following an attack on the proposer of the law, Gabinius, in the senate – Dio 36.24.1); in the same year the consul Piso, engaged in a conflict with another popularis tribune, Cornelius, was stoned and his fasces broken (Asc. 58C). In 56 the mob

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17   Cf. *Ad Herenn.* 1.21: optimate violence in the assembly aimed at preventing the vote on a bill after a *popularis* tribune had disregarded a colleague's veto.

18   Lintott, *Violence* (as in n. 10) 133–148 (Chapter 10: "Annulment of laws passed by violence").

is said to have threatened to set fire to the senate house (Dio 39.28–9); this feat was actually accomplished in 52, when the Curia was burned down by the mob that mourned its radical champion, Clodius, killed by his optimate rival, Milo, at the head of a rival gang. Public order and citizens' security in general, but also the political interests of the senate, specifically, were gravely threatened by violence.

The official mechanism for preserving law and order consisted of various magistrates with their attendants, the most famous being the lictors who accompanied the higher magistrates, holders of imperium – consuls (12 lictors) and praetors (6). In confronting an individual malefactor or troublemaker, the lictors were formidable enough; but they were of little value against an unruly – let alone actively hostile – crowd. Vis-à-vis the people their value was mainly symbolic: they were the solemn visible representation of state authority. In his account of one of the conflicts of the early Republic (in 473), Livy, describing the "struggle of the orders", has the plebian crowd reason that the whole power of the lictors consisted in the people's respect for them (2.55.3). As a rule, the authority of the state, thus represented, was indeed respected by the common people – though their physical power, and the absence of an effective tool of state coercion, must always have given the Roman populace a greater practical leverage in the political system that would otherwise have been the case.[19]

In the late Republic, however, the people's deference to state authority and its bearers could less and less be relied upon. It is perhaps true that, in earlier times, "Rome had never needed a police force";[20] at least it had not needed it badly enough, though it certainly seems that even before the Gracchi, there was a greater "objective" need for some sort of a police force in Rome than in the 5th century democratic Athens. Now, however, violent challenges to state authority became frequent. As a means of crowd-control, the lictors were pretty much powerless. As Nippel has put it,

> Walking in a single file in front of the magistrate, they did not even serve as an effective bodyguard. … Confronted by the plebeian masses, magistrates found themselves unable to single out a ringleader for exemplary punishment when the person concerned was backed by the crowd or protected by a tribune's intervention. This was not just a matter of the crowd's outnumbering the lictors. Rather, they were never employed to disperse a crowd, and there was no question of their using their rods (*virgae*) indiscriminately [against the crowd]. … The rods were united, on the magistrate's explicit order, only when the delinquent had already been seized, stripped of his clothes and bound to a stake.[21]

But this could not happen, physically, if the crowd refused to allow it (or legally, if a tribune intervened and extended his *auxilium*). In 67, the consul C. Calpurnius Piso confronted an angry crowd while opposing the attempt of the *popularis* tribune Cornelius to pass a *popularis* law in violation of a fellow-tribune's veto:

19   This touches on the much-debated question of the political character of the Roman Republic, which cannot of course be dealt with here; see e. g. A. Yakobson, "Popular Power in the Roman Republic", in: N. Resenstein and R. Morstein-Marx (eds.), *A Companion to the Roman Republic* (Oxford 2006) 383–400.

20   Vanderbroeck, *Popular Leadership* (as in n. 10) 158.

21   Nippel, *Public Order* (as in n. 10) 13–14.

> The consul C. Piso then vehemently protested that this was improper, and that a tribune's veto was being violated. This was greeted with a huge uproar from the people; when Piso ordered those who were raising threatening hands against him to be arrested by the lictor, his rods of office (fasces) were smashed and, what's more, stones were thrown at him from the rear of the Assembly (*contio*) (Asc. 58 C.).

Cornelius, adds Asconius, "was much upset by the tumult and immediately closed the Assembly"; eventually, a watered-down version of his bill (restricting the senate's right to grant dispensation from statutory provisions) was agreed upon and adopted. This was the traditional Republican way of resolving a political confrontation. Others, however, were, during the period in question, far less shy about using violence in pushing (mostly anti-senatorial) legislation through the assemblies: Caesar's fellow-consul in 59, Bibulus, was chased from the Assembly and physically prevented from using religious obstruction in order to prevent the passing of the *popularis* bills initiated or supported by his colleague. The provisions of these bills (destined to play a crucial role in the politics of the decade leading to the civil war) remained wholly uninfluenced by his opposition.[22]

Faced with a violent disruption, a consul – or any other magistrate – might mobilize supporters in order to overcome it. C. Piso, who in 67 proposed a strict bill against electoral bribery, "was driven from the forum by the multitude of the bribery-agents (*divisores*) who opposed him by violence"; he then issued a proclamation calling on "all those who wished the republic to be safe to present themselves for the passage of the law" and "returned to complete the passage of the law accompanied by a larger body of supporters" (*maiore manu stipatus*) – Asc. 75–76 C.[23] The consul's supporters who belonged to this "body" had no official status, and the formula that summoned them did not make clear whether they were being summoned as potential voters or for the purpose of repelling violence (or both). Unofficially, the consul could of course draw not just on public support but on his and his friends' clients and retainers. Such an unofficial "force of order" might quite easily deteriorate into merely one of the rival gangs and act accordingly. This potential was fully realized in the 50s, when the *optimates* repeatedly used gladiators in confronting the violence of the *populares* or in initiating violence of their own.

Sometimes we hear of the senate voting to authorize the use of an ad hoc bodyguard. In 65 the two consuls were present with their bodyguards (*praesidia*), "according to a decree of the senate", at a politically sensitive trial after the defendant, a former radical tribune Manlius, is said to have "disrupted the trial with the help of gang-leaders" (*operarum duces*) – Asc. 60 C. In 61, the jury at the trial of Clodius, who felt threatened by his supporters, asked the senate for a *preasidium* and he was given one (Cic. *Att*. 1.16.5). Few such examples are tested, and the most important details are lacking. We are not told how large these *praesidia* were, nor what their composition was; presumably they would be recruited "among the clients and personal followers of the magistrates".[24] A consul voted a *praesidium* could probably

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22   Dio 38.6.1–3; Plut. *Pomp.* 48; Cat. *Min.* 32.
23   Cf. Cic. *Pis.* 34 – a similar appeal by the consul Lentulus for voters to come and support Cicero's recall.
24   Nippel, *Public Order* (as in n. 10) 51; Lintott, *Violence* (as in n. 10) 90–91.

use it only within his direct sphere of competence; he would thus be unable to use it against violence instigated by a tribune presiding over an assembly and pushing through a controversial piece of legislation.[25] Moreover, a senatorial decree authorizing the use of *praesidium* was itself subject to tribunitian veto. Ad hoc bodyguards of this kind were certainly not an effective tool for maintaining order and preventive violence in the assemblies.

Nor could the so-called *senatus consultum ultimum*, the notorious "emergency decree" passed on several occasions by the senate in the late Republic, perform this function. This was a measure aimed at coping with extreme emergencies, whereby the consuls were asked to defend the republic. This was followed by the enlisting of an ad-hoc armed militia of volunteers within the city, under consular command; it was repeatedly used to crush by force of arms those who were regarded as rebels and "public enemies". The latter were treated as no longer enjoying citizens' rights, and liable to summary execution. This decree was at the centre of fierce political controversy, especially as to the legality of executing citizens (alleged "public enemies") on its strength; the modern scholarly controversy on the subject cannot be addressed here. By taking this extreme step the senate was, in a way, initiating a mini-civil-war. It was certainly not a regular means of crowd- and riot-control.

The events of 52 show how utterly inadequate the traditional Republican arrangements for maintaining order in the city and in the assemblies had become in the last decade of the Republic. Murderous riots had prevented the election of magistrates, and the consular year started without consuls; the murder of Clodius then led to further grave violence, including the burning down of the senate-house by the mob. The senate responded by a combination of three extraordinary measures: the "emergency decree" was passed, Pompey's election as "sole consul" was sanctioned, and the consul was authorized, for the first time in the history of the Republic, to bring regular troops into the city in order to restore order. This was quickly done, and the trial of Milo for Clodius' murder was conducted with the court surrounded by soldiers. Cicero, in the published version of his defense speech, treats this as a frightful aberration, which it certainly was, from the traditional Republican point of view.[26] Order could only be restored by setting aside – for a time – basic Republican norms. The civil war that started in 49 destroyed the Republic and undermined the principle that troops could not be employed within the city; henceforward military forces were readily available for maintaining order and the rule of an autocrat.

25   Thus, *Public Order* (as in n. 10) 51; cf. Lintott, *Violence* (as in n. 10) 91.
26   Cic. *Mil*.1.1–2; 2.71; cf. Caes. *B Civ*. 3.1.4; Luc. 1.315–26; Plut. *Cic*. 35.2;5. It is ironic but telling that Caesar, whose account of the beginning of the civil war was written in its early stages and still showed respect for Republican sensibilities, stresses the enormity of the presence of Pompey's legions in the city and their intimidating impact on judicial proceedings.

3. WHY NOT A POLICE FORCE?

A. M. Riggsby suggests that it was only with the rise of the Principate that Rome become a state in "roughly the sense of Weber's definition" of a "political institution that claims for itself a monopoly on the legitimate use of violence".[27] It should of course be borne in mind that many pre-modern – not just classical – states would probably have failed Weber's test in this respect: the levels of violence and private self-help tolerated in pre-modern societies were often unacceptably high by modern standards. The fact that the republican Rome did not measure up to democratic Athens in terms of the imposition of its authority on its citizens is not in itself remarkable. But the degree to which the Republic, at the height of its imperial power, was exposed to, and often quite powerless against, politically-motivated violence detrimental to the interests of the ruling class, practiced by relatively small groups of people in its capital, still seems remarkable and exceptional.

Why, then, did the Republic fail to create a force for keeping order and coping with violence in the assemblies – some Roman version of the Scythian archers in Athens? There is, to be sure, a methodological problem involved in trying to answer this question. It is as if we were trying to reconstruct the pros and cons in a hypothetical debate that, for all we know, never took place. A solution along these lines was, apparently, beyond the range of options that could be seriously contemplated. But we may try to suggest some reasons why this should have been so. What was it, in the Roman political system and mindset, that made such a solution inconceivable? The fact that a force for maintaining order in the city, in particular in the assemblies, did exist at Athens, but did not exist and was apparently inconceivable at Rome, provides an important clue for throwing into perspective an important difference between the political systems of those two city-states.

Lintott notes that the Republic lacked an effective "constitutional machinery" for confronting violence – both because "the state lacked a proper police force" and because, "the character of the constitution denied adequate constitutional powers to magistrates". This was, according to him, "the outcome, first, of the Roman custom of allowing private force its place in the settlements of disputes, and secondly of the opposition between magistrates and tribunes of the plebs, which was the legacy of the struggle of the orders".[28]

The legitimacy, in Roman culture, of self-help and resort to force by private individuals in defense of what one saw as one's legal rights, is one of the central themes of Lintott's book. A police force is, indeed, not easily reconcilable with such an attitude.[29] But this explanation alone seems hardly sufficient as regards the late Republic,

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27   A. M. Riggsby, *Crime and Community in Ciceronian Rome* (Austin 1999) 113.

28   Lintott, *Violence* (as in n. 10) 4.

29   Though, at least in modern times, not incompatible with it. According to Lintott, "The Romans of the Republic seem genuinely to have considered it an essential constituent of *libertas* that a man should be allowed to use force in his personal interest to secure what he believed to be his due" (204). Similar attitudes were characteristic of the American frontier experience; and indeed, there is a strong American tradition of limiting the power of the state vis-à-vis that of individuals (often armed), but it did not prevent the existence of public-order forces.

when the grave and unprecedented damage caused by political violence – not merely
to the "public interest" in some general sense, but specifically to the interests of the
political and social elite – became obvious. The second reason suggested here raises
the important question of who would have commanded a hypothetical police force,
had it been established in Rome; we shall return to it in a moment.

According the Gruen,

> The lack of an organized police force in the Republic possesses significance. It does not stem
> from oversight or miscalculation. Roman leaders wanted no part of such an institution. A harsh
> and repressive instrument in the wrong hands could exacerbate discontents and rend the social
> fabric on which the aristocracy relied.[30]

It is thus the relaxed attitude of the Republican governing class to popular violence,
rather than the lack of effective tools for suppressing it that explains, according to
Gruen, why it was not dealt with more harshly and effectively in the late Republic.

> Absence of a police force … betokened a recognition that demonstrations and vociferous ac-
> tions were legitimate expressions of popular desires. … The ruling class generally tolerated
> rather than suppressed outbursts. Demonstrations, even violence, were extensions of the plebs'
> prerogative to voice its need; they did not present a challenge to the state's authority. … When
> the Republic fell, it was not the proletariate that brought it down". [31]

But while it is true that late-Republican urban violence was not "aimed … at over-
turning the state", nor did it, eventually, "bring it down" (Caesar's soldiers did), the
damage it was causing to the system, and, specifically, to the interests of the senato-
rial "establishment", was quite considerable. Moreover, as Gruen notes in this con-
text, "intimidation proved successful with extraordinary commands for the trium-
virs", thereby contributing to the final result. That the Republican establishment
often thought it wise to let the urban plebs let off steam, rather than resort to brutal
repression, is of course likely enough. But the natural instinct of any establishment,
faced with repeated outbursts of popular violence, is to insist on being in a position
to decide at which point things become serious enough to justify replacing tolerance
with effective repression. Moreover, the senatorial elite was far from invariably
squeamish in employing violence, including deadly violence, against causes and
politicians who enjoyed wide popular support. The readiness to use force, when
necessary, existed. But without a police force of some kind, the late-Republican
elite was in a relatively weak position (compared with other political elites) in this
field – both physically and with respect to legitimacy. However, as we shall see,
members of the elite may well have had other reasons, apart from the natural desire
to avoid exacerbating tensions with the populace, to fear "a harsh and repressive
instrument in the wrong hands".

Nippel compares Roman and Athenian attitudes to the use of public slaves for
maintaining law and order, and refers in this context to the Scythian archers. Noting

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30   E. S. Gruen, *The Last Generation of the Roman Republic* (Berkeley 1974) 433. The second
     explanation offered by Gruen is similar to that of Lintott (see previous note and text) – the le-
     gitimacy, in Roman society, of using force in defense of one's rights.
31   Gruen, *Last Generation* (as in n. 30) 446–448; cf. Vanderbroeck, *Popular Leadership* (as in
     n. 10) 155.

that while "a sizeable number of public slaves [at the disposal of magistrates in Rome] performed a variety of tasks", "it was apparently considered inadmissible for public slaves to carry out even moderately coercive measures against citizens", he adds:

> The Romans' attitude towards using public slaves was strikingly different from that of the Athenians … [who] made use of a body of Sythians who as public slaves assisted the presiding magistrates or councillors in maintaining public order during assemblies and court proceedings. Being dragged away from the platform by barbarian slaves must have been particularly humiliating; unfortunately, there is no convincing explanation why the Athenians nevertheless made such use of them.[32]

Why should the Athenian democracy have cared less about the rights of its citizens, and the need to spare them the humiliation of being manhandled by "barbarian slaves", than the certainly-less-democratic (whatever side one takes in the debate on its political character) Roman Republic? I would suggest that the answer – at any rate, an important part of the answer – lies precisely in the strong elitist element that characterized the Roman Republic. Any police force charged with maintaining order in public assemblies would have had to be authorized to "drag", if need be, not just any citizen, but respectable citizens, including knights, senators and nobles – who all took active and prominent part in the assemblies (both voting ones and the *contiones*). Private violence against such people was bad enough (though they could, and often did, counter it with violence of their own); authorizing a body of public slaves to manhandle them was, apparently, inconceivable.

Not just slaves. The lictors, who were, of course, Roman citizens (from lower orders), could use force against individual malefactors on the orders of a higher magistrate, but, to quote Nipple again (n. 21 above), "they were never employed to disperse a crowd, and there was no question of their using their rods indiscriminately". The Scythian archers, on the other hand, used – as part of their routine duties – their "painted rope" on the crowd of Athenian citizens, pushing them physically into the Assembly. It can hardly be imagined that a crowd of Roman citizens under the Republic could have been physically manhandled in this way by state servants (either public slaves or humbler citizens) – precisely, I would suggest, because this crowd included respectable high-class citizens, and because Roman social and cultural sensibilities ruled out treating such citizens this way. A painted rope was not for a senator or a Roman knight. Moreover, it would not at all have been easy for such a force to operate in view of the fact that members of the Roman elite – unlike their Athenian counterparts – were regularly accompanied by a large number of attendants and retainers of various kinds; this made a police force at once more necessary, at least from a modern standpoint, because of the latter's involvement in violence, and more difficult to introduce and to activate, given the structure of Roman society and its norms. Republican rhetoric always spoke of, and the law protected, the liberty and inviolability of Roman citizens as such – not just higher-class citizens. But if one asks what it was that made it inconceivable for a crowd of Roman citizens (in particular those attending an assembly) to be manhandled in the way that a crowd of citizens in democratic Athens were, the likeliest answer would

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32   Nippel, *Public Order* (as in n. 10) 13.

be that a Roman crowd included not just free citizens, but citizens of the kind that would be below their dignity to be pushed around by state agents – whether servile of free (but lower-class).[33]

The "pushing" in question – of "loiterers" in the Agora towards the Pnyx – should not of course be over-dramatized. It was a rather mild form of manhandling, not involving a violent confrontation between the forces of order and the crowd. To this should be added the testimony of Pollux, according to which, as we have seen, the "archers" had a general responsibility for "restraining the disorderly" in public assemblies, which seems to indicate that they would also be used in case of a collective, as opposed to individual, disturbance. However, no record of any such confrontation, in the *ekklesia* or elsewhere, is left – except for Aristophanes' parody of a riot situation in the *Lysistrata*. This parody does, apparently, indicate that the Scyphians would be called on to put down a riot – and also that such events were extremely rare in democratic Athens.[34]

Elsewhere, Nippel explains why "it would have been almost impossible to solve the problems of public order [in Rome, and in particular in the assemblies] by establishing a permanent police force, even if a solution could have been found for the delicate problem of which magistrates should be entrusted with command over it". The reasons, he suggests, had to do with the basic principles of the Roman system of government and legislative process. Since the opposing parties were usually led by magistrates and tribunes, "The use of such a force to police public assemblies would have called for detailed regulations on the tribunes' proceeding with the People and on *intercessio* and *obnuntiatio* as well – indeed, an almost total reconstruction of the constitution".[35]

It could, however, be argued that, at least in theory, a public force to police the assemblies would not have necessitated any change in the constitution, and, in particular, any diminishing in the traditional powers of the tribunes. The tribunes' legal powers, however wide, did not include the right to use or instigate violence. In practice, both violence and the procedural devises that were apt to be neutralized with the help of violence were employed both by tribunes and their opponents, for anti-senatorial and pro-senatorial purposes alike (in the later case, sometimes by pro-senatorial tribunes). Neutralizing violence would have meant that neither intercession nor religious obstruction could be violently set aside. It seems clear that on balance – though not in every particular case – such an outcome would have been highly beneficial from the senatorial point of view. Late-Republican popular assemblies without violence, but with wide powers of obstruction – this sounds like the stuff of an optimate's dreams. Still, no optimate (or any other) attempt to realize such a hypothetical dream is recorded.

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33 The presiding magistrate's authority naturally applied to anyone attending the assembly, including those who addressed the people from the platform overwhelmingly, members of the elite. Such people could be removed on the presiding magistrate's orders by his attendants (Plut. *Tib*. 12.4). This must also have been humiliating enough, but still not quite the same as being manhandled as part of a crowd.

34 Cf. Herman, *Morality and Behaviour* (as in n. 5) 213.

35 Nippel, *Public Order* (as in n. 10) 52–53.

But perhaps we should look more closely at the "delicate problem", as Nippel put it, of who would have had to be entrusted with commanding any police force in Rome. In Republican terms, this function could only have been performed by the consuls, by virtue of their higher imperium (presumably, the consul holding the fasces in a particular month). Here, indeed, it appears that such an arrangement would have violated the spirit of the "constitution". Even though the formal powers of both consuls and the tribunes of the plebs would have remained unchanged, placing military or quasi-military power in the hands of the former for the purpose of keeping order in the assemblies would have blatantly subverted the balance of power between the consulate and the tribunate. The consuls could not be trusted with employing such a force impartially in conflict situations – not to mention the oddity, in Roman terms, of having somebody else charged with keeping order in an assembly presided by a tribune (since all Roman assemblies were presided by magistrates or tribunes, who were responsible for maintaining order). The tribunes' right of *auxilium* to citizens against abuse of power by magistrates would be very difficult to reconcile, in practice, with the functioning of such a force – though there doesn't seem to be a formal contradiction.

Creating a police force in the Republic would have meant providing the consuls, potentially, with a powerful weapon that could be used against tribunes of the plebs – a highly untraditional solution, and clearly unfeasible in normal political circumstances. Lintott and Nippel are therefore right to point to the tribunate of the plebs, and to the delicate traditional balance of power between consuls and tribunes, as an obstacle to the creation of a police force in Rome. But wouldn't such solution have been more feasible in the 70s, the heyday of the optimate oligarchy, after Sulla's reforms had emasculated the tribunate and before its restoration in 70 BC? Urban violence certainly continued during this period, and in 75, during riots caused by scarcity of corn, the consul Cotta had to face a threatening mob (Sall. *Hist*. 2.44–46 Maur.). The need for an effective force that could maintain order in the city was there. But even with the tribunes neutralized, and, apparently, deprived of the veto on legislation, laws still had to be adopted by popular vote, and it is doubtful that even at that time such a reform could have been passed.

But what about Sulla himself, during his dictatorship? He certainly did not have to worry about political feasibility in passing his reforms. These were, moreover, clearly aimed at strengthening the power of the senate and removing the tribunate as a political threat to its authority. Sulla would hardly have been deterred by a fear of giving the consuls an "unfair" (in traditional terms) advantage over tribunes. He did not hesitate to deviate from tradition for the sake of establishing an effective and stable senatorial regime, and was well aware of the dangers of *popularis*-instigated mob violence interfering with the working of the assemblies: the tribunician law depriving him of his command in the East that triggered the first civil war in 88 was passed with the help of violence.[36]

Sulla might have thought that by muzzling the tribunate he was removing the main source of political violence, reducing the need for any institutional novelties

36 App. *B Civ*. 1.59; Cic. *Phil*. 8.7; Asc. 64 C.

aimed at preventing it. But it is hard to imagine that he failed to realize that in a highly competitive Republican system some of the politicians pursuing a senatorial career (even with the tribunate "purged" from it) would be tempted to play the popular card, with the potential for violence that this entailed. It is this system that he was restoring in 79 B.C. – with a strengthened aristocratic element, to be sure, but without an effective mechanism to protect it against violence that stemmed both from the power of the people and from the dynamics of aristocratic competition.

We cannot, of course, know why Sulla refrained from taking such a step, or whether such an idea occurred to him at all. But discussing the problems involved in the hypothetical command structure of the hypothetical Republican police force may not, after all, be a wholly futile exercise. The danger of putting "a harsh and repressive instrument in the wrong hands", in Gruens' words, was not only that it might exacerbate the tensions between the elite and the populace. This danger was relevant also to relations within the elite and to the all-important equilibrium between its members, which was one of the fundamentals of the Republic.

Even somebody willing, and perhaps able, to institutionalize the use of force against "the rabble", might be very reluctant to put substantial armed force in the hands of a fellow-"oligarch" in the city. Any force sufficiently strong to cope with riots would have had to be sufficiently strong to enable a consul commanding it to use it against personal and political rivals within the senatorial elite (whether or not such rivalries had anything to do with the optimate/*popularis* divide).[37] In fact, using force against rioters usually meant, at least indirectly, using it against some rival politician who instigated those riots and stood to benefit from them. While the ruling class had a strong collective interest in preventing "Popular" violence, especially when it could sway a vote, there was no way to ensure that an instrument created for this purpose, put in the hands of a powerful politician with various axes to grind, would not be put to other, dangerous and unacceptable uses. Roman aristocrats were famously jealous of each other's power, ever fearful that an excessively potent "oligarch" might establish personal domination. They feared excessive power in one of their "fellow-oligarchs" hands more than they feared popular violence – even when this violence was repeatedly used to the detriment of their collective interests. Against a mob or a gang coercing an assembly (or trying to let the majority of voters have their way despite obstruction) it was often possible to mobilize or rent a rival mob or gang. But a consul at the head of an armed force in the city, capable of coercing the assembly and suppressing the opposition, might be far more dangerous – not just to individual nobles and senators, but to the senatorial Republic as a whole.[38] The Roman elite would not trust any of its members with such powers – even though, in the absence of them, it was exposed to, and inade-

37   Cf. note 13 above – the sight of the 120 lictors accompanying the decemvirs shocks "not only the lowest classes but even the foremost of the senators", who fear that the rods and the axes would be used against anyone "utter[ing], either in the senate or amongst the people, a single word which reminded them of liberty".
38   Cf. Vanderbroeck, *Popular Leadership* (as in n. 10) 157 – connecting the lack of a police force with the fact that the Republican elite regarded the presence of military forces in the city as "politically dangerous".

quately protected against, popular violence. When Sulla stepped down 79 B.C. he was restoring a highly competitive political system, deeply hostile to any hint of personal domination. Within this system, there was no room for an armed force of any kind (however limited one) commanded by a consul in the city. In the end, paradoxically, anarchy and violence would impose an extreme version of this solution, in the form of regular troops, in 52. But only for a brief period: having restored order, Pompey withdrew his troops (and allowed a second consul to be elected). No permanent solution along these lines was possible as long as the Republic stood – which, by that time, would not be long. Violence in the assemblies was one of the reasons that enabled Caesar to amass sufficient military power to overthrow the Republic. When it came to the actual seizure of power, neither voters nor rioters mattered any longer.

4. CONCLUSIONS

The Athenian case shows that a public force with significant public-order functions (though certainly falling far short of a modern police) was not in fact inconceivable in an ancient city-state as such. It was inconceivable at Rome – though it was needed there much more than at Athens – for specific Roman reasons that reflected the fundamental differences between the Athenian and Roman political systems. Both the aristocratic and the popular aspects of the Republican political system and culture militated against such a solution.

Comparing Athens and Rome in this respect throws into sharp relief the remarkable power, stability and self-confidence of the Athenian democracy in the 5th century, and the degree to which is succeeded in imposing the collective authority of the demos on individual citizens and on powerful social groups[39] – until it was undermined by looming, and then actual, military defeat, and by foreign intervention. Employing Scythian slaves against citizens – including respectable ones – was not an "elegant" solution by any means.[40] But it was found, for whatever reason, the most suitable one, and imposed by the state regardless of anybody's sensibilities. There are, unsurprisingly, indications that for a barbarian slave to lay his hands on a citizen was felt to be demeaning[41] – but this was not allowed to stand in the way of the collective interests and the collective will of the citizen body. It was not as if this arrangement was dictated by any vital need: no case is reported of a violent

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39 Cf. Herman, *Morality and Behaviour* (as in n. 5) esp. 221–257.

40 Hall suggests employing public slaves was seen as preferable to "authorizing any one citizen to lay a finger on any other" – Hall, *The Theatrical Cast* (as in n. 3) 234. However, in the 4th century the task of policing the *boule* and the assembly were undertaken by citizens, while public slaves continued to assist officials in law-enforcement – Hunter, *Policing Athens* (as in n.2) 147–149.

41 Pl. *Prt*. 319c; Xen. *Mem*. 2.6.1; *Lys*. 436; *Eccl*. 260; see on this Hall, *The Theatrical Cast* (as in n. 3) 235; 238–239.

disturbance threatening to sway a vote.[42] It was merely useful, as anyone familiar with large crowds and heated public debates will appreciate; that was enough.

Moreover, putting a rudimentary police force under the authority of the *prytaneis* did not entail any of the difficulties and fears that would inevitably have accompanied the creation of a police force in the city commanded by the Roman consuls. We do not know how the details of this arrangement worked, but the Athenian *prytaneis*, though high-ranking and important officials within their own system, bore no semblance to Roman consuls. They were 50 men, ordinary citizens who owed their position to the lot. The *epistates* presiding over each meeting of the Assembly and the Council held his position for a day; the next meeting would be presided over by another *epistates*, and the Scythians charged with maintaining order would be subject to his authority. This structure of command afforded few opportunities for abuse of power; there was no reason for anyone to feel particularly threatened by it. Both the Roman Republic and the Athenian democracy took great pains to avoid excessive concentration of power, but they did this in two very different ways. In Rome, great powers were distributed to several competing *foci*; providing one of them with a (quasi)-military force in the city would have destroyed the delicate balance and made the receiver of such a power unacceptably potent. In Athens, power was defused so widely that no official could have posed a serious threat to the rule of the demos – or the safety of his colleagues, who, under the Athenian system, had only the *demos* to fear. No official was strong enough for that, archers or no archers.

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42 The *ultima ratio* of the state in the face of a threat to the democratic regime appears to have been an ad-hoc militia of heavily-armed citizens – hoplites – called to arms by the authorities – Herman, *Morality and Behaviour* (as in n. 5) 238–257. In principle, this arrangement was similar in spirit to the arming of citizens by Roman consuls under the "emergency decree" of the senate – although the composition of such a force at Rome would presumably be more tightly controlled from above than at Athens.

ABBREVIATIONS

AHR	=	American Historical Review
AJA	=	American Journal of Archaeology
AJAH	=	American Journal of Ancient History
AJPh	=	American Journal of Philology
Anc Soc	=	Ancient Society
A & R	=	*Atene e Roma*
BCH	=	*Bulletin de Correspondance Hellénique*
BEFAR	=	*Bibliothèque des Écoles Francaises d'Athènes et de Rome*
CJ	=	*The Classical Journal*
Class. Ant.	=	*Classical Antiquity*
C & M	=	*Classica et Mediaevalia*
CPh	=	*Classical Philology*
CQ	=	*Classical Quarterly*
CR	=	*Classical Review*
G&R	=	*Greece and Rome*
GRBS	=	*Greek, Roman and Byzantine Studies*
HSCPh	=	*Harvard Studies in Classical Philology*
JHS	=	*Journal of Hellenic Studies*
LCM	=	*Liverpool Classical Monthly*
MDAI (A)	=	*Mitteilungen des Deutschen Archäologischen Instituts (Athen. Abt.)*
MH	=	*Museum Helveticum*
P & P	=	*Past and Present*
REG	=	*Revue des Études Grecques*
RH	=	*Revue Historique*
SCI	=	*Scripta Classica Israelica*
TAPhA	=	Transactions and Proceedings of the American Philological Association
ZPE	=	*Zeitschrift für Papyrologie und Epigraphik*

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