

ENTRETIENS SUR L'ANTIQUITÉ CLASSIQUE

TOME LIV

SÉCURITÉ COLLECTIVE
ET ORDRE PUBLIC
DANS LES SOCIÉTÉS ANCIENNES

SEPT EXPOSÉS SUIVIS DE DISCUSSIONS
PAR

HANS VAN WEES, WERNER RIESS,
ANGELOS CHANIOTIS, CÉDRIC BRÉLAZ,
ANDREW W. LINTOTT, RAMSAY MACMULLEN,
YANN RIVIÈRE

Entretiens préparés par Cédric Brélaz et Pierre Ducrey
et présidés par Pierre Ducrey

FONDATION HARDT
POUR L'ÉTUDE DE L'ANTIQUITÉ CLASSIQUE
VANDOEUVRES – GENÈVE

Les premiers «Entretiens sur l'Antiquité classique» ont eu lieu en 1952, du 8 au 13 septembre. Dans l'avant-propos du volume où ils sont consignés, le Baron Kurd von Hardt en donne la définition. La voici: «Chaque année, au siège de la Fondation à Vandœuvres, auront lieu des 'Entretiens sur l'Antiquité classique', au cours desquels des spécialistes, représentant plusieurs pays, feront des exposés sur un domaine choisi et, au cours des discussions, procèderont à d'enrichissants échanges de vue.»

Conçue et mise au point par des savants tous aujourd'hui décédés – parmi eux Ludwig Curtius, Bruno Snell, Kurt von Fritz, Albin Lesky, Theodor Klauser, Olof Gigon –, l'institution s'est révélée viable. Cinquante-quatre fois, des savants de divers pays se sont réunis en été à Vandœuvres; les «Entretiens» ont été régulièrement publiés.

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POUR L'ÉTUDE DE L'ANTIQUITÉ CLASSIQUE

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CAF 82 -

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DANS LES SOCIÉTÉS ANGÉVAINES

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INTRODUCTION

La Fondation Hardt pour l'étude de l'Antiquité classique est heureuse de publier aujourd'hui la 54e série de ses Entretiens, qui se sont déroulés du 20 au 24 août 2007. Ce n'est pas seulement par la rapidité de la publication des conférences et des discussions qui suivent que la Fondation peut rester en contact avec le monde scientifique et répondre à ses attentes, c'est aussi — je dirai surtout — grâce au niveau des intervenants et à la qualité de leurs communications. Dès l'origine, la Fondation a cherché à réunir les meilleurs spécialistes des domaines et des thèmes retenus. Il n'est donc pas étonnant que certains volumes soient devenus des classiques et qu'ils soient épuisés depuis longtemps. Un bon nombre d'entre eux ont été réimprimés. C'est dire aussi qu'ils ont traditionnellement reçu un accueil favorable. Grâce à ses Entretiens sur l'Antiquité classique, la Fondation Hardt s'est fait connaître et a fait connaître le nom de Vandœuvres dans le monde entier.

Il n'est pas inutile de rappeler que le baron Kurd von Hardt a créé la fondation qui porte son nom dans l'immédiat après-guerre. Il souhaitait agir pour éviter que les Européens ne se lancassent une fois de plus dans des conflits fratricides. Dans son esprit, ce but pouvait être atteint par un retour aux sources de la culture classique, méditerranéenne et plus précisément gréco-romaine. L'accent devait être porté sur l'étude de la littérature grecque et romaine, de la philosophie et de l'histoire antiques. Quelques années après le déroulement des premiers Entretiens, le baron Hardt a ouvert son domaine et sa bibliothèque à des hôtes en séjour, chercheurs jeunes et moins jeunes. La formule a connu un grand succès, puisqu'en 2007 seulement, la Fondation aura reçu plus de cent chercheurs en séjour et qu'en quelque cinquante ans elle en aura accueilli plus de 3200.

En 2003-2005, la Fondation a connu une réorganisation de ses structures. La maison de maître, qui remonte au début du XVIII^e siècle, mais dont l'état actuel reflète assez exactement l'année de sa dernière transformation, 1860, a connu en 2004-2005 une rénovation et un rajeunissement. Le catalogue de la bibliothèque a été informatisé et peut être consulté par internet. Enfin, l'orangerie sera prochainement transformée en salle de conférences.

Au cours des années passées, la Fondation s'est posé la question de sa pertinence, en anglais de sa *social relevance*. Aujourd'hui comme hier, son souci est de donner à ses activités un sens pour le monde contemporain, tout en veillant à préserver, voire à développer ses ambitions d'excellence. En particulier, il semblait important d'orienter les Entretiens vers des thématiques plus directement "en phase" avec le monde d'aujourd'hui.

Ces quelques propos introductifs suffisent à expliquer pourquoi, dès 2004, la Commission scientifique de la Fondation Hardt a porté un grand intérêt à la proposition de mettre sur pied des Entretiens intitulés "Sécurité collective et ordre public dans les sociétés anciennes". Nous nous trouvions peu après l'attentat du 11 septembre 2001 aux États-Unis et le monde restait encore sous le choc de cet événement. Deux questions se sont posées d'emblée aux historiens: peut-on imaginer un acte à la fois aussi efficace en terme d'impact sur le monde et ayant représenté à l'origine pour les acteurs un coût aussi modeste en vies humaines? Un unique parallèle vient à l'esprit, le coup de feu de Sarajevo en 1914, qui seul peut prétendre à une efficacité destructrice encore plus grande que les attentats de New York et de Washington. Et encore l'attentat de Sarajevo n'a-t-il été qu'un prétexte sur la voie de l'éclatement de la Première Guerre mondiale; il n'est que la cause indirecte de la mort des millions de combattants les années suivantes; au contraire, l'attentat contre le World Trade Center fut une fin en soi.

De cette première question découle la seconde: comment donc se présente le problème de la sécurité et de son corollaire, l'insécurité, dans le monde antique? Quel rôle la sécurité et

l'ordre public jouent-ils dans la construction de la communauté civique et le développement des attributions étatiques? Le problème de l'ordre public et de son maintien s'est-il posé à d'autres époques, et dans quels termes? Ce sont là quelques-unes des questions qui ont été abordées au cours des présents Entretiens.

La bonne fortune a voulu que Cédric Brélaz, ancien étudiant à l'Université de Lausanne, ultérieurement membre étranger de l'École Française d'Athènes, aujourd'hui docteur ès lettres et maître de conférences en histoire grecque à l'Université de Strasbourg, se soit penché depuis plusieurs années sur l'ordre et son maintien dans les provinces impériales d'Asie Mineure. Son sujet de thèse et le livre qui a suivi¹ paraît se trouver "en phase" avec l'actualité, bien que l'auteur s'en défende et qu'il ait toujours été réservé face à des rapprochements entre le monde antique et l'actualité. La forme et l'organisation des présents Entretiens lui doivent beaucoup. La Fondation lui est reconnaissante de son apport.

Je me suis ouvert de notre idée à mes collègues et amis Angelos Chaniotis et Hans van Wees, avec qui nous avions organisé avec succès en 2000, dans le cadre du Congrès international d'histoire d'Oslo, une session sur *Army and Power in the Ancient World*. Les actes de ce colloque ont été publiés par Angelos Chaniotis et Pierre Ducrey en 2002 dans la collection des publications de l'Université de Heidelberg.²

Je me suis donc adressé à eux pour leur demander avis et conseil et je leur ai demandé s'ils accepteraient de participer à une réflexion sur la sécurité intérieure et extérieure dans le monde antique. Tous deux ont accepté avec enthousiasme, et je leur en sais gré. Qui dit ordre et sécurité dans l'Antiquité retrouve toujours les livres et les articles de Ramsay MacMullen

¹ C. BRÉLAZ, *La sécurité publique en Asie Mineure sous le Principat (I^r-III^e s. ap. J.-C.). Institutions municipales et institutions impériales dans l'Orient romain* (Basel 2005).

² *Army and Power in the Ancient World*, ed. by A. CHANIOTIS and P. DUCREY, Heidelberger Althistorische Beiträge und Epigraphische Studien, 37 (Stuttgart 2002).

et d'Andrew Lintott. Il était donc naturel de leur demander de participer à ces Entretiens. Nous avons encore pensé à nos collègues Werner Riess et Yann Rivière pour couvrir les périodes et les sujets qu'il importait de traiter. Nous ne devons exprimer qu'un seul regret, celui de la défection de dernière minute de Wilfried Nippel, professeur d'histoire romaine à la Humboldt Universität, Berlin, qui nous avait annoncé un exposé sur "Theodor Mommsen, die Dictatur und der Notstand".

Je terminerai par quelques considérations d'ordre pratique. En principe, le temps accordé à chaque orateur a été d'une heure. Après sa conférence, nous marquions une pause d'une demi-heure. Les participants étaient ensuite invités à s'exprimer très librement durant une seconde heure. Ce sont les phases principales de ces discussions qui sont reproduites à la fin de chaque conférence. Elles sont rédigées par les auteurs des interventions.

Le succès des Entretiens 2007 doit beaucoup à l'équipe de la Fondation Hardt, Mme Monica Brunner, secrétaire scientifique-administratrice, MM. Bernard Grange, bibliothécaire, et Alain-Christian Hernández, bibliothécaire particulièrement impliqué dans l'informatisation du catalogue, Mme Heidi Dal Lago, gouvernante et cuisinière, enfin Mmes Amélia Coelho et Glenda Gutiérrez, chargées de l'entretien de la maison. L'édition du volume a été réalisée par MM. Bernard Grange et Alain-Christian Hernández. À tous, nous exprimons notre gratitude.

Pierre Ducrey,
Président de la Fondation Hardt

and oligarchical. Both types of political violence were seen as a threat to the stability of society and to the well-being of the individual. In this sense, the two forms of political violence were seen as threats to community and to individual well-being.

I
HANS VAN WEES

'STASIS, DESTROYER OF MEN'

MASS, ELITE, POLITICAL VIOLENCE AND SECURITY IN ARCHAIC GREECE

The ultimate threat to an ancient Greek city was annihilation by an external enemy — the massacre of its men, enslavement of its women and children, and demolition of its buildings. This was a real enough possibility, but it did not happen very often. The most acute threat came instead from internal conflict, which could do almost as much damage as war and haunted the imagination of ancient authors. In Hesiod's nightmare vision of the future of mankind (*Works & Days* 189-201), the human race would end up as:

Enforcers of strong-arm justice — one will annihilate the other's
city.

No favour will be returned to the oath-abider, the righteous,
the good man, but rather the doer of harm and the man of
hybris

people will honour. Fists will uphold justice and respect.
The bad man will harm the better person,
to whom he will speak crooked words, to which he will swear.
Shrill, spiteful envy (*zēlos*), its face full of hate,
will beset the whole of wretched mankind.
And then, their fair skin wrapped in white robes,
from the wide roads of the earth towards Olympus
they will go to join the tribe of immortals and leave mankind —
Respect (*aidos*) and Righteous Indignation (*nemesis*). Miserable
suffering will remain
for us mortals, and there will be no protection against harm.

“No protection against harm” (*kakou alke*): there will be no security of life or property or status in a world where violence settles everything. The annihilation of cities is mentioned at the start as the most extreme consequence of such attitudes, but violence and deceit, and the lack of trust and restraint, will pervade all of social and political life.

A few generations later, Theognis of Megara wrote as if Hesiod's worst fears had become reality. At any moment, he predicted, his city could fall prey to “civil conflicts, internecine murder, and monarchs” (51-52). The place had been taken over by a crowd of savage rustics, who “deceive one another while laughing in each other's faces” (59): “trust does not feature in their actions, but they love tricks, deceptions and intrigues, like men who can no longer save themselves” (*andres mēketi sōizomenoi*, 66-68). The poet himself and his friends were forced to adopt the same attitudes: “it does not suit us to be in any way like men who can save themselves, Cyrnus, but like a city which will be utterly sacked” (235-236). Sixth-century Megarians were “like men beyond rescue”, according to Theognis, because they were engaged in a brutal struggle for wealth and status from which they could not hope to emerge safely; as a result they pursued their self-interest regardless of any moral restraint.

Later, and more famously, Thucydides diagnosed the same problem in the ferocious civil wars tearing apart Corcyra and numerous other Greek cities in his own time:

“There was no one who could stop it, no word to be trusted, no oath to be feared. Given that there was no hope of security (*es to anelpiston tou bebaiou*), in calculating their actions everyone who gained the upper hand took care to avoid harm instead of being able to trust others” (3.83.2).

Thucydides was clearly wrong to insist that this was a new phenomenon, spreading across Greece from 427 BC onwards (3.82.1, 84.1, 85.1), for Theognis and Hesiod had seen the same erosion of trust and crumbling of internal security in the archaic city.

This paper will argue that the Greeks had good reason to be so deeply insecure about social bonds, so permanently afraid that society was in danger of collapse. Rivalry for wealth and status did indeed quickly turn violent and dragged not only a small politically active elite but large sections of the community into bloody civil conflicts which might genuinely threaten the security, and indeed existence, of a city. Historical developments of the archaic period, in particular, can in large part be understood as driven by such conflicts and by attempts to contain them in order to create greater social and political ‘steadiness’ (*aspaleia*), ‘stability’ (*bebaiotês*) and ‘security’ (*sôtēria*).

The self-destructive city in early Greek literature

“The love of wealth will destroy Sparta, but nothing else”, said a proverb which apparently started life as a line in an archaic poem purporting to quote a Delphic oracle.¹ The idea of an indestructible city endangered only by private greed and aggression is also found in Solon:

“Our city will never be destroyed by the fate of Zeus and the will of blessed immortal gods ... but the townsmen themselves want to destroy this great city in their foolishness, persuaded by money, and unjust is the mind of the leaders of the people who will soon suffer much misery as a result of their great *hybris*” (fr. 4.1-8 West).

Theognis predicted doom for Megara with reminders of famous cities which had been destroyed in the past, but whereas other traditions reported that these were all sacked by external enemies, he insisted that it was the result of their own

¹ DIOD. 7.12.5 (=TYRTAEUS fr. 3 Bergk), and cf. GERBER 1999, 43, but omitted by other editors and probably to be attributed to another seventh-century poet: see H. VAN WEES, “Tyrtaeus’ *Eunomia*: nothing to do with the Great Rhetra”, in *Sparta: New Perspectives*, ed. by S. HODKINSON and A. POWELL (London 1999), 3-4.

hybris.² Elsewhere, he sighed that “everything lies in ruin and amongst the crows, yet we cannot blame any of the blessed immortal gods, Cygnus, but it is the violence and low gains and *hybris* of *men* which has cast us down from great prosperity into a state of misery” (833-836). The message of all these poets is clear: internal conflict, not enemy attack, is the greatest threat to a city, and not even divine protection can save a city from itself.³

The obsession with internal conflict goes back to Homer. Christoph Ulf identified “the prevention of internal strife as part of the ‘political’ agenda of the Homeric epics”, as the title of his article put it;⁴ one might go even further and argue that the prevention of strife is a theme which fundamentally shapes both epics. The *Iliad* is famously not a poem about the Trojan War and the *Odyssey* not a poem about the voyages of Odysseus, because the poems concentrate on episodes which illustrate the causes and disastrous consequences of internal conflict, and in the *Iliad* also the consequences of poor leadership. Achilles’ exclamation —

“If only strife (*eris*) would vanish from among gods and men — and anger, which drives even a man of sense to act brutally, and which, much sweeter than honey seeping down spreads in men’s hearts like smoke” (18.107-110; cf. 9.254-258) —

sums up much of what the *Iliad* is about. Not only do the experiences of Achilles teach him a lesson about the consequences of

² THEOGNIS 1103-1104 (Magnesia — sacked by Cimmerians; Colophon and Smyrna — sacked by Lydians); the same point about Magnesia is made in *Theognidea* 603-604. In 541-542, the mythical destruction of the Centaurs on account of *hybris* — gain by external enemies — is held up as a mirror to the Megarians; see further N. FISHER, “*Hybris*, revenge and *stasis* in the Greek city-states”, in *War and Violence in Ancient Greece*, ed. by H. VAN WEES (London and Swansea 2000), 97-101.

³ Cf. E. FLAIG, “Gewalt als präsente und als diskursive Obsession in der griechischen Klassik”, in *Gewalt und Ästhetik*, hrsg. von B. SEIDENSTICKER und M. VÖHLER (Berlin and New York 2006), 29-56.

⁴ Chr. ULF, “Die Abwehr von internem Streit als Teil des ‘politischen’ Programms der homerischen Epen”, in *Grazer Beiträge* 17 (1990), 1-25.

excessive anger and about the need to feel pity, but Agamemnon spends much of the poem recovering from his initial act of aggression by proving himself a leader who will listen to the views of his peers and his people. Hector's story follows the opposite arc: his unwillingness to take advice turns out to be his undoing.⁵ The *Odyssey* compresses the hero's fabulous adventures into a flashback narrative which takes up only a sixth of the poem, and devotes the rest to an exploration of how a young man learns to assert himself against his rivals, and of how an entire family joins forces to defend itself with bravery and cunning, ultimately avenging itself on all its enemies and restoring harmony to the city. The final confrontation between the hero and the families of his defeated rivals is not tacked on, as many readers have imagined, but a vital part of this story of revenge.

Similarly, Hesiod's *Works & Days* is not really a poem about agriculture. As the opening lines show, it is a poem about competition (*eris*), almost half of which is devoted to warnings against the 'bad' kind of competition "which promotes harmful war and conflict" (14), before it moves on to show how to engage in the 'good' kind of competition "which is much better for men" (19) in making them devote their energies to productive work instead.⁶ Communities are not yet destroying themselves, according to Hesiod, although life will indeed degenerate to this point one day, but even now cities are at risk of being destroyed by the gods through famine, plague or war, as punishment for the injustice of their leaders, the 'lords' (238-247). Typically, however, the world of the gods themselves described in Hesiod's *Theogony* — as in Homer's *Iliad* — is also beset by conflict, violence and deceit. This poem's *pièce de résistance* is a detailed account of the battle between two

⁵ On Hector, see J.M. REDFIELD, *Nature and Culture in the Iliad* (Chicago 1975/Durham 1994); on Achilles and Agamemnon, H. VAN WEES, *The World of Achilles* (Cambridge, forthcoming).

⁶ H. VAN WEES, "The economy", in *A Companion to Archaic Greece*, ed. by K.A. RAAFLAUB and H. VAN WEES (London and New York 2008), ch. 23; cf. A.T. EDWARDS, *Hesiod's Ascra* (Berkeley and London 2004).

generations of gods, the Titans against Zeus and his allies (617-735), just the sort of thing which men liked reciting at rowdy drinking parties, according to one disapproving late archaic intellectual (Xenophanes fr.1.13-24). Perhaps most remarkable is Hesiod's assumption that the gods will regularly commit perjury in their quarrels, and, if caught, suffer the penalty of a nine-year coma followed by a nine-year exile (775-806).

The themes of lyric poetry are more varied, but enough of Alcaeus' poems were devoted to contemporary civil conflict for them to have formed a body of work known as *Stasiotika* (Strabo 13.2.3, p.617). The surviving fragments are full of metaphors of ships being wrecked in storms to represent the violent turmoil of the community (frr. 6, 73, 208, 249, 306i), and plain references to bloody violence, "mutual-harm-inflicting citizens" (*allellokakon politan*, 130b.7), the misery of exile, the joy of seeing rivals die (fr. 332), changing alliances and broken oaths. "That fat man ... recklessly trampled on the oaths" (fr. 129.21-23), he seethes, and plots his revenge: "now we must all ... rush and jump on Pittacus from behind" (fr. 306g.3-6).

The same themes recur many times over in Theognis and the Theognid corpus. Not only is there much agonising about the security of the city, as we have seen, but the single most prominent theme is the utter impossibility of trusting anyone at all, despite the crucial importance of having reliable friends. In two particularly telling passages Theognis advises Cygnus that he should *pretend* to be everyone's friend, but in practice look out only for himself — precisely the kind of behaviour which he elsewhere blames for the collapse of society.

"Do not make any of these townsmen your friend from the heart, son of Polypaus, not for any reason, but in what you say give the impression of being a friend to all, while in matters of importance you join with no one" (61-65).

"Cygnus, take a subtle attitude to all friends, adopting the temperament of each. You must have the temperament of the wily octopus, which appears to the eye like whatever rock it hovers around. Attach yourself to this rock now, turn a different colour next. Intelligence is better than inflexibility" (213-218; 1071-1074).

The poems are again full of references to the joys of revenge, not least when it is achieved by deception: “Talk nicely to your enemy, but when he falls into your hands, make him pay without making excuses” (363-364).⁷ In a society like this, it is not surprising that other poets were driven to sing the praises of ‘good order’ (*eunomia*), a concept which in the circumstances must have meant above all an end to open conflict and violence.⁸

Herodotus is yet another source fascinated by internal conflict. Although his avowed interest is in ‘amazing deeds’ and he certainly gives the conquests and customs of the Persians and other non-Greeks their due, his account of Greek history before the Persian Wars concentrates on internal division, *stasis* and tyranny at the expense of what might have been a more ‘glorious’ history of expansion and development. The Messenian and Lelantine wars, Pheidon’s campaigns in the Peloponnese, Athens’ conquests of Salamis and Sigeum — all are alluded to, but no more than that. The reforms of Lycurgus and Solon barely get a mention: they make way for detailed accounts of *stasis* in Athens, and in-fighting between the royal dynasties at Sparta. The Ionian revolt, which could have been portrayed as a heroic struggle for freedom is portrayed as the result of self-interested political manoeuvrings, and disastrously collapses almost as soon as it has begun. Even Herodotus’ Persians worry enough about political stability to engage in a lengthy constitutional debate before settling on monarchy.⁹

⁷ On stasis in archaic poetry, see N. FISHER, *art.cit.* (n.2), 90-103; on Theognis, see also H. VAN WEES, “Megara’s Mafiosi”, in *Alternatives to Athens*, ed. by R. BROCK and S. HODKINSON (Oxford 2000).

⁸ See TYRTAEUS frr. 1-4, with H. VAN WEES, “Tyrtaeus’ *Eunomia*”, in *Sparta: New Perspectives*, ed. by S. HODKINSON and A. POWELL (London 1999), 1-41; and SOLON fr. 4, with E. IRWIN, *Solon and Early Greek Poetry* (Cambridge 2005), 85-198.

⁹ HDT. 3.80-82; see further N. FISHER, *art.cit.* (n.2), 103-6; H. VAN WEES, “Herodotus and the past”, in *Brill’s Companion to Herodotus*, ed. by E. BAKKER et al. (Boston [etc.] 2002), 337-43.

With Thucydides and Xenophon, as apparently in the work of their contemporaries, historical coverage is more equally divided between wars and civil wars; but for these authors war was in some ways not so much a matter of international relations as a form of civil strife at a higher level, which destroyed the unity and undermined the strength of the Greeks just as *stasis* ruined individual cities.¹⁰ Civil conflict and war remained, of course, a much-analysed topic: the surviving book of Aeneas Tacticus' military manual is all about pre-empting internal dissension and treason, rather than dealing with the enemy, and Plato and Aristotle devoted large parts of their political works to the study of how achieve political security, *soteria*.¹¹

The anatomy of political violence in early Greece

Just how unstable was the archaic Greek city? What level and kind of violence do the sources imply when they speak of *stasis*, 'internecine war', and the like? And what proportion of people in a community would have been affected by such conflict? In the wake of Thucydides' powerful account of the civil war in Corcyra, scholars have often emphasized the pervasiveness and ferocity of internal conflict from the late fifth century onwards, while assuming that such conflict was less frequent and less intense before then. Our evidence for the earlier fifth century, however, such as Pindar's songs and Aeschylus' *Eumenides*, quoted below (p. 19), show clearly enough that internal violence was already a major problem, and, as Simon Hornblower has pointed out, it is merely because our evidence for this period

¹⁰ See J.J. PRICE, *Thucydides and Internal War* (Cambridge 2001); A. LINTOTT, "Civil strife and human nature in Thucydides", in *Literary Responses to Civil Discord*, ed. by J.H. MOLYNEUX (Nottingham 1993), 25–35; and J. DILLERY, *Xenophon and the History of his Times* (London and New York 1995), esp. 27–38.

¹¹ This is a central concern in Plato's *Laws* and *Republic*, and in Aristotle's *Politics*, esp. Book V; cf. M. SCHOFIELD, *The Stoic Idea of the City* (Chicago 1999).

is so limited that we are left with the false impression of a less strife-ridden age.¹² The same is true when we go back still further. The evidence for internal conflict in the archaic city is dominated by later stories about the monarchical rule of 'tyrants', full of colourfully outrageous crimes allegedly perpetrated by such men but with very little information about the nature or causes of the political struggles which brought them to power. The superficial impression is that the main forms of internal violence besetting archaic cities were different in kind from their classical counterparts.¹³ A closer look, however, reveals a fuller and less skewed picture of archaic civil strife as similar to classical *stasis* in every respect. Archaic political conflicts could and did turn into civil wars as bloody as anything the classical period had to offer: they were neither more restrained in their violence nor more restricted to a small politically active elite.

The level of violence is admittedly hard to gauge from the archaic evidence. The atrocities attributed to tyrants may owe as much to the fevered imagination of later story-tellers as to historical fact, and there may be rhetorical exaggeration in the graphic images of *stasis* conjured up by contemporary poets. It has even been doubted that *stasis* necessarily entailed violent conflict at all: Andrew Lintott's classic study *Violence, Civil Strife and Revolution in the Classical City*, for instance, argued that the word also denoted non-violent opposition, "a position taken in politics" (34).¹⁴ The

¹² S. HORNBLOWER, *The Greek World 479-323 BC* (London 3rd 2002), 184-7; ID., *Thucydides and Pindar* (Oxford 2004), 76-8; contra e.g. M.M. AUSTIN, in *Cambridge Ancient History VI*² (1994), 528-35. H.-J. GEHRKE, *Stasis* (München 1985) discusses all classical *staseis*, except in Athens, Sparta and Magna Grecia.

¹³ Thus G.E.M. DE STE CROIX, *The Class Struggle in the Ancient Greek World* (London 1981), 278-300, and A. LINTOTT, *Violence, Civil Strife and Revolution in the Classical City 750-330 B.C.* (Baltimore and London 1982), treat the classical period as characterised by *stasis* and the archaic period as characterised by tyranny; while H.-J. GEHRKE (*op.cit.* n.12) and other studies of *stasis* exclude the archaic period altogether. Note also the common distinction between the 'old' form of tyranny in the archaic period and the 'new' tyrants which emerge in the course of classical *stasis*.

¹⁴ A. LINTOTT, *op.cit.*, 75-6, specifically argued that Herodotus' references to *stasis* in Athens in the 560s (1.59.3; 1.61.2), and in 508 (5.66.2) meant simple political rivalry and that things turned violent only later.

earliest contexts in which the word *stasis* appears, however, present it as a dangerous aberration rather than as routine political rivalry in assemblies, councils or courts. Solon calls it ‘a public evil’ and predicts that “*stasis* within the tribe and sleeping war ... will destroy the lovely youth of many men” (fr. 4.19-20; cf. 4.37ff.). In the Theognid corpus, *stasis* has the epithet ‘destroyer of men’ (*laophthoros*, 781; cf. 1081-1082). Theognis himself, as noted above, fears that his city will fall prey to “*staseis*, internecine murder of men, and monarchs” (51-52; cf. 78), a formulation which we find echoed and amplified in the classical period, most notably in the words attributed to Darius by Herodotus:

“In an oligarchy, powerful private feuds are likely to arise among the many who strive for public excellence, for when each man wants to be the leader and to win the battle of opinions they end up in great feuds with one another, which will produce *staseis*, and these *staseis* will bring murder, and murder will bring a return to monarchy” (3.82.3).

Still stronger evidence for the integral role of violence in archaic *stasis* is a law attributed to Solon which decrees that “whoever does not put his weapons on one side or another when the city is engaged in *stasis* will be without rights and have no share in the city”. The purpose of this law is evidently to act as a deterrent: it prevents a gradual escalation of violence by threatening an instant leap into all-out civil war. But such a deterrent would be unnecessary and indeed counterproductive if *stasis* did not entail at least a low-level use of force.¹⁵ It is therefore safe to say that the word *stasis* does imply a violent

¹⁵ SOLON F 38 Ruschenbusch: *Ath. Pol.* 8.5; also PLUT. *Sol.* 20.1; *De sera numinis vindicta* 4, 550 C; *Praecepta gerendae reipublicae* 32, 823 F; CIC. *Att.* 10.1.2; GELL. 2.12.1; see e.g. A. MAFFI, “De la loi de Solon à la loi d’Ilion ou comment défendre la démocratie”, in *La Violence dans les mondes grec et romain*, éd. par J.-M. BERTRAND (Paris 2005), 137-61; S. FORSDYKE, *Exile, Ostracism and Democracy* (Princeton 2005), 98-9 (although I will argue below against her view that this law was a century ahead of its time); cf. H. VAN WEES, “Tyrants, oligarchs and citizen militias”, in *Army and Power in the Ancient World*, ed. by A. CHANIOTIS and P. DUCREY (Stuttgart 2002), 82.

form of conflict (or a group engaged in such conflict).¹⁶ What kinds of force might be involved we shall investigate below.

What proportion of a city's inhabitants might be drawn into civil strife is also hard to gauge. Whereas classical sources often speak of 'the people' pitted against the forces of oligarchy, evidence for the archaic period tends to concentrate on fighting between factions within the ruling elite. Scholars are accordingly inclined to see archaic *stasis* as a small-scale elite phenomenon without the popular involvement which marks the political life and civil wars of the classical age. This is a central tenet of Sara Forsdyke's important book *Exile, Ostracism and Democracy* (2005), for instance, and of several recent studies arguing that archaic tyranny was the result of rivalry within the elite, without intervention by the wider community.¹⁷ A careful analysis of the evidence, however, suggests that the contrast between archaic and classical *stasis* is largely an illusion created by the different emphases of our sources: classical civil wars were in fact largely fought by elite factions with various kinds of external support, even if one side usually claimed to fight in the name of the people;¹⁸ and the community at large could and did play an active role in archaic civil conflict on occasion, perhaps no more or less often than it did later. As we shall see, a whole range of forms of 'popular' violence is attested, and this added much to the general climate of political instability.

Elite violence: murders, expulsions and coups

The murders (*phonoi*) which Theognis and Herodotus associate with *stasis* often took the form of covert assassinations of

¹⁶ More on this point in the discussion recorded at the end of this chapter.

¹⁷ So esp. G. ANDERSON, "Before *turannoī* were tyrants", in *ClAnt* 24 (2005), 173-222; G.L. CAWKWELL, "Early Greek tyranny and the people", in *CQ* 45 (1995), 73-86; contra e.g. G.E.M. DE STE CROIX, *op.cit.* (n.13), 278-83; A. ANDREWES, *The Greek Tyrants* (London 1956), esp. 34-8.

¹⁸ H. VAN WEES, *art.cit.* (n.15), esp. 77-82; in my brief treatment of archaic political conflict here (*ibid.* 81), I went too far in playing down the role of the people in political strife during this period.

prominent individuals. In 561 BC, Peisistratus' political rivals tried to kill him in an ambush as he was driving his mule cart through the countryside (or so he alleged). He subsequently travelled everywhere with a bodyguard of 50 men armed with clubs who would have been little use in full-scale civil war but offered effective protection against the further assassination attempts which were evidently expected (Herodotus 1.59). Such tactics are attested already in the *Odyssey*: Telemachus' rivals decide to kill him when he becomes too much of a threat, and resort to an ambush despite vastly outnumbering him.¹⁹ Most killings in the archaic age are attributed to tyrants who are said to have secured their monarchical power by a policy of "murdering the most prominent of their townsmen" (Hdt. 5.92.eta). One might imagine that such killings would take the form of public arrests and executions, with or without show trials, but in a rare illustration of how it was actually done, we hear that Hippias had Cimon killed in an ambush "by some men, at night" (6.103.3; cf. 6.39). The story that Peisistratus, while in power, was accused of murder and defended himself in court (*Ath.Pol.* 16.8) also points to covert killing rather than pseudo-legal execution.

Conversely, of course, many monarchical rulers and some of their relatives were assassinated by disgruntled subjects, most famously Hippias' brother Hipparchus in 514 by Harmodius and Aristogeiton. This murder, like that of Arcesilaus III of Cyrene at about the same time, is said to have taken place in broad daylight in a busy public place, rather than in secret. The open assassination of rulers continues in the classical period, and, as Werner Riess has pointed out, its public nature is symbolically significant, advertising it a legitimate act of tyrannicide.²⁰

¹⁹ *Od.* 4.660-674, 842-847; 16.363-406; cf. the killing of a powerful rival in a rural ambush at *Od.* 13.259-270.

²⁰ Hipparchus: HDT. 5.55-62; THUC. 6.54-58; *Ath.Pol.* 18.2-6. Arcesilaus III of Cyrene (and Alazeir of Barca): HDT. 4.164.4. Cf. e.g. the last king of the Bacchiads (NICOL.DAM. *FGrH* 90 F 57.6), Lycophron of Corcyra (HDT. 3.53), Periander of Ambracia (ARIST. *Pol.* 5, 10, 1311 a 32-b 2) and Demoteles of

Each of these killings seems to occur in isolation, but given the anecdotal nature of our evidence it is unlikely that we get the full picture. It is therefore perfectly possible that some archaic struggles for prestige and power took the form of a concerted murder campaign, of the kind which took place in Athens in 411 BC. Then, a number of elite ‘clubs’, working in secret, used a gang of “a hundred and twenty lads, whom they employed if some muscle was needed” (Thucydides 8.69.4), in particular to kill “in some suitable manner” their political opponents (8.65.2, 66.2, 70.2).²¹ The description of the violence in Thucydides is very brief and matter-of-fact, as if this was par for the course in civil conflict, and only one of the victims is deemed significant enough to be named. Three generations later, *Athenaion Politeia* (29-33) skipped the violence altogether when relating these events. The relatively few archaic murder victims whose stories were preserved in oral tradition must have formed the tip of an iceberg.

Expulsions were a common alternative to murders.²² When Peisistratus’ rivals joined forces against him for the first time, “they drove him out”, which apparently meant that they forced him to retire to his estates in eastern Attica. When they did so again some years later, we are told, a frightened Peisistratus “left the country altogether” and went to Eretria.²³ The fragments of

Samos (PLUT. *Aetia Graeca* 57, 303 E). Analysis of classical assassinations: W. RIESS, “How tyrants and dynasts die”, in *Terror et Pavor. Violenza, intimidazione, clandestinità nel mondo antico*, a cura di G. URSO (Pisa 2006), 65-88; cf. H.-J. GEHRKE, *op.cit.* (n.12), esp. 235.

²¹ At the same time, the ostracised popular leader Hyperbolus was murdered in Samos (THUC. 8.73.3). For the mechanics of this coup, see C. BEARZOT, “Atene nel 411 e nel 404. Tecniche del colpo di Stato”, in *Terror et Pavor* (*cit.* n.20 above), 21-54; H. VAN WEES, *art.cit.* (n.15), 77-81.

²² See above all S. FORSDYKE, *op.cit.* (n.15).

²³ First exile: HDT. 1.60.1; *Ath. Pol.* 14.3; second exile: HDT 1.61.2; *Ath. Pol.* 15.1. Since he “left the country altogether” in his second exile, he presumably did not do so during the first; hence his return involved a simple chariot ride back to the city. Even after the second exile, he was able to return as far as eastern Attica without meeting any opposition (1.62.2). See G. ANDERSON, *The Athenian Experiment* (Ann Arbor 2003), 30-4.

Alcaeus imply a similar story: the poet was more than once driven out when a former ally joined forces with his rivals, and on at least one occasion apparently retreated to a rural estate rather than fleeing to another city.²⁴ Two distinct types of expulsion are implied. In one, the weaker party spontaneously leaves the country to avoid being killed. In the other, the stronger party apparently dictates terms: leave the city, if not the country, or face further violence. The best example of the latter is the expulsion of the Alcmeonid faction by Isagoras in 508.²⁵ A century earlier, the same faction had suffered exile of yet another type, imposed by a public court as punishment for offences alleged by political rivals.²⁶ Tyrants are often said to have expelled many men, presumably by all three methods and perhaps still others (see below).

The corollary of murder and expulsion was confiscation of property. Telemachus' rivals intend to share out his property among them if their ambush succeeds (*Od.* 16.384-385) and a similar fate befell Theognis: "other men possess my property after seizing it by force; I am the dog who crossed the ravine during the winter floods, and shook off everything". The latter phrase must be an animal fable-style reference to making a dangerous escape in order to shake off one's pursuers, at the cost of losing everything one owns (346-348; cf. 1197-1202). Again, confiscation is one of the forms of violence associated with tyrants in particular. Loss of property provoked emotions hardly less powerful than loss of life. Theognis reserves his most furious verses for those who have seized his wealth: "Zeus, let me inflict pain in return for pain ... Let me drink their dark blood!" (344, 349). The story that Peisistratus' most virulent enemy, Callias, was the only man in Athens who 'dared' buy

²⁴ ALCAEUS fr. 130b L.-P. describes the poet as confined to a "rustic" (*agroikos*) life "in remote countryside" (*eschatia*), excluded from political meetings in the city; alternatively, this may be a rhetorically exaggerated picture of his exile in the nearby city of Pyrrha: fr. 114.

²⁵ HDT. 5.70-72; *Ath.Pol.* 20.2-3.

²⁶ *Ath.Pol.* 1; PLUT. *Sol.* 12. See J. SEIBERT, *Die politischen Flüchtlinge und Verbannten in der griechischen Geschichte* (Darmstadt 1979); S. FORSDYKE, *op.cit.* (n.15), 7-11.

the tyrant's confiscated property well illustrates the fear that victims might seek violent retaliation (Hdt. 6.121).

Not surprisingly, when a whole faction had been driven out, or the number of families individually expelled reached critical mass, the exiles often counter-attacked by raiding the countryside from a position near or just across the border, or even a staging a 'return' by directly attacking the city, usually with the help of foreign allies. The Athenian exiles who fortified Leipsydriion in 514 must initially have confined themselves to raids (*Ath. Pol.* 19.3), until they won the support of Spartan armies and could mount direct attacks on Athens in 512 and 510. The exiles from Cyrene who "took refuge in the great private fortification of Aglomachus" a decade or so earlier (Hdt. 4.164.2) may have had similar plans, as did exiles from Aegina who around 490 used Sounion as a base for raids on their former home (Hdt. 6.90).

A full-scale armed 'return' of exiles with the aid of foreign allies is first attested around 600 BC in the poems of Alcaeus. His evocation of a "great hall" filled with arms and armour which "we have been unable to forget from the moment we embarked upon this deed" (fr. 140 Voigt) surely alludes to the intended invasion of Mytilene which ended with his defeat in a "battle at the bridge" (test. 9c). Elsewhere, he mentions a large amount of gold ("2,000 staters") donated by "the Lydians", then the dominant power in the region, to help his faction return "to our sacred city" (fr. 69; cf. 306a). From the mid-sixth century the Persians took over the Lydians' role and became the foreign ally of choice for eastern Greek exiles: Pheretime, former queen of Cyrene, for instance, called on Persia to regain control of Barca (Hdt 4.165-167). At about the same time, Sparta became the dominant power on the Greek mainland and in the Aegean, and frequently sent out large armies to restore exiles, which became the basis of the Spartans' later reputation as selfless fighters against the evils of tyranny.²⁷

²⁷ Apart from the invasions of Athens in 512 and 510, Herodotus mentions their failed attempt to restore exiles to Samos in 525 (3.54) and Plutarch adds a long list of tyrants deposed elsewhere (*De Herodoti malignitate* 21, 859 D).

Still other exiles managed to raise private armies: Peisistratus called upon everyone “who owed him a favour” as well as “volunteers” and paid for their services; Arcesilaus III promised a redistribution of land for the benefit of anyone who helped him re-establish himself as king of Cyrene.²⁸

The prevailing ethic of revenge meant that returning exiles could be expected to treat their enemies brutally, and Herodotus pointedly relates stories of excessive revenge which was punished, and of notable restraint which was rewarded. Arcesilaus and his mother came to a bad end on account of atrocities committed on their return from exile: he had ignored oracular warnings and burnt some of his enemies alive; she had had her enemies’ heads and their wives’ severed breasts impaled on the city wall (4.163-164, 202-205). Peisistratus, by contrast, secured his position by “devising a very wise plan” after his victory in the battle of Pallene and proclaiming to his fleeing opponents that there would be no further repercussions (1.63).

A final form of elite violence was the *coup d'état* by which one faction, going beyond merely weakening their rivals and gaining relative dominance, openly sought to exclude its rivals from exercising power in the city at all. This usually meant making the faction leader ‘monarch’ or ‘tyrant’, but could instead take the form of establishing the whole faction as a closed oligarchy. The stories we have about such events suggest that they often involved relatively little violence and were achieved by a token show of strength, such as the occupation of an acropolis by a small group of armed men. Peisistratus managed this feat with the aid of fifty men armed only with clubs (Hdt. 1.59; *Ath. Pol.* 14.1); Polycrates needed a mere fifteen hoplites in Samos (Hdt. 3.120). Peisistratus’ second coup is described as a wholly non-violent occasion involving his return to the city in a chariot accompanied by a tall woman impersonating the goddess Athena (Hdt. 1.60; *Ath. Pol.* 14.4). It seems a reasonable assumption, however, that the chariot was also accompanied by

²⁸ Peisistratus: HDT. 1.61-63; *Ath. Pol.* 15.1-2, 17.4. Arcesilaus: HDT. 4.163.

a large crowd of armed supporters — Peisistratus' own and those of his new ally Megacles — and that the appearance of 'Athena' served only to project an image of legitimacy which made it easier for the outnumbered elite opposition to decide not to offer resistance. In general, it is likely that *coups d'état* of this sort were staged only as a symbolic affirmation of an already existing *de facto* political dominance, which was itself surely based not least on the ability to muster more physical force than one's rivals, if necessary.²⁹

Other coups, by contrast, did involve armed violence: Cylon's occupation of the Athenian acropolis involved not only his personal friends but troops sent by his father-in-law, Theagenes of Megara, and was fiercely resisted, resulting as it did in a massacre of Cylon's supporters which accordingly to later tradition was both in breach of an oath and sacrilegious. When in 508 Isagoras surrounded the Athenian Council with an armed force brought by his personal friend Cleomenes of Sparta and told them to stand down, he too met strong resistance, and the result was the capture and execution of 300 of his followers.³⁰ Little is heard of internal coups — as opposed to attacks by returning exiles — which aimed to depose a ruling tyrant or oligarchy, except that they tended to involve at least the assassination of leading men.³¹

In short, elite rivalry for honour and wealth created great insecurity in the archaic city. The currency of low-level elite

²⁹ But G. ANDERSON, *art.cit.* (n.17), goes too far in arguing that 'tyranny' was purely a position of *de facto* superiority over one's rivals: if so, Solon could not meaningfully have said that he refused to make himself tyrant (frs. 32-34). Symbolism of Peisistratus' procession with 'Athena' beside him: see J. BLOK, "Phye's procession", in *Peisistratos and the Tyranny*, ed. by H. SANCISI-WEERDENBURG (Amsterdam 2000), 17-48.

³⁰ Cylon: HDT. 5.71; THUC. 1.126.3-12; PLUT. *Sol.* 12.1-9; PAUS. 1.28.1; 7.25.3. Isagoras: HDT. 5.72; *Ath.Pol.* 20.2-4 (which, contra Herodotus, implicitly denies that anyone was executed — surely the author was here influenced by the fourth-century image of the Athenian people as exceptionally forgiving, inspired by the amnesty of 403 BC). For the role of the people in both coups, see below.

³¹ See references cited above, n.20.

stasis was the covert killing of opponents, in the manner of mafia rivalries during which key players disappear or are found dead rather than openly executed. If a faction was successful enough at this level in killing and expelling rivals and confiscating their property, it might stage an overt coup and reinforce its position with further violence. Further escalation occurred when foreign allies were brought in to support one side or the other, just as Thucydides noted was happening in his own time, when the easy availability of Athenian and Spartan support led to increasingly bloody civil conflict (3.82.1). The massacres of the supporters of Cylon and Isagoras and of the opponents of Arcesilaus and Pheretima, or again the enslavement of 300 boys from elite families, sent to Lydia to be castrated in revenge for a coup against the tyrant of Corcyra (Hdt. 3.48, 53), show that archaic *stasis* could be a life-and-death struggle as ferocious as any classical civil war. As Alcaeus put it, recalling a pact between his own faction and that of Pittacus against the faction of Myrsilus: “once we swore ... that we would either die and lie wrapped in earth, killed by the men who then attacked us, or that we would kill them instead” (fr. 129.14-19; cf. 6.1-14).

During Alcaeus’ lifetime, his city was in an almost permanent state of violent conflict, with a bewildering number of factions and tyrants passing review in the fragments of his poetry, and the sheer number of tyrants of which we hear — even if we know no more than their names — implies turbulent histories for many other cities. In Athens, a generation of *stasis* followed the massacre of Cylon’s followers until the Alcmeonids were expelled, c. 600 BC; from 590 to 580, there was violent rivalry for the highest political offices; from about 570 to 546 the three-way factional struggle which saw Peisistratus take power three times raged; from 514 to 506 violent *stasis* reigned again, and an armed return of exiled factions with Spartan or Persian backing continued to be a threat until 490 BC. Intense internal conflict resurfaced in the 480s, and again in the late 470s, stopping just short of violence

thanks to frequent use of ostracism (see below). From 462 to 457, another political crisis saw the assassination of Ephialtes — at night, by an unknown killer, perhaps a hired outsider — as well as the ostracism of Cimon, a plot to betray Athens to Sparta, and Aeschylus' appeal in *Eumenides* for an end to civil war:

"Hurl into my territories no bloodstained whetstones, punches in the guts of young men, which drive them mad with fury not fuelled by wine. Do not instil into my townsmen internecine war and mutual aggression, as if transplanting the heart of fighting-cocks. Let there be war abroad, in abundance, in which a fearsome passion for glory prevails, I say, but no cock-fighting at home" (858-866).

"I pray that *stasis*, insatiable in its appetite for harm, will never raise its roar in this city, and that the dust will not suck up the dark blood of citizens as it greedily demands from the city compensation for murders committed in blind anger, but that the people will repay favours with favours in a spirit of shared friendship — and that they will hate with a single mind" (976-986).³²

Across almost two centuries, elite *stasis* in Athens was apparently interrupted only to deal with other crises, such as popular revolt (see below) and external war, except for a period of about 30 years during the tyranny of Peisistratus and his sons — which must have been one reason why this period came to be regarded as a 'Golden Age' (*Ath. Pol.* 16.7). We do not have the evidence to compare the frequency of archaic *stasis* with classical statistics,³³ but can hardly doubt that it was equally endemic, as well as equally violent.

³² Discussed by e.g. S. FORSDYKE, *op.cit.* (n.15), 167-8; K.A. RAAFLAUB, "The breakthrough of *demokratia* in mid-fifth-century Athens", in *Origins of Democracy in Ancient Greece*, ed. by K.A. RAAFLAUB, J. OBER and R. WALLACE (Berkeley 2007), 115-17; E. FLAIG, *art.cit.* (n.3), 47-51. Ephialtes' murder: ANTIphon 5.68; *Ath. Pol.* 25.4; DIOD. 11.77.6; PLUT. *Per.* 10.7-8. Plot: THUC. 1.107.4; THEOPOMPUS *FGrH* 115 F 88; PLUT. *Cim.* 17.4-8.

³³ H.-J. GEHRKE, *op.cit.* (n.12), 254-61.

Popular violence 1: mobilisations

So long as *stasis* remained confined to the political elite, it would probably not involve more than 5% of citizens. Cleisthenes' faction is said to have included 700 households, while his rival Isagoras had 300 supporters: assuming a citizen body of 30,000 men at the time, these 1,000 or so men would have amounted to about 3%.³⁴ The involvement of 'the people' at large could therefore radically change the balance of power and the nature of the conflict, leading to violence on a much larger scale. Despite our sources' focus on the elite, we can see clearly enough that in the archaic as in the classical age the wider community took an active interest in political life and from time to time asserted itself in collective acts of violence.

We catch a remarkable glimpse of a politically active community in the *Odyssey*, when Antinous, one of the leading villains, proposes a second attempt on the life of Telemachus immediately after the first has failed:

“We must act before he summons the Greeks to an assembly, for I do not think that he will let things lie, but he will be furious and he will stand up and tell everyone, because we plotted sheer murder for him but failed. They will not approve when they hear about these misdeeds. They may do something bad and drive us out of our country, and we may end up in other people's territory. Before that happens, let us seize him far from the city, on a farm or on the road” (*Od.* 16.376-384).

Antinous casually assumes that the community will collectively intervene in elite rivalry of this kind, if the general feeling is that one party deserves their help, and that the people

³⁴ Size of factions: HDT. 5.72.1; *Ath. Pol.* 20.3. 30,000 citizens in 500 BC: HDT. 5.97.2; this is not in itself a reliable figure, of course, but given a citizen population of c. 60,000 by 431 BC (e.g. M.H. HANSEN, *Three Studies in Athenian Demography* [København 1988]), the number in 508 BC could not have been much lower; cf. H. VAN WEES, *Greek Warfare. Myths and Realities* (London 2004), 243.

are capable of mustering enough organised violence to drive a large part of the local elite into exile.

This is a far cry from the usual picture of assemblies in Homer, where a few leading men do all the talking and decision-making. ‘The people’ (*demos* or *laos*) make their views known through cheering, heckling or stony silence, but otherwise seem to remain ‘spectators’, as Hesiod describes farmers who “waste their time” hanging around in courts and assemblies rather than working (*Op.* 28-34). Antinous’ comments, however, reveal that the image of a passive community is merely an epic convention which allows the heroes to shine.

Even before the rivalry between Telemachus and his enemies turned violent, the take-over of Telemachus’ house by these unwanted guests is regarded as something about which the community should be told, and against which it could be expected to take action — despite the situation being “not a public matter but my own problem” according to the victim himself (*Od.* 2.44-45). The plot of the *Odyssey* does not allow anything to come of this, of course, which makes it all the more significant that the possibility of popular intervention keeps being raised. For Homer’s audience the failure of the community to involve itself in the conflict was an anomaly which needed explaining.³⁵

Solon’s law on *stasis* thus did not introduce a new concept of communal responsibility in civil strife but merely added a legal obligation — specifically on those citizens who owned arms and armour (*ta hopla*) — to the moral pressure on the community to play the active part which Homer already expected it to play. Nor was there anything unusual about Peisistratus’

³⁵ Telemachus is told to inform the assembled people of his predicament (*Od.* 1.271-273, 372-375), and when he does so, the people are reproached for their inactivity (2.229-241). Later, Telemachus is twice asked “Tell me, do you let yourself be oppressed without resistance, or do the people of the land hate you?” (3.214-215; 16.95-96), implying that if the people liked him, he only needed to ask and they would help him punish his enemies.

behaviour when he escaped an ambush (staged or otherwise) and drove straight into the town square where he displayed the wounds which he himself and his mules had sustained and "asked the people to provide some kind of protection for him". If anything, one might argue that the people fell rather short of moral and legal expectations by taking no direct action against the alleged assassins but merely agreeing to assign Peisistratus a bodyguard. The sources state firmly that the assembly agreed to detail "selected citizens" to ensure his safety.³⁶ This account has been denounced as anachronistic, but without adequate grounds: already in Homer's world one can propose to a public gathering that "we should select the best 52 young men in the community" (*kata demon*) to complete a special mission (*Od.* 8.34-36).³⁷

When elite *stasis* escalated into open fighting, in the form of an armed return of exiles or an internal coup, the whole community would mobilise in resistance. The best contemporary evidence for this emerges from the poems of Alcaeus, which allude to the people of Mytilene uniting against his faction. "They set up low-born Pittacus as *tyrannos* of that meek and ill-fated city, greatly praising him all together", the poet sneered (fr. 348), and Aristotle explained that this referred to the Mytileneans appointing Pittacus their leader, under the title *aisymnetes*, for the duration of the fight against the returning exiles (*Pol.* 3.14, 1285 a 34-b 1). Although the quotation is on its own not cast-iron proof of popular involvement — "they, all together" could conceivably refer to a coalition of other elite factions rather than the whole community — we do have other evidence suggesting that Pittacus was a popular, rather than merely factional, leader. Aristotle's pic-

³⁶ HDT. 1.59.5; *Ath. Pol.* 14.1; they did not just allow him to appear in public with his own armed supporters.

³⁷ Contra e.g. S. FORSDYKE, *op.cit.* (n.15), 108-11. The language of *Ath. Pol.* may well be anachronistic, but the substance need not be. Cf. Telemachus' appeal: "Come, give me a ship and 20 companions" (*Od.* 2.212).

ture of a general mobilisation of the people under Pittacus against returning exiles and their foreign backers is thus perfectly plausible.³⁸

We have little reason to be sceptical, therefore, of the tradition reported by Herodotus, Thucydides and later sources that no fewer than three such general mobilisations during *stasis* occurred in archaic Athens. The first took place when Cylon seized the acropolis c. 630 BC. Since this coup was remembered for the final sacrilegious massacre of Cylon's forces which left the Alcmeonids 'cursed' and 'polluted' for the next two centuries, one might have expected classical sources to present this as an episode of purely factional violence. Yet they all say that resistance to the coup was led by Athens' magistrates, and was thus a public matter. Thucydides states explicitly what the other accounts surely imply, namely that these magistrates led the people "in a general levy" (*pandemei*, 1.126.7).³⁹ A similar story was told about Peisistratus' return from exile in 546, backed by many foreign troops: no Alcmeonid or other elite bravery and leadership is mentioned; the only resistance comes from a belated "general levy" (*panstratiai*, Hdt. 1.62.3), ingloriously defeated in a surprise attack on their camp.

These precedents put in perspective the much-discussed third mobilisation of 'the people', against the attempted coup by Isagoras in 508 BC. In different versions of the story, the people gathered to offer resistance either when they heard that Isagoras' men and their Spartan allies were trying to force the Council to

³⁸ So e.g. S. FORSDYKE, *op.cit.* (n.15), 44-5; D. PAGE, *Sappho and Alcaeus* (Oxford 1955), 238-9. Contra G. ANDERSON, *art.cit.* (n.17), 198, who suggests that the allusion is to "some kind of public process whereby his fellow townsmen ... hailed him by common consent as *primus inter pares*".

³⁹ Cf. HDT. 5.71; PLUT. *Sol.* 12: the magistrates strike a deal with Cylon's men; the Alcmeonids kill them. S. FORSDYKE, *op.cit.* (n.15), 81-2; F.J. FROST, "The Athenian Military before Cleisthenes", in *Historia* 33 (1984), 286-7, argue that there was no general mobilisation. Different versions give different names to the magistrates but all agree that public officials were in charge. I hope to show elsewhere that Herodotus rightly called the officials in charge "*prytaneis* of the *naukraroi*", but wrongly guessed that these were the supreme magistrates when in fact they were commanders of the general levy, subordinate to the polemarch.

stand down (*Ath. Pol.* 20.3-4) or else a little later when Isagoras' forces occupied the acropolis (Hdt. 5.72). Given that the main elite opposition — the entire Alcmeonid faction — had already left the country, only popular opposition would have been left and the historical truth of this mobilisation of the people, unlike that of the earlier events, has accordingly never been questioned. Indeed, it has been hailed as a breakthrough, an 'epistemic shift', in the history of democracy, because the people collectively intervened violently in politics without elite leadership to drive them on.⁴⁰ Yet the situation in 508 was not fundamentally different from what had happened earlier. The Alcmeonids may have been absent, but the Council and the magistrates were still in post and could have called for a general mobilisation. Conversely, our sources do not indicate that in the earlier episodes elite leadership played any role beyond magistrates ordering the people to mobilise. As far as the tradition goes, the pattern is the same on all three occasions: faced with a *coup d'état*, a general levy of the people gathers to offer resistance. The only difference is that in 508 they were lucky enough to get Isagoras to surrender in a mere two days, which was about as long as a general levy of mostly poor and unpaid citizens could afford to stay mobilised, whereas they had suffered instant defeat by Peisistratus, and they had been forced to disperse again to their farms when Cylon managed to resist for more than a few days.⁴¹

One could of course argue that our sources anachronistically projected back into the archaic age the typical reaction of a community to a coup in classical Greece. Yet the lack of any

⁴⁰ See esp. three papers by J. OBER: "The Athenian Revolution of 508/7 BCE", in *Cultural Poetics in Archaic Greece*, ed. by C. DOUGHERTY and L. KURKE (Cambridge 1993), 215-32; "Revolution matters: democracy as demotic action", in *Democracy 2500?*, ed. by I. MORRIS and K. RAAFLAUB (Dubuque 1998), 67-85; and "I besieged that man": democracy's revolutionary start", in *Origins of Democracy in Ancient Greece* (*op.cit.* n.32), 83-104; endorsed by e.g. S. FORSDYKE, *op.cit.* (n.15), 139-42; and (too hastily) H. VAN WEES, *art.cit.* (n.15), 82.

⁴¹ Two days: HDT. 5.72.2; *Ath. Pol.* 20.3. Dispersal after "some time": THUC. 1.126.8.

incentive to classical authors to insert ‘the people’ into the inglorious stories of resistance to Cylon and Peisistratus at all, strongly suggests that popular mobilisation was enshrined in archaic oral tradition, while the evidence for popular mobilisation in archaic Mytilene shows that such a thing was indeed possible. We are left with no reason to doubt that it did occur.

Popular violence 2: lynch-mobs and uprisings

The more remarkable event of the year 508 happened earlier, when Cleisthenes found himself “defeated in *stasis*” — i.e. when Isagoras had managed to kill, wound or scare into leaving the country so many of his supporters that Cleisthenes had no hope of striking back successfully — and decided to “bring over the people to his side”, “make the people his friends” (Hdt. 5.66.2; *Ath. Pol.* 20.1). In itself, this need have involved no more than the sort of appeal for popular protection made in the same circumstances by Peisistratus,⁴² and available to Telemachus. The difference, however, lies in the basis of his appeal. Apart from the justice of his case, Telemachus relied on the people’s gratitude to his father who had been a perfect ruler, and Peisistratus on his own popularity as a successful general.⁴³ Cleisthenes, by contrast, relied on a promise of political reform. This makes best sense if he was not, as *Athenaion Politeia* claims, already a popular politician (20.4-21.1), but if the people had been, in Herodotus’ words, “previously pushed aside” by his faction (5.69.2), and were unlikely to offer him the protection which they had given others — unless they received something in return.

The interest in political reform which the people of Athens turn out to have in the late sixth century does not arrive out of

⁴² So rightly S. FORSDYKE, *op.cit.* (n.15), 135-9.

⁴³ Telemachus: *Od.* 2.64-67 (justice), 230-241; 5.8-12 (father). Peisistratus: HDT. 1.59; *Ath. Pol.* 14.1.

the blue, but has parallels and precedents in earlier and contemporary occasions on which the community at large did not confine itself to intervening in elite rivalry but violently asserted its own interests in the face of elite opposition.

A colourful early example may again be found in the *Odyssey*. We are told that Odysseus once had to intervene to stop a mob lynching Eupeithes, one of the leading men in Ithaca:

“Do you not know that he fled in fear of the people [*demos*]? For they were very angry with him because he had joined Taphian raiders and brought grief to the Thesprotians, who were on friendly terms with us. They wanted to kill him and rip his heart out and devour his great, abundant estate, but Odysseus held them back...” (*Od.* 16.424-430).

The Ithacans, then, attempted to lynch a man of the highest status, against the wishes of their king, because they were outraged at his participation in a raid which might endanger good relations with their neighbours. They intended to confiscate his property into the bargain (cf. *Il.* 18.300-302). One could hardly imagine a more violent way for the people to defend their own interests — here presumably above all a concern not to be exposed to retaliatory raids. Late archaic parallels are the story of the mob in Mytilene which in 499 stoned to death the deposed tyrant Coes, and of the Athenian councillors and bystanders who stoned one of their number for proposing to let the assembly vote on conditional surrender to the Persians — after which the women of Athens rounded up the man’s wife and children and stoned them, too.⁴⁴

Several archaic sources actually complain when the community, in their opinion, does not do enough to punish bad behaviour by their leaders. In Homer, Hector says that “the Trojans are great cowards” for failing to make his brother Paris “wear a

⁴⁴ HDT. 5.38 (Mytilene); 9.5 (Athens; cf. 5.87); a later example is THUC. 5.60.6; see D. OGDEN, *The Crooked Kings of Ancient Greece* (London 1997), 98-103.

stone tunic” — a blackly humorous euphemism for killing him by stoning — “on account of all the harm that you have done” by dragging the city into a war (*Il.* 3.56-57). When Alcaeus, who presents himself as a champion of “the people” (*damos*, fr. 129.20), calls the city “meek” (*acholos*, “lacking in anger”, fr. 348, cited above) for supporting Pittacus, it is evidently because he feels that they should not tolerate what he regards as the misrule of this man, whom he describes as “devouring the city” (frs. 129.23-24; 70.7) and — therefore — as “worthy of stoning” (fr. 298.1-5; cf. 68.3). Similar sentiments may be found in the Theognid corpus, when the poet loses patience with the people’s willingness to tolerate a ‘bad’ regime, and exclaims:

“Stamp on the empty-headed people [*demos*], hit them with a sharp stick and put them under a heavy yoke, for among all mankind upon whom the sun looks down you will not find a people [*demos*] who love their masters [*despotai*] so much” (847-850).

The notion that the community *ought* to assert itself against unjust or otherwise unacceptable behaviour by the elite, if necessary through collective violence, is thus attested very early.

As well as occasional outbursts against individuals, we encounter extended popular uprisings in archaic Greece. The best-attested instance is the conflict which erupted in Attica around 600 BC: “the people rose up against the notables; the *stasis* was fierce and they kept each other under attack for a long time” (*Ath. Pol.* 5.2). The surviving fragments of Solon’s poems show that this fourth-century summary is perfectly accurate. Solon describes the conflict as waged between “the people” (*demos*) and “those who had power and were admired for their wealth” (fr. 5.1, 3) or “those who are superior and have greater force” (fr. 37.1, 4); the latter are also referred to as “the leaders of the people” (fr. 4.7; cf. 6.1). The people explicitly include “many of the poor” (*penichroi*) who are deeply in debt and sold into slavery (fr. 4.23-25). Solon claims that anyone other than he “would not have restrained the people, and would not have stopped until he had churned up the milk and skimmed off the

fat" (fr. 37.6-8). This presumably refers to popular demands for confiscation and redistribution of land, which he prides himself on resisting: "some came for plunder; they hoped for wealth ... but it did not please me ... that the lower classes [*kakoi*] should have the same share as the upper classes [*esthloi*] in the fat soil of the fatherland" (fr. 34.1, 7-9). Solon also prides himself on putting an end to enslavement for debt and other forms of 'slavery', and on writing down laws "equally for the lower-class man [*kakos*] and the upper-class man [*agathos*], creating straight justice for everyone" (fr. 36.18-20). All this required some degree of "force" (*bie*, 36.16), but he again insists that no one else could have "restrained the people: for if I had been prepared to do what their opponents wanted at the time, or again what the other side had in mind for these opponents, this city would have been bereft of many men" (fr. 36.20-25).

For all the scholarly debate about the nature of the Solonian crisis, Solon himself thus clearly thought that the *stasis* primarily involved a conflict between on the one hand the very poorest elements in society, who alone would have demanded a redistribution of land and would have been most at risk of enslavement for debt, and on the other hand a rich and powerful elite. He was sure that the people were fully prepared to kill the elite and seize their land, and indeed that they expected him not to confine himself to "smooth talking" (fr. 34.3) and acting as "reconciler" (*diallaktes*, *Ath. Pol.* 5.2), as he was appointed to do, but to use their support to make himself tyrant of Athens "by force" and redistribute the land (fr. 34.7-9; cf. frr. 32; 33). In other words, Athens saw a period of rioting by the agricultural poor, which was severe and sustained enough to lead to political action and legislation, and was widely expected to result in an actual *coup d'état* by a popular leader who would go on to enact more radical reform.⁴⁵

⁴⁵ B. LAVELLE, *Fame, Money, and Power* (Ann Arbor 2005), 73-6, well analyses the political situation under Solon (cf. H. VAN WEES, "Mass and Elite in Solon's Athens", in *Solon of Athens*, ed. by J.H. BLOK and A. LARDINOIS

Later sources provide numerous accounts of both *ad hoc* agricultural riots and popular movements with a political dimension, which can, as ever, be dismissed as anachronistic inventions, but which in the light of the evidence of Solon deserve to be considered seriously.

Archaic Miletus suffered two generations of severe *stasis* which resulted in “a terrible destruction of households”, according to Herodotus (5.28-29). Still later sources speak of a conflict between factions called *Ploutis*, “the Rich”, and *Cheiro-macha*, which probably means “fist-fighters” (Plut. *Aetia Graeca* 32, 298 C), or alternatively between the rich who lived in great luxury and “the common people, whom they called Gergithes” (Athen. 12.523f-524a = Heraclides Ponticus fr. 50). The latter story says that the people temporarily drove the elite out of town and seized the children of the rich to have them trampled to death by oxen on the threshing floor — before being subjected to equally horrific violence in turn when the rich regained control. This manner of execution suggests an agricultural mob, while the name “fist-fighters” and a reference to the Gergithes as “unwarlike” suggest that they were unarmed and thus among the very poor. The composite picture points to agricultural labourers violently taking over the farms on which they toiled. This explains Herodotus’ emphasis on the damage done to estates as well as his story that the dispute was settled by a committee of arbitrators who handed over power to those few whose farms remained well-cultivated, i.e. moderate men who had treated their labourers well enough to avoid a work-force rebellion.⁴⁶

[Leiden and Boston 2006], 351-89). He is surely wrong, however, to use this as an argument against the historicity of the three-way factional conflict which is said to have taken place in subsequent decades: it is simply the case that elite political divisions came to the fore (again) when popular unrest subsided.

⁴⁶ A detailed discussion of this material in V. GORMAN, *Miletos, the Ornament of Ionia* (Ann Arbor 2001), 101-21, which argues for a (possible) seventh-century date, but dismisses the evidence from Heraclides and does not explain the events.

Late archaic parallels may be the expulsion of “the stout ones” (*pacheis*, i.e. the rich elite) from Naxos “by the people” (Hdt. 5.30) around 500 BC, and the occasion in 485 when “the so-called *gamoroi* [‘land-owners’] in Syracuse were driven out by the people and their own slaves, who were called *Kyllyrioi*”. The unusual collaboration between the people and native serfs, and the lack of any resistance when the rich returned with an army from Gela behind them, point to a spontaneous riot by an exploited agricultural population (Hdt. 7.155).⁴⁷

An Athens-style uprising with institutional consequences took place in early sixth-century Megara. “The poor came to the houses of the rich and demanded to be lavishly wined and dined; if they did not get what they wanted they treated them all with violence and *hybris*”. There were also notorious incidents in which crowds plundered a temple and drowned a group of sacred envoys and their families *en route* to Delphi, by pushing their wagons into a lake or marsh.⁴⁸ It has been attractively suggested that some of these episodes were connected with festivals and rituals which allowed the poor relative freedom of action, and which at times of social tension might get out of hand and take a violent turn. Alternatively, the demand for food and drink may have been an attempt to restore conventional patron-client relations which had increasingly been denied the poor, while the temple treasures and sacred embassy may have been attacked as much-resented forms of elite display of wealth.⁴⁹ Additionally,

⁴⁷ I have argued in “Conquerors and serfs”, in *Helots and Their Masters in Laconia and Messenia*, ed. by S.E. ALCOCK and N. LURAGHI (Cambridge, Mass. 2003), 33–80, that the late archaic period also saw a number of serf populations elsewhere rebelling and regaining their independence.

⁴⁸ PLUT. *Aetia Graeca* 18, 295 CD; 59, 304 EF. The slaughter of ‘the livestock of the rich’ which had earlier made the tyrant Theagenes popular (ARIST. *Pol.* 5.5, 1305 a 24–5) presumably also involved mob action.

⁴⁹ Festival connection: S. FORSDYKE, “Revelry and Riot in Archaic Megara”, in *JHS* 125 (2005), 73–92; Id., *op.cit.* (n.15), 54–6; cf. D. OGDEN, *op.cit.* (n.44), 98–9, for stoning and scape-goat rituals. Patronage: H. VAN WEES, “The Mafia of Early Greece”, in *Organised Crime in Antiquity*, ed. by K. HOPWOOD (London 1999), 34–5; P. MILLETT, *Lending and Borrowing in Ancient Athens* (Cambridge 1991), 48–9.

the people are said to have driven out many members of the elite and confiscated their properties (Arist. *Pol.* 5,5, 1304 b 35-40; cf. 4,15, 1300 a 18-19). But apart from doing deeds of *ad hoc* violence, the Megarians “finally enacted a decree (*dogma*) that they should get back the interest which they had given to their creditors, and they called this ‘Return-interest’” (*palintokia*, Plut. *Aetia Graeca* 18, 295 D). This implies a formal political decision and a measure at least as radical as Solon’s cancellation of debt. Aristotle accordingly labelled Megara’s regime at this time, like Athens’ after Solon, a ‘democracy’.⁵⁰ Whatever that meant in practice, and however the decree was enacted, the tradition implies that popular discontent led to political reform.⁵¹

Elsewhere, events took a turn which they might also have taken in Athens if Solon had not refused to exploit popular discontent to the full. In the years around 490, a prominent Aeginetan called Nicodromus sought revenge on “the stout ones” (*pacheis*, again) who had once driven him into exile, and staged a coup with the support of “the people”, as well as an Athenian army. He failed, however, because his allies arrived a day late, and fled while the forces of the elite captured no fewer than 700 “men of the people”, all of whom they executed, even the one who escaped to seek asylum at a temple (Hdt. 6.88-91). A little earlier, Aristodemus of Cumae had followed a similar trajectory with greater success, starting as a leading member of the ruling oligarchy, then putting himself forward as leader of the people against an oppressive regime, and finally having himself appointed to enact a programme of land redistribution and debt cancellation, before being driven out by the returning

⁵⁰ ARIST. *Pol.* 5,5, 1304 b 35-40; *Po.* 3, 1448 a 31-33; cf. PLUT. *Aetia Graeca* 17, 295 C; Solon’s ‘democracy’: esp. *Ath. Pol.* 41.2.

⁵¹ S. FORSDYKE, *op.cit.* (n.15), 54-6, and *art.cit.* (n.49), is rightly sceptical of Aristotle and Plutarch’s hostile spin on all this and of their notion that it represented ‘radical’ democracy; given the parallels with Solon, however, we have no reason to deny the possibility of some institutional change and popular involvement in Megara.

olarchs.⁵² Another generation earlier, around 540, Lygdamis, a member of an oligarchic regime in Naxos, led “the masses” in resistance against their “unjust” treatment by his peers; he was later supported in this fight by troops sent by Peisistratus and made himself tyrant of Naxos. He drove many into exile, only to be driven out in turn when the elite returned with the help of a Spartan army.⁵³ And Lygdamis is only one of several men who are said to have made themselves tyrant with popular support, rather than merely the backing of an elite faction.⁵⁴

Again, the evidence for events in Miletus, Syracuse, Megara, Naxos, Cumae and Aegina, and for ‘popular’ tyrannies in Athens, Corinth and elsewhere, all comes from authors who may well be guilty of anachronism — even Herodotus, although he was born within only a few years of events in Syracuse and Aegina. Yet their stories contain unique details which show that they derived from traditions which were not purely generic fictions, and, much more importantly, they contain nothing that according to contemporary evidence did not either happen or was at least a real possibility in Athens around 600 BC. And some of the things ‘the people’ are said to have done — killing or exiling members of the elite and confiscating their property — were already perfectly conceivable for Homer, another century earlier.

Whenever we can tell, ‘the people’ in these stories, as in Solon’s poems, include the lowest economic strata. This is evident from their demands for debt cancellation and land

⁵² DION.HAL. 7.3-12; PLUT. *Mulierum virtutes*, *Xenocrate*, 261 E-262 D; DIOD. 7.10; cf. A. LINTOTT, *op.cit.* (n.13), 65-6 (“the best example we have of a tyrant who brought about a social revolution”). Other possible parallels are ‘the people’ overthrowing the narrow oligarchy of the Basilidae in Érythrae (ARIST. *Pol.* 5,6, 1305 b 19-22) and the late sixth-century overthrow of the oligarchy of the *hippeis* in Eretria by one of their leading members (5,6, 1306 a 35-36; PLUT. *Amatorius* 17, 760 EF).

⁵³ ARIST. *Pol.* 5,6, 1305 a 37-42; cf. *Ath.Pol.* 15.3; [ARIST.] *Oec.* 2.2.2, 1346 b 7-13; HDT. 1.64; PLUT. *De Herodoti malignitate* 21, 859 D.

⁵⁴ In general, ARIST. *Pol.* 5,10, 1310 b 9-31. Peisistratus: *Ath.Pol.* 13.4, 16. Cypselus: NICOL.DAM. *FGrH* 90 F 57. The validity of these stories is rejected by G. ANDERSON, *art.cit.* (n.17), 194-8, and G. CAWKWELL, *art.cit.* (n.17).

redistribution in Athens, Megara and Cumae, their demands for food and drink in Megara, their unarmed, peasant type of violence in Miletus, and their collaboration with serfs in Syracuse. Their poverty would not prevent such men from joining mobs throwing stones at hated members of the elite, nor would it prevent them from serving as stone-throwers in general levies resisting a coup, at least for a couple of days. They could not, of course, afford to spend much time in assemblies and courts, but on the other hand there was nothing to stop them attending occasionally when temporarily unemployed or briefly at leisure. When our sources speak of the actions or views of the *demos*, therefore, they mean the whole population, not just 'the entire elite', or only a 'middle class' of hoplite farmers, if such a thing existed.⁵⁵

The political interests of the lowest economic strata must have been limited. They could not possibly have aspired to hold political office until the introduction of pay for office in mid-fifth-century Athens — a true turning point for democracy, as Kurt Raaflaub has argued.⁵⁶ Solon's reform of the property-classes and the Council, for instance, cannot have affected them at all, and he accordingly makes no mention of it in his poems when he defends himself against popular criticism. Politics at this level would have been for the 15% or less of citizens who could afford to live lives of leisure, not the 85% who toiled as smallholders, sharecroppers or hired labourers.⁵⁷ But this is not to say that the latter had no political interests at all. They would suffer along with everyone else if inept military leadership caused great losses or provoked retaliation. And if they endured economic hardships and humiliation, they might well look beyond rioting against their immediate greedy

⁵⁵ Which it did not: see H. VAN WEES, *art.cit.* (n.45), and ID., in *War as a Cultural and Social Force*, ed. by L. HANNESTAD and T. BEKKER-NIELSEN (Copenhagen 2001).

⁵⁶ *Art.cit.* (n.32); and "Power in the Hands of the People", in *Democracy 2500?* (*op.cit.* n.40), 31-66.

⁵⁷ For the estimated proportions, see H. VAN WEES, *art.cit.* (n.45), 360-7.

employers or aggressive neighbours and think about changing the political regime which allowed or encouraged these conditions.

They might support a *coup d'état* by a public figure who had a reputation for treating his workers, debtors and poor citizens generally with moderation, and who promised to stop the abuses perpetrated by his peers. The oracle which described Cypselus as "a boulder which will crush monarchic men and bring justice to Corinth" (Hdt. 5.92.*eta*) would have appealed to them. Equally, they might be interested in legal and other institutional reforms which offered hope of limiting oppression. Among the achievements which Solon listed in his own defence was writing down laws which ensured justice for all classes alike (fr. 36.18-20, cited above). For *Athenaion Politeia*, the 'most democratic' features of Solon's reforms, after the law forbidding enslavement for debt, were two major changes to the judicial system: the introduction of third-party litigation and of appeal to a popular court (9.1), both surely designed to give the common man a better chance of defending himself in court against the depredations of the elite. Not coincidentally, the only institutional reform attributed to Peisistratus is the establishment of local judges, which along with his personal intervention in disputes reduced the scope for abuse of power by local magnates (*Ath. Pol.* 16.5).

Cleisthenes' offer of 'power' to the people, in exchange for protection against Isagoras, continued this pattern. Precisely what his reforms entailed remains disputed, but it seems clear enough that the emphasis lay on changing power relations on the local level of the demes. Whatever it meant for the political elite, this would have appealed to even the poorest citizen as holding out the promise that the power of local elites would be further reduced and abuses of power curtailed. This would surely be enough to win them over to Cleisthenes' side, especially since in return they were only asked to play the role which the people traditionally played in elite rivalry anyway. No radical new behaviour by the people of Athens, then, nor a

fundamentally new approach to politics by Cleisthenes, but an example of how the community's long-established habit of intervening in elite *stasis* and its equally old habit of asserting its own interests, violently if necessary, could combine to produce political change.⁵⁸

In sum, archaic civil conflict was not only endemic and violent but could spread far beyond the political elite to embroil the whole community, in much the same way as classical *stasis* sometimes did. Hence throughout the archaic age efforts were made to reduce social and political tensions, restrict the use of violence, and achieve some measure of internal security.

The search for security

Many institutional developments of the seventh and sixth centuries BC — not least the gradual and limited development of democracy — can be understood as part of an ongoing drive by Greek communities to create greater political stability.

The 'disarmament' of the community, as one might call it, is one significant, but rarely discussed, trend. In Homer's world, men carry swords at all times and often spears as well, but in classical Athens the weapons of choice in private fights and brawls were merely fists, sharp potsherds and blunt sticks. The change was brought about in part by legislation: across Sicily and Southern Italy many Greek cities enacted laws, attributed to archaic lawgivers, which banned citizens from carrying weapons in meetings of council or assembly, or even from carrying them in the *agora* at any time. The Spartans went one better and banned even the carrying of staffs in assembly, which was normal practice in Athens. 'Fashion' also helped this process of internal pacification. Iconographic evidence reveals ever-greater display of wealth by means of elaborate dress from

⁵⁸ By contrast the *substance* of Cleisthenes' reforms was indeed radically innovative: see below.

c. 650 onwards, and a corresponding decline in the display of weapons. The assignation of a bodyguard of club-bearers to Peisistratus shows that by the mid-sixth century swords and spears were no longer routinely carried in Athens and that a conscious effort was made to conduct internal conflict without resorting to weapons of war.⁵⁹

Much better-known is of course the ‘codification’, or at least writing down, of laws regulating procedures for dispute settlement, above all for disputes arising from murder and property rights. The minute detail of the procedures laid down in Draco’s homicide law is matched by, for example, the meticulous definition of property boundaries and rights of access to sources of water in Solon’s laws. Inheritance laws were prominent everywhere, in order to avoid not only grievances between rival heirs but also the sort of resentment which Hesiod’s *Works and Days* vents against the elite judges who handled such inevitably fraught cases.

Then there are the laws regulating the power of, and access to, political office. These are best understood as aiming to minimise elite *stasis* by limiting the amount of formal power and attendant prestige which any single individual could acquire and thus sharing out ‘the honours’ (*timai*) as widely as possible among the elite. This is true even of Solon’s reform of office-holding, which has widely been seen as extending office-holding rights to a previously excluded ‘middle class’, represented by the property-class of the so-called *zeugitai*. As Lin Foxhall has shown, the *zeugitai* were in fact wealthy men who belonged to the leisured elite. Solon’s reforms in this respect therefore served, not to bring the masses into politics, but to reallocate political privileges amongst the elite, and in particular to stop

⁵⁹ See H. VAN WEES, “Greeks bearing arms”, in *Archaic Greece*, ed. by N. FISHER and H. VAN WEES (London 1998), 333–78. Cf. S.-G. GRÖSCHEL, *Waffenbesitz und Waffeneinsatz bei den Griechen* (Frankfurt 1989), which focuses on the alleged wholesale disarmament of citizens by tyrants — one aspect of later traditions about tyranny which in my view is anachronistic (it is notably not attested in Herodotus or Thucydides).

sections of the political elite from trying to monopolise power by claiming hereditary rights to office as “*eupatridae*”.⁶⁰ Attempts to break out of the limitations imposed by such constitutional law often took the form of tyranny, and indeed one might argue that the concept of the *tyrannos* emerged precisely when and because constitutional limitations to elite power were first being formulated. This in turn gave rise to further attempts to control such ambition by legislation, as in the Athenian law against tyranny (*Ath. Pol.* 16.10) and Solon’s *stasis* law.

Alongside such efforts to contain elite *stasis* we find much legislation designed to prevent popular resentment and rioting by limiting economic exploitation and verbal or physical abuse of the poor. In part, this involved direct measures such as Solon’s *seisachtheia* and the Megarian *palintokia* which removed major grievances, at least in the short term. Notable indirect measures included sumptuary legislation, which tried to take away the main incentive for exploitation of the poor by forbidding the rich to engage in conspicuous consumption, and Solon’s ban on the export of all agricultural products except olive oil, which tried to achieve a similar effect by depriving the rich of the most profitable outlets for their produce. And, as mentioned already, major changes were made to the legal system in Athens to give the poor a better chance of finding legal redress for injustices suffered at the hands of the elite: Solon’s popular court of appeal; Peisistratus’ local judges; and the so-called law of *hybris*, the remarkable wording of which illustrates the principle of third-party prosecution:

“If anyone commits *hybris* against another, be it a child or a woman or a man, be it a free person or a slave, or if he does anything illegal against any of these, let any Athenian who has the right to do so bring a prosecution before the Thesmothetai ...”
(Dem. 21.47)

⁶⁰ L. FOXHALL, “A view from the top”, in *The Development of the ‘Polis’ in Archaic Greece*, ed. by L.G. MITCHELL and P. RHODES (London 1997), 113–36. For this interpretation of Solon’s office-holding reforms, see H. VAN WEES, *art.cit.* (n. 45), 367–81.

The message could not be clearer: the whole population of Athens, even the slaves, deserved legal protection against any kind of harm and violence, especially of the humiliating kind which the rich and powerful typically inflicted on the poor and weak.⁶¹

Most significant for the political development of Greece was the greater power which gradually accrued to popular assemblies, and the formal recognition of their sovereignty. As we have noted, it is a mistake to picture early Greek assemblies as wholly powerless, no more than a token audience for elite decision-making. This image is based on their representation in Homer, which reflects elite wishful thinking rather than contemporary reality, and is corrected elsewhere in the epics by references to forceful self-assertion by the community. When Homer's heroes allocate booty or land or prize shares of food and drink, they are often said to do so on behalf of 'the people', and some sort of passive popular sovereignty is implied. Still, this is some way from full and formal popular sovereignty and majority voting of the kind encountered in classical Athens and elsewhere. The earliest steps in this direction were the formal recognition of (limited) popular sovereignty in the Spartan Great Rhetra (which I would date to c. 600, though most place it c. 650), and the various 'popular' councils and boards of officials first attested at about the same time, which were no doubt still manned by the elite but formally identified themselves as bodies of government which represented the people at large. Why did the elite make such concessions? I would argue that it was precisely because 'the people' had previously been far from powerless and passive and had frequently resorted to extreme violence against their rulers. It was in order to prevent popular sentiment from erupting in such ways that assemblies were given formal powers and procedures to make sure that the wishes of the majority were heard.

⁶¹ For the law and the concept of humiliating aggression, see N.R.E. FISHER, *Hybris* (London 1992).

The most radical and successful attempt to contain the violence of *both* the elite *and* the people was made in Cleisthenes' reforms — even if the political events which inspired them had in themselves not been unusual. Cleisthenes' complex reorganisation of the Athenian tribes broke up the regional divisions which had shaped, or had been shaped by, by elite *stasis* over the previous two to four generations; his devolution of power to the local level — especially, I hope to argue elsewhere, in the least-discussed of his reforms, the replacement of *naukraroi* with demarchs — gave the poor greater protection against abuse; and his creation of a new Council gave national government a new legitimacy as properly representing the whole community. Most ingeniously, the institution of ostracism, whenever exactly that happened, offered a perfect means of leading both elite rivalry and popular discontent into non-violent channels: by allowing the most resented person in the community to be driven out of town by majority vote and return ten years later without loss of property or status, it proved possible to avoid the cycle of violent expulsions and returns which had plagued so many other cities.⁶²

Although Athens continued to live in fear of *stasis* throughout the fifth century, political crises passed off with little bloodshed for a century after the reforms. Cleisthenes certainly made Athens "much more democratic" (*Ath. Pol.* 22.1, 41.2) in a number of ways, but we ought to remember above all that his reforms created the political stability which is a precondition of democracy, and that, whatever he did for political equality in Athens, Cleisthenes created a constitution "with a view to harmony and security" (*Plut. Per.* 3.2).

⁶² This is the main argument of S. FORSDYKE's book, *op.cit.* (n.15), and it is brilliantly made — although I hope to have shown that the involvement of the people at large is not the entirely new element she argues it is.

DISCUSSION

C. Brélaz: J'ai noté avec intérêt vos propos sur les révoltes populaires dans la cité archaïque et l'impact que ces mouvements de foule ont pu avoir sur la façon dont les aristocrates percevaient le peuple comme force politique. En concédant de nouveaux pouvoirs au *dèmos* afin de prévenir des émeutes, les aristocrates ont reconnu *de facto* le poids sociologique incompréhensible que représente le peuple en tant que foule, numériquement supérieure et potentiellement violente. Vous avez montré, par ailleurs, l'existence, dans la littérature archaïque, de différents termes dénotant le danger que constituent les troubles civils et de plusieurs expressions qualifiant l'insécurité. Mais qu'en est-il de la notion de sécurité publique? Ce concept est-il alors positivement établi, comme c'est le cas aux périodes postérieures avec les termes d'*asphaleia* et de *phy-lakè* notamment?

H. van Wees: Despite expressing a fear of insecurity so often and in such varied ways — being 'beyond rescue', having 'no protection', and so forth —, archaic poets do not, I think, formulate a positive concept of security or stability. *Asphalès*, for example, is used by Archilochus of an individual standing "steady" in battle [fr. 114.4; 128.4], but not in an abstract or political sense. This is quite surprising, and I am grateful that you have brought this to my attention. The formulation of an abstract notion of 'security' appears be a new development of the classical period, a reflection perhaps of the growing complexity of political thought.

A. Lintott: Does *eunomia* not cover the concepts of security and stability in the archaic period?

H. van Wees: Yes — I had not thought of that, but you are right that *eunomia* denotes a state of affairs in which internal violence and division are eliminated, as Solon explicitly says: “*Eunomia* ... halts the works of faction (*dichostasis*), stops the anger of harsh rivalry (*eris*)” (fr. 4.37-38). So a lack of conflict was seen as one of the main benefits of *eunomia* and the word therefore implies security, much as the modern phrase ‘law and order’ does. Still, it is interesting that classical authors developed a concept of ‘security’ as a distinct goal in its own right, rather than leaving it implicit in broader notions such as *eunomia* or *homonoia*.

A. Lintott: You argued against my view that the word *stasis* includes non-violent political opposition as well as civil war. Yet Herodotus places *stasis* in a sequence after ‘feuds’ but before ‘murders’, and Theognis likewise distinguishes *stasis* from killings. Does this not suggest that a political conflict could be called *stasis* even before it turned violent?

H. van Wees: I must concede that it is hard to tell what kind of opposition is conveyed by the word *stasis*. It is true that Theognis and Herodotus present murders as a result of *stasis* rather than as an integral part of it. By the same token, however, Herodotus presents *stasis* as a step beyond a ‘great feud’, which in turn is presumably already one step beyond routine political opposition. Perhaps the close association between these three terms is more significant than the precise sequence in which they appear. Solon’s law demanding the taking up of arms in case of *stasis* does seem to me to show that we cannot be dealing with simple day-to-day political disagreement, but beyond that we can only guess at what point on a sliding scale of political friction a situation became tense enough to qualify as *stasis*. If it did not take an actual assassination, I imagine that it must have taken at least minor acts of violence — beatings, woundings, seizures of property — before a state of *stasis* was felt to exist.

A. Chaniotis: I wonder to what extent the insecurity and violence which you have described in your paper is reflected in sources in which we might expect it to be reflected. For example, I cannot recall any allusions to persons killed during internal strife in epitaphs of the archaic and classical period. Is this because this type of commemoration (*mnesikakein*, as it were) seemed inappropriate? There are also hardly any relevant monuments (e.g., the statue of the tyrant-slayers in Athens). On the other hand, we do find at least indirect references in other sources. A scolian sung in classical Athens by aristocrats, for instance, recalled their battle against Peisistratus at Leipsydrion; the murder of Hipparchus during the Panathenaic festival at the Leokoreion (an Athenian *lieu de mémoire*) indirectly transformed the festival into a commemorative anniversary of the killing of the tyrant and attached a new memory to the Leokoreion. I have the impression that some sacred regulations, such as those aiming at the limitation of supplication in sanctuaries, or the idea that the killing of a tyrant or an oligarch does not cause miasma (e.g., in relevant laws in Athens and Eretria), or the unique prohibition against traitors entering a sanctuary in Eresos, are directly connected with experiences Greek cities had of political violence and its attendant problems.

H. van Wees: The rarity of commemoration of civil war is perhaps not surprising, since, as you rightly suggest, it is not generally regarded as appropriate to perpetuate the memory of civil war. Monuments to internal conflict might actively encourage its continuation. It has been thought that the epitaph of the Athenian Kroisos, for example, commemorated his death in the battle of Pallene against Peisistratos. But if so the occasion of his death is glossed over with a generic, heroic allusion to his falling “among the *promachoi*”. A recent suggestion is that archaic monuments referring to Athenians as *eupatridai* allude specifically to their opposition to the tyrants [A. Duplouy, “Les Eupatrides d’Athènes, ‘nobles défenseurs de leur

patrie”, in *Cahiers Glotz* 14 (2003), 7-22], but this is still not explicit commemoration of civil conflict.

Religious institutions which inhibit violence are of great interest, and I am grateful for your references. I should have considered this religious dimension which can significantly enrich the general picture of widespread attempts to reduce internal violence. Sacred laws will no doubt repay further study in this context.

A. Chaniotis: Are the phenomena which you have described more common in big cities? Can they be regarded as the result of urbanisation processes and the movement of population to urban centres? Note the reference to *astoi* in Solon and the contemptuous remarks of Theognis concerning the savage rustics who have taken over the city.

H. van Wees: The relation between civil conflict and urbanisation is certainly another topic which deserves more thought. On the one hand, one might think that life in larger, denser settlements provides more scope for conflict; on the other hand, in such settlements it is all the more important that people cooperate, and one might imagine greater efforts being made to avoid open antagonism. So it is not immediately obvious that urbanisation would necessarily increase conflict amongst the political elite. If the process involved the movement of large numbers of agricultural labourers and smallholders into an urban settlement, the likelihood of popular riots and lynchings would probably increase. Theognis' complaint about an influx of 'savage rustics', however, does not, I think, refer to the formation of an agricultural proletariat in town, because these men are said to have become Megara's new upper class, after all. Theognis' resentment focuses on upward social mobility rather than geographical mobility. Later stories do tell of Peisistratus and Cleisthenes of Sicyon finding ways to keep the poor outside the city, which suggests anxiety about the role of the agricultural labour force, but whether this represents archaic or classical anxiety is hard to tell.

Most of the cities which feature in my account were indeed large — Athens, Syracuse, Miletus, Mytilene, and Naxos, which had the same number of citizens as Sparta around 500 BC, according to Herodotus [5.30.4; 7.234.2] — but that probably just reflects the fact that we have little information about the smaller and less powerful cities. I can think of two counter-examples: archaic Megara was a relatively small community, long settled in scattered villages, with a notably violent history of civil conflict, while classical Athens was the largest city in Greece, yet its level of political violence was relatively low.

W. Riess: You rightly stress the continuity of endemic insecurity from archaic to classical times. I wonder, however, if we cannot discern shifts in the meaning and phenomenology of *stasis*. What are, in your opinion, the most significant changes, if any, between the two epochs with regard to social unrest and political violence?

H. van Wees: So far as the meaning of *stasis* is concerned, I was struck by the very close similarity between some of Theognis' warnings and the famous observations on *stasis* made by Herodotus and Thucydides, and on that basis I would say that at the level of concepts the continuities are strong and clear. More detailed lexicographical analysis will no doubt reveal subtle differences, however.

The nature of actual political conflict may well have changed more than its vocabulary did. The parties to classical *stasis* are usually presented in our sources as having explicit political agendas, programmes for oligarchic or democratic reform. It seems likely that such articulate and complex political goals featured less in archaic than in classical civil conflict. When the author of *Athenaion Politeia* attributed distinct constitutional goals to each of the factions in mid-sixth-century Athens, he was surely projecting back a typical feature of classical *stasis*. But I am inclined to see this as a change of emphasis, a change in how political rivalry was legitimised, rather than a fundamental difference.

In both archaic and classical Greece, city politics were dominated by two or three major factions, some of which from time to time tried to win the support of the wider community. In archaic Greece, factions seem generally not to have proposed structural change to the system of government but merely claimed that, if granted power and honour, they would govern fairly and to the benefit of everyone. In classical Greece, the agenda was less personal and less vague insofar as each side justified its existence by advocating a specific form of government, but ultimately these programmes still served to win power and honour for the elite factions involved, whether they called themselves oligarchs, democrats or 'moderates'.

So I will concede that the apparent differences between the archaic and classical incarnations of *stasis* are not only a reflection of the changing nature of our sources but also of a real change in political self-representation, at least.

W. Riess: Concerning Athens you speak of the fear of *stasis* in the fifth century. Did the fear of *stasis* subside in the fourth century? Thinking of the strong discourse on tyranny and the Eucrates-decree, for example, I wonder if the fear of *stasis*, if not the real threat of *stasis*, was still lurking in the background during the fourth century BC.

H. van Wees: You are very probably right. Certainly ferocious civil wars continued to erupt in many other cities throughout the fourth century, and the threat must have remained quite evident to the Athenians. The rhetorical emphasis on harmony between rich and poor in the Attic orators suggests that civic unity was not something which could be taken for granted even in Athens itself.

R. MacMullen: I think I can see from your description a middle element in states. Sometimes you point to it expressly. At the top are the dangerous people, members of the leadership stratum who are at the moment 'rogue' factors. At the bottom

are the masses, sometimes appearing to act *en masse*, but rarely. In between you mention magistrates, sometimes, or popular leaders who appear not to be of the 'nobility'.

I wonder whether the existence of such in-between power brokers or mediators does not imply the existence of dependency-groups reaching down into the masses, like *clientelae*. Do we hear of such things? Perhaps you could shed light on this 'middle'.

H. van Wees: You identify two elements which complicate my picture of archaic politics a good deal, and which I should have discussed. I imagine archaic Greek society as quite starkly polarised between rich and poor, with so few in the middle that one cannot really speak of a 'middle class', but there does seem to be a 'middle' group in a different sense. The story of events in Athens in 508 BC implies that numerous councillors (and presumably some magistrates) were not closely affiliated with either Cleisthenes' or Isagoras' factions, yet they must have belonged to the leisure class, since they were able to serve on the Council in the days before pay for office. So if this story is at all accurate, we have an elite 'middle' of sorts, by the end of the sixth century at any rate, which might act as an intermediary in political conflict.

Relations of dependency must have been important in archaic Greece, although they are rarely mentioned and evidently highly informal, unlike the Roman *clientela*. Their scale and nature are hard to determine, and their role in *stasis* even harder. The 700 households which formed Cleisthenes' faction were presumably bound together by favours and the like, but since the total number of those embroiled in factional rivalry amounted to no more than 3% of the citizen population, they probably did not include many poor men economically dependent on their patrons. Perhaps poor dependents were occasionally used as 'muscle' in elite rivalry. I suppose I would have to argue that the bulk of the lower classes were not so closely dependent on their patrons and

employers that they could not intervene as an independent force at times.

As for the other kind of *stasis*, the popular uprising, I have argued elsewhere [van Wees, *art.cit.* (n.49)] that it might be sparked off by the *decline* of patronage. The seventh-century elite was increasingly reluctant to extend patronage, preferring to exploit their labour force to the hilt. Rioting and agitation for the cancellation of debt and redistribution of land was often the result.

P. Ducrey: Apart from internal threats to security there were of course external threats as well. I wonder if you think that such internal and external threats have any bearing on yet another major phenomenon of the archaic age: colonization?

H. van Wees: Yes indeed. Both are a major driving force behind overseas settlement, I believe, and I am glad that you have given me the opportunity to make this point. A number of well-known stories explicitly identified certain groups of overseas settlers as men who left their cities because they had been defeated in civil or external wars, or wished to avoid fighting such wars, or were simply not satisfied with their social and political status at home. The Samians rebelling against Polycrates spring to mind, or the legendary Parthenioi and the historical Dorieus leaving Sparta for the West, or the Phocaeans and Teans escaping from the conquering Persians to Sardinia and Abdera. Stories about murderers going into exile and founding new towns abroad point in the same direction, even if they also carry the sort of symbolic meanings analysed by Carol Dougherty. And it is very tempting to connect the vast number of overseas settlements said to have been founded by Milesians with the brutal *stasis* which tore Miletus apart for two generations, according to Herodotus.

Even if one thinks of overseas settlement as 'colonization' in the modern sense, as a state-organised enterprise, the

establishment of a 'colony' to resolve an internal conflict seems a plausible enough scenario. If one follows Robin Osborne in assuming that many archaic overseas settlements were in fact *private* enterprises, then it becomes even more likely that that refugees from all kinds of internal conflict and war provided a large proportion of settlers. Internal conflict ought to be considered an engine of overseas settlement at least as powerful as trade or landhunger.

WERNER RIESS

PRIVATE VIOLENCE AND STATE CONTROL

THE PROSECUTION OF HOMICIDE
AND ITS SYMBOLIC MEANINGS
IN FOURTH-CENTURY BC ATHENS*I. *Introduction*

How did the Athenian state rule itself and keep violence at bay in the absence of a regular police force? In the context of this article, I mean by "private violence" the physical maltreatment of another human being outside the direct realm of politics. For the purpose of brevity, I will focus on homicide and the symbolic reaction of the victim's relatives within the judicial system.

Anyone trying to explain the remarkable stability of the Athenian social and political system for almost two hundred years is inevitably confronted with questions of fundamental importance. To what extent can we speak of state control at all? How did Athenians maintain law and order? Many researchers have paid due attention to this question of law enforcement without solving it for good.¹ V.J. Hunter and D. Cohen have

* I thank Professor Michael Gagatin (University of Texas at Austin), Professor David Phillips (University of California at Los Angeles), and Professor Robert Wallace (Northwestern University) for reading and commenting on my text. I am indebted to David Carlisle (MA) for correcting my English. All remaining mistakes and inaccuracies are my own.

¹ N. FISHER, "Workshops of Villains: Was there much Organised Crime in Classical Athens?", in *Organised Crime in Antiquity*, ed. by K. HOPWOOD

discerned social control as a key factor in “policing” Athens.² Also self-help remained an integral part of the Athenian system of justice as long as it remained within a legal frame and did not affect the inviolability of the body or the house of an Athenian citizen.³

Since there was no state-run police apparatus, no bureaucracy, and no legal experts, the judicial system was largely dependent on self-help. The citizens had to do the detective work, examine the laws, collect the evidence, arrest the cul-

(London 1999), 53-96, 53, 71; Id., “Violence, Masculinity, and the Law in Classical Athens”, in *When Men were Men. Masculinity, Power, and Identity in Classical Antiquity*, ed. by L. FOXHALL & J. SALMON (London – NY 1998), 68-97, 78-80. Based on ARIST. *Ath.Pol.* 24,3 who speaks of 700 *archai* in Athens, researchers have tried to calculate the total number of magistrates in Athens. In rejecting M.H. HANSEN, “700 Archai in Classical Athens”, in *GRBS* 21 (1980), 151-173, D.S. ALLEN, *The World of Prometheus. The Politics of Punishing in Democratic Athens* (Princeton, NJ 2000), 305-316 finds Aristotle reliable. In accepting Aristotle’s number, she includes the 500 *bouleutai*. Only a tiny minority of these 700 officials were concerned with law and order in the widest sense: first and foremost the Eleven, the board of prison guards and executioners, the 10 *agoranomoi*, 10 *astynomoi*, 10 *metronomoi*, 35 *sitophylakes*, 10 *epimeletai tou emporiou*, and the Forty (*hoi tettarakonta*): D.S. ALLEN, *The World of Prometheus*, 310-312. On the Forty cf. S.C. TODD, “The Rhetoric of Enmity in the Attic Orators”, in *Kosmos. Essays in Order, Conflict, and Community in Classical Athens*, ed. by P. CARTLEDGE – P. MILLETT – S. VON REDEN (Cambridge 1998), 162-169, 166. It must have been a daunting challenge for these low-ranking magistrates, who were chosen by lot for a year, to enforce the law in the metropolis of Athens that counted app. 20,000-30,000 adult citizens during the fourth century BC: S.C. TODD, “The Rhetoric of Enmity”, 163. G. HERMAN, *Morality and Behaviour in Democratic Athens. A Social History* (Cambridge 2006), 229-246 does not mention these magistrates in this context, while the 300 Scythian archers, to whom he attributes a great deal of importance, were abolished by the end of the fifth century BC and cannot explain Athens’ stability during the fourth century.

² V.J. HUNTER, *Policing Athens. Social Control in the Attic Lawsuits*, 420-320 BC (Princeton, NJ 1994), *passim*, but especially 3-8, 96-119; D. COHEN, *Law, Sexuality, and Society. The Enforcement of Morals in Classical Athens* (Cambridge 1991), 133-202. Most recently ID., “Crime, Punishment, and the Rule of Law in Classical Athens”, in *The Cambridge Companion to Ancient Greek Law*, ed. by M. GAGARIN – D. COHEN (Cambridge 2005), 211-235.

³ For example DEM. 22,55-56. Here lies the core of the problem Euphiletus has to cope with in justifying his deed in court (Lys. 1, *On the Death of Eratosthenes*).

prit (in most cases), initiate the legal proceedings, plead in court, and finally enforce or execute the verdict rendered (in most cases).⁴ V.J. Hunter distinguishes between private initiative and self-help, the latter denoting the concrete physical action against a malefactor. At the same time, self-help is a subcategory of self-regulation, the sum of all actions an aggrieved party had to take to compensate for the shortcomings of the state in terms of law enforcement.⁵ There is a broad consensus that Athens was a self-regulating society in this sense.⁶

⁴ V.J. HUNTER, *Policing Athens*, 149-151; M. CHRIST, "Legal Self-Help on Private Property in Classical Athens", in *AjPh* 119 (1998), 521-545, 521. The reliance upon the individual to carry out the judges' sentence required superior physical force on his side: F. RUIZ, *Use and Control of Violence in Classical Athens*, Unpublished PhD dissertation (Johns Hopkins University 1994), 75. Normally, one had to collect the sum of money oneself that a debtor owed to him or even to the city: D.S. ALLEN, *The World of Prometheus*, 202. To ensure one's own physical superiority, one normally enlisted the help of friends to exact whatever was due: M. CHRIST, "Self-Help", 531. It was only under special circumstances, for example if the creditor thought himself too weak, that he could apply for state-help (*dike exoules*) in the form of officials appointed by the state who would help or even carry out the confiscation of property: A.R.W. HARRISON, *The Law of Athens. II. Procedure* (Oxford 1971), 186-189. On the *dike exoules* cf. M. CHRIST, "Self help", 532-533. Concerning the arrest of malefactors, the same mechanism was at work. If one was strong enough, one got hold of the perpetrator oneself (*apagoge*), if one was too weak, one could call upon a magistrate (*ephegesis*). Demosthenes mentions the *ephegesis* twice, once referring to a case of theft (DEM. 22,26). The other passage is DEM. 26,9, where the procedure is just mentioned. Cf. A.R.W. HARRISON, *The Law of Athens*, II 232 on these two instances.

⁵ V.J. HUNTER, *Policing Athens*, 120-153, 188.

⁶ D. PHILLIPS, *Homicide, Wounding, and Battery in the Fourth-Century Attic Orators*, Unpublished PhD dissertation (Ann Arbor, MI 2000), 256 characterizes the situation very well: "The law of classical Athens did not seek to eliminate or suppress self-help to any meaningful extent. Rather, given the [...] dichotomy of a highly-developed legal system with very limited personnel, the Athenians relied on the initiative of private individuals for the administration of justice at all stages". Cf. also N. FISHER, "Workshops of Villains", e.g. 66, 83; D. COHEN, "Crime", 214. P. RHODES, "Enmity in Fourth-Century Athens", in *Kosmos. Essays in Order, Conflict, and Community in Classical Athens* (Cambridge 1998), 144-161, 149-152 points out that private prosecution and private law enforcement often had the consequence of continuing and exacerbating the conflict.

II. *The Tension Between Self-Help and State Control*

There can be no doubt that Athenians were proud of their laws and took them seriously. Some even regarded them as the bulwark of democracy—they alone protected the poor and weak from the rich and strong,⁷ but Athenians had problems enforcing these laws. It may be right to speak of the rule of law at Athens,⁸ but we should keep in mind that this concept is almost certainly an idealization of reality.⁹ We know that Athenians were concerned about violence and were aware of the danger that an outraged victim could potentially trigger *stasis*,¹⁰ but the state did not have the means to intervene and therefore had to rely on the individual citizen's capacity for self-help. But how much self-help is acceptable in a state that officially proclaims the rational rule of law? Where does the necessary and partly institutionalized self-help clash with the claim to power that every state makes? In other words, how much self-help does the Athenian state condone, although it badly needs it? How can revenge be limited, when, at the same time, self-help is permitted and even, to a large degree, required?¹¹ This tension between private self-help and state control needs to be examined in more detail.¹² M. Christ has

⁷ DEM. 23,69. DEM. 21,76 finds classical formulations to postulate the state's monopoly of exerting violence. Demosthenes speaks here the democratic *polis*-discourse on his own behalf; the practice may have looked very differently.

⁸ So E. HARRIS programmatically in the title of his collection of articles: *Democracy and the Rule of Law in Classical Athens. Essays on Law, Society, and Politics* (Cambridge 2006). P. RHODES, "Enmity", 160 doubts that we can speak of a "rule of law" in our sense. The fact that there were many trials does not make the social, political, and judicial system of Athens less foreign to us.

⁹ V.J. HUNTER, *Policing Athens*, 186 explicitly denies the Athenian state's monopoly on the legitimate use of force.

¹⁰ ARIST. *Ath. Pol.* 5,1,6-7.

¹¹ D. COHEN, "Crime", 226-229.

¹² D. COHEN, "Crime", 220 frames the question thus: "there were countervailing values to the rule of law at Athens, values that dictated that men should answer certain kinds of violence against their persons or families in like terms. Such values existed in tension with the recognition that the purpose of the laws

aptly treated this subject with regard to trespass. In Ps.-Demosthenes 47 and 58, to name just two examples, individuals invade private property and violate thresholds, allegedly backed up by state authorities to confiscate property the value of which they could legally claim.¹³ In discussing this tension between the protection of one's private sphere and the right of the state to intervene and even invade private property if need be, M. Christ comes to an ambivalent conclusion. On the one hand, the *kyrios* had plenty of freedom in the defense of his *oikos*. On the other hand, the *polis* wanted and had to lay hands on private property to prevent or stop the abuse of the owner. The *polis*, however, was only allowed to violate the seclusiveness of the *oikos* under very special circumstances.¹⁴

III. *Self-Help in Athenian Homicide Law*

In the prosecution of homicide this tension was mitigated, because in homicide law the Athenian state had appropriated retributive violence more completely than in any other domain.¹⁵ In favor of legal settlement, Drakon had eliminated self-help in its most extreme form, the blood feud, at least in cases of unintentional homicide.¹⁶ In classical times, defendants found guilty of intentional homicide could either go into

providing punishment for violence, hubris, and the like is to take such conduct outside of the realm of private vendetta and make it the business of the state and its courts".

¹³ In Ps.-DEM. 47, the speaker claims to have deposited the sum owed to Theophemus at a bank in the Peiraeus. Hence, the seizures at this farm were of questionable legality.

¹⁴ Even agents of the state should not enter private homes without a decree: DEM. 18,132 (reporting a comment by Aeschines).

¹⁵ Totally different is the situation in a case of rape, for example, where self-help was not only permitted, but even required in most ancient societies: G. DOBLHOFER, *Vergewaltigung in der Antike* (Stuttgart-Leipzig 1994), 47-52, 81-82.

¹⁶ What remained from the archaic blood feud was the right of the relatives to watch the execution of the killer: D. COHEN, "Crime", 229.

life-long exile before the end of the trial or were executed by the Eleven right after the pronouncement of the verdict. Their property was confiscated by the state. Persons convicted of unintentional homicide had to go into exile and could return after reconciliation with the victim's family. There was no loss of property. Thus, the state controlled the whole prosecution for homicide, but could still not do without a high degree of self-help in this process.

M. Gagarin has dedicated a book to the relationship between the Drakonian law of unintentional homicide and self-help.¹⁷ [...] Drakon's law reveals a system of compulsory trial and sentencing in cases of homicide, supported by self-help on the part of the victim's relatives. In other words, the Athenian legal system has by this time incorporated the system of self-help into a system of compulsory legal procedure. The system makes extensive use of self-help, but the subordination of self-help to the judicial process is clear.¹⁸ Since the Drakonian law of homicide remained quite stable over the centuries,¹⁹ self-help remained an integral part of Athenian homicide law throughout the classical period.²⁰

¹⁷ M. GAGARIN, *Drakon and Early Athenian Homicide Law* (New Haven, Conn. 1981) also gives the text, provides an English translation (xiv-xvi) and a detailed interpretation of the Drakonian law. The homicide statute is partly preserved in DEM. 23,60; 43,57; IG I² 115 = IG I³ 104 = *Syll.*³ 111 = R. MEIGGS-D. LEWIS, *A Selection of Greek Historical Inscriptions to the End of the Fifth Century BC* (Oxford 1969), No. 86 = M. TOD, *A Selection of Greek Historical Inscriptions* I² (Oxford 1946), No. 87 = K. BRODERSEN-W. GÜNTHER-H. SCHMITT, *Historische Griechische Inschriften in Übersetzung* I (Darmstadt 1992), 145. This epigraphic fragment from 409/8 BC, a copy of the law issued in 621/20 BC, was republished by R.S. STROUD, *Drakon's Law on Homicide* (Berkeley 1968).

¹⁸ M. GAGARIN, *Drakon*, 163. On the historical development of the Athenian court system cf. E. CANTARELLA, "Violence privée et procès", in *La violence dans les mondes grec et romain. Actes du colloque international* (Paris, 2-4 mai 2002), ed. by J.-M. BERTRAND (Paris 2005), 339-347.

¹⁹ G.M. CALHOUN, *The Growth of Criminal Law in Ancient Greece* (Berkeley 1927) postulates a development in Athenian criminal law. His idealization is rightly rejected by M.H. HANSEN, *Apagoge, Endeixis and Ephegesis against Kakourgoi, Atimoi and Pheugontes* (Odense 1976), 113-118.

²⁰ M. GAGARIN, *Drakon*, 164.

In order to file a *dike phonou* (δίκη φόνου), which was the normal procedure the victim's family initiated to prosecute homicide,²¹ the competent relative had to make two public proclamations: one at the funeral with a spear in his hand, an archaic relic reminding the mourners of the blood feud, and another in the *agora* to warn the murderer not to enter the *agora* and the holy places lest he defile them (*πρόρρησις*). Then the relative would file the charge with the *basileus* who made a third proclamation again forbidding the suspected murderer from approaching public places and holy things. After these procedures, the plaintiff had to investigate the case, study the homicide law, collect the evidence, summon witnesses, and prepare the three pre-trials (*prodikasai*), which the *basileus* arranged, each of them held in a separate month. The prosecutor and the defendant made speeches on these occasions. They helped the *basileus* to assign the case to the appropriate homicide court.²² The trial itself was held at the end of the fourth month, on the three days before the last day of the month. At the beginning of the trial, the litigants swore a solemn oath of self-execration (*diomosia*); the prosecutor that the defendant had in fact killed his relative, the defendant that he was innocent (not before the Delphinium, of course). The witnesses swore that they would tell the truth. The whole process had to be concluded within one *basileus'* term of office, which means that nobody could bring a *dike phonou* during the last four months of the *basileus'* term of office.²³ Thus, the judicial system required the family of the victim to have some organizational skills and put quite an

²¹ According to a stipulation in Drakon's homicide law, relatives of the victim down to and including the degree of descendant first cousin once removed were obliged to take action: DEM. 47,70.

²² E. HEITSCH, "Der Archon Basileus und die attischen Gerichtshöfe für Tötungsdelikte", in *Symposion 1985: Vorträge zur griechischen und hellenistischen Rechtsgeschichte*, hrsg. von G. THÜR (Köln-Weimar-Wien 1989), 71-87.

²³ On the whole procedure cf. D.M. MACDOWELL, *The Law in Classical Athens* (London 1978), 109-122; D.M. MACDOWELL, *Athenian Homicide Law in the Age of the Orators* (Manchester 1963), 8-32.

administrative burden on those who had to avenge their slain relative in court.

Self-help was even more conspicuous in the second major procedure the aggrieved party had at his disposal to bring a murderer to justice under certain circumstances, the *apagoge* procedure ($\alpha\piαγωγή$) in its different forms, with or without *endeixis*, and *ephegesis*. I summarize M.H.Hansen's view.²⁴ The *apagoge* was a public suit. Anyone who wished (*ho boulomenos*) could seize an offender who had committed a crime covered by the statute *in flagrante delicto* or manifestly ($\varepsilon\pi'\alpha\gamma\tauοφώρω$) and take him with his own hands to the Eleven or Thesmothetai.²⁵ Three main groups were liable to *apagoge*: (1) *kakourgoi* [thieves (*kleptai*), clothes-robbers (*lopopudatai*), kidnappers (*andrapodistai*), burglars (*toichorychoi*), and cutpurses (*ballan-tiotomoi*)], who were caught *ep'autophoro* (*apagoge kakourgon*). (2) *atimoi* who exercised rights from which they had been excluded. This group included suspects of homicide (*apagoge phonou*).²⁶ In their case, the substance of the charge does not seem to have been the homicide, but the defilement of the *agora* and the holy places. (3) Exiles (*pheugontes*), who had returned to Attica without obtaining reprieve. In cases one and three the Eleven had the right to execute the accused on the spot, if he confessed his guilt. In the second case, the accused was kept in prison until a dicastic court dealt with the case.

Endeixis and *apagoge* were not two different types of process, but two phases of the same procedure.²⁷ An *endeixis*

²⁴ M.H. HANSEN, *Apagoge*, 18-21, 122. Different A.R.W. HARRISON, *The Law of Athens*, II 221-232.

²⁵ On the discussion of the meaning *ep'autophoro* cf. A.R.W. HARRISON, *The Law of Athens*, II 222, 224-225; M.H. HANSEN, *Apagoge*, 48-53; E. VOLONAKI, "Apagoge in Homicide Cases", in *Dike* 3 (2000), 147-176, 167-170; E. HARRIS, "In the Act or Red Handed? Apagoge to the Eleven and Fur-tum Manifestum", in *Symposium 1993: Vorträge zur griechischen und hellenistischen Rechtsgeschichte*, hrsg. von A. BISCARDI-J. MELÈZE-MODRZEJEWSKI-G. THÜR (Köln-Wien 1994), 169-184, now reprint in Id., *Democracy and the Rule of Law*, 373-390.

²⁶ On the *apagoge phonou* now in detail E. VOLONAKI, "Apagoge", 152-153.

²⁷ M.H. HANSEN, *Apagoge*, 16-17, 26.

was the official denouncement of an offender. The plaintiff could then decide whether or not to arrest the accused himself. The arrest would be called *apagoge*. In an *ephegesis*, the plaintiff would denounce the culprit to a magistrate. The magistrate was then responsible for carrying out the arrest. M.H. Hansen differentiates four different types of *apagogai* and *endeixeis* against homicides: (1) against those accused of homicide, (2) against suspects of homicide, (3) against homicides who were specifically *kakourgoi*, and (4) against exiles who had been sentenced for homicide.²⁸ They would all be treated in a slightly different manner. It is important to note that an *apagoge* procedure could also be brought in cases of unintentional homicide, in which a *dike phonou* would have led to exile, a conviction in the *apagoge* procedure, however, to capital punishment.

To Athenians witnessing a case of *apagoge*, this summary arrest and legal procedure displayed a high degree of self-help. We have to keep in mind, however, that the purpose of the *apagoge* was to bring a culprit to justice fast, not to exercise vengeance. The *apagoge* was a regular legal procedure that maintained the fiction that the archaic self-help remained intact.²⁹ Although D.M. MacDowell is right that the tradition of self-help still loomed large in fourth-century Athens, I doubt that the highly sophisticated legal proceedings of the classical era were aimed at restricting self-help on a large scale.³⁰ Rather, it seems to me that self-help or better self-regulation was built into procedural law. Before we can embark on a scrutiny of fourth-century homicide cases and the anthropological analysis of the plaintiffs' underlying intentions, we have to put the aforementioned homicide procedures into the context of some principles of Athenian procedural law and its symbolic implications.

²⁸ *Ibid.*, 99-100.

²⁹ D. PHILLIPS, *Homicide*, 108-109.

³⁰ Implicitly D.M. MACDOWELL, *The Law in Classical Athens*, 114.

IV. Procedural Flexibility and Its Symbolic Messages

In both private (*dikai idiai*³¹) and public suits (*dikai demosiai*³²) the plaintiff had to take the initiative from the beginning of the trial through to its end and execute the sentence. In private cases, there was no question that enforcing the verdict was the individual citizen's responsibility (for exceptions cf. above note 4). In public suits as well, the winner of the trial was himself responsible for carrying out the judgement.³³ Some exceptions—only the Eleven were allowed to execute people³⁴—confirm the rule.

If the offended person decided to go to court, the great procedural flexibility of the law provided the aggrieved party with many possibilities to seek redress. The victim of a violent act, for example, could choose among a variety of private or public suits. He could file a *dike aikeias*, a *dike biaion*, or in case of homicide of a relative, a *dike phonou*. Available public suits were the *graphe hybreos*, the *graphe traumatos ek pronoias*, if the offender had tried to kill the plaintiff with a weapon,³⁵ the *eisangelia* (especially in the case of maltreatment of orphans),³⁶ and an *apagoge* procedure in the case of homicide

³¹ A.R.W. HARRISON, *The Law of Athens*, II 187-190 on private suits. The *dikai idiai* included *dikai* in the narrow sense as used in the ensuing paragraphs.

³² A.R.W. HARRISON, *The Law of Athens*, II 185-187 on public suits. On public and private suits D.M. MACDOWELL, *The Law in Classical Athens*, 57-61. The *dikai demosiai* included not only the *graphai*, but all procedures available to *ho boulomenos*, such as *eisangelia* and *apagoge*.

³³ D. PHILLIPS, *Homicide*, 253.

³⁴ A.R.W. HARRISON, *The Law of Athens*, II 185; D.S. ALLEN, *The World of Prometheus*, 201-202. The Eleven were also responsible for imprisonment and the stocks.

³⁵ The *graphe traumatos ek pronoias* was procedurally very similar to cases of premeditated homicide. Both types of trial were heard before the *Areopagus* (LYS. 3 and 4; DEM. 40,32; AESCHIN. 2,93 and 3,51). Cf. D. PHILLIPS, *Homicide*, 63ff., 166.

³⁶ On the procedure of *eisangelia* cf. 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).

(under special circumstances).³⁷ The variety of these options reveals a good deal of ambivalence when it came to prosecuting an act of violence. This ambivalence reflects the difficulties Athenians felt in gauging the potential threat a concrete act of violence had for the stability of state and society. At the same time, Athenians wanted to leave the interpretation of the violent act to the discretion of the aggrieved party, who not only portrayed the insolence perpetrated in a special light, but also characterized himself through his choice of one procedure over another. The principle of self-regulation did not entrust the assessment of a crime to state authorities, but to the individuals concerned. The plaintiff was responsible for the substance of the charge. If the accused agreed to defend himself in court, the incident was framed as a crime and turned into a court case.³⁸ This procedure is an integral part of a self-regulating judicial system.

The analysis of the procedural flexibility of Athenian law from a symbolic perspective has not even begun yet, and against this backdrop of procedural choice, we should now ask what the symbolic difference between the *dike phonou* and the *apagoge* procedure was. Beyond questions of legal expedience and technicalities, we should explore what underlying messages Athenian plaintiffs wanted to express and communicate to their audience by their respective choice of procedure. Such an investigation will reveal a lot about the way the plaintiffs interpreted the case, how they portrayed the alleged murderer, and, even more importantly, how they represented themselves. Handling the complicated law masterfully was an appropriate means of self-representation in a society that placed extreme emphasis on public performance. Although Athenians of all social strata had

³⁷ F. RUIZ, *Use and Control of Violence*, 43-45 on the procedural differences.

³⁸ S. JOHNSTONE, *Disputes and Democracy. The Consequences of Litigation in Ancient Athens* (Austin 1999), 126-133; Id., "Transforming Disputes into Cases: Dem. 55, Ag. Kallikles", published online in the Center for Hellenic Studies' Discussion Series (Athenian Law): http://www.chs.harvard.edu/discussion_series.sec/athenian_law.ssp/athenian_law_lecture_2.pg.

access to the courts, it was the wealthy elites above all who were involved in important lawsuits and to whom the skillful performance of and playing with the law was another way of gaining symbolic capital. The choice of procedure alone sent symbolic messages to the various courts by underlining different concepts of law and involving the political collectivity to various degrees.

Choosing a *dike phonou* seems to have emphasized the legality of the initiative. Through the long period of preparation and the solemn oath, the plaintiff assured the judges that he was in the right. Because the *dike phonou* was a private suit—the blow to the family was judicially expressed—the prosecutor did not appeal to society as a whole, but to a specific law court with its competent magistrates. Reliable members of the elite (ca. 200 *Areopagitai* or 51 *ephetai*), who through their advanced age embodied a certain amount of experience and wisdom, were supposed to render justice. In contrast to the *apagoge* procedure, the *dike phonou* encapsulated the modesty of the plaintiff, his self-control, and low level of retributive desire, although he was entitled to *orge* and vengeance. The choice of a *dike phonou* procedure is to be seen within the philosophical and political discourse of the democratic polis on *enkrateia* and *sophrosyne*.³⁹

Although Athenians insisted that redress for homicide was the business of the victim's relatives and therefore did not formally introduce a *graphe* to prosecute homicide, the administration of justice was flexible enough to allow for a public suit, the *apagoge*, if need be. In most cases of *apagoge*, it was also the family of the murdered victim who brought the action. But the

³⁹ One of the best examples in a case of battery is DEM. 54 (*Ag. Conon*), where Ariston insists that he had been entitled to a *graphe hybreos*, but on the grounds of respecting the rules of *enkrateia*, he preferred instead to bring a *dike aikeias*. In ARIST. *Eth.Nic.* 7,1-10; 7,2,12ff., 1146 b 6ff; 7,3,4ff, 1146 b 27ff; 7,9,6ff., 1151 b 32ff, *enkrateia* and *sophrosyne* are opposed to *akrasia* and *akolasia*. Cf. H.F. NORTH, *Sophrosyne. Self-Knowledge and Self-Restraint in Greek Literature* (Ithaca, NY 1966); A. RADEMAKER, *Sophrosyne and the Rhetoric of Self-Restraint. Polysemy & Persuasive Use of an Ancient Greek Value Term* (Leiden 2005), and J. ROISMAN, *The Rhetoric of Manhood. Masculinity in the Attic Orators* (Berkeley–London 2005), 176-185 on *sophrosyne*.

relatives made it clear that the crime was not only a severe offense against the particular family, but against the *polis* community as a whole. Choosing an *apagoge* emphasized that the crime was unheard of and had wide-ranging political dimensions. The suspects were not normal killers, but enemies of the Athenian democratic order. It seems that summary arrest in the case of homicide, carried out by whoever wished to do so (*ho boulomenos*), remained an extreme and unusual measure, only to be used in exceptional cases, for example in order to get hold of a foreigner from an unreliable allied city who could have easily evaded trial or to bypass the amnesty. Euxitheus was probably portrayed as a prime example of a dangerous ally just waiting for a chance to kill an innocent Athenian citizen (case nr. 1), Phrynicus was declared a traitor (case nr. 2), Menestratus and Agoratus had caused the death of democrats during the tyranny of the Thirty (cases nr. 3 and 4). In all these cases, a strong political impetus was involved that made the *apagoge* parallel to the *eisangelia* procedure. Unlike in the *dike phonou*, the plaintiff did not appeal to a select circle of elite members, but to a majority of the citizens as assembled in the dicastic courts. According to the plaintiffs, the state had to react as a collective entity. If the procedure was not an *ephegesis*, the concrete seizure of the suspect with one's own hands symbolized the indignation of the relative or *ho boulomenos*. Through this physical act, the aggrieved party appealed to the political community in its entirety. Taking the suspect and dragging him to the appropriate magistrate maintained the fiction of archaic self-help even in its legalized and institutionalized form. The difference when compared to the *dike phonou* could not be more significant.

V. Prosecuting Homicides in Athens (422-322 BC)

The following list contains all cases of homicide committed in Attica or involving Athenians, for which we know or have good reason to assume the procedure chosen or for which we

can discern a reaction from some party.⁴⁰ I exclude Antiphon's Tetralogies because of their fictional character. I focus on the reasons why relatives or friends of slain people chose one procedure over another. In doing so, I aim to reveal to what extent the plaintiffs sought to involve the *polis*-community. We should ask how the choice of procedure is to be seen on a symbolic level. What did the choice of procedure signify and what message was to be conveyed to the audience?

Cases of Apagoge

(1) 422-413 BC:⁴¹ Euxitheus of Mytilene was charged with having killed the Athenian citizen Herodes,⁴² probably resident as klerouch in Mytilene since 427 BC.⁴³ Both were traveling together from Mytilene on Lesbos to Ainos in Thrace, when a storm came up and they were forced to anchor at Methymna on Lesbos. During a night of drinking, Herodes

⁴⁰ I omit cases of homicide, for which we do not have any information concerning the family's or anyone else's reaction. Alcibiades' wife, for example, died of unknown causes after her husband had dragged her home by force (PLUT. *Alc.* 8,4). It would have been the responsibility of the woman's relatives to investigate the case, and, if necessary, to bring charges against Alcibiades. His high social status may have prevented any action against him. In DEM. 21,71 Euthynus the wrestler engages in a fistfight with the prize-fighter Sophilus at a private party. The passage is so vexed that it is unclear who actually killed whom. There is no reaction known to this incident. In ISAECUS 8 (*On the Estate of Ciron*) Diocles is accused of murder. This allegation clearly serves the purpose of character denigration. We do not hear anything about the reaction of the victim's family.

⁴¹ U. SCHINDEL, *Der Mordfall Herodes. Zur 5. Rede Antiphons* (Göttingen 1979), 206-208 on the dating criteria.

⁴² On Herodes' Athenian citizenship cf. U. SCHINDEL, *Der Mordfall Herodes*, 210-212. On the case in general cf. E. HEITSCH, "Antiphon aus Rhamnus", in *Abhandlungen der Geistes- und Sozialwissenschaftlichen Klasse der Akademie der Wissenschaften und der Literatur, Mainz*, Jhrg. 1984, 3 (Wiesbaden 1984), 33-89; M. GAGARIN, *Antiphon the Athenian. Oratory, Law, and Justice in the Age of the Sophists* (Austin 2002), 152-160.

⁴³ ANTIPOH 5, especially 17-18; 25-26. M.H. HANSEN, *Apagoge*, 124, Nr.1. U. SCHINDEL, *Der Mordfall Herodes*, 216-220 on the Athenian klerouchie in Mytilene.

disappeared. His corpse was never found, but under torture a slave accused Euxitheus of having killed Herodes and thrown his body into the sea. When the slave realized that he would be executed anyway, he revoked his confession. Nevertheless, his evidence weighed heavily against Euxitheus.⁴⁴ Herodes' relatives, probably residents of Mytilene too, brought charges of homicide against Euxitheus in Athens. Because Euxitheus expected to be indicted via a *dike phonou*, which would have allowed him to go into exile after his first speech, he followed the summons and went to Athens,⁴⁵ where he was subjected to *endeixis* and ensuing *apagoge kakourgon*.⁴⁶ He was immediately imprisoned and not even allowed to post sureties to prepare his trial,⁴⁷ which took place before a dicastic court and not before the *Areopagus* as would have been the case in a *dike*

⁴⁴ The question of guilt need not concern us here. H. ERBSE, "Antiphons Rede (or. 5) über die Ermordung des Herodes", in *RhM* 120 (1977), 209-227 has tried to refute F. SCHEIDWEILER, "Antiphons Rede über den Mord an Herodes", in *RhM* 109 (1966), 319-338, in whose opinion Euxitheus was innocent. Even more convinced of Euxitheus' guilt is M. GAGARIN, *The Murder of Herodes* (Frankfurt 1989), 117-125. U. SCHINDEL, *Der Mordfall Herodes*, 224-229 thinks that the substance of the charge was *andrapodismos*, because Euxitheus had illegally appropriated Herodes' slaves. The accusation of murder was only a secondary, auxiliary charge. Although Euxitheus makes many dubious and contradictory statements, his alibi is good: *ibid.*, 230-239, hence Euxitheus was innocent. J. ROISMAN, *The Rhetoric of Conspiracy in Ancient Athens* (Berkeley-Los Angeles-London 2006), 16 n.10 wisely refrains from judging the case.

⁴⁵ M. GAGARIN, *The Murder of Herodes*, 124. E. HEITSCH, "Antiphon", 57-60 differentiates between the summons, with which the prosecutors initiated an *agon timetos* to compensate for the damage caused by the disappearance of Herodes' slaves, and the actual charge for homicide, which the plaintiffs only lodged after Euxitheus arrived at Athens. This way, Euxitheus was duped into coming to Athens.

⁴⁶ M. GAGARIN, *The Murder of Herodes*, 121 speaks of an *endeixis kakourgon*, D.M. MACDOWELL, *Athenian Homicide Law*, 136 of an *endeixis kakourgias* or *apagoge kakourgias*. I stick to E. VOLONAKI's, "Apagoge", 153-160 terminology. M. GAGARIN, *The Murder of Herodes*, 17-29 on the procedural questions.

⁴⁷ According to M. GAGARIN, *The Murder of Herodes*, 123 the relatives did everything to make sure that Euxitheus could not escape into exile. On whether or not Euxitheus should have been allowed to post bail cf. M.H. HANSEN, *Apagoge*, 22-24.

phonou.⁴⁸ The outcome of the trial is unknown, but Euxitheus won for his defense the Athenian expert in homicide cases, Antiphon, who prepared the speech that was handed down to us.

The trial against Euxitheus is important, because it seems that the *nomos ton kakourgon* including the *apagoge* procedure was applied to a homicide case for the first time.⁴⁹ If so, it was the precedent for all ensuing *apagoge* procedures—and their different types—in cases of homicide.⁵⁰ If a *graphe phonou* did not exist before,⁵¹ the application of an *apagoge* procedure to a homicide case meant that now a public action could also be brought against a suspect killer by anyone who wished (*ho boulomenos*), an innovation in Athenian homicide law that cannot be overestimated.⁵² Since there was no precedent, Euxitheus' indignation and protest are understandable. The *apagoge* procedure caused serious disadvantages to his defense, whereas it greatly favored the prosecution. Unlike in a *dike phonou*, the prosecutors did not have to swear the terrible oath of self-execration, the *diosmosia*.⁵³ There were no time limits for the prosecution to initiate a trial. Most of all, the defendant was imprisoned right at the beginning of the procedure and did not have the possibility of going into exile during the court

⁴⁸ E. HEITSCH, "Antiphon", 33-89 argues that Euxitheus was not entitled to a *dike phonou*, because he was a foreigner. According to him, it was not uncommon for Athenians to prosecute non-Athenians via an *apagoge* procedure. But he remains vague on the question which kind of prosecution was actually brought against Euxitheus.

⁴⁹ Different from the general consensus in research is E. CARAWAN, "Akriton Apokteinai: Execution without Trial in Fourth-Century Athens", in *GRBS* 25 (1984), 111-121, 120-121.

⁵⁰ The application of the *apagoge kakourgon* procedure to cases of homicide may have paved the way for ever more forms of summary arrest that could be used to indict suspected murderers.

⁵¹ M.H. HANSEN, *Apagoge*, 108-112 does not rule out the possibility that a *graphe phonou* did in fact exist.

⁵² On the tension between conservatism and innovation in Athenian homicide law cf. now E. VOLONAKI, "Apagoge", 173-174.

⁵³ The destruction called down by the swearer included his whole family and household: DEM. 23,67.

proceedings, as they did in a *dike phonou*.⁵⁴ Euxitheus rightly argues that the list of *kakourgoi*, as stated in the *nomos kakourgias*, did not include *androphonoi*,⁵⁵ and that the *apagoge* procedure was therefore not applicable in his case. But, as M.H. Hansen has demonstrated, the list of *kakourgoi* in the law was only meant to be exemplary. De facto, *moichoi* and *androphonoi* could well be regarded as *kakourgoi* and thus be subject to summary arrest and procedure.⁵⁶ In Euxitheus' case, the meaning of *kakourgos* was extended for the first time to include homicide, and historians should wonder why and how this extension became possible around 420 BC. For the prosecution it was vital to prevent Euxitheus from escaping into exile. Choosing to live in Ainos, Thrace with his father would have been no punishment at all for a Mytilenean citizen. The prosecuting party may have been successful in extending the use of the *apagoge kakourgon* procedure on a private basis convincing the Eleven of the legitimacy of their claim and proposed procedure. According to E. Volonaki, a more formal decree by the Assembly of the people may have made this innovation possible shortly before the trial against Euxitheus.⁵⁷ In this case, Herodes' relatives might have made this proposal to the Assembly. It is true that the Eleven could be meticulous in following the letter of the law—in the trial against Agoratus they required the plaintiffs to add the *ep'autophoro* stipulation to their indictment (see below case nr. 4)—, but we do not have the slightest evidence for such a decree of the assembly. On a more general level, researchers have pointed frequently to the *demos'* motives in extending the *apagoge kakourgon* procedure.

⁵⁴ H.D. EVJEN, "Apagoge and Athenian Homicide Procedures", in *Tijdschrift voor Rechtsgeschiedenis* 38 (1970), 403-415, 411; E. VOLONAKI, "Apagoge", 153, 158-159.

⁵⁵ ANTIPO 5,9; H.D. EVJEN, "Apagoge", 403.

⁵⁶ M.H. HANSEN, *Apagoge*, 47-48, 104-112; ID., "The Prosecution of Homicide in Athens: A Reply", in *GRBS* 22 (1981), 11-30, 21-30; M. GAGARIN, *The Murder of Herodes*, 20. According to E. HEITSCH, "Antiphon", 80 *androphonoi* were not subsumed under the *kakourgoi* category.

⁵⁷ E. VOLONAKI, "Apagoge", 156-157.

Especially during the Peloponnesian war, the protection of Athenians living abroad in allied territory must have been more important than ever. To make sure foreigners from allied cities could be brought to justice in Athens, their summary arrest had to be made possible. If this assumption is correct, we can trace back a decisive alteration in Athenian homicide law to Athens' growing concern about the security of Athenian citizens within its empire. Obviously, the *demos* feared that Athenian citizens "might be murdered as a form of protest vote against Athenian imperialism".⁵⁸ Thus, Athens' imperial politics and problematic foreign relations had a profound impact on the administration of justice at home.⁵⁹ If Athenians regarded the *apagoge* procedure as a legalized form of self-help in the case of homicide, it is telling that they used this method against a foreigner first. In times of war, heightened anxieties, and growing tensions between Athens and its allies, it seemed important to the *demos* to be able to crack down on unruly allies fast and efficiently. The legal innovation in the domestic realm fits in well with the time period and reflects an encumbered Athenian foreign policy.

(2) 411 BC: Phrynicus, one of the leading members of the 400, was killed in the *agora* near the *Boule* by the metics Thrasyboulus from Kalydon and Apollodorus from Megara.⁶⁰ This assassination introduced the downfall of the Four Hundred. Because of their continuing reign, the assassins were right in escaping immediately so that it was not clear who they

⁵⁸ S. TODD, *The Shape of Athenian Law* (Oxford 1993), 331. Cf. e.g. the Phaselis decree (*IG I² 16 = IG I³ 10 = Tod I² 32 = ML 31 = HGIÜ I 51*) and the Chalcis decree (*IG I² 39 = IG I³ 40 = Syll.³ 64 = Tod I² 42 = ML 52 = HGIÜ I 79*) on the transfer of jurisdiction over serious cases under the Athenian empire. Cf. also Acheloion's "life insurance policy" (*IG I² 28.a = IG I³ 19 = HGIÜ I 64*). I thank Professor David Phillips (UCLA) for directing me to these sources in this context.

⁵⁹ H.D. EVJEN, "Apagoge", 405, 412; H. ERBSE, "Antiphons Rede", 224.

⁶⁰ THUC. 8,90-92; LYS. 13,70-72; LYCURG. 1,112-115. Cf. LYS. 7,4; 20,9-11; 25,9. M.H. HANSEN, *Apagoge*, 125-126, nr. 4-5.

actually were.⁶¹ It was not until the overthrow of the oligarchy and the restoration of the democracy that they came to the forefront and claimed responsibility for the assassination. Phrynicus' relatives or friends now felt compelled to react. Under the renewed democracy, it was certainly not easy for them to take action on behalf of their killed relative or friend, who had been a staunch oligarch throughout his life. In 409 BC, when the people of Athens saw the killers in danger of being prosecuted, they declared Phrynicus a traitor and regarded his murderers as tyrant slayers who were to be honored for the rest of their lives.⁶² As a consequence, the plaintiffs' plan to bring the killers to justice (410/9 BC) failed.

The fact that the murderers were imprisoned for a short period of time shows that the plaintiffs probably resorted to an *apagoge kakourgon* or *apagoge phonou*⁶³ to get hold of the murderers, because, being foreigners, they could easily abscond. Phrynicus' friends, by bringing a public suit, emphasized the atrocity of the crime committed in the open, which, in their eyes, should shock and concern every citizen. According to the

⁶¹ D.M. MACDOWELL, *Athenian Homicide Law*, 138-139.

⁶² IG I² 110 = IG I³ 102 = Syll.³ 108 = Tod I² 86 = ML 85 = HGIÜ I 140: Thrasyboulus was rewarded with a golden crown and citizenship. His fellow conspirators, among them Agoratus, were also honored as *euergetai*. They received lesser rights, most notably the right to own real estate in Attica as non-citizens (*engktesis*).

⁶³ DEM. 23,80 describes the *apagoge phonou* procedure. If a suspected murderer has entered the *agora* or the holy places, anyone who wishes (*ho boulomenos*) can take him into prison. The offender is not supposed to suffer any harm nor can he be held in a private house. If he is found to be guilty, he is sentenced to death. M.H. HANSEN, *Apagoge*, 104 makes a case for an *apagoge kakourgon* in this case, because the *apagoge phonou* did not come into being before ca. 400 BC. D.M. MACDOWELL, *Athenian Homicide Law*, 139, in contrast, implicitly pleads for an *apagoge phonou*, although the relatives did not call the procedure thus. The relatives' argument must have been that the murderers had entered the holy places and the *agora* while being polluted. E. VOLONAKI, "Apagoge", 167 speaks of an *apagoge phonou* against Thrasyboulus and Apollodorus, but calls it "dubious" in this case. Cf. W. SCHMITZ, *Nachbarschaft und Dorfgemeinschaft im archaischen und klassischen Griechenland* (Berlin 2004), 364-365.

plaintiffs, this form of death was undeserved and the perpetrators' audacity ought to be punished with death, regardless of the political convictions of the victim. It is noteworthy that the restored democracy allowed Phrynicus' relatives or friends to argue along these lines and that they dared to do so.

(3) After 403/2 BC: In his speech against Agoratus, Lysias used the case of Menestratus as a precedent for the trial against Agoratus.⁶⁴ Under the rule of the Thirty, the Athenian citizen Menestratus of Amphitrope had denounced democratic leaders and thus caused their executions. Before he turned informer, the Thirty even passed a decree granting him immunity. After the restoration of the democracy, he was subject to an *apagoge* procedure and executed by *apotympanismos*.⁶⁵ Since the case was heard by a dicastic court and not the *Areopagus*, the procedure cannot have been a *dike phonou*. There is still debate on what kind of *apagoge* procedure was used. Due to the method of execution, M.H. Hansen argues for an *apagoge kakourgon*.⁶⁶ But we have no evidence that *apotympanismos* was reserved for *kakourgoi* only.⁶⁷ E. Volonaki and D.M. MacDowell make a case for an *apagoge phonou*,⁶⁸ because Menestratus is not called *kakourgos*, but is explicitly described as *androphonos* in the text (Lys. 13,56). Moreover, in the interval between his denunciation of the democrats and his trial, he must have frequented the holy places and the *agora*, despite his being a suspected murderer.

Whatever the exact form of procedure, this trial for homicide was a clear violation of the amnesty.⁶⁹ Under its stipulations, only those murderers who had killed with their own hands (*autocheiriai*) during the reign of the Thirty could be prosecuted.

⁶⁴ LYS. 13,55-57. See below Agoratus' case nr. 4. To S.C. TODD, *Shape*, 275, the case against Menestratus was the precedent for the trial against Agoratus'. M.H. HANSEN, *Apagoge*, 130, nr. 11.

⁶⁵ D.M. MACDOSELL, *Athenian Homicide Law*, 137.

⁶⁶ M.H. HANSEN, *Apagoge*, 104; ID., "Prosecution", 21-22, 30.

⁶⁷ E. VOLONAKI, "Apagoge", 166.

⁶⁸ *Ibid.*; D.M. MACDOSELL, *Athenian Homicide Law*, 137-138.

⁶⁹ M.H. HANSEN, *Apagoge*, 130, nr. 11.

It seems that the *apagoge* procedure was a convenient tool for the *demos* to circumvent the stringent rules of the amnesty, i.e., to bring adherents of the oligarchy finally to justice and thus avenge the killing of democrats during the tyranny of the Thirty by using the legal loophole of the *apagoge* procedure.

(4) 399/8 BC or later: Lysias wrote his thirteenth speech (*Against Agoratus*) for the brother-in-law of the executed Dionysodorus.⁷⁰ This brother-in-law of the deceased served as supporting speaker (*synegoros*)⁷¹ to help Dionysodorus' brother Dionysius, who was the main prosecutor against Agoratus to avenge the death of his brother. Agoratus, originally a slave, now a metic, had denounced Dionysodorus, a democrat and taxiarch, to the Thirty, who executed him without trial. Shortly before his death, he assembled his relatives and gave them an order to avenge his death by prosecuting Agoratus. Dionysodorus' brother and brother-in-law remembered these words and employed an *apagoge* procedure against Agoratus some time after the restoration of the democracy. The Eleven added the phrase *ep'autophoro* to the indictment,⁷² the case was heard by dicastic judges, not the *Areopagites*, and the text explicitly talks about an *apagoge*.⁷³ We do not know the out-

⁷⁰ Relevant for our purposes especially Lys. 13,1-4; 39-42; 82-97.

⁷¹ On their role now L. RUBINSTEIN, *Litigation and Cooperation. Supporting Speakers in the Courts of Classical Athens* (Stuttgart 2000).

⁷² R. RAUCHENSTEIN, "Über die Apagoge in der Rede des Lysias gegen den Agoratos", in *Philologus* 5 (1850), 513-521, 516 explains the addition demanded by the Eleven. They wanted to make sure that the indictment was in line with the amnesty. But why do we not hear about the *ep'autophoro* stipulation in Menestratus' case (see above case nr. 3)? Moreover, *ep'autophoro* is not *autocheiriai*.

⁷³ M.H. HANSEN, *Apagoge*, 104, 130-132, nr. 12. There is no reason to assume a *graphe phonou*, as R. RAUCHENSTEIN, "Apagoge", 513-514 postulates it. H.D. EVJEN, "Apagoge", 414-415 argues against the *graphe phonou*, the existence of which M.H. HANSEN, *Apagoge*, 108-112 at least does not want to rule out. D.M. MACDOWELL, *Athenian Homicide Law*, 130-140 and ID., *The Law in Classical Athens*, 118-122 has tended to think that in practice also non-relatives could bring a *dike phonou*. With this opinion he stood alone until he changed his mind in his 1997 review of A. Tulin's book on homicide: D.M. MACDOWELL, "Prosecution for Homicide", in *CR* 111 (1997), 384-385. Cf. below note 117.

come of the trial. As is clear from Menestratous' case (see above case nr. 3), a condemnation would have implied capital punishment. Agoratus defended himself by interpreting the *ep'autophoro* clause in a narrow sense, equating it with *autocheiriai*. Having killed *autocheiriai* was the precondition for being prosecuted for homicide committed under the rule of the Thirty and tried under the amnesty. Since Agoratus had not killed in this sense, he was not liable to this serious charge unless the prosecutors, the Eleven, and the jury would be willing to violate the amnesty. The prosecution, however, interpreted the *ep'autophoro* stipulation in a wider sense as "manifestly".⁷⁴ R. Rauchenstein and S. Todd have supposed that the plaintiffs used the *apagoge*, which gave the accused no advantage whatsoever (unlike the *dike phonou*), because Agoratus was not a citizen,⁷⁵ but this cannot be the only reason. It is true that Euxitheus was a Mytilenean citizen, but Menestratous was Athenian.

There is still debate on which form of *apagoge* procedure was used. M.H. Hansen assumes an *apagoge kakourgon*. According to him, the *ep'autophoro* condition was closely connected to the *nomos kakourgias*, and nowhere in the text is there mention of Agoratus' trespassing holy places. Therefore, according to M.H. Hansen, the procedure cannot have been an *apagoge phonou* as described in Dem. 23,80.⁷⁶ H.D. Evjen, S. Todd, E. Volonaki, and D.M. MacDowell disagree. The *kakourgos* category is not mentioned in the text.⁷⁷ The *ep'autophoro* stipulation was a precondition for bringing both an *apagoge kakourgon* and an *apagoge phonou*.⁷⁸ According to D.M. MacDowell, the relatives had the

⁷⁴ In PLATO, *Apol.* 22 b, XEN. *Symp.* 3,13, and AESCHIN. 3,10, for example, the term appears in this wider sense. Cf. R. RAUCHENSTEIN, "Apagoge", 516-518; D.M. MACDOWELL, *Athenian Homicide Law*, 133; above note 25.

⁷⁵ R. RAUCHENSTEIN, "Apagoge", 515-516; S.C. TODD, *Shape*, 275. H.D. EVJEN, "Apagoge", 413-414 enumerates the advantages for the prosecution to bring an *apagoge* instead of a *dike phonou*.

⁷⁶ M.H. HANSEN, *Apagoge*, 48-53, 101-103 and ID., "Prosecution", 30. Similar V.J. HUNTER, *Policing Athens*, 135.

⁷⁷ H.D. EVJEN, "Apagoge", 406. He also discusses the meaning of *ep'autophoro*.

⁷⁸ E. VOLONAKI, "Apagoge", 161-162, 167-170.

possibility only of initiating an *apagoge phonou*. Under the stipulations of the amnesty, they could not prosecute the *bouleusis* of intentional homicide. They just arrested the suspect. The appearance in public places could have been at least the formal condition of the arrest.⁷⁹ In D.M. MacDowell's words "the ground for the arrest [...] can only have been that Agoratos had since 403 (in the period not covered by the amnesty) frequented sacred and public places although guilty of homicide. Thus, in this case, for the purpose of circumventing the amnesty, the *apagoge* procedure was used by the victim's family simply as a substitute for a homicide prosecution of the traditional kind".⁸⁰

(5) 364-362 BC: From the famous decree regulating Athenian relations with Iulis on Ceos, we learn that Satyrides, Timoxenus, and Miltiades, all three Cean citizens, accused Antipatrus of Ceos of having murdered the Athenian *proxenos* Aeson.⁸¹ The inscription does not tell us which procedure the three plaintiffs used, but *apagoge* is probable, since the *Boule* condemned Antipatrus to death without referring his case to a law court. It must be noted, however, that the administration of justice within the naval confederacy could differ from legal procedures concerned with Attica only. Back at home, the three plaintiffs were sentenced to death because of their pro-Athenian stance during an anti-Athenian turmoil on the island. Similar to Euxitheus' case, the *apagoge* procedure might have been regarded as the best way to get hold of a foreigner and bring him to justice.

⁷⁹ S.C. TODD, *Shape*, 276; E. VOLONAKI, "Apagoge", 164.

⁸⁰ D.M. MACDOSELL, *The Law in Classical Athens*, 121-122. E. VOLONAKI, "Apagoge", 152-153, 164 agrees that it was an *apagoge phonou* and that the legal grounds for the arrest was trespass. Siding with MacDowell, she adds that Agoratus must have defiled the holy places automatically in the long time period between 404 and 399. This did not have to be mentioned in the speech. The scenario of this case does not speak against DEM. 23,80.

⁸¹ IG II² 111 = M.N. TOD, *A Selection of Greek Historical Inscriptions* II (Oxford 1948), 142 = Syll.³ 173 = P.J. RHODES-R. OSBORNE, *Greek Historical Inscriptions 404-323 BC* (Oxford 2003), 39 = K. BRODERSEN-W. GÜNTHER-H. SCHMITT, *Historische Griechische Inschriften in Übersetzung* II (Darmstadt 1996), 231; M.H. HANSEN, *Apagoge*, 133, nr. 16.

Cases of *Dike phonou*

(6) 420-411 BC: A stepson brought charges against his stepmother for having planned the death of his own father (*bouleusis*), her husband.⁸² Years earlier, when the plaintiff was a small child, the married woman made use of her maiden to give her husband and his friend, Philoneus, a potion (*pharmakon*). The maiden was Philoneus' concubine (*pallake*), but his passion for her had cooled and he threatened to sell her to a brothel-keeper. The married woman persuaded the deeply worried girl to give Philoneus a love potion in order to rouse his affection for her again. Her own husband should drink the potion, too. They probably had marital problems, a delicate point the plaintiff passes over in almost complete silence.⁸³ The girl, anyway, regarded the woman as partner in a similar fate, trusted her, and gave the potion willingly to the men. Philoneus died on the spot, his friend, the father of the plaintiff, some twenty days later after severe illness. On his deathbed, according to the plaintiff, his father made him promise to take revenge on his behalf once he grew up. There is no way to know whether or not this conversation had actually taken place. In any case, it was possible for the prosecutor to understand the *pharmakon*, the meaning of which is ambivalent in Greek, as poison.⁸⁴

⁸² ANTIPHO 1 (*Against the Stepmother*). On this case in general M. GAGARIN, *Antiphon*, 146-152.

⁸³ The only passage pointing to this direction is ANTIPHO 1,15.

⁸⁴ Cf. D.S. ALLEN, "Greek Tragedy and Law", in *The Cambridge Companion to Ancient Greek Law*, ed. by M. GAGARIN-D. COHEN (Cambridge 2005), 374-393, 383-393. Inexplicable cases of death were often attributed to the use of poison. Even if a victim did not die, the accusation of having poisoned someone was frequent and damaged the reputation of the accused person. Sometimes the accused resorted to curses against the accusers and to self-excreations in order to prove their innocence: e.g. *IKnidos* (IK 41) 147; 150; 154; G. PETZL, *Die Beichtinschriften im römischen Kleinasiens und der Fromme und Gerechte Gott* (Opladen 1998), nr. 69. On these sources cf. H.S. VERSNEL, "Writing Mortals and Reading Gods. Appeal to the Gods as a Dual Strategy in Social Control", in *Demokratie, Recht und soziale Kontrolle im klassischen Athen*, hrsg. von D. COHEN (München 2002), 37-76, 64-65; A. CHANIOTIS, "Von Ehre, Schande und

From this perspective, the married woman intentionally committed mediated violence by using the girl to bring about the death of the two men. Since the girl did not know that the potion was poisonous, the woman did not instigate the homicide, but "only" plan it via a mediator. The accusation of *bouleusis* of intentional homicide, brought by the stepson years after the fact, makes sense.⁸⁵ But it has also been argued that the stepson brought a charge of intentional homicide (*phonos ek pronoias*) against his stepmother.⁸⁶

Whereas the girl was tortured and executed right away after the "incident", the mother obviously got away for years by interpreting the death of the two men as accidental. She must have used the term *pharmakon* in the sense of "love potion". Since the maiden had given the potion, the woman may have claimed that she did not feel responsible for an inaccurate preparation of the potion or a possible overdose. The defense in this case, represented by the stepmother's own son, must have argued along these lines. He certainly denied his mother's intention to kill altogether.

For years, the community had accepted the woman's version. With the death of the girl, the case seemed to have come

kleinen Verbrechen unter Nachbarn: Konfliktbewältigung und Götterjustiz in Gemeinden des antiken Anatolien", in *Konflikt*, hrsg. von F. PFETSCH (Heidelberg 2004), 233-254, 236-237, 245-246, 249-250. I thank Professor Angelos Chaniotis (Oxford) for drawing my attention to these sources.

⁸⁵ S.C. TODD, *Shape*, 274, n.171; D.M. MACDOWELL, *Athenian Homicide Law*, 62-63; ID., *The Law in Classical Athens*, 116; E. HEITSCH, "Antiphon", 29-32; R.W. WALLACE, *The Areopagos Council to 307 BC* (Baltimore-London 1989), 101; G. THÜR, "The Jurisdiction of the Areopagos in Homicide Cases", in *Symposion 1990: Vorträge zur griechischen und hellenistischen Rechtsgeschichte*, hrsg. von M. GAGARIN (Köln-Wien 1991), 53-72, 65.

⁸⁶ M. GAGARIN, "Bouleusis in Athenian Homicide Law", in *Symposion 1988: Vorträge zur griechischen und hellenistischen Rechtsgeschichte*, hrsg. von G. NENCI-G. THÜR (Köln-Wien 1990), 81-99, 94-95; E. HARRIS, "How to Kill in Attic Greek: The Semantics of the Verb ($\grave{\alpha}\pi\sigma\omega$) $\kappa\tau\acute{e}l\acute{e}v\acute{e}i$ and Their Implications for Athenian Homicide Law", in *Symposion 1997: Vorträge zur griechischen und hellenistischen Rechtsgeschichte*, hrsg. von E. CANTARELLA-G. THÜR (Köln-Weimar-Wien 2001), 75-88, now reprint in ID., *Democracy and the Rule of Law*, 391-404, 398-399.

to a satisfying conclusion. Why then did the stepson make the effort to accuse his stepmother and thus stir up his half-brother against him? A lot may have been at stake for the young prosecutor in financial terms. Years after the death of her husband, the woman and her own son might have taken steps towards securing the whole inheritance for themselves and passing over the stepbrother. Like taking responsibility for the burial of a close relative, seeking vengeance for him in court in the case of homicide was the solemn duty of his nearest kin.⁸⁷ This posthumous commitment bolstered his claim to the inheritance. Beyond the possible vow at his father's deathbed, these deliberations may have stood in the background, motivating the stepson to file a *dike phonou*, the only procedure available to him, against his stepmother.⁸⁸ The trial took place in front of the *ephetai* at the Palladion, if the charge was *bouleusis* of homicide.⁸⁹ Since there was no way of proving that the stepmother had committed the crime *ep'autophoro*—even *bouleusis* was in doubt—the possibility of bringing an *apagoge* was excluded. But it was not only procedural restrictions that made the plaintiff bring a *dike phonou*, but also his wish to show his meticulousness in preparing the case for a

⁸⁷ On the role of courts as instruments of vengeance H.-J. GEHRKE, "Die Griechen und die Rache. Ein Versuch in historischer Psychologie", in *Saeulum* 38 (1987), 121-149, 140-148; N. FISHER, "Violence, Masculinity", 92; D. COHEN, *Law, Violence, and Community in Classical Athens* (Cambridge 1995), *passim*.

⁸⁸ R. OSBORNE, "Law in Action in Classical Athens", in *JHS* 105 (1985), 40-58, 57.

⁸⁹ E. CARAWAN, *Rhetoric and the Law of Draco* (Oxford 1998), 390, M. GAGARIN, "Bouleusis", and E. HARRIS, "How to Kill in Attic Greek" think that the trial took place before the *Areopagus*, because the prosecutor pleaded for intentional homicide. R.W. WALLACE, *The Areopagos Council*, 101 observes that *bouleusis* was mostly tried in front of the Palladion, not the *Areopagus*. There is also textual evidence. The plaintiff always addresses the judges as *dikastai*, which is befitting the *ephetai*. He does not address the council (of the *Areopagus*) even once. Similar E. HEITSCH, "Antiphon", 21-32 and G. THÜR, "Jurisdiction", 68, who claims that the *Areopagus* was only competent for cases of homicide committed by one's own hand, the Palladion for those of indirect killing. On *bouleusis* as a non-technical term for homicide cf. M. GAGARIN, "Bouleusis", *passim*.

long time, as is typical of a *dike phonou*, and his intention to demand retribution for the intra-familial killing that concerned him more than the community at large.

(7) 419/8 BC: A rich and politically active Athenian served as *choregus* and had young chorus boys practice in his house. In his absence, one of the boys, Diodotus, drank a potion and died shortly afterwards. His brother Philocrates brought a *dike phonou* on grounds of *bouleusis* of unintentional homicide against the *choregus* before the Palladion.⁹⁰ Since all parties agreed that the boy's death was an accident, the plaintiffs extended the meaning of *bouleuein* (planning) and used *bouleusis* in a new sense (negligent homicide or involuntary manslaughter through failure to do something).⁹¹ The *choregus* should have made sure beforehand that his helpers at home would not take risky measures: in other words, he had not done everything to guarantee the safety of the children. Since this new concept had added an additional meaning to the word *bouleusis*, the defendant deliberately used the traditional meaning of the word, thus distorting what the prosecutors had actually said and wrongly implying that they charged him of intentional homicide.⁹² Confusing the judges who were all laymen was a habitual defense strategy. When Philocrates brought the *dike phonou* before the *basileus*, he realized that the three necessary preliminary inquiries that had to be spread out over three months could not be concluded within the current *basileus'* term of service. The *basileus* was not allowed to pass on a homicide case to his successor. Therefore, Philocrates had to wait until the beginning of the next year to bring a private

⁹⁰ ANTIPO 6,16. R. OSBORNE, "Law in Action", 57; S.C. TODD, *Shape*, 274, n.17; D.M. MACDOWELL, *Athenian Homicide Law*, 63-64; ID., *The Law in Classical Athens*, 116; E. CARAWAN, *Rhetoric*, 391.

⁹¹ E. HEITSCH, "Antiphon", 95-97; similar M. GAGARIN, *Antiphon*, 140. Nevertheless M. GAGARIN, *ibid.*; ID., "Bouleusis", 95, and E. HARRIS, "How to Kill in Attic Greek", 399-400 think that the charge was not *bouleusis*, but unintentional homicide (*phonos akousios*).

⁹² ANTIPO 6,16.

suit for homicide against the *choregus*. An *apagogue* was no way out; at least Diodotus' relatives did not resort to it, which can mean one of three things: (1) It was not yet established as a procedure to prosecute homicide.⁹³ (2) The *ep'autophoro* stipulation was mandatory and was not fulfilled in this case or (3) the plaintiffs deliberately chose the *dike phonou* to emphasize the legitimacy of their allegation. Through the *dike phonou*, the *choregus* gained time and could sue and have his political opponents convicted, who allegedly had bribed Philocrates into bringing the action against him. An accusation of homicide would have prevented him from pleading his cases, because as a suspect of homicide he was banned from the *agora* and the holy places. But since filing the *dike phonou* was not possible until the beginning of the next year, the boy's family now suggested a private settlement to the *choregus*, which he gladly accepted.⁹⁴ The reconciliation was perfect, and Philocrates even appeared in public places with the *choregus*. Although Philocrates was less obliged to take action on behalf of his brother who had died in an accident than Theocrines was for his brother (see below case nr. 18), it is striking to what extent homicide cases could be settled on a private basis. The great discretion that Athenian plaintiffs enjoyed was not only due to the notorious procedural flexibility of the law, but might also have had to do with the Athenians' strong belief in the family's prerogative and capacity to choose the right way of avenging the violent death of one of its members. The probable non-existence of a *graphe phonou* is only the legal reflection of this attitude.⁹⁵ After a time lapse of another 50 days in the new year, the boy's family finally filed the *dike phonou* for the second time, bribed again, according to the *choregus*, by his political opponents. The *choregus* regarded the break of the reconciliation agreement as outrageous. According to him, the

⁹³ M.H. HANSEN, *Apagogue*, 102-103; H.D. EVJEN, "Apagogue", 410.

⁹⁴ ANTIPHO 6,38-40.

⁹⁵ Cf. H.D. EVJEN, "Apagogue", 410, n.27.

sudden change of mind on the plaintiffs' side only testified to their vile character.⁹⁶ It was one of the *choregus'* defense strategies to interpret the accusation against him as politically motivated. He considered himself the victim of a major conspiracy. In their plots against him, his enemies would not even shrink away from bringing charges of unintentional homicide against him. In a worst-case scenario, he would have been sentenced to temporary exile without loss of property. The *choregus* retaliated on a harsher note. He had no qualms whatsoever about attacking his opponents with an *eisangelia*, which could have fatal consequences for the accused in case of a conviction. Through this speech, we catch a glimpse of Athenian hardball politics.

(8) After 403/2 BC: Lysias accused Eratosthenes, one of the Thirty, of having killed his brother Polemarchus.⁹⁷ Under the stipulations of the amnesty, nobody apart from the Thirty and their chief subordinates could be held liable for what he did during the reign of the Thirty,⁹⁸ the exception being homicide committed with one's own hand. It is not clear if Lysias, as a metic, delivered this speech in person, nor what the procedure was. Since there is no hint whatsoever that it could be an *apagoge*, it was probably either a *dike phonou* or an indictment brought forth in the context of Eratosthenes' *euthynai* in 403/2.⁹⁹ We do not know anything about the outcome of the trial.

(9) 402 BC: Isocrates' speech 18 (*Against Callimachus*) has an inserted tale about a faked homicide. Callimachus and his brother-in-law concealed a slave woman of their own and brought a *dike phonou* against their enemy Cratinus before the

⁹⁶ Different E. HEITSCH, "Antiphon", 103 and J. ROISMAN, *The Rhetoric of Conspiracy*, 47-51, to whom the relatives' changing relationships with the *choregus* and the steps that they take against him were not unusual.

⁹⁷ LYS. 12.

⁹⁸ ARIST. *Ath. Pol.* 39,1-6.

⁹⁹ E. CARAWAN, *Rhetoric*, 392 supposes a "special accounting of oligarchic principals (should they wish to return)."

Palladion.¹⁰⁰ Callimachus and his brother-in-law accused Cratinus of having visited their farm and having smashed the woman's head. According to what they claimed, she died from the wound. The plaintiffs' plan must have been as follows. Even if Cratinus were acquitted in the trial, they would have framed him for homicide in their ongoing dispute about a piece of land.¹⁰¹ His reputation would be damaged forever. Although the whole case was fabricated, it is interesting to note that the main plaintiff and his primary witness, Callimachus, could muster fourteen more witnesses against Cratinus. He waited until the accusation was delivered in court and Callimachus had sworn an oath that the woman was dead, before he went out to the farm, freed the slave woman and brought her into the courtroom. When the plot lay bare, open for all to see, Callimachus did not get a single vote. He was now regarded as a perjurer.

(10) Ca. 400-380 BC: Lysias wrote one of his most famous speeches for Euphiletus who was accused of having murdered Eratosthenes, the seducer of his wife.¹⁰² Euphiletus stylized his deed as an execution that was not only in full agreement with Athenian laws, but even necessitated by them. This interpretation probably went too far. Euphiletus cites three laws in his support, probably the *nomos ton kakourgon* (Lys. 1,28), the lawful homicide statute (Lys. 1,30),¹⁰³ and probably the *dike biaion* (Lys. 1,31-32).¹⁰⁴ Although the first two laws may have given Euphiletus the right to kill the seducer whom he caught in the act, this extreme reaction had almost certainly become

¹⁰⁰ ISOC. 18,51-52. R. OSBORNE, "Law in Action", 57; F. RUIZ, *Use and Control of Violence*, 79; A.R.W. HARRISON, *The Law of Athens*, II 40 on the difficulty that the text speaks about the Palladion, but mentions 700 judges.

¹⁰¹ J. ROISMAN, *The Rhetoric of Conspiracy*, 56-57.

¹⁰² LYS. 1. From a gender perspective cf. R. OMITOWOJU, *Rape and the Politics of Consent in Classical Athens* (Cambridge 2002), 72-115.

¹⁰³ The lawful homicide statute is also cited by DEM. 23,53. Cf. also DEM. 23,60-61; 24,113; AESCHIN. 1,91.

¹⁰⁴ On these laws cf. R. OMITOWOJU, *Rape*, 98-105.

obsolete in the fourth century.¹⁰⁵ Euphiletus had other means at this disposal.¹⁰⁶ He could exact ransom money, which Eratosthenes had offered him indeed.¹⁰⁷ He could inflict a painful and humiliating penalty upon him, the so-called radish-and-ash treatment (*rhaphanidosis*).¹⁰⁸ Under the *kakourgos* law, Euphiletus could have subjected Eratosthenes to the *apagoge* procedure and brought him before the Eleven. Since Eratosthenes admitted his guilt (Lys. 1,25; 1,29), the Eleven could have executed him on the spot. In addition, Euphiletus could have brought a *graphe moicheias*¹⁰⁹ or a *graphe hybreos*. In theory, also an *eisangelia* could be brought against a *moichos*.¹¹⁰ Also a *dike aikeias* would have been conceivable.¹¹¹ All these options entailed a different degree of self-help and involvement of the community. Euphiletus chose the self-help option par excellence, the killing of the seducer without granting him the chance to appeal to a law court. Euphiletus took precautions so that his action could be considered lawful. First, he assembled a posse of neighbors who witnessed the whole scene. The extreme measure of self-help thus happened in the presence of a more or less representative sample of the community. This

¹⁰⁵ E. CARAWAN, *Rhetoric*, 135, 284, 291 reminds us that the amnesty's stipulation of *me mnesikakein*, not to recall past crimes, did refer to the atrocities committed during the civil war, but in fact had a tremendous impact not only on the conditions of justifiable killing, but also on the Athenians' understanding of retributive violence in general. Also for this reason, self-help killing had become problematic during the fourth century.

¹⁰⁶ In detail D. PHILLIPS, *Homicide*, 22-30; R. OMITOWOJU, *Rape*, 107-112.

¹⁰⁷ DEM. 59 provides ample evidence on this practice.

¹⁰⁸ XEN. *Mem.* 2,1,5; ARISTOPH. *Nub.* 1083-1084. On this and other *Schandstrafen* inflicted upon *moichoi* cf. W. SCHMITZ, *Nachbarschaft*, 338-348.

¹⁰⁹ ARIST. *Ath.Pol.* 59,3-4; DEM. 59,87.

¹¹⁰ HYPER. *Lyc.* (Defense): Lycurgus prosecuted Lycophron by *eisangelia* (LYCURG. Fr.70 / Fr.10-11 [E. Harris]).

¹¹¹ D. OGDEN, "Rape, Adultery and Protection of Bloodlines in Classical Athens", in *Rape in Antiquity*, ed. by S. DEACY-K.F. PIERCE (London 1997), 25-41, 27 on these options. He emphasizes that the protection of the bloodline mattered most in persecuting a rapist or seducer. Since the outcome of forced or consensual, illicit sex could be the same, i.e., the birth of an illegitimate child, rapist and seducer were treated alike, just as a raped woman and an adulteress were (with older literature on this subject).

way, the bloody action appeared to be controlled and sanctioned by the bystanders. Second, Euphiletus emphasized again and again that Eratosthenes had admitted his guilt (Lys. 1,25; 1,29). Under these circumstances, also the Eleven could have summarily executed him in an *apagoge* procedure. Third, in his depiction of the homicide (Lys. 1,24-27) Euphiletus was eager to show how calm he was. Whereas a modern lawyer would try to convince the jury that the defendant had committed a crime of passion or acted under the influence of drugs, Euphiletus' strategy was aimed in the opposite direction. He did not get carried away by emotions. Full of self-restraint, he simply executed the law of the city. For the purpose of his defense, he skillfully spoke the moderate discourse of the democratic *polis*. In order to win the judges' favor, he appropriated in his speech of self-defense the "civic code" as opposed to the old "tribal code".¹¹² This pose was contrary to the facts.

Eratosthenes' relatives brought a *dike phonou* for intentional homicide against Euphiletus.¹¹³ Since he pleaded for lawful homicide, the trial took place before the Delphinium. Given the fact that Euphiletus did not deny his deed and had killed with his own hands, Eratosthenes' relatives could easily have initiated an *apagoge* procedure against him. But in contrast to Euphiletus, they wanted to show that they were not so brazen as to resort to this extreme measure of legalized self-help. In full accordance with the democratic discourse of *enkrateia*, they preferred to bring a cumbersome and lengthy *dike phonou* against the killer of their relative.

(11) 400/399 BC: In Plato's dialogue *Euthyphro or on Holiness*, the young man Euthyphro of Prospalta shocks Socrates by telling him that he had filed a *dike phonou* against his own father.¹¹⁴

¹¹² G. HERMAN, "Tribal and Civic Codes of Behaviour in Lysias 1", in *CQ* 43 (1993), 406-419. For a full assessment of the two different discourses cf. now G. HERMAN, *Morality and Behaviour*, 175-183.

¹¹³ R. OSBORNE, "Law in Action", 57.

¹¹⁴ PLATO, *Euthyphr.* 4. R. OSBORNE, "Law in Action", 57.

The case is fictional, but must be plausible within the parameters of Athenian law in order to have a certain effect on the readership.¹¹⁵ One of the father's dependants, a so-called *pelates*, had killed a house-slave. As a consequence, the father threw the killer in a ditch without taking further measures. He just sent a messenger to the *exegetai* in Athens to ask what to do with the murderer. In the meantime, the *pelates* died in the ditch from hunger, thirst, and cold. S. Panagiotou has shown that the father was indeed liable to charges of homicide. His intent to harm if not to kill through negligence is clearly discernable. Athenian law did not tolerate the maltreatment of the killer, who should have been brought to justice.¹¹⁶ The only question is whether or not Euthyphro had the right to sue his father for having killed the *pelates*. Everything depends on the status of this man and his relationship with Euthyphro. Only masters of slaves could bring charges of homicide on behalf of their own murdered slave.¹¹⁷

¹¹⁵ I. KIDD, "The Case of Homicide in Plato's *Euthyphro*", in 'Owls to Athens'. *Essays on Classical Subjects Presented to Sir Kenneth Dover*, ed. by E.M. CRAIK (Oxford 1990), 213-221, 213-214.

¹¹⁶ S. PANAGIOTOU, "Plato's Euthyphro and the Attic Code on Homicide", in *Hermes* 102 (1974), 419-437, 421-424.

¹¹⁷ I follow the *communis opinio* that only relatives of victims or the master of a slain slave were allowed to bring a *dike phonou*: H.D. EVJEN, "[Dem.] 47.68-73 and the *dike phonou*", in *RIDA* 3rd ser. 18 (1971), 255-265, 262-265; A. TULIN, *Dike Phonou. The Right of Prosecution and Attic Homicide Procedure* (Stuttgart-Leipzig 1996); E. GRACE, "Note on Dem. XLVII 72: touton tas episkepeis einai", in *Eirene* 13 (1975), 5-18; I. KIDD, "The Case of Homicide"; M.H. HANSEN, "Prosecution". They all base their arguments on Ps.-DEM. 47 to a large degree (see below case nr.17). D.M. MACDOWELL, *Athenian Homicide Law*, 17-19, 94-96 thought that everyone, including non-relatives, could file a *dike phonou*. Similar is S. PANAGIOTOU, "Plato's Euthyphro". M. GAGARIN, "The Prosecution of Homicide in Athens", in *GRBS* 20 (1979), 301-323, 322-323 has taken a mediating position between D.M. MacDowell and A. Tulin, stating that normally only relatives of a victim could sue a killer, but there might have been exceptions. Most recently, D.M. MACDOWELL, "Prosecution for Homicide", 384-385, changed his mind in this review of Tulin's book and now agrees with A. Tulin that only relatives could bring a *dike phonou*. Another question is whether or not the relatives had to take action. S. PANAGIOTOU, "Plato's Euthyphro", 433 thinks that relatives had to take action, whereas non-relatives were allowed to sue, but were not obliged to do so (*ibid.*, 433-434); similar D.M. MACDOWELL, *Athenian Homicide Law*, 10-11, 94, 133. Based on a careful analysis of the evidence,

And indeed, with regard to the rank of the *pelates*, Kidd could show that “the evidence points to a category of servitude that is not of the class δοῦλος, but serfdom with a very strong sense of dependence, involving conditions and responsibilities”.¹¹⁸ Since this relationship must have been close to that of a master-slave relationship, Euthyphro felt obliged to avenge the man in court. Why then was Socrates shocked? He seemed to be less concerned about legal considerations than about kinship ties. According to common Athenian belief, the death of a slave, especially one who was a killer, did not justify the indictment of one’s own father. It was disgraceful to sue one’s own relatives in court.¹¹⁹ Once more, we see that Athenian law, just as any other system of law, was not a neutral factor independent from society. Rather, notions and values of Athenian society conditioned the law’s applicability and functioning. The philosophical dialogue could not express better the discrepancy between legal theory and social practice. This discussion makes for a smooth transition to the theme of holiness.

(12) After 349 BC: Ps.-Dem. 59, the famous speech of Theomnestus and Apollodorus against Neaera and Stephanus, highlights the long-term conflict between Apollodorus of Acharnai, the son of Pasion, and Stephanus of Eroiadai, which was carried out in a series of trials dealing with private and political matters. Framing for homicide was a typical stock-motif of character denigration, and was used by Stephanus against Apollodorus to drive him out of the country.¹²⁰ In his search for a runaway slave, Apollodorus had gone out to Aphidna and allegedly killed a woman there with his own

M.H. HANSEN, *Apagoge*, 111 and A. TULIN, *Dike Phonou*, 105-106, however, show that relatives were only allowed and even expected to prosecute, but were not obliged to do so. Cf. above note 73.

¹¹⁸ I. KIDD, “The Case of Homicide”, 220-221.

¹¹⁹ D. PHILLIPS, *Homicide*, 105.

¹²⁰ J. ROISMAN, *The Rhetoric of Conspiracy*, 56.

hands.¹²¹ Although he had no proof whatsoever to substantiate his accusation, Stephanus brought a *dike phonou* against Apollodorus at the Palladion.¹²² In doing so, Stephanus was willing to swear the solemn oath of the *diomosia* calling down destruction upon himself and his family, if the allegations were not true. The text of the speech explicitly mentions the Palladion, but one wonders why Stephanus did not go to the *Areopagus*, since he claimed that Apollodorus had killed the woman with his own hands. He might have found it difficult to plead for intentional homicide. If R.W. Wallace is right in his differentiation of motives underlying homicides and their respective attribution to specific lawcourts, this alleged killing was intentional (*hekousios*), but not premeditated (*ek pronoias*) and thus a typical case for the Palladion.¹²³ A.L. Boegehold describes the cases treated there as accidental,¹²⁴ which probably comes close to the intentions Stephanus implied with his action. It is also possible that the slain woman was a foreigner or a slave. In this case, the Palladion was the prescribed court. Stephanus' suit failed completely, and he came out of these proceedings as a perjuror.

(13) Before 348 BC: In his speech against Meidias (Dem. 21), Demosthenes told the story about Euaeon having killed his drinking mate Boeotus in the context of a public feast in revenge for a single blow and the *hybris* he suffered because of it.¹²⁵ He was tried and convicted by a majority of one vote. There is disagreement as to which court heard the case. M. Gagarin and G. Thür argue for the *Areopagus*,¹²⁶ R.W. Wallace

¹²¹ DEM. 59,9-10.

¹²² R. OSBORNE, "Law in Action", 57.

¹²³ R.W. WALLACE, *The Areopagos Council*, 98-101. See below note 127 for the discussion of the relationship between *hekousios* and *ek pronoias*.

¹²⁴ A.L. BOEGEHOOLD, *The Lawcourts at Athens. Sites, Buildings, Equipment, Procedure, and Testimonia* (Princeton 1995), 47-48.

¹²⁵ DEM. 21,71-75.

¹²⁶ M. GAGARIN, "Self-Defense in Athenian Homicide Law", in *GRBS* 19 (1978), 111-120, 112, 120 thinks that homicides in self-defense were not simply lawful killings, but were rather tried as intentional homicides before the *Areopagus*.

favors the Palladion.¹²⁷ The question remains unresolved. In both law courts, the procedure chosen would have been the *dike phonou*. In theory, Euaeon could also have been subject to an *apagoge*. His killing could certainly be characterized as *ep'autophoro*. It seems that Boeotus' relatives brought a traditional *dike phonou*. Nothing is known about the prosecuting party and their intentions with regard to the procedural option between a *dike phonou* and an *apagoge*.

Special Cases

(14) 348 BC:¹²⁸ Nicodemus of Aphidna, friend of Eubulus and Meidias, was brutally murdered, his tongue was cut off, and his eyes put out.¹²⁹ Nicodemus' family suspected Aristarchus, the son of Moschos, young friend and pupil of Demosthenes, because Nicodemus had slandered and provoked him. Although it was the family's duty to take revenge on behalf of the killed relative, it was Meidias who became active

G. THÜR, "Jurisdiction", argues *passim* and especially on 70 with regard to this case that the *Areopagus* was only concerned with homicide committed by one's own hand. All cases of *bouleusis* were dealt with at the Palladion.

¹²⁷ R.W. WALLACE, *The Areopagos Council*, 100-101. Against D.M. MACDOWELL, *The Law in Classical Athens*, 115, E. HEITSCH, "Antiphon", and W. LOOMIS, "The Nature of Premeditation in Athenian Homicide Law", in *JHS* 92 (1972), 86-95, for example. R. Wallace seems to be alone in his view that the Athenians did differentiate between intentional (*phonos hekousios*) and premeditated murder (*phonos ek pronoias*). Only the latter was tried at the *Areopagus*. In Euaeon's case, the homicide was intentional, but certainly not premeditated. In addition, the judges are described as *dikastai*, not as *bouletai*, which would be the term to be expected in case the *Areopagus* had heard the case.

¹²⁸ Against H. STIER, *s.v.* 'Nikodemos', 2), in *RE* XVII 1 (1936), col. 347 who argues for the murder to have taken place in 354BC. The majority of researchers today favors 348BC, cf. B. DREYER, "Der Tod des Nikodemos von Aphidnai und die Meidias-Rede des Demosthenes", in *The Ancient History Bulletin* 14 (2000), 56-63, 60.

¹²⁹ DEM. 21,104-122 and *schol. ad* DEM. 21,102, 104, 116, 205; AESCHIN. 1,171-172; 2,148; 2,166 and *scholia*; DINARCH. 1,30-31; 1,47; SOPATER, in *Rhetores Graeci* VIII p.48 Walz; IDOMENEUS *FGrH* 338 F 12; ARIST. *Rhet.* 2,23, 1397 b 7-8.

by bringing Aristarchus before the *Boule*, probably through *epegeesis* followed by *apagoge kakourgon*.¹³⁰ Since Nicodemus wanted to sue Demosthenes for desertion, and the reconciliation between Demosthenes and Meidias that Nicodemos wanted to bring about failed, Demosthenes' enemies accused him again and again of complicity in this crime. We do not know why Meidias' proposal was rejected by the *Boule*—it is conceivable that there was not enough proof to fulfill the precondition of an *apagoge*, i.e., that the accused had to be the manifest perpetrator of the deed.¹³¹ Nicodemus was found dead and there was no way of knowing for certain who the actual killer was. Aristarchus was the only suspect, but this may not have been enough to validate the *apagoge* procedure. The *bouleutai* knew without doubt that Aristarchus would be immediately executed after a verdict of guilt. To many councilors, this may have seemed an excessive penalty for someone who was only suspected of homicide. After the failure of the *apagoge* procedure, Nicodemus' family resorted to a traditional *dike phonou*.¹³² In this trial, Aristarchus was probably convicted *in absentia*, for he went into exile before the trial.

This is the only homicide case we know of in which two different procedures were used separately by different plaintiffs, a fact that has been neglected in research so far. Both parties of plaintiffs had the goal of seeing Aristarchus convicted of homicide, but their underlying intentions were quite distinct. How political the whole affair was is made abundantly clear by the fact that Meidias brought a charge first, although there were relatives who could have launched a *dike phonou* right away. There must have been an understanding between Nicodemus' family and Meidias that he should go first and try to succeed with an *apagoge*, to which anyone who wished (*ho boulomenos*) was entitled. A conviction in an *apagoge* procedure would have

¹³⁰ M.H. HANSEN, *Apagoge*, 135-136, nr. 23.

¹³¹ In the case of Agoratus (see above case nr. 4), the Eleven insisted on the stipulation *ep'autophoro* being added.

¹³² R. OSBORNE, "Law in Action", 57.

ensured the capital punishment for Aristarchus, whereas a suspect accused in a *dike phonou* of intentional homicide could still go into exile before the end of the trial. Also, Nicodemus' family might have been inhibited from prosecution, feeling intimidated by Demosthenes looming in the background. It was clear from the outset that this trial was a political one, involving much more than ordinary homicide.

The fact that Meidias, Demosthenes' arch-enemy, took care of the case, sent a dramatic message to the Athenian *demos*. This homicide not only concerned the victim's immediate family, but had implications for the general public as well. The fact alone that the conflict between Meidias and Demosthenes was constantly getting worse suggested to the careful observer of the political scene that Demosthenes, somehow, was involved in the affair and that he could even have given the order to kill Nicodemus, Meidias' useful political instrument. A spurious insertion into the deposition to the judges as rendered by Dem. 21,121-122 speaks about an *eisangelia* to the *Boule*. This is false, but whoever the insertor was, the political implications seemed so dominant to him that the way of carrying out this conflict in public closely resembled an *eisangelia*. This extreme way of involving the public did not work. The *bouleutai* rejected Meidias' method, certainly a harsh setback for him in the ongoing conflict with Demosthenes. Meidias and Nicodemus' relatives now had to content themselves with bringing the much less dangerous *dike phonou* before the *Areopagus*. This option was not the preferred one, but it worked. Aristarchus went into exile before the trial even started, which was understood as a tacit confession of guilt. Once more, procedural flexibility had allowed the Athenian *demos* to make some wise decisions. It did not give in to the bullying of the strongman Meidias and his exaggerated schemes and machinations, but it did not let the suspect go scot-free either.

(15) 371-366 BC: Isaeus 9 (*On the Estate of Astyphilus*) reports about an intra-familial killing one generation back in

time.¹³³ The brothers Thydippus and Euthycrates could not come to an agreement regarding the just division of a piece of land. Instead of pleading their case before an arbitrator or going to court, they resorted to violence. During the fistfight, Euthycrates was injured so seriously that he died a few days later. G. Herman is right in observing that this homicide did not trigger a blood feud or a vendetta.¹³⁴ Euthycrates, on his deathbed, just banned Thydippus and his offspring from his tomb.¹³⁵ We do not hear anything about the reaction of Euthycrates' family except for the fact that Thydippus' homicide of his own brother did have repercussions on the next generation. Astyphilus, Euthycrates' son, did not talk with his cousin Cleon, Thydippus' son. They hated each other for all their lives, a low-key reaction indeed, if this was the only measure taken against the killer's family. But Astyphilus' half-brother, who sued Cleon after Astyphilus's death in an inheritance case, which is the preserved speech, came back to this homicide and used this incident in his argumentation. Although we do not have any information on the immediate family's reaction to the killing, we get some insight into the neighboring farmers' mentality in rural Attica. Although many of them became witnesses of the deed while tilling their fields, they did not want to give evidence in court on such a serious case. The killing of one's brother had almost mythical dimensions and so the farmers preferred minding their own business. We discern a similar attitude of staying aloof in Ps.-Dem. 47 (see below case nr. 17) and Plato's *Euthyphro* (see above case nr. 11). Very clearly, Athenians regarded homicide, even intra-familial killing, as a family business and did not want to take a bloody clash with fatal consequences to the level of the *polis*.

(16) 355 BC: In Demosthenes' speech for Diodorus against Androton (Dem. 22), Diodorus tries to reveal Androton's bad

¹³³ ISAEUS 9,16-18.

¹³⁴ G. HERMAN, *Morality and Behaviour*, 161-162.

¹³⁵ ISAEUS 9,17-19.

character. In his attempt to harm Diodorus as much as possible, Androton even went so far as to insinuate that Diodorus had killed his own father.¹³⁶ The fact that he did not bring charges of homicide against Diodorus shows that the normal procedure in the prosecution of homicide was a private suit, the *dike phonou*, to which Androton, as a non-relative of the victim, was not entitled.¹³⁷ Instead, Androton brought a *graphe asebeias* against Diodorus' uncle, Euctemon, for having associated with the parricide. The idea of pollution formed the basis for this reproach. In fact, a public suit against homicide addresses just these concerns and one wonders why Androton did not have recourse to the *apagoge phonou*, the substantive charge of which was probably that the murderer had defiled the holy places and the *agora* by frequenting them. We do not know anything about Androton's deliberations, but to him at least bringing a *graphe asebeias* against the victim's brother, Diodorus' uncle, must have seemed easier than attacking Diodorus himself. Androton failed in this respect.

(17) Ca. 350 BC: Ps.-Dem. 47 gives us wonderful insight into a long-term upper class conflict that even entailed battery and homicide. The trierach Theophemus had not passed on the naval equipment to the incoming trierarch, the plaintiff of this speech. When Theophemus did not respect an order of the court and would neither give back the equipment nor pay its value, the *Boule* encouraged the plaintiff with a decree to exact what was due to him in whatever way he could. In the absence of a police force, the council of the city was completely dependent on the new trierarch's capability to carry out the order himself. In other words, the council permitted the

¹³⁶ DEM. 22,2.

¹³⁷ W. SCHMITZ, *Nachbarschaft*, 234, n.286. G. GLOTZ, *La solidarité de la famille dans le droit criminel en Grèce* (Paris 1904), 436-437 states that the Athenians did not even permit a public suit in the case of parricide. The *graphe asebeias* threatening all those who had social contacts with the parricide created a material and moral vacuum around the killer. He had to go into exile forever.

use of self-help by a private citizen, which can be equated to an institutionalization of self-help.¹³⁸ The plaintiff went to Theophemus' house and wanted to confiscate some of his property to recover at least the value of the equipment that Theophemus owed him. It did not work. Theophemus would not tolerate the seizure of some of his property and struck a first blow against the plaintiff, who immediately returned the blow. It deserves mentioning that the new trierarch took an officer from the magistrate with him to secure the naval equipment.¹³⁹ Even the presence of a state official did not carry any weight whatsoever. After this brawl, the plaintiff filed a charge of battery against Theophemus, but finally accepted a very moderate compensation of twenty-five drachmas and the promise that Theophemus would agree to an arbitration procedure after a sea trip. Back in Athens, Theophemus delayed the action against him, but sued his opponent in turn. Through the false testimony of his friends Euergus and Mnesibulus, Theophemus won the case and the accused, the plaintiff of the speech Ps.-Dem. 47, was fined 1,100 drachmas and had to pay further court-related costs. He immediately brought an action for false testimony against Euergus and Mnesibulus, which is the preserved speech. Since the plaintiff could not pay the full sum right away, Theophemus went to his farm and seized property far above the value of the sum owned. The next day, the plaintiff did pay the money. Nevertheless, Theophemus and Euergus returned to the plaintiff's farm and brutally carried off property. On this occasion, an old woman, the plaintiff's nurse, wanted to prevent the intruders from taking a pitcher. She hid it under her garment and would not hand it over to Theophemus and Euergus. They treated her with such cruelty that she died six days later. Unlike most other scenes of homicide in the Attic

¹³⁸ D. PHILLIPS, *Homicide*, 252.

¹³⁹ DEM. 47,35: λαβὼν παρὰ τῆς ἀρχῆς ὑπηρέτην [...]. A.R.W. HARRISON, *The Law of Athens*, II 189.

orators, this incident is described in graphic detail.¹⁴⁰ The plaintiff was at a loss of what to do. The woman had lived in his household and was clearly his dependent, but not his slave. He asked the *exegetai* for advice. Their answer is one of the most debated passages in all of Athenian legal documents,¹⁴¹ but we can say the following: Since the plaintiff was neither a relative nor the master of the deceased woman, he was not supposed to file charges before the king archon, but only to make a proclamation against the murderers in general terms. He was advised only to perform the appropriate rites to cleanse his house from pollution and to take vengeance in some other way.¹⁴² In whatever terms we want to understand the broad semantics of *τιμωρεῖν*—the *exegetai* deliberately chose a vague formulation—they encouraged the plaintiff to resort to some kind of self-help within the latitude of Athenian law.¹⁴³ How exactly the plaintiff would go about this business, we do not know. To what extent the high social rank of the murderers and the low rank of the victim played a role in the *exegetai*'s decision, we cannot say.

(18) Ca. 350 BC: In Ps.-Dem. 58, 28-29, Epichares in his attempt to denigrate Theocrines' character reproaches him of not having reacted adequately to his brother's violent death. At first, Theocrines appeared to be shocked and searched for the killers of his brother. When he found out that Demochares was one of them, he promised to bring him to justice before

¹⁴⁰ DEM. 47,58-62; 47,67.

¹⁴¹ DEM. 47,68-70. Cf. above note 117 and M.H. HANSEN, *Apagoge*, 110-111; E. GRACE, "Note".

¹⁴² DEM. 47,70: ἀλλῃ δὲ εἰ πῃ βούλει, τιμωροῦ.

¹⁴³ D. PHILLIPS, *Homicide*, 134 on the magistrates' condonement of extra-legal self-help in this case. From DEM. 53, for example, it is also clear to what extent the individual had to resort to self-help and vengeance was an accepted social value. In this context, using the law courts against one's enemy may be understood as another form of taking vengeance (cf. above note 87). D.S. ALLEN, *The World of Prometheus*, 69 could show that the noun *timoria* means the "reassessment of honor and status in punishment".

the *Areopagus*, i.e., on grounds of intentional homicide. Although the facts were clear and Theocrines had a strong moral obligation to fulfill in avenging the homicide of his brother, in the end Theocrines did not bring charges, but accepted a sum of money in compensation. According to Athenian law, accepting blood money was legitimate, but unusual and obviously frowned upon during the fourth century. Not to take vengeance for one's relative, let alone in a case of intentional homicide, was a sign of personal weakness and cowardice.¹⁴⁴ Above all, Theocrines benefitted from his brother's death financially. The whole incident aroused the judges' indignation. It is interesting to note, however, how quickly and easily the parties involved could cope with a homicide case out of court.

VI. Conclusion

The scrutiny of all known homicide cases including the reactions they caused has once more cemented the view that Athenian homicide law was basically privately oriented, with the *dike phonou* being the primary procedure to seek vengeance in a case of homicide. Concerning the tension between self-help and state control, however, the Athenian homicide law was a hybrid.

On the one hand, the state could not do without private initiative and self-help. The lodging of a *dike phonou* was completely dependent on private initiative. If one was rich enough, one could hire a logographer, but there was no official prosecutor appointed by the state to help the family. The *apagoge* procedure with its summary arrest preserved the old notion of self-help even more clearly than the *dike phonou*.¹⁴⁵

¹⁴⁴ G. GLOTZ, *La solidarité*, 439-440.

¹⁴⁵ This is the reason why H.D. EVJEN, "Apagoge", 413 dates the *apagoge* prior to the introduction of the *dike phonou*. The latter had the function to channel self-help, but not to supplant it.

Anyone who thought that the order of the state was in danger could intervene and arrest the malefactor.

On the other hand, Drakon had taken decisive steps to scale back the blood feud, at least in cases of unintentional homicide. The family's desire to take vengeance was carefully channeled and led into two legal avenues, the *dike phonou* and the *apagoge* procedure. Also the latter, as archaic as it may seem and as much as it may smack of self-help, was a legalized and institutionalized public suit within the purview of Athenian law.¹⁴⁶ In probably no other domain of Athenian law did the lawgiver go to greater lengths to reduce the risk of people taking the law into their own hands.

Speaking of Athenian procedural flexibility in general, we should begin seeing the various procedures in relation to each other. Behind the choice of procedure lay important decision-making processes that not only influenced the initiation and unfolding of the trial, but also conveyed symbolic messages to the audience concerning the self-image of the prosecuting party. The choice of procedure itself, including the preceding decision-making process, framed a positive self-image and was already the first step in the denigration of the opponent's character. Choosing one procedure out of many was not only a question of legal expediency and social propriety, but also an integral part of the performative actions taken against a criminal. Athenian law was far from being user-friendly, but through its immense procedural flexibility it enabled prosecutor and defendant to craft images of self and other with suggestive force and thus to express opinions and biases that go far beyond legal technicalities.

¹⁴⁶ H.D. EVJEN'S, "APAGOGE", 407 CHARACTERIZATION OF THE *APAGOGE* AS THE "ILLEGAL ENFORCEMENT OF CRIMINAL LAW" IS THEREFORE WRONG.

Appendix

List of Attested Homicides in Athens and Their Form of Prosecution (422-348 BC)

Nr. in text	Date	Source	Plaintiff	Murderer	Victim	Procedure
1	422-413	Antiphon 5	Herodes' relatives	Euxitheus of Mytilene	Herodes	<i>apagoge</i>
2	411	Thuc. 8,90-92; Lys. 13,70-72; Lycurg. 1,112-115. Cf. Lys. 7,4; 20,9-11; 25,9.	Phrynicus' relatives/friends	Thrasyboulus from Kalydon, Apollodorus from Megara	Phrynicus	<i>apagoge</i>
3	After 403/2	Lys. 13,55-57	relatives of democratic leaders?	Menestratius	democratic leaders	<i>apagoge</i>
4	399 or later	Lys. 13	Dionysodorus' brother Dionysius and victim's brother-in-law	Agoratus	democrat Dionysodorus	<i>apagoge</i>
5	364-362	<i>IG II² 111 = TOD, SGHI II 142 = Syll.³ 173 = RHODES – OSBORNE, GHI 39 = BRODERSEN – GÜNTHER – SCHMITT, HGIÜ II 231</i>	Satyrides, Timoxenus, Miltiades (Aeson's relatives/ friends?)	Antipatrus from Ceos	Aeson (Athenian <i>proxenos</i>)	<i>apagoge?</i>
6	420-411	Antiphon 1	victim's son	plaintiff's stepmother	plaintiff's father	<i>dike phonou</i>
7	419/8	Antiphon 6	victim's brother Philocrates	choregus	Diodotus	<i>dike phonou</i>
8	After 403/2	Lys. 12	victim's brother Lysias	Eratosthenes	plaintiff's brother Polemarchus	<i>dike phonou?</i>

9	402	Isocr. 18,52-54	Callimachus and his brother-in-law	Cratinus	slave woman (faked homicide)	<i>dike phonou</i>
10	400-380	Lysias 1	Eratosthenes' relatives	Euphiletus	Eratosthenes	<i>dike phonou</i>
11	400/399	Plato, <i>Euthyphro</i> 4	Euthyphro	Euthyphro's father	a <i>pelates</i> (slave?) (fictional case)	<i>dike phonou</i>
12	After 349	Ps.-Dem. 59,9f.	Stephanus	Apollodorus	woman from Aphidna (false accusation)	<i>dike phonou</i>
13	Before 348	Dem. 21,71-75	Boeotus' relatives	Euaeon	Boeotus	<i>dike phonou</i>
14	348	Dem. 21,104-122 and <i>scholia ad Dem.</i> 21, 102, 104, 116, 205; Aesch. 1,171-172; 2,148; 2,166 with <i>scholia</i> ; Din. 1,30-31; 1,47; Sopater (VIII p. 48 Walz); Idome-neus <i>FGrH</i> 338 F 12; Arist. <i>Rhet.</i> 2,23, 1397 b 7-8).	1. Meidias 2. Nicodemus' relatives	Aristarchus	Nicodemus of Aphidna	1. <i>apagoge</i> 2. <i>dike phonou</i>
15	371-366	Isaeus 9,16-19	N/A	victim's brother Thydippus	Euthycrates	no reaction known
16	355	Dem. 22,2	Androtion	Diodorus	Diodorus' father	<i>graphe asebeias</i> against Diodorus' uncle Euctemon
17	ca. 350	Ps.-Dem. 47,58-73	N/A	Theophemus and Euergus	speaker's nurse, previously slave woman	"vengeance in some other way"
18	ca. 350	Ps.-Dem. 58,28-29	Theocrines does not prosecute for homicide	Demochares and others	Theocrines' brother	private settlement through financial compensation ('blood money')

DISCUSSION

R. MacMullen: On the question of “Athenian law” and “Athenian society”, as I listened to the exposition, I tried to recall some of the more general facts about the two, and the question, really how representative of the two are the 18 law cases presented to us. Suppose, as my best guess or recollection, that we have a city of 50,000 and a total population of 300,000 (even if quite mistaken the figures will serve for the question) — then in that case the laws are passed by a legislative assembly of some tiny proportion, a mere two or three thousand citizens, among whom only a few hundred in turn will be of the life experience, the stubbornness, the confidence, the wealth, and connections, to venture on the possible kinds of law-suit that are permitted. Excluded from any participation in citizenship itself are women and children, metics, and slaves, and visitors to Athens for business or worship or any other purpose. These have access neither to law-making nor to the enjoyment of its results.

But in addition, the extra-urban population do not appear in the dossier of litigation about homicide. I assume that is not the accident of the sources. The rural population generally don’t come into the city.

All these excluded, amounting to, let us say, 99% of Athenian society, presumably were as prone to kill each other as the privileged of the 18 cases. Yet we hear of no great ill effects in society, no prevailing anarchy or chaos. So the 99% had their own practices for the tolerable control of violence — call those practices “Athenian law” or by any other name. It appears that we can have no knowledge of all this area of life, our sources being so exclusively occupied by the elite.

W. Riess: You rightly address a fundamental problem of Athenian democracy: How democratic in our sense was democratic Athens? The exclusion of vast parts of the population from political participation should prevent us from believing that the rule of law held uncontested sway in Athens. Moreover, our sources are far from being representative and, as you aptly observe, distorted by the fact that they were primarily shaped and transmitted by the elites. Nonetheless, I am inclined to think that there is reason to be somewhat more optimistic. It is certainly true that the few instances we can grasp in the evidence are just the tip of the iceberg of all homicide cases that must have occurred, but the few we have knowledge of do give us important insights. Herodes' relatives may have been humble klerouchs in Mytilene. Euphiletus had an estate in the countryside, which he tended to on a regular basis. Euthyphro's father was responsible for the death of a dependant worker, a *pelates*, and sent himself for the *exegetai* in Athens to ask them how he should behave. This case is fictional, but telling. Thydippus and Euthycrates and their descendants were farmers in the countryside. This is not to say that other cases of homicide could not have been treated differently, according to social and moral practices that might have had only little to do with the official law of Athens, but it is hard to imagine what these would have been. Women, children, and slaves stood under the complete control of their respective *kyrios*, an Athenian citizen. A metic had to have a *prostatae* who represented him in court. The web of social dependencies and mutual obligations was closely knit, also and especially in the countryside, where people in the *demes* lived in face-to-face societies. Homicide cases are relatively rare in any given society compared to petty crimes like theft, and it is conceivable that in such extreme cases, people would have bothered to turn to the competent magistrates in the city of Athens and ask for their advice on how to seek redress. According to Gabriel Herman's theory ("How Violent was Athenian Society?" in *Ritual, Finance, Politics. Athenian Democratic Accounts Presented to*

David Lewis, ed. by R. Osborne – S. Hornblower [Oxford 1994], 99-117; Id., *Morality and Behaviour in Democratic Athens. A Social History* [Cambridge 2006], 237ff.), it was the community of the democratically oriented hoplite citizens who, in theory, would also rise up in arms in case of an internal threat in order to bolster, and, if need be, to defend the political, social, and judicial system of Athens against every challenge from in- and outside.

H. van Wees: The sheer complexity of the *dike phonou* is very well brought out in your paper, and your analysis of the symbolic significance of adopting this legal procedure in preference to others is highly persuasive. I wonder, however, whether we should also try to explain the *dike phonou* from the point of view of the state, as opposed to the litigant. The procedure is so demanding that it could hardly have been an efficient way of bringing murderers to justice — but on the other hand it seems ideally designed to inhibit *revenge* killings. Could you say something more on what, in your view, motivated the creation of Athens' various procedures for dealing with homicide?

W. Riess: Thank you for raising this important question. In my contribution, I only concentrated on the litigants' intentions and the symbolic messages they were eager to convey. But in order to complement the picture, you are right, we should also wonder about the lawgiver's intention in designing a procedure as complicated as the *dike phonou*. It seems to me that the lawgiver's primary concern was to cool off emotions on both sides. The lengthy procedure of the *dike phonou* certainly fulfilled this goal. Drakon's aim seems to have been the curbing and controlling of retributive vengeance, i.e., to abolish the blood feud in its unrestrained form. Pursuing a feud was not necessary any more, because the relatives of a killed victim could now file charges for unintentional and intentional homicide. If someone was found guilty of unintentional homicide, he had to go into temporary exile; his goods were not confiscated. This means the malefactor

was punished by being removed from the community for a while. This temporary expulsion must have satisfied the relatives, but at the same time, the life of the defendant was also protected from the blood feud. In the case of intentional homicide, a convicted defendant was executed in classical times, if he had not left the city before the end of the trial to go into life-long exile. It is unclear when the official execution by state authorities was introduced. The emergence of the various homicide courts and especially the development of the role and functions of the Areopagus remain a thorny and much contested field of study. G. Thür, "Die Todesstrafe im Blutprozess Athens (Zum *dikazein* in IG I³ 104, 11-13; Dem. 23,22; Aristot., AP 57,4)", in *Journal of Juristic Papyrology* 20 (1990), 143-156 thinks that originally, the person convicted of intentional homicide by the *ephetai*, was handed over to the slain victim's relatives who could then do with him what they wanted, i.e., kill him legally. Since there had been a verdict rendered by representatives of the community, this killing was no private vengeance any more. The desire for retributive killing was thus satisfied, but approved of by the community and thus controlled. According to G. Thür, it was Solon who passed cases of intentional homicide into the competence of the Areopagus and had the killing of the convicted murderer transferred to state magistrates. This was the introduction of the capital punishment, now meted out by official representatives of the city.

C. Brélaz: Vous avez précisément montré la coexistence, dans la procédure pénale athénienne, de compétences revenant aux particuliers (arrestation, accusation) et de prérogatives étatiques (jugement, mise à mort). Cette situation est semblable à Rome: malgré la restriction, au cours de l'époque républicaine, des cas où était toléré le recours à la justice privée, les principes d'autodéfense ne furent pas entièrement abolis sous le Principat. Il est intéressant de noter qu'au contraire de ce qui s'est passé pour l'État moderne, cette tendance à la monopolisation de la force et de la justice pénale par les pouvoirs publics n'a pas

abouti à une substitution radicale de la justice privée par des structures étatiques. Un accroissement des tâches de l'État en matière de répression criminelle est-il néanmoins perceptible à Athènes sur le long terme?

W. Riess: On a methodological level, it is absolutely worthwhile comparing the legal systems of different cultures. As you rightly observe, the growing tendency of the state to monopolize the use of force from the Early Modern Period on is a phenomenon that I think we can find in the Roman world. Over the centuries, the Roman emperors and magistrates certainly tried to concentrate law enforcement in their hands. At the same time, however, we have to admit that even the quite successful attempts to systematize Roman law in Antiquity—a great achievement of the Roman jurists and a major factor in Rome's cultural legacy—did not lead to anything we could call “the monopoly of power”, as we are used to finding it in the modern Western state. In the field of ancient Greek law, we can speak even less of efficient endeavors in this direction, although they were not entirely absent. First of all, legal conditions were very diverse in Greece with different conditions in every *polis* and region. We know a lot about the Attic legal system, but we should keep in mind that the evidence that is preserved only provides us with a glimpse of the original system. The sources from the classical epoch only cover approximately two hundred years and it is even difficult to trace the outlines of Attic law in Hellenistic times. What we do have from classical Athens does not make us very confident that Athenians even strove for a “governmental” monopoly of power. As I said in my paper, Attic law remained dependant on self-help to a large degree and could not even do without it. It is only in homicide law that we observe the deliberate wish from the part of the state to transfer the claim of the victim's family to seek vengeance to homicide courts. The channeling and ultimately even the abolishment of blood feud is a crucial step in the emergence of any penal system and cannot be overestimated in its significance for

the cultural development of Athens. But homicide law seems to have been an exception. In all other domains of Athenian law, self-regulation and self-help remained constituent parts of the system of justice.

H. van Wees: In the opening part of your paper you interestingly analyze a range of factors which may help to explain a comparatively high level of internal public security in the absence of a police force or other effective central coercive authority. Most of these factors, however, are surely common to many ancient (and indeed modern) societies and therefore cannot in themselves explain the exceptional stability of fourth-century Athens. My impression is that perhaps we should look for an explanation of this stability not so much in the *means* of maintaining public order as in the degree to which *causes* for conflict — such as social and economic inequality — were minimized in classical Athens. Would you agree?

W. Riess: You are perfectly right in observing that many of the means that seem to have made Athens relatively stable and peaceful are also to be found in other and even modern societies. Some of these factors may have weighed more heavily in Athens than in other communities, but a quantitative assessment of the efficiency of these measures is impossible. The search for the reasons for conflict and violence is a traditional method exercised by sociologists, jurists, and criminologists. Among the factors causing strife and turmoil, economic, social, and political inequality need to be considered. On the one hand, G. Herman, *Morality and Behaviour in Democratic Athens* (Cambridge 2006), 374–391 has suggested that at least in classical Athens, economic inequalities had been reduced to a minimum. Sources of income for the *demos* were the silver mines of Laureion, the allies' tributes or taxes, and booty from the wars, to name just a few. In addition, more land than ever before was cultivated by Attic farmers. On the other hand, economic and social discrepancies continued to exist throughout

the classical period. Let us not forget that Solon refrained from any radical redistribution of the land (*anadesmos ges*) and was determined to grant everyone only what was due to him (Arist. *Ath. Pol.* 11-12). Athenians seem to have tolerated a considerable amount of economic and social stratification in their society. Payments for the attendance of law courts, assembly of the people, and theater were not the roots of a modern welfare system. Athenians reacted violently, however, towards any attempt at overthrowing the democracy, as attested in 411 and 404/3 BC. From this perspective, we could say that it was the political equilibrium and the participation of a vast majority of citizens in the political decision-making process that made Athens relatively safe and stable during the fifth and fourth century BC.

ANGELOS CHANIOTIS

POLICING THE HELLENISTIC COUNTRYSIDE: REALITIES AND IDEOLOGIES

1. *Phylake tes choras*: the ideology

"All this shall be for the guarding of the territory" (*ταῦτα δὲ εἶναι ἄπαντα εἰς φυλακὴν τῆς χώρας*). This phrase closes an Athenian decree of the year 325 BC. If the rest of the decree had been lost, the editor of this inscription might have speculated that it contained measures for the protection of Attika from foreign invasions, raiders, or other threats. The decree is, however, preserved. Its content consists of regulations concerning the foundation of a colony on the Adriatic Sea.¹ Neither the colony in the Adriatic Sea nor anything in the decree has even the most remote relevance for the Attic countryside and its protection. Fritz Gschnitzer, who studied this and similar formulae in Greek decrees, plausibly concluded that this formula was used in order to give a decree of the assembly a higher status over other decrees or norms that might collide with its content, thus protecting its future validity.² As a decree from Kyme (second century) puts it: "this decree shall remain

* If not otherwise stated, all dates are BC. For epigraphic publications we use the abbreviations of *SEG*.

¹ *IG II²* 1629.

² F. GSCHNITZER, "Zur Nomenhierarchie im öffentlichen Recht der Griechen", in *Symposion 1979. Actes du IV^e colloque international de droit grec et hellénistique, Égine 3-7 Septembre 1979*, ed. P.D. DIMAKIS (Athènes 1981), 141-164.

valid for all time for the guarding and the safety of the city and the territory".³

Similar formulae are known from about thirty decrees. These formulae designate the decrees in which they occur as pertaining to the "guarding of the territory" (εἰς φυλακήν τῆς χώρας) or simply to "the guarding" (εἰς φυλακήν), the "guarding and salvation of the city (or the people)" (εἰς φυλακήν καὶ σωτηρίαν τῆς πόλεως / τοῦ δήμου), the "guarding of the people and the territory" (εἰς φυλακήν τοῦ δήμου καὶ τῆς χώρας), and the "salvation of the people (or of the city and the citizens)" (εἰς σωτηρίαν τοῦ δήμου / τῆς πόλεως καὶ τῶν πολιτῶν). Most decrees concern matters with no direct bearing on the protection of the city, its land, or its population (e.g., honours for foreign judges). In several cases the matter in hand was fiscal or financial, in only two cases directly connected with military matters.⁴

Although these formulaic expressions are not found in decrees directly related to the security of the city or its territory, they still clearly express one of the primary concerns of Greek communities in the Hellenistic period: the protection of city and countryside. The "guarding of the territory" (φυλακή τῆς χώρας) was a permanent concern of a community.⁵ As soon as a decree was declared as "pertaining to the

³ *I.Kyme* 12 lines 9-10: ἔμμεναι δὲ τὸ ψήφισμα τοῦτο εἰς φυλακὰν καὶ σωτηρίαν τᾶς πόλεως καὶ τᾶς χώρας κύριον εἰς πάντα τὸν χρόνον.

⁴ *IG II²* 791 (Athens, 247 BC): τὸ δὲ ψήφισμα τόδε, ἐπειδὴν περὶ πόρου χρημάτων[ν] ἐστὶν στρατιωτικῶν, εἶναι ἀπαντέλλεται εἰς φυλακήν τῆς χώρας; *Syll.*³ 742 (Ephesos, c. 85 BC): τοῦ πράγματος [ἀ]νήκοντος εἰς τε τὸν πόλεμον καὶ εἰς τὴν φυλακήν καὶ ἀσφάλειαν κατὰ τὴν σωτηρίαν τοῦ τε ἱεροῦ τῆς Ἀρτέμιδος καὶ τῆς πόλεως καὶ τῆς χώρας.

⁵ E.g., *I.Erythrai* 28 line 9: ἐπὶ τε τὴν φυλακήν τῆς χώρας τὴν κατὰ θάλασσαν [ἀ]ποδειχθεὶς; *IOSPE* I² 355 line 22: [περὶ τὸν] χώραν ἀσφαλεῖας; cf. φυλακή/ἀσφάλεια κατὰ τὴν χώραν: V.C. PETRAKOS, *Ο δῆμος τοῦ Ραμνοῦτος. Σύνοψη τῶν ἀνασκαφῶν καὶ τῶν ἐρευνῶν (1813-1998). II. Οἱ ἐπιγραφές* (Athens 1999), nos. 20, 32, 38, 43, 46, 49-50. On law enforcement in the city see most recently E. HARRIS, "Who enforced the law in Classical Athens?", in *Symposium 2005. Vorträge zur griechischen und hellenistischen Rechtsgeschichte (Salerno, 14.-18. September 2005)*, hrsg. von E. CANTARELLA (Wien 2007), 159-76.

guarding of the territory”, it overrode all other legal norms – perhaps with the exception of sacred regulations. In Athens, one of the items on the agenda of every main assembly was “the guarding of the territory”.⁶

These formulae also sporadically appear in decrees of the Imperial period, as survivals. For instance, the posthumous honorary decree for Apollonis in Kyzikos in the first century AD is declared to be περὶ φυλακῆς.⁷ The times in which the inhabitants of Kyzikos had to bring their flocks into the territory of Pergamon for security and to organise a cavalry unit to guard the countryside (εἰς φυλακὴν τῆς χώρας) from Galatian incursions were gone and forgotten.⁸ But the ideology of ‘guarding the territory’ had remained alive, despite the fact that the *pax Romana* in Asia Minor had eliminated most of the threats which this formula originally implied.⁹

The *chora* which had to be guarded and protected was not the imaginary countryside of ancient poets and modern anthropologists. It was the economic backbone of the cities, their most important source of revenue, food, and resources.¹⁰ One of the functions of patrollers (*peripoloi*) envisaged by Xenophon is the protection of the silver-mines;¹¹ Athenian inscriptions, which praise military commanders for their service in the countryside, highlight the protection of farmers and

⁶ *Ath. Pol.* 43.4: περὶ φυλακῆς τῆς χώρας.

⁷ *SEG* 28, 953,88.

⁸ C. CHANDEZON, *L'élevage en Grèce (fin V^e-fin I^r s. a.C.). L'apport des sources épigraphiques* (Bordeaux 2003), 183-6 (c. 280-275); *OGIS* 748 (c. 279).

⁹ For insecurity in Roman Asia Minor see C. BRÉLAZ, *La sécurité publique en Asie Mineure sous le Principat (Ier–III^e s. ap. J.-C.). Institutions municipales et institutions impériales dans l'Orient romain* (Basel 2005).

¹⁰ J. MA, “Fighting poleis of the Hellenistic World”, in *War and Violence in Ancient Greece*, ed. by H. VAN WEES (London 2000), 342 with n.23; A. CHANIOTIS, *War in the Hellenistic World: A Social and Cultural History* (Oxford 2005), 28, 121-129.

¹¹ XEN. *Vect.* 4,43-48. See P. GAUTHIER, *Un commentaire historique des “Poroi” de Xénophon* (Genève-Paris 1976), 185; J.-Chr. COUVENHES, “La réponse athénienne à la violence territoriale aux IV^e et III^e siècles av. J.-C.”, in *CCG* 10 (1999), 196-201.

of agricultural production;¹² a fragmentary decree honouring a citizen of Chersonesos in Tauris (early first century AD) mentions the security of the countryside in close connection with public revenues;¹³ and the Erythraean honorary decree for Polykritos, responsible for the guarding of the countryside, does not neglect to mention that he ensured the safety of traders.¹⁴ With the exception of bucolic poetry – composed by poets living in cities or royal courts – references to the Hellenistic countryside are usually found in dispassionate documents concerning its economic exploitation, protection, and control, its measurement, delimitation, and division, its legal structure and status, and disputes arising from compering individuals' and groups' insatiable wish to own it.

The relationship between the population of the urban centre and the population of the countryside was not free of tensions. The causes of these tensions varied; in some areas they were connected with the inferior legal status – and sometimes also the different ethnic origin – of the population of the countryside (Sparta, Thessaly, Crete, colonies of the Black Sea, Asia Minor); in other cases they were related to the different life-styles of the city-dwellers and the peasants;¹⁵ often they originated in conflicting economic interests. It was exactly because of the inequalities and the tensions between urban and rural

¹² E.g., J.-Chr. COUVENHES, *art.cit.*, 203-206; V.C. PETRAKOS, *op.cit.*, nos. 3, 38, 43, 46; K. CLINTON, *Eleusis. The Inscriptions on Stone* (Athens 2005), I 100f. no. 95.

¹³ IOSPE I² 355 lines 21f.: [τᾶν κ]οινᾶν προσόδων πλείσταν ἐπιμ[έλε]ιαν ἐποι[ήσατο -- τᾶς περὶ τ]ὰν χώραν ἀσφαλείας.

¹⁴ I.Erythrai 28 lines 11-12; A. BIELMAN, *Retour à la liberté. Libération et sauvetage des prisonniers en Grèce ancienne* (Paris 1994), 80-85 no. 21.

¹⁵ For Hellenistic Athens, see e.g., THEOPHR. *Char.* 4 (ἀγροῦκος); HERACLIDES CRITICUS 4: τῶν δ' ἐνοικούντων οἱ μὲν αὐτῶν Ἀττικοὶ οἱ δ' Ἀθηναῖοι. οἱ μὲν Ἀττικοὶ περίεργοι ταῖς λαλιαῖς, ὑπουλοι, συκοφαντώδεις παρατηρηταὶ τῶν ζενικῶν βίων. οἱ δ' Ἀθηναῖοι μεγαλόψυχοι, ἀπλοὶ τοῖς τρόποις, φιλίας γνήσιοι φύλακες; MEN. *Georg.* fr. 5 Sandbach: εἰμὶ μὲν ἀγροῦκος ... | καὶ τῶν κατ' ἄστυ πραγμάτων οὐ παντελῶς | ἐμπειρος; Dysc. 41: ἀστυκὸν τὴν διατριβὴν. See also H. CULLYER, "Agroikia and Pleasure in Aristotle", in *City, Countryside, and the Spatial Organization of Value in Classical Antiquity*, ed. by R.M. ROSEN - I. SLUITER (Leiden 2006), 181-217.

population that Hellenistic documents sometimes emphatically refer to the entire population,¹⁶ attempting to bridge the gap between the city-dwellers and the population of the countryside at least ideologically.

If the population of the Hellenistic countryside often was of inferior legal or social status, the countryside was the economic basis of every polis. A stereotypical clause in Cretan treaties of alliance explicitly included the countryside and its non-citizen population to the provisions for the defence of a city. For example, a treaty between Eleutherna and Lato in the early second century states: “If an enemy invades the territory of the Eleutherneans or cuts off parts thereof, or occupies forts or harbours, or destroys the lots or the serfs, or wages war, the Latian shall help in land and on sea without any pretext with all his might”.¹⁷

The land and its inhabitants were to be defended with the same zeal as the town, and many honorary decrees for members of the elite concern persons who exposed themselves to dangers in order to defend the countryside. Apollodoros of Berenike is a good example. When king Ptolemy (IX?) died (80 BC) and the repeated attacks of bandits (*χακοῦργοι*) were threatening the countryside of Berenike in Kyrenaika, Apollodoros, offspring of a good family, was asked to command the ‘young men’ (*νεανίσκοι*), probably men between twenty and thirty years, in order to avert this danger. With this unit,

¹⁶ E.g., *I.Magnesia* 98, lines 26-29: ὑπέρ τε σωτηρίας τῆς τε πόλεως καὶ τῆς χώρας καὶ τῶν πολιτῶν καὶ γυναικῶν καὶ τέκνων καὶ τῶν ἄλλων τῶν κατοικούντων ἐν τε τῇ πόλει καὶ τῇ χώρᾳ; cf. *I.Priene* 46 lines 13-15: [εἰστίασε] τοὺς τε πολίτας καὶ τὰ τέκν[α] α[ὐτῶν, τούς τε κατοικοῦν]τας τήν τε πόλιν καὶ τὴν χώρα[ν]; L. MIGEOTTE, *Les souscriptions publiques dans les cités grecques* (Québec-Genève 1992), 147-160 no. 50 (*PH* 10) lines 7-11: ἐ[π]ιαγγέλλεσθαι τὸς δηλομένος τῶν τε πολιτῶν καὶ πολιτίδων καὶ νόθων καὶ πα[ρ]όκαν καὶ ξένων.

¹⁷ *I.Cret.* I, xvi, 17 = A. CHANIOTIS, *Die Verträge zwischen kretischen Poleis in der hellenistischen Zeit* (Stuttgart 1996), 276-78 no. 37 lines 14-16; cf. *I.Cret.* 186 B = A. CHANIOTIS, *op.cit.*, 265-267 no. 31 lines 6-10: “if someone wages war against the Gortynians or occupies a fort or harbours or cuts off part of the territory, the Lappaions shall help the Gortynians on land and on sea, with all their might, to the best of their abilities”.

Apollodoros “established the greatest peace, taking upon himself every danger”.¹⁸ The city had been without a city wall and had already twice been the victim of pirates. In this critical situation, the city entrusted him with full authority over the city and the countryside, a unique position which he held with such prudence that his fellow citizens praised him for safeguarding concord in the city and demonstrating just judgement.

Those who could not or would not fight could still contribute to the protection of the countryside through voluntary money donations. But although we have ten subscriptions concerning the building or restoration of a city-wall, only two concern the protection of the countryside.¹⁹ The inequality between city and countryside reflected in these numbers is also evident in one of these latter subscriptions: its aim was not primarily the protection of the countryside but the exploitation of its resources.²⁰ Most of the evidence concerning the protection of the countryside reveals the concern of the urban population for the food supply and the economic resources of the *chora*.²¹

Whereas a Hellenistic polis usually had a city-wall, which not only offered effective protection but was also a visible source of pride – and a cause of high expenditure –²² and presented a focal point of political, economic, religious, and cultural activities, the countryside was usually hard to define, to

¹⁸ SEG 28,1540, 62/61 BC.

¹⁹ City-wall: L. MIGEOTTE, *op.cit.*, nos. 18, 21, 23-24, 37, 54, 56, 60, 68-69. Countryside: no. 16 = *IG II²* 798 lines 19-20 (Athens, mid-second century): τῆς ἐπιδόσεω[ς γεγενημένης εἰς τὴν φυλακήν τῆς χώρας; no. 17 = *IG II²* 791 lines 16-17 (Athens, 243 BC?): ἐπιδιδό[να]ι εἰς τὴν σωτηρίαν τῆς πόλεως καὶ τὴν φυλακήν τῆς χώρας.

²⁰ L. MIGEOTTE, *op.cit.*, no. 17 = *IG II²* 791 lines 10-12 (Athens, 243 BC?): ἵνα ... συνκ[ομισθῶσιν οἱ ἐκ γῆς κ]αρποὶ μετ' ἀσφαλείας.

²¹ See the sources discussed below: *IG XII* 8, 156 B; *IOSPE I²* 32 B, 401; *I.Histria* 15.

²² A. CHANIOTIS, *op.cit.* (n.10), 26-28, 116-118. On the expenses for fortifications, see more recently H. TRÉZINY, “Le prix des murailles”, in *Téχναι. Techniques et sociétés en Méditerranée. Hommage à Marie-Claire Amouretti*, éd. par J.-P. BRUN - P. JOCKEY (Paris 2001), 367-380 (Classical period).

guard, and to control. Its borders were products of nature and not of human hands. It was exposed to attacks by ‘outsiders’ – invasions by the armies of foreign communities, raids by people living outside organised civic life or even outside Greek culture. It offered shelter to those who fled from the polis community and its laws – runaway slaves, political groups defeated in civic strife.²³ Some of its deities were associated with untamed and wild powers (Pan, Nymphs, Artemis). Guarding the Hellenistic countryside involved not only protecting its population, but also (at least in some cases) imposing the control and the norms of an urban centre.

2. *Phylake tes choras: six different perspectives*

2.1. *The perspective of the traveller: Herakleides*

If a Pausanias had lived five centuries earlier, the only bandits he would have mentioned would most likely have been those killed by Theseus on his way to Athens. What a traveller describes is idiosyncratic and ideological. His portrayal of a landscape is the result of selection, omission, and emphasis, and, therefore, constructed; nevertheless, it reflects contemporary trends, as has been observed in the case of Pausanias.

The only relatively coherent account of a Hellenistic landscape which has survived the selection of time is a work under the title *Concerning the cities in Greece* (Περὶ τῶν ἐν Ἑλλάδι πόλεων). It is attributed to a certain Herakleides, about whom nothing is known.²⁴ His Greek landscape is not free of clichés, e.g., concerning the superiority of the urban population over the peasants (§4)

²³ See the examples mentioned by Hans van Wees in this volume (p. 15): *Ath. Pol.* 19.3 (Leipshydron); *HDT.* 4.164 (Kyrene); 6.90 (Aigina).

²⁴ See more recently A. ARENZ, *Herakleides Kritikos “Über die Städte in Hellas”. Eine Periegese Griechenlands am Vorabend des Chremonideischen Krieges* (München 2005), who dates this work to ca. 271-267 BC. As far as I can see, there are no unequivocal arguments for this date, and I would not exclude a date between c. 229 and 200 BC.

or ethnic stereotypes (e.g., §§7, 14, 25). In the chapter dedicated to Boiotia, we find *en passant* the following remark (§8): “From here (Oropos) to Tanagra, 130 stadia. The road goes through a countryside full of olive trees and thickly wooded, entirely clean from the fear of theft” ($\pi\alpha\nu\tau\delta\varsigma\;\kappa\alpha\theta\alpha\rho\epsilon\nu\sigma\alpha\;\tau\ou\;\dot{\alpha}\pi\dot{\alpha}\;\tau\omega\;\kappa\lambda\omega\pi\omega\;\varphi\beta\omega\nu$). Tanagra itself is described as “the safest of all the cities in Boiotia for a foreigner to stay in there” (§9: $\kappa\alpha\;\dot{\epsilon}\nu\delta\alpha\tau\rho\beta\psi\alpha\;\delta\epsilon\;\xi\epsilon\nu\varsigma\;\dot{\alpha}\sigma\phi\alpha\le\sigma\tau\alpha\tau\eta\;\pi\omega\varsigma\;\tau\omega\;\kappa\alpha\tau\alpha\;B\omega\omega\tau\iota\alpha\omega$), because of the honest character of its inhabitants. Still in Boiotia, the road from Plataia to Mt. Kithairon is characterised as deserted and full of stones ($\dot{\epsilon}\rho\eta\mu\omega\;\kappa\alpha\;\lambda\mu\omega\delta\eta\varsigma$), but not very insecure ($\o\mu\;\lambda\iota\alpha\mu\;\delta\epsilon\;\dot{\epsilon}\pi\iota\sigma\phi\alpha\lambda\hbar\varsigma$) – possibly a reference to the dangers caused by a bad road rather than by evil men (§11).

Unfortunately, from Herakleides’ account only the sections concerning Attika and Boiotia as well as the mythical narratives on Thessaly have been preserved. However, even as casual and brief an observation as the one concerning the safety of the road from Oropos to Tanagra, admittedly a very short distance of c. 20 km, it presupposes a fear of thieves on other roads. The Hellenistic countryside was sometimes a challenge for the travellers – traders, athletes, entertainers, pilgrims, envoys –, and this explains the intensive efforts of cities to have an *ekecheiria* recognised during the celebration of festivals and contests.²⁵

2.2. *The perspective of the inhabitant of the countryside: Nikostratos*

Let us now change perspective, and move from that of the foreign traveller to that of an inhabitant of a district on the

²⁵ K.J. RIGSBY, *Asylia. Territorial Inviolability in the Hellenistic World* (Berkeley-Los Angeles-London 1996), 11-12 and nos. 3 (Akraiphia), 4 (Thebes), 14, 16-18, 20, 23, 25-28, 32, 35, 39, 50 (Kos), 73, 79, 81, 83, 85, 88-89, 91-93, 95-96, 100-103, 105-108, 111-112, 125-127, 131 (Magnesia on the Maeander), 168 (Kyzikos). Measures for the safe journey of foreign envoys and judges: e.g., *I.Magnesia* 15; security of actors and entertainers: S. ANEZIRI, *Die Vereine der dionysischen Techniken im Kontext der hellenistischen Gesellschaft* (Stuttgart 2003), 35, 45, 73, 243, 246, 248, 250f. with note 240, 300, and documents A3a (*IG II²* 1330), A5 (*IG II²* 1132; *CID* IV 12, 115, 116), D1 (*IG IX²* 1.175; *F.Delphes* III.3.218 B).

periphery of Athenian territory, Nikostratos, son of Epiteles, a man from Rhamnous. His text is the famous honorary decree for the general Epichares, whom he praises for his services during the Chremonidean War. Many studies have been dedicated to Epichares; here, I am concerned with the perspective of Nikostratos, the personal voice and the persuasion strategies of a man living on the outskirts of Attika, whose security depended on effective protection by an Athenian officer.

"Nikostratos, son of Epiteles of Rhamnous, moved. Since Epichares, when elected commander of the cavalry in the archonship of Lysithides (272/1 BC), looked after the cavalry force well and in accordance with the laws, and was crowned by the council, the people, and the cavalry; and again in the archonship of Pithidemos, when the people elected him general and placed him in charge of the coastal region, carried out [his defensive role] well and with zeal, and saved the fort for the people during the war, and gathered in [the crops] and fruits within a range of thirty stadia, while the enemy troops were in the countryside, and set up a troop of *kryptoi*²⁶ at the look-outs, keeping guard himself with the soldiers (καταστησάμενος κρυπτοὺς εἰς τὰς σκοπίας, παρεφεδρεύων αὐτὸς μετὰ τῶν στρατιωτῶν), in order to enable the farmers [to gather in their] crops safely; and also protected the vines as far as he [was master] of the land; and constructed at his private expense a portico to provide shelter for all in any emergency, and to make it possible for help to come [quickly]; and also built two watch towers and provided guard dogs in addition to the existing ones, supplying their food himself, to ensure fuller protection;... and also punished those who had introduced the pirates into the land, men from the city, arresting and interrogating them [in a way that was fitting] for what they did; and also provided to the troops, which had come from Patroklos to help, camp installations so that they should have sufficient [---] causing none of the citizens to have troops billeted on them".²⁷

Praise for a magistrate, who achieved and went beyond what was formally required is implicit criticism for those who did

²⁶ See below note 84.

²⁷ SEG 24,154; D. KNOEPFLER, "Les *kryptoi* du stratège Epicharès à Rhamnonte et le début de la guerre de Chrémonidès", in *BCH* 117 (1993), 327-341; A. BIELMAN, *op.cit.*, 95-100 no. 24; V.C. PETRAKOS, *op.cit.* (n.5), 6-9 no. 3.

not. Behind Nikostratos' rhetoric of praise it is not hard to detect the past experiences and resulting insecurity of the population which lived in the countryside: the destruction of crops during an enemy attack because of generals who lacked foresight, zeal, and initiative; defenceless areas without watch towers and patrol troops; pirates; or the billeting of troops, which were remembered as a burden and not as a source of protection.²⁸

If we forget for a moment the man who is being honoured, and concentrate instead on the man who gratefully acknowledges an exceptional service, we will not fail also to recognise a latent opposition between the inhabitants of the city and those of the countryside: "he also punished those who had introduced the pirates into the land, men from the city". At first sight, the addition "men from the city" (lines 22f.: ὅντας τοὺς ἐκ τῆς πόλεως) seems superfluous, since it does not identify those who collaborated with the pirates by number, name, or function. If it is not superfluous, it is because it is contemptuous, the more so when said by a man who is not from the city and who is not addressing the popular assembly in the city, but the assembly of his own district. Nikostratos' decree, as all Hellenistic honorary decrees, constructs an ideal: a general of the countryside in the coastal areas, who effectively offers protection. Epichares was honoured not only out of gratitude but also in order to present an exemplum for future generals. The Hellenistic countryside depended on the good-will and the efficacy of civic magistrates.

2.3. The perspective of the manipulative king: Philip V

A third perspective is offered by a report by a historian. Polybius gives the following account of the negotiations between Philip V and the Aitolian Alexandros, during the Second Macedonian War (198 BC):²⁹ "You ask me", he said, "Alexandros,

²⁸ See A. CHANIOTIS, *op.cit.* (n.10), 124f.

²⁹ PLB. 18, 4, 5-6.

why I added Lysimacheia to my realm (*προσέλαβον*). So that it would not be depopulated by the Thracians (*ἀνάστατος ὑπὸ Θρακῶν γένηται*) because of your neglect, as has now happened, when I have withdrawn my soldiers for this war, soldiers who were there not to garrison the city (*οὐ τοὺς φρουροῦντας αὐτήν*), as you claim, but to guard it (*ἀλλὰ τοὺς παραφυλάττοντας*)”.

This may be a faithful version of the negotiations.³⁰ A fragmentary treaty between Philip and Lysimacheia (c. 202-197) refers to the forts (*φρούρια*) of Lysimacheia; the plural form suggests forts in the territory.³¹ In his speech, Philip made a distinction between *phrourein* ('to garrison') – regarded by the Greek poleis as a sign of dependence and subordination to foreign rule³² – and *paraphylattein* ('to guard, to protect'). His troops were there in order to protect the countryside from the raids of the Thracians, the archetypical barbarian raiders.³³ In this context, Polybios uses the verb *παραφυλάττειν*, which is connected with the name of the Hellenistic units known as *παραφυλακῖται* attested in the Seleucid and the Attalid kingdoms (see below) and responsible for guarding the countryside.³⁴

Philip's emphasis on *phylattein* is consistent with the Hellenistic ideal of *phylake tes chorar*. He was not the only Hellenistic king to present his garrison as a source of protection. Similarly, the Ptolemaic garrison at Itanos on Crete, possibly established at the initiative of the Itanians but certainly very advantageous to the Ptolemies for control of sea routes in the Southern Aegean, was officially represented as protecting the Itanian territory from Itanos' neighbours, the Praesians.³⁵ I suspect that Timaios, an officer of Ptolemy VI sent to garrison

³⁰ F.W. WALBANK, *A Historical Commentary on Polybius. Volume II: Commentary on Books VII-XVIII* (Oxford 1967), 556.

³¹ *Staatsverträge* III, 549 A 11; SEG 31,628; 38,603.

³² A. CHANIOTIS, *op.cit.* (n.10), 19.

³³ On the reputation of the Thracians and their raids, see C. WOLFF, *Les brigands en Orient sous le Haut-Empire romain* (Rome 2003), 69-76.

³⁴ Cf. SEG 26,1817 lines 22f.: εἰς τὰν παραφυλακάν τῆς πόλιος.

³⁵ *I.Cret.* III, iv, 9 line 40: χάριν βοηθείας καὶ φυλακῆς; line 97: εἰς προστασίαν καὶ φυλακήν.

Methana (mid-second century), intentionally used the neutral verb παρεφεδρεύειν (“to remain as guard”) in order to describe his role, avoiding the verb φρουρέω.³⁶

The guarding of an island, a city, a harbour, or a polis territory from the attacks of neighbours, pirates, or barbarians was a service that could increase the popularity of a king or make his rule tolerable.³⁷

2.4. *The perspective of the magistrates: Crete*

Let us change perspective for a fourth time, moving from the political rhetoric in the assembly and royal propaganda to the dispassionate language of magistrates negotiating an agreement. A clause contained in interstate agreements of Cretan cities in the late second century BC concerns the problems of security connected with seasonal shepherding:³⁸ “If someone takes something from a Latian or an Oluntian, the elders who are responsible for the *eunomiae* and investigate and regulate in each of these cities, shall intervene; and they shall have the right [to reconcile the parties (?)] and to undertake everything, as it seems proper. And the *xenikai hodoi* ('roads of the aliens' or the 'roads leading to foreign territory') shall be inviolable; and if someone does wrong on these roads, he shall pay the fine sixfold, if he is defeated in a lawsuit”.

In this case, the ‘routes of the aliens’ (ξενικαὶ ὁδοί) can be located near the border between these cities, i.e., on Mt. Kadiston between Olous and Lato and on the mountains of Lasithi between Lyttos and Olous; the term is found usually in connection with mountainous regions, in Crete, in the

³⁶ IG IV 864: οἱ συναπο[στα]λέντες α[ὐ]τῷ παρεφεδρεύ[σ]σαι For φρουρέω in connection with garrisons, see M. LAUNAY, *Recherches sur les armées hellénistiques*. Réimpression avec addenda et mise à jour en postface par Y. GARLAN, P. GAUTHIER and C. ORRIEUX (Paris 1987), 694 n.1, 917 n.6, 975, and 924.

³⁷ A. CHANIOTIS, *op.cit.* (n.10), 270.

³⁸ Lato and Olous: *I.Cret.* I, xvi, 5 = A. CHANIOTIS, *op.cit.* (n.17), 358-376 no. 61 A lines 34-8. Cf. Lyttos and Olous: *I.Cret.* I, xviii, 9 = A. CHANIOTIS, *op.cit.* (n.17), 352-358 no. 60 B 5-8.

Peloponnese, in Phokis, and in Sicily.³⁹ The use of a distinctive attribute (*xenikos*) for these routes clearly shows that a sharp distinction was necessary between these *specific* routes and other roads. They must either be routes leading beyond the border, to foreign territory or *xene*, or routes *regularly* used by foreigners (*xenoi*). If we take into account the social and economic conditions of Hellenistic Crete, we may suppose that transhumant shepherds made regular use of these routes and that the relevant Cretan treaties concern primarily this group.⁴⁰ The officials responsible for security on these routes were called *πρείγιστοι οἱ ἐπὶ ταῖς εὐνομίαις*. They are known, with similar designations (*εὐνομία, εὐνομιῶται, συνευνομιῶται*) from several Cretan cities: Lato, Olous, Aptera, and Polyrrhenia. They are usually mentioned in inscriptions referring to dedications or building works carried out in sanctuaries, but this does not necessarily mean that the primary function of this board was the restoration or supervision of sanctuaries. The decisive source for the duties of these magistrates is the aforementioned treaty between Lato and Olous, from which we can infer that the members of this board intervened in cases of abduction and theft (*αἱ δέ τι καὶ ἔληται*) on the ‘routes of the aliens’, undertook a judicial investigation of the case (*ἐρευνίοντες*), put things in order (*ὑθμίττοντες*), and arbitrated between the disputing parties (*χρῆσθαι καθώς καὶ ἐπιεικὲς ἦ*). The board of *eunomia* was responsible for the maintenance of law and order in the mountainous border areas and on the ‘routes of the aliens’. In Hellenistic Crete, where transhumance is attested and transhumant shepherds crossed the border regularly, one of the primary duties of the *eunomiotai* must have been to resolve conflicts arising between

³⁹ On the evidence for *xenikai hodoi* see A. CHANIOTIS, “Milking the Mountain: Economic Activities on the Cretan Uplands in the Classical and Hellenistic Period”, in *From Minoan Farmers to Roman Traders. Sidelights on the Economy of Ancient Crete*, ed. by A. CHANIOTIS (Stuttgart 1999), 201; Y. LOLOS, “Greek roads: a commentary on the ancient terms”, in *Glotta* 79 (2003) [2005], 145f.

⁴⁰ A. CHANIOTIS, “Milking the Mountain” (*art.cit.* n.39), 203f.

shepherds: animal theft, disputes about the ownership of runaway animals, etc.⁴¹

The Hellenistic countryside was an area threatened by acts of injustice, conflicts, and lack of order.

2.5. The perspective of a political group: Chersonesos in Tauris

The oath of the citizens of Chersonesos in Tauris (early third century) – rather, the oath of the political group, which claimed to represent the entire citizen body of Chersonesos –⁴² gives us yet another perspective: the attitude of the regime in the city towards the countryside during a civil war:⁴³ “I shall maintain concord for the salvation and the freedom of the polis and the citizens; I shall not betray to anyone, either Greek or barbarian, Chersonesos or Kerkinitis or Kalos Limen or other forts or any other part of the territory occupied now or in the past by the Chersonesitai, but I shall preserve them for the people of Chersonesos; and I shall not overthrow the democracy. I shall not allow any one to betray or to overthrow and I shall not keep it secret, but I shall denounce this to the demiourgoi, who are in the city. I shall be an enemy of any one who plots against Chersonesos or Kerkinitis or Kalos Limen or the forts or the territory of the Chersonesitai or betrays them or causes them to revolt.... I shall neither shell corn from the plain, which can be carried away, nor export anything else from the plain, except to Chersonesos”.

This text reflects the anxieties of a government in control of the city (cf. δαμιουργοῖς τοῖς κατὰ πόλιν) during a civil war, anticipating that their opponents would occupy parts of the

⁴¹ A. CHANIOTIS, *art.cit.*, 201f.

⁴² A. DÖSSEL, *Die Beilegung innerstaatlicher Konflikte in den griechischen Poleis vom 5.-3. Jahrhundert v. Chr.* (Frankfurt/M. 2003), 179-196.

⁴³ IOSPE 1² 401; cf. V.F. STOLBA, “The Oath of Chersonesos and the Chersonesean Economy in the Early Hellenistic Period”, in *Making, Moving and Managing. The New World of Ancient Economies, 323-31 BC*, ed. by Z.H. ARCHIBALD, J.K. DAVIES, and V. GABRIELSEN (Oxford 2005), 298-321. SEG 52,733 for further bibliography.

countryside and fearing the loss of the resources of the countryside.

The first fear was realistic, as we know from many instances in the history of Athens (see n. 23). The Eretrian law against tyranny and oligarchy (c. 340 BC) urges the citizens to occupy forts in the countryside and make them strongholds of resistance against the tyrant.⁴⁴ This is exactly what the citizens of Priene, who opposed the tyrant Hieron, did in the late fourth century. They attacked the fort Karion, killed the commander of the garrison and the soldiers, because they supported the tyrant, and used this fort as their base, ravaging the countryside for three years and attacking the supporters of the tyrant (ἐξ οὗ ὁρμουμένους κατατρέχειν καὶ κακοποιεῖν τόν τε Ἱέρωνα καὶ τοὺς τὰ αὐτὰ τῶν Ἱέρωνι αἴρε[υμένους]).⁴⁵

The Hellenistic countryside could easily become a locus of political conflict.

2.6. *The perspective of the elite?: Hyettos*

Finally, let us see the perspective of the author of a decree of Hyettos, who describes the situation in Boiotia in the mid-second century:⁴⁶ “(Decree) concerning the guarding of the city.

⁴⁴ SEG 51,1105 lines 24-30: ἀν δέ τι συμβάίνει ἀδυνατί[τέον κατασχεῖν? τὸ Αγ]ιορεῖον παραχρῆμα ὡστ' ἐ[ξ]ε[ῦ]αι τεῖ βουλεῖ | [καθίσαι κατὰ νόμουν ἢ ἀν] ἀποκλεισθεῖ ὁ δῆμος τῶν τειχέων, καταληφθεῖν καταληφθεῖν τι τῆς Ἐρετριάδος ὁ τὸν δοκεῖ σύνφορον εἶνα[ι πρὸ τὸ ἐκεῖ συνελθεῖν τοὺς β[οη]θέοντας πάντας· καταλαβόντα|[ι]ς δὲ ὑποδέχεσθαι τὸν ἐλθόντα καὶ βολόμενον τῶν Ἑλλήνων βοηθεί|[ε]ν τοῖς δήμοις τοῖς Ἐρετρῶν]. See the comments of D. KNOEPFLER, “Loi d’Érétrie contre la tyrannie et l’oligarchie”, in *BCH* 126 (2002), 171-184.

⁴⁵ *I.Priene* 37 lines 66-68 and 109-112.

⁴⁶ R. ÉTIENNE - D. KNOEPFLER, *Hyettos de Béotie et la chronologie des archontes fédéraux entre 250 et 171 av. J.-C.* (Paris 1976), 163-166, 244f.; A. BIELMAN, *op.cit.* (n.14), 174-177 no. 49:... [περὶ φυλακῆς τῆς πόλεως· ἐπειδὴ γινομένων ἀδικημάτων μετέζόνων κατὰ τὴν χώραν διὰ τὸ παραγινόμενον [βόχλον ἐπὶ ληστεῖς] καὶ ἀρπαγῆς τῶν ἀλλοτρίων [αὐλάς] τε ἐκκόπτειν καὶ φόνους ἐπιτελεῖσθαι καὶ ἀρπαγῆς [σ]ωμάτων τε καὶ θρεμμάτων, [ἀν]ανκαῖον δέ [ε]στιν ἐν τοιούτοις [καιροῖς ἀντέχεσθαι] μάλιστα τῶν δυναμη[ένων] βοηθεῖν τῇ πόλει καὶ ἀνασφόζειν [τὰ ἀπολλύμενα] καὶ παραφυλάττειν κ[αὶ κωλύειν τοὺς [τὰ] ἀδικήματα συντελουμένους; C. BRÉLAZ, *op.cit.* (n.9), 21.

Since great deeds of injustice occur in the countryside, because, due to the arrival of a crowd which has come with the purpose of stealing and seizing the property of others, farms are devastated, and murders take place as well as seizures of men and animals; and since in such difficult times it is necessary that mostly those men offer resistance who are in a position to help the city and recover what was lost and guard (*παραφυλάττειν*) and hinder those who commit the deeds of injustice...”.

The decree honours two men from Hypate, who looked for (*ἀνεζητήκ[ασιν]*) citizens captured by the ‘crowd’ and contributed to their liberation. Unlike a certain Aischron, who liberated Athenian citizens captured on their way to the Pythian festival (c. 284 BC) applying violence,⁴⁷ nothing in this decree suggests that the men of Hypate liberated the Hyettians by force. They may have known the persons who held them captive and negotiated with them;⁴⁸ from this we may infer that the ‘mob’ had identifiable leaders and an organisation of some kind.

The ‘bad guys’ are not identified as enemies, barbarians, or bandits, but simply designated as a ‘crowd’ (*ὄχλος*; the word is only restored, but plausibly restored). D. Knoepfler and R. Étienne are certainly right in their assumption that Hyettos did not face attacks by brigands; instead, they assumed that the *ochlos* were soldiers participating in the campaign of the Achaian League against Herakleia Trachinia and pillaging the territory of Hyettos.⁴⁹ The word *ὄχλος* is used in a variety of contexts, e.g., referring to the crowd in a sanctuary,⁵⁰ the

⁴⁷ *IG II²* 309 lines 10–12: [ἐ]βιάσατο τοὺς παρανομήσαντας καὶ τοῦ τοὺς συλληγοφθέντας σωθῆναι καὶ [λυθῆναι? αἴτιος γενόμενος; A. BIELMAN, *op.cit.* (n.14), 65–69 no. 18.

⁴⁸ For such cases of negotiations, see A. CHANIOTIS, “Mobility of Persons during the Hellenistic Wars: State Control and Personal Relations”, in *La mobilité des personnes en Méditerranée, de l’Antiquité à l’époque moderne. II. La mobilité négociée. Procédures de contrôle et documents d’identification*, éd. sous la direction de Cl. MOATTI (Rome 2004), 491–494; cf., e.g., A. BIELMAN, *op.cit.* (n.14), 119–125 no. 31 (*IG II²* 844).

⁴⁹ R. ÉTIENNE – D. KNOEFLER, *op.cit.* (n.46), 244f.

⁵⁰ *IG IV 1²* 123 lines 25f. (*SEG* 42,293): ὄχλου δὲ πολλοῦ περι[στάντος].

multitude,⁵¹ pirates,⁵² rebels,⁵³ and the ‘mob’ during civil strife.⁵⁴ Given the evidence for social unrest in this period – alluded to in the Roman accusations against Perseus⁵⁵ and in the senatus consultum concerning Thisbe in 170 BC,⁵⁶ we should not exclude the possibility that the ‘crowd’ (or ‘mob’) consisted of dispossessed individuals, exiles, or representatives of the lower social strata of other cities, wandering through Greece (cf. *παραγινόμενον*).

Insecurity in the countryside may have originated in social conflicts – or it may have been a social construct.⁵⁷

3. *Phylake tes choras: the threats*

The six perspectives which I have briefly presented reveal a variety of dangers threatening the countryside: enemy invasions – of a neighbour or of the army of a Hellenistic king; brigands threatening travellers, pilgrims, traders, and

⁵¹ SEG 26,1817 lines 53f.: τὰς τῶν ὄχλων σωτηρίας. A. LARONDE, *Cyrène et la Libye hellénistique. Libykai Historiai de l'époque républicaine au principat d'Augustus* (Paris 1987), 472-479, interprets the ὄχλοι as displaced farmers of the countryside during a war.

⁵² SEG 41,1411: ἀνάστοιν ὄχλοιν.

⁵³ PDryt. 36 (U. WILCKEN, *Chrestomathia*, 10); R.S. BAGNALL - P. DEROW, *Historical Sources in Translation: The Hellenistic Period* (Oxford ²2004), no. 53: πρὸς τὸ καταστεῖσαι τοὺς ἐν Ἐρυμώνῃ ὄχλους, χρήσασθαι δ' αὐτοῖς ὡς ἀποστάταις (130 BC).

⁵⁴ E.g., IOSPE I² 355: [ἔμφυλοι]ου? ταραχῆς καὶ φόνου διὰ τὰν ὀργὰν τῶν ὄχλων.

⁵⁵ Syll.³ 643; M. AUSTIN, *The Hellenistic World from Alexander to the Roman Conquest. A Selection of Ancient Sources in Translation* (Cambridge ²2006), 185f. no. 93: “In Aitolia he [Perseus] planned war and massacres and threw the whole people into a state of confusion and strife. And in the whole of Greece he constantly acted in the most detrimental way, planning various other crimes including giving refuge to exiles from the cities. And he corrupted the leading statesmen, courted at the same time the favour of the masses, promised cancellation of debts and caused revolutions”.

⁵⁶ Syll.³ 646.

⁵⁷ For the Imperial period. cf. C. BRÉLAZ, *op.cit.* (n.9), 44-50.

transhumant shepherds;⁵⁸ incursions of barbarian ethnic groups (Thracians, Galatians, etc.), living from raids;⁵⁹ people who illegally exploited the natural resources of the countryside (especially pastureland); raids, such as those organised by communities (especially by the Aitolians) for the collection of booty⁶⁰ and the raids of pirates (Cretans, Kilikians, Illyrians);⁶¹ civil strife;⁶² revolts of garrisons in forts and occupation of forts by exiles.⁶³ Runaway slaves presented a danger

⁵⁸ See also *IOSPE* I² 344 (attack against the participants in a procession to an extra-urban sanctuary) and G. DAVERIO ROCCHI, *Frontiera e confini nella Grecia antica* (Roma 1988), 87 with n.98; A. BIELMAN, *op.cit.* (n.14), 65-69 no. 18 (*IG* II² 652), 177-180 no. 50 (*F.Delphes* III 1, 457), 180-184 no. 51 (*IG* XII 3, 171; *I.Ephesos* 5).

⁵⁹ Galatians: A. BIELMAN, *op.cit.* (n.14), 86-94 nos. 22-23. Thracians or other barbarians: E.g., A. BIELMAN, 189-193 no. 53 (*Syll.*³ 708; *I.Histria* 54); *I.Histria* 15. For the cities of the Black Sea (and these texts) see A. AVRAM, “La défense des cités en mer Noire à la basse époque hellénistique”, in *Citoyenneté et participation à la basse époque hellénistique*, éd. par P. FRÖHLICH - Chr. MÜLLER (Paris 2005), 163-182.

⁶⁰ J.B. SCHOLTEN, *The Politics of Plunder: Aitolians and Their Koinon in the Early Hellenistic Era, 279–217 B.C.* (Berkeley 2000); A. CHANIOTIS, *op.cit.* (n.10), 129-137. Cf. DURIS, *FGrHist* 76 F 13: Αἰτωλικὸν γὰρ ἀρπάσαι τὰ τῶν πέλας, νῦν δὲ καὶ τὰ πόρρω; “for it is an Aitolian custom to seize the property of neighbours and now even what is afar”; PLB. 4, 3, 1: the Aitolians “are accustomed to live by exploiting their neighbours and require many funds because of their inherent greed, enslaved by which they always lead a life of insatiability resembling wild beasts, regarding no one as a friend and everyone as their enemy”.

⁶¹ P. BRULÉ, *La piraterie crétoise hellénistique* (Paris 1978); A. BIELMAN, *op.cit.* (n.14), 18-22 no. 6 (*IG* II² 399 + add.), 100-104 no. 25 (*IG* II² 1225), 104-106 no. 26 (*IG* XII 5, 36), 119-125 no. 31 (*IG* II² 844), 125-128 no. 32 (*IG* XI 4, 1054-1054a), 141-144 no. 38 (*IG* XII 7, 386); Ph. DE SOUZA, *Piracy in the Graeco-Roman World* (Cambridge 1999); L. BRACCESI (ed.), *La pirateria nell’Adriatico antico* (Roma 2005). On the close connection of piracy and trade, see V. GABRIELSEN, “Economic Activiy, Maritime Trade, and Piracy in the Hellenistic Aegean”, in *REA* 103 (2001), 219-240.

⁶² E.g., *IOSPE* I² 401 (Chersonesos in Tauris).

⁶³ The Teians were concerned that the garrison in the fort at Kyrbissos might revolt against the polis; for this fear in general, see J. ROBERT-L. ROBERT, “Une inscription grecque de Téos en Ionie. L’union de Téos et de Kyrbissos”, in *Journal des Savants* 1976, 199 and 210-214 (with further parallels, e.g., *PLUT. Arat.* 5.3); exiles from Priene occupied a fort at Charax (*Syll.*³ 363); cf. D. KNOEPFLER, *art.cit.* (n.44), 177f.; A. CHANIOTIS, *op.cit.* (n.10), 93; see also notes 23 and 44.

only in exceptional situations (e.g. during the war against Aristonikos), but their very existence defied authority and law, and could not be tolerated. Measures were taken both concerning their presence as suppliants in sanctuaries and their capture.⁶⁴

The greatest and most common danger facing the Hellenistic countryside was that of an invading army. Despite the exaggerations in our sources, there can be no doubt concerning the negative effects of an invasion on the economy of the countryside.⁶⁵ Enemies destroyed crops, burned fields and farms, stole the gathered surplus, took fodder for their horses and draught animals. Allied troops who had come to defend the territory needed billeting and were fed on the surplus of the invaded state. A contract for the leasing of a piece of land in Attika mentions “an invasion of enemies or the camping of friendly troops” as possible troubles in its exploitation.⁶⁶ Manpower was lost, the invasion disrupted regular cultivation, slaves found an opportunity to run away, and shepherds sought refuge with their livestock in the territory of a friendly neighbour.

Attacks by pirates in the Adriatic Sea, on the coasts of mainland Greece and Asia Minor, and in the Aegean, as well as raids by barbarian tribes in Thrace, in the Black Sea, and in Asia Minor, were also very common. An Athenian decree, for example, refers to the plundering of Attika by Boukris and the

⁶⁴ Suppliant slaves: A. CHANIOTIS, “Conflicting Authorities: Greek Asylia between Secular and Divine Law in the Classical and Hellenistic Poleis”, in *Kernos* 9 (1996), 79-83; G. THÜR, “Gerichtliche Kontrolle des Asylanspruchs”, in *Das antike Asyl. Kultische Grundlagen, rechtliche Ausgestaltung und politische Funktion*, hrsg. von M. DREHER (Köln-Weimar-Wien 2003), 31-34. Capture: *Milet I*, 3, 150 (see below).

⁶⁵ J.-Chr. COUVENNES, *art.cit.* (n.11), 202f.; A. CHANIOTIS, *op.cit.* (n.10), 121-129. See, e.g., MEN. *Aspis* 30-33: πολλοὶ γάρ ἐκλεοιπότες | τὸν χάρακα τὰς κώμας ἐπόρθουν, τοὺς ἀγροὺς | ἔκοπτον, αἰχμάλωτ' ἐπώλουν, χρήματα | ἔκαστος εἶχε πόλλ' ἀπελθών (plundering of the area around Xanthos in Lycia by the troops, which fought against the barbarians); *I.Priene* 15 lines 13f. (c. 286 BC): [πορθου]μένης τῆς [χ]ώρας ὑπό τε Μαγνήτω[ν καὶ Πεδιέων]; perhaps we should restore [φθειρο]μένης (as in *I.Priene* 16 line 16).

⁶⁶ *IG II²* 1241 lines 15f.: πολεμίων εἰσβολῆς καὶ φιλίου στρατοπέδου.

capture of citizens.⁶⁷ A decree of Aigiale on Amorgos gives a dramatic narrative of such an attack (late second century):⁶⁸ “During the night pirates invaded the countryside ($\varepsilon\iota\varsigma$ [τ]ὴν χώραν ἐμβαλόντων νυκτός) and virgins and (married) women and other people, both free and slave, were captured – a total of more than thirty people. And (the pirates) destroyed the ships in the harbour and captured the ship of Dorieus, with which they departed carrying away both the people and the rest of the booty”.⁶⁹ In the colonies of the Black Sea area, the danger primarily came from barbarians.⁷⁰ In Asia Minor the raids of the Galatians in the third century came in addition to the already existing dangers of endemic brigandage, especially in mountainous areas.⁷¹

Since all these forms of violence have been studied recently,⁷² I will refrain from a detailed discussion. I shall only stress the fact that the raids were often well organised military enterprises, e.g. the raids by the young men of Termessos under the command of Alketas⁷³ or the raids of Cretan pirates.⁷⁴ A treaty between Lyttos

⁶⁷ A. BIELMAN, *op.cit.* (n.14), 119-125 no. 31 lines 5-6: καταδραμόντα τὴν χώραν.

⁶⁸ A. BIELMAN, *op.cit.*, 141-144 no. 38.

⁶⁹ For further examples see *I.Erythrai* 28 = A. BIELMAN, *op.cit.*, 80-85 no. 21 lines 4-5 (Erythrai, c. 275 BC): βοιηθῆσαι τοῖς κατὰ τὴν χώραν ἐνοχλουμένοις; A. BIELMAN, *op.cit.*, 180-184 no. 51 lines 15f. (Ephesos, second/first century): [π]ειρατῶν ἐπὶ τὴν ἡ[μ]ι[ε]τέραν χώραν τὴν ἔφοδον π]ο[ιη]σαμένων; 184-189 no. 52 (*IG XII* 5, 653; Syros): κακοῦργα πλοῖα καὶ πλείσαν ἐπιβάλλειν ἡμῶν ἤμελλεν ἐπὶ τὴν χώραν καὶ τὴν πόλιν κατὰ δύσιν ...: ἀφαρταγέντων καὶ οἰκετικῶν σωμάτων ὑπὸ πειρατῶν ... ὅπδο τῆς καλούμένης Ἐσχατιᾶς.

⁷⁰ E.g., *IOSPE* I² 32 B lines 13-17: καὶ ἄλλα γεγενῆσθαι ἐλαττώματα πολλὰ κατὰ τὴν χώραν, ἐφθάρθι μὲν τὴν οἰκετείαν ἀπασαν καὶ τοὺς τὴμ παρώρειαν οἰκοῦντας Μιξέλληνας (attacks of barbarian tribes and Galatians); *I.Histriae* 15: πειρατεύ[όν]των Θραικῶν οὐκ [διλί]γων τὴν [τε χ]ώραν καὶ τὴν [πόλ]ι[γ].

⁷¹ Brigandage: P. BRIANT, “Brigandage’, dissidence et conquête en Asie achéménide et hellénistique”, in *DHA* 2 (1976), 163-258; C. WOLFF, *op.cit.* (n.33); C. BRÉLAZ, *op.cit.* (n.9), 52-56.

⁷² See the bibliography in notes 58 and 63.

⁷³ P. BRIANT, *art.cit.* (n.71), 182f.

⁷⁴ P. BRULÉ, *op.cit.* (n.61); A. PETROPOULOU, *Beiträge zur Wirtschafts- und Gesellschaftsgeschichte Kretas in hellenistischer Zeit* (Frankfurt/M. 1985); A. CHANIOTIS, *op.cit.* (n.17), 93f.; A. CHANIOTIS, *op.cit.* (n.10), 134-136.

and Malla (late third century) provides a characteristic example for the latter:⁷⁵ “If the Lyttians and the Mallaians start a campaign (ἐξοδουσάντων) and if we, with the will of the gods, capture something from our enemies in a joint military action (κοινᾶι στρατουόμενοι), let each party receive by lot a part that corresponds to the number of the men that had come (i.e., had participated in the campaign)”. The verb ἐξοδεύω (‘to march out’) makes clear that this clause did not concern booty made during a defensive war, but campaigns initiated by the two cities (and, as the word ἔκαστος suggests, by other partners as well). Such a clause encouraged campaigns, aimed precisely at the capture of movables: slaves, money, livestock, and other valuables.⁷⁶

4. Phylake tes choras: measures for protection

An inscription from the Pamphylian city of Syedra preserves an oracle given by Apollo of Klaros in the first century, in

⁷⁵ A. CHANIOTIS, *op.cit.* (n.17), 208-213 no. 11 (*I.Cret.* I, xix 1; *Staatsverträge* III, 511): Αἱ δέ τ[ι] κοινᾶι στρατουόμεν[οι θιῶν] θελόντων ἔλοιμεν τῶν πολεμίων ἐ[ξοδουσάν]των τῶν Λυττίων καὶ Μαλλαίων, λ[αγχανόν]των ἔκαστοι τὰ μέρια κατὰ τὸς ὅ[νδρας] τὸς ἐρποντας.

⁷⁶ Cf. A. CHANIOTIS, *op.cit.* (n.17), 255-264 no. 28 (*I.Cret.* III, iii, 4): Αἱ δέ τι θεῶν βωλομένων ἔλοιμεν ἀγαθὸν ἀπὸ τῶν πολεμίων, ἢ κοινᾶι ἐξοδούσαντες ἢ ἰδίαι τινὲς παρ' ἔκατέρων ἢ κατὰ γῆν ἢ κατὰ θάλασσαν, λαγχανόντων ἔκάτεροι κατὰ τὸς ἄνδρας τὸς ἐρποντας καὶ τὰς δεκάτας λαμβανόντων ἔκάτεροι ἐς τὰν ἰδίαν πόλιν (“if with the will of the gods we capture something good from the enemies, marching out either jointly (the two poleis) or privately some individuals from each city, either by land or by sea, let them divide the booty by lot proportionally to the men that had come and let each part bring the tithes to its own city”). The most recent discussion of the division of booty and the controversial question, whether there were privately organised campaigns, is by F.J. FERNÁNDEZ NIETO, “El derecho privado sobre el botín de guerra en el ámbito dorio (s. V-II a.C.)”, in *Symposion 1999. Vorträge zur griechischen und hellenistischen Rechtsgeschichte* (Pazo de Mariñán, La Coruña, 6.-9. September 1999), hrsg. von G. THÜR und F.J. FERNÁNDEZ NIETO (Köln-Weimar-Wiem 2003), 355-370. I think that the opposition κοινᾶ/ἰδίᾳ τινές allows only one interpretation: campaigns organised by the two cities/campaigns organised by individuals (citizens) from both cities. Both military enterprises were *joint* enterprises, otherwise they would not have been treated by the treaty. If κοινᾶ/ἰδίᾳ cannot be an opposition between ‘joint’ and ‘separate’, it can only be an opposition between ‘public’ and ‘private’.

response to an enquiry of the city, continually plagued by Kilikian pirates:⁷⁷ “Pamphylians of Syedra, who inhabit a common land of mixed races of mortals, erect in the middle of your town an image of Ares, the blood-stained slayer of men, and perform sacrifices; Hermes should hold him captured in iron chains; on the other side Justice (Dike), who declares wrong and right, will judge him; he should look like someone who pleads (for mercy). For thus he will be peacefully disposed towards you, having driven the hostile mob far away from your fatherland he will raise up the much-prayed-for prosperity. But also you yourselves jointly put your hands to hard toil, and either chase these men away or bind them in unloosable bonds; do not delay the terrible vengeance on the plunderers, for thus you will escape harm”. Even a god, or those who spoke on his behalf, realised that more than prayers and rituals were needed to protect the country from the raids of pirates. The Syedrians should fight.

The measures taken for the protection of the countryside depended on the nature of the danger (e.g., an evil neighbour, pirates, or barbarian tribes), the geographical structure of the territory and the nature of its frontiers (e.g., island, mountain, plain, Peraia, etc.), its extension, settlement structure (e.g., the existence of military colonies), the political status of the relevant community (whether it was a member of an alliance or a federation, whether it was under the control of a king, whether a foreign garrison was present), and of course the resources available (manpower, financial resources). It was the combina-

⁷⁷ SEG 41,1411; *Steinepigramme aus dem griechischen Osten*, Band IV: *Die Südküste Kleinasiens, Syrien und Palaestina*, hrsg. von R. MERKELBACH und J. STAUBER (München 2002), 168f. 18/19/01; C.A. FARAONE, “Binding and Burying the Forces of Evil: The Defensive Use of ‘Voodoo Dolls’ in Ancient Greece”, in *Classical Antiquity* 10 (1991), 168-169 and C.A. FARAONE, *Talismans and Trojan Horses: Guardian Statues in Ancient Greek Myth and Ritual* (New York-Oxford 1992), 75. Unlike Merkelbach and Stauber, I take ἔρδετε θύσθλα to mean ‘perform sacrifices’ (not ‘flog’), because of the use of the verb ἔρδω (cf. *IG XII* 6, 577: δεκάτην ἔρδοντες). For θύσθλα in the meaning ‘sacrifice’, cf. SEG 28,839 (ἐπιβώμια θύσθλα).

tion of all these factors that made a community decide whether to entrust the policing of the countryside to foreign military settlers,⁷⁸ to the population of a fortified settlement manned with a garrison;⁷⁹ to the troops of a foreign king;⁸⁰ to regular troops stationed in the countryside (*πατιθροί*);⁸¹ or to citizen militias, usually consisting of young men, who patrolled the countryside and manned the forts (see below).

We should also distinguish between regular patrolling of the countryside, which could effectively deal only with small numbers of raiders, brigands, or invaders and otherwise could only warn the authorities, and measures taken in exceptional situations (wars, extensive raids), when the ‘regular army’ and/or mercenaries had to be mobilised.⁸² For example, Kallias of Sphettos “lead out into the countryside the soldiers under his command and protected the gathering of the grain, making every effort to ensure that as much grain as possible should be brought into the city” (270 BC).⁸³ During the Chremonidean War, the Athenian general Epichares used a unit of *κρυπτοί* (‘secret ones’) in order to protect fertile countryside in Rhamnous.⁸⁴ These troops were specialised in ambush and surveillance.⁸⁵ In a second document,

⁷⁸ The recruitment of military settlers from Crete was a measure taken by Miletos (late third century BC) in order to defend a newly occupied territory (*Milet I*, 3, 33–38).

⁷⁹ This was one of the functions of the fort at Kyrbisso, in the territory of Teos (third century): *SEG* 26,1306; J. ROBERT-L. ROBERT, *art.cit.* (n.63), 188–228.

⁸⁰ Ptolemaic troops in Samothrake: R.S. BAGNALL, *The Administration of the Ptolemaic Possessions outside Egypt* (Leiden 1976), 160 and 221. 100 cavalrymen of king Rhemaxos protected the countryside in Histria: *I.Histria* 15.

⁸¹ M. LAUNEY, *op.cit.* (n.36), 693f.

⁸² E.g., A. BIELMAN, *op.cit.* (n.14), 86–90 no. 22 (*I.Priene* 17) and 100–104 no. 25 (*JG II²* 1225).

⁸³ *SEG* 28,60 lines 23–27.

⁸⁴ V.C. PETRAKOS, *op.cit.* (n.5), 6–7 no. 3 (*SEG* 44,59), 26–28 no. 20 (*SEG* 41,87). For the function and historical developments of these troops (*peripoloi*, *kryptoi*, *hypaithroi*) see J.-Chr. COUVENHES, “Péripoloi, kryptoi et hypaithroi dans la défense de l’Attique: permanence civique, influence royale”, in *Acts of the 13th International Congress of Greek and Latin Epigraphy, Oxford, 2–7 September 2007. Summary Papers* (Oxford 2007), 23.

⁸⁵ D. KNOEPFLER, *art.cit.* (n.27).

again from Rhamnous, their commander was Athenian and the soldiers were a mixture of Athenians and foreigners (from Megara, Sinope, and Plataiai), probably mercenaries;⁸⁶ there is no unequivocal evidence for Athenian ephebes serving as *kryptoi*.

In the first years of the Galatian incursions in Asia Minor, the defence of the countryside of Priene was assigned to a military unit of infantry and cavalry prepared for this purpose. It consisted of citizens who received a stipend for their service (ἐκπέμψας μισθοφό[ρους] τῶν πολιτῶν πεζοὺς κ[αὶ] ἄλλους? ἵππο]τρόφους) and of volunteers, recruited by Sotas among the citizens and the dependent population of the countryside (Σωτᾶς δὲ συνα[γαγών τῷ πολιτῶν τοὺς [έθέλοντας καὶ τῶν] ἀπὸ τῆς χώρας [τοὺς ἐπιθυμήσα]ντας αὐτοῖς συγκινδυνεύειν πρὸς τοὺς βαρ[βάρους]).⁸⁷ The troops of Sotas liberated captives and helped the citizens who lived in the countryside find rescue behind the city-walls. When Histria faced Thracian attacks, just before the harvest, Agathokles, the elected *toxarches*, protected the harvest with mercenary soldiers.⁸⁸ Some time later, when resistance seemed pointless, Agathokles bribed the Thracian raiders with 600 gold coins not to invade the countryside. When the Thracian raids continued, Agathokles was elected *στρατηγὸς ἐπὶ τῆς χώρας αὐτοκράτωρ*.⁸⁹ He succeeded in saving the livestock and the crops in the countryside with the help of volunteers, consisting of citizens and barbarians who had sought rescue in the city (lines 42f.: λαβὼν τ[ῶν τε πολιτῶν ἐθελοντὰς στρατιώτας καὶ τῶν συμφευγόν[των]

⁸⁶ SEG 41,87; V.C. PETRAKOS, *op.cit.* (n.5), 26-28 no. 20.

⁸⁷ A. BIELMAN, *op.cit.* (n.14), 86-90 no. 22 (*J.Priene* 17).

⁸⁸ *I.Histriae* 15 lines 11-13: α[ἱρεθ]είς τοξάρχης καὶ λαβὼν στρατιώτας μισθοφόρους [δι]ε[φύ]λαξε τὴν τε χώραν καὶ τὰ θέρη ἐποίησε[ν] τοὺς πολίτ[ας] βλαβῶς συναγαγεῖν. Cf. H. BENGTSON, "Neues zur Geschichte des Hellenismus in Thrakien und in der Dobrudscha", in *Historia* 11 (1962), 18-28. On this text see more recently A. AVRAM, *art.cit.* (n.59), 165.

⁸⁹ The appointment of an officer with unlimited powers (αὐτοκράτωρ) was also a measure taken by Berenike (first century) during a war against pirates (SEG 28,1540: αὐτοκρατεῖν ὑπὲρ τᾶς πόλιος καὶ τᾶς χώρας ἐπιτεταγμένος περὶ τῶν καθόλω πραγμάτων).

β]αρβάρων ε[ίς τὴν] πόλιν). These were temporary measures, in force until the arrival of king Rhemaxos, to whom the Histrians paid tribute. However, the 100 cavalrymen left by the king for the defence of the countryside (εἰς προφύλαξιν) ran away, and finally Agathokles persuaded the son of the king to send 600 cavalrymen (προφυλακὴν ἵππων ἔξακοσίων). This unit seems to have been successful, but the rest of the story was told on the missing part of the stone.

In some cities, especially those with large territories, there were permanent or temporary officials exclusively responsible for the protection of the countryside, such as the στρατηγὸς ἐπὶ τὴν χώραν ('general of the territory / the countryside') and the στρατηγὸς ἐπὶ τὴν χώραν τὴν παραλίαν / ἐπὶ τὴν παραλίαν ('general of the coastal territory') in Athens⁹⁰ and a similar officer in Hellenistic Rhodes (στρατηγὸς (ἐπὶ) τῆς χώρας).⁹¹ From Rhodes, this office was imported to Karia.⁹² In Erythrai Polyktitos served as ἐπὶ τὴν φυλακὴν τῆς χώρας τὴν κατὰ θάλασσαν (responsible for the protection of the coastal countryside, perhaps a temporary assignment during a critical period (third century BC).⁹³

⁹⁰ Στρατηγὸς ἐπὶ τὴν χώραν e.g., V.C. PETRAKOS, *op.cit.* (n.5), nos. 38, 39, 45. Στρατηγὸς ἐπὶ τὴν χώραν τὴν παραλίαν / ἐπὶ τὴν παραλίαν: *ibid.*, nos. 8, 10, 16, 18, 20, 32, 46, 48-51, 129, 136, 145; cf. ἐπὶ Ραμνοῦντα καὶ τὴν παραλίαν χώραν: *ibid.*, nos. 148-152. Στρατηγὸς ἐπὶ τὴν χώραν τὴν ἐπ' Ἐλευσῖνος: K. CLINTON, *op.cit.* (n.12), no. 180, 186-187, 194, 211.

⁹¹ E.g., στρατηγὸς ἐπὶ τᾶς χώρας: G. JACOPI, "Nuove epigrafi dalle Sporadi meridionali", *Clara Rhodos* 2 (Rodi 1932), 195 no. 22; *I.Lindos* 153 and 172; στραταγὸς ἐπὶ τὰν χώραν: *IG XII* 1, 49 line 25; στραταγήσας ἐπὶ τᾶς χώρας: *IG XII* 1, 701; G. JACOPI, *ibid.*, 199 no. 31; *SEG* 39,750; στραταγήσας ἐπὶ τᾶς χώρας τᾶς ἐπὶ ταῖ νάσοις: *IG XII* 1, 701; *I.Lindos* 325. Cf. G. REGER, "The Relations Between Rhodes and Caria from 246 to 167 BC", in *Hellenistic Rhodes: Politics, Culture, and Society*, ed. by V. GABRIELSEN *et al.* (Aarhus 1999), 80f. I take νᾶσος in the phrase χώρα ἀ ἐν ταῖ νάσωι to be the island of Rhodes; cf. H. VAN GELDER, *Geschichte der alten Rhodier* (Den Haag 1900), 254.

⁹² For the evidence see C. BRÉLAZ, *op.cit.* (n.9), 75-77. For Aphrodisias see A. CHANIOTIS, "New Inscriptions from Aphrodisias (1995-2001)", in *AJA* 108 (2004), 381 with n.8.

⁹³ A. BIELMAN, *op.cit.* (n.14), 80-85 no. 21: ἐπὶ τὴν φυλακὴν τῆς χώρας τὴν κατὰ θάλασσαν [δὲ] ποδειχθείς.

Similar offices existed in Magnesia on the Maeander and in Miletos.⁹⁴

Depending on the structure and extent of the territory, small frontier forts (φρούριον, οὔριον, περιπόλιον), fortified enclosures (όχυρωμα), fortified settlements (χωρίον) and watch towers (σκοπή) served as additional forms of defence and provided a retreat not only for the patrollers but also for farmers in times of danger. The forts (περιπόλια) of Kos offer a good example.⁹⁵ A recent find, an honorary inscription for one of the most influential statesmen of Kos in the late third century, Diokles, son of Leodamas, gives a very vivid picture of the dangers facing the countryside and the measures which were taken for its protection (Halasarna, c. 200):⁹⁶ “Diokles, son of Leodamas, acting in accordance with the virtue which has been handed down to him by his ancestors, has continually shown every zeal and care for the district of the Halasarnitai; and, during the wars, he aimed at safeguarding the fort and those who inhabit the territory (τὸ περιπόλιον καὶ τὸς κατοικεῦ<ν>τας τὰν χώραμ), showing the greatest consideration and engaging himself in every danger for its sake. For, during the Cretan War, when it was announced that the site was threatened, he arrived with many men and, making inspections together with those who had been assigned to guard (the fort) (συνεφώδευε μετὰ τῶν τεταγμένων ἐπὶ τὰς φυλακᾶς), he asked the inhabitants to come together to the fort and to join in its defence, until it transpired that the enemies abandoned their plan to attack.

⁹⁴ Magnesia: *I.Magnesia* 15 lines 25f.: τὸμ [φρούραρχον | τὸν ἐπὶ τῆς φυλακῆς τῆς χώρας. The restoration [φρούραρχον] is unlikely; perhaps [στρατηγόν]. Miletos: οἱ ηρημένοι ἐπὶ τῆς φυλακῆς (sc. τῆς πόλεως καὶ τῆς χώρας): *I.Milet* 1039, 1053, 1054; H. MÜLLER, *Milesische Volksbeschlüsse* (Göttingen 1976), 39-57.

⁹⁵ *Iscr.Cos* ED 201 and *SEG* 48,1104; cf. P. BAKER, *Cos et Calymna*, 205-200 a.C. *Esprit civique et défense nationale* (Québec 1991) and “Remarques sur la défense à Cos à l'époque hellénistique”, in *REA* 103 (2001), 183-195.

⁹⁶ *SEG* 48,1104 + 51,1049; L. HALLOF-K. HALLOF-C. HABICHT, “Aus der Arbeit der ‘Inscriptiones Graecae’, II. Ehrendekrete aus dem Asklepieion von Kos”, in *Chiron* 28 (1998), 116-121.

And in the present war, in order to keep the fort safe, since our enemies were often threatening it, many naval and land forces being gathered in Astypalaia, he brought weapons and missiles for catapults and bows; in accordance with a decree, he chose those who would be most capable of taking charge of guarding, and placed under their command enough (or capable) men who would keep guard by day [--]; he also arrived in order to protect the site [--]; when he anticipated the enemy threat and the size of the dangers [-- the most suitable?] place of the fort, when the attack occurred, he followed the enemy and confined them under the fort; he instructed Nikostratos, son of Nikostratos, to take the light-armed among those who had come out with him and to come to assist; when due to this foresight the latter arrived zealously, it so occurred that the site was not occupied and the invaders left without doing any injustice against the territory”.

The events narrated in this text occurred in the district of Halasarna during the military activities of Philip V in the Aegean and in Karia and during the First Cretan War (c. 209–200). A fortified place (*peripolion*) already existed, unfortunately in an unknown location (probably near the coast), presumably at some distance from the main settlement of Halasarna; we may infer this from the fact that Diokles' services are described as connected with “the fort and the inhabitants of the countryside” ($\tauὸ περιπόλιον καὶ τὸς κατοικεῖν>τας τὰν χώραμ$). The regular troops were not sufficient for its defence, and it was only thanks to the initiative of Diokles to arm the inhabitants of the countryside and bring them to the fort that the enemy abandoned their plan to occupy it. Diokles improved the defence of the site by bringing weapons, appointing officers, manning the fort, and organising day guards. When an attack occurred, Diokles and a unit of light-armed men succeeded in stopping the enemies under the fort, i.e. at the place where they had landed, and driving them away. In this case, it was the tactical thinking and the foresight of Diokles that brought the inhabitants to the fort for its defence, thus preventing the enemy from

establishing a base in the territory of Halasarna. In other cases, the population of the countryside came to forts in order to find rescue. One of the healing miracles of Athena Lindia, of doubtful historicity, narrates that when the Persian fleet approached Rhodes in 490 BC, the population of the countryside fled in panic and sought refuge in the fortified places.⁹⁷ In an unpublished study, Sylvian Fachard has plausibly argued that this was the primary function of forts in the territory of Eretria. Here, a system of forts could offer protection within a radius of c. five kilometres, i.e. a distance that can be covered in an hour. In other areas, forts were located near strategic routes, natural harbours, roads, on the top of hills and mountains, near the natural frontiers, near agricultural settlements. The smaller forts were usually manned with young men,⁹⁸ the larger (e.g., Rhamnous, Eleusis, Kyrissos) with soldiers from their environs, sometimes also with mercenaries.⁹⁹

The forts, regardless of their size, imposed unity within the territory of a city, linking its most remote sites with the centre.¹⁰⁰ Forts were a visible proof of the integrity, independence and identity of a community. They also made the boundary between a community and its nearest neighbour, and potential enemy, visible. Sometimes they also expressed hierarchical relationships, as when a dependent community served as a fort of a sovereign city and had to accept a garrison. We know of such dependent forts, e.g. in Crete, where the island of Kaudos was a dependent community of Gortyn and the Artemitai a dependent community of Eleutherna; Teos in Asia Minor

⁹⁷ *I.Lindos* 2 D 5-7: καταπλαγέντων δὲ τῶν κατὰ τὴν χώραν τὰν ἔφοδον τῶν Περσῶν καὶ συνφυγόντων μὲν ἐς πάντα τὰ δχυρώματα. Cf. J.-Chr. COUVENHES, *art.cit.* (n.65), 198, as regards Attika.

⁹⁸ *Ath.Pol.* 42,1.

⁹⁹ Rhamnous: R. OETJEN, *Die Garnisonsinschriften als Quelle für die Geschichte Athens im dritten Jahrhundert v. Chr.* (PhD dissertation, Heidelberg 2004). Eleusis: K. CLINTON, *op.cit.* (n.12), nos. 180-184, 186-187, 190, 193-198, 200, 203-205, 207, 210-211, 214, 217 (Athenians and mercenaries). Kyrissos: see n.63.

¹⁰⁰ J. MA, *art.cit.* (n.10), 341f. with n.24; A. CHANIOTIS, *op.cit.* (n.10), 28f.

annexed the territory of Kyrbisso, preserving the citadels of this former city as a fort, and Miletos did the same with Pidasa.¹⁰¹ But, above all, forts provided the security necessary for the economic exploitation of the countryside. In the late third century, part of the territory of Samothrake on the Thracian coast remained uncultivated, clearly because of the attacks of Thracian tribes; the Samothrakians asked a Ptolemaic commander to assist them in the construction of a fort (*ochyroma*), so that the citizens would be able to receive land-lots there and cultivate it.¹⁰²

Military units of φρουροί under the command of a φρούραρχος (in Thessaly under an ἀρχίφρουρος) are attested in many Greek cities – very often as garrisons of a foreign king.¹⁰³ Bruno Helly has interpreted the *phrouroi* in Gonnoi (Thessaly) as patrollers responsible for surveillance of the countryside, similar to the Athenian *peripoloi* (see below).¹⁰⁴ In theory, this is possible, but the fact that we know these *phrouroi* only from dedications to Athena Polias, i.e. the patron of the citadel of Gonnoi,¹⁰⁵ points to the conclusion that we are dealing with guards of the akropolis.¹⁰⁶ Similarly, the dedications in Mikro Kerseli in Thessaly made by ἀρχίφρουροι and σύμφρουροι were dedications by garrisons of the citadel.¹⁰⁷ By contrast, the Koan citizens who served as φύλακες on a semi-annual basis (cf. B 1: χειμερινάν) may have been garrison soldiers in the forts in the countryside of Kos.¹⁰⁸

¹⁰¹ Crete: A. CHANIOTIS, *op.cit.* (n.17), 404-406 and 413. Kyrbisso: n.63. Pidasa: *Milet I* 3, 149 (German translation and recent bibliography in *I.Milet VI* 1, 149); cf. I. PIMOUGUET, “Défense et territoire: l’exemple milésien”, in *DHA* 21 (1995), 99-102, 108-109. Cf. J. MA, *art.cit.* (n.10), 341.

¹⁰² *IG XII* 8, 156 B lines 17-23.

¹⁰³ E.g., M. LAUNAY, *op.cit.* (n.36), 1010f.

¹⁰⁴ B. HELLY, *Gonnoi* (Amsterdam 1973), I 145f.

¹⁰⁵ B. HELLY, *op.cit.*, II nos. 147-150; *SEG* 51,710.

¹⁰⁶ Cf. P. BAKER, “Quelques remarques sur des institutions militaires dans les cités de Thessalie à l’époque hellénistique”, in *AncW* 32 (2001), 194-195.

¹⁰⁷ *IG IX* 2, 1057-1058, 1060-1064; *SEG* 17,299-300; 23,443-445; 51,725-726. M. LAUNAY, *op.cit.* (n.36), 1011 with n.4.

¹⁰⁸ *Iscr.Cos* ED 84 (second century); P. BAKER, *art.cit.* (n.92), 191f.

The regular control of the countryside and the frontier was usually assigned to *περίπολοι* ('patrollers') under the command of a *περιπόλαρχος*.¹⁰⁹ This is a relatively early institution. Leaving aside a reference to *peripoloi* in Sikyon in the seventh century, which probably reflects the situation in the Classical period,¹¹⁰ Thucydides often mentions *peripolarchoi* and *peripoloi*.¹¹¹ In Athens, the peripolarchos was an elected officer responsible for guarding the *chora*.¹¹² A famous passage in Aischines shows that the *peripoloi* were recruited from young Athenians (18-20 years), who patrolled the countryside for two years.¹¹³ Survivals of this duty are attested until the late Hellenistic period.¹¹⁴

Units of *peripoloi*, perhaps created under the influence of the Athenian model, are attested in the third and second centuries in many places north of Attica: in Ambryssos in Phokis, in Medion in Akarnania, possibly in Krannon in Thessaly, in Ithaka, in Illyria (Apollonia, Byllis, Koinon of the Balaiitai), and in Perast.¹¹⁵ In Boiotia, *peripoloi* are not attested, but

¹⁰⁹ L. ROBERT, "Péripolarques", in *Hellenica X* (Paris 1955), 283-292; P. CABANES, "Recherches épigraphiques en Albanie: péripolarques et peripoloi en Grèce du Nord-Ouest et en Illyrie à la période hellénistique", in *CRAI* 1991, 197-216.

¹¹⁰ *FGrHist* 105 F 2 (= *POxy.* XI 1365); cf. A.S. CHANKOWSKI, "L'entraînement militaire des éphèbes dans les cités grecques d'Asie Mineure à l'époque hellénistique: nécessité pratique ou tradition atrophie?", in *Les cités grecques et la guerre en Asie Mineure à l'époque hellénistique*, éd. par J.-Chr. COUVENHES et H.-L. FERNOUX (Tours 2004), 67.

¹¹¹ M.V. TAYLOR, *Salamis and the Salaminioi. The History of an Unofficial Athenian Demos* (Amsterdam 1997), 236 n.66.

¹¹² *IG II²* 1260 lines 9f.; cf. K. CLINTON, *op.cit.* (n.12), 86-88 nos. 80-81. See also note 83.

¹¹³ AESCHIN. 2, 167: "as soon as I passed out of boyhood I became *περίπολος τῆς χώρας ταύτης* for two years; I will call my *συνέφηβοι* and our commanders as witnesses to this statement". Cf. *Ath. Pol.* 42,4: *περιπολοῦσι τὴν χώραν καὶ διατριβουσιν ἐν τοῖς φυλακτηρίοις*. φρουροῦσι δὲ τὰ δύο ἔτη χλαμύδας ἔχοντες.

¹¹⁴ E.g., *IG II²* 1028 lines 22f. (100 BC): *ἐξῆλθον δὲ καὶ ἐπὶ τὰ φρούρια καὶ τὰ ὅρια γῆς Ἀττικῆς πλεονάκις ἐν ὅπλοις καθὼς ἐπέταττον αὐτοῖς τὰ ψηφίσματα τῆς τε βουλῆς καὶ τοῦ δήμου*; cf. *IG II²* 1006 and 1011.

¹¹⁵ Ambrassos: L. ROBERT, *Études anatoliennes. Recherches sur les inscriptions grecques de l'Asie Mineure* (Paris 1937), 108f.; P. CABANES, *art.cit.* (n.109), 218 no. 2. Medion: *ibid.*, 218 no. 3. Krannon: POLYAEV. *Strateg.* 2, 34. Ithaka: *IG*

patrol duty in the frontier seems to have been assigned to mounted guards (*ἱππόται*).¹¹⁶ Unfortunately, information about recruitment, training, and numbers of patrollers is very limited. When lists of names survive, usually in dedications, they never include more than a dozen men (in Perast). M. Launey is probably right in his assumption that generalisations should be avoided: the *peripoloi* could have been ephebes in some places (as in Athens), mercenaries in others, or a combination of the two.¹¹⁷

A decree of the koinon of the Balaiitai (see n. 112) has been regarded as evidence for mercenaries serving as *peripoloi*, but this is far from certain. The Balaiitai honoured with this decree a commander of *peripoloi*, the *peripolarchos* Aristen. Because of the expression *μετέχειν δὲ καὶ τῶν κοινῶν αὐτὸν καὶ ἐκγόνους*, which resembles the formula for the grant of citizenship, A. Chankowski argued that Aristen, a foreigner, was awarded citizenship by the koinon of the Balaiitai in reward for his service; on this basis, he concluded that Aristen must have been a mercenary.¹¹⁸ From this, A. Chankowski inferred that all the patrollers were mercenaries. But even if the commander of patrollers had been a mercenary, this does not exclude the possibility that the unit under his command consisted of ephebes. Things are, however, more complex. The formula *μετέχειν δὲ καὶ τῶν κοινῶν* only makes Aristen a member of the *koinon*; it cannot be equated with award of citizenship, and as a matter of fact we do not even know if the Balaiitai had a legal status of

IX²1,1614. Apollonia: L. ROBERT, *art.cit.* (n.109); P. CABANES, *ibid.*, 219 no. 4. Byllis: *SEG* 32,626; P. CABANES, *ibid.*, 219 no. 5. Balaiitai: *ibid.*, 220 no. 7. Perast: *ibid.*, 220 no. 6. Cf. the term *περιπόλιον* which in the Dodekanese designates a fortified site, but in Lykia it may designate, more generally, a rural settlement; on this question see M. DOMINGO GYGAX, *Untersuchungen zu den lykischen Gemeinwesen in klassischer und hellenistischer Zeit* (Bonn 2001), 134-138.

¹¹⁶ *SEG* 28,461; R. ÉTIENNE-P. ROESCH, "Convention militaire entre les cavaliers d'Orchomène et ceux de Chéronée", in *BCH* 102 (1978), 363.

¹¹⁷ M. LAUNHEY, *op.cit.* (n.36), 834 n.1.

¹¹⁸ A.S. CHANKOWSKI, *art.cit.* (n.110), 66f. with n.33; cf. hesitantly, P. CABANES, *art.cit.* (n.109), 221.

citizenship. It is possible that they were not a citizen community but a subdivision, a local district, of Apollonia, on the fringes of its territory. There is nothing in the text that supports the assumption that the *koinon* of the Balaitai was an independent polis. They had magistrates (*tamias, presbyteroi*) and an assembly, but they are not designated as *demos* or *polis* (Βαλαιταις, τὸ κοινὸν τῶν Βαλαιειτῶν, ἔδοξε τοῖς Βαλαιείταις). The document is dated with reference to an eponymous prytanis (πρυτανεύοντος Βίωνος τοῦ Κλειγένεος). But why should we assume that he was the eponymous prytanis of the Bylaiitai and not of Apollonia, where we know of three eponymous prytaneis by this name?¹¹⁹ ‘Scribes’ of *peripolarchoi* are attested in Apollonia.¹²⁰ Finally, neither Aristen, son of Parmen, nor his ‘scribes’ Parmen, son of Teisarchos, and Boulos, son of Abaios, have an ethnic, as we would expect, if they had been foreigners. This endorses the assumption that the Balaitai did not honour a foreigner but a citizen of the same community: Aristen, son of Parmen, is most likely a citizen of Apollonia, where these names are well attested.¹²¹ For all these reasons, I assume that Aristen and his unit were citizens of Apollonia patrolling its territory and honoured by a local community, which had been incorporated into the polis of Apollonia and inhabited the fringes of Apollonia’s territory.

There is, therefore, limited evidence that mercenaries served as *peripoloi*. On the contrary, there is enough evidence for the assumption that patrolling the territory was primarily assigned to young men. If the citadel was the place where old men, children, and women retreated, the frontier and the countryside were regarded as the realm of the young men, who proved their suitability to become citizens through military service. The regular patrol service of ephebes is securely attested in Athens (above) and Crete (below). In Eresos (Lesbos), the young men

¹¹⁹ *LGPN III A*, s.v.

¹²⁰ L. ROBERT, *art.cit.* (n.109).

¹²¹ *LGPN III A*, ss.vv.

were led by the *gymnasiarchos* to the frontier.¹²² The young could also be assigned such duties in an emergency,¹²³ as we learn from a decree of Syros (early first century).¹²⁴ Syros was informed that pirate ships were preparing a raid against the countryside and the city (*ἀνγελίας γενηθείσης διότι κακοῦργα πλοῖα καὶ πλείονα ἐπιβάλλειν ήμῶν ἤμελεν ἐπὶ τὴν χώραν καὶ τὴν πόλιν κατὰ ρύσιον*). When the Syrians were informed that the ships were anchoring near Siphnos (*ἀπηγέλη προσωρικέναι πρὸς τὴν Σιφνίων χώραν*), still during the night, they sent a certain Ktesikles to Siphnos, and he immediately informed a friendly Siphnian, Onesandros: “When he (Onesandros) learned this from Ktesikles, he received him in a friendly manner and calling his sons Boulon and Nikon (known in Siphnos also by the name Ekphantos) together with some other young men he sent them to the countryside in order to investigate this (*πυθόμενος παρὰ τοῦ Κτησικλέους τὰ προδεδηλωμένα, αὐτόν τε φιλοφρόνως ὑπεδέξατο τούς τε νίοὺς Βούλωνα καὶ Νίκωνα, ἐν Σίφνῳ δὲ χρηματίζοντα "Εκφαντον, καὶ τινας μεθ' ἔαυτῶν νεωτέρους παρακαλέσας ἐξαπέστειλεν ἐπὶ τὴν χώραν ἐξεραυνησομένους*”). Onesandros did not have an official position, but his spontaneous reaction is significant: he immediately called together a group of young men and sent them out to collect information.

In Crete, young men (*neoi*) were assigned military and para-military duties after the end of a period of military training, between the ages of 18 and 20. In Gortyn, the board of *neotas* ('the youth') exercised 'police' duties, especially in the countryside, and controlled the frontier of the city; in other cities young men manned the forts on the frontier.¹²⁵ This service is

¹²² *IG XII Suppl.* 122: ἐξαγάγ[ων] δὲ τοὺς νέοις καὶ τῶν ἄλλων τοὺς θέλοντας ἐπὶ τ[αὶ δρ]όια τῆς χώρας; L. ROBERT, *art.cit.* (n.109), 287 n.2.

¹²³ See e.g. the aforementioned decree for Apollodoros (*SEG* 28,1540).

¹²⁴ A. BIELMAN, *op.cit.* (n.14), 184-189 no. 52 (*IG XII* 5, 653).

¹²⁵ *Neotas*: *SEG* 48,1209; A. MAGNELL, “Una nuova iscrizione da Gortyna (Creta). Qualche considerazione sulla neotas”, in *ASAA* 70/71 (1992/93), 291-305. Dreros and Olous: *I.Cret.* I, ix, 1; H. VAN EFFENTERRE, “Fortins crétois”, in *Mélanges d’archéologie et d’histoire offerts à Charles Picard à l’occasion de son 65e anniversaire* (Paris 1949), II 1033-1046; G. DAVERIO ROCCHI, *op.cit.* (n.58), 86.

alluded to in the oath of the young men of Dreros (c. 220 BC), taken during a war against Lyttos:¹²⁶ "... I will never be benevolent towards the Lytiāns, in no way and through no pretension, neither by day nor by night; and I will try, to the best of my capacity, to harm the city of the Lytiāns.... And I will be friendly towards the Drerians and the Knossians; and I will neither betray the city or the forts (*οὐρεῖα*) of the Drerians nor the forts of the Knossians; and I will betray no men to the enemies, neither men of Dreros, nor men of Knossos. ... I will not start a revolt, and I will always be an opponent of those who do; I will not participate in the organisation of a conspiracy, neither in the city nor outside of the city, nor will I help someone else...".

This oath was taken under exceptional circumstances: Knossos and her allies were in war against Lyttos. The young Drerians were to serve in the frontier forts (*οὐρεῖα*), possibly together with their Knossian allies, and this is why their oath includes a clause forbidding them to betray these forts to the enemy. This fear was realistic. As we may infer from several sources, this war had caused desertions and civil strife among the allies of Knossos.¹²⁷ During such a civil war in Gortyn, the young men occupied the harbour towns of Lebena and Matalon.¹²⁸ This incident shows the dangers involved in entrusting young men with important military responsibilities: under certain conditions the 'police' force needed policing. If the Athenian ephēbes of 107/6 BC were honoured for patrolling the Athenian border without causing any harm to the farmers, this means that damage to the fields by the city's own patrollers was not unusual.¹²⁹

Patrol duty by the young sons of citizens was valued more than any other measure. Not only did this type of police service

¹²⁶ *I.Cret.* I, ix, 1; A. CHANIOTIS, *op.cit.* (n.17), 198-201.

¹²⁷ A. CHANIOTIS, "The Epigraphy of Hellenistic Crete. The Cretan Koinon: New and Old Evidence", in *Atti del XI Congresso Internazionale di Epigrafia Greca e Latina* (Roma 1999), I 287-300.

¹²⁸ PLB. 4, 55, 6.

¹²⁹ *IG* II² 1011 lines 15f.

expressed the independence of a community, but it also served educational purposes – the training of young men as soldiers and citizens (see below).¹³⁰ Whether it was effective is of course another matter, as the Cretan incidents show. A decree of Mycene (early second century) refers to the liberation of ephebes who had been abducted by Nabis of Sparta.¹³¹ Various interpretations have been suggested: the ephebes had been recruited by Nabis; or they were hostages; or they were the victims of pirates or brigands.¹³² Since the group consisted exclusively of ephebes and the abduction could not have possibly taken place in Mycene itself, this incident must concern a group of ephebes captured by Nabis' troops while somewhere in the countryside. The most plausible explanation is that they were patrollers on the border of Argive territory. If they are not explicitly designated as *peripoloi*, it is probably because this would have increased the embarrassment of their abduction. An analogous incident is reported in Delphi (100 BC), where young men were captured by brigands; A. Bielman plausibly suspects that they were patrollers.¹³³

The evidence for *peripoloi* is limited to mainland Greece. In Asia Minor we may infer measures for the protection of the countryside from the existence of a 'general of the countryside/the territory' in Karia, who was assigned the duty of defending the territory.¹³⁴ The countryside of Kyzikos was patrolled by mounted guards in the early third century BC. Philetairos of Pergamon provided the city with fifty horses for this task; the unit must have been larger.¹³⁵ The units of (*h*)orophylakes will be discussed in the next section.

¹³⁰ A. CHANIOTIS, *op.cit.* (n.10), 46–56.

¹³¹ *IG IV* 497; *Syll.*³ 594; A. BIELMAN, *op.cit.* (n.14), 159–162 no. 44 (with the earlier bibliography): ἐπειδὴ ἀπ[αχ]θέντων [ἔφή]βων τῶν Μυκανέων ὑπὸ Νάβιος ἐς Λ[ακ]εδαιμονία.

¹³² A. BIELMAN, *op.cit.* (n.14), 161.

¹³³ A. BIELMAN, *op.cit.*, 177–180 no. 50 (*EDelphes* III 1, 457), c. 100 BC: νεανίσκους ἐλευθέρους τῶν ἐκ [γυμνασίου? τούς ἀπαχθέντας ὅ]πδ ὁ αδιούργων καὶ κρυπτομέ[νους ἐν τοῖς ὕρεσιν?].

¹³⁴ C. BRÉLAZ, *op.cit.* (n.9), 75–77. For this office in Rhodes, see n.91.

¹³⁵ *OGIS* 748; C. CHANDEZON, *op.cit.* (n.8), 183–186 (c. 280–275 BC).

In the late second century the protection of the countryside of Pergamon was assigned to mobile troops (*paraphylakitai*). As we may infer from the fact that they were awarded citizenship in 133 BC, they must have consisted of mercenaries.¹³⁶ C. Brélaz, who has most recently collected the evidence for *paraphylakitai* in Asia Minor, has plausibly argued that they represent a military institution of the Seleucid and Attalid kingdom, which is probably not related to the *phylakes* of the Imperial period.¹³⁷

4. Phylake tes choras: measures for control

Polyainos (second century AD) narrates an anecdote concerning Deinias, a tyrant of Krannon in Thessaly. The Kranonians farmed out by contract the guarding of the city (οἱ Κραννώνιοι τὴν φυλακὴν τῆς πόλεως ἀπεμίσθουν). Deinias, the contractor, exploited his success in providing security, and gradually increased the size of his force, ultimately becoming tyrant of the city (fourth century). A passage in this anecdote is of some interest in this context:¹³⁸ “When the city was farming out the tithe of the corn, Deinias succeeded in having a younger brother farm the taxes, by overshooting with his bid the (expected) revenue. In this way, he had his brother appointed ‘tithe collector’ of the countryside and placed under his command many young men at their prime, as patrollers of the villages and collectors of the crops subject to the tithe”.

¹³⁶ I.Pergamon 249 = OGIS 338; M. LAUNAY, *op.cit.* (n.36), 664-669; C. BRÉLAZ, *op.cit.* (n.9), 125-127. Cf. the *phylakes* in Ptolemaic Egypt: C. HOMOTH-KUHS, *Phylakes und Phylakon-Steuer im griechisch-römischen Ägypten: ein Beitrag zur Geschichte des antiken Sicherheitswesens* (München 2005).

¹³⁷ C. BRÉLAZ, *op.cit.*, 127-129.

¹³⁸ POLYAREN. *Strateg.* 2, 34: τῆς δὲ πόλεως τὴν τοῦ σίτου δεκάτην ἀπομισθούστης ἀδελφὸν αὐτὸν νεώτερον τὰ τέλη καθῆκε μισθωσάμενον ὑπερόρας εἰς πολὺ τὴν πρόσοδον. οὕτω δὴ τὸν ἀδελφὸν δεκατηλόγον τῆς χώρας ἀποδεῖξας καὶ πολλοὺς νεανίσκους ἀχμάζοντας ἐγχειρίσας αὐτῷ, περιπόλους τῶν χωρίων καὶ συλλογέας τῶν δεκατευομένων καρπῶν.

The historicity of this anecdote is questionable, but it combines four elements, each of which, taken individually, is attested: (a) One of the city's revenues was a tithe on corn; this can easily be identified with the tithe (*dekate*) which the Thessalian serfs had to deliver. (b) The collection of this tax was assigned through public auction to the entrepreneur who offered the highest bid. There is nothing unusual in this procedure, although tax farming is not attested in Classical Thessaly. (c) Units of young men patrolled the territory: this, as we have seen, is very common. (d) Patrollers of the countryside made sure that the serfs paid their tribute. This is not attested in Greek areas with an extensive serf population (Thessaly, Crete, Lakedaimon-Messenia), but one of the primary duties of the Spartan *kryptoi* consisted in preventing revolts by the helots – and consequently safeguarding Spartan revenues.¹³⁹ The anecdote seems, therefore, to be a melange of authentic practices attested, if not in fourth-century Thessaly, at least in other areas of the Greek world.

With this anecdote in mind, let us approach one of the thorniest questions concerning police duties in the countryside: the service of the ὄροφύλακες or ὄροφύλαχες in Hellenistic Asia Minor. In the most recent study of this institution, C. Brélaz plausibly stressed a lack of homogeneity and suggested distinguishing between various categories of (h)orophylakes.¹⁴⁰

The best source of information is the treaty between Miletos and Herakleia under Latmos (c. 185 BC). The (h)orophylakes are mentioned in the clause concerning runaway slaves:¹⁴¹ “If

¹³⁹ D. KNOEPFLER, *art.cit.* (n.27), 334f.

¹⁴⁰ C. BRÉLAZ, *op.cit.* (n.9), 157–171, prudently leaves the question of the word's accent open. ὄροφύλακες (“guardians of the frontiers”): D. ROUSSET, “Les frontières des cités grecques. Premières réflexions à partir du recueil des documents épigraphiques”, in *CCG* 5 (1994), 97–126; A.S. CHANKOWSKI, *art.cit.* (n.110), 67–69; ὄροφύλαχες (“guardians of the mountains”): L. ROBERT, *op.cit.* (n.115), 106–108. See also D. HENNIG, “Oreophylakes in Ägypten”, in *Chiron* 36 (2006), 1–5, with a useful overview of the evidence.

¹⁴¹ *Milet* I.3, 150. On the date see most recently C. HABICHT, “Datum und Umstände der rhodischen Schlichtung zwischen Samos und Priene”, in *Chiron* 35 (2005), 137–146 (with the earlier bibliography).

slaves who have run away from Miletos to Herakleia and from Herakleia to Miletos, have been brought to the (h)orophylakes in service in the respective cities (*τοὺς ἐν ἑκατέραι τῶν πόλεων οροφύλακας*), beginning with the year after the stephanophorate of Menandros, those who have undertaken this *telos* through purchase in Miletos (*τοὺς μὲν ἐμ Μιλήτωι τὴν ὧντὸν ἔχοντας τοῦ τέλους*) shall report to the prytaneis and the men elected for the guarding (*τοῖς εἰρημένοις ἐπὶ τῇ φυλακῇ*) about the slaves within ten days from the day of the delivery. The latter shall send to the magistrates in Herakleia a letter with a detailed list (of the slaves). Those who have undertaken the *telos* of (h)orophylakia in Herakleia (*τοὺς δὲ ἐν Ἡράκλειᾳ τὸ οροφυλακικὸν τέλος ἔχοντας*) shall report to the magistrates within the same deadline, and, similarly, the latter shall send a letter to the prytaneis and the men elected for the guard duty. The owners of the slaves from the respective cities shall have the right to have their slaves returned, after they have paid a return fee of 12 old Rhodian drachmas per person and, for food, one obolos per day, within four months from the day the letter has been sent to the magistrates. Otherwise, the slaves shall belong to the (h)orophylakes".

Both cities had (h)orophylakes with similar duties and a similar mode of appointment. In Miletos, this position was subject to sale at auction – exactly as priesthoods were. In Herakleia, the contract may have been awarded in the same way as building contracts were. The plural form *(h)orophylakes*, which is used in connection with the capture of slaves in the near future (realistically, within a year), implies that each city had more than one (h)orophylax at a time, but this is far from certain. The word *telos* is usually translated in this context as 'service',¹⁴² but this is questionable.

The (h)orophylakes purchased this position (cf. ὡνή); they paid money in expectation of profit. Their expectations must have gone beyond the hope of the occasional arrest of a

¹⁴² C. BRÉLAZ, *op.cit.*, 162f. with n.410 and with the earlier bibliography.

runaway slave.¹⁴³ I suspect that an important element of their service (and also the major source of profit) consisted in guarding the frontier and making sure that those who entered the territory of either city or used it (e.g., for pasture) paid the required import taxes and dues. This would explain the use of the word *telos*, not in the sense of ‘office’ or the rather rare sense of ‘service’, but with its common meaning ‘customs, dues, tax’. According to this interpretation, the main responsibility of the (h)orophylakes consisted in collecting a particular category of city revenues ($\tauὴν ὀνὴν ἔχοντας τοῦ τέλους$), namely those that were expected to be raised on the mountainous frontier of the cities: customs for the import and export of goods, dues for the use of pastureland, etc. For this task, the (h)orophylakes may have organised their own troops (as in Polyainos’ anecdote). Their profit depended on their efficiency.

In Telmessos the οροφυλακία was a service, which could be undertaken on a voluntary basis in exchange for exemption from taxes.¹⁴⁴ Here, the service was voluntary, but the task similar: not simply policing the countryside, but primarily safeguarding the revenues expected from the countryside. In Amyzon, the function of the οροφύλακος (*sic!*) was different.¹⁴⁵ He is attested in the late fourth century, as a civic magistrate. He must have been responsible for guarding the frontier,¹⁴⁶ possibly in command of a unit of patrollers. The lack of uniformity in this system is confirmed by the (h)orophylakes in the plain

¹⁴³ For οροφύλακες going after runaway slaves, see D. HENNIG, *art.cit.*, 2-5. He refers to a document in Zenon’s archive (*PSI* IV 406) referring to a female slave delivered to an οροφύλαξ, and to a mime (*POxy.* III 413), which mentions δρεοφύλακες looking for runaway slaves.

¹⁴⁴ *SEG* 29,1516 (early second century): $\tauοῦ \chiειρωναξίου παρεθήσονται οἱ μεταπορευ[όμε]νοι τεχνῖται τὴν οροφυλακίαν αἰρόμενοι$ (“the craftsmen, who come/immigrate, will be exempted from the tax on craftsmen if they undertake the (h)orophylakia”).

¹⁴⁵ J. ROBERT-L. ROBERT, *Fouilles d’Amyzon en Carie. Tome I: Exploration, histoire, monnaies et inscriptions* (Paris 1983), 97-118.

¹⁴⁶ C. BRÉLAZ, *op.cit.*, 161.

of Tabai (Karia) in the second century AD. Here, a group of 15 *neaniskoi*, probably from Apollonia Salbake, served as a “patrol of the frontier/the mountains” (*orophylakesantes*) under the command of a *παραφύλαξ*. As we may infer from the reference to *ιπποκόμοι*, the neaniskoi were a mounted guard.¹⁴⁷

6. *Phylake tes choras: dedications and provocations*

Among the activities of patrollers of the countryside only one is well attested: dedications.¹⁴⁸ They are usually, and naturally, addressed to divinities worshipped in the countryside: Pan and the Nymphs, Artemis, Dionysos, Meter Oreia.¹⁴⁹ Joint dedications were a form of communal activity and an expression of respect towards traditions. The religious activities of the patrollers also had, however, another dimension.

An example is provided by the dedication of Eustratos in the Korykean Cave (third century):¹⁵⁰ Εὐστράτος Ἀλκιδάμου Ἀμβρύσιος, συμπερίπολοι, Πανί, Νύμφαι. The inscription is engraved on the rock, at the entrance of the cave, with fine lettering of the third century. It was not a spontaneous act of devotion. Eustratos and his *symparipoloi* must have planned the dedication. They had placed an order for the dedicatory object, probably a statuette; they had transported it to the cave on Mt. Parnassos; and they had engaged a professional stone-cutter.¹⁵¹ Can we infer from this that this unit regularly visited the cave?

¹⁴⁷ C. BRÉLAZ, *op.cit.*, 167-171.

¹⁴⁸ L. ROBERT, *art.cit.* (n.109), 287f.; P. BAKER, *art.cit.* (n.106), 191-206. Cf. C. BRÉLAZ, *op.cit.* (n.9), 106 (for Roman Asia Minor).

¹⁴⁹ L. ROBERT, *op.cit.* (n.115), 102-110; P. CABANES, *art.cit.* (n.109), 218f. nos. 2-3.

¹⁵⁰ L. ROBERT, *op.cit.* (n.115), 108f.; P. CABANES, *art.cit.* (n.109), 218 no. 2; D. ROUSSET, *Le territoire de Delphes et la terre d'Apollon* (Paris 2002), 160f. no. 26.

¹⁵¹ D. ROUSSET, *op.cit.*, 160, quoting P. Amandry: “un projet élaboré à l'avance, dont la réalisation prenait quelque temps”.

A striking feature of this inscription is the use of an ethnic. If Eustratos had made a dedication in the city of Ambrytos, he would not have used an ethnic. Ethnics are used by those who set up an inscription in a foreign city or a foreign sanctuary. We know that Ambrytos was involved in a territorial dispute with Delphi;¹⁵² it acquired territory in the area of Mt. Parnassos in the first half of the second century. Consequently, it is quite probable that Eustratos and his unit made a dedication in a sanctuary on Delphic territory.¹⁵³ In that case, their dedication was as much an act of provocation and demonstration of territorial claims as it was an act of devotion.

An act of provocation can certainly be observed in one of the activities of the Athenian ephesbes of the year 122 BC:¹⁵⁴ "they made an excursion to the border of Attika carrying their weapons, acquiring knowledge of the territory and the roads [lacuna] and they visited the sanctuaries in the countryside, offering sacrifices on behalf of the people. When they arrived at the grave at Marathon, they offered a wreath and a sacrifice to those who died in war in defence of freedom; they also came to the sanctuary of Amphiaraos. And there they made clare our legitimate possession of the sanctuary, which had been occupied by the ancestors in old times. And after they had offered a sacrifice, they returned on the same day to our own territory".

What at first sight seems a harmless excursion acquires another dimension when we take into consideration the fact that in this period the sanctuary of Amphiaraos was *not* part of Athenian territory, but belonged to the city of Oropos. In 156 BC the Athenians had attacked Oropos and temporarily occupied the sanctuary and the surrounding territory (until c. 150 BC).¹⁵⁵ One generation later, the Athenian ephesbes marched under arms into foreign territory, provocatively reminding the pilgrims present in the sanctuary (and themselves) through

¹⁵² Most recent discussion by D. ROUSSET, *op.cit.*, 28f., 126-128, 155-161.

¹⁵³ Cf. D. ROUSSET, *op.cit.*, 161.

¹⁵⁴ IG II² 1006 lines 65-71.

¹⁵⁵ PAUS. 7, 11, 4-12, 3; cf. PLUT. *Cato maior* 22.

speeches that the Athenians had been the legitimate owners of the sanctuary; then they withdrew behind the Athenian frontier. Whether one still accepts the tripartite structure of rites of transition established by A. van Gennep and modified by V. Turner (rites of separation, rites of marginality, rites of reintegration) or not, this provocative and aggressive action looks very much like a survival from a rite of passage. The young Athenians were separated from urban life, they lived in the marginal area on the edge of the Athenian territory, they exposed themselves to danger by intruding into contested territory bearing arms, achieved an important deed by provocatively asserting the claim of their city to contested territory, and finally returned to Athens and were incorporated into the citizen body. It has often been observed that the presence of young men on the periphery of organised urban space, in the usually mountainous *eschatia* ('edge of the land'), in the realm of wild animals and forests, reflects to the conception of young persons – not yet citizens — as belonging to the world of unrestrained natural powers and to the periphery of the citizen-body, together with other liminal groups, such as foreign mercenaries. The act of provocation by the Athenian ephebes may be a survival from this concept.

Finally, the Athenian ephebes' respect towards tradition may be recognised in a dedication made by ephebes to Pan and the Nymphs in the cave of Pan at Marathon (61/60 BC).¹⁵⁶ The last lines are a sacred law, which regulates entrance to the cult cave by listing items not allowed inside: "The god forbids one to carry in either coloured garments ($\chiρωμάτινον$) or dyed garments ($\betaαπτόν$) or garments with coloured borders ($?λ[εγ]νωτόν$) or to enter [--]".

As Eran Lupu suggested, this regulation could not have been formulated by the ephebes themselves, who were probably quoting an already existing sacred law, allegedly originating

¹⁵⁶ SEG 36,267; E. LUPU (ed.), *Greek Sacred Law. A Collection of New Documents* (Leiden 2005), 171–175 no. 4.

from the god (through an oracle). The law seems to have allowed only persons with white clothes to enter the sacred cave. But why? And why did ephebes set up this inscription? The Athenian ephebes are known to have worn a particular ephebic garment, the black *chlamys*.¹⁵⁷ The dedicants of this inscription warned their fellow ephebes who would patrol the countryside not to enter the cave with their ephebic cloak. A still unpublished inscription from Pherai in Thessaly reports that king Philip V had carried out historical inquiry (*ἱστορία*) in order to determine the appropriate colour for the uniforms of the royal hunters of Herakles.¹⁵⁸

The Athenian ephebes were no less conscious of the importance of historical traditions than the Macedonian king. In a period of Roman rule, if there was not much to defend in the countryside, at least they could defend norms and traditions.

¹⁵⁷ C. PÉLÉKIDIS, *Histoire de l'éphébie attique des origines à 31 avant Jésus-Christ* (Paris 1962), 15f.

¹⁵⁸ M. HATZOPoulos, "Polis, Ethnos and Kinship in Northern Greece", in *The Idea of European Community in History II*, ed. by K. BURASELIS-K. ZOUMBOULAKIS (Athens 2003), 61f.

DISCUSSION

P. Ducrey: Certains épisodes antiques célèbres rappellent des faits divers contemporains: on songe aux enlèvements suivis de demandes de rançons, aux saisies d'otages et à d'autres violences qui ont défrayé la chronique dans les années 1980. Les événements qui se sont déroulés à Aigialé, dans la petite île d'Amorgos, à l'époque hellénistique, sont exemplaires à cet égard: des pirates débarquent de nuit dans le territoire, enlèvent des jeunes filles, des femmes et d'autres personnes, libres et esclaves, au nombre de plus de trente, embarquent de force leurs proies dans un bateau après avoir détruit toutes les autres embarcations ancrées dans le port. Deux des prisonniers, Hégésippos et Antipappos, fils d'Hégésistratos, persuadent le chef des pirates de relâcher les personnes de condition libre, ainsi que certains des affranchis et des esclaves, et acceptent de se constituer comme otages. Grâce au dévouement des deux hommes, les prisonniers sont sauvés et rentrent sains et saufs au pays. Hégésippos et Antipappos sont couronnés par la cité. Leurs exploits sont immortalisés dans les considérants d'un décret aujourd'hui parfaitement conservé sur une plaque de marbre (*IG XII 7, 386; Syll.³ 521; A. Bielman, Retour à la liberté [Paris 1994], 141-144, no. 38*).

Dans une intervention publique, mais inédite, un jeune historien japonais, Taisuke Okada, spécialiste de la piraterie grecque antique, a mis en doute la version des faits telle qu'elle est rapportée par le décret d'Aigialé. Il estime qu'à l'instar d'événements comparables survenus récemment au Japon, les 'sauveurs' ne sont pas des bienfaiteurs, mais des intermédiaires, peut-être rémunérés, entre les deux parties, ou même les complices des malfaiteurs. D'autres épisodes rapportés par des inscriptions ou d'autres sources ne devraient-ils pas être réinterprétés ainsi?

A. Chaniotis: This is quite possible in the case of the Cretan Eumaridas, who had information concerning the place where Athenian captives were kept.

A. Lintott: I am struck with the parallels with other societies. The talk of *eunomia* looks like Roman talk of *ius*. The *neoi* have an equivalent in the Roman world in the *collegia iuvenum*. How far they acted as a security force has been debated, but the inscription from Mactar in the province of Africa (see G. Charles-Picard's "Civitas Mactaritana") shows them honoured for ensuring that the harvest came in. As for the *eirenarchos*, he looks very much like the original English village constable, a task which people used to evade by paying substitutes.

H. van Wees: You adduce an impressive range of evidence for a (relatively) insecure countryside in the Hellenistic period, and show that this was a matter of concern to communities. Yet I wonder whether we can infer this also, as you suggest, from the decree-formula "for the protection and security of the polis and the *chora*". The various terms for 'security' have connotations which extend beyond guaranteeing safety through armed force: they may surely include, say, legal or constitutional measure to ensure internal stability. The term *chora* can mean the entire 'territory' of a state (including the city) rather than 'the countryside' alone. It is notable that the formula does not always mention the *chora* specifically. So is it possible that from the start the formula meant in effect 'the safety of the community' (not unlike the concept of 'national security' often invoked by modern states) and that it did not imply either a sharp distinction between city and countryside or a perceived threat to the countryside in particular?

A. Chaniotis: You are right in your observation that in some cases *phylake tes choras* may mean the defence of the entire community and not the countryside specifically, although there are also cases in which an unequivocal distinction is made

between the security of the *polis* = city and that of the *chora* = countryside. I have the impression that the expression *phylakes tes poleos/tou demou* and not *phylake tes choras* more closely corresponds to our notion of 'national security'. *Chora* is more often used in conscious and clear opposition to the urban centre (e.g., in the designation of officers responsible specifically for the defence of the *chora* = countryside and in most of the material which I have collected) than in a more general sense ('the entire territory of a community'). We should certainly allow for regional or chronological differentiations.

H. van Wees: In Archaic and Classical sources from Homer onwards, it is the *eschatia* ('borderland'), rather than the *agroï* ('farmland'), in general which is placed in opposition to the city and seen as a potentially dangerous and comparatively 'wild' area. Given the involvement of even the elite in agriculture, as landowners exercising supervision, this is not surprising. But it seems worth considering the implications for modern ideas about the countryside as a 'liminal' place. Would the Athenians, for example, really have regarded the ephebes' tour of sanctuaries around Attica as an excursion into a liminal zone and thus as part of a rite of segregation?

A. Chaniotis: The perception of the *eschatia* is a subject in itself, quite separate from the perception of the countryside, but also from the perception of the frontier (*horia*). In many parts of the Hellenistic world the *eschatia* had ceased to be a 'wild' area and had come under cultivation (e.g., in late Hellenistic Crete); and in many parts of the Hellenistic world valuable land was 'borderland', not 'borderland' between a wild and a tame world, but 'borderland' between two communities. It would be wrong to consider all countryside as a 'liminal' place. In this respect, the ephebes's tour of sanctuaries is one thing – part of their patriotic training –, there acquaintance with the borders of the Athenian territory another. In the case of the Amphiareion of Oropos, they were not visiting

any sanctuary but a sanctuary on contested borderland. Although this was certainly not intended as a rite of segregation, I believe that reminiscences of such rites – very often found as subtext in historiographical narratives (Xenophon, Plutarch) – played some role in this particular incident and its representation in the honorary decree.

W. Riess: You emphasize the economic dependence of the city on the hinterland. It is certainly right that the city exploited the *chora*. But I wonder to what extent the countryside could also profit from the city. What traces do you see of a mutual dependence, of a constant interchange that might even have led to a symbiosis between town and countryside?

A. Chaniotis: There can be no doubt that urban centres and countryside were part of a complex network of economic exchange, from which the countryside could also profit. Besides the economic factors we should also consider the cultic and social interaction between town and countryside. But political initiatives came from the city, and the population of the countryside – with the exception of the landlords – was usually of inferior status.

C. Brélaz: Vous avez montré que les troupes responsables de la surveillance du territoire rural des cités, y compris lorsque ces troupes sont composées de citoyens, pouvaient se rendre coupables de violences envers la population des campagnes. Cette mise au point pour l'époque hellénistique me semble importante, dans la mesure où les abus des soldats romains durant la période impériale en Lydie et en Phrygie, que l'on connaît par les plaintes de communautés rurales au gouverneur ou à l'empereur, sont souvent considérés comme caractéristiques de la tyrannie militaire impériale et symptomatiques de la 'crise' du III^e s. ap. J.-C. Au contraire, votre communication a contribué à prouver que ces frictions entre forces de l'ordre et habitants des campagnes constituent un phénomène structurel

dans le monde antique, voire plus généralement dans tout État pré-moderne. À propos du rôle des troupes militaires dans la surveillance de la *chôra*, concevez-vous qu'à l'époque hellénistique, les troupes, civiques ou royales, qui stationnaient dans les fortins disposés sur le territoire des cités aient été utilisées, non seulement pour repousser des attaques ennemis, mais également, en temps de paix, pour maintenir l'ordre public et combattre les brigands?

A. Chaniotis: As regards your first remark, one of the most characteristic testimonia for the burden imposed by 'friendly' troops is a passage in Menander's *Aspis*, where it is described how the troops, which had come to Xanthos to fight against the barbarians, plundered the countryside. We do not have a lot of evidence for the use of regular troops stationed in forts against brigands or pirates, but it is occasionally attested – e.g., the Macedonian garrison in Piraeus defended the Salaminians from pirates.

R. MacMullen: I find myself trying to visualize the scenes of action that your inscriptions describe. I do notice among them Athens and Miletus, but the majority of sites, or at least so it seems, are quite insignificant – meaning, I've never heard of them. I picture them as having a population clustered in houses as a 'conurbation' (fancy new term!) of not more than five or six thousand, or ten, maximum. A good number of the inhabitants would go out to the adjacent fields on most days, to a distance of an hour's walk, perhaps. Beyond that were larger properties, the owners of which could afford a house, and come frequently into the city, and there constituted much or most of its directorship and elite. So there is no very real distinction between city and country in human terms at the high level of these gentlemen on horseback. Of course, their tenants, and some of rural slaves, and the big population of village dwellers who never left the rural scene, were a different matter. Large cities like Ephesus and Apamea I think your evidence

doesn't illuminate, but here I would expect an urban directorship of far greater wealth, living always in big town houses – urban villas, as known through excavation – as rentiers of large and numerous estates. A question then: would the handling of these problems you discuss be fundamentally different between these two scenes of different scale?

A. Chaniotis: Among the communities, which I discussed, there were certainly several small island communities, which controlled quite small territories. In their case, the primary danger was that of pirates' attacks. Their defense problems were of an entire different nature than those of communities with extensive territories (including a *peraia*) and long frontiers in mountainous areas. Most of the evidence comes from this kind of cities, especially in Asia Minor and in the Black Sea regions.

C. Brélaz: Votre interprétation du mot *telos* dans le traité entre Milet et Héraclée me convainc, bien évidemment, d'autant que cela permet de donner un sens plus satisfaisant à l'expression (cf. déjà F. Piejko, in *C&M* 39 [1988], 107 n.34, qui contestait l'*opinio communis*). On comprend ainsi mieux l'intérêt que des gens avaient à prendre à ferme la surveillance du territoire, puisque cette *phylakè* produisait des revenus. Je voudrais vous faire part cependant de quelques réflexions. Je trouve toujours surprenant que les (h)orophylaques, qui sont nommés par ce titre aux l. 89, 97 et 99, soient désignés par une périphrase aux l. 90 et 93-94. Quel est le but de cette précision sur la nature de leur charge, qui a été attribuée par adjudication? Est-ce pour justifier ou expliquer pourquoi leur revient de droit un dédommagement financier suite à la capture d'un esclave? La périphrase expliquant la nature de la charge diffère: dans un cas, on parle de "ceux qui, à Milet, ont la ferme de l'impôt (douanier)"; dans l'autre, de "ceux qui, à Héraclée, ont/perçoivent l'impôt des (h)orophylaques / qui revient aux (h)orophylaques". Ou faudrait-il comprendre la tournure (*h)orophylakikon telos* comme les expressions qui se rencontrent en

Egypte, où une taxe prend le nom du service auquel son revenu est affecté? Il s'agirait donc, dans ce cas, de la *taxe qui permet de financer le service d'(h)orophylaque*. Mais, sauf erreur, on ne connaît pas d'attestation égyptienne pour le cas précis de l'(h)orophylakikon (cf. D. Hennig, in *Chiron* 36 [2006], 1-10). Dans *SEG* 29, 1516, à Telmessos, il n'est pas directement question de collecte de taxes douanières, mais seulement d'exemption fiscale octroyée aux artisans qui viendront s'installer dans le lieu en question et se chargeront de sa protection en s'acquittant du service de l'(h)orophylaque. Le roi aurait-il offert à ces artisans, en plus de l'exemption de leur impôt professionnel, le revenu des douanes pour le service qu'ils rendaient?

A. Chaniotis: Your observation that the treaty uses two different expressions – the term *(h)orophylakes* and a periphrasis (“those who have undertaken this *telos*”) – is very important. The *(h)orophylakes*, i.e., those who actively guarded the territory, should be distinguished from “those who purchased the *telos*”. As you suggest, the “purchasers of the *telos*” may be those responsible for the collection of a tax of *(h)orophylakia*; with this money they then employed the guards. Since we lack evidence for such a tax, we could envisage a second possibility: the “purchasers of the *telos*” were entitled to revenues (taxes for imports, fines, etc.), and recruited guards. In the case of Telmessos, I am afraid that the fragmentary character of the text does not allow clarity on the organisation of *(h)orophylakia*.

C. Brélaz: Dans Polyen 2,34, il me semble que l’adjudication de la défense du territoire et celle de l’impôt sur le grain dans le territoire sont distinguées: on procède à deux adjudications séparées. Ce parce que deux membres d’une même famille ont obtenu la ferme de l’une (Dinias, la *phylakè*) et l’autre (son frère, la *dékatè*) que gardes du territoire et percepteurs d’impôt travaillent de concert. Cela n’empêche pourtant pas qu’en temps ordinaire, gardes et percepteurs aient pu collaborer, ni que les gardes aient aussi eu à percevoir des taxes, j’en conviens.

A. Chaniotis: As I have argued, the anecdote in Polyainos is a *mélange* of authentic practices. The defence and the collection of the *dekate* are indeed two different duties; but those entrusted with the collection of the *dekate* were also responsible for patrolling the territory (*peripolous*).

It is interesting to note that the same kind of confusion between the collection of the *dekate* and the collection of taxes in general is found in the *Periplous* of Rhodes. In this case, however, the confusion is not due to the lack of knowledge of the local administrative system, but rather to the lack of clear-cut differentiation between the two functions. The *Periplous* of Rhodes describes the collection of the *dekate* as follows: 'The *dekate* is collected by the *politeia*, which is the name given to the collection of taxes in general, and it is collected by the *politeia* in general, in addition to the collection of other taxes' (line 11).¹⁰ This is clearly a confusion between the collection of the *dekate* and the collection of taxes in general.

The same confusion can be found in another fragment from the *Periplous* of Rhodes, from the section dealing with the collection of taxes. Here too, Polyainos claims that the collection of the *dekate* is carried out by the *politeia* in general, and that the collection of taxes in general is carried out by the *politeia* in general. The confusion here is even more pronounced than in the *Periplous* of Rhodes, since the *politeia* in general is described as 'the collection of taxes in general' (line 11).¹¹ This is clearly a confusion between the collection of the *dekate* and the collection of taxes in general.

The same confusion can be found in another fragment from the *Periplous* of Rhodes, from the section dealing with the collection of taxes. Here too, Polyainos claims that the collection of the *dekate* is carried out by the *politeia* in general, and that the collection of taxes in general is carried out by the *politeia* in general. The confusion here is even more pronounced than in the *Periplous* of Rhodes, since the *politeia* in general is described as 'the collection of taxes in general' (line 11).¹²

IV

CÉDRIC BRÉLAZ

L'ADIEU AUX ARMES:
LA DÉFENSE DE LA CITÉ GRECQUE
DANS L'EMPIRE ROMAIN PACIFIÉ¹

“Nous, les gens d’à présent, [nous] coulons une douce existence dans des activités où l’homme public n’a à craindre ni tyrannie, ni guerre, ni siège, où les rivalités ne dégénèrent pas en conflits armés...”² Pour Plutarque, qui se fait ici le porte-parole des *politikoi andres* de son temps, l’affaire est entendue: sous l’hégémonie de Rome, “la guerre a cessé”³ et elle ne fait plus partie des préoccupations des cités grecques à l’époque impériale. Mais, comme Dion Chrysostome ne manque pas de le rappeler aux Rhodiens, avec la guerre, ce sont aussi les circonstances et les moyens qui permettaient aux Grecs d’accomplir de hauts faits et de déployer leur valeur qui ont

¹ Mes remerciements vont à Giovanni Salmeri (Pise), Olivier Gengler (Fribourg-en-Brisgau), Henri-Louis Fernoux (Dijon), ainsi qu’aux participants et auditeurs des 54^{èmes} Entretiens pour leurs remarques et suggestions. H.-L. Fernoux a abordé le même sujet que celui traité dans cette contribution dans une communication présentée au XIII^{ème} Congrès international d’épigraphie grecque et latine à Oxford en septembre 2007 et intitulée “Représentations de la guerre et traditions guerrières dans les cités grecques de l’époque impériale à travers le témoignage des inscriptions”. Nos deux études, qui se complètent, sont parvenues indépendamment aux mêmes conclusions. Les traductions des *Préceptes politiques* de Plutarque et du discours *En l'honneur de Rome* d’Aelius Aristide sont empruntées respectivement à J.-Cl. CARRIÈRE (CUF, Paris 1984) et L. PERNOT, *Éloges grecs de Rome* (Paris 1997).

² PLUT. *An seni respublica gerenda sit* 3, 784 F, trad. M. Cuvigny (CUF, Paris 1984). Cf. PLUT. *Praecepta gerendae reipublicae* 10, 805 A.

³ PLUT. *De Pythiae oraculis* 28, 408 B-C.

disparu.⁴ La guerre aurait-elle donc été définitivement rayée de la conscience grecque sous l'empire de Rome? Le Principat coïnciderait-il avec la suppression radicale des institutions et de la tradition militaires grecques? Ces idées ont été plus d'une fois soutenues dans l'historiographie. F.G. Maier, par exemple, au moment de justifier la limite chronologique basse de son étude sur les *Mauerbauinschriften* (le règne d'Auguste), invoque l'inutilité des murailles pour les cités grecques dans l'empire romain pacifié.⁵ L'abaissement politique et diplomatique des cités paraît si évident à l'époque impériale que le sujet des institutions et des usages militaires grecs est le plus souvent passé sous silence. Le Principat est implicitement considéré comme le terme de l'histoire militaire grecque. Dans cette optique, le problème de la défense de la cité grecque dans l'empire romain pacifié (je parle ici de la sécurité collective de la cité contre une agression extérieure, non de l'ordre public intérieur) serait, en somme, une non-question.

De tels propos pèchent néanmoins tant par optimisme que par pessimisme. C'est, d'une part, accorder trop de crédit aux effets de la pacification romaine, car, en dépit des protestations de la propagande augustéenne, les communautés locales restent confrontées, à l'époque impériale, à des facteurs d'insécurité incompressibles (troubles sociaux et politiques, rivalités entre cités voisines, brigandage, attaques de peuplades étrangères). C'est, d'autre part, réduire la cité grecque sous l'empire au rang d'unité administrative dépourvue de toute faculté d'action et de toute identité collective, alors que les communautés locales demeurent des entités politiques jouissant d'une large autonomie municipale, y compris en matière de politique étrangère dans leurs relations avec leurs semblables.⁶ Mais c'est surtout clore le débat avant même de l'entamer et éluder un pan entier de l'identité politique grecque sous l'empire romain. Car si les

⁴ DIO CHR. *Or.* 31, 104; 161.

⁵ F.G. MAIER, *Griechische Mauerbauinschriften I* (Heidelberg 1959), 7-8.

⁶ Cf. A. HELLER, "Les bêtises des Grecs". *Conflits et rivalités entre cités d'Asie et de Bithynie à l'époque romaine* (129 a.C.-235 p.C.) (Bordeaux 2006), 367-372.

institutions militaires grecques ont effectivement disparu sous le Principat (ce qu'il reste encore à examiner de près),⁷ il subsiste un problème d'histoire des mentalités: comment les Grecs ont-ils perçu la perte de cet élément constitutif de l'identité politique et civique qu'est la souveraineté militaire? Comment les cités ont-elles accepté d'être dépossédées du droit de faire la guerre, une activité qui faisait pourtant partie intégrante de la politique intérieure et extérieure de ces communautés? Comment les cités se positionnent-elles face à la puissance hégémonique et à son monopole militaire? Et comment conçoivent-elles leur place et leur rôle dans la défense d'un empire dont elles sont sujettes? Enfin et surtout, qu'est-il advenu de la tradition et de la culture militaires grecques dans cet empire pacifié?⁸

Pour illustrer la pertinence de la problématique que je compte soulever, je ferai un bref parallèle contemporain en me référant au pays qui nous accueille pour ces Entretiens. Ce qui étonne, en effet, le plus souvent le visiteur qui se rend en Suisse pour la première fois, c'est l'apparente contradiction qu'il existe entre, d'un côté, l'état de paix profonde dont jouit le pays depuis plus d'un siècle et demi et, de l'autre, la vitalité et la permanence des institutions et des symboles militaires helvétiques. Maintien d'institutions militaires

⁷ Pour tous les aspects institutionnels que j'évoquerai dans ce travail, relatifs tant à la défense extérieure des cités grecques qu'au maintien de l'ordre public dans celles-ci, je me permets de renvoyer à l'étude détaillée que j'ai consacrée au sujet: C. BRÉLAZ, *La sécurité publique en Asie Mineure sous le Principat (I^{er}–III^e s. ap. J.-C.). Institutions municipales et institutions impériales dans l'Orient romain* (Basel 2005).

⁸ Sur ce point, ma contribution poursuit, pour l'époque impériale, la réflexion des travaux récents visant à montrer, par opposition à l'opinion répandue, que les cités ont conservé une autonomie et des institutions militaires durant la période hellénistique, malgré le rôle prééminent joué dans le domaine de la guerre par les royaumes. Cf. J. MA, "Fighting Poleis of the Hellenistic World", in *War and Violence in Ancient Greece*, ed. by H. VAN WEES (London-Swansea 2000), 337-376; *Les Cités grecques et la guerre en Asie Mineure à l'époque hellénistique*, éd. par J.-Chr. COUVENHES et H.-L. FERNOUX (Tours 2004); A. CHANIOTIS, *War in the Hellenistic World. A Social and Cultural History* (Oxford 2005).

perfectionnées,⁹ valorisation de l'esprit militaire civique,¹⁰ idéalisation de l'histoire militaire nationale,¹¹ survivance de traditions militaires dans la vie civile:¹² la référence militaire est extrêmement répandue en Suisse (ou l'était en tout cas durant la Guerre Froide), alors même que le pays n'a pas connu de guerre depuis la guerre civile du *Sonderbund* en 1847 (malgré une mobilisation générale décrétée lors des deux guerres mondiales).¹³

La question des raisons du maintien d'un esprit militaire et des formes que prennent ses manifestations dans un pays pacifié n'est donc pas si incongrue qu'il n'y paraît de prime abord et elle se pose de manière analogue dans le cas de la cité grecque à l'époque impériale romaine. Cette dichotomie entre climat de paix et tradition militaire est, d'ailleurs, soulevée par Aelius Aristide au travers d'une apostrophe qu'il lance aux Romains après avoir fait l'éloge de leur œuvre de pacification: "Telle est la paix dont vous jouissez — même si la guerre vous est une coutume ancestrale".¹⁴ Le paradoxe, ici envisagé du côté des Romains, pourrait tout aussi bien être retourné à l'adresse des Grecs eux-mêmes, qui, sous la paix de Rome, se voient privés de leurs forces armées, tandis que la guerre était jusqu'alors un domaine d'action privilégié de la cité classique et hellénistique.

⁹ Service militaire obligatoire; cours périodiques obligatoires de répétition de l'instruction militaire; réseau de casernes, arsenaux et forts à travers le pays; grand nombre de réservistes mobilisables.

¹⁰ Fort attachement au principe de l'armée de milice; figure du citoyen-soldat conservant son arme de service personnelle à son domicile et tenu de procéder à des tirs militaires annuels.

¹¹ Exploits guerriers des premiers Confédérés; motif de la résistance nationale depuis les mythes fondateurs de l'*Urschweiz* jusqu'à la politique de neutralité armée menée durant la Guerre Froide; tradition du mercenariat jusqu'au milieu du XIX^{ème} s. Cf. P. DUCREY, "Remarques sur les causes du mercenariat dans la Grèce ancienne et la Suisse moderne", in *Buch der Freunde für J.R. von Salis zum 70. Geburtstag* (Zürich 1971), 113-120.

¹² Milices cantonales folkloriques; associations et concours de tir à l'arme de guerre.

¹³ Cf. P. STREIT, *Histoire militaire suisse* (Gollion 2006).

¹⁴ ARISTID. *Or.* 26, 71.

I. *L'hégémonie romaine et le monopole de la guerre*

I.1. *La démilitarisation des pays grecs*

Sous la République, les armées civiques avaient été maintenues dans les provinces fondées par Rome en Orient. On les voit notamment à l'œuvre en Asie dans la première moitié du I^{er} s. av. J.-C. lors des guerres mithridatiques.¹⁵ La pacification de l'empire sous le règne d'Auguste entraîna, en revanche, la démilitarisation des contrées soumises à l'autorité de Rome. Depuis cette époque, on assiste à la désagrégation des armées locales dans chaque nouveau territoire réduit en province. Au lieu d'être dissoutes, les troupes locales — en particulier lorsqu'il s'agit des contingents de rois déchus — sont parfois incorporées dans l'armée romaine, comme ce fut vraisemblablement le cas pour l'armée du roi Déiotaros, qui aurait constitué le noyau de la XXII^{ème} légion *Deiotariana* lors de la formation de la province de Galatie en 25 av. J.-C.¹⁶ C'est également avec l'instauration du régime du Principat que coïncide la disparition des mentions de conventions militaires entre cités grecques.¹⁷ De même, le recrutement des pérégrins dans les troupes auxiliaires de l'armée romaine se substitue, à cette époque, à l'engagement de mercenaires par les cités.¹⁸ On constate, en outre, sous le Principat, l'abolition des magistratures militaires civiques (c'est manifestement le cas en

¹⁵ M.D. CAMPANILE, "Città d'Asia Minore tra Mitridate e Roma", in *Studi ellenistici* VIII, a cura di B. VIRGILIO (Pisa-Roma 1996), 145-173.

¹⁶ L.J.F. KEPPIE, "The History and Disappearance of the Legion XXII Deiotariana", in *Greece and Rome in Eretz Israel. Collected Essays*, ed. by A. KASHER et alii (Jerusalem 1990), 54-61 (= Id., *Legions and Veterans. Roman Army Papers 1971-2000* [Stuttgart 2000], 225-232). Les troupes du roi du Pont Polémoneaque (TAC. *Hist.* 3,47,2) et l'armée royale nabatéenne (D.F. GRAF, "The Nabataean Army and the Cohortes Ulpiae Petraceorum", in *The Roman and Byzantine Army in the East*, ed. by E. DĄBROWSA [Kraków 1994], 265-311) connaissent le même sort.

¹⁷ H.-L. FERNOUX, "Les cités s'entraident dans la guerre: historique, cadres institutionnels et modalités pratiques des conventions d'assistance dans l'Asie Mineure hellénistique", in *Les Cités..., op.cit.* (n.8), 115-176.

¹⁸ J.-Chr. COUVENHES, "Les cités grecques d'Asie Mineure et le mercenariat à l'époque hellénistique", in *Les Cités..., op.cit.* (n.8), 77-113.

.Carie, où les stratégies du territoire ne se maintiennent à l'époque impériale que dans la cité libre d'Aphrodisias, et encore privés de leurs anciennes attributions militaires) ou, du moins, la transformation radicale de leur contenu. Ainsi, les fonctions de stratège des armes et d'hipparque à Smyrne, de stratège des hoplites à Athènes — toutes les autres magistratures militaires athénienes ayant disparu à l'époque impériale —, sont conservées et continuent d'exister sous le même nom qu'à l'époque hellénistique, mais dépourvues de toute compétence militaire.¹⁹

Les modalités juridiques de l'ensemble de ces réformes sont inconnues. Il n'est pas certain que les autorités romaines aient émis à l'adresse des communautés locales — par le biais d'un acte aussi formel qu'un édit ou qu'une *lex provinciae* — une interdiction générale d'entretenir des troupes ou d'engager des mercenaires. Il se peut que ces modifications dans les pratiques et les institutions des cités se soient, au contraire, déroulées progressivement, suite aux nouvelles conditions politiques engendrées par le régime du Principat. En effet, les victoires successives d'Auguste sur les ennemis intérieurs et extérieurs de la *res publica*, jointes à la propagande de pacification universelle visant à asseoir l'ordre impérial, ont probablement déterminé et favorisé le processus de démilitarisation des communautés locales. Il semble, du moins, que cette politique fut suivie de même par les successeurs d'Auguste et, dès les Julio-Claudiens, il apparaît que la réduction en province d'un nouveau territoire implique la suppression des institutions militaires locales. Ainsi, les fonctions militaires fédérales du *koinon* lycien (stratégie, navarchie, hipparchie) sont abolies lorsque la confédération, ancienne alliée du peuple romain, est transformée en province sous le règne de Claude.²⁰ Du fait de l'établissement durable de la *pax Romana* dans les décennies suivant le règne d'Auguste, l'usage de maintenir des troupes put également tomber peu à peu en désuétude dans plusieurs cités, et l'on

¹⁹ PHILOSTR. VS 1, 23; 2, 16.

²⁰ R. BEHRWALD, *Der lykische Bund. Untersuchungen zur Geschichte und Verfassung* (Bonn 2000), 129, 145-146.

aurait considéré comme obsolète l'entretien d'infrastructures militaires qui n'étaient plus mises à profit. On comprendrait alors pourquoi même les cités libres, qui formellement demeurent étrangères au régime provincial romain, se sont défait de leurs forces armées sous le Principat, à l'instar de n'importe quelle cité stipendiaire.²¹

Ces mutations profondes apportées dans l'organisation politique et militaire des cités grecques dès le début de l'époque impériale illustrent le transfert de souveraineté qui s'est alors opéré entre ces dernières et Rome. Du fait de la pacification globale de l'empire et de l'avènement d'un régime autoritaire et autoritaire, les cités grecques furent intégrées dans un ensemble défensif mondialisé dont les troupes romaines se portaient garantes, aussi bien par les unités postées sur la frontière extérieure de l'empire que par celles stationnées à l'intérieur des provinces.²² Les communautés locales furent donc privées dans les faits de leur indépendance militaire et la guerre devint un monopole des autorités impériales.²³ Suite à l'anéantissement de tous ses rivaux, seule la puissance hégémonique restante, en l'occurrence Rome, se réservait l'initiative et les moyens de faire la guerre pour la défense de ses intérêts et de l'intégrité territoriale de son empire.

Toutes les régions de l'empire ne furent pourtant pas touchées de la même manière par ces mesures de démilitarisation et des résidus d'armées locales subsistent encore par endroits à l'époque impériale. À l'intérieur même des provinces, des contrées peuvent, en effet, abriter des peuplades imparfairement

²¹ Des unités militaires romaines peuvent d'ailleurs même stationner en permanence dans des cités libres, comme c'est le cas de centurions régionnaires à Byzance (PLIN. *Epist.* 10, 77-78) et Aphrodisias (inscription inédite que publiera prochainement A. Chaniotis). Machines de guerre et arsenaux sont, en revanche, encore en fonction à l'époque augustéenne dans plusieurs cités libres comme Marseille, Cyzique et Rhodes, d'après STRAB. 14, 2, 5, p.652-653.

²² Cf. ARISTID. *Or.* 26, 79-85.

²³ Ainsi, à l'époque augustéenne déjà selon STRAB. 14, 3, 3, p.665, des limitations avaient été apportées par les Romains aux prérogatives militaires et guerrières du *koinon* lycien, pourtant encore libre.

pacifiées et non définitivement intégrées à l'ordre impérial qui ne sont pas constituées selon le modèle de la *polis* et qui maintiennent une structure militaire locale. C'est le cas, par exemple, des Isauriens, au sud-est de l'Asie Mineure, qui, à plusieurs reprises au cours de l'époque impériale, s'attaquent aux villes de la région au moyen de bandes armées.²⁴ Mais c'est surtout dans les zones frontières, servant de marches à l'empire, que des cités, et pas seulement des tribus, ont conservé des institutions de type militaire. Pour protéger les routes caravanières des pillages de nomades du désert, la cité de Palmyre dispose ainsi de troupes (para)militaires commandées par un "stratège de la paix", qui, dans un cas au moins, fut nommé avec l'approbation du gouverneur de Syrie-Phénicie.²⁵ D'autres cités, exposées aux attaques fréquentes de peuplades hostiles étrangères à l'empire, sont sans cesse sur le pied de guerre. Ainsi à Olbia, sur la côte nord du Pont-Euxin, Dion Chrysostome observe qu'en raison du risque permanent provoqué par les tribus scythes environnantes, la population a gardé "un tempérament belliqueux encore aujourd'hui" et le combat est presque devenu pour elle un "exercice" quotidien.²⁶ Dans cette cité exotique et mâtinée de traits barbares qu'est Olbia, Dion reconnaît paradoxalement un conservatoire d'usages et de comportements archaïques typiquement helléniques. Parmi ceux-ci, il note expressément la survivance de pratiques guerrières, car, en dehors des cités périphériques soumises aux attaques des Barbares, la guerre et, avec elle, la discipline militaire ont disparu de l'horizon de la plupart des cités grecques dans l'empire romain pacifié.

²⁴ B.D. SHAW, "Bandit Highlands and Lowland Peace: The Mountains of Isauria-Cilicia", in *JESHO* 33 (1990), 199-233, 237-270.

²⁵ J.-B. YON, *Les notables de Palmyre* (Beyrouth 2002), 112-118 avec, en particulier, *SEG* 7, 138-139.

²⁶ DIO CHR. *Or.* 36, 9; 27. Sur les efforts militaires des cités pontiques à la fin de l'époque hellénistique, cf. A. AVRAM, "La défense des cités en mer Noire à la basse époque hellénistique", in *Citoyenneté et participation à la basse époque hellénistique*, éd. par P. FRÖHLICH et Chr. MÜLLER (Genève 2005), 163-182.

I.2. *La pax Romana vue par les Grecs*

“Maintenant (...), une sécurité commune et manifeste, totale pour tous, est donnée à la terre et à ses habitants”:²⁷ parmi les Grecs, Aelius Aristide se fait le principal chantre de la pacification romaine de l’Orient hellénisé. L’orateur voit dans la domination de Rome un bienfait, dans la mesure où cette hégémonie universelle, acceptée de tous, a permis d’effacer le motif principal des guerres d’antan, à savoir les désirs impérialistes des cités. Aristide en vient donc à justifier la paix romaine, du moment qu’elle suscite une régénérescence de la Grèce, qui jusqu’alors s’épuisait en des luttes intestines entre cités.²⁸ Cette apologie de la pacification romaine s’accorde avec le discours officiel véhiculé par la propagande impériale, qui culmine avec l’apparition d’allégories telles que *Pax Augusta* et *Securitas* ou *Disciplina Publica*.²⁹ Ce ton de circonstance célébrant les avantages de la paix romaine est un trait récurrent de l’elogie impérial et il se retrouve, par conséquent, dans les inscriptions honorant l’empereur.³⁰ Il ne faudrait, cependant, pas voir uniquement de la flatterie dans ces envolées de reconnaissance, car après les destructions et les désordres provoqués par les guerres incessantes du I^e s. av. J.-C. (guerres mithridatiques, guerre des pirates, guerres civiles romaines, entre autres), on conçoit que les Grecs aient pu se réjouir de l’éradiation de la guerre.³¹ Les élans en faveur de la paix apportée par le règne d’Auguste et l’hégémonie de Rome, ainsi que la célébration de la “fin” de la guerre, qui se lisent notamment chez Strabon et Plutarque,³² ne sont donc pas à

²⁷ ARISTID. *Or.* 26, 104.

²⁸ ARISTID. *Or.* 26, 69.

²⁹ *Res Gestae divi Augusti* 13; VELL. 2, 126, 3; AE 1992, 1534. Cf. A. KNEPPE, *Metus temporum. Zur Bedeutung von Angst in Politik und Gesellschaft der römischen Kaiserzeit des 1. und 2. Jhdts. n.Chr.* (Stuttgart 1994), 217-281.

³⁰ MEN.RH. 2, 377, 15-19 (ed. by D.A. RUSSELL and N.G. WILSON [Oxford 1981]); IBM IV 1, p. 63-65, n° 894, l. 8-11; OGIS 458, II, 36. Cf. PLIN. *Nat.* 14, 2; 27, 3.

³¹ Cf. PLUT. *De defectu oraculorum* 8, 413 F.

³² STRAB. 3, 2, 5, p.144; PLUT. *De fortuna Romanorum* 2, 317 C; *De tranquillitate animi* 9, 469 E; *Praecepta gerendae reipublicae* 32, 824 C.

comprendre nécessairement comme des slogans dépourvus de toute sincérité qui auraient été reproduits servilement par dévotion envers l'ordre impérial.

Comme je l'ai rappelé plus haut, l'établissement et le maintien d'une paix durable dans les provinces de l'empire ont néanmoins eu un prix, celui du désarmement des communautés locales. Or Aristide interprète cette démilitarisation comme un renoncement aux armes de la part des cités pour s'adonner à des activités pacifiques: "Comme s'il célébrait une panégyrie, le monde entier a déposé son ancien équipement, le fer, et s'est tourné à loisir vers les parures et toutes les sortes de joie".³³ L'orateur envisage cet abandon comme une délégation du pouvoir militaire des cités à Rome, d'où la place importante qu'occupe l'armée romaine comme garante de la paix mondiale dans l'éloge qu'Aristide voue à la puissance hégémonique.³⁴ Selon cette reconstruction idéalisée des rapports entre Grecs et Romains, la cité grecque aurait délibérément confié sa défense aux Romains. Par suite, la guerre devient l'affaire exclusive des légions romaines.³⁵ Aussi tout discours honorifique adressé à l'empereur comprend-il une section sur les exploits militaires des armées impériales, qui procurent la sûreté à l'ensemble du monde habité.³⁶ De la même façon, il arrive que l'empereur soit célébré comme le "gardien de la paix" du monde (*eirèno-phylax*) et que ses gouverneurs soient acclamés par des cités comme "pacificateurs" (*eirènopoios*) ou "champions de la paix" (*hègètès, prytanis eirènès*) pour avoir contribué à leur sécurité.³⁷ De manière emblématique, l'un des vaisseaux amiraux de la

³³ ARISTID. *Or.* 26, 97. Comparer le motif de l'abandon des armes au profit de l'agriculture sous la paix romaine: STRAB. 4, 1, 2, p.178; HDN. 2, 11, 3-5.

³⁴ ARISTID. *Or.* 26, 74-88.

³⁵ C'est pourquoi, comme l'écrit Onasandre dans sa préface, le destinataire d'un traité de stratégie ne saurait être, "sous la paix impériale", qu'un officier romain, en l'occurrence le consul Q. Veranius.

³⁶ MEN.RH. 2, 372, 25 – 375, 4 Russell-Wilson.

³⁷ PHILO AL. *Leg.* 147; *AE* 1996, 1359 a; 1600; *I.Ephesos* 1300. Comparer le titre de *prostatai eirènès* donné par la cité de Termessos aux notables locaux et aux officiers romains l'ayant délivrée de la menace de brigands: *SEG* 41,1390 B (cf. *SEG* 46, 1682); *TAM* III 1, 88.

flotte d'apparat de la cité libre de Rhodes porte, à l'époque impériale, le nom d'*Irèna Sébasta*, soit *Pax Augusta*.³⁸

La gratitude d'un Dion ou d'un Plutarque envers la pacification romaine est pourtant plus contenue et leur jugement à l'égard de cet 'adieu aux armes' plus mitigé que celui d'Aristide. Plutôt que de justifier le désarmement des communautés locales par la pacification de l'empire, comme le fait Aristide, ces auteurs voient dans la paix romaine une compensation pour la perte de l'autonomie militaire des cités. Ils paraissent se résigner à la pacification plus qu'ils ne l'appellent de leurs voeux. Certes, dans son *Discours aux Rhodiens*, Dion essaie bien de convaincre ses auditeurs des atouts de la paix romaine en rappelant, *a contrario*, les coûts et les désagréments que causait autrefois l'entretien de troupes armées civiques, mais on sent poindre de l'amertume et de la nostalgie dans ses propos.³⁹ De même, les références insistantes de Plutarque à l'époque révolue de l'indépendance militaire laissent deviner un regret du temps où les cités étaient maîtres de leur destin et libres de mener les guerres qu'elles voulaient.⁴⁰ En outre, la manière dont il décrit la reconversion nécessaire de l'homme politique grec à l'époque romaine — lequel doit se dépouiller de son uniforme militaire et se détourner du quartier général (*strategion*) pour regarder vers la tribune de l'orateur, autrement dit abandonner ses attributions militaires pour des fonctions civiles⁴¹ — montre qu'il considère que les cités ont été privées de force, et injustement, de leurs prérogatives dans le domaine militaire. Dans leurs passages les plus désabusés, Plutarque et Dion aboutissent même au constat que la paix romaine a un effet lénifiant pour les cités et que, pour pouvoir en jouir, celles-ci ont dû abdiquer une part de leur souveraineté et être réduites au rang d'esclaves (*douleia*).⁴²

³⁸ SEG 33, 683.

³⁹ DIO CHR. *Or.* 31, 102-104.

⁴⁰ PLUT. *Praecepta gerendae reipublicae* 10, 805 A; 17, 813 E; 17, 814 A-C.

⁴¹ PLUT. *Praecepta gerendae reipublicae* 17, 813 E.

⁴² PLUT. *Praecepta gerendae reipublicae* 17, 813 E; 19, 814 E-F; 32, 824 C; 32, 824 E; DIO CHR. *Or.* 31, 125; 165; 34, 51.

II. Discours, idéaux et pratiques militaires dans la cité grecque d'époque impériale

II.1. Le maintien d'une culture militaire

En dépit de la disparition des motifs qui, au cours de l'époque hellénistique, les encourageaient ou les contraignaient à mener des guerres, et malgré la privation de leurs forces armées, il vaut la peine de se demander si les cités grecques sous hégémonie romaine ont maintenu ce que l'on pourrait appeler une ‘culture militaire’. Par culture militaire, j’entends l’ensemble des représentations mentales (discours, idéaux, symbolique, imaginaire) et des pratiques collectives (institutions, traditions, commémorations) évoquant la guerre et le fait militaire. Cette notion a été utilisée récemment par J. Ma pour étudier la diffusion d’un esprit guerrier et de valeurs militaires dans les cités d’Asie Mineure durant la période hellénistique.⁴³ C’est à une enquête analogue que je vais me livrer pour les cités grecques d’époque impériale.

L'image et le souvenir du soldat

La démilitarisation des cités grecques par Rome n’implique pas le désarmement total des populations locales.⁴⁴ Les armes ne sont donc pas prohibées dans celles-ci et elles n’y demeurent pas invisibles. Cependant, en comparaison de la période hellénistique, où les représentations de soldats sont fréquentes sur les reliefs funéraires,⁴⁵ la figuration d’armes se limite, à l’époque impériale, à des catégories précises (j’exclus temporairement les scènes mythologiques). On constate la disparition de la figure

⁴³ J. MA, “Une culture militaire en Asie Mineure hellénistique?”, in *Les Cités... , op.cit.* (n.8), 199-220.

⁴⁴ P.A. BRUNT, “Did Imperial Rome Disarm her Subjects?”, in *Phoenix* 29 (1975), 260-270 (= ID., *Roman Imperial Themes* [Oxford 1990], 255-266).

⁴⁵ E. PFUHL und H. MÖBIUS, *Die oströmischen Grabreliefs* (Mainz am Rhein 1977-1979), nos 283-293, 538, 640-641, 711, 1269-1278, 1429ss., 1445, 1476-1477, 1861, 1867, 1900, 1915, 1916, 2069-2071, 2073, 2077.

du citoyen en armes ou du guerrier combattant sous le Principat. Désormais, les seuls militaires représentés sont des soldats incorporés dans l'armée romaine, clairement reconnaissables comme tels aussi bien par leur aspect extérieur (équipement distinctif) que par l'épitaphe qui accompagne le relief et qui définit leur statut social (grade, onomastique révélant souvent une origine romaine ou la promotion sociale permise par l'obtention de la *civitas*).⁴⁶ Ce remplacement de l'image du citoyen-soldat grec au profit du soldat romain — conséquence de la dissolution des armées civiques — vient illustrer la passation du pouvoir militaire des cités à Rome: dorénavant, les cités verront leur défense confiée aux soldats d'une puissance étrangère. Pour le reste, la représentation d'armes sur les reliefs funéraires est réservée à des contextes qui ne sont plus directement militaires, tels que la chasse⁴⁷ et surtout les jeux du cirque. La figuration de gladiateurs armés, parfois en position d'attaque, est en effet très courante dans les cités d'époque impériale.⁴⁸ De plus, la célébration, sur leurs épitaphes, des exploits sanglants remportés dans l'arène⁴⁹ se substitue aux épigrammes hellénistiques soulignant la bravoure et les hauts faits d'armes des soldats tombés à la guerre.⁵⁰ Une interprétation sociologique, posant une corrélation entre l'abolition des entreprises guerrières des cités sous le Principat et le succès des jeux du cirque dans l'Orient romain et envisageant le phénomène comme un moyen d'expression et de canalisation des pulsions de violence

⁴⁶ E. PFUHL und H. MÖBIUS, *op.cit.* (n.45), n°s 301-319. Fait notamment exception la figuration d'un auxiliaire spartiate (*IG V* 1, 817; A. v. PREMERSTEIN, in *Klio* 11 [1911], 359); voir *infra*.

⁴⁷ E. PFUHL und H. MÖBIUS, *op.cit.*, n°s 687 b, 1128, 1131, 1134. Des gardiens privés de domaines fonciers sont aussi figurés armés ou accompagnés d'un chien: *ibid.*, n° 1132; H. MALAY und G. PETZL, in *EA* 6 (1985), 67, n° 11 avec pl. 4; G. PETZL, "Ländliche Religiosität in Lydien", in *Forschungen in Lydien*, hrsg. von E. SCHWERTHEIM (Bonn 1995), 39-40 avec pl. 5, 1.

⁴⁸ E. PFUHL und H. MÖBIUS, *op.cit.* (n.45), n°s 1196-1268.

⁴⁹ *Steinepigramme aus dem griechischen Osten*, hrsg. von R. MERKELBACH und J. STAUBER (Stuttgart-Leipzig-München 1998-2004), n°s 03/02/53-54; 09/04/04; 18/08/01; 23/03.

⁵⁰ *Ibid.*, n°s 01/02/01; 09/05/16.

collective, permettrait peut-être de rendre compte de cet engouement pour les spectacles de gladiateurs en pays grec à l'époque impériale.⁵¹ Libanios voyait d'ailleurs dans les gladiateurs les émules des fiers combattants des Thermopyles.⁵² Enfin, une anecdote rapportée par Dion Chrysostome montre le statut et la symbolique que l'on réservait d'ordinaire aux armes dans les cités d'époque impériale. À son arrivée à Olbia du Pont, Dion est frappé par l'accoutrement d'un citoyen éminent venant à sa rencontre. Ce qui l'étonne chez cet homme, c'est non seulement son habillement, qui trahit la mode barbare, mais également le fait qu'il soit armé du sabre scythe (*machaira*).⁵³ Ovide avait, de même, été stupéfait par la coutume des habitants de Tomis, en Mésie Inférieure, d'avoir constamment leur arme à portée de main par crainte d'une attaque des Gètes.⁵⁴ La réaction d'Ovide et de Dion indique que, dans les cités pacifiées, au contraire de ce qui se passe aux marges du monde grec comme sur les bords du Pont-Euxin, les citoyens n'ont pas à être armés. C'est le signe de la séparation définitive que l'on a introduite à ce moment entre la vie civique et le métier de soldat.⁵⁵

À défaut d'organisation militaire encore vivante, les cités d'époque impériale conservent dans leurs institutions les traces 'fossilisées' d'un passé guerrier. Comme j'ai déjà eu l'occasion de le mentionner, de nombreux titres figés de magistrats, rappelant des attributions militaires (stratège, hipparque, polémarque), subsistent dans ces cités, alors même que le contenu de ces charges a été radicalement modifié depuis l'époque hellénistique et n'a plus rien de militaire. Parallèlement, ces cités introduisent dans leurs institutions de nouvelles fonctions visant à maintenir

⁵¹ Cf. P. VEYNE, "Païens et charité chrétienne devant les gladiateurs", in ID., *L'Empire gréco-romain* (Paris 2005), 545-631.

⁵² LIB. *Or. 1, 5*. Cf. L. ROBERT, *Les gladiateurs dans l'Orient grec* (Paris 1940), 239-266.

⁵³ DIO CHR. *Or. 36, 7*.

⁵⁴ OV. *Pont. 1, 8, 5-10; Trist. 3, 10, 67-69; 5, 10, 15-26*.

⁵⁵ PLUT. *Praecepta gerendae reipublicae 10, 805 A.*

la sécurité publique sur leur territoire. Le titre de ces magistratures suggère effectivement la défense de la collectivité — voir les *eirenarchoi* ou “chefs de la paix” et les *paraphylakes* ou “gardes du territoire” —, mais il ne s’agit plus d’organiser des expéditions militaires dirigées contre une entité politique rivale, comme jadis, mais des opérations de police contre des brigands ou autres criminels. Il n’empêche que certains magistrats de police se font représenter sur des reliefs montés sur leur cheval, fièrement entourés de leur escadron en armes.⁵⁶ Des dédicaces honorifiques soulignent même leur “bravoure” (*andreios*), comme on l’aurait dit d’un général en temps de guerre.⁵⁷ L’autonomie policière dont se prévalent les cités sous l’hégémonie de Rome est alors présentée comme un pâle reflet de leur défunte indépendance militaire, maigre compensation pour la perte de leur souveraineté en la matière.

Mais la survivance d’une culture militaire dans les cités d’époque impériale se manifeste avant tout par l’omniprésence du thème de la guerre et de la figure du guerrier dans l’iconographie ainsi que dans la littérature.⁵⁸ Il faut compter d’abord avec la présence des monuments remontant à l’époque classique et hellénistique et commémorant d’anciennes victoires et batailles, toujours visibles dans les lieux publics sous le Principat. Au sanctuaire d’Apollon à Delphes comme dans la *Stoa Poikilé* de l’agora d’Athènes, par exemple, le visiteur était amené à admirer, encore à l’époque de Pausanias, de nombreux groupes statuaires, sculptures architecturales et peintures représentant des scènes de combat faisant référence à des guerres historiques, souvent travesties sous des allégories mythologiques comme la Gigantomachie ou la Guerre de Troie.⁵⁹ Les œuvres

⁵⁶ I. Prusa ad *Olympum* 23; M.P. SPEIDEL, in *EA* 5 (1985), 159-160. Pour d’autres figurations de gardes armés, cf. *TAM* V 2, 1326 avec pl. XIX; E. PFUHL und H. MÖBIUS, *op.cit.* (n.45), n° 1195.

⁵⁷ *AE* 1972, 626.

⁵⁸ Pour l’époque hellénistique, voir A. CHANIOTIS, *War...*, *op.cit.* (n.8), 189-213.

⁵⁹ A. JACQUEMIN, “Images de violence et offrandes de victoire en Grèce ancienne”, in *La violence dans les mondes grec et romain*, éd. par J.-M. BERTRAND (Paris 2005), 121-135.

d'art exécutées à l'époque impériale et figurées sur les édifices publics ou exposées dans les sanctuaires, de même que dans des contextes domestiques, continuent, en outre, à affectionner les compositions mythologiques, suscitant de la sorte la mise en scène d'innombrables images de combat.

Toute cette iconographie vise à mettre en valeur le passé glorieux des cités, les hauts faits militaires historiques des ancêtres aussi bien que les exploits guerriers fabuleux de leurs héros fondateurs, qui sont d'ailleurs toujours célébrés dans la littérature de l'époque (ouvrages historiques, rhétorique, poésie, romans).⁶⁰ Comme le recommande l'un des traités de rhétorique attribué à Ménandre, il est, en effet, de bon ton, lorsqu'on évoque le sujet de la guerre — même lorsqu'il s'agit de faire l'éloge de l'intrépidité de l'empereur —, de puiser ses références dans le canon des batailles des Guerres médiques et de la Guerre du Péloponnèse.⁶¹ C'est ce même classicisme qui pousse Aristide à préférer le terme désuet de *morai*, fleurant le V^e s. av. J.-C., pour décrire les cohortes de l'armée romaine et Arrien à dépeindre de manière épique l'ordre de bataille qu'en qualité de gouverneur de Cappadoce, il fit adopter à ses troupes pour résister à l'incursion des Alains.⁶² La guerre, comme le dit Plutarque, ne sert désormais plus que de thème aux exercices scolaires des sophistes,⁶³ ce que ne manque pas de faire Dion, qui compose un discours dans lequel il soulève la question rhétorique et intemporelle du bien-fondé de la guerre et de la paix pour les cités.⁶⁴ Et Aristide de renchérir: "Les guerres, on ne

⁶⁰ Voir, à titre d'exemple, MEN.RH. I, 364,17 – 365,4 Russell-Wilson; DIO CHR. Or. 31, 18-19. Cf. S.C.R. SWAIN, *Hellenism and Empire. Language, Classicism, and Power in the Greek World AD 50-250* (Oxford 1996), 65-100.

⁶¹ MEN.RH. 2, 372,25 – 375,4 Russell-Wilson. Cf. L. PERNOT, *La rhétorique de l'éloge dans le monde gréco-romain* (Paris 1993), II 739-762.

⁶² ARISTID. Or. 26, 67; N.M. SAXTORPH and Ch. GORM TORTZEN, "Acies contra Alanos: Arrian on Military Tactics", in *Ancient History Matters. Studies Presented to Jens Erik Skydsgaard on His Seventieth Birthday*, ed. by K. ASCANI, V. GABRIELSEN et alii (Roma 2002), 221-226.

⁶³ PLUT. *Praecepta gerendae reipublicae* 17, 814 C.

⁶⁴ DIO CHR. Or. 22.

croit même plus qu'elles aient jamais eu lieu, et la plupart des gens en entendent parler comme si c'étaient de vains mythes. Si d'aventure il s'en engageait quelque part, aux confins, comme il est normal dans un grand et immense empire, à cause de la folie des Gètes, de l'infortune des Libyens ou de l'égarement des voisins de la mer Rouge, peuples incapables de profiter des biens qu'ils ont, elles sont vite passées, et on n'en parle plus, absolument comme des mythes".⁶⁵

L'exagération de l'orateur est manifeste. Ses propos révèlent néanmoins que la guerre est désormais reléguée au rang de référence culturelle. Cela ne signifie pas pour autant que cette référence n'ait pas d'impact sur les contemporains. Au contraire, les exploits guerriers ancestraux ou légendaires sont souvent invoqués pour affirmer une identité collective et soutenir des revendications territoriales, à l'instar de Sparte, qui ravive à l'époque impériale les mythes des Héraclides pour soutenir ses prétentions vis-à-vis de Messène notamment.⁶⁶ Par ailleurs, plusieurs panégyries et concours sont toujours célébrés à l'époque impériale en souvenir d'une antique bataille, comme les *Eleutheria* de Platées pour commémorer la victoire de la coalition grecque sur les Perses en 479 av. J.-C. et les *Basileia* de Lébadée, organisés par les Béotiens en l'honneur de leur victoire de Leuctres sur les Lacédémoniens en 372 av. J.-C.⁶⁷ A Platées, la plus grande distinction était, en outre, remise au vainqueur de la course armée dont le départ était donné devant le trophée de la bataille. C'était l'occasion de 'rejouer' la bataille et d'encenser les valeurs militaires des ancêtres; le vainqueur recevait même le titre d'*Hellénôn aristos*, "le meilleur des Grecs".⁶⁸ L'éducation

⁶⁵ ARISTID. *Or.* 26, 70.

⁶⁶ O. GENGLER, "Héraclès, Tyndare et Hippocoon dans la description de Sparte par Pausanias: mise en espace d'une tradition mythique", in *Kernos* 18 (2005), 311-328.

⁶⁷ A. SCHACHTER, *Cults of Boiotia* III (London 1994), 109-118, 125-141.

⁶⁸ PAUS. 9, 2, 6; PHILOSTR. *Gym.* 8; L. ROBERT, "Recherches épigraphiques I. Ἀριστος Ἐλλήνων", in *REA* 31 (1929), 13-20, 225-226 (= *OMS* II, n° 51, 758-767).

et la morale aristocratiques sont d'ailleurs toujours teintées de vertus guerrières inspirant l'honneur, la discipline et la combativité. Même si ce n'est plus pour l'appliquer à la guerre, Plutarque souhaite voir les hommes politiques de son temps être imprégnés d'"un courage audacieux, intrépide comme celui qui pénètre les guerriers, lorsque, pour leur patrie, face à des ennemis' ou à des circonstances et à des situations difficiles, ils résistent et luttent jusqu'au bout". L'orateur emprunte ces résidus d'un ancien code d'honneur aristocratique à l'épopée homérique.⁶⁹ Selon Dion, ce serait l'exemple même des héros s'étant battus à Troie qui inspirerait aux gens d'Olbia leur pugnacité lorsqu'il s'agit de tenir tête aux Scythes.⁷⁰

Cette culture de la célébration du fait d'armes, qui a été étudiée par A. Chaniotis pour la période hellénistique,⁷¹ s'est poursuivie sans discontinue dans les cités grecques sous domination romaine depuis cette époque. Une différence de taille est cependant à noter. Sous le Principat, les cités n'ont plus les moyens d'alimenter cette tradition guerrière par de nouveaux exploits. "Ce n'est plus le temps des batailles", résume Plutarque en citant Sophocle.⁷² La guerre s'y retrouve confinée dans le registre de la commémoration et de l'idéalisation, sans plus aucun lien avec une activité militaire contemporaine tangible. Le souvenir, voire la revendication d'une ancienne tradition militaire se traduisent néanmoins dans ces cités par la conservation d'une institution (le service de l'éphébie) et l'entretien de monuments (les fortifications), qui étaient autrefois activement mis à contribution lors des guerres.

⁶⁹ PLUT. *Praecepta gerendae reipublicae* 19, 815 C citant et adaptant HOM. *Il.* 17, 156-158, vu que le combat contre les ennemis n'est plus la seule circonstance envisagée. Cf. PHILOSTR. *Ep. Apoll.* 11. Cette transposition des valeurs militaires à des occupations civiles est illustrée notamment par les considérants d'un décret honorifique de Béroia: SEG 47, 891, l. 5-17 (II^eme/I^{er} s. av. J.-C.).

⁷⁰ DIO CHR. *Or.* 36, 9-10.

⁷¹ A. CHANIOTIS, *War..., op.cit.* (n.8), 214-244.

⁷² PLUT. *Praecepta gerendae reipublicae* 17, 813 E citant SOPH. *Trach.* 1058.

Une tradition militaire: l'éphébie

Bien que son but ne soit désormais plus de préparer au combat des recrues pour la défense de la communauté civique, l'institution de l'éphébie se maintient dans les cités grecques à l'époque impériale. Outre les enseignements intellectuels et les activités cultuelles, l'éducation dispensée à la jeunesse aristocratique fréquentant le gymnase comprend toujours un caractère martial à cette époque. On inculque à ces jeunes gens des valeurs d'inspiration militaire, telles que la discipline (*eutaxia, eukosmia*), et on leur apprend le maniement des armes.⁷³ Cette évolution de l'éphébie, qui a perdu progressivement sa vocation militaire tout en conservant un esprit agonistique et en maintenant des entraînements armés dans son programme, remonte à la basse époque hellénistique,⁷⁴ à mesure que les armées civiques étaient dissoutes au profit de l'engagement de mercenaires. La transformation de l'institution dut être accélérée par la démilitarisation des cités grecques imposée par la pacification augustéenne.

Le fait qu'une partie des citoyens — de surcroît, issus des familles les plus en vue — soient formés dans leurs jeunes années à l'emploi des armes et qu'ils participent régulièrement aux réjouissances publiques (parades, fêtes, processions, concours) et à la vie civique, parfois même en tant que corps constitué (voir les décrets émanant des *néoi* aux côtés des organes institutionnels ordinaires), a certainement contribué à maintenir vivante une culture militaire dans les cités sous le Principat. L'origine et le principe militaires de l'éphébie y sont d'ailleurs explicitement revendiqués, comme, par exemple, par ce jeune homme originaire d'Eubée qui, décédé avant de pouvoir terminer sa formation éphébique, souligne dans son épitaphe érigée à

⁷³ Cf. D. KAH, "Militärische Ausbildung im hellenistischen Gymnasium", in *Das hellenistische Gymnasium*, hrsg. von D. KAH und P. SCHOLZ (Berlin 2004), 47-90.

⁷⁴ A.S. CHANKOWSKI, "L'entraînement militaire des éphèbes dans les cités grecques d'Asie Mineure à l'époque hellénistique: nécessité pratique ou tradition atrophiee?", in *Les Cités..., op.cit.* (n.8), 55-76.

Thessalonique qu'il se destinait à apprendre le maniement des armes.⁷⁵ Les éphèbes athéniens, quant à eux, continuent à se réclamer de Thésée et s'efforcent d'imiter ses exploits virils et militaires, ne serait-ce que par émulation et à des fins agonistiques, comme l'affirme un de leurs responsables dans un discours tenu devant l'assemblée des éphèbes à la fin du II^{ème} s., puis gravé sur pierre.⁷⁶ De même, dans la cité libre de Tanagra, au début du III^{ème} s. de notre ère, plusieurs des magistrats chargés d'encadrer les éphèbes au sein du gymnase sont appelés *tagmatarchai* ou "chefs de bataillon".⁷⁷ Ce titre militaire renvoie à l'ancien mode de conscription militaire en Béotie, où les éphèbes, après avoir fini leur initiation, étaient intégrés dans l'armée civique par incorporation dans des *tagmata*.⁷⁸ Le recours à cette appellation évoque le temps des prérogatives militaires dont jouissait Tanagra au sein du *koinon* béotien. Par ce biais est perpétué, bien au-delà de sa disparition effective, le souvenir de l'organisation militaire béotienne de la haute époque hellénistique.

L'attachement des cités à l'institution traditionnelle qu'est l'éphébie ne tient pas qu'à des raisons idéologiques de fierté civique. Une utilité pratique dans le domaine de la sécurité collective est également reconnue aux associations de jeunes gens. D'abord, les éphèbes sont manifestement toujours sollicités pour patrouiller sur le territoire rural des cités, du moins si l'on en croit l'exemple d'Apollonia de la Salbakè en Carie, où les membres de l'organisation éphébique locale participent à la surveillance des limites du territoire (*(h)orophylakèsantes*).⁷⁹

⁷⁵ IG X 2/1 *876, l. 5-6.

⁷⁶ AE 2000, 1347.

⁷⁷ Ce titre apparaît dans une inscription inédite, découverte à Dilesi et conservée au Musée de Schimatari, qui sera publiée prochainement par Mme Alexandra Charami, que je tiens à remercier ici pour cette information.

⁷⁸ R. ÉTIENNE, D. KNOEFLER, *Hyettos de Béotie et la chronologie des archontes fédéraux entre 250 et 171 avant J.-C.* (Athènes 1976), 346.

⁷⁹ L. et J. ROBERT, *La Carie. Histoire et géographie historique avec le recueil des inscriptions antiques II. Le plateau de Tabai et ses environs* (Paris 1954), n° 162. Pour l'interprétation du titre *(h)orophylax*, cf. C. BRÉLAZ, *La sécurité...*, op.cit. (n.7), 157-171.

Sous les ordres de leur maître, le néaniscarque, ces jeunes gens (*néaniskoi*), qui sont montés, secondent le paraphlaque, le magistrat responsable de la sécurité des campagnes de la cité. Ce faisant, les *néaniskoi* sont associés aux opérations de police que mène la cité sur son territoire. Il se peut que les patrouilles des éphèbes aient compris la visite des fortins ponctuant la *chôra* civique, voire un stationnement dans ceux-ci — comme le faisaient par exemple les éphèbes athéniens *péripoloi* —, puisqu'il semble que l'on continuait à entretenir ces ouvrages à l'époque impériale. Ainsi, à Termessos, un irénarque est à l'origine de la dédicace d'une tour de guet postée dans la campagne, au nord de la ville.⁸⁰ Cette fonction de garde des confins a également une forte valeur symbolique pour la communauté. La mise sur pied de rondes armées dans les campagnes, par l'intermédiaire des magistrats de police ou des associations éphébiques, sert, en effet, aussi à affirmer l'appartenance à la cité du territoire environnant.⁸¹

Ensuite, en cas d'urgence, les éphèbes peuvent être réquisitionnés pour la défense de la cité ou pour renforcer les armées impériales. Même si les membres de l'institution éphébique ne sont pas les soldats actifs d'une organisation militaire civique régulière, ce sont pourtant, du fait de leur entraînement militaire, les personnes les plus aptes à prendre les armes pour le salut de la collectivité. Ce fut notamment le cas, sous le règne de Marc-Aurèle, des *néoi* envoyés par la cité de Thespies sur le front germanique pour venir en aide aux légions,⁸² ainsi qu'à la fin des années 270, des *néaniskoi* de Termessos dépêchés à Cremna pour libérer la ville des pillards isauriens.⁸³ En l'ab-

⁸⁰ TAM III 941.

⁸¹ Cf. H.-L. FERNOUX, "Frontières civiques et maîtrise du territoire: un enjeu pour la cité grecque d'époque impériale, à partir de quelques exemples venus d'Asie Mineure", in *L'Asie Mineure dans l'Antiquité: échanges, populations et territoires*, éd. par H. BRU et alii (Actes du Colloque de Tours, 21-22 octobre 2005, sous presse).

⁸² SEG 39, 456. Cf. C.P. JONES, "The Levy at Thespiae under Marcus Aurelius", in *GRBS* 12 (1971), 45-48.

⁸³ SEG 51, 1813 A.I.

sence d'armée civique mobilisable en tout temps, les associations éphébiques font office de contingents locaux, lorsque des circonstances exceptionnelles l'exigent. Cette tradition militaire des associations de la jeunesse se maintient longtemps dans les cités grecques et on voit même ressurgir l'aspiration belliqueuse de formations de type éphébique à Cyrène au début du V^{ème} s., lorsque Synésios rassemble autour de lui une troupe de jeunes gens pour défendre sa cité de l'attaque des Barbares.⁸⁴

Le privilège et la gloire des remparts

Au contraire des dénégations de F.G. Maier — rappelées ci-dessus —, qui conteste toute utilité aux remparts des cités grecques pour l'époque impériale, les murailles jouent un rôle important dans la conscience que ces communautés ont de leur place et de leur statut au sein de l'empire. Quoique l'existence de remparts ne soit pas un élément indispensable pour qu'une *polis* soit identifiée comme telle⁸⁵ et même si la présence de murs n'est — sous l'hégémonie de Rome — plus une nécessité absolue pour la défense de la collectivité (selon les orateurs, l'empire, les armées impériales et les gouverneurs sont dorénavant les nouveaux "remparts" des cités⁸⁶), les murailles ne sont pas considérées comme entièrement obsolètes dans l'empire romain pacifié. Car elles symbolisent l'autonomie municipale et sont la marque de la latitude que les cités, malgré la désagrégation de leurs infrastructures militaires régulières et la privation de toute initiative guerrière, ont réussi à se ménager sous la domination de Rome. Comme l'illustrent les fréquentes

⁸⁴ D. ROQUES, *Synésios de Cyrène et la Cyrénaique du Bas-Empire* (Paris 1988), 142-144; T. SCHMITT, *Die Bekehrung des Synesios von Kyrene* (München-Leipzig 2001), 753-756.

⁸⁵ P. DUCREY, "La muraille est-elle un élément constitutif d'une cité grecque?", in *Sources for the Ancient Greek City-State*, ed. by M.H. HANSEN (Copenhagen 1995), 245-256; M.H. HANSEN, "City Walls as Evidence for *Polis* Identity", in *An Inventory of Archaic and Classical Poleis*, ed. by M.H. HANSEN and Th.H. NIELSEN (Oxford 2004), 135-137.

⁸⁶ MEN.RH. 2, 377, 16-17; 381, 11 Russell-Wilson; [ARISTID.] *Or.* 35, 36.

représentations de la Tyché poliade ceinte d'une couronne murale dans la statuaire et sur les types monétaires des cités,⁸⁷ les remparts sont, à l'époque impériale, une source de prestige et de fierté civiques. Les fortifications font partie des lettres de noblesse d'une cité qu'il convient de célébrer dans un discours.⁸⁸ C'est, du reste, le monument qui impressionne le plus le chasseur eubén rentré par Dion de Pruse, lorsqu'il se rend en ville, à Carystos vraisemblablement, pour la deuxième fois de son existence seulement.⁸⁹ Dans son épitaphe rédigée en grec, un chasseur de statut pérégrin décédé dans l'arène de la colonie de Philippes lors d'une *venatio* se félicite, pour sa part, d'avoir eu le privilège de mourir dans une ville fameuse, "bien entourée de murailles".⁹⁰

Du fait de l'utilisation militaire qui pourrait en être faite et en vertu du monopole que les Romains prétendent se réservent dans le domaine de la guerre, la construction de remparts est, à l'époque impériale, soumise à l'autorisation du gouverneur.⁹¹ L'édification de fortifications est un privilège que les autorités romaines n'accordent que sur demande expresse et dûment motivée d'une cité. Par le contrôle qu'ils exercent sur la construction des murailles,⁹² les Romains cherchent à limiter les possibilités de rébellion, comme ce fut le cas toutefois à Byzance, par exemple, qui réussit à résister deux ans à l'armée de Septime Sévère derrière ses murs, lors de la guerre civile du début des années 190. En signe de déchéance de la cité, qui fut privée de sa liberté et réduite au rang de village dépendant

⁸⁷ C. BRÉLAZ, "L'archonte stéphanéphore et la Tyché de Lébadée", in *Tyche* 21 (2006), 11-28.

⁸⁸ MEN.RH. 2, 417, 20-23 Russell-Wilson.

⁸⁹ DIO CHR. *Or.* 7, 22.

⁹⁰ P. PILHOFER, *Philippi. II. Katalog der Inschriften von Philippi* (Tübingen 2000), n° 296.

⁹¹ MOD. *Pand.* 11 = *Dig.* 50, 10, 6; ULP. *Ad ed.* 68 = *Dig.* 1, 8, 9, 4.

⁹² La supervision des autorités romaines sur l'activité édilitaire des cités ne se restreint toutefois pas aux ouvrages fortifiés ayant une vocation stratégique, mais englobe l'ensemble des constructions publiques, par souci de régulation financière visant à freiner les investissements inconsidérés des communautés locales: cf. ULP. *De off. proc.* 2 = *Dig.* 1, 16, 7, 1.

de Périnthe, les remparts de Byzance furent détruits lors de la prise de la ville.⁹³

En tant que trace matérielle d'une ancienne force militaire et d'un statut municipal privilégié, les murailles ne sont pas toujours laissées à l'abandon sous le Principat et elles continuent parfois à être entretenues, même si c'est de manière moins scrupuleuse qu'en temps de guerre.⁹⁴ Dion déplore ainsi que la plupart des villes négligent leurs remparts et, par réaction, recommande aux Rhodiens de prendre particulièrement soin des leurs.⁹⁵ Selon l'orateur, les Rhodiens se doivent, en effet, d'être plus zélés que le reste des Grecs en la matière, car ils servent de modèle pour l'ensemble de la Grèce, compte tenu de leur haute réputation, de leur antique constitution et de l'indépendance dont ils jouissent dans l'empire grâce à leur statut de *civitas libera*.⁹⁶ Certes, sous la paix romaine, les murailles ne servent plus à retenir l'ennemi, ajoute Dion, mais elles sont le témoignage de "la grandeur de l'ancienne puissance" de Rhodes.⁹⁷ Pas même à Olbia, où les remparts revêtent, en revanche, une utilité pratique du fait des attaques épisodiques de peuplades scythes, les murailles ne sont systématiquement maintenues en état; lors de sa visite, Dion découvre donc avec étonnement qu'elles n'avaient pas été reconstruites depuis le dernier siège qu'avait subi la ville.⁹⁸ Il n'est, d'ailleurs, pas certain qu'à l'époque impériale, l'entretien des murailles ait constitué un chapitre budgétaire fixe dans les comptes publics, comme c'était le cas dans plusieurs cités hellénistiques.⁹⁹ A Termessos

⁹³ DIO CASS. 74(75), 10-14.

⁹⁴ De la même manière, aux dires de DIO CASS. 55, 20, 7, l'état des murailles des villes d'Italie sous le règne d'Auguste n'aurait pu suffire à contrer efficacement une attaque ennemie.

⁹⁵ DIO CHR. *Or.* 31, 125.

⁹⁶ DIO CHR. *Or.* 31, 163.

⁹⁷ DIO CHR. *Or.* 31, 104; 146; ARISTID. *Or.* 25, 7.

⁹⁸ DIO CHR. *Or.* 36, 6.

⁹⁹ L. MIGEOTTE, "Les dépenses militaires des cités grecques: essai de typologie", in *Économie antique. La guerre dans les économies antiques*, textes rassemblés par J. ANDREAU *et alii* (Saint-Bertrand-de-Comminges 2000), 145-176.

cependant, au III^{ème} s., un citoyen dévoué prévoit que l'amende que devra payer le profanateur de sa tombe soit destinée “à la sécurité des remparts”.¹⁰⁰

En temps ordinaire, les remparts ne sont pas gardés et les portes ne sont pas fermées.¹⁰¹ Mais, de même que l'on recourt au service des éphèbes, les murailles retrouvent naturellement leur fonction première, lorsqu'une attaque ennemie menace subitement la cité. Ainsi, dans les années 250-260, les cités anatoliennes entreprennent des travaux de restauration de leur enceinte pour tenter d'opposer un obstacle matériel aux raids gothiques, parfois avec l'aide financière des autorités impériales.¹⁰² Dans les cités situées dans des régions frontières et soumises aux incursions des Barbares, comme à Tomis ou à Olbia, les remparts sont souvent mis à l'épreuve: lors d'une attaque, les portes sont fermées, un signal de guerre est hissé sur les murs et les citoyens se précipitent aux armes.¹⁰³

II.2. *La guerre fantasmée*

Attisées par les réminiscences d'un passé militaire idéalisé, les velléités belliqueuses des cités grecques trouvent, dans la vie politique extérieure ou intérieure de ces communautés, des occasions et des moyens de se manifester. Les faits en cause ne sont pas à proprement parler des guerres, mais les termes employés par les orateurs pour qualifier ces événements suggèrent que les cités peuvent cependant les envisager parfois

¹⁰⁰ SEG 41, 1288, l. 9-10.

¹⁰¹ M.H. HANSEN, *art.cit.* (n.85), 137. Cf. Cl. MOATTI, “Le contrôle de la mobilité des personnes dans l'Empire romain”, in *MEFRA* 112 (2000), 925-958.

¹⁰² S. MITCHELL, “Imperial Building in the Eastern Roman Provinces”, in *HSPh* 91 (1987), 341-342. Sur le regain d'intérêt pour l'utilité stratégique des fortifications urbaines dès le milieu du III^{ème} s., cf. E. WINTER, *Staatliche Baupolitik und Baufürsorge in den römischen Provinzen des kaiserzeitlichen Kleinasiens* (Bonn 1996), 135-137. Pour la situation en Occident, cf. M. HORSTER, *Bauinschriften römischer Kaiser. Untersuchungen zu Inschriftenpraxis und Bautätigkeit in Städten des westlichen Imperium Romanum in der Zeit des Prinzipats* (Stuttgart 2001), 121-175.

¹⁰³ OV. *Pont.* 1, 2, 13-22; *Trist.* 5, 10, 17-28; DIO CHR. *Or.* 36, 15-16.

comme des entreprises de nature guerrière. Par le biais de ces ‘ersatz’ de guerres, les cités cherchent à montrer qu’elles sont encore en mesure de recourir à la force pour régler des situations conflictuelles sous le régime provincial romain.

“Des combats de coqs”: les luttes entre cités

Les rivalités entre cités voisines, qui — à l’époque hellénistique — débouchaient fréquemment sur des guerres, prennent, sous le Principat, la forme d’une compétition pour les titres honorifiques, statuts et priviléges octroyés aux communautés locales par l’empereur.¹⁰⁴ La permanence des ambitions hégémoniques des cités à l’échelon régional trouve néanmoins toujours un terrain d’expression dans les différends frontaliers, dont l’enjeu n’est pas seulement symbolique et politique, mais également fiscal, puisque l’appartenance territoriale détermine l’assiette des impôts et redevances dus à la cité, puis à Rome. Les autorités romaines sont, d’ailleurs, souvent amenées à arbitrer ces litiges elles-mêmes.¹⁰⁵ Ces tentations ‘micro-impérialistes’¹⁰⁶ des cités dans le cadre provincial sont sans doute encouragées par le fait que l’armée romaine — comme le relève Aristide¹⁰⁷ — y est peu visible, du moins dans les régions profondément pacifiées. En effet, l’absence de contrôle territorial systématique de la part de Rome peut donner l’illusion aux cités qu’elles sont toujours indépendantes et libres d’agir à leur guise envers leurs voisines.

Or ces luttes entre cités rivales peuvent, dans les cas extrêmes, prendre les allures d’une guerre. Ainsi, la concurrence entre Nicée et Nicomédie pour acquérir la primauté protocolaire au sein de la province de Bithynie était exacerbée au point qu’on l’assimilait à une “guerre pour des mots”, qui ne se serait certes

¹⁰⁴ A. HELLER, “*Les bêtises...*”, *op.cit.* (n.6).

¹⁰⁵ G.P. BURTON, “The Resolution of Territorial Disputes in the Provinces of the Roman Empire”, in *Chiron* 30 (2000), 195-215.

¹⁰⁶ J. MA, “Une culture...”, *art.cit.* (n.43), 199.

¹⁰⁷ ARISTID. *Or.* 26, 64; 67.

plus décidée sur le champ de bataille, mais par l'obtention de titres honorifiques supplémentaires.¹⁰⁸ Pourtant, cette guerre, toute virtuelle qu'elle est, peut déboucher parfois sur des manifestations de violence. En s'adressant devant l'assemblée de la cité de Tarse, que les villes voisines (Adana, Aigeai, Mallos, Soloï) accusent de vouloir imposer sa domination sur le reste de la Cilicie, Dion Chrysostome use, par exemple, d'un lexique martial pour décrire les contentieux déchirant la province: "Mais si vous aviez commis un acte comparable à ce que les gens de Mallos ont fait actuellement, on aurait dit que vous saccagiez les cités, que vous commeniez une révolution et une guerre et qu'il faudrait mener campagne contre vous".¹⁰⁹ Il est possible que la compétition entre Mallos et Tarse, qui portait notamment sur des contestations territoriales, soit allée jusqu'à provoquer des affrontements armés entre ressortissants de l'une et l'autre cités, comme cela a pu arriver ailleurs dans l'empire entre villes antagonistes.¹¹⁰ Mais en dramatisant volontairement l'événement, Dion cherche surtout à mettre en garde les cités ciliciennes contre les risques encourus par la politique délibérément agressive qu'elles mènent les unes envers les autres.

Loin d'appuyer les gens de Tarse dans leurs revendications territoriales, Dion juge très sévèrement ces prétentions impérialistes désuètes. Pour lui, l'enjeu de ces luttes est nul, puisque "l'autorité et le pouvoir appartiennent à d'autres", c'est-à-dire aux Romains.¹¹¹ Aussi Dion dénigre-t-il ces conflits en les comparant à des "combats de coqs", à des chicanes passées.¹¹² Car, comme le souligne Plutarque, il serait futile d'essayer d'imiter les exploits guerriers (*ta polemika*) des ancêtres: "Marathon, l'Eurymédon, Platées, et tous les autres exemples qui font s'enfler et trépigner de vainne fierté le peuple, laissons-les aux

¹⁰⁸ DIO CHR. *Or.* 38, 21-33.

¹⁰⁹ DIO CHR. *Or.* 34, 10-11. Cf. A. HELLER, "Les bêtises...", *op.cit.* (n.6), 115-118, 156-161.

¹¹⁰ TAC. *Ann.* 14, 17 (Pompéi et Nuceria); *Hist.* 1, 65-66 (Lyon et Vienne); 4, 50, 4 (Oéa et Lepcis).

¹¹¹ DIO CHR. *Or.* 34, 48.

¹¹² DIO CHR. *Or.* 34, 45; cf. 38, 38.

écoles des sophistes! (...). Car quelle suprématie, quelle gloire sont réservées aux vainqueurs? Et quelle sorte de pouvoir? Le moindre édit du proconsul l'anéantit ou le transfère à quelqu'un d'autre, et de toute façon, même si on vous le laisse, il n'en vaut pas la peine!”.¹¹³ C'est, de la part de ces orateurs, admettre que les guerres entre cités ne peuvent être tolérées par Rome, du moment que les Grecs ont abdiqué l'hégémonie (*archè*) devant sa puissance.

La stasis ou le “goût de la guerre”

Tout aussi fréquentes que les rivalités entre cités, les dissensions internes, propres au corps civique, donnent également lieu épisodiquement à des débordements de violence dans les cités grecques sous le Principat.¹¹⁴ Disputes entre corps constitués ou entre factions politiques, agitation provoquée par des corporations professionnelles, des confréries religieuses ou des sectes philosophiques, revendications de fractions de la population qui se considèrent marginalisées, émeutes frumentaires, le spectre de la *stasis* se présente comme l'un des symptômes récurrents de la vie politique et sociale des cités à l'époque impériale.

Ces troubles prennent parfois une ampleur telle que les contemporains les assimilent à un état de guerre (*polemos*).¹¹⁵ Ainsi l'empereur Claude, dans sa lettre aux Alexandrins, où il condamne les violences commises entre les communautés grecques et juives de la ville; l'empereur se réfère “aux troubles et à la révolte contre les Juifs, qu'il vaudrait mieux appeler de son vrai nom: la guerre”.¹¹⁶ Toujours à Alexandrie, mais cette

¹¹³ PLUT. *Praecepta gerendae reipublicae* 17, 814 B-C; 32, 824 E.

¹¹⁴ Voir, à titre d'exemple, ARISTID. *Or.* 50, 105-108 (attaque et occupation d'une propriété privée); PHILOSTR. *V.A* 1, 15 (tentative de lynchage d'un magistrat); DIO CASS. 54, 7, 6; 60, 17, 3 (mort de citoyens romains durant des troubles civils); P. HERRMANN and H. MALAY, *New Documents from Lydia* (Wien 2007), 110-113, n° 84 (attaque d'un sanctuaire par une foule armée).

¹¹⁵ PLUT. *Praecepta gerendae reipublicae* 32, 825 D.

¹¹⁶ *Selected Papyri II* (Hunt-Edgar) 212, l. 73-74.

fois-ci lors des manifestations publiques à l'hippodrome ou au théâtre, l'agitation extrême qui préside d'ordinaire aux spectacles parmi la foule s'apparente souvent à une rébellion et provoque même parfois l'intervention des troupes romaines.¹¹⁷ Dion Chrysostome ne manque pas de condamner cette propension des Alexandrins à vouloir "goûter à la guerre" et éprouver le frisson des exploits militaires par ces déchaînements de violence et ces actes de révolte.¹¹⁸ Ces propos rejoignent les conseils de Plutarque, qui dissuade les dirigeants des cités de "pousser le peuple à imiter les œuvres, les sentiments et les actions de ses ancêtres", à cause de "leur disproportion avec les circonstances présentes et avec les conditions actuelles".¹¹⁹

Les orateurs voient dans cette fièvre guerrière des populations locales, qui s'extériorise dans les luttes entre citoyens, un jeu dangereux, une menace pour la cohésion sociale et politique indispensable à la survie de toute cité. Surtout, ils craignent que les émeutes ne soient réprimées par les autorités romaines, car l'immixtion de Rome dans les affaires internes des cités impliquerait, de fait, une limitation de l'autonomie municipale. C'est pourquoi Dion de Pruse, Plutarque et Aelius Aristide prêchent avec tant de zèle et d'énergie, dans leurs discours et leurs traités, *l'homonoia*, le respect de l'ordre constitutif de la communauté civique.¹²⁰ Plus que les invasions barbares ou les razzias de brigands, la *stasis* est, aux yeux des aristocrates, le principal risque de destruction des cités à l'époque impériale. Pour ces dernières, la *stasis* — par la menace qu'elle fait peser sur l'intégrité de la collectivité — a, en quelque sorte, remplacé la guerre dans l'empire romain pacifié.¹²¹

¹¹⁷ DIO CHR. *Or.* 32, 71; 74; 89-90.

¹¹⁸ DIO CHR. *Or.* 32, 72.

¹¹⁹ PLUT. *Praecepta gerendae reipublicae* 17, 814 A.

¹²⁰ DIO CHR. *Or.* 46, 14; PLUT. *Praecepta gerendae reipublicae* 19, 814 E – 815 C; ARISTID. *Or.* 24, 22.

¹²¹ PLUT. *Praecepta gerendae reipublicae* 32, 824 C.

III. Faire la guerre dans l'empire romain pacifié: la lutte contre les brigands et la résistance aux Barbares

Comme le relève Épictète, le principal bénéfice que les habitants de l'empire peuvent imputer à la pacification romaine est la disparition “des guerres, des batailles, des actes de brigandage d'envergure et de la piraterie”.¹²² Cette “grande paix” (*eirènè mégalè*) n'est toutefois pas définitivement acquise et il subsiste des risques. En dépit de la protection assurée par l'armée romaine sur les frontières de l'empire, les cités peuvent, en effet, être confrontées à deux types de menaces: ce sont, d'une part, les attaques de bandes de brigands ou de tribus établies à l'intérieur des provinces s'adonnant périodiquement au pillage; d'autre part, les incursions épisodiques dans l'empire de peuplades étrangères, ‘barbares’. Ces circonstances restent toutefois exceptionnelles pour la plupart des cités sous le Principat. Mais, lorsque la situation se présente, on voit renaître dans ces cités, sous l'effet de l'urgence, les vestiges d'une ancienne structure militaire. On remet alors soudain à l'honneur le lustre et le panache des entreprises guerrières d'antan. En témoigne, par exemple, l'empressement du paysan eubéen rencontré par Dion, lequel revendique fièrement son appartenance de plein droit à la communauté civique de Carystos de par sa participation potentielle à la défense de la cité: “Nous élevons aussi nos enfants comme vos concitoyens et, si un jour vous en avez besoin, ils vous porteront secours contre des brigands ou contre des ennemis. Pour le moment, certes, il y a la paix. Mais s'il se produit un jour une circonstance comme celle dont je parle, vous souhaiterez que la plupart des gens se montrent semblables à nous”.¹²³ L'esprit de résistance armée collective en cas de besoin fait toujours partie de l'identité civique à l'époque impériale.

¹²² ARR. *Epict.* 3, 13, 9.

¹²³ DIO CHR. *Or.* 7, 49, trad. A. BILLAULT, “L'exclusion dans l'*Euboïcos* de Dion Chrysostome”, in *Les Exclus dans l'Antiquité*, éd. par C. WOLFF (Lyon 2007), 155. Cf. J. MA, “Public Speech and Community in the *Euboicus*”, in *Dio Chrysostom. Politics, Letters, and Philosophy*, ed. by S. SWAIN (Oxford 2000), 108-124.

III.1. *La mobilisation contre les brigands*

Les brigands représentent, à l'intérieur des provinces, la menace la plus grave pour la sécurité des cités. Le danger se présente à elles avec d'autant plus d'acuité que le brigandage résiduel ou sporadique n'a jamais été éradiqué de façon définitive de l'empire et que l'armée romaine n'en fait pas l'une de ses priorités.¹²⁴ Les cités sont donc souvent contraintes de parer par leurs propres moyens aux raids de pillards. Les autorités romaines, d'ailleurs, incitent les communautés locales à lutter activement contre ce péril en assimilant les brigands à des ennemis publics (*hostes publici*), lorsque leurs méfaits atteignent des proportions dépassant le seul cadre local.¹²⁵ De même que les particuliers, les cités sont alors encouragées à recourir à des mesures d'autodéfense pour se débarrasser du danger que constitue le brigand pour l'ensemble de la collectivité.¹²⁶ De cette manière, les cités se sentent investies d'une double légitimité: en s'opposant aux brigands, elles luttent pour leur survie tout en étant convaincues de contribuer par la même occasion au maintien de la paix impériale.

Cette conscience d'entreprendre un acte de grande importance pour la sécurité commune transparaît dans l'emphase martiale utilisée pour célébrer les victoires remportées sur les brigands. Dans la lettre par laquelle il confirme la décision du *koinon* lycien d'attribuer une voix supplémentaire à la cité de Boubône au sein de l'assemblée fédérale pour avoir repoussé avec succès une attaque de brigands, l'empereur Commodo

¹²⁴ C. WOLFF, *Les brigands en Orient sous le Haut-Empire romain* (Rome 2003).

¹²⁵ Cf. DIO CASS. 55, 28, 3; AMM. 14, 2, 1. Le même amalgame entre brigands et ennemis publics peut intervenir, au sein du discours officiel, dans le contexte de guerres civiles, de révoltes et d'usurpations du pouvoir impérial: cf. *Hist.Aug. Max.Balb.* 2, 10; Th. GRÜNEWALD, *Räuber, Rebellen, Rivalen, Rächer. Studien zu latrones im Römischen Reich* (Stuttgart 1999).

¹²⁶ Cf. TERT. *Apol.* 2, 8; PAUL. *Sent.* frg. Leid. 10; *Codex Theod.* 9, 14, 2. La notion de *latrones publici* apparaît dans *Codex Iust.* 3, 27, 2, alors que ces termes sont, à l'origine, antinomiques dans la définition que l'on donne de l'*hostis* (ULP. *Inst.* 1 = *Dig.* 49, 15, 24).

félicite les Boubôniens “pour leur zèle (*prothumia*) et leur courage (*andreia*)”.¹²⁷ Il les loue, en particulier, “d’avoir mis tant de zèle et tant d’énergie à arrêter les brigands et de l’avoir emporté sur eux, en tuant les uns et en prenant vivants les autres”. Par ce bref compte rendu visant à souligner l’importance et le bien-fondé de la résistance des Boubôniens, l’empereur célèbre leurs exploits (*andragathèmata*) en termes militaires, en évoquant leur bravoure guerrière (*l’andreia*) et en recourant au motif, lui aussi guerrier, du combat acharné débouchant sur la mort des ennemis et la capture de prisonniers.¹²⁸ L’orgueil que la cité de Boubôn tirait de cet événement, notamment pour avoir réussi à se signaler auprès de l’empereur, était tel qu’on décida de rendre visible en permanence une copie de la lettre impériale en la faisant graver sur pierre au théâtre.

De manière semblable, une inscription rhodienne contient l’elogie d’un magistrat chargé de l’administration du territoire situé en Chersonèse de Carie et appartenant à la cité de Rhodes. Le stratège y est remercié pompeusement, à titre officiel, “pour avoir procuré aux navigateurs sécurité et tranquillité en arrêtant et livrant au châtiment la bande de pirates qui s’était formée sur la mer”.¹²⁹ Malgré le ton de l’elogie, qui rappelle les inscriptions dressées par des cités en l’honneur d’officiers romains pour les campagnes militaires navales qu’ils ont menées contre des pirates dans l’Egée — voire en l’honneur de Pompée, le grand vainqueur de la guerre des pirates¹³⁰ —, il se peut que l’activité du stratège rhodien se soit apparentée plus modestement à une opération de police sur mer.¹³¹ On trouve cependant dans ces propos comme un écho de la fierté, magnifiée par son statut de *civitas libera*, que la cité de Rhodes

¹²⁷ AE 1979, 624.

¹²⁸ Cf. X.EPH. 2, 13, 3-4.

¹²⁹ AE 1993, 1537, l. 14-18.

¹³⁰ I.Ilion 102; IGR IV 1057; AE 1990, 940.

¹³¹ P. HERZ, “Kampf den Piraten? Zur Deutung zweier kaiserzeitlicher Inschriften”, in ZPE 107 (1995), 195-200.

tirait, encore sous le Principat, de sa flotte d'apparat et de ses possessions sur le continent, reliques de son ancien empire maritime.¹³²

Les élans guerriers que revêt la lutte contre les brigands se manifestent également dans les battues organisées par les cités pour libérer le territoire de bandes de pillards. Cette chasse aux brigands, à laquelle participe toute la population dans une ambiance festive de déchaînement de violence collective, donne parfois lieu à des exécutions sommaires, justifiées par le souci de se défaire au plus vite du fléau et tolérées, pour cette raison, par les autorités romaines.¹³³ Le motif de l'expédition punitive contre les brigands se retrouve dans plusieurs romans d'époque impériale, qui, sur ce point, mettent certainement en scène de manière réaliste, quoiqu'avec exagération, la forme que pouvait prendre la réaction populaire à la présence de brigands dans la *chôra*.¹³⁴

III.2. *La résistance à l'invasion*

La mobilisation générale des habitants d'une cité,¹³⁵ armés à l'improviste en raison de l'absence d'une conscription régulière, intervient, de même, lors de l'attaque soudaine d'une peuplade ennemie étant parvenue à percer les frontières de l'empire. À défaut de troupes permanentes, on prend des mesures d'urgence: les portes de la ville sont fermées et la population court aux

¹³² DIO CHR. *Or.* 31, 48; 101-104; 113; 146; 163. Sur le conservatisme culturel et institutionnel rhodien sous le Principat, cf. A. BRESSON, "L'onomastique romaine à Rhodes", in *Roman Onomastics in the Greek East. Social and Political Aspects*, ed. by A.D. RIZAKIS (Athens 1996), 225-238. Comparer les vestiges d'"empire" que possède la cité libre d'Athènes à l'époque impériale: P. GRAINDOR, *Athènes sous Auguste* (Le Caire 1927), 1-11.

¹³³ ULP. *Ad Sab.* 10 = *Dig.* 28, 3, 6, 9; MOD. *Diff.* 6 = *Dig.* 49, 1, 16; CALL. *De cogn.* 6 = *Dig.* 48, 19, 28, 15.

¹³⁴ APUL. *Met.* 7, 13; ACH.TAT. 3, 24; HLD. 4, 21. Cf. W. RIESS, *Apuleius und die Räuber. Ein Beitrag zur historischen Kriminalitätsforschung* (Stuttgart 2001), 313-324.

¹³⁵ Cf. *Lex Urson.* 103 (constitution de la colonie d'Urso en Bétique); *I.Ephesos* 8 (décret d'Éphèse durant les guerres mithridatiques).

armes, comme à Olbia et Tomis lors des raids des Barbares;¹³⁶ la population fabrique en toute hâte des machines de guerre, comme à Sidé en 269 pour résister au siège des Goths.¹³⁷ En plus de leurs fortifications et de machines de guerre, les Byzantins furent, par ailleurs, en mesure d'aligner cinq cents navires pour tenir tête à l'armée de Septime Sévère, preuve de la grande prospérité de la ville.¹³⁸ La stèle funéraire d'une famille phrygienne tuée par les Barbares lors des invasions du milieu du III^e s. représente, quant à elle, un des défunt armé d'un petit bouclier et d'une dague: c'est probablement la maigre défense qu'il a pu, en tant que particulier, opposer aux ennemis.¹³⁹ En 170/1, en Phocide, l'athlète Mnésiboulos parvient, pour sa part, à réunir une troupe improvisée pour se battre en bataille rangée (*en tēi machē*) contre les Costoboques déferlant en Grèce.¹⁴⁰

C'est alors l'occasion, pour stimuler l'ardeur au combat, de raviver d'antiques valeurs guerrières. Passant outre les recommandations de Plutarque de ne pas invoquer l'exemple des ancêtres,¹⁴¹ l'Athénien Dexippe exhorte ses concitoyens à résister aux Hérules, qui ont pris Athènes en 267, et à libérer la ville de l'occupation ennemie. Il donne volontairement à son discours des accents épiques:¹⁴² "Souvent l'inattendu se produit, lorsqu'on est contraint par les circonstances et qu'on se bat pour des choses que l'on aime dans l'espoir de la revanche. Nous ne pourrions concevoir de plus noble cause pour notre détermination, vu que nos familles et notre cité sont aux mains

¹³⁶ Ov. *Pont.* 1, 8, 5-10; *Trist.* 4, 1, 69-84; 5, 10, 15-28; DIO CHR. *Or.* 36, 15-16.

¹³⁷ DEXIPP. *FGrH* 100 F 29.

¹³⁸ DIO CASS. 74 (75), 10-14.

¹³⁹ R.A. TYBOUT, "Barbarians in Phrygia: A New Grave Stele", in *EA* 20 (1992), 35-42.

¹⁴⁰ PAUS. 10, 34, 5.

¹⁴¹ PLUT. *Praecepta gerendae reipublicae* 17, 814 A-C.

¹⁴² DEXIPP. *FGrH* 100 F 28. Cf. F. MILLAR, "P. Herennius Dexippus: the Greek World and the Third-Century Invasions", in *JRS* 59 (1969), 12-29 (= ID., *Rome, the Greek World, and the East. II. Government, Society and Culture in the Roman Empire*, ed. by H.M. COTTON and G.M. ROGERS [Chapell Hill-London 2004], 265-297).

de l'ennemi". Pour attiser le patriotisme des deux mille citoyens qui l'ont rejoint dans les montagnes de l'Attique en une armée de fortune, Dexippe puise dans les slogans des Guerres médiques: "J'apprends que la flotte de l'empereur approche pour nous venir en aide; joints à elle, nous combattrons d'autant plus vaillamment. De plus, je suis persuadé que nous inciterons le reste des Grecs à faire preuve du même courage. Je fais moi-même face au danger et à l'adversité par ma propre volonté, cherchant l'honneur et le danger, aspirant à accomplir de nobles actions et craignant de voir la gloire de notre cité s'évanouir à cause de moi. Je vous exhorte d'accomplir ceci: la mort est le lot de chacun, mais donner sa vie pour la défense de sa cité est la plus belle des récompenses, puisqu'elle apporte une gloire éternelle (...). C'est un noble destin de répandre la noblesse de nos ancêtres, d'être nous-mêmes pour les Grecs un modèle de courage et de liberté et d'acquérir parmi les hommes d'aujourd'hui et de demain une réputation immortelle, en montrant par nos actes que, même dans la catastrophe, la résolution des Athéniens n'est pas éteinte".

La bravoure et l'esprit de sacrifice, la recherche de la belle mort et de la gloire, la lutte pour la liberté commune de la Grèce: on retrouve, dans le discours de Dexippe, les vertus cardinales de la mentalité aristocratique classique et les leitmotive de la propagande impérialiste athénienne des V^{ème} et IV^{ème} s. av. J.-C. Ces relents de la grande époque ne sont toutefois pas que le fruit de l'emphase d'un notable athénien désireux de s'illustrer dans sa patrie par des exploits militaires et d'un écrivain prétendant à une renommée littéraire digne de Thucydide. Contemporaine des événements d'Athènes narrés par Dexippe, une épigramme funéraire de Gythéion aux résonances identiques suggère que, pour un temps au moins, la Vieille Grèce ait pu avoir l'impression de revivre les moments terribles, mais grisants et héroïques, de Marathon et de Salamine:¹⁴³ "Se battant à

¹⁴³ Cf. A. SPAWFORTH, "Symbol of Unity? The Persian-Wars Tradition in the Roman Empire", in *Greek Historiography*, ed. by S. HORNBLOWER (Oxford 1994), 233-247.

l'avant-garde des Grecs, les guerriers d'Athènes se défendirent par leurs navires et par une multitude de fantassins. Quant à nous, nous avons péri sur la mer par le fait des épées barbares".¹⁴⁴

III.3. *La ‘croisade’ contre le Barbare*

L'exaltation du fait militaire et de l'ardeur au combat se retrouve, enfin, dans la phraséologie utilisée par les cités pour décrire la participation de leurs ressortissants aux campagnes impériales. Plusieurs des inscriptions en l'honneur des citoyens dépêchés sur le front pour appuyer les armées impériales, ou des notables locaux qui leur ont servi de commandants, insistent sur le caractère volontaire de cet engagement. On souligne ainsi, à Thespies, l'empressement des jeunes gens envoyés prêter main-forte à l'empereur Marc-Aurèle (*prothumoi*)¹⁴⁵ et, à Téos, le choix délibéré que des citoyens ont fait en décidant de s'enrôler et de partir en campagne pour appuyer les légions (*automoloi*).¹⁴⁶

Cette façon de présenter la contribution des cités à la défense de l'empire masque la nature obligatoire des levées extraordinaires imposées aux communautés locales par les autorités romaines.¹⁴⁷ A Téos précisément, les modalités contraignantes de la conscription à laquelle je viens de faire allusion furent à dessein édulcorées: on déclare ainsi exprimer sa reconnaissance à un dignitaire de la cité pour "avoir convaincu, par sa magnanimité, des citoyens de servir comme volontaires lors de la levée de troupes décidée par l'empereur".¹⁴⁸ Les cités tentent, de cette manière, de se persuader qu'elles se sont associées de leur libre

¹⁴⁴ *IG V* 1, 1188.

¹⁴⁵ *SEG* 39, 456.

¹⁴⁶ *IGR IV* 1572, l. 11-13.

¹⁴⁷ P.A. BRUNT, "Conscription and Volunteering in the Roman Imperial Army", in *SCI* 1 (1974), 90-115 (= ID., *Roman Imperial Themes* [Oxford 1990], 188-214, avec addenda 512-513).

¹⁴⁸ De manière comparable, une inscription inédite d'Oinoanda, que publiera prochainement N. Milner dans la revue *Gephyra*, honore un notable municipal pour avoir veillé au recrutement de jeunes gens envoyés comme soldats sur le front oriental dans le courant du III^{ème} s. et dispensé ses pairs de financer l'opération. Je remercie l'auteur de m'avoir autorisé à mentionner ce document.

arbitre aux troupes de l'empereur. Le recrutement obligatoire des Grecs pour soutenir l'armée romaine est alors envisagé comme un partenariat, à l'instar de ce que fait Aelius Aristide lorsqu'il décrit l'organisation militaire romaine comme un moyen adéquat pour les cités de concourir à la défense de l'empire: "Vous avez demandé à chaque peuple juste la quantité d'hommes qu'il fallait si l'on ne voulait pas qu'ils constituent un fardeau pour ceux qui les donnaient ni qu'ils soient assez nombreux pour former à eux seuls l'effectif d'une armée nationale autonome. Ainsi, toutes les cités ressentent de la bienveillance pour les hommes envoyés à l'extérieur, dans l'idée qu'ils leur appartiennent à elles aussi, mais aucune prise individuellement n'a la moindre force composée de ses propres troupes, et les hommes expédiés ont les yeux tournés uniquement vers vous, car c'est là le seul but de ce bel ordonnancement".¹⁴⁹

Comme l'a souligné P. Veyne, les cités entretiennent, de cette manière, un mirage, celui de jouir encore d'une indépendance politique et militaire sous l'hégémonie de Rome.¹⁵⁰ Plutôt que ses sujettes, elles prétendent être les alliées de la puissance dominante. Dans le cas des cités libres, certaines d'entre elles sont effectivement liées à Rome par un traité et c'est probablement en vertu de cette alliance qu'elles peuvent être sollicitées pour envoyer des hommes renforcer les légions. Les contingents spartiates épaulant l'empereur, par exemple, sont donc appelés *symmachoi*, "alliés"¹⁵¹ — comme on le ferait des unités indigènes agrégées, mais non intégrées formellement à l'armée romaine (*numeri*, *symmacharii*, *foederati*)¹⁵² —, et l'expédition

¹⁴⁹ ARISTID. *Or.* 26, 76.

¹⁵⁰ P. VEYNE, "L'identité grecque contre et avec Rome: "collaboration" et vocation supérieure", in ID., *L'Empire..., op.cit.* (n.51), 211-215.

¹⁵¹ IG V 1, 130; HDN. 4, 8, 3. Cf. SEG 44, 1205: dédicace à Claude offerte par les Lyciens, *philorhōmaioi kai philokaisares, pistoi symmachoi*, appelés ainsi en vertu du traité romano-lycien (S. MITCHELL, "The Treaty between Rome and Lycia of 46 BC", in *Papyri Graecae Schøyen*, a cura di R. PINTAUDI [Firenze 2005], 163-258).

¹⁵² M. REUTER, "Studien zu den *numeri* des Römischen Heeres in der Mittleren Kaiserzeit", in *BRGK* 80 (1999), 357-569.

de Lucius Vérus contre les Parthes, à laquelle se sont joints des soldats de Sparte, est qualifiée de “très heureuse alliance” dans l'épitaphe d'un de ces hommes.¹⁵³ De même, dans la cité libre de Termessos, un notable local est célébré pour avoir été le “commandant des alliés dépêchés” auprès de l'empereur Marc-Aurèle dans les années 172-175.¹⁵⁴

Pourtant, le terme *symmachos* ne paraît pas toujours recouvrir un sens technique et toute participation aux campagnes impériales présentée comme une “alliance” ne repose pas nécessairement sur un traité. Par exemple, le gendarme qu'un magistrat municipal d'Aizanoi en Phrygie se vante d'avoir mis à la disposition de l'empereur Marc-Aurèle pour ses campagnes germaniques est décrit comme “allié” (*symmachon diagmeitèn*),¹⁵⁵ alors que la cité d'Aizanoi ne jouissait pas de la liberté et n'était pas liée à Rome par un *foedus*. Dans le cas présent, la dénomination *symmachos* qualifie des troupes extraordinaires levées en catastrophe pour servir d'auxiliaires à l'armée romaine et correspond au latin *auxilia*.¹⁵⁶ *Symmachos* se dit cependant aussi de particuliers: à Oinoanda, sous le règne conjoint de Valérien et Gallien, un certain Valerius Statilius Castus est honoré à titre officiel en tant que “très puissant allié des empereurs”.¹⁵⁷ Bien qu'il soit qualifié de “préposé aux vexillations”, il n'est pas certain que ce personnage soit issu de l'armée romaine. Il peut s'agir, au contraire, d'un privé, d'un dignitaire provincial, d'une espèce de condottiere auquel les autorités romaines ont confié une mission de nature militaire. C'est ce qui expliquerait pourquoi les gens d'Oinoanda le remercient “d'avoir veillé à la paix sur mer et sur terre et d'avoir séjourné dans [leur] célèbre cité de manière tout à fait disciplinée durant 12 jours”. Dans le courant du

¹⁵³ *IG V* 1, 816.

¹⁵⁴ *TAM III* 106.

¹⁵⁵ *OGIS* 511.

¹⁵⁶ Cf. JOSEPH. *BJ* 2, 67-68; ARR. *Exp. Alan.* 7; 14; TAC. *Ann.* 12, 49, 1; 15, 6, 3.

¹⁵⁷ *ILS* 8870.

III^{ème} s., un dignitaire éphésien de rang sénatorial — donc un citoyen romain quoique d'origine grecque — a même été salué comme “allié des Romains selon les décisions du très sacré Sénat”,¹⁵⁸ sans que l'on connaisse les motifs ayant valu à l'intéressé la concession de ce titre honorifique. Par ailleurs, de nombreuses cités d'Asie Mineure et même des colonies, dans le courant du II^{ème} et surtout du III^{ème} s., se présentent également, dans leur titulature, comme des *symmachoi*, des “alliées” du peuple romain, sans que leur concours logistique à la préparation d'une campagne impériale — ce qui leur a certainement valu ce titre — ait résulté de l'application d'un traité en bonne et due forme.¹⁵⁹

Il en résulte que l'appellation d’“allié” du peuple romain a été, au cours de l'époque impériale, galvaudée et qu'elle a perdu ses implications juridiques pour devenir un titre dont se prévalent les cités ou les particuliers s'étant signalés par une aide militaire apportée aux armées romaines. L'usage généralisé de ce titre a pour effet de renvoyer l'image d'un empire conçu comme une fédération de cités autonomes, unies sous l'égide de Rome pour la protection du monde civilisé contre l'ennemi extérieur. Il fait directement écho aux propos d'Aelius Aristide, qui décrit de manière idéalisée la mission civilisatrice de l'armée romaine, laquelle profite, au premier chef, à la sûreté des Grecs contre la menace barbare.¹⁶⁰ La diffusion de ce titre, qui fut certainement encouragée par les cités elles-mêmes, donne l'occasion à ces dernières de revaloriser leur position au sein de l'empire, dans la mesure où la puissance hégémonique se tourne expressément vers elles pour leur demander de contribuer au renforcement du dispositif militaire impérial.

¹⁵⁸ *I.Ephesos* 3038.

¹⁵⁹ J. NOLLÉ, “*Colonia und Socia der Römer. Ein neuer Vorschlag zur Auflösung der Buchstaben SR auf den Münzen von Antiocheia bei Pisidien*”, in *Rom und der Griechische Osten. Festschrift für Hatto H. Schmitt zum 65. Geburtstag*, hrsg. von Ch. SCHUBERT und K. BRODERSEN (Stuttgart 1995), 356-369.

¹⁶⁰ ARISTID. *Or.* 26, 74-85.

Conclusion: la défense de la cité entre idéaux et résignation

Au terme de ce tour d'horizon des conceptions que l'on se faisait de la défense collective dans les cités grecques sous le Principat, un constat s'impose: c'est l'actualité de la tradition militaire et du thème de la guerre dans la vie publique de ces cités. Quoiqu'elles aient été dépossédées de leur appareil militaire et qu'elles ne soient plus confrontées en permanence au risque de la guerre sous l'hégémonie de Rome, ces cités n'ont pas abandonné leurs symboles militaires ni même abdiqué toute ambition en la matière. Bien loin d'avoir été évacué comme étant sans objet sous le régime de la paix romaine, le motif de la guerre demeure une composante des mentalités et du vocabulaire politiques grecs à cette époque. La perte de leur souveraineté militaire depuis le règne d'Auguste exigeait, en effet, des cités de redéfinir les relations qu'elles entretenaient avec la puissance dominante. En évoquant sur un ton nostalgique les exploits guerriers des ancêtres ou, à l'inverse, en célébrant la protection assurée par les armées de Rome, les cités s'efforcent de déterminer, à leur propre usage ainsi qu'à l'adresse de leurs interlocuteurs romains, la place qui est la leur au sein de cet empire pacifié et le rôle qu'elles entendent y jouer.

Si elles durent se résigner à l'abaissement qui leur fut imposé par Rome au travers de la suppression de leurs forces armées, les cités grecques ont néanmoins cherché à se ménager une marge de manœuvre dans l'étroit espace qui leur était laissé dans le domaine militaire. Cette revendication d'une maigre autonomie militaire prit des formes variées. Elle passe, d'abord, par l'affirmation d'une tradition militaire. L'idéalisat ion d'un brillant passé guerrier dans la littérature, les arts et la rhétorique, tout comme le maintien d'institutions d'aspect militaire dans la vie civique (titres de magistrats, éphébie, murailles), alimentent la représentation que la collectivité se fait d'elle-même et concourent à son rayonnement. Ensuite, l'exaltation des valeurs militaires et la survivance de velléités

guerrières, qui se manifestent dans le courant de la vie politique intérieure et extérieure (troubles civils, rivalités avec des cités voisines), suggèrent que la cité persiste à entretenir activement la culture militaire dont elle a hérité. Mais c'est surtout en magnifiant la moindre démonstration de force qui surgit dans la collectivité et en l'assimilant à une entreprise guerrière que la cité fait montre de ses prétentions militaires. Lorsque, sous l'effet de l'urgence, l'occasion se présente de prendre les armes (chasse aux brigands, mobilisation générale pour résister à une attaque ennemie, participation à une campagne impériale), la cité s'emploie aussitôt à raviver les vestiges d'une organisation militaire et s'empresse de remettre à l'honneur l'ancienne culture guerrière, qui, soudainement et pour un instant, redevient tangible. La cité se lance dans ces combats avec d'autant plus de conviction qu'elle y voit une compensation pour la déchéance à laquelle l'a contrainte la pacification romaine.

En dépit des propos conciliateurs d'Aristide, qui proclame le transfert définitif du pouvoir militaire des cités à Rome, et des réflexions amères de Dion et de Plutarque, qui prennent acte de la perte de l'indépendance politique et militaire de celles-ci, on constate que la culture militaire n'est pas qu'un souvenir dans les cités grecques d'époque impériale et que la guerre n'est pas pour elles une abstraction. Bien que profondément atténuée par la force des choses sous l'hégémonie de Rome, la tradition militaire se maintient sous le Principat. Quant à la guerre, elle reste pour ces cités non seulement un risque, mais aussi une potentialité, enviable à certains égards car elle leur permet de reconquérir, au moins temporairement, des compétences dans le domaine de la défense collective. La conservation d'un esprit militaire revêt dans les cités grecques d'époque impériale une double fonction: non seulement cette tradition véhicule les aspirations de la cité à jouir encore de prérogatives d'apparence militaire sous la domination de Rome, mais elle continue à structurer une partie de la vie civique. Sur ce point comme sur tant d'autres (institutions politiques, cultes), nous

sommes amenés à observer la permanence des traits fondamentaux de l'identité civique grecque depuis l'époque hellénistique jusqu'à la période impériale, malgré les changements objectifs apportés entre-temps dans le statut politique et l'organisation militaire des cités.

DISCUSSION

A. Chaniotis: Thank you very much for this excellent general picture, which closes a gap in modern research. I should like to contrast your general picture with the individual, 'microscopic' view of a single city, admittedly a special case: Aphrodisias. A visitor of Aphrodisias in the late first century AD would continually be reminded of themes connected with war, insecurity, violence, and defence. Aphrodisias still was (officially) an ally of the Romans, willing to fulfil these duties. The civic identity was primarily based on memories of sacrifices and destructions in war, memories of loss and victory; the only grave within the city wall, in the gymnasium, was the grave of a local general, who had killed sixty enemies with his own hand; in the Sebasteion, the visitor would see reliefs which glorified the military exploits of Claudius and Nero — Aphrodisias' allies — and images of the subjugated barbarian tribes. Living in the illusion of independence did not prevent the Aphrodisians from inviting (or accepting the presence of) a Roman *centurio regionarius* around 220 AD, as we know from a recent find.

C. Brélaz: Effectivement, le cas d'Aphrodisias est remarquable, d'autant plus lorsqu'on le compare à celui de Rhodes, par exemple. Nous avons là deux cités libres qui envisagent de manière radicalement opposée leurs relations avec Rome. À Aphrodisias, les victoires impériales, comme vous le rappelez justement, sont célébrées sur des reliefs du Sébasteion; la cité accueille en permanence sur son territoire un centurion régional pour sa protection (en tout cas au début du III^{ème} s.) et, quelques décennies plus tard, elle remercie des centurions *frumentarii* à titre officiel pour leur "comportement bienveillant et courageux" (*SEG* 31, 905), probablement dans une

circonstance critique ayant provoqué un climat d'insécurité dans la région; par ailleurs, les élites locales y sont largement romanisées et goûtent aux plaisirs des jeux du cirque. Les Rhodiens, en revanche, sont jaloux de leur particularisme; ils rechignent à adopter la *civitas* et à organiser des spectacles de gladiateurs, restent attachés à leur dialecte et à leurs coutumes, et, en matière militaire, s'efforcent encore de maintenir des bribes de leur ancienne thalassocratie (flottille, puissantes murailles et installations portuaires, possessions continentales: cf. Strab. 14, 2, 5, p.652-653). Quoiqu'elles jouissent du même statut, ces deux cités appréhendent différemment leur rang d'alliée du peuple romain. Autrement dit, la position juridique d'une cité (libre, fédérée, sitpendiaire) ne préjuge pas de son attachement à son passé et à ses institutions militaires; il faut encore tenir compte des traditions et des mentalités locales, spécifiques à chaque cité.

A. Chaniotis: In your paper you mention the 'war of coqs', the competition of cities for privileges, as a kind of compensation for the loss of opportunities to fight real wars. Perhaps another form of compensation was the active involvement of members of the elite in athletic contests, a phenomenon recently studied by Onno van Nijf.

C. Brélaz: La compétition agonistique peut, en effet, constituer pour les élites un terrain d'expression de leurs prétentions belliqueuses, même si, à l'époque impériale, nombre d'athlètes sont des professionnels, comme vient de nous le rappeler A. Lintott. Ce rôle de substitut des activités guerrières dévolu aux concours peut être perçu dès l'époque archaïque, à la différence près que, sous le Principat, les aristocrates férus de gloire militaire sont confinés aux *agônes*, n'ayant plus la possibilité de se mesurer sur le champ de bataille. À ce titre, on pourrait aussi mentionner la composante paramilitaire de l'instruction éphébique, qui, dans les faits, est plus souvent mise à profit dans des épreuves athlétiques que pour la défense de la

patrie. Mais vous avez entièrement raison, de façon générale, on assiste, sous le Principat, à une réinterprétation des vertus militaires. C'est ce transfert et cette application des valeurs guerrières à des occupations civiles dont parle Plutarque à plusieurs reprises. *L'andreia*, en particulier, la bravoure guerrière, qui se dit toujours du courage militaire de l'empereur et qui est vénérée comme une allégorie dans des contextes agonistiques, devient, pour le notable local, une qualité civile. Le sens de cette vertu est atténué. *L'andreia* devient l'ardeur à la tâche, tout administrative soit-elle, et le dévouement pour le bien de la collectivité dans la gestion des affaires communes.

A. Chaniotis: Despite the *Pax Romana*, the populations in the Roman East were surrounded by images, memories, and narratives of war, as you have pointed out in connection with the festival of the Eleutheria. Some other examples are the images and legends on coins, the 'military' epithets of emperors, orations for heroes, rites of the war-dead, but also the presence of fugitives (e.g., after the Jewish wars) and the vivid interest in wars, as we can infer from Lucian's work *How to write history*.

C. Brélaz: Je vous remercie de ce complément. La célébration de la toute-puissance de l'empereur dans le domaine militaire passe, en effet, aussi par la commémoration des victoires impériales par les cités, et, à ce titre, les reliefs du Sébasteion d'Aphrodisias, que vous avez mentionnés, sont tout à fait remarquables, car les signes aussi explicites de reconnaissance des succès militaires romains de la part d'une cité, et qui plus est libre, sont plutôt rares. Par ailleurs, les cités, particulièrement au III^e s., s'enorgueillissent de contribuer aux campagnes impériales en servant de bases logistiques aux légions, comme l'illustrent les frappes monétaires civiques au type des enseignes romaines ou les titres honorifiques que s'arrogé, par exemple, la cité de Pergé pour avoir abrité des troupes (*I. Perge* 331).

H. van Wees: One of the many interesting points raised by your paper is the testimony of Plutarch and others to the effect that the main concern of contemporary statesmen was to deal with internal threats to security. You suggest that 'stasis replaced war' as a priority of government, though I would prefer to say that *stasis* was always a dominant concern and merely became even more so when external threats effectively disappeared. My question is how the threat of *stasis* in Greek cities under imperial control compares with the situation in earlier centuries. It is worth noting that two of the three examples of *stasis* cited by Plutarch at the end of his *Precepts of Statecraft* are set in the distant past. Was civil strife still a widespread and acute threat, and, if so, what forms did it typically take?

C. Brélaz: Vous faites bien d'apporter une nuance à mes propos sur la place de la *stasis* dans la vie des cités grecques à l'époque impériale. La *stasis*, pour ces cités, n'est en effet pas une nouveauté sous le Principat. Et si, à la suite de Plutarque (*Praecepta gerendae reipublicae* 32, 824 C-E), on peut parler d'une substitution de la guerre par la *stasis*, c'est effectivement parce que les conflits internationaux ne font plus partie des préoccupations des cités à cette époque et parce que seules demeurent les menaces naissant à l'intérieur du corps civique.

Pour ce qui est de l'actualité de la *stasis* dans la cité grecque d'époque impériale, il s'agit d'un risque permanent et bien réel. Pour preuve, le grand nombre de références à des troubles dans nos sources et, en négatif, la récurrence du thème de l'*homonoia* dans le discours politique des cités (notamment à travers les types monétaires), des orateurs et des philosophes. Pour illustrer les dangers que provoque la *stasis*, Plutarque mentionne, aux côtés d'exemples plus anciens, diverses situations conflictuelles ayant bouleversé des cités à son époque ou quelques décennies auparavant seulement (à Pergame, à Rhodes, en Thessalie [19, 815 D], à Sardes [32, 825 C-D]). D'ailleurs, l'objectif de l'ensemble du traité est de mettre en garde le jeune aristocrate de Sardes auquel il est dédié contre les méfaits cau-

sés par les dissensions civiles. C'est sur cette recommandation de veiller à la concorde civique que se terminent les *Préceptes*.

À la différence de l'époque archaïque ou classique, la *stasis*, telle que l'entendent les rhéteurs d'époque impériale, ne se limite pas à l'opposition entre factions démocratiques et oligarchiques. Dans ces petites républiques oligarchiques que sont les cités grecques sous le Principat, la question de la nature de la constitution locale et du poids respectif des aristocrates et du *dēmos* perd de son acuité. Le terme *stasis* recouvre alors, pêle-mêle, toutes les entraves au fonctionnement régulier des institutions et tous les troubles débouchant sur des manifestations de violence. Rivalités entre *boulè* et *ekklēsia*, grèves de boulangers, rassemblements impromptus de la foule pour protester contre la cherté du grain ou l'action néfaste de prédicateurs (c'est le cas des orfèvres lors du passage de l'apôtre Paul à Éphèse): on verra dans tous les cas une amorce de *stasis*, susceptible de remettre en cause l'ordre social et politique assurant la cohésion de la communauté civique. Paradoxalement, la fréquence de ces troubles illustre même le dynamisme de la vie sociale et politique animant la cité grecque sous la domination de Rome. Les luttes entre factions démocratiques et oligarchiques ne sont pas même exclues à l'époque impériale: ainsi, c'est officiellement pour faire cesser des affrontements de ce type qui déchiraient les Lyciens que Rome a décidé d'intervenir, de réduire en province le *koinon* — libre jusqu'alors, il est vrai — et, finalement, de mettre au pouvoir des aristocrates qui lui seraient dévoués (Suet. *Claud.* 25, 3; Dio Cass. 60, 17, 3; *SEG* 44, 1205).

R. MacMullen: A question about the ephebate. Was it generally seen, or should it be seen, as a quasi-military institution? At lunch, mention was made of the sword of honor which new members carry as their ticket of admission to the Académie française. They keep it at home thereafter. Does it recall to them, or to anyone, at any time, the perilous days of battle under the Sun-King? Or just as perilous but glorious

duels in defense of one's honor? Or is the sword chosen as a symbol because it is totally and absurdly irrelevant to reality, and serves therefore to set apart the bearer from all the rest of us, who must live our lives all too much in realities, unhappily outside the Academy? In brief, was not the ephebate an exclusive club, entrance to which meant confirmation in privilege, and the activities and operators of which were meaningful only in a social sense, not a military one? And this could be generally true, even though, on rare occasions ecstatically remembered in inscriptions, the young fellows and the not so young gathered on horseback to confront ugly customers?

C. Brélaz: La précision, ou la nuance, que vous apportez me paraît, en effet, nécessaire. La pompe martiale et le décorum militaire dont s'entourent les éphèbes servent bien entendu aussi à marquer symboliquement leur rang social prééminent, au moyen d'objets et de pratiques renvoyant aux temps héroïques de l'indépendance militaire. Si nous disposions uniquement de ce témoignage sur la vie des associations éphébiques, nous pourrions effectivement ne voir dans ces parades qu'un moyen de distinction sociale. Mais force est de constater que les activités des éphèbes comprennent, toujours à l'époque impériale, un entraînement de type paramilitaire et que ceux-ci sont invités à mettre en pratique ces enseignements lors de concours intégrant explicitement des épreuves d'inspiration martiale. Par ailleurs, en cas de nécessité, c'est vers les éphèbes que se tourne la cité pour monter des patrouilles de police sur son territoire, pour résister à une attaque de brigands ou pour répondre à l'exigence de l'empereur de venir renforcer ses légions sur le front. La convergence de ces éléments me pousse donc à voir dans l'armement des éphèbes plus qu'une simple panoplie d'apparat, et je crois que les éphèbes dans les cités grecques sous le Principat avaient plus de chances, ou de risques, de devoir sortir leur épée pour défendre la patrie que les Académiciens!

W. Riess: I totally agree with your interpretation of the military ideology that pervades historical works, rhetorical writings, poetry, and novels written in Greek during the Roman Empire with their constant references to the glorious Greek past, especially the Persian Wars and the Peloponnesian War. I wonder, however, if these allusions did not have a double meaning. The star-orators of the Second Sophistic loved performing historical role-plays. By assuming a historical persona, for example Miltiades before the battle of Marathon or Themistocles before the battle of Salamis, the rhetors evoked the heroic past in a joking way. They pretended to be someone else, but the audience knew that they were not. This sophisticated game with distance and closeness created a layer of subtle irony, which the listeners of these speeches must have tremendously enjoyed. Elements of play are a characteristic feature of Second Sophistic writing throughout and it would be surprising if references to war were an exception. The extent to which we take these ludic aspects seriously or not will determine our assessment of the functions of allusions to war in imperial writings. With your terms “référence culturelle” and “rejouer la bataille” you have found suitable expressions to encapsulate this complex phenomenon. What are the further-reaching cultural, social, and political implications of this reading on an ironic level?

C. Brélaz: Vous soulevez à juste titre la question de la portée des discours qui proclament le brillant passé militaire des cités grecques. Effectivement, il ne faut pas sous-estimer dans ces discours le poids de la convention que représentent la référence historique et les thèmes militaires, notamment dans la rhétorique stéréotypée de l'éloge, que celui-ci soit adressé à la cité ou à l'empereur. Mais lorsque Dion de Pruse, par exemple, se gausse des rivalités des cités ciliciennes en les comparant à des chamailleries puériles, ou lorsque Plutarque reproche à ses contemporains d'invoquer à tout bout de champ Marathon, c'est une ironie teintée d'amertume qui dicte leurs propos. Dion et Plutarque regrettent sincèrement, je crois, le temps de

l'indépendance militaire. Les efforts que déploient les cités pour magnifier leur bravoure révolue et sauver quelques apparences guerrières leur paraissent d'autant plus ridicules qu'ils perçoivent avec lucidité le déséquilibre qui existe entre les prétentions des cités et l'état de sujexion dans lequel les maintiennent la souveraineté de Rome.

Si la référence constante au passé prête parfois à sourire par son aspect systématique et son ton affecté — et vous avez raison de rappeler qu'elle pouvait être perçue de cette façon par les contemporains, et en tout cas par les Romains (cf. Dio Chr. *Or. 38, 38*; Cic. *Att. 6, 1, 15*) —, il n'empêche que l'évocation des anciennes heures de gloire des cités pouvait avoir des implications politiques tangibles. Ainsi, pour soutenir son dossier de candidature à l'entrée au Panhellénion, la cité de Magnésie du Méandre a pu rappeler, sur le même plan, l'alliance contractée avec Rome à l'époque des guerres mithridatiques et les combats menés aux côtés des Ioniens et des Doriens en des temps immémoriaux (*OGIS 503*). Par ailleurs, comme le montre la lettre d'Hadrien à la petite cité locrienne de Naryka, récemment publiée (D. Knoepfler, in *REG 119 [2006], 1-34*), l'empereur en personne, pour déterminer le rang et les priviléges d'une communauté locale, peut reconnaître l'autorité des poètes et citer, comme marque de noblesse d'une cité, l'exemple de figures mythiques. Les Grecs — ne serait-ce que par conservatisme ou par calcul — étaient donc attachés à l'évocation de leur histoire. Et dans ce vaste mouvement de renaissance de l'identité collective grecque dont témoigne la Seconde Sophistique sous l'hégémonie de Rome, les souvenirs militaires et guerriers figurent en bonne place, parce qu'ils suggèrent une époque où les Grecs étaient maîtres de leur destin.

V

ANDREW LINTOTT

HOW HIGH A PRIORITY DID PUBLIC ORDER AND PUBLIC SECURITY HAVE UNDER THE REPUBLIC?

One fundamental issue that has been explicit or implicit in our discussions so far is the level of private violence that a community considers acceptable: to eliminate it entirely would be impossible and may not even be thought desirable. However, even if it appears that such a level of tolerable violence has been established, there is always the danger of escalation, the more dangerous because its occurrence is often hard to predict at the time. Certainly, the leading actors in the late Republic regularly behaved as if they could not see the consequences their actions might bring.

Much of my book *Violence in Republican Rome*¹ was devoted to demonstrating the ubiquity of violence and the importance of the use of private force throughout the history of the Republic. I pointed to the survival of the practices of *Volksjustiz*, *justice populaire*, even in the late Republic, the toleration, indeed encouragement, of private force (*Selbsthilfe*) in certain aspects of the law, the belief in revenge, and the measurement of cruelty according to the status and merit of the victim and the rational purpose of the actor. In the political field a further factor was the persistence of attitudes deriving from the Struggle of the Orders, whereby certain forms of violence were morally justified as the assertion of fundamental rights. Against this the

¹ Oxford 1968, 2nd 1999.

executive lacked the resources to enforce control and security which were available later to the emperors, not to mention modern societies.

It may be argued, however, that before the late Republic this incorporation of violence into society was not so much a cause of disorder and anarchy but necessary for the security of individuals and groups within it. Cicero saw *vindicatio* as part of natural law, the force by which a man repelled violence and insult from himself and his dear ones by self-defence and revenge and by which he punished crimes (*De inventione* 2. 66). Much later Machiavelli argued that the resistance of the plebs to the nobility was necessary for the preservation of liberty and to restrain the ambition of the great men,² crystallising what ancient orators said in *popularis* mode.³ The Romans under the Republic therefore may have seen security as the product of conflict rather than repression. Nevertheless, if the pursuit of security by violence caused disorder, this in turn might endanger the security of society more generally in the longer term. Cicero in his calmer moments was well aware of this.⁴ Many other Romans must have been conscious of this also. Accordingly, my paper today is an exploration of the way over a long period the Romans sought to mitigate the potential for disorder in conflicts and even to suppress unproductive violence.

One thing they did not do was to create a large superstructure of public officials. Here there is an obvious contrast with the Principate, when new magistracies were created and boards of officials multiplied. Under the Republic it was almost a century and a half before the consuls obtained a junior colleague, the praetor, and then over a century before the number of praetors increased. For all their duties in civil jurisdiction, it is clear that one of the main functions of the early praetors was to be

² *Discorsi sopra la prima deca di Tito Livio*, 1.5 & 37.

³ CIC. *Pro Cornelio* fr. 49 Puccioni; *De orat.* 2.124 & 199.

⁴ *Leg.* 3.42; *Mil.* 13. In *Sest.* 91-92, however, the message is more ambiguous. One must choose between *vis* and *ius*.

alternative military commanders.⁵ The magistrates whose prime duties lay in the city were the tribunes and aediles. The former are said to have numbered ten before the *Twelve Tables*; the number of aediles doubled in the early fourth century and then remained constant at four until the time of Julius Caesar. At a lower level the *triumviri capitales*, said to have been created in the early third century, are remarkable for the multiplicity of their functions: they were in charge not only of the prison and executions but also of the night watch and, after a *lex Papiria* of perhaps the late third century,⁶ they were entrusted with certain judicial functions involving *sacramenta*. In maintaining security they had, by the early second century BC, the support of the mysterious *quinque viri cis Tiberim* (Liv. 39.14.10). Nonetheless, as a small board of minor magistrates, they were hardly a powerful deterrent against serious disorder.

We must look, therefore, in the law, and in political procedures. Let us begin with private law. The *Twelve Tables* both recognized the necessity of private force in certain situations and ritualized certain forcible actions as part of legal procedure. It was understood that one might need force to bring some one to law (*igitur <i>{>}m capito*) (tab. I. 1); the law permitted the killing of the thief by night and the armed thief also by day. But in each case it expected the man using private force to call bystanders or neighbours to bear witness to what was being done (*ni it, antestamino; endoplorato*).⁷ Here it exploited traditions of *justice populaire* in the interests of justice. Calling people to witness made it less likely that the arrest or killing was improper. Private force, furthermore, was used to seize debtors (*manus injectio pura*) and they were confined privately for a

⁵ See T.C. BRENNAN, *The Praetorship in the Roman Republic* (New York 2000), I 61ff., 85ff., though at the same time he understates their function in jurisdiction.

⁶ *Roman Statutes*, ed. by M. CRAWFORD, BICS Suppl. 64 (London 1996), II no.45; A.W. LINTOTT (n.1), 102-6; C. CASCIONE, *Tresviri Capitales. Storia di una magistratura minore* (Napoli 1999).

⁷ Tab. 8. 12-13 = *Roman Statutes* (n.6), II no.40, tab. I. 17-18.

time until either payment was made on their behalf or they suffered what amounted to a capital penalty, whether by 'cutting parts' (*tertiis nundinis partis secanto*) or being sold as slaves across the Tiber (*tab. 3. 1-6*). The safeguard was that the creditor had to produce the debtor he had seized on three market-days, where some one might stand surety for them and obtain their release. Cases of physical injury involving the loss of a limb might still be penalized by *talio* ('an eye for an eye and a tooth for a tooth'), if no settlement could be reached agreeable to the injured party.⁸ As for ritualized force, the laying on of hand or rod was to be found in the *vindicatio* processes used for the claiming of property (Gaius, *Inst. 4. 16*), and in the *actio per manus injectionem* (4. 21-25).

How far were these procedures modified over time? Probably by the end of the Republic the physical element of summons in the *in ius vocatio* procedure had become formal. *Vadimonia*, the granting of security by the defendant for appearance, was an established practice at least by the late third century BC (Liv. 25. 4. 8-11). This meant that the parties agreed to meet in a place near the relevant praetor's tribunal, whence the formal summons took place.⁹ However, private force might still be required to bring a criminal before a magistrate in the late Republic (Cic. *Cluent. 38-39*): where there was a major threat to public security, it was enough to make a denunciation to a magistrate. The provisions about thieves that I have cited remained unchanged. L. Quinctius, the tribune of 74, used these clauses of the *Twelve Tables* as examples of justified violence when responding to the lawsuit brought by Cicero's client M. Tullius, and Cicero himself appealed to them in his published defence of Milo (Cic. *Tull. 47-50; Mil. 9*).

The procedure against judgement debtors (*aeris iudicati*) was mitigated. Dissection as prescribed by Shylock was a matter for

⁸ *Tab. 8. 2-3 = Roman Statutes*, II no.40, *tab. 1. 1-13*.

⁹ HOR. *Sat. 1. 9. 74-8*; CIC. *Quinct. 25* with *Tabulae Pompeianae Sulpicio-rum*. Edizione critica ... di G. CAMODECA (Roma 1999), 49-51.

antiquarian research by the late Republic; the penalty was now *addictio* (assignment to the creditor as a debt-slave) and the time before the final execution of this penalty seems to have been lengthened. This is an inference from the fact that the third market-day is critical in the *Twelve Tables* (*tab.* 3. 6), whereas Gellius talks of preliminary detention for 60 days (20.1.46). *Manus injectio* was in fact prescribed as a form of process by a number of statutes subsequent to the *Twelve Tables*, whether this strictly followed the *iudicati* procedure (called *pro iudicato*) or the man seized was allowed to defend himself and did not need a *vindex* to represent him (called *manus injectio pura*). Gaius cited the *lex Furia* and the *lex Plubilia de sponsu* as examples of statutes prescribing *pro iudicato* procedure and stated that there were other similar laws (Gaius, *Inst.* 4. 22, cf. 121. 127); he also cited the *lex Furia testamentaria* and the *lex Marcia* regarding usurers for their prescription of *manus injectio pura* (4. 23, cf. 2. 225), while again making it clear there were parallels. One fascinating question which I cannot pursue here is the chronology of these statutes. The praetorian *actio iudicati* — that is, an action created by the praetor through a *formula*, not by the procedure prescribed by a statute — probably replaced *de facto*, if not *de iure*, *manus injectio iudicati*. Moreover, less humiliating procedures were devised for those who did possess some money for their creditors — *venditio bonorum*, datable to before 111 BC and credited to a P. Rutilius,¹⁰ and *cessio bonorum*, devised probably by Julius Caesar.¹¹ Nevertheless, the possibility of *addictio* and imprisonment by the creditor remained real in the last century BC and later.¹² The most that the *lex Poetelia* (placed by Livy

¹⁰ Either Rufus, praetor by 118, or Calvus, praetor ca. 166. See GAIUS *Inst.* 3. 78-80; 4. 35; cf. *lex agraria* (*Roman Statutes*, I no.2), line 56.

¹¹ GAIUS 3. 78; *Codex Iust.* 7. 71, cf. M.W. FREDERIKSEN, "Caesar, Cicero and the Problem of Debt", in *JRS* 56 (1966), 128-41.

¹² NOVIUS fr. ex incertis fabulis 11 (= l. 115), ap. CIC. *De orat.* 2. 255; *lex Rubria de Gallia Cisalpina* (*Roman Statutes*, I no.28), ch.21, lines 19-20; *lex Coloniae Genetivae Ursonensis* (*ibid.*, no.25), ch.61.

and Varro in the late fourth century) can have achieved was to put an end to debt-slavery that was voluntarily contracted.¹³ *Addictio* to the wronged party for private detention was also, even in the last two centuries of the Republic, the penalty for manifest theft and other private offences treated as capital.¹⁴

Talio does seem to have been replaced by Chapter 3 of the *lex Aquilia*, whose date (let us accept at least after 287 BC) remains highly debatable.¹⁵ As for the formal incorporation of private force in legal procedure, the *actio per manus iniectionem* may have been largely superseded by praetorian actions based on a formula, the *ius honorarium*, but not entirely, in so far as we find *manus iniection iudicati* prescribed in the charter of Caesar's colony at Urso (*Roman Statutes*, I no.25, ch. 61). *Manus iniection pro iudicato* is also to be found in the (admittedly some what archaic looking) constitution that Bantia adopted about 100 BC (*Lex Osca tabulae Bantinae, Roman Statutes*, I no. 13, line 24), and in a sacred law from Luceria (*ILLRP* II 504, lines 5-6). Praetorian actions would have also largely replaced the old *legis actio sacramento* with its *vindication*, but in the *De oratore* of 55 BC (1. 41) Cicero could still talk of the *sacramento* process as a possible alternative to actions on the basis of an interdict, while, if the procedure was completely obsolete, his burlesque of it in the *Pro Murena* (26) would have lost much of its point. On this basis the answer to our question then must be that the profile of the use of private force within the law was diminished, but only slowly over four hundred years. The greatest change was yet to come with Augustan legislation.

The relation of violence to the law in the late Republic can be best seen in the history of a comparative innovation, the

¹³ See A. LINTOTT, "La servitude pour dettes à Rome", in *Carcer I*, éd. par C. BERTRAND-DAGENBACH *et alii* (Paris 1999), 19-25.

¹⁴ GELL. 11. 18. 8; PLAUT. *Rud.* 888-891; CATO, *ap.* GELL. 11. 18. 18 = *ORF*, fr. 224 p.91; LIV. 23. 14. 3; GAIUS 3. 189; PLUT. *Cato mi.* 2. 6 (the children's game).

¹⁵ J.A. CROOK, "Lex Aquilia", in *Athenaeum* 62 (1984), 67-77.

interdicts about possession and violence.¹⁶ These were injunctions which a plaintiff could seek from the praetor to order to confirm or restore his or her tenure of property — not ownership, though matters of ownership might be relevant to the case. In the basic interdict about possession, to which allusion is made in Terence's *Eunuchus* (319-320) of 161 BC, the praetor forbids the use of violence to disturb possession, but it follows also from the exception clause that the use of violence was also one of the circumstances which invalidated the right to possess of a possessor vis-à-vis the man whom he had dispossessed (*Dig.* 43. 17. 1; *Fest.* p.260-262 Lindsay). Taking back by force what you had lost by force, if it was at the expense of the man who had taken it from you, was therefore legitimate. The *lex agraria* of 111 BC (*Roman Statutes*, I no. 2, line 18) includes a development of this, the interdict *unde vi* — perhaps its earliest formulation. This provided for the restoration into possession for the man who had been expelled by force, provided that he had not acquired it (*inter alia*) by violence from the man who expelled him. The law thus sought to protect possession against violent disturbance and to discourage the use of violence to establish claims to possession, where there was no other legal basis for entitlement to this.

After the Social War and the civil wars of the eighties BC Roman law applied to all of peninsular Italy, an Italy where property was being ruthlessly acquired by the victors legally or illegally. In the following decade we find a new interdict and other remedies devised by praetors for the improper use of force. Cn. Octavius, praetor in 79, introduced the *formula Octaviana*, an action to restore property removed by coercion, *quod per vim et metum abstulisset* (*Cic. Verr.* 2. 3. 152; *ad Q.fr.* 1. 1. 21). Another praetor in 76, M. Lucullus, produced an action specifically directed against the activities of the use of

¹⁶ A.W. LINTOTT, *op.cit.* (n.1), 126-9; F. SERRAO, *La 'iurisdictio' del pretore peregrino* (Milano 1954), 74ff.; L. LABRUNA, *Vim fieri veto* (Napoli 1970); B.W. FRIER, *The Rise of the Roman Jurists. Studies in Cicero's pro Caecina* (Princeton 1985).

gangs of armed men. The condemned defendant was required to pay the plaintiff four times the cash value of the loss caused by the violence of organized or armed men through the unlawful purpose (*dolo malo*) of his slaves (Cic. *Tull.* 7-11; *Dig.* 47. 8. 2ff.). About the same time a more stringent version of the interdict *unde vi* was introduced applying to armed violence. This seems to have largely ignored the question of rightful possession. The man who employed armed violence to expel another from property was required to restore him, the only known exception being if he himself had been expelled by that man by armed violence (Cic. *Caec.* 23. 89-91; *Fam.* 7. 13. 2). This information is double-edged: it shows a determination by praetors to repress violence, especially armed violence — indeed this is precisely what Cicero says about Marcus Lucullus; on the other hand it implies an increase in the practice of this violence. Moreover, we know about the Lucullus action and the interdict *de vi armata* largely through two speeches of Cicero, the *Pro Tullio* and the *Pro Caecina*, from which it is clear that these were controversial cases. The text of the *Pro Tullio* represents a speech delivered in a second hearing; the *Pro Caecina* one delivered in a third, after judges (*recuperatores*) had been unable to deliver a verdict. The difficulty in deciding these issues chiefly arose because the advocates opposing Cicero built their cases on the argument that their clients' violence was justified because they were defending their own property.¹⁷

Servius Sulpicius Rufus (*Dig.* 43. 24. 7. 4), was asked to comment on a case where a man had destroyed part of a neighbour's house without the owner's permission in order to prevent a fire spreading to his own: should an exception from the restitutory interdict *quod vi aut clam* or from the *lex Aquilia* be granted? His reply was that an exception should be granted, if a magistrate had committed this act, but a private

¹⁷ Cic. *Tull.* 38-56; *Caec.* 24-27. See *Rhet. ad Herennium* 4. 40 for a converse argument that possession, when there was no basis for a claim of ownership, must have been based on violence.

citizen should not be given this concession (cf. Ulp. in *Dig.* 50. 17. 176). We see here a late-Republican jurist seeking to limit the use of private force in what must have seemed to the perpetrator a just cause. Nevertheless, the implication is that others thought differently. The boundaries of *Selbsthilfe* were evidently a live issue in the late Republic.

To discuss adequately the limitations placed on violence in the political field would require a survey of Republican history, for which I have not the time. Legislation directed specifically against political violence did not occur until the period of turbulence after the Gracchi. The consular law of Lutatius Catulus — normally placed in 78 BC, though recently attributed to the consul of 102¹⁸ — seems to have been a measure against armed insurrection and sedition. It was followed by a *lex Plautia* (of before 63, perhaps 70 BC), which included a number of specific offences but, where violent actions were not in themselves obviously seditious, included the qualification *contra rem publicam*.¹⁹ This legislation resembles an attempt to put out a fire which has already started: indeed in the contest between political violence and the law in the late Republic the law was certainly the loser. What I would like to consider instead in the second part of this paper is something that was critical in the history of political violence but much more ambiguous, the function of the tribunes of the plebs.²⁰

According to Roman tradition, the tribunes were created after a secession of the plebs in 494 and their powers were re-established in 449 after the decemvirate through what Cicero in his speech *Pro Cornelio* described as an armed seizure of the

¹⁸ For the traditional identification see A.W. LINTOTT, *op.cit.* (n.1), 112-22; contra B. KELLY, "The Law that Catulus passed", in *Roman Crossings. Theory and Practice in the Roman Republic*, ed. by K. WELCH and T.W. HILLARD (Swansea 2005), 95-118.

¹⁹ A.W. LINTOTT, *op.cit.* (n.1), 116-24.

²⁰ Summarised in A.W. LINTOTT, *The Constitution of the Roman Republic* (Oxford 1999), 121-8, 206-7. Major treatments are by J. BLEICKEN, *Das Volks-tribunat der klassischen Republik* (München 1955); L. THOMMEN, *Das Volks-tribunat der späten römischen Republik* (Stuttgart 1989).

Capitol (a *coup d'état*) (*Pro Corn.* frr. 49-50 Puccioni). It is unnecessary to discuss at length here how their status in the community as a whole depended on the oath sworn by the plebs that the persons of the tribunes should be sacrosanct: this enabled them to lend aid to citizens and to intervene (*intercessio*) to obstruct actions regarded as detrimental to the interests of the plebs they represented. Nor do I wish here to engage in an argument about the origins of *provocatio*, the citizen's protection against arbitrary flogging and execution, except to notice that the appeal to the people as whole (*provocatio*) tended to be combined with appeal to the tribunes. Their powers remained of immense importance even in the late Republic. A tribune might be seen physically obstructing or coercing another magistrate. The definitive example was when the tribunes M. Cato and Q. Minucius Thermus tried to veto a bill being proposed by their colleague Metellus Nepos in 62, which sought to recall Pompey to take control of Italy. Cato seized the text of the bill and, when Metellus notwithstanding continued to recite it by heart, Thermus stopped his mouth with a hand and cut off his voice (Plut. *Cato mi.* 28. 1). Two years later the tribune L. Flavius imprisoned the consul Metellus Celer because of the latter's obstruction to his agrarian bill.²¹ However, what concerns me here is the way that the tribunes' defensive and obstructive powers might be used in a constructive way to bring reconciliation and avoid disorder.

About the year 150 BC the curule aedile A. Hostilius Mancinus attempted to prosecute the prostitute Manilia in the *comitia* on the ground that when he tried to visit her one night — he presumably claimed that this was in pursuit of his official duties as supervisor of the welfare of the city — he had been driven from the house and struck by a stone. Manilia '*ad tribunos provocavit*' and they heard her case, that is, that the aedile was garlanded on his way from a party and, although she had

²¹ CIC. *Att.* 2. 1. 8; DIO CASS. 37. 50. See also A.W. LINTOTT, *op.cit.* (n.1), 71.

said that this was not a convenient time to receive him, he had tried to break into her house. The decision of the tribunes was that he had been driven off from a place where he had no business to go after a party, and they therefore vetoed Mancinus' attempt to prosecute Manilia. The incident is not only interesting in itself — an intervention of the tribunes in a matter of public order and official abuse of authority, but because of its source, the Augustan lawyer C. Ateius Capito in his work *De iudiciis publicis*.²² He related the story and gave what seems to be the actual text of the tribunes' decree. Even if Capito's actual source was an annalist, it is in my view likely that the decision was preserved in records of the tribunician college. It shows the tribunes coming to a judicial decision on the propriety of a prosecution and highlights the importance of that magistracy in matters of the law. Their protection might be offered to both humble persons and members of the elite. According to Livy, when the Petillii accused Scipio Africanus and the latter retired to his villa at Liternum before the trial could take place, his brother Lucius appealed to the remaining tribunes to respect Africanus' plea of absence through illness. The rest of the college, in spite of representations from the Petillii, accepted this as a temporary excuse, while Tiberius Gracchus (*cos.* 177 and 163) went further and said he would obstruct any trial, if Scipio returned to Rome.²³

In the same period even more divisive matters were referred to the tribunes. From the time of the Third Macedonian War there had been problems over the conscription of soldiers. In 171 BC, at the beginning of that war, a number of time-served centurions, who did not wish to be recruited and

²² Fr. 5, *ap.* GELL. 4. 14. 1-6 = *Iurisprudentiae Antehadrianae quae supersunt* II 1, ed. F.P. BREMER, p.283-284.

²³ LIV. 38. 52. A different version is in GELL. 6. 19. 5-7, where the appeal and the protection occur before Scipio leaves Rome. See A.W. LINTOTT, "Provo-catio. From the Struggle of the Orders to the Principate", in *ANRW* I 2 (Berlin/New York 1972), 226-67 at 254-5 with further references to the controversy over the tradition.

assigned lower ranks than they had last held, appealed to the tribunes. Two tribunes wished to pass this matter on to the consuls, but the rest undertook the investigation of the complaint (*cognitio*). The case was heard before the tribunes' seats with, at the request of the consul P. Licinius Crassus, a crowd of onlookers formally invited into a *contio* (Liv. 42. 32. 7 – 33. 2). After a speech by one of the former centurions expressing his readinesss to serve wherever ordered, the rest abandoned the appeal (Liv. 42. 34 – 35. 2). In 151 BC, however, the tribunes imprisoned the consuls as a measure of opposition to a really stringent levy for the army in Spain, in which the consuls paid no attention to the tribunes' request for exemptions, presumably after appeal had been made to them (Liv. *Per.* 48). Then in 138 the tribunes once again imprisoned the consuls, D. Brutus and P. Scipio Nasica Serapio, for not permitting them to exempt ten men each (100 men in total), but on the other hand condemned after a hearing a certain C. Matienus to be flogged and sold as a slave for having deserted the army in Spain (Liv. *Per.* 55; *epit. Oxyrh.* 8. liber 55). The levy had become a source of popular unrest and the tribunes had in effect become the mediators and brokers between the consuls and the people.²⁴ Moreover, the college was acting as a kind of court.

We also find the tribunes holding hearings to determine whether they should offer protection to someone in the late Republic. When Sthenius of Thermae fled from Sicily to Rome in 71 and had been corruptly condemned by Verres on a capital charge in his absence, the matter was taken up not only in the senate but by the tribune M. Lollius Palicanus. In consequence Cicero was able to plead his case before the tribunes, and they decreed unanimously that Sthenius' condemnation by Verres did not entail his exile from Rome (Cic. *Verr.* 2. 2. 95–100). In a case of 58 BC the tribunes resolved not to offer protection by obstruction. Clodius' freedman Clodius Damio

²⁴ See A.W. LINTOTT, *art.cit.* (n.23), 244.

appealed to the college when the urban praetor L. Flavius had accepted a charge against him and was about to bring him to trial. Although Clodius himself was a member of the college, the majority outvoted him and rejected the appeal. Asconius (41, p.46-47 Clark) preserves for us the *sententia* delivered by L. Novius, who had been wounded by one of Clodius' attendants during Clodius' attacks on Pompey, which Asconius had found in the *Acta*.

The most dramatic interventions by tribunes, however, were made in the middle Republic, when the lives of men condemned or about to be condemned were at stake. In 270 BC, when the Roman and Campanian prisoners, survivors of those who had mutinied and seized control of Rhegium while they were officially its garrison during the war with Pyrrhus, were brought to Rome, there was, according to Dionysius of Halicarnassus (20. 16. 1-2) and Orosius (4. 3. 5), a vote by the people before they were executed, apparently in a tribal assembly. This is likely to have been introduced by a tribune, and indeed a variant version in Valerius Maximus (2. 7. 15) states that the prisoners were executed after a protest by a tribune that they should not suffer this without condemnation first. In 210 after the fall of Capua 300 Campanian nobles were sent as prisoners to Rome. A tribune consulted the plebs about their fate and obtained a decree ratifying in advance whatever decision about them the senate should take under oath (Liv. 26. 33). In 204 a judicial commission was sent to investigate the scandalous behaviour of Q. Pleminius and the Roman soldiers at Locri (comprising extortion, rape, and murder) and condemned him and thirty-two others, sending them in chains to imprisonment at Rome, presumably in anticipation of their execution, as we find in most cases of imprisonment after trial. We must assume that they employed *provocatio* and enlisted the help of tribunes. For they were not executed, but in the years following the tribunes brought them frequently before the people in the hope that they might be pardoned. These assemblies, however, refused. Ten years

later Pleminius either died a natural death or was executed after an attempt to escape under cover of a riot.²⁵

Tribunes then might facilitate the infliction of a capital penalty on Roman citizens or frustrate it. As far as we know, they did neither when the investigation and execution of the Bacchanals took place in 186, nor did they oppose the actions of the Popillian tribunal that condemned supporters of Tiberius Gracchus in 132. Much would depend on the personalities and political allegiances of those who were members of the college in a particular year. The situation changed, however, when C. Gracchus passed in 123 his *lex Sempronia de capite civium*, forbidding capital condemnations without specific authorisation from the people (Cic. *Rab. Perd.* 12; Plut. *C. Gr.* 4. 1). This did not in fact lead to more references to tribunes and an assembly, when people had been condemned by some temporary tribunal presided over by a magistrate, but to the creation of more *quaestiones perpetuae* for capital cases, whose judgements were not subject to appeal.²⁶

The political importance of the *quaestio perpetua* during the Republic is normally held by scholars to lie in the conflicts it engendered between the senate and the equestrian order and in the opportunities it provided for infighting among the elite. Less emphasised has been its importance as a safety-valve for popular resentment and unrest. The popular aspect of C. Gracchus' own *lex de repetundis*, which dealt with non-capital cases, was pointed out by A. N. Sherwin-White.²⁷ It proposed a jury that not only excluded senators but also equestrians who had been minor magistrates or were closely related to senators, thus in addition eliminating the upper echelons of the equestrian order. It sought to ensure that all

²⁵ LIV. 29. 20-21; 29. 22. 7-10; 34. 44. 6-8. On these cases see J. MARTIN, "Die Provokation in der klassischen und späten Republik", in *Hermes* 98 (1970), 72-96; A. W. LINTOTT, *art. cit.* (n.23), 240-6.

²⁶ A. W. LINTOTT, *art. cit.* (n.23), 255-7.

²⁷ "The Lex Repetundarum and the Political Ideas of Gaius Gracchus", in *JRS* 72 (1982), 18-31.

actions of the court and its presiding magistrate should be publicly visible (*palam*). Written texts were to be posted *ubei de plano recte legi positur* (where it can be correctly read from ground level).²⁸ It is reasonable to assume that these provisions were taken over by later statutes establishing *quaestiones perpetuae* in capital cases.

High-profile political cases still might to be prosecuted before assemblies or before special tribunals, such as the *quaestio Mamilia* and the *quaestio Varia* — the former of these is said to have had 'Gracchan jurors' (Cic. *Brut.* 128), the latter equestrian jurors (App. *BCiv.* 1. 37. 165). However, the *quaestio perpetua* was intended to be a regular court, where justice was both done and seen to be done, and this in turn justified its independence from obstruction and appeal. In the end such an object may have seemed to be a pious hope, and the courts could still be thought to be pursuing class or sectional interests. This would have been no doubt Marcus Antonius' justification for introducing the possibility of appeal for those condemned either for *vis* or for *maiestas* under Julius Caesar's legislation (Cic. *Phil.* 1. 21; 1. 23) — a statute first declared invalid by the Senate in 43, but then probably reintroduced under the Triumvirate.²⁹ Nevertheless, Romans, including Cicero, Pompey, and Caesar, clearly did see the proper functioning of these courts as an alternative to the dominance of violent conflict at Rome.

Tacitus' comment on the late Republic is well known: *corruptissima re publica plurimae leges* (*Ann.* 3. 27. 3). The choice between *vis* and *ius* was not evenly balanced, when men still saw violence as the proper route to secure perceived rights, even if to take this route was a gamble. In such a situation a flood of statutes could not provide security. It remains true that the developments both in criminal and civil law in

²⁸ *Lex repetundarum, Roman Statutes*, I no.1, lines 20, 38, 51-52, 65-66.

²⁹ Cic. *Phil.* 5. 16; 5. 21; 6. 14; 11. 13; 12. 12. See J.T. RAMSEY, "Mark Antony's Judiciary Reform and its Revival under the Triumvirs", in *JRS* 95 (2005), 20-37.

the late Republic are to be admired. As in many other aspects of Rome's intellectual life, this was a highly creative period. The beneficiaries were not the contemporaries but those who survived to see how Augustus, as the *aureus*, recently acquired by the British Museum, puts it, *leges et iura populo Romano restituit*.³⁰

³⁰ J.W. RICH and J.H.C. WILLIAMS, "Leges et iura p.R. restituit: A New Aureus of Octavian and the Settlement of 28-7 B.C.", in *Num.Chron.* 159 (1999), 169-213.

DISCUSSION

P. Ducrey: J'ai été frappé par votre observation préliminaire, que les Anciens cherchaient un niveau acceptable de violence privée plutôt que la sécurité totale. Mais la question que je voudrais poser est la suivante: vous avez parlé seulement de la sécurité à Rome; quelles mesures les Romains ont-ils prises dans l'ensemble de l'Italie?

A. Lintott: The Romans, like the Greeks, experienced piracy on the coast and brigandage in the countryside. Nor did either cease with the coming of the Principate, as R. MacMullen has well demonstrated in his works. During their conquest of Italy the Romans provided a basis for security by founding colonies on the coast and inland and constructing roads. We also know that even before the Social War they provided military assistance to Italian cities and conducted investigations into, and security operations against, brigands.

A. Chaniotis: In your paper you have suggested a very helpful shift from a question of quality (what kind of violence and self-help is justified?) to a question of quantity (how much violence can be tolerated?). What about measures that could prevent violence (e.g. educational measures, measures which create unfavourable conditions for violence)? Greek prohibitions against the carrying of weapons in sanctuaries and during festivals, against excessive lament in funerals, against the wearing of see-through clothes during processions, etc., may have very different origins (religious, social, etc.), but one of their collateral advantages is that they reduced the potential for violence, crime, and emotional tensions.

Y. Rivière: Un convoi funèbre provoqua une émeute à Polentia sous Tibère, lorsque la foule chercha à extorquer des héritiers la somme nécessaire à un combat de gladiateurs. Inutile, d'ailleurs, de faire mention du panégyrique funèbre de Jules César par Marc Antoine.

A. Lintott: The Romans were deeply suspicious of any association that might be subversive, to judge from the bans on gatherings found in municipal laws (*lex Urson.* 106; *lex Irn.* 74). There may have even been a prohibition of nocturnal meetings at Rome in the *XII tables*. Hence the ruthless repression in 186 BC of the Bacchanals, who met at night and often underground. Funerals were of course occasions for dangerous emotions. Indeed, as I showed in my *Violence in Republican Rome* (ch.1), the Romans recognised an aggressive use of mourning (i.e. dishevelled clothes and long hair). There were also restrictions on funerary expenditure, which might have helped to reduce any display that would have attracted a crowd. However, nothing was enacted legally to curb funeral oratory. There were also sumptuary laws against expenditure and display in general but these were more connected with the repression of electoral bribery than with violence. As for the carrying of weapons, the elder Pliny attributes to Pompey in 52 an edict banning the presence of *tela* in the city, but this seems to have been a temporary measure of uncertain effectiveness. The most educational influence which comes to my mind was the development of the law and the increase in potential access to it provided, for example, by the creation of the *quaestiones de sicariis et beneficis* which were served by a large number of practising orators who would undertake the cases of others for the sake of their own prestige.

C. Brélaz: Par rapport aux *tela*, la *lex Iulia de vi publica* interdit pour la première fois à un Romain de détenir des armes (*arma tela*) chez lui ou de les porter en public.

A. Lintott: There was some precedent for this in a provision of the Republican *lex Plautia de vi*, which banned the carrying of a weapon (*telum*) in public, but in my view this was limited by the qualification *contra rem publicam*.

R. MacMullen: I am interested in the way the whole system worked, and for whom. You described the case of the prostitute Manilia who caused an aedile, a mighty man, to lose face. So he sought to punish her by bringing a suit. However, the tribunes rescued her. Maybe some of them liked her very much and did not like Hostilius Mancinus. This contrasts with the way an orator might dismiss similar charges of assault against humble people.

I invite your impressions, whether it was typical that in your chosen area of discussion (the city of Rome) a member of the mass of the population, not the well-connected, ever did litigate. Further, I wonder how you envision the day-to-day operation of the courts. I gather that for battery, rape, similar acts of violence, only a single court is in question. How many days would it meet a month?

A. Lintott: Traditionally, access to the courts for the poor was through the assistance of a patron. Manilia would have access to one or more of these (not necessarily her clients in our sense), especially as she was probably a freedwoman. By the late Republic the number of patrons was augmented by quasi-professional prosecutors who looked for custom. Under the Republic battery and rape would have been prosecuted through private suits involving jurisdiction by the *praetor urbanus* (a comparatively short time in a day) and a hearing by a judge whose time limits were not restricted by those of public business. For homicide the average trial in the *quaestiones de sicariis et beneficis* would probably have been more brief than those involving the elite, and in the first eight months of the year at least there were plenty of days on which they could be held. As to trials outside Rome, until the Social War Roman, Latin, and

allied towns had their own jurisdiction. In the last years of the Republic this was restricted in various ways, one of which was the requirement that capital trials took place at Rome.

H. van Wees: The problem of containing violence when a large proportion of the population has weapons at home is perhaps not as acute as it may seem. The few known instances of Greek states legally controlling the carrying of weapons have a very limited scope — they apply to sanctuaries, councils and assemblies only — yet weapons were in practice rarely carried in civilian life in classical Greece. The *ownership* of weapons therefore may not be a major factor in assessing the level of threat to public security, which may be much more affected by prevailing informal, cultural norms concerning the *use* of such weapons. As in modern Switzerland, in classical Athens most men owned weapons of war — yet Athenians generally fought one another with sticks, stones and broken pottery rather than spears and swords.

A. Lintott: This seems also have been true at Rome. Saturninus encouraged his followers to use stones and was himself killed by roof-tiles. Tiberius Gracchus was clubbed to death, Caesar stabbed with daggers, while in the early Republic Servilius Ahala allegedly got his *cognomen* from the arm-pit in which he concealed the dagger that killed Spurius Maelius.

H. van Wees: Your account of changes in law in legal procedure shows a gradual but significant reduction in the scope for private use of force. Would you say that this was driven by a conscious move on the part of legislators and decision-makers towards greater centralisation of power? Or was it an incidental by-product of decisions made primarily for other reasons? For example, the introduction of procedures for the sale or surrender of property in order to meet debts, as an alternative to debt-bondage or sale into slavery: was this intended primarily to remove some forms of violence from private hands, or, say,

to serve the economic interests of creditors? (One might imagine that by the second century BC, with the influx of foreign slaves, creditors no longer found debt-bondage or sale into slavery profitable.)

A. Lintott: I do not see any drive towards the centralization of power under the Republic: indeed it was contrary to the ethos of the regime. The Principate and Dominate are another matter. As to the alternatives to debt-bondage, they seem to have been intended to provide a more efficient means for creditors to obtain money, while at the same time preserving to some extent the *existimatio* of the debtor. They were of little use when the debtor was really poor, and consequently there were still plenty of debt-bondsmen in the late Republic.

W. Riess: You mentioned the re-structuring and enhancement of "police" forces in the city of Rome during the early Principate. To what extent, do you think, were these measures successful in making Rome safer? Can we really speak of a tangible improvement of the situation, especially in the light of the continuing and endemic insecurity in the Italian countryside? Was the city any better off?

A. Lintott: Apart from more stringent legislation against violence, there was an apparently systematic attempt to increase the magistrates and the forces concerned with security. The *praefectus urbi* was instituted. The praetorian guard was of course the guard of the imperial family, wherever its members were: its units, consequently, might operate at Rome (it was only under Tiberius that they obtained the barracks at Rome whose walls are still to be seen near Termini), and there were associated with them the urban cohorts, specifically Rome's gendarmerie. The *vigiles*, moreover, were not a fire-brigade in our sense but a paramilitary force with the responsibility to prevent fires or to limit their effect by pulling down buildings. Nor should one forget the effect of the organization of Rome

into regions and the conversion of the *magistri vicorum* into a political institution. The latter could, if nothing else, report intelligence to higher magistrates. In the longer run, however, what may have been important was the rebuilding of Rome after the Neronian fire with *opus latericum* apartment blocks for the poor and greater spaces between buildings, thus making conflagrations less likely and providing space and sight-lines for the security forces.

W. Riess: The similarity between some features of the early Roman judicial system and Greek, respectively Athenian legal practice is striking: the crucial role of witnesses and bystanders, the ritualized exertion of force, the formality of the physical summary arrest, the possibility to appeal to a magistrate to have a malefactor arrested, to name just a few examples. It is hard to believe that all these similarities are purely accidental. Romans and Greeks were in constant interchange, especially in Southern Italy. How far would you go in attributing these common features to cultural contacts?

A. Lintott: One provision of the *XII Tables* was recognised in Antiquity as being identical to that in a law of Solon (*Tab. 7. 2*), but it is of little use for our present purposes since it concerns the boundaries between properties. I am happy to believe in Greek influence but think it is as likely to have come from the lawcodes of Greek cities in Magna Graecia and Sicily. *Talio* of course is said to have been included by Charondas in the law-code of Thurii in the same period as the creation of the *XII Tables* (*Diod.Sic. 12. 17. 4*).

VI

RAMSAY MACMULLEN

THE PROBLEM OF FANATICISM

Fanaticism I take in a quite conventional sense, to mean devotion to a religious belief for which one would die, if need be. Nothing of the sort was to be found in the ancient world in polytheist times and regions. Did Artemis or Isis demand such sacrifice? No, it was neither claimed nor wanted by any of the immortals. As to mortals, those who were polytheist were content to see piety offered to any deity and expressed in any manner one might choose. Greek and Latin lacked even a term for what we call fanatics.¹

¹ The word's root lies among devotees and officiants in temples, *fana*; thence, into many modern languages. Random illustrations in E. GIBBON's *Decline*, often (of Circumcellions, monks, Nestorians, and Montanists, but never of a faith defined in his day as orthodox), cf. A.H.M. JONES, *Constantine and the Conversion of Europe* (London 1948), 123, of Donatists ready to endure death, or W.H.C. FREND, *The Rise of the Monophysite Movement* (Cambridge 1972), 35, 70, 89, etc., of "heretics"; or Byzantinists like A.A. VASILEV, *Justin the First* (Cambridge, Mass. 1950), 211, 242, or J. JARRY, *Hérésies et factions dans l'empire byzantin du IV^e au VII^e siècle* (Le Caire 1968), 221, 260, 313, of "fanatical" anti-Chalcedonians; or in T. RICE HOLMES, *A History of the Indian Mutiny* (London 1898), 90, "Mahomedan fanaticism", or F.S. ROBERTS, *Forty-One Years in India* (London 1911), 15, "a religious fanatic" calmly suicidal over "insult... to their religion"; 43, similar suicidal act; or 56, "animated by religious fanaticism". Greek has no equivalent. *Zelotes* is sometimes taken in this sense, cf. H.St.J. THACKERAY in the Loeb Library translation of JOS. *Bell.Jud.* (hereafter *Bj*) 2. 444 (= 2.17.9), or PHILO AL. *Migr.* 62, "fanatiques" in C. MÉZANGE, *Les sicaires et les zélotes au tournant de notre ère* (Paris 2003), 138. Yet notice, a Christian can recommend a brother as a *zelotes*, EUS. *HE* 5. 4. 2. Latin *fanaticus* hasn't the modern sense, either, cf. *ThLL s.v.*, where *fanatici* as madmen (but without the will to give their lives) may rather be those who are punished by the gods for desecrating *fana*. For other modern applications of fanatic, cf. n.5, below.

Monotheists were quite different. They insisted on the truth of one god alone, perhaps worshipped in one certain way (for, as Henry Chadwick points out, one's enemy might be a theological cousin, a heretic or schismatic). They were certain they were right. For this, they would surrender life itself — but only if it was required of them (hence a recent reminder, “it takes two to make a martyr”). Generally they could live at peace with their neighbors; the true nature of their certainty needn’t emerge. Without the active expression of an opposing belief perhaps rising to the level of angry argument or even persecution, one might never suspect the deadly nature of their faith.²

The phenomenon is distinguished by another quality: its irrationality — which in some sense *is* religion. Fanatical actions had about them no pretense of calculation, no reckoning of worldly, material, commonsensical benefit, no reaching for money or land or the political influence which is power. They were inspired rather by feelings, not thoughts.

Further: the usual instruments and routines serving public order couldn’t control fanaticism because it was, either in its passive or desperate form, utterly intractable. It could not be controlled — except by extreme force, which, in the form of arms of war and capital punishment, remained a monopoly of the imperial government, not the local. All ordinary disturbances and crimes fell to the latter to take care of, but not fanaticism.

And notice, finally and most obviously: fanaticism was an internal problem of the empire even when it became a military problem, perhaps on a grand scale.

² H. CHADWICK, *East and West: The Making of a Rift in the Church* (Oxford 2003), 1, “Perhaps the monotheistic religions manifest these strong cleavages in an exceptional degree”, as seen in Judaism, Christianity, and Islam, marked by “feelings of anger and alienation”. Or EUS. *Laud. Const.* 16 (PG 20.1424B); and notice (for the perception if not the truth) how Jews in Judaea under Augustus “slaughtered each other as if seized by some fit, and really possessed by some fiend, were forever engaged in wars and battles”. Quoted, “it takes two”, is R. LANE FOX, *Pagans and Christians* (New York 1989), 434.

An early illustration of the phenomenon is provided by the historian Josephus. He describes a group of young men, religious patriots, who openly tore down a forbidden emblem on the Temple gate that Herod the Great had there displayed; whereupon he asked them, "Why so exultant, when you will shortly be put to death?" They answered, "Because after our death we shall have the enjoyment of greater blessings".³ The three elements in the exchange recur typically, in similar scenes later: the puzzlement of the oppressor, the exalted joyous mood of those who defy him, and their certainty that their willingness to die for their religion would assure a heavenly reward.⁴

There is much of these very elements in the first of three Jewish revolts. Of the population enduring the Roman siege of Jerusalem, Josephus estimates more than a million died; the number who fell in other battles and sieges was huge; and, rather than surrender, many so-called *sicarii* joined in a mass suicide at Masada.⁵ Other *sicarii* seeking refuge in Egypt

³ In 4 B.C., *BJ* 1. 653 (= 1. 33. 3) and *Ant.Jud.* (hereafter *AJ*) 17. 149ff. (= 17. 6. 2f.); the more famous scene under Gaius Caligula, at *AJ* 18. 261ff. (= 18. 8. 2f.), the willingness to die; but also *BJ* 2. 258-260 (= 2. 13. 4), of the late A.D. 50s, where Roman army action against religious extremists "destroyed a great number" — though not specified as seeking death.

⁴ Joyous mood under torture and certainty of reward, *BJ* 2. 152-154 (= 2. 8. 10f.), among Essene martyrs; the model in e.g. *2 Macc.* 7. 10 and 12, and elsewhere; under Caligula, PHILo AL. *Legat.* 192, willingness to die; the same, 209, 233-236 at Caesarea before the governor; or *BJ* 3. 321 (= 3. 7. 33), the Jews' common "contempt, *hyperopia* of punishments", so that a captive, tortured, "even under the ordeal of fire, was finally crucified, meeting death with a smile".

⁵ On mortality in Jerusalem, cf. Ios. *BJ* 6. 420ff. (= 6. 9. 3), repeated by EUS. *HE* 3. 6. 17; on Masada, *BJ* 7. 320ff. (= 7. 8. 6ff.); M. SIMON, *Verus Israel. A Study of the Relations Between Christians and Jews in the Roman Empire* (135-425), transl. H. MCKEATING (Oxford 1986), 28, the "fanatical" *sicarii*; but the term "fanatical" should be applied to all the Jewish hopes of a God-sent messiah, in the decades leading up to the outbreak of the war and to its leader, Simon ben Giora, cf. A. MOMIGLIANO, in the *Cambridge Ancient History X* (Cambridge 1934), 854 (*sicarii*), W.H.C. FREND, *Martyrdom and Persecution in the Early Church* (New York 1967), 59, Judaea in Jesus' day "a homeland permeated with nationalist fervor and fanatical orthodoxy", or V.A. TCHERIKOVER and A. FUKS (Eds.), *Corpus Papyrorum Judaicarum* (Cambridge 1957-64), I 90 n.82, on messiahs; and another example of fanaticism (of several in Josephus), *BJ* 3. 355ff. (= 3. 8. 4ff.), mass suicide long settled on by a company of rebels, ever to stand fast by ancestral laws of God.

invited, by their violence, corresponding violence from the government, which sought to make them acknowledge Caesar as Lord; but “There was no one at all who was not astonished at the steadfastness and either insanity or strength of mind, however it should be termed”, that sustained them then “under every sort of torture and agony”.⁶

The resistant energy generated among the Jewish population required some 50,000 troops to confront them, in Judaea, and in Egypt, the same number or more. Including the vast effort of siege-craft at Masada, the Romans spent seven years on the effort.⁷ It was a great war. To make clear its lesson, the Romans killed and sold into slavery great numbers of Jews both in Judaea and in Egypt, where Josephus puts the death-total at 50,000 (*BJ* 2. 494-498 = 2. 18. 8). His figures reflect his estimate of the Jews’ determination in the face of certain defeat, a determination close to suicidal.

In spite of the lesson, a second rebellion broke out in 115, lasting for three years. It involved the Jewish population of Libya, Cyprus, Palestine, Egypt, Mesopotamia and, in much lesser degree, Palestine; and once again, a huge Roman army commitment.⁸ In Cyrene the rising had a messiah as its leader, a “King”; in Syria, it had its martyrs later remembered as saints. In Egypt, a target for destruction was polytheist temples.

⁶ Jos. *BJ* 7. 412 (= 7. 10. 1), quoted (*aponoia*); their violence and *aponoia*; the same term, 7.437 (= 7. 11. 1); and again used by EUS. *HE* 4. 6. 3 of the rebellion’s inspiration; later, the emperor refers to a Jewish martyr as “crazy, *mainomenos*”, cf. *The Acts of the Pagan Martyrs. Acta Alexandrinorum*, ed. with transl. & comm. by H.A. MUSURILLO (Oxford 1954), 67.

⁷ For the emperors’ troop numbers in Judaea, see B. LEVICK, *Vespasian* (London 1999), 29, 31; 60,000 in Egypt at the attack on Ptolemais, *BJ* 3. 64-69 (= 3. 4. 2). The end of the Masada siege, tying up a full legion and thousands of auxiliaries, is not easily dated (AD 71? 73?).

⁸ EUS. 4. 2. 1-5 speaks of “very great numbers”, “many thousands” of Jewish dead. The best treatment remains that of V.A. TCHERIKOVER and A. FUKS (above, n.5), I 86-93, II 237-44, esp. I 89 on the papyrological evidence of depopulation in Egypt, and at I 86f., speaking of “a great military force” under the Roman commander; “King”, I 88f.; temples destroyed, I 87 n.79; I 90; briefly updated in the *Cambridge History of Judaism*, ed. S. KATZ, IV (Cambridge 2006), 93ff.

Everywhere, the savagery of the rebels against their oppressors was unrestrained, resulting in gigantic loss of life and property. At the end, in retribution, the victors assured by their acts of devastation that the Jews throughout the rebellious areas would simply disappear from the historical record.⁹

But not in Judaea itself. There, in the three generations following the first rebellion, the population had somewhat recovered, and could support a third rising under a "Prince of Israel" with messianic claims, a leader commonly called Bar Kochba, in 132. Once again, more (perhaps much more) than 50,000 Roman troops had to be drawn in from all over the empire in fighting that lasted several years. Once again there were martyrs enduring torture for their faith, and extraordinary resistance inviting or requiring destruction of lives and dwellings. Dio Cassius' report of 985 villages entirely razed is confirmed at least to this extent: that no village so far excavated has failed to show the signs of destruction.¹⁰ Hadrian, perhaps present in person for a part of the war, must in the end have formed an

⁹ V.A. TCHERIKOVER and A. FUKS, I 93; *Cambridge History of Judaism* IV, 98; "saints" commemorated in martyr literature by the third century, cf. W. HORBURY, "Pappas and Lulianus in Jewish resistance to Rome", in *Jewish Studies at the Turn of the 20th Century: Proc. of the 6th EAJS Congress... 1998* (Leiden 1999), I 290-94; A.R. BIRLEY, *Hadrian. The Restless Emperor* (London 1997), 269, "the Jewish population in the Cyrenaica, Egypt and Cyprus had been in effect wiped out in 116-7".

¹⁰ "Bar Kochba" was the *nom de guerre* given to Bar Kos(i)ba. On the size of the government forces, see briefly the *Cambridge History of Judaism* IV, 123; at more length, A.R. BIRLEY (n.9), 268; S. APPLEBAUM, *Prolegomena to the Study of the Second [!] Jewish Revolt (A.D. 132-135)* (Oxford 1976), 24f., 45f.; N. SCHUR, *History of the Samaritans* (Frankfurt am Main 1988), 49; M. MOR, "The Geographical Scope of the Bar-Kokhba Revolt", *The Bar Kokhba War Reconsidered. New Perspectives*, ed. by P. SCHÄFER (Tübingen 2003), 110, 113-27 *passim*, minimizing; W. ECK, "Hadrian, the Bar Kokhba revolt, and the epigraphic transmission", *ibid.*, 163, 165, defending his article, "The Bar Kokhba Revolt: the Roman Point of View", in *JRS* 89 (1999), 78-81; S. MORTENSEN, *Hadrian: eine Deutungsgeschichte* (Bonn 2004), 142f.; A.R. BIRLEY, 270 on martyred rabbis, and ID., "Hadrian, circumcision, and the Bar Kokhba War", in *JRA* (2006), 680f.; on village-destruction, W. ECK, in *JRS* 89 (1999), 78, with 580,000 Jews slain, M. MOR also (*art.cit.*, 107) dwelling on this figure from Dio Cassius; and A. KLONER and B. ZISSU, "Hiding Complexes in Judaea: an Archeological and Geographical Update", in *The Bar Kokhba War*, 182.

over-all objective for his own and his generals' efforts. It amounted to ethnic cleansing. That was the solution, such was the problem.

The nature of that problem, meaning, a settled hostility between Jews and non-Jews, cannot be pictured in detail; yet some features are evident.

The most important is the very wide diffusion of Jewish residents and whole communities among the cities of the eastern provinces — and not only the eastern.¹¹ It was, however, diffusion without fusion, one may say. Jews preferred to live with their own kind; their "self-containedness and lack of contact with the larger, non-Jewish outside world" struck Arnaldo Momigliano "as the most outstanding characteristic of the Jewish community of Rome". Or, as Martin Goodman puts it, "The need to live close to a synagogue was one cause of the tendency of Jews to cluster in particular quarters in each city, but this trait reflects also the general attitude that separation from the non-Jewish world was in itself desirable and pious... to Tacitus it appeared that Jews 'stayed apart in their meals and their beds' out of 'a certain hatred of the human race'".¹² Tacitus' choice of terms indicates, no

¹¹ The extent of the diffusion of Jews in the empire is well indicated by Map 1 in K.L. NOETHLICH, *Die Juden im christlichen Imperium Romanum (4.-6. Jahrhundert)* (Berlin 2001), 245, with reff. at 57 and *passim*.

¹² See my "The Unromanized in Rome", in *Diasporas in Antiquity*, ed. by S.J.D. COHEN and E.S. FRERICHS (Atlanta 1993), 54, 62f.; D. NOY, *Foreigners at Rome. Citizens and Strangers* (London 2000), 265f. (but needless doubts at 489 n.499); T. BRAUN, "The Jews in the Late Roman Empire", in *Scripta Classica Israelica* 17 (1998), 142-49, an excellent collection of reff. on Jewish quarters in Rome, Dura, Antioch, and elsewhere; A. MOMIGLIANO's views in L.V. RUTGERS, *The Jews in Late Ancient Rome* (Leiden 1995), 45 (quoted) and 96, unconvincingly discounted; M. GOODMAN, quoted, in *The Cambridge Ancient History*, 2nd ed., X (Cambridge 1996), 778, though one might add TAC. *Hist.* 5. 5. 1, on the Jews' *adversus omnes alios hostile odium*; P. SCHÄFER, *Judaophobia. Attitudes Toward the Jews in the Ancient World* (Cambridge, Mass. 1997), 3, quoting to agree with M. SIMON, "The basic cause of Greco-Roman anti-Semitism lay in Jewish separatism. This means, in the last analysis, that it lay in their religion..."; on communities, PHILO AL. *Flacc.* 55, *Legar.* 132, and JOS. *BJ* 2. 494-498 (= 2. 18. 8), on the districts, *moirai*, in Alexandria; in Antioch, J. HAHN, *Gewalt und Religiöser Konflikt... (von Konstantin bis Theodosius II.)* (Berlin

doubt, marriage and religious festivals, the latter being in fact the ordinary venue for friends and neighbors to eat together — the ordinary social occasion of the week or season or year. Jews held themselves apart from both marriage and mixing.

Why so aloof? The rules of Jewish life in which their neighbors could see no sense could not explain what was more likely to be plain dislike, unsociability, arrogance: they are “a proud race, and turn away from the society of others on the ground that they are not on the same level of piety”. Their portrait was painted for them by a certain Celsus, a close observer in the region of their ancestral concentration.¹³

Piety could be carried to the length of hostility, creating that setting for martyrdom — that pairing — to which reference was made, above. If the Jews were judges, non-Jews were not only wrong but required correction, and must be persuaded of their shocking error. Of course, then, non-Jews responded as one might expect. In their judgment, Jews in denying reality to others’ worship and in speaking of Artemis and the rest as existent only in man-made objects, mere speechless, mindless idols — those Jews denied the gods themselves. They were nothing but “atheists”. The reproach became a familiar one — while, given the right chance, Jews for their part would destroy the polytheist and his altar.¹⁴ They became in consequence, though

2004), 140; in the Egyptian city of Hermopolis, “the Jewish *laura*” in *PAmh* 98 (late 2nd/3rd s.); and notice their definition as *politeumata*, e.g. in Berenike in Cyrenaica, V.A. TCHERIKOVER and A. FUKS (n.5), I 91-92 n.85.

¹³ ORIG. *Cels.* 5. 42.3, who goes on to observe the Jews exaggerated claims, *alazonecia*.

¹⁴ PLIN. *Nat.* 13. 46, “the nation of Jews, remarkable for so despising the gods”, *gens contumelia numinum insignis*; add, such biblical denials of gods, and mockery of them, as *Exod.* 20. 2f., *1 Paralip.* 16. 26, or *Pss.* 95 (96).5, to which S.D. Fraade, by personal communication (with my thanks), compares for explanation *Lev.* 19. 4 and 26.1, *Pss.* 97. 7, and *Hab.* 2.18; for the extreme in the conduct of the Essenes, cf. HIPPOL. *Haer.* 9. 26 quoted in C. MÉZANGE (n.1), 18; and on the Jews as “impious” or “unholy”, *anosioi*, cf. H.A. MUSURILLO (Ed.), *Acta* (n.6), 67. On Jewish destruction of altars and temples, cf. PHILO AL. *Legat.* 202, and APP. *BCiv.* 2. 380, in V.A. TCHERIKOVER and A. FUKS (n.5), I 87, 89f. n.80.

not always nor everywhere, the object of hatred, as they in turn hated their enemies.¹⁵ So it went. One need read only the Sibylline Oracles in the wake of the first and second rebellion to sense the longing for vengeance and vindication among the Jewish population, though there is no knowing what circulation these prophetic versified inventions enjoyed.¹⁶

Charged relations between monotheists and polytheists found expression in the opening days and weeks of the first rebellion. Gentiles then massacred Jews by the scores of thousands wherever they could be found in substantial communities: in Caesarea, Damascus, Gerasa, Scythopolis, Tyre, Ptolemais, Askelon, Sebaste, Philadelphia the City of Brotherly Love. It was the same again in the course of the second rebellion; and in the third, too, there were massacres in many cities.¹⁷ It could not be argued that the gentile majorities had suffered injuries needing to be avenged, nor of course that the Jews did not retaliate wherever they could — only, that hostility as a routine of life took command over action.

I review all these quite familiar facts, not only as a reminder of the large scale of the fanatical phenomenon, which is clear and consciously expressed by gentile observers: “I accuse them [the Jews] of wishing to stir up the entire world”.¹⁸ Rather, my aim is to call attention to the passions on both sides, as they

¹⁵ The word for *hate* appears not seldom in JOS. e.g. *BJ* 3. 410 (= 3. 9. 1); felt by others against Jews, 2. 461-465. 477-480 (= 2. 18. 2 and 5); cf. the hostile characterization of the Jews in Alexandria as “foreigners and immigrants”, by a Roman governor of the 30s A.D., after the Jews had been in the city for centuries (PHILO AL. *Flacc.* 54).

¹⁶ The fourth and fifth are the most apposite, foreseeing (that is, wishing eventually for) the extermination of the Romans; W.H.C. FREND (n.5), 145, would add the third Oracle, perhaps; and to these, P. VEYNE adds the prophet Esdras ca.270 (*L'empire gréco-romain* [Paris 2005], 300).

¹⁷ JOS. *BJ* 2. 457ff. and 477ff. (= 2. 18. 1f. and 5); 7. 41-42 (= 7. 3. 2); E. SCHÜRER, *History of the Jewish People in the Age of Jesus Christ (175 B.C. - A.D. 135)* (Edinburgh 2¹⁹⁸⁷), II 117; III 132; M. GOODMAN (n.12), 778; and W.H.C. FREND (n.5), 101.

¹⁸ *The Acta Alexandrinorum*, in V.A. TCHERIKOVER and A. FUKS (n.5), II 79, cf. II 41, Claudius in A.D. 41 corrects himself to say the “rioting” in Alexandria, *tarache*, is more truly called a “war”.

were made unmistakably clear in action; for fanaticism, my subject, is (to repeat) not a thing of calculations but of feelings.

Feelings: yes, they exist. But they are sometimes left out of account, and their existence, denied. A fashion took hold upon the historical guild, long ago, to explain events in terms of the material interest that the participants could perceive in some one choice or some other — to explain, that is, in terms of one's material interests. These could be quantified. Thus they looked reassuringly scientific and up-to-date; and social history could be folded into the fashion, with social class being treated as an economic epiphenomenon. Applied to the three Jewish rebellions, a properly sophisticated treatment would thus make bare mention, or no mention at all, of the provocative insults offered to religious devotion. What rather deserved consideration were wealth or poverty, caste and occupation, influence or dependence, town or country.¹⁹ Applied to the violence within the Christian community which I describe a little later, we are told “it is in the domain of economic dependence that we will find the common denominators of disorder, however much was added by cultural (read, “religious”) or doctrinal passions. And if we wish to assert that cognitive (read, apparently, “theological”) allegiances of this kind were more important springs to destructive conflict than social and economic relations”, we must still privilege the latter.²⁰

Considerations like these latter, however, determined no more than the choice of the means to an end. They determined the details of action among the actors in an event, not the choice of the end itself. They contributed nothing to that essential element, sheer energy. A commitment to a religious inheritance

¹⁹ J. HAHN, *Gewalt und religiöser Konflikt... (von Konstantin bis Theodosius II.)* (Berlin 2004), 18, on “social tensions” and political inequalities in Alexandria, without addressing the separation of the communities in the first place; H. ESHEL, in the *Cambridge History of Judaism* (n.8), IV 105ff.; or B. LEVICK (n.7), 26.

²⁰ N. PURCELL, “The Populace of Rome in Late Antiquity”, in *The Transformations of Urbs Roma in Late Antiquity*, ed. by W.V. HARRIS (Portsmouth, RI 1999), 158f.; and see further, below, n.51.

was really the moving cause, as many have said who have discussed the matter. It could be appealed to in simple slogans and calls for action, by charismatic figures such as are reported in various sources for all three rebellions. "Religious enthusiasm asks few questions and needs no rational answers".²¹

Of course, once under way, all three rebellions show urges and needs of a material sort at work, to seize power and property whenever the chance offered. No-one supposes that religion determined what everyone did at every moment, or that people so driven made up even a majority of all those involved. Yet "a little leaven leaveneth the whole lump" (*1 Cor.* 5. 6). The fanatical elements need not have predominated in numbers, to determine general levels of energy and resolution.

What Chadwick counted as a characteristic of monotheism (n.2), a sort of ferocity even in schisms, can be seen within the body of Judaism, dividing those whose center of worship was in Jerusalem from those whose center was atop Mt. Gerizim; and in the 50s A. D., the Roman army had to intervene in the hostilities between the two (*Jos. AJ* 20. 118-124 = 20. 6. 1); yet the two were or should have been brothers. Again in the 60s during the first rebellion the army went against the Samaritans on their very mountain, and slew nearly twelve thousand (*BJ* 3. 307-315 = 3. 7. 32).²² Later chapters in the Samaritan story must, however, be deferred until a later page.

A third branch of Judaism was of course Christianity, which the army had to deal with from Jesus' day under Tiberius, to Ignatius' under Trajan, and so to the time of the Tetrarchs, a stretch of almost three centuries.²³ The troops were used not

²¹ V.A. TCHERIKOVER and A. FUKS (n.5), I 90f. and 92, quoted; A.R. BIRLEY (n.9), 270, "Religion was unquestionably the driving force..." .

²² Equal legitimacy as Israelites yet animosity between the two sects, E. SCHÜRER (n.17), II 17, 19; N. SCHUR (n.10), 43; and L.M. WHITE, "Shifting Sectarian Boundaries in Early Christianity", in *Sects and Religious Movements*, *Bull. John Rylands Library* 70 (1988), Nr. 3, 11.

²³ On the government's monopoly of capital punishment, among many sources, cf. *Jo.* 18. 32 (confirmed by *Mt.* 27. 26-35, *Mc.* 15. 15-24, *Jo.* 18-19, but confused or erroneous in *Lc.* 23. 26-38).

against a mass movement but rather against single fanatics, and in no great numbers, either: a total of a few thousands, including those who suffered in the so-called Great Persecutions.²⁴ These differed from all ordinary criminals in their head-on disobedience, their *lèse-majesté* or *contumacia*, which placed them in the special category of insurrectionaries. Hence their handling by the military, whether to identify them as trouble-makers, or to make the arrest in the first place, or to serve thereafter as jailors or torturers or executioners. Though the martyrs were seldom persons of any local standing, nevertheless their importance to the whole body of their coreligionists at the time and subsequently insured that accounts about them would be carefully kept and handed on, to show us quite specifically how the army's agents were drawn in to the contest everywhere.²⁵

Like the Jewish martyrs whom they remembered and sometimes refer to, the Christians are reported to have bravely confronted or even sought out their fate, to the bewilderment of the authorities. Like Jewish martyrs, too, they endured the most exquisite agonies with a smile. "The poor wretches have convinced themselves first and foremost that they are going to be immortal and live for all time, in consequence of which they despise death and even willingly give themselves into custody".

²⁴ For a single exception where the army did act to annihilate a Christian community, in A.D. 303, see EUS. *HE* 8. 11, 1; on the number of martyrs, see my *Changes in the Roman Empire. Essays in the Ordinary* (Princeton 1990), 156.

²⁵ TERT. *Fug.* 13 (*PL* 2. 118f.), on *beneficiarii* and *curiosii* as a detective force; examples of other roles in EUS. *HE* 5. 1. 8 (Lyon), 17, 30; 6. 40. 2, 4, 21f.; *Mart. Polyc.* 7.2; 11.20; and in the collection *The Acts of the Christian Martyrs*, ed. by H. MUSURILLO (Oxford 1972), 22, 40, 156, 175ff., 198, 214, 280ff., 295, or in the *Atti e passioni dei martiri*, a cura di A.A.R. BASTIANSEN et al. (Milano 1995), 26, 66, 88, 118, 128, 138, 316; *Gesta apud Zenophilum* 9, and other North African items in J.-L. MAIER, *Le dossier du donatisme* (Berlin 1987-89), I 59, 63, 210f., 226, 265, 271, 282, 284; J. NELIS-CLÉMENT, *Les Beneficiarii: militaires et administrateurs au service de l'Empire (I^{er} s. a.C. - VI^e s. p.C.)* (Bordeaux 2000), 226; C. BRÉLAZ, *La sécurité publique en Asie Mineure sous le Principat (I^{er} - III^e s. ap. J.-C.)* (Basel 2005), 271-75.

Insane!²⁶ Incomprehension is something the Christian writers glory in discovering among their enemies, who simply did not know Christ; and they glory also in the martyrs' immunity to pain, not caring if the scenes as described were credible in everyday terms; for the value of the teaching outweighed the value of everyday truth. To dismiss the record as a mere literary production, a pastiche of tropes, would quite miss the point.

Like Jewish martyrs or rebels, too, the Christians are described as atheists. How so? Incomprehension began with the very word *theos, deus, god*.²⁷ In their view, everyone else's object of worship except their own either had no existence, and was in fact no god at all but a fiction rendered in stone or metal, or it belonged instead to a category of disgusting lesser

²⁶ Quoted, LUC. *De morte Peregrini* 13; EPICT. 4. 7. 6; and "you wretched men, if you want to die, there are cliffs and halters", TERT. *Scap.* 5. 1; CLEM.AL. *Strom.* 4.7 and *passim*, Christians (but seen as heretical) "hasten to give themselves up... desire to die"; H. MUSURILLO (n.25), 22, the *Mart.Carp. et al.* 9, "Stop being an idiot, *me morainete*"; 86, the *Mart.Scill.* 1, "If you recover your senses..."; 88, at §8, "Don't get caught up in his madness"; 190, the *Mart.Con.* 4. 7, the martyr's *moria*, "idiocy"; 252, the *Mart.Marcell.* 4. 2, "What madness possesses you, *furor*?"; 282, the *Mart.Agap. et al.* 3. 2, "What madness is this, *mania*?"; 316, the *Mart.Eupl.* 2.4, *insania haec*; behavior that is *alogos*, in the *Acts of Phileas* line 173; AUG. *Sermo Morin Guefferbytanus* 28. 2 and 4f. (*PL Suppl.* 2, 615ff., Donatists are mere suicides, "unhappy wretches"; possessed by *dementia, insani*, etc., *Sermo* 313E 4f. (*ibid.*, pp. 618ff.); EUS. *Mart.Pal.* 3. 4, the governor's "great astonishment" at martyrs' eagerness to be killed; idem, *HE* 8. 9. 5, full description of joy, etc., among martyrs; and the despairing question of the emperor, "What can we do to such pertinacity, which fails to obey orders and despises tortures, to such an extent that they (the anti-Chalcedonians) think it would be great and joyous for them to abandon their bodies rather than their religious opinions?" (*Coll. Avellana* #232, A.D. 520). The Montanists from the mid-second century and in Phrygia and the adjoining East provide the fullest examples, see A.R. BIRLEY, "Die 'freiwilligen' Märtyrer. Zum Problem der Selbst-Auslieferer", in *Rom und das himmlische Jerusalem*, hrsg. von R. VON HAEHLING (Darmstadt 2000), 105-21, esp. 109f. on perceived madness.

²⁷ Reff. gathered in my *Christianizing the Roman Empire (A.D. 100-400)* (New Haven 1984), 18, 129f., and *Christianity and Paganism in the Fourth to the Eighth Centuries* (New Haven 1997), 34, 121; and add EUS. *HE* 4. 13. 3 (no less relevant for being in an invented document), and Cyril of Jerusalem as representative of the later period, in his *Catechesis* 6.11 and 33 (PG 33. 556Af. and 597A).

powers invoked only by the wicked for wicked purposes. Throughout the Apologists these are the familiar strains. They are picked up by the ecclesiastical historians, beginning with Eusebius, and noisy champions like the emperor Constantine.²⁸ The entire growing body of literature was meant to equip the faithful with answers in defense of their faith. It would thus reach an audience of polytheists — if only indirectly. Moreover, in the trials that punctuated the persecutions, challenge was offered directly and in public by such heroes as a certain Carpus in Pergamon under Marcus Aurelius, as by a dozen others in other provinces and junctures, earlier and later, and not only offered but aggressively pushed in the face of judges and spectators.²⁹ The reaction was entirely human and predictable: rage, or at least hostility. "I will not listen to you speaking ill of our sacred rites", says a governor in charge of the hearing; all too evidently, all Christians "are the opponents and enemies of the great gods" — thus, not only offensive but a threat even to the empire's fortunes, the *pax deorum*.³⁰

Soldiers in the various capacities mentioned above were used to control these deluded men and women. A complaint as usual would be lodged with some imperial official, or occasionally by an official himself or an emperor of a more deeply

²⁸ E.g. CLEM.AL. *Protr.* 2-3 (11-45), and pagans therefore "impious", LACT. *Epit.* 38. 3; EUS. *HE* 9. 4. 2f., or *VConst.* 3. 57 (PG 20. 1124Af.); and Constantine himself referring to "the God that really exists", *to theion ho monon ontos esti*, *ibid.*, 2. 28 (PG 20. 1005B).

²⁹ Common knowledge that Christians "spit upon the gods and mock their rites" (MIN.FEL. *Oct.* 8. 4), or H. MUSURILLO (n.24), 22, deities are mere images, or demons; again, 138, the accusation of idol-worship in Smyrna under? Decius; more public denials of the reality of pagan deities, *ibid.*, 176, 250, 294, 296, 304, 306, 316; and the scriptural foundations (n.14), picked up in *Gal.* 4.8 or *1 Cor.* 10. 20 quoted by AUG. *Serm.* 198. 34 (*PL Suppl.* 2 [1960]).

³⁰ Quoted, H. MUSURILLO (above, n.25), 88, the governor addressing the martyrs in Carthage A.D. 180, and *ibid.*, 312, in Sicily A.D. 304; the pagan as imagined by Porphyry in the 280s, "ranting, angry and excited", adding that Christ himself "deserves to be hated for driving religion from the earth and barring access to the worship of the gods," in ARNOB. *Nat.* 1. 42 and 2. 2; *pax deorum*, in G.E.M. DE STE. CROIX, "Why were the early Christians persecuted?", in *Past and Present* 26 (1963), 24 (a crucial essay).

felt religiosity than was common. Then soldiers were told to act. It is rare to hear that they objected, those of them who may have been Christians. There is indeed Maximilianus who simply wouldn't serve in the army at all, protesting his Christianity, and so died for it; but what of the pious Julius who served for nearly three decades before jibbing at the usual (probably daily) religious routines? Or a certain Marcellus who declared his faith only after service that had raised him to centurion rank?³¹ Persecutors reminded Maximilianus that his coreligionists could certainly be found in the armed forces (this, in the late third century); what then was his objection? Yet soldiers seem never to have disobeyed the anti-fanatical orders given them. Evidently religion was one thing, duty was another. So the men serving Constantine did so just as loyally after his conversion as before; likewise, those serving his enemy, the Tetrarch Licinius. In any case, the subversive element constituted only a tiny per cent. It could hardly influence decisions. No soldier opposed the emperor Julian when he took command, nor when a successor to him was nominated who was of the old faith; nor again when a Christian was ultimately selected instead. Later centuries of course were different.

Arriving now at the later empire, we must expect to find everything changed. Under Christian emperors, polytheists rarely provoked argument and reaction. They held to their

³¹ H. MUSURILLO (n.25), 262, *Passio Iulii veterani* 2. 3 of A.D. 204 in Moesia; the four soldiers in Egypt during the Decian persecution, EUS. *HE* 6. 41. 22; MUSURILLO, 246, the *Acta Maximiliani* 2. 9 in Tebessa under Diocletian, Christians' refusal to be conscripted though reminded that "there are Christians in Our Lords' imperial Guards who do serve"; and 250, *Acta Marcelli* 1. 1, Tingitana under Diocletian, a Christian but apparently not a recent convert. Notice in A.D. 324 or 326, mass shouts by soldiers calling on the gods, plural, to save Constantine, *Codex Theod.* 7. 20. 2. Later, there is a little more evidence of soldiers choosing sides in sectarian strife: cf. *The Chronicle of Theophanes Confessor*, transl. by C. MANGO and R. SCOTT (Oxford 1997), 81, A.D. 362/3, alleged apostasy of Christians, tricked; CYRILLUS HIEROSOLYM. *Procatechesis* 10 (*PG* 33. 349Bf.); martyrs under Julian; THDT. *HE* 3. 11 (*PG* 82. 1105Af.); ZOS. 5. 23. 4 A.D. 403; THDT. *Ep.* 144 (145), A.D. 451; *The Syriac Chronicle Known as That of Zacharias of Mitylene*, transl. by F.J. HAMILTON and E.W. BROOKS (London 1899), 53f.; sixth century, J.-B. CHABOT, *Chronique de Michel le Syrien* (Paris 1899-1924), II 89, 180.

practices as inconspicuously as they could, and only in diminishing numbers and social position. The many laws declaring acts of pagan cult to be punishable by death have left no trace of actual victims in our (of course) Christian sources, until in the sixth century some stubborn persons were crucified for their faith, necessarily through the physical act of soldiers. Otherwise, we are told of the military being summoned only to the destruction of pagan temples. Force against polytheists and their cult sites was more frequently employed by clerics and civilians in mob action.³² What need to make martyrs?

Logic dictated instead that the age of fanatics was now over. It was hostile force that had always made them. Now force was in the hands of their fellow in faith, Constantine, commander in chief. But logic and history have nothing to do with one another. Christians turned on each other, first over unfinished business, as it may be called, remaining from the persecutions. Rome, Carthage, and Alexandria bitterly debated the question: "Should members who yielded to the persecutors be re-admitted without penance or allowed to serve as clergy?" The debate brought out its martyrs, the army playing its role as in times past.

To look first at the rigorists in Africa: taking their name from the bishop and his successors whom they considered legitimately ordained, the Donatists rejected the identical claims of the Caecilianists. After a century of hostility, the latter led by Augustine of Hippo enlisted a friendly emperor to procure the decree of capital punishment for violence offered to Caecilianists, and, a few years later, through a friendly judge, to procure the declaration of Donatism as a forbidden heresy.³³

³² On crucifixions, see my *Christianity* (n.27), 25ff.; on riots and vandalism, *ibid.*, 13-17 and Chap. I *passim*.

³³ *Const. Sirmond.* 14 (a. 409); *Codex Theod.* 16. 5. 51 (a. 410) and 56 (a. 410 or 415), capital punishment; and, after the hearing of A.D. 411, victory followed up by flogging, fines, confiscation of all property, and permanent exile for the heretics, the Donatists, cf. *Codex Theod.* 16. 5. 52 (a. 412); also, my *Voting About God in Early Church Councils* (New Haven 2006), 70f., and *Concilia Africæ A. 345 - A. 525*, cura et studio C. MUNIER (Turnhout 1974), 213-16, on the dealings of the Caecilianists with the emperor and his *comitatus*, pre-411.

It was the imperial army that stood behind these ultimate threats; but it was the same army, leading up to the final settlement, that had first been enlisted by the Caecilianists to arrest, torture, and execute the dissenters — a little later, had been enlisted by a Donatist bishop on his own side, in support of what is called a “regime of fanaticism” in the countryside imposed by extreme elements, the Circumcellions — and thereafter it was enlisted by the Caecilianists for their cause against the same target.³⁴ Circumcellions were truly wild believers who, by the fervor of their faith, “destroy themselves as if in love with martyrdom”. Their fanaticism was mocked as suicidal madness, just as derision has been seen in earlier contexts, in order to discount sincerity.³⁵

The descendants of the victorious Caecilianists, claiming “orthodoxy” (as did all parties to schisms and heresies), were

³⁴ J.-L. MAIER (n.25), I 198f., 210f., in A.D. 317, in the *Pass. Donat.* (no kin to the sect leader), 13f., a tribune presiding over torture, the martyrs declaring, “in our battle, victory is to be killed by the enemy”; I 256, 258, the emperor Constans initiates the “persecution” of Caecilianists in the A.D. 340s through his officials and troops, cf. OPTAT. 3. 1. 1ff., *Traité contre les Donatistes* 2, éd. M. LABROUSSE, *Sources chrétiennes* 413 (Paris 1996), 11, and I 265, in the *Pass. Isaac et Maximiani* 6ff., the two arrested men die of their beatings; see also I 276, 282, for other Donatist martyrs (one, Marculus, along with many others, honored in his *Passio* in *PL* 8. 762), and 272, 284, soldiers acting as jailors, etc.; M.F. PETRACCIA and M. TRAVERSO, “Il concilio di Cirta e lo scisma donatista”, in *L’armée romaine de Dioclétien à Valentinien I^r. Actes du Congrès... 2002*, édités et rassemblés par Y. LE BOHEC and C. WOLFF (Lyon 2004), 512, on soldiers’ roles against Donatist martyrs; A. GOTOH, “Circumcellions: the ideology behind their activities”, in *Forms of Control and Subordination in Antiquity*, eds. T. YUGE and M. DOI (Leiden 1988), 305, interposition of Count Taurinus in A.D. 340, and (306, 310) of Count Gildo for the Caecilianists in A.D. 388.

³⁵ *Sancti Beati a Liebana Commentarius in Apocalypsin*, rec. E. ROMERO POSE (Roma 1985), I 51f., calling such persons a different species, misguided *superstitionis*; J.-L. MAIER (n.25), II 66f., quoting Filastrius of Brescia, of the 380s, on Circumcellions “in haste to die without reason, *sine causa*”; and *ibid.*, II 205 (early 400s), the *dementia* of Circumcellions; AUG. *Sermo* 198. 45, 313E. 2, 313E. 4f. (*PL Suppl.* 2 [1960], 615-619); *Codex Theod.* 16. 5. 38, “madness” of Donatists; 16. 5. 60, of all sects that are simply too disgusting to name; and *Novell.Theod.* 3. 8, of Jews, Samaritans, pagans, and heretics alike, possessed by *naturalis vesania, furor, dementia*.

later persecuted, themselves, by the Vandal king Gaiseric. "How many in those days, how many famous bishops and noble priests were done to death by various forms of torture..., how many and numerous were the priests then slaughtered by them, and who could count them?" The same raging ruler first exiled and then executed four of his council who would not be converted to his faith. He raged on, with crowds of victims who would not abandon their beliefs, while the tireless bishops and presbyters belonging to the oppressor church "went about among the villages and cities with troops of soldiers".³⁶

Bishops played the chief role in the shaping of religious opinions, and inducing action. It was in recognition of this fact of life that the Caecilianist clergy were now in the fifth century destroyed from the top down, by arrest, deposition, exile, and execution, to the extent they resisted conversion; and the clergy that were at war with them in quite predictable fashion made use of local garrisons, as can be seen in greater detail in other settings to the east.³⁷

As to the rigorist debate in Alexandria: it pitted the so-called Meletians against the bishop Athanasius. The surviving account picks up only ten years after Nicaea; and, if it were not for a chance papyrus or two, it would not pick up at all. The scattered details in the ecclesiastical historians would still be dismissed as partisan invention; but the familiar players, a bishop and borrowed troops at work, can be quite plainly seen

³⁶ Victor de Vita. *Histoire de la persécution vandale en Afrique*, éd par S. LANCEL (Paris 2002), 99, Victor's *Hist.persecut.* 1. 5, A.D. 429, quoted; further details, 103ff, *Hist.persecut.* 1. 14f.; the four martyrs, 105 n.52, citing Prosper, *Epit. Chron.* 1329 (*MGH AA IX* 475); subsequent actions, 109f., *Hist.persecut.* 1. 27 and 41; conversions sought by torture, a triumphant bishop exclaiming at his success, "Now you've become a Christian, one of us", 198 (*Hist.persecut.* 3. 45f.); and 199 (3. 48, quoted, "villages").

³⁷ See in the preceding note, and S. LANCEL, 110 (*Hist.persecut.* 1. 29), 197 (3. 42); for bishops in control of troops in the eastern provinces, see my *Voting* (n.33), 139; for the routine garrisoning of troops in eastern cities, my article in *Revue des Études Militaires Anciennes* 3 (2008).

in action in their familiar fashion, just as in earlier decades and centuries.³⁸

Athanasius' engagement in defense of the Nicene creed as well introduces another area of dispute: the theological. The story there begins at the council itself, from which stubbornly non-compliant bishops were dragged off to one or another place of exile. No Christian commander would care to make examples of them in the extreme sense, by execution — not even the peremptory Constantine. Nor his son. The proof lies in a certain bishop's five public letters to Constantius, spread over a term of five or six years. The writer is Lucifer of Calaris in Sardinia, challenging the emperor's orthodoxy. He is as insulting as he can be, saying things that the recipient cannot believe are seriously meant, and so has to ask in turn, Who is this madman, does he have any idea what he's saying? To ME? But Lucifer declares, "Foulest of monarchs..., by tortures, God's martyrs are consecrated..., the death brought to the martyrs is the harvest of true faith..., we will meet all your arms with scorn". Thus Lucifer invited his fate.³⁹ Yet he who so

³⁸ H.I. BELL, *Jews and Christians in Egypt. The Jewish Troubles in Alexandria and the Athanasian Controversy* (London 1924), 55f., A.D. 335, the bishop's "partisans" making use of "the Dux's men", *stratiotai*, while his opponents (two other bishops of Meletian persuasion) draw into the conflict other soldiers "who have the fear of God in their hearts", i.e. are Meletians; cf. J. HAHN (n.12), 276ff. and T.D. BARNES, *Athanasius and Constantius. Theology and Politics in the Constantinian Empire* (Cambridge, Mass. 1993), 32.

³⁹ A. DI BERARDINO, *Patrology IV: Golden Age of Latin Patristic Literature*, transl. P. SOLARI (Westminster 1994), 65f.; *Lexikon für Theologie und Kirche* s.v. "Lucifer", col. 1083; and LUCIFER's *Moriendum esse pro dei filio*, CSEL 14 (Wien 1886), 286, in which (2) he rebukes Constantius, "you have slaughtered so many in Alexandria... but all these are martyrs; and, as we trust, all these most blessed, butchered by your sword, are in paradise... We are ready for death... Such great blessedness as the holy martyrs have won, no one has attained, as we see, save those who have conquered death by dying for God's only Son"; and he goes on to address the emperor as *imperator immanissime*, and *tormentis martyras dei consecrari, martyribus per te inflata mors... fidei faeneratio, ista crudelitas tuae carnificina nobis sit utilis ad gloriam sempiternam*, etc. (287-291, 2-3), with more insults and name-calling (292ff., 313ff., 13ff.) where it is the emperor's army that is the instrument of oppression (*licet totum militem tuum in nos decrevissas iacere regni tui tela*). Hilary of Poitiers writes in a very similar vein, more briefly, in *Contra*

plainly longed for a noble death was frustrated by the imperial patience, patience beyond any expectation. He had in the end to be satisfied only with his own fearless intent. Pious ambition cruelly balked! Later, his sanctification was subscribed to by only a few western churches.

The fanatical impulse wrapped up in hagiographical tradition and literature nevertheless often found satisfaction. Martyrs aplenty! There is no need to lay out, here, their fate in all the military violence aroused by sectarian disputes. The catalogue is far too large; it is spread too amply across all periods of late Antiquity, across all the major cities, many of the minor ones, and a majority of the provinces of the empire, especially the eastern ones — amounting, all together, to a sort of quantification of the willingness to die.⁴⁰ But there is much material, where the detail is adequate, specifically to show bishops and army in collaboration.⁴¹ Their role is crucial. They confront an opposition that will not sign on to an approved credo, that will maintain the struggle to the point of arms and even of death itself. In short, fanatics. In opposition to them, the essentials of correct belief must be enforced by the emperor himself. He engages his *maiestas* in

Constantium: let me be a martyr in Jewish-hero fashion, suffering fire and steel, etc. and speaking of *diabolici ingenii tui fallentem subtilitatem*, 4f., 17 (*PL* 10. 581Aff., 594B).

⁴⁰ My *Voting* (n.33), 137ff.

⁴¹ *Ibid.*, 139; on the Alexandrian patriarch Proterius in the A.D. 450s, when in consequence he “filled their (the soldiers’) hands with the blood of believers, who were slain..., and many died at the very altar”, etc., in F.J. HAMILTON and E.W. BROOKS (n.31), 48, Zacharias’ *Chron.* 3. 2; F.J. HAMILTON and E.W. BROOKS, 52 (*Chron.* 3. 5), Juvenal bishop in Jerusalem, with J.-B. CHABOT (n.31), II 89f., when “the whole world suffered under persecution...”, Juvenal persecuted the faithful aided by soldiers”, whom “he ordered to kill those who would not accept the Council” of Chalcedon; II 173, A.D. 519f., the bishop of Antioch, “Paul spurred on the Roman soldiers, barbarous men without pity. Those who received the persecuted in their villages, he caused to be stripped of their possessions”; II 185, the Antioch bishop uses another bishop and “a troop of soldiers” against the noncompliant monks in the A.D. 520s; II 193, at the complaint of the bishop of Alexandria, a general with 6,000 men is sent against his rival in the see; A.D. 536, the bishop of Constantinople and of the bishop of Rome while a guest at the eastern court dispatch troops against a bishop of another creed, cf. *John of Ephesus. Lives of the Eastern Saints*, transl. by E.W. BROOKS (Paris 1923-24 —PO 17-18), I 26-29.

Christology; difference in faith was thus *lèse-majesté*. But then, his successor inclines in another direction; difference is re-defined; and so it goes on in the centuries that followed.

We have the patriarch of Constantinople in the A.D. 360s inflicting forcible baptism, forcible administration of the host, and every sort of torture on all those in the neighborhood of the capital who held to a Nicene Christology (Socr. *HE* 2. 38); and the same device of a forcible sacrament was employed again by soldiers acting on the orders of clergy in the A.D. 520s, against the protests of the local bishop: "It is in thy power, O Lord, to take my soul from me rather than that I should see... the persecution of thy church"; and from his disciple, prepared for the *agon*, we have the declaration, "I will contend until death with the renegades... Cursed are the renegades", as he assaults the very bishop himself whose hateful credo has inspired the persecution.⁴² The protestations and terminology of the challenge recall that of Lucifer.

A decade later, "the king [emperor] Valens commanded by law that those [of another creed] in Alexandria and in Egypt should be driven out; and everything was laid waste and turned upside down, and some were dragged before the courts, others thrown into chains, and still others tortured in various ways; for various were the punishments inflicted on people wishing only for peace. And when these matters were concluded to the satisfaction of Lucius in Alexandria, Euzoius too returned to Antioch" — Lucius being the Egyptian metropolitan and obviously in charge of the operation, while Euzoius bishop of Antioch was his coadjutor. It is made explicit in the neighboring paragraphs of the historian Socrates' account, that the instruments of these actions were soldiers.⁴³ What other force could

⁴² E.W. BROOKS (preceding note), I 95f., 100 (quoted), the scene being the area around Amida in northern Mesopotamia.

⁴³ SOCR. *HE* 4. 24 (PG 67. 521Dff.). No trace of Valens' law survives but the events indicate that there could indeed be enforcement of similar laws, later, in *Codex Theod.* 16. 5. 5ff., e.g. capital punishment at 9, 15, and 60, and at 16. 1. 4 and 16. 4. 1. For further details on Lucius, see C. HAAS, *Alexandria in Late Antiquity. Topography and Social Conflict* (Baltimore 1997), 451 n.5, 455 n.34,

be imagined, in any case, for these and dozens of similar ones where, perhaps, the sources do not specify the actors quite fully?

In the 450s, the Alexandrian patriarch "had the soldiers execute anyone who refused to declare the impure teachings of Chalcedon; 24,000 men were slaughtered, most of them priests, monks, and bishops".⁴⁴ However inflated the number may be by partisan horror and outrage, the victims had a choice, either to signify their compliance with the patriarch's doctrines, or not. For a sixth-century instance, we have the Antioch bishop (Ephrem, A.D. 527-45) asking the emperor for an army "so that, while we exhort with words and engage with the people of the cities and villages to accept the Council of Chalcedon, we can subdue with force those who won't let themselves be persuaded by speech".⁴⁵

For a little detail, finally, in the eastern provinces of the A.D. 520s,

"many (who were soldiers) went everywhere from place to place and tried to compel such persons as they met to change their ancestral faith... the Montanists whose home was in Phrygia, shutting themselves up in their own sanctuaries, immediately set their churches on fire, so that they were destroyed together with the buildings in a senseless fashion; and consequently the whole Roman empire was filled with murder and exiled men. And when a similar law was immediately passed touching the Samaritans also, an indiscriminate confusion swept through Palestine. Now all the residents of my own Caesarea and of all the other cities, regarding it as a foolish thing to undergo any suffering in

where he acts to crush the resistance of monks in Nitria with troops. For monks as targets of large-scale army action in repeated campaigns, in which those not signing on to Chalcedon suffered exile and death in various ways, see A. SCHER, *Histoire Nestorienne... Seconde partie I* (Paris 1909, PO 7. 2), 142f., A.D. 519; E.W. BROOKS (n.41), II 514f., 523f.; *The Lives of the Monks of Palestine by Cyril of Scythopolis*, transl. by R.M. PRICE (Kalamazoo, Mich. 1989), 181ff.; P.T.R. GRAY, *The Defense of Chalcedon in the East (451-553)* (Leiden 1979), 58; J.-B. CHABOT (n.31), II 170ff., 185, 206f.

⁴⁴ J.-B. CHABOT (n.31), 124, and the recall (151) how "tens of thousands perished in the massacres" meant to win converts to a certain creed.

⁴⁵ J.-B. CHABOT (n.31), 206f.

defense of a senseless dogma, adopted the name of Christians... [but in contrast] all the farmers, having gathered in great numbers, decided to rise in arms against the emperor, putting forward as emperor for themselves a certain brigand named Savarus. And when they engaged with the soldiers, they held out for a time, but finally they were defeated... and it is said that 100,000 men perished in this struggle".⁴⁶

Mention of the Samaritans returns us to the starting point: Jewish fanatics. The scattering and very great reduction in numbers of those Jews whose center was Jerusalem was recalled, above; but a compact if far smaller population remained much less reduced, in Samaria. How restless and resentful they were can be known from the fact, with however little detail, that they rebelled in the mid-fourth century, and again in A. D. 418, and in 484, before the fourth rising just mentioned.⁴⁷

About its origins, Malalas has a most interesting passage:

"In the city called Neapolis... the Samaritans attacking the Christians there slaughtered many, and here is how it happened. It was the common custom there, throughout Palestine's lands and all the east, on the Sabbath after the bible reading, for the Christian children to leave the church and go to play at the

⁴⁶ PROCP. *Anecdota* 11.14-29 (quoted, 21ff, based on Loeb Classical Library, transl. by H.B. DEWING VI); MALAL. *Chron.* 18. 35, ed. J. THURN (Berlin 2000), 260; and J.A.S. EVANS, *The Age of Justinian* (London 1996), 248, the number of dead perhaps (with captives) "not greatly exaggerated".

⁴⁷ B. ISAAC, *The Limits of Empire: the Roman Army in the East* (Oxford 1990), 89f., Procopius being the chief source for the third of these events (*Aed.* 5. 7. 5f.), which resulted in the Christians' seizing of the sanctuary atop Mt. Gerizim henceforth occupied by troops; also ZACHAR. *Chron.* 9. 8, in F.J. HAMILTON and E.W. BROOKS (n.31), 232; and N. SCHUR (n.10), 87ff., and R.M. PRICE (n.43), 181-84. For the fourth, see Procopius in the preceding note; also MALAL. 15. 8, ed. J. THURN (Berlin 2000), 305, and *Kyrrilos von Skythopolis*, von Ed. SCHWARTZ (Leipzig 1939), 172, in the *Vita S. Sabae*, along with Justinian' *Nov.* 103a. 2f., A.D. 536, assigning the governor large forces and warning him to beware of disorders arising from "religious differences", especially in Palestine. B. ISAAC goes on to mention two further sixth-century revolts, cf. MALAL. 18. 119 and THEOPHANES, *Chron.* a.555/6 = A.M. 6048, in C. MANGO and R. SCOTT (n.31), 337, with J.-B. CHABOT also (n.31), 262. This war was marked by spectacular cruelty.

Samaritan synagogues, and to throw stones at their houses; for it was the Samaritan custom on this day to withdraw and be by themselves. But this time they could not bear to yield the place to the Christians, and when the children after the holy scripture came out and headed for the synagogues of the Samaritans and threw stones at them, the Samaritans came out against the children with their swords and killed many of them. And many children fled to the holy altar of the St. Basil church which is there, and some of the Samaritans chased them and butchered them right at the holy altar". Justinian, when he learnt of this "mobilized army units under the Dux Irenaeus" to inflict punishment, "and he butchered many..." (A.D. 530).⁴⁸

This picture of Saturday-afternoon playtime gives an unusually clear, even intimate, glimpse into the relations between neighbors of differing monotheistic faiths. Children learned hatred in the dusty streets, by a routine of action that their parents' generation approved; it is certain that they learnt it in their churches, too, since the foremost Christian spokesmen of these late centuries whose sermons have come down to us speak out so strongly against the Jewish people.⁴⁹ Jerusalem-centered Jews for their part evidently hated the Christians and did horrible things to their children, on occasion; and there is no reason to think the Jews of Samaria behaved differently.⁵⁰

⁴⁸ "Custom, ethos ekratei," in *Excerpta historica iussu Imp. Const. Porph.* III (Berlin 1905); *Excerpta de insidiis*, ed. C. DE BOOR, 171 = *ex Ioanne Malale* 44; *Prosopography of the Later Roman Empire* II, s.v. "Irenaeus" (7), and IIIB, s.v. "Theodorus Megalas".

⁴⁹ Perhaps Augustine is the best example, ignoring scripture (n.22) in order to ascribe all details of the Crucifixion to Jews, cf. *Symb.* 3. 10 (*PL* 40. 634, *tenent Iudaei, insultant Iudaei, ligant Iudaei*, etc.); also *Civ.* 6. 11; CHROMAT. *Serm.* 9. 4-18. 1, in *Cromazio di Aquileia, Catechesi al popolo. Sermoni*, trad. e note a cura di G. CUSCITO (Roma 1979), 82-106 and *passim*; on Jerome and Chrysostom, M. SIMON (n.5), 217, 229f.; *Cambridge History of Judaism* (n.8), 505; and in general, G. GARDENAL, *L'antigiudaismo nella letteratura cristiana antica e medievale* (Brescia 2001), 46-57 *passim*; and earlier, EUS. V.*Const.* 3. 18f., and, a little later, CYRILL.HIerosolym. *Procatechesis* 10 (*PG* 33. 349Bf.).

⁵⁰ THDT. *HE* 3. 15 (*PG* 82. 1112Bf.); J.-B. CHABOT (n.31), 262, massacre in A.D. 555 of Christians by Jews and Samaritans in Caesarea, who are harshly punished by an army; and *Codex Theod.* 16. 8. 18.

In estimating the impact of monotheistic passions on the life of the times, certainly surpassing in importance any other challenge to the civic order, we must rely in disproportionate degree on writers who are particularly concerned with religion: Josephus, Eusebius. The disproportion must be acknowledged; but it is no cause for special doubts; or if there is some likelihood of distortion in the sources, it can be sorted out: for example, in the excesses of hagiography, or the intrusion of the un-fanatical into scenes of resistance, who sought only the pleasures of pillage and butchery. They can be distinguished from the more sincere who constituted the leaven in the lump (as I termed it, above).

Acknowledgement must also be made for the embarrassment felt in Western historiography when fanaticism needs to be discussed, given the part that Judaism and Christianity constitute in the Western heritage. Gibbon is not its only student to reserve the term “fanatical” for religious enthusiasm subsequently judged un-Orthodox.⁵¹ Since Gibbon’s day, however,

⁵¹ Above, n.1; neglect of inter-Church violence where treatment would be expected, e.g. in C. FRATEANTONIO, *Religiöse Autonomie der Stadt im Imperium Romanum* (Tübingen 2003), 185ff. (a timid glance at the subject, 197); N. POLLARD, *Soldiers, Cities, and Civilians in Roman Syria* (Ann Arbor 2000), 99 (army involvement pro-Chalcedon “relatively rare”! — cf. above, nn.43f.); R.S. BAGNALL, *Egypt in Late Antiquity* (Princeton 1993), 161-72, a dozen pages on “Order and Disorder” without mention of church disputes; P. BROWN, *Authority and the Sacred. Aspects of the Christianisation of the Roman World* (Cambridge 1995), 27-54 on “The Limits of Intolerance” without mention of sectarian disputes, and only an occasional “lapse in good taste”; Averil CAMERON, *The Mediterranean World in Late Antiquity AD 395-600* (London 1993), 171-75, “Urban Violence” without mention of religion; or J. HAHN (n.12), in a discussion of over 300 pages, where mentions of force used by Christians against Christians would all fit within a single page. N. PURCELL (n.20), 158, discounts the whole body of evidence for inter-Christian violence in the three centuries post-313 not as mis-cited or invented, but as nothing new. He supposes that earlier writers (these would be Dio Cassius, Dio Chrysostom, Philostratus, Herodian, Tacitus, Suetonius, Plutarch, etc., etc.) might have seen just as much mayhem but didn’t think it worth their while to report it; the murder of public officials singly, or of parties of dozens, or of hundreds or thousands or even tens of thousands of victims, wouldn’t have interested their readers (!). Whereas Christian writers differed.

evidence to correct the distortion is more easily found, thanks in part to the increasing accessibility of minor ancient writers. W.H.C. Frend (to name only one particularly useful scholar) has shown what can be discovered among and about Donatists and Monophysites.

But even these obstacles to understanding seem less awkward than the fact that fanatics act out their *feelings*. They cannot be discussed or explained within the traditions of what is seen as 'good' treatment, meaning something rational and scientific, because they are not contesting for rational objectives. They — fanatics — are not ambitious to defeat the emperors and lord it over the Roman world, nor to make converts of the crowds that attend their final moments in the arena or court-room; certainly not, to gain some material object at the risk of their lives. To understand them, then, one must enter the affective zones of their mind, not the cognitive. It is not the denotation of their thought — simple enough, and of no great interest — which needs to be made clear; rather, it is the animating emotions that surround their thought, these, that need to be summoned from the sources and seized by empathy, so as to know the *force* that accounts for or produces anything of historical significance.

This, however, is a suggestion offered at greater length, elsewhere.⁵²

⁵² The methodological point is discussed in my *Les émotions dans l'histoire, ancienne et moderne* (Paris 2004) = *Feelings in History, Ancient and Modern* (Claremont 2003).

DISCUSSION

A. Chaniotis: If in your definition of fanaticism (“devotion to a religious belief for which one would be prepared to die”) we replace the term “religious belief” with “idea”, or “principle”, then one might be tempted to characterize also Socrates as a “fanatic”. Is it the irrationality of religious belief that makes fanatics or should we also add the willingness to kill for their belief (not only the willingness to die)? If we include the willingness to kill, then there are isolated instances of “fanaticism”, even in the world of paganism (e.g., an attack against worshippers of Artemis Ephesia in Sardes in the fourth century, the lawsuits for *asebeia* in Athens).

R. MacMullen: It’s certainly important to say how one means to use a key term in any discussion, and it’s good to be reminded of this need by your question. But I did try to play fair on this front by saying, at the outset, it was “a quite conventional sense” of my focus-word that I was going to deal with. Of course, we stretch terms to make our thought clearer by analogy, or to make it more striking, and “fanaticism” is no exception. One can be a “fanatic” about cleanliness, just as one can be described as brushing one’s teeth “religiously” twice a day. But these usages seem to me to take off from the core meaning, without disturbing it. For that reason I thought I might fairly exclude such a strength of belief as Socrates showed, just as I meant to exclude the love of country that shows itself in a soldier’s willingness to die.

I didn’t know of the Sardis and Athenian evidence you mention, but perhaps they fit with the fury at denial which I mentioned — at atheism — in a given locality. Lucian aroused it in Abonuteichus in Pontus, as you know, and was afraid of being

lynched, not for not believing, but for endangering the community by obvious, blatant disrespect toward some supernatural being.

A. Chaniotis: I am also interested in the factors which enhance fanaticism. The same religious group may respond in different ways under different conditions. E.g., in the same time in which the Christian mob was lynching Hypatia in Alexandria, Christians in Asia Minor were still attending the synagogues, very much to the despair of the Christian Fathers. I mention a few factors which lead to different responses: expectation of success vs. hopelessness; various degrees of integration vs. ghettoization; martyrdom not to avoid hell in after-life but in this life (through stigmatization by one's own group, punishment by the authorities); legislation.

R. MacMullen: It is curious how monotheists can get along perfectly well with polytheists in a given setting, maybe for generations or even centuries, and we see the evidence in inter-marriage and common burial sites and minority representation in honorific positions, presumably attained by the conventional means, namely, euergetism. Then, for no reason we know of, the place suddenly bursts into flames of violence — or rather, perhaps, for one of those very good reasons you mention. One or another of them puts an edge on a religious loyalty; and you might have mentioned also the appearance of some more than usually charismatic personality, a messiah-type. But you remind us of the limits to historical explanation. We can define a particular phenomenon, it really is a distinct and identifiable thing; but then, there is always detail, individuality, apparent random chance.

A. Lintott: I would like to make one observation and pose three questions. The observation is that, although you rightly stress the importance of emotion, emotions are not self-generated but have causes and this is what my questions concern.

First, how far do you think that conversion to monotheism was by its very nature productive of fanaticism? Secondly, how significant was millenarianism in that period? And thirdly, to what extent do you accept W.H.C.Frend's view that a certain kind of fanaticism, Donatism and the *circumcelliones*, was generated by a particular geographical location?

R. MacMullen: Indeed, your main point must be made and understood, and your choice of specifics certainly helps to do the job. I agree entirely. I would say, nevertheless, that external causes of a material sort, which I think you have in mind, produce in their turn some emotion. Poverty produces jealousy and frustration and plain old hunger, all of which are or may be powerful feelings; assault likewise, whether it's personal or military; and so forth. As to conversion, I do think it implanted a potential for fanaticism. It's my reading of this change, that the believer feels obliged to repudiate past beliefs, and so the cycle commences which is my concern. It's the Bible that lies at the heart of both Judaism and Christianity, and at the heart of the Bible, one may surely say, lie the Ten Commandments, declaring not once but again, that God requires the abomination of all alternatives (*Exod.* 20. 3f.; 33. 13f.).

About millenarianism, I recall no mention of it in Josephus' account of the first rebellion, or it was in any case a minor factor. It was distinct from the belief in a national leader whose victory was compatible with a separate and continued existence of a Jewish people, without bringing on an end of the world; and it does not appear at all in the inter-Christian violence of later times. So I would discount its significance as the spur to the determination to die for one's belief.

As to Frend's linking of region and belief in North Africa, the specialists in those provinces today seem to have reduced the force of his argument without entirely discounting it. The Cae-cilianists whom Augustine supported so successfully were stronger in the larger towns and coastal areas, their opponents stronger in the inland and uplands; but there was much overlap,

many towns with two bishops. The two sides, after all, could muster exactly the same number of bishops in 411.

W. Riess: I wholeheartedly welcome your plea for an “emotional turn” in historiography. It is certainly true that historians have neglected the pervasive powers of feelings for too long. But the study of feelings is a very complex issue. They are generated by external factors and react to conditions outside the person concerned. Your example of Christians in the Roman army is telling. Most Christian soldiers had no problems serving under pagan emperors. Only a tiny portion of Christian soldiers became fanatics and subversive elements in the Roman army. So the question is when, why, and under what circumstances a small portion of believers start deviating from mainstream faith and behavior. Here, I think, we are at the core of the problem: How can we explain the emergence of fanaticism? As you say in your paper at various points, “it takes two to make a martyr” and “it was hostile force that had always made them”. So I wonder if you adhere to the approach that political scientists call “constructionist”, i.e. the assumption that state authorities create their own enemies, fanatics, and terrorists by their very worldview, propaganda, and legislative as well as military actions.

R. MacMullen: In a comment by Angelos, there were connections drawn to various kinds of reckless self-sacrifice that ought to be treated in a constructionist fashion, just as you bring out: for example, the patriotic self-sacrifice of Gauls against Caesar. They were quite as ready to give their lives as the Jews or Christians, and they were provoked by state action, meaning armed invasion. But that willingness wasn't religious. It aimed at the protection of their property and independence of action, and so, we might say, it was perfectly ordinary. A householder who struggles with some fierce burglar will behave in the same way — behavior in the usual sense “rational”, as religious fanaticism was not.

We may say the persecution of Christians by non-Christians, and in due course by fellow Christians, can be looked at in a constructionist way, since it was initiated by the state. True. The point you bring out I quite agree with, so far as it provides an element of explanation. Still, there was something special in the phenomenon I was concerned with: namely, a mind-set that enemies could call suicidal. This was always latent among both Jews and Christians. It was latent, yes, and then it had to be brought out, and state action would serve to do so, just as you suggest. But action by an opposing majority of the local population would also do it, at Caesarea to begin the first Jewish war, or much later producing police action against the Samaritans. In these examples, as often in Alexandria, too, evidently the mind-set was always there as a part of religious belief, but it wasn't always at the ready, waiting to explode. Exactly when someone in or out of a governmental position might trigger the outbreak — that is something we only rarely can discern. The Samaritan scene I ended with is a rare example.

W. Riess: I was struck by your phrase "religious enthusiasm asks few questions and needs no rational answers". Am I right in assuming that you wrote these lines in the light of what is currently going on in the Near East? If this is the case, we could substitute "religious enthusiasm" with "Islamistic fanaticism". Then your outlook is a very pessimistic one and the statement becomes frightening. In this scenario, we should ask ourselves if our attempt to counter Islamistic terrorism can ever be successful. If rational dialogue with these groups is impossible, does it make sense for us at all to address social and economic inequalities and try to reduce them in the hope of containing terrorism by these measures? On a theoretical level, we might wonder if the political implications suggested and sometimes even demanded by post-colonial models are futile and doomed to fail from the outset.

R. MacMullen: We all read the news, we live in our own times, and obviously we have somewhere in our minds, these days, a consciousness of the dynamic potential of Islamic monotheism. No one can look attentively at fanaticism in other periods, without rousing echoes of the present in his own mind. And, myself, I see no difference in the latent tendencies I've concentrated on, whether in ancient or modern times. However, as the comments of yourself and other colleagues bring out, monotheists could and did get along perfectly well with their non-believing neighbors, if they were not pushed too hard. How hard is "too" hard? That's what counts, and the answer is both obvious, and circular: "too hard" is what monotheists can interpret as a sort of attack, a word or a gesture of challenge.

We read of murderous reaction among the crime-ready young today, if they are, in the slang term, "dissed": treated with disrespect. A fixed hostile stare is enough. Here now, I have it fixed on Yann Rivière across the table, as best I can. It seems to have no effect at all! But it would get me in trouble in some confrontations. I venture on an analogy. Well informed writers in the media often say, Talk with the enemy — for instance, Iran. Don't put the enemy in a corner, don't insist on a response that means loss of face. Don't diss anyone. That seems to me good advice, and not beyond the powers of self-restraint that civilized governments may command, in their own best interests. So I don't see "doom" as inevitable.

H. van Wees: Your emphasis on the driving force of emotions as opposed to material interests in creating fanaticism strikes me as a very important contribution to the discussion of public order and security, insofar as it reminds us that life, limb and livelihood are not the only important matters which may be threatened and defended by force. Violent emotions may also be provoked by perceived challenges to less tangible assets such as one's "honour" — which may be at risk from something as little as a word or a look — or one's beliefs. In themselves,

these challenges need pose no danger to life or property, yet they may provoke such powerful emotions that violence ensues and material interests are ultimately affected as well. Although becoming highly violent about intangible interests may seem "irrational" to the outside observer, for those involved, "honour" and "truth" presumably seem no less, or indeed more, worth dying and killing for than life and property are. If so, might it not be better to avoid contrasting "emotional" and "rational" motivations and to concede that even the pursuit of intangible goals may be rational on its own terms? One might then stress instead the importance of emotions as a driving force behind all kinds of violence, whether in pursuit of material or intangible goals, and ask why it is in particular the emotions provoked by challenges to the "truth" of religious belief which pose the major threat to public order at certain times and in certain places.

R. MacMullen: Absolutely! I agree that all human action begins with an emotion — with an impulse, a motive which may be acquisitive or aggressive or concupiscent or social (that is, desirous of approval). These and others are so many expressions of our fundamental nature, "hard-wired" as the psychologists express it by an analogy to a house, with its network of copper cable accessible to a TV set or a lamp; or like a computer's built structure, to which various programs or capacities can be added; or like a human brain, on which behavioral patterns may be impressed by a surrounding community.

I think our trouble may lie in a mere word, "rational", which I would equate with common sense. But what is "common-sensical"? That depends on a culture. In Alexander Hamilton's day it was rational to engage in a duel. What was at stake was one's standing in one's community. The bristling duellist understood, "rationally", that fighting might gain him honor while if he flinched he would suffer loss of approval. Yes, that was a calculation. Everyone would understand — back *then*. The need or drive for approval from one's community — approval which constituted "honor" — is as you say, an excellent test of the nature of motive

(cf. my article “The Power of the Roman Empire”, in *Historia* 55 [2006], 471-481). Today, if it were alleged in defense against a murder charge, it would be called madness, just as the monotheist diehards in antiquity were called mad by their oppressors.

It was in recognition of the problem you point out so well, that I put quotation marks around the word “good”. This was at the end of my paper, when I spoke of “good” treatment, meaning something rational and scientific” offered as historical explanation. I meant to challenge such explanations. They really are well entrenched, as I don’t need to say. I may instead quote G. Loewenstein and J.S. Lerner, that “Until recently, emotions attracted little attention from decision researchers. Decision makers were assumed to evaluate the potential consequences of their decisions dispassionately” (in my *Feelings* book of 2003, 56). The statement comes from psychologists; but it could equally have come from market analysts like the Nobel laureate, Daniel Kahneman. It could be addressed in warning to all those historians who look for explanations in terms of material or political or military profit. Such interpreters are numberless. I think we are at one in wishing to open their eyes a little wider.

And approval may be conferred on some form of behavior which has nothing to do with material possessions. Yes, I agree.

The possibility gets to your final question: What was it about religion that produced very large-scale violence? Is not the answer, that certain religious beliefs were shared by very large numbers of people? So “their impulses came together”, as I expressed it a moment ago?

C. Brélaz: Je souhaiterais vous demander quelle est, selon vous, la dimension politique des mouvements que vous qualifiez de fanatiques. Il semble, en effet, dans plusieurs cas, que la religion puisse servir de prétexte à une opposition de nature sociale ou politique (comme ces paysans samaritains, que vous citez, qui allèrent jusqu'à nommer un empereur rival du souverain de Constantinople [Procop. *Anecdota* 11, 27]). Les motivations religieuses et politiques sont parfois indissociables, comme pour

les Juifs de Palestine, qui se considèrent comme un peuple d'exception et réclament un traitement privilégié au sein de l'empire romain. Je me demande si, tout autant qu'un attachement intransigeant au dogme monothéiste et qu'une conception émotionnelle de leur religion, ce n'est pas également une forme d'exclusivisme et de communautarisme, au besoin justifiée par la théologie, qui pousse certaines catégories de fidèles à adopter un comportement radical et intolérant envers les autres croyances.

R. MacMullen: Isn't the question looking at the chain of cause and effect? Well, suppose we have a chain involving the «Gaius» who always appears in the explanations offered by Roman *jurisperiti* – that exemplary «Gaius» – and in the chain, first, he is insulted or «dissed», then he gets angry, then he calls on his friends, and so they engage in a civil war. He wins. It is exactly in this manner that Gaius Julius Caesar in fact explained his resort to arms. The outcome was certainly political and desirable. But was his anger a mere pretext, a pretense? In answer: if anger if often attested as a response to insult and disappears when appeased, without a material pay-off, then is it not fair to suppose that it may be real?— even when the expression of it sometimes produces a result desirable in entirely different terms?

To answer such difficult questions, I think the most promising way is to go back as far as one can in the chain, bearing in mind the *comparanda* – similar narratives in the setting of the society's value system. So, for example, the first Jewish revolt had a particular small moment of explosion, from which no political benefit could have been expected; and again, for the Samaritans in their reaction to having their temple being stoned. Granted, both groups wanted to live as their faith taught them, and they became your enemies if denied that right, and your friends if granted that right. The right could only be expressed in political terms. But it was not the first link in the chain of cause and effect.

Certainly the analyst's problems are challenging, and you bring out their nature in a very probing way.

VII

YANN RIVIÈRE

L'ITALIE, LES ÎLES ET LE CONTINENT: RECHERCHES SUR L'EXIL ET L'ADMINISTRATION DU TERRITOIRE IMPÉRIAL (*I^{er}-III^e SIÈCLES*)

Entre le continent et les îles, il n'y a plus aucune distinction, et, comme un seul territoire ininterrompu, comme une seule tribu, tout obéit en silence.

(Aelius Aristide, *En l'honneur de Rome*, 30)

L'exil n'a sans doute jamais connu dans le monde romain, sous la République, l'ampleur du phénomène lié à la *stasis* dans les cités grecques, à l'époque hellénistique en particulier, où des groupes entiers de citoyens ont été conduits à fuir leur *polis* pour trouver un refuge à l'étranger. Leur retour en masse, offert parfois à l'arbitrage des rois, pouvait à son tour être facteur de nouveaux troubles en raison du règlement des questions patrimoniales.

À Rome, à l'exception de la période des guerres civiles, précisément, et des édits de Sylla et des triumvirs qui ont conduit des proscrits ou leurs alliés à gagner en masse les rangs des chefs de partis opposés, pour échapper à la mort et tenter un jour de retrouver leurs biens, les condamnations à l'exil paraissent plutôt constituer au cours des siècles antérieurs de stabilité politique relative un chapitre du droit criminel. Par "l'interdiction de l'eau et du feu", suivant la désignation technique du bannissement dans sa forme la plus sévère, seraient sanctionnées occasionnellement les actions d'hommes politiques de premier

plan. Cependant, ces actions judiciaires ont aussi souvent été menées dans des contextes troublés et accompagnées de violences et d'émeutes qui placent le dossier de l'exil au cœur d'une approche des atteintes à l'ordre public et des questions sécuritaires aux siècles de la république.

Pour les trois premiers siècles de l'Empire envisagés dans la présente étude, les modalités du bannissement nous font entrer de plain-pied dans une série de questions touchant aux procédures judiciaires, aux mécanismes administratifs, aux moyens de représentation et de maîtrise de l'espace à l'œuvre pour assurer l'ordre du monde romain.

À l'époque républicaine, rappelons-le brièvement, le chemin de l'exil pouvait prendre trois formes: la première consistait en un départ spontané destiné à fuir une contrainte quelconque, qu'il s'agisse d'une sanction pénale ou civile prononcée par un tribunal, ou encore de l'exercice d'une vengeance privée à l'issue d'une offense commise à l'encontre d'un tiers ou de la cité. Cette sortie de la cité et de son emprise territoriale revêtait alors un caractère informel que traduit dans les sources littéraires un lexique varié. L'exil désigné par le terme *relegatio*, en revanche, était le résultat du pouvoir de *coercitio* exercé par le magistrat. Ce dernier pouvait, à des fins de maintien de l'ordre, contraindre un individu à quitter sur le champ la cité. Or, ce pouvoir de contrainte loin d'être exclusif de l'autorité publique, comme le suggère G. P. Kelly, était également reconnu au père de famille à l'endroit des membres de la *familia*.¹ Il est très probable que cette expression de l'autorité publique trouvait justement ses racines dans l'exercice de la *patria potestas* comme pourraient l'attester, en dépit des aléas de la reconstruction annalistique,

¹ Cf. Y. THOMAS, "Vitae necisque potestas. Le père, la cité, la mort", in *Du châtiment dans la cité. Supplices corporels et peine de mort dans le monde antique* (Rome 1984), 499-548; ID., "Remarques sur la juridiction domestique à Rome", in *Parenté et stratégies familiales dans l'Antiquité romaine*, éd. par J. ANDREAU et H. BRUHNS (Rome 1986), 449-474.

plusieurs récits des premiers siècles de la République. À l'époque envisagée, la fin de la République et les premiers siècles de l'Empire, ce "pouvoir des pères" contribuait encore au contrôle des actes délictuels dans la société romaine. La troisième forme d'exil à Rome portait le nom d'interdiction de l'eau et du feu, *aqua et igni interdictio*, parfois désignée également par un troisième terme, l'interdiction du toit (*tectis*). Cette procédure, liée aux pouvoirs du tribun et à l'exercice de la justice comitiale signifiait que lorsqu'un individu avait évité par son départ une exécution capitale, il demeurait néanmoins sous le coup d'une *deminutio capitis*, c'est-à-dire qu'il était exclu de la cité romaine et considéré comme mort. Il pouvait alors devenir citoyen d'une autre cité, en Gaule Narbonnaise, par exemple à Marseille, en Espagne, à Gadès, ou en Épire, à Dyrrachium. L'élargissement géographique de ces destinations d'exil, modelé sur l'extension de la conquête romaine des rives de la Méditerranée a été très précisément décrit récemment par G. P. Kelly.² Le choix de l'auteur de s'en tenir à une définition 'orthodoxe' de l'exil, ne lui permet pas en revanche de mesurer les transformations majeures qui ont affecté les institutions judiciaires des Romains durant les guerres civiles. Comment conduire une histoire de l'exil romain jusqu'à l'époque de César sans tenir compte de l'invention des proscriptions par Sylla? Les mesures prises par le dictateur, imitées plus tard par les triumvirs, ont radicalement changé la donne: si l'exil avait autrefois constitué une porte de sortie évitant à un accusé d'encourir la peine de mort, désormais il était tout simplement devenu impossible de fuir. Au lieu de permettre aux exilés de trouver un refuge, les édits de proscription ont au contraire prescrit de les rechercher partout ardemment dans un monde méditerranéen désormais entièrement placé sous l'autorité romaine. C'est en tenant compte de tels changements qu'il faut interpréter les mesures prises au début de l'époque impériale par Auguste et Tibère.

² G.P. KELLY, *A History of Exile in the Roman Republic* (Cambridge 2006).

Contrôle de la vie et du patrimoine des exilés: les réformes d'Auguste (12 ap. J.-C.) et de Tibère (23 ap. J.-C.)

“Beaucoup d'exilés résidaient, les uns hors des lieux où ils avaient été relégués, les autres menaient, dans ces lieux mêmes, une vie pleine de mollesse; il défendit à tous ceux à qui on avait interdit le feu et l'eau de séjournier, soit sur le continent, soit dans une île éloignée du continent de moins de quatre cents stades, hormis Cos, Rhodes, Samos et Lesbos; ce furent, je ne sais pourquoi, les seuls qu'il excepta. Outre ces ordonnances, il voulut qu'aucun exilé ne changeât de domicile, qu'il ne put posséder plus d'un vaisseau de transport de la capacité de mille amphores, et de deux vaisseaux marchant à la rame; qu'il n'eut pas plus de vingt esclaves ou affranchis à son service; qu'il ne jouît pas d'une fortune supérieure à cent vingt cinq mille drachmes, le menaçant de punition, lui et ceux qui lui prêteraient leur concours pour enfreindre ces défenses. Voici donc les propositions de loi qu'il fit, celles du moins qu'il est nécessaire d'insérer dans cette histoire”.³

L'ordre de la page du récit de Dion Cassius qui nous est ici transmise directement sans avoir fait l'objet d'un résumé à l'époque byzantine laisse penser que l'auteur lui-même avait sous les yeux le texte législatif qu'il commente. Il s'interroge sur les exceptions qu'il énumère, comme s'il tenait le contenu du document de première main, tout en concluant par une formule générale qui avertit le lecteur de la sélection qui a été opérée. En dépit de cette sélection, ou plutôt de l'effort pour rapporter succinctement l'ensemble de ces dispositions touchant aux exilés, celles-ci se déroulent dans un ordre linéaire: la première proposition résume les considérants (attendu que les exilés ne respectent pas les règles de confinement qui leur sont imposées), tandis que la seconde y répond sur un plan général (limitation géographique des lieux d'exils). La suite consiste en une énumération de dispositions matérielles plus précises (restriction des

³ DIO CASS. 56, 27 (trad. d'après É. GROS)

moyens de transport; limitation du nombre d'esclaves et d'affranchis; clauses patrimoniales) et s'achève par l'énoncé d'une sanction visant les contrevenants et ceux qui leur auraient apporté leur soutien. Selon toute probabilité, quoique la mesure soit ici rapportée comme l'expression directe de la volonté du prince, il s'agissait d'un sénatus-consulte et l'on admettra donc que ce texte peut être porté au nombre des indices qui laissent penser que Dion Cassius s'est aussi servi de ces archives auxquelles il pouvait facilement accéder pour la composition de son histoire.⁴ Comme nous le verrons plus bas, le verbe *dianomothetēō* ("proposer une loi", "régler par une loi") qui clôt ce paragraphe s'applique également à deux autres mesures dont Auguste eut l'initiative. Les trois textes législatifs ne sont pas désignés techniquement, mais par une formule générique (*tauta te outōs ... dienomothetēthē*): ouverture du tribunat aux candidats chevaliers; réglementation sur les libelles diffamatoires en rapport avec la *lex iulia de maiestate*; dispositif sur l'exil.

Quels étaient la portée et le sens de telles interdictions? L'éloignement de la côte visait-il une efficacité 'sécuritaire' (en empêchant les contacts des exilés avec le monde extérieur et les appuis éventuels qu'ils pourraient y rechercher) ou symbolique (en isolant plus encore les condamnés et renforçant le caractère punitif de leur séjour)? La réponse est difficile à préciser d'autant plus que l'extension géographique de cette mesure demeure incertaine. Il est possible que la distance des côtes ne visait pas l'ensemble des rives de la Méditerranée dans son ensemble et que "le continent" (*hepeiros*) dont l'éloignement était recherché était l'Asie Mineure exclusivement. Le terme ne désigne pas toujours seulement de manière générique la terre ferme, mais il peut s'appliquer à tel ou tel continent en particulier. La liste des exceptions (Rhodes, Cos, Samos, Lesbos) localisées dans les Sporades contribue à soutenir une telle hypothèse. Cet archipel longeant les côtes de l'Asie Mineure était

⁴ Cf. C. LETTA, "La composizione dell'opera di Cassio Dione: cronologia e sfondo storico-politico", in *Ricerche di storiografia greca di età romana* (Pisa 1979), 144.

pourvu de cités qui avaient affirmé leur puissance à l'époque hellénistique. La mention assez fréquente de certaines d'entre elles comme lieu d'exil au dernier siècle de la République inciterait à penser qu'il s'agissait bien de celles-ci exclusivement, encore sous Auguste. Un dernier argument pourrait aller dans ce sens. Dans les années qui suivirent, sous le règne de Tibère, de nombreux exilés furent envoyés dans les Cyclades cette fois, sur des îles qui se trouvaient à moins de cinquante milles des côtes et qui en dépit de ce voisinage constituaient un environnement plus redoutable. Plutôt que de conclure que la mesure prise par Auguste à la fin de son règne aurait été immédiatement abandonnée par son successeur alors que celui-ci renforça au contraire la contrainte sur les exilés, l'on pourrait penser qu'elle visait originellement les îles de la côte asiatique seulement, destination traditionnelle des exilés depuis plus d'un siècle. Pourquoi avoir excepté seulement quatre d'entre elles? L'ordre dans lequel Dion Cassius les énumère semble, malgré l'erreur initiale (l'interversion de Cos et de Rhodes), obéir à une logique géographique en partant du Sud vers le Nord. Mais il ne nous renseigne guère sur le fondement d'un tel choix. Sans doute, il faudra approfondir cette question: une telle sélection était-elle basée sur l'existence d'un *foedus* et la reconnaissance d'un privilège particulier dont jouissaient ces cités? Plus tard, cependant, Lesbos, considérée comme un séjour trop agréable, fut également interdite à certains exilés.⁵

Le dispositif adopté par Auguste en 12 ap. J.-C. est le seul texte qui nous renseigne sur une nouveauté liée à la naissance du Principat: désormais, les condamnés à l'interdiction de l'eau et du feu n'étaient plus libres de choisir le lieu de leur séjour. Certes, le sort d'Ovide à Tomei sur la Mer Noire ou la punition des membres de la famille impériale dans les îles du littoral tyrrhénien ou à Pandateria (les deux Julie, leurs complices,

⁵ Cf. TAC. *Ann.* 6, 3, 1; DIO CASS. 58, 18, 3-4. L'épisode est rapporté *infra* p. 284. À l'époque de César, Marcellus en exil à Mytilène aurait pu selon Sénèque (*Helv.* 9, 4) "y jouir de tout le bonheur compatible avec la nature humaine et s'adonner aux belles-lettres avec plus de passion que jamais".

Postumus Agrippa...) étaient bien assortis d'une assignation à résidence. Il faudra revenir également sur l'étonnante formulation concernant le bannissement de Cornelius Gallus auquel Auguste aurait interdit sa maison et ses provinces (*domo et prouinciis suis interdixit*).⁶ Pourtant, il s'agissait dans la première série de cas de *relegationes*, à savoir, comme nous allons bientôt le voir, de condamnations à un exil non assorties d'une dégradation civique. La sanction de Cornelius Gallus procédait quant à elle d'une disgrâce, du renoncement formulé par le prince à *l'amicitia* qui le liait à un membre de son entourage.⁷ Ainsi, antérieurement aux mesures de 12 ap. J.-C., nous ne connaissons pas de condamnations à l'interdiction de l'eau et du feu assorties d'un confinement dans une île. L'exemple célèbre de Cicéron constitue également un *terminus post quem*: l'interdiction de l'eau et du feu votée contre lui en 58 av. J.-C. à l'initiative de Clodius fut assortie d'une zone d'exclusion comptée à partir des côtes de l'Italie. Il faut bien qu'entre ces deux dates la résidence sur une île ait été introduite, puisque la mesure prise par Auguste visait selon Dion Cassius à s'opposer aux transgressions à la norme du séjour dans une île. On admettra donc avec Mommsen que celle-ci fut introduite par le fondateur du Principat.

Comment comprendre enfin les dispositions matérielles précises touchant aux moyens de transport, à la *familia* et au patrimoine? La précision concernant les navires visait moins à limiter la capacité de déplacement des exilés, en principe tenus de ne pas quitter leur île, qu'à les empêcher de se livrer au commerce et à reconstituer un patrimoine. Que certains d'entre eux aient tenté leur chance dans ce domaine est illustré par l'activité de C. Sempronius Gracchus qui avait suivi son père en exil à Cercina (la Petite Syrte), où il était demeuré après l'assassinat

⁶ SVET. *Aug.* 66, 2. Cf. DIO CASS. 53, 23, 5.

⁷ A. WINTERLING, *Aula Caesaris. Studien zur Institutionalisierung des römischen Kaiserhofes in der Zeit von Augustus bis Commodus (31 v. Chr.-192 n. Chr.)* (München 1999), 171.

de celui-ci: "Élevé là parmi des bannis et des gens étrangers aux arts libéraux, il n'avait ensuite pour subsistance que la vente en Afrique et en Sicile de viles marchandises (*mox per Africam ac Siciliam mutando sordidas merces sustentabatur*)".⁸ C'est en raison de cette activité qu'il fut accusé, comme nous le verrons plus bas, d'avoir livré du blé à Tacfarinas (cf. infra p. 292). Il leur est interdit de posséder un vaisseau de transport d'une capacité supérieure à 1'000 amphores, ni plus de deux vaisseaux à rame. Or, les plus gros navires de l'époque pouvaient avoir une capacité dix fois supérieure et atteindre 10'000 amphores (soit cinq cents tonnes).⁹ Les modèles en question pouvaient certes faire le tour de la Méditerranée, mais ils se limitaient pour la plupart au cabotage. Dans ces conditions il était impossible aux exilés de faire fortune par un commerce au long cours. La limitation du nombre d'esclaves ou d'affranchis, quant à elle, pourrait s'offrir à de nombreuses conjectures et l'on en reviendra toujours au chiffre fourni par Tacite au sujet du préfet de la Ville Lucius Pedanius Secundus assassiné en 61 et qui possédait une *familia* de 400 esclaves.¹⁰ Enfin, l'on dira de même que les 185'000 drachmes de capital maximal accordés aux exilés, c'est-à-dire un demi-million de sesterces, correspondaient à un patrimoine supérieur au cens équestre (400'000 sesterces). Ces données nous informent donc autant sur les conditions de vie supposées des exilés (certains condamnés, comme nous le verrons, étaient cependant réduits à un total dénuement), que sur les couches sociales visées par de telles sentences.

La clause de sûreté qui clôt le texte est une précision supplémentaire sur la condition de parias qui était réservée aux condamnés à l'*aqua et igni interdictio*. Elle est l'expression même de cette peine qui visait à exclure et isoler le condamné. La loi visant Cicéron, inspirée par Clodius en 58 av. J.-C.,

⁸ TAC. *Ann.* 4, 13, 2-3.

⁹ P. POMEY, *La navigation dans l'Antiquité* (Aix-en-Provence 1997), 88-89; P. POMEY, A. TCHERNIA, "Le tonnage maximum des navires de commerce romains", in *Archaeonautica* 2 (1978), 235-236.

¹⁰ TAC. *Ann.* 14, 43, 3.

menaçait également ceux qui auraient apporté leur soutien à l'orateur en exil. Plus directement, la disposition prise par Auguste à la fin de son règne reflète également la prescription de la *lex Iulia* par laquelle celui qui apporterait son soutien à l'interdit encourait la même peine. Parmi les articles de la *lex Iulia* conservées dans les *Pauli Sententiae*, l'un d'entre eux prévoit d'appliquer cette loi à ceux qui auront apporté leur aide ou offert l'hospitalité à un condamné à l'interdiction du feu et de l'eau: *Lege Iulia de ui priuata tenetur, ... et qui eum, cui aqua et igni interdictum est, receperit, celauerit tenuerit.*¹¹ Tout en renouant avec la très ancienne *sacratio*, en s'inscrivant également dans la continuité des proscriptions des guerres civiles, cette menace sur les complices était aussi l'expression nouvelle d'un contrôle qui pouvait s'exercer sur l'ensemble de l'*orbis terrarum*.

Les mesures de 12 ap. J.-C. pourraient témoigner d'un rai-dissement de l'autorité d'Auguste à la fin de son règne en raison principalement de la perspective de la succession. L'impression est encore renforcée dans le récit de Dion Cassius par les lignes précédentes qui rapportent les mesures prises par Auguste à l'encontre des libelles diffamatoires: "instruit que des libelles diffamatoires avaient été composés contre des citoyens, il les fit rechercher et il fit brûler par les édiles ceux qui furent trouvés dans Rome, par les magistrats de chaque endroit ceux qu'on trouva au dehors; il punit même quelques-uns de leurs auteurs".¹² La juxtaposition de ces deux mesures, celle-ci contre les libelles diffamatoires, celle-là sur les conditions de vie des exilés, ont conduit beaucoup d'auteurs à établir un lien entre l'une et l'autre comme s'il s'agissait d'un unique dispositif législatif. Une telle conviction a paru étayée par le rapprochement du récit de Dion Cassius avec notamment deux extraits des *Annales* de Tacite. Le premier, sans indication de date, est une digression sur la *lex Iulia de maiestate* remise en usage par Tibère au tout début de son règne:

¹¹ PAVL. *Sent.* 5, 26, 3.

¹² DIO CASS. 56, 27.

“Auguste le premier se couvrit de cette loi pour engager une instruction sur les libelles scandaleux, indigné par la licence de Cassius Severus, qui, s’en prenant à des hommes et des femmes de rang illustre, les avait diffamés dans des écrits insolents”.¹³

Il recoupe un extrait de la biographie d’Auguste de Suétone:

“Il ne s’effraya même pas des pamphlets dirigés contre lui que l’on répandait dans la Curie, mais il prit grand soin de les réfuter et, sans même en faire rechercher les auteurs, il proposa seulement que l’on informât désormais contre les gens qui publierait sous un nom emprunté des libelles ou des poèmes pour diffamer qui que ce fût”.¹⁴

Dans le premier fragment, la mention de Cassius Severus, ce fameux orateur cité dans le *Dialogue des orateurs*, chez Sénèque le Père ou encore dans l’œuvre de Quintilien comme l’inventeur d’un nouveau style d’éloquence (direct et violent), a conduit au rapprochement avec un autre texte de Tacite rapportant cette fois le contenu d’une *relatio* au Sénat en 24 ap. J.-C.:

“On mit également à l’ordre du jour un rapport sur l’exilé Cassius Severus, un homme d’une basse origine et d’une vie malfaisante, mais puissant par la parole, qui avait soulevé des inimitiés si démesurées qu’un jugement du sénat, rendu sous serment, l’avait éloigné en Crète; là, en poursuivant les mêmes activités, il s’attira des haines nouvelles en plus des anciennes, de sorte que, dépouillé de ses biens et privé du feu et de l’eau, il vieillit sur le rocher de Sériphos (*bonisque exutus, interdicto igni atque aqua, saxo Seriphos consenuit*)”.¹⁵

La mort de ce personnage dans un dénuement complet en exil est enfin rapportée par Jérôme et datée de l’année 32 ap. J.-C.:

*Cassius Severus, orator egregius, qui Quintianum illud proverbium luserat, XXV exili sui anno in summa inopia moritur uix panno uerendo contectus.*¹⁶

¹³ TAC. *Ann.* 1, 72, 3.

¹⁴ SVET. *Aug.* 55.

¹⁵ TAC. *Ann.* 4, 21, 3.

¹⁶ HIER. *Chron.* ed. R. HELM, p.176.

Le décompte des années à partir de la date de la mort et de la durée de l'exil indiquées par Jérôme contredisent, a-t-on observé, la datation fondée sur le récit de Dion Cassius. Jérôme aurait donc fait une erreur de date. L'hypothèse selon laquelle l'erreur se serait glissée dans le décompte des années est à nos yeux d'autant plus fondée que l'on sait combien est aléatoire la reproduction exacte des chiffres romains dans la tradition manuscrite: en ôtant le V, par exemple, l'on obtient la durée précise des années passées en exil par Cassius Severus, à partir de la date de son exil, en admettant que celui-ci coïncide avec la législation sur les libelles fournie par Dion Cassius: 12 ap. J.-C. Une autre hypothèse a été proposée récemment qui accorde au contraire une fiabilité à l'information fournie par Jérôme en proposant une relecture de Dion Cassius et de Tacite: "l'exil de Cassius Severus en Crète aurait été décidé par le Sénat en 8 ap. J.-C. [“année qui connaît plus d'agitation politique et, notamment l'exil d'Ovide”], et qu'il aurait été renforcé par son envoi à Sériphos en 12 ap. J.-C. et non en 24".¹⁷ Or, une telle reconstruction nous paraît difficilement admissible en dépit de l'existence des erreurs chronologiques qui ont été identifiées dans le récit de Dion Cassius, à commencer par la conspiration de Cornelius Cinna sous Auguste, dont nous reparlerons plus bas (cf. *infra* p. 294).

Le premier point difficilement admissible concerne le débat sénatorial de 24 ap. J.-C. Le déroulement des événements est très clair: un premier jugement (*iudicium*) sous serment avait été rendu par le Sénat au sujet de Cassius Severus qui avait alors été "éloigné" en Crète: le verbe *admoouere* ici ne revêt que le sens d'une expulsion, d'une "mise à distance" ou "à l'écart". Il désignerait donc une simple *relegatio* et non une exclusion de la *ciuitas*, quoique le condamné soit désigné du terme d'*exul*. L'exclusion de la cité n'intervint que dans un second temps en raison de la persistance de Cassius Severus dans son crime: une

¹⁷ A. D'HAUTCOURT, "L'exil de Cassius Severus: hypothèse nouvelle", in *Latomus* 54 (1995), 315-318.

aqua et igni interdictio fut alors prononcée, accompagnée comme à l'ordinaire d'une confiscation de patrimoine, probablement totale, si l'on en croit l'état de dénuement où se trouva le condamné. Faut-il supposer un troisième acte le concernant en admettant avec A. D'Hautcourt que l'*interdictio* aurait été prononcée antérieurement à 24 ap. J.-C. et que le rapport présenté aux sénateurs cette année-là aurait visé par exemple un rappel éventuel de l'exilé. Rien dans le récit de Tacite ne permet de considérer que l'*interdictio* aurait été prononcée antérieurement à la *relatio* de 24, qui se serait alors trouvée sans objet et dont on comprendrait mal la place dans le déroulement des *Annales*. Cependant cette reconstruction des événements se heurte à une autre objection touchant cette fois au texte de Dion Cassius sur lequel nous pouvons maintenant conclure. Rappelons d'abord que le nom de Cassius Severus n'y est même pas mentionné. L'historien grec soutient seulement que l'introduction de la législation contre les libelles fut suivie d'une répression contre plusieurs personnages coupables d'un tel crime. Tacite évoque lui aussi une répression fondée sur la *lex Iulia de maiestate* en précisant qu'elle fut motivée notamment par les agissements de Cassius Severus. Mais le récit de Suétone laisse entendre que les dispositions sur les libelles ne furent appliquées que par la suite. Sans insister ici sur ces nuances, soulignons simplement que le dispositif sur le confinement des condamnés à l'*aqua et igni interdictio* et les conditions matérielles de leur existence ne recoupe en rien le contenu de la précédente loi sur la diffamation. L'une réprime un crime et ses auteurs, l'autre veille à l'application d'une peine. Pour s'en convaincre, plutôt que d'extraire ces lignes en les plaçant bout à bout artificiellement comme s'il s'agissait d'un acte unique derrière lequel se profilerait la silhouette jamais mentionnée de l'exilé Cassius Severus, restituons brièvement ces deux dispositions d'Auguste dans l'ordre du récit de l'année 12 dans l'*Histoire romaine*: l'année s'ouvre par l'obtention du consulat par Germanicus (avec Gaius Capito pour collègue), alors que ce dernier n'avait jamais exercé la préture (56,

26, 1); Auguste recommande ensuite Germanicus au sénat (56, 26, 2); le vieil empereur ne reçoit plus les sénateurs et ne participe plus aux banquets avec eux. Il limite les salutations que lui rendent également les chevaliers et les membres du peuple (56, 26, 3); l'empereur continue néanmoins de s'acquitter de ses tâches (*ou mentoi kai talla ètton ti para touto diôketi*) (56, 27, 1). Suivent alors trois mesures qui illustrent cette activité de l'empereur: ouverture du tribunat à des candidats de rang équestre; répression des libelles diffamatoires et poursuite de certains de leurs auteurs (56, 27, 1); dispositif sur l'exil (56, 27, 2). L'énumération de ces trois mesures (la première tient en quelques mots, tandis que la troisième est détaillée, comme nous l'avons vu plus haut) s'achève par une phrase de conclusion qui témoigne du choix opéré par Dion Cassius dans la documentation dont il disposait sur l'activité législatrice initiée par Auguste (probablement devant le sénat, plutôt que devant le peuple): "voici donc les propositions de loi qu'il fit, celles du moins qu'il est nécessaire d'insérer dans cette histoire" (*tauta te outòs, osa ge kai es istorian anagkaia esti, dienomothetèthè*) (56, 27, 4). Le récit de l'année s'achève par la mention des *Ludi martiales* (56, 27, 4) et la dédicace du portique de Livie (56, 27, 5). Au terme de cette étude, il apparaît donc que la réglementation de l'exil, placée par Dion Cassius en 12 ap. J.-C., doit être distinguée de la législation sur les libelles, quoique celle-ci entre en rapport avec la relégation de Cassius Severus (peut-être advenue également en 12 ap. J.-C.), suivie plus tard d'une aggravation de peine.

Si les mesures prises par Auguste pouvaient avoir un caractère conjoncturel, elles sont aussi annonciatrices des années dures du règne de son successeur aussi bien dans l'extension du champ couvert par le crime de la lèse-majesté que dans l'application des peines. Le resserrement de la contrainte sur les exilés fut encore accru par Tibère, une dizaine d'années plus tard, en 23 ap. J.-C. Cette fois, malheureusement, l'information fournie par Dion Cassius est beaucoup plus lapidaire et en dépit de l'importance de cette loi dont l'historien affirme qu'elle était

encore en vigueur à son époque, nous ne nous y arrêterons que brièvement.

“Tibère défendit à ceux auxquels on avait interdit l'eau et le feu de tester (*diatithestai*), une disposition qui est encore observée de nos jours”¹⁸

Si un tel énoncé a pu sembler déconcertant, c'est que l'*aqua et igni interdictio* emportait en principe, en même temps que la citoyenneté, la *factio testamenti* du condamné que sa condition rendait désormais incapable de transmettre ou de recevoir un héritage. Certains modernes ont donc reconstitué une histoire générale de l'exil en accordant à la mesure de Tibère une portée révolutionnaire: c'est seulement à partir de 23 ap. J.-C. que l'interdiction de l'eau et du feu aurait consisté en une dégradation civique, une *deminutio capitinis*, ce qu'elle n'était pas auparavant. Les sources antérieures, d'époque républicaine, contredisent une telle hypothèse. En outre, à la lumière de plusieurs textes de jurisprudence conservés dans le *Digeste*, l'on comprendra plutôt que l'empereur aurait aggravé la condition patrimoniale des exilés en les empêchant de rédiger un testament, non seulement selon les règles du droit romain (ce qui était déjà le cas), mais aussi selon les règles du droit des gens, le *ius gentium*.¹⁹ À sa mort, les biens du déporté sont partagés entre ses créanciers (au premier rang) et le fisc, en raison du principe suivant lequel le condamné à la déportation *alienare non potest*.

“Le déporté perd le droit de cité, il conserve la liberté, et puisqu'il est privé du droit civil (*ius ciuile*), il a recours au droit des gens (*ius gentium*). C'est pourquoi il achète, il vend (*emit uendit*), il loue à bail (*locat conductit*), il pratique l'échange (*permutat*), il pratique le prêt à intérêt (*fenus exercet*) et d'autres opérations semblables. En conséquence, c'est à bon droit qu'il

¹⁸ DIO CASS. 57, 22, 5 (Xiphilin).

¹⁹ Cette interprétation proposée par A.N. SHERWIN-WHITE, *The Letters of Pliny* (Oxford 1966), 281, a été approfondie récemment par B. SANTALUCIA, “La situazione patrimoniale dei *deportati in insulam*”, in *Carcer II. Prison et privation de liberté dans l'Empire romain et l'Occident médiéval*, éd. par C. BERTRAND-DAGENBACH *et alii* (Paris 2004), 9-19.

engage à titre d'hypothèque les choses qu'il a acquises après sa condamnation. Aussi, ceux qui ont une créance sur ces choses en vertu d'un contrat passé de bonne foi avec ce dernier doivent être préférés au fisc au moment de la succession du déporté défunt. Car le déporté ne peut pas aliéner les biens qui ont été acquis depuis la condamnation. Celui qui est déporté par un gouverneur, sans que le prince ait été consulté, peut instituer des héritiers et recevoir des legs".²⁰

La mesure adoptée sous le règne de Tibère (il s'agissait là encore selon toute probabilité d'un senatus-consulte) empêchait donc tout enrichissement de ceux qui auraient pu être appelés à devenir les héritiers du condamné et qui l avaient parfois suivi dans son exil.

Géographie historique de l'exil: sécurité, humiliation et isolement

Les auteurs anciens n'indiquent qu'assez rarement la destination précise suivie par les exilés.²¹ Une telle précision topographique n'apparaît le plus souvent qu'en raison de circonstances particulières qui conduisent à suivre l'itinéraire du condamné, soit parce qu'il a fait l'objet d'un transfert ou a été victime d'une exécution, soit encore, plus rarement, pour décrire les conditions heureuses de son séjour. À plusieurs reprises également transparaît la documentation dont disposait un historien comme Tacite, puisque certains débats consécutifs à un procès sénatorial portaient précisément sur le choix du lieu de confinement.²² Mais les indications sur le lieu d'exil dont nous disposons sont le plus souvent édifiantes: elles visent dans un cas à souligner l'arbitraire du tyran, dans l'autre à deviser sur le destin de certains individus dont les mauvaises actions contrastent avec

²⁰ *Dig.* 48, 22, 15 (Marcianus).

²¹ S. BINGHAM, "Life on an Island: A Brief Study of Places of Exile in the First Century AD", in *Studies in Latin Literature and Roman History* XI, ed. by C. DEROUX, Coll. Latomus 272 (Bruxelles 2003), 382-383.

²² TAC. *Ann.* 4, 30, 1 (24 ap. J.-C.).

le sort paisible qui leur est réservé en dépit de leur ignominie: par exemple, la retraite d'Anicetus en Sardaigne, en 62, au lendemain du meurtre d'Agrippine.²³ En eux-mêmes, ces récits sont une première indication des conditions matérielles variées de séjour en exil. Il reste que l'enquête visant à répertorier l'ensemble des localisations de la peine à une époque donnée se heurte à la fois à la quantification impossible de ces condamnations et à l'extrême rareté des renseignements géographiques. Sauf exception, l'épigraphie n'est ici daucun secours, car les exilés ou l'autorité impériale n'ont pas laissé de traces de ces déplacements d'un bout à l'autre de la Méditerranée. Qu'une certaine publicité, indirecte, ait été donnée à la présence d'un banni dans une cité de l'Empire, c'est ce que laisse penser l'unique cas connu d'une inscription mentionnant sa présence. À la fin du règne de Néron, le peuple de la cité d'Andros a honoré comme "évergète et patron" P. Glitius Gallus, consacrant également une inscription en l'honneur de son épouse Egnatia Maximilla.²⁴ Or, l'on sait par Tacite que ces deux personnages avaient fait partie du dernier train de condamnations consécutif à la conjuration menée par Pison en 65 ap. J.-C. contre Néron: "Novius Priscus, en raison de son amitié pour Sénèque, Glitius Gallus et Annios Pollio, plus discrédités que convaincus, reçurent la faveur de l'exil (*data exilia*); Priscus fut accompagné par sa femme, Artoria Flacilla, Gallus par Egnatia Maximilla, à laquelle ses grandes richesses furent d'abord laissées, puis enlevées, ce qui accrut encore sa gloire".²⁵ A quel moment l'inscription a-t-elle été affichée? Très probablement quelques années plus tard au lendemain de la mort de Néron, admet-on généralement, lors du retour des exilés autorisé par Galba.²⁶ Glitius

²³ TAC. *Ann.* 14, 62, 4: "Alors il est expulsé en Sardaigne, où il subit un exil opulent et termina sa vie"

²⁴ SIG³ 811-812 = IG XII 5, 757. CIL XI 3097.

²⁵ TAC. *Ann.* 15, 71, 3.

²⁶ SIG³ 811-812. Egnatia Maximilla semble être rentrée en Italie après la mort de Néron: cf. M. Th. RAEPAET-CHARLIER, *Prosopographie des femmes de l'ordre sénatorial (Ier-IIe siècles)* (Louvain 1987), 298, n°338.

Gallus et Egnatia Maximilla pourraient avoir accompli un bienfait en retour de l'accueil qui leur avait été réservé par les habitants d'Andros dans ces circonstances difficiles. Dans la suite de son récit, Tacite énumère une liste de condamnés qui ont été autorisés à "gagner les îles de la Mer Égée" (*Aegaei maris insulae permittuntur*) ou d'autres encore qui ont été "interdits de séjour en Italie" (*Italia prohibentur*), sans autre précision.²⁷ "On bannit aussi Rufrius Crispinus (*pellitur et Rufrius Crispinus*)", écrit-il, "à l'occasion de la conspiration, mais parce qu'il était mal vu de Néron, pour avoir jadis épousé Poppée".²⁸ On ne saurait rien de la destination suivie par cet exilé si son exécution n'avait pas été programmée l'année suivante: "Le fait est qu'en l'espace de quelques jours tombèrent à la file Annaeus Mela, Cerialis Anicius, Rufrius Crispinus et T. Petronius; Mela et Crispinus étaient des chevaliers romains de rang sénatorial. Le dernier, ancien préfet du prétoire, décoré des insignes du consulat, venait d'être relégué en Sardaigne (*in Sardiniam exactus*) pour avoir participé à la conjuration; en apprenant la nouvelle de sa condamnation à mort, il se tua lui-même".²⁹

Tacite n'épuise donc pas systématiquement les fiches dont il dispose et ne distribue ses indications géographiques qu'épisodeusement, au gré de la construction de son récit. Les autres auteurs sont encore plus avares de renseignements sur ce point et ce n'est que par déduction que la présence d'exilés, en nombre, sur différentes îles ou cités des côtes méditerranéennes peut être admise. L'île de Cercina (Petite Syrte) fut le lieu où Sempronius Gracchus, l'un des amants de Julie, la fille d'Auguste, fut exilé.³⁰ Le fils, C. Sempronius Gracchus, suivit le père en exil et fut élevé "parmi les bannis" (*adultus inter extorres*).³¹ Les noms de ces derniers nous sont inconnus, mais l'on admettra que la Petite Syrte constituait dès le commence-

²⁷ TAC. *Ann.* 15, 71, 4.

²⁸ *Ibid.*

²⁹ TAC. *Ann.* 16, 17, 1-2.

³⁰ TAC. *Ann.* 1, 53.

³¹ TAC. *Ann.* 4, 13, 2-3.

ment du Principat une destination courante pour les exilés. À la fin de son règne, en 12 ap. J.-C., on l'a vu, Auguste prit des mesures générales pour restreindre la liberté de mouvement des exilés: interdiction de séjourner sur le continent et dans des îles qui en sont éloignées de moins de cinquante milles (à l'exception de Cos, de Rhodes, de Samos et de Lesbos).³² Une telle disposition atteste à l'évidence un nombre important d'exils dont l'identification précise est impossible. Plus tard, sous les successeurs d'Auguste plusieurs destinations paraissent également fréquentes, archétypales, presque proverbiales si l'on croise les généralisations de Sénèque, Juvénal ou Plutarque: Gyaros et Seriphos dans les Cyclades, Skiathos dans les Sporades septentrionales (au nord de l'Eubée), ou encore Cossyra, entre l'Afrique et la Sicile.³³ On ne connaît cependant aucun séjour d'exil à Skiathos ou Cossyra; Seriphos a accueilli Vistilia en 19 ap. J.-C. et Cassius Severus en 25.³⁴ Quant à Gyaros, elle n'est mentionnée que comme une menace en 22 ap. J.-C. à l'encontre de Silanus, en 24 à l'encontre de Vibius Serenus, puis sous Caligula à l'encontre de Flaccus. À chaque fois la menace a été repoussée par une décision impériale et ces trois condamnés ont finalement rejoint dans l'ordre Kythnos, Amorgos et Andros.³⁵ Outre le personnage de Lucien, Deinas, qui y séjourne en compagnie de son ami Agathoclès, on ne connaît que le cas de Musonius Rufus, qui y fut confiné sur l'ordre de Néron avant d'être réquisitionné sur l'ordre du même empereur pour les travaux de l'Isthme.³⁶

En raison de ces aléas de la conservation des sources, l'enquête pourrait ici nous conduire seulement à pointer sur la carte une série de lieux, sans cohérence particulière et potentiellement extensible à l'ensemble des îles de la Méditerranée.

³² DIO CASS. 56, 27, 2.

³³ IVV. 10, 170.

³⁴ TAC. *Ann.* 2, 85, 1-3; 4, 21, 3.

³⁵ Silanus: TAC. *Ann.* 3, 68, 2; 3, 69, 5. Vibius Serenus: *Ann.* 4, 30, 1. Avillius Flaccus: PHILO AL. *Flacc.* 151.

³⁶ LUC. *Tox.* 17-18; PHILOSTR. *VA* 7, 16, 2.

Elle n'aurait d'autre résultat que de conduire à l'établissement d'une liste de noms reconnus comme lieux d'exil sous l'Empire, au gré de la documentation parvenue jusqu'à nous.³⁷ Or, une mise en ordre chronologique, ainsi que la prise en compte des données politiques ou juridiques permettent d'affiner l'analyse en esquissant une géographie de l'exil qui reflète en premier lieu la rupture produite par les guerres civiles et l'instauration du Principat.

On ne reviendra pas ici sur les mesures de la fin du règne d'Auguste qui témoignent de l'introduction du confinement pour les condamnés sur lesquels pesaient l'*interdictio aqua et igni* dans les années ou les décennies précédentes. Il est très probable en raison des noms d'îles constituant des exceptions (Cos, Rhodes, Samos et Lesbos), toutes situées dans les Sporades du Sud, au large de la côte d'Asie Mineure, que celles-ci constituaient encore au commencement de l'Empire la destination la plus fréquente. La relégation d'Ovide à Tomei sur la Mer Noire constitue une exception au regard de toutes les autres destinations connues pour la période envisagée, en raison de son éloignement et surtout de sa situation frontalière. L'on sait pourtant que la punition du poète ne constituait en rien la forme la plus lourde d'exil et qu'il avait conservé son patrimoine.

“En outre, comme si la vie était un trop faible présent, tu n'as pas confisqué mon patrimoine. Tu ne m'as pas fait condamner par un décret du Sénat (*Nec mea decreto damnasti facta senatus*), un tribunal spécial n'a pas ordonné mon exil (*Nec mea selecto iudice iussa fuga est*): en me fustigeant de termes sévères — ainsi doit agir un prince —, tu vengeas toi-même comme il convient tes offenses. L'édit de surcroît, tout

³⁷ De telles listes, plus ou moins exhaustives, ont été établies par J.P.V.D. BALSDON, *Romans and Aliens* (London 1979), 98 sqq. et R. CHEVALLIER, *Voyages et déplacements dans l'Empire romain* (Paris 1988), 144-152 ou plus récemment par S. BINGHAM, “Life on an Island: A Brief Study of Places of Exile in the First Century AD”, in *Studies in Latin Literature and Roman History XI* (cit. n.21), 376-400.

rigoureux et effrayant qu'il était, fut modéré dans le nom donné à la peine; j'y suis nommé relégué et non exilé (*Quippe relegatus, non exul dicor in illo*), et tu as trouvé une formule spéciale pour sceller mon sort".³⁸

Les quelques cas d'exils connus avec assez de précision sous le règne d'Auguste concernent des destinations occidentales, qu'il s'agisse de Marseille suivant la tradition républicaine, ou, par une innovation du *princeps* issue de l'intrication entre la cour et l'Etat, des îles tyrrhénienes.

Marseille accueillit en 20 av. J.-C. Volcanus Moschus. Son exemple, d'ailleurs inspiré du cas de P. Rutilius en 93/92 av. J.-C., témoigne du maintien des traditions républiques au sujet des exilés dans ces premières années du Principat. La cité qui avait accepté d'accueillir le condamné engage en effet à sa mort des négociations avec Rome pour pouvoir bénéficier du legs qu'il avait fait en sa faveur. Une telle autonomie ne serait plus concevable probablement quelques décennies plus tard en raison du développement du *ius fisci* et de l'affirmation de l'autorité centrale sur les cités.

“Alors on examina une requête des Marseillais, et on approuva le précédent de P. Rutilius, qui, banni par les lois, avait reçu droit de cité à Smyrne: selon le même principe, Vulcarius Moschus, qui, exilé, avait été admis dans la citoyenneté de Marseille, avait légué ses biens à cette cité comme à sa patrie (*quo iure Vulcanius Moschus exul in Massilienses receptus bona sua rei publicae eorum ut patriae reliquerat*)”.³⁹

Moschus avait été accusé d'empoisonnement. Fut-il condamné seulement à la relégation comme pourrait le suggérer l'indice concernant le patrimoine qu'il aurait conservé? Il se pourrait aussi qu'il ait encouru une *aqua et igni interdictio* qui l'avait contraint à changer de cité, alors que par une faveur spéciale de l'empereur (attestée dans des cas postérieurs) il

³⁸ OV. *Trist.* 2, 130-138.

³⁹ TAC. *Ann.* 4, 43, 5.

aurait conservé une partie au moins de son patrimoine, légué ensuite à sa cité d'accueil. En tout cas son départ fut bien consécutif à une condamnation comme s'en souvient Sénèque le Père: *Qui reus beneficii fuit et a Polione Asinio defensus damnatus Massiliae docuit...*⁴⁰ Selon le même auteur, ce personnage continua en exil à exercer et à enseigner la rhétorique.⁴¹ À l'époque augustéenne Marseille fut également la destination d'une relégation dans le cadre de la juridiction domestique. Le fils de L. Tarius Rufus ayant comploté contre son père, un conseil familial se réunit en 16 av. J.-C. auquel participait l'empereur lui-même. Ce dernier "se prononça pour la relégation, laissant au père le choix du lieu".⁴² "Le père [dit Sénèque] fut admiré de tous sans exception pour s'être contenté de l'exil et encore d'un exil charmant, puisqu'il tint le parricide confiné dans Marseille et lui fit une rente annuelle, précisément celle qu'il lui faisait avant le crime".⁴³ C'est également au titre de la relégation domestique, quoique déguisée cette fois sous la forme d'un simple éloignement, que Marseille accueillit des personnes liées à la répression du complot de Julie. C'est dans cette cité que mourut en 25 ap. J.-C. le fils de Jullus Antoninius:

"Alors mourut aussi L. Antonius, d'une famille très illustre, mais malheureuse: en effet, son père Jullus Antoninius, coupable d'adultère avec Julie, fut puni de mort, et lui-même, quoique très jeune encore et petit-fils de la soeur d'Auguste, fut relégué par ce prince dans la cité de Marseille, où le prétexte d'études devait servir à dissimuler le terme d'exil (*ubi specie studiorum nomen exilii tegeretur*)".⁴⁴

Cependant, ce sont les îles tyrrhénienes qui ont accueilli principalement, dès le règne d'Auguste, les membres de la famille impériale relégués. C'est que l'environnement de ces

⁴⁰ SEN. *Contr.* 2, 5, 13.

⁴¹ SEN. *Contr.* 10, *praef.* 10.

⁴² SEN. *Clem.* 1, 15, 6.

⁴³ SEN. *Clem.* 1, 15, 2.

⁴⁴ TAC. *Ann.* 4, 44, 3.

terres ‘isolées’ mais suffisamment proches de Rome convenait à la surveillance de ces individus de haut rang. Alors que les îles de la Mer Tyrrhénienne étaient jusqu’à la fin de la République des repaires de pirates, à partir d’Auguste elles accueillent de nombreuses villas maritimes⁴⁵ et c’est très probablement dans ces prisons dorées que des membres de la famille impériale ont été exilés et parfois mis à mort. Accusée d’adultère en 2 av. J.-C., mais sans doute impliquée dans une conjuration, Julie la fille d’Auguste fut exilée à Pandateria (l’actuelle Ventotene), où l’accompagna sa mère Scribonia, puis ramenée plus tard sur le continent à Rhegium, où elle mourut.⁴⁶ Agrippa Postumus, le fils d’Agrippa, né en 12 av. J.-C., après la mort de son père, fut adopté par Auguste en 4 ap. J.-C., en même temps que Tibère. Deux ans plus tard, sans doute à l’instigation de Livia, il fut relégué à Sorrente (*abdicavit se posuitque Surrentum*). Sous prétexte de folie, “Auguste le fit transporter dans une île et de plus entourer d’une garde de soldats” (*in insulam transportauit saepsitque insuper custodia militum*).⁴⁷ L’île en question était Planasia, l’actuelle Pianosa au large de l’île d’Elbe.⁴⁸ Peut-être le vieil empereur se réconcilia-t-il avec son petit-fils devenu son fils adoptif peu de temps avant sa mort. Quoi qu’il en soit, Agrippa Postumus devenu par cette adoption Agrippa Iulius Caesar fut exécuté

⁴⁵ X. LAFON, “Les îles de la mer tyrrhénienne: entre palais et prisons sous les Julio-Claudiens”, in *Carcer I: prison et privation de liberté dans l’antiquité classique*, éd. par C. BERTRAND-DAGENBACH et alii (Paris 1999), 149-162. Sur les aménagements résidentiels de Ponza et Ventotene à partir de l’époque augustéenne: cf. G.M. DE ROSSI, “Ponza e Ventotene: analisi dello sviluppo topografico”, in *La forma della città e del territorio: Esperienze metodologiche e risultati a confronto*, a cura di S. QUILICI GIGLI (Roma 1999), 147-156.

⁴⁶ TAC. *Ann.* 1, 53, 1; 4, 39-40; 6, 51, 2; SVET. *Aug.* 63-65; DIO CASS. 48, 34, 3; 53, 27, 5; 54, 6, 5; 54, 8, 5; 54, 18, 1; 54, 31, 1-2; 54, 35, 4; 55, 2, 4; 55, 10, 14; 57, 18, 1; VELL. 2, 93, 2; 2, 96, 1; 2, 100, 3-5; 2, 104, 1.

⁴⁷ SVET. *Aug.* 65, 1 et 4. Sur l’*abdicatio* et la *relegatio* d’Agrippa Postumus, cf. Y. THOMAS, “Remarques sur la juridiction domestique à Rome”, in *Parenté et stratégies familiales dans l’Antiquité romaine*, éd. par J. ANDREAU et H. BRUHNS (Rome 1986), 461-463.

⁴⁸ TAC. *Ann.* 1, 3; DIO CASS. 55, 32 (pour localiser Planasia, l’historien grec signale la proximité de la Corse).

l'année même de l'accession de Tibère au pouvoir: *Primum facinus noui principatus.*⁴⁹

Depuis le règne d'Auguste, jusqu'à l'époque sévérienne, les îles proches de l'Italie, sur le littoral tyrrhénien, aussi bien que sur l'Adriatique, accueillirent des personnages, des femmes en particulier, écartés de la cour à l'issue de querelles dynastiques ou de complots. Sous Tibère, Julia, la petite fille d'Auguste fut exilée à Tremerium (l'actuelle Tremiti au Nord du Gargano), où elle mourut en 28 ap. J.-C.⁵⁰ Vipsania Agrippina (Agrippine Majeure) et Iulia Livilla, la sœur de Caligula, furent exilées à Pandateria (Ventotene), où avait résidé autrefois Julie.⁵¹ L'année suivante, en 29, les deux fils aînés de Germanicus furent éliminés: "Puis les ayant fait déclarer ennemis publics, il les laissa mourir de faim, Néron, dans l'île de Pontia, Drusus dans les sous-sols du Palatin".⁵² En 62, Claudia Octavia fut chassée de sa maison, puis de Rome à l'instigation de Poppée, puis exilée à Pandateria.⁵³

Pour les époques flavienne et antonine, la documentation, très lacunaire, n'a conservé le souvenir que de rares exemples de relégations vers ces îles peu éloignées de l'Italie de femmes de l'ordre sénatorial. En 95 T. Flavius Clemens et sa femme Flavia Domitilla furent accusés. Elle-même fut exilée soit vers Pandateria, soit vers Pontia.⁵⁴ Bruttia Crispina, épouse de Commodo depuis 178, fut accusée d'adultère, exilée à Capri puis exécutée.

⁴⁹ TAC. *Ann.* 1, 5-6. VELL. 2, 112, 7 tente dans son récit de justifier à la fois l'exécution d'Agrippa Postumus et d'estomper la responsabilité pourtant manifeste de Tibère.

⁵⁰ TAC. *Ann.* 4, 71: *damnauerat proieceratque in insulam Trimerum, haud procul Apulis litoribus.*

⁵¹ Agrippine Majeure: SVET. *Tib.* 53; 54; TAC. *Ann.* 6, 25; 14, 63.

⁵² SVET. *Tib.* 54, 3.

⁵³ PS. SEN. *Octavia.* 970-971.

⁵⁴ SVET. *Dom.* 15, 1; DIO CASS. 67, 14, 2 (Pandateria); EUS. *HE* 3, 18, 4 (Pontia). L'identification du personnage dans la tradition chrétienne serait erronée: cf. M.Th. RAEPSAET-CHARLIER, *Prosopographie des femmes de l'ordre sénatorial (Ier-IIe siècles)* (Louvain 1987), 323 n°369 n.3. Quoi qu'il en soit, ces diverses traditions témoignent du maintien d'une pratique de relégation inaugurée par Auguste.

L'épisode que Dion Cassius situe en 182 devrait plus probablement être placé à l'extrême fin du règne en 191/2.⁵⁵ Lucilla, la sœur du même empereur, fut également ‘envoyée’ à Capri avant d'être exécutée: *ipse autem Commodus Lucillam sororem, cum Capreas misisset, occidit.*⁵⁶ L'on rangera dans la même catégorie de relégations liées à des intrigues de cour ou à des complots, la relégation en Sicile ou dans les îles Lipari des enfants de Plautianus, Plautius et Plautilla, au lendemain de l'exécution du préfet du prétoire de Septime Sévère en 205.⁵⁷

Ces relégations liées aux intrigues de la cour impériale sont une innovation du Principat. Parallèlement les îles plus éloignées des côtes de l'Asie Mineure continuèrent à accueillir des exilés politiques dans les limites géographiques imposées par Auguste en 12 ap. J.-C. Cependant, la liberté des condamnés de s'y rendre fut encore restreinte par Tibère, tant certaines de ces îles pouvaient apparaître comme des destinations de villégiature, plutôt que comme des lieux appropriés pour purger une peine. Un épisode de la fin du règne de Tibère en témoigne. En 32 ap. J.-C., Junius Gallio, disgracié, s'apprêtait à gagner Lesbos, lorsque l'empereur le fit mettre aux arrêts à Rome dans les maisons des magistrats qui servaient traditionnellement (pensons aux Catiliniens) de lieux de détention pour les membres des couches dirigeantes: “on lui reprochait d'avoir choisi un exil facile à supporter dans l'île de Lesbos, célèbre et riante”⁵⁸. Le règne de Tibère, surtout, voit l'émergence des Cyclades comme lieux d'exil. Sans procéder à des généralisations sur ce milieu insulaire disparate, il ressort à l'évidence de la documentation que les îles de cet archipel constituaient un environnement plus hostile que les Sporades du Sud. Certaines d'entre elles furent choisies précisément en raison de la dureté des conditions de vie qu'elles offraient. C'est en 19 ap. J.-C. que pour la première fois, à la lumière de la documentation

⁵⁵ M.Th. RAEPSAET-CHARLIER, *Prosopographie*, 150, n°149.

⁵⁶ *Hist. Aug. Comm.* 5, 7.

⁵⁷ HDN. 3, 13, 3 (Sicile); DIO CASS. 76, 6, 3 (Lipari).

⁵⁸ TAC. *Ann.* 6, 3, 1; DIO CASS. 58, 18, 3-4.

conservée, une exilée fut conduite dans une Cyclade, à Seriphos, l'îlot qui accueillit également cinq ans plus tard Cassius Severus lorsque la peine qu'il purgeait en Crète fut aggravée par l'*aqua et igni interdictio* (cf. *supra* p. 270). En 22 ap. J.-C., Silanus est enjoint de se retirer à l'issue d'une *interdictio aqua et igni*, alors que certains proposaient un confinement à Gyaros.⁵⁹ En 23 ap. J.-C., Vibius Serenus fut "déporté dans l'île d'Amorgos" (*in insulam Amorgum deportatur*).⁶⁰ L'année suivante le même sénateur, un moment menacé d'un internement à Gyaros ou Donusa, fut reconduit à Amorgos.⁶¹ Sous Tibère encore un certain Xenon qui avait offensé le prince fut exilé à Cinaria ou Kinaros (la plus occidentale des Sporades, proche des Cyclades), une île encore connue à l'époque de Plutarque pour son dénuement et sa vocation à recevoir des exilés.⁶²

Les Cyclades demeurèrent des destinations d'exil durant tout le Haut Empire. Désormais, conformément aux mesures d'Auguste, l'interdiction de l'eau et du feu signifiait par principe une exclusion du continent et des lieux les plus confortables, elle était accompagnée de l'indication d'un lieu de confinement, comme en témoignent plusieurs discours au Sénat rapportés par Tacite, ou encore de façon particulièrement explicite le récit de la condamnation du préfet d'Égypte Flaccus, selon Philon d'Alexandrie: "Après la confiscation de ses biens, il fut condamné à l'exil et tout le continent lui était interdit; c'est-à-dire la plus grande et la meilleure partie du monde, ainsi que n'importe laquelle des îles où la vie est agréable. Il aurait dû s'exiler dans la plus sinistre des îles de l'Égée — Gyaros est son nom — sans l'appui de Lépide, grâce à qui il réussit à échanger Gyaros contre Andros, située juste à côté". Andros accueillit donc C. Flaccus sous Caligula, ainsi que P. Glitius Gallus et sa femme Egnatia Maximilla sous Néron, en 65 ap. J.-C.⁶³ La même année, Naxos

⁵⁹ TAC. *Ann.* 3, 67, 2; 3, 69.

⁶⁰ TAC. *Ann.* 4, 13, 2.

⁶¹ TAC. *Ann.* 4, 30, 1.

⁶² SVET. *Tib.* 56, 1; PLUT. *De exilio* 8, 602C.

⁶³ Flaccus: PHILO AL. *Flacc.* 151-191; P. Glitius Gallus: TAC. *Ann.* 15, 71, 3-4.

fut la première destination choisie pour exiler Cassius avant que sur un ordre contraire de l'empereur ce personnage ne soit enfermé (*clauditur*) à Bari, puis exécuté.⁶⁴ Dans les Sporades, Patmos est mentionnée sous Domitien.⁶⁵ On rapprochera enfin de cette série le nom de Skiathos, dans les Sporades septentrielles (au Nord de l'Eubée), cité par Sénèque.⁶⁶

Comme ces récits le laissent entendre, une hiérarchie était établie entre ces îles. Les exilés pouvaient y vivre dans un dénuement complet à l'instar de Cassius Severus qui finit ses jours "à peine couvert d'un pagne".⁶⁷ Il y a donc une distance entre les mesures prises par Auguste en 12 ap. J.-C., mesures qui limitaient la domesticité à plusieurs dizaines d'individus, permettaient aux bannis qui avaient encouru *l'aqua et igni interdictio* de conserver un patrimoine équivalant au cens équestre et la condition des exilés qui sous Tibère et ses successeurs furent contraint parfois de partager la vie des pêcheurs d'éponges, de s'abriter dans de modestes demeures paysannes et d'arpenter à demi nus les rochers où ils attendaient la mort. L'une de ces îles en particulier, Gyaros, constituait l'image la plus terrifiante de l'exil. Malgré son nom, lié sans doute aux lignes dessinées par son relief, évoquant depuis la mer le plastron d'une cuirasse anatomique, cette île est la plus fréquente des destinations d'exil mentionnées dans nos sources. Cependant, comme nous l'avons observé plus haut, aucun historien ne signale un seul cas de condamnation dans cette île, devenue pourtant proverbialement l'exemple même de l'enfermement dans un univers étroit et hostile, mis par Juvénal sur le même plan que le *carcer*, le cachot du Capitole, préfiguration selon le même poète de l'isolement du mort enfermé pour l'éternité dans son sarcophage.⁶⁸ Une

⁶⁴ TAC. *Ann.* 16, 9, 1.

⁶⁵ EUS. *HE* 3, 18.

⁶⁶ SEN. *Helv.* 6, 4.

⁶⁷ HIER. *Chron.* ed. R. HELM p.176: *XXV exili sui anno in summa inopia moritur uix panno uerendo contectus.*

⁶⁸ IVV. 1, 73: *aude aliquid breuibus Gyaris et carcere dignum;* 10, 169-172: *aestuat infelix angusto limite mundi / ut Gyarae clausus scopulis paruaque Seripho; / cum tamen a figulis munitam intrauerit urbem, sarcophago contentus erit.*

légende rapportée par Pline l'Ancien voulait que les habitants de l'île dans un passé lointain en eussent été chassés par une prolifération de rats qui rongèrent même le fer produit par son sous-sol.⁶⁹ Seule attestation d'un séjour effectif, le philosophe Musonius Rufus y aurait résidé, selon Philostrate, avant d'être affecté sur ordre de Néron aux travaux de l'Isthme de Corinthe.⁷⁰ Son séjour dans l'île est associé à un miracle: la naissance d'une source qui devint un lieu de culte: "Quant à Musonius l'Étrusque, qui fit bien souvent opposition à son autorité, il lui imposa de résider dans l'île appelée Gyara; et les Grecs sont si entichés de ces sophistes que tous se rendaient alors là-bas en bateau pour le rencontrer comme maintenant ils vont pour voir la source; car, dans cette île qui, auparavant, était sans eau, Musonius découvrit une source que les Grecs célèbrent autant que la source Hippocrène sur l'Hélicon".⁷¹ L'apparition miraculeuse de cette source s'accorde évidemment avec la réputation de l'île qui aurait été antérieurement dépourvue d'eau potable: en 22 ap. J.-C., Tibère était intervenu au Sénat en faveur de C. Junius Silanus: "Il ajouta que Gyaros était une île sauvage et dépourvue d'habitants (*addidit insulam Gyarum immitem et sine cultu hominum esse*); que les sénateurs devaient accorder à la famille Junia et à un homme qui avait appartenu à leur ordre de le laisser se retirer plutôt à Cythnos".⁷² Deux ans plus tard, en 24 ap. J.-C., il intervint de nouveau, cette fois en faveur de Vibius Serenus (pater): "Alors que Gallus Asinius proposait un internement à Gyaros ou à Donusa, il repoussa aussi cette suggestion, en invoquant le manque d'eau dans les deux îles et l'obligation de donner des moyens de vivre à qui l'on accordait la vie (*Gallus Asinius <cum> Gyaro aut Donusa claudendum censeret, id quoque aspernatus est, egenam aquae utramque insulam referens dandosque uitiae usus cui uita concederetur*)".⁷³ C'est également à Gyaros que

⁶⁹ PLIN. *Nat.* 8, 104; 8, 222.

⁷⁰ SVET. *Nero* 31, 6.

⁷¹ PHILOSTR. *VA* 7, 16, 2.

⁷² TAC. *Ann.* 3, 69, 5.

⁷³ TAC. *Ann.* 4, 30, 1.

Lucien place l'exil de son héros à l'issue d'un récit très strictement calqué sur la procédure courante à son époque. Il y fut suivi par son ami Agathoclès et "lorsqu'ils manquèrent de ressources, il partagea la vie des pêcheurs de pourpre et contribua par ses gains à leur subsistance".⁷⁴

Cette présence de pêcheurs témoigne des exagérations sur le caractère désertique d'une île qui serait dépourvue d'eau potable. C'est cependant dans une relative pauvreté que vivaient ses habitants. "Ayant fait relâche à Gyaros", écrit Strabon, "j'y vis un petit village (*komiom*) habité par des pêcheurs". L'un d'entre eux fut pris à bord de l'embarcation de notre géographe. Le pauvre homme souhaitait se rendre à Corinthe pour y rencontrer Octavien afin de plaider une réduction d'impôts auprès du vainqueur d'Actium: "le pêcheur expliqua à ceux qui l'interrogeaient qu'il était chargé de solliciter un allègement de l'impôt pour ses compatriotes, qui avaient à fournir un tribut de cent cinquante drachmes, alors qu'ils étaient à peine en mesure d'en payer cent".⁷⁵ Pline l'Ancien de même signale ainsi Gyaros dans sa description des Cyclades: *Gyara cum oppido, circuitu XV, abest ab Andro LXII*:⁷⁶ elle était donc habitée et son isolement relatif en raison de la proximité d'Andros. L'on sait par ailleurs que sur le versant oriental de l'île subsistaient encore au début du siècle des vestiges de cultures en terrasse à proximité d'une source ainsi que les ruines d'un môle du III^e siècle av. J.-C. Ainsi se trouve-t-on confronté à la nécessité de dresser l'inventaire des données environnementales de ces îles rapportées dans les sources et des vestiges archéologiques qui peuvent attester une occupation humaine aux époques concernées dans la mesure où ils ont été répertoriés, tout en tenant compte naturellement du caractère subjectif de la perception du paysage des îles recréé par la mémoire des exilés et la compassion de certains de leurs contemporains. À l'époque contemporaine si des exilés ont pu, dans leurs récits, accentuer

⁷⁴ LUC. *Tox.* 17-18.

⁷⁵ STRABO 10, 5, 3, p. 485.

⁷⁶ PLIN. *Nat.* 4, 69.

l'horreur de l'expérience qu'ils ont vécue, cela n'enlève rien à l'objectivité de la contrainte exercée sur eux: de Ventotene dans l'Italie fasciste, ou Gyaros dans la Grèce des colonels ayant retrouvé la vocation qui fut la leur dans l'Antiquité à partir de l'époque impériale, ces îles sont également devenues synonymes de conditions de vie contraires à la dignité humaine. Les vestiges archéologiques qui témoignent d'agriculture en terrasse à Gyaros n'invalident pas la généralisation de Plutarque selon laquelle Gyaros ou Kinaros (la plus occidentale des Sporades, située au contact des Cyclades, à l'est d'Amorgos) étaient l'une et l'autre "une île rocaleuse, rebelle à la culture et à la végétation".⁷⁷ Certains éléments permettent sans doute de nuancer ce tableau, comme nous le verrons, mais les rochers des Cyclades constituaient à l'évidence un milieu hostile où certains condamnés étaient placés dans des conditions de survie.

Sous le Haut Empire, des condamnés furent également exilés dans les îles du bassin occidental de la Méditerranée, la Sicile, la Corse, la Sardaigne et les Baléares où les conditions de vie étaient moins éprouvantes.⁷⁸ L'équivalent des rochers de la

⁷⁷ PLUT. *De exilio* 8, 602C.

⁷⁸ Corse: Séneque y est relégué en 41 en raison d'une relation adultère avec Iulia Livilla (DIO CASS. 60, 8, 5; 61, 10, 1-2; *Schol. ad Ivv.* 5, 109; TAC. *Ann.* 13, 14, 3; 13, 42. C'est depuis cet exil qu'il rédige sa *Consolatio ad Polybius*. En 49 il est rappelé à l'initiative d'Agrippine (TAC. *Ann.* 12, 8; 14, 53). Mettius Pompusianus est exilé en Corse sous Domitien et exécuté en raison de griefs relevant de la lèse-majesté (DIO CASS. 67, 12, 2-3); cf. P. ARNAUD, "L'affaire Mettius Pompusianus ou le crime de cartographie", in *MEFRA* 95 (1983), 677-699. Sicile: Licinius Licinianus, condamné à l'*interdictio aqua et igni* par Domitien, fut transféré en Sicile par Nerva afin que sa peine fût allégée (PLIN. *Epist.* 4, 11). Selon Hérodien (3, 13, 2), c'est en Sicile que les enfants de Plautianus (assassiné en 205) auraient été exilés et non aux Lipari, comme l'écrit Dion Cassius (77, 6, 3); cette contradiction pourrait s'expliquer par un transfert consistant en un allègement de la peine à l'initiative de Septime Sévère. Cependant ils seront assassinés par Caracalla. Sardaigne: En 62, Anicetus (le meurtrier d'Agrippine) "est expulsé en Sardaigne où il subit un exil opulent et termina sa vie" (TAC. *Ann.* 14, 62, 4: *Tum in Sardiniam pellitur, ubi non inops exilium tolerauit et fato obiit*). Trois ans plus tard, au lendemain de la conjuration de Pison, on déporta Cassius dans l'île de Sardaigne, en comptant sur sa vieillesse (TAC. *Ann.* 16, 9, 1: *deportatusque in insulam Sardiniam Cassius, et senectus eius exspectabatur*). Rufrius Crispinus également (TAC. *Ann.* 16, 17, 1-2: *in Sardiniam exactus*).

Mer Egée étant ici constitués par les Lipari évoquées plus haut et Cossyra (l'actuelle Pantelleria, dans le détroit de Sicile), où des proscrits avaient autrefois tenté de trouver refuge.⁷⁹

Cette géographie de l'exil pourrait être poursuivie pour l'époque de l'Antiquité tardive. On y verrait alors apparaître les îles de la côte dalmate mentionnées pour la première fois comme lieu d'exil par Ammien Marcellin et dans le Code théodosien, telle Boa, l'actuelle Ciovo à l'ouest de Split.⁸⁰ On y verrait également apparaître la division de l'Empire en deux *partes* et se dessiner en Orient la géographie de l'exil byzantin.⁸¹ Les monastères s'y substitueraient sans doute aux villas impériales qui accueillirent à l'époque envisagée des femmes de la cour reléguées.

Parmi les actes tyranniques illustrant la cruauté de Caligula, Suétone retient cette anecdote d'une portée plus large que le trait lancé contre le tyran: "il questionna un exilé d'autrefois, rappelé par lui, sur ce qu'il faisait habituellement dans son exil, et celui-ci répondant par adulation: 'je ne cessais de prier les dieux, qui m'ont exaucé, de faire périr Tibère et de vous donner l'Empire', persuadé que les gens exilés par lui souhaitaient sa mort, il envoya des exécuteurs dans les îles pour les égorger tous".⁸² Ce témoignage sans doute exagéré dans son caractère systématique recoupe la généralisation emphatique du prologue des *Histoires* de Tacite: "la mer remplie d'exilés, les rochers pollués de meurtres" (*plenum exiliis mare, infecti caedibus scopuli*).⁸³ Plutôt que de souligner encore l'aspect topique de tels récits dans l'impossibilité où nous sommes de dresser un quelconque inventaire qui les contredirait ou les relativiserait, soulignons

⁷⁹ APP. *BCiv.* 1, 95. En 82 av. J.-C., Carbo et d'autres personnages de marque y furent capturés.

⁸⁰ Cf. AMM. 28, 1, 23.

⁸¹ É. MALAMUT, *Les îles de l'Empire byzantin, VIIIe-XIIe siècle* (Paris 1989), 175-179; "Les îles de la mer Egée entre l'Antiquité et Byzance", in *REA* 103 (2001), 25-48. M. VALLEJO GIRVÉS, "África tardorromana como lugar de exilio y deportación", in *L'Africa Romana* 14 (Roma 2002), 2177-2184.

⁸² SVET. *Cal.* 28. Cf. également DIO CASS. 59, 18, 3; PHILO AL. *Flacc.* 185.

⁸³ TAC. *Hist.* 1, 2.

plutôt qu'ils reflètent la nature même de l'exil, tout au moins dans sa forme la plus sévère d'exclusion de la cité, à savoir, à cette époque de l'*aqua et igni interdicio*. Le confinement d'un exilé sur une île signifiait sous l'Empire la suspension de la mise à mort que rendait possible la sentence capitale qui avait été prononcée contre lui. Les exécutions sommaires d'exilés par la volonté d'un empereur fou et tyrannique, comme Caligula, ou dans un contexte de guerres civiles et d'usurpations, à l'instar des événements consécutifs à la mort de Néron, traduisent également le risque que pouvait représenter pour la personne de l'empereur régnant l'existence d'opposants emplis de ressentiment et de l'ambition de retrouver un jour leur place dans la cité. La dissémination des exilés sur les rives de la Méditerranée pouvait nourrir l'opposition et constituer un ferment de troubles. Certes, nous ne connaissons pas d'actes de guerre civile fomentés par des condamnés depuis leurs lieux d'exil, mais l'existence d'un tel risque est néanmoins fondé sur quelques récits littéraires. Ces condamnés pouvaient éventuellement constituer le soutien ou la caution d'un usurpateur, comme en témoigne le premier épisode du soulèvement de Galba en Espagne: "Ainsi donc, soi-disant pour procéder à un affranchissement, il monta sur son tribunal, où l'on exposa devant lui, en aussi grand nombre qu'il fut possible, les portraits des citoyens condamnés et exécutés par Néron, et là, ayant à son côté, debout, un tout jeune homme de noble naissance exilé dans la plus voisine des îles Baléares et qu'il avait fait venir tout exprès (*et astante nobili puero, quem exulantem e proxima Baliari insula ob id ipsum acciuerat*), il déplora l'état des choses actuel et, salué empereur, il se déclara le légat du sénat et du peuple romain".⁸⁴ Ce jeune enlevé à son exil d'Ibiza à l'initiative du gouverneur de Tarragonaise constituait donc aux côtés des *imagines* une représentation en chair et en os de l'oppression. Plutôt que d'un acteur il s'agissait ici d'un figurant. Cependant, cet épisode illustre le rôle que pouvaient

⁸⁴ SVET. *Galba* 10,1.

éventuellement jouer les hauts personnages exilés ou leurs enfants investis de la charge de venger leurs pères et redonner son rang à leur famille. Dans d'autres cas, le lieu d'exil était délibérément choisi par l'empereur afin d'éloigner le condamné d'une région où il aurait pu fomenter des troubles. En 21 ap. J.-C., un notable de Macédoine (*e primoribus Macedoniae*), probablement d'origine romaine, Antistius Vetus, après avoir été accusé d'adultère et absous devant "des juges" (très certainement un tribunal de jurés, la *quaestio de adulteriis*), fut poursuivi de nouveau à l'initiative de Tibère et condamné pour lèse-majesté (très probablement devant la cour sénatoriale).⁸⁵ Les soupçons qui pesaient sur lui en faisaient en effet "un séditieux", "un fauteur de troubles" (*turbidus*), qualification d'un délit relevant de la *maiestas*. Il aurait, au lendemain de la mort du roi de Thrace Cotys, soutenu l'ambition de Rhescuporis de se soulever contre Rome: "on prononça donc contre l'accusé l'interdiction de l'eau et du feu et on spécia à de le confiner dans une île qui ne fût à portée ni de la Macédoine, ni de la Thrace".⁸⁶ C'est qu'il y avait des raisons, précise Tacite, de craindre l'extension des troubles qui agitaient alors ces contrées mal soumises qui n'entreront que plus tard dans le domaine provincial. Ainsi l'exilé fut-il tenu à l'écart des îles situées dans la Mer de Thrace et au Nord de l'Egée. Deux ans plus tard, en 23 ap. J.-C., C. Sempronius Gracchus, le fils de l'amant de Julie exilé par Auguste et qui avait suivi son père sur l'île de Cercina où ce dernier fut assassiné, fut accusé à son tour de complicité avec le chef numide Tacfarinas dont il aurait assuré le ravitaillement. L'accusation était aisée, puisque pour survivre, le fils de l'exilé s'adonnait au commerce entre l'Afrique et la Sicile, comme on l'a vu plus haut. Elle échoua en raison des appuis dont bénéficiait encore le jeune homme à Rome. La tentative, néanmoins, est là encore révélatrice des

⁸⁵ TAC. *Ann.* 3, 38, 2. Le personnage, inconnu par ailleurs, est parfois rapproché du poète homonyme (cf. PIR A2 n°767) ou tenu pour distinct (R. REITZENSTEIN, in *RE* I 2, 2546, n°7).

⁸⁶ TAC. *Ann.* 3, 38, 3.

liens que certains exilés étaient susceptibles d'entretenir avec des zones de dissidence. L'effort pour les en éloigner inciterait à placer ici également, parce qu'ils obéissent à la même logique, les exils de dignitaires étrangers, que les empereurs souhaitaient maintenir sous leur contrôle, dans un confinement éloigné des régions où ils étaient susceptibles d'intervenir, au service de la politique extérieure de l'Empire.⁸⁷

L'on a vu plus haut que certaines disgraces, sans être accompagnées d'une sentence, contraignaient certains individus à quitter Rome et à vivre dans un exil forcé sur leurs terres, consistant à la fois en un éloignement de Rome et une assignation à résidence. Les deux hauts personnages qui connurent ce sort sous Néron, (Serg.) Rubellius Plautus et Faustus Cornelius Sulla Felix furent par la suite exécutés pour le motif exposé de la façon suivante par Tacite: "Tigellinus épie les craintes de l'empereur; et, ayant reconnu qu'il redoutait surtout Plautus (Rubellius) et Sulla (Cornelius), relégués naguère (*Plautum in asiam, Sullam in Galliam Narbonensem nuper amotos*), Plautus en Asie, Sulla en Gaule Narbonnaise, il lui rappelle leur noblesse et la proximité des armées, celles d'Orient pour l'un, de Germanie pour l'autre. Il ne visait pas, lui, comme Burrus, des espérances contradictoires, mais seulement la sécurité de Néron; celui-ci pouvait éviter, tant bien que mal, les complots de la Ville par une action immédiate; mais les soulèvements lointains, de quelle manière pouvait-on les supprimer? Les Gaules dressaient l'oreille au nom du dictateur, et les peuples de l'Asie n'étaient pas moins attentifs à l'éclat d'un aïeul comme Drusus".⁸⁸ De tels motifs, dira-t-on, pourraient ne constituer que de faux griefs et ne refléter que la crainte de Néron. Ce n'est que la rumeur encore qui faisait courir le bruit dans Rome que Plautus "s'était rendu auprès de Corbulon, qui

⁸⁷ Archelaos de Judée, par exemple, est exilé en Gaule, à Vienne, en 6 ap. J.-C. (Jos. *AJ* 17, 344). De la même façon, en 39 ap. J.-C., Hérode Antipas aurait été exilé à Lyon (Jos. *AJ* 18, 252) ou en Espagne (Jos. *BJ* 2, 183), où il mourut aux côtés de sa femme.

⁸⁸ TAC. *Ann.* 14, 57, 1-4.

avait alors de grandes armées sous son commandement".⁸⁹ Cependant, dans le cas de Cornelius Sylla au moins, d'autres indices que le texte de Tacite laissent penser, selon l'argumentation proposée par J. Scheid, que ce haut personnage "a réellement songé à courir sa chance" et que "consigné dans Marseille et les environs, il a pu tenter, par l'entremise des Glanici, de prendre contact avec les légats des Germanies".⁹⁰

C'est à la lumière de tels exemples qu'il faut relire le discours que Dion Cassius place dans la bouche de Livie au lendemain de la conjuration de Cn. Cornelius Cinna contre Auguste, qui eut lieu probablement dans les années 16-13 av. J.-C.⁹¹ Qu'il s'agisse d'un déguisement rhétorique, d'un procédé d'écriture de l'histoire plus proche sans doute des perceptions de l'époque sévérienne que des faits de l'époque augustéenne, il n'est pas nécessaire de le redire, tant la critique philologique, se faisant ici l'écho du simple bon sens, plaide en faveur d'une telle prudence. Il ne faudrait pas manquer néanmoins de mettre en évidence les éléments qui ne relèvent aucunement de l'artifice. Le discours est fictif, sans doute, mais ne puise aucunement ses représentations dans la fiction, ni uniquement dans le registre de la philosophie politique. Ce document est au contraire bien révélateur des perceptions que les observateurs avisés pouvaient se faire des menaces qui pesaient sur l'exercice du pouvoir impérial, disons, depuis Auguste jusqu'à l'époque sévérienne.

Au lendemain de la conspiration de Cinna, donc, Auguste ne parvenant pas à trouver le sommeil reçut les conseils de son épouse Livie. Après plusieurs brefs échanges, celle-ci demanda à être écoutée et se lança dans une longue tirade. Résumons ici les

⁸⁹ TAC. *Ann.* 14, 58, 2.

⁹⁰ J. SCHEID, *Les frères Arvales. Recrutement et origine sociale sous les empereurs Julio-Claudiens* (Paris 1975), 253, soutient l'hypothèse suggérée par les travaux de J. CARCOPINO, "Note sur une inscription trouvée à Glanum", in *CRAI* 1949, 264-270, 340-341, et H. ROLLAND, "Le pavement des maisons de Glanum", in *CRAI* 1949, 346-350. Une inscription sur une mosaïque de Glanum *Co(rnelii) Sulla* laisse entendre que la maison fut "la propriété de Cornelius Sulla".

⁹¹ I. COGITORE, *La légitimité dynastique d'Auguste à Néron à l'épreuve des conspirations* (Rome 2002), 153.

principales lignes de l'argumentation: Quelles sont les causes des conspirations? La méchanceté sans doute du plus grand nombre parmi les conspirateurs, mais aussi, chez d'autres, parfois, la fierté de la naissance, l'orgueil, le courage et l'appétit du pouvoir. Quel remède adopter à l'égard de cette seconde catégorie de sujets? La vertu du bon prince, la clémence (*philanthropia*) à l'égard de l'un d'entre eux, lorsqu'il a accompli un geste contre l'autorité, évite la naissance du ressentiment chez les autres et les nouvelles atteintes au pouvoir.⁹² La modération dans l'exercice du pouvoir doit prendre modèle sur la médecine et "persuader" vaut mieux que "contraindre", puisque la première action s'applique seulement aux hommes, tandis que la seconde les apparaît à des animaux.⁹³ La manière forte cependant s'impose contre ceux dont la maladie est incurable. Mais à l'encontre des sujets que l'on peut réformer, car ils ont agi en raison de leur jeunesse, de leur inexpérience, de l'ignorance ou d'un concours de circonstances, il faut graduer les peines à l'instar du traitement réservé aux enfants.⁹⁴ C'est dans le cours de ce développement qu'apparaît la première mention explicite de l'exil dans une échelle des peines: il s'agit, dit Livie, de "montrer de la modération sans danger en infligeant aux uns l'exil (*fugè*), aux autres l'infamie (*atimia*), à d'autres une amende pécuniaire, en reléguant ceux-ci dans certains territoires, ceux-là dans certaines villes". La peine de mort est donc inutile. Le discours de Livie prend alors une autre tournure, puisqu'au lieu d'adresser des conseils à l'empereur, elle l'informe des reproches qui circulent à l'encontre du gouvernement impérial. Rapportés au discours indirect par le personnage de Livie, ces propos protègent l'auteur de l'*Histoire romaine* en créant un second écran, alors qu'ils reflètent également bien probablement les critiques du milieu sénatorial contre les procès politiques de son époque: délations, poursuites sans fondement ou motivées par la volonté

⁹² DIO CASS. 55, 16.

⁹³ DIO CASS. 55, 17.

⁹⁴ DIO CASS. 55, 18.

d'acquérir les biens des condamnés. Ce n'est donc pas la crainte, est-il affirmé de nouveau, mais la persuasion qui sert au gouvernement des hommes. En outre, le souverain ne doit pas, à la différence des particuliers enclins à la vengeance, punir les fautes commises contre sa personne, mais réprimer les crimes envers l'Etat (*to koinon*).⁹⁵ La péroraison du discours de Livie revient encore une fois, sur le plan des principes, sur la nécessaire modération du gouvernement monarchique et l'inutilité ou l'effet contre-productif de la peine de mort. Il s'achève également par une digression pragmatique, par laquelle Livie, dans un ultime effort de persuasion prend à témoin l'empereur de l'absence de réel danger, en raison de la solidité de la construction impériale et l'inexistence de moyens offerts à une éventuelle conspiration. La peine de mort est donc d'autant moins utile que si un exilé persistait dans sa volonté criminelle il serait de toute façon dépourvu de capacité d'agir:

“Quel dommage, en effet, redouter d'un homme relégué dans une île, dans une campagne, dans une ville, où il n'aura ni domestiques nombreux, ni argent en abondance, et où, de plus, s'il est nécessaire, il sera gardé étroitement? Si l'ennemi était dans le voisinage, si quelque partie de cette mer nous était hostile, de manière que le condamné, y trouvant une retraite, pût nous faire du mal; s'il y avait en Italie des villes fortifiées, ayant des remparts et des armes, d'où l'on pût, en s'en rendant maître, nous devenir redoutable, je te tiendrais un autre langage; mais quand toutes les villes sont dégarnies d'armes et de remparts propres à soutenir une guerre, quand les ennemis sont fort éloignés (une vaste étendue de mer et de terre, des montagnes et des fleuves malaisés à passer nous en séparent), comment craindre tel ou tel, un homme sans ressources, un simple particulier, ici, au milieu de ton empire, entouré de tes troupes comme d'une enceinte?”⁹⁶

⁹⁵ DIO CASS. 55, 19.

⁹⁶ DIO CASS. 55, 20, 5 sqq., trad. É. GROS.

L'ensemble du discours de Livie chez Dion Cassius témoigne à l'évidence d'une lecture de Sénèque. L'influence du *De clementia* où le philosophe reproduit également les conseils de Livie, au lendemain de la conjuration de Cinna alors qu'Auguste ne trouvait pas le sommeil, a été plusieurs fois soulignée.⁹⁷ L'on pourrait également y reconnaître l'écho de certaines pages du *De ira*, où la gradation des peines est mise sur le même pied que l'adaptation des prescriptions médicales à la gravité de la maladie.⁹⁸ Cependant, une autre source d'inspiration, peut être ici suggérée. Elle méritera d'être approfondie. Sans établir de filiation directe entre l'*Éloge de Rome* d'Aelius Aristide et le discours placé par Dion Cassius dans la bouche de Livie, une matrice commune de réflexion politique semble avoir inspiré ces deux textes où se reflète l'ordre instauré par les empereurs aux siècles de la paix romaine. À première vue, les sujets abordés ici et là diffèrent: tandis que Livie se préoccupe seulement de la sécurité de l'empereur (comment se faire obéir et se prémunir des complots en exerçant la justice avec modération?), jamais dans le discours d'Aelius Aristide cette question n'entre en jeu. Il est ici plutôt question de la sécurité assurée aux sujets de l'Empire grâce au gouvernement de l'Empire, à sa puissance respectueuse de la liberté des cités et des citoyens, à l'éloignement des dangers extérieurs grâce à son organisation militaire. Pas un mot n'est prononcé qui laisserait filtrer une quelconque inquiétude de celui qui tient les rênes de ce gouvernement modéré et équilibré qui relève à la fois de la démocratie, de l'aristocratie et de la monarchie. Pourtant, comment ne pas considérer que le développement d'Aelius Aristide sur l'Empire perse soit une réflexion délibérément exotique au service d'une réflexion politique touchant directement la marche de l'Empire romain et le pouvoir de l'empereur. Outre le modèle dont s'inspire l'orateur de la succession des empires mondiaux dont Rome constitue l'achèvement, il y a là à l'évidence un procédé oratoire

⁹⁷ Cf. notamment F. MILLAR, *A Study of Dio Cassius* (Oxford 1966), 78-79.

⁹⁸ SEN. *De ira* 1, 16, 1-3.

consistant à rejeter dans l'altérité d'un modèle extérieur à l'Empire, à distance du règne des Antonins, des questions du présent. Les phrases d'Aelius Aristide sur l'Empire achéménide sont aussi des "*Lettres persanes*", invitant à réfléchir le Romain du II^e siècle sur son propre gouvernement. "Comme s'ils disputaient entre eux une compétition d'assassinat", écrit l'orateur, le gouvernement des souverains perses était fondé sur une violence sans limites ("ils faisaient preuve d'une violence immodérée dans l'exercice de l'autorité"), celle-là même que l'historien oppose à la persuasion et à la modération qui conviennent au gouvernement des hommes.⁹⁹ Et c'est bien le même principe que celui adressé par Livie à Auguste chez Dion Cassius qui sert également de leçon de l'histoire à Aelius Aristide: "Voilà le bénéfice qu'ils retiraient de leur puissance tant admirée, avec ce qui l'accompagne suivant les dispositions de la loi de nature: haines, conspirations de la part des sujets ainsi traités, défections, batailles intestines, disputes continues et rivalités incessantes".¹⁰⁰ Or, cette leçon fonde également une perception évolutionniste des régimes politiques: "la distinction n'était pas encore faite entre empire et despotisme; roi et maître étaient chose égale. Aussi est-il normal qu'ils ne soient pas parvenus à de grands résultats".¹⁰¹ Passé ce rappel historique, Aelius Aristide décrit cette fin de l'histoire, cet empire si étendu désormais que "le monde habité est tout entier purifié, comme l'enceinte d'une cour, et fait entendre une seule voix, avec plus de perfection qu'un cœur, en priant à l'unisson pour cet empire dure éternellement".¹⁰² Dans la suite du discours, l'empereur apparaît comme le garant de ce nouvel ordre du monde, il inspire la " crainte", la "peur", le "respect", mais jamais son pouvoir judiciaire n'est évoqué.¹⁰³ Pourtant, l'éloge

⁹⁹ ARISTID. *Or.* 24 (*En l'honneur de Rome*), 19. 22 (trad. L. PERNOT).

¹⁰⁰ ARISTID. *Or.* 24, 20.

¹⁰¹ ARISTID. *Or.* 24, 23.

¹⁰² ARISTID. *Or.* 24, 29.

¹⁰³ ARISTID. *Or.* 24, 31. 32. Le pouvoir d'appel et la procédure par rescrit sont néanmoins suggérés dans le même paragraphe dont le motif principal est l'obéissance des gouverneurs.

de l'orateur rejoint le discours que l'historien prête à l'un de ces personnages encore sur un point. La péroration du discours de Livie citée ci-dessus met en évidence l'absence de dangers constituée par l'existence des exilés dans la mesure où ils ne disposent pas des moyens militaires pour asseoir une sédition: les villes d'Italie sont dépourvues de remparts, les ennemis sont trop loin pour soutenir quelque trahison, l'Empire lui-même est une cité fortifiée, les légions qui le défendent sont ses remparts. Or, voici précisément l'argument développé par Aelius Aristide dans une vision du monde identique, quoique qu'elle passe délibérément sous silence le risque des conspirations et des guerres civiles:¹⁰⁴ "Pour autant", dit-il, alors que Rome elle-même est dépourvue d'une enceinte, "vous n'avez pas négligé les remparts, mais vous les avez placés autour de l'Empire, non autour de la cité ... On dirait un fossé circulaire entourant un camp".¹⁰⁵ Ce que l'orateur envisage du point de vue du danger extérieur, l'historien le place dans la bouche de Livie à propos de la tranquillité intérieure de l'Empire: "Comment craindre tel ou tel, un homme sans ressources, un simple particulier, ici, au milieu de ton empire, entouré de tes troupes comme d'une enceinte?".

"La science du gouvernement" défendue par Livie peut être ainsi résituée dans une *Weltanschauung* répandue dans le cercle des élites de l'Empire des Antonins et des Sévères. Elle trouve aussi à l'évidence ses racines dans la conception de l'exercice du pouvoir et de la domination qui a présidé à l'instauration du Principat par Auguste. L'axe central du propos demeure néanmoins la sécurité du pouvoir: l'exil des adversaires de l'empereur ou de l'ordre impérial permet d'éviter une mise à mort qui fragiliserait le prince en suscitant des opposants à sa cruauté. Cet acte de *philanthropia* pourrait sembler dangereux, si les opposants dont la vie a été épargnée, disposaient de moyens pour poursuivre leur action. Mais la paix de l'Empire, son

¹⁰⁴ C'est à propos d'un autre Empire, celui des Athéniens cette fois, que l'existence des conspirations est évoquée cf. ARISTID. *Or.* 24, 54.

¹⁰⁵ ARISTID. *Or.* 24, 80. 82.

administration et son armée, son organisation matérielle même, interdisent toute rébellion. Le condamné dont la vie est sauve est dépourvu de moyens de résistance: à cet endroit, la recommandation de l'impératrice n'est pas sans rappeler les mesures de 12 ap. J.-C. commentées plus haut: "il n'aura ni domestiques nombreux, ni argent en abondance" et, ajoute-t-elle "de plus, s'il est nécessaire, il sera gardé étroitement". À ce sujet, que sait-on de la surveillance exercée sur les exilés?

Alors qu'autrefois, sous la République, l'exilé vivait hors de sa patrie, dans une cité étrangère dont il pouvait prendre la citoyenneté, désormais il était suivi jusque dans le lieu où il avait été confiné, au cœur de l'*Imperium*. Les risques encourus par ceux qui seraient tentés par la fuite pouvaient avoir un effet dissuasif et suffisaient sans doute à assurer leur obéissance. Certains condamnés ont certainement gagné sans escorte leur exil, sans être accompagnés par des soldats. C'était probablement le cas des relégués dont la peine était moins grave. L'on sait aussi que dans certains cas certaines personnes étaient exilées dans des conditions plus contraignantes en raison de la gravité de leur crime et de la peine qui le sanctionnait. Par sa précision dans ce domaine, le *Contre Flaccus* de Philon d'Alexandrie constitue un document unique dont l'étude mèritera d'être approfondie tant il permet d'observer de façon détaillée les mécanismes procéduraux et pénaux. La fin du récit montre que dans certains cas les exilés étaient accompagnés d'une escorte jusque dans l'île où ils avaient été confinés, qu'ils n'y étaient pas simplement "débarqués", mais placés sous la responsabilité des autorités locales lorsque l'île était dotée d'une cité possédant des organes de représentation. Grâce à l'intervention d'un ami influent, Flaccus avait échappé à l'enfermement à Gyaros et fut conduit à Andros sous bonne garde. L'arrivée de ce personnage, à l'instar du voyage qui a précédé, témoigne à la fois des mesures de sûreté prises contre un exilé, mais aussi d'une autre dimension de la peine qui ressort particulièrement des écrits sur l'exil (Cicéron, Ovide, Sénèque, Plutarque...) que nous étudierons ailleurs, à savoir la dégradation

et l'avilissement provoqués délibérément par un tel châtiment.¹⁰⁶ L'exilé est avili par la sentence qui a été portée contre lui, exposé au suicide, il vit, quelle que soit sa fin programmée, en sursis, toujours exposé au courroux ou à la clémence impériale. La dégradation subie par Flaccus, ostensiblement orchestrée, reflète également la participation du peuple à la punition infligée à de hauts personnage. Au cours des étapes du voyage il avait dû également affronter des quolibets et autres manifestations 'folkloriques' à son encontre. Mais l'accueil qui lui fut réservé à Andros avait une tout autre portée, institutionnelle cette fois, puisque l'exilé fut présenté officiellement et que le peuple (certainement réuni en assemblée) se porta ainsi garant de sa présence dans l'île:

"Une fois le bateau à quai, il en descendit, tout courbé vers le sol, comme les débardeurs qui ploient sous une très lourde charge, la nuque écrasée sous le poids de son malheur, n'ayant plus assez de forces pour se redresser, ou n'osant pas le faire à cause des gens qui le croisaient et de ceux qui, venus en curieux, faisaient la haie sur les deux côtés du chemin. Quant à ceux qui l'avaient amené, ils le conduisirent devant le peuple d'Andros et le montrèrent à toute l'assemblée, en la prenant à témoin de l'arrivée du banni dans leur île (*oi de parapempsantes auton epi ton démon agagontes tōn Andrión epedeixanto pasi, martyras poioumenoi tēs eis tēn néson afixeōs tou fugados*); leur office rempli, ils repartirent".¹⁰⁷

La formulation du jugement rendu contre C. Flaccus par laquelle un séjour sur le continent lui était interdit (cf. p. 285), ainsi que les précautions employées par ses gardes pour le remettre aux autorités d'Andros décrites dans les lignes précédentes, s'inscrivent dans la continuité des mesures prises par Auguste en 12 ap. J.-C. pour renforcer la surveillance sur les

¹⁰⁶ La bibliographie concernant l'expérience de l'exil des trois premiers auteurs et le traité *Sur l'exil* de Plutarque est particulièrement abondante. On se reporterà, pour le moment, à la synthèse récente de J.-M. CLAASSEN, *Displaced Persons. The Literature of Exile from Cicero to Boethius* (London 1999).

¹⁰⁷ PHILO AL. *Flacc.* 160-162 (trad. A. PELLETIER).

exilés. Certes, ici et là, les conditions de patrimoine diffèrent, puisque C. Flaccus, presque totalement dépouillé de ses biens, vécut jusqu'à son assassinat dans la maisonnette qu'il avait pu acheter à l'écart de la ville, tandis que, un quart de siècle auparavant, la législation augustéenne tolérait l'existence d'un capital entre les mains des exilés légèrement supérieur au cens équestre. C'est que, nous y reviendrons ailleurs, l'entièvre confiscation des biens (*publicatio bonorum*) dont était en principe toujours assortie *l'aqua et igni interdictio* pouvait être tempérée dès le départ par une exemption gracieuse décidée par le prince au bénéfice de l'exilé, par la générosité éventuelle de son entourage qui lui permettait de constituer un *viaticum*, ou encore par les moyens dont il disposait éventuellement pour reconstituer un capital. Si de ce fait les conditions de vie des exilés dans les îles ont été très variables, des Julio-Claudiens jusqu'aux Sévères, la surveillance de ces condamnés a été l'objet d'une préoccupation continue que reflètent aussi bien les jugements du Sénat ou les mesures discrétionnaires du prince rapportés par les Anciens ainsi que les normes légales et jurisprudentielles conservées au *Digeste*. À l'évidence l'enfermement dans une île relevait d'une pratique "sécuritaire", dans la mesure où il visait à maintenir une distance entre le condamné et Rome, à l'isoler en le coupant de l'environnement social des provinces et en lui interdisant tout déplacement. Cette interprétation, on le sent à la lecture du témoignage des exilés ou de descriptions édifiantes comme celle de Philon d'Alexandrie, est insuffisante, comme cela a été récemment suggéré par F. Lätsch, et ne rend pas entièrement compte de la signification de l'exil romain.¹⁰⁸ La réclusion dans les îles visait aussi certainement la dégradation du condamné: "la pauvreté, le déshonneur, le mépris public", écrit Sénèque.¹⁰⁹ Au-delà, c'était une manifestation exemplaire

¹⁰⁸ F. LÄTSCH, *Insularität und Gesellschaft in der Antike. Untersuchungen zur Auswirkung der Insellage auf die Gesellschaftsentwicklung* (Stuttgart 2005), 218.

¹⁰⁹ SEN. *Helv.* 6, 1.

de l'autorité et de la puissance de l'empereur. Son "isolement" signifiait aussi l'exclusion de l'exilé du domaine de la vie civili-sée, sa plongée dans un monde hostile et sauvage. Seul l'*indulgentia principis* pouvait éventuellement l'extraire de cet état pour le réintégrer dans la cité. C'est dans cette perspective qu'il faut replacer la perception du milieu insulaire dans les textes littéraires et que l'on pourra encore s'interroger sur l'écart entre les représentations de l'exil et la réalité des conditions de séjour. Si elles n'étaient pas toujours "extrêmes", elles pouvaient être ressenties comme telles par les hauts personnages qui s'y trouvaient. Que l'on songe par exemple à la description que fait Sénèque de la Corse: "quoi d'aussi nu, quoi d'aussi escarpé que le rocher où je suis? Est-il un sol plus dépourvu de ressources? Une population plus farouche? Un pays d'aspect plus affreux? Est-il un climat plus malsain?". Une description inscrite évidemment dans l'exercice de persuasion dans lequel consiste la *consolatio*: "on y voit résider pourtant plus d'étrangers que d'indigènes. Le changement de lieu en soi est si peu une calamité, qu'il y a des gens que ce lieu-ci trouve le moyen d'enlever à leur patrie"¹¹⁰. La Corse demeure néanmoins aux yeux de Sénèque "ce rocher aride et broussailleux", qui "ne produit ni arbres fruitiers ni ombrages", alors que l'on sait que le bois était une des productions qui faisait la prospérité de l'île à l'époque impériale.¹¹¹ Les descriptions des "rochers" de Cyclades, elles aussi, correspondent à une géographie mentale de l'exilé, à une représentation du châtiment, autant qu'aux caractéristiques environnementales et aux réalités de l'occupation humaine de ces îles aux premiers siècles de notre ère. Lorsque Tibère affirme devant tout le Sénat que Donusa, à l'instar de Gyaros, était dépourvue d'eau, on ne peut s'empêcher de penser à "la verte Donousa" (*uiridis Donussa*) chantée par Virgile quarante

¹¹⁰ SEN. *Helv.* 6, 5.

¹¹¹ SEN. *Helv.* 7, 9; 9, 1. Sur les activités économiques de la Corse à l'époque romaine, cf. *Histoire de la Corse*, sous la dir. de P. ARRIGHI (Toulouse 1971), 114-115.

ans auparavant, l'île “riche en roseaux”, selon le nom.¹¹² Quand l'occupation humaine de Gyaros paraît impossible, on rappellera aussi que ses habitants payaient l'impôt, selon Strabon, et qu'un oppidum y était signalé par Pline l'Ancien. Tout, comme le souligne G. Rougemont, il faudrait éviter de se représenter la désolation des Cyclades, à la lumière des paysages qu'offrent aujourd'hui ces îles: “tous ceux qui peuvent comparer les Cyclades d'aujourd'hui et les documents de toute nature sur les Cyclades antiques savent que tous les indices vont dans le même sens: la densité et la répartition de la population, l'occupation et l'utilisation du sol, les équilibres de toute sorte entre l'homme et le milieu naturel ont été dans le passé très différents de ce qu'ils sont actuellement”.¹¹³ Pensons à Amorgos qui à l'époque hellénistique comptait trois cités importantes et qui à la fin du XX^e siècle abritait moins de 2'000 habitants (près de la moitié de la population de l'île au XIX^e siècle), l'on pourrait croire que cette “Cyclade excentrique” avait naturellement trouvé sous l'Empire sa vocation de lieu d'exil, alors que cette île (administrativement rattachée à la province d'Asie) se trouvait au cœur d'une des “principales zones de contact et de passage entre la Grèce et l'Asie”.¹¹⁴ Quand un rocher comme Kinaros semble dans une position tout à fait isolée et tiendrait son nom de sa silhouette rocheuse comparable, vue de mer, à “un artichaut”, il faut rappeler également qu'il figurait au troisième siècle ap. J.-C. comme une escale sur un itinéraire maritime entre le Dodécanèse et le continent grec. Ainsi faut-il apprécier, on le devinait, suivant des critères subjectifs liés à leur condition, la perception de l'environnement par les exilés sous l'Empire.

¹¹² VERG. *Aen.* 3, 125.

¹¹³ G. ROUGEMONT, “Géographie historique des Cyclades. L'homme et le milieu dans l'archipel”, in *Journal des Savants* 1990, 202. Cf. également P. BRUN, *Les archipels égéens dans l'Antiquité grecque (Ve-IIe siècles av. notre ère)* (Paris 1996).

¹¹⁴ G. ROUGEMONT, “Géographie historique”, 209-210.

Un empire, deux systèmes: le dispositif législatif et jurisprudentiel de l'exil sous le Principat.

À l'issue des réformes introduites par Auguste et Tibère, le dispositif de l'exil en vigueur aux cours des trois premiers siècles de l'Empire est en place. D'un côté la *relegatio* qui permettait au condamné de conserver son statut de citoyen, de l'autre l'*aqua et igni interdictio* remplacée au commencement de l'époque sévérienne par la *deportatio*, qui se traduisait par une mort civique, la *capitis deminutio*. Retenons ici seulement de ce double système les aspects qui touchent à l'ordre public, c'est-à-dire les mécanismes administratifs et procéduraux, d'une part, la dimension territoriale, d'autre part, en écartant les questions doctrinales.¹¹⁵

La relegatio

Dans sa forme la plus sévère, ce châtiment pouvait bien consister en un internement à perpétuité sur une île, accompagné d'une confiscation du patrimoine. Cependant, même sous l'effet d'une telle contrainte, le relégué conservait le droit de cité: "celui qui est relégué pour une période déterminée ou à perpétuité conserve la citoyenneté romaine et ne perd pas la capacité testamentaire", écrit le juriste Ulprien dans son *De officio proconsulis*.¹¹⁶ La seule dégradation subie par le relégué consistait en une perte de l'*existimatio*, qui créait un handicap pour l'exilé de retour dans sa cité et qui souhaiterait réintégrer sa position honorifique antérieure, notamment la possibilité de siéger dans la curie locale et d'exercer les magistratures, comme en témoigne, sous les Antonins, le cas du décurion de Concordia, Volumnius Serenus, exposé par Fronton.¹¹⁷ Nous y reviendrons ailleurs. Admettons pour le moment le principe de

¹¹⁵ Je me permets de renvoyer sur ce dernier point à mon étude *L'interdictio aqua et igni et la deportatio sous le Haut-Empire romain (étude juridique et lexicale)*, dans les Actes du Colloque de Créteil, 2005 (à paraître).

¹¹⁶ *Dig.* 48, 22, 7, 3.

¹¹⁷ FRONTON, *Ad am.* 2, 7.

cette perte de considération sociale avec Callistrate: “*l'existimatio* est diminuée à chaque fois que nous sommes punis d'une peine qui touche à l'état de la dignité, par exemple lorsque quelqu'un est relégué”.¹¹⁸ Dès lors, outre cette diminution de l'*existimatio*, la *relegatio* consistait principalement en un éloignement d'une zone spécifiée, voire un isolement en un lieu déterminé. Pour rendre effectif cet éloignement et l'appliquer en toute rigueur, il fallait tenir compte à la fois des différentes attaches locales du condamné, mais aussi naturellement des limites territoriales de la compétence du juge, dans un empire divisé en cités et en provinces avec l'Italie et Rome au centre.

Les principes d'application de la peine de *relegatio* peuvent être exposés brièvement. En premier lieu, le relégué était nécessairement interdit de séjour dans la Ville de Rome et, en principe, du sol italien désormais assimilé à l'*Vrbs*:

“Un relégué ne peut séjourner à Rome si cela n'est pas inclus dans la sentence, car il s'agit de la commune patrie.”

Une telle interdiction était également associée à cette autre disposition particulière qui devait concrètement entraîner des déplacements de ces condamnés lorsque la cité d'exil où ils résidaient s'offrait comme le lieu d'un *adventus* impérial:

“Et il ne peut pas séjourner dans la cité où séjourne le prince ou par laquelle il passe. En effet, seuls ceux qui peuvent entrer dans Rome sont autorisés à porter leurs regards sur le prince, puisque le prince est le père de la patrie”.¹¹⁹

Le second principe régissant l'application de la *relegatio* tenait compte de la double attache du citoyen entre son lieu de résidence (le *domicilium*) et la cité à laquelle il appartenait, en vertu de la filiation qui lui était reconnue (*l'origo*).¹²⁰ Le juge

¹¹⁸ *Dig.* 50, 13, 5, 2.

¹¹⁹ *Dig.* 48, 22, 18.

¹²⁰ Cf. Y. THOMAS, “*Origine*” et “commune patrie”: étude de droit public romain (89 av. J.-C.- 212 ap. J.-C.), (Rome 1996). Pour l'incidence de cette définition de la citoyenneté sur l'exil, je me permets également de renvoyer à mon étude *La relégation et le retour des relégués dans l'Empire romain (Ier-IIIe siècles)*, Actes du Colloque de Madrid, 2004 (à paraître).

devait enfin tenir compte du lieu où le délit avait été commis, afin d'exclure le condamné de ce territoire également.

La division en provinces était une donnée fondamentale de l'organisation impériale. Les *prouinciae* constituaient autant de limites territoriales à l'intérieur desquelles le gouverneur disposait d'une grande latitude, comme en témoigne l'observation pragmatique d'Ulprien: "Le gouverneur a le pouvoir de contraindre par la relégation à séjourner dans une partie spécifique de la province (*in parte cuta*) de telle sorte par exemple que l'on ne quitte pas telle cité ou que l'on ne sorte pas de tel district (*regio*). Mais je sais que les gouverneurs ont l'habitude de reléguer dans ces parties de la province qui sont les plus désertes".¹²¹ Lorsque la province était littorale, le gouverneur pouvait évidemment compter sur les îles qui l'a bordaient. Dans le cas de l'Egypte, le préfet usait également de la Grande Oasis comme lieu d'exil.¹²² Qu'advenait-il lorsqu'un gouverneur prononçait une *relegatio in insulam* alors que la province qu'il dirigeait ne possédait pas d'île? La question pourrait sembler oiseuse et provoquée par la seule obstination casuistique des juristes. Mais la réponse qui lui est donnée met en évidence un principe fondamental de l'organisation administrative de l'Empire: "s'il n'existe pas d'île dans le territoire de la province en question, alors les gouverneurs doivent écrire à l'empereur en lui faisant part de la sentence qu'ils ont prononcée et c'est le prince lui-même qui décidera de l'*adsignatio*". De tels condamnés devaient donc attendre sous la surveillance de soldats de l'*officium* du gouverneur que le prince leur ait assigné une destination.¹²³ C'est au travers de tels détails de procédure que transparaissent l'effort de contrôle, la centralisation du gouvernement impérial et une donnée fondamentale pour la sécurité du prince et l'obéissance de ses sujets: un gouverneur ne devait en aucun cas franchir les limites de sa *prouincia*, de son

¹²¹ *Dig.* 48, 22, 7, 8-9.

¹²² J. SCHWARTZ, "In Oasin relegare", in *Mélanges d'archéologie et d'histoire offerts à André Piganiol*, éd. par R. CHEVALLIER (Paris, 1966), III 1481-1488.

¹²³ *Dig.* 48, 19, 27, 1; 48, 22, 7, 1.

domaine de compétence, sans quoi il paraissait agir avec la même liberté que le prince lui-même qui pouvait se déplacer où bon lui semblait: “de la même façon qu’un gouverneur n’a pas le pouvoir de reléguer dans une île qui n’est pas placée sous son autorité, il ne dispose pas non plus du droit de reléguer dans une province quelconque qui n’est pas placée sous son autorité. Le gouverneur de Syrie par exemple ne reléguera pas en Macédoine”¹²⁴. Or, cette limitation du pouvoir d’un gouverneur avait un inconvénient: l’exilé qui était condamné à être expulsé d’une province pouvait très bien rejoindre celle où se trouvait la cité à laquelle il appartenait par son *origo*, ce qui annulait alors partiellement l’effet recherché de la sanction. L’on admit donc que la condamnation prononcée par un gouverneur induisait par un lien de nécessité, inhérent en quelque sorte à la définition de la citoyenneté (et non pas en vertu d’une extension territoriale exceptionnelle du gouverneur), l’exclusion de la province de la cité d’*origo*, de même que Rome et l’Italie en tant que “commune patrie”. La relation réciproque, quant à elle, ne pouvait pas en principe être admise: le gouverneur qui se trouvait à la tête de la province d’*origo* n’était pas en mesure d’interdire de séjour dans la province du *domicilium*. Une telle clause cependant, tout en obéissant à la logique du droit, heurtait l’efficacité pratique de la peine et le principe fut finalement admis suivant lequel le relégué devait être tenu à l’écart de trois provinces: celle où le délit avait été perpétré, celle de la cité d’*origo*, celle du *domicilium*.

Tous ces paramètres étaient-ils toujours pris en compte? Comme à chaque fois que l’on aborde les questions de droit criminel et de maintien de l’ordre, l’on se heurte à la distance qui sépare les normes élaborées dans un cadre législatif et institutionnel et la réalité des pratiques sociales et de gouvernement. Que le beau système érigé par la jurisprudence ait eu une efficacité limitée, c’est ce qu’il serait permis de penser à la lecture de la *Correspondance* de Pline le Jeune. Ce dernier s’est

¹²⁴ *Dig.* 48, 22, 7, 6.

adressé à Trajan pour lui demander le sort qu'il fallait résERVER aux relégués qui résidaient encore dans la province de Bythinie, qu'ils auraient dû quitter depuis plusieurs années.¹²⁵ Mais certaines dispositions légales elles-mêmes visent à remédier à de telles situations en instaurant une échelle de peines afin de sanctionner des condamnés qui seraient parvenu à éviter d'accomplir leur temps d'exil. Deux réflexions s'imposent donc. En premier lieu, si les condamnés à la relégation n'ont pas obtenu péré à la décision du juge, c'est que personne ne les y a contraints. En second lieu, si Pline le Jeune est mis au courant d'une telle situation, c'est que, à l'instar de ce qui s'est produit pour les chrétiens qu'il a poursuivis et exécutés, il avait reçu une dénonciation. "Un homme est venu me trouver", écrit-il, "et m'a révélé que ses adversaires, relégués pour trois ans par Servilius Calvus, homme très illustre, demeuraient encore dans la province (*in triennum relegatos in provincia morari*) certains préteendant avoir été rétablis dans leurs droits de façon anticipée". Lorsqu'il fut informé de ce désordre, l'empereur répondit qu'il allait se renseigner auprès de l'ancien gouverneur pour obtenir quelques précisions sur ces irrégularités. C'est que les bureaux du Palatin ne pouvaient contenir d'archives au sujet des personnes reléguées par les gouverneurs, car ce type de sentences ne remontaient pas en principe jusqu'à l'empereur au moment où elles étaient prononcées (sauf *adsignatio* nécessaire pour une *relegatio in insulam* dans un autre territoire que celui de la province considérée).

Il en allait bien autrement de l'information de l'empereur au sujet des déportés. Toute sentence de déportation devait en effet être visée par le prince dans la mesure où elle touchait au *caput*, à l'existence civique, du condamné. Certes, le gouverneur pouvait à l'issue d'un jugement prononcer une peine de *deportatio*, mais la peine ne pouvait entrer immédiatement en vigueur. Le proconsul, en effet, était tenu d'envoyer des *scripta* à l'empereur dans lesquels toute l'affaire était exposée. Pour

¹²⁵ PLIN. *Epist.* 10, 56.

qu'elle trouve une issue et soit appliquée, le prince devait répondre en premier lieu qu'il confirmait la sentence, en second lieu, qu'il indiquait l'île où le condamné devait être envoyé (*adsignatio*). Dans l'intervalle l'inculpé était tenu en prison sous bonne garde (*licet in carcere soleant diligentioris custodiae causa recepi*).¹²⁶ Les juristes se sont particulièrement intéressés à ce laps de temps afin de mesurer les conséquences éventuelles en droit privé d'une mort survenue entre temps (*Nec huius igitur testamentum irritum fiet, priusquam princeps de eo supplicium summendum rescripsit*). A la différence des gouverneurs, les hauts fonctionnaires impériaux ou éventuellement ceux qui les représentaient sur mandat du prince (*qui uice praefectis ex mandatis principis cognoscet*) pouvaient infliger une telle sentence. Celle-ci devenait efficace dès l'instant où elle était prononcée. Encore fallait-il, dans le cas du préfet de la Ville au moins, que le prince désigne lui-même le lieu de séjour du déporté.

Les pouvoirs du préfet de la ville mériteraient un traitement que le manque de place dans le présent volume nous empêche de dispenser.

Le dossier de l'exil dans son ensemble témoigne à la fois de l'empirisme, du pragmatisme des Romains, de la part d'improvisation également qui était la leur dans le domaine du gouvernement de l'Empire et de l'ordre qui y régnait. Cette part d'improvisation est encore accentuée évidemment par les zones d'ombre laissées par les sources. Mais elle montre aussi que le gouvernement impérial a poursuivi un effort de rationalisation dans ce domaine, de recherche d'efficacité et d'encadrement qui, en dépit des contraintes et des pesanteurs de la cité antique, permettent ponctuellement de le rapprocher des mécanismes d'un État moderne, esquissés à l'échelle d'un empire méditerranéen.

¹²⁶ *Dig.* 48, 22, 6, 2.

ÉPILOGUE

Au terme de nos Entretiens, nous souhaiterions, en tant que promoteurs de cette réunion, dresser un bilan de cette semaine de travail, en résumant les résultats des débats et en les confrontant brièvement aux idées qui, au départ, avaient motivé l'organisation de notre rencontre à Vandoeuvres.

Notre projet comportait d'emblée une difficulté de méthode. La thématique que nous avions retenue avait, à la fois, l'avantage et l'inconvénient d'être un sujet d'actualité et à la mode. Il ne se passe, en effet, pas une semaine, depuis le début des années 2000, sans que l'on parle, dans la presse, de sécurité ou d'insécurité et cette double notion, par ailleurs galvaudée, envahit le discours politique contemporain, pour décrire aussi bien la résurgence de conflits armés et d'actes terroristes sur la scène internationale que les tensions sociales perceptibles dans les villes de nos démocraties occidentales. Influencées directement ou non par ce climat, les manifestations et publications scientifiques sur le thème de la sécurité se sont multipliées dans le champ des sciences humaines et sociales depuis ce moment. Des pistes de recherche ont alors été ouvertes, par exemple, sur le concept — du reste subjectif et relatif — d'insécurité, sur les fondements de l'ordre social, sur la violence, sur les institutions de maintien de l'ordre. Si ces perspectives retiennent l'attention des sociologues et des historiens spécialistes d'autres périodes depuis plusieurs décennies déjà (voir la série de travaux sur les normes sociales, le contrôle de la ville, le développement de l'institution de la police aux époques moderne et contemporaine), l'essor de ces thématiques est, en revanche, assez neuf pour l'Antiquité gréco-romaine, hormis les ouvrages pionniers de Ramsay MacMullen et d'Andrew Lintott. Il est ainsi paru récemment plusieurs études sur

le brigandage, la norme et l'exclusion sociales, le contrôle de la foule en milieu urbain et les organes de maintien de l'ordre dans le monde gréco-romain. Aussi s'agissait-il pour nous, en abordant le sujet de la sécurité et de l'ordre public, d'éviter les écueils de la redite et de la généralisation.

Nous avions, par conséquent, au moment de définir la problématique de ces Entretiens, pris le parti d'examiner la question sous un angle avant tout politique, institutionnel et idéologique: quel rôle les préoccupations relatives à la défense de la collectivité contre les menaces extérieures d'une part, au maintien de l'ordre public d'autre part, ont-elles joué dans le processus de construction et d'affirmation de la communauté civique dans l'Antiquité? Quelle a été, au fil du temps, l'importance de ces domaines d'action des pouvoirs publics pour la cité grecque et l'État romain? Comment les sociétés antiques ont-elles perçu l'insécurité et quels moyens ont-elles mis en œuvre pour contrer ce qu'elles considéraient être des dangers? C'est dans cet esprit que nous avions proposé aux participants des Entretiens de présenter un rapport sur des sujets délimités touchant à la sécurité collective, à la lutte contre la violence et à l'ordre public dans les sociétés anciennes, depuis la cité grecque en formation jusqu'à l'empire de Rome. Même si les contributions réunies dans ce volume, dues à des auteurs différents, ne peuvent, par définition, avoir l'unité des chapitres d'une monographie, il convient néanmoins de souligner la grande cohérence thématique et méthodologique de ces Entretiens. Les auteurs se sont efforcés, en outre, de développer des pistes de recherche renouvelées. Ce volume comporte ainsi un grand nombre de réflexions inédites et de mises au point.

Hans van Wees, par exemple, dans son '*Stasis, Destroyer of Men*', révèle l'existence de révoltes populaires dans la cité grecque archaïque, mouvements qui eurent du poids dans le processus de reconnaissance des droits politiques aux membres les moins aisés de la communauté civique. Werner Riess, quant à lui, souligne, dans son exposé *Private Violence and State Control*, l'espace dévolu à l'autodéfense et à

l'initiative individuelle dans la procédure pénale athénienne à l'époque classique, et la différence qu'instaure l'Etat entre ce qui est perçu comme une menace sur l'intégrité de la collectivité et ce qui relève de la sécurité personnelle. Angelos Chaniotis, dans son *Policing the Hellenistic Countryside*, recense et analyse avec minutie les diverses institutions chargées de la surveillance du territoire rural, qui faisait explicitement partie des attributions de l'État dans les cités hellénistiques. Cédric Brélaz met en évidence, pour sa part, dans son exposé *La défense de la cité grecque dans l'empire romain pacifié*, le maintien d'une culture et d'une tradition militaires dans ces mêmes cités grecques, mais sous l'hégémonie de Rome, à une époque où celles-ci sont privées des occasions et des moyens de mener des guerres. Pour ce qui concerne l'État romain, Andrew Lintott, dans sa conférence *How High a Priority did Public Order and Public Security have under the Roman Republic?*, étudie la variété des moyens mis en œuvre par la République romaine pour lutter contre la violence qui caractérise la vie politique intérieure. Ramsay MacMullen, dans sa contribution *The Problem of Fanaticism*, montre quel défi pour le maintien de l'ordre a représenté le fanatisme religieux, juif ou chrétien, aux yeux des autorités romaines, désémparées face à des adversaires mus par des convictions aussi radicales. Yann Rivière, enfin, dans ses *Recherches sur l'exil et l'administration du territoire impérial*, examine les procédures de bannissement des opposants à l'ordre impérial et les conditions juridiques et sociales de l'exil comme peine à Rome.

Sur le plan de la méthode, les auteurs — en dépit de la perspective politique, institutionnelle et juridique qui leur avait été suggérée — n'ont pas négligé l'approche et les interprétations sociologiques, et toutes les contributions ont tenu compte du contexte social déterminant la façon dont s'organisaient la sécurité collective et l'ordre public (équilibre des forces sociales en Grèce archaïque; circonstances sociales motivant le choix de la procédure pénale en cas d'homicide à Athènes; appropriation symbolique du territoire rural par les éphèbes; imaginaire

guerrier et idéologie militaire dans les cités grecques sous domination romaine; répercussions sociales de l'exil sous le Principat). En particulier, Ramsay MacMullen a insisté sur la dimension émotionnelle et irrationnelle des oppositions religieuses et doctrinaires à l'ordre impérial. Et Andrew Lintott, en réfléchissant sur l'efficacité de la législation pénale sous la République romaine, a posé la question fondamentale qui nous permet d'évaluer les initiatives prises par les sociétés anciennes en matière de sécurité publique: quel est — du moment que le risque ne peut être entièrement éradiqué — le seuil d'insécurité que peut tolérer une société? Quels moyens une collectivité est-elle prête à engager pour imposer un ordre social et politique minimal? Quelles normes élabore-t-elle pour assurer sa survie?

Si ces questionnements se posent dans les mêmes termes à toute collectivité, indépendamment du lieu et de l'époque, les solutions, elles, diffèrent. Car la sécurité / l'insécurité ne sont pas des constantes. Loin d'être un concept prédefini et transposable, l'insécurité représente des réalités différentes de cas en cas, suivant le contexte et les enjeux, de même que la norme qui, par réaction, qualifie les actes considérés comme répréhensibles. D'où la grande attention que les auteurs de ces Entretiens ont accordée à la terminologie et aux moyens — pénaux, judiciaires, institutionnels, militaires — utilisés pour combattre la menace. Notions fluctuantes, la sécurité collective et l'ordre public exigeaient, en effet, d'être étudiés dans leur contexte historique immédiat. La diversité des situations envisagées dans ce volume, les nuances apportées par chacun des auteurs — sans que cela réduise l'analyse à des cas particuliers dissemblables et isolés —, confère une épaisseur historique aux contributions ici réunies. Dans ce sens, la démarche suivie par les auteurs, sans qu'ils se soient concertés au préalable, est caractéristique, semble-t-il, des orientations de la recherche historique contemporaine, qui suit désormais une voie médiane, plus prudente, entre ces deux extrêmes que sont, d'un côté, une tendance excessive à la théorisation et à la généralisation, de l'autre un relativisme obtus empêchant toute comparaison ou synthèse.

Les 54^e Entretiens de la Fondation Hardt ont ainsi permis de montrer, par des exemples précis, que la sécurité collective et l'ordre public furent des préoccupations centrales et constantes dans le gouvernement des sociétés anciennes, tout au long de l'Antiquité. Dans ce creuset de la vie en communauté qu'est la cité grecque à l'époque archaïque, la *stasis*, et l'insécurité qui en découle, fonctionnent, en effet, comme un mode d'expérimentation de la cohésion sociale et du consensus politique. Dans la cité classique et hellénistique, stabilisée en tant que forme d'organisation sociale, la collectivité — sans toutefois que les individus soient dépossédés de toute compétence en la matière — crée des organes visant au contrôle des règles indispensables à l'intégrité du corps civique: se sont ainsi développés, entre autres, des instruments pénaux et judiciaires destinés à réprimer l'homicide et des institutions chargées de surveiller les campagnes et le territoire. Même si les menaces extérieures et intérieures sont moins nombreuses et aiguës sous le Principat, du fait de la pacification de l'Empire par la puissance dominante, la défense de la communauté reste un élément déterminant de la conscience civique dans les cités grecques à l'époque impériale. En dépit de cet ordre politique, social et moral imposé par le *princeps*, l'État romain lui-même n'est pas délivré de toute menace. Les violences causées par l'affrontement des factions politiques, qui avaient déstabilisé la République depuis la fin du II^e s. av. J.-C. et que n'avaient pu enrayer la législation pénale et les moyens judiciaires pourtant créés à cette fin, ont certes cessé à l'avènement d'un régime centralisé et autoritaire. Mais l'État impérial est aussitôt confronté à de nouvelles formes de contestation: la résistance des opposants politiques, que l'empereur cherche à éliminer par l'exil notamment, et celle des milieux religieux monothéistes fanatiques, dont même une guerre outrancière ou des persécutions ne peuvent venir complètement à bout.

Devant les risques, réels ou supposés, pesant sur leur survie, la cité grecque et l'État romain ont été contraints de définir et d'édicter des normes sociales, institutionnelles, juridiques pour

atteindre et préserver un équilibre nécessaire au déroulement de la vie civique. Bien plus, ces collectivités ont dû en permanence adapter ces normes du fait de la variabilité des facteurs d'insécurité. Les contributions de ces Entretiens ont montré qu'en s'interrogeant sur l'importance que les sociétés anciennes consacrent au problème de la sécurité publique dans l'organisation civique, on est conduit à étudier les mentalités politiques antiques, et même les prérogatives et les finalités de l'État dans l'Antiquité. Elles ont également permis de rappeler que toute société se forme et prend corps par réaction à l'adversité et que, bien souvent, les sociétés parviennent à se maintenir grâce à ce repoussoir qu'est l'insécurité.

Cédric BRÉLAZ et Pierre DUCREY

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