

Kernos, 9 (1996), p. 65-86.

Conflicting Authorities. Asyilia between Secular and Divine Law in the Classical and Hellenistic Poleis

1. Conflicting authorities: The problem¹

As the story goes (Hdt., I, 157-159), in the late 6th century the Lydian Paktyes had taken refuge as a suppliant in Kyme after an unsuccessful revolt against the Persians. Upon the demand of the Persians to hand him over, Kyme asked the oracle at Didyma how to deal with Paktyes in the way most likely to win the favour of the god. The surprising answer was to deliver him to the Persians. A second embassy was sent to the oracle and its spokesman repeated the question, adding that, in spite of their fear of Persian power, the Kymeans did not dare to follow the initial instructions until they might receive from Apollon clear instructions upon how they should act. Yet, the answer remained the same. Upon this, the envoy Aristodikos went all round the outside of the temple driving away the birds which had built their nests there; while he was doing it, he heard a voice from the adyton saying: "Most impious among men, how dare you do this wicked thing? Would you carry off the suppliants (τοὺς ἱκέτας) from my temple?" And the envoy replied: "Lord Apollon, do you protect your suppliants, yet tell the men of Kyme to abandon theirs?" "Yes," answered the god; "I do indeed, that you may suffer the sooner for your impious deed (ἀσεβήσαντες), and never come here again to consult my oracle about handing over suppliants." As very often in ancient religions, a seemingly inconsistent behaviour of the deity turns out to be a test of the mortals' morality and faith. Thus the divine message becomes even more clear: Suppliants either in a city or in a sanctuary should be protected at all events, no matter what has caused them to seek protection.

Now another story. In Euripides' *Ion* Kreousa has attempted to poison Ion, not knowing that he was her own son. Asking the chorus where to run and find refuge (l. 1250-1260), she is advised to run to the altar, since it is impious to slay a suppliant (ἱκέτιν οὐ θέμις φονεύειν). Kreousa objects: "But I perish in

¹ This paper was presented at the Colloquium in Athens and in lectures in Heidelberg and Basel. I am very grateful to many auditors for their comments, especially to Professors Fritz Gschnitzer (Heidelberg) and Michael Peachin (New York, who has also improved the English text substantially). All dates are B.C., if not indicated otherwise.

accord with the law (τῷ νόμῳ δέ γ' ὄλλυμαι).” “But first they have to lay hands on you,” replies the chorus. “Upon the altar take your seat. For, if they slay you here, your blood will call to heaven for vengeance on the murderers.” For this reason her pursuer, Ion, makes the earliest attack against the institution of *asylia* in the Greek literary tradition (l. 1312-1320):² “Shame that a god ordained bad laws for mortals, statutes not in wisdom framed! Never should unrighteous persons sit on altars, but they should be hounded thence. Unmeet is that hands sin-stained should touch the gods. But righteous men, whoever was wronged, should claim their sanctuary, and not the good and evil come alike hither to win the same boon of the gods” (translation of Arthur Way, partly changed). The distinction between the secular *nomos* which condemns the assailant and the divine *themis* which protects the suppliant, regardless of the crime he has committed, is clear; equally clear is Ion’s condemnation of this indifference of the divine law towards the suppliants, righteous and unrighteous alike.³

Despite the obvious differences between the two stories, the moral is still the same: Divine law recognizes no limits in the protection of suppliants. For the sake of convenience I will call this protection *asylia*, although this term can be used with a variety of meanings in the ancient sources, from the inviolability of every sanctuary and the personal inviolability of an individual guaranteed by a foreign city, to the prohibition of reprisals agreed upon by two communities, or the inviolability of certain sanctuaries recognized by kings, cities, and confederations.⁴ In this paper I shall refer exclusively to the inviolability of every sanctuary, a right probably as old as the sanctuaries themselves. When a suppliant is harmed or dragged out of the sanctuary, this action (*sylan*) resembles the theft of divine property; the violation of *asylia* is *hierosylia*.⁵ By

² Cf. P. STENGEL, s.v. *Asylon*, in *RE*, II, 2 (1896), c. 1882; H. BOLKESTEIN, *Wohltätigkeit und Armenpflege im vorchristlichen Altertum*, Utrecht, 1939, p. 247f.; J. MIKALSON, *Honor Thy Gods: Popular Religion in Greek Tragedy*, Chapel Hill-London, 1991, p. 75; U. SINN, *Greek Sanctuaries as Places of Refuge*, in N. MARINATOS – R. HÄGG (eds.), *Greek Sanctuaries: New Approaches*, London-New York, 1993, p. 108 n. 11.

³ On this passage see A.P. BURNETT, *Human Resistance and Divine Persuasion in Euripides’ Ion*, in *CPb*, 57 (1962), p. 99 with n. 36; she points out that Euripides keeps his distance from Ion’s criticism (see *infra*, the end of my article); cf. MIKALSON, *op. cit.* (n. 2), p. 75 with n. 33. Similar criticism also in EURIP., *Herakl.*, 259; *Oedipus*, fr. 1049 N (*infra*, n. 14).

⁴ On the various notions of *asylia* see F. VON WOES, *Das Asylwesen Ägyptens in der Ptolemäerzeit und die spätere Entwicklung*, München, 1923, p. 4f.; E. SCHLESINGER, *Die griechische Asylie*, Giessen, 1933, p. 2-6, 28-38, 53-71; L. WENGER, s.v. *Asylrecht*, in *RAC*, I (1950), p. 837f.; D. VAN BERCHEM, *Trois cas d’asylie archaïque*, in *MH*, 17 (1960), p. 21-33; Ph. GAUTHIER, *Symbola. Les étrangers et la justice dans les cités grecques*, Nancy, 1972, p. 209-284, esp. 209-226, 226-230; B. BRAVO, *Sulân. Représailles et justice privée contre des étrangers dans les cités grecques*, in *ASNP*, 10 (1980), p. 747-750; U. SINN, *Das Heraton von Perachora. Eine sakrale Schutzzone in der korinthischen Perata*, in *MDAI(A)*, 105 (1990), p. 71f.; MIKALSON, *op. cit.* (n. 2), p. 69-77 (asylum in Athenian tragedy); SINN, *art. cit.* (n. 2), p. 90f.

⁵ SCHLESINGER, *op. cit.* (n. 4), p. 30-33; GAUTHIER, *op. cit.* (n. 4), p. 226; MIKALSON, *op. cit.* (n. 2), p. 73 with n. 16.

coming into physical contact⁶ with a sacred place the suppliant is somewhat incorporated in the sanctity of the place, becoming in a sense property of the god. "I give my body as sacred property to the god to have," as Kreousa puts it (l. 1285: ἱερὸν τὸ σῶμα τῷ θεῷ δίδωμι ἔχειν).⁷ This rule knows no exceptions. The altar is an "unbreakable shield, stronger than a fortification wall", the "abode of the gods a protection common to all men", to use the words of Aischylos (*Hiket.*, 190) and Euripides (*Herakl.*, 260) respectively.⁸ Considerations of sin, guilt, right, and justice have no bearing on the claim of a suppliant to remain in the sanctuary or to be delivered to his pursuers. In Euripides' *Herakleidae* (l. 236-246) the Athenian king Demophon presents the reasons for accepting the suppliants, who had taken refuge in the sanctuary of Zeus Agoraios: kinship, the obligation to repay a good service, the personal and political shame of Athens, respect to Zeus' altar.⁹ Demophon makes no allowance for whatever may have caused the Herakleids to seek asylum. Beside the evidence of Athenian drama, collected and discussed recently by J. Mikalson (note 2), this attitude is confirmed by legal sources. Lysias, e.g., describing how the 30 tyrants in Athens siezed their victims from the altars, comments: "Because of their behaviour you have found no shelter from your wrongs (ἀδικουμένων) in either temples or altars, which save even the wrongdoers (τοῖς ἀδικοῦσι)." ¹⁰ The question of morality and justice is not raised in the extant *leges sacrae* on supplication.¹¹ A decree of Tralleis, confirmed in the 4th century by a Persian

⁶ On the ritual of supplication see J. GOULD, *Hiketetai*, in *JHS*, 93 (1973), p. 74-103, esp. 75-85; cf. SCHLESINGER, *op. cit.* (n. 4), p. 32-36; SINN, *art. cit.* (n. 4), p. 73-75; MIKALSON, *op. cit.* (n. 2), p. 72 with notes 8 and 9; SINN, *art. cit.* (n. 2), p. 88-92; W. PÖTSCHER, *Die Struktur der Hikesie*, in *WS*, 107/108 (1994-1995), I, p. 51-75 (= *Sphairios. Hans Schwabl zum 70. Geburtstag gewidmet*).

⁷ SCHLESINGER, *op. cit.* (n. 4), p. 33; GAUTHIER, *op. cit.* (n. 4), p. 226; MIKALSON, *op. cit.* (n. 2), p. 73 with n. 14.

⁸ On the unlimited character of asyilia see SCHLESINGER, *op. cit.* (n. 4), p. 2, 52; cf. H. LLOYD-JONES, *The Justice of Zeus*, Berkeley-Los Angeles-London, 1983², p. 5 and 30 (on Zeus Hikesios); MIKALSON, *op. cit.* (n. 2), p. 76.

⁹ MIKALSON, *op. cit.* (n. 2), p. 71 and 257 n. 5.

¹⁰ LYS., XII, 98; cf. DIO CHRYS., XXXI, 88 (τὴν ἀσύλιαν, ἣν παρέχουσι τοῖς φαύλοις οἱ τοιοῦτοι τόποι); ACHILL. TATIUS, VIII, 2 (καὶ τοῖς μὲν πονηροῖς αἱ τῶν ἱερῶν ἀσφάλειαὶ δίδουσι καταφυγὴν); cf. SINN, *art. cit.* (n. 2), p. 108. Notice, however, that respect for the asylum does not mean that any (further) request of the suppliant would be automatically accepted (MIKALSON, *op. cit.* [n. 2], p. 72).

¹¹ On the 'cathartic law' of Lindos (*SEG*, XXXIX, 729; 3rd century) and two related texts from Kyrene (*LSS*, 115 B 29-59; 4th century) and Selinous (M.H. JAMESON - D.R. JORDAN - R.D. KOTANSKY, *A Lex Sacra from Selinous*, Durham, 1993 (*GRBS Monographs*, 11), p. 8-17; mid-fifth century) see V. KONTORINI, *Ἀνέκδοτες ἐπιγραφές Ρόδου*, II, Athens, 1989, 17-29 (no. 1), who argues convincingly that the ἱκέσται mentioned in the 'cathartic law' of Kyrene are suppliants, and not visitants or hostile spirits (cf. the recent discussion of the Kyrenean law by R. PARKER, *Miasma: Pollution and Purification in Early Greek Religion*, Oxford, 1983, p. 347-351 with the older bibliography; cf. now Chr. A. FARAONE, *Talisman and Trojan Horses: Guardian Statues in Greek Myth and Ritual*, New York-Oxford, 1992, p. 81f.); the latter view is still adopted by JAMESON-JORDAN-KOTANSKY, *op. cit.*, p. 54-57, 116-120, who interpret the respective passages of the *leges sacrae* of Selinous and Kyrene as related to visitants; however, they do not exclude the possibility

king, establishing the *asylia* (inviolability) and *biketeria* (the right to accept suppliants) of the sanctuary of Dionysos Bakchios, protects the inviolability of every suppliant, regardless of the reason he sought divine protection.¹² “Nobody should wrong a suppliant... Nobody should either wrong a suppliant or remain indifferent when he sees a suppliant being wronged; otherwise let him and his whole stock be destroyed.”

The blind and indifferent application of this rule might clearly lead to problems. The presence of suppliants in a sanctuary could easily jeopardize a city's safety, since criminal elements and persons willing to do anything in their despair could be among them; even if the fugitives were innocent victims of injustice their presence in a city would provoke their pursuer's enmity.¹³ This phenomenon could also undermine the political authority and the authority of secular law: Can a community tolerate that native and foreign murderers, thieves, runaway slaves, traitors, and debtors find safety, impunity, or release from the burden of their debts in a sanctuary? And if runaway slaves had some justification for their escape, claiming to be the victims of cruel treatment, what about already convicted criminals, found guilty by secular courts, as was the case of Kreousa, convicted for her crime (l. 1251: ψήφω κρατηθεῖς), but safe in the god's adyta. Ion's criticism is not unique. In Euripides' lost tragedy *Oedipus* (fr. 1049 N) an anonymous speaker in an unknown context expresses the same conflict between secular authority (the authority of a court) and the divine law protecting, invariably, *asylia*: “When a man who is unjust sits at an altar, I would bid the tradition farewell and, not fearing the gods, would take him off to court. A bad man ought always to suffer badly”.¹⁴ Until the 2nd century A.D. similar accusations are not uncommon in the literary sources, especially in relation to the sanctuaries of Asia Minor (e.g., the Artemision at Ephesos), where according

that these *leges sacrae* may concern the purification of homicides (p. 57f.). For Ptolemaic Egypt see VON WOES, *op. cit.* (n. 4), p. 171.

¹² LSAM, 75, l. 5-12: ἰκετηρίην εἶναι Διο/νύσου Βακχίῳ τῷ δημοσίῳ. Ἰκέτην μὴ ἀδικεῖν. / “Ὅρος ἱερὸς ἄσυλος Διονύσου / Βάκχου. Τὸν ἰκέτην μὴ ἀδικεῖν / μὴτὲ ἀδικούμενον περιορᾶν. / εἰ δὲ μὴ, ἐξώλη εἶναι καὶ αὐτὸ[ν] / καὶ τὸ γένος αὐτοῦ. Cf. the similar language in HD¹, III, 48, 3: οὐ περιορῶντες ἀπέλκειν τοὺς ἰκέτας ἐκ τοῦ ἱεροῦ; for the resistance of people against violations of *asylia* see *infra*, n. 21; cf. also EURIP., *Herakleid.*, 254: καὶ πῶς δίκαιον τὸν ἰκέτην ἄγειν βίῃ; PAUS., VII, 25, 1 (oracle of Zeus Dodonaioi): μηδ' ἰκέτας ἀδικεῖν ἰκέται δ' ἱεροί τε καὶ ἄγνοί. On the distinction between *biketeria* and *asylia* (esp. in hellenistic times) see, e.g., VON WOES, *op. cit.* (n. 4), p. 74; P. DEBORD, *Aspects sociaux et économiques de la vie religieuse dans l'Anatolie gréco-romaine*, Leiden, 1982 (EPRO, 88), p. 285.

¹³ For criminals in sanctuaries see *infra*, n. 15. For the problems in the Samian Heraion (*infra*, § 4) see F. SOKOLOWSKI, *The κάπηλοι in the Heraion of Samos*, in ZPE, 29 (1978), p. 144f.; L. SOVERINI, *Il “commercio nel tempio”: Osservazioni sul regolamento dei kapēloi a Samo* (SEG XXVII, 545), in *Opus*, 9-10 (1990-1991), p. 75-77, 84. For supplication provoking the pursuer's attack see, e.g., the aforementioned story of Paktyes and the evidence in Attic drama: SCHLESINGER, *op. cit.* (n. 4), p. 41-43; M. OSTWALD, *From Popular Sovereignty to the Sovereignty of Law*, Berkeley-Los Angeles-London, 1986, p. 141-145; MIKALSON, *op. cit.* (n. 2), p. 71; cf. SINN, *art. cit.* (n. 2), p. 92.

¹⁴ EURIP., *Oedipus*, fr. 1049 N; cf. MIKALSON, *op. cit.* (n. 2), p. 75 with n. 33.

to Strabo, Tacitus, and Plutarch all kinds of criminal elements, runaway slaves, and debtors found refuge.¹⁵

This inherent conflict between divine and secular authority became increasingly apparent as and wherever the state institutions grew and developed, and the solution of legal conflicts became less a matter of private reprisals and arbitration and more an issue of public courts. Athenian drama often reflects this conflict between secular and religious authority, Sophokles' *Antigone* being the best known play with such a theme, but hardly the only example.¹⁶ Here, asyilia will present a case study for this kind of conflicts. This particular issue was not a conflict between magistracies, since in the Greek polis no sharp distinction between secular and religious offices existed, the priests being in most cases elected officials of the community. It was primarily a conflict between an unwritten custom, transmitted from generation to generation and regarded as a divine command, on the one hand, and legal regulations introduced in a relatively late period, on the other. The evidence quoted so far shows that the Greeks had realized the problem, whose dimensions should not be underestimated. As Ulrich Sinn has recently demonstrated, we must assume that from the classical period on large numbers of suppliants ran to Greek sanctuaries and sometimes remained there for a long time, so that installations for their lodging became necessary.¹⁷ This paper, however, concerns itself with the

¹⁵ STRAB., XIV, 1, 23: ...'Ανωτίου δὲ διπλασιάσαντος τοῦτο (sc., the inviolable area) καὶ συμπεριλαβόντος τῆ ἀσυλίας μέρος τι τῆς πόλεως; ἐφάνη δὲ τοῦτο βλαβερὸν καὶ ἐπὶ τοῖς κακούργοις ποιοῦν τὴν πόλιν; TAC., *Ann.*, III, 60: *crebrescebat enim Graecas per urbes licentia atque impunitas asyilia statuendi; complebantur templa pessimis servitorum; eodem subsidio oboerati adversum creditores suspectique capitalium criminum receptabantur, nec ullum satis validum imperium erat coercendis seditionibus populi flagitia hominum ut caerimoniae deum protegentis*; PLUT., *Mor.*, 828d (*de vitando aere alieno*, 3): τοῖς χρεώσταις, ὅταν καταφύγῳσιν εἰς τὸ ἱερὸν αὐτῆς, ἀσυλίαν παρέχει καὶ ἄδειαν ἀπὸ τῶν δανείων. Cf. BOLKESTEIN, *op. cit.* (n. 2), p. 246; SINN, *art. cit.* (n. 4), p. 108; H. ENGELMANN, *Beiträge zur ephesischen Topographie*, in *ZPE*, 89 (1991), p. 295 (on APOLL. TYAN., I, p. 363 ed. KAYSER). Similar accusations in Ptolemaic Egypt: VON WOES, *op. cit.* (n. 4), p. 137, 140, 171-174; see esp. *BGU*, VI, 1212 C = M.-T. LENGER, *Corpus des ordonnances des Ptolémées*, Bruxelles, 1964, p. 222-225, no. 82 (measures of Ptolemy IV Philopator against the exploitation of asyilia for the purpose of ἄδωσιδικία); on this text see VON WOES, *op. cit.* [n. 4], p. 19-21, 119f.); in imperial times: Th. PEKÁRY, *Das römische Kaiserbildnis in Staat, Kult und Gesellschaft dargestellt anhand der Schriftquellen*, Berlin, 1985, p. 130f. (with bibliography).

¹⁶ See, e.g., OSTWALD, *op. cit.* (n. 13), p. 137-171, ; MIKALSON, *op. cit.* (n. 2), esp. 69-131.

¹⁷ SINN, *art. cit.* (n. 4), p. 53-116, esp. 67-69, 77, 83-97, 106-110; SINN, *art. cit.* (n. 2), p. 88-109 (measures for the lodging of suppliants); cf. MIKALSON, *op. cit.* (n. 2), p. 70f. and 257 n. 2 (fifth-century episodes involving asylum). For Ptolemaic Egypt see L. DELEKAT, *Katoche, Hierodulie und Adoptionsfreilassung*, München, 1964, p. 48-85. According to a restoration of a decree of Kastabos (P.M. FRASER – G.E. BEAN, *The Rhodian Peraia and Islands*, London, 1954, p. 24-27, no. 15, 2nd century) proposed by J. COOK – W.H. PLOMMER, *The Sanctuary of Hemithea at Kastabos*, Cambridge, 1966, p. 65, the sanctuary of Hemithea took measures for the lodging of *biketai* (l. 3-4): τοῦ τεμένους τοῦ ὑπάρχοντος ἐν Καστάβῳ, κατὰ τῶν κλίσεων τῶν [ικ]ετῶν οὐχ ἰκανοῦ ὄντος. This restoration is, however, not certain, [δαμ]ετῶν, [φυλ]ετῶν et. sim. being possible alternatives; besides, the word *biketes* can also mean the pilgrim, in general. For this text and the proposed restorations see now W. BLÜMEL, *Die Inschriften der rhodischen Peraia*, Bonn, 1991 (*Inscr. griech. Städte aus Kleinasien*, 38), p. 110f. no. 401; A. BRESSON, *Recueil des inscriptions de la Pérée rhodienne (Pérée intégrée)*, Paris, 1991, p. 68-72 no. 44.

measures Greek poleis took not in order to provide lodging to suppliants, but in order to get rid of them.

The epigraphic and literary evidence assembled here¹⁸ shows that the Greeks tried in many ways to escape from the embarrassing situation of people evading the grasp of secular law by appealing to an old and unalterable tradition. In the changing world of the archaic polis the idea of unlimited *asylia* presented a relic of an old notion of guilt, for which intention and planning played no rôle and only the concrete deed counted. This idea was difficult to accommodate with a new concept of justice which prevailed increasingly from the late 7th century. The introduction of a new, differentiated notion of guilt, which distinguished between intention and accident, had significant effects on two central areas of ancient religiosity, i.e., *asylia* and *miasma*. *Asylia* on the one hand was increasingly regarded as the right of victims of injustice; for *miasma*, not only the deed, but also the thought became increasingly important. Yet, despite these tendencies and developments the persistence of sacred law prevented the formulation of clear, unequivocal, generally applicable rules for the acceptance or rejection of claims of supplication. This conflict of authority was not solved after all. In this paper I concentrate on the world of the Greek poleis, leaving aside Hellenistic or Roman regulations, where the problem was seen in a different way due to the different structures of power and the different traditions.¹⁹

The most obvious solution was of course simply to violate *asylia*, hoping that the gods would turn a blind eye to the violation, especially if the pursued person was clearly a criminal. After all, the gods were the only guarantors of *asylia*. Until the Hellenistic age there is no evidence for a *legal* procedure against persons who had violated *asylia*.²⁰ Given the lack of a legal protection

¹⁸ I know of no comprehensive collection and discussion of the relevant sources. References to part of the evidence are found in many discussions of the subject of *asylia* and supplication, e.g., K. LATTE, *Helliges Recht. Untersuchungen zur Geschichte der sakralen Rechtsformen in Griechenland*, Tübingen, 1920, p. 107f.; Chr. HABICHT, *Samische Volksbeschlüsse der hellenistischen Zeit*, in *MDAI(A)*, 72 (1957), p. 229 (treatment of suppliant slaves); G. THÜR – H. TAEUBER, *Prozeßrechtlicher Kommentar zur "Krämerinschrift" aus Samos*, in *Anzeiger Akad. Wien*, 115 (1978), p. 214f., 219-221; KONTORINI, *op. cit.* (n. 11), p. 19 n. 10; SINN, *art. cit.* (n. 2), p. 92f., 95; SOVERINI, *art. cit.* (n. 13), p. 106, n. 202-204.

¹⁹ On Ptolemaic Egypt see VON WOES, *op. cit.* (n. 4), esp. p. 12-25, 92-104 (on the 'Asylie-Klausel' found in contracts, with which the borrower promised not to seek asylum if unable to repay the debt), 62-74 (on the 'ἀγώγιμος-Klausel'), 171-174 (on the exemption of *debitores publici*); for the significance of the local, pre-Ptolemaic element see VON WOES, *op. cit.* (n. 4), p. 33-47. For measures limiting the right *ad status confugere* in the Roman Empire see VON WOES, *op. cit.* (n. 4), p. 206-211; PEKÁRY, *op. cit.* (n. 15), p. 130f.; in late antiquity: L. WENGER, "Όροι Ἀσυλίας, in *Philologus*, 86 (1931), p. 427-454; WENGER, *art. cit.* (n. 4), p. 841f.

²⁰ The classical and many later *leges sacrae* about *asylia* and supplication leave the protection of *asylia* to the vengeance of the gods: *LSAM*, 29, l. 8-15 (Metropolis, 4th cent.): [ἰκέτην] μὴ ἀπέλκειν / [.....] ἐπιστα[.....]ν μὴδὲ / [δρᾶν] μὴ(θ)ὲν ἀδι[κον.] ὅς δ' [ἄν] ἀδική[σῃ], μὴ εἰλωσ ἀν[τῶ]ι ἢ Μήτηρ [ἢ] Γαλ[λῆσ]α; *LSAM*, 75, l. 9-12 (Tralleis, 4th century): τὸν ἰκέτην μὴ ἀδικεῖν / μὴτὲ ἀδικούμενον περιορᾶν, / εἰ δὲ μὴ, ἐξῶλη εἶναι καὶ αὐτὸ[ν] / καὶ τὸ γένος αὐτοῦ; *LSAM*, 85 (Ephesos, 2nd cent.): τὸ τέμενος τῆς Ἀ[ρτέμιδος ἄστυλον] / πάν, ὅσον ἔσω περιβόλου· ὅς δ' ἄν / παραβαίνει, αὐτὸς [αὐτὸν αἰτιάσεται] or

of asyilia, stories about the violent removal of suppliants from altars and sanctuaries are not uncommon, but our sources never neglect to stigmatize these instances of sacrilege and to interpret any misfortune that befell the violator in the future as expression of the divine anger.²¹ If the victims of the violation happened to be innocent, this only made things worse; but the violation of asyilia was condemned even if the suppliants were convicts or criminals. Equally common as the violation of asyilia is the effort to get around it deceitfully, e.g., by interrupting the physical contact between the suppliants and the sacred place or by forcing the suppliants to leave the sanctuary by burning them out, walling them up, prohibiting their food supply, or simply promising to give them a fair trial or guarantee a safe departure and then seizing and killing them.²² Sometimes, negotiations served both parties, securing for the suppliants, especially debtors, a better treatment, and permitting the authorities to save face.²³ One of these methods, the prohibition of food supply (especially to runaway slaves), was institutionalized in some sanctuaries in the Hellenistic age, i.e., in Andania and Samos (§ 4 and note 58).

True, it was often easier to apply tricks than to introduce clear *legal* limitations of asyilia. Despite the fact that the Greeks were conscious of the problem that asyilia could be exploited by criminal elements and despite the occasional criticism, they were extremely reluctant to introduce clear, direct, and unambiguous limitations. The documentary evidence reveals basically three ways to

[ἀπόλοιτο καὶ τὸ γένος]. For the gods as protectors of asylum: MIKALSON, *op. cit.* (n. 2), p. 76f. In the Hellenistic period the violation of asyilia could be prosecuted as sacrilege: see, e.g., *LSS*, 158, l. 2f. (Kos, 3rd cent.); *I.Cret.*, II, iii 2 l. 48f.; GAUTHIER, *op. cit.* (n. 4), p. 268f. (Pergamon, 2nd cent.); VON WOES, *op. cit.* (n. 4), p. 110, *cf.* p. 106f. (Ptolemaic Egypt). PLAUT., *Rudens*, 839-891 implies prosecution for violation of an asylum (l. 839f.: *violentia de ara decipere Veneris voluit*). Also violators of the Lindian 'law on suppliants' were prosecuted for hierosyilia: *SEG*, XXXIX, 729, l. 7-12; see KONTORINI, *op. cit.* (n. 11), p. 26. The hellenistic evidence usually concerns the asyilia explicitly granted to certain sanctuaries and recognized by kings and foreign communities; on this type of asyilia see GAUTHIER, *op. cit.* (n. 4), p. 226-230.

²¹ For testimonia and discussion see, e.g., STENGEL, *art. cit.* (n. 2), c. 1882; SCHLESINGER, *op. cit.* (n. 4), p. 33f.; J. MIKALSON, *Athenian Popular Religion*, Chapel Hill-London, 1983, p. 99; SINN, *art. cit.* (n. 4), p. 78f., 109f.; MIKALSON, *op. cit.* (n. 2), p. 69f., 72f., 75; SINN, *art. cit.* (n. 2), p. 93. On violations of asyilia in Ptolemaic Egypt see the testimonia in VON WOES, *op. cit.* (n. 4), p. 8f., 137-139, 167-170 (εἰσβιάζεσθαι, ἐκβιάζεσθαι, παρενοχλεῖν); *cf.* R. SCHOLL, *Corpus der ptolemäischen Sklavenliste*, Stuttgart, 1990, I, p. 303. For the outrage or even the resistance of people and priests against violations of asyilia see VON WOES, *op. cit.* (n. 4), p. 90-92; a nice example is found in PLAUT., *Rudens*, 615-705 (citizens of Kyrene defend two suppliant girls); *cf.* ACHILL. TATIUS, VIII, 2-3 and *supra*, n. 12.

²² See esp. SINN, *art. cit.* (n. 4), p. 78-80, 97, 110f. Examples from Attic tragedy: MIKALSON, *op. cit.*, p. 73 with notes 17-18. Further examples: STENGEL, *art. cit.* (n. 2), c. 1882; DELEKAT, *op. cit.* (n. 17), p. 60f.; GOULD, *art. cit.* (n. 6), p. 82f. See esp. the inscription from the Samian Heraion discussed below (§ 4).

²³ See, e.g., THUC., III, 70, 5; *cf.* DEMOSTH., 18, 107; BOLKESTEIN, *op. cit.* (n. 2), p. 246. A characteristic case of negotiations is reported in an inscription from Seuthopolis (early 3rd century?). It contains the oath of Berenike and her sons, who guaranteed the safe departure of a suppliant from the sanctuary of the Samothrakian gods: *IGBulg.*, III 2, 1731; see the new edition and commentary of K.-L. ELVERS, *Der "Eid der Berenike und ihrer Söhne": eine Edition von IGBulg. III 2, 1731*, in *Chiron*, 24 (1994), esp. p. 252-261.

deal with the problem: a) by prohibiting persons most likely to seek asylum, e.g., convicted and polluted persons, from entering a sanctuary in the first place (§ 2); b) by having measures against suppliant wrongdoers confirmed by the gods through oracles (§ 3); and c) by conferring on the religious personnel the authority to expell suppliant slaves (§ 4).

2. Prohibitions against unwelcome intruders in sanctuaries and the case of the ἀγώγμοι

The evidence for measures excluding from sanctuaries persons who might try to escape the grasp of law is primarily Attic. A fragmentary Attic decree (ca. 432/1) related to works on the Acropolis²⁴ provides for the building of a wall, so that neither runaway slaves nor thieves could enter the sanctuary (λόπ [ος] ἄν δραπέτες μὲ ἐ[σί]ει μηδὲ λοποδύτ[ες]). The work was to be carried out within two months, and three archers were to be set there as guards. Already H.W. Lolling has pointed out that the runaway slaves and thieves were to be kept out of the Acropolis, so that they would not seek asylum there.²⁵ We should notice the silence of this decree as to the fate of fugitives and criminals, who did manage to get into the sanctuary. Were they beyond the responsibility of the Athenian authorities, or were at least the priests allowed to expell these intruders from the sanctuary (see *infra* § 4)?

As we may infer from Attic forensic speeches some categories of convicts were excluded from sanctuaries. It should be underlined here that these provisions aimed primarily at protecting the sanctuaries from pollution, and not at prohibiting the exploitation of asyilia. Andokides makes an allusion to an Attic law which forbade persons convicted as atimoi to enter sanctuaries. Death would be the penalty of violators (οὐκ ἐξέσται αὐτῷ εἰς τὸ ἱερὸν τοῖν θεῶν εἰσεῖναι ἢ ἀποθανεῖται); obviously, supplication could not save them.²⁶ A similar impediment is mentioned in Lysias' speech against Andokides (VI, 24). A decree passed by the Athenians provided that Andokides was to be barred from the marketplace and the temples, so that even if wronged by his enemies he could get no redress (καὶ προσεψηφίσασθαι ὑμεῖς αὐτὸν εἶργεσθαι τῆς ἀγορᾶς καὶ τῶν ἱερῶν, ὥστε μηδ' ἀδικούμενον ὑπὸ τῶν ἐχθρῶν δύνασθαι δίκην λαβεῖν). Here, the ad hoc regulation aimed at depriving Andokides from the protection of asyilia. Analogous laws prohibited men who failed to take the field, deserters, coward men, and women engaged in adultery to enter public sanctuaries.²⁷

²⁴ IG, I³, 45 (IG, I², 44).

²⁵ Cf. LATTE, *op. cit.* (n. 18), p. 107; SINN, *art. cit.* (n. 4), p. 79; SINN, *art. cit.* (n. 2), p. 92.

²⁶ ANDOK., 1, 33; cf. D. MACDOWELL, *The Law in Classical Athens*, London, 1978, p. 73f.

²⁷ [DEMOSTH.], 59, 87; AISCH., 3, 177. Cf. A.R.W. HARRISON, *The Law of Athens. The Family and Property*, Oxford, 1968, p. 36; MIKALSON, *op. cit.* (n. 21), p. 99; MACDOWELL, *op. cit.* (n. 26), p. 125.

Analogous regulations can be found outside Attica. Narrating one of the atrocities in Sparta after the death of Kleomenes, the butchering of ephors in the sanctuary of Athena Chalkioikos, Polybios²⁸ stretches the fact that this particular sanctuary secured the safety even of persons condemned to death (καίτοι πᾶσι τοῖς καταφυγοῦσι τὴν ἀσφάλειαν παρεσκεύαζε τὸ ἱερόν, κἄν θανάτου τις ᾗ κατακεκριμένος), thus indicating that this was not the general rule.²⁹ There were obviously some sanctuaries, at least at his time, which did not offer safety to persons condemned to death. We should mention in this context the amphictionic decree of 346/45 against the defeated Phokians after the Third Sacred War, according to which the fugitive Phokians as well as any other person who had participated in the plundering of the sanctuary were to be arrested wherever they might be (ἀγώγιμοι πάντοθεν).³⁰ F. von Woeß has pointed out that in the Ptolemaic documentary material the word ἀγώγιμος is used as a synonym of 'deprived of asyilia' ("auch ohne Asylschutz") and assumed that this clause aimed at depriving the persons involved in the Delphic sacrilege from the protection of asyilia.³¹ This is, however, not certain. The same clause is found in the decree proposed by Aristokrates for the mercenary leader Charidemos in 352 B.C. (Demosth., XXIII, 34: ἐάν τις ἀποκτείνῃ Χαρίδημον, ἀγώγιμος ἔστω πανταχόθεν); as Demosthenes explains, here ἀγώγιμος ἔστω πανταχόθεν means liable to seizure elsewhere than in Athenian territory (XXIII, 35: πλὴν ἐν τῇ ἡμεδαπῇ, ἀγώγιμον ἐκ τῆς συμμαχίδος πάσης).

In the light of these regulations, we may understand properly a Hellenistic *lex sacra* from Eresos concerning itself with ritual purity.³² The text lists the persons not allowed to enter a sanctuary: impious people (cf. l. 1: εἰστέιχιν εὐσεβέας), persons polluted by death, birth, and sexual intercourse (l. 2-9). Excluded were also perhaps killers (not necessarily murderers)³³ and certainly traitors (l. 10: [φονέας?] δὲ μὴ εἰστέιχιν μηδὲ προδόταις). The prohibition against killers, if this restoration should be correct, can easily be explained in terms of pollution. The exclusion of traitors is more problematic. The nature of their treacherous behaviour (towards their friends or their country) is not specified. Traitors, too, can be regarded as μισοί, as Parker has put it, because of their

²⁸ POLYB., IV, 35, 3. Cf. SINN, *art. cit.* (n. 4), p. 108.

²⁹ Vgl. BOLKESTEIN, *op. cit.* (n. 2), p. 245 (without this testimony).

³⁰ DIOD., XVI, 60, 1: τοὺς δὲ πεφευγότας τῶν Φωκίων καὶ τῶν ἄλλων τῶν μετεσηκτότων τῆς ἱεροσυλίας ἐναγεῖς εἶναι καὶ ἀγώγιμους πάντοθεν.

³¹ VON WOES, *op. cit.* (n. 4), p. 68, 70f.

³² LSCG, 124 (2nd cent.).

³³ Another plausible alternative is [ξένοις]: see L. ZIEHEN, *Leges Graecorum Sacrae. Pars Altera. Fasc. I. Leges Graeciae et Insularum*, Leipzig, 1906, p. 306; cf. T. WÄCHTER, *Retnbeitsvorschriften im griechischen Kult*, Gießen, 1910, p. 120; on the exclusion of foreigners from sanctuaries see *infra*, n. 36.

“shamelessness that causes them to disregard normal constraints.”³⁴ It is, therefore, conceivable that the primary aim of this regulation was to protect the sanctuary from pollution. However, whatever its origin may have been, in effect it excluded from entrance, and consequently from protection in the sacred precinct, two groups of persons most likely to seek asylum there, killers and traitors, i.e., persons prosecuted by the families of their victims, by secular authorities, or by political opponents.

As we have seen, there is some evidence that persons who were legally prosecuted, or even condemned, were not allowed to enter a sacred precinct. The preoccupation with pollution most probably explains these measures against convicts and criminals, as it explains, for instance, measures against lodging in sanctuaries.³⁵ But even if the *primary aim* of these regulations was not to prohibit the exploitation of an asylum by criminals, their *result* was after all the exclusion of these people from the area protected by the *asylia*. We should note here that there exists another group of prohibitions which *are not related to asyilia*, but still could (theoretically) be used to keep outside a sanctuary potential suppliants: I mean regulations prohibiting the entrance of foreigners in certain sanctuaries.³⁶ Since most asylum seekers were foreigners to the place where they sought protection (e.g., victims of civil strife and wars), these clauses effectively denied them entrance to the sanctuaries.

The aforementioned provisions most likely could provide the authorities with an *excuse* to lay hands on certain suppliants after they had entered the sanctuary and approached the altars. Obviously, charges of crimes committed within the inviolable area could also be used as excuses for the expulsion of suppliants. A story goes, e.g., that the philosopher Menedemos of Eretria, who was living as a suppliant in the Amphiareion at Oropos, was compelled to leave the sanctuary through a decree of the Boiotian league; some golden goblets were missing, and the philosopher was accused of stealing them.³⁷ But there is

³⁴ PARKER, *op. cit.* (n. 11), p. 5 n. 18, p. 317 n. 48. For the moral condemnation of treason see LATTE, *op. cit.* (n. 18), p. 69, 73f.; K. LATTE, *Schuld und Sünde in der griechischen Religion*, in *ARW*, 20 (1920), p. 267f.; B. SNELL, *Dichtung und Gesellschaft. Studien zum Einfluß der Dichter auf das soziale Denken und Verhalten im alten Griechenland*, Hamburg, 1965, p. 63-65 and *Die Entdeckung des Geistes. Studien zur Entstehung des europäischen Denkens bei den Griechen*, Göttingen, 1975⁴, p. 65f. (treacherous friends); P.W. VAN DER HORST, *The Sentences of Pseudo-Phocylides with Introduction and Commentary*, Leiden, 1978, 123f. (on PS-PHOKYLIDES, l. 16-17). Treason is an insult to the gods: H.W. PARKE – D.E.W. WORMELL, *The Delphic Oracle*, Oxford, 1956, I, p. 380-382; A.W.H. ADKINS, *Merit and Responsibility: A Study in Greek Values*, Oxford, 1960, p. 110 n. 17; PARKER, *op. cit.* (n. 11), p. 186-188.

³⁵ See, e.g., *LSAM*, 55 = *I.Knidos*, 160 (Knidos, 4th cent.).

³⁶ Cf. *supra*, n. 33 and further examples in WÄCHTER, *op. cit.* (n. 33), p. 118-123; e.g., *LSCG*, 110 (Paros, 5th cent.): χσένω Δοριῆι ὠὐ θέμις; *LSS*, 49 (Delos, 5th/4th cent.): Ξένωι οὐχ ὄση ἐσι[έναι]. P. BUTZ, *A Sacred Prohibition on Delos ID 68, A and B*, in *BCH*, 118 (1994), p. 69-98 demonstrates that the latter prohibition concerns the Archegeion of Delos; she suggests that it was primarily addressed against the Athenians (ca. 404-394 or 386-377 B.C.).

³⁷ DIOG. LAERT., II, 142: καὶ διέτριβεν ἐν Ὀρωπῷ ἐν τῷ τοῦ Ἀφιάρεω ἱερῷ· ἔνθα χρυσῶν ποτηρίων ἀπολομένων, καθὰ φασι· Ἐρμιππος, δόγματι κοινῷ τῶν Βοιωτῶν ἐκελεύσθη μετελθεῖν.

a huge difference between excuses and legitimacy. The dilemma remained. Could a secular regulation (a law or a decree) violate an unequivocal divine law which protected *all* suppliants, without causing the anger of gods? And this is hardly the only problem. The *lex sacra* from Eresos prohibited traitors from entering the sanctuary. But who decides who is a traitor and how? What one regards treason is certainly interpreted differently by the alleged traitor. Since the latter did not have the right to enter the sanctuary in the first place, we may assume that his pursuers would have an excuse to drag him out without the fear of provoking the gods' anger. But could the accused person still defend himself?

3. Suspension of the suppliant's status through oracles

This question brings us to the second possible solution, i.e., the oracular approval of measures against suppliants. We have seen already that Kyme had tried to shift the responsibility of a decision in the case of Paktyes to the oracle of Didyma.³⁸ There is more and better evidence for this procedure.

The most enigmatic inscription of Arkadia, the 'Gottesurteil von Mantinea' (ca. 460),³⁹ may be related to a procedure against suppliants. This text consists of a list of persons convicted for the murder of several men and a girl in the sanctuary of Alea and a dossier of documents related to the judicial procedure against them. Since this text has been most recently the object of an exhaustive study by G. Thür and H. Taeuber, who also offer a detailed presentation of previous interpretations, I will discuss here only the implications of this document for *asylia*, focusing on the few certain points of the document.

The inscription begins with the names of thirteen (according to Thür and Taeuber) or twelve (according to L. Dubois) men convicted for killing some men and a girl in the sanctuary of Athena Alea (l. 1-13, *cf.* l. 25-28). According to Thür's persuasive interpretation the instructions for the trial (with the charge and a reference to the legal consequences in case of conviction) are stated at the end of the inscription.⁴⁰ These instructions distinguish between a defendant who is mentioned by name (Themandros) and a group of anonymous defendants. The instructions for both groups follow exactly the same pattern, as shown below (the differences are underlined):

³⁸ SINN, *art. cit.* (n. 4), p. 79.

³⁹ *JG*, V 2, 262. Most recent editions: L. DUBOIS, *Recherches sur le dialecte arcadien*, Louvain-la-Neuve, 1986, II, p. 94-111; G. THÜR – H. TAEUBER, *Prozessrechtliche Inschriften der griechischen Poleis. Arkadien* (*SB Akad. Wien*, 607), Wien, 1994, p. 75-98 no. 8.

⁴⁰ THÜR, in THÜR-TAEUBER, *op. cit.* (n. 39), p. 86f. n. 26.

Anonymous defendants

εἷ
σις
 ἰν τοῖεροι τῶν τότε [ἀπυθανόντων]
 φονές ἐστί
εἷς' αὐτὸς εἷσε [τῶν ἐσγόνων] σις καὶ τὸρρέντερον
 εἷσε τ[ὸν ἀνδρῶν] εἷσε τὰς φαρθένο
 (see above)

ἰνμενφῆ[ς ἕνα
κα] τὸ χρεστέριον
 εἰ δὲ μέ,

ἴλα[ον ἕναι]

Themandros

εἰ
Θέμανδρος
 (see below)
 φονές ἐστί

ε[ἴσε] τῶν ἀνδρῶν εἷσε τὰς φαρθέ[ο]
 τῶν τότε ἀπυθανόντων ἰν τῷ [ιεροῖ]
κάς με προσσθαγενές τὸ φέρ[ο]ι το
τότε ἐό[ν]τος
 ἰν μόνφον θε[ῖναι].

εἰ δὲ προσσθαγενές τὸ φέρ[ο]ι κάς με
 φονές
 ἴλαον ἕναι

One of the many controversial issues related to this text is the question as to whether the phrase 'in the sanctuary' in the instructions for the trial against the anonymous defendants (εἷ σις ἰν τοῖεροι τῶν τότε [ἀπυθανόντων] φονές ἐστί) modifies the participle ἀπυθανόντων (as is the case in the instructions for the trial of Themandros, i.e., "if anyone is the murderer of those *who were killed then in the sanctuary*") or the pronoun σις (i.e., "if *anyone of the men in the sanctuary* is the murderer of those who were killed then").⁴¹ At first sight the correspondence of the formulations used in the two instructions (εἷ σις ἰν τοῖεροι τῶν τότε [ἀπυθανόντων] φονές ἐστί - εἰ Θέμανδρος φονές ἐστί ε[ἴσε] τῶν ἀνδρῶν εἷσε τὰς φαρθέ[ο] τῶν τότε ἀπυθανόντων ἰν τῷ [ιεροῖ]) seems to speak for the first interpretation. However, the correspondence is not so close: In the first instruction the phrase 'in the sanctuary' precedes the participle ἀπυθανόντων, in the second instruction it follows. Furthermore, G. Thür has argued that if we accept the latter translation ('anyone of the men in the sanctuary'), the reason that a different procedure had to be followed for the anonymous defendants (in the sanctuary) and Themandros becomes apparent. The two different procedures are due precisely to the fact that all the other murderers, along with members of their families, had sought asylum in the sanctuary after their deed, whereas Themandros did not. Thür's interpretation can be strengthened by some further significant differences between the two instructions:⁴² a) in the case of Themandros there is no reference to an oracle (καὶ τὸ χρεστέριον); b) the instruction for Themandros mentions the possibility (probably Themandros' allegation) that Themandros was only present in the sanctuary (προσσθαγενές), either during the murder or at a different point,⁴³ but was not one of the murderers. Both differences can be explained if we accept Thür's interpre-

⁴¹ Discussion and older bibliography in THÜR-TAEUBER, *op. cit.* (n. 39), p. 87 n. 29.

⁴² Cf. THÜR, in THÜR-TAEUBER, *op. cit.* (n. 39), p. 88 n. 32.

⁴³ On the different interpretations of προσσθαγενές see THÜR-TAEUBER, *op. cit.* (n. 39), p. 88 n. 33.

tation. For Themandros' trial no reference to an oracle was necessary, since he was not a suppliant. He could be tried according to the city's laws on homicide. Only he, the only defendant who did not seek asylum in the sanctuary after the incident, could claim that he was not present in the sanctuary during the killings (or according to a different understanding of the word *προσθαγενές*, that he was only an eyewitness).⁴⁴

Three further enigmas of this inscription can also be answered if we follow Thür's line of interpretation. First, the only legal consequences of the conviction mentioned in the text are confiscation of property (l. 15-17: τὸν χρεμάτων πε τοῖς φοικιάται(ς) τὰς θεο ἔναι καὶ φοικίας δάσασσθαι τὰς ἄν ὁ δ' ἑάσας; l. 19-20: ἀπυσεδομίν[ος] τον χρεμάτων τὸ λάχος) and expulsion from the sanctuary for both the convicts and all their male descendants (l. 20-21: ἀπεχομίνος καὶ τὸρρέντερον γένος ἔναι ἄματα πάντα ἀπὸ τοῖ ἱεροῖ), truly a peculiar punishment for 'normal' murderers. Second, the goddess is mentioned explicitly among the recipients of the confiscated property (l. 15-17; cf. l. 1: [φο]φλέσσαι οἶδε ἐν 'Αλέαν);⁴⁵ she received all the movable property, whereas the immovables were to be distributed, probably among the relatives of the victims. This provision clearly indicates that the crime committed had wronged the goddess, too. And third, the various documents quoted in this dossier make allusion to two separate convictions of the defendants: a) through the goddess by means of an oracle, and b) by judges, probably through votes (l. 14-15: ὁσέοι ἄν χρεστέρον κατακρίνε ἔ γνωσίαι κακριθέε; l. 18-19: ἐπὶ τοῖδ' ἐδικάσαμεν ἄ τε θεὸς καὶ οἱ δικασσταί; cf. l. 18-19: [καὶ] τὸ χρεστέριον).⁴⁶ The peculiarities with which the text confronts us (involvement of the goddess as victim, plaintiff, and recipient of the fine, exclusion of the convicts and their descendants from the sanctuary) cannot be fully explained simply by attributing them to the fact that the murders were committed in the sacred precinct or that the victims may have been suppliants.⁴⁷ These peculiarities, together with the different procedure followed for Themandros, suggest the following (admittedly speculative) scenario. Several men committed murders in the sanctuary of Alea. While the murderers—except for Themandros—were enjoying the benefits of *asylia* in the sanctuary, the families of their victims were crying out for revenge. The community of Mantinea was divided and powerless, while the priests saw themselves confronted with the bizarre situation of offering protection to men who had polluted the sanctuary by committing murders in the sacred precinct. Precisely this gave the solution to the problem. If the murderers could not be charged with murder by the secular authorities or by the families of the victims, they

⁴⁴ THÜR, in THÜR-TAEUBER, *op. cit.* (n. 39), p. 88 n. 33.

⁴⁵ Cf. DUBOIS, *op. cit.* (n. 39), II, p. 111: "sont redevables à l'égard d'Aléa"; THÜR-TAEUBER, *op. cit.* (n. 39), p. 77: "Die Folgenden sind verurteilt zugunsten der Alea" (cf. p. 80 n. 1).

⁴⁶ The interpretation of *γνωσία* and the reconstruction of the procedure are also matters of controversy which cannot be discussed here; see THÜR-TAEUBER, *op. cit.* (n. 39), p. 77, 92-96.

⁴⁷ Cf. THÜR-TAEUBER, *op. cit.* (n. 39), p. 88 n. 30.

could be charged by the goddess for their sacrilege. Their conviction meant their exclusion from the sanctuary, i.e., terminated their status as suppliants (cf. the aforementioned anecdote about Menedemos, note 37). Themandros, who was not in the sanctuary, was also convicted on the same charge, and his name appears along with the names of the others.

Such consultation of an oracle is not unique. An analogous interaction between an oracle and secular authorities is attested in Athens one century after the 'Gottesurteil von Mantinea'. The Athenian politician Kallistratos, having been accused of treason, was condemned to death by the Athenians in 361. He fled to Methone and later to Delphi, where he received one of Apollon's puzzling oracles. Should he return to Athens, he would have fair treatment by the laws (ἀν ἔλθῃ Ἀθήναζε τεύξεται τῶν νόμων).⁴⁸ So he came back (ca. 356) and took refuge at the altar of the Twelve Gods. Nonetheless, he was put to death by the state, which interpreted the oracle's reference to the fair treatment by the laws as an encouragement to punish the wrongdoer (τὸ γὰρ τῶν νόμων τοῖς ἡδίκηκοσι τυχεῖν τιμωρία ἐστίν· ὁ δέ γε θεὸς ὀρθῶς ἀπέδωκε τοῖς ἡδικημένοις κολάσαι τὸν αἴτιον).

The aforementioned testimonia imply that on certain occasions authorities –civil authorities– felt themselves encouraged by oracles to disregard the rights of suppliants. A fragmentary *lex sacra* of the 4th century from Metropolis in Ionia with prescriptions on purity may also be related to this phenomenon. After a series of prohibitions about pollution from sexual intercourse, we find a clause about suppliants:⁴⁹

[ικέτην] μὴ ἀπέλκειν
 [.....] ἐπιστα-
 10 [....]ν μηδε
 [δρᾶν] μη(θ)ὲν ἄδι-
 [κον.] δς δ' [ἀν] ἀδική-
 [σηι], μὴ εἰλωσ. αὐ-
 [τῶι ἢ] Μήτηρ [ἢ] Γαλ-
 15 [λησ]ία.

Joseph Keil and Anton von Premerstein restored the corrupt passage (l. 9-10) in the following way: [εἰ μὴ τὸν] ἐπιστά[μενο]ν, i.e. "nobody should drag a suppliant away, except for the supervisor of the sanctuary; nor should anybody wrong (i.e., a suppliant) in any way. Whoever wrongs (a suppliant), let Meter Galesia not be merciful to him."⁵⁰ An alternative restoration has been proposed by Franciszek Sokolowski: [ικέτην] μὴ ἀπέλκειν [βωμοῖς] ἐπιστάμενον, i.e. "nobody

⁴⁸ LYC., *Leokr.*, 93; on this oracle see PARKE-WORMELL, *op. cit.* (n. 34), II, p. 104f.

⁴⁹ LSAM, 29, l. 8-15.

⁵⁰ J. KEIL – A. VON PREMIERSTEIN, *Bericht über eine Dritte Reise in Lydien und angrenzenden Gebieten Ioniens*, Wien, 1914, 103 no 154. Ἐπιστάμενος from ἐπίσταμαι (Ion. ἐπίσταμαι), 'to be set over, person in authority' (LSJ, s.v., with examples).

should drag a suppliant away, who/while he sits on an altar." Sokolowski's restoration is tautological. The addition "a suppliant who/while he sits on the altar" is superfluous, since the word *biketēs* denotes exactly this action.⁵¹ On the contrary, the right of religious authorities to decide the fate of a suppliant is attested (*infra*). This makes the first restoration preferable, but not certain.

4. Judicial procedures against suppliant slaves

The evidence presented so far draws the picture of anything but a systematic, uniform, and successful effort to clear up the grievances related with unlimited asyilia. Where we hoped to detect general rules, we found ad hoc reactions. This result stands in a marked contrast to the regulations about suppliant slaves.⁵² In their case we do find clearcut rules and unequivocal testimonia about the jurisdiction of priests in matters of asyilia.

In Athens, at the latest from the classical period on, the Theseion was the preferred refuge of slaves who run away from their masters because of harsh treatment.⁵³ Their hope was not to change their legal status, i.e., to be manumitted, but simply to be resold (*πρᾶσιν αἰτεῖν*).⁵⁴ The evidence, reviewed recently by K.A. Christensen, implies that when the master opposed his slave's purchase, a prosecution of the master on a charge of ὑβρίζειν took place under the supervision of the priests of Theseus.⁵⁵ The rôle of the priests in this procedure is not mentioned in the sources regarding Athens, but is clear in the

⁵¹ Notice, e.g., that in the Samian inscription quoted below (notes 64-65) the word *ἰκέτης* (l. 9, 13, 17) and the periphrasis *οἱ καθίζοντες εἰς τὸ ἱερόν* (l. 21) are never used in the same context, but alternatively. For *καθίζεω* as *terminus technicus* for the act of supplication see e.g. LATTE, *op. cit.* (n. 18), p. 106f.; SINN, *art. cit.* (n. 4), p. 74 with n. 68.

⁵² On runaway slaves see F. KUDLIEN, *Zur sozialen Situation des flüchtigen Sklaven in der Antike*, in *Hermes*, 116 (1988), p. 232-252 (with bibliography). On runaway slaves as suppliants see *ibid.*, p. 243-245; cf. D. DAUBE, *Civil Disobedience in Antiquity*, Edinburgh, 1972, p. 57f.

⁵³ For harsh or unjust treatment as an excuse for runaway slaves cf. KUDLIEN, *art. cit.* (n. 52), p. 240f.

⁵⁴ POLL., VII, 13: ὁ δ' οἱ νῦν φασὶ τοὺς οἰκέτας πρᾶσιν αἰτεῖν, ἔστιν εὐρεῖν ἐν Ἀριστοφάνους "Ὀραϊσ-ἔμοι / κράτιστόν ἐστιν εἰς τὸ Θησεῖον δραμεῖν, / ἐκεῖ δ', ἕως ἂν πρᾶσιν εὐρωμεν, μένειν (fr. 567 K. = 577 Kassel-Austin), ἄντικρυς δ' ἐν ταῖς Εὐπόλιδος Πόλεσι· κακὰ τοιάδε / πάσχουσα μῆδὲ πρᾶσιν αἰτῶ (fr. 225 K. = 229 Kassel-Austin); PLUT., *Mor.*, 166d: ἔστι καὶ δούλου νόμος ἐλευθερίαν ἀπογοῦσι πρᾶσιν αἰτεῖσθαι καὶ δεσπότην μεταβάλλειν ἐπιεικέστερον. Further sources: K.A. CHRISTENSEN, *The Theseion: A Slave Refuge at Athens*, in *AJAH*, 9 (1984) [1990], p. 23-25. VON WOES, *op. cit.* (n. 4), p. 175-180 assumes that the same system applied also to Ptolemaic Egypt; cf. (with reservations) SCHOLL, *op. cit.* (n. 21), p. 303.

⁵⁵ CHRISTENSEN, *art. cit.* (n. 54), p. 23-32, esp. 25-27. The same view had already been expressed by J.H. LIPSIUS, *Das attische Recht und Rechtsverfahren*, Leipzig, 1912, II, p. 643; cf. LATTE, *op. cit.* (n. 18), p. 107; VON WOES, *op. cit.* (n. 4), p. 175-180. In Egypt, too, decisions about the rejection of suppliants (*ἀγώγιμοι*) were taken under the responsibility of the priests: VON WOES, *op. cit.* (n. 4), p. 73f., 165-170, 175. On the γραφή ὑβρεως ὑπὲρ δούλων see DEMOSTH., XXI, 47; ATHEN., VI, 267a; cf. KUDLIEN, *art. cit.* (n. 52), p. 245; D.M. MACDOWELL, *Demosthenes, Against Meidias (Oration [21])*. Edited with Introduction, Translation, and Commentary, Oxford, 1990, p. 263-268.

procedure about runaway slaves in the mystery inscription of Andania.⁵⁶ The sacred men (ἱεροί) designated an area to be a refuge for slaves.⁵⁷ No person was allowed to harbor them, employ them, or offer them food.⁵⁸ The priest had the exclusive responsibility in deciding which slave was to be delivered to his master (ἐπικρίνειν, κατακρίνειν, παραδίδόναι). This regulation envisages only slaves from Messene. Runaway slaves from other areas were excluded from this procedure, probably for practical reasons, namely, to avoid controversies with persons from abroad claiming the ownership of suppliants.⁵⁹ So, the runaway slaves from other areas as well as the runaway slaves who were not returned to their masters were either set free or (more probably) stayed in the sanctuary and served as sacred slaves (cf. *infra*).⁶⁰

Similar measures are known from Samos and Ephesos. A fragmentary letter sent by Ptolemy III Euergetes (246-222) to Samos describes, according to the persuasive interpretation by Chr. Habicht,⁶¹ a procedure which should be

⁵⁶ *LSCG*, 65, l. 80-84: φύγιμον εἴμεν τοῖς δούλοις· τοῖς δούλοις φύγιμον ἔστω τὸ ἱερόν, καθὼς ἂν οἱ ἱεροὶ ἀποδείξωντι τὸν τόπον, καὶ μηδεὶς ὑποδεχέσθω τοὺς δραπέτας μηδὲ σιτοδείτω μηδὲ ἔργα παρεχέτω· ὁ δὲ ποῖων παρὰ τὰ γεγραμμένα ὑπόδικος ἔστω τῷ κυρίῳ τῆς τοῦ σώματος ἀξίας διπλασίας καὶ ἐπιτιμίου δραχμῶν πεντακοσίων· ὁ δὲ ἱερεὺς ἐπικρινέτω περὶ τῶν δραπετικῶν ὅσοι καὶ ἦνται ἐκ τῆς ἀμετέρας πόλεως, καὶ ὅσους καὶ κατακρίνει, παραδότε τοῖς κυρίοις· ἂν δὲ μὴ παραδίδῃ, ἐξέστω τῷ κυρίῳ ἀποτρέχειν ἔχοντι. Cf. LATTE, *op. cit.* (n. 18), p. 107; VON WOES, *op. cit.* (n. 4), p. 175f. n. 3; SCHLESINGER, *op. cit.* (n. 4), p. 38; HABICHT, *op. cit.* (n. 18), p. 229; THÜR-TAEUBER, *op. cit.* (n. 18), p. 220f.

⁵⁷ For parallels see SCHLESINGER, *op. cit.* (n. 4), p. 29 n. 4.

⁵⁸ Cf. the inscription from Samos (*infra*, n. 63) and THÜR-TAEUBER, *op. cit.* (n. 18), p. 215 n. 17; SOVERINI, *art. cit.* (n. 13), p. 75-77. On the difficulties of suppliant slaves to supply themselves with food in Egypt see SCHOLL, *op. cit.* (n. 21), p. 303; cf. KUDLIEN, *art. cit.* (n. 4), p. 244f. G. DUNST, *Zu dem samischen Kämpel-Gesetz*, in *ZPE*, 18 (1975), p. 174 n. 19 disagreed with the usual interpretation of μηδὲ ἔργα παρεχέτω and translated this phrase as "man soll sie in Frieden lassen". But this clause clearly includes measures limiting the rights of runaway slaves before their official acceptance. Cf. Chr. HABICHT, *Hellenistische Inschriften aus dem Heratou von Samos*, in *MDAI(A)*, 87 (1972), p. 221; L. KOENEN, *The Samian Statute on Kämpeloi in the Precinct of Hera*, in *ZPE*, 27 (1977), p. 216 n. 15.

⁵⁹ For a lively picture of such controversies see, e.g., PLAUT., *Rudens*, 706-838; cf. ACHILL. TATIUS, VIII, 1.

⁶⁰ Unfortunately, the text is not clear in this point. The phrase ἐξέστω τῷ κυρίῳ ἀποτρέχειν ἔχοντι can either mean "it shall be permitted for the slave to flee from the master who owns him" or "it shall be permitted for the master to run away with the slave in his possession": see the discussion in CHRISTENSEN, *art. cit.* (n. 54), p. 26f. The former interpretation is favoured by LATTE, *op. cit.* (n. 18), p. 107; cf. CHRISTENSEN, *art. cit.* (n. 54), p. 27; M.W. MEYER, *The Ancient Mysteries: A Sourcebook*, New York, 1987, p. 56 ("the fugitive is to be allowed to leave the master in charge of him"). The latter interpretation is accepted by THÜR-TAEUBER, *op. cit.* (n. 18), p. 220 n. 55 ("er muß den Zugriff des Herrn auf den 'verurteilten' Sklaven dulden"); VON WOES, *op. cit.* (n. 4), p. 175f. n. 3 suspected that the slave was either resold or returned to the master, who promised to treat him better in the future. LATTE, *ibid.* also suggested that asyilia was the primary root of manumission in the form of dedication to a deity (*ibid.*, 105-108); cf. F. SOKOLOWSKI, *The Real Meaning of Sacred Manumission*, in *HTbR*, 47 (1954), p. 173-181; but see the criticism of F. BÖMER, *Untersuchungen über die Religion der Sklaven in Griechenland und Rom*, Wiesbaden 1960, II, p. 14f. with n. 3 and 5.

⁶¹ HABICHT, *op. cit.* (n. 18), p. 226-231 no 59; cf. THÜR-TAEUBER, *op. cit.* (n. 18), p. 213 n. 4; SOVERINI, *art. cit.* (n. 13), p. 84.

followed in the case of runaway slaves (l. 9f.: ὑπὲρ τῶν καταφευγόντων εἰς τὸ [ιερόν σωμάτων]). A court (*hieron dikasterion*?) presided over by the *neopoiiai*⁶² interrogated the fugitive slave and his master, and if the master's arguments were stronger, the suppliant slave was given back to him (l. 3-5: παραδίδόνα[ι / δὲ τοῖς κυρίοις αὐτ'?]ῶν, ὅταν ἐπὶ τῶν νεωποϊῶν δικαιολογ[η/θέντες φανεροὶ ὄσ]ιν εὐγνώμονεστερα λέγοντες). At the beginning of the preserved fragment (l. 3) king Ptolemy probably referred to a similar procedure in Alexandria which should serve as a model for the Samian Heraion. Chr. Habicht is probably right suggesting, e.g., the following restoration: [--- καθότι καὶ ἐν Ἀ]λεξανδρείαι διοικεῖται.⁶³ Another Hellenistic inscription from the Heraion, also published and discussed by Chr. Habicht,⁶⁴ forbade traders to support suppliants (ικέται) and especially suppliant slaves (τοὺς καθίζοντας οἰκέτας εἰς τὸ ἱερόν) in any way, e.g., by providing them with food (*cf. supra*, note 58), employing them in their shops, or having transactions with them.⁶⁵ Offences against this regulations were probably brought before a *hieron dikasterion*, which had jurisdiction for offences committed in the sanctuary.⁶⁶ The slaves, whose masters were found guilty of an offence, may have remained in the Heraion and served as *hieroi paides*.⁶⁷ Achilles Tatius explains in his novel *Leukippe and Kleitophon* the procedure followed in the Artemision of Ephesos.⁶⁸ The temple was according to his report accessible only to men, virgins, and runaway female slaves, who were

⁶² This is the interpretation of THÜR-TAEUBER, *op. cit.* (n. 18), p. 221f., against HABICHT, *op. cit.* (n. 18), 228f. who thought that the *naopoiiai* had full jurisdiction, i.e., served as judges.

⁶³ HABICHT, *op. cit.* (n. 18), p. 231. The restoration proposed by F. PIEJKO, *Response of an Unknown City to Magnesia Concerning Her Asylia*, in *RSA*, 17/18 (1987/88) [1989], p. 187 (ἀ[ποστέλλ]ειν πρὸς ἡμᾶς ἵνα ἐν Ἀ]λεξανδρείαι διοικεῖται) makes no sense.

⁶⁴ HABICHT, *art. cit.* (n. 58), p. 210-225 no. 9. Here I quote the partly revised edition of the text by THÜR-TAEUBER, *op. cit.* (n. 18), p. 209-212 (*cf. SEG*, XXVII, 545).

⁶⁵ See especially l. 8-9: παρακατηλ[ε]ύσει δὲ αὐτοῖς / οὔτε δούλος οὔτε στρατιώτης οὔτε ἄπεργος οὔτε ἰκέτης κτλ.; l. 12-13: οἱ δὲ μισθωσάμενοι οὐ παραδώσου[σιν τὰ κα/πηλεία οὔτε ἀπέργω]ι οὔτε ἰκέτη κτλ.; l. 16-18: [οἱ μισθωσάμενοι οὐχ ὑποδέξονται παρὰ δούλου οὐδὲν [οὔδὲ παρ' / ἰκέτου οὔδὲ παρὰ στρατιώτου οὔδὲ παρὰ ἀπέργου οὔδὲ ἀγορᾶσι[ν? οὐδὲν / τῶν σίτων τῶν ἐκ τῆς χώρας γινομένων οὔτε ἄλλο οὐδὲν]; ll. 20-23 (οὐχ ὑ[ποδέξονται δὲ ἐν τοῖς κατη]λείοις τοὺς καθίζοντας οἰκέτας εἰς τὸ ἱερόν οἳ οὐδὲ παρ/έξουσιν ἔργα οἳ οὔτε σῖτα οὐδ' ὑποδέξονται παρ' αὐτῶν οὐδὲν [τρόπω]ι / οὔδὲ παρευρέσει οὐδεμίαι). For a detailed discussion see THÜR-TAEUBER, *op. cit.* (n. 18), p. 212-225. For a discussion of this inscription see also DUNST, *art. cit.* (n. 58), p. 171-177; KOENEN, *art. cit.* (n. 58), p. 211-216; SOKOLOWSKI, *art. cit.* (n. 13), p. 143-147; SOVERINI, *art. cit.* (n. 13), p. 59-121.

⁶⁶ THÜR-TAEUBER, *op. cit.* (n. 18), p. 219-222; *cf. DUNST, art. cit.* (n. 58), p. 177.

⁶⁷ HABICHT, *op. cit.* (n. 18), 230; *cf. HABICHT, art. cit.* (n. 58), p. 224f.; THÜR-TAEUBER, *op. cit.* (n. 18), p. 216 n. 36; SOVERINI, *art. cit.* (n. 13), p. 79f.

⁶⁸ ACHILL. TATIUS, VII, 13: τὸ δὲ παλαιὸν ἄβατος ἦν γυναιξίν ἐλευθέραις οὐτος ὁ νεῶς, ἀνδράσι δὲ ἐπετέτραπτο καὶ παρθένοις, εἰ δὲ τις εἴσω παρῆλθε γυνή, θάνατος ἦν ἡ δίκη, πλην εἰ μὴ δούλη τις ἦν ἐγκαλοῦσα τῷ δεσπότη. ταύτη δὲ ἐξῆν ἰκετεύειν τὴν θεόν, οἱ δὲ ἄρχοντες ἐδίκαζον αὐτῇ τε καὶ τῷ δεσπότη· καὶ εἰ μὲν ὁ δεσπότης οὐδὲν ἔτυχεν ἀδικῶν, αὐθις τὴν θεράπαιναν ἐλάμβανεν, ὁμοσας μὴ μνησικαχῆσει τῆς καταφυγῆς· εἰ δὲ ἔδοξεν ἡ θεράπαινα δίκαια λέγειν, ἔμεινεν αὐτοῦ δούλη τῇ θεῷ. For the reliability of this information see the remarks of DEBORD, *op. cit.* (n. 12), p. 81 and 352 n. 38; as he points out, PLUT., *Alex.*, 42 and CIC., *Verr.*, 1, 85 may reflect this practice; *cf. LATTE, op. cit.* (n. 18), p. 107f. On the *asylia* of the Ephesian Artemision see also VAN BERCHEM, *art. cit.* (n. 4), p. 24-26.

accusing their master of wrongdoings (*cf.* ἐγκαλοῦσα, ἀδικῶν) and assumed the status of suppliants. The case of the slave was decided by a court presided over by magistrates,⁶⁹ and if the master was found to have committed no injustice against her, he took the woman back; if not, the suppliant remained in the sanctuary as the goddesses' slave. This explicit evidence for runaway slaves remaining as sacred slaves in the sanctuary where they had found refuge may possibly explain the grave stones of *hieroi* found near the sanctuary of Poseidon at Tainaron, known to have served as a place of refuge for helots, at least in one instance, i.e., during their great revolt in the 5th century.⁷⁰ These sacred slaves may have been runaway helots, who had found *asylia* in Poseidon's sanctuary.

For the judiciary procedures which decided the fate of suppliant slaves the literary and documentary sources use unequivocal legal terms, e.g., ἐπικρίνειν, κατακρίνειν, δικαιολογεῖσθαι, δικάζειν, ἐγκαλεῖν. To this evidence we may add a more problematic testimony, an early legal inscription from Gortyn (early 5th century), which seems to have forbidden the purchase of suppliant slaves (ναεῦοντα) for one year (after they had taken refuge in a sanctuary).⁷¹ It has been suggested, that this regulation gave the slave and the master the opportunity to come to an arrangement, perhaps with arbitration of the priest.⁷²

The development of special –and more or less uniform– regulations in the case of suppliant slaves came about for a variety of reasons. In their case the problem was obviously most pressing and, given the significant economic and social implications, a uniform solution was needed urgently. In addition, the

⁶⁹ THÜR-TAEUBER, *op. cit.* (n. 18), p. 221 have demonstrated that this is how we should understand the expression οἱ ἄρχοντες ἐδίκαζον (*cf.* ACHILL. TATIUS, VII, 12, 1).

⁷⁰ For the epitaphs of *hieroi* see J. DUCAT, *Esclaves au Ténare*, in M.-M. MACTOUX – E. GENY (eds.), *Mélanges P. Lévêque 4. Religion*, Paris, 1990, p. 192f.; BÖMER, *op. cit.* (n. 60), II, p. 153f. doubts that these *hieroi* were slaves; D. PLACIDO, *Los lugares sagrados de los bilotas*, in J. ANNEQUIN – M. GARRIDOTTORY (eds.), *Religion et anthropologie de l'esclavage et des formes de dépendance*, Paris, 1994, p.127-145. On the sanctuary at Tainaron as asylon see, e.g., BÖMER, *op. cit.* (n. 60), II, p. 18f.; but see the reservations of J. DUCAT, *art. cit.*, p. 184-186 and *Id.*, *Les bilotes*, Paris, 1990, p. 130f., 183-187, *cf.* p. 11, 25f., on the question if the Spartan helots had any special relations with this sanctuary. For asylum seekers serving as *enkatochoi* in Egypt *cf.* DELEKAT, *op. cit.* (n. 17), p. 71-85, 94f. (partly speculative); *cf.* already VON WOEB, *op. cit.* (n. 4), p. 140-164 and 179 (fugitive slaves as hierodouloi). *cf.* also the case of a person who found asylon in a sanctuary in Galatia, offering his services there (ἱκέτης καὶ ὑπηρετῶν Διὶ Βουσσουριγίῳ): J.G.C. ANDERSON, *A Celtic Cult and Two Sites in Roman Galatia*, in *JHS*, 30 (1910), p. 164 no. 2 (3rd cent. A.D.): on this text see also DEBORD, *op. cit.* (n. 12), p. 355 n. 72, 453 n. 187.

⁷¹ *I.Cret.*, IV, 41, col. IV, l. 6-10: τὸν δὲ φοικέα τὸν ἐπιδιόμενον μὴ ἀποδόθῃαι μήτε ναεῦοντα / μήτ' ἢ κ' ἀπέλθῃ τὸ ἐν/αυτῷ; see now R. KOERNER, *Inscriptioe Gesetzestexte der frühen griechischen Polis*, Köln-Wemar-Wien, 1993, p. 384-386 no. 128 (text, commentary, and older bibliography). *cf.* *I.Cret.*, IV, 72, col. I, l. 39-49 = KOERNER, *op. cit.*, p. 454f., 462f. no. 163. *cf.* LATTE, *op. cit.* (n. 18), p. 107. Another Gortynian regulation about fugitive slaves: *I.Cret.*, IV, 47, l. 31f. = KOERNER, *op. cit.*, p. 408f., 411 no 138.

⁷² KOERNER, *op. cit.* (n. 71), p. 386. For cases of negotiations see *supra*, n. 23. *cf.* SCHLESINGER, *op. cit.* (n. 4), p. 41. The reconciliation between runaway slave and master is mentioned by PHILO ALEX., *De virt.*, 124 as the last alternative before the sale to another master (εἰς ἀδόλους ἐλθὼν καταλλαγῆς τὰς χωρὶς ἐνέδρας, εἰ δὲ μὴ, τὸ γούν πανύστατον πραθεῖς).

presence of suppliant slaves in sanctuaries could be easily reconciled with the current divine and secular law. On the one hand, they were not regarded as polluted, and on the other, their supplication did not change their legal condition but only their owner. There is no evidence that they were manumitted; they were either sold to another master, or returned to their owner, or were allowed to stay in the sanctuary as slaves of the god.

5. Asyilia: The right of the ‘wronged’

Despite the diverse character of the evidence on limitations of asyilia, this evidence supports at least one clear conclusion. At the latest from the early 5th century, asyilia and supplication were increasingly becoming claims which ought not be respected automatically, but only after a close examination of each individual case. Sacred and civil authorities responsible for sanctuaries claimed for themselves the right to take the final decision of accepting, rejecting, or expelling suppliants. In the case of slaves, only the victims of cruel violence were granted the right to remain in the sanctuaries; as D. Daube has pointed out, the supplication of slaves was *per se* morally justifiable.⁷³ Similarly, in the case of free persons a distinction seems to have been made between those who sought asyilia because they had been wronged (οἱ ἀδικούμενοι), and who wanted to avoid further injuries, and those who fled to sanctuaries after a crime, in order to avoid the punishment ordered by secular law. We may notice how often the notion of ἀδικεῖσθαι appears in our sources in the context of supplication.⁷⁴ It seems that the emphasis on the idea that a suppliant is the victim of injustice was relatively recent, attested for the first time in the 5th century. The idea that asyilia should not be provided anymore *unconditionally* and *automatically* to anyone who had reached a sacred precinct is expressed indirectly also in Attic drama, which often presents suppliants explaining why they are seeking asylum and underlining the fact that they *have been wronged*. They do not simply demand protection secured by divine law, but defend their claim with arguments which resemble forensic speeches. I reproduce here only Kreousa’s advocacy in Euripides’ *Ion*: “I only try to slay you, an enemy to my house,” she explains (l. 1291: ἔκτεινά σ’ ὄντα πολέμιον δόμοις ἐμοῖς; “you would dwell in my house, taking what is mine by force” (l. 1295: ἐμελλες οἰκεῖν τᾶμ’,

⁷³ DAUBE, *art. cit.* (n. 52), p. 57; KUDLIEN’s disagreement (*art. cit.* [n. 52], p. 243) disregards the aforementioned evidence.

⁷⁴ LYS., 6, 24: καὶ προσεψηφίσασθαι ὑμῆς αὐτὸν εἶργεσθαι τῆς ἀγορᾶς καὶ τῶν ἱερῶν, ὥστε μηδ’ ἀδικούμενον ὑπὸ τῶν ἐχθρῶν δύνασθαι δίκην λαβεῖν; 12, 8: οὐτ’ ἂν ἱερά οὔτε βωμοὶ ὑμᾶς ἀδικουμένους... ὠφέλησαν; ACHILL. TATIUS, VII, 13: εἰ μὲν ὁ δεσπότης οὐδὲν ἔτυχεν ἀδικῶν; cf. LSAM, 29, l. 12-13: ὅς δ’ [ἂν] ἀδική[σῃ]; LSAM, 75, l. 9-10: τὸν ἰκέτην μὴ ἀδικεῖν / μητὲ ἀδικούμενον περιορᾶν. Cf. also BRAVO, *art. cit.* (n. 4), p. 719f. and 808 (examples of ἄγειν and συλᾶν regarded as ἀδικία).

ἐμοῦ βίᾳ λαβόν). A claim that has to be defended is obviously liable to approval or rejection.⁷⁵

Of decisive importance for our understanding of the reasons why the Greeks changed their attitude toward the unlimited and invariable asyilia is a passage in Thucydides (IV, 97-98). The defeated Athenians (424 B.C.) had fortified Apollon's sanctuary at Delion. Theban envoys demanded their departure, appealing to the common Greek custom to abstain from sanctuaries and pointing out that the Athenians were polluting the holy place. In their response the Athenians assumed the position of suppliants explaining that they had not entered the sanctuary with the intent to harm it, but rather in order to defend themselves against those who were wronging them (τοὺς ἀδικούντας) from it.⁷⁶ "Altars are a refuge in cases of *involuntary misdeeds* (τῶν ἀκουσίῳν ἀμαρτημάτων), and transgression is a term applied to those who do evil without compulsion and not to those who are driven by misfortunes to some act of daring."⁷⁷ Thucydides limits the right to asyilia to persons who were either wronged or wronged others unwillingly (cf. οὐδὲν οὔτε τοῦ λοιποῦ ἐκόντες βλάψειν; τῶν ἀκουσίῳν ἀμαρτημάτων καταφυγὴν εἶναι τοὺς βωμούς). Thus he applies to asyilia an important innovation of archaic law, the differentiation between intention, responsibility, and accident, attested for the first time in Drakon's laws on homicide.⁷⁸ This innovation was gradually, reluctantly, and only sporadically adopted by sacred law, too. A *lex sacra* from Kleonai from the first half of the 6th century explicitly states that persons who kill in self-defence

⁷⁵ For other examples see SCHLESINGER, *op. cit.* (n. 4), p. 39f. Based on this evidence SCHLESINGER, *op. cit.*, p. 43 even suggested that in Athens the popular assembly decided about the acceptance of suppliants; this assumption cannot be supported by the documentary sources.

⁷⁶ THUC., IV, 98, 1: οἱ Ἀθηναῖοι πέμψαντες παρὰ τοῦς Βοιωτοῦς ἐαντῶν κήρυκα τοῦ μὲν ἱεροῦ οὔτε ἀδικῆσαι ἔφασαν οὐδὲν οὔτε τοῦ λοιποῦ ἐκόντες βλάψειν· οὐδὲ γὰρ τὴν ἀρχὴν ἐσελθεῖν ἐπὶ τούτῳ, ἀλλ' ἵνα ἐξ αὐτοῦ τοὺς ἀδικούντας μᾶλλον σφᾶς ἀμύνωνται.

⁷⁷ THUC., IV, 98, 6: καὶ γὰρ τῶν ἀκουσίῳν ἀμαρτημάτων καταφυγὴν εἶναι τοὺς βωμούς, παρανομίαν τε ἐπὶ τοῖς μὴ ἀνάγκη κακοῖς ὀνομασθῆναι καὶ οὐκ ἐπὶ τοῖς ἀπὸ τῶν ζυμοφορῶν τι τολμήσασιν. VON WOES, *op. cit.* (n. 4), p. 173 n. 1 thought that the view expressed by Thucydides was generally accepted in Greece. This is hardly the case; Thucydides reflects a relatively late stage of development. For the Near Eastern view that asyilia applies only to unintentional crimes see VON WOES, *op. cit.*, p. 173 n. 1; SCHLESINGER, *op. cit.* (n. 4), p. 42 with n. 1. Cf. JUST., *Nov.*, 17, 7 pr.: ἄλλως τε ἢ ἐκ τῶν ἱερῶν ἀσφάλεια οὐ τοῖς ἀδικούσιν, ἀλλὰ τοῖς ἀδικουμένοις δέδοται παρὰ τοῦ νόμου, καὶ οὐκ ἂν εἴη δυνατόν ἐκότερον ἰσχυρίζεσθαι τῇ παρὰ τῶν ἀσύλων τῶπων ἀσφαλεῖα, καὶ τὸν ἀδικούντα καὶ τὸν ἀδικούμενον.

⁷⁸ On this innovation see R. MASCHKE, *Die Willenslehre im griechischen Recht*, Berlin, 1926, p. 77f., 150-159; D.M. MACDOWELL, *Athenian Homicide Law in the Age of the Orators*, Manchester, 1963, p. 60-69, 125f.; ADKINS, *op. cit.* (n. 34), p. 304-308, 319-328; J. TRIANTAPHYLLOPOULOS, *Das Rechtsdenken der Griechen*, München, 1985, p. 13f., 105-107 n. 94-98; G. RICKERT, *Ἐκὼν and ἄκων in Early Greek Thought*, Atlanta, 1989, esp. p. 76, 86; M. GAGARIN, *Bouleusis in Athenian Homicide Law*, in G. NENCI - G. THÜR (eds.), *Symposion 1988. Vorträge zur griechischen und hellenistischen Rechtsgeschichte, Siena-Pisa, 6.-8. Juni 1988*, Köln-Wien, 1991, p. 81-99. Cf. A. DIHLE, *Die goldene Regel. Eine Einführung in die Geschichte der antiken und frühchristlichen Vulgäretik*, Göttingen, 1962, p. 15-18, 48-52; A. DIHLE, *Die Vorstellung vom Willen in der Antike*, Göttingen, 1985, esp. 31-78.

or who have slain a cursed person are not *miairoi*;⁷⁹ and from the middle of the 4th century, under the influence of this development, the *leges sacrae* increasingly demand not only the external purity of the body, a purity independent of intentions, but also the purity of the mind.⁸⁰

The new understanding of *miasma* and the transformation of *asylia* from a protection which is offered automatically and unconditionally, to an institution for which ethical and legal consideration apply, should be seen as part of the same development. In both cases we are dealing with conditions established automatically, as soon as a person performs a certain activity. In both cases, originally, questions of guilt and intention did not play any rôle. In both cases the more differentiated understanding of guilt initiated a significant change. *Asylia* transformed itself from a right which had to be offered automatically to any person who claimed it within a sacred precinct to a privilege which should be granted only if certain moral and legal conditions were fulfilled; similarly *miasma* was increasingly regarded a state of the mind, and not an automatically transmittable taint.⁸¹ Lastly, in both cases the Greeks remained inconsistent. Relics of the old concepts of *asylia* and *miasma* can be found in the literary and documentay sources until imperial times.⁸²

6. Conclusions

The Greeks were, in general, extremely reluctant about the introduction of laws that might limit or even regulate *asylia*, probably due to their conviction that divine law is superior to secular authority (*cf. infra*). However, from the late 7th century secular law, especially the legislation on homicide, introduced a fine differentiation in the notion of guilt, which gradually influenced the sacred law. The idea that divine protection could not be offered automatically and invariably to criminals began to prevail. Already in the 5th century we encounter in Euripides and Thucydides the first voices endorsing the view that supplication is the right only of the 'wronged'. From the early 5th century we also find in the documentary sources indications of an increasing preoccupation with the exploitation of *asylia* by criminals. The testimonia (§ 2-3) do not reveal a systematic approach to this issue, but rather take the form of exceptional, ad

⁷⁹ *LSCG*, 56; see now KOERNER, *op. cit.* (n. 71), p. 93-95 no. 32; for this development *cf.* PARKER, *op. cit.* (n. 11), p. 110-114.

⁸⁰ See A. CHANIOTIS, *Reinheit des Körpers, Reinheit des Sinnes in den griechischen Kultgesetzen. Ein epigraphischer Beitrag zur griechischen Auffassung von Schuld*, in J. ASSMANN – Th. SUNDERMEIER, *Schuld und Identität (Studien zum Verstehen fremder Religionen)*, Gütersloh (forthcoming); *cf.* PARKER, *op. cit.* (n. 11), p. 320-324.

⁸¹ Several early epigraphic sources for this idea: PORPH., *De abstinentia*, II, 19, 5; CLEM. ALEX., *Stromateis*, V, 1, 13, 3 (inscription at the Asklepieion of Epidauros); M. ERRINGTON, *Inscripfen von Euromos*, in *EpigrAnat*, 21 (1993), p. 29f. no 8 (Euromos, sanctuary of Zeus Lepsynos, 2nd cent.); *cf.* *LSCG*, 129 (Eresos, 4th cent.); *I.Cret.*, I, xxiii 3 (Phaistos, 2nd cent.).

⁸² For *asylia* see *supra*, n. 10. For *miasma* see, e.g., *LSCG*, 55 (Athens, 2nd cent. A.D.).

hoc measures to face a situation threatening to get out of control. As we may infer from later sources, these measures (appeal to oracles, impediments against potential intruders) failed to regulate *asylia* effectively (*supra*, notes 10 and 15). Only in the case of runaway slaves we do find clear and unequivocal rules. The priests (Andania, Athens?) or magistrates (Ephesos, Samos) examined the charges of the slaves against their masters and decided whether a slave was to be returned to the master, resold, or kept in the sanctuary as a sacred slave (§ 4).

Even the efforts of Greek cities to set certain limits to an institution deeply rooted in religious customs never questioned the supremacy of divine over secular law. This conviction is clearly expressed in the legal sources, e.g., in Lysias, who in his speech against Eratosthenes castigated the thirty tyrants for violating the rights of suppliants, exactly because “they conceived their own authority (*ἀρχή*) being more secure (*βεβαιότερα*) than the vengeance of gods.”⁸³ Consequently, even the regulations for the limitation of *asylia* usually had a religious foundation; e.g., they aimed at protecting sanctuaries from pollution, they were approved by oracles, or they engaged religious personnel.

Under these conditions, the bitter criticism of Ion against this divine law (*δεινόν γε, θνητοῖς τοὺς νόμους ὡς οὐ καλῶς ἔθηκεν ὁ θεός*) or the threat of the anonymous speaker in Euripides' *Oedipus* (*τὸν νόμον χαίρειν ἔῶν..., οὐ τρέσας θεούς*) seem, at first sight, to break the constraints respected by the Greeks. This impression is, however, misleading. In the further development of the *Ion* (perhaps also of the *Oedipus*) a surprise awaits the protagonist. Had Ion violated the asylum, he would have killed –unknowingly– his own mother.⁸⁴ A seemingly logical and just regulation would have allowed Ion to commit the worst crime, matricide, it would have opened the way to an even greater injustice. Here, too, the divine law reveals itself superior to human considerations, and the insight of the changable and unpredictable fate of men impedes the restriction of one of the most humane institutions of the Greeks.

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⁸³ LYS., 12, 96; cf. EURIP., *Herakleid.*, 258 (*σκαϊὸς πέφυκας τοῦ θεοῦ πλείω φρονῶν*; this is Demophon's reaction to the herolds demand to deliver suppliants).

⁸⁴ BURNETT, *art. cit.* (n. 3), p. 99 and n. 36 (Ion “delivers his speech against the sacred *nomos* of asylum in circumstances arranged to demonstrate the enormity of his attempt to judge what heaven has established, for the audience knows that if he follows his secular sense of justice and breaks the ‘senseless’ divine law he will cause the death of his own mother”); MIKALSON, *op. cit.* (n. 2), p. 75.