

HIRUNDO

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VOLUME FOUR



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Hirundo is the Latin word for martlet, a mythical bird without legs, always shown in flight, unceasing in its quest for knowledge. The McGill coat-of-arms has three martlets.

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FOREWORD

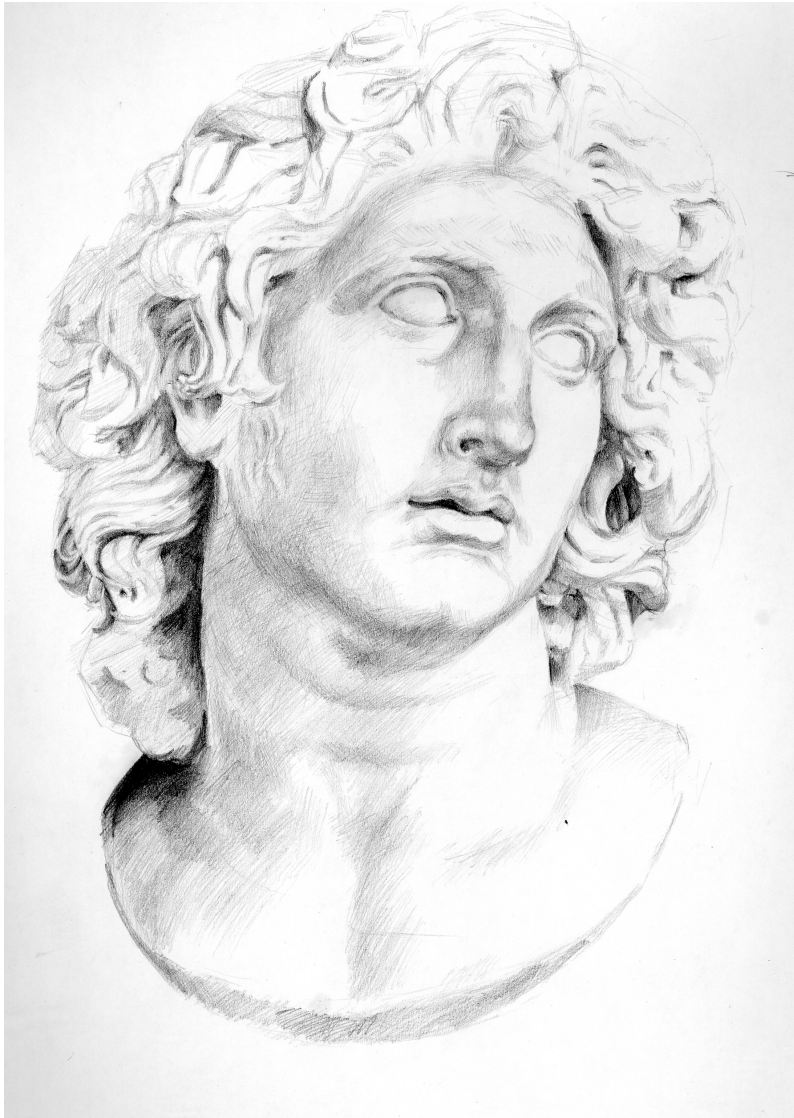
I am honoured to introduce the fourth volume of *Hirundo*.

In this edition, McGill alumna Lauren Kaplow examines the roots of sectarian violence in Alexandria during the social and religious turmoil of the fourth and fifth centuries CE. Next, Mark-Anthony Karantabias analyses the Byzantine adoption of techniques from the *Strategikon*, a sixth century CE military manual, in their struggles against the Sassanids. Rachel Lesser of Columbia University, a participant in the American Philological Association conference hosted by the city of Montréal in January 2006, uncovers the remarkable syncretistic origins of the Artemis of Ephesus. Afterwards, T.G. Leach enchants us with his translation of *A Lament for Bion* by Theocritus. Leah Schwebel's article delights as she discusses classical precedents for the Dantean Orpheus. Camille Paulus investigates Roman property laws to argue against the existence of a coherent classical notion of *l'abus de droit*. Finally, Philippa Geddie considers the phenomenon of ἀναβιωσις or "coming back to life" in her witty exploration of the works of Philostratus.

On behalf of the editorial board, I am delighted to thank Professor Fronda and the Classics Programme faculty for their wisdom and support. Many thanks to those donors without whom *Hirundo* would never have arrived at the press. Funding has been graciously provided by the Department of History and Classics Programme, the Department of Philosophy, the History Students' Association, the Department of English Students' Association, the Faculty of Medicine, the Alumni Association, the Arts Undergraduate Society, the Office of the Principal, and the Dean of the Arts Faculty.

Lastly, this fourth edition of *Hirundo* would not have been possible without its devoted editorial board. I am grateful for their tireless work and endless good cheer, a constant reminder to me that this journal is and has been truly a labour of love.

ANNA DYSERT
EDITOR-IN-CHIEF



Richard Tseng, *Alexander Unfinished 3*.

Religious and Intercommunal Violence in Alexandria in the 4th and 5th centuries CE

Lauren Kaplow

The fourth and fifth centuries CE were a time of vast social and religious change in the Eastern Roman empire. Going into this time period, Christianity had just begun to be an important player in imperial politics and religious policy, and by the mid-fifth century it had become clearly dominant. The power politics of cities changed as ecclesiastical appointees began to compete with comparable civil officials. The conflicts involved in divisive doctrinal debates spread and then receded. Alexandria, like all eastern cities, was not left unscathed.

This paper deals with three discrete incidents of sectarian violence that occurred in Alexandria in the late fourth and early fifth centuries of the common era. These three incidents (including the build-up to the culminating event) are: the conflict between the Arian bishop George of Cappadocia and the rest of the Alexandrian population resulting in his death in 361 CE, the conflict between the Christians and the Hellenes¹ resulting in the destruction of the Serapeum in 391 CE and the conflict involving Cyril, a Nicene bishop, Orestes, the prefect of Egypt, and the Alexandrian Jews, culminating in the death of Hypatia, a Hellenic philosopher and Neoplatonist, in 415 CE. Alexandria was notoriously easy to provoke into violence,² and as such events were interesting to the ancient historians, they provide more sources for a clear analysis of religious conflict. It is a mistake to place these incidents

¹ I have preferred to use the word Hellenes instead of the word pagan to describe these people. The word “pagan” not only has derogatory connotations but is also entirely inappropriate for urban populations (*paganos* referring to country peasants). They often called themselves Hellenes (Pierre Chuvin, *A Chronicle of the Last Pagans* [Cambridge, 1990] 7) and though it was also used derogatorily in ancient times and is a problematic word itself (having philosophical connotations), it is preferable in this situation.

² Ammianus Marcellinus 16.15, 23 as in Christopher Haas, *Alexandria in Late Antiquity: Topography and Social Conflict*, Ancient Society and History (Baltimore and London, 1997) 11.

into a narrative of the triumph of Nicene Christianity, as Rufinus and Françoise Thélamon have done, though the ultimate result is the same. These incidents display an interplay of relations, and by no means display the one-sided destruction suggested by so many modern sources. If anything, these incidents show how the equal and opposite reactions of Hellenes and Jews and Arians against Nicene Christians incite the Christians to greater aggression in response. This can be seen in a wider and much more influential example of the reign of Julian and the increased intolerance to Hellenes after the Christians regained the emperorsip. While a wide variety of tensions (such as religious intolerance, doctrinal conflicts, political power plays and the ability of the citizenry to take matters into their own hands) plant the seed for conflict and are necessary for its inception, conflict occurs and, more importantly, continues and escalates, because of the inability of any party to resist retaliating and to turn the other cheek. To illustrate this principle, it is first important to identify and briefly describe the groups involved. Primary source analysis is crucial, and I will provide a summary of the ancient accounts of the incidents, as well as an evaluation of the sources. Finally, the actions and people involved will be analyzed according to different contributions to violence: the influence of intolerance, the implications of mob violence (including exactly of *whom* this mob was composed), the role of provocation, the effect of imperial policy, the growing power of bishops and, along with that, the political motivations to riot.

Religious communities of Alexandria

Before the incidents can be discussed, some identification of the groups involved is necessary. Alexandria was an extremely multicultural city and had been since its foundation by Alexander the Great in 331 BCE. At that time, it was made up of three main groups: the Greeks, the native Egyptians (who were significantly lower in class than the Greeks) and the Jews, who were given by the Ptolemies their own quarter of the city.³ Christopher Haas, drawing on Philo's observation that one eighth of the population of Egypt was Jewish,⁴ estimates the Jewish population of Alexandria in the first century CE at 25,000.⁵ After the Jewish revolt of 115 CE, especially bloody in Alexandria, the Jewish population was drastically reduced, only recovering in a significant way in the fourth century.⁶ The Jews of Alexandria held a distinct and yet important role, and their continued existence until they were expelled

³ Haas, 95.

⁴ Philo. *In Flacc.* 43 as in Haas, 95.

⁵ Haas, 95.

⁶ Haas, 109.

by Cyril in 415 CE is a testament to Alexandria's ability to foster many cultures while allowing them to stay distinct. Haas emphasizes this quality and uses it as an explanation for the fact that, unlike in Antioch, there were no complaints against "Judaizing" Christians, nor were there any accounts of conversions of Jews to Christianity.⁷ "[Exclusive] communal self-definition" created the environment necessary for strong and distinct parties to have conflict led by local leaders.

Also present in Alexandria, as in all other cities, were the Hellenes. They were not a cohesive group in terms of religious belief, however Haas makes the important point that because of the Christian anti-Hellene attitudes, they evolved into a self-defined community.⁸ Alexandria was both Greek and Egyptian. An important synthesis was made resulting in the tutelary deity of Alexandria: Serapis, an amalgam of Apis, an Egyptian bull-god, Osiris and Greek notions of the deity. Serapis and his temple are continuous with the Hellenic (and Egyptian) tradition of civic gods, and were therefore important to the Hellenes as an expression of their civic identity. On the other hand, Jean Rougé and Jacques Schwartz, among others, argue that there are temple pagans and philosopher-pagans, and that they should not be confused,⁹ although this dichotomy is questionable given the participation of philosophers in the defense of the Serapeum (to be discussed later). This other group of Hellenes they refer to are made up of adherents of such philosophies as some branches of Neoplatonism, more occupied with philosophical issues than sacrificing on a regular basis to receive favour. To give any kind of overall picture of this group is impossible, given the number of temples and cults popular in Alexandria, and also because it was not static over time. Traditional civic gods mingled with mystery cults (such as the cult of Isis, considered by Alexandrians as Serapis' consort) which mingled with such movements as Neoplatonism, Gnosticism and theurgy.

The third major religious group, the Christians, was subdivided into two bitterly opposed factions, the Arians (homoiousians) and the Nicenes (homooousians), and the balance of power between them depended greatly on the religious allegiance of the emperor at the time. This resulted often in dual bishoprics, one officially sanctioned by the emperor and one with his own following nevertheless. The power dynamics of this group evolve over the period of time considered in this investigation more

⁷ Haas, 124-125.

⁸ Haas, 134.

⁹ Jean Rougé, "Politique de Cyrille d'Alexandrie et le meurtre d'Hypatie," *Cristianesimo nella storia* 11 (1990) 501; Jacques Schwartz, "La fin du Sérapéum d'Alexandrie," in *Essays in Honor of C. Bradford Welles*, ed. Alan E. Samuel (New Haven, 1966) 97-111.

than any other, especially as regards imperial support. George enters Alexandria at the behest of the emperor in 356 and 361, while Cyril is clearly in tension with the imperial prefect, Orestes in 415. This change in ecclesiastical-imperial relations is not universal, but does reflect the growing power of the bishops, often at the expense of other urban leaders.

The Sources

Both the perspective from which the historian is writing and the likelihood that the source would have had credible information on the events influence the reading of the sources and their applicability. Ammianus Marcellinus, Sozomen, Socrates and Theodoret wrote on the death of George; Sozomen, Socrates, Rufinus and Theodoret discuss the destruction of the Serapeum and Socrates, John of Nikiu and Damascius include the death of Hypatia in their accounts.

Ammianus Marcellinus was born in Antioch in the 320s or 330s CE. Barnes and Fornara have disputed the positive identification of his birthplace as Antioch based on a letter written to a historian from Antioch of the same name, but Rohrbacher convincingly rejects their opposition.¹⁰ He is a source for only one of the events here considered as his history was published before the second two events, most likely in 390 because he refers to the Serapeum as a building which “stands in eternity.”¹¹ He is a fairly good source for the events of 361 as Rohrbacher places him in Antioch at the time, although it is important to remember that 359 to 363 he was out of imperial service, and would not necessarily have been as informed as he was for other periods of time. He identifies himself as “Graecus” in his *Res Gestae*, which is associated with the Greek word “Hellene,”¹² therefore he is neither biased to the Christian perspective, nor is he likely to have been intimately familiar with ecclesiastical politics.

Socrates, often called Socrates Scholasticus, was born around 380 CE in Constantinople, where he lived for the bulk of his life.¹³ His occupation is not known, as T. Urbainczyk determined that he was likely not a lawyer despite the title “Scholasticus.”¹⁴ Of his written sources, the only extant one which mentions any events being considered is Rufinus, however it’s likely he had access to other

¹⁰ David Rohrbacher, *The Historians of Late Antiquity* (London and New York, 2002) 16.

¹¹ Ammianus Marcellinus, *Res Gestae* vol. 2, ed. and trans. John C. Rolfe (Cambridge, 1950) 22.16.12; *in aeternum attollit*.

¹² Amm. Marc. 31.16.9, as in Rohrbacher, 24.

¹³ Rohrbacher, 24.

¹⁴ Rohrbacher, 24.

church documents.¹⁵ He was a Nicene Christian, though he is very sympathetic in his *Ecclesiastical History* to other religious groups. He states, in relating his account of the destruction of the Serapeum, that he uses two men under whom he studied as a child and who were present as a source. Helladius and Ammonius, however, are not unproblematic. It is unlikely that someone reputable and truthful would boast, in Constantinople, in the late fourth or early fifth centuries, about having killed nine Christians with his own hands, nor does it seem clear by the Early Church Fathers translation that he himself was present when they spoke about the event, saying: “Helladius boasted in the presence of some”¹⁶ and “Helladius was said to be.”¹⁷ The evidence of Helladius and Ammonius, then, is not iron-clad; Socrates may have gotten his information about the destruction of the Serapeum second-hand and from a man who stretched the truth to amaze impressionable children.

Sozomen was born into a Christian family in a town called Bethelia near Gaza sometime around 380 CE.¹⁸ Rohrbacher thinks it likely that he travelled around much of the Roman East, including Alexandria, and settled in Constantinople possibly later than 426. His history was left unfinished, and it contains a dedication to Theodosius II who died in 450, indicating that his history was promulgated in 458 or 459. His major source was Socrates, although it is clear that in several places he goes beyond the facts that Socrates set down, having his own access to church documents. When Sozomen includes more detail than Socrates, it must be assumed he had access to another source.

Theodoret was born in 393, placing him in a slightly later time period than Socrates and Sozomen.¹⁹ He was raised Christian, chose a monastic life and was later raised to the bishopric of Cyrrhus, from which he participated in a Christological debate opposing Cyril of Alexandria. His *Ecclesiastical History* too must have been published before 450 CE as it refers to Theodosius II ruling contemporarily.²⁰ Theodoret includes several letters in his account not included by either Sozomen or Socrates, so while he may have used them as a source (if they were available to him) he had unique sources as well.

¹⁵ Rohrbacher, 112.

¹⁶ Soc. 5.16.

¹⁷ Soc. 5.16.

¹⁸ Rohrbacher, 7-118.

¹⁹ Rohrbacher, 126-127.

²⁰ Theod. 5.36, as in Rohrbacher, 131.

Rufinus was, like Theodoret, a theologian and involved in ecclesiastical politics as well as a historian. He spent significant amounts of time in Egypt and Alexandria specifically, most likely from 372 or 373 to 380, before joining Melania the Elder in founding a monastery in Jerusalem, where he stayed until 397.²¹ At the time of the destruction of the Serapeum, Rufinus was not far from Alexandria and likely still corresponded with those people with whom he studied just over 10 years before. He is the source nearest in time to the events described, and likely the best informed as well.

Damascius is a much later source than those described above. He was born in the early 460s in Damascus, and came to Alexandria to study under the great Hellenic philosophers in the 480s.²² These philosophers included men who were students of Hypatia herself, such as Isidore. Damascius, then, represents the Hellenic tradition in Alexandria, to whom the death of Hypatia was extremely important, though he writes well-removed from the events.

Even more removed from the events was John of Nikiu, a member of the Coptic (Egyptian) church who wrote in the wake of the Muslim takeover of Egypt in the late 7th century. His account is extremely biased and it seems unlikely he would have had any sources other than tradition and the documents of the Egyptian churches.

Death of George of Cappadocia in 361

By 361, the bishopric of Alexandria had long been a contested position as well as a tool used by both the Arians and the homoousians in their conflicts with each other. Athanasius, the Nicene bishop, had been exiled from Alexandria several times, always to be replaced with an Arian bishop when the emperor favoured the Arians, and then called back when that emperor had been replaced by one favouring the Nicenes. After one such change under Constantius, Athanasius was replaced by the Arian George of Cappadocia in 356.²³ George, according to several sources, both Christian and non-Christian, was a cruel man. Ammianus Marcellinus says of him: "It is said that he often attacked them [the Alexandrians] with his serpent-like bites."²⁴ His actions in Alexandria caused a mob to rise up

²¹ Rorhbach, 94; Amidon VII-VIII.

²² Polymia Athanassiadi, "Persecution and Response in Late Paganism: The Evidence of Damascius," *Journal of Hellenic Studies* 113 (1993) 19-21.

²³ Sozomen, *Ecclesiastical History*, in "Nicene and Post-Nicene Fathers," series II, vol. I, <http://www.ccel.org/fathers2/NPNF2-02/TOC.htm4.10>.

against him in 358, and he fled, later to be replaced by Gregory.²⁵ In 361 he returned, resuming his persecution of non-Arians and being, in Socrates' words, "exceedingly obnoxious to all classes."²⁶ Sozomen emphasizes as the cause of violence the announcement that Constantius had died and was replaced by Julian, a change eminently favourable to the Hellenes who could expect much more sympathy from a Hellenic emperor than an Arian emperor. The Hellenes, feeling greater freedom, rioted and had him placed in jail. Some time later, the mob broke into the jail and killed George brutally.²⁷ Socrates does not include the change of emperor as a causative force, but instead mentions it as coinciding with the rioting rather than inspiring it. Instead, he explains that George had desecrated pagan mysteries. Haas does not include this explanation in his narrative, surmising that the similarity of these accounts to the onset of the destruction of the Serapeum is so striking that it is likely it only occurred once. He believes that the sequence of events described fits more easily with the events of 391.²⁸ While the events are strikingly similar, Haas assumes too much with no evidence, and there is no reason to leave out events included in two different histories, and excluded from only one, which contains a differing account in any case. Sozomen writes that a spot of desert called Mithra was given to George on which to build a church, and during the construction a subterranean adytum (the inner sanctum of a temple) was found. Discovered inside were statues and "instruments formerly used in Pagan ceremonies, which were of a very strange and ludicrous appearance."²⁹ Socrates, on the other hand, emphasizes that, instead of the name of the geographical location, the site was dedicated to the god Mithra. Again, an adytum was found, but inside it were human remains, skulls especially, of people who had been burned like a sacrificial animal and used as a vehicle for divination.³⁰ In both accounts, objects found in the adytum were exposed and paraded around the city by the Christians. The Hellenes then attacked the Christians, going as far as to crucify some. Interestingly, both historians feel it necessary to specify that it was indeed the Hellenes who were responsible for the attack on the Arians, and not the followers of Athanasius. Sozomen references a letter written by Julian to the Hellenes admonishing them, which Socrates recopies. He admits that there was a report circulating that the mob was made up of homoousians.

²⁴ Amm. Marc. 22.11.4: *vipereis (ut ita dixerim), morsibus ab eo saepius appetiti*.

²⁵ Soz. 4.10.

²⁶ Soc. 3.3.

²⁷ Soz. 5.7.

²⁸ Haas, 293 footnote 36.

²⁹ Soz. 5.7.

³⁰ Soc. 3.2.

Yet another cause is offered by Ammianus Marcellinus. He claims that the immediate cause of the riots was the news that Artemius, not Constantius, had died. Artemius “former military commander of Egypt”³¹ is in this account a provincial official, possibly commanding the army, worked closely with George (both of them being chosen delegates of the emperor). Because the population feared reprisals from Artemius, they took action against George only when Artemius was executed. There is, however, a problem with this interpretation. According to Theodoret, Artemius was executed by Julian because of his actions against idols³² (done in tandem with George). This contrast between the accounts of Ammianus and that of Socrates and Sozomen brings up the issue of the date of the event. If Ammianus is correct, George must have been killed after Julian took power, but if Sozomen and Socrates are correct, it must have happened in November or December of 361, when the news of Constantius’ death was disseminating. To answer this question, the *Historia Acephala* is invaluable. Written by an annalist in Theophilus’ episcopate,³³ it chronicles the life of Athanasius. It gives the date of George’s original capture as “iii Choiaç”³⁴ (Nov. 29) and the date of his death at “the xxviii day”³⁵ (Dec. 24).³⁶ The *Historia Acephala* is extremely meticulous about dates, and is in general corroborated in its dating scheme by the *Festal Letters*, another document, written independently, dealing with this time period.³⁷ Artemius’ death, then, is more accurately placed after the death of George, and Ammianus is incorrect. Ammianus also names two other imperial officials, Dracontius and Diodorus, implied to be in collusion with George in oppressing all non-Arians in the city, who were killed.

Ammianus offers another anecdote which can help us understand the role of religious motivations. George, as he passed by the temple of the Genius of the city, said: “For how long will this sepulcher stand?”³⁸ This offered insult on two grounds: first, it implied that the god of the Hellenes was dead, and second, precisely because it was a civic temple, it called into question the Hellenes’

³¹ Amm. Marc. 22.11.2: *ex duce Aegypti*.

³² Theodoret, *Ecclesiastical History*, in “Nicene and Post-Nicene Fathers”, series II, vol. III, <http://www.ccel.org/fathers2/NPNF2-03/TOC.htm> 3.14.

³³ Philip Schaff and Henry Wace, *Nicene and Post-Nicene Fathers of the Christian Church, Volume IV: St. Athanasius, Select Works and Letters* (Edinburgh and Grand Rapids, 1891) 495.

³⁴ *Historia Acephala*. ed. Philip Schaff and Henry Wace, in “Nicene and Post-Nicene Fathers,” series II, vol. IV (Edinburgh, 1891) 6.8.

³⁵ *Hist. Aceph.* 6.8.

³⁶ Roman dates calculated from Table C, the Egyptian Year, Schaff p. 501 and corroborated by Christopher Haas “The Alexandrian riots of 356 and George of Cappadocia,” *Greek, Roman and Byzantine Studies* XXXIII (1991).

³⁷ Haas (1991) 496.

sense of civic unity.

The Destruction of the Serapeum in 391

Seen by many Christian writers, such as St. Jerome and Paulinus of Nola, as representative of the triumph of Christianity over other religions, the destruction of the temple devoted to Serapis in Alexandria was used often in the rhetoric of Christians. It indicated, more importantly than a personal religious victory, a civic religious victory, as Serapis was the tutelary deity of Alexandria and a focal point for civic cult.

Theophilus was bishop of Alexandria in 391, and he is mentioned by name by Theodoret and Socrates although not in Rufinus or Sozomen.³⁹ Theodoret offers an abbreviated and significantly differing account, and he will be considered later. Socrates states that Theophilus applied for permission from the emperor to destroy a temple and received it.⁴⁰ For Sozomen and Rufinus, however, the story begins much as did the events of 361, with the desecration of a temple. They state that he was given a temple or a “basilica for public use”⁴¹ to restore, and that he had no previous knowledge of what it contained. As the emperor nowhere else sanctioned the outright and unprovoked destruction of temples, with the possible exception of Cynegius’ actions,⁴² it seems more likely that Rufinus and Sozomen are correct. As with the incidents thirty years before, the Christians quickly discovered that it was a temple. Rufinus does not specify to what god this temple was dedicated, but Sozomen says that it was a temple to Bacchus.⁴³ Socrates states that it was a Mithraeum, but later adds that the Christians displayed the phalli of Priapus, indicating a Bacchic connection.⁴⁴ From this point on, Socrates differs from Sozomen and Rufinus. Socrates states that after the destruction of the Mithraeum, Theophilus went on to destroy the Serapeum and display the objects stored within, raising the ire of the Hellenes. The Hellenes then attacked the Christians at a “preconcerted signal” and the

³⁸ Amm. Marc. 22.11.7: *quam diu sepulchrum hoc stabit?*

³⁹ Theod. 5.2; Soc. 5.16.

⁴⁰ Soc. 5.16.

⁴¹ Ruf. 11.12: *basilica quaedam publici operas*.

⁴² Maternus Cynegius destroyed several temples in the East during his tenure as praetorian prefect. See J.F. Matthews, “A Pious Supporter of Theodosius I: Maternus Cynegius and His Family,” *JTS* XVIII (1967): 438-446; B. Gassowska, “Maternus Cynegius, Praefectus Praetorio Orientis and the Destruction of the Allat Temple in Palmyra,” *Archaeologia* 1982 XXXIII: 107-123.

⁴³ Soz. 7.15.

⁴⁴ Soc. 5.16.

Christians attacked back, “and so the mischief was more augmented.”⁴⁵ At the end of this bloodshed, the Hellenes fled fearing reprisal, many leaving Alexandria.

Sozomen and Rufinus state instead that the Hellenes attacked the Christians after the desecration of the temple of Bacchus only, and that instead of fleeing out of Alexandria, “they fled back to the temple [the Serapeum] as if to a fortress.”⁴⁶ They took Christian hostages with them, whom they tortured, killed, and made to sacrifice to their gods. Both sources also mention a philosopher (or, at least, someone who presented himself as a philosopher) named Olympius,⁴⁷ who led the Hellenes in some way. The Roman government tried to intervene, and Sozomen names Evagrius, the prefect, and Romanus, the general of the Egyptian troops as present.⁴⁸ Eventually, the emperor Theodosius I himself intervened by sending a letter to the citizens of Alexandria. This indicates that the stand-off had been quite long-running, to reach the emperor and allow time for his communication to return to Alexandria. His letter contained the following instructions: that the Christians killed were to be made martyrs, that the Hellenes were not to be pursued for their killing but were to be pardoned, and that the temples were to be destroyed.⁴⁹ Upon hearing this news, the Christians shouted joyfully, and the Hellenes fled, likely believing (reading between the lines, not unjustifiably) that the Christian crowd was ready to forget that the emperor had ordered that no vengeance be taken. Here the narrative rejoins that of Socrates to describe the widespread destruction of temples under the authorities following this event. The accounts of Rufinus and Sozomen are more reliable than that of Socrates in this case. Rufinus was temporally closer to the event, and their mention of Olympius is a detail corroborated by Damascius who was unlikely to have been used as a source by Sozomen or Rufinus, as they have widely differing views of his character.

Theodoret’s version differs greatly from the three described above. He simply states that Theophilus himself destroyed the temple of Serapis and the statue of Serapis within.⁵⁰ While the destruction of the statue is given great importance elsewhere,⁵¹ it is not usually ascribed to Theophilus

⁴⁵ Soc. 5.16.

⁴⁶ Ruf. 11.22: *templum quasi ad arcem quandam refugiebant*.

⁴⁷ Ruf. 11.22; Soz. 7.15.

⁴⁸ Soz. 7.15.

⁴⁹ Soz. 7.15; Ruf. 11.22.

himself. Theodoret, further removed from the events than any other historian writing about them, cannot be preferred over the account as described above.

Conflicts with the Jews and the Death of Hypatia in 415

The events began in 415, three years after Cyril became bishop of Alexandria. Haas suggests that his unambiguous and hateful attitude towards the Jews arose because of conclusions drawn from his extensive scriptural exegesis. He cites fragments of letters written by Cyril and collected by Robert Wilken including such descriptors for the Jews as “demented,” “God haters,” and “killers of the Lord.” He calls the synagogue “a leprous house which perpetuates their monstrous impiety.”⁵² At the time, Orestes was the prefect of Egypt. He was friendly with Alexandria’s large and established Jewish population. Importantly, he was also friendly with Hypatia, who according to John of Nikiu had “beguiled him through her magic.”⁵³ The accounts of the events, if not the motivations, are fairly consistent between John of Nikiu and Socrates. On Saturdays, the Jewish Sabbath, the Jews were accustomed to watch the dancing displays and create great crowds, according to Socrates. Orestes published an edict controlling these shows, a move unpopular with the Jews. At this assembly to receive the edict was a Nicene Christian named Hierax.⁵⁴ John of Nikiu portrays him as virtuous and blameless, and also implies that he was present at the meeting at Cyril’s behest. Socrates, however, states that Hierax applauded upon hearing of the edict, an act deliberately offensive and provocative. In any case, the Jews objected to his presence and actions, and Orestes, to placate them, had him publicly and corporally punished. Cyril perceived this to be a political action, according to John,⁵⁵ and approached the Jewish leaders with threats. The Jews, in response, conceived of a plan. They identified themselves by rings made of palm branches, and, in the middle of the night, sent up the alarm that a prominent church (the Church of Athanasius according to John, of Alexander according to Socrates) was on fire. As the Christians exited their houses to save their church, they were slaughtered by the Jews. The following morning, the Christians rallied, and drove the Jews out of Alexandria and pillaged their houses

⁵⁰ Theod. 5.12.

⁵¹ See Françoise Thélamon, *Païens et Chrétiens au IV^e siècle: L’apport de l’“Histoire Ecclésiastique” de Rufin d’Aquilée* (Paris, 1981) 255-257.

⁵² Haas, 300.

⁵³ John of Nikiu, *The Chronicle*, ed. and trans. R.H. Charles London, 1916) 84-87.

⁵⁴ Soc. 7.13.

⁵⁵ John of Nikiu 84.94.

and synagogues.⁵⁶ The relations between Orestes and Cyril were henceforth undoubtedly antagonistic.

Cyril had, in his youth, lived with the monks of Nitria, and both Socrates and John mention a conflict associated with these monks. Interestingly, Socrates identifies these monks as having been “unjustly armed against Dioscuros” by Theophilus.⁵⁷ John ties the present incursion of the monks in with the conflicts with the Jews (he states that the death of Ammonius, as elaborated below, was another reason Cyril was angry with Orestes and therefore threatened the Jews), while Socrates places it temporally after the expulsion of the Jews. It is unclear as to whether or not they arrived at Cyril’s direct behest, but it is clear that they were violently opposed to Orestes. They accused him of being a Hellene, and one, named Ammonius, threw a rock which hit Orestes’ forehead and caused him to bleed profusely. The population of Alexandria rose to the defense of their prefect and secured Ammonius. Orestes later had him tortured and put to death, although the second unnamed monk that John says was murdered along with him is not mentioned in Socrates’ *Historia*. Cyril, in another overt political act to undermine Orestes had Ammonius declared a martyr, renamed Thaumasius and buried in a church; moreover, he eulogized Ammonius himself.⁵⁸ Socrates points out that even the Christians thought that Ammonius had been out of line, indicating that not all of the Alexandrian Christians supported their bishop wholeheartedly against their prefect. He opines that Cyril’s own sense of being in the wrong led him to not press the issue.

The culmination of these tensions came under the leadership of a man named Peter, a magistrate according to John,⁵⁹ an unofficial leader according to Socrates.⁶⁰ Socrates dates it for us quite precisely: “in the month of March during Lent, in the fourth year of Cyril’s episcopate, under the tenth consulate of Honorius, and the sixth of Theodosius”.⁶¹ This translates to March, sometime after the 3rd, 415 CE. He gathered a mob of Christians, a “multitude of believers in God” according to John, a group “hurried away by a fierce and bigoted zeal” according to Socrates and “a crowd of bestial men, truly abominable” according to Damascius.⁶² This mob went to Hypatia’s house and subjected her to phys-

⁵⁶ John of Nikiu 84.96-98; Soc. 7.13.

⁵⁷ Soc. 7.14

⁵⁸ Soc. 7.14.

⁵⁹ John of Nikiu 84.100.

⁶⁰ Soc. 7.15.

⁶¹ Soc. 7.15.

ical torture: cutting out her eyes as she lived (Damascius⁶³), stripping off her clothes and dragging her to her death (John⁶⁴) or murdering her with tiles and subsequently burning her body (Socrates⁶⁵).

While Damascius agrees with Socrates and John on the events, he does not include the narration of the conflict with the Jews or the monks of Nitria in his digression on Hypatia. He relates the murder directly to Cyril who was jealous of Hypatia, whether for political power or just because of his inferiority is unclear.⁶⁶ While neither Socrates nor John directly relates Cyril to Hypatia's murder, it seems clear that both place this event within the context of the ill-will between Orestes and Cyril. John even goes further and says that the Christians of the city, after the death of Hypatia, proclaimed Cyril "the new Theophilus" and congratulated him for ridding the city of idolaters.⁶⁷

Using the evidence from these three incidents as narrated above, the thematic influences on religious violence (intolerance, the urban crowd, imperial influence, the politics of bishops and the model of provocation and response) will be applied and examined.

Intolerance

Peter Garnsey defines toleration as an active process. In his view, to merely allow other religions to which one objects to continue is not enough for a religious system to be considered tolerant; it should not be confused with "indifference, apathy, or passive acquiescence."⁶⁸ Real tolerance, according to him, is disapproval and the ability to act coupled with an unwillingness to act upon that disapproval stemming from some "moral or political principle."⁶⁹ Not only are such distinctions superficial and unhelpful, they are difficult to apply to ancient history as the specific motivations of the actors are rarely clear. However the attention given to the ability of the religion to act by Garnsey is also important. Religious tolerance is more than the process of not acting upon desires to oppress objectionable religions: it is the ability and position to do so coupled with the lack of such action.

⁶² Damascius, *The Philosophical History*, ed. and trans. Polymnia Athanassiadi (Athens, 1999) 43E.

⁶³ Damascius, 43E.

⁶⁴ John of Nikiu 84.102.

⁶⁵ Soc. 7.15.

⁶⁶ Damascius 43E.

⁶⁷ John of Nikiu 84.103.

⁶⁸ Peter Garnsey, "Religious Toleration in Classical Antiquity," in *Persecution and Toleration*, ed. W. Shields, (Oxford, 1984) 1.

⁶⁹ Garnsey, 1.

In this time period, religious intolerance is extremely hard to separate from political maneuvering. Given the popularity of civic cults such as Serapis and the possibility of Christian attitudes towards the Roman empire as a Christian empire, to separate church from state is a dangerous proposal. There is still some merit in examining how much negative attitudes were born out of religious reasoning, though such analysis can tend towards the speculative.

The Arian and homoousian conflict is brought into relief in the first incident. Sozomen and Socrates both acknowledge that there was some indication that the followers of Athanasius were in the mob that killed George. Considering that Athanasius was, at that time, an exiled bishop with a considerable following, living in the city from which he was banned, and that he resumed the bishopric after George's death, this is not a ridiculous notion. While there are definitely political overtones to the conflict, it would be exceedingly difficult to argue that the Arian schism was unrelated to theological issues. Some conflict in Alexandria must be said to follow this model of Christian intolerance of schism.

George's oppression of the Hellenes, like that of Theophilus, also indicates a measure of religious intolerance on the part of the Christians. While it is true that many other cities allowed the Hellenes to live in peace, Fowden's article on bishops and their influence on destruction of temples points to a trend: when the bishop felt that he had the power to effectuate such change, whether because of the cooperation of imperial officials or because of edicts allowing him personally to proceed, he generally did so.⁷⁰ George and Theophilus both desecrated forgotten temples, exposing the religious artifacts to ridicule and public view. Especially as they seem to have been used for some mystery religion, for which it was generally extremely important to control which people were exposed to what mysteries, this display was sacrilegious and offensive. That both bishops deliberately paraded the items indicates that they had some knowledge of the offense of their actions, and Socrates states outright that Theophilus "exerted himself to the utmost to expose the pagan mysteries to contempt."⁷¹ The question of tolerance on the part of the Christians towards the Hellenes seems settled; at least at the higher levels of Alexandrian society, the fourth and fifth centuries display an entrenched conflict between Hellenes and Christians, though it was not always violently displayed.

⁷⁰ Garth Fowden, "Bishops and Temples in the Eastern Roman Empire A.D. 320-435," *Journal of Theological Studies* 29, no. 1 (1978) 53-78.

Much more interesting for the study of intolerance is the conflict between Cyril and the Jews. While the other groups, such as Hellenes and Christians and Arians and homoousians, had a long history of both political and religious conflicts, the Jews had lived separately, and somewhat peacefully, with Christians all over the empire for several hundred years. Since the revolt including Diaspora Jews in 115, Alexandria's Jewish population got along well enough with the rest of the population, while occasionally getting involved politically in Christian conflicts; for example, during George's bishopric, the Jews firmly supported Athanasius. At the beginning of Cyril's tenure as a bishop, the Jews were seen by the later historians to have had a privileged place in the prefect's favour, but Orestes' actions do not seem to indicate any overweening affinity for the Jews. It is clear that he respected them as citizens for whom he was responsible, but there is no evidence that he treated them preferentially, especially given the passing of the edict that was extremely unpopular with as well as targeted at the Jews. The idea that Cyril may have been acting against them politically seems unlikely, as does the idea that he may have been acting against them in order to conflict with Orestes, as the relationship between Orestes and the Jews is not as cordial as it is portrayed in John of Nikiu.

Cyril's background makes it easy to believe that he began his campaign against the Jews for religiously motivated reasons. He spent many years in the desert as a hermit engaging in biblical exegesis, and had very negative and defined views on the people who he saw to be rejecting their messiah. Cyril's hatred for Jews is, therefore, a much more likely reason for his antagonistic relations with them than any political motivation.

Intolerance did exist between the groups considered, and while it is difficult to isolate it from political motivations, it is likely that it was a factor necessary for violence to take place.

The Urban Crowd

Most of the violence in these events is carried out by the urban crowd, also known as the mob. The murder of George was committed by a mob of Hellenes (and possibly homoousians), the conflict over the Serapeum involved a Christian and a Hellenic mob, the Jews and the Christians each gathered together to fight in 415, a Christian mob threw objects at Orestes and, finally, Hypatia was killed by a

⁷¹ Soc. 5.16.

⁷² Timothy E. Gregory, *Vox Populi: Popular Opinion and Violence in the Religious Controversies of the Fifth Century A.D.* (Columbus, 1979) 9.

Christian mob. Many of the ancient writers believed that the excitability of Alexandrians was at the root of much of the uproar. The content and motivation of ‘the people’ then is an important aspect to the causation of violence. If the mob truly did enjoy spontaneous violence or was confused and easily led by emotions, as the ancient sources would lead us to believe, perhaps no more sinister reasons need to be sought out.

It seems clear from the diversity of motivations that “the mob” was far from a monolithic group. Timothy Gregory defines what the ancient writers referred to as “the people” as those who had “no institutionalized large-scale authority.”⁷² This specification is important because, as he points out, it would be a mistake to see this group as consisting solely and necessarily of the urban poor.

The ancient historians are not especially interested in identifying the mob beyond their religious allegiance, and only in a few cases can we see more specifically of whom the mob is composed. It is interesting to note that, despite the real division between the sacrificing Hellenes and the philosophers, Olympius is clearly someone who identified himself as a philosopher (though Sozomen does not honour him with the title). Ammonius and Helladius, whom Socrates claimed were intimately involved, were also part of the philosophic tradition, being grammarians from whom Socrates learned.⁷³ One needed a certain amount of wealth to be a leisured philosopher, and this involvement on the part of those who were clearly part of the upper class proves the worth of Gregory’s distinction between the reality of who was a member of the mob and the stereotype. Rougé, however, distinguishes between temple Hellenes and philosopher Hellenes in order to argue that Cyril was not interested in oppressing philosophers. While it is possible that this is the case with Cyril (although there is no reason to believe so), the involvement of the philosophers in the Serapeum incident indicates that they were indeed classed with the temple Hellenes by Theophilus.

There is also evidence that the uprising of the Jews was put into motion by upper levels of the community. They decided to massacre the Christians after Cyril made serious threats to their leadership. This leadership, likely Rabbis and other such distinguished community members, would have to have been involved as they were the ones who were made aware of the threat. Unless the Christian

⁷¹ Soc. 5.16.

⁷³ Soc. 5.16.

bias of led them to misrepresent the facts, the Jews specifically planned the murder. A plan such as theirs, including identifying marks on the part of the conspirators, readiness and quiet in the middle of the night and a unified alarm call, indicates a measure of preparedness, levelheadedness and coherence that could only have been achieved through strong leadership. Certainly the mob of Hellenes and possibly the mob of Jews, therefore, contained, or at least was led by, elements of society not usually associated with urban mobs. There were people who, though they had wealth and/or power within their community, lacked official avenues to exert their authority.

Often associated with Christian crowds (by modern authors, at least⁷⁴) are the *parabalani*. Described by Brown as a guild of stretcher-bearers under the authority of the Church which morphed into a kind of militia,⁷⁵ two edicts were published in the Theodosian Code against their appearing at public meetings,⁷⁶ presumably in order to keep the peace. Another group often associated with the mob was the monks. The monks from the monastery of Nitria, where Cyril spent a fair amount of time before becoming bishop, were the main constituents of the crowd which pelted Orestes with rocks, and the one whose rock connected solidly with Orestes' forehead was also a monk. Beyond that, it seems that Theophilus also had some control over these monks, although whether they were involved in the Serapeum incident is unclear. These monks, whether they were specifically dispatched or there by their own free will, did not arrive spontaneously, as Nitria is south past Lake Mareotis, estimated to be 40 miles away,⁷⁷ a fact which is often overlooked in discussion of this incident. There is no justification in the ancient sources regarding their presence in the city at the time. Monks at this time were generally notorious for being violent; Libanius, the Hellenic noble, in his oration *Pro Templis*, specifically talks about monks, the "black-robed tribe" looting and burning shrines.⁷⁸ Rist even claims, somewhat bizarrely, that the killers of Hypatia were monks. He argues that this must be the case because they are described by the fragments of Damascius as beasts, and that "renunciation made them for the average Greek 'either beasts or gods,' as Aristotle puts it."⁷⁹ While I do not feel this is sufficient evidence to characterize the band as monks, it is not impossible that they were involved. The involvement of monks is an important element when considering the control the bishop had over the crowd, to the

⁷⁴ Including Haas (1997), Gregory, Rougé and Peter Brown, *Power and Persuasion in Late Antiquity: Towards a Christian Empire* (Madison, 1992).

⁷⁵ Brown (1992) 103.

⁷⁶ C. Th. 16.2.42.2, 16.2.42.3 as in Haas, 67.

⁷⁷ Haas, 68; also see the map attached.

extent that the bishops may have employed some kind of militia.

The different ‘mobs’ were therefore composed not only of lower-class urban dwellers, but also upper class, educated Hellenes, Jews and Christians as the case may be. It was not always violent because of spontaneous crowd feeling, with people being swept away and following the group, but it is more likely that mob violence was the result of deliberate planning on the part of the leaders.

Imperial Influence

The extent to which the bishops were following imperial policy is extremely important in determining the reasons for which violence was carried out. If they were indeed following their orders, not much more can be said about the motivations of the Christians. However, as Garth Fowden has convincingly argued, the bishops were not following imperial orders with regards to temple destruction. The first law allowing bishops involvement in the regulation of Hellenes appears in the Theodosian Code in 407/408, significantly later than when George or Theophilus acted.⁸⁰ However, there was a law passed in 392 outlawing both private and public sacrifices, as well as the consultation of oracles.⁸¹ This law specifically mentioned that it was to be enforced by the civic authorities. On the other hand, Maternus Cynegius is an example of the extent to which Theodosius allowed free agents to get away with oppressing Hellenes. In the late fourth century, imperial policy was not to go after the Hellenes (or Jews) unprovoked, and the actions of George, Artemius and Theophilus cannot be explained by following imperial orders. Instead, they acted as far as they were able to get away with. Indeed, the emperors themselves seemed to follow a policy of oppression when violence and instability would not a result as a consequence. Therefore while they were not following orders, they were likely aware that they had to do something drastically against imperial policy to feel any repercussions, from the emperor at least.

⁷⁸ Libanius, *Pro Templis*, in *Libanius: Selected Works*, vol. II. ed. and trans. A. F. Norman. (Cambridge, 1977) 8-11.

⁷⁹ J.M. Rist, "Hypatia," *Phoenix* 19, no. 3 (1965) 222.

⁸⁰ C. Th. 16.10.19 (3) as in Fowden 53.

⁸¹ C. Th. 16.10.12 (4) as in Fowden 55.

The Power of Bishops and Other Politics

H. A. Drake notes that while intolerance underlay Christian coercion, “bishops were a critical factor in determining how a community responded to opportunities or coercion.”⁸² Many of the actions of the bishops which resulted in violence can be seen as devices to gain power, or to protect and assert power already gained. While attributing all motivations of religious leaders to political factors is problematic at best, religious leaders were community leaders in Alexandria, and therefore had to be involved in local communal politics. This is seen especially in the dispute between Cyril and Orestes, for while Cyril acts as a leader to the Christians, the conflict does not involve religious sentiment. It is clear, therefore, that by the beginning of the fifth century, the bishopric had become a positions of political leadership as well as an ecclesiastical position.

Orestes twice punished Cyril’s agents: Hierax with corporal punishment and Ammonius with death. Hierax was imputed to have been sent to stir up the crowd, and although it is not mentioned by the ancient sources, it is a possibility that, given his presence at the reading of an unpopular edict by the prefect, he was to stir up the crowd against Orestes. Cyril’s actions glorifying Ammonius after his death must be seen as an act of civil disobedience as Ammonius’ punishment was pronounced lawfully by the prefect. These actions are evidence of a conscious conflict between the two men, in which each used the powers they had to intimidate the other.

Because several of the incidents cannot be adequately explained by the causes given above, they must be attributed to political motivations. Hypatia’s murder, for example, may well have been an act of religious intolerance performed spontaneously by an angry crowd. However, given her connection to Orestes, it seems very possible that her death was in some way orchestrated by Cyril.⁸³ Two of the ancient sources (John of Nikiu and Socrates) place her murder in the narrative of the conflict between Orestes and Cyril. Damascius blames Cyril directly, and claims that his jealousy for Hypatia’s prestige and great character led him to it,⁸⁴ while Socrates states that it was “calumniously reported

⁸² H. A. Drake, *Constantine and the Bishops: The Politics of Intolerance* (Baltimore, 2000) 400.

⁸³ Rougé does a detailed analysis of Cyril’s culpability in Hypatia’s death and concludes that, with the evidence we have, he cannot be held directly responsible.

⁸⁴ Damascius 43E.

among the Christian populace”⁸⁵ that Hypatia was the impediment to good relations between the two men. J.M. Rist suggested that Hypatia’s murder occurred because the populace genuinely believed that Orestes was a “pagan idolater,”⁸⁶ which Socrates makes clear was slander, Orestes having been baptized. Rist postulated that the populace would have seen Hypatia as “Maximus of Ephesus to Orestes’ Julian.”⁸⁷ In fact, it seems that the murderers were quite aware that they had nothing to fear from Orestes’ religion, but instead felt threatened that a Hellene philosopher had better relations with the prefect than did the bishop.

Gregory argues that the bishop should be seen as part of the patronage tradition, as he provides spiritual patronage to his clients,⁸⁸ an idea which Brown picks up on and argues extensively in *Power and Persuasion in Late Antiquity: Towards a Christian Empire*. Even beyond that, the bishop was a literal patron to the urban poor, as Haas argues that the church was at least partly responsible for the distribution of food to the underprivileged.⁸⁹ Both of these factors indicate how the bishop would have had some control over the laity. As was seen above, they also had at least two parties loyal to them in the crowd, the monks and the *parabalani*.

Communities in Alexandria were defined by their religious ties. Religious leaders were therefore secular leaders as well. Conflicts between different religious groups were not always motivated solely by religious sentiment, but were often caused by political factors. Especially as the bishop’s power began to grow and compete with that of the prefect, the bishop acted for political purposes reasons rather than any reason having to do with the practice of his religion.

Provocation and Response

In every case, the first event in the series that eventually led up to violence and killing was not violent at all. George oppressed the Hellenes in some unspecified way, and ridiculed their sacred objects, as did Theophilus, and a Christian named Hierax misbehaved in a crowd of Jews. While the

⁸⁵ Soc. 7.15.

⁸⁶ Soc. 7.14.

⁸⁷ Rist.

⁸⁸ Gregory, 26.

⁸⁹ Haas (1997), 79.

first two were deliberately provocative, the third may or may not have been. From this beginning, the Hellenes acted directly and killed George. The second incident had the Hellenes attack the Christians, the Christians attack the Hellenes, the Hellenes withdraw to the temple and, eventually, abandon it to the Christians. In the build up to Hypatia's murder, one can count seven separate actions (not including Hypatia's death or Hierax) that followed from Hierax's presence in the crowd. This pattern clearly shows that each action was in response to the one before it, and that each action precipitated action in response.

Most modern and ancient sources have emphasized the eventual crushing of Hellenism by the Christians. Rufinus follows his section on the destruction of the Serapeum with an account of the destruction of the rest of the Egyptian shrines. John of Nikiu congratulates Cyril for Hypatia's death, claiming that he had finally rid the city of Hellenes. Thélamon follows Rufinus in structure, and discusses the downfall of the Hellenes adjacent to the destruction of the Serapeum. Fowden discusses the Serapeum in the context of the eventual destruction and/or cooption of all temples in the east. In fact, no one, with the exception of Haas, has framed the Christian violence within the more general context of Alexandrian intercommunal violence. This absence comes at a price, for the primary causative agent of violence in Alexandria has been largely ignored.

This factor, more than any other, is consistently seen in each of the incidents discussed. While other factors are crucial to both beginning conflict and fostering an environment in which violent response is the norm, this reaction to persecution results in a cycle, for conflict and hatred is created by violence and leads to yet more violence.

Conclusions

To review, during his previous tenure as bishop of Alexandria and then again when he returned in 361, George offered non-Arian Alexandrians many insults, including recently before his death the desecration of unspecified relics, and at the first opportunity when the population felt safe to do so

(after the death of Constantius, his patron), they murdered him. Thirty years later, Theophilus and his followers provoked the Hellenic population, philosopher and simple devotee alike, by similar disrespect of religious artifacts into attacking the Christians, and a battle and siege in the Serapeum followed. Once the Hellenes heard the imperial pronouncement and determined that their hope was lost, they fled, leaving the Serapeum to destruction at the hands of Theophilus. Cyril, Theophilus' nephew, was inspired by his hatred of Jews to provoke them into combat and their subsequent expulsion from Alexandria. In the process, he alienated the prefect Orestes and, whether by his wishes or not, a group of Christians murdered Orestes' close associate Hypatia, a Hellenic philosopher.

While religious intolerance and political motivations did have a role in causing violence, imperial mandates did not justify Christian actions and the spontaneity and madness of the mob is a fabrication. The most striking parallel between all the incidents described, however, is the pattern of violence. In each case there is a back-and-forth volley of violence, which may have not continued had either side stopped the cycle. While it is true that the Christians provoked the other groups first in all cases, and that the Christians prevailed in the end, it would be shortsighted to ignore the dynamic in the middle. The Hellenes and Jews were active participants in the cycle of violence, and provocation and violent response were critical factors in causing and fostering intercommunal violence.

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The Crucial Development of Heavy Cavalry under Herakleios and His Usage of Steppe Nomad Tactics

Mark-Anthony Karantabias

The last war between the Eastern Romans and the Sassanids was likely the most important of Late Antiquity, exhausting both sides economically and militarily, decimating the population, and laying waste the land. In *Heraclius: Emperor of Byzantium*, Walter Kaegi, concludes that the Ρομαῖοι¹ under Herakleios (575-641) defeated the Sassanian forces with techniques from the section “Dealing with the Persians”² in the *Strategikon*, a hand book for field commanders authored by the emperor Maurice (reigned 582-602). Although no direct challenge has been made to this claim, Trombley and Greatrex,³ while inclined to agree with Kaegi’s main thesis, find fault in Kaegi’s interpretation of the source material.

The development of the καταφρακτοσ stands out as a determining factor in the course of the battles during Herakleios’ colossal counter-attack. Its reforms led to its superiority over its Persian counterpart, the *clibanarios*. Adoptions of steppe nomad equipment crystallized the Ρομαῖοι unit. Stratos⁴ and Bivar⁵ make this point, but do not expand their argument in order to explain the victory of the emperor over the Sassanian Empire. The turning point in its improvement seems to have taken

¹ The Eastern Romans called themselves by this name. It is the Hellenized version of Romans, the Byzantine label attributed to the surviving East Roman Empire is artificial and is a creation of modern historians. Thus, it is more appropriate to label them by the original version or the Anglicized version of it. The employment of the term ‘Byzantine’ will, however, not be omitted from this research.

² Walter Kaegi, *Heraclius: Emperor of Byzantium* (New York, 2003) 308-309.

³ Geoffrey Greatrex, Review of *Heraclius: Emperor of Byzantium* by Walter Kaegi, *The Medieval Review* <<http://www.hti.umich.edu/cgi/t/text/text-idx?c=tmr;cc=tmr;sid=f42707dc862a3e9cc196b065f9a67f5d;q1=heracli;rgn=main;view=text;idno=baj9928.0401.028>>, retrieved 27 November 2004.

⁴ Andreas N. Stratos, *Byzantium in the Seventh Century*, Vol I (602-634), trans. Marc Ogilvie-Grant (Amsterdam, 1968) 138.

⁵ A. Bivar, "Cavalry Equipment and Tactics on the Euphrates Frontier," *Dumbarton Oaks Papers* 26 (1972) 274-291.

place at the launch pad of the encounter, at Caesarea in Cappadocia. The emperor's negotiations with the Turks gave a significant contingent of the nomad's cavalry, which may have been a contributing factor to the *καταφρακτοι*. And while, it appears Herakleios used the *Strategikon*, it is doubtful he consulted the section on the steppe nomads.

The Emergence of the *Καταφρακτος*

At intervals were mailed cavalymen, the so-called Ironclads, wearing masks and equipped with cuirasses and belts of steel' they seemed more like statues polished by the hand of Praxuteles than living men. Their limbs were entirely covered by a garment of thin circular plates fitted to the curves of the body, and so cunningly articulated that it adapted itself to any movement the wearer needed to make.⁶

This is an early passage describing the *καταφρακτος* during Constantius II's (337-360) parade into Rome in 357 and is but one of many descriptions of this particular heavy cavalry unit. Yet there is one element missing from the description. Haldon⁷ and Kaegi⁸ argue that during the reign of Justinian I (527-565), the importance of this unit vastly increased. At this time, the core of the Imperial army changed from the infantry to cavalry, particularly of the kind described above. Because of this shift, diverse contributions were made to the imperial heavy cavalry over the years.

Initially the Huns made the most significant contributions to the unit. The Hunnish contingent employed in Justinian's re-conquests of the West was essential to the emperor's success, Procopius claimed.⁹ The missile tactics of the Hunnish horse archer seemed to have been adopted by the original heavy cavalry to form the more complete *καταφρακτος*, a deadly combination of a unit able to be used as a shock troop with lances, for long distance strikes with the bow, or in hand-to-hand combat the swords. Some of the earliest evidence for this type of unit can be found in the Parthian armies at the Battle of Carrhae in 53 B.C. and in features of the Sassanian forces.¹⁰ Haldon further elaborates these issues when he argues that the Hunnish mercenaries in Justinian's wars initiated the training of

⁶ Ammianus Marcellinus, *The Later Roman Empire (A.D. 354-378)* (Toronto, 2004) 16.10.

⁷ John Haldon, *The Byzantine Wars: Battles and Campaigns of the Byzantine Era* (Charleston, SC, 2001) 27.

⁸ Walter Kaegi, "Contributions of Archery to the Turkish Conquest of Anatolia," *Army, Society, and Religion in Byzantium*, ed. Walter Kaegi (London, 1982) 99.

⁹ Procopius, *History of the Wars*, trans. H.B. Dewing (Cambridge, 1914) 5.27.

¹⁰ Bivar, 274-276.

the native imperial troops in the skill of horse archery,¹¹ but that the art had noticeably declined for a short period following the age of Justinian.¹² Emperor Maurice gave a detailed description of the Byzantine cavalry where the bow is also included.¹³ Yet, extensive exposure to the Avars in warfare on the Danube frontier provoked another significant change in the heavy cavalry of the Ρομαιοσ army. The effectiveness of the Avar cavalry led to its adoption by the Eastern Romans to acknowledge their mastery in the area and adopt their model.¹⁴ Furthermore, the Avars are called Western Huns by Theophanes,¹⁵ evidence of the continued Hunnish education of the Byzantine cavalryman.

The most notable of the adoptions was the iron stirrup and was accomplished under Herakleios.¹⁶ The iron stirrup is a tremendous reformation of the cavalry, because it heightened the effectiveness of the charge and raised the quality of horse archery. Bivar argues that the Sassanian denial to adopt steppe nomad technology in horse archery was detrimental to their struggle with the Byzantine καταφρακτος.¹⁷ The Sassanian refusal to reform their *clibonarius*¹⁸ can be seen at Taq-i Bistan, where, on a statue, Khusrau II is portrayed in his heavy armour, yet the stirrup is absent.¹⁹ The statue then leads us to assume that the *clibonarius* of the Sassanid army must not have stirrups, for the king's armor and equipment would have, and typically do, reflect his status through superior accessory. Through these facts, the heavy cavalry of the Ρομαιοι seemed to have been in a better position than the Persian by adopting technology from the powerful tribes of Central Asia. Persian conservatism hindered any efforts to compete with the more advanced καταφρακτος, and while the Romans seemed to trail behind in cavalry since the late Republic, it took the lead during the reign of Herakleios. This is one factor which may be considered in the final victory over the Persians.

¹¹ Haldon, 27.

¹² Haldon, 83.

¹³ *Strategikon* 1.2.

¹⁴ Bivar, 287.

¹⁵ *Chronicle* A.M. 6117.

¹⁶ Bivar, 286.

¹⁷ Bivar, 290-291.

¹⁸ The Persian equivalent of the καταφρακτος.

¹⁹ Geoffrey Regan, *First Crusader: Byzantium's Holy Wars* (New York, 2003) 90-91.

The other prominent feature that set apart the East Roman heavy cavalry from the Persian's was the method used in the bowshot. Bivar's detailed analysis of the cavalries on the Euphrates shows that the Hunnish model adopted by the Byzantines paid dividends once again. The Huns used a 'Mongolian draw,' as it came to be known, which maximized the damage of the compound bow by using the thumb during the draw. Both the bow and the draw were adopted by the Ρομαιοι.²⁰ The Persians used a different form of shooting which utilized the three lower fingers.²¹ The preeminence of the Byzantine heavy cavalry can be determined from these two implementations. In the *Strategikon*, Maurice highlights that there was a difference between the Persian and Roman draw, but specifies no further.²² Moreover, Kaegi fails to mention the overall superiority the Ρομαιοι possessed over the Persians. This was arguably a decisive factor in battle, for, as mentioned, the nucleus of the imperial army was, at that point, cavalry. The Persians did not only have to fear the Roman lancer, but the καταφρακτος in its entirety.

Conclusively, in its equipment and bowshot technique, the Ρομαιοι held the upper hand in cavalry warfare over their neighbors, the Persians. The *Strategikon* mentions that the Persians were very weary of the lancer charge of the Ρομαιοι and had the habit of positioning themselves on rough terrain to avoid its shock power.²³ Furthermore, the effective use of the compound bow by the Ρομαιοι is also significant since it could have a longer range through the superior power of its shot and the support of the stirrup. However, one thing remained: the unit's superiority required effective usage in order for the reforms to be significant. Thus, the development of this elite cavalry unit is another factor that needs to be considered.

The Training at Caesarea Mazaka

The emperor assembled all his forces near Caesarea in Cappadocia and Herakleios set out to thoroughly train the army, as Theophanes claimed: "he prepared the army for a warlike exercise and formed two armed contingents."²⁴ Therefore, one can infer that Herakleios' army was drilled and phys-

²⁰ Bivar, 284.

²¹ Bivar, 285.

²² Maurice, *Strategikon* 1.1.

²³ Maurice, *Strategikon* 11.1.

²⁴ Theophanes Confessor, *Chronicle* A.M. 6113.

ically prepared for war. This was quite important since the army, as Theophanes tells us, was in a pitiful state. The extensive training the army underwent enabled further recovery from the first stage of the war when the imperial armies were repeatedly defeated. Thorough exercising must have effectively rallied the Empire's forces to resort from defensive to offensive warfare with Persia. Moreover, the *Strategikon* frequently exhorts the general to drill his army (Books I, III, VI and XII).

Drilling troops enables the general to have a much more fit and disciplined force in battle. In fact, Dupy argues that this was the marquee of imperial success along with the *καταφρακτος* on the battlefield in the broader Byzantine history.²⁵ This period of training seems to have lasted approximately half a year or more according to Theophanes' text. The author claimed that Herakleios departed on Easter (4th of April, 620) and began campaigning in the winter, no earlier than November.²⁶ This allowed the emperor to reestablish his army's respectability by exclusively focusing on drills and exercise for seven months, which would have been sufficient time to restore an army to its regular strength. The previously mentioned configuration of two armed contingents is an important element to the preparation of his expeditionary force as it will be tied up with the *καταφρακτος*.

As previously stated, Herakleios divided his army in two parts for drilling. This may have been in order to run through the reformed cavalry exercises with one portion of the army pinned against the other. While it seems that during the few months that the emperor spent at Caesarea he might have perfected the recently reformed *καταφρακτος* to battle the Sassanids, but there are no concrete sources to prove so. On the other hand, Bivar claims that the armies of Herakleios were the first in the Eastern Roman military to adopt the stirrup²⁷ and Stratos seems to be of the same opinion. However, he does not mention any sources for his speculations. Earlier in this research, it was stated that Kaegi ran through the training at Caesarea²⁸ with no particular emphasis. Thus, the former seems to not have come to grips with these transformations of the *καταφρακτος*.

This was not the only possible contribution to this *élite* unit of the Roman army. During Herakleios' operation in Persian lands, he operated himself with the Kok Turks, who later came to be

²⁵ T.N. Dupy, *The Evolution of Weapons and Warfare* (Indianapolis, 1980) 52-61.

²⁶ *Chronicle* A.M. 6113.

²⁷ Bivar, 290.

²⁸ Stratos, 138.

known as the Khazars. They were another powerful tribe of nomads from the steppes, and would later be reputed for their horse archery in a much later period. Even so, Dupy extensively describes the long lasting success of the steppe nomad horse archery²⁹ and Whittow further acclaims their excellence as a cavalry force during Herakleios' campaigns in the Caucuses, notably, in the plains.³⁰ Whittow also claims that the Khazars would be the future teachers of the Roman heavy cavalry, in the later ninth and early tenth centuries.³¹

The Kok Turks' impact in battle against the Persians was very apparent. Theophanes claimed that everywhere they went, they burned towns and took Persian captives.³² There is no account of them being defeated or being of any hindrance to the imperial forces of Herakleios. As well, after the retirement of the main Turkish leaders, their allies supplied Herakleios with 40,000 cavalry, according to Theophanes,³³ although the accuracy of this number can evidently be argued. Over time, the Kok Turks eventually dissipated from the Byzantine army. More importantly, from this we can speculate the consequences of the alliance and, subsequently, the pledge of troops.

The expertise of the Turkish cavalry may eventually have contributed to the education of the Eastern Roman heavy cavalry. However, there is no evidence to support this claim. It is very likely that it did occur though, for the alleged 40,000 man cavalry was incorporated into the army of the emperor. They did not seem to have operated independently from the imperial army for, as Theophanes wrote, "taking these men along, the emperor advanced on Chosroes (Khusrau II)."³⁴ According to this passage, they were also under the emperor's command. Clearly, they contributed to the victories in the Caucuses and beyond, and the incorporation of these foreign troops was done before the decisive Battle of Nineveh in 627. The training at Caesarea was thus complete with the supplement of troops from the steppes.

The imperial army was trained to raise morale and, more importantly, to accommodate the adoption of the stirrup. The addition of the Turks was significant for it provided the imperial army with

²⁹ Dupy, 62.

³⁰ Mark Whittow, *The Making of Byzantium, 600-1025* (Los Angeles, 1996) 79.

³¹ Haldon, 83.

³² *Chronicle A.M.* 6117.

³³ *Chronicle A.M.* 6117.

³⁴ *Chronicle A.M.* 6117.

a true example of steppe nomad cavalry within their own ranks. Thus, the army of Herakleios, had a superior cavalry in armaments and technique (the bowshot) and it was now trained and complemented with the Turks. What remained was the application of all these factors on the battlefield. Technically, the cavalry in question was superior to the Persians, but this needed to be demonstrated.

The Battlefield

In his first large battle, Herakleios was able to more extensively test his new army against the great Persian general, Shahrbaraz³⁵ near Ophalimos in 622. His first attempt at attacking the army of the emperor failed as he withdrew into the nearby mountains. Theophanes claims that, “often the Persians would come secretly down from the mountains and engage in sporadic conflict, and on all occasions the Romans had the upper hand and their army was further emboldened by seeing the emperor dashing in front of all the others and fighting courageously.”³⁶ This passage undoubtedly reveals that the Persians behaved as *Strategikon* warned they would. Maurice warns the general that the Persians would seek the roughest terrain in order avoid the Roman lancer.³⁷ However, the reformed καταφρακτος could have been unknown to Sharbaraz, at this point. Thus, the Persians would eventually resort to their old habits. When the Persians descended onto the Byzantines, they were defeated more than once and this can be attributed to two facts. First, Maurice also states that the Persian disadvantage was on a flat field because of their weaker infantry and the previously mentioned lancer.³⁸ Secondly, the advent of the new καταφρακτος, which utilized the thumb technique of the bowshot in conjunction with the new use of the stirrup, added to the Persian defeat. The combination of both stirrup and thumb draw resulted in a longer shooting range. It would have been unwise, however, for the Ρομαιοι to advance upon the Sassanids because of their superior position in the mountains. The archers of the Persians would have had a finer location, negating any aforementioned Byzantine advantage. Furthermore, the heavy cavalry charge would be obsolete as Maurice claimed, another example of the Byzantine’s upper-hand,” according to Theophanes.

³⁵ There do not seem to be any dates for the life of this general, nor for Shahin or Sarablangas.

³⁶ *Chronicle* A.M. 6113.

³⁷ *Strategikon* 11.1; also observed by Kaegi (2003), 115.

³⁸ *Strategikon* 11.1.

Theophanes recounts that in the decisive conflict, the Persian general descended upon Herakleios and his army to face the rising sun, which subsequently blinded his army.³⁹ There is no mention of this particular detail in Sebeos' narrative; nevertheless, this was an opportune occasion to launch a massive volley of long-range arrows that could panic the already blinded enemy. Then it would have been the appropriate occasion to launch a heavy cavalry charge to entirely break the Persian ranks. This is one theory that can be linked to the broader points told by Theophanes. Strangely, Kaegi's account leaves out the important factor of the sun in the decisive conflict of the battle. Also, Dupy claims that the traditional steppe nomad horse archer armies through history used the strategy of luring the enemy into the plains by feigned retreat and would then turn and counterattack.⁴⁰ Learning from these warriors, notably the Turks, one must closely consider the Byzantine's attempt to use this tactic, and whether or not they were using the feigned retreat.

Another embarrassing defeat was handed to the Persians in 625. Kaegi, in describing this occasion, effectively coordinates his argument with the accounts of Theophanes and the *Strategikon*. Herakleios took advantage of the carelessness with which the Persians fortify their camps and its vulnerability to night attacks.⁴¹ Indeed, this is very similar to Maurice's instructions.⁴²

Near Tigranocerta in 625, Herakleios lived through a larger trial in warfare. After deceiving the Persians that he was fleeing, three armies came to encircle him.⁴³ Both famed generals of the main Persian offensive in this war were present, Shahrbaraz and Shahin. Herakleios turned on the combined forces of Shahrbaraz and Sarablangas, who were in a disorderly pursuit, while he gathered his own army on a wooded hill.⁴⁴ Evidently, this is an atypical incident in the emperor's campaigns for Herakleios chose to act conservatively with two armies in pursuit and another approaching his front guard; he resorted to a defensive position on a wooded hill while his enemies lay on a "grassy plain".⁴⁵

This was an ideal place to exercise the Byzantine superiority in the bowshot technique. The

³⁹ *Chronicle* A.M. 6117.

⁴⁰ Dupy, 62-63.

⁴¹ Kaegi (2003), 130.

⁴² *Strategikon* 11.1.

⁴³ *Chronicle* A.M. 6115.

⁴⁴ *Chronicle* A.M. 6115.

⁴⁵ *Chronicle* A.M. 6115.

καταφρακτός must have surely been dismounted to participate in the early portions of the conflict. The East Roman army could have launched volley after volley of arrows at a far distance, for the thumb technique was supplemented by their elevated position. Hence, both factors must have enabled the Byzantines to strike the advancing Persians at a considerable distance before the Persians could be within their own range to retaliate. Furthermore, the Persians were more vulnerable to missiles on the open plain than were the Byzantines positioned on a wooded hill. In addition, the shock troops of the two enemy armies were rendered useless in such an operation.⁴⁶ Thus, the Byzantine technique of employing the composite bow was the decisive factor. Kaegi fails to expand on this episode because the emperor, at that time, resorted to a more logical strategy of warfare. He only declares that the emperor used the *Strategikon* by drawing the Persians to an open field and defeating them.⁴⁷

Kaegi leaves out the important detail from Theophanes: “[Herakleios] occupied a certain wooded hill and, gathering *there* his army, routed the barbarians with God’s help and slew a multitude of them after pursuing them through the ravines.”⁴⁸ This is a significant error of interpretation on Kaegi’s part since in the initial conflict, the army of Herakleios must have showered the Persians with arrows. With the circumstances already mentioned and facing the enemy on an open plain, the Persians had no cover and were eventually routed, as Theophanes claimed. At this point, Herakleios must have charged his cavalry onto the fleeing Persians who had their backs turned. In this instance the *Strategikon* section on the vulnerability of the Persians facing the Πομάτοι on flat ground cannot be applied as it describes a different instance where the Persians are already on route and not in battle formation.

Kaegi, citing Theophanes, makes another important mistake.⁴⁹ He declares that the emperor initially faced only Sarablangas without Shahrbaraz, but as Theophanes states, “when Sarablangas and Sarbarazas (Shahrbaraz) learnt this, they strove to engage Herakleios in battle.”⁵⁰ After this passage, the ancient author does not mention Shahrbaraz separating from Sarablangas. The latter died in battle

⁴⁶ As mentioned earlier, Maurice stated that the Persians tended to occupy rough terrain to hinder the Roman shock troops effectiveness. However, in this case, it is pure logical exercise of military tactics to resort to such a defensive position when the enemy is impending with two armies.

⁴⁷ Kaegi (2003), 131.

⁴⁸ *Chronicle* A.M. 6115.

⁴⁹ There is no confusion in the primary source here, because Kaegi relies on the same translation of Theophanes used in this study. This problematizes Kaegi’s argument.

and the former joined Shahin's impending forces with the remainder of both armies (of Shahrbaraz and Sarablangas). This joining of forces only occurred after Shahin was defeated. Thus, the emperor could resort to the *Strategikon* in order to defeat the enemy under Shahin, being the general of one sole army, on the open plain, for the Persian numbers must have been quite inferior to the coalition between Shahrbaraz and Sarablangas. In the case of Shahin, Kaegi's claim is justified. On the other hand, Dupy's claim on the horse archer tactics in the open plain can rival that of Kaegi's here.

Finally, driving through Sassanian territory, Herakleios could inflict his *coup de grâce* for there was only one considerable army left between himself and Khusrau II. While the emperor was pushing into Mesopotamia, the Persian force was pursuing him. When he arrived near Nineveh in 627, there was a minor scuffle between small forces where a prisoner was taken. The prisoner claimed that the Sassanian army was awaiting a reinforcement of 3,000 troops, and so the emperor immediately sought to enter into battle before the enemy reinforcements could arrive. At this time, Theophanes claimed that the emperor searched for a suitable area for a pitched battle and on choosing a plain "suitable for fighting," prepared his army for combat.⁵¹ Sebeos notably mentions that "there was mist on the plain, and the Persian army did not realize that Heraclius (Herakleios) had turned against them until they encountered each other."⁵²

This encounter may be interpreted as a pitched battle face to face or an interaction of arms. It would seem more convenient that Herakleios employed the latter. While still at a distance he could divert the enemy's attention through repeated volleys of arrows while his troops could get into position for the encirclement. Once the contingents destined to outflank the enemy were positioned, the cauldron could be closed. Meanwhile, the mist covered the Byzantine movements and the volleys of arrows kept the enemy from tracking the imperial army's movements. The emperor would be able to devise the same tactics as he had in his encounter at Ophalimos against Shahrbaraz. In this particular episode, there was no sun to aid the emperor. The possibly exists that he ordered his troops to move about on the plain in order to make a mist arise, as they were in the Mesopotamian desert. While the enemy army still thought they were pursuing the Byzantines, the imperial army struck using this decoy.

⁵⁰ *Chronicle* A.M. 6115.

⁵¹ *Chronicle* A.M. 6118.

⁵² Sebeos, *The Armenian History Attributed to Sebeos*, 38.126.

The emperor could launch at least one massive volley of missiles. The Sassanian army were almost certainly panic stricken, as it had been in pursuit and would not have anticipated a counter on the part of the Byzantines.

The use of the "mist" did not end there. Sebeos pursued his narrative by claiming the Byzantines inflicted many casualties on the enemy and then surrounded the survivors.⁵³ The confusion caused from the initial contact no doubt alarmed the Persians and to inhibit any attempt to prevent an outflanking maneuver by the Πομπαιοι. As the Strategikon declares, and as, indeed, Kaegi points out,⁵⁴ the Persians were very vulnerable to a successful outflanking maneuver. In addition, the "mist" probably prevented the Sassanian army from seeing the Byzantine encircling movement.⁵⁵

However, Kaegi, on yet another point, fails to see the 'broader picture' of this episode at Nineveh and the counter-offensive of Herakleios. The adoption of the steppe nomad units and tactics, most notably of the Huns and the Avars, had a major impact in this battle. Maurice declared that these steppe nomads "give special attention to training in archery on horseback" and "prefer battles fought at long range, ambushes, encircling their adversaries, simulated retreats and returns, and wedge-shaped formations, that is, in scattered groups."⁵⁶ Furthermore, these steppe nomads are specified to be "Avars, Turks, and Others Whose Way of Life Resembles That of the Hunnish Peoples."⁵⁷ These are the most revealing passages Kaegi could have used from the Strategikon. The teachers of the καταφρακτος were, indeed, the Huns, Avars and maybe the Turks, as discussed earlier. Thus, this description can be applied to the battle at Ophalimos, where the Byzantines may have used some sort of ambush tactic through the sun. Moreover, it can be related to the battle near Tigranocerta where Herakleios also feigned a retreat only to turn on Sarablangas and Shahrbaraz.

⁵³ *The Armenian History Attributed to Sebeos*, 38.126.

⁵⁴ Kaegi (2003), 161.

⁵⁵ *Strategikon*, 11.1.

⁵⁶ Ibid.

⁵⁷ Ibid.

At Nineveh, it is clear that Herakleios used the ambush tactic by drawing them onto the plain and taking advantage of the mist to use the encirclement maneuver which Maurice describes in the *Strategikon*. Throughout these battles, it is very likely that the imperial army used its advantage in the bow for long range attacks, once again, mentioned by Maurice. These associations can be seen to heavily outweigh the claim set forth by Kaegi.

Conclusion

Conclusively, it seems that the claim of Kaegi can be challenged through the *καταφρακτος*. The long process of its education from the steppe nomads such as the Avars, Huns and maybe the Kok Turks was a major contribution. Whether it would be the tactics mentioned in the previous section, or the adoption of their equipment like the composite bow and the iron stirrup, the Byzantine heavy cavalry came close to imitating the horse archer of the steppe nomads, but with the traditional massive armor of the Empire. The long process culminated into its superior form under Herakleios, when he rallied and thoroughly trained his army at Caesarea to effectively adopt these tactics. The events at Caesarea were revolutionary to the *καταφρακτος*, as the Byzantines seemed to have been drilled extensively for at least seven months to emerge with such a powerful army. It possessed the traditional Roman/Byzantine infantry that was superior to that of the Sassanids and the new *καταφρακτος* using steppe nomad tactics, which, in the end proved fatal to the Persians. Thus, it seems that Herakleios could have used the *Strategikon*, but not through the means he claims. There seems to be two factors. He first used it to train his army like the steppe nomads described in Book XI. As well, the Byzantines progressively acquired tactics over time through education of the steppe nomads which were finally gathered and crystallized under the reign of Herakleios.

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The Nature of Artemis Ephesia

Rachel Lesser

Both material and literary evidence reveal the syncretistic and multivalent nature of the goddess of the Ionian city of Ephesos. Artemis Ephesia, as the Greek appellation of an indigenous deity identified as Kybele or Hekate, retained many of the functions and traits of her Anatolian predecessor while also taking on aspects of the traditional Greek Artemis. Tied intrinsically to Ephesos, she was patron goddess and protector of the city, as well as an international guarantor of refuge for suppliants. She was also a liminal goddess, who was associated with transitions from childhood to adulthood (especially for girls). Lastly, she was a fertility goddess whose role as such became exaggerated as she was assimilated into the Pan-Hellenic religious tradition.

Both ancient authors and modern scholars agree that when the Ionians founded Ephesos they appropriated the already-existing cult of a local goddess and called her by the name of Artemis. Pausanias records that the cult of Artemis Ephesia pre-dated the Ionian migration,¹ but he does not speculate on her original identity. The provenance of Artemis Ephesia may be located in two local goddesses, Kybele and Hekate. Excavations on the northeast slope of Mt. Panayirdag, near Ephesos, reveal that the area had originally been the sacred space of Kybele and was later claimed by Artemis for use in the procession route to the Artemision.² Artemis also took over Kybele's function as guardian over the graves along the route, and a series of altars dedicated to her marked out her predominance.³ The cult statue of Artemis Ephesia recalls many aspects of Kybele. If the protuberances on the chest of the

¹ *Descriptio Graeciae* 7.2.6-7.

² Frederick Brenk, "Artemis of Ephesos: An Avant Garde Goddess," *Kernos* 11 (1998) 161, Knibbe: 142-143.

³ Dieter Knibbe, "Via Sacra Ephesiaca: New Aspects of the Cult of Artemis Ephesia," *Ephesos: Metropolis of Asia*, ed. Helmut Koester (Valley Forge PA, 1995) 144.

famous statue can at any instance be identified as breasts,⁴ they may recall the fertility aspect of Kybele preserved in her Greek counterpart.⁵ In addition, the lions, rams, and bulls in relief on the shoulders and legs of the statue “denote the goddess who fosters the life of the wilds and fields,” and the bee imagery seen on the statue’s feet and on coins is also a feature of some cults of Kybele.⁶ Bengisu hypothesizes that the dual cult of Artemis and Kybele was eventually consolidated into the worship of Artemis Ephesia alone.⁷

It is also likely that Artemis Ephesia took over the identity of another indigenous goddess, Hekate. Hekate was nurturer of the young, a protector of cross roads, and was also worshipped in liminal places.⁸ There was certainly an affinity between Hekate and Artemis Ephesia, as evidenced by a shrine or statue of Hekate located in the Artemision.⁹ Ephesos’ closeness to Karia, which is Hekate’s homeland, and the fact that the Greek city was founded on an older Karian settlement, which already had a temple to the Karian goddess,¹⁰ provide strong evidence that the two goddesses were conflated.¹¹ In addition, a myth recorded by Eustathius¹² underlies the connection between Artemis and Hekate. The story recounts how a woman inhospitably received the goddess Artemis, who was visiting a man called Ephesos in the city of the same name. In anger, the goddess changed her into a dog, but then took pity on her and transformed her back into human form. Ashamed, the woman hanged herself, but Artemis brought her back to life, dressed her in her own costume, and gave her the name of Hekate. Johnston suggests that the woman’s death was a virgin suicide, and that a more extended version of the myth might have included the transformation of the woman’s body into a cult statue; thus the story becomes an explanation for a transitional ritual for maidens performed from classical times at Artemis’ sanctuary in Ephesos and a model of the ritual practice of dressing and washing a cult statue.¹³ John-

⁴ Scholars agree that the appendages were not originally breasts, but rather ornaments decorating the statue, possibly the scrota of bulls sacrificed to the goddess (see discussion in Thomas, 86-87, n.12). See page 11 for a discussion of their later identification as breasts.

⁵ Lewis Richard Farnell, *The Cults of The Greek States*, vol. 2 (New Rochelle NY, 1977) 481.

⁶ Farnell, 481.

⁷ Rose Lou Bengisu, “Lydian Mount Karios,” *Cybele, Attis and Related Cults*, ed. Eugene N. Lane (New York, 1996) 10, n.34.

⁸ “Hecate,” *Oxford Classical Dictionary*, 3rd edition, eds. Simon Hornblower and Antony Spawforth (New York, 1996).

⁹ Strabo *Geographia* 14.1.23, Pliny, *Historia Nat.* 36.32

¹⁰ Pausanias *Descriptio Graeciae* 7.2.6-9.

¹¹ Sarah Iles Johnston, *Restless Dead* (Berkeley, 1999) 245.

¹² *Eust. ad Od.* 12.85

¹³ Johnston, 242-243.

ston recognizes that previously the angered goddess must have been Hekate, who changed the woman into a bitch because that animal was sacred to her.¹⁴ Here we have a myth that may have been an *aition* for rituals associated with the cult of Artemis Ephesia, in which the goddess has been transformed from Hekate to Artemis.

If we recognize that Kybele and Hekate are also associated with each other,¹⁵ and with the Persian Anaiti, we may conceive of Artemis Ephesia as a syncretism of one or more regional goddesses with the Greek Artemis familiar to the Ionian settlers. Artemis Ephesia shares an almost identical birth narrative and birthday (6th of Thargelion) with the Greek goddess; the daughter of Zeus and Leto, she and her twin brother Apollo were born at Ortygia. During the birth the Kuretes, guardian demi-gods, by banging their weapons together, frightened away the jealous Hera and thus helped to conceal the newborns. The only significant difference in the myth is the Ephesian identification of Ortygia with a site near Ephesos, while the traditional myth locates Ortygia on the island of Delos.¹⁶

Ephesian coins from just before the Hellenistic period into the Roman period¹⁷ display iconography referring to Artemis' Greek-style nativity, and referencing in general the Greek characterization of Artemis Ephesia.¹⁸ Brenk has catalogued coins showing the image of a date palm, which represents Artemis' birth under a sacred palm, a stag and in one case a quiver, bow, and arrows,¹⁹ emphasizing her identity as a huntress and mistress of wild things.²⁰ Yet Farnell argues that Artemis Ephesia did not share the Greek Artemis' connection with hunting.²¹ If this is the case, the Ephesians may have been using traditional hunting iconography that caused Greeks to understand that their goddess was indeed Artemis, although this aspect of the Greek Artemis was not actually present in Artemis Ephesia. It is not until the Roman period that the Artemis "Ephesia" type (a representation of the unique

¹⁴ Johnston, 244.

¹⁵ "Hekate belongs to that circle of Phrygian-Thracian cults of which the chief figure is an earth-goddess, and the orgiastic ritual a marked characteristic. And we find that Hekate comes to be related to Cybele" (Farnell 507).

¹⁶ Richard Oster, "Ephesus as a Religious Center Under the Principate I: Paganism Before Constantine," *ANRW* 2, 18/3 (1990) 1707-1708; Brenk, 169.

¹⁷ When Attalos III of Pergamon bequeathed his kingdom to Rome in 133 BCE, Ephesos came under Roman rule. ("Ephesus," *OCD*.)

¹⁸ "In the Classical period Artemis' iconography crystallized into a particular version of the iconographical schema 'young parthenos', a version that includes several variants; usually she has a bow and arrow, and she is often associated with a deer" ("Artemis," *OCD*).

¹⁹ Brenk, 158-159.

²⁰ "Artemis," *OCD* 183.

²¹ Farnell, 482.

cult statue) is represented regularly on coins, with the “Greek” Artemis type shown on the other side.²² Brenk argues that this dual iconography indicates the double nature of Artemis Ephesia as a co-opted Anatolian goddess re-invisioned as the Greek Artemis; the inclusion of the “Ephesia” type of the goddess was an effort by Ephesos to identify the unique Anatolian provenance of their Artemis to the greater Roman world.²³

Artemis Ephesia’s associations with both native Anatolian goddesses and her Greek prototype illuminate the important aspects of her nature, starting with her role as guardian of Ephesos. The turret-crown on the head of Artemis Ephesia’s cult statue symbolizes that she, like Kybele, oversees the well-being of her people.²⁴ The Ephesians are called the τροφς, “nursling” of their goddess.²⁵ The goddess’ name, Artemis, may come from the word αρτεμες, “safe and sound.”²⁶ Ancient writers understood it to mean that either Artemis was herself “healthy, well ordered, and a lover of virginity” or that, alternatively, she “makes her devotees happy, safe, and healthy.”²⁷ The Ephesians also applied the epithet επηκοος, “listening, giving ear to, listening to prayer”²⁸ to their goddess, which demonstrates their belief that she would hear their supplications and watch over them.²⁹ Another designation of Artemis Ephesia emphasizes her tutelary function. Callimachus calls the goddess “Upis” in his discussion of the founding of the cult in his Hymn to Artemis.³⁰ Farnell explains that Upis was a name of Artemis, which the Greeks derived from the verb *opizesthai* and interpreted as “watcher.”³¹ Once again we find that Artemis Ephesia’s nomenclature points her out as a protector of her city.

Perhaps in the connection between the *Ephesia grammata*, words of power in the ancient world, and the cult of Artemis Ephesia, we may find another indication of the goddess’s perceived ability to guard the inhabitants of Ephesos. Pausanias records that these letters were inscribed on the feet, girdle, and crown of the cult statue of Artemis.³² Both spoken and written, the *Ephesia grammata*

²² Brenk, 160.

²³ Brenk, 157-170.

²⁴ Farnell, 481; “Cybele,” *OCD*.

²⁵ Oster, 1702.

²⁶ LSJ.

²⁷ Oster, 1722-1723.

²⁸ LSJ.

²⁹ Oster, 1723.

³⁰ Callimachus *Hymnus in Dianam* 237-258.

³¹ Farnell, 488.

³² Chester C. McCown, “The Ephesia Grammata in Popular Belief,” *TAPA* 54 (1923) 129.

³³ McCown, 131.

could ward off evil and save one from harm. Menander writes of how someone walked around a newly-wed couple chanting the *grammata*,³³ which suggests that they provide a shield against evil for the bride and groom in their new life together. Plutarch reports that the letters could be used to drive away demons. He also writes that the Lydian king Kroisos had cried aloud the Ephesian letters when he was being burned alive on a pyre after being conquered by Kyros, and that this spell or invocation caused rain to extinguish the fire.³⁴ Anaxilas describes how a self-important provincial stitched up the Ephesian letters in a pouch and carried it around as an amulet.³⁵ A 4th century B.C.E. lead tablet from Crete provides an example of such a written amulet with the inscribed Ephesian letters meant to act apotropaically.³⁶ There was also a legend of how an Ephesian boxer defeated his Milesian opponent repeatedly until the *Ephesia grammata* were found tied to his ankle; after they were removed he was trounced three times in a row.³⁷ This last anecdote illustrates how the *Ephesia grammata* actually protected a citizen of Ephesos. Whether or not the “Ephesian” appellation of the letters originally referred to the city of Ephesos or its goddess,³⁸ the ancients perceived a link between the *Ephesia grammata* and Artemis Ephesia. It made sense that the mystic *grammata*, which could safeguard the speaker, writer, or wearer of the letters, were conjoined with a goddess who had great power to watch over Ephesos.

Further, Herodotos and Aelian both pass down a story that illustrates Artemis Ephesia’s tutelary capacity. They recount how the Ephesians saved their city from being destroyed by the invading Lydian king Kroisos by connecting the walls of the city to the sanctuary of Artemis seven stades distant with a rope. They claimed that the whole city was thus encompassed within the sacred space of the goddess, which was an unassailable place of refuge.³⁹ Even in the mythic past, the goddess’ sanctuary guaranteed safety. Pausanias describes how Amazons came there when escaping from Dionysos and then later from Heracles, and that some continued to dwell there along with others utilizing the sanctuary’s protection up to and after the time of the Ionian’s advent.⁴⁰ The Artemision as a refuge for suppliants gained international renown in the Hellenistic and Roman periods, attracting important politi-

³⁴ Kotansky, 111.

³⁵ McCown, 131.

³⁶ Kotansky, 111-112.

³⁷ McCown, 131.

³⁸ See McCown, 129-130 for a good discussion of the term’s etymology.

³⁹ Herodotos *Historiae* 1.26; Aelian *Var. Hist.* 3.26.; Thomas, 98-99.

⁴⁰ Oster, 1715.

cal dissidents⁴¹ as well as catering to the needs of the city's population. Strabo records how the sanctuary retained its status as an asylum throughout its history, although the boundaries of the safe space continued to be altered.⁴² Debtors could seek protection within the sanctuary, and even female slaves with allegations of abuse against their masters could flee there and remain unmolested at least until the outcome of the trial.⁴³ The *Etymologicum Magnum* records that sheep were never sacrificed to Artemis Ephesia "because of the sanctity of the woolen fillet which the suppliant bore."⁴⁴ Thus Artemis Ephesia functioned as a savior for both illustrious and common persons alike, and her role as guardian of Ephesos was extended to protect foreigners in the city as well as citizens.

While this aspect of Artemis Ephesia's character solidly identifies her as a poliade goddess, she also had an association with the natural world and transitional spaces between civilization and the wild. Brenk discusses whether the Artemision should be considered an extra-urban shrine, given its placement just outside of the city, and cites de Polignac's theory that such a location represents the goddess's mediating influence between the *polis* and the wild.⁴⁵ He also suggests the possibility that the placement of the Artemision indicates how the Ephesians co-opted an ancient cult site, and he concludes that this main sanctuary of Artemis Ephesia must have "retained major links with the Anatolian past."⁴⁶ Here we find that indigenous influences expand Artemis' function beyond the city.

As demonstrated by her connection with Anaiti, Artemis Ephesia had a strong association with water. Bengisu calls Artemis Ephesia a "protectress of water sources, lakes and marshes"⁴⁷ and reports that originally her worship may have been connected with a fish cult.⁴⁸ Indeed Strabo tells us that the Selinus River flowed past the Artemision⁴⁹ and Xenophon records that there were fish and mussels in the stream.⁵⁰ Cole explains that many Artemis temples were located near natural sources of water.⁵¹ She cites the *hydriai* dedicated to Artemis at several different cult locations (including Ephesos) and

⁴¹ *Descriptio Graeciae* 7.2.7.

⁴² *Geographia* 14.1.23.

⁴³ Oster, 1715.

⁴⁴ Farnell, 482.

⁴⁵ Brenk, 161-163.

⁴⁶ Brenk, 168-169.

⁴⁷ Bengisu, 10.

⁴⁸ Bengisu, 10, n.35.

⁴⁹ *Geographia* 8.7.5.

⁵⁰ *Anabasis* 5.3.8.

⁵¹ Cole, 164.

the existence of festivals of Artemis involving maidens to postulate that women and *parthenoi* engaged in rituals of *hydrophoria* to protect sacred springs.⁵² While we do not have evidence of these specific rituals at Ephesos, certainly a link with water informed the nature of Artemis Ephesia's divinity.

Artemis Ephesia was also associated with the liminal period of passage from youth to adulthood. Moving from the position of child to adult in the community was a key moment of transition, especially for young women. We have evidence for a ritual procession of adolescent male and female Ephesians, along with its aetiological myths, which indicates that Artemis Ephesia facilitated this turning point in young people's lives. It was called the "Daitis" festival and it included dressing the cult statue of Artemis with new attire and feeding her a ritual meal of salt.⁵³ Xenophon of Ephesos wrote a romance, in which the protagonists fall in love while participating in this festival. Habrokomes, the leader of the sixteen-year-old ephebes is smitten with Antheia, the leader of the fourteen-year-old maidens when the boys and girls mingle after the procession and sacrifice at the temple. In the story the adolescents carry ritual objects, torches, baskets, and perfumes for the sacrifice, and horses, dogs and people carrying hunting gear follow them.⁵⁴ A 1st century BCE inscription identifies the "ritual objects" as salt, wild celery, cloth, and *kosmos* (ornaments).⁵⁵ Although the myth of Hekate discussed earlier may be an *aition* for this festival,⁵⁶ the more conventionally accepted aetiology, found in the *Etymologicum Magnum*, recounts how a group of Ephesian young men and virgins led by one Klymena carried the statue of Artemis to a field by the sea, danced around her and offered her a meal of salt. When the ritual was not repeated the next year the wrathful goddess sent a plague on the young people. Since then the "Daitis" festival took place to appease the goddess and prevent any further retaliation.⁵⁷ Romano interprets that the adolescents' participation in the festival (as demonstrated by the example of Habrokomes and Antheia) functioned to arrange new marriages and suppress unofficial unions by integrating the young people into appropriate sexual life. Thus Artemis is a *kourotrophos* in the sense that she supervises a young person from childhood until he or she passes over into adult life.⁵⁸

⁵² Cole, 164.

⁵³ Irene Bald Romano, "Early Greek Cult Images and Cult Practices," *Early Greek Cult Practice*, ed. Robin Hagg et al. (Stockholm, 1988) 129; Walter Burkert, *Structure and History in Greek Mythology and Ritual* (Berkeley, 1979) 130.

⁵⁴ *An Ephesian Tale* 1.1-3.

⁵⁵ Romano, 128.

⁵⁶ Johnston, 243.

⁵⁷ Romano, 94.

⁵⁸ Romano, 96-101.

Perhaps the legend of the Amazons' connection with the cult of Artemis Ephesia further serves to identify the goddess with (young) women who have not (yet) taken on their normative social function as wives and mothers. The Amazons were a mythical race of female warriors who come from remote Pontic Asia Minor.⁵⁹ As mentioned earlier, Pausanias records that the Amazons visited and sacrificed at the sanctuary three times, and even settled down in the vicinity.⁶⁰ Callimachus writes of how the Amazons were actually the founders of the cult; they set up an image of the goddess under an oak tree and performed a war-dance around it, where later a sanctuary was built.⁶¹ This ritual is strikingly similar to the one Klymena performs in the "Daitis" myth. Their legendary role in setting up the worship of Artemis Ephesia points to her antiquity and her identity as an Anatolian goddess. As a society outside of society, the Amazons were not fully acculturated females; they hunted and fought, activities normally performed by men. In some stories that have no male consorts at all, while in others their husbands act as stay-at-home dads. They effect an inversion of accepted gender roles, and as such, may reflect the status of maidens about to undergo initiation into adult life.⁶²

The last major function of Artemis Ephesia that deserves to be examined is her role as a fertility goddess. If she originated as Kybele, then it is possible that she retained Kybele's association with fertility.⁶³ However, Oster argues that by the Roman period, after her Hellenization, Artemis Ephesia's origination as the "Great Mother" had been forgotten.⁶⁴ The idea, in popular imagination, of Artemis Ephesia as a fertility goddess grew out from the identification of her chest ornaments with breasts. Oster right notes that her lable as *polymaston* was applied only by late, polemical Christian sources.⁶⁵ LiDonnici, however, argues that as Artemis Ephesia became more universalized and associated with Isis (an Egyptian fertility goddess) during the Hellenistic and Roman periods, the Ephesians may have begun to understand the decorations as breasts "to suggest an extremely nurturant, protective, and sustaining goddess."⁶⁶ Thus even the ancients may have understood Artemis Ephesia as a fertility god-

⁵⁹ "Amazons," OCD.

⁶⁰ *Descriptio Graeciae* 7.2.7.

⁶¹ *Hymnus in Dianam* 237-258.

⁶² "Amazons," OCD.

⁶³ "Cybele," OCD.

⁶⁴ Oster, 1725-1726.

⁶⁵ Oster, 1725; Minucius Felix Octavius 22.5 (ca. 220 CE); Jerome *Commentariorum in epistolam ad Ephesios proem* (PL 26. 441) (387 CE).

⁶⁶ Lynn R. LiDonnici, "The Images of Artemis Ephesia and Greco-Roman Worship: A Reconsideration," *The Harvard Theological Review*, vol. 85, no. 4 (Oct. 1992) 408.

dess, at least in her earliest and latest incarnations.

In this investigation of Artemis Ephesia, we have discovered that she most probably began as a Anatolian goddess, either Kybele and Hekate, and was later conflated with the Greek Artemis. Her Anatolian and Greek aspects together inform her identity as a protector of Ephesos and of suppliants, a liminal nature goddess associated with adolescent transition into adulthood, and a producer of abundance. As archeology continues to teach us more about Artemis Ephesia and her beginnings, we can anticipate a fuller understanding of the nature of the goddess.

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Moschus' Lament for Bion: A Translation

yes, Walt,
Afoot again, and onward without halt,—
Not soon, nor suddenly,—no, never to let go
My hand
in yours,
Walt Whitman—
so—

Hart Crane

Mournfully wail, I beg, O woodland vales and Dorian streams,
And weep, O waters, for the lovely Bion.
Now, O foliage, I beg, into tears melt and, O groves, now mourn;
O flowers with sullen clusters, breathe your last breath;
Now, roses, blush redder in your sorrow, now, anemones, blush;
Now, Hyacinth, call out your letters and take on
A darker “aiai” on your peddles: the beautiful bard has died.

5

Begin, O Sicilian Maidens, a song of sorrow, begin, O Muses!

O nightingales, mourning among the dense canopy,
Announce to the Sicilian streams of Arethusa that
Shepherd Bion has died, that with him
Lyric has also died, and Dorian lyric is dead.

10

Begin, O Sicilian Maidens, a song of sorrow, begin, O Muses!

O swans, shed tears in mourning at the Strymonian waters' edge,
And in sad notes sing the woeful song,

15

Such a song as in old age he used to sing with a voice like yours.
 And tell again the Oeagrian maidens, tell to all
 The Bistonian nymphs that the Dorian Orpheus has perished.

Begin, O Sicilian Maidens, a song of sorrow, begin, O Muses!

He sings no longer to the herds, that beloved shepherd, 20
 No longer sitting beneath the lonely oaks does he sing,
 But alongside Pluto he sings a Lethean strain.
 The mountains are silent, and the cows, wandering
 Astride the bulls, lament and refuse to graze.

Begin, O Sicilian Maidens, a song of sorrow, begin, O Muses! 25

Your sudden fate, Bion, Apollo himself lamented,
 And the Satyrs and the black-cloaked Priapi are weeping;
 And the Pans wail for your voice, and throughout the wood
 The daughters of the fountain lamented; their tears turned to streams.
 And Echo, among the rocks, laments that you are silent, 30
 And no longer does she answer your voice, and upon your death
 The trees threw down their fruit and all the flowers wasted away;
 Sweet milk has not flowed from the ewes, nor honey from the hive,
 But grieving it dried up in the wax, and no longer is it necessary
 To gather honey from the bees, seeing yours has perished. 35

Begin, Sicilian Maidens, a song of sorrow, begin, O Muses!

Not so loudly on the sea-bank wept the Siren,
 Nor so sadly on the rocks did the Nightingale sing,
 Nor so piteously lamented the Swallow throughout the rolling hills;
 And not so mournfully did Ceyx cry for the sufferings of Halcyon, 40
 Nor even so did Ceryl call out over the grey swells;
 Not so lamentably in the dales of dawn did the bird of Memnon
 Bewail the child of morning, fluttering above his grave,
 As when they mourned for Bion, dead.

Begin, Sicilian Maidens, a song of sorrow, begin, O Muses!

45

The nightingales all and the sparrows, which once he made glad,
Which he would teach to chirp, roosting at the base of the tree-trunk arow,
Kept wailing in antiphon, and those that made answer cried:
“Birds, grieve, O wretched ones; yet we will also.”

Begin, Sicilian Maidens, a song of sorrow, begin, O Muses!

50

Who shall play upon your syrinx, thrice longed-for poet?
Who shall put his lip upon your reeds? Who is so bold?
For yet still do your lips and your breath live,
And among the reed thickets still does your song resound.
To Pan shall I carry your songs? Perhaps even he would fear
To press his lip to your pipe, lest he win but second place after you.

55

Begin, Sicilian Maidens, a song of sorrow, begin, O Muses!

Even Galatea, whom you once delighted as she sat
With you on the shore, laments your song;
For not like the Cyclops did you play music: him did
Fair Galatea flee; but upon you she used to look more sweetly than upon the ocean
And now the swells are unnoticed as she sits upon
The lonely strand; but still does she put your cattle to pasture.

60

Begin, Sicilian Maidens, a song of sorrow, begin, O Muses!

O herdsman, with you all the gifts of the muses have died,
The lovely kisses of maidens, the lips of boys,
And around your grave the sullen lovers weep;
Even Cypris adores you far more than the kiss
She gave Adonis as just now he lay dying.

65

Begin, Sicilian Maidens, a song of sorrow, begin, O Muses!

69a

This, O most clear-voiced of rivers, is your second grief; 70
 This, Meles, is the new grief. Long ago your Homer passed away,
 That sweet voice of Calliope, and you, as the story goes,
 Wept for your lovely son with much-lamenting rivers,
 And all the salty ocean did you swell with woeful cries. Now once again
 You cry for another son and waste away on account of a new sorrow. 75
 Both were loved by the springs; while one drank at the
 Fountain of Pegasus, the other oft drained an Arethusian draught.
 One sang of the fair daughter of Tyndarus,
 And the mighty son of Thetis, and Menelaus, son of Atreus;
 While the other sang not of wars, not of tears, but oft piped of Pan, 80
 And as a herdsman he played and singing did he graze his flocks.
 He made panpipes and milked the sweet young cows;
 He used to teach lads how to kiss, and Eros
 He tended in his heart and won over Aphrodite.

Begin, Sicilian Maidens, a song of sorrow, begin, O Muses! 85

Every famous city, O Bion, all the towns lament you.
 Ascrea mourns for you far more than for Hesiod;
 Pindar is not so missed by the Boetian forests;
 Not so tenderly weeps Lesbos for Alcaeus,
 Nor so loudly does the town of Teos wail for her bard; 90
 Paros yearns after you more far than for Archilochus, and instead of
 Sappho's song, yet still Mitylene cries out for yours...
 [Here several verses have been lost]
 ...In Syracuse, Theocritus. Yet for you do I
 Chant the threnody of Ausonian sorrow, I, no stranger to
 Bucolic song, which you taught your understudies, 95
 I, heir to the Dorian Muse, which was my reward:
 For while to others you left behind your wealth, to me your song.

Begin, Sicilian Maidens, a song of sorrow, begin, O Muses!

O alas! While when the mallows wither in the garden,

And the green parsley and the close-curved anise, 100
They live again, springing up the following year.
But we mortals, the mighty and strong, the wise,
When we die, deaf in a hole
We sleep a goodly long time that knows no waking.
And so while covered in earth you shall in silence lie, 105
The nymphs thought it best that always the frog will croak.
But I would not envy him, for the song he sings is not so shrill.

Being, Sicilian Maidens, a song of sorrow, begin, O Muses!

Poison came, O Bion, to your mouth, Poison you did eat.
To such lips did it come and was it not made sweet? 110
What man could be so fell either to mix for you
The poison, or hand it to you at your call?

Begin, Sicilian Maidens, a song of sorrow, begin, O Muses!

But Justice has overtaken them all. But I still weeping
Over this sorrow, lament your fate. And were I able, 115
As Orpheus descended into Tartarus, as once
Odysseus, as Alcides before, readily I too would have
Come to the house of Pluto, that I might see you, and if you were
Playing for Pluto, that I might listen to your lay. But come! for the Maiden
Pipe some Sicilian song and sing some sweet pastoral. 120
She, too, is Sicilian, and used to frolic on Etna's shores;
She is familiar with Dorian lyric. Your song
Will be not without reward. And as once she granted
Eurydice's return to Orpheus, sweetly strumming his lyre,
You, too, she shall send to the hills, and if I in piping 125
I could make effect, beside Pluto, had I myself sung, too.

Dante's Metam-Orpheus:
The Unspoken Presence of Orpheus
in the *Divine Comedy*

Leah Schwebel

The myth of Orpheus figures prominently into literature from the Hellenistic era to the present day, yet the interpretations of the myth have remained anything but static during its transmittance. The myth of Orpheus has undergone so many interpretive changes throughout the ages that the mere mention of the name Orpheus evokes a plethora of images, concepts, literary tropes, and archetypes. The physical rending apart of Orpheus by the Maenads, as told by Virgil and Ovid in the Augustan Age, foreshadows the literal fragmentation of the Orpheus myth by writers over time, who have repeatedly manipulated the myth to bolster their own literary aims. This cannibalization of the Orpheus myth was especially popular for writers in the Middle Ages, a time when pagan myths were typically explained either allegorically or euhemeristically so that they could be syncretized with Christian ideology. For this paper I am tracing the implicit and explicit references to the multifaceted figure of Orpheus in Dante's *Divine Comedy*. Dante only explicitly names Orpheus once in his *Divine Comedy*, upon seeing him within the Limbo for intellectuals. Yet the function of the Orpheus figure in the *Divine Comedy*, similar to his overall function in literature, is that of a chimera. The shade of Orpheus residing in Dante's Limbo serves only as the mold for the multiple imprints the figure leaves throughout the text.

Dante's overt reference to Orpheus is brief; the pilgrim merely mentions that he sees "Orpheus, /and Tully, Linus, moral Seneca"¹ among the "philosophic family."² The perception of Orpheus as a philosopher epitomizes one of the more prevalent interpretations of his schizophrenic lit-

¹ Dante, *Inferno*, trans. Allen Mandelbaum (New York: Bantam Books, 1982) 4:140-1.

² *Inf.* 4:132.

erary identity, yet this aspect of his character was by no means thought to be the most significant or definitive for the writers of the Middle Ages. Emmet Robbins perceives there to be “three facets of this astonishing character,” which “account for the universality of his appeal.”³ He identifies each of the three aspects as “Orpheus the revealer of mysteries [...] Orpheus the lover [...] and Orpheus the musician.”⁴ While Robbins’ evaluation limits the possible identities of Orpheus to three, in the Middle Ages alone, the allegorisis of the Orpheus myth resulted in countless interpretations and literary revisions of the tale, any one of which would be easily recognizable to Dante’s audience. According to Boethius, Orpheus represents “the human soul fleeing the body and the earth but dragged back by its inability to reject *temporalia*-love for Eurydice.”⁵ For Remigius, Orpheus “is reported to have made the woods run and the waters stand still because he was a theologian and led men from wild ways to a civilized life.”⁶ Indeed, the list goes on.⁷ While the variance of the interpretations is clearly symptomatic of what Gilbert Highet calls “the detestable medieval habit of extracting a moral lesson from every fact or work of art,”⁸ it provided Dante with a smorgasbord of material for his own rendition of the Orpheus myth.

Freidman describes the figure of Orpheus as “a broken antique statue, pieced together from scattered fragments and even then forced to face posterity without an arm or a nose.”⁹ This metaphor is helpful for explaining the fundamental divisiveness of Orpheus’ literary identity, as not only is there a plurality among authors for the myth, but each account has been subject to infinite interpretations as well. Because of the vast and oblique nature of the body of literature concerning Orpheus, Dante could have irreproachably placed Orpheus among the sinners in any number of his circles of hell. Indeed, had Dante wanted to adhere to his guide’s rendition of the myth, the figure of Virgil’s Orpheus would

³ Emmet Robbins, in John Warden, ed. “Introduction,” *Orpheus: The Metamorphosis of a Myth* (Toronto: University of Toronto Press, 1982) 3.

⁴ Emmet Robbins, “Famous Orpheus,” *Orpheus: The Metamorphosis of a Myth*, ed. John Warden (Toronto: University of Toronto Press, 1982) 3. For Robbins, the perception of Orpheus as a musician would be inextricably bound up with that of him as an intellectual: “since the voice of Orpheus is the voice of Music, he presides over the transformations and interaction of poetry and science” (4).

⁵ Boethius, as paraphrased by John B. Friedman, *Orpheus in the Middle Ages* (Cambridge: Harvard University Press, 1970) 95.

⁶ Remigius, in Friedman, 100.

⁷ For detailed account of interpretations of the Orpheus myth in the Middle Ages, see the chapter “Oraia-phonos and Eur-dike in Hell” in *Orpheus in the Middle Ages* 86-145.

⁸ Highet, in Friedman, 86.

⁹ Friedman, 5.

have been utterly snug among the tragic lovers in the fifth canto of the *Inferno*, or with Filippo Argenti among the sullen in the eighth. Conversely, had Dante chosen to adopt the version of the myth presented in Ovid's *Metamorphoses*, the versatile Orpheus would have been welcome among the sodomites in canto fifteen of Dante's *Inferno*. Indeed, so many are the interpretive slants of the Orpheus myth, that Dante could have placed Orpheus among the diviners in canto twenty,¹⁰ with the over-curious Ulysses in canto twenty six,¹¹ or even with the suicidal Pier della Vigna¹² in canto thirteen without incurring accusations that he was misreading the mythical figure. Thus, Dante's disposal of Orpheus in the intellectual Limbo, with no further explicit mention of his name, appears rather indiscriminate. One must ask, why did Dante choose the perception of Orpheus as a philosopher as the definitive interpretation of his character when he had an entire trajectory of possible interpretations of the figure to choose from? John Warden, author of the text *Orpheus: The Metamorphoses of a Myth*, comments on the critical efforts to resolve this question,

The early commentators on Dante's *Comedy* give various interpretations of what the poet meant when he placed Orpheus among the virtuous pagans in *Inferno* IV, [...] Pietro di Dante [...] offers the familiar allegory in which the musician seeks his wife [...] who has been sent to hell through the bite of the serpent [...] Andrea Lancia, in his gloss on the passage, uses Orpheus as the occasion for a brief technical discussion of medieval music [...] For Benvenuto da Imola, the story of Orpheus has several meanings [...] The most interesting feature of Benvenuto's gloss is his comparison of Dante and Orpheus [...] Dante [...] did not look back, whereas Orpheus disobeyed the law.¹³

Dante's placement of Orpheus among the philosophers has indeed caused speculation among commentators, yet this speculation has produced little resolution. This is possibly because commentators have largely assumed that Dante's treatment of the Orpheus myth ends with his explicit mention of the figure of Orpheus in canto four. Yet, the figure of Orpheus is not ineluctably fused together with the body

¹⁰ According to John Warden, Orpheus was perceived to be a "great prophet and religious teacher, founder, at least according to legend, of a religious sect called Orphism" (ix).

¹¹ Anderson attributes Orpheus' decision to plead for Eurydice in the underworld more to excessive curiosity than utter desperation. For Anderson, this degradation of emotive subject matter to mere inquisitiveness marks one of the major changes from Virgil's rendition of the text to Ovid's. See *Orpheus: The Metamorphosis of a Myth* 25-50 for further discussion on this topic.

¹² Anderson locates the "main theme" of Virgil's story of Orpheus as the "essentially futile and ultimately suicidal, grief for a loss that cannot be altered" (33). His endless mourning renders him an "emblem of inertia and death".

¹³ Warden, 225-6.

of literature surrounding him, and the myth of Orpheus does not have a singular interpretive meaning for Dante, though it appears to initially. Dante resolves the discrepancy between the singularity of the figure of Orpheus and the plurality of interpretations of his character by distinguishing between Orpheus the man and Orpheus the myth(s). Though the figure of Orpheus is represented in Limbo as a poet and philosopher, Dante invokes the network of Orphic literature at various points in his narrative, and a facet of the fragmentary Orpheus serves as the implied prototypical model for many of his characters.

Dante's primary sources for his duplicable Orpheus are Virgil's fourth Georgic and Ovid's *Metamorphoses*. The Orpheus figure in canto four of the *Inferno*, however, is Dante's own invention. Dante's Orpheus is one among a group of pagans who "did not sin", but are punished because "they lived before Christianity."¹⁴ Dante would have indicted both Virgil and Ovid's Orpheus according to his Christian framework, at the very least as either a sullen, tragic lover or a homosexual, respectively. In contrast to Virgil and Ovid's Orpheus, the Orpheus in Dante's Limbo is virtuous, and for that matter, silent. Though not mentioned explicitly, Dante uses Virgil and Ovid's literary constructions of Orpheus as models for his characters: Francesca da Rimini, Filippo Argenti and Brunetto Latini. Because of the brevity of this paper, I will focus on the implied presence of Virgil's Orpheus as the paradigmatic model for the tragic lovers in the *Divine Comedy*. However, the similarities between the story-telling Orpheus in Ovid, the "originator ('auctor') of male homosexuality,"¹⁵ and the poet/pedant Latini are noteworthy. Both men are poet homosexuals, and Latini's plea to Dante, "let my *Tesoro*, in which I still live /be precious to you,"¹⁶ resonates both the popular conception of Orpheus as a symbol of timeless literary fame, as well as his author, Ovid's, declaration in the *Metamorphoses*,

Now I have done my work, it will endure,
I trust beyond Jove's anger, fire and sword,
Beyond Time's hunger. The day will come, I know,
So let it come, that day which has no power,
Save over my body, to end my span of life
Whatever it may be. Still, part of me,
The better part, immortal, will be remembered

¹⁴ *Inf.* 4: 34, 36.

¹⁵ W. S. Anderson, "The Orpheus of Virgil and Ovid: *fleBILE nescio quid*," *Orpheus: The Metamorphosis of a Myth*, ed. John Warden (Toronto: University of Toronto Press, 1982) 25.

¹⁶ *Inf.* 15:119-20.

¹⁷ Ovid, *Metamorphoses*, trans. Rolfe Humphries (Bloomington: Indiana University Press, 1983) 15.

I shall be read, and through all centuries,
 If prophecies of bards are ever truthful,
 I shall be living, always.¹⁷

By alluding to Ovid's *Metamorphoses*, Dante also draws a connection between Ovid's exile from Augustan Rome, and his own exile from Florence, and suggests the capacity of literature to transcend the divisive ages of humanity and so achieve immortality beyond the author.

Another reworking of Orpheus may be seen in Dante's depiction of Filippo Argenti, who definitively classifies of himself as "one who weeps."¹⁸ Dante speaks of Argenti's fate at the hands of the other wrathful and sullen sinners:

Then he stretched both his hands out toward the boat [...]
 Soon after [...] I saw
 The muddy sinners so dismember him [...]
 They all were shouting: 'At Filippo Argenti.'¹⁹

The parallels between this passage and Virgil's fourth Georgic are striking: Eurydice, like Argenti, extends her "helpless hands [...] stretching to you [Orpheus]."²⁰ Orpheus is said to have "vainly grasped at shadows" before the "Thracian women [...] tore him apart."²¹ While Orpheus serves as a model for Dante's characters Argenti and Latini, most exceptional is Dante's depiction of Francesca da Rimini. Francesca is suspiciously reminiscent of Virgil's Orpheus, and Dante the pilgrim encounters her only moments after leaving the spirit of Orpheus in Limbo.

The figure of Orpheus rendered in Virgil's fourth Georgic is primarily a tragic and passionate lover. Indeed, critics have noted potential similarities between Virgil's Orpheus and his later creations of Dido and Turnus,²² both of whom are notorious for their sublimation of reason under passion, and the former of which suffers in Dante's inferno for her rashness. Anderson asserts that like his predecessor Dido, it is Orpheus' passion that is ultimately the cause of his demise. He argues that "Virgil has made his central object the portrayal of love as 'furor.'"²³ While "Orpheus almost resurrected

¹⁸ *Inf.* 8:36

¹⁹ *Inf.* 8:40, 58-9, 61.

²⁰ Virgil, *Georgics*, trans. L. P. Wilkinson (Middlesex, 1982) 497-8.

²¹ Virgil 519.

²² Anderson states that: "Orpheus, Virgil's first elaborate dramatic character, is the prototype of those magnificently flawed individuals Dido and Turnus of the Aeneid" (36).

Eurydice, [...] his irrational passions froze him in inactivity and ultimately brought about his death.”²⁴ Despite Orpheus’ “irrational passion”²⁵ there seems to be no place for Orpheus in Dante’s circle for the lovers where, as Dante pilgrim explicates, the sinners “are damned because they sinned within the flesh, subjecting reason to the rule of lust.”²⁶ However, upon closer examination, Dante’s description of the sinners in hell is reminiscent of Virgil’s description of the shades in the underworld, as told in his fourth Georgic. Virgil’s Orpheus, as well, resides in the circle of the lustful in spirit, or in spirit of a spirit, as the model for the figure of Francesca.

Virgil uses an epic simile to describe how the shades in his underworld flock to the figure of Orpheus like birds:

Drawn from the very depths
Of Erebus came insubstantial shades,
The phantoms of the lightless. Thick as birds
That hide themselves in thousands in thousands in the leaves
When evening or a winter shower has brought them
Down from the mountains.²⁷

The lovers Dante summons are, like Virgil’s shades, drawn to him:

As doves when summoned by desire,
Borne forward by their will, move through the air
With wings uplifted, still, to their sweet nest,
Those spirits left the ranks where Dido suffers.²⁸

Dante invokes this simile a second time, as though in conversation with Virgil’s Georgic. His lovers are not merely birds in the broad, generic sense of the word; Dante’s lovers are doves, starlings and cranes! He grandiloquently continues:

And as, in the cold season, starlings’ wings
Bear them along in broad and crowded ranks,
So does the blast bear on the guilty spirits:
Now here, now there, now down, now up, it drives them.²⁹

²³ Anderson, 47.

²⁵ Anderson, 29.

²⁷ Virgil 471-6.

²⁸ *Inf.* 5:82-85.

²⁴ Anderson, 35.

²⁶ *Inf.* 5: 38-9.

Virgil, not to be outdone even posthumously, in turn relates Orpheus' incessant weeping to the cries of a mournful nightingale:

He wept [...] as the nightingale
 Mourning beneath the shade of a poplar-tree
 Laments lost young ones whom a heartless plowman
 Has spied unfledged in the nest and Plundered.
 She weeps all night long and perched upon a bough
 Repeats her piteous plaint, and far and wide
 Fills all the air with grief.³⁰

Dante reciprocates, extending the simile in order to evoke a sense of perpetual mourning, similar to Orpheus' endless grief, in his tragic lovers. Both the nightingale-like Orpheus of Virgil and the crane-like lovers of Dante mourn their fate to the unresponsive winds:

There is no hope that ever comforts them-
 No hope for rest and none for lesser pain.
 And just as cranes in flight will chant their lays,
 Arraying their long file across the air,
 So did the shades I saw approaching, borne
 By that assailing wind, lament and moan.³¹

The structural similarities between the two texts render Dante's deliberate omission of Orpheus' conspicuous at the very least. Where is Virgil's original tragic lover, whose character served as the skeletal model for Virgil's creation of Dido? The answer comes with Dante's introduction of Francesca.

When we meet Francesca da Rimini, the lover who converses with Dante in the fifth canto, Dante pilgrim tells her, "Francesca, your afflictions /move me to tears of sorrow and pity."³² Akin to Orpheus, Francesca has the capacity to move people to tears with her words. Virgil tells his reader that Orpheus could move: "hard hearts no human prayer [could] hope to soften."³³ Francesca responds to Dante's ejaculation of pity with the words, "there is no greater sorrow /than thinking back upon a happy time /in misery-and this your teacher knows."³⁴ Lest we had forgotten Virgil's presence, and what his

²⁹ *Inf.* 5:40-3.

³⁰ Virgil 507, 511-515.

³¹ *Inf.* 5:44-49.

presence entails, Francesca reminds us that the author and creator of the tragic lovers, Orpheus and Dido, is standing beside them. She continues in her address to Dante, “I shall tell /my tale to you as one who *weeps and speaks*,”³⁵ she says, echoing Orpheus’ own vocal lament of his dead wife through song. Francesca’s tale evolves to be quite similar to Orpheus’. Just as in Orpheus’ case, “madness overcame /the unwary lover”,³⁶ Francesca tells Dante how she, too, was overcome by a rash and tragic love on earth:

Love that can quickly seize the gentle heart
 Took hold of him [...]
 Love, that releases no beloved from loving,
 Took hold of me [...]
 Love led the two of us unto one death.³⁷

The triple repetition of the word ‘Love’ by Francesca echoes Orpheus’ thrice uttered lament for his wife:

‘Eurydice!’ the voice and frozen tongue
 Still called aloud, ‘Ah, poor Eurydice!’
 As life was ebbing away, and the river banks
 Echoed across the flood, ‘Eurydice.’³⁸

Virgil’s Orpheus, though not even gratified with a vestigial presence in this canto, permeates every line and every character of this episode. Anderson argues that “Virgil unflinchingly requires us to perceive Orpheus as guilty,”³⁹ yet, it is impossible to condemn what is not apparent. Virgil’s Orpheus symbolically represents the archetypal tragic lover for Dante, yet implicitly so, as the original shade of Orpheus subsists, guileless, in Limbo.

³² *Inf.* 5:116-17.

³⁴ *Inf.* 5:121-3.

³⁶ Virgil 490-1.

³⁷ *Inf.* 5, 100-1, 103-4, 106

³⁸ Virgil 526-30

³³ Virgil 470.

³⁵ *Inf.* 5:125-6.

Dante alludes to Virgil's Orpheus as the lover again in canto thirty of his *Purgatorio*. In this canto, Virgil's disappearance from Purgatory stems an emotive discourse from Dante pilgrim: "but Virgil had deprived us of himself, /Virgil, the gentlest father, Virgil, he /to whom I gave my self for my salvation.⁴⁰ Critics have noted the implicit allusion to Virgil's Orpheus in Dante's lament:

As Daniello was the first to point out, Virgil's fourth *Georgic*, with its double tragedy of Orpheus' loss of Eurydice and of his own life, is reformulated to serve as Dante's farewell to Virgil, when he perceives that his 'sweet father' is no longer with him, the words 'Virgilio, Virgilio, Virgilio' paralleling Orpheus' three apostrophizing cries, 'Eurydice, Eurydice, Eurydice.'⁴¹

Dante's renewed incorporation of Orpheus' tragic speech suggests what Dante pilgrim could have become, had he never ceased mourning the disappearance of Virgil. Dante pilgrim is in mortal danger of re-enacting Orpheus' role as the eternally mourning lover, yet he is saved by Beatrice, who tells him "do not /yet weep, do not weep yet."⁴² The loss of Virgil is not sufficient cause for endless lament for Dante. Beatrice tells Dante that he will need to save his tears for his journey into Paradise.⁴³ This canto has a profound element of transcendence, both poetic and spiritual. Dante will transcend the world of mortals into Paradise, and while doing so, he will as well surpass Virgil in poetic glory. Beatrice interrupts Dante pilgrim's thrice-uttered cry to the absent 'Virgil' by calling out to him by name. As Mandelbaum points out, Beatrice's vocalization of "Dante,"⁴⁴ constitutes "the first and only time that Dante's name is mentioned in the *Comedy*."⁴⁵ Thus, Virgil and his poetry are re-wrought by Dante as models that merit reverence, but ultimately must be surpassed. The allusion to Orpheus, while nevertheless a tribute to Virgil's poetic mastery, serves to institute Dante as the pre-eminent poet.

Dante silences the ever-mourning figure of Orpheus by assigning him to a Limbo where he does not speak, but rather is spoken for by his setting among intellectuals. Dante allows this facet of the mythical Orpheus to predominate only briefly, as Dante's Orpheus is soon overshadowed by the prevalent, yet tacit allusions to Virgil and Ovid's Orpheus throughout the text. Perhaps by recasting

³⁹ Anderson, 43.

⁴⁰ *Inf.* 30. 49-51.

⁴¹ Robert Hollander "Dante's Virgil: A Light that Failed," *Poetry and Prophecy*, 28 April 1985 <http://www.brown.edu/Departments/Italian_Studies/LD/numbers/04/hollander.html>.

⁴² Dante, *Purgatorio*, trans. Allen Mandelbaum (New York, 1982) 30:55-6.

⁴³ *Purg.* 30:57-8.

⁴⁴ *Purg.* 30:55.

⁴⁵ Allen Mandelbaum, "Endnotes to Canto 30" in *Inferno*, trans. Allen Mandelbaum (New York, 1982) 397.

Orpheus as a speechless intellectual, Dante is implying the superiority of textual over oral discourse, as Dante's *Divine Comedy*, like Ovid's *Metamorphoses*, can speak for the poet either out of exile, or after death. The appearance of the myth of Orpheus is manifold in Dante's work, yet by no means blatant. Either in his conspicuous absence among the astrologers, for example, or his implied presence in the circles for the lovers and the sullen, Orpheus' voice resonates through the *Divine Comedy*, though it is seen and not heard.

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Gaius c. Voltaire:
une théorie de l'abus de droit
en droit romain classique ?
Camille Paulus

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Un droit porté trop loin devient une injustice

VOLTAIRE, PARAPHRASANT LA MAXIME LATINE *SUMMUM JUS SUMMA INJURIA*

Personne ne peut être considéré comme commettant dol, s'il se conduit selon son propre droit

GAIUS, *DIG.* 50.17.55

Introduction

Au titre final du Digeste de Justinien, comparé par certains à une «foire aux quincailleries»,¹ les Compilateurs ont recueillis une série de maximes extirpées de textes romains les plus variées. Sous ce titre, l'on retrouve l'affirmation *nullus videtur dolo facere, qui suo iure utitur*.² Pour plusieurs, cette maxime établirait clairement le refus du droit romain d'affirmer l'existence d'une notion générale d'abus de droit. Cependant, il faut mettre en perspective cette interprétation puisqu'elle aurait sans doute été introduite par les glossateurs.³ Il est donc justifié de nous enquerir sur l'existence ou l'absence d'une théorie d'abus de droit en droit romain classique. Précisons que la qualification «classique», que nous attribuons ici au droit romain, réfère au droit romain libre de toutes interpolations, à la fois par les glossateurs mais aussi par les compilateurs.

Pour les fins de notre étude, nous circonscrirons notre analyse à l'exercice du droit de propriété. Nous étudierons différentes catégories de règles spécifiques limitant l'exercice du droit de propriété et celles permettant l'usage abusif de ce dernier. Nous démontrerons que l'existence d'un certain nombre de règles spécifiques limitant considérablement l'exercice du droit de propriété se justifiaient, non pas sur la base d'une théorie générale d'abus de droit, mais bien par des arguments de nature morale. Puis, nous exprimerons nos réserves face aux arguments supportant l'existence d'une théorie de l'abus de droit, en particulier la formule de *dolo* développée par le Préteur Aquilius Gallus.

¹ Ursula Elsener, *Les racines romanistes de l'interdiction de l'abus de droit* (Belgique, 2004) 190.

² Elsener, 189 traduit ainsi la maxime: «Personne ne peut-être considéré comme commettant dol, s'il se conduit selon son propre droit»; dans cet essai, à moins d'avis contraire, comme en l'espèce, nous utiliserons la traduction suivante du *Digeste*: *The Digest of Justinian*, trad. Alan Watson et al., éd. Krueger et Mommsen ed (Philadelphia, 1985) 50.17.55.

³ Michael Taggart, *Private Property and Abuse of Rights in Victorian England* (New York, 2002) 126.

La restriction de notre étude au droit de propriété

Cette étude est en effet restreinte à l'abus de droit en matière de propriété. Pour comprendre les motivations de cette limite méthodologique, il est nécessaire de savoir que les fondements de la théorie moderne de l'abus de droit, fondements qui seront approfondis au cours de cette étude, se développèrent en France et en Angleterre dans le domaine du droit de propriété. La naissance des principes juridiques de l'abus de droit dans ce domaine semble être justifiée par le fait que les abus en matière de droit de propriété sont «plus faciles à commettre et plus aisément constatés et mesurés dans leurs conséquences matérielles.»⁴ Aussi, s'il existe une théorie générale de l'abus de droit en droit romain, c'est relativement à l'exercice du droit de propriété que nous la trouverons.

Définition de l'abus de droit

Ayant établi notre champs d'étude, il est souhaitable de préciser la définition d'abus de droit qui sera utilisée en l'espèce. L'abus de droit est ici entendu comme l'exercice d'un droit de propriété avec l'intention ou la connaissance que cet exercice nuira à autrui.⁵ Avec cette définition à l'esprit, nous aborderons deux catégories d'exemples distinctes. La première exprimera des règles spécifiques limitant l'exercice du droit de propriété pouvant être justifié par des arguments de nature morale, mais aussi par des arguments de nature économique et sociale. La seconde catégorie exprimera des règles permettant l'exercice déraisonnable et abusif du droit de propriété.

Limitations de l'exercice du droit de propriété

Les exemples utilisés porteront sur les restrictions du droit de propriété relatif au traitement des esclaves ainsi que sur les limitations du droit de propriété visant à garantir à tous un accès minimal à la lumière naturelle.

Limite du droit de propriété relatif aux esclaves

L'une des facettes distinctives du droit de propriété romain est le cas particulier de l'esclavage.

⁴ Claude Lussier, «La théorie de l'abus des droits dans le droit civil de la province de Québec», dissertation présentée pour l'obtention du Bac en droit civil, McGill Univ., 1945, 34.

⁵ W. W. Buckland et F. H. Lawson, *Roman Law and Common Law: A Comparison in Outline* (Cambridge, 1952) 96.

⁶ Dig. 1.5.

Au titre de *statu hominum* du Digeste,⁶ Florentinus définit l'esclavage comme étant une «institution of the *jus gentium*, whereby someone is against nature made subject to the ownership of another.»⁷ Selon cette définition, il est indiscutable que les esclaves étaient perçus comme des choses pouvant être acquises, possédées et cédées et non comme étant des êtres humains.⁸ De par cette nature d'objet de propriété, il découle une caractéristique considérée comme l'élément essentiel du droit romain relatif à l'esclavage soit l'absence de droits propres à l'esclave.⁹ En effet, les auteurs modernes s'entendent pour caractériser l'esclave romain non pas par son absence de liberté, mais bien par son absence de droits.¹⁰

Il semble qu'aucune limitation légale de l'exercice du droit de propriété d'un maître à l'égard de son esclave n'ait existé durant la République. Une situation pouvant s'expliquer par un nombre relativement peu élevé d'esclaves durant la majorité de cette période, ainsi que des liens plus étroits entre les esclaves et leur maîtres.¹¹ Par contre, le pouvoir *regimen morum* du Censeur, pouvoir lui permettant d'émettre un blâme ou une sentence en cas de violation des mœurs et de la morale publique, couvrirait aussi les actes de cruauté à l'égard des esclaves.¹² Toutefois, le pouvoir du Censeur était grandement limité par des considérations d'ordre procédural, un esclave subissant de mauvais traitements n'ayant aucune qualité d'agir en justice. De plus, les Censeurs n'étant élus que pour un mandat d'au plus dix-huit mois et cela à intervalle de quatre ou cinq ans, de longues périodes s'écoulaient sans qu'aucun blâme ne puisse être émis.¹³ Finalement, il faut noter que le pouvoir *regimen morum* ne semble pas avoir été motivé par une prohibition générale de l'abus de droit. Il doit plutôt être interprété comme un des éléments constitutifs de l'autorité du Censeur, lui permettant d'assurer le respect de la morale publique par les citoyens. Un rôle intrinsèquement lié à l'importance que les Romains attribuaient au maintien d'une image publique irréprochable.

Le début de l'Empire fut caractérisé par une accumulation considérable de richesses conjugée à une dégénérescence de la vie privée. En raison de ces changements considérables dans les mœurs de l'époque, il semble que l'introduction de mesures législatives pour protéger un nombre crois-

⁷ *Dig.* 1.5.4.1.

⁸ Andrew Borkowski, *Textbook on Roman Law* (Oxford, 1997) 89.

⁹ W. W. Buckland, *The Roman Law of Slavery: The Condition of the Slave in Private Law from Augustus to Justinian* (Cambridge, 1970) 3 [W. W. Buckland]; Voir aussi *Supra* n. 6, 90.

¹⁰ Buckland, 2.

¹¹ Buckland, 36.

¹² A. H. J. Greenidge, *Infamia: Its Place in Roman Public and Private Law* (Oxford, s.n., 1894) 63.

¹³ Alan Watson, *Legal Origins and Legal Change* (London, 1991) 280.

sant d'esclaves d'abus potentiels devint nécessaire.¹⁴

Une première restriction du droit de propriété relatif aux esclaves fut établie par un édit de l'Empereur Claudius,¹⁵ déclarant l'affranchissement d'office des esclaves malades ou infirmes qui avaient été abandonnés par leur maître. Par la suite, Domitien prohiba la castration des esclaves, exposant le maître violant cet interdit à la confiscation de la moitié de ses biens.¹⁶ Hadrien réitéra la mesure et renforça l'exécution de la peine.¹⁷

Mais, les limites les plus considérables sur le traitement des esclaves furent introduites par l'Empereur Antoninus Pius qui régna sur l'Empire romain au deuxième siècle de notre ère. En vertu d'une loi introduite par cet Empereur, lorsqu'un esclave ayant subi des peines insupportables se réfugiait dans un temple ou près d'une statue d'un Empereur, il devait être vendu et ne pouvait être restitué à son maître. Une autre loi d'Antoninus Pius prohibait le traitement cruel d'esclaves et condamnait pour homicide toute mise à mort d'un esclave sur le seul ordre de son maître. Gaius, commentant ces deux constitutions, justifie ces limites manifestes du droit de propriété avec deux arguments distincts.¹⁸ D'une part, il exprime un jugement moral; ainsi, il précise qu'une personne ne doit pas utiliser ses droits à des fins exclusivement préjudiciables. D'autre part, Gaius justifie cette limitation par analogie avec le cas des dissipateurs ne pouvant administrer leur propriété. Dans le cas de ces derniers, une telle mesure est nécessaire pour protéger les intérêts des membres de la famille qui hériteront un jour de la propriété. De la même façon, il n'est pas souhaitable que les maîtres maltraitent leurs esclaves car la valeur marchande de ces derniers risquerait de diminuer.¹⁹

Pour Gaius, l'édit de l'Empereur n'est donc pas basé sur une notion générale d'abus de droit. L'argument de nature morale est utilisé pour justifier une règle spécifique, mais n'est pas une expression d'un principe général de droit.²⁰ Cela est confirmé par la nécessité d'offrir une deuxième justification de nature économique, soit la nécessité de protéger les ressources de l'Empire, pour étayer la première. Notons finalement que les règles sévères prohibant la castration des esclaves peuvent elles aussi se justifier sur la base d'un argument économique. En effet, puisqu'un esclave engendre d'autres

¹⁴ *Supra* n. 8, 36.

¹⁵ *Dig.* 40.8.2.

¹⁶ *Dig.* 48.8.6

¹⁷ *Dig.* 48.8.4.2.

¹⁸ *G.* 1.53.

¹⁹ *Supra* n. 11, 287.

²⁰ *Supra* n. 5, 97.

esclaves, il serait contre-productif de limiter leur reproduction.

Limite du droit de propriété relatif à l'accès à la lumière naturelle

Ayant établi l'existence de limites considérables relativement à l'exercice du droit de propriété des maîtres vis-à-vis leurs esclaves, nous nous tournons maintenant vers les règles gouvernant les droits relatif aux servitudes et particulièrement celles garantissant à tout propriétaire un accès minimal à la lumière naturelle.

Ainsi, en droit romain classique, il est indéniable qu'en l'absence d'une servitude *altius non tollendi* pour le restreindre, un propriétaire pouvait construire un bâtiment aussi haut et large qu'il le désirait, pour autant qu'il laissât à son voisin le minimum de lumière naturelle nécessaire aux activités ordinaires. Si un propriétaire s'avisait de construire un bâtiment bloquant de façon intolérable l'éclairage naturel de son voisin, ce dernier pouvait prendre des mesures empêchant la construction ou forçant la destruction du bâtiment.²¹ Par ailleurs, il semble qu'un usufruitier pouvait poursuivre le propriétaire de la propriété dont il faisait usage, en général l'héritier, si ce dernier élevait un bâtiment ayant pour effet de priver l'usufruitier de son approvisionnement en lumière naturelle.²²

Ces deux exemples sont des limitations considérables de l'exercice du droit de propriété et peuvent paraître incroyablement sévères pour un juriste moderne. Mais, pour bien comprendre la large portée de ces mesures, il faut les situer dans le contexte historique ayant conduit à leur adoption. En effet, la lumière du jour, en l'absence d'une source de lumière artificielle alternative efficiente, affectait considérablement l'accomplissement de toutes les activités quotidiennes du citoyen romain.²³ Il est vrai que certains auteurs justifient l'existence de telles règles sur la base d'un argument de nature morale, soit la nécessité de prendre en considération les besoins de son prochain.²⁴ Mais il faut constater que le principe moral est utilisé pour justifier un exemple précis et ne découle aucunement d'une règle de droit générale qui prohiberait l'abus de droit. Il est donc nécessaire de considérer ces règles spécifiques non pas comme résultant d'une prohibition générale de l'abus de droit mais bien comme

²¹ Alan Roger, *Owners and Neighbours in Roman Law* (Oxford, 1972) 38.

²² Roger, 59.

²³ *Supra* n. 18, 5.

²⁴ *Supra* n. 18, 5.

symptomatique du besoin crucial pour les Romains de s’approvisionner en lumière du jour.

Ceci est d’ailleurs particulièrement évident lorsque l’on examine l’interdit *ne quid in loco publico uel itinere fiat*.²⁵ Cet interdit punissait celui qui, ayant reçu la permission de l’Empereur d’ériger un bâtiment dans un lieu public, exerçait ce droit en toute impunité. En effet, à moins d’une dérogation spécifique accordée par l’Empereur, l’érection d’un bâtiment sur un lieu public ne pouvait causer préjudice aux voisins potentiels.²⁶ Plus spécifiquement, l’interdit permettait d’empêcher l’érection d’une structure dans un lieu public qui risquerait de diminuer son approvisionnement en lumière.²⁷ Il était aussi applicable aux situations où un individu installait un auvent au-dessus de son portique, de sorte que l’auvent bloquait l’accès à la lumière de son voisin.²⁸ Il est intéressant de constater que l’interdit ne pouvait servir de remède dans le cas où le bâtiment construit sur un lieu public bloquait l’accès du demandeur à l’eau.²⁹ Le droit romain semble ici faire une nette distinction entre l’accès à la lumière et l’accès à l’eau. Ceci vient donc soutenir la thèse voulant que les limitations du droit de propriété en l’espèce découlaient non pas d’une notion d’interdiction de l’abus de droit mais bien de l’importance particulière que les Romains attribuaient à l’accès à la lumière du jour.

Règles permettant l’usage abusif de droit du propriété

Sous ce titre, nous allons aborder les cas spécifiques de l’*actio aquae pluviae arcendae* et de l’*actio legis Aquiliae*. Nous montrerons comment ces deux actions limitaient la responsabilité d’un individu lui permettant d’abuser explicitement de ses droits, rejetant ainsi la prétention quant à l’existence d’une prohibition générale de l’abus de droit.

Règles relatives à l’actio aquae pluviae arcendae

La règle de droit romain exprimé par Marcellus sous le titre *De aqua et aquae pluviae arcendae*³⁰ milite expressément en faveur de l’absence d’une théorie d’abus de droit en droit romain classique. Sous ce titre, Marcellus affirme que l’on ne peut pas agir au moyen de l’*actio aquae pluviae*

²⁶ Dig. 43.8.

²⁷ Dig. 43.8.2.16.

²⁸ Dig. 43.8.2.14.

²⁹ Dig. 43.8.2.6.

³⁰ Dig. 39.3.

³¹ Dig. 39.3.1.12.

ae arcendae contre celui qui, en oeuvrant sur son propre fonds, dévie la source d'eau pluviale du voisin si ce dernier fait cela, non pas pour nuire au voisin en question, mais pour améliorer son propre fonds.³¹

L'*actio aquae pluvia arcendae*, dont on peut tracer l'origine à la Loi des XII tables,³² pouvait être intentée contre le propriétaire d'un fonds qui, en altérant l'écoulement naturel de l'eau pluvial sur le fonds du voisin, endommageait ce dernier.³³ Mais comme nous venons de le mentionner, la portée de l'action était fortement restreinte. En effet, en raison de la limite imposée par Marcellus, le propriétaire pouvait ouvertement abuser de ses droits tant et aussi longtemps que son fonds retirait un bénéfice des travaux effectués. Il est vrai que les propos de Marcellus suggèrent que le propriétaire ne pouvait bénéficier de la limitation de responsabilité s'il agissait dans le seul but de nuire à son voisin. Mais il semble qu'une telle position n'ait pas été celle du droit romain classique. Par ailleurs, dans de telles situations il aurait été très difficile de démontrer que les agissements du propriétaire étaient tant dépourvus d'utilité qu'ils devaient forcément être motivés par la malice.³⁴ Il faut donc considérer que tant qu'il en retirait un certain bénéfice, le propriétaire pouvait user de son terrain de la manière la plus absolue.

Mentionnons enfin que l'*actio aquae pluvia arcendae* s'appliquait uniquement aux querelles émanant du partage de l'eau pluviale et laissait donc les parties sans protection lorsque le litige portait sur l'approvisionnement par une source d'eau constante.³⁵ Cette brèche dans le droit romain offrait ainsi le champs libre au propriétaire d'abuser impunément de ses droits et de priver son voisin, par vengeance ou animosité à son égard, de sa source d'eau constante.

Nous devons reconnaître que de telles possibilité d'abus laissent planer un sérieux doute sur l'existence d'une théorie de l'abus de droit en droit romain classique puisqu'une telle théorie aurait immanquablement condamné pareilles actions de la part du propriétaire.

Règles relatives à l'actio legis Aquiliae

³² Alan Watson, *The Law of Property in the Later Roman Republic* (Oxford, 1968) 155.

³³ George Long, "Aquae Pluviae Arcendae Actio" dans William Smith, dir., *A Dictionary of Greek and Roman Antiquities*, en ligne: *The Roman Law Articles of Smith Dictionary*: <http://penelope.uchicago.edu/Thayer/E/Roman/Texts/secondary/SMIGRA*/Law/home*.html>.

³⁴ David Johnston, *Roman Law in Context* (New York, 1999) 73.

³⁵ *Supra* n.1, 90.

Finalement, un dernier exemple porte sur les cas où un individu, par sa négligence, causait un dommage à la propriété de son voisin. Dans ces circonstances, il semble que ce dernier pouvait avoir recours à l'*actio legis Aquiliae*, un recours général permettant d'obtenir une indemnité pour les pertes subies. Mais ce remède semble avoir été fortement limité par deux facteurs: soit la nécessité de prouver que l'individu en question avait bel et bien causé le dommage et la nécessité d'établir que le dommage résultait d'une utilisation anormale de la propriété.³⁶ Ce dernier facteur était particulièrement contraignant pour le demandeur puisque l'individu pouvait se soustraire à toute responsabilité en démontrant que le dommage résultait d'une utilisation normale, bien que négligente, de la propriété. Ainsi, comme le mentionne le juriste Proculus,³⁷ c'est en raison de l'application de cette règle qu'un individu n'encourait aucune responsabilité si la chaleur de son four placé contre un mur commun détériorait ce dernier.³⁸

Aussi, bien que l'individu était limité dans l'exercice de son droit de propriété, car circonscrit à un usage normal, un individu pouvait abuser de ses droits tant que l'utilisation de la propriété pouvait être qualifiée de normale. L'absence d'une définition d'usage normal de la propriété rend la possibilité d'abus encore plus probante. Cet exemple supporte donc explicitement l'idée qu'une théorie de l'abus de droit relative au droit de propriété était inexistante en droit romain.

Les tenants de l'existence d'une théorie de l'abus de droit en droit romain classique

Les exemples mentionnés ci-dessus militent tous en faveur de l'absence d'une conception générale de l'abus de droit. Mais, nous le reconnaissons, ces exemples ne forment aucunement une liste exhaustive des situations pouvant être pertinentes pour notre étude. Aussi, il serait présomptueux de notre part de ne pas aborder les arguments adverses et de conclure, sur la seule base de ces exemples, à l'absence catégorique d'une théorie d'abus de droit en droit romain. La justesse de notre thèse nécessite donc que nous abordions les arguments des tenants de l'existence d'une théorie de l'abus de droit en droit romain classique, soit la cohérence et l'unité des justifications morales des limites du droit de propriété ainsi que l'existence d'un remède général pour les comportements dolosifs, l'*actio de dolo*.

³⁶ Supra note 25, 71-72.

³⁷ Dig. 9.2.27.10.

³⁸ Supra note 25, 72.

Cohérence et unité des justifications morales des limites du droit de propriété ?

Les fervents défenseurs de l'existence d'une théorie de l'abus de droit en droit romain affirment qu'il émane des justifications de nature morale relatives aux limites du droit de propriété une grande cohérence et une unité de pensée.³⁹ Cette cohérence et unité de pensée indiqueraient incontestablement l'existence en droit romain «d'un système conscient d'interdiction de l'abus de droit ainsi que du principe général qui qualifie d'inacceptable toute attitude abusive de droit.»⁴⁰

La faiblesse inhérente de cet argument c'est qu'il fait abstraction des réalités sociales et économiques de la société romaine. En effet, comme nous l'avons démontré précédemment, il est possible d'affirmer que les limites de l'exercice du droit de propriété forment un ensemble de solutions spécifiques, décousues les unes des autres, ne formant aucunement une notion générale de l'interdiction de l'abus de droit. Aussi, en raison de notre interprétation des limites du droit de propriété, déjà clairement exposée, il nous apparaît peu pertinent d'adresser plus en détail cet argument.

L'actio de dolo; preuve irréfutable d'une théorie de l'abus de droit?

Il nous apparaît plus intéressant de porter notre attention sur un second argument utilisé pour justifier l'existence d'une théorie générale de l'abus de droit, soit l'introduction, autour de l'an 66 av. J.-C., de l'*actio de dolo* par le Préteur pérégrin Aquilius Gallus.⁴¹ Cette formule, qui n'était pas limitée à un droit en particulier, était un remède ad hoc, permettant de dédommager la partie lésée, dont le Préteur pouvait se prévaloir lorsque les éléments d'une attitude abusive étaient réunis.⁴²

Pour bien comprendre la portée de l'*actio de dolo*, il est nécessaire de déterminer la signification du terme *dolus* et du comportement dolosif en général tels que conçu par les romains. Le terme *dolus*, issu du mot grec *δολος* était perçu comme ayant une connotation neutre. En effet, le terme référerait à une attitude malicieuse ou construction ingénieuse qui ne différenciait pas la ruse préjudiciable de la ruse offensive.⁴³ Il semble que le Préteur aurait ajouté la qualification *malus* au substantif *dolus* afin d'éviter toute confusion avec l'expression *dolus bonus* utilisée par les anciens et signifiant

⁴⁰ *Supra* n. 1, 188.

⁴¹ Alan Watson, *The Law of Obligations in the Later Roman Republic* (Oxford, 1965) 258

⁴² *Supra* n. 1, 181.

⁴³ *Supra* n. 1, 14.

⁴⁴ *Dig.* 43.1.3.

l'astuce louable car vouée à tromper l'ennemi ou le voleur.⁴⁴ Ainsi, en opposition à *dolus bonus*, l'expression *dolus malus* connote une intention préjudiciable ou nuisible à l'égard de son prochain. Ulpien adopte la définition de Labéon du comportement dolosif, soit «every kind of cunning, trickery, or contrivance practiced in order to cheat, trick, or deceive another.»⁴⁵ C'est donc en gardant en tête cette définition de l'expression *dolus malus* que l'on doit aborder la formule d'Aquilius Gallus.

L'édit relatif à l'*actio de dolo* est le suivant: «where something is alleged to have been done with a malicious or fraudulent intent and there is no other relevant action and there seems to be a reasonable ground, I will grant the action.»⁴⁶ L'élément central de cet édit est sans aucun doute sa subsidiarité. En effet, bien que ce remède contre le dol soit applicable à une vaste catégorie de situations, il ne peut être utilisé qu'en dernier lieu lorsque toutes les autres actions ont été épuisées. Le mot action, dans les circonstances, doit être interprété dans le sens le plus large, c'est-à-dire toutes formes de poursuites civiles ou prétoriennes ainsi que tous moyens de défense.⁴⁷ Mais certains auteurs, tel Ursula Elsener, affirment avec ardeur que, malgré cette affirmation stricte de la subsidiarité de l'*actio de dolo*, la jurisprudence classique aurait considérablement assoupli son application.⁴⁸

Le premier exemple illustrant le refus d'une application stricte la règle de subsidiarité serait exprimé par Labéon.⁴⁹ En effet, ce dernier considère que l'*actio de dolo* doit être accordée non seulement lorsqu'il n'y a pas d'autres actions possibles mais aussi en cas de doute quant à l'existence d'une autre action. Ainsi, pour écarter le recours à l'*actio de dolo*, il ne serait pas suffisant de démontrer l'existence d'un autre moyen permettant au lésé d'être dédommagé. Dans les cas où le remède envisagé ne présenterait que de faibles chances de succès, pour des raisons liées à la possibilité d'une interprétation des faits divergente, il faudrait permettre au demandeur d'emprunter directement la voie de l'*actio de dolo*.⁵⁰

Un second exemple se trouverait dans l'extension de l'*actio de dolo* aux cas où des circonstances factuelles, comme l'insolvabilité du défendeur potentiel, rendrait inutile le recours à une action

⁴⁵ Dig. 4.3.1.2.

⁴⁶ Dig. 4.3.11.1.

⁴⁷ Calixte Accarias, *Précis de droit romain* (Paris, 1886-91) 915-916.

⁴⁸ *Supra* n. 1, 23-53.

⁴⁹ Dig. 4.3.7.3.

⁵⁰ *Supra* n. 1, 29.

⁵¹ *Supra* n. 1, 30.

civile ou prétorienne afin d'obtenir une compensation adéquate pour la partie lésée.⁵¹ Puisqu'interdire le recours à l'*actio de dolo* au bénéfice d'un remède civil ou prétorien inefficace équivaldrait «à préconiser une interprétation absurde qui contredit le but initialement cherché par l'introduction de l'*actio de dolo*, à savoir la possibilité pour un lésé, d'obtenir réparation lorsqu'aucun moyen usuel ne lui permet d'y parvenir»,⁵² l'assouplissement de la règle de subsidiarité était nécessaire. Par ailleurs, un tel raisonnement serait soutenu par l'affirmation de Gaius à l'effet que celui dont l'action est vaine en raison de l'insolvabilité de son adversaire est considéré comme ne possédant aucune action.⁵³

C'est donc sur la base de ces interprétations que les tenants de l'existence d'une théorie générale de l'interdiction de l'abus de droit affirment que l'*actio de dolo*, en dépit de son caractère subsidiaire, offrait à la victime d'un comportement répréhensible, un moyen de protection générale et efficace contre l'abus de droit.⁵⁴ Cette interprétation serait d'ailleurs habilement exprimée par Cicéron, contemporain et ami du Préteur Aquilius Gallus, qui compara l'*actio de dolo* à un filet où viennent se prendre toutes les fraudes.⁵⁵

Bien que ces arguments militant en faveur de l'existence d'une notion d'abus de droit semblent à première vue très convaincants, en y regardant de plus près il semble que la portée de l'*actio de dolo* ait été beaucoup plus limitée que ne laisse l'entendre Elsener.

En premier lieu, les individus pouvant se prévaloir de l'*actio de dolo* formaient une catégorie hautement restreinte. En effet, si le dol était commis par un ascendant contre son descendant, par un patron contre son affranchi ou encore par un conjoint contre son conjoint, on ne pouvait accorder l'action car, peu importe la gravité des gestes et paroles de l'auteur du dol, sa victime lui devait certains égards. De plus, l'action était refusée lorsque le demandeur était socialement ou moralement inférieur à l'auteur du dol.⁵⁶ Aussi, il semble que si une notion générale de l'abus de droit existait, elle n'était applicable qu'aux classes inférieures. Alors que les membres de ces dernières se devaient de ne pas abuser de leurs droits pour ne pas subir les conséquences de l'*actio de dolo*, les plus nantis, en plus de bénéficier de la protection de la formule, pouvaient agir en toute impunité sans peur d'être

⁵² *Supra* n. 1, 23-33.

⁵³ *Dig.* 4.3.6.

⁵⁴ *Supra* n. 1, 181.

⁵⁵ *Supra* n. 34, 911.

⁵⁶ *Dig.* 4.3.11.1; *Supra* n. 34, 911. Voir aussi *Supra* n. 6, 356.

un jour réprimandés. Il y a donc clairement l'application d'un double standard qui permet de douter d'une prohibition généralisée de l'abus de droit au sein de la société romaine ou du moins de l'existence d'un principe moral, prohibant l'abus de droit, universellement appliqué. La justification sous-jacente de ce traitement hiérarchique provient du caractère le plus saillant de l'*actio de dolo*, soit sa nature infamante. En effet, un défendeur condamné sur la base de l'*actio de dolo* encourait l'infamie et, puisque les conséquences de l'infamie étaient considérables (un individu sujet à l'infamie ne pouvait, par exemple, tenir un poste administratif), il était capital de protéger les hommes «vertueux» de l'application de la formule.⁵⁷

Une seconde critique porte sur le caractère arbitraire de l'*actio de dolo*. En effet, l'édit relatif à l'action affirme que cette dernière ne sera accordée qu'après examen par un magistrat. Le magistrat, libre de toute règles procédurales, évalue si, en tenant pour vrais les faits avancés par la partie lésée, il en résulte un dol assez grave et assez évident ainsi qu'un préjudice d'une importance sérieuse pour que l'action soit accordée en l'espèce.⁵⁸ Il est évident que ces critères très contraignants laissaient une très faible marge de manœuvre au magistrat procédant à cet examen préliminaire. Aussi, plusieurs cas ne correspondant pas aux critères sévères imposées à cette étape du litige, pouvaient passer à travers les filets de la justice malgré la présence incontestable d'un dol et d'un préjudice pour la partie demanderesse. Accarias précise qu'une telle situation était justifiée par l'esprit même de l'édit, soit de ne pas prodiguer l'infamie.⁵⁹

Par ailleurs, l'on peut remettre en question l'assouplissement des règles de subsidiarité tel qu'articulé par Elsener. En effet, Elsener reconnaît elle-même que certains auteurs affirment l'existence d'indices qui porteraient à croire que les passages du *Digeste* relatifs à l'*actio de dolo* auraient été «remaniés par main post-classique.»⁶⁰ Selon ces auteurs, l'assouplissement de la règle de subsidiarité en cas d'insolvabilité n'aurait pu être introduite que par les Compilateurs. Il semble que seul l'intervention de ces derniers expliquerait la présence de la variante *si solvendo non sit*, se traduisant par «si le débiteur n'est pas solvable,» toujours placée à la fin des textes portant sur l'*actio de dolo*.⁶¹

⁵⁷ *Supra* n. 6, 357.

⁵⁸ *Supra* n. 34, 921.

⁵⁹ *Supra* n. 34, 921.

⁶⁰ *Supra* n. 1, Partie I, n. 46

⁶¹ *Supra* n. 1, Partie I, n.106.

Par ailleurs, ces auteurs allèguent que l'assouplissement de l'action en cas d'insolvabilité contraste avec la tendance contraire des juristes de l'époque à restreindre l'emploi de l'*actio de dolo*. En effet, Pédus ne laisse planer aucun doute sur la nécessité, pour ne pas octroyer l'infamie, à une application des plus stricte du critère de subsidiarité de l'action.⁶² La position de Pédus est d'ailleurs renforcée par Pomponius⁶³ ainsi que par Paul et Ulpien.⁶⁴ Ces interprétations montrent clairement la propension des juristes romains à une application stricte de l'action et viennent renforcer l'idée que l'assouplissement aux situations d'insolvabilité était inconnu du droit romain classique.⁶⁵

Ainsi, malgré les arguments convaincants d'Elsener, il semble que la doctrine majoritaire, à laquelle nous adhérons, considère généralement que la vaste application de l'*actio de dolo* n'est en réalité qu'illusoire.⁶⁶ Accarias affirme d'ailleurs que l'esprit du Préteur était de «restreindre l'*actio de dolo* dans les plus étroites limites, car il lui répugn[ait] de prodiguer l'infamie» [nous soulignons]. Wetter pour sa part affirme que la défaveur de l'action était liée à son caractère infamant et que l'on s'efforçait de la restreindre à tous les points de vue.⁶⁷

Il nous apparaît donc impossible de justifier l'existence d'une théorie de l'abus de droit sur la base de la formule d'Aquilius Gallus. Malgré la vaste portée théorique de l'*actio de dolo* pour punir les cas de fraude et ainsi prévenir l'abus de droit, l'application de l'action, de par sa nature infamante, était largement restreinte par le Préteur. L'introduction de l'*actio de dolo* au premier siècle de notre ère n'est aucunement un indice incontestable de l'existence d'une conception générale et répandue de la prohibition de l'abus de droit. Au contraire, l'*actio de dolo* réaffirme les principes patriarcaux et hiérarchiques inhérents à la société romaine et étaye l'absence d'une théorie d'abus de droit.

Conclusion

Nous pouvons maintenant affirmer qu'un certain nombre de règles spécifiques limitaient considérablement l'exercice du droit de propriété. Cependant, ces règles ne peuvent être considérées comme une indication d'une théorie générale d'abus de droit. Il est vrai que certains auteurs utilisent

⁶² *Dig.* 4.3.1.4.

⁶³ *Dig.* 4.3.1.6.

⁶⁴ Paul: *Dig.* 4.3.2 et 4.3.4; Ulpien: *Dig.* 4.3.1.8 et 4.3.3.

⁶⁵ *Supra* n. 1, Partie I, n. 51-52.

⁶⁶ *Supra* n. 6, 356.

⁶⁷ Polynice Alfred Henri von Wetter, *Les obligations en droit romain* (Gand, 1883-86) 147-148.

des arguments de nature morale pour justifier les limites imposées au droit de propriété. Mais même dans leurs affirmations les plus universelles, les juristes romains n'y voyaient que des solutions particulières à des problèmes déterminés. Ces arguments spécifiques au contexte social et historique de la République et de l'Empire romain, ne se sont jamais développés en une théorie fonctionnelle et cohérente d'abus de droit.

Par ailleurs, nous pouvons affirmer que l'introduction de l'*actio de dolo* par le Préteur Aquilius Gallus, n'offrait aucunement, et cela en dépit des fervents arguments mis de l'avant par Elsener, une preuve irréfutable de l'existence d'une prohibition générale de l'abus de droit. Au contraire, la nature infamante restreignait largement l'application de l'*actio de dolo* par le Préteur, ce dernier étant fondamentalement rebuté à l'idée d'octroyer l'infamie. De plus, les contestations quant à l'authenticité des textes portant sur l'assouplissement de la règle de subsidiarité de l'*actio de dolo* aux cas d'insolvabilité du défendeur, laissent deviner l'application plus restreinte de l'action telle que nous l'avons exposée.

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Resurrected or What?

'Αναβιω' in the Works of Philostratus

Philippa Geddie

In Philostratus' works, the worlds of the living and the dead closely intersect. Nowhere is this clearer than in the *Heroikos*, where the revenant hero Protesilaus passes part of his time in Hades,¹ hovers above the ground while running,² yet needs to travel on a ship to visit Achilles on the White Isle.³ Protesilaus is one of a number of heroes who are said to have αναβιω, "come back to life," and whether Protesilaus exists in corporeal form hinges on how this word is construed. The term seems "downright technical"⁴ as it appears in the *Heroikos*, referring to a clearly understood form of resurrection. What, however, does it imply? Samuel Eitrem suggests that it is αναβιωσις, "coming back to life again," that raises heroes to a level above that of ordinary human beings, conferring on them unique gifts such as that of prophecy.⁵ This definition of αναβιωσις would fully distinguish it from both the Pythagorean doctrine of metempsychosis and the Christian concept of resurrection, αναστασις. Such a distinction is not warranted by the evidence. Αναβιωσις, as the term is understood and used by Philostratus, refers to physical re-embodiment in one's original form, a definition that overlaps with Christian αναστασις and may be reconciled with metempsychosis.

¹ *Heroikos* 11.7

² *Heroikos* 13.3

³ *Heroikos* 53.18

⁴ Hans Dieter Betz, "Hero Worship and Christian Beliefs: Observations from the History of Religion on Philostratus' *Heroikos*," *Philostratus' Heroikos: Religion and Cultural Identity in the Third Century C.E.* (Atlanta: Society of Biblical Literature, 2004) 30 n. 31.

⁵ Samuel Eitrem, cited in Jackson P. Hershbell, "Philostratus' *Heroikos* and Early Christianity: Heroes, Saints, and Martyrs," *Philostratus' Heroikos: Religion and Cultural Identity in the Third Century C.E.* (Atlanta: Society of Biblical Literature, 2004) 174.

Philostratus discusses reincarnation at some length in his biography of the Pythagorean holy man Apollonius of Tyana. Though the beliefs of a historical Pythagoras cannot be reconstructed, he was accepted by the first century B.C.E. as a teacher of the doctrine of metempsychosis.⁶ Greek authors give various descriptions of the phenomenon. Herodotus attributes to the Egyptians the belief that the soul experiences a three thousand year cycle of death and rebirth as countless animals before it is reincarnated in human shape; Empedocles depicts the soul as inhabiting a more advanced being in each incarnation, steadily developing from plant to god.⁷ The commonality in the different accounts is their inherent dualism, the distinction that they draw between the body and the soul, which is seen as immortal.⁸ None of the technical Pythagorean terms for reincarnation- “μετενσωματωσις,” “μετεμψυχωσις,” “μεταγγισμος ψυχων”⁹- occur in Philostratus; instead, various circumlocutions are used.¹⁰

Since Philostratus employs no one term for metempsychosis, it may be suggested that the verb αναβιω occasionally refers to the process. The term’s first occurrence in the *Life of Apollonius* is the most cogent argument for this: φασιν... [ο Πυθαγορας] γενοιτο δε εν Τροια ποτε Ευφορβος, αναβιοιν τε ανοθανων, “they say that Pythagoras was once, in Troy, Euphorbus, and that he came back to life after he died)”¹¹ Euphorbus’ soul, apparently, was transmuted into the body of Pythagoras. To simply equate the words metempsychosis and αναβιωσις in this context, however, would be to ignore the additional associations of the latter term.

Αναβιωσις carries strong connotations of “restoration to the original state.” This sense applies both when the word refers to the revival of a city or institution,¹² and when it describes a return from the dead.¹³ Plato’s use of the term is consistent. In the *Greater Hippias*, Socrates imagines how inept the ancient philosopher Bias would appear in modern times “if he came back,” ει... αναβιωη.¹⁴

⁶ Herbert Straunge Long, *A Study of the Doctrine of Metempsychosis in Greece*. (New Jersey: J.H. Furst Company, 1942) 15.

⁷ Long, 22.

⁸ Alexander Alexakis, “Was there Life Beyond the Life Beyond?”, *Byzantine Eschatology: Views on Death and the Last Things*, *Dumbarton Oaks Papers* vol 55 (2001) 157.

⁹ Alexakis, 156.

¹⁰ e.g. Εξ Ινδου εξ Ιωδοϋ διεδοθην (“I have gone from [the body of] an Indian to [the body of another] Indian,” *Life of Apollonius* 3.22. This and all subsequent translations are my own.

¹¹ *Life of Apollonius* 1.1

¹² e.g. *Jewish Antiquities* 11.9, *Life of Apollonius* 1.15.

¹³ e.g. *Frogs* 177.

Plato's argument assumes that Bias would return in his own person, not transmuted into another body, and not possessed of superior knowledge by reason of his αναβιωσις. Likewise, the phrase παλιν αναβιωπαι¹⁵ in the *Epinomis* clearly has the sense of "to repeat life," "to live life again." In an incident in the *Republic*, the distinction between metempsychosis and αναβιωσις is vividly portrayed: Er, the son of Armenius, dies in battle, but, after lying on the battlefield among the corpses for ten days, he undergoes αναβιωσις,¹⁶ reviving in his original body. He is then able to describe the "divine place"¹⁷ where souls are judged and sent to their next incarnation. The distinction between Er, who wakes in his previous body, and the other dead souls, who are sent forward to a new life, is apparent.

Marcus Aurelius, in his *Meditations*, gives a definition of the term which is abstract, but helpful for current purposes: ιδε ναλιπ τα πραγματα, ως εωπασ επ τουτω γαρ το αναβιωπαι,¹⁸ "see matters as you once saw them, for 'coming back to life' consists of that." What αναβιωσις appears to imply, in Philostratus as well as the earlier literature, is the preservation of the personality, a "return to life" in unchanged shape. It is an unusual occurrence, and therefore is to be differentiated from metempsychosis, which all living beings undergo. The doctrine of reincarnation involves the premise that the immortal soul, which has always existed, has made repeated trips to earth and Hades.¹⁹ Knowledge gained in previous lifetimes, however, is only available to the re-embodied spirit on an unconscious level. The best-known exposition of this point occurs in Plato's *Meno*, where Socrates demonstrates that an untutored slave boy can be lead through a simple geometrical proof.²⁰ The ability to remember, at a conscious level, the circumstances of one's previous life is unique and remarkable. The statement that Pythagoras underwent αναβιωσις therefore, indicates that he possessed some special power.

The fact that Pythagoras "came back to life after he died"²¹ communicates not that he, in common with all other living beings, was transmuted into a new body, but that he was able consciously to remember his lifetime as Euphorbus; it was evidently an accepted theme by the time of Horace that he

¹⁴ *Greater Hippias* 281 d 9.

¹⁵ *Epinomis* 974 a 6.

¹⁶ *Republic* 10.614 b.

¹⁷ *Republic* 10.614 c.

¹⁸ *Meditations* 7.2

¹⁹ Long, 67

²⁰ *Meno* 81b.

could recognize the device on his old shield.²² Pythagoras' immense mental power is associated with the idea that "he retained memories of the events of ten and twenty human generations,"²³ building on the experiences of his previous lives. Similarly, Philostratus shows the sages Iarchas and Apollonius flexing their philosophical muscle by discussing the events of their past incarnations. Iarchas, we are told, remembers where, as the king Ganges, he buried seven diamond swords in the ground²⁴; Apollonius can speak any language, since he has learned them in past lives.²⁵ Similarly, Philostratus describes the Greek hero Palamedes as being reincarnated as an Indian youth, who knows how to read although he has never been taught to do so.²⁶ Each of these incidents reflects the same theme. Αναβιωσις, therefore, can refer either to reincarnation or resurrection, but, in either sense, implies a "return" as the same mortal being you once were.²⁷ It also implies that the re-embodied person possessed superhuman power or had supernatural help.

It will be seen that there is considerable overlap between αναβιωσις and the Christian doctrine of resurrection, αναστασις. Indeed, the difference between these terms is largely artificial. As used in pre-Christian literature, αναστασις and αναβιωσις are well-nigh interchangeable; Herodotus uses the former word when imagining the dead rising up on the battlefield (εἰ... οἱ τεθνεωτες ἀπεσ-τασι²⁸); Plato uses the latter in an almost identical context when relating the story of Er. Jewish texts also appear to equate the terms. Thus, the third of the Seven Martyrs, in 2 Macc 7:9, declares that he and his comrades will be raised εἰς αἰώνιον αναβιωσις, "to an eternal renewal of life." The fourth martyr, whose speech of defiance stands as a parallel to that of the third, uses ἀπαστασις εἰς ζωη²⁹ in exactly the same sense. Josephus, likewise, attributes to the Pharisees the belief that virtuous souls have the power to αναβιου³⁰, "enter a new life." These meanings for αναβιωσις seem fully compatible with Christian doctrine, a fact which makes it all the more conspicuous that αναστασις is the only term for resurrection used in the New Testament. In fact, in early Christian texts, there is only

²¹ *Life of Apollonius* 1.1.

²² Horace, *Odes* 1.28.

²³ Long, 21.

²⁵ *Life of Apollonius* 1.19.

²⁶ *Life of Apollonius* 3.22.

²⁷ e.g. *Life of Apollonius* 7.9; *Heroikos* 9.5

²⁸ *Histories* 3.62.

²⁹ 2 Macc 7:14

³⁰ *Jewish Antiquities* 18.15.1.

one occurrence of ἀναβιωσις, in 2 Clement 19:4.³¹ Evidently, Christian avoidance of the term served a theological goal.

Origen, in his *Against Celsus*, cites a long protest made by Celsus against the divinization of Jesus. Jesus should not be thought divine because he was resurrected, Celsus apparently argued, because the same feat is attributed to Protesilaus, Orpheus, and Theseus.³² Evidently, the early Christian movement found it difficult to establish that Christ's resurrection was a unique occurrence; by using only the word ἀναστασις when referring to resurrection, they were attempting to give a new, specifically Christian meaning to the term. There is evidence, in fact, that attempts were made to excise ἀναβιωσις from Christian vocabulary completely; as Mensfeld notes, Hippolytus, in paraphrasing Josephus' description of the Pharisees in *Jewish Antiquities*, replaces ἀναβιωσις with ἀναστασις.

The preference for ἀναστασις may indicate that ἀναβιωσις was a more common term in non-Christian literature, or more readily associated with the re-embodied heroes from which Christ had to be distinguished. An additional possibility, however, is that a belief in ἀναβιωσις was fully compatible with a belief in metempsychosis. Plato's recounting of the story of Er demonstrates this point: a few spirits may be reincarnated in their original bodies; most move forward to their next incarnation. Of those who are transmuted into new bodies, a select few retain enough of their personality and memory that it is justifiable to state that they have "come to life again." For Christianity, however, ἀναστασις for righteous souls involved the resurrection of the physical body, and was therefore incompatible with reincarnation.³⁴ In any case, the monopoly of the word ἀναστασις in Christian writings eventually eroded, presumably when Christianity's hegemony was established to the point that it no longer needed to prove Christ's uniqueness; Gregory of Nyssa used ἀναβιωσις and ἀναστασις with approximately the same frequency.³⁵

In summary, ἀναβιωσις implies "taking up life where you left off," whether in the same physical body or a new incarnation. In the latter case, as memories of different lifetimes are retained,

³¹ Hershbell, 169.

³² *Against Celsus* 2.55.

³³ Jaap Mensfeld, "Resurrection Added: The Interpretatio Christiana of a Stoic Doctrine," *Vigiliae Christianae* 1983 37 (3) 223.

³⁴ Alexakis, 165.

it confers extreme mental power, as the soul accumulates a wealth of knowledge over its journey. Even if the soul returns to its own body, it has gained esoteric knowledge by the experience of death, as in the case of Er. Similarly, Protesilaus, after “being cleansed of the body,”³⁶ observes human affairs until he becomes an expert on the Trojan War and poetic criticism.³⁷ No sense of ἀναβιωσις in the surviving literature, however, accounts for Protesilaus’ “divine” gifts, such as his ability to heal.³⁸ Hershbell, then, seems correct in contending that Eitrem conflates the ideas of ἀναβιωσις and ἀποθεωσις--transformation into a god).³⁹ To “take up life whether you left off” proves, more than it confers, superhuman ability. It is undergone by the supremely gifted, such as Protesilaus, Theseus, and Orpheus.⁴⁰ Heroes so restored, however, become fully mortal, and will ultimately die again.⁴¹

Αναβιωσις can also be accomplished by the agency of those with divine powers, as when Apollonius saves a young girl. She revives ὡςπερ ἡ Αλκηστις ὑπο τοῦ Ηρακλεους ἀναβιωθεῖσα, “like Alcestis, brought back to life by Herakles.”⁴² The comparison between Apollonius and Herakles, who wrestled Death until it released Alcestis, makes Apollonius appear as conquering hero.⁴³ It is clear, however, that not all heroes are created equal. Revenant heroes such as Theseus, though their extraordinary powers allowed them to return to life, cannot avoid dying a second time. It is impossible for Apollonius to die, as he blandly states.⁴⁴ His somewhat dimwitted disciple Damis, true to form, fails to recognize this, and consequently is terrified that Apollonius may be executed by the emperor Domitian. Apollonius assures him that he will return: ὡς μὲν ἐγὼ οἶμαι ζῶντα... ὡς δὲ σὺ οἶε, ἀναβεβιωκοτα,⁴⁵ “as I believe, alive; but, as you believe, returned to life.” In confronting Domitian, Apollonius rids himself of the remnants of his mortality,⁴⁶ vanishing from the emperor’s presence to reappear to his disciples. His disciples may think that he has “come back to life,” but, as Apollonius has cautioned us, this is incorrect. Αναβιωσις, with its associations of “returning to orig-

³⁵ e.g. *Dialogus de anima et resurrectione* 46.140.20, *Contra Eunomium* 1.1.518.7, *In Sanctum Pascha* 9.266.10.8, etc.

³⁶ *Heroikos* 7.3.

³⁷ *Heroikos* 24.1-25.17.

³⁸ *Heroikos* 16.1-3.

³⁹ Hershbell, 175.

⁴⁰ Hershbell, 171.

⁴¹ *Heroikos* 2.10.

⁴² *Life of Apollonius* 4.45.

⁴³ The resemblance to Christian narrative is also apparent.

⁴⁴ *Life of Apollonius* 8.5.

inal/mortal form,” is not the appropriate term to apply to the experience of Apollonius, who now exists on a quasi-divine plane. He returns to his disciples “removed from time and space,”⁴⁷ apotheosized. It can be inferred that if Protesilaus possesses the same “divine” powers as Apollonius, it would be likewise inappropriate to state that he has returned to mortal existence.

When this definition of ἀναβιωσις has been articulated, it can be seen that the *Heroikos* delicately avoids specifying whether Protesilaus has “returned to life.” This is, in fact, the first question that the Phoenician asks about Protesilaus: ἀναβεβιωκώς η τι,⁴⁸ “has he come back to life, or what?” Phoenician and vinedresser agree that Protesilaus did come back to life once, for the love of Laodameia⁴⁹; after his second death, however, has he again ἀνεβιω, returned as he once was, fully incarnate? The Phoenician refers several times to Protesilaus “returning to life,” even when his tone is broadly skeptical: “Whether someone came back to life here, I don’t know.”⁵⁰ The wiser vine-dresser, however, will state only that Protesilaus has ἀνηλθε, “come back”; he does not know exactly *how* Protesilaus managed to return.⁵¹

Certainly, Protesilaus partakes of the characteristics of both a mortal and an immortal being. Unlike the ghosts in Hades, he can be touched and embraced,⁵² yet the vine-dresser has never seen him eating or drinking.⁵³ He divides his time between Pythia, Troy, and Hades.⁵⁴ To a certain extent, this tension between corporeal and non-corporeal Protesilaus corresponds to the tension between “Protesilaus the *revenant*, the frightening ghost”⁵⁵ and Protesilaus the handsome groom. Philostratus’ reluctance to apply the term ἀναβιωσις to the second “return” of Protesilaus reflects the technical nature of the term; it suggests a precise kind of resurrection that did not entirely fit with Protesilaus’ story.

⁴⁵ *Life of Apollonius* 7.41.

⁴⁶ Peter Kingsley, *Ancient Philosophy, Mystery, and Magic* (Clarendon Press: Oxford, 1995) 251

⁴⁷ Hershbell, 174.

⁴⁸ *Heroikos* 2.9.

⁵⁰ *Heroikos* 5.2.

⁵¹ *Heroikos* 2.11.

⁵² *Heroikos* 11.2.

⁵³ *Heroikos* 11.9. An intriguing possibility is that the choice of milk as the drink-offering hints at the process whereby Protesilaus is shedding the remnants of his mortal nature. Kingsley cites various contexts in which the drinking of milk is related to the process of divinization, such as in the rite of initiation into the Attis mysteries (Kingsley, 265).

⁵⁴ *Heroikos* 11.7.

In the last estimation, Philostratus claims, one should not inquire too deeply into the nature of life and death; this sentiment concludes both the *Life of Apollonius* and the *Heroikos*. This is the message Apollonius gives from the other side of the grave: τι μετα ζωοισι π εων περι τωνδε ματευεις,⁵⁶ “why should you, while you are among the living, investigate these matters?” Likewise, the Phoenician, who has been gradually led by the vine-dresser to a better understanding of the universe, agrees not to inquire into the sacred mystery by which Protesilaus has again returned to life: το μεν οπως αυτος αναβεβιωκεπ, ουκετ' αν εποιμην.⁵⁷ Possibly, Philostratus’ reluctance to commit himself on these points reflects his own uncertainty. Αναβιωσις is a phenomenon accomplished and understood by superhuman beings, a category into which he himself does not fall.

⁵⁵ Jennifer K. Berenson Maclean and Ellen Bradshaw Aitken, “Introduction,” *Heroikos*, trans. Jennifer K. Berenson Maclean and Ellen Bradshaw Aitken (Atlanta, 2001) liii.

⁵⁶ *Life of Apollonius* 8.31.

⁵⁷ *Heroikos* 58.2.

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Announcements

2005-2006 has been a vibrant year for Classics at McGill. Students from History and Classics had the opportunity to volunteer at the annual American Philological Association conference in Montreal this January and get a glimpse of life as a career academic. As well, this year's search for a new Classics professor is rapidly drawing to a close. We look forward to welcoming a new addition next Fall. Hirundo is pleased to take the opportunity to officially introduce and welcome both Professor Beck, finishing his first year of teaching at McGill, and Professor Fronda, finishing his second year of teaching at McGill.

Hans Beck

Hans Beck, an excellent new addition to Classics at McGill holds the John McNaughton Chair in Classics and is the new programme advisor. His areas of interest are diverse, covering Greek History of the Archaic and Classical Periods, Ethnicity and Federalism History of the Roman Republic, Aristocracy and the People, Political Culture Greek and Roman Historiography. He received his MA in Ancient History, Modern History and Political Science at the University of Erlangen, Germany and his PhD in Ancient History at Erlangen as well. Prior to his arrival at McGill in 2005, Professor Beck lectured as an assistant professor at Cologne University (1999-2004), held the title of Junior Fellow of the Centre for Hellenic Studies in Washington, D.C. (2001-2002) and was Heisenberg Fellow at Frankfurt University (2004-05). Over the years professor Beck has published four books, and over eight articles on various topics in ancient Roman and Greek History. His forthcoming project is a co-authored book entitled "Central Greece and the Politics of Power in the Fourth Century B.C." which treats aspects of Greek interstate-relations and micro-imperialism in the Classical Period and is set to be published by Cambridge UP. Students and faculty will also be happy to know that Professor Beck stresses a mandate that seeks to focus on student involvement and success. He is also devoted to the continuity of excellence in the Classics department, that has been part of the faculty's tradition for many years.

Michael Fronda

Michael Fronda is one of the two new additions to the McGill Classics faculty and is an associate professor specializing in the Roman Republic, Early Roman Empire, Latin literature of the

Republic, Late Antiquity and Classical Greece. Educated at Cornell University (B.A.) and Ohio State University (M.A. and Ph.D.) Michael Fronda has lectured both Denison and Ohio State Universities and held the position of associate professor at Denison University before coming to McGill. Professor Fronda has previously written on Roman Imperialism during the Republic, most recently a forthcoming article entitled, "Livy 9.20 and Early Roman Imperialism in Apulia," and his current research continues this; focusing on interstate relations in the ancient Mediterranean, especially the military and diplomatic consequences of Roman expansion and the mechanism of Roman control in Italy during the Middle Republic. These themes will doubtless be further explored in his forthcoming book, *The Italians in the Second Punic War: Local Conditions and the Failure of the Hannibalic Strategy in Italy*. Perhaps unfortunately for his research Professor Fronda makes it a point to be accessible to his students, seemingly living in his office and leaving his wide open (literally) to the McGill student body.

Future of McGill Classics

Over the last three years the McGill Classics department has opened up three new professorships and has already been bolstered by the addition of two new professors. This expansion of the Classics department stands as a major step in carrying forward the great Classics tradition of McGill. Revitalized by new funds and the opportunity to expand the faculty, the McGill Classics Department is looking to the future. The newest member of the faculty, Hans Beck, is very confident that McGill will be the leading university in Roman Republic studies in Canada before long. In pursuit of a Classics department that offers more opportunities our Classics faculty and staff will be working to provide students with a larger, more varied, and more intensive course selection as well as access to archeological work, perhaps in the form of a field school. The reestablish of the Classics graduate program at McGill is also in the works and the faculty hopes these new resources and opportunities will help students become more involved in both the working and the shaping of the Classics department at McGill.

Ancient Recipes

Kyphi

Kyphi is a incense used in ancient Egypt for religious and medical purposes. The term *kyphi* comes from the Greek transcription of an ancient Egyptian term. Plutarch says, “its aromatic substances lull to sleep, allay anxieties, and brighten dreams. It is made of things that delight most in the night and exhibits its virtues by night.” (*Iris and Osiris*) Kyphi is one of the world’s oldest perfumes, with some of the earliest references appearing the Pyramid Texts. Sacred to the Sun God Ra, it was used in the most important religious ritual, particularly the evening devotion to the Sun. Kyphi is what is called a foursquare concoction, traditional recipes almost always include sixteen ingredients. The Egyptians believed that this was a mystical number, squaring the square, bringing peace and calm, as well as special healing powers. There is no exact recipe for kyphi, resulting from the secrecy around the actual preparation of the oil as well as the problem of translation ingredient lists. The most common ingredients include: Frankincense, Benzoin, Gum Mastic, Myrrh, Cedar, Galangal, Calamus, Cardamom, Cinnamon, Cassia, Juniper Berries, Orris, Cypress, Lotus, Wine, Honey, and Raisins

Simplified Kyphi, in oil form.

2 PARTS FRANKINCENSE

2 PARTS MYRRH

3 PARTS LOTUS BOUQUET

1 PARTS CEDAR SWEET ALMOND OIL

1 STERILIZED GLASS BOTTLE (generally, when mixing oils, it is better to start in a small bottle, from 5 to 15 mls, starting at about 10 drops total per 5 mls. If a stronger scent is desired, simply double the dosage.)

In a clean glass jar, add the oils one at a time, gently swirling as you combine the ingredients. Once you feel that the scent seems right, gently fill the rest of the bottle up with the Sweet Almond oil. Seal the bottle tightly and store for two weeks where it will be out of direct sunlight and no subject to extreme temperatures or fluctuations. Use as a perfume.

Almond-Honey Milk

Almond-honey milk was popular beginning in the ancient period, particularly in the Celtic territories because the almond kept the milk fresh and gave it a pleasant taste.

2 PARTS MILK
1 PART HONEY
1.5 PARTS POWDERED ALMONDS
PINCH OF SALT

Combine all ingredients in a saucepan and simmer until honey is evenly dispersed. Serve warm or store in an airtight container.

Alternatively, you may substitute walnuts for almonds to make the milk less sweet. Some choose to add apple or other fruit juice and different types of nuts. For a thicker consistency, add flour or cottage cheese.

Alexandrian Sweets (*Itria*)

The sweetmeat of ancient Alexandria, *Itria*, reconstructed here from various references in Hesychius, Galen and Athenaeus, was traditionally served at the end of a meal.

4 OZ (1 CUP/120 G) SESAME SEEDS
3 OZ (3/4 CUP/85 G) CHOPPED MIXED NUTS (ALMONDS, WALNUTS, HAZELNUTS)
6 OZ (3/4 CUP/170 G) CLEAR HONEY

Roast the sesame seeds and nuts in the oven at 360 degrees F (180 degrees C) until they take on a little colour. Put honey in a saucepan and bring to the boil, then skim and continue to simmer gently for 7 minutes. The boiling time is crucial to the texture. Add the nuts and sesame seeds to the honey while warm and mix well. Grease a shallow baking tray or dish and spread the mixture out on it. Allow to cool until you can handle the mixture and mould into balls the size of boiled sweets.

Nut Omelette

This sweet omelette comes to us from Apicius, who describes it as an “upside-down *patina*.” The fish sauce is necessary for a hint of saltiness; it may be replaced with a pinch of salt.

2 OZ (1/2 CUP/ 60 G) NIBBLED ALMONDS
 2 OZ (1/2 CUP/60 G) BROKEN WALNUTS OR HAZELNUTS
 2 TABLESPOONS (30 G) PINE KERNELS
 1 TABLESPOON (30 G) CLEAR HONEY
 2 TABLESPOONS (60 ML) WHITE WINE
 1 TABLESPOON (15 ML) FISH SAUCE OR SALT TO TASTE
 6 EGGS
 GROUND BLACK PEPPER
 1 TABLESPOON (15 ML) OLIVE OIL

Combine all the nuts and roast them in the oven at 350 degrees F (180 degrees C) for 10 minutes. Pound or grind them down to a uniform texture resembling coarse breadcrumbs. Place in a bowl and add the honey, wine, milk, fish sauce and the eggs and beat smooth. Season with plenty of black pepper. Heat the olive oil in a non-stick frying-pan and pour in the mixture. Cook as for a basic omelette and grill (broil) for 1 or 2 minutes to set the top. Cut into quarters and serve immediately.

Thanks to Andrea Eidingen for providing her recipe for “Kyphi.”

“Alexandrian Sweets” and “Nut Omelette” have been reprinted from *The Classical Cookbook* by Andrew Dalby and Sally Grainger (Los Angeles: The Paul Getty Museum, 1996) with the kind permission of the authors and publisher.

Helpful Websites For Researching The Ancient World

American Academy in Rome

<http://www.aarome.org/>

American School for Classical Studies at Athens

<http://www.ascsa.org/>

Ancient Medicine/Medicina Antiqua

Resource for the study of Greco-Roman medicine and medical thought from Mycenaean times until the fall of the Roman Empire.

<http://www.ea.pvt.k12.pa.us/medant/>

Année Philologique

Invaluable research tool.

<http://www.aph.cnrs.fr/>

Beazley Archive

A research unit of Oxford's Faculty of Literae Humaniores. Includes an online display of the contents of Sir John Beazley's archive of ancient Greek and Roman art, which are housed in the Ashmolean Museum.

www.beazley.ox.ac.uk/BeazleyAdmin/Script2/default.htm

Bryn Mawr Classical Review

<http://ccat.sas.upenn.edu/bmcr/>

Cambridge Classics External Gateway to Humanities Resources

Provides access to internet resources of general interest to classical scholars, including links to mate-

Cambridge Classics External Gateway to Humanities Resources

Provides access to internet resources of general interest to classical scholars, including links to materials on philosophy, ancient science, linguistics, drama and art.

<http://www.classics.cam.ac.uk/Faculty/links.html>

Classical Atlas Project

Overview of the project which is producing the Barrington Atlas of the Greek and Roman World.

http://www.unc.edu/depts/cl_atlas/

Classical Myth: The Ancient Sources

Includes images, texts, and timelines for the Olympians and the ancient Greeks.

<http://web.uvic.ca/grs/bowman/myth/>

Classics and Mediterranean Archaeology

Links to resources of interest to classicists and Mediterranean archaeologists.

<http://rome.classics.lsa.umich.edu/welcome.html>

Classical Drama Sites

<http://www.webcom.com/shownet/medea/cldrama.html>

Diotima

Materials for the study of women and gender in the ancient world.

<http://www.stoa.org/diotima>

Gnomon Online

<http://www.gnomon.ku-eichstaett.de/Gnomon/Gnomon.html>

Internet Classics Archive

Offers hundreds of works of classical literature in translation, mainly Greco-Roman but with some Chinese and Persian texts also.

<http://classics.mit.edu/>

Musee du Louvre Treasures:

Greek Roman Etruscan Online Medieval and Classical Library

Collection of important literary works of Classical and Medieval civilization.

<http://www.paris.org./Musees/Louvre/Treasures/GreekRoman/>

Perseus Project

Detailed searchable library of texts, translations, art, and archaeology of Ancient Greece and Rome.
www.perseus.tufts.edu/

Pomoerium

Resources for studies in classics including bibliographies and recent publications.
<http://pomoerium.com/>

Resources for Greek and Latin Classics

From the Library of Congress.
<http://lcweb.loc.gov/global/classics/classics.html>

Roman Law Project

<http://www.jura.uni-sb.de/Rechtsgeschichte/Ius.Romanum/english.html>

Suda On Line

Byzantine Lexicography
<http://www.stoa.org/sol/>

Textkit

Free downloadable Greek and Latin grammar learning tools.
<http://www.textkit.com/>

Thesaurus Linguae Graecae (TLG)

Research center at the University of California, Irvine dedicated to creating a digital library of the entire corpus of Greek literature from Homer to the present era.
<http://www.tlg.uci.edu/>