
Review

Reviewed Work(s):

Dikē Phonou: The Right of Prosecution and Attic Homicide Procedure

by Alexander Tulin

Review by: David C. Mirhady

Source: *The American Journal of Philology*, Vol. 119, No. 4 (Winter, 1998), pp. 639-642

Published by: The Johns Hopkins University Press

Stable URL: <https://www.jstor.org/stable/1561923>

Accessed: 18-09-2018 00:07 UTC

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <https://about.jstor.org/terms>



JSTOR

The Johns Hopkins University Press is collaborating with JSTOR to digitize, preserve and extend access to *The American Journal of Philology*

est strengths of the book, namely the astute and careful close readings of the poems. The Feminist voice, however, tends toward overly general or poorly supported assertions, which in my opinion do not meet the high critical standard of the readings. Moreover, the Feminist voice engages in some needless polemic against "German classical philologists and their latter-day shadows" (43) and indulges in the artificial polarization of critical approaches. Snyder asserts, for example, that "reading Sappho's poetry as homoerotic, rather than as desexualized, grants enormous power to her songs" (43), as if the only alternative to her approach would be to deny the erotic quality of Sappho's poems altogether. Finally, it is hard not to take issue with the implication that Sappho's poetry is only comprehensible in terms of lesbian desire and thus speaks most directly to women who feel desire for women. Such exclusivity in the interpretation of a poet of Sappho's caliber inevitably sells the artist short; the fact remains that Sappho's erotic poetry has always exerted extraordinary power over women and men, gay and straight, alike. Happily, Snyder's book is in the end less exclusive than it purports to be.

In conclusion, although bifurcated in the way I have indicated, this book has considerable merit. It reflects the author's intelligence, literary sense, and power of lucid exposition and makes Sappho accessible to Greekless readers in a far from superficial way. Even though the book will be most appreciated by readers who view Sappho as a lesbian poet writing for women who experience desire for women, its appeal should be broader than this. Those who teach Greek lyric in translation should welcome the book as supplementary reading, if not as the main text of Sappho. Its epilogue on modern American women poets influenced by Sappho will make it a particularly attractive choice for literature classes in women's and gender studies programs.

SARAH MACE

UNION COLLEGE, SCHENECTADY
e-mail: maces@union.edu

ALEXANDER TULIN. *Dikē Phonou: The Right of Prosecution and Attic Homicide Procedure*. Stuttgart and Leipzig: B. G. Teubner, 1996. x + 135 pp. Cloth, DM 56. (Beiträge zum Altertumskunde, 76)

The normal means of seeking redress in Athenian law was through a *dikē*, which the victim brought to the appropriate magistrate, who then conducted the case through the various stages of the Athenian legal process, an initial inquiry, possibly a public arbitration, and finally a trial before a democratic court. What distinguishes homicide from almost every other offense, however, is precisely that its victim cannot seek legal redress because he is dead. So who does?

This short book is devoted to the single aim of supporting the “traditional view” that it was only the members of the victim’s family who had the right to seek this redress through a suit for murder (*dikē phonou*). In a wider-ranging book (almost as short as this one, *Athenian Homicide Law in the Age of the Orators*), Douglas MacDowell argued in 1963 against that restrictive interpretation: though Athenian law enjoined the relatives (or in the case of a slave, the owner) of the victim to prosecute, it did not order others not to. Others have since followed MacDowell’s lead. Tulin relies on three disparate pieces of evidence, to each of which he devotes one chapter: Drakon’s Code (*IG I³ 104*), [Dem.] 47.68–73, and Plato’s *Euthyphro* 3e7–5d7.

He gives the entire text of Drakon’s Code in Greek, translates most of it in a footnote, but then discusses specifically only the four lines (20–23) that relate most directly to his argument, although he points out many peripheral issues along the way, such as the authenticity of the code and the possibility of interpolation. Without reviewing the evidence in detail, he takes as established that in archaic conceptions of homicide, murder was viewed initially as a violation of a kinship unit, not “any larger corporate entity” (11). Yet the Code itself is an indication of interest, and indeed control, being taken by the larger corporate entity, and the roles it ascribes to the *ephetai* in the place of the family of the victim need discussion, since they touch directly on Tulin’s central thesis; they do not get it. Ultimately the issue of restrictiveness will be decided on the basis of whether the jussive infinitives that form the injunctions of the Code are to be understood inclusively or exclusively. To Tulin they seem exclusive and restrictive; to me they could be inclusive, calling upon an ever wider circle to take responsibility for sharing in the prosecution. Viewed in isolation, this piece of evidence is inconclusive.

In [Dem.] 47.68–73 the speaker, the Trierarch, is concerned to show his own scruples with regard to legal procedure, which prevented him from laying charges for murder against his opponents even after they had killed his old wet-nurse. Tulin analyzes the passage in great detail, giving the Greek text twice and reproducing the Loeb translation. Although the presentation is unnecessarily awkward, Tulin is successful in showing that it is in fact the lack of the requisite family or owner’s relationship to the victim that has compelled the Trierarch not to pursue a prosecution for murder. It would have required him and his family to commit perjury with regard to their relationship to the deceased. One lapse in Tulin’s account sticks out, however: his interpretation of the clause εἴ τις προσήκων ἐστὶ τῆς ἀνθρώπου (47.69). He translates it as a protasis to the infinitives set out in the funeral *nomima*: “if there be anyone related to the woman, let him . . .” (23). But the position of the clause after the second of the three infinitive clauses strongly suggests that it be made to follow that clause as an indirect question: “and (you, Trierarch, must) make a proclamation at the tomb whether there be some relative of the woman.” It becomes clear several lines later that the Trierarch will make this proclamation, since no rela-

tive is required for it. The proclamation involves not only a curse against the woman's killers, whether named or not, but also a request whether there is some relative (who would be entitled to demand redress). The result of such an appeal will be negative, which explains why the *exēgētai*, after dictating the funeral rites, which the Trierarch *can* perform, advise against prosecution: εἴτα . . . μὴ λαγχάνειν, "and so . . . do not bring suit." As Tulin shows, the fact that the Trierarch was not himself an eyewitness to the assault precludes him only from naming names in the proclamation. It does not stop him from proceeding with the prosecution. The delving of the *exēgētai* beyond ritual matters and into the legal issue, what is τῷ νόμῳ for the Trierarch, is only justified by the negative result of the proclamation's request to learn whether there is a relative. The Trierarch's inclusion of that clause in the proclamation is an admission that he is himself not a relative; the legal reasoning flows from there.

Tulin's discussion of *Euthyphro* ranges very widely to discuss the historical authenticity of the case that Euthyphro proposes to bring against his father and the role of *miasma* with regard to homicide prosecutions. With regard to his central thesis he is rightly cautious, claiming only that the dialogue is consistent with his restrictive interpretation, not that it demands it. Because Euthyphro was neither a master nor an agnate relative of the victim, "he was actually barred from prosecution" (95). His treatment is thorough: again, the Greek text of the relevant section is given in extenso, although this time, strangely, without a translation. Tulin goes on to detail the symmetry between Euthyphro's prosecution of his father and Meletus' prosecution of Socrates, but he does not mention that Meletus, whom he calls "a mere politician" (97), is likely to have been a member of a priestly family, and so had even more in common with Euthyphro than Tulin documents. (See H. Blumenthal, "Meletus the Accuser of Andocides and Meletus the Accuser of Socrates: One Man or Two?" *Philologus* 117 [1973] 169–78: even if the two Meletuses are not identical, it is likely that they are related; the grandfather of the accuser of Andocides was a priest. Cf. [Lys.] 6.54.) Moreover, Tulin seems to make a slip in saying that Socrates in *Euthyphro* 4b4–6 "assumes the law to be restrictive" (92). In fact, Socrates does not speak in terms of *the law* in this passage at all; he may be referring simply to what he takes to be social custom.

On the whole Tulin is successful in demonstrating the correctness of the restrictive interpretation. His analysis of the structure of the argument in [Dem.] 47.70–71 is decisive. And despite what he says about the "vagueness" and "informal nature of Athenian law generally" (102), his argument actually supports the view that the Athenians took the rule of law and the precision of its wording quite seriously, even when it seemed to conflict with the claims of justice. For these reasons his book must be welcomed. The presentation, however, is awkward throughout. Much of the argumentation takes place in lengthy footnotes that are cluttered with an oppressive bibliography. (In pages 93–100 the footnotes strangely disappear and the bibliographical clutter invades the

text.) Both the author and the editors should have given more attention to such matters. If the clutter had been reduced, it seems likely that the entire argument could have been vigorously presented in an article. More seriously, perhaps, we find in the chapter on Drakon's Code that Tulin supports his interpretation by relying partly on his (not yet demonstrated) interpretation of [Dem.] 47. Surely these pieces of evidence must be made to stand independently.

For a book-length presentation, the question seems too narrow, and too little evidence is considered in detail. Tulin touches on Antiphon 5.87–89, for instance, stating that it is “worth considering the passage in full” (14 n. 33), but he almost immediately concludes that the passage deals only with the seriousness of homicide, not with his central question. Yet the speaker argues that “vengeance is for the person wronged” (5.89), not his family, and that the charge of the prosecutor is not effective, but the decision of the jurors is. Both of these points represent challenges to Tulin's thesis: they clearly emphasize the importance of the individual as victim and that the larger corporate entity does play an important role in achieving redress for homicide. While the book provides an important corrective to MacDowell (as MacDowell himself concedes in *CR*, n.s. 47 [1997] 384–85), its presentation and methodology will make the older book more attractive to many readers, and that is regrettable.

DAVID C. MIRHADY

UNIVERSITY OF CALGARY
e-mail: mirhady@ucalgary.ca

SHEILA L. AGER. *Interstate Arbitration in the Greek World, 337–90 B.C.* Berkeley, Los Angeles, and London: University of California Press, 1996. xvii + 579 pp. Cloth, \$70, £55 (foreign). (*Hellenistic Culture and Society*, 18)

Sheila L. Ager's massive—and impressive—volume on Hellenistic interstate arbitration rides the new wave of scholarly interest in the politically fragmented but cosmopolitan Hellenistic period. Cosmopolitanism in many periods (including the present post–Cold War era) has fostered political internationalism—schemes of world government, federal unions, and mechanisms for peaceful resolution of interstate conflicts. Although the Hellenistic age enjoyed little respite from war, some scholars have hailed Greek arbitration as a model for modern imitation.

A brief survey of previous scholarship on arbitration will place Ager's work in perspective. Concepts of law and internationalism dominated earlier work. Some believed that arbitration as judicial practice could be studied without distinguishing public from private or internal from interstate cases: e.g., E. Sonne, *De arbitris externis, quos Graeci adhibuerunt ad lites et intestinas et*