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Stasis and Reconciliation: Politics and Law in Fourth-Century Greece

The exception explains the general and itself. And if one wants to study the general correctly, one only needs to look around for a true exception. It reveals everything more clearly than does the general … The exception … thinks the general with intense passion.
Søren Kierkegaard, Repetition, quoted by Schmitt 1985, 15.

1. Introduction

Around 364 BC, a small and unexceptional Greek city – Dikaia, in the northwestern Chalkidike – experienced social strife, a serious and violent episode of stasis. The episode was violent enough that the Dikaiopolitai agreed to block off legal proceedings arising from the strife, and serious enough that Macedonian intervention was needed to resolve the situation. In a way, the situation was nothing unusual: the Greek world was a world of civic strife. But the reconciliation itself is unusually well documented and so provides the opportunity for the present essay to attempt two things: in the first half, to discuss and present the microhistory of those agreements, which are documented for us by a relatively new epigraphical text of exceptional richness; and, in the second, to argue that at Dikaia and elsewhere in Classical Greece, the problematics of stasis and reconciliation are best understood in terms of politics-versus-law.

I owe much to Emily Mackil and Nikolaos Papazarkadas. The latter first showed me the Dikaia text; the former supervised the first version of this paper. Along with Andrew Stewart, they then oversaw an expanded version, submitted in May 2013 as my M.A. thesis. Afterward, during a lengthy process of revision, both continued to provide much crucial help. Many other invaluable suggestions made at different points have also improved the paper: warm thanks for these to Roger Brock, two anonymous readers, Jelle Stoop, and the Chiron editors, especially Andreas Victor Walser and Christof Schuler. Only I should be blamed for any remaining errors or lack of clarity. Finally, I am grateful to all those – Vasiliki Misailidou-Despotidou and Maria Tsiapali, Directors at the time of study of what was then the 16th Ephorate of Prehistoric and Classical Antiquities, Ioanna Damanaki, of the American School of Classical Studies at Athens, and Polyxeni Adam-Veleni, Domna Terzopoulou and Kalliope Chatzinikolaou, of the Archaeological Museum of Thessaloniki – who permitted and facilitated my autopsy of the Dikaia inscription in June 2013 and March 2016.

The question before us is, roughly, how did a Classical Greek polis deal with the extremely difficult problem of ending widespread civil strife, stasis? Reconciliation presents, after all, interlinked practical and ideological issues of great difficulty. For example: how, simply, do you get people to stop fighting? And how is the reconciliation to be understood intellectually, how is it arrived at conceptually? These sets of issues have enduring implications for the stability of the peace once it is reached. The present essay contends that stasis should be understood as the dissolution of a legal order; what makes this claim novel (as opposed to tautological or intrinsically obvious) is the emphasis on law as a major cognitive resource for the grounding of political community, rather than vice versa, in Classical Greece. More specifically, it demonstrates that reconciliation was primarily construed as an issue of legal settlements – of the construction of an appropriate legal-institutional apparatus and contractual structure for the disposition and settlement of the issues and claims that had caused the stasis and emerged during its course; and that, crucially, this reconciliation was patterned on private contract law, a fact I interpret as evidence that Classical Greeks aimed to achieve reconciliation by transforming political violence into mere legal dispute.

Indeed, it emerges from the Dikaia text that legal institutions are central to post-stasis reconciliation, which was cognitively structured by everyday contractual practice. In this way, I adopt a rather behaviorist approach: the Dikaia text suggests that Classical Greeks approached the problematic of ending political violence in much the same way they approached resolving ordinary, legal disputes; and I am prepared to take this praxis at face value as indicative of an underlying homology between political community and legal contract. Here I am inspired to some extent by Angelos Chaniotis's protestation against the scholarly dismissal of legal argumentation in international disputes as «mere propaganda»; in both cases the move is toward a more historiographically legitimate engagement with the actual terms in which the Greeks conducted their disputes.[1] My account also draws on Thucydides' Corcyrean sections and on Carl Schmitt's political theory to suggest that stasis should be understood as the politicization of a dispute, and reconciliation as the re-containment of that dispute within the bounds of law. In a word, the process of reconciliation is a legal solution to a political problem.

The following section presents my text and translation of the inscription; the third and fourth elucidate how I understand the details of the stasis and reconciliation at Dikaia and engage with a recent study of the inscription by Benjamin Gray. In brief, where Gray sees something like a classical liberal attitude toward securing justice at Dikaia and an emphasis on φιλία, even *communitas*, in other examples of reconciliation, I would emphasize the underlying similarity in the deployment of legal machinery. The fifth section uses the space of disagreement thereby opened up to frame the new,

[1] Chaniotis 2004, 186.

overarching understanding of stasis and reconciliation mentioned above; and, finally, a conclusion recapitulates the main lines of argument and suggests how certain other genres of polis-community-oriented texts similarly employ law or legal conceptual apparatus to ground peaceful social coexistence.

2. Text and translation

In the spring of 2001, a Greek landowner brought an inscribed stone to the attention of an archaeologist of the Ninth Ephorate of Prehistoric and Classical Antiquities, in Thessaloniki; the text was subsequently published with commentary in 2007 and revisited more briefly in 2008.[2] These publications should be consulted for a discussion of the stone's findspot and for general commentary, especially on linguistic features and onomastics. The text runs to 105 lines over two faces of the stone, and can be divided content-wise into seven sections. It records the various agreements reached by two factions (or imposed on them from without) to reconcile a stasis at Dikaia, a colony of Eretria, in 365–59 BC, perhaps 364.[3]

Unfortunately, the two printed editions diverge in dozens of places without explanation.[4] Accordingly, it was necessary to inspect the stone, kept in the Thessaloniki museum storerooms, in person, which I was able to do in June 2013 and again in March 2016. My autopsy confirmed that the later edition (reprinted by SEG LVII 576) is generally much the better of the two, while also introducing minor errors. Much of face A is rather worn, especially in the upper two-thirds, and the stone is often damaged along its greyish micaceous veins. As a result, parts of the inscription are quite hard to read; continued epigraphical research will no doubt improve the text.[5] Printed below is a slightly modified version of the later Voutiras text, the differences (few of interpretive significance) resulting from my autopsy. A select *apparatus criticus* lists each change from SEG but is otherwise restricted to substantive disagreements among the printed versions.

Stone height: 0.73 m; width: 0.25 m; depth: 0.12 m. Light grey marble with dark gray streaks. Uninscribed faces roughly worked with point. The inscription ends 0.07 m from the bottom edge of face A and continues 0.05 m from the top of face B, running a further 0.32 m. Worn and often battered along edges.

Ed. pr. Voutiras – Sismanides 2007; improved text by Voutiras 2008 (SEG LVII 576); see also BE (2008) no. 263 (Knoepfler) and 339 (Hatzopoulos).

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[2] Voutiras – Sismanidis 2007 (with several clear photographs); Voutiras 2008.

[3] Voutiras 2008, 784; Voutiras – Sismanidis 2007, 262–267.

[4] Voutiras 2008 claims that there are just two differences, and it is true that there are only two actual words changed in the second publication, but there are more than fifty epigraphical discrepancies – letters restored in one text but dotted in the other, or printed as fully preserved – and even a few places where the line breaks differ.

[5] A monograph on the inscription by Voutiras is in preparation.

A I – – ca. 6–8 – – · Τύχη Ἀ[γ]αθή· ἔδοξε τ̣ῇι ἐκ̣[κλησίηι· γνώμη]ν
[περ]ὶ̣ τῶν συναλ[λα]γῶμ παρήν[εγκε]ν? Λύ[κιος καὶ] οἱ̣ συν-
αλλακταί· περὶ τ[ού]των πάντων ψηφί[ζ]ο[ντ]α̣ Λύκιον καὶ
II 4 ἐπιτελέοντα ἐν [τ]ῆι ἐκκλησίηι κύριον εἶ̣[ν]αι· ἔδοξε τῆι
ἐκκλησίηι· τοὺς [π]ολίτας πάντας ὀμ̣σ[α]ι τὸν ὅρκον τὸ̣[ν]
συγγεγραμμένο[ν] ἐν τρισὶν ἱεροῖς τοῖς [ἁ]γιωτάτοις καὶ
ἐν̣ ἀγορῆι, Δία, Γῆν, [Ἥ]λ̣ιομ, Ποσειδῶ, κάπ̣ρο[ν] ἱερεύσαντας·
8 ὁ̣ρκ̣ωσάτω δὲ Λύκ̣ιος καὶ οἱ συνα̣λλ̣ακταί· τὸν δὲ ὅρκο-
ν καὶ τὰ πιστώματα πάντα γράψαντας εἰς λίθον
θεῖναι εἰς τὸ ἱερ̣ὸ̣ν τῆς Ἀθηναίης· [θε]ῖναι δὲ καὶ
εἰς τὴν ἀγορὴν τὸν ὅρκον τὸν αὐτὸ̣γ καὶ τὰ πισ-
12 τώματα γράψαντας εἰς λίθον· ὀμόσαι δὲ πάν-
τας ἐ̣ν̣ τρισὶν ἡμ̣έ̣ραις· ὅσ̣οι δ᾽ ἀποδ̣[η]μ̣οῦσιν ἢ ἀσ-
θ̣ενοῦσιν, τὸμ μ̣ὲ̣ν̣ ἀπόδημον ὀμόσαι καὶ ἀ̣γνισθ-
ῆναι ἐπειδὰν ἔ̣λ̣θ̣ηι τριῶν ἡμερῶν, τὸν δὲ ἀσθεν-
16 οῦντα ἐπειδὰν ὑγιὴς γενηθῆι ἐν τρισὶν ἡμέραις
ὀμόσαι· ὁ̣ρκωσάντων δὲ πρὸς ταὐτά· ὃ̣ς δ᾽ ἂμ μ[ὴ ὀ]-
μ̣όσηι τὸν ὅρκον καθάπερ γέγραπται, τ̣ὰ χρήματα [α]-
ὐτοῦ ἱερὰ καὶ δημόσια ἔστ̣ω τοῦ Ἀ[π]όλλωνος το[ῦ]
20 Δαφνηφόρ̣ου ἄτιμός τε ἔστω καὶ τ̣[ῶ]ν δικαίων α[ὐ]-
τῶι μηδενὸς μετέστω· μάρτυρα δ[ὲ] καὶ συνίστορ[α]
τ̣ῶν ὅρκωγ καὶ τῶμ πιστωμάτωμ π[ά]ντωμ Περδί̣[κ]-
κ̣αμ ποιήσασθαι· δεηθῆναι δὲ αὐ[το]ῦ, ἄν τινές πο̣-
24 τε τοὺς ὅρκους κ̣[αὶ] τ̣ὰ πιστώματα ἐ̣[γβ]άλλωσι, τού-
τους δυνατὸν [ἐ]όντα θανάτωι ζ[ημι]ῶσαι, ἢν τε
φύγωσι, ἀγωγίμους εἶν᾽ αὐτοὺς Δι̣[και]οπολίταις ἐ-
III κ τῆς χώρης πάσης ἧς ἐπάρχει Π[ερ]δίκκας· ἔδοξ-
28 ε τῆι ἐκ⟨κ⟩λησίηι· δ̣ίκας ὅ̣σαι φονικαί ἐσι πρὸ τ̣[ῆς] Γ̣ορ̣γύθου ἀρχῆς,
αὐτὰς ἐγδικάσασθαι πάσας ἐπ̣ὶ̣ Γορ̣γύθ̣ο̣υ [ἄρχον?]τ̣ος μηνὸς Δα-
φνηφοριῶνος πέμπτηι φθ̣ίνοντος· ὃ̣ς δ᾽ ἂ̣[μ] μ̣ὴ̣ ἐγδικάσηται, [ἀ]-
πόκλετα αὐτῶι ἔστω· ἂν δέ τις δῶι δίκημ [φονι]κ̣ὴ̣⟨ν⟩ ἢ δικάζητα[ι ὅ]-
32 σα ἀπόκλετα ἡ ἐκκλησί[η] ἐψηφίσατο, ὁ μὲ̣[ν δ]ικ[α]ζόμενος φ[ευ]-
γέτω τὴν γῆν τὴν Δικαιοπολιτῶν καὶ τὰ [χ]ρ[ή]ματα αὐτο[ῦ ἔ]-
στω δημόσια, ὁ δὲ διδ̣ο̣[ὺ]ς τὴν δίκην ἄτι[μο]ς [ἔ]στω καὶ τ̣ὰ
χρήματα [α]ὐ̣τ̣οῦ ἱερὰ καὶ δημόσια ἔστ̣ω τοῦ Ἀ[π]όλλωνος τ[ο]-
36 ῦ Δαφνηφόρ̣ο̣· εἰ δέ τι ἄλ̣λ̣ο ἐγκαλοῦσι Δήμ[αρχο]ς ἢ οἱ μετὰ Δη-
μάρχου φυγόντες τοῖς μετὰ Ξενοφῶντ[ος] ἢ Ξενοφῶν ἢ ο̣[ἱ]
μετὰ Ξενοφῶντος τούτοις ἐγκαλοῦ[σ]ι̣, ὅσα πρὸ τῆς Γ̣-
οργύθου ἀρχῆς ἐγκλήματα ἐγένοντο πρὸς ἀλλήλους τ-
40 ούτοις ἀπόκλετα εἶναι πάντα καὶ περὶ τ[ο]ύ̣των μήτε δ-
ικαζέσθω μηδεὶς μήτε ἄρχων δίκην δ̣ι̣δότω· ἄ[ν] δὲ δ-
ικάζηται ἢ διδῶι, ὁ μὲν δικαζόμενο̣ς̣ ἄτιμος [ἔ]σ̣τω κ-

αὶ τὰ χρήματα αὐτοῦ δημόσια ἔστω, τοῦ δὲ διδ[ό]ντος
44 τὴν δίκην τὰ χρήματα ἱερὰ καὶ δημόσια ἔστω [τ]ο̣ῦ Ἀπ-
IV ὁλλωνος τοῦ Δαφνηφόρου· ἔδοξε τῆι ἐκκ̣λησίηι· τοὺς Ἱέ-
ρωνος παῖδας καὶ Ἐπικράτην καὶ Ἀργαῖον τὰς δίκας κ-
αὶ τοὺς ὅρκους καὶ τὰ πιστώματα δοῦναι καὶ δέξασθαι
48 ἐν τῶι μηνὶ τῶι Ληναιῶνι καὶ Ἀνθεσστηριῶνι καθάπ-
{π}ερ συγ⟨γ⟩έγραπται ὁ ὅρκος· ἂν δὲ μὴ ποήσωσι τὰ δεδογ-
μένα, στερέσθωσαν τῶν ἐγκλημάτωμ πάντων
ὅσα πρὸ τῆς Γοργύθου ἀρχῆς ἐγένετο καὶ τῶι ὅρκ-
V 52 ωι ἔνοχοι ἔστων· | ἔδοξε τῆι ἐκκλησίηι· τοὺς παῖδ-
ας τοὺς Ἑρμίππου καὶ Ἐπιχάρεος καὶ Δημωφέλε-
ος, τούτων τοὺς μὲν ἐπιδημοῦντας ὀμνύειγ κ-
αὶ ἁγνίζειγ καὶ ἁγνίζεσθαι καὶ τὰ πιστώματα δ[ι]-
56 δόναι καὶ δέχεσθαι πάντα, τοὺς δ’ ἀποδήμου̣-
ς, ὅταν ἔλθωσι, ὀμνύειν καὶ ἁγν[ί]ζειν καὶ ἁγ[νί]-
ζεσθαι καὶ τὰ πιστώματα πάντα διδόνα̣ι κ̣α̣[ὶ δέ]-
χεσθαι· ὃς δ’ ἂμ παραβῆι τῶγ γεγραμμένω[ν τι],
60 ἔνοχος ἔστω κατὰ τὸν ὅρκον ὃν ἔδοξε τῆι ἐκκ[λη]-
VI σίηι· : οἱ δὲ ὅρκοι καὶ τὰ πιστώματα ἐγένον[το]
καὶ τὰ ἀπόκλειτα τοῖς ἄλλοις πολίταις πᾶσι ἐκ-
τὸς Δάφνωνος τοῦ Πολυζήλō καὶ Κηφισοδώρ[ō] τοῦ
64 Ἀγαθοκλέος· τούτοις δέ, ἐπειδὰν τὰς δίκας δῶσ[ι] καὶ δέξ-
ωνται κατὰ τὸν νόμον, ἂν ἀποφύγωσι, μετεῖνα⟨ι⟩ τῶν ὅρκ-
ων κα[ὶ τῶ]μ πιστωμάτωμ πάντων, ὥμπερ τοῖς ἄλλοις πο-
VII λίταις· ὅ̣ρκος· πολιτεύσομαι ἐπὶ πᾶσι δικαί⟨ω⟩ς καὶ δημο-
68 σίαι καὶ ἰδίαι καὶ τὴμ πολιτείαν οὐ μεταστήσω τὴμ πα-
τρίαν, οὐδὲ ξένους εἰσδέξομαι ἐπὶ βλάβηι τοῦ κοινοῦ
τοῦ Δικαιοπολιτέων οὔτε ἰδιώτεω οὐδὲ ἑνός· καὶ οὐ μν-
ησικακήσω οὐδενὶ οὔτ̣[ε] λόγωι οὔτε ἔργωι· καὶ οὐ θανατώσω
72 οὐδένα οὐδὲ φυγῆι ζημιώσω οὐδὲ χρήματα ἀφαιρήσομ[α]-
ι̣ ἕνεκα τῶμ παρηκόντων· καὶ ἄν τις μνησικα̣κ̣ῆι, οὐκ αὐ̣[τ]-
ῶι ἐπιτρέψω· καὶ ἀπὸ τῶμ β̣ωμῶν καθελέω καὶ καθαιρεθ[ή]-
σομαι· καὶ πίστιν δώσω καὶ δέξομαι τὴν αὐ̣τ̣ήν· καὶ ἀγνιῷ
B 76 καὶ ἀγνιοῦμαι καθότι ἂν τάξ[ηι]
[τ]ὸ κοινόν· καὶ εἴ τινα ἐπίστωσα
[ἢ] ἐπιστωσάμην, δώσω καὶ δ-
[έ]ξομαι καθάπερ ἐπίστωσα καὶ
80 ἐπιστωσάμην· ἔν τε ταῖς δί-
καις αἷς ἐδίκασεν ἡ πόλις ἐμ-
μενέω· καὶ εἴ τινα ἄλλον ὅρκ[ον]
ὤμοσα, λύω, τόνδε δὲ σπουδαιότα̣-
84 τομ ποιήσομαι· ταῦτα ἐμπεδο̣ρ-

κήσω ναὶ μὰ Δία, Γῆν, Ἥλιομ, Πο-
σειδεώ· εἰ μὲν εὐορκήσαιμι,
πολλά μοι ἀγαθὰ γίνοιτο κ̣α̣[ὶ]
88 [αὐ]τῶι καὶ παισὶ καὶ χρήμασ[ι]·
[ε]ἰ δὲ ἐπιορκήσαιμι, κακῶς [ἐ]-
ᾷ̣οὶ γίνοιτο καὶ αὐτῶι καὶ πα[ι]-
σὶ καὶ χρήμασι· δέχομαι ἀπὸ τ̣ο̣[ῦ]
92 β̣ωμοῦ παραθήκην παρὰ τοῦ Ἀπ[ό]-
[λ]λωνος κατὰ τοὺς ὅρκους οὓς ὤμ-
οσα· εἰ μὲν ἐ[μ]μείναιμι ἐν τοῖς
ὅρκοις καὶ ἐν τοῖς πισστώμασι π-
96 [ᾶ]σι, πολλά μοι κἀγαθὰ γίνοιτο καὶ
[αὐ]τῶι καὶ παισὶ καὶ χρήμασι· εἰ δὲ
[ἐπιο]ρ̣κήσαιμι δεξάμενος πα-
[ραθ]ήκην παρὰ τοῦ Απόλλωνος,
100 [ἐ]ξώλης εἴην καὶ αὐτὸς καὶ γέ-
νος τὸ ἐμὸν καὶ τὰ ὑπάρχον-
τα πάντα· τιμωρήσειεν δὲ ὁ
[θ]εὸς παρ᾽ οὗ ἔλαβον τὴν παρ-
104 αθήκην μετὰ τῶν ἄλλων
θεῶν πάντων.

Key: Divergent readings are from Voutiras – Sismanides 2007 (= V–S) and Voutiras 2008 (= V).
1: [vacat Θεός?] V [γνώμη]ι̣ V. || 8: δ̣ικασάτω V–S, ὁ̣ρκ̣ωσάτω, R. Parker apud V. || 11: ἀγορὰν V. || 13: ἀπ̣ο̣δ[η]μοῦσιν SEG. || 17: πρὸς ταῦτα, V–S 2007, πρὸς ταὐτά, R. Parker (reported in V). || 28: ἐκκλησίηι V, ἐκλησίηι *lapis* δίκας V. || 29: ἐπὶ Γοργύθο[υ ἄρχον]τ̣ος V, [ἐν]τ̣ὸς V. Walser (per ep.). || 31: φο[νι]κ̣ῆ⟨ν⟩ V. || 56–57: ἀποδημοῦντας V, ἀποδήμους V–S. || 58: διδόν[α]ι̣ V. || 67: ἐπίπασι V, V–S. || 72–73: ἀφαιρήσομ[α]|ι V; ἀφαιρήσομ[αι] V–S. || 75: αὐτήν V, αὐτ̣ήν V–S 2007. || 96–97: γίνοιτο | καὶ αὐτῶι V, γίνοιτο καὶ̣ | αὐτῶι V–S.

Epigraphical note

At lines 4, 52, and 61, the mason uses three different kind of interpunct: three vertical dots, a vertical line (identical to an iota, but more sharply cut, standing out from the surrounding letters worn shallow), and two vertical dots, respectively.

«I. – – – – – – – – Good fortune; resolved by the assembly; Lykios and the reconcilers proposed the motion concerning the reconciliations: that Lykios shall be in charge of putting all these matters to a vote and accomplishing them in the assembly.

II. Resolved by the assembly: that all the citizens shall swear the written-up oath in the three most holy sanctuaries and in the agora, by Zeus, Ge, Helios, Poseidon, sacrificing a sow (or a boar); and let Lykios and the reconcilers administer the oath; and that they shall write up the oath and all the agreed-upon pledges upon a stone and set

it up in the sanctuary of Athena; and that they shall set up the same oath in the agora, along with the pledges, after writing (everything) up on a stone; and that everyone shall swear in three days; but as for those away from the city or infirm, the former shall swear and purify himself within three days when he comes, and the sick one shall swear it in three days when he becomes healthy; and let them (sc. Lykios and the covenanters) administer the oath in the same ways; but whoever does not swear the oath exactly as it is written, let his property become public and sacred to Apollo Daphnephoros and let him be ἄτιμος and let him have no share of legal proceedings; and let Perdikkas be made a witness and observer of all the oaths and pledges; and request of him that, should ever anyone cast aside the oaths and the pledges, if he is powerful over them, to punish them with death, and, should they flee, that they be liable to seizure back to the Dikaiopolitai from all the land over which Perdikkas rules.

III. Resolved by the assembly: all the homicide trials taking place before the archonship of Gorgythos, let them be judged within the archonship of Gorgythos in the fifth day from the end of the month of Daphnephorion; and whoever does not come to court (then), let there be no further judicial recourse for him; and if someone sets a trial for murder or goes to law with respect to the things the assembly has voted be outside judicial recourse, let the one going to law be exiled from the land of the Dikaiopolitai and let his property be public, and let the one setting the trial be disenfranchised (ἄτιμος) and let his property become public and sacred to Apollo Daphnephoros; and if Demarchos or those in exile with Demarchos charge anything against those with Xenophon, or Xenophon or those with Xenophon charge against them, however many accusations there were before the archonship of Gorgythos against one another, they shall all be outside judicial recourse, and concerning these things let no one go to law nor any magistrate set a trial; but if someone goes to law or sets (a trial), let the one going to law be disenfranchised and let his property be public, and of the one setting the trial, let his property be public and sacred to Apollo Daphnephoros.

IV. Resolved by the assembly: that Epikrates and Argaios and the sons of Hieron shall give and undergo the trials and the oaths and the pledges in the month of Lenaion and Anthesterion just as the oath is written; but if they do not do the things decided, let them be deprived of all the accusations, however many there were before the office of Gorgythos, and let them be liable according to the oath.

V. Resolved by the assembly: that the sons of Hermippos and of Epicharis and of Demopheles, of these, those resident shall swear and sanctify and purify themselves and give the pledges and undertake everything, and those abroad, when they come, shall swear and sanctify and purify themselves and give and undertake all the pledges; and whoever goes beyond the things written in any respect, let him be liable according to the oath which was resolved by the assembly.

VI. And the oaths and the pledges and the interdiction of judicial recourse were for all the other citizens apart from Daphnon the son of Polyzalos and Kephisodoros the son of Agathokles; and for them, when they pay the judgments and undertake [every-

thing] according to the law, if they are acquitted, there shall be a share in the oaths and all the pledges, just as for all the other citizens.

VII. Oath: I will live as a citizen with all, justly both in public and private, and I will not depart from the ancestral constitution, nor will I admit foreigners to the harm of the community of the Dikaiopolitai or of any individual; and I will not remember ill against anyone, neither in word nor in deed; and I will not kill anyone or punish with exile or seize property on account of things in the past; and if anyone remembers ill, I will not suffer him; and I will pull him down and suffer myself to be pulled down from the altars; and I will give trust and receive the same; and I will purify and be purified according to what the community bids; and if I have made a pledge for anyone or been given a pledge, I will give and accept just as I pledged and was pledged; and I will be steadfast as for the cases which the city has judged; and if I have sworn any other oath, I dissolve it, and I will make this one of higher importance; and I will abide by my oaths with respect to these things, yea, by Zeus, Ge, Helios, Poseidon; if I am faithful to this oath, may there be many and good things for me, myself and children and property; but if I go against this oath, may it go poorly for me, myself and children and property; and I receive from the altar a token, from Apollo, according to the oaths which I have sworn; and if I remain steadfast to the oaths and in all the pledges, may there be many and good things for me – myself, my children and my property –; but if I go against my oath, in spite of receiving the token from Apollo, may I be utterly destroyed, myself and my lineage and everything of mine that exists; and may the god from whom I received the token punish me, in company with all the other gods.»[6]

3. *Dikaia's stasis and reconciliation*

The exact location of the polis of Dikaia is not certain, although it was in the Chalkidike and may be identified with Nea Kallikrateia.[7] Dikaiopolitai appear in a number of well-known inscriptions: the Athenian tribute lists, the prospectus of the Second Athenian League, and the list of θεωροδόκοι to Epidauros.[8] A Dikaia is regularly noted in the tribute lists, but it is Dikaia-near-Abdera, on the coast of Thrace not far east of Thasos.[9] Our Dikaia, by contrast, is to be placed on the western shore of the Chalkidike, north of the Pallene and south of the mainland.[10] Dikaia's absence from

[6] This translation is my own, as are all others not otherwise attributed.

[7] See Voutiras – Sismanidis 2007 and Voutiras 2008. Bilouka – Graikos 2002 and 2003 and Bilouka – Graikos – Klanga 2004 present reports of finds at Nea Kallikrateia.

[8] ATL: e.g., IG I^3 282 col. II 55–56; Second Athenian League: IG II^2 43 B 9; Epidauros θεωροδόκοι: IG IV^2 94 I b 11. There is also occasional confusion about the name of the city, which is Dikaia, not Dikaiopolis (cf., e.g., Rhodes – Osborne 2003, no. 22, with Meiggs 1972, 572).

[9] IG I^3 280 col. II 60.

[10] Dikaia is listed in between Aineia and Poteidaia, IG IV^2 94 I b 10–12, and after Therme in Pliny, HN 4. 36. These references, and the logic, are from Hansen – Nielsen 2004, 827. See Voutiras 2008, 782f. for an even more detailed discussion.

the list of cities on the coastline in that area of the peninsula given by Herodotos can be explained either by placing the city inland or arguing that it was founded after 470.[11] The earliest textual evidence for the existence of the polis is its inclusion in the tribute list of 454/3, but it also struck coins from the beginning of the fifth century.[12] A firm and brief window for the dating of the inscription itself is provided by the mention of Perdikkas (ll. 22–23, 27), king of Macedon from 365/4–360/59.[13] We know, thanks to the League's prospectus, that Dikaia was a member of the Second Athenian League from the 370s; it is thus reasonable to assume that the presence of Perdikkas in the Dikaia reconciliation text is most likely to place the document in 364, when Perdikkas was campaigning jointly with the Athenians in the western Chalkidike.[14]

In sum, the historical situation lying behind the text can be placed in the mid or late 360s and is related to a stasis that occurred in the broad context of a decade of confused warfare and shifting alliances in northern Greece.[15] Dikaia descended into a stasis arising from a struggle between two named factions: that of Demarchos and his companions (apparently in exile at the time of the agreement) and that of Xenophon

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[11] The former is the solution of Hansen – Nielsen 2004. The latter is adopted by Voutiras 2008, but seems to be impossible if the city was already minting by the end of the sixth century, as it apparently was since several hoards containing Dikaia's coinage were deposited around 500 (see Chrysanthaki-nagle 2007, 39–42).

[12] IG I^3 259 IV 19–20. Hansen – Nielsen 2004, 827.

[13] See, e.g., Heskel 1997, esp. 19–21 and 31–36, on the historical context of northern Greek wars in this period. In the relevant conflict, Athenian interest was in reconquering Amphipolis. The other powers in the region had a more complex relationship to one another. Macedon and the Chalkidian κοινόν were allies in the 390s or 380s under Amyntas III; but under Perdikkas Macedon and Athens formed an alliance of some sort directly opposed to the κοινόν. For the Macedon-Chalkidian κοινόν alliance, see Rhodes – Osborne 2003, no. 12; for Perdikkas-Athens collaboration, see Dem. 2. 14; for Olynthos as the object of the collaboration, see Polyainos 3. 10. 14 and a scholion to Dem. 2. 14, both cited by Heskel 1997, 31. Yet by 362, Perdikkas had switched sides again (Aeschin. 2. 29–30).

[14] As Voutiras 2008, 784, argues. See IG II^2 43 B 9 (= l. 105 in consecutive numbering, as in Rhodes – Osborne 2003, no. 22 and Cargill 1981). This conclusion relies on the understanding that Dikaia was still an ally of Athens and that Perdikkas is not present in the text as an enemy of Dikaia. On the other hand, the Chalkidian κοινόν itself was also initially a member of the Second Athenian League. This turns as well on the question of how thoroughly the Spartans dissolved the κοινόν in 379. But it seems like special pleading to deny that the mention of Chalkidians-from-Thrace in the Aristoteles decree is itself proof that the κοινόν still existed, even if it was reduced in size and power vis-à-vis the 380s; see IG II^2 43 B 5–6 (= l. 101–102 in consecutive numbering, as in Rhodes – Osborne 2003, no. 22 and Cargill 1981). Hence it is equally logical to imagine that Dikaia could have defected from the League as well, which by parallel logic would put the reconciliation in 363 or 362, although the earlier editors seem not to have considered this possibility. Fortunately, the exact details of the date and international situation do not bear directly on the present arguments.

[15] Stasis is often connected to external warfare: consider only Thucydides' description of stasis sweeping the Greek world during the Peloponnesian War. See, however, n. 87 below.

and his companions (apparently in Dikaia). A certain Gorgythos was archon at the time of the reconciliation.[16] He may also have been archon when the stasis erupted – there is no indication of how much time elapsed between stasis and reconciliation – but the agreements deal with complaints arising before his archonship. There is no hint in the text that one party was oligarchic and the other democratic, or any information about whence their conflict arose. What we can say is that some set of disputes was under contestation and that the reconciliation requires most of these complaints to be set aside (see below). It seems that, eventually, the struggle between the two factions came to be carried out via both controlled and uncontrolled means – i.e., in the courts and also by homicide – as it coalesced around the two previously named partisans and became stasis. The details provided in the text are sparse, however, and this reconstruction is far from certain.

This sparseness is the result of the function of the inscription, which is not to record historical minutiae for us but to enact a permanent reconciliation of civil strife.[17] Most of the text pertains to the modalities of this reconciliation. The first section explains the procedure followed: there was an assembly, at which a certain Lykios and a board of reconcilers (συναλλακταί) handled the actual transactions behind the reconciliation. The second section begins the substance of the agreement, providing that all citizens, as a body, swear an oath (given in section seven), which is likewise to be inscribed along with all the reciprocal pledges (πιστώματα), and then set up in both the city's agora and its sanctuary to Athena. The swearing of the oath is to take place in three different sanctuaries and in the agora (ll. 5–7). Everyone must swear; those who do not become disenfranchised (ἄτιμοι) and their property is confiscated.[18] Perdikkas is enlisted as a guarantor and external enforcer of the oath. The oath itself begins by enjoining citizens to respect the newly reconstituted political community (πολιτεύσομαι ἐπὶ πᾶσι δικαίως, l. 67), to do nothing that will harm that community (κοινοῦ, l. 69), and to enforce an amnesty for any crimes or unjust deeds that may have escaped punishment under the terms of the other πιστώματα (οὐ μνησικακήσω οὐδενὶ οὔτε

[16] This presumes that ἀρχῆς, l. 28, is to be translated thus. I note here as well that the restoration of [ἄρχον]τος in l. 29 makes good sense but is epigraphically questionable; after two examinations I am convinced that there is space for three or perhaps four letters, but not five. A gap of nearly the same size on the stone in an adjacent line is given just two letters. Andreas Victor Walser neatly suggests ἐπὶ Γοργύθ̣ου [ἐν]τος μηνὸς Δα|φνηφοριῶνος πέμπτηι φθ̣ίνοντος, giving a deadline by which the cases must be settled, but I am unable to find parallels for this way of specifying time. A third, less compelling, possibility might be [ὀν]τὸς. Given the lack of a convincing alternative, Voutiras's restoration, [ἄρχον]τος, remains preferable; the lack of space can be resolved by positing a lapicide's error (as in ll. 28 and 31) or an unusual compression of the letters in the broken space.

[17] See Dössel 2003 for a survey of some previously known reconciliations of civic strife, and esp. 273–291 for her conclusions.

[18] Disenfranchisement or outlawry (ἀτιμία) is a standard penalty for crimes against the political community in Classical Greek poleis. The oath is translated and briefly discussed by Sommerstein – Bayliss 2012, 141–143.

λόγῳ οὔτε ἔργῳ, ll. 70–71).[19] This last section has an obvious parallel in the Athenian reconciliation provision that there would be amnesty (μηδενὶ … μνησικακεῖν ἐξεῖναι) for everyone except the Thirty, Ten, Eleven, and the archons of Piraeus (Ath. Pol. 39. 6), at the end of the Peloponnesian War.[20] In both cases, the point of the provision is to ensure that the reconciliation agreement be permanent and binding, lest the social order of the community merely disintegrate again.

The prime substance of the agreements themselves lies in the other sections, where the gritty details of the reconciliation are laid out. The main issue turns out to be which people have access to justice and under what terms. The third section of the text lays out the general principle: whatever trials for homicide were underway before the archonship of Gorgythos are to be reopened and judged on (probably) a specific day in his archonship; failing that, no further judicial remedy is to be available for those complaints.[21] Should a magistrate arrange a trial for such a charge under different terms, or if anyone seeks such a trial, the agreement prescribes stiff penalties.[22]

The covenant is firm in its intent thoroughly to resolve the problems of violence lingering on from the stasis. To that end, this general principle of reconciliation is modulated in specific cases. Non-homicide accusations made by members of the two factions, that of Demarchos and that of Xenophon, against one another are to be ἀπόκλετα – outside judicial remedy – even if they had begun before the archonship of Gorgythos (ll. 38–42) and would therefore otherwise be justiciable. In the interest of peace those accusations are simply declared irremediable, while others (arising in connection with the stasis or not) are to be judged in the most expedient fashion possible. These provisions make the most sense if we suppose that the stasis originally began in legal disputes that got out of hand.

The mention of the two factions raises the important issue of how membership in them could have been determined: οἱ μετά … (ll. 36–38) is after all highly unspecific, itself liable to become a matter of dispute, further destabilizing Dikaia's attempts to achieve reconciliation. And while it is not possible to tell how bad the stasis was, the focus on which killings are justiciable and which people may go to law appears to suggest that it was quite severe, as does the fact that Demarchos and his faction have fled the city or become de facto exiles (φυγόντες, l. 37). Despite this severity, the text does not provide for any solution to the problem of determining faction membership, which conflicts with its otherwise thoroughgoing clarity of forethought. Perhaps, then, the two parties were small and well known to the population at large – if, for

[19] On the verb μνησικακεῖν, see Carawan 2012 and 2013 with earlier bibliography.

[20] On the Athenian amnesty see Carawan 2013 and Scheibelreiter 2013 with earlier bibliography, along with the discussion below. For the Ath. Pol. I have used Chambers' edition of 1994.

[21] There is a textual issue here; see above, n. 16.

[22] It is quite possible, as an anonymous reader has suggested, that the agreement's point here is not so much the concern that a magistrate might arrange a trial as that he might issue a judgment himself.

example, there were only a few cases. The penalties for magistrates holding forbidden trials must, however, be intended to reduce as much as possible the likelihood of the settlement itself allowing the two parties to resume their conflict in court, where it seems to have begun.[23]

In addition to the special notice given Demarchos and Xenophon, the agreements are modulated for three further classes of citizen. First, Epikrates, Argaios, and the sons of Hieron are given a different time frame and are required to τὰς δίκας … δοῦναι (ll. 46–47). But it is not in fact clear what this means. Δίκην διδόναι usually means «pay the penalty», but it can also mean «appear in court» – or, conversely, pertain to inflicting, rather than suffering, punishment.[24] I believe, however, that in this case the idiom at issue includes not only δοῦναι but also δέξασθαι (the full phrase is τὰς δίκας καὶ τοὺς ὅρκους καὶ τὰ πιστώματα δοῦναι καὶ δέξασθαι …, ll. 46–48). In Thucydides, δίκας δοῦναι καὶ δέξασθαι (5. 59. 5) means «to offer and accept arbitration» (between the Argives and Spartans).[25] Hence in this case the agreement may be stipulating that Epikrates, Argaios, and the sons of Hieron must engage in some form of arbitration amongst themselves, but it is unclear why their offenses are segregated from the other crimes dealt with in the preceding section. In ll. 64–65, however, the same idiom is used for those exempted entirely from the agreements; there it seems as though it must mean «stand trial» since there is a question over whether they shall be acquitted (ἀποφύγωσι).[26] In short it is rather unclear, but I am loath to understand a courtroom trial in ll. 46–48 because of the way δίκαι, ὅρκοι, and πιστώματα are all parallel objects of the verbs, seemingly demanding that we avoid the implication of any contingency in respect to the fulfillment of the latter two obligations following upon the outcome of the first.

The second group given particular treatment is the sons of Hermippos, Epicharis, and Demopheles; some of them are in Dikaia and others absent: ἐπι- and ἀποδημοῦντας (ll. 54–57). It seems likely that they are the sons of men who were killed in the stasis, some of whom have fled the polis; there is no mention of standing trial and the concern appears rather to be that they will seek vengeance beyond the reconciliation agreement (παραβῇ τῶγ γεγραμμένων, l. 59).

Finally, by contrast, two individuals are preliminarily excluded in full from a share in the reconciliation: Daphnon, son of Polyzalos, and Kephisodoros, son of Agathokles, must both submit to trial. Only if they are acquitted (l. 65) are they allowed to swear the oath. These men may have been considered the instigators of the stasis, which would explain why an extra barrier was placed in the path of their reintegration

[23] As Carawan 2012, 571 points out, it always requires the active participation of a magistrate «to take reprisal by litigation».

[24] LSJ s. v. δίκη; Voutiras 2008, 790.

[25] For the translation, see Hornblower 1991–2008 ad loc.

[26] Compare ll. 31–32, where δίκην δοῦναι (ἄν δὲ τις δῶι δίκημ [φονι]κὴ⟨ν⟩) is conjoined with δικάζηται and the phrases refer to a magistrate setting a trial or a private individual going to law.

into the newly peaceful citizen body. If so, however, it seems unusual that their acquittal appears to be envisioned.

These sections modulating the terms of peace bear comparison, made more fully below, with the exemption of the Thirty, Eleven, Ten, and the magistrates of the Piraeus from the Athenian reconciliation except under specific terms (Ath. Pol. 39. 6). In that case, however, the agreement establishes a class composed of citizens whose specific roles and individual crimes under the previous regime render them too culpable to merit inclusion in the general reconciliation and amnesty. The agreements preserved here are significantly more nuanced, establishing three different modulations on the overall agreement associated with different levels of involvement or guilt. Daphnon and Kephisodoros are the closest parallel to the Thirty and others, whereas the sons of Hermippos, Epicharis, and Demopheles seem to be very much the wronged party; they are given a special admonition to remain within the terms but no directives to stand trial.

This shows a remarkable feature of the Dikaia text: the evident determination to foresee every possible obstacle in the implementation of reconciliation. Generally the text proceeds from broad principles or decisions to detail. For example, the second section ordains the swearing of the oath; then specifies a procedure to follow for the two classes of citizens who should swear but cannot; then explains what is to happen to anyone who fails to swear; and finally establishes an internal guarantor and external enforcer. As a whole, the text likewise lays out terms before modulating them for specific named individuals and close companions. In this respect, it is reminiscent of the Eretrian law against tyranny, which displays a «concrete understanding of the modalities of a coup d'état» and so is able to plan ahead for different eventualities, and of the design of commercial contracts – the similarity lies in attempting to foresee and provide for every eventuality in a very practical way.[27]

Gray interprets many of just these features as evidence for Dikaia's unusual concern with «justice» as over and against the «harmony» aimed at in other post-stasis reconciliations, such as at Alipheira in the third century or Tegea in 324 BC.[28] On his view, the Dikaia reconciliation is virtually unique in our evidence in that it envisions substantial legal proceedings related to events that actually occurred during the stasis: «the decision to allow some controversial δίκαι makes the Dikaiopolitan approach to

[27] Eretria: Knoepfler 2001–2002, ii. 177. On contracts, see, for illustration's sake, Dem. 35, with Bresson 2008, 67–70, or the (later, but illuminating) dossier of building inscriptions for the temple of Zeus Basileus at Lebadeia (Pitt 2014). Also compare the familiarity with business affairs of the mover of the Athenian grain-tax law, Agyrrhios; see Stroud 1998, 67, 70f., 114, and Jakab 2007 (esp. 112–115 on κίνδυνος).

[28] Gray 2013, 379–384, referring to IPArk 24 and IG V 2 p. xxxvif. (= Rhodes – Osborne 2003, no. 101) along with several other cases. Also now see, however, Gray 2015, which expands on the arguments of the earlier paper in the context of a wide-ranging and rich discussion of ideologies of citizenship, stasis, exile, and reconciliation in the late Classical and Hellenistic polis. In the present article I respond mainly to the more tightly focused Gray 2013.

retrospective justice quite distinctive when compared with that of other known bipartisan post-stasis settlements from Classical and Hellenistic poleis other than Athens.»[29] That is to say, since other reconciliation settlements either explicitly rule out any legal proceedings related to events of the stasis or at least give no indication that any such would be permitted, whereas the Dikaia settlement seems to arrange for at least a few stasis-related homicide trials, something exceptional is happening in the new case.[30] Gray then argues that Dikaia must have had a different conception of the good polis from those of other cities, one which included «respect for procedures, laws, agreements and strict reciprocity» as opposed to the «strong patriotism, strong belief in the unity and virtue of the citizen-body, and strong attachment to the view that individuals are inextricably embedded in the values, practices and collective lives of their communities» prevailing elsewhere.[31]

Important at this juncture is the case of Athens in 403 BC. For Gray's argument, Athens presents a complication because the reconciliation agreements partake of both models: providing justice and aiming at brotherly harmony through amnesty. For my account, meanwhile, it provides several highly illustrative parallels with Dikaia's reconciliation, while also independently highlighting some important features of post-stasis reconciliation. Most crucially, both the Athenian and Dikaiopolitan reconciliations are best understood as διαλλαγαί, settlement contracts, that is agreements made by parties at dispute to settle their respective obligations, made and sealed with oaths.[32]

But first, the Athenian case.[33] According to the Aristotelian Athenaion Politeia, the Spartans coerced the Athenian assembly into voting for oligarchy (ὁ δῆμος ἠναγκάσθη χειροτονεῖν τὴν ὀλιγαρχίαν, 34. 3). Xenophon explains that the Thirty began as a sort of commission to codify the ancestral laws or constitution of the city (τριάκοντα ἄνδρας … οἵ τοὺς πατρίους νόμους συγγράψουσι, Xen. Hell. 2. 3. 2), while the Athenaion Politeia only says that they affected to follow the ancestral constitution (προσεποιοῦντο διώκειν τὴν πάτριον πολιτείαν, 35. 2). In any case, their rule became increasingly arbitrary and harsh over time; internal divisions between so-

[29] Gray 2013, 379. As he goes on to explain, he also views the Athenian case as a weaker parallel for Dikaia's concern with apportioning blame to those responsible for violence than most scholars would think, because, as he argues (385f., 398–401), he does not think Ath. Pol. 39. 5 has been properly interpreted. Note that in Gray 2015 (esp. 90–98), the cases of Tegea and Telos (also discussed below) are now described as predominantly Dikaiopolitan.

[30] Cf. now also Dreher 2013.

[31] Gray 2013, 393 and 396.

[32] See Carawan 2013, esp. 96–109, for the idea of reconciliation as a settlement contract.

[33] See, most helpfully, Rhodes 1993, 415–422 for a comparison of the narrative details as given by the main sources. Of course some of the differences are extremely important (especially in relationship to constitutional debates), others (chronological inconsistencies) less so for present purposes. Carawan 2013 tells a very much more complicated story of the reconciliation process and its subsequent impact within Athenian law; here reasons of space largely restrict my discussion to the evidence from Ath. Pol.

called moderate and extreme oligarchs became violent; and toward the end, they began to tyrannize fearlessly and to drive out huge numbers of refugees (Xen. Hell. 2. 4. 1). Meanwhile, the democratic military response under Thrasybulus eventually led to the collapse of the Thirty at the instigation of the wider oligarchic party and its replacement with the Ten, who, according to the Athenaion Politeia, were chosen to bring the war to an end (ἐπὶ τὴν τοῦ πολέμου κατάλυσιν, 38. 1). This they failed to do, sending to the Spartans for assistance instead. After further fighting, in which the Spartan reinforcements defeated the democratic partisans, all parties involved agreed that the two groups of Athenians should peacefully reconcile (Xen. Hell. 2. 4. 38; Ath. Pol. 38–39).

This agreement of reconciliation has always excited a substantial amount of scholarly attention, especially its amnesty provision: all Athenian citizens swore not to remember past injustices (μὴ μνησικακεῖν), which had considerable ramifications in the legal cases from the post-reconciliation period.[34] The terms of the agreement, though, are of course more complicated than this. The Athenaion Politeia preserves what is presumably only a portion of the terms of the settlements – termed διαλύσεις, Ath. Pol. 39. 1 – mainly restricted to the relations between the Athenians who relocate to Eleusis and the rest of the citizen body. The main principle is foregrounded: τοὺς βουλομένους Ἀθηναίων τῶν ἐν ἄστει μεινάντων ἐξοικεῖν ἔχειν Ἐλευσῖνα ἐπιτίμους ὄντας καὶ κυρίους καὶ αὐτοκράτορας ἑαυτῶν καὶ τὰ αὑτῶν καρπουμένους (39. 1).[35] However, the groups are not to mix except during the Eleusinian mysteries (39. 2).

At the outset, then, the term «reconciliation» turns out to be a slightly optimistic cast of phrase – the first item on the agenda is establishing on what footing one part of the citizen body will physically remove and segregate itself from the city. But things are not so bleak. The eventual reintegration of the entire citizenry is also envisaged and provided for.[36] First of all, the émigrés are required to continue financial contributions to the military fund of the new Athenian-Spartan alliance (the συμμαχικόν, 39. 2) «just like the other Athenians». This both secures revenue for the alliance, the Athenian portion of which is under the control of the democratic party dwelling in the city, and ties the oligarchs to Athens' affairs and fortunes while also reminding them that

[34] See now Wolpert 2002, Wohl 2010, ch. 6, and more recently still Carawan 2013, with a history of study. Shear 2011, ch. 7 (see esp. Table 10, pp. 192–195), helpfully fits together the evidence for the actual amnesty provisions. Note Carawan's 2002 reinterpretation of the meaning of μὴ μνησικακεῖν clauses as «closing pledges» restricted to a specific range of grievances, rather than the thoroughgoing amnesty previously emphasized by scholars such as Loraux; Joyce 2008 attempts to respond, with some success, but see Carawan 2012 with a further response. My own position is quite sympathetic to Carawan's, but the evidence does seem open to multiple readings.

[35] «Those of the Athenians who had been living in the city [i.e., the oligarchic party] who wish to live outside shall have Eleusis, retaining full citizen rights and being sovereign and authoritative over their own [affairs] and enjoying the profits from their own properties».

[36] Cf. Shear 2011, 200–207.

they are still Athenians. It incentivizes their eventual reconsolidation with the city-dwellers by tying their future to the city even as the agreement blocked them from participation in the city's political process. Next, a fair process for arbitration is established in case one of the «departers» (ἀπιόντων, 39. 3) wishes to buy property from a recalcitrant Eleusinian who will not sell. Citizens are to register as émigrés within a fixed time after the swearing of the oath (ἀφ' ἧς ἄν ὀμόσωσιν τοὺς ὅρκους, 39. 4, the Athenaion Politeia's only mention of the oath of reconciliation) and those who choose to live in Eleusis are not permitted to hold a magistracy until they re-register as city-dwellers (39. 5).

Trials are to be held only in case of actual murder (εἴ τίς τινα αὐτόχειρ ἔκτεινεν τρώσας, 39. 6).[37] For other offenses, no one may recall ill (μὴ μνησικακεῖν) – the famous amnesty portion of the reconciliation. But the amnesty excludes the Thirty, the Ten, the Eleven, and the magistrates of the Piraeus. The first two groups are the oligarchs proper; the Eleven are the magistrates in charge of punishments; and the magistrates of the Piraeus were «taken as assistants» to the Thirty (35. 1). In other words, those actually responsible for the harsh and excessive regime of the Thirty along with their various henchmen. However, even these, if they give accounts (εὐθύνας δὲ δοῦναι, 39. 6) of their magistracies, can share in the reconciliation terms. Normally, giving εὔθυναι was a routine procedure following the expiry of a magistracy, but in this case it must have involved a rigorous investigation of their possible complicity in the oligarchy.[38] Scholarly rhetoric focusing on the importance of the amnesty therefore conceals, to some extent, fundamental limits to its generosity: these εὔθυναι would have amounted in a real sense to trials, and the alternative would be exile from Attica rather than living in Eleusis.[39] On the other hand, it is crucial that throughout his account of the agreements, pseudo-Aristotle consistently uses present verbal forms, as opposed to nouns, to define the two categories of citizen, reinforcing their fluidity and contingency. The institutional structures, predominantly legal-procedural in character, set up to incentivize and facilitate any such transition buttress such a view of partisan groupings as easily dissolved. The Athenian oligarch can become a democrat again any time he wishes; but at Dikaia, Kephisodoros will always be Kephisodoros.

Other details of the reconciliation could be added from the speeches of Isocrates and Lysias.[40] In this brief summary, I have focused on the modalities of the agreements

[37] I follow the orthodox interpretation of this passage, recently challenged by Gray 2013, 386f. and 398–401.

[38] On εὔθυναι, see Fröhlich 2004, esp. 331–335.

[39] Shear 2011, for example, ignores this aspect. (The idea, found in some scholarship – e.g. Shear 2011, 203 – that oligarchs could go live in Eleusis without undergoing εὔθυναι seems ultimately to be based on Blass's perplexing alteration of the text, εἶθ' οὕτως ἐξοικεῖν τοὺς ⟨μὴ⟩ ἐθέλοντας, which has no discernible basis and should be regarded as incorrect. In Chambers' edition, the papyrus reading, with no μὴ, is rightly printed.)

[40] See Shear 2011, 192–195.

given in the Athenaion Politeia. How to handle the citizen body, bifurcated into two parallel channels, hopefully to anastomose downstream, is what is at issue. But it turns out that the legal institutions and machinery adumbrated above – third-party arbitration, restriction of access to litigation, inspection of records by citizen bodies, and maintenance of registers of citizens by party – are integral to solving that problem. In addition, the citizens as a body swore an oath common to the whole city (… ὁ μὲν κοινὸς τῇ πόλει ἁπάσῃ [ὅρκος], ὃν ὀμωμόκατε πάντες μετὰ τὰς διαλλαγάς, Andoc. 1. 90) not to recall past ills.

Some of these aspects are paralleled by the later Dikaia reconciliation. In particular, reconciliation takes the form in both settlements of a network of contracts between different parties about how to handle the events of the past and how to interact in the future, agreements enmeshed in the system of legal action.[41] In the Athenian case, trials for murder are permitted (Ath. Pol. 39. 6); likewise, the Dikaia text allows for the resolution, within restricted parameters, of outstanding homicide trials from before (?) the stasis (ll. 28–36).

Gray's suggestion that Dikaia is unique in allowing retrospective justice and his use of this conclusion to investigate diversity in civic self-conceptions are intriguing, but there are some major problems. For one thing, most of the cases he cites involve the return of exiles, whether after Alexander's order in 324 or simply in the late fourth century, rather the violent civil strife evident at Dikaia. There is a connection, of course, between exile and stasis, but there is a crucial difference in temporality between stasis – recent or ongoing strife – and exile as an established state of affairs.[42] That is, while citizen exile can also involve great violence, and similar concerns for justice present themselves in resolving the two types of situation, the historical contexts are so different that we might not expect those concerns to be handled in the same ways. Indeed, the main issue in cases of returning exiles is typically what has happened to their property in the meantime, rather than, as in stasis proper, ending violence; property is the means by which membership in a polis was articulated, so its restoration was both practically and symbolically required for reinstating exiled citizens. And it so happens that nearly all of the cases cited by Gray do in fact include explicit provisions for how to handle disputes related to property and other aspects of the termination of the abnormal civic situation.[43] While it is true that property disputes differ

[41] See Carawan 2013, 96–109 («the contractual character of the [Athenian] reconciliation agreement»), for a more detailed bundle of related arguments, with much further bibliography. Note that the nouns in question (διαλύσεις, συναλλαγαί, διαλλαγαί) are always plural: it is not a single settlement, but a constellation or network of interpersonal agreements.

[42] What he calls «exclusionary stasis» lies at the heart of Gray 2015 (esp. 197–291).

[43] See Carawan 2013, 52–58 for an important discussion of this issue. I would add several additional objections. One example Gray cites is reconciliation at Phlius in the early fourth century, described by Xenophon at Hell. 5. 2. 10 and 5. 3. 10. As he notes, that reconciliation included provisions for adjudicating property disputes related to the returning exiles. In the

from the homicide trials at Dikaia, that is no reason to ascribe them to a «strong belief in the unity and virtue of the citizen body» rather than to a «respect for procedures».[44] Third, it is important to note that many disputes related to the stasis at Dikaia are stipulated to be ἀπόκλετα; no thoroughgoing accounting for every grudge is imagined. And finally, Gray's reading of the text underplays the importance of its own communitarian language and the rituals prescribed, most notably the fourfold swearing of the oath en masse, which is not so unlike that at Tegea or Nakone.[45]

Even supposing, arguendo, that these objections could be satisfactorily answered, I believe that in any case there is a different way of reading the body of texts assembled by Gray together with the Dikaia text and the Athenaion Politeia's account of reconciliation at Athens in 403. The alternative I propose, which is at least as plausible and, I believe, better fits the range of available evidence, would highlight a shared concern

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Tegea case (Rhodes – Osborne 2003, no. 101), meanwhile, disputes related to the seizure of exiles' property are to be judged, this time in a special court of foreign judges. Again, at Mytilene in 334 or 324 (?), a citizen board is constituted to handle all of the disputes related to returning exiles (Rhodes – Osborne 2003, no. 85 B, esp. ll. 23–25: [οὗτοι δὲ σπουδαίως ?φυλάσσ]οντον καὶ ἐπιμέλεσθον ὡς μῆδεν ἔσ|[ται ἐνάντιον τοῖς τε κατ]ελθόντεσσι καὶ τοῖς ἐν τᾶι πόλι προσ|[θε ἐόντεσσι μηδετέρως], «and let [the board of citizens] zealously (?) be on the lookout and take care that nothing occur against either those returning or those already in the city, on either side»). Some of Gray's examples do work better; the Alipheira reconciliation in the Hellenistic period (IPArk 24) seems to exclude from justice many offenses related to the stasis (see esp. l. 6–7, μηδὲ δικάσασθαι μηδένα μηδὲν εἴ τι μ̣ι̣ασμα γέγονε π|ρότερον ἢ Κλεώνυμος τὰν πρωρὰν ἐξάγαγε τὰν Ἀριστολάῳ). But one provision, unfortunately rather obscure, still envisions litigation: ll. 17–18, δικασάσθω μηδὲς ἰδιώτας τῶν ἴνπροσθε συ[νγραφῶν,]| εἰ μή τις ἰνγεγύευκε ὑπὲρ τὰν πόλιν δόξαν ταῖ [βωλᾶι]. There is some controversy (see Carawan 2013, 57f.), but Thür – Taeuber translate, «kein Privatmann soll Prozeß führen wegen der früheren (Darlehens-)*Syngraphai*, außer wenn jemand auf Beschluss des Rates für die Polis Bürge war» (IPArk p. 281). In short, «the rules prescribing how and when [litigation may occur] are the essence of these ‹amnesty decrees›» (Carawan 2013, 52).

[44] Both concerns are quite legible in the Athenian case, which was probably more similar to the Dikaia case (in type if certainly not in amplitude) than were the returning-exiles situations. See Carawan 2013 for a reading of the Athenian reconciliation in legal, contractual terms, and Loraux 2002 for a more body-politic, therapeutic reading.

[45] The Nakone text is Gray 2013's best contrast for Dikaia's reconciliation; in Gray 2015 the two cases furnish his opposed poles of civic ideology. For the text, see tablet III in Nenci's publication of the Entella tablets (Nenci 1980, 1272f.); also SEG XXX 1119 and Ampolo 2001, 26–28. In the Tegea inscription (Rhodes – Osborne 2003, no. 101), the oath occurs in ll. 57–66 (latter part badly damaged). This text (the beginning of which is unfortunately missing) is curiously paratactic; it can be divided into sections, each of which (like the Dikaia text) sets up specific terms for specific domains under debate, but they are not introduced by any such phrase as ἔδοξε τῆι ἐκκλησίηι, so that the oath simply appears at the end, given in the first person singular but without the (as it were) quotation marks of an introductory ὅρκος or any preserved information about who is to swear it, or where, or when. Absent such details, it should be conceded that the Dikaia oath is more strongly communitarian, given its length, content, and the provisions to swear it en masse no fewer than four times.

for legal machinery, and specifically for contract and contractarian thinking, cutting across the different cases of reconciliation.[46]

4. Dikaia's reconciliation as contract

Dikaia's reconciliation, including especially its oath, is cognitively patterned on the resolution of a dispute in private contract law. This claim holds good for most of the other reconciliation records preserved on stone, too. Accordingly, I investigate the implications of how and why the mental – or cognitive – apparatus for achieving reconciliation seems to be derived ultimately from private law.[47] This relationship between law and politics at Dikaia is best discussed under two headings: (a) the oath and (b) the other aspects of the text's contractual form.

The exact relationship of oath to law is an important topic that has not yet received a definitive treatment.[48] Fortunately, Edwin Carawan has analyzed the much narrower question of the relationship between contract and oath with useful results.[49] Oaths tend to appear in conjunction with settlement contracts (διαλλαγαί), where the oath guarantees the permanence of the agreed disposition of affairs, and are most typically absent from promissory contracts, that is ones wherein the two parties are agreeing to the future performance of a genuinely new obligation.[50] This is in contrast to the older and perhaps more intuitive understanding of oath as simply an extralegal constraint that the two parties may or may not invoke or feel especially psychologically bound by; that was Wolff's theory.[51]

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[46] Once again, Carawan 2013 mounts a comparable argument focused on the Athenian case; see also his pp. 49–62 for a collection of comparanda.

[47] I do not mean to set up an untenably rigid distinction between public and private in Classical Greek society, but rely instead on the definition of public and private law as spheres relating to obligations pertaining to the community versus to fellow citizens, without of course implying that the polis was disinterested in the latter. For discussion, see, e.g., Jones 1956, 116–122 and Harris 2013, 138f.

[48] In particular, the role of oaths in other political texts such as the Eretrian anti-tyranny law, the Mytilenean decree on concord (discussed briefly below), and in general whether it is tenable to see the Greek conception of law as grounded ultimately in religious sanction (cf. Derrida 1990 and Ojakangas 2009) are important questions. Future work in this area will be helped enormously by the valuable typology of evidence now on offer in Sommerstein – Bayliss 2012 and Sommerstein – Torrance 2014 (also see Loraux 2002, 130–146).

[49] Carawan 2007.

[50] Carawan 2007. The pattern is not absolutely consistent, but it appears to be a norm.

[51] Carawan neatly sums up Wolff's position thus: «Greek contract thus evolved not *from* oath but *alongside* it, so that oath is invoked as a constraint above the law to enforce any unsecured promises» (Carawan 2007, 74). See Wolff 1957. The crucial question for Wolff (61–66, esp. nn. 88 and 89) was whether the exchange of promises created an enforceable obligation under Greek law, which he forcefully denied (incorrectly, in the views of many contemporary specialists).

Similarly, in the case of the decree of the Athenian γένος of the Salaminioi, «we find a detailed arrangement for sharing assets and obligations by two groups within the *genos* … it is an agreement sealed by oath. What seems to require the oath is that this is a settlement between two disputing groups whom arbiters have reconciled».[52] The point of the oath both here and in commercial contracts is to close out further discussion by employing promises to be «friends», not to recall ills (μνησικακεῖν), and so forth.[53] The Dikaia oath fits well with this conclusion, as the function is to ensure future adherence to the covenanted dispositions; the promises are all basically to that effect.[54] This is crucial for my argument about the Dikaia text and reconciliations in general; the presence and format of the oath seem to mark such agreements in formal terms as settlement contracts, assimilating them to private law practice. Even in a case such as that of late Classical Tegea, where the oath requires citizens broadly to set free their grudges against one another, the scope of that promise is defined by and restricted to the range of contentions the agreement handles, many of which are to be managed (hence the foreign court) and many set aside. Thus, even there the oath functions as a seal upon the parties' concord.

At the same time, an oath, especially one elaborately sworn in public and en masse, is not merely an element of legal formalism devoid of any psychological binding force.[55] Religious rituals in general (among the many other things they can do) denote their content as being especially important. Theorists of religion have expressed this idea in a variety of ways.[56] Perhaps most clearly and to the point, the historian of religions Jonathan Z. Smith has gone so far as to argue that «ritual is, first and foremost, a mode of *paying attention*. It is a process of marking interest».[57] One way this focalizing power of ritual cashes out is in distinguishing oath-bound agreements from other sorts of agreements and from the unreliable instability of human utterance more broadly. Rituals employ various strategies to achieve this focalization, including the elaboration of place. «It is this characteristic [of marking interest], as well», Smith continues, «that explains the role of place as a fundamental component of ritual: place directs attention».[58] The Dikaia reconciliation oath is to be sworn in «the three most

[52] Carawan 2007, 75; see Lambert 1997 for the latest text and commentary (with Rhodes – Osborne 2003, no. 37).

[53] Carawan calls it the «closing pledge».

[54] In accordance with Wolff's concept of the Zweckverfügung or «disposition for a determined purpose». See also Wolff 1966.

[55] Cf. Chaniotis 2013.

[56] From 19th century theories of magic (e.g., Frazer 1963, 37f.) to the most sophisticated of contemporary ritual theory (Bell 1992, esp. 74, and 1997, esp. 138–144). Cf. Gernet 1981, 169f.

[57] Smith 1987, 103, emphasis added.

[58] Smith primarily has in mind built or otherwise elaborated religious spaces, such as temples, cathedrals, and the like; he also, however, cites Hdt. 2. 172, the story of Amasis' washing basin transformed into religious icon, as a parable for the universality (and ultimate arbitrariness) of spatial significance in ritual behavior. Elsewhere, he evocatively terms sacred place a

holy sanctuaries[59] and in the agora» (ll. 6–7), mapping out a definitional geography of the polis.[60] This ritualized marking-out of the agreements, sealed by oath, elevates them high into the realm of efficacious speech acts. Of course, this may be reductive functionalism, but it remains true and important that swearing oaths is perhaps above all about this function: trying to imbue mere speech with greater force. As Walter Burkert formulated it, «oath is a phenomenon of language which owes its existence to the very insufficiency of language … oath rituals principally enact irreversibility».[61]

Additionally, then, using Carawan's results, we can conceive of the Dikaia reconciliation as a settlement contract – the συναλλαγή as a διαλλαγή – in terms of the oath's form and placement.[62] This contractual form is borne out firmly by the language of the text. First of all, the exchanged agreements are frequently referred to as πιστώματα, pledges, which happens to be a rare term but is obviously reminiscent of more familiar agreement terminology.[63] A πίστωμα is a form of assurance, something in which one may repose πίστις. Those who dictated the form of the agreement are the συναλλακταί, another relatively rare term, but, again, similar to the διαλλακταί familiar as the arbiters of settlement contracts.[64] Beyond these lexical transformations, the whole second and third sections of the text rely cognitively on private contract practice: the inscribing and displaying of the agreements serves roughly the same function as sealing a contract and depositing it with a third party. Hence, importantly, the Dikaia text's display clause is actually enmeshed in the agreement itself, not appended

focusing lens: a «marked-off space in which, at least in principle, nothing is accidental; everything, at least potentially, is of significance» (Smith 1982, 54, emphasis original). Sommerstein – Torrance 2014, 132–155, now provides a catalogue of evidence related to extra sanctity in Greek oaths.

[59] This phrasing – ἐν τρισὶν ἱεροῖς τοῖς [ἁ]γιωτάτοις – is difficult to parallel epigraphically. Indeed, ἅγιος is apparently rare in inscriptions before the Roman Imperial period. Moreover, the phrase suggests (also see following note) that Dikaia had an agreed-upon set of three most important sanctuaries, which is perhaps rather surprising.

[60] That is, these places were chosen as constitutive of the polis itself in its citizens' imaginations, charging the oath with as much affective force as possible and activating feelings of solidarity with one another and with the city itself (on cognition, affect, and places, see, for example, Lynch 1960 and Tuan 1977).

[61] Burkert 1996, 169–172. Or consider Smith 1987, 109: «Ritual is a means of performing the way things ought to be in conscious tension to the way things are.» On the religious aspects of the Dikaia text, see for now Salvo 2012; Voutiras's forthcoming monograph will also, I believe, contain extensive discussion of the ritual acts.

[62] See Carawan 2006, 361–374, esp. 367–369. Carawan 2012 argues quite cogently for the view that this kind of oath and the promise μὴ μνησικακεῖν are about «finality, not forgiveness» (567).

[63] I can find no other epigraphical attestations of the term; despite several uses in fifth-century verse, it is uncommon in other texts as well – evidently it is not part of the repertoire of juridical language – although Aristotle does speak of πιστώματα … περὶ μαρτυριῶν, «confirmations of the evidence's validity» (Rh. 1376a17).

[64] The arbiters at Telos ca. 300 are also termed διαλλακταί (see below).

as an element of the assembly's proceedings. Insofar as there is a standard form to Greek decrees, the instructions to inscribe and set up a particular decree usually come at the end of the text (or at any rate outside the main content of the εἶπεν clause) because they represent a separate step in the assembly proceedings, inessential to the passage of the decree itself.[65] Not every decree gets inscribed. By contrast, Dikaia's reconciliation agreements require the fixity of written form, publicly known to all; consequently, the decision to inscribe them is intrinsic to the agreements themselves.

As noted above, the text contains provisions for every foreseen eventuality, similar to the contract preserved in Dem. 35, which supplements the core agreement with further instructions concerning contingencies of weather and force majeure.[66] In this sense, the Dikaiopolitai agreement is more contractual in form than the Athenian amnesty, at least insofar as preserved (principally) in the Athenaion Politeia and Andokides.[67] One reason for this is that the historical facts of the Athenian case made it less necessary to imagine a series of continuing court cases because of the somewhat more thoroughgoing nature of the amnesty (itself perhaps necessitated by the very scale and comprehensiveness of the civic strife in Athens). However, it still provides in pseudo-Aristotle's compact summary the same pattern of thought for the future. Finally, the reliance on oath is, again, characteristic of the analogous type of private contract.

When we turn back to the other cases of reconciliation, we can see that they also partake of these features of settlement contracts, in which past civic strife and even violence are all rechanneled into familiar legal constraints modeled after simple private law disputes. Thus, at Tegea, far from simply relying on citizenly harmony and virtue, the reconciliation agreements envision and provide for drawn-out, complicated, and contentious disputes (the foreign court sits for sixty days, after which any disputes can still be judged in the city's court; and exiles who return after the sixty days can have their claims judged in Mantineia: ll. 24–37); the promise to live together in harmony is clearly conditional upon the completion of such proceedings.[68] In this way, resolution of the exiles' status is similar to the reconciliation at Dikaia, which relied upon finely negotiated terms and required citizens to abide by the agreements above all else. Likewise, the Mytilene decree provides for the creation of a new, special board for handling all disputes related to the returning exiles; they are given specific, written guidelines (a διαγραφή, e.g., l. 29); the boule will judge on anything falling

[65] Rhodes – Osborne 2003, xixf. (also see 208: «… publication clause, illogically, in the middle [of the decree] …»). See Henry 2002 for a thorough syntactical study of the evolution of Athenian publication clauses over time.

[66] On this contract see recently Bresson 2008, 67–70.

[67] Shear 2011, 193–195.

[68] Rhodes – Osborne 2003, no. 101. See Carawan 2012, 580f., pointing out that the central part of the oath is obscure and that even Alexander's edict (upon which the Tegea restoration is presumably contingent) «denied amnesty to those guilty of homicide or sacrilege» and that «for wrongs committed by one's own hand, one is likely to be liable».

outside what is provided for in writing (ll. 37–38).[69] This settlement does not seem to include a communal oath, but instead a communal prayer and sacrifice ([εὔξασθαι] τὸν δᾶμον …, ll. 38–49) fulfilling a similar function, establishing the finality and efficacy of the agreed terms (ἐπὶ σωτηρίαι … γενέσθαι τὰν διάλυσιν, ll. 40–41). It is important to emphasize that all of these cases do in fact concern disputes related to the civic strife being settled. The common pattern is not for such disputes to be forgotten, but for the settlement to prescribe closely regulated modalities for the transformation of violent disagreement into mere lawsuits, for the reinscription of political disputes within the sphere of agreed-upon, procedurally contractual forms.[70]

At the same time, there are also limits to the contract analogy. At least notionally, a contract is willingly and freely entered into by the participants, and enforcement of its terms relies upon discursive success by persuading dikasts of the justice of one's complaint. By contrast, the Dikaia reconciliation is to be forcefully upheld by Perdikkas, king of Macedon, punishing violators with death as necessary. When the chips are down, it is certainly plausible that this reconciliation has been imposed in part by force. It seems unlikely that the sons of Hermippos, Epicharis, and Demopheles willingly or happily conceded their right to seek justice (if my interpretation is correct); rather it was simply the price they had to pay in order to remain in the community.[71] Indeed, Robert Cover's work provides a very different way to think about the Dikaia reconciliation. Cover emphasizes that judicial activity often «destroys» or «kills» (understandings of) law, obliterating communities' own interpretations of the demands of justice.[72] The application of Cover's insights to a situation of reconcili-

[69] Rhodes – Osborne 2003, no. 85. Gray 2013, 382, rather confusingly claims that the board is «responsible only for addressing questions about future civic organisation», suggesting that disputes over property do not concern «past events».

[70] In this light, Dikaia is not unusual in its concern for justice and resolving rather than repressing disputes, but rather Hellenistic Alipheira (above, n. 43), one of Gray's best examples of amnesty, seems strange in *not* providing for handling disagreements. Here, I would emphasize Carawan's point that the oaths and promises at the end of many of these agreements are «closing pledges», about «finality, not forgiveness» (Carawan 2007 and 2012). My point would then be that the difference Gray identifies might better be understood as situational: contract-rhetoric here, friend-rhetoric there, depending on the exact historical context, the problems to be solved, and the state of our documentation. In any event, polyvalence, contestation, and situationality are ultimately more plausible working hypotheses than monolithic, discrete civic ethical self-understandings.

[71] Cf. Moe 2005, 226f.: «… consider a stylized situation in which a criminal presents his victim with a classic choice: ‹your money or your life›. An economist might say that this is just another case of voluntary exchange. If the victim chooses to hand over his wallet, he is simply acting on his preferences and making a rational choice». The point in this paragraph is the admittedly obvious one that agency and structure are mutually constitutive of human action, and accordingly sometimes more powerful parties are able to constrain the range of choices available to the less powerful, structure implying inequality.

[72] Cover 1983.

ation is clear: if, in civil strife, the parties naturally imagine themselves to have law (or justice, or norms) on their side, part of the agreements' force is precisely to extinguish those hermeneutic worlds.[73]

5. Stasis and reconciliation, politics and law

In short, then, post-stasis settlements seem simultaneously to partake of political violence and to channel it into legalistic concerns: the violent crimes of murder and exile are transmuted – enervated – into courtroom proceedings. This conjunction suggests a new way of understanding how stasis should be conceived and why its conclusion took the form of reinscribing political violence within the domain of law. The most important issues to be worked out in reconciliations involve access to the lawcourts, legal machinery for enforcing the agreements, and related problems. These emphases on legal solutions to political violence are striking and suggest a new picture of stasis and reconciliation at the apogee of the development of Classical Greek politics in the fourth century. In brief, stasis is best understood as the politicization of a dispute, in a way defined in detail below, which is why the return from stasis to normality takes the form of de-politicizing legalistic machinery.

Consider Thucydides' celebrated description of the Corcyrean stasis.[74] It is offered as a paradigm for the pattern that engulfed the Greek world during the Peloponnesian War, as the hegemonic poleis of Athens and Sparta drew in this or that city by means of a democratic or oligarchic coup or victory in stasis (3. 82. 1). War, in Thucydides' understanding, foments stasis because peace does not typically confront men with ἀκούσιοι ἀνάγκαι, ineluctable compulsions, whereas stasis-engendering war is a βίαιος διδάσκαλος, a violent instructor that «assimilates the majority's propensities to present circumstances» (3. 82. 2). Under stasis's tutelage, the Corcyrean demos simply begins to kill perceived opponents by any means to hand (3. 81. 4–82. 1). In accordance with his theory of human nature (τὸ ἀνθρώπινον, 1. 22; φύσις ἀνθρώπων 3. 82. 2), Thucydides presents stasis and war alike as leveling forces that return man to an antisocial state of natural violence; even discourse was altered in accordance with events at Corcyra (3. 82. 4), and there is a general reversal of all social and ethical values; stasis leads men to oppose one another through necessity of self-defense, unable to rely on judgment, speech, or even oath (3. 83. 1–2); only a common complicity in crime ties factions together. Stasis is pure force. Law and religion count (3. 82. 6–8). And worst of all, even direct attempts to reestablish the basic conditions for social life failed utterly: καὶ ὅρκοι εἴ που ἄρα γένοιντο ξυναλλαγῆς, ἐν τῷ αὐτίκα πρὸς τὸ ἄπορον ἑκατέρῳ διδόμενοι ἴσχυον οὐκ ἐχόντων ἄλλοθεν δύναμιν: ἐν δὲ τῷ

[73] Cover 1983, passim, but esp. 35–44 («interpretation always takes place in the shadow of coercion», 40; «a legal interpretation cannot be valid if no one is prepared to live by it», 44).

[74] There is a large bibliography on this episode. See especially Gomme 1956, 358f.; Macleod 1979; Cogan 1981; Hornblower 1991, 466–491; and Loraux 2009.

παρατυχόντι ὁ φθάσας θαρσῆσαι, εἰ ἴδοι ἄφαρκτον, ἥδιον διὰ τὴν πίστιν ἐτιμωρεῖτο ἢ ἀπὸ τοῦ προφανοῦς … (3. 82. 7).[75] Stasis in short does epistemic damage to a polis, in that words lose their normal meanings and ethical valuations themselves are correspondingly destabilized.[76] In stasis, the basic social foundations of the city are dissolved by a flood of violence; the lifeworld is torn apart.[77]

If something like this depiction of human nature in conditions of stasis held good at Dikaia and elsewhere, we can explain why it was apparently almost always necessary to provide channels for outstanding disputes to be resolved: that kind of legalistic, institutional machinery was needed to convince all parties to set aside their mistrust of one another. Oaths of reconciliation are not enough; what is needed are institutionalized contractual arrangements *backed by* such oaths – in other words, justice *and* harmony. It also explains why the authorities sometimes reacted so violently, so decisively, to the violation of the reconciliation settlements, as when, after the Athenian reconciliation, Archinos had the boule execute without trial someone who had begun to «recall wrong» in violation of the oath (Ath. Pol. 40. 2).[78]

Thus, the essential move of reconciliation was the translation of unconstrained violence into familiar, courtroom channels, like stuffing the jack back into its box. Strife outside those channels, as the example of Archinos shows, had to be dealt with outside those channels in order to buttress the contractual arrangements.[79] At Dikaia, it seems that the stasis originally arose out of legal disputes which spilled beyond their appropriate boundaries; thus, outstanding, non-homicide disputes between the two parties involved in the stasis are covered by amnesty in an effort to prevent a recurrence of the original problem. But there is, then, a meaningful distinction between opposition within the existing legal framework and what transpires – stasis – when such disputes spill beyond the confines of the system. The situation at Dikaia was evidently dire, a violent civil conflict, which necessitated external intervention and a grand plan to reunite the citizen body, to efface the political divisions that had infiltrated the polis.

I would, in short, define stasis as the *politicization* of a dispute, as the transformation of disagreement into enmity. In doing so, I draw on Schmitt's political theory. In ‹Der Begriff des Politischen›, Schmitt famously defined the essence of

[75] «Even oaths, if indeed any were, of reconciliation, given by each for the present out of necessity, were of force [only] so long as they [i.e., those swearing] had no other power; but upon the chance presenting itself, whoever arrived first at daring, if he saw [the other] unguarded, was the more sweetly avenged through the state of trust than [if he had been avenged] openly …» See Gomme 1956, 384 on construing the Greek.

[76] See Loraux 2009.

[77] On the lifeworld, see Schutz 1970, esp. 72–76, and Habermas 1989, esp. 113–152.

[78] Carawan 2012, 571.

[79] On the issue of foundational violence outside or at the origin of political orders, there is a large bibliography from Machiavelli's Discourses on Livy, Book One, Ch. 9, to the present; cf. Derrida 1990, part 2, esp. 1024–1039.

politics (as an abstract domain of social analysis), which he calls «the political», in the terms of friends and enemies: «the specific political distinction to which political actions and motives can be reduced is that between friend and enemy».[80] The political revolves around a polarity between friends and enemies in the same way that morality revolves around the concepts of good and evil.[81] And the terms of the polarity must be understood in an existential sense; as Schmitt writes, «the distinction of friend and enemy denotes the utmost degree of intensity of a union or separation, of an association or dissociation … The friend and enemy concepts are to be understood in their concrete and existential sense, not as metaphors or symbols …».[82] One's enemy is someone with whom there is a real and actual possibility of existential conflict, as in stasis.

This requirement, that there be an actual possibility of existential conflict, is constantly emphasized by Schmitt.[83] It is important that his definition of the enemy be closely tied up with a palpable understanding of a particular antagonism («konkrete Gegensätzlichkeit») that can lead to war as the «most extreme consequence» of enmity.[84] Absolute, limitless hostility must be a latent possibility. A functioning polis, such as Athens, has social mechanisms (whether law, rule-bound feuding practices, or other forms of social control) for keeping disputes, private and public, constrained within a formal structure of some kind. This state of constraint is the antithesis of open hostility, and also of stasis. In a word, there is no enmity of this kind within the polis. For Schmitt, only a political community can have friends and enemies: «The enemy is not merely any competitor or just any partner of a conflict in general. He is also not the private adversary whom one hates. An enemy exists only when, at least potentially, one fighting collectivity of people confronts a similar collectivity. The enemy is solely the public enemy … πολέμιος, not ἐχθρός».[85] Stasis, then, can be conceptualized as the fragmentation of the city into hitherto-unformed or latent political sub-units – just as Thucydides describes in the case of Corcyra.

The point, rather simply, is that debates and disputes constrained within the discursive and rule-bound formats of the assembly and the lawcourts are, at most, latently political in the sense of Schmitt. It takes something substantial for such a

[80] First published in 1927, reissued in elaborated form in 1932 (Schmitt 1932). All quotations are from the translation by George Schwab: Schmitt 1996, 26 (= 1932, 14). Readers unfamiliar with Schmitt, who has steadily become a major figure in certain areas of the humanities since his death in 1985 (see, for example, the journal Telos), may wish to consult the introductions to Schmitt 1985 and 1996; there is by now a very large secondary bibliography on his life and writings.

[81] Schmitt 1996, 25f. (= 1932, 13–15).

[82] Schmitt 1996, 26f. (= 1932, 14f.).

[83] Also see Derrida 1997, ch. 5, 112–137.

[84] Schmitt 1996, 35 (= 1932, 18).

[85] Schmitt 1996, 28 (= 1932, 16). Note also the first sentence of the book, «the concept of the state presupposes the concept of the political» – and not the other way around (19 = 1932, 7).

dispute to descend into overt enmity and violence – i.e, into stasis – and then something even more efficacious to accomplish a reconciliation. Stasis results from the dissolution of formal legal constraints surrounding a dispute, a phenomenon I call its *politicization*; consequently, the way to re-contain stasis is to re-transform a political conflict into a legal dispute.[86] Regardless of the contingent historical circumstances and course of any given stasis (for example, one triggered by external intervention, class warfare, or a constitutional disagreement), they are real civil wars in which a social and political community undergoes fragmentation and the dissolution of the conditions under which sociability had hitherto prevailed.[87] They are only ended by victory or successful reconciliation.

But we are still left with the basic problem: why did it work? Why were these reconciliatory transformations of politics back into law successful? Indeed, if legal machinery is so effective, how does it get broken in the first place? I would argue that the answers lie in what the contractual form tells us about the priority of basic social ties, instantiated most explicitly in legal agreements, over a more developed, political sphere.[88] Following the contract thread, one could pursue social contract theory as an explanation. In early modern political thought, contractarianism is synonymous with Hobbes, Locke, and Rousseau, but it has its origins in Plato. Glaucon in the *Republic* argues that the only reason social interactions involve anything other than injustice is the existence of a notional agreement between each potential dyad within society to avoid wronging one another. This agreement is based on the recognition that the middle ground offered by the social contract is preferable to perpetual alternation between doing and suffering injustice.[89] In a more general sense, contractarianism locates the legitimacy of a political order, or of a state, in the putative consent to it of all relevant parties or subjects; for Hobbes as for Glaucon, law is the result of rational self-interest in limiting violence within a community. As an explanation for the development of a particular government, the concept of a social contract is clearly historical nonsense.[90] Its power, such as it may be, to persuade readers of the legitimacy of political order per se stems from the emotional impact of each theorist's description of the horrors of an anarchic state of nature (Hobbes, of course, was heavily influenced

[86] This can be compared, as I briefly do below, with international dispute resolution – territorial claims in the Greek world were made, and judged, on the same principles as private property claims: Chaniotis 2004.

[87] I intentionally stay away from the old debate on the causes of stasis; see Ruschenbusch 1981, 24–66, de Ste. Croix 1981, 77–79, Lintott 1982, and Gehrke 1985.

[88] By way of support, I here mention once more Carawan 2013, which shows how legislation after the initial settlements at Athens built upon and expanded them and became imbued with something of their contractual character.

[89] Plato Rep. 358e–359a.

[90] Although the claim made by contractarians is of course rarely historical; the idea is to legitimate (liberal) government, not actually to explain its origin. See also Hardin 1990 and especially Tamanaha 2001, 57–71 for critique of social contract thought.

by Thucydides on Corcyra) and also from the analogy with private contracts. Not long before the time of Hobbes, English common law held that some duly made legal instruments of agreement could not be dissolved even in the face of evidence that one party had already discharged the obligation in question, simply on the basis that the document still existed.[91] This unyielding rigor informs Hobbes' absolutist political philosophy («that men perform their covenants made» is his third «law of nature»).[92] If private contracts have such solidity, the social contract must likewise give ample force to the law. The affective, persuasive power of social contract theorists' writings derives from their readers' everyday experience with people fulfilling their agreements.

The situation at Dikaia is, however, obviously quite different from the scenarios envisioned by theorists like Rousseau and Hobbes. The agreements made and sworn are not located at the polis' notional origin, nor do they speak directly to considerations of legitimacy, constitutional form, or anything of that sort. Indeed, something below – more fundamental than – such questions is at stake. In the liberal conceptual scheme, for example as instantiated in the U.S. Constitution, a notionally unchanging system of democratic politics undergirds a merely contingent legal system. The basic questions, for us, are political: what does the government look like and how is it selected or formed? The reconciliation process from Dikaia shows that this is the wrong approach to Classical Greek politics. In particular, those questions fundamental for us are entirely submerged in the Dikaia text. There is no firm indication of whether Dikaia is an oligarchy or a democracy.[93] I would suggest that the political form of the polis is just not very important. The reconciliation process shows that, at Dikaia, something more elemental than politics is at issue – simple sociability or φιλία, undergirt by legal obligation.

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[91] Baker 1990, 369. For example debt on a bonded contract: «Even if the debtor paid, and the bond was returned, there was no defence if the obligee wrongfully stole it back and sued on it; there was no way in the world that a valid deed could be contradicted by oral evidence. Under the harsh logic of the common law it was ‹better to suffer a mischief to one man than an inconvenience to many, which would subvert the law. For if matter in writing could be so easily defeated and avoided by such a surmise, by naked breath, a matter in writing would be of no greater authority than a matter of fact›» (Baker is here quoting a case from the year 1542).

[92] Hobbes 1994 [1651], 89 (Leviathan, ch. XV).

[93] The fact that an ἐκκλησία was instrumental in ratifying (or deciding upon) the terms of the agreement is the only direct constitutional feature evident in the text, but there is no way to be sure what kind of ἐκκλησία it was – what its composition happened to be. Contra Shear 2011, passim and esp. 213, there is nothing intrinsically democratic about the entire body of citizens swearing an oath. Surely the point is to display social community and cohesion, not «the demos' power». Shear appears to imagine that social unity can only be politically democratic (135, 138).

6. Conclusion: law versus politics

And here I want – very briefly – to gesture toward a historiographically attested case of fourth-century stasis, namely that of Thebes in 395/4. In treating this period, the Oxyrhynchus Historian (Hell. Oxy. XVII–XVIII) comes close to reaffirming a surprising assertion found in Lysias 25, a speech probably delivered at a δοκιμασία: οὐδείς ἐστιν ἀνθρώπων φύσει οὔτε ὀλιγαρχικὸς οὔτε δημοκρατικός, ἀλλ᾽ ἥτις ἄν ἑκάστῳ πολιτεία συμφέρῃ, ταύτην προθυμεῖται καθεστάναι (25. 8), or «no one of mankind is either oligarchic or democratic by nature, but he would prefer to establish whichever of the two constitutions benefits him».[94] In Thebes a few years later, the Oxyrhynchus Historian tells us, ἔτυχον οἱ βέλτιστοι καὶ γνωριμώτατοι τῶν πολιτῶν … στασιάζοντες πρὸς ἀλλήλους, «the best [i.e., richest] and most esteemed of the citizens were engaged in stasis against one another» (XVII. 1). The two factions, behind Ismenias and Leontiades, differed on issues of what we might call foreign policy, which the Oxyrhynchus Historian suggests was sometimes interpreted, incorrectly, as a difference over constitutional form: more specifically, Ismenias had supported the Athenian democratic exiles at the end of the Peloponnesian war; and so his party was accused of being pro-Athenian, and therefore democratic, while Leontiades' was pro-Spartan. This reading would suggest an easy equation of stasis with constitutional politics (an undeniable aspect of the phenomenon, in particular during the Peloponnesian war).

The Oxyrhynchus Historian, however, may be saying just the opposite. The crucial passage (XVII. 2) is, sadly, mutilated. A recent paper suggests the following reconstruction:

ἐφρόνουν δὲ τῶν πολιτευομένων οἱ μὲν περὶ τὸν Λεοντιάδην τὰ Λακεδαιμονίων, [οἱ] δὲ περὶ τὸν Ἰσμηνίαν αἰτίαν μὲν εἶχον ἀττικίζειν ἐξ ὧν πρόθυμοι πρὸς τὸν δῆμον ἐγένοντο ὡς ἔφ⟨ε⟩υγεν· οὐ μὴν ἐφρόν[τιζόν γε] τῶν Ἀθηναίων, ἀλλ᾽, εἰ χ[ρὴ τἀληθὲς εἰπεῖν, ζητοῦν]τες [νεωτ]ερίζειν, ἐπεὶ τοὺ[ς Θηβαίους οὐκ ἔπειθον, ἀττ]ικε[ι]ζμὸν [ἡ]ροῦντο μᾶλλ[ον οὕτως ὑπολαμβάνον]τες κακῶς ποιεῖν ἑτοίμους ἐ[κείνους ἂν παρασκευά]ζειν …

«The political situation was this: the party of Leontiades were pro-Spartan, and the party of Ismenias were known as Atticizers because of the keen support they'd offered the exiled Athenian democrats – not that they actually cared about the Athenians, of course. In reality their aim was to disrupt the peace; and it was when they couldn't persuade the Thebans [to go along with them] that they became an atticizing party with the idea that it would be a better way of making them willing to do mischief.»[95]

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[94] For Hell. Oxy., I have used McKenchie – Kern 1988 along with the commentary by Bruce 1967; but also see Beresford 2014 for a different text of a relevant section of XVII. On Lysias 25, see Wolpert 2002, 69, with further bibliography in n. 64. On the sentiment, cf. Ostwald 2000.

[95] Text and translation both from Beresford 2014, 25 (translation modified and underdotting omitted).

This reconstruction of the passage differs sharply from earlier attempts, but the end result is, all the same, not much unlike Grenfell – Hunt's verdict that the «general sense of the passage appears to be that Ismenias and his party favoured Athens not for any regard for Athenian interests but from selfish motives».[96] In this diagnosis of the propagandistic deployment of ideology by the «best and most esteemed» Thebans, the Oxyrhynchus Historian seems to be suggesting that such motives are specious pretexts for advancing whatever political arrangement is most materially beneficial. And this analysis of Theban parties can be borne out through the rest of the text; in an excellent study, Cinzia Bearzot shows how the two sides of the stasis are not separated by «radically different constitutional programs» but by «differences on the substance of foreign policy» and the way these latter were «linked to the *problématique fédérale*, [to oppositions] between federalists and autonomists».[97] The result is an analysis of «the principally non-constitutional nature of the party divisions in Thebes»; they are both, after all, composed of οἱ βέλτιστοι καὶ γνωριμώτατοι τῶν πολιτῶν.[98]

This excursus, of course, proves nothing about Dikaia or about stasis in general. But it goes some way toward demonstrating that we should consider taking seriously a depoliticized, non-constitutional reading of civic strife in Classical Greece. What the Theban elites were fighting over had nothing to do with the political form of their city or κοινόν. Returning to the Dikaia reconciliation agreements, the same obtains: there is no hint of concern for the political institutions of the state, but only for the ties of sociability between its citizens. To be sure, one could convincingly reply that this is because the political form of Dikaia was not up for dispute – it was simply going to carry on as a democracy, oligarchy, or whatever the case had been. This must indeed be true, but it remains striking that political offices are so much less at issue than legal procedures. By contrast, around 300 BC, the Telians were obliged to swear a comparable oath pledging to uphold their established constitution, following a foreign arbitration of an internal dispute or strife. This oath, however, is explicit and rigorous about the political form that the Telians swear to uphold.[99] In the Dikaia text, though,

[96] Quoted by Bruce 1967, ad loc., 112.

[97] Bearzot 2009, quotes from 242, 247, and 244.

[98] Bearzot 2009, 247.

[99] IG XII 4.1, 132 – a fascinating text known for over a century but not yet fully published with a commentary, and first made available in print in this 2010 IG fascicule. I thank Nikolaos Papazarkadas for bringing it to my attention. The oath reads: ἐμμενέω ἐν τῶι πολιτεύματι τῶι καθεστακό|τι καὶ διαφυλαξέω τὰν δαμοκρατίαν καὶ οὐ μνασικακησέω περὶ τῶν | [ἐν τᾶι κ]ρίσ[ει] γενομένων οὐδὲ πραξέω παρὰ τὰν διάλυσιν τάνδε οὐδὲν | [οὐδὲ] ὅπλα ἐναντία θησεῦμαι τῶι δάμωι οὐδὲ τὰν ἄκραν καταλαμψεῦντι | συμβουλευσέω οὐδὲ ἄλλωι ἐπιβουλεύοντι οὐδὲ καταλύοντι τὸν δᾶ|μον εἰδὼς ἐπιτραψέω· αἰ δὲ κα αἴσθωμαί τινα νεωτερίζοντα ἢ συλ|λόγους συνάγοντα ἐπὶ καταλύσει τοῦ δάμου, δηλωσέω τοῖς ἄρχου|σιν· εὐορκεῦντι μέμ μοι ἦμεν πολλὰ ἀγαθά, ἐφιορκεῦντι δὲ τὰ ἐναν|τία (ll. 128–136). On this text, see now a brief treatment by Thür 2011, who remarks that one gets the sense of a «peaceful stasis» (350) from the inscription. This contrast with the violence evident at Dikaia may explain why the citizens feel

beyond legal procedure lies not politics but a concern for the basic facts of getting on together as a community: the binding oath begins πολιτεύσομαι ἐπὶ πᾶσι δικαίως (l. 67), or «I shall comport myself justly as a citizen towards all».[100] The reconciliation agreements derive legitimacy from the necessities of constituting a community of people living together. Society, in this case, and the give-and-take it entails, seems to be more important than politics in the narrow sense, and it is construed as a network of contracts or agreements between citizens.

Of course it is still true that force and violence are everywhere behind the historical circumstances at Dikaia as well as in the text itself. Even so, nothing in the agreements seems to suggest that the disposition of legal claims is especially inequitable, and substantial care has been taken to ensure the reconciliation's finality. All of the evidence points toward an authentic and sincere interest in restoring the basic conditions of political and social life in a Greek polis – on terms, of course, salutary to those in power. The oath stipulates that all citizens shall endeavor to live justly within the community; it has nothing to say about the constitutional form to be taken by the government of that community, nor does anything else in the text suggest that the πολιτεία is at issue. This fact contrasts it with two other classes of political inscription that instantiate a concern for the social tissue of the polis: anti-tyranny legislation, and the closely related concord decrees, best represented by that of Mytilene.[101] In a sense, these form a continuum with reconciliation and amnesty agreements; the latter result from stasis, while concord decrees and anti-tyranny legislation are aimed against stasis and constitutional subversion (κατάλυσις), perhaps with recent experiences of civic disturbances in mind.[102] However, the latter two types of document are more concerned with the form of the government as opposed to the basic preconditions for sociability. This makes sense, as the social fabric is intact at their time of enactment.

The Mytilenean decree on concord, of the 330s BC, states its purpose as clearly as could be wished in an opening clause: ὥς κεν οἱ πόλιται οἴκει[εν τὰμ π|ό]λιν ἐν δαμοκρασίαι τὸμ πάντα χρόνοι [ἔχον|τ]ες πρὸς ἀλλάλοις ὡς εὐνοώτατα.[103] A prayer and vow to the twelve gods follows, and the text trails off midway through dispositions regarding exiles and trials. For the latter, any sentences arrived at κατ' τὸν νόμον (l. 15)

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free, as it were, to move beyond sociability to constitutional form. In this way, it is more similar to the anti-tyranny laws or to the Mytilenean decree on concord discussed immediately below.

[100] This verb can also mean «to hold office», «serve in the government», etc., but there is nothing in its immediate context to suggest that this is a reasonable translation.

[101] On anti-tyranny legislation, see first of all Knoepfler 2001–2002, now also Teegarden 2014, both with substantial earlier bibliography (of which Ostwald 1955, partially updated by Carawan 1993, stands out). For the Mytilenean decree on concord, see Heisserer – Hodot 1986 = SEG XXXVI 750 = Rhodes – Osborne 2003, no. 85 A).

[102] Compare Maffi's 2005 investigation of and formulation of a doctrine of «good stasis».

[103] «… so that the citizens inhabit the city under democracy, having for all time the best possible dispositions toward one another …» (text of Heisserer – Hodot 1986, ll. 2–4).

are affirmed, but anyone who has been otherwise forced into flight during the prytany of a certain Ditas is (presumably) recalled and their illicit punishers are in turn punished.[104] The historical background almost certainly has to do with Alexander's conquest and the varied political turbulence that accompanied it – again, as for Dikaia and Athens, an exogenous factor. Compared to the Dikaia reconciliation agreements, the fragmentary decree on concord is much less detailed; it makes dispositions for access to legal proceedings, but the most salient feature is the express desire for the citizen body to live together under democracy and to be mutually well-disposed (ll. 3–4). The prominence of the political form at stake – democracy – contrasts with the Dikaia text, while the benevolence the Mytileneans are to furnish one another recalls the reconciliation oath's injunction justly to live together as citizens.

Similarly, the Eretrian law against tyranny (certainly another mid-fourth-century text, possibly specifically 341/40) begins with a purpose clause: [ὅπωρ ἄν καθιστῆται ἐν τει πόλει ἡ] μ[ετὰ] ἀλλήλω[ν ὁμόν|οια καὶ φιλίη].[105] This law also prescribes penalties similar to those set by the reconciliation agreements, and a curse to be pronounced against violators (ll. 6–17). Its actual terms are substantially different, but the curse mirrors that contained in the second half of the Dikaia reconciliation agreement's oath. The anti-tyranny law concludes with a long section elaborating specific actions to be taken under certain circumstances. Other surviving anti-tyranny legislation, such as that of Ilion, contains even lengthier series of provisions, but an exhaustive presentation of the details would not advance the argument.[106]

What strikes about all three texts (Dikaia, Mytilene, Eretria) is the use of legal enactments to solidify or constitute basic social bonds. It is more implicit in the former case than in the other two, with their invocations of concord, but at the same time it is also more thoroughgoing in actual impact because of the concrete historical situation. All three invoke the power of the gods by oath, prayer, or curse, in order to anchor and secure the ordering of society desired by each enacting political community.

Stasis is a state of exception; and so it «thinks the general with intense passion». A similar function is performed by a complementary set of *comparanda* illustrating how private law can ground society: peace treaties and other resolutions of international disputes. Chaniotis has produced an excellent study of such international law in nuce.[107] As for post-stasis reconciliation, so too private law here undergirds the way Greeks thought about achieving rapprochement between poleis in conflict. Chaniotis cites the exceptional and programmatic declaration of Magnesian arbiters deciding a case pertaining to conflicting territorial claims in 112 BC: «Men have proprietary

[104] Unfortunately the text is quite incomplete.

[105] «so that there be established in the city, the one along with the others, concord and amity …» (text, admittedly almost entirely restored, though with solid epigraphical reasoning, of Knoepfler 2001–2002, ll. 3–4).

[106] I.Ilion 25.

[107] Chaniotis 2004.

rights over land either because they have received the land themselves from their ancestors, or because they have bought it for money, or because they have won it by the spear, or because they have received it from someone of the mightier».[108] This particular statement, with its theoretical clarity, is from two centuries and more after the other texts in question. However, as Chaniotis shows, it is consistent with the implicit principles instantiated by third-party arbitration as far back as we have evidence. Note that three of these four modes of acquisition are directly derived from private property law.[109] Claims based on the exception, the third mode – right of conquest – are always even more open to contestation than the others because if might makes right then right becomes less important.[110] But even this has an analogue in private law's recognition of booty as a legitimate mode of property acquisition.[111] Not only do the substantive claims used in international territorial claims line up with property rights in private law, but, additionally, the entire concept of international arbitration is a clear adaptation of processes of municipal litigation.[112]

Greek law and legal thinking, then, provided both the cognitive patterning and the pragmatic modeling for the resolution of violent political disputes, stasis and war alike. Insofar as these two modes of organized political violence must supervene on a friend-enemy polarity, their termination occurs in and as compacts of friendship. These compacts are modeled on those used with success to resolve disputes in private law.[113]

The flipside of this success is stasis, a horrific and violent dissolution of community. It is remarkable that the modalities of stasis-ending reconciliation were derived from private contract. International disputes and territorial claims were conducted according to the principles of municipal private law, subjected to arbitration on a legalistic model. Likewise, the way Greeks tried to reconcile stasis was with oath-bound contract.

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[108] Chaniotis 2004, 186, translating I.Cret. III iv 9 (= Ager 1996, no. 156), ll. 133–134.

[109] We do not need to imagine that private property law was a fully-formed unit back in year x, on which the first international dispute arbitration, in year x + 1, drew for inspiration. Rather, the same legal principles underlie both domains and in some sense – as customary law – predate state formation and hence the international-private dichotomy. However, I insist that their more abstract application to international disputes relies upon the logically prior and experientially far more vital sphere of private law.

[110] Chaniotis 2004, 190–199.

[111] Chaniotis 2004, 196. Compare Aristotle's inclusion of banditry along with farming, fishing, pastoralism, and hunting as a fundamental mode of subsistence: Pol. 1256a–b.

[112] Ager 1996, 3 characterizes it as a «binding judicial process», making the analogy implicit without even feeling the need to argue it explicitly.

[113] The argument could be made that it was precisely the famous «open texture» (and openness to feudlike behavior, for followers of Cohen 1995) of the Greek legal systems that facilitated the transition from «uncontrolled» to «controlled self-help», the thesis of Wolff 1946, without typically letting solely internal disputes devolve into stasis. On the idea of Greek, or Athenian, law as characterized by open texture, see Osborne 1985, Todd 1995, and Harris 2000.

All this shows, it seems to me, law's power to constrain violence – form's efficacy over substance.

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