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JUSTICE OR HARMONY ? RECONCILIATION AFTER *STASIS* IN DIKAIA AND THE FOURTH-CENTURY BC POLIS*

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Résumé. – Une fois la paix rétablie après une période de guerre civile (*stasis*), les cités grecques se trouvaient confrontées à un choix difficile entre la justice et l’harmonie : soit les coupables, une fois désignés, devaient être punis, soit l’ordre civique et la concorde devaient être rétablies entre tous les citoyens, sans provoquer des récriminations. J’aborde cette problématique en me concentrant sur une inscription publiée récemment concernant les termes d’une réconciliation qui eut lieu à Dikaia en Chalcidique entre 365 et 359 av. J.-C. Il est frappant que les conciliateurs à Dikaia, contrairement à la plupart des autres conciliateurs bipartites grecs, ne se soient pas empêchés de donner aux citoyens une occasion de poursuivre des revendications de justice contre les prétendus malfaiteurs. Selon cet article, cette décision rare et assez audacieuse doit être comprise comme, en partie, la mise en oeuvre des valeurs et idées civiques, complexes et cohérentes, que l’inscription exprime. D’ailleurs, ce texte illustre bien comment les inscriptions des cités grecques dévoilent, d’une façon nouvelle, la pensée éthique et politique de la cité grecque.

Abstract. – When peace was restored after a civil war (*stasis*), a Greek city faced a difficult choice between justice and harmony : it had to give priority either to assigning blame and punishment, or to re-establishing civic order and concord among all citizens, without provoking recriminations. This article discusses the approach taken to this question at Dikaia in Chalkidike in the period c. 365-359 BC, in the light of a recently published inscribed reconciliation settlement. The argument is that it is striking that the arbitrators at Dikaia, unlike most authors of Greek bipartisan reconciliation settlements, did not hold back from giving citizens an opportunity to pursue claims to justice against alleged wrongdoers. It is suggested that this unusual and quite bold decision must be explained partly as an application of the complex and consistent civic values and ideals expressed in the inscription. Indeed, this text demonstrates well how the inscriptions of Greek cities can shed new light on ethical and political thinking within the Greek polis

Mots-clés. – Polis, Dikaia, réconciliation, amnistie, justice, concorde, citoyenneté, contrat social.

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1. – INTRODUCTION

After a severe *stasis* (civil war) in the period 365-359 BC, the divided citizens of the small city of Dikaia in Chalkidike attempted to arrive, with the help of arbitrators, at a reconciliation agreement which would enable them to return to peaceful civic life. The terms of the reconciliation settlement on which they agreed are preserved in a recently published inscription¹. This new inscription represents an important addition to the epigraphic evidence for Greek approaches to bipartisan reconciliation after *stasis*². In its basic structure and instructions, the new inscription resembles the pattern attested elsewhere : measures to re-establish civic peace and institutions are followed by a detailed oath of reconciliation, to be sworn by all citizens. This article argues, however, that the Dikaiopolitan reconciliation is also more unfamiliar in certain respects.

As far as its practical measures of reconciliation are concerned, the Dikaiopolitan settlement includes a quite unexpected approach to the question of retrospective justice : the question whether citizens should be tried and punished for violence committed during the period of *stasis*. This article seeks first to demonstrate what is unfamiliar about the Dikaiopolitan approach to justice and reconciliation, then to account for the departure from the norm. It argues that at least part of the solution to the problem lies in the complex and coherent Dikaiopolitan civic values expressed and developed in the document : the underlying ideals help to explain the quite distinctive approach to retrospective justice. In other words, understanding the political ideas underlying, and advocated in, the settlement is necessary for understanding its institutional details.

As a by-product of developing this argument about a single case-study, this article seeks to show the value of studying ancient Greek inscriptions as evidence for political and ethical ideas. It is suggested that the Dikaiopolitan document is an excellent example of the ways in which inscribed civic texts can be used to enrich the evidence for the varieties of political and ethical thought and rhetoric within Greek poleis. This is especially true of documents, such as the Dikaia inscription, which deal with questions of inclusion and exclusion of citizens. Re-integrating exiles into the citizen-body and restoring civic life required citizens to engage with fundamental issues of ethics and politics, in a way which is very revealing of basic political assumptions, including those which also exercised a strong influence outside the immediate context of reconciliation.

1. E. VOUTIRAS, K. SISMANIDES, « Δικαιοπολιτών συναλλαγαι. Μια νέα επιγραφή από τη Δίκαια » in *Ancient Macedonia : Seventh International Symposium*, Thessaloniki 2007, p. 255-274 ; E. VOUTIRAS, « La réconciliation des Dikaiopolites : une nouvelle inscription de Dikaia de Thrace, colonie d'Erétrie », *CRAI* 2008, p. 781-792. See also *SEG* 57.576 ; *BE* 2008, nos. 263 and 339. VOUTIRAS and SISMANIDES discuss in detail many of the revealing historical, linguistic and institutional features of the document.

2. The previously known epigraphic evidence is collected and analysed in A. DÖSSEL, *Die Beilegung innerstaatlicher Konflikte in den griechischen Poleis vom 5.-3. Jahrhundert v. Chr.*, Frankfurt 2003.

2. – THE CONTENT AND CONTEXT OF THE DIKAIOPOLITAN SETTLEMENT

Dikaia is known to have been an Eretrian colony. The proximity of the names in this settlement to Classical Eretrian names has been used as evidence that Dikaia must have been a relatively late Eretrian colony. Knoepfler suggests that Dikaia may have been founded by pro-Persian Eretrian exiles some time in the 470s BC³. On that hypothesis, as Knoepfler argues, the name Dikaia (« Just City ») would have a clear social and political meaning : it would be a claim to justice directed against the incumbent regime in Eretria⁴.

Because King Perdikkas III is named as ruling Macedonia at the time, the document of reconciliation must date within his reign (365-359 BC)⁵. The following is the text of the settlement⁶, followed by a translation :

[vacat Θεός?] Τύχη Ἀ[γ]αθή. ἔδοξε τῆι ἐκ[κλησίη] γνῶμη]γ
 [περ]ὶ τῶν συναλ[λα]γῶμ παρήν[εγκε]ν? Λύ[κιος καὶ] οἱ συν-
 αλλακταί. περὶ τ[ού]των πάντων ψηφί[ζ]ο[ν]τα Λύκιον καὶ
 ἐπιτελέοντα ἐν [τ]ῆι ἐκκλησίη κύριον εἶ[ν]αι. ἔδοξε τῆι
 5 ἐκκλησίη· τοὺς [π]ολίτας πάντας ὁμόσ[α]ι τὸν ὄρκον τὸ[ν]
 συγγεγραμμένον[ν] ἐν τρισὶν ἱεροῖς τοῖς [ἀ]γιωτάτοις καὶ
 ἐν ἀγορῆι, Δία, Γῆν, [Ἥ]λιομ, Ποσειδῶ, κάπρω[ν] ἱερεύσαντας.
 ὄρκωσάτω δὲ Λύκιος καὶ οἱ συναλλακταί. τὸν δὲ ὄρκο-
 ν καὶ τὰ πιστώματα πάντα γράψαντας εἰς λίθον
 10 θεῖναι εἰς τὸ ἱερὸν τῆς Ἀθηναίης. [θε]ῖναι δὲ καὶ
 εἰς τὴν ἀγορὰν τὸν ὄρκον τὸν αὐτὸν καὶ τὰ πισ-
 τώματα γράψαντας εἰς λίθον. ὁμόσαι δὲ πάν-
 τας ἐν τρισὶν ἡμέραις. ὅσοι δ' ἀποδ[η]μοῦσιν ἢ ἀσ-
 θενοῦσιν, τὸμ μὲν ἀπόδημον ὁμόσαι καὶ ἀγνισθ-

3. See *BE* 2008, no. 263.

4. Compare the choice of the name *Dikaiarcheia* by the founders of the future Puteoli, exiles from Polycrates' Samos, in the 520s BC : B.M. MITCHELL, « Herodotus and Samos », *JHS* 95, 1975, p. 75-91, p. 87 ; D.G.S. SHIPLEY, *A History of Samos, 800-188 BC*, Oxford 1987, p. 91.

5. The letter forms are consistent with this date : E. VOUTIRAS and K. SISMANIDES, *Δικαιοπολιτῶν συναλλαγαί*, p. 257.

6. Taken from E. VOUTIRAS, « La réconciliation des Dikaiopolites », p. 787-789.

- 15 ἦναι ἐπειδὸν ἔλθῃ τριῶν ἡμερῶν, τὸν δὲ ἀσθεν-
 οῦντα ἐπειδὸν ὑγιῆς γενηθῆι ἐν τρισὶν ἡμέραις
 ὁμόσαι. ὄρκωσάντων δὲ πρὸς ταυτά. ὃς δ' ἄμ μ[ὴ ὀ-]
 μόσῃ τὸν ὄρκον καθάπερ γέγραπται, τὰ χρήματα [α-]
 ὑτοῦ ἱερὰ καὶ δημόσια ἔστω τοῦ Ἀ[π]όλλωνος το[ῦ]
- 20 Δαφνηφόρου ἄτιμός τε ἔστω καὶ τ[ῶ]ν δικαίων α[ὐ]-
 τῶι μηδενὸς μετέστω. μάρτυρα δ[ὲ] καὶ συνίστορ[α]
 τῶν ὄρκωγ καὶ τῶμ πιστωμάτων π[ά]ντωμ Περδί[κ-]
 καμ ποιήσασθαι, δεηθῆναι δὲ αὐ[το]ῦ, ἂν τινὲς πο-
 τε τοὺς ὄρκους κ[αὶ] τὰ πιστώματα ἐ[γβ]άλλωσι, τού-
- 25 τους δυνατὸν [ἐ]όντα θανάτωι ζ[ημι]ῶσαι, ἦν τε
 φύγωσι, ἀγωγίμους εἶν αὐτοὺς Δι[και]οπολίταις ἐ-
 κ τῆς χώρας πάσης ἧς ἐπάρχει Π[ερ]δίκκας. ἔδοξ-
 ε τῆι ἐκκλησίῃ· δίκας ὅσαι φονικαὶ ἐσι πρὸ τ[ῆ]ς Γοργύθου ἀρχῆς,
 αὐτὰς ἐγδικάσασθαι πάσας ἐπὶ Γοργύθου ἄρχον[τος] μηνὸς Δα-
- 30 φνηφοριῶνος πέμπτηι φθίνοντος· ὃς δ' ἄ[μ] μὴ ἐγδικάσῃται, [ἀ-]
 πόκλητα αὐτῶι ἔστω. ἄμ δέ τις δῶι δίκημ φο[νι]κῆ<v> ἢ
 δικάζῃτα[ι ὀ-]
 σα ἀπόκλητα ἢ ἐκκλησί[ῃ] ἐψηφίσατο, ὁ μὲν δικ[α]ζόμενος
 φ[ευ-]
 γέτω τὴν γῆν τὴν Δικαιοπολιτῶν καὶ τὰ [χρ]ήματα αὐτοῦ ἔ-
 στω δημόσια, ὁ δὲ διδο[ὺ]ς τὴν δίκην ἄτι[μο]ς [ἔ]στω καὶ τὰ
- 35 χρήματα [α]ὐτοῦ ἱερὰ καὶ δημόσια ἔστω τοῦ Ἀ[π]όλλωνος τ[ο-]
 ῦ Δαφνηφόρο. εἰ δέ τι ἄλλο ἐγκαλοῦσι Δήμ[αρχ]ος ἢ οἱ μετὰ Δη-
 μάρχου φυγόντες τοῖς μετὰ Ξενοφῶν[τος] ἢ Ξενοφῶν ἢ οἱ
 μετὰ Ξενοφῶντος τούτοις ἐγκαλοῦ[σ]ι, ὅσα πρὸ τῆς Γ-
 οργύθου ἀρχῆς ἐγκλήματα ἐγένοντο πρὸς ἀλλήλους, τ-

40 ούτοις ἀπόκλειτα εἶναι πάντα καὶ περὶ τ[ο]ύτων μήτε δ-
 ικαζέσθω μηδεὶς μήτε ἄρχων δίκην διδότη· ἄ[ν] δὲ δ-
 ικάζεται ἢ διδῶι, ὁ μὲν δικαζόμενος ἄτιμος [ἔ]στω κ-
 αὶ τὰ χρήματα αὐτοῦ δημόσια ἔστω, τοῦ δὲ διδ[ό]ντος
 τὴν δίκην τὰ χρήματα ἱερὰ καὶ δημόσια ἔστω [τ]οῦ Ἄπ-
 45 ὄλλωνος τοῦ Δαφνηφόρου. ἔδοξε τῇ ἐκκλησίῃ· τοὺς Ἱέ-
 ρωνος παῖδας καὶ Ἐπικράτην καὶ Ἀργαῖον τὰς δίκας κ-
 αὶ τοὺς ὄρκους καὶ τὰ πιστώματα δοῦναι καὶ δέξασθαι
 ἐν τῷ μηνὶ τῷ Ληναιῶνι καὶ Ἀνθεσστηριῶνι καθάπ-
 {π}ερ συγ<γ>έγραπται ὁ ὄρκος. ἂν δὲ μὴ ποιήσωσι τὰ δεδογ-
 50 μένα, στερέσθωσαν τῶν ἐγκλημάτων πάντων
 ὅσα πρὸ τῆς Γοργύθου ἀρχῆς ἐγένετο καὶ τῷ ὄρκ-
 ωι ἔνοχοι ἔστων. ἔδοξε τῇ ἐκκλησίῃ· τοὺς παῖδ-
 ας τοὺς Ἐρμίππου καὶ Ἐπιχάρους καὶ Δημωφέλε-
 ος, τούτων τοὺς μὲν ἐπιδημοῦντας ὀμνύειν κ-
 55 αὶ ἀγνίζειν καὶ ἀγνίσεσθαι καὶ τὰ πιστώματα δ[ι-]
 δῶναι καὶ δέχεσθαι πάντα, τοὺς δ' ἀποδημοῦντα-
 ς, ὅταν ἔλθωσι, ὀμνύειν καὶ ἀγν[ί]ζειν καὶ ἀγ[νί-]
 ζεσθαι καὶ τὰ πιστώματα πάντα διδόν[α]ι κα[ὶ] δέ-
 χεσθαι· ὅς δ' ἂμ παραβῆι τῷ γεγραμμένω[ν τι,]
 60 ἔνοχος ἔστω κατὰ τὸν ὄρκον ὃν ἔδοξε τῇ ἐκκλ[η-]
 σίῃ. οἱ δὲ ὄρκοι καὶ τὰ πιστώματα ἐγένον[το]
 καὶ τὰ ἀπόκλειτα τοῖς ἄλλοις πολίταις πᾶσι ἐκ-
 τὸς Δάφνωνος τοῦ Πολυζήλο καὶ Κηφισοδώρ[ο] τοῦ
 Ἄγαθοκλέος. τούτοις δέ, ἐπειδὴν τὰς δίκας δῶσ[ι] καὶ δέξ-
 65 ωνται κατὰ τὸν νόμον, ἂν ἀποφύγωσι, μετεῖνα<ι> τῶν ὄρκ-
 ων κα[ὶ] τῶ]μ πιστωμάτων πάντων, ὧμπερ τοῖς ἄλλοις πο-

λίταις. ὄρκος· πολιτεύσομαι ἐπίπασι δικαί<ω>ς καὶ δημο-
 σίαι καὶ ἰδίαι καὶ τῆμ πολιτείαν οὐ μεταστήσω τῆμ πα-
 τριάν, οὐδὲ ξένους εἰσδέξομαι ἐπὶ βλάβῃ τοῦ κοινοῦ
 70 τοῦ Δικαιοπολιτέων οὐτὲ ἰδιώτεω οὐδὲ ἐνός· καὶ οὐ μν-
 ησικακήσω οὐδενὶ οὔτ[ε] λόγῳ οὔτε ἔργῳ· καὶ οὐ θανατώσω
 οὐδένα οὐδὲ φυγήη ζημιώσω οὐδὲ χρήματα ἀφαιρήσομ[α-]
 ἰ ἔνεκα τῶμ παρηκόντων· καὶ ἂν τις μνησικακήῃ, οὐκ αὐ[τ-]
 ῶι ἐπιτρέψω· καὶ ἀπὸ τῶμ βωμῶν καθελέω καὶ καθαιρεθ[ή-]
 75 σομαι· καὶ πίστιν δώσω καὶ δέξομαι τὴν αὐτήν· καὶ ἀγνιῶ
 καὶ ἀγνιῶμαι καθότι ἂν τάξ[η]
 [τ]ὸ κοινόν· καὶ εἴ τινα ἐπίστωσα
 [ῆ] ἐπιστωσάμην, δώσω καὶ δ-
 [έ]ξομαι καθάπερ ἐπίστωσα καὶ
 80 ἐπιστωσάμην· ἔν τε ταῖς δί-
 καις αἷς ἐδίκασεν ἢ πόλις ἐμ-
 μενέω· καὶ εἴ τινα ἄλλον ὄρκ[ον]
 ὤμοσα, λύω, τόνδε δὲ σπουδαιότα-
 85 τομ ποιήσομαι. ταῦτα ἔμπεδορ-
 κήσω ναὶ μὰ Δία, Γῆν, Ἥλιομ, Πο-
 σειδεώ. εἰ μὲν εὐορκήσαιμι,
 πολλά μοι ἀγαθὰ γίνοιτο κᾶ[ι]
 [αὐ]τῶι καὶ παισὶ καὶ χρήμασ[ι]
 [ε]ἰ δὲ ἐπιορκήσαιμι, κακῶς [έ-]
 90 μοὶ γίνοιτο καὶ αὐτῶι καὶ πα[ι-]
 σὶ καὶ χρήμασι. δέχομαι ἀπὸ το[ῦ]
 βωμοῦ παραθήκην παρὰ τοῦ Ἀπ[ό-]
 [λ]λωνος κατὰ τοὺς ὄρκους οὓς ὤμ-

- οσα, εἰ μὲν ἐ[μ]μείναιμι ἐν τοῖς
 95 ὄρκοις καὶ ἐν τοῖς πιστώμασι π-
 [ᾱ]σι, πολλά μοι κάγαθὰ γίνοιτο
 καὶ αὐτῶι καὶ παισὶ καὶ χρήμασι· εἰ δὲ
 [ἐπιο]ρκήσαιμι δεξάμενος πα-
 [ραθ]ήκην παρὰ τοῦ Ἀπόλλωνος,
 100 [ἐ]ξώλης εἶην καὶ αὐτὸς καὶ γέ-
 νος τὸ ἐμὸν καὶ τὰ ὑπάρχον-
 τα πάντα· τιμωρήσειεν δὲ ὁ
 [θ]εὸς παρ' οὗ ἔλαβον τὴν παρ-
 αθήκην μετὰ τῶν ἄλλων
 105 θεῶν πάντων.

[*vacat* God (?) ;] Good Fortune. Resolved by the assembly : Lykios and the conciliators made the following proposal concerning the reconciliation. Concerning all relevant matters, Lykios should have authority for putting them to the vote and putting them into force in the assembly.

Resolved by (line 5) the assembly : all the citizens should swear the oath which has been drawn up in the three most sacred sanctuaries and in the agora, by Zeus, Earth, Sun and Poseidon, having sacrificed a boar. Let Lykios and the conciliators administer the oath. Having written up the oath and all the pledges on stone, (10) they should place them in the sanctuary of Athene. They should also place in the agora the same oath and the pledges, having written them on stone. All should swear within three days. As for those who are abroad or ill : he who is abroad should swear and be purified (15) within three days of whatever date he returns ; he who is ill should swear within three days of whatever date he recovers. Let them administer the oath to them on the same terms. Whoever does not swear the oath as it has been written, let his property be public and sacred to Apollo (20) Daphnephoros, let him be without civic rights and let him have no access to justice. Perdikkas should be made witness and guarantor of the oaths and all the pledges and it should be requested of him that, if anyone overturns the terms of the oath and the pledges, he should (25), if he is able, put them to death, and that, if they flee, the Dikaiopolitans should be allowed to arrest them anywhere in the territory of which Perdikkas is in control.

Resolved by the assembly : All the murder cases which arose before the magistracy of Gorgythos should be prosecuted during Gorgythos' magistracy on the fifth day from the end (30) of the month of Daphnephorion. If anyone does not prosecute, let the charges be excluded for him. If anyone admits a murder case or brings a suit which the assembly voted to exclude, the man who brings the suit should be exiled from the territory of the Dikaiopolitans and his property should be made public and the one who admits the case should lose his civic rights (35) and his property should be made public and sacred to Apollo Daphnephoros. If Demarchos or those who fled with Demarchos make any other charges against Xenophon's faction, or Xenophon or Xenophon's faction make charges against them, the charges which

arose between them before Gorgythos' magistracy should be excluded and no one (40) should bring a suit and no magistrate should admit a case about them. If anyone brings a suit or admits a case, the one who brings the suit should lose his civic rights and his property should be made public and the property of the one who admits the case should be made public and sacred to Apollo (45) Daphnephoros.

Resolved by the assembly : the sons of Hieron and Epikrates and Argaios should bring and incur suits and give and receive the oaths and the pledges in the months of Lenaion and Anthesterion in accordance with the oath which has been written up. If they do not do what has (50) been decided, let them be deprived of all charges which arose before the magistracy of Gorgythos and let them be liable in accordance with the oath.

Resolved by the assembly : the children of Hermippos and Epichares and Demopheles, of these those who are in the city should swear and (55) give and receive purification and give and receive all pledges ; those who are abroad, whenever they arrive, should swear and give and receive purification and give and receive all pledges. Anyone who transgresses anything which has been written (60) should be liable according to the oath which was agreed by the assembly.

The oaths and the pledges and the exclusions happened for all the other citizens except for Daphnon, son of Polyzelos, and Kephisodoros, son of Agathokles. These men, whenever they bring and incur suits (65) according to the law, if they are acquitted, should participate in all the oaths and the pledges, the same as the other citizens.

Oath : I will be just in my behaviour as a citizen towards all in public and in private affairs. I will not change the ancestral constitution, nor will I admit foreigners to the detriment of the commonwealth (70) of the Dikaiopolitans or of any individual. I will not bear grudges towards anyone in word or deed. I will not put anyone to death or punish anyone with exile or confiscate anyone's property for the sake of what is in the past. If anyone does bear a grudge, I will not allow him. I will take down (others) from the altars (75) and be taken down myself. I will give and receive the same good faith. I will give and receive purification as the commonwealth orders. If I bound anyone by a pledge or gave a pledge myself, I will give and receive as I exacted or gave (80) a pledge. I will remain faithful to the judgements which the polis made. If I swore some other oath, I revoke it, and I will make this one the most binding. I will uphold these sworn pledges (85) by Zeus, Earth, Sun and Poseidon. If I keep my oath, may many good things happen to myself, my children and my property. If I break my oath, may things (90) turn out badly for me and my children and my property. I am receiving a deposit from the altar of Apollo in accordance with the oaths which I swore. If I remain faithful to (95) the oaths and all the pledges, may many good things occur for me and my children and my property. If I break my oath after receiving a deposit from Apollo (100), may I be utterly destroyed, myself and my line and all my property, and may the god from whom I took the deposit punish me with all the (105) other gods.

The text begins with five decrees of the assembly of Dikaia regarding the reconciliation after *stasis*, probably passed at one sitting of the assembly⁷. The first decree (ll. 1-4) empowers Lykios, the chair of the arbitrators, to have the proposals of the arbitrators voted upon and put into force in the assembly. This could indicate that Lykios was a foreigner, possibly appointed by King Perdikkas, who needed special authorisation to appear in the Dikaiopolitan assembly⁸.

7. E. VOUTIRAS, K. SISMANIDES, *Δικαιοπολιτών συναλλαγαι*, p. 261-262.

8. Compare *SEG 57.576*, n. 1 : the view that Lykios and the arbitrators were foreigners may gain support from the fact that they were to administer the oath ; it is not explicitly stated that they were to swear themselves.

However, it is equally possible that Lykios was a Dikaiopolitan citizen who was here given special permission to attend and preside over meetings of the Dikaiopolitan assembly in which the reconciliation was discussed. It remains, therefore, an open question whether the arbitration committee as a whole was composed of Dikaiopolitans, foreigners, or a combination of the two.

The second of the five assembly decrees (ll. 5-27) contains regulations concerning the swearing of the oath of reconciliation. It also makes provision for the recording of « all the oaths and pledges (πιστώματα) ». This formulation shows that the reconciliation required citizens, not only to swear the oath, but also to provide separate « pledges » to their fellow citizens. This second decree also makes King Perdikkas « witness and guarantor » of the oaths and pledges.

The third assembly decree (ll. 27-45) makes the interesting stipulations concerning outstanding legal suits which arose before Gorgythos' archonship, almost certainly the current archonship, which are discussed in section 3 below. The fourth and fifth decrees of the assembly (ll. 45-52 and ll. 52-61 respectively) make provision for certain named individuals to participate in the reconciliation, probably all at a later stage than the rest of the citizen-body. There follows (ll. 61-67) a report that the oaths, pledges and « exclusions » (prohibitions on prosecuting certain legal suits) took place for all except Daphnon and Kephisodoros ; these men, who were presumably prominent participants in the *stasis*, were to be allowed to participate in the oaths and pledges only if they brought and underwent legal proceedings and were acquitted. The final part of the document (ll. 67-105) contains the oath to be sworn by all citizens, whose contents are discussed in detail in the section b.

The document gives only a vague idea of the nature of the recent *stasis*. There were clearly two factions, one in exile, led by Demarchos, and one in the city, led by Xenophon. The wider diplomatic situation during Perdikkas' reign was very probably a factor in causing the *stasis* : as Voutiras plausibly emphasises, it is very probable that the simultaneous influence of strong competing external powers was an enabling factor for the *stasis*⁹. Significantly, Dikaia was on the margins of both Macedonian and Chalkidian influence, and Athens was a third influential power active in the region in the 360s BC¹⁰. Voutiras and Sismanides even think that this consideration makes it possible to identify a precise context for this text¹¹. They think that Dikaia was part of the territory controlled by the Macedonian pretender Pausanias after he was « driven out of Macedonia » by the Athenian Iphikrates in autumn 368 BC¹². They argue that Pausanias was driven out of that territory, including Dikaia, when Timotheos,

9. On the connection between this phenomenon and *stasis*, see E. RUSCHENBUSCH, *Untersuchungen zu Staat und Politik in Griechenland vom 7-4 Jh. v. Chr.*, Bamberg 1978, p. 29-34 ; H.-J. GEHRKE, *Stasis : Untersuchungen zu den inneren Kriegen in den griechischen Staaten des 5. und 4. Jahrhunderts v. Chr.*, Munich 1985, ch. 2.

10. For the narrative, see J. HESKEL, *The North Aegean Wars, 371-360 B.C.*, Stuttgart 1997.

11. E. VOUTIRAS, K. SISMANIDES, *Δικαιοπολιτών συναλλαγαι*, p. 263-4 ; compare E. VOUTIRAS, « La réconciliation des Dikaiopolites », p. 783-785.

12. See Aeschin. II, *On the False Embassy*, 27-29.

allied with Perdikkas III, attacked Chalkidike in 364 BC¹³. On that basis, they suggest that this reconciliation involved the return of pro-Perdikkas exiles to Dikaia after the expulsion of Pausanias from the area. The two factions named in this document were then an exiled pro-Perdikkas faction and an incumbent pro-Pausanias faction.

That reconstruction is plausible, but it has the weakness that it requires that Perdikkas tolerated the continued citizenship in Dikaia of at least some recent partisans of one of his most significant opponents, Pausanias, on equal terms with his own partisans, the restored exiles. Such even-handedness towards two factions might be easier to explain in a scenario in which Perdikkas made a change of direction in his diplomatic policy : for example, when he established more favourable relations with the Athenians in 365 or early 364 BC¹⁴, or on the occasion of a rapprochement with the Chalkidian League at a later point in the 360s. In such circumstances, if Dikaia was already under his control or passed into his control as a result of a shift of allegiance, Perdikkas would have had a much clearer incentive to tolerate or encourage a reconciliation settlement which gave equal status to two factions, both partisans of his new diplomatic and military partner¹⁵ and his own partisans.

It is probably best, therefore, to leave open the question of the precise context of this settlement within Perdikkas' reign, 365-359 BC. Indeed, even if the *stasis* was most likely connected to the wider diplomatic situation, it is difficult to exclude entirely the possibility that the *stasis* which led to the exiling of Demarchos and his group was a purely or mainly local affair. In that case, Perdikkas would have been chosen as guarantor of the settlement because he was viewed as a relatively disinterested enforcer of the peace. The striking promise in the oath not to admit foreigners to the detriment of the commonwealth or of individuals (ll. 69-70) could relate, for example, to the settling of people of Macedonian origin in Dikaia, or the extension of citizenship to them¹⁶. Alternatively, it could indicate, for example, that the *stasis* was a result of a disputed union or *sympoliteia* with another city, supported by one faction but opposed by another : there could have been a group in Dikaia keen on union in a *sympoliteia* or similar arrangement with another polis, which would have involved granting Dikaioopolitan citizenship to citizens of the other state, who were perceived as « foreigners » by opponents of the union¹⁷. However, it is also quite possible that this clause refers only to the admission of transient foreigners, such as mercenaries, a common feature of civic unrest of many different kinds.

13. Compare Diod. Sic. XV.81.6

14. See Aeschin. II, *On the False Embassy*, 29-30 ; Dem. II, *Second Olynthiac*, 14, with scholion ; J. HESKEL, *The North Aegean Wars*, p. 31-36.

15. Note, for example, that the existence of pro-Athenian Dikaioropolitans can be inferred from the fact that Dikaia features on the founding stele of the Second Athenian Confederacy : RHODES-OSBORNE, *GHI 22* (378/7 BC), l. 105.

16. M.B. HATZOPOULOS (*BE* 2008, no. 339) suggests that the presence of an Argaios among the leading political figures named in the document (l. 46), a clearly Macedonian name among Eretrian names, supports this kind of view.

17. Compare the attitude of Corinthian oligarchs to the « union » of Corinth and Argos in the 390s BC, as reported in Xen., *Hell.* IV.4.6 : the Corinthian oligarchs thought that they had less power than « metics » in the new system.

3. – RETROSPECTIVE JUSTICE AT DIKAIA : A DISTINCTIVE APPROACH AMONG KNOWN BIPARTISAN POST-STASIS RECONCILIATION SETTLEMENTS OUTSIDE ATHENS

As recorded in the third assembly decree in the Dikaiopolitan settlement, the arbitrators at Dikaia recommended a partial amnesty regarding the events of the *stasis* (Il. 27-45). Rather than engaging in litigation and retribution, citizens were to be obliged to agree to forget about most past wrongs, in the interests of future stability. This was made a solemn civic duty¹⁸. However, the arbitrators did allow a measure of retrospective justice and enforcement of law : before the amnesty came into force, outstanding murder suits which had arisen¹⁹ before the current (Gorgythos') archonship could be brought on a single day, the fifth day from the end of the month of Daphnephorion, in Gorgythos' archonship (Il. 28-30). If anyone did not prosecute a relevant suit on that occasion, the relevant matters were to be « excluded » (ἀπόκλετα) for him : he was not to be allowed to prosecute the suit on another occasion. It is hard to doubt that the murder suits in question, which had arisen before Gorgythos' archonship, included some concerning murders during the *stasis* : it is made clear that if the factions have any *other* grievance against one another (εἰ δέ τι ἄλλο ἐγκαλοῦσι), prosecution is barred (Il. 36-41).

The decision to allow some controversial δίκαι makes the Dikaiopolitan approach to retrospective justice quite distinctive when compared with that of other known bipartisan post-*stasis* settlements from Classical and Hellenistic poleis other than Athens. In *partisan* Greek post-*stasis* settlements, as in many modern partisan settlements after civil war²⁰, the victorious faction tended to assign responsibility to its defeated enemies and to exact judicial retribution from them²¹. By contrast, in bipartisan post-*stasis* settlements comparable with the Dikaiopolitan settlement, citizens did not tend to favour strict retrospective justice. Nor did they favour the kind of reconciliation characteristic of a modern Truth and Reconciliation Commission on the South African model : frank, open-ended discussion of past events between perpetrators and victims, without the looming prospect of retrospective punishment. Rather,

18. Compare A. CHANIOTIS, « Normen stärker als Emotionen ? Der kulturhistorische Kontext der griechischen Amnestie » in K. HARTER-UIBOPUU and F. MITTHOF eds., *Vergeben und Vergessen ? Amnestie in der Antike. Akten des ersten Wiener Kolloquiums zur Antiken Rechtsgeschichte*, Wien, 27.-28.10.2008, Vienna 2013, p. 47-70, at p. 64-65.

19. This clause presumably covered all murder suits relating to events which happened before Gorgythos' archonship.

20. See, for example, R. VOGLIS, « Between Negation and Self-Negation : Political Prisoners in Greece, 1945-1950 » in M. MAZOWER ed., *After the War Was Over : Reconstructing the State, Family and Nation in Greece, 1944-1960*, Princeton, p. 73-91 ; or M. VINCENT, « Expiation as Performative Rhetoric in National Catholicism : The Politics of Gesture in Post-Civil War Spain », *Past and Present* 203, suppl. 4, 2009, p. 235-256.

21. The best documented example is Athens after 411 BC : see A. DÖSSEL, *Die Beilegung ...*, p. 55-88. Compare the practice of punishing alleged tyrants after their overthrow (see, for example, RHODES-OSBORNE *GHI* 83, from later fourth-century BC Eresos). Note also the hypothetical proposals for treatment of the losing faction in *stasis* in the anti-tyranny law from third-century BC Ilios (Il. 25), esp. ll. 53-130.

there was a general tendency to concentrate on the present and the future : in particular, on the restoration of civic institutions, the establishment of consensus about property rights²² and the cultivation of civic concord (ὁμόνοια).

The main concern in such settlements was often to restore the situation which existed before the occurrence of triggers of the breakdown of civic order, or to resolve or judge legal cases as they stood before those triggers. It was usually not even part of the exercise of reconciliation to delve into difficult questions about personal responsibility for offences connected with the outbreak and perpetuation of civic divisions and unrest, and suitable punishments for those judged responsible. Indeed, bipartisan reconciliation settlements often involved a comprehensive or very wide-ranging amnesty concerning recent events.

A post-*stasis* amnesty could be explicitly universal and unconditional in its application. For example, a third-century BC²³ decree of reconciliation from Arcadian Alipheira in the Peloponnese establishes general immunity from prosecution for all citizens concerning all offences relating to a recent period of foreign occupation and unrest, without providing for a prior period of arbitration or litigation to address those offences. The fact that this decree uses the word μῦσαμα to refer to the crimes whose prosecution is forbidden suggests that even murder charges were forbidden by this amnesty²⁴.

The Alipheira settlement can be compared²⁵ with another Peloponnesian example in which the wide extent of an amnesty was explicitly stressed, a fourth-century BC text from Elis²⁶. This document emphasises the wide scope of its amnesty, which may have been actual or potential²⁷, by including the specification that a citizen protected by it is to be allowed to resume citizenship without penalty « even if he has exiled others ».

22. On this, see especially R. LONIS, « La réintégration des exilés politiques en Grèce : le problème des biens » in P. GOUKOWSKY, CL. BRIKHE eds., *Hellènika symmikta : histoire, archéologie, épigraphie*, Nancy 1991, p. 91-109.

23. This text, *IPark* 24, probably dates to 273 BC : G. THUR, H. TAÜBER, *Prozessrechtliche Inschriften der griechischen Poleis : Arkadien*, Vienna 1994, p. 279, discussing earlier bibliography.

24. See *IPark* 24, ll. 4-8 ; cf. G.J. TE RIELE, « Le Grand Apaisement d'Alipheira », *RA* N.S. 1967, part II, p. 207-224, at p. 216 ; A. DÖSSEL, *Die Beilegung...*, p. 226, with n. 10.

25. It is also possible to compare the unconditional amnesty which was an explicit requirement of Polyperchon's edict of 319 BC ordering the restoration to their home cities of exiles who had been expelled by Macedonian generals since Alexander (Diod. Sic. XVIII.56.4-5) : no grudge-bearing or trials would be allowed concerning the behaviour of these individuals before or during their exile. Even suits regarding violence committed during *stasis* connected with relevant exiles' expulsion were presumably barred by this regulation. Those exiled in accordance with law for murder or impiety, and certain named political factions, could not, however, benefit from the edict.

26. S. MINON, *Les inscriptions éléennes dialectales (VI^e-II^e siècle avant J.-C.)*, two volumes, Geneva 2007, no. 30 ; for discussion of different views about dating, see MINON's discussion on p. 197-198.

27. This text first protects the offspring of certain citizens from exile and stipulates exile against any citizen who expels any one of them (ll. 1-6). It then states (ll. 6-8) that « it is permitted for anyone who wishes, even if he has sent others into exile (see S. MINON, *Les inscriptions éléennes*, p. 203-205, for the interpretation of the qualification καί κα φυγαδευάντι), to return and to be immune from prosecution » for offences committed after the archonship of Pyrrhon. Some have thought that ll. 6-8 establish a general amnesty relevant to current circumstances, inviting existing exiles to return with impunity (H. SWOBODA, *RE* V, 2046 ; A. PASSERINI, « Riforme sociali e divisioni di beni nella Grecia del IV secolo a. C. », *Athenaeum* 8, 1930, p. 273-98, p. 284-5 ; J. SEIBERT, *Die*

Among those bipartisan post-*stasis* settlements preserved in inscribed form which were clearly not merely hypothetical, the Alipheira settlement is distinctive in making its wide-ranging amnesty very explicit. However, comparably wide-ranging amnesties were probably also established in other known cases. In a settlement from Tegea dating to c. 324 BC.²⁸, by which some exiles were reintegrated into the polis, complex provisions were made for litigation concerning property rights in the reunited polis, a contentious matter due to the return of exiles whose property had been confiscated. Property disputes were to be judged by a temporary foreign court during a period of sixty days. Mantinea was then to serve as a substitute for the temporary foreign court for cases arising from the arrival of late returnees²⁹. Although extensive litigation was clearly anticipated concerning property disputes, there was apparently no question of allowing or holding trials aimed at attributing responsibility for involvement in past unrest and exilings and punishing those found responsible.

The Tegeate civic oath, to be sworn by the already incumbent citizens, even includes a general promise not to bear grudges against any one of the returning exiles (οὐ μνησικακήσω τῶννυ οὐδεν[ί])³⁰, which probably represented a wide-ranging promise not to engage in any extra-judicial or judicial retribution against them³¹. Admittedly, this oath clause would not in itself have created a comprehensive amnesty : it does not in itself rule out prosecutions by

politischen Flüchtlinge und Verbannten in der griechischen Geschichte : von den Anfängen bis zur Unterwerfung durch die Römer, Darmstadt 1979, p. 150 ; H.-J. GEHRKE, *Stasis...*, p. 56 ; S. MINON, *Les inscriptions éléennes...*, p. 206). However, considering what precedes in the text, ll. 6-8 are probably better interpreted as establishing a potential future amnesty enabling the return to the polis only of the particular citizens protected from expulsion in ll. 1-6, in the event that they are expelled contrary to this law, even if they themselves have exiled others (compare E. SZANTO, « Bronzinschrift von Olympia », *ÖJh* 1, 1898, p. 197-212, p. 203-204 ; O.A. DANIELSSON, « Zu Griechischen Inschriften », *Eranos* 3.4, 1899, p. 129-48, p. 139-140 ; T. REINACH, « Inscriptions grecques », *REG* 16, 1903, p. 180-192, p. 188).

28. For discussion of the dating, see I. WORTHINGTON, « The Date of the Tegea Decree (Tod II 202) : A Response to the Diagramma of Alexander III or of Polyperchon », *AHB* 7, 1993, p. 59-64 ; compare A. BENCIVENNI, *Progetti di riforme costituzionali nelle epigrafi greche dei secoli IV-II a.c.*, Bologna 2003, p. 86-93 ; S. DIMITRIEV, « Alexander's Exiles Decree », *Klio* 86, 2004, p. 348-81, at p. 351-4.

29. RHODES-OSBORNE, *GHI* 101, ll. 24-37.

30. RHODES-OSBORNE, *GHI* 101, ll. 59-60.

31. Carawan has recently argued for an alternative interpretation. In accordance with his more general ideas about the meaning of μη μνησικακεῖν, he argues that the incumbent Tegeates' pledge « not to bear grudges » represented only a promise not to engage in out-of-court retribution or to seek to re-open in court those particular disputes which had been explicitly and formally resolved through this settlement. See E. CARAWAN, « The Athenian Amnesty and the Scrutiny of the Laws », *JHS* 122, 2002, p. 6-7 ; for his underlying broader argument, see p. 4-12 of that article and his *Rhetoric and the Law of Draco*, Oxford 1998, p. 129-132. It is true that the commitment « not to bear grudges » might well have been understood to be limited to those past events connected, at least remotely, with the exiles' expulsion and period of exile. It seems unlikely, however, that it was understood to be restricted any further than that in scope. If the pledge was intended primarily to confirm recent judicial decisions about property, it would be surprising that there is no reference in the wider oath to the regulations about property disputes and associated litigation. Moreover, an oath primarily intended to confirm property settlements would surely have been sworn by all involved, not simply by the incumbent citizens. It is far more likely that the primary function

the returned exiles against their expellers. It seems quite likely, however, that this oath by the incumbent citizens would have been accompanied, in a lost part of the settlement, by a mirroring oath by the returned exiles, also ruling out controversial retrospective litigation.

A comparison can be made with a literary account : Xenophon's description of *stasis* and reconciliation in Peloponnesian Phlius in the early fourth century BC. Xenophon reports that, when some Phliasian exiles were reintegrated into Phlius in 384 BC, to live alongside their erstwhile opponents in a bipartisan new regime, it was decided that disputes relating to the returned exiles' property would be judged by a court, a matter which later became a focus of much controversy³². Xenophon makes no suggestion that questions of retrospective justice were to be addressed, by a court or in any other way. Retrospective justice did become relevant after the conclusion of the ensuing *stasis* in Phlius, when King Agesilaos of Sparta appointed a post-*stasis* commission to determine use of the death penalty and a future constitution. That commission was, however, not a truly bipartisan one : Agesilaos favoured his partisans with disproportionate representation, giving equal representation on the commission to the majority, who had remained in the city, and to the far smaller group of devoted pro-Spartans who had fled into exile³³.

There are many other examples of inscribed bipartisan reconciliation in which explicit language about amnesty and forgetting of wrongs is absent, but there are no signs of moves to allow or pursue retrospective justice concerning the events of a *stasis*. For example, an inscribed bipartisan post-*stasis* reconciliation settlement from Mytilene, dating to c. 334 BC or later³⁴, prescribes that an arbitration committee should be formed, composed of ten citizens from each of the two recent factions, exiles and incumbent citizens. However, it makes that committee responsible only for addressing questions about future civic organisation : it is to ensure that nothing is detrimental to the interests of either side and to resolve property disputes resulting from the reconciliation, with the aim that all will live in accordance with the settlement³⁵. The description of the board's responsibilities suggests that past events and offences were outside its remit. The adjudication of disputed matters was intended to prepare the way for renewed harmony and religious unity, in the form of collective rituals and prayers for the well-being of all citizens³⁶.

of the oath was to provide a wide-ranging guarantee of security to the returning exiles : the exiles were to enjoy unchallenged civic rights, not suffering any further retribution for whatever had caused their original exile. For these objections, compare C.J. JOYCE, « The Athenian Amnesty and Scrutiny of 403 », *CQ* 58, 2008, p. 507-518, at p. 512.

32. Xen., *Hell.* V.2.10 ; 3.10.

33. Xen., *Hell.* V.3.25 ; P. CARTLEDGE, *Agesilaos and the Crisis of Sparta*, London 1987, p. 265-266.

34. RHODES-OSBORNE, *GHI* 85B. For discussion of dating, see P. BRUN, « Les exilés politiques en Grèce : l'exemple de Lesbos », *Ktema* 13, 1988, p. 255-256 ; I. WORTHINGTON, « Alexander the Great and the Date of the Mytilene Decree », *ZPE* 83, 1990, p. 194-214 ; A. BENCIVENNI, *Progetti di riforme...*, p. 45-46 ; A. DÖSSEL, *Die Beilegung...*, p. 159, 172, 177-178 ; S. DIMITRIEV, « Alexander's Exiles Decree », p. 357-360.

35. RHODES-OSBORNE, *GHI* 85B, ll. 21-38.

36. RHODES-OSBORNE, *GHI* 85B, ll. 38-49.

In a similar way, the fourth century or third century document of reconciliation from Nakone which features among the Entella tablets³⁷, brokered by conciliators from Egesta, contains much rhetoric about civic unity and friendship, but no reference to retrospective justice concerning violence and other offences committed during the recent *stasis*. Either the conciliators from Egesta did not tackle that question, or the citizens of Nakone declined to publish and record for posterity any indication that their reconciliation settlement had involved any settling of scores and attribution of personal responsibility for *stasis*.

The Tegeate and Nakonian settlements were not the only cases resulting in inscribed settlements in which foreigners were called in to achieve a bipartisan reconciliation of a citizen-body after *stasis* or acute divisions. Indeed, as Crowther has shown in his studies of the « foreign judges » phenomenon, Hellenistic poleis tended to summon judges from a friendly polis when internal disputes between citizens proved intractable³⁸. They probably often did so in order to pre-empt unrest. However, there are some cases in which foreign judges intervened after bouts of unrest (ταραχή)³⁹. Whereas the envoys from Egesta in Nakone appear to have drawn up a whole post-*stasis* settlement, the remit of most other foreign judges and arbitrators summoned after unrest appears to have been comparatively limited : most seem to have been charged specifically with resolving the contractual disputes, presumably normally connected with credit and debt, which were at the root of the unrest⁴⁰. The scope of the typical responsibilities of foreign judges or arbitrators of this type did not usually extend to examining, and assigning responsibility for, actions committed after disagreements about these contracts led to the breakdown or abuse of civic procedures : for example, controversial prosecutions, exilings or confiscations of property, violence against fellow citizens, or refusals to fulfil civic obligations or to comply with judicial decisions. Nor is there any indication in the relevant texts that domestic courts attempted to assign responsibility to individuals, or impose penalties on them, in relation to those actions. Furthermore, even in exercising the function of resolving contractual disputes, relevant foreign judges and arbitrators were expected to tread carefully : arbitration was much preferred to formal judgement according to the laws⁴¹.

37. SEG 30.1119, with SEG 51.1185.

38. See C.V. CROWTHER, « Iasos in the Second Century BC : Foreign Judges from Priene », *BICS* 40, 1995, p. 91-138 ; *id.*, « I.Priene 8 and the History of Priene in the Early Hellenistic Period », *Chiron* 26, 1996, p. 195-250.

39. IG IX 2 1230 (a foreign judge in Phalanna : a preceding ταραχή is mentioned in l. 2 ; the judge is praised in l. 12 for removing στάσις) ; IG XII 5 7 (a text probably relating to the intervention of foreign judges in Ios : a preceding ταραχή is mentioned in l. 2) ; IG XII 5 1065 (intervention of foreign judges in Karthaia on Keos : a reference to a preceding ταραχή is restored in l. 2) ; *I.Iasos* 82, ll. 29-64 (intervention of Iasian judges in Kalymna : the fear of « greater ταραχή » in l. 42 suggests that there had already been some unrest) ; IC I XIX 3 (intervention of judges from Knossos and Lyttos in Malla, after ταραχή and division concerning property and contracts, ll. 17-19).

40. Note, for example, IG IX 2 1230, ll. 3-13.

41. Cf. C.V. CROWTHER, « Iasos in the Second Century BC », p. 92 ; D. ROEBUCK, *Ancient Greek Arbitration*, Oxford 2001, p. 24-25, 282 ; A. DÖSSEL, *Die Beilegung...*, p. 256, 262-263.

Admittedly, there are some known cases in which foreign judges adjudicated in legal cases whose focus was not simply the resolution of disputed private contracts⁴². That kind of jurisdiction would often have involved assigning personal responsibility for wrongdoing. However, there is no indication in most cases that the judges in question were summoned after a full-scale *stasis* or breakdown of civic institutions comparable to those considered here, rather than to solve an *impasse* in civic politics and pre-empt civil unrest. The one possible exception is that a Prienian decree reports that Prienian foreign judges in Alexandria Troas judged all the cases concerning unlawful and violent actions (τὰς δίκας ... ἀπάσας ἔκριναν τὰς τε τῶμ παρανόμων καὶ τὰς τῶμ βιαιῶν)⁴³. The forceful language about « lawlessness »⁴⁴ and violence makes it quite conceivable that the relevant actions took place in the course of civil unrest, rather than routine civic life, which might explain why the citizens of Alexandria Troas found it necessary to invite foreign judges. This situation might, therefore, represent a rare parallel to the Dikaiopolitan case : another example of strict, public, recorded retrospective justice in the course of a bipartisan reconciliation after *stasis*.

4. – THE PROBLEM RAISED BY SECTION 3

The evidence considered in section 3 results in a problem which requires explanation : why did the Dikaiopolitans assent to the proposal for a measure of retrospective justice concerning killings during *stasis*, when many other cities preferred very wide-ranging amnesty in similar circumstances ? Someone might object that this problem is not very acute, because the Dikaiopolitans allowed murder trials on only one specified day. Arguably, however, this makes the problem even more pressing : the restriction of suits to one day suggests that the arbitrators were themselves conscious of a danger that allowing murder suits could re-inflate smouldering tensions, by giving a space for formal levelling of controversial attributions of responsibility for *stasis* deaths. This might unleash renewed discord and retribution.

Consciousness of such a danger was probably also a significant reason why the arbitrators at Dikaia also stipulated particularly heavy penalties for anyone who subsequently brought or heard a murder case : exile for the litigant and disenfranchisement for the magistrate, as opposed to disenfranchisement for the litigant and confiscation of property for the magistrate if

42. These have been collected by C.V. CROWTHER : see *I.Priene* 44, ll. 17-18 (judgement by judges from Priene in Alexandria Troas) ; *I.Priene* 50, ll. 6-7 (a judge from Priene in Erythrai) ; *BCH* 95, 1971, 554-9, ll. 11-12 (judges from Herakleia Trachinia in Demetrias) ; *SEG* 27.226, ll. 5-9 (judges from Metropolis in Crannon) ; *JHS* 33, 1913, 332-7, no. 16, ll. 7-8 (judges from Metropolis in Phalanna) ; *IG* XII 2 530, esp. ll. 1-3 (judges from Eresos in an unknown city).

43. *I.Priene* 44, ll. 17-18.

44. Elsewhere in Hellenistic Prienian epigraphy, compare the use of such language in relation to severe disorder at *I.Priene* 17, ll. 7, 9, 17-18.

any suit was successfully brought concerning any of the other excluded matters. The fact that the arbitrators and the Dikaiopolitans allowed murder suits, despite some trepidation about the possible consequences, demands some explanation.

5. – A POSSIBLE EXPLANATION FOR THE DISTINCTIVE DIKAIOPOLITAN APPROACH TO RETROSPECTIVE JUSTICE : IMITATION OF THE ATHENIAN RECONCILIATION OF 403 BC

One possible solution to the problem raised in the previous section is that the Dikaiopolitans and their arbitrators were consciously imitating the Athenian reconciliation settlement of 403. Indeed, Voutiras argues strongly for the importance of the Athenian example as a model for the Dikaiopolitan settlement as a whole⁴⁵. For example, the fact that certain named individuals, probably factional ringleaders, were obliged to undergo legal proceedings in accordance with the law (Il. 61-7)⁴⁶ before resuming citizenship recalls the situation in Athens after the fall of the Thirty Tyrants in 403 BC, when members of the Thirty, the Ten, the Eleven and the rulers in the Piraeus were allowed to resume Athenian citizenship only if they underwent a scrutiny and were judged suitable⁴⁷.

With respect to murder suits, the relevant consideration is that the scholarly orthodoxy is that the Athenian amnesty of 403 BC, comprising both the initial agreement and subsequent legal rules⁴⁸, permitted certain murder suits, suits for murder « with one's own hand », relating to the events of the *stasis*⁴⁹. If this orthodoxy is correct, the Athenian case would be an important parallel for the permitting of murder suits at Dikaia, but only a partial one. Even in that case, the Dikaiopolitan regulations would be distinctive, and distinctively bold : the Dikaiopolitans permitted prosecution of previous murder cases of all kinds, not simply cases of murder « with one's own hand ».

45. See, for example, E. VOUTIRAS, K. SISMANIDES, *Δικαιοπολιτών συναλλαγαι*, p. 266 ; E. VOUTIRAS, « La réconciliation des Dikaiopolites », p. 781 ; also the arguments of E. VOUTIRAS' forthcoming monograph on the Dikaiopolitan inscription.

46. Presumably, in this case, it was not only offences of homicide which were envisaged.

47. E. VOUTIRAS, K. SISMANIDES, *Δικαιοπολιτών συναλλαγαι*, p. 266 ; and E. VOUTIRAS, « La réconciliation des Dikaiopolites », p. 781, comparing [Arist.] *Ath. Pol.* 39.6.

48. The initial agreement was reinforced by a subsequent specific rule that the laws could be applied only « from Eukleides archonship » ; the laws could be applied only in connection with events occurring in or after 403/2 (see E. CARAWAN, « The Athenian Amnesty », p. 16-17 ; *id.*, « Amnesty and Accountings for the Thirty », *CQ* 56, 2006, p. 57-76, at p. 69).

49. See, for example, P. CLOCHÉ, *La restauration démocratique à Athènes en 403 avant J.-C.*, Paris 1915, p. 59-60 ; R.J. BONNER, « Note on Aristotle *Constitution of Athens* XXXIX.5 », *CPh* 19, 1924, p. 175-176 ; P.J. RHODES, *A Commentary on the Aristotelian Athenian Politeia*, Oxford 1981, p. 468 ; E. CARAWAN, « The Athenian Amnesty », p. 8-9 ; *id.*, « Amnesty and Accountings... », p. 69-70 ; *id.*, « Paragraphe and the Merits », *GRBS* 51, 2011, p. 254-295, at p. 271-272 ; A. DÖSSEL, *Die Beilegung...*, p. 99-100, 215 ; S.J. TODD, *A Commentary on Lysias, Speeches I-II*, Oxford 2007, p. 639, with n. 55.

Importantly, the Dikaiopolitans thereby opened up the complex issue of indirect responsibility for, or complicity in, killings during *stasis* : in particular, the question whether factional magistrates or conspirators-in-chief who had ordered or authorised killings by their underlings, or underlings who had facilitated but not carried out killings, were guilty of murder. Such questions could be deeply contentious, and wide open to partisan interpretation or distortion. For example, in the Hellenistic anti-tyranny law from Ilion, it was stated that anyone who voted under a non-democratic regime for a death penalty which was subsequently carried out would be considered a murderer⁵⁰. The contentious nature of the question meant that a large volume of prosecutions could be expected in any post-*stasis* situation if all possible murder suits were allowed : for example, Carawan suggests that, if citizens had been permitted to bring all potential murder suits after the fall of the Thirty Tyrants at Athens in 403 BC, an « avalanche of litigation » would have followed⁵¹. The Dikaiopolitans, unlike the Athenians, were prepared to take this risk, something which requires a special explanation.

There is also another reason why imitation of Athens is not entirely satisfactory as a sole explanation for the Dikaiopolitans' approach to murder suits : as I hope to argue more fully elsewhere, the argument that the Athenian amnesty of 403 BC was qualified in such a way as to allow certain murder suits is not particularly secure. That argument rests on an interpretation of the summary of the 403 BC settlement in chapter 39 of the *Athenaion Politeia* which has significant problems.

In setting out the terms of the settlement brokered between the factions in his chapter 39, Ps.-Aristotle first describes in detail the regulations for the separation of the Athenian citizen body into two separate entities, an autonomous oligarchic enclave in Eleusis and the main Athenian civic community in the city itself. Sections 1-5 contain precise regulations which are of concern to both of the new entities, especially regulations concerning relations between them and the scope and boundaries of the autonomy of the new Eleusis community. There is then the corrupt sentence τὰς δὲ δίκας τοῦ φόνου εἶναι κατὰ τὰ πάτρια, εἴ τις τινα ΑΥΤΟΧΕΙΡΑΕΚΤΕΙΣΙΠΕΡΩΣΑΣ⁵² (« murder cases were to be tried according to ancestral practice, if anyone ... anyone with his own hand »). Immediately after this, in section 6, the author then offers a description of the amnesty, beginning τῶν δὲ παρεληλυθότων μηδενὶ πρὸς μηδένα μνησικακεῖν ἐξεῖναι (« concerning past events, no-one was to be allowed to bear a grudge against anyone »).

50. *I.Ilion* 25 (Ilion, third century BC), ll. 97-9.

51. E. CARAWAN, *Rhetoric...*, p. 127.

52. The papyrus has ΑΥΤΟΧΙΡΑΕΚΤΙΣΙΟΤΡΩΣΑΣ, with an epsilon added above the first iota, an epsilon inserted above the second iota and the σ crossed out, with τϵ inserted above (P.J. RHODES, *Commentary on the Aristotelian Athenaion Politeia*, p. 468).

The most common interpretation is that the corrupt line about murder trials states an exception from the apparently universal amnesty stated in the following sentence. Agreement on this interpretation of the sense had led to acceptance of the restoration εἴ τις τινα αὐτοχειρία ἔκτεινεν ἢ ἔτρωσεν (« if anyone killed or wounded anyone with his own hand »), with aorist indicatives, in the corrupt part.

This dominant interpretation of the sense of the lines is, however, hard to reconcile with the actual order and wording of the surviving text, even allowing for compression of the original document which Ps.-Aristotle was using. The sentence about the amnesty begins with the genitive τῶν δὲ παρεληλυθότων (« concerning past events ») which seems quite clearly to mark a shift to a new subject : attention turns away from issues of present and future organisation and towards past events. In this light, it would be very strange if the previous sentence was already concerned with past wrongs. Indeed, that interpretation requires that the previous sentence states a technical exception from an amnesty which has not even yet been mentioned.

Moreover, it is difficult to reconcile the dominant interpretation with the way in which the amnesty itself is presented : as an unconditional ban on retribution for past wrongs. The emphatic juxtaposition of μηδενὶ πρὸς μηδένα suggests a universal arrangement, with no exceptions. In addition, the blanket statement that the amnesty concerns « past events » (τῶν δὲ παρεληλυθότων) strongly suggests universality. The dominant interpretation would be more attractive if the sentence about the amnesty opened « concerning other past events... » or « otherwise, concerning past events... »⁵³.

Since no such qualification features in the text, it seems much more consistent with the preserved words to suppose that the corrupt sentence is making some other stipulation about murder trials, rather than permitting retrospective murder trials irrespective of the amnesty. The plausibility of one possible alternative is defended in the appendix to this article : the sentence about murder trials could represent a final item in the regulations concerning the new community at Eleusis and its relations with the main civic community. Other alternatives might also be possible. The Athenian amnesty may well, therefore, have been even more ambitiously wide-ranging than commonly thought, not even allowing suits for murder « with one's own hand ».

The considerations raised in this section make it necessary to look beyond imitation of Athens in order to solve the problem of why the Dikaiopolitan settlement allowed post-*stasis* murder suits to be brought. The Dikaiopolitans were certainly bolder than the Athenians concerning murder suits, and quite possibly a great deal bolder. The best approach to explaining the distinctive Dikaiopolitan arrangement may be to consider in more detail the nature of the Dikaiopolitan settlement itself, especially the ideas and values underpinning it.

53. Compare M. STAHL, « Nachträgliches über athenische Amnestiebeschlüsse », *RhM* 46, 1891, p. 481-487, at p. 485, with n. 2 ; T. THALHEIM, « Zu Aristoteles' Αθηναίων Πολιτεία », *BPW* 29, 1909, p. 702-703, at p. 703.

6. – AN ALTERNATIVE EXPLANATION FOR THE DIKAIOPOLITAN APPROACH TO RETROSPECTIVE JUSTICE : THE CIVIC VALUES OF THE « CITY OF JUSTICE »

The tendency of other bipartisan reconciliation settlements to steer away from strict retrospective justice can be seen to be grounded in ideas about the nature of the good polis, and thus of good reconciliation. Many bipartisan reconciliation settlements and honorary decrees for foreign arbitrators and judges place stress on concord (ὁμόνοια)⁵⁴, the common good of the city and all its citizens⁵⁵, and the promotion of mutual good will and other positive, unifying emotions among citizens⁵⁶. Similarly, at Athens after the Thirty Tyrants, there was much emphasis on restored civic fraternity, collective virtue and concord⁵⁷.

These values were expressed in particularly radical form in the fourth century or third century BC bipartisan reconciliation from Sicilian Nakone⁵⁸. In that case, the arbitrators from Egesta proposed measures intended to restore or build a very substantial level of solidarity among the citizens of Nakone. The main measure they proposed was the formation of new civic groups which would cut across the recent factions : each was to consist of one member from each of the two factions and three neutral citizens⁵⁹. These new groups were subsequently to participate together in an annual festival of concord (ὁμόνοια)⁶⁰. This measure was presumably designed to promote trust and solidarity among different citizens after their recent experience of discord⁶¹. The text itself offers (ll. 19-21) a very idealistic description of the purpose of the « brother-making » : the members of these new groups were to be « chosen brothers, united in concord with one another with all justice and friendship » (ἀδελφοὶ αἰρετοὶ ὁμονοοῦντες ἀλλήλοις μετὰ πάσας δικαιοτάτος καὶ φιλίας).

It is possible to understand why citizens committed to such strong values of fraternity, unanimity and concord would often have taken the weighty decision to severely restrict retrospective justice in a post-*stasis* context through a very wide-ranging amnesty. Such a decision would surely often have been difficult in itself : it involved denying aggrieved citizens

54. See, for example, *IG XII 5 1065*, ll. 3-4.

55. See, for example, RHODES-OSBORNE, *GHI 85B*, ll. 39-42. In general, compare A. DÖSSEL, *Die Beilegung...*, e.g. p. 291.

56. See, for example, RHODES-OSBORNE, *GHI 85A* (Mytilene, c. 334 or later), ll. 2-4. On the attempt in such regulations to control or transform citizens' emotions, see A. CHANIOTIS, « Normen stärker als Emotionen ? ».

57. See, for example, Xen. *Hell.* V.4.20-2 ; Isocr. XVIII, *Against Callimachus*, 46 ; Dem. XX, *Against Leptines*, 11. Compare the stress on these aspects of the Athenian amnesty in N. LORAUX, *The Divided City : on Memory and Forgetting in Ancient Athens*, New York 2001 ; J. SHEAR, *Polis and Revolution : Responding to Oligarchy in Classical Athens*, Cambridge 2011, p. 202-203.

58. *SEG 30.1119*, with *SEG 51.1185* ; see also C. AMPOLO (ed.), *Da un'antica città di Sicilia. I decreti di Entella e Nakone*, Pisa 2001, Nakone text A.

59. After all members of the two factions have been assigned, remaining neutral citizens will continue to be distributed until the brotherhoods each have five members.

60. *SEG 30.1119*, ll. 3-33.

61. Compare N. LORAUX, *The Divided City...*, esp. p. 224 ; also D. Asheri, « Formes et procédures de réconciliation » in F.N.F. Javier ed., *Symposium 1982 : Vorträge zur griechischen und hellenistischen Rechtsgeschichte*, Cologne 1982, p. 135-45.

the opportunity to seek judicial redress, even in connection with deaths of relatives. However, it would have been a conscientious and consistent application of strong ideals of *ὁμόνοια*. This is largely because the reverse course, allowing citizens to engage in litigation concerning the events of a *stasis*, could often easily have been perceived as giving unacceptable priority to the private over the public : such a course could have been perceived as offering citizens the opportunity to concentrate on private grievances, interests and perceived entitlements, even at the expense of the common good and civic stability. According to prominent Greek ways of thinking, it was far more important to redeem collective civic life and solidarity than to settle private scores. As Andocides put it in addressing the Athenians about their amnesty, « you preferred the salvation of the polis, rather than private retribution » (περὶ πλείονος ἐποιήσασθε σφῆξιν τὴν πόλιν ἢ τὰς ἰδίας τιμωρίας)⁶².

Some citizens committed to strong ideals of *ὁμόνοια* were even consciously fearful that strict, formal post-*stasis* trials might provoke renewed civic unrest. In the Hellenistic period, the citizens of Kalymna at one point explicitly praised Iasian foreign judges for achieving a settlement through persuasion, so that « the people might not be thrown into more disorder, with matters being judged by a vote » (ὅπως μὴ διὰ ψάφου τῶν προ[γμά]των κρινομένων εἰς πλέω ταραχὰν ὁ δᾶμος [καθισ]τάται)⁶³.

Viewed against this background, the Dikaiopolitan settlement can be seen to be founded upon a different understanding, equally complex and coherent, of the good city and good civic reconciliation, far easier to reconcile with strict post-*stasis* justice. A complex and coherent vision of good civic order is most clearly expressed in the oath of reconciliation, to be sworn by all citizens (ll. 67-105).

Significantly, the oath begins with the promise : « I will be just in my behaviour as a citizen towards all » (πολιτεύσομαι ἐπίπασι δικαί<ω>ς, l. 67). It thus begins with a punning reference to the name of the city : literally, a promise to « be a Dikaiopolitan ». Through this opening, the oath immediately makes central the Dikaiopolitans' traditional civic value system : it gives priority to the political principle which, as discussed in section 2 above, the city's founders, possibly disgruntled exiles from Eretria, had enshrined at the heart of the political life of their new « City of Justice », probably around a century before.

The mere mention of justice in a bipartisan post-*stasis* settlement is itself striking. It was certainly not simply a commonplace to refer to justice in a bipartisan oath of reconciliation, probably because of the tensions between ideals of harmony and strict justice identified above. Indeed, justice is conspicuously absent from other civic oaths sworn in the course of bipartisan post-*stasis* reconciliation which survive in inscribed form, from Tegea, Telos and Itanos⁶⁴.

62. Andoc. 1.81.

63. *Iliasos* 82, ll. 39-42.

64. See RHODES-OSBORNE, *GHI* 101 (Tegea, c. 324 BC), ll. 57-66 ; *IG* XII 4 1 132 (Telos, early Hellenistic), ll. 128-36 ; *IC* III IV 8 (Itanos, probably third century BC), ll. 9-38 (although there is no explicit reference to recent *stasis* in this Cretan text, it is very likely that the inclusion of explicit promises to refrain from various types of revolutionary behaviour was made necessary by recent disorder).

Language of « justice » was normally far more straightforwardly suited to the context of partisan reconciliation, when the interests of the victorious party determined the public moral status of earlier actions. For example, in fourth-century Phlius after the capitulation of the anti-Spartan regime, Agesilaos' post-*stasis* tribunal was to decide who should live in the city and who should die, according to the requirement of justice (ὄντινα τε ζῆν ἐν τῇ πόλει καὶ ὄντινα ἀποθανεῖν δίκαιον εἶη).⁶⁵

Another reason why the prominence of justice in the Dikaiopolitan oath is striking is that the rest of the oath and wider settlement indicate that the Dikaiopolitan ideal of justice⁶⁶ had a particular form. In the Nakonian case considered above, it is interesting that the concept of justice itself was associated with a very high level of civic integration, fraternity and concord : it was paired with φίλια. The notion of justice given institutional shape in the Dikaiopolitan reconciliation was a quite different one, suggesting a different conception of civic order. Citizens were not required to swear to pursue common interests or values, or to cultivate civic friendship : unlike in other post-*stasis* oaths, for example, citizens were not required to swear to preserve ὁμόνοια⁶⁷ or to show good will to fellow citizens.⁶⁸ Rather, citizens were required to promise to show less warm, more contractual attitudes towards one another : « I will give and receive the same good faith » (καὶ πίστιν δώσω καὶ δέξομαι τὴν αὐτήν, l. 75).

The reason for regarding this particular pledge as less warm and more contractual in this context is that this clause was presumably at least partly a reference to the mutual pledges of faith (πιστώματα) which are mentioned elsewhere in the settlement (ll. 11-12, 22) : after the oath, all citizens were to give verbal promises, or physical tokens, of good faith, mutual guarantees of security and basic trust. Citizens were thus effectively to act out a symbolic social contract, for mutual security, advantage and justice. It would presumably have been too time-consuming for each citizen to exchange pledges with every single fellow citizen. The procedure was probably that each citizen would give his pledge of faith to all fellow citizens collectively and receive in return the deposit (παραθήκη) from Apollo mentioned later in the oath (ll. 91-4), which would symbolise the reciprocal good faith sworn by each of his fellow citizens, observed and guaranteed by Apollo.

The formal, contractual guarantees of honest, fair co-operation exchanged by the citizens of Dikaia are of a type essential among mainly distrustful, egoistic fellow citizens, anxious not to be outwitted or betrayed by their peers. They would, however, be superfluous among Nakone-style civic « brothers », who trust one another instinctively. In general, to make a

65. Xen., *Hell.* V.3.25.

66. The vision of civic justice and order evident in this document can be confidently used as evidence for Dikaia's own civic value system : whether Lykios and his fellow arbitrators were Dikaiopolitans or foreigners, they must have taken careful account of the assumptions and basic values of the Dikaiopolitan citizen-body, in order to be able to convince the Dikaiopolitan assembly to vote for their proposals.

67. Contrast *IOSPE* P 401 (Chersonesos Taurica, third century BC), l. 5 ; cf. A. DÖSSEL, *Die Beilegung...*, p. 179-196. Admittedly, the cult of Homonoia is not attested before the later fourth century BC, but the concept was in circulation from the end of the fifth : G. THÉRIAULT, *Le culte d'Homonoia dans les cités grecques*, Lyon 1996, p. 180.

68. Contrast RHODES-OSBORNE, *GHI* 101, ll. 57-8.

comparison with philosophy, the contractual approach to civic order evident in the Dikaiopolitan text chimes with the political ideas of some Classical Greek Sophists⁶⁹. Nevertheless, the close association made in the Dikaiopolitan text between justice and contractual good faith most closely recalls Roman rather than Greek philosophical ideas : compare, for example, Cicero's identification of *fides* (« good faith ») as a « foundation of justice » (*fundamentum iustitiae*) in his *De Officiis*, a work which lays great stress on the importance of strict respect for property rights, procedures and reciprocity⁷⁰.

The other clauses of the Dikaiopolitan civic oath represent the specific requirements of the city's « just » civic contract. The oath requires citizens to promise to show fairly limited forms of civic commitment, which leave considerable space for self-interested bargaining : it requires them to promise to respect fellow citizens' basic safety, to follow established procedures and agreed contracts punctiliously, and to requite like with like. These promises each serve to keep in check and regulate, rather than to eradicate, distrust, competition and disagreement among Dikaiopolitan citizens.

Concern for citizens' basic security and the integrity of procedures is evident throughout the oath. Citizens had to promise to respect the ancestral constitution (ll. 67-8) : they would abide by established, mutually accepted procedures. They then had to make the pledge not to admit foreigners to the city to the detriment of the Dikaiopolitan community (κοινόν) or of any individual (ll. 68-9) : a negative pledge not to disrupt the existing distribution of civic rights. There follow (ll. 70-74) similar negative pledges not to disrupt the civic contract, by imperilling the security of individual citizens : citizens had to promise not to bear grudges ; not to put anyone to death, exile anyone or confiscate anyone's property for the sake of things in the past ; and not to collaborate with anyone who did bear grudges. In similar vein, they then had to promise (ll. 74-5) : « I will take down (others) from the altars and be taken down myself » (καὶ ἀπὸ τῶν βωμῶν καθελέω καὶ καθαίρεθ[ή]σομαι). The meaning was probably that citizens would not allow the asylum of the altars to be used to avoid punishment for contravening the terms of the settlement, or themselves make use of it in that way⁷¹ : citizens explicitly promised not to circumvent their agreed obligations by appeal to separate religious norms.

69. Note Anonymus Iamblichi 6.1 DK (note also the emphasis on πίστις as a feature of the good polis in 7.1) ; Arist., *Pol.* 1280a31-1280b12 (criticising the view of the Sophist Lykophron that law is a contract). Compare also the argument that justice and law are products of a social contract for mutual security and advantage defended by Glaukon and Adeimantus in Book II of Plato's *Republic*.

70. Cic., *Off.* I.23 ; A.A. LONG, « Cicero's Politics in *De Officiis* » in A. LAKS, M. SCHOFIELD, *Justice and Generosity : Studies in Hellenistic Social and Political Philosophy*, Cambridge 1995, p. 213-240. For Cicero's related, more contractual view of the state as a « partnership » in his *De Re Publica*, see E. ASMIS, « The State as a Partnership : Cicero's Definition of *Res Publica* in his work *On the State* », *History of Political Thought* 25, 2004, p. 569-598.

71. Alternatively, this could be a reference to a ritual of reconciliation or supplication involving the altars.

After the requirement to give and receive the same pledge and a promise to participate in mutual purification, there follows a further affirmation of the inviolability of contractual good faith : the swearer must make an emphatic promise to honour any pledges which he extracted or gave (ll. 77-80). It would be very odd to include here a commitment to adhere to all pre-existing pledges, since those would include pledges exchanged between factionaries in the *stasis*. Such factional commitments were probably overridden by this settlement : shortly afterwards (ll. 82-4), the swearer promises to revoke any previous oath, in favour of this one. The most obvious interpretation of the promise to honour past pledges would be that it represents a promise to respect the pledges accompanying this settlement, but the use of the future tense in l. 75 suggests that those pledges had not yet been exchanged when most citizens swore the oath, but were to follow. The promise to honour past pledges probably, therefore, concerned past pledges separate from the *stasis*, which citizens here bound themselves to respect, or initial pledges at the end of the post-*stasis* trials on the fifth of Daphnephorion, which were to be followed by more general or important pledges after the oath.

The importance of contractual good faith was again stressed in the requirement that the swearer should promise to abide by the result of cases (δίκαια) which the polis judged (ll. 80-2). Moreover, the swearer was then required to pray for welfare for himself, his family and his property if he swore this oath faithfully and bad fortune if he perjured himself (ll. 84-91). He was also then required to undertake to receive the token or deposit (παραθήκη) from the Temple of Apollo, discussed above (ll. 91-4). No pledge goes beyond a commitment to exchange, and respect, contractual guarantees of co-operation.

The other key component of the Dikaiopolitan contractual model of civic order, respect for strict, tit-for-tat reciprocity, surfaces several times in the oath. The promise to give and receive « *the same* pledge » (l. 75) encapsulates the essence of strict reciprocity : citizens were to receive from their fellow citizens the precise equivalent of the good faith which they themselves offered. The same kind of exact equivalence of mutual concessions and guarantees is also evident in the nearby clauses of the oath in which the swearer promises to carry out and himself undergo the same kind of treatment, using the active and passive or middle of the same verb in order to emphasise the fairness of the exchange : « I will take down (others) from the altars and be taken down myself » ; and « I will give and receive purification as the commonwealth orders » (ll. 74-7). These sound like grudging guarantees given by mutually distrustful citizens. Strict reciprocity is again invoked, in a reference to possible tit-for-tat retribution, in the description of the role of the token from Apollo as a guarantee of the settlement : the swearer has to express the hope that, if he perjures himself, the god from whom he took the deposit should personally punish him, taking revenge for the offence caused, together with all the other gods (τιμωρήσειεν δὲ ὁ [θ]εὸς παρ' οὗ ἔλαβον τὴν παραθήκην μετὰ τῶν ἄλλων θεῶν πάντων, ll. 102-105).

The nature of the Dikaiopolitan civic value system expressed in the document offers an attractive solution to this article's central problem of why the Dikaiopolitans, unlike participants in many other Greek bipartisan reconciliation settlements, permitted strict retrospective justice concerning murder. This could well have been because the Dikaiopolitans and their arbitrators

had a particular interest in upholding the specific type of justice emphasised in the settlement, involving respect for procedures, laws, agreements and strict reciprocity. To institute a comprehensive amnesty would have represented a severe affront to those values : it would have allowed citizens to avoid accounting even for killings through established procedures, let alone suffering tit-for-tat punishment if found guilty. The ideal of justice, understood in the particular way attested at Dikaia, demanded more rigorous enforcement of procedures and deserts. The Hellenistic Prienians recognised the connection between justice (δικαιοσύνη) and strict judgement of legal cases (δίκααι) : they commented that Prienian judges had « fairly and justly » (ἰσως καὶ δικαίως) judged cases concerning « lawless and violent actions » at Alexandria Troas⁷². The ideal of justice favoured at Dikaia also made it legitimate for citizens to show, at least within limits, some of the emotions, of anger, resentment or desire for revenge, which bipartisan reconciliation settlements usually strongly discouraged⁷³.

It seems that, in the event, the Dikaiopolitans and their arbitrators were sufficiently committed, or sensitive, to the traditional value system of the « City of Justice » to make space in the settlement for a measure of retrospective justice, despite the potential dangers, and to prominently advertise that fact in the formal, published version of their settlement. Even at the risk of re-inflaming civic discord, they found it necessary to allow strict enforcement of law and strictly reciprocal retribution, at least in the case of the most serious *stasis* crime of murder : δίκααι (trials) could not be comprehensively ruled out at Dikaia.

There is a parallel in another quite recently published document for the kind of civic value system attested at Dikaia, based on concern for procedures, agreements and strict reciprocity rather than unconditional solidarity, giving legitimacy to a measure of retrospective justice after *stasis*. The relevant text is a reconciliation settlement from early Hellenistic Telos⁷⁴. In that case, the probable sequence of events was the following. The Telian δᾶμος asked the Coans to send arbitrators to broker a wide-ranging reconciliation settlement with dissident citizens⁷⁵. The text suggests that the trigger for the conflict between the Telian δᾶμος and these dissidents was the dissidents' refusal to pay either two or three types of penalty : penalties arising from « sacred (legal) cases », « public cases » and possibly also « cases of the road »⁷⁶. It appears that, as a result, the incumbent democrats confiscated the dissidents' property⁷⁷. This must have happened shortly before or after the dissidents were either forced out of the polis or fled voluntarily to a place of refuge, such as the acropolis : the pledge in the oath of

72. *I.Priene* 44, ll. 17-18.

73. Compare A. CHANIOTIS, « Normen stärker als Emotionen ? », p. 49-55.

74. *IG XII 4 1 132*.

75. *IG XII 4 1 132*, ll. 1-5.

76. *IG XII 4 1 132*, ll. 41-78. Fines « of the road » (ll. 63-4) may have been paid to a fund for the upkeep of the road, or they may have been exacted as a penalty for offences relating to the road.

77. *IG XII 4 1 132*, ll. 79-118.

reconciliation not to collaborate in future with anyone who seizes the Telian acropolis (τὰν ἄκροαν)⁷⁸ may give a hint of that. This interpretation gains some force from comparative evidence for Greek *stasis* being provoked by political disputes about legal suits and fines⁷⁹.

The best guide to the political and ethical principles underlying this settlement is the civic oath, to be sworn by all citizens, proposed by the Coan arbitrators. This oath resembles the Dikaiopolitan oath in its grudging, contractual character⁸⁰ : the Telians were to swear to adhere to the established constitution, to preserve the democracy, not to bear grudges, not to break the terms of the settlement, not to seize the acropolis, not to allow anyone to attempt to dissolve the democracy, and to report any revolutionary plots or meetings⁸¹. Citizens were thus to bind themselves to respect the constitution and the reconciliation, and not to use violence for political ends. They were not, however, required to promise to preserve ὁμόνοια, to show good will to fellow citizens or positively to promote the common good : contrast the stress on respect for the common good in another Hellenistic settlement and oath involving Coans, the later third-century BC oath uniting Cos and Kalymna in an appropriately titled *homopoliteia*⁸². No space was given to the kinds of considerations about civic harmony and solidarity which elsewhere trumped considerations of strict justice and reciprocity in post-*stasis* contexts.

As at Dikaia, this more contractual model of civic order and relationships between citizens appears to have permitted greater engagement by the arbitrators than common elsewhere with questions of personal responsibility, deserts, recompense and reciprocity. The arbitrators did not engage in any formal judgements according to the laws : they apparently abstained from seeking to punish incumbent citizens or dissidents for actions committed after the disputes about the penalties escalated into *stasis*. However, they did attempt to achieve a measure of retrospective, quasi-punitive justice in relation to the original disputes : they proposed that at least some of those who had incurred penalties should still make amends for their original offences⁸³, in return for reintegration into the Telian citizen-body. Those who had incurred sacred and public penalties were to have their original penalties overturned and their confiscated property restored, if they contributed substitutes, in the form of money or « community service », for their original penalties⁸⁴. Those who had incurred sacred penalties had to contribute to a hecatomb, while those who had incurred public penalties were obliged

78. *IG* XII 4 1 132, ll. 131-2.

79. H.-J. GEHRKE, *Stasis...*, 208-210 ; compare especially Thuc. 3.70.3-6.

80. Compare also the oath to uphold civic order at Hellenistic Itanos, which is dominated by negative promises to abstain from disruptive behaviour : *IC* III iv 8, ll. 9-38.

81. *IG* XII 4 1 132, ll. 128-36. On this and comparable oaths, see E. KROB, « Serments et institutions civiques à Cos à l'époque hellénistique », *REG* 110, 1997, p. 434-453.

82. *IG* XII 4 1 152, esp. ll. 26-9.

83. Contrast, for example, the unconditional cancellation of past convictions at Hellenistic Alipheira (*IPArk* 24, ll. 8-11).

84. *IG* XII 4 1 132, ll. 41-63, 66-85.

both to pay money⁸⁵ and to repair an altar of Asklepios. The obligations in each case were chosen because they were equal in actual or equivalent financial value to the money outstanding from these individuals' original penalties⁸⁶.

At Telos, therefore, Telian citizens and their Coan arbitrators were prepared to temper the pursuit of civic stability with some enforcement of perceived just deserts : the Telians agreed to the Coan proposal to impose quasi-penalties on some individuals, thereby implicitly attributing a measure of personal responsibility to them. This was quite probably partly because they held a quite contractual understanding of the nature of the Telian citizen-body, comparable to that attested at Dikaia. That contractual model of the good polis demanded and permitted great sensitivity to personal entitlements and deserts, even when that risked undermining perfect civic harmony and order.

7. – CONCLUSION : THE DIKAIOPOLITAN CIVIC CONTRACT, PERSONAL RESPONSIBILITY AND DIFFERENT FOURTH-CENTURY BC VISIONS OF THE GOOD POLIS

This article has shown that the arbitrators at Dikaia, and the citizens who approved their proposals, promoted and put into practice a notion of civic order and civic justice : a view of the good city as a contract for mutual security, advantage and justice, held together by procedures, laws, contracts and strict reciprocity. In a deviation from standard practice elsewhere, but in keeping with the ethical and political values central to their settlement, the Dikaiopolitans and their arbitrators even allowed some prosecutions for murder during the recent *stasis*, presumably including cases of indirect or complicit murder.

This was thus a rare case in which members of both factions in a *stasis* were potentially liable to prosecution, rather than only one or neither. In allowing this degree of retrospective justice, the arbitrators observed the demands of Dikaiopolitan civic values, even to an extent which could have threatened to destabilise the city once again, if murder trials again brought to the fore mutual resentments and contested interpretations of recent history and politics. The Dikaiopolitans thus made an interesting, distinctive, ideological choice within the broad

85. Presumably part of the original sum. A certain Aristagoras was released from the obligation to pay any money *in lieu* of his fine, because he had deposited some property as surety when he was first accused. Nevertheless, since this property did not raise enough money to pay his fine, he was required to contribute to the repair of the altar. The requirement for the others in this category to pay the money, as well as repairing the altar, is stated only in the first account of the arbitrators' decision regarding these men (on side A, fragment b). Its omission from the second (on side B, fragment a) may indicate that it was abandoned at a later stage, perhaps when the Telian assembly scrutinised the settlement. Alternatively, those involved may already have paid the money by the time the second account of the arbitrators' decision was drawn up.

86. Cf. *IG XII 4 1 132*, 43-4, 54-7. For the construction in ll. 43-4, compare Dem. XLIII, *Against Macartatus*, 58.

spectrum of possibilities between retribution and forgiveness, or between justice and harmony, faced by any ancient or modern community seeking to achieve a sustainable reconciliation after a period of conflict.

The Dikaiopolitan and other ideas about reconciliation and civic order considered in this article also suggest some broader conclusions about the polis, especially the fourth-century BC polis. The Dikaiopolitan example, in particular, shows how abstract political values, and associated visions of civic order, could help to shape real political debates, decisions and identities within a polis. Such values and visions of order could also themselves be developed and debated within the scope of a polis assembly or other polis institutions : real, practical political exchange between citizens in the course of civic politics could itself offer a space for fundamental reflection about ethics and politics. It is principally for this reason that even apparently *ad hoc* and deeply practical documents of the kinds inscribed by poleis for public display, the products of citizens interactions within civic institutions, could set out, or presuppose, complex and coherent sets of political ideas. Inscriptions such as those considered in this article can make a crucial contribution to reconstructing the full scope and variety of ethical and political thinking within Greek poleis, when compared and contrasted with literary and philosophical texts.

The evidence discussed in this article also gives some indications of the content of debates about basic values which influenced, but also took place within, fourth-century civic political institutions. The Dikaiopolitan and other ideas about civic reconciliation considered here reflect, at a deeper level, the simultaneous influence within the Greek civic world of contrasting ideas about individuality and personal responsibility, and their implications for the nature of the good polis. Implicit in the contractual notion of civic order and justice evident in this text, and its provisions for retrospective justice, was a particular view about personal responsibility : individual citizens are responsible for their own actions, and should be consistently held to account for them. This approach contrasts with the one which Loraux has shown to dominate many Greek attitudes to *stasis* : the view that a *stasis* is a collective disease or madness « fallen from the sky », in which personal responsibility is blurred⁸⁷. When it was a matter of reflecting on a past *stasis* in one's own polis, the way of thinking emphasised by Loraux was the one most consistent with 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. It made possible the pretence that citizens had never really been divided or hostile to one another : they had simply been swayed by external pressures or by the manipulations of a few bad citizens. For example, the Spartan exiles who returned to Sparta in 179 BC blamed their exile on unspecified « tyrants » and

87. See N. LORAUX, *The Divided City...*, esp. p. 22, 25 ; N. LORAUX, *La tragédie d'Athènes : la politique entre l'ombre et l'utopie*, Paris 2005, esp. p. 31-79. For *stasis* as a disease of the body politic, see also R. BROCK, *Greek Political Imagery from Homer to Aristotle*, London 2013, p. 74-76.

honoured Kallikrates for enabling their return, claiming that he had restored them « to the friendship which had existed from the beginning » (εις τὰν ἐξ ἀρχᾶς ἐ[οὔσαν] φιλ[ίαν]) with their fellow citizens⁸⁸.

In some cases, citizens took the additional step of attributing all responsibility for a *stasis* to a few deviants, a safe target for recriminations. At Athens after 403 BC, for example, the tradition developed that the whole people (the δῆμος) had been in exile : only the Thirty and a few other disreputable citizens had remained behind, disgracing the city⁸⁹. An example from later fourth-century BC Eresos shows that this strategy was also attempted elsewhere : a stele recording regulations about past tyrants represents two of the « tyrants », Eurysilaos and Agonippos, as having shut out of the city the people in its entirety (πανδαμί)⁹⁰. It is unlikely that the divisions within the Eresian citizen-body associated with the various tyrannical regimes had ever been so straightforward. Indeed, some of the tyrants' descendants subsequently willingly agreed to submit to trial⁹¹. This suggests that they did not consider their ancestors to have been isolated, vicious tyrants, but believed that they could construct a plausible defence of their family's standing and honour.

The general approach to *stasis* which treated it as a disease or descent into chaos, or the ultimate responsibility of a few isolated deviants, made acceptable and desirable a wide-ranging amnesty and forgetting of wrongs. Most citizens were not individually guilty of any offences ; those who were had been unwittingly corrupted by deviant ringleaders. It could be hoped that, by means of an amnesty and the application of the collective medicine of political reform to the polis as a whole⁹², the citizen-body would be restored to its natural, healthy and harmonious state, the opposite of the diseased collective state of *stasis*.

The Dikaiopolitan approach, more oriented towards personal responsibility, demanded different practical measures. Not only were some murder trials allowed, but all citizens were to engage in mutual purification : the oath contains the promise « I will give and receive purification » (ll. 75-6)⁹³. This promise and the ritual it foreshadowed represented an implicit admission by each citizen that he was partly responsible for the *stasis* : each citizen, including himself, was partly guilty and partly polluted, and each would benefit from purification. There was to be no sweeping purification or forgetting of wrongs, accounting for all citizens through one generic decision. Rather, citizens were to engage as individuals in rituals of mutual purification, directly confronting their own personal responsibility and that of their opponents.

88. *IvO* 300, ll. 3-4.

89. Cf. R. THOMAS, *Oral Tradition and Written Record in Classical Athens*, Cambridge 1989, p. 132-138 ; N. LORAU, *The Divided City...*, esp. p. 145-190, 245-264 ; A. WOLPERT, *Remembering Defeat*, Baltimore 2002, part II ; A. DÖSSEL, *Die Beilegung...*, p. 110-112, 141-142 ; S. FORSDYKE, *Exile, Ostracism, and Democracy : the Politics of Expulsion in Ancient Greece*, Princeton 2005, p. 262-263 ; J. SHEAR, *Polis and Revolution*, p. 295-301.

90. RHODES-OSBORNE, *GHI* 83, β side, ll. 1-3 and γ front, ll. 7-8.

91. RHODES-OSBORNE, *GHI* 83, γ front, ll. 35-40.

92. See R. BROCK, *Greek Political Imagery...*, p. 76.

93. For discussion of the role of purification in this document, see I. SALVO, « Ristabilimento della pace civica e riti di purificazione a Dikaia », *ASNP* ser. 5, vol. 4.1, 2012, p. 89-102.

The settlement's treatment of purification shows that, even in those cases in which it was necessary to put aside strict justice, the Dikaiopolitans found it important to put unusual stress on personal responsibility and even guilt. In the « City of Justice », all would have to face the consequences of their actions, whether that meant facing « just » punishment or simply admitting personal responsibility and flaws. Indeed, strict reciprocity and personal responsibility were treated as crucial to the maintenance of Dikaia's fundamental essence : a strictly « just » civic contract.

This kind of view of what a polis should be, identified in this article also at Telos, was thus in circulation in the Greek civic world, in competition with the more community-centred approaches studied by Loraux and others : it was possible for a fourth-century Greek to conceive his polis as first and foremost a just contract of citizens with quite egoistic aims and quite a high degree of personal agency, rather than a fraternal community of civic brothers. Fourth-century Greeks had constantly to take account of these different models, and the associated practical options, in their interactions as citizens of poleis, ensuring that the two principles balanced each other out in practice : for example, that concern for the common good balanced out concern to ensure that individuals received their just entitlements. In some circumstances, such as in the distribution of civic power and honours to benefactors, citizens had to make choices between those values⁹⁴. In particular, in the context of *stasis* and its consequences, they were faced with a stark, difficult, defining choice between the incompatible dictates of justice and harmony⁹⁵.

APPENDIX : AN ALTERNATIVE INTERPRETATION OF THE TREATMENT OF MURDER TRIALS IN [ARIST.]
ATH. POL. 39

A plausible alternative interpretation of the corrupt sentence about murder trials in 39.5 of the Aristotelian *Athenaion Politeia*, discussed in section 5 above, is that the sentence represents a continuation of the regulations for the future operation of the new two-community Athens, consisting of the community at Eleusis and the main civic community, which have dominated the rest of the chapter. This would make unsurprising the abruptness of the transition to discussion of murder trials in section 5. It would also explain why the following sentence begins τῶν δὲ παρελλήλυθότων, apparently announcing a change of subject.

94. Consider, for example, debates about whether civic benefactors should be honoured with strictly « just », but possibly divisive, rewards, or whether they should be expected to contribute altruistically to civic welfare from an instinctive concern for harmony and the common good, of the kind echoed in Dem. XX, *Against Leptines*.

95. I explore this interpretation of Greek civic values and practices and its implications further in my 2011 Oxford D.Phil thesis, « Exile and the Political Cultures of the Greek Polis, c. 404-146 BC », which I have been developing into a monograph entitled *Stasis and Stability : The Greek Polis and its Political Thought Seen through Exile, c. 404-146 BC* (forthcoming, Oxford 2015).

The regulation about murder trials could well have been intended as a restriction on the autonomy of the new Eleusis community. Although that community was to be autonomous in most respects, and presumably to have its own courts, future cases involving murder « with one's own hand » within the whole of Athenian territory would continue to be tried « in accordance with ancestral practice », on the Areopagos. It is quite plausible that all Athenians were anxious that cases of murder with one's own hand should continue to be tried in the traditional way, even if they occurred in Eleusis : they could well have been afraid of the risks of pollution if traditional practices were not maintained, and some perpetrators of violence avoided a trial of the traditional sort. Admittedly, relevant trials could have required some movement of people between the two communities, something ostensibly incompatible with the ban on such movement (other than for the Eleusinian Mysteries) included earlier in the agreement⁹⁶. However, travelling to bring a murder suit or to face a murder trial would not have represented casual, everyday movement of the kind presumably envisaged in that provision.

This interpretation has the advantage that it does not require that the author deviates chaotically between subjects : it makes the text of chapter 39 coherent, or even well-structured. Murder suits were simply one final area to be discussed in which it had been necessary to regulate closely the relations between the two communities, and to carefully define the autonomy of the Eleusis community. On this interpretation, the two usages of the phrase *κατὰ τὰ πάτρια* (« according to ancestral practice ») in chapter 39 also become very consistent with each other. The earlier usage also refers to Athenian civic practices which were to continue in the traditional way, despite the new two-community arrangement, in the interests of religious continuity and the overall religious welfare of the whole Athenian community : priests would continue to be appointed in the Eleusinian sanctuary *κατὰ τὰ πάτρια*⁹⁷. On the traditional interpretation of the clause about murder trials, it is hard to understand why the phrase *κατὰ τὰ πάτρια* was used at all : there would have been no obvious alternative way of holding murder trials relating to the *stasis*. On the interpretation offered here, by contrast, there was a clear alternative to trials *κατὰ τὰ πάτρια* : hypothetical future trials could have been held in the new courts of the Eleusis community.

Since εἰ, not ἔάν, is preserved at the start of the corrupt protasis in the sentence about murder trials, the alternative interpretation under consideration here would probably require the restoration of aorist optatives later in that clause : « if anyone should [kill/wound/take revenge on] anyone with his own hand ». Consider, for example, Thalheim's suggestion εἴ τις τινα αὐτοχειρίᾳ ἐκτείσαιτο τρώσας (« if anyone should take revenge on anyone, having wounded him with his own hand »), which is much closer to the preserved papyrus letters than the dominant restoration⁹⁸. This restoration, or another with some verb for killing in the aorist

96. [Arist.] *Ath. Pol.* 39.2.

97. [Arist.] *Ath. Pol.* 39.2.

98. T. THALHEIM, « Zu Aristoteles' Αθηναίων Πολιτεία », *BPW* 29, 1909, p. 703, offers this restoration in support of his alternative view that the reference to hypothetical murder suits is a specific reference to possible suits arising from retaliatory post-*stasis* violence after the *stasis*. The verb ἐκτίνομαι could, however, have been used to

optative (e.g. κτείνειε or κτείναι) followed by the participle τρώσας, also has the advantage of being more consistent than the dominant restoration with the first half of the sentence, which refers only to murder suits, not to suits for wounding as well as murder. The use of the optative would be slightly irregular in this context, but it is possible to understand why Ps.-Aristotle or the authors of the original settlement might have chosen εἰ + optative, rather than ἐάν + subjunctive, the normal construction in legal Greek, at this point⁹⁹: he or they could have wished to indicate that the prospect of future violence was more remote¹⁰⁰ than the more predictable, routine scenarios, such as new settlers buying houses in Eleusis or engaging in disputes about houses, described with ἐάν + subjunctive in sections 3-5.

Another objection which might be raised against the alternative interpretation offered here is that it is not consistent with the evidence of other sources. Some scholars have considered some passages of the Attic orators to support the view that cases of murder with one's own hand were not covered by the amnesty of 403 BC. However, as I hope to argue in more detail elsewhere, none of these passages states, or even necessarily presupposes, such an exception from the amnesty: the view that they relate to such an exception from the amnesty relies on interpreting them in the light of the dominant interpretation of *Athenaion Politeia* 39, criticised above. Without that prop, alternative interpretations of the relevant passages become plausible or preferable¹⁰¹.

refer to retributive violence more generally.

99. It was possible to combine protaseis with subjunctive and with optative within a single legal document: see *IG IX 1² 1 3*, ll. 27-31.

100. For the use of εἰ + optative to convey remote possibility, see R. KÜHNER, B. GERTH, *Ausführliche Grammatik der griechischen Sprache*, zweite Teil (Satzlehre), vol. II, Leipzig 1904, §576.

101. Relevant passages are:

1. Andoc. I, *On the Mysteries*, 94, with R.J. BONNER, G. SMITH, *The Administration of Justice from Homer to Aristotle*, Chicago 1930-1938, vol. II, p. 82; D. MACDOWELL, *Andokides On the Mysteries; the text edited with introduction, commentary and appendices*, Oxford 1962, p. 133, ad 1.94; and E. CARAWAN, « Amnesty and Accountings... », p. 57-76, 69-70. For criticism of the view that this passage is connected to an exception from the amnesty, see P. CLOCHÉ, *La restauration démocratique...*, p. 260.

2. Lysias XIII, *Against Agoratus*, 55-7: Menestratos was convicted of murder, ostensibly on account of his role as an informer during the *stasis*. It could have been some kind of exception from the amnesty which made him liable for prosecution, even after the amnesty. However, no such exception is mentioned. Moreover, Menestratos had certainly not committed murder « with his own hand », so it is doubtful whether the specific exemption supposedly stated by Ps.-Aristotle could have been the relevant one. In any case, it is quite possible that the speaker simply makes it appear that the murder for which Menestratos was condemned occurred under the oligarchy; it could in fact have happened later (A.H. SOMMERSTEIN, A.J. BAYLISS, with contributions by L.A. KOZAK and I.C. TORRANCE, *Oath and State in Ancient Greece*, Berlin 2013, p. 137-8, discussing other bibliography).

3. Lysias XIII, *Against Agoratus*, 85-90, with E. CARAWAN, *Rhetoric...*, p. 365-366, and S.J. TODD, *A Commentary on Lysias...*, p. 639, with n. 55. One problem for the view that Agoratos' defence is expected to involve a challenge to the claim that this suit is allowed by an exception from the amnesty of the kind under discussion here is that the dispute is about an ἐπ' αὐτοφώρῳ (« obvious guilt » or « immediate incrimination ») clause, not an αὐτοχειρίᾳ clause. Another is that the speaker claims that the fact that Agoratos contests the accuracy of ἐπ' αὐτοφώρῳ implies that, if that phrase were not on the indictment, Agoratos *would be* liable for arrest (13.85), not

Admittedly, the alternative interpretation offered here is not itself secure ; it has some problems of its own. However, it seems to me to be more consistent with the structure of chapter 39 of the *Athenaion Politeia* than the dominant interpretation. If this alternative interpretation is even plausible, that reinforces the possibility that Ps.-Aristotle was not describing an exemption from the Athenian amnesty of 403 when he discussed murder trials in the corrupt sentence.

that he would then enjoy the automatic protection of the amnesty. A further difficulty is that the speaker goes on to present appeal to the amnesty as a *separate* possible argument which Agoratos might raise in his defence (13.88 : « I understand that he *also* intends to speak about the oaths and agreements »).

4. Harp. s.v. ἀυθέντες, with E. CARAWAN, « Amnesty and Accountings... », p. 57-76, 74-75. This fragment appears suggestive, but cannot by itself prove that the 403 BC amnesty included an ἀυτοχειρία clause. It is entirely plausible that this fragment relates to a more general debate about where responsibility for the violence of the oligarchy lay, with the direct perpetrators or with their political masters. In any case, any formal ἀυτοχειρία clause would not have been relevant to the subject of this fragment, the treatment of the Thirty themselves, who were, on most modern interpretations (but contrast E. CARAWAN, « Amnesty and Accountings », p. 57-76), always excluded from the amnesty.

