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**CLASSICAL HUMANISM HAS *EVERYTHING* TO DO WITH JUSTICE<sup>1</sup>**

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We are not born for ourselves alone, to use Plato's splendid words... people are born for the sake of people, so that they may be able to assist one another. ~ Cicero, *On Duties*, I.22

In justice is all virtue combined. ~ Aristotle, *Nicomachean Ethics*, V.1

Strangers and beggars come from Zeus. ~ Homer, *Odyssey* XIV

The age-old demand for justice seems to have come into greater prominence over the course of the last several decades, from the protests of the 1960's to today. During this same period, classical studies have become ever more marginal in the Academy. But the divergence between these two patterns seems far from inevitable: the themes of justice and the practices of classical humanism are so linked that one should have expected a parallel rather than an inverse-reciprocal relationship. Four motivations have led me to make this case at this time.

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<sup>1</sup> This article is based on the Edmund F. Miller, S.J., Lecture given at John Carroll University, March 28, 2007.

First, the call for justice demands careful reflection, particularly because we are so easily led into antinomies. The pro-Lifers and the pro-Choicers, for example, could both *claim* to be working for justice; and they could both *claim* that the other side is being unjust. In such a situation, “promoting justice” sounds like a slogan that simply begs other questions about what is just; it begs for further investigation, further reflection, further deliberation, — things that might seem like detours that undermine a prompt response. But how *can* we in good conscience do without them? We might so easily end up “doing good to achieve evil,” so to speak, that is, making well-intentioned efforts that look and feel so very virtuous but that actually cause greater harm in the long run. Reinhold Niebuhr once wrote: “A too confident sense of justice always leads to injustice.”<sup>2</sup> Long ago, Cicero cited a proverb, “The more Justice, the more injustice.”<sup>3</sup> So we must be very careful about this call to justice, and we must bring the best resources we have to bear on it. Classical humanism, I am convinced, is one of those resources.

A second motivation is the long-standing relationship that Western culture and education have had with classical humanism. Our major religious tradition is also tightly intertwined with this tradition: Saint Paul’s letters show Stoic influences; Biblical interpretation follows in the wake of Greek literary criticism at Alexandria; Augustine carries with him Cicero and Plato; and Aquinas, Aristotle. All the more reason to wonder about the attenuation of classical elements in our education. We need to ask: “By shedding the old classical elements, are we being reborn into a new form, or are we just diminishing ourselves in a self-destructive way? How do we evaluate the tradition of classical humanism today?” I have pursued this topic partly in the hope of contributing to these questions.

Such a line of thinking suggests the third motivation, namely, our current educational moment. Criticism of higher education became almost a genre in itself after 1988, with Allan Bloom’s *The Closing of the American Mind: How Higher Education Has Failed Democracy and Impoverished the Souls of Today's Students*.<sup>4</sup> This type of critical

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<sup>2</sup> *The Irony of American History* (New York: Charles Scribner’s Sons, 1952), Chapter 7, Section 2, p. 138.

<sup>3</sup> “*Summum ius, summa iniuria.*” *On Duties (De Officiis)* I.33. Cicero, *On Duties*, edited by M.T. Griffin and E.M. Atkins (Cambridge: Cambridge University Press, 1991), p. 14.

<sup>4</sup> New York: Simon & Schuster, 1988.

reflection flourishes because there is some sense of a need for it. Recently there have appeared, within a very short time, four compelling calls to rethink liberal arts education; the authors were the Notre Dame philosopher Alasdair MacIntyre; the former dean of Harvard College, Harry R. Lewis; the former president of Harvard, Derek Bok, and the political scientist, Peter Berkowitz.<sup>5</sup> These are significant critiques that deserve our attention sooner rather than later, but in fact, we should always be reviewing the effectiveness of our liberal arts practices. I suspect that classical humanism has much to offer this discussion.

My fourth motivation is the greatest: our students and their needs. For me, the very first and most radical justice-question for all college programs is that of whether are not the students are getting in their studies what they most need – not necessarily what they or their teachers or their parents or the market might most *want* students to be getting, but what they really most *need to get* in order to live their lives most fully, most productively, and with the most integrity, according to their own callings and gifts. As Michael Buckley says:

Any justification of the promotion of justice as a commitment of the contemporary university must be grounded on the basic conviction that the university exists for the humane growth of its students.<sup>6</sup>

So, are we doing adequate justice to the students? What best supports their humane growth? I believe that classical humanism might make a notable, even a necessary, contribution in this area.

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<sup>5</sup> See Alasdair MacIntyre's article, "The End of Education: The Fragmentation of the American University," in *Commonweal* CXXXIII: 18 (October 20, 2006), pp. 10-14; Harry R. Lewis's book about Harvard, *Excellence without Soul: How a Great University Forgot Education*; Derek Bok's *Our Underachieving Colleges: A Candid Look at How Much Students Learn and Why They Should Be Learning More* (Princeton University Press, 2006); and Peter Berkowitz's essay in *Policy Review* (No. 140, December 2006 – January 2007), "Liberal Education, Then and Now," pp. 47-67.

<sup>6</sup> Michael J. Buckley, *The Catholic University as Promise and Project: Reflections in a Jesuit Idiom* (Georgetown University Press, 1999), pp. 113-114.

### Defining Terms

How, then, to define our basic terms? For justice, let us simply take the conventional shorthand: giving people their due. That meaning seems to be implicit in most uses of the word. I would add, however, that it implies giving people their due with some idea of what is going on in that act, some consciousness of what is due, and some sense of moral responsibility or rightness in the achievement of that justice. If you give people their due without this larger reflective awareness, the act is then really more of an accident than an act of justice.

Classical humanism is essentially the cultural and educational use of the classical heritage for contemporary purposes. The term *Humanism* was first used by a German educationist in 1808 to refer to a course of study based on Latin and Greek authors, a curriculum that had been established by Italian Renaissance humanists.<sup>7</sup> Their curriculum covered moral philosophy, history, literature, rhetoric, and grammar; it has expanded over time to include other subjects as well. Eventually, the word *humanism* came to indicate a certain perspective, an approach, a mentality, a vision stressing the importance of human experiences, capacities, initiatives, and achievements. The phrase *classical humanism* combines both of these meanings: it is the cultivation of a certain *mentality, sensibility, and vision* through the educational use of classical contents and through the *traditions, practices, and values* that that use has established.<sup>8</sup> It starts with an engagement with the classical past that leads us to dialogue with it, to critique it, to emulate its greatest virtues, and to transcend it in a way that is appropriate for our time and place.

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<sup>7</sup> Friedrich Immanuel Niethammer, *Der Streit des Philanthropinismus und des Humanismus in der Theorie des Erziehungs-Unterrichts unsrer Zeit*, Jena 1808.

<sup>8</sup> *Classical humanism* refers, then, to a type of *education* and a type of *consciousness, interest, and orientation* that rest on a judicious engagement with the heritage of ancient Greece and Rome, and with all that significantly derives from or interacts with that classical tradition (for example, Augustine, Aquinas, Dante, Petrarch, Montaigne, Shakespeare), and it also refers to the *practice* of engaging the larger cultural heritage through such figures. That practice can be extended to contents that originally have little to do with Europe, for example, the Hebrew scriptures.

## **The Argument**

I propose that classical humanism and justice are closely connected because of the contents of the heritage, the nature of the heritage, and the actual history of the heritage. The contents, because it talks significantly about justice in significant works; the nature, because its characteristic practices and vision support justice; the actual history, because the classical humanist tradition has in fact led to justice-related changes in the “real-world.”

## **Contents of the Heritage: Justice-Themes**

Let me start off with the most striking, concrete examples that I can find to show that the leading works of the heritage are centrally concerned with justice.

Homer foregrounds the justice of Zeus in striking ways in the *Iliad*, where justice is seen under the aspect of honor: when people do not get the honor that they deserve, a situation of injustice results, bringing suffering and disaster in its wake. Seeking his own honor, Agamemnon dishonors the priest Chryses; when forced to relent, he dishonors Achilles, who breaks forth into a self-destructive rage. Honoring persons appropriately touches the heart of questions about justice.

When we turn to the *Odyssey*, we see Odysseus’s house being exploited by his wife’s arrogant suitors while he is away at war. It is this situation of injustice that Homer highlights for the first four of his twenty-four books; he introduces his main character only in Book 5. Odysseus returns as a homeless person, an outcast, a beggar, to re-establish a just order in his home community. The epic actually begins with a pointed reference to another justice question: the opening scene focuses on Zeus contemplating the death of Aigisthos, who helped Klytemnestra to kill her husband. Zeus is saying: “Look at these mortals blaming us Gods when *they* are the ones at fault. We told the man, stay away from Agamemnon’s wife, but he did not listen, so now he has paid the price for his foolishness.” At the end of the *Odyssey*, when the Ithakans want to overwhelm Odysseus because he punished the suitors, Halitherses says:

Men of Ithaca, it is all your own fault that things have turned out as they have; you would not listen to me, nor yet to Mentor, when we warned you to check the folly of your sons who were

doing much wrong in the wantonness of their hearts — wasting the substance and dishonouring the wife of a chieftain who they thought would not return.<sup>9</sup>

These most popular of all Greek epics suggest that human beings should learn something about their own responsibilities in keeping the peace by being just. The result of injustice is disaster.

Another high point of Greek culture was the *Oresteia* of Aeschylus, a dramatic trilogy that deals with Agamemnon's murder at the hands of his wife. When his son Orestes avenges him, by killing his own mother, he is chased by the Furies, who are an embodiment of the old primeval justice of Nature. The dramatic trilogy ends with the establishment of a court to hear the case, and with jurors under the guidance of Athena voting to determine the outcome. There is move to a new kind of justice that does not dishonor primitive justice but that does relativize it in a new juridical dispensation.

The *Antigone* of Sophocles goes yet further to portray the demands of a transcendent divine justice that exceeds the legal justice of King Creon, who had ordered that the body of Antigone's brother, as a traitor, not be buried. So neither political justice nor primitive justice rooted in revenge are completely adequate: the transcendental perspective on justice is required.

Plato highlights justice in his synthesis, the *Republic*, the most famous philosophy book of all antiquity. In fact it has carried for a long time the subtitle "On the Just" because the central question for discussion is "What is justice?"

One of Aristotle's most influential texts was the *Nicomachean Ethics*. In the center of the work, a structurally significant place in Greek composition, Aristotle turns to the question of justice. He speaks of it in the most exalted terms:

Justice...is complete virtue... For this reason, it is often held that justice is the greatest of the virtues, and that 'neither evening star nor morning star is such a wonder.' We express this in the proverb, 'In justice is all virtue combined.' And it is complete

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<sup>9</sup> Adapted from *The Iliad of Homer and The Odyssey*, translated by Samuel Butler, Volume 4 in *Great Books of the Western World*, edited by Robert Maynard Hutchins (Chicago: Encyclopedia Britannica, 1971, c1952), p. 321.

virtue in the fullest sense, because it is the exercise of complete virtue.<sup>10</sup>

These are prominent moments in some of the most important monuments of classical literature. In themselves, they are a great cultural accomplishment. But they also point beyond themselves to a larger achievement, to a long-standing involvement in justice issues that we might say helps to constitute the very character of the classical humanist heritage.

### **The Nature of the Heritage**

It is clear why justice was a major category for ancient Greek thought and literature, and why it deeply marked the classical humanist tradition: justice was a major part of the society's consciousness. It was an ongoing project. It had to be. The Greeks had many city-states in competition with each other; by trial and error they made efforts to establish socially and politically viable constitutional arrangements. They learned from one another's mistakes and successes. The spread of literacy helped to make that reflection something that could be shared from citizen to citizen, recorded, reflected upon, and refined. The *polis*, or city-state, loomed so large for the Greeks that it shaped their very self-understanding of what it means to be human: Aristotle famously said that a human being can be defined as an animal that nature has designed to live in a *polis*. Think about this a moment: this ultimately suggests that we are not meant to live by and for ourselves. Centuries later, Cicero quoted Plato to his son:

We are not born for ourselves alone, to use Plato's splendid words, but our country claims for itself one part of our birth, and our friends another. Moreover, as the Stoics believe, everything produced on earth is created for the use of humanity, and people are born for the sake of people, so that they may be able to assist one another.<sup>11</sup>

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<sup>10</sup> Nic. Eth. 1129b. Aristotle, *Nicomachean Ethics*, translated by Roger Crisp (Cambridge: Cambridge University Press, 2000), p. 83.

<sup>11</sup> Cicero, *On Duties (De Officiis)*, I.22, pp. 9-10. Slightly adapted here.



The Romans constantly looked back to the Greek tradition; they learned from previous experience and did not let it die. They too developed a dislike for and many hedges against absolute monarchy or tyranny, even if they fell back into the Strong-Man approach to politics that is still a universally powerful dynamic. Anyone who takes up Roman history will have to encounter the difficulties that the patricians and the plebeians had with one another through the centuries. The rights of the people, even the commonest of people, finally had to be taken into account and had to be given formal representation at the highest levels of the government. The Romans had to develop a *politics of inclusion* to survive and grow. Inclusion meant not only taking care of the commoners at Rome, but extending the franchise of citizenship widely across the empire. Even as the West was collapsing, the Romans produced in Justinian's *Institutes* the fruit of a millenium of practical efforts to provide for justice in society.

But long before Justinian's reign, Cicero's influence had already been supremely influential, and he was to go on influencing Western political and social thinking right down to the founding of the United States and beyond. I would just like to quote one passage to give you an idea of the scope of the vision that he attained:

Those who say, however, that we have to have consideration for citizens and not for foreigners destroy the common fellowship of humanity; when that has been removed, kindness, generosity, goodness and justice are removed. The ones who remove them must be condemned even as rebels against the immortal gods. For they are overturning the fellowship established by the gods among human beings: its strongest bond is thinking that it is more against nature to diminish another person for the sake of one's advantage than to endure all inconveniences of property or body ... or even quite personal inconveniences that themselves lack justice. For this virtue alone is mistress of all of them. It is the queen of virtues.<sup>12</sup>

Here is Cicero, one of the heroes of classical humanism, rising in his last work beyond the limits of his own individuality, his own country, his own national pride, to the themes of the pre-eminence of justice and universal rights. It is a major moment that should be celebrated as much

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<sup>12</sup> Cicero, *ibid.*, III.28. Translation mine.

as any declaration of independence. It is a declaration of human fellowship.

But perhaps we owe it also to the Stoics that influenced Cicero. Stoicism was a leader in popularizing this idea, which has also been expressed as human solidarity. “The notion of an active and practical community of all mankind is Stoic doctrine.”<sup>13</sup> A related idea is found in Plato’s *Republic*, where society is treated as an organic whole: “We are not looking to make any one group in it outstandingly happy, but to make the whole city so far as possible.”<sup>14</sup>

Homer also suggests some idea of solidarity in the *Iliad* when Priam, the King of Troy, and his enemy Achilles are together in a tent, weeping over their losses. Achilles, looking on Priam, imagines his own father, and his previously unstoppable anger finally relents. It becomes painfully clear: we are, across any political divide, fellows in the human condition. We are subject to the same pains and losses. In Homer, this is not a theory, not a moral or legal code, but the image of an experience whose truth we can feel and affirm.

Something similar is carried by Vergil’s famous line: *sunt lacrimae rerum et mentem mortalia tangunt*.<sup>15</sup> “Tears do fall for the life we live, and the miseries of mortals do make us mindful.” When this line is spoken, the hero Aeneas has arrived in Carthage, and he is looking at an artistic rendition of his own people’s story, the story of the fall of his once-great civilization. The Carthaginians, whose own civilization is at that time on the rise, have taken thought to portray the Trojan war on the panels of a temple. Aeneas is deeply touched that these foreigners on a remote northern coast of Africa should take any thought for the sufferings of his people. He sees the profound human capacity to extend one’s awareness, to look beyond one’s own interests to those of others. And in seeing that, just as he realizes that his own suffering is somehow worth remembrance, worth sympathy, his vision is enlarged. He is better able to begin to transcend his own particular interests to look to larger corporate and historical ones. There is both a special poignancy and a special irony

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<sup>13</sup> Richard Hoeningwald, “On Humanism,” *Philosophy and Phenomenological Research* 9:1 (September, 1948), pp. 41-50. [Review of Walter Rüegg, *Cicero und der Humanismus: Formale Untersuchungen ueber Petrarca und Erasmus* (Zürich, Rhein. Verlag, 1946).] Page 48.

<sup>14</sup> *Republic* IV, 420b. Plato, *Republic*, trans. C.D.C. Reeve (Indianapolis / Cambridge: Hackett, 2004).

<sup>15</sup> Vergil, *Aeneid*, Book I, line 462.

here, because Queen Dido's Carthage was to become the sworn enemy of Rome, and Rome was to annihilate Carthage after the Third Punic War. Yet Vergil is pointing to the possibility of sympathy even with one's deadliest enemy, by virtue of our common humanity.

I dwell on this issue of solidarity because it is a high point of the classical heritage, and solidarity obviously has everything to do with justice. And it also suggests the arch-theme of Renaissance humanism. One scholar has claimed that "Renaissance humanism was neither a creed nor a philosophical system: it represented no interest group and made no attempt to organize itself as a movement."<sup>16</sup> Another scholar, Craig Kallendorf, went on to say that "It did, however, present a central theme: *humanitas*, the cultivation to the fullest possible extent of human creativity, modeled on the achievements of ancient Greece and Rome."<sup>17</sup>

This central theme of the humanists, *humanitas*, is in fact something that includes but goes beyond creativity to sensibility, particularly the sensibility that appreciates what is common to all humanity. The classical humanist tradition may very well be one of the best devices we have for making us mindful of our common ground in a non-partisan, non-sectarian way. And by *elevating* that humanity in the way that it does, the vision of classical humanism helps to promote a large and consistent concern for justice and the human fulfillment that accompanies it.

How it does this can be seen in one theme in particular: that of the "dignity of the human person." Charles Trinkaus claims that this idea "attained its greatest prominence and was given its characteristic meaning in the Italian Renaissance."<sup>18</sup> The dignity of the human person was identified with *humanitas* itself, which Trinkaus defines as "the quality of being most truly human which was to be acquired through the study of the liberal arts."<sup>19</sup> Even in antiquity, Cicero's influential portrayal of the dignity of the human person was blended with a tradition stemming from Genesis 1:26, "And God said, Let us make man in our image, after our

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<sup>16</sup> Craig Kallendorf, "Humanism," in *A Companion to the Philosophy of Education* (Malden, MA: Blackwell Publishing, 2003), p. 71, quoting Allen Bullock, *The Humanist Tradition in the West* (New York and London: W.W.Norton, 1985), p. 47.

<sup>17</sup> *Ibid.*, p. 47.

<sup>18</sup> Charles Trinkaus, "The Renaissance Idea of the Dignity of Man," pp. 343-363, in *The Scope of Renaissance Humanism* (Ann Arbor: University of Michigan, 1983), p. 343.

<sup>19</sup> *Ibid.*, p. 343.

likeness...” and Gen 1:28: “Be fruitful... and have dominion (over all the earth).” This theme comes to its high point in Pico della Mirandola’s famous 1486 oration on “The Dignity of the Human Person.” That text, by the way, makes it very clear that it is not just the dignity of the *European* person. It begins, in fact, with a good example of the cross-cultural respect carried by the humanistic tradition, invoking a Muslim Arabian and an occultist pagan from Egypt as authorities. Pico begins his speech by saying,

I have read in the records of the Arabians, worshipful Fathers, that Abdala the Saracen, when questioned as to what on this stage of the world, as it were, should be considered most worthy of wonder, replied: “There is nothing to be seen more wonderful than [humanity],” with which opinion the saying of Hermes Trismegistus agrees: “A great miracle, Asclepius, is [humanity].”<sup>20</sup>

A tradition with such a vision shows itself to have radical and universal relevance. It goes *pari passu* with the attempt to give students a sense of their own dignity, their own importance, their own callings as human person in a large community whose members have an innate worth. Long before we were talking about self-esteem, classical humanism was communicating a serious appreciation for human dignity, that is, self-esteem writ large, even while it was running counter to the natural narcissism in each of our subjectivities.

It is no wonder that this tradition, in embracing and elevating the human, had to look across cultural boundaries. In so doing, it had to give respectful attention to **variety and diversity** from the very beginning. Even the inner world of a single person’s subjectivity has its incredible variety and diversity, as Montaigne witnessed in his abundant introspective reflections. Much moreso do these features appear in the outward expressions of our humanity. So the humanist canon was not just Homer, but Homer and Hesiod, that is, epic and didactic verse. And then it added the lyric poets and playwrights and philosophers and scientists, even those that disagreed with one another. The humanist canon is the tradition of “AND.” There are Zeus *and* Hera, the *Iliad and* the *Odyssey*,

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<sup>20</sup> *Of the Dignity of Man: Oration of Giovanni Pico Della Mirandola, Count of Concordia*, translated by Elizabeth Livermore Forbes, *Journal of the History of Ideas*, Vol. 3, No. 3. (Jun., 1942), pp. 347-354. Page 347.

Odysseus *and* Penelope, the Greeks *and* the Romans, the Stoics *and* the Epicureans, comedy *and* tragedy, the pagans *and* the Christians, the arts *and* the sciences, the moderns *and* the ancients, the Greco-Romans *and* the Judaeo-Christians.

The very nature of the tradition is one of a plurality of voices. People might try to flatten it out and say that it is merely one voice, essentially one perspective – the “dead white male voices of Old Europe.” But to say such a thing is to do it *no justice at all*. That would be a “cultural profiling” of the most simplistic kind. On the contrary, the classical humanist tradition is the many voices of humanity coming to be heard the best way they could. It could include the voices of peasants, slaves, and the marginalized as well as those of the nobility; the voices of women as well as men; poets as well as generals; non-Greeks as well as Greeks.<sup>21</sup> Whatever the imbalance according to 21<sup>st</sup> century standards, the direction has generally been towards a greater and greater *inclusivity* and towards the crossing of cultural divides.

The classical world was never “merely European” (which itself would represent a vast variety), but always richly *Mediterranean*. It involved three continents. In fact, we can be fairly sure that the “Greek miracle” would never have occurred without the achievements of Asia and Egypt. What would Greek literature have become without the Phoenician alphabet and the writing technologies developed in Egypt? What would a Greek temple have looked like without the Egyptian architectural practices that the Greeks adopted and modified? How far would the wisdom of the Greeks gone without the sapiential traditions of the Near East? Most of the wonders of the ancient world celebrated since the ancient Greeks were in fact physically outside of what we call Europe.<sup>22</sup> And what we consider the heart of Europe (France and Germany) did not really begin to be opened up to the Mediterranean culture until the days of Julius Caesar.

But the larger point is simply that the hearing of many voices is essential for justice, whether those voices are found on different continents, or on different levels of society, or in different personalities within one community. Classical humanism devised one of the greatest

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<sup>21</sup> Aesop and Terence and Epictetus were slaves; the Delphic oracle and Sappho and a host of vivid personalities in the literature, women.

<sup>22</sup> The Pyramids, the Hanging Gardens of Babylon, the Mausoleum at Halicarnassus, the Lighthouse at Alexandria, the Temple of Artemis at Ephesus.

ways that we know to hear those many voices and to give them importance.

### **Actual History: Rhetoric, Ethics, and the Real World**

I think that there is a direct connection between such a hearing of many voices and the versatile polyphony of human personalities that we hear in a poet like Shakespeare, who represents a high point of that tradition. But there is also a connection with the enactment of justice in human society. For it was the ability to hear many kinds of voices that helped to lead humanists to adopt a tolerant stance in an increasingly pluralistic situation, and their stance led to real-world results. In 1996, the scholar Gary Remer published a study of how in the midst of the violent dogmatic battles of the 16<sup>th</sup> and 17<sup>th</sup> centuries, the Renaissance humanist tradition stood out as representative of what he calls the “rhetoric of toleration.”<sup>23</sup> That is, this group, from Erasmus on, tended to oppose any use of force to impose religious unity even while the members of the group remained quite religious people rather than rationalists of the Enlightenment. The humanists promoted persuasive speech rather than coercion; they distinguished between the common fundamentals of faith and the non-essentials over which there could be disagreement; and they considered ethics more important than doctrinal purity.<sup>24</sup> Why? Why were *they* the ones to be leaders of toleration in an overly polemical age?

For Remer the essential thing is the humanist concern for rhetoric. Rhetoric is all about persuasion, listening carefully to opponents and being able to argue both sides of a question, commitment to decorum (that is, what is appropriate in both speech and action), and the search for a measure by which to gauge probability and consensus. Furthermore, classical rhetoric relies on attaining deep insight into people’s characters and mentalities. It directly promotes, therefore, the understanding of those who are different from yourself. Remer concludes that “[C]lassical rhetoric is both the primary influence on and the common denominator to the different humanist justifications for greater religious freedom.”<sup>25</sup> He goes on to state that “[T]he humanists’ arguments from religion have been

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<sup>23</sup> Gary Remer, *Humanism and the Rhetoric of Toleration* (University Park, Pennsylvania: The Pennsylvania State University Press, 1996).

<sup>24</sup> *Ibid.*, p. 3.

<sup>25</sup> *Ibid.*, p. 6.

transformed into the secular theory of free speech known as the marketplace of ideas...”, and he argues that “humanism’s legacy is a belief in the state’s affirmative responsibility to foster the discovery of truth. Against the libertarian position that opposes any regulation of speech, the humanist stance is to fashion an environment conducive to rational discussion.”<sup>26</sup> Most people would agree that tolerant religious dialogue and the establishment of conditions that are most conducive to a productive use of the freedom of speech are fundamental elements in our notion of justice today. Both of these have been well supported by the classical humanist tradition. Even the ancient Greeks valued *parrhesia*, or freedom of speech: it was proposed as an ideal that marked the truly mature philosopher.

But how did the rhetorical tradition understand itself? Luckily, the rhetoricians left us some of their words on the subject. I would like to cite what two of them thought of their art and its connection with justice and a very comprehensive ethical vision. Isocrates says, in his *Antidosis*:

I consider that the kind of art which can implant honesty and justice in depraved natures has never existed and does not now exist, and that people who profess that power will grow weary and cease from their vain pretensions before such an education is ever found. But I do hold that people can become better and worthier if they conceive an ambition to speak well, if they become possessed of the desire to be able to persuade their hearers, and, finally, if they set their hearts on seizing their advantage – I do not mean "advantage" in the sense given to that word by the empty-minded, but advantage in the true meaning of that term; and that this is so I think I shall presently make clear. For, in the first place, when anyone elects to speak or write discourses which are worthy of praise and honor, it is not conceivable that he will support causes which are unjust or petty or devoted to private quarrels, and not rather those which are great and honorable, devoted to the welfare of [humanity] and our common good; for if he fails to find causes of this character, he will accomplish nothing to the purpose.<sup>27</sup>

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<sup>26</sup> Ibid., p. 12.

<sup>27</sup> This and all quotations from Isocrates are cited from a text available at the Perseus Project at <http://www.perseus.tufts.edu/>. *Isocrates*, George Norlin

Quintilian, five hundred years later, agrees. He also sees rhetorical study as radically connected with virtue and with justice. He claims that the only true rhetoric “will be a virtue,” and that “no person can be an orator unless he is a good person.”<sup>28</sup> In fact, “oratory is in the main concerned with the treatment of what is just and honourable.”<sup>29</sup>

The orator must above all things devote his attention to the formation of moral character and must acquire a complete knowledge of all that is just and honourable. For without this knowledge no one can be either a good [person] or skilled in speaking... [Some say morality owes nothing to instruction.] But can the [person] who does not know what abstinence is, claim to be truly abstinent? or brave, if he has never purged his soul of the fears of pain, death, and superstition? or just, if he has never, in language approaching that of philosophy, discussed the nature of virtue and justice, or of the laws that have been given to [humanity] by nature or established among individual peoples and nations? What a contempt it argues for such themes to regard them as being so easy of comprehension!<sup>30</sup>

These two ancient rhetoricians reveal how in fact, the liberal arts tradition, which is at the heart of the classical humanist tradition, is centered on virtue and on the formation of the human soul as virtuous. Remember that Isocrates claimed that no art can implant honesty and justice in a depraved nature. But if the nature of the person is somewhat healthy it could profit from an enterprise that motivates ethical development. The point of studying history and the poets and moral philosophy is to lead forward those who have an ear for the music of virtue to some kind of ethical maturity. It did not do this merely by reason, but by examples to be imitated or avoided. Thus Isocrates went on to say that the student of rhetoric:

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(Cambridge, MA, Harvard University Press; London, William Heinemann Ltd. 1980).

<sup>28</sup> *Institutio Oratoria* II.20; XII.1. All quotations from Quintilian are cited from the translation of the Loeb edition, done by H. E. Butler, *Quintilian* (Cambridge, Massachusetts: Harvard University Press, 1920-1922).

<sup>29</sup> *Ibid.*, XII.1.

<sup>30</sup> *Ibid.*, XII.2-3.



...will select from all the actions of [people] which bear upon his subject those examples which are the most illustrious and the most edifying; and, habituating himself to contemplate and appraise such examples, he will feel their influence not only in the preparation of a given discourse but in all the actions of his life. It follows, then, that the power to speak well and think right will reward the [person] who approaches the art of discourse with love of wisdom and love of honor.<sup>31</sup>

The examples that are studied will have a spiritual impact, then, that is expressed in a person's life. Isocrates continues, "the stronger a [person's] desire to persuade his hearers, the more zealously will he strive to be honorable and to have the esteem of his fellow-citizens."<sup>32</sup> So, ultimately, only by actually living a virtuous life will any person really be convincing.

Such an ethical vision deeply marked the orientation of classical culture. So when we come to the Renaissance, we find the ethical interest is made explicit, along with the interest in antiquity. Petrarch wants studies that make him better as a person. Vergerio says that "we call those studies liberal which are worthy of a free [person]; those studies by which we attain and practise virtue and wisdom."<sup>33</sup> The classical liberal arts are focused on making students *humanissimi*, most deeply human, cultivating the highest *virtus* (virtue or excellence) that is in them as human beings. That highest virtue is *logos*, reason and speech, which must be spoken by someone who is good in favor of things that are great and good. Vives says, "The arts of humanity...[are] those branches of learning [*disciplinae*], by means of which we separate ourselves from the way of life and customs of animals and are restored to humanity and raised toward God Himself."<sup>34</sup>

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<sup>31</sup> Ibid., XII.3.

<sup>32</sup> Ibid., XII.3.

<sup>33</sup> Quoted in Bruce A. Kimball, *Orators and Philosophers: A History of the Idea of Liberal Education* (New York and London: Teachers College, Columbia University, 1986), p. 79. Taken from Petrus Paulus Vergerius, "De Ingeniis Moribus," in *Vittorino da Feltre and other Humanist Educators: Essays and Versions*, William H. Woodward (Cambridge: Cambridge University Press, 1897), p. 102.

<sup>34</sup> Quoted in Buckley, *The Catholic University*, p. 92.

### Further Real-World Consequences

I know that such quotations can seem all too theoretical and wildly idealistic. Some scholars have claimed that these ideals remained only propaganda. Where are the “real-world results”?

Certainly the changing of someone’s consciousness is, in fact, a real-world result, and it is absolutely essential to the quest for justice. On this basis alone, the use of the classical humanist tradition can be fully vindicated. Granted, to grow in consciousness is not necessarily to achieve conversion; still, some growth in consciousness of ethical values seems to me to be a precondition for any substantial moral conversion. The founder of Christianity himself was far more of a *soul-reformer* than he was a *social reformer*: he believed in the changing of hearts more than he believed in the detailing of blueprints for a just society. The Renaissance left us this famous notion: “The education of the youth is the renovation of the world.” There is a vocation and a faith that teachers accept and live, and their work is precisely the renovation of the world.

But faith leads to works, so the Bible says. We therefore justifiably ask for the results of the transformed consciousness of which we are speaking. Certainly classical humanism looked toward the social and political world: the civic dimensions of Renaissance humanism are well known.<sup>35</sup> That movement not only joined literary education and moral-religious formation but it also “embodied a new orientation towards social action and efficacy”<sup>36</sup> I have already connected classical humanism with religious toleration and freedom of speech; I would like to add a few more items that tend to prove its engagement with justice issues.

Most notable is the first tract ever written about society’s responsibility to take care of its poor. It was published in 1526 by Juan Luis Vives, a Renaissance humanist who met and probably influenced that vastly influential educationist Ignatius Loyola. That tract was called

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<sup>35</sup> See Hans Baron, *The Crisis of the Early Italian Renaissance: Civic Humanism and Republican Liberty in an Age of Classicism and Tyranny*. (Princeton University Press, 1955). Ronald G. Witt proposes that Petrarch was actually a “third-generation humanist” who diverted humanism “from a secular-civic orientation consistent with the secularism of lay culture in medieval Italy.” “*In the Footsteps of the Ancients*”: *The Origins of Humanism from Lovato to Bruni* (Leiden, Boston, Köln: Brill, 2000), p. 497.

<sup>36</sup> Buckley, *The Catholic University*, p. 92.

*De Subventionem Pauperum, sive De Humanis Necessitatibus (On Relief of the Poor, or On Human Needs)*. There he makes good use of classical as well as Christian background. His work impacted the social structures that were established in the Low Countries.<sup>37</sup>

Secondly, there is John Stuart Mill, who was even as a child deeply steeped in classical culture, which he later used to inform his well-known contributions to thinking on issues of justice, including his 1869 tract on *The Subjection of Women* (which, of course, he is against). Long ago, Plato, one of Mill's greatest heroes, imagined an ideal state in which men and women were equals: he has Socrates arguing at length that "women can share by nature in every pursuit."<sup>38</sup>

Thirdly, the three great sociological thinkers of the nineteenth century, Karl Marx, Max Weber, and Emile Durkheim, were all classical inspired in a very comprehensive way, as George E. McCarthy details in his book, *Classical Horizons: The Origins of Sociology in Ancient Greece*.<sup>39</sup> Those who analyze social justice issues today are deeply indebted to the traditions established by these thinkers and their heirs.

Fourthly, there is the American Revolution. Bernard Bailyn, in *The Ideological Origins of the American Revolution*,<sup>40</sup> mentions how the classics were the common possession of the generation that debated liberty in the American colonies. But there is another line of influence from classical humanism that is often not noticed. Bailyn shows how the civil war in the mid-seventeenth century England brought with it an abundance of political thought that tended to limit monarchical powers and move in the direction of checks and balances. Some have supposed that England's civil war changed everything by bringing about the collapse of older inhibitive categories that was necessary for more modern

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<sup>37</sup> Ignatius visited Flanders in 1535 and later had his own Basque home town structure the collection and distribution of alms in a way that paralleled what Vives had proposed See J.L. Vives, *De Subventionem Pauperum, sive De Humanis Necessitatibus*, eds. C. Matheusen and C. Fantazzi (Leiden, Boston: Brill, 2002), p. xxv.

<sup>38</sup> *Republic*, V, 455d.

<sup>39</sup> Albany: SUNY Press, 2003.

<sup>40</sup> Cambridge, Massachusetts and London, England: The Belknap Press of Harvard University Press, 1967.

modes of republican thinking.<sup>41</sup> In fact, however, it has been shown that humanist influences were a persistent factor from the end of the Renaissance up to the years before the civil war. The tradition carried themes of opposition to tyranny, the value of maintaining a republic, civil offices, and citizens' responsibilities.<sup>42</sup>

Some may, of course, argue that classical culture was involved in injustice as well. "Wasn't Aristotle used as an authority in order to support the institution of slavery?" someone may ask. Of course, no cultural heritage is free of blame, and any major tradition can be used in all kinds of good and bad ways. Slavery as a universal practice seemed to call for some kind of justification in Aristotle's day, but it was nevertheless also classical antiquity, notably the Stoics, along with the Hebrew tradition, that first recognized the rights of slaves as persons and looked beyond that institution to the principle of the solidarity of all humanity and the importance of freedom as an essential condition of a humane existence. It is the *leap forward*, beyond slavery and discrimination, that deserves special remembrance and honor; the very act of remembering and the honoring of the leap confirm it; and the remembering and the honoring change our souls in the process. Most importantly, the tradition developed the tools, as it were, the principles and practices, by which it could critique and transcend itself.

### **Summary and Conclusion: Our Obligations**

What then are our obligations with regard to this heritage? Several considerations suggest to me that classical humanism is a tradition that we are obliged to cultivate as a matter of justice.

1. The classical humanist tradition is much larger than justice-questions alone, but it is steeped in them. It can contribute substantially to the reflective thought about those questions; through its literature, it can allow for our imaginative and affective orientation towards justice; in its pluralism and essential orientation, it can lead us toward tolerance, toward

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<sup>41</sup> J. G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*. Princeton: Princeton University Press, 1975.

<sup>42</sup> Markku Peltonen's *Classical Humanism and Republicanism in English Political Thought, 1570-1640* (Cambridge: Cambridge University Press, 1995) studies the continuity in the humanist culture during those years.

acceptance of others, toward expansive dialogue and horizons, toward an ethical vision, toward the realization of the importance of political and social thought and action, toward broad and inclusive cultural understandings, and toward the actual realization of justice in the world. Classical humanism therefore supports the development of just individuals that will help create a more just society. It offers common ground that can unite us by giving us an environment of shared history, understandings, and discourse. It can be used in a non-partisan, non-sectarian way to develop in students an attitude of judicious toleration, and an historically-informed concern for human rights, diversity, equality, and a humane existence.

So on the basis of prudence alone, we should support the tradition of classical humanism. But is it a *question of justice* that we do this? If classical humanism is in our judgment one of the best ways we have to cultivate justice, then it seems to me that we have some kind of an obligation not to ignore it, just as we have an obligation not to withhold the most nutritious food from our families if we have access to it.

2. Secondly, classical humanism provides access to essential cultural information. Is it at all fair to raise a person today in our society and not teach that person the alphabet, or reading, or counting? No, the person needs these things for a chance at a functional, involved existence in our society. Classical humanism is not the entire alphabet the next generation needs to know, but it holds some of the most important letters of that alphabet, so to speak. The next generation can be stronger with it than they will likely be without it.

3. Thirdly, we easily lose what we do not cultivate. It is a matter of justice to the world that we corporately support and maintain what undergirds the greatest spiritual and social advances. You might want to try to create a wondrous utopian society without the wheel, or fire, or soap, but though these inventions are quite old, they have a lasting and universal value. So does classical humanism.

4. Fourthly, classical humanism is also a valuable way for us as individuals to personally appropriate the advances of our cultural tradition. It constitutes a standard, major framework for organizing the story of which we are all already a part. It is, in an important way, our very memory. This tradition therefore provides access to and even enables the constitution of our larger identities. It is an important device for overcoming narcissism and inserting us into the family of humanity. Is it fair to raise a person and not tell the person who he or she is, not let the person know anything about his or her own family? No, having an

identity usually entails having and coming to know a family; it entails the act of remembering and integrating memories. It is simply not fair to obscure our students' heritage or to keep from them the valuable patrimony that can help them to live well and to become who they are. It is their *right*. It is our *obligation*.

5. Fifthly, students need not just essential tools and the facts about their own identities. All of that is useless if they do not have a sense of the *significance* of their own lives and of their own educations. It is also for that sense of significance that we have to let our students know the larger story of which they are a part. Words get their meanings from their contexts. Students need to know their own contexts to make sense of what they are doing. They need the larger context of what the best of their cultural heritage is about. They need to have some idea of the import of what society is asking them to do in college and of what is at stake in their academic efforts. The classical humanist tradition at its best is oriented precisely to giving students this sense, both of their own individual spiritual importance *and* of the importance of what they are doing as students. Classical humanism is famous for taking individuals, humanity, and education seriously.

I therefore conclude: an adequate promotion of justice requires the practices of classical humanism. Classical humanism, in fact, has *everything* to do with justice.

### **Appendix: Some Syllogisms on Justice and Classical Humanism**

#### Syllogism 1

1. Classical humanism is at its core the classical liberal arts.
2. The classical liberal arts aim at the development of the cardinal virtues, which include justice.
3. Therefore, classical humanism essentially includes an intention to develop justice.

#### Syllogism 2

1. Substantial advances in justice require personal and corporate self-knowledge.
2. Classical humanism provides essential support for personal and corporate self-knowledge.
3. Therefore, substantial advances in justice require classical humanism.

#### Syllogism 3

1. All justice questions in our society will one day be managed by the next generation largely on the basis of the education they are receiving today.
2. The education of the next generation can be significantly improved through the judicious practice of classical humanism.
3. Therefore, the handling of justice questions in the near future can profit greatly from the judicious practice of classical humanism.

#### Syllogism 4

1. Justice demands a distribution and sharing of goods that can and should be common.
2. The classical heritage is one of the greatest common goods we have.
3. Therefore, justice demands that we share the classical heritage.

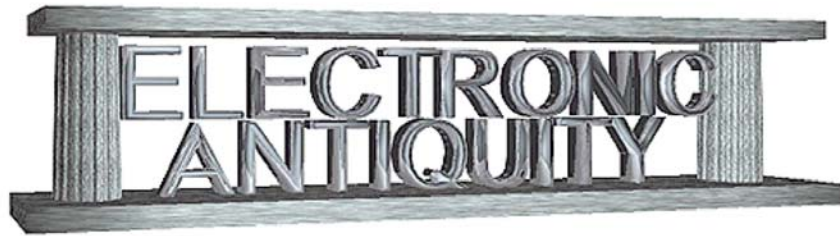
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## **GONEIS IN ATHENIAN LAW (AND PERCEPTION)**

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### Abstract:

This paper aims to establish what the laws of classical Athens meant when they used the term *goneis*. A longstanding and widespread orthodoxy holds that, despite the simple and largely unproblematic “dictionary” definition of the noun *goneus/goneis* as parent/parents, Athenian law extended it beyond an individual’s father and mother, so as to include – if they were still alive – protection and respect for his or her grandparents, and even great-grandparents. While this is not a notion of self-evident absurdity, I challenge it on two associated counts, one broad and one narrow. On a general, contextual level, genre-by genre survey and analysis of the evidence for what *goneus* means (and implies) in everyday life and usage shows, in respect of the word itself, an irresistible thrust in favour of the literal ‘parent’ sense. Why then think otherwise? Because of confusion, in modern minds, engendered by Plato and by Isaeus. In Plato’s case, his legislation for Magnesia contemplates (I argue) legal protection for grandparents but does not, by that mere fact, extend the denotation of *goneis* to them. And crucially for a proper understanding of the law(s) of Athens itself, two much-cited passages in the lawcourt speeches of Isaeus, 1.39 and 8.32, turn out to be the sole foundation for the modern misunderstanding about the legal scope of *goneis*. They should be recognised for what they are: passages where law is secondary and rhetorical persuasion paramount.

1.1. Addressing an Athenian jurycourt at some time between 383 and 363,<sup>1</sup> a direct descendant (*ekgonos*) of a certain Kiron endeavours to prove (Isaeus 8.30-32) that he has a better claim to Kiron's estate than does his opponent, who as a nephew of the deceased is merely a collateral relative (*syngenês*) — to use the distinction of terminology in the didactic 8.30 itself. More precisely, Kiron is the speaker's maternal grandfather, and this fact<sup>2</sup> is deployed in a two-part argument which purports to stem 'from the laws themselves' (ἐξ αὐτῶν τῶν νόμων: 8.30):

εἰ γὰρ ἔζη μὲν ἢ ἐμὴ μήτηρ, θυγάτηρ δὲ Κίρωνος, μηδὲν δὲ ἐκεῖνος διαθέμενος ἐτελεύτησεν, ἦν δὲ ἀδελφὸς οὗτος αὐτῶ, μὴ ἀδελφιδοῦς, συνοικῆσαι μὲν ἂν τῇ γυναικὶ κύριος ἦν, τῶν δὲ χρημάτων οὐκ ἂν, ἀλλ' οἱ γενόμενοι παῖδες ἐκ τούτου καὶ ἐξ ἐκείνης, ὅποτε ἐπὶ διετὲς ἤβησαν· οὕτω γὰρ οἱ νόμοι κελεύουσιν, εἰ τοίνυν καὶ ζώσης κύριος αὐτὸς μὴ ἐγένετο τῶν τῆς γυναικός, ἀλλ' οἱ παῖδες, δῆλον ὅτι καὶ τετελευτηκυίας, ἐπεὶ παῖδας ἡμᾶς καταλέλοιπεν, οὐ τούτοις ἀλλ' ἡμῖν προσήκει κληρονομεῖν τῶν χρημάτων 8.31

If my mother, Kiron's daughter, were alive but he had died intestate, and if my opponent were his brother, not his nephew, he would have the authority to marry the woman but not to possess the property; it would instead belong to the children born of his and her marriage, once they were two years past puberty;<sup>3</sup> for so the laws order. If, then, the children and not my opponent himself would hold authority over the woman's property while she was alive, it is obvious that now she is dead and has left children, us, it is we and not these men who should inherit the property.

As the Loeb editor E.S. Forster puts it, the speaker here 'takes the case of the nearest collateral, namely, a brother, and argues that a daughter's

<sup>1</sup> All three-figure dates are BC.

<sup>2</sup> The claim was doubted by Wyse (1904) 585-8 (and apparently also by Forster (1927) 282) but needlessly so, in the opinion of Davies (1971) 313.

<sup>3</sup> The original meaning, and procedural implications, of the phrase ἐπὶ διετὸς ἤβησαι (here and elsewhere: for a dossier of instances see Harrison (1968) 113 n.2) have been the subject of debate, in antiquity and modern times alike, but there seems no doubt that in post-Kleisthenic Athens it had come to signify the eighteenth year. See e.g. Wyse (1904) 610-611; Golden (1990) 26-29; Rubinstein (1993) 90 n.2.

child has a better claim to his grandfather's estate than the grandfather's brother, and therefore, *a fortiori*, a better claim than a nephew'.<sup>4</sup> Evidently the opponent — speaking first — had contended the opposite: that in law the claims of a brother's son were stronger than those of a daughter's son.<sup>5</sup> Whether the opponent had actually quoted or cited a law to this effect is obviously indeterminable. If he had, there would be a parallel with Isaeus 7.18-22, which included several extracts from a law giving precedence to males and their descendants; a law presented more fully (though in a textually unsatisfactory state) in [Demosthenes] 43.51. But here in Isaeus 8.31, despite 8.30's ἐξ αὐτῶν τῶν νόμων, there is no such presentation, and Wyse's warning that the law 'was not properly applicable to the present case'<sup>6</sup> should be borne in mind when we turn to 8.32, which is my prime concern here:

οὐ τοίνυν ἐκ τούτου μόνον, ἀλλὰ καὶ ἐκ τοῦ περὶ τῆς κακώσεως νόμου δῆλόν ἐστιν. εἰ γὰρ ἔζη μὲν ὁ πάππος, ἐνδεῆς δὲ ἦν τῶν ἐπιτηδείων, οὐκ ἂν οὗτος ὑπόδικος ἦν τῆς κακώσεως ἀλλ' ἡμεῖς. κελεύει γὰρ τρέφειν τοὺς γονεῆς· γονεῖς δ' εἰσὶ μήτηρ καὶ πατήρ καὶ πάππος καὶ τήθη καὶ τούτων μήτηρ καὶ πατήρ, ἐὰν ἔτι ζῶσιν· ἐκεῖνοι γὰρ ἀρχὴ τοῦ γένους εἰσὶ, καὶ τὰ ἐκείνων παραδίδοται τοῖς ἐγγόνιοις· διόπερ ἀνάγκη τρέφειν αὐτούς ἐστι, κἂν μηδὲν καταλίπωσι. πῶς οὖν δίκαιόν ἐστιν, ἐὰν μὲν μηδὲν καταλίπωσιν, ἡμᾶς ὑποδίκους εἶναι τῆς κακώσεως, ἢν μὴ τρέφωμεν, εἰ δέ τι καταλελοίπασι, τόνδ' εἶναι κληρονόμον ἀλλὰ μὴ ἡμᾶς; οὐδαμῶς δῆπουθεν 8.32

Not only this (law), then, but also the one concerning maltreatment makes the situation clear. For if my grandfather were alive, but in want of life's necessities, it is not our opponent who would be liable to prosecution for maltreatment but us. For (the law) orders that *goneis* be supported; and *goneis* are mother and father and grandfather(s) and grandmother(s) and, if they are alive, their mother(s) and father(s); for they are the source of the *genos*, and their property is handed down to their *ekgonoi*; hence it is necessary to support them, even if they are handing nothing down. How then is it right that, if they are handing nothing down, we are liable to prosecution for maltreatment if we do not

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<sup>4</sup> Forster (1927) 284.

<sup>5</sup> Wyse (1904) 585-586; Forster (1927) 283.

<sup>6</sup> Wyse (1904) 585.

support them, yet if they have handed something down the heir is our opponent and not us? Impossible, of course.

1.2. The thrust of the argument in Isaeus 8.32, invoking the fact that Athenian law recognised a crime called maltreatment of *goneis* (γονέων κάκωσις), is plain enough. One's *goneis*, the contention is, are not merely one's parents but also one's grandparents, and even any surviving great-grandparents. But is this actually true? Wyse's commentary on the passage was brisk. 'For the strained use of γονεύς compare Hdt. 1.91[.1] Κροῖσος δὲ πέμπτου γονέος (Gyges) ἀμαρτάδα ἐξέπλησε. In Attic prose γονεῖς never means anything but "parents"'.<sup>7</sup> Sections 2 and 3 of this paper will address these points in reverse order. First Wyse's generalisation will be set in a broader context; this will show it to be somewhat too categorical but nonetheless robust enough to establish the commonly-understood meaning and scope of the word *goneus*. Then I will argue that Isaeus in 8.32 is not, as has been widely supposed, reminding the jurors of the accepted denotation of *goneis* in the law in question. On the contrary: he is seeking, for his own forensic and rhetorical ends, to stretch it.<sup>8</sup>

2.1. For purposes of reference it will be appropriate to begin with the first (substantive) part of the LSJ entry:

**γονεύς**, -έως, ὁ, *begetter, father*, mostly in pl., *parents*, *h.Cer.240*, *Hes.Op.235*, *Pi.P.6.27*, *Pl.Symp.178b*, etc.: in sg., of a serpent, *Hdt.3.109*; of a man, *Pl.R.457d*; φράζε τίνοϛ γονέωϛ *IG12(5).310*: generally, *progenitor, ancestor*, πέμπτοϛ γ. *ancestor* in the fifth generation, *Hdt.1.91*, cf. *Is.8.32*; οἱ ἄνωθεν γ. *Arist.GA722a8*.

2.2. The earliest attested instances of the noun γονεύς occur, then, in the Homeric Hymns (there are none in Homeric epic itself) and in Hesiod.

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<sup>7</sup> Wyse (1904) 611.

<sup>8</sup> From Wyse's 'strained' here (Wyse (1904) 611) it might have been inferred that he anticipates my argument; however, in the commentary on 1.39 (Wyse (1904) 219) he has already accepted the interpretation of 8.32. See further, section 4.

The *Hymn to Demeter* 240 tells how, by night, Demeter would hide Demophöon in the fire ‘unknown to his dear *goneis*’, λάθρα φίλων γονέων. And Hesiod, *Works and Days* 235 declares that the womenfolk of the just bear offspring ‘like their *goneis*’, τίκτουσιν δὲ γυναῖκες ἐοικότα τέκνα γονεῦσιν. See also Hesiod fr.193.19 Merkelbach-West, from the *Catalogue of Women*: after the death of her brothers only Alkmene left was left as a ‘delight to (her) *goneis*’, Ἀλκμήνη δ’ ἄρα] μούνη ἐλείπετο χάρμα γο[νεῦσι.<sup>9</sup> In each of these cases it can be seen that while the scope of the word is not, by the strictest standards, demonstrably limited to the father and mother of the individuals in question,<sup>10</sup> that is the most natural construction to put upon it. Concerning Demophöon, for example, his parents Keleus and Metaneira are frequently mentioned, by name, between lines 96 and 300; and it is precisely this sort of contextual clue which, when present, reinforces the presumption of ‘parent(s)’ being the default meaning of the word.

2.3. Other internal evidence of this kind occurs in other genres of poetry.

Pindar, *Nemean* 11.22-23: the *goneis* of the Tenedian athlete Aristagoras were too apprehensive to let their son (*pais*) compete at Delphi or Olympia, ἐλπίδες δ’ ὀκνηρότεροι γονέων παιδὸς βίαν | ἔσχον ἐν Πυθῶνι πειράσθαι καὶ Ὀλυμπία ἀέθλων.<sup>11</sup>

Sophocles, *OT* 436-7 (Teiresias’ mention of Oedipus’ *goneis* refers explicitly to those who gave birth to him) and 1495 (*if* the transmitted γονεῦσιν is correct<sup>12</sup> it again means parents). Sophocles, *Electra* 145-6 (a generalisation about *goneis* is expanded by reference to Itys and his mother Prokne) and 241-2 (Electra’s concern about dishonouring her *goneis* means in practice her father Oedipus).

<sup>9</sup> Name of Alkmene restored here by Wilamowitz. Another fragment from the same work, 174.4 M-W, preserves the contextless genitive plural γονήων.

<sup>10</sup> And still less so in Hesiod, *Works and Days* 331-2: woe betide him who abuses and insults an aged, moribund *goneus* (γονῆα γέροντα).

<sup>11</sup> Contrast *Pythian* 6.26-27 (cited in LSJ), which lacks such indicators: Cheiron commands Achilles to honour Zeus and likewise, during their lifetime, his *goneis* (ταύτας δὲ μή ποτε τιμᾶς | ἀμείρειν γονέων βίον πεπρωμένον).

<sup>12</sup> As recent editors accept, i.e. rather than emending to γόνουσιν or γοναῖσιν.

Euripides, *Alkestis* 714: having just cursed his father Pheres, Admetos is rebuked for cursing his *goneis* (ἀρῶ γονεῦσιν οὐδὲν ἔκδικον πάθων).<sup>13</sup> Euripides fr.853 Nauck: the three *aretai* are ‘to honour the gods and the *goneis* who bore (you) and the common *nomoi* of Hellas’ (θεοὺς τε τιμᾶν τούς τε φύσαντας γονῆς | νόμους τε κοινούς Ἑλλάδος).

Aristophanes, *Clouds* 994 (the only instance in this author): Right urges Pheidippides not to misbehave (σκαίουργεῖν) towards his *goneis*. By this stage of the play the audience will naturally relate this to what they have seen of the relationship between the youth and his father Strepsiades (within which the motif of Strepsiades being struck a blow by his son has been, and remains, prominent: see further under 3.2.).

2.4. Turning to prose — but before focusing on Attic prose as the sub-category of especial relevance to Athenian law — it is salutary to dwell for a moment on Herodotus. His 1.91.1 has been quoted already (under 1.2). Wyse’s characterisation of it as displaying a ‘strained’ use of *goneus* is entirely fair comment, and this fact — which in modern typography would perhaps be marked by inverted commas: ‘his “father” four generations ago’ — emerges with particular force if one widens the perspective from this passage itself to take in how Herodotus uses the word elsewhere, on seven occasions. 1.146.2 recounts how Athenian colonists to Ionia married Karian women after murdering their *goneis*, and the term is later (146.3) glossed as ‘fathers (and husbands and children)’; 2.43.2 has the phrase ‘both of the *goneis*’ of Herakles, named as Amphitryon and Alkmene; 3.38.4 describes the Indian Kallatai eating their dead *goneis*, the equivalent of Greeks eating their dead fathers (πατέρας, 38.3); 3.109.2 has the singular *goneus* as a snake’s male progenitor; and 4.26.1 on the Issedones uses πατήρ and γονεύς as synonymous. That leaves only 5.6.1 (Thracians buy wives ‘from the (women’s) *goneis*’) and 6.61.3 (a Spartan girl’s *goneis* are dismayed by her ugliness), where the contextual clues are less helpful, but a restriction to parents could be argued to be implicit.

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<sup>13</sup> Contrast the vagueness of *Andromache* 676 (women are protected by their *goneis* and *philoï*) and *Electra* 257 (E. insists that, by not seeking to consummate their marriage, her lowly husband has taken care not to dishonour her *goneis*).



2.5. Attic prose itself can be restricted for present purposes to material earlier than or contemporary with Isaeus. I consider in turn oratory (of prime importance in establishing generally-accepted usage), Xenophon,<sup>14</sup> and Plato.

2.5.1. ORATORY. All ten of the canonical Attic orators offer passages germane to this enquiry, and there are sufficient clues as to what their audiences — juries, for the most part — will have understood by the word γονεύς.<sup>15</sup>

First in chronological order comes Antiphon, whose *Second Tetralogy* envisages a case of accidental homicide, that of a boy struck by a javelin thrown by another boy. The first and third speeches are delivered by the dead boy's father, and each concludes (3.1.2, 3.3.12) with an appeal for the court's pity for the now-childless *goneis*.

In Lysias 12.96 it is only probable, not certain, that the speaker (Lysias himself) means parents when he speaks of people losing 'children and *goneis* and wives' under the Thirty; but 13.45 leaves no room for doubt in a similar depiction of 'elderly *goneis* who had expected to be supported in their old age by their own *paides*'.

Isocrates provides nothing in the speeches proper (nos.16-21) but passages of relevance elsewhere. Most of them turn out to use *goneus*-vocabulary as if its meaning were self-evident,<sup>16</sup> but for contextual clues see 1.11 and 10.28 (*goneis* and their *paides*); and cf. *Letter* 7.2 (fathers glossed, in effect, as *goneis*).

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<sup>14</sup> There are no instances of *goneus* in Thucydides.

<sup>15</sup> I separate out here, if questions are not to be begged, inconclusive mentions of maltreatment of *goneis*: Andocides 1.74; Demosthenes 10.40-41, 24.60 & 103; Dinarchus 2.17-18 (where Aristogeiton's father may only be an example of his *goneis*, not a means of defining them); Hyperides, *Euxenippus* 6; Isocrates 7.49, 14.48. (Where these passages mention or presuppose the law(s) on the subject they will be noted again in section 3.)

<sup>16</sup> So 1.14 & 16, 4.111, 5.32, 6.73 & 110, 8.93 & 113, 15.88; and cf. *Letter* 2.4.

Demosthenes, like Isocrates, frequently refers to *goneis* without indicating exactly what he means by the word.<sup>17</sup> Such indications do, however, occur in 18.205 (praise of the Persian-War generation, who considered themselves born not of a particular father and mother but with the *patris* as a whole as their *goneis*). 24.107 (*paides* and their *goneis*), 39.33 & 39 (the same), 57.51 & 70 (in context, Euxitheos' *goneis* are his parents Thoukritos and Nikarete).

The Amphictionic curses in Aeschines 3.111 include one wishing that the womenfolk of the Kirrhaians and Kragalidai will give birth to monsters, not *tekna* who resemble their *goneis*.

Finally I note the artful use of the term *goneis* in Lysurgus, *Against Leokrates*. First, in §15, the Athenians are described as a people set apart from the common run of humanity by behaving piously towards their gods, reverently towards their *goneis*, and zealously towards their country (τῷ πρὸς τε τοὺς θεοὺς εὐσεβῶς καὶ πρὸς τοὺς γονεάς ὅσιως καὶ πρὸς τὴν πατρίδα φιλοτίμως ἔχειν). That this means — or could, at least, mean — parents seems confirmed when the topic returns at §94: the gods are said there to preside over all human affairs, particularly piety towards one's *goneis* and the dead and the gods themselves; §§95-97 then illustrate this with a story about an eruption of Mt Etna which was survived by one man carrying his elderly father but which killed those who had abandoned their own *goneis*, just like Leokrates himself who 'abandoned his *goneis* to the enemy and denied the dead their customary observances'. His (unnamed) father, we learn in §§136-7, was dead by the time of the trial. Whether he had still been alive seven years earlier is left obscure amidst the outrage Lysurgus wishes to whip up about Leokrates having abandoned the bronze statue of his father in the precinct of Zeus Soter; but in any event, after the confusion deliberately sown by §144 (which tries to extend the scope of Leokrates' crimes to 'the older generation' as a whole, ἡ τῶν πρεσβυτέρων *sc.* ἡλικία)<sup>18</sup> §147 declares the defendant guilty of maltreatment of *tokeis* (sic)<sup>19</sup> 'by effacing their memorials and depriving them of the customary

<sup>17</sup> So 14.32; 25.24, 65 (where father and mother may be only a subset of *goneis*), 66; 36.47; 60.16, 29, 32; and cf. *Letters* 3.45, 4.11.

<sup>18</sup> For this passage see section 3.4 at *e*.

<sup>19</sup> §§15, 94, 96 and 97 have used the word *goneis*; but since *tokeis* invariably means parents its use here, with specific reference to Athenian legal procedure, is highly significant. See further, Appendix.

observances’ — a ringing phrase which may simply be a *pluralis magnificentiae*.<sup>20</sup>

2.5.2. *XENOPHON*. Pride of place here must go to *Memorabilia* 2.2, which one scholar has cited for its insights into ‘the moral obligations underlying Attic law’.<sup>21</sup> It opens (2.2.1) with Sokrates noticing that his own son Lamprokles was behaving discourteously (*χαλεπαίνοντα*) towards his mother, Sokrates’ wife Xanthippe (here unnamed). This prompts, from 2.2.3 onwards, what amounts to a sermon on the obligations owed by *paides* to their *goneis*; these two words and their cognates (e.g. *παιδοποιεῖσθαι*) and synonyms (e.g. *τέκνα*) proliferate in what follows, together with further mentions of Lamprokles’ mother and the duty he owes her. By the time the section ends, at 2.2.14, an equivalence between *goneis* and parents has been reinforced in every possible way. And the importance of this is of particular note in relation to 2.2.13, where law is brought into the picture. If a man does not take care of his *goneis*, the polis — Athens, in this context — renders him liable to prosecution and rejects him as a potential office-holder (*ἐὰν δέ τις γονέας μὴ θεραπεύῃ, τούτῳ δίκην τε ἐπιτίθησι* (*sc.* ἡ πόλις) *καὶ ἀποδοκιμάζουσα οὐκ ἔῃ ἄρχειν τοῦτον*); furthermore, anyone failing to tend the graves of *goneis* is found out in pre-office scrutiny for archons (*καὶ νῆ Δία ἐὰν τις τῶν γονέων τελευτησάντων τοὺς τάφους μὴ κοσμήῃ, καὶ ταῦτα ἐξετάζει ἡ πόλις ἐν ταῖς τῶν ἀρχόντων δοκιμασίαις*).

The topic of *goneis* re-surfaces later in the same work, at 4.4.17-23, where Sokrates is debating with the sophist Hippias of Elis. First, in 4.4.17, *goneis* stand first in an exemplary list of six categories of people who receive their just deserts (*τὰ δίκαια*) *via* law(s). The perspective from 4.4.8 onwards has been a general one, not confined to Athens (in fact Sparta is the only city named: 4.4.15), and 4.4.20 still refers to the honouring of *goneis* as a universal custom (*πανταχοῦ νομίζεται*). Immediately thereafter, however, the focus shifts to the undesirability of sexual relations between *goneis* and their *paides*. For this subject see also *Lac.Pol.* 2.13 (*ἀπέχεσθαι...γονεῖς παίδων*), and for more innocent

<sup>20</sup> Compare e.g. *μνημεῖα* in Isaeus 7.40 and *ὑπομνήματα* in [Demosthenes] 12.4, in reference, respectively, to a single tripod and statue.

<sup>21</sup> Morrow (1960) 467 n.222.

dealings between *goneis* and *paides* see *Hiero* 3.7, *Anabasis* 5.8.18 (γονεῖς υἰοῖς).<sup>22</sup>

In *Oeconomicus* 7.10-11 there is reiterated reference to the *goneis* of Ischomachos' young wife, who from her side have arranged the marriage; parents is the implicit sense, and a mother is mentioned shortly afterwards (7.14).

*Cyropaedia* 1.2.7 mentions (in a putative Persian context) neglect of *goneis* and *patris* and *philoï*, but greater specificity appears in subsequent passages where, implicitly or explicitly, children come in (8.3.49, 8.7.14, 8.7.24).

2.5.3. *PLATO*. Here<sup>23</sup> one finds plenty of instances where 'parents' as the appropriate translation of *goneis* is at best implicit,<sup>24</sup> but also some where

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<sup>22</sup> Contrast the vaguer *Anab.* 3.1.3 (the troops cannot sleep because they are worried about (and miss) *patrides*, *goneis*, *gynaikes*, *paides*) and elsewhere *Apol.*20 (on matters of health men take the advice of their doctors rather than that of their *goneis*).

<sup>23</sup> It is unnecessary for present purposes to separate the genuine works of Plato from those merely attributed to him, with whatever degree of probability. I point out nonetheless that none of the manifest *spuria* come into play.

<sup>24</sup> *Gorgias* 480B: mention of *adikia* against oneself or *goneis* or *hetairoi* or *paides* or *patris*. *Hippias Major* 291A: one of the universal blessings for a man is to reach old age, having provided a fine funeral for his deceased *goneis*, and get the same from his own *ekgonoi*; repeated at 293A. *Hippias Minor* 364A: Hippias' reputation will be a monument of wisdom for Elis and for his *goneis*. *Menexenus* 239D: the Persian invasions encountered 'the *ekgonoi* of this land, our own *goneis*' (but see below, in text, under discussion of *Laws* 643A); 247B: honouring *goneis* is a fine treasure-house for *ekgonoi*; 248D: address to children and *goneis* of the dead; 249C: the polis stands as a guardian towards the *goneis* of the dead. *Meno* 91A: Meno wants to look after (θεραπεύειν) his own *goneis*. *Laws* 839A: current (*sc.* Athenian) law governs τὰς τῶν γονέων συμμειξίεις (i.e. with a *goneus* as one of the parties); 854E: offences concerning gods or *goneis* or polis; 885A: attacks on *goneis*; 886C: γονέων θεραπείας καὶ τιμᾶς; 917A: *goneis* are superior to their *ekgonoi*; 933B; the graves of *goneis*. *Republic* 386A: honouring the gods and *goneis*; 425B: γονέων θεραπείας; 443A: γονέων ἀμέλεια; 465B: respect prevents attacks on (one's) *goneis*; 538C: good beliefs are like *goneis*; 615C: impieties and pieties towards gods and *goneis*. *Symposium* 188C: *goneis* both alive and dead.

such a translation is required by the context. I exclude from this second category a few passages where (e.g.) fathers are mentioned immediately before *goneis* and thus might, at a pinch, be deemed to signify a subset of them,<sup>25</sup> but that still leaves:

*Protagoras* 346A-B: ‘mother or father or country’ is immediately varied, twice, as ‘*goneis* or country’.

*Symposium* 178B (cited in LSJ): Eros has no *goneis* (glossed as ‘mother or father’ at 199D, and see also 203Aff); 190B: the hermaphrodites were globular because of their similarity to their *goneis*.

*Republic* 457D: children to be held in common, with no *goneus* knowing his own *ekgonos* and no *pais* his *goneus*; 538A: an adoptee discovers he is not the offspring of his so-called *goneis* but does not know his ‘real begetters’; 541A: *paides* and their *goneis*; 574A-D: robbing and deceiving one’s *goneis*, a term repeatedly varied as one’s elderly father and mother.

*Timaeus* 18D: the phrase ‘*goneis* and the *progonoi* of *goneis*’ means in this context ‘parents and grandparents’. (This harks back, in other terms, to *Republic* 461D.)

*Laws* 717B-D: the topic of ‘honours for living *goneis*’ is expanded as consideration for ‘those who bore and bred’ one, and this glosses the term *goneis*, dead or alive, throughout this section and later references back to it (724A, 730B); 868E: ‘*goneis* and *ekgonoi*’ varied as *goneis* and *paides*, i.e. parents and their children; 869C: *goneis* are glossed as ‘father or mother’ (and the term has been preceded, in 869A-B, by γεννήσαντες, γεννήτορες, γεννητής, πατροφόνος and μητροφόνος); 877B: what should happen when a *pais* wounds his *goneis* (again 878E, with *ekgonoi* and *goneis* — they are to go before judges who have *paides* of their own); 887D: the *neos* sees his own *goneis* engaged in religious activities.

There are two other phenomena of note in Plato, however. One is the use of *goneis* to indicate forebears who must be, or at least include, persons more remote in time than parents or even, arguably, grandparents.

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<sup>25</sup> *Lysis* 213A; *Republic* 463D, 562E; *Laws* 690A (and 714E).

*Menexenus* 239D (cited in n.24 above) is a possible instance of this, given that the dramatic date of the dialogue is 386 and that Aspasia's *epitaphios* in it, from which this passage comes, is described by Sokrates as recent then (236A) — in defiance, to be sure, of biographical probability *vis-à-vis* Aspasia and of simple biographical fact *vis-à-vis* Sokrates. But a firmer one is *Laws* 643A, from a composition set in the mid-fourth century. Claiming the purifier Epimenides as a relation of his, Kleinias the Cretan places his Athenian activities (wrongly, but no matter) in c.500, and says that Epimenides' predictions about the first Persian invasion brought about ties of guest-friendship then between the Athenians and 'our *progonoi*' and goodwill from then on (ἐκ τούτου) towards the Athenians on the part of 'myself and our *goneis*'. It thus emerges that the 'progenitor, ancestor' meaning for γονεὺς noted in LSJ (see 2.1 above) has no absolute need of the sort of explicit flagging-up which it receives in Herodotus 1.91.1 (and Aristotle, *de generatione animalium* 722a7-8, τοῖς ἄνωθεν γονεῦσιν); and plain too is the fact that Attic prose can, *pace* Wyse,<sup>26</sup> furnish instances of *goneis* who are not parents.

But can it also furnish instances of *goneis* who are (or include) grandparents? The second facet of Plato's evidence which needs closer scrutiny in this regard is shown in two sections of *Laws* not considered so far. In his commentary on Isaeus 1.39 (a passage to be discussed later, in section 4). Wyse asserts that Isaeus 8.32 'is careful to explain to the judges that the term γονεῖς would include a grandfather' and adds that 'Plato (*Laws* 931 A D E) concurs with this interpretation'.<sup>27</sup> Let us see.

I draw attention first to a section not cited by Wyse but which appears to support his position: the section on *aikia*, i.e. assault or (perhaps more accurately) battery, 879Bff. 881D prescribes what happens when someone in Magnesia is convicted of *aikia* of his *goneis*: he will be permanently exiled from the *asty* to some other part of the territory and banned from all sacred places. This point occurs in the middle of Plato's presentation of the offence. The remainder of 881 contemplates a situation where these exclusions are disregarded, while 881B-C has already laid down in some detail the immediate response required of the residents of Magnesia, and the whole section has begun with these

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<sup>26</sup> See above, at n.7.

<sup>27</sup> Wyse (1904) 219.

words: ‘if some who is not in the grip of insanity dares to strike his father or mother or their fathers or mothers, the first requirement is that the passer-by renders assistance’ (ὅς ἂν τολμήσῃ πατέρα ἢ μητέρα ἢ τούτων πατέρας ἢ μητέρας τύπτειν μὴ μανίαις ἐχόμενος, πρῶτον μὲν ὁ προστυγχάνων...βοηθείτω). Earlier still in the section, a situation has been envisaged where someone ‘dares to lay hands on his father or mother or their *progonoi*’ (880E), and mention has been made of ‘assaults on mothers (μητραλοῖαι) and unholy and rash blows against one’s other *gennêtores*’ (881A). Either, therefore, the resumptive 881D (with αἰκίας γονέων) is carelessly phrased or else Plato is using the term *goneis* in a broad way to encompass the offender’s grandparents.

The issue then re-surfaces at 930E, which include the three particular passages noted by Wyse (above). 930E itself begins by asserting that neither god nor, if in his right mind, man would ever advise neglecting *goneis* (γονέων ἀμελεῖν). On the contrary, says Plato, the following preface (to a law on neglect) will show that paying due attention to the gods is highly relevant to the matter of ‘honouring and dishonouring one’s begetters’ (τὰς τῶν γεννησάντων τιμάς τε καὶ ἀτιμίας); yet the preface itself speaks of a father and mother ‘or [sic] their fathers or mothers’ in the house (931A, the first of Wyse’s passages). With the preface over and dialogue resumed, the Athenian participant alludes briefly (in 931B-C) to mythological episodes of bad blood between fathers and their children (not grandchildren): Oedipus and his *tekna*, Amyntor and Phoenix, Theseus and Hippolytos; ‘and there are thousands of similar cases which make it plain that the gods take the side of *goneis* against *tekna*, for there is no more effective curser than a *goneus* cursing his *ekgonoi*’. 931C adds further comment on fathers (and mothers) and their badly-behaved *paidēs*, with mention, twice, of the prayers (εὐχαί) of the former, and 931E appears to refer back to this in the phrase ‘prayers of *goneis*’ (γονέων εὐχάς) — but only after the other two Wyse passages which bring in grandparents: ‘a man has no more honourable an object of worship than a father and grandfather weak with age and mothers [sic] in the same condition’ (931D); ‘he who treats properly his father and grandfather and all suchlike (πᾶσι τοῖς τοιούτοις) has the most effective possible objects of worship in winning the favour of the gods’ (931E). 931D and 932A further muddy the waters by applying the word *progonoi* to these elderly (but still living) family-members, while 932A also expresses the hope that this law and its accompanying rationale will lead every man to honour his own *gennêtores*. Finally

932A and 932C bring the matter back full circle to the concept of neglect of *goneis*.

I have summarised 930E-932C in some detail to show what a switchback of confusion it rides. A further point to notice is that nearly all this material is discursive, preparatory to the articulation of the law itself, which begins only at 932A. Since the law itself does not define who precisely a man's *goneis* are to be understood to be, one will look to the preliminaries to do so; but they do not, or at any rate not with any clarity or consistency. To my mind, therefore, Wyse's case that Plato's Magnesian law on neglect of 'parents' *embraces grandparents in that very term* is not proven. Rather, Plato appears to want the law on neglect of parents, like the law on battery of them (above), *to provide legal protection for grandparents also*.

2.6. The findings of section 2 may be encapsulated as follows. At the very end of his long life and extensive output, in *Laws*, Plato slips into using the word *goneis*, unqualified, to mean what others would have meant by *progonoi*: ancestors in the direct line (643A). In the same work, and though not a grandparent (or indeed a parent) himself, he twice displays concern for that generation: seeking to bring it under the sort of legal protection which expressed itself — in Athens and in Magnesia alike — as protection for *goneis*. However, if one asks what — certainly in Athens and apparently in Magnesia also — would have been understood by the term *goneis*, a clearcut answer emerges from every genre of evidence: parents.

3.1. "Solonian" law<sup>28</sup> in Athens recognised a crime called maltreatment (*kakôsis*) of *goneis*, activated by any public-spirited citizen who chose to lodge a *graphê* or *eisangelia*,<sup>29</sup> and heard by a court presided over by the eponymous archon (?Aristot. *Ath.Pol.* 56.6). The scope of the legislation which underpinned it is well summarised by Rhodes: 'Athenians were

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<sup>28</sup> For the attribution to Solon see e.g. Demosth 24.103. Aeschin. 1.23, Plut. *Solon* 22.1, Diogenes Laertius 1.55; but for the difficulty of grasping what such an attribution means (and meant, in classical Athens) see Hansen (1989) 79-81.

<sup>29</sup> On this vexed procedural issue see most recently Avotins (2004).



required by law [a] to care for their parents while alive and [b] to give them a proper burial when they died'.<sup>30</sup>

For lack of any grounds to think otherwise, it is economical to suppose that the oft-mentioned term neglect (*ameleia*) was synonymous with *kakôsis* in this context. Under either description, at any rate, duty *a* appears to have embraced two specific ways in which children might neglect/maltreat their parent: one sin of commission, striking a blow (*tuptein*); one of omission, failure to provide food and housing (*trephein*).<sup>31</sup> Duty *b*, though more uniform, did extend to the negligent upkeep of graves; but for present purposes it can be summarised as burial (*thaptein*).

Here are dossiers, set out in broad chronological order, of the main items of evidence for the Athenian legislation which covered duties to parents under these three heads.

### 3.2. *Tuptein*.

(a) Aristophanes, *Clouds*. The topic of Strepsiades being beaten occurs in general terms as early as lines 494-5, but it takes on a sharper, familial focus at 1321-1446: confident that his newly-acquired sophistic education will enable him to evade any blame, Pheidippides first beats his father and then, having justified it, threatens to do the same to his mother (1443-6).

(b) Aristophanes, *Birds* 757-759: εἰ γὰρ ἐνθάδ' ἐστὶν αἰσχρὸν τὸν πατέρα τύπτειν νόμῳ, | τοῦτ' ἐκεῖ καλὸν παρ' ἡμῖν ἐστὶν, ἢν τις τῷ πατρὶ | προσδράμων εἴπη πατάξας 'αἶρε πλήκτρον, εἰ μαχεῖ' ('For if here (*sc.* in Athens) it is disgraceful by law to strike one's father, there amongst us this is a fine thing, if someone runs to his father and strikes him and says "raise your spur, if you are going to fight" '). The topic returns at 1337-71: a rebellious son arrives, keen to take advantage of the bird-community's laws in this area to beat his father, and in the course of

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<sup>30</sup> Rhodes (1993) 629.

<sup>31</sup> The latter requirement 'presumably did not apply until the parents were elderly or incapacitated' (MacDowell (1978) 92). There were also exemptions from the requirement if the parents themselves — in practice the father — had been neglectful or was otherwise at fault (Aeschines 1.13, Plut. *Solon* 22.1).

the scene Peisthetairos gives him ‘the same advice I myself learned when I was a *pais*: don’t strike your father’ (1363-4, οἶάπερ αὐτὸς ἔμαθον ὅτε παῖς ἦ. σὺ γὰρ | τὸν μὲν πατέρα μὴ τύπτε).

(c) Aristophanes, *Frogs* 149-150: Herakles describes part of the underworld where various categories of wrongdoer lie mired in excrement; they include anyone who has ever ‘beaten his mother, or struck his father’s jaw’ (ἢ μητέρ’ ἠλόασεν, ἢ πατρὸς γνάθον | ἐπάταξεν).

(d) Lysias 13.91: ἐκ παντὸς δὲ τρόπου ἔμοιγε δοκεῖ οὐχ ἑνὸς θανάτου ἄξιος εἶναι, ὅστις φησὶ μὲν ὑπὸ τοῦ δήμου <πεποιήσθαι>, τὸν δὲ δῆμον, ὃν αὐτὸς φησὶ πατέρα αὐτοῦ εἶναι, φαίνεται κακώσας, καθυφεῖς καὶ προδοὺς ἐξ ὧν ἐκεῖνος μείζων καὶ ἰσχυρότερος ἐγίγνετο. ὅστις οὖν τὸν τε γόνω πατέρα τὸν αὐτοῦ ἔτυπτε καὶ οὐδὲν παρείχε τῶν ἐπιτηδείων, τὸν τε ποιητὸν πατέρα ἀφείλετο ἃ ἦν ὑπάρχοντα ἐκείνω ἀγαθὰ, πῶς οὐ καὶ διὰ τοῦτο κατὰ τὸν τῆς κακώσεως νόμον ἄξιός ἐστι θανάτῳ ζημιωθῆναι; (‘From every standpoint, or so it seems to me, (Agoratos) deserves more than a single death. While he claims to have been <adopted> by the demos, he has plainly maltreated that demos whom he himself calls father, by surrendering and betraying the resources which would have enabled it to grow greater and stronger. So this is a man who struck his own natural father and provided him with none of life’s necessities, and who deprived his adoptive “father” of the goods belonging to him: how, because of this, does he not deserve to be condemned to death, having contravened the law on maltreatment?’). There is no preceding allusion to Agoratos having struck his father Eumares (§64), and that fact might be one reason amongst others to agree with Blass that §91 (quoted here in its entirety) is a late, rhetorical interpolation into the speech. Nevertheless I present it for what it is worth; and see further in footnote 50 below.

(e) Lysias 10.8 (cf. 11.5), in the course of an argument to the effect that juries need to note not words *per se* but their meaning(!), puts the following rhetorical point to the defendant: οὐ γὰρ δήπου, ὦ Θεόμνηστε, εἰ μὲν τις σε εἴποι πατραλοῖαν ἢ μητραλοῖαν, ἠξίους ἂν αὐτὸν ὀφλεῖν σοὶ δίκην, εἰ δὲ τις εἴποι ὡς τὴν τεκοῦσαν ἢ τὸν φυσάντα ἔτυπτες, ὧου ἂν αὐτὸν ἀξίμιον δεῖν εἶναι ὡς οὐδὲν τῶν ἀπορρήτων εἰρηκότα (‘For obviously, Theomnestos, you would not expect to get legal satisfaction from anyone who called you a father-beater or mother-beater, while thinking that if he said you were beating the woman or man who begot

you he should go unpunished because he had not uttered one of the forbidden words’).

(f) Aeschines 1.28: the scrutiny of public speakers (*dokimasia rhētorôn*) denies that role to anyone ‘who beats his father or his mother’ (τὸν πατέρα τύπτων ἢ τὴν μητέρα). For the continuation of this passage see 3.3, under *f*.

### 3.3. *Trephein*.

(a) Aristophanes, *Birds* 1353-57. During the scene mentioned above (3.2, at *b*) Peisthetairos speaks as follows: ἀλλ’ ἔστιν ἡμῖν τοῖσιν ὄρνισιν νόμος | παλαιὸς ἐν ταῖς τῶν πελαργῶν κύρβεσιν· ἐπὴν ὁ πατήρ ὁ πελαργὸς ἐκπετησίμους | πάντας ποιήσῃ τοὺς πελαργιδέας τρέφων, | δεῖ τοὺς νεοττοὺς τὸν πατέρα πάλιν τρέφειν (‘but with us birds there is an ancient law on the *kyrbeis* of the storks: “when the father stork has reared and made all the young storks able to fly, the chicks must in turn support their father” ’). It is generally (and plausibly) supposed that this wording, notably *kyrbeis*, is chosen to assimilate the storks’ law to the laws of Drakon and Solon.

(b) Lysias 24.6: ἐμοὶ γὰρ ὁ μὲν πατήρ κατέλιπεν οὐδέν, τὴν δὲ μητέρα τελευτήσασαν πέπαυμαι τρέφων τρίτον ἔτος τουτί, παῖδες δέ μοι οὐπω εἰσὶν οἱ με θεραπεύσουσι (‘For my father left me nothing, and I have stopped supporting my mother only when she died, two years ago, and I have as yet no sons who will take care of *me*’).

(c) Xenophon, *Memorabilia* 2.2.13: quoted already (under 2.5.2); and see also 3.4, at *b*.

(d) Demosthenes 24.107: Timokrates is ‘defiling the laws that protect old age, the ones which compel *paides* to support their *goneis* while they are alive, and when they die, ensure that they receive the customary observances’ (τοὺς τῷ γήρᾳ βοηθοὺς λυμáινει, οἱ καὶ ζῶντας ἀναγκάζουσι τοὺς παῖδας τοὺς γονέας τρέφειν, καὶ ἐπειδὴν ἀποθάνωσιν, ὅπως τῶν νομιζομένων τύχῳσι, παρασκευάζουσιν). Shortly beforehand, §103 has invoked a putatively Solonian stipulation that anyone convicted of *kakôsis goneôn* who enters the agora shall be imprisoned, while §105 purports to quote a legislative miscellany which

(*inter alia*) sets out the procedural underpinning and aftermath of the arrest.

(*e*) Aeschines 1.13: καὶ μὴ ἐπάναγκες εἶναι τῷ παιδί ἡβήσαντι τρέφειν τὸν πατέρα μηδὲ οἴκησιν παρέχειν, ὅς ἂν ἐκμισθωθῆ ἔταιρεῖν ('(the law) exempts a son, when he has become adult, from the necessity to support or house a father who has hired him out as an escort'). He must, however, still bury him: see 3.4, at *d*.

(*f*) Aeschines 1.28: the scope of the *dokimasia rhētorôn* in respect of a father or mother (see 3.2, at *f*) also covers anyone 'not supporting or providing a home' (μὴ τρέφων ἢ μὴ παρέχων οἴκησιν).

(*g*) Dinarchus 2.8: καὶ τίς ὑμῶν οὐ πολλάκις ἀκήκοεν, ὅτι Κυδιμάχου μὲν τοῦ πατρὸς τοῦ Ἀριστογείτονος θανάτου καταγνωσθέντος καὶ φυγόντος ἐκ ταύτης τῆς πόλεως ὁ χρήστος οὗτος υἱὸς περιεῖδε τὸν αὐτοῦ πατέρα καὶ ζῶντα τῶν ἀναγκαίων σπανίζοντα καὶ τελευτήσαντα οὐ τυχόντα τῶν νομίμων, ἅπερ αὐτοῦ πολλάκις κατεμαρτυρεῖτο ('And which of you has not often heard that after Kydimachos, Aristogeiton's father, had been condemned to death and had fled from this city, this admirable son allowed his own father both to go short of life's necessities while he was alive and go without the customary observances once he was dead'). Further references to Aristogeiton's neglect of his father, both *ante* and *post mortem*, come at §§11, 14, 18 and 20.

(*h*) Plutarch, *Solon* 22.1: νόμον ἔγραψεν υἱῷ τρέφειν τὸν πατέρα μὴ διδαξάμενον τέχνην ἐπάναγκες μὴ εἶναι ('he enacted a law (saying) that it was not to be compulsory for a son to support his father if (the father) had not taught him a skill').

### 3.4. *Thaptein*.

(*a*) Lysias 31.21: in making the arrangements for her burial, Philon's mother paid a man (Antiphanes) who was not even a relative — passing over her own son in the belief that he would not perform what was required of him (τὰ δέοντα).

(*b*) Xenophon, *Memorabilia* 2.2.13: quoted already (under 2.5.2); and see also 3.3, at *c*.

(c) Demosthenes 24.107: see already under 3.3, at *d*.

(*d*) Aeschines 1.13-14: a father who has prostituted his son forfeits the right to be supported during his lifetime (see 3.3, at *e*), ‘but when he dies (the son) is to bury him and perform the other customary observances. Observe, men of Athens, how finely (thought-out this is). While the father is alive it deprives him of the benefit of his fatherhood [...] but when he has died — once he is not aware of the benefits he is receiving, and what is being honoured is law and religion — then the son must bury him and perform the other customary observances’ (ἀποθανόντα δὲ θαπτέτω καὶ τᾶλλα ποιείτω τὰ νομιζόμενα. σκέψασθε δὴ, ὡς καλῶς, ὧ ἄνδρες Ἀθηναῖοι. ζῶντος μὲν αὐτοῦ ἀφαιρεῖται τὴν ὄνησιν τῆς παιδοποιίας, [...] τελευτήσαντα δὲ αὐτόν, ἥνικα ὁ μὲν εὐεργετούμενος οὐκ αἰσθάνεται ὧν εἶ πάσχει, τιμᾶται δὲ ὁ νόμος καὶ τὸ θεῖον, θάπτειν ἤδη κελεύει καὶ τᾶλλα ποιεῖν τὰ νομιζόμενα).

(*e*) Demosthenes 57.70: τοὺς ἐννέα ἄρχοντας ἀνακρίνετε, εἰ γονέας εἶ ποιοῦσιν. ἐγὼ δὲ τοῦ μὲν πατρὸς ὀρφανὸς κατελείφθην, τὴν δὲ μητέρ’ ἱκετεύω ὑμᾶς καὶ ἀντιβολῶ διὰ τοῦτον τὸν ἀγῶν’ ἀπόδοτέ μοι θάψαι εἰς τὰ πατρῶα μνήματα (‘You ask the nine archons at their preliminary hearing whether they treat their *goneis* well. For my part, I was left orphaned as regards my father, but in respect of my mother I beg and beseech you: through this trial give me back the right to bury her amongst the ancestral monuments’). On the archons’ *dokimasia* see also Xen. *Mem.* 2.2.13 (= *b* above), Din. 2.17 and especially Aristotle, *Ath. Pol.* 55.3 for the full set of questions asked. They begin with questions about the identity of the candidate’s father and mother and, for each parent, their fathers; nevertheless, given the weight of countervailing evidence adduced here, that fact should not affect one’s understanding of the subsequent question γονέας εἰ εἶ ποιεῖ.

(*f*) Lycurgus, *Against Leocrates* 147: Leocrates is guilty of maltreatment of *tokeis*<sup>32</sup> ‘by effacing their memorials and depriving them of the customary observances’ (τὰ μνημεῖα αὐτῶν ἀφανίζων καὶ τῶν νομίμων ἀποστερῶν). For this passage see already the discussion at the end of section 2.5.1. It appears to pick up §§136-7 on the bronze statue of the defendant’s father, but note also §144, where, in a far-fetched rhetorical conceit, it is all Athenians of an older generation to whom Leocrates has

<sup>32</sup> For *tokeis* see above, at n.19, and the Appendix.

denied both sustenance in old age (γηροτροφηθῆναι) and burial at home (ἐν ἐλευθέρῳ ἐδάφει τῆς πατρίδος...ταφῆναι).

(g) Dinarchus 2.8 has been quoted already (3.3, at g), and Aristogeiton's abuse of Kydimachos *post mortem* is emphasised again in §18: 'for instead of "treating his *goneis* well" this man has treated his own father badly: when you were all on military service, this man was in prison; and far from being able to point to any memorial of his father, Athenians, he did not even, after his father had died in Eretria, perform the customary observances for him there' (ἀντὶ μὲν γὰρ τοῦ γονέας εὖ ποιεῖν κακῶς οὗτος τὸν ἑαυτοῦ πατέρα πεποίηκεν· ὅτε δ' ὑμεῖς ἐστρατεύσθε πάντες, οὗτος ἦν ἐν τῷ δεσμοτηρίῳ· τοσοῦτον δ' ἀπολέλοιπε τοῦ πατρὸς μνήματι ἔχειν, ᾧ Ἀθηναῖοι, δεῖξαι, ὥστ' οὐδ' ἐν Ἐρετρίᾳ τοῦ πατρὸς αὐτοῦ τελευτήσαντος ἐκεῖ τὰ νομιζόμενα ἐποίησεν αὐτῷ).

4. Besides incidental points of note, the evidence adduced in section 3 has corroborated the principal finding of section 2. The overwhelmingly dominant meaning of *goneis* in Athenian law (and perception) is parents.<sup>33</sup> Why then do Wyse,<sup>34</sup> Lipsius,<sup>35</sup> Thalheim,<sup>36</sup> Harrison,<sup>37</sup> Lacey,<sup>38</sup> MacDowell,<sup>39</sup> Garland,<sup>40</sup> Golden<sup>41</sup> and Rhodes,<sup>42</sup> amongst

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<sup>33</sup> Though this study has confined itself almost entirely to Athens, one may note in passing that there is every reason to suppose that the same was true elsewhere too. For example, Lene Rubinstein has drawn my attention to a relevant document (dating from the late fourth or early third century) from Delphi, published by L.Lerat in *RPh* 69 (1943) 62-86, and as it little-known — not in any of the Delphian corpora, or on the PHI epigraphy CD-ROM — it merits a mention here. A decree is passed to inscribe 'the law concerning one's *goneis*', τὸν νόμ[ον]...περὶ τῶν γονέων, and this is immediately glossed with the phrase 'whoever does not support his father and his mother', [ὅστ]ις καὶ μὴ τρέφῃ τὸν πατέρα καὶ τὴν μητέρα.

<sup>34</sup> Wyse (1904) 219.

<sup>35</sup> Lipsius (1905-1915) 343.

<sup>36</sup> Thalheim (1919) 1527.

<sup>37</sup> Harrison (1968) 77-8, cf. 131.

<sup>38</sup> Lacey (1968) 290 n.113.

<sup>39</sup> MacDowell (1978) 92.

<sup>40</sup> Garland (1990) 261.

<sup>41</sup> Golden (1990) 137.

<sup>42</sup> Rhodes (1993) 618, 629.

others,<sup>43</sup> all assert that the scope of the Athenian legislation which dealt with maltreatment of *goneis* extended its reach back further than that generation?<sup>44</sup>

When one looks at the sources they cite, what becomes clear is that everything rests on two passages from Isaeus: 8.32, with which my enquiry began, and 1.39, mentioned *en passant* (in section 2.5.3). But neither can bear the inference that has been drawn from it.

The undatable Isaeus 1 is a speech delivered by one of the grandsons of a certain Polyarchos, deceased, whose own son Kleonymos had died intestate. Polyarchos' grandsons, now claiming Kleonymos' estate in competition with various other (and evidently more distant) relatives, are the sons of a sister of Kleonymos. §39 reads as follows:

καὶ εἰ μὲν Πολύαρχος ὁ πατὴρ ὁ Κλεωνύμου, πάππος δ' ἡμέτερος, ζῶν ἐτύγγανε καὶ τῶν ἐπιτηδείων ἐνδεής ὢν, ἢ Κλεώνυμος ἐτελεύτησε θυγατέρας ἀπορούμενας καταλιπών, ἡμεῖς ἂν διὰ τὴν ἀγχιστείαν καὶ τὸν πάππον γηροτροφεῖν ἠναγκαζόμεθα καὶ τὰς Κλεωνύμου θυγατέρας ἢ λαβεῖν αὐτοὶ γυναῖκας ἢ προῖκα ἐπιδιδόντες ἑτέροις ἐκδιδόναι, καὶ ταῦθ' ἡμᾶς καὶ ἡ συγγένεια καὶ οἱ νόμοι καὶ ἡ παρ' ὑμῶν αἰσχύνη ποιεῖν ἠνάγκαζεν ἄν, ἢ ταῖς μεγίσταις ζημίαις καὶ τοῖς ἐσχάτοις ὀνειδέσι περιπεσεῖν

And if Polyarchos, Kleonymos' father and our grandfather, had happened to be alive and in need of the necessities of life, or (if) Kleonymos had died leaving daughters unprovided-for, we would have been compelled by family ties both to support our grandfather's old age and, with Kleonymos' daughters, either to marry them ourselves or provide them with a dowry and find other husbands for them. These are the actions which family ties and the laws and shame in your eyes would have compelled us to

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<sup>43</sup> The most recent editor of the speech, Ferrucci (2005) 190, indicates — by his reference to Harrison (1968) 131-2 on intestate succession — implicit acceptance of the orthodoxy.

<sup>44</sup> For subliminal scepticism, not followed through, see Thomas (1989) 105-6; Rubinstein (1993) 64 n.3. Amongst those who pass over the matter without discussion (of this point): Bonner and Smith (1938) 103; Finley (1981) 167; Carey (1989) 194-5; Todd (1993) 107; Hunter (1994) 111 with n.30, 125; Fisher (2001) 137, 159-60; Avotins (2004) 462; Edwards (2007) 133, 142.

take, or else incur the greatest punishments and the ultimate disgrace.

As Rubinstein observes, these two hypothetical situations camouflage the fact that Athenian law evidently did not prescribe such a duty of care *vis-à-vis* Kleonymos himself, who as the uncle of the speaker and his brothers was merely their collateral relative.<sup>45</sup> Instead, in a speech which as a whole shows an experienced logographer striving to disguise a weak case,<sup>46</sup> §39 patently sets out to conflate legal requirements — ‘the laws’ are invoked, but none are specified or cited — with moral and social norms. To extract from it the factual conclusion that a failure on the part of Polyarchos’ grandsons to support him would have rendered them liable to prosecution for *κόκωσις γονέων* would have brought a smile of satisfaction to Isaeus’ face as he pocketed his fee, but is surely nonsense.

And so finally back to Isaeus 8.32. In this speech even more than in speech 1, Isaeus is seeking to capitalise on the usually warm relations which existed between grandparents and grandchildren in classical Athens.<sup>47</sup> The very word *pappos* occurs in the second sentence and another 23 times thereafter, which is to say, with four times the frequency of any other surviving speech; the jury has heard it a dozen times before §32 arrives. Personal closeness between Kiron and his grandsons (the speaker and his brother) during the old man’s lifetime is claimed at §§15-17, while §§21-27 describes the beginnings of the

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<sup>45</sup> Rubinstein (1993) 65: ‘[t]he speaker’s point is that, since his family tie with Kleonymos implied that he had certain financial and social obligations to Kleonymos’ father and daughters, it would not be fair to deprive him of Kleonymos’ inheritance. Now, if the speaker could have demonstrated that he would have had a legal obligation to provide for *Kleonymos*’ needs as well, this would obviously have strengthened his argument (cf. Isaios VIII.32). The fact that he does not claim that this was the case, but instead stresses his (hypothetical) obligation to provide for Kleonymos’ father who was also his own grandfather and his (hypothetical) obligations to his daughters (who would have been *ἐπίκλητοι*) points to the conclusion that collaterals were not under any legal obligation to take care of their aged and childless relatives’.

<sup>46</sup> Wyse (1904) 177.

<sup>47</sup> On this topic see generally the evidence and insightful discussion in Golden (1990) 136-140. (It is marred by the standard misinterpretation, as I am arguing it to be, of the present passage (Golden (1990) 137 with n.96), but see further, next note.) For the opposite forensic scenario, a case brought against a grandfather by his daughter’s children, see Lysias 32.



inheritance struggle precipitated by his death, with the unseemly jockeying between rival claimants to take charge of (and pay for) the obsequies. And shortly thereafter comes the argumentation of §31 and §32, quoted at the outset of my study. Just as in 1.39, the court must be persuaded that the claims of a direct descendant outweigh those of a collateral one.<sup>48</sup> So one can readily believe the speaker when he says (§32) that any neglect of Kiron during his lifetime by his nephew would not have rendered the nephew open to prosecution for *κάκωσις γονέων*. What one cannot — should not — believe is the other half of the assertion (made twice in §32): that such neglect *would* have exposed the speaker and his brother, Kiron's grandsons, to that charge.

Laws, whether ancient or modern, must use words which have a commonly-understood meaning; either that or else redefine them if, in context, they are to bear a different meaning.<sup>49</sup> That the Athenian law(s) on *goneis* had attempted such a redefinition is a notion which, in a wide expanse of evidence to the contrary, is confined to Isaeus 8.32. Reminding jurors of what a law had to say was every logographer's stock-in-trade. Inducing the jurors, in a sort of Emperor's New Clothes ploy, to believe that a law meant something other than what it plainly said would be dared only by a master.<sup>50</sup>

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<sup>48</sup> cf. Golden (1990) 138: '[t]he speaker's relationship with Ciron is itself one of the issues in this lawsuit, as is the strength of a grandson's claim in relation to those of other family members. Detail and tone are therefore chosen to convince a jury'. In general terms see also Christ (1998) 201: 'litigants often urge jurors to consider "the law itself"' [he gives examples which could have included Isaeus 8.30, ἐξ ἀδῶν τῶν νόμων, cited at 205]. What they mean, of course, is that jurors should heed *their* rhetorical interpretations of laws'. And see next note.

<sup>49</sup> I acknowledge the fact that '[o]ne of the most notable features of Athenian statutes is that they do not generally define their terms' (Todd (1993) 61). Some scholars, indeed, go well beyond that, to a position which sees the import of all Athenian law as to a greater or lesser extent rhetorically negotiable: so e.g. Cohen (1995) 178; Johnstone (1999) 22-33. For protests against this see e.g. Harris (1994) and Carey (1998). But both sides in this debate would surely agree that in an instance like the present one an everyday noun is being used in an everyday sense.

<sup>50</sup> The same scholars who accept from Isaeus 8.32 the idea that *κάκωσις γονέων* covered ascendants prior to parents tend to accept also, from Lysias 13.91, that it covered adoptive parents. (For this see explicitly e.g. Lipsius (1905-1915) 343; Thalheim (1919) 1527.) Unfortunately the textual credentials of the passage —

Appendix: *tokeis* in classical prose

Reviewing Forman (1897), Sandys (1900) listed various passages in Lycurgus where emendations — cogent ones, in his view — had been adopted in Blass’s 1899 Teubner edition of that orator but had passed unmentioned by Forman. And Sandys also took the opportunity to add one of his own: γονέων for the transmitted τοκέων in *Against Leocrates* 147. Leocrates, the jury is urged there, should be deemed guilty of several very serious crimes: treason (προδοσίας μὲν ὅτι τὴν πόλιν ἐγκαταλιπὼν τοῖς πολεμίοις ὑποχείριον ἐποίησε), counter-revolution (δήμου δὲ καταλύσεως ὅτι οὐχ ὑπέμεινε τὸν ὑπὲρ τῆς ἐλευθερίας κίνδυνον), impiety (ἀσεβείας δ’ ὅτι τοῦ τὰ τεμένη τέμνεσθαι καὶ τοὺς νεῶς κατασκάπτεσθαι τὸ καθ’ ἑαυτὸν γέγονεν αἴτιος), maltreatment of parents (τοκέων δὲ κακώσεως [ὅτι] τὰ μνημεία αὐτῶν ἀφανίζων καὶ τῶν νομίμων ἀποστερῶν), and military desertion and dereliction (λιποταξίου δὲ καὶ ἀστρατείας οὐ παρασχὼν τὸ σῶμα τάξαι τοῖς στρατηγοῖς).

Sandys’ reason for making this change was that *tokeis* is a ‘poetic word’ for parents; and he observed that he had ‘made the same suggestion in [Dem.] 35 §48; in both passages it may be supported by κάκωσις γονέων in Aristotle’s *Const. of Athens* 56 §6 and οἱ περὶ τῶν γονέων νόμοι in Dem. 39 §33’. In fact ‘the same suggestion in [Dem.] 35 §48’ — which states, as transmitted, that the eponymous archon has charge of cases ἐπικλήρων καὶ ὀρφανῶν καὶ τῶν τοκέων — goes much further back in the nineteenth century than Sandys:<sup>51</sup> to Peter Paul Dobree (1782-1825). In his OCT of Demosthenes, Rennie printed τοκέων at 35.48, adding in the apparatus: ‘γονέων Dobree, recte puto, sed cf. Lyc. §147’. Likewise, Blass’s successor (1970) as Teubner editor of Lycurgus, N.C. Conomis, noted Sandys’ γονέων there but declined to adopt it.

The situation, then, is that the transmitted τοκέων in these two passages from lawcourt speeches delivered in Athens during the third quarter of

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quoted in section 3.2, at *d* — have been questioned. My opinion is that, even if it is authentic, it is another palpable item of special pleading, but I leave to others the factual question of whether this protection extended to adoptive *goneis*. (For rare instances of grandfathers who adopted their grandsons see Wyse (1904) 617.)

<sup>51</sup> Sandys in Paley (1896) 79.

the fourth century<sup>52</sup> might be regarded as mutually corroborative of each other except on the view that the word is so intolerable in such a context that it demands to be emended (to γονέων) in both places. So was Sandys justified in characterising τοκεύς as (*sc.* exclusively) poetic vocabulary?

That the word is not alien to classical prose *per se* is plain to see from the fact that it appears eight times in Herodotus: 1.5.2, 1.122.3, 1.137.2, 2.35.4, 3.52.5, 4.5.1,<sup>53</sup> 4.114.2, 4.114.5. (He uses γονεύς on eight other occasions — 1.91.1, 1.146.2, 2.43.2, 3.38.4, 3.109.2, 4.26.1, 5.6.1, 6.61.3 — and it would be uphill work to argue that, for him, there was any across-the-board difference in connotation or tone.) But one should note also, and more importantly for present purposes, the following instances in other writers:

(a) Gorgias fr.6 DK (from his Funeral Speech): the Athenian war-dead are, *inter alia*, ‘devout towards their *tokeis* in their solicitude’ (ὄσιοι...πρὸς τοὺς τοκέας τῇ θεραπέῳ).

(b) Gorgias fr.11a DK (from the *Defence of Palamedes*): the word *tokeis* is used three times in emotive treatments of salvation *vs.* betrayal, right *vs.* wrong (3, σώζει πατρίδα, τοκέας, τὴν πᾶσαν Ἑλλάδα; 19, προὐδίδουν ἑμαυτὸν, τοκέας, φίλους, κτλ; 36, εἰς ἐμὲ καὶ τοὺς τοκέας τοὺς ἐμοὺς ἀμαρτήσεσθε δικάσαντες ἀδίκως).

(c) Thucydides 2.44.1: Pericles in the Funeral Speech declares that he will encourage rather than mourn for any *tokeis* of the war-dead who are in his audience (τοὺς τῶνδε νῦν τοκέας, ὅσοι πάρεστε, οὐκ ὀλοφύρομαι μᾶλλον ἢ παραμυθήσομαι).

(d) Lysias 2.75: near the close of another Funeral Speech, purportedly relating to the Corinthian War, it is asserted that the only way to return *charis* to the dead is to hold their *tokeis* in the same esteem as they did (εἰ τοὺς...τοκέας αὐτῶν ὁμοίως ὥσπερ ἐκεῖνοι περὶ πολλοῦ ποιούμεθα).

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<sup>52</sup> Lycurgus, *Against Leocrates*, was delivered early in 331, seven years after the Chaeronea crisis to which it relates. Speech 35, *Against Lacritus’ Special Plea*, in the Demosthenic corpus belongs between 355 and 338, perhaps in the 340s; see Isager and Hansen (1975) 169-170; MacDowell (2004) 130-131.

<sup>53</sup> But see n.57 below.

(e) Xenophon, *Memorabilia* 2.1.33 (= Prodicus fr.2 DK; Stobaeus, *Florilegium* 3.1.205B): the story, credited to an *epideixis* by the sophist Prodicus of Ceos, of Heracles' choice between *Arete* and *Kakia* ends with *Arete* (who has been chosen) addressing the hero as 'o son of fine *tokeis*' (ὦ παῖ τοκέων ἀγαθῶν).

(f) Xenophon, *Cynegeticus* 13.17: the conclusion of this treatise in praise of hunting avers that the young who follow its advice will be 'fine to *tokeis* and to the whole of their own polis' (τοκεῦσιν ἀγαθοὶ καὶ πάση τῇ ἑαυτῶν πόλει).

What emerges from these passages is that *τοκεύς* is a perfectly suitable choice of vocabulary for epideictic oratory, particularly a *logos epitaphios* (a, c, d),<sup>54</sup> and, by extension, for any prose writing which seeks a similarly elevated, "poetic" effect.<sup>55</sup> Why the logographer responsible for Demosthenes 35.48<sup>56</sup> might have wanted to create such an effect is unclear, and the possibility that he actually wrote γονέων should not, accordingly, be discounted.<sup>57</sup> But Lycurgus, *Against Leocrates* — described by a recent translator as containing 'a lengthy civics lesson about the importance of patriotism and respect for one's parents and ancestors'<sup>58</sup> — is another matter altogether. Irrespective of the fact that the actual wording of the law to which Lycurgus is so

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<sup>54</sup> I say 'suitable' choice rather than mandatory one because sometimes in this same genre γονεύς is the word chosen: so in Plato, *Menexenus* 239D, 247B, 248D, 249C; Demosth. 60. 16, 29, 32.

<sup>55</sup> Passage *e* represents a particular problem (flagged up, indeed, at *Mem.* 2.1.34 itself): there can be no certainty whether the words used, including *tokeis*, were used by Prodicus or Xenophon. In any case the dactylic παῖ τοκέων ἀγαθῶν might well be a quotation from poetry; cf. Plato, *Republic* 390C, quoting φίλους λήθοντε τοκήας from Homer, *Iliad* 14.296.

<sup>56</sup> Sandys, as we have seen, was sure that this individual was not Demosthenes himself. Others, more reasonably in my view, merely incline to this position; so e.g., most recently, MacDowell (2004) 15.

<sup>57</sup> On the potentiality for confusion between Γ and T and between N and K in Greek uncial script see summarily West (1973) 25. I have not made a comprehensive search for actual manuscript discrepancies between *τοκεύς* and *γονεύς* but there is an instance in Herodotus 4.5.1.

<sup>58</sup> E.M. Harris in Worthington et al (2001) 160. Note also Usher (1999) 328: 'a rich and triumphant marriage of epideictic and forensic rhetoric [...] its debt to earlier oratory in both genres is always apparent'.

hyperbolically alluding was more prosaic,<sup>59</sup> no reader of (or listener to) the speech could be surprised or offended by encountering the phrase *τοκέων κάκωσις* at this near-climactic stage of it.

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<sup>59</sup> That the Athenian law(s) about the protection of parents did use the word *goneis*, not *tokeis*, is beyond question. Besides the two passages invoked by Sandys (Demosth. 39.33; ?Aristot. *Ath.Pol.* 56.6) see e.g. Andoc. 1.74; Isae. 8.32; Demosth. 24. 60, 103, 105, 107; Hyp. *Eux.* 6; Din. 2.17-18.

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