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SANCTIONS IN SACRED LAWS

The sanctions found in Greek sacred laws are a neglected topic. I know of only one treatment, Robert Parker's essay, 'What are Sacred Laws?' published only two years ago.¹ As the question mark in Parker's title implies, one reason for the neglect of this topic is uncertainty about sacred laws. No other field in Greek law has witnessed so many collections with so few definitions of what the collections contain.² Let me begin by pointing out difficulties in the phrase, 'sacred laws'. One difficulty, a familiar one, lies in the term 'law'. To address this difficulty, let me summarize the view of the legal anthropologist Pospisil, who described laws in such a way as to accommodate ancient and illiterate societies as well as modern and literate ones. A law, he said, had four features: it was generally applicable, it was enforceable by some one, it described rights and duties, and it contained sanctions.³ To these I would add that it provides some procedure by which to impose these sanctions. As applied to a typical Greek 'sacred law' about sacrifice at some shrine, such a law would apply to all worshippers, the polis controlling the shrine would enforce it, it would describe worshippers' rights and duties, and it would contain sanctions against worshippers who did not carry out their duties. The procedure would be for the priest to levy a fine, or perhaps bar the worshipper.

A second difficulty concerns the other word in the phrase, 'sacred laws'. 'Sacred' might be thought to differ from 'secular' or 'profane', so that religious laws would form one corpus, and secular laws another. This is not true of the Greek laws under consideration. The typical law, one issued by a polis, would not differ from other laws issued by the same polis save for its subject, *ta hiera*, or religious matters. In this paper I shall thus refer to laws about religious matters as opposed to other matters, or, for brevity's sake, to 'religious regulations'. (To stress the difference

¹ Parker (2005) reprised at (2006) 63. Henrichs (2003) does not discuss the nature of sacred laws in his discussion of regulations at 42-5. I thank the members of Symposium 2007 for their criticisms of this essay, most especially Martin Dreher, the respondent, but also Jean-Pierre Bertrand, Michael Gagarin, Douglas MacDowell, Lene Rubinstein, and Gerhard Thür. Several corrections are due to these criticisms. I owe more to Edward Harris, the host for Symposium 2007. He read two drafts of this piece, and his essay 'Antigone the Lawyer, or the Ambiguities of Nomos' (2006) was the starting point for this attempt to coordinate divine and human responses to violations of the law.

² Most recently, Lupu (2005).

³ Pospisil (1971) 44-78, whose description I applied to regulation of supplication in Naiden (2006a).

between these regulations and bodies of law like canon law, I eschew the term ‘law’. I also wish to avoid comparison between these regulations and ‘unwritten laws’, *agraphoi nomoi*. The Greeks thought these laws to be of divine origin, whereas regulations were of human origin.) For the most part, evidence will come from the late Archaic and Classical Period.

A third difficulty arises even with this phrasing. To return again to a typical law or regulation, the polis issues it. Some regulations, though, come not from the polis but from some part of it, like a deme, but carry the same authority. Still other regulations come from some organization that the polis acknowledges, like a phratry or a society, but these laws do not carry the same authority. Further attention will show, I think, that regulations of this third kind mostly lack sanctions. They are not laws in Pospisil’s sense, or laws according to some definitions other than Pospisil’s.⁴ Accordingly, I shall refer to them as by-laws. Just as corporate by-laws differ from national or local laws, these by-laws differ from regulations of the polis or of demes. Yet another relevant category is that of personal instructions to perform rituals. These, too, differ from polis regulations.

This last distinction points to a conclusion advanced by Parker in his essay, one that I endorse. Many regulations about religious matters, or supposed regulations about these matters, lack sanctions; by the standard of Pospisil, they are not truly laws. Parker goes on to argue that they are ‘recorded conventions, (they) derive from exegetical tradition, (their) aim is to advise, and (they) lack sanctions and procedures for enforcement’. To sum up these regulations in Parker’s own phrase, they are ‘black-tie rules’.⁵ In contrast, other regulations about religious matters are just that, regulations, they derive from legislation, and they aim to coerce. In one way, though, regulations passed by an assembly and by-laws or personal instructions are alike. Obedience to all of them is taken for granted. Social solidarity in the archaic and classical polis accounts for this obedience.

This view has much to recommend it. It fastens on the cardinal fact that sanctions are rare, and that on this score many laws found in the familiar collections merit scepticism. It also recognizes similarities between polis regulations and by-laws and personal instructions. I would nonetheless propose a different explanation for this cardinal fact and for these similarities. Sanctions are rare because the community includes them only with regard to those practices on which it has staked its own survival or well-being, or the well-being of an important shrine. If the community is not at risk in these regards, it will not resort to sanctions. It will issue instructions, but it will leave the consequences of not following those instructions to the individuals or groups whom it is addressing. The reason for issuing sanctions

⁴ E.g., Gagarin (1986) ch. 1, with refs.

⁵ Parker (2005) 65, 62. Henrichs (2003) 52 anticipates this idea, but without using any summarizing phrase. Parker *ibid.* cites the observations of Seyrig (1927) 197-8, on laws seeking to prevent mistakes by worshippers. Cf. W.V. Harris (1989) 83 holding that regulations had little effect on religious practices.

where survival or well-being are at stake, and the reason for letting individuals and groups look after themselves, are one and the same. Any ritual subject to a regulation, by-law, or instruction can go wrong. It can fail, meaning to say that it will not appease the god being addressed. That, as I have argued elsewhere, and shall argue briefly today, is a neglected feature of Greek rituals, notably sacrifice, the most regulated ritual. Since rituals can fail, the community will wish to make sure that the most important rituals do not in fact fail, and it will issue sanctions that deter any conduct that will cause such a failure.⁶ As for other, less important rituals, including those performed by individuals and groups, failure is a problem for them, not for the community. It is, however, a problem – more of a problem than Parker or others have acknowledged. As Lysias says, the impious must pay a price to both gods and men.⁷

Let us begin with the Andanian Mystery Law, a 91 BCE redaction of a fourth-century law. The law begins with an oath that the priests and priestesses must swear that they will insure that the Mysteries take place ‘in a way suitable for the goddess, and justly’, and that they ‘do nothing improper or unjust that would invalidate the Mysteries’.⁸ Those who do not swear the oath must pay a fine of 1,000 drachmas and find someone to replace them. Those who do swear are obliged to carry out the numerous provisions of this, the longest extant Greek law relating to a single ritual or festival. A college of ten magistrates chose the priests and priestesses and swore the same oath (sec. 25). Among other officials, five treasurers were liable to pay double damages in case of any malfeasance, plus a fine of 1,000 drachmas. Those who meddled with the finances of the Mysteries through assembly resolutions were liable to pay 2,000 drachmas (sec. 11). *Rhabdophoroi*, or sergeants at arms, could whip those who prevented the Mysteries from proceeding properly (sec. 10). The college of ten told them whom to punish (sec. 25). They themselves could be punished by the priests (sec. 10). All these sanctions concerned the Mysteries. Sanctions for crimes unrelated to the Mysteries, but occurring at the same time, also appear in the law. They were perhaps more severe than sanctions for these crimes when committed at other times.⁹

Here we have many sanctions, and a clear reason for them: the Mysteries at Andania were central to the traditions that the Messenians developed in order to justify an independent Messenian polis after 371 BCE. The community’s survival,

⁶ Naiden (2006b).

⁷ Lys. 6.10, paraphrasing Pericles at Th. 2.37.2. Other views: Parker (2005) 66 with W.V. Harris as above; earlier, Hirzel (1902).

⁸ *Syll.* 736 sec. 1. Save where textual issues require it, references to inscriptions are to collections as abbreviated in *LSJ*, plus familiar recent collections as abbreviated at the PHI epigraphical website. Unless otherwise indicated, all inscriptions date from the Archaic or Classical Periods.

⁹ All these passages are noted by Harter-Uibopuu (2002) *passim*.

or to be precise, its supposed revival, was at stake.¹⁰ If we discount these traditions, we can still say that the political integrity of the community was at stake, in a word, that its well-being was at stake. This is no less true of the sections of the regulations dealing with finances. These sections concern the well-being of the great shrine.

Other regulations cover all the rituals performed in a single location, including a regulation of the Amphictyons in charge of the shrine of Delphic Apollo. The Amphictyons vote to impose a fine of 30 staters on any *hieromnēmōn*, or ambassador, who does not perform his duties, and if he does not pay the fine they will 'deny access to the shrine and make war against the city from which he comes'.¹¹ The threat underscores the point that not all regulations about religious matters entirely or mostly lack sanctions. Once again the reason for the sanctions is clear: the well-being of a great shrine is at stake.

Along with the issue of survival may come that of jurisdiction. When the Spartan King Agesilaus went to Aulis in Boeotia and tried to perform a sacrifice in imitation of Agamemnon, Theban magistrates prevented him, saying that it was illegal for a foreigner to sacrifice except under certain conditions, and Agesilaus gave way. Although the Spartans thought otherwise, the issue here is a regulation (or perhaps a local rule) that forbade sacrifices of this description.¹² The priest on the spot must have protested, then summoned magistrates. They informed Agesilaus of the regulation or rule and obstructed him. Given his standing, this is a severe response. And it is comprehensible: if Boeotia were to lose some of its jurisdiction to Sparta, it might lose its independence, too. Its survival would supposedly be at stake.

In other cases, a regulation forbids foreigners from sacrificing at all. Another king of Sparta, Cleomenes, discovered this at Argos, but he was at the head of so formidable an army that no magistrate came to the aid of the protesting priestess.¹³ Other regulations of this type must have been numerous, even if few survive.¹⁴ One feature of these regulations is that they sometimes ban persons of a given ethnic group, such as Dorians, and not all foreigners. In these instances, the concern is not with the jurisdiction of one polis, but with ties among all those poleis whose citizens are allowed to sacrifice. The concern, in other words, is regional or federal. This concern also animates *agōgimos* clauses issued by the Delphic Amphictyons. One of these clauses compels poleis to arrest persons charged with misuse of sacred property and remand them to Delphi.¹⁵

Several regulations explain the reason for these varied sanctions. As a second-century BCE regulation from Astypalaea says, 'in the future everything regarding

¹⁰ A short account: Deshours (2006) 55-8 with refs.

¹¹ *Syll.* 145. sec. 4; so also *FD* 3.77.

¹² Paus. 3.9.4, Plut. *Ages.* 6.6; X. *HG* 3.5.5.

¹³ *Hdt.* 6.81-2.

¹⁴ *Rhabdophoroi*: as above. Other instances: *LGS* 95; *Syll.* 981, with a fine for temple staff.

¹⁵ *FD* III 4.539.39-45.

honors given to the god (Dionysus) should be the very best', and adds that anyone who does not sacrifice on time 'will be accursed, and the prytanes will fine him besides'.¹⁶ The same reasoning inspires an Athenian law punishing officials who do not get the Panathenaic procession off on time.¹⁷ The god may have indicated 'what is best' through an oracle, as in Herodotus, where Apollo made it clear to the Aeginetans that their first offering to him after Plataea was not all it should have been.¹⁸ They responded by making a second, better offering. Or the god may set standards by forbidding some practice, as in an Athenian dedication in which Pan 'forbids' anything 'dyed or colored'.¹⁹ The polis would wish to carry out these instructions in order to avoid the rejection experienced by the Greeks on the occasion of their first sacrifice after Plataea. I have shown elsewhere that rejection of offerings, especially of sacrifice, was not so uncommon that a polis could ignore the possibility. Instead the polis would try to prevent it. In Herodotus, Cleomenes' attempt to sacrifice at Argos, which met with no opposition from any magistrates, met with opposition from the goddess of the temple, who shot fire at him and drove him away. Another Spartan leader, Cleombrotus, attempted sacrificial extispicy, but met with a solar eclipse instead.²⁰ In Pausanias, the Athenians found themselves rejected at Delphi after one of their citizens failed to pay a fine to the Amphictyons.²¹ These are all crucial instances. Once rejected, Cleomenes will go mad. Cleombrotus will lead his army backward, not forward, and the Athenians will find themselves deprived of access to the Delphic oracle.

With motives such as these, communities sometimes impose severe sanctions. The Arcadians imposed the death penalty on women who fell foul of Demeter by not dedicating brightly colored clothing.²² In this case, we do not know why the community felt its survival or well-being was at stake, but in another case of capital punishment, we do. Athenians imposed the death penalty (or later exile) for cutting down olive trees sacred to Athena.²³ These trees were offshoots of her gift to the community when she competed with Poseidon in order to become its protector, and proper treatment of this multiplied gift ranked with proper performance of important rituals. In the Persian Wars, the goddess had used her sacred olive to encourage the people at a crucial juncture.²⁴

We have already noticed heavy fines; the heaviest would seem to be a talent, imposed for violation of an oath sworn by delegates from Heraea and neighboring

¹⁶ *LSS* 83.5-7, 10-4.

¹⁷ *Syll.* 271.31-5.

¹⁸ *Hdt.* 8.122.

¹⁹ *SEG* 36.267, from the Roman era.

²⁰ *Hdt.* 6.81-2, 9.10.3.

²¹ *Paus.* 5.21.5.

²² *SEG* 11.1112

²³ Death: *Arist. Ath.* 60.2. Later exile: *Lys.* 7.3, 32.

²⁴ *Hdt.* 8.55.

Elis.²⁵ This is a treaty that makes the oath the express subject of the agreement. Here again we know the reason for the severe sanction: the treaty was vital for these two intermittent enemies. The second heaviest fine is 2,000 staters imposed as a fine for misconduct in the shrine of Ptoan Apollo.²⁶ (Here for a second time we do not know the reason for the severe sanction.)

Another punishment was to bar the miscreant from the shrine. The Andanian Mystery law forbade *rhabdophoroi* who broke the law from being initiated. Regulations prohibiting foreigners from participating in rituals fall into this category also. So do regulations preventing violators from incubating in shrines of Asclepius.²⁷ Some of these regulations are obscure, like the two already noticed. In such cases, we face the danger of arguing backwards: if the punishment is severe, the ritual must be important to the community's survival or well-being. For the most part, however, regulations with severe sanctions concern rituals or shrines that are important for other reasons, as at Andania and Delphi.

In contrast, hardly any religious regulations compel the performance of a ritual and then impose severe sanctions for failure to comply. The Erythrae decree, for one, imposes heavy fines on councilors who do not swear the requisite oath to Athens, but I know of only one other example.²⁸ This lack of examples contrasts with the Roman attempt to compel Christians to attend pagan sacrifices, as attested in the *Libelli* of the Decian Persecution, and from later, similar attempts in the medieval period. The distinction between Greek antiquity and these later periods underscores the limits of the sanctions in the religious regulations. These sanctions do not attempt to incorporate individuals into a congregation. They only attempt to protect a community against the consequences of individual misconduct. The concern of these sanctions is to keep favor with immortals, not to build solidarity with mortals. On the contrary, religious regulations call on mortals to police one another. One regulation calls on priestesses to fine worshippers and on worshippers to bring suits against priestesses.²⁹

When smaller groups or individuals issue by-laws and instructions on comparable topics, they do not avail themselves of any such sanctions. This is not because the same fear of rejection does not obtain. It does. A first-century CE inscription from a stele establishing the worship of a minor god, Men *tyrannos*, alludes to this fear, saying 'if anyone tries to force his way in, his sacrifice will be unacceptable to the god'. The inscription goes on to prescribe a ritual by which the offender may regain his standing, but warns, 'If anyone causes trouble or is officious, he will find himself in the wrong when it comes to Men *tyrannos*, whom

²⁵ *Syll.* 9.

²⁶ *IG VII* 4135.20-3.

²⁷ *SEG* 44.505, where the fine is perhaps for not performing a sacrifice.

²⁸ *Syll.* 41.30-1, 64.34-6.

²⁹ *SEG* 1.344.30-36

he will not be able to mollify'.³⁰ Since an individual establishing a local cult lacks the power to impose any sanctions, he makes do with these admonitions. If an individual uses legal language as well, this is a *façon de parler*, as in a funerary stele in which any person violating the instructions on the stele should be 'liable to the imperial treasury', that is, *hypeuthynon*, because he has 'committed impiety against the gods of the underworld'.³¹ More common is the assertion that it is *ou themis*, not acceptable according to sacred rights, to violate the instructions given on the stele, as in a Neapolitan inscription forbidding the burial of another woman in the same spot as the author's daughter, and adding, 'a strong curse upon him'.³² These instructions accompanied by the warning *ou themis* appear eight times in Sokolowski, but not once does a sanction accompany them. The fear of the gods that inspires the community to impose sanctions inspires the individual to issue warnings. We have come as far as we can from regulations such as the Andanian inscription.

Sometimes, though, a person or group has the backing of the community, such as the priest of Zeus *Phratrios* who, acting in accordance with some unmentioned decree, set up a stele including the instructions that 'the phratriarch will pass judgment in whatever cases come up each year, and if he does not, he will pay 500 drachmas to the priest of Zeus *Phratrios*. The priest (and anyone who wishes to prosecute?) will collect the money'.³³ This example is Athenian, and so is another in which the community provides for sacrifices at a shrine run by *orgeōnes* or guild members. These sacrifices must all occur at and not beside the altar, the motive being, as above, that the sacrifices be conducted as well as possible. Otherwise some fine will be levied. But the *orgeōnes*, not the community or communal officials, will control the money.³⁴ In these cases the community has lent some of its power to subordinate groups. But only some: the fines are lower and capital punishment is out of the question. The reason is that the stakes are lower. The *orgeōnes*' relations with their goddess are less important to the community than the community's relation with Athena, relations secured by safeguarding the sacred olive trees.³⁵

In other circumstances, it makes no difference whether those who might impose sanctions are the community, a group, or individuals. The stakes are too low, and so the rules of conduct for shrines contain the same warnings as issued by individuals. One such circumstance is forbidding access to shrines. These, however,

³⁰ *LSCG* 55.8-10, 15-7.

³¹ *IGRR* 4.1082.5-10, 15-8, from the Imperial period.

³² *I. Napoli* 2.94, 2.126 ter. Parker (2005) 65-6 gives other examples; for him these are 'recorded conventions'.

³³ *IG* II² 1237a.46-50.

³⁴ *IG* II² 1361.7-11.

³⁵ Or a subordinate group could divide responsibility with the community. In a by-law for the cult of Isis in Athens, there are penalties expressed in an unknown number of drachmas for unknown but minor offenses, but if the offenses merit a severe response, the temple staff may appeal to the council of Athens and the *archōn basileus* (*LSCG* 50.4-10).

are not cases where forbidding access is matter of civic survival or well-being. The god of the shrine in question has his wishes, and the person or persons publishing the rule choose to give any who would worship this god fair warning. The warning often contains the phrase *hauton aitiasthai*, 'let it be on the violator's conscience'.³⁶ The phrase *hauton aitiasthai* should not be underestimated. It does not mean that punishment is impossible. It only means that the god will see to it, not the community or others. If, however, the violator of the instruction is a slave, one community thought the matter was now different. So a polis in Pontus issued this regulation: 'Let no foreigner go inside the perimeter (of the shrine) without a guardian. If he is caught doing otherwise and he is a slave, let him be whipped and put up for sale, but let a free person have it on his own conscience'.³⁷ In this case, the community sees to the punishment, the same as in more serious circumstances in which survival is at stake. Indirectly, its survival is at stake this time also. The violation of religious regulations by slaves might lead to their violating other regulations. The Andanian Mystery Law, far-reaching as it is, contains a similar clause.³⁸

In some instances, the community making the regulation is not looking not to its own survival or well-being, but to the income or convenience of the priest whom it regulates and often has appointed. Other times, it is trying to prevent cumulative and not immediate harm to a shrine, sometimes harm resulting from the misappropriation of natural resources. In these cases, the penalty is usually payment of a small fine.

First, fines imposed in the interest of priests. On Cos, those who do not give privileged portions to the priest must pay him and the inscription adds that the priest can collect the money by legal process.³⁹ Such fines of course were common. The community was bound to let the priest or priestess keep some of the fines that he or she collected.

Second, fines to prevent cumulative harm. For the nuisance of having animals in a shrine where they were not wanted, Ialysus imposed a fine of one obol.⁴⁰ For nuisances committed on Acropolis, Athens was a little more severe: three obols for causing nuisances by putting pots in doorways or against walls and also for boiling meat between the temple and the great altar or behind the temple or along the Hecatompedon. Dung left by a worshipper's beast of burden drew the same fine.⁴¹ More serious offenses were not nuisances, but instances of negligence that would do worse harm. Structures on the Acropolis needed to remain sound, and so priests who failed to inspect them on schedule faced fines of two drachmas. But this fine was

³⁶ *ITralles* 245; *SEG* 26.1225; *LSAM* 85; Reinach (1906) n. 17; *IEph* 1520; *SB* 8.9669.

³⁷ *St. Pont.* 3.278.

³⁸ Sec. 15.

³⁹ *LSCG* 161a.20-4.

⁴⁰ *LSCG* 136.30-3.

⁴¹ *LSCG* 3.5-11.

small compared to the danger and damage that would result from riding on horseback through the Acropolis, crowded as it was with dedications and people, and so Athens charged a fine of 100 drachmas for this offense.⁴²

Third, fines to prevent the misappropriation of resources; these fines sometimes are not small. For some unknown reason, Cos fined those cutting sacred cypress wood the large sum of 1,000 drachmas.⁴³ Several Athenian regulations are easier to interpret. One prohibited cutting stone from the Pelargic rock at the foot of the Acropolis, imposing a fine of 500 drachmas for violators, and two others prohibited taking wood from sacred groves.⁴⁴ The one of these two that included a fine provided 50 drachmas if a free person took the wood, and a whipping if a slave took it, the same distinction noticed above. These fines seem modest, especially compared to the death penalty for damaging sacred olive trees in Attica. The contrast arises from the relation between the two kinds of plants and important rituals. The olive, to repeat, was a gift from Athena, one that played a role of good omen during the Persian wars. The wood in the grove of Apollo *Erithaseos*, a minor manifestation of this god, fell under the protection not of the Athenians *tout court*, but the priest acting 'on his own behalf, that of his fellow demesmen, and that of the Athenian people'.⁴⁵ He held the same subordinate position as the priest of Zeus *Phratrios*. By the reckoning of a community that reveres the gods, but not the ecosystem, his wood is worth less.

A fine of 50 drachmas, and still more one of one obol, may seem small enough to amount to a fee, not a fine, and one regulation, also concerning the misappropriation of natural resources, deals with both fees and fines, and does not draw a strong distinction between them. Both odd yet brief, it may be quoted in full: 'And let them sacrifice to the Nymphs according to the prophecy from Pythian (Apollo). Those who drink from the Salt Springs should pay an obol yearly to the shrine of the Nymphs. Those who do not pay the obol must not drink from the spring. If they insist, they must pay a fine of five drachmas. If any one takes or draws water without paying an obol, he owes for each amphora's worth'.⁴⁶ The fine amounts to an additional fee for late payment. Yet the form given to this additional fee is that of a regulation. The source, as often, is an oracle; the occasion is a ritual; and the small sanction tacitly acknowledges that the community is not at stake, only the relation between the worshipper and the goddesses. And, as before, there is no notion of conserving the resource as opposed to honoring the god. Those who draw water by the amphora may continue to do so, provided that they pay the Nymphs.

The examples cited so far come from numerous communities, and point to a caveat with respect to any classification of sanctions in religious regulations: no two

⁴² Ibid. 21-2, 14-7.

⁴³ *LSCG* 150. 3-4.

⁴⁴ *IG* I³ 78a.55-59; *IG* II² 1362, especially ll. 7-15; 1177.17-21.

⁴⁵ Ibid. ll. 2-7, quoted by Parker (2005) 58-9 as an example of 'rare and striking style'.

⁴⁶ *IG* I³ 256.

communities place the same value on the same rituals. In some shrines, foreigners could not participate in rites, and would be expelled if they tried; on Amorgos, a foreigner's participating in a rite was a trivial enough matter that a priest who failed to prevent it paid a fine of ten drachmas. In Athens, some olive trees were sacrosanct. In groves elsewhere, cutting wood was subject to fines from 1,000 drachmas down to 50. Xerxes should have stormed these places, not the Acropolis where Athena's olive defied the worst he could do.

Xerxes committed the crime of *asebeia*. The relation between this crime and sanctions in religious regulations is the remaining topic I wish to discuss. The first problem, as with religious regulations, is one of definition. The wording of the Athenian (or any other) law of *asebeia* is unknown to us. How broad was it?⁴⁷ It evidently forbade some offenses also addressed by religious regulations, but how many? The greater the overlap, the more often matters covered by the religious regulations would be subject to the sanctions found in the law of *asebeia*, and the less true it would be that, for the most part, these matters were not subject to sanctions. The smaller the overlap, the less often these matters would be subject to sanctions. The smaller the overlap, in other words, the better, both for Parker's notion of black-tie rules, and for my notion of a ladder of regulations, some enforced by the community, others enforced only by gods in their dealings with individual worshippers or small groups.⁴⁸

Several inscriptions from outside Athens shed light on this question. The Arcadian inscription that provides capital punishment for the woman who offends Demeter, says that the magistrate who fails to deal with her commits *asebeia* as well as owing 30 drachmas. At Ialysus, those who paid their obol for letting in animals committed the same crime. At Astypalaea, those who did not parade on time were subject to a curse and liable to an unstated fine.⁴⁹ These three regulations in effect draw the sting from *asebeia* by imposing a fine. Regulations from Lindus and Miletus also collect fines from those guilty of *asebeia*.⁵⁰ Among these regulations, that of Astypalaea is especially revealing: to commit *asebeia* and to be cursed are interchangeable, meaning that the community collects the money and leaves further action to the gods. But this division of responsibility, one consistent with Parker's views, is not the whole story. A trial for *asebeia* must have awaited those failing to

⁴⁷ For example, did it cover the offense committed by Megacles during the Cylonian conspiracy, as thought by Wolff (1945)?

⁴⁸ A short and selective bibliography on *asebeia*, which has received far more attention than sanctions in 'sacred laws': Lipsius (1905-15) 2.1.359, noting the lack of any citation of the text of any law; Derenne (1930) 12, anticipating the view to be set forth immediately below; Rudhardt (1960); Cohen (1988), making the point that *asebeia* is typically and normally a matter of attitudes as well as conduct, but in a different sense than the sense below. Another stream of scholarship regards *asebeia* trials as political trials: see most recently O'Sullivan (1997).

⁴⁹ Ll. 12-4 as above; so also *LSCG* 118.31-6.

⁵⁰ *LSS* 90.88-91, 117-2; *LSAM* 53.25-8.

pay the fine, as Lene Rubinstein pointed out in a comment on Parker's essay. *Asebeia* occurs when the errant worshipper does not acknowledge his error. It may well have been severely punished.⁵¹

Attitudes matter. It is not, however, an attitude of impiety that matters. Willful defiance of the law matters.⁵² The regulation from Cos illustrates this difference. As noted, it provided for a charge of *asebeia* and a fine, but made the charge depend on the purpose of the accused. If he was conducting public business, he would be exempt. The notion is the same: any crime of *asebeia* comprehends defiance of the law.⁵³ To translate *asebeia* as 'impiety' is thus misleading. In these instances, 'failure to defer to the authorities' is a better translation. These authorities include the gods and the laws of the polis, no distinction being drawn between them. The gods, after all, supposedly inspire religious regulations, notably by way of oracles such as the one that dealt with the shrine of the Nymphs.⁵⁴

This survey of sanctions in religious regulations of the Archaic and Classical Periods has several consequences. The first is that Greek religion is not permissive. There are no black-tie rules, only rules enforced by god rather than man, or by some men rather than the community. Second, Greek religion can be bureaucratic without being subject to experts. In the texts of polis regulations and corporate by-laws, at least, there is no role allotted to experts like the *exegetai* of Athens.⁵⁵ There is a role allotted to priests and other public officials.

The third, tentative conclusion concerns the relation between regulations having sanctions and the law of *asebeia*. Outside of Athens, the two are complementary. The regulations having sanctions mark the first response to improper conduct, and the law of *asebeia* marks the second, presumably sterner response. This is not to say that other situations are not possible. Some convictions for *asebeia* may have had nothing to do with any regulations having sanctions. Some convictions of this kind, moreover, may have led to capital punishment. It would be wrong to suggest that outside Athens the response to religious crimes was always or even typically mild.

⁵¹ Parker (2005) n. 30.

⁵² For the same point about attitudes and conduct in acts of supplication, see Naiden (2006a) ch. 6; for the same point about purification, Chaniotis (1997) 156-58. The general legal parallel: balance between considerations of procedure and considerations of substance in Greek law, for which see E.M. Harris (2006) XVII, XXVII-XXIX, and the subsequent essays in the volume.

⁵³ This regulation also contains the unusual notion of '*asebeia* against the shrine', which should mean that the act of *asebeia* did not affect the accused otherwise, and would accordingly not be grave (*LSCG* 150a.5-7). Perhaps it meant that he would be banned from that shrine and not others. A different view of most of these inscriptions: Parker (2005) 65.

⁵⁴ The topic of A. and I. Petrović (2006).

⁵⁵ A conclusion consistent with *Lys.* 6.10, which says that *exegetai* give advice in conformity with unwritten, not written laws.

Inside Athens, however, only one regulation fits the pattern for elsewhere in Greece, and it dates from 37 BCE.⁵⁶ This difference suggests that in Athens the relation between regulations and the law of *asebeia* was not the same as elsewhere. What was it? In this connection, the case of Socrates is a tempting one to revisit. Everyone will remember the charges: thinking that the gods of the community do not exist, introducing new gods, and corrupting the youth. Once again, *asebeia* concerns attitudes, but not an attitude of defiance towards a religious regulation. Instead it concerns defiance towards the gods themselves. Attitudes aside, it concerns another offense, corrupting the youth.

Against these charges, Socrates' defenders, especially Xenophon, make the usual defense, which is that the defendant never broke a regulation regarding a ritual. In that sense, he was not guilty. Had he been guilty, he presumably would have paid any fine, for his attitude was unimpeachable. Should that not have been the end of the matter? Socrates had honored the gods and he had obeyed the laws: he was a paragon, and deserved the free meals that he impudently said would be an appropriate punishment if he were convicted. But the answer to our question is that this defense was irrelevant to the charges of atheism and corruption of the youth. Neither of these charges was a matter of disobeying regulations. The accusers of Socrates were attacking his philosophy and his pedagogy, matters well beyond any regulations. These matters also went well beyond some other Athenian *asebeia* cases, such as the mutilation of the Herms or the profanation of the Mysteries, both of which concerned rituals and the like.

Did the accusers venture beyond the bounds of the law of Athens? To repeat, we do not know what the law of *asebeia* was, and so I shall not answer this question.⁵⁷ But I think that their prosecution against Socrates would have been impossible in most if not all other Greek communities. In these communities, the law of *asebeia* conformed to the spirit of numerous regulations of rituals. This spirit – the gods first, the community second, and the individual last – has been the topic of this paper.

⁵⁶ LSCG 50a.5-7.

⁵⁷ No: Rudhardt (1960). No regarding the corruption of the young: Havelock (1986) 4-5, developed by Robb (2006). Yes: MacDowell (1978) 200-02, and also holding that the trial of Socrates was perhaps 'political'.

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