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SLAVERY AND LAWLESSNESS IN SOLONIAN ATHENS ¹

ABSTRACT: Scholars who use institutional and legal terminology to analyze the Athenian lawgiver Solon's attempts to end civil strife in Athens may be relying on anachronistic modern categories that distort both the true condition of Attica and Solon's actions. Rather than reforming existing legal institutions, his extant verses rather demonstrate that Solon had to deal with unrestrained lawlessness throughout archaic Attica, including rampant slavery that occurred without the decision of a magistrate or a formal sale. The intimidation and hands-on violence of strong-men in the countryside placed their victims into positions of personal bondage, debt-slavery, exile or life in the underground. Although Solon understands several forms of such slavery, he sees a common root – *hybris* – and common cure: *Eunomia*, a condition of good order both in the *polis* and in each man. The problems in Athens could not be corrected by reforming the laws and institutions, but only by creating the cultural climate in which his fellows would subordinate their personal and traditional prerogatives to just, written laws.

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EARLY ATHENS: «LIKE A PACK OF HOUNDS»

After attaining the office of chief archon in 594 B.C., the lawgiver Solon made no one happy. He faced the ire of his fellows, and was forced to defend himself and his actions, in an apology that is preserved as poem 36:

- 1 ἐγὼ δὲ τῶν μὲν οὐνεκα ξυνήγαγον
 δῆμον, τί τούτων πρὶν τυχεῖν ἐπαυσάμην;
 συμμαρτυροῖη ταῦτ' ἄν ἐν δίκῃ Χρόνου
 μήτηρ μεγίστη δαιμόνων Ὀλυμπίων
 ἄριστα, Γῆ μέλαινα, τῆς ἐγὼ ποτε
 6 ὄρους ἀνειῖλον πολλαχῆ πεπηγότας,
 πρόσθεν δὲ δουλεύουσα, νῦν ἐλευθέρη.
 πολλοὺς δ' Ἀθήνας πατρίδ' ἐς θεόκτιτον
 ἀνήγαγον πραθέντας, ἄλλον ἐκδίκως,
 ἄλλον δικαίως, τοὺς δ' ἀναγκαίης ὑπὸ
 11 χρειοῦς φυγόντας, γλῶσσαν οὐκετ' Ἀττικὴν
 ἰέντας, ὡς δὴ πολλαχῆ πλανωμένους·
 τοὺς δ' ἐνθάδ' αὐτοῦ δουλίην ἀεικέα
 ἔχοντας, ἦθη δεσποτέων τρομεομένους,
 ἐλευθέρους ἔθηκα. (Solon fr. 36.1-15)²

I brought the people together for these reasons,
 How did I stop before I accomplished them?
 In the court of Time these things will be witnessed
 by the testimony of the great mother of the Olympian
 gods, the Black Earth, from whom I drew
 up the boundary stones stuck in everywhere;
 earlier she was enslaved, now she is free.
 Many men I brought up to their divinely-founded
 fatherland, men sold, one illegally,
 another legally, and others fleeing
 by forcible necessity, no longer speaking an Attic-tongue,
 as men wandering everywhere;
 and others holding a shameful slavery,
 now trembling before their masters,
 I set them free

² All fragments of Solon are according to M.L. West, *Iambi et Elegi Graeci ante Alexandrum Cantati*, II (Sandpiper edn), Oxford 1998. Translations are the author's, based on D.E. Gerber, *Greek Elegiac Poetry*, Cambridge (MA) - London 1999. Poem 36 is preserved in the Aristotelian *Athenaion Politeia*, 12.4.

Solon brought the people together into some kind of common order, under a sense of law and justice that was incompatible with the hubristic pursuit of personal wealth through slavery. Commentators and translators have usually interpreted ἐκδίκως, and δικαίως (lines 10 and 11) in legal terms: slavery according to, or contrary to, law³. My translation follows this convention, using modern terminology, in order to express the idea that Solon condemned the enslavement of Attic-speaking men whether legal or illegal, since he knew that their enslavement was wrong in either case⁴. Solon certainly understood that slavery could result from a decision taken with regard to law, as well as from one that was taken without such regard. But a problem arises if the categories of legal and illegal are considered to be exhaustive, and that legal decisions were derived from stable institutions in Attica. This would imply that the conceptual and institutional foundations for the rule of law existed in archaic Athens, and that matters such as slavery were understood in terms similar to modern legal jargon. Given this premise, Solon's job would be to reform the existing laws and institutions so that all such slavery would be illegal. In fact, Solon speaks of no such institutions. He asks his fellows to restrain themselves in ways that suggest their lack of an understanding that law and justice should trump their personal prerogatives in Athens. His is a moral project – one based upon a certain sense of right and wrong – that sets out to establish (or rejuvenate) a proper idea of the law, and to ground it on a deeper sense of justice⁵.

³ E.g., E.K. Anhalt, *Solon the Singer*, Lanham (MD) 1993, translates «one according to law, another contrary to law»; K. von Fritz - E. Kapp, *Aristotle's Constitution of Athens and Related Texts*, New York 1974; W.J. Woodhouse, *Solon the Liberator: A Study of the Agrarian Problem in Attica in the Seventh Century*, Oxford 1938. In their Loeb editions, J.M. Edmonds, *Elegy and Iambus*, Cambridge (MA) 1931, and H. Rackham *et al.*, *The Athenian Constitution*, Cambridge (MA) 1935 (repr. 1981), translated the passage «justly/unjustly», which does not make clear whether Solon is speaking on a legal or a moral level. J.M. Moore, *Aristotle and Xenophon on Democracy and Oligarchy*, London 1983, follows. N.G.L. Hammond, *Land Tenure in Athens and Solon's Seisachtheia*, «JHS» 81 (1961), pp. 76-98, translates «some legally, others unjustly». I. Linforth, *Solon the Athenian*, Berkeley 1919, p. 187, has «legally» and «illegally»; see note 11 below.

⁴ Gerber, *Greek* cit. translates «one legally / another not».

⁵ I appreciate the accurate and penetrating comment of Professor, and Jurist, Alberto Maffi to the first draft of this paper, in which he said that «In your opinion Solon is a mirror of the conflict between different conceptions of the law; in my opinion of a conflict between the right use and abuse of law».

This paper will maintain that conceptual distinctions between legal and moral standards of action, and the presence of legal and political institutions needed to enforce the laws, were at best nascent in archaic Athens. Solon had to establish – or re-energize – the foundations of the *polis* at a far deeper level than written laws and institutions. To consider this, a vital question is whether Solon has an institutional – or proto-institutional – view of the *polis* at all. What is Solon’s basic attitude toward his fellows and toward Athens? Does he see the *polis* in terms of institutional relationships, interactions between groups, or even a Marxist «class struggle» that he must reform? Or does he see his *polis* as particular men interacting, disputing and even enslaving one another, under a variety of auspices? Is the *polis* primarily a group of individuals, at times a mob, or does it have defined institutions that Solon could reform? What is the basis for Solon’s understanding; is it legal and political categories, or rather on some other aspect of human life?

For Solon the ultimate source of the problems in the *polis* is transparent. His verses decry the *hybris* of bad-thinking men as the cancer that leads to excess, war, civil strife and slavery; the failings of particular men spread across the entire *polis* and leave no one exempt⁶. Indeed Solon sees a chain that reaches from a man’s internal flawed mental state, incited by the presence of material wealth that he cannot control, thorough his rapacious desire for unearned gain, to arrogant assaults on others, and finally to civil strife, war and slavery in the *polis*⁷. Solon’s view of Athens is a mob of vicious men, each striving for each others’s loot. Consider Solon’s metaphor of the wolf, fragment 36.26-27, his position as a mediator in fragment 34,

⁶ J. Lewis, *The Intellectual Context of Solon’s Dike*, «Polis» 8 (2001), pp. 3-26, for passages from the following fragments: 4, 5, 11, 13, 34, 36 and 37. Words such as δῆμος and passages including terms such as ἀγαθός and δειλός do not appear in contexts that support abstract «class» interpretations.

⁷ Fragment 6:

For excess (*koros*) breeds *hybris*, whenever great wealth follows
a man whose disposition (*noos*) is flawed.

Fragment 4.5-8:

But the citizens themselves by their foolishness are willing
to destroy the great city, persuaded by material goods,
and the disposition (*noos*) of the people’s leaders is unjust; they are about
to suffer many pains from great *hybris*.

and his description of himself as a boundary stone in a no-man's land, 37.9-10:

τῶν οὐνεκ' ἄλκην πάντοθεν ποιέομενος
ὡς ἐν κυσὶν πολλῆσιν ἐστράφην λύκος (Solon 36.26-27)

On account of these things, making a defense in all directions,
I stood, as a wolf among many hounds

οἱ δ' ἐφ' ἄρπαγῆσιν ἦλθον· ἐλπίδ' εἶχον ἀφνεήν,
κἀδόκ[ε]ρον ἕκαστος αὐτῶν ὄλβον εὐρήσειν πολύν,
καί με κωτίλλοντα λείως τραχὺν ἐκφανεῖν νόον.
χαῦνα μὲν τότε ἐφράσαντο, νῦν δέ μοι χολοῦμενοι
λοξὸν ὀφθαλμοῖς ὀρῶσι πάντες ὥστε δήϊον. (Solon 34.1-5)

They came for plunder, and held hope of riches,
and each of them expected to find much wealth,
and that I, babbling smoothly, would show a rough disposition.
But they spoke foolishly then, and now, angry at me,
they all look askance as upon an enemy.

ἐγὼ δὲ τούτων ὥσπερ ἐν μεταίχμῳ
ὄρος κατέστην (Solon 37.9-10)

But I, as in a no-man's land,
stood, a boundary stone

Solon's metaphor of the wolf at the end of poem 36 may be the quintessential description of unrest in that *polis* and Solon's position in it. He had defended his own actions in this poem, claiming that he will be vindicated in the future for freeing slaves, writing laws and enforcing them alike for all men. In response, his fellows assailed him from all sides, each demanding that he bend the justice in the written laws to match his own desire to prevail in a particular case. This is an image of a mob of vicious animals, each snapping at him and those around him for a piece of the plunder. The opacity of the metaphor clears up if the passage is considered in comparison to real dogs, as well as with other passages in Solon's poems that describe the basic problem in Athens as the rapacity of individual men. The picture here is not of factional – or institutional – strife, but rather of individuals that are unconstrained by any respect for law or

justice, properly understood. That the primary issue is their failure to understand is found in his poem 4, line 9, in which hubristic men «do not understand» (*ou gar epistantai*) how to restrain themselves. It is precisely Solon's job, as a lawgiver who is also a sage, to teach (*didaskein*) them.

In these passages each person acts according to his own short-range desires, and the mob is characterized by the lack of an underlying order beyond grabbing for loot⁸. In fragment 34.1-5, for example, Solon's fellows came to him with hope of plunder, each jockeying for position without regard for the long-range consequences of his actions. He pleased none of them; they all looked at him as if an enemy, regardless of the temporary, range-of-the-moment alliances they made with each other. A similar situation is found in fragment 11.5-6, in which he tells his audience that «you have dreadful slavery» because «each one of you walks in the steps of a fox, but altogether (as a group) you are stupid». On one level this is an orderless mob, and Solon tried to bring them together under a common order defined by justice rather than *hybris*. On another level, each one was driven by an unjust desire for unearned loot, and this is the deeper cause of tyranny and slavery.

Similarly fragment 37 vivifies the civil strife in terms of rapacious men, both rich and poor, who have gathered into a brawl, pushing at him from two sides. Like all disputes there are two sides here, possibly divided into an aristocracy and a *demos*, but perhaps forming up for *ad hoc* reasons akin to the townspeople in the city of peace on Homer's shield of Achilles⁹. Solon's words apply to disputes of any magnitude, whether between two particular opponents, small *ad hoc* gangs, organized factions, or a city divided in terms of wealth, prestige or family loyalties. However, multiply these disputes and the complex loyalties and antagonisms they imply, and the result will be akin to a pack of hounds. The *hybris* in «each one of you» remains the primary cause of injustice in the *polis*, and *hybris* is a crime for any man, rich, poor or otherwise. It transcends catego-

⁸ Solon himself praises himself for being able to think into the future, fragment 32. Fragment 33 parodies someone who would grab tyranny and riches now, even if they lasted for one day only and resulted in destruction tomorrow.

⁹ *Iliad*, 18.502. T.C.W. Stinton, *Solon, Fragment 25*, *JHS* 96 (1976), pp. 159-162, discusses the fragment.

ries and groups. As a lawgiver Solon may have stood literally between feuding individuals and groups, trying to calm the anger of either side¹⁰. It is a matter of interpretation to see the individual hounds surrounding the wolf – or the contestants on either side of the no-man’s land – as single groups, to conceive the groups as rich and poor classes, and to see the solution as a matter of institutional «reform».

The important point here is not to distort the investigation by assuming *a priori* that Solon had an institutionalized or even factionalized view of the *polis*. To implant legal institutions into archaic Athens makes enormous assumptions that may improperly condition our thinking. If we remember that the actions taken in the archaic community are first and foremost the actions of particular men, and that a particular farmer would face demands for his produce, his land or his life from other men, who would enforce those demands through their own actions, then Solon’s «pack of hounds» becomes a very plausible description of Attica. Each member of the pack acted to gain some advantage, forming sympotic friendships, temporary raiding parties and *ad hoc* political alliances to get something from someone else. Certainly bribing a magistrate or a local bigshot to get a desired judgment, knocking down an opponent’s door in the middle of the night, demanding redistribution of property on behalf of the *demos*, and pursuing a debtor running for his life were among the ways a man could fall into an unseemly slavery. This could occur either *dikaïos* – with a judgment that accords with law – or *ekdikos*, but it could also occur completely outside such a framework. In any case, Solon reminds us, it is opposed to a proper conception of justice, and is wrong.

SLAVERY AND LAWLESSNESS

This view of Athens as a pack of hounds does much to help us understand why Solon spends so much time dealing with the *psychic*

¹⁰ N. Loraux, *Solon au milieu de la lice*, in *Aux Origines de l’Héllénisme. La Crète et la Grèce: Hommage à Henri van Effenterre*, Paris 1984, pp. 199-214, sees literal conflict in a public space.

aspects of human life. Slavery occurs when a man's *noos* (mind, or less anachronistically, disposition) is imperfect; the desire for loot leads him to take all kinds of unseemly actions against his fellows, down to claiming their very persons to be slaves. The basic precondition of Good Order (*Eunomia*) in the *polis* is a population that is able and willing to suppress the rising anger that accompanies a dispute, to consider the justice of the situation, and to act calmly (*en hesychiai*) rather than hubristically (*ex hybrios*) towards his fellows. Solon's poem 4, the *Hymn to the City*, lays out the consequences of *hybris* in the *polis*, which includes many poor taken into slavery. Once the foundation of Good Order is established, the people will understand the need to follow just laws, and will be willing to subordinate their own demands to the dictates of justice.

The slavery of Attic-speaking men was a prime symptom of Athens' troubles. Solon shows a sophisticated understanding of slavery, with several different forms and at least three different terms for it. In lines 36.8-15, Solon explicitly describes slavery as occurring in three general ways: ἐκδίκως («illegally»), δικάϊως («legally»), and ἀναγκάϊης ὑπὸ χρεΐτους («from forcible necessity») ¹¹. This is not a dichotomy, but a trichotomy of legal, illegal or extra-legal action. More precisely, it is a series of coercions by men who on the one hand may use a judge to support their claims, or who, on the other hand, may bribe a judge, ignore his decision, or not even bother with such a formality.

These three legal descriptions subsume three conditions for the enslaved. First, many Athenians have been sold (πολλοὺς προθέντας), one man illegally and another legally, at home or abroad,

¹¹ Solon's is the first extant use of ἐκδίκως in extant evidence. For ἐκδίκως/δικαϊως as a legal distinction see Gerber, *Greek* cit., comment; Woodhouse, *Solon* cit., p. 132; M. Gagarin, *Dike in Archaic Greek Thought*, «CPh» 69 (1974) p. 192; V. Ehrenberg, *From Solon to Socrates: Greek History and Civilization during the Fifth and Sixth-Centuries B.C.*, London 1973 (2nd edn), p. 57; E. Havelock, *The Greek Concept of Justice: From its Shadow in Homer to its Substance in Plato*, Cambridge (MA) - London 1978, pp. 251-254; F. Blaise, *Solon Fragment 36W. Pratique et fondation des normes politiques*, «REG» 108 (1995), p. 32. Linforth, *Solon* cit., is instructive: ἐκδίκως/δικαϊως are used «with reminiscence of the primitive meaning of δίκη, the custom of the community. They mean, therefore, "legally" and "illegally", not "deservedly" and "undeservedly"». Solon here expresses no opinion as to the «absolute justice or injustice of selling men into slavery for debt». Strictly true for the passage, but Solon's fundamental claims is that slavery of all kinds is wrong, legal or not.

bound in chains, in 36.8-10 as in 4.23-25. In Solon's own time small raiding parties or gangs, sometimes led by a local person with power (*dynamis*), might terrorize the countryside. Solon makes it clear that he has no intention of trying to subject those with *dynamis* to anything unseemly – although he condemns their *hybris* and the havoc they wreak¹². He indicates that such vigilante actions could occur legally, presumably under a decision sanctioned by a magistrate with a quasi-legal authority, or illegally, against the recognized terms of such judgments. But not every case involved a legal decision, or could be judged as legal or not.

A key term here is *prathentes*, nominally «having been sold». The difficult question here is what «being sold» would mean. The very concept of «ownership» is highly problematic in archaic times; ownership is a claim based on a sophisticated understanding of an unlimited right under law to use and dispose that is more than mere possession¹³. It generally involves an exchange of material goods, possibly but not necessarily money¹⁴. But the general sense – what is central to the idea of «sale» – is that the person of the slave is under the unconditional and unlimited control of the master; the master has a recognized right to use and dispose of the slave, including the right to transfer him to another, without any say by the slave, and with neither time nor terms of manumission attached. This must be distinguished from debt-bondage, in which the servitude is enforced for a period or until the debt is paid. It is probable that Solon eliminated debt slavery, but not debt bondage¹⁵. It is the unconditional, interminable slavery of Attic-speaking men that is our concern here.

At a very early stage, the verbs *περάω* («passing over, esp. Water») and *πέρνημι* («sell») became confused, and often only the context

¹² Fragment 5.3-4.

¹³ Aristotle, *Rhetoric*, 1.5.1361a20. W.W. Cook, writing in the *Encyclopedia of the Social Sciences*, XI, New York 1951, p. 521, participates in the confusion surrounding the concept of ownership: «The assertion that a person owns an object is a summary way of stating that he has an exceedingly complex aggregate of legal rights which relate to the object, and that indirectly all the facts necessary to give him these rights exist».

¹⁴ That «sold» meant for a sum of value: *Iliad*, 17.225 f.; 18.291-292; 21.71-79.

¹⁵ E. Harris, *Did Solon Abolish Debt-Bondage?*, «Classical Quarterly» 52 (2002), 2, pp. 415-35, distinguishes debt-slavery from debt-bondage, provides near-eastern references to varieties of bondage, and argues that debt bondage was not eliminated under Solon.

can determine whether a man has been «sold» or simply been sent overseas by force. An epic precedent is in *Iliad*, 21.34-113, where the story of Lykaon son of king Priam reveals that he has been sold overseas many times¹⁶. In Solon's time, *πραθέντες*, a participle of *πέρνημι*, need not imply sale overseas. The *prathentes* sold *dikaioi* were taken as a permanent possession of another man, who claims their persons as a tool, with no terms of release, and sometimes but not always overseas. Whether by legal principle, or a deviance in the practice, no enforceable decision of a magistrate was available to uphold the freedom of the enslaved.

Second, others may not be sold, but rather flee (τοὺς φυγόντας) from forcible necessity (ἀναγκαίης ὑπὸ χρεῖους), without reference to laws and judges. The exiles overseas no longer speak Attic, which Solon must think cuts them off from a vital aspect of being Athenian¹⁷. They were caught in legal limbo, with no access to a judgement capable of overriding the whims of men able to enslave, they are subject to the hands-on force that follows a late night knock on the door. They live in constant fear of enslavement, and must avoid their opponents to the point of flight if necessary. They are outlaws, if not because there are no legal standards by which to judge their cases, then because the officials or institutions necessary for a remedy are also not available to them.

Of two problems here, one is the nature of the necessity, and the other is identifying the *phygontes*. Both ἀναγκή and χρεῖος are terms with wide meanings. Tandy and Neale, discussing Hesiod's *Works and Days*, refer to Louis Gernet for four basic ideas related to χρεῖος: constraint of a debtor, obligation in which default is punishable, the thing that obligates, and matters of propriety, duty or religious observation¹⁸. The obligation in Solon's passage could refer to a debt

¹⁶ M.M. Willcock, *The Iliad of Homer*, II, Basingstoke - London 1984, comments to 21.40, as also 58, 102 and 454, for the confusion and the various verb forms used.

¹⁷ The enslaved overseas are ἰέντας, «uttering» speech: see comment in D.E. Gerber, *Euterpe: An Anthology of Early Greek Lyric, Elegiac and Iambic Poetry*, Amsterdam 1970. See *Iliad*, 3.152. With γλώσσα: Sophocles, *Electra*, 596; Herodotus, 9.16; Thucydides, 3.112.

¹⁸ D.W. Tandy - W.C. Neale, *Hesiod's Works and Days*, Berkeley - Los Angeles - London 1996, p. 39 f., citing L. Gernet, *The Anthropology of Ancient Greece*, Baltimore 1981, p. 147. Moore's *Aristotle* cit. comment to *Athenaion Politeia*, 12.4 distinguishes

that is understood beforehand; a disputed obligation that was improperly imposed on the victim; or an obligation claimed under a prerogative that is derived from customs¹⁹. Those fleeing are trying to escape a necessity that is imposed by force outside of a legal framework; it is the violence of men who pursue their own prerogatives with their own force. Even if the law said that their debts should not result in slavery, they face such a prospect because their pursuers are acting outside the law. In this case the cause of the slavery is not debts, but rather the forcible necessity of another. Solon had to bring justice to them, not only by correcting the laws, but by providing an institutional means to enforce those laws²⁰. Possibly, then, when Solon claims that he brought back those enslaved overseas and led up those enslaved at home, he means that he established the conditions in Athens where such coercions could be suppressed by the judges. Those who were able to return would be free – but doubtless many did not²¹.

Third, some in Attica suffer from a shameful slavery (36.13-15). Their trembling before the whims of their masters suggests a palpable fear of hands-on, physical force, a psychological attack on their freedom through a threat of force. This was an unseemly sight in Attica. Such men pack their bags and run for their lives, into foreign lands if necessary. In 13.29-30 Solon says that some flee, avoiding the oncoming retribution; they are not literally in chains, else they could not escape, but the threat of chains is real, and they see enough into the future to know what is coming. But ultimately those who have

χρείους, «debts» from χρειοῦς, «dire necessity». P.J. Rhodes, *A Commentary on the Aristotelian Athenaion Politeia*, Oxford 1993, sees the textual problems in the line, accepts χρειοῦς, and concludes that Solon was misunderstood in antiquity also.

¹⁹ T.J. Rihll, *EKTHMOPOI: Partners in Crime?*, «Journal of Hellenic Studies» 111 (1991), p. 121, discusses the passage in terms of slavery at home or abroad. In fragment 13.29, Solon describes one who receives justice now, another who gets it later, and others who flee.

²⁰ This does not imply land redistribution; Solon denounces *ισομοιρία* in fr. 34.9. V.J. Rosivach, *Redistribution of Land in Solon, Fragment 34 West*, «JHS» 112 (1992), pp. 153-157, sees land redistribution as anachronistic to the archaic period.

²¹ Rhodes, *Commentary* cit. comments to 12.4 (= Solon, 36.8-9) that it is not clear how he tracked down and freed all those overseas, and that he must have missed many. However, the point is rather that slavery was now illegal and unenforceable inside Attica, the only place he had control over, and those Attic-speakers who could make it back would enjoy the result.

fled and those who are in slavery are each outside of legal protection, whether formal or informal. Those fleeing in the night from a gang seeking vengeance are as much coerced as those physically hauled before a magistrate and judged – only they are forced underground, *personae non gratae* and in a state of legal non-existence. For Solon, slavery is not limited to the direct application of physical force, but also results from its threatened use.

In her study of ἔκων- words, Gail Ann Rickert has properly classified *anagke* («necessity») passages that do not expressly include the term *bia* («physical force») with passages involving the explicit use of force, if it can be shown that force underlies the necessity²². *Bia* and threats of *bia* are instances of force that are more specific than *anagke*. Solon knows that threats of force can underlie the necessity that compels a man, even when not sanctioned by a decision of an official or an institution. He knows that such threats are real. The men at the meal in poem 4 are associated with force because slavery and chains often result from their actions. His statement of the idea in the metaphor of a meal emphasizes its social aspects while de-emphasizing the formal legal aspects²³.

Those who suffer such extra-legal attacks – those exiled, in hiding or taken perforce – are in a state of servitude that had neither legal status nor name. These latter most of all demonstrate that the scope of slavery was wider than explicit sale or debt-bondage by legal judgment; the essence of the idea of slavery that emerges here is that of hands-on force (or threat of force) from other men, without regard for the laws or legal judgement. They tremble before their masters in a nightmare world from which there is no escape. The solution to such a problem could not be found merely in reforming laws, but would require inculcating the very idea of laws as superior

²² G. Rickert, *EΚΩΝ and AKΩΝ in Early Greek Thought*, Atlanta 1989, pp. 17-34. She shows three categories in which actions occur under *anagke*: first, circumstances of *bia*, meaning force or the threat of hands-on physical coercion; second, «compelling social practices»; and third, «unavoidable prevailing circumstances». Among *anagke* passages with force underlying the necessity Rickert cites *Odyssey*, 22.330-331, 344-353; Herodotus, 9.17.1; Thucydides, 7.57.1-10.

²³ The meal: Solon, 4.9-10. On the metaphor of the meal, Linforth, *Solon* cit., pp. 198-199; Anhalt, *Solon* cit., pp. 79-82, 93; P. Schmitt-Pantel, *La Cité au banquet*, Roma 1992, pp. 36-37; M. Halberstadt, *On Solon's «Eunomia»*, «Classical Weekly» 48 (1955), 15 p. 199.

to personal prerogatives, both as a means of restraining the hubristic and empowering their victims. Long-term preservation of this idea, essentially the rule of law, would depend upon some consistency of practice, through the just decision of magistrates that became institutionalized over time.

Solon's concern for exile by forcible necessity, along with legal and illegal slavery, is evidence that he recognized an unrestrained lawlessness throughout Attica, a lawlessness that was derived from traditional mores that had been twisted into unjust forms, and that created crushing pressures upon powerless men. Various local strongmen, aligned in familial and territorial terms, would have enforced their versions of justice in Attica in terms consistent with their traditional claims to authority, acting as benefactors of others akin to Mafia godfathers, and outside of legal institutions as we know them. Such strongmen could fill a power vacuum, dividing up Attica and extending their influence before they were subordinated to a central political authority²⁴. They could create both an atmosphere of fear all the while claiming to be the protectors of those in fear, a bizarre inversion that is common to Godfather figures.

It is vital to recognize the presence of non-institutionalized slavery in wild and wooly Attica. Regardless of whether a magistrate had offered a decision or ownership had been established, many men had to do what Solon describes in lines 29-31 of poem 13: «One man gets what he deserves right away, another later; some themselves flee (φύγωσιν), and escape the onrushing fate of the immortals, it comes surely sometime». Any analysis that considers slavery only in legal terms is suspect, as is any overly formalized view of institutional authorities in Attica. Solon's problem was not only to change the terms of the laws, but also to rein in those who were enforcing their prerogatives in outlying areas apart from a formal decision, in defi-

²⁴ The regional strongmen described by E. Harris, *A New Solution to the Riddle of the Seisachtheia*, in L. Mitchell - P.J. Rhodes, *The Development of the Polis in Archaic Greece*, New York 1997, pp. 103-112, would have been the most powerful of the Mafia-chiefs described by H. van Wees, *The Mafia of Early Greece: Violent Exploitation in the Seventh and Sixth Centuries BC*, in K. Hopwood (ed.), *Organised Crime in Antiquity*, London 1999, pp. 1-51. V.J. Hunter, *Policing Athens: Social Control in the Attic Lawsuits, 420-320 B.C.*, Princeton 1994, for «social control» outside of formal legal procedures, in the fourth century.

ance of *dike* and proper standards of life in the *polis*. This would require some very unpleasant encounters, when the *polis* began to impose (or re-impose) its authority over Attica, and to make the idea of law real to those outside of Athens. Someone had to enforce these decisions, a vital step towards bringing – or re-establishing – institutionalized justice in Attica.

This strikes to the heart of Solon's project. Even if properly enslaved according to customs, the men of Solon's poem 36 were nonetheless enslaved improperly according to the normative terms of Solon's *eunomia* and his straight *dike*. Solon could have prevented such slavery by defining *dikaïos* in terms of the foundations of *dike* as presented in poem 4, through the written laws of poem 36. But to resolve such injustices, Solon would have to go deeper: to inculcate a basic respect for the law that precludes an action that is opposed to the laws. To write a new law here was not the answer; a man who would disobey an existing law because of a «claimed» ancient prerogative would not follow a new law.

Solon had to establish norms of conduct that would protect the autonomy of the individual farmers and yet not bring shame to those who were glorious in their status and wealth. Solon's *eunomia* would have required him to bring new ideals and institutions in a countryside where only customary prerogatives existed. Not everyone would have accepted this new understanding of *dike*. Solon and his adversaries would have approached this issue from different moral assumptions, and as in any such clash, each side would proclaim the other to be unjust. To the enslavers, Solon might represent the overthrow of legal order and thus an improper challenge to existing prerogatives; they could claim that the slavery was *dikaïos* and that refusing to enforce it threatens the foundations of justice. An exemplar here is Athena in Aeschylus' *Eumenides*, lambasted by the Furies as a «younger god» who is overturning the ancient order in favor of a rational system of deliberation and justice²⁵. But to Solon the Furies have it wrong. The foundations of *dike* must be guarded against the threats of *hybris* from any age, and slavery is the greatest threat of all.

²⁵ Aeschylus, *Eumenides*, 731: ἐπὶ καθιππάξῃ με πρεσβύτιν νέος, «Since thou, a youth, would override mine age». *Aeschylus*, H.W. Smyth (tr.), Cambridge (MA) 1957.

This is also evident in two other types of slavery in his verses: the slavery of the *polis*, and the slavery of the earth. Solon condemns the slavery (*doulosyne*) that befalls the *polis* when hubristic men take over and become tyrants²⁶. The slavery of the *polis* at 4.18 is an aspect of the «inescapable wound» that comes to the entire *polis*; the *demos* falls into the slavery of tyranny by their ignorance at 9.4; and he exhorts to his audience at 11.4 that «you yourselves» hold a dreadful slavery of tyranny, because «each one of you» granted arms to the tyrants²⁷. The people are responsible for their own slavery, because they acted as a group outside the terms of *dike* in the *polis*. Although Solon's audience was not physically in chains, they were subject to the bodyguards they had granted to him²⁸. The end result of tyranny is slavery: hands-on, physical coercion against the entire *polis* by a small clique with bodyguards. Solon ends his description of the corrupted *polis* in poem 4 lines 23-29: many poor are put in chains and sold; the people are given over to *hybris*, they fear the force of other men more than *dike*, and no one escapes the onrushing strife. Solon's answer is Good Order (4.33), which often puts chains on evildoers. This must refer to the enforcement that follows a just legal judgment²⁹.

²⁶ The only secure precedent for *doulosyne* is *Odyssey*, 22.423, where the nurse Eurykleia tells Odysseus that she has trained the women to bear the yoke of service (δουλοσύνην ἀνέχεσθαι). The phrase may mean «to abstain from bed slavery». J. Russo *et al.*, *A Commentary on Homer's Odyssey*, Oxford 1992, comments on *Odyssey*, 22.423: an early meaning of *doulosyne* was «concubinage». *Doulosyne* was chosen; perhaps the women could have lessened their responsibility by not sleeping with the suitors.

²⁷ I read here τύραννου, found in DS 19.1.4, instead of the generally accepted μονάρχου, in Diogenes Laertius, 1.50; Plutarch, *Solon*, 3.6; Diodorus Sikulus, 9.20.2. The fact that we have no defining attestation of μοναρχία prior to Herodotus (1.55.1; 3.80.3; 3.82.3; 3.82.4; 7.154.1) strengthens my hypothesis that the conceptual and institutional preconditions for a concept of μοναρχία distinguished from other forms of constitution were at best implicit in the early sixth century. That a distinction between constitutional types was developing is implied by the sheer volume of political discourse evident, and in Alcaeus, fr. 6a27 μοναρχίαν, fr. 271a5 for μοναρχί[, and Theognis, 51 for μούναρχοι.

²⁸ Fragment 11.3-4 notes that granting them bodyguards made the slavery possible.

²⁹ As for other attributes of Good Order (*Eunomia*), the anger of rapacious conflict that *Eunomia* stops (4.38) is found in particular persons; a *polis* with *Eunomia* has citizens who have controlled their own thoughts and actions and in which conflicts do not spread to envelope all.

The slavery of the earth is the subject of lines 3-7 in poem 36. Solon tore up the boundary stones, and expressed the result as «Black Earth ... earlier enslaved, now free» using a participle of *douleuo* at 36.7. Solon's is the first use of any form of this verb; the passage remains difficult and without definitive interpretation, but it must relate, either directly or metaphorically, to the use of land³⁰. The boundary stones – whether inscribed markers or simply pieces of rock – could be claims against people farming in the marked areas, showing that they owed crops to another (although «mortgage» or conditional sale here remains highly anachronistic and not a valid assumption). The stones could represent attempts by the *demos* to redistribute the land of the aristocracy; claims by the aristocrats against small plot-holders or even sacred areas; or (dubiously) conflicts over border lands between Megara and Athens³¹. Solon would have had to tear up the boundary-stones – real or metaphorical – that divided off the territories and ended someone's freedom. In some way that remains shrouded to us, Solon claims to have eliminated the markers and thereby freed the earth.

What Solon means precisely in these passages is obscure at best. But whatever he intends, the slavery of the *polis* and the slavery of the earth must refer, ultimately, to the hands-on physical coercion of the men of Athens, and the fear this engenders. The *polis* and the earth are enslaved when the people who rightfully live there are forced into permanent subservience to a strong man, or tremble in fear of him. The law as actually used has become either unavailable to them, or outright hostile.

But are Solon's references to the slavery of the *polis* purely metaphorical? Other uses of *δεσπότης* (master) in archaic poetry suggest that this need not necessarily be so. Two fragments of Tyrtaios, in a context preserved by Pausanias, speak of the Messenians as both

³⁰ Liddell, Scott and Jones omits the use by Solon. Harris, *A New Solution* cit. pp. 103-112, disagrees with overly-emphasizing a «land-control» issue in Solon's reforms.

³¹ M.I. Finley, *Studies in Land and Credit in Ancient Athens, 500-200 BC*, New Brunswick 1985 (2nd edn), for economic terms such as *πρῶσις ἐπὶ λύσει*. L.M. L'Homme-Wèry, *La perspective éleusienne dans la politique de Solon*, Geneva 1996, p. 37, sees Solon 36 as based on a war with Megara over Eleusis, with the *horoi* stones defining the boundary, and «freedom» as liberation from foreigners. But this is a Homeric, not a Solonian, conception, and is based upon a historical reconstruction that is unsupported in ancient sources.

subject to the political will of the Spartans, and as their immediate physical slaves³². Pausanias first describes the political and physical destruction of Ithome and other cities, and then the immediate servitude imposed upon the Messenians. The Messenians, according to Tyrtaios,

ὥσπερ ὄνοι μεγάλοις ἄχθεσι τειρόμενοι
 δεσποσύνοισι φέροντες ἀναγκαίης ὑπο λυγρῆς
 ἤμισου παντὸς ὅσον καρπὸν ἄρουρα φέρει (Tyrtaios, 6)

Like asses worn out by heavy burdens, bringing to
 their masters out of grievous necessity half of all the
 produce that the land brings forth

This physical slavery is accompanied by psychological domination, including forced displays of mourning over the deaths of their Spartan masters:

δεσπότης οἰμῶζοντες, ὁμῶς ἄλοχοί τε καὶ αὐτοί,
 εὐτέ τιν' οὐλομένη μοῖρα κίχαι θανάτου. (Tyrtaios, 7)

wailing for their masters, they and their wives alike,
 whenever the baneful lot of death came upon any.

In this brutal world, it is neither easy nor necessarily proper to draw strict distinctions between political and personal slavery, ownership and simple physical bondage, and the legal versus the illegal. Hipponax refers to the physical beatings of a demented master (δεσπότηω βεβροῦ), and Archilochus to the masters of Euboea (δεσπότηαι Εὐβοίης); it is not at all self-evident that either use is metaphorical in archaic Greece, or that political slavery does not mean hands-on, physical servitude under perverted laws, *i.e.*, slavery³³. By forcing the Messenians into bondage the Spartans placed them under the unwritten *nomos* of Spartan life. From their own perspective, the Spartans extended their own political order into the countryside,

³² Tyrtaios, fragments 6 and 7, in Pausanias, 14.4. Text and translations from Gerber *Greek Elegiac* cit.

³³ Hipponax, 40; see Gerber's note for βεβρός as «demented». Archilochus, 3.5. Text and translation from D.E. Gerber, *Greek Iambic Poetry*, Cambridge (MA) 1999.

without regard for the customs or desires of the Messenians, and this made their treatment of the Messenians legal, just and proper. This, to the Spartans, was *Eunomia*³⁴. But from the perspective of the Messenians – and, in fact – this was direct, hands-on slavery. The Messenians were bound to produce sustenance for the purposes of the Spartans, without limits in time or scope, with all the attendant psychological torment this entails. The consequences for the Spartans over centuries would be profound: an obsessive need to prevent revolts, and the growing realization among the other Greeks that the Spartans had unjustly enslaved other Greeks.

There is a profound conflict between the order attributed to Lycurgus and that envisaged by Solon. To Solon, the Spartan order would indeed be *dysnomia*. His job was to establish the foundations of an order for Athens that could reach into Attica, and bring *dike* to its population under written laws that ended the physical and psychological attacks. Solon's exiles fled from those acting «by plunder» (ἀφαρπαγῆ, 4.13, and ἀρπαγῆσιν, 34.1), who had attacked the very foundations of the *polis* and turned every person into a potential target. This language of plunder is akin to what Herodotus said of the Medes, who, with robbery and contempt for the law leading them into *anomia*, had at least enough order to choose a king and achieve *eunomia*³⁵. Taking the prefixes literally, *dysnomia* means «bad order», and *eunomia*, «good order», but *anomia* means «no order at all», a state where men take what they can perforce³⁶. *Anomia* describes a mob that is like a group of armed men, milling about and with rumors flying, on the verge of violence, prior to a commander's calling them to form lines and come to good order. *Dysnomia* rather describes men under the sway of tyrants or slave masters. Rather

³⁴ W. Jaeger, *Solon's Eunomia*, in *Five Essays*, Montreal 1966, p. 95, observes that the root of *Eunomia* is in ideas; «It is found to be associated with the most varied ideas, always depending on what a person considers to be εὖ».

³⁵ Herodotus, 1.97.1: εὐθείας ὄν ἀρπαγῆς καὶ ἀνομίης ἔτι πολλῶ μᾶλλον ἀνὰ τὰς κόμας ἢ πρότερον ἦν.

³⁶ H.J. Erasmus, *Eunomia*, «Acta Classica» 3 (1960), 53-64, p. 58, notes regarding ἀνομία: «... there is no system or rule at all; all men seize what they can». M. Gagarin, *Early Greek Law* (Berkeley 1986), p. 21 n. 8, uses ἀνομία as lawlessness, to indicate behavior that is violent and opposed to *nomos* in the sense of «law and order». Jaeger, *Solon's Eunomia* cit., p. 95 n. 1, sees Solon's *δυσνομία* as a «metrical substitute for ἀνομία».

than rally the people around the latter and call it *Eunomia*, Solon attacked the fundamental injustice of such attacks.

The issue of the political order in Athens is a conceptual issue as well as a matter of social organization. A society is a group of individuals with some terms of interaction; it is neither an ontological entity nor an orderless mob. The relationships and the terms of association between its members are the terms by which a society can be seen as a unity (a *kosmos-polis*). Similarly, it is the lines into which Homer's soldiers form that makes them a military unit (a *kosmos*). Literal *anomia* among men would result in no society at all; with no relationships between people other than animal violence and armed bodyguards, the people would be a mob akin to Solon's pack of hounds. A society cannot descend to a condition of pure *anomia* and remain a society. Thus the antonym for *eunomia* as «good order in the community» is *dysnomia*, «bad order», an opposition that is consistent with Solon's *Eunomia* versus *Dysnomia* distinction. However, on the level of the individual, the antonym of *eunomia* as «good personal conduct» is *anomia* or «lawlessness»³⁷. It is possible for an individual to act with no order at all, beyond the loot of the moment; he is a distinct being, and his «order» is defined as the terms by which he controls himself. Should he act this way, and should his terms come to dominate the society, then his *polis* falls into *Dysnomia*, and he suffers the consequences³⁸.

In poem 4 Solon describes Athens as facing *dysnomia*, not *anomia*; there was an order of a kind, but it was corrupted by the *hybris* in each man³⁹. In this wide sense he was a reformer, but at a level far deeper than laws and institutions. The *dysnomia* in the *polis* was likely the order of Mafia families, with strict prerogatives, status levels, rituals and protocols, but based on a fundamentally unjust and perverted approach to life. Many of Solon's fellows who were enslaving

³⁷ For this distinction see Ostwald, *Nomos* cit., pp. 85-95, who distinguishes the Cyclops, with no order, from Spartan *eunomia*, a form of order that is bad from the Athenian perspective but was considered by many to be good. *Anomia* is «a quality primarily of an individual».

³⁸ Corcyra in Thucydides, 3.81-85, comes closest to complete social *anomia*. N.B. the effects of force on the meanings of words; discourse collapses amidst such violence.

³⁹ Poem 4, lines 30-39, describes *Eunomia* in contrast to *Dysnomia*.

others for offenses against their prerogatives would have thought they were right, and that those who opposed their revenge, like Solon, were wrong⁴⁰. Solon's job was to challenge such men by naming their actions for what they were – slavery – and holding them responsible for the *stasis* in Athens⁴¹. Solon's re-definition of the standards at the base of *polis* life separated the *polis* from the pre-Solonian norms that had enabled men to maintain their claims by force. Going deeper into history, the crisis that had befallen Athens may have been a regression from happier days, and Solon's norms a re-establishment of the better order that had existed earlier. In either case, he clashed with the prerogatives claimed by his fellows, and raised their ire against him.

Solon's statements of the various ways that men have been enslaved describe the physical manifestations of the *dysnomia* that had overtaken Athens; the ultimate blame for this collapse on the *hybris* of each man (his *anomia*) makes a single solution possible. Athens was not in a state of unmitigated chaos during Solon's life, but it was close, and Solon had to lay the groundwork for laws and institutions where few existed. His lasting legacy is generally seen as his laws, which probably existed on the Acropolis up to the time of the Persian wars. But the complete lack of institutional references in Solon's poems – especially as preserved in the Aristotelian *Constitution of the Athenians*, a document that was surely concerned with institutions – as well as the lack of direct transmission, in his fragments, of his laws, suggests that his real legacy is far deeper. His moral exhortations and his descriptions of how the laws connected justice to the *polis* in order to end slavery were a profound presentiment of how the later Athenians would view their *polis* and themselves. It is no accident that Solon came back into vogue, at the end of the fifth-century B.C. and in the middle of the fourth-century, precisely at those times when the Athenians needed to rejuvenate their laws and restrain the assembly. Solon's verses provided a moral ideal by

⁴⁰ Sealey, *The Justice of the Greeks*, Ann Arbor 1994, p. 124: self-help was right; the point was to prevent it from getting out of control.

⁴¹ So it was for Lycurgus in Sparta; M. Ostwald, *Nomos and the Beginnings of Athenian Democracy*, Oxford 1969, pp. 76-79, notes that Lycurgus μετέστησε the Spartan νόμιμα, not κατέστησε: it, too, was changed, not created *ex nihilo*.

which the Athenians could address not only those laws and customs that threatened the *polis*, but also the attitudes and practices that had allowed powerful men to take matters into their own hands.

CONCLUSION

Thucydides observed that early history was characterized by plundering and piracy, occupations that still existed in his own time:

They also raided each other on land, and even now this ancient system prevails in much of Greece, as for example in Western Locris, Aetolia, Acarnania, and the rest of the mainland in that region. Because of those ancient raids, it has remained the practice of these mainlanders to carry weapons.⁴²

Thucydides' idea of what is ancient here is not only temporal. The great contrast between the «ancients» and the people of his own time is the decline in violence in daily life, and the casting off of personal arms in favor of *polis* life. Thucydides states that the Athenians were the first to «throw down the iron», to give up carrying personal arms, but that such practices had not yet reached all areas of Hellas in his own days⁴³. They were surely far less developed nearly two centuries earlier. Solon's own poems are an unparalleled first-hand account from Athens of the ideas behind such developments, from his exhortations to moderation in action to the need to accept the decisions of the magistrates over personal vengeance. A tantalizing but decontextualized fragment may highlight the basic choice involved: ἀρχῶν ἄκουε καὶ δικάϊως κἀδίκως, «hearken to the magistrates, rightly or wrongly», meaning that even if a particular decision seems unpalatable, one must accept it. The alternative is a return to the «ancient» way of life that Thucydides described⁴⁴.

⁴² Thucydides, 1.5.2. Translation by W. Blanco, *Thucydides: The Peloponnesian War*, Norton Critical Edition, New York 1998.

⁴³ Thucydides, 1.6.

⁴⁴ Solon, 30, from Diogones Laertius, 2.99. West, *Iambi* cit., lists two other versions of the maxim, from two later sources.

Slavery is an idea and a practice of enormous antiquity; the identification of it as unjust is a far more recent advancement. Solon's verses may be selectively preserved, but what we have represents enormous strides toward a free and well-ordered *polis*. One should of course not conclude that Solon's ideal was available to everyone in Attica, or that everyone could read his laws. Solon failed to tell us whether he even tried to create the lasting institutions necessary to preserving Athens as a free *polis*, and if he did, they failed to prevent the rise of Pisistratus. Perhaps the birth of stable, rational self-government in Athens should rather be traced to Solon's demand that the Athenians swear to uphold the laws, followed by his own removal from Athens through his self-chosen exile. This may be his way of elevating the laws over his own will and to demonstrate what an orderly *polis* really means. Accounts of such actions – elevated into legendary status for Solon as for many lawgivers – are not inconsistent with his own verses. His words decry attempts by the Athenians to entice him into bending the laws for their immediate personal gain, rather than justly fitting justice to their particular cases through proper laws. It is the right concept of the law that makes the latter possible.