

Interpretation

A JOURNAL OF POLITICAL PHILOSOPHY

Spring 2003

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Moses Dikastes*

JULES GLEICHER

ROCKFORD COLLEGE

This essay continues the enterprise, begun in my “Moses *Politikos*,” of examining various episodes in Moses’ career for lessons on politics. It focuses particularly on Moses’ actions as a judge and on questions of legal reasoning, judicial organization, and juridical process raised by relevant passages from the Biblical books of Exodus, Leviticus, and Numbers. (Because of its peculiar rhetorical character, the book of Deuteronomy warrants separate treatment elsewhere.)

We have but to recall such episodes as Jethro’s visit to the Israelite camp, the apostasy of the Golden Calf, the case of the blaspheming half-breed, and the suit of Zelophehad’s daughters to perceive Moses acting in a judicial capacity, settling disputes between competing parties or enforcing the law against particular transgressors (Exod. 18, 32; Lev. 24:10-23; Num. 27:1-11; 36). The instances in the first half of the book of Exodus, however, have the distinction of being attempts to achieve justice in the absence of law.

I

Practically our first glimpse of Moses as an adult involves three attempts by him to dispense justice between adversaries:

Some time after that, when Moses had grown up, he went out to his kinsfolk [*vayeitzei el-ehav*] and witnessed their labors. He saw an Egyptian beating a Hebrew, one of his kinsmen [*ish-ivri mei'ehav*]. He turned this way and that and, seeing no one about, he struck down the Egyptian and hid him in the sand. When he went out the next day, he found two Hebrews fighting; so he said to the offender [*vayomer larasha*], “Why do you strike your fellow [*lamah sakeh rei'ekha*]?” He retorted, “Who made you chief and ruler over us? Do you mean to kill me as you killed the Egyptian?” Moses was frightened, and thought: Then the matter is known! When

Pharaoh learned of the matter, he sought to kill Moses; but Moses fled from Pharaoh. He arrived in the land of Midian, and sat down beside a well.

Now the priest of Midian had seven daughters. They came to draw water, and filled the troughs to water their father's flock; but shepherds came and drove them off. Moses rose to their defense, and he watered their flock. (Exod. 2:11-17) (Biblical quotations are generally from *Tanakh* 1988.)

There is a kind of comprehensiveness in the three examples, which depict conflicts between, respectively, a Hebrew and a Gentile, two Hebrews, and two groups of Gentiles. None presents any obvious appeal to a specific legal code, be it Egyptian, Hebrew, or Midianite. (It bears remembering that at this point the Israelites have only a very few laws of their own.) All three situations, that is, seem to be measured against some unstated extralegal standard of justice.

The first example seems the most problematic. To state the issue as devil's advocate, just what is wrong about an Egyptian beating a Hebrew? If the Hebrew, a slave, was slacking off in his work, would not his Egyptian taskmaster merely be doing his job by beating him? But the text does not say whether the Hebrew did anything wrong, nor that the Egyptian had specific charge over him. For all we are told, this act could be a random manifestation of the arbitrary power that any member of a master class or nation has over any member of a subject people. The ethnic aspect of the case is what looms large, for this is what apparently motivates Moses. Moses, we recall, has been adopted into the Egyptian royal family (Exod. 2:10), but he either somehow already knows his birth-ethnicity, and so goes out among the Hebrew laborers in order to be with his kinsfolk, or he identifies with them as his kinsmen at the very moment when he witnesses this act of violence. That is, if the first use of the word *ehav* ("his brethren") does not establish his motivation, the second does (Exod. 2:11). But to notice this bias is to acknowledge that Moses is not an impartial judge. Hence, perhaps, the excessiveness of the remedy he imposes: death for an act of assault. Compare this with the *lex talionis* ("law of measure," retributive justice, or punishment in kind) that he later announces at Mount Sinai: "life for life," but only "bruise for bruise" (Exod. 21:23, 25). On the other hand, the practical situation may preclude a more moderate response. To punish the Egyptian with a beating of his own would be publicly to declare himself a partisan of the Hebrews and therefore politically subversive, as Pharaoh aptly concludes when the affair comes to his attention (Exod. 2:15).

The second case arises the very next day. Is the enterprise of doing justice so inherently attractive to Moses, once he embarks upon it, as to be practically irresistible (cf. Exod. 18:13-16)? Moses attempts mediation between the two combatant Hebrews, and, by asking the offender his reasons for striking the other man, begins a process of judicial fact finding. Even though the merits of this dispute may be obvious, it is apparently important to observe due process by allowing the one whom the text identifies as in the wrong (*rasha*) the opportunity to explain himself. Also, Moses' use of the word *rei'ekha* ("your fellow," but also "your neighbor," "your friend," or "your companion") implies a common measure that makes equal justice possible, and implicitly invokes a natural principle of justice: Those who share a fundamental common interest ("fellows") should not fight with each other. All his care, however, seems for naught. His interlocutor raises a jurisdictional objection: Just what is your credential to judge us? And his revelation that Moses' killing of the Egyptian the previous day is public knowledge cuts short the judicial process by rudely intruding the more urgent political concerns implicit in the earlier act.

How does the man happen to know about this prior event anyway? Either he witnessed it himself, notwithstanding Moses' confidence that no-one else was around; or the rescued Hebrew told him, directly or through others; or the offender in the present vignette was himself the rescued man. This third, most interesting, possibility would betoken a measure of ingratitude that not only undermines orderly adjudication but also may explain why Moses, during his subsequent sojourn in Midian, seems never to correct the initial identification that Reuel's daughters make of him as "an Egyptian," so disaffected is he from these ungracious Hebrews (Exod. 2:19; 4:18; Wiesel 1976, 187-189).

The third attempt seems more hopeful, if only because it apparently succeeds. Moses (whether by force or persuasion) assists the Midianite priest's daughters, and they, with some prompting from their father, show him fitting appreciation:

When they returned to their father Reuel, he said, "How is it that you have come back so soon today?" They answered, "An Egyptian rescued us from the shepherds; he even drew water for us and watered the flock." He said to his daughters, "Where is he then? Why did you leave the man? Ask him in to break bread." Moses consented to stay with the man, and he gave Moses his daughter Zipporah as wife. (Exod. 2:18-21)

For all that, we may be hard put to state just what principle Moses' intervention vindicates. Is it the right of first possession or some moral claim that the weaker party may have to receive favored consideration? Moreover, Reuel's surprise at his daughters' early return home suggests that the shepherds' harassment may be a regular fact of life among the Midianites. If so, is Moses' gallant intervention somehow unjust, insofar as it upsets an established local custom?

Taken together, the three brief episodes indicate that judicial process in the absence of written law is possible but problematic. Among its preconditions are respite from the exigencies of bare survival, recognition of the judge's authority, and gratitude for the benefit of fair judgment.

II

Several passages in the extended confrontation between Moses and Pharaoh include the remark that the LORD "hardened Pharaoh's heart," that is, made him unyielding to the repeated demand that he send the Hebrews out of Egypt. This expression has been a source of theological unease, because it seems to compromise the doctrine of free will and to implicate God in the gratuitous suffering and ultimately the death of innocent Egyptians. A modern analogy that may help us to consider this question is the entrapment defense, a legal plea that can acquit someone caught red-handed in the commission of a crime by demonstrating that he was "set up" through excessive police involvement, that the police in effect created the crime for him to commit. Would a fair-minded modern jury acquit Pharaoh because God had entrapped him?

In American law, the entrapment standard was announced by the U. S. Supreme Court in 1932, in the case of *Sorrells v. United States*. A federal prohibition agent posing as a tourist visited Sorrells, who was an innkeeper, gained his confidence through conversation about their common war experiences, then asked for some liquor. After twice refusing, Sorrells complied upon the third request. He was prosecuted for violating the National Prohibition Act. The Supreme Court overturned the conviction, holding that law enforcement officers could not instigate a criminal act by persons "otherwise innocent in order to lure them to its commission and to punish them" (287 U.S., at 448). In a second entrapment case, *Sherman v. United States* (1958), Chief Justice Earl Warren characterized the relevant legal line of demarcation as that between "the trap for the unwary innocent and the

trap for the unwary criminal” (356 U.S., at 372). But in order to determine whether the accused really was “otherwise innocent,” the plea may entail “an appropriate and searching inquiry into [the defendant’s] own conduct and predisposition” (287 U.S., at 451). Thus, in a third case, *United States v. Russell* (1973), where a federal narcotics agent supplied an ingredient needed to produce methamphetamine, the Court nonetheless upheld the conviction because there was evidence that the defendant had other suppliers and was producing the drug on an ongoing basis.

In all these cases a minority of three or four justices expressed dissatisfaction with this “subjective” standard, under which two instances of identical police conduct might be treated differently, depending on the defendant’s state of mind. They argued instead that the relevant inquiry should be the “objective” question of whether the government “instigated the crime,” or “whether the police conduct revealed in the particular case falls below standards. . . for the proper use of governmental power” (356 U.S., at 382). The dissenting justices in *Russell*, for example, argued that because the narcotics agent had supplied the relatively hard-to-get ingredient used to make the particular batch of methamphetamine on which the conviction was based, that crime would not have been committed but for his involvement.

Applying these standards to the Exodus text, we note, following Nahum Sarna, that there are twenty references to the hardening of Pharaoh’s heart, which are equally divided, ten apiece, between those that attribute this occurrence to God (Exod. 4:21; 7:3; 9:12; 10:1, 20, 27; 11:10; 14:4, 8, 17) and those that simply say “Pharaoh’s heart hardened” (Exod. 7:13, 14, 22; 8:11, 15, 28; 9:7, 34, 35; 13:15) (Sarna 1986, 63-65, 228 nn. 2, 3, 10). Taking the latter phrase to imply Pharaoh’s own willful predisposition, we may conclude that the official, “subjective” entrapment standard allows Pharaoh to be held accountable for his stubbornness and to be blamed for its consequences upon his people. Also, his several attempts to reduce his losses, first by insisting the Israelites make their sacrifices within his territory, then by limiting permission to leave only to the grown men, then by not allowing them to take their cattle, imply calculation and thus responsibility (Exod. 8:21; 10:8-11, 24). On the other hand, under the minority, “objective” standard, Pharaoh just might be acquitted, insofar as God provides an indispensable ingredient, obstinacy, often enough to allow us, the jury, meaningfully to say that He “instigates the crime.”

III

In chapter 18 of Exodus, Moses' father-in-law Jethro (apparently the same person as the Reuel of chapter 2) visits the Israelite camp. He observes Moses adjudicating disputes among the Israelites "from morning until evening," and declares it not right for him to undertake so heavy a task alone, one apt to wear him out in judging, and the people in awaiting his personal attention (Exod. 18:13). So, he offers some friendly counsel, in two parts: First, instead of communicating God's decrees and teachings only on an *ad hoc* basis to particular disputants, "make known to [the people] the way they are to go and the practices they are to follow," that is, formulate some general laws (Exod. 18:20). And second, select a number of capable, God-fearing, trustworthy men, men not prone to accept bribes, to serve as permanent judges over the people; and arrange them hierarchically, so they can settle the minor disputes themselves, presumably in accordance with the published laws, while passing the major ones along to Moses.

We might consider Jethro the world's first outside consultant on organizational management. As such, he shows a degree of tact appropriate to his "outsider" status. When Moses recounts to him everything that the LORD had done for Israel in delivering them from Egypt and afterward, Jethro rejoices and blesses God in terms that suggest he is hearing news: "Now I know that the LORD is greater than all the gods" (Exod. 18:8-11). But, the text has informed us, he had already "heard all that God had done for Moses and for Israel His people," even before embarking on his visit to the Israelite camp (Exod. 18:1). Perhaps he is being similarly diplomatic in his advice by focusing on the procedural tediousness of Moses' day-long adjudications. This may, that is, be a polite way of remedying, without explicitly criticizing, any observable defects in Moses' actual judgments.

Jethro's second proposal seems so obviously sensible that Moses, not waiting to put God's laws and teachings into generally publishable form, adopts it at once, and appoints "capable men" as "chiefs of thousands, hundreds, fifties, and tens." The repetition of only the word "capable" from the longer list of qualities that Jethro had mentioned may signal that Moses acts too hastily (Exod. 18:21, 25). In that case, he would exhibit more enthusiasm and less piety than Jethro, who had urged him to adopt this plan if "God so commands you." Counting the Israelites at about 600,000 adult men (Exod. 12:37), Moses would have to name 78,600 "chiefs" in the indicated proportions, yet the task is described as done within the month, before Jethro

returns to Midian. Does Moses' emphasis on competence over character skew the resultant judicial administration, so that instead of passing "every major dispute" (*hadavar hagadol*) on to Moses, as originally envisioned, the chiefs whom he appoints end up bringing him "the difficult matters" (*hadavar hakosheh*) (Exod. 18:22, 26)?

An alternative interpretation, offered by Rabbi Elihu Milder, explains the repetition of only the word "capable" from Jethro's original list as follows: Human virtue being generally in short supply, there were not enough men available who had all the desirable traits. So, Moses focused on the primary quality, competence, on the theory that it is more important to have rulers who know how to do the job than ones whose souls are spotless or who only have good intentions. It must be acknowledged that this interpretation is internally coherent, and perhaps has the added advantage of not requiring the pious reader to make a harsh judgment about our teacher Moses. It may also express a valid (at least a plausible) assessment of the proper priorities regarding political offices in general. But for the office of judge, the single most important quality is arguably not technical competence or learnedness in the laws, as desirable as these may be, but impartiality. Is it not better to have disputes settled by arbiters who are unprejudiced and fair, even if not legal scholars, than by legal virtuosi who are corrupt or whose minds are made up in advance? Indeed, the most dangerous judges are those who can cleverly cloak biased judgments in legal sophisms.

Again, Moses may here act with unwarranted generosity, by assuming that he can take good character for granted. This would comport with God's own hopeful expression that the Israelites are capable of being "a kingdom of priests and a holy nation" (Exod. 19:6) and with the magnanimity Moses shows somewhat later (after enough contrary incidents have intervened for him to know better). Two men, Eldad and Medad, begin, under the influence of God's spirit, to speak in ecstasy. The text continues:

A youth ran out and told Moses, saying, "Eldad and Medad are acting the prophet in the camp!" And Joshua son of Nun, Moses' attendant from his youth, spoke up and said, "My lord Moses, restrain them!" But Moses said to him, "Are you wrought up on my account? Would that all the LORD's people were prophets, that the LORD put His spirit upon them!" (Num. 11:27-29)

Both occasions also hint that Moses may be too eager to acquire assistants to share his work load.

The story of Jethro's visit is followed by several chapters of laws. It is a nice universalist touch that the initial impetus for this flurry of Jewish law making, which includes the first formulation of the Ten Commandments, is provided by the benevolent advice of a Gentile priest.

IV

Among the profusion of rules (about fifty of them) that immediately follow the Ten Commandments is this one:

When men fight, and one of them pushes a pregnant woman and a miscarriage results [*v'yatz'u y'ladeha*], but no other damage ensues, the one responsible shall be fined according as the woman's husband may exact from him, the payment to be based on reckoning. But if other damage ensues, the penalty shall be life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise. (Exod. 21:22-25)

This rule, which culminates in the broad principle of the *lex talionis*, begins by envisioning circumstances so specific as to suggest its origin in some actual litigation for damages. That is, it appears to be an instance of the common law technique of inferring a general rule from a particular case.

The rule's precise meaning depends on how one translates the ambiguous phrase *v'yatz'u y'ladeha* ("and her children depart"), a matter that carries theological implications for the debate over abortion. (See Gleicher 1998, 891-893.) It should be plain, however, that the passage is not really about deliberately terminating a pregnancy—an action which the text probably assumes nobody would want to do—but rather an accidental event occurring under the remarkably specific situation of men fighting in the vicinity of a pregnant woman who happens to get in the way. Perhaps more remarkable is the rule's apparent endorsement of mutilating punishment, about which Rabbi Hertz observes:

In the Torah, . . . this law of 'measure for measure' is carried out literally only in the case of murder. . . . Hence, it is evident that other physical injuries which are not fatal are a matter of *monetary compensation* of the injured party. Such monetary compensation, however, had to be equitable, and as far as possible *equivalent*. This is the significance of the *legal technical terms*, 'life for life, eye for eye, and tooth for tooth.' (Hertz 1981, 309)

Further, the sequel phrase, "burn for burn, wound for wound, bruise for bruise," suggests willfully inflicted hurt, and seems to apply

more directly to the combatant men than to the misfortunately placed pregnant woman. If so read, the passage concisely, if somewhat confusingly, conflates several related rules:

(1) Men who get into fights shall be precisely liable for whatever fatal or bodily harm they inflict

(a) upon each other, and

(b) upon any bystanders.

(2) If the bystander is a pregnant woman, and the one who jostles her thereby causes then either

(a) the same rule shall apply, or

(b) he shall be subject to a fine, depending on whether or not other harm follows.

But another rule, only a few verses earlier, poses a problem for this reading:

When men quarrel and one strikes the other with stone or fist, and he does not die but has to take to his bed—if he then gets up and walks outdoors upon his staff, the assailant shall go unpunished, except that he must pay for his idleness and his cure. (Exod. 21:18-19)

This rule is much more tolerant of fights—indeed, it seems to accept them as just something that will happen—and prescribes that, unless one of the men dies, they do not warrant punishment.

Two possible answers may solve this contradiction. Perhaps verses 18-19 deal only with temporary or non-scarring injuries, but wounds that disfigure, cripple, or leave a permanent mark are covered by the talionic rule of verses 23-25. Alternatively, we may assume, with the rabbinic tradition (explained in the Talmudic tractate *Bava Kamma* 83b-84a), that literal application of the talionic rule is never really intended where no one has been killed, that “eye for eye, etc.” is a metaphor for a standard table of compensatory fines (Scherman 1996, 423). But then what is the meaning of the distinction, made at verses 22-23, between the scenario in which only a miscarriage or premature birth occurs and the one where “other harm follows”? Either way, it seems, unless one or more lives were lost, only a fine would be imposed. The difference is that in the former case, where no other harm follows, the fine is to be determined, not by consulting a pre-existing table, but on an *ad hoc* basis of assignment by the woman’s husband under the

judges' supervision, presumably because assessment of the damage done may turn on considerations so minute and singular as not to be reducible to a standard set of predetermined fines (e.g., how fully developed the fetus was, what other risks were posed, even perhaps psychological harm). The difference is essentially one of procedure, not a What but a How.

V

The episode of the Golden Calf presents Moses with his first very big case as Israel's one-man Supreme Court. Here is the simple version of what happens: While Moses is away for forty days, receiving the Law, the people grow restless. They do not know what has happened to "that man Moses, who brought us from the land of Egypt." So they gather against Moses' brother Aaron, who has been left in charge during Moses' absence, and demand that he "make us gods who shall go before us." Aaron has them give up their gold earrings. He casts the gold into a mold and fashions it into a calf, which the people proceed to worship, thus violating the Second Commandment, the prohibition against idolatry. To punish this sin, the Levites (Moses' tribe), at Moses' direction, kill 3000 idolaters (Exod. 32:1-6, 28; cf. 20:4-5).

As is often true of big cases, what transpires is more complicated than at first appears.

To begin, let us note that, in addition to committing idolatry, the people are also guilty of the sin of apostasy, desertion of the LORD. This is implicit in their exclamation before the Golden Calf, "These are your gods, O Israel, which brought you out of the land of Egypt," an express contradiction of the First Commandment (Exod. 32:4; 20:2). This sin is prefigured even before the Calf is made, when they credit Moses for the Exodus. As if to mock this error, when God tells Moses to hurry back down to the people, He calls them "your people, whom you brought out of the land of Egypt" (Exod. 32:1, 7). One is reminded of the angry parent, who says to his or her spouse, "Do you want to hear what your child did?"

Second, it is crucial to recognize that the Levites' act of mass execution is not punishment for the idolatry. It is rather a political deed, intended to restore order and Moses' authority, as is evident from the way it is introduced:

Moses saw that the people were out of control—since Aaron had let them get out of control—so that they were a menace to any who might oppose them. Moses stood up in the gate of the camp and

said, “Whoever is for the LORD, come here!” And all the Levites rallied to him. He said to them, “Thus says the LORD, the God of Israel: Each of you put sword on thigh, go back and forth from gate to gate throughout the camp, and slay brother, neighbor, and kin.” (Exod. 32:25-27)

Perhaps the most remarkable detail is that Moses refers this particular command to God, an attribution which lacks textual basis but makes perfect political sense. Whether we should understand the frequent narrative assignment of speeches and commands to the LORD as literal fact or as an elegant way to describe the speeches and commands that Moses gives only after a process of prayer and contemplation, the absence of such a narrative formula is surely significant.

If the killing of the 3000 is not the Israelites’ punishment, then what is? Their punishment proper partly precedes and partly follows this action. Its first segment seems almost bizarre: “[Moses] took the calf that they had made and burned it; he ground it to powder and strewed it upon the water and so made the Israelites drink it” (Exod. 32:20). This act’s significance arguably lies in the fact that the color of a colloidal suspension of gold dust in water is, not bright yellow as we might expect, but blood red. (See Gleicher 1999, n. 19.) Imagine the terror that this visible, metallicly tastable, reminder of the first of the plagues that the LORD wrought in Egypt must have struck in the hearts of the wayward Israelites, who yearned for gods like those they should have left behind (Exod. 7:19-21)!

As frightening as this gesture might be, does it let the idolaters off too easy? Only a few verses earlier, the LORD was ready to destroy the entire people for this offense, and Moses had to intercede on their behalf (Exod. 32:9-14). Perhaps this is why, once order is restored, a second part of their punishment takes place: “Then the LORD sent a plague upon the people, for what they did with the calf that Aaron made” (Exod. 32:35). We are not told whether this plague was lethal, and perhaps we should not assume that it was (most of the Egyptian plagues were not). Could it not be understood as a sickening plague that followed naturally from drinking gold-laced water (in itself harmless), as reinforced by guilty conscience? If so, this passage prefigures, in broad outline, the trial-by-ordeal process that is later prescribed for a woman whose husband suspects her of adultery (Num. 5:11-31; see Section VIII). To use a metaphor later invoked by the prophets, Israel has acted like a faithless wife, who is tried and punished through shame, but ultimately taken back in. (See, e.g., Is. 54:1-10.)

If this loose end is neatly tied up, another, Aaron's role in this story, is not. Despite rabbinical attempts to whitewash his reputation, the text is clearly critical of him, both for making the Calf and for letting the people get out of control (Exod. 32:25, 35; cf. Scherman 1996, 493, 495). Aaron is in this vignette the quintessential religious compromiser. The people ask for *elohim*, new "gods," in the plural (Exod. 32:1). But Aaron, wishing to preserve worship of the LORD, has them contribute only their earrings, enough gold for only one idol, and not a big one at that—just a calf, not even a full-grown bull! And by calling for a festival of the LORD, he tries to combine the religion of Moses with this "little idolatry," perhaps hoping that from this position of parity the true faith will eventually rebound. The ploy, of course, fails—some matters are not compromisable. When Moses takes him to task, the text mocks his experiment at religious rapprochement in the awkward, lame, even comical, explanation he offers: "They gave [their gold] to me and I hurled it into the fire, and out came this calf [*va'yeitzei ha'eigel hazeh*]!" (Exod. 32:24) This, from the man whom God called to be Moses' spokesman, because he "speaks readily" (*ki-daber y'daber*), whereas Moses was "slow of speech and slow of tongue" (Exod. 4:14, 10)!

Why, then, is Aaron not punished (beyond the textual punishment of looking ridiculous)? In the immediate context, because of the more urgent need to restore order among the people. Then, because, as a Levite, he might have redeemed himself in the remedial measures undertaken to do so. In the larger picture, because his eventual designation as high priest outweighs this offense. (The holiness of the priesthood is a function of the office, not of the particular officeholder.) And of course, he is Moses' brother (cf. Deut. 9:20). In a word, political necessity and maybe just plain politics outweigh the dictates of strict justice.

It should perhaps not surprise one that the outcome of this great case is so mixed. As Justice Oliver Wendell Holmes once observed, "Great cases . . . make bad law." (*Northern Securities Co. v. United States*, 193 U.S., at 400)

VI

At the start of chapter 10 of the book of Leviticus, in the midst of carefully orchestrated sacrificial ceremony festivities that inaugurate the ancient Israelite priesthood (what should be an occasion of great joy), a dreadful mishap occurs. Aaron's two eldest sons, Nadab and Abihu, bring what is cryptically called "strange [or alien] fire" (*eish zarah*) before the LORD, that is, some form of sacrifice or ceremony that God has not prescribed. For

this deviation, fire from the LORD immediately consumes them (Lev. 10:1-2). The general point seems clear. The virtue of the Israelite clergy is not innovation or creativity, but strict adherence to the LORD's commands.

Beyond this general point, however, rabbinical authorities differ as to the men's actual offense. One reading has it that the two have gotten drunk, that the strange fire is what our native American Indians used to call "fire water," and that God kills them for this act of insolence (Hertz 1981, 445). This speculation receives some support from the command, a few verses later, that the anointed priests must refrain from wine or other intoxicants while in the Tent of Meeting (Lev. 10:8-9). Other interpretations hold that the fire is "alien," not because of its composition, but because it was not taken from the altar; or because it was taken from the altar unbidden; or because the sons showed disrespect for Moses and Aaron by not consulting them first (Scherman 1996, 593). At worst, these commentaries present the LORD as a kind of ogre, who kills his servants over trifles. Even from a more sympathetic view, the divine reaction, at first glance, seems excessive. After all, Nadab and Abihu may have had the best of intentions. Taken up in the exuberance of the moment, they may merely have wished to give God something more, and more personal, than what was prescribed.

But the essential justice of what happens here becomes evident when we reflect that these men are not just anyone. They are the sons of the high priest, public figures who teach by example and who therefore cannot be allowed the luxury of personal indulgence or innovation, however well intentioned. In the sphere of religious sacrifice innovation is especially dangerous. Today they offer alien fire, tomorrow perhaps alien victims. For, we are told, the Canaanites, the people into whose land they are destined to move, practiced human sacrifice, among their other abominations (Lev. 18:21). We are perched on a slippery slope, where the road of good intentions leads precipitously downward.

The rabbis who constructed the weekly readings combined this Torah portion with a selection of episodes from the early part of the reign of King David, which provides three more instances of the judicial principle that good intentions do not excuse wrong acts, and in at least one case the related Law of Unintended Consequences. David is having the Ark of the LORD brought up to Jerusalem from the place in the wilderness where it had resided for a generation, in the house of a man named Abinadab. Does this man's name, which combines the names of Aaron's ill-fated sons (Abi[hu]-

Nadab), link this story to the one in Leviticus? At one point, the oxen pulling the cart on which the Ark had been placed stumble, and Uzzah, one of the attendants—who is, coincidentally, Abinadab’s son—reaches out and grasps the sacred object to keep it from falling to the ground. But Uzzah is not a consecrated priest, and the *lèse majesté* that he shows in placing profane hands upon the Ark earns him too God’s deadly wrath (2 Sam. 6:1-8). Poor Uzzah! His undoubted good intention proves his undoing. (King James I of England used this story as a metaphor, in his Coronation Address to Parliament in 1603, to remind the Peers and Commons that they should not presume to offer him their advice unless specifically requested to do so. Parliament did not listen.)

A little later in David’s reign, after the Ark is securely deposited in Jerusalem, David thinks to build a more elegant repository for it than the tent where it sits. Fortunately, he has the presence of mind to consult with the prophet Nathan before undertaking any plan. The LORD tells him, through Nathan, Thank you, but don’t bother! Instead of David building a house for Him, He will establish a house, that is, a dynasty, for David. The construction of the Temple will, for undisclosed reasons, have to wait until the reign of David’s successor (2 Sam. 7:1-17). For once, good intentions have not been allowed to go astray.

In the most ambiguous example, when the Ark is first being brought into Jerusalem, David joins in the public enthusiasm by doing a kind of dervish dance, apparently while only scantily clad. His first wife, Michal, who is the daughter of David’s predecessor, King Saul, reproves him for the spectacle he has made of himself “in the sight of the slavegirls of his subjects.” Arguably, Michal’s desire to maintain the royal dignity (for she is from the start a king’s daughter) is benevolent. But David will have none of it. He replies tartly, “It was before the LORD who chose me instead of your father and all his family and appointed me ruler over the LORD’s people Israel! I will dance before the LORD and dishonor myself even more, and be low in my own esteem; but among the slavegirls that you speak of I will be honored.” The text concludes, “So to her dying day Michal daughter of Saul had no children” (2 Sam. 6:12-23). That is, David withholds from her the sexual services to which she, as his wife, is surely entitled. (Common wisdom on sexual harassment notwithstanding, sometimes “No!” does not just mean No!) It is unclear with whom we are supposed to sympathize in this story. For, if David’s indignation is excused by his desire to vindicate God, his detachment from Michal still seems both impolitic and ungracious. Impolitic, because an

offspring of their union as heir to the throne might have gone far to reconcile any residual sentiment, among the northern tribes, for the dynasty of Saul, and so have prevented the eventual division of Israel into two separate, often mutually hostile, kingdoms (cf. 2 Sam. 16:3; 20:1-2). And ungracious, because she had earlier saved his life (1 Sam. 19:11-17). Good intentions here seem to mislead in both directions, as we can admit without impiety, for this story concerns only human beings.

Returning to the Leviticus narrative, Moses turns to Aaron, the slain men's father, and says, "This is what the LORD meant when He said: Through those near to Me I show Myself holy, / And gain glory before all the people." "And Aaron," the text reports, "was silent" (Lev. 10:3). Moses appears to display gross insensitivity, dealing Aaron a callous rebuke, that his dead sons were not holy enough, which reduces Aaron to stunned silence. But an alternative rendering, one that reflects a more sympathetic side of Moses, is also possible. One can read his statement as an affirmation that Nadab and Abihu, whose just execution glorifies God, were nonetheless holy men, near to God. In this case, Aaron's silence signifies consolation rather than shock. This interpretation receives support from God's own treatment of Aaron in the succeeding passages. The last time the LORD had spoken directly to Aaron, along with Moses, was back in Exodus, shortly before the actual departure from Egypt (Exod. 12:43, 50). But now, in the immediate aftermath of his sons' demise, He speaks to Aaron alone, and then again to Moses and Aaron together, four more times in the next five chapters (Lev. 10:8; 11:1; 13:1; 14:33; 15:1). (A similar clustering occurs in the book of Numbers, after the suppression of Korah's rebellion, which seeks in part to challenge the preeminence of the Aaronic priesthood. Num. 16:20; 18:1, 8, 20; 19:1.) Thus, God and Moses both show how to follow the enforcement of justice with displays of mercy.

VII

Most of the book of Leviticus is about ceremonial matters that chiefly concern the ancient priesthood, e.g., the restrictions peculiar to them regarding rites of mourning and marriage, rules governing the performance of sacrifices, and specification of the sacrifices appropriate to the various holidays (Lev. 21-23). At the end of chapter 24, however, in an apparent digression, there is a quite striking piece of narrative. A fight breaks out between an Israelite and the son of an Israelite woman and an Egyptian father, in which the half-breed "pronounced the Name [of God] in blasphemy" (Lev.

24:11). The offender is brought to Moses, who inquires of the LORD what should be done. God commands that the man be stoned to death and takes the occasion to reaffirm the *lex talionis*: “life for life, . . . fracture for fracture, eye for eye, tooth for tooth” (Lev. 24:18, 20).

What is this story doing here, in the midst of the Levitical Law? One answer is beguilingly simple. Although the content of Leviticus is mostly rules, the rules are presented within a sequential narrative framework, punctuated frequently by phrases like, “The LORD spoke to Moses, saying.” The story of the blasphemous half-breed, we may therefore say, occurs where it does, right after the rules of the Sabbath offering and right before the laws concerning the Sabbath of the Land and the Jubilee Year, because that is when it happened. Perhaps this should suffice, but a few more observations may be in order.

The blasphemer’s lineage seems to have some importance. His mother is of the tribe of Dan, one of the lowlier tribes, descended not from the Matriarchs Rachel or Leah but from Rachel’s servant Bilhah (Gen. 30:4-6). As the upcoming census will reveal, Dan is a large tribe, which holds its own numerically during the forty years of wandering, while the populations of some other tribes fluctuate wildly (Num. 1:38-39; 26:42-43). The present passage suggests that the Danites may bolster their numbers through the dubious expedient of marrying off their surplus daughters to foreigners, like the blasphemer’s Egyptian father. In the time of the Judges, the Danite hero Samson shows a similar affinity for foreign women. Later, the entire tribe, unable to make a living in the southern part of Israel, migrates to the extreme north and conquers the Sidonian city of Laish, which they rename “Dan,” massacring what the text depicts as an unoffending native population (Judges 13-18). (Is this the sense of the Patriarch Jacob’s deathbed “blessing” of Dan as both a ruler of his people and a treacherous serpent? Gen. 49:16-17) They thereby become one of the northern tribes destined for eventual conquest and absorption by Assyria. The blasphemy episode thus plunges us abruptly from the refinement of priestly ritual to perhaps the crudest segment of Israelite society. In this respect, it may jolt Moses in much the same way it does us as we read it. Lest we lose ourselves in the arcana of the priesthood, it reminds, there is also an everyday world of crude people who do nasty things that need to be dealt with practically, even harshly.

But is the blasphemer even an Israelite? The law of matrilineal descent, according to which a Jew is the offspring of a Jewish mother, is a product of the much later Rabbinical Age. Insofar as this man is an Egyptian,

because of his father's nationality, what is his obligation to the Israelite God and to Israelite law? More generally, how should one treat resident foreigners who behave badly? The intricacy of this question perhaps explains why Moses needs to consult God for an answer, and why the rule the LORD gives is a bit more complex than it at first appears:

Anyone who blasphemes his god shall bear his guilt; if he also pronounces the name LORD, he shall be put to death. The whole community shall stone him; stranger or citizen, if he has thus pronounced the Name, he shall be put to death. (Lev. 24:15-16)

Unlike standard translations, we read the word *elohav* as "his god," with a small "g." That is, if a resident pagan commits blasphemy against one of his own gods, that is a matter of his own guilt, to be settled between him and Ra, Ptah, Isis, or Osiris. But publicly to abuse the Name of the God of Israel so seriously offends against public decorum, and sets an example so apt to corrupt members of the host community, as to warrant the death penalty. The passage then expands on the relation between the native and the foreign, concerning mundane things, by applying the universally just principle of the *lex talionis*: death for murder, restitution for killing a beast, like injury for a physical injury inflicted on one's fellow (Lev. 24:17-21; cf. Exod. 21:22-25; Deut. 19:16-21). Thus, for some purposes foreigners are to be left alone, for some they are to be treated as one's own citizens, though perhaps for slightly different reasons, and for some, all are treated alike.

The blasphemer's Egyptian identity may also implicitly raise the question of the status among the Israelites of slavery (that recent Egyptian institution), and so effect a transition to the next chapter's rules concerning the Jubilee Year, when Israelite debt-servants were to be released (Lev. 25:10).

A yet broader context for the blasphemy story, one that situates it in the full sweep of Israel's scriptural history, is suggested by Professor David Noel Freedman, in *The Unity of the Hebrew Bible*. Freedman argues that the unifying strand of the Bible's long, convoluted historical narrative, from the book of Exodus through the book of Kings, is the Israelite nation's step-by-step decline and dissolution for failure to observe the Ten Commandments. In each of these books he finds a noteworthy violation of one or two of the Commandments. Sometimes this takes the form of an elaborate story, like that of David's adultery with Bathsheba or Jezebel's suborning false testimony against Naboth of Jezreel (2 Sam. 11-12; 1 Kings 21-22; 2 Kings 9). Sometimes a short passage suffices. The present story marks the

second such episode, a breach of the Third Commandment, the first two having been violated in the incident of the Golden Calf at Exodus 32 (Freedman 1993, Lecture 1, esp. 18-19). All these sins either are punished by death or precipitate widescale bloodletting.

VIII

Numbers 5:11-31 includes a description of trial by ordeal. This procedure may at first strike us as a discredited historical curiosity, but the text contains remarkably modern insights.

The passage envisions the perhaps too familiar situation of a jealous husband who, rightly or wrongly, suspects that his wife has been unfaithful to him but has no proof or witnesses. The problem is not only or so much to determine guilt or innocence, but also, where the suspicion is unwarranted, to dispel the jealousy and distrust that can poison a marriage. This psychological need may explain why so extraordinary a method is needed, instead of just letting the matter linger unresolved. For trial by ordeal is emphatically not a standard judicial procedure in the Torah, however popular the use of dunking stools, walking on hot coals, or inquisition under torture may later have become in some religious circles. Put another way, the insistence on orderly judicial process, including the testimony of at least two witnesses (Deut. 19:15), means, as a practical matter, that some who are accused of crimes like theft or murder will evade conviction, even though we may personally be convinced of their guilt, and that this result is considered socially tolerable (but cf. Section XIII). But where the issue is adultery, the persistence of such doubts or private convictions is not tolerable, because here the suspect and the suspecter must literally continue to live with each other.

The accused woman is to undergo the following ordeal. Her husband must bring her before the priest, along with a small measure of barley flour as a “meal offering of jealousy” (Num. 5:15, 18). The flour is not to be mixed with oil or frankincense, so when it burns it will produce the unpleasant odor of burnt toast. The woman is to drink some holy water into which the priest has mixed dust from the floor of the Tabernacle and the ink that is used to write down the following curse, to which the woman swears:

“If no man has lain with you, if you have not gone astray in defilement while married to your husband, be immune to harm from this water of bitterness that induces the spell. But if you have gone astray while married to your husband and have defiled yourself, if a man other than your husband has had carnal relations with you. . .

may the LORD make you a curse and an imprecation among your people, as the LORD causes your thigh to sag and your belly to distend; may this water that induces the spell enter your body, causing the belly to distend and the thigh to sag.” (Num. 5:19-22)

Apparently, the spell also carries the threat of sterility, for the text concludes, “[If she] is pure, she shall be unharmed and able to retain seed” (Num. 5:28).

This is truly a dreadful curse, if one is convinced of its efficacy. But there is no pharmacological reason to suppose that pure water into which small amounts of ink and dust have been mixed would by itself produce disfigurement and barrenness. From a scientific point of view, the test, though doubtless unpleasant, is inherently harmless for an innocent person who has faith in God’s justice. Horrible as its verbal formula sounds, the ordeal itself seems stacked in favor of acquittal. Conversely, what attains the secret adulteress is the psychological interaction between the trappings of sacred symbolism and her own guilty conscience. It is a splendid exercise of mind over matter. Perhaps just as remarkable, the woman who is implicated by this ceremony suffers only disgrace, disfigurement, and childlessness, not the capital punishment reserved for the adulteress convicted through regular judicial process (Lev. 20:10; Deut. 22:22). Is her childlessness a function of her disgrace, the consequence, not of any biological change brought about by the spell, but of the social fact that, once she betrays herself, her husband will no longer approach her? Similarly, the described disfigurement may merely be the natural result of aging, made more conspicuous by her disgrace and by the terms of the curse, which tells her husband what to notice.

One should also note that the ordeal is available only in response to the woman’s actual or claimed sexual waywardness while she is married, not to prior indiscretions, for which another remedy is prescribed elsewhere (Deut. 22:13-21). Whether she is convicted by this process or acquitted, her husband is held guiltless. The issue, of course, is not one of wrongdoing on his part, nor of deliberate false accusation, but whether his jealousy is well- or ill-founded (cf. Deut. 19:16-21). Thus, to regard him as guilty if she is acquitted would undermine perhaps the chief purpose of employing the process at all, to dispel distrust and recrimination between spouses.

Does this rule discriminate unfairly against women? What about wayward husbands? We must again recall that the issue is not demonstrated adultery. An adulterous man, that is, one who consorts with another

man's wife, is liable to the same punishment, death, as an adulterous woman (Lev. 20:10; Deut. 22:22). But in a polygynous society, a married man who consorts with an unmarried woman is not committing adultery. He is merely taking another wife, in most cases an act of imprudence but not a sin. The unsubstantiated suspicion, therefore, that he might have so behaved could certainly arouse jealousy in his first wife, but not the same issue of culpability as to warrant trial by ordeal. To the extent that this rule still weighs disproportionately on wives, as compared to husbands, it probably does so no more than the Mosaic Code as a whole, that is, somewhat but not as much as one could imagine or even observe in certain other cultures.

IX

Two instances from the first half of the book of Numbers show, among other things, how important political context is to judgment and rule making.

The first case is a benign example of how a rule gets extended. It is the first month of the second year following the exodus from Egypt. The Israelites have begun to celebrate their first Passover in the wilderness by offering the appropriate sacrifices. But some men who are ritually impure, because they came into contact with a corpse, appear before Moses and Aaron and protest the unfairness of being excluded from presenting the LORD's offering at its designated time with their countrymen. Moses refers the matter to the LORD, and receives the following instruction:

When any of you or of your posterity who are defiled by a corpse or are on a long [or distant—*r'hokah*] journey would offer a passover sacrifice to the LORD, they shall offer it in the second month, on the fourteenth day of the month, at twilight. They shall eat it with unleavened bread and bitter herbs, and they shall not leave any of it over until morning. They shall not break a bone of it. They shall offer it in strict accord with the law of the passover sacrifice. But if a man who is clean and not on a journey refrains from offering the passover sacrifice, that person shall be cut off from his kin, for he did not present the LORD's offering at its set time; that man shall bear his guilt. (Num. 9:10-13)

That is, those who are prevented, for the indicated reasons, from marking Passover at its proper time may do so a month later, but they must take care not to cut corners or dilute the service.

The rule generously expands upon the circumstance that produced it. Not only does it cover those who are unclean by virtue of con-

tact with a corpse (primarily, one would assume, mourners, and secondarily soldiers), but also travelers on long journeys. The divine rule maker, it seems, first saw the justness of the petitioners' claim: Why should those who have lost a loved one be aggrieved twice, through deprivation of the holiday festivities? He then asked Himself, What other extraordinary circumstances might warrant a similar special dispensation? and thought of the second exceptional category. Every list, of course, carries an implicit invitation to add items. In this case, however, the list seems to discourage expansion by specifying only long journeys. Short or nearby trips do not excuse. Presumably, these could be planned in advance so as not to conflict with the holiday. The list also does not mention causes other than contact with a corpse that may make a person ritually impure, such as bodily emissions or the skin disease, formerly mistakenly identified with leprosy, called *tzaraat* (Lev. 12-15). One consequence of this rule is that priests, who are allowed contact only with the corpses of close relatives, would seldom have occasion to observe the delayed Passover, and the high priest, who must stay clear even of his dead parents and who must remain at the center of worship, would never do so (Lev. 21:1-4, 10-12). On the other hand, gravediggers and others involved in the preparation of bodies for burial would have to arrange among themselves for some to have time off from work during the month of Nisan and some during the month of Iyar. Every community would therefore need to employ at least two such people.

The second case is not nearly so pleasant:

Once, when the Israelites were in the wilderness, they came upon a man gathering wood on the sabbath day. Those who found him as he was gathering wood brought him before Moses, Aaron, and the whole community. He was placed in custody, for it had not been specified what should be done to him. Then the LORD said to Moses, "The man shall be put to death: the whole community shall pelt him with stones outside the camp." So the whole community took him outside the camp and stoned him to death—as the LORD had commanded Moses. (Num. 15:32-36)

The account is short on certain details. We are not told the offender's name or his lineage (unlike the blaspheming half-breed at Lev. 24:10-24), or even whether he is an Israelite. For all the description says, this man whom the Israelites encounter may be a complete outsider, not even a foreign sojourner within the community, who just happens to be in the wrong place at the wrong time. Is this the sense of his being found by "the Israelites" collectively and brought before the whole community?

The rule immediately before this story provides one perspective on the problem that needs to be solved:

In case . . . an individual . . . has sinned unwittingly, he shall offer . . . a sin offering. . . . But the person, be he citizen or stranger, who acts defiantly reviles the LORD; that person shall be cut off from among his people. Because he has spurned the word of the LORD and violated His commandment, that person shall be cut off—he bears his guilt. (Num. 15:27, 30-31)

The term “cut off” could, it seems, in different contexts, mean either execution or varying degrees of excommunication. In this case, if the rule applies, the offender is not only executed; he is also “cut off” by having his very name blotted out by his textual anonymity. If the Sabbath violator was a member or a denizen of the Israelite community, then the verdict would turn on whether he sinned knowingly or unwittingly. But is it even remotely plausible that someone living within *this* community could be ignorant of or carelessly forget the Sabbath? It is perhaps in order henceforth to preclude the “forgetfulness excuse” that the very next rule presented after the account of his execution is the familiar commandment that the Israelites wear a fringed garment.

That shall be your fringe; look at it and recall all the commandments of the LORD and observe them, so that you do not follow your heart and eyes in your lustful urge. Thus you shall be reminded to observe all My commandments and to be holy to your God. (Num. 15:39-40)

If, on the other hand, the man was a complete stranger, then his offense could not consist of violating a rule that does not apply to him. It would rather be the “international” offense of corrupting the Israelites through the bad example that his action sets, a small-scale act of war. His stoning would be less a punishment than an act of hostility designed to defend the Israelites from moral subversion. This may explain the initial uncertainty over what to do with him. His fate would be as much a function of the Israelites’ variable moral vulnerability as of his act’s intrinsic quality. As it happens, the Israelites are at this moment very vulnerable. Unlike the delayed Passover observance case, which occurs in the hopeful time of the first census and the dedication of the Tabernacle, this case takes place in a context of political unrest. The people have complained about the monotony of their diet of manna, and suffered a punitive plague. Moses’ sister Miriam and Aaron have gossiped against Moses regarding his Cushite wife, and been appropriately

punished. Ten of the scouts whom Moses dispatched to reconnoiter the promised territory have slandered the good land that the LORD was providing, and the people have been condemned to thirty-eight more years of desert wandering for wavering in their faith. And the rebellion led by Moses' cousin Korah, arguably the greatest challenge to Moses' and Aaron's leadership, is about to erupt (Num. 11-14, 16-17). This is no time to show the permissiveness toward potentially misleading foreign practices that might be allowable in calmer, more settled circumstances. Yet again, politics circumscribes adjudication.

X

At Numbers 20:1-13, Moses and Aaron are placed on trial. The basic story is familiar. In the fortieth year of their desert wandering, the Israelites arrive at Kadesh, in the wilderness of Zin, and complain about, among other things, the lack of water. The LORD tells Moses to assemble the people and to order the rock that is there to yield its water. But instead of speaking to the rock, Moses strikes it twice with his staff. The rock spouts water, but the LORD condemns Moses and Aaron not to enter the Promised Land, "because you did not trust Me enough to affirm My sanctity in the sight of the Israelite people" (Num. 20:12). The episode is called the "waters of Meribah" incident, from the Hebrew word for "quarrel," *riv*, because "the Israelites quarreled with the LORD" (Num. 20:13).

There is no shortage of rabbinical commentary on this affair. The Orthodox Stone edition of the *Chumash* (the five Books of Moses) cites five different views of just what the sin of Moses and Aaron was and alludes to the existence of many more (Scherman 1996, 845):

(a) *Rashi's* view . . . is that they sinned in striking the rock, rather than in speaking to it, as they had been commanded. [*Rashi* = Rabbi Shlomo Yitzchaki (1040-1105), seminal medieval Jewish commentator on the Pentateuch.]

This is the most straightforward, "natural," reading. God tells them to do one thing; they do something else. But nothing is as simple as it at first seems. In the first place, the LORD speaks His command directly only to Moses, and he is the one who strikes the rock. Why also punish Aaron, who is totally dependent on Moses' understanding of what needs to be done (Num. 20:7, 11)? Secondly, we can appreciate why Moses might have adopted the percussive approach. It had worked once before. Forty years earlier, the previous generation of Israelites had complained, in similar terms, of lack

of water at Rephidim, and Moses, at the LORD's command, had produced water by striking the rock at Horeb with the same rod (Exod. 17:1-7). It almost looks as though God, by telling him to display this rod again, has set him up to go astray (Num. 20:8). Thirdly, given the two men's many years of dutiful service to the LORD and His people, the punishment seems vastly disproportionate to this simple description of the offense. Also, Miriam has recently died, and their attention may be distracted by grief (Num. 20:1). Perhaps in order to address these difficulties, Rashi notes the detail that Moses strikes the rock twice (Scherman, 1996, 844). When water did not gush after the first blow, he and Aaron should have reflected that this was the wrong way to proceed. The second blow therefore signals a more willful presumption, even, we may say, an attempt to command God.

(b) *Rambam* . . . states that Moses sinned in becoming angry, as he excoriated the complaining people, "Listen now, O rebels . . ." (v. 10). This sin of anger was compounded because the people assumed that whatever Moses said was a reflection of God's will, and if Moses was angry with them, then God must be angry. But, *Rambam* states, we do not find anywhere in the chapter that God was angered by the people's complaint. [*Rambam* = Rabbi Moshe ben Maimon (Moses Maimonides) (1135-1204), leading Jewish philosopher and Torah scholar of the Middle Ages.]

We are so accustomed to the description of the Israelites as wayward and quarrelsome that we may too easily slip into accepting Moses' characterization of them here. Maimonides reminds us that in this case their complaint, lack of water in the desert, is reasonable, and that Moses does them an injustice by calling them rebels for stating it. He and Aaron had seen a real rebellion in the Korah episode (Num. 16-17). They should know better than to toss this term around casually. Moses and Aaron may, in fact, stand too close to the Israelites on a day-to-day basis to notice that the rebellious generation has passed from the scene, unlike the reader who is aware of the thirty-eight-year narrative gap between chapters 19 and 20.

(c) *R' Chananel*, whose view is joined by *Ramban*, holds that the key words are Moses' rhetorical question, "*Shall we bring forth water . . .*" which implied that he and Aaron had the power to produce water. Moses should have said, "*Shall HASHEM bring forth.*" This would explain why God said that Moses and Aaron had not sanctified His Name. [*R' Chananel* (d. ca. 1055) = Rabbi of the Jewish community of Kairouan, North Africa, and author of a commentary on the Pentateuch; *Ramban* = Rabbi Moshe ben Nachman (Nachmanides) (1194-1270), leading medieval Torah scholar of

Spain, author of a commentary on the Pentateuch. “HASHEM” (literally, the Name) is the circumlocution used by the pious to avoid casual blasphemy.]

The curious implication of this sensible observation is that striking the rock, instead of speaking to it, would have been harmless error, had Moses only used the right verbal formula. Stated more generally, there are situations in which words matter more than deeds, perhaps preeminently those that involve public teaching.

(d) *Abarbanel* agrees with *Rashi* that the immediate cause of the punishment was that Moses struck the rock, but he holds that there was an underlying cause: Moses and Aaron had erred before, but God did not call them to account until after this sin. Aaron had a hand in making the Golden Calf, which caused national suffering. And Moses had dispatched the spies, whose false report had brought about forty years of wandering and the death of an entire generation. It would have seemed unfair for the nation not to enter the Land, but for Moses and Aaron to do so. Therefore, when they committed a sin that was worthy of a punishment of some sort, God chose to keep them out of the Land, like the rest of their generation. . . . [*Isaac Abarbanel* (1437-1508) = philosopher and biblical commentator, leader of Spanish Jewry at the time of the Expulsion in 1492.]

Abarbanel redresses the disproportion between the apparent triviality of the immediate offense and the gravity of its supposed penalty. He also rightly perceives, contrary to the filiopious strain of rabbinical commentary, that Moses’ and Aaron’s act in the waters of Meribah incident is not a unique dereliction in otherwise spotless careers. In this respect he perhaps builds on the account given by the book of Deuteronomy’s Moses:

Because of you the LORD was incensed with me too [at the time of the spy mission], and He said: You shall not enter [the land] either. Joshua son of Nun, who attends you, he shall enter it. Imbue him with strength, for he shall allot it to Israel. (Deut. 1:37-38)

Moreover, the LORD was angry enough with Aaron [on account of the Golden Calf incident] to have destroyed him; so I also interceded for Aaron at that time. (Deut. 9:20)

The picture *Abarbanel* paints, of God waiting for a convenient precipitating incident to release a punishment that has been held in storage for forty years, may be theologically strange, but it offers a brilliant insight into human psychology.

(e) *Chiddushei HaRim* finds the key to the shortcoming of Moses and Aaron in the word [*l'eineihem*], *before their eyes* (v. 8), implying that Moses had to speak to the rock in such a way that the people would see something, rather than merely know it. . . . God wanted Israel to see—meaning that they should have unquestioned knowledge that God provides people with whatever they need to carry out His bidding. If they could achieve that perception, the barriers to belief would fall away and the nation could rise to new heights. The water flowed, but Moses failed to inculcate them with this perception. [*Chiddushei HaRim* = works of Rabbi Yitzchak Meir of Ger (1799-1866), founder of a Hassidic community and Torah scholar.]

The previous generation of Israelites had seen the plagues of Egypt, the miracle at the Sea of Reeds, and the epiphany at Mount Sinai, and still they strayed. Apparently, seeing is not believing (though perhaps the converse is true). Still, this explanation nicely captures the anguish of the man of faith who is a teacher in an age of general or growing skepticism.

XI

While camped at Shittim, in the steppes of Moab, on the east bank of the Jordan River, across from Jericho, near the peak of Peor, the Israelites fall to whoring with the local Moabite women, who entice them to worship their gods. Incensed with Israel, the LORD tells Moses to have the ringleaders publicly impaled, and Moses in turn orders the Israelite officials to slay those of their men who attached themselves to the pagan deity Baal-Peor (Num. 25:1-5). But instead of reporting the massacre as we might expect, the story takes a curious twist. An Israelite who is later identified as Zimri, a chieftain of the tribe of Simeon, brings a princess of Midian named Cozbi, the daughter of a Midianite tribal head, to his brethren, “in the sight of Moses and of the whole Israelite community who were weeping at the entrance of the Tent of Meeting” (Num. 25:6; 26:14-15). Phinehas, the son of Eleazar the high priest, detaches himself from the assembly, follows Zimri and Cozbi into the inner chamber of a tent, and stabs them both with a spear. (The description suggests that he does so with a single thrust, perhaps while the two are in a sexual embrace.) This action apparently placates the LORD’s anger, for a deadly plague that is raging among the Israelites is checked, after killing 24,000. As a reward for his passion (or jealousy) for God, Phinehas is granted the permanent priesthood for himself and his descendants, as the LORD’s “covenant of peace” (Num. 25:7-13). The story concludes with a divine injunction to Moses, to “[a]ssail. . . and defeat” the Midianites for their trickery,

“because of the affair of Peor and because of the affair of their kinswoman Cozbi, daughter of the Midianite chieftain, who was killed at the time of the plague on account of Peor” (Num. 25:16-18).

Whatever else is going on in this busy passage, the story describes an act of summary judgment and “frontier justice” at the hand of Phinehas. There is no trifling about due process rights, gathering of evidence, soliciting of testimony, community participation in carrying out the sentence, or even consulting the LORD about how to proceed. To Phinehas at least, the merits of the case are obvious and the required course of action is clear. Indeed, the overtness of the culprits’ conduct, their utter shamelessness, seems to be at or near the heart of the offense.

On the other hand, the same insolence that stirs Phinehas to act seems to have paralyzed everyone else. His sudden deed fills a void, but why is that void even there? The embarrassing precondition that his spectacular move obscures is that Moses has given a significant command, at the LORD’s bidding, and apparently nothing has come of it. Hence, perhaps, the necessity for the divinely inflicted pestilence. The word for “pestilence,” *mageifah*, could just mean “a blow” or “slaughter,” and thus admit the possibility of Moses’ order being obeyed, but other Scriptural passages give it the specialized denotation of a devastating, wasting disease. (See, e.g., Zech. 14:12, 15, 18.) If poetic justice were observed, it would in this context be a venereal disease. (Cf. Gleicher 1999, Section VIII.) Not for the first time, nor the second, Moses is ineffective as a leader (cf. Num. 14:1-5; 17:6). Only now his prestige suffers from two new liabilities. Because of the waters of Meribah incident, he has been condemned not to enter the Promised Land, and he no longer can make use of the support of Aaron, who has been “gathered to his kin” (Num. 20:12-13, 23-29). Accordingly, the remaining few instances of a judicial nature in the Numbers narrative describe or anticipate cases being brought, not to Moses alone, but to the assembled congregation or a collective leadership (Num. 27:1-4; 35:12, 22-25; 36:1; cf. Lev. 24:11; Num. 9:6-7; but see also Num. 15:33). The impulsive step that Phinehas takes signals the advent of a new generation of leaders, whose modes of rulership may still need to be fully articulated.

As conspicuous as the delinquents in this story are, what is the substantive offense that warrants so urgent a response? Fornication, to be sure, but there is plenty of that going on already. What makes this instance so special? Idolatry, we can suspect, is just around the corner, but that too is

already rife, and it is not specifically mentioned with respect to Zimri and his Midianite consort. Perhaps his name and her family connections provide clues of another, more political, consideration. Her status, as daughter of a Midianite chieftain, roughly parallels that of Moses' Midianite wife Zipporah. In a later time, under the Israelite monarchy, another Zimri, commander of a detachment of charioteers in the service of King Elah of the Northern Kingdom, assassinates his master when the latter is incapacitated by drunkenness, and declares himself king. But the other army units acclaim a rival general, Omri, as king. After a brief reign of only seven days, Zimri, confronted by Omri's superior force, commits suicide while shut up in the citadel (the military "inner chamber"?) of the royal palace (1 Kings 16:8-20). Subsequently, his name becomes an idiom for a usurper (2 Kings 9:31).

The suggestion is that the Zimri of the Phinehas episode, by consummating his Midianite alliance in the presence of his brethren, is trying, in this peculiar way, to establish his credentials as the new Moses. Taking "his brethren" to mean his fellow Simeonite tribesmen in particular, his act is also the opening salvo of an attempt by that tribe to gain preeminence by virtue of their seniority, the prior claim of the tribe of Reuben having been quashed in Korah's rebellion thirty-eight years earlier, along with that of a cadet branch of the Levites, to ascendancy within the priesthood (Num. 16). But unlike Korah's revolt, which included 250 of the Israelite elite, and which staked out a rhetorical position of speaking for the common good (Num. 16:2-3; see also Gleicher 1999, Section X), Zimri's endeavor seems merely opportunistic, crude, and amateurish. We can conjecture, on the basis of what happens to the later Zimri (that is, on the assumption that parallel situations in this sacred history are, whether by artfulness or by Providence, significant), that even were he able to depose Moses, he would lack the necessary base to consolidate his position, and the community would end up backing some other person of known talent, such as Joshua. But given the Israelites' weakened moral condition, even a crude and ultimately unsuccessful adventurer can in the short run cause a great deal of mischief by plunging the community into civil strife (cf. 1 Kings 16:21-22). Phinehas' quick action nips this possibility in the bud. He thereby secures the Aaronic priesthood in the line of his father Eleazar and himself, and implicitly clears away an obstacle to the future secular primacy of the tribe of Judah. In the ensuing census, the tribe of Simeon shows great losses, and it does not even warrant mention in the Deuteronomic Moses' valedictory blessing to the nation (Num. 26:14; cf. 1:22-23; Deut. 33).

Gauged simply by the body count, the apostasy of Baal-Peor is a serious matter. The 24,000 who perish are over one-and-a-half times the number killed in Korah's rebellion, and eight times the number killed in the Golden Calf episode (Num. 16:27-35; 17:14; Exod. 32:28). Yet, because the description of the event is so concise, and because Phinehas' act of extrajudicial judgment is so expeditious, its significance remains largely submerged. As is often the case in politics, some great events are the ones that do not quite happen.

XII

Numbers 27:1-11 presents the quite modern issue of women's equality, or so it may seem. Following the second census of the Israelites, which Moses supervises near the end of their desert wanderings, as they stand poised to begin the conquest of Canaan, it is reported that

[t]he [five] daughters of Zelophehad, of Manassite family. . . came forward. . . They stood before Moses, Eleazar the priest, the chiefs, and the whole assembly, at the entrance of the Tent of Meeting, and they said, "Our father died in the wilderness. He was not one of the faction, Korah's faction, which banded together against the LORD, but died for his own sin; and he has left no sons. Let not our father's name be lost to his clan just because he had no son! Give us a holding among our father's kinsmen." (Num. 27:1-4)

Moses takes their case to the LORD, who decrees that the women should get their father's property and sets down the following rule of inheritance:

If a man dies without leaving a son, you shall transfer his property to his daughter. If he has no daughter, you shall assign his property to his brothers. If he has no brothers, you shall assign his property to his father's brothers. If his father had no brothers, you shall assign his property to his nearest relative in his own clan, and he shall inherit it. (Num. 27:8-11)

The ruling that the daughters should get their father's property may seem self-evidently just. But that this outcome is not at all self-evident is indicated by several details of the narrative: First, the recently completed census only counted the men capable of bearing arms, by their tribes, clans, and families. Apparently only men can be heads of families. Next, the women feel obliged, it seems, to plead their case before the entire officialdom and the whole assembly—this is not a routine matter that can be settled quietly. Moreover, the case they present is not stated in terms of sexual equality but of tradition, the undesirability of their father's name being "lost to his clan." Further, in doing so they emphasize their late father's political loyalty:

He was not one of Korah's rebels. What bearing should Zelophehad's non-participation in Korah's rebellion thirty-eight years earlier have on this question of inheritance? Finally, the question must be referred to God Himself for a solution. All this suggests that there really is some difficult matter here that needs to be decided, and that not only is the answer not obvious, it is not even clear what considerations are relevant to reach the correct answer.

Perhaps we can gain clarity from the details of the rule that God sets down. Let us note that this matter is to be governed by a rule. The property is not simply the decedent's, to be disposed of arbitrarily in a will. Rather, it is a trust that he holds from his tribe and clan and that he must pass along within his tribe and clan (cf. 1 Kings 21:1-3). To this end, the rule nearly consistently prefers the male line. Daughters can inherit only if there are no sons. Widows do not stand in the line of inheritance at all, nor does one's mother, grandmothers, aunts, uncles on one's mother's side, nor great-uncles traceable through one's mother or a grandmother. Further, if the decedent has several daughters, brothers, paternal uncles, or great-uncles, as the case may be, his property will apparently be divided among them, as it would have been had he had several sons. Only if all these contingencies fail, and the property must pass to his more distant clansmen, of whom there may be so many as to make division unwieldy, might his holding go intact to a single person (and even this is not certain).

This last feature especially suggests that the essential issue may be, not sexual equality (though, granted, being female is not an absolute bar to holding property), but the size and distribution of property holdings within the whole community. In order to prevent a relatively small number of individuals from becoming disproportionately wealthy and powerful, property must be continually divided through the law of inheritance. Conversely, if women in general could inherit property like men, then large holdings could more easily be consolidated through marriages of economic convenience and political ambition. Aristotle notes in Book 2 of the *Politics* that this was one source of corruption in the generally praiseworthy Spartan regime:

[S]ome of them possess too much property, and others very little; hence the territory has come into the hands of a few. . . . For [the legislator] made the buying and selling of existing [property in land] something not noble, and correctly so; but he left it open to them to give or bequeath it if they wished, although the result must be the same in this case as in that. Indeed, nearly two-fifths of the entire territory belongs to women, both because many have become heiresses and because large dowries are given. (*Politics*, 1270a16-24)

(On the social effect of changes in the law of inheritance, see also Alexis de Tocqueville, *Democracy in America*, vol. 1, chap. 3.) Further, despite what Zelophehad's daughters say in their public appeal, even the preservation of his family name seems not quite to be at issue. As their clansmen point out in a postscript to this episode a few chapters later, Zelophehad's name will last only as long as the daughters remain unmarried, but once they marry their children will be known by the name of the husbands' families and tribes (Num. 36:3).

If the preservation of a large number of relatively small landholdings that stay within the tribe is so important, why allow the daughters to inherit at all, even temporarily? Why not simply pass the property in the first instance to the decedent's brothers or uncles? Ordinarily, if a man had sons, the sons would inherit and be expected to care for their sisters until husbands were found for them. It is assumed that the affection of siblings is strong enough to be generally reliable in this regard. But to pass this obligation along to uncles, great-uncles, or remote cousins, who would likely have more immediate dependents to provide for, may unduly strain familial affection. These more distant relatives might be tempted to slight the legitimate needs of their kinswomen. The rule that is given thus compromises the political principle regarding property holdings just enough to ensure that female orphans do not fall into neglect.

One should add that this rule seems applicable only to the issue of property inheritance. It does not, for example, indicate whether women should be eligible for positions of political rulership or whether the hereditary succession in a monarchy could pass to a woman or through a female line. (In Act I of Shakespeare's *Henry V*, an argument is drawn in part from the story of Zelophehad's daughters to justify the English king's specious claim to the French throne. *Henry V*, I.ii.98-100) Such high concerns of state, as well as similar but more humble questions that may arise closer to home, would need to be resolved on their own distinctive merits.

XIII

Chapter 35, which all but brings the book of Numbers to an end, includes the provision for cities of refuge, an institution that underscores the imperfection of any system of criminal justice. These six cities, dispersed geographically within the Promised Land, were places to which certain killers could flee and be protected from the vengeance of their victims' relatives. To appreciate the legal and epistemological twilight zone that this institution

occupies we do well to start with the common sense distinction between murder and accidental homicide:

Anyone . . . who strikes another with an iron object so that death results is a murderer; the murderer must be put to death. If he struck him with a stone tool that could cause death, and death resulted, he is a murderer . . . Similarly, if the object with which he struck him was a wooden tool that could cause death, and death resulted, he is a murderer . . . So, too, if he pushed him in hate or hurled something at him on purpose and death resulted, or if he struck him with his hand in enmity and death resulted, the assailant shall be put to death. . . .

But if he pushed him without malice aforethought or hurled any object at him unintentionally, or inadvertently dropped upon him any deadly object of stone, and death resulted—though he was not an enemy of his and did not seek his harm—in such cases the assembly shall decide between the slayer and the blood-avenger. (Num. 35:16-24)

What is indicated here is the enterprise of fact finding, essentially the examination of two levels of circumstances: 1. What happened in the fatal event itself? Did the assailant use a hard implement likely to cause death? Iron objects are inherently deadly, but stone and wooden ones are only potentially so. Did he “strike” the victim or did he merely “drop” an object on him? Sometimes the verb tells the whole story. 2. What were the assailant’s motives? Did he act with malice? Was he known to be the victim’s enemy? It is, of course, possible to kill even one’s enemy accidentally, so the inquiry into these more remote, motivational circumstances is apt to yield conclusions that are more probabilistic than certain. A second order of complication derives from the Torah’s fundamental testimonial rule, with which we are unlikely to disagree: “If anyone kills a person, the manslayer may be executed only on the evidence of witnesses; the testimony of a single witness against a person shall not suffice for a sentence of death” (Num. 35:30). The danger of abuse inherent in the alternative procedure, to allow a death sentence on the testimony of only one, possibly hostile, witness, is obvious. (We are, of course, dealing with a milieu that predates scientific forensic evidence.)

The necessary consequence of these complicating factors is that some murder cases will be unprovable, either for lack of a second witness or because the circumstances are ambiguous. But “not proven” does not mean “not guilty.” Here the Mosaic law diverges from our familiar judicial convention that one is legally innocent until proven guilty beyond a reasonable

doubt. Murder is too serious a matter to treat the inability to convict as equivalent to an acquittal, “for blood pollutes the land, and the land can have no expiation for blood that is shed on it, except by the blood of him who shed it” (Num. 35:33). Even accidental homicide is not entirely blameless, insofar as it may be the result of culpable negligence. So there must be a middle way between acquittal and execution. That way, temporary internal exile in a city of refuge, is disruptive enough of the killer’s life to be taken seriously while not being lethal or irrevocable. As long as the manslayer remains within the city of refuge, the deceased’s next of kin may not avenge the death. But if he leaves the city or its surrounding pasturage, the blood-avenger may kill him without incurring guilt. This situation lasts until the death of the then current high priest. Then the manslayer is considered cleared and may return to his estate (Num. 35:25-28).

This remedy, of course, falls short of the aforementioned textual postulate that “the land can have no expiation for blood that is shed on it, except by the blood of him who shed it.” Perhaps we can reconcile the proposed solution with this maxim by applying some creative editorial judgment to the unpunctuated Torah scroll. Could we not understand the insistence on blood for blood as a paraphrase of what the dead victim’s kinsman might say, a familiar folk adage that should be enclosed in quotation marks? The saying would thus express an ideal, but not be a literal statement of divine command. If so viewed, then the immediately preceding assertion, “blood pollutes the land,” looks in two directions. In addition to being polluted by the blood of the innocent, a land (that is, a country) would also be tainted by the presence in it of unrestrained and probably unending blood feuds and private vendettas. The “blood for blood” maxim does, however, literally prevent the manslayer from purchasing his way out of exile in the city of refuge, and, by probable implication, the avenger from settling his grievance for a money payment (as well as precluding the substitution of a ransom for the life of a convicted murderer) (Num. 35:31-32). If, in this case, an exception is implicitly made to the Torah’s general elimination of private revenge, this impulse is nonetheless channeled so as to emphasize (like capital punishment for first degree murder, espionage, and treason in our own day) that homicide is a special kind of crime (cf. Hertz 1981, 405).

Why tie the term of exile in a city of refuge to an official’s lifetime? Why not rather give it some definite fixed term or make it permanent? Permanent exile would be too harsh on the truly innocent, and a fixed term might invite a kind of “calculation of carelessness,” a half-conscious willing-

ness to be unmaliciously negligent with others' lives because "only" two or five or ten or however many years of inconvenience are at stake. Moreover, the uncertainty of the term seems to reflect the uncertainty inherent in the verdict itself. And why the lifetime of the high priest? At this point, the Israelites do not yet have kings, whose reigns would be the likeliest alternative temporal yardstick. Besides, in time of war or political instability, kings may come and go too quickly. Because it is the priest's function to expiate for unintentional wrong-doings (Lev. 4:1-5:19), there is poetic, as well as political, justice in making his lifetime the variable measure of this indefinite sentence. And associating the sentence with the high priest imbues it with a mysterious sanctity, which may help reconcile us to its inherent element of irrationality.

If we want to imagine a next-to-worst-case scenario, were the term of exile linked to the royal lifespan, let us suppose a manslayer wants to leave the city of refuge desperately enough to conspire assassination of the king. Connecting the sentence to the high priest's life removes this particular source of political danger, while implicitly reminding the king that there is someone else around whose person is more sacred than even his own. But what if the manslayer were desperate enough to contemplate the high priest's assassination? In this truly worst case, the community may be said to have strayed so far from the idea of sanctity as to be beyond all hope of justice.

XIV

The book of Numbers concludes with a curious postscript. Back in chapter 27, the five daughters of Zelophehad, a deceased man of the tribe of Manasseh, had approached Moses for a judicial decision. Their father had died without having had any sons. Could the daughters inherit his prospective holding in the Promised Land, so that his name would not be lost to his clan? Moses referred the case to the LORD, and received judgment in the women's favor, plus the following rule concerning inheritance of land:

If a man dies without leaving a son, you shall transfer his property to his daughter. If he has no daughter, you shall assign his property to his brothers. If he has no brothers, you shall assign his property to his father's brothers. If his father had no brothers, you shall assign his property to his nearest relative in his own clan, and he shall inherit it. (Num. 27:8-11)

But now, in chapter 36, the dead man's kinsmen reopen the case by pointing out an undesirable implication of this rule:

"The LORD commanded my lord to assign the land to the Israelites

as shares by lot, and my lord was further commanded by the LORD to assign the share of our kinsman Zelophehad to his daughters. Now, if they marry persons from another Israelite tribe, their share will be cut off from our ancestral portion and be added to the portion of the tribe into which they marry; thus our allotted portion will be diminished.” (Num. 36:1-3)

In the rule’s formulation, the Israelites are told to “assign” (or give-*n’satem*) the inheritance to the male relatives, but to “transfer” it (or cause it to pass-*ha’avartem*) to the daughters. The root of this term, *avar*, in other contexts suggests a transitional situation, e.g., Num. 21:23: “But Sihon [King of Heshbon] would not let Israel *pass through* his territory.” Curiously, Zelophehad’s kinsmen suppress this difference in terminology, but they correctly grasp the broad idea.

In order to avoid this outcome, as well as general frustration of the system of tribal allotments, Moses issues a second decree, at the LORD’s bidding:

They may marry anyone they wish, provided they marry into a clan of their father’s tribe. No inheritance of the Israelites may pass over from one tribe to another, but the Israelites must remain bound each to the ancestral portion of his tribe. Every daughter among the Israelite tribes who inherits a share must marry someone from a clan of her father’s tribe, in order that every Israelite may keep his ancestral share. Thus no inheritance shall pass over from one tribe to another, but the Israelite tribes shall remain bound each to its portion. (Num. 36:6-9)

The story concludes happily, with all five women marrying sons of their paternal uncles, so their share remains not only within the tribe of Manasseh but also within their father’s clan (Num. 36:10-12).

As noted above, the rule allowing for female inheritance under the given circumstances is not an assertion of sexual equality. Officially, both the original rule and its corrective amendment aim at preserving the integrity of ancestral property, an eminently conservative end. The first rule’s purpose is not to make women equal under the law, but to assure that orphaned women will not go unprovided for or be left dependent on the charity of possibly unsympathetic uncles or cousins. On the other hand, there is a glimmer of female emancipation in the allowance the second rule gives to heiresses to marry outside of their father’s clan, as long as they stay within the tribe, which could in fact result in the clan’s name being lost—the very result

that Zelophehad's girls wished to prevent. These women, whose motivation seems genuinely pious, choose to stay within the clan as well as the tribe. But perhaps a more restrictive rule, one that required such a result, would court trouble down the road in the event that there were no marriageable male cousins available.

The episode describes the last judicial act of Moses' career. Although Moses has plenty of judicial experience (cf. Exod. 18:13-16), the issue raised here is apparently so thorny that he must yet again seek divine guidance. Indeed, it seems that even God needs to think twice, not to the extent of retracting the first rule but of counter-balancing it with a second that hedges against an unforeseen consequence. The suggestion that practical human problems may exceed the capacity to anticipate of even a divine intelligence is perhaps the most startling feature of this vignette. It invites a radical interpretation of Scripture, recently exemplified by Alan Dershowitz's book *The Genesis of Justice*, that posits a non-omniscient God, who attempts, in an improvisational mode, sometimes with more, sometimes with less success, to understand His elusive creature, Man.

The particular complicating factor in the present story is the Israelites' imperative to preserve the tribal land allotments, and perhaps their tribalism in general. The tribes must remain distinct, and each must be tied to its geographic place. The Israelites do not so much own their land as the land owns them. The initial land distribution aims at a kind of equality: "You shall apportion the land among yourselves by lot, clan by clan: with larger groups increase the share, with smaller groups reduce the share" (Num. 33:54). But, as the fluctuations in tribal numbers between the two Mosaic censuses, taken thirty-eight years apart, reveal, this equality cannot be expected to persist (Num. 1, 26). Some tribes will grow at a faster pace than others, while some may even diminish, and the same will be true of clans within each tribe. The tribes' different geographic situations is another source of variation, the lands of the "exterior" tribes being most vulnerable to reduction by foreign encroachment. And the sad sequence of events in the book of Judges shows the Israelites' tribalism to be a source of common weakness, frequent mutual indifference, and occasional mutual hostility (see, e.g., Judges 5:15-17; 19-21). The entire tribal enterprise, so much emphasized in the book of Numbers, seems ultimately futile.

On the other hand, no political arrangement can be expected to last forever. At this point in their national saga, the Israelites still have

strong tribal attachments. The present rule reinforces those attachments, which may be practically necessary to see them through the impending task of conquering the Canaanites. Once they are settled, tribalist rules may either be preserved, as part of their cultural heritage, or loosened under the influence of new necessities. Thus, the *Taryag Mitzvos* compendium does not list this rule among the 613 Torahidic commandments (Kahan 1988, 250), and the Orthodox Stone edition of the *Chumash* reports, probably anachronistically:

The Talmud (*Bava Basra* 120a) states that this limitation [on whom heiresses may marry] was in effect only for the generation that entered the Land, so that the province Divinely ordained for a tribe when it entered the Land would belong in its entirety to that tribe. . . . The Talmud (*Taanis* 30b) relates that after the Land was apportioned, the prohibition was lifted, to universal rejoicing that a barrier to the unity of the nation no longer existed. The anniversary of that event, 15 Av, became a time of great celebration. (Scherman 1996, 933, 935)

EPILOGUE

The examined passages display a paradoxical bifurcation. Those of a legislative character, which prescribe general rules to govern future practice, evidence a keen, sometimes intricate grasp of judicial concerns, while some of the “big cases” narratives end up asserting the primacy of the political. The Torah thus gives their due to both sides of an old debate. On the one hand, as a compilation of laws, it massively embodies the judgment that rule of law is generally desirable. (Indeed, is not one of the basic points of the antecedent book of Genesis to reveal the errors into which human beings are apt to fall in the absence of the Law?) On the other hand, the present narratives repeatedly assert the need for right rulership, at least in the Israelite nation’s delicate infancy, as a necessary precondition to the rule of law and the accomplishment of justice. This conclusion probably should not surprise, given that the text concerns, for the most part, a ruler who is called by God. Or does this statement merely beg the question, What virtues and what combination of circumstances made Moses worthy to receive the LORD’s instruction? (Cf. Machiavelli, *The Prince*, chap. 6, 25.)

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New Developments in Xenophon Studies

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Wayne Ambler (tr.), *Xenophon, The Education of Cyrus*. Translated and Annotated (Ithaca: Cornell University Press, 2001), x+304 pp., \$19.95 (paper).

Amy L. Bonnette (tr.), *Xenophon, Memorabilia*. Translated and Annotated, with an Introduction by Christopher Bruell (Ithaca: Cornell University Press, 1994), xxviii+170 pp., \$45.00 (cloth), \$17.95 (paper).

Robert C. Bartlett (ed.), *Xenophon, The Shorter Socratic Writings*. Translations, with Interpretive Essays and Notes (Ithaca: Cornell University Press, 1996), 201 pp., \$35.00 (cloth).

Cornell University Press and the general editor of the Agora series, Thomas L. Pangle, have made a substantial contribution to the field of Xenophon studies with the publication of these volumes. Each one contains an excellent translation of one or several of Xenophon's writings – the *Education of Cyrus*, the *Memorabilia*, the *Apology of Socrates to the Jury*, the *Oeconomicus* and the *Symposium* – and each translated work is richly annotated and accompanied by a helpful introductory essay. The volumes aim to provide literal translations of Xenophon's works to give political theorists and students of philosophy as direct an access to what Xenophon wrote as possible. The guiding influence of Leo Strauss is felt throughout these volumes, and like Strauss, the contributors approach Xenophon as a serious thinker and a genuine Socratic who understood the core of Socrates' teaching. Christopher Bruell's contribution to the recent study of Xenophon is also noted, and Wayne Ambler, Amy L. Bonnette and Robert C. Bartlett all gratefully acknowledge the help they received from his teaching and scholarship.

I.

Wayne Ambler has produced a superb translation of Xenophon's longest work, the *Education of Cyrus*, a vivid and charming account of the life and achievements of the founder of the Persian empire. Ambler's meticulous translation reflects his conviction that the *Education of Cyrus* is a "philosophic novel" exploring fundamental political and moral questions through a carefully crafted and partly fictional narrative (13). In his introduction, Ambler observes that the *Education of Cyrus* opens with Xenophon's suggestion that the problem of political instability may be "a constant fact of life" because human beings do not easily let themselves be ruled by other human beings (1). Yet, after a moment's reflection, Xenophon is led to revise himself and to admit that Cyrus's career, which brought him absolute rule over "very many people, very many cities, and very many nations, all obedient to himself," demonstrates that "ruling human beings does not belong among those tasks that are impossible, or even among those that are difficult, if one does it with knowledge" (*Education of Cyrus* 1.1.3). Ambler argues that this conclusion is not Xenophon's final view of the matter but a provisional thesis that the *Education of Cyrus* as a whole is meant to test. Indeed, since Cyrus's knowledge, or his science of rule, ultimately brings "general peace to a multinational region so vast as to be in effect a world unto itself, set off by natural boundaries," the work holds out the hope that Cyrus may provide the solution not only to the problem of political stability, but of world peace as well (3). Xenophon's prefatory musings are thus an invitation to the reader of the *Education of Cyrus* to scrutinize Cyrus's achievements to assess the reasonableness of hopes the reader may himself harbour. As Ambler observes, the "education of Cyrus" may refer "not only to what [Cyrus] learns but also to what he teaches others, whether directly or indirectly" (8, n. 5).

Ambler offers a helpful overview of Cyrus's political and military successes and especially of the qualities of character that seem to make him deserve them. Cyrus is not only a daring military strategist and an innovative general, he is also a natural ruler, "keenly alive to his subjects' hopes and interests," and he displays throughout the work such attractive qualities as "clemency, benevolence, generosity, and justice" (4). For example, Cyrus transforms the narrow Persian oligarchy under which he was (in part) brought up into a regime where rewards are given in accordance with merit, thereby removing the arbitrary barriers confining every Persian commoner, however promising or talented, to a life of hard labours, political exclusion, and poverty. Indeed, Cyrus eventually extends the principle of reward to merit to his

allies the Medes (2.2.17-28, 2.3; see also 8.6.7-13). He is hailed as a benefactor and a good man by those he conquers, and one of the kings he unseats, the Lydian Croesus, even admits enthusiastically that Cyrus is a more deserving ruler (3.3.1-5, 7.2.9-29). Cyrus's rise to absolute power seems to be advantageous to everyone—or rather, since Cyrus is also the avenger of past injustices, to everyone who is not entirely wicked and undeserving. Moreover, his remarkable career seems to prove that political rule can be successfully combined with the demands of decent or noble behaviour; it seemingly gives the lie to Machiavelli's claim that a successful prince must learn "to be able not to be good, and to use this and not use it according to necessity" (*Prince*, c. 15). Above all, Cyrus's reign opens up the prospect for an era of widespread justice on earth, for the absolute authority he secures, together with his eagerness to reward virtue, mark him out as the dispenser of secular providence, "a god among men" capable of ensuring a tight fit between desert and reward for a significant portion of mankind (10).

Ambler argues that this impression of the beneficial character of Cyrus's rule and of his upright character, while true to some extent, must also be qualified. In the first place, Xenophon states openly that an essential pillar of Cyrus's rule is fear, a fear which he nourishes partly through an elaborate system of spies and informers known as the "Eyes and Ears of the King" (1.1.5; 8.2.10-12). Cyrus also proves to be the destroyer of Persian freedom, witness the fact that following his ascent to the throne, his fellow Persians must prostrate themselves before him as before their master (8.3.14). Regarding Cyrus's eagerness to reward virtue, it becomes clear that "Cyrus does not so much reward true merit as he rewards obedience and service to himself" (18). Moreover, the attractive qualities that he displays throughout his career are often called into question by closer analysis of the work. Ambler brings up many examples demonstrating that Cyrus's generosity, for instance, is in truth almost always self-serving; Cyrus uses it as a means to enlist the enthusiastic support of local potentates such as Gobryas, Gadatas, and Ambradatas, among others, whose help he will need if he is to conquer (much of) the world. Similarly, Cyrus's temperance or self-restraint turns out to be purely instrumental to his imperial ambitions: "He took virtually nothing for himself and his Persians during the time he was building and extending the foundations of his power, and he was then the very model of austerity" (16). But after his conquests are complete, when "he owns everything," Cyrus confesses the truth in a private conversation: "he craves wealth and always desires more" (16; 8.2.20-22).

Ambler's meticulous translation far surpasses in precision and overall quality that of his two most recent predecessors, Walter Miller (1914) and H.G. Dakyns (1914; reissued 1992). Ambler translates important Greek terms—for example, *agathos* (“good”), *aretê* (“virtue”), *dikaiosunê* (“justice”), *kalos* (“noble,” “beautiful,” “fine”), *phusis* (“nature”), *psuchê* (“soul”)—as consistently as is feasible in modern English, thus enabling the reader who lacks knowledge of Greek to explore the fundamental issues treated by Xenophon with a minimum of distortion. An English-Greek glossary and endnotes indicate where strict consistency has proved to be impossible or undesirable. Moreover, Ambler's fidelity to the Greek helps uncover the darker side of Cyrus, a side which Machiavelli saw very clearly (see, e.g., *Discourses* II.13), but which Miller and Dakyns, in their enthusiasm for their hero's nobility, often sweep under the rug. For example, early in the work, Cyrus tells what appears to be a brazen lie to his uncle Cyaxares about the size of his army when he comes to the rescue of Media, claiming that the contingent he is bringing is only 20,000 strong instead of the truth, 30,000 (cf. 2.1.2 with 1.5.5). As another scholar, Christopher Nadon, has explained in an excellent recent monograph, it is hardly surprising that the ambitious Cyrus would lie about the strength of his army in this context, for he thereby magnifies the threat to Media in the eyes of his uncle, and thus convinces him more easily to assume the expense of better weapons for the entire Persian contingent—the contingent which later becomes the backbone of Cyrus's imperial army (Nadon 2001, 61–62). With no manuscript authority, however, Miller and Dakyns “correct” the figure of “20,000” and translate “30,000” so as to match the figure Xenophon provides at 1.5.5. By contrast, Ambler faithfully reproduces “20,000” and enables the reader to see that Cyrus's truthfulness may be less than unimpeachable.

More substantial examples of Ambler's superior translation are to be found as well. Xenophon indicates that Cyrus knows very well the difference between “virtue” and the “appearance of virtue,” and that he exploits appearances for political ends. In a speech to his Persian troops, for example, Cyrus emphasizes the importance of “appearing to be just” to the Median and Hyrcanian allies as they are about to divide the first spoils of battle. In this way, he says, they will gain the allies's trust and enthusiastic support and thereby a power to acquire even greater riches later on (4.2.42–45). But instead of translating *dikaios phainomenos* literally as “appearing (or seeming) to be just,” as Ambler correctly does, Miller's Cyrus urges the Persians “to show that we mean to be fair and square,” and Dakyns's translation is equally inaccurate:

“[we should] prov[e] ourselves just toward our allies.” As a result, the reader gets from Miller and Dakyns a simplified and moralized account of Cyrus’s speech. By contrast, Ambler’s translation captures precisely Cyrus’s message and provides a basis for understanding what I called earlier his “science of rule.” It also prepares the readers for the later transformation of Cyrus into an oriental despot, not much concerned with justice, who regards the property of his friends and subjects as his own (8.1.16-20).

In addition to its precision, Ambler’s translation is also more consistent than either Miller’s or Dakyns’s, and this helps uncover Xenophon’s view of the imperial regime founded by Cyrus. In the following passage, for example, Xenophon describes how Cyrus trained the soldiers standing guard at the gates of his imperial palace, and by what standard Cyrus judged them:

(31) [Cyrus] distinguished respect (*aidôs*) and moderation (*sôphrosunê*) like this: Those who show respect (*hoi aidoumenoi*) flee what is shameful where it is in the open, but the moderate (*hoi sôphrones*) do so even where it is invisible. (32) And continence he thought would be exercised especially if he himself should display himself not being dragged away from the good things by the pleasures of the moment but being willing to labor first, in accord with what is noble, for what is delightful. (33) Being such, he therefore produced at his gates a great deal of good order among the inferior troops, who deferred to their betters, and much respect (*aidôs*) and decorous conduct (*eukosmia*) toward each other. You would not have perceived anyone there shouting in anger, or taking delight in insolent laughter, but on seeing them you would have held that they really lived nobly. (8.1.31-33, Ambler translation, emphasis added)

By rendering consistently the Greek *aidôs* and *sôphrosunê* as “respect” and “moderation” respectively, Ambler enables the reader to see that Xenophon separates respect from moderation (sec. 31) and then ascribes the first quality to Cyrus’ troops but conspicuously omits the second (more important) one (sec. 33). Ambler conveys faithfully what Xenophon intimates, i.e., that the troops in question displayed a mere veneer of “decorousness” and committed shameful deeds when they were invisible. In keeping with this, Xenophon emphasizes that the angry shouts or insolent laughter of the troops could not be *perceived*, and that *on seeing* them *you would have held* that they really lived nobly (sec. 33). Miller and Dakyns employ two different words to translate *aidôs* in this passage (“modesty” and “reverence” for Dakyns; “considerateness” and “respect” for Miller). As a result, the Greekless reader has no way to know that Xenophon writes *aidôs* in both sec. 31 and 33, and thus, failing to

observe the pattern of repetition, he cannot know that Xenophon omits the crucial *sôphrosunê* in sec. 33. Xenophon's subtle indication that Cyrus's empire was plagued by internal corruption is thereby entirely lost. Dakyns even evacuates completely the deliberate ambiguity of the original and translates sec. 33, *in fine*: "to look at them was to know that they lived for honour and loveliness."

Given these (and other similar) imprecisions, it comes as no surprise that Miller denies the authenticity of the last chapter of the *Education of Cyrus*, where Xenophon seemingly "mars" the perfect picture of Cyrus's empire he has been sketching and turns abruptly to describe how it fell prey to strife and corruption immediately after Cyrus's death (8.8; see Miller 1914 [vol. 2], 438). Ambler's translation helps one see how this finale, which has been prepared from the first, is an appropriate conclusion for the work. It thus helps to appreciate the work's essential unity and coherence. Moreover, by conveying the precise picture of Cyrus that Xenophon intends his readers to consider—a picture at once attractive and ambiguous—Ambler prepares the ground for a deeper examination of the hopes for universal stability, peace, and justice which the *Education of Cyrus* elicited at its outset.

II.

If Cyrus is *the* representative of the political life at its peak and stands at one pole of Xenophon's reflections about human life, Socrates, *the* representative of philosophy at its peak, stands at the other. Amy L. Bonnette's richly annotated translation of the *Memorabilia* is, in my view, the best one currently available in English. It combines strict faithfulness to the Greek with eminently readable English and conveys at once the gracefulness and the precision of Xenophon's longest Socratic writing. The *Memorabilia* (along with the *Apology of Socrates to the Jury*, the *Oeconomicus* and the *Symposium*) has suffered from scholars' prejudiced view of Xenophon's intellectual abilities for the better part of the last 150 years. If Xenophon is generally acknowledged to be a gifted military man and (somewhat less generally) an innovative writer, he is also viewed as a slow-witted gentleman too dull to grasp the philosophic doctrines of his teacher. It is charged, for example, that Xenophon's Socrates does not say a single word about the doctrine of Ideas, the fundamental metaphysical doctrine of Plato's Socrates; instead we find him, especially in the *Memorabilia*, in constant conversation about such pedestrian or frivolous topics as boy-kissing (1.3), household-management (2.7), breastplates (3.10), bodily health (3.12) or relish-eating (3.14). Moreover, the account of Socrates' theoretical pursuits in the *Memorabilia* is inconsistent, it seems, for Xenophon

initially denies that Socrates studied natural phenomena or “the cosmos,” only to indicate later on that he did study it (*Mem.* 1.1.11-16; cf. 4.3, 4.7). Readers interested in assessing the value of these (and other similar) allegations will find in Bonnette’s volume, as well as in Robert C. Barlett’s, compelling evidence that they must be rejected.

Christopher Bruell’s introduction aims “to lend support to the view that Xenophon’s account of Socrates deserves more respectful attention from those interested in Socrates than it often receives today” (vii). Bruell opens with the observation that Xenophon, much more obviously than Plato, “calls attention in his writings to his own relationship with Socrates” (vii). For example, Xenophon frequently claims to have directly witnessed the Socratic conversations he reports and “He often comments, in his own name, on Socrates’ words and deeds and on his life as a whole, something Plato never does”; moreover, Xenophon “sometimes talks of the impression they made on *him* in particular” (vii). Yet Xenophon presents his relationship with Socrates with surprising levity. Indeed, it would seem that he “did *not* place very great weight on [this] relationship . . . even that he took it lightly” (x). This impression must be corrected, however, or rather, the episodes where the relationship is described suggest that Xenophon was not entirely receptive to Socrates’ advice and example (see *Mem.* 1.3.8-13; *Anabasis* 3.1.4-10). Read together with what Xenophon tells us of his life as a whole, these episodes suggest that “Xenophon did not regard the Socratic life—the philosophic life pure and simple—as a model for *him* to follow in every respect. It is safe to assume that he expected the same to be true of many of his readers as well” (x).

Bruell contends that this consideration may help to account for a particular feature of Xenophon’s Socratic writings: “the almost total absence from them of philosophic protreptic, exhortations to philosophize of the sort found in abundance in the Platonic dialogues” (x). In their place, Xenophon sketches in his *Symposium* a delightfully playful but equally biting critique of some of the hangers-on or notorious members of Socrates’ circle. The protreptics that Bruell seems to have in mind in this passage are perhaps best exemplified by Socrates’ dialectical examination of Polemarchus in the first book of Plato’s *Republic*: they would include, in the better cases at least, “An appeal to the potential convert’s concern for justice, followed by a thoroughgoing critique of his conscious or unconscious conviction that he knows what justice is” (x). Yet, if Xenophon often alludes in his writings to the Socratic investigation of justice, and if he gives rather precise indications regarding the

results of this investigation (see esp. *Mem.* 3.8-9), he offers few examples of it, and the single extensive example he does offer is a deliberate caricature (*Mem.* 4.2). Hence, Bruell contends, “there is no Xenophonic counterpart to Plato’s *Republic* or *Gorgias*” (x). To put this point otherwise, one might say that Xenophon is less of an educator of the young than Plato; he does comparatively little to put the young on the path to philosophy, i.e., to sketch the issues that must be clarified, and thought through, as preparation for the life of philosophy proper. If his Socratic works are as a result perhaps less rich than Plato’s dialogues, they are also purer or less mixed with vulgarities that Plato thought necessary to employ for pedagogical reasons:

If philosophy itself is the true opposite of vulgarity, then prior to falling in love with philosophy in the proper way, the future philosophers themselves cannot be entirely free of vulgar concerns and tastes; a philosophic protreptic would therefore have to appeal to those concerns, if only for the sake of leading its addressees beyond them; and in doing so, it would inevitably partake of the vulgarity it seeks to cure. (xi)

By largely abstaining from philosophic protreptics, Xenophon creates a Socrates who is remarkably free of the vulgarities in question. One might mention in this connection that there are few counterparts to be found in Xenophon’s Socratic writings to the epiphanic myths and fantastic allegories so common in Plato. Yet the form of vulgarity that Bruell seems to have especially in mind is the one which appeals to a taste or tendency mischievously described by Montesquieu in the *Spirit of the Laws*: “Human beings, rogues individually, are en masse very decent people: they love morality; and ... I would say that this is seen admirably well in the theatre. One is certain to please the people with the sentiments that morality avows, and one is certain to shock them by those it reproves” (Book 25, c. 2). In short, Xenophon does not say anywhere that his Socrates was created “nobler or “more beautiful” than the original (cf. Plato, *Second Letter*, 314c2-5).

I do not intend to summarize Bruell’s graceful summary of the *Memorabilia*, which provides a rich overview of the work, but I will briefly restate one or two of the more important points that he develops. Bruell indicates that Xenophon is a very skilled rhetorician, and that in order to persuade the vast majority of his readers that Socrates’ sentence of death was unjust, he resorts to certain forms of rhetoric generally absent in Plato. In particular, Xenophon emphasizes (and, indeed, exaggerates) the ordinariness of Socrates’ concerns and pursuits, and he describes him as a man who never said, did or

thought anything out of the ordinary. In keeping with this, Xenophon is largely silent about Socrates' philosophic activity, although he gives useful indications regarding its character and aim (e.g., 1.1.11-16, 4.6.1, 4.7). The bulk of the *Memorabilia* thus shows

Socrates not in his philosophic activity proper but in his relations with students, relatives, companions of various sorts, fellow citizens, and others, expressing views on personal as well as economic and political matters. Or it shows us something of what it means to be a philosopher by showing how philosophy affects a number of matters and relations with which we too are concerned" (xii).

Bruell analyzes each of the sections of the *Memorabilia* and shows how they shed light on Socrates' relations and everyday concerns; he discusses, for example, what is in fact the only instance reported by Xenophon or Plato of an attempt by Socrates to educate one of his own children (*Mem.* 2.2). (Bruell breaks down the thirty-nine chapters of the *Memorabilia* as follows: 1.1-2: 'Xenophon's refutation of Socrates' indictment'; 1.3-7,2.1: 'Socratic exhortations to piety and continence'; 2.2-3: 'Difficult relatives'; 2.4-10: 'Friends'; 3.1-7: 'Those longing for the noble things, i.e., for political honors'; 3.8-14: 'Socratic definitions [and other subjects]'; 4.1-7: 'The Socratic education'; 4.8: 'Socrates' trial and death'). Bruell's careful analysis contains many insightful observations and it testifies to his extensive knowledge of Xenophon's corpus. It also includes attractive samples of the more amusing or graceful passages of the *Memorabilia*, and perhaps we may not be amiss to repeat here how Bruell touchingly describes Xenophon's account of Socrates' final days:

[Socrates] was clearly attached to life, which he felt he had lived to the fullest; but, especially given his age, he seemed to feel that it was not a bad time for him to die. We might be disturbed by the manner of his death—by its injustice, which it was after all part of the intention of the *Memorabilia* to establish. In his *Apology of Socrates* ... [Xenophon] shows what he and his Socrates would have thought of such a reaction. Among those present at the trial was Apollodorus, whom Xenophon characterizes as "an ardent lover of Socrates and otherwise a naive fellow." After Socrates' condemnation, Apollodorus said to him, "But for me, Socrates, the hardest thing to bear is that I see you dying unjustly." Socrates, stroking Apollodorus' head, said, "Dearest Apollodorus, would you have preferred to see me dying justly?" And, for only the second time in Xenophon's Socratic writings, where he has caused us to laugh more than a few times, Socrates laughed (xxii).

Bonnette's meticulous translation is in my view greatly superior to that of E.C. Marchant (1923) and Hugh Tredennick (1970, revised by Robin Waterfield, 1990), the two most widely available alternatives. Bonnette's stated aim is "to attain the greatest accuracy and consistency possible in consonance with clear English usage" (xxiii). To this end, she too, like Ambler, translates important Greek terms with the same English word whenever possible and she notes all the instances deviating from this rule. Contrast this with Marchant's approach. He translates an important Greek term like "*kalos*," for example, with a wide variety of words that includes (among others) "fine," "aright," "honourable," "excellent," "beautiful" and "noble." None of these is objectionable by itself, and *kalos* can legitimately admit of all these translations. But the very variety conceals from the reader where the word *kalos* appears, and where it does not appear, in the original; it makes it virtually impossible to bring together, in order to consider more closely, the various passages of the *Memorabilia* where Xenophon (or his Socrates) *does* use *kalos*, as well as the contexts for these usages. In other words, Marchant destroys the reader's ability to elucidate the Socratic view of the noble under the guidance of Xenophon's precise prose. It will perhaps be objected that Marchant's recourse to an array of synonyms yields a more graceful and pleasing translation than Bonnette's very consistent text, which also preserves "the order of Xenophon's arguments and his careful wording of lists" (xxv). But Marchant's synonyms are a source of immense frustration for anyone seeking to uncover Xenophon's teaching about a subject of central importance to Socratic political philosophy.

Marchant's lack of consistency also obscures potentially important connections between the larger sections of the *Memorabilia*. For example, the first seven chapters of book 3 show how Socrates conversed with potential, actual or aspiring military and political leaders of Athens, a class which Xenophon labels "those longing for the noble things" (*hoi oregomenoi tôn kalôn*, 3.1.1). These chapters develop a number of probing avenues of analysis of what *kalos* is. They explore issues such as whether noble actions are good for those who do them; whether there exists a fundamental difference between the household-manager, who pursues profit, and the honour-loving man, who pursues the noble, etc. Immediately after this group of chapters, Xenophon details a theoretical conversation in which Socrates puts forward a very paradoxical thesis about what the noble is (3.8). The very order of Xenophon's presentation suggests that the seven chapters may cast light on the reasons underlying this thesis. Yet, Marchant obscures this possibility by trans-

lating *kalos* variously in chapters 3.1-3.7—but never as “beautiful”—and then by translating *kalos* consistently as “beautiful” in 3.8. Hence, what is visibly connected in the Greek seems unconnected in Marchant’s rendering. No wonder that he dismisses book 3 as a hodgepodge of “miscellaneous dialogues loosely strung together.” Bonnette, by contrast, almost always translates *kalos* as “noble” (and she indicates where she does not) thereby preserving a visible and potentially important connection.

The translation of Tredennick is rather more consistent than Marchant’s. He renders the Greek locution *kalos kagathos* (*anêr*), for example, as “truly good”(man) in every instance that I have observed. Yet he, too, uses a variety of words to translate important concepts of Socratic philosophy, such as *aretê*, which he translates variously as “virtue,” “moral goodness,” “bravery,” “best quality” and “ideal,” among others. However, it is rewarding to trace Xenophon’s precise usage (and non-usage) of *aretê*. The reader might discover, for example (to limit ourselves to a small but not insignificant one) that Socrates does not consider “self-control” (*enkrateia*) to be a “virtue.” He calls it “a foundation of virtue” (*aretês krêpîs*), which is to say that he regards it as a mere *means*—if a necessary means—to virtue (1.5.4). Why is self-control not a full-fledged virtue according to Socrates? Is he thinking that self-control is an ambiguous quality from a moral point of view, insofar as it is compatible with vice and even useful to it: after all, a self-controlled criminal achieves his end more surely than an incontinent one (cf. 1.5.3)? The reader who pays attention to Xenophon’s precise word choice will be in a position to pursue many reflections of this sort about virtue. He may come to doubt that Xenophon is but a conventional moralizer, more earnest than thoughtful, and too obtuse to understand Socrates’ complex teachings. Yet of the recent translators of the *Memorabilia*, Bonnette alone makes this kind of careful reading possible because she alone preserves what Xenophon actually wrote. One might say that she gives Xenophon the benefit of the doubt, and instead of trying to “improve” the *Memorabilia*, she lets the reader decide for himself whether the work as it has come down to us is a source of profit and pleasure. Xenophon amply vindicates the wisdom of her more respectful approach.

(*Erratum*: Bonnette’s translation of the last sentence of *Memorabilia* 4.3.13 should read: “. . .; and the one who places together and keeps together the whole cosmos, in which all things are noble and good, and who always provides them unravaged, healthy, and ageless for our use, [things] which do unerring service more quickly than thought—this one, while seen to be doing the greatest things, is unseen by us as he manages them.”)

III.

Xenophon, The Shorter Socratic Writings contains translations of the *Apology of Socrates to the Jury*, the *Oeconomicus* and the *Symposium*, along with an introduction and substantial interpretive essays. The volume is edited by Robert C. Bartlett and aims to encourage a revision of the predominant view that “Xenophon was a far better soldier than Socratic” by presenting a man “who understood the core of Socrates’ life” (1). In his introduction, Bartlett argues that Xenophon’s reputation began to suffer in the 19th century as a result of reservations about his moral character and patriotism, and that it is harmed today primarily by a failure to understand properly his manner of writing, i.e., his rhetoric. According to Bartlett, Xenophon makes use in his writings of a “Socratic rhetoric” by which he manages “to speak differently to different audiences” (3-4). The precise character of this rhetoric is suggested in a passage of the *Memorabilia* where Xenophon describes Socrates’ characteristic manner of speaking: “If someone should contradict [Socrates] about something without having anything clear to say ... [Socrates] would bring the entire argument back to its hypothesis,” i.e., he would endeavour to go back, by mutually agreed steps, to the premise(s) underlying the argument in question. In this way, “the truth became visible even to the contradictor themselves.” But if Socrates spoke to someone who simply listened in silence and did not interrupt, Socrates would proceed on the basis of “what was most agreed upon,” i.e., he would defend conventional or publicly respectable views. In such cases, Socrates sought “safety in speech” rather than the truth, and he avoided angering his interlocutors needlessly (*Mem.* 4.6.13-15). Bartlett argues that Xenophon, too, like his teacher Socrates, possesses the capacity to be a safe speaker, and he pleads for readers to entertain the *possibility*, at least, “that the Socrates [Xenophon] presents makes use of the twofold rhetoric indicated. This amounts to nothing more than applying the guiding principle of Socratic rhetoric as stated by Xenophon to Xenophon’s own Socratic writings” (5). By applying the principle in question, moreover, the interpreter catches sight of “a new, intriguing Xenophon, one characterized by ‘light-heartedness, grace and flexibility’ who not only makes intelligible but indeed justifies the vivid and attractive portraits of him drawn by men of earlier times” (5).

Bartlett contends that the full rehabilitation of Xenophon will depend on meeting two additional conditions. First, Xenophon’s Socratic writings must be approached in a spirit of broad-minded inquiry; for the reader must be open to the possibility that Xenophon has something to teach us about the all-important question of the best way of life for a human being. Only the

expectation that this crucial question is clarified and even answered by Xenophon can prompt someone to make the considerable efforts required to read his writings adequately. Secondly, since most of today's readers do not know Ancient Greek, there is a need for accurate and literal translations. The translators of Bartlett's volume have tried to render "a given Greek word by the same English equivalent whenever feasible" to enable their reader "to track the use of important terms" (7). While they grant that this approach can cause "an occasional clumsiness of expression," this consideration is outweighed in the view of these scholars "by the advantage of permitting the most direct access possible to what Xenophon actually wrote" (7-8). Because of limitations of space, however, and because I want to focus on the interpretive essays, I will not discuss in detail the three translations contained in this volume. Suffice it to say that the translation of the *Apology of Socrates to the Jury* is by Andrew Patch, that of *Oeconomicus* is a slightly revised version of that done by Carnes Lord for *Xenophon's Socratic Discourse* (Strauss 1970), and the translation of the *Symposium* is by Robert C. Bartlett. Each translator lives up admirably to the standards of consistency, precision and readability that the volume has set for itself. The works will be read with pleasure and profit, and they shall enable serious students of Xenophon to make the kinds of discoveries that I only began to sketch in connection with Ambler's *The Education of Cyrus* and Bonnette's *Memorabilia*.

The first interpretive essay, written by Thomas L. Pangle, analyzes the *Apology of Socrates to the Jury*. Pangle argues that the *Apology* deserves serious attention today because it is one of only a handful of substantial contemporary records of the speech that Socrates delivered in his own defense at his trial. Moreover, beyond its historical interest, the *Apology* raises important questions about the essential character of the relationship between philosophy and political society. According to Pangle, Xenophon's primary intention in the *Apology* is for his readers to reflect on Socrates' trial and condemnation with a view to exploring these issues: "What exactly are the sources of conflict between Socrates, or men of his type and way of life, and the rest of society? Can the conflict be muted or overcome? Can a "Socratic" speech be imagined which shows the way to a tenuous reconciliation, or a bridge, between the Socratic philosopher and society? If so, what sort of reconciliation or bridge?" (19).

The most helpful part of Pangle's essay is probably the first part, where he examines why Socrates' deliberations about his defense and the end of his life led him to resort to "big talk" or "boasting" (*megalêgoria*) at his trial (18-23). On the face of it, Socrates' boasting would appear to have been

quite imprudent insofar as it increased the likelihood that he would be convicted. Xenophon's aim in the *Apology* is thus to explain Socrates' behaviour, and he gives the impression of putting forward a very simple thesis: Socrates was already old and he thought that death was now preferable to life; he therefore spoke "in an arrogant manner ... to incite the jury to impose on him the relatively painless death penalty, thus allowing him to escape the troubles of old age" (20; cf. secs. 5-6). But Pangle shows that Xenophon's account of Socrates' intent is more complex than this simple explanation would allow. To mention here only some of Pangle's evidence, Socrates denies that he intends directly to bring about his own death through his defense (sec. 9). Moreover, even if we disregard this denial as unreliable or "ironic," Socrates' boasting was not the only, nor perhaps even the most efficient, means to secure a death sentence, and it was certainly no longer necessary *after* such a sentence had been imposed. Yet Socrates speaks and acts boastfully until the very end of the trial (secs. 24-27). Indeed, Xenophon eventually indicates that Socrates' primary goal at the trial was not to secure his own death but "to *appear* neither impious nor unjust"; he was (merely) willing to risk death if this was necessary to achieve the appearance in question (23; secs. 22-23). It follows that the real question that Xenophon wants his readers to consider according to Pangle is this: "what deliberation leads to the conclusion that arrogant boastfulness is the best means by which a philosopher like Socrates can appear neither impious nor unjust when accused by the city of impiety and corruption of the young? ... How can talk that infuriates the jury and seals Socrates' doom make him appear guiltless?" (23)

To answer this question, we must understand the character of Hermogenes, according to Pangle; for the *Apology* describes Socrates' trial as seen through *his* eyes, and it was above all to him, and to people of his type, that Socrates wanted to appeal by "talking big." The thesis that Pangle develops is as follows: Hermogenes is a man who is favourably disposed toward Socrates (and those sharing his way of life) and respected by the Athenian political community. He belongs to one of the most prominent families of the city and is educated, pious, proud, energetic and loyal. Yet, Hermogenes is also poverty-stricken—he was disinherited from the family fortune for unknown reasons—and, unlike his notorious brother Callias, the lavish patron of the Sophists, he does not occupy any important priestly functions in the city. Hermogenes thus stands only at the margins of upper-class Athenian society; he "belongs, and yet does not belong, to the highest circles of conventional nobility"; we may even surmise that "His extraordinary pride ... is fuelled by

his understandable reaction against the rather low position in which civic and family convention places him” (26). Yet, it is precisely because Hermogenes struggles at the margins that he is apt to regard the embattled Socratic philosopher as a kindred spirit, and Hermogenes could become Socrates’ ally and outspoken defender if his goodwill were properly cultivated. According to Pangle, Socrates’ “talking big,” and especially his boasting of fierce independence and godlike self-sufficiency, was part of such an effort of cultivation: “What Hermogenes does perceive [about Socrates], and holds in awe—what he mistakes for the peak of the philosophic existence—is the philosopher’s magnificent and divinely inspired transcendence of political life” (38). The political lesson of the *Apology*, then, could be summarized in this way: the Socratic philosopher can gain a measure of protection for himself and his circle by associating with, and cultivating the goodwill and admiration of, men like Hermogenes in order to cloak himself in their reputation and elicit their public defense. Pangle goes on to indicate, however, that this defensive strategy may not be entirely up to the task. For one, Hermogenes shows a “tendency to withdraw into an unphilanthropic isolation,” and he possesses “limited abilities as a speaker” (31). One could add that his association with Socrates *prior* to the trial did not shield him from Meletus’s accusations. Indeed, “taken by himself, Hermogenes is too much a figure of contempt to attract great respect or repute for Socrates”; his “usefulness and importance . . . as a spokesman for Socrates is fully actualized, not through any effort of Socrates himself, but through the rhetorical genius of Xenophon” (32). According to Pangle, difficulties of this sort may point to “a decisive incompleteness in Socrates’ own strategy in defense of his circle” (32).

The second section of Pangle’s essay is shorter and more heuristic in character. He offers preliminary suggestions about Socrates’ view of the good and the pleasant, the Socratic turn, Socrates’ pride and his views on piety and justice. Perhaps most noteworthy is Pangle’s observation that Socrates seems to understand the philosopher’s justice “to be simply refraining from wrongdoing” (35; cf. sec. 3). Does this mean, Pangle asks, that the philosopher is under no obligation to make a positive contribution to the common good? Pangle analyzes this important and far-reaching question by considering a number of passages from Xenophon’s four Socratic writings. He concludes that the *Apology* gives “a deeper insight into the character” of Socrates’ justice, yet it exaggerates his manliness or pride (38). At the end of the day, however, the *Apology* reveals very little about the core of Socrates’ wisdom because the work shows the philosopher “in the light cast by the mind of

Hermogenes, a man who has practically no insight into Socrates' deepest needs and joys" (38).

If Socrates occupies the center of the stage in the *Apology*, and if he boasts of his superior virtues to an Athenian citizenry for which he openly expresses some disdain, he comes to sight in the second Xenophonic work contained in this volume, the *Oeconomicus*, as a self-effacing man modestly seeking to be enlightened by the eminently respectable Ischomachus, an accomplished gentleman and prominent member of Athens's citizenry. Wayne Ambler is again the author of a very helpful essay, modest in aims but effective in execution, on what is surely the most enigmatic of Xenophon's Socratic writings. Following Leo Strauss's interpretation of the work, Ambler contends that the *Oeconomicus* is a playful account of Socrates' famous "turn" to political philosophy prompted by Aristophanes' lampooning of him in the *Clouds*. Ambler readily admits that "The *Oeconomicus* does not immediately appear to have been designed to be revealing of Socrates' deepest secrets," but his interpretation shows convincingly that the work is intended to shed light on the character and aim of the type of philosophizing that Socrates originated (102).

Socrates' ostensible purpose in the *Oeconomicus* is to come to the aid of his rich but spendthrift young friend Critoboulos, who needs to learn to manage his household more responsibly. After convincing the youth that his financial situation is precarious and requires his attention, Socrates suggests that farming would be a suitable way for him to make a living, and he offers to relate an instructive conversation he once had with the "noble and good man" Ischomachus, a significant portion of which focused on how to farm profitably (c. 15-19). Ambler observes, however, that Socrates' own purpose in originally seeking out Ischomachus was not to imitate his gentlemanly pursuits, but rather to further his own investigations into the relationship between the noble and the good: "As Socrates understood it, at least, an encounter with the gentleman was required by his philosophical quest" (104). Ambler suggests that Socrates' retelling of this conversation has, in the same way, an overarching theoretical aim; it is not only, or even primarily, intended to rescue a friend from financial straits but "to convey [Socrates'] *understanding* of the gentleman," perhaps less to fun-loving Critoboulos than to the silent friends who, along with Xenophon, are listening intently to the retelling (104; cf. 1.1; 3.1, 12).

The first six chapters of the *Oeconomicus* relate Socrates' conversation with Critoboulos and they serve as an introduction to the

Ischomachus section of the work. Ambler discusses this conversation under two rubrics—"Socratic Economics" and "Critoboulus' Longings"—and he stresses that Socrates' views on subjects such as property, household management, civic freedom and civic duties are not those of an ordinary gentleman. For example, Socrates advances a conception of property that is entirely independent of legal categories and looks only to what is beneficial or good; he argues "that property is not really property unless it is beneficial to us—a principle with the potential to reveal the poverty of usual notions of wealth and the folly of ordinary economic activity, which are largely indifferent to what benefits us in our souls" (106). Similarly, Socrates criticizes the duties of the free citizen and depicts "Critoboulus' services to gods, city, foreign guests, fellow citizens and friends as nothing but burdens" (107). In sharp contrast to the accomplished gentleman, then, Socrates apparently takes no pleasure in performing deeds of public service of this sort (cf. 11.9). Ambler shows how the Critoboulus section of the *Oeconomicus* is a useful point of reference when considering the conversation with Ischomachus, because it describes or intimates a number of Socratic positions. It thus helps clarify the extent to which Socrates remained unconvinced by Ischomachus's views, and by his way of life as a whole, even after their memorable encounter.

Socrates recounts his conversation with Ischomachus after praising farming to Critoboulus as a noble, pleasant and profitable activity. The most revealing part of the recounted conversation is probably Ischomachus's extensive retelling of how he educated his own wife, a barely fifteen-year-old girl who had seen, heard and experienced very little prior to marriage. Ischomachus's education is intended to show the unnamed wife "what her duties are and why she should perform them diligently" (117). Since Ischomachus contends that the duties of wives (as well as those of husbands) are established by the gods, he is naturally led to sketch a natural theology that reveals much, according to Ambler, about the fundamental principles on which he himself aspires to act: "In some respects at least, Socrates' focus on the wife's education is not at all a bad way to understand the husband as well; certainly it leads to the opinions in which Ischomachus finds the ultimate support for his noble conduct" (117). Thus, according to Ischomachus's instruction, there exists a fundamental harmony between nature and law, or between what the gods made man and woman each more capable of doing by nature and the activities that the law praises as noble. Ischomachus also appears to believe that the nobility praised by the law is advantageous for himself, although he would probably resist the attempt to view it as "immediately pleasant and beneficial"

(120). Rather, Ischomachus seems to believe that his own noble actions include an element of self-sacrifice, and he believes or hopes that this element is noticed by gods who will reward him as he deserves. Ambler points out, however, that Ischomachus's natural theology "stops short of confirming that [his noble] conduct will be rewarded," for he is somehow aware that "the gods of nature alone offer insufficient support" for his way of life (119-120; cf. 7.31). If Ischomachus remains a hopeful believer despite this awareness—he "holds to a belief in gods that is not based directly on his observations of nature"—he also worries that the divine allies to whom he prays and sacrifices, and from whom he expects his rewards, "are distant or uncertain" (119).

The remainder of the *Oeconomicus* makes explicit, even as it deepens, the somewhat muted confrontation between Socrates and Ischomachus which the work as a whole purports to present. The most important of these chapters is probably c. 11, where Socrates questions Ischomachus directly about his own activities and indicates that he himself has chosen to live "a life of a fundamentally different character" (120). Socrates makes clear, for example, that he is not concerned with acquiring great wealth, even though his poverty represents an obvious bar to the performance of the noble actions that so characterize Ischomachus (cf. 11.9). Ambler's analysis of these chapters is filled with insightful remarks, especially about Ischomachus's finer qualities and characteristic limitations. For example, Ambler points out that Ischomachus resists looking at himself "simply as one who exercises tyrannical rule over unwilling subjects," even though he is aware of, and even emphasizes, the need to use force when ruling a large group of slaves (125). Ischomachus's self-understanding and his wish to admire himself—to say nothing of his fear of divine punishment—require however that he view himself and his rule in a nobler light. In accordance with this, Ischomachus tends to think of his relationship to his slaves as that of a beneficent teacher who educates the slaves for their own benefit. Yet the education in question is in truth "indistinguishable from [the] use of rewards and punishments"; the "education" in diligence, in particular, is largely ineffective without constant surveillance and vigilant enforcement (127). Ambler closes his interpretation of the *Oeconomicus* by emphasizing that while Socrates does respect Ischomachus and gentlemanliness generally, the work as a whole indicates that he rejects the gentleman's way of life and the opinions and beliefs that underpin it. Emphasizing the modest aim of his essay, Ambler ends by pointing ahead to the crucial task, for which his essay has been a useful preparation, "of trying to disclose and test the adequacy of the reasons that must lie behind [Socrates'] rejection" (131).

The last writing of Xenophon contained in this volume, the *Symposium*, is discussed by the editor Robert C. Bartlett. The *Symposium* is a playful and charming account of a banquet, attended one evening by Socrates and a few of his pupils and acquaintances, and hosted by the above-mentioned Callias, Hermogenes's prodigal brother. Through "a combination of light-heartedness and seriousness," Xenophon describes "the character of Socrates' circle" and the kinds of human beings who were typically attracted to him (173). Moreover, the *Symposium* discusses issues of central importance to Socratic philosophy, and does so with Xenophon's customary humour and gracefulness (173). Bartlett points out, for example, that the issue of what the soul's virtue is and whether (or how) it can be taught is discussed "from the point of view of how one's body smells" (177). In a similar vein, the question of what beauty (or nobility) is prompts a comparison at one point between Socrates' lips and those of an ass—with the ass's lips snatching first prize! Above all, the *Symposium* contains a lively picture of Socrates himself—the representative of the philosophic life according to Xenophon—and it provides helpful pointers toward his views and attitudes on an array of issues, including virtue, love, beauty, nobility and piety.

Bartlett argues that Xenophon intends in the *Symposium* "a certain elevation or rehabilitation of the playful, and this implies that such a rehabilitation is both necessary and worthwhile" (174). He suggests that the opposition to the playful is especially characteristic of serious gentlemen who oppose it on the grounds that what might be called moral education largely depends for its efficacy on "crying," i.e., punishment, rather than laughter or playfulness. By contrast, the Socratic education on display throughout Xenophon's Socratic writings "seems to have more in common with laughter than with tears," and instead of depending on punishment (or the threat of it), it would seem to rely primarily on "the promise of the pleasures of understanding" (175). Indeed, the *Symposium* brings to light Socrates' interest in the question of virtue and its teachability, especially in the second chapter. If Socrates apparently claims there that virtue is teachable, the case of his notoriously difficult wife Xanthippe poses a difficulty: "If arguably the greatest teacher known to mankind could not teach his spouse, is virtue really teachable?" (178). And even if virtue is teachable by means of habituation or regular practice, can it be taught by higher means, especially by reason? In other words, is (moral) virtue fully rational? According to Bartlett, the *Symposium* provides what is perhaps an insufficient basis to resolve these questions, but it makes clear that "the question of the teachability and hence of the rationality of virtue is of concern to Socrates" (178).

Bartlett shows how the *Symposium* casts light on Socrates' stance toward *eros* or love, arguably the primary theme of the work. Socrates states in a speech toward the end of the evening that he is always in love with someone (8.2), but as Bartlett argues, Socrates is not a lover in any ordinary sense (although he is admittedly not a "cold fish" either [185]). In the first place, Socrates' speech on love is "singularly unerotic in any ordinary sense"; "he castigates the love that includes love of the body and praises the chaste love of friends because only it leads one to be concerned with the virtue of one's own soul" (182). The essential consideration for Socrates, then, is not love itself but the virtue of one's soul to which it may lead. Moreover, what is, on the surface at least, the most obvious respect in which Socrates shares in *eros*—his marriage to Xanthippe—is playfully described as anything but "a union of two lovers" (183). Indeed, Xenophon goes so far as to indicate that "The husband Socrates really belongs among the unmarried men; he is a de facto bachelor" (183). To clarify what it means *not* to be a lover in the ordinary sense, however, Bartlett goes on to compare Socrates with one such lover, his young friend Critoboulos, who is depicted in the *Symposium* as being madly infatuated with a certain Cleinias. Bartlett makes helpful suggestions in this section about the nature of love and of what it seeks. He emphasizes that Critoboulos's love fosters in him the "sweet hope" of "everlasting or immortal happiness" (185). Hopes of this sort are apparently absent from Socrates, and Bartlett intimates that this absence is meaningfully connected with Socrates' thought.

The proceedings detailed in the *Symposium* reveal, in a suitably playful manner, something of the thought in question. Perhaps most strikingly, the *Symposium* brings to light Socrates' view of beauty or nobility (*to kalon*). In the course of a comical "beauty contest" with the handsome Critoboulos (c. 5), Socrates indicates that a thing is beautiful or noble if it is well adapted with a view to obtaining some good, or if it fulfills some need that we have. Socrates suggests, in other words, that the noble (or beautiful) is indistinguishable from the useful. It seems to follow from this that "even a dung basket is noble or beautiful if it is well made with a view to its tasks" whereas a gold shield is ugly if it fails to serve its purpose (187; *Mem.* 3.8). Socrates' paradoxical view of the noble, in other words, amounts to a denial of the existence of a class of beautiful or noble things "that are such apart from considerations of their utility" (187). Yet, if Xenophon eagerly brings to light these Socratic conclusions about nobility in the *Symposium*, and if he does so with his inimitable light touch, he refrains from disclosing the reflections or arguments that Socrates must have seen "in order to find his way to [these conclusions] and

therefore also reasonably to reject any competing views of beauty or nobility” (188). In particular, Xenophon does very little, and certainly much less than Plato, to show precisely how Socrates confronted the gentleman’s view of the matter, according to which the noble is not only distinct from the good, but is also superior to it or choiceworthy for its own sake, apart from any calculation of utility. (We may recall in this connection the almost complete absence of philosophic protreptics from Xenophon’s Socratic writings.) What Xenophon *does* disclose with perfect clarity, along with Socrates’ view of nobility, is “the true end with a view to which Socrates practiced his ‘utilitarian’ calculations, namely his continued interest in natural science or in ‘what *each* of the beings is” (191; cf. *Mem.* 4.6.1). For, according to Bartlett, the *Symposium* makes clear that Socrates was indeed a “Thinker of the things aloft,” who investigated the heavenly bodies and the wonders of nature.

Bartlett concludes by sketching what is at stake in Socrates’ confrontation with the gentleman, and he does so by considering once again the character of Hermogenes, the pious man we already encountered in the *Apology*. Arguing that Hermogenes is the most impressive spokesman in the *Symposium* for the gentleman’s view of nobility, Bartlett tries to show how his attachment to gentlemanliness is “inseparable” from his piety or “friendship with the gods” (192). Bartlett then goes on to offer a number of useful observations about Xenophon and his Socrates. He emphasizes that Socrates’ understanding of the world is as far away from tragedy as possible, that it is even “a kind of inoculation against despair to the extent possible for human beings ... not despite but because of its willingness to see the world as it is” (196). According to Bartlett, Xenophon’s Socratic writings thus enable readers to begin to see “the true nobility of Socrates,” which lies not in his acceptance of gentlemanly opinions and practices, but in “clarity of mind or freedom from self-contradiction” (196). To attain such clarity, however, the potential follower of Socrates must be willing to “begin with an examination of [his] passionate longings and noble hopes, not in the spirit of a debunker but as one who wishes to do full justice to true nobility and goodness” (196).

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The Parasite as Virtuoso: Sexual Desire and Political Order in Machiavelli's *Mandragola*

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It is difficult not to read Machiavelli's comedies and poetical works in light of his political works, such as the *Prince* and *Discourses*. And this is no doubt because the literary works abound in Machiavellian witticisms and seem to play on themes familiar to the reader of Machiavelli's political writings. *La Mandragola*, for instance, presents us with immorality, conspiracy, the relation between means and ends—to name just a few—that preoccupy Machiavelli's political works, suggesting, at the least, an overlap between the works. Still, *Mandragola* is not simply the *Prince redux*. First performed in 1517, the comedy is based on man's all-too-human desire for a woman beyond his reach; this is the stuff of comedy. Machiavelli's resolution to the comedy, however, should give us pause—particularly after we have left the theater laughing. Callimaco, a young Italian living in Paris, desires Lucretia to the point of forgetting everything else. Lucretia, though, is married and, moreover, virtuous—that is, Christian. She is not likely to be easily or openly seduced. The solution to this dilemma comes from the Machiavellian Ligurio, a parasite, who through a devious scheme must overcome Lucretia's Christian virtue and unleash (or recover) her human desire. At the same time, however, Ligurio channels Callimaco's irrational sexual desire, making it safe. By *unleashing* and *channeling* human desire, a stable political order can be constructed (as it is by Ligurio in the play). To successfully bring this off, Ligurio and Callimaco must use fraud and immorality, but they must use them in such a way that maintains the appearance of propriety. The “new” order that they create is contingent upon the facade of the “old” order.

Callimaco is an Italian who has been living in Paris for the last twenty years with scarcely a thought of returning home. In fact, Callimaco abandoned the idea of returning to Italy ten years earlier when King Charles of France invaded Italy and “ruined this country.” He does not refer to Italy as his country, as he has taken up residence in Paris “judging I’d be safer in that city than here” (Machiavelli 1989, 779). From the *Prince*, we know that Machiavelli laments Charles’s invasion of Italy and blames it on Italy’s sins; the sin, though, is a reliance on arms that are not one’s own: “the present ruin of Italy is caused by nothing other than its having relied for a period of many years on mercenary arms” (Machiavelli 1985, 71). And we might venture that Italy relies on mercenary arms because young men like Callimaco have no sense of patriotism. They have no sense of attachment to Italy, which has helped to bring about its ruin. This is further indicated by a comic play on words in an exchange between Siro, Callimaco’s man servant, and Nicia, Lucretia’s husband:

MESSER NICIA: This master of yours is a wonderful man.

SIRO: Even more so than you say.

MESSER N: *The King of France must set store by him.*

SIRO: Much.

MESSER N: And for that reason he must be glad to live in France.
(Machiavelli 1989, 788)

Callimaco is of value to the King of France as an expatriate Italian unattached to his *patria*; he enjoys the peace of France while his own homeland is invaded by that very country. Callimaco is an unpatriotic man driven by irrational sexual desire. Callimaco himself tells us so: he comes to Italy for Lucretia—to see her beauty: “letting every other plan go, and paying no more attention to the wars or to the peace of Italy, I set out for this place” (Machiavelli 1989, 780).

In this way, Callimaco represents the problem of irrational desire that preoccupies Machiavelli in his other works. Men’s desire for women, Machiavelli repeatedly tells us, threatens to undo the political order. Indeed, Book III, 26 of the *Discourses* is entitled “How a State Is Ruined Because of Women.” As Hanna Pitkin argues, women—particularly beautiful young women—have tremendous power over men in that they are the objects of desire (Pitkin 1984, 111). The trouble is that these irrational passions, if not contained, become destructive (Machiavelli 1996, 217). Thus prudence dictates that men’s desires ought to be checked. A shrewd Prince, Machiavelli tells us,

will keep his hands off a man's property and women—as such slights will not be easily forgotten. Here we have Callimaco's problem as well.

Callimaco is an educated man (for what it is worth), but his desire gets the better of him. For one, he travels from Paris to Florence for no other reason than to glimpse Lucretia—he has no plan. A rational man, one who had mastered his sexual desire, would never have made the trip. But for Callimaco it only gets worse. Once he sees Lucretia—and finds her “reputation much less than the truth”—he loses control of his desire: “and I'm on fire with such longing to be with her that I never have any peace” (Machiavelli 1989, 780). While Callimaco's desire is wholly natural, it is nevertheless troublesome to the public order. The problem, as Machiavelli presents it, is not sexual desire in and of itself. In this, he cuts against the Christian teaching about chastity and the unnaturalness of sex—especially sex for pleasure, which is an earthy and bodily pleasure.

Mark Hulliung suggests that Machiavelli's sense of sexual desire is “pagan through and through . . . love is sex and sex is primal.” Hulliung even suggests that sex is play for Machiavelli, “for him the only way sexual desire can be transformed into something more than a biological urge is by treating it as play, as an activity of *homo ludens*” (Hulliung 1983, 111-112). For Hulliung, then, *Mandragola*, like Machiavelli's other comedies, should be seen as a throwback to Roman comedy. Maurizio Viroli, for all his differences with Hulliung, echoes a similar theme; although, we should be aware that this focus may cause them to miss Machiavelli's transformation of ancient things, particularly in the character of Ligurio, which I will take up below. For Viroli, like Hulliung, Machiavelli embraces Roman paganism—Epicurean delights—and *Mandragola* itself is written for the “sole purpose” of making the audience laugh; it brings a respite, if temporary, from life's toil and labor; and it brings an ironic smile to Machiavelli's face. In this, Machiavelli is restoring a rich sense of life, if bittersweet, and restoring the ancients (always Roman) against Christianity (Viroli 1999, 26).

Surely, there is a compelling case that Machiavelli did seek to restore a pagan view of sexuality—and human desire generally. Sex is, for Machiavelli, a natural instinct and as such it should not be thwarted, as the Church teaches. Not only does it bring men earthly pleasure (which is better than the distant and unlikely rewards of heaven), but as a natural drive, attempts to contain it are unlikely to succeed. Indeed, such attempts try to make man other than he is, which Machiavelli rails against to no end

(Machiavelli 1996, 15). In this vein, both Viroli and Hulliung quote a letter Machiavelli received from Vettori, “I know of nothing that gives more delight to think about and do than fucking,” suggesting that it captures Machiavelli’s own sentiment and that, rather than censuring Vettori in any way, Machiavelli boasts of his own sexual shenanigans. The point is apt, and Vettori’s next sentence captures Machiavelli’s thoughts perfectly: “Every man may philosophize all he wants, but this is the utter truth, which many people understand this way but few will say” (Hulliung 1983, 115 and Viroli 1999, 29). In no small way, this captures Machiavelli’s sense of human nature and the fact that a successful political order must take man as he is. Callimaco, for example, leaves his books to pursue Lucretia: sex trumps philosophy. Elsewhere, Machiavelli says “it has appeared to me more fitting to go directly to the effectual truth of the thing than to the imagination of it” (Machiavelli 1985, 61). Even if we take sexual desire as natural, and thus as a part of life that Machiavelli seeks to restore, it is still problematic.

The problem is this: Callimaco cannot simply act on his desire for Lucretia, or at least not openly. He runs into two immediate problems. The first is Messer Nicia, Lucretia’s dim-witted husband. True enough, he is inept and foolish, but as a judge (perhaps representing the law) he is respected and established. Nicia would not look kindly on a young man openly seducing his wife. What’s more, the established authority of the city would surely side with Nicia. Other established men—the authority of Florence—would frown upon similar acts, that is, young men seducing their wives. Even if this were possible, without disrupting the political peace of the city, Callimaco runs into a second and more serious problem: Lucretia is unlikely to be honestly (or perhaps I should say openly) seduced. She is, we are told, “virtuous, courteous, and fit to rule a kingdom” (Machiavelli 1989, 783). Lucretia, at least initially, does not share any of Callimaco’s sexual longing. Rather, she appears to be a virtuous, i.e., Christian woman immune to sexual advances. Any attempt to openly and honestly win her is more apt to offend her, as well as the city’s Christian morality. In both cases, Callimaco is unlikely to succeed in an open and moral way.

Thus, his sexual desire creates a problem for both the legal and religious authorities. Uncontained it leads to conflict. And Callimaco has trouble containing it: “I’ve got to try something, even if it’s strange, risky, injurious, disgraceful. It’s better to die than live as I do . . . But now there’s nothing I can do, and if I don’t keep my hopes up by deciding on something, I shall certainly die, and seeing I’ve got to die, I’m not afraid of anything; I’ll try any plan

whatever, even if it's stupid, cruel, wicked" (Machiavelli 1989, 784). Callimaco is much like the men in Machiavelli's political works who threaten the political order and bring on destruction because they cannot check their irrational desire. This is the point I think Viroli and Hulliung sidestep. We do laugh at Callimaco's longing, as they say, and, as they also say, his desire is natural, but they don't confront the fact that desire also threatens to unleash itself upon the city in potentially destructive ways.

While this is a play, and meant to inspire laughter, given that a similar theme is present in Machiavelli's other works it seems we should confront the problem here and not merely put it to the side. Indeed, the Machiavellian Ligurio, echoing Machiavelli in the *Discourses* (Machiavelli 1996, 125-128), tells Callimaco that he must "check [his] runaway feelings" (Machiavelli 1989, 784). It is Ligurio's "immoral" plan that brings a happy (and peaceful) resolution to this problem. While Hulliung sees the "deceit, trickery, and immoralism," these are in the private realm and not the political realm, he says (Hulliung 1983, 103). Yet this appears to be the same problem for Machiavelli. Furthermore, to see only the immoralism aimed at private life in *Mandragola* gives it the quality of being just trickery, that is, Callimaco gets to sleep with Lucretia. This is fine, but to stop here is to miss what is most interesting about the play—and surely we should not overlook such an obvious and Machiavellian point—and that is that everyone, in the end, is better off. And better off because of "deceit, trickery, and immoralism."

To fulfill his desires, Callimaco must rely on Ligurio, who is described as a parasite and a "darling of Malice." Ligurio's devious plan, which has been compared to a conspiracy, overcomes both of the obstacles we discussed above: Nicia's honor and Lucretia's virtue. We might even say that Ligurio uses these traits against them. Nicia, after six years of marriage to Lucretia wants a child, but has been unable to conceive—and as a matter of honor, he is sure that the inability is his wife's and not his own (Machiavelli 1989, 787). Ligurio uses Nicia's desire to further his own end by taking Nicia to a doctor (Callimaco) who guarantees conception if Lucretia will take a potion of mandrake root (*mandragola*). The trouble, as Callimaco (posing as the doctor) tells Nicia, is that the first man to sleep with Lucretia after she takes the potion will die because of the poison. Of course, this is a bit of fraud to allow Callimaco the chance of sleeping with Lucretia. Thus, Nicia must convince his beautiful and virtuous wife to sleep with another man (Callimaco in disguise) and become the source of his own cuckoldry. Nicia is reluctant, at first, refusing to "turn [his] wife into a whore and [himself] into a cuckold." But Nicia's

real concern is criminal punishment, a sign of his effeminacy, and he is easily won over by Callimaco's "erudite" use of a few Latin phrases. Lucretia's virtue makes her a tougher sell. Not only is she unwilling to sleep with another man, but she has moral qualms about killing an innocent man. By enlisting a corrupt priest, though, Lucretia's religious beliefs are used against her and she is persuaded to go along. Ligurio's plan is a cunning masterpiece of deceit; it is difficult not to see virtue, as Machiavelli describes it in the *Prince*, in Ligurio, who uses fraud, the way of the fox, to bring about his desired ends (Machiavelli 1985, 94-95 and Pitkin 1984, 25-51). Given this, scholars have long noted that Ligurio seems to represent Machiavelli himself (Pitkin 1984, 30; Masters 1996, 82; Grant 1998, 46). Most importantly, Ligurio's plan depends on conventional immorality, even if it serves the public good; even more, while conventional morality is abandoned its appearance is maintained.

We might pursue this point by looking at Ligurio himself. He seems to be the most virtuous of all the characters in the play (as Machiavelli uses that term). Yet, he is rather deliberately described as a parasite, a man who "live[s] by cheating other men." Is Machiavelli consciously making the "low" character the "virtuous" character? Ligurio acts as Machiavelli would act, whispering in the ear of the prince, as it were. The play's prologue, Hanna Pitkin points out, might call our attention to this in suggesting that the playwright (Machiavelli) does not stand in awe of anybody, "even though he plays the servant to such as can wear a better cloak than he" (Machiavelli 1989, 788 and Pitkin 1984, 30). This also describes Ligurio who acts, to use a favorite phrase of Machiavelli's, *sanza alcuno rispetto*. We would be pushing it too far, I think, to say that Ligurio is the equivalent of a prince, as he never rules outright, but Ligurio, far more than Callimaco, displays the virtues that Machiavelli behooves a prince to take up. Truly, he seems fit to rule and, in fact, does so indirectly: it is Ligurio who pulls the strings and it is his virtue that brings the others happiness.

Moreover, such a reading seems consistent with Machiavelli's other works. He delights in reversing our expectations and shocking us (if for pedagogical reasons). While Ligurio is based on the stock parasites of Roman and Italian comedy, as Hulliung points out, he seems to go beyond this. These stock characters often display a cleverness for deceit, but they are rarely the driving force of the play. In this regard, as I've argued, Ligurio is the proverbial master and displays a Machiavellian virtue that is not seen in the works of, say, Plautus. Without going too far afield, we might take a brief glimpse at Plautus' *Curculio*. *Curculio* is one of the more fully developed parasites from Roman

comedy and is central to the play. Yet, he immediately displays characteristics of the stock parasite that are alien to Ligurio. Curculio is shown to be a glutton and a clown and, as such, often the butt of jokes. He relishes making a fool of himself, even if he is clever. We never see anything of this sort in Ligurio; and while we are told that he desires food, we never see anyone use it against him or for a laugh. Unlike the parasites from Roman comedy, Ligurio is pulling the strings. In comparison, a parasite like Curculio may display that he is cunning—it is his plan that is central to the plot—but he ultimately blunders. His scheme gets himself and his master into trouble. Typically, it is resolved by a *deus ex machina* (Plautus 1981, 96, 108-109). All of this is dramatically different from Ligurio's cleverness. Transforming a lowly stock character, and without explicitly saying so, seems consistent with Machiavelli's work taken as a whole. If we look at deeds and not at words, as Machiavelli tells us to, Ligurio's deeds speak for themselves. Callimaco could never succeed without Ligurio, who is the master behind the plan. Ligurio is a shrewd judge of character able to pull it off. Even when Callimaco is figuratively given control of Nicia's house at the end, he is given control with Ligurio. Even if Ligurio is not a prince, perhaps he is even fit to be a prince.

In the *epistle dedicatory* of the *Discourses*, Machiavelli writes of those who are not princes, but who “for their infinite and good parts deserve to be.” In a similar vein, in the Prologue of *Mandragola*, he offers as an excuse for writing comedy that “he has been cut off from showing other power with other deeds.” The common sentiment here is that men of value are not valued and are forced, therefore, to play “the servant to such as can wear a better cloak.” Who is less valued than a parasite? Ligurio, a man of obvious talents, is looked down upon in Florence. Nicia, dim-witted as he is, is a man of authority and stature in the city—he is, after all, a judge. Nicia himself plays this out in an amusing way: “In this city there's not a man who isn't a shitsticks; ability isn't valued. If he should stay here, there wouldn't be a man who would pay any attention to him. I'm in a position to talk about it, for I've shit out my guts in order to learn two aitches (to learn a little, Machiavelli 1989, 788), and if I had to live by it, I should be out in the cold, I can tell you.” Ligurio, who is out in the cold and must live by his wits, is rather successful at it. And while *Fortuna* has wrought this, unjust as it may be, Ligurio does not take it passively, but takes *Fortuna* on and wins. What Ligurio truly lacks, that a prince must have, is appearance. If, however, we “look to the end,” as Machiavelli suggests, we will see that the result is Ligurio's doing (Machiavelli 1985, 67). Hulliung, I think, misses the potential transformation because he is so insistent on seeing

Machiavelli as a return to the ancient Romans. The trouble with this, which we also see in Viroli, is that while Machiavelli is in fact describing the Romans (Roman comedy as it happens to be), at the same time he might be transforming them to suit his purposes.

We might push this point by noting that Ligurio, unlike the other characters in the play, wrestles with *Fortuna*. He is not content to let things exist simply as they are; indeed, to overturn *Fortuna* is at least in part what motivates Ligurio (a central riddle to understanding the play). Speaking of Nicia at the beginning of the play, Ligurio says to himself, “I don’t believe there’s a stupider man in the world than this fellow; yet how Fortune has favored him! He’s rich; he has a beautiful wife, virtuous, courteous, and fit to rule a kingdom” (Machiavelli 1989, 783). Ligurio’s plan sets out to overturn this. There’s no doubt that Ligurio stands to benefit from the plan, so he is self-interested, but he also takes delight in wrestling with *Fortuna* and playing, as virtuoso, the other characters who are his social superiors. And while he complains of *Fortuna*, in this case a “sensible woman get[ting] a fool” and vice versa, he does not simply accept it. When Callimaco questions whether Ligurio can really be trusted, Ligurio tells him not to worry. “Even if there weren’t as much profit in the business as I think and hope, you and I have a natural affinity, and I want you to carry out your wish almost as much as you do yourself” (Machiavelli 1989, 784). Ligurio takes delight in the scheme itself, but even more he derives pleasure in turning Nicia’s undeserved good fortune against him. If he gets well fed and financially rewarded, so much the better.

Compare this to the other characters. Nicia rather obviously trusts in *Fortuna*, and it has treated him well. The closest he comes to self-reliance, acting against what *Fortuna* has bestowed, is when he seeks to get his wife to take a potion of mandrake root and sleep with another man so that they may, afterward, conceive a child. In this, though, he is driven by Ligurio and would never have acted without his prodding. Callimaco, too, relies on *Fortuna*; it is what brings him to Florence. “But since Fortune decided that I was having too much good weather, she brought a certain Cammillo Calfucci [the man who told him of Lucretia’s beauty] to Paris” (Machiavelli 1989, 779). Yes, it is his sexual desire that brings him to Florence, and once there he relies upon Ligurio. The point is that he is moved by events. Lucretia trusts in Heaven, but as Machiavelli uses the term here and elsewhere, it is clearly synonymous with *Fortuna*. Hearing the truth from Callimaco, Lucretia tells him, “I’m forced to judge that it comes from Heaven’s wish that has ordered it so, and I’m not strong enough to refuse what Heaven wills me to accept”

(Machiavelli 1989, 819). Lucretia takes what *Fortuna* gives. Ligurio is the one who takes on *Fortuna*, as it were, and in doing so he displays his virtue. As if to make the interpretive parallels between Ligurio and the *Prince* exquisite, Machiavelli's tempts us with necessity and contingency. The play suggests that Ligurio acts, in part, based on necessity, as he has taken "to begging suppers and dinners." Driven by necessity—the need to eat—Ligurio is not afraid to countenance evil (Machiavelli 1985, 68-71). He will do what is necessary to bring about a given end. He appears cold and aloof if only because he, unlike most of the other characters, has control of his passions (unlike a typical parasite, he is nowhere tempted with food in the play); and he relies, as a man of prudence, only on himself (*uno solo* even?). Furthermore, in bringing his plan to fruition, the foxy Ligurio acts as contingency arises and does not disclose his full plan to Callimaco ("You'll find out when the time comes; just now I can't properly tell you, because there won't be time for doing, much less telling," Machiavelli 1989, 785). We see Ligurio's impromptu virtuoso on two occasions. The first is when he tells Nicia about the possibility of mandrake root to cure his wife's "sterility," changing, on the fly, to a new and better plan (Machiavelli 1989, 790-793). The second time is when Ligurio proposes a plan to Timoteo to "test" him, and he goes along, only to commit Timoteo to the real plan. In each case, Ligurio acts as he thinks events dictate and not based on a prefabricated plan (Pitkin, 33). He even tells Nicia to keep quiet, as he is a man who "understands just books and can't manage practical affairs (Machiavelli 1989, 795)." Let me hasten to add that Frate Timoteo knows, unlike the other characters, that Ligurio has taken him: "It's true that I've been bamboozled; but all the same this bamboozling brings me profit (Machiavelli 1989, 800)." Ligurio, too, is aware that Timoteo knows, but is nonchalant in that he knows Timoteo will go along for money, if nothing else.

Ligurio's virtue is most interestingly juxtaposed to Lucretia's virtue. Lucretia is described, again and again, as virtuous. Her virtue is, as I noted above, a central obstacle to Ligurio's plan. And her virtue is Christian virtue. Lucretia, unlike her husband, attends church regularly and has faith (Machiavelli 1989, 794). For Lucretia, sleeping with another man, even for the greater good of begetting a child, is a twofold sin, "to have to submit my body to this shame [and] to be the cause that a man should die as the result of his shaming me (Machiavelli 1989, 801)." Frate Timoteo, a corrupt priest, and Sostrata, Lucretia's mother, a woman of dubious moral character, are enlisted to persuade Lucretia to the plan. Ironically, Lucretia's religion is what makes her skeptical of the plan, yet without the aid of religion, she would almost certainly

not go along. As Frate Timoteo says, “I fear there’ll be difficulty, because Madam Lucretia is cautious and good; but I’ll bamboozle her by using her goodness (Machiavelli 1989, 800).” This parallels, if rather obviously, the instrumental value of religion we see in Machiavelli’s other works. Religion is useful to the political order, if not important or true in and of itself. The point, though, is not to explicitly overturn Lucretia’s faith; instead, her faith is reoriented, as it were, in a different, and distinctly human, direction. She is transformed. By the end of the play, Lucretia’s virtue is not Christian virtue, and perhaps not virtue of any kind, but Lucretia still seems faithful to Christianity. Lucretia still believes; indeed, it is her belief that helps trick her. Machiavelli even tells us this in the Prologue, “He [Callimaco] greatly loved a prudent young woman and tricked her, as you will learn, and I hope you’ll be tricked as she was” (Machiavelli 1989, 777). We want to get back to this cryptic reference that the audience will be tricked as she was.

The trick is to persuade Lucretia to act in ways that are not consistent with her faith—or with Christian virtue—but to do these things in the name of being faithful. This is left to Frate Timoteo, who twists the church’s teaching to serve his purpose. As he says, “in my researches I’ve found many things that support us both in detail and in general (Machiavelli 1989, 787).” As a priest, Timoteo shows little interest in cultivating piety and faith in and of themselves. He uses religion prudently, but his reasoning runs against Christian other-worldliness. Timoteo clearly shows himself to be a man of this world. After all, he persuades Lucretia to sin—in a Christian, not a Machiavellian sense—by appealing to her belief. Timoteo’s own logic abounds in Machiavellian reasoning; it is akin to Ligurio’s thinking.

As to this action, the notion that it’s a sin is a fairy story, because the will is what sins, not the body, and what would make it a sin would be your husband’s displeasure, but you will be pleasing him; or if you should take pleasure in it, but you will get displeasure from it. Besides this, one’s purpose must be considered in everything; your purpose is to fill a seat in paradise, to please your husband (Machiavelli 1989, 802)

The logic is instrumental and not “in itself.” If it serves a useful purpose, if it brings about a desirable result, then the actions are acceptable; in fact, they are necessary. This is not simply the ends justify the means, but that the good might require, often does require, evil actions (or so-called evil actions), “But it’s a fact that there’s no honey without flies (Machiavelli 1989, 796).” Timoteo echoes Machiavelli in the *Discourses* on this point, “You must,

as to conscience, accept this rule: where a good is certain and an evil uncertain, you ought never to give up the good for fear of the evil (Machiavelli 1989, 802 and see Machiavelli 1996, 215)."

Lucretia yields and gives her consent; it is more a matter of trust and faith that moves her, however, than reason. It's not clear that she is persuaded by Timoteo's transparent rationalizations that this is not clearly a sin, that it "goes away with holy water." Lucretia, rather, prays to "God and Our Lady [to] help me and keep me from shame!" as she has in the past (Machiavelli 1989, 803). Yet she goes along. Lucretia trusts in the Church and thus trusts in Frate Timoteo who is the Church's representative. Even at the end of the play, when Lucretia has been transformed, she still has faith. She tells Callimaco, after he confesses the truth, "Your cleverness, my husband's stupidity, my mother's folly, and my confessor's rascality have brought me to do what I never would have done for myself. So I'm forced to judge that it comes from Heaven's wish that has ordered it so, and I'm not strong enough to refuse what Heaven wills me to accept (Machiavelli 1989, 819)." She even gets Callimaco to go to church. Now, Lucretia has been turned toward sexual desire; still, she has faith. She will deceive her husband, and keep Callimaco on as lover, but it is ok because it must be God's will. Lucretia is, as Machiavelli says in the Prologue, tricked. Simply put, she is seduced. Lucretia discovers the pleasures of sex, of human desire, "she felt what a difference there is between the way [Callimaco] lies with her and the way Nicia does, and between the kisses of a young lover and those of an old husband (Machiavelli 1989, 819)." Lucretia is turned, if unwittingly, from Christian other-worldliness toward the body and the possibility of human desire and happiness (Masters 1996, 82-83).

Ligurio is behind even this particular. Ligurio tells Callimaco that he can only take him so far; when Callimaco is alone with Lucretia he must cement the affair. But Ligurio tells him how:

You must win her over in the course of this night, and before you leave, let her know who you are, confess the trick to her, show her your love for her, tell her of the happiness you wish her, show her without disgrace she can be your friend, and with great disgrace your enemy. It's impossible she'll not come to an understanding with you, and that she'll want this night to stand alone (Machiavelli 1989, 808).

In this, Ligurio shows that he is a shrewd judge of character: he predicts how the virtuous Lucretia will act. And, as he tells Callimaco, when the seduction is complete, "I rejoice in all your happiness, and what I foretold has come about

for you to the dot (Machiavelli 1989, 819).” Callimaco’s and Lucretia’s sexual desire becomes the foundation of the political order. Callimaco, who began as an unpatriotic man governed by his irrational sexual appetites, thus posing a threat to the political order, is now brought into that order and contained by it. He tells Lucretia that he will marry her (when her husband dies). Machiavelli, or Ligurio in his stead, builds on human appetites, taking man as he is, but uses institutions such as religion and custom to shape and contain human appetites. Thus we see the importance of maintaining the outward appearance of morality in the play—from the outside everything looks the same, particularly Lucretia, even though it has been transformed. We might draw this out by comparing Machiavelli’s Lucretia with Livy’s.

In the *Discourses*, Machiavelli relates the rape of Lucretia, drawn from Livy, as the beginning of the Roman Republic. Lucretia’s rape by the King’s son, and subsequent suicide, lead Brutus to launch the republican revolution. Lucretia kills herself to maintain her and the family’s honor. As a matter of honor, Lucretia makes the rape public and then acts to maintain her virtue. The incident itself is an example, for Machiavelli, of how a state may be ruined because of women. Lucretia herself is not at fault—she was raped—but, like Lucretia in *Mandragola*, she is young and beautiful and, as such, the object of men’s desire (Pitkin 1984, 244-251). The fault lay with the king for not containing his son’s sexual passion; it is an example of an ill-ruled political order, an example of “What Makes a King Who is Heir to a Kingdom Lose It” (Machiavelli 1996, 216). For Livy this plays out as heroic tragedy. Machiavelli’s *Mandragola* may represent the “comic remedy” (Flaumenhaft 1978, 38-39).

We must not forget that Machiavelli’s play is a comedy, written to make us laugh. Still, we should not avoid such obvious comparisons. While the historical Lucretia is raped by force, which leads to the ruin of a political order (and the building of a new republican order), in *Mandragola* Lucretia is seduced, by fraud, which also leads to a new order. Only, in *Mandragola* the appearance of the old order is maintained. Moreover, by maintaining the appearance of the old order, and utilizing hypocrisy or fraud, this is all carried out peacefully (Grant 1998, 45-53). Consider that the historical Lucretia is compelled to speak publicly of her rape and then kill herself, even though “she knows that ‘only my body has been violated. My heart is innocent’” (Pitkin 1984, 112). Machiavelli’s Lucretia suffers a similar “injustice” or despoiling of her virtue—only she goes along, even while continuing to believe in her virtue. Lucretia, a married woman, is led to sleep with another man. This is as much an affront to her Christian virtue as it was to the other

Lucretia's Roman honor. Like the historical Lucretia, she might expose the conspirators. Yet, when she is told the truth, she chooses to go along. Here, Lucretia is seduced. She discovers, as we have seen, the natural pleasures of the body and is wooed away from her Christian virtue by them. At the same time, however, she does not abandon her belief in religion. Lucretia is not persuaded outright that the Church's teaching about adultery and abstinence is a lot of nonsense. In fact, it is her continued belief in religion, that this must be God's will, that allows her to go along. Lucretia's virtue is no longer Christian, but Lucretia herself is not necessarily conscious of this. The careful cultivation and appearance of religion is crucial for the plot's success. Appearances must be maintained even if reality is changed; otherwise the plot is a failure. It's no small irony that Ligurio works to maintain the outward appearance of the civic and religious order, but the one thing he cannot change is his own appearance. He may well have the actual virtues of a ruler, but he lacks the outward appearance of mercy, faith, honesty, humanity, and religion. These traits may prove harmful to a prince, but it is "necessary to appear to have them" (Machiavelli 1985, 70). The appearance of these moral qualities is crucial, even for Machiavelli, to public morality.

Law, custom, and religion are all necessary to a stable political order; they constrain and direct the citizens who live under them. Even when such institutions are corrupt, as Machiavelli says they are in Florence, one cannot simply dispense with them. If nothing else, prudence dictates that these institutions are not openly challenged or, in this case, openly changed. I've noted above that Callimaco is unlikely to get very far by proceeding in such a manner. It's not just that he runs into Lucretia's virtue and Nicia's honor—and the established, if corrupt, political order; it's that these very institutions are necessary to bring about a new order. The Church is the most obvious example of this; its corruption is what makes Lucretia's seduction possible. The Church, though, loses its otherworldly orientation, much like Lucretia does, in favor of this world; in the end, it blesses the "marriage" of Callimaco and Lucretia, which itself is rooted in their very human desire for one another. And the Church, in its secularized version, profits from this, but it is used for its salutary effects to serve Ligurio's ends and not its own.

Religion, as such, is of instrumental value to the political order in that it helps to constrain the irrational passions of men and provides public morality (Machiavelli 1996, 36-39). Callimaco, who was an outsider to these institutions, is even brought in by his attachment to Lucretia under the Church. Yet this is all done by a hypocritical friar who uses religious belief to

serve his own ends, which are earthly and material. The “good” for Timoteo, just as it is for Ligurio, is what is most advantageous. There is no “good” in and of itself, as Christianity truly teaches. Lucretia herself speaks to the Christian good just as Timoteo is trying to persuade her otherwise. “[I]f I were the only woman left in the world and the human race had to begin from me, I can’t believe that such a way to do it [sleep with another man] would be permitted me (Machiavelli 1989, 801).” Surely, Lucretia speaks the truth, according to the Church: some things are wrong in and of themselves; as sins they are simply not permitted. In this, Christianity is obtuse to consequences; one cannot commit an evil even if it has good results (Machiavelli 1996, 209-212). Timoteo’s own reasoning on the matter smacks more of Machiavelli than the Church. He tells Lucretia that it is intentions and results that matter: “The Bible says that Lot’s daughters, thinking that they alone were left in the world, had to do with their father, and because their intention was good, they did not sin (Machiavelli 1989, 802).” Here Timoteo uses scripture, as he uses the Church, to suit his own purposes. Even more, though, this echoes Machiavelli’s own criticisms of Christianity in that its putative “goodness” often results in evil, as it will not dirty its own hands. Therefore, Christianity, in and of itself, must be made impotent and subordinated to earthly ends even while its appearance is maintained.

This is true of authority in the guise of Nicia as well. If Nicia knew the truth, he would never go along. Instead, Nicia becomes not only the source of his own cuckoldry, but helps perpetuate the “new order” by turning over the key to his house to Callimaco and Ligurio, “so they can come there when it’s convenient, because they don’t have women at home and live like animals (Machiavelli 1989, 820).” They take their wits, let us say, from the fox; they will rule Nicia’s home (if through fraud, at least initially). Symbolically, we might say, Nicia willingly, if unwittingly, turns his authority over to Callimaco; age and sterility give way to the impetuosity of youth. Callimaco is thus brought into the civic order, and the new order provides what the sterile old order could not; moreover, it provides for posterity and helps perpetuate itself. And while Lucretia ruled her old husband, she is ruled by her young lover. “And one sees that she lets herself be won more by the impetuous than by those who proceed coldly. And so always, like a woman, she is the friend of the young, because they are less cautious, more ferocious, and command her with more audacity” (Machiavelli 1985, 61). But Nicia is happy with this, if only because he doesn’t know the truth. Nicia will get a son. Like everyone else in the play, he is made better off in the end. But again, everyone is better off as a result of

deceit. As Ruth Grant argues in an elegant essay, hypocrisy is necessary to the play's happy ending (Grant 1998, 46). We might even go so far as to say that justice has been done; although it required a bit of "immorality."

We laugh at this, as it is a comedy, and comedy is able to treat "serious" matters "lightly." And yet, there is a good deal of truth here. Machiavelli even says in the Prologue that he hopes we [the audience] will be tricked as Lucretia was. What are we to make of this? Seemingly, Machiavelli wants the audience, to wit Florence, to take up earthly desires against Christian virtues, even while keeping up appearances. The Canzone that begins the play suggests as much: "Because life is short and many are the pains . . . he who deprives himself of pleasure . . . does not understand the world's deceits." This is a call to human desire, which is natural and enjoyable. Human desire is also, though, the basis of a stable political order and thus has important civic consequences. Ligurio, as a "founder," if I may play on that word, builds from natural human desires; he takes men (and women) as they are. From there, he might attempt to direct them and do what is necessary for his ends. While Ligurio's actions are not necessarily *pro bono publico*, they do have that result. He himself tells us that "I believe that good is what does good to the largest number, and with which the largest number are pleased (Machiavelli 1989, 798)." And Ligurio's own actions, if we "look to the end," have this result. The fact that a "lowly," if sage, character brought this about, and brought it about by fraud, should not, upon analysis, give us pause, as such revelations surely brought an ironic smile to Machiavelli's face.

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Oh, Brother! The Fraternity of Rhetoric and Philosophy in Plato's *Gorgias*

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Brothers abound in the *Gorgias*. As do types of fraternal relations. On the assumptions (1) that the *Gorgias*'s bounty of brothers is no mere coincidence and (2) that the *Gorgias* is concerned to determine which of two ways of life, rhetoric or philosophy, is best, it seems not unreasonable to conclude that Plato intends some form of fraternity to serve as a model or paradigm for the ideal relationship between rhetoric and philosophy. In other words, the proliferation of brothers in the *Gorgias* suggests that, contrary to the impression that the dialogue tends to leave on its readers, the *Gorgias* hopes that rhetoric and philosophy will not be forever opponents, rivals, or enemies—but brothers. Although all too frequently brothers are indeed opponents, rivals, or enemies, the blood bond between brothers can also incline them to be mutually supportive. In this paper I shall argue that, among the models of fraternal relations represented in the *Gorgias*, it is possible to identify one model that brings its two siblings together in a way that makes the most of their respective merits while compensating for their respective deficiencies and, in addition, serves a worthwhile end. It is this model, I shall contend, that Plato proposes as the ideal toward which rhetoric and philosophy should strive. Since the *Gorgias* acknowledges deficiency not only in rhetoric but in philosophy as well, and recognizes merit not only in philosophy but in rhetoric as well, it is able to see in them the potential to complement one another and, when they do, to be of real benefit to citizens.

There are eight sets of brothers mentioned in the dialogue. The first set, mentioned twice, is Gorgias and his brother, Herodicus, a physician. The initial reference to these brothers is made by Chaerephon at 448b as he interrogates Polus; the second reference is made at 456a by Gorgias himself. The second pair, also mentioned by Chaerephon, consists of Aristophon and his brother, whose name, not specified in the dialogue, is Polygnotus (448b-c)—both painters. The third pair, mentioned by Polus at 471, is Alcetas, the master to whom Archelaus's mother is slave, and Perdiccas, Archelaus's father. Also mentioned by Polus are Archelaus himself and his half-brother, Perdiccas's legitimate son and heir, whom Archelaus drowns in a well (471b-c). Socrates mentions Nicias and his brothers who, he says, would all testify to the truth of Polus's view that it is those who do injustice with impunity who are happy (472a). Callicles mentions at 485e the brothers Zethus and Amphion—this is the sixth set—who are characters in Euripides' play *Antiope*, now lost, the former brother a shepherd, the latter a musician. The seventh and eighth sets both appear in the myth with which Socrates wraps up his argument. The seventh set consists of Zeus, Poseidon, and Pluto, who, according to Homer, divided the rule among themselves after they took it over from their father Cronos (523a). And the eighth set consists of Zeus's three sons, assigned as judges of the dead at the three-way crossing (524a), with Minos, golden scepter in hand, overseeing, as a privilege of age, the judgments of his brothers, Rhadamanthus and Aiacus (526c).

Might the fraternal relationships represented by any of these brothers serve as a model for a productive venture, cooperatively undertaken by rhetoric and philosophy? The worst of the brothers, those cited by Polus, surely could not. These brothers commit acts of injustice and violence against one another: Perdiccas took the rule from his brother, Alcetas; and Archelaus drowned his seven-year-old half brother, Perdiccas's son, and told the little boy's mother that the child fell into the well while chasing a goose.

Three of the sets of brothers consist of siblings who are competitive with one another, even if they visit no overt treachery upon one another: the two painters, sons of Aglaophon, Aristophon and the more famous Polygnotus; Cronos's three sons; and Zeus's three sons. The two brothers who share the painting profession cannot serve as a paradigm for the relationship between rhetoric and philosophy, for rhetoric and philosophy are distinct professions. For the same reason, Zeus's sons, all of whom are judges, do not provide a suitable model for the relationship between rhetoric and philosophy. Even though, unlike in the case of the two brothers who are painters, Minos is

set above his brothers as final arbiter of justice, thus making the arrangement among them hierarchical—as one might expect the arrangement of rhetoric and philosophy to be—nevertheless, insofar as rhetoric and philosophy are essentially distinct from one another, they cannot be expected, as the three judges are, to perform the identical task. Cronos's three sons, who are sovereign over three separate realms, also fail to provide the appropriate paradigm, for, since they do not rule together over the same realm, they do not work together. Moreover, there are tensions between the brothers: we know, for example, that Poseidon points to the three-way division of Cronos's realm in order to prove his equality with Zeus when Zeus orders him to leave the fighting at Troy (*Iliad*, 15.187.93). And there is violence: although Cronos's sons commit no violence against one another, Socrates is silent here about their act of violence against their father as related by Hesiod in the *Theogony* 453-506 and 617 ff., and as noted by Plato at *Euthyph* 5e-6b and in the *Republic* at I.377e-378e.

Then there are the brothers who are alike and think alike, neither of them rising above the conventional and neither of them rising above the other: such are Nikias and his brothers, who, Socrates says, would support the views of Polus against those of Socrates. Well-born and wealthy, these brothers neither compete with nor hurt each other. Yet, insofar as these brothers are no more than conservative supporters of the democracy (*Lysias*, 18.4-12), they cannot be the models Plato has in mind.

A more interesting pair of brothers is that cited by Callicles as literary counterparts to himself and Socrates. Zethus, like Callicles, pleads the case of the active life before his brother, Amphion, who, like Socrates, is an advocate of some form of contemplative life. Though hardly enemies, each of these men ultimately has disdain for the other. In the play, Amphion yields to his brother (see Horace, *Epistles*, i.18.43) but is vindicated by a *deus ex machina*. Socrates, of course, does not yield to Callicles: he expresses his readiness to take up Amphion's cause against that of Zethus (506b), and never surrenders; indeed, both Callicles and Socrates remain staunch defenders of their own path. Each, in the final analysis, regards the other as "ridiculous" (*katagelasthai*, *katagelastos*, 484e1, e3, 485a7, 509b4-5). Although Callicles credits philosophy with some measure of value for the young, he regards it as corruptive for older men (484c). From Callicles' point of view, rhetoric must displace and supersede philosophy. Callicles, though he clearly casts himself in the role of Socrates' brother, counsels him to grow up and be a man. Inasmuch as he regards Socrates as a child who needs guidance, he has no genuine respect for him as a man. Callicles, quoting Zethus, characterizes philosophy as a *technē*

that takes a man with a good nature and makes him worse (486b); Socrates says exactly the same of orators at 515d.

The final pair is Gorgias and his brother, Herodicus. Might this pair furnish a paradigm for the relationship between rhetoric and philosophy? Since it is clear that none of the other brothers can—the other brothers either perpetrate injustice against one another, share the same occupation and compete with one another, endorse the same views, or hold one another in contempt—Gorgias and Herodicus remain our only hope.

Gorgias, in extolling the extraordinary powers of rhetoric, cites the following as proof (456b):

On many occasions now I have gone in with my brother and with other doctors to one of the sick who was unwilling either to drink a drug or to submit himself to the doctor for surgery or cautery; the doctor being unable to persuade him, I persuaded him, by no other art than rhetoric.

Let us notice how unusual this case of brotherly interaction is among those we have seen thus far. Gorgias and his brother are the only instance of brothers working together in different capacities, corresponding to their respective areas of expertise, to further the benefit not of themselves but of a third party. They are not competing but cooperating. Gorgias is using his expertise, persuasion, to assist his brother, whose own expertise in medicine does not suffice to help his patient because the patient will not allow himself to be treated. Gorgias is not out to upstage his brother, but to assist him. He recognizes that Herodicus is the expert; he defers to him on the question of what is best for the patient. The model that Gorgias and Herodicus represent, then, is a cooperative one; yet, it is one that is also hierarchical. The physician is the primary expert: it is he who determines the course of action that is best for the patient; the orator is his assistant. And the beneficiary of this hierarchical but cooperative effort is neither the doctor nor the orator but the patient.

We may compare with the Gorgias–Herodicus model the model of piety Socrates urges on Euthyphro near the end of the *Euthyphro*: piety is one instance of the kind of service, *hupēretikē*, with which slaves tend their masters; in the case of piety, the pious man (the slave) assists the gods (the masters) in producing some noble *ergon* (*Euthyph.* 13d-14c). The examples Socrates employs to illuminate his meaning begin, not surprisingly, with that of doctors and health: “So could you tell me this: the service to doctors happens to be a service for producing what *ergon*? Do you not suppose it is for pro-

ducing health?" (*Euthyphr.* 13d). Could one not say, analogously, that, in the *Gorgias*, it is Gorgias the rhetorician who, by using his expertise at persuasion, serves his brother Herodicus, the expert on human bodies, to produce the *ergon* of health for Herodicus's patient? And could one not also say that the orator might similarly use his skill at persuasion to serve the philosopher, the expert on human souls, to produce the noble *ergon* of virtue in citizens' souls? Just as in the *Euthyphro* and in the *Gorgias* the beneficiary of the assistant's service to the physician is a third party, the patient—the party for whom the product, health, is produced—so, too, would both the pious man's service to the gods in the *Euthyphro* and the orator's service to the philosophers in the *Gorgias* benefit a third party, the citizens, in whom they help to instill the product virtue.

Gorgias himself seems utterly unaware that what he has boasted about is an aspect of rhetoric that confirms not its capacity to benefit the orator himself and to dominate others but its capacity to be of use to an expert in serving the interests of others. He cites his success in helping his brother and other physicians as if this is but one of the amazing powers of rhetoric, not noticing, it would seem, that the rhetoric he describes here departs in two critical ways from "standard" rhetoric as he understands it. For, first, an orator, as Gorgias conceives him, is the persuader of *multitudes* (452e), yet, Gorgias comes to his brother's aid to heal a patient in private. Second, rhetoric is, in its essence, for Gorgias, a competitive, agonistic art, like boxing, pancration, and fighting in heavy armor; yet, he cooperates rather than competes with his brother in helping his brother's patient. Although Gorgias goes on to brag that were an orator pitted against a doctor before a multitude, that is, in the assembly or in some other large gathering, in a contest for who should be chosen doctor, the orator would win; nevertheless, in the case at hand, Gorgias, far from contending against his brother and the other doctors, generously works with and, in fact, *for* them. Moreover, although Gorgias promotes his *technē* as one that enables those who master it to be free and to rule others (452d)—the orator, he declares, will have the doctor and the trainer as his slaves; indeed, the moneymaker will make money not for himself but for the orator (452e)—nevertheless, when Gorgias accompanies his brother to the home of his brother's recalcitrant patient, he works for his brother, not his brother for him.

Why, we might ask, does Gorgias help his brother? And why is he proud of what he is able to accomplish with his brother? Could we imagine Polus or Callicles touting the wonders of rhetoric on grounds such as these? Could we imagine Polus or Callicles in Gorgias's role?

Gorgias is different from—and, in Socrates' eyes, better than—either Polus or Callicles. He seems to have no personal political ambition. In the dialogue, far from proclaiming himself a knower and teacher of virtue (see *Meno* 95c), he only reluctantly and somewhat sheepishly says of himself, when Socrates shames him into saying it, that he supposes he would teach justice to those of his pupils who do not already know it (459e-460a). He clearly cares about justice, however conventionally he understands it—his notion of justice precludes harming one's friends and family (456d-e) and encourages the use of one's combat skills only in the service of harming enemies and those who do injustice (456e-457a). (It is likely that the *kai* connecting *tous polemiou*s and *tous adikountas* at 456e3-4 is epexegetic: Gorgias probably does not distinguish between those who do injustice and those who are one's enemies.) Gorgias treats Socrates respectfully, and is even the one to keep the conversation going for Socrates when Callicles threatens to shut it down (497b). Socrates, in turn, treats Gorgias with delicacy. When Gorgias concedes that the orator persuades a crowd, that is, induces conviction in it, even, or especially, about matters of justice and injustice, but without teaching it, that is, without imparting knowledge to it, Socrates could easily have concluded that that is because orators neither know nor care about justice. What Socrates says instead, however, is that the orator “would not be able, I suppose, to teach so large a mob such great matters in a short time” (455a).

It is striking that Gorgias, in the role of his brother's assistant, does not appear before a mob. Functioning as an expert's helper is, apparently, something that he will do only in private, where he has no need to fear the loss of face he would doubtless suffer were he to play second fiddle to someone else in public. On stage, the orator must always come out on top; he cannot afford to be or to seem in any way inferior. In private, however, Gorgias is willing to be of help, to use his skills to benefit someone other than himself. Although Murray (2001, 362 n. 9), maintains that Gorgias does in private exactly what he does in public, viz. attempt to best someone, the fact is that Gorgias enters the scene only once the patient has already refused to take the drug or to submit himself to the doctor for surgery or cautery and the doctor has failed to persuade him. The only thing Gorgias does is use his rhetoric to do what the doctor was unable to do, viz. persuade the patient (456b). Gorgias is not represented as in any way challenging his brother's diagnosis or his prescription or, for that matter, his expertise. He certainly shows his brother up—but only with respect to the ability to persuade. One doubts that a Polus or a Callicles would be willing to do anything that would not directly contribute to the

enhancement of their reputation or to the growth of their power and wealth. Moreover, lest we think that Gorgias helps his brother because he believes specifically in helping family—as opposed to helping the patient—we note that Gorgias states quite clearly that it is not only his brother whom he has helped but other physicians as well (456b).

Socrates, we note, says nothing about this unusual use of rhetoric. Though he identifies much in rhetoric with which to find fault, he is silent with respect to Gorgias's account of aiding his brother. Might his silence not signal his approval? As Nichols notes (1998, 133): "Although that example [viz. of Gorgias and Herodicus] is not explicitly discussed in the rest of the dialogue, it is crucial for understanding the character and potential of rhetoric; rhetoric . . . can assist the expert in attaining the practical goal at which he aims but which he cannot attain by means of his art alone."

To be sure, Gorgias, too, does not dwell on how he uses rhetoric to aid his brother and other physicians. Instead, he expands on the themes he introduced earlier, themes of rhetoric's great power in the public arena, of its ability to emerge victorious in any competition and against any expert of any kind. None of this, however, is cause for surprise. For, it is the rhetoric that can defeat all competition that Gorgias is selling: he will hardly attract clients if what he emphasizes is how useful an orator can be to the *true* expert.

Although Gorgias extols the amazing power of rhetoric, and in particular its ability to quash the competition no matter what the area of expertise, he also, at the same time, anticipates and seeks to deflect the charge that rhetoric is for that reason an unjust art. Although rhetoric *can* "speak against all men and about everything," he says, "it nevertheless does not follow that one must on this account deprive doctors of reputation . . . nor the other craftsmen, but one must use rhetoric justly, too, just as competitive skill" (457a-b). Gorgias thinks rhetoric is neutral, that it is a skill that can be used for good or for ill—like the skills of boxing and pancration. Just as he believes these latter should not be used against relatives and friends but only defensively against enemies and those who commit injustice, so he maintains that rhetoric should not be used to deprive craftsmen of their reputation.

Murray (2001) argues that there is a disanalogy between rhetoric and boxing: whereas the boxing instructor teaches his pupils how to prevail specifically over other boxers, such that the students do indeed deviate from what their instructor taught them if and when they use their skills against nonboxers, the rhetorician, since he does not teach his pupils to restrict their

combat only to other rhetoricians but rather urges them to triumph over anyone and everyone, is in fact responsible for his students' taking on nonrhetoricians in addition to other rhetoricians. For this reason, Murray contends, Gorgias's "blame students, not teachers defence," as he calls it (borrowing the expression from Wardy [1996], 170 n. r20), may well apply in the case of boxing but surely misses its mark in the case of rhetoric. Rhetoric, he claims, is by its nature immoral: "To function it *must* displace the true arts. It is not a mere technique with a potential for unjust use; its very nature demands that injustice" (361 – emphasis in original).

If we are to be fair to Gorgias, however, it must be said in his defense that, at least as *he* conceives of boxing, it is not a skill to be used only against other boxers. Although he sees it as a skill to be used in self-defense against enemies and wrongdoers, he does not limit its use to competition with other boxers. By the same token, he does not, as we have seen, advocate the use of rhetoric for the purpose of destroying the reputation of other craftsmen (457a-b), though he is surely proud of its ability to do so should it wish to. From Gorgias's point of view, neither boxing nor rhetoric is to be used unjustly, but that does not mean that they are to be used only against others in the same "profession." The boxing instructor trains his students so that ideally they are never beaten by anyone in a fight; the rhetorician trains his students so that ideally they are never outshone by anyone in debate.

Although Gorgias does indeed frown upon rhetoricians' using their skill to destroy the reputations of experts, he apparently has no comparable compunctions concerning their pretending to be experts. It seems not to trouble him that rhetoricians give advice on matters about which they are clearly not qualified to do so. At 455e, Gorgias proudly points out that dockyards and walls and harbors were built on the advice of men like Themistocles and Pericles—by orators, not by craftsmen (*all' ouk ek tōn dēmiourgōn* – 455e3).

Is this fraudulent posturing merely neutral, as Gorgias would seem to maintain, or does it constitute an unjust and abusive employment of rhetorical skill, a use that is shameful and thus hardly neutral?

From Socrates' point of view, rhetoric as a counterfeit art, one that pretends to do good but neither does nor can do good, for it neither knows nor aims at what is good, a practice that, indeed, is more likely to do harm than good inasmuch as it is utterly ignorant of the good, is shameful. The rhetorician as impostor has no counterpart in the merely neutral boxer or wrestler.

Indeed, rhetoric is painted in very bleak colors in the *Gorgias*. Its deficiencies are many. Socrates withholds from it the status of *technē* (463a); it is, he says, but a knack born of experience (463b): it lacks a reasoned account (465a). It encompasses every subject matter but knows none (459b-c). It pursues not what is best but, to its shame, what is most pleasant (456a). It panders, it flatters, it is content with appearances, and so is not quite scrupulous about truth. It is, indeed, like cosmetic, which Socrates describes as not only “evildoing, deceitful, ignoble, and unfree,” but as bearing responsibility for the neglect of the real beauty that comes through gymnastic (465b). Socrates also excoriates those “craftsmen” who, having neither concern for nor knowledge of health, seek only to satisfy people’s appetites with an excess of bread, food, and wine, feasting and fattening them to the point of illness (518b-d). And even when rhetoric addresses questions of justice in the assemblies and law courts, it, as Gorgias himself asserts, can instill only *pistis*, conviction; it cannot impart knowledge (454e-455a). Rhetoric does not improve the souls of citizens and in the end, cannot, therefore, even protect its own practitioners from the wicked and intemperate mob (519e-520a). It is, ultimately, powerless: orators can perhaps use their rhetoric so that they do what they feel like with impunity, but since they are ignorant of what is truly important, their gains are illusory, for they fail to achieve what they truly want, that is, what is in fact of benefit to them. Rhetoric, moreover, seeks its own gain rather than that of others (502e). When Gorgias proudly proclaims that the rhetorician, in producing “the greatest good for men,” produces something that is the cause of “freedom for men themselves” (452d), what Gorgias is identifying as “the greatest good for men” is the good that his instruction yields for his pupils, that is, for future rhetoricians—not some good that they will in turn provide for their audiences. Cooper (1999, 41) argues, to the contrary, that what Gorgias means is that the rhetorician “contributes not a little to their capacity to rule themselves as a free people, in accordance with their considered judgment of what is just and best, without falling into inarticulate quarreling and the exercise of brute force against one another.” Yet, surely Cooper is mistaken in taking the *tois anthrōpois* at 452d6-7 to refer to “populations in cities,” and in regarding these as the beneficiaries of the orator’s gift of freedom (33 n. 5). Freedom is conceived in Plato as the power to dominate others and to avoid being dominated oneself. In the *Meno*, for instance, at 86d, Socrates takes Meno’s refusal to make an effort to govern his own actions, attempting instead to govern Socrates’, as a sign that “you prize your freedom.” In *Rep.* I, at 344c, Thrasymachus regards injustice as “a thing that is stronger, freer, and more masterful (*despotikōteron*) than justice.” Also in the *Lysis*, at 210b, it is those who are free who rule others:

“There we shall be free ourselves and rulers over others.” Indeed, the expressions in this *Lysis* passage are identical to those in the *Gorgias*. The *Lysis* has: *all’ autoi te eleutheroi esometha en autois kai allōn archontes* (210b4-5); the *Gorgias* has: *aition hama men eleutherias autois tois anthrōpois, hama de tou allōn archein en tēi hautou polei hekastōi* (452d6-7). The shift to the singular at the end of this sentence means only that those who are free and can persuade will dominate others *each* in his own city. It surely does not signify, as Cooper would have it, a change in subject. Moreover, the *autois* in *autois tois anthrōpois* is meant to contrast with the *allōn* in *allōn archein*: those who master oratory will both be free *themselves* and dominate *others*. This is surely the force, too, of *hama*, “at once.” In Thucydides 3.45.6, Diodotus calls the greatest things freedom and rule over others (Nichols, 1998, 33 n. 21).

There are several ways, however, in which philosophy, too, is deficient. Although it seeks to know, is concerned with what is best, and intends to benefit others, it is, in the final analysis, ineffective. As Nichols notes (1998, 45): “Without rhetorical capacity, the wise man or man of knowledge can have no important effect in politics or in other human activities.” And as Villa comments (2001, 37): “While the theatrical character of the public realm earns it a great deal of scorn in the *Gorgias*, Socrates is careful not to imply that dialogue and dialectic could somehow take the place of oratorical public address. The public realm is what it is and it is misguided to suggest that the mode of persuasion characteristic of philosophical discourse could ever be substituted for that of rhetoric and oratory.” The wise man needs rhetoric like Herodicus needs Gorgias. Gorgias, to be sure, could not succeed in healing Herodicus’s patient without Herodicus’s expertise, but it is no less true that Herodicus could not cure his patient without Gorgias’s expertise. Socrates cannot persuade anyone of the harsh truths he serves up; even when he wins his interlocutor’s assent in an elenctic exchange, that is, when he produces his “one witness” to the truth of his view (474a), the victory is short-lived, superficial, and merely verbal. Although Socrates says that “I know how to provide one witness for what I say, the man himself to whom my speech is directed,” he does not say that he knows how to *persuade* anyone; all he can really secure—and even this but temporarily—is verbal assent. Indeed, his interlocutors do not ever really agree with him: they do not know how they end up saying what they do not think, and they certainly do not change their ways. As Benardete (1991, 5) points out: “Socrates silences all three [Gorgias, Polus, and Callicles], but he seems to persuade none of them. He proves before us that his rhetoric is not powerful enough to go public and make up for Gorgias’s failure.” So, Socrates

must acknowledge that he, though he tries, cannot improve the citizens. Moreover, since he cannot make the people better, he, like the orator, is unable to save himself from them. When he appears before the mob that is his jury, the things he says, in part because of the way he says them, can only be distasteful to them and disastrous for him.

What, then, is the solution? If neither rhetoric nor philosophy can succeed on its own, is it not clear that a partnership is called for—indeed, a partnership on the *Gorgias*–Herodicus model? Yet, is such a partnership possible? As we have seen, rhetoric is not benign; it is not even as neutral as boxing and pancration. It is unjust because false and deceptive; it does not aim at what is good or best; and it is, in the final analysis, largely indifferent to truth. Whereas it seems likely that a morally neutral practice could somehow be conscripted into the service of philosophy, is it similarly likely that a practice that is in itself shameful and bad, can be so conscripted?

Interestingly, the *Gorgias* itself supplies the answer to this question—albeit indirectly. In the discussion with Polus at 466-469 concerning whether rhetoricians, like tyrants, have power, Socrates makes the point that it is not only intermediates (e.g., sitting, walking, running, and sailing, stones, wood, etc. [468a]) that are done for the sake of good things, but that bad things, too (e.g., suffering [467e], being in danger and having troubles [467d], and killing, expelling, and confiscating possessions [468b-c]) are done for the sake of good things. “For we wish the good things,” Socrates says, “but we do not wish the things that are neither good nor bad, nor the bad things (*oude ta kaka*)” (468c5-7). The man who kills justly is surely not enviable but he is not wretched, either; it is the man who does so unjustly who is pitiable and wretched (469a-b). In other words, even bad things like killing can be wanted and done for the sake of good ones. Thus, even though rhetoric in itself is a bad, even shameful, thing, it might still be able to serve what is good, viz. philosophy and the common good. Plato, as we know, is hardly unaware of the need to lie at times for some higher purpose; hence the notorious “noble lie” of *Rep.* III.414b. (See also *Rep.* III.389b ff. and V.459 ff.)

The *Gorgias*, then, opens up the possibility for a fruitful “fraternal” relationship between rhetoric and philosophy. Yet, the success of the relationship will depend upon the satisfaction of at least the following conditions. First, that the orator (1) acknowledge the superior wisdom of the philosopher, (2) stop impersonating other craftsmen, (3) relinquish his passion for power, and (4) replace narrow self-interest with a devotion to the common

good. And, second, that the philosopher, in turn, (5) acknowledge the worth of the orator's persuasive expertise, an expertise that he himself lacks and needs. One cannot but wonder, however, when all is said and done, how the philosopher, construed now as the man unable effectively to persuade, will ever convince the rhetorician to relinquish his liberty and equality—even for the sake of fraternity.

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Alexandre Kojève, *Outline of a Phenomenology of Right*, translated by Bryan-Paul Frost and Robert Howse, edited by Frost, Rowman & Littlefield Publishers, 2000, xxxiii + 451pp., \$70 hardcover.

K A L E V P E H M E

Right is the realization of justice, and it is right that Messrs. Frost and Howse have translated the *Outline of a Phenomenology of Right* with such care and scholarly expertise. For, although Alexandre Kojève is one of the greatest of twentieth century thinkers, he is barely represented in English. His major work, *Introduction to the Reading of Hegel*, is sadly truncated and abridged, and otherwise there are only a few essays and letters in English, including his famous exchange with Leo Strauss in *On Tyranny*. The *Outline* is the most detailed explanation of the struggle for recognition and the culmination of history in the Universal Homogenous State, even more so than what we find in the *Introduction*. Messrs. Frost and Howse deserve our gratitude for the fine work they have done, as well for their introduction to this volume, of which one is tempted to quote copiously to explain the meaning of this remarkable Kojèvean masterpiece.

Kojève's lucidity and relentless thesis, antithesis, synthesis dialectic, however, cannot totally lull us into not being astonished at the seemingly utterly fantastic character of his thought. Consider: From a few seemingly inconsequential pages of Hegel sketchily describing the master-slave relationship, Kojève takes this struggle in ancient Greece, discovers the birth of philosophy and of *Droit* (right or law, judiciously left in the original French by the translators for ambiguous clarity), and then alchemically transmutes this struggle for recognition through the inequality of bourgeois duties set against the masters' equality of peers, synthesizes that into a citizen, ultimately a citizen enjoying socialistic equity who lives contentedly and with full justice in a worldwide Universal Homogenous State. The *Outline* is a complete challenge

to what is the normal rational view of the nature of things, particularly of human things, that insists that there is nothing new under the sun that shines outside of the Platonic cave.

Coming events cast their shadow before, and the *Outline*, written in the darkness of Vichy France in 1943, is a prelude to something that Kojève cannot truly know, the future. Yet, it is this very future that makes the present and the past coherent in the *système du savoir* (the system of wisdom or knowledge), the comprehensive discursive exposition of wisdom itself by a wise man who has converted philosophy into wisdom, thus bringing history to an end. This man Kojève, a career civil servant, hardly detected by anyone in the mainstream of historians, nevertheless, makes the claim that not only can he tell us exactly what wisdom is, as did Hegel, but that the future that he cannot truly know is in truth known in the *Outline*. So, this man, who represented France in the creation of what is now known as the World Trade Organization, is a mouse who not only swallows the philosophical elephant of the world, alive and whole, but he tells us exactly what *Droit* is, and he does so through an operational or behaviorist algorithm into which all phenomena of *Droit* are filtered.

The essence of “*Droit*” is the entity (in the vague sense of something {Etwas} which is not nothing {Nichts})—we will subsequently see that this entity is Justice or the “idea” of Justice) which is realized as the existence of “*Droit*” and is revealed as the phenomenon of “*Droit*” in the event of an interaction between two human beings, A and B, in and by the intervention of a third human being, C, impartial and disinterested, this intervention necessarily provoked by the interaction in question and annulling B’s reaction which responds to A’s action.

Consequently:

The phenomenon of “*Droit*” (in its “behaviorist” aspect) is the intervention of an impartial and disinterested human being, which necessarily carried out at the time of an interaction between two human beings, A and B, and which annuls B’s reaction to A’s action (39-40).

Right is a completely *human* phenomenon. The *nomos* does not extend to animals and there is nothing divine about it, as what was once thought to be divine about *Droit* is in effect nothing more than the Universal Homogenous State. This interaction of A and B, and the intervention of C constitutes the specific “juridical” element. “It is this which confers a juridical character to the situation as a whole” (40).

Needless to say, this three-fold interaction is a mirror of the entire driving force of history, the Hegelian dialectic, and what we discover in the *Outline* is that Kojève already had answered Strauss's apparent charge that the Universal Homogenous State will find its genesis and maintenance in violence; in that, what will bring the world to this state is the progress of *Droit* and the reason's own revolutionary movement to a full actualization of Being or the Concept itself in time.

One can wonder how an entity without potentiality succeeds in existing in actuality, or even simply in being real. This is because the actuality without potentiality is the actuality which has exhausted its potentiality by actualizing itself completely. There was a time when this entity was supported by the potentiality which it was in the process of actualizing. It is this potentiality which has carried it to existence, to reality, and it is the actualization of this potentiality that it has existed and exists in actuality. But if this actuality has exhausted the potentiality by actualizing it *completely*, the entity will not be able to keep itself indefinitely in the present [*l'actualité*], nor even in any reality whatsoever: it will entirely pass into—sooner or later—the ideality of the past. And this general ontological law also applies to our case ... The old *Droit* is worn out because it has been efficacious: it is no longer efficacious because it has been so. It will sooner or later yield, therefore, its place to a new state-sanctioned *Droit*, which will actualize the new juridical potentiality, until it exhausts itself in turn. And this game will continue until the juridical group will have stopped being *exclusive*, by encompassing humanity as a whole. But this will take place only in the universal and homogenous State—that is, at the end of (historical) time (156-157).

It is rarely noted that one of the great principles of the historical dialectic is that everything is totally unique, even if many things seem to be alike. The constant repetition of the process does not end with a repetition of an original point. "For Hegel, by contrast, the new potentiality is the impotence of the actuality, which therefore disappears without returning: the new potentiality is actualized in and by an actuality which is essentially other than the preceding actuality. Because, for Hegel, the new potentiality is the *negation* of the actuality: the antithesis of the thesis which only maintains itself in this way as a synthesis. The Christian Middle Ages is born from Antiquity, but it has 'laid' [i.e., the egg of] Modernity, which is, if you will, a 'Rebirth' [*Renaissance*] of pagan Antiquity, i.e., its synthesis with Christianity, but not a simple return to paganism" (157 n.35). One distills the same water over and over again, and one day, instead of H₂O, one discovers one has made heavy water that could be

used for an atomic device. We discover that the very uniqueness of all things means that not only cannot any two beings or things be in the same state, occupying the same space and time, but that the interaction between two different human beings, for example, with the intervention of a disinterested third annulling one in the favor of the other, results in an entirely new state of affairs. Just as no two sets of experiments ever give the same results, Kojève's analysis of *Droit* means that all of humanity, with no two individuals alike, is striving for the most unique state of all, a final new state, singular in its oneness and complete in its universality. While everything may be possible, however, not everything is permitted. The Schmittian madness of interminable war between nations ends, and that kind of politics disappears altogether. The division of labor does not disappear, moreover, as the political divisions do. Yet, government as the fullest expression of justice appears for all time in its socialist splendor, each according to his need, each according to his merit. Marx's view that the government withers away is not true. The *Outline* is the great correction of Marx, while fulfilling its socialist ends better than Marx could have formulated himself. And in the end Marx prevails as the "people" who will actualize the Universal Homogenous State (Strauss 1991, 290).

The fantastic reality is that the realization of wisdom in a single man extends over the entire world and to all men, even if it takes, as the translators note, hundreds of years to do so. That future reality constructs the facts by which the experience of *Droit* and wisdom is proved to be true.

Something ought to be said about this book in terms of the pure joy of reading it. It is a *Mille-feuilles*, a napoleon, a pastry of intellectual delights. Practically every page has an insight, a footnote, a definition, or a remark that is so apt, so telling of a problem—often a problem that has been a source of debate for centuries—that it literally strikes the reader with overwhelming power. The *Outline*, which is meant to be just that, the ranks and orders of *Droit*, is nevertheless remarkable in what seems to be its comprehensiveness, even though the ontological and metaphysical bases are not discussed here at length. It addresses seemingly disparate problems and questions and yet fits them into a greater context that inexorably gives the whole its cohesiveness. Kojève remarks about almost everything: from magic to the atheistic character of morality to various differences in death penalties, or a devastating point about the logic of biological evolution, and vivid explanations of some Aristotelian terms to questions regarding the *logos* of physics. Kojève is one of the greatest writers of footnotes that any reader has encountered and often the seemingly digressive is hidden away at the bottom of the page.

For example, footnote 105:

Man is able to *love* anyone and even anything. He *loves* as soon as he attributes a positive value to the very being of a given entity. Every (positive) “disinterested” relation to a being is “love” and all that love is a “disinterested” relation. One can love a thing or an animal. (It is possible that Art is the expression of love of a thing as such: of pure being, i.e., of the “essence,” the “idea” of a tree, for example. And music is the expression of love of being as such, ineffable in its abstraction.) One can also love man “in general” (“love of one’s neighbor” or of “humanity”). But one can also love such a man to the exclusion of all others. One then takes him in his specificity, but by abstracting from the act of this specificity—that is, to his “essence”—that is, the *action* which actualizes it. Thus, the concept “Napoleon,” while applying to only one being, is a *concept*—that is, an entity detached from the *hic et nunc* [here and now] of the empirical Napoleon. To love “Napoleon” is to relate oneself to the concept “Napoleon”—that is, to his “essence,” to his “idea” or to his “being” as such. (This is why the lover “idealizes” the being loved. If he errs in wrongly identifying the “ideal” loved with its *hic et nunc* empirical base, then “love is blind.” If he realizes the difference, he will have a tendency to “educate” the base in order to make it conform to his “idea” or “ideal,” from whence comes the “platonic love”—which is not necessarily “platonic”—of which Socrates speaks in *The Symposium*. It seems, moreover, that not only does self-conscious love lead to an “education,” but that all spontaneous “education” presupposes love.) One must not conflate love with “sublimated” sexuality (to be “amorous,” and so on), which is also specifically human (eroticism). But eroticism can be combined with love, which gives “love” in the contemporary sense of the word. But this “love” has nothing familial about it. If love without eroticism is (in certain cases) “friendship [*amitié*],” the “love [*amour*]” in question is an “erotic friendship [*amitié amoureuse*]” “the human basis of “sexual cohabitation [*concupinage*].” [Ed. The expression we translate as erotic friendship is applied in idiomatic French to a relationship, usually between a man and a woman, that is flirtatious and eroticized, characterized more by charm and playfulness than overwhelming passion, and something less than a full-blown affair.] Love only becomes *familial* if it generates children with a view to their *education* and creates a common *household* with a view to this education. And it remains *familial* as long as the beings who love one another are bound to one another by bonds that attach them to this common household—that is, as long as they are “kinsmen.” Conversely, a common household, even educative, is not familial as long as the associates do not *love* one another—that is, as long as

they do not behave toward one another as “kinsmen.” The love between *kinsmen*, moreover, means nothing more than the fact that they mutually attribute to each other a positive value independent of their *interactions*—that is, due to the mere fact that they are “kinsmen,” that they *are* (as kinsmen). I can despise or even hate my brother. If I give him a thousand dollars *solely* because he is my *brother*, I experience a *familial love* for him. But if I give a thousand dollars to someone *solely* because he assisted [*collaboré*] in my familial household or contributed to the education of my child, even if I love him moreover, I do not have *familial love* for him: he is not my *kin*. “Familial love” is another word for the phenomenon of “kinship” (407-8).

Action is at the heart of all realization, Hegel reveals, according to Kojève. Man, time, creates man because he values man in a positive way. However, with the end of history, it appears that this creative process of the dialectic ends. The *Outline* is, in truth, nothing more than the realization that once the Universal Homogenous State comes about that the processes of *Droit*, in effect, replace the dialectical process of philosophy. The irresistible “third” that arbitrates all causes in the future is itself wise; and, in effect, the *Outline* is a product of the final *Droit*. Yet, what is this life that exists in the future? Futurity may be the fulfillment of the *Outline*, it is nevertheless its present frustration as well.

For, we cannot help but consider that man creating man ends man must mean that man in the Universal Homogenous State will be fundamentally different, new, than we mortals today who await its coming. In the now famous and controversial footnote in his *Introduction*, Kojève grappled with the future re-animalization of man, i.e., “Man remains alive as animal in *harmony* with Nature or given Being. What disappears is Man properly so-called—that is, Action negating the given, and Error, or in general, the Subject *opposed* to the Object. In point of fact, the end of human Time or History—that is, the definitive annihilation of Man properly so-called or of the free and historical Individual—means quite simply the cessation of Action in the full sense of the term” (Kojève 1969, 158-9).

However, Kojève further elaborated on this problem years after he wrote the *Outline*, by rejecting the notion that the disappearance of man obviously could mean that the activities of man,—art, love, play, and so on—could go on at the same time as they do today. “If Man becomes an animal again, his arts, his loves, and his play must become purely ‘natural’ again. Hence it would have to be admitted that at the end of History, men

would construct their edifices and works of art as birds build their nests and spiders spin their webs, would perform musical concerts after the fashion of frogs and cicadas, would play like young animals, and would indulge in love like adult beasts. But one cannot then say that all this ‘makes Man *happy*.’ One would have to say that post-historical animals of the species *Homo Sapiens* (which will live amidst the abundance and complete security) will be *content* as a result of their artistic, erotic, and playful behavior, inasmuch as, by definition, they will be contented with it. ‘The *definitive annihilation* of Man *properly so-called*’ also means the definitive disappearance of human Discourse (*Logos*) in the strict sense. Animals of the species *Homo Sapiens* would react by conditioned reflexes to vocal signals or sign ‘language,’ and thus their so-called ‘discourses’ would be like what is supposed to be the ‘language’ of bees. What would disappear, then, is not only Philosophy or the search for discursive Wisdom, but also that Wisdom itself. For, in these post-historical animals, there would no longer be an ‘[discursive] *understanding* of the World and of self’” (Ibid. 159-60).

As is well known, Kojève resolves the problem with a tongue-in-cheek discussion regarding the simple formalism of Japanese society as seen by Kojève, where “...*Snobbery* in its pure form created disciplines negating the ‘natural’ or ‘animal’ given which in effectiveness far surpassed those that arose, in Japan or elsewhere, from ‘historical’ Action—that is, from warlike and revolutionary Fights or from forced Work.... But in spite of persistent economic and political inequalities, all Japanese without exception are currently in a position to live according to totally *formalized* values—that is, values completely empty of all ‘human’ content in the ‘historical’ sense. Thus, in the extreme, every Japanese is in principle capable of committing, from pure snobbery, a perfectly ‘gratuitous’ *suicide* (the classical *épée* of the samurai can be replaced by an airplane or torpedo), which has nothing to do with the *risk* of life in a Fight waged for the sake of ‘historical’ values that have social or political content ... Now, since no animal can be a snob, every ‘Japanized’ post-historical period would be specifically human. Hence there would be no ‘definitive annihilation of Man properly so-called,’ as long as there were animals of the species *Homo sapiens* that would serve as the ‘natural’ support for what is human in men. But ... an ‘animal that is in *harmony* with Nature or given Being’ is a *living* being that is no way human. To remain human, Man must remain a ‘Subject *opposed* to the Object,’ even if ‘Action negating the given and Error’ disappears. That means that, while henceforth speaking in an *adequate* fashion of everything that is given to him, post-historical Man must continue to *detach*

‘form’ from ‘content,’ doing so no longer in order actively to transform the latter, but so that he may *oppose* himself in a pure ‘form’ to himself and others taken as ‘content’ of any sort” (*Ibid.* 161-2).

As knowledge is the entire recalled and completed history of man (i.e., of philosophy) as well as the identification of subject and object, historical man’s ignorance, in effect, is the very erotic spur of his action, his loves, his arts. The end of this ignorance means that in the future man’s action is no longer linked to the search and investigation of his actions and meaning, but to a life where he artificially does things as if he were ignorant but is not as he lives naturally and instinctually informed by *Droit*. It is here that *Droit* manifests itself in the fullness of its justice.

As the political life of man also disappears and the human content of historical man is gone, man’s life becomes oriented primarily to his economic and familial life, i.e., to providing the economic abundance that makes the socialistic equity possible and to living a life of full love, but a life in which love and work are no longer a part of the search for meaning and philosophical fulfillment. The necessity for post-historical man to oppose himself in form to himself and others means that the fully-realized, non-evolving, *Droit* of necessity will drive the post-historical world in the way that the dialectic and the evolution of *Droit* once drove the historical world. Divisions will occur, because there are inherent difficulties and tensions that will have to be resolved, even within the socialistic framework. For example:

The principle of equality will require a share of equal portions between those having *droit*, and will no longer be concerned about anything else. But the principle of equivalence will ask if the equal portions are truly equivalent. If one observes that some are more hungry than others, one will see [to it] that this is not so. One will then share the food differently, making the portions proportional to the hunger of each one. The principle thus being satisfied, one will leave matters there. But the other principle will be offended by the inequality of shares, and it will try to eliminate it. However, in order not to offend the principle of equivalence, it will be necessary to eliminate the inequality of the participants. One will therefore ask why some are more hungry than others. And if one observes that this difference results from the fact that some have had lunch and others not, one will see to it such that from now on all might have lunch (269).

Because of such problems, there will be moments that will have to be adjudicated justly by *Droit* in the future. Moreover, as economic life

demands new technologies and advances in the natural sciences, one must assume as well that conflicts of various kinds will arise demanding state-intervention of *Droit*. Right and law, therefore, will not evolve, but they will become richer as the social fabric itself becomes richer in the sense of complexity in much the same as it does today. Moreover, while there would not be any war, because there are no more nations, Kojève does not hesitate to include in the *Outline* criminal law. Even in the Universal Homogenous State, completely global and just, there will be post-historical men who will be criminals. Justice, even in its fullest expression and understanding, presupposes that there will be injustice. Whether man be living out formal behavior without any historical content or become like bees in a hive behaving purely by instinct, the chaotic determinism of physical nature, for example, cannot be overcome. There will be the mentally damaged in the future as well.

Part of the immense frustration of the *Outline* is that Kojève cannot detail the constitution (yes, the Universal Homogenous State has a constitution) or its actual laws, as only the Universal Homogenous State can make itself. By Kojève's definition, the Universal Homogenous State cannot possibly be a tyranny. We ought to rejoice at the optimism that the just future holds for us, and yet there is a profound sense of unease that reading this book brings to those who wonder whether seeking after wisdom in philosophical terms is permanently at odds with any social order, local or global. Yet, it goes even further than that; even for the non-philosophical, one wonders whether Kojève's wisdom which inevitably eliminates anything to do with the divine, the impossible, the mysterious, and so on, as it inevitably must when wisdom is completely atheistic—a realization, that anything that men once thought outside of themselves is only anthropomorphic—is truly much a life worth living. One might even say that Kojève's greatness is that he does not even allow for a single, even involuntary, hint of transcendence anywhere. The loss of all illusions except for physical sensory ones means perhaps that the future of man is one where even artistic creativity as we have today even in decadent, absolute literature of suffering writers, like Proust, for example, also will disappear. Whatever thought and artistic work there is in the future will be completely repetitive in substance, even if repeated in the snobbery of future writers who are not happy, but content. And yet, in a certain sense, to raise this question may mean that underlying it there is a desire for injustice and lawlessness, a desire to violate *Droit*, for the sake of maintaining one's individuality, even if that individuality is ignorant and unwise or otherwise just philosophical, the old *Droit* that we find in Plato.

Translators Frost and Howse, in their introduction to the *Outline*, give a superlative discussion of how the Universal Homogenous State steadily will arrive through the realization of *Droit* itself. The globalization of the world appears to be coming apace, as we see in the way transnational institutions are found in the European Union today. Moreover, it is a delicious irony that Americans who are so proud of their capitalism do not realize that it is capitalism that is the driving engine of the coming of the Universal Homogenous State very much in the way as Karl Marx, the greatest philosopher of capitalism, foresaw. In other words, the Universal Homogenous State may not be fantastic, Utopian science fiction, and Kojève's *système du savoir* is the comprehensive truth of things. It also means that perhaps the most thoughtful thing we last of the historical beings can do is to take consideration of the future and attempt to work out some legislation (perhaps in some dark cave on some ancient island) that might preserve something of this life in the future's constitution.

In *On Tyranny*, Leo Strauss argues that even in the Universal Homogenous State certain men will rebel, presumably the truly philosophical, against the demise of philosophy that the Universal Homogenous State entails. Frankly, after reading the *Outline*, as well as his other works, it is clear that Kojève's vision of the future is not mere speculation or theory when we look around the world and see how it apparently fits into Kojève's claim to wisdom. It is fully possible "as that is not (yet) real but which will realize itself one day. A Society, therefore, where conflicts are *possible* cannot exist indefinitely, i.e., cannot be truly real, without the conflicts one day becoming *real* in it. ... Now, for Society to continue to exist, it is *necessary* that this intervention [of a disinterested third] takes place. It is, therefore, an 'irresistible' intervention. In short, there is a juridical situation. Society, therefore, can be truly real, i.e., last indefinitely, only if there is a real—valid, i.e., applied in fact—*Droit* in it" (118 n.1). The Universal Homogenous State lasts for as long as there are human beings, mortal even in the collective, because it possesses the fullest *Droit*. The old *Droit* was perishable at any time, while man, in the even collective, was thought to be eternal.

Right itself, thus, brings about Right, and it can only be Right if it is universal and lasts forever. In Kojève's case, if there is *Droit*, then there must be a Universal Homogenous State, a state in which the only true conflict, philosophy, that unruly and hubristic human striving, no longer lives, because *Droit* now rules instead. It takes a very strong man with a very strong sense of social Justice to accept that.

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