specious claims of Meletus, long before these claims themselves are subjected to scrutiny (ἐξετάσωμεν) and exploded in the Apology (24B3-28A1; esp. 26A8-B2). This is how the Euthyphro serves an apologetic aim. Clearly, then, if we may summarize briefly the chief point of the present section, the legal impossibility of Euthyphro’s case is not at all hard to square with a sound interpretation of the dialogue.

CONCLUSION

We have seen that there was no ambiguity in Drakon’s original code concerning the right of prosecution, in spite of the fact that there was no explicit injunction to the effect that only the relatives or master of a slave could prosecute. The code itself was clearly intended to be restrictive. Nor is it the case that later litigants assumed there to be any ambiguity within the law. At least, in the one forensic speech that explicitly deals with this question, we saw that the Trierarchos himself supposed that he could not prosecute the old woman’s murder precisely and only because he was neither a relative nor her master. He clearly suggests that he could have proceeded only if he had lied on just this issue under oath — which, he assures the jury, he would not have dared to do. This, in turn, implies what is actually stated parenthetically: that litigants in a δίκη φώνου had to swear an oath of relationship, presumably as part of the standard diomosia. There is, in fact, no contradictory evidence; in every case known to us in which a δίκη φώνου is at issue, the prosecution is formally led by the relatives or by the master of the deceased.249 The Euthyphro proves no exception. Euthyphro’s case, the legality of which is immediately challenged by Socrates precisely on this point of the victim’s status, ultimately rests on principles that are extra leges. In fact, though we are not told the outcome of a case that may well be fictitious, both the specifics of Plato’s careful composition and a general consideration of the broader context of the dialogue are fully consistent with the claim that Euthyphro had no legal case, and offer no support whatsoever to those who oppose a restrictive reading of the law. We must conclude, therefore, from our review of the evidence, that Athenian law was indeed restrictive de jure as regards the question of who had the right of prosecution in a δίκη φώνου.

The foregoing argument, of course, cannot prove that it was absolutely impossible de facto for a homicide proceeding initiated by a non-relative to come to trial. So, it is generally presumed that the Basileus, as presiding magistrate in homicide procedures, had the right to pronounce a case inadmissible on diverse grounds; but, as we saw, the Basileus (who did not much resemble a modern judge) was likely to err

249See Gagarin (1979), 305.
instead on the side of caution, and allow a disputed case to proceed. Once the trial itself had actually begun, purely technical considerations became less dominant still. The vagueness of Athenian laws seems to have provided a great deal of leeway for the jury to become the ultimate arbiter of all decisions. The jury did not even need to distinguish fact from law, and cases were rarely decided on purely procedural grounds. As such, the jury could be persuaded by factors that a modern court ought to deem irrelevant. But when all is said and done, such considerations as these, apart from establishing the rather informal nature of Athenian law generally, still fail to prove that a charge of homicide initiated by a non-relative or -master could ever have come to trial. Such considerations indeed reflect the ingenuity of modern scholarship as to how such a case might conceivably have found its way to court, but they do not in any way show that such a case could in fact have gone to trial. Consequently, that proponents of the restrictive reading cannot prove that it was absolutely impossible that such a case — in violation of every oath, every injunction, every social and legal expectation — might nevertheless (though there are no known instances), at least in theory, have found its way to trial, is hardly a compelling argument for the claim that ‘anyone, in fact, could prosecute a δική φόνου.’ Still, the limitations of the restrictive argument must hereby be acknowledged.

That such hypothetical conjectures as these should have determined some interpretations of Attic law is ultimately due to a reliance upon several erroneous assumptions. These are easily stated. In the first place, it is anachronistic to believe that ancient Athenian law would have felt the need to circumscribe precisely the limits of its injunctions. As such, the failure to state the negative complement of who was not to prosecute proves nothing about the law’s intent. Secondly, and more fundamentally, there is often a failure to realize that the sanctions that enforced the Attic codes (certainly in the early period, but later as well) were as often as not primarily social and religious, rather than strictly legal, and that in antiquity this situation was not perceived usually as a sign of the weakness of these sanctions. But if this is so, then Gagarin’s distinction between “mere” legal expectation and legally enforceable restrictions is, I believe, equally anachronistic, and the principal support for his position is thereby undermined. Thirdly, a concern over miasma and its generalized effect on the polis, which played so prominent a role in the Tetralogies of Antiphon and in other literary sources, has sometimes been thought to provide a powerful motive for the city to act in a way that was contrary to the traditional (and restrictive) procedure. But as we have seen, there is no trace of this concern over pollution ever having this effect in actual legal settings — however else specific individuals, such as Euthyphro or the author of the Tetralogies, may have felt about the matter. Finally, and most importantly of all, opponents of the restrictive interpretation of the law have failed to appreciate the fact that such cases as they envision were not to be undertaken simply because there was no reason at all for such a case to be taken up. Murder was and remained a private suit, rooted in the family’s right of vengeance, which itself was grounded in the fundamental solidarity of the ancient oikos — and not in any abstract, moral or social

254Gagarin (1979), 301, correctly observes that scholars expect too much clarity from the ancient codes (cp. Nörr, 652; Thür (1990), 146), and he uses this observation in support of his claim that Attic homicide law was not fully or explicitly restrictive. But the lack of precision he observes in the formulation of the early codes more properly implies that the statements of the codes are to be understood in the context of the general assumptions of the time, and that the failure to state explicitly both who was to prosecute, and therefore, who was not to prosecute, hardly proves that the code was unclear in its original intent.

255We have already seen in the case of perjury (n.138 supra) that the sanctions that enforced true oaths were not legal ones. Many other examples could be adduced; see next paragraph infra.

256While I believe that Gagarin’s argument is thus vitiated by the introduction of an anachronistic distinction, his excellent discussion in the first chapter of Early Greek Law shows that Gagarin is fully aware of the fact that one cannot understand rule formation and rule enforcement in the archaic community solely in terms of positive statute law.

257See pp.82ff. supra; also Parker, 119ff., who explicitly notes miasma’s lack of coercive power.
Considerations. 258 Indeed, the notion of the sanctity of life 259 and, more critically perhaps for the issue at hand, that of the over-riding requirements of the ‘body politic’ or ‘State’, are both essentially later developments. 260 That a discussion of these topics began to find their

258 As to the private nature of homicide, even as it survived into the Fourth Century B.C., one may consider such passages as, e.g., Dem. 23.39 ἐὰν τὸ τοῦτο ἐστιν [sic. if the rights of exile are not observed], ἢ μόνον λοιπὴ τοῦ ἄτυχον τίταν [sic. those who have murdered] ὁμοθρησκεύεται. ἢπὶ τὸν εἰς τὶς τοῦπον εὐρετάνων μετασφάντων ἡ τῆς τοῦ αὐτοῦ ἔθνους ἔθες μεταφέρεται, also §42, where exile is again described as ἄτυχον ποιμανός ὁ ἄνθρωπος, ἡ τῶν οἰκείων τῆς ἀνθρωπότητος ἄνθιστος; also Ant. 4.4.11 ἢ τὸν ὁμοθρησκευόντων τοῦ ἐν τῇ εὐρετάνων ἄνθιστος τοῖς ἐν τῇ ἐν τῇ ὑποɛλάσθησεν. 64-5 κάν μὴ τοῦ ὁμοθρησκεύοντος. The presuppositions of these lines ought to be clear.

259 On the extremely difficult and delicate problem of the emergence of the individual in antiquity, see (by way of illustration) Glotz (1904), 95ff.; L.R. Farnell, The Higher Aspects of Greek Religion (London, 1912); Hrizel, Die Person: Begriff und Name Derselben im Altertum (Munich, 1914); R. Mondolfo, La Comprendisione del soggetto umano nell'antichità classica, tr. L. Bassi (Firenze, 1958); E. Benveniste, Le Vocabulaire des institutions indo-européennes (Paris, 1969), 1:328ff.; H. Frankel, Early Greek Poetry and Philosophy, tr. M. Hadas and J. Willis (New York and London, 1973), 527ff.; A. Snodgrass, Archaic Greece: The Age of Experiment (London, 1980), 160-200; J. N. Bremmer, The Early Greek Concept of the Soul (Princeton, 1983), esp. 66ff.; Parker, 251ff. Of course, we must not carry this argument too far. The Greeks, from the time of Homer onwards, i.e., the Greeks of the historical period, always had a taste for the strong personality (so Bremmer, 67ff); they were not nearly as anonymous as, for example, were the sculptors of the High Middle Ages (cp. Ullmann, The Individual and Society in the Middle Ages [Baltimore, 1966], 32ff., 104ff., 138n.74); for a relatively early (i.e., 6th Ccn.) interest in culture-heroes, see Tunin, "Xenophanes Fr. 18 B.-K. and the Origins of the Idea of Progress," Hermes 121, 1993, 136n.38; for Plato’s "already critical treatment of excessive ἰδίωμα (Rep. 462B), see L. Edelstein, "Platonic Anonymity," AJP 83, 1962, 14n.33; also Shorey, "Plato and the Stoic OIKSISTIS in the Berlin Theaetetus Commentary," CP 24, 1929, 409ff. (= Sel. Pap., 1:442); idem, "Plato’s Laws and the Unity of Plato’s Thought," CP 9, 1914, 38ff. (= Sel. Pap., 2:227); finally, for the incipient legal rights of the 'individual', see Hansen (1991), 76ff. — though it is, perhaps, the highlv tentative nature of the rights there enumerated that remains most striking.

260 It is difficult for us to imagine a situation in which murder would not be of paramount concern to the ‘body politic’ or ‘State’. But such concerns are clearly anachronistic. Admittedly, classical scholars of the highest caliber, at least those in the English-speaking world (the French tend to use the less objectionable term, cité, continue to describe the ancient πόλις as a ‘State’ (see n.3 supra); yet Medievalists, toiling in a field well littered with documents in which one can actually witness the formation and development of the modern, ‘corporate’ State, have long been pointing out the difference between ancient and modern concepts; see, e.g., C. H. McIvain, Constitutionalism: Ancient and Modern, rev. ed. (Ithaca and London, 1947), 23-40, esp. 36ff.; A. London Fell (n.3 supra); also, in a somewhat different, though analogous context, Ullmann, Pass und König: Grundlagen des Papsitums und der englischen Verfassung im Mittelalter (Salzburg und München, 1966), 32ff. While the idea of the corpus popularis, commonly associated with John of Salisbury, can, perhaps, be traced to the Greeks (though only by implication; see Isoc. 7.14; 12.138; Dem. 24.210; Ar.

way, in rudimentary form, into the philosophical debates of the Fourth Century, obviously should have no bearing upon our interpretation of Attic legal procedure of this same period.

The fact is that the family had the right — and perhaps the moral obligation — to prosecute on behalf of their own, and the failure to do so could lead to disgrace. 261 Yet there was no way that the family could be

Pol. 1295a40ff. (cf. W. L. Newman, The Politics of Aristotle [Oxford, 1887-1902], 1:210n.1); Sext. Emp. Adv. Math. 2.31), the legal concept of incorporation cannot; see, e.g., J. - P. Waltzing, Etude historique sur les corporations professionnelles chez les Romains depuis les origines jusqu'à la chute de l'empire d'occident (Louvain, 1895-1900), esp. 1:339ff., 2:139ff.; Ullmann, ibid., 38ff. (1975), 33f., 36f., 47f. Of course, the πόλις did have certain features that would be constitutive of a modern 'State': it had institutions, magistrates, and laws (see Hansen, “On the Importance of Institutions in an Analysis of Athenian Democracy,” Cl. Med. 40, 1989, 107-13); it clearly allowed for the delegation of power. To this extent, then, government “was something separate from the folk-ways of the community...” (cp. Strayer, 18). It also had a “monopoly of force”, to use a Weberian notion (see C. Morgan, “Ethnicity and Early Greek States: Historical and Material Perspectives,” PCPS 37, 1991, 45ff.). Yet the πόλις, even in the classical period, still failed to meet several crucial tests: it never succeeded in shifting loyalty away from the family to the ‘public’ institutions (cp., e.g., Dover [1974], 273); it never attained the status, derived from incorporation, of a legal or juristic individual (one could not, for instance [despite the strangely ill-considered remarks of Hansen (1991), 78, cp. 203ff.], bring suit against the police as such, and, as Jacoby knew ([1949]), 33n.78), at least before the Hellenistic period, it had no formal constitution like the charters of the medieval towns, much less anything resembling the modern legum principio. In fact, the ancients never even gained a notion of ‘sovereignty’ as something distinct from the members of the community (that the dikasterion is a distinct ‘institution’ is hardly the issue; see [pace Hansen, 154f.] J. Ober, Mass and Elite in Democratic Athens [Princeton, 1989], 145ff.). How far the πόλις stood from thus constituting a ‘State’ in the modern sense appears from the following consideration. While there clearly existed state sponsored executions (as Socrates could attest), there generally was no public mechanism for enforcement; as we saw (n.25 supra), individuals were responsible for collecting their own indemnity. Even the γραφή (n.5 supra), though open to anyone who wished, was not prosecuted either by the ‘State’, nor by the institutions of the πόλις, but only by private citizens who (for whatever reason; cp. Lyc. 1.3-6) chose to take this burden upon themselves. “Here, perhaps, more clearly than anywhere else we see the largely non-legalistic character of the Polis; it was no abstract conception above the citizens, but their community” (Ehrenberg, 79). At any rate, our argument does not depend upon such facts as these. That a private response to murder is even possible, in that the law was relatively modern, the so-called ‘appeal of felony’, adduced by Evjen, 260ff.; see Latte (1920), 1: “So wenig jemals eine Gesetzgebung völlig die ethischen Anschauungen ihrer Zeit ausschöpfen wird und so notwendig die Kluft zwischen den einmal festgelegten Satzungen und dem fortschreitenden sittlichen Empfinden sich stetig erweitern muss, bis das positive Recht den Forderungen der Moral langsam nachkommt”.

261 See, e.g., Dem. 58.28-29. It is often claimed, on the basis of Dem. 22.2, that the failure to prosecute a homicide could leave one open to a charge of impiety. But Parker, 123n.72, and Hansen (1976), 111n.20, are both rightly skeptical.
compelled to act, and there probably were no legal sanctions whatsoever. The sanctions, in other words, were social and religious. But the fact that the family’s obligation thus fell short of a legal necessity proves not that the converse—that non-relatives were not to prosecute—also fell short of an actual legal restriction; to the contrary, what it proves is that it might not infrequently be the case that in certain instances there simply would be no trial. Likewise, if there was no family around to prosecute, there simply would have been no trial—and that was that. It is true that in certain cases other exceptional procedures may have been occasionally available. But such alternative procedures clearly would not have been the norm, and would be subject to various restrictions of their own. In a δίκη φόνου, however, no one but the agnate relatives or the master of the victim had the right to prosecute, and any violation of this rule would surely have struck observers as extraordinary, morally dubious, and, indeed, as legally impossible—for, after all, the code itself instructed that relatives or the master were to prosecute, and in the oath it was even stated that was considered a relation. This, then, was the Attic view of homicide, and there is no evidence of any ambiguity or equivocation.

BIBLIOGRAPHY

Adam, J. Platonis Euthyphro. Cambridge, 1926.
Ast, F. Platonis Quae Exstant Opera...ad Optimorum Librorum Fidem Recensuit in Lingua Latinam. Converit, Annotationibus Explanavit...Adiecti. Tomus Octavus. Epinomides, Euthyphronem, etc. Lipsiae, 1825.
—. Lexicon Platonicum sive Vocab Platonicarum Index. Lipsiae, 1835-38.
Avery, H. C. "One Antiphon or Two?" Hermes 110, 1982, 143-58.
——. The Unity of Mankind in Greek Thought. Cambridge, 1965.
Bergk, T. Commentatione de Reliquis Comediae Atticae Antiquae Libri Duo. Lipsiae, 1838.
Blass, F. Die attische Beredksamkeit. 2 Aufl. 3 vols. Leipzig, 1887-1898.

263 Cp. n.27 supra. On the requisite purifications, see Parker, 121n.66, 370ff.
264 See Hansen (1976), 121, who notes that there were many cases that probably were never tried; also (1991), 195f. Even opponens of the restrictive view concede that a slave killed by his or her master (cp. n.184 supra) either would not (MacDowell (1963), 21) or could not (Gagarin (1979), 306) be avenged.
266 It is fitting to close with these remarks with Glotz (1904), 425: "Malgré l’ampleur que prit dans le droit athénien du Ve et du IVe siècle le système des actions publiques, on ne voit nulle part que les poursuites pour homicide aient cessé d’être des δίκαια. Le privilège que Dracôn avait constitué à la famille en matière d’accusation et qu’il avait scrupuleusement maintenu était désormais sacré. Tout passait, tout changeait, dans une cité ardent au progrès; les tribunaux chargés d’appliquer les lois se trouvaient à maintes reprises bouleversés par les révolutions politiques, et les lois elles-mêmes restèrent immuables, continuant de réserver aux parents le droit de venger leur parent."

268 Cp. n.27 supra. On the requisite purifications, see Parker, 121n.66, 370ff.
269 See Hansen (1976), 121, who notes that there were many cases that probably were never tried; also (1991), 195f. Even opponens of the restrictive view concede that a slave killed by his or her master (cp. n.184 supra) either would not (MacDowell (1963), 21) or could not (Gagarin (1979), 306) be avenged.
271 It is fitting to close with these remarks with Glotz (1904), 425: "Malgré l’ampleur que prit dans le droit athénien du Ve et du IVe siècle le système des actions publiques, on ne voit nulle part que les poursuites pour homicide aient cessé d’être des δίκαια. Le privilège que Dracôn avait constitué à la famille en matière d’accusation et que Solon avait scrupuleusement maintenu était désormais sacré. Tout passait, tout changeait, dans une cité ardent au progrès; les tribunaux chargés d’appliquer les lois se trouvaient à maintes reprises bouleversés par les révolutions politiques, et les lois elles-mêmes restèrent immuables, continuant de réserver aux parents le droit de venger leur parent."
Bibliography


Bontic, H. Index Aristotelicus. 2 Aufl. Berlin, 1870.


Bonner, R. J. Evidence in Athenian Courts. Chicago, 1905.

———. "Did Women Testify in Homicide Cases at Athens?" Classical Philology 1, 1906, 127-32.


Caillem, E. "Diosmosa." In Daremberg-Saglio, II.1, pp. 228-29.

Calderini, A. La Manomissione e la condizione dei liberti in Grecia. Milano, 1908.


———. Die Philosophie der Aufklärung. Tübingen, 1932.


———. ""Sacred" and 'Secular': lεον τα ἢσος and the Classical Athenian Concept of the State." Ancient Society 19, 1988, 161-88.


———. “Antiphons Tetralogien und das attische Criminalrecht, II.” *Hermes* 32, 1897, 1-41.


Finley, M. I. *Authority and Legitimacy in the Classical City-State*. Det Kongelige Danske Videnskabernes Selskab Historisk-filosofiske Meddelelser (HFM) 50.3. Copenhagen, 1982.


Bibliography

Gebauer, G. De Hypotactis et Paratacticis Argumenti ex Contrario Formis Quae Reperientur Apud Oratores Atticos. Zwiccaiae, 1877.


—. “La Diamartryie procédure archaïque du droit athénien.” In eodem, Droit et société, pp. 83-102.


—. La Solidarité de la famille dans le droit criminel en Grèce. Paris, 1904.


—. “Note on Dem. XLVII 72 TÔYTON TÀΣ ÉΝΩΣΕΩΣ EINAI.” Eirene 13, 1975, 5-18.

Graham, A. J. Colony and Mother City in Ancient Greece. 2nd ed. Chicago, 1983.


Grube, G. M. A. The Drama of Euripides. London, 1941.


Hansen = Hansen, M.H.

Bibliography


———. Die Person: Begriff und Name Derselben im Altertum. Munich, 1914.


Kahn, C. H. “Language and Ontology in the Cratylus.” In Exegesis and Argument: Studies in Greek Philosophy Presented to Gregory Vlastos, edd. E. N. Lee, A.


Kahlstedt, U. Staatsgebiet und Staatsangehörige in Athen. Stuttgart, 1934.


Kirchner, J. Prosopographia Attica. 2 vols. Berlin, 1901-03.


Bibliography


Bibliography


———. "A Note on [Hippocrates], De Morbis II 1,4 A." Classical Quarterly, n.s., 44, 1994, 278-80.


Riemann, O. "Remarques sur les scholies de Démosthène et d'Escuine du manuscrit de Patmos." Bulletin de correspondance hellénique 1, 1877, 182-94.


Bibliography


Schanz, M. *Novae Commentationes Platonicae*. Würzburg, 1871.

—. *Platonis Opera Quae Exstant Omnia ad Codices denuo Collatos*. Lipsiae, 1875.

—. *Platonis Euthyphro in Scholarum Usum*. Lipsiae, 1887.


Schreiner, J. *De Corpore Iuris Atheniensium*. Bonn, 1913.


Shorey, P. *The Unity of Plato’s Thought*. Chicago, 1903.


Bibliography


Thompson, E. S. The Meno of Plato. London, 1901.


—. "Translation and Commentary on the Prologue to Plato’s Euthyphro (Eu. 2A1-3E6)." Forthcoming.


Bibliography


Wilhelm, A. Beiträge zur griechischen Inschriftenkunde. Wien, 1909.


INDEX LOCORUM

AESCHINES
1.79-85: p.67n.162
1.97: p.26n.1
2.87f.: p.15.25, 83n.220, 87n.232

ANDOCIDES
1.81-83: p.10n.16
4.15: p.78n.202

ANTIPHON
1: pp.77n.201, 87
1.1: p.98
1.28: p.28n.53
1.29-30: p.16n.36
2.1.1-2: p.46n.112
2.1.3: p.83n.220
2.1.10-11: pp.83n.220, 87n.232
2.2.11: p.83n.220
2.3.9-11: pp.83n.220, 87n.232
3.1.2: p.83n.220
3.2.2: p.85n.227
3.2.9-10: p.85n.227
3.3.7: p.85n.227
3.3.11-12: pp.83n.220, 87n.232
3.4.2: p.85n.227
3.4.8-10: p.85n.227
4.1.2-4: pp.83n.220, 87n.232
4.2.3-6: p.85n.227
4.2.7-9: pp.83n.220, 87n.232
4.3.5: p.88n.227
4.3.7: p.83n.220
4.4.1: p.85n.227
4.4.8: p.85n.227
4.4.11: p.104n.258
5.11: pp.22n.56, 83n.220
5.12: p.28n.53
5.14: p.10n.16
3.48: p.18n.43
3.82-83: p.83n.220
8.89-89: pp.14-15
6.2: p.10n.16
6.3-6: pp.14-15, 83n.220, 104n.258
6.9: p.29n.56
6.16: pp.29n.55, 71n.173
6.18: p.46n.112
6.34-43: pp.38n.79, 39-44, 74, 87

ARISTOPHANES
Av. 960-991: p.67n.162
Lys. 186: p.15n.35
Pax 1026-1126: p.67n.162

ARISTOTLE
A.7.1: p.10n.16
7.1: pp.5, 102n.250
35.2: p.25n.2
39.5: p.70n.170
57.2: pp.38-39, 41-42
57.4: p.42n.99
Politics
1253b4-7: p.78n.202
1275b7-14: p.27n.50
1295b40ff.: p.104n.260
Rhetoric
3.15: p.49n.125

CICERO
De Div. 1.1: p.66n.160

DEMOCRITUS
68B38 D.-K.: p.81n.217
68B107 D.-K.: p.81n.217
68B261 D.-K.: p.81n.217

DEMOSTHENES
4.36: p.26n.1
18.13: p.80n.210
18.315: p.30n.61
20.56: p.30n.61
20.139-140: p.30n.61
20.158: pp.10n.16, 83n.220
20.165: p.30n.61
21.120: p.83n.220
21.196: p.30n.61
22.2: p.105n.261
23.22: p.25n.c
23.28: pp.9n.14, 10n.18, 25n.e,
72n.176
23.37: pp.17n.41, 72n.176
23.39-42: p.104n.258
23.47-48: p.17n.41
23.51: p.10n.16
INDEX GRAECORUM

γάνης, 56, 98
γάνη. See ἐν ἐν γάνης, ἕφορα ἐγκέφαλος
ἀγαθοσκελος, 13n.28, 17n.40, 39n.81, 78n.202. See also agnation
άλληγορος, 4, 63n.154, 78 and 78n.202
ἀν (τοις ἄνω κ. c. acc), 81n.217
ἀν c. indic., 63n.154, 78, 80
ἀναιδοφόρος, 63n.154, 72n.176
ἀναγράφεσαι, 40-41, 43, 72n.175
ἀγιοτάτης, 9n.14
ἀγιοτάτης (ἀγιοτάτης), 35n.s., 42n.99, 87n.232
γάρ (elliptical), 60n.150. See also οὐ γάρ του...γέν.
γέλοιος, 80n.214. See also καταγελάν
γραφή (and ὕπογρ., 3, 14, 105n.260
γραφή ἀμφιβολίας, 93, 106n.265
γραφή ἱδρεύον, 4n.5, 106n.265
γραφή φύσιν, 3n.5, 106n.265
δισαπεξιμολογον, 86
δητος, 80n.209
διατριβής, 76n.195
δικαίος, 9n.14
δικαστής, 72n.176
δική (and γραφή), 3, 14, 56, 90n.243. See also ἐν δική
δικήν αἰkēs, 22n.47
δική φύσις, 3n.5, 101-106; argument from analogy, 14-16; in Pl. Euthyphro, 90n.243
δική γεωμετριτικής, 21n.46, 52n.138. See also perjury
δέντερ, 82n.218
ἐι μὲν γαρ...ψυχ 84, 86n.227
ἐι ὁτι μελίσσον, 71n.173, 91n.244
ἐφεξενθατον νοημικόν, 39, 87n.231
ἐλεύθερος, 18n.43
ἐν ἐγγόρα, 38-43, with 38n.79 and 42n.100
ἐν διν, 73, 80, 82, 83n.219, 91n.244
ἐπί (elliptical), 89-92
ἐπί (ἐπὶ), 28n.52, 49n.124
ἐφορία ἐγορά, 9n.14
ἡ, 79
θεομέν, 9n.14
θῆς, 63n.154, 88
θος, 80n.209
καὶ (adversative), 30n.60; (explanatory), 36n.u, 42n.100
καὶ γάρ, 89
καταγελάν, 67n.162, 80n.214
λαγχάνων, 43n.103, 45, 72n.175
λεκτομένη, 72n.175
οἰκείς (οἶκος), 57, 78 and 78n.202
οἰκογενεῖς, 83n.220
οἰστρέττομεν, 82n.218
οὐ γάρ τοι...γέν, 61n.152, 79n.207, 80
οὖν (narrative), 92n.246
οὔτε...οὔτ' 'οὔτ', 26n.i, 36n.w
παραγραφή, 71n.174
πελάτης, 63n.154, 88-89
πόλις, 104n.260
ποιν, 80n.209
προεγκατάστας, 33n.l, 34, 35n.s, 38, 40-45
προσιτής, 11n.19, 43
προδικασία, 15n.35, 71n.174, 72n.175 and 176
πρόκλησις, 28n.53
πρόκλησις, 72n.175
πρωτάνθαι, 72n.175
πανδικείς, 72n.175
πυρβολιτικός, 72n.175
πυρπολογία, 72n.175
πυρπολογία, 72n.175
πυρπολογία, 72n.175
πυρπολογία, 72n.175
πυρπολογία, 72n.175
πυρπολογία, 72n.175
πυρπολογία, 72n.175

INDEX NOMINUM ET RERUM

ἀψούσια (ἀψόνος), 28n.52, 30 and 30n.61, 51-54
φύλος, 25n.f
χείρον...βοέτες, 28n.52, 51-52
χριστός ἤκι, 26n.1
ὁς ἐγκύρω, 80n.209

ἀφιενία argument, 71n.173
agnation, 13n.28, 17n.40; agnate relations prosecute, 4, 11-13, 15-19. See also ἐγκύρω; family
Aischines (of Sphettos), 68n.164
allegory, 81n.217; Euthyphro presupposes written work of, 68n.164. See also etymologies
anchronism, in Plato, 69-70
anakrisis, 71 and 71n.174, 72n.175
analogy, argument from, 14-16
Antiphon (of Rhamnus), 103; as author of Tetralogies, 85n.226; identity of, 85n.226; on misas, 83n.220, 85, 86n.228; as source of Attic law, 85n.227; Tetralogies as rhetorical models, 86n.227
Antithenes, 67n.164
apagoge, 4n.5, 44, 72n.176, 106n.265
aporia, 96-97
Areopagus, homicide code posted at, 25n.e. See also courts, homicide
argumentum ex contrario, 79-80
Ast, F., 90n.241, 92n.246
atimia, 12n.25, 27n.51, 39n.43 and 39n.84, 44n.104. See also ἐργεσθήσατο τοις νομίμοιον
basileus, 24n.d, 74; functions of, 40-41, 45, 72n.176, 101-102; myrtle
crown, 87n.231; proclamation by, 38-43
blood-price. See wergel
Burnet, J., 75-76
chrematologists, 66n.161
citizenship: presupposed by Drakon’s code, 17; xenos-polities distinction, 17n.41
cleruchies, 69-70
corruption. See oaths, of corruption
consulting the stele. See under homicide code
courts, homicide, 15; Palladiou, 24n.d, 25n.e, 27n.50; Prytanion, 16n.37, 42n.99, 72n.176. See also Areopagos
Craylus (Plato), 68n.164, 81n.217. See also under etymologies; Euthyphro
death penalty. See punishment
Delian festivals, 65n.157
[Dem.] 47: authenticity of, 21n.44; rhetorical structure of, 23n.b, 28n.52, 32-38, 43-44, 45-54; summary of, 21-22. See also Trierarchos; Trierarchos’ nurse; rhetorical devices
Derveni papyrus, 67n.162, 68n.164
dialogues: careful composition of, 75-77; fictitious characters, 67-68; fictitious settings, 68-71, 76; subtitles
INDEX GRAECORUM

INDEX NOMINUM ET RERUM

a fortiori argument, 71n.173
agnation, 13n.28, 17n.40; agnate relations prosecute, 4, 11-13, 15-19. See also ἀγγελική; family
Aischines (of Sphettos), 68n.164
aglory, 81n.217; Euthyphro
presupposes written work of, 68n.164. See also etymologies
anachronism, in Plato, 69-70
anakrisis, 71 and 71n.174, 72n.175
analogy, argument from, 14-16
Antiphon (of Khamus), 103; as author of Tetralogies, 85n.226; identity of, 85n.226; on miaasma, 83n.220, 85, 86n.228; as source of Attic law, 85n.227; Tetralogies as rhetorical models, 86n.227
Antisthenes, 67n.164
apagoge, 4n.5, 44, 72n.176, 106n.265
aporia, 96-97
Areopagos, homicide code posted at, 25n.e. See also courts, homicide
argument ex contrario, 79-80
Ast, F., 90n.241, 92n.246
attimia, 12n.25, 27n.51, 39-43 and 39n.84, 44n.104. See also εἰργαζόμενοι τῶν νομίμων
basileus, 24n.d, 74; functions of, 40-41, 45, 72n.176, 101-102; myrtle
crown, 87n.231; proclamation by, 38-43
blood-price. See wergeld
Burnet, J., 75-76
chresmologues, 66n.161
citizenship; presupposed by Drakon’s code, 17; xenos-polites distinction, 17n.41
cleruchies, 69-70
courts. See oaths, of cojuration
consulting the stele. See under homicide code
courts, homicide, 15; Palladion, 24n.d, 25n.e, 27n.50; Prytanaios, 16n.37, 42n.99, 72n.176. See also Areopagos
Cratylos (Plato), 68n.164, 81n.217. See also under etymologies; Euthyphro
death penalty. See punishment
Delian festivals, 65n.157
[Dem.] 47; authenticity of, 21n.44; rhetorical structure of, 23n.b, 28n.52, 32-38, 43-44, 45-54; summary of, 21-22. See also Trierarchos; Trierarchos’ nurse; rhetorical devices
Derveni papyrus, 67n.162, 68n.164
dialogues: careful composition of, 75-77; fictitious characters, 67-68; fictitious settings, 68-71, 76; subtitles
dialogues (cont.)
of, 75n.191. See also under specific works

diomoia, 15n.35, 28-32 and 31n.64

Drakon's code, 4-5, 7-19, 63; date of inscription, 9, 65n.158; an excerpt, 8n.13; location of, 24n.e, 65n.158; verbatim copy, 9. See also under: homicide code; IG 13 104; law(s), ancient

elenchus, 95-97
endeiuxis, 106n.265
ephetai, 9n.14

Eponymous Heroes, 72n.175

eytologises; in Euthyphro, 66n.159, 81n.217; inspiration of, in Cratylus, 66n.159 (see also allegory); not uniquely 'sophistic', 81n.217

Euthyphro (Plato): apologetic aim, 97-100; dramatic date, 65; dramatic structure, 56-59, 93-97;88; entrances and exits, 75-76; evidentiary role of, 63-64, 92-93; knowledge of law presupposed, 64n.155; philosophical interpretation of, 93-100; no positive conclusions, 97; scene of, 65, 75-76; summary of, 56-59; three-fold contrast in, 65n.158. See also dialogues; anachronism, in Plato

Euthyphro: age of, 98; concept of knowledge, 56, 58, 67n.162, 95-97; as cosmopolitan, 81-82; in Cratylus, 66n.159 (see also eutymologies); not dissuaded from prosecution, 75-76; as doublet of Meletus, 98-99; as foil to Socrates, 98; identity of, 66-68; as mantic-chantlan, 66-67; mocked in the ekklesia, 66n.162; as 'Orphic' sectarian, 65n.158, 84n.221; as orthodox, 83-85 and 84n.221, 97; predicts the future, 56, 66-67 and 67n.162; role of, in the dialogue, 93-100; as 'theological sophist', 81n.217. See also under: miasma

Euthyphro's case, 57-58; appeal to miasma is extra leges, 87; the formal charges, 72-73; in context of the dialogue, 64 and 64n.156, 93-100; as a skon phous, 90n.243; dramatically linked to Socrates' case, 94-100; facts undisputed, 71; father acts unjustly, 90-92; father's culpability, 73; father's defense, 71n.173, 73; father's neglect of the laborer, 72n.176, 90n.244; history of, 68-71, 76-77; illegality of, 77-80 and 77n.201, 87, 90-93, 94-95; outcome unknown, 73-77; Plato's emphasis placed on piety rather than legality, 91, 94-97; at pre-trial stage (or earlier), 71n.174, 72n.175; Taylor's view, 87.232

Euripides, 21n.46

Eupolis, 68n.164

euthyna, 74

excerpts, in ancient inscriptions, 9n.13

exegetes, 23n.a, 66n.161, 73; advice not binding, 23n.b, 33n.j, 45, 51n.131

exemplum, 89, 91n.244 and 245. See also ταξιδικοί

family: solidarity of, 2-4, 11, 16, 103-104; weakening of, 17-18 and 17n.38, 43n.101. See also ignation; individualism; kinship

filial piety, 84, 94-95

foreigners, 5n.10. See also under: citizenship

freedmen, 5n.10, 17n.41, 26n.i, 27n.50

Gagarin, M., 5, 9n.13, 64n.156, 85n.227, 103n.256

Geach, P., 81n.217

Gigon, O., 73, 80-82, 99

Grace, E., 26n.i

hearsay evidence. See witnesses, accounts of introduced

heliaea, 10n.18

hendiadys, 30n.60, 49

Herkaleides Ponticus, 68n.164

homicide: never purely accidental, 16n.37; ancient conception of, 1-5, 11-12, 16, 101-106; intentional, 24n.d, 72n.176; justifiable, 18n.43, 73, 82n.219, 85n.227; as offense against the family, 16; private nature of, 2-4, 11-16, 101-106 with 104n.258 and 105n.260; other procedures, 106; right of prosecution restricted, 4-5, 11-18, 26, 45-54, 101-106 (see also under family); — in Pl. Euthyphro, 80, 90-93, 94-95, 99; — in Pl. Laws, 80n.213; priority of result over intention, 16n.37, 73, 86n.227, 87n.232; unintentional, 8, 9n.13, 72-73; occasionally left unpunished, 4, 13n.29, 87, 105-106 and 106n.264. See also law(s), ancient

homicide code: antiquity of, 10; consulting the stelae, 11n.22, 18n.43, 23n.b, 24n.e, 50; early instances of, 1n.1; erected at Stoos Basileios and elsewhere, 24n.e; origins of, 11-12; emphasis on procedure, 1n.1. See also Drakon's code; law(s), ancient

homicide: as legal strategy, 27n.51; one-fifth vote requirement, 44n.104; held outdoors, 87n.231; preliminaries, 71-72; suspended from 404 399 B.C., 70; religious observances in, 38n.78; ritual aspects of, 14-15, 23n.a and b, 33n.j, 35n.s, 45-46 (see also prorheis, ritual aspects of); uniqueness and solemnity of, 14-15. See also γραφήν ἐφικαί; ἤκειν φήσεων; δικαστήρια; jurisdiction; statute of limitations

Ideas, as paradigms, 58, 95-97. See also Plato

ignorance, 56, 59, 96-97

impiety trial(s): incited by manteis, 67n.162; of Socrates, 93. See also γραφήν ἀμαρτίας

imprisonment, 72n.176

individualism, in antiquity, 1-2, 104n.259. See also 'state', concept and development of; family, solidarity of

infinitives, jussive, 12

jurisdiction, 77n.201

jury, as ultimate arbiter, 102

Kahrstedt, U., 13n.29

King Archon. See basileus

kinship: early importance of, 2, 2n.4, 17 (see also under family); in inheritance cases, 15n.35, 29n.57; in primitive societies, 13n.28

Kidd, L., 12-13, 88-89

Klonoski, R., 65n.158

Lampen, 23n.a

laughter, in the ekklesia, 56, 67n.162

law(s), ancient: charges in, form and publication of, 72n.175; conservatism of, 10; location of, prior to establishment of Metron, 25n.e; not determined by logic, 13n.27, 37n.77, 102-103 and 103n.254, 106; rooted in magic, 16n.37; precise and legalistic nature of, in primitive societies, 13n.28; rarely decided on procedural grounds, 52, 78n.201, 102; vague ness of, 5, 51n.131, 102-103. See also Drakon's code; homicide code

law, modern: historical origins of, 1n.2, 2n.3; homicide, in England, 105n.260

Laws (Plato): relation to Attic law, 80n.213, 85

litigiousness: Socrates not known for, 56; suit and countersuit, 21n.45 (see also rhetorical devices); unfavorably viewed, 27n.51, 50, 53

MacDowell, D.M., 4-5, 12-18, 28-30 and 28n.52
manteis, 66n.161 and 162. See also Lampon
mantike, 66n.160
Meletus, 56, 93, 97-100
mectics, 5n.10, 17n.41, 27n.50
miasma, 82-87, 103; classical references, 83n.220; Delphic origins of, 83n.220; ignored by Drakon’s code, 87; Euthyphro’s preoccupation with, 69-70, 82-87, 90; importance of, overstated, 86; and justified homicide, 83n.219; not purified by prosecution, 87n.232; ritually, not legally significant, 87 and 87n.231, 90; rooted in victim’s curse, 11n.24, 16n.36. See also poine
Mnisiboulos, 21n.46
Müller, K.O., 83n.220
murder. See homicide
Naxos, 69-70, 72n.176
namque, 89n.240

phratry, prosecution by, 13n.29, 106n.265
piety. See filial piety
Plato: intellectualist ethics, 96-97 (see also Ideas, as paradigms); philosophy of, in aporetic dialogues, 93-100. See also under individual dialogues
poine, 2 and 2n.4, 11-12; demanded or forswn, 16n.36. See also under miasma
proclamations. See prorrhesis
prorrhesis, 11, 15n.35, 35n.s, 38-43, 72n.175; ritual aspects of, 15n.35, 38n.78, 41-43, 45-47 (see also homicide procedure, ritual aspects of)
prosecution, as source of enmity, 53. See also homicide, right of prosecution restricted; phratry, prosecution by
prostates, 27n.50
proxenoi, 78n.201
punishment, 12n.25. See also imprisonment
reductio ad absurdum, 58
rhetorical devices: A-B-A structure, 34n.o; chiasmus, 34n.p, 37n.x; diabole, 27, 49, 56, 102n.253; emphasis shifted mechanically, 36n.w; ethopoia, 23n.b, 27, 49-51; pathos, 49-50, 102 and 102n.253; repetition and parallelism, 37n.76, 47-48 (see also stylistic redundancy); syntactical balance, 53; variatio, 37n.x
Schleiermacher, F., 68
Sealey, R., 17n.41
self-help, 2, 11-12; in the execution of judgment, 12n.25, 22n.47, 105n.260
slaves: manumission of, 51; murder of, 4, 18n.43, 106n.264; —, in Pl. Laws, 73n.184; prosecution on behalf of, 18n.43, 53; slave-citizen distinction, 17n.41, 18n.43
Stalbaum, G., 55n.148, 92n.246
‘state’, concept and development of, 1-2 and 2n.3, 12n.25, 17-18, 104 and 104n.260. See also family, weakening of; individualism
statute of limitations, 77n.201
Stoa Basileios, 24n.e, 56, 65, 75-76
Stroud, R., 7n.11, 9n.13
stylistic redundancy, 60n.150
Taylor, A.E., 69n.167, 87n.232, 98
Telephos (of Pergamon), 72n.176
Theop hemos, 21n.45, 27
tragedy and its view of miasma, 85
Trierarchos, 21-22; credibility of narrative, 27; eschews perjury, 30n.61, 48-52; acted scrupulously, 23, 27, 50; looks to his own self-interest, 33n.j, 35n.s, 46n.112, 54; view of his own case, 30n.61, 48-53
Trierarchos’ nurse, 21-22; status of, not hidden, 26n.1, 27n.50, 36n.w, 48-51
vendetta, 12n.26
vengence. See poine
warning, 35n.q, 47-49
wergeld, 16
witnesses: absence of credible, 28n.52, 30-32, 45-46 and 46n.112, 47n.115, 52; accounts of, introduced, 46n.112; competence of women and children, 30-32; family members as, 21n.46, 32n.72; litigants cannot appear as, in own behalf, 31n.70; not required, 28n.52, 46n.112. See also under oaths
Wohlrab, M., 92n.246, 95

oaths: of cojuration, 31-32, 43n.102; in [Dem.] 47, 29-32, 37, 47-49; evidentiary, 15n.35, 28n.53, 31; in homicide trials, 15n.35, 28-32; in inheritance cases, 29n.57; invoke destruction, 15, 29n.54; of relationship, 15n.35, 29-30, 32, 48-49, 101; of Trierarchos’ wife and children, 30-32, 37; truth and relevance of, 29; of witnesses, 15n.35, 28n.53, 31. See also δικος υευδωματαρων; διομοσία; perjury
‘off-status’ victims, 5n.10, 17. See also under various types of status
Palladion. See under courts, homicide
Panagiotou, S., 5n.8, 37n.77, 64n.156, 72n.176
perjury, 52n.138, 103n.255. See also under Trierarchos