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LAW IN DIO CHRYSOSTOMUS' *RHODIAN ORATION*:  
A RESPONSE TO KAJA HARTER-UIBOPUU\*

I. The speeches of Dio Chrysostom, like the extensive oeuvre of Plutarch of Chaeronea, reflect the viewpoint and culture of eminent members of the Greek upper classes who, despite taking pride in their Hellenic past, had to deal with the contingency of living under Roman domination. Those circumstances turn their work into a very rich source of information about political and social life, as well as cultural phenomena like the so-called Second Sophistic and its aim to emulate great models of the classical period—like Plato and Xenophon, in the case of Dio. In her paper, Kaja Harter-Uibopuu (henceforth H.-U.) rightly starts by stressing those same aspects, although making clear that she intends to show that those texts are also important for a 'Rechtshistoriker', taking as reference the longest of Dio's extant speeches, the *Rhodian Oration* (number 31 of the *corpus*). In its present form, the speech has 165 chapters and would have taken around two and a half hours to be entirely delivered—an extension that has aroused the suspicion that the speech was not actually presented in public, but simply written. This argument is not necessarily fatal, because, as H.-U. states in the opening paragraph of her paper, there is little doubt that the "die heute vorliegende Version der Rede ist aber wohl von ihm selbst überarbeitet und möglicherweise erweitert worden," and therefore that Dio may have delivered a much shorter version. Even accepting this possibility, it remains a fact that the way he spoke before the Rhodian Assembly has several peculiarities, which shall be discussed in section III of this response.

In fact, Dio claims (31.1) that the oration was presented before the Assembly—even if he was not a citizen of Rhodes and had not been formally invited to give his advice (εἰ μήτε πολίτης ὢν μήτε κληθεὶς ὑφ' ἑμῶν ἔπειτα ἀξιῶ συμβουλευεῖν), in order (and yet more surprisingly) to discuss a subject that was not under consideration in the meeting of that day (καὶ ταῦτα ὑπὲρ οὐδενὸς ὧν σκεπτόμενοι συνεληλύθατε). The speaker is relying on the expectation (31.3) that the Rhodians are so prone to improve their behaviour that they will be ready to receive a good piece of advice (*symbolleuein*) even from a foreigner or a metic (ξένος ἢ μέτοικος), if he succeeds in proving that his assistance is given in the best interest of the city. In

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order to underline this perspective, Dio provides some information concerning the way ‘popular sovereignty’ was put into practice in Rhodes (31.4 and 6):

(4) δῆλον γὰρ ὅτι τούτου χάριν **σύνιτε βουλευόμενοι καθ’ ἡμέραν**, καὶ οὐ καθάπερ ἄλλοι δυσκόλως καὶ διὰ χρόνου καὶ **τῶν ἐλευθέρων τινὲς εἶναι δοκούντων**, ὅπως ὑμῖν ἢ σχολὴ περὶ πάντων ἀκούειν καὶ μηδὲν ἀνεξέταστον παραλίπητε. [...] (6) ὅποιοι γὰρ ἂν ᾧσιν οἱ πλείους **ἐν δημοκρατίᾳ**, τοιοῦτον φαίνεται καὶ τὸ κοινὸν ἦθος· τὰ γὰρ τούτοις ἀρέσκοντα ἰσχύει δῆπουθεν, οὐχ ἕτερα.

(4) *For evidently the reason that you **come together to deliberate every day** and not, as other people do, reluctantly and at intervals and with only a few of you who are **regarded as free-born being present**, is that you may have leisure to hear about all matters and may leave nothing unexamined. [...]* (6) *For **in a democracy** the character of the majority is obviously the character of the state, since it is their will, surely, and no one else’s, that prevails.*<sup>1</sup>

If, when speaking about democracy, Dio was taking as reference the Athenian model of the classical period, it becomes quite obvious that he could not have addressed the Rhodian assembly in as informal a manner as he claims. But quite apart from the evident *captatio* he is developing here, this passage contains important details about the way the democratic organs were functioning under Roman domination. Even if this has more to do with a political and historical approach, this passage shall be taken up again in the final considerations. For now, it is enough to stress that, according to Dio, the Rhodian assembly was apparently quite receptive to this kind of spontaneous intervention by a non-citizen speaker.

The subject of the speech is introduced by Dio soon after those preliminary considerations (31.9) and concerns the Rhodian practice of reusing old statues by renaming them, even if this involved erasing the names of the honorands previously engraved in them. The speaker strongly condemns this bad habit, both on ethical and legal grounds. H.-U. recalls only those arguments that deal with legal issues and compares them with epigraphic records, in order to establish whether Dio is simply exhibiting his rhetorical skills or, on the contrary, bases his arguments on existing laws of the late Hellenistic and imperial Greek *poleis*. It is from the balance of those two perspectives that H.-U. seeks to define the degree of the speaker’s reliability as a legal source.

The first string of arguments adduced by Dio (31.47; 49; 54) aims at proving the point that the statues are, in fact, private property of the honorands and not of the city. As a direct consequence of this reasoning, the practice of renaming and reusing the statues would correspond to an interference with those private belongings. Although Dio concedes that the possession of a statue is not equivalent to the possession of other things (see also 31.115), he nevertheless argues that the correlative honours of having been given a statue do belong to the honorands, who

<sup>1</sup> All English translations provided are taken from the Loeb Classical Library.

therefore suffer a loss if the public proof of this *time* is transferred to a different person, even if that *time* corresponds to a kind of “immaterielle Ehrung.” H.-U. says that the ownership of a statue was never addressed in public texts, but recognises that some epigraphic texts (see H.-U. text accompanying fn. 55 for examples from Mantinea and from Delos) demonstrate that the denial of honours owed to private persons could result in the payment of a fine to the person who had been damaged (together with his family) by that crime. Apart from the legal implications of denying the due tribute to a honorand, the public recognition of excellence was, in fact, deeply rooted in Greek mentality, right from Homeric times, as Thetis makes clear before Zeus, after Agamemnon has decided to take from Achilles his slave-concubine Briseis (*Il.* 1.503–10):

Ζεῦ πάτερ εἴ ποτε δὴ σε μετ' ἀθανάτοισιν ὄνησα  
ἢ ἔπει ἢ ἔργῳ, τότε μοι κρήνην ἐέλδωρ·  
**τίμησόν** μοι υἱὸν **ὃς ὠκυμορότατος ἄλλων**  
**ἔπλετ'**· ἀτάρ μιν νῦν γε ἀναξ ἀνδρῶν Ἀγαμέμνων  
**ἠτίμησεν**· ἐλὼν γὰρ ἔχει **γέρας** αὐτὸς ἀπούρας.  
ἀλλὰ σύ πέρ μιν **τίσον** Ὀλύμπιε μητίετα Ζεῦ·  
τόφρα δ' ἐπὶ Τρώεσσι τίθει κράτος ὄφρ' ἂν Ἀχαιοὶ  
υἱὸν ἐμὸν **τίσωσιν ὀφέλλωσιν τέ ἐ τιμῆ**.

*“Father Zeus, if ever amid the immortals I gave you aid by word or deed, grant me this prayer: do **honour** to my son, **who is doomed to a speedy death beyond all other men**; yet now Agamemnon, king of men, **has dishonoured** him, for he has taken and keeps his **prize** by his own arrogant act. But **honour** him, Olympian Zeus, lord of counsel; and give might to the Trojans, until the Achaeans **do honour** to my son, and **magnify him with recompense.**”*

The meaning of the passage is self-evident: by taking Briseis, Agamemnon deprives Achilles also of his prize (*γέρας*), which served as a public recognition of his *arete*—whose value as “immaterielle Ehrung” was much higher than the ‘material value’ of any slave, and worked also as a guarantee that the warrior, despite the contingency of dying young, would have a long-lasting reputation among the living. A similar logic is sustained by Dio when he establishes a direct connection between the act of recognising the *time* of exceptional people and the need to keep the memory of their deeds in the future (31.7): “of all other actions there is nothing nobler or more just than **to show honour** to our good men and **to keep in remembrance** those who have served us well” (τῶν λοιπῶν οὐδὲν ἔστι κάλλιον οὐδὲ δικαιότερον ἢ **τιμᾶν** τοὺς ἀγαθοὺς ἄνδρας καὶ τῶν εἰ ποησάντων **μυμνήσθαι**). It is therefore understandable that the speaker considers the practice of reusing statues a severe kind of *atimia*, especially injurious to the former honorand (31.79): “the **dishonour** is greater, since the victims are being deprived of a **very ancient honour**” (ἢ **ἀτιμία** μείζων τοῖς **σφόδρα παλαιᾶς τιμῆς** ἀφαιρουμένοις).<sup>2</sup>

<sup>2</sup> Later in the speech (31.130), Dio says that people deprived of their statues are left with nothing “except the insult and the dishonour” (δίχα γε τῆς ὕβρεως καὶ τῆς ἀτιμίας).

In another line of reasoning, Dio argues (31.86) that a person who expunges an inscription from a statue commits a crime not inferior to that of someone who intends to invalidate a decree by erasing certain words from an official tablet. As H.-U. shows (commenting on two documents: I. Adramytteion 34 B 17–65; SEG 33, 1041, Z.88–90), the epigraphic evidence supports this argument by putting the annulment of a honorific decree on the same level as treason or an attempt to harm the *demos*. Towards the end of the speech (31.139), Dio asks the Rhodians the reason why they do not approve a law regulating the reuse of statues—an inquiry that is rhetorically answered by his interlocutors with the putative observation that such a law would bring “no little shame” (αἰσχύνην γὰρ οὐ μικρὰν) to the city. Even if this remark enables the speaker to stress that the renaming of statues is a bad habit, Dio concedes nevertheless that the existence of such a law would prevent more easily the risk of abuse. As H.-U. pertinently argues, there is in fact a law from Lindos (I. Lindos II 419 Z.34–43) of roughly the same period that regulates exactly this practice. It is also particularly meaningful that the same inscription clearly states that disregard of the law could be considered a crime of *asebeia*. Even if it is not clear whether or not Dio knew this law from Lindos, it is undeniable that the idea of a religious crime connected with the practice of misusing old statues is a very strong argument in his line of reasoning, and so it should be dealt with more in detail.

II. Throughout the whole speech, there are frequent hints in Dio’s argumentation that the misuse of statues was considered an impious act, and thereby could be punished in the same way as *asebeia* and *hierosylia*.<sup>3</sup> In order to put the honorific statues under the same protection that the *polis* must grant to the statues existing in sanctuaries and to those dedicated to the gods, the speaker argues (31.80–82) that the honorands who have died a long time ago are seen as ‘heroes’ by the community and, because of that, offences against them should be considered *asebemata* and suffer the same penalties as those committed against the gods. H.-U. argues that this line of argumentation must have looked quite plausible to Dio’s audience, and several epigraphic texts show that the misappropriation of statues was considered an impious act, which would lead to a specific legal prosecution (see IGR IV 1703 Z.14–20; I. Ephesos 27 B 214–219).

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<sup>3</sup> The crime of *asebeia* could include offences such as the disrespect of mysteries, sacrifices and suppliants, the violation of ritual prohibitions or limitations to the right to visit sacred sites, the looting of temples and the mutilation of sacred objects. For more details, see Cohen (1991) 205–206. However, it is not unlikely that some of these crimes were also covered by other categories, as happened with the subtraction of sacred objects (*hierosylia*), which is a special category among cases of theft precisely because it is an offence affecting the religious sphere. As is underlined by Todd (1995), 307 and n. 19, the fact that there is a public action for these specific offences (*graphe hierosylia*) shows the gravity of the crime, although the examples of cases of this nature provided by the sources are often ambiguous.

The religious and legal realm of *asebeia* is one of the most controversial and slippery concepts in Greek law, and it is completely beyond the aims of this comment to discuss that problem in detail.<sup>4</sup> At any rate, I would like to recall one of the passages analysed by H.-U. and compare it to another literary testimony (Dio Chrys. 31.13–14):

(13) διαφέρει δ', ὅτι τὰ μὲν περὶ τοὺς θεοὺς γινόμενα μὴ δεόντως **ἀσεβήματα** καλεῖται, τὰ δὲ πρὸς ἀλλήλους τοῖς ἀνθρώποις **ἀδικήματα**. τούτων τὴν μὲν **ἀσέβειαν** ἔστω μὴ προσεῖναι τῷ νῦν ἐξεταζομένῳ πράγματι· τὸ λοιπὸν δέ, εἰ μὴ δοκεῖ φυλακῆς ὑμῖν ἄξιον, ἀφείσθω. (14) καίτοι καὶ τὴν **ἀσέβειαν** εὗροι τις ἂν ἴσως τῷ τοιοῦτῳ προσοῦσαν· λέγω δὲ οὐ περὶ ὑμῶν οὐδὲ περὶ τῆς πόλεως· οὔτε γὰρ ὑμῖν ποτε ἔδοξεν οὔτε δημοσίᾳ γέγονεν· ἀλλ' αὐτὸ σκοπῶν κατ' ἰδίαν τὸ πρᾶγμα. τὰ γὰρ περὶ τοὺς κατοικομένους γινόμενα οὐκ ὀρθῶς **ἀσεβήματα** κέκληται καὶ τῆς προσηγορίας ταύτης τυγχάνει παρὰ τοῖς νόμοις, εἰς οὓς ἂν ποτε ἦ. τὸ δ' εἰς ἀνδρας ἀγαθοὺς καὶ τῆς πόλεως εὐεργέτας **ὑβρίζειν** καὶ τὰς **τιμὰς** αὐτῶν καταλύειν καὶ τὴν **μνήμην** ἀναιρεῖν ἐγὼ μὲν οὐχ ὀρῶ πῶς ἂν ἄλλως ὀνομάζοιτο.

(13) *But there is this difference, that unseemly actions in what concerns the gods are called **impiety**, whereas such conduct when done by men to one another is called **injustice**. Of these two terms let it be conceded that **impiety** does not attach to the practice under examination; and henceforth, unless it seems to you worth guarding against, let this matter be dropped. (14) And yet even **impiety** might perhaps be found to attach to such conduct—I am not speaking about you nor about your city, for you have never formally approved nor has the practice ever been officially sanctioned; I am considering the act in and of itself from the private point of view—for is it not true that wrong treatment of those who have passed away is rightly called **impiety** and is given this designation in our laws, no matter who those are against whom such acts are committed? But to commit an **outrage** against good men who have been the benefactors of the state, to annul the **honours** given them and to blot out their **remembrance**, I for my part do not see how that could be otherwise termed.*

Dio starts by conceding that crimes against gods are called ‘impieties’ (*asebemata*) while those against men are ‘injustices’ (*adikemata*), but this distinction could harm his reasoning, because he would be forced to admit (as he first does) that the practice in question could not be considered *asebeia*. That is why he intends to argue—with success, as has been seen in the first part of this section—that the misuse of statues devoted to great men of the past corresponds as well to a crime of *asebeia*.

In fact, there are hints in the literary tradition from the classical period that could be interpreted as pointing in the same direction. This applies to a passage from a text attributed to Aristotle, although probably not by him (*De virtutibus et vitiis*, 1251a30–1251b2):

<sup>4</sup> Lipsius (1905–1915), II.359–360, was the first great promoter of the idea that *asebeia* is a vague and elastic concept. A different perspective is adopted by Rudhardt (1960), who thinks, on the contrary, that *asebeia* had a clear legal incidence and was applicable only to certain types of crimes. On the main lines of the debate, see Leão (2012) 131–138.

ἀδικίας δ' ἐστὶν εἶδη τρία, ἀσέβεια πλεονεξία ὕβρις. ἀσέβεια μὲν ἢ περὶ θεοῦς πλημμέλεια καὶ περὶ δαίμονας ἢ καὶ περὶ τοὺς κατοικομένους, καὶ περὶ γονεῖς καὶ περὶ πατρίδα· πλεονεξία δὲ περὶ τὰ συμβόλαια, παρὰ τὴν ἀξίαν αἰρουμένη τὸ διάφορον· ὕβρις δέ, καθ' ἣν τὰς ἡδονὰς αὐτοῖς παρασκευάζουσιν, εἰς ὄνειδος ἀγαγόντες ἐτέρους. [...] ἐστὶ δὲ τῆς ἀδικίας τὸ παραβαίνειν τὰ πάτρια ἔθη καὶ τὰ νόμιμα, καὶ τὸ ἀπειθεῖν τοῖς νόμοις καὶ τοῖς ἄρχουσι, τὸ ψεύδεσθαι, τὸ ἐπιорκεῖν, τὸ παραβαίνειν τὰς ὁμολογίας καὶ τὰς πίστεις.

*Of unrighteousness there are three kinds, impiety, greed, outrage. Transgression in regard to gods and spirits, or even in regard to the departed and to parents and country, is impiety. Transgression in regard to contracts, taking what is in dispute contrary to one's desert, is greed. Outrage is the unrighteousness that makes men procure pleasures for themselves while leading others into disgrace [...] And it belongs to unrighteousness to transgress ancestral customs and regulations, to disobey the laws and the rulers, to lie, to perjure, to transgress covenants and pledges.*

According to this passage, *asebeia* is presented as a form of 'unrighteousness' (*adikia*), along with other expressions of unjust behaviour, like 'greed' (*pleonexia*) and 'outrage' (*hybris*). This means that, contrary to Dio, [Aristotle] does not make the basic distinction between 'impieties' (*asebemata*) and 'injustices' (*adikemata*), thus favouring from the beginning a confluence in both fields. But even if, from a conceptual perspective, Dio would seem more accurate, the text under analysis says that *asebeia* applied to *adikiai* committed against the gods, but also against the dead, the parents and the fatherland—i.e., areas that (despite the ambiguity of the last sentence) would fall under the protection of 'ancestral customs and regulations' (τὰ πάτρια ἔθη καὶ τὰ νόμιμα), whose origin is lost in time and therefore tend to be considered sacred. Taking together these data, one may conclude that *asebeia* is an expression of reprehensible behaviour in the light of divine and social morality, because it constitutes an affront in areas that are crucial to ensuring stability to the human existence and to community life: the protection of the gods, the family hierarchy (and its memory), and the awareness of a long-lasting political identity. Accepting that Dio's audience shared, in general terms, this same religious and cultural background in what concerned the notion of *asebeia*, it is not difficult to imagine that, in the end, the Rhodians could be sensitive to the idea of seeing their practice of misusing statues as an impious act, of which they were formerly not aware.

In fact, it is quite clear that Dio was counting on this result, when, in the opening chapters of the speech, he expresses the moral obligation of addressing the Rhodian assembly (31.4):

εἰ μὲν οὖν περὶ τινος τῶν προκειμένων ἔλεγον, οὐθὲν <ἀν> ὑπ' ἐμοῦ τηλικούτου ὠφελείσθε· εἰκὸς γὰρ ἦν καὶ καθ' αὐτοὺς ὑμᾶς τὸ δέον εὐρεῖν σκοποῦντάς γε ἅπαξ· ἐπεὶ δὲ ὑπὲρ οὐ μὴδὲ ζητεῖτε τὴν ἀρχὴν ὅπως ποτὲ ἔχει, τοῦτό φημι δεῖξιν αἰσχίστα γιγνόμενον, πῶς οὐκ ἂν εἴην παντελῶς ὑμῖν χρήσιμον πρᾶγμα πεποιηκός, ἐὰν ἄρα μὴ φανῶ ψευδόμενος;

*Now if I were speaking about one of the questions which are before you, you would not be so greatly benefited by me, for you would be reasonably sure to arrive at the proper conclusion by yourselves if you were once to consider the problem. But since, in discussing the matter concerning which you are not even making any attempt at all to ascertain what the situation is, I assert that I shall prove that it is being most disgracefully managed, shall I not have done you an altogether useful service—that is, if I shall, indeed, prove not to be misrepresenting the facts?*

As has been argued in the first section of this response, it becomes rather obvious that Dio is here making a *captatio benevolentiae* to the Rhodian assembly, but he is also preparing the ground for the development of the idea of *asebeia* as one of his most insistent arguments. As a final proof that this was his strategy, it is worth recalling one of his closing chapters, in which he describes the reasons for the greatness of the city of Rhodes (31.146–7):

(146) ἀξιῶ δ' ὑμᾶς ἐκεῖνο ἐνθυμηθῆναι μᾶλλον, ὅτι πολλῶν ὄντων κατὰ τὴν πόλιν, ἐφ' οἷς ἅπασιν εὐλόγως σεμνύνεσθε, **πρῶτον μὲν τῶν νόμων καὶ τῆς εὐταξίας τῆς περὶ τὴν πολιτείαν**, ἐφ' οἷς καὶ μάλιστα φιλοτιμεῖσθε, ἔπειτα οἶμαι καὶ τῶν τοιούτων, ἱερῶν, θεάτρων, νεωρίων, τειχῶν, λιμένων· <ὄν> τὰ μὲν πλοῦτον ἐμφαίνει καὶ μεγαλοψυχίαν καὶ τὸ μέγεθος τῆς πρότερον δυνάμεως, τὰ δὲ **καὶ τὴν πρὸς τοὺς θεοὺς εὐσέβειαν**, οὐθενὸς ἦττον ἤδεσθε ἐπὶ τῷ πλήθει τῶν ἀνδριάντων, εἰκότως· (147) οὐ γὰρ μόνον κόσμον φέρει τὸ τοιοῦτον, ὥσπερ ἄλλο τι τῶν ἀναθημάτων, ἀλλὰ καὶ **τὴν ἰσχὺν τῆς πόλεως** οὐχ ἥκιστα ἐπιδείκνυσι καὶ τὸ ἦθος.

(146) *I ask you to bear in mind, rather, that, although there are many things about your city on all of which you have a good right to pride yourselves—your **laws in the first place, and orderliness of your government** (things of which you are wont to boast most), and, in the second place, I imagine, such things also as temples, theatres, shipyards, fortifications, and harbours, some of which give evidence of your wealth and high aspirations and the greatness of your former power, **others of your piety toward the gods**—you rejoice no less in the multitude of your statues, and rightly; (147) for not only do such things do you credit just as any of your other dedicated monuments do, but they also more than anything reveal the **strength of your city and its character**.*

It cannot be innocuous that, at the closing of the speech, Dio decides to underline the excellence of the *nomoi* and of the *politeia* of Rhodes, together with the patent preoccupation of the Rhodians to show *eusebeia* to the gods.<sup>5</sup> And because the Rhodians are so proud of the multitude of their statues, as a clear mark of the city's *ethos*, the obvious step to take next would be to avoid the risk of *asebeia*, by regulating the right reuse of statues dedicated to former 'heroes' and benefactors of the *polis*—just like the city of Lindos had already done.

III. As a final observation, it is pertinent to recall a quotation presented in the first section of this response (Dio Chrys. 31.4 and 6), where the speaker is praising the

<sup>5</sup> On a similar strategy adopted by the apostle Paul in Athens, see Leão (2012) 141–142.



receptiveness of the Rhodians to any good counsel in their assemblies, even if it comes from a *xenos* or a *metoikos* (cf. also 31.2–3). According to Dio, they do that because “in a *demokratia* the character of the majority is obviously the *ethos* of the state.” In 31.146, he says that the Rhodians were particularly proud of the ‘orderliness’ of their ‘government’ (τῆς εὐταξίας τῆς περὶ τὴν πολιτείαν) and throughout the speech he makes clear that this *politeia* is equivalent to popular sovereignty (e.g. 31.46; 58). Those remarks, together with the information that the Rhodian assembly used to meet on a daily basis (31.4 σύνιτε βουλευόμενοι καθ’ ἡμέραν), suggest, at a first sight, that Rhodes was living under a particularly dynamic and advanced democracy, but the fact is that even Dio insinuates—perhaps unwillingly—that the real situation was quite different. In actual fact, he complains (31.9; 52) that, even if it was the community who decided in the past to dedicate a statue to a honorand, it is now a *strategos* who decides by himself whether to annul a previous decision of the *polis*. This is certainly a sign of the limitations that a Greek *polis* had to face under Roman domination. Besides, Dio complains also about the fact that the Rhodians could not dare to refuse a statue to the Romans aiming at that public honour, because of the risk of losing their freedom (31.43; 105; 112).

As happened before with the Athenians and other Greek *poleis*, the keeping of the democratic apparatus was not equivalent to real sovereignty of the *polis*. It is worth quoting a passage from Plutarch (who faced the same dilemma of being a Greek under Roman domination) where the biographer describes the political (and soon after physical) death of Phocion—one of last true Athenian *politai*. Accused of treason shortly after he had negotiated the terms of an agreement with the Macedonian dominator, the statesman suffers personally the consequences of a new era marked by the collapse of the ideals of the *polis*. The composition of the assembly that was to dictate his death sentence represents mimetically a clear sign of this emerging reality. In fact, everybody was allowed to take part in it, irrespective of status or gender (Plutarch, *Phoc.* 34.3):

ἐκεῖ γὰρ αὐτοὺς προσαγαγὼν ὁ Κλεῖτος συνέιχεν, ἄχρι οὗ τὴν ἐκκλησίαν ἐπλήρωσαν οἱ ἄρχοντες, οὐ δοῦλον, οὐ ξένον, οὐκ ἄτιμον ἀποκρίναντες, ἀλλὰ πᾶσι καὶ πάσαις ἀναπεπταμένον τὸ βῆμα καὶ τὸ θέατρον παρασχόντες.

[Straight to the place of judicature], where Clitus secured them till they had convoked an assembly of the people, which was open to all comers, **neither foreigners, nor slaves, nor those who had been punished with disfranchisement, being refused admittance, but all alike, both men and women, being allowed to come into the court, and even upon the place of speaking.**

One must not exclude the hypothesis that the biographer is here highlighting the irregular nature of the assembly meeting to emphasise, in a way, the illegality of the



condemnation that resulted from it.<sup>6</sup> At any rate, the legal framework described by the author clearly points to an environment of widespread decay of the *polis*, at a time when the taking over of the old democratic organs is merely the external expression of a far darker reality: the growing inability of those same organs to make policy decisions that are truly relevant, going beyond the mere basic and immediate impulse of popular revenge. Dio's high praise of the Rhodian *politeia* apparently implies that his audience lives in different circumstances, but the reality is probably not very dissimilar from that of Athens after the Macedonian conquest.

As a global analysis of the *Rhodian Oration* from a legal perspective, I would agree with the conclusions of Kaja Harter-Uibopuu: Dio presents his own perspectives and, in order to decide whether they are merely rhetorical or, on the contrary, reliable as legal sources, the comparison with epigraphic material, if available, is very instructive. As for my contribution, I have tried to demonstrate that the cultural and literary tradition, too, is certainly very useful in this regard.

#### BIBLIOGRAPHY

- Cohen, David, 1991: *Law, Sexuality, and Society. The Enforcement of Morals in Classical Athens* (Cambridge).
- Fialho, Maria do Céu, 2010: "The interplay of textual references in Plutarch's *Life of Phocion*", in Françoise Frazier & Delfim F. Leão (eds.): *Tychè et pronoia. La marche du monde selon Plutarque* (Coimbra and Paris), 195–205.
- Leão, Delfim F., 2012: "Paulo de Tarso e a justiça dos homens: helenismo e impiedade religiosa nos *Atos dos Apóstolos*" in idem, *A globalização no mundo antigo. Do polites ao kosmopolites* (Coimbra), 129–142.
- [forthcoming]: "Plutarch's *Life of Phocion* and the end of the *polis*: the last *polites* and the mob of new *idiotai*".
- Lipsius, Justus Hermann, 1905–1915: *Das attische Recht und Rechtsverfahren*. III vols. (Leipzig).
- Rudhardt, Jean, 1960: "La définition du délit d'impiété d'après la législation attique", *MH* 17, 87–105.
- Todd, S.C., 1995: *The Shape of Athenian Law* (Oxford).

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<sup>6</sup> Diodorus, 18.66.4, suggests that it was a regular meeting, though hostile to Phocion. Fialho (2010), 202, calls attention to the idea that, in Plutarch, the trial of Phocion is a democratic farce re-created by the Macedonian ruler: "For true citizens, the staged trial denounced the farcical democracy that was being acted out, making them aware of danger and demise—the 'shipwreck' of the city, in fact." For a more detailed analysis of Athens at the time of Phocion, see Leão (forthcoming).

