

DAVID D. PHILLIPS (LOS ANGELES, CA)

NOTES ON POLLUTION AND JURISDICTION IN
ATHENIAN HOMICIDE LAW.
RESPONSE TO STEPHEN TODD

To begin with, I would like to thank Professor Todd for drawing my attention to something I had always rather simplistically taken for granted; namely, the pollution occasioned by homicide (and, in this case, other unnatural or otherwise problematic death).¹ In his paper, Professor Todd raises a number of interesting questions and makes some important observations. In the comments that follow, I shall discuss some aspects of pollution where additional evidence supports Todd's argument, and some others where he and I may disagree.

1. On φόνος as physical, shed blood, which might necessitate cleansing (ritual or otherwise), and the temporary partial suspension of the *basileus'* proclamation (πρόρρησις: Ant. 5.88, 6.6, 34-36, 46) barring the accused killer from the places specified by law (including the lawcourts, purification by water, libations, mixing-bowls, sanctuaries, and the agora: Ant. 6.34-36; Dem. 20.158; cf. *infra* with n. 45)² on the day of his trial,³ it is worth comparing the rule prohibiting the use of an edged weapon

¹ See the summary discussion in Phillips (2008) 62-63.

² On the injunction to the accused "to keep away from the places/things specified by law" (εἴργεσθαι τῶν νομίμων), cf. Ant. 3 α 2, 3 γ 11; [Arist.] *Ath. Pol.* 57.2; *Lex. Seg.* (*Lex. Rhet.*) p. 310 Bekker; Pollux 8.90 adds mysteries to the list of proscribed locations.

³ It is worth observing that even though the ban is temporarily lifted with regard to the court where the *dikē phonou* takes place, the chances and severity of transmission are minimized by the homicide courts' locations in the open air rather than in roofed buildings,

(ἄνευ ἐγγχειριδίου) by the victorious defendant in a *graphê adikôs heirchthênai hós moichon* (for wrongfully having been detained as a seducer), who is otherwise empowered, “in the court, to do with [his vanquished prosecutor] whatever he wishes..., since he is a seducer” (ἐπι δὲ τοῦ δικαστηρίου ἄνευ ἐγγχειριδίου χρῆσθαι ὅ τι ἂν βουληθῆι, ὡς μοιχῶ ὄντι, [Dem.] 59.66). Why may the vindicated defendant use a blunt instrument but not an edged weapon? Because the latter automatically entails that the sacred space of the *dikastêrion* will be defiled by blood, whereas the former does not.⁴

2. With regard to the killing of Nicodemus,⁵ Todd notes the apparent inconcinnity between Demosthenes’ hypothetical trial for *bouleusis* of intentional homicide at the Palladion and the denial of burial in Attica (*ataphia*) that would have capped his sentence of exile upon conviction, given that, as MacDowell observes, we have no other evidence for a bar on the repatriation of an exiled killer’s corpse.⁶ If this reconstruction is correct, do we then need to extrapolate a similar ban in the case of *autocheir* (own-hand) intentional killers of citizens? Would they too be denied burial in Attica following execution, or if they died in exile having absconded from trial and thus been sentenced to death *in absentia*?

On the assumption that Demosthenes is not simply exaggerating when he claims that “even if Meidias had succeeded in just one of his plots against me, I would have been robbed of all I had, and on top of that, I would not even have the right to be buried at home,”⁷ there are two alternative reconstructions of the case, each of which

and probably by the *basileus*’ removal of his crown before presiding (Ant. 5.11; [Arist.] *Ath. Pol.* 57.4), which may reflect the desire to avoid pollution of the sacred (Parker (1996) 122 with n. 67, 159 n. 85; Rhodes (1993) 648). Cf. Aeschin. 1.19: ‘ἐάν τις Ἀθηναῖων, φησίν, ἔταιρήσῃ, μὴ ἐξέστω αὐτῶ τῶν ἐννέα ἀρχόντων γενέσθαι’ (ὅτι, οἶμαι, στεφανηφόρος ἢ ἀρχή) ‘μηδ’ ἱερῶσύνην ἱερώσασθαι...’ “If any Athenian, [the lawgiver] says, ‘prostitutes himself, he shall not be permitted to become one of the nine archons’ (because, I suppose, it is a crown-wearing office) ‘nor discharge a priesthood...,’” with Meinel (2015) 175; Dem. 21.16 on the sacrality of the gold festival crowns destroyed by Meidias.

⁴ Phillips (forthcoming); cf. Harris (1990) 374; Cohen (1991) 115-18; Kapparis (1995) 114-15; Kapparis (1996); Kapparis (1999) 302, 309; Schmitz (1997) 76; Allen (2000) 214; Forsdyke (2008) 18-19. For the sacrality of the *dikastêria*, note their common (if not universal) location in (or adjacent to) the agora (Boegehold (1995) 151 with references to the sources), which was marked off by *boroi* (Agora inv. nos. I 5510, I 5675, I 3226, I 7039) and *perirrhanteria* (Aeschin. 3.176) as a sacred space (Wycherley (1957) 218; Thompson – Wycherley (1972) 117-19; Wycherley (1978) 33, 62; Camp (1986) 48-52; Parker (1996) 19, 153) and was forbidden to accused killers (cf. Dem. 23.80; Dem. 24.60 applies the ban to οἱ μὴ καθαρὰς τὰς χεῖρας ἔχοντες, “those with unclean hands”), along with the *dikastêria* themselves (*supra* with n. 2; see especially Ant. 6.34-36). The wearing of crowns by presiding officials in the *dikastêria* (Dem. 21.32-33 with MacDowell (1990) 240-41, 250-52; cf. n. 3 *supra*) likely had similar significance.

⁵ This probably occurred in 348/7, the year before Demosthenes composed the *Against Meidias*: MacDowell (1990) 9.

⁶ MacDowell (1990) 332-33.

⁷ Dem. 21.106: εἰ γὰρ ἔν ὧν ἐπεβούλευσε κατώρθωσεν, ἀπάντων ἂν ἀπεστερήμην ἐγὼ καὶ μηδὲ ταφήναι προσπηρχεν οἴκοι μοι.

places Demosthenes' hypothetical trial at the Areopagus, rather than the Palladion, and results in *ataphia* attaching to killers who have been sentenced to death, not exile.

(a) In introducing the episode, Demosthenes speaks of Meidias as urging the relatives of the decedent, Nicodemus of the deme Aphidna,⁸ to prosecute him as Nicodemus' killer *in lieu of* Aristarchus son of Moschus,⁹ who was eventually charged and fled into exile.¹⁰ In this situation, Demosthenes would have been prosecuted for killing with his own hand, not for *bouleusis*; and since Nicodemus was an Athenian citizen, trial will have been held at the Areopagus, with a penalty of death upon conviction (including if Demosthenes absconded from justice after the manner of Aristarchus).¹¹

(b) Most, but not all,¹² (approximately) contemporary sources use language indicating that the charge would have been *bouleusis* of intentional homicide.¹³ And

⁸ PA 10868; not named by Demosthenes, but see schol. Dem. 21.104 (364 Dilts); Aeschin. 1.171-72 with schol. 339, 344, 345 Dilts; 2.148, 166 with schol. 363-365 Dilts; Din. 1.30, 47.

⁹ So MacDowell (1990) 329-30.

¹⁰ Dem. 21.104: after Aristarchus was accused of the killing, τὸ μὲν πρῶτον...κατὰ τὴν ἀγορὰν περιῶν ἀσεβεῖς καὶ δεινοὺς λόγους ἐτόλμα περὶ ἐμοῦ λέγειν, ὡς ἐγὼ τὸ πρᾶγμ' εἰμὶ τοῦτο δεδρακώς ὡς δ' οὐδὲν ἤνυσεν τούτοις, προσελθὼν τοῖς ἐπ' ἐκείνον ἄγουσιν τὴν αἰτίαν τοῦ φόνου, τοῖς τοῦ τετελευτηκότος οἰκείοις, χρήμαθ' ὑπίσχευτο δώσειν εἰ τοῦ πράγματος αἰτιῶντο ἐμέ ("first [Meidias] went around the agora and had the gall to say impious and terrible things about me; namely, that I was the one who had perpetrated the deed. Then, when he had no success with that, he approached the people who were bringing the accusation of homicide against [Aristarchus] – the relatives of the decedent – and he promised to pay them money if they accused me of the deed"). At the end of the episode (Dem. 21.122), Demosthenes uses language that may imply a hypothetical joint trial of himself and Aristarchus: Meidias simultaneously maliciously accused Aristarchus and asked Aristarchus to bring about a settlement between himself and Demosthenes; καὶ ταῦτ' ἔπραττεν καὶ χρήματ' ἀνήλισκεν ἐπὶ τῷ μετ' ἐκείνου κάμῃ προσεκβαλεῖν ἀδίκως ("and at the same time [Meidias] was doing this, he was spending money to get me expelled along with [Aristarchus], in violation of justice").

¹¹ Note also the allusion to *apotympanismos* at Dem. 21.105 (*infra*, n. 25) and the reference to Meidias as Demosthenes' *autocheir* (αὐτόχειρά μου, Dem. 21.106) – which, though the orator has Meidias use the same word of Aristarchus at §§116 and 119, should not be pressed too far.

¹² Aeschin. 2.148: Νικόδημον τὸν Ἀφιδναῖον...ὄν ὕστερον μετὰ Ἀριστάρχου συναπέκτεινας ("Nicodemus of Aphidna, whom later you killed in cooperation with Aristarchus").

¹³ Aeschin. 1.172: τοιοῦτων εἰσηγητῆς αὐτῷ καὶ διδάσκαλος ἔργων ἐγένετο, ἐξ ὧν ἐκεῖνος μὲν φεύγει τὴν πατρίδα..., Νικόδημος δ' ὁ Ἀφιδναῖος ὑπ' Ἀριστάρχου τετελεύτηκε βιαίῳ θανάτῳ, ἐκκοπεῖς ὁ δειλαῖος ἀμφοτέρους τοὺς ὀφθαλμοὺς καὶ τὴν γλῶτταν ἀποτμηθεὶς ἢ ἐπαρρησιάζετο πιστεύων τοῖς νόμοις καὶ ὑμῖν ("[Demosthenes] was [Aristarchus'] initiator and instructor in deeds of the sort that resulted in [Aristarchus'] being an exile from his homeland...while Nicodemus of Aphidna is dead at the hands of Aristarchus, having died a violent death, with both of his eyes gouged out, the poor wretch, and his tongue cut out, with which he used to speak freely, trusting in the laws and in you"). Din. 1.47: Demosthenes "in private gave Aristarchus frightful and unlawful counsels" (ἰδίᾳ δὲ συμβεβουλευκώς Ἀριστάρχῳ δεινὰς καὶ παρανόμους συμβουλὰς). Din. 1.30, οὐκ εἰς μεν τὴν Ἀριστάρχου οἰκίαν εἰσελθὼν, βουλεύσας μετ' ἐκείνου τὸν Νικόδημῳ θάνατον κατασκευασθέντα, ὃν ἴσπε

the *Ath. Pol.* (almost) unequivocally assigns all cases of *bouleusis* to the Palladion court.¹⁴ Yet according to Harpocration, the *Ath. Pol.*, while supported by Isaeus, is contradicted by Deinarchus, who identifies the Areopagus as the venue for *bouleusis* cases.¹⁵ While *in vacuo* I would certainly take the combination of Isaeus and the *Ath. Pol.* over Deinarchus, in this instance I believe that the author of the *Ath. Pol.* made a

πάντες, ἐξέβαλε τὸν Ἀριστάρχον ἐπὶ ταῖς αἰσχίσταις αἰτίαις; (“Didn’t [Demosthenes] enter the house of Aristarchus, plot with him the death of Nicodemus – which was thoroughly planned out, as you all know – and then expel Aristarchus on the most shameful charges?”), shades toward an allegation of *bouleusis* but is not incompatible with *autocheir* killing.

Among later sources that address the issue, Idomeneus, *FGrHist* 338 F 12 (early third century B.C.; *ap.* Athenaeus 592f), Demosthenes lacked all self-control in matters erotic: Ἀριστάρχου γοῦν τινος ἐρασθεὶς μειρακίου καὶ δι’ αὐτὸ παροινήσας εἰς Νικόδημον ἐξέκοψεν αὐτοῦ τοὺς ὀφθαλμούς (“in one instance, he conceived a desire for a youth named Aristarchus, and for that reason committed a drunken assault upon Nicodemus and gouged out his eyes”), is so confused as to merit no credence, unless it represents an alternative theory of the crime propounded by Meidias. The relevant scholia support an accusation of *bouleusis*. Schol. Dem. 21.104 (364 Dilts): ὑποπτεύθη ὡς πείσας νέον ὄντα τὸν Ἀριστάρχον ἐπιθέσθαι τῷ Νικόδημῳ καὶ διαφθεῖραι (“[Demosthenes] was suspected of having persuaded the youthful Aristarchus to attack Nicodemus and kill him”). Schol. Aeschin. 2.166 (363 Dilts, *ad* ταύτην [*scil.* τὴν οἰκίαν τὴν Ἀριστάρχου τοῦ Μόσχου] ἀπώλεσας): δηλονότι ὡς διδάσκαλος ‘ταύτην ἀπώλεσας’ διὰ τοῦ αὐτόν, τὸν Ἀριστάρχον, ἀναπέισαι φονεῦσαι τὸν Νικόδημον καὶ διὰ τοῦτο φεύγειν (“i.e., as [Aristarchus’] instructor “you destroyed it,” by persuading him, Aristarchus, to kill Nicodemus and go into exile on that account”). Schol. Aeschin. 1.171 (339 Dilts), δύο δὲ φόνους ἔδρασεν ὁ Ἀριστάρχος, πρότερον μὲν Νικόδημον, αὐθις δὲ Εὐβουλον ἀνελῶν (“Aristarchus perpetrated two killings, first getting rid of Nicodemus, then of Eubulus”), and schol. Aeschin. 1.172 (344 Dilts, *ad* φεύγει τὴν πατρίδα), καθὼ ἐφόνευσε τὸν Νικόδημον (“because he had killed Nicodemus”), both speak of Aristarchus as the sole (*autocheir*) killer.

¹⁴ [Arist.] *Ath. Pol.* 57.3: Εἰσὶ δὲ φόν[ο]υ δίκαι καὶ τραύματος, ἂν μὲν ἐκ προνοίας ἀποκτείνῃ ἢ τρώσῃ, ἐν Ἀρείῳ πάγῳ, καὶ φαρμάκων, ἂν ἀποκτείνῃ δούς, καὶ πυρκαϊᾶς: [τ]αῦτα γὰρ ἢ βουλὴ μόνῃ δικάζειν τῶν δ’ ἀκουσίων καὶ βουλεύσεως κἂν οἰκείτην ἀποκτείνῃ τις ἢ μέτοικον ἢ ξένον, οἱ ἐπὶ Πα[λ]λαδίῳ... (“Trials for homicide and wounding, if someone kills or wounds with intent, occur on the Areopagus; also for poisoning, if he kills by giving poison, and for arson. These are the only lawsuits the Council judges. For unintentional homicides and conspiracy, and if a person kills a slave, metic, or foreigner, the court at the Palladion [tries the lawsuit]). For a review of the ingenious yet unconvincing efforts of Lipsius and Wilamowitz to circumvent the plain meaning of καὶ βουλεύσεως, see MacDowell (1963) 65–66, followed by Rhodes (1993) 642–44; *contra* Gagarin (1990) 85–87; Carawan (1998) 115, 116 n. 54.

¹⁵ Harpo. s.v. βουλεύσεως (followed closely by *Suda* s.v. βουλεύσεως, β 429 Adler): ἐγκλήματος ὄνομα ἐπὶ δυοῖν ταττόμενον πραγμάτων· τὸ μὲν γὰρ ἐστὶν ὅταν ἐξ ἐπιβουλῆς τις τινα κατασκευάσῃ θάνατον, ἂν τε ἀποθάνῃ ὁ ἐπιβουλευθεὶς ἂν τε μή... τοῦ μὲν οὖν προτέρου μάρτυς Ἰσαῖος ἐν τῷ Πρὸς Εὐκλείδην, ἐπὶ Παλλαδίῳ λέγων εἶναι τὰς δίκας, Δειναρχος δὲ ἐν τῷ Κατὰ Πιστίου ἐν Ἀρείῳ πάγῳ. Ἀριστοτέλης δ’ ἐν τῇ Ἀθηναίων πολιτείᾳ τῷ Ἰσαίῳ συμφωνεῖ (“the name of a charge assigned to two actions. One is when a person contrives the death of another by plotting, whether the victim of the plot dies or not... Testimony for [this] first [type of *bouleusis*] is provided by Isaeus in the *Against Euclides* [fr. 62 Baiter-Sauppe], who says that trials occur at the Palladion, and by Deinarchus in the *Against Pistias* [fr. XV.2 Conomis], [who says that they occur] on the Areopagus. Aristotle in the *Constitution of the Athenians* agrees with Isaeus”).

mistake, something to which he was not immune.¹⁶ For we have additional evidence that suggests (but does not prove) that lawsuits for *bouleusis* of intentional killing, like those for intentional own-hand killing, were tried by the Areopagus. From Draco¹⁷ to Andocides,¹⁸ we find no derivation from the rule that the conspirator and the *autocheir* killer receive equal treatment under the law. Among the possible instances of Areopagite jurisdiction over *bouleusis hekousiou phonou*,¹⁹ the most likely (apart from Antiphon 1)²⁰ is the case of the father of the priestess of Artemis Brauronia, whom “the Council of the Areopagus expelled, although by all accounts he did not touch the man who died, because he urged the man who hit him to hit him” (τὸν γοῦν τῆς Βραυρωνόθεν ἱερείας πατέρα ὁμολογουμένως οὐχ ἀψάμενον τοῦ τελευτήσαντος, ὅτι τῷ πατάξαντι τύπτειν παρεκελεύσατο, ἐξέβαλεν ἢ βουλή ἢ ἐξ Ἀρείου πάγου, Dem. 54.25). To the arguments I made in 2007²¹ in favor of identifying this as a case of *bouleusis* of intentional homicide in which the defendant fled into voluntary exile,²²

¹⁶ E.g. (leaving aside the Draconian constitution, *Ath. Pol.* 4), Solon did not mint coins (10); the chronology of Peisistratus is confused and internally inconsistent (15-17); the author’s characterization of the anti-tyranny law at 16.10 as “mild” seems to result from a misunderstanding of ἄτιμον as “disfranchised” rather than “outlawed”; Themistocles was ostracized in the late 470s, then banished from Attica for treason ca. 471/70, and never returned (at least while alive: Thuc. 1.138.6); therefore, he cannot have cooperated in Ephialtes’ attacks on the Areopagus in 462/1 (25.3-4); it is not the case that all ten generals of 406/5 were recalled after the battle of Arginusae and condemned (34.1). Nor can all these (and other) errors be dismissed as later additions to the text. “The *Athenian Constitution* is not a masterpiece; its author was an average student” (Rhodes (1984) 33).

¹⁷ *IG I³* 104.11-13: δ[ι]κάζεν δὲ τὸς βασιλέας αἴτιο[ν] φόν[ο] εἰ...17...εἰ [β]ολεύσαντα, “the kings shall judge him guilty of homicide whether he [killed with his own hand] or conspired to kill.” “Killed with his own hand” is the sense of the lacuna according to most editorial conjectures. See, *inter alios*, Wolff (1946) 73; Ruschenbusch (1966) F 5a (cf. now Leão – Rhodes (2015) fr. 5a with translation and commentary); Gagarin (1981) xiv-xv; Phillips (2008) 41 with n. 25; Pepe (2012) 11-13.

¹⁸ Andoc. 1.94: καὶ οὗτος ὁ νόμος καὶ πρότερον ἦν <καὶ> ὡς καλῶς ἔχων καὶ νῦν ἔστι καὶ χρῆσθε αὐτῷ τὸν βουλευσάντα ἐν τῷ αὐτῷ ἐνέχεσθαι καὶ τὸν τῇ χειρὶ ἐργασάμενον, “And this law was in existence in the past and also exists now, because it is a good law, and you use it: it states that the plotter shall bear the same liability as the person who acts with his own hand.”

¹⁹ For others, and for an excellent and even-handed treatment of the jurisdictional debate (with a conclusion opposite mine), see MacDowell (1963) 64-69. Among those who support Areopagite jurisdiction are Grace (1973) 23; Gagarin (1990) 90, 97-98; Carawan (1998) 116.

²⁰ On this identification of the procedure, see, e.g., Grace (1973) 23; *contra*, e.g., Gernet (1923) 34. Note, *inter alia*, Ant. 1.22: the jurors are βοηθοὶ...τῶν ἐκ προνοίας ἀποθνησκόντων. That Antiphon has his client address the jury as δικασταί (§23) poses no obstacle: if Aeschylus (*Eum.* 81, 483, 684, 743) can call the Areopagites δικασταί, so can Antiphon.

²¹ Phillips (2007) 92.

²² As opposed to the defendant’s having been convicted of *bouleusis hekousiou phonou* and sentenced to exile (e.g., Sandys – Paley (1910) 210-11) or having been convicted of intentional wounding (τραῦμα ἐκ προνοίας, also under Areopagite jurisdiction) and sentenced to exile (MacDowell (1963) 67-68) or having been put on trial for *autocheir* intentional killing and having fled into voluntary exile (Carey – Reid (1985) 92-93).

I would add two points. First, the context requires that this case, cited by the speaker Ariston as precedent for his hypothetical death at the hands of Conon et al., have to do with homicide: note the use of γοῦν “in part proof”²³ of what precedes; *viz.*, καὶ μὴν εἰ παθεῖν τί μοι συνέβη, φόνου καὶ τῶν δεινοτάτων ἄν ἦν ὑπόδικος (“And in fact, if by chance something had happened to me [i.e., ‘if I had died’], [Conon] would have been liable for homicide and the most fearsome charges”). Second, the objection that ἐξέβαλεν, used of the Areopagus, must refer to a *sentence* of exile²⁴ is untenable, given the appearance of the same verb in the strikingly similar context of Demosthenes 21.109 and 115 (ἐκβαλῶν τινα and ζητῶν με ἐκβαλεῖν ἐκ τῆς πατρίδος respectively, *infra*, n. 25: Meidias is not imagined as passing sentence of exile on Demosthenes), as well as Deinarchus 1.30 (*supra*, n. 13: that Demosthenes ἐξέβαλε τὸν Ἀρίσταρχον ἐπὶ ταῖς αἰσχίσταις αἰτίαις obviously cannot mean that he passed sentence of exile on Aristarchus) and Demosthenes 37.59 (see (c) *infra*; the victim’s relatives have the power to pardon but not to exile: even in the first instance, sentence of exile is delivered by the Palladian court).

(c) Demosthenes’ references to exile as the putative result of blame for Nicodemus’ killing attaching to himself (including Dem. 21.122, *supra*, n. 10: Meidias χρήματ’ ἀνήλυσεν ἐπὶ τῷ μετ’ ἐκείνου κάμῃ προσεκβαλεῖν ἀδίκως; see also §§105, 109, 115)²⁵ are no more dispositive as to the sentence he would have incurred upon conviction than they are for Aristarchus. The orator is simply saying that he, like Aristarchus, would have been driven out of Athens by a charge of intentional homicide (whether *autocheir* or *bouleusis*), not that he would have been sentenced to exile upon conviction.

Therefore, if Demosthenes’ comment about being denied burial at home means anything, I believe the rule applied to those found guilty by the Areopagus of intentionally killing an Athenian citizen, whether by one’s own hand or by plotting, and sentenced to death.²⁶ On this reconstruction, the bodies of executed killers would

²³ Denniston (1950) s.v. γοῦν I.1.ii.

²⁴ MacDowell (1963) 67–68.

²⁵ §105: Meidias’ single goal is τοῦτον (i.e., ἐμέ) ἐξόριστον ἀνηρῆσθαι καὶ μηδαμῇ παρεθῆναι, ἀλλὰ καὶ λιποταξίου γραφήν ἠλωκέναι καὶ ἐφ’ αἵματι φεύγειν καὶ μόνον οὐ προσηλωσθαι (“to have [Demosthenes] cast beyond the borders and destroyed, and in no way be let off, but convicted in a *graphḗ lipotaxiou* [for desertion, carrying a penalty of *atimia*: Andoc. 1.74; Dem. 15.32; Aeschin. 3.175–76] and on trial for homicide [alternatively ‘in exile for homicide’: MacDowell (1990) 332] and all but nailed to the board” – a reference to execution by *apotympanismos*, which militates in favor of a prospective sentence of death, not exile). §109: how evil, shameless, etc. is a man who spends his wealth ἐν οἷς ἀδίκως ἐκβαλῶν τινα καὶ προπηλακίσας αὐτὸν εὐδαιμονιεῖ τῆς περιουσίας (“on efforts by which he can unjustly expel someone and drag his name through the mud, and then congratulate himself on his abundance [of wealth] [alternatively, ‘the advantage he has gained’]”)? §115: οὐκοῦν ἐξελέγχεται τούτοις ἐναργῶς ὕβρει ζητῶν με ἐκβαλεῖν ἐκ τῆς πατρίδος (“Therefore, the preceding facts clearly prove that it was out of hubris that [Meidias] sought to expel me from the country”).

²⁶ MacDowell (1963) 66, 125–26, followed by Rhodes (1993) 644, holds that the penalty for *bouleusis hekousiou phonou* of an Athenian citizen was death, but trial (as, in his view, all

be cast out of Attica, and those who elected exile over taking their chances with the death penalty in court would be refused repatriation upon death. This leaves open, then, the question of burial rights of those sentenced to exile for unintentionally killing a citizen, or for killing a non-citizen, regardless of intent. The only thing we can be sure of here is that if the qualified relatives of the victim pardoned the killer, allowing his return to Attica (*IG* I³ 104.13-19; Dem. 23.71-73; Dem. 21.43), they could not then revoke their pardon and re-exile his corpse when he died. Rather, pardon and readmission were absolutely binding: as Demosthenes writes elsewhere (37.59), ἐὰν ἐλών τις ἀκουσίου φόνου καὶ σαφῶς ἐπιδείξας μὴ καθαρὸν μετὰ ταῦτ' αἰδέσεται καὶ ἀφῆ, οὐκέτ' ἐκβαλεῖν κύριος τὸν αὐτὸν ἐστίν (“if a person who has convicted another of unintentional homicide and has clearly proven that he is not *katharos* afterward pardons and releases him, he no longer has the power to expel the same man”).

3. This description of the killer as “not *katharos*” brings us to the issue of pollution. First and most fundamentally, as a general rule, it seems to me, the pollution attaching to a killer results from (or corresponds to) his moral and legal guilt. Thus I am largely in agreement with E. M. Harris that “[w]hen [a] homicide was done in accordance with the law or justly, the killer was not considered guilty and could not be convicted in court.... Just as he was free of guilt, he was also free of pollution.”²⁷ Hence the Demophantus decree of 410 explicitly specifies that the killer of the targeted individuals is not only legally blameless but ritually spotless,²⁸ and Demosthenes interprets the Arthmius decree and clauses of Draco’s law on lawful

bouleusis trials) occurred at the Palladion; I find this reconstruction less plausible. On a related topic, the *Against Meidias* provides excellent evidence against the position that concerns over pollution waned in the Athens of the fourth century (Parker (1996) 126-28); see, e.g., Dem. 21.114-15, with Harris (2015) 18-19.

²⁷ Harris (2015) 21; see Hewitt (1910); Parker (1996) 113-14, 366-69; Meinel (2015) 114-15. Note, e.g., Dem. 20.158 (*infra*, n. 45).

²⁸ Andoc. 1.96-97 (*decretum*): Ἐάν τις δημοκρατίαν καταλύη τὴν Ἀθηναίων, ἢ ἀρχὴν τινα ἄρχη καταλελυμένης τῆς δημοκρατίας, πολέμιος ἔστω Ἀθηναίων καὶ νηποινεῖ τεθνάτω...ὁ δὲ ἀποκτείνας τὸν ταῦτα ποιήσαντα καὶ ὁ συμβουλευσας ὅσιος ἔστω καὶ εὐαγής (“If a person subverts the democracy at Athens or holds any office after the democracy has been subverted, he shall be a public enemy of the Athenians and shall be killed with impunity.... The person who kills one who has committed these acts and the person who counsels the killing shall be pure of guilt and pollution”). Note that both the *autocheir* killer and the conspirator are explicitly mentioned. The oath that follows, to be sworn by all Athenians, includes the clause καὶ ἐάν τις ἄλλος ἀποκτείνῃ, ὅσιον αὐτὸν νομιῶ εἶναι καὶ πρὸς θεῶν καὶ δαιμόνων, ὡς πολέμιον κτείναντα τὸν Ἀθηναίων (“And if someone else kills him, I shall consider that person to be pure of guilt before gods and divinities, since he has killed a public enemy of the Athenians”). The decree is discussed at *Lyc.* 1.124-27. Cf. *SEG* 12.87 = Rhodes – Osborne (2003) no. 79 (law of Eucrates on tyranny, subversion, and the Council of the Areopagus, 337/6): if a person cooperates in a tyranny, actual or attempted, or subverts the people or the democracy, ὃς ἂν τὸν τούτων τι ποιήσαντα ἀποκ-τ-εῖνῃ ὅσιος ἔστω (vv. 10-11).

killing as meaning that the killer is free of pollution (Dem. 9.41-44).²⁹ In both cases, the collocation of “enemy of the state” and “pollution-free killing” corroborates the position, noted by Todd, that killing the enemy in war conferred no pollution.³⁰

Speaking more generally, I concur with Harris and others³¹ that purification was only mandatory (in the sense of being imposed as a requirement by outside authority) in the case of a homicide conviction; the man who killed lawfully and was acquitted by the Delphinion court possessed no pollution and required no purification – though he might desire and obtain one on his own initiative, especially if he belonged to the superstitious type (Theophr. *Char.* 16.7, 9; the polar opposite of Plutarch’s Lycurgus).³² This, I suspect, is the reason that Aeschylus’ Orestes undergoes one or more purifications (certainly at Delphi, and possibly elsewhere: see below), while Sophocles’ Oedipus never receives purification³³ – put otherwise, why even dogs have Erinyes³⁴ but Laius does not:³⁵ under Athenian law, Orestes is guilty, while Oedipus is innocent under both the ἐν ὄδῳ καθελών clause and the general self-defense provisions of Draco’s law.³⁶

²⁹ “Ἀρθμιος’ φησὶ ἴδ’ Πυθῶνακτος Ζελεΐτης ἄτιμος καὶ πολέμιος τοῦ δήμου τοῦ Ἀθηναίων καὶ τῶν συμμάχων αὐτὸς καὶ γένος’ ... τοῦτο δ’ ἐστὶν οὐχ ἦν οὕτωςί τις ἂν φήσειεν ἀτιμίαν... ἀλλ’ ἐν τοῖς φονικῶς γέγραπται νόμοις, ὑπὲρ ὧν ἂν μὴ διδῶ φόνου δικάσασθαι, ἀλλ’ εὐαγὲς ἦ τὸ ἀποκτεῖναι, καὶ ἄτιμος’ φησὶ ‘τεθνάτω.’ τοῦτο δὴ λέγει, καθαρὸν τὸν τούτων τινὰ ἀποκτείναντα εἶναι. (“[The decree] states, ‘Arthmius son of Pythonax of Zeleia shall be an outlaw [*atimos*] and public enemy of the Athenian people and its allies, himself and his descendants.’ ... Now, this was not what one would call *atimia* in the ordinary sense... Rather, the meaning is as it is written in the homicide laws, concerning persons in whose cases no homicide trial is granted, but whose killing is sanctioned: ‘and let him die an outlaw [*atimos*].’ What this means is that the killer of one of these persons is free of pollution.”) On the Arthmius decree (of the 460s or 450s) see Phillips (2013) no. 368 with references.

³⁰ Cf. Hewitt (1910) 104; Parker (1996) 113, 366.

³¹ See especially Hewitt (1910); also Parker (1996) 113-15, 144, 367-68.

³² Plut. *Lyc.* 27.1: Καὶ μὴν καὶ τὰ περὶ τὰς ταφὰς ἄριστα διεκόσμησεν αὐτοῖς, πρῶτον μὲν γὰρ ἀνελῶν δεισιδαιμονίαν ἅπασαν, ἐν τῇ πόλει θάπτειν τοὺς νεκροὺς καὶ πλησίον ἔχειν τὰ μνήματα τῶν ἱερῶν οὐκ ἐκώλυσε, συντρόφους ποιῶν ταῖς τοιαύταις ὄψεσι καὶ συνήθεις τοὺς νέους, ὥστε μὴ ταραττεσθαι μηδ’ ὀρωδεῖν τὸν θάνατον, ὡς μαιόνοντα τοὺς ἀψαμένους νεκροῦ σώματος ἢ διὰ τάφων διελθόντας.

³³ Parker (1996) 386.

³⁴ Εἰσὶ καὶ κυνῶν Ἐρινυές, *Paroemiogr. Graec.* Appendix 2.20 = Macar. 3.54 (von Leutsch – Schneidewin (1839-51) 1.397, 2.161).

³⁵ Parker (1996) 386.

³⁶ Ἐν ὄδῳ καθελών: Dem. 23.53 (*lex*). General self-defense provisions: *IG I³* 104.33-36 with Stroud (1968) 56; Gagarin (1978) 119. For the innocence of Oedipus see, e.g., Vernant in Vernant – Vidal-Naquet (1972) 1.110; *contra*, e.g., Carawan (1998) 249 with n. 46 (for additional participants in the debate see Harris (2010) n. 10 with references). The argument of Harris (2010) 131-39 that the Oedipus of the *OT* is guilty but the Oedipus of the *OC* is innocent rests upon an unwarrantedly positivistic interpretation of Harpocration s.v. ὄδος (ἐν ὄδῳ = ἐν λόχῳ καὶ ἐνέδρα) and the erroneous assertion of a bright-line distinction in a killer’s state of mind between anger and self-defense. With regard to the latter, a better line is taken by Dawe (1982) 17: “Modern critics who feel that odds of five to one against should provoke

Tragedy also, however, complicates this seemingly neat categorization, in vividly demonstrating that pollution was in the eye of the beholder. In the *Eumenides*, when Orestes is accosted by the Erinyes upon his arrival at Athena's shrine, he asserts that Apollo has purified him of the slaying of Clytemnestra, and that the efficacy of the rite has been proven by subsequent harmless association. Yet the Erinyes, none deterred, insist that he remains defiled, and they hold their position at Orestes' trial, despite Athena's previous ruling in his favor and the testimony of Apollo himself.³⁷ In the *Oedipus at Colonus*, although Oedipus maintains his legal, moral, and ritual innocence in the killing of Laius,³⁸ and he praises Athens for its reception of him as the only city where he has

from the victim of an assault on a lonely road no more than a well phrased remonstrance suck in their breath as Oedipus unwittingly makes this damning admission." The only reason Oedipus has misgivings that may impinge upon his ritual status (*OC* 1132-35; *infra*, n. 39) is that his victim was his father (cf. Hewitt (1910) 109, on "the taint of kindred bloodshed, to which an exceptional degree of pollution long continued to be attached"). Moreover, Oedipus' self-blinding (*OT* 1268ff.) cannot serve as "the replacement of purification rites" (Meinel (2015) 70), because, *inter alia*, it is punishment, and it is self-administered. Nor am I convinced by Meinel's suggestion (Meinel (2015) 69) that Oedipus' exile is somehow (sufficiently) purifying in and of itself (although cf. *A. Eum.* 286: *infra*, n. 37).

³⁷ On the Acropolis, before the ancient wooden image of Athena: *A. Eum.* 281-86 (Orestes): μητροκτόνον μίασμα δ' ἔκπλυτον πέλει, / ποταίνιον γάρ ὄν πρὸς ἐστία θεοῦ / Φοίβου καθαρμοῖς ἠλάθη χοιροκτόνοις, / πολὺς δέ μοι γένοιτ' ἂν ἐξ ἀρχῆς λόγος, / ὅσοις προσήλθον ἀβλαβεῖ ξυνουσίᾳ: χρόνος καθαίρει πάντα γηράσκων ὁμοῦ ("the pollution of mother-slaying has been washed away, for when it was still fresh, at the hearth of the god Phoebus it was driven out by piglet-slaying purification. It would be a long story, were I to tell it from the beginning, of how many people I have met in harmless encounters; time cleanses all things as they grow old with it"). He then calls upon Athena for succor ἀφ' ἄγνοῦ στόματος εὐφίμω (287). *Eum.* 313-20 (Erinyes, in response): τοὺς μὲν καθαρὰς <καθαρῶς> χεῖρας προνέμοντας / οὐτὶς ἐφέρει μῆνις ἀφ' ἡμῶν, / αἰνῆς δ' αἰῶνα διοικνεῖ / ὅστις δ' ἀλιτῶν ὥσπερ ὄδ' ἀνήρ / χεῖρας φονίας ἐπικρύπτει, / μάρτυρες ὄρθαι τοῖσι θανοῦσιν παραγιγνόμεναι / πράκτορες αἵματος αὐτῷ τελέως ἐφάνημεν ("When men extend clean hands cleanly, no wrath from us comes crawling after him, and he passes through life unharmed. But whenever a sinner like this man here covers up his blood-stained hands, we are present as righteous witnesses for the dead, avengers of blood, and with full authority we appear before him"). See Sommerstein (1989) 137; Meinel (2015) 124, 136. *Eum.* 470-74 (Athena): it is not *themis* for me to decide Orestes' case, ἄλλως τε καὶ σὺ μὲν κατηρτυκῶς νόμῳ / ἰκέτης προσήλθες καθαρὸς ἀβλαβῆς δόμοις ("especially given that you have been lawfully disciplined and have come as a suppliant, clean and bearing no harm to [my and others'] house[s]"). At trial: *Eum.* 576-78 (Apollo): ἔστι γὰρ νόμῳ / ἰκέτης ὄδ' ἀνὴρ καὶ δόμων ἐφέστιος / ἐμῶν, φόνου δὲ τῷδ' ἐγὼ καθάρσιος ("for this man is a lawful suppliant who sat at the hearth of my home, and I purified him of homicide"). *Eum.* 654-56 (Erinyes): having spilled the kindred blood of his mother, ἔπειτ' ἐν Ἄργει δώματ' οἰκήσει πατρός; ποίοισι βωμοῖς χρώμενος τοῖς δημίοις; ποία δὲ χέρνιψ φρατέρων προσδέξεται; ("then, in Argos, will he dwell in his father's house? Using what public altars? And what lustral basin of *phrateres* will admit him?"). On the latter passage see Sommerstein (1989) 205. It is insufficient to conclude, as does Meinel (2015) 138, that Athena is simply right and the Erinyes wrong, and "the question of purity is precisely *not* at stake in the trial" (emphasis in the original).

³⁸ *S. OC* 545-48; νόμῳ δὲ καθαρὸς (548), "clean in the eyes of the law," is a rhetorical

found reverence for the gods (τό γ' εὐσεβές/μόνοις παρ' ὑμῖν ἡῦρον ἀνθρώπων ἐγώ, 1125-26), immediately thereafter he refuses to touch Theseus, lest he communicate his pollution,³⁹ and his exile from Thebes remains in effect on the same grounds.⁴⁰

The last issue I wish to discuss, which is adumbrated by Todd and addressed by Parker,⁴¹ is the problem of multiple purifications (as perhaps in the case of Orestes),⁴²

crescendo and as such does not imply “but not otherwise” (cf. καθαρός ἐν τῷ νόμῳ, Pl. *Leg.* 874c6, with Hewitt (1910) 110-11; *contra*, e.g., Parker (1996) 124; Meinel (2015) 209-10). Cf. *OC* 270-72: καίτοι πῶς ἐγώ κακὸς φύσιν,/ὅστις παθῶν μὲν ἀντέδρων, ὡστ' εἰ φρονῶν/ἔπρασον, οὐδ' ἂν ᾧδ' ἐγιγνόμεν κακός; *OC* 974-77: εἰ δ' αὖ φανείς δύστηνος, ὡς ἐγώ/φάνην,/ἐς χεῖρας ἤλθον πατρί καὶ κατέκτανον,/μηδὲν ξυνίεις ὦν ἔδρων εἰς οὐς τ' ἔδρων,/πῶς ἂν τό γ' ἄκον πρᾶγμ' ἂν εἰκότως ψέγοις; *OC* 988-99: Oedipus will not be reviled for killing Laius; if someone came up to Creon and tried to kill him, would Creon ask whether his assailant was his father before retaliating? etc. This last is seconded by the Chorus' verdict, ὁ ξείνος, ὦναξ, χρηστός, “The stranger is a good man, King,” at 1014; earlier, at 469-70, the Chorus had accepted Oedipus' claim to be ἱερός εὐσεβής τε (v. 287 with Jebb (1900) 81) in instructing him to fetch water for a libation δι' ὀσίων χειρῶν. For the circumstances of Laius' killing and Oedipus' lack of legal guilt cf. *OT* 752-53, 800-813, 842-47 (in that play, of course, Oedipus lacks the confidence in his righteousness that he displays in the *OC*: see, e.g., *OT* 821-23, 1287-91, 1340-46, 1377-85, 1436-37, 1449-54; but note his evident lack of anxiety regarding the transmission of pollution at *OT* 1413-15: ἴτ', ἀξιώσατ' ἀνδρὸς ἀθλίου θιγεῖν/πίθεσθε, μὴ δέισητε: τὰμὰ γὰρ κακὰ/οὐδεὶς οἶός τε πλην ἐμοῦ φέρειν βροτῶν).

³⁹ *S. OC* 1132-35: καίτοι τί φωνῶ; πῶς σ' ἂν ἄθλιος γεγώς/θιγεῖν θελήσαιμ' ἀνδρὸς ᾧ τίς οὐκ ἔνι/κηλὶς κακῶν ξύνοικος; οὐκ ἔγωγε σέ,/οὐδ' οὖν ἔάσω (“And yet what am I saying? How could I, born to misery, wish you to touch a man in whom every taint of evil resides? No, I shall not touch you, nor permit you to touch me”). On Oedipus' (potentially) liminal ritual status see Meinel (2015) 209-12.

⁴⁰ *S. OC* 599-601 (Oedipus): οὕτως ἔχει μοι: γῆς ἐμῆς ἀπηλάθην/πρὸς τῶν ἐμαυτοῦ σπερμάτων· ἔστιν δέ μοι/πάλιν κατελθεῖν μήποθ', ὡς πατροκτόνῳ. 944-50 (Creon): ἤδη δ' ὀθούνεκ' ἄνδρα καὶ πατροκτόνον/κᾶναγον οὐ δεξοίαιτ', οὐδ' ὄτω γάμοι/ξυνόντες ἠυρέθησαν ἀνοσιώτατοι./τοιούτων αὐτοῖς Ἄρεος εὐβουλον πάγον/ἐγὼ ξυνήδη χθόνιον δνθ', ὅς οὐκ ἔξ/τοιούσδ' ἀλήτας τῆδ' ὁμοῦ ναίειν πόλει/ᾧ πίστιν ἴσχων τήνδ' ἐχειρούμην ἄρᾶν.

⁴¹ Parker (1996) 387: “It is perhaps not impossible that a killer could be purified more than once, but such a repetition is unattested; if we reject this possibility, it will be necessary, in order to keep *Eumenides* consistent with Athenian practice, either to postulate a change between the time of the play and of Demosthenes, or to suppose that the killer already cleansed abroad was exempt from purification on return (cf. perhaps *Eum.* 235-43).”

⁴² On the issue of Orestes' multiple purifications, (1) *A. Eum.* 448-52 (Orestes, offering proof of ritual purity): ἄφθογον εἶναι τὸν παλαμναῖον νόμος,/ἔστ' ἂν πρὸς ἀνδρὸς αἵματος καθαρσίου/σφαγαὶ καθαυμάξωσι ν<ε>οθηλοῦ<ε> βοτοῦ/πάλαι πρὸς ἄλλοις ταῦτ' ἀφιερῶμεθα/οἴκοισι, καὶ βοτοῖσι καὶ ῥυτοῖς πόροις: the issues in this passage are (a) whether ἀνδρὸς αἵματος καθαρσίου is sufficiently generalizing to include the god Apollo [so Parker (1996) 386] and (b) whether ἄλλοις οἴκοισι is plural for singular – and if so, whether it refers to Apollo's temple at Delphi – or a true plural referring to the houses of multiple human householders: cf. Sommerstein (1989) 124-25. (2) I am not at all certain that at *Eum.* 277 πολλοὺς καθαρμούς needs obelizing, as, *inter alios*, Page (1972) *ad loc.*; Sommerstein (1989) 130-31; West (1998) *ad loc.* (the MSS reading is retained by Paley (1855) *ad loc.* (his v. 266) with note; Sidgwick (1902) *ad loc.*; Weil (1910) *ad loc.*; Elepoulou (1939) *ad loc.*; Mazon

which in my view is not a problem at all. Ritual purity is anything but indelible, and purification rituals do not always succeed.⁴³ The Erinyes do not question Apollo's performance of καθαρμοί for Orestes; they deny their efficacy. Orestes must assert subsequent harmless association as proof that the purification(s) actually worked,⁴⁴ and even then the Erinyes do not believe him. Now, what does this have to do with involuntary, non-mythological Athenian killers? Todd rightly remarks upon the obstacles to purification for the convicted unintentional killer before his pardon and return from exile; I would add here that the law paraphrased at Demosthenes 20.158, by my reading, actually prohibits purification,⁴⁵ which is further hindered (if hindrance was needed) by the requirement that after his conviction the killer must leave Attica within a stated time and by a fixed route (τὸν ἄλόντα ἐπ' ἀκουσίῳ φόνῳ ἔν τισιν εἰρημένοις χρόνοις ἀπελθεῖν τακτὴν ὁδόν, Dem. 23.72). Understanding, I believe, lies in an acknowledgement of Athenian parochial pragmatism, in an attitude toward religious pollution that bears comparison to the much-reviled American sentiment summarized in the slogan Not In My Back Yard (NIMBY).⁴⁶ Even in the extreme case where the entire city and people of Thebes are wracked by the pollution whose Patient Zero turns out to be Oedipus, that pollution can be expunged, by order of Apollo, by *either* the exile *or* the death of the killer (S. OT 95-101; cf. 305-13, 658-59, 669-70). So too in historical Athens, even when the Alcmaeonids

(1949) *ad loc.*; Chatzianestis (1957) *ad loc.*). Lines 276-79 (Orestes), ἐγὼ διδαχθεὶς ἐν κακοῖς ἐπίσταμαι/πολλοὺς καθαρμοὺς, καὶ λέγειν ὅπου δίκη/σιγᾶν θ' ὁμοίως: ἐν δὲ τῷδε πράγματι/φωναεῖν ἐτάχθην πρὸς σοφοῦ διδασκάλου, make sense as "Educated amid evils, I am familiar with many rites of purification, and [I also know] when it is right to speak and when to remain silent; in *this* matter, I was instructed to speak by a wise teacher [i.e., Apollo]".

⁴³ Parker (1996) 129, 387.

⁴⁴ For proof by harmless association cf. Ant. 5.82-83: the defendant cannot be the killer since he has enjoyed disaster-free sea voyages (barring, he does not say, the one during which he is accused of having killed Herodes) and his presence has not inhibited the successful performance of sacrifices. A similar argument appears at Andoc. 1.137-39. See Parker (1996) 129; Harris (2010) 127.

⁴⁵ The rule applied to all accused killers, and to all convicted killers unless and until they received pardon. Dem. 20.158: ἐν τοίνυν τοῖς περὶ τούτων νόμοις ὁ Δράκων φοβερὸν κατασκευάζων καὶ δεινὸν τό τινα αὐτόχειρα ἄλλον ἄλλου γίνεσθαι, καὶ γράφων χέρνιβος εἶργεσθαι τὸν ἀνδροφόνον, σπονδῶν, κρατήρων, ἱερῶν, ἀγορᾶς, πάντα τᾶλλα διελευσῶν οἷς μάλιστα ἄν τις αὖτις φέρεται ἐπιχειρῆσαι τοῦ τοιοῦτόν τι ποιεῖν, ὅμως οὐκ ἀφείλετο τὴν τοῦ δικαίου τάξιν, ἀλλ' ἔθηκεν ἐφ' οἷς ἐξεῖναι ἀποκτινύνναι, κἂν οὕτω τις δράσῃ, καθαρὸν διώρισεν εἶναι ("In the laws concerning [homicide], Draco made it a fearsome and terrible thing for a man to kill another [lit., with his own hand]. He wrote that the killer was to be barred from lustral water, libations, mixing-bowls, sanctuaries, and the agora – going through everything else by which he thought he would especially deter people from committing such an act. Nonetheless, he did not rob justice of its place but established conditions under which killing was permitted, and if a person acted thus, he defined him as *katharos*"). On this passage see Sandys (1890) 111, citing Jebb (1893) 43-44 *ad* S. OT 240, who notes the similar language in Oedipus' proclamation against the killer(s) of Laius; Kremmydas (2012) 442-44; Meinel (2015) 177-78.

⁴⁶ See, e.g., American Bar Association Steering Committee on the Unmet Legal Needs of Children and Commission on Homelessness and Poverty (1999); Galster et al. (2003); Inhaber (1998).

were held responsible for combining homicide with sacrilege of the most shocking kind, banishing the family (including its deceased members) sufficed.⁴⁷ In standard cases of homicide, the execution of the intentional killer turned him from pollutant *qua* killer to pollutant *qua* corpse. And if it is correct that the corpses of executed intentional killers were denied burial in Attica, then the pollutant was removed, thereby ending the problem (for the Athenians). When a pardoned unintentional killer returned to Attica, he had to undergo purification, thereby preventing the problem. There is no evidence for Parker's hypothesis that an exemption applied to those who had been purified in exile (*supra*, n. 41). Rather, I imagine, the Athenian attitude corresponded roughly to the principle we sometimes find underlying modern airport security: just because you know foreigners do it doesn't mean you trust them to do it right. As for what happened when a killer passed beyond the borders of Attica, dead or alive, well, that was the Boeotians' problem.

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⁴⁷ On the trial and exile of the Alcmaeonids for slaughtering Cylon's partisans, despite the sanctuary sought by the victims with Athena and the *Semnai Theai*, see Hdt. 5.71; Thuc. 1.126.3-12; [Arist.] *Ath. Pol.* 1 with Heraclides Lembus, *Epit.* 2; Plutarch, *Solon* 12. Here, however, we might note the potential practical difficulties and moral scruples involved in executing the entire Alcmaeonid *genos*, which (depending on factors including the extent of the family and its adherents, and the resolve and strength of the other noble houses) might have sparked civil war. As it was, the Alcmaeonids' *aeiphugia* (perpetual exile) lasted less than two generations (see Hdt. 6.130-31).

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