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DIKAI IN THE *CHÔRA*: ANOTHER PERSPECTIVE OF MÉLÈZE-MODRZEJEWSKI'S *POLITIKOI NOMOI*

Abstract: In his *règle de droit dans l'Égypte ptolémaïque* Professor Mélèze Modrzejewski studied how the law of the Greek city state penetrated the Egyptian chôra in the Hellenstic period. Focusing on a sphere of the law that was left untreated in that seminal paper— the prosecution of delicts—this paper stresses the relyance of Greek courts and state officials in the *chôra* on types of suits (*dikai*) originally conceived within the law of the city of Alexandria.

Keywords: administration of justice, *politikoi nomoi, dikasteria*, Alexandrian law, petitions

P.Gur. 2 = *Sel. Pap.* II 256 = *CPJ*·I 19 (226 BCE, Krokodilôn Polis, Arsinoitês), published in 1921, contains a section of a royal *diagramma*, a decree that prescribes to judges in the Greek court of the *dikastêrion* what legal sources they should consider in their verdicts. The judges should first and foremost apply the king's own *diagrammata*, but if those *diagrammata* do not feature any relevant instructions, judges should adduce two alternative sources: first, the *politikoi nomoi¸* and second, if the *polikitoi nomoi* record no relevant regulation(s) either, "the most righteous view."[1] For students of Classical law, the text of the Gurob papyrus proves the impact of Athenian law and Athenian legal theory, for the allusions, within the said *diagramma*, to the parallel section within the oath of the Heliasts are obvious.[2] Yet, above all, the text is fundamental to the study of the Ptolemaic state.

The Ptolemaic state never aspired to create a code of law that was to be followed by everyone.[3] Rather, whenever its own legislation was lacking, it simply introduced external sources: in the case of the Greek *dikastêrion*, this was the *politikoi nomoi.* In light of the undeniable importance of the *politikoi nomoi*, one might expect them to be repeatedly mentioned in the papyri and other literary

1 *P.Gur.* 2.40-45 = *Sel. Pap.* II 256 = *CPJ* I 19 (226 BCE, Krokodilôn Polis, Arsinoitês): ἐπειδὴ κ[α]ὶ τὸ διάγραμμα ὃ κ[αὶ παρέδοτο] | [41] [ἐν] τοῖς δικαιώμ[ασιν] ἡ Ἡράκλεια συνστάσσει καὶ δικάζει[ν - ca.9 -] | [42] κως ὅσα μὲν ‹ἂν› ἐν [τοῖς β]ασιλέως Πτολεμ[αί]ου διαγράμμασι[ν εἰδῇ] | [43] [γ]εγραμμένα ἢ ἐ[μ]φ[αν]ίζηι τις ἡμῖν κατὰ τὰ διαγράμμ[ατα, ὅσα τε] | [44] [μ]ή ἐστιν ἐν [τοῖς διαγ]ράμμασιν ἀλλ᾽ ἐν τοῖς πολιτικ[οῖς νομοῖς κα]|[45][τὰ] τοὺς νομο[ὺς, τὰ δ᾽ ἄ]λλα γνώμηι τῆι δικαιοτάτη[ι . . . . . .]

2 Mélèze Modrzejewski 1966: 130 and, e.g., Lanni 2013: 301-303.

3 Préaux 1958: 376-380; Wolff 2002: 38-39; Mélèze Modrzejewski 1966: 128-129.

evidence that comes to us from Ptolemaic Egypt. But this is not the case. The evidence on the use and the significance of the term *politikoi nomoi* in the Egyptian context is extremely sparse and inconclusive, thus allowing multiple, diverging theories about their nature.[4] One such theory was developed by Joseph Mélèze Modrzejewski in his *La règle de droit dans l'Égypte ptolémaïque*, published in *Festschrift We1les* in 1966.[5] Mélèze Modrzejewski was both a sharp-eyed documentarist, with an exceptional gift for penetrating analyses of texts under his investigation, and an excellent legal theorist, interested in the origin and structure of systems under his investigation. The issues of origin and structure seemed especially pertinent, without a readily available answer, as far as the object of his study is concerned. Laws prevail because they are enacted by the state;[6] Ptolemaic and Roman Egypt is no different in that respect. At the same time, it has been argued that the rulers of Egypt were not keen on legislating in spheres of activity beyond their own immediate interests: there is an abundance of legislation meant to secure the collection of revenue and public order, but much less for private law, in particular contract, family, criminal, and tort law.[7] Still, it is obvious that disputes in these areas were frequently decided in court. This is where the term *politikoi nomoi* comes in. It has been generally assumed that the *politikoi nomoi* were regulations of external origin, not authored by the Ptolemaic lawgiver himself, which were accorded applicability by virtue of the *diagramma* quoted in *P.Gur.* 2; their precise origin, however, remains a mystery.[8]

The only undisputed attestation of the term *politikos nomos*, in the third-century BCE collection of regulations, is made in relation to a law from the city of Alexandria (see above, n. 4). The *diagramma* cited in *P.Gur.* 2, may be brought forward in order to allow the application of a regulation of Alexandrian origin as well: the *polis* regulation on *dikê hêremos*.[9] Yet the fact that the only two

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4 The only secure, contemporary evidence is recorded in *P.Hal.* 1.79-80, where the singular *politikos nomos* is used as a title for a regulation relating to "planting, building and deep-digging." The same term is also restored by the editors in line 106, introducing a regulation "on the cutting and cleaning of trenches" (τάφρῳ[ν τμήσεως καὶ ἀνακαθάρεω]ς). Why was this title used for these regulations and not for others? In the other text recording the term, *P.Tor.Choiach*. 12.7.9 (117 BCE, Thebes), it is used in a speech given by an advocate, in connection with entering into possession of the estate upon intestacy. But the formulation, καὶ κατὰ τοὺς πολιτικοὺς νόμους καὶ τὰ ψηφίσματα, leads to the assumption of a generic usage, as the speaker wishes to stress that his contention is supported by all available legal sources.

5 Mélèze Modrzejewski 1966.

6 Mélèze Modrzejewski 1966: 128, 151-152.

7 Mélèze Modrzejewski 1966: 152-154, draws an analogy between the recognition of the *politikoi nomoi* as an external source and similar phenomenon, regarding the medieval and early modern French concept of *coutume*. Cf. also Wolff 2002: 39.

8 So also Mélèze Modrzejewski 1966: 128-129; Wolff 2002: 56.

9 *P.Gur.* 2.46-49 (226 BCE, Krokodilôn Polis): ἐὰν δὲ] ἀμφοτέρων τῶν ἀντιδίκων [κληθέν]|[47][των ἐν τῶι δικαστ]ηρίῳ ἑκάτερος οὖν αὐτῶν μὴ βούλη[ται γραπ]|[48][τὸν

attestations of the term *politikoi nomoi* in our sources are made in connection with the law of Alexandria still does not warrant the assumption that the laws of this city alone would qualify as such.[10] Mélèze Modrzejewski developed a broader concept: for him, *politikoi nomoi* denoted all legal practices, brought to Egypt in whatever form by Greek settlers. *P.Gur.* 2 would allow judges at the *dikastêrion* to take these practices into consideration when reaching their verdicts.[11]

But how did Mélèze Modrzejewski envision the infiltration of '*poliade*' customs into Egypt? Did he assume that, for instance, Athenian litigants brought the laws of Solon before the Greek *dikastêrion* in the Egyptian *chôra*, and that these laws were considered by their judges? The answer seems to be negative: perhaps with the exception of Jews, there is no evidence that immigrants from the Hellenistic world aimed to apply regulations deriving from the laws of their specific *polis* of origin.[12] Mélèze Modrzejewski's concept of the *politikoi nomoi* is that of general rules, common throughout the Greek world, that were taken, as such, into Egypt.[13] The legal *koine*, brought over by the settlers, predated the Hellenistic period. It became indispensable, particularly with the emergence of Greek private international law, in cases involving citizens of different *poleis*.[14] In the sphere of contract, the legal *koine* was forcefully promoted by the introduction of writing and the birth of the legal document. Already in the Classical period, legal documents contain the *kyria* clause, which granted, again (among others) according to Mélèze Modrzejewski, the applicability of the document as a piece of evidence in any court of law, anywhere in the Greek speaking world.[15] The introduction of the legal document also promoted the generation and proliferation of established clauses,

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λόγον θέσθαι .] . . . .ορην ἢ ἀποδέχ[ε]σθαι ἢ συθασθαι [. . . . . .] | [49] [- ca.11 - κρινέ]τωσαν ἀδικῆσαι, ἀπεδικάσαμεν τὴ[ν δίκην]. The same regulation appears in *SB* X 10494 (III BCE, Arsinoitês), a collection of extracts from the city law of Alexandria (ll. 1-5): ἄλλ[ο μέρος·] | [2] ἐὰν [δὲ ἀμφοτέρων τῶν ἀντιδίκων τοῦ μὲν] | [3] παρόντος. [τοῦ δὲ μὴ παρόντος ἐν τῶι δικαστηρίωι ἑκά]|[4]τερος οὖν αὐ[τῶν μὴ βούληται] | [5] γραπτὸν λόγ[ον θέσθαι -ca.?-]. Yet the text there is highly fragmentary, largely restored on the basis of the Gurob text. On the *dikê hêremos* in general, cf., *P.Heid.* VIII, 11-15, 24-25; Cassayre 2010: 323.

10 Evidence in Mélèze-Modrzejewski 1966: 131-132. In Hellenstic documentation, the adjective *politikos* can be expected in the context of different, alternative designations. Cf. Partsch 1920: 40-41. In the present context, setting it in opposition to *basilikos* would be conducive to our understanding of the decree. Cf., e.g., L. Boffo 2013: 208-209.

11 Mélèze Modrzejewski 1966: 151-154.

12 Mélèze Modrzejewski 1966: 147-149, 165.

13 This is first and foremost demonstrable in Mélèze Modrzejewski's treatment of the law of marriage: institutions, created in the context of a specific *polis*, are abandoned, while the basic features of the Greek concept of marriage are upheld. Cf. in particular, Mélèze Modrzejewski 1981:247-264.

14 E.g., Cohen 2005: 297-302.

15 Mélèze Modrzejewski 1984: 1180-1184.

conveying and developing concepts that were shared throughout the Greek commonwealth.

Scribes composing such documents were available wherever Greeks settled. This was also the case in Egypt, immediately after the Macedonian occupation. The legal document covered a wide range of legal activities: law of family, contract, and property. Wherever a written document was available, its contents became decisive—the most decisive piece of evidence in a court of law.[16] Accordingly, in multiple cases heard by the Greek *dikastêrion*, in third- and second-century BCE Egypt, the plaintiffs founded their claims on the legal document: the charge was made κατὰ συγγραφήν ("according to a legal document").[17] Accordingly, in Mélèze Modrzejewski's eyes, the legal document was one of the key agents responsible for the introduction of *politikoi nomoi* into Egypt.

At the same time, legal documents did not cover everything. No contract could be used as is evidenced in the case of delictal liabilities. So how can Mélèze Modrzejewski's concept of the *politikoi nomoi* be related to this sphere of law? In Classical Athens, several suits could be used by victims of violence (or others who sought remedy for them):[18] ὕβρις ('offensive conduct'), αἰκία ('assault'), κακηγορία ('slander') and βιαίων (originally: deprivation of property (?)'). In third-century Alexandria, one encounters ὕβρις, πληγαί ('blows'), σιδήρου ἐπάντασις ('threatening with sword'), ἀδικία μεθύοντος ('drunken violence'), and a law related to the beating of a free person by a slave: δούλωι ἐλεύθερον πατάξαντι.[19] The terms labelling the suits are not *polis*-specific; they existed long before the procedural structure of the *polis* was formed and continued to be applied outside its

[16] Wolff 1978: 144-154; Mélèze Modrzejewski 1966: 136-138 and Mélèze Modrzejewski 1984: 1186; in the same context the laws of Athens also accorded applicability in court to the contents of *homologiai* (most recently, Aviles 2012), as well as various regulations from Ptolemaic Egypt meant to secure the authenticity of legal documents. Rupprecht 1995: 50-53.

[17] *P.Petr.* III 21 a-f (227-225 BCE, Krokodilôn Polis, Arsinoitês): Col. A. 3-4; Column B l3-5; C. 5-7; D ll. 4-6; F. 3-4. This is also predominately the case with *enklêmata* from Ptolemaic Egypt, all except for *P.Gur*. 2, relying on a legal document: cf. *P.Hib.* I 30.5, 15-16 (282-274 BCE, Hêrakleopolitês); *P.Köln* XIV 561 (172 BCE, Hêrakleopolis); *P.Mil.Vogl.* inv. 1297 (182 CE, Hêrakleopolitês) [reference in P.Trier p. 8]; *P.Trier* 1 (184 BCE); 2; 3 (both dating to 183 BCE); 4 (184/3 BCE); 5 (184/3 ? BCE); 6 (183 ? BCE); 7 (184/3 BCE, all the above from the Herakleopolite nome). Cf. also a reference to an *enklêma* in *P.Heid.* VIII 412.10-14 (186 BCE, Hêrakleopolis) as well as nos. 413.4-9 (179 BCE); 414.6-15 (184/3 BCE); 417.20-27 (190 BCE, all from the Heraklopolite nome).

[18] Cf., in general, Lipsius 1905: 239.

[19] Cf., very briefly, Hirata 2010: 47-49. Texts on *hybris and plegai* below n. 37, 38. For Athens, cf., in particular, Lipsius 1905: 420-429, 643-651. For Egypt Partsch 1920: 61-62; Rupprecht 1993: 269-271 with n. 5 for futher literature.

borders.[20] Accordingly, in the framework of the *cognitio extra ordinem* of the Roman period, one freely used the terms *hybris, plêgai* and others to tarnish his opponent without them having a distinctive procedural bearing.[21]

What is unique about the *polis* (Athens being of course the paradigmatic case study) is that the terms were used as labels for specific suits with an indication of the procedure involved in the prosecution, the person entitled to introduce the case, the identity of viable prosecutors, and what penalty should be imposed in the case of conviction; fundamental is the principle of the *condemnatio pecuniaria*.[22] Bearing these criteria in mind, let us now approach the papyri. As already mentioned, verbs denoting physical, proprietary, or verbal assaults are common in petitions from all periods. In the vast majority of the Ptolemaic evidence, and in all Roman, the terms are used rhetorically, to denote the opponent's evildoing. The reader would try in vain to isolate the terms in these petitions to carve out distinct suits, nor is *condemnatio pecuniaria* the explicit goal of the appeal.[23] But there are also exceptions: in a small corpus of ten papyri, we find some of these terms labeling established actions.[24]

We can begin the discussion with *P.Gur*. 2, a protocol of a court hearing before the *dikastêrion* of Krokodilôn Polis from 226 BCE. It is preserved in two copies, one of which, *P.Petrie* III 21 g, is part of a collection of texts of identical nature and date. The text records the following events: verbal and physical abuses on the part of Hêrakleia, on Peritios 22nd of the 21st year of Ptolemy III (10.7.226 BCE), led Dôsitheos to prosecute her at the court of the *dikastêrion*. As in other cases heard by the *dikastêrion*, Dôsitheos sets the procedure in motion by serving a summons, *enklêma*, to Hêrakleia. With the exception of the use of the second person to denote the acts of the opponent, the narrative is identical to that in petitions. The fundamental difference lies at the end of Dôsitheos's *enklêma* [ll. 26-27]: διὸ δ[ικάζο]μαί [σοι καὶ] |[27] [τιμῶμαι τὴν ὕ]βριν (δραχμὰς) σ, τίμημα τῆς δίκ[ης

[20] Note in particular the detailed analysis of the term *hybris*, e.g., MacDowell (1976) and Rupprecht 1993: 269-270 with further literature.

[21] Cf., e.g., *P.Lond.* III 1218 (p. 130) (39 CE, Euhêmeria). Comp. Taubenschlag 1916: 82-83 and, most recently, Mascellari 2016: 489, 492 et passim.

[22] Lipsius 1905: 251-252.

[23] Kaser-Hackl 1996: 495; Rupprecht 1993: 274.

[24] *BGU* VI 1249 (136 BCE, Syênê): ὕβρις, πληγαί; *P.Enteux*. 72 (218 BCE, Lagis, Arsinoitês): πληγαί; 73 (218 BCE, Lagis): ὕβρις; 74 (221 BCE, Berenikis Thesmophorou): ὕβρις; 79 (218 BCE, Krokodilôn Polis): ὕβρις; *P.Fay.* 12: ἄδικος ἀγωγή, ὕβρις; *P.Gur.* 2 (226 BCE, Krokodilôn Polis): ὕβρις; *P.Hib.* I 32 (245 BCE, Oxyrhynchitês): ὕβρις + various other liabilities; *P.Petr.* III 21 d 3-4 and 11-12: πληγαί; *P.Petr.* III 21 d 6 and 15: property, damage; *P.Petr.* III 21 e 5-6: property το]ῦ ἐπιβάλλοντος μέρους (227-225 BCE, Krokodilôn Polis, Arsinoitês); *P.Sorb.* III 112 (219 BCE, Mouchis, Arsinoitês): ὕβρις; *P.Tor.Choach*. 8a+b = *UPZ* II 170 = *P.Tor*. 3 (127 BCE, Thebes): ἀδίκιον, ὕβρις, πληγαί, also in *P.Tor.Choach.* 9 (126 BCE, Thebes), a settlement of the same case.

(δραχμὰς) . .] ("Wherefore I bring an action of assault against you for 200 drachmai, the assessment for damange being [- - drachmai". (Translation according to *CPJ* I p. 154)). Dôsitheos has decided to apply a suit for *hybris*. He sues for a fixed compensation: 200 silver drachmas.

The remaining cases in *P.Petrie* III 21 (a-f) are much more succinctly formulated: within an account of the verdict, they briefly report the object of the *enklêma* and its consequences.[25] In these documents, the case is eventually judged by default: one of the litigants has not shown up. In most cases, the case is based on a legal document (κατὰ συγγραφήν).[26] But there are some exceptions: as far as the damaged text allows us to perceive, in two cases, the claim is for property damage and another is for blows, *plêgai*.[27] Pleas for a specific pecuniary compensation on account of *hybris* or *plêgai* are also recorded in six third-century petitions, all taking the form of an *enteuxis*: cases formally reported to the king, but in reality to the nome's strategos.[28] The narrative is structured identically to *P.Gur.* 2, except that the account of the perpetrator's misconduct is in the third, not second, person.

As already stated, in papyrological terms this is not a very large dataset, but it does allow us to reach some conclusions. First, the amount. In *P.Gur.* 2, Dôsitheos sued on account of *hybris* for 200 drachmas; the same amount was sued for in another *hybris* case, that of *P.Hib.* I 32. Yet in another case, *P.Enteux.* 73, a *hybris* suit results in a plea for 1,000 drachms. A similar picture is conveyed by cases of *plêgai*: 200 drachmas in *P.Enteux*. 72; in *P.Petr.* III 21 d 3-4 and 11-12 it is 1,000 drachmas or more. In both the case of *hybris* and of *plêgai*, then, we probably face *agônes timêtoi*, viz. cases with no amount for the penalty prescribed by law.[29]

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[25] Relatively well preserved is *P.Petr.* III 21 d ll. 4-6: (227-225 BCE, Krokodilôn Polis, Arsinoitês): κατεδικάσθη ἢν ἐγράψατο Νικάνω]ρ̣ [Διο]δ̣ώ̣ρ̣[ου] | [5] [. . .]ωκαιος τῶν παρὰ - ca.22 -]ων Πτολεμαίωι Ἑρμογένους Συρακοσ[ίωι τῆ]ς ἐ[πιγ]ονῆς κατὰ συγγρα[φ]ὴν [ε - ca.24 - χαλ]κ̣οῦ̣ νομίσματος (δραχμ) σκε | [6] [τοῦ καταλύματος. See in general, *P.Trier* I pp. 42-53.

[26] *P.Petr.* III 21 a; 21 b; 21 c; 21 d 3-4; 21 d 4-6 and 13-14; f 3-4 and 9-10 (227-225 BCE, Krokodilôn Polis, Arsinoitês).

[27] Coll. D ll. 3-4: κατ[εδικάσθη ἢν ἐγράψατο Πτολεμαῖος - ca.16 -] | [4] [τῆς ἐπιγονῆς Νικασιβούλωι Αἰνιᾶνι τῶν Ἐτεω]νέως χιλιάρχωι κληρούχωι πλη[γῶν. ὧν - ca.9 -]υ (δραχμ) Α . . . .; D 15: κα[τεδικάσ]θη ἢν ἐ[γράψατο Νίκων Διονυσίου Ἰνάχειος - ca.29 -] . ρας τοῦ ἱματίου τιμῆς. Perhaps also D 6: κατεδικάσθη ἢ]ν ἐγράψατο Νίκων Διονυσίου Ἰνάχειος ἐπι[. . .] . δ . . ιτο ἀλλότριον εχ . [. .] . ε . [-ca.?-] . ρ[. . .] . νημιον.

[28] See n. 24, above.

[29] In *P.Sorb*. III 112 (219 BCE, Mouchis, Arsinoitês), the amount sued is 200 drachmas; in the second-century BCE *BGU* VI 1249 (136 BCE, Syene), one sues, on account of *hybris* and *plêgai*, for 1 copper talent and 100 silver drachmas; in *P.Fay.* 12 (104/3 BCE, Theadelphia), one sues 100 copper talents for ἄδικος ἀγωγή and 410 silver drachmas for *hybris*; in *P.Tor.Choach*. 8a+b = *P.Tor*. 3 a (127 BCE, Thebes), for ἀδίκιον, one files a suit for 5 copper talents. The plaintiff also sues for *hybris*, but does not give the amount. Cf. also Rupprecht 1993: 273.

Second, the identity of the addressee. In the case of *P.Gur.* 2, as in those reported in *P.Petr.* III 21, the case is brought before a *dikastêrion*; applying an established *dikê* in a jury court is, in this case, in complete correspondence to the 'political' prototype, as attested in the Athenian evidence.[30] But in cases attested in the edition of the *enteuxis* papyri, the case is brought not before a *dikastêrion*, but before the nome's strategos, and there is no indication that it was ever meant to be forwarded to the board. In fact, in one case, that of *P.Enteux.* 74, it is precisely the petitioner's inability to go to a regular court that induces him to file a charge of *hybris* to the strategos in person.[31] In other words, the *dikai* system goes beyond the conventional court procedure, where it is perhaps to be expected, and penetrates that of the *Beamtenjustiz*. The same type of suit resurfaces towards the end of the second century BCE. In this period, presumably after the demise of the *dikastêrion*, it is sometimes connected with a new judicial board, that of the *chrêmatistai*.[32]

There is also the question of the exact prototype: the papyrus *Halensis* is one of the most important, interesting, and still relatively understudied texts from Ptolemaic Egypt. The text records 16 regulations from the city of Alexandria that were assembled to serve as evidence before a court of law.[33] As far as the law of delicts is concerned, the text of the *Halensis* papyrus records five regulations, three of which record the Alexandrian laws on *hybris* and *plêgai*, the same types of charges that appear as *dikai* in the source material from the *chôra*. The text of the *Halensis* papyrus contains repeated references to Alexandrian institutions and topography, and it is plausible that the case for which it was collected involved Alexandrian citizens. But the text was not preserved in Alexandria, nor was its final reduction undertaken in that city, but rather in the Apollonopolite village of Arsinoe, in Upper Egypt, whence it was probably taken to Elephantine, to be discovered in a clandestine excavation.[34]

Could this mean that the case was not heard in Alexandria, but in the Apollonopolite nome?[35] This hypothesis would fit perfectly not only with the internal testimony of the *Halensis* papyrus, but also with the *diagramma* of *P.Gur.* 2 as allowing local Greek courts to hear cases involving *polis* citizens and to apply in that case the laws of that *polis*. But once these laws became known at the courts

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30 Wolff 1970: 42-43. Without of course assuming a direct reception of the court procedure of any particular *polis.*

31 *P.Enteux.* 74.14-18 (221 BCE, Berenikis Thesmophorou (Arsinoitês)): εἴ σοι δοκεῖ, προστάξαι Διοφάνει τῶι στρατηγῶι γράψαι Πυθιάδει τῶι [ἐ]πιστά|[15]τηι ἀποστεῖλαι τὸν Πειθίαν ἐφ' αὐτὸν ὅπως, ἐπειδὴ οὐκ ἰσχύω δίκην | [16] αὐτῶι λέγειν, ἐὰν ἐνδείξωμαι τὰ διὰ τῆς ἐντεύξεως ὄντ[α] ἀληθῆ, | [17] γράψας τῶι ξενικῶι πράκτορι πρᾶξαι Πειθίαν τὸ τίμημα τῆς ὕβρεως | [18] καὶ ἀποδοῦναί μοι. Cf. also Rupprecht 1993: 274.

32 *P.Fay.* 12.26-32 = *P.Lond.* III 818 descr. = *MChr* 15 (104/3 BCE, Theadelphia); *P.Tor.Choach*. 8b = *UPZ* II 170 (126 BCE, Thebes).

33 Schubart 1937: 27-39; Hirata 2010: 39-40.

34 For a connection to Arsinoe, cf. Schubart 1937: 27-28, 31, 37.

35 A possibility raised already by Schubart 1937: 39.

of the chôra, the judges could hardly avoid using them in cases of non-Alexandrians as well. In one concrete case, that of *P.Gur.* 2, the parties are Jews, but the *hêremos* regulation immediately following the 'sources-*diagramma*' is Alexandrian.[36] So why shouldn't we assume the same in the case of offences?

This theory seems, at first sight, irreconcilable with what we know about the concept of *hybris* and *plêgai* in the two surrounding areas. The Alexandrian papyrus *Halensis* closely defines what would qualify as an offence. In the case of *plêgai*, the definition, closely resembling that applied in the case of the Athenian *dikê aikeias*, requires that the accused party give the first blow: ἄρχων χειρῶν ἀδίκων.[37] In the case of *hybris*, the suit focuses on any type of assault that is not covered by other, more specific types of suits.[38] A clear reconstruction of the difference between *plêgai* and *hybris* in the *chôra* is difficult to gauge: we are not in possession, for the *chôra*, of a normative text of the type of the Alexandrian *Halensis* papyrus that would offer some contemporary definition of the suits and the number of texts is extremely small. In particular, in the case of the *plêgai*, we are in possession of no more than two texts, only one of which, *P.Enteux*. 72 (218 BCE, Arsinoitês), gives any information on the circumstances. If we rely on the material at hand, we can hardly trace any substantial difference between the two *dikai*. This observation is born out, in particular, by a comparison of the *narratio* in *P.Enteux.* 72 (*plêgai*) and 74 (*hybris*).[39] In both cases, the scuffle begins in verbal

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[36] Mélèze Modzrejewski 1997: 154.

[37] *P.Hal.* 1.203-209 (III CE, Apollônopolitês): πληγῆς ἐλευθέροις. ἐὰν πατάξηι ὁ ἐλεύθε[ρ]ος ἢ ἡ ἐλευθέρα τὸν [ἐλεύθερον] | [204] ἢ τὴν ἐλευθέραν ἄρχων χειρῶν ἀδίκων, ρ (δραχμὰς) ἀποτεισάτω ἀτιμήτ[ους, ἐὰν] | [205] δίκηι νι[κ]ηθῆι. ἐὰν δὲ πλείονας πληγῆς μιᾶ[ς] πατάξηι, τιμησάμ[ενος τὰς] | [206] πληγὰ[ς δι]κασάσθω. ὁπόσου δ' ἂν τιμήσηι τὸ δικαστήριον, τοῦτ[ο διπλοῦν] | [207] ἀποτεισ[άτ]ω. ἐὰν δὲ τίς τινα τῶν ἀρχόντ[ων π]ατάξηι τάσσοντ[α, ὧν τῆι] | [208] ἀρχῆι γέ[γ]ραπται τάσσειν, τριπλάσια τὰ ἐ[πι]τίμια ἀποτεισάτ[ω, ἐὰν δίκηι] | [209] νικηθῆι.

[38] *P.Hal*. 1.210-213 (III CE, Apollônopolitês): ὕβρεως. ἐάν τις καθυβρίσηι ἕτερος ἑτέρου τ[ῶ]ν ἀγράφων, ὁ τα .[. . . . .] |[211]μενος τιμησάμενος δικασάσθω, προσγρα[ψά]σθω δὲ ὀνομαστί, τ[ί ἂν φῆι] | [212] ὑβρισθ[ῆ]ναι καὶ τὸν χρόνον ἐν ὧι ὑβρίσθη. ὁ δ[ὲ] ὀφλὼν διπλοῦν ἀπ[οτεισάτω,] | [213] ὃ ἂν τὸ δικαστήριον τιμήσηι, and Taubenschlag 1916: 17-18. A brief discussion of the attestations of the δίκη ὕβρεως in other surroundings, in Cassayre 2010: 318 and, more generally, Partsch 1920: 55-58.

[39] *P.Enteux.* 72.2-6 (218 BCE, Arsinoitês): τοῦ γὰρ ε (ἔτους) ὡς αἰ] | [3] πρόσοδοι, Φαμενὼθ κ̣α̣, λοιδο[ρί]ας μοι γενομέν[η]ς πρ[ὸς αὐ]τὸν ⟦προε[ιρημένον (?) -ca.?-] ⟧ | [4] ⟦ικ̣ι̣α̣ι̣ τ̣ο̣ ̣ο̣υ̣ . . .⟧ ἐν τῆι προγεγραμμένηι κώ[μ]ηι, τ[ὰς χ]εῖράς μοι [. . . . .]ην .[-ca.?-] | [5] πυγμαῖς καὶ λακτίσμασιν [. . . . . εἰς ὃ ἂν] τύχ[οι μέρος] τοῦ [σώ]ματος, π̣[οιησαμ]έ[νωι μ]άρτ[υρας τοὺς] | [6] παρόντας. *P.Enteux.* 74.3-12 = *P.Lille* II 41 (221 BCE, Berenikis): τοῦ γὰρ . (ἔτους), Τῦβι] ια, ἑστῶτός μου πρὸς τῶι πυλῶνι | [4] [-ca.?-] οἰκίας ἥ ἐστιν ἐν τῆι προδεδηλω|[5][μένηι κώμηι -ca.?-]υ̣ τοῦ προγεγραμμένου λοιδορίας | [6] [-ca.?- Πειθί]ας ὁ προγεγραμμένος προσελθὼν οὐ | [7] [-ca.?- τῆι δεξι]ᾶι αὐτοῦ χειρὶ εἰς τὴν ἀριστεράν μου | [8] [-ca.?- ἔβα]λέν με εἰς ὃ ἂν τύχοι μου μέρος τοῦ σώματος | [9] [-ca.?- συντε]τελεσμένοις ὑπ' αὐτοῦ, Πειθίας προσ|[10][-ca.?-]με τῶι δεξιῶι αὐτοῦ σκέλει εἰς τὸ

reproach (λοιδορία), which then results in physical assault, with a detailed account of the bodily harm inflicted. The phrasing is also, on occasion, identical.

The most outstanding difference is that the petitioner in the case of *P.Enteux.* 74, where he accuses his antagonist of *hybris*, also applies the formula ἄρχων εἷς με χειρῶν ἀδίκων. This would seem to be at variance with Alexandria, for here the formula ἄρχων εἷς με χειρῶν ἀδίκων is applied in the case of *plêgai*, and not in the case of *hybris*. In view of this difference, one could argue that, while actions for both *plêgai* and *hybris* were employed in courts in Alexandria and the *chôra*, the precise meaning of the actions was quite different. While in Alexandria the *hybris* was a charge for any type of assault other than blows (or, for that matter, any other offence specifically dealt with by the laws of the city), in the *chôra*, it became a special charge whose prerequisite was the ἄρχων χειρῶν ἀδίκων.[40] As such it would cover the exact sphere of application of the *plêgai* charge in Alexandria.

Yet the evidence from Alexandria and from the *chôra* may be, after all, reconcilable. If one could draw any conclusion from the sparse material at hand, it would be that, in the case of *plêgai*, the first-blow requirement was self-evident and did not need to be explicitly stated in the petition; in the case of *hybris*, on the other hand, it was not and did need to be stated *expressis verbis* in the appeal.[41] Should this working hypothesis be accepted, one could suggest that *hybris*, originally covering assaults other than blows, was eventually applied in that area too and absorbed, in the process, elements that were typical and legally indispensable for the specific blows-charge, the *dikê plêgôn*. This hypothesis seems to be supported by later evidence: in two late second-century BCE cases one served a single suit περὶ ὕβρεως καὶ πληγῶν.[42]

A further development, within the late second-century evidence, is the emergence of two new types of suits. In *P.Fay.* 12 = *P.Lond.* III 818 descr. = *MChr* 15 (104/3 BCE, Theadelphia), the petitioner sues for direct financial damage

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|[11] -ca.?- παρόντων τιν]ῶν οὓς καὶ ἐπεμαρτυράμην. ταῦτα δὲ | [12] [ἔπραξεν -ca.?- ὑβρ]ίζων καὶ ἄρχων εἷς με χειρῶν ἀδίκων.

40 On the Athenian background, in connection with the *dikê aikeias,* see Lipsius 1905: 644; Taubenschlag 1916: 11; Mélèze Modrzejewski 1959: 74-75.

41 Cf., in the same direction, Hirata 2010: 47-48 and Partsch 1920: 61.

42 *BGU* VI 1249.4-7 (136 BCE, Syênê): συλλελύσθαι αὐτῶι τε καὶ Ταγῶτι | [5] [τῆι γ]υναικὶ αὐ[το]ῦ ὑπὲρ ἧς ἐνέβαλεν κατ᾽ αὐτῶν ἐντεύξεως ἐν τῶι λδ (ἔτει) τοῖς ἐν | [Πτο]λεμαίδι τῆς Θηβαίδος δικασταῖς ὧν εἰσαγωγεὺς Φιλῖνος δι᾽ ἧς ἐνεκάλει αὐτοῖς | [περὶ] ὕβρεως κ[αὶ] πλ[η]γῶν ἃ ἐτιμήσατο [χ]αλκοῦ ταλά[ν]των δύο καὶ ἀργυρί[ο]υ δραχμῶν. *P.Tor.Choach.* 8b.43-48 = *UPZ* II 170 (126 BCE, Thebes): πραχθῆναι δ᾽ ἐμοὶ αὐτοὺς | [44] τοῦ ἀδικίου κατὰ τὸ διάγραμμα | [45] χα[λκο]ῦ τάλ(αντα) ε. [πε]ρὶ μὲν γὰρ τῆς ὕβρεως | [46] κα[ὶ π]ληγῶν καὶ [ὧ]ν συντετελεσμένοι | [47] εἰσὶν εἷς με μετὰ ταῦτα λήμψομαι | [48] παρ᾽ αὐτῶν δι᾽ ἄλλης ἐντεύξεως, and *P.Tor.Choach.* 9.15-16 = *P.Tor.* 4 = *UPZ* II 171 (126 BCE, Thebes), a settlement of *P.Tor.Choach.* 8.

inflicted, for *hybris*, and for "illegal abduction" (*adikos apagôgê*).[43] Under each heading he seeks different compensation; clearly, then, in the petitioner's eyes, the suits for *adikos apagôgê* and for *hybris* were not substantially, or procedurally, identical.[44] *P.Tor.Choiach.* 8 = *UPZ* II 170 = *P.Par.* 14 (127 BCE, Thebes) is even more remarkable, for here the petitioner sues for the unified charge of *hybris* and *plêgai*, as well as for *adikion*— a more abstract term, not signifying any concrete act. Moreover, according to what seems to be Wilcken's interpretation, the text may point to the precise origin of the new suit: a royal decree.[45]

Relying on this assumption, we may tentatively lay out the following development: (1) in Alexandrian court procedures, as recorded in the *Halensis* papyrus, various procedures are applied to deal with different types of offences: among others, *plêgai* for beating and *hybris* for any act of violence that cannot be prosecuted differently; (2) already in the third century BCE, penetration of these two types of suits in the *chôra*, roughly used for prosecuting identical offences; (3) by the end of the second century BCE, creation of a consolidated suit for *hybris* and *plêgai*; and (4) the introduction of a new suit, by a royal decree, focusing on any act of injustice. Some elements of this reconstruction can be debated, in particular, the royal origin of the new suit for injustice.[46] Yet the very fact that, in the eyes of the

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[43] *P.Fay.* 12.24-35 = *P.Lond.* III 818 descr. = *MChr* 15 (104/3 BCE, Theadelphia): περὶ | [25] τῶν ἀδίκως εἴς με συ[ντετ]ελεσμ‹έν›ων προ[ῃ]ρημένος | [26] ἐπεξελθεῖν δέομαι ἀποστεῖλαί μου τὴν ἔντευξιν | [27] ἐπὶ τοὺς ἀποτεταγμένους τῆι κατοικίᾳ χρηματιστὰς | [28] ὧν εἰσαγωγεὺς Διοσκουρίδης, ὅπως χρηματίσαντες | [29] αὐτὴν καὶ προσκαλεσάμενοι τόν τε Διοκλῆν καὶ Ἀμμώνι[ο]ν | [30] δια Ṭ[. . . . . λογ]ευτοῦ συνκρίνωσι πραθχῆναί (read πραχθῆναί) μοι | [31] ἑκα̣ .[..]ρ̣[. . . . . σ]υνεχομένους τῆς ἀδίκου ἀγωγῆς | [32] ἀργυ(ρίου) (δραχμὰς) ρ̣ καὶ τῆς ὕβρεως χα(λκοῦ) υ̣κ καὶ τὰς τοῦ χα(λκοῦ) Βψ, | [33] περὶ αὐτῶ[ν γ]ενομένης [ἀ]γ̣ώ̣γ̣ης ἁρμοζούσης | [34] διὰ δημοσίων. τούτων δὲ γενομένων ἔσομαι ἀντειλημ|[35]μένος.

[44] *P.Tor.Choiach.* 8a.34-49 = *UPZ* II 170a = *P.Par.* 14 (127 BCE, Thebes): εἰ ὑμῖν δοκεῖ, ἀναπ]έμψαι | [35] ἡμῶν τὴ[ν ἔντευξιν ἐπὶ τοὺς ἀ]π̣ὸ τοῦ | [36] Πανοπολί[του μέχρι Συήνης χρη]μ̣ατισ|[37]τάς, ὧν εἰ[σαγωγεὺ]ς Ἀμ[μώνιο]ς, | [38] ὅπως χρηματί̣σ̣α̣ν̣τ̣ε̣ς̣ [αὐτὴν] | [39] εἰς κρίσιν καὶ μετ̣απεμψ̣ά̣[μενο]ι τοὺς | [40] ἐγκαλουμένους δι᾽ Ἀντιφάνου φρουράρχου | [41] ἐπισκέψωνται, ἵν᾽, ἐὰν ᾖι οἷα π[ρο]φέρομαι, κρίνω|[42]σιν τοὺς μὲν διασαφουμέν[ο]υ̣ς τῆς οἰκίας | [43] πήχεις ἑπτὰ εἶναι ἐμούς, κ̣αθότι καί | [44] εἰσιν, πραχθῆναι δ᾽ ἐμοὶ αὐτ[ο]ὺς τοῦ ἀδι|[45]κίου κατὰ τὸ διάγραμμα χα(λκοῦ) τάλ(αντα) ε. περὶ μὲν | [46] γὰρ τῆς ὕβρεως καὶ πληγῶν καὶ ὧν συντε|[47]τελεσμένοι ε[ἰ]σὶν εἴς με μετὰ ταῦτα | [48] λήμψομαι παρ᾽ αὐτῶν δι᾽ ἄλλης ἐντεύ|[49]ξεως τὸ δίκαιον ὡς καθήκει.

[45] UPZ II, p. 118 *ad l.* "Ausser der gerichtlichen Erklärung, dass das strittige Grundstück sein Eigentum sei, verlangt Apollonios, dass als Entschädigung für das in der Entziehung sienes Eigentums liegende Unrecht (ἀδικίου) die nach dem königlichen Diagramma berechnete Summe von 5 Kupfertalenten von den Beklagten eingetriben werde." Cf. also Partsch 1920: 63-64.

[46] In the *petitum* (cf. supra n. 44), the *diagramma* may well refer to the *praxis*, whose regulation by a royal *diagramma* is well documented (cf., e.g., BGU XIV 2390.39, 160/59 BCE, Hêrakleopolitês), rather than to the *adikion* suit itself, which is not attested as the subject of a *diagramma* elsewhere.

petitioner, 'injustice' (*adikion*), formed an additional ground for charge, apart from *hybris and plêgai*, remains certain.

P.Fay. 12 and *P.Tor.Choiach.* 8 are the latest papyri recording *dikai*-oriented petitions; petitions for specific charges, recording *timêmata* (i.e., the exact amount sued for), are no longer attested. This is also the case with the specific charge for *adikion*. Yet the nouns *adikion*, *adikia*, and the adjective *adikos* are well attested later. A paper, published by young Joseph Modrzejewski in 1959, was dedicated to the study of precisely these terms. *Adikia*, he showed, was any type of conduct deemed unjust in the context in which it was used.[47] Unlike *plêgai*, *hybris*, and most types of *dikai* of political origin, justice is a very flexible concept, whose precise definition is rarely attempted. Such a concept was especially well suited for an environment, as in Greco-Roman Egypt, where the administration of justice was based not on specific set of claims, but on a broader sense of justice.

In the course of his long and prolific scientific activity, Mélèze Modrzejewski repeatedly studied the Classical origins of legal institutions and practices attested in the papyri from Egypt. Law was formed and conceptualized in the *polis*. In the Hellenistic period, with the mass immigration of Greeks into Egypt, it was applied in different, non-political surroundings. Consequently, *polis*-oriented concepts were modified, adapted to the new circumstances. But how exactly were these concepts introduced into Egypt in the first place? As is the case of any other intellectual asset, individual immigrants would have played a crucial role in taking over to Egypt this ancestral terminology. In some spheres, as in legal documents, professional scribes who recorded transactions in established terms, were of paramount importance. Mélèze Modrzejewski has highlighted their role. In the preceding lines, I have dealt with another sphere—that of liabilities of delictal background. Literary texts from the archaic and Classical world have shown how terms designating offence were developed, crystalized, and changed before Alexander. In the world of the city state, terms designating offence were used to create established suits, *dikai* and *graphai* in Athens. As such, they were also introduced into the city law of Alexandria, whence they were taken over into courts by officials administrating justice in the *chôra*.

The *diagramma* of *P.Gur.* 2, as discussed and interpreted in Mélèze Modrzejewski's *La règle de droit dans l'Égypte ptolémaïque* shows us that the process was not accidental. Whether we regard the *politikoi nomoi* of *P.Gur.* 2 as referring to the specific city law of Alexandria or as denoting legal practices current in the Greek world, the text of *P.Gur.* 2 shows that the concept of law and the legal institutions of *polis*-origin were explicitly acknowledged as applicable and enforceable in cases involving Greek settlers. This was just the first stage of the acculturation of Greek law in the land of the Pharaohs. It is thanks to Mélèze

47 Mélèze Modrzejewski 1959: 70-71.

Modrzejewski's intellect and erudition that we now understand the development of Greek law in the new settings better than before.

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