

Strangers, Murderers, Laborers:

Attic Homicide Law and the Rights of Subordinates

Plato's *Euthyphro* (4b7-e3) depicts one of the most intractable homicide cases for law historians. Euthyphro, who presumably is an Orphic seer (6b5-c7 = Orph. fr. 17 Kern; with Kahn 1997), prosecutes his own father for the murder of a non-relative. Euthyphro's relatives (4d9-e1), his interlocutor Socrates (4a11-b2, e4-8; 9a7-8, 15d4-8), and his Athenian contemporaries (4a1) are all shocked by his prosecution: it seems to break the unwritten divine law that enjoins respect for parents. Yet, though the emphasis is placed on the fact that Euthyphro is prosecuting *his father* on behalf of a non-relative, it is still true that the victim's status is constantly brought into consideration. The victim is none other than a "murderer" (4d1-2, d6; 9a3-4), a "laborer" (4c4; 15d6), and, significantly so, a "stranger" (4b5, b8).

The victim's status as a non-relative poses more legal problems than the agent's status as a father. While the prosecution of one's father was not prohibited by law (cf. Ar. fr. 585 *PCG*; Menander fr. 601 K-T; with Parker 1983: 137n.133), the right of prosecution for homicide was *restricted* to the close relatives of the victim or, in the case of a slave, the master (*IG I³* 104.20-3; [Dem.] 43.57, 47.70-2; with Tulin 1996). But here the victim is a hired laborer of Euthyphro: neither a relative nor a slave. Why, then, does the seer undertake this prosecution flouting not only the unwritten law of filial piety, but also Attic homicide law?

An answer to this question is given by Euthyphro himself. First, he claims that in ignoring any preoccupation with the agnation of the agent, he follows a divine law that runs "not to give way to the impious, no matter who it may be" (5e4-5): Zeus himself imprisoned his father Kronos because he swallowed his children "not *en dikêi*" (ὅτι τοὺς υἱεῖς κατέπιπεν οὐκ ἐν δίκῃ, 6a2).

Second, the seer claims that the only criterion for judging an action is the ethical value of the deed, rather than any preoccupation with the agnation of the victim (4b7-8): what matters is whether or not the killer killed “*en dikêi*” (εἴτε ἐν δίκῃ ἔκτεινεν ὁ κτείνας εἴτε μὴ, b9). Such a studied repetition of *en dikêi* testifies, then, to Euthyphro’s belief that the divine and human realms are governed by a universal kind of justice that disregards the identities of both agent and victim.

This abstract universality of Euthyphro’s justice is outstanding. It is grounded in the conventional 4th-century Athenian belief that *any unlawful homicide* causes contagious “pollution” or μίασμα (4b9-c3; with Harris 2015; *pace* Parker 1983: 104-143). Yet, it is decidedly unconventional in the sense that Euthyphro sees pollution where others do not see it: he uses the notion of pollution to reach types of behavior which formal law cannot reach. That is precisely the case of the victim whom Euthyphro is defending: an alleged “murderer” who had the right to a just trial (Harris 2015: 25), a “laborer” who stood on the lowest rung of Athenian society (Cecchet 2024), and a “stranger” who presumably lacked any relatives that could prosecute on his behalf. Ultimately, then, this homicide case has proved intractable for the simple reason that it cannot be explained by Attic written law. Euthyphro appeals to an abstract kind of justice, one that extricates itself from contemporary customs in the name of a higher standard of morality. I contend that, in privileging our common humanity (Antiph. 4.1.2) over kinship, legalistic, and class considerations, Euthyphro reforms Athenian homicide law –and so may be said to have advanced a proto-notion of human rights (Cattanei 2003). It is no coincidence that he is depicted as an Orphic seer, for an Orphic verse probably known to Plato (*Lg.* 4.715e-716a) speaks of the goddess Justice, a follower of Zeus, as “protector of all” (πᾶσιν ἀρωγός, Orph. fr. 158 Kern).

Bibliography

- Cattanei, E. 2003. “¿Es justo acusar de homicidio al propio padre por haber dejado morir a un dependiente? Reflexiones sobre los ‘derechos humanos’ en Platón.” *Areté* 15: 63-81.
- Cecchet, L. 2024. “‘Don’t tell anybody you are a thete!’: Athenian Thetes: Identity and Visibility.” In S.D. Gartland and D.W. Tandy, eds., *Voiceless, Invisible, and Countless in Ancient Greece: The Experience of Subordinates, 700-300 BCE*. Oxford. 99-126.
- Harris, E.M. 2015. “The Family, the Community and Murder: The Role of Pollution in Athenian Homicide Law.” In C. Ando and J. Rüpke, eds., *Public and Private in Ancient Mediterranean Law and Religion*. Berlin. 11-35.
- Kahn, C.H. 1997. “Was Euthyphro the Author of the Derveni Papyrus?” In A. Laks and G.W. Most, eds., *Studies on the Derveni Papyrus*. Oxford. 55-63.
- Parker, R. 1983. *Miasma: Pollution and Purification in Early Greek Religion*. Oxford.
- Tulin, A. 1996. *Dike Phonou: The Right of Prosecution and Attic Homicide Procedure*. Stuttgart.