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EKTHMOPOI: PARTNERS IN CRIME?

I. Introduction

In or around 594 BC Solon was given extraordinary powers as διαλλακτὴς καὶ νομοθέτης, mediator and lawgiver, to try to solve a crisis in archaic Athenian society[1]. His solution was termed the σεισάχθεια, disburdenment; it was a liberation of the land and the people.

The primary literary evidence on this most important episode in Athenian history is Solon's own testimony. For more information recourse must be had to authors who were writing not less than one hundred and fifty years—or five (30-year) generations—after Solon's reforms were enacted. The most important of these later sources is the author of the *Athenaion Politeia,* henceforth AP, who was writing about two hundred years after the event[2]. Evidence of this quantity and quality inevitably leaves much room for speculation, and many hypotheses have been advanced in the quest to understand and explain both the crisis which brought Solon to power and his legislation to remedy it—legislation which has been regarded ever since as the first step toward Athenian democracy[3].

The current model of the situation leading up to the crisis is that some people, the *hektemoroi* or sixth-parters, were 'enslaved' (in Solon's terminology) to others. There are two main variants concerning the nature of this 'enslavement' in the scholarly literature: according to one it was akin to serfdom, whilst according to the other it was a type of debt-bondage. The essential difference between these variants is that serfs receive something from their lords in return for their produce or labour (for example, protection, assistance, access to land, 1/6 or 5/6 of the produce), whereas debtors are paying a penalty to their creditors for their own or their ancestors' failures.

This orthodox model, in both versions, emphasises AP's sweeping generalisation that ἡ δὲ πᾶσα γῆ δι' ὀλίγων ἦν, 'all the land was in the hands of a few'[4]. It assumes that διά means 'was owned by', and that ὀλίγος means 'a small section of the population

[1] For the date see R. W. Wallace, 'The date of Solon's reforms' *AJAH* viii (1983) 81-95. Solon's poems are numbered according to M. L. West's edition, *Iambi et elegi Graeci* (Oxford 1972). The following abbreviations of modern works are employed: Carlston = K. S. Carlston, *Social theory and African tribal organisation* (Urbana, Chicago and London 1968); Hansen = M. H. Hansen, Apagoge, endeixis *and* ephegesis *against* kakourgoi, atimoi *and* pheugontes (Odense 1976); Harrison (i) and (ii) = A. R. W. Harrison, *The law of Athens:* (i) *The family and property*; (ii) *Procedure* (Oxford 1968 and 1971) respectively; Jones = J. W. Jones, *The law and legal theory of the Greeks* (Oxford 1956); MacDowell = D. M. MacDowell, *The law of classical Athens* (Ithaca 1978); Osborne = R. Osborne, *Demos: the discovery of classical Attika* (Cambridge 1985); Rhodes = P. J. Rhodes, *A Commentary on the Aristotelian* Athenaion Politeia (Oxford 1981); Ruschenbusch = E. Ruschenbusch, ΣΟΛΩΝΟΣ NOMOI, (Wiesbaden 1966); Whitehead = D. Whitehead, *The demes of Attica* (Princeton 1986).

[2] It is a sobering thought that the standard story in the secondary literature about Attike before Solon is based on sources writing at least 150 and more often over 250 years after Solon; that the earliest of those sources make little reference to what little existed in the way of written evidence; and that their successors, like us, depend on their predecessors' efforts. In his very first paragraph Thukydides, writing in the fifth century, admits that he found it impossible to acquire precise knowledge not only of the distant past but *even of the period preceding his own* (i 1.3). In AP's time the Solonian period was 'ancient' (6.2). Solon's period was as distant for Plutarch as the thirteenth century is for us.

[3] Brief, critical and reasonably recent discussions of the literature can be found in Rhodes 118-79 with M. H. Hansen, 'Review article', *CP* lxxx (1985) 51-66, and E. Welskopf, ed., *Terre et paysans dépendants dans les sociétés antiques* (Paris 1979). Max Weber's discussion is still useful, and conveniently available in *The agrarian sociology of ancient civilisations* trans. R. I. Frank (London 1988) 177-96; this book-length article was originally published as 'Die sozialen Gründe des Untergangs der antiken Kultur' in *Die Wahrheit* (May 1896).

[4] 2.2. Slight variant in 4.5: ἡ χώρα δι' ὀλίγων ἦν, 'the *khora* was in the hands of a few'.

who were wealthy, well-born, socially and politically powerful', for whom the normal shorthand in the secondary literature is 'the Eupatridai' or 'the aristocrats'. However, in such a context διά usually implies not ownership but control, in particular, political control—a nuance brought out in the usual translation of the term here as 'in the hands of'[5]. Πᾶσα is recognised as hyperbole: it leaves no room for the 'middle class' from which Solon is said (inconsistently) by AP to have come (5.3), and which is assumed by most scholars to have existed.

The model is problematic. The most significant outstanding problems, or contradictions or omissions of the evidence, are:

(i) The assumption that a few people owned all the land leads us to a paradox. If these few landlords retained the land after Solon's reforms, then how was the *seisakhtheia* a solution, since they would have lost labour and their 6ths, and the *hektemoroi* would have lost access to land and their 6ths? If, on the other hand, the landlords lost their land, then there was a redistribution of land; but that contradicts all the evidence, notably Solon's.

(ii) Finley's question[6]: how could anybody successfully abolish such an institution—either serfdom or debt-bondage—by decree?

(iii) The model assumes that the *hektemoros*' plot was prone to dearth, being either too small or too poor or both[7]; there is no evidence to support this assumption and some to refute it. For example, Solon's poems emphasise wealth and excess, not poverty and dearth (e.g. *frr.* 6, 13, 23, 24, 33, 34, 38, 43); starvation is not a theme of folklore, myth or literature in Attike; there was no significant emigration from Attike at the time[8], and there may even have been some immigration—Solon promised naturalisation for certain types of immigrants to Attike[9]. All this argues against a shortage of productive land.

(iv) Attike had no tradition of a class of serfs or sharecroppers[10]. Solon does not use a regular name for them (the term *hektemoroi* is supplied by later authors).

[5] *Cf.* AP 29.1, Aristotle *Pol.* 1306a17.

[6] Finley rightly stressed that 'debt-bondage is not an institution which simply withers away without any reason. Nor can it be abolished by simple fiat, unless sufficient force is present to back up the decrees and workable alternatives exist for both classes—a substitute labour force for the creditor class and guarantees for the emancipated (and potential) debtors', *Economy and society in Ancient Greece*,[3] B. D. Shaw and R. P. Saller, edd. (Harmondsworth 1983) 162. Nevertheless, he asserts that in Greece and Rome 'debt-bondage *was* abolished *tout court*, by political action' (166, my emphasis), yet he offers no arguments for the 'sufficient force' component, nor for the 'guarantees for the debtor class' component, and only the woefully inadequate argument that the 'alternative for the creditor class' was increased chattel slavery—as if one could just pop along to the corner shop and purchase a few more *c.*590 BC. Finley's treatment is equally cavalier in both *Ancient slavery and modern ideology* (London 1980) and *Early Greece: the Bronze and Archaic Ages* (London 1981). His interpretation remains one of a debt-bondage system abolished by fiat, without sufficient force to back up the decree, without workable alternatives for the 'debtor class', and without any independent argument for a sudden growth in chattel slavery in Athens around Solon's time. Moreover, by using the *seisakhtheia* as the mainspring of his model for the growth of slavery in Athens, Finley fails to account for the large slave populations in e.g. Aigina, Khios, Korinth and Samos.

[7] This is particularly true of the debt version (on which see also Rhodes' discussion of the problems, 94, 125-7), but also of the serf version, where it is used to explain why the peasants entered into such an arrangement with their more powerful neighbours in the first place. See also W. Beringer, 'Freedom, family and citizenship in early Greece', in *The craft of the ancient historian*, J. W. Eadie and J. Ober, edd. (Lanham, MD 1985) 41-56, esp. 51f.

[8] The settlements in the Khalkidike in which Peisistratos was involved were Eretrian, not Athenian, D. Viviers, 'Pisistratus' settlement on the Thermaic Gulf', *JHS* cvii (1987) 193-5.

[9] On this see Whitehead's discussion, *The ideology of the Athenian metic* (Cambridge 1977) 141-3, and p.123 below.

[10] As pointed out long ago, but apparently to little effect, by N. G. L. Hammond, *Studies in Greek history* (Oxford 1973) 106; this chapter was originally published as 'Land tenure in Attica and Solon's *seisachtheia*', *JHS* lxxxi (1961) 79-98. See also the objections raised by T. W. Gallant, 'Agricultural systems, land tenure and the reforms of Solon', *BSA* lxxvii (1982) 111-24. Gallant argued

(v) The model implies the existence of large estates; this contradicts later literary and archaeological evidence, wherein Attike is a country of small farms[11].

(vi) How are these hypothetical landlords supposed to have acquired so much land?[12] In AP's time some of 'those of ancient wealth' were said to have acquired that wealth *through* Solon's seisakhtheia, not before it (6.2).

(vii) If a few great landlords owned all (or even most) of the land, why is it supposed that they surrendered it without a bloody fight?

(viii) Why are these few great landlords anonymous?[13]

(ix) What public property existed for the leaders of the people to steal? (Solon *fr.* 4)

These are unsolved and to my mind intractable problems with the orthodox model.

Problems of this gravity usually indicate a fundamental flaw in the basic assumptions of a theory. One basic assumption made is: *the land at issue was private land.* Is it valid? If this assumption is abandoned, and we assume instead that *some or all of the land at issue in the Solonian crisis was public land,* then a new model can be constructed which I believe explains more of the evidence more adequately than does the existing model. This new model pays more attention to Solon's testimony than to that of later authors, because it respects the facts (a) that Solon is the only contemporary source for Athenian history at this time[14], and therefore, by the criterion of temporal immediacy, is the best source on early Athens, and (b) that Solon was not merely a witness, but the leading participant in making this particular episode of history, and therefore, by the criterion of subject cognizance, is the best source on his own reforms.

The new model is based on two hypotheses on the *seisakhtheia* and the principal problem it was designed to solve. They are:

1. The land which was enslaved and marked with ὅροι and worked by ἑκτήμοροι was public land.
2. The conditions under which the land was worked were governed by law.

Problems (i), (iii), (iv), (v), (vi), (vii), and (viii) with the orthodox model no longer apply. Further, by the first hypothesis I will seek to explain:

that the land in question in the Solonian crisis was previously uncultivated and unoccupied land, but for some reason saw this as rendering irrelevant to the problem the question of land ownership and tenure. I would argue to the contrary that many of the problems can be more easily explained by recognising its relevance.

[11] This later evidence may be argued to be a consequence of Solon's *seisakhtheia,* but then one must face the logical consequences of that argument and assert that Solon *did* redistribute land, contrary to his own denial and that of all subsequent sources.

[12] This old chestnut has resisted solution through several paradigm shifts in the theory of early Greek society. For example, Hammond pointed out that it was 'unthinkable that any clique in the seventh century had capital resources of [the] order [necessary to buy up all the land in Attica]', (n. 10) 134, and about twenty-five years later P. Halstead pointed out that 'agriculture seems to offer only modest potential for accumulating wealth . . . the problem of how the rich first got rich—before they had accumulated extensive estates—is even more difficult to resolve from this perspective', 'Traditional and ancient rural economy in Mediterranean Europe: plus ça change?' *JHS* cvii (1987) 86. The two hypotheses currently dominant are either that they owned it from time immemorial or that they acquired it by gradual accumulation as *hektemoroi* sought assistance or defaulted; the former is not of course an explanation, and the latter is based on problematic assumption (iii).

[13] As with the principal victims, whom we associate with the term *hektemoroi,* Solon does not use a regular name for 'the few' either, and the vague and much later attested group label 'Eupatridai' does not rescue their identities. And see n. 81 below.

[14] Quite apart from being a late fifth century republication, Drakon's only surviving law involves a lot of 'history from square brackets'; see E. Badian, *ZPE* lxxix (1989) 59-70.

1.1 problem (ix): what public property existed to be stolen by the leaders of the people (*fr.* 4);
1.2 how the *hektemoroi* continued in possession of the land they worked whilst the 'admirably wealthy suffered no harm' (*fr.* 5);
1.3 what public debts existed to be cancelled by Solon (as half-remembered in the later tradition);
1.4 how and why the *seisakhtheia* irritated many people but was nevertheless accepted by them as a just solution to the crisis.

By the second hypothesis I will seek to explain:
2.1 problem (ii): how the hektemorage system could be abolished *tout court*, by fiat, by one man;
2.2 why the Athenians appointed a second lawgiver;
2.3 why they appointed him within a generation of their first lawgiver;
2.4 why it was the constitution which caused the crisis (as half-remembered in the later tradition).

Of course this model raises new questions: it implies public landholding at this date, as we know to have been the case later in Athenian history when the evidence is more plentiful. It implies formal law and some means of executing and enforcing that law at this date, as we know to have been the case later in Athenian history when the evidence is more plentiful.

I will first address these major issues. In section 2 I discuss public landholding, in section 3 law. Then in section 4 I will offer a reconstruction of Solon's reforms and the crisis which necessitated them based on the hypotheses outlined above.

II. Public landholding

2.1 General considerations. Land ownership in Ancient Greece is 'apt to be discussed in anachronistic terms', as Rhodes rightly points out with respect to the *hektemoroi* (p. 95). Ownership is an abstraction, a term of law[15], which is itself a cultural and historical construct[16].

The fundamental concept is title. The word is not translatable into Greek. The Greeks' attitudes to rights over land were much closer to the social, conditional rights common to 'primitive' societies than they were to Roman *dominium*. What the Greeks recognised was not absolute right but relative right—relative not in the sense of a hierarchy of rights[17] but in the sense of one man's claim being stronger than another's. So the διαδικασία procedure, the nearest thing to an establishment of title in Athenian law, could have any number of claimants, and there was no defendant or plaintiff[18]. Rights to property in Ancient Greece could not be divorced from socio-political relationships: the status, privileges and duties of inhabitants were determined by their land and its produce[19]. Land was a prerequisite for citizenship from earliest times (or, seen another way, citizenship derives from landholding), whereas birth was of secondary importance until Perikles' citizenship law (passed in 451/0). So Athenian

[15] J. A. Crook, *Law and life of Rome*[2] (London 1984) 139. See Harrison (i) 201 and MacDowell 133.
[16] H. J. Berman, *Law and revolution* (Cambridge, MA. 1983).
[17] Such as medieval landholding 'of' a superior.
[18] Harrison (i) 214-7; S. Isager & M. H. Hansen, *Aspects of Athenian society in the fourth century BC* (trans. J. H. Rosenmeier) (Odense 1975) 122f; MacDowell 145f.
[19] On the ideological aspect of land and status, see V. J. Rosivach, 'Autochthony and the Athenians', *CQ* xxxvii (1987) 294-306, esp. 300-3.

women's 'citizenship' was second-class because while they qualified by birth they did not qualify by landholding, and hence could not participate in politics, and could not go to law.

The concept of *kleroi*, and the call for a redistribution of land—which was heard in Solon's Athens, amongst other places[20]—both assume that *the territory as a whole belongs to the people as a whole, and the details of allocation can be (re)arranged by the government of the day*[21]. At the deepest level of consciousness the whole of Attike was conceived as belonging to Athene, in so far as it was sacred to her in a weak sense, and thus to (all) the Athenians[22]. Anthropological studies have shown that it is not unusual for individuals to have exclusive or preferred, indefinite and inheritable use of a plot of land, whilst ultimate ownership or control (including the power to allocate land) resides in the social group[23]. If the anthropological data are a reasonable guide in this matter, the socio-political character of each Athenian's rights associated with landholding probably developed from a community member's right *to* land—at least enough to subsist. The Athenian state's early involvement in the allocation and protection of a member's property is suggested by, amongst other things, the punishment of people found to be wrongfully in possession: recovery was made through the *dike exoules*, by which the unsuccessful defendant was required not only to vacate the property and allow the plaintiff into possession, but also to pay to *the state* a sum equal to the value of the thing surrendered, and to be *atimos* until he paid[24].

An individual's right to land necessitates respect for other members' rights, including ancestors and future generations. The ideology is that of individual share-holding in common property; a right of use, not of absolute possession, of land. This shareholding is expressed strongly in the inalienability of land. We moderns usually view this as a constraint on the individual's freedom of action. But it is equally valid and probably closer to the mark to view it as protection of the individual: he (or more rarely she) cannot be deprived of his subsistence—inalienability is a right to survive, for him and his. He cannot be forced or persuaded to relinquish his future survival. One might say that inalienability prevents the partition of the fool and his means of subsistence. This is echoed in the Greeks' use of the same word, οὐσία, to signify both 'property' and 'being'; so their perception of encroachment on a man's property was viewed as encroachment on his being[25].

Inalienability is the right of a member to some plot of land from the group's territory, rather than an eternal right to a particular piece of land. It does not imply that all the community's land resources are divided amongst members; on the contrary, normally the right to land is the right to sufficient land for the family[26] to survive. The remainder is common property, available for such further allocation as becomes necessary. If the community moves (as in swidden agriculture, or colonisation) his right moves with him to the new territory. If an individual leaves the group, by choice or compulsion, then his

[20] AP 12.3 and Solon *fr.* 34 there quoted.

[21] Even in the fourth century the archon swore an oath to the effect that no redistribution of land would take place within his term of office (AP 56.2), and one version of the heliastic oath includes an undertaking not to permit any redistribution of land or houses of Athenian citizens (Dem. xxiv [Tim] 149).

[22] See Jones 198f, and W. Den Boer, *Private Morality in Greece and Rome*, *Mnemosyne* Supp. lvii (1979) 186. See also § 2.2 below.

[23] E.g. amongst the Ashanti, the Ibo, the Kamba, the Nandi, the Nuer, the Nyakyusa and the Yoruba, Carlston 415 and references there.

[24] See Harrison (i) 217-21 with references to earlier literature; Isager and Hansen (n. 18) 144-6. This procedure may date back to Solon: see Ruschenbusch F 36b with Harrison (i) 311-2 and 220 n. 2. On *atimia* see below § 3, § 4.2.2 Exclusion.

[25] See Jones 202. *Cf.* our own term 'property', from 'what is proper to' one.

[26] Which may be nuclear, extended or a lineage, it may be real or fictive, and the individual member often has several 'families' to choose from; the choice need not be permanent.

right to subsistence, to land, naturally lapses[27]. If an individual joins the group and is accepted as a full member (involving renunciation of previous membership and associated rights in another community), then he gains the right to subsistence, an 'inalienable' right to land use[28]. Primitive land law operates on the basic and overriding principles of need and use[29].

The conception of a public realm can take a number of forms, even in non-literate societies. The main forms are the nuclear family, the lineage, the band, the tribe, the village or permanent settlement, the occupational grouping, the religious community, and the political unit; these forms do not all occur in all societies, nor do they nest neatly into one another[30]. In the case of Athens it is necessary to distinguish between 'public' meaning the set of all citizens (the polis), and 'public' meaning a subset of the set of all citizens (e.g. a deme or a *genos*), because this distinction is made, implicitly if not explicitly, in Athenian law[31].

Of any piece of land there are four possible types of ownership or control: (i) it is nobody's property; (ii) it is the property of one oikos; (iii) it is the property of some oikoi; and (iv) it is the property of all oikoi. Since the poleis were territorial states, no land in a polis' territory can be considered to be of type (i). For whilst the state may not exercise routine control over a particular piece of vacant land, it would nevertheless be considered the property of the state if, for example, it was invaded (and if lost to the invaders the boundaries would be redrawn).

Moving on from these general considerations to specific examples of public property[32], we may cite types of property—as an illustrative selection not an exhaustive catalogue—under the heads of minerals, trees, and public spaces.

2.2 Minerals. The contents of mines were public property. The ores belonged to the Athenians, whose officials leased the mines to individuals for a fee, the actual sum

[27] Consider the practice of confiscation (repossession) of a criminal's property, often imposed in addition to *atimia*, exclusion from the group, as a penalty for harming the community. In an extreme case the repossession even extended to the plot of land in which the criminal or his ancestors were buried. The law on ostracism attributed to Kleisthenes—which was introduced about a hundred years after Solon of course—represents a major step in development here; in anticipation of his future return the state does not repossess (confiscate) the exile's property.

[28] So Hesiod's father acquired a farm in Askra, *W&D* 635-40. Within one generation, if not already, it was possible to alienate land in Askra, *W&D* 341. However, an individual's ability to waive his and his descendants' right does not imply that the right of other people has vanished. To take a clear example from our own society, the abdication of a British monarch does not imply the dissolution of the monarchy, and neither the abdicator nor his heirs can thereafter reclaim the throne. κτάομαι, 'acquire', is commonly used in early literature with reference to property of all kinds. Scholars usually assume that it means acquired by fair trading, but there is no reason to assume the involvement of another person: property can be acquired by taking as well as trading, and with respect to real property it may sometimes refer to land brought under cultivation. The development of the concept of metic is a major step here—after Solon again: immigrants are no longer accepted as full members of the community and may only possess land or a house in Attike by special dispensation of the ekklesia, through a grant of *enktesis*. See Whitehead (n. 9) 140-7.

[29] Carlston 415ff. See also I. M. Lewis, *Social anthropology in perspective*[2] (Harmondsworth 1981) 184-9.

[30] Barrington Moore, *Privacy* (New York and London 1984) 30.

[31] Subunits of the polis were subject to the same law as private individuals, M. I. Finley, *Studies in land and credit* (New Brunswick 1952) 93; E. M. Harris, 'The liability of business partners in Athenian law', *CQ* xxxix (1989) 339. The Greeks do not seem to have developed the convenient fiction of a juristic person for a group of owners, thereby giving the group corporate identity; the group remained joint several owners, *cf.* Finley (*ibid.*) 89 and nn.4, 5; Harris (*ibid.*) 339 and nn.1, 2, 3; Harrison (i) 242 and n.1; Jones 165, 199. The Yoruba and the Nandi also distinguished between land devoted to public needs and land for use by lineage groups—the latter subject to limited public rights such as the right to hunt, to collect firewood, and to pass over it for access to water, Carlston 183ff, 416.

[32] Most of the evidence for which is, naturally, from the classical period.

probably being based on the previous year's profits.[33] It is less clear whether or not the contents of quarries were public property. Stone seems to have cost nothing[34], but we need not assume that, because it was free, stone belonged to nobody; it could equally well be free because it belonged to everybody. Consideration of aliens shows that the latter possibility is more probable: if a foreigner had attempted to build a house without state permission on apparently 'free' land anywhere in Attike he would soon have discovered that the polis, that is, the Athenians, assumed control over all the land. There is no reason to suppose that exceptions would be made for a particular type of land, *viz.* rock[35]. The same argument applies to clay beds.

2.3 Trees. All sacred olives were public property, even when on private land and even when reduced to a dead stump[36]. Aristotle refers (*Pol.* 1321b30) to *agronomoi* or *huloroi* (forest wardens) as an indispensable office in any state. There are many inscriptions from the fifth century onwards and from all parts of the Greek world concerning the use and abuse of public trees[37]. The 'ancient laws' on the subject were so well known in the fourth century as not to require stating on the stone[38].

2.4 Public space. Public space includes (1) 'natural' uncultivated space, (2) cultivated space, (3) constructed space, and (4) communication routes.

2.4.1. It has been estimated that even in classical times not more than 50% of Attike was cultivated[39]. According to Aristotle there were laws generally current in earlier times prohibiting the acquisition of land beyond a certain amount—a prohibition which Solon is said to have enacted (*Pol.* 1266b14-18)—and prohibiting acquisition within a fixed distance of the polis boundaries and the city centre (*Pol.* 1319a6-10). Polis boundaries were border areas, and as such were often uncultivated and used for grazing—trespassing by shepherds not infrequently causing border conflicts between poleis[40]. Such conflicts provide further evidence, if such be needed, that the land in question was considered to belong not to no-one, but to everyone, to the polis. With respect to the city centre, Thukydides reports that most of the people evacuated from Attike during the Peloponnesian War 'had to settle down in those parts of the city that had not been built over and in the temples and shrines of the heroes' (2.17). The Akropolis, Pelargikon, temple of Eleusinian Demeter and 'some other places' were officially off limits for occupation; the Pelargikon had nevertheless been built over during the war[41]. Whilst we need not doubt that conditions were crowded, unhygienic and unpleasant, this evacuation nevertheless suggests a considerable amount of open land in the city, as well as between the long walls. There was also enough open land in the

[33] See Isager & Hansen (n. 18) 105f; and R. J. Hopper, *Trade and industry in Classical Greece* (London 1979) 180-86 for discussion.

[34] See Osborne 103-8, esp. 105.

[35] Note that the holder of the earliest (341 BC) of the three extant quarry leases is a metic. This inscription was published by Meritt in *Hesp.* v (1936) 401 n. 10.

[36] See Lysias vii [Sekos], AP. 60.2. B. Jordan & J. Perlin draw attention to the long standing and widespread religious beliefs about trees in general, 'On the protection of sacred groves', *Stud. Pres. Sterling Dow*, ed. K. J. Rigsby (Durham, NC 1984) 153-9. See also G. Métraux, *Western Greek land-use and city planning in the archaic period* (New York and London 1978) 66f.

[37] See D. Cohen, *Theft in Athenian law* (Munich 1983) 113f for an incomplete but convenient list.

[38] See e.g. F. Sokolowski, *Lois sacrées des cités grecques* (Paris 1969) 36, provenance the Peiraieus; on the deforestation debate see R. Meiggs, *Trees and timber in the ancient world* (Oxford 1982) chapter 7, esp. 188-91, and O. Rackham, 'Observations on the historical ecology of Boeotia', *BSA* lxxviii (1983) 291-351.

[39] Osborne 224 n. 82; R. Osborne, *Classical landscape with figures* (London 1987) 46.

[40] S. Hodkinson, 'Animal husbandry in the Greek polis', *Pastoral economies in Classical Antiquity*, C. R. Whittaker ed. (Cambridge 1988) 51-57.

[41] After the war the boundaries of the Pelargikon were reestablished, altar building was restricted, and the cutting and removal of stones and earth were prohibited, ML 73.54-9. The earth may well have been taken as the litter for nightsoil, on which see E. J. Owens, 'The ΚΟΠΡΟΛΟΓΟΙ at Athens', *CQ* xxxiii (1983) 44-50.

city to house the substantial numbers of metics that the author of the *Poroi* wanted to encourage into Attike (2.6). The Academy was another open public space in the suburbs, so to speak[42], and the sanctuary at Kolonos at which Oidipous stopped and Delium were both, like those in the city mentioned by Thukydides, places which were not to be occupied[43]. Rural sanctuaries often had 'parking space' nearby, open land which could be used for overnight camping by armies and tinkers as well as pilgrims[44].

2.4.2. Τεμένη did not constitute a separate 'sacred' category and the so-called 'temple estates' were the property of the group which owned the temple, if there was a temple. And as Whitehead pointed out, 'there was undeniably a degree of interchangeability, to say the least, in deme leases between the terms τέμενος and χωρίον . . . and probably a deme's communal land was indeed mainly, sometimes even wholly, of this 'sacred' type'[45]. *Genos* supervision of certain *temene*[46] may be an historical development from Homeric practice and before that Mycenaean practice, but administration is not equivalent to possession[47]. Until the machinery of government is sufficiently developed to employ officials and public servants, any public property or public service cannot be administered or undertaken except by private individuals acting on behalf of the people[48]; this long continued to be the case with, for example, the collection of taxes and the prosecution of criminals.

Osborne has argued that a considerable amount of public land was leased out to individuals, and that this was not peculiar to Athens: 'in all the cities examined [Athens, Thespiai, Delos and Karthaia] property leasing was financially of very great importance. Wherever it is possible to make an estimate, property leasing is found to be going on on a very large scale, involving significant proportions of the total agricultural land in a city and the transfer from lessee to lessor of large amounts of cash'[49]. With respect to Athens Osborne suggested that the transactions recorded in the ἑκατοστaί inscriptions (early fourth century) might have arisen as part of a state policy to encourage the demes to

[42] J. P. Lynch, 'Hipparchos' wall in the Academy at Athens', *Stud. Pres. Sterling Dow* (n.36) 173-9, esp. p. 175.

[43] Kolonos: Soph. *Oid. Kol.* 39, see also 155-63, 1265-7. Delium: Thuk. iv 97.2-3.

[44] Jordan and Perlin (n. 36) 153-6.

[45] Whitehead 153 n. 21 and references there; see also W. R. Connor, 'Sacred and secular', *Ancient Society* xix (1988) 161-88. More generally see Finley (n. 31) 95, 97 and n. 45, and Harrison (i) 234f. Lewis confined himself to public property specifically designated as *demosia* and excluded *hiera* in his very useful account of 'Public property in the city', chap. 10 in *The Greek city* edd. O. Murray and S. Price (Oxford 1990): he himself seems to regret this decision, p. 259f. Note his comments on p. 259, 'Although the Athenians drew their distinction between *demosia* and *hiera*...I do not think that we can rationally support their attitude. It was they themselves, after all, who decided that Athena was going to make the loan. Similarly, the emphasis I have laid on the fact that Athens rarely retained land for leasing ceases to be very meaningful when we consider that there was sacred land at Athens which was leased on the instructions of the Assembly by public officials.'

[46] E.g. the Kerukes and Eumolpidai of Eleusis.

[47] The famous speech by Sarpedon, *Iliad* xii 310-21, strongly implies that the leaders' *temenos* — comprising orchards, vineyards and arable (313 *sq.*)—was a gift of the community at large, and was an honour which could be withdrawn if unearned, W. Donlan, 'Reciprocities in Homer', *CW* lxxv (1981/2) 137-75; see also T. E. Rihll, 'The power of the Homeric βασιλεῖς', in *Homer '87* (Liverpool 1991 to appear). Similarly individual holding of land in Mycenaean Greece should not be confused with private property because of the sociopolitical character of land holding, as E. M. Wood points out, *Peasant, citizen and slave* (London and New York 1988) 85. An allocation of land came with an office, status or occupation and was held on condition that the individual provided appropriate services or goods.

[48] See e.g. AP 39.2 on Eleusis, and 57.1 on the other (popularly elected and *ex-officio*) *epimeletai* of Eleusis. Such a change from private citizen to paid official is detailed for the organisation of the Great Dionysia in AP 56.4; the first known individual (who actually failed to win election) is dated 349/8, R. Develin, *Athenian officials* (Oxford 1989) 350, but this does not tell us much about the age of the office—the first known *thesmothetes* is 444/3, yet that office apparently predates Drakon and there were six of them each year.

[49] R. Osborne, 'Social and economic implications of the leasing of land and property in Classical and Hellenistic Greece', *Chiron* xviii (1988) 279-323, quote from 323.

lease out more land[50]. Lewis believed a financial motive to be more likely, to raise money for the state, though precisely how remains obscure[51]. He further suggested that the land sold off or leased out by demes, cults and other public associations on this one occasion amounted to some 200-300 talents' worth, and that this probably does not represent the full value of the land in question[52]. There is nothing to suggest that it represents all the land held at this date by public associations[53]. The rents for leased deme holdings in the classical period are relatively low[54], and the land held by them was not insignificant in total acreage[55]. Ignorance of the precise articulation of polis and demes which is implied in the *hekatostai* inscriptions should not, however, overshadow the fact that in any particular deme some public spaces and buildings may have been considered and administered as the property of the demesmen and therefore subject to different rules from those which obtained over polis property[56].

The extant leases of publicly controlled property concern only that portion which was considered to be publicly dispensable (but not disposable), privately manageable, and chargeable—property for the private use of which payment was due. Therefore leased property is a definable subset of publicly controlled property, whether the 'public' in question was the whole citizenry, i.e. the polis, or some subunit of it, e.g. the demesmen of a deme. Moreover, the terms of definition (publicly dispensable; privately manageable; chargeable) may apply to different properties at different times. A property once thought unsuitable for leasing may later be considered suitable, and vice versa[57]. Therefore publicly controlled land was almost certainly more extensive than the evidence of the extant leases would suggest. How much more extensive is difficult to assess. Several scholars are working on this and my impression is that it gets more extensive with each publication![58]

2.4.3. Since the Greeks seem not to have distinguished as separate entities a building and the land on which it stood, ownership of a building presupposes ownership of the land underneath it[59]. All public constructions and constructed space, therefore, stood on public land. Amongst the public buildings were the bouleterion, dikasteria, docks, forts, fountains, prison, ship-sheds, walls and wells. The polis also built and owned houses, warehouses and furnaces in the city and the countryside[60]. A board of ten were

[50] Osborne 230 nn. 43, 51. See also the series of inscriptions discussed by M. B. Walbank, 'Leases of sacred properties in Attica', *Hesperia* lii (1983) 100-135 (Part I), 177-231 (Parts II-IV), and his comments on them pp. 100, 220-2, 225-30.

[51] D. M. Lewis, 'The Athenian Rationes Centesimarum', in M. I. Finley, ed., *Problèmes de la terre en Grèce ancienne* (Paris and The Hague 1973) 197.

[52] Elsewhere we find, for example, that Byzantium sold off (minor) religious spaces and ancestral cults, which were snapped up by neighbouring property owners, whilst the dispossessed celebrants were assigned public lands (χωρία τὰ δημόσια) such as those around the agora, harbour and gymnasia (*c* 390 BC), [Aristotle] *Oik.* 1346b13-18.

[53] Lewis (n. 51) 198, Osborne 56-9.

[54] Often of the order of 8% of the value of the property, Osborne 57, see also Osborne (n. 49) 285 n. 21; but in one known instance it was (and in others it may have been) 12%, Walbank (n. 50) 215f.

[55] Whitehead 152f, 155.

[56] The agora in Sounion, for example, seems to have become seriously overbuilt by the mid-fourth century, and a new one was given to the deme by one of its members, *IG* ii² 1180; see Osborne (n. 39 [*CL*]) 79 for discussion.

[57] For example, a quarry in Eleusis (the property of the demesmen) was leased for the first time in 332/1, although it had almost certainly been worked before, since it is referred to as a quarry, *SEG* xxviii 103. The honouring of the man who suggested leasing it is most easily explained if the novelty lie not in the abstract idea of leasing, which is unsustainable at this late date, but in the idea of leasing this particular property. See Osborne 104f for a discussion of the problem.

[58] *Cf.* Walbank (n.50) and Osborne (n.49). See Lewis (n.45) for urban land and other types of public property. The 10% set aside for the gods on Lesbos (Thuk. iii 50.2) is not, I suspect, representative—the (is)land was acquired in war, and the 10% is effectively *dekate*, tenth-part of the spoils for the gods.

[59] See Finley (n.31) 61 with Harrison (i) 202.

[60] AP 52.1, Aristotle *Pol.* 1321b19-27, [Xen.] *Poroi* 3.12, 4.35-6, 49, and the obscure reference to public buildings in AP 46.2.

responsible for the maintenance and repair of temples owned by the polis[61]. There was a considerable quantity of public land and buildings in area round the Peiraieus harbour[62]. The pnyx seems to have been unbounded until the late fifth-early fourth century[63] but I think we may assume that the hillside here was public property right up to the city wall, given that hitherto *ekklesiastai* might sit anywhere in this area. Much of what became the agora in Athens was cleared and surfaced and made a public space early in the sixth century, perhaps in the time of Solon. The series of *horoi* announcing the boundaries of the agora are late archaic. Existing streets were an important element in this development[64].

2.4.4. Which brings us finally to communications networks, again marked by *horoi*. *Astunomoi* were responsible for the safety and sanitation of streets in the city, while *hodopoioi* were responsible for their maintenance and repair, and *agronomoi* were responsible for roads in Attike[65]. There were also bridle-paths in hill country[66], and, alongside the road to Athens, public places and sacred parks which Oidipous, for example, had expected to find[67].

Public property appears in one of the first sources to break the long silence of the Dark Age[68]. More particularly for this argument, Solon refers to it: *fr.* 4.12. The evidence is quite inadequate to suggest what proportion of Attike might have been public land at that time. However, if the extensive and varied landholding by the classical polis illustrated above is not to be explained generally by reference to group control over resources, as what was allocated for public use and what was left over for public use after allocation to individual members, then it remains to be explained how the polis acquired that land in the intervening years.

III. Law

The extent to which law and the legal system had developed by Solon's time is debatable. Many scholars tend to the view that it was nugatory, but the absence of evidence on Drakon's laws, bar the homicide law, has much to do with this. However, Hansen has demonstrated, to my satisfaction at least, that 'the reconstructed development of the law of Athens [from Drakon to Demosthenes, in the standard textbooks on the subject] is pure fantasy'[69]. The administration of justice, at least with respect to homicide and crimes against property (which he examined in detail), was almost unchanged from the seventh to the fourth centuries.

Hansen bows to the textbook orthodoxy on one small issue: the idea that there was a development in the meaning of *atimia* from 'archaic outlawry to the classical forfeiture of all rights' (p.118). Of this I am not persuaded. The putative difference between

[61] AP 50.1, see also Aristotle *Pol.* 1231b20-21. The number (ten) should be seen in the context of the ten *phulai* rather than that of the workload: one board member per *phule*.

[62] See Lewis (n.45) 250f.

[63] See M. H. Hansen, 'The construction of Pnyx II and the introduction of assembly pay', *C&M* xlvii (1986) 89-98.

[64] *Agora* xiv, esp. 16, 19. This area had been a cemetery; we may assume cemeteries to have been common property. Burial within the city stopped *c.*500 BC and was unusual from *c.*600, R. E. Wycherley, *The stones of Athens* (Princeton 1978) 253.

[65] AP 50.2, 54.1, Aristotle *Pol.* 1321b20-1. See also [Aristotle] *Oik.* 1347a4-7 on Hippias' sale of anything projecting into or over public streets.

[66] Dem. lv (Kall) 10.

[67] Soph. *Oid. Kol.* 10.

[68] Homer *Od.* xx 264f, see also n.47 above. For outside Attike see e.g. ML no. 5.33; no. 13.3, and the late but very interesting Heraklea tablets, R. Dareste, B. Haussoullier, T. Reinach, *Receuil des inscriptions juridiques grecques* ii (Paris 1892) no. 12, on which see also Métraux (n.36) 59-75.

[69] Hansen 113; see also his discussion pp.113-118.

archaic and classical *atimia* reduces to whether one could or could not kill an *atimos* with impunity; whether one ran the risk of a δίκη φόνου being brought by any *epitimoi* relatives of the dead *atimos* (p.75). The orthodoxy is that in the archaic period one did not run this risk whereas in the classical period one did. But there is no known instance of such a charge brought against an *atimos* killer. Consequently to support this hypothetical development from impunity to liability its proponents have had to cite indirect evidence. So Hansen, whose treatment of such evidence is the most thorough and critical, compares the archaic laws in Demosthenes xxiii [Aristok] 62 and xxi [Meid] 113 with Demosthenes xxiii 44, and concludes that the archaic *atimos* must be someone 'who is totally unprotected and whom anyone can assault and probably kill with impunity' (p.78). The extension from assault to murder, whether 'probable' or not, is unjustified: the comparison draws on passages concerning property, and while property can be assaulted, it cannot be killed. Since the crux of the supposed development concerns killing rather than assaulting the *atimos*, the laws in Demosthenes xxi and xxiii are irrelevant. Hansen also cites Solon's amnesty law[70], but this cannot be used to prove that *atimia* was more severe in Solon's time either. Overconcentration on those *atimoi* who were *excluded* from the amnesty, namely those who were in exile after conviction for murder, manslaughter or attempting to establish a tyranny, has led to oversight (by all scholars whose work is known to me) of those *atimoi whom the amnesty was intended to benefit*. Logically this could be people who were convicted of other crimes and were in exile, or convicted criminals who were not in exile. There is no way of telling from this text whether *atimia* necessitated exile. We will return to this amnesty law below.

Sealey, who also fails to notice this and consequently assumes that all *atimoi* are exiles[71], adduces as supplementary evidence of this supposed change Demosthenes ix [Phil. iii] 42, 44; AP. 16.10; AP 8.5; and Lysias xxxi [Phil] 27-28. The first three had already and rightly been dismissed by Hansen because in the first two cases *atimos* is supplemented by πολέμιος (enemy) and τεθνάτω (doomed, 'a dead man') respectively, and in the third because it actually denies the hypothesis of the mollification of *atimia* on straightforward reading: 'it should be noted that at that time [mid-late sixth century] their laws on tyranny were very mild, especially the law concerning the establishment of a tyranny, for it reads thus . . . he shall be *atimos*' (AP 16.10). It is only modern belief that archaic penalties were more severe than classical which prompts and supports the interpretation that AP misunderstood a supposedly more harsh archaic *atimia* for a supposedly more mild classical *atimia* as the penalty for attempting to set up a tyranny; such an interpretation assumes what requires to be proved[72]. The fourth is Solon's[?] stasis law, the authenticity of which is debated[73]. However, a literal interpretation of the 'placing of arms' is not, *contra* Sealey, 'only likely on the assumption that as late as the time of Solon Athenians habitually bore arms to the assembly' (p. 102), for the law concerns exceptional crises, such as the Kylonian affair[74], not 'habitual' practice. And

[70] *Apud* Plutarch Sol. 19.4; Ruschenbusch F 70. Quoted below p.121.

[71] R. Sealey, 'How citizenship and the city began', *AJAH* viii (1983 [1987]) 99 § 1.1.

[72] Likewise the modern idea that although all ancient sources (with the single exception of Pollux ix 61) say that the only penalties allowed by Drakon were death or *atimia*, there was only one penalty, because the ancients have misunderstood archaic *atimia*, which the moderns think is tantamount to the death penalty for all persons so condemned, for supposedly mild classical *atimia*.

[73] Ruschenbusch F 38a. Recently, for: J. A. Goldstein, 'Solon's law for an activist citizenry', *Hist.* xxi (1972) 538-45, V. Bers, 'Solon's law forbidding neutrality', *Hist.* xxiv (1975) 493-8, R. Develin, 'Solon's law on stasis', *Hist.* xxvi (1977) 507-8, P. B. Manville, 'Solon's law of stasis', *TAPA* cx (1980) 213-21, Rhodes 157f. Against: Hansen 78 and n.22, K. von Fritz, 'Nochmals das solonische Gesetz gegen Neutralität', *Hist.* xxvi (1977) 245-7, Sealey (n.71) 105, E. David, 'Solon, neutrality and partisan literature', *MH* xli (1984) 129-38, C. P. Longo, 'Sulla legge 'Soloniana' contro la neutralità', *Hist.* xxxvii (1988) 374-9.

[74] At which Sealey admits the bearing of arms by the parties concerned.

the fifth is inconclusive, as Sealey himself admits. The idea that *atimia* in the archaic period meant outlawry is not proved by the evidence cited to support it.

Related to but separate from the question of legal recognition of crime and punishment is the question of enforcement of the laws. Hansen argued that magistrates enforced capital punishment at the time of Solon (pp.116-7), citing three pieces of evidence: (i) Drakon's homicide law, which involved the procedures of both ἀπαγωγή (arrest) and ἔνδειξις (denunciation)[75]. The alternative procedures, and in particular the surrender of the homicide to the magistrates, would be pointless unless the magistrates (in this case the Ephetai) did not only pronounce on the guilt or innocence of the accused, but also ordered the execution of the offender[76]. We may add that Drakon's law dealt adequately with the matter of homicide even when republished at the end of the fifth century, when no-one denies that execution was carried out by magistrates. (ii) The mass grave discovered at Old Phaleron of 17 skeletons with iron clamps around neck, wrists and ankles, which implies execution by ἀποτυμπανισμός (fixed to a stake, denied water or food and left to die) and therefore by magistrates[77]. (iii) The five days and nights in the stocks as a discretionary penalty in addition to a fine which the Solonian *heliaia* might impose on a convicted thief[78], which is best understood as a weakened form of *apotumpanismos*.

As the last demonstrates, it was not only capital punishment which was enforced by magistrates. Wider, more general involvement by magistrates in the enforcement and execution of law is suggested also by Solon's statement that he pushed through his reforms combining *force* and justice: ταῦτα μὲν κράτει | ὁμοῦ βίην τε καὶ δίκην ξυναρμόσας | ἔρεξα (36.15-17). We know from this and other of his poems that the force in question was not supplied by either of the two main groups between whom he was mediating[79], nor was it whatever sort of force a tyrant would employ (*fr.* 32). There are also his references to convictions in courts (amnesty law), to fetters (*fr.* 4.33), and to legal and illegal enslavement (*fr.* 36.8-10). And since magistrates were the Athenian people's leaders, their power is also suggested in Solon's comments on ἡγεμόνες[80]. And finally we may deduce that Drakon's laws mattered, that they were enforceable and enforced, from the following series of events: (i) a second lawgiver was appointed within a generation of Drakon; (ii) he did not merely modify or supplement Drakon's laws, but with one exception he repealed them; (iii) Drakon and his other laws were consigned to near oblivion. This is consistent with AP's assertion that it was the unjust constitution, i.e. Drakon's laws, which motivated the crisis (2.3). We may reasonably conclude that early Athenian law had teeth, and dealt with matters of public interest, behaviour affecting the community as a whole, such as attempting to establish a tyranny, as well as private matters, such as murder (which was also a public matter in so far as it involved religious pollution).

Solon frequently describes situations as ἀδίκως or ἐκδίκως. This suggests that Drakon's laws, under which the Athenians had been living for about 25 years, were unjust or inadequate. Inadequacy could arise in a number of ways, which can all be reduced to incompleteness: gaps, through which victims fall and wrongdoers escape.

[75] Assuming that Dem. xxiii [Arist] is accurate; the restoration of the inscription assumes that it is, R. S. Stroud, *Drakon's law on homicide* (Berkeley 1968); ML no. 86.

[76] See also Stroud (last note) 46-49.

[77] This explanation of the archaeological evidence was suggested by L. Gernet, 'Sur l'exécution capitale', *REG* xxxvii (1924) 261-79. Sealey's attempt (n.71) 110f to explain this in purely self-help terms might be plausible if he could explain why the relatives who supposedly rescued the corpses did not detach their bonds before burial. See also n.72 above; the ancients believed that Drakon imposed the death penalty.

[78] Dem. xxiv [Tim] 105; Lys. x [Theo] 16.

[79] E.g. *frr.* 5, 6, 34, 36.20-27, 37.

[80] *Frr.* 4, 6. *Cf.* ἡγεμονίας δικαστηρίων, e.g. Aiskhines iii [Ktes] 14, 27, 29 &c., Dein. i [Dem] 40, 72, 74. For judicial development at about this time outside Attike see ML no. 8.

One of the most important laws in any state is the provision for judging the judges. In *fr.* 4, written before his reforms, Solon tells the Athenians that *eunomia* would stop many of the bad things, and in particular would *euthunei* bent decisions:

Εὐνομίη δ' εὔκοσμα καὶ ἄρτια πάντ' ἀποφαίνει,
καὶ θαμὰ τοῖς ἀδίκοις ἀμφιτίθησι πέδας·
τραχέα λειαίνει, παύει κόρον, ὕβριν ἀμαυροῖ,
αὐαίνει δ' ἄτης ἄνθεα φυόμενα,
εὐθύνει δὲ δίκας σκολιάς, ὑπερήφανά τ' ἔργα
πραΰνει· παύει δ' ἔργα διχοστασίης,
παύει δ' ἀργαλέης ἔριδος χόλον, ἔστι δ' ὑπ' αὐτῆς
πάντα κατ' ἀνθρώπους ἄρτια καὶ πινυτά (ll. 32-9).

In *fr.* 36, written after his reforms, he says that he drafted laws fixing *eutheian diken* for each: θεσμοὺς δ' ὁμοίως τῷ κακῷ τε κἀγαθῷ | εὐθεῖαν εἰς ἕκαστον ἁρμόσας δίκην | ἔγραψα[81]. The implication that hitherto there was some variation in the justice system is consistent with the corruption of magistrates implied not only in *fr.* 4[82], but also in *frr.* 4b, 4c, 9, 30, 33, 36 (esp. ll. 18-22), and 37[83], and this variation should be interpreted not as 'official', i.e. that hitherto there were different rules for different people, but as corrupt. We do not know whether, and if so how or how often, magistrates were subjected to a *euthune* before Solon. Aristotle says that Solon gave the demos the right to (elect and) call magistrates to account, εὐθύνειν[84]; AP does not use the term *euthune* or cognates, but says that the Areopagus watched over the magistrates (8.4). Whichever body Solon made responsible for the *euthune* of magistrates[85], a provision to allow the 'straightening' of their decisions is in keeping with the spirit and the word of Solon's *frr.* 4 and 36.

Finally we might briefly consider other early lawcodes. A law from Dreros c. 650-600 BC—possibly the earliest from the Greek world—condemns a *kosmos* who fails to allow ten years to elapse before assuming the office again to pay double whatever fines he imposed while illegally in tenure and to be ἄκρητος, useless, for life[86]. This probably means deprived of civic rights, *atimos*[87]. *Kosmoi* were examined after laying down their

[81] ll. 18-20. There is no justification for reading 'the nobles' or suchlike into *agathoi* and 'the unwashed masses' or suchlike into *kakoi*; no-one so reads *fr.* 15: πολλοὶ γὰρ πλουτέουσι κακοί, ἀγαθοὶ δὲ πένονται, 'many *kakoi* are rich and many *agathoi* are poor'. When Solon draws a contrast between the demos and its enemies he uses a variety of terms for the latter, such as οἳ δ' εἶχον δύναμιν καὶ χρήμασιν ἦσαν ἀγητοί (those who had power and were envied for wealth, *fr.* 5.3-4), ἡγεμόνες (leaders, *fr.* 6.1), and ὅσοι δὲ μείζους καὶ βίην ἀμείνονες (those who were greater and stronger, *fr.* 37.4), but he does not call them ἀγαθοί. The ἀγαθοί of *frr.* 36 and 15 and the ἐσθλοί of *fr.* 34 are contrasted with κακοί, not *demos*. He nowhere contrasts *demos* with *agathoi* or *esthloi* , or contrasts *kakoi* with the powerful and wealthy or the leaders or the greater and stronger. Therefore it is unjustified to equate *agathoi/esthloi* with powerful/ wealthy/ greater/ stronger/ leaders, and *kakoi* with demos. See also Lewis' (n.45) Appendix on Liddell & Scott s.v. δῆμος and on Whitehead's Appendix 1.

[82] And in the poem's context: Demosthenes' attack on Aiskhines for corruption while ambassador, xix [Pres] esp. 255.

[83] See also Hesiod's complaint about bent judges, *W&D* 220 *sq.*

[84] *Pol.* 1274a15-17 and 1281b32-34.

[85] *Cf.* M. Ostwald, *From popular sovereignty to the sovereignty of law* (Berkeley, Los Angeles, London 1986) 12-14 (Areopagus) and R. W. Wallace, *The Areopagus Council to 307 BC* (Baltimore 1985, 1989) 53f (demos); Wallace is surely correct.

[86] ML no. 2. Presumably here as elsewhere in Krete, the *kosmoi* were the chief magistrates.

[87] It is pushing the literal meaning of 'useless' too far to suggest that the *atimia* is specifically confined to office holding; χρή (impers.) means fated, necessary; χρῆμα something that one uses or needs; χρήματα means money, goods, property, chattels. The association between these ideas and slavery is close in the elements of compulsion, of fate, of use, and of possession; consequently the Tegeans' pledge to the Spartans not χρηστοὺς ποιεῖν the Messenians may have been a promise not to make them practically useful, i.e. slaves, rather than, as Jacoby suggested, 'ΧΡΗΣΤΟΥΣ ΠΟΙΕΙΝ', *CQ* xxxviii (1944) 15-16, politically useful, i.e. citizens. More generally on this phrase, all the evidence we

office, and if found guilty of misconduct they were liable to fines from the date the offence occurred and not from the date they stood down from the post[88].

In one section of the Gortyn code dealing with cases involving persons who have died since appearing successfully in earlier suits, it is specified that the judge and remembrancer from the earlier suit are to testify if they are still alive and *if they are still citizens* (πολιατεύει)[89]. Willetts comments *ad. loc.* that the judge or remembrancer might have 'become *atimos* either through debt or misfortune. *It is worth pointing out that atimia is regarded, like death, as a normal hazard and can hardly have been a rare occurrence*'[90]. The same risk of incurring *atimia* is apparent in the Spensithios Decree, from an unknown Kretan polis, which has been explained by C. E. Gorlin[91] as an attempt to ensure that the polis would not lose its (hereditary) scribe and remembrancer by exempting him (and his heirs) from taxes and by providing him (and his heirs) with the meat contribution required for his *andreion*[92]. We note from these three cases that (i) abuse of the powers of high office is anticipated; (ii) occupants of high office could become *atimoi*; (iii) social mobility from top to bottom of the heap was possible. The Kretans enjoyed a high reputation for their laws; perhaps their early established checks on magistrates contributed to this.

To be *atimos* was to be alone outside one's oikos: to be excluded from the give and take of living in a community, not allowed to participate in public affairs, and to be denied help from the community. It follows that one could not be *atimos* vis-à-vis one individual or oikos: *atimia*, exclusion and indifference, was effective only if it was public. And even if one does not want to go as far as to believe that *atimia* could be handed down only by a formal public assembly of some description, one has surely to accept that public support was required for the declaration of *atimia* to be effective. Appropriately then in classical times, while *atimia* covered a multitude of sins, it was primarily a punishment for public offences, and particularly for offences of omission—failure to act, to the detriment of the community[93]. In contrast, *atimia* was never proposed as a penalty in those cases—including some private cases—where the penalty was not fixed. Other sources 'seem to prove that the law did not permit such a proposal'[94]. If *atimia* in the early days was a relationship between individuals, if someone was *atimos* vis-à-vis another someone, then it remains to be explained how such a sea-change in attitudes is supposed to have come about.

IV. Reconstruction of the cause and the solution of the Solonian crisis

4.1 Before Drakon[95]

The emergence of the polis of the Athenians as a self-conscious single unit may be considered to be the result of a transition from a jural community of small sovereignties

have suggests that Greek poleis were not wont to make foreigners citizens, and were wont to enslave them.

[88] *Kosmoi* were immune from litigation during their term of office, perhaps to prevent them becoming 'useless' and having to resign the post; see R. F. Willetts, *Aristocratic society in ancient Crete* (London 1955) 167-9.

[89] R. F. Willetts, ed., *The law code of Gortyn* (Berlin 1967) col. ix 31-37.

[90] *Ibid.* 74, my emphasis.

[91] *ZPE* lxxiv (1988) 159-65.

[92] Membership of which was essential for citizen status, as of *sussitia* in Sparta, on which see S. Hodkinson, 'Social order', *Chiron* xiii (1983) 251-4. Spensithios received the income from several *temene*.

[93] For example, avoiding military service, failing to act as arbitrator, or non-payment of debts to the polis or the gods.

[94] Hansen 1976, 67, on Plato *Apol.* 37a-c, and Dem. xxv [Aristog] 92.

[95] This subsection is necessarily very speculative and therefore has been kept short and vague.

to a large sovereignty[96]. Initially there would have been minimal, if any, tampering with current organisation: the aim would have been to strengthen existing ties and loyalties, not to break them apart. As Starr reminds us, 'the picture of a harmonious, united Athenian citizenry scarcely corresponds to the reality of factionalism and local attachments down into the sixth century[97]. As each group had hitherto been a sovereignty, it is very probable that most matters arising in a particular territory were considered to come under the jurisdiction of the group inhabiting it. The development of the infrastructure necessary to central control was an extremely slow process which even in the fourth century depended heavily on deme personnel acting for the centre in the deme, and for the demesmen in the centre[98].

There may have been a considerable amount of vacant land around and between settlements at this time. It seems most improbable that such land would have been allocated to one or another group. Hitherto any individual or group could have occupied vacant land simply by expanding on to it, therefore what was currently vacant was so because nobody required or desired it. There would be no reason at this time to partition it artificially and allocate it to different groups. Vacant land was more likely to have been considered (if it was considered at all) to belong to everybody: it was common land to which all members of the infant polis had rights of access and use.

For whatever reasons[99] the pressure on *convenient* and *appropriate* land increased. Common land around a settlement began to be overexploited, built upon, dug out, deforested, or appropriated by members of its community, whilst at the same time the whole community's demands on that common land for various purposes—for example, foraging, hunting, pasturing, recreation, and meeting for social, religious or political reasons—continued, or more probably intensified. The situation deteriorated further. Kylon attempted unsuccessfully to establish a tyranny. Drakon was appointed lawgiver.

4.2 Drakon's legislation

I suggest that, amongst other things, Drakon attempted to resolve the conflicting claims on common land. As interests in and users of land multiply, rules are needed, and are formulated, to define more precisely the users' rights, duties, and privileges[100], I suggest that Drakon tried to find a compromise between everyone's right to uncultivated land for gathering, hunting, etc, and anyone's claim to as much cultivable land as they needed, or thought they needed, to live. And all this land, of course, had to be within a reasonable distance from where people lived. I shall first outline my ideas on his solution to this problem (4.2.1) and then attempt to justify the individual ideas point by point (4.2.2).

[96] See F. Gearing, 'Sovereignties and jural communities in political evolution', *Essays on the problem of tribe*, J. Helm, ed. (Seattle and London 1968) 111-19. A jural community is a group of sovereignties whose interrelations are governed by some form of law; there are established procedures for the resolution of disputes between members and limits to the level of force or violence employed in obtaining satisfaction, for example. Disputes with groups outside a jural community are handled through war, without the constraints prevailing inside the community. It seems to me that the theoretically problematic *ethnos* might be profitably considered in terms of a jural community.

[97] C. G. Starr, *Individual and Community* (Oxford 1986) 48.

[98] Whitehead, chapters 5 and 9.

[99] For example, and with varying degrees of probability: population growth; expansion of agricultural operations, plant or animal; expansion of clay, mineral or metal extraction and processing; expansion of craft production; expansion of timber felling and processing; any other development which has been or can be associated with the transformation of Greek society in general and Athenian society in particular between the Dark Age and *c.*650 BC.

[100] For comparative evidence see e.g. Carlston 417, and 184f, 188 on the Yoruba.

4.2.1 Drakon's solution

Individuals could have exclusive rights to plots of public land. They could enjoy most of the fruits of their labour on that land, but they would surrender 1/6th[101] to the community in return for their private use of it: the community would enjoy a portion of the produce from the land. The natural occasion for this would have been at the appropriate harvest times—the sixth-parters would supply common feasts[102]. The land would still be public property and its status would be safeguarded by the erection of *horoi*. The sixth-part would be safeguarded through sureties, taken on the person of the sixth-parter or his dependants. This would discourage default on the return, or rent in arrears. And as he was indebted to, and therefore not an equal member of, the community, the sixth-parter would be excluded from participation in public affairs. This would discourage unnecessary applications for plots of public land; greed would be tempered by this sanction[103]. The individual could keep using the plot as long as he observed the conditions, and the conditions applied as long as he occupied the plot.

4.2.2 Justification of the model of Drakon's solution

Legislation. In addition to the general comments on early law made in section 3 above, in support of the idea that Drakon legislated on—invented, if you will—*hektemoroi*, I would draw attention to the facts that: (i) *Hektemoros* status was standardised across the country. It would appear that everyone who became a *hektemoros* was bound to pay over the *same* nominal proportion of the produce of the land he worked to whoever controlled the land in question[104]. (ii) The name *hektemoros* suggests a conscious signification, not a gradual evolution[105]. (iii) According to AP the *hektemoroi* or their dependants could *legally* be sold into slavery if they failed to pay their rent (2.2).

Sixth-parts. (i) This is based of course on the tradition which has come down to us, according to which it was people called *hektemoroi* (sixth-parters) who suffered most in the crisis. (ii) In the classical period income from leased properties frequently went to cover cult (and to a lesser extent administrative) expenses, of which the largest proportion was sacrifices, which were communal feasts—collective consumption of agricultural produce[106]. It is surely reasonable to suppose that the cash rent usually demanded in the fifth and fourth centuries[107], which was then used to purchase the produce or livestock sacrificed and eaten in the cult ritual, was preceded in the pre-coinage period by a tithe; rent paid directly in produce.

[101] I think this has to be understood as a fixed amount, so many measures, since if the portion had been relative to the harvest from the land in any particular year and place, then default would have been very difficult to establish. Later Athenian understanding (or rather, lack of understanding) of capital, return, productivity etc. reinforces this argument.

[102] *Cf.* Solon *fr.* 4.9 sq read literally rather than metaphorically. Entries by two late lexicographers may be relevant here: according to Pollux ἐπίμορτος γῆ was a technical term for land worked on condition that part of the produce (the *morte*) was surrendered to others. It referred to a system of land tenure of some kind, operating on some portion of the territory (since it is distinguished from 'ordinary' land). He goes on to say (vii.151) that this phrase occurred παρὰ Σόλωνι, but it is not mentioned in his extant fragments. Hesychius adds that it was arable land, and connects it with *hektemoroi* (s.v. ἐπίμορτος). Both sources conveniently in A. Martina, *Solone* (Rome 1968) 145 no. 296.

[103] *Cf.* Solon *fr.* 4a. I suspect that some of the problems were caused by selective flouting of this legislation by those responsible for executing it and those with the power to allocate land; see F. Cassola, 'Solone, la terre e gli ectemoroi', *PdP* xix (1964) 26-68.

[104] *Cf.* H. Ando, 'A study of servile peasantry of Ancient Greece: centering around hectemoroi of Athens', *Forms of control and subordination in antiquity*, T. Yuge and M. Doi, edd. (Tokyo 1988) 323-30, esp. 325. I am indebted to Professor Snodgrass for sending me a copy of this stimulating paper.

[105] As Rhodes 137 and Lévêque (in Welskopf [n.3] 117) also note. *Cf. pentakosiomedimnoi* as opposed to *hippeis, zeugitai* and *thetes.*

[106] See H. W. Parke, *Festivals of the Athenians*[2] (London 1986) 18f.

[107] Even in the fourth century some leases still demanded the surrender of a portion of the produce, see Walbank (n.50) 217.

Horoi. (i) Horoi were later used to demarcate public areas; they are rarely datable, but some fifth century examples were cited above (§ 2.4.3). In the fourth century they were also used to mark private land which was encumbered. In all instances *horoi* gave notice that the rights to the property did not lie fully with the occupant (if any). Their erection presupposes a desire to protect some interest, and their removal signifies a cessation or relinquishment of that interest.

Sureties. (i) I have argued elsewhere[108] that Solon *frr.* 9-11 refer not to Peisistratos but to Drakon; consequently that *fr.* 11 suggests that Drakon's legislation on some matter(s) involved the giving of guarantees in the form of sureties or 'hostages'—ῥύσια, the variant where most editors prefer ῥύματα. (ii) In later times both the polis and individuals (and groups of individuals such as the demes) could demand sureties on a loan. In the event of default the polis' exaction of the debt involved declaring the debtor (and his sureties, if any) *atimos*, in addition to levying fines, confiscating property and imprisonment in some cases[109]. Individuals, however, could only seize or secure the property of the debtor (and his sureties, if any); they could not declare him *atimos*. The polis stopped short of selling the debtor to recoup the loan—apparently Solon had forbidden that—but it came as close as it could, and that was a lot closer than individuals were ever allowed to go.

Leasing. (i) Some of the extensive evidence for leasing of public property in later periods has been discussed above (§ 2.4.2). (ii) There is mention of leasing of property in the earliest surviving Athenian decree[110], but it is not clear whether the property in question was public or private. There is in the same decree mention of the Treasury, but again it is not clear whether rent from leasing land, or fines for leasing land, are to be paid into it.

Exclusion. It has been suggested above that the *hektemoroi* were *atimoi*—excluded from participation in public affairs. In support of this idea I would draw attention to the following: (i) According to AP the *hektemoroi* had 'no part, so to speak, in anything' (2.3). That is a fair summary of the position of *atimoi*. (ii) Apart from the legality of enslavement for debt, the difference between what is proposed in the reconstruction above and classical practice (as currently understood) regarding public debtors is the suggestion that sixth-parters were considered to be debtors and subject to *atimia before* defaulting. I have two points to make in support of this.

First, all scholars seem to be in agreement that the *hektemoroi* had a rough deal: that they had no voice in what passed for 'politics' at the time, and that they were subject to awful penalties if they defaulted on their rent/debt repayment. I am not suggesting any harsher conditions: I am merely providing a formal, legal justification for those conditions, and simultaneously suggesting why Drakon gave his name to ferocious laws. One has also to bear constantly in mind the fact that the system, however one conceives it, brought the polis to a state of crisis[111]: it was perceived to be an extremely bad

[108] T. E. Rihll, 'Lawgivers and tyrants: Solon *frr.* 9-11 W', *CQ* xxxix (1989) 277-86.

[109] Finley (n.31) 91, MacDowell 142. But see further below, § *Exclusion*. It is in this context, rather than in the private context, that I think we should understand the third Delphic maxim: 'go surety and disaster will surely follow'.

[110] ML 14: ἔδοχσεν τοῖ δέμοι· τ[ὸς ἐ Σ]αλαμ[ῖνι ...8...] | οἰκῆν ἐᾶ Σαλαμῖνι [..5..]λεν [..7..'Αθένε]|σι τελῆν καὶ στρατ[εύεσθ]αι: τ[ὰ δ' ἐ Σαλαμῖνι μ]|ὲ μι[σθ]ῶν, ἐὰ μὲ | οἰκ[..7..]ο [. μισθόμενο.:ἐὰ]|ν δὲ μισθοῖ, ἀποτί[νεν τὸ μισθόμενον καὶ τὸ μ]|ισθῶντα hεκάτερο [ν.....19.....] | ἐς δεμόσιο[ν: ἐσπράτεν δὲ τὸν ἄ]|ρχο[ν]τα, ἐὰν [δὲ μέ, εὐθ]ύ[νεσθαι: τ]|ὰ δὲ [h]όπλα π[αρέχεσ]θα[ι αὐτὸς: τ]|ριά[κ]οντα: δρ[αχμῶν:] ho[πλισμένο] | ν δὲ [τ]ὸν ἄρχοντ[α τὰ hόπλα κρίν] | εν: [ἐπ]ὶ τῆς β[ο]λῆ[ς ... c. 11..]. *Cf.* Tod *GHI* no. 11.

[111] Why it should have done so at this time has never been explained by the proponents of the idea that it was an old, traditional system. In the model presented here the long term consequences of the system were foreseen by Solon at the time of its invention, and had become apparent to everyone after one generation. See further below.

system. The question has then been raised whether these conditions, namely what amounted to permanent *atimia*, would not deter anyone from taking on a public lease. I would think that they would deter some people—but that was, I suggest, the aim! On the reconstruction offered here hektemorage was a system invented in order to permit, but yet to limit, individual demands on convenient and appropriate common land. *Atimia* would not deter those who *really* needed or who *really* wanted more land, and who were (in some cases mistakenly) confident that they would be able to pay the rent. As I envisage it, Drakon's invention of hektemorage would have appeared, at the time it was proposed, to be a good idea: to allow those who really needed to cultivate common land to use it, to deter the greedy, and to compensate the community for whatever loss of common land they suffered. However bad the unforeseen consequences, I think one has to assume that the intentions were good. Solon seems to have been the only one at the time to foresee the disastrous long-term consequences this 'good idea' would generate[112]. In *fr.* 4a, written before his reforms, Solon speaks of land lying idle[113]:

γινώσκω, καὶ μοι φρενὸς ἔνδοθεν ἄλγεα κεῖται,
πρεσβυτάτην ἐσορῶν γαῖαν [Ἰ]αονίης
κλινομένην

I observe, and my heart is filled with grief, when I see the oldest Ionian land lying idle . . .

This suggests to me that one of those long-term consequences was that not only the risk of enslavement for default but also subjection to *atimia* was *too strong* a disincentive to leasing public land. AP, who preserves this fragment, adds that this poem was a material factor in the selection of Solon to rectify the situation (5.2). We must also consider this: if Solon abolished enslavement for debt, then he abolished a penalty for a crime. But crime itself cannot be abolished by decree (the best one can do is to redefine the action as not a crime), so we need not assume that he prohibited the *action* which had hitherto made the actor liable to classification as a criminal and therefore to punishment by that penalty. People probably went on doing whatever they had done before: Solon merely mollified the public or legal perception of that action. In later times people certainly leased public property; indeed, 'much the largest class of persons who were *atimoi* not by a decision of a court (or only indirectly so) were state debtors'[114].

Second, it is generally believed that in classical times lessees of public property were automatically subject to *atimia*, and to doubling or, in the case of sacred property, tenfold increase of the debt, and possibly to confiscation and sale of the debtor's private property (and that of his sureties, if any) to meet the compounded debt, and to imprisonment until the debt was paid, if, and only if, they had not paid the debt by the prescribed date. Apart from the fact that this implies immediate, multiple, and very severe punishment for a first offence[115], it is mistaken to think that those who had not yet defaulted were not and were not perceived to be in debt to the people; rent was paid in arrears. There is a linguistic distinction between those who owe money to the people

[112] See Rihll (n.108).

[113] Taking κλινομένην (West and others) rather than καινομένην (Kenyon and Rhodes) as making the best sense. Κλίνειν has a strong sense of 'reclining', 'laid down to/at rest', and here refers I suggest to land lying idle, rather than, for example, 'tottering', as K. von Fritz and E. Kapp translate, *Aristotle's Constitution of Athens and related texts* (New York 1966) *ad loc.*.

[114] Harrison (ii) 172. Another mollification of the situation might have been the level of rent: in the classical period it seems to hover around the 8% level (see n.54 above), whereas one-sixth is about 17%. The latter is not terribly harsh; assuming a modest yield of 700 kg of wheat per hectare, roughly 120 kg would have been required for the rent, leaving enough to feed three people for a year from a one hectare plot (yield ratios from Osborne [n.39 *CL*] 45).

[115] Whereas in other matters, for example giving false witness, the full force of the law descended only on those who offended repeatedly.

and those who have been registered as defaulting debtors: ὀφείλειν and the deceptively similar ὀφλεῖν, the aorist of ὀφλισκάνειν, respectively[116]. Ὀφείλειν looks forward in time to the settlement date: to owe, have to pay or account for. Ὀφλεῖν looks back to the settlement date: to owe, having defaulted or after conviction. Moreover, the *atimoi* who benefited from Patrokleides' amnesty included magistrates whose accounts had been challenged but whose trial was *pending*[117]. I suspect that confusion of these two different states has fuelled the debate over partial *atimia*, which is so often conducted on the basis of evidence to do with state debtors. But whatever might emerge from a detailed investigation into this particular matter in the sophisticated and sophistic legal texts of the fourth century, it would have little bearing on the suggestion that public debtors in the seventh century could have been subject to *atimia* from the moment they took on the lease, from which time they were on probation, so to speak, until the moment they relinquished it or defaulted on it, from which time they were either restored or seized[118].

Drakon's laws were remembered as being incredibly harsh, and Solon's solution of the crisis concerning land and debt was sufficiently thorough that nothing like a second *seisakhtheia* was required up to the fourth century and beyond.

4.3 Between Drakon and Solon

Solon's surviving poems record some of the factors which he perceived to be important either as causes or as symptoms of the crisis. Of those written before he came to power, fragment 4 is devoted to the subject:

ἡμετέρη δὲ πόλις κατὰ μὲν Διὸς οὔποτ' ὀλεῖται
  αἶσαν καὶ μακάρων θεῶν φρένας ἀθανάτων·
τοίη γὰρ μεγάθυμος ἐπίσκοπος ὀβριμοπάτρη
  Παλλὰς Ἀθηναίη χεῖρας ὕπερθεν ἔχει·
αὐτοὶ δὲ φθείρειν μεγάλην πόλιν ἀφραδίηισιν
  ἀστοὶ βούλονται χρήμασι πειθόμενοι,
δήμου θ' ἡγεμόνων ἄδικος νόος, οἷσιν ἑτοῖμον
  ὕβριος ἐκ μεγάλης ἄλγεα πολλὰ παθεῖν·
οὐ γὰρ ἐπίστανται κατέχειν κόρον οὐδὲ παρούσας

[116] *Cf.* e.g. Dem. xxiv [Timok] 50; Dem. lviii [Theok] 21, 49. See also Harrison (ii) 173-5.

[117] And. i [Myst] 78. According to Andokides' commentary on Patrokleides' Decree, those who were *atimoi* because they owed money to the people comprised: those magistrates condemned and fined at their *euthune*; those found guilty in an ejectment case (*dike exoules*) and thus in debt to the state to the value of the thing which they had wrongfully possessed; those who had brought a public lawsuit and had either withdrawn before the trial or failed to secure 20% of the vote (the anti-sykophant law); those condemned in court with an order to pay a fine; those who had bid for a public contract but had not paid in the money; and those who had given security (for some public loan or lease) to the treasury. It seems to me that the last two types are not cases of default on debts, but cases where the deadline for payment has not yet arrived. Andokides goes on to say that 'these were permitted to pay on or before the ninth prytany, and if they failed to do so they would be fined double and their property confiscated'. Those who had taken on public contracts or leases of public or sacred property and who were still within the time allowed for payment may have been considered to be on probation, so to speak. They were paying in arrears, and to that extent were indebted to the community. If lessees were already on the books as debtors (and therefore already *atimoi*) but not yet as *defaulting* debtors, the prescribed date for payment could be considered to be like the date for trial; if they had not paid by the required date (the ninth prytany) conviction was automatic, with immediate registration as a defaulting debtor and a fine of the value or a multiple of the value of the unpaid debt. This idea can be refuted by a single example of a person who was simultaneously a lessee of public property and definitely *epitimos*. I know of no such example.

[118] The distinction made by Plutarch *Solon* 13.3-5 between those who paid one sixth and those who were seized, of which Finley (n.6) 156f and Hammond (n.10) 130f made so much, refers then to solvent and insolvent debtors, rather than to two different types of debtor.

εὐφροσύνας κοσμεῖν δαιτὸς ἐν ἡσυχίηι
. . . . . .
πλουτέουσιν δ' ἀδίκοις ἔργμασι πειθόμενοι
. . . . . .
οὔθ' ἱερῶν κτεάνων οὔτέ τι δημοσίων
φειδόμενοι κλέπτουσιν ἁφαρπαγῆι ἄλλοθεν ἄλλος,
οὐδὲ φυλάσσονται σεμνὰ Δίκης θέμεθλα,
ἣ σιγῶσα σύνοιδε τὰ γιγνόμενα πρό τ' ἐόντα,
τῶι δὲ χρόνωι πάντως ἦλθ' ἀποτεισομένη,
τοῦτ' ἤδη πάσηι πόλει ἔρχεται ἕλκος ἄφυκτον.
ἐς δὲ κακὴν ταχέως ἦλυθε δουλοσύνην,
ἣ στάσιν ἔμφυλον πόλεμόν θ' εὕδοντ' ἐπεγείρει,
ὃς πολλῶν ἑρατὴν ὤλεσεν ἡλικίην·
ἐκ γὰρ δυσμενέων ταχέως πολυήρατον ἄστυ
τρύχεται ἐν συνόδοις τοῖς ἀδικέουσι φίλους.
ταῦτα μὲν ἐν δήμωι στρέφεται κακά· τῶν δὲ πενιχρῶν
ἱκνέονται πολλοὶ γαῖαν ἐς ἀλλοδαπὴν
πραθέντες δεσμοῖσί τ' ἀεικελίοισι δεθέντες
. . . . . .
οὕτω δημόσιον κακὸν ἔρχεται οἰκαδ' ἑκάστωι,
αὐλείοι δ' ἔτ' ἔχειν οὐκ ἐθέλουσι θύραι,
ὑψηλὸν δ' ὑπὲρ ἕρκος ὑπέρθορεν, εὗρε δὲ πάντως,
εἰ καί τις φεύγων ἐν μυχῶι ἦι θαλάμου.
ταῦτα διδάξαι θυμὸς Ἀθηναίους με κελεύει,
ὡς κακὰ πλεῖστα πόλει Δυσνομίη παρέχει·
Εὐνομίη δ' εὔκοσμα καὶ ἄρτια πάντ' ἀποφαίνει,
καὶ θαμὰ τοῖς ἀδίκοις ἀμφιτίθησι πέδας·
τραχέα λειαίνει, παύει κόρον, ὕβριν ἀμαυροῖ,
αὐαίνει δ' ἄτης ἄνθεα φυόμενα,
εὐθύνει δὲ δίκας σκολιάς, ὑπερήφανά τ' ἔργα
πραῦνει· παύει δ' ἔργα διχοστασίης,
παύει δ' ἀργαλέης ἔριδος χόλον, ἔστι δ' ὑπ' αὐτῆς
πάντα κατ' ἀνθρώπους ἄρτια καὶ πινυτά.

The people[119] are foolishly destroying this great polis in their compulsive quest for wealth (5 *sq.*)[120]. The leaders of the people are unjust (7); commit acts of *hubris* (8)[121]; do not restrain their greed nor conduct feasts properly (9 *sq.*)[122]; are rich because dishonest (11); spare the property neither of the public nor of the gods (12) and steal, one from one source, one from another (13)[123]; and they get away with all this (14)[124]. In consequence a festering wound infects the whole population (πάσηι πόλει 17) which quickly leads to enslavement (18), stasis and war (19), which destroys the country's youth (20). The city is rapidly consumed by the conspiracies of unjust men, enemies of the state (21 *sq.*). Such evils wrack the country (23). In particular, many of those who

[119] ἀστοὶ is determined by the poetic form not urban or social reality, see W. J. Henderson, 'The nature and function of Solon's poetry *fr.* 3 Diehl, 4 West', *Acta Classica* xxv (1982) 21-33 esp. 25-9.

[120] See also *fr.* 13.71: πλούτου δ' οὐδὲν τέρμα πεφασμένον ἀνδράσι κεῖται.

[121] Hubris indicates an act of unnecessary affront or violence to other men. For a detailed examination of the concept see N. R. E. Fisher, *The concept of hubris from Homer to the fourth century*, Diss. (Oxford 1976). Is Solon here making reference to the enslavement of defaulting *hektemoroi* by the magistrates (*hegemones demou*)?

[122] Read literally rather than metaphorically this may support the idea that the sixth parts funded communal feasts. See also *frr.* 4c; 13.72 *sq.*

[123] Is this a reference to magisterial corruption in the administration of the hektemorage system? See also *fr.* 15.4.

[124] Is this a reference to the absence of a *euthune*? See also *frr.* 15.1; 36.18-20.

work[125] have been shackled and sold into slavery abroad (23 *sqq.*)[126]. This public menace invades every home (26).

By contrasting this with an ideal good government, Solon indicates further what *is*, but what *shouldn't* be, namely: malefactors go unpunished (33); there is a feeling of despair (35); crooked judgments are passed (36)[127]; ambitions are swollen (36 *sq.*); there are seditious outbreaks (37); and hate festers in people's hearts (38).

I suggest that the emphasis on judgments and magisterial corruption is best explained in the context of a harsh law unfairly applied: those who implemented the law ignored it in their own and their friends' cases, and appropriated public property, while they indulged it in others' cases, and exploited them with the threat, sometimes realised, to pack them off in chains. In such circumstances one can easily imagine—and Solon certainly seems to have imagined—conspiracies amongst the leaders to dispose of dissenters, and conspiracies amongst the led to dispose of the leaders.

Solon was appointed to put the mess to rights.

4.4 Solon's legislation

Solon claimed (*fr.* 36) to have

(i) freed the land by removing the *horoi* [128];

(ii) restored to Athens those who had been sold abroad, legally or illegally, and those who fled under the compulsion of dire necessity or, more specifically, of debt;[129]

(iii) restored to freedom those enslaved at home[130].

He explains to his own (and presumably to his audience's) satisfaction how he achieved the first. He does not explain how he achieved the latter two, leaving many scholars so perplexed that they are skeptical of these claims, particularly (ii). However, we can explain how Solon achieved both (ii) and (iii) through two of his known laws. I begin with category (iii).

Solon's amnesty law speaks of *epitimoi* and *atimoi*; those with honour and those without honour:

> ὁ δὲ τρισκαιδέκατος ἄξων τοῦ Σόλωνος τὸν ὄγδοον ἔχει τῶν νόμων οὕτως αὐτοῖς ὀνόμασι γεγραμμένον. "ἀτίμων· ὅσοι ἄτιμοι ἦσαν πρὶν ἢ Σόλωνα ἄρξαι, ἐπιτίμους εἶναι, πλὴν ὅσοι ἐξ Ἀρείου πάγου ἢ ὅσοι ἐκ τῶν ἐφετῶν ἢ ἐκ πρυτανείου καταδικασθέντες ὑπὸ τῶν βασιλέων ἐπὶ φόνωι ἢ σφαγαῖσιν ἢ ἐπὶ τυραννίδι ἔφευγον ὅτε ὁ θεσμὸς ἐφάνη ὅδε."
>
> Solon's thirteenth axon contains his eighth law, recorded in these words: 'concerning *atimoi*: all those who were *atimoi* before the archonship of Solon shall be *epitimoi*, except those who, having been condemned by the Areiopagus or the Ephetai or from the Prytaneion on the charges of murder or manslaughter or tyranny, were in exile when the law was passed'[131].

[125] πενιχρός does not mean 'poor', but something akin to 'someone who works for a living'; see Den Boer's discussion (n.22) 70–78, 151–5.

[126] See also *fr.* 36.8–10.

[127] See also *fr.* 36.18–20.

[128] ll. 5–7 ... ... Γῆ μέλαινα, τῆς ἐγώ ποτε | ὅρους ἀνεῖλον πολλαχῆι πεπηγότας, | πρόσθεν δὲ δουλεύουσα, νῦν ἐλευθέρη ... . I removed the horoi which had been fixed in many places; before the black Earth was enslaved, now she is free.

[129] ll 8–11. The Greek admits either reading, depending on the accentuation of χρειους: πολλοὺς δ' Ἀθήνας πατρίδ' ἐς θεόκτιτον | ἀνήγαγον πραθέντας, ἄλλον ἐκδίκως, | ἄλλον δικαίως, τοὺς δ' ἀναγκαίης ὑπὸ (χρείους?) (χρειοῦς?) φυγόντας, ... I restored to Athens, their divine fatherland, many people who were sold out of the country, one illegally, another legally, or who were forced to flee by debt/dire necessity ...

[130] ll 13–15: τοὺς δ' ἐνθάδ' αὐτοῦ δουλίην ἀεικέα | ἔχοντας, ἤθη δεσποτέων τρομεομένους, | ἐλευθέρους ἔθηκα. And those held in shameful slavery here, trembling at the behaviour of the despots, I set them free.

[131] *Apud* Plutarch *Solon* 19.3, Ruschenbusch F 70. I have omitted 'by the basileis' from the translation because I think the evidence is too tenuous to justify the usual association of these basileis with the prytaneion alone, and their precise rôle does not matter for this argument.

Epitimoi and *atimoi* was how the Greeks conceived what we conceive as those with rights and those without rights. His amnesty extends to all *atimoi*, except those condemned in any of three courts on any of three charges who were in exile when the law was passed. As pointed out briefly above (§ 3, p. 15), the *atimoi* must have included not only criminals convicted of these serious offences (who were specifically exempted from the amnesty) but also other criminals—those who were intended to benefit from the amnesty. Logically the latter could have been *atimoi* in exile after they had been convicted of some crime other than murder, manslaughter or tyranny, or *atimoi* who were not in exile.

The next documented amnesty was in 490[132], the next in 405. The provisions of the latter, recorded in Patrokleides' Decree[133], are said to duplicate those of the former. Apart from an increase in the number of named courts from three to four and the explicit exclusion of *pheugontes*, there is no difference in the substance of the amnesty from that announced by Solon. In each case the same serious offenders remain on the books, whilst the slate is wiped clean for other *atimoi*. Andokides offers a description of these others[134]: those who owed money to the people (ὀφείλοντες τῶι δημοσίωι), whose debt could be doubled and property confiscated if they did not settle the debt by the prescribed time; those convicted of certain pecuniary, military, judiciary or filial crimes, whose rights were curtailed but whose property was not confiscated; and those convicted of very specific offences and who lost very specific rights[135].

Whilst the range and the particular nature of the crimes detailed here cannot be retrojected back onto Solonian Athens, this gives us some idea of what the *atimoi* who benefited from Solon's amnesty might have done. These later amnesties enact a cancellation of public debts, through the destruction of the records of those debts—scholars' failure to emphasise (or even recognise) this stems from their failure to recognise that the Greeks considered public debtors to be criminals[136]. Since Solon's 'disburdenment' was believed to involve a cancellation of debts, it seems to me that the ὀφείλοντες τῶι δημοσίωι, the public debtors, are the strongest candidates for the unknown criminals reprieved by Solon.

If Drakon's sureties were or were amongst the *atimoi* reprieved by Solon, then Solon liberated them through his amnesty law, and their debts to the state for which they stood surety—their sixth-parts—were cancelled by the same act.

From this line of thought it follows that those who were sold or fled abroad (category [ii]) were sureties who had defaulted; they were amongst the Athenian (voluntary and involuntary) exiles. When they defaulted their dishonour was upgraded from exclusion from public affairs within the community, or partial exclusion, to exclusion from the community, or total exclusion[137]. Total exclusion could be achieved in three ways:

[132] See Hansen 68 n.11 for the date.

[133] *Apud* And. i [Myst] 77-79. The status of *pheugontes* is explicated in § 80.

[134] i [Myst] 73-6. I follow Hansen's arrangement of § 73-79, Hansen 82-4; see also his discussion of the critical points in this text pp. 84-90, esp. n.31.

[135] The one example of the latter given seems to be punitive, but presumably most of the punishments in this category were designed to prevent repetition of the offence.

[136] The documents destroyed include the lists of public debtors kept by the *praktores*, by the treasurers of Athene and the other gods, by the basileus, and any public or private copies of such (i 77). On debtors as criminals see e.g. Lys. xxix [Phil] 9; Dem. xxiv [Tim] 172; Hansen 69f. The title of this paper is intended to be precise, not perplexing.

[137] In classical times *atimia* was a manifold penalty applied to a variety of types of offender, see Hansen 61-72. As the amnesty law shows, *atimia* was not a uniform (and uniformly harsh) penalty in the archaic period. *Atimia* could leave one socially, politically and legally little better off than a slave, very much at the mercy of *epitimoi* acquaintances; I think this is what we should understand by Solon's reference to δεσπόται in *fr.* 36.13. *Atimoi* were, literally, dishonourable members of the community: slaves are universally dishonoured persons; *atimoi* were, in practice, unable to participate in social society, they were 'socially dead', in the same way that slaves are socially dead. The term in

death, sale abroad, or exile. The sources indicate that in this case the second method was applied; the offender was sold abroad, if he had not already fled to escape punishment (and thus pre-emptively chosen the third method). So this second category consists of *douloi* and *pheugontes*. As none of them are *atimoi*, they are not affected by the amnesty. Consequently I think that Solon brought these people back through his so-called immigration law[138], and the invitation to settle in Attike and make a fresh start was intended to attract *not* every other state's outcasts and outlaws, but Athenians who had fallen foul of a discredited legal code.

In this context the distinction in the law between 'those in perpetual exile from their own' and 'whole families moving to Athens and pursuing a craft' becomes intelligible. Those in exile from their own are individuals, criminals who were sold or exiled, and 'their own' are their families: these exiles can return to their families and their farms in Attike. The whole families are, I suggest, those of the *hektemoroi* who fled into exile, for typically a defaulting *hektemoros* would have taken his family with him, as the law would have exacted its punishment on his dependants if he alone was absent. When the whole family left Attike, their land would have been repossessed by the polis (confiscated), and whatever then happened to it, it would not be available for them on return. So a family in exile would have no farm to which it could return and pick up the pieces. If this interpretation is correct, then the so-called 'immigration law' permitted such families to return to Attike and to regain citizen rights, but it did not permit them to reclaim their old farms, or indeed to claim any plot of land: if they returned then they must expect to survive by practising a craft.

To summarise: the pre-Solonic situation was that some people were standing as sureties (hostages) for their use of enslaved, *horoi*-marked, public land; they were borrowing it. If they failed to meet the terms of the loan, namely, surrender of a portion of the produce (payment of rent) and, we may suppose, proper observance of their *atimia* (internal exclusion), then they would be physically enslaved and sold abroad. To dismantle the institution, Solon removed the cause (*horoi*), restored the victims (slaves and runaways abroad) through his 'immigration' law, and released those currently caught up in the system ('enslaved', *atimoi*, at home) through his amnesty law. His extensive regulations concerning public festivals would not then have an 'obscure' purpose[139], but would have aimed to compensate the community for the loss of *hektemoroi* contributions—perhaps shifting the burden on the basis of the census groups[140].

Drakon's law which is normally translated as 'to pardon', αἰδέσασθαι, means 'to respect the person of' (M. Ostwald *apud* M. Gagarin, *Drakon and early Athenian homicide law* [New Haven 1981] 48 n.52): a slave is quintessentially a person whose person is not respected. It becomes apparent why Solon used the term 'enslaved', and why modern scholars consider that usage to be 'loose'—this is a very fuzzy area, and we who have no experience of slavery (or *atimia*) have very clear ideas of what it means. Harrison pointed out that 'there is no doubt that a court . . . could impose the death penalty on a citizen; it would seem illogical that it should have been precluded from imposing the less extreme penalty of being sold into slavery. On the other hand, early in their constitutional history the Athenians had ruled out enslavement for debt', (ii) 169. We are concerned with precisely that period and precisely that ruling. Enslavement remained a legal penalty for some offences, e.g. false assumption of citizen rights. For a full discussion of dishonour and the concept of social death see O. Patterson, *Slavery and social death* (Cambridge, MA 1982).

[138] Unfortunately paraphrased not quoted by Plutarch *Sol* 24.2, Ruschenbusch F 75: παρέχει δ' ἀπορίαν καὶ ὁ τῶν δημοποιήτων νόμος, ὅτι γενέσθαι πολίταις οὐ δίδωσι πλὴν τοῖς φεύγουσιν ἀειφυγίαι τὴν ἑαυτῶν ἢ πανεστίοις Ἀθήναζε μετοικιζομένοις ἐπὶ τέχνῃ. The law of the *demopoietoi* (the 'state-made') presents a problem (of comprehension), for it did not give the right to become citizens except to those in perpetual exile from their own or those whole families emigrating to Athens and pursuing a craft.

[139] M. Gagarin, *Early Greek law* [Berkeley 1986] 70.

[140] As suggested by W. R. Connor, 'Tribes, festivals and processions', *JHS* cvii (1987) 47-9.

In his capacity as public servant and while holding office Solon assumed the right to annul the interests which the *horoi* expressed, yet the whole tenor of his poems and of his reforms is one of giving, not taking, and he expressly denies confiscating property (*fr.* 5.3 *sq.*). This is not contradictory if the land in question was public land. One must assume that the occupants acquired full rights over it; Solon gave them the land they happened to be renting at the time[141]. It may be objected that this would be, in effect, a redistribution of land, which Solon and other sources explicitly deny. But would the Athenians of the time have considered the giving of some common land to some people a redistribution? I think not. For the consequence of Solon's act of removing the *horoi* was that some people now owned what hitherto they had leased; no one had lost his land and no one had gained what he had not been using already. Solon indicates in the clearest possible terms what his contemporaries meant and understood by a redistribution of land (*fr.* 34):

οἱ δ' ἐφ' ἁρπαγῆισιν ἦλθον· ἐλπίδ' εἶχον ἀφνεήν,
κἀδόκ[ε]ον ἕκαστος αὐτῶν ὄλβον εὑρήσειν πολύν,
καί με κωτίλλοντα λείως τραχὺν ἐκφανεῖν νόον.
χαῦνα μὲν τότ' ἐφράσαντο, νῦν δέ μοι χολούμενοι
λοξὸν ὀφθαλμοῖς ὁρῶσι πάντες ὥστε δήϊον.
οὐ χρεών· ἃ μὲν γὰρ εἶπα, σὺν θεοῖσιν ἤνυσα,
ἄλλα δ' οὐ μάτην ἔερδον, οὐδέ μοι τυραννίδος
ἀνδάνει βίηι τι[..]. ε[ι]ν, οὐδέ πιείρης χθονὸς
πατρίδος κακοῖσιν ἐσθλοὺς ἰσομοιρίην ἔχειν.

'They came to plunder with hopes of riches, and each of them expected to find great wealth' (1 *sq.*). Being left with what they currently possessed was a big disappointment: 'their dreams were pipedreams, and now they are angry and look askance at me, as if I was an enemy' (4 *sq.*). His action was not radical enough for their tastes. This is wrong, he claims, for he did what he had said he would do and nothing else (6 *sq.*). It did not please him to give equal shares of the rich country to good and bad alike (8 *sq.*). Despite the fact that AP introduces this poem as Solon's defence for not redistributing the land, the last lines are sometimes interpreted as a metaphorical reference to political power: Solon 'shared the country' *qua* abstract political structure. This is quite unjustifiable[142]. The whole poem is materialistic: the people had set their minds on plunder, and they expected to get great landed wealth. The lines are, as Rhodes states (p. 174), confirmation of AP's introductory remark.

Thus I am inclined to view Solon's act of uprooting the *horoi* as a gift from the state of however much land happened to be rented out at the time to whoever had found it necessary or desirable to lease under harsh, and in the case of default very harsh,

[141] *Cf.* the Roman situation: the *Lex Licinia* of 367/6 BC had limited the amount of public land which could be held for private use, and imposed a rent of one fifth. This law had been widely flouted. T. Gracchus' *Lex Agraria* insisted on the policing of the law, but he also gave current possessors the public land which they were (supposedly) renting, up to the legal limit. Gracchus' law did not affect private landholdings, as Solon's did not in the reconstruction here offered. Despite Solon's assertions to the contrary, the later tradition asserted that some people lost out through the seisakhtheia. Whether or not that has any basis in fact, it should perhaps be tied in with Aristotle *Pol.* 1266b16 *sqq.*, wherein he attributes to Solon a law limiting the amount of land anyone could acquire; it may later have been believed that Solon repossessed land held by individuals over a certain limit.

[142] It depends on the semantics of English 'country', particularly in the sense of 'the country goes to the polls'. But the Greek does not and cannot mean that, for the reference is to the soil, χθονὸς πατρίδος, not to the demos. And see n.81 above.

conditions. This really would have been giving to each according to his needs, which could be the equitable alternative basis for allocation implied in *fr.* 34. It cost everybody, *qua* community, something, namely some common land and associated income, and yet it cost no individual more than any other. No-one lost his land, and no-one gained what he had not already been using. This act would have relieved any immediate pressures on those who had hitherto possessed insufficient land to meet their needs or desires by giving them *just* that amount which they had previously and independently deemed they wanted and could manage[143].

Previously common property was everyone's, and so it was no-one's. As servant and representative of the community Solon released their land from its shackles by giving it to the families who cultivated it[144]. The community still had all common land which had not been leased out and cultivated at the time, and those who possessed enough land of their own had not lost anything; he had not robbed Peter to pay Paul (*cf. fr.* 5).

In this context we might consider *fr.* 37.6-10: had someone else been given such powers, he would have 'stirred up the demos and thereby deprived the milk of its cream[145], but I set myself up as a *horos* in no-man's-land'. The metaphor perhaps refers to a redistribution of the kind that Solon studiously avoided: the country would have been reallocated ('stirred'), resulting in the loss of the best land (the 'cream') to private individuals, leaving only the mediocre land (the 'milk') for the community (the demos)[146]. But Solon did not do this nor allow it; he withheld the common land (not under lease) over which individuals would fight to appropriate by announcing, as did a *horos*, that it belonged to the demos *en masse*. His claim to have 'given the demos such portion[147] as is sufficient, neither reducing nor exceeding what was appropriate' (*fr.* 5.1 *sq.*) may also be seen in this context.

People could still expand onto *vacant* and *unwanted* land, though this would require all the extra work involved in preparing the ground for cultivation, and might require moving home to a new, hitherto unexploited area, with even more extra work required to build shelter[148]. Some 30-odd new demes are associated with Kleisthenes' reforms nearly a hundred years later, and there is no reason to think that infilling of the landscape had not continued throughout the intervening period. As I emphasised

[143] It would also have given substance to the allegation that some of Solon's friends, with or without his compliance, had made illegitimate fortunes by leasing land just before the legislation was put through, AP 6.2-4 and Plut. *Sol.* 15. Note that AP does *not* contend the point that some families of 'ancient wealth' *acquired* that wealth through Solon's *seisakhtheia* (as Rhodes 128 points out, 'there is no sign that any one tried to deny the whole story'), but only the version which claimed that Solon was an accomplice in this sharp dealing. On that point AP was right, since Solon twice defended his actions by saying that he did what he had previously said he would do, *frr.* 34, 36.1 *sq*; logically, therefore, he must have announced his intentions in public. Consequently any opportunists who did profit from his reform need not have been his friends or acquaintances. Such people could have greatly increased the span of social and economic distance between themselves and everyone else through the reform—to the chagrin of all.

[144] 36.5-7, quoted above n.128. His use of the term ἐλεύθερος is, I think, significant: '*Eleutheros* originally designated a person belonging to a family that forms an integral part of the community ... later it is used to designate anyone who is free in the sense of not being a slave. But the original meaning was never completely forgotten', Fritz and Kapp (n.113) n.147.

[145] See T. C. W. Stinton, 'Solon fragment 25 [D]', *JHS* xcvi (1976) 159-62 for the sense of these lines.

[146] Apart from his statement that *horoi* stood on fertile land, consider for example the Athenians' sacred *orgas* near the Megarian border; the original meaning of the word *orgas* is a lush, fertile piece of land, Sokolowski (n.38) 32 n.1.

[147] *Geras*, like Homeric leaders'. And see n.47 above.

[148] The story of the Peisistratan tax-free farm (for what it is worth) suggests expansion onto particularly poor land—'all stones' on Mt Hymettos, AP 16.6.

above, in this model the problem 'solved' by both Drakon's hektemorage system, and Solon's dismantling of that institution, concerned land which was *appropriate* for the desired purpose and *convenient* to the existing settlements. We live in a highly industrialised, urbanised and mobile society, in which the vast majority of the population have no contact with the land except for ornamental gardening and recreational walking; the Greeks did not live in such a society, and must have viewed internal migration from their ancestral home in a light radically different from ours[149]. But move some had to and some did, whilst others walked further to poorer ground which they brought into production. The distinction between *khoria* and *eskhatia* made in later sources may reflect such expansion: on consideration of the evidence Lewis suggested that *eskhatia* may refer to marginality in terms of land quality rather than to marginality in terms of political geography, and therefore to land brought into cultivation relatively late[150].

The *seisakhtheia*, thus interpreted, would have irritated many people. Some of those at the top of the social pyramid would have resented the fact that at a stroke the span of social and economic distance between the top and the bottom was reduced—this is not to suggest that the span was large in absolute terms. Some of those who were at the bottom would have resented Solon's refusal to redistribute the land. Some—perhaps most—of those who were not leasing land at the time would have resented their indebted fellows' windfall. On the other hand, some would probably have shared Solon's view: some may have agreed that the enslavement of neighbours was disagreeable, a bad law; some may have agreed that the community as a whole was suffering from Drakon's law[151]. Solon did, after all, have general support and his laws were obeyed. We may surmise that the discontented were in a clear minority, or Solon's attempt to resolve the crisis would have failed and the country would have collapsed into the stasis he was appointed to avert[152]. His reforms, as interpreted above, were very equitable—so equitable that although people might find them irritating, they could not complain without revealing that their own self-interest was squarely at the base of their irritation.

[149] External migration (i.e. abroad) has different attractions. What we are talking about here is the issue of who, amongst the community of one settlement, should move, say, five kilometers, perhaps onto poorer land, simply to ease the strain in the area they leave behind. The net emigration from the asty to 'rural' Attike for which Snodgrass has argued could be interpreted as a response to the intensity of the problem in the emerging city; see A. M. Snodgrass *Archaeology and the rise of the Greek state* (Cambridge, 1977).

[150] Lewis (n.51) App. C. Similarly Osborne (n.49 p. 287) noted of the *hekatoste* inscriptions (mentioned above § 2.4.2) that many properties described as *eskhatiai* were of small value and lacked buildings.

[151] Quite apart from the human and social dimension there is the practical and pragmatic dimension: a tenant is liable, unless prevented, to follow different principles of land management from those he would employ on land over which he has a more secure and permanent claim. Only excessive exploitation of leased land could have prompted the sort of regulations we find later, expressly forbidding the removal of topsoil, trees and house tiles, for example. Tenancy would have held production well below the land's agricultural potential.

[152] Since Solon had the support of people across the whole social spectrum, and his reforms were accepted by the same, I think we have to allow that a lot of people were involved and that some of them were important people. For the latter, the choice dictated by the hektemorage conditions between more land or public participation—one could not aspire to lead the Athenians as an *atimos*—would have been particularly galling. And see n.143 above. On the issue of Solon's achievement, Peisistratos' first attempt at tyranny was some 35 years later, and he was not finally installed until some fifty years later. By the standards of Greek politics, and in what was a rapidly changing world, Solon can hardly be said to have failed in his task.

As D. A. Campbell remarked, 'his poems everywhere present a picture of an intelligent thinker, an ardent patriot, an enthusiastic but fair-minded reformer and a thoroughly honest man'[153]. Solon earned his place among the seven sages[154].

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[153] *Greek lyric poetry* (Bristol 1982) 233.

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