

in der Antigone. So gibt es keine menschliche Lösung, wie sie es auch dort nicht gibt. Auf beiden Seiten des zwei Welten trennenden Abgrunds stehen sich ihre Vertreter gegenüber und können nicht zueinander kommen. Neoptolemos, der zwar in der Welt der Gesunden steht, aber nicht geistig zu ihr gehört, findet wohl einen Weg; doch weil er ihn zu spät entdeckt, führt er in die Irre. So bleibt nur der direkte göttliche Eingriff. In der Antigone war es Teiresias; hier ist es der deus ex machina. In beiden Fällen wird sofort gehorcht. Doch in der früheren Tragödie muß Kreon noch den Preis für die Erkenntnis zahlen. Hier hat es Philoktet bereits getan. So erhält er die Offenbarung ganz zum Schluß, damit sich sein Schicksal vollende. Denn die Götter zwingen nicht; sie laden nur ein. Erst in der freien Annahme seines ihm bestimmten Schicksals vollendet sich das Heroentum der sophokleischen Menschen.

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UNINTENTIONAL HOMICIDE IN THE *HIPPOLYTOS*

At the end of the *Hippolytos* Artemis excuses Theseus for causing Hippolytos's death:

ἄκων γὰρ ὄλεσάς νιν, ἀνθρώποισι δὲ
θεῶν διδόντων εἰκὸς ἐξαμαρτάνειν. (E. *Hipp.* 1433-4)

It may seem surprising to hear that Theseus killed Hippolytos unintentionally; was it not for precisely that purpose that he invoked Poseidon? But, explains W. S. Barrett in his admirable edition of the play (page 413), ἄκων means only "more or less 'innocently', "that he killed him without meaning to do wrong". Furthermore Barrett suggests that "it is likely enough" that the Athenian legal term φόνος ἀκούσιος included "the inevitably rare category of deliberate homicide committed in the mistaken belief that it was justifiable, and that Eur.'s use of ἄκων here is legally correct".

I have already written about *φόνος ἀκούσιος* (*Athenian Homicide Law* 58–60; this appeared too late for Barrett to have seen it before completing his book), but I did not discuss this passage, and Barrett's note has prompted me to further consideration.

Athenian law laid down that certain kinds of killing were lawful (killing in self-defence, killing a man caught stealing at night, and so on; I have made a list in *Athenian Homicide Law* 73–81). But there is no evidence, as far as I know (and Barrett does not quote any), for any specific legal provision about a killer who believed that his act was lawful when actually it was not, except in a single type of case: when a man killed a fellow-citizen in war, mistaking him for an enemy. Such a killer went unpunished. But that does not mean that he was declared to have committed unintentional homicide; the word used in the law was not *ἀκούσιος* or *ἄκων* but *ἀγνοήσας* (Dem. 23. 53, Arist. *Ath. Pol.* 57. 3). So this evidence has no relevance to Artemis's words to Theseus.

The usual application of the legal expression *φόνος ἀκούσιος* was quite different: a person was guilty of unintentional homicide if he committed an act which was not intended to result in someone's death, but did. For instance, there was the woman who gave a man a drink which she thought was a love-potion, but it killed him (Arist. *Ethika Megala* 1188b 29–38). This plainly does not apply to Theseus's case; when he invoked Poseidon, he certainly intended Hippolytos's death.

But there is some evidence that another type of homicide could be called unintentional: homicide which one was compelled by someone else to commit. First there is a sentence of Lysias's speech *Against Agoratos* (to which Barrett refers). Agoratos is alleged to have caused the death of Dionysodoros and others by denouncing them to the Thirty. How will he defend himself? *ἴσως φήσει ἄκων τοσαῦτα κατὰ ἐργάσασθαι* (Lys. 13. 52). I suppose this could mean that Agoratos might claim that when he denounced the men he did not intend their execution but some different result; that would make his act *φόνος ἀκούσιος* in the usual sense. But it is much more likely to mean that he might claim that he was compelled to make the denunciations.

Secondly there is a piece of facetious dialogue surviving from a lost play of Aristophanes, referring to the court at the Palladion (which tried persons accused of unintentional homicide):

“ἄκων κτενῶ σε, τέκνον”. ὁ δ’ ὑπεκρίνετο,
 “ἐπὶ Παλλαδίῳ τᾶρ’, ὦ πάτερ, δώσεις δίκην”.

(Ar. fr. 585)

Although it is hard to interpret the lines without their context, it is not likely that the old man means “I shall (voluntarily) commit an act which will result in your death, but I shall not intend to kill you”; to make such a prediction about his own act would be nearly (if not quite) self-contradictory. It is much more likely that he means simply “I shall be compelled to kill you” or “I shan’t be able to help killing you”.

These two passages are rather slight evidence for Athenian law. The Lysias sentence only suggests a line of defence which Agoratos might possibly use, and which the speaker claims would not be an adequate defence if he did use it. And the Aristophanes passage is only a joke. Still, taken together, I think they do make it likely that a person accused of intentional homicide in Athens might claim that the homicide was unintentional by saying that he was compelled by someone else to act as he did.

Can ἄκων mean “under compulsion” in E. *Hipp.* 1433? Clearly it can. Euripides makes it quite plain that Theseus is an instrument of Aphrodite. Aphrodite states her plan in the prologue, and part of it is *νεανίαν κτενεῖ πατήρ* (43–44). And at the end of the play Artemis excuses him not only by saying that he acted ἄκων, but with the phrase *θεῶν διδόντων* (1434); a god ordained his action. The idea that a person is blameless if he acts under compulsion from a god also appears elsewhere in Euripides. In the *Troades* Helen excuses herself by blaming Aphrodite: *τὴν θεὸν κόλαξε ... συγγνώμη δ’ ἐμοί* (E. *Tro.* 948–50; cf. A. W. H. Adkins *Merit and Responsibility* 124–5). The excuse which Hekabe rejects as untrue in the case of Helen (*Tro.* 983–90) is the one which Artemis allows in the case of Theseus.

It therefore seems to me that in *Hipp.* 1433 there is no need to give ἄκων the rather weak and uncommon sense “without meaning to do wrong”. I prefer the translation “under compulsion”. This is a more usual sense of ἄκων; it suits Euripides’s thought and the context of the play; and it is also in harmony with the evidence for the definition of unintentional homicide in Athenian law.