

Les textes sont présentés dans leur rédaction originale, mais cela ne rend pas difficile leur lecture. À part l'index des sources antiques gréco-latines, un index analytique des sujets aurait aussi été le bienvenu. Souhaitons au savant éminent encore une fructueuse période de créativité au service de la recherche scientifique. Une nouvelle contribution, au moins, non encore insérée dans ce volume, nous est connue, la version écrite de son exposé lors d'un colloque pour honorer le centenaire de la naissance du grand historien finlandais Gunnar Mickwitz, tenu à Villa Lante, siège de l'Institut finlandais de Rome en 2005, et dont les Actes paraîtront prochainement.

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*The Cambridge Companion to Ancient Greek Law.* Edited by MICHAEL GAGARIN and DAVID COHEN. Cambridge University Press, Cambridge 2005. ISBN 0-521-52159-9 (pb), 0-521-81840-0 (hb). XIII, 480 pp. GBP 18.99 (pb), GBP 45 (hb).

This book consists of 22 articles meant to illuminate various aspects of the complex and often confusing subject of law, legal proceedings and justice in ancient Greek societies. As is commonly known, our western legal systems owe much to Roman law, which, on many levels, was an organised unity with logical rules, and which is therefore easier for us to understand and accept. Things are different when we deal with the Greek world. The average student, at an early stage of Greek studies, comes up against legal matters and law courts, usually either through Aristophanes' comedies or speeches of Lysias and Demosthenes which are still included in Greek curricula in most universities. Texts like Plato's "Laws", papyrological and epigraphical documents are left for the most dedicated students at an advanced level.

Perhaps because of this, the understanding of Greek legal phenomena is sometimes rather difficult, even to those otherwise familiar with Greek societies. My personal experience while teaching, e.g., speeches of Demosthenes and Lysias has often been a feeling of confusion and outrage at the level of "injustice" and irrationality in the cases dealt within the speeches. This has, of course, also much to do with our sometimes anachronistic way of looking at antiquity. In papyrology, with which I am more familiar, one quickly finds out that the legal matters in Ptolemaic Egypt or in Petra in late antiquity have very little in common with phenomena found in classical Athens. Thus, a study explaining the background of Greek law and putting the subject in its wider context is more than welcome.

The volume has been divided into five thematically connected parts, which cover almost all the aspects of the subject in a reasonably logical order. The first part, "Law in Greece", can be seen as a theoretical and historical background for the following chapters. Parts two and three concentrate on Athens. Part four presents the relatively sparse material on law outside Athens, including the Gortyn laws, and the last articles of the book discuss aspects of law within literary works.

In the opening chapter, entitled "the Unity of Greek law", M. Gagarin touches upon problems concerning the very concept of "Greek law": G. points out how the term itself has been seen as controversial, and how most Anglo-American scholars have avoided it for a long time (only two books have been published with the term "Greek law" in the title since 1950.) This is, of course, not the case with the term "Roman law". G. gives an interesting

description of the differing arguments put forward on the unity in Greek law by the opposing schools, the "continental" and "Anglo-American". Depending on one's view, one can either see all the Greek legal systems as reflections of the same "Greek spiritual unity", or see no unity at all. M. Finley was apparently the first scholar to present the latter view in 1951 when he claimed that in reality there were no essentially common features among the legal systems of Homeric world, classical Athens, Gortyn and Ptolemaic Egypt.

Gagarin offers a nice compromise between these two views, suggesting that the unity of Greek law can be pointed out in the procedural nature of Greek legal systems where penalties are not fixed and the importance of litigants, jurors and magistrates is significant. Another unifying feature, according to G., is that, unlike the Romans, the Greeks tolerated well "gaps" in the law, which was perhaps connected with their "passion for discussion and debate". This "openness of law" led to the increasing power of the jurors and, of course, of oratory and orators. While this may be true, one can ask whether the power of rhetoric was any less in the Roman, more formalistic law system. All in all, this brilliant article offered, at least to me, new angles on the whole of Greek culture and the way we look at it.

The other articles in the first part are on the problematics concerning written and unwritten laws (R. Thomas), the relationship between religion and law (R. Parker) and a second article by M. Gagarin on the juridical procedure in the archaic period, where he points out that the special character of the Greek legal system compared to, e.g., Near Eastern legal systems (written legislation, oral procedure, lack of formality, importance of public debate) had already developed at an early stage of Greek culture.

The second part is dedicated to legal procedure in classical Athens. This part consists of articles on topics such as the oratory and rhetoric in courts (S.C. Todd, A. Lanni, H. Yunis), the role of witnesses (G. Thür) and penalties seen from a theoretical angle (D. Cohen). L. Rubinstein compares the nature of legal procedure and "strategies" used in courts and she attempts to show that a litigant could choose between different ways to approach the jurors and the choice depended on the nature of the case. This section, in my opinion, is the least successful in the book, partly because of the indigestibility of the problematic, partly because there is a feeling of a slight artificiality in the way oratory is being approached "in a new way". But time will, of course, show whether this approach will open fresh viewpoints in rhetorical studies.

The third part of the book deals with the practice of criminal, family and commercial law in classical Athens. Much of the difficulty in understanding the Greek legal systems derives from the religious background of law, which expresses itself in the definitions of "crime" and "punishment", definitions which differ profoundly from post-Christian ideas. To commit a crime could also be seen as an expression of *hybris* and a crime harmed the polis as well as an individual. Many apparent awkwardnesses of the reported lawsuits in Athens originate from this idea of crime being committed against "society". In addition to this question, D. Cohen discusses the very concept of crime and, e.g., the level of consciousness of inequality in front of law in a most inspiring article "Crime, Punishment, and the Rule of Law in Classical Athens". The third part also includes articles "Gender and Sexuality" by E. Cantarella, "Family and Property Law" by A. Maffi and "Commercial Law" by E.E. Cohen. C. Patterson discusses in her lucid and informative chapter "Athenian Citizenship Law" the surprisingly complicated question of who really was a citizen in the polis of Athens.

The articles in the fourth part of the book examine law outside Athens and the first of

them discusses the exceptional case of the Gortyn laws (J. Davies). As is already pointed out in an earlier article by R. Thomas (Ch. 2.), a written law without context does not contribute much to our understanding of law or society. This is especially true in the case of Crete where there are an abundance of surviving legal inscriptions but not much else. The most famous of the Cretan law texts is the Gortyn law code, dating from ca. 600–350 and consisting of 12 columns and ca. 600 lines. J. Davies gives a good overview of the text, as well as of the problems it has raised, which include both matters of terminology and contents. Beyond linguistic problems, the Gortyn code presents passages regarding family law which seem to be controversial if compared with other known Greek legislation (for example, there are rules on marriages between free men/women and slaves and the status of their children).

The existence of the Gortyn laws is one the main reasons for the unity of Greek law having been questioned. The case has often been solved by stating that Crete is an exception in the Greek world, but one should, of course, also ask why it is so different, as R. Thomas does. While many of the problems of the Gortyn laws are probably due to lack of parallel material from other parts of the Greek world, or other material from the same place, one must also admit that the code remains in many aspects a mystery and that it deserves further investigation.

After the chapter on Gortyn, H.-A. Rupprecht and J.M. Modrzejewski cover the Hellenistic world, the source material now consisting mainly of papyri and inscriptions. H.-A. Rupprecht discusses the changes in Greek legal culture after Alexander's conquests and J.M. Modrzejewski the status of family and marriage in the Hellenistic period; both articles seem to me intelligent and most illuminating.

The final part of the book is dedicated to "other approaches", in other words, the literary sources. Comedy (R. W. Wallace) and tragedy (D. Allen) get their own chapters; J. Ober covers Hesiod and Solon, Thucydides and Plato in a chapter subtitled "Law and Political Theory". Using the above-mentioned sources, Ober tries to find an answer to the question of who had the authority to change and interpret rules and laws and who was responsible for legal enforcement and what was the purpose of punishment. Ober's discussion is interesting in itself but, for example, the attempt to point out a political theory in Hesiod's works ends up with the somewhat unimpressive notion of "ethical quietism" and "personal moral", which, in my opinion, could also be read as no political theory at all (which, in fact, is not surprising).

The book ends with a chapter by A.A. Long on law and nature in Greek thought. His marvellous discussion of the connection of the concepts "physis" and "nomos" is an elegant finale to this book.

This volume is a true representative of the Cambridge companions: a thought-provoking reader for anyone interested in legal matters, it also offers new points of view on Greek society in wider perspective. The fact that the authors are eminent experts in their fields is reflected in the level of the contributions. There is some overlapping between some of the articles, but this is, of course, inevitable in a volume like this.

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