

WHOSE HONOUR? *HYBRIS*, SLAVERY AND THE ATHENIAN LAW ONCE MORE

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Introduction

FOURTH-CENTURY ATHENIANS, speaking in their public courts, expressed surprise and pride at the fact that their highly valued and ideologically ‘democratic’ law of *hybris* (the *graphē hybreōs*) protecting individuals against abuse extended its protection to slaves:

Perhaps someone would wonder, on suddenly hearing it, why on earth in the law of *hybris* the phrase is included referring to ‘slaves’ as victims. If you think about this question, men of Athens, you will realise that this is the best provision of all in the law. (Aeschin. 1.17; cf. Dem. 21.47)

The surprise has been shared among historians of Athenian slavery and democracy ever since, and there have been many attempts to explain the date, the purposes and the use of the *graphē hybreōs*, and its inclusion of slaves as possible victims. I contributed much to such debates, especially between 1992 and 2001, in my book on *Hybris* (1992), my edition of Aeschines’ *Timarchus* and other papers.¹ Since 1992 many others have contributed, both to the general meanings and uses of *hybris*, and on the issues of the law; recent work on the latter has culminated in a powerful and subtle article by one of the organisers of the Edinburgh Honour project, Mirko Canevaro.² I was delighted to receive the invitation to contribute to the project’s Edinburgh conference in 2019 on *Honour and Slavery* and to this resulting volume, and it seemed appropriate, if a trifle ungrateful, to revisit these debates and devote most of what follows to the

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¹ Fisher 1992 (recently reprinted by Liverpool University Press); 2001; also Fisher 1995; 2004; 2005.

² Canevaro 2018.

development of my reservations about Canevaro's arguments. The issues are central to the theme of the conference and the overall Honour project, and much of his paper criticises or refines my account of the term, building on Douglas Cairns' original review (1994) of my book and his extensive paper of 1996,³ which together constitute in my view far and away the best responses to my book. I welcome the opportunity as well to offer some modifications and clarification of my own views.

I shall consider three issues and debates, all closely interlocking. The first issue concerns the application of definitions, or overall conceptions, of the nature and capacities of a slave as opposed to a free person. Among modern scholars there have long been two competing conceptions. One is the standard definition, found in the United Nations endorsement of the 1926 League of Nations Convention, based on the idea of property: a slave is a human being, owned, bought and sold by another or others. The other derives from Orlando Patterson's *Slavery and Social Death* (1982), and offers an 'affective' definition, to which differentiations of honour are central. Here, slavery is 'the permanent, violent domination of natally alienated and generally dishonoured persons', succinctly described as a state of 'social death'. Both accounts reflect modes of thought which were also current in classical Greece, and if one looks at the Athenian law in the light of either, it can readily be argued that the idea of legally actionable *hybris* committed on a slave is inconceivable if it is the slave who is seen as the victim.⁴ On the first, if slaves are conceived as useful items of property, like a tool or a domestic animal, one asks how any action done to them, however demeaning or cruel, could be legally defined as wrongdoing, as it would be when done to a free man or woman.⁵ Alternatively, it becomes more sharply contradictory: if slaves are generally and permanently dishonoured beings, and *hybris* involves dishonouring, they cannot possess any honour to attack. Succinctly put: if, as could be said in ancient Athens, *hybris* is 'treating free men as slaves' (e.g. Dem. 21.180), how could it be thought wrong to treat slaves 'as slaves'?⁶

Secondly, there are diachronic issues about the date and text of the *graphē hybreōs*. In asking why the Athenian law included slaves as possible victims, we may be speculating about the intentions of those who proposed and approved the law; this involves the issue of the date, whether it was part of the early sixth-century Solonian legislation, a later archaic law or a mid-fifth-century law.⁷ But we should also ask what

³ Cairns 1994; 1996; cf. also Cairns 2005; 2011b.

⁴ Clearly slave-owning states are likely to legislate against harm to slaves from the interest of the owners, as for other property.

⁵ The concept that the same offence committed against a slave might be assigned lesser penalties than when committed against a free man or woman is found in the Athenian laws on rape (where damages were assessed in the case of a slave victim at half the rate for a free one, Lys. 1.32), and much more dramatically at Gortyn (1/40): see succinctly Lewis 2018: 151–2. I am grateful to David Lewis for this point.

⁶ E.g. Canevaro 2018: 103; Phillips 2016: 30, 32.

⁷ It was evidently in existence by the 420s (Ar. *Nub.* 1296–9; *Vesp.* 1441); see also the allusion in the 'Old Oligarch' ([Xen.] *Ath. Pol.* 3.5) to a *hybrisma* as a serious legal offence which might occupy the courts. Less certainly, the discussion of the relative freedom of slaves in Athens from physical assaults from others than their masters (1.10–12) may reflect legal protections for slaves including the *hybris* law (as e.g. Ober 2012: 843). The pamphlet was probably composed during the Archidamian War, perhaps c. 425–424; see Marr and Rhodes 2008: 3–6.

explanations made sense to our fourth-century sources, such as Demosthenes and Aeschines, or to any fourth-century Athenian contemplating bringing an action or using its language rhetorically. Answers to these two questions might well differ, because conceptions of slaves and slavery, and types of interactions between slaves and free people, were not necessarily the same in Athens *c.* 580, *c.* 450–430 or in the 340s.⁸ Consideration of these issues involves the question of whether we possess any part of the original text of the law, and specifically whether the opening statement of the law included the phrase ‘or does anything unlawful against one of these’, found both in Aeschines’ quotation and elaboration of the law (1.15) and in the supposed text inserted at Demosthenes 21.47.⁹

The third, central, issue concerns the meaning and uses of *hybris*: the overall balance to be struck in accounts of *hybris* between the agent’s disposition towards antisocial behaviour and the effects on the victims and others. Many scholars have argued that my book on *Hybris* (1992) emphasised excessively the dishonouring or shaming impact of the behaviour, whereas Douglas MacDowell stressed the dispositional aspect, focusing on the idea of the self-indulgent misuse of power or energy.¹⁰ Previously, the ‘traditional view’ had placed most weight on the dispositions of overconfidence, arrogance or immortal thinking which offended the gods. Since 1996 the sophisticated middle path plotted by Cairns has been very influential; he argued that both MacDowell and I highlighted valid aspects of the concept, but suggested that we should each yield something to the other;¹¹ he maintained that the dispositional mode was more dominant than I allowed in many significant contexts and authors. Good summaries of the debate and sensible moves towards such a middle path are offered by Werner Riess (2012) and David Phillips (2016).¹² I would now accept that in my desire to challenge traditional views I failed to develop the implications of Aristotle’s emphasis in his account on *prohaeresis* (a settled disposition).¹³ But (against Cairns and many others) I would still in general place as much emphasis on the effects on others as on the disposition of the agent; and it is central to my response to Canevaro that his development of Cairns’ rebalancing puts much greater weight on the damaging disposition and does not acknowledge the central importance for individuals and society of the emotional impact.¹⁴

⁸ David Lewis reminds me of Lys. 10.19, which shows awareness in the early fourth century of how terminology for different sorts of slaves has changed since the time of Solon’s laws: the speaker explains the archaic slave word *oikeus* as equivalent to *therapōn*, to describe a domestic slave.

⁹ Canevaro considers the questions of the fourth-century interpretations and the authenticity of the text as quoted in Dem. 21.47 (see below, pp. 210–13, and also most recently Canevaro and Harris 2019), but neither engages with the issue of the date of the law itself.

¹⁰ MacDowell 1976; 1990.

¹¹ Cairns 1994; 1996. Cf. also Harris’ comments in his review of MacDowell’s edition of the *Meidias* (Harris 1992: 74, and also 2006: 316–17); Scafuro 2018: 47–8.

¹² Riess 2012: 120–6 concluded that it is ‘the open and performative display of an excessive attitude that transgressed the flexibly defined domain of good behaviour’, Phillips’ formulation (2016, esp. 42 n. 61) is slightly closer to my view offering equal emphasis on the impact. See also Demont 2006; Kamen 2013: 12–13.

¹³ As Phillips (2016: 37–8) also pointed out, my treatment of Aristotle’s *prohaeresis* was inadequate. At times I have felt, however, that my readers have found me more insistent on effects than I had been (or had intended to be).

¹⁴ For a more general restatement and defence of my views on *hybris*, see Fisher (forthcoming).

There is now general agreement that the two central elements of *hybris* are, first, a broad category of antisocial behaviour defined in terms of the honour of the agent in relation to the honour of those affected, and, second, the disposition of determined self-assertion leading people towards such behaviour. All accept, as Cairns put it, that ‘*hubris* should be firmly located within the concept of honour’, or as Aristotle, even more succinctly, ‘dishonouring is characteristic of *hybris*’ (ὕβρεως δὲ ἀτιμία, Arist. *Rh.* 2.2, 1378b29–30).¹⁵ The main thrust of Canevaro’s article is that in the *hybris* law, even though there are necessarily targeted victims, in the case of a slave the dishonour supposedly inherent in *hybris* is not that of the slave victims; hence this provision of the law does not conflict with the absolute rights of a slave-owner and the absence of honour for the slave. My argument will be that there has to be some possibility of some impact on the honour of the slave victim, however little practical difference this may have made to the lives of slaves.

Definitions of Slavery and the Protection of Honour

As has been argued in different ways by Vlassopoulos and Lewis, we do not need to give priority to either of the two modes of definition.¹⁶ Emphases on property and on dishonour equally have their uses in exploring different aspects (legal, social or psychological) of the relationships between owners and slaves and to their understanding and feelings about each other. I would then suggest that on either account it is over-rigid to insist that *hybris* against a slave is inconceivable; such an approach fails to pay proper attention to the contradictions inherent in the system faced by legislators and slave-owners, who must acknowledge that slaves are human beings, not just tools or animals. If slaves are to be managed by a combination of repression and encouragement, the incentives must appeal to their drives and emotions. This is reinforced by the fact that in most slave cultures slaves performed a wide variety of jobs, demanding different attainments, skills, responsibilities and attitudes; hence slaves might be subjected to, and respond to, varied methods of control and inducement and might be permitted to engage in varying degrees of independent agency and emotional relationships.¹⁷

The definition of slaves as animate property goes back at least as far as Aristotle (*Pol.* 1.4, 1253b28–36, ὁ δοῦλος κτήμα τι ἔμψυχον), and this approach, in terms of property with accompanying rights such as to possess, to use, to manage, to derive wealth from

¹⁵ The force of the genitive (*hybreōs*) is hard to determine; I argued for a strong sense (Fisher 1992: 8 n. 5); but a weaker force (‘a mark of’, ‘an aspect of’) cannot be excluded. See further on this phrase and Canevaro’s interpretation (2018: 115 n. 69) of it, below, pp. 220–1. Dishonour is central to two later brief definitions from Athenian philosophical schools: [Pl.] *Def.* 415e12, ‘*Hybris* is *adikia* (wrongdoing) leading to *atimia*’, and [Arist.] *On Virtues and Vices* 1251a34–6, ‘*Hybris* is one of three types of injustice, one through which people provide pleasures for themselves by bringing others into disgrace (*oneidos*), hence Euenos says about it “it is that which bringing no benefit still does wrong to another”’.

¹⁶ Vlassopoulos 2011b; cf. 2021: 47–53; Lewis 2016; 2018, and his chapter in this volume; a preliminary suggestion of such an approach, Fisher 1993: 3–6.

¹⁷ For an interesting analysis of differing owners’ strategies and slave responses, both on plantations and in wider economic and social networks in the US Southern states, see Morris 1998. See also the chapters of Cairns, Canevaro, Roth, and Porter, this volume.

their labour and their capital value, has been well defended in relation to many societies by David Lewis,¹⁸ arguing against its rejection by Orlando Patterson. But there is no necessary implication that these property rights gave owners the absolute right to use or abuse their slaves entirely as they wished; and of course a slave could be abused by a free person other than his owner, in which case the owner would have rights against such an offender. Many slave cultures have imposed some sanctions – however ineffective – for homicide or severe maltreatment of a slave; the fact of ownership of others, and the tendency to view them as comparable to tools or animals, do not entail that the legal system must exclude them from consideration to some extent as beings possessing human moral beliefs and emotions.¹⁹

Second, Patterson's definition of slavery as 'a permanent, violent domination of natally alienated and generally dishonoured persons' places honour at the heart of the slave condition. For ancient Greece, Patterson argued that slavery and the honorific or timocratic culture of the Greeks were mutually reinforcing and that the provision of the Athenian law must be a dead letter if that necessarily involved attributing honour or respect to them;²⁰ he cited Demosthenes' description (already quoted) of *hybris* as 'treating free persons as slaves' (21.180). But this view similarly makes the assumption that the dishonour inherent in the slave condition is absolute and lasting, ruling out the possibility of a slave having some limited honour which should not be unjustly infringed. Secondly, it assumes that in relation to honour and dishonour slaves should all and always be considered on an equally low footing, as lacking honour. Both these points are well made by David Lewis, who observes that 'slaves cannot be simply removed *tout court* from the dialectic of esteem and honour that characterize social relations in any society';²¹ and in his book he states, discussing the 'definition' he is

¹⁸ Lewis 2016; in greater detail in Lewis 2018. While defending the continued usefulness of the property-based definition, he maintains as well the value of a more agency-based approach, as developed by Vlassopoulos 2007; 2011b (Lewis 2016, esp. 49 n. 3). Comparably for Roman slavery, see Lenski 2016 on the compatibility of the two definitions, the centrality of violence to both, and the effects of the contradictions on slave-owners' mentalities; similarly Joshel (2011: 214–16) with reference to Roman literary culture. Ulrike Roth points out to me that Roman law acknowledged the human nature of enslaved individuals, while providing a legal framework for the protection of their owners' property rights over them: see e.g. *Dig.* 1.5.4.1 (Florentinus): under the *ius gentium*, 'anyone may subject one man to the control of another, contrary to nature'; and very relevantly that detailed provisions about injuries to slaves should take the slaves' feelings into account, e.g. *Dig.* 47.10.15.35 (Ulpian), which prescribes that the praetor not leave unavenged an injury committed on a slave himself 'especially if it was done by whipping or by torture; for it is clear that a slave does feel such a thing'.

¹⁹ Cf. Lewis 2018: 25–9; Todd 1993: 184–92. See also Williams (1993: 103–10), who emphasises that the often arbitrary mutability of status between free and slave, whether brought about by the enslavement of free people through the misfortune of warfare or piracy, or conversely by manumission, must have encouraged the cognitive dissonance of contradictory attitudes. Previously (Fisher 1995: 61–3) I cited some comparative evidence from legal systems in the US South, where contradictions abound in the operations of laws and the anxieties and justifications of the owners: see especially Tushnet 1981.

²⁰ Patterson 1982: 86–8. On Patterson's revised version (2012), which *inter alia* replaces 'generally dishonoured' with 'parasitically degraded', see Lewis 2016.

²¹ Lewis 2016: 45–6. He adds that in many other societies certain slaves can command substantial amounts of esteem and power, for example at Roman imperial or Ottoman courts. Davis (1986: 207–17) also observed that Patterson tended to concentrate on slaves' suffering rather than their agency.

defending, that ‘there is nothing in the traditional “property definition” that denies the humanity or agency of slaves, and leaving out these features from the definition need not imply that they are unimportant or not worth studying’.²² One may also note Kostas Vlassopoulos’ important arguments in favour of seeing slaves also as humans with some capacity to form new identities as members of social units such as households, labour units or trading groups of varied statuses.²³ Lewis does not apply their presence in the ‘dialectic of honour’ to the explanation of slaves as potential victims in the law by explicitly considering whether the law accepted the concept of *hybris* against slaves; he accepts the view that the law did not operate in practice as a humanitarian measure offering protection to slaves, but rather was designed to protect all citizens by banning all types of a particular form of antisocial behaviour.²⁴

Canevaro’s response is to accept these points made against Patterson’s position but with the crucial limitation that they could be applied only to ‘social reality’, contexts of interactions between social actors, ‘where there must be some level of reciprocal respect and recognition of the other’s claims, whatever the relative status of the actors’.²⁵ But he denies that this idea could operate in ‘public discourse, ideology and law’, where his claim is that ‘the possibility of sanctioning *hubris* against slaves did not imply any recognition of the slaves’ claims to *timē*’. He thus creates a strong distinction between contexts of (informal) ‘reciprocal respect’ and those of institutional ‘status’, while allowing that the language of *timē* and *atimia* is used for both.²⁶ His ‘social reality’ includes texts offering slave-management advice which encourage the use of honour as an incentive. For Canevaro one should not assume that such recognition of honour among free and slave in household relations ‘would be automatically translatable to all other social and institutional spheres’, where the needs of citizens were predominant. It seems equally unsafe to assume that some such recognition might not operate to some extent from the outset alike in the institutional and in the social spheres. In my view the unsustainability of this distinction is brought into sharper focus if one looks both at the household management literature and also at three further categories of evidence.

The giver of household advice who most clearly proposes that masters should foster the sense of honour and entitlement which slaves might possess is Xenophon, whose interest in the dynamics of *timē* and *philotimia*, especially in relation to modes of leadership, pervades all his works.²⁷ In the *Oeconomicus* Ischomachos distinguishes between ordinary slaves who are best motivated like animals through their desires to fill their bellies, and ‘those who are more honour-loving (*philotimoí*) in their natures’,

²² Lewis 2018: 26. Cf. also Todd 1993: 182, 188–90, who agrees that slaves may have some minimal *timē* for assault against them to be classed as *hybris*, while advocating a minimalist interpretation of Demosthenes’ justifications.

²³ Vlassopoulos 2011b; 2021 *passim*. Cf. also below, pp. 212–13.

²⁴ Lewis 2018: 42–3.

²⁵ Canevaro 2018: 115–21, esp. 121.

²⁶ With the qualification, pointed out by Douglas Cairns, that the sense of these words to denote honour as a specific citizen status or rights or their loss (*atimia*) did not apply to the status of a slave.

²⁷ See Keim 2016.

who are spurred on by praise; ‘some of these natures are as hungry for praise as others are for food and drink’ (*Oec.* 13.9).²⁸ In the following chapter (14.9–10), perhaps with some humorous exaggeration, he states:

Those whom I discover are induced to be fair (*dikaios*) not just to get an advantage from their fairness but because they are keen to be honoured by me, I treat as free men, not only making them rich, but also honouring them as if they were gentlemen (*kaloi kagathoi*). For it seems to me, Socrates, that an honour-loving man (*philotimos*) differs from a money-loving man in that he is prepared, for the sake of praise and honour, to work hard when necessary and take risks and keep away from shameful gains.

The idea of honouring them like *kaloi kagathoi* here may hint at the possibility of manumission,²⁹ a practice found in all slave societies which, with its legal recognition and regulations in itself exemplifies the central contradiction concerning conceptions of slaves, between the less than human and those potentially worthy of freedom and possibly citizenship.³⁰ Xenophon does not otherwise mention it, and Aristotle unfortunately left unfulfilled his promise to explore further the appropriate treatment for slaves and in particular his recommendation that freedom should be offered as a goal for them all (*Pol.* 7.9, 1330a31–3). A brisk attempt to fill the gap appears in pseudo-Aristotle’s *Oeconomica*, which explicitly advises that a master should neither allow slaves through lax treatment to show *hybris* against him, nor oppress (*aniān*) them, and he should give a share of *timē* to those who are more suited for freedom (*eleutheriōteroi*), but greater amounts of food for the workers. The author then suggests that it is just and beneficial that freedom be presented to them as a goal and prize, and that conditions and timescales for implementation be set out for them (1344a32–40, 1344b19–22).

While household management advice may perhaps fall on the ‘social’ side of Canevaro’s supposed boundary between ‘social reality’ and ‘institutional rules and structures’, with my next category, works of political and legal philosophy, the boundary certainly becomes fuzzier. Plato’s discussion in the *Laws* permits serious beatings of unruly slaves, but sets limits to maltreatment, recognising that one should give them some respect (*protimān*), and not treat them with *hybris*; like the Athenian orators, he claims this is more for the sake of the moral health of the owners than for the slave victims, but nonetheless it is important that for him slaves deserve some honour and not to be treated hybristically (whatever savage treatment might be labelled as such).³¹

²⁸ The fullest statement of *philotimia* as a crucial criterion for distinguishing the motivations of ‘proper men’ (including some slaves) from animals comes at *Hiero* 7.3; cf. Keim 2016: 128–31, who discusses many other passages. See also Porter, this volume.

²⁹ Cf. Fisher 1995: 56–7.

³⁰ And equally that very many slaves will have previously been free, not born into slavery. On manumission in Greece, see Zelnick-Abramovitz 2005; Kamen 2013: 32–42; Lewis (forthcoming).

³¹ Cf. Morrow 1939: 27–56; Fisher 1995: 57–60; Forsdyke 2021: 235–8.

Two methods alone are left, not to let those who are going to accept slavery easily to be of the same nation, but as far as possible to speak different languages, and then to look after them correctly, giving preference to them (*protimān*) not only for their sakes but more for their own; treatment of such people means not committing any *hybris* against the slaves, in fact doing less, if possible, injustice than to one's equals. For that man makes it clear that it is by nature and not in affectation that he reveres justice and really hates injustice, in his dealings with those whom it is easy to treat unjustly. (Pl. *Leg.* 6, 777d–e)

Even more significant are Aristotle's discussions in *Politics* and *Nicomachean Ethics* of the possibilities of justice and friendship between masters and slaves, since these discussions form part of unambiguously political discourses.³² They provide further evidence for a recognition that slaves might share in the emotions and values related to honour, however much this comes at the cost of revealing contradictions in his conception of slavery. Difficulties of finding consistency across different passages have often been addressed and need not be considered here;³³ what matters is that in both the *Politics* and *Ethics* possibilities of friendship and mutual advantage between masters and slaves are contemplated, albeit for different types of slaves. In the *Politics* a state of natural slavery allows for reciprocity and friendship, but it is not possible where enslavement was unjust and likely still to be resented:

Therefore there is a mutual benefit and a friendship between slave and master, when they are by nature fitted for such things, but the reverse is the case when the relationship is not of this type, but arises from the law of enslavement in war and through force. (Arist. *Pol.* 1.6, 1255b10–14)

In the *Ethics*, on the other hand, the picture is seriously modified and two types of relationship are allowed, only one of which can include justice and friendship:

Where there is nothing in common between ruler and ruled, there is no friendship either; for there is no justice. It is like the relationship between craftsman and tool, soul and body, master and slave – all the things of use are benefited by those who use them, but there is no friendship, or justice, towards inanimate things, nor to a horse or ox, nor again to a slave, in as much as he is a slave. For they have nothing in common; the slave is a living tool, as a tool is an inanimate slave. Therefore friendship with a slave is not possible, in so far as he is a slave, but in so far as he is a human being, it is possible; for there seems to be a sort of justice between any human and another with whom one can share in a legal action or contract, and hence there can be friendship, in so far as the slave is a human being. (Arist. *Eth. Nic.* 8.11, 1161a30–b10)

³² Aristotle's conception of the very close connection between the subject matters of *Ethics* and *Politics*, at its most evident in the final chapter of the *Nicomachean Ethics*, itself constitutes an argument against supposing 'a serious divide between the different worlds of social contacts and institutional discourses'.

³³ The contradictions are brought out clearly by Millett 2007; see also the recent treatments in Zelnick-Abramowitz 2005: 50–60; Kamen 2014: 294; Forsdyke 2021: 22–31. See also Roth, this volume.

This allows for a range of slave relations: first, if there is no common interest and a slave is property and like a ‘living tool’, there is no justice;³⁴ and second, where there may be a shared notion of justice, law or contract, the slave can be seen as a human being and there can be friendship (*philia*), underwritten by this sense of justice. From here it is only a small step to suggest that some slaves, *qua* humans at least, though not *qua* slaves as such, who are conscious of being in a reciprocal relationship of justice and *philia* with their masters, might legitimately feel outraged at a savage and unjustified beating, and entitled to use the emotional language of justified anger, slighting (*oligōria*) and *hybris*; Aristotle himself acknowledges this point in the *Rhetoric* (2.3, 1380b16–20): advising that one should give an initial verbal rebuke before administering punishment, he notes that ‘even slaves are then less indignant at being punished’.³⁵

Next there is the language found in well-known passages in some highly political law court speeches, which can certainly be described as ‘discourses of institutions and law’, where victims of hybriatic assaults (violent or sexual) are of low, if often uncertain, status: slaves, privileged slaves or ex-slaves. First, the Olynthian woman, who was verbally abused and whipped at a Macedonian symposium held after the fall of her city (Dem. 19.196–7; Aeschin. 2.4, 153–8), is described by both opposing speakers as ‘free’ (*eleutherā*) and also as ‘a captive’ (*aichmalōtos*); according to Demosthenes’ version she was cruelly mocked by Aeschines and Phrynon for displaying uppity *hybris* and as a ‘captive, one of the cursed Olynthians’ (τῶν ἀλειτηρίων Ὀλυνθίων αἰχμάλωτον); Aeschines rebuts the accusation at 2.158. Demosthenes presents her as legitimately ‘feeling upset’ (ἀδμονούσης) and as ‘beside herself’ (ἔξω δ’ αὐτῆς) at their *hybris* and drunken abuse (*paroinia*) (Dem. 19.197; cf. Aeschin. 2.4).³⁶ Her status is presented ambiguously, reasonably as she was a free woman who had been very recently captured and was currently in a sort of status limbo. It was allegedly urged by some that she was now a slave and should be treated as such, but her defenders presented her as an (ex-)free woman, unjustly enslaved, who was in great emotional distress and entitled to complain at the *hybris*.³⁷

³⁴ Ross’ (2008) convincing rereading of the difficult passage at *Eth. Nic.* 8.10, 1160b24–31 heightens the contradiction between the defence of natural slavery in the *Politics* and the critical arguments in the *Ethics*; on this reading the relationship of master to slave is assimilated to the ‘tyrannical’ paternal rule among the Persians, and is also a mistake, as opposed to the (Greek) monarchical pattern of rule.

³⁵ See also Forsdyke 2021: 206.

³⁶ On the brutal and inhumane treatment of the Olynthian woman alleged by Demosthenes, see Forsdyke 2021: 84–7 and Lewis, this volume. Forsdyke mentions also the sympathy expressed in pseudo-Andocides *Against Alcibiades*, when describing the intense and lasting emotions of grief and hatred supposedly felt by the enslaved Melian woman and her son, whom her new master, Alcibiades, had fathered, after he had killed her male relatives and desolated her city ([Andoc.] 4.22–3).

³⁷ See further on the status of the Olynthian prisoners, and continued Athenian outrage at their enslavement and maltreatment, Hunt 2010: 149–50; 2016b: 156–7. On Demosthenes’ narrative of sympotic violence, also Spatharas 2019: 109–16. Similar may be two cases briefly mentioned at Dinarchus 1.23. First, a case where the death penalty was allegedly imposed on Euthymachos because ‘he established the Olynthian young girl (*paidiskē*) in a brothel’; *paidiskē* too may allow some ambiguity of status of a recently enslaved Olynthian. Canevaro (2018: 100 n. 2) suggests the charge was imprisonment of a free person; Cohen 2015: 127 suggests *hybris*. Second, where the same penalty was inflicted on Themistios for *hybris* against a Rhodian lyre-player (who may have been slave, freed or metic). Cf. Vlassopoulos 2021: 100

Two further extended narratives present victims ambiguously, mixing contempt and sympathy and reflecting similar contradictions.³⁸ Neaira, according to Apollodoros' prosecution, was living as a (precarious) freedwoman and a high-range *hetaira* at the time of the outrage.³⁹ Up to this episode ([Dem.] 59.33–40), she has been portrayed by Apollodoros as a slave corrupted by prostitution from early youth, who when freed lived a life of promiscuity and illegality. When, however, he describes the gang-rape at Chabrias' party, while she was drunk and incapable of consent and her protector Phynion asleep, he claims that she felt 'she was grossly humiliated (ἀσελγῶς προὔπηλακίζετο) by Phrynion and not loved as she thought, and he was not providing for her what she had wished', and he displays her complaining to her new lover Stephanos of Phrynion's *hybris*, describing him as violent and contemptuous (σοβαρὸς δὲ καὶ ὀλίγωρος). Recognition of her emotional distress, perhaps with some sympathy, is thus presented.⁴⁰

The case of Pittalakos (Aeschin. 1.58–70) is more complicated, as his status at the time of the events described remains uncertain, due perhaps to deliberate obfuscation by Aeschines. He twice calls him a *dēmosios* (a public slave), who possesses some property and a strong connection to a gaming house. He may be now a freedman, which might be suggested by his action in beginning a legal action for the assault.⁴¹ The narrative is directed at Timarchos, as a virtual prostitute (*pornos*) ready to serve the pleasures of the *dēmosios* Pittalakos,⁴² then to join his new lover Hegesandros in a savage assault on him: his body was tied to a pillar and 'they whipped him with beyond human blows' (ἐμαστίγουν τὰς ἐξ ἀνθρώπων πληγὰς, Aeschin. 1.59). Pittalakos' strong emotions are then presented; deeply upset (ὑπεραγανακτήσας), he sought refuge at the altar of the Mother of the Gods, and later, 'the fellow, very unhappy at their *hybris*' (βαρέως δὲ φέρων τὴν ὕβριν αὐτῶν ὁ ἄνθρωπος, 1.62), started an action (perhaps a *dikē*

for the self-conception as free of those who had been recently enslaved, or spent much of their lives free (like Euxitheos in Dem. 57). David Lewis points me to an alleged law proposed by Lycurgus, attested by pseudo-Plutarch (*Mor.* 842a), which forbade any Athenian or any of those living in Athens 'to buy a free body for slavery of those who had been captured without the judgment of the former master' (i.e. who might give an assurance that the person had already been a slave): see Rosivach 1999: 141. If genuine, this provides further evidence for Athenian concern for war captives such as the Olynthians.

³⁸ The emotional complexities of these two cases are well analysed by Rubinstein 2013: 138–40, 156–8.

³⁹ On the precariousness of her condition as a freedwoman, cf. e.g. Forsdyke 2021: 238–40.

⁴⁰ See also Fisher 2001: 189–90.

⁴¹ E.g. Fisher 2004; Vlassopoulos 2009: 351–2. Hunter (2006) and Ismard (2017: 69–70) suggest he was still a slave, arguing that we do not know enough about the social status and legal capacities of public slaves to be sure that Pittalakos, with his legal powers and property, could not have been still a slave, and the way Aeschines tells the story suggests that the judges should have found it plausible that he was. Ismard's point that the cruel punishment of Pittalakos 'recalls the stigma of slavery' is right in itself, but if he were now freed that would precisely be Hegesandros' point, to impose the humiliation on an uppity ex-slave. Alternatively, if, as is likely, judges were used to the practice of continuing to call freedpersons slaves, he may yet be some sort of freedman (cf. Kamen 2013: 25–7; Canevaro 2018: 100 n. 3) or even perhaps a slave owned by the *genos* of the Salaminians (canvassed by Fisher 2004). On the connections with gambling dens seen as open spaces or networks, for people of any status, also Vlassopoulos 2009: 351–2; Taylor 2015: 40–51.

⁴² Notably this is not said to be illegal, though it might have been if Pittalakos were still a slave: Fisher 2001: 190–1.

aikeias) which he felt forced to drop under pressure from Hegesandros' claim that he was his personal slave. Some sympathy for Pittalakos' pain, jealousy and anger seems undeniable, though his supposed slavish status (reinforced by the designation of him as ὁ ἄνθρωπος) and the abandoning of his action may suggest some counterbalancing disdain.⁴³ But this extremely violent humiliation is presented as a clear case of *hybris* and a possible basis for a legal action, both an expression of their arrogant dispositions and as behaviour directly designed to inflict humiliation on an undeserving victim, even one who had been (or may still be) some sort of slave.⁴⁴

A further procedure open to slaves also deserves mention. Pittalakos, apparently presenting himself as an ex-slave, sat down at the altar of the Mother of the Gods in the Agora. Across Greece, slaves who wished to escape from intolerable treatment from their masters, unable to find anyone to bring a charge such as a *graphē hybreōs*, might seek asylum (*asylia*) at a recognised sanctuary and hope for a hearing of their grievances. In Athens, slaves resorted most often to the Theseion, the tomb and sanctuary of Theseus, probably located to the north of the Acropolis and east of the main agora.⁴⁵ There was a recognised procedure, called a 'law' (*nomos*) by both Plutarch (*Mor.* 166c–d) and *Scholia to Aeschines* (3.13), which allowed slaves to settle under divine protection there, requesting a kinder master: in Plutarch's words (not specific to Athens), 'There is a law even for slaves who have given up all hope of freedom, that they may request a sale, and so get in exchange for their present master a more reasonable one (*epieikesteron despotēn*).'⁴⁶ It is unclear what forms of negotiations or hearings might take place, let alone how often they may have resulted in an improved position for the slave. According to the *Etymologicum Magnum*, 'cases (*dikai*) are heard'. Christesen speculates on possible procedures and outcomes, generally giving a rather optimistic viewpoint; her suggestion that there might be a direct legal connection between a *graphē hybreōs* and a hearing at the Theseion lacks textual support and seems implausible, though a slave might well use the language of *hybris* in the description of the complaint.⁴⁷ The point remains that a legal or quasi-legal procedure operated which allowed some hope of amelioration, however shaky, for slaves suffering appalling treatment from their masters. Thus, the city accepted that some treatment might

⁴³ Cf. Rubinstein 2013: 156–7; Fisher 2001: 189–202; 2008: 133–6; Spatharas 2019: 116–22. The plaintive voice of a young slave apprentice Lesis, complaining to his mother and a man called Xenokles of incessant beatings and humiliation by his 'evil' foundry master, survives in a fourth-century lead letter from the Agora (Jordan 2000); see Harris' convincing case (2004) that Lesis was a slave; cf. Forsdyke 2021: 1–3, 114–15, 122–3, 157.

⁴⁴ If he were still a state slave, as David Lewis suggests, there might be an implicit appeal to the jury's annoyance at this slave, seen as their property, being so maltreated. But the emphasis in the text is firmly on Pittalakos' jealousy, pain and anger at his inhuman treatment. Cf. also Demosthenes' categorisation of Androtion's alleged behaviour as a tax-collector at 22.54, insulting citizens and 'wretched metic tax-evaders whom you treated more hybrisically than your own slaves' (cf. Fisher 1992: 86–7), which itself allows the (rhetorical) possibility that extreme maltreatment of household slaves could be considered *hybris*.

⁴⁵ See Paus. 1.17.2, with Vanderpool 1974; Di Cesare 2018.

⁴⁶ Ar. *Eq.* 1310–12; Plut. *Thes.* 36; *Mor.* 166c–e; Poll. *Onom.* 7.13, *Etym. Magn.* 451, s.v. *Theseion*. Other shrines might perhaps be used as sanctuary for slaves, such as that of the Semnai Theai under the Areopagos or Demeter's sanctuary at Eleusis: see Ar. *Eq.* 1312; Men. *Sik.* 176–271; Ismard 2019b: 215–17.

⁴⁷ Christesen 1984: 24–6. See Forsdyke 2021: 37, 227–35; Ismard 2019b: 215–22.

reasonably be held to be offensive to the gods; that slaves might suffer physical pain and emotional distress (such as the wretched Lesis expresses in his letter) which could deserve some respect; and therefore that a procedure should be made available under the divine protection of a sanctuary which offered some possibility of a change.⁴⁸

Lastly, on a more positive note, the inclusion of some *dēmosioi*, ‘public slaves’, in the democratic discourses of honour is importantly demonstrated by some inscriptions, rewarding such special slaves for their roles in the administration of the democracy.⁴⁹ From 341/0 BCE some public slaves working for the Council (*Boulē*) appear included in the lists of the members of the year’s successful prytany which was given the collective honour of a crown.⁵⁰ More remarkable are two texts which single out for special honours individual *dēmosioi* for their long and reliable service in administrative roles.⁵¹ A decree of 302/1 BCE records the successful supplication by a *dēmosios* named Antiphates, on behalf of another *dēmosios*, Epikrates, that he be honoured for his services to the Lamian War campaign under the general Leosthenes and further services. It records the decision that the people should award appropriate honours, though unfortunately the specific honours do not survive on the stone.⁵² A second text offers another possible case: a decree of the Athenian garrison at Eleusis of 267/6 honours with a crown one Dion for his long service as a secretary to the treasurers concerned with supplying and distributing wheat; he seems not to be a citizen (no patronymic or demotic is given), and given his duties he is likely to have been a *dēmosios*.⁵³ Here the standard euergetic language is used to express honorific rewards for displays of *philotimia*, and the encouragement of future *philotimia* with the prospect of further honours, which might, for Dion (if still a slave), include manumission.⁵⁴ Thus, in this fully political and institutional discourse, some exceptional slaves were seen as capable both of displaying *philotimia* and of having their claims to honour rewarded.

These representations in speeches, public procedures and decrees should be given comparable weight along with the slave-management advice found in Xenophon and pseudo-Aristotle and the uncertain theorising in Aristotle. They all suggest that some

⁴⁸ For Lesis, see Harris 2004 and Canevaro’s chapter in this volume. The term used by Plutarch (‘a more equitable master’, *epieikesteron despotēn*), if it can be relied on, might suggest that slaves as human beings might have an expectation of some appropriate degree of ‘fairness’ in the relationship, that is some limit to permitted brutality and humiliation; on *epieikeia*, fairness, often beyond what is in the written laws, see e.g. Arist. *Rh.* 1.13, 1374a18–b22. Cf. also Plut. *Thes.* 36, who comments that Theseus’ tomb, once established by Cimon, was an appropriate place of refuge for slaves and others in need, in view of his humanity (*philanthrōpia*) towards the lowly; on *philanthrōpia*, see below, pp. 220–2.

⁴⁹ On these see especially Ismard 2017: 57–79, and also Vlassopoulos 2021: 106–7, on status dissonance produced by specialised roles and conditions experienced by such exceptional slaves; Forsdyke 2021: 135–40. For comparable debates concerning the status and honours for the public slaves in Rome see Luciani 2020; 2022; for the *familia Caesaris* and more generally on ‘elite slaves’ cf. Patterson 1982: 209–308, resisting the idea that actual ‘honour’ was involved, and Ismard 2017: 107–9.

⁵⁰ *Agora* 37.4; 62.10–18; 72.6, 67, 83, 211, 266.

⁵¹ See Ismard 2017: 70–3.

⁵² *IG* II² 502, *SEG* xxv 81 (fr. a), *SEG* xlv 88 (fr. b), *SEG* lii 103 (association of a and b).

⁵³ *IG* II² 1272 = *IE* 182. See Oliver 2009; Ismard 2017: 70.

⁵⁴ See Ismard 2017: 71. For other types of important secretarial and administrative tasks performed by attested *dēmosioi*, notably Eukles, for decades an expert in public inventories and accounting (*IG* II² 120, 1440, 1673), see Hunter 2006; Ismard 2017: 38–40, 86–8; Vlassopoulos 2021: 69, 106, 114–15.

slaves and ex-slaves were thought in public discourses to possess honour which may be attacked hybristically, and to deserve sympathy if so outraged; more positively, some public slaves came to be seen to merit public honours and rewards. Thus, serious doubt is cast on Canevaro's supposition of a division between different categories of discourse, and indicates rather that contradictory attitudes to the possible honour of slaves pervade indiscriminately all our categories of evidence.

The *Hybris* Law: Date and Purposes

Fourth-century orators regularly, and naturally, praise Solon, 'the lawgiver', as the originator of the law (Aeschin. 1.7–17; Dem. 21.45), and in itself this is of course not reliable. I have argued, however, that it is more likely than not that this law was Solonian and took a central place in his reforms, designed above all to defend non-elite citizens against abuse; I adduced the strong emphasis in Solon's poems on the social and political dangers for the stability of the city caused by the 'unjust mind' of the people's leaders 'for whom many griefs are there for them to suffer as a result of their great *hybris*'.⁵⁵ Many have agreed and used a Solonian origin as part of their explanation for the inclusion of slaves in the law; for example, Oswyn Murray saw a special concern to protect those slaves (and their masters) involved in assisting the sympotic and athletic lifestyles of the elites.⁵⁶ Hans van Wees developed the general argument further, arguing that the *graphē hybreōs* was in fact the original *graphē*, the central plank of Solon's reform introducing the volunteer prosecutor for serious offences described by the Aristotelian *Constitution of Athens* and Plutarch.⁵⁷

The important issue of whether we have the precise text of the law also remains unresolved. The view (which MacDowell and I defended) that the whole of the text found in many manuscripts at Dem. 21.47 is authentic is no longer tenable after Canevaro's comprehensive book on the documents in Demosthenes' public speeches.⁵⁸ But I would still maintain the view that the initial two phrases found in almost identical words in Aeschines' own words (1.16) and in the text found in the manuscripts at Dem. 21.47 are essentially authentic.⁵⁹

Ἐάν τις ὑβρίζει εἰς τινα, ἢ παῖδα ἢ γυναῖκα ἢ ἄνδρα, τῶν ἐλευθέρων ἢ τῶν δούλων, ἢ παράνομόν τι ποιήσει εἰς τούτων τινά, γραφέσθω πρὸς τοὺς θεσμοθέτας ὁ βουλόμενος Ἀθηναίων οἷς ἔξεστιν.

If anyone commits *hybris* against anyone, boy, woman or man, whether of the free or the slaves, or does anything illegal (*paranomon*) against any of these, let anyone

⁵⁵ Solon fr. 4 West; also fr. 6, 13. See Fisher 1992: ch. 2.

⁵⁶ Murray [1990] 2018: 188–95; cf. also Morrow 1937: 226; Wrenhaven 2012: 65–7.

⁵⁷ Van Wees 2011; [Arist.] *Ath. Pol.* 9.1; Plut. *Sol.* 18.5. Cf. also Riess 2023: 13, who accepts the Solonian date and the close connection to the poems, as does Humphreys (2018: 44–61), who holds that the *hybris* law, like other *graphai*, was an important part of Solon's legislation.

⁵⁸ MacDowell 1990: 263–4; Fisher 1992: 36–7; see Canevaro 2013, and especially Harris' chapter on Dem. 21 (pp. 208–36); cf. Leão and Rhodes 2015: 162–3.

⁵⁹ Cf. also Fisher 2001: 139–40.

who wishes of the Athenians to whom this is permitted bring a *graphē* before the Thesmothetai.

The crucial point here is that the same combination of phrases – ‘If anyone commits *hybris* . . . or does anything illegal’ (ἐὰν δέ τις ὕβριζῃ ἢ ποιῇ τι παράνομον) – is found also in the quotation of the regulation concerned with the archon’s responsibility for protecting orphans found in one manuscript in [Dem.] 43.75.⁶⁰ This makes it in my view hard to follow Harris and Canevaro⁶¹ in seeing this phrase as Aeschines’ parenthetical addition, not part of the law. Good reasons for accepting many of the legal documents preserved in [Dem.] 43 are given by Adele Scafuro.⁶² It is notable also that these two key terms are repeatedly echoed in the orator’s elaborations of the law ([Dem.] 43.72–3, 76–8), using the forms *hybristēs* and *paranomōtata*.⁶³ The existence of the same additional phrase in the texts of both laws dealing with *hybris* cannot be a coincidence.⁶⁴ If the phrase was in both laws, either the archon law took this phrasing from the general *hybris* law, conveying the idea that all such offences directed specifically against orphans and *epiklēroi* were to be prohibited (which I would prefer); or conceivably it was the other way around, and the archon’s concern for weak *oikos*-members was framed first.⁶⁵ Alternative, more sceptical scenarios seem less likely: either that Aeschines transferred the phrase from his memory of the archon regulation and inserted it into his citation, or (less unlikely) that the inventor of the regulations in the pseudo-Demosthenes speech found the *paranomon* phrase in Aeschines’ speech and added it in his version.⁶⁶ So I still tend to believe that both phrases are correctly quoted by Aeschines, and that taken together they strongly suggest an early date and a significant place for the *hybris* law in Solon’s reforms.⁶⁷ I would support also Van Wees’ elaboration of this idea in relation to the innovative central principle of Solon’s legislation constituted by the *graphē* procedure (whether the *hybris* law was identical

⁶⁰ The authenticity of this phrase is supported by Van Wees (2011: 120–2, 138 n. 9); Leão and Rhodes 2015: 47–8; Lanni 2016: 85–90; and with fresh arguments by Scafuro 2016; 2018: 47 n. 40.

⁶¹ See Harris 1992: 77; Harris in Canevaro 2013: 226; and Canevaro and Harris 2019.

⁶² See Scafuro 2006: 180–2; 2011: 116–18, 148–9; 2016; and cf. Rhodes 1981: 633–4. Scafuro (2006) explores the general possibility that in many such citations of laws it may be possible to detect a Solonian ‘kernel’ among later additions, introduced as procedures changed.

⁶³ The combination is also found in participle form at Lys. 3.5 and Dem. 28.81 (cf. Van Wees 2011: 138 n. 8), suggesting the two verbs were commonly felt to fit together.

⁶⁴ Harris (in Canevaro 2013: 226) states that Van Wees follows me ‘uncritically’, which perhaps amounts to a statement that he found my arguments convincing; he ignores his additional point that Aeschines’ immediately preceding insertion did the job of making the text seem relevant to his case, so he had no need to invent the *paranomon* clause. Canevaro and Harris (2019: 101–2) argue further that the presence of the same phrase in the text in [Dem.] 43 (if that is genuine) does not furnish a parallel because the ‘two laws are not similar’; ‘the rule in Ps. Dem. 43 does not provide a legal procedure for an offense, but states the jurisdiction of the archon’. But this text, while not necessarily a single law, seems to use legal language to summarise regulations and to include an existing phrase for behaviour describing offences by those of superior power against the weaker. On the role of the archon in Solon’s laws concerning protection of family members, see also Humphreys 2018: 44–5, 52, 58.

⁶⁵ So Scafuro 2006: 180–1.

⁶⁶ Canevaro and Harris 2019: 96; doubts in Scafuro 2016: 81.

⁶⁷ Accepted as a possibility by Leão and Rhodes (2015: 48).

with its introduction, or parallel and closely related). In my view this makes excellent sense in the light of the heavy use of the language of *hybris* in Solon's poetry describing the political and social problems of Athens and explaining his solutions for them.⁶⁸

Hence one might now speculate that changes in attitudes towards slave natures and master-slave relations may have occurred between Solon's time and that of the rhetorical elaborations in the 340s, which might lead to distinct explanations of the origins of the *hybris* law and of the ways it was understood a century and a half later.⁶⁹ For Solon (or another sixth-century legislator) reasons for not excluding slaves from the *hybris* law may be related to the probability that slaves were fewer in number and were not yet conceived as predominantly non-Greek and naturally slavish, as they came to be later; many might have been closely involved with their elite owners at their leisure activities.⁷⁰ By the fourth century, on the one hand the views of the different types of inferiorities supposedly characteristic of different 'barbarian' peoples were well developed, and may well have affected slave-owners' views of the nature of their slaves. On the other hand, the evidence for the growth of activities of privileged slaves and closer social interplay between different status-groups, slaves, foreigners and citizens, needs to be considered.⁷¹ Particularly striking is the development, around 350 BCE, of specialised commercial courts (*dikai emporikai*) which established legal procedures for those of all statuses to operate on equal terms, as litigants and witnesses, in the settlement of commercial disputes.⁷² In Demosthenic speeches on commercial disputes a number of slaves are discussed whose status is not regarded as an issue even when they are presented as fraudulent villains (for example Lampis, in Dem. 34; Zenothemis in Dem. 32).⁷³

So perspectives about slaves and free persons in each period strongly suggest that in both contradictory attitudes coexisted, if for different reasons; in practice all slaves were obviously observed to possess some human understanding and emotions, and might be thought to respond well to moral encouragement and to deserve some minimal respect and protection against abuse. At all times, too, a dominant motive among lawgivers and many citizens in general would be to see a powerful statement given by

⁶⁸ A further, tentative, argument that *hybris* was a broad term in early Athens for the most serious types of offences against individuals may be drawn from Pausanias' account (1.28.5) of two unworked stones standing at the entrance to the court of the Areopagos: the stone of *Hybris* at which the accused stood, where *hybris* stands as a term symbolic of a serious offence against individuals; and the stone of *Anaideia* ('ruthlessness'), where the prosecutor stood, denoting his refusal to grant *aidesis*, that is to pardon the accused and enter a state of mutual respect (*aidōs*) with him, and thus his determination to achieve *timōria* through a trial. On these stones (alluded to at Eur. *IT* 961–3), cf. Jacoby on Istros *FGH* 334 F11; Fisher 1992: 199–200; Stroud 1993: 209; Demont 2006: 351. More complex speculations about these stones in Pecorella Longo 2002. On *aidesis* and *timōria* in archaic Athens, cf. Dem. 21.43 with MacDowell *ad loc.*; Heitsch 1984; Cairns 2015: 548–9.

⁶⁹ Cf. Ober 2012: 843 on the difficulties in getting at the motives of lawgivers.

⁷⁰ Cf. Fisher 1995: 62–6; Murray [1990] 2018: 188–95. If it was a Solonian law, one can point to his deep consciousness of the 'many Athenians' sold abroad as slaves and brought home, or those liberated at home, by his reforms (Sol. fr. 4.23–5, 36.8–15).

⁷¹ See Vlassopoulos 2007; 2009; Taylor 2015; Canevaro 2018: 121–2; Forsdyke 2021: 141–50. See also Kamen, this volume.

⁷² See Gernet [1938] 1955; Cohen 1973; Harris 2015.

⁷³ Cf. Cohen 2000: 133–41; Lanni 2006: 167–74; Fisher 2008: 130–2.

the law that all forms of *hybris* should be condemned as damaging to the developing characters of hybriatic men in the interests of protecting the community, and especially the weaker citizens, against serious abuse.

Finally in this section, as Canevaro argues, it is not a satisfactory resolution of the paradox to identify the dishonour in *hybris* as inflicted primarily not on the slave but on the master, for example if he were fond of a favourite domestic slave or sympotic entertainer,⁷⁴ or on the collective household.⁷⁵ This has been argued once more recently by Dmitriev (2016); he makes use of a parallel with the *graphē moicheias* dealing with adultery or seduction against women or children, where, as argued by Euphiletos in *Lysias* 1 (4, 25), the *hybris* and the shame of the adultery are twice portrayed as falling on Euphiletos himself, his sons and the whole house (*oikia*).⁷⁶ This view that the law was designed from the householder's perspective does link the *graphē hybreōs* to other *graphai* protecting weaker members of households such as orphans and *epiklēroi*; but it is too restrictive. The ancient discussions of the *hybris* law all assume that it is the slaves who are conceived as the primary victims.⁷⁷ So, while it is conceivable that the idea of protecting domestic slaves helped to give purchase to the idea of including them in the *hybris* law, it is unlikely that the law was formulated, as some other *graphai* were, primarily in order to protect the honour of the householder.⁷⁸

Disposition or Infliction of Dishonour: *Hybris* in Demosthenes' *Meidias*

I concentrate now on the sections of Canevaro's article which develop his central position that *hybris* should be seen as a disposition for behaviour which may have a slave as a victim, but that in the view of the law a slave has no *timē* and hence the inclusion of the word (*doulos*) in the law cannot and does not imply that a slave thereby suffered dishonour. This concentrates on detailed analysis of the rhetoric of *hybris* and dishonour in Demosthenes' *Against Meidias*, with a sustained critique of what he takes to be my position. A brief response to some of his arguments is necessary. Canevaro agrees that all actual or possible legal cases of a *graphē hybreōs* we know of necessarily involve one or more specific victims (listing them helpfully);⁷⁹ he then asks:

⁷⁴ As Murray [1990] (2018) suggests for the archaic period.

⁷⁵ Canevaro 2018: 104–5.

⁷⁶ Note, however, that at 1.16 the wife is also presented as a victim of the *hybris*: the statement attributed by Euphiletos to the old slave woman describes Eratosthenes as 'the man who is committing *hybris* against you and your wife'. It is perhaps significant that the supposed speaker is female. See also Omitowojou 2016: 119–22, who emphasises that forensic discussions of *hybris* committed against women tend to become stories of the impact on their powerful men.

⁷⁷ So Canevaro (2018: 105). As Lanni (2016: 92–3) suggests, it remains possible that insults to slave *hetairai* or sympotic entertainers were conceived as also insulting to the owner or main lover.

⁷⁸ Dmitriev's final argument, that the phrase *oiketika sōmata* in the law as quoted in some MSS at Aeschin. 1.15 carries a memory of the law's interest in household slaves, cannot work, both because as he admits the text is patently inauthentic and has no authority, and because the terms *oiketēs* and *oiketikon* denote slaves in general and do not refer specifically to household slaves: see Harper 2011: 513–18; Lewis 2018: 295–305.

⁷⁹ Canevaro 2018: 107.

But what exactly was the accuser meant to prove? That the act(s) under discussion had been committed intentionally and had caused dishonour to the victim, in accordance with Fisher's definition of *hubris* as 'the committing of acts of intentional insult, of acts which deliberately inflict shame and dishonour on others'? Or rather, in accordance with Cairns' definition, that the acts resulted from a hubristic disposition, and were judged by their audience to be dishonourable, regardless of whether the specific victim had actually lost any honour, and felt any shame?⁸⁰

The *Against Meidias* is by a long way the speech most concerned with *hybris*, and it is clear that this accusation was the primary charge which Demosthenes needed to establish. This is the case whether or not the case did in fact reach the court, following Demosthenes' winning the condemnatory vote in the assembly procedure of the *probolē*, or whether Demosthenes agreed a pre-trial settlement.⁸¹ Equally, *hybris* was certainly the central accusation, whether, if it came to court, it was still considered to fall under the *probolē* procedure,⁸² or whether on reaching the court the *probolē* was deemed to be completed and the case became a *graphē hybreōs*.⁸³ Canevaro argues that Demosthenes focuses his attention primarily on proving a hybriatic disposition, rather than concentrating on any actual dishonour inflicted on himself or others. It should be asked how far he succeeds in prioritising, in the descriptions of hybriatic behaviour, a focus on the disposition of the agent, and minimising any idea of adverse impact or effects on the victims.⁸⁴

As an important foundation for his argument Canevaro criticises the idea that competition for honour and the diminution of others' honour in these public contests should be seen as 'zero-sum games', based on the assumption that honour was a quasi-material good in limited supply, an idea derived from influential works of Mediterranean anthropology.⁸⁵ On this view, if an act of *hybris* is seen as an attack on the victim's *timē*, it should result in that victim's losing an amount of honour which thereby passes to the agent, almost as if it were cash or a valuable object.⁸⁶ I agree that this is a seriously misleadingly and reductive conception, and I do not believe I ever operated explicitly

⁸⁰ Canevaro 2018: 107–8.

⁸¹ On which see for example MacDowell 1990: 23–8; Harris 1992: 74–5.

⁸² As held for example by MacDowell 1990: 13–15; Fisher 1992: 38; Rowe 1994; Phillips 2016: 35.

⁸³ So Harris (1992: 73–4), accepted by Canevaro (2018: 108); and now in more detail Harris 2019a. Different passages in the speech apparently point in opposing directions: at 25–8 it seems still to be a *probolē*, not a *graphē hybreōs*; Demosthenes insists he rejected the options of 'private cases' for *blabē* and *hybris* (though see Harris 2019a); but at 193 (and cf. 1 and 19) the *probolē* seems completed. If the procedure remained a *probolē*, the prosecution clearly operates with the assumption that the offence was essentially *hybris*; perhaps *asebeia* was a secondary offence (on *asebeia* as part of the general accusation, Martin 2009: 15–48; Eidinow 2015: 74–7). One might even wonder whether these were seen as strict alternatives, rather than a staged process, the final one of which, the court hearing, might be described as if falling under either heading.

⁸⁴ Canevaro's position is now endorsed by Ismard 2019b: 198–202, and further developed in Canevaro 2020. Ismard seems to suggest that the idea of an outrage against a slave might seem more appropriate if the action took place in a public space.

⁸⁵ Canevaro 2018: 105–6.

⁸⁶ Prominent use of its application was made e.g. by Cohen (1991: 35–69; 1995: 61–70); also Wilson 1991: 165. It has been repeatedly challenged by Cairns; see 1993a: 56, 93; 1993b: 7–9; 1994: 79; 1996: 32; 2001: 211–19; 2011b: 23; 2015: 657; 2019: 77; also now Canevaro 2020: 160–1.

with it.⁸⁷ I would, however, now agree, as he suggests, that I did not distinguish my position carefully enough from it. A number of important points may be made here, which involve acknowledging different types of honour and dishonour.

A number of related typologies of types of honour or respect have been recently developed, some with reference to ancient Athens. There is the broad distinction associated particularly with Stephen Darwall, between giving others 'appraisal respect', extra esteem or honour on the basis of some special activity, skill or achievement; and 'recognition respect', respect or esteem due to people as members of a category, for example social class, political grouping, citizenship, freedom or merely humanity of any category or status.⁸⁸ This is similar to the distinction made for example by Stewart between 'horizontal honour', a right to respect from one's equals in terms of a shared social position (which can be lost but cannot readily be increased), and 'vertical honour', a special respect or honours earned by superiority in 'their abilities, their rank, their services to the community, their sex, their kin relationship, their office or something else'.⁸⁹ Not unrelated again is Ober's distinction, between the 'personal (or aristocratic) honour' of the elite and the 'civic dignity' of ordinary Athenians.⁹⁰ Ober applied the 'zero-sum game' idea essentially to personal, 'aristocratic' honour rather than to 'civic dignity'. In a more recent paper he has adopted a more complex four-part taxonomy of 'dignities' with their own labels: three successive types of 'aristocratic' dignity, two of which are more exclusive, and involve personal competition for a scarce resource ('meritocratic' and 'elite peerage'); a third, 'civic dignity', which is 'horizontal' and extended broadly to diverse members of a community; and finally 'universal human dignity' open to all human beings.⁹¹

In my view a hybriatic act may achieve, or seek to achieve, diverse types of impact or effects, partly relating to the type of honour assaulted; it is far from the case that they all involve an identifiable loss of status in the community. I would argue that *hybris* can cover the full range of insults directed against many different types of honour, and correspondingly many different sorts of adverse effects may be experienced by victims.⁹² So, for example, the insult involved in depriving a politician of an extra honour

⁸⁷ Cf. Canevaro 2018: 105.

⁸⁸ Darwall 1977; 2013b: 11–29; cf. also Appiah 2010: 61–5, 190–5.

⁸⁹ Stewart 1994: 54–63.

⁹⁰ Ober 1996: 99–106. Ober defends Demosthenes' speech against Wilson's charge (1991: 181–7) of rhetorical subversion by confusion of the two types.

⁹¹ Ober 2012.

⁹² Canevaro (2018: 107) follows Cairns (1996: 9–10; cf. 1994: 78) in identifying cases in speeches and drama where there is no apparent 'victim': these include Apollodoros' lavish expenditure on smart clothes, *hetairai* and slaves (Dem. 36.42), Olympiodoros' extravagance with his *hetaira* ([Dem.] 48.55), and Helen's luxurious living at Troy (Eur. *Tro.* 993–7, 1019–22). They argue that these are cases of *hybrizein* as excessive but victimless overvaluation of one's claims to *timē*, rejecting my suggestion (1992: 113–15) that the *hybris* term may imply as well that these exulting in their dissolute lifestyles deliberately caused offence and shame among those related to them. I emphasised the tentative nature of my interpretations, whereas Cairns allowed that there might be an implicit disregard of the honour of those family members who resented this extravagance. I might now accept such a formulation and agree that overvaluation of one's own status is the primary meaning of this type of *hybrizein* as 'showing off'. They are in any case not relevant to cases concerned with the *hybris* law, where there is always a victim; it is also important to note that there are extremely few such cases.

(such as the disruption of Demosthenes' performance as *chorēgos*) might be seen as a denial of appraisal respect (or vertical, or personal, or meritocratic honour), designed to produce immediate humiliation in front of others and creating strong emotions of shame, anger and a desire to retaliate. On the other hand, depriving a poor man of citizen status, as Meidias allegedly did to Straton, can be seen as a powerful denial of recognition (or horizontal or civic) respect, and in this case did result in civic *atimia*, the formal loss of his citizen status. Nonetheless, serious cases of *hybris* do not have to involve a lasting civic demotion or a lasting loss of appraisal respect from one's peers.

Thus, in terms of the application of a zero-sum model, while the agent's evident pleasure in his exercise of superiority through overt humiliation (such as Meidias' punch) may well produce shame and anger at the attempt, the victim need not actually believe that his status (of whatever type) was in fact lessened in the eyes of others or of the community at large, let alone that the agent's own status was thereby enhanced. Appraisal respect (or vertical honour) was not in Athenian culture a fixed resource, which if lost was bound to be transferred somewhere else; and the responses of the onlookers and of the subsequent hearers of the incident are crucial to the overall assessment. A major purpose of declaring an act to be *hybris* is to challenge the offender's understanding of the situation and the values involved. To describe him as antisocial, as a *hybristēs*, or as *aselgēs* (brutal, self-indulgent), is to deny any claim that insulting acts would boost his status or honour, but rather to suggest the reverse.⁹³ Thus, for an appellation of *hybris* there does not have to be a lasting loss of dignity or status for the victim, and there may commonly be a good argument that the act should properly be considered dishonourable for the agent.⁹⁴ Canevaro relocates the emphasis of the honour involved away from the impact in terms of shame or dishonour for the victim and onto the dishonour due to the agent because of his unjust self-assertion as exhibited in his acts. This is designed to enable the conclusion that with cases of *hybris* against slaves no honour of the victim is under attack. But it is an overstatement of my position when Canevaro says:

[Fisher's] focus on the dishonouring act, on the transaction between victim and perpetrator and its effects on the victim perpetuates a notion of honour as a commodity that is acquired by taking it away from (dishonouring) someone else.⁹⁵

All I require is that the victim reasonably feels there is an intent to dishonour or shame, not necessarily that honour (of any type) is objectively lost, and certainly not that any honour is in fact transferred to the agent. What I do maintain is that the victim must have a claim to some (however minimal) honour or respect which can be threatened. If this is not acknowledged, both the emotional responses of the victim and observers, and the political and social importance of the concept become incomprehensible; in many Greek states *hybris* was seen as a major danger to the cohesion of communities that needed legal control and was condemned by law.⁹⁶

⁹³ Cf. Canevaro 2018: 110; advanced already in Cairns 1993a: 56 n. 42; 1996: 32 n. 150.

⁹⁴ Canevaro (2018: 105) acknowledges that I did allow this.

⁹⁵ Canevaro 2018: 105.

⁹⁶ Cf. Phillips 2013, offering a positive view of the widespread and long-term prevalence of *hybris* as a major legal offence in states across the Greek world.

To explore these issues in a little more detail, Canevaro's analysis of cases of alleged *hybris* in the *Meidias* starts with the circumstances of the punch at the Dionysia of 348 BCE. Actual violence was limited to one fist-blow on Demosthenes' face; no lasting injury was sustained (contrast the serious injuries which Conon and his sons inflicted on Ariston in Dem. 54).⁹⁷ Demosthenes reminds the judges that 'you', meaning both the theatre audience at the time and the general citizen body at the *probolē*, took his side and encouraged him to bring the case to court. So he did not and could not argue that his general reputation or political status was lastingly damaged by this particular punch, for all that it seemed humiliating at the time, to the extent that he might well have been thought justified in punching back (cf. 21.71–4), and was certainly justified in seeking a legal remedy. In order to justify treating it so seriously, Demosthenes did indeed need to build up the picture of Meidias as a serial *hybristēs*, who treated Demosthenes himself, his tribe, and indeed very many other people over a long time, with contempt and violence. The punch had been the public climax to a series of hybriistic acts aimed (perhaps with some success) at damaging the *chorēgia* as a whole,⁹⁸ which were felt at the time as insulting not only against Demosthenes himself but many others, his fellow *choreutai*, generally the *phyletai*, and even the city as a whole.⁹⁹ Naturally he claims that all these acts demonstrate Meidias' settled disposition of overvaluation of his claims to honour leading him constantly to try to inflict insults on others.¹⁰⁰ But it is an illegitimate generalisation from this particular case when Canevaro concludes:

Proving that an act was hubristic depended on establishing that the perpetrator was characterised by *hubris* as a disposition, which affected all of his conduct. Only if this could be proven, then the particular act(s) contested in court could be judged to be hubristic.¹⁰¹

Some acts might be so obvious and extreme in both their dispositions and immediate intentions that demonstrating that they had precedents in the agent's previous career would not be necessary, though no doubt prosecutors would argue that they had in so far as they could. For example, in the Conon case (albeit a *dikē aikeia*, not a *graphē hybreōs*), Demosthenes argues that the clearest proof that the assault by Conon and his sons was undeniably *hybris* was that in addition to the physical assaults, Conon

⁹⁷ See esp. Gagarin 2016, suggesting *inter alia* that few may have actually seen the jostling and the punch. Cf. also slightly different analysis of speakers' choices in representing violence against them in Riess 2012: 107–8; Phillips 2016: 48–9.

⁹⁸ Cf. 21.5, 18, where Demosthenes claims that Meidias was responsible for his tribe being deprived of the victory; subsequently he describes a series of other hostile acts designed in general to 'ruin' him.

⁹⁹ There is a notable prevalence throughout the speech of many other terms indicating insulting or humiliating behaviour (cf. Fisher 1992: 44 n. 31): as well as 127 cases of *hybris* words, there are 16 of *aselgeia* (brutality), 8 of *propēlakismos* (humiliation), 6 of *aischros/aischunein* (shameful, shame), 5 of *atimia* and 6 of *anaideia* (shamelessness).

¹⁰⁰ In fact he argues later (21.123–4) that other less well-connected and well-off citizens (such as Straton) may suffer lasting dishonour at Meidias hands' in ways that he cannot claim for himself: cf. also at 21.111, where he admits he is not one of the most isolated or poorest of citizens, though not as rich as Meidias.

¹⁰¹ Canevaro 2018: 116.

amused himself and his pals with the imitation of a cock crowing triumphantly over the injured body, while the speaker is careful also to cite previous hybriistic activities in support (Dem. 54.8–9).¹⁰²

I consider now a couple of examples where Canevaro seeks to separate the disposition of *hybris* from the specific acts and their impacts on others, and to prioritise the former. First, when Canevaro analyses the much-discussed passage (21.71–4) where Demosthenes contrasts Meidias' attacks with other cases of insulting blows in terms of the responses of the victims, his discussion blurs different senses of *atimia*, and thus raises interesting questions about how to unpack the word. He characterises my argument as follows:

Fisher takes this passage to be clear evidence that *hubris* has primarily to do with the effects (the dishonour) that an action brings to the victim: 'it is the feeling of being shamed, dishonoured, humiliated which Demosthenes brings out'.¹⁰³

Then, after the quotation, his comments include:

First, although it is clear that 72 focuses on the effects of hubristic behaviour on the victim (drawing a parallel with Demosthenes' lack of immediate reaction, but later choice of bringing a *graphē hubreōs*), the effect on the victim, according to the wording, is anger (*τὴν ὀργήν*), not *ἀτιμία*. *ἀτιμία* is rather the real cause (as opposed to the blow) of the anger of the victim. Thus, strictly speaking, this sentence does not identify *ἀτιμία* as the effect of *hubris* on the victim; it identifies *ἀτιμία* as the cause of the anger of the victim. It is Fisher's extrapolation that *ἀτιμία* is in turn one of the effects (the key effect) of *hubris* on the victim (rather than a feature of the *hubris* of the agent). As I observed above in Section III, at 23 of this speech *atimia* is matched to *hubris* to indicate the behaviour of the perpetrator (his lack of respect for the victim's claims to *timē*), but it does not necessarily imply a corresponding effect on the victim (his loss of status or *timē*).

In his account of my view there is a significant slide from 'the feeling of being shamed, humiliated' to 'one of the effects (the key effect) on the victim rather than a feature of the *hubris* of the agent'. In my view the *atimia* in this sequence should not be seen as a lasting effect in the form of an objective loss of status, but rather it emphasises both the behaviour of Boiotos the *atimazōn*, and the feelings of Euaion the *atimazomenos* while the aggression was in process (Boiotos' blows and his insulting demeanour); the *atimia* covers both the cause of the reactions and the immediate and related emotions experienced by the victim, shame, anger and desire for revenge. Canevaro sees the *atimia* as the agent's failure to respect the other's claims to *timē*, his dishonourable behaviour which makes the victim angry. But *atimia* is an abstract noun which, like the verb, implies both a subject and an object, and it refers equally to the agent and the victim (it is 'the dishonouring of Demosthenes by Meidias'). Canevaro then states:

¹⁰² Cf. also the emphasis on the *atimia* experienced by the victim in the Lochites case, Isoc. 20.5–6; Phillips 2016: 27–8.

¹⁰³ Canevaro 2018: 111–13.

The parallelism built in the sentence in fact supports this interpretation, otherwise we need to postulate that the two subjects, ἡ πληγή and ἡ ἀτιμία, refer to different characters: the blow is Boeotus', but the ἀτιμία is Euaion's. This is not impossible, but we need to recognize that, although the mention of ἀτιμία here is clearly meant to explain what is distinctive about acts of *hubris* (the next sentence reiterates that the blow is terrible for a free man only when struck out of *hubris*, connecting therefore *atimia* with *hubris*), it does not necessarily follow that what is distinctive is the dishonour of the victim, and not the behaviour of the perpetrator.

Again, I would argue that Demosthenes' focus here is on the emotions of the victim, the sense of being unfairly insulted and getting angry; he is clear that what produces this emotion is the belief that the agent is not just hitting, but deliberately hitting to insult, and is enjoying it: notable above all is the phrase 'people who are unused to being humiliated'. The dispositional aspect is strongly present in this analysis, but it is overstated to say that 'in this passage the focus, when describing what constitutes *hubris*, is the attitude and the behaviour of the perpetrator, not the dishonour of the victim'; and equally that 'This passage therefore does not show that the dishonour of the victim was central to the demonstration that *hubris* had been committed'. In my view the dispositional attitudes and behaviour and the emotional effects are equally crucial and interdependent, and the immediate dishonouring of the victim as he senses the intent and feels concomitantly anger and desire for revenge are as important as is the arrogant disposition of the perpetrator.¹⁰⁴

My second example is the Straton case (Dem. 21.83–97). According to Demosthenes, Meidias' lies and legal dodges produced an objective form of 'dishonour', Straton's loss of citizen rights, and Demosthenes paraded the mute victim to reveal what this involved in terms of his painful humiliation and lasting isolation from his community (21.95–7).¹⁰⁵ Canevaro argues that this was not an unproblematic *atimia* brought about by Meidias' *hybris*, because the *atimia*, loss of his citizen rights, was a penalty imposed by the board of the other arbitrators who had found against Straton, accepting Meidias' claim that Straton had made an error as an arbitrator.¹⁰⁶ Hence the 'institutional' view was that Straton had suffered *atimia* but Meidias had not been hybriistic. But the issue here is not the accuracy of Demosthenes' account, but the

¹⁰⁴ Canevaro adds two points: that there is no reference to loss of honour, status or standing; and also that Euaion was convicted by a homicide court (by one vote). But, first, the point of the story is to emphasise the clear intent to inflict humiliation at a dinner party, and the instant and drastic response left no space for any consideration of an objective loss of status; and, second, those voters who condemned Euaion may well have felt that his terminal retaliation, though understandable, constituted excessive revenge. Cf. Phillips 2016: 45–6.

¹⁰⁵ It may thus be comparable to Diocles' *hybris* against his brother-in-law (Isae. 8.40–1, fr. 5–6), locking him up in a house and somehow achieving his disenfranchisement, which produced a *graphē hybreōs* for which Isaeus also wrote a speech. It seems less plausible to suppose with Humphreys (2018: 206–8) that the *hybris* and *atimia* here were acts of physical bondage and maltreatment such as displayed by Teisis (Lys. fr. 129 Carey) or Hegesandros and Timarchos (Aeschin. 1.57–62); 'Having walled him up (*katoikodomein*) and having plotted (*epibouleuein*) he dishonoured him' suggests a time-consuming legal manipulation rather than an act of brutal violence.

¹⁰⁶ Canevaro 2018: 114.

interpretation he is giving of the case and his use of condemnatory language; on his version the permanent civic *atimia* and emotional impact of shame had been brought about entirely by Meidias' deliberate manipulations. This more than adequately meets the criteria for *hybris* in the sense of a deliberate, successful imposition of a severe *atimia* on a much poorer citizen.

Revealingly, a little later Canevaro distinguishes between what he has been exploring 'at the level of the abstraction of the law', which might be called 'a neat scheme', with a more complex, and in some ways more convincing, picture:

The neat scheme I have laid out here works at the level of the conceptualisation of the workings of *timē* and *hubris*, and in the context of the judicial sanctioning of *hubris* (at this level either something is deemed to be *hubris*, or it is not), but if we take into account the emotional effects of *hubris*, and the nuances introduced by any real life social interaction, then everything becomes of course more blurred. Any act of disrespect for one's claims to *timē* will cause anxiety in the victim as to whether the disrespect is justified (and considered justified by the reference audience, imagined or otherwise) and therefore reflects his actual, objective dishonour. This grey area of anxiety and doubt means that hubristic acts do actually produce fear of dishonour and therefore some level of shame, unless an unambiguous statement that these acts are hubristic can be secured from an actual audience. This is exactly what the *graphē hubreōs* is meant to provide, but, as I have observed, at the risk of having, potentially, the opposite formally sanctioned, viz. the lack of *hubris* of the agent and therefore the actual dishonour of the victim.¹⁰⁷

My argument would be that the picture should be seen as 'blurred' from the start, in all discourses; that these emotional effects, as affected by nuances of social interaction, are as essential a part of the picture of *hybris* as, at one end, the disposition of the agent not to respect others' claims to *timē*, or, at the other, a possible objective or more lasting loss of *timē*. Similarly, to conclude this section, it is worth considering Canevaro's comment on Aristotle's famous definitional passage in *Rhetoric* (2.2, 1378b 29–32):

Aristotle's definitions of *hubris* in the *Rhetoric* – ὕβρεως δὲ ἀτιμία, ὃ δ' ἀτιμάζων ὀλιγορεῖ – should be read as referring primarily to the agent and his behaviour (as indicated by ὁ ἀτιμάζων), not objectively to the worth of the victim.¹⁰⁸

Again, I would suggest that neither alternative is precisely correct, and what is needed is reference to both agent and victim and their behaviour, intentions and emotions. The *atimia* ('dishonouring', rather than 'dishonour' – an act with both a subject and an object) refers both to the agent's behaviour and to its intended emotional effect on the victim, namely of being 'slighted' (as indicated by the verb ὀλιγορεῖ). In many contexts, but in far from all, it may also involve or consist in an objective diminution of status. On Aristotle's initial phrase which spells out the behaviour, 'doing and saying things at

¹⁰⁷ Canevaro 2018: 115.

¹⁰⁸ Canevaro 2018: 115 n. 69.

which there is shame for the victim for no other purpose than what is done', Canevaro suggests this is 'entirely focalised' on the agent and on his motivations. 'Entirely focalised' here seems exaggerated; while I agree that there is a strong emphasis on the agent's motivation, in order to distinguish *hybris* from other offences, I would insist that also necessarily present is the impact of the other-directed behaviour, in terms of anger and shame for the victim, and for others perhaps anger and disgust. Canevaro admits that there is here either 'disgrace or a feeling of shame'.¹⁰⁹ Aristotle gives weight throughout his analysis to the linked emotions of anger and shame. If I previously failed to develop sufficiently the idea of a settled disposition (*prohaeresis*), Canevaro seems simultaneously to deny and then partially to admit the emotional impact.¹¹⁰

Conclusion

Finally I return to the justifications in Aeschines and Demosthenes of the provision including slaves as possible victims. As Canevaro insists, Aeschines (1.17) states that 'the legislator was not concerned for slaves but wished to accustom you to keep away from *hubris* against free people', by deterring all forms of hybriatic behaviour; and Demosthenes (21.46) similarly claims: 'for he [the lawgiver] thought that one should not look to who the sufferer (ὁ πάσχων) was but what sort of act it was which was going on (ἀλλὰ τὸ πρᾶγμα ὁποῖόν τι τὸ γιγνόμενον)'. Here one should first ask why suppressing habitual dispositions to hybriatic acts is taken to be such a serious matter. Demosthenes' answer is that the state is affected as well as individuals, because of their likely reactions:

οὐ γὰρ ἔστιν, οὐκ ἔστιν, ὃ ἄνδρες Ἀθηναῖοι, τῶν πάντων οὐδὲν ὕβρεως ἀφορητότερον, οὐδ' ἐφ' ὅτῳ μᾶλλον ὑμῖν ὀργίζεσθαι προσήκει.

There is nothing, really nothing at all, Athenians, more unbearable than *hybris*, nothing at which it is more appropriate for you to get angry.

Hybriatic acts upset people deeply because the overvaluation of the agent's worth is expressed in behaviour which deliberately insults or dishonours others (in one or more of the many types of dishonouring), and induces anger and the desire for revenge in the victims, and often also indignation, disapproval or shame among those observing or hearing of them.¹¹¹ If such acts are not punished and hence future acts deterred, by

¹⁰⁹ It should be remembered that the basic point of this chapter of the *Rhetoric* (2.2) on anger (*orgē*) is to explore what sorts of behaviour arouse anger among litigants and jurors. *Hybris* is analysed as the most serious form of slighting (*oligōria*).

¹¹⁰ There is much in what Canevaro says (2018: 116) about the risk a victim like Demosthenes ran by bringing a case; if he lost, his own claims to respect would be affected and Meidias' disrespecting him might appear appropriate. One could lose respect by bringing such a serious case unnecessarily. But it may overstate it slightly to say 'Demosthenes put his own *timē* on the line'; he did not necessarily stake all of it. Some judges might vote for acquittal on the grounds that while there was unjust *hybris*, it was not serious enough to ruin Meidias; the outcome, a payment of 3,000 drachmas to Demosthenes (whether as an out of court settlement or a penalty imposed by the court), suggests that a more lenient view was widely held, and in fact Meidias was able to continue his political career.

¹¹¹ Cf. the similar point at Isoc. 20.5–6. See also Lanni 2016: 90–2.

the laws of the community the danger is that the anger will grow and lead to disorder or even civil war (as envisaged in Solon's poems). So the nature of the act includes the emotional and/or social effects on victims and the anger and desire for revenge it arouses as well as the disposition. I would agree that the desire to assert the illegality of all forms of *hybris* against humans of all statuses in order to make it seem dangerous and unacceptable in general was the major reason behind this provision, and that those who approved of the law were not primarily concerned for the defence of slaves. But because hybriistic behaviour is relational, and (as Canevaro admits) *hybris* in the law does always have a victim, if slaves as human beings were to be considered as possible victims of a hybriistic disposition expressed in action – presumably an act of grievous and undeserved ill-treatment – it must be believed that slaves might justifiably feel upset and humiliated (as the Olynthian woman, Pittalakos and Neaira were expressly said to be), that is to possess a moral sense and the capacity to feel the emotions of humiliation and anger.¹¹² Thus, the law was not bound to have included slaves as potential victims, given the discrepancy in the degree of *timē* between slave and free; Demosthenes and Aeschines agree that in extending the law to slaves the lawgiver looked to protect the citizens from hybriistic men who might thereby become accustomed to commit such acts more widely. Nonetheless, for an act against a slave to be labelled *hybris* there must have been a consciousness that slaves would possess a legitimate consciousness of their worth, and would legitimately feel aggrieved at a denial of their share in 'recognition respect'. This recognition does not, however, amount to a claim that the status of slave as such demanded recognition respect.¹¹³

A final argument in favour of this position may be drawn from Demosthenes' claims that the Athenians are to be congratulated for being so civilised and humane (*hēmoroī kai philanthrōpoi*) as to protect their barbarian slaves from hybriistic maltreatment; he adds that the barbarians themselves would be inclined to reward the Athenians on learning of 'the *philanthrōpia* of the law' and that many have been condemned to death for breaking it (doubtless grossly hyperbolic) (21.48–9).¹¹⁴ Demosthenes' use of the term *philanthrōpia* might seem to recognise a form of basic humanity shared between slaves and free, as Canevaro acknowledges: 'it does suggest a recognition of the slave's

¹¹² Two fragments from other orators (Hypereides fr. 120 and Lyc. fr. 10–11.2 = Athen. *Deip.* 266e–267a) are mentioned by Canevaro (2018: 117 n. 72), merely as confirming that *hybris* against slaves was included in the law. It may be observed, though, that the Hypereides fragment (*Against Mantiitheos* 'for *aikēia*'), includes a reference to the 'body' of the slave: 'they established [the law] not only on behalf of free people, but also if anyone committed *hybris* against the body (*sōma*) of a slave there should be *graphai* against the one committing *hybris*'. This statement confirms that *hybris* against slaves was possible, and was most easily seen as serious physical maltreatment.

¹¹³ Canevaro (2018: 117) says that 'conviction for *hubris* does not depend on the existence of such claims. It depends on the *hubristēs*' overestimation of his own claims to *timē*, on his breach of communal standards, and on the assessment of his behaviour as inappropriate and dishonourable by the Athenian judges': but surely for an act of maltreating a slave to be held to be 'inappropriate and dishonourable', or an 'overestimation of the agent's own claims', there must be some 'standards for their treatment', however minimal, which involve a sense of a slave's humanity, a person who can feel anger or shame at treatment which may be undeserved, and not simply a tool.

¹¹⁴ Cf. Fisher 1995: 74. Demosthenes' unsupported assertion that multiple executions have occurred in such cases is not normally given credence (e.g. Lanni 2016: 86–98; Canevaro 2018: 104 n. 22); more optimistic were e.g. Morrow 1937: 124–30; Cohen 2015: 126–7.

humanity'.¹¹⁵ But he then argues that *philanthrōpia* is a 'soft' emotion or response which does not relate to worth or rights, and is not part of a system of reciprocity; hence it does not lead to the conclusion that slaves themselves had any right to lenient treatment nor any worth or *timē* to be legally defended against *hybris*. Such a use of the term may fit some cases, for example the passage discussed by Canevaro (Dem. 24.51–2).¹¹⁶ But one should here distinguish between a right or obligation to grant lenience and the idea of a slave's worth or *timē* which might permit or encourage it. As Matthew Christ shows, there are many Demosthenic instances of *philanthrōpia* where issues of merit and consequent reciprocity are crucial and are built into the logic of the argument.¹¹⁷ There are nine cases of *philanthrōpia* terms in the *Meidias*, and seven of them argue carefully for a balance between generosity or lenience in the establishment of the laws, for example, for the protection of festival *choreutai* or of ordinary people, and anger and appropriate punishment for deliberate and hybriatic offenders against such laws (Dem. 21.12, 42–4, 48–9, 57, 128, 148, 185). Demosthenes repeatedly argues that the *philanthrōpia* towards the weak which is characteristic of the Athenians is part of a reciprocal system which combines generosity to the deserving with severity to the ruthless, in order to draw the conclusion that hybriatic offenders like Meidias should not be thought 'worthy of any pity (*syngnōmē*), humanity (*philanthrōpia*) or return favour (*charis*)' (21.148).¹¹⁸ In the second (and better) use of the comparison derived from the reciprocal institution of the *eranos* (21.184–5),¹¹⁹ the contrast between two character types is interestingly drawn:

οἷον ἔστι μέτριος καὶ φιλόανθρωπός τις ἡμῶν καὶ πολλοὺς ἐλεῶν· τούτῳ ταὐτὸ δίκαιον ὑπάρχειν παρὰ πάντων, ἂν ποτ' εἰς χρεῖαν καὶ ἀγῶν' ἀφίκηται. ἄλλος οὐτοσί τις ἀναιδής καὶ πολλοὺς ὑβρίζων, καὶ τοὺς μὲν πτωχοὺς, τοὺς δὲ καθάρματα,¹²⁰ τοὺς δ' οὐδ' ἀνθρώπους ὑπολαμβάνων· τούτῳ τὰς αὐτὰς δίκαιον ὑπάρχειν φοράς, ὥσπερ αὐτὸς εἰσενήνοχε τοῖς ἄλλοις.¹²¹

For example, one of us is moderate and *philanthrōpos*, and pities many others; for him it is just that he should receive the same if ever he should fall into need or a contest. Another is shameless, commits *hybris* against many, treating some as beggars, others as scum or as non-humans; for him it is just that he should receive the very same repayments that he has brought on the rest.

¹¹⁵ Canevaro 2018: 118–19. See also Canevaro 2020: 169–72, for a further defence of this position in relation to the possibility of Greek ideas of rights in terms of *timē*.

¹¹⁶ Demosthenes suggests that Athenian *philanthrōpia* and *praotēs* might lead to opening up supplication procedures to convicted offenders; but it does not follow even there that *philanthrōpia* was seen as exclusively (or even typically) shown to the undeserving.

¹¹⁷ See Christ (2013), a valuable demonstration of Demosthenes' 'democratic' development of the concept with an analysis of seventy-one cases of *philanthrōpia*. I am not convinced by Konstan's argument (2006: 214–18), supported by Canevaro, that *to philanthrōpon* in Aristotle, *Poetics* ch. 13 indicates an emotion of sympathy to all sufferers regardless of desert; I would follow Moles (1984: 325–35) in seeing it as the emotional response to a change of fortune (upwards or downwards) which satisfies the moral sense. On *philanthrōpia* as a broadly humane value in the epigraphy of Hellenistic cities see Gray 2017: 83–4.

¹¹⁸ Christ 2013: 212–14.

¹¹⁹ On the two approaches to this *eranos* comparison in our text, cf. MacDowell 1990: 322–4.

¹²⁰ For *katharmata*, a term originally for the impure refuse thrown away after a purification, and then a term of abuse for humans of no worth, see MacDowell 1990: 399–400.

¹²¹ I would accept Markland's οὐδ' ἀνθρώπους for the MSS οὐδέν, comparing the parallel phrase in 198.

This phraseology suggests the possibility that one might conceive of a man who commits *hybris* against slaves as one who treats slaves as ‘scum’ or as ‘non-humans’. A very similar phrase occurs a little later at 21.198: Meidias, even for those who may associate with him, is ‘an unbearable human, the only man who is rich, the only man who can speak; for him all others are scum, and beggars¹²² and non-humans’ (οὐ γάρ ἐστι φορητὸς ἄνθρωπος, ἀλλὰ καὶ πλουτεῖ μόνος καὶ λέγειν δύναται μόνος, καὶ πάντες εἰσι τούτω καθάρματα καὶ πτωχοὶ καὶ οὐδ’ ἄνθρωποι).¹²³

So then the *philanthrōpoi* and *hēmeroi* Athenians are presented as generously affording protection to slaves when it was not strictly required by moral obligations based on equality; but it need not follow that slaves were conceived as having absolutely no *timē* or desert. If of markedly less worth than free people of low status (poor citizens, foreigners, freedpersons, women),¹²⁴ they might be allowed to be at least ‘something’, as human beings, and thus be brought into a reciprocal system; yet certainly both orators emphasise the strict limits, by arguing that the law’s provision was not an obligation, and its primary aim was to deter all forms of hybriatic behaviour which treat free inferiors with contempt. One could not claim that this comes close to an ideal of human rights in any full sense. But one may note Cairns’ recent observation, concerning *timē* in terms of a basic respect which all citizens had a right to expect: ‘in extending *timē* (in this sense) to all members of a group the Athenians took a step, but only a step, towards the path which would lead to the recognition that all mankind might constitute a group in which all members possess a certain level of rights’.¹²⁵ A recognition, alike in the formal laws, in quasi-legal procedures, and in less formal discourses, that slaves, as human beings, might themselves have in principle a very minimal claim to *timē* that justified allowing them some protection could then be seen as a tiny further step on that path, expressed in terms of honour rather than rights.¹²⁶ Ober makes a similar observation, suggesting that the implications of the law that those of the lowest status should not to be killed without cause or treated with the severest *hybris* constitutes a move, in advance of Zeno and the Stoics, towards an idea of universal dignity.¹²⁷ But this is only a first step in this direction; this would not constitute an explicit conception of a defined category of ‘human beings’ all with rights and deserving of recognition respect.

Finally, we perhaps face a choice between two cases of ideological contradiction. The first, as I prefer, is that the fundamental contradiction (found generally systemically in societies with slavery) between conceptions of slaves as no more than property, tools

¹²² On beggars (*ptōchoi*), see Taylor 2017: 38–42.

¹²³ See also the phrase in the first appearance of the *eranos* comparison (21.101): ‘someone is violent (*biaios*), who neither pities anyone nor thinks of him as human’; cf. the phrase ‘beyond human blows’ in Aeschines’ description of the beating inflicted on Pittalakos (1.59, above pp. 207–9).

¹²⁴ Cf the supposed plan reported by Apollodoros, that his enemies sent a citizen youth into his rose-garden expecting that he might assume him to be a slave, tie him up and beat him, and they could bring a *graphē hybreōs* against him ([Dem.] 53.16).

¹²⁵ Cairns 2019: 78.

¹²⁶ Contrast Canevaro’s denial of this possibility, 2020: 171–2.

¹²⁷ Ober 2012: 843. On the history of more significant moves towards a fuller identification of human rights in opposition to slavery see Harper 2016a, assigning a major role to a sermon of Gregory of Nyssa. On the caution needed in talking of ‘rights’ here cf. also Forsdyke 2021: 36–40, 198; Ismard 2019b: 200–2; also, in relation to slaves’ treatment and marriages in Crete, Lewis 2013; 2018: 150–7.

or animals, and slaves as (inferior) humans with human emotions and a legitimate sense of fairness and honour, found some expression in Athenian laws from the sixth century. While many laws offered general protection for the rights of slave-owners to buy and sell their slaves and treat them as they chose, there were also a few laws and provisions, especially the *hybris* law and the sanctuary procedure, which, in theory at least, set some limits to what violence or abuse could be done to them even by their owners, and by others.¹²⁸ Alternatively, if this implication in the case of the *hybris* law is resisted by realigning the essence of *hybris*, as Canevaro argues, there is instead, as he recognises, a clear contradiction, which steadily increased during the fourth century, between the law's reluctance to admit the idea of *hybris* against slaves, and the closer and more reciprocal relations operating in fluid 'social dynamics' in various networks and 'free spaces'. From c. 350 BCE these came to be enshrined in the laws establishing commercial lawsuits (*dikai emporikai*), where status differences did not count. Canevaro's final comment here, that the inclusion of dishonoured slaves as potential 'victims' of the *hybris* of excessive self-assertion of the agents somehow 'facilitated' and 'made more secure' such informal interactions, seems to me tortuous and less convincing than the alternative view that slaves could already be viewed on occasions in the laws as having some minimal *timē*.¹²⁹ My fundamental objection to Canevaro's position is that it does not pay enough attention to that half of the twin essence of *hybris* which condemns overvaluation of the self's claims to *timē* precisely when it is displayed in behaviour which presents the intent improperly to shame, humiliate or damage others. It is preferable to suppose that right from the early days of Athenian lawmaking the growing state wished to signal the crucial importance of controlling hybriistic behaviour seen both as harmful for the victim and as a public danger, because of the reactions this dishonouring produced in angry victims and onlookers. This aim permitted the inclusion of slaves as conceivable victims, at the (unnoticed?) cost of a dissonance or tension between that and other powerful modes of conceptualising slaves as property and as inferior, dishonoured humans.¹³⁰ But I would finally agree with Canevaro that there is no reason to suppose that the application of some protection to slaves had at any time a significant impact in terms of prosecutions – let alone successful prosecutions – of brutal slave-owners against their own slaves (despite Demosthenes' assertion). There is very little, if any, mitigation here of the harshness of Athenian slavery.¹³¹ At most I would agree with the view that the existence of the law and its frequent rhetorical exploitation in the courts may possibly have had, in Lanni's term, some 'expressive power' in encouraging restraint in citizens perhaps towards their trusted personal slaves, and might occasionally have produced prosecutions for abuse of public slaves, or of other owners' slaves, especially those independently active in economic and social settings where people of all statuses cooperated together.¹³²

¹²⁸ On contradictions and tensions as central and pervasive to the *hybris* law as to all conceptualisations of slavery, see Vlassopoulos 2021: 36, 53, 70, 200–4; Forsdyke 2021: 31–41, 196–9, 223–9.

¹²⁹ Canevaro 2018: 121–2 and in this volume.

¹³⁰ Cf. the balanced summary in Vlassopoulos 2021: 132–3.

¹³¹ I sympathise with Canevaro (2020: 171–2) that we should take care not to fall into the trap of over-idealising Athenian democracy or setting it up as a model.

¹³² Lanni 2016: 85–98; cf. Canevaro 2018: 122.