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Cover Page Footnote

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The Nature of Disloyalty: Attitudes Towards Treason and Exile in the Ancient Mediterranean

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Abstract

Prosecutions of treason and exile have traditionally been studied as legal phenomena bound by laws and procedures. Yet historical behavior suggests the laws, practices, and attitudes towards treason and exile were primarily motivated by attempts to maintain factional dominance and sociopolitical uniformity. This paper explores how ideas of pollution, disloyalty, and dissent demonstrate the polarized and contested nature of treason and exile in the archaic and classical periods of Athens and Rome. It also seeks to understand the extent to which these ideas contributed to the civil strife of the period. Reflecting on the divisive characteristics of these phenomena that were in turn institutionalized as legal practices, I note that the fundamental motivations and attitudes of the prosecutions remained untempered by norms of procedure or tradition. This project, as part of an ongoing cross-disciplinary study between humanities, history, and social sciences, highlights the need to further study treason and exile, as they represent fundamental questions of civic belonging, loyalty, and unity in a political society.

Keywords: Treason, Exile, Greece, Rome, Dissent, Legal Procedure, Political Loyalty

Roman Practices and Attitudes

Roman cases of treason typically evolved into various and inconsistent charges that, although codified into Roman law over time, were often conjectural and based on limited evidence. These charges and their codification were symptomatic of a fledgling state that had yet to develop an advanced understanding or appreciation for the principle of rule of law and whose existence was perceived as continually threatened. This section explores the two Roman practices of *perduellio* and *maiestas* by providing a case study sourced from both Tacitus and scholarly literature.

One common characteristic of treason cases in the early Roman republic was ambiguity. As Erich Gruen notes, accusations on the ground of “treason” were frequent, yet ‘treason’ in Roman parlance implied more than aiding and abetting the enemy. It also covered offenses as remote as losing a battle through poor generalship or violent behavior while holding public office (Gruen, 1968). Treason charges did not originally consist of specific violations of law but were instead defined based on its projected consequences: perceived threats to the existence of the state. This flexible definition meant that a large number of very different crimes were identified as treason, establishing a wide range of precedents in Roman history. The definition was further exacerbated by political factions using the rhetoric of treason to tear down political opponents via legal mechanisms. The case of Q. Servilius Caepio in 103 BCE demonstrates the duality of treason charges as both a political weapon and a real means of maintaining state power and legitimacy. Charged with *perduellio*—an early form of treason charge specifically meant for persons who “injured or brought danger [to] the dignity, supremacy, and power of the commonwealth”—for his role in the disaster at Arausio, a costly defeat in the Cimbrian War where Caepio failed to win the field of battle because of his ambition and hesitation, he was ultimately convicted and lived the rest of his life in exile (De Colquhoun, 1854, pp. 638-639). To

Rome, Caepio's tactical failure endangered the "supremacy and power of the commonwealth," and his trial provided the Roman military and its supporters an ability to save face by casting out a failed consular commander. Furthermore, we know that, while on trial, an altercation took place to prevent a veto of the *perduellio* charges by tribunes L. Aurelius Cotta and T. Didius, indicating that the nature of the charges was presumed to be controversial. Caepio had also been an opponent of the Metelli, a prominent political faction who could have used the charges as a means of removing a consul from office (Gruen, 1968). Caepio's trial was likely a true trial of treasonous behavior as much as it was a maneuver designed to gain popular support for a particular faction, as his actions provided substantive damage to the majesty of the Roman commonwealth. Yet the veto and conflict at his trial indicate that the charges were controversial, with public consternation about the legitimacy of these charges being voiced through tribunes and violence.

Much later, under the reign of emperor Tiberius, Tacitus provides the example of Vibius Serenus, charged with being too violent in an official capacity as proconsul of Further Spain, and was banished to the island of Amorgus "or his savage temper" (Tacitus, 2003, *Annals* IV.13). No further evidence of Serenus' case is provided by Tacitus, making it unclear as to whether Serenus had political opponents that forced him out of office or if this behavior constituted a banishable offense. Such a vague and simple banishment on the basis of temper alone is likely a manipulation of treason charges for political gain, as it would have been the most effective means of removing Serenus from his position and open the way for another official. Proconsuls at this time under the Empire had become a largely civic office and could be appointed by the emperor in a process independent of the Senate (Suetonius, 1914, *Divus Augustus*, 47). Although these examples suggest that *perduellio* was a tool of political control over both behavior and

opposition, *perduellio*'s primary legal definition, as understood by Republican citizens, was any action taken that, inadvertently or otherwise, threatened the symbolic or real power of the collective state (as opposed to an individual figurehead, such as an emperor or consul).

Perduellio was not uncommon among in the early Republic, and at least thirteen other case examples can be seen between 149—79 BCE (Gruen, 1968, pp. 305-310). Yet it gradually faded out of practice throughout the 90s BCE, to be replaced with the “new” concept of *maiestas*, a general term connoting damage or injury to the image or majesty of the state itself. It is not entirely clear whether the charge of *maiestas* originated from an evolving understanding of *perduellio* or from a completely separate necessity to protect the existence of the state. After 81 BCE, there are no recorded *perduellio* prosecutions with the exception of Gaius Rabirius in 63, who was prosecuted and acquitted for his role in the death of Lucius Appuleius Saturninus.¹ Correspondingly, the increasing frequency of *maiestas* cases cultivated a “*quaestio perpetua* (perpetual problem) to hear cases of *maiestas*, a vague and politically useful concept denoting damage to the prestige of the state” (Gruen, 1968, pp. 167-168). This suggests *maiestas* charges replaced *perduellio* as the main tool for leveling accusations of treason within the time span of roughly two decades or less. This change was brought about by a “vast extension of the *maiestas* law [under Sulla], incorporating within it a large number of hitherto ill-defined offenses” (Gruen, 1968, p. 260). Although *perduellio* more strictly defined an act of treason as one against the commonwealth, both it and *maiestas* were used as political tools: Sulla’s comprehensive compilation of charges for *maiestas* likely increased its usage by enumerating a broad range of offenses and incorporating existing practices into law.

¹ See Cicero’s *Pro Rabirio* for his defense and for further information.

Early understandings of *maiestas* therefore included not only the standard of endangering the state (a remnant of *perduellio*) but extended to include any general behavior damaging the reputation or image of the state. This shift shaped the future of treason charges in Roman attitudes and practices: as Roman politics became increasingly centralized around individuals and faction leadership, the “image of the state” could be manipulated to be understood as the state personified within an individual’s reputation. This would reach climax under the Principate, when cases of *maiestas* were not so much offences against the state as they were offences against the divinity or personhood of the emperor, who himself symbolized the state. Granius Marcellus, proconsul of Bithynia, was charged with *maiestas* in either 14 or 15 AD by quaestor Caepio Crispinus, as he had “made severely disrespectful remarks about Tiberius, placed his own statue above those of the Caesars, and knocked the head off an Augustan statue and put a bust of Tiberius atop it” (Tacitus, 2003, *Annals* I.74). Although he was ultimately acquitted, this accusation exemplifies the changes implemented by adopting *maiestas*. These actions in no way impacted or endangered the security or wellbeing of the state; rather, they were actions that denigrated the holders of office and their political divinity. Examples can also be seen in Libo Drusus, Appuleia Varilia, Caius Silanus, and Cremutius Cordus, among others (Tacitus, 2003, *Annals* II.27; II.50; III.66; and VI.18, respectively). As Lear writes, “The crime was not limited to such overt acts of violence as would bring injury to the ruler but came to include maledictions as well as mere offensive expressions of opinion” (Lear, 1923, pp. 73-87). *Maiestas* was not, however, exclusive to personal/divine injury: the crime of aiding the enemy or incompetency of office was still brought against individuals such as Antistius Vetus, Gaius Vibius Serenus, and Gnaeus Calpurnius Piso (Tacitus, 2003, *Annals* III.38; IV.21; and III.10; respectively).

The cases brought under Tiberius were thus characterized by being brought either for political gain (i.e., removal of an opponent), a means of accruing wealth from frequently persecuting unpopular citizens, or a legitimate act of treasonous behavior endangering the well-being of the state. David Shotter has suggested that because the law of *maiestas* was considered too flexible, Tiberius (and other emperors) used his ability to acquit or drop charges against the accused in specific treason cases to narrow the legal definition of *maiestas* by affirming what would and would not be prosecuted, thus systematizing a high level accusation of Roman criminal law (Shotter, 1980, p. 230). The process of direct imperial intervention in treason cases mirrors modern presidential pardons in the United States—states are represented by a unitary executive who embodies the norms and ideals of the public who uses their authority to outline treasonous or illegal behavior—and further affirms the theory that *maiestas* cases were less about treasonous acts and more closely connected to insults and damaging imagery about the figurehead of the state. Emperors used their influence to shape the outcomes of treason charges to suit their agendas and outline acceptable behavior that subsequently empowered the emperor themselves. *Maiestas* was a complicated legal institution which served the dual purposes of protecting the state against treasonous actors and removing political opposition, yet under the Principate was influenced by the actions/interventions of the emperor, subsequently defining which charges of treason would continue to be practiced in Roman law.

Treason, in the Roman world, then, consisted of a series of crimes that were determined by popular will, abstract and unclear legal codes, or by executive fiat. Typical charges included, but were not limited to, aid and counsel of an enemy, taking up arms against public authority/the emperor, betraying the armies, waging war, or levying troops without lawful consent, insulting or defacing the divinity of the emperor, and others. But what were the requirements for

evidence? And how was treason punished? We know that Romans rhetorically viewed harsh punishment as a key means to incentivizing prevention, as is evidenced by Cicero in the fourth *Catalinarian Oration*: “Think how one night nearly destroyed all that toil that founded our empire, all the valor that established our freedom, all the bounty of the gods that has built up our fortunes to their present size. You must see to it this day that never again are citizens able even to think of this, much less to achieve it” (Cicero, 1964, *Catalinarian Orations* IV.19).

Unfortunately, much of the primary evidence fails to cite evidence alongside the accusations and outcomes of each case. It is notable, however, that Roman law had waived the traditional prohibition of slaves testifying against their masters in cases of capital punishment such as treason. Instead, slaves would be allowed to testify and then sold to the state; this prevented a master from abusing or persecuting their slave for their testimony regardless of the case’s outcome (Rogers, 1933, pp. 22-23). Utilizing a slave against their master in testimony signifies the extent to which Rome was willing to persecute individuals for their behavior by exempting traditional procedural requirements for testimony. Yet it also signals some general form of hesitance in the prosecution of treason: in permitting additional witness testimony (that could admittedly be manipulated by some form of intimidation), it provides information that could in some form exonerate the accused.

Witness testimony and the production of evidence complicated the trial, but generally had no substantive effect on the severity of the outcome. As Levick (1979) notes in her comprehensive studies of the penalties of *maiestas*, “the danger of a single penalty was not that venial offenders were in danger of their lives, but that the most serious offences might not be punished with sufficient rigour” (p. 362). Defendants of lower status—those who did not hold slaves or those without the ability to produce witnesses—or those who did not hold Roman

citizenship were likely immediately put to death, and their cases were not recorded by historians of the time. However, those of notable rank or status experienced a very different process which provided a different form of punishment and procedural experience offering a slightly higher chance of exoneration or non-capital punishment, specifically the experience of exile.

This experience was also known as *aqua et igne interdictus* and was the core and consistent punishment for charges of both *perduellio* and *maiestas*. Interdiction denied the person access to fire and water (shelter) and was the equivalent of banishment beyond the boundaries of the city of Rome so as to cut off a person's access to the community. Although it took an act of Gaius Gracchus to prevent outlawing persons who had yet to be condemned, interdiction mostly allowed individuals to live in Roman territory but not in the city itself (it forbade returning to the city under any circumstances), as it was only under the Principate that interdiction came to include the loss of citizenship. Barabara Levick (1979) notes that:

If a man were condemned to death, and left home to escape execution, once away from the city and the *triumvri capitales* he could gallivant all over the Empire with impunity and retain his citizenship, or even give it up and return to Italy as an alien, unless an interdiction were pronounced against him, and that depended on the annual board of the tribunes. (p. 366)

While treason charges also included the sentence of death, high status citizens were allowed to escape beyond the city before sentencing and thus experienced no serious level of punishment. Interdiction was only later made mandatory under Julius Caesar in the event someone missed their execution or sentencing. Yet punishment would be made harsher over time:

In AD 12 Augustus forbade those exiled to live either on the "mainland" or on any island within fifty miles of it, with the exception of Cos, Rhodes, Samos, and

Lesbos. The exiles should not cross the sea, own more than one merchant ship above a given capacity or more than two oared ships, employ more than twenty slaves or freedmen, or possess more than half a million sesterces. (Levick, 1979, p. 376)

These increased restrictions were designed to prevent opponents from further political activity or connections and allowed Roman exiles to be interdicted beyond Roman territory. While these punishments were likely not enforced to the letter, it significantly limited the capability of Romans convicted of treason to maintain political relations within the Roman state.

The increases in the severity of interdiction and treason charges continued well into the Principate: the penalty for *maiestas* was *aquae et ignis interdictio* or death, with total confiscation of property, and voiding of the will, all of which is “easily explained as a result of and as a contribution to the growth of despotism under the Roman Empire” (Levick, 1979, p. 370). The concept of exile culminated in the idea and practice of *damnatio memoriae*, which removed an individual’s name from all official records, including tombstones, and typically prevented its use for future generations.² Furthermore, for individuals unable to escape their treason trials and who despaired about their defense in trial, suicide became the dominant method of respite for defendants: “he who dies while he is on trial, dies with status unimpaired; for the indictment is extinguished by death. This may not apply if he was charged with *maiestas*; for unless he is cleared of this charge by his heirs, his property is claimed” (Rogers, 1933, p. 19). Some examples of suicide in attempting to escape *maiestas* include, among others: Gnaeus Calpurnius Piso, Cremutius Cordus, and C. Papius Cordo (Tacitus, 2003, *Annals*, III.10 and

² See Harriet Flower’s 2006 work *The Art of Forgetting: Disgrace and Oblivion in Roman Political Culture* for a more in-depth review of *damnatio memoriae*.

IV.34; Cicero, *De Oratore* 1.40, 3.74, respectively). Death and/or severance from the community were, to the Romans, the punishments appropriate to the ultimate crime against the state, for “What cruelty, gentlemen, can there be in the punishment of a crime of such enormity?” (Cicero, 1964, *Catalinarian Orations* IV.11).

Treason in ancient Rome was a crime treated with the utmost severity. Any threat to the state endangered the existence of the young and expanding Republic, and maintenance of imperial majesty and authority were vital to maintaining the emperor’s legitimacy. Specific accusations evolved to include libelous violations of the deified Augustus, and convictions were largely determined not on the rule of law, evidence, or legal precedent, but rather the needs and whims of political leadership and factions. Those accused or convicted often fled sentencing, and it is only after the state developed more advanced ministerial power over its provinces via imperium that the state enforced its charges of exile and thus completed the removal of traitors and political opposition.

Athenian Practices and Attitudes

The complex socioreligious political structure of ancient Athens demonstrates how institutions respond to and create conflicting obligations. Athenian loyalties frequently came into conflict with broader interests and responsibilities, and conflicts that arose from disloyalty were frequently labeled as treasonous and deserving of exile. Yet Athenian understandings of treason, however, are resistant to categorization: Athenians had a diverse and varied understanding of their state and community. This section seeks to understand the various components that Ancient Athens enveloped into their understanding and practices of treason by further utilizing case studies to underscore the interwoven characteristics that makes studying treason in the Athenian practice so complex.

First, I should address one of the difficulties in studying Athenian ideas and attitudes on treason. The Greek word *prodosía* (προδοσία) means betrayal or an act of betraying the interests of one's country (*A Dictionary of Greek and Roman Antiquities*). Yet this term does not accurately describe the Athenian understanding of the concept itself. Athenian notions of treason included events such as subversion, attempting to establish a tyranny, failing to fulfill obligations to family or country, impiety, or even inadequacy in performing the duties of public office.³ From this unbounded term with so many different applications, treason reached into all aspects of civic Athenian life, thereby expanding the usage and application of the term itself.

The institution of *eisangelia*, or “denunciation,” offers the clearest legal mechanism used for political crimes such as treason. Including impeachment procedures for magistrates and elected officials, this section of law could also be used in cases of attempts to overthrow the constitution, treason, and political corruption (Hansen, 1999, p. 215). Although the usage of this legal practice was somewhat restricted by fines for making false charges or failure to appear in court, the procedures of *eisangelia* were frequent and turbulent: “In spite of the limitations of the sources we hear of no less than 130 prosecutions by *eisangelia* in the period 492-322” (Hansen, 1999, p. 216). This procedure was used in a variety of cases where individuals had supposedly damaged or threatened the welfare of the public and/or the state but was also used in cases of religious significance or in prosecuting generals. *Eisangelia* was used to prosecute the mysterious case of the mutilated herms immediately prior to the Sicilian Expedition and in the case of the Arginoussai generals after having supposedly abandoned their men at sea due to stormy weather (Thucydides, 2008, VI.27.2 and Xenophon I.7.1-35, respectively). The charges

³ See Demonsthenes, *On the Crown* 18.296 for an example of how treason is understood as a collective punishment that encompasses various aspects of society

of *eisangelia* (and thus treason) were carried out against generals with such alarming frequency: of the ten generals elected every year, two would eventually be charged and convicted under *eisangelia*. Hansen concludes that this frequency indicates that regardless of whether “the Athenian Assembly had a notable tendency to elect corrupt and traitorous generals, or else the People’s Assembly and the People’s Court had a habit of condemning honorable generals on false grounds,” this points to a “serious defect in the Athenian political system” (Hansen, 1999, p. 217). Hansen’s analysis points the way towards a complex legal system burdened by overzealous participants—either in prosecution or betrayals—whose legal structures could not adequately prevent “political” or false charges. Indeed, as Josiah Ober has noted, “there was no meaningful separation between supposedly objective and scientific truths of the sort used (so we are told) by modern political rulers” in Ancient Athens: to be legitimate was to be political by nature (Ober, 1998, p. 34).

Legal institutions were just as political as the accusations themselves and were thus tools by which procedures such as *eisangelia* could be utilized beyond their purely legal or rational boundaries. As David Phillips summarized in his work on law in Ancient Athens, Athenian law dealt more with procedure rather than substance (Phillips, 2013, p. 6). In other words, Athenian law outlined the different ways by which crimes could be prosecuted but did not define the crimes themselves. Therefore, crimes, such as treason or endangering the state, could be defined by successful oratory or precedent (though Athenians often did not hold themselves to the legal principle of *stare decisis*). Charges of treason in oratory served to both depict the speaker as a protector of the city, thus bestowing some level of obligation upon the jury to vote in his favor and portray the defendant as public enemy and greater source of public woe. The fourth-century orator Demosthenes and his speeches *On the Crown*, *Against Timarchus*, and *On the False*

Embassy exemplify how orators would utilize their capacity as speakers to persuade jury members and develop definitions and circumstances under which a crime of treason was committed. In a larger sense, treason in Athens was a frequent accusation simply because the courts did not impose strict restrictions on accusations; any citizen could level an accusation, and if they could convince a jury through oratorical skill that it was true, the accused were convicted and punished. *Eisangelia* was an institution whose frequent usage for trial and conviction of those who had committed crimes against the state were further exacerbated by its abstract legal limitations and principles, enabling accusations of treasonous behavior to become rampant.

Eisangelia, though, was somewhat restrained by its legal basis: if these crimes were confined to judicial proceedings, how could Athenians express rage or disapproval for crimes which violated greater social concepts of purity and pollution? Religion was an integral part of the civic identity of Ancient Athens: the city derived its name from the goddess Athena, and its acropolis was home to a temple, not a political assembly. In Athens, aspects of betrayal did not limit themselves to the political realm or the political state; they were core components of maintaining religious power and sanctity, and thus the success of the state relied on religious fidelity. The charge of *asebeia*, or impiety, was also frequently leveled against those who had committed betrayal, tyranny, or murder. Impious crimes were deemed to be pollutants and—playing heavily off the metaphor of the body politic—felons were to be treated as diseases to be expunged from the greater public body to maintain the health and thus the sanctity of the city-state. In Demosthenes *On the Crown* “traitors are represented as *alastores*, unforgetting scourges; their presence brings divine anger on the entire community. Severing every link between the traitor and the community is thus an act of good sense and caution” (Connor, 1983, p. 92). This removal was made manifest not only by execution, but also by placing a curse upon

their descendants and the complete destruction of the condemned property through a process known as *kataskaphe*. The physical removal of the house, the forbidden usage of the site for any construction project, and the curses placed upon the individual and the land affirmed “the ability of the community to impose its own values and... demonstrated the ultimate authority of the polis” (Connor, 1983, p. 94). Evidence also exists of bodily remains being exhumed and tossed beyond the city walls, a symbol of the state’s power to excise not only the living, but also the ancestors of those who had committed crimes against the state in a religious manner.

When, prior to the Sicilian Expedition, Athenian *hermai* were mysteriously vandalized and the public considered cancelling the entire expedition (the vandalization being a religious omen), the public outcry and hesitation in launching the expedition illustrates the severity with which Athenian cases of impiety were connected to the well-being of the state: “The matter was taken up the more seriously, as it was thought to be *ominous* for the expedition, and part of a conspiracy to bring about a revolution and to upset the democracy” (Thucydides, 2008, VI.27.3). In Aristophanes’ comedy *Lysistrata*, the women who choose to take hold of the city do so by seizing the religious temples the Acropolis and Parthenon, not the public forum or the Pnyx. This suggested that religious piety—under certain circumstances—superseded political loyalty, exposing alternate civic loyalties complicating Athenian concepts of treason. Religious pollution was thus a betrayal of the state and would have been summarily excised, as individuals who threatened the purity of the state undermined the sanctity of the religious connection between the gods and the city itself.

The variations in the crimes of treason as indicated above by religion, bribery, murder, and ally with a foreign adversary underscore a broader question in Athenian scholarship: what did Athenians consider treasonous? The problems in identifying treason in Athens originate not

from a legal definition of treason or from a strict understanding of impiety, but from the realities facing the Athenian polis and its democracy, as well as the conflicting interests of the ancient world. Josiah Ober characterizes Athenian popular ideology as a community that sees itself as a superior citizenry whose ideals of wisdom, equality, and consensus pervaded all aspects of life and made it superior to all other forms of organization (Ober, 1998, p. 33). Athenians saw their participation in politics an honor unique to their city-state and used their participation and ability to exercise collective decision-making as justification for the guarantees of rights and privileges, such as the ability to vote or to serve on a jury. Athenian citizenship was a prestigious honor, but with it came responsibilities to exercise those rights and serve the interests of Athens:

the citizen had a substantial duty to his polis: obedience to the laws, customs, and magistrates of the polis; public participation *in support of* the institutions of governance; and voluntary contributions on the basis of whatever special excellence he might possess. These duties were justly demanded by the polis on the basis of a conception of reciprocal exchange that could be analogized as a just (though unequal) social contract: the citizen's duties were an (inadequate) repayment for the fundamental goods received by each citizen from the polis and its laws. (Ober, 2006, p. 12)

Betrayal to the Athenians, then, could be considered as anything from mild dissent to something as dangerous as allying with the Persians or Spartans. It was the express rejection or variation in the fulfilment of the civic duties imposed upon receiving citizenship, an open defiance of an established order that had offered its benefits in exchange for loyalty, obedience, and participation. Yet some citizens expressed concerns over democratic rule and its unjust and even tyrannical imposition of democratic will, as in the case of Socrates. Plato's *Crito* notes that

despite Socrates' supposed effort to remain loyal to the city unto his death, Socrates was still executed for his antidemocratic ideals. Plato's *Laws* also have a certain place alongside Socrates: Plato considered that democratic freedom can be given to a city, but power must be granted to the wise, which was not always the public.⁴ Plato's *Crito* depicts Socrates ridiculing the notion that an individual has the right to subvert the public will: "Do you think you have this right to retaliation against your country and its laws? That if we undertake to destroy you and think it right to do so, you can undertake to destroy us.... in return?" (Plato, *Crito* 51a).

Scholars have also noted that while Athenians may have resided in the city and participated in democratic politics, personal loyalties to family, phratry, or any number of confraternities or associations often came into conflict with the demands imposed by the polis. The city was a place of opportunity but not necessarily one of abiding loyalty, and frequently citizens chose their partisan loyalties over Athens, for "to be ruled (and oppressed) by his political antagonist was to the Greek something to be avoided at all cost, even if this entailed the delivery of his city or native lands into the hands of a foreign power" (Chroust, 1954, p. 286). Competing loyalties and opportunities incessantly drove Athenians to make choices contradictory to the demands of Athenian notions of obligation and duty which helps explain the variation and frequency of trials exposing or claiming to expose treasonous acts.

Yet exile or death was often not the first method used to excise treasonous or undesirable behavior. The institution of ostracism was implemented over the fifth century as a means of controlling access to the polis. Scholars such as Sara Forsdyke (2000) have offered extensive

⁴ Plato's criticism of democratic rule possibly grew out of his contempt for the Athenian public putting Socrates, his tutor and mentor, to death. In establishing wisdom as a primary goal for his political leaders, Plato uses his life experience to reject what Socrates had fought for: persuasion. Socrates in the *Crito* offers a perspective known as the persuade-or-obey doctrine, noting that if an individual is unable to persuade a community to prevent his persecution, then he justly suffers (see especially 51a-c). Plato rejects this doctrine in favor of an absolute rule of the wise, with all other political orders (i.e. not by the philosopher-king) lacking a true form of justice.

scholarship on ostracism, arguing that it served as an annual reminder to “aristocrats that the *demos* was the ultimate arbiter of political power in the polis and could remove any aristocrat from the polis at will”: in other words, it was the tool by which the *demos* made public demonstrations of their power and legitimacy (p. 255). Introduced once in the assembly every year, ostracism was voted upon by at least 6000 members, with the majority of those votes being cast for one individual resulting in a ten-year exile (See Hansen, 1999, p. 35 for the historical context of ostracism). Although those ostracized did not suffer penal ramifications such as loss of property or citizenship rights, the gap of ten years emphasized the power of democratic rule in denying public participation to individuals. This decade prevented individuals from exercising any political influence, denying aristocrats, supporters of tyranny, and others from maintaining their social status.

Although the process died out in the fourth century, Forsdyke (2000) makes the broader point that ostracism was meant not only as a means of expelling undesirable or potentially threatening individuals, but also as a means of shoring up political identity (p. 256). Josiah Ober (1994) describes this as the preservation of democratic knowledge, where Athenians expel members from their political organizational structure to maintain the hegemony of democratic factions over the elite (p. 103). These practices and limited forms of exile implicate a broader understanding is necessary: exile in Athens was not always permanent. It was a desirable enough occurrence in the popular mind to establish the two different forms, each with varying degrees of punishment. The purpose of ostracism and *eisangelia* was primarily to deny, or interrupt individual’s ambition for power. Ostracized individuals often would come back to a much lesser status, if at all, and the confiscation of property in exile and the denial of ancestral burial within the city suggests that the city had fully rejected any claim an individual had to be in Athens. This

lack of recognition is a fundamental nature of exile exhibited in this period: to be exiled was to be wholeheartedly abandoned from a community you had once belonged to.

More broadly, it is important to question *why* the Athenians had such a myriad interwoven definition and application of treason charges. Scholars such as Donald Kagan (2003) have pointed out that the Greek world was multipolar: cities faced continual threats from other polities and even internal factions (p. 255). If Athens was not threatened by foreign forces such as Spartans or Persians, its ruling factions were threatened by those seeking to subvert democratic power, making it necessary to take preemptive measures to root out treasonous individuals and bind public discourse to the confines of what maintained democratic control. In this turbulent and unstable world, poleis such as Athens saw treason charges as a necessary protection against their own ruin. If states were to survive, actions that cut off dangerous elements or factions and preserve the body politic from harmful pollution were vital to the continuity of government. Without institutions such as *eisangelia*, *kataskaphe*, and ostracism, the state would be unable to preserve both their identity and their existence.

From this picture, then, we can begin to piece together the complexities of treason in the ancient period. The impetus for treason was the emergence of greater loyalties or the pursuit of self-interest, whether that be political power or economic profit. In doing so, the Athenian public perceived this as a threat to the success of democratic rule and a subversion of their legitimacy, portraying it as a sickness that polluted the city that endangered their very existence. Coupled with the legal mechanism of *eisangelia*, this pollution was used as justification to expel members from society, condemning their memory to destruction and casting out their identity beyond the protection of the city. Roisman (2006) attributes this incessant opposition to treasonous or threatening behavior to a greater public paranoia regarding the loss of political power and

stability (pp. 152, 157, & 160). In a world where the power of cities waxed and waned and empires rose and fell, protecting the state and its power from internal subversion became of paramount importance. To give individuals permission or opportunity to reject the transactional obligation of the Athenian social contract, the democratic state risked being subverted by a failure to participate. To prevent this subversion, citizens and politicians frequently engaged in procedures designed to expunge and stifle opposition by declaring them as enemies of the state, creating the procedures and records we have thus far discussed.

Conclusion

From these summary explanations of Athenian and Roman attitudes, a general concept of how ancient Mediterranean societies viewed treason and exile as political phenomenon can be pieced together. Both Athenian and Roman societies viewed treasonous behavior as a common occurrence, a byproduct of decentralized and numerous city-states that created opportunities for a change in loyalty. To respond to this dangerous activity, they instituted legal procedures that would be used to essentially excommunicate persons deemed to be dangerous. Yet it was ultimately impossible to define or predict every form of activity that could be considered treasonous, leaving these procedures open to some form of interpretation. This provided an opportunity to incite abuse by using these procedures to rid unwanted individuals from the state. Romans used *perduellio* and *maiestas* to remove political opposition and later maintain imperial control by stifling dissent. Athenians utilized ostracism, *kataskaphe*, and *eisangelia* to preserve a democratic ideal and the high status of Athenian citizenship. Both instances demonstrate a frequent usage for political purposes, to expel opposition and dissenters, indicating that animosity and the politics of control and revenge still played a part in these legal processes. Disloyalty was inherently divisive, and despite the legal processes that incorporated the rule of

law and legal procedure into trying instances of treason, it provided avenues to express community outrage and exercise collective power over an individual's behavior. This conflicting understanding of treason by ancient societies complicates our scholarly understanding of how the nature of disloyalty was portrayed in primary sources. Moreover, because most forms of scholarship explore the charges, punishments, beliefs, and practices of treason and exile through the lens of legal institutions, this duality potentially highlights the ways in which some scholars have ignored the kaleidoscopic nature of treason as a broad and multifaceted sociopolitical practice. The conflicting understanding coupled with the numerous motivations and behaviors of treason charges in ancient Roman and Athenian history indicates further in-depth analysis is needed on this subject.

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