



UNIVERSITÀ  
DEGLI STUDI  
DI PADOVA



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Sede Amministrativa: Università degli Studi di Padova

Dipartimento di Diritto pubblico, internazionale e comunitario

Scuola di Dottorato di Ricerca in Giurisprudenza (Diritto Romano)

Ciclo: XXVIII

Partner University: The University of Edinburgh

Department: School of History, Classics and Archaeology

Classics School

**FROM SLAVE TO FREE:  
A LEGAL PERSPECTIVE ON GREEK MANUMISSION**

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## *Introduction*

This work aims to present a new understanding of Greek manumission, with specific attention both to the nature of the act through which masters conferred freedom upon their slaves and to the main features characterising the condition of freed individuals in the ancient Greek world. Much has been written about the concepts of slavery and freedom in ancient Greece; surprisingly, however, little attention has been paid by modern scholars to the various aspects of manumission, which ideally 'bridges' the gap between the two opposite poles of slavery and freedom.

This study does not intend to discuss all the multiple aspects of manumission in ancient Greece, but, rather, to highlight the importance of adopting a legal approach to the study of this institution. My analysis will focus on the most relevant sources dealing with slaves' liberation in Greece, and show that they convey detailed information about how the Greeks themselves conceptualised the grant of freedom to slaves. More specifically, this work will look at the ancient Greek sources on manumission from a legal perspective, with the aim of unearthing the legal concepts and definitions which shaped the liberation of slaves in ancient Greece. Most importantly, this kind of approach will be typically 'emic', in the sense that it will deal with the ancient categories as they were understood 'by the subjects under consideration'.<sup>1</sup> In other words, this study will unveil the sophisticated way in which the Greeks themselves understood manumission (as a legal institution) and the condition of freedmen (as one pertaining to legally free individuals), by exploring the Greeks' own legal categories, rather than importing modern views and constructions in the analysis (an approach that would be informed, by contrast, by so-called 'etic categories', that are, 'those of the examiner and not of the subject')<sup>2</sup>

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<sup>1</sup> Lewis (forthcoming a).

<sup>2</sup> Lewis (forthcoming a). For a detailed discussion on the 'emic' and 'etic' categories, see Lloyd (1990): 7-20.

The fundamental reason for adopting a ('emic') legal approach lies in the very nature of the extant evidence. Our information on manumission is provided by inscriptions and forensic speeches, that are legal sources themselves. It follows that looking at the Greek legal concepts for our understanding of manumission is the only way to access the 'emic' dimension of the ancient sources: if we fail to investigate manumission – first of all – from a legal perspective and in light of the specific legal concepts and procedures used by the Greeks, we run the risk of misconstruing the nature of the extant evidence, and of turning the study of Greek manumission into an exercise in fitting the ancient institution into the straightjacket of our preconceptions. In order to define the Greeks' own ('emic') legal understanding of manumission, my analysis will pay careful attention to the specific language and procedures presented by the sources, as this is the only way we can understand how the ancient social and legal actors viewed and conceptualised the liberation of slaves.

This approach has not so far been typical of scholarship on Greek manumission. As I will discuss in further detail, most works which deal with slaves' liberation can be challenged from a methodological point of view, but one aspect is – I believe – the main reason for the unsatisfactory results achieved in the study of manumission, namely, the general rejection of legal data and definitions. Zelnick-Abramovitz, for example, has expressly refused to look at the ancient sources for manumission by (also) using a legal perspective, arguing that 'the attempts made by scholars to unearth juristic concepts, supposedly underlying these modes of manumission, induced long discussions on minute legal details that are often based on modern legal thinking and contribute little to our understanding of the ancient Greek concepts'.<sup>3</sup>

As I will show, this assessment, and the approach to the ancient sources that it engenders, is highly misleading, as it ultimately implies that the legal dimension played only a secondary role among the Greeks, or that they did not develop specific legal concepts and definitions. It is true that many 'legal' assessments of Greek manumission in the past have effectively over-imposed modern and Roman legal categories on the

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<sup>3</sup> Zelnick-Abramovitz (2005): 5.

ancient material, turning the study of Greek manumission into an exercise in taxonomy.<sup>4</sup> But it is misleading to imply that the uncritical adoption by scholars in the past of 'etic' legal categories is in itself evidence that a more nuanced and critically aware legal perspective is impossible and undesirable. And the alternative approach proposed by Zelnick-Abramovitz, while it denies that imposing extraneous legal categories on the material is a valid analytical tool, ends up replacing them with extraneous sociological categories, namely Patterson's definition of slavery, which is imposed uncritically on source material that is quite explicitly resistant to it.<sup>5</sup> This refusal of analysing manumission as a legal institution has given rise to many mistaken interpretations which have for a long time prevented a complete understanding of Greek manumission. By contrast, a consideration of the legal aspects and an accurate interpretation of the legal institutions as they were understood by the Greeks themselves constitute a necessary starting-point for the study of the multiple implications of manumission in Greece, such as, for example, the economic and social ones. These aspects are also central for our understanding of slaves' liberation in all its nuances; yet, they must rely on a solid knowledge of how the liberation of slaves was conceptualised as a legal institution by the social actors involved, and what specific effects it implied in the legal condition of slaves. Once these fundamental aspects are clear, and once we are able to discern – within the legal sources – which ones attest manumissions and which ones do not, it becomes possible to further our understanding of manumission by considering the economic and social dimensions of this phenomenon.

Yet, before entering into the details of the Greek understanding of manumission, it is important to point out, first of all, the basic legal meanings of slavery and freedom. More specifically, at the heart of this research is the idea that slavery and freedom need to be understood, first of all, as legal statuses conveying specific and fundamental (legal) implications. Recent works have challenged those scholarly interpretations which rejected the 'traditional' view of slaves as property, and highlighted the necessity of a newly orientated approach to the ancient sources which should be based, first of all, on

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<sup>4</sup> See below for a discussion of Calderini's work, which suffers from these very problems.

<sup>5</sup> See below n. 28.

the understanding of slavery as a legal condition based on the right of ownership.<sup>6</sup> What is important to stress here is that, although the ancient sources often use the vocabulary of slavery and freedom according to multiple shades of meaning which pertain to the specific contexts (slavery and freedom may be used, for example, in a political sense<sup>7</sup>, or in their social dimension<sup>8</sup>, or, again, in the context of philosophical argumentations<sup>9</sup>), we need to keep in mind that the various ways in which these concepts might be addressed originate from a basic legal significance, and are extended metaphorically to other spheres.

Slavery is in fact, first and above all, a legal condition characterised by a relationship between masters and slaves based on the right of ownership. This means, in other words, that slaves are included among their masters' property like any other object, and that masters can exercise on slaves all the rights and powers descending from ownership.

Two points need to be made clear from the outset. The first pertains to the right of ownership itself. The common misconception, that because the Greeks did not have a class of jurists who theorised an abstract concept parallel to that of the Roman *dominium*, they lacked the legal idea and definition of ownership, needs to be challenged. This view ignores that the ancient sources are unequivocal in showing that Greek owners clearly knew what ownership implied, as they exercised on their property all the rights and powers that typically descend from the entitlement to the right of ownership. In other

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<sup>6</sup> Most recently, cf. Lewis (forthcoming a).

<sup>7</sup> The most notorious example is perhaps provided by Herodotus in the seventh Book of the *Histories*, in which the Spartan king Demaratus addresses Xerxes by stressing that the Greeks are free and yet subject only to νόμος as their δεσπότης, as opposed to the Persians who are to be considered 'enslaved' because of their subjection to Xerxes as their δεσπότης: cf. Hdt. 7.104.4.

<sup>8</sup> Some examples for the use of the vocabulary of slavery and freedom in their social meanings will be offered in chapters 2, 3 and 4. However, it might be worth to point out, as noted below, that a typical example in this regard is offered by those inscriptions in which the obligations of freedmen towards their former masters are described with the vocabulary of slavery: this practice clearly reflects a metaphorical use of the vocabulary of slavery, which points to its 'social' dimension, by which working for other people was conceived of as slavish. On this point, see Canevaro, Lewis (2014): 101; Lewis (forthcoming a).

<sup>9</sup> Lewis (forthcoming a) stresses that, in this context, the language of slavery 'is often related to dispositional vices. In a philosophical context a man can be said to be enslaved to one of his passions or appetites that exercises despotic power over him'. For a detailed discussion on the multiple registers which could inform the use of the vocabulary of slavery and freedom in the ancient sources, yet all originating from a basic legal meaning, see Lewis (forthcoming a).



words, it is certainly possible to say that, at least in Athens, there was 'a sophisticated practical understanding of property law'.<sup>10</sup> This consideration brings us to the second point which is important to keep in mind when addressing the issue of slavery as a legal institution: the masters' entitlement to exercise over their slaves all the rights and powers descending from ownership is abundantly attested in the ancient Greek sources.

In an important essay published in 1961, Honoré has shown that ownership (which he defines as 'the greatest possible interest in a thing which a mature system of law recognizes'), far from being a Roman invention, is a transculturally recognised concept which is shared by all mature systems, from the primitive to the modern: 'Ownership, *dominium*, *propriété*, *Eigentum* and similar words stand not merely for the greatest interest in things in particular systems, but for a type of interest with common features transcending particular systems', as 'everywhere the "owner" can, in the simple uncomplicated case in which no other person has interest in the thing, use it, stop others using it, lend it, sell it or leave it by will'.<sup>11</sup>

Moreover, Honoré singled out ten 'incidents of ownership', which he defines as 'conditions for the person of inherence to be designated "owner" of a particular thing in a given system'<sup>12</sup> and which 'have a tendency to remain constant from place to place and age to age'.<sup>13</sup> These common features descending from ownership have been identified as follows: 1) right to possess ('the right ... to have exclusive physical control of a thing'); 2) right to use (which implies that 'the owner's liberty to make use of his property is more extensive than any other form of legal interest')<sup>14</sup>; 3) right to manage ('the right to decide how and by whom the thing owned shall be used'); 4) right to the income ('the right to harvest and either consume or sell anything grown on his land; if he rented his land to anyone, he had the right to collect the payment of rent ... in the case of slaves, masters in Greece had the right to anything they produced [including the children of

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<sup>10</sup> Lewis (2016): 38.

<sup>11</sup> Honoré (1961): 108.

<sup>12</sup> Honoré (1961): 113.

<sup>13</sup> Honoré (1961): 109, 112-113, where he specifies that 'the listed incidents are not individually necessary', since 'the use of "owner" will extend to cases in which not all the listed incidents are present'.

<sup>14</sup> Lewis (2016): 35.

slave-women]’)<sup>15</sup>; 5) right to the capital (‘the power to alienate the thing and the liberty to consume, waste or destroy the whole or part of it’); 6) right to security (‘an immunity from expropriation, based on rules which provide that ... the transmission of ownership is consensual’); 7) transmissibility (‘the permanence of this interest is so strong that it outlasts the lifespan of the owner: the property thus passes to his heir after the owner’s death’) and 8) absence of term (‘an owner’s rights over his property are essentially permanent: unless he chooses to alienate his property, or unless the property is seized by the state or a third party for legally legitimate reasons ..., his interest in the item is permanent’)<sup>16</sup>; 9) prohibition of harmful use (which implies that ‘an owner cannot use his property to illegal ends’)<sup>17</sup>; 10) liability to execution (‘liability of the owner’s interest to be taken away from him for debt, either by execution of a judgment debt or on insolvency’).

Those works that have looked at Greek slavery with a legal approach have shown that, from the Homeric poems through to the Classical age and beyond, masters did exercise on their slaves all the rights and powers descending from ownership, as this is largely attested in the ancient sources.<sup>18</sup>

On the other hand, the general failure to acknowledge the basic legal implications of slavery and freedom has often led scholars not to take into consideration the distinction, which recurs in the ancient sources, between legal and factual aspects and implications of manumission in the condition of freedmen. This is another key-point that it is fundamental to keep in mind in analysing the Greek evidence for manumission. The following example will make the point clearer. The Greek sources sometimes refer to freedmen as ‘slaves’, or describe the services they need to perform in favour of their manumitters with verbs that typically identify slavish tasks (such as δουλεύειν). This has created much confusion among scholars, who have failed altogether to acknowledge that such usages do not refer to the legal condition of freedmen after manumission

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<sup>15</sup> Harris (2015b): 119.

<sup>16</sup> Lewis (2016): 36.

<sup>17</sup> Lewis (2016): 36.

<sup>18</sup> This has been made clear, for example, in several works by Harris: cf., most importantly, Harris (2002): 416-417, (2012), (2015b): 118-120. See also Lewis (2016); (forthcoming a).

(which is clearly one of freedom) but, rather, to the *de facto* condition of those manumitted slaves who were required to perform further services after their liberation. Working for another person was considered to be somehow slavish; yet, as I will show (especially in chapters 2 and 4), such an obligation does not undermine the legal condition of freedom which characterised these manumitted slaves: this means, in other words, that their manumitters could not exercise on them any of the powers and rights descending from ownership.

The same considerations can be made for the meaning and implications of freedom, as the idea of freedom is closely connected to that of slavery.<sup>19</sup> The original legal significance conveyed by the concept of 'slavery' characterises also the primeval concept of freedom. Like slavery, the term ἐλευθερία and the adjective ἐλεύθερος are often used in the Greek sources with different nuances and meanings. Yet, these multiple registers originate from a basic legal meaning which, as opposed to slavery, identifies the legal condition of an individual who does not belong to anyone and, at the same time, is a legal person who – as such – is entitled to rights and duties.

Although scholars have often rejected a legal approach to the concept of freedom, arguing that such an idea was unknown to the Greeks, clarifying the basic legal implications of slavery and freedom is key for a proper understanding of Greek manumission. Returning to the example previously considered, we notice that the ancient sources often suggest that, at the end of their παραμονή period, freedmen become (completely) free.<sup>20</sup> This element has been interpreted as an indication that, while under παραμονή, manumitted slaves were still slaves or 'half-slaves', whilst they would become legally free only at the end of παραμονή.<sup>21</sup> Such an interpretation, however, fails to recognise that many legal clauses mentioned in the inscriptions state explicitly that, from a legal perspective, manumitted slaves under παραμονή were already free individuals. Such an expression in extra-legal contexts reflects a

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<sup>19</sup> Vlassopoulos (2011): 117.

<sup>20</sup> Cf. Harp. s.v. ἀποστασίου; see also FD III 1:303 (from 1<sup>st</sup> century B.C. Delphi).

<sup>21</sup> For the first view (manumitted slaves under παραμονή were in a legal condition of slavery), see, most recently, Sosin (2015); for the second view (ἀπελεύθεροι under παραμονή were half-slaves), cf., for example, Zelnick-Abramovitz (2005): 244-246.

metaphorical usage of the vocabulary of freedom or, more specifically, refers to their *de facto* situation, which was no longer characterised by the existence of any further obligation bounding them to the beneficiaries of their services. This shows, in other words, that the Greeks were very aware of the various possible usages of the language of freedom, and were capable of discriminating between them.<sup>22</sup>

It is in light of these considerations that we must understand manumission: given the legal nature of slavery (a legal condition characterising those individuals who belong as property to another person) and of freedom (in the opposite sense of legal condition typical of those persons who do not belong to anyone) as they are conceptualised in Greek legal documents, and given the language of the Greek evidence for manumission itself, we can define manumission as the legal act through which masters extinguished their right of ownership over their slaves and conferred freedom upon them (often in exchange for money). More specifically, the legal nature of manumission is clear from its very first attestations, which can be found in the Homeric poems: as I will show in chapter 1, both the *Iliad* and the *Odyssey* describe episodes of manumission as taking specific forms according to the different contexts they represent; in both cases, however, manumission is described as a purely legal act that marks the transition from a legal condition of slavery to a legal condition of freedom. This further confirms that in Homeric society the contrast between slavery and freedom pertains exclusively to legal statuses, from which all the other possible meanings of those concepts originated and developed.<sup>23</sup>

Manumission, on the other hand, is closely connected to the right of ownership, as it can be understood as a typical expression of the owners' right to dispose of their property by extinguishing their right of ownership (a point that will be further explained in chapter 5). Unlike alienation, in which the right of ownership is transferred to another person (for example, via sale or gift), manumission marks the complete extinction of the right of ownership over slaves: in other words, since the latter become legally free individuals, no one can exercise over them any of the rights and powers descending

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<sup>22</sup> On this point, see Lewis (forthcoming a).

<sup>23</sup> Cf. Lewis (forthcoming a).

from ownership, as they are now in turn transformed into legal subjects. At the same time, because manumission is a typical expression of the masters' right to dispose of their property, the Greek sources describe manumission as the result of a decision which pertains exclusively to individual slave owners: except for specific exceptions to this general rule (which will be analysed in chapter 5), masters' exclusive entitlement to manumission reflects the nature of the right of ownership in Greece, the exercise of which did not admit any kind of interference by third parties.<sup>24</sup>

As mentioned above, however, modern scholars have failed to adopt a productive legal approach based on an 'emic' understanding of the Greek legal institutions. They tend, by contrast, to over-impose modern categories both on the evidence for manumission and on the institution of slaves' liberation itself.

Calderini's outdated *La manomissione e la condizione dei liberti in Grecia* and Zelnick-Abramovitz's *Not Wholly Free: the Concept of Manumission and the Status of Manumitted Slaves in the Ancient Greek World* are the only monographs entirely dedicated to the study of manumission in Greece. Both these works constitute useful starting-points for the study of the liberation of slaves in Greece, as they offer a wide-ranging survey of manumission in the entire Greek world, a detailed exposition on the previous scholarship, as well as a valuable collection of the relevant sources (both literary and epigraphical). Their respective approaches, however, present some important methodological flaws that do not allow for a complete understanding of the mechanisms surrounding the liberation of slaves in Greece.

Calderini's analysis of Greek manumission, for example, is characterised by a strict taxonomic methodology, by which the ancient sources are grouped within specific 'modes' of manumission, within which precise 'forms' of slaves' liberation are listed.<sup>25</sup>

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<sup>24</sup> Jones (1956): 198.

<sup>25</sup> Calderini (1965): 93: '... io distinguo anzitutto le manomissioni in due grandi categorie: ordinarie e straordinarie; le prime cioè, che avvengono nelle condizioni normali della vita greca, sollecitate da cause complesse e non sempre direttamente avvertibili, le seconde che avvengono in condizioni speciali, provocate da circostanze politiche d'importanza e in ogni modo sanzionate da una deliberazione del popolo con un decreto speciale'. His classification of the Greek modes of manumission is the following: 'I. Manomissione ordinaria. A) Tipo Greco. 1° Religiosa. α) consacrazione ad una divinità; β) vendita ad una divinità; γ) protezione da parte di una divinità; a) invocazione della protezione di un dio sul liberto; b) modo civile-religioso. 2° Civile. α) per

This approach is useful for a modern reader, who can thus have easier access to the complex variety of Greek sources dealing with manumission; yet, the rigid classifications and definitions he proposes seem to reflect modern ideas rather than Greek conceptualisations. For example, one of the fundamental distinctions suggested by Calderini is that between ‘sacral’ and ‘secular’ modes of manumission: the first – sacral – is characterised by the active role played by the gods in the manumission procedure, whereas the second – secular – includes all those forms of manumission which do not require the intervention of the divine element, but of civic bodies only.<sup>26</sup> Within the first group, he lists the Delphic manumissions through ‘sale’ of a slave to the god, the Chaironeian inscriptions which (according to the traditional interpretation) record manumissions through ‘consecrations’ of slaves and, finally, a few sources which are believed to represent manumissions through invocation of the god’s protection. In the second group are included, for instance, some sources concerning manumissions carried out in Athens as mentioned in the forensic speeches, in which only ‘civic’ bodies are involved in the slaves’ liberation. This classificatory approach underpins the entire work by Calderini, and a reader gets the impression that the Greeks conceived of manumission as an act which was firmly organised into specific classifications. A closer look at the ancient sources, however, shows that it was neither the intervention or not of the god which shaped manumissions, nor the external form (either sale, consecration, or ‘conditional sale’) given to this act. Rather, the rationale behind all the possible ‘modes’ and ‘forms’ of manumission was that, given that slaves lacked legal personality, whenever masters required money in return for manumission the intervention of a third party was needed in order to make a legally valid and effective payment. Whether the third party was a god or not, and independently or not of the external form given to this

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mezzo di atti individuali; β) per mezzo di liste di manomissione civili; γ) *διὰ κήρυκος*; δ) per testamento, B) Tipo greco-romano 1° Atti pubblici. 2° Atti privati: α) *inter amicos*. II. Manomissione straordinaria. A) in guerra; B) altre manomissioni straordinarie per decreto’ (cf. Calderini [1965]: 94-95, where he specifies that ‘il tipo più specialmente greco’ is labelled as such ‘anche se per avventura fosse nato altrove’, whereas ‘il tipo greco-romano’ emerged ‘quando il diritto romano nei paesi di conquista si sovrappose e si mescolò al diritto greco anche in questa parte della legislazione antica’).

<sup>26</sup> Calderini (1965): 96-107, 125-135.

act, this study will show that although modern definitions, such as of 'religious' forms of manumission *versus* 'civic' ones, might be useful for pure taxonomic reasons and for an easier access to the ancient material, they fail altogether to make justice of the sophisticated legal reasoning on which Greek manumissions were ultimately based.

The monograph by Zelnick-Abramovitz, on the other hand, relies for her interpretation of Greek manumission and its implications on a complete rejection of the legal data, which she describes as 'futile'.<sup>27</sup> Instead, her study looks at the ancient sources using a sociological approach which is expressly informed by Patterson's view on the concept of slavery, based in its turn on the denial of the definition of slavery as a relationship based on ownership.<sup>28</sup> It follows that her definitions both of slavery (in which she includes 'any kind of dependence') and of freedom (which would refer to a condition of 'complete independence') entirely ignore the basic legal meanings of these concepts in the ancient sources.<sup>29</sup> Such an approach runs into multiple problems, and her understanding both of the nature of manumission (which she describes in terms of *φιλία*)<sup>30</sup> and of the condition of manumitted slaves is difficult to accept – often her conclusions are incompatible with an analysis of the relevant texts, and her categories are superimposed on the evidence yet fail to make full sense of it. One example of the shortcomings of her approach will clarify its weaknesses. When discussing the nature of manumission with *παράμωνή*, for instance, Zelnick-Abramovitz argues that its nature is that of a 'delayed' or 'deferred' manumission resulting in a 'conditional freedom' for

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<sup>27</sup> Zelnick-Abramovitz (2005): 38.

<sup>28</sup> Cf. Patterson (1982): 13, 21, who notably defines slavery as 'the permanent, violent domination of natively alienated and generally dishonoured persons'. His denial of an understanding of slavery as based on ownership relies on two main arguments. First, he argues that relationships based on ownership are not typical of slavery only ('to define slavery only as the treatment of human beings as property fails as a definition, since it does not really specify any distinct category of persons. Proprietary claims and powers are made with respect to many persons who are clearly not slaves. Indeed, any person, beggar or king, can be the object of a property relation. Slaves are no different in this respect'). Second, he maintains that property is not cross-culturally recognised, and that some societies even lacked the idea of ownership: it follows, in his view, that property – being different from one society to another – cannot be taken as the common denominator for slavery. For a detailed criticism of Patterson's approach, see, most recently, Lewis (2016).

<sup>29</sup> Zelnick-Abramovitz (2005): 9.

<sup>30</sup> Zelnick-Abramovitz (2005): 50-60.

manumitted slaves<sup>31</sup>; moreover, she argues that manumitted slaves under *παράμνη* were in a condition of ‘semi-freedom or semi-slavery’.<sup>32</sup> Yet the concept of ‘conditional’ or ‘deferred’ freedom and the interpretation of the condition of manumitted slaves under *παράμνη* as half-way between slavery and freedom not only are not supported by the ancient sources, but also constitute modern categories, which do not reflect the meanings of the Greek sources. These sources are uncontroversially underpinned by the basic legal meanings of slavery and freedom and, therefore, of manumission as a legal institution.

This short discussion isolates some of the methodological flaws of these modern analyses of the ancient Greek sources: more specifically, both works are typically ‘etic’, although in a very different way from each other. On the one hand, Calderini’s work is clearly informed by a legal approach, yet he builds a rigid taxonomy on the (exclusive) basis of modern categories. On the other hand, the analysis by Zelnick-Abramovitz not only underplays the legal dimension and nature of the ancient sources themselves, but also over-imposes modern sociological concepts and definitions to this evidence. An approach which combines legal data and definitions with ‘emic’ categories derived from the conceptualisations present in the source material itself promises to avoid these pitfalls and provide us with a more sophisticated and accurate understanding of Greek manumission.

Apart from these works, which are entirely dedicated to the study of slaves’ liberation in ancient Greece, manumission – as mentioned before – has been relatively ignored by modern scholars. In most cases, it is referred to through brief remarks, mainly at the conclusion of general discussions on Greek slavery or society. In this sense, manumission is simply seen as the act which brings slavery to an end, thus ignoring or underestimating the complex problematics that naturally arise from the transformation of slaves into free persons (such as, for example, the ways slaves were made free; the possible connection they may maintain with their former owners and the effects on their legal condition; or, again, the implications of their inclusion among the free population). Of the other existing works on manumission, most confine their analysis to single aspects

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<sup>31</sup> Zelnick-Abramovitz (2005): 239-248.

<sup>32</sup> Zelnick-Abramovitz (2005): 339.



of the procedure through which slaves were granted freedom, or limit their attention to specific geographical or chronological contexts. Some studies, for example, deal with the nature of παραμονή only<sup>33</sup>; or with the religious dimension of particular evidence dealing with manumission<sup>34</sup>; or with the social position of freedmen and their relationship with other members of Greek society.<sup>35</sup> Other works, on the other hand, analyse manumission and the condition enjoyed by manumitted slaves in specific geographical contexts<sup>36</sup>, or in given periods of Greek history.<sup>37</sup> As a result, our knowledge of manumission in Greece is often restricted to specific aspects concerning the act of manumission itself or the condition of manumitted slaves, and we lack an overall view of this phenomenon.

Our understanding of manumission in Greece is therefore incomplete, and relies largely on interpretations of the ancient material that are, in most cases, inaccurate. This is certainly due, in the first place, to the status of the extant evidence, which constitutes a major problem for scholars of Greek manumission. On the one hand, the ancient Greek literary and epigraphic sources are on the whole fragmentary and leave many gaps, and this often hampers a correct interpretation of the information they provide. On the other hand, the geographical and chronological distribution of the Greek sources is far from uniform. For example, the most important source of information for manumission is the epigraphic material from Central Greece (mainly Boeotia), dating from the 2<sup>nd</sup> century B.C. up to the end of the 1<sup>st</sup> century A.D. The case of Athens, on the other hand, is somewhat peculiar: while this πόλις provides the bulk of the evidence for our understanding of many aspects of Greek laws and institutions, it lacks a consistent body of sources for manumission. For a long time scholars held that the so-called φιάλαι ἐξελευθερικαί constituted a uniform corpus of inscriptions referring to Athenian manumissions and argued that they provide the major source of information for the

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<sup>33</sup> Cf., for example, Samuel (1965): 221-311; Waldstein (1986); Westermann (1948b): 9-50.

<sup>34</sup> For example, Sokolowski (1954): 173-181; Bömer (1960).

<sup>35</sup> Bearzot (2005): 77-92; Dimopoulou (2008): 27-50; Finley (1964): 233-249; Gärtner, 2008: 453-466.

<sup>36</sup> Babacos (1964): 494-503; Cabanes (1974): 105-209; Lewis (1959): 208-238; Martini (1995): 11-18, (2005): 46-47; Mulliez (1992): 31-44; Tod (1901/1902): 197-230; Westermann (1946): 92-104.

<sup>37</sup> See, for instance, Lencman (1966); Nieto (1982): 21-29.

practice of liberating slaves in Classical Athens. Recent interpretations, however, have shown that these sources can no longer be considered as evidence for manumission. It follows that our understanding of manumission in Athens can only rely on the analysis of a few forensic speeches from the 5<sup>th</sup> and 4<sup>th</sup> centuries B.C.; these sources, however, refer to manumission and manumitted slaves through sporadic references, thus leaving the modern reader with a piecemeal picture of the multiple aspects which informed the liberation of slaves in Classical Athens. Therefore, together with the methodological shortcomings which characterise modern approaches to the ancient sources for manumission, the difficulty of disentangling the ancient material also explains the unsatisfactory results of the modern attempts to understand Greek manumission.

The Greek language referred to manumitted slaves with the word ἀπελεύθεροι. The term ἀπελεύθερος has a strong implication, as it clearly conveys the idea of ‘separation’ or, to better say, of ‘provenance’ from a previous legal condition of non-freedom, that is, of slavery. This is clear from the very etymology of ἀπελεύθερος: the term is composed by the prefix ἀπό-, which stresses the aspect of ‘origin’ or ‘provenance from’<sup>38</sup>, followed by the adjective ἐλεύθερος. The ultimate meaning of ἀπελεύθερος is then twofold: on the one hand, it functions as a constant reminder of the fact that, although legally included among the free population, manumitted slaves are not *ab origine* free individuals, as their actual condition of freedom originates from a previous condition of non-freedom (that is, of slavery). On the other hand, it implies that even though manumitted slaves were legally free (in the sense that they did not belong to anyone), they were nonetheless excluded from citizenship (πολιτεία) – they were rather enrolled among the population of the free non-citizens. One of the main features of the condition enjoyed by ἀπελεύθεροι is that they usually did not acquire, together with freedom, citizenship rights: this aspect is often said to mark the fundamental distinction between ἀπελεύθεροι and *liberti* in Roman law, who would usually acquire, together with freedom, the status of *cives* as an effect of manumission (with the important exception of

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<sup>38</sup> For a detailed discussion on the meaning of the prefix ἀπό- in ancient Greek, see Papanastassiou (2011): 98, who stresses that ‘the main meanings of the preposition ἀπό are “from, away from” (of motion, position, etc.), “from after” (of time), “from” (of origin, cause, material, instrument, etc.)’.

the so-called ‘informal manumissions’).<sup>39</sup> Exclusion from citizenship bears significant implications in the *de facto* condition of manumitted slaves: as non-citizens, they were excluded, most notably, from political rights, duties and activity; their procedural capacity was limited; and non-political ‘privileges’ did not apply to them (for example, they were excluded from ownership of real estate, unless the ἔγκτησις γῆς καὶ οἰκίας was specifically granted to them).<sup>40</sup> On the other hand, the grant of citizenship to manumitted slaves was conceived of as an exceptional reward, which was only assigned in rare occasions and did not depend on their masters’ will, but exclusively on a decision taken by the πόλις through the enactment of a ψήφισμα *ad hoc*. The best known case of a public grant of citizenship rights to an ἀπελεύθερος comes from Classical Athens and refers to Pasion, an ex-slave of two bankers (Antisthenes and Archestratos) who was first manumitted by his owners towards the end of the 4<sup>th</sup> century B.C. and put in charge of the bank<sup>41</sup>, and later given Athenian citizenship by the πόλις, which enacted a ψήφισμα *ad hoc*, because of the contributions that Pasion rendered to the state.<sup>42</sup> Apart from these exceptional cases, once freed, ἀπελεύθεροι joined the population of the free non-citizens: as I will illustrate in chapter 4, however, their condition cannot be properly assimilated to that of the metics, as the differences existing between the two groups suggests that we should look at them as two separate categories of free non-citizens.

This work will look at the Greek evidence for manumission with particular attention, on the one hand, to the legal nature of manumission and, on the other hand, to the legal condition enjoyed by ἀπελεύθεροι after their liberation. Moreover, it will show that both these aspects of manumission share the same basic features in different

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<sup>39</sup> Cf. Sirks (1981), (1983).

<sup>40</sup> On Greek citizenship in general (and Athenian πολιτεία in particular), as well as on its nature and implications, see, most recently, Brock (2015); Rhodes (2015).

<sup>41</sup> Cf., for instance, Dem. 36.48.

<sup>42</sup> Cf. [Dem.] 59.2: ψηφισαμένου γὰρ τοῦ δήμου τοῦ Ἀθηναίων Ἀθηναίων εἶναι Πασίωνα καὶ ἐκγόνους τοὺς ἐκείνου διὰ τὰς εὐεργεσίας τὰς εἰς τὴν πόλιν ... (‘when the people of Athens passed a decree granting the right of citizenship to Pasion and his descendants on account of services to the state ...’). According to Davies (1971): 428, followed by Osborne (1983): 48, Pasion was manumitted in early 390s and then granted citizenship by the πόλις ten years later, in early 380s.

geographical and chronological contexts of the Greek world, thus pointing to a substantial unity of the Greek law pertaining to manumission and manumitted slaves.

Chapter one will focus on the historical origins of Greek manumission, an issue that has received very little attention by modern scholars. This is due to two main reasons: first, the fact that ἀπελεύθεροι are only mentioned in Greek sources from the Classical age onwards; second, the widely-accepted idea that slavery as an institution did not develop before the 6<sup>th</sup> century B.C., that is, as an effect of the economic and social reforms carried out by Solon. After embracing the most recent interpretations which, through the analysis of the legal data, have shown that the institution of slavery was already in existence in Homeric society, this chapter will examine the evidence from the *Iliad* and the *Odyssey*, and will show that both poems attest to episodes of manumission, which is presented as a (purely) legal act determining the transition from a legal condition of slavery to a legal condition of freedom. On the one hand, this conclusion will show that specific forms of manumission were practiced long before the 6<sup>th</sup> century B.C.; on the other hand, it will further confirm that slavery at the time of the Solonian reforms, far from being a new institution, had an important and fundamental antecedent in Homeric slavery.

Chapter 2 will look at the most extensive source of information for Greek manumission, namely, the corpus of the Delphic inscriptions from the 2<sup>nd</sup> and 1<sup>st</sup> century B.C. Traditionally included among the so-called 'sacral' manumissions, these inscriptions have always puzzled scholars, as in these sources manumission takes the form of a sale of the slaves to the god Apollo. After addressing the relationship between sale and manumission, their (opposite) legal effects and the different interpretations suggested by scholars on this point, the chapter will question the nature of these manumissions and show that they do not record actual sales but, rather, bilateral legal transactions by which slaves 'acquired' their own freedom through the intervention of the god, to whom they had previously entrusted their money. Secondly, the chapter will investigate the legal condition of those manumitted slaves who, after their liberation, were required to παραμένειν with their manumitters, an issue which still divides scholars and which is still far from being definitely clarified. Through an analysis of the

legal nature of *παράμωνη* and of the individual clauses that could follow such an agreement (most importantly, the concept and implication of *ἀπόλυσις*), the chapter will highlight the distinction between the legal condition of these manumitted slaves, which is clearly one of freedom, and their *de facto* situation, which required them to perform further services in favour of their manumitters.

Chapter 3 will consider another important corpus of inscriptions which has been traditionally included among the 'sacral' manumissions, namely, the epigraphic material from Hellenistic Chaeronea, which will be discussed as a case-study. The traditional view holds that, in these inscriptions, manumission takes the form of a consecration and, consequently, that slaves become free (*ἱεροί*) as an effect of their consecration to the god by their masters. This chapter will argue that there are several reasons to abandon this view, which is problematic because it implies that the ultimate effects of manumission and of consecration are the same. After highlighting that manumission and consecration have opposite legal effects (extinction of any right of ownership *versus* transfer of ownership to a new owner), the chapter will focus on the individual clauses which are mentioned in these inscriptions (most significantly, the fact that also *ἀπελεύθεροι* were dedicated as sacred to the god proves that manumission and consecration were conceived of as two separate legal transactions), and argue that the condition of *ἱεροί* was a very peculiar one, in which the contrast between the legal and the factual dimension is perhaps mostly evident.

Chapter 4 will turn to the evidence dealing with Classical Athens, for which we know very little about manumission: the only information we have is provided by a few forensic speeches (the most relevant ones are [Dem.] 59 and Hyp. 3), which deal however only indirectly with manumission itself. A close look at their text will show that in Athens (as well as in other *πόλεις* from the Classical age) manumission shares the same basic features of slaves' liberation as is attested in the inscriptions from Delphi: on the one hand, payment in return for manumission implies that this act is described as a bilateral transaction between slaves' masters and a third party; on the other hand, the Athenian evidence further suggests the existence of two categories of manumitted slaves,

depending on the imposition or not of παραμονή obligations upon them: both, however, enjoyed a legal condition of freedom and differed only as for their *de facto* situation.

Finally, chapter 5 will address a specific issue, namely, the possibility for the πόλις to interfere with the individual masters' right of ownership by 'forcedly' manumitting privately-owned slaves. After questioning the consistency of this 'mode' of manumission with the nature of Greek ownership, and after remarking that such a kind of public intervention corresponds to a form of expropriation which, as such, was expressly limited to specific cases and circumstances (in accordance with what we call 'right to security'), the chapter will investigate the specific conditions in which 'public manumissions' have been allowed in Classical Greece. After analysing the evidence from Classical Athens, Rhodes and Chios, the chapter will look at the evidence referring to Classical Sparta, as this πόλις (which is generally ignored in modern studies on manumission) seems to be described in the ancient sources as representing the most intrusive form of intervention by the state in masters' right to dispose of their ownership by extinguishing it.

## CHAPTER 1

### *The origins of manumission in Greece: the evidence from the Homeric poems*

#### 1. Introduction.

One aspect of Greek manumission that has received very little attention is that of its historical origins. This is primarily due to two main reasons. The first one is that – as is commonly acknowledged by scholars – the first references to ἀπελεύθεροι can only be found in Greek sources dating from the 5<sup>th</sup> century B.C. onwards<sup>43</sup>: for this reason, modern discussions on manumission in Greece tend to focus on the evidence from the Classical and the Hellenistic ages. The second one is that the very existence of slavery before the 6<sup>th</sup> century B.C. has been the object of many debates among scholars: as for Athens, for example, it has commonly been held that the institution of slavery emerged in close connection with the reforms carried out by Solon.<sup>44</sup> It follows that the nature (or even the very existence) of manumission in earlier sources has largely been ignored by modern scholarship: if manumission, in legal terms, is a *datio libertatis*, that is, the liberation of a slave from his master's ownership and *potestas*<sup>45</sup>, it follows that this institution is strictly connected to slavery, as it could only exist in those societies in which slavery was known and practiced. However, given the widely accepted assumption by which slavery only developed in the 6<sup>th</sup> century B.C., there has been very little space for any discussion on manumission in previous times, such as, for example, in the Homeric poems.<sup>46</sup> In fact, very few works have questioned the existence of manumission in

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<sup>43</sup> See Calderini (1965): 299; Zelnick-Abramovitz (2005): 101.

<sup>44</sup> Meyer (1910); Finley (1954), (1980).

<sup>45</sup> This definition can be found in the *Digest* and constitutes a quotation from Ulpian who, after including manumission among the institutions belonging to *ius gentium* ('*manumissiones quoque iuris gentium sunt*'), thus describes *manumissio*: '*est autem manumissio de manu missio, id est datio libertatis: nam quamdiu quis in servitute est, manui et potestati suppositus est, manumissus liberatur potestate*' (Ulp. *Inst.* D. 1.1.4).

<sup>46</sup> For a discussion about the expression 'Homeric society', see, most recently, Harris (2012): 351-354; Pelloso (2012): 77-80.

Homeric society<sup>47</sup>, yet their contributions are often unsatisfactory: when facing the problem concerning the origins of Greek manumission, some scholars simply take for granted that Homeric society did not know the social and legal distinction between free individuals and slaves<sup>48</sup>, as this would only be a much later development.<sup>49</sup> Some other scholars, although acknowledging the existence of slavery in the poems, underestimate its importance and its features to the point of describing Homeric slavery as 'mild' and 'paternalistic' and, therefore, as having nothing in common with the so-called 'chattel-slavery' of Classical age<sup>50</sup>, being Homeric slavery closer to the institution of serfdom.<sup>51</sup> Recent studies, however, have challenged these traditional views: for example Harris,

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<sup>47</sup> The only works specifically dealing with Homeric manumission are the essays by Nieto (1982); N'doye (2008); Bouvier (2008); however, as this chapter will show, their contributions are not entirely persuasive, and much work still has to be done for a complete understanding of manumission in the Homeric poems.

<sup>48</sup> One of the main supporters of this idea is Garlan, who argued that the condition of Homeric slaves was not clear at all if compared to that of other individuals who were legally free, such as the θήτες and the θεράποντες. One of the main points made in traditional scholarship is that while in the 5<sup>th</sup> century B.C. there was a specific term designating Greek slaves (δοῦλος), in the Homeric poems, together with δμῶες and δμωαί which exclusively refer to slaves, there were many other words which could be used both for free individuals and for slaves and which reflected their role in the οἶκος, such as οἰκέυς and δρηστήρ (*contra*, see Beringer [1982]: 28, who argues that δμῶς 'denotes the dependent man within an estate-household', as opposed to δοῦλος which, in its turn, identifies 'the not-belongin foreigner or alien who is subject to [Greek] royal-aristocratic power'). This usage of some terms as referring to slaves and to free individuals led scholars to a general confusion about the boundaries between freedom and slavery in the Homeric poems: Garlan, for instance, maintains that the main distinction within the Homeric society was that between nobles and non-nobles, and that there was no divide between slaves and free individuals (it follows that, according to this interpretation, no forms of manumissions can be found in the poems: Garlan [1988]: 31). This idea is shared by Todd (1993): 171, who believes that 'in the Homeric poems ... the distinction between slaves and citizens means little'.

<sup>49</sup> Cf Meyer (1910); Finley (1954): 34; for a detailed criticism of their opinions, see Harris (2012).

<sup>50</sup> Todd (1993): 184: 'Slavery in classical Athens meant chattel-slavery: in this respect, any slaves found in Homer are wholly different from their classical successors'. This view is commonly based on the fact that the *Odyssey* seems to refer to some slaves as particularly privileged ones, such as Eumaeus and Euricleia; this has taken to the idea that 'the treatment of slaves by their owners was notably mild and kindly ... the Homeric poems represent the slaves, on the whole, as loyal and devoted, often to the point that relations of marked affection existed between them and members of the households of which they were a part' (Westermann [1955]: 3; the same view is shared by Garlan [1988]: 35. See also Thalmann [1998], who points out the ideological purposes behind such a description of slavery in the Homeric poems). For a criticism of these opinions and for an accurate list of evidence showing that slavery in Homer shared the same basic features of that of Classical Athens, see, once again, Harris (2012).

<sup>51</sup> Beringer (1982); Morris (1987): 178.



by combining social and legal data, has conclusively shown that slavery did exist and was commonly practiced in the *Iliad* and in the *Odyssey*, and that Homeric slavery did not differ fundamentally from the so-called 'chattel-slavery' of Classical age.<sup>52</sup>

In this chapter, I will move from these recent results in order to show, on the one hand, that manumission – as well as slavery – was known and practiced in the societies represented in the two poems and, on the other hand, that their different contexts (the *Iliad* is characterised by a war-context, whereas the *Odyssey's* one is more domestic) reflect different and specific forms of manumissions.

This chapter will therefore be divided into two parts. The first one will examine the evidence from the *Iliad*, and will show that several passages from the poem clearly show, on the one hand, that the defeated enemies were made slaves (as war-captives) of the victors and, on the other hand, that their liberation (i.e. manumission, which is typically expressed by the verbs λύειν or ἀπολύειν) took the form of the payment of a ransom (ἄποινα) by a member of their families, usually the father. The second part will focus on the *Odyssey*, and will show that there is only one passage in the whole poem which directly refers to manumission (Hom. *Od.* 21.212-216): in this case, manumission is described as depending on domestic dynamics, by which two slaves are integrated in their master's οἶκος (no longer as slaves, but) as equal and free individuals through the establishment of a relationship based on reciprocity and kinship between the former and the latter.

The main purpose of this chapter is to show that, despite the fact that the first evidence referring to ἀπελεύθεροι dates to the 5<sup>th</sup> century B.C., specific forms of manumission (in its legal meaning of a transition from a legal condition of slavery to a legal condition of freedom) can already be found in the Homeric poems. Moreover, this conclusion will ultimately reinforce the idea that slavery was not a new reality at the time of Solon's reforms but, rather, that this institution had an important and fundamental antecedent in Homeric society.

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<sup>52</sup> Harris (2012). See also Van Wees (1992): 49-53, who showed that slavery was the fundamental labour source of the Homeric society; Fisher (1995): 49; Lewis (2015).

## 2. Forms of reduction into slavery and manumission in the 'Iliad'.

Consistently with the war-context which constitutes the background of the *Iliad*<sup>53</sup>, one of the main forms of reduction into slavery (together with kidnapping) is defeat in battle and the subsequent reduction into captivity. Several passages from the poem show that as a rule descending from the defeat in battle, warriors became captives of the victor, and the relationship thus established between the two is clearly based on ownership.<sup>54</sup> This is further suggested by the specific vocabulary used in the poem to describe the reduction of the defeated enemies into captivity. The seizure of men as captives is usually expressed by the verbs ζοργέω, λαμβάνω and αἰρέω<sup>55</sup>, whereas ληίζομαι generally identifies the seizure of women<sup>56</sup>: the use of these verbs is highly significant, as each of them conveys a specific meaning.

Although the meanings of those verbs which are typically used in the poem to describe the seizure of men have a slightly different nuance, they all ultimately suggest that captives are made the object of an immediate and individual right of ownership by their captor: this means, in other words, that they become property of the latter, and therefore their slaves: ζοργέω (which means 'to save alive', 'to take captive' instead of killing)<sup>57</sup>; λαμβάνω (which means 'to take', 'to seize', is sometimes used as a synonymous of ζοργέω)<sup>58</sup>; and αἰρέω (the fundamental meaning of which is 'to grasp', 'to take', but which is sometimes followed by the term ζώος, this underlying that the

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<sup>53</sup> On warfare and conflict within the Homeric societies, see Van Wees (1992).

<sup>54</sup> On this point, see Harris (2002): 425, who stresses that 'since the Homeric period ... anything captured in war belonged to the victor' and that 'the person who was captured in war therefore became the slave of his captor'.

<sup>55</sup> For ζοργέω see, for instance, Hom. *Il.* 10.378, 11.131, 6.46; for λαμβάνω, see Hom. *Il.* 11.106, 20.464, 21.36; for αἰρέω, see Hom. *Il.* 6.38, 16.331, 21.102.

<sup>56</sup> See, for instance, Hom. *Il.* 18.28 (δμοφαὶ δ' ἄς Ἀχιλεὺς ληίσσατο Πάτροκλός τε). The verb ληίζομαι has the same root of λεία (booty) and it means 'emmener comme butin': cf. Chantraine (1977) s.v. λεία.

<sup>57</sup> This verb is used three times in the *Iliad* by the defeated enemy (Hom. *Il.* 6.46, 10.378, 11.131) who supplicates the victor to take him alive (the verb is always used in the imperative form ζοργεῖτ': cf. Ducrey (1968): 29-30; Chantraine (1977) s.v. ζωάγρια).

<sup>58</sup> The verb λαμβάνω is used three times in the *Iliad* in the aorist participle λαβών (Hom. *Il.* 11.106, 20.464, 21.36). For its use a synonymous of ζοργέω with the specific meaning of 'to take alive', see Hom. *Il.* 20.464, in which Troos thus pleads Achilles: 'λαβών καὶ ζῶν ἀφείη'.

verb αἰγέω, in all these cases, can be considered as a synonymous of ζογορέω).<sup>59</sup> The verb ληίζομαι, on the other hand, typically describes the seizure of women: its fundamental meaning, which is 'to seize as a booty'<sup>60</sup>, suggests that the acquisition of ownership over women goes through two different stages. Once captured, women were included among the booty together with the other plundered goods: the booty was considered to be a common property of the whole army (as the Greek term for 'booty', ξυνήϊα, suggests)<sup>61</sup> and all the goods that were part of the booty were gathered at the center of the assembly of the warriors. The ἀγορή then divided the booty and assigned the goods to each fighter, who thus became the owner of the goods he was given. It was only through this second step that the plundered goods – which were initially part of the booty and common property of the whole army – became the object of an individual right of ownership that could not be challenged by anyone.<sup>62</sup>

That captives were considered property of the victors is further proved by other elements, which show that the former's fate exclusively depended on the latter's will. As pointed out by Garland<sup>63</sup>, the victor could dispose of the defeated enemies and of the latter's properties as he liked: several passages from the *Iliad* show that the victors, when they decided not to kill their enemies, had the complete power to sell them abroad or to liberate them by the payment of a ransom.<sup>64</sup> For example, in the twenty-first Book of the *Iliad*, Achilles maintains that, before Patroclus' death, he had saved many of his enemies' lives by selling them abroad instead of killing them<sup>65</sup>; similarly, in the twenty-second Book, Priam reminds Hector that many of his sons had been killed or sold abroad by Achilles.<sup>66</sup> The verbs used in these two passages are πέρωνημι (in the first case) and περάω (in the second case) and they both refer to the act of exporting captives to foreign

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<sup>59</sup> Cf. Hom. *Il.* 6.38, 16.331, 21.102 (ζωὸν ἐλεῖν).

<sup>60</sup> Liddell, Scott (1996) s.v. ληίζομαι

<sup>61</sup> The main meaning of ξυνήϊα is indeed 'common property': cf. Liddell, Scott (1996) s.v. ξυνήϊα.

<sup>62</sup> Cantarella (1979): 117-121; Van Wees (1992): 299-310.

<sup>63</sup> Garland (1987): 4.

<sup>64</sup> Van Wees (1992): 253.

<sup>65</sup> Hom. *Il.* 21.102: πολλοὺς ζωοὺς ἔλον ἠδὲ πέρασσα.

<sup>66</sup> Hom. *Il.* 22.46: ὅς μ' υἱῶν πολλῶν ... κτείνων καὶ περὸν ἀς νήσων ἐπι τηλεδαπάων.

lands for selling them as slaves.<sup>67</sup> The same verbs, on the other hand, are used with this meaning in many other episodes in which the objects sold abroad are slaves or, in one case, the entirety of the κτήματα that once belonged to Troy.<sup>68</sup>

The use of verbs connected with the seizure of captives and with the practice of selling them abroad implies that, in all these cases, the relationship between the two parties is based on ownership and therefore has to be identified with slavery. If we read this evidence from the *Iliad* in the light of the ‘incidents of ownership’ as singled out by Honoré, it follows that the power of selling captives abroad and the right to kill them can be included among the so-called right to the capital, which can be defined as ‘the power to alienate the thing and the liberty to consume, waste or destroy the whole or part of it’.<sup>69</sup> Once it is clear that war-captivity is one of the main forms of reduction into slavery attested in the *Iliad*, it is also possible to question whether the poem refers to episodes which mention the possible liberation of these captives from their actual condition of slavery.

Several episodes from the *Iliad* describe defeated enemies in the act of supplicating the victor (i.e. their owner) to not kill them, but to release them as an effect of the payment of a ransom (ἄποινα).<sup>70</sup> Although this kind of request is frequently attested in the poem, we should not infer that captives had the right of paying the ἄποινα to the victor and therefore of being liberated: the acceptance of the ἄποινα was rather conceived of as a power that the victor could exercise or not according to his unquestionable will.<sup>71</sup> The episode mentioned in the sixth Book of the *Iliad* at lines 37-65

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<sup>67</sup> Liddell, Scott (1996) s.v. πέρωνημι. As it has been pointed out by Mele in his work on society and labour in the Homeric world, the etymology of the verb πέρωνημι conveys the idea of a movement towards a place, and it should be best interpreted as ‘to export for sale’: Mele (1968): 24.

<sup>68</sup> Hom. *Il.* 23.292.

<sup>69</sup> Honoré (1961): 118.

<sup>70</sup> See, for example, Adrastus’ supplication to Menelaus (Hom. *Il.* 6.46-50); Dolon’s supplication to Odysseus and Diomedes (Hom. *Il.* 10.378-381); Peisander and Hippolochus’ supplications to Agamemnon (Hom. *Il.* 11.131-135).

<sup>71</sup> Bielman (1994): 288, correctly maintains that ‘la rançon n’est pas un privilège concédé de droit au prisonnier; c’est une faveur accordée aux captifs, par leur détenteur, au gré de son bon vouloir et de ses intérêts’. See also Naiden (2006). Most recently, see Harris (2015a): 30: ‘Supplication is well attested in the Homeric poems ... It consists of four basic steps: 1) the approach of the suppliant (either to an individual or a shrine), 2) a supplicatory gesture (holding

provides a typical example in this regard. When, at the end of the battle, Adrastus realises that Menelaus has overwhelmed him, and after Menelaus had taken him alive as a captive<sup>72</sup>, he supplicates him not to kill him and to accept the payment of a ransom, ensuring Menelaus that his father would have paid ἀπερείσι' ἄποινα ('a countless ransom') for his liberation.<sup>73</sup> Menelaus is about to accept Adrastus' supplication, but Agamemnon suddenly intervenes and persuades his brother to kill Adrastus: in doing so, Homer describes Agamemnon as αἴσιμα παρειπών, which means 'the one who says just things'.<sup>74</sup> In other words, this episode shows that the refusal to release captives by accepting the payment of a ransom was considered αἴσιμον, which means 'just'.

The episode which is attested in the first Book of the *Iliad* at lines 10-52, however, at first sight seems to suggest an opposite view, in the sense that it seems to represent the acceptance of the ransom and the liberation of a captive-slave as a due act. In these lines, Chryses implores the assembly of the Achaeans to release his daughter – who had previously been assigned as a γέρας to Agamemnon – by the payment of ἀπερείσι' ἄποινα. It has to be noted, however, that in this specific case the acceptance of the ἄποινα and the liberation of Chryses' daughter are necessary not because Chryses *per se* or his daughter enjoyed such a right, but because of the peculiar qualification of Chryses as Apollo's priest. As Achilles tells his mother Thetis, after the Achaeans had destroyed and plundered Thebes, they captured Chryses' daughter, who was initially included among the booty and then assigned as a γέρας to Agamemnon, but they decided not to kill nor to capture Chryses.<sup>75</sup> A similar episode is described in the ninth Book of the *Odyssey*, when Odysseus tells that after the destruction of the city of Ismarus, he and his companions killed all the men and captured all the women, but saved Maron's life, who was Apollo's priest, and did not capture his wife and his son because the

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a bough, touching the knees, sitting at an altar), 3) a request for something from the person supplicated (*supplicandus*), and 4) a decision by the *supplicandus* either to accept or reject the suppliant ... The evaluation of the suppliant's request was made following standard moral and religious views that are in accordance with the unwritten laws of the gods'.

<sup>72</sup> Hom. *Il.* 6.37-38: Ἀδρηστον ... Μενέλαος ζωὸν ἔλ'.

<sup>73</sup> Hom. *Il.* 6.45-50.

<sup>74</sup> Cf. Liddell, Scott (1996) s.v. αἴσιμος.

<sup>75</sup> Hom. *Il.* 1.366-369.

Achaean were respectful of the god Apollo (ἄζόμενοι).<sup>76</sup> The episode of Chryses' supplication shows that an offence to a priest leads to a deprivation of his τιμή (the verb constantly employed in the first book of the *Iliad* to describe the offense caused to Chryses is in fact ἀτιμάζειν) and indirectly causes, as a result, an offence to the god himself. It is because of this peculiar relationship between the priest and the god that the release of Chryses' daughter by the payment of the ἄποινα can be seen, in this case, as a due act: from the very outset, Homer underlines that Chryses addresses the Achaeans as Apollo's priest, and this is made clear both for the golden scepter he is carrying with him<sup>77</sup> and because he says that, by accepting his request, the whole army will honor the god Apollo himself.<sup>78</sup> But if Chryses' qualification as a priest gives rise to a sense of αἰδώς between the whole Achaean army, which agrees on the opportunity of accepting the ἄποινα<sup>79</sup>, the same cannot be said about Agamemnon, who brutally refuses Chryses' supplication. This refusal deprives Chryses of his τιμή<sup>80</sup>, and the priest thus prays the god Apollo to punish the Achaeans for this offence: from this moment, an epidemic of plague struck the Achaean army for ten days until Agamemnon decided to release Chryses' daughter and to accept the ἄποινα he had been offered.<sup>81</sup>

These two episodes show that in the *Iliad*, the liberation of a war-captive reduced into slavery is not a due requirement, but a choice which rests with the owner of the slave. It is no coincidence that, notwithstanding the many supplications of being released by the payment of ἄποινα attested in the poem, only one of them is accepted: the episode deals with the liberation of Andromache's mother, who survived the destruction of Thebes (while her father and seven brothers were all killed by Achilles) and, after having been captured by Peleus' son, was then released by the latter after the payment of ἀπεργείσι'

<sup>76</sup> Hom. *Od.* 9.197-200. The Greeks ensured immunity not only to the goods that belonged to gods or that were under their protection, but also – and above all – to priests: cf. Garlan (1985): 55-58.

<sup>77</sup> Hom. *Il.* 1.14-15.

<sup>78</sup> Hom. *Il.* 1.20-21: παῖδα δ' ἔμοι λύσατε φίλην, τὰ δ' ἄποινα δέχεσθαι / ἄζόμενοι Διὸς υἱὸν ἐκηβόλον Ἀπόλλωνα.

<sup>79</sup> Hom. *Il.* 1.22-23, 376-377.

<sup>80</sup> The verb used by Homer is ἀτιμάζειν (ἡτίμησ'): cf. Hom. *Il.* 1.94.

<sup>81</sup> Hom. *Il.* 1.34-54.

ἄποινα.<sup>82</sup> In all the other cases, however, the victor refuses his enemy's request and kills him.<sup>83</sup>

The liberation of Andromache's mother, on the other hand, shows that also female-captives could be released by the payment of ἄποινα; however, it might be possible to suggest that women had one further possibility of obtaining their freedom, namely, legitimate marriage to their masters. This seems to be implied, for example, by Hom. *Il.* 19.295-299, where Briseis reminds that Patroclus had promised to take her to Phthia, where she would have become Achilles' κουριδίη ἄλοχος (which is best interpreted as 'legitimate wife')<sup>84</sup> as the effect of the celebration of their γάμος among the Myrmidons.<sup>85</sup>

If this is true, in this latter case manumission would descend from marriage, which ultimately implies the entrance of a female-slave into her master's οἶκος no longer as a property but, rather, as an effect of the creation *ex novo* of a kinship tie. This possibility, on the other hand, seems plausible also in the light of the evidence from the *Odyssey*, in which the formal entrance of a slave into his master's household as an equal (ἐταῖρος) and at the same time as a kin (κασίγνητος) is the only attested form of manumission.

### 3. *Slavery and manumission in the 'Odyssey'*.

Further information about slavery and manumission can be found in the *Odyssey*, which is characterised by a more domestic context than the one of the *Iliad*. Most of the

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<sup>82</sup> Hom. *Il.* 6.414-428.

<sup>83</sup> Cf. Wilson (2002): 31.

<sup>84</sup> Although Patterson underlines the 'looseness of the Homeric vocabulary denoting the wife' and maintains that 'the tendency to read into *kuridie* the idea of "legitimate" or "lawful" is not supported by etymology or usage' (Patterson [1990]: 49 and n. 36), in the Homeric poems the term ἄλοχος, when preceded by the adjective κουριδίη, is often used in relation to legitimate marriages: it is the case, for example, of Hom. *Il.* 1.114, where Agamemnon describes Clytemnestra as his κουριδίη ἄλοχος. Thus, the condition of a freed slave becoming the legitimate wife of her master differs from that of a slave concubine bearing children to her owner, since the former has to be considered free, whereas the latter is a slave: see Lewis (forthcoming b).

<sup>85</sup> Hom. *Il.* 19.295-299: οὐδὲ μὲν οὐδέ μ' ἔασκες, ὅτ' ἄνδρ' ἐμὸν ὠκύς Ἀχιλλεύς / ἔκτεινεν, πέρσεν δὲ πόλιν θείοιο Μύνητος, / κλαίειν, ἀλλὰ μ' ἔφασκες Ἀχιλλῆος θείοιο / κουριδίην ἄλοχον θήσειν, ἄξειν τ' ἐνὶ νηυσὶν / ἐς Φθίην, δαίσειν δὲ γάμον μετὰ Μυρμιδόνεσσι ('but you, Patroklos, even when Achilles slew my husband and sacked the city of noble Mynes, told me that I was not to weep, for you said you would make Achilles marry me, and take me back with him to Phthia, where we would celebrate our marriage among the Myrmidons').

events take place in Odysseus' palace<sup>86</sup>, thus providing significant information for our understanding of the various aspects of the slaves' lives, their conditions and their tasks in the οἶκος, as well of the relationship between masters and slaves: for this reason, the poem has constituted the traditional starting-point from which scholars have usually developed their considerations about Homeric slavery. For example, the overall description of the condition of Eumaeus and Eurycleia as 'privileged' slaves has led some scholars to generalise the main features of Homeric slavery by describing it, as a whole, as mild and paternalistic.<sup>87</sup> As some recent works have pointed out, however, the 'privileged' condition of these two slaves cannot be considered as a paradigm for the understanding of Homeric slavery *per se*.<sup>88</sup> Many episodes mentioned in the *Odyssey* suggest that masters did exercise all the powers inherent to their right of ownership over their slaves: they could sell them; control their private lives (for example, slaves could

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<sup>86</sup> Harris (2012).

<sup>87</sup> Westermann (1955): 3; Beringer (1982); Morris (1987): 178. For the ideological and pedagogical purposes of the poem, aiming at 'partially at flattering slaveholders and partially at providing didactic exempla of how to be a good slave and a good master', see Lewis (forthcoming b); Thalmann (1998).

<sup>88</sup> This issue has been thoroughly analysed by Harris (2012), who provides a comprehensive list of episodes from the poems showing that Homeric slavery was not fundamentally different from the slavery of the Classical period. Similarly, N'doye (2008), after mentioning several passages from the *Odyssey* that seem to show the existence of a mild and affectionate relationship between masters and slaves (due to the use of terms relating to a familiar context or to kinship ties, such as τέκος, μαῖα, ἄττα or παῖς), advises that 'bien que le maître soit présenté comme le parent de l'esclave, il faut se garder de tout idéalisme. Cette parenté, illusoire en réalité, masque la relation de subordination qui caractérise l'esclave, éternel exploité, dépourvu de tout droit et de tout lien outre celui qui l'unit à son maître' (N'doye [2008]: 18). Some other scholars (such as Canfora [2001]: 16; Todd [1993]: 179; Mossé [1984]: 148) also maintained that the condition of Homeric slaves did not identify the lowest social status, as their condition was better than that of the θήτες. This opinion is basically founded on the reading of Hom. *Od.* 11.488-491, in which Achilles says to Odysseus that he would rather be a θής than the lord over the dead (μη δὴ μοι θανάτον γε παραύδα, φαίδιμ' Ὀδυσσεῦ. / βουλοίμην κ' ἐπάροικος ἔων θητευέμεν ἄλλω, / ἀνδρὶ παρ' ἀκλήρω, ᾧ μὴ βίωτος πολὺς εἶη, / ἢ πᾶσιν νεκύεσσι καταφθιμένοισιν ἀνάσσειν), and this statement has been interpreted as signifying that the θήτες embodied the lowest possible condition. I think that this idea is ultimately wrong, as the θήτες, although living in poor and humble conditions, were nonetheless free individuals. Moreover, in several occasions Homeric heroes and women expressly say that they would die rather than being reduced into slavery (an idea which is generally described with the expression 'δούλιον ἤμαρ'), thus showing that freedom was the supreme good, which was considered to be even more precious than life. Therefore, Achilles' words in Hom. *Od.* 11.488-491 probably just mean that any life, however miserable yet free, would certainly be better than his actual condition as the lord of the shades in the Underworld (Hom. *Od.* 11.485): cf. Garlan (1988): 35; Harris (2012): 357-358.



not get married without their master's consent); force them to perform hard jobs<sup>89</sup>; mistreat them<sup>90</sup>; punish them harshly in case of disobedience<sup>91</sup> (which are all expressions of the right to possess).

Yet, although a master could be cruel towards those slaves who did not perform their duties, he could also be affectionate and grateful towards those slaves who had proved to be devoted and loyal. This is the case of Eurycleia, whom Laertes bought when she was very young<sup>92</sup> and who is always described in the poem as wise and faithful and held in high consideration in Odysseus' οἶκος; and of Eumaeus, who is mentioned in two significant passages which is important to analyse in detail in order to understand the main features of manumission in the *Odyssey*.

The first passage is Hom. *Od.* 14.61-66, in which Eumaeus talks about his master with these affectionate words:

ἦ γὰρ τοῦ γε θεοὶ κατὰ νόστον ἔδησαν,  
ὅς κεν ἔμ' ἐνδυκέως ἐφίλει καὶ κτήσιν ὅπασσεν,  
οἶκόν τε κληῖρόν τε πολυμνήστην τε γυναῖκα,  
οἷά τε ὦ οἰκῆϊ ἄναξ εὐθυμος ἔδωκεν,  
ὅς οἱ πολλὰ κάμησι, θεὸς δ' ἐπὶ ἔργον ἀέξει,  
ὥς καὶ ἐμοὶ τόδε ἔργον ἀέξεται, ὦ ἐπιμίμνω.

*The gods have stopped the homeward voyage of that one  
who cared greatly for me, and granted me such possessions  
as a good-natured lord grants to the slave of his house; a home  
of his own, and a plot of land, and a wife much sought after,  
when the man accomplishes much work and god speeds the labor  
as he has sped for me this labor to which I am given. (Tr. Lattimore)*

These words are reproduced in a very similar fashion in another passage, Hom. *Od.* 21.212-216, in which Odysseus thus speaks to his two slaves Eumaeus and Philoitius:

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<sup>89</sup> Hom. *Od.* 20.105-119.

<sup>90</sup> Hom. *Od.* 4.244-245.

<sup>91</sup> Hom. *Od.* 22.430-473. See Harris (2012).

<sup>92</sup> Hom. *Od.* 1.430-431.

σφῶϊν δ', ὡς ἔσεται περ, ἀληθείην καταλέξω.  
εἴ χ' ὑπ' ἐμοί γε θεὸς δαμάσῃ μνηστήρας ἀγαυούς,  
ἄξομαι ἀμφοτέροις ἀλόχους καὶ κτήματ' ὀπάσσω  
οἰκία τ' ἐγγὺς ἐμεῖο τετυγμένα: καὶ μοι ἔπειτα  
Τηλεμάχου ἐτάρω τε κασιγνήτω τε ἔσεσθον.

*Therefore I will tell you the truth, and so it shall be;  
if by my hand the god overmasters the lordly suitors,  
then I shall get wives for you both, and grant you possessions  
and houses built next to mine, and think of you in the future  
always as companions of Telemachos, and his brothers.* (Tr. Lattimore)

At first sight, these two passages seem to have very similar contents: both refer to a master who promises his slave(s) specific rewards. In the first case (Hom. *Od.* 14.61-65) Homer is referring to some rewards which a master shall give to one of his slaves for proving to be diligent in performing his duties and loyal towards him. This is what Eumaeus implies when he says that if his master returned, he would be rewarded for his hard work and loyalty not only with kindness, but also by being assigned a set of goods which he defines with the comprehensive term κτήσις, in which he includes a house (οἶκος), a piece of land (κλήρος) and a woman (πολυμνήστη γυνή).

Some scholars believe that these lines refer to manumission<sup>93</sup>; yet, I believe that this passage should be best interpreted as showing something completely different, namely, a master attributing his slave single and specific privileges, which does not itself imply Eumaeus' ultimate release from slavery. In other words, these lines suggest that, once returned to Ithaca, Odysseus would have granted his slave both the capacity to get married and to have a wife and, at the same time, the possession of an οἶκος and a κλήρος. The implication of this reward is significant for a slave since, legally speaking, slaves were considered objects rather than individuals and, for this reason, they had no recognised family ties nor could be entitled to any right: it follows that anything they had belonged to their masters, and that families of slaves were not recognised unless they were granted these specific boons as a privilege.<sup>94</sup> Yet, granting slaves individual

<sup>93</sup> Calderini (1965): 5.

<sup>94</sup> Jones (1956): 282-283. See also Lewis (2013), who – although in direct reference to Gortynian slavery – clearly shows that granting slaves certain privileges, such as that of possessing some

and specific privileges does not imply that they were automatically granted freedom. A closer look at the vocabulary of Hom. *Od.* 14.61-65 shows that the attribution to Eumaeus of the capacity to get married is not suggested by the use of the term *γυνή* itself at line 64, since *γυνή* (as it is for *ἄλοχος*) has a general meaning and does not necessarily identify a legitimate wife.<sup>95</sup> The acquisition of the capacity to marry by Eumaeus is rather implied by the adjective *πολυμνήστη* which precedes the term *γυνή*. The adjective *πολυμνήστη* is composed of the prefix *πολύ-* followed by the verb *μνάομαι*: Chantreine pointed out that in the Homeric poems the verb *μνάομαι* often has the technical meaning of ‘rechercher une femme en mariage’<sup>96</sup>, while *μνηστή* ‘dans l’emploi particulier relatif au mariage ... désigne une femme qui a été régulièrement demandée en mariage, une femme légitime’.<sup>97</sup> Penelope herself is sometimes defined as *πολυμνήστη βασίλεια*, since the one hundred and eight suitors that occupied Odysseus’ *οἶκος* wanted her to marry one of them (and, in doing so, they are described as *μνηστήρες*).<sup>98</sup>

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goods or of marrying another slave, far from resulting in the attribution of legal rights to slaves, was ultimately meant to reinforce masters’ control over their slaves (Lewis [2013]: 415: ‘These rules did not grant or acknowledge rights for slaves, but were chiefly aimed at clarifying the property rights of free citizens in complex scenarios where disputes over “who owns what” might have led to conflict and litigation’). On this point see, more extensively, chapter 4.

<sup>95</sup> In both poems *ἄλοχος* can be used for designating both the ‘bedfellow’ and the legitimate wife: see, for instance, Hom. *Od.* 4.623, or Hom. *Il.* 9.336. Yet, it is also worth considering that in the poems a legitimate wife is referred to as *κουρίδια ἄλοχος* (cf., for example, Hom. *Il.* 1.114, 19.298). Moreover, the analysis of the vocabulary describing the only slave couple mentioned in the poem, Dolios (Penelope’s *δμῶς*: Hom. *Od.* 4.736) and the Sicilian slave woman, is not helpful for the understanding of marital relations between slaves, as they are only described as the *πατήρ* (Hom. *Od.* 24.411) and the *μήτηρ* (Hom. *Od.* 24.389) of their *υἱεῖς*, but no mention is made of the kind of relationship between these two slaves (Harris [2012]: 358). For the use of the vocabulary of ‘legitimate marriage’ in Gortyn, see Lewis (2013): 396-402, who argues that ‘there is no *a priori* reason ... to suppose that the identical use of vocabulary for free and slave marriages in Gortyn need imply legal equivalency’; furthermore, this idea has some parallels both from the ancient world (Rome, Israel and Babylonia) and from 19<sup>th</sup> century America (Lewis [2013]: 402).

<sup>96</sup> Chantreine (1977) s.v. *μνάομαι*. The same verb is used in Hom. *Od.* 6.34, when Athena, speaking in Nausicaa’s dream, reminds her that the noblest of all the Phaeacians had asked for her in marriage (*ἦδη γάρ σε μνῶνται ἀριστῆρες κατὰ δῆμον / πάντων Φαιήκων*).

<sup>97</sup> Chantreine (1977) s.v. *μμνήσκω*.

<sup>98</sup> Vernant explained such a conduct by the suitors as an effect of the ‘identification of the wife with the power of her husband and the privilege which her conjugal status confers upon her of perpetuating and transmitting the sovereign power’. It follows that ‘to take the king’s place at the heart of his house, in his bed, by becoming united with his wife, is to acquire a claim to reign after

Conversely, the episode mentioned at Hom. *Od.* 21.212-216 seems to describe a real manumission. Notwithstanding the parallelism between the οἶκος, the κλῆρος and the πολυμνήστη γυνή mentioned in Hom. *Od.* 14.61-65 and the terms οἰκία, κτήματα and ἄλοχος mentioned in Hom. *Od.* 21.212-216, it is important to stress that in this last passage Odysseus also promises his slaves that, if they will help in his fight against the suitors, he will make them ἑταῖροι and κασίγνητοι of Telemachus.

The interpretations offered by scholars about the meaning and implication of these lines are very different. Some of them believe that the meaning of this passage is not different from the meaning of Hom. *Od.* 14.61-65, as they would both represent nothing more than a reward to two loyal slaves without implying any change in their legal condition: even after these grants, in other words, Eumaeus and Philoitus remain slaves of Odysseus.<sup>99</sup> This opinion is based on two general considerations: first, these scholars believe that manumission cannot be attested in the Homeric poems as this phenomenon was supposed to have developed with the rise of the classical πόλις and written law<sup>100</sup>; second, the practice of manumitting slaves could not be practiced in the Homeric societies as the contrast between free individuals and slaves was not known yet.<sup>101</sup> Other

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him over the land which his wife, in a way, symbolises' (Vernant [1980]: 62-63). This consideration, on the other hand, may prove to be useful for the understanding of Hom. *Od.* 14.64, in which a specific relationship between the terms οἶκος, κλῆρος and γυνή can be envisaged. Vernant has singled out a peculiar characteristic of the Greek wife, namely, that she was 'intimately linked to her husband's house, soil and hearth – at least for as long as she lives with him and shares the master's bed' (Vernant [1980]: 62). Moreover, Ferrucci (2006): 135-141, stressed the connection between οἶκος and marital relations by underlining the different meanings of the terms οἰκία and οἶκος: while the first one identifies 'la casa, che per sineddoche può indicare anche la famiglia che vi abita e, più raramente, le proprietà familiari', the second one refers to 'un insieme che comprende casa, beni di proprietà e persone'. The οἶκος could be then conceived of as an 'organismo' (as it has been defined by Paoli [1961]: 36) based on a legitimate marriage: 'la centralità del matrimonio nella costituzione di un *oikos* è motivata, anzitutto, con la necessità di garantire la sopravvivenza della struttura attraverso la creazione di un erede titolato a subentrarvi alla morte del padre'. Thus, if the οἶκος generally comprises a house, some properties and the people living in there, the specific words used in Hom. *Od.* 14.64 ('οἶκόν τε κληρόν τε πολυμνήστην τε γυναῖκα') could possibly be interpreted as representing Eumaeus' intimate wish of marrying a woman and, consequently, entering an οἶκος and a κλῆρος.

<sup>99</sup> Rädle (1969): 7; Westermann (1955): 2, who maintains that in the poems 'no case of formal manumission appears, nor any example of limited bond service, *paramone'*'; Andreau, Descat (2006): 30.

<sup>100</sup> Bouvier (2008): 16; Nieto (1982).

<sup>101</sup> Garlan (1988).

scholars, on the other hand, maintain that the episode mentioned in the twenty-first Book of the *Odyssey* describes a manumission. Calderini, for instance, argues that as an effect of these grants Eumaeus and Philoitiis become Odysseus' freedmen and he justifies this assumption by considering that manumissions can be envisaged in all those cases in which masters granted their slaves a certain autonomy which allows them to be more independent and to enjoy specific rights, such as – typically – the right to have a wife or to own property.<sup>102</sup> This argument alone, however, is not enough for interpreting this passage as referring to manumission. On the one hand, Calderini does not consider that before Odysseus' return to Ithaca, Eumaeus already enjoyed some privileges: he had been granted the possession of the hut in which he gives hospitality to the disguised Odysseus, and the slave Mesaulius, whom he bought with his own goods by the Taphians without needing any authorization by Laertes or Penelopes.<sup>103</sup> On the other hand, he does not consider the meaning and the implications of the terms *ἑταῖροι* and *κασίγνητοι* (Hom. *Od.* 216), which are central in suggesting that the change in the legal condition of these two slaves went through two different stages.

The term *ἑταῖρος* generally means 'comrade', 'companion'<sup>104</sup> and, according to the general interpretation, implies the existence, between two or more individuals, of a relationship characterized by equality and reciprocity. As Cantarella has pointed out, *ἑταῖρος* designates an individual who belongs to a group of friends or companions which is completely independent of any kinship tie.<sup>105</sup> The same considerations about the meaning of *ἑταῖρος* have been suggested by Konstan who, in his study on the concept of friendship in the Classical world, pointed out the different implications of the terms *φίλος* and *ἑταῖρος*. Although *ἑταῖρος* has often been translated as 'friend', it merely denotes – if not preceded or followed by *φίλος* – a wide range of companionable relations often grouped around a leader; a group of comrades which is not characterised *per se* by a sense of personal affection, but among which some *ἑταῖροι* could be considered as particularly dear by some other companions (as it is for the relationship

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<sup>102</sup> Calderini (1965): 6.

<sup>103</sup> Hom. *Od.* 14.449-452.

<sup>104</sup> Chantraine (1977) s.v. *ἑταῖρος*.

<sup>105</sup> Cantarella (1979): 226; similarly, see Stagakis (1968): 397.

between Patroclus and Achilles, in which Patroclus is not simply described as Achilles' ἑταῖρος, but as Achilles' πολὺ φίλτατος ἑταῖρος', thus stressing the contrast and the different meanings of the terms φίλος and ἑταῖρος).<sup>106</sup> Konstan also emphasises that ἑταῖρος has nothing to do with kinship, whether by blood or marriage; but it is also worth considering, at the same time, that a group of ἑταῖροι was also characterized by the absence of any hierarchical relationship between its members.<sup>107</sup> Moreover, together with the idea of equality or, in a wider sense, the lack of any hierarchical relationship between the members of such a group, the term ἑταῖρος also conveys the idea of reciprocity, which means 'that one gives of one's own accord, with the expectation that a suitable return will follow'.<sup>108</sup> The connection between the term ἑταῖρος and the idea of reciprocity has been analysed by Donlan, who identified 'the occurrence in Homer of ... three degrees of reciprocity: the altruistic giving of "generalized reciprocity", giving without obligation to return; "balanced reciprocity", or *quid pro quo*; and "negative reciprocity", taking without returning'.<sup>109</sup> Donlan focuses on what he calls political reciprocity, which he defines as 'the relationship between the leaders and the people'<sup>110</sup> and, in particular, on the relationship between Odysseus and his ἑταῖροι during the νόστος and at their arrival in Ithaca, and suggests that their 'political' relationship 'is one of balanced reciprocity'.<sup>111</sup> In examining the many events that Odysseus and his ἑταῖροι had to face during the νόστος, Donlan shows that their

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<sup>106</sup> Konstan (1997): 31. Konstan further specifies that 'the category of *hetairos* differs from that of *philos* in designating a relationship between associates, often age-mates, in a common enterprise, without necessarily conveying the sense of special intimacy and harmony of views that is characteristic of true friends or *philoí*' (Konstan [1996]: 78).

<sup>107</sup> N'doye (2008): 26.

<sup>108</sup> Donlan (1998): 51. After mentioning Benveniste's interpretation about the implications of the term φίλος, which 'has not merely a sentimental meaning in Homer, but describes all who are united by certain reciprocal obligations' (Donlan [1985]: 300), Donlan specifies that 'a similar kind of relationship is reflected in the words *etes* and *hetairos* in Homer' (Donlan [1985]: 300). Similarly, in his study on the relationship between θεράποντες and ἑταῖροι in the *Iliad*, Stagakis understands reciprocity 'as the universal rule applicable to all *hetairos* relationships' (Stagakis [1966]: 415. For a further analysis of the meaning of ἑταῖρος and its relations to ἔτης, see Stagakis [1971]).

<sup>109</sup> Donlan (1998): 51.

<sup>110</sup> Donlan (1998): 51.

<sup>111</sup> Donlan (1998): 52.

relationship was always characterized by equal sharing<sup>112</sup>, redistribution<sup>113</sup> and equal allocation of danger.<sup>114</sup> These considerations allow him to conclude that this kind of reciprocity within a group of ἑταῖροι (which was not only confined to the *Odyssey*, as similar features can clearly be seen in the ἑταῖροι-relations described in the *Iliad*) ‘presents a set of actions that maintain or restore the normative distribution of rights, dues and responsibilities among the leader and sub-leaders and between leader and community’.<sup>115</sup>

I believe that Donlan’s analysis of the rule of the so-called ‘political reciprocity’ in the *Odyssey* is helpful for our understanding of Odysseus’ words in Hom. *Od.* 21.216 since, by making Eumaeus and Philoitius ἑταῖροι of Telemachus, Odysseus raises his two slaves’ condition in the social ladder, by the application of the rule of reciprocity between them and Telemachus and, consequently, by the creation of reciprocal rights, duties and responsibilities among them. Moreover, since the existence of a ἑταῖροι-relation also implies the lack of any hierarchy among its members, I think that it can be safely assumed that, as an effect of this specific grant, Eumaeus and Philoitius exit their servile status and become free individuals.

But, what is more, Odysseus also promises his slaves that he will make them κασίγνητοι of Telemachus. The term κασίγνητος is often used in the Homeric poems to identify a ‘brother’, especially of those born from the same father<sup>116</sup>, but sometimes it

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<sup>112</sup> Donlan (1998): 58.

<sup>113</sup> Donlan (1998): 60-61, specifies that ‘collection and redistribution by and among a group is the most sociable of reciprocities, similar to the generalized reciprocity within a family. The inherent social intent of sharing-out is to reaffirm and strengthen the basic equality within the group. Among the *hetairoi*, pooling and distribution by lot was a fixed custom; no other method of distribution was thinkable’. Moreover, in focusing on the story of the Cyclops’ cave, Donlan stresses that ‘Odysseus does not keep the ten goats but shares them with his companions ... both the getting and the giving, which balance out perfectly, increase his honour and prestige (*time, kleos*)’ (Donlan [1998]: 61).

<sup>114</sup> Donlan (1998): 62: ‘in perfect parallel with the apportionment of booty, danger is also apportioned in an egalitarian manner’.

<sup>115</sup> Donlan (1998): 68 and n. 17. For a detailed discussion on the rule of reciprocity in the economy of Homeric society, see Donlan (1982).

<sup>116</sup> Miller (1953): 46-47; see also Donlan (1985): 306. For a discussion on the relationship between ἀδελφός and κασίγνητος, see Gainsford (2012).

also designates a ‘cousin’<sup>117</sup>: in both cases, however, κασίγνητος typically designates the existence of a kinship relation.<sup>118</sup> This consideration has taken some scholars to believe that the episode of Eumaeus and Philoitus should be read as a case of adoption<sup>119</sup>; but what is important to stress is that the creation of a kinship relation between two slaves and their master’s son ultimately means that the former join their master’s οἶκος as kin<sup>120</sup> and, therefore, that they can no longer be considered as his slaves.

In the light of these considerations, I think that Odysseus’ promise to Eumaeus and Philoitus in Hom. *Od.* 21.216 points to a major change in these slaves’ legal condition, and this change goes through two different stages: the term ἑταῖρος alludes to a condition of equality and to the establishment of reciprocity of rights and duties, whereas κασίγνητος implies the creation, *ex novo* in this case, of a kinship relationship between Eumaeus and Philoitus on the one hand, and Telemachus, on the other hand. It follows that both these grants necessarily imply that Eumaeus and Philoitus are no longer slaves, but free individuals: and this ultimately constitutes, legally speaking, a typical case of manumission.

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<sup>117</sup> Glotz (1904): 86; Stagakis (1968): 397; Chantraine (1977) s.v. κασίγνητος.

<sup>118</sup> The use of ἑταῖρος in connection with κασίγνητος is not infrequent in the poems: see, for instance, Hom. *Od.* 8.585-586 (ἐπεὶ οὐ μὲν τι κασιγνήτιοι χερσίων / γίγνεται, ὅς κεν ἑταῖρος ἔων πεπνυμένα εἰδῆ). Stagakis (1968): 397, provides a list of passages from the *Iliad* in which κασίγνητος is used together with ἔτης, which is assumed to be a synonym of ἑταῖρος. This has led some scholars to question the relationship between these two terms. After analysing several passages from the *Iliad* in which κασίγνητοι and ἑταῖροι seem to be somehow connected, Stagakis maintains that ‘the basic fact about them [κασίγνητοι] is that they are ἑταῖροι’, and that ‘each of them is involved in ἑταῖρος relations ... the evidence concerning the Trojan κασίγνητοι is highly suggestive of the possibility that in the *Iliad* a Trojan κασίγνητος is to be regarded also as an ἑταῖρος’ (Stagakis [1968]: 398). Yet, the terms ἑταῖροι and κασίγνητοι convey different meanings that have to be kept in mind: as Donlan has pointed out, κασίγνητος has a relevance in the context of the οἶκος, whereas ἑταῖροι-relations operated even outside the household (‘bonds of kinship operated at the level of the family and its extensions, the *oikos*; beyond that level, they were attenuated ... the *oikos* was the center of economic and political power, from which radiated the wider non-kin associations of *hetairoi* and *xeinoi*’: Donlan [1982]: 155). Moreover, the difference between κασίγνητος and ἑταῖρος seems to be stressed also in Hesiod. *op.* 707 (μηδὲ κασιγνήτῳ ἴσον ποιῆσθαι ἑταῖρον: on this line, see Konstan [1997]: 43).

<sup>119</sup> Beringer (1964): 19; Lencman (1966): 300.

<sup>120</sup> As slaves, they were already part of the οἶκος as property: see Donlan (1982): 155, who describes the οἶκος as the ‘basic Homeric social unit ... which was a residential group ... whose human membership also embraced non-kin, such as dependents and slaves’.



It is important to highlight, however, that in Hom. *Od.* 21.216 the new kinship relationship and social reciprocity are established only between the two former slaves and Telemachus, not between the former and Odysseus (Odysseus indeed says that ‘καί μοι ἔπειτα / Τηλεμάχου ἑτάρω τε κασιγνήτω τε ἔσεσθον’). This can probably be understood by considering Odysseus’ role as the ἄναξ of his οἶκος and, therefore, by the necessity to respect precise hierarchies within the family-group. By making Eumaeus and Philoitiis equals to Telemachus only, and not to himself, Odysseus aims not only to include his two former slaves within his household, but also and at the same time, to confirm and reinforce his role as the undisputed lord of the οἶκος.

#### 4. *Final considerations.*

To sum up, it is important to stress, first of all, that the Homeric poems make it clear that both the concept and implication of slavery and the distinction between slave and free individuals were already evident in Homeric society. Although most scholars believe that the meaning of freedom was blurry in this period and that there was not a clear-cut distinction between free individuals and slaves<sup>121</sup>, both the *Iliad* and the *Odyssey* show, by contrast, a sharp free-slave distinction among the members of their societies.

At the same time, the two poems mention the possibility for a slave to gain freedom through specific forms of manumission which are differently described in the *Iliad* and in the *Odyssey*. In the *Iliad*, war-captives became slaves of the victor and their release from slavery (i.e. manumission) takes the form of a liberation as an effect of the payment of a ransom by a relative, usually the father, of the enslaved individual: this act is generally expressed with the verb λύειν (or the composite form ἀπολύειν) followed by ἄποινα. As I have shown, the liberation of captives as an effect of the payment of ransom was not conceived as mandatory for the master but, rather, as a power that the latter could decide to exercise or not: the episode of Adrastus’ supplication is particularly significant in suggesting that the refusal to release a captive and to receive the ἄποινα offered for his liberation was considered αἴσιμον, that is ‘just’, because it was in

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<sup>121</sup> Raaflaub (2004): 26.

accordance with the will of the gods. If this is certainly the most frequently attested form of manumission in the *Iliad*, it should also be considered that women had perhaps another option for gaining their freedom: as is suggested in Hom. *Il.* 19.295-299, Briseis, who had become Achilles' slave, recalls what Patroclus had promised to her, that she would have become Achilles' legitimate wife (κουριδίη ἄλοχος). If this γάμος had been celebrated, it would have originated, on the one hand, a marital relationship and, on the other hand, the formal entrance of a young slave into her master's οἶκος as a wife, and this would have implied Briseis' ultimate release from her servile condition.

This twofold mechanism is implied also in the *Odyssey*, in which manumission is described as a reward for those slaves who proved to be devoted and loyal to their master. The only significant passage in the *Odyssey* for the study of manumission is the episode mentioned in Hom. *Od.* 21.216, in which Odysseus promises his slaves Eumaeus and Philoitus that he will make them ἑταῖροι and κασίγνητοι of Telemachus. By alluding, with ἑταῖροι, to the ideal of equality and the rule of reciprocity and, with κασίγνητοι, to the creation *ex novo* of a kinship relationship between the two (former) slaves and Telemachus (and, consequently, to their entrance in Odysseus' οἶκος as kin), Homer is clearly referring to manumission, which is thus represented, in this context, as an event exclusively depending on domestic dynamics.

Once all these elements are considered, it is clear that even though the term ἀπελεύθερος does not seem to be attested before the 5<sup>th</sup> century B.C., the institution of manumission had evident roots already in the Homeric period. It is important to keep in mind, however, that one of the later shades of meaning that the terminology of freedom might carry (that is, freedom as implying civic duties) had not yet developed by the early period described in the Homeric poems. We notice in fact that in the Homeric poems, 'freedom' only conveys the 'basic' legal meaning which identifies the legal condition of someone who is not the property of someone else.<sup>122</sup> It is in the light of these considerations that we must read the episodes of release from slavery which are attested in the *Iliad* and in the *Odyssey*: it is no coincidence that in both poems

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<sup>122</sup> For the development of freedom terminology over time, see Lewis (forthcoming a).

manumission conveys only the legal meaning of a transition from being the object of someone else's ownership to a condition of non-belonging to anyone.



## CHAPTER 2

### *Manumission and sale in the Delphic inscriptions*

#### 1. *Introduction.*

The corpus of the Delphic inscriptions is one of the most important sources for the study of manumission in ancient Greece: more than one thousand inscriptions have been found in Delphi recording the liberation of more than one thousand and two hundred slaves, dating from the 2<sup>nd</sup> century B.C. down to the end of the 1<sup>st</sup> century A.D.

The god plays a key role in the form of manumission recorded in these inscriptions, and for this reason scholars have usually included it among the so-called ‘sacral manumissions’.<sup>123</sup> This label is due to the main feature of ‘sacral manumissions’, that is, the intervention of the gods (in different ways) in the process leading to the slaves’ liberation. For this reason, ‘sacral’ manumissions are usually opposed to the so-called ‘secular’ manumissions, which – by contrast – do not involve the intervention of the divine element, but of the civic bodies only.

Scholars have identified specific forms of ‘sacral’ manumission. The majority of them (which is best attested in the inscriptions from Delphi) represents manumission as taking the form of a sale (πρᾶσις ὠνή), involving the slave’s owner as the vendor<sup>124</sup>, the god – generally Apollo – as the purchaser, and the slave as the object sold.<sup>125</sup> Other inscriptions,

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<sup>123</sup> See, for instance: Calderini (1965): 125; Jones (1956): 284; Zelnick-Abramovitz (2005): 69; Kamen (2014): 284.

<sup>124</sup> I have found only one inscription in which the vendor, i.e. the manumittor, is the πόλις itself – SGDI II 1706 (Delphi, 2<sup>nd</sup> century B.C.): ἄρχοντος Εὐδώρου μηνὸς Δαιδαφορίου, ἀπέδοτο ἅ πόλις / τῶν Δελφῶν τῷ Ἀπόλλωνι τῷ Πυθίῳ σῶμα ἀνδρεῖον ὧι ὄνομα Εὐτυχίδας ἐνδογενῆ, τιμᾶς ἀργυρίου μνᾶν τεσσάρων, / καθὼς ἐπίστευσε Εὐτυχίδας τὰν ὠνὰν τῷ θεῷ, ἐφ’ ὅτῳι / ἐλεύθερον εἶμεν καὶ ἀνέφαπτον ἀπὸ πάντων τὸν πάντα / βίον, καὶ τὰν τιμὰν ἔχει πᾶσαν. βεβαιωτῆρ κατὰ τοὺς νόμους τᾶς πόλιος: ... (Under the archonship of Eudoros, in the month of Dadaphorios, the city of the Delphians sold to Pythian Apollo a home-born male-slave named Eutuchidas, at the price of four silver mnas, since Eutuchidas entrusted the purchase money to the god, on the condition that he is free and not claimable by anyone for the rest of his life, and [the city] received the whole money. Guarantor in accordance with the laws of the city: ...) For a discussion on ‘public’ manumissions of privately-owned slaves, see chapter 5.

<sup>125</sup> Some scholars believe that this particular form of manumission originated in Delphi (Bömer [1960]: 27-27; Kamen [2014]: 285), but this opinion is far from universal. Other scholars suggest

on the other hand, are believed to record manumissions through the consecration of a slave to the god (the verb of dedication-consecration is usually ἀνατιθέναι). This form of manumission is mostly attested in Hellenistic Chaeronea and will be discussed in chapter 3, whilst we have very little evidence for 'manumission-consecrations' from Delphi.<sup>126</sup> Finally, some scholars have identified, within the Delphic corpus of inscriptions, one single 'testamentary' manumission by a foreigner (SGDI II 2101).<sup>127</sup>

This chapter will analyse the evidence concerning the so-called 'manumission through sale' of slaves to the god (as this form of manumission is attested in the bulk of the inscriptions from Delphi) and is divided in two parts.

In the first part, I will isolate the main features characterising this specific form of manumission. Although the symbolic or fictitious nature of the 'sale', as is recorded in these inscriptions, seems to be acknowledged by most scholars, the legal nature of these acts has been the object of many discussions and different interpretations, which have for a long time prevented a complete understanding of the legal mechanisms surrounding slaves' liberation as is represented in the inscriptions from Delphi.

There are many fundamental problems and issues emerging from the reading of this epigraphic material. Most importantly, it is necessary to question the reason why these manumissions take the form of a sale. From a legal point of view, manumission and sale have two opposite effects: while manumission implies the liberation of a slave who, as an effect of manumission, becomes a free person and therefore can no longer belong to anyone, sale has the opposite effect of transferring ownership over a slave from one

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that it was first employed somewhere else, and then it became commonly practiced in Delphi because of the religious warranty offered to the act by the god Apollo. Mulliez (1992): 33, for example, argues that 'ce n'est en tout cas pas à Delphes que la procédure par vente fictive aurait été inaugurée, mais en Locride: de là, elle serait passée à Delphes, où elle n'est d'ailleurs utilisée dans les premières années que par des Locriens; il faut attendre la cinquième année pour voir des Delphiens y recourir'. Hopkins (1978): 138, on the other hand, maintains that 'the surviving inscriptions were merely the last part, the by-product of a religious ritual, in which the master set the slave free solemnly and publicly before the god Apollo, his priests and civil witnesses and guarantors'; yet, the surviving inscriptions make no mention of this primitive ceremony (Mulliez [1992]: 34).

<sup>126</sup> Jones (1956): 284; Calderini (1965): 96; Zelnick-Abramovitz (2005): 86. For some brief remarks on the Delphic evidence for 'manumission through consecration', cf. chapter 3, n. 236.

<sup>127</sup> Cf. Tucker (1974): 225; Hopkins (1984): 154; Mulliez (1992): 31-32.

owner to another. How, then, is manumission consistent with sale? My aim is to show that in these inscriptions there was no actual sale taking place (and therefore no transfer of ownership over the slaves resulted from the procedure thus attested), since, as an effect of the payment, slaves became immediately free individuals. More specifically, I will argue that Delphic manumissions were bilateral legal transactions between the slaves' masters and the god. In showing this, I will emphasise the relationship, based on trust, between the slaves and the god: this relationship is crucial in showing that the complex mechanism of manumitting slaves in Delphi was ultimately meant to overcome the legal problem consisting in the slaves' lack of the capacity to negotiate their manumission with their masters and to pay for their liberation. In order to address these problems and to shed light on these controversial issues, I will analyse in detail the single acts and clauses that are mentioned in the inscriptions, as the vocabulary specifically used and the precise sequence of legal acts they represent are central for a correct understanding of the nature of the Delphic manumissions.

In the second part of the chapter, I will address the problem concerning the legal condition of those ἀπελεύθεροι who, after their manumission, were bound to perform παραμονή duties towards their former masters. The fact that ἀπελεύθεροι could be required to 'remain with' their manumittors for a certain period of time and perform services in the latter's favour (or, less frequently, for other members of the latter's families) has often puzzled scholars, who have defined the legal condition of these freedmen as one of slavery, one of freedom, or as a half-way one between slavery and freedom. In this section I will investigate, on the one hand, the legal nature of παραμονή, in order to show that it was the object of a legally binding agreement between manumittors and manumitted slaves. On the other hand, I will investigate the institution of ἀπόλυσις, which allowed manumitted slaves obliged to παραμένειν with their manumittors to obtain early release from παραμονή in exchange for money. Both παραμονή and ἀπόλυσις are in fact key-elements for the understanding of the legal condition of freedmen under παραμονή as one of freedom. Through a legal analysis of the main features of παραμονή and ἀπόλυσις in the wider context of the manumission-inscriptions from Delphi, I will show that this corpus of inscriptions points to the

existence of two categories of manumitted slaves (those who were under *παράμνη* obligations towards their manumitters, and those who were not under such obligations); as I will show in chapter 4, this is also confirmed by the evidence for manumission referring to Classical Athens. Moreover, I will show that – despite the uncertainties and doubts that have for a long time characterised the scholarly debates about the condition of ἀπελεύθεροι under *παράμνη* obligations – both these categories of manumitted slaves enjoyed a legal condition of freedom, and differed ‘only’ as for their *de facto* situation.

## 2. *Sale and manumission in modern interpretations.*

Scholarly interpretations about the nature and implications of the Delphic manumissions through ‘sale’ are very different and contradictory, and – as mentioned above – this has constituted a major obstacle to our understanding of the legal features of this form of manumission.

Pringsheim, for example, analyses the Delphic manumissions through ‘sale’ in the light of the institution of ‘trust’, and argues that the ultimate result of this complex mechanism is a contrast between legal ownership (of the god over the slaves) and beneficial ownership (of the slaves over themselves).<sup>128</sup> His interpretation, however, is not supported by the contents of the inscriptions: a closer look at their individual clauses will show that there was no distinction between legal and beneficial ownership, and that the god had no title over manumitted slaves. As the chapter will show, slaves acquired their own freedom by ‘entrusting’ the purchase money to the god, for the purpose of validly finalising the transaction with their masters.

Calderini, on the other hand, maintains that the sales attested in Delphic inscriptions are only symbolic, since it is the slaves who, through the medium of the god, give the purchase money to their masters. Yet, he further argues that, as an effect of the sale, the god becomes the slaves’ new master, and is then required to liberate them.<sup>129</sup> Calderini’s interpretation can be challenged on two main grounds. First, the god does not become

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<sup>128</sup> Pringsheim (1950): 185-186.

<sup>129</sup> Calderini (1965): 102-103.



the slaves' new master, since as an effect of payment, slaves became immediately free and therefore any right of ownership over them ceased to exist. Second, his opinion is self-contradictory: he maintains, on the one hand, that the purchase-money was provided by slaves and, on the other, that slaves became property of the god, thus ignoring a key-element in the context of Greek sales, namely, the provenance of the purchase-money (which is described in the inscriptions as being provided by the slaves themselves).

Again, Westermann maintains that the fundamental feature of these inscriptions is that the slaves 'entrusted their savings to the god, with the confident reliance that Apollo would carry out, in its civil aspects, the trust of which had been placed in him'.<sup>130</sup> He therefore concludes that these inscriptions record a 'self-purchase of their liberation by the slaves themselves through the medium of the entrustment sale to Apollo'.<sup>131</sup> Westermann's opinion is certainly the most persuasive, although he does not seem to take into adequate consideration the importance of the verb πιστεύειν and the specific kind of relationship it establishes between the slaves and the god, which is key for properly assessing the nature of these sources.

Finally, Sokolowski suggests that this specific form of 'sacral' manumission progressively developed from the so-called right of asylum (ἀσυλία), by which slaves could escape to temples and ask for the gods' protection against their masters. The refugee thus became a ἱερός (this implying, earlier in time, that he was considered as a temple-slave)<sup>132</sup> and, given this condition, 'the sale to the divinity is the result of a decision of the court of priests'.<sup>133</sup> Sokolowski's interpretation is undermined by two

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<sup>130</sup> Westermann (1948b): 9.

<sup>131</sup> Westermann (1948b): 9, 35. Slightly different, but similar in the final outcome, is the interpretation offered by Kamen (2014): 285-286, who maintains that, although the overall idea is that 'masters freed their slaves by "selling" them to a god, generally Apollo, for a specified price', 'it was not actually the god who paid but the slaves themselves, under the guise of "entrusting the sale" to the god. These slaves then became the nominal property of the god, with the understanding that Apollo would make no use of his right of ownership. As a result, the right of ownership was transferred, by default, to the slaves themselves, who were then in possession of themselves – that is, free'.

<sup>132</sup> For a discussion on the meaning of ἱερός and of its legal implications (with specific regard to the corpus of inscriptions from Hellenistic Chaeronea), cf. chapter 3.

<sup>133</sup> Sokolowski (1954): 176-178.

fundamental problems. First, nothing in the inscriptions suggests that manumission is the result of a decision taken by the temple which had previously become the slave's new master: on the contrary, the epigraphic evidence suggests that slaves were still privately owned by their masters at the time of manumission. Second, his reconstruction does not distinguish between manumission through 'sale' and consecration, which inscriptions present as two completely different acts.

This brief overview has highlighted the shortcomings of only some of the various ways in which scholarship has addressed the issues emerging from the text of the inscriptions; this makes it clear, however, that the nature of these sources is still far from being properly understood. In order to overcome these difficulties, it is important to focus on the vocabulary of the inscriptions and to analyse in detail their contents and the precise sequence of acts they describe.

### 3. *The vocabulary of manumission through πρᾶσις ὠνή.*

The formulas of the inscriptions are typical, as they are used in a very similar fashion in all the epigraphic material from Delphi recording manumissions through 'sale'.

As a typical example of Delphic inscription recording manumission through 'sale', I will consider SGDI II 1685 (from the 2<sup>nd</sup> century B.C.), whose formula describing the acts leading to the slave's liberation through 'sale' can be found almost *verbatim* in many other manumission inscriptions:

- 1 ἄρχοντος Θρασυκλέος μηνὸς Ἡρακλήου, ἀπέδοτο Ἄθαμβος Ἀθανίωνος τῶι  
 Απόλλωνι τῶι Πυθίῳι  
 σῶμα γυναικεῖον αἰ ὄνομα Ἀρμοδῖκα τὸ γένος ἐξ Ἐλατείας, τιμᾶς ἀργυρίου  
 μᾶν ἕξ, καὶ τὰν τιμὰν  
 ἔχει πᾶσαν, καθὼς ἐπίστευσε Ἀρμοδῖκα τῶι θεῶι τὰν ὠνὰν, ἐφ' ὧτε  
 ἐλευθέρᾳ εἶμεν καὶ ἀνέφαπτος
- 4 ἀπὸ πάντων τὸμ πάντα χρόνον ποιέουσα ὅ κα θέλη καὶ ἀποτρέχουσα οἷς κα  
 θέλη. βεβαιωτῆρες κατὰ τὸν
- 5 νόμον τᾶς πόλιος· Ἀντιχάρης Ἀζαράτου, Φιλόδαμος Χάρητος. εἰ δέ τις  
 ἄπτοιτο ἐπὶ καταδουλισμῶι Ἀρ-  
 μοδῖκας, βέβαιον παρεχόντων τῶι θεῶι τὰν ὠνὰν ὅ [τ]ε ἀποδόμενος Ἄθαμβος  
 καὶ οἱ βεβαιωτῆρες Ἀντιχά-

ρης, Φιλόδαμος. ὁμοίως δὲ καὶ οἱ παρατυγχάνοντε[ς] κύριοι ἐόντων συλέοντες Ἀρμοδικαν ὡς ἐλευθέραν ἐοῦσαν ἄζάμιοι ἐόντες καὶ ἀνυπόδικοι πάσας δίκας κα[ὶ] ζαμίας. μάρτυροι ...

*Under the archonship of Thrasikleos, in the month of Herakleios, Athambos son of Athanionis sold to Pythian Apollo a female slave named Armodika from Elateia, at the price of six silver mnas, and (Athambos) received the whole money, since Armodika entrusted the purchase money to the god, on the condition that she is free and not claimable by anyone forever, and she can do whatever she wants and she can go wherever she wants. Guarantors in accordance with the law of the city: Antikares, son of Azaratos, Filodamos, son of Charetos. If someone seizes Armodika for enslavement, the vendor Athambos and the guarantors Antikares and Filodamos shall warrant the sale to the god. Likewise, anyone is entitled to counter-seize Armodika on the grounds that she is free, being (anyone) not liable to penalty nor to any judgment. Witnesses: ...*

The inscription starts by mentioning the archon (Thrasikleos) and the month (Herakleios) at the time of manumission: this is clearly meant to provide specific chronological information about the time of manumission.

The vocabulary of sale results from the very first line of the inscription: the verb ἀποδίδωμι indicates that the contract thus carried out is a πρᾶσις ὤνη. More specifically, the inscription records a man, Athambos, as the vendor; the god Apollo as the purchaser; a female slave whose name is Armodika as the object sold; finally, it is also specified that the sale-price consists of six silver minae.

Several inscriptions also mention the presence of one or more individuals together with the vendor, and their intervention is described with the verbs συνευδοκεῖν<sup>134</sup>, συνευαρεστεῖν<sup>135</sup> or συνεπαινεῖν<sup>136</sup>, especially – but not always – when the sale is carried out by a woman. This has led some scholars to argue that these verbs refer to the institution of legal representation; recent studies, however, have concluded that they rather allude to something different, namely, assistance or consent to the contract. On the one hand, it is true that some inscriptions record that women were assisted by their husbands or sons, which suggests that the verbs συνευδοκεῖν, συνευαρεστεῖν or συνεπαινεῖν could potentially refer to legal representation. But, on the other hand, there

<sup>134</sup> Cf., for example, SGDI II 1688 (2<sup>nd</sup> century B.C.).

<sup>135</sup> See, for example, SGDI II 2168 (2<sup>nd</sup> century B.C.); SGDI II 2185 (undated).

<sup>136</sup> Cf., e.g., SGDI II 1708, 1717, 1728, 1743, all from the 2<sup>nd</sup> century B.C.

are also cases of women selling their slaves without being assisted by anyone<sup>137</sup>; women assisting their husbands<sup>138</sup>; sons assisting their fathers<sup>139</sup>; daughters assisting their fathers<sup>140</sup> or their mothers<sup>141</sup>; finally, the whole family group assisting one of its members.<sup>142</sup> These cases, in which the role of the vendor is performed by women without being assisted, or by men assisted by their wives and daughters or by the entire family group, show that there is no reason to believe that all the actors involved lacked legal capacity. For this reason, I suggest that the verbs *συνευδοκεῖν*, *συνευαρεστεῖν* or *συνεπαινεῖν* should be better interpreted in terms of assistance or consent to the contract.

Assistance and consent to the contract, however, convey different meanings: if a person assists another in the making of a contract, it means that he simply observes the making of an agreement without his consent being essential for it, and his role is thus akin to that of a witness; if, on the other hand, a person gives his content to the contract, it means that his consensus is essential for the very making of the agreement. For this reason, and because witnesses are specifically and separately listed in each inscription, it is more likely that the function of the individuals described in the act of *συνευδοκεῖν*, *συνευαρεστεῖν* or *συνεπαινεῖν* to the sale was to give their consent to manumission, perhaps in order to avoid any future claim by the remaining members of the family group to the slave thus 'sold'.<sup>143</sup>

The inscription then states that the sale is complete, as the expression 'καὶ τὰν τιμὰν ἔχοντι' reveals that the vendors have received the whole purchase money: a

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<sup>137</sup> Cf., for example, FD III 2: 229 and 3:3, both dated to the 2<sup>nd</sup> century B.C.

<sup>138</sup> Cf., e.g., SGDI II 1732, 2277 (2<sup>nd</sup> century B.C.).

<sup>139</sup> SGDI II 1699, 1704.

<sup>140</sup> SGDI II 1711 (2<sup>nd</sup> century B.C.).

<sup>141</sup> Cf., e.g., FD III 1:138 (1<sup>st</sup> century B.C.); FD III 1:566 (2<sup>nd</sup> century B.C.); FD III 4:479,B (2<sup>nd</sup> century B.C.).

<sup>142</sup> See, for instance, SGDI II 1698 (2<sup>nd</sup> century B.C.), where the manumission carried out by a woman is made in the presence of her husband, her daughters and her son. Cf. also SGDI II 1686 (2<sup>nd</sup> century B.C.).

<sup>143</sup> This opinion is shared by Beasley (1906): 251; Calderini (1965): 184; Bielman (2001): 234; Zelnick-Abramovitz (2005): 135; Kamen (2014): 288.

fundamental feature of Greek sale is that a *πρᾶσις ὠνή* can be considered complete and effective only once the entire purchase money has been paid.<sup>144</sup>

The next expression that we find in the inscription is ‘καθὼς ἐπίστευσε Ἀρμοδῖκα τῶι θεῶι τὰν ὠνάν’. This sentence needs to be examined with particular attention, as a proper understanding of the specific meanings that the verb ‘ἐπίστευσε’ and the term ‘τὰν ὠνάν’ convey in this context is crucial for our analysis. On the one hand, the importance of the verb *πιστεύειν* has been often underestimated by scholars; on the other hand, scholarly interpretations of the term *ὠνή* are usually misleading.

As for the verb *πιστεύειν*, it is important to point out that it indicates that the relationship between the two parties (in this case, the slave and the god) is a fiduciary

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<sup>144</sup> As Pringsheim stressed in his study of Greek sale, ‘in Greek law the payment of the price is the key-stone of the sale’ (Pringsheim [1950]: 190), since it has three fundamental effects. First, it is the payment of price that makes the sale complete (see also Jones [1956]: 228; Martini [2005]: 85): in other words, the agreement between the vendor and the purchaser, albeit necessary, was not sufficient, because it had to be followed by the payment in order to complete the contract. In this respect, *πρᾶσις ὠνή* differs from the Roman *emptio-venditio*, in which the agreement itself made the sale complete (this contract was indeed included by Gaius among those concluded *consensu* together with *locatio-conductio*, *societas* and *mandatum*. Cf. Gai 3.135-136: *Consensu fiunt obligationes in emptionibus et venditionibus, locationibus conductionibus, societatibus, mandatis. Ideo autem istis modis consensu dicimus obligationes contrahi, quod neque verborum neque scripturae ulla proprietas desideratur, sed sufficit eos, qui negotium gerunt, consensisse. Unde inter absentes quoque talia negotia contrahuntur, veluti per epistulam aut per internuntium, cum alioquin verborum obligatio inter absentes fieri non possit*. Similarly, see Iust. I. 3.22.1: *Consensu fiunt obligationes in emptionibus venditionibus, locationibus conductionibus, societatibus, mandatis. Ideo autem istis modis consensu dicitur obligatio contrahi, quia neque scriptura neque praesentia omnimodo opus est, ac ne dari quidquam necesse est, ut substantiam capiat obligatio, sed sufficit eos qui negotium gerunt consentire. Unde inter absentes quoque talia negotia contrahuntur, veluti per epistulam aut per nuntium. Item in his contractibus alter alteri obligatur in id quod alterum alteri ex bono et aequo praestare oportet, cum alioquin in verborum obligationibus alius stipuletur, alius promittat*). That sale is completed by the payment of the full price is also confirmed by a passage from Hyperides’ third speech *Against Athenogenes*, when Epicrates says: τὰς δὲ τετραράκοντα μνᾶς ἐγὼ καταβαλὼν τὴν ὠνήν ἐποίησάμην (Hyp. 3.9). Second, payment of price determined the transfer of ownership over the good from the vendor to the purchaser: in this respect, ‘delivery was irrelevant in the matter of passing the title, and payment decisive’ (Jones [1956]: 228; see also Pringsheim [1950]: 204, 219-220; Biscardi [1982]: 151; Harris [1988]: 360, who stresses the prevalence – at least in the Athenian legal system – of the ‘principle of the cash sale’). Finally, payment of the price – and not *παράδοσις* – proves the acquisition of ownership: as Pringsheim has pointed out, ‘proof of acquisition by purchase is regularly offered as evidence of ownership’ (Pringsheim [1950]: 183) and, consequently, ‘ownership can be proved by proving the payment’ (Pringsheim [1950]: 204).

one, i.e. is based on πίστις (trust).<sup>145</sup> This use of πίστις and of the verb πιστεύειν within personal relationships is clear in Plato's *Laws*<sup>146</sup>, where the philosopher – while giving rules for contracts and, more specifically, for προᾶσις ὀνή – speaks of πιστεύειν in connection with ἐπὶ ἀναβολῇ, an expression which means 'with delay'. Within this context, the entire formulation refers to a delayed performance by one of the parties to the contract, whereas the creditor – who first performed his obligation relying on trust – does not have any legal protection to his claim. Therefore, the verb πιστεύειν, which means 'to trust the other,... is always at the risk of the trusting party. The parties may defer performance, on one side, but if one of them breaks the promise to pay or to deliver, it is too late (οὐκέτι δίκης οὔσης). There are no legal actions for such contracts'.<sup>147</sup>

The same principles can be found in Aristotle. Interpersonal relationships based on trust and their features are described in a very similar fashion in the eight and ninth Books of the *Nicomachean Ethics* (E.N. 1162 b 16-25), in which Aristotle discusses the concept of φιλία. In the context of his discussion on ethics, the term φιλία does not have to be interpreted in the narrow sense of 'friendship', as it rather designates any interpersonal relationship which is not characterised by any kind of hostility.<sup>148</sup> After distinguishing three kinds of φιλία ('διά τὴν ἀρετήν', based on merit/what is good; 'διά τὸ χρήσιμον', based on what is useful; 'διά τὴν ἡδονήν', based on pleasure), he discusses the concept of φιλία διὰ τὸ χρήσιμον (based on what is useful). Within this

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<sup>145</sup> For the meaning and implications of πίστις, cf. Faraguna (2012a): 355-373. Faraguna maintains that it is possible to envisage two different kinds of πίστις: an 'aristocratic' one, that 'was based on oath and originally belonged to characteristically archaic social contexts such as *hetaireia* and *xenia*-relations', and a 'democratic' πίστις, which developed in the 5<sup>th</sup> century Athenian social and legal practices and 'was based on "contract" and the protection contract was accorded by the laws and by the court system' (Faraguna [2012a]: 371). See also Johnstone (2011), who analysed the economic and social role of trust in ancient Greece: he maintains, on the one hand, that even instant payment for goods required trust between the two parties, because of the general lack of approximation in weights and measures; on the other hand, he assumes that trust was the mean by which citizens on official boards tried to obtain consensus.

<sup>146</sup> Plat. *Leg.* 9.2.915d.

<sup>147</sup> Pringsheim (1950): 127-128. Plato gives a reason for this: 'ὁ δὲ προέμενος ὡς πιστεύων, ἔαντε κομίσηται καὶ ἂν μὴ, στεργέτω' (Plat. *Leg.* 8.849e); 'πιστεύων πρὸς ὃν ἂν ἀλλάττηται, ποιείτω ταῦτα' (Plat. *Leg.* 11.915e). According to Plato, 'the trusting party has to take the risk, he must attribute his disappointment if the promise is not fulfilled to himself only' (Pringsheim [1950]: 131).

<sup>148</sup> Natali (1999): 528 n. 834; Pellosi (2007): 45.

last category, he distinguishes between *φιλία νομική*, which is based on predetermined written agreements (*ἐπὶ ῥητοῖς*), and *φιλία ἠθική*, which is based on trust and is characterised by vagueness of the second performance (as for the *an, quantum* and *quando*).<sup>149</sup> Aristotle then maintains that there is one kind of *φιλία νομική* that is akin to *φιλία ἠθική*, as it relies on trust. *Φιλία νομική* is in fact divided by Aristotle into two main categories: on the one hand, we find a *φιλία* which is typical of commerce and is characterised by an immediate exchange between the two parties from hand to hand (*ἐκ χειρός εἰς χεῖρα*); on the other hand, there is another kind of *φιλία νομική* which still relies on an agreement (*κατ' ὁμολογίαν*) but is 'more liberal with a view to the time of repayment (*ἐλευθερωτέρα εἰς χρόνον*) ... requiring one thing in return for another'.<sup>150</sup> This latter kind of relationships is characterised by an *ἀναβολή* (that is, a postponement, a chronological gap) between two performances: one party, after having performed his duty, defers to a future date the other party's performance, thus generating a debt (*ὀφείλημα*) upon the latter. Aristotle qualifies *ἀναβολή* as *φιλικόν*, to signify that although 'it is clear and unambiguous what is owed ... there is an element of friendliness in the postponement allowed'<sup>151</sup>, and this makes this particular kind of *φιλία νομική* very much akin to *φιλία ἠθική*.<sup>152</sup> Furthermore, Aristotle makes it clear (similarly to Plato in *Laws*) that these relationships based on *πίστις* do not have any legal protection. More specifically, 'in all contracts a party trusting another must take the risk of loss'.<sup>153</sup>

To sum up, we notice that the fundamental point descending from both Plato's and Aristotle's use of *πίστις* and *πιστεύειν* is the following: those relationships based on *πίστις* imply that one party performs his obligations before the counterparty fulfils his own; and that, as a consequence, the counterparty has a debt (*ὀφείλημα*) towards the party that had first fulfilled his obligations. Therefore, the term *πίστις* should be best interpreted as legal expectation; more specifically, it identifies the legal expectation of

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<sup>149</sup> Pelloso (2007): 48.

<sup>150</sup> Faraguna (2012a): 369.

<sup>151</sup> Faraguna (2012a): 369.

<sup>152</sup> Pelloso (2007): 48.

<sup>153</sup> Pringsheim (1950): 132. Cf. Aristot. *Nic. Eth.* 1162b.25-30: διόπερ ἐνίοις οὐκ εἰσὶ τούτων δίκαι, ἀλλ' οἷονται δεῖν στέργειν τοὺς κατὰ πίστιν συναλλάξαντας. See also Faraguna (2012a): 369; Pelloso (2007): 49; Martini (2003): 443.

the party who has first performed his obligation to the future performance of his own obligation by the counterparty.<sup>154</sup>

If this is correct, I suggest that the expression ‘καθώς ἐπίστευσε Ἀρμοδῖκα τῶι θεῶι τὰν ὠνάν’ should be read in the light of the previous considerations about the meaning and implications of the verb πιστεύειν. In other words, it is possible to infer that the slave has carried out his performance consisting, in this case, in ‘entrusting’ the ὠνή to the god; as an effect, it follows that the slave has an expectation towards the god’s performance of his own duty in a later time, having become the latter’s creditor.

Yet, in order to understand the performance that binds the god towards the slave, it is necessary to find out what the meaning of ὠνή is in this context. This term has been interpreted in three different ways by scholars, who suggest that it means ‘ownership’<sup>155</sup>, ‘sale’<sup>156</sup>, or ‘purchase money’.<sup>157</sup>

Pringsheim, for example, argues that, within the specific context of these inscriptions, ὠνή means ‘ownership’. More specifically, he points out that in Greek sale ‘ὠνή is the name not only for the sale, but also for the agreement to sell and buy and for the document recording the sale’; in any case, ‘it is not ... a name for the purchase money’.<sup>158</sup> Later claims in his reconstruction end up undermining his interpretation of ὠνή. On the one hand, he claims that the purchase money was provided by the slaves themselves; on the other hand, he observes that ‘ownership is acquired by payment of the price;

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<sup>154</sup> Maffi (1979): 181 (‘in Aristot. EN 1162 b 21 ss. un rapporto di *filia* può nascere da un contratto a prestazione differita, cioè stipulato *kata pistin*. Qui si è raggiunto il massimo livello di astrazione: *filia* designa semplicemente il legame fra il creditore e debitore e *pistis* l’aspettativa del creditore nel futuro adempimento del debitore’); Pelloso (2007): 49.

<sup>155</sup> Pringsheim (1950): 185.

<sup>156</sup> Samuel (1965): 258.

<sup>157</sup> Westermann (1948b): 9.

<sup>158</sup> Pringsheim (1950): 119. This is due, according to Pringsheim, to the very nature of Greek sale and can be understood only once the relationship between the terms ὠνή and πρᾶσις is made clear. He points out that several Greek authors generally referred to the concept of ‘ὠνή καὶ πρᾶσις’, thus implying not two different legal transactions (a buying and a selling) but, rather, a two-sided act. In other words, Greek sale is conceived as ‘a unity of two transactions, the buying and the selling, which are the two sides of one and the same purchase-sale’ (Pringsheim [1950]: 114). Pringsheim then focuses on the meanings of ὠνή and πρᾶσις when used independently from one another: while πρᾶσις is a late term (it is Hellenistic and mainly appears in papyri) and is used only exceptionally to emphasize the vendor’s side, ὠνή refers to the purchaser’s side and, consequently, to the acquisition of ownership by the payment of price (Pringsheim [1950]: 117).



consequently the acquirer is the person from whom the money came, in these manumissions the slave'. As a logical corollary of these assumptions, he suggests that 'ὠνά in our clause is neither the document of sale, nor the price, nor yet the task committed to the god nor the sale, but the ownership acquired by the purchase for the slave'.<sup>159</sup> From this interpretation, it follows that 'the ownership he [i.e. the slave] gives to the god in trust so that the god becomes the legal, the slave the beneficial owner' and that 'the slave's beneficial ownership, which results from the trust, is of course identical with his freedom'.<sup>160</sup> This, however, is problematic: on the one hand, Pringsheim (correctly) bases his whole interpretation on the assumption that the money is provided by the slaves; on the other, since he translates ὠνή with ownership, the idea that the purchase money was provided by slaves does not descend from the text of the inscriptions. Given his translation, in other words, there is nothing in the text suggesting that the money was provided by slaves.

A different interpretation has been offered by Samuel, who maintains that ὠνή refers to the sale itself<sup>161</sup>; yet, although his interpretation of ὠνή is different from Pringsheim's, it is undermined by the same kind of problems. After remarking that 'in early documents, the term πιστεύειν has significance in the identification of the payor', he assumes that 'where the term appears with the name of the slave as subject, the slave makes the payment and ... since in most cases the slave is the subject, in most cases the slave makes the payment'.<sup>162</sup> This is further confirmed, according to Samuel, by the content of those inscriptions in which 'manumissions have provisions for the release from obligations upon the death of the manumittor'.<sup>163</sup> The problem with Samuel's interpretation is that, given his identification of ὠνή with sale, there is nothing in the text of the inscriptions to suggest that the purchase money was provided by the slaves. Samuel himself seems to find this reconstruction quite problematic, as he assumes that the provenance of the

<sup>159</sup> Pringsheim (1950): 185.

<sup>160</sup> Pringsheim (1950): 185-186.

<sup>161</sup> Samuel (1965): 258: 'the majority of the documents state that the slave entrusts the sale to the god; the typical formula is: καθὼς ἐπίστευσε ὁ δεῖνα τῷ Απόλλωνι τὰν ὠνάν'.

<sup>162</sup> Samuel (1965): 259.

<sup>163</sup> Samuel (1965): 259.

money is somehow inconsistent with what the inscriptions record ('although this formula is used, the money used for the sale-manumission comes from the slave').<sup>164</sup>

To sum up, both Pringsheim's and Samuel's interpretations are weakened by the same kind of problem: they agree that the purchase money was provided by slaves, but their interpretations of the meaning of ὠνή are inconsistent with this assumption. But their interpretations are problematic also in another respect. If, following Pringsheim, we intend ὠνή as ownership, the expression 'καθὼς ἐπίστευσε Ἀρμολίκα τῶι θεῶι τὰν ὠνάν' would mean that 'Armodika entrusted the ownership to the god'. The problem with this interpretation, however, is that a slave cannot entrust to the god (or to anyone else) his own ownership, which he or she does not hold. If, on the other hand, we accept Samuel's identification of ὠνή with sale, the expression would indicate that 'Armodika entrusted the sale to the god': but, as is evident, a slave cannot entrust to the god (or to anyone else) the sale of himself, for the fundamental reason that, within this framework, he is the object sold and not one of the parties to the contract.

According to these interpretations, there is nothing in the inscriptions that justifies these scholars' basic assumptions that the purchase money is provided by slaves. And yet, that the purchase money was provided by the slaves themselves results, I believe, from the very meaning of the expression 'καθὼς ἐπίστευσε Ἀρμολίκα τῶι θεῶι τὰν ὠνάν'. As is suggested by the verb ἐπίστευσε, the delivery is based on trust. But the slave cannot entrust to the god an ownership that he does not hold, or a sale to which he is not entitled. The only plausible interpretation of the meaning of ὠνή *vis-à-vis* ἐπίστευσε is that ὠνή refers to the purchase money, which is entrusted by the slave to the god. After having entrusted their money to the god, the slave becomes his creditor, and he can thus expect the god's performance, consisting in the payment of the purchase money to the slave's master which would result in the final 'sale' of the slave.

This conclusion was first suggested by Westermann, who identifies ὠνή with the purchase money. Westermann maintains that the slave 'had entrusted his savings to the god' and that 'when he received the slave's money, Apollo perfected the act of civil

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<sup>164</sup> Samuel (1965): 258.

emancipation by turning over through his priests the redemption money to the former owner of the slave'.<sup>165</sup> For this reason, he concludes that the Delphic inscriptions attest a 'self-purchase of their liberation by the slaves themselves through the medium of the entrustment sale to Apollo'.<sup>166</sup> A correct identification of the person who provided the purchase money is thus a key-element, because – as mentioned before – in Greek sale the provenance of the purchase money determined the acquisition of ownership.<sup>167</sup>

Finally, we find the expression 'ἐφ' ὧτε ἐλευθέρα εἶμεν καὶ ἀνέφαπτος ἀπὸ πάντων τὸμ πάντα χρόνον'. This clause also needs to be correctly understood: scholars have sometimes ignored it in their studies on Delphic manumissions,<sup>168</sup> or failed altogether to connect it to the context of *πρᾶσις ὠνή*.<sup>169</sup> This provision was used in a very similar fashion in the Athenian maritime loan (*ναυτικός τόκος*): it soon became a common practice for the borrower to insert in the *συγγραφή* (together with the prohibition of *ἐπιδανείζειν*) a warranty clause in which the latter bound himself to give as a security goods that were 'ἐλεύθερα καὶ ἀνέπαφα' (which means free from any claim and legal interference). If the borrower breached this clause by giving the same goods as security to another creditor, he would have been considered as having committed an intentional offense towards both the former and the latter creditor.<sup>170</sup>

The fact that Delphic manumissions mention the clause 'ἐφ' ὅτω ἐλεύθερος εἶμεν καὶ ἀνέφαπτος ἀπὸ πάντων' is significant, because within the context of a *πρᾶσις ὠνή* the adjective *ἀνέφαπτος* (sometimes used interchangeably with *ἀνέπαφος*) identifies the warranty against eviction, that is, the warranty that the vendor is selling a good which is not owned by anyone else who, after the sale, could claim it as his property.<sup>171</sup>

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<sup>165</sup> Westermann (1948b): 9-10.

<sup>166</sup> Westermann (1955): 35.

<sup>167</sup> Pringsheim (1950): 205-206: 'the provenance of the money used for the payment of the price is decisive for the acquisition. The person from whom the money comes ... has a title to the goods acquired with it'; it follows that 'if ... the money belonged not to the purchaser, but to somebody else, some title, if not ownership, must be acquired by him'. See also Jones (1956): 229.

<sup>168</sup> Westermann (1946): 1955; Pringsheim (1950); Calderini (1965); Hopkins (1984); Mulliez (1992).

<sup>169</sup> Zelnick-Abramovitz (2005): 79; Dimopoulou-Piliouni (2008): 42.

<sup>170</sup> Pelloso (2008a): 71, 103. On real security in Classical Athens and, more specifically, on the relationship between *πρᾶσις ἐπί λύσει* and *ὑποθήκη*, see Harris (1988).

<sup>171</sup> Pringsheim (1950): 465.

For this reason, this clause must be interpreted in the sense that, in order for the 'sale' to be legally valid and effective, the object of the sale (the slave) had to be free from any legal interference and from someone else's claim of a superior title to the slave thus 'sold'. The warranty against eviction implies that 'if the vendor is not the owner of the goods sold and therefore cannot transfer ownership by receiving the price, he is liable. But this liability is, in Greece as elsewhere, based not on contract, but on the vendor's failure to defend the right of his transferee against interference'.<sup>172</sup> The implication is therefore that, through the eviction clause, the master (i.e. the vendor) gave the slave (i.e. the purchaser) guarantee that the ownership thus transferred (i.e. the slave's freedom) was complete, and that it could not be challenged by anyone claiming a superior title to the good thus sold (i.e. the slave himself).<sup>173</sup>

Once the language of the inscriptions is carefully examined, it is clear that their typical formulas suggest a precise sequence of legal acts; at the same time, each of these legal acts has a specific significance in the context of a sale, and is strictly connected to the other parts of the formula.

To conclude, the analysis of the individual clauses and elements of the inscriptions suggests that they do not simply describe a sale with the slave as the object sold, and the master and the god as subjects (respectively, as vendor and purchaser). The fundamental aspect which is often ignored but results clearly from the text of the inscriptions is that the purchase money was not provided by the god (or the temple) but, rather, by the slaves themselves, who entrust them to the god to transact on their behalf. This implies that once the sale is complete, the god does not acquire any (fictitious or formal)

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<sup>172</sup> Pringsheim (1950): 429.

<sup>173</sup> Within the context of *πρᾶσις ὀνή* the term *ἀνέφαπτος* is technical and refers to the warranty of undisturbed possession (eviction). This term identifies 'the rightful claim of the owner' and 'everywhere it means free from legal interference' (Pringsheim [1950]: 466). If someone claimed to have a superior title over the goods sold to the purchaser, the latter had to summon the vendor (through an act called *ἀνάγειν εἰς πρᾶτηρα*) who, in his turn, had to warrant the sale by defending the goods against the claimant: if the vendor failed to defend the good he had sold, the purchaser could bring a *δίκη βεβαιώσεως* against him, and he would have been subject to a money penalty (Pringsheim [1950]: 430; Biscardi [1982]: 152; Harris [1988]: 373). Scholars maintain that the sale of goods not belonging to vendors was not very common, since the Greek rules for publicity of contracts and the presence of witnesses to sales allowed the owner to intervene before the sale was completed (Pringsheim [1950]: 431; Biscardi [1982]: 153).

ownership over the slaves, but it is the slaves who, having provided the purchase money, acquire ownership over themselves: in other words, by entrusting the money to the god who then delivers it to the slaves' masters as payment of the price, the slaves become ἀπελεύθεροι.

This conclusion is further supported by the fact that the inscriptions never represent slaves who, having (at least *de facto*) the money required for the 'sale', personally give it to their masters. This is due to the fact that slaves lacked the capacity to contract and, consequently, they were not capable of entering into valid and effective manumission agreements with their masters. It follows that the intervention of a third party (who, in the case of the Delphic inscriptions, is represented by the god) in the manumission procedure was necessary for the legal validity of the 'sale' itself, given the slave's lack of capacity to contract. This does not mean, however, that the god, because of its intervention in the procedure (more specifically, because of the payment of the purchase money), acquired any right over the slaves, or that the slaves would later have any kind of obligation towards the god: in fact, the sale produced its effects directly on the slave, and not on the god.<sup>174</sup>

#### 4. *The legal protection of ἀπελεύθεροι in the Delphic inscriptions.*

After recording manumissions through προᾶσις ὦνή, many inscriptions mention the means by which the legal freedom of ἀπελεύθεροι was granted.

We shall consider, as a typical example, SGDI II 1686 (from the 2<sup>nd</sup> century B.C.). After describing the manumission of a female slave named Katastalia through προᾶσις ὦνή by her mistress Laiada to the god Apollo (with the use of the same formulas analysed above), the text continues with the following words (ll. 8-12):

εἰ δέ τις ἐφάπτοιτο Κασταλίας ἐπὶ καταδουλισμῶι, βέβαιον παρεχόν-  
των τῶι θεῶι τὰν ὦνὰν οἱ τε ἀποδόμενοι καὶ ὁ βεβαιωτὴρ Ἀστοξενος· εἰ δὲ μὴ  
παρέχο[ι]ν βέβαιον τῶι θε-

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<sup>174</sup> For a detailed discussion about the variations of prices for manumission in the Delphic inscriptions, see Hopkins (1978): 162 (who notices that during the 2<sup>nd</sup> and 1<sup>st</sup> century B.C., price for manumission increased whilst the number of manumitted slaves diminished); see also Duncan-Jones (1984).

10 ὦι τὰν ὠνάν, πράκτιμοι ἐόντων κατὰ τὸν νόμον τᾶς πόλιος. ὁμοίως δὲ καὶ οἱ  
παρατυγχάνοντες κύριοι ἐόν-  
των συλέοντες Κασταλίαν ἐλευθέραν ἐοῦσαν ἀζάμιοι ἐόντες καὶ ἀνυπόδικοι  
πάσας δίκας καὶ ζαμίας. μάρ-  
τυροι ...

*If someone seizes Katastalias for enslavement, the vendors and the guarantor Astoxenos shall warrant the sale to the god; if they do not do so, they will be liable to a money penalty in accordance with the law of the city. Likewise, anyone is entitled to counter-seize Katastalia on the grounds that she is free, being (anyone) not liable to penalty nor to any judgment. Witnesses: ...*

Although the formula ‘ἐφ’ ὧιτε ἐλευθέρα εἶμεν καὶ ἀνέφαπτος ἀπὸ πάντων τὸν πάντα χρόν[ο]ν’, which is used in line 6 of the inscription, implies that the slave ‘sold’ must be free from someone else’s claim and from any kind of legal interference (warranty against eviction), the possibility that, after manumission is completed, someone may seize the ἀπελευθέρα is expressly mentioned; this ultimately results in a challenge to the legal title of the seller over the slave thus ‘sold’. This is described as the act of ἐφάπτειν the ex-slave ἐπὶ καταδουλισμῶ, but sometimes the verbs ἄπτεσθαι<sup>175</sup> or καταδουλίζασθαι<sup>176</sup> are also used, which convey the same idea of ‘enslavement’<sup>177</sup> or, more precisely, ‘the formal act of seizing the thing’.<sup>178</sup> When this happens, we learn from the inscriptions that the protection granted to ἀπελεύθεροι was twofold. On the one hand, it is stated that ‘βέβαιον παρεχόντων τῶι θεῶι τὰν ὠνάν οἱ τε ἀποδόμενοι καὶ ὁ βεβαιωτήρ’: this means that the vendors (i.e. the former masters) and the guarantor to the ‘sale’ must intervene in the context of the warranty against eviction as an effect of the buyer’s summon, and thus ‘warrant’ that the ‘sale’ is valid and effective.<sup>179</sup> If the

<sup>175</sup> See, e.g., SGDI II 1685 (2<sup>nd</sup> century B.C.).

<sup>176</sup> See, for example, SGDI II 1701 (2<sup>nd</sup> century B.C.).

<sup>177</sup> Cf. Liddle, Scott (1996) s.v. καταδουλισμός, who point out that the verbs ἄπτεσθαι and ἐφάπτεσθαί τινος ἐπὶ καταδουλισμῶ have the same meaning and that they refer to enslavement.

<sup>178</sup> Harrison (1968): 210.

<sup>179</sup> Cf. Pringsheim (1950): 431, who argues that the clause ‘βεβαιοῦν τὴν ὠνήν’ ‘means that the defence is undertaken by a vendor, to whom the purchaser has referred the claimant: ἀνάγειν εἰς πρατήρα’. See also Harris (1988): 373: ‘the only way an Athenian could prove that he was the rightful owner of a piece of property was to provide evidence to show that he had acquired it in a legitimate fashion. If the property had been acquired by sale, the buyer, when challenged to prove title, would have to summon the man who sold him the property and have him testify about the sale. The seller (πρατήρ) who did respond to the summons and testified was said to

vendors and the guarantors fail to intervene, the inscriptions state that they are both liable to a monetary fine ('πράκτιμοι ἐόντων'). This part of the inscription, in other words, must be read in the light of the warranty against eviction, according to which – as noted above – the sale is valid and produces its effects only if the 'vendor' has the right to alienate his slave, which is questioned whenever someone claims a title over the slave thus 'sold'. When this occurs, the 'vendors' and the guarantors must 'warrant' the sale; if they do not do so, they will be subject to a money penalty, whereas no consequence is said to be descending upon the manumitted slaves' legal condition (which therefore remains one of freedom).

On the other hand, many inscriptions also state that in the event of a formal seizure by a third party, anyone (οἱ παρατυγχάνοντες) was entitled to exercise an act of counter-seizure over the slave. In other words, against the first seizure by someone claiming to have a title over the manumitted slave, anyone else could reply by an act of counter-seizure in order to take the ἀπελεύθερος back to freedom ('ὁμοίως δὲ καὶ οἱ παρατυγχάνοντες κύριοι ἐόντων συλέοντες Κασταλίαν ἐλευθέραν εὐῶσαν'). The contrast between an initial ἐφάπτεσθαι ἐπὶ καταδουλισμῶ and the subsequent συλᾶν clearly resembles the connection between the two opposite acts of ἀγωγή εἰς δουλείαν and ἀφαίρεσις εἰς ἐλευθερίαν which characterised the Athenian procedure relating to slaves' status. In Athens, if someone claimed to be entitled to the right of ownership over a person who, on the contrary, claimed to be free, the former was legally entitled to seize the letter. This act constituted an institutionalised form of self-help and was technically labelled as ἀγωγή εἰς δουλείαν, which was approved and recognised by the laws of the πόλις. It followed that the claimant acquired possession over the individual whose legal condition was disputed (the ἀπαχθείς). This *de facto* situation was effective until the

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"warrant" the sale (βεβαιοῦν) and to become a co-defendant in the case (συνίστασθαι τήν δίκην). Cf. also SGDI II 1687 (2<sup>nd</sup> century B.C.), where the formula is slightly different, as it states that 'εἰ δέ τις ἐφάπτοτο ἐπὶ καταδ[ο]υ[λι]σμῶι Ἀνθρακίου, ὁ βεβαιωτὴρ ἀσφαλῆ παρεχέτω τὰν ὠ]νᾶν τῶι θεῶι. μάρτυρες:(...)'. This formula presents three main differences from the standard formulas: first, the individual that has to 'warrant' the sale is only the guarantor, whereas no mention is made of the vendor; second, the ὠνή is not said to be βέβαιος, but ἀσφαλῆς, which means 'not liable to fall, immovable, steadfast' (Liddle, Scott [1996] s.v. ἀσφαλῆς), which alludes to the effectiveness of the sale; third, there is no mention of the money penalty that has to be suffered by the guarantor in the event that he does not fulfil his obligation.

intervention of a third party who, through a formal request called ἀφαίρεσις εἰς ἐλευθερίαν (which resulted in ‘the symbolic act of taking the alleged slave away into liberty’)<sup>180</sup>, forced the claimant to stop his ἀγωγή and thus to release the seized person: if the claimant did not give up the ἀγωγή, he was liable to a δίκη βιαίων. After the ἀφαίρεσις εἰς ἐλευθερίαν and the subsequent release of the ἀπαχθείς, the alleged master – in order to pursue his claim – had to bring a δίκη ἀφαιρέσεως against the ‘*adsertor in libertatem*’. During the period between the release from seizure and the end of the δίκη ἀφαιρέσεως, the ἀπαχθείς was temporarily granted the possession of himself.<sup>181</sup> The δίκη ἀφαιρέσεως was a delictual action through which the plaintiff aimed to obtain the condemnation of the defendant to the payment of a monetary fine to the state.<sup>182</sup> In fact, the decision directly ascertained which one of the two parties was right and only indirectly determined the legal condition of the seized individual.<sup>183</sup>

Although with some differences, the same features can be found in the procedure described in the Delphic manumission inscriptions, which state that if someone seized the former slave and claimed to have rights over him (ἐφάπτεσθαι ἐπὶ καταδουλισμῶ), anyone (οἱ παρατυγχάνοντες) – and, in some cases, the freed slaves themselves<sup>184</sup> – could in their turn counter-seize the ἀπαχθείς. As an effect of the counter-seizure by οἱ παρατυγχάνοντες, the claimant would have thus lost possession over the ἀπαχθείς. The only difference between the Athenian and the Delphic procedure (which, however, does not mark a fundamental distinction between the two models of litigation concerning the legal condition of individuals) is that while in Athens the ‘*adsertor in libertatem*’ could force the claimant to release the ἀπαχθείς only by means of a formal declaration, in Delphi he could obtain the same result by actually taking away the ἀπαχθείς from the claimant’s possession by means of a self-help procedure (this act was

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<sup>180</sup> Harrison (1968): 178.

<sup>181</sup> Paoli (1976): 452-453.

<sup>182</sup> Maffi (1995): 21-22: ‘la multa era pari al doppio del valore dello schiavo, di cui la metà andava alla *polis*’; Harrison (1968): 179, on the other hand, maintains that ‘a convicted defendant had to pay a fine of the value of the slave to the state’.

<sup>183</sup> Paoli (1976): 452-453.

<sup>184</sup> A typical example in this regard is provided by SGDI II 1701 (ll. 7-8): ‘εἰ δέ τις κατ[α]δουλιζοιτο Δορκίδα, κυρία ἔστω αὐσαυτὰν συλέουσα’. Similarly, cf. SGDI II 1713, 1729, 1971, 2213, 2252, all from the 2<sup>nd</sup> century B.C.



technically called *συλᾶν*<sup>185</sup>, which therefore identifies an act of ‘prendre de force pour mettre en liberté’).<sup>186</sup> Apart from this, the two procedures shared the same basic features, and it is also important to stress that in both *πόλεις* they are conceived of as lawful and expressly authorised. More specifically, the Delphic inscriptions state that οἱ παρατυγχάνοντες who start a *συλᾶν* over the ἀπαχθείς must be considered ‘unpunishable’, ‘not liable to penalty’ (ἀζάμιοι)<sup>187</sup> and, as a corollary, they could not be convicted in any action (ἀνυπόδικοι πάσας δίκας καὶ ζαμίας).<sup>188</sup>

##### 5. *The legal nature of manumission through ‘sale’: final considerations.*

An analysis of the inscriptions recording manumissions through *πρᾶσις ὠνή* allows us to conclude that sale is only the external form given to the act of manumission: there is no sale taking place between the slaves’ masters and the god, nor we can envisage the fundamental legal effect of sale, that is, the transfer of ownership over the slaves from

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<sup>185</sup> The term *συλᾶν* technically identified the right of seizure between citizens of different *πολεῖς*: more specifically, it designates ‘il diritto di rappresaglia che un cittadino esercita sui beni e sulla persona del cittadino di una città straniera, quando non possa far valere i suoi diritti davanti agli organi della città’ (Biscardi [1982]: 87-88, who also points out that ἀσυλία was a privilege that the Athenians could grant to ξένοι, and consisted in their exclusion from σῦλαι). *Συλᾶν* was the object of many treaties stipulated between *πολεῖς*, such as the one between Oianthea and Chaleion in the 5<sup>th</sup> century B.C., that expressly authorized their respective citizens to seize the goods belonging to the other *πόλις*, ‘except on the territories or in the harbours of the two cities’ (Harrison [1968]: 245 n. 4). This system was usually meant ‘non seulement à opérer des saisies en réparation d’un préjudice, en riposte à quelque chose (acte d’hostilité, refus d’acquitter une dette, violation de la loi)’, mais à les pratiquer sur les biens ou la personne de n’importe quel compatriote du coupable – ou présumé tel’ (Van Effenterre, Ruzé [1994]: 218). The legitimacy of *συλᾶν* as a ‘seizure in pursuit of a remedy for a wrong’ is generally accepted by scholars (cf. Lintott [2004]: 340-344, who says that σῦλαι ‘are permitted as counter-measure to an illegal seizure’; Van Effenterre, Ruzé [1994]: 74; Liddle, Scott, [1996] s.v. *συλάω*, who identify it with the right of reprisals; Dareste, Haussoullier, Reinach [1898]: 403), and it has only been challenged by Bravo, who – in commenting on a law from the first column of the Great Law Code of Gortyn – maintains that *συλᾶν* does not refer to the right of seizure, as it is used to describe the act of taking away things or slaves, but never free individuals; on the other hand, he states that the term is ‘neutral’ and does not necessarily imply the legitimacy of the action (Bravo [1980]). His opinion, however, is not shared by other scholars, who generally stress the legitimacy of *συλᾶν* and its connection with the right of seizure.

<sup>186</sup> Dareste, Haussoullier, Reinach (1898): 403.

<sup>187</sup> Liddle, Scott (1996) s.v. ἀζήμιος. Ζαμία is indeed the doric equivalent of ζημία. On immunity from prosecution, see Rubinstein (2010): 200-203.

<sup>188</sup> See Liddle, Scott (1996) s.v. ἀνυπόδικος, where it is stated that the entire formula ‘ἀ. πάσας δίκας καὶ ζαμίας’ means ‘not liable to action’.

the masters to the god. Although the Delphic inscriptions clearly refer to the terminology of *πρᾶσις ὠνή*, their formulas make it clear that the purchase money is provided by the slaves themselves, and that the god's only task is to deliver it to the slaves' masters: this constitutes the god's only duty arising from the fiduciary relationship established between the slave and the god, which is expressed by the verb *πιστεύειν*. The simple fact that the god's action is limited to the delivery of the slaves' money to their masters does not imply that he acquires any right or duty from the 'sale' thus concluded. From a more general point of view, this also allows us to conclude that Delphic manumissions through *πρᾶσις ὠνή* were not unilateral acts of the masters but, rather, bilateral legal transactions by which masters liberated their slaves in return for money: once payment is made, manumission has to be considered complete and the slaves automatically became legally free individuals.

It is therefore clear that this complex set of acts is ultimately meant to overcome the legal difficulties arising from the slaves' lack of capacity to contract: how could slaves validly and effectively pay their masters in order to obtain freedom, if they were not legal subjects and, consequently, could not enter into legally binding agreements with their *δεσπότες*? This is the fundamental reason lying behind the god's intervention in the manumission procedure, and this is also the reason why the liberation of a slave is described as a *πρᾶσις ὠνή*. Once this mechanism is understood, it becomes clear that, in this context, the role of the 'purchaser' is played by the slaves themselves, who thus 'buy' themselves and, consequently, their own freedom.

At the same time, the inscriptions provide slaves with two mechanisms for protecting their legal freedom: on the one hand, the ex-master and the guarantor to the contract must guarantee the validity of the *πρᾶσις ὠνή* under monetary penalty; on the other hand, if someone seizes the freed individual, anyone – and also the *ἀπελεύθερος* himself – can legally counter-seize him and thus take him back to freedom.

#### 6. *The role and nature of παραμονή in the Delphic inscriptions.*

The majority of the Delphic inscriptions states that, after their liberation, manumitted slaves are free to go wherever they want and do whatever they wish. This is the case, for

example, of SGDI II 1685 (2<sup>nd</sup> century B.C.): after describing the act through which the female slave named Armodika was liberated and before mentioning the means by which her freedom was protected against other people's claims, the first part of the inscription ends with the following statement (ll. 3-5):

... ἐφ' ὧτε ἐλευθέρα εἶμεν καὶ ἀνέφραπτος  
ἀπὸ πάντων τὸμ πάντα χρόνον ποιέουσα ὃ κα θέλη καὶ ἀποτρέχουσα οἷς κα  
θέλη. βεβαιωτήρες κατὰ τὸν  
5 νόμον τᾶς πόλιος· ...

*... on the condition that she is free and not claimable by anyone forever, and she can do whatever she wants and she can go wherever she wants. Guarantors in accordance with the law of the city: ...*

This inscription shows that, as an effect of manumission, the freedwoman is granted complete freedom of movement and action.<sup>189</sup> This formula ('ποιέουσα ὃ κα θέλη καὶ ἀποτρέχουσα οἷς κα θέλη') is mentioned in about three quarters of Delphic inscriptions recording manumission through *πρᾶσις ὠνή*: there is no doubt that, in all these cases, the legal condition of manumitted slaves was one of freedom, both *de iure* and *de facto*.<sup>190</sup>

The remaining inscriptions (about one fourth of the total), on the other hand, after describing manumissions through 'sale' of slaves to the god by their masters, mention a different clause, which requires manumitted slaves to perform further services towards their manumitters or other members of the latter's families. Most inscriptions refer to this clause by using the aorist imperative of the verb *παραμένειν* (*παραμεινάτω*; the meaning of *παραμένειν* is 'to remain, stay')<sup>191</sup>: for this reason, scholars traditionally refer

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<sup>189</sup> Westermann (1955): 35; Meyer (2009): 84, observes (correctly) that such a 'freedom to go where they want' is largely attested in Delphi, but is not mentioned at all in the dedication-inscriptions from Chaeronea. For a discussion on the relationship between manumission and consecration, see chapter 3.

<sup>190</sup> Westermann (1948b): 10: 'the slave, by virtue of the sale to the god, became immediately and unequivocally a free man, being unencumbered in his new status by any kind of restrictive commitment to his former owner'.

<sup>191</sup> Liddle, Scott (1996) s.v. *παραμένω*.

to this duty by using, in a general fashion, the term *παραμονή*<sup>192</sup>, which can therefore be defined as the duty compelling freedmen to ‘remain’, in a general sense, with their former masters to perform certain services for them (or, less frequently, for other members of the latter’s families) for a period that can range from several years to the rest of the manumittors’ life. More specifically, Westermann first pointed out that the grammatical structure of the inscriptions reflects the ‘autonomy’ of *παραμονή* provisions from the act of manumission itself.<sup>193</sup> He noticed that the first part of those manumission-inscriptions in which *παραμονή* provisions are mentioned (that is, the part which describes the very act of manumission) is characterised by the use of the indicative *ἄπέδοτο*; whereas the second part of these inscriptions (which usually deals with *παραμονή* provisions) is in most cases characterised by the use of the verb *παραμένειν*, conjugated in the imperative tense (*παραμεινάτω* or *παραμεινάντων*). According to Westermann, ‘the abrupt shift in the modal structure of the two parts of the Delphic reports of *paramone* manumissions has the only significance that it differentiates the continuing service agreement of the freedman, the *paramone* portion, from the statement of the sale of the same person, while he was still enslaved, to the god’.<sup>194</sup> This grammatical structure shows, in other words, that manumission and *παραμονή* provisions (when attested in the inscriptions) were conceived of as two distinct and separate parts of the complex mechanism of liberating slaves in Delphi.

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<sup>192</sup> Although most inscriptions use the aorist imperative of the verb *παραμένειν*, very few of them use the aorist participle (*παραμείναςαν*, *παραμείναντες*). In a recent work on the legal condition of *ἄπελεύθεροι* under *παραμονή*, Sosin has relied heavily on this latter use of the verb *παραμένειν* and suggested that, because the aorist imperative might also convey the idea of anteriority, the Delphic inscriptions mentioning *παραμονή* clauses ultimately signify that ‘the slaves were sold on condition that they be free “after they have remained”’ (Sosin [2015]: 101). In other words, according to Sosin’s interpretation, *ἄπελεύθεροι* under *παραμονή* were property of the god (that is, slaves), and would become legally free only at the end of the *παραμονή* period. Sosin’s argument, however, can be challenged both from a philological point of view (the aorist participle is only used in very rare cases, whereas in most cases the inscriptions express the duty to *παραμένειν* with the aorist imperative, which has no temporal meaning but only an aspectual value), and from a legal perspective (for a detailed discussion of the single legal clauses which indicate that *ἄπελεύθεροι* under *παραμονή* were legally free individuals, see *infra*).

<sup>193</sup> Westermann (1948b): 9-11.

<sup>194</sup> Westermann (1948b): 10-11.

Although in some inscriptions παραμονή had to be performed towards other members of the manumittor's family, in most cases the beneficiary of παραμονή was the manumittor himself: for this reason (and in order to make the exposition more fluid), in the following part of my discussion I will refer to the beneficiary of παραμονή by using, in a wider sense, the term manumittor.

As a typical example of inscription mentioning παραμονή provisions I will consider the content of SGDI II 1721 (2<sup>nd</sup> century B.C.). After describing the 'sale' to Apollo of a young house-born slave named Sosikrates by his master Kratos at the price of two silver minae, the inscription states (ll. 5-6):

5 παραμεινάτω δὲ Σωσικράτης παρὰ Κρατῶ ποιῶν τὸ ποιτασσόμενον πᾶν,  
ἄχρι οὗ καὶ ζώῃ Κρατῶ.

*Sosikrates must remain by Kratos and do whatever he is ordered to do, for the rest of Kratos' life ...*

From the inscription we infer that, after his liberation, Sosikrates is required to παραμένειν with his former master and do all the things that the latter orders him to do. In this specific case, the content of the παραμονή duty is only generic: this is a common feature of those inscriptions mentioning παραμονή clauses, as the majority of them simply states that the ἀπελεύθερος must do whatever the manumittor orders him to do, with no mention of the specific services that the freed slave must perform.<sup>195</sup>

Some other inscriptions, on the other hand, after mentioning the παραμονή duty binding the ἀπελεύθερος towards the manumittor, describe the specific services that the manumitted slave must perform in favour of his former master. This is the case, for example, of SGDI II 1708 (2<sup>nd</sup> century B.C.), which, after describing the liberation through 'sale' of a young female slave named Meda by her mistress Timo at the price of two silver minae with the usual formulas, refers to a very peculiar παραμονή duty. Meda, once freed, is in fact required to look after (τρέφειν) and behave well (εὐσχημονεῖν) towards her father Sosibios and her mother Soso until they both reach their old age, whether in

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<sup>195</sup> Westermann (1948b): 12.

the meantime they had been freed or had remained slaves. If she does not do so, her parents or anyone else on their behalf can punish her as they wish (ll. 12-22):

τρε-  
 φέτω δὲ Μήδα Σωσίβιον τὸν ἴδιον πατέ-  
 [ρ]α καὶ τὰμ ματέρα Σωσῶ καὶ εὐσχημο-  
 15 νιζέτω, ἐπεὶ κα ἐν ἀλικίαν ἔλθη, εἰ χρεῖαν ἔ-  
 χουσαν Σωσίβιος ἢ Σωσῶ τροφᾶς ἢ εὐσχημονι-  
 σμοῦ, εἴτε δουλεύοντες εἶεν εἴτε ἐλεύθεροι  
 γεγονότες· εἰ δὲ μὴ τρέφοι ἢ μὴ εὐσχημονίζοι Μήδα  
 Σωσίβιον ἢ Σωσῶ χρεῖαν ἔχοντας, ἐξουσία ἔστω  
 20 Σωσιβίωι καὶ Σωσοῖ κολάζειν Μήδαν ὧ[ι] θέλοιν  
 τρόπῳ, καὶ ἄ[λλ]ωι ὑπὲρ Σωσίβιον ἢ Σωσῶ ὄγ κα κε-  
 λεύη Σωσίβιος ἢ Σωσῶ ...

The peculiarity of this inscription is that the freedwoman does not have to perform any duty towards her former mistress since, after her liberation, she is only required to look after her own parents.

Another inscription which mentions very peculiar provisions is SGDI II 2171 (also from the 2<sup>nd</sup> century B.C.), which describes the liberation of a house-born female slave named Diokleia by her master Philagros at the price of three silver minae according to the usual formulas. The inscription states that after her liberation Diokleia must remain with her former master's mother, Kleopatra, who can punish and put her in fetters, but is expressly prohibited to sell her. Finally, it is also specified that if during her παραμονή Diokleia bears a child, she can decide whether to grow him – in which case, the child would be free – or to kill him, but, in any case, she cannot sell him:

παραμεινατω δὲ Διόκλεια  
 [παρ]ὰ Κλεοπάτραι τῆι ματρὶ Φιλάγρου ποιούσα  
 [τὸ ἐ]πιτασσόμενον πᾶν τὸ δυνατόν, ἐξουσίαν δὲ ἐχέ-  
 10 τω ἐπιτιμέουσα καὶ διδέουσα τρόπῳ ὧι κα θέλημι  
 πλὴν μὴ πωλέουσα ...  
 ...  
 εἰ δὲ τι γένοιτο ἐγ Διοκλέας  
 τέκνον ἐν τῷι τᾶς παραμονᾶς χρόνῳ, εἴ κα μὲν θέ-  
 ληι ἀποπνεῖξαι Διόκλεα ἐξουσίαν ἐχέτω, εἰ δὲ θέλοι  
 τρέφειν, ἔστω τὸ τρεφόμενον ἐλεύθερον· εἴ κα μὴ

20 αὐτὸ θέλημι, πωλῆσαι δὲ τὸ γεννηθὲν μὴ ἐχέτω ἐξουσίαν  
Διόκλεα μηδὲ ἄλλος μηθείς. μάρτυροι·

This inscription is unique, as it explicitly authorises the ἀπελευθέρω to kill her own offspring. Some scholars have suggested that this specific authorization of infanticide should be connected with the institution of ἀπόλυσις (which, as I will show later, allowed an ἀπελεύθερος under παραμονή to pay a specific sum of money to the manumittor in order to obtain early release from παραμονή). Dioklea's manumittor seems in fact not to care at all about the former's determinations about her own children, as she is in fact entitled both to raise them or to kill them. The manumittor's sole concern (together with Dioklea's caring after his mother) is that she will not sell her own offspring: this prohibition was probably meant to make sure that Dioklea would not get the money she needed to pay for her early release from παραμονή.<sup>196</sup>

Apart from these cases, the majority of the inscriptions refers to the duty of παραμένειν only in general terms, without mentioning the specific services that manumitted slaves had to perform.<sup>197</sup> Moreover, while some inscriptions simply record this duty without mentioning its duration<sup>198</sup>, many others expressly state that the ἀπελεύθερος is required to παραμένειν with his former master for the rest of the latter's life (or for the rest of the life of whatever person is indicated as the beneficiary of παραμονή)<sup>199</sup>, or for several years.<sup>200</sup> After the παραμονή period has come to an end, the inscriptions often prescribe that the ἀπελεύθερος should become free.<sup>201</sup> Finally, besides those inscriptions that do not mention the non-fulfilment of παραμονή duties

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<sup>196</sup> Tucker (1974): 235-236.

<sup>197</sup> Westermann (1948b): 12.

<sup>198</sup> Cf., e.g., FD III 3:140 (2<sup>nd</sup> century B.C.), which, after recording the liberation of a female slave named Afrodisia by her mistress Sosia through προῶσις ὠνή to the god Apollo, states: ... παραμεινάτ[ω δ]ἔ Αφροδισία π[αρ]ῶ / Στρατ[ῶ] ποιο[ῶ]σα τὸ ἐπιτασσόμενον ....

<sup>199</sup> This is the case of SGDI II 1721 above mentioned, in which it is stated that the freed slave Sosikrates has to remain with his former master Kratos for the rest of Kratos's life. See also, for example, SGDI II 1694, 1714, 1729 (all from the 2<sup>nd</sup> century B.C.).

<sup>200</sup> See, for instance, SGDI II 1696, 1702, 1916.

<sup>201</sup> For example, SGDI II 1694 (2<sup>nd</sup> century B.C.): ... παραμεινάτ[ω δ]ἔ Θραῖσσα παρὰ Βόηθον / [ποιέου]σα π[ᾶν] τὸ δυνατόν, ἄχρι οὗ καὶ ζῶν Βόηθος· ἐπεὶ δὲ καὶ [μ]ε- / [ταλλ]ᾶξι τὸ[ν] βίον Βόηθος, ἐλευθέρω ἔστω Θραῖσσα καὶ ὁ βεβ[α]ιω- / τῆρ [μη]κέτι βε[βα]ιούτω ...

by the ἀπελεύθερος, many others expressly mention the consequences that would descend upon those freedmen who did not παραμένειν with their manumittors. The remedies attested in the inscriptions can be divided into two main categories.

On the one hand, we find inscriptions recording that, if the ἀπελεύθερος does not παραμένειν, the manumittor can punish him as he wishes. As a typical inscription in this regard, one could consider SGDI II 1726 (2<sup>nd</sup> century B.C.):

παραμεινάτω δὲ Λυσῶ παρὰ Μικκύλον ἕως καὶ ζῆ ποέου-  
σα τὸ ποτιτασσόμενον πᾶν τὸ δυνατόν. εἰ δὲ καὶ ἢ μὴ παραμείνη ἢ μὴ ποῆ τὸ  
ποτιτασσόμενον Λυσῶ Μικκύλοι, κύριος ἔ-  
5 στω κολάζων ὡς καὶ θέλη. ...

*Lyso must remain by Mykkolos for the rest of her life, doing everything she is ordered to do as far as possible. If Lyso does not remain (by Mykkolos) or she does not do what she is ordered to do, (Mykkolos) has the power to punish her as he wants.*

In this case, as in many others, the only direct consequence descending upon freedmen is physical punishment<sup>202</sup>: this does not affect manumission, nor it constitutes a threat for the freedom that the ἀπελεύθερος had previously acquired through manumission. A similar institution, after all, was also existing in early Roman Law: we know for example that the so-called *nexi* (that is, debtors who had pledged their own persons to their creditors) were legally free, although the creditor could exercise physical coercion over them and sometimes beat them in order for them to pay their debts off. Although their *de facto* condition towards their creditors could be somewhat similar to that of slaves in relation to their masters, they were nonetheless legally free and maintained their citizenship rights.

On the other hand, some other inscriptions state that if the ἀπελεύθερος does not perform his παραμονή duty, the ‘sale’ (that is, manumission) must be considered invalid

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<sup>202</sup> Cf., example, SGDI II 1703 and 1717. It is also worth mentioning the case of SGDI II 1714 (2<sup>nd</sup> century B.C.), as it states that if the ἀπελευθέρα does not perform her obligation of παραμένειν, the manumittor can punish her ‘as a free person’ (... παραμεινάτω δὲ Σωφρόνα πα- / ρὰ Δρόμωνα ἕως οὗ καὶ ζῶη Δρόμων ποιέουσα τὸ ποτιτασσόμενον καὶ δυ- / νατὸν πᾶν· εἰ δὲ μὴ πειθαρχέει Σωφρόνα, κύριος ἔστω Δρόμων ἐπι- / τιμέων Σωφρόνα τρόπωι ᾧ θέλοι ὡς ἐλευθέρα. βεβαιωτήρ κα- / τὰ τὸν νόμον).



(ἄκυρος)<sup>203</sup> and with no effects (ἀτελής). This is the case, for instance, of SGDI II 1721 (ll. 5-7):

5 παραμεινάτω δὲ Σωσικράτης παρὰ Κρατῶ ποιῶν τὸ ποιτασσόμενον πᾶν,  
ἄχρι οὗ καὶ ζῶν Κρατῶ εἰ δὲ μὴ παραμείναι καθὼς γέγραπται, ἄκυρος καὶ  
ἀτελής ἂν  
ὦν ἔστω. μάρτυροι ...

*Sosikrates must remain by Krato doing everything he is ordered to do, for the rest of Krato's life; if he (Sosikrates) does not remain (by Krato) as it has been established, the sale shall be invalid and with no effects. Witnesses: ...*

In all those cases in which, as a direct consequence of the non-fulfilment of παραμονή duties by the ἀπελεύθερος, the remedy is said to be the invalidity and the inefficacy of the προᾶσις ὠνή<sup>204</sup>, the act of manumission itself has to be considered invalid and, consequently, the ἀπελεύθερος loses his freedom and reverts into slavery.<sup>205</sup> When this happens, the non-fulfilment of παραμονή duties directly affects manumission and, as a result, the freedman's new legal condition.

To sum up, I think it is important to point out, first of all, that παραμονή was not a constant feature characterising the legal condition of all manumitted slaves, at least in Delphi: it is indeed significant that only a smaller number of inscriptions mentions the imposition of παραμονή duties binding manumitted slaves to their manumitters. For this reason, we can easily infer that παραμονή was the object of a contractual clause that could be part of the agreement to liberate the slave, but it was not a necessary element of it. In other words, in Delphic manumissions παραμονή did not characterise *ex lege* the condition of freedmen, as their legal condition was not always marked by the imposition of παραμονή duties.<sup>206</sup> Moreover, as I will show in further detail, the fact that, after

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<sup>203</sup> For the implications of the formula 'ἄκυρος ἔστω' as designating, in Greek legal texts, the institution of legal invalidity, see Dimopoulou (2013): 249-276.

<sup>204</sup> Some further examples can be found, for example, in SGDI II 1702 and 1689, both from the 2<sup>nd</sup> century B.C.

<sup>205</sup> Hopkins (1984): 158; Dareste, Hassoullier, Reinach (1898): 275; Gernet (1955): 170; Dimopoulou (2013): 262.

<sup>206</sup> Samuel (1965): 294: 'this obligation may be imposed upon the freedman, but it is not imposed by the law or act of manumission, and a man may be manumitted without it'. According

manumission, some ἀπελεύθεροι were bound to παραμονή duties whereas some other ones were not, strongly suggests the existence of two categories of manumitted slaves.

7. *The legal implications of prohibition to sell and ‘arbitration’ clauses on the legal condition of ἀπελεύθεροι under παραμονή.*

Παραμονή provisions, however, could often be followed by other clauses. For example, the provision which entitled the beneficiaries of παραμονή services to punish the ἀπελεύθεροι if the latter did not perform their duties<sup>207</sup> (which, at first sight, seems to make the *de facto* condition of ἀπελεύθεροι not much different from that of slaves), could be sometimes followed by another clause, which expressly forbade manumitters from selling freedmen.

This provision is attested, for example, in SGDI II 2140 (2<sup>nd</sup> century B.C., ll. 24-30)<sup>208</sup>, which records the liberation through ‘sale’ of a young home-born female slave named Sopatra by her mistress Kallisto:

... παραμινάτω δὲ Σωπά-  
25 τρα παρὰ Καλλιστῶ ἄχρι οὗ κα ζῶη Καλλιστῶ ποιέ-  
ουσα τὸ ποτιτασσόμενον πᾶν τὸ δυνατὸν ἀνε[γ]-  
κλήτως. εἰ δὲ μὴ παραμένοι ἢ μὴ ποιέοι τὸ ποτιτασ-  
σόμενον Σωπάτρα, κυρία ἔστω Καλλιστῶ ἐπιτιμέ-  
ο[υ]σα Σωπάτραν τρόπῳ ὧ κα αὐτὰ θέλη, πλὰν μὴ  
30 π[ω]λέουσ[α]. μάστυροι ...

*Sopatra must remain by Kallistos for the rest of Kallisto’s life, doing blamelessly everything she is ordered to do, as far as possible. If Sopatra does not remain (by Kallistos) or she does not do*

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to Segré (1945), the contractual nature of παραμονή was common all over the Greek world with one important exception, that is the *corpus* of manumission inscriptions found in the island of Calymna and dated to the 1<sup>st</sup> century A.D., where παραμονή was likely descending *ex lege* upon manumitted slaves. On this point, see chapter 4, 174-176.

<sup>207</sup> Hopkins (1978): 153, maintains that ‘the centrality of punishment in the manumission records reflected not only the owners’ power, but also their fear that ex-slaves might not do what they were told, neither stay nor serve’.

<sup>208</sup> A similar clause attesting prohibition to sell (which is usually expressed with the formula πλὰν μὴ πωλέουσα / πωλέων / πωλέοντες) is also recorded in several other inscriptions. Cf., for instance: SGDI II 2158, 2159, 2163, 2171, 2186, 2190, 2225; FD III 2:223, 2:233, 2:243, 2:247, 3:27, 3:32, 3:45, 3:174, 3:369, 3:306, 3:346, 3:364, 3:374, 3:411, 3:424, 4:71.

*what she is ordered to do, Kallisto has the power to punish Sopatra in any way she wants, but she cannot sell her. Witnesses: ...*

This provision is fundamental in showing that the legal condition of ἀπελεύθεροι under παραμονή was one of freedom. If ἀπελεύθεροι under παραμονή were still slaves, as some authors maintain<sup>209</sup>, prohibition to sell them would have constituted an important limitation of their (former) masters' right of ownership. More specifically, prohibition to sell is not consistent with the qualification of freedmen under παραμονή duties as slaves, as the right to alienate their property and, therefore, to transfer ownership over them<sup>210</sup> through sale is one of the most important rights descending from ownership.<sup>211</sup>

Another clause which is sometimes attested in the Delphic inscriptions states that if manumittors and manumitted slaves disagreed on the performance of παραμονή duties by the latter, both the ἀπελεύθεροι and their manumittors had to be brought in front of three men who would decide the dispute (they were thus acting as arbitrators): their decision, whatever it was, had to be considered binding for both parties.<sup>212</sup>

A typical example is provided by SGDI II 1689 (2<sup>nd</sup> century B.C., ll. 6-9):

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<sup>209</sup> Bloch (1914): 27; Curtius (1843): 39; Rensch (1911): 107; Schönbauer (1933): 422. Most recently, cf. Sosin (2015).

<sup>210</sup> The majority of the inscriptions providing remedies in the case of non-fulfilment of παραμονή by freedmen expressly forbids manumittors from selling manumitted slaves. Yet, in a couple of cases manumittors are expressly authorised both to punish their freedmen and to sell them. Cf. FD III 3:337 (undated): παραμινάτωσαν δὲ αὐταῖ τὰ προγεγραμμένα σώματα Σ[ωτη]- / [ρίχα, / Σ]ύμφορον, Τρυφέρα πάντα τὸν χρόνον ἔ[ως] κα ζῆ Μενεκράτεια, δουλεύοντα καὶ ποιούντα π[ᾶν τ]ὸ ἐπιτασσόμενον πᾶν τὸ δυνατόν. εἰ δὲ τι τῶν προγεγραμμένων σωμάτων μὴ πειθαρχέ[οι] / [ἢ μὴ ποιέοι τὸ ἐπι[τασσ]όμενον ὑπὸ Μενεκρατείας, ἔξουσίαν ἔχέτω Μενεκράτεια εἴτε κα θέλη / πωλεῖν τῶν προγεγραμμένων τι σωμάτων [πωλέουσα εἴτε κολάζουσα καὶ πλαγαῖς καὶ [δ]εσμοῖς καθὼς κα θέλη. See also FD III 3:175 (1<sup>st</sup> century B.C.): this inscription makes a distinction between the case in which the manumitted slave does not παραμένειν (in which case he can be sold), and the case in which he does not do what he is ordered to do (and the consequence will be physical punishment, whilst sale is expressly forbidden): παραμεινάτω δὲ Ἀγαθοκλῆς παρὰ Ἀβρόμαχον ἕως κα ζῆ Ἀβρόμαχος, ποιῶν τὸ ἐπιτασσόμενον πᾶν τὸ δυνα- / τὸν ἀνεγκλήτως· εἰ δὲ μὴ παραμένει, κύριος ἔστω Ἀβρόμαχος καὶ πωλέων Ἀγαθοκλῆ καὶ ὑποτιθείς· εἰ δὲ / μὴ ποιέοι τὸ ἐπιτασσόμενον πᾶν τὸ δυνα[α]τόν, κύριος <ἔσ>τω Ἀβρόμαχος ἐπιτιμῶν τρόπῳ ᾧ κα θέλη, πλὰν μὴ <πωλέων>.

<sup>211</sup> Honoré (1961): 107.

<sup>212</sup> Cf. also SGDI II 1696, 1832, 1858, 1874, 1971, all from the 2<sup>nd</sup> century B.C.

παραμεινάτω δὲ Νικαία καὶ Ἴσθμος παρὰ Σωσίαν ἄχρι οὗ καὶ ζῶντος Σωσίας,  
ποιέοντες πᾶν  
τὸ ποτιτασσόμενον Σωσία τὸ δυνατόν [ἀ]νεκλήτως· εἰ δὲ μὴ ποιέοιεν Νικαία  
καὶ Ἴσθμος, μὴ  
ἔστω βέβαιος αὐτοῖς ἂν ὦνά, ἀλλὰ ἄκυρος ἔστω. εἰ δὲ τι ἐγκαλέοι Σωσίας  
Νικαία ἢ Ἴσθμῶ, ἐπικρι-  
θέντων ἐν ἀνδρῶσι τρεῖσι· ὅ τι δὲ καὶ οὗτοι κρίνωσι, κύριον ἔστω.

*Nikaia and Isthmos must remain by Sosias for the rest of Sosias's life, doing blamelessly everything they are ordered to do, as far as possible; if Nikaia and Isthmos do not do (everything they are ordered to do), the sale shall not be confirmed, but it will be invalid. If Sosias accuses Nikaia or Isthmos, the decision must be taken by three men; whatever they decide, it will be binding.*

This provision 'implicitly recognised a measure of equality between master and freed slave'<sup>213</sup> and suggests the existence of rights that set freedmen under παραμονή apart from slaves. In other words, this provision is not consistent with the identification of freedmen under παραμονή as slaves (and of παραμονή as 'delayed manumission'): if manumitted slaves under παραμονή were still considered to be property of their masters, the latter would have had complete power to decide the means through which punishing their slaves, and no interference would have been allowed in the concrete exercise of their right of ownership.

#### 8. *The institution of ἀπόλυσις and its legal implications.*

After mentioning the imposition of παραμονή duties upon manumitted slaves, some inscriptions (around forty)<sup>214</sup> also attest the possibility for ἀπελεύθεροι to obtain release from παραμονή before the term specifically established: the 'release of the freedman from his paramone'<sup>215</sup> is traditionally referred to as ἀπόλυσις, and the formula typically used in the inscriptions to describe this institution is 'ἀπολύειν τᾶς παραμονᾶς'.

<sup>213</sup> Hopkins (1978): 154.

<sup>214</sup> The inscriptions mentioning the ἀπόλυσις-clause are the following: FD III 1:316, 2:225, 3:43, 3:272, 3:273, 3:278, 3:281, 3:292, 3:296, 3:302, 3:304, 3:319, 3:327, 3:332, 3:333, 3:340, 3:341, 3:354, 3:369, 3:398, 3:402, 3:418, 3:419, 3:423, 3:428, 4:507, 6:7, 6:18, 6:25, 6:30, 6:33, 6:40; SGDI II 1919, 2157, 2167, 2200, 2327, 2199; BCH 76 (1952) 646,17; BCH 83 (1958) 480,13; BCH 110 (1986) 437,3.

<sup>215</sup> Westermann (1948b): 26.

Early release from παραμονή was generally achieved by ἀπελεύθεροι through the payment of a specific sum of money to the beneficiary of παραμονή; yet, some inscriptions record the release of ἀπελεύθεροι from παραμονή duties without mentioning any payment to their former masters. However, the fact that some inscriptions do not mention payment does not mean that no payment was actually made<sup>216</sup>, as FD III 3:418 (undated) clearly shows. The inscription records the liberation of a female slave named Soso by her mistress Ladika, the imposition on her of παραμονή duties, and the possibility of ἀπόλυσις by payment of three silver minae to Ladika (ll. 1-5):

[ἄρχοντος — — — —]ου, [μηνὸς Ἐνδυ[σπ]οιτρ[οπίου, β]ουλευ[όντων Α]β[ρ]ομάχου, Μεγάρα, ἀπέδ[ο]το Λαδίκᾱ καὶ Πο-  
 [— — — — — τῷ Ἀπόλλωνι σ]ῶμα γυναικῆον ἧ ὄνομα Σωσώ, τιμᾶς ἀργυρίου [υ μ]νᾶν [τ]ριῶν, καὶ τὰν τιμᾶν ἔ-  
 [χει πᾶσαν. βε]βαιωτ[ήρ κ]ατὰ τοῦ[ς] ν[όμου]ς τᾶς πόλιος Μελισσίων Διονυσίου. παραμινάτω δὲ Σωσώ Λαδίκᾱ ἔ-  
 [ως κα ζῆ, ποιούσα] τ[ὸ] ἐ[πι]τασσόμενον πᾶν· εἰ δὲ μὴ ποιέοι, ἐξουσίαν ἐχέτω Λαδίκᾱ ἐπιτειμέουσα τρόπῳ ῶ κα  
 5 [θέλη. εἰ δὲ θέλοι] Σωσώ προαπελθεῖν ἀπὸ Λαδίκας, δότω Λαδίκᾱ ἀργυρίου μνᾶς τρεῖς.

*[Under the archonship of — — — —], in the month of Enduspoitropios, Ladika and [— — — — — ] sold to Apollo a female slave named Soso, at the price of three silver mnas, and they received the whole money. Guarantor in accordance with the laws of the city: Melission son of Dionysios. Soso must remain by Ladika for the rest of her life, doing everithing she is ordered to do; if she does not (do everithing she is ordered to do), Ladika has the power to punish her in any way she wants. If Soso wants to leave (Ladika) earlier, she will give three silver mnas to Ladika.*

The following inscription FD III 3:419 (undated) records Soso's ἀπόλυσις:

[ἐπι δὲ ἄρχοντ]ος Εὐκλείδα, μηνὸς Ἀμαλίου, ἀπέλυσε Λαδίκᾱ Σωσῶι τᾶς παραμονᾶς. [μάρτυροι]  
 [. . .c.10. . .]ιος, Κλέανδρος, Φίλων, Λάδικος.

<sup>216</sup> Scholars generally agree on this point. See, for instance, Samuel (1965): 265: 'we cannot assume from the absence of mention of payment in the *apolyxis* that no payment was made'.

[in the time of the archonship of Eukleida], in the month of Amalios, Ladika released Soso from her paramone. [Witnesses]: Kleandros, Philon, Ladikos.

Although FD III 3:419 does not mention Soso's payment to her former mistress, that the payment was actually made can be inferred from what we find in FD III 3:418, which required Soso to pay three silver minae in order to obtain early release from παραμονή.

Finally, some other inscriptions, instead of recording the payment made by the ἀπελεύθερος to the manumittor in order to obtain early release from παραμονή, generically state – this is the typical formula – that the ἀπελεύθερος has to be considered released from παραμονή since the manumittor has received 'all the goods' (or 'all the money') that had been established in the 'sale'-agreement ('λαβών / λαβοῦσα τὸ ἐν τᾷ ὠνᾷ καταγεγραμμένον χρῆμα').<sup>217</sup>

One peculiar case is represented by SGDI II 1717 (2<sup>nd</sup> century B.C.): after describing the liberation of a female slave named Aphrodisias by her masters and after compelling her to παραμένειν with them for the rest of their lives, the inscription states that if she wants to leave them any time earlier, she has to provide them with a slave-girl of her age, whom she has to buy in return for her ἀπόλυσις (ll. 6-8):

5 ...  
ἐφ' ὥτε ἐλευθέρα εἶμ[εν κ]αὶ ἀνέφαπτος ἀπὸ πάντων[ν]. εἰ δὲ πρότερον θέλοι  
Ἀφροδισία ἀπολύεσθαι ἀπὸ Καλλιστράτου  
καὶ Θα[υμί]ου ζώντων, ἀντιπρι[άσ]θω Ἀφροδισία Καλλιστράτω[ι κ]αὶ  
Θαυμίῳ σῶμα γυν[α]ικεῖον τὰν αὐτὰν ἀλικίαν  
ἔχον ...

... on the condition that she is free and not claimable by anyone. If Aphrodisias wants to leave Kallistratos and Thaumios before they die, Aphrodisias shall buy for Kallistratos and Thaumios a slave-girl of her age ...

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<sup>217</sup> Cf., e.g., FD III 6:18 (1<sup>st</sup> century B.C.). See also FD III 3:296 (undated) that, in the last two lines, after describing the liberation of a female slave and ordering her to παραμένειν with her manumittor, records her ἀπόλυσις: ... ἀπέλυσε Σωτηρὶς τὰς πα[ρα]μονᾶς Ξενοκράταν, λαβοῦσα τὸ ἐν τᾷ ὠνᾷ] / [κ]αταγεγραμμένο[ν χρῆμ]α, ἐφ' ὥτε ἐλευθέρα [— — —].

The institutions of παραμονή and ἀπόλυσις are therefore strongly connected, and this is reflected in the very structure of the Delphic inscriptions. More specifically, the reciprocal position of παραμονή and ἀπόλυσις within the inscriptions can be modelled in three different ways. Most inscriptions simply record the actual ἀπόλυσις of manumitted slaves (‘ἀπέλυσε τᾶς παραμονᾶς’) without relating their previous manumission, or to the imposition of παραμονή duties upon them (the content and duration of which are thus unknown).<sup>218</sup> Some other inscriptions, although mentioning ἀπόλυσις only, are connected to the previous inscription, which records the manumission of that same slave and the imposition on him/her, once freed, of παραμονή duties.<sup>219</sup> In some other cases manumission, παραμονή and the possibility of early release from παραμονή are mentioned within one single inscription<sup>220</sup>; these inscriptions can be sometimes followed by a separate one recording the actual release of the ἀπελεύθερος from παραμονή.<sup>221</sup> Finally, some other inscriptions record, at the same time, manumission, παραμονή and ἀπόλυσις.<sup>222</sup>

<sup>218</sup> Cf., for example, FD III 3:43 (1<sup>st</sup> century B.C.): ἐπὶ δὲ ἄρχοντος Ἐράτωνος, / μηνὸς Ἀπελλαίου, Φιλῶ Φίλωνος / ἀπέλυσε τᾶς παραμονᾶς Σωτη- / ρίν. μάρτυροι ... (Under the archonship of Eraton, in the month of Apellaios, Philos son of Philos released Soteris from her paramone. Witnesses: ...).

<sup>219</sup> For example, SGDI II 1918 (2<sup>nd</sup> century B.C.) describes the liberation through ‘sale’ to Apollo of a female slave named Agathameres by her masters Ierokles and Ierokleia and requires her, once freed, to παραμένειν with them; the following inscription, SGDI II 1919 (2<sup>nd</sup> century B.C.) records the actual release of Agathameres from παραμονή, after she had paid three silver minae to her former masters.

<sup>220</sup> This is the case, for example, of FD III 3:273 (undated).

<sup>221</sup> Cf. e.g. SGDI II 2199 (1<sup>st</sup> century B.C.), which describes the liberation of a female slave named Apollonia by her mistress Theodora through ‘sale’ to Apollo and requires her, once freed, to παραμένειν with her former mistress until the latter’s death. It also states that, if she wants to be released earlier from παραμονή, she has to pay three silver minae to Theodora. The following inscription, SGDI II 2200 (1<sup>st</sup> century B.C.), records Apollonia’s ἀπόλυσις: ἐπὶ δὲ ἄρχοντος [Κλ]εομ[άν]τιος τοῦ Δ[ί]ωνος, / μηνὸς Ἰλαίου, Θεοδώρα ἀπέλυσε τᾶς παρα- / μονᾶς Ἀπολλωνίαν, λαβοῦσα μνᾶς τρεῖς, συν- / παρούσας καὶ συναρεστεούσας καὶ τᾶς / ματρὸς Σωπάτρας. μάρτυροι: οἱ αὐτοί (Under the archonship of Kleomantis son of Dion, in the month of Ilaios, Theodora released Apollonias from her paramone, after [Apollonias] paid three mnas, with the assistance and the consent of her mother Sopatras. Witnesses: ...).

<sup>222</sup> This is the case, for instance, of FD III 3:296 (undated): after describing the liberation of a female slave named Senokratea and the imposition on her of παραμονή duties towards her former mistress Soteris, this inscription records Senokratea’s ἀπόλυσις, after Soteris had received all that had been established in the sale agreement (lines 15-17). Similarly, see also FD III 6:33 (1<sup>st</sup> century B.C.).

The institution of ἀπόλυσις is often ignored by studies of Delphic manumissions, or its relevance underestimate. The analysis of its nature and implications is however central, not only because it further contributes to our understanding of the complex way of manumitting slaves through προᾶσις ὠνή (or, more precisely, for the understanding of the different clauses that could be attached to their liberation), but also – and above all – because its basic features shed light on an issue which is still highly controversial, namely, the legal condition enjoyed by manumitted slaves bound to their manumitters by παραμονή duties.

The main significance of ἀπόλυσις is to allow manumitted slaves under παραμονή to pay a specific sum of money to their manumitters in order to obtain early release from παραμονή. This simple fact is key, as its relevance for our understanding of manumission can be appreciated in two main respects. On the one hand, it implies that during the παραμονή period manumitted slaves could own their own money, which was considered to be their property not only *de facto*, but also *de iure*. This clearly implies a fundamental change in their legal condition since, before being manumitted, slaves could manage their *peculium* only *de facto*, while *de iure* it was considered to be property of their masters. On the other hand, ἀπόλυσις also implies that ἀπελεύθεροι could validly pay money to their former masters: in other words, they could negotiate and enter into legally binding agreements with their manumitters. This is another element which clearly differentiates the legal condition of ἀπελεύθεροι from that of slaves, who – by contrast – were not legal persons and thus needed the intervention of a third party (in the case of the Delphic manumissions, the god) in order to make a valid payment to their masters for manumission. Manumitted slaves under παραμονή, on the other hand, were entitled to pay money directly to the beneficiaries of their services without the intervention of a third person: this act was legally valid, and it implied the extinction of their obligations towards their manumitters.

These basic features of ἀπόλυσις ultimately prove that slaves, as an effect of manumission, underwent a significant change in their legal condition,<sup>223</sup> independently

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<sup>223</sup> On this point, cf. the persuasive conclusions suggested by Samuel (1964): 268. See also Westermann (1948b): 27 n. 55.



or not of the possible imposition upon them of post-manumission obligations (παραμονή). The inscriptions make it clear that even those ἀπελεύθεροι who were obliged to παραμένειν with their former masters were conceived of as legally free individuals, who could own their own money and enter into legally binding agreements with free individuals without needing the intervention of the god as a validating party in the transaction.

9. *Final considerations on παραμονή, ἀπόλυσις and the legal condition of freedmen in the Delphic inscriptions.*

A comprehensive examination of παραμονή provisions, of the different clauses that could follow slaves' manumission, and of the institution of ἀπόλυσις is of primary importance for our understanding of the legal condition enjoyed by those freedmen who were bound to their former masters by post-manumission obligations.

First of all, we notice that the inscriptions from Delphi point to the existence of two categories of manumitted slaves, both enjoying a legal condition of freedom and differing 'only' as for their *de facto* situation. It is in fact clear that while in the majority of Delphic inscriptions manumitted slaves were not required to παραμένειν with their manumitters (thus enjoying freedom not only *de iure*, but also *de facto*, immediately after and as an effect of their liberation), in a smaller number of cases ἀπελεύθεροι were bound to their manumitters by παραμονή duties.

The fact that, after manumission, ἀπελεύθεροι could be under παραμονή obligation has often puzzled scholars, and much confusion has characterised their debates on 'whether persons freed under παραμονή were virtual slaves, free, half-free, half-slave, or both slave and free'.<sup>224</sup> The simple fact that ἀπελεύθεροι could be required to παραμένειν with their former masters has in fact taken scholars to suggest three different interpretations about their legal condition. Some of them believe that ἀπελεύθεροι under παραμονή were still slaves, and that they would become legally

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<sup>224</sup> Zelnick-Abramovitz (2005): 239.

free individuals only at the end of their *παράμωνή* period.<sup>225</sup> This idea is mainly based on two considerations: the possible subjection of freedmen to physical punishment by their manumitters if *παράμωνή* was not correctly or properly performed; and the fact that their obligation to ‘remain with’ their former masters in order to perform specific or unspecified duties made their condition akin to that of slaves. As I showed above, however, none of these considerations constitutes a decisive argument for the interpretation of the legal condition of *ἀπελεύθεροι* under *παράμωνή* in terms of slavery; moreover, the clauses that could follow *παράμωνή* provisions (most importantly, prohibition to sell, *ἀπόλυσις* and the settlement of any dispute through private arbitrators) are inconsistent with the interpretation of their legal condition in terms of slavery.

Other scholars, on the other hand, insist on the alleged ‘ambiguity’ of *παράμωνή* clauses<sup>226</sup> and define the legal condition of manumitted slaves under *παράμωνή* as an unspecified one between slavery and freedom.<sup>227</sup> Most recently, Zelnick-Abramovitz has argued that the *παράμωνή* clause justifies a definition of slaves’ liberation, in these cases, as ‘deferred manumissions’ (by which she intends ‘any act of manumission which did not make the slave free immediately’)<sup>228</sup>, and that ‘manumission inscriptions that include *paramone* clauses and other conditions reflect the ambiguous status of manumitted

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<sup>225</sup> This opinion is shared by Bloch (1914): 27, who also maintains that freedmen under *παράμωνή* could not enjoy the right of ownership and that – at least according to some inscriptions – freedmen’s offspring born during *παράμωνή* were not considered free. More specifically, according to Bloch, during the *παράμωνή* period freedmen were still slaves, whereas they would become free only after the *παράμωνή* period had come to an end. Cf. also Curtius (1843): 39; Rensch (1911): 107 (although his considerations refer to manumission documents from Thessaly); Schönbauer (1933): 422; most recently, cf. Sosin (2015).

<sup>226</sup> According to these scholars, this ambiguity is due to the fact that ‘le statut juridique de l’affranchi se trouve en contradiction avec la réalité de sa situation’: cf. Mulliez (1992): 39.

<sup>227</sup> Babacos (1964): 319 (‘zugleich vollkommen frei und vollkommen Sklave’); Hopkins (1978): 148 (‘a compromise between slavery and freedom’); Calderini (1965): 286 (‘egli aveva ottenuto un principio di libertà, e sperava presto di raggiungerla intiera’); Pringsheim (1950): 186 n. 6 (‘the legal ownership of the god, the beneficial ownership of the slave, are both restricted by the *paramone*’); Koschaker (1931): 45 (‘die *Paramone* nicht die Formulierung einer Bedingung, sondern einen unmittelbar durch die *Paramone*freilassung eintretenden rechtlich relevanten Dauerzustand, einen besonderen Status des Freigelassenen’).

<sup>228</sup> Zelnick-Abramovitz (2005): 222.

slaves'.<sup>229</sup> It follows that 'conditions attached to manumission, whether or not combined with *paramone*, protracted slavery to a considerable degree'.<sup>230</sup> Finally, only very few scholars understand the legal condition of ἀπελεύθεροι under παραμονή obligation in terms of freedom.<sup>231</sup>

The general confusion among scholars on how to define manumitted slaves under παραμονή obligation is due to the fact that the legal condition of these manumitted slaves has too often been the object of misleading and superficial interpretations, which did not take into adequate consideration the legal aspects and implications of manumission and of its legal consequences.

A first attempt to distinguish between *de iure* and *de facto* condition of ἀπελεύθεροι under παραμονή can be found in Kranzlein's approach<sup>232</sup>, who compared the content of the Delphic inscriptions mentioning παραμονή provisions with three inscriptions from Phocis: one (IG IX, 1<sup>2</sup> 3:754) is from Amphissa and is dated to the 1<sup>st</sup> century B.C., whereas the other two (IG IX, 1: 192 and IG IX, 1: 194) come from the 2<sup>nd</sup> century B.C. Tithorea. Two of them (IG IX, 1<sup>2</sup> 3:754 and IG IX, 1:192) have very similar contents: after describing the liberation of slaves through 'sale' to the god (Asclepius in the first one, Serapis in the second one), both of them require manumitted slaves to παραμένειν with their manumitters. At the same time, however, both inscriptions stress that, towards anyone else other than the beneficiaries of their services, they had to be considered as free individuals (IG IX, 1<sup>2</sup> 3:754, l. 10: ποτι δὲ τοὺς λοιποὺς πάντας ἔστω Σωτηρις ἐλευθέρα καὶ ἀνέπαφο[ς]; IG IX, 1:192, ll. 21-22: τοῖς δὲ λοιποῖς ἅπασιν ἐλευθέρα ἔστω καὶ ἀνέπαφος).

The contrast between the condition of freedmen under παραμονή in relation to the beneficiary of παραμονή, on the one hand, and their condition towards all the other members of the society, on the other hand, is even more evident in IG IX, 1: 194 (ll. 20-23), where the services that the two manumitted slaves under παραμονή are required

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<sup>229</sup> Zelnick-Abramovitz (2005): 244.

<sup>230</sup> Zelnick-Abramovitz (2005): 245.

<sup>231</sup> Dareste, Haussoullier, Reinach (1898): 274-275; Westermann (1948b): 12; Westermann (1955): 35; Samuel (1965): 294-295.

<sup>232</sup> Kränzlein (1983): 239-247.

to perform in favour of their former masters is described with the verb δουλεύειν, whereas they are said to be ἐλεύθεροι *vis-à-vis* everybody else:

20 ... παρμεν<ε>ἰ δὲ Νικάσιν καὶ Στοργή πάν-  
τα τὸν τᾶς ζωᾶς {Ἀ<νασι>φορ<ου>} Ὀνασιφόρου χρόνον {Υ}  
δουλεύουσαι, τοῖς δὲ λοιποῖς ἐλεύθεραι ἔ-  
σ<των> ...

*Nikasis and Storghes must remain (by Anasiphoros) for the rest of Anasiphoros' life rendering services as slaves, but towards everybody else they shall be free ...*

According to Kranzlein's interpretation, the content of these three inscriptions ultimately suggests that the *de facto* condition of manumitted slaves under παραμονή can be differently understood depending on whether their status is considered in relation to their former masters (in which case, although legally free, their *de facto* freedom was restricted) or, on the contrary, in relation to everybody else (in which case their freedom was 'complete', both *de facto* and *de iure*). The metaphorical use of the language of slavery which characterises these Phocian sources, as well as their suggested distinction between legal and 'factual' levels, mirror the information that we can draw from the Delphic inscriptions and, at the same time, further confirm that the legal condition of ἀπελεύθεροι under παραμονή obligation is one of freedom.

As noted above, several provisions mentioned in the corpus of inscription from Delphi suggest that, from a legal point of view, ἀπελεύθεροι compelled to παραμονή enjoyed a condition of freedom. These provisions are: prohibition, for the beneficiaries of παραμονή, to sell freedmen; necessity to recur to three arbitrators in case of a dispute between beneficiaries of παραμονή and manumitted slaves; validity of the arbitrators' decision for both parties; finally, the institution of ἀπόλυσις, which shows that freedmen could own money and enter into legally binding agreements with their manumitters.

To sum up, I believe that the language of the Delphic inscriptions suggests that manumitted slaves went through a major change in their legal condition immediately after and as an effect of manumission: all manumitted slaves, whether or not under παραμονή obligation, were legally free, and their freedom was protected through

several means. Moreover, despite the great confusion which has long characterised the scholarly debates about the legal condition of manumitted slaves under *παράμωνή*, the inscriptions clearly indicate that the relationship between the latter and their former masters is no longer one of ownership, as is clearly suggested by the following elements.

First, *παράμωνή* is described as the object of a binding agreement between manumitters and manumitted slaves (as legally free individuals), under which *ἀπελεύθεροι* were bound to perform specified or unspecified services in favour of their former masters or of other members of the latter's family. This means, in other words, that manumitted slaves under *παράμωνή* were under obligation towards their manumitters: this ultimately implies that, even though under *παράμωνή*, they were (already) legally free, and that their legal condition of freedom resulted from the very 'sale' to the god. The fact that very few inscriptions, on the other hand, state that manumitted slaves under *παράμωνή* shall still perform services 'as slaves', or that, after the *ἀπόλυσις*, freedmen are 'completely free', does not contrast with this conclusion. It is in fact clear that, in these cases, the inscriptions are not referring to the legal significance of slavery and freedom, but rather use the vocabulary of slavery and freedom in a metaphorical sense: this suggests that the relationship between manumitted slaves under *παράμωνή* and their former masters should not be described in terms of ownership but, rather, in terms of domination.<sup>233</sup>

Second, the institution of *ἀπόλυσις* (although attested in a small number of inscriptions) is also fundamental for interpreting the legal condition of *ἀπελεύθεροι* under *παράμωνή* in terms of freedom. On the one hand, it shows that this category of *ἀπελεύθεροι* could own, also from a legal point of view, their own money; on the other hand, it indicates that they could enter into legally binding agreements with their former owners: both these elements are clear indicators of the legal condition of freedom enjoyed by freedmen under *παράμωνή*.

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<sup>233</sup> For the large recurrence by the Greeks to metaphorical usages of the vocabulary of slavery and freedom, see Lewis (forthcoming a). Cf. Canevaro, Lewis (2014), for a similar interpretation of the relationship between former masters and freedmen who were not *χωρίς οἰκοῦντες* in Athens as based on domination, rather than on ownership.

Finally, prohibition to sell those manumitted slaves who did not perform their obligations, or the necessity to recur to private arbitration in the event of dispute between the latter and the beneficiaries of their services, clearly point to the fact that the legal condition enjoyed by ἀπελεύθεροι under παραμονή was one of freedom. In this last regard, it is important to keep in mind that, independently or not of the possible imposition of παραμονή obligations upon ἀπελεύθεροι, manumitted slaves have to be understood as legally free individuals, who became as such as an effect of the 'sale' to Apollo. Moreover, as chapter 4 will show, the distinction between manumitted slaves under παραμονή obligation and ἀπελεύθεροι who were not required to perform such services for their manumitters is also attested in many sources referring to Classical Athens, thus proving that the institution of παραμονή and its implications in the legal condition of manumitted slaves, far from being a Delphic peculiarity, share the same basic features in different geographical and chronological contexts of Ancient Greece.

## CHAPTER 3

### *Manumission and consecration in Central Greece: the case of the Chaironeian inscriptions*

#### 1. *Introduction.*

Besides the so-called manumissions through 'sale' largely attested in the Delphic inscriptions, scholars identify another form of sacral manumission, which is traditionally labelled as 'manumission through consecration' of a slave to the god: the general view is that, as an effect of consecration, slaves became immediately free individuals.<sup>234</sup>

The bulk of the evidence for this alleged form of manumission comes from Central Greece and is dated from the 2<sup>nd</sup> and the 1<sup>st</sup> century B.C., although few cases of manumission through consecration are already attested in other regions of the Greek world (mainly in the Peloponnese) from the 5<sup>th</sup> century B.C.<sup>235</sup> The evidence for this specific form of manumission is provided, once again, by the epigraphic material: the chronological distribution of the inscriptions shows that 'manumission through consecration' was practiced simultaneously with manumission through 'sale', and that these two modes of manumission were thus coexisting in Central Greece during the Hellenistic period. The geographical distribution of the evidence seems to suggest however that 'sale' and 'consecration' were not alternative forms of manumission: if manumission thorough 'sale' was typical of Delphi, where only few inscriptions attesting consecrations of slaves 'for the purpose of freedom' have been found<sup>236</sup>,

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<sup>234</sup> See, for instance: Bloch (1914): 6; Westermann (1948a): 59; Sokolowski (1954); Bömer (1960): 10-11; Calderini (1965): 96; Rädle (1969): 42; Schaps (1976); Darnezin (1999); Zelnick-Abramovitz (2005): 86-99; Meyer (2009); Grenet (2014): 395-396; Kamen (2014): 178; Caneva, Delli Pizzi (2015): 171-172.

<sup>235</sup> Zelnick-Abramovitz (2005): 86; Kamen (2005): 58-83. These inscriptions have been collected by Darnezin who, in the introduction of her work on 'manumission through consecration', points out that 'la grande majorité date des 3<sup>e</sup> et 2<sup>e</sup> siècle avant J.-C., mais s'y ajoutent quelques actes du Péloponnèse (n° 1 à 9), qui représentent les documents les plus anciens de ce recueil (fin du 5<sup>e</sup> et 4<sup>e</sup> siècle)' (Darnezin [1999]: 10).

<sup>236</sup> Yet, in these cases the vocabulary of consecration presents some differences with that of the typical consecration-inscriptions from Central Greece. The only Delphic inscriptions recording dedications of slaves 'for the purpose of freedom' are the following: FD III 3:329 (2<sup>nd</sup> century B.C.), especially lines 2-3 (... ἐπὶ τοῖσδε ἀν[α]τί[θ]ητι [Κλε]- / [όμαντις Δίν]ωνος [ών]άν Εισιάδος ἐπ' ἐλευθερίᾳ τειμᾶς ἀργυρίου μνᾶν δύο ...); SGDI II 2071 (2<sup>nd</sup> century B.C.), especially lines 2-4

manumission through consecration is largely attested in other πόλεις of Central Greece (such as Chaironeia, Koroneia and Orchomenos) where, on the other hand, manumission through ‘sale’ does not seem to be attested.<sup>237</sup>

In this chapter, I shall analyse, as a case-study, the vocabulary of the inscriptions from Chaironeia, since this πόλις provides the bulk of the epigraphic material concerning the so-called ‘manumission thorough consecration’. The corpus of the dedication inscriptions from Boeotia constitutes the most significant source of information for the study of the so-called ‘manumissions through consecrations’<sup>238</sup> and comprises 172 inscriptions, 125 of which have been found in Chaironeia<sup>239</sup>: for this reason, a careful investigation of its inscriptions is a useful starting-point for the correct understanding of the language and implications of the consecrations of slaves.

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(Ἄσανδρος Μενάνδρου Βεροιαῖος ἀνατίθησι τῶι / Απόλλωνι τῶι Πυθίωι ἐλευθέραν ἐμ παραθήκηι / Εὐπορίαν τὴν αὐτοῦ παιδίσκην ...); SGDI II 2101 (2<sup>nd</sup> century B.C.), especially lines 9-11: καὶ τὰ ἄλλα πάντα τὰ ἴδια {α} / ἀνατίθητι, εἴ τί κα πάθη, τῶι θεῶι καὶ {καί} τοῖ πόλει, καὶ Θευτίμαν τὰν ἰδίαν / θεράπαιναν ὥστε ἐλευθέραν εἶμεν αὐτάν, εἴ τί κα πάθη ...); SGDI II 2172 (2<sup>nd</sup> century B.C.), especially lines 5-9 (... ἀνέθηκαν / Καλλικράτης Καλλινόου, Πραξῶ Κλεομένεος / Ἐριναῖοι σῶμα ἀνδρεῖον ᾧ ὄνομα Ἀντίοχος τῶι Απόλλω- / νι τῶι Πυθίωι ἐπ’ ἐλευθερίαι, ἀπειλαφότες παρ’ αὐτοῦ λυ- / τρα ἐκ πολεμίων, ...); SGDI II 2097 (2<sup>nd</sup> century B.C.), especially lines 6-10 (... ἀνέθηκε Ἀγη- / σιβούλα Φυσκίς, συννευδοκέοντων τοῦ τε πατρὸς αὐτᾶς / Λύκωνος καὶ τᾶς ματρὸς Ἀρμοξένας, τῶι Απόλλωνι / τῶι Πυθίωι σῶμα γυναικειῶν αἰ ὄνομα Μνασῶ, ὥστε ἱεράν εἶμεν καὶ ἀνέφαπτον καὶ ἐλευθέραν Μνασῶ ...).

<sup>237</sup> About the practice of manumitting slaves in Delphi and in Chaironeia, as well as for the relationship between the two different (alleged) forms of ‘sacral’ manumission, see Meyer (2009): 82-85. Meyer argues, on the one hand, that both cases – as traditionally included within the so-called ‘sacral’ manumissions – reflect ‘an archaic way of freeing slaves, characteristic of backwaters of the Greek world before city-state involvement in the process of manumission’; on the other hand, she maintains that the form of manumission which is attested in Chaironeia ultimately represents a local ‘response’ to the importance and prestige of the Delphic sanctuary and its largely attested practice of manumitting slaves through ‘sale’ to Apollo. Meyer argues in fact that ‘Chaironeia, which could not ignore or evade the force exerted by her close neighbour Delphi’s immense regional prestige, was taking canny steps of her own to avoid being overwhelmed by that powerful sanctuary’s influence. The city and her major families worked together to ensure that the local sanctuaries would never lack dedicated service, and these sanctuaries in turn must have contributed to the prestige and prosperity of the city’. It follows that, in Meyer’s interpretation, ‘supporting Chaironeian sanctuaries was a way for Chaironeia to support herself, and to assure her own continued existence’.

<sup>238</sup> Darnezin (1999): 9.

<sup>239</sup> Of the other inscriptions from Boeotia dealing with consecrations of slaves, 16 come from Koroneia, 14 from Orchomenos, 7 from Thespias, 6 from Lebadeia, 4 from Thisbe and 1 from Oropos. Cf. Grenet (2014): 395.



Scholars normally believe that, as an effect of consecration, slaves became *ἱεροί*, that is free, and that in all these cases consecrations were only fictitious. Such a conclusion, however, does not take into adequate consideration several and fundamental questions arising from the text of the inscriptions, which need to be satisfactorily answered before the practice can be properly assessed. On the one hand, nothing in the sources suggests that these consecrations were fictitious: the formulas of the inscriptions are in fact found all over Greece for dedications of gifts to the gods.<sup>240</sup> On the other hand, the vocabulary of dedication as is used in the Chaironeain inscriptions is technical and, by alluding to the twofold act of dedication-consecration, seems to suggest that consecrated slaves became property of the god to whom they had been dedicated: their final result would therefore be a transfer of ownership over the dedicated slaves from human owners to the gods.

In order to overcome these difficulties and to understand the implications of these dedications of slaves correctly, in this chapter I shall focus, first of all, on the vocabulary of the act of dedication-consecration in order to highlight the features and implications of the verb *ἀνατίθημι*, on the one hand, and of the adjective *ἱερός*, on the other, as both terms refer to the ownership of the gods. Second, I will analyse the individual elements (such as the identity of the dedicator and of the dedicated person) and clauses (such as the *‘μὴ προσήκοντα μηθενὶ μηθέν’* clause, and the legal protection granted to consecrated slaves) that are recorded in the dedication inscriptions, in order to provide a comprehensive overview on the features which characterised the dedication of slaves and the legal condition of *ἱεροί*: in doing so, I shall compare the Chaironeian inscriptions with the epigraphic material recording dedications of slaves that has been preserved in nearby *πόλεις*. Third, once all these aspects have been made clear, I shall question (first of all in legal terms) the supposed analogy between the condition of a *ἱερός* (whose designation identifies, technically and legally, the property of a god) and the condition of free individuals (who, on the contrary, were not the property of any human or divine individual). In order to reach a complete understanding of the condition of *ἱεροί*, I shall

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<sup>240</sup> For the formulas typical of dedication-consecration, see Rouse (1902): 335-341; Darmezis (1999): 180-183; Parker (2004): 274.

compare the information provided by the Chaironeian inscriptions with other Greek literary sources (mainly Euripides and Strabo) dealing with the institution of slaves-dedication.

Through a careful analysis of these sources, this chapter will therefore make the point that the traditional identification of these dedications with manumissions is not persuasive in several respects, as the following points clearly result from the evidence for slaves-consecration. First, the ancient sources (both epigraphic and literary) show that ἱεροί were no longer the property of their dedicators. Second, the specific vocabulary used in the inscriptions (as well as in other Greek sources dealing with consecrated slaves) is constantly and unequivocally one of slavery: a careful reading of the vocabulary of the inscriptions is fundamental for the understanding of the legal condition of ἱεροί, and yet this aspect is too often ignored by scholars.

Once all these sources are analysed and the individual elements and clauses they attest are considered, this chapter will ultimately suggest the possibility of considering ἱεροί as a specific category of persons who enjoyed a very peculiar legal condition: if, from a legal point of view, they were considered to be slaves of the gods, their *de facto* condition resulted from the absence of a 'physical' owner who could concretely exercise the powers descending from the right of ownership. In other words, those features of these inscriptions which, at first sight, seem to suggest that ἱεροί should be better understood as free individuals, are more likely to reflect the peculiarities of their legal condition as property of the gods.

## 2. *The nature and implications of dedication-consecration in Rome and in Greece: a comparative perspective.*

The vocabulary of the inscriptions from Chaironeia technically refers to the twofold act of dedication and consecration: this is made clear by the constant use, on the one hand, of the verb ἀνατίθημι and, on the other hand, of the adjective ἱερός.

Before analysing the meaning and implications of ἀνατίθημι and ἱερός, it is essential to isolate the relationship between dedication and consecration, also in the light of the distinction between *dedicatio* and *consecratio* in Roman law, and to understand the legal

implications of consecration through a brief overview on the condition of *res sacrae* in Rome: the technical and specific formulation provided by Roman law will help to shed light on the nature of dedication and on the legal condition of consecrated objects and persons in the Greek world.

Roman *dedicatio* was a ritual act implying the ‘surrender of an object into divine ownership’ (the typical words were ‘*do, dico, dedicoque*’).<sup>241</sup> In order to transfer the ownership of the dedicated object from the humans to the gods, the intervention of civic bodies was required and, more specifically, the act of dedication had to be performed by a magistrate with *imperium*. If privates meant to dedicate goods without the involvement of a magistrate, there was no dedication taking place and the object remained *profanum*:<sup>242</sup> this aspect of Roman dedication is probably due to the peculiar relationship between the gods and the State, since ‘la religione stessa, lo stesso riconoscimento e disconoscimento delle divinità è un affare di Stato, è di competenza di questo’.<sup>243</sup>

The procedure was also attended by a *pontifex*, whose intervention – known as *consecratio* – consisted in dictating to the magistrate the formulas that the latter had to pronounce (his function was thus to provide technical assistance to the magistrate). It is then possible to suggest that *consecratio* and *dedicatio* were two aspects of the same procedure and that they were complementary to each other: if *dedicatio* ‘was the resignation of the dedicant from the ownership of the offering and the claim for divine approval of this act ... accomplished by a high official or by an officially designated private person who represented the dedicating community or individual’, *consecratio* can be defined as ‘the lawful and permanent transfer of an object or a being from the domain of human law to that of divine law, their integration into the category of *res sacrae*’.<sup>244</sup>

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<sup>241</sup> Hornblower, Spawforth (1996) s.v. ‘*dedicatio*’.

<sup>242</sup> Cf. Marc. 3 *inst.* D. 1.8.6.3: *Sacrae autem res sunt hae, quae publice consecratae sunt, non private: si quis ergo privatim sibi sacrum constituerit, sacrum non est, sed profanum.*

<sup>243</sup> Grosso (2001): 20.

<sup>244</sup> Lambrinouidakis, Balty (2005): 304. Cf. Laffi (2001): 519: ‘la *dedicatio*, in senso tecnico, è l’atto solenne mediante il quale il dedicante, un privato o un magistrato, trasferisce l’oggetto della dedica in proprietà della divinità’, laddove la *consecratio* costituisce un atto ‘compiuto dal sacerdote con la partecipazione del magistrato dedicante’ che ‘concorre a rendere l’oggetto dedicato *res sacra* e a porlo, come tale, *extra commercium*’. As for the procedure, ‘il doppio atto della *dedicatio-consecratio* si compiva nelle forme di un solenne cerimoniale, nel corso del quale il

Thus, it is possible to maintain that *dedicatio* refers to the solemn act, whereas *consecratio* refers to the effect of *dedicatio* (the transfer of ownership from humans to gods).

As an effect of the twofold act of *dedicatio* (by the magistrate) and *consecratio* (by the *pontifex*), the consecrated objects became *res sacrae*. The adjective *sacer* identifies a specific legal category of things, and it has both positive and negative connotations. In its positive aspects, *res sacrae* are characterised by their belonging to the god, and the adjective *sacer* actually refers to 'l'attuale stato di "appartenenza" o "soggezione" di un essere animato, oppure di una qualsivoglia porzione inanimata del mondo naturale circostante, a una divinità'<sup>245</sup>: in other words, 'in Roman religious law the word *sacer* indicated that the object to which it was applied was the property of a deity, taken out of the region of the *profanum* by the action of the State, and passed on into that of the *sacrum*'.<sup>246</sup> At the same time, *res sacrae* were also characterised by negative connotations, since they are first of all *nullius*, in the sense that, as an effect of consecration and their qualification as *res divini iuris*, they have been taken out from and opposed to *ius humanum*. Moreover, *res sacrae* are included among the *res extra nostrum patrimonium*: this means that they cannot be the object of private rights and, for this reason, 'esse ... "*nullius in bonis sunt*"', cioè non sono né possono venire nel patrimonio di privati; poiché non è ammissibile su di esse la proprietà, così non si può costituire una servitù ...; non essendo esse in proprietà di alcuno, non è ammissibile un'azione di rivendica ...; non possono essere possedute né possono essere oggetto di contrattazioni'.<sup>247</sup> This also implies that everything which was defined as *sacer* was 'sottratto ai rapporti umani' and 'destinato

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sacerdote pronunciava la formula rituale, che veniva poi ripetuta dal magistrato. Questa formula conteneva come parte integrante l'enunciazione delle *leges*, vale a dire delle condizioni in base alle quali la divinità acquistava la nuova proprietà'.

<sup>245</sup> Pelloso (2013): 64-65.

<sup>246</sup> Fowler (1911): 57. Rüpke (2004): 9, maintains that the adjective *sacer* 'deriva dal linguaggio giuridico relativo alla proprietà: "sacro" è ciò che è di proprietà di un dio, di una dea'. The idea that *res sacrae* belonged to gods is also shared, among the others, by Savigny (1840): 247-264; Wissowa (1971): 385; Scialoja (1933): 144; Scherillo (1945): 40; Bonfante (1966): 22; Grosso (2001): 20. On the legal meaning and implications of *sacer*, cf., *ex plurimis*, Impallomeni (1971): 23; Morani (1981): 30; Scheid (2003): 23; Ter Beek (2012): 28.

<sup>247</sup> See Grosso (2001): 20. On the other hand, *pontifices* were in charge of the administration and protection of *res sacrae*: Talamanca (1990): 381.

alla divinità'.<sup>248</sup> Finally, because *res sacrae* could not be the object of private rights, any attempt to steal them was not considered a *furtum* – this qualification implying that the stolen item was privately owned – but, rather, a *sacrilegium*.<sup>249</sup>

To sum up, the act of dedication-consecration and the legal condition of *res sacrae* in Roman law are characterised by three key features: first, the act of dedication was governed by specific rules and rituals that had to be followed for the validity of consecration; second, dedication-consecration required the involvement of the public sphere through the intervention of a *magistratum cum imperio*; third, consecrated things (*res sacrae*) were characterised as belonging to the god and therefore by the prohibition of use and disposition by humans, and by the subsequent qualification as *sacrilegium* of any attempt to seize them.

The same basic features seem to be shared by the act of dedication-consecration and the legal condition of consecrated objects in Greece. The first issue to investigate is the meaning and implication of ἀνατίθημι: scholars generally agree that, from at least the 5<sup>th</sup> century B.C., this verb and the term ἀνάθημα are technical within the religious sphere in designating the act of dedicating something to the gods and the dedicated object respectively.<sup>250</sup> As Parker showed, ἀνατίθημι did not originally have intrinsic religious implications: its meaning was simply 'to set up'. Its relation and definitive use

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<sup>248</sup> Santalucia (1994): 13; see also Dumezil (2001): 125; Lambrinouidakis, Balty: 304 (according to which the function as divine property of what has been consecrated 'made itself directly felt in society through the absolute prohibition of its use, or restriction of use only for religious purposes or purposes extremely important for the common interest').

<sup>249</sup> Grosso (2001): 20. While the legal condition of *res sacrae* has been made clear and analysed in detail by Roman jurists, the problem of identifying who or what entity was entitled to the right of ownership over them is still open. This issue and the different interpretations offered by scholars about the possibility of conceiving Roman gods as owners or, more generally, about their possible entitlement to legal situations, has been thoroughly analysed by Impallomeni (1971): 23-68, who, in pointing out the weaknesses of the two traditional answers to this problem (*res sacrae* belong to the State; *res sacrae* belong to the gods) if compared to what is attested in the ancient legal sources, stresses the difficulty in reaching a safe conclusion on this point, as Roman jurisprudence was more concerned in defining the legal condition of *res sacrae* rather than in identifying their owners. According to Impallomeni, what is clear about *dedicatio* and *consecratio* is that these acts did not imply a *translatio dominii* over consecrated items but, rather, their transfer from being considered *res humani iuris* to their inclusion among *res divini iuris*.

<sup>250</sup> Rouse (1902): 323; Calderone (1972): 392; Burkert (1985): 93; Van Straten (2000): 191.

within the religious sphere began only with the Classical age.<sup>251</sup> The same meaning is shared by other verbs that were sometimes used for the act of dedication (such as ἵστημι, 'I set up'; ἵζω, 'I set down'; or ἰδρύω, 'I establish, place, found'), although the use of ἀνατίθημι was more widespread.<sup>252</sup> Notwithstanding this, the original meaning of ἀνατίθημι is mirrored in the very nature of the act of dedication, since 'etymologically, one dedicated an object simply by "setting it up" (or "setting it down" or "placing" it); and nothing in our ... evidence proves that any more was normally involved than this: one simply went to the sacred place of the god and deposited there one's gift to him'.<sup>253</sup> This also means that an inscription recording a dedication was not necessary for the validity of the act of consecration as a whole, as the evidence shows: the majority of the votive objects is not inscribed, although the use of writing – which was meant to reinforce the act of dedication and to preserve the memory of the dedicator – began to be common from the 7<sup>th</sup> century B.C. onwards.<sup>254</sup>

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<sup>251</sup> Parker (2004): 270: 'Unlike so many of the terms that we use when speaking of Greek religion, "dedication" has a fairly straightforward Greek equivalent. In a great majority of the relevant cases, forms of ἀνατίθημι or ἀνάθημα or closely related words recur. ἀνατίθημι has no intrinsic religious associations, but means simply "set up"; it can be combined with καθιερόω, "I consecrate", without tautology ... early on, however, it became specialized in its familiar religious application (found already in Hesiod) and by the 5<sup>th</sup> cent. Thucydides could use ἀνατίθημι for the consecration of the island Rheneia by Polycrates to Apollo, which he accomplished by attaching it to Delos by a chain (3, 104, 2) ... the old merely physical sense perhaps survives in the common use of ἀνάθεσις for the setting up of a decree of secular content (e.g. IG II/III<sup>2</sup> 780, 24), but the practice of setting up even such decrees in sanctuaries may have led to a blurring of divisions'.

<sup>252</sup> Parker (2004): 270: 'Most of the other verbs that occur in comparable contexts have physical meanings. ἵστημι, "I set up", is applied chiefly to statues. In relation to herms and altars, there was a tendency to use ἵζω, "I set down", or ἰδρύω, "I establish, place, found". In these cases the choice of the verb may express the idea of founding a new place where cult acts will be performed ... but ἀνατίθημι and ἀνάθημα remain quite common even in this context'. Parker also stresses that 'the most singular variation is the appearance in Arcadian dedications ... of ἀνέθυσσε ("sacrificed up") ... alongside ἀνέθηκε. This strange usage must reflect a perspective in which what is primary is the "taking out" of goods from human circulation for the gods; the question whether they are then used to finance sacrifice, or dedication, or a mixture is of secondary importance'.

<sup>253</sup> Parker (2004): 270.

<sup>254</sup> Rouse (1902): 322; Parker (2004): 274. See also Burkert (1985): 93: 'from such beginnings, the custom of setting up things in the sanctuary (*anatithenai*) clearly underwent an unprecedented expansion from the eighth century onwards, primarily in connection with the votive offering'.

The inscriptions that could accompany the act of dedication are characterised by the use of specific formulas, even though some variations can be found. The typical Chaironeian inscriptions recording the dedication of slaves as ἱεροί can be included within the first type identified by Parker as ὁ δεῖνα (με) ἀνέθηκε τῷ θεῷ<sup>255</sup>, whereas Rouse conceives dedications of slaves as a separate type of consecration, whose formulas started to be used much later than the others: according to Rouse, this seems to be suggested by the fact that these formulas were not known in the earlier stages of Greek history, as the bulk of the relevant evidence comes from the 3<sup>rd</sup> and the 2<sup>nd</sup> century B.C.<sup>256</sup>

In order to understand the implications of the Chaironeian dedications of slaves, it is important to investigate the nature, the purpose and the implications of dedication *qualis talis*. The very nature of dedication is that of a gift that a person makes to the god for several purposes<sup>257</sup>: as a way of commemorating their achievements<sup>258</sup>; as a vote of thanks to the gods for life and for the good things it offers<sup>259</sup>; for fear<sup>260</sup>; but, especially,

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<sup>255</sup> Parker (2004): 274. Within the wider context of dedications of objects, Parker also identified the following formulae: 1. ὁ δεῖνα (με) ἀνέθηκε; 2. ὁ δεῖνα τῷ θεῷ; 3. ὁ δεῖνα; 4. τοῦ δεῖνος; 5. τῷ θεῷ; 6. ὁ θεός; 7. τοῦ θεοῦ; 8. τοῦ θεοῦ εἰμι; 9. ὦ θεός, σόν (σοῦ) εἰμι; 10. ἱερόν τοῦ θεοῦ; 11. ἱερόν εἰμι τοῦ θεοῦ; 12. ἱερόν τῷ θεῷ; 13. ἱερόν. Parker also stresses that ‘the choice between the types is determined partly by local fashion, partly by the size and character of the object dedicated’.

<sup>256</sup> Rouse (1902): 335-341. He further maintains that, as an effect of the dedication of a slave to a god, the dedicated slave became immediately free: ‘he was made free of human control, and that meant (since the deity did not enforce his claims) his own man’. Rouse also lists the earliest formulas for dedication of objects to the gods, and their contents can be divided as follows: 1. no deity is named; 2. the deity’s name without the dedicator’s; 3. both deity and devotee are named (Rouse [1902]: 326-327).

<sup>257</sup> After pointing out that ‘dedication, sacrifice and choruses were the three main ways in which Greeks sought to win the favour of the gods’, Parker (2004): 270, maintains that ‘dedication and sacrifice were both seen as forms of gift’. See also Burkert (1987): 43, who, after stressing that “‘gifts to the gods” may appear to be a simple and natural phenomenon: a token of respect for superior powers, an expression of thanks for life and all the good things we receive every day’ and that ‘this is a very old way of communicating and acting with regards to the god’, points out the main problem, that is, ‘the question of how it was, and is, possible that repeated acts of “giving”, for which there is no obvious return, could become customary, nay, a sacred institution that has persisted for thousands of years’. See also Burkert (1985): 93: ‘the object set up in this way, *anathema*, is a lasting, visible gift: a witness to one’s relationship to the deity, the principle form of expression for private devotion and the most representative document of official piety’.

<sup>258</sup> Parker (2004): 270.

<sup>259</sup> Burkert (1987): 43.

<sup>260</sup> Rouse (1902): 189.

as a means through which to obtain the favour of the gods in the context of an 'if-then relation' between the dedicator and the gods.<sup>261</sup> In this last regard, it is important to stress the twofold implications of dedication. On the one hand, although the intimate nature of dedication is that of a gift, ἀνατίθημι implies an exchange and the idea of reciprocity between the human and the divine element. According to Burkert, the idea of reciprocity is 'what constitutes a "gift" in the full sense': if a gift implies 'the expectation of a return for a gift presented, the obligation incurred by receiving a gift', the nature of a gift is also determined by 'the dimension of time: if each gift demands retribution, it is still the intervening time, the absence of immediate effect, that makes it a gift in the true sense'.<sup>262</sup> The idea of reciprocity – giving something in return for something else – is probably mirrored in the very etymology of ἀνατίθημι: the prefix ἀνά not only implies, with regard to places, the idea of a movement 'from bottom to top', but in composites also conveys 'the notion of back, backwards', that is, of reciprocity.<sup>263</sup> On the other hand, dedication implies a renunciation by the dedicator to his/her own property: this is due to the very nature of dedications, since they 'consisted in renunciation and long-term symbolic investment in the divine, in expectation of good things to come', with the result that 'by depositing a perceptible object in a sanctuary, one both loses it and makes it

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<sup>261</sup> Hornblower, Spawforth (1996) s.v. 'votive offerings': 'the gift to the sanctuary both mediates and serves as a testimony to the occasion of the vow. "If my ship arrives safely, if I recover from illness, if my crops succeeds, etc. ... I shall dedicate a statue, a tithe, a temple, and so on"'.  
<sup>262</sup> Burkert (1987): 47, who also stressed that the above mentioned features of gifts 'are most firmly enrooted in pre-capitalistic, archaic societies' (for a detailed discussion about gift-exchange and the different types of gifts in the Homeric societies – implying or not the idea of reciprocity –, see Van Wees [1992]: 228-237). See also Burkert (1985): 93: 'as the inscriptions state, the donor expects a gracious gift in return, even if only that the god may grant him occasion to set up another gift in the future'. In this regard, Englund (1987): 61, describes the relationship established between the dedicator and the god by virtue of the dedication in terms of 'reciprocal giving' responding to a 'do ut des principle' ('the gifts to the gods are all made according to the do ut des principle ... it is a question of a reciprocal giving'); whereas Maffi (1974): 53, defines a gift as 'una prestazione di beni di prestigio che ha luogo nell'ambito di un rapporto di reciprocità; prestazione qualificata sia dalla posizione sociale delle parti, sia dalla funzione socialmente riconosciuta, a livello di ideologia dominante, che essa assume'.

<sup>263</sup> Liddell, Scott (1996) s.v. 'ἀνά'.



eternal'.<sup>264</sup> In legal terms, through the dedication of an object to a god (ἀνατίθημι), the dedicator deprives himself of his own property for good, this implying – technically – a transfer of ownership from the human sphere into the divine one.

This fundamental feature of dedication is strictly connected with and naturally leads to the problem of the meaning of ἱερός, an adjective which is typically used within dedication-inscriptions in order to describe the condition of something which has been consecrated to a god: as an effect of dedication (ἀνάθεσις), slaves are said to become ἱεροί, which means 'consecrated', to a god. Scholars traditionally agree that the adjective ἱερός in its technical meaning started to belong to the religious sphere only from the 5<sup>th</sup> century B.C. onwards, whilst in earlier times – and especially in the Homeric poems – the semantic field of ἱερός was not exclusively religious nor its meaning unambiguous. This issue has been carefully discussed by Gallavotti, who points out that in the Homeric poems the adjective ἱερός does not have one single meaning, since 'in Omero, sul piano stilistico, il valore di ἱερός si svolge fra due poli, ossia quello della potenza vitale ... e l'altro della sacralità, cui si congiunge a volte la nozione della intangibilità, inviolabilità, come compete al giudizio di Zeus ... e alla sua persona'.<sup>265</sup>

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<sup>264</sup> Hornblower, Spawforth (1996) s.v. 'votive offerings'. In this regard, it is interesting to point out that 'one of the primary functions of temples was to house expensive dedications; the temple itself was a communal dedication, *anathēma*, to the god'.

<sup>265</sup> Gallavotti (1963): 414-415: if, on the one hand, some usages of the adjective imply the idea of "sacro" in senso tecnico, e sostantivato "rito sacro, sacrificio", on the other hand it could also refer to 'farina e olivo, a località naturali, a case e mura e città' (this implying that 'il più delle volte significa soltanto "rigoglioso" o "possente", ha insomma quel valore elativo generico a cui ricorrono gli antichi commentatori, traducendolo con μέγας, in quei casi in cui il significato di "sacro" sembra maggiormente estraneo al contesto'), but also 'all'esercito ... o all'intera assemblea degli anziani radunati in cerchio', and 'in tale accezione l'aggettivo sembra esprimere soltanto una nozione di energia, gagliardia, vitalità'. The connection between the two original and co-existing meanings of ἱερός is thus made clear by Gallavotti through the materiality of rituals: 'come una voce è "efficace" se è vigorosa e si fa sentire di lontano; come una donna feconda e "vitalmente rigorosa" è fisiologicamente efficace perché risponde alla propria natura; così un'offerta votiva e un sacrificio sono ἱερά perché sono (ritualmente) vigorosi, vitalmente efficaci, rispondendo al loro scopo di costringere il dio ad accordare il suo favore. Il rito dell'offerta ... è un impegno a cui l'uomo costringe il dio per mezzo del dono ... è l'uomo che stabilisce un vincolo con il suo nume. In generale, dunque, ἱερός significa qualche cosa di estremamente efficace, che l'uomo indirizza ad uno scopo di vitale interesse' (Gallavotti [1963]: 417-418).

Dedicated objects became ἱερά, that is, consecrated to a god and thus sacred; but their qualification as such raises some fundamental questions. What was the (legal) condition of consecrated objects? What was their relationship with the god to whom they had been consecrated? And, finally, did they still have any kind of relationship with their previous owners? Can the latter dispose of them in some way? In order to provide an answer to these problems, it is necessary to take into consideration two fundamental aspects of τὰ ἱερά: first, their belonging to the god to whom they had been dedicated; second, their inviolability and intangibility by humans.

As for the first aspect, it is important to stress that, in its technical connotation, ἱερός means “things of the gods” or, more precisely, things that belong to the gods, manifesting their power, because they have been consecrated by humans’.<sup>266</sup> Therefore, the first feature of something which is defined as ἱερός is that the relationship established between consecrated objects and gods by virtue of dedication is based on ownership. This implies that, as an effect of dedication, the dedicator gave up his/her rights over the consecrated object by transferring them to the god.<sup>267</sup>

The second point which has to be stressed is that the adjective ἱερός ‘bears principally negative characteristics. It is surrounded by prohibitions: uncontrolled dealings, unrestrained use are excluded’; from these premises, it follows that the adjective ‘*hieros*

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<sup>266</sup> Blok (2014): 16.

<sup>267</sup> That τὰ ἱερά belonged to the god is commonly recognised by scholars. See, for instance, Chantraine (1968) s.v. ‘ἱερός’ (‘d’une manière générale, ἱερός exprime ce qui appartient aux dieux ou vient d’eux ... avec une valeur plus technique, s’applique à ce qui appartient aux dieux, domaines, animaux, objets consacrés’); Clarke (1995): 300 (‘ἱερός ... in its religious sense is applied not to gods proper, but to what is *of* gods’); Burkert (1985): 269 (‘*hieros* would ... have to be defined as that which belongs to a god or a sanctuary in an irrevocable way. The opposite is *bebelos*, profane. Man consecrates something, some possession, in that he takes it away from his own disposal and surrenders it to the god’); Caneva, Delli Pizzi (2015): 167 (‘the adjective ἱερός ... generally translated “sacred”, indicates that an object has been conceded to the gods and is now in relation with them [relation of belonging, protection, etc.]’). See also Lambrinoudakis, Balty (2005): 303, according to whom consecrated objects primarily functioned as ‘divine property’.

draws boundaries'<sup>268</sup>, and that anything which is described as such is intimately untouchable and inviolable by humans.<sup>269</sup>

Thus, Greek dedications (ἀναθήματα) and the legal condition of consecrated objects (ἱερά) seem to share the same basic features of *dedicatio-consecratio* and of *res sacrae* in Roman Law: first, Greek dedications also implied the involvement of civic bodies, since these acts had to be carried out at the συνέδριον (as the formulas of the inscriptions specifically state); second, their performance had to follow specific rules (κατὰ τὸν νόμον); third, the condition of consecrated items was characterised, on the one hand, by their being the property of a god and, on the other hand, by their being untouchable by humans, this implying that any attempt to seize something which was qualified as ἱερόν would have constituted ἱεροσυλία (that is, 'theft of sacred property') and therefore would have been prosecuted with a γραφή ἱεροσυλίας.<sup>270</sup>

These elements, however, are not taken into adequate consideration by modern scholarship: the general interpretation of these inscriptions relies on some clauses, the meanings of which seem to imply that the legal condition of ἱεροί was akin to that of free individuals, in order to assume that ἱεροί were legally free and, therefore, that consecration was ultimately a form of 'sacral' manumission. In the following sections, I will analyse these clauses and show that although – at a first superficial look – they seem to suggest that ἱεροί were free, they are not inconsistent with slavery and with the general information provided by the ancient sources according to which ἱεροί were property of the god.

### 3. *The vocabulary of dedication in the Chaironeian inscriptions.*

As mentioned above, many inscriptions from the 2<sup>nd</sup> century B.C. have been found in Chaironeia recording dedications of slaves to a god, usually Serapis, by their masters.<sup>271</sup>

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<sup>268</sup> Burkert (1985): 269.

<sup>269</sup> Gallavotti (1963): 409 ('ἱερός è il termine usuale e generico in greco per esprimere la nozione di "sacro", e quindi anche inviolabile, ossia tabù – ma non "santo" o "divino").

<sup>270</sup> Todd (1993): 107. In this regard see, for instance, Darmezin, *Affranchissements* 100,135; Darmezin, *Affranchissements* 91,126.

<sup>271</sup> Generally speaking, Serapis is, together with Asklepios, the most common god in dedication inscriptions from Central Greece, and it is certainly the most frequently attested one

The act of dedicating slaves to the god is generally referred to with the verb ἀνατίθημι, followed by the name of the slave in the accusative and his qualification, as an effect of consecration, as ἱερόν.

IG VII 3312 is a typical inscription in this regard:

ἀρχοντος Ἀρχεδά-  
μου, μηνός Ὀμολωΐου  
πεντεκαίδεκάτ[η],  
Θέων Σωμήλου Λε-  
5 βαδεύς, παρόντος  
αὐτῷ τοῦ υἱοῦ Σά-  
μωνος, ἀντίθησι τὸ-  
ν ἴδιον θρεπτόν, ᾧ ὄ-  
νομα Σωσίδαμος, ἱε-  
10 ρὸν τῷ Σεράπει, πο[ιο]-  
<ύ>μενος τὴν ἀνάθε-  
σιν διὰ τοῦ συνεδρ-  
ίου κατὰ τὸν νόμ-  
ον.

*Under the archonship of Archedamos, in the fifteenth day of the month of Homoloios, Theos Lebadeus son of Semelos, being his son Samenos with him, dedicates his own home-bred slave, named Sosimados, as sacred to Serapis, having performed the dedication at the council according to the law.*

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in Chaironeian inscriptions, whereas Apollo is the god generally mentioned in Delphic records of manumissions through 'sale'. Scholars traditionally agree that the reason for the involvement of these specific gods in 'religious' manumissions is due to their role as assistants of persons (both free and slaves) under duress, this implying an idea of manumission as 'a procedure involving a difficult transformation of status' (Kamen [2012] 185; see also Calderini [1965]: 199; Bömer [1958]: 132), whereas Darmezine (1999): 184, maintains that 'il ne semble donc pas qu'il y ait eu des divinités "spécialisés" dans la protection des affranchis. En revanche, les maîtres choisissaient la divinité la plus importante de la cite, ou alors celle à laquelle ils rendaient un culte personnel'. Kamen (2012): 185-189, further interprets the constant choice of these gods in the light of their qualification as healers: 'the frequent selection of these gods in sacral manumission implies that healing gods were thought particularly appropriate for effecting the slave's transition to freedom. And if this is the case, we can posit that slavery itself was conceptualized as a sort of sickness, or even death, from which the slave had to be "healed" or "saved" ... once the socially dead slave was freed, however, he regained his personhood; he was no longer a mere commodity. Moreover, he could now regain family and community ties, either by returning to his homeland or by forging social connections in Greece. Manumission then was a process of both re-personalization and re-socialization'.

The first part of the inscription provides detailed chronological information about the time of dedication, by mentioning the archon (Archedamos) and the day of the month in which the act has been performed (the fifteenth day of the month of Homoloios). Then, the formula mentions the name of the slave's owner as the person who consecrates (ἀντίθησι) his slave as sacred (ιερόν) to the god Serapis with the assistance of his son, as suggested by the verb πάρεμι. More specifically, I believe that in the case of the inscriptions from Chaironeia the verb πάρεμι does not convey the same significance of the verbs συνευδοκεῖν, συνευαρεστεῖν or συνεπαινεῖν that are often mentioned in the Delphic inscriptions recording manumission through 'sale': if, in the case of the Delphic inscription, this last group of verbs suggests that a person gives his/her consent to the 'sale', this being an essential element for the very making of the agreement, it seems to me that in the case of the consecration inscriptions from Chaironeia the verb πάρεμι conveys the idea of a person assisting to the act of consecration, being his function akin to that of a witness, as suggested by three elements. First, unlike the Delphic inscriptions, all mentioning the names of the people witnessing to the 'sale' of the slave to the god Apollo, the consecration-inscriptions from Chaironeia do not specifically list the witnesses to the act: for this reason, it is likely that this is the function of those people whose role in the act is described with the verb πάρεμι. Second, some inscriptions use together the verbs πάρεμι and συνευαρεστεῖν, this implying that the two verbs cannot have the same meaning in the same line.<sup>272</sup> Third, some inscriptions record the dedication of slaves by their mistresses, who are assisted in the consecration by some friends<sup>273</sup>: there is no reason to believe that friends had any interest in giving their consent to the consecration (and thus alienation) of someone else's property, therefore their function is more likely to be that of witnesses to the act.<sup>274</sup>

<sup>272</sup> See, for instance, IG VII 3371 (Chaironeia, 2<sup>nd</sup> century B.C.), which describes the consecration of two slaves as sacred to Serapis by their mistress with the presence ('παρόντος αὐτῆς') and assistance ('συνευαρεστοῦντος') of her son. Cf. also IG VII 3326, 3396. If, as I showed in chapter 2, the verb συνευαρεστεῖν seems to imply the idea of giving consent to an act or to a contract, it is likely that the verb πάρεμι, in the Chaironeian inscriptions, simply alludes to assisting to an act.

<sup>273</sup> See, for instance, IG VII 3357 and IG VII 3365 (both from the 2<sup>nd</sup> century B.C. Chaironeia).

<sup>274</sup> It is also possible to suggest that the verb πάρεμι does not in any case imply the idea of legal representation. If this latter idea seems to be suggested by the content of those inscriptions

The inscription finally specifies that the dedication has been performed in the συνέδριον and 'according to the law': both these features (the involvement of the council and the respect of the provisions of the law) are then essential for the validity of the dedication.<sup>275</sup>

This kind of formula is typical and about half of the inscriptions from Chaironeia recording dedications of slaves follow this scheme. The remaining half of the inscriptions, after describing the dedication of a slave with the same formula, require consecrated slaves to παραμένειν with their former masters. This is the case, for example, of the following inscription (IG VII 3314):

Ἀρχεδάμω ἀρχῶ, μεινὸς Ὀμολωϊῶ πεντεκαιδεκάτη, Μηλῖς  
Φιλήμονος ἀνατίθητι τῶς φιδίως δούλωσ Σώτιμον κῆ Σωτη[ρί]-  
χαν ἰαρώς τεῖ Σεράπι παραμείναντας αὐτῇ [ἀ]νεγκλείτως ἄς κ[α]  
ζῶει, τὰν ἀνάθεσιν ποιουμένα διὰ τῶ συνεδ[ρίω] κατὰ τὸν νόμον.

*During the archonship of Archedamos, in the fifteenth day of the month of Homoloios, Melis daughter of Philomenos dedicates her own slaves Sotimos and Sotericha as sacred to Serapis, and they shall remain with her blamelessly for the rest of her life, having she performed the dedication at the council according to the law.*

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which mention women carrying out consecrations with the presence of their husbands (such as IG VII 3322, or IG VII 3359), other possible scenarios definitively exclude this possibility. The Chaironeian inscriptions show the following cases: women consecrating slaves without being assisted by anyone (IG VII 3314); women being assisted by their children (IG VII 3326, 3353, 3371, 3396); women consecrating their slaves together with their husbands, both assisted by their children (IG VII 3325); and finally, men consecrating their slaves with the assistance of their sons, such as IG VII 3312 above analysed.

<sup>275</sup> Scholars generally agree that, from the 2<sup>nd</sup> century B.C., the term συνέδριον replaced the term βουλή in the πόλεις of Central Greece and of the Peloponnese (see Meyer [2009]: 79-80, with a discussion on the function of the συνέδριον within the context of these inscriptions). Yet, the term συνέδριον had not always been used to designate the council, as it has been pointed out by Hamon (2005): 131 ('étymologiquement, un *synedrion* est un congrès ou un "consistoire": le mot est plus neutre que "boulè". Il s'appliquait le plus souvent, à l'époque classique et à la haute époque hellénistique, à des conseils de type fédéral'). That in the context here analysed the συνέδριον has to be identified with the βουλή is also made clear by the content of some inscriptions which, after describing dedications with the usual formulas, specify that the act had been performed in front of the βουλή: for example, IG VII 3349 (Chaironeia, early 2<sup>nd</sup> century B.C.), after recording the consecration of a male slave by his master, states that the latter 'τὰν ἀνάθεσιν ποιόμενος διὰ τὰς βωλᾶς' (l. 4).

The formula of this inscription is similar to the one analysed above: there is always the mention of the slave's master/mistress as the dedicator, one or more slaves as the dedicated objects, and their qualification after dedication as *ἱεροί*. It is further specified that the dedication took place at the *συνέδριον* and according to the law. But this last inscription mentions something more: it expressly requires consecrated slaves to remain with their former mistress for the rest of her life. This clause clearly recalls the *παραμονή* duty which is attested in Delphic manumissions through 'sale', even though the inscriptions from Chaironeia do not mention any kind of penalty for those consecrated slaves who did not perform their *παραμονή* duties.

In order to understand fully the different features and the contents of the Chaironeian dedications, it is important to consider some further elements emerging from the text of the inscriptions such as, first of all, the identity of the dedicator. If, as I mentioned before, dedications of slaves were generally performed by their 'private' owners, some inscriptions from Chaironeia (such as IG VII 3333 and IG VII 3367, both from the 2<sup>nd</sup> century B.C.) record that the person dedicating a slave is himself a *ἱερός*.

I will consider, for instance, the content of IG VII 3333<sup>276</sup>:

θεός, τύχη ἀγαθή. ἄρχοντος Ἀντίγωνος, μινός  
 Δαματρίου τριακάδι, Παρθένα ἱερά τοῦ Σερά-  
 πιδος, παρόντος αὐτῆ τοῦ ἱεράρχου Ἀθανίου τοῦ Ἀριστίπ-  
 5 μείναςαν ἑαυτῆ καὶ τῷ ἀνδρὶ αὐτῆς Φίλωνι Δαυλιεῖ πάντα τὸν τ[ῆς]  
 ζῶης χρόνον ἀνεκκλήτως, ποιούμενη τὴν ἀνάθεσιν διὰ τοῦ συνεδρί[ου]  
 κατὰ τὸν νόμον.

*God, good fortune. Under the archonship of Antigonos, on the thirtieth day of the month of Damatrios, Parthena, sacred to Serapis, being the high-priest Athanios son of Aristippos with her,*

<sup>276</sup> The other inscription recording the dedication of a slave by a *ἱερός* is IG VII 3367 (2<sup>nd</sup> century B.C.): ἄρχοντος Πάτρω[νος, μει]- / νός Ὁμολωῖου πεν[τεκαίδεκάτη], / Ζωῖλος ἱερός τοῦ [Σεράπι]- / δος, παρόντος α[ὐτῷ τοῦ ἱε]- / ράρχου Ἀλίππου [τοῦ — — —] / του, ἀνατίθησι τ[ὸ ἴδι]- / ον δουλικὸν π[αιδά]- / ριον, ᾧ ὄνομα Η[— —, ἱερόν] / τῷ Σεράπει, μ[ὴ προσήκοντα] / μῆθενι μῆθέν, [τὴν ἀνάθεσιν] / ποιούμενος [διὰ τοῦ συνεδρίου κατὰ τὸν νόμον] (*Under the archonship of Patronis, in the fifteenth day of the month of Homoloios, Zoilos, sacred to Serapis, being the high-priest Alippos son of --- with him, dedicates his own young slave, named ---, as sacred to Serapis, and he [the consecrated slave] shall not belong to anyone in any way, having he (Zoilos) performed the dedication at the synedrion according to the law*).

*dedicates her own female slave named Athenaida [as sacred] to Serapis, and she (Athenaida) shall remain with her (Parthena) and with her husband Philonos Daulieos blamelessly for the rest of life, having she (Parthena) performed the dedication at the council according to the law.*

The content of this inscription (which is very similar to IG VII 3367) presents some interesting features. First, after being dedicated to the god, the consecrated slave is required to *παρὰμείνειν* with the *ἱερά*-dedicator and her husband: the fact that the *ἱερά*-dedicator had a husband shows that *ἱεροί* could have family relationships that were valid and recognised, and possibly that they could marry. Second, the *ἱερά* dedicates a slave who is said to be her own (*τὴν ἰδίαν*): this element seems to suggest that *ἱεροί* could be slave-owners and therefore that they could own property.<sup>277</sup> Third, the fact that the *ἱερά* can make the dedication in front of the *synedrion* in her own rights indicates that *ἱεροί* had access to the civic institutions. Fourth, the dedication of 'her own' slave by a *ἱερά* seems to imply that *ἱεροί* had the power to dispose as they liked of their property. It does not necessarily follow, however, that in this case, as well as in the other cases attesting dedications of slaves by *ἱεροί*, *τόν ἴδιον* indicates that *ἱεροί* were entitled to the right of ownership over those slaves, as is shown by the following elements. First, by the Hellenistic period *ἴδιον* is no more than a possessive adjective and its meaning is therefore very loose. Second, if we take a look, for example, at those inscriptions recording the dedication of *ἀπελεύθεροι* by their (former) masters, we notice that the freedman who is consecrated as sacred to Serapis is always labelled, in relation to his ex owner, as *τόν ἴδιον*: yet, since *ἀπελεύθεροι* had already been manumitted at the time of consecration and therefore they were already legally free individuals, it is clear that in these cases *τόν ἴδιον* does not indicate the existence of the right of ownership. Moreover, the possibility that *ἱεροί* could 'have' some slaves does not necessarily imply that they were legally free individuals: given that, in this case, *τόν ἴδιον* does not directly prove that *ἱεροί* owned (in the sense that they were entitled to the right of ownership over) those slaves, it is possible that the relationship between the *ἱεροί* and

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<sup>277</sup> IG VII 3331 (Chaironeia, 2<sup>nd</sup> century B.C.) records a similar episode: Pythos, sacred to Serapis, dedicates (in this case the verb of dedication is *ἀνιερόω*) as sacred to Serapis her own slave's daughter, named Niko who, after dedication, will have to remain with Pythos. This inscription further shows that *ἱεροί* could dispose of their slaves and of their offspring.



‘their’ slaves was similar to that between the *servus ordinarius* and the *servus vicarius* in Roman law, which we know existed also in the Greek world, where it was attested already from the Homeric poems.<sup>278</sup>

The second element that needs to be considered is the status of the consecrated person. If the general rule is that the objects of dedications were slaves, some inscriptions – as mentioned before – record the dedication of ἀπελεύθεροι as ἱεροί to Serapis by their former masters (for instance, IG VII 3318 and IG VII 3360, both from the 2<sup>nd</sup> century B.C.). As an example, I will consider the content of IG VII 3318:

Πάτρωνος ἀρχῶ, μη-  
νὸς Πανάμου πεντε-  
καιδεκάτη, Ἀγαθοκ-  
λῆς Κάλλωνος ἀνα-  
5 τίθησι τὸν ἴδιον ἀπε-  
λεύθερον Δᾶον ἱε-  
ρὸν τῷ Σεράπει, μὴ  
προσήκοντα μηθενὶ  
μηθέν, τὴν ἀνάθε-  
10 σιν ποιούμενος δι-  
ὰ τοῦ συνεδρίου κα-  
τὰ τὸν νόμον.

*Under the archonship of Patronos, in the fifteenth day of the month of Panamos, Agathokles son of Kallo dedicates his own freedman named Daos as sacred to Serapis, and he (Daos) shall not belong to anyone in any way, having he (Agathokles) performed the dedication at the council according to the law.*

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<sup>278</sup> The institution of the *servus vicarius*, or *servus servi*, is first attested in Roman law from the 2<sup>nd</sup> century B.C. It is important to stress that, given the lack of any legal personality upon *servi*, the relationship between the *servus ordinarius* and the *servus vicarius* was not based on ownership but, rather, on possession: the latter was in fact included in the former’s *peculium*, which – as is well known – was legally owned by the master but *de facto* administered by the slave. However, the first evidence for the institution of the *servus vicarius* in Greece is provided by Hom. *Od.* 14.449-452, in which Eumaeus, who is Odysseus’ slave, is said to have been granted the privilege to have his own slave Mesaulius whom he bought with his savings (on this point, cf. Reduzzi Merola [1990]: 3-7; see also Lewis [2015], who correctly includes this grant among those ‘*de facto* concessions granted by the owner to incentivize slaves and ensure their loyalty’).

This inscription is significant, as it shows that free persons could also be dedicated and thus become sacred to a god. This means, on the one hand, that it is not the act of dedication *per se* that grants freedom to slaves and, on the other hand, that dedication cannot simply be described as a form of manumission since, as the two inscriptions mentioned above<sup>279</sup> show, dedications could concern individuals who had already been manumitted before. Moreover, as I pointed out before, the content of these inscriptions further proves that the relationship between dedicator and dedicated person is not necessarily based on the right of ownership, since the latter is clearly a legally free individual.<sup>280</sup>

Looking at this evidence from a different angle, I suggest that the fact that ἀπελεύθεροι could be consecrated as ἱεροί also shows the flaws of those interpretations which argue that ‘sale’ and ‘consecration’ were two different but contemporary (religious) ways of conferring freedom upon slaves. The fact that the Delphic inscriptions and the Chaironeian ones are dated to the same period and the fact that where we find sale-inscriptions we do not usually find consecration-inscriptions and vice-versa, have been interpreted in the sense that these two kinds of inscriptions perform the same function (manumission), but with different formulas and procedures (‘sale’ and ‘consecration’). However, the fact that ἀπελεύθεροι could be consecrated shows that the latter were made free with a procedure which was different from consecration, in other ways that we cannot infer from the texts of the inscriptions: it follows, therefore, that the suggested analogy between the function of the Delphic inscriptions and the Chaironeian ones is ultimately wrong, as their respective results seem to be completely different.

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<sup>279</sup> IG VII 3360 has a very similar content: [— — — — — — — — με]τ[ὶν] [ὄς] / [— — — — — πεντεκαίδεκα] ἄτη, Ἀλε- / [ξίων] Ἀγνίαο Λε- / [βαδ]ε[ὺ]ς ἀνατίθει- / [τι] τ[ὸν] [φ]ιδίαν ἀπε- / [λε]ύθερον α[ὺ]τῶ Εὐν[ίκα]- / ν ἱερὸν τεῖ Σαρᾶπι, / τῶν ἀνάθεσιν [π]οι[ο]μέ- / νος διὰ τῶ συνεδρίω / κατ τὸν νόμον. (— — — *in the fifteenth day of the month* — — —, Alexion consecrates his own freedwoman named Eunika as sacred to Serapis, having he performed the consecration at the synedrion according to the law).

<sup>280</sup> In this case the use of τὸν ἴδιον does not refer to ownership but, rather, to the ‘connection’ that manumitted slaves could maintain with their ex owners even after manumission; many Greek sources, on the other hand, show that ἀπελεύθεροι were usually referred to with their name, followed by the name of their former masters in the genitive, this stressing that they were conceived of, even after their liberation, as the manumitted slaves ‘of’ someone (cf. Zelnick-Abramovitz [2005]: 320; Gärtner [2008]: 454).

Going back to IG VII 3318, this inscription is significant also because it mentions a clause which is frequently attested in the Chaironeian inscriptions: once a slave or a freedman is consecrated to a god, the formula ‘μὴ προσήκοντα μηθενὶ μηθέν’ is often mentioned. Literally, it means ‘he/she shall not belong to anyone in any way’, and refers to the condition enjoyed by ἱεροί as an effect of dedication.<sup>281</sup> This means that ἱεροί could not be the object of any individual claim or private ownership by the dedicator: the implication of this clause probably has to be connected with the very meaning of the adjective ἱερός which, in identifying things belonging to the god, conveys the ‘negative’ idea of inviolability and intangibility of consecrated things by humans. In other words, once slaves (and also freedmen) were dedicated and thus became ἱεροί, they could not be brought back into slavery (i.e. private ownership) through seizure by anyone.

This clause leads to the problem of the legal protection granted to consecrated slaves against other people’s claims. Protection clauses are not attested in the formulas from Chaironeia, but the legal protection of ἱεροί against seizure and re-enslavement (usually expressed with the verb καταδουλιζασθαι) is mentioned in other dedication inscriptions from nearby πόλεις such as Koroneia.

In this regard, I will focus on the content of IG VII 2872 (undated):

Κλέωνος ἄρχον[τος, ἱερέως δὲ τοῦ Σεράπιος — — — —]  
 τοῦ Ὀφελάνδρου, Ἀνί[κητος — — — — καὶ ἡ γυνὴ αὐτοῦ]  
 Διονυσία Εὐμήλου ἀνατιθέασι [τὸν ἴδιον δοῦλον]  
 Διονύσιον ἱερόν τῷ Σεράπι καὶ τῇ <E>[ἴσι καὶ τῷ Ἀνούβι]  
 5 ἱερόν. παραμεινά[τω] δὲ αὐτοῖς ἕως [ἂν ζῶσιν, ἐφ’ ᾧ]  
 [τε] εἶναι ἐλεύθερο[ν] μὴ προσήκον[τα μηθενὶ μηθέν].  
 ἐὰν δέ τις ἐφάπτηται εἰ[ς] δουλήα[ν, ἀποτεισάτω]  
 πρόστιμον δραχμὰς χιλίας ἱεράς τ<ῶ> [Σεράπι· συλάτω δὲ]  
 αὐτόν ὁ ἱερεὺς κα[ὶ τῶν] ἄλλων ὁ <π>[αρατυγχάνων].  
 10 μάρτυρες· [— — — — — μ]άχου, Δα[— — — — — — — —]  
 [— — — — —, — — — — — αν]δρος Ξ[— — — — — — — — — —]

<sup>281</sup> As for the distribution of this clause within Chaironeian inscriptions, cf. Darmezín (1999): 224 (‘sur les vingt-trois occurrences de cette formule, seize se trouvent dans des actes sans *paramone*, mais sept dans des actes avec *paramone*. Si, dans trois des actes avec *paramone*, la formule ne s’applique manifestement qu’à la période de *paramone*’).

Under the archonship of Kleon, being — — — — son of Ophelandros priest of Serapis, Aniketos — — — and his wife Dionysia, daughter of Eumelos, dedicate [their own slave] named Dionysios as sacred to Serapis and as sacred to [Isis and to Anoubi]. (Dionysios) shall remain with them for the rest of their lives, so that he is free not belonging to anyone in anyway. If someone seizes him to slavery, he (the seizer) will have to pay as a penalty a thousand drachmae as sacred to Serapis. The priest and anyone else shall counter-seize him. Witnesses: — — — — .

Line four of the inscription has been differently restored by Darmezine who, after dating the inscription to the 2<sup>nd</sup> century B.C., replaces the words 'τῆ <E>[ἴσι καὶ τῷ Ἀνουβί] ἱερόν' with 'καὶ τὴν [ἀνάθεσιν ποιούσιν εἰς τὸ] ἱερόν', thus giving a completely different meaning to ἱερόν in line 5, which would then identify the temple (and not the condition of the slave, after consecration, as sacred to Isis and Anoubi).<sup>282</sup> The possibility for anyone to counter-seize the consecrated slave in the event of his seizure clearly recalls the act of συλᾶν which is widely attested in the Delphic inscriptions, and which constitutes the main means of protecting manumitted slaves from any attempt of *reductio in servitutum*. What is more, it has to be noted that the person who seizes the consecrated slave is liable towards the god Serapis, to whom he is required to pay a monetary fine of one thousand drachmae. This means that any attempt to seize a slave after he has been consecrated to a god is conceived of as a direct interference towards something – or someone – which is considered to be in an exclusive relation (based on ownership) with the god. This consideration, on the other hand, is not contradicted by the fact that the inscription qualifies the ἱερός as a free individual ('ἐλεύθερο[ο]ν'): as I will show in the chapter, some sources do qualify ἱεροί as free; this

<sup>282</sup> Cf. Darmezine, *Affranchissements* 86,121: Κλέωνος ἄρχον[τος, ἱερέως δὲ τοῦ Σεράπιος — — —] / τοῦ Ὀφελάνδρου, Ἀνί[κητος — — — καὶ ἡ γυνὴ αὐτοῦ] / Διονυσία Εὐμήλου ἀνατιθέασι [τὸν ἴδιον δοῦλον ᾧ ὄνομα] / Διονύσιον ἱερόν τῷ Σεράπι καὶ τὴν [ἀνάθεσιν ποιούσιν εἰς τὸ] / ἱερόν· παραμεινά[τω] δὲ αὐτοῖς ἕως [ἂν ζῶσιν, ἐφ' ᾧ] / [τε] εἶναι ἐλεύθερο[ο]ν μὴ προσήκον[τα μηδενὶ μηδέν] / ἐὰν δὲ τις ἐφάπτηται ἐς δουλήα[ν Διονύσιον, ἀποτεισάτω] / πρόστιμον δραχμὰς χιλίας ἱεράς τ[ῷ Σεράπι· συλάτω δὲ] / αὐτὸν ὁ ἱαρεὺς κα[ὶ τῶν] ἄλλων ὁ [βουλόμενος]· μάρτυρες: [— — — — μ]άχου, Δα[— — — — —] / [— — — — — — — — — — —] δρος Ξ[— — — — —] (Under the archonship of Kleon, being — — — — son of Ophelandros priest of Serapis, Aniketos — — — and his wife Dionysia, daughter of Eumelos, consecrate [their own slave] named Dionysios as sacred to Serapis and they perform the consecration in the temple. (Dionysios) shall remain with them for the rest of their lives, so that he is free not belonging to anyone in anyway. If someone seizes him to slavery, he will have to pay as a penalty a thousand drachmae as sacred to Serapis. The priest and anyone else shall counter-seize him. Witnesses: — — — — —).

qualification, however, does not seem to refer to their legal condition but, rather, to their *de facto* situation. In fact, as the sources show in many ways, the absence of an actual owner who could concretely exercise the powers and rights descending from ownership made the *de facto* condition of ἱεροί much more similar to that of free individuals than to that of slaves, despite the fact that, from a legal perspective, they were property of the god.

That the consecrated slave is in a particular relation with the god to the point of being ‘untouchable’ by humans is even more evident in Darmezine, *Affranchissements* 100,135 (Koroneia, middle 2<sup>nd</sup> century B.C.) which, although somewhat fragmentary, shows some important features:

θεός· τύχη ἀγαθή· Εὐδάμω ἄρχοντος, μ[ηνὸς — πεντεκαίδεκά]-  
 τη, Δάμων Ξενοφίλου Λαρυμνεὺς οἰκῶ<v> ἐν Κο[ρωνεία ἀνατίθη]-  
 σι τὰ ἴδια σῶμα[τα Ἐ]λευθερίδα [— — — — — — — — —]  
 καὶ Ἀλέξανδρον κ[αὶ Πα]τρόκλεα κα[ὶ — —]τ[— — — —]  
 5 [κ]αὶ ΛΑΒΟΥΣ πάντων[ν — — — — — — — — —, παραμεί]-  
 ναντ[ας] ἀνεγκλή[τως Δάμωνι — — — — — — — — —]  
 ΩΝ· μὴ ἐξέστω [δὲ κατ]αδου[λ]ώσ[ασθαι ταῦτα τὰ σῶ]-  
 ματα μηθενί· [εἰ δὲ μὴ, συλείτω ἢ ἱέρεια τοῦ Χά]-  
 ροπος τοῦ Ἡρακλ[έ]ος καὶ [Βοιωτῶν ὁ βουλόμ]-  
 10 [ε]νος ἀπροστί[μη]τ[ος· ὁ δὲ καταδουλούμενος ἔνοχος ἔσ]-  
 τω τῆι ἱερ<ο>συλί[αι καὶ] ἀποτ[ι]σ[άτω — — — — δραχμ]-  
 ἀς τρισχιλίας [ἀργυρί]ου [ἀττικῶ] ἱερᾶς τοῦ Ἡρακλέ]-  
 ος τοῦ Χάροπος [— — — — — — — — — — — — — — —]  
 τὰ προειρημέ[να — —]ΝΟΣΔΕ[— — — — — — — — — κατα]-  
 15 βολὴν μέχρι ἀ[ποτί]σωσι δισ[χιλίας — — — — — — — — —]  
 αὐτὸν [—]ΕΛΑ[—]ΟΝ[— — — — — — — — — — — — — — — ἐ]κάστω ἐνι-  
 αὐτῶ κατ’ ἀώνιο[ν χρόνον — — — — — — — — — — — — — — —]  
 [— — —]ΔΟ[—]ΝΙΑΝΔΕΚΑ[— — — — — — — — — — — — — — —]  
 [— —]ΩΙ ἄκυρος ἔστω [— — — — — — — — — — — — — — — τοῦ Ἡρ]-  
 20 ακλέους τοῦ Χά[ρ]οπος [— — — — — — — — — — — — — — —]  
 ἱερὰ α[ὐ]τοῦ [— —]  
 [— —] εἰσενέγκη [— —] κατ]-  
 [αβο]λήν, ἀποτισάτω ὁ μὴ Ε[— — — — — — — — — — — — — — —]  
 [—] τοῖς εἰσενέγκασι ὑπὸ [— — — — — — — — — — — — — — —]  
 25 τῶν πόλεων πανδημει [— — — — — — — — — — — — — — —]

*God, good fortune. Under the archonship of Eudamos, in the fifteenth day of the month of —, Damon Larumneus son of Xenophilos, living he in Koroneia, dedicates his own slaves Eleutherida*

— and Alexandros and Patroklea and — and —, and they shall remain with Damon blamelessly —. It will not be possible for anybody to seize these slaves into slavery. If it happens, the priestess of Herakles Charops and anybody shall counter-seize them without being liable to any penalty; the seizer will be liable for theft of sacred things and he should pay three thousand drachmae of Attic silver as sacred to Herakles Charops ...

The text of the inscription is very fragmentary, and a translation of the second part of the text (from line 13) is almost impossible.<sup>283</sup> Yet, the first half of the inscription, although partly lost, provides some useful information about the legal protection granted to consecrated slaves.

The inscription does not state that slaves are dedicated as *ἱεροί*, but given the fragmentary condition of the inscription, this part might have been lost, as it seems to be suggested, on the one hand, by the fact that also the name of the god to whom these slaves are dedicated is missing and, on the other hand, by the fact that on the whole the vocabulary and the formulas used in the inscription, which are very similar to the Chaironeian ones, suggest the performance of a 'standard' dedication of slaves to a certain god as sacred to him. After having been dedicated, these slaves are required to *παρᾶμείνειν* with their former master. It is also interesting to stress that, after registering the act of consecration, the inscription further states that nobody shall seize them back to slavery, i.e. to private ownership (*μη̄ ἐξέστω [δὲ κατ]αδου[λ]ώσ[ασθαι ταῦτα τὰ σώματα μηθενί*): given that specific legal protection is provided against re-enslavement, on the one hand, and that the formulas of the inscription suggest a standard case of dedication of slaves as *ἱεροί*, on the other hand, it is likely that their qualification as *σώματα* reflects a metaphorical use of the vocabulary of slavery. More specifically, the implication seems to be that their qualification as *σώματα* refers to their re-enslavement (in other words, they are described as such because *σώματα*, that is privately owned slaves, is what they would be if they were made the object of an act of *κατ]αδου[λ]ώσ[ασθαι]*, rather than being a label assigned to them before such an act

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<sup>283</sup> For possible restorations of the content of this second part of the inscription, cf. Darmezin (1999): 101 ('les lignes 14-15 donnent, semble-t-il, des précisions sur le paiement de l'amende. Puis il s'agit peut-être des devoirs des affranchis, avec à la ligne 19, l'annulation de l'affranchissement si ces devoirs ne sont pas respectés. A la fin, il est de nouveau question de versement d'argent').

would actually occur. The inscription also specifies the consequences descending from the re-enslavement of the consecrated slaves: on the one hand, the priestess of Herakles Charops, together with anyone who wishes among the Beotians, is entitled to counter-seize the consecrated slaves without being liable to any penalty; on the other hand, the seizer is liable for *ἱεροσυλία* and he is subject to a money penalty of three thousand drachmae to Herakles Charops.<sup>284</sup> The fact that the seizer of a *ἱερός* is liable for *ἱεροσυλία* is significant, since it implies that any appropriation of consecrated slaves is seen as a theft of sacred property<sup>285</sup> or, more precisely, of something which is considered as an integral part of the god himself.<sup>286</sup> At the same time, being the seizer liable for *ἱεροσυλία* and not for theft further proves that consecrated slaves could no longer be considered as privately owned.

That the seizure of a consecrated slave may constitute a misappropriation of things belonging to a god as sacred, is further proved by the following inscription from Koroneia (Darnezin, *Affranchissements* 91,126; late 3<sup>rd</sup> century B.C.):

[ — — — — — ]  
 [ — ]ΩΝ[ — — — — ]  
 1 μειθενί· οὐ[δὲ κατα]-  
 δουλίξετη [Σω]-

<sup>284</sup> The liability of the *καταδουλιζόμενος* to *ἱεροσυλία* is also attested in Darnezin, *Affranchissements* 96,131, ll. 23-25: ὁ δὲ καταδο- / [υλι]ζόμενος ἔνοχος ἔσ- / τ]ω τῇ ἱε[ροσο]υλίῃ (Koroneia, late 3<sup>rd</sup> century B.C.). This inscription records the dedication to Herakles Karops of a female slave named Ermaia, by her masters, as sacred and free (ll-4-10: Δάμων Ἀπολλ[λ]- / [ο]δώρω κῆ Μνασις Ἀπ[ο]- / λλ]οδώρω ἀντίθεν- / [τι] τὰν ριδίαν θεράπ- / [ην]αν Ἐρμαίαν τῶ Χάρ- / [οπι] τῶ Ἡρακλεῖ εἰερά- / [ν εἴμ]εν κῆ ἐλευθέραν).

<sup>285</sup> Cohen (1983): 95, who also points out the other possible meanings of *ἱεροσυλία* ('although the words *hierosulia*, *hierosulein*, or *hierosuloi* are occasionally used in Athenian sources to refer to sacrilegious behaviour, or as a derogatory epithet for persons who are not accused of any theft of sacred property ... nonetheless the vast majority of the sources emphasize the element of misappropriation').

<sup>286</sup> Cf. Pelloso (2008b): 58 n. 90, who, following Bianchetti (1983): 61, points out that *ἱεροσυλία* has to be conceived of as an 'offesa oggettivamente integrata dalla sottrazione di beni non semplicemente consacrati alla divinità (nel qual caso si avrebbe avuto mera κλοπή di ἱερά χρήματα), ma tali da costituire parte integrante della divinità stessa con la conseguenza che i soggetti attivi dell'offesa, "menomandone il simulacro depredano gli dèi di una parte di sé con un atto che valica i limiti del furto per connotarsi come vero e proprio sacrilegio"'. On the relationship between *ἱεροσυλία* and *ἀσέβεια* (more specifically, on *ἱεροσυλία* as a particular form of *ἀσέβεια*), see Todd (1993): 307.

- τειρίδα οὐθ[ίς· εἰ]  
 δέ τις κα κα[ταδου]-  
 5 λίδδειτη, κ[ουρία]  
 ἔστω ἅ τε ἰ[ά]ρ[ε]ια τῶ  
 Χάροπος τῶ [Ἡρακλε]-  
 ἰος σουλῶσα [κῆ ἄλ]-  
 λος ὁ βειλόμε[νος]  
 10 Κορωνείων κ[ῆ] Βοιω-  
 τῶν ὡς ἰαρᾶς [ιώσας]  
 Σωτειρίδος κ[ῆ] ἔλε-  
 [υ]θέρας· ὁ δὲ κα[ταδ]-  
 [ο]υλιδδόμενος [ἔνο]-  
 15 χος ἔστω τῆ [ἱερο]-  
 φορή· φίστορε[ς Ἀλε]-  
 ξίω<ν> Φιλώταο, Π[ουθί]-  
 νας Φίλωνος, Φ[ίλων]  
 Πουθίναο, Νί[κων Φι]-  
 20 λώταο.

[— — — — —]not to anyone. Nobody shall reduce Soteris into slavery; if someone does seize her into slavery, the priestess of Herakles Charops has the power to counter-seize her, and anyone among the people from Koroneia and Beotia (can counter-seize her), being Soteris sacred and free; the seizer shall be liable for carrying away sacred things. Witnesses: ...

The inscription is very fragmentary and what we have is only the second part of it. Notwithstanding this, given the formulas used in the inscription it is likely that it deals with the consecration to Herakles Charops of a female slave (Soteris), and the existing part of the inscription specifies the legal protection that she is granted after having been consecrated to the god. Two elements in particular are worth specific attention. First, the inscription states that if anyone seizes Soteris to slavery, the priestess of Herakles Charops and anyone among the people from Koroneia and Boeotia are entitled to counter-seize her, being she ἱερά and free ('ὡς ἰαρᾶς [ιώσας] Σωτειρίδος κ[ῆ] ἔλε[υ]θέρας'). Her legal condition after consecration is thus expressly described in terms of her being a ἱερά; however – as I noted above for Darmezine, Affranchissements 100,135 – the fact that she is described as 'free' does not necessarily refer to her legal condition but, rather, to her *de facto* situation, a very peculiar one descending from being a slave of the god. Second, the inscription also states that those who seize the consecrated slave



into slavery are liable for carrying away sacred things (ἱεραφορία): thus, on the one hand, as an effect of the dedication the consecrated female-slave is defined as both ἱερά and ἐλευθέρα; on the other hand, her condition as property of the god (sacred) is further confirmed by the explicit qualification of her seizure in terms of ἱεραφορία.

Scholars have also been discussing the meaning of the adjective ἀνέφαπτος in the context of dedication-inscriptions. The adjective is used only in few inscriptions from Central Greece<sup>287</sup> and only in one from Koroneia, which is worth mentioning – although through brief remarks – because of the information it might provide about the legal condition of ἱεροί. The inscription is classified as Darmezín, Affranchissements 93,128 (late 3<sup>rd</sup> century B.C.):

θιός· τιούχαν [ἀγα]-  
 θάν· Ποτάμ[ωνο]-  
 ς ἄρχοντος, με[ινός]  
 Θιουῖω πέμπτ[η φθιν]-  
 5 ιούντος, Ασκλη[πίω]-  
 ν Στρότωνος ἀ[ντί]-  
 θεϊτι τὸν φίδι[ον φ]-  
 εικέταν Σωτ[ειρίδ]-  
 αν ἱαρόν εἶμεν [κῆ ἔλ]-  
 10 εὔθερον ἀπὸ τ[ᾶσδε]  
 τᾶς ἀμέρας ἀ[νέπ]-  
 αφον ἰόντα· εἰ δ[έ τις]  
 κα ἐφάπτειτ[η, κουρ]-  
 ἰα ἔστω ἄ τε ἰά[ρεια]  
 15 σουλῶσα κῆ τῶ[ν ἄλ]-  
 λων ὁ βειλόμεν[ος]  
 [ἀ]νουπόδικος ἰών· [εἰ δέ]  
 τίς κα ἐφάπτειτ[η εἰ]  
 καταδουλίδδε[ιτη, ἀ]-  
 20 ποτείσι Σωτειρίδ[α ἀρ]-  
 γυρίω ἀττικῶ δο[αχμᾶ]-  
 ς χιλίας· ρίστ[ορες]  
 Εὐβωλος Φιλοξ[ένω],  
 Πουθόδωρος Στ[ρότω]-  
 25 νος, Ἐρμων Μν[άσω]-  
 νος, Ἀγαθοκλ[ῆς Ἐ]-

<sup>287</sup> Darmezín (1999): 225, who maintains that only fifteen inscriptions from Boeotia mention the ἀνέφαπτος clause.

μπέδωνος.

*God, good fortune. Under the archonship of Potamon, on the fifth day of the month of Thiouios, Asclapion son of Stroton dedicates his own home-born slave named Soterida (so that he is) sacred and free from this day, being he untouchable; if someone seizes him, the priestess has the power to counter-seize him and so does anyone else, being he (anyone else) not liable to action; if someone reduces him into slavery, he shall pay a thousand silver drachmae to Soterida. Witnesses: Eubolos, son of Philoxenos; Pouthodoros, son of Stroton; Hermon, son of Mnason; Agathokles, son of Empedon.*

The meaning of the adjective ἀνέφαπτος in this context has often puzzled scholars. Some of them think that 'la rareté d'emploi de ce terme amène évidemment à penser qu'il introduit un droit particulier dont bénéficient certains affranchis et pas d'autres', and therefore that 'le mot ἀνέφαπτος signifiait certainement quelque chose de particulier, mais on sait pas exactement quoi'.<sup>288</sup> As I pointed out in chapter 2, the adjective ἀνέφαπτος could be used within the context both of maritime loans (in which case it identifies the condition of the objects given as a security by the borrower, which had to be non-claimable by anyone) and of sale (in which case it identifies the warranty against eviction): in both cases, the adjective implies that anything which is described as ἀνέφαπτος has to be free from anyone else's claim of a superior title over the good itself.<sup>289</sup> Given this meaning of ἀνέφαπτος, I believe that once it is used within the context of dedication inscriptions, the adjective has to be read in the light of the fundamental feature of τὰ ἱερά, namely, their being untouchable and not claimable by humans, since they are the property of a god. In other words, I do not think that ἀνέφαπτος identifies a specific category of particularly privileged consecrated slaves, nor that in these inscriptions it has an unclear meaning<sup>290</sup> but, rather, that it directly refers to the typical condition of ἱεροί, that is their not being claimable or seizable by anyone.

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<sup>288</sup> Darnezin (1999): 225-226.

<sup>289</sup> On the meanings of ἱερός and ἀνέφαπτος, both conveying the idea of something 'untouchable', cf. Bömer (1960): 123; Rädle (1969): 41.

<sup>290</sup> Darnezin (1999): 226.

To sum up, several elements in the inscriptions directly point to the fact that the legal condition of *ἱεροί* is one of slavery, which means – in other words – that they belong to the god. First, the technical meaning of the verb *ἀνατίθημι* describes dedications as gifts to the gods, through which a person renounces to his/her own property and transfers it to the god: as an effect of dedication, dedicated slaves underwent a transfer of ownership and thus became the property of the gods. Second, the adjective *ἱερός* conveys a twofold connotation, as it implies, on the one hand, the (positive) idea of belonging to the gods and, on the other hand, the (negative) idea of intangibility by humans. Third, in providing legal protection to consecrated slaves, some inscriptions clearly imply that the nature of *ἱεροί* is that of sacred property: on the one hand, any attempt to seize a *ἱερός* back to slavery takes to a liability of the seizer towards the god, to whom he owes a money penalty; on the other hand, the seizure of a *ἱερός* constitutes *ἱεροσυλία*. One further (and indeed fundamental) element supporting the idea that dedication does not *per se* lead to manumission is the fact that some inscriptions attest the dedication of *ἀπελεύθεροι* as *ἱεροί*, this implying that in all these cases consecrated persons had already been manumitted before the dedication, and therefore their freedom was not the result of consecration itself but, rather, of a previous manumission, which is not recorded. Other elements, on the other hand, are less straightforward in indicating that *ἱεροί* legally belonged to the god: although they are not themselves inconsistent with slavery, once they are taken individually they may be seen as pertaining to free individuals as well. It is on these elements that scholars have always based their understandings of the legal condition of *ἱεροί* as one of freedom, but – as I showed before – such an interpretation presents some flaws (first of all, it contradicts the implications of the vocabulary of the ancient sources).

First of all, about one half of the Chaironeian inscriptions mentions the so-called *παρραμονή*-clause, which compels consecrated slaves to ‘remain with’ their former masters. As I showed in chapter 2, *παρραμονή* is attested in around one fourth of the manumission-inscriptions from Delphi, where it always refers to the condition of those manumitted slaves who are legally free, yet under legal obligation towards their former masters. If we read the inscriptions from Chaironeia in light of the evidence from Delphi,

we may conclude that ἱεροὶ who owed παραμονή-services to their dedicators were legally free. This assumption, however, can be challenged from several angles. On the one hand, it is not possible to infer from the text of the inscriptions who the real parties of the παραμονή-agreement are: it could also be an agreement between the god (as the consecrated slave's new owner) and the dedicator (as the beneficiary of the consecrated slave's services, without having the right of ownership over his person). On the other hand, the nature of παραμονή is that of an additional stipulation which creates an obligation to remain. A joint reading of the evidence from Delphi and from Chaironeia seems to suggest that an obligation of παραμένειν could be stipulated with regard to a freedman or a ἱερός: it follows, therefore, that the chief point about παραμονή is that this stipulation pertains to individuals who are no longer the property of their former masters (i.e., the usual beneficiaries of the παραμονή services), whether the former are free or enjoy a very peculiar condition descending from their being the property of the god. Finally, it might be stressed that an interpretation of the παραμονή-clause in the Chaironeian inscriptions as referring to a legal condition of freedom (as most scholars argue) is not supported in the inscriptions by the explicit mention of the penalties which could be imposed upon those consecrated slaves who did not fulfil their παραμονή duties: the Delphic inscriptions, by contrast, expressly provide specific penalties in all those cases in which manumitted slaves did not παραμένειν with their former owners, and (as I showed in the second part of chapter 2) such provisions are indeed of crucial importance for interpreting the legal condition of freedmen under παραμονή obligation in terms of freedom.

Other elements which have traditionally been considered as an indication that the legal condition of ἱεροὶ was one of freedom are: first, the fact that ἱεροὶ were recognised family ties and that they could marry; second, the fact that they could 'have' slaves; third, the fact that they could dispose as they liked of their property (i.e. of the slaves they 'had'). As I showed before, however, none of these elements is itself inconsistent with the existence of divine ownership over consecrated slaves. Finally, the 'μὴ προσήκοντα μηθεὶνὶ μηθέν' clause is particularly significant, as it forbids anyone from seizing consecrated slaves back to slavery and thus to bring them back into private ownership

(the purpose of this clause is the same one of the clause expressly prohibiting anyone to καταδουλίξασθαι consecrated slaves). If this clause, at first sight, seems to be meant to protect the consecrated slave's legal freedom, I think that its ultimate function is to reinforce and confirm the chief feature of τὰ ἱερά, namely, their being untouchable and unavailable to men, since their condition as belonging to the gods implied absolute prohibition of reduction into private ownership. As I showed before, on the other hand, the fact that some inscriptions refer to ἱεροί as ἐλεύθεροι does not necessarily imply that they were legally free: this qualification points rather to their *de facto* situation which, given the absence of the actual owner exercising his powers over his property, could appear as closer to that of free individuals.

It has to be noted, however, that the main reason behind the difficulty in reaching a proper understanding of the legal condition of ἱεροί is the nature of the inscriptions from Chaironeia: their highly formulaic content is strictly limited to the record of dedications of slaves (the formula 'ἀνατίθημι δοῦλον ἱερόν' simply refers to the act of giving a slave as a gift to the god), without providing specific information about their legal condition after consecration. The overall impression we get from the content of these inscriptions is that the effects of dedication-consecration and the condition descending upon τὰ ἱερά were well known to the Greeks of the time, so that there was no need to inscribe on stone any further information specifying the relationship between consecrated slaves and the god or the temple.

The idea that ἱεροί were considered to be property of the god, however, is further suggested by other Greek sources which deal with this institution, namely, the *Ion* by Euripides and the *Geography* by Strabo. In the following paragraphs, I will analyse some passages from these sources, and will show that in both cases the condition of consecrated slaves is always described with the vocabulary of slavery, and never with the vocabulary of freedom.

4. *Consecration and temple-slavery in the Greek literary sources: the evidence from Euripides and Strabo.*

Probably performed in around 413 B.C.<sup>291</sup>, the *Ion* is a rich source of information on the life condition of temple-slaves and their relationship with the temple and the god to whom they had been dedicated. As is well known, Ion was born from Kreousa, an Athenian woman who had been raped by Apollo: after bearing Ion, she abandoned him in a cave to die, but Apollo asked Hermes to rescue Ion and to take him to his temple in Delphi, where he was found by the priestess and raised hereafter. The events represented in the tragedy take place when, many years after, Kreousa and her husband Xothus travel from Athens to Delphi to consult the oracle about their childlessness<sup>292</sup>: the reading of the facts represented in the play provides some interesting information about the condition of Ion as a temple-slave, which is worth analysing in detail.

First, Ion is described as a slave of the god throughout the play, as is clear both from the way Ion introduces himself to Kreousa and from the vocabulary used in the tragedy to characterise his relationship with the temple. On the one hand, when Kreousa asks him who he is (l. 308), Ion replies that he is called 'slave of the god' (l. 309: 'τοῦ θεοῦ καλοῦμαι δοῦλος εἰμί τ', ὧ γύναι'). It is also important to remember that, after Ion has defined himself as Apollo's slave, Kreousa immediately asks him if this condition is the result of a consecration to the god or, rather, of a sale of Ion to the temple (line 310: 'ἀνάθημα πόλεως, ἢ τινος προαθεὶς ὑπο;'). This line is significant, because it suggests that whether a person (either free or slave) was sold (as for slaves) or consecrated (as for both free individuals or for slaves) to a god, the result was always the same: the consecrated person, as well as a privately owned slaves sold to the temple, was considered to be a slave of the god. This implies, in other words, that as an effect of dedication/consecration, consecrated persons (ἱεροί) were considered to become temple-slaves or, more precisely, the property of the god (the final result being the same, in

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<sup>291</sup> Lee (1997): 40.

<sup>292</sup> For a reading of the *Ion* in the light of the problems connected to autochthony and the Periclean citizenship reform of 451/450, cf. Leão (2012): 135-153; Lape (2010): 95-136.

terms of transfer of ownership, as that of a sale).<sup>293</sup> This is further proved by Ion's reply to Kreousa's question, which is significant in stressing that Ion is not known by his name, because the only thing he knows and that, at the same time, he is known for, is that he belongs to Apollo (l. 311: 'οὐκ οἶδα πλὴν ἔν: Λοξίου κεκλήμεθα').

The vocabulary used by Euripides in referring to Ion's overall tasks within the temple is one of slavery, as several passages from the tragedy clearly show. For example, lines 181-183 describe Ion's services in favour of Apollo and the temple with both the verb δουλεύειν and θεραπεύειν ('οἷς δ' ἔγκειμαι μόχθοις, / Φοίβω δουλεύσω, κού λήξω / τοὺς βόσκοντας θεραπεύων'). Although the ancient sources sometimes use the verb θεραπεύειν in reference to services performed by legally free individuals<sup>294</sup>, the fact that in this context the verb is used together and simultaneously with δουλεύειν points to the fact that Ion's services towards the temple are seen as typical of slavery. Moreover, the same verb δουλεύειν is used by Ion himself at line 327 to describe his relationship with the god Apollo ('τοῖς τοῦ θεοῦ κοσμούμεθ', ᾧ δουλεύομεν'); again, after listing some of his tasks within the temple (ll. 102-108), Ion refers to them, as a whole, with the verb θεραπεύειν (l. 111: 'τοὺς θρόψαντας / Φοίβου ναοὺς θεραπεύω').<sup>295</sup>

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<sup>293</sup> The reason why people decided whether to consecrate or to sell one of their slaves to the temple clearly depended on the individual goal pursued with dedication or with sale. It is in fact clear that, even if the final effect of the two acts seems to be the same one (the dismissal of any private and individual ownership over the consecrated/sold slave), their legal nature and the purposes were completely different. By selling their slaves to the temple, masters dismissed their property rights in exchange for money: the nature of this act was not that of a gift to the god (sale results in a transfer of ownership in exchange for money), and its final purpose was thus not to acquire divine favour in return. On the contrary, by dedicating their slaves to the gods, private owners also dismissed their ownership on them, but what they carried out was an actual gift to the god which did not involve any money in return, since the *do-ut-des* relationship thus established by dedication simply consisted in the expectation of divine favour in return.

<sup>294</sup> Most notably, in the wills of the philosophers (cf. D.L. 5.54-55, 72) and in a passage from Plato's *Laws* (Plat. *Leges* 914e-915c), the verb θεραπεύειν or the noun θεραπεία are also used for indicating the services performed by ἀπελεύθεροι under παραμονή obligation: see chapter 4).

<sup>295</sup> The vocabulary of slavery is also used in line 10 of the hypothesis, where Ion's function within the temple is described with the verb δουλεύειν (ὁ δὲ ἀγνοῶν ἐδούλευσε τῷ πατρὶ). Although the hypothesis is a later addition by the commentators, it further shows that Ion's duties are strongly related with slavery. Lee (1997): 159, specifies, as for the hypothesis, that 'all the information, except for the – inappropriate ... – description of Ion as a temple-keeper, is drawn from Hermes' monologue. Hypotheses of this kind probably belonged to a lost collection of "Tales from Euripides" compiled in 1<sup>st</sup> or 2<sup>nd</sup> cent. AD but attributed to Dicaearchus of Messene, a pupil of Aristotle'.

The second point that needs to be stressed is that several passages from the tragedy refer to Ion's condition as 'sacred property', i.e. as a property of the god. Line 520 is a clear example in this regard: in believing (wrongly) that Ion is his son (the scene is described in lines 517-530), Xothus tries to embrace him, but Ion stops him and warns Xothus that, by doing so, he will cause Apollo's anger. This is significant, because Ion's rejection of physical contact is a clear indication of Xothus' transgression of religious bounds<sup>296</sup>, thus confirming the 'negative' connotation of τὰ ἱερά, namely, their being untouchable by humans.<sup>297</sup> In other words, this passage confirms that τὰ ἱερά, which belong to the god, represent a kind of dividing line between human and divine sphere, beyond which human beings are considered to invade a space which belongs to the gods only.<sup>298</sup> Line 523 is also significant: in replying to Ion's rejection of physical contact, Xothus maintains that his action cannot be described with the verb 'ῥυσιάζω' (l. 523: 'ἄψομαι: κοῦ ῥυσιάζω, τὰμὰ δ' εὐρίσκω φίλα'). This verb means 'treat as a ῥύσιον, seize, distraint upon', whereas ῥύσιον indicates 'surety, pledge' and thus 'property held or seized as a pledge or compensation'.<sup>299</sup> This shows that, by saying so, Xothus clearly refers (although in a 'negative' way) to Ion's condition as a *res*, that is, as a property of the god.<sup>300</sup>

Euripides' play is a useful source of information for the understanding of the condition of ἱεροί also because it lists the tasks that Ion has to perform in the temple as 'Apollo's slave', especially in the first part of the tragedy. Two aspects of Ion's services in the temple need to be considered. On the one hand, as noted above, Ion often refers to his overall duties within the temple by using the vocabulary of slavery, i.e. the verbs

<sup>296</sup> Lee (1997): 218.

<sup>297</sup> Burkert (1987): 269-270.

<sup>298</sup> Burkert (1985); Rouse (1902). This feature seems to mark a distinction between the legal condition of τὰ ἱερά and that of *res sacrae*: according to the most recent interpretations, the idea that 'sacro ... per separazione sarebbe proibito al contatto umano' cannot be accepted (recently, on this point, Peloso [2013]: 60).

<sup>299</sup> Liddle, Scott (1996) s.v. 'ῥυσιάζω'. Lee (1997): 218, stresses that ῥυσιάζω conveys the meaning of 'seizing another's property', thus indicating that Xothus 'denies that he distrains upon the goods of another'.

<sup>300</sup> Lee (1997): 218, maintains that Xothus' 'use of the verb ῥυσιάζω of Ion can only remind the boy that he is, in fact, property, i.e. a slave'.



δουλεύω and θεραπεύω (which in this case – as noted above – can possibly be considered to refer to slavery). Yet, the play also specifies the single duties that Ion has to perform for the temple and, at the same time, it provides useful details for the understanding of the condition of temple-slaves. The duties which are mentioned in the tragedy consist of: guarding the gold of Apollo (l. 54); cleaning the entrance of the temple with branches of bay tied with sacred bands (ll. 102-104); dampening the ground with sprinkled water (ll. 105-106); shooing away the birds messing the ἀναθήματα and the entrance of the temple (ll. 106-109, 154-181). But the tragedy also provides other general information about Ion's life as a temple-slave. For example, after asking Ion if he is the slave of Apollo as an effect of a dedication or of a sale to the temple, Kreousa also asks him whether he lives in the temple or in a house: this suggests that temple-slaves could also live outside the temple, although Ion replies that he spends all of his life, day and night, within Apollo's temple (ll. 314-315). Furthermore, we learn that his sustenance comes from food and contributions provided both by the altars and by those foreigners who visit the temple (ll. 322-323).

On the other hand, Ion describes his overall condition as Apollo's slave as a good one, as ll. 633-645 clearly show. Ion is in fact trying to persuade Xothus not to go back to Athens with him, and he lists all the ἀγαθά that he enjoyed while serving Apollo's temple; his conclusion is that his life in the temple as a slave is much better than the one he would enjoy in Athens as a free man. Although this statement is probably due to the plot of the story, it is notwithstanding likely that these lines can be read in the sense that the life of temple-slaves was commonly perceived as a particularly good one, and certainly better than the average standards of life enjoyed by privately owned slaves. To conclude, the analysis of the passages above mentioned shows that the vocabulary used by Euripides to describe Ion's condition expressly refers to slavery and ownership.

Very little information about the institution of slaves-consecration in Greece, by contrast, is provided in the *Geography* by Strabo, who mentions in several passages the presence of many ἱερόδουλοι in different geographical contexts (not only Greece, but

also, and mainly, Asia Minor).<sup>301</sup> The only significant passage which directly refers to consecrated slaves in Greece comes from Book 8 of the *Geography*, in which Strabo deals with Corinth ‘the wealthy’ which he visited himself. When he talks about its temple, he states:

Strab. 8.6.20: τό τε τῆς Ἀφροδίτης ἱερὸν οὕτω πλούσιον ὑπῆρξεν ὥστε πλείους ἢ χιλίας ἱεροδούλους ἐκέκτητο ἑταίρας, ἃς ἀνείθεσαν τῇ θεῷ καὶ ἄνδρες καὶ γυναῖκες.

*The temple of Aphrodite was so rich that it owned more than a thousand temple slaves, courtesans, whom both men and women had dedicated to the goddess.*

The passage shows, on the one hand, that the temple of Aphrodite in Corinth could rely on a large number of slaves; the verb which describes the power of the temple over its ἱεροδούλοι, however, is ἔχω, which is quite generic in its meaning and does not necessarily imply that the relationship between the temple and its ἱεροδούλοι is based on ownership.<sup>302</sup> On the other hand, the passage informs us that the condition of the ἱεροδούλοι of the temple in Corinth was the result of a dedication-consecration to the

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<sup>301</sup> For example, Strab. 11.4.7 refers to Albania and, in particular, to the numerous ἱεροδούλοι who lived in the temple of Selene. The first part of the passage deals primarily with the priest of the temple of Selene and with his role within the temple: he is in fact said to manage both the ‘sacred lands’ and the ἱεροδούλοι. The second part of the passage refers to a specific attachment of the ἱεροδούλοι to the temple: Strabo maintains that if any of the temple-slaves ran away and was later caught, the priest would have arrested and bound him for one year, after which he would have been sacrificed to the god. Again, Strab. 12.2.3 refers to the temple of Ma in Cappadocia (south-east of Turkey). Three main elements emerge from this passage: first, the importance of the temple of Ma and the high consideration in which the priest was held also with respect to the king (to the point that the inhabitants of this territory, although formally subject to the king, were in many regards considered to be subject to the priest); second, the large number of ἱεροδούλοι who are said to live in the temple (more than six thousand, as Strabo himself could verify during his permanence); third, the priest is said to be master (κύριος) both of the temple and of the ἱεροδούλοι. This last element thus seems to suggest that the relationship between the priest and the ἱεροδούλοι is based on ownership. Finally, Strab. 12.3.34 (which refers, once again, to Comana) suggests that temple slaves, as sacred property, could not be sold.

<sup>302</sup> Harrison (1968): 201, observes that the verb ἔχειν, together with κρατεῖν, always implies ‘a factual, concrete, non-juristic connotation; they are not used, for example, to describe the owner who is not the occupier or the occupier who is not the owner, nor in combination to describe who is both’.

god by private individuals: once again (as is suggested by Eur. *Ion* 309-310), it is clear that an act of dedication-consecration could lead to a condition of 'temple-slavery'.

An analysis of the literary evidence provided by Euripides and Strabo seems to confirm the interpretation which emerges from the text of the dedication-inscriptions from Chaironeia: on the one hand, Euripides clearly describes the condition of Ion as that of a slave of the god, and the terms referring to the institution of slavery recur frequently throughout the whole play; on the other hand, the evidence from Strabo seems to suggest that the same practice was attested in Corinth, where the temple of Aphrodites had a large number of temple-slaves whose specific condition was the result of an act of dedication to the goddess.

Although scanty, the Greek epigraphic and literary evidence is therefore consistent in suggesting that when temple-slavery (a condition which results from a previous consecration to the gods) is concerned, there is a contrast between the vocabulary relating to *ἱεροί*, which deals with slavery, and the *de facto* life conditions of *ἱεροί*, which could possibly appear to be closer to, or be better described in terms of, freedom. This, on the other hand, might also explain why in the inscriptions from Chaironeia *ἱεροί* could also be labelled as *ἐλεύθεροι*.

##### 5. *The relationship between ἱεροί and ἱερόδουλοι in modern interpretations.*

The extreme peculiarity of the condition enjoyed by consecrated slaves is mirrored in the interpretations offered by scholars of Greek slavery, which often show ambiguities and contradictions. Their remarks on temple-slavery are usually very brief; yet, they seem to be constantly concerned, on the one hand, with the relationship between *ἱερόδουλοι* and *ἱεροί*<sup>303</sup> and, on the other hand, with the identification of the specific legal condition enjoyed by *ἱεροί*.

The traditional interpretations about the relationship between the so-called temple-slaves and consecrated persons can be basically divided into two main groups. On the one hand, some scholars believe that *ἱερόδουλοι* and *ἱεροί* did not represent two

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<sup>303</sup> For a general overview on scholarship about this aspects, see Debord (1972): 135-150.

different categories, since *ἱερόδουλοι* have to be included among *ἱεροί*. This is suggested, for example, by Garlan who, in opening his discussion on sacred slaves (which he significantly includes within the section ‘Between Liberty and Slavery’)<sup>304</sup>, maintains that ‘sometimes they were referred to by the explicit term *hierodouloi*, but they were generally included in the very disparate category of *hieroi*’.<sup>305</sup> Some other scholars believe that *ἱερόδουλοι* cannot be properly included or identified with the category of *ἱεροί*. Bömer, for example, argues that the term *ἱερόδουλος* is later than *ἱερός* – developing only from the 2<sup>nd</sup> century B.C. onwards – and that, when used in referring to the institution of temple-slavery, is only typical of Near-Eastern societies and Egypt; whereas the institution of temple-slavery as a result of manumission is only attested in Greece. Bömer, however, acknowledges the possibility that the Greeks knew the institution of temple-slavery as well, although the lack of specific evidence does not allow any safe conclusion in this regard.<sup>306</sup>

As for the problem of the legal condition of the *ἱεροί*, scholars have advanced very different interpretations that can be grouped into three main areas. Some of them believe that *ἱεροί* were legally free individuals whose relationship with the temple should be

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<sup>304</sup> Garlan (1988): 86.

<sup>305</sup> Garlan (1988): 112. See also Lambrinouidakis, Balty (2005): 333: ‘slaves and freemen consecrated to a deity were called *ἱερόδουλοι* “sacred slaves” or *δοῦλοι*’. The slaves given to a deity often became part of the sanctuary’s staff; otherwise they were part of the sanctuary’s property, but not part of the cult personnel. The differentiation of these two categories is not always clear’.

<sup>306</sup> Bömer (1960): 156-186. The same view is shared by Calderone (1972): 394: ‘per quanto riguarda lo stato giuridico in relazione all’istituto della manumissione, rapporto con il tempio e denominazione della categoria ampiamente documentata, e variamente designata, dei “servi sacri”, è emersa la necessità di distinguere tra veri e propri *δοῦλοι* consacrati alla divinità, legati al tempio e addetti al suo servizio (*ἱερόδουλοι*, ma anche semplicemente *ἱεροί*), e “servi” fittizi di una divinità (designati prevalentemente come *ἱεροί*) per effetto di manumissione sacrale (con fittizia “consacrazione”-vendita al dio e libertà di fatto del manumisso) ... siffatta “consacrazione” al dio come prassi manumissoria sarebbe peculiare della Grecia propria; mentre solo per l’Oriente ellenistico, asianico-egizio, sarebbe lecito parlare di veri e propri “servi”, “servi sacri (hieroduli)”. Questo significa che quando s’incontra in un testo epigrafico o letterario la qualifica *ἱερός*, essa deve intendersi in maniera diversa a seconda che appartenga ad ambito greco o ad ambito greco-orientale; e lo stesso vale, ma in senso inverso, per *ἱερόδουλος*; tenendo presente, peraltro, la possibilità di uso improprio dei termini, per estensione reciproca. Andrebbe così risolta l’antica polemica sulla equivalenza o meno tra *ἱερός* e *ἱερόδουλος*, che dunque sarebbe da ritenersi tale solo entro certi limiti e con certe precauzioni’.

described in terms of serfdom. This view is best expressed by Biscardi, who maintains that ‘la forma più antica di manumissione in uso nel mondo greco sembra sia stata la “hierodulia”, ovvero la consacrazione dello schiavo alla divinità come offerta votiva (ἀνάθημα), in conseguenza della quale lo schiavo acquistava lo stato di uomo libero, ma restava vincolato alla divinità da un rapporto molto stretto, che lo obbligava a vivere nel tempio e a lavorare al servizio di questo’.<sup>307</sup> Another group of scholars believes that, as an effect of consecration and their subsequent qualification as ἱεροί, dedicated individuals (both free and slaves) became slaves of the temple and that, for this reason, they legally belonged to the god to whom they had been dedicated. This view is clearly implied, for example, by Burkert, who defines ἱερός as ‘that which belongs to a god or sanctuary in an irrevocable way ... even as a temple-slave’,<sup>308</sup> and by Sokolowski, who maintains not only that, as an effect of consecration to the divinity, anything which is ἱερός ‘belongs to the god and is protected by him’<sup>309</sup>, but also that ‘the dedication binds

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<sup>307</sup> Biscardi (1982): 93. The same view is shared by Westermann (1948a): 57 (‘literally translated *hierodouloi* means “sacred slaves”. But these were not slaves, by the explicit terms of the law establishing the dedication ... the hierodules of Asia Minor were bondage dependents of the gods, the degree and nature of their subservience probably differing in details from place to place’), 59 (‘from numerous towns of Central Greece we have inscriptions recording grants of liberty by consecrations ... in which the slaves concerned became free by the very act of their dedication. Since they were consecrates of the god, liberation from their enslavement followed from the fact that the Greek gods were not slave owners’); and implicitly by Rouse (1902): 335, who speaks in terms of dedication of human beings to the gods for the purpose of service (or sacrifice); Bussi (2001): 13 who, in excluding both λαοί and ἱερόδουλοι from the concept of ‘chattel-slavery’, defines the condition of ἱερόδουλοι as ‘una condizione di semi-dipendenza dai contorni a noi oscuri’; Thompson (2011): 200-202, who significantly includes the ‘sacred slaves’, together with the ‘rural peasants’, within the wider category of ‘non-slave dependence’ (about which she specifies that ‘drawing the line is never easy and ... the boundary between dependence and slavery is often hard to define. Both are characterised by varying degrees of un-freedom’), and defines temple-slavery as ‘a form of religious dependence that both preceded and outlived the Hellenistic world’; Bömer (1960): 123; Rädle (1969): 41. The idea that ἱεροί, at least in the inscriptions from Chaironeia, were free individuals is also shared by Darmezín (1999): 242 (‘on n’était donc pas seulement ἀπελεύθερος, mais aussi ἱερός, ce qui marquait peut-être un degré supplémentaire vers la liberté ou plutôt l’appartenance à une catégorie, mieux placée dans la hiérarchie sociale que les affranchis “simples”. En tous cas, cela indiquait une protection supplémentaire, susceptible d’être mieux respectée qu’une autre’).

<sup>308</sup> Burkert (1985): 269.

<sup>309</sup> Sokolowski (1954): 175.

the refugee and his family forever to the god'.<sup>310</sup> Between these two opposite interpretations, there is the opinion of those scholars who believe that the condition of ἱεροί included a wide range of different legal statuses: those labelled as ἱεροί could be either slaves of the temple, freedmen, and free people who dedicated themselves to a god. This view is clearly expressed by Garlan who, after including sacred slaves, together with rural-dependents, within the very generic condition labelled as 'between liberty and slavery', writes what follows: 'This word (*hieroi*) applied to many kinds of living and material possessions that were "sacred" because they were or had been consecrated to a deity and thus in some way or at some level belonged to it. Hence, where people were concerned, it indicated a whole range of extremely varied and subtly differentiated forms of exploitation, service and protection that combined in various ways, at various places and times, with the secular modalities of statutory classification. Thus, the *hieroi* might be free men or fairly high rank, discharging some religious function; or freedmen more or less encumbered with obligations to the priests who had had a hand in their manumission; or, finally, veritable chattel slaves'.<sup>311</sup>

This overview shows that the relationship between ἱεροί and ἱερόδουλοι and, most importantly, the condition of consecrated slaves in relation to the god, are still highly disputed among modern scholars. As I mentioned before, this is due partly to the status of the extant evidence, and partly to a general misinterpretation of the features characterising the condition of slaves after their consecration; once these elements are thoroughly considered, however, it is possible to suggest that the ancient sources unveil

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<sup>310</sup> Sokolowski (1954): 177, even though he further specifies that 'the dedication did not imply a physical attachment to the god, but rather a moral one'. Similarly, see Koschaker (1931): 46; Klaffenbach (1957): 86. See also Lambrinoudakis, Balty (2005): 333-334, which, after maintaining that 'the slaves given to a deity often became part of the sanctuary's staff; otherwise they were part of the sanctuary's property, but not part of the cult personnel' and that 'the differentiation between these two categories is not always clear', concludes in the sense that 'sacred slaves were the property of god himself, and so they could not be sold'.

<sup>311</sup> Garlan (1988): 112. The same idea can be found in the Hornblower, Spawforth (1996) s.v. 'hierodouloi': 'the term *hierodoulos* is variously used to describe slaves who are technically the property of a god and live on land owned by temples, slaves who are attached to the service of a god through a gift or civic decree, and slaves who were manumitted through a fictitious sale to a god'.

important information for a proper understanding of the legal condition enjoyed by ἱεροί.

#### 6. *Final considerations.*

The overall aim of this chapter was to provide a legal definition of the condition enjoyed by ἱεροί and to determine, consequently, whether the dedication inscriptions from Chaironeia record acts of manumission.

It is worth bearing in mind that, legally speaking, manumission implies the extinction of the masters' right of ownership over their slaves; therefore, in order to assume that the content of the inscriptions from Chaironeia refers to manumission, it is necessary to speculate that, as an effect of consecration, slaves are no longer considered to be the object of any kind of ownership, either 'human' or 'divine'. This means, in other words, that the dedication inscriptions above analysed can be considered as recording actual manumissions only if, as an effect of these acts, no transfer of ownership takes place, neither within the 'human sphere' (i.e., from one private owner to another, as is typical – for example – of sale), nor from 'human sphere' into 'divine sphere' (i.e., when an individual ceases to be the object of his master's ownership and becomes the object of divine ownership).

In the first part of this chapter, I suggested that the commonly held view according to which this corpus of inscriptions represents a specific form of 'sacral' manumission, namely, the so-called 'manumission through consecration' of slaves to the gods, needs to be thoroughly reconsidered. On the one hand, I showed that the consecrations as are represented in the Chaironeian inscriptions are not fictitious (as many scholars, on the contrary, maintain), i.e. they are not means devised *ad hoc* to grant freedom to privately owned slaves. Their specific and constant formulas, together with their technical contents, clearly show that they deal with actual dedications of slaves in the form of a gift to the god. On the other hand, I showed that identifying a consecration with a manumission (an identification which is implied by the very definition of these inscriptions as representing 'manumissions through consecration of a slave to the god') is, to a large extent problematic, and does not take into consideration the content of those

inscriptions which record the consecration of ἀπελεύθεροι, that is, of individuals who had obtained their freedom before being consecrated to a god.

The nature of dedication is clear: dedications are unilateral acts of the κύριος, which ultimately result in a gift characterised by an underlying *do-ut-des* relationship between the dedicator and the god, with the expectancy of divine favour in return. The key-point for the understanding of the substantial effect of dedications (extinction of the right of ownership as opposed to transfer of ownership) is therefore the exact definition of the legal condition enjoyed by those individuals who are labelled as ἱεροί: yet, this purpose is made highly problematic by the nature of the extant evidence, *in primis* the epigraphic material, which – at first sight – seems to disclose quite a complex scenario.

In the first part of this chapter, I have singled out the individual clauses and the elements mentioned in the inscriptions which scholars have traditionally relied on in order to suggest that the legal condition of ἱεροί was one of freedom. The main points which constitute the background of this interpretation are the following: the μὴ προσήκοντα μηθενὶ μηθέν clause; the fact that family ties among ἱεροί are legally recognised; the possibility for ἱεροί to ‘have’ slaves; their possible obligation to παραμένειν with their former masters (even though the sources do not provide clear information about the parties of the agreement, which could have also been concluded between the god/temple as the owner of the ἱεροί and their dedicator).

On the other hand, the vocabulary constantly used in the inscriptions to describe the consecration of slaves to the temple is typically one of slavery, and is clear in suggesting that ἱεροί were slaves of the god to whom they had been consecrated. In the inscriptions from Chaironeia, the use of the verb ἀνατίθημι and of the adjective ἱερός indicate that ἱεροί belong to the gods. The comparison with Roman law further reinforces this point: according to the most common opinion, *res sacrae* belong to the gods and, for this reason, no one could alienate them or dispose of them in any way, being this condition the result of the twofold act of *dedicatio-consecratio*. The literary sources dealing with the institution of ‘temple slavery’, such as the *Ion* by Euripides, also point to the existence of divine ownership over consecrated slaves. As noted above, *Ion*’s servile condition is stressed throughout the whole play: not only he introduces himself as the slave of the god (l. 310)



and as Apollo's property (l. 311), but also those verbs referring to the tasks that he has to perform within the temple (most notably δουλεύειν) are typical for slavery. Other elements mentioned in the inscriptions are unequivocal in suggesting that ἱεροί were conceived of as slaves of the gods, such as, on the one hand, the direct responsibility towards the god of anyone who attempted to bring ἱεροί back into private ownership and, on the other hand, the express qualification of such an attempt either in terms of ἱεροσυλία or of ἱεραφορία.

Given the interpretative problems which have traditionally prevented a correct understanding of the legal condition enjoyed by ἱεροί, it is important to highlight some firm conclusions. It is clear, first of all, that ἱεροί were not the object of private ownership. In other words, once consecrated to the gods, they were no longer considered to be under the ownership of their former masters: no further connection bound the former to the latter (with the exception of those cases in which dedicated slaves, after consecration, were required to παραμένειν with their former owners, but this relationship is clearly not based on the right of ownership). Once excluded that 'private' ownership existed on slaves after their consecration, two possibilities remain open: ἱεροί can be interpreted either as free individuals or as slaves of the god.

As noted above, traditional scholarship holds that these consecration inscriptions record manumissions and therefore that ἱεροί were legally free. This view, however, overshadows the specific and technical implications of ἀνατίθημι and ἱερός, and the difficulties inherent in the traditional view have been overcome by scholars in different ways: while some of them maintain that these consecrations were only fictitious (in the sense that 'the slave, instead of truly entering into the god's possession, was actually set free')<sup>312</sup>, some others suggest that they are characterised by a twofold passage by which slaves were first manumitted and then consecrated to the gods (which means that they were already legally free at the time of consecration).<sup>313</sup> Both these interpretations,

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<sup>312</sup> Kamen (2012): 178.

<sup>313</sup> See, most recently, Grenet (2014): 396, who maintains that 'at least in Chaironeia, there were probably two distinct steps in the procedure of manumission, i.e. the manumission proper and the consecration, since two slave-dedications concern freedmen (ἀπελεύθερος)'. The same view is shared by Rädle (1969): 58-62.

however, do not consider the content of the inscriptions and the precise meaning of their vocabulary.

Against the first interpretation (these inscriptions record fictitious consecrations), nothing in the sources suggests that dedications were fictitious: if we take a look at the content of the typical dedications which have been found throughout the Greek world, we notice that the combination of the verb ἀνατίθημι and the adjective ἱερός is one of the most common formulas used for registering dedications of private property in general. The content of the inscriptions, in other words, is technical and straightforward in showing that a real dedication of a slave has actually taken place.<sup>314</sup>

The second interpretation (these inscriptions attest a twofold passage), on the other hand, is untenable for two reasons: first, the consecrated individual is usually labelled as a δοῦλος, and this means that at the time of consecration he is (still) a slave; second,

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<sup>314</sup> The problem with this interpretation is not only that it does not find any support from the text of the inscriptions, but also that there is no 'logical' reason to believe that masters manumitted their slaves by carrying out a fictitious consecration. In the case of the Delphic manumissions through 'sale', the common opinion by which these inscriptions were characterised by the use of a fictitious sale for the purpose of liberating slaves could be justified by the need to grant slaves the possibility to 'buy' their own freedom from their masters. In the case of the inscriptions from Chaironeia, there is no reason to believe that Greeks resorted to *fictiones iuris* for liberating their slaves by consecrating them to the gods or, better, that the consecrations they record unveil acts of manumissions: the rationale behind this supposed mechanism is clearly not the need of granting slaves the possibility to pay for their freedom or, in more general terms, to enter into legally binding agreements with their masters (the act they carry out is in fact a unilateral one; on the other hand, the inscriptions do not mention the payment of money together with the consecration of slaves: see Darmezin [1999]: 233). Kamen further maintains that the fictive nature of these consecrations is proved by the μὴ προσήκοντα μηθὲνι μηθέν clause; yet, as I pointed out before, this clause should be best interpreted as implying the prohibition to reduce consecrated slaves into private ownership and that this is not inconsistent with the existence of divine ownership over those individuals who are labelled as ἱεροί. That dedication-inscriptions from Chaironeia record manumissions is taken for granted by modern scholarship and this idea has never been challenged in any work. Some scholars expressly justify this opinion with the fictitious nature of Chaironeian dedications, whereas other scholars simply state that consecrations led to manumission without further specifying their conclusions (the idea that dedications were just fictitious is thus implicit in their reconstructions). On the idea that consecrations from Chaironeia represent manumissions see, for example, Koschaker (1934): 69; Westermann (1948b): 9-10, (1955): 46 (his idea is the logical corollary of his fundamental premise – which is yet not justified, i.e. that 'the gods of the city-state Greeks ... had no slaves' which means, in other words, that Greek gods were not entitled to the right of ownership); Sokolowski (1954): 176; Bömer (1960): 10-11; Calderini (1965): 96; Zelnick-Abramovitz (2005): 86, 92; Kamen (2012): 177-180; Caneva, Delli Pizzi (2015): 170-172.

those few inscriptions attesting the consecration of ἀπελεύθεροι do not mention their previous manumission, and therefore we cannot assume that manumission and dedication are necessarily connected within one single act that goes through two different stages.

The content of the extant sources suggests the exact opposite: a closer look at the epigraphic and literary sources shows that ἱεροί were considered to be the slaves of the god and that the relationship between the former and the latter is based on ownership. Each time the ancient sources refer to consecrated slaves, they are characterised by the constant and exclusive use of the vocabulary of slavery, and never of the vocabulary of freedom: this element cannot be ignored or underestimated when examining the implications of dedication inscriptions, which directly point to the 'transformation' of a δοῦλος into a ἱερός as an effect of consecration, and the concept of ἱερός, in turn, clearly designates a specific status which was well known to the Greeks of the time. The same consideration, on the other hand, is clearly suggested by the qualification of any attempt to seize ἱεροί in terms of ἱεροσυλία or ἱεραφορία, i.e. as the theft of something which belongs in an irrevocable way to the gods.

To sum up, the ancient sources make it clear that the relationship between ἱεροί and the gods to whom they had been dedicated was based on (divine) ownership: such a relationship, however, is clearly characterised by the fact that the owner is not an actual individual, but an abstract (and non-existent) entity – the gods.

For this reason, I suggest that those features which are mentioned in the inscriptions and that, at first sight, seem to imply that ἱεροί are free, could possibly reflect a very peculiar condition which, legally speaking, was based on divine ownership, but *de facto* was modelled in a way which mirrors the absence of an actual owner who could exercise the rights and powers descending from the right of ownership: this seems to suggest, on the other hand, that the condition of ἱεροί was conceived of as a somehow privileged one among the relationships based on ownership, especially if compared to the average conditions of privately owned slaves. As I argued in the first part of the chapter, on the other hand, none of the clauses which are mentioned in the inscriptions and which could be interpreted, at first sight, as referring to a legal condition of freedom, are themselves

inconsistent with the existence of divine ownership over ἱεροί, and therefore cannot be taken as an unequivocal indication of the legal condition of ἱεροί as one of freedom. This is true not only for the παραμονή clause or for the possibility, granted to ἱεροί, to 'have' slaves: the recognition of family ties among slaves, as well as the possibility for them to have and manage some goods, are attested elsewhere in the Greek world and, in all these cases, they certainly do not exclude the existence of the right of (divine) ownership over them.<sup>315</sup> The 'μὴ προσήκοντα μηθενὶ μηθέν' clause, on the other hand, can possibly reflect the prohibition to bring ἱεροί (back) to the condition of privately owned slaves, given their inclusion among the sacred properties and therefore their inalienability and intangibility by humans. Finally, the possible qualification of ἱεροί as ἐλεύθεροι (as is attested in a few sources) may well be explained as reflecting a metaphorical use of the language of freedom or, more specifically, as referring to the *de facto* situation of ἱεροί, rather than to their *de iure* condition.

If it is hard to understand such a peculiar condition in the light of modern categories, the Greeks seemed to be completely comfortable with the features characterising the condition of someone who, as a ἱερός, belongs to the gods, as well as with the consequences descending upon individuals who are consecrated to the gods: it is no coincidence that the inscriptions simply record the dedication of slaves without further specifying the single elements characterising the ἱερός condition.

To conclude, I think that the common idea that the dedication-inscriptions from Central Greece record manumissions needs to be reconsidered. The analysis of their formulas cannot be simplistically reduced to brief considerations (often lacking any kind of argumentation) within the context of more general discussions on the different 'modes' of manumission. In other words, the strong connection they show with the divine sphere and the possible interference with divine ownership cannot be underestimated to the point of suggesting the hasty conclusion that these (fictitious or not) consecrations constitute a specific form of 'sacral' manumission.

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<sup>315</sup> This was the case, for example, of Gortynian slaves. For a criticism of the traditional view who saw these slaves as particularly privileged ones, and for the argument that these features of Gortynian slavery simply meant to reinforce their masters' control and property rights, cf. Lewis (2013): 390-416.

The contents and implications of this group of inscriptions are far more complex and problematic than is usually thought. A careful analysis of their formulas (also in light of the literary evidence mentioning consecrated slaves) strongly suggests that they do not describe manumissions, but they are what they are, that is, actual consecrations of slaves in the form of a gift to the god, their ultimate result being the transfers of ownership over slaves from humans to gods. This transfer of ownership, on the other hand, resulted in a highly peculiar status: while, from a legal point of view, ἱεροί were slaves of the god, the absence of an actual human owner exercising his rights meant that their *de facto* condition resembled in several ways that of free individuals – and this is possibly the reason why the language of freedom can be sometimes used (metaphorically) in referring to ἱεροί.



## CHAPTER 4

### *The Athenian evidence for manumission and παραμονή*

#### 1. *Introduction.*

A fundamental problem for the study of the liberation of slaves in Athens is the nature of the extant sources on manumission and ἀπελεύθεροι: while Athens provides the bulk of the evidence for the study of Greek laws and institutions, the Athenian sources on manumission are surprisingly scanty, if compared to the evidence from other Greek πόλεις. The only information we have for manumission in Athens is provided by a few forensic speeches, which refer to the liberation of slaves only incidentally within the context of wider discussions on the particular cases brought to trial, and by a few literary sources which primarily deal with the condition of freedmen after manumission. In approaching Athenian manumission we cannot rely, in other words, on a comprehensive *corpus* of sources such as the Delphic manumission inscriptions (which, as noted in chapter 2, number to more than one thousand); yet, a reading of these sources in the light of the evidence provided by other πόλεις unveils interesting information for the understanding of the legal nature of manumission in the Greek legal experience as informed by common principles.<sup>316</sup>

The aim of this chapter is twofold. On the one hand, it will explore the Athenian evidence for manumission in exchange for money: these sources sometimes refer to liberations of slaves carried out in different πόλεις (such as Corinth or Eleusis), and in all these cases the legal nature of manumission clearly shares the same fundamental

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<sup>316</sup> This further confirms ‘la sotterranea esistenza di una radicata κοινή di pensiero ... ossia di una comune matrice di reale “Einheit” che accoglie – tanto da un punto di vista sincronico, quanto da un punto di vista diacronico – le plurime atomizzate esperienze giuridiche del mondo greco’. On the other hand, this ‘induce a discorrere non tanto di un unico “diritto greco” o di più “diritti greci”, bensì, in una logica che vuole comporre a unità ontologica la pluralità contingente del frammentario dato positivo, di un “diritto dei Greci”’ (Peloso [2012]: 5-7). This view, in other words, acknowledges a unity of Greek law from a ‘substantial’ point of view (at least at the level of ‘common principles’), as opposed to those interpretations which suggest the idea of a “unità” eminentemente (se non solamente) processuale’. For a discussion on this debate, cf. Peloso (2012): 5 n. 11.

features. This further proves that the act of manumission in the Greek world relied on common principles which, notwithstanding possible local adaptations and peculiarities, allow us to talk about Greek manumission as a 'uniform' phenomenon. On the other hand, this chapter will analyse the evidence for παραμονή in Athens and will show, on the one hand, that the legal nature of παραμονή is that of a post-manumission obligation imposed on freedmen as free individuals (as is also attested in the manumission inscriptions from Delphi) and, on the other hand, that as an effect of manumission ἀπελεύθεροι became legally free, independently or not of the imposition of παραμονή obligations on them. Shedding light on the nature and implications of παραμονή is fundamental: the possible subjection of ἀπελεύθεροι to παραμονή duties is believed to represent the predominant feature of Greek manumission, but its nature and, most of all, its implications, are still misunderstood, as is shown by recent scholarly approaches holding that the legal condition of ἀπελεύθεροι under παραμονή obligations was one of slavery or, rather, half-way between slavery and freedom.<sup>317</sup>

Before analysing in detail the Athenian sources on manumission, I will briefly examine the development of the scholarly debate about the so-called φιάλαι ἐξελευθεροκαί. This is necessary for a complete understanding of manumission in Athens, since the φιάλαι have traditionally been considered to be the only and most relevant Athenian epigraphic evidence for manumission. Yet, if the connection between these sources and the reality of ἀπελεύθεροι has always been taken for granted by scholars of Greek manumission, recent studies have conclusively shown that this group of inscriptions does not refer to manumission.

Once ascertained that the evidence from the φιάλαι cannot be taken into consideration for understanding Athenian manumission, the first part of this chapter will analyse, first of all, the evidence from two forensic speeches, *Against Neaera* and *Against Athenogenes*, as they provide the most relevant information for the understanding of manumission and the condition of manumitted slaves in Classical

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<sup>317</sup> Both these views have been analysed and criticised in chapter 2. The most recent interpretation of ἀπελεύθεροι under παραμονή as slaves has been offered by Sosin (2015), whereas that of ἀπελεύθεροι under παραμονή as semi-slaves or half-free has been suggested by Zelnick-Abramovitz (2005): 244.



Athens. It is important to keep in mind, however, that the pseudo-Demosthenic speech refers to a manumission performed in Corinth, but with important consequences on the condition of an ἀπελευθέρω who decides to reside in Athens; whereas the speech by Hypereides directly refers to an attempted manumission which, if performed, would have taken place in Athens. I will then compare the results of the analysis of these speeches with other two sources, one by Herodotus which refers to a 6<sup>th</sup> century B.C. manumission of a female slave by her Greek master in Egypt, and one by Athenaeus who, in the *Deipnosophistae*, mentions the manumission of the female-slave named Phila by her mater Hyperides in Eleusis. By comparing the evidence from Classical Athens with other sources on manumission from different periods and πόλεις, this chapter will ultimately show that the legal nature of manumission in exchange for money shared the same features throughout the Greek world, from Classical Athens, Corinth and Eleusis, to Hellenistic Delphi.

My analysis of these sources will rely on a close reading of the specific vocabulary used by the orators: on the one hand, this will allow me to challenge the traditional scholarly opinion which describes these acts as πρῶσεις ἐπί ἐλευθερία and/or as fictive sales, and to argue, by contrast, that sale and manumission are always understood in the Greek sources as two separate transactions; on the other hand, it will allow me to show that manumission in exchange for money, in Athens as well as in other πόλεις, has the nature of a bilateral legal transaction between the slaves' master and a third party (other than the slave), whose function was to pay the money for manumission, given the slaves' lack of legal personality.

The second part of this chapter will shed light on the nature and implications of παραμονή in Athens through the analysis of passages from Harpocration, Athenaeus, Diogenes Laertius, and also from Plato's *Laws*. These sources constitute the only literary evidence for the existence of post-manumission obligations in Athens and their analysis shows that Athenian παραμονή was informed by the same principles which characterised παραμονή in Delphi. All these sources are in fact consistent in showing, on the one hand, that the nature of παραμονή was that of an obligation imposed on some freedmen in favour of their manumittors and, on the other hand, that the

possibility of its imposition on some ἀπελεύθεροι implies the existence, in the Greek world, of two categories of freedmen, both enjoying a legal condition of freedom but differing in their *de facto* condition, which ultimately results in the possibility or not for them to live apart from their manumittors' household and to constitute their own.

## 2. *The evidence from the φιάλαι ἐξελευθερικάί.*

Before discussing in detail the Athenian evidence for manumission, it is important to highlight the outcomes of the most recent studies on the nature of the so-called φιάλαι ἐξελευθερικάί. If, thanks to these contributions, it is now clear that this group of inscriptions does not deal with manumissions and ἀπελεύθεροι, it is nonetheless important to mention the development in the interpretation of these sources, which have for a long time informed all the works on Greek manumission as representing the only epigraphic evidence for the liberation of slaves in Athens.

With the expression φιάλαι ἐξελευθερικάί scholars refer to a *corpus* of thirty-three inscriptions, dated to the late 4<sup>th</sup> century B.C. and recording the dedication of bowls (φιάλαι), each weighing one hundred drachmas. The idea that these inscriptions represent evidence for manumission has been suggested by traditional scholarship and has never been challenged until very recently; yet, because of the fragmentary nature of all these inscriptions (some of them contain only a few lines), this interpretation has relied merely on the restoration of some key-terms, which recent works have shown to be questionable.<sup>318</sup>

The general attitude of scholars to consider these inscriptions as evidence for manumission has been concretely expressed in different ways. Some suggested that the φιάλαι deal with the actual or fictitious prosecutions of slaves with a δίκη ἀποστασίου, which would always result in the acquittal of the defendants and, ultimately, in the slaves' manumission.<sup>319</sup> This idea, however, presents a fundamental problem:

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<sup>318</sup> Harris (forthcoming).

<sup>319</sup> Calderini (1965): 431; Lewis (1959): 237, (1968): 368-380; Todd (1993): 191-192, all believed that, in these cases, trials were only fictitious. On the other hand, Harrison (1968): 183, and Zelnick-Abramovitz (2005): 285, suggest that they refer to actual prosecutions (in the case of Zelnick-Abramovitz, more specifically, to δίκαι ἔμμηνοι).

Harpocration writes that the δίκη ἀποστασίου is an action brought before the Polemarch by manumittors against manumitted slaves in three cases: first, when ἀπελεύθεροι ran away from their manumittors (which is likely to imply the existence of παραμονή duties on them); second, when they registered a different person, other than their manumittor, as their προστάτης; third, if they failed to do what the laws prescribed.<sup>320</sup> Therefore, the possibility of bringing a δίκη ἀποστασίου implies that the defendant is an ἀπελεύθερος, i.e. a person who had been manumitted before the prosecution: this makes it clear that manumission was the necessary prerequisite for a δίκη ἀποστασίου, and therefore cannot (logically and legally) be conceived of as its result. Other scholars maintain that the φιάλαι refer to the liberation of ἀπελεύθεροι from their παραμονή duties (an institution analogous to the ἀπόλυσις mentioned in the Delphic inscriptions recording manumissions through 'sale') as a result of their acquittal in δίκαι ἀποστασίου. This theory holds that the actual prosecution implied a previous agreement between manumittor and manumitted slave by which the former fictitiously accused the latter of not having fulfilled the παραμονή obligations.<sup>321</sup> One final group of scholars, on the other hand, believes that these inscriptions record manumissions ἐν δικαστηρίῳ, i.e. before the court.<sup>322</sup> Finally, a recent contribution by Velissaropoulos-Karakostas suggests that the φιάλαι constitute 'une mesure visant à rendre légitimes des affranchissements qui n'ont pas fait l'objet d'une décision du peuple'. In other words, basing her interpretation on the assumption that, in the last third of the 4<sup>th</sup> century B.C., a decree by the Assembly was necessary for 'private' manumissions to be valid and recognised by the community as a whole as well as for granting publicity to the act<sup>323</sup>, she ultimately

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<sup>320</sup> Cf. Harp., s.v. ἀποστασίου: δίκη τίς ἐστι κατὰ τῶν ἀπελευθεροθέντων δεδομένη τοῖς ἀπελευθερώσασιν, ἐὰν ἀφιστῶνται τε ἀπ'αὐτῶν ἢ ἕτερον ἐπιγράφονται προστάτην, καὶ ἀκελεύουσιν οἱ νόμοι μὴ ποιῶσιν. καὶ τοὺς μὲν ἀλόνας δεῖ δούλους εἶναι, τοὺς δὲ νικήσαντας τελέως ἤδη ἐλευθέρους.

<sup>321</sup> Tod (1901/1902); Westermann (1946): 95.

<sup>322</sup> Kränzlein (1975): 264.

<sup>323</sup> Velissaropoulos-Karakostas (forthcoming), reads the φιάλαι in the light of the evidence provided by Aeschin. 3.44, in which the orator refers to a law prohibiting declarations of private manumissions in the theatre, and argues that 'A l'époque d'Eschine, pour être opposable à tous, l'affranchissement doit être décrété par la cité. Nul ne peut alors mettre en doute le statut de la personne libérée par décret du peuple et l'affranchi peut, dans ce cas, vivre sans la menace d'une éventuelle ἀφαίρεσις εἰς δουλείαν, c'est-à-dire du danger de retomber en l'état de servitude'.

argues that the procedure from which the dedication of these silver bowls originated was necessary in all those cases in which slaves were ‘privately’ manumitted by their masters without the consent of the Athenian Assembly as expressed in a ψήφισμα. As these manumitted slaves would have been in danger of being reduced back into slavery, this procedure would have ultimately aimed to ascertain the newly freed person’s legal condition of freedom and therefore protect them from any attempt of re-enslavement.<sup>324</sup>

As I mentioned before, the interpretation of the φιάλαι ἐξελευθερικαί in the light of manumission has always been taken for granted in studies on Greek manumission. Yet, in a 2010 work on this *corpus* of inscriptions, Meyer first questioned the traditional approach and suggested a new interpretation of these sources which, according to her reconstruction, do not have anything to do with manumission but, rather, with metics. Her interpretation relies on four main objections to the traditional scholarly approach. First, manumission in Athens is not a solemn act, but an informal one: therefore there was no need to recur to fictitious δίκαι ἀποστασίου for liberating slaves, since manumissions could be performed in different informal ways. Second, the traditional view holds that φιάλαι record the results of δίκαι ἀποστασίου concluded within one day, and she objects that there are too many of them for suggesting that they are actual prosecutions or even just administrative procedures aimed at manumitting slaves. Third, the value of one hundred drachmas, which is usually interpreted as a tax for manumission, is too high and does not find any parallel elsewhere in the Greek sources. Fourth, she points out that many plaintiffs in the φιάλαι are metics, who needed to have

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For a detailed criticism of Velissaropoulos-Karakostas’ attempt to base her entire interpretation on the φιάλαι on the reading of Aeschin. 3.44, see Scafuro (forthcoming); for the (extra-ordinary) circumstances in which a πόλις could possibly be allowed to interfere with individual owners’ right of ownership by forcedly manumitting privately-owned slaves, see *infra*, chapter 5. For a detailed discussion on the practice of declaring manumissions at the theatre in Athens, cf. Mactoux (2008).

<sup>324</sup> Scafuro (forthcoming) moves three main objections to Velissaropoulos-Karakostas’ view on the nature of the φιάλαι: first, the weakness of an interpretation which relies solely on Aeschin. 3.44; second, the lack of any evidence referring to such a ‘hybrid procedure – unless this is simply a different way of describing the *dikē aphaireseos*’; third, the chronological and logical impossibility to connect such a procedure with the δοκιμασία, which was reserved to those foreigners who were granted Athenian citizenship (and to which Velissaropoulos-Karakostas expressly likens the procedure from which the dedication of the φιάλαι arose).

an Athenian citizen as their *προστάτης*: therefore only their *προστάται*, according to Meyer, would have been entitled to bring *δίκαι ἀποστασίου* against manumitted slaves.

On the basis of these points and developing an idea already put forward in 1880 by Koumanudis but always ignored by traditional scholarship, she suggests a different restoration of the heading of the inscriptions by which they would not refer to *δίκαι ἀποστασίου* but, rather, to *γραφαί ἀπροστασίου*.<sup>325</sup> The *γραφή ἀπροστασίου* was a public action brought by Athenian citizens before the Polemarch against those metics who did not register an Athenian citizen as their *προστάτης*, or did not pay the *μετοίκιον*, i.e. a tax which was specifically imposed on metics who resided in Athens. Given that these inscriptions cannot be considered to be dealing with manumitted slaves, according to Meyer the *φιάλαι* have to be interpreted as a 4<sup>th</sup> century B.C. inventory of votive bowls dedicated to Zeus Eleutherios one century earlier by those metics who were acquitted in *γραφαί ἀπροστασίου*. She further argues that this conclusion is suggested by the expression *‘ἐκ τῶν φιαλῶν τῶν ἐξελευθερικῶν’* itself, which is attested in some of these inscriptions (e.g. IG II<sup>2</sup> 1469) and which has been taken as an indication of the connection of these sources with manumission: according to Meyer, this expression rather refers to the Athenian cult of Zeus Eleutherios, which was particularly celebrated in the Piraeus, where many metics resided.<sup>326</sup> Meyer’s ultimate suggestion is that the dedication of the *φιάλαι* constituted a sanction for those citizens who brought a *γραφή ἀπροστασίου* against metics and then lost the trial: of the one thousand drachmas they had to pay as a fine to the *πόλις* for not obtaining one fifth of the votes, one hundred had to be paid by unsuccessful plaintiffs for the silver bowls, which were then offered to Zeus Eleutherios by metics.<sup>327</sup> According to Meyer’s interpretation, this mechanism was ultimately meant to prevent vexatious prosecutions by citizens against metics.

Meyer’s work has represented the first step towards a proper understanding of the *φιάλαι ἐξελευθερικά* as not referring to manumission; her approach, however, has recently been challenged by Harris, who has provided a different interpretation of these

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<sup>325</sup> Meyer (2010): 43.

<sup>326</sup> Meyer (2010): 59-69.

<sup>327</sup> Meyer (2010): 59.

sources and further proved that they do not deal with manumission. After agreeing with Meyer's interpretation of these inscriptions as not referring to manumissions and ἀπελεύθεροι, Harris challenges her view on the basis of four main points which rely primarily on legal data. First, Meyer suggests that these bowls are dedicated by acquitted defendants, whereas it would be more likely that unsuccessful litigants dedicate them, since they would have had to pay a fee or penalty. Second, the inscriptions show that many defendants are citizens, but citizens could not be prosecuted with a γραφή ἀπροστασίου given that this public action could be brought against metics only. Third, some accusers are metics, but metics could not be προστάται and therefore they could not act as prosecutors in a γραφή ἀπροστασίου. The fourth point made by Harris convincingly relies on the principle by which Athenian inscriptions, especially the public ones, 'generally fall into certain categories', each of which 'has a particular form of heading, has a certain structure and use standard formulas'.<sup>328</sup> He therefore argues that inscriptions, when fragmentary, should always be restored with terms and formulas that can be found in the same group of inscriptions they belong to. Harris observes that traditional restorations of these texts on which influential interpretations have been founded (such as ἐξελευθερικάι, δίκη ἀποστασίου, γραφή ἀπροστασίου, or the verb πολεμαρχέω) introduce words and expressions that are not found in the relevant sources. He notes, for example, that the restoration of the verb πολεμαρχέω introduces the verb in a sense in which it is never used in other inscriptions of the same kind, since the extant evidence from Greece indicates that the verb is only used by Polemarchs who, at the end of their service, dedicate votives as thanks for carrying out their office successfully. On the grounds of these objections, and by applying this principle, Harris convincingly argues that this evidence simply refers to bowls dedicated by defendants, among which several metics were included, in gratitude for being acquitted in trials<sup>329</sup>: they do not constitute, in other words, either evidence for manumission in Athens, or dedications by acquitted metics in γραφαί ἀπροστασίου.

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<sup>328</sup> Harris (forthcoming).

<sup>329</sup> Harris (forthcoming).

Whether *φιάλαι* refer to acquitted metics in *γροφαί ἀπροστασίου* or, more generally, to dedications by acquitted defendants in trials, most recent scholarship has nonetheless clearly shown that what has long been considered to be the only Athenian epigraphic evidence for manumission, does not actually refer to manumitted slaves or, more generally, to the liberation of slaves. Once this body of evidence is excluded from the relevant sources for Athenian manumission, the problem of manumission in Athens and of the legal condition of *ἀπελεύθεροι* can only rely on the evidence provided by literary sources and, in particular, by some forensic speeches from the Classical age.

### 3. *Manumission and* *πρῶσις ἐπί ἐλευθερίᾳ*.

As I showed before, the inscriptions from Delphi constitute an important source of information on the legal nature of manumission in exchange for money. Scholars agree that payment in return for manumission was common throughout the Greek world, and the fact that sometimes payment was not mentioned in the sources does not necessarily mean that no payment was actually made but, rather, that both payment and the amount of money required for manumission had been determined between masters and slaves prior to manumission.<sup>330</sup> The *ratio* of payment in return for manumission has been explained in two different ways: some scholars suggest that, by liberating a slave, masters gave up an important piece of property, and therefore payment in return for manumission was primarily aimed at recovering the value of the slave. Other scholars hold that, through payment, masters hoped to recover at least part of the money they had spent in purchasing the slave they were about to liberate.<sup>331</sup> This second point is expressly suggested by [Dem.] 59.30, which I will analyse in further detail later in the chapter. What is important to stress now, however, is that Apollodorus says that when Timanoridas and Eukrates decided to liberate Neaera, they asked her to pay twenty minae instead of the thirty minae they had spent when they bought her from Nikaretes, as in this way they hoped they could recover at least part of the money they spent for purchasing Neaera.

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<sup>330</sup> Calderini (1965): 211; Zelnick-Abramovitz (2005): 209, 212.

<sup>331</sup> Calderini (1965): 210; Gschnitzer (1988): 195; Zelnick-Abramovitz (2005): 213.

The practice of paying money in return for freedom is also attested in some Athenian sources from the Classical age; yet, the evidence for manumission in Athens is scanty and can only be found in a few forensic speeches. According to traditional classifications, these manumissions are labelled as ‘secular’, as opposed to the so-called ‘sacral’ manumissions from Hellenistic Central Greece: as I mentioned before, while the latter are defined as such because of the involvement of the gods in the manumission procedure, the former are characterised by the absence of the religious element and the involvement of the ‘civic’ sphere only.<sup>332</sup> These speeches provide valuable information on several aspects of manumission in exchange for money: the analysis of their text and vocabulary is helpful for the understanding of the relationship between manumission and sale, the role of the third party intervening in the manumission procedure, the nature of payment, as well as the legal condition of manumitted slaves. A correct analysis of these aspects is fundamental for our understanding of Greek manumission; yet, they have not been properly assessed by traditional scholarship, which defines these procedures as representing a specific mode of manumission, the so-called *πρᾶσις ἐπί ἐλευθερία*, which literally means ‘sale for the purpose of freedom’.

The first theorization of *πρᾶσις ἐπί ἐλευθερία* as a specific mode of manumission – or, better, the identification of any manumission in exchange for money with a *πρᾶσις ἐπί ἐλευθερία* – has been suggested by Foucart<sup>333</sup> and has been later developed by Calderini in his comprehensive study on manumission in Greece. Calderini defines *πρᾶσις ἐπί ἐλευθερία* as ‘la vendita di uno schiavo fatta a condizione che il compratore s’impegni di manometterlo’<sup>334</sup>, i.e. as a conditional sale, even though he believes that *πρᾶσις ἐπί ἐλευθερία* does not constitute a specific mode of manumission but, rather, a

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<sup>332</sup> To what extent the ‘secular’ element is involved in these manumissions as opposed to the religious one is a matter of some disagreement among scholars. Calderini (1965): 125, for instance, maintains that ‘per atti di manomissione più propriamente civili intendo quelli che richiedono l’intervento delle magistrature cittadine, restando l’autorità del dio bandita affatto o soltanto ricordata secondariamente’; whereas Kamen (2014): 289, on the other hand, suggests that, in all those cases in which payment was required, the main difference between ‘secular’ and ‘sacral’ manumissions is that in the former category ‘the “buyer” was not divine but human’.

<sup>333</sup> Foucart (1867): 14-23.

<sup>334</sup> Calderini (1965): 218.



particular kind of manumission through sale.<sup>335</sup> Similarly, Zelnick-Abramovitz identifies *πρᾶσις ἐπί ἐλευθερία* as a conditional sale, and concludes that ‘whether intended to release the property or to keep it, the transaction gave the purchaser the right of ownership until he recouped his investment’.<sup>336</sup> The problem with this definition is that, from a legal point of view, it defines manumission as a sale under condition subsequent<sup>337</sup>: it follows, in other words, that in all these cases manumission would determine a transfer of ownership over the manumitted slave, and this condition is going to last until the purchaser liberates the slave. This view, however, does not seem to consider that sale and manumission have opposite legal effects: while sale implies a transfer of ownership, manumission determines the extinction of the right of ownership over a slave and the acquisition, by the latter, of a legal condition of freedom. This makes it clear that a definition of manumission in terms of a sale (which ultimately results in an identification of the former transaction with the latter) cannot be accepted.

A more recent interpretation holds that *πρᾶσις ἐπί ἐλευθερία* consists of a fictive sale which does not result in a transfer of ownership but, rather, in the slaves’ liberation. This idea has been expressed, most recently, by Kamen, who defines ‘fictive sale’ as one in which ‘a third party nominally “purchased” a slave from his or her master, but in doing so actually paid for the slave’s freedom, whether with his own money or with the slave’s. The sale was fictive in that the third party did not actually exercise the right of ownership over the slave, as he would in a genuine purchase, but instead paid money for the slave to become free’.<sup>338</sup> Moreover, when referring to the so-called ‘secular’ manumissions, she maintains that ‘what I am calling secular fictive sale employs ... a verb of payment like *κατατίθημι* or *καταβάλλω* (“to pay down”) ... when paired with a phrase indicating that the aim is a given slave’s freedom (*ἐπὶ ἐλευθερία* or *εἰς ἐλευθερίαν*, “for the

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<sup>335</sup> Calderini (1965): 220.

<sup>336</sup> Zelnick-Abramovitz (2005): 218.

<sup>337</sup> ‘Condition subsequent’ is a technical legal expression which designates one of the two possible kinds of conditions that can be attached to a contract or, more generally, to legal transactions. The condition is ‘a provision that does not form part of a contractual obligation but operates either to suspend the contract until a specified event has happened (a condition precedent) or to bring it to an end in certain specified circumstances (a condition subsequent)’ (Law [2015] s.v. condition).

<sup>338</sup> Kamen (2014): 281-282.

purpose of freedom”) it becomes clear that we are dealing not with a genuine purchase but a fictive one. That is, the freedom language reveals that this purchase, like Apollo’s “purchase” of slaves at Delphi, is simply a fiction allowing the slave to be released from the ownership of his previous master’.<sup>339</sup>

In chapter 2, I argued that the vocabulary of the inscriptions, although intermingled with that of sale, shows that slaves provided the money they needed in order to pay for their freedom and therefore no sale was taking place, neither fictitious nor symbolic: this conclusion is suggested not only by the meaning and implication of the verb πιστεύω in designating the relationship between the slaves and the god, but also – and above all – by the fact that the ‘purchase money’ was provided by the slaves themselves.

As I shall show in this chapter, a definition of manumission in exchange for money as a *πρᾶσις ἐπί ἐλευθερία* does not work even for the Athenian sources which are believed to represent this ‘form’ of manumission, among which *Against Neaera* and *Against Athenogenes* are usually included. Nothing in the vocabulary used in these sources suggests any confusion or identification between sale and manumission, which, on the contrary, are kept clearly distinguished: the verbs used to describe manumission simply refer to the payment of money for the purpose of liberating a slave, without pointing in any way to the conclusion of a sale, even just a fictitious one. Thus, there is no reason to believe that these manumissions were carried out through a fictitious sale, nor that in these cases sale was conceived of as a means through which slaves were granted freedom. Ultimately, the analysis of the Athenian sources on manumission not only shows that the concept of *πρᾶσις ἐπί ἐλευθερία* is a modern invention, but it also reinforces the idea that the Greek legal systems did not need to rely on an institution analogous to the Roman *fictio iuris*, since they did not need to recur to a fictive sale in order to circumvent a legal problem, in this case, the slaves’ lack of legal personality.<sup>340</sup>

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<sup>339</sup> Kamen (2014): 290. For a similar definition of *πρᾶσις ἐπί ἐλευθερία*, see also Rädle (1969): 64-65; Klees (1998): 311-314; Glazebrook (2014): 55-56.

<sup>340</sup> In this sense, I find that Sosin’s overall conclusion (that *πρᾶσις ἐπί ἐλευθερία* is a modern invention) is very persuasive, although I believe that his whole understanding of *παράμνη* and the legal condition of *ἀπελεύθεροι* compelled to this duty is undermined by fundamental misinterpretations: cf. Sosin (2015), about which see *infra*, in this chapter.

In the following paragraphs I will show that these considerations result from the analysis of the Athenian sources dealing with manumission in exchange for money. This will allow me to show that the commonly accepted definition of these manumissions as *πράσεις ἐπί ἐλευθερίᾳ* is not supported by the ancient sources which, on the contrary, confirm what the evidence from the Delphic manumission inscriptions tells us about the nature of manumission in exchange for money (i.e., that of a bilateral legal transaction between the master and a third party) and the role of the third party within the manumission procedure (which was limited to conveying the money to slaves' masters, given the slaves' lack of legal personality), thus pointing to the unity, throughout the Greek sources, of the legal nature of manumission.

#### 4. *The evidence from the pseudo-Demosthenic speech Against Neaera.*

One of the best known episodes of manumission in Athens is that of Neaera, which is described in the first paragraphs of the pseudo-Demosthenic speech performed in Athens between 343 and 340 B.C.<sup>341</sup> The plaintiff is formally Theomnestus, although he soon invites Apollodorus to continue with the prosecution as his *συνήγορος*, thus becoming the actual plaintiff. The text of the speech informs us that Apollodorus brings a *γραφὴ ξενίας* against Neaera<sup>342</sup>: Apollodorus stresses that the woman is a *ξένη* who lives unlawfully with an Athenian citizen, Stephanus, as his wife, thus breaking the law – reproduced in paragraph 16 – which prohibited marriages between Athenian citizens and foreigners.<sup>343</sup> Yet Neaera's behaviour is represented as even more unacceptable,

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<sup>341</sup> Kapparis (1999): 28.

<sup>342</sup> *Contra*, cf. Kapparis (1999): 198-206, (2005): 78, who (unconvincingly) argues that the law cited in [Dem.] 59.16 'clearly is not the law on *graphe xenias*', since 'this law and the one quoted in section 52 of the same speech are extracts from legislation introduced in the 380's in order to curb immigration violations by means of pretence of marriage to a citizen'.

<sup>343</sup> The authenticity of the laws and decrees of the speech (as well as of many documents in the Demosthenic *corpus* as a whole), has recently been challenged by Canevaro (2013). After remarking that the speech 'contains 21 documents: 13 witness statements, 3 laws, 1 decree, 1 oath, 2 *diallagai* and 1 *proklesis*', he focuses specifically on the laws and decrees in the speech. About the law concerning the marriage between Athenian citizens and foreigners and procreation of offspring, Canevaro concludes, after a stychometric analysis and a thorough analysis of the text, that 'the document presents provisions not found in Apollodorus' summary. These features, however, are unverifiable, and they could be either authentic provisions belonging to this law, or created by a forger on the basis of information found in the orators and elsewhere. Our sources

since Stephanus introduced Neaera's sons into the phratry and the deme<sup>344</sup>, and he also gave Neaera's daughter, Phano, in marriage to two Athenian citizens subsequently, Phrastor first and then Theogenes, who was serving as King Archon.<sup>345</sup>

Apart from being 'a fascinating glimpse into the Athenian demi-monde' and providing 'valuable evidence about citizenship, sexuality, religious life, law'<sup>346</sup>, the speech also mentions important information both on the act through which slaves were granted freedom and on the legal condition of manumitted slaves. It is important to keep in mind, however, the geographical context in which the events take place: Neaera was working as an *ἑταίρα* for Nikaretēs in Corinth and in the same *πόλις* she was first bought by Timanoridas and Eukrates and then released; after her manumission she moved to Athens where she lived with Stephanus. The speech is therefore an interesting source of information both on the nature of manumission in exchange for money as it was performed in Corinth in the Classical period (or, better, as a manumission performed in Corinth was understood in an Athenian law court), and on the legal condition of an *ἀπελευθέρωτα* who, after being released, decided to reside in Athens.

The procedure leading to Neaera's manumission is analytically described by Apollodorus in paragraphs 31 and 32 of the speech: a closer look at these texts, together with some previous passages dealing with Neaera's purchase by Nikaretēs first, and by Timanoridas and Eukrates later, will shed light on the legal nature of manumission in exchange for money; at the same time, it will also clarify the role of payment within the context of slaves' liberation and the relationship between sale and manumission.

This last point, more specifically, is made clear at the beginning of the speech. Paragraphs 19 and 20 describe Neaera's youth as Nikaretēs' slave: Nikaretēs was an *ἀπελευθέρωτα* who bought Neaera, together with other six young girls, in order to make a profit by using her as a *ἑταίρα*. Neaera's condition as Nikaretēs' property is made clear

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do not allow us a conclusive verdict. The document might be a skilful forgery, a genuine statute found by a later editor and inserted in the speech, or a reconstruction based on trustworthy sources now lost to use' (Canevaro [2013]: 187). See also Harris (2001b): 441; generally speaking, Harris challenges the authenticity of most documents of the speech (Harris [1994]: 21-23).

<sup>344</sup> [Dem.] 59.13.

<sup>345</sup> Cf. [Dem.] 59.50-53, 72-73.

<sup>346</sup> Harris (2001b): 439.

both by the use of the verb ἀποδίδωμι, which refers to Nikaretēs' purchase of Neaera, and by the latter's description, on the one hand, as a body (σῶμα) and, on the other hand, by the use of the verb ἔχειν in designating Nikaretēs' ownership on Neaera. After describing in detail Neaera's services as Nikaretēs' property, paragraph 29 focuses on Neaera's purchase by two young Corinthian men, Timanoridas and Eukrates:

[Dem.] 59.29: μετὰ ταῦτα τοίνυν αὐτῆς γίνονται ἐρασταὶ δύο, Τιμανορίδας τε ὁ Κορίνθιος καὶ Εὐκράτης ὁ Λευκάδιος, οἱ ἐπειδήπερ πολυτελῆς ἦν ἡ Νικαρέτη τοῖς ἐπιτάγμασιν, ἀξιοῦσα τὰ καθ' ἡμέραν ἀναλώματα ἅπαντα τῇ οἰκίᾳ παρ' αὐτῶν λαμβάνειν, κατατιθέασιν αὐτῆς τιμὴν τριάκοντα μνᾶς τοῦ σώματος τῇ Νικαρέτῃ, καὶ ὠνοῦνται αὐτὴν παρ' αὐτῆς νόμῳ πόλεως καθάπαξ αὐτῶν δούλην εἶναι. καὶ εἶχον καὶ ἐχρῶντο ὅσον ἐβούλοντο αὐτῇ χρόνον.

*After this she acquired two lovers, Timanoridas the Corinthian and Eukrates the Leucadian, who, because Nikarete was costly in her demands, expecting them to pay for all the daily household expenses, paid her thirty minae as a price for Neaira's person, and bought her outright from her according to the law of the city, to be their own slave. And they kept and used her for as long as they desired.*

The verbs used by Demosthenes are significant: the expression 'κατατιθέασιν ... τιμὴν τριάκοντα μνᾶς' refers to the payment of thirty minae, and the expression 'καὶ ὠνοῦνται αὐτὴν παρ' αὐτῆς' specifies that payment was made in the context of a sale. Therefore, the contract concluded by Nikaretēs and the two men determines a transfer of ownership over Neaera, who becomes Timanoridas' and Eukrates' slave; this is also made clear by the expression 'αὐτῶν δούλην εἶναι' and by the verb ἔχειν, which describe – once again – the relationship between Neaera and her two new masters as based on the right of ownership. As an effect of the sale thus concluded and regulated by the laws of Corinth, Neaera becomes common property of the two young men.<sup>347</sup>

The following three paragraphs focus on Neaera's liberation by her masters and describe in detail the procedure through which she is manumitted. Apollodorus tells that when both Timanoridas and Eukrates were about to marry, they decided to liberate Neaera on the condition that she would no longer work in Corinth as an ἐταίρα.

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<sup>347</sup> For the joint-ownership of slaves as one of the most common forms of shared ownership over things in Athens, cf. Biscardi (1999).

Moreover, in order to recover part of the money they spent in buying her from Nikaretēs (thirty minae), they asked Neaera for the payment of twenty minae in return for her liberation.<sup>348</sup> The procedure through which Neaera collects the money she was asked for and the payment is made is described in paragraphs 30 to 32:

[Dem.] 59.30-32: μέλλοντες δὲ γαμεῖν, προαγορεύουσιν αὐτῇ, ὅτι οὐ βούλονται αὐτὴν σφῶν αὐτῶν ἐταίραν γεγεννημένην ὄραν ἐν Κορίνθῳ ἐργαζομένην οὐδ' ὑπὸ πορνοβοσκῶ οὔσαν, ἀλλ' ἡδέως ἂν αὐτοῖς εἴη ἔλαττον τε τὰργύριον κομίσασθαι παρ' αὐτῆς ἢ κατέθεσαν, καὶ αὐτὴν ταύτην ὄραν τι ἀγαθὸν ἔχουσιν. ἀφιέναι οὖν αὐτῇ ἔφασαν εἰς ἐλευθερίαν χιλίας δραχμάς, πεντακοσίας ἐκάτερος: τὰς δ' εἴκοσι μνᾶς ἐκέλευον αὐτὴν ἐξευροῦσαν αὐτοῖς ἀποδοῦναι. ἀκούσασα δ' αὕτη τοὺς λόγους τούτους τοῦ τε Εὐκράτους καὶ Τιμανορίδου, μεταπέμπεται εἰς τὴν Κόρινθον ἄλλους τε τῶν ἐραστῶν τῶν γεγεννημένων αὐτῇ καὶ Φρυνίωνα τὸν Παιανιέα, Δήμωνος μὲν ὄντα υἱόν, Δημοχάρους δὲ ἀδελφόν, ἀσελγῶς δὲ καὶ πολυτελῶς διάγοντα τὸν βίον, ὡς ὑμῶν οἱ πρεσβύτεροι μνημονεύουσιν. [31] ἀφικομένου δ' ὡς αὐτὴν τοῦ Φρυνίωτος, λέγει πρὸς αὐτὸν τοὺς λόγους οὓς εἶπον πρὸς αὐτὴν ὅ τε Εὐκράτης καὶ Τιμανορίδας, καὶ δίδωσιν αὐτῷ τὸ ἀργύριον ὃ παρὰ τῶν ἄλλων ἐραστῶν ἐδασμολόγησεν ἔρανον εἰς τὴν ἐλευθερίαν συλλέγουσα, καὶ εἴ τι ἄρα αὐτῇ περιεποιήσατο, καὶ δεῖται αὐτοῦ προσθέντα τὸ ἐπίλοιπον, οὗ προσέδει εἰς τὰς εἴκοσι μνᾶς, καταθεῖναι αὐτῆς τῷ τε Εὐκράτει καὶ τῷ Τιμανορίδῃ ὥστε ἐλευθέραν εἶναι. [32] ἄσμενος δ' ἀκούσας ἐκεῖνος τοὺς λόγους τούτους αὐτῆς, καὶ λαβὼν τὰργύριον ὃ παρὰ τῶν ἐραστῶν τῶν ἄλλων εἰσηνέχθη αὐτῇ, καὶ προσθεῖς τὸ ἐπίλοιπον αὐτός, κατατίθησιν αὐτῆς τὰς εἴκοσι μνᾶς τῷ Εὐκράτει καὶ τῷ Τιμανορίδῃ ἐπ' ἐλευθερίᾳ καὶ ἐφ' ᾧ ἐν Κορίνθῳ μὴ ἐργάζεσθαι.

*When, however, they were about to marry, they gave her notice that they did not want to see her, who had been their own mistress, plying her trade in Corinth or living under the control of a brothel-keeper; but that they would be glad to recover from her less than they had paid down, and to see her reaping some advantage for herself. They offered, therefore, to remit one thousand drachmae toward the price of her freedom, five hundred drachmae apiece; and they bade her, when she found the means, to pay them the twenty minae. When she heard this proposal from Eucrates and Timanoridas, she summoned to Corinth among others who had been her lovers Phrynion of Paeania, the son of Demon and the brother of Demochares, a man who was living a licentious and extravagant life, as the older ones among you remember. [31] When Phrynion came to her, she told him the proposal which Eucrates and Timanoridas had made to her, and gave him the money which she had collected from her other lovers as a contribution toward the price of her freedom, and added whatever she had gained for herself, and she begged him to advance the balance needed to make up the twenty minae, and to pay it to Eucrates and Timanoridas to secure her freedom. [32] He listened gladly to these words of hers, and taking the money which had been paid in to*

<sup>348</sup> [Dem.] 59.30: ἀφιέναι οὖν αὐτῇ ἔφασαν εἰς ἐλευθερίαν χιλίας δραχμάς, πεντακοσίας ἐκάτερος: τὰς δ' εἴκοσι μνᾶς ἐκέλευον αὐτὴν ἐξευροῦσαν αὐτοῖς ἀποδοῦναι.

*her by her other lovers added the balance himself and paid the twenty minae as the price of her freedom to Eucrates and Timanoridas on the condition that she should not ply her trade in Corinth.*

The speech informs us that Neaera did not have the entire sum of money she was asked to pay in return for manumission, and for this reason she needed the help of some of her former lovers in order to obtain the remaining part: Neaera eventually collected the entire sum of twenty minae thanks to the money provided partly by an ἔρρανος<sup>349</sup> and partly by Phrinion, who added τό ἐπίλοιπον.

If we read Neaera's case in the light of what is attested in the Delphic manumission inscriptions, we notice that while in the Delphic manumissions through 'sale' there is no express indication of the actual provenance of the 'purchase money', which is just said to be entrusted by the slaves to the god (because of their lack of the capacity to transact), in the pseudo-Demosthenic speech we face a case in which the slave does not have the entire sum she is required, but only part of it. It is therefore fundamental to identify correctly who the text describes as the author of the actual payment to Timanoridas and Eukrates, i.e. the counterparty in the manumission transaction. The key point is that although the two masters' request of payment in return for manumission was addressed directly to Neaera, it is not her, but Phrinion who gives the money to her former masters, and this is due to Neaera's lack of the capacity to make a valid payment for the purpose of manumission, as she is a slave.

One further aspect which I think is important to stress about this passage is the vocabulary used by Apollodorus to describe Neaera's release from slavery. While in the

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<sup>349</sup> The Greek term ἔρρανος refers to a loan which is generally believed to be interests-free and often used by slaves in order to collect the money they needed to pay for their freedom. ἔρρανοι had to be paid back and, in the case of manumitted slaves, failure to return the loan could imply their reversion into slavery: Westermann (1955): 25; Kapparis (1999): 231; Kamen (2014): 295. In the specific case of [Dem.] 59, the fact that Apollodorus does not mention the restitution of the loan by Neaera does not necessarily imply that 'the money she collected was not an ἔρρανος but an εἰσφορά', or that 'Neaira collected the fee for her liberation nominally as an ἔρρανος with the tacit understanding from all sides that it would never be repaid' (Kapparis [1999]: 231); it is more likely that Apollodorus does not mention anything more about Neaera's loan simply because it was not in his interest (Kamen [2014]: 295, convincingly argues that 'it was of no use to him, rhetorically, to paint his opponent as a reliable borrower'). On the meaning and implication of ἔρρανος in Greece, see, most recently, Faraguna (2012b).

Delphic inscriptions the liberation of slaves, at first sight, seems to intermingle with sale, in the sense that the vocabulary of manumission is typically that of a  $\pi\rho\tilde{\alpha}\sigma\iota\varsigma\ \acute{\omega}\nu\eta$ , the pseudo-Demosthenic speech shows a sharp contrast between sale and manumission, as is made clear by the different verbs used in indicating the two different transactions.

As I mentioned before, the vocabulary of sale is expressly used in paragraph 29, which deals with Neaera's purchase by Timanoridas and Eukrates, and directly points to transfer of ownership as an effect of sale: by paying thirty minae to Nikaretēs (κατατιθέασιν αὐτῆς τιμὴν τριάκοντα μνᾶς), Timanoridas and Eukrates purchased Neaera (ὠνοῦνται αὐτήν) who thus became their slave (καθάπαξ αὐτῶν δούλην εἶναι).

Paragraphs 31 and 32, on the other hand, deal with Neaera's manumission and in this context the verb of liberation does not have anything to do with sale: the expression 'κατατίθημι μνᾶς ἐπ' ἐλευθερίᾳ' simply means 'put down money', 'pay', 'deposit', in this case for Neaera's liberation, and does not suggest, not even indirectly, that payment has been made on the basis of sale and that a transfer of ownership over the slave has taken place. On the contrary, payment has been made with the express purpose of obtaining Neaera's release from slavery, and her liberation is the direct and immediate effect of Phrinion's payment of the money to Timanoridas and Eukrates.

The overall conclusion we get from the analysis of the passages above mentioned is that, when masters liberate their slaves in exchange for money, manumission has the nature of a bilateral legal transaction between the master and a third party, other than the slave. If we read the evidence from the speech in the light of the Delphic manumission inscriptions, it is also possible to suggest that whether a slave had the entire amount of the money he or she was asked for (as in the Delphic inscriptions) or just part of it (as for the *Against Neaera*), the result was always the same: another party had to intervene in the manumission procedure and give the money to the slave's master in order to carry out a valid manumission, given the slaves' lack of the capacity to enter into legally binding agreements and to negotiate with their masters.

The evidence from *Against Neaera* also provides useful information about the legal condition of manumitted slaves. Once Phrinion gives the twenty minae to Timanoridas and Eukrates, Neaera is no longer considered to be their slave: as I pointed out before,



after the payment by Phrinion, Neaera becomes immediately free, and all the rights of her former owners over her come to an end. It is interesting to note that after her liberation Neaera does not keep any connection with her former masters, but with Phrinion only.

Paragraph 33 tells us that, after the payment had been made, Phrinion brought Neaera back to Athens with him: during this period, Phrinion made Neaera live in his household and he used to take her everywhere with him. Phrinion's entitlement to this behaviour towards Neaera seems to descend from a specific power or authority he has over her, as indicated by the use of the term *ἐξουσία* (Apollodorus says: 'φιλοτιμίαν τὴν ἐξουσίαν πρὸς τοὺς ὀρῶντας ποιούμενος').

Paragraph 37 is also interesting: according to Apollodorus' account, Neaera was unhappy about her life with Phrinion and therefore she decided to escape from Athens after stealing some goods from Phrinion's house, and to move to Megara (she could not go back to Corinth because Timanoridas and Eukrates manumitted her on the express condition that she would no longer be working in Corinth as an *ἐταίρα*: cf. [Dem.] 59.32). Once in Megara, she maintained herself by working as an *ἐταίρα* and after a few years she met Stephanus, an Athenian citizen who, after moving to Megara, started to live with her. After a while, Neaera decided to move back to Athens with Stephanus and, fearing Phrinion's reaction to her return, she nominated Stephanus as her *προστάτης* ('προϊσταται Στέφανον τουτονὶ αὐτῆς').<sup>350</sup> According to the laws of Athens, those *ἀπελεύθεροι* who decided to reside in Athens had to register an Athenian citizen as their *προστάτης*, whose role – according to the general view – was that of representing the *ἀπελεύθεροι* especially in courts, given their (partial) lack of procedural capacity.<sup>351</sup> Neaera's decision to nominate Stephanus as her *προστάτης* is thus necessary not only because of her return to Athens and her condition as a resident alien, but also because she was already envisaging Phrinion's reaction to her return: on the one hand, she stole

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<sup>350</sup> [Dem.] 59.37.

<sup>351</sup> Harrison (1968): 184, 190; Biscardi (1982): 88. This view, however, presents some problems: Harris (forthcoming) has recently shown that the *φάλαι* inscriptions attest *ἀπελεύθεροι* and metics as actors in court cases, which therefore means that both these categories could take part in (at least some) legal procedures.

some of his properties before abandoning his household; on the other hand, by escaping to Megara, she did not respect Phrynion's ἐξουσία over her. And in fact, as soon as Neaera moves back to Athens, Phrynion's reaction is immediate and is described in paragraph 40:

[Dem.] 59.40: πυθόμενος δὲ ὁ Φρυνίων ἐπιδημοῦσαν αὐτήν καὶ οὔσαν παρὰ τούτῳ, παραλαβὼν νεανίσκους μεθ' ἑαυτοῦ καὶ ἐλθὼν ἐπὶ τὴν οἰκίαν τὴν τοῦ Στεφάνου ἤγεν αὐτήν. ἀφαιρουμένου δὲ τοῦ Στεφάνου κατὰ τὸν νόμον εἰς ἐλευθερίαν, κατηγορήσεν αὐτήν πρὸς τῷ πολεμάρχῳ.

*Phrynion, however, learned that the woman was in Athens and was living with Stephanus, and taking some young men with him he came to the house of Stephanus and attempted to carry her off. When Stephanus took her away from him, as the law allowed, declaring her to be a free woman, Phrynion required her to post bonds with the Polemarch.*

This paragraph refers to the procedure which was started whenever the free condition of a person was challenged by a citizen who claimed, on the contrary, that that person was a slave: the ἀγωγή εἰς δουλείαν of the claimant, followed by the ἀφαίρεσις εἰς ἐλευθερίαν by the 'adstertor libertatis', are typical acts of Athenian litigation concerning the legal condition of individuals, and they constitute necessary requirements for bringing a δίκη ἀφαιρέσεως before the Polemarch. The text of the speech shows that Phrynion is the author of an ἀγωγή on Neaera: the ἀγωγή εἰς δουλείαν implied the physical seizure of the alleged slave by the person who maintained to be its master. This act was considered to be a form of institutionalised 'self-help'<sup>352</sup>, and any attempt to hamper the ἀγωγή constituted violence (βία).<sup>353</sup>

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<sup>352</sup> Cf. Pelloso (2009/2010): 131 n. 30, who points out that 'Ἄγειν ..., in astratto (e sul piano sostanziale), è sì configurabile come esercizio di un asserito potere dominicale (talché impedire violentemente un ἄγειν εἰς δουλείαν configura un illecito ...), solo allorché ... non si configuri l'opposizione formale di terzi (che accampino diritti asseritamente confliggenti con quello dell' ἀγῶν); ma detto ἄγειν è anche, in concreto (e sul piano del diritto processuale), il presupposto necessario, in una con la successiva (seppur eventuale) ἀφαίρεσις, per l'esperimento della δίκη ἀφαιρέσεως. Una volta assodato ciò, va da sé che si risolve tale impossessamento in una forma di "self-help" consentito (anzi, comandato) dall'ordinamento, inserito coerentemente in un sistema che "non proteggeva il possesso in sé", ma solo quello "giusto", autorizzando "il ricorso a mezzi di autodifesa" e perseguendo "la violenza nelle private controversie".

<sup>353</sup> Cf. Plato *Leg.* 11.914 e; *Lys.* 23.11.

Phrinion's ἀγωγή is followed by Stephanus' ἀφαίρεσις εἰς ἐλευθερίαν, which consisted in 'the symbolic act of taking the alleged slave away into liberty'.<sup>354</sup> The nature of this act is different from that of the ἀγωγή: the Athenian ἀφαίρεσις was a formal act consisting in the order, by the *adsertor* to the ἀγῶν, to release the ἀπαχθείς<sup>355</sup>, and if the claimant did not do so and insisted in the seizure of the alleged slave, his behaviour would be, once again, a form of βία which could be prosecuted by the *adsertor* with a δίκη βιαιῶν.<sup>356</sup> When the ἀγωγή was followed by the ἀφαίρεσις εἰς ἐλευθερίαν, the only remedy for the claimant who insisted in affirming his right of ownership over the slave was to bring a δίκη ἀφαιρέσεως before the Polemarch: after the ἀφαίρεσις and until the δίκη ἀφαιρέσεως had taken place, the claimant was deprived of his possession over the ἀπαχθείς, who was thus granted the possession of his own self.<sup>357</sup> Because, as an effect of the ἀφαίρεσις, the claimant no longer held possession over the alleged slave, the ἀφαιρούμενος had to provide some guarantors: their function was to assure the claimant that he would recover his property in the event that, as a result of the δίκη ἀφαιρέσεως, the latter's right of ownership over the ἀπαχθείς was confirmed.<sup>358</sup> The nature of the δίκη ἀφαιρέσεως was that of a criminal action *in duplum*.<sup>359</sup> This means that, through this action, the plaintiff (the ἀγῶν) aimed to obtain a condemnation *in*

<sup>354</sup> Harrison (1968): 178.

<sup>355</sup> On the non-violent nature of the ἀφαίρεσις εἰς ἐλευθερίαν, as opposed to the ἀγωγή εἰς δουλείαν, see Paoli (1976): 435-459 (who focuses, more specifically, on the relationship between the two 'analogous' acts of the ἐξαγωγή and the ἐξείρεσις); Pelloso (2009/2010): 97, 128 n. 30.

<sup>356</sup> See Christ (1998): 530. The relationship between δίκη βιαιῶν and δίκη ἀφαιρέσεως is made clear by Paoli (1976): 442, 456. Both actions are penal and aim to a condemnation *in duplum*; yet, given that 'Ἐξείρεσις poneva in essere uno stato di fatto provvisorio, considerato come legittimo e perciò difeso dalla δίκη βιαιῶν', this implying that 'la δίκη βιαιῶν assicurava l'indisturbato perdurare di quello stato di fatto', the δίκη ἀφαιρέσεως aimed to 'provocare una sentenza giudiziale che, risolvendo la controversia, dichiarasse implicitamente legittimo solo uno stato di fatto che fosse conforme al diritto giudizialmente riconosciuto. È legittima qualsiasi azione tenda a raggiungere lo stato di fatto che la legge considera provvisoriamente (per ... ἐξείρεσις) o definitivamente (per sentenza in seguito a ... δίκη ἀφαιρέσεως) legittimo; è violenza qualsiasi azione impedisca il costituirsi o il perdurare di quello stato di fatto', thus balancing the right to self-help with the prohibition of violence. See also Biscardi (1982): 215.

<sup>357</sup> Paoli (1976): 453.

<sup>358</sup> Paoli (1976): 452.

<sup>359</sup> Paoli (1976): 454, who stresses that the main feature of the δίκη ἀφαιρέσεως is that 'l'attore tende a ottenere da un lato la riparazione del danno provocato dall'*adsertor* e la riaffermazione giudiziale del diritto da quello violato, dall'altro lato la condanna *in duplum* del convenuto'.

*duplum* of the defendant (the ἀφαιρούμενος): if convicted, the latter had to pay a penalty, the amount of which corresponded to double the value of the slave, and a half of this sum had to be paid to the πόλις as a fine.<sup>360</sup> Given the nature of the δίκη ἀφαιρέσεως, it follows that the legal condition of the ἀπαχθείς is determined only indirectly and incidentally: by condemning the plaintiff or the defendant to the payment of the fine, the decision indirectly states that the legal condition of the ἀπαχθείς is one of freedom (in the first case) or of slavery (in the second case).

A closer look at the text of the speech shows that all these stages are mentioned: Phrinion's ἀγωγή εἰς δουλείαν on Neaera is followed by the ἀφαιρέσεις εἰς ἐλευθερίαν by Stephanus, who thus acts as Neaera's *adsertor libertatis*; it is also mentioned that, after Stephanus' ἀφαιρέσεις, Neaera had to provide three guarantors before the Polemarch.

As I showed before, the sequence ἀγωγή εἰς δουλείαν-ἀφαιρέσεις εἰς ἐλευθερίαν is mirrored in the inscriptions from Delphi recording the so-called 'manumissions through sale': in the Delphic inscriptions the ἀγωγή εἰς δουλείαν is described as an act consisting in the ἄπτεσθαι/ἐφάπτεσθαι ἐπὶ καταδουλισμῶ, whereas the ἀφαιρέσεις εἰς ἐλευθερίαν takes the form of a συλᾶν, which implied the physical counter-seizure of the alleged slave by the *adsertor libertatis*. The fact that these remedies were often mentioned in the Delphic inscriptions, together with Apollodorus' account of the ἀγωγή carried out by Phrinion on Neaera, show that 'legitimately freed slaves were often enslaved or re-enslaved'<sup>361</sup>, and that their condition after manumission could often be threatened by individuals claiming titles or rights over them. Therefore, the evidence from the speech should not be read in the sense that Phrinion's ἀγωγή implies that he held property rights over Neaera: it rather suggests that 'Phrinion lacked a legal claim to Neaira and simply hoped he could take advantage of her precarious status'.<sup>362</sup> This is

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<sup>360</sup> Maffi (1995): 21-22.

<sup>361</sup> Kamen (2014): 296.

<sup>362</sup> Kamen (2014): 296. Similarly, see Kapparis (1999): 249-250, who stresses that the opposite solution would have been also against the intentions of Neaera's manumittors ('any term or condition giving legal rights to Phrynion would be entirely against the intentions of her former masters. They had decided not to sell her again but to set her free and encouraged her to collect only part of the money they had paid for her ... it is unlikely that they would have agreed to a conditional liberation granting further rights to Phrynion').

also true, on the other hand, if we consider that, as an effect of Solon's reforms, slavery for debt was definitely abolished and therefore no debtor in Athens could be reduced into slavery.<sup>363</sup> Neaera, after all, had borrowed money from Phrinion in order to pay for her manumission, and she owed him this money and yet failed to pay it back, as she escaped to Megara. Neaera's failure to fulfil her obligation(s) towards Phrinion, therefore, could not have led to the former's reduction into slavery by the latter (because of the Solonian reform), and for this reason the ἀγωγή by Phrinion was illegal.

Phrinion, however, does not bring a δίκη ἀφαιρέσεως against Stephanus, since some friends of both parties convince them to recur to the decision of three private arbitrators, as is described in paragraph 46 of the speech:

[Dem.] 59.46: συνελθόντες δ' οὔτοι ἐν τῷ ἱερῷ, ἀκούσαντες ἀμφοτέρων καὶ αὐτῆς τῆς ἀνθρώπου τὰ πεπραγμένα, γνώμην ἀπεφήναντο, καὶ οὔτοι ἐνέμειναν αὐτῇ, τὴν μὲν ἀνθρώπον ἐλευθέραν εἶναι καὶ αὐτὴν αὐτῆς κυρίαν, ἃ δ' ἐξῆλθεν ἔχουσα Νέαιρα παρὰ Φρυνίωνος χωρὶς ἱματίων καὶ χρυσίων καὶ θεραπαινῶν, ἃ αὐτῇ τῇ ἀνθρώπῳ ἠγοράσθη, ἀποδοῦναι Φρυνίῳ πάντα: συνεῖναι δ' ἑκατέρῳ ἡμέραν παρ' ἡμέραν: ἐὰν δὲ καὶ ἄλλως πῶς ἀλλήλους πείθωσι, ταῦτα κύρια εἶναι.

*They met in the temple and after hearing the facts from both parties and the woman herself they announced their decision, which the parties accepted, that the woman was to be free and her own mistress, but that Neaera should give back to Phrinion all that she took with her from Phrinion's house, except for clothing and jewellery and maidservants, which had been bought for the woman herself; she was to live with each of them day for day; but any other arrangement arrived at by mutual agreement should be binding.*

This passage is also key for the understanding of Neaera's condition after her liberation: the arbitrators decided that she had to be considered 'ἀνθρώπον ἐλευθέραν εἶναι καὶ αὐτὴν αὐτῆς κυρίαν' ([Dem.] 59.46). This expression clearly recalls the formula used in some manumission inscriptions from Delphi in which the manumitted slave is said to be 'ἐλευθέρα ... κυριεύουσα αὐτοσαυτᾶς'<sup>364</sup>: this formula aims to protect the legal condition of freedom enjoyed by ἀπελεύθεροι after manumission and stresses

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<sup>363</sup> Cf. Harris (2002), for a clear discussion on the legal distinction between enslavement for debt and debt-bondage; Harris further proves that Solon only abolished enslavement for debt, whereas debt-bondage continued to be practiced in Classical Athens long after Solon.

<sup>364</sup> Cf., for instance, FD III 2:224, 3:3, or 3:13 (all from the 2<sup>nd</sup> century B.C. Delphi).

that, from a legal point of view, manumitted slaves are masters of themselves, and no other form of private ownership exists on them after their manumission.

Yet, while the content of the arbitrators' decision confirms that Neaera, legally speaking, is a free woman (thus implying that no right of ownership over her existed, neither by Phrynion nor by Stephanus), it also states that she has to live with each of them every other day, and this constitutes a considerable limitation of the freedom that Neaera *de facto* enjoys.<sup>365</sup> The rationale behind the decision taken by the arbitrators clearly lies in Neaera's debt with Phrinion. Since she borrowed money from him and thus became his debtor<sup>366</sup>, she was in a position by which she had obligations towards Phrinion, which likely consisted in living with him (it is less clear from the text the reason why it was also decided that she had to live one day with Stephanus: such a decision might reflect what her real will was, rather than the existence of an actual obligation towards him). In this regard, it may be possible to suggest that the existence, in the case of Neaera, of an obligation following her debt with Phrinion, resembles the institution of debt-bondage (which can be defined as the condition of a debtor who, as a legally free individual, 'remains under the control of the creditor only until his debt is paid off')<sup>367</sup>, rather than *παράμνη* *strictu sensu*, and, at the same time, further proves – although from a different angle – that in practice *παράμνη* involved obligations over a free person, in the same way as debt-bondage did.

To sum up, the analysis of paragraphs 33 to 46 of the speech suggests that Neaera's condition after her manumission was characterised by the following elements: Phrinion's behaviour towards her reflects his power or authority (*ἐξουσία*) over Neaera;

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<sup>365</sup> The arbitrators' decision further states, on the one hand, that the parties could come to a different arrangement on this point, which had to be considered equally valid and binding and, on the other hand, that Neaera would have to return all the goods that she had taken from Phrinion's house except for those that he had bought personally for her: cf. [Dem.] 59.45 (...συνεῖναι δ' ἑκατέρω ἡμέραν παρ' ἡμέραν· ἐὰν δὲ καὶ ἄλλως πως ἀλλήλους πείθωσι, ταῦτα κύρια εἶναι...). On the function of private arbitrations and their nature ('an agreement between two litigants, who both consent to accept the decision of an independent third party as decisive, forgoing their right to appeal to a jury'), cf. Todd (1993): 123-125; more recently, see Harris (2006): 157.

<sup>366</sup> Cf. Faraguna (2012b): 140.

<sup>367</sup> Harris (2002): 417.

Neaera's return to Athens is possible only after she nominates Stephanus as her προστάτης; an ἀγωγή εἰς δουλείαν is carried out by Phrinion, which was followed by the ἀφαίρεσις εἰς ἐλευθερίαν by Stephanus; the dispute is settled by recurring to three arbitrators, whose decision makes a very clear distinction between Neaera's legal condition (αὐτήν αὐτῆς κυρίαν) and her *de facto* situation as a freedwoman (obligation to 'live with' Phrinion and with Stephanus in alternate days – συνεῖναι –).

To conclude, the analysis of the speech provides important information with regard to both the legal nature of the act through which Neaera was granted freedom (in Corinth) and her condition after manumission (in Athens). As for the first point, the speech makes it clear that, whenever payment was required by masters in return for the liberation of slaves, manumission has the nature of a bilateral legal transaction between the slaves' master and a third party, whose role in the manumission procedure was limited to paying the money to the slaves' κύριοι. Moreover, these passages point to the inadequacy of defining this kind of manumission as a *πρᾶσις ἐπὶ ἐλευθερίᾳ*: not only the vocabulary is completely different from that of sale and simply suggests that payment is made by a third party in return for liberation, but also indicates that no transfer of ownership takes place, not even a conditional or fictitious one. The speech makes it clear that Neaera's liberation is immediate and descends automatically from the payment made by Phrinion to Timanoridas and Eukrates. As for the second point, the speech suggests that, after her liberation, Neaera became an ἀπελευθέρω and her condition as such was *de iure* one of freedom, but *de facto* this freedom was limited in several ways. This contrast between *de iure* and *de facto* levels clearly recalls the condition of manumitted slaves as recorded in the Delphic inscriptions: in this latter case, the institution of παραμονή requires to make a distinction between the *de facto* condition of ἀπελεύθεροι under παραμονή duty and their *de iure* condition, which was clearly one of freedom. Similarly, the case of Neaera – although strictly speaking may not be described as a case of παραμονή – is characterised by a 'contrast' between her legal condition, which is clearly one of freedom, and her *de facto* situation, which is one of debt-bondage; both cases (παραμονή and debt-bondage), however, involved very similar obligations. Moreover, a closer look at the text of the speech shows that many

elements are similar to some of the clauses often mentioned in the Delphic inscriptions. For instance, the features of the ἀφάρσεις εἰς ἐλευθερίαν, through which Neaera's freedom was legally protected, are very similar to the συλᾶν mentioned in the Delphic manumissions through 'sale' as a response to an act of ἀγωγή εἰς δουλείαν; Neaera's *de facto* freedom seems to be undermined by severe limitations of movement (as the arbitrators' decision compelling her to συνεῖναι with Stephanus and Phrinion clearly shows), which are very similar to those that characterised the condition of the ἀπελεύθεροι under παραμονή of the Delphic manumissions, who were obliged to 'stay with' their former masters for years, or also for the rest of the latter's lives.

##### 5. *Manumission and sale in Hyperides' Against Athenogenes.*

The contrast between sale and manumission and their respective effects is even more evident in the *Against Athenogenes*, a forensic speech by Hypereides dated between 330 and 324 B.C.<sup>368</sup> Although scholars traditionally maintain that the attempted manumission of a young slave boy as described in this speech constitutes, together with *Against Neaera*, a typical example of προᾶσις ἐπί ἐλευθερία as a specific form of manumission, the vocabulary used in the speech makes a clear distinction between sale and manumission, and thus reinforces the idea of the inadequacy of such definition.

The speech was written for Epikrates, who brings a δίκη βλάβης for damages against Athenogenes.<sup>369</sup> The terms of the litigation can be synthesized as follows: 'the lawsuit arose from a contract of sale whereby Epicrates purchased three slaves – a man named Midas and his two sons, in one of whom Epicrates had an erotic interest – and the perfumery they managed from Athenogenes for 40 mn. In doing so he explicitly agreed to assume all debts that Midas had incurred in running the perfumery. Epicrates asserts that Athenogenes misrepresented the amount of debt in negotiating and drawing up the

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<sup>368</sup> Whitehead (2000): 266. The initial part of the speech is lost: according to commentators, this 'amounted to two or three columns; something between four and nine chapters' (see Whitehead [2000]: 279, who, in his commentary on the speech, maintains that the lost prologue 'will have served three purposes: expressing the speakers' embarrassment at being obliged to resort to law; giving a summary explanation ... of how this unwanted and unwelcome necessity had arisen; and then beginning to narrate the plaintiff's initial encounters with the crafty Athenogenes').

<sup>369</sup> On the δίκη βλάβης, see Wolff (1943): 316-324; Villers (1989): 63.



contract and accordingly seeks to void the contract on grounds of fraud. In his defence, Athenogenes will rely on a general law of contract that provides that “whatever one man agrees with another is binding”<sup>370</sup>.

The contrast between sale and manumission characterises the very beginning of the speech. Epikrates had fallen in love with one of the three slaves who ran Athenogenes’ *μυροπώλιον* and wants to liberate him: for this reason, he suggests that he would pay forty minae to Athenogenes in order to manumit the young slave. Yet, Athenogenes, with the help of an *ex ἑταίρα* named Antigona, persuades Epikrates to pay the sum of forty minae not for the slave’s liberation, but for purchasing the entire *μυροπώλιον* together with the three slaves (the one Epikrates loves, his brother and his father Midas).<sup>371</sup> It is clear, then, that although manumission was the initial intention that moved Epikrates to negotiate with Athenogenes, what the two parties actually concluded was a sale. The reason why Athenogenes insists in asking Epikrates for the payment of forty minae on the basis of a sale rather than on manumission lies, ultimately, on the opposite legal effects descending from the two transactions. The main point of the speech is in fact to determine whether the person who had to be considered liable for the debts incurred by the slaves in running the *μυροπώλιον* had to be identified with the owner at the time of the transactions (i.e. Athenogenes) or, rather, with the new owner of the slaves and of the *μυροπώλιον* (i.e. Epikrates).<sup>372</sup>

As Epikrates suggests in paragraph 7, if Athenogenes had accepted Epikrates’ original intention (manumission), the litigation would not have started: as an effect of manumission, no transfer of ownership would have taken place and therefore no

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<sup>370</sup> Phillips (2009): 92.

<sup>371</sup> Maffi (2007): 212, stresses that the object of the sale were (only) the three slaves, whereas the acquisition of ownership over the *μυροπώλιον*, together with its credits and debts, would have automatically descended upon Epikrates from the purchase of the slaves who ran it. For this reason, he suggests that Epikrates would have been taking over all the debts of the perfumery, even though he had not expressly accepted them within the *ὁμολογία*. Talamanca, on the other hand, maintains that the object of the contract was the perfumery, whereas the acquisition of ownership over the slaves would have been an automatic effect descending upon Epikrates from the purchase of the *μυροπώλιον*, given that the three slaves were ‘una sorta di accessorio di tale oggetto e, in quanto “funzionali” all’esercizio dell’azienda, erano naturalmente ricompresi nell’alienazione della stessa’ (Talamanca [2007]: 224-225).

<sup>372</sup> Maffi (2007): 211-212.

problem about Epikrates' possible responsibility for the debts would have emerged.<sup>373</sup> Since, on the contrary, the two parties decided to conclude a *πρᾶσις ὠνή*, the transaction determined a transfer of ownership over the slaves and the *μυροπώλιον*, and this led to the problem of the possible transfer of the liability for debts from the former owner to the new one.

The different nature of the two acts is made clear in paragraphs 5 and 6, whereas paragraph 7 stresses their different effects. A closer look at these passages will make the point clearer:

Hyp. 3.5-6: ... σὺ μὲν γάρ, ἔφη, τὸ ἀργύριον ἐπ' ἐλευθερία καταβαλεῖς τοῦ Μίδου καὶ τῶν παίδων, ἐγὼ δέ σοι ἀποδώσομαι αὐτοὺς ὠνή καὶ πράσει, ἵνα πρῶτον μὲν μηδεὶς παρενοχλῆ μηδὲ διαφθείρῃ τὸν παῖδα, ἔπειτ' αὐτοὶ μὴ ἐγχειρῶσι πονηρεύεσθαι μηδὲν διὰ τὸν φόβον. τὸ δὲ μέγιστον, νῦν μὲν ἂν δόξειαν δι' ἐμὲ γεγονέναι ἐλεύθεροι: ἐὰν δὲ πριάμενος σὺ ὠνή καὶ πράσει εἶθ' ὕστερον, ὅτε ἂν σοι δοκῆ, ἀφῆς αὐτοὺς ἐλευθέρους, διπλασίαν ἔξουσίν σοι τὴν χάριν.

*'You, you see', he said, 'are going to put up the money to liberate Midas and his sons. But I shall sell them to you outright. That way, nobody can bother you or corrupt the boy, and they themselves will not try any tricks because of fear. Best of all, though, as things stand now they would think it was I who had brought about their liberation, whereas if you buy them outright and then grant them their freedom later, when it suits you, they will be grateful to you twice over'.*

Sale and manumission are expressly opposed as two different transactions: not only Hyperides uses a specific vocabulary in referring to them, but he also stresses their opposite legal effects. If Epikrates had succeeded in his initial intention, he would have

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<sup>373</sup> From the text of the speech we cannot reach safe conclusions about the problem of the responsibility for the debts of the *μυροπώλιον*, although paragraph 7 suggests that at least the new owner was not to be considered responsible for the debts previously incurred by the slaves: Epikrates expressly states that *'εἰ μὲν γάρ ἐπ' ἐλευθερία καταβάλλοιμι αὐτῶν τὸ ἀργύριον, τοῦτο μόνον ἀπώλλουον ὁ δοίην αὐτῶ, ἀλλ' οὐδὲν δεινὸν ἔπασχον: εἰ δὲ πριάιμην ὠνή καὶ πράσει, ὁμολογήσας αὐτῶ τὰ χρέα ἀναδέξεσθαι, ὡς οὐθενὸς ἄξια ὄντα, διὰ τὸ μὴ προειδέναι, καὶ τοὺς πληρωτὰς τῶν ἐράνων ἐν ὁμολογίᾳ λαβῶν: ὅπερ ἐποίησεν'* ('if, you see, I put up the money to buy their freedom I would merely lose whatever I gave him and suffer no serious harm; if on the other hand I bought them outright and accepted responsibility for their debts, which without knowing the facts in advance I assumed to be negligible, his intention was ultimately to bring down the creditors and the loan-depositors on me, once he had entrapped me in an agreement. Which is just what happened').

paid the sum of forty minae to Athenogenes for the liberation of the young slave he loved. As a direct and immediate effect of the payment, the slave would have become a free individual and, consequently, no right of ownership would have existed over him, neither by Athenogenes (his former master) nor by Epikrates.

The vocabulary used by Hyperides in describing Epikrates' initial intention of manumitting the slave conveys the same meaning of the one used in [Dem.] 59.31-32 for Neaera's manumission (κατατίθημι τὰς μνᾶς): the expression 'τό ἀργύριον ἐπ'ἐλευθερία καταβάλλειν' simply refers to the payment of money in return for manumission. No connection is therefore made, or can be inferred, between sale and manumission, and the evidence from *Against Athenogenes* further proves that the qualification of this act as a *πρᾶσις ἐπὶ ἐλευθερία* cannot be accepted.

Paragraph 4 also confirms this point: when Epikrates is talking about his initial intention, he says that Antigona – in agreement with Athenogenes for the purpose of cheating Epikrates – lied to him, telling him that she could hardly convince Athenogenes to liberate the slaves, thus urging Epikrates to give him the forty minae before he changed his mind:

Hyp. 3.4-5: συμπεπεικυῖα αὐτὸν ἀπολύσαι μοι τὸν τε Μίδα καὶ τοὺς υἱεῖς ἀμφοτέρους τετραράκοντα μνῶν, καὶ ἐκέλευέ με τὴν ταχίστην πορίζειν τὸ ἀργύριον, πρὶν μεταδόξαι τι Ἀθηνογένει.

*She had, for my sake, persuaded him with difficulty to release Midas and both his sons for forty minai; and she told me to produce the money without delay before Athenogenes changed his mind on anything.*

Once again, the vocabulary of manumission, as corresponding to Epikrates' initial intention, is different from that of sale: the liberation of the three slaves is expressed by the verb ἀπολύειν, and the verb of payment (πορίζειν τὸ ἀργύριον) shows that, if this had been made, payment for their manumission would not have been based on a sale.

What Epikrates and Athenogenes actually concluded was, on the contrary, a sale. Athenogenes persuades Epikrates to pay the forty minae not for manumission, but as the purchase money in a sale, as the vocabulary of the speech makes clear: Athenogenes'

proposal (ἐγὼ δὲ σοι ἀποδώσομαι αὐτοὺς ὦνῃ καὶ πράσει)<sup>374</sup> is in fact followed by the statement that the πρᾶσις ὦνῃ was concluded (τὰς δὲ τετραράκοντα μνᾶς ἐγὼ καταβαλὼν τὴν ὦνῃν ἐποίησάμην).<sup>375</sup> It is therefore clear that sale determines a transfer of ownership over the three slaves from Athenogenes to Epikrates, who thus becomes their new master.

The passages above mentioned further confirm what is suggested by the analysis of the Delphic manumission inscriptions and by the *Against Neaera*: whenever masters required the payment of money for liberating their slaves, the legal nature of manumission was that of a bilateral legal transaction between the slaves' master and a third party. Moreover, an overall reading of the evidence analysed so far shows that manumission in exchange for money was characterised by common features throughout the Greek world, in different πόλεις and times. Given that, in all these cases, the performance of valid manumissions in exchange for money always required the intervention of a third party in order to carry out a valid transaction with the slaves' masters, it is possible to suggest that the former's role is the same one and is necessary for a purely legal reason. The evidence shows three possible scenarios. The money paid for manumission could be provided: entirely by the third party (as in *Against Athenogenes*); partly by the third party and partly by the slave who is to be manumitted (as in *Against Neaera*); entirely by the slaves who are to be manumitted (as in the Delphic manumission inscriptions). In all these cases, a third party, necessarily different from the slave, has to intervene in the manumission procedure in order to allow slaves to pay for their freedom, given their lack of legal personality. Finally, all the evidence analysed above shows that no right of ownership is acquired by the third party over the manumitted slaves, who become legally free individuals immediately after payment is made.

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<sup>374</sup> Hyp. 3.5.

<sup>375</sup> Hyp. 3.9.

6. *The manumissions of Rhodopis and Phila.*

The same considerations on the legal nature of manumission in exchange for money can be made for what is believed to represent ‘the earliest reference to a purchase for the purpose of freedom’<sup>376</sup>, namely, the episode referring to the liberation of the female slave Rhodopis as is described by Herodotus in the second Book of the *Histories*. It is important to point out that the episode of Rhodopis’ manumission is set in a geographical and chronological context which is different from those of the sources analysed so far, but what Herodotus tells about the act through which she was granted freedom is nonetheless significant and further confirms what the evidence from *Against Neaera* and *Against Athenogenes* suggests about manumission.

Rhodopis was a slave of Thracian origins who belonged to Iadmon of Samos; she was then brought to Egypt by her master, where she was later released by a citizen from Mytilene, named Kharaxos, who had fallen in love with her:

Hdt. 2.135.1: Ῥοδῶπις δὲ ἐς Αἴγυπτον ἀπῖκετο Ἐάνθεω τοῦ Σαμίου κομίσαντος, ἀπικομένη δὲ κατ’ ἐργασίην ἐλύθη χρημάτων μεγάλων ὑπὸ ἀνδρὸς Μυτιληναίου Χαράξου τοῦ Σκαμανδρονύμου παιδός, ἀδελφεοῦ δὲ Σαπφοῦς τῆς μουσοποιοῦ ...  
Hdt. 2.135.6: Χάραξος δὲ ὡς λυσάμενος Ῥοδῶπιν ἀπενόστησε ἐς Μυτιλήνην.

*Rhodopis came to Egypt to work, brought by Xanthes of Samos, but upon her arrival was freed for a lot of money by Kharaxus of Mytilene, son of Scamandronymus and brother of Sappho the poetess ... Kharaxus, after giving Rhodopis her freedom, returned to Mytilene.*

In this passage, the verb of manumission is λύειν (which conveys the same meaning of the composite form ἀπολύειν used by Epikrates in Hyp. 3.4): although Herodotus stresses that Kharaxos paid a large sum of money for Rhodopis’ liberation, there is no reason to believe that the episode describes a case of προᾶσις ἐπί ἐλευθερίᾳ οἱ, in other words, that Kharaxos purchased Rhodopis, thus becoming her master, for the purpose of liberating her later in time or also immediately after the purchase.<sup>377</sup> The text suggests the opposite, because it makes clear that, as an effect of the payment by Kharaxos to her

<sup>376</sup> Glazebrook (2014): 56.

<sup>377</sup> Zelnick-Abramovitz (2005): 209; Kamen (2014): 300; Glazebrook (2014): 56.

master, Rhodopis becomes immediately free. In this case, Rhodopis' condition is one of freedom both *de iure* and *de facto*: while she remains in Egypt, where the tradition says she became rich and well-known, Kharoxos goes back to Mytilene and therefore no connection between him and Rhodopis exists after the latter's manumission. Herodotus, in other words, makes no mention of a *παράμνη* duty or other obligations as characterising Rhodopis' condition after her manumission. This evidence further proves that these sources do not justify any confusion between sale and manumission (as is implied by those scholars who describe these episodes as *πράξεις ἐπί ἐλευθερία*), and that manumission was conceived of as a bilateral legal transaction by which the third party did not acquire any right of ownership over the manumitted slave.

One final episode which does not refer to a manumission performed in Athens, but confirms the distinction between sale and manumission, is mentioned by Athenaeus in the thirteenth Book of the *Deipnosophistae*, in which he mentions, although very briefly, the manumission of a female slave named Phila by her master, Hypereides, who had purchased her for a large sum of money:

Ath. 13.58: Ὑπερείδης δ' ὁ ῥήτωρ ἐκ τῆς πατρῴας οἰκίας τὸν υἱὸν ἀποβαλὼν Γλαύκιππον Μυρρίνην τὴν πολυτελεστάτην ἑταίραν ἀνέλαβε, καὶ ταύτην μὲν ἐν ἄστει εἶχεν, ἐν Πειραιεῖ δὲ Ἀρισταγόραν, Φίλαν δ' ἐν Ἐλευσίνι, ἦν πολλῶν ὠνησάμενος χρημάτων εἶχεν ἐλευθερώσας, ὕστερον δὲ καὶ οἰκουρὸν αὐτὴν ἐποιήσατο, ὡς Ἰδομενεὺς ἱστορεῖ.

*But Hypereides the orator, having driven his son Glaucippus out of his house, received into it that most extravagant courtesan Myrrhina, and kept her in the city; and he also kept Aristagora in the Piraeus, and Phila at Eleusis, whom he bought for a very large sum, and then liberated; and after that he made her his housekeeper, as Idomeneus relates.*

After narrating that Hypereides used to spend a lot of money in buying expensive *ἑταῖραι*, Athenaeus mentions the episode of the liberation of one of them, named Phila, who was Hypereides' slave in Eleusis: it is therefore likely that the passage from Athenaeus refers to a manumission performed in the 4<sup>th</sup> century B.C. at Eleusis.

Once again, the Greek text is characterised by a clear-cut distinction between the vocabulary of sale and the vocabulary of manumission: sale is referred to with the verb

ὠνέομαι, whereas manumission is described with the verb ἐλευθερόω, which means ‘to set free’. The passage informs us that Hypereides had first bought Phila for a large sum of money, thus becoming her master (he then decided to keep her as his ἑταίρα: the same use of a female slave as an ἑταίρα was also made by Timanoridas and Eukrates with regard to Neaera, after they purchased her from Nikaretes) and then, later in time, he manumitted her. From the text we cannot infer whether Hypereides liberated Phila for free (ἐπὶ δωρεᾷ) or in exchange for money (as in the case of Neaera or Rhodopis); what is important to stress is that the vocabulary of sale is different from that of manumission, that sale and manumission have opposite legal effects and, ultimately, that this episode cannot be described, as some scholars have suggested, as a πρᾶσις ἐπὶ ἐλευθερίᾳ<sup>378</sup>, since in this specific case payment for freedom is not even mentioned.<sup>379</sup>

<sup>378</sup> Calderini (1965): 219; see also Kamen (2014): 300, who translates the passage as ‘... and in Eleusis he kept Phila, whom he freed having purchased her for a very large sum of money’ and concludes that ‘Phila ... was likely “sold” for the purpose of freedom’. Kapparis (1999): 210, on the other hand, correctly maintains that ‘Phila ... was liberated by her master Hyperides after he had bought her from Nikarete. Courtesans sometimes were first bought as slaves and shortly if not immediately afterwards liberated’. Kapparis’ comment makes it clear that sale and manumission are kept distinguished and that manumission is carried out only after having purchased a slave; Kamen’s suggestion, on the other hand, implies that sale and manumission were intermingled within one single transaction and that, as an automatic effect of the purchase (sale), Phila was manumitted.

<sup>379</sup> I am not convinced that Plut. *Vit. Dec.* 849d-e (ἐγένετο δὲ καὶ πρὸς τὰ ἀφροδίσια καταφερῆς, ὡς ἐκβαλεῖν μὲν τὸν υἱὸν εἰσαγαγεῖν δὲ Μυρρίνην τὴν πολυτελεστάτην ἑταίραν, ἐν Πειραιεῖ δ’ ἔχειν Ἀρισταγόραν, ἐν Ἐλευσίνι δ’ ἐν τοῖς ἰδίῳις κτήμασι Φίλαν τὴν Θηβαίαν, εἴκοσι μνῶν λυτρωσάμενος) refers to the same episode, i.e. to Phila’s manumission (as it seems to be suggested by Calderini [1965]: 219; Kamen [2014]: 300), since it more likely refers to the moment in which Hyperides acquires ownership over Phila, who would thus become his slave. The passage is however problematic. On the one hand, it mentions that Hyperides had ransomed Phila for twenty minae (εἴκοσι μνῶν λυτρωσάμενος). Legally speaking, ransom does not imply that the ransomer acquires ownership over the ransomed individual: after the payment of the ransom, the ransomed became legally free, even though ransom could (but not necessarily did) imply the latter’s obligation of paying back the ransom, this constituting the result of a contractual obligation between the ransomer and the ransomed (*contra*, see, most recently, Sosin [forthcoming]). While performing these further obligations, the ransomed was legally free. After all, the main purpose of ransom – and, at the same time, the reason why ransom is legally and terminologically distinguished from sale – is that of liberating a person from a previous reduction into slavery (as typically happened for war captives); if ransom implies a transfer of ownership (which is what would ultimately happen, if the ransomed became the ransomer’s property), its purpose, structure and nature would not differ from those of sale, and therefore there would be no reason to distinguish between sale and ransom. The condition of the ransomed who, after being liberated, was compelled to perform further services towards the ransomer in order to pay

7. *Παραμονή and post-manumission obligations in the Athenian evidence.*

As I pointed out in the first part of this chapter, the analysis of the Athenian sources shows that after manumission ἀπελεύθεροι became legally free, in the sense that they were no longer considered to be their former masters' property. Sometimes the evidence also shows that those ἀπελεύθεροι who chose to reside in Athens had specific duties towards the πόλις. All of these duties reflect the fact that in Athens ἀπελεύθεροι were considered to be free non-citizen residents, and therefore excluded from those political rights and privileges which were strictly reserved to adult male citizens.<sup>380</sup>

The duties of ἀπελεύθεροι in Athens were similar to those of metics and for this reason it has commonly been held that freedmen were included among the metic population.<sup>381</sup> Yet, a closer look at the Athenian sources shows that the duties owed to the πόλις by the two groups were not identical, and their different features suggest to consider them as two separate groups of non-citizen residents.<sup>382</sup>

First, ἀπελεύθεροι had to pay a residence-tax, known as μετοίκιον, which consisted in twelve drachmas a year for men and six drachmas a year for women. The μετοίκιον had to be paid by metics also, both males and females.<sup>383</sup> Some sources, however, suggest that ἀπελεύθεροι were perhaps imposed another tax, the τριώβολον, which is mentioned only by Harpocration, and therefore the subjection of ἀπελεύθεροι to the τριώβολον is still somehow controversial.<sup>384</sup> The fact that both metics and ἀπελεύθεροι had to pay a direct, regular and personal tax for residing in Athens has been interpreted as having not only a financial impact but also symbolic implications, since direct and personal taxation represents 'the symbol of subjection to a tyrant, and a burden never

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back the ransom is similar to that of those ἀπελεύθεροι who, after manumission, were bound to their former masters by the παραμονή duty, being, during this period, legally free.

<sup>380</sup> Youni (2008): 166.

<sup>381</sup> For instance, Calderini (1965): 307; Biscardi (1982): 95; Todd (1993): 190; Martini (2005): 46; Youni (2008): 166.

<sup>382</sup> Dimopoulou (2008): 35; Canevaro, Lewis (2014): 97. See also Kamen (2011).

<sup>383</sup> Todd (1997): 114-115, who interprets the imposition of the μετοίκιον on both male and female metics as representative of the fact that 'the gap between male and female ... is in fact specific to citizens, and is part of the construction of male citizen gender. Among metics, the division between male and female is less clear-cut, and among slaves, it is very blurred indeed'.

<sup>384</sup> Harp., s.v. μετοίκιον. Some other authors, on the other hand, maintain that also metics had to pay the τριώβολον: cf. Pollux 3.55; Hesychius s.v. μετοίκιον.



imposed on Athenian citizens. It was a powerful indication of the metics' subordinate position'.<sup>385</sup> The ultimate significance of this financial duty is thus to create a gap between citizens and non citizens, given that citizens were not subject to regular taxation, but to non-regular contributions only.<sup>386</sup>

Second, ἀπελεύθεροι in Athens had to nominate their former master as their προστάτης. This is another element that makes the condition of ἀπελεύθεροι in Athens very close to that of metics, since the latter had to register an Athenian citizen as their ἐπιστάτης. The role of the προστάτης of freedmen and its relation with the ἐπιστάτης of the metics is still controversial, since the extant sources do not allow safe conclusions on this point as well as on the specific roles of the two figures. It is generally agreed, however, that the προστάτης of ἀπελεύθεροι had the main function of representing freedmen in court, given their lack of procedural capacity; whereas the role of the ἐπιστάτης for metics would be mainly a symbolic one and his functions no more than nominal.<sup>387</sup> There was however a fundamental difference between ἀπελεύθεροι and metics as for their respective προστάται: while metics could choose any Athenian citizen as their ἐπιστάτης, ἀπελεύθεροι had to nominate their manumittors as their προστάται; if they had chosen a different person, a specific private action, known as δίκη ἀποστασίου, could be brought against them by their manumittors.<sup>388</sup>

This leads to the third fundamental feature of the condition of freedmen in Athens: although both ἀπελεύθεροι and metics were under the jurisdiction of the archon Polemarch, different actions could be brought against them in specific circumstances. Metics could be prosecuted by any Athenian citizen with a γραφή ἀπροστασίου before the Polemarch if they did not pay the μετοίκιον or failed to register an Athenian citizen

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<sup>385</sup> Todd (1993): 198. Similarly, Martini (2005): 42.

<sup>386</sup> This point has been best expressed by Todd (1993): 184: 'financial obligations were laid on richer citizens only. In Greek political theory, to impose direct regular taxation was characteristic of a tyrant; and although there was a significant range of citizen taxes, these were all either indirect (like harbour dues) or irregular (like the *eisphora*, a capital tax imposed on the rich at times of financial shortage)'.

<sup>387</sup> As pointed out before, however, the evidence from the so-called φιάλαι ἐξελευθερικαί shows that ἀπελεύθεροι (as well as metics) could act as actors in court cases without being represented by anyone (see Harris [forthcoming]).

<sup>388</sup> Harp., s.v. ἀποστασίου: see *infra*.

as their ἐπιστάτης.<sup>389</sup> Ἀπελεύθεροι, on the other hand, could be sued with a δίκη ἀποστασίου, a private action which manumittors could bring against manumitted slaves in three specific cases: first, if ἀπελεύθεροι went away from them; second, if ἀπελεύθεροι chose another person as their προστάτης; third, if they failed to do what the laws prescribe.<sup>390</sup> Harpocration finally specifies that acquitted ἀπελεύθεροι in a δίκη ἀποστασίου became ‘fully’ free, whereas those who lost the trial would have reverted into slavery.

One further element which characterises the condition of ἀπελεύθεροι is that if they did not have any legitimate heir/descendent, all their goods would have been inherited by their former masters, given that they could not dispose of their property as they liked.<sup>391</sup>

Harpocration’s definition of δίκη ἀποστασίου and, more specifically, his identification of the cases in which manumittors could bring a δίκη ἀποστασίου against manumitted slaves, suggests the possible existence in Athens of obligations imposed on freedmen after their manumission. The evidence for the existence in Athens of an institution similar to the παραμονή of the Delphic manumission inscriptions is scanty<sup>392</sup>; yet, a reading of the Athenian sources in the light of the information provided by the Delphic inscriptions seems to show that παραμονή existed in Athens, that the imposition or not of παραμονή duties suggests the existence of two categories of manumitted slaves (both enjoying the same legal condition of freedom), and that its legal nature is that of an obligation owed by ἀπελεύθεροι to their former masters.

A closer look at the passage from Harpocration will make the point clearer:

Harp., s.v. ΑΠΟΣΤΑΣΙΟΥ: δίκη τίς ἐστὶ κατὰ τῶν ἀπελευθερωθέντων δεδομένη τοῖς ἀπελευθερώσασιν, ἐὰν ἀφιστῶνται τε ἀπ’ αὐτῶν ἢ ἕτερον ἐπιγράφονται προστάτην, καὶ ἂ κελεύουσιν οἱ νόμοι μὴ ποιῶσιν. καὶ τοὺς μὲν ἀλόντας δεῖ δούλους εἶναι, τοὺς δὲ νικήσαντας τελέως ἤδη ἐλευθέρους.

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<sup>389</sup> Harp., s.v. ἀποστασίου.

<sup>390</sup> Harp., s.v. ἀποστασίου.

<sup>391</sup> Is. 4.9.

<sup>392</sup> Youni (2008): 168; Dimopoulou (2008): 31.

*This is a kind of a private law-suit, which manumittors could bring against manumitted slaves if they left them, or registered another 'prostates' and did not do what the laws require. Those who are convicted become slaves, those who are acquitted become completely free. (Tr. Zelnick-Abramovitz)*

According to Harpocration, the first case in which manumittors could bring a δίκη ἀποστασίου against manumitted slaves was when ἀπελεύθεροι 'went away from them' (ἐὰν ἀφιστῶνται τε ἀπ' αὐτῶν). The fact that a specific action could be brought before the Polemarch if manumitted slaves left their manumittors (the verb used by Harpocration is ἀφροστήξω) implies that, after manumission, ἀπελεύθεροι could be required to 'remain with' their former masters: this obligation clearly recalls the παραμονή duty of the Delphic inscriptions.

Harpocration is not the only evidence for the existence of παραμονή obligations in Athens, since other sources refer, although sometimes only through brief remarks, to the imposition of post-manumission obligations upon freedmen.

As I mentioned before, [Dem.] 59.46 seems to suggest the possible imposition of a similar duty on Neaera after her manumission in Corinth and her return to Athens as an ἀπελευθέρα. The arbitrators' decision states, on the one hand, that Neaera is legally free in the sense that she does not belong to anyone (she is, in other words, 'her own mistress': ἄνθρωπον ἐλευθέραν εἶναι καὶ αὐτὴν αὐτῆς κυρίαν); on the other hand, the arbitrators decided that she should not enjoy freedom of movement and action, given that she had to 'live with' Stephanus and Phrynion on alternate days. The verb describing Neaera's duty to live with Phrynion and Stephanus in alternate days is συνεῖναι, which suggests that she had to 'stay with' the two men in their households: the content of this obligation is thus very similar to that of the Delphic παραμονή.

Another important source of information comes from Diogenes Laertius: recent studies have pointed out that the wills of Aristotle, Theophrastus and Lyco, as reported by Diogenes, not only are authentic and reliable third and fourth century B.C. documents, but also provide valuable information on the existence of παραμονή obligations in

Athens.<sup>393</sup> After a detailed analysis of the documents, these works have disclosed fundamental information both on the nature of παραμονή and on the condition of manumitted slaves under παραμονή obligations.<sup>394</sup> For this reason, I will only refer to the case of Theophrastus' will as a case-study, since it provides valuable information for the understanding of the different possible scenarios that could characterise the condition of ἀπελεύθεροι after manumission.

D.L. 5.54-55: ὅπως δὲ συνείρηται, μετὰ τὰ περὶ ἡμᾶς συμβάντα, τὰ περὶ τὸ ἱερόν καὶ τὸ μνημεῖον καὶ τὸν κήπον καὶ τὸν περίπατον θεραπευόμενα συνεπιμελεῖσθαι καὶ Πομπύλον τούτων ἐποικοῦντα αὐτὸν καὶ τὴν τῶν ἄλλων ἐπιμέλειαν ποιούμενον ἦν καὶ πρότερον: τῆς δὲ λυσιτελείας ἐπιμελεῖσθαι αὐτοὺς τοὺς ἔχοντας ταῦτα. Πομπύλῳ δὲ καὶ Θρέπτη πάλαι ἐλευθέροις οὔσι καὶ ἡμῖν πολλὴν χρεῖαν παρεσχημένοις ... τῶν δὲ παίδων Μόλωνα μὲν καὶ Τίμωνα καὶ Παρμένοντα ἤδη ἐλευθέρους ἀφήμι: Μανῆν δὲ καὶ Καλλίαν παραμείναντας ἔτη τέτταρα ἐν τῷ κήπῳ καὶ συνεργασαμένους καὶ ἀναμαρτήτους γενομένους ἀφήμι ἐλευθέρους.

*And according to previous agreement let the charge of attending, after my decease, to the temple and the monument and the garden and the walk be shared by Pompylus in person, living close by as he does, and exercising the same supervision over all other matters as before; and those who hold the property shall watch over his interests. Pompylus and Threpta have long been emancipated and have done me much service ... And of my slaves I at once emancipate Molon and Timon and Parmeno; to Manes and Callias I give their freedom on condition that they stay four years in the garden and work there together and that their conduct is free from blame.*

This passage from Theophrastus' will shows three different situations. On the one hand, it mentions some ἀπελεύθεροι (i.e., freedmen who had already been manumitted at the time of the will: their names are Pampylus and Threpta) who during Theophrastus' life had to perform specific services as post-manumission obligation. According to the provision of the will, these ἀπελεύθεροι shall continue to perform the same services even after the philosopher's death. These duties consist in taking care of the garden and

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<sup>393</sup> The point has been recently made by Canevaro, Lewis (2014): 104-110, who show that the evidence from Diogenes Laertius is fundamental for a proper understanding of Athenian παραμονή, and oppose those scholarly opinions which either denied the reliability of the documents (Cohen [1998]: 114 n. 47; Meyer [2010]: 27 n. 69), or believed that they do not reflect Athenian practice, but foreign customs (Gernet [1955]: 171-172).

<sup>394</sup> Cf. Canevaro, Lewis (2014).

the temple: even though they are not referred to as παραμονή but, rather, as θεραπεία, they imply that these freedmen have to live nearby their former master's household in order to perform these specific services. On the other hand, the will mentions some slaves who are set free in the will with the further obligation of παραμένειν for seven years in the garden working together (their names are Manes and Callias): this obligation suggests that these newly freed slaves will be in a condition similar to that of those slaves who had already been manumitted before, given that their obligation to remain and work in the garden keeps them somehow connected to their former master's household and limits their freedom of movement and action. One final group of slaves, by contrast, are set free but do not appear to be bound to any post-manumission duty towards their manumittor (Molon, Timon and Parmeion): this means, in other words, that they are no longer attached to the latter's household, but can constitute their own.

Theophrastus' will therefore provides an excellent example for the understanding of the possible conditions of ἀπελεύθεροι after manumission. More specifically, the cases of Manes and Callias, on the one hand, and of Molon, Timon and Parmeion, on the other hand, show that manumitted slaves could be required or not to perform further services towards their former masters, but as an effect of manumission were nonetheless legally free. Those who were required to παραμένειν were still attached to their manumittors' household and thus did not have freedom of movement and action; by contrast, those who were set free with no further obligations towards their former masters were no longer attached to the latter's household and could constitute one of their own. The same considerations are also suggested by the analysis of Aristotle's (D.L 5.15) and Lyco's (D.L 5.69-74) wills. The fact that after manumission these ἀπελεύθεροι enjoyed freedom of movement and action recalls the clause, attested in the majority of the Delphic manumission inscriptions, by which manumitted slaves 'are free to do whatever they want and to go wherever they want' (for example, SGDI II 1697); whereas the fact that some others were required to 'remain with' their previous owners reflects the content of those Delphic inscriptions which obliged manumitted slaves to παραμένειν with their manumittors and to 'do whatever they are ordered to do' (for instance, SGDI II 1703).

There are two fundamental points which is important to keep in mind when considering the condition of manumitted slaves in Greece. The first one is that whether after manumission freedmen are required or not to perform further services towards their former masters, they are nonetheless legally free individuals. The difference between freedmen under *παράμνη* obligation and those *ἀπελεύθεροι* who are not bound by any obligation is that the former category enjoys a legal condition of freedom but not a *de facto* one, given that they are attached to their manumitters' households, whereas those *ἀπελεύθεροι* who are not under *παράμνη* are free both *de iure* and *de facto*, since they are no longer connected to their former masters' households. The second point is that the overall condition of *ἀπελεύθεροι* under *παράμνη* is a temporary one: whether their obligation to 'remain with' is meant to last for specific years or for the rest of their manumitters' lives, at the end of this period they acquire also freedom of movement and action, which means that they can constitute their own household.

Ancient sources often refer to the acquisition of *de facto* freedom by mentioning that, at the end of the *παράμνη* period, *ἀπελεύθεροι* will be 'completely free'. A typical example of this expression is offered by Harpocration's definition of *δίκη ἀποστασίου*: Harpocration says that those *ἀπελεύθεροι* who are acquitted in a *δίκη ἀποστασίου* are 'completely free' (τοὺς δὲ νικήσαντας τελέως ἤδη ἐλευθέρους), whereas those who lose the trial revert into slavery (τοὺς μὲν ἀλόντας δεῖ δούλους εἶναι). As I mentioned before, one of the cases in which manumitters could bring a *δίκη ἀποστασίου* against manumitted slaves was when the latter abandoned the household of the former: if acquitted, therefore, *ἀπελεύθεροι* under *παράμνη* would be 'fully free', i.e. they would no longer be bound to their manumitters' household and would have acquired freedom of movement and action. While remarking the temporary length of this duty, this statement by Harpocration clearly points to the existence of two different categories of manumitted slaves, all labelled as *ἀπελεύθεροι* but with a clear differentiation as for their *de facto* condition. This means, on the other hand, that *ἀπελεύθεροι* can be subject to *δίκη ἀποστασίου* if they have obligations (chiefly that of remaining in the household of the manumittor), but they clearly cannot once they are *τελέως ἐλευθέρους*, because

in that case they no longer have such obligations. Yet in both cases these individuals must be unequivocally identified as freedmen, ἀπελεύθεροι.<sup>395</sup>

Similar considerations as for the condition of manumitted slaves under παραμονή obligations are also confirmed in a passage from Athenaeus' *Deipnosophistae*, which does not directly refer to the existence of post-manumission obligations, but rather focuses on the condition of ἀπελεύθεροι (and slaves) within their former masters' households:

Ath., *Deipn.* 6.267 b-c: διαφέρειν δέ ψησι Χρύσιππος δούλον οἰκέτου, γράφων ἐν δευτέρῳ περὶ ὁμονοίας, διὰ τὸ τοὺς ἀπελευθέρους μὲν δούλους ἔτι εἶναι, οἰκέτας δὲ τοὺς μὴ τῆς κτήσεως ἀφειμένους. 'ὁ γὰρ οἰκέτης (φησί) δούλος ἐν κτήσει κατατεταγμένος'.

*Chrysippus, writing On Concord, says in the second book that a slave differs from a domestic in that freedmen are still slaves, whereas those who have not been released from ownership are domestics. 'For,' says he, 'the domestic is a slave appointed thereto by ownership'.*

This passage is significant as it makes a distinction between the condition of ἀπελεύθεροι and that of οἰκέται (whom, in the context of this passage, have to be identified with slaves) with regard to the right of ownership.<sup>396</sup> According to Athenaeus, the difference between οἰκέται and ἀπελεύθεροι is that while the former are δούλοι subject to their masters' κτήσις, the latter are still (ἔτι) δούλοι, but are not subject to the κτήσις of anyone. Two main points can be inferred from the passage. First, Athenaeus further confirms that the relationship between manumitted slaves and their former masters is not based on the right of ownership (κτήσις): it follows that the latter cannot dispose of the former, since the rights and duties descending from ownership are no longer existing.<sup>397</sup> After all, the point made by Athenaeus is that the existence or not of the right of ownership is the distinguishing mark of ἀπελεύθεροι *vis-à-vis* slaves, and therefore it further suggests that freedmen (under παραμονή) cannot be conceived of as

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<sup>395</sup> Canevaro, Lewis (2014): 100.

<sup>396</sup> On the relationship between δούλος and οἰκέτης in this passage and, more specifically, for the use of οἰκέτης as referring to slavery in its legal sense (i.e. a relationship based on the right of ownership) and of δούλος in its metaphorical sense of a relationship based on domination, rather than ownership, see Canevaro, Lewis (2014): 101. See also Martini (1995): 15-16.

<sup>397</sup> Martini (1995): 15-16.

the property of someone. Second, Athenaeus seems to imply that (some) manumitted slaves kept a very strong connection with their former masters which made them 'look like' slaves whereas, in legal terms, they were not. The point can be interpreted in the sense that 'despite not being owned, freedmen can still be δούλοι in a philosophical sense, insofar as they lay under the domination of their ex-master to whom they owed obligations'.<sup>398</sup> Athenaeus, in other words, seems to confirm, on the one hand, that post-manumission obligations could be imposed on (some) freedmen in Athens; on the other hand, his statement further reinforces the idea of a contrast between the *de facto* condition of manumitted slaves under παραμονή (which could be very similar to that of slaves, given the strong attachment they often kept with their former masters' household) and their legal condition as free individuals (in the sense that they were not subject to their manumitters' right of ownership).

One further source which could possibly refer to the existence of post-manumission obligations in Athens is a passage from Xenophon's *Oeconomicus*, where Socrates says that, once freed, manumitted slaves will be happy to work (ἐργάζειν) and παραμένειν with their former masters (Xen. *Oecon.* 3.4: 'ἔνθα δὲ λελυμένους καὶ ἐθελόντας τε (τοὺς οἰκέτας) ἐργάζεσθαι καὶ παραμένειν'). The verb used by Socrates in referring to the services that manumitted slaves have to perform towards manumitters is παραμένειν, which directly points to the existence in Athens of an institution similar to the Delphic παραμονή.<sup>399</sup>

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<sup>398</sup> Canevaro, Lewis (2014): 102. A similar idea has been suggested by Martini (1995): 16-17, even though he is wrong in maintaining that the condition resulting from the imposition of παραμονή duties upon slaves is a half-slavery one: 'dal punto di vista greco, la posizione giuridica degli ἀπελευθεροί in Atene fosse ... quella abbastanza ambigua e difficile a comprendere per noi abituati alla *summa divisio* gaiana degli *homines in liberi e servi*, di soggetti utilizzabili ancora come schiavi ma dei quali, in quanto sottratti alla κτήσις, non si sarebbe verosimilmente più potuto disporre nel senso, ad esempio, di cederli ad altri', and later concludes that 'sulla base del testo ... di Ateneo ... a me è parso addirittura di poter ipotizzare ... che anche ad Atene esistesse ... qualcosa di simile alla c.d. *paramoné*, ossia una condizione di quasi-schiavitù, caratterizzata dall'obbligo per il soggetto liberato di dover ancora rimanere per un certo tempo accanto all'ex padrone o altra persona designata da costui' (Martini [2005]: 46-47).

<sup>399</sup> Westermann (1955): 25; Martini (1995): 13-14. Another possible piece of evidence for παραμονή in Athens is perhaps a passage from the eleventh book of Plato's *Laws*, where the philosopher describes the duty of freedmen to provide θεραπεία towards their manumitters (Plat. *Leg.* 11.914e-915c).



Finally, one more passage which can be perhaps understood as reflecting the existence of παραμονή in Athens comes from the eleventh book of Plato's *Laws*: it has to be stressed, however, that in this passage Plato refers to the treatment of slaves and freedmen in the imaginary πόλις of Magnesia, and the possibility of using the *Laws* as a source of information for Athenian laws and customs has sometimes been questioned by scholars.<sup>400</sup> The common view, however, acknowledges that Plato's theorization generally reflects Athenian practices, although some elements are probably the result of variations made by Plato for the purpose of adaptation to his constitutional model.<sup>401</sup>

The reading of this passage seems to suggest that the practice of imposing post-manumission obligations upon freedmen was well known at the time, and probably reflected Athenian practice:

Plat. *Leg.* 11.915a-b: ἀγέτω δὲ καὶ τὸν ἀπελεύθερον, εἴαν τις μὴ θεραπεύῃ τοὺς ἀπελευθερώσαντας ἢ μὴ ἱκανῶς: θεραπεία δὲ φοιτᾶν τρις τοῦ μηνὸς τὸν ἀπελευθερωθέντα πρὸς τὴν τοῦ ἀπελευθερώσαντος ἐστίαν, ἐπαγγελλόμενον ὅτι χρή δρᾶν τῶν δικαίων καὶ ἅμα δυνατῶν, καὶ περὶ γάμου ποιεῖν ὅτιπερ ἂν συνδοκῇ τῷ γενομένῳ δεσπότη. πλουτεῖν δὲ τοῦ ἀπελευθερώσαντος μὴ ἐξεῖναι μᾶλλον: τὸ δὲ πλέον γιγνέσθω τοῦ δεσπότη.

*Freedmen too may be arrested if they fail to perform their services to their manumittors, or perform them inadequately. The services are these: three times a month a freedman must proceed to the home of his manumittor and offer to do anything lawful and practicable; and as regards marrying, he must do whatever his former master thinks right. He must not grow more wealthy than his manumittor; if he does, the excess must become the property of the master.*

The services that manumitted slaves have to perform in the imaginary πόλις of Magnesia are labelled as θεραπεία, a term that we find also in Athens for post-manumission obligations (for example, D.L. 5.54-55). Even though the specific articulations of θεραπεία as listed by Plato might not be reflecting real practice, they

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<sup>400</sup> On the inadequacy of considering Plato's theorisation on παραμονή as reflecting Athenian practices, see, typically, Martini (1995): 16.

<sup>401</sup> Morrow (1939): 97-109; Biscardi (1982): 32-33; Saunders (1991): 2-3; Youni (2008): 168; Canevaro, Lewis (2014): 102. More optimistically, Westermann (1955): 220-221, believes that Plato's *Laws* reflects Athenian practice, whereas Meyer (2010): 27 – with specific regard to Plato's theorization of post-manumission obligations – argues that it should be rather interpreted as an invention by Plato.

generally seem to point to the existence of post-manumission services which kept manumitted slaves somehow connected to their manumittors' household.

One final point which is worth stressing is the possible existence in Athens of a *corpus* of laws regulating the condition of ἀπελεύθεροι: this element further suggests that ἀπελεύθεροι constituted a specific category of people, different from metics, to whom specific laws were addressed.

The existence in Athens of these laws is suggested once again by Harpocration's definition of δίκη ἀποστασίου: one of the cases in which manumittors could bring a δίκη ἀποστασίου against manumitted slaves was when the latter did not do what the laws prescribe ('καὶ ἃ κελεύουσιν οἱ νόμοι μὴ ποιῶσιν'). The text does not mention what these laws specifically regulate, but the passage clearly points to the fact that in Athens there was perhaps a group of laws specifically aimed at regulating the condition of those freedmen who resided in Athens.<sup>402</sup> The laws mentioned by Harpocration are likely to be the so-called ἐξελευθερικοί καὶ ἀπελευθερικοί νόμοι referred to by Pollux in citing Demosthenes (Pollux 3.83: 'καὶ Δημοσθένης φησιν ἐξελευθερικούς νόμους καὶ ἀπελευθερικούς νόμους'). The existence of laws regulating the condition of manumitted slaves seems to be attested only in a few other πόλεις<sup>403</sup>; an interesting case, however, is offered by the inscriptions from 1<sup>st</sup> century B.C. Calymna, which are believed to represent the only evidence in the Greek world for the so-called παραμονή *ex lege*. This group of inscriptions has been analysed by Segré first and then by Babacos<sup>404</sup>, and seems to constitute an *unicum* in the general context of the evidence for manumission in Greece. If the bulk of the evidence for παραμονή (mainly from Delphi and Athens)

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<sup>402</sup> Gernet (1955): 171.

<sup>403</sup> The πόλεις which is usually believed to attest the existence of laws on manumitted slaves is Chaeronea: the formulas of the inscriptions (which are about 125) constantly mention the fact that the act of dedication-consecration has been carried out 'according to the laws' (cf. chapter 3). Since the inscriptions from Chaeronea have traditionally been interpreted as referring to a specific form of 'sacral' manumission (that is, through consecrations of slaves to the god), this clause has been taken as reflecting the existence in Chaeronea of specific laws regulating manumission and the condition of manumitted slaves. Yet, as I mentioned above, I believe that the identification of these inscriptions with manumissions is highly problematic and that they rather refer to actual dedications of slaves to the god: therefore, I think that these laws were more likely regulating the act of dedication-consecration itself.

<sup>404</sup> Segré (1944/1945); Babacos (1964).

shows that post-manumission obligations were the object of private agreements between manumittors and manumitted slaves and therefore did not constitute a constant feature of the condition of freedmen as such, the *παραμονή* resulting from the Calymnian inscriptions is interpreted as a feature descending upon all manumitted slaves and regulated by the 'laws on ἀπελεύθεροι', rather than being a matter of private agreement between manumittors and manumitted slaves.<sup>405</sup> A common expression which can be found in the inscriptions is in fact 'κατά τούς ἀπελευθεροτικούς νόμους', which seems to point to the existence of a group of laws specifically aimed at regulating the relationship between manumittors and manumitted slaves after manumission and, more specifically, the services that the latter owed to the former. Moreover, those inscriptions in which this clause was not attested still stated that freedmen had to remain with their manumittors and raise children for them.<sup>406</sup> According to Segré and Babacos, the analysis of the inscriptions from Calymna shows that the specific duties imposed on manumitted slaves by local laws basically consisted in the duty to 'remain with' former masters and their family, on the one hand, and to raise children for the manumittors, on the other hand; together with these, the duty of registering a citizens as a *προστάτης* is constantly mentioned.<sup>407</sup> The obligation to raise children for manumittors is attested elsewhere in the Greek world and also in some inscriptions from Delphi. SGDI II 1719 (Delphi, 2<sup>nd</sup> century B.C.) provides a typical example: after describing the manumission through 'sale' to Apollo of a female slave named Niko according to the usual formula, the inscription attests to Niko's obligation to *παραμένειν* with her manumittor and to raise two *παιδάκια* for him.<sup>408</sup> Alternatively, some other inscriptions state that freedwomen had to hand over to the manumittor their children born during their *παραμονή*<sup>409</sup>; in both

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<sup>405</sup> Samuel (1964): 292.

<sup>406</sup> Segré (1944/1945): 175.

<sup>407</sup> Segré (1944/1945); Babacos (1964).

<sup>408</sup> Cf. SGDI II 1719 (ll. 8-10): *παραμεινάτω δὲ Νικῶ παρὰ Μνασίξενον, ἄχρι κα ζῶη Μνασίξενος, καὶ ἐκθρεψάτω παιδάκια δύο ἀδόλωσ καὶ τὰ λοιπὰ ποιούσα τὸ ποτιτασσόμενον πᾶν τὸ δυνατὸν ἀνεγκλήτως.*

<sup>409</sup> See, for instance, FD III 2:129, ll. 10-11 (Delphi, 1<sup>st</sup> century B.C.). For a detailed discussion on the condition of children born to freedwomen under *παραμονή* in Delphi and examples of evidence, cf. Tucker (1974): 233, who distinguishes inscriptions stating that these children had to

cases, however, scholars agree that this obligation was meant to recover the loss suffered by masters as an effect of manumission.<sup>410</sup> What is important to stress is that, according to Segré and Babacos, the *παράμνη* of the inscriptions from Calymna is not the object of an agreement between manumitters and manumitted slaves (i.e., a possible feature of the condition of some manumitted slaves), but is a duty directly imposed on manumitted slaves by the laws (i.e., a constant feature characterising the condition of all manumitted slaves). Notwithstanding this local peculiarity, however, the conclusions about the legal condition of freedom enjoyed also by those freedmen under *παράμνη* obligation do not change<sup>411</sup>, and the evidence from Calymna further proves that *ἀπελεύθεροι* under *παράμνη* obligation were legally free as well as those *ἀπελεύθεροι* who were no longer bound to their former owners by post-manumission services.

## 8 Conclusions.

Even though Athens does not provide a comprehensive and organic *corpus* of evidence for manumission, a close look at the extant sources dealing with the liberation of slaves reinforces the conclusions both on the nature of manumission and on the legal condition of manumitted slaves (especially those under *παράμνη* obligation) as attested in the Delphic manumission inscriptions.

First, the Athenian evidence for manumission shows, on the one hand, that slaves were often liberated in exchange for money and, on the other, that in all these cases manumission was conceived of as a bilateral legal transaction between the slaves' master and a third party. The intervention of a third person in the manumission procedure seems to be the rule whenever payment was required in return for manumission, and simply consisted in the third person handing over the money to the slaves' masters in order to carry out a valid manumission. Slaves had no legal personality and even if they had part of the money (as for *Against Neaera*) or even all of it (as for the Delphic inscriptions), payment by them would have not had any legal validity.

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be considered free, and other cases in which the offspring of an *ἀπελευθέρα* had to be handed over to her manumitters.

<sup>410</sup> Zelnick-Abramovitz (2005): 228-229; Dimopoulou (2008): 41; Tucker (1974): 233.

<sup>411</sup> Samuel (1965): 292; see also Waldstein (1986): 97-98.

Second, some other sources shed light on the condition of manumitted slaves in Athens who, as free non-citizen residents, owed specific duties towards the πόλις, mainly those to register an Athenian citizen as their προστάτης and to pay a residence tax (the μετοίκιον, perhaps together with the τριώβολον). Yet, freedmen in Athens did not only have duties towards the πόλις, but could also be obliged to perform some post-manumission services towards their manumittors which share the same features of the Delphic παραμονή.

The Delphic inscriptions constantly refer to these duties with the verb παραμένειν, which thus seems to be used in a technical sense, whereas in Athens different terms (such as θεραπεία) or verbs (together with παραμένειν, also θεραπεύειν and συνείναι can be found) are used to designate the same phenomenon. The existence of post-manumission obligations compelling freedmen to 'remain with' their former masters is suggested by several ancient authors such as Harpocration, Athenaeus, Diogenes Laertius, and by some passages from the pseudo-Demosthenic speech *Against Neaera*: the general principles lying behind these sources as well as the inscriptions from Delphi are the same ones, and refer both to the nature of παραμονή and to the condition of manumitted slaves (especially those under παραμονή obligation).

As for the first point, a joint reading of the inscriptions from Delphi and the literary evidence from Classical and early-Hellenistic Athens shows that the legal nature of παραμονή is that of an obligation compelling freedmen to perform specified or unspecified services towards their manumittors for a specific period of time, and the object of a binding agreement between manumittors and manumitted slaves as – the latter as well as, of course, the former – legally free persons (with the possible exception of Calymna, which seems to constitute the only evidence for παραμονή descending *ex lege* upon manumitted slaves). In other words, the agreement between manumittors and manumitted slaves determines the imposition of a unilateral obligation upon freedmen. At the same time, the extant sources occasionally mention the remedies that are available if freedmen do not perform their obligation. These remedies are mostly attested in Delphi, and they consist either in physical punishment (such as in SGDI II 1703), which does not in itself threaten the condition of freedmen as legally free individuals, or in the

invalidity of manumission and the subsequent reversion into slavery (for example, in SGDI II 1702; but also Harp. s.v. ἀποστασίου).

As for the second point, the institution of παραμονή shows that there could be two categories of manumitted slaves. Many of them, once manumitted, could 'go wherever they want and do whatever they want', and were *in primis* allowed to constitute their own household, thus being entitled to interrupt any connection with the ex owners. Some others, after their liberation, were bound by παραμονή duties to their manumitters' households and obliged to perform services for a specific period of time, after which they were usually said to become 'fully free', which means free from post-manumission services and therefore free to constitute a separate household. In Athens, this last category of manumitted slaves was sometimes referred to as χωρίς οἰκοῦντες (literally: 'dwellers apart'), whom Demosthenes mentions in a passage of his *First Philippic* as subject to the naval draft.<sup>412</sup>

Both of them, however – and this is the central point – were legally free (in the sense that they did not belong to anyone) and became free immediately after, and as an effect of, manumission: this fundamental feature allows ancient sources to refer to them comprehensively as one single category of persons known as ἀπελεύθεροι, no matter if they were bound to παραμονή duties or not. Παραμονή, in other words, characterised their *de facto* freedom only, with no consequences on their legal condition as free individuals.

The Athenian sources ultimately confirm the evidence from Delphi and, while referring to aspects of manumission in different πόλεις (such as Corinth and Eleusis), point to the existence of common principles lying behind the legal nature of manumission and the legal condition of manumitted slaves across different geographical and chronological contexts of the Greek world.

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<sup>412</sup> Dem. 4.36-37. For an interpretation of χωρίς οἰκοῦντες as representing 'those freedmen who were not bound by any such obligations [post-manumission obligations], and who dwelt apart from their former owners', see Canevaro, Lewis (2014): 93.

## CHAPTER 5

### *'Public' manumissions in Classical Greece*

#### 1. *Introduction.*

In the previous chapters, I showed that, from a legal point of view, slaves were the property of their masters. From the perspective of Greek slave-owners, this implies that 'in Ancient Greece ... a master could exercise almost unlimited power over his slaves'<sup>413</sup>: this is what the ancient sources show – they show that masters did exercise over their slaves all the rights and powers descending from the right of ownership. Of the ten 'incidents of ownership' identified in 1961 by Honoré<sup>414</sup>, the right to capital and the absence of term are particularly relevant for a discussion on manumission. As previously mentioned, the right to capital implies that owners can dispose of their property as they like. The best expression of the masters' power of disposition is the right to alienate a property, for example, through sale or gift. In the first case, masters acquire money in return for alienation, whereas in the second case their property is transferred gratuitously: both cases, however, ultimately determine the extinction of the masters' right of ownership over their property, as their right is transferred to a new owner. 'Absence of term', on the other hand, means that masters can enjoy their property without limitations in time (that is, for a virtually unlimited period). This means, from the point of view of a slave, that 'his subjection to his master or masters has no limit; he is a slave for life. There is no prospect of release from his status unless the master agrees to emancipate the slave. But nothing compels his master to free him'.<sup>415</sup>

These 'incidents' of ownership are relevant for a discussion on manumission, which is itself an act through which masters exercise their right to dispose of their property by extinguishing their right of ownership. Unlike the acts of alienation, however, in which ownership is only extinguished for the assignor as it is transferred to a new owner,

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<sup>413</sup> Harris (2012): 346.

<sup>414</sup> Honoré (1961).

<sup>415</sup> Harris (2002): 417.

manumission implies the 'complete' extinction of the right of ownership, as a slave is transformed into a free person – who, as such, can no longer belong to anyone.

The ancient Greek sources analysed in the previous chapters confirm that the power to extinguish ownership through manumission pertains exclusively to slave-owners: from the very first attestations of manumission down to the Hellenistic period, the act through which masters granted freedom to their slaves only depended on the master's will, and no interference was generally allowed in their decision.

On the other hand, we know that 'the governments of the Greek city-states gave owners the right of security, that is, immunity from expropriations'<sup>416</sup>; this was true also for a slave-owner, who therefore 'should be able to look forward to remaining owner indefinitely if he so chooses'.<sup>417</sup> At the same time, however, 'a general right to security ... is consistent with the existence of a power to expropriate or divest in the state or public authorities ... When expropriation takes place, adequate compensation should be paid; but a general power to expropriate subject to paying compensation would be fatal to the institution of ownership as we know it'.<sup>418</sup>

Given these premises, this chapter will look at the features and implications of Greek manumission from a different angle, by focusing on those sources attesting cases in which privately-owned slaves were not granted freedom by their masters but, rather, by the *πόλις* itself, without (or perhaps even against) their masters' consent. In this sense, the chapter will suggest that manumission of privately-owned slaves performed by the *πόλις* regardless of the owners' consent ultimately results in the 'forced' extinction of the latter's right of ownership: in other words, a form of expropriation which, as such, was strictly limited to specific cases and purposes.<sup>419</sup> Interference by the state in the extinction of the owners' right of ownership was virtually regarded as an illegitimate intrusion within the private sphere and was therefore believed to be inconsistent with

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<sup>416</sup> Harris (2015b): 119.

<sup>417</sup> Honoré (1961): 119.

<sup>418</sup> Honoré (1961): 119.

<sup>419</sup> Honoré (1961): 120, points out that 'the state's ... power of expropriation is usually limited to certain classes of thing and certain limited purposes. A general power to expropriate any property for any purpose would be inconsistent with the institution of ownership'.



the right of ownership itself.<sup>420</sup> This idea was certainly valid also for manumission; some sources, however, inform us that, during specific emergency-circumstances that occurred between the 5<sup>th</sup> and 4<sup>th</sup> centuries B.C., some πόλεις did deprive masters of their property by 'forcedly' liberating their slaves without providing the former with a compensation. As I will show, however, the extant evidence makes it clear that such cases were rare and, as such, reflect an extra-ordinary situation in which public interests were considered to prevail upon the rights and interests of individual slave-owners.

This aspect of manumission in Greece, however, is often ignored or discussed through no more than brief remarks by modern scholarship. Moreover, whenever 'public' manumissions of slaves are mentioned in modern studies, no discussion is made of the several legal problems arising from this form of intervention by the state: most notably, the possibility for the πόλις to interfere with private ownership over slaves was itself problematic, as some sources inform us that in at least one occasion (that is, in the case of Hyperides' proposal to set all slaves of Attica free after the battle of Chaeronea) the proposal was met with a public charge of being in contrast with the νόμοι of the state (παράνομον). An analysis of the sources which make direct reference to this form of manumission, together with the consideration of the problems arising from 'public' forms of slaves' liberation, is necessary not only in order to better outline the nature and implications of Greek manumission in all its nuances, but also to understand the conditions and the limits imposed on such an intervention by the πόλις in liberating either individual slaves or a large number of them.

The evidence for this form of manumission, however, is extremely scanty; moreover, it mostly deals with episodes which took place in the Classical period, yet our knowledge of these events often depends on accounts made by later authors. This aspect has led

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<sup>420</sup> Cf. Jones (1956): 198, who stresses that 'Expropriation without compensation, although an ever-present danger in the troubled conditions of Greek politics, was regarded as essentially inconsistent with the nature of the institution of property. On taking office the eponymous archon proclaimed his intention to ensure that men's possessions should remain unmolested during his term office [Arist. *Ath.* 35.2], and in peace treaties a clause would sometimes be inserted forbidding confiscation of property and redistribution of land [(Dem.) 27.15]'. More recently, see also Harris (2015b): 119, for an accurate list of examples showing that the principle by which Greek πόλεις ensured protection of the owners' right against expropriation was widespread throughout the Greek world.

some scholars to question the historical authenticity and reliability of this evidence, holding that the extant information should not be considered as direct and reliable evidence for this form of manumission. Yet, a joint analysis of the evidence dealing with different πόλεις of the Classical age (such as Athens, Rhodes, Chios and Sparta) will show that interference by the state in the manumission of slaves did happen occasionally but was extremely rare, as it was only allowed in specific circumstances.

The first part of the chapter will analyse the evidence from some forensic speeches by Lysias, as they suggest that in Classical Athens manumission by the πόλις could be conceived of as a reward for those slaves who had brought a denunciation (μήνυσις) against their masters for committing specific crimes (such as ιεροσυλία or ἀσέβεια). In both cases, 'public' manumission appears to be closely connected to information, passed by slaves against their masters, concerning specific religious offences which were considered to be matters of concern for the community as a whole; on the other hand, these episodes constitute the only cases we know in which the πόλις manumitted individual slaves.

The second part of the chapter will analyse the evidence attesting the grant of freedom to slaves before or after a battle: in the first case, manumission by the state is generally performed for the purpose of reinforcing the army, as it was a common belief at the time that slaves could not fight alongside with free people; in the second case, manumission had – once again – the nature of a reward offered by the πόλις to those slaves who had helped in the army.<sup>421</sup> In both cases, however, the surviving evidence makes it clear that 'public' manumission was due to extra-ordinary situations, and sources referring to Athens and Rhodes expressly state that such a measure was taken through the enactment of a ψήφισμα *ad hoc*.

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<sup>421</sup> One important exception to this general trend is the case of Hyperides' proposal to the Assembly to set slaves free soon after the Athenian defeat at Chaeronea. This 'public' manumission, as I will explain in further detail, was never performed; yet, even if strictly speaking it can be included among those mass-manumissions of slaves performed by the state after a battle, it was not meant to constitute a reward for the slaves but, rather, a precautionary measure taken by the city in preparation for the further developments of the war against Philip.

The third part of this chapter will focus on the evidence dealing with Classical Sparta, not only because this πόλις is generally excluded from modern discussions on manumission, but also because it provides an interesting case-study. As is now acknowledged by many scholars, the helots were privately owned slaves. Yet, whenever manumission is mentioned in the ancient sources referring to Classical Sparta, it is always described as an act which is carried out by the πόλις only, whilst no reference is made to manumissions performed by individual Spartiatai; moreover, a passage from Ephorus holds that in Classical Sparta individual slave-owners were prohibited from manumitting their helots.<sup>422</sup> Once this evidence is considered, this section will argue, on the one hand, that this peculiarity was possibly due to the fact that Sparta intended to hold strict control over the manumission of the helots because of specific economic and social reasons and, on the other hand, that, as well as in other πόλεις from the Classical age, 'public' manumission of the helots is described in the ancient sources as an extraordinary act which was only performed in emergency-situations.

Through the analysis of the ancient sources and a discussion of the fundamental problems they present, the final purpose of this chapter is to show that this form of manumission does not itself exclude the recognition of the masters' almost unlimited powers over their slaves, but rather confirms it, although in 'negative' terms. The ancient sources make it clear that slave-owners have been occasionally deprived of the right to extinguish their ownership through manumission, but only in those extreme and exceptional circumstances in which the predominance of public interests over individual rights was perceived as vital for the survival and safety of the community as a whole.

## 2. *Freedom as a reward for denunciation: the cases of Lys. 5 and Lys. 7.*

The ancient sources show that the πόλις could liberate privately-owned slaves in two cases: first, if the latter brought a denunciation against their masters for committing specific crimes; second, before (when further manpower was needed) or after (in the form of a reward) a battle (with the important exception, in this latter case, of Hyperides'

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<sup>422</sup> Cf. Ephorus FGrHist70 F117.

proposal after the Athenian defeat at Chaeronea: see *infra*). The evidence we possess for the first case comes from Classical Athens and is provided by two forensic speeches by Lysias, both dealing with religious matters: a close look at their text will help us to shed light on the specific circumstances in which manumission by the state was allowed in Classical Athens.

The first, *For Callias*, was performed between the 5<sup>th</sup> and the 4<sup>th</sup> century B.C. (the precise date is unknown). Much of the general issue brought to trial is unknown, as there are only six surviving paragraphs from the speech, whilst the rest is lost. For instance, we do not know who the accuser and the defendant's *συνήγορος* are, as their names are not mentioned: we only know very little information about the defendant, a metic whose name (Callias) was extremely common in Classical Athens, and therefore a more specific identification of his character is almost impossible.<sup>423</sup> The speech was written for one of the defendant's friends, who thus intervened as Callias' *συνήγορος*. We also know that his discourse had perhaps been preceded by other speeches delivered by different *συνήγοροι* in defence of Callias, as the mention of 'other speakers' in paragraph 1 of the speech may suggest ('τὰ παρὰ τῶν ἄλλων εἰρημμένα').<sup>424</sup> Yet, the understanding of the circumstances which brought to the prosecution of Callias is problematic, as the speech – as I mentioned before – is incomplete. The only indication we have about the crime allegedly committed by Callias comes from the manuscript title of the speech ('ὑπὲρ Καλλίου ἱεροσυλίας ἀπολογία'), according to which Callias was prosecuted for committing theft of sacred property (*ἱεροσυλία*). Although *ἱεροσυλία* is not mentioned

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<sup>423</sup> Cf. Todd (2007): 386: 'Kallias is an extremely common name at Athens, which appears 262 times in *LGPN Attica*. The only clue to identification is a negative one: since the defendant is a metic, he cannot be identified with any of the 249 of these who are certain or probable Athenian citizens'.

<sup>424</sup> Cf. Todd (2007): 385, according to whom the idea that 'the main defence of Kallias has already been delivered, and that our speaker is one of several *sunēgoroi* ... is not totally secure, because the speaker could in theory be delivering the substantive defence and referring to arguments presented by putative co-defendants'. Yet, he further notices that 'on balance, however, it seems highly probable, because of the scale of the speech, which at 292 words is by far the shortest in the corpus', in comparison with the standard length of the speeches by Lysias. He notices in fact that if 'the speeches of Lysias tend not to be particularly long – 1.250-2.500 words is typical', the shorter ones (which usually count less than 800 words) 'are either written for preliminary proceedings ... or else proclaim themselves to be supporting speeches' (Todd [2007]: 386).

anywhere else in the text, scholars agree that the title assigned to the speech was based on the content of the remaining paragraphs which are now lost, and therefore generally agree that *ἱεροσυλία* is the actual charge brought against Callias.<sup>425</sup> Moreover, although we do not know the details of the case brought to trial as well as the specific terms of the accusation, it is likely that Callias was prosecuted with a *γραφὴ ἱεροσυλίας*, i.e. a popular action for theft of sacred property.<sup>426</sup>

Notwithstanding the incompleteness of the speech, paragraphs 3 to 5 provide interesting information about the possibility of an intervention by the *πόλις* in order to reward with freedom those slaves who would inform against their masters in specific circumstances:

Lys. 5.3-5: ὑμᾶς δὲ ἄξιον μὴ τοὺς μὲν τῶν θεραπόντων λόγους πιστοὺς νομίζειν, τοὺς δὲ τούτων ἀπίστους ... οὗτοι δὲ ἐν ἅπαντι τῷ βίῳ μεγάλα ἡμαρτηκότες καὶ πολλῶν κακῶν πεπειραμένοι, ὥσπερ ἀγαθοῦ τινος αἴτιοι γεγεννημένοι περὶ ἐλευθερίας νυνὶ ποιοῦνται τοὺς λόγους. καὶ οὐ θαυμάζω: ἴσασι γὰρ ὅτι, ἐὰν μὲν ψευδόμενοι ἐλεγχθῶσιν, οὐδὲν μείζον τῶν ὑπαρχόντων πείσονται, ἐὰν δὲ ἐξαπατήσωσι, τῶν παρόντων κακῶν ἔσονται ἀπηλλαγμένοι ... ἄξιον δέ μοι δοκεῖ εἶναι οὐ τούτων ἴδιον ἡγεῖσθαι τὸν ἀγῶνα, ἀλλὰ κοινὸν ἀπάντων τῶν ἐν τῇ πόλει: οὐ γὰρ τούτοις μόνοις εἰσὶ θεράποντες, ἀλλὰ καὶ τοῖς ἄλλοις ἅπασιν, οἱ πρὸς τὴν τούτων τύχην ἀποβλέποντες οὐκέτι σκέψονται ὅ τι ἂν ἀγαθὸν εἰργασμένοι τοὺς δεσπότης ἐλεύθεροι γένοιτο, ἀλλ' ὅ τι ψεῦδος περὶ αὐτῶν μνηύσαντες ...

*You, however, ought not to credit the statements of mere slaves and discredit those of the accused ... these men, having spent their lives in committing serious offences and incurring a variety of troubles, make their speeches to-day with an air of having performed a great service, merely in the hope of freedom. And I am not surprised; for they know that, if they are convicted of lying, they will suffer nothing worse than their actual lot; while if they succeed in deceiving you, they will be rid of their present troubles ... The trial, in my opinion, ought to be regarded*

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<sup>425</sup> Cf. Todd (2007): 386-387: after stressing that the titles of forensic speeches as are preserved in manuscripts are not always reliable, he maintains that there is no reason to doubt that *ἱεροσυλία*, in this specific case, was the alleged crime for which Callias had been brought to trial, given that 'what survives of the speech gives no reason to doubt the title, and a copyist is perhaps more likely to have subsumed *hierosulia* under the more familiar and broader charge of *asebeia* – impiety – than vice versa'.

<sup>426</sup> In this sense, Todd (1993): 307 n. 19. Todd [2007]: 387, further mentions that, according to the interpretations suggested by some scholars, Callias was perhaps employed as a treasurer of the Parthenon, as it seems to be implied by the mention of 'τῷ δημοσίῳ' in paragraph 4; he observes, however, that this view 'is weakened by the lack of any positive evidence for the employment of metics (as opposed to citizen officials or public slaves) in such a post'.

*not as the personal affair of the accused, but as the common concern of everybody in the city; for these are not the only people who own slaves; they are owned by everyone else, and looking at the fate of the accused will no longer ask themselves by what great service to their masters they might gain their freedom, but by what lying information about them ...*

This passage is significant as it highlights the possibility for slaves to obtain freedom as a reward by the πόλις. More specifically, the following points can be inferred from the analysis of Lys. 5.3-5. First, slaves could bring a denunciation against their masters: the technical term for this form of denunciation (as is used not only in Lys. 5, but also in other sources: see *infra*) is μήνυσις. Second, as an effect of μηνύσεις by slaves, a procedure could start, which ultimately resulted in the prosecution of the slaves' masters. In the specific case represented in Lys. 5, the μήνυσις brought by Callias' slaves took to the prosecution of the former with a γραφή ἱεροσυλίας. It follows therefore that in this case slaves' statements could have a legal and procedural relevance, given that as an effect of their denunciations, a prosecution could later be started of the person against whom their denunciation was brought.<sup>427</sup> Third, the speech suggests that slaves could μηνύειν against their masters if the masters' alleged crimes involved ἱεροσυλία, which was considered to be a particularly serious religious offence.<sup>428</sup> Fourth, we learn that if slaves brought a μήνυσις against their masters, their legal condition could change as an effect of a reward by the πόλις: paragraph 4 of the speech suggests that if, at the end of the γραφή ἱεροσυλίας, their master was convicted, slaves would be rewarded with freedom and would therefore become free persons.

The content of this passage clearly mirrors masters' concerns about this specific form of manumission. On the one hand, 'public' manumission of privately owned slaves was

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<sup>427</sup> Denunciation by slaves, which could eventually take to the prosecution of their masters, has in fact to be kept distinguished from the statements they could render in litigations as witnesses. In this last case, slaves could only witness in trials if tortured. Torture (βάσανος) was included by Aristotle among the ἄτεχνοι πίστεις (that is, not based on the τέχνη ῥητορική: cf. Aristot. *Rh.* 1.15), and was therefore considered to be a form of evidence which could be provided by slaves in trials, except in homicide cases and in δίκαι ἐμπορικαί, in which they could be witnesses without being subject to βάσανος: cf. Harrison (1968): 170; Biscardi (1982): 267.

<sup>428</sup> Cf. Osborne (2000) for the idea that μηνύσεις by slaves concerned specific religious offences, rather than more generic matters concerning the community as a whole. Todd (2007): 389, further suggests that this kind of cases were of primary concern for the πόλις, as it was a common belief that 'the gods may otherwise take it out on the whole community'.

certainly seen as an interference by the state in the individuals' right of ownership, which was perhaps felt even more unbearable because it directly originated from information passed by slaves against their own masters. On the other hand, this form of manumission could also be seen as particularly dangerous by slave-owners, as is clear from the speaker's words: he expressly envisages the possibility that slaves could make an inappropriate use of μήνυσις by producing false accusations against their owners in the hope of being rewarded with freedom by the state.<sup>429</sup>

To conclude, Lys. 5.3-5 clearly indicates, on the one hand, that manumission of privately-owned slaves by the πόλις was allowed in Classical Athens; on the other hand, regardless of the speaker's words (which point to the risks descending from a large-scale use of this kind of reward for slaves), such a possibility seems to have been strictly controlled by the πόλις, and limited to specific circumstances involving a serious religious offence.

Similar evidence for 'public' manumissions following a μήνυσις by slaves is provided by Lysias' seventh speech. The events for which the accusation is brought against the unknown defendant must be placed around 397-6 B.C., and the accusation was brought before the Areopagus a couple of years later.<sup>430</sup> Although there is no mention of the specific action which was brought to trial, most scholars agree that Nikomachus, the accuser, brought a γραφή ἀσεβείας against Lysias' client for having committed a particular form of ἀσέβεια. The sequence of events is described in paragraph 2 of the speech: the defendant had been first prosecuted for removing a sacred olive-tree (μοορία) from his land; then, because the accuser could not provide enough evidence showing that he was guilty, he was further prosecuted before the Areopagus with the accusation of having removed the stump of a sacred olive-tree, or – more specifically – the precinct

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<sup>429</sup> For this point, see Gärtner (2008): 458: 'le plaideur du discours V stigmatise cette possibilité d'accéder à un nouveau statut, soulignant la perversité d'un système dans lequel les serviteurs auraient tout à gagner ... le plaideur appelle les citoyens à se souvenir qu'ils sont eux aussi des δεσπότες, des maîtres qui ont tout à craindre des esclaves'. For a general discussion on the 'feud of slaves' which emerges from the reading of certain legal documents, cf. Arnaoutoglou (2007).

<sup>430</sup> Carey (1989): 114.

enclosing such a stump (σηκός).<sup>431</sup> In Athens, olive-trees – both sacred and non-sacred – were in fact the object of specific regulations by the πόλις.<sup>432</sup> Dem. 43.71 refers to privately owned olive-trees (or, more precisely, to non-sacred ones), and specifies that land-owners could not remove more than two olive-trees each year. Sacred olive-trees (μορία), on the other hand, were of primary concern for the πόλις as they were considered to be sacred to Athena: the πόλις of Athens had the right to use the olives they produced, and – at least in earlier times – it was from these sacred olive-trees that the oil was produced to reward the victors in the Panathenaic festivals.<sup>433</sup>

Even though no direct reference to ἀσέβεια is made in the text of the speech, scholars agree, on the one hand, that the case represented in Lys. 7 concerns ἀσέβεια, as cutting down a σηκός was clearly regarded as a serious religious offence in 4<sup>th</sup> century B.C. Athens and, on the other hand, that Lysias' client was prosecuted with a γραφή ἀσεβείας before the Areopagus.<sup>434</sup>

The speech provides interesting information about the possibility for the πόλις to liberate privately owned slaves. More specifically, paragraph 16 directly refers, once again, to manumission as a reward for those slaves who had brought a denunciation against their masters:

Lys. 7.16: πῶς δ' οὐκ ἂν ἦ ἀθλιώτατος ἀνθρώπων ἀπάντων, εἰ τοὺς ἐμαυτοῦ θεράποντας μηκέτι δούλους ἔμελλον ἔξειν ἀλλὰ δεσπότης τὸν λοιπὸν βίον, τοιοῦτον ἔργον συνειδόμενος; ὥστε εἰ καὶ τὰ μέγιστα εἰς ἐμὲ ἐξημάρτανον, οὐκ ἂν οἶόν

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<sup>431</sup> Scholars agree that the word σηκός originally designates the fence which distinguishes a sacred olive-tree (μορία) from a non-sacred one. By extension, the term came to identify the stump of a μορία, which remained sacred: Todd (2007): 486; see also Carey (1989): 115.

<sup>432</sup> Harris (2015b): 119-120.

<sup>433</sup> Carey (1989): 114; Todd (2007): 482-485. See also Burkert (1985): 141, who, after remarking that the olive-tree is sacred to Athena, stresses that the olive-tree on the Athenian Acropolis 'seemed to embody the continuity of the city'. For the regulation of olive-trees, see also [Arist.] *Ath. Pol.* 60.1-2 with the commentary by Rhodes (1981): 673, who thus specifies: 'olives which were designated sacred, supposed to be offshoots of the tree planted by Athena on the Acropolis, were to be found throughout Attica; whoever acquired the land on which the tree grew acquired with it the obligation attached to the tree, and dead stumps had to be preserved in case they might revive as the stump on the Acropolis was said to have revived in 480'.

<sup>434</sup> In this sense, cf. most recently Filonik (2013): 60-61. See also Todd (2007): 476; Carey (1989): 114-115.



τε ἦν δίκην με παρ' αὐτῶν λαμβάνειν: εὖ γὰρ ἂν ἤδη ὅτι ἐπ' ἐκείνοις ἦν καὶ ἐμὲ τιμωρήσασθαι καὶ αὐτοῖς μηνύσασιν ἐλευθέρους γενέσθαι.

*And surely I must have been the most wretched of human creatures if my own slaves were to be no longer my slaves, but my masters for the rest of my life, since they would be privy to that act of mine; so that, however great might be their offences against me, I should have been unable to get them punished. For I should have been fully aware that it was in their power at once to be avenged on me and to win their own freedom by informing against me.*

As in Lys. 5.3-5, the possibility for slaves to gain freedom as a reward by the πόλις is seen from the point of view of a slave-owner, and the information provided by the two speeches is very similar: Lys. 7.16 further confirms that manumission by the πόλις as a reward for slaves was possible in Classical Athens. In this case, more specifically, μήνυσις by slaves brought to the prosecution of their master with a γραφή ἀσεβείας, and therefore appears connected, once again, to the denunciation of a crime which was considered to be a serious religious offence. Although this passage (as well as Lys. 5.3-5) does not provide specific information about this form of manumission, nor about the act through which slaves were granted freedom by the πόλις, it is nonetheless possible to make the same consideration that we drew from Lys. 5.3-5: freedom as a 'public' reward seems to be admitted only in limited circumstances, given that μήνυσις by slaves deals, in both cases, with specific religious offences. It has to be noted, however, that the evidence we possess is extremely scanty and the only information we have for this practice is provided by two speeches. Because both cases refer to serious religious matters, it is a reasonable suggestion that these cases may be indicative of a wider rule by which slaves were only allowed to bring denunciations against their masters whenever specific religious offences were involved. We also need to consider, however, that because slaves had no procedural capacity<sup>435</sup>, they could not bring charges. Therefore, by its very nature, μήνυσις (that is, a denunciation leading to a later prosecution of the accused individual) must have been limited to matters which could be prosecuted through a popular action, that is, to those cases in which ὁ βουλόμενος was entitled to pick up the denunciation and start the prosecution. Because public

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<sup>435</sup> With the notorious exception of the δίκαι ἐμπορικάι.

charges concerning religious matters are not widely-mentioned in the ancient sources, the fact that both mentions of μήνυσις in the extant evidence deal with such matters suggests the existence of a connection between μήνυσις by slaves and religious offences and, at the same time, a limitation to denunciations by slaves to those matters only.

The fact that the evidence for this practice is extremely scanty, and that freedom as a reward was only allowed in specific occasions, ultimately proves that, in Classical Athens, only exceptional cases could justify an exception to the principle that only slave-owners are entitled to extinguish their rights of ownership over their slaves. Whenever these exceptional circumstances are involved, the interest of the community as a whole is clearly considered to prevail on individual rights: this justifies the interference by the πόλις which, in normal circumstances, would not be admitted. The analysis of the other case in which 'public' manumissions of slaves could be performed by the πόλις, i.e. in emergency-situations due to warfare, will further confirm this conclusion.

### 3. *Mass-manumissions during wartime: the evidence from Classical Athens.*

The circumstances and public needs which allowed 'public' liberations of slaves during wartime explain why, in these cases, the evidence mentions mass-manumissions of slaves carried out as an effect of the decision taken by the πόλις (whereas the two forensic speeches by Lysias analysed before refer to 'public' liberations of individual slaves).

Unlike the sources concerning freedom as a possible reward for μήνυσις, which only refer to Classical Athens, the extant evidence informs us that this form of manumission has been practiced by different πόλεις during the Classical period. These sources, more specifically, describe two possible scenarios, as slaves could be liberated either before or after a specific battle. In the first case (which happened, for instance, for the battle of Marathon or soon after the Athenian defeat in Chaeronea), it is likely that manumission prior to a battle was due to the general exclusion of slaves from military service. As pointed out by Garlan, slaves were in fact usually excluded from direct participation in

war and were not allowed to join in battles<sup>436</sup>: war was generally conceived of as a matter reserved to free people, as it was commonly believed that divine favour would not descend upon an army which was formed (also) of slaves.<sup>437</sup> This may possibly explain why, when in extreme need of manpower, the state would occasionally recur to mass-manumissions of slaves in order to fill the numbers of the army with new (free) members. In the second case (which happened, for instance, with regard to the battle of the Arginusae), sources mentioning the liberation of slaves immediately after a battle clearly point to the fact that their manumission was conceived of as a reward for helping in the army. In this regard, Garlan has pointed out a different trend in the Greek world depending on whether slaves were employed in battlefields or in naval-battles: in the first case, they were usually liberated before the battle started, whereas in the second case they tended to be freed after the battle had come to an end. This distinction is due, according to Garlan, both to efficiency purposes and ideological reasons: ‘*raisons d’efficacité*’ required that ‘*le service sur terre, impliquant un engagement personnel, exigeait davantage d’esprit d’initiative, et par là même, d’ardeur combattive, que le service sur mer où comptait davantage la discipline collective*’; whereas, from an ideological point of view, ‘*pour que l’esclave fût apte à servir dans l’armée de terre, il convenait au préalable d’élever son statut, car l’écart idéologique entre son statut et la fonction qu’on lui demandait de remplir était trop grand – ce qui n’était pas le cas pour l’esclave rameur, dont la fonction était moins honorable*’.<sup>438</sup>

Although the evidence for this form of manumission is scanty, it is important to look at these sources in detail, as they provide significant information about the

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<sup>436</sup> Garlan (1985): 93. During wartime slaves’ function was normally limited to ‘secondary’ roles: they could be used in battlefields for carrying arms and equipment for the army (Garlan [1985]: 78), or serve in fleets as ‘personal’ slaves for ‘l’élite de l’équipage’, which ‘ne pouvait, en temps de guerre encore moins qu’en temps de paix, être privée de serviteurs personnels’ (Garlan [1972]: 35). According to Garlan (1972): 35, 41, however, the latter possibility was more commonly practiced in other πόλεις than it was in Athens (‘l’utilisation d’esclaves comme rameurs ait été plus fréquente ou, si l’on préfère, moins exceptionnelle, dans le reste du monde grec qu’à Athènes’).

<sup>437</sup> Calderini (1965): 167. Cf. Xen. *Cyrop.* 7.5.78-79, who stresses the importance of not sharing with slaves the knowledge and exercise of war (πολεμικῆς δὲ ἐπιστήμης καὶ μελέτης), as they are direct gifts of the gods.

<sup>438</sup> Garlan (1972): 48.

circumstances in which mass-manumissions of slaves could be performed by the πόλις: most of them refer to 'public' manumissions which took place in Classical Athens, whereas other sources suggest that a similar practice also took place in Classical Rhodes and (perhaps) in Chios.

I will start the analysis by looking at the manumission of those slaves who had helped the Athenians during the naval battle of the Arginusae in 406 B.C.: this episode concerns a mass-manumission of slaves after the battle had come to an end, when 'a grateful Athenian state rewarded those slaves who had rowed in the victorious fleet with citizenship'.<sup>439</sup> In this specific case, the decision taken by the πόλις to reward slaves with freedom (and perhaps to grant them – as well as metics – citizenship rights) was taken because of their extreme need of manning ships for the campaign during the Peloponnesian war. Evidence for the presence of slaves among the rowers during the Arginusae battle is provided by Xenophon in the *Hellenika*, where he mentions a decree passed by the Athenians in which it was decided that whoever was of military age, both slaves and free, should be employed to man the one-hundred and ten ships which had been prepared for the battle.<sup>440</sup>

The main source of information for the Athenian grant of freedom and citizenship rights to those slaves who joined the battle is a passage from Aristophanes' *Ranae*, which was performed at the Lenaea festivals of 405-406 B.C., just a few months after the victory of the Athenian fleet at the Arginusae. The significant information is provided in a passage from the παράβασις, in which the chorus addresses the Athenian audience as follows:

Aristoph. *Ran.* 694-695: καὶ γὰρ αἰσχροὺς ἐστὶ τοὺς μὲν ναυμαχήσαντας μίαν / καὶ Πλαταιᾶς εὐθὺς εἶναι κἀντὶ δούλων δεσπότης.

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<sup>439</sup> Worthington (1989): 359.

<sup>440</sup> Xen. *Hell.* 1.6.24: οἱ δὲ Ἀθηναῖοι τὰ γεγενημένα καὶ τὴν πολιορκίαν ἐπεὶ ἤκουσαν, ἐψηφίσαντο βοηθεῖν ναυσὶν ἑκατὸν καὶ δέκα, εἰσβιβάζοντες τοὺς ἐν τῇ ἡλικίᾳ ὄντας ἅπαντας καὶ δούλους καὶ ἐλευθέρους: καὶ πληρώσαντες τὰς δέκα καὶ ἑκατὸν ἐν τριάκοντα ἡμέραις ἀπῆραν. ('When the Athenians heard of what had happened and of the blockade, they voted to the rescue with one hundred and ten ships, putting aboard all who were of military age, whether slave or free; and within thirty days they manned the one hundred and ten ships and set forth').

*Because it is disgraceful that those who fought just once at sea should suddenly be Plataeans and masters instead of slaves.*

In this passage, Aristophanes suggests that those slaves who had joined the Athenians in the battle of the Arginusae were rewarded with the same citizenship rights which had been recognised to the Plataeans almost twenty years before, in 427 B.C. One further reference to the episode is made in a scholium to this passage, which mentions a statement by Hellanicus concerning the grants of freedom and of the same status attributed to the Plataeans to those slaves who had fought with the Athenians in the battle of the Arginusae:

Hellanicus *Scholium at Ranae* (Hell. 323a F25): τοὺς συνναυμαχήσαντας δούλους Ἑλλάνικὸς φησὶν ἐλευθερωθῆναι καὶ ἐγγραφέντας ὡς Πλαταιεῖς συμπολιτεύσασθαι αὐτοῖς.

*Hellanicus says that the slaves fighting with the Greeks were freed and made fellow citizens, enrolled like Plataians.* (tr. Kamen)

Lines 693-694 of *Ranae* constitute the only straightforward evidence for slaves' liberation in return for their help during the battle<sup>441</sup>, and suggest that those slaves who had been employed in the fleet during the Arginusae campaign were rewarded with a specific grant, namely, the same status which had been assigned to the Plataeans. In order better to understand the nature of this grant, we need to understand first what the features were characterising the status of Plataeans. References to the grant of citizenship

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<sup>441</sup> Other two passages from *Ranae*, however, are generally believed to refer to the same episode leading to a mass-manumission of slaves, but their actual reference to manumission is much controversial. These passages are Ar. *Ran.* 33-34 (οἴμοι κακοδαίμων: τί γὰρ ἐγὼ οὐκ ἐναυμάχουν; / ἢ τᾶν σε κωκύειν ἂν ἐκέλευον μακρὰ: 'Unhappy wretch! Why didn't I join the navy? / Then I'd tell you to whistle a different tune!') and 190-191 (δοῦλον οὐκ ἄγω, / εἰ μὴ νεναυμάχηκε τὴν περὶ τῶν κρεῶν: 'I will not take the Slave, / unless he fought at sea, to save his hide') and their respective scholia. That these passages do refer to the mass-manumission of slaves performed after the Arginusae battle has been held, for example, by: Calderini (1965): 166 n. 2; Hunt (2001): 359-361; Zelnick-Abramovitz (2005): 70 n. 12; Kamen (2005): 17; Tamiolaki (2008): 54-55. *Contra*, see Worthington (1989): 359-361, who reads these lines as reflecting the humoristic purpose of Aristophanes' play, and therefore challenges the reference of Ar. *Ran.* 33-34 and 190-191 to the manumission of slaves after the Arginusae battle.

to Plataeans are found in several sources<sup>442</sup>, although the details of this award can only be found in [Dem.] 59.104-106. In [Dem.] 59.104, the speaker, Apollodorus, asks the clerk to read the text of the decree granting citizenship to the Plataeans, whilst the following two paragraphs contain Apollodorus' account of the same grant. The two passages, however, are not completely consistent and discrepancies exist between the text of the document reproduced in paragraph 104 of the speech and Apollodorus' account. Recent work has shown that the decree reproduced in [Dem.] 59.104 is a forgery, and therefore more reliable information about the details of this grant should be found in Apollodorus' paraphrase of the decree.<sup>443</sup> According to Apollodorus, in order to be granted citizenship rights, the Plataeans had to undergo the following procedure: first, they had to be subject to a *δοκιμασία*<sup>444</sup> in order to verify their actual condition as Plataeans (and consequently to make sure that non-Plataeans would not gain Athenian citizenship); second, the names of those who had passed the *δοκιμασία* had to be inscribed on a stele to be placed in the Acropolis in order to make this grant public and therefore accessible to their descendants. Apollodorus finally states that those Plataeans who were granted citizenship rights were nonetheless excluded from archonships and priesthoods: citizenship rights granted to Plataeans were thus not exactly the same ones which were strictly reserved to *πολιται*, given that 'new citizens are excluded from all priesthoods and archonships, the actual religious authorities in Athens, "in order to make sure that the sacrifices on behalf of the city are performed according to piety"'.<sup>445</sup> The implications of such a grant to the citizens of Plataea can be properly understood if we consider the

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<sup>442</sup> Cf. Thuc. 3.55.3, 63.2; Isoc. 12.94, 14.51-52; Lys. 23; Diod. 14.46.6.

<sup>443</sup> For a detailed discussion of the inauthenticity of the document preserved in [Dem.] 59.104, cf. Canevaro (2010).

<sup>444</sup> As pointed out by Robertson (2000): 149, 'in Athens of the fifth and fourth centuries BC, the full status of the citizen was not ascribed at birth ... instead, a male of Athenian parents inched towards citizen status in a series of loosely connected rites that incorporated him into increasingly larger social units'. *δοκιμασία* was in fact one of the steps that young Athenians (usually around the age of eighteen) needed to undergo in order to be admitted within the corpus of Athenian citizens. According to the generally accepted view, it consisted of the verification, by the demesmen, both of their birth as citizens and of their physical maturity (Biscardi [1982]: 80). For a discussion about the nature and implications of *δοκιμασία* as a means through which new members could be included in the citizen community, cf. Rhodes (1981):499-502; Robertson (2000).

<sup>445</sup> Canevaro (2010): 362.

main features of naturalisation in Classical Athens. Naturalisation can be defined as the grant of citizenship to the citizens of another πόλις. This institution has been thoroughly analysed by Osborne, who focuses on the evidence from Classical Athens. According to Osborne, naturalisation has the nature of a gift (or, to better say, 'the gift *par excellence* of the *polis*')<sup>446</sup> which, according to the specific laws on the point, could only be granted in return for benefactions made by foreigners to the πόλις. He further suggests that 'the introduction of a formal, legal process for granting citizenship in Athens probably belongs in 451/0', and that, from the Classical age up to the 2<sup>nd</sup> century B.C., 'citizenship could only be granted to a foreigner ... by a decree of the Athenian Assembly'.<sup>447</sup>

As for the reward granted to slaves as is mentioned in Aristoph. *Ran.* 694-695, it follows that likening their condition to that of Plataeans implies that, in order to enjoy citizenship rights, they had been set free before the naturalisation grant.<sup>448</sup> Osborne has argued that granting slaves the same status of the Plataeans presupposes in fact a twofold passage: he maintains that slaves were first manumitted and therefore acquired the condition of free individuals (as they would have become freedmen), and then were granted citizenship rights, given that the latter presupposes the former, even though, in practical terms, the two stages could have been carried out simultaneously within one single act.<sup>449</sup>

However, the use of Aristophanes' *Ranae* and of its scholia as source-material for the argument that slaves were rewarded with citizenship rights has been challenged by some scholars. More specifically, while it is commonly acknowledged that, after the battle of the Arginusae, slaves were rewarded with freedom<sup>450</sup>, the fact that they were

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<sup>446</sup> Osborne (1981): 5.

<sup>447</sup> Osborne (1981): 6; by the 2<sup>nd</sup> century B.C., 'the practice of decreeing honours to foreigners died out, and naturalization itself ... was transformed into an automatic right for duly qualified candidates'.

<sup>448</sup> One minority position among scholars argues that granting slaves the status of Plataeans did not imply that they would start enjoying certain citizenship rights but, rather, that slaves would have been allowed to live and reside in the Skione with other Plataeans, but this view is not based on the reading of these sources (see Osborne [1983]: 36).

<sup>449</sup> Osborne (1983): 35 n. 63, maintains that 'in strict terms there will have been two stages in the process, namely 1) the advance to freedman status, and 2) the acquisition of the citizenship'.

<sup>450</sup> See, for instance: Calderini (1965): 166; Osborne (1983): 33-37; Ostwald (1986): 433; Cartledge (1993): 133-134; Hunt (2001) 359-380; Zelnick-Abramovitz (2005): 70. Garland (1988): 165,

further granted citizenship rights is much more controversial. The objections are based, on the one hand, on the consideration that ancient historians such as Diodorus or Xenophon do not mention a similar grant to slaves<sup>451</sup>; and, on the other hand, on the fact that other ancient sources only mention the 'naturalization' of those metics and foreigners who had joined the battle, whereas no mention is made of a similar grant to slaves. Diodorus, for example, only refers to the fact that the Athenians conferred Athenian citizenship to those metics and foreigners who decided to fight in the battle, but does not state that a similar award was granted to slaves.<sup>452</sup>

Most scholars, however, agree that there is no reason to doubt about the historical reliability of the information provided by Aristophanes. On the one hand, *Ranae* was performed soon after the battle of the Arginusae, and therefore the audience was familiar with the events referred to by Aristophanes, given that many people 'had either fought at Arginusae or had relatives who had'.<sup>453</sup> On the other hand, the passage immediately following lines 694-695 clearly refers to the fact that the measure has actually been taken by the Athenians<sup>454</sup>: given the historical context in which the play was performed, most

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on the other hand, maintains that after the battle, 'the Athenians went back on their promises made to fighting slaves', and therefore no grants (either citizenship rights or even freedom) would have been accorded to these slaves, but he does not justify his assumption.

<sup>451</sup> See, for instance, Worthington (1989): 359-360: after pointing out that the only reference to this grant is provided by Aristophanes, he argues, on the one hand, that this passage from *Ranae* cannot be considered as a reliable evidence for 'public' manumissions of slaves and, on the other hand, that what is attested in Aristoph. *Ran.* 694-695 is no more than 'a remark ... which may in itself be deliberately distorted for satirical effect'.

<sup>452</sup> Diod. 13.97.1: τούτων δὲ πραττομένων Ἀθηναῖοι μὲν κατὰ τὸ συνεχὲς ἐλαττώμασι περιπίπτοντες, ἐποιήσαντο πολίτας τοὺς μετοίκους καὶ τῶν ἄλλων ξένων τοὺς βουλομένους συναγωνίσασθαι: ταχὺ δὲ πολλοῦ πλήθους πολιτογραφηθέντος, οἱ στρατηγοὶ κατέγραφον τοὺς εὐθέτους εἰς τὴν στρατείαν ('While these events were taking place, the Athenians, who had suffered a continued series of reverses, conferred citizenship upon the metics and any other aliens who were willing to fight with them; and when a great multitude was quickly enrolled among the citizens, the generals kept mustering for the campaign all who were in fit condition').

<sup>453</sup> Hunt (2001): 360-361.

<sup>454</sup> Aristoph. *Ran.* 695-696: κούδὲ ταῦτ' ἔγωγ' ἔχοιμ' ἂν μὴ οὐ καλῶς φάσκειν ἔχειν, / ἄλλ' ἐπαινῶ: μόνα γὰρ αὐτὰ νοῦν ἔχοντ' ἔδράσατε ('No, even this I could not say was not well and good, / in fact, I praise it. It is the only sensible thing you did').



scholars argue that it seems unlikely that Aristophanes would refer to something which never took place.<sup>455</sup>

To sum up, it seems quite clear that Aristophanes, by mentioning the grant to slaves of the same status that the Athenians had assigned to the Plataeans, undoubtedly refers to a mass-manumission performed by the πόλις as a reward for slaves. Although the passage does not specify the means through which this reward was granted by the state, it is likely that such a measure required the enactment of a ψήφισμα *ad hoc* by the πόλις, as is expressly mentioned in other sources that I will consider in the following part of the chapter.

One more episode dealing with ‘public’ manumissions during wartime is provided by Pausanias in the seventh book of his *Description of Greece*:

Paus. 7.15.7: Ἀχαιοὶς δὲ αὐθις ἐπὶ τὴν ἡγεμονίαν τοῦ στρατεύματος παρήει Δίασιος: καὶ δούλους τε ἐς ἐλευθερίαν ἤφει, τὸ Μιλτιάδου καὶ Ἀθηναίων βούλευμα τὸ πρὸ τοῦ ἔργου τοῦ ἐν Μαραθῶνι μιμούμενος, καὶ Ἀχαιῶν συνέλεγε καὶ Ἀρκάδων ἀπὸ τῶν πόλεων τοὺς ἐν ἡλικίᾳ: ἐγένετο δέ, ἀναμειγμένων ὁμοῦ καὶ οἰκετῶν, τὸ ἀθροισθὲν ἐς ἑξακοσίους μὲν μάλιστα ἀριθμὸν ἵππεις, τὸ δὲ ὀπλιτεῦον τετρακισχίλιοι τε καὶ μύριοι.

*Diaeus once more came forward to command the Achaean army. He proceeded to set free slaves, following the example of Miltiades and the Athenians before the battle of Marathon, and enlisted from the cities of the Achaeans and Arcadians those who were of military age. The muster, including the slaves, amounted roughly to six hundred cavalry and fourteen thousand foot.*

In this passage, Pausanias makes a brief reference to the liberation of slaves carried out by Miltiades prior to the battle of Marathon. More specifically, this passage deals with two episodes concerning manumissions of slaves performed by the state: the specific object of Pausanias’ account is the liberation of many slaves carried out in 279

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<sup>455</sup> Osborne (1983): 37, for example, argues that ‘the unusualness of the mass enfranchisement prior to Arginusai is obvious. The manning of the ships with slaves in such substantial numbers was in itself as uncommon as the granting of citizenship to slaves (or to other groups) *en masse*. But desperate circumstances breed desperate solutions ... and the crucial consideration in this case is surely this: the men who were embarked upon the ships to fight in the Arginusai campaign were being called upon to do what was the duty (and the privilege) of citizens – it is thus not surprising that the reward for participation was the citizenship’.

B.C. by Diaios (καὶ δούλους τε ἐς ἐλευθερίαν ἠφίει). He then proceeds to a comparison with a similar act performed by Miltiades in 490 B.C., which is presented as the episode that inspired Diaios to perform a similar mass-manumission of slaves before the battle: according to Pausanias' account, therefore, prior to the battle of Marathon, slaves were set free in accordance with a specific βούλευμα by Miltiades and the Athenians. Although this passage is vague, many scholars do not doubt the historical reliability of the events narrated by Pausanias, which would therefore constitute 'the earliest-known case of wartime manumission by the Athenians'.<sup>456</sup> Calderini, for example, expressly mentions the episode attested in Paus. 7.15.7 as one of the few cases of 'public' manumissions in the Greek world before a battle.<sup>457</sup>

On the other hand, it has to be noted that this passage (which constitutes a much later source, as Pausanias lived in the 2<sup>nd</sup> century A.D.) is the only one which mentions this episode.<sup>458</sup> Moreover, Pausanias seems elsewhere to contradict himself. In the first book, he tells that, after the battle of Marathon, the Athenians built two graves: one for the citizens who died during the battle of Marathon, and one for the Plataeans and the slaves who lost their life in the same battlefield. Because Pausanias refers to them twice as δούλοι, within the same sentence (Paus. 1.32.3: 'καὶ ἕτερος Πλαταιεῦσι Βοιωτῶν καὶ δούλοις: ἐμαχέσαντο γὰρ καὶ δούλοι τότε πρώτων'), one may argue that the reliability of Paus. 7.15.7 as direct evidence for the mass-manumission of slaves who had fought in

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<sup>456</sup> Kamen (2005): 15. Cf. Notopoulos (1941); Finley (1980): 99; Garlan (1988): 171; Hunt (1998): 27.

<sup>457</sup> Calderini (1965): 167-168. Calderini further supports his view about the historicity of Pausanias' account by stressing 'l'urgenza del momento, che richiedeva subito un aiuto; ... l'accenno esplicito di Pausania ad un βούλευμα del popolo e di Milziade, e il fatto che lo scrittore lo cita a modo di confronto, il che voleva dire che era comunemente noto e accettato come vero', all take to the conclusion that 'non mi pare possibile non accogliere le parole di Pausania'. Cf. also Zelnick-Abramovitz (2005): 70 n. 11, who also mentions the passage from Paus. 7.15.7 as referring to a manumission performed by the πόλις.

<sup>458</sup> One of the main objections to the use of Paus. 7.15.7 as source-material for the mass-manumission of slaves before the battle of Marathon is that 'Herodotus, who treats the battle at length, makes no mention of the slaves at Marathon' (Kamen [2005]: 16). Such a silence, however, has been explained by Hunt (1998): 42, in terms of Herodotus' intention to emphasize 'freedom and ... its connection with military prowess', as the Athenians were particularly proud of having defeated the Persians. Mentioning the presence of slaves in the army would have therefore clashed with this ideology.

Marathon is somewhat compromised. It is also true, however, that – as I have shown in the previous chapters – manumitted slaves sometimes could be referred to in the ancient sources as δούλοι or, more generally, with a vocabulary typical of slavery, and such a practice clearly reflected a metaphorical use of the vocabulary of slavery (referring also to their legal condition prior to manumission). If we keep this in mind, we may be able to suggest that in this specific passage Pausanias (perhaps following his sources) was using the term ‘slaves’ as shorthand for ‘the slaves who had been manumitted before the battle’. Moreover, if we consider that ‘sarebbe stato uno strano onore fatto ai Plateesi morti per la salvezza di Atene, di seppellirli cogli schiavi degli Ateniesi; mentre sarebbe spiegabilissimo pensare che fossero stati posti accanto ai liberti Ateniesi’<sup>459</sup>, we can conclude that Paus. 7.15.7 is likely to refer to a case of mass-manumission of slaves before the battle.

More information for the understanding of ‘public’ manumission have been preserved with regard to the events which followed the Athenian defeat in the battle of Chaeronea in 338 B.C., as their historical authenticity cannot be doubted. As evidence for the attempted mass-manumission of slaves which Athens was about to perform in the period immediately following the battle, scholars usually refer to the following passage from Dio Chrysostom’s fifteenth oration (which constitutes, however, a much later source):

D. Chr. 15.21: ὅπως Ἀθηναίων ψηφισαμένων μετὰ τὴν ἐν Χαιρωνείᾳ μάχην τοὺς συμπολεμήσοντας οἰκέτας ἐλευθέρους εἶναι, εἰ προύβη ὁ πόλεμος, ἀλλὰ μὴ διελύσατο θάπτον ὁ Φίλιππος πρὸς αὐτοὺς, πολλοὶ ἂν τῶν Ἀθήνησιν οἰκετῶν ἢ μικροῦ πάντες ἐλεύθεροι ἦσαν, οὐχ ὑπὸ τοῦ δεσπότητος ἕκαστος ἀφεθείς.

*In the same way that, when the Athenians after the battle of Chaeronea passed a vote to the effect that those slaves who would help them in the war should receive their freedom, if the war had continued and Philip had not made peace with them too soon, many of the slaves at Athens, or rather, practically all of them, would have been free without having been emancipated one at a time by their respective masters.*

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<sup>459</sup> Calderini (1965): 168, following Croiset (1898): 67-72.

This passage informs us, on the one hand, that the Athenians passed a decree specifically aimed at granting freedom to those slaves who would help the πόλις during the war against Philip. On the other hand, it specifies that such a decree never became effective and therefore these slaves were never liberated, as the exceptional circumstances which justified the enactment of the decree (namely, the necessity to continue the war against Philip) came to an end (because of the peace with Philip).

This passage, however, does not constitute the only extant evidence for the mass-manumission of slaves that Athens was about to perform after the battle of Chaeronea: the same episode is attested in other sources, which show a much more complex scenario. We know from this evidence that the proposal of the decree had been accused of being παράνομον: at first sight, the legal possibility for the state to manumit privately-owned slaves seems therefore problematic, as in contrast with the νόμοι of the πόλις.

The author of the proposal of the decree to the Assembly was Hyperides, who was later prosecuted by Aristogeiton with a γραφή παράνομον.<sup>460</sup> It is important to point out from the very outset, however, two key issues. First, the γραφή παράνομον against Hyperides resulted in the latter's acquittal. Second, the fragmentary status of the extant evidence does not allow us to know the specific reason(s) why this proposal was accused of contradicting the existing laws. In other words, the idea that Hyperides' proposal was considered to be παράνομον because it suggested to liberate privately owned slaves, although possible, is not directly proved by the sources – this is only one of many

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<sup>460</sup> The γραφή παράνομον was 'a public action against measures that violate the law', and its use is mostly attested in the 4<sup>th</sup> century B.C. In this period (which directly interests this discussion) this popular action could only be used against those ψηφίσματα (decrees) which were considered to be in contrast with the νόμοι: the γραφή παράνομον thus played 'a rule akin to that of a modern charge of unconstitutionality, repealing decrees that were not in accordance with a hierarchically higher set of rules, the *nomoi*' (Canevaro [2015]). At the end of the 5<sup>th</sup> century B.C., a clear distinction was first outlined between ψηφίσματα and νόμοι, whereas before then the two terms were used interchangeably to describe binding rules in general. For a thorough discussion about the changes occurred at the end of the 5<sup>th</sup> century B.C. in the legislative procedure (which saw, from a legal point of view, the introduction of a more clear-cut distinction between νόμοι and ψηφίσματα, and a partially new function of the γραφή παράνομον – due also to the introduction of the γραφή νόμον μη ἐπιτήδειον θείναι against those νόμοι which were considered to be inconsistent with other νόμοι), cf., most recently, Canevaro (2015).

possible hypotheses about the reasons why this decree could have been accused of being illegal. I shall discuss this point in more detail.

We know of Hyperides' proposal and of his later prosecution with a γράφη παράνομον, in the first place, thanks to the surviving fragments of a forensic speech which Hyperides wrote for his own defence against Aristogeiton's accusations. As we learn from other sources (such as Lyc. 1.36-37 and [Plut.] *Moralia* 849a, which I shall discuss later in this chapter), the measures suggested by Hyperides in the decree were aimed at increasing the number of men who would be able to fight in the Athenian army and included, among others: restoration of civic rights to ἄτιμοι and exiles; grant of Athenian citizenship to metics; manumission of slaves.<sup>461</sup> As I mentioned before, however, the evidence concerning the decree by Hyperides is extremely scanty and fragmentary, as the speech he wrote against Aristogeiton only survives in a few fragments. The most significant one for our purposes is fragment 27, which is however only preserved in the Latin translation of Hyperides' text<sup>462</sup>:

Hyp. Fr. 27: *Quid a me saepius his verbis de meo officio requiris? Scripsisti, ut servis libertas daretur? Scripsi; ne liberi servitutem experirentur. Scripsisti, ut exules restituerentur? Scripsi; ut ne quis exilio afficeretur. Leges igitur, quae prohibebant haec, nonne legebas? Non poteram; propterea quod literis earum arma Macedonum opposita officiebant.*

*Why do you keep asking me in these words about my duty? "Did you propose in the decree to grant freedom to slaves?" I did, to prevent free men from experiencing servitude. "Did you propose to restore exiles?" I did, to prevent anyone else from suffering exile. "Now then, did you not read the laws that prohibited this?" I couldn't, because Macedonian arms stood in the way and obstructed their words. (tr. Cooper)*

Of the several measures proposed by Hyperides, this fragment mentions the restoration of exiles and the grant of freedom to all slaves of Attica (who numbered, according to Fr. 29, more than one hundred and fifty thousand). According to Hyperides' report of Aristogeiton's accusation, these two measures have been accused of being, as

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<sup>461</sup> Cooper (2001): 138, who also mentions, among the measures proposed by Hyperides, the evacuation of all women and children to the Piraeus and arming the Council of 500. See also Harris (2001a): 171 n. 29.

<sup>462</sup> Cooper (2001): 139 n. 6.

a whole, illegal. The terms of the accusation, however, are only preserved in a translation, and it is likely that the expression '*Leges igitur, quae prohibebant haec, nonne legebas?*' constitutes a Latin elaboration of the Greek adjective παράνομον.

This passage does not directly prove that the provision which aimed at granting freedom to slaves was itself illegal (which would imply, in other words, that at the time in Athens there was a specific νόμος which prohibited public manumissions of slaves by the state in emergency situations): this could be possible in theory, but does not automatically descend from the text of Fr. 29. It seems to me to be safer to assume that the decree as a whole, and not just the measure concerning the grant of freedom to slaves, was charged with the accusation of being παράνομον: the proposal of any decree could in fact be accused of being παράνομον for several reasons, regarding both substantive and procedural issues. Further evidence makes this point clearer.

Other sources mention the fact that Hyperides proposed, among other measures, the grant of freedom to slaves.<sup>463</sup> For example, we learn from *Against Leocrates* that 'Lycurgus uses the procedure of *eisangelia* to indict Leocrates and charges him with treason (*prodosia*), as soon as Leocrates returns to Athens, for sailing to Rhodes during the critical period for Athens following its defeat in Chaeronea'.<sup>464</sup> In mentioning the decree proposed by Hyperides to the Assembly soon after the battle of Chaeronea, Lycurgus reminds the judges that, among the measures suggested by the orator, the ψήφισμα passed by the Assembly also proposed to set slaves free:

Lyc. 1.41: πολλῶν δὲ καὶ δεινῶν κατὰ τὴν πόλιν γιγνομένων, καὶ πάντων τῶν πολιτῶν τὰ μέγιστα ἡτυχηκότων, μάλιστα ἄν τις ἤλγησε καὶ ἐδάκρυσεν ἐπὶ ταῖς τῆς πόλεως συμφοραῖς, ἡνίχ' ὄραν ἦν τὸν δῆμον ψηφισάμενον τοὺς μὲν δούλους

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<sup>463</sup> Other sources, on the other hand, although mentioning Hyperides' proposal and its illegal nature, do not expressly refer to the slaves' liberation: cf. Hyp. Fr. 29; [Dem.] 26.11; Suda s.v. 'Aristogeiton'.

<sup>464</sup> For a detailed discussion on the framework of the speech, see Harris (2001a): 159-161, who stresses, on the one hand, that 'the weakness of Lycurgus' case is that the law does not state that citizens were obliged to contribute to the city's defense even if they were not explicitly ordered to do so' and, on the other hand, that 'Lycurgus' appeals to patriotism as well as his personal prestige almost succeeded in winning the case; Aeschines (3.252) says that Leocrates escaped conviction by a single vote'. For a reference to the decree proposed by Hyperides, see also Lyc. 1.16, 36-37.

ἐλευθέρους, τοὺς δὲ Ξένους Ἀθηναίους, τοὺς δ' ἀτίμους ἐπιτίμους: ὅς πρότερον<sup>2</sup> ἐπὶ τῷ αὐτόχθων εἶναι καὶ ἐλεύθερος ἐσεμνύετο.

*In the middle of these many disasters for the city and terrible misfortunes for all its citizens, anyone would have shared their pain and would have wept to see the people who prided themselves on their freedom and racial purity voting to grant slaves their freedom, give citizenship to foreigners, and restore privileges to the disenfranchised. (tr. Harris)*

Again, the same information about the decree proposed by Hyperides is provided in a passage from Plutarch's *Lives of the Ten Orators*:

Plut. Vit. Dec. 848f-849a: κριθεὶς δ' ὑπὸ τοῦ Ἀριστογείτονος παρανόμων ἐπὶ τῷ γράψαι μετὰ Χαιρώνειαν τοὺς μετοίκους πολίτας ποιήσασθαι τοὺς δὲ δούλους ἐλευθέρους, ἱερὰ δὲ καὶ παῖδας καὶ γυναῖκας εἰς τὸν Πειραιᾶ ἀποθέσθαι, ἀπέφυγεν. αἰτιωμένων δέ τινων αὐτὸν ὡς παριδόντα πολλοὺς νόμους ἐν τῷ ψήφισματι, 'ἐπεσκότει' ἔφη 'μοι τὰ Μακεδόνων ὄπλα' καὶ 'οὐκ ἐγὼ τὸ ψήφισμα ἔγραψα ἢ δ' ἐν Χαιρωνείᾳ μάχῃ'.

*Being once accused at the instance of Aristogiton of publishing acts contrary to the laws after the battle of Chaeronea, — that all foreign inhabitants of Athens should be accounted citizens, that slaves should be made free, that all sacred things, children, and women should be confined to the Piraeus, — he cleared himself of all and was acquitted. And being blamed by some, who wondered how he could be ignorant of the many laws that were directly repugnant to those decrees, he answered, that the arms of the Macedonians darkened his sight, and it was not he but the battle of Chaeronea that made that decree.*

In this passage, Plutarch seems to summarise the information provided by the other sources, and his evidence further confirms, on the one hand, that Hyperides did propose in the Assembly a decree suggesting, among other measures, to set slaves free for war and, on the other hand, that such a decree as a whole was accused of being illegal by Aristogeiton who thus started a γράφῃ παράνομον against Hyperides.

If we want to sum up the information provided by the sources analysed above, we can isolate the following points. First, soon after the Athenian defeat at Chaeronea, Hyperides proposed to the Assembly a decree in which, among other measures, liberation by the state of privately owned slaves was mentioned as a means through which the πόλις aimed at increasing the Athenian army for the later stages of the war

against Philip. Second, the efficacy of the decree was subject to the condition that the war against Philip (and therefore the emergency-situation for the πόλις) would continue. Third, the decree was passed by the Assembly, but never became effective because the events which had been taken as the condition for the efficacy of the decree never happened. This implies that none of the provisions mentioned in the decree became effective, and therefore slaves were not actually manumitted by the πόλις. Fourth, Hyperides' proposal was accused of being illegal: a γραφή παράνομον was in fact started by Aristogeiton against him, which yet resulted in Hyperides' acquittal.

The question therefore is: do these sources tell us unequivocally that a decree proposing the 'public' manumission of privately owned slaves was itself illegal? In other words, can we infer from this evidence that in Athens there was a specific νόμος which expressly prohibited the possibility for the πόλις to liberate slaves, even without their masters' consent, in emergency situations? The extant evidence does not provide us with a direct answer to these questions; yet, some considerations about the application and function of the γραφή παράνομον might help us to suggest some possible answers.

The first point that we need to keep in mind is that, as mentioned before, nowhere in these sources we find a reference to the specific reason(s) why Hyperides' proposal was considered to be against the laws, as they make no more than a general allusion to the specific charge brought against the decree as a whole.

Moreover, other ancient sources refer both to the proposal made by Hyperides after the defeat of Chaeronea and to its accusation of being παράνομον without mentioning the manumission of privately owned slaves by the state. For example, in [Dem.] 26.11 the speaker refers to the decree proposed by Hyperides 'when the very foundations of our state were threatened with the utmost danger': yet, in reminding the audience that because of this proposal Hyperides was later prosecuted with a γραφή παράνομον, the speaker only refers to the proposal of restoring civic rights to the ἄτιμοι (whilst no mention is made to the grant of freedom to slaves).<sup>465</sup> But we learn from Dem. 24.45 that

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<sup>465</sup> [Dem.] 26.11: ὅτε γὰρ Ὑπερείδης ἔγραψε, τῶν περὶ Χαιρώνειαν ἀτυχημάτων τοῖς Ἑλλησι γενομένων, καὶ τῆς πόλεως ὑπὲρ αὐτῶν τῶν ἐδαφῶν εἰς κίνδυνον μέγιστον κατακεκλειμένης, εἶναι τοὺς ἀτίμους ἐπιτίμους, ἴν' ὁμοσοῦντες ἅπαντες ὑπὲρ τῆς ἐλευθερίας προθύμως ἀγωνίζωνται, ἐάν τις κίνδυνος τηλικούτος καταλαμβάνῃ τὴν πόλιν,



proposing to restore civic rights to the ἄτιμοι was not itself παράνομον (in other words, in Athens there was not a νόμος which prohibited the restoration of civic rights to the ἄτιμοι), unless a specific procedure was not followed before the proposal was actually presented to the Assembly. More specifically, in order for a citizen to be able to propose the restoration of civic rights to the ἄτιμοι, the ἄδεια (immunity) had to be voted in the Assembly with no less than six thousand affirmative votes given by secret ballot. Only once the ἄδεια was voted, then a citizen could propose in the Assembly a decree regarding the condition of the ἄτιμοι, and such a proposal could then be discussed; without a prior vote on the ἄδεια, such a proposal would have been accused of being παράνομον.<sup>466</sup>

[Dem.] 26.11 therefore does not necessarily imply that Hyperides' proposal was accused of being παράνομον because of its measure consisting in the restoration of civic rights to the ἄτιμοι: it could well be the case that such a proposal was seen as illegal because it did not follow, for example, the complex procedure which was necessary for the possibility of discussing such a decree (and this might have been the case, given the emergency situation that Athens was facing after the defeat at Chaeronea). In other words, there are many possible legal infractions that might have led to Hyperides' prosecution with a γραφή παράνομον.

If we extend this discussion to the general content of the proposal, we notice that the same considerations can be made for the measure consisting in the slaves' manumission by the πόλις: after all, manumission and restoration of civic rights to the ἄτιμοι are often

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τούτου τοῦ ψηφίσματος γραφήν παρανόμων ἀπενέγκας ἠγωνίζετ' ἐν τῷ δικαστηρίῳ ('For after the disasters to the Greek forces at Chaeroneia, when the very foundations of our State were threatened with the utmost danger, when Hypereides proposed that the disfranchised citizens should be reinstated in order that, if any such danger should menace our State, all classes might unite wholeheartedly in the struggle for liberty, the defendant indicted this decree as unconstitutional and conducted his case in court').

<sup>466</sup> Dem. 24.45: Νόμος: μηδὲ περὶ τῶν ἀτίμων, ὅπως χρῆ ἐπιτίμους αὐτοὺς εἶναι, μηδὲ περὶ τῶν ὀφειλόντων τοῖς θεοῖς ἢ τῷ δημοσίῳ τῷ Ἀθηναίων περὶ ἀφέσεως τοῦ ὀφλήματος ἢ τάξεως, ἐὰν μὴ ψηφισαμένων Ἀθηναίων τὴν ἄδειαν πρῶτον μὴ ἔλαττον ἑξακισχιλίων, οἷς ἂν δόξη κρύβδην ψηφίζομενοις. τότε δ' ἐξεῖναι χρηματίζειν καθ' ὃ τι ἂν τῇ βουλῇ καὶ τῷ δήμῳ δοκῇ (Law: '... nor in respect of disfranchised citizens, for restoration of their franchise, nor in respect of persons indebted to the Gods or to the treasury of the Athenians, for remission or composition of their debt, unless permission be granted by not less than six thousand citizens giving an affirmative vote by ballot. In that event it shall be lawful to put the question in such manner as the Council and the Assembly approve'). This document is genuine and reliable: cf. Canevaro (2013): 89, 127-132.

mentioned together in referring to Hyperides' proposal and its later accusation of being illegal, but we know that at least one of its provisions (the one regarding ἄτιμοι) was not in itself παράνομον. Moreover, the fact that some ancient sources refer to manumission as one of the measures suggested by Hyperides while some other ones do not<sup>467</sup>, could perhaps be taken as an indication that, in all these cases, the mention of the individual measures suggested by Hyperides was aimed at identifying the decree which had been later accused of being παράνομον, rather than the specific reasons why the proposal was charged with this accusation.

To sum up: many sources are consistent in showing that Hyperides did propose to the Assembly a decree which included mass-manumissions of slaves by the πόλις among its measures, and that such a decree was passed by the Assembly. Regardless of the later accusation of παρανομία, and given the fact that we have no clear and unequivocal indication about the specific charge that allegedly made this proposal illegal, we can suggest that, in the emergency-situation which followed the defeat at Chaeronea, the Athenians did recur to the extreme solution of adopting a decree which was meant to grant freedom to privately-owned slaves for purposes of self-defence. Of course, the proposal of such a decree must have met with considerable resistance in some quarters, if we also consider that the Athenian Assembly was made of citizens who were themselves slave-owners. Such a decree was nevertheless proposed and passed by the Assembly, because of exceptional circumstances.

A joint-analysis of the ancient sources referring to mass-manumissions of slaves performed by Athens between the 4<sup>th</sup> and the 5<sup>th</sup> century B.C. further confirms that this form of slaves' liberation only occurred in wartime, at times of severe distress and on the eve of likely ruin for the city, when further manpower was needed and therefore manumission appeared to be the only means through which involving slaves in the army (or the appropriate reward for loyal slaves). What is clear, however, is that in Classical Athens these circumstances were extremely rare, and only the specific emergencies that the πόλις was experiencing in each of them could justify measures that was certainly

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<sup>467</sup> Cf., for example, Suda s.v. 'Aristogeiton'.

very problematic and potentially unpopular, but which aimed at prioritising public interests and safety over the interests and rights of individual slave-owners.

#### 4. 'Public' manumissions outside Athens: the evidence from Rhodes and Chios.

Apart from the evidence dealing with Athens, some sources refer to manumissions performed by other πόλεις between the 5<sup>th</sup> and the 4<sup>th</sup> century B.C.: this shows that 'public' manumission was not just an Athenian peculiarity but, rather, that it has been practiced elsewhere in the Greek world.

The first piece of evidence that I shall consider refers to 4<sup>th</sup> century B.C. Rhodes. The episode is described by Diodorus in the twentieth book of his *Bibliotheca Historica*, and deals with the siege of Rhodes by Demetrius Poliorcetes in 305 B.C.:

Diod. 20.84.2-3: ἀριθμὸν δὲ ποιησάμενοι τῶν δυναμένων ἀγωνίζεσθαι πολιτῶν μὲν εὖρον περὶ ἑξακισχιλίους, τῶν δὲ παροίκων καὶ ξένων εἰς χιλίους. ἐψηφίσαντο δὲ καὶ τῶν δούλων τοὺς ἀνδρας ἀγαθοὺς γενομένους ἐν τοῖς κινδύνοις ἀγοράσαντας παρὰ τῶν δεσποτῶν ἐλευθεροῦν καὶ πολίτας εἶναι.

*When they made a count of those who were able to fight, they found that there were about six thousand citizens and as many as a thousand metics and aliens. They voted also to buy from their masters any slaves who proved themselves brave men in battle, and to liberate and enfranchise them.* (tr. Geer)

This passage is significant for our understanding of the nature and implications of manumission of privately-owned slaves by the πόλις. First, Diodorus informs us that the πόλις passed a ψήφισμα in which it was decided to confer freedom and citizenship rights onto those slaves who had proved to be brave in battle. Second, the passage further specifies how this mass-manumission had to be performed: according to the provisions of the ψήφισμα, in order for the πόλις to validly manumit privately owned slaves, the former had to buy the latter from their masters in the context of an ordinary market-transaction. The fact that the πόλις had to buy these slaves from their masters is suggested by the expression 'ἀγοράσαντας παρὰ τῶν δεσποτῶν': as Pringsheim has pointed out, 'ἀγοράζω seems to be a special term for buying in the market. This is the meaning as early as in Pindar ..., and in the orations of Aeschines and Demosthenes, in

comedy and in the papyri the term is used for sales in the market or at least for sales of movables which were mostly sold there'.<sup>468</sup> Technically speaking, this passage implies that the πόλις actually purchased privately owned slaves from their masters. The masters, however, acquired not just mere compensation in return for an expropriation: the fact that the πόλις purchased privately-owned slaves in the context of an ordinary market-transaction means that masters received the payment of the price, which possibly reflected the economic value of their slaves at the time of the transaction. This also makes it clear that, by virtue of the sale thus concluded, the πόλις first became the slaves' new owner (which also means, in other words, that these slaves ceased to be privately owned and became owned by the πόλις, i.e. 'public slaves'), and then would manumit them, according to the provisions of the ψήφισμα. Third, Diodorus informs us that these slaves were not only granted freedom, but also citizenship rights by the πόλις ('ἐψηφίσαντο ... ἐλευθεροῦν καὶ πολίτας εἶναι'): such a reward reminds of the evidence from Aristoph. *Ran.* 694-695, which mentions the grant of the status of Plataeans to those slaves who had fought in the battle of the Arginusae.

Later on, at paragraph 100 of the same book, Diodorus further confirms that, after the siege came to an end, the Rhodians proceeded to grant freedom and citizenship rights to those slaves who had proved brave in battle, according to the provisions of the decree:

Diod. 20.100.1-4: οἱ μὲν οὖν Ῥόδιοι πολιορκηθέντες ἐνιαύσιον χρόνον τούτῳ τῷ τρόπῳ κατελύσαντο τὸν πόλεμον. τοὺς δ' ἐν τοῖς κινδύνοις ἄνδρας ἀγαθοὺς γενομένους ἐτίμησαν ταῖς ἀξίαις δωρεαῖς καὶ τῶν δούλων τοὺς ἀνδραγαθήσαντας ἐλευθερίας καὶ πολιτείας ἤξιωσαν.

*In this way then the Rhodians, after they had been besieged for a year, brought the war to an end. Those who had proved themselves brave men in the battles they honoured with the prizes that were their due, and they granted freedom and citizenship to such slaves as had shown themselves courageous.* (tr. Geer)

In order to provide a complete analysis of the extant evidence for manumission by the πόλις, I will discuss one further source which has been generally ignored in modern

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<sup>468</sup> Pringsheim (1950): 100.

discussions on manumission, but which can possibly be interpreted as recording a 'public' manumission of slaves. This inscription ('Chios 62')<sup>469</sup> has been found in Chios and is dated between the end of the 5<sup>th</sup> and the beginning of the 4<sup>th</sup> century B.C. This inscription is fragmentarily preserved on a stone inscribed on three sides. It consists of a list of names of slaves, divided in groups, that are defined as δεκάδες in sides A and B of the stone (cf. A, l. 8; B, l. 11), that is, as military units. Robert first thoroughly analysed this inscription and suggested to interpret its content as referring to a mass-manumission of slaves performed by the πόλις in wartime<sup>470</sup>: his view has been later acknowledged by other scholars of Greek slavery, such as Garlan, Hunt and Ducat.<sup>471</sup> Robert's view is based on the following premise: after remarking that, in normal circumstances, the πόλις has no reason to invest time and money for inscribing the names of several slaves on a stone, he suggests that such a measure must have been due to extraordinary events. He therefore reads the content of this inscription by suggesting a comparison with other evidence from the same time (namely, those sources referring to mass-manumissions of slaves performed by the πόλις before the battle of the Arginusae, after the defeat at Chaeronea, and for the siege of Rhodes). In doing so he notices, on the one hand, that many ancient sources mention the enrolment of slaves in the army when the πόλις were in desperate need of extra man-power and, on the other hand, that some of these sources expressly state that those slaves who helped in the army were rewarded with freedom.<sup>472</sup> Given these premises, Robert concludes that the inscription is likely referring to a manumission performed by the πόλις of Chios. Together with these remarks based on the comparison with other sources mentioning similar episodes, the idea that this inscription refers to a mass-manumission of slaves carried out by Chios in wartime

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<sup>469</sup> McCabe (1986): 62.

<sup>470</sup> Cf. Robert (1935): 453-459.

<sup>471</sup> Garlan (1972): 44; Hunt (2001): 370, who reads the inscriptions in connection with the Ionian war, and suggests that 'when Chios revolted from Athens during the Ionian War, the Chians set slaves free as a reward for naval service. At this time Chios, like Athens, was manning a navy of a size that stretched its manpower capacity ... at Chios, as at Athens, the pressures of a bitter war led to atypical rewards for naval service'. The idea that this inscription refers to a mass-manumission of slaves performed by the state for military purposes has also been suggested by Ducrey (1990): 26.

<sup>472</sup> Robert (1935): 456-459.

seems to be supported by the commonly-accepted restoration of lines 3-5 of the inscription, which would therefore directly refer to the manumission by the πόλις of those slaves whose names have been inscribed on the stone: '[—]τας γράψαι πο- / [— ἦ] πόλις ἠλεο[θέ]- / [ρωσεν —]εναί'. This hypothesis, moreover, is further strengthened by the consideration of the chronological context in which the stone was inscribed. Being dated to the beginning of the 4<sup>th</sup> century B.C., its content is perhaps due to a particularly harsh period for Chios and its inhabitants: 'Depuis qu'en 411 Chios a fait defection à Athènes, ce ne sont que guerres et revolutions, lutes contre Athènes et contre Sparte, lutes entre le people et l'oligarchie, entre les villages et la ville. Il me paraît difficile de préciser la date exacte de notre liste d'esclaves; la dernière partie de la guerre du Péloponèse me paraît peut-être l'époque la plus probable'.<sup>473</sup> All the elements above mentioned (1) the restoration of the first five lines of the inscription; 2) the list of slave-names grouped as forming part of specific military units; 3) a reading of the inscription through a comparative approach), therefore, seem to suggest that, between the 4<sup>th</sup> and the 5<sup>th</sup> century B.C., the πόλις of Chios manumitted several slaves for military purposes.

If this is true, then the evidence from Rhodes and Chios further confirms that, even outside Athens, 'public' manumission was an exceptional measure due to warfare for the safeguard of public interests.

##### 5. *The evidence for manumission in Classical Sparta: 'public' manumission of the helots.*

In scholarly contributions to Greek manumission, it is unusual to find discussions about liberation of slaves in Sparta, to which no more than brief remarks are usually devoted. This is primarily due, on the one hand, to the status of the extant evidence and, on the other hand, to the traditional views on Sparta's slave-system. The evidence for manumission in Sparta is extremely scanty, and only very few cases of slaves' liberation are mentioned in no more than brief remarks. However, the main problem, which for a long time has prevented a satisfactory understanding of Spartan manumission, is the way that scholars have addressed the problem of the helots' legal condition.

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<sup>473</sup> Robert (1935): 459.

The idea that the helots were privately-owned slaves is in fact emerged in recent interpretations, as the commonly held-view was that they were public slaves (that is, owned by the πόλις), whom the state had 'assigned' to individual Spartiatai or, more precisely, to the land the these Spartiatai controlled, to which they were bound for the rest of their lives.<sup>474</sup> Other views, on the other hand, held that the legal condition of the helots was one of serfdom<sup>475</sup> or, again, an unspecified status 'between slavery and freedom'.<sup>476</sup>

The problem of the legal condition enjoyed by the helots and the development of the scholarly opinions about this issue have been addressed by recent contributions, which have shown that the helots were privately owned by Spartan citizens.<sup>477</sup> These readings show that the slave-system of Classical Sparta was based on private ownership over slaves; such a system, however, was in many ways peculiar, as its main features were the result of specific social and economic features which shaped Spartan society.

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<sup>474</sup> Cf. Lotze (1959): 27-47; Garland (1988): 88; de Ste Croix (1972): 89-93. This idea is mainly grounded on the reading of Strabo 8.5.4 and Paus. 3.20.6, who tend to describe the helots as 'slaves of the community'. Ducat (1990): 19-29, however, has argued that both Strabo and Pausanias constitute much later sources, and that their idea of the helots as 'public slaves' reflected the changes that had occurred within Spartan society. Similarly, cf. Hodkinson (2000): 114, who stresses that this view 'was indissolubly linked to the revolution's redistribution of private Spartiate estates into a system of state-controlled equal *klēroi*, which meant a real change in status for the helots working the *kleroi*, who now likewise became public property'.

<sup>475</sup> Luraghi (2002): 228, argues that such a view relies on the fact that the helots were strictly bound to the land they had to work and could not be removed from it, but he challenges this idea and concludes that the helots were privately-owned slaves. For the idea that the helots were legally free yet attached to a specific piece of land, see, most recently, Zelnick-Abramovitz (2005): 9 n. 16, who, after including the helots among the 'bondsmen and other dependent groups', expressly excludes them from her discussion on Greek manumission since, according to her interpretation, they could not be considered as 'chattle-slaves'.

<sup>476</sup> See, for instance, Finley (1981): 116. This interpretation of the legal condition of the helots relies entirely on Pollux' *Onomasticon*, who, in the 2<sup>nd</sup> century A.D., provides the following definition: 'Μεταξὺ δὲ ἐλευθέρων καὶ δούλων οἱ Λακεδαιμονίων Εἰλωες καὶ Θετταλῶν Πενέσται καὶ Κρητῶν Κλαρωταὶ καὶ Μνώται καὶ Σικυωνίων Κορυνηφόροι' ('between free men and slaves are the Lakonian helots, the Thessalian Penestai, the Cretan Klarotai and Mnoitai, the Mariandynian Doryphoroi, the Argive Gymnetes and the Sikyonian Korynephoroi': Poll. 3.83). With this definition, Pollux includes other categories, together with the helots, within this unspecified category of persons who are defined as enjoying a legal condition 'between slavery and freedom'.

<sup>477</sup> Most recently, Lewis (2015), (forthcoming a). See also, in this sense, Hodkinson (2000): 113-117; Luraghi (2002): 228-233. The first interpretation of the legal condition of the helots as privately owned slaves, however, was that of Ducat (1990): 19-29.

The starting-point for the understanding of manumission in Classical Sparta is a passage from the Greek historian Ephorus (who lived in the 4<sup>th</sup> century B.C. and therefore provides contemporary evidence). According to Ephorus, the helots could not be sold 'outside the borders' of Spartan territory ('ἔξω τῶν ὄρων') and could not be manumitted by their masters:

Ephorus FGrHist70 F117 = Strab. 8.5.4: τοὺς μὲν οὖν ἄλλους ὑπακοῦσαι, τοὺς δ' Ἑλείους τοὺς ἔχοντας τὸ Ἑλος (καλεῖσθαι δὲ Εἴλωτας) ποιησαμένους ἀπόστασιν κατὰ κράτος ἀλῶναι πολέμῳ καὶ κριθῆναι δούλους ἐπὶ τακτοῖς τισιν, ὥστε τὸν ἔχοντα μήτ' ἐλευθεροῦν ἐξεῖναι μήτε πωλεῖν ἔξω τῶν ὄρων τούτους: τοῦτον δὲ λεχθῆναι τὸν πρὸς τοὺς Εἴλωτας πόλεμον.

*... now all obeyed except the Heleians, the occupants of Helus, who, because they revolted, were forcibly reduced in a war, and were condemned to slavery, with the express reservation that no slaveholder should be permitted either to set them free or to sell them outside the borders of the country; and this war was called the War against the Helots.*

Many scholars have relied on this passage in order to argue that the helots could not be private property, because the restriction on the sale of the helots and the ban on their manumission are (supposedly) inconsistent with the right of ownership over them.<sup>478</sup> A closer look at these features, however, shows that they are not themselves inconsistent with 'private' ownership over the helots, but rather reflect the peculiarities of this slave-system.<sup>479</sup> Prohibition to sell the helots outside Spartan territory undoubtedly constitutes a significant limitation, imposed by the state, on the exercise of the right to alienate a property, which descends from entitlement to ownership. Yet, restriction on the exercise of one of the powers descending from ownership does not imply exclusion of ownership itself: in other words, the fact that the state decided (for specific reasons) to impose a 'territorial' limitation on the alienation of the helots does not indicate that private ownership over them was not recognised at all. Prohibition on the manumission of the

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<sup>478</sup> See, for example, Cartledge (2003): 17-18.

<sup>479</sup> Luraghi (2002): 229, has pointed out that 'although they might seem contradictory, at a closer look the two rules mentioned by Ephorus are perfectly consistent with one another'; moreover, as I shall show in this paragraph, they are due to social, economic and legal reasons.



helots, by contrast, implies that the πόλις forbids masters to exercise one of the powers descending from ownership, namely, the possibility to dispose of their right by extinguishing it. In the case of Classical Sparta, then, the question arises on how ban on 'private' manumission is consistent with the existence of a slave-system based on private ownership over slaves.

Prohibition to manumit the helots has often been taken as the major indicator that they were not privately-owned but, rather, owned by the state.<sup>480</sup> I suggest, by contrast, that the state's (exclusive) entitlement to manumission does not necessarily imply the state's more general entitlement to the right of ownership over the helots, but rather reflects social, economic and legal reasons which aimed to protect the interests of the state at different levels. As many scholars have pointed out, Spartan society was characterised by a strong fear of slave revolts<sup>481</sup> because of specific social factors: first, a big disparity in numbers between free individuals and slaves (as the number of slaves largely outnumbered that of the free population)<sup>482</sup>; second, a considerable absenteeism of masters (as free citizens were busy in the city, whereas the helots were employed in the fields, from which it follows that the former could hardly control the latter in their everyday life)<sup>483</sup>; third, the 'ethnic solidarity' among the helots was also a factor which 'provided a certain degree of unity of purpose'.<sup>484</sup> Because of all these elements, the Spartans 'rappresentavano se stessi come una fortezza assediata, cioè come un gruppo "circondato da nemici"'<sup>485</sup> and therefore 'keeping their territory and their helots under control was a problem to which the Spartiates devoted a lot of energy'.<sup>486</sup>

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<sup>480</sup> See, typically, Cartledge (2003): 17-18, (2011a): 82.

<sup>481</sup> Cf., for example, Cartledge (1985); Garlan (1988): 177; de Ste Croix (2002); Luraghi (2002): 231; Paradiso (2008a): 1-26, (2008b): 66-67.

<sup>482</sup> Paradiso (2008a): 30; on this point, see also Lewis (forthcoming a). In this regard, see also Cartledge (2011a): 74, who maintains that 'although Sparta had a smaller overall population than Athens, it had the highest density of slave to free, followed, not by Athens, but by the island-state of Chios'.

<sup>483</sup> Luraghi (2002): 231. For the idea that 'agricultural labour was the distinctive feature of helot servitude', see also Hodkinson (2000): 113-145.

<sup>484</sup> Lewis (forthcoming a).

<sup>485</sup> Paradiso (2008a): 30.

<sup>486</sup> Luraghi (2002): 231. Cartledge (2011b): 57, has suggested that the Spartans kept control over the helots by adopting a 'state terror' involving, among other measures, the famous κρυπτεία, which was used as 'an agent for spreading paranoia among the helots' (Lewis [forthcoming a]).

In the second place, prohibition to manumit the helots (as well as restrictions on their sale) is also strongly influenced by economic reasons. Recent works have pointed out that, compared to other πόλεις of the same time, Spartan economy relied little on foreign trade.<sup>487</sup> This element also had an important impact on its slave supply: its main source for slavery was not trade but, rather, natural reproduction among the helots.<sup>488</sup> This economic factor may further explain the ban on private manumissions<sup>489</sup>: the fact that slave-supply derived mainly from self-reproduction among the helots required the state to keep firm control over the number of slaves that the Spartan society and the economic system as a whole could rely on. After all, the life of the Spartan state and its citizens relied heavily, if not exclusively, upon slave-labour and exploitation<sup>490</sup>, and it is therefore likely that the state intended to keep exclusive control over the number of its slaves, which could have dropped if 'private' forms of manumission had been practiced.

Finally, legal reasons also suggest that the prohibition for masters to liberate their own slaves does not automatically imply that the relationship between the two cannot be based on the right of ownership. More specifically, slave-owners in Sparta are granted the right of ownership over their slaves; yet, according to the evidence from Ephorus, their power to extinguish it through manumission seems to be 'transferred' to the state which, as the only legal entity entitled to the manumission of the helots, thus exercises a (heavy) form of interference with the masters' right of ownership. Even if in Sparta such a mechanism of 'control' by the state is stretched to the point of absorbing entirely one of the rights which – strictly speaking – would pertain to individual owners only, it should also be considered that interference by the state in the manumission of privately-owned slaves is also attested in other πόλεις of the same time. As I showed before, similar cases of interventions by the state in the manumission of privately-owned slaves without or even against their masters' consent are recorded in the ancient sources as happening at least in Classical Athens, Rhodes and perhaps Chios: the extant evidence

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<sup>487</sup> Luraghi (2002): 229.

<sup>488</sup> Lewis (2015).

<sup>489</sup> As well as on restriction upon sale of the helots outside the Spartan borders, which was likely due to the state's interest in keeping control over the slave work-force that it could rely on.

<sup>490</sup> Lewis (forthcoming a).

for Sparta is consistent with these sources, as it indicates that the helots were only liberated during wartime and in exceptional occasions.

The first evidence that can be considered in this regard refers to the mass-manumission of the helots performed by Sparta around 424 B.C. during the Peloponnesian War. Thucydides informs us that, as the state needed volunteers who would bring food and supply to the army that was camped in the island of Sphacteria, the Spartans promised rewards to those people who would do so, and freedom to the helots:

Thuc. 4.26.5-6: αἴτιον δὲ ἦν οἱ Λακεδαιμόνιοι προειπόντες ἐς τὴν νῆσον ἐσάγειν σῆτον τε τὸν βουλόμενον ἀληγεμένον καὶ οἶνον καὶ τυρὸν καὶ εἴ τι ἄλλο βρωμα, οἷ ἂν ἐς πολιορκίαν ξυμφέρη, τάξαντες ἀργυρίου πολλοῦ καὶ τῶν Εἰλώτων τῶ ἐσαγαγόντι ἐλευθερίαν ὑπισχνούμενοι. καὶ ἐσῆγον ἄλλοι τε παρακινδυνεύοντες καὶ μάλιστα οἱ Εἰλωτες, ἀπαίροντες ἀπὸ τῆς Πελοποννήσου ὀπόθεν τύχοιεν καὶ καταπλέοντες ἔτι νυκτὸς ἐς τὰ πρὸς τὸ πέλαγος τῆς νήσου.

*The fact was that the Lacedaemonians had made advertisement for volunteers to carry into the island ground corn, wine, cheese, and any other food useful in a siege; high prices being offered, and freedom promised to any of the Helots who should succeed in doing so. The Helots accordingly were most forward to engage in this risky traffic, putting off from this or that part of Peloponnese, and running in by night on the seaward side of the island.*

This passage deals with a case in which the πόλις promises freedom to those helots who decided to help the Spartan army during the siege of Sphacteria: freedom seems therefore to be a reward that the πόλις would grant to the helots only after the emergency-situation had come to an end.

In another passage, Thucydides informs us of a similar promise made by the state at around the same time during the Peloponnesian War. More specifically, after the Athenians had settled in Pylos and threatened to attack Sparta, the Spartans feared that the helots could take advantage of the situation by starting a revolt (‘νεωτερίσωσιν’: cf. Thuc. 4.80.2). For this reason, they decided to send seven hundred helots in Calcidica to fight with Brasidas, and they armed them as hoplites. Thucydides further mentions that the Spartans decided that those helots who would fight with Brasidas would have been rewarded with freedom:

Thuc. 5.34.1-2: καὶ τοῦ αὐτοῦ θέρους ἤδη ἤκόντων αὐτοῖς τῶν ἀπὸ Θράκης μετὰ Βρασίδου ἐξελθόντων στρατιωτῶν, οὓς ὁ Κλεαρίδας μετὰ τὰς σπονδὰς ἐκόμισεν, οἱ Λακεδαιμόνιοι ἐψηφίσαντο τοὺς μὲν μετὰ Βρασίδου Εἰλωτας μαχεσαμένους ἐλευθέρους εἶναι καὶ οἰκεῖν ὅπου ἂν βούλωνται, καὶ ὕστερον οὐ πολλῶ αὐτοὺς μετὰ τῶν νεοδαμωδῶν ἐς Λέπρεον κατέστησαν, κείμενον ἐπὶ τῆς Λακωνικῆς καὶ τῆς Ἠλείας, ὄντες ἤδη διάφοροι Ἠλείοις.

*The same summer the soldiers from Thrace who had gone out with Brasidas came back, having been brought from thence after the treaty by Clearidas; and the Lacedaemonians decreed that the Helots who had fought with Brasidas should be free and allowed to live where they liked, and not long afterwards settled them with the Neodamodes at Lepreum, which is situated on the Laconian and Elean border; Lacedaemon being at this time at enmity with Elis.*

This passage from Thucydides shows that, after the army commanded by Brasidas returned to Sparta, the state passed a ψήφισμα which stated, on the one hand, that those helots who joined the battle with Brasidas would be manumitted and, on the other hand, that they would have been free to decide where they would live. Freedom to decide where to reside, on the other hand, is clearly an aspect of the legal freedom granted to the helots: this means, in other words, that, as free individuals, they were no longer bound to their masters' household, and therefore could decide to live somewhere apart from it. Yet, their freedom of deciding where to live is limited to the boundaries of the Spartan territory, as it seems to be suggested by the following specification that they were settled at Lepreum with the Neodamodes.

What is important to stress, however, is that manumission of the helots is described as the result of a decision taken by the πόλις which required the enactment of a ψήφισμα *ad hoc*. This aspect is perfectly in line with the evidence above analysed concerning Classical Athens and Rhodes, where – as we are informed by the ancient sources – a ψήφισμα was also enacted in those few cases in which the state decided to perform mass-manumissions of slaves.

The same information is provided by Diodorus, who mentions only generically the grant of freedom to the helots who fought with Brasidas without referring to the enactment of a ψήφισμα by the state:

Diod. 12.76.1: Λακεδαιμόνιοι δὲ ὄρῳντες ἐπ' αὐτοὺς συνισταμένην τὴν Πελοπόννησον καὶ προορώμενοι τὸ μέγεθος τοῦ πολέμου, τὰ κατὰ τὴν ἡγεμονίαν ὡς ἦν δυνατὸν ἠσφαλίζοντο. καὶ πρῶτον μὲν τοὺς μετὰ Βρασίδα κατὰ τὴν Θράκην ἐστρατευμένους Εἰλωτας ὄντας χιλίους ἠλευθέρωσαν.

*The Lacedaemonians, seeing the Peloponnesus uniting against them and foreseeing the magnitude of the impending war, began exerting every possible effort to secure their position of leadership. And first of all the Helots who had served with Brasidas in Thrace, a thousand in all, were given their freedom.*

Such a promise, however, was never followed by the actual manumission of the helots after their return to Sparta. According to both Thucydides and Diodorus, after the battle had come to an end, the Spartans made a proclamation which invited those among the helots who thought to deserve freedom because of the services they rendered to the state in battle, to come forward in order to be manumitted. Thucydides notes that such a measure was only aimed, in the Spartans' intentions, to test the helots in order to understand who, among them, was more likely to be ready to revolt, 'as it was thought that the first to claim their freedom would be the most high spirited and the most apt to rebel'.<sup>491</sup> Two thousand helots came forward to ask for freedom; yet, soon after this, they disappeared and were never found.<sup>492</sup>

One final source which refers to manumission in Sparta is a passage from Plutarch's *Life of Cleomenes*. Plutarch tells that, in order for the state to raise money for the war, Cleomenes liberated those helots who would pay five Attic minae to the πόλις and then enrolled two-thousand of them in the army for the battle:

Plut. *Cleom.* 23.1: τοῦ δὲ Ἀντιγόνου Τεγέαν μὲν παραλαβόντος, Ὀρχομενὸν δὲ καὶ Μαντίνειαν διαρπάσαντος, εἰς αὐτὴν τὴν Λακωνικὴν συνεσταλμένος ὁ Κλεομένης τῶν μὲν εἰλωτῶν τοὺς πέντε μνᾶς Ἀττικὰς καταβαλόντας ἐλευθέρους ἐποίει καὶ τάλαντα πεντακόσια συνέλεξε, δισχιλίους δὲ προσκαθοπίσας Μακεδονικῶς ἀντίταγμα τοῖς παρ' Ἀντιγόνου λευκάσπισιν, ἔργον ἐπὶ νοῦν βάλλεται μέγα καὶ πᾶσιν ἀπροσδόκητον.

<sup>491</sup> Thuc. 4.80.3. Similarly, cf. Diod. 12.67.5.

<sup>492</sup> Thuc. 4.80.4; Diod. 12.67.4. On this episode, see Paradiso (2008b): 66-68.

*After Antigonus had taken Tegea by siege, and had surprised Orchomenus and Mantinea, Cleomenes, now reduced to the narrow confines of Laconia, set free those of the Helots who could pay down five Attic minas (thereby raising a sum of five hundred talents), armed two thousand of them in Macedonian fashion as an offset to the White Shields of Antigonus, and planned an undertaking which was great and entirely unexpected.*

It should be kept in mind, however, that this evidence refers to an episode which happened much later than the ones discussed above: Cleomenes' initiative was taken in around 223-222 B.C., and therefore does not refer to manumission as it was performed in Classical Sparta. As Ducat notes, this case, on the one hand, 'est unique dans l'histoire de Sparte'; on the other hand, it may reflect a later stage in the general perception of the condition of the helots ('il serait possible que les rois réformateurs aient renforcé à un tel point les pratiques communautaires relatives aux Hilotes que ceux-ci aient désormais été considérés plus comme une propriété collective que comme des biens privés').<sup>493</sup> The reading of this passage, however, seems to further confirm the fundamental features of manumission in Sparta as it shows the following elements. First, manumission is the object of a decision taken by the state (in this case, by the king Cleomenes) regardless of the consent of individual slave-owners. Second, such a manumission appears to be once again performed for military purposes.<sup>494</sup> Third, no mention is made of a compensation given to slave-owners for their economic loss: on the contrary, the passage expressly states that the five minae paid by the helots for their freedom were connected to a financial need of the πόλις, and were used in order to collect money for the military expedition.<sup>495</sup>

The analysis of these sources suggests that manumission in Classical Sparta was characterised by the following features. First, although the helots were privately-owned slaves, the only manumissions we know about have been carried out by the state. If we read this element (lack of any evidence dealing with 'private' manumissions of the

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<sup>493</sup> Ducat (1990): 25.

<sup>494</sup> Ducat (1990): 27.

<sup>495</sup> Papazoglou (1995): 373. Ducat (1990): 27, further specifies that the public manumission promised by Cleomenes 'n'en conserve pas moins son caractère militaire, puisque la somme ainsi recueillie constitua un trésor de guerre'.

helots)<sup>496</sup> in the light of the information provided by Ephorus (who, as a contemporary source, mentions the explicit ban, imposed by the πόλις upon slave-holders, on liberating their own slaves), we can perhaps draw the conclusion that in Classical Sparta masters had no power to extinguish their right of ownership through manumission, as the role of manumittor seems to be held by the πόλις only.<sup>497</sup> Second, the extant sources inform us that manumission had the nature of a reward for those helots who had fought bravely in battle. This feature brings up three corollaries: a) manumission is not a right descending upon the helots from their participation in battle but, rather, an unilateral act of the πόλις which usually followed a battle (unlike other πόλεις, we have no sources mentioning manumissions performed before a battle in order to allow helots to fight as free individuals; moreover, we learn that after the emergency-situation had come to an end, the πόλις could also change its mind and revoke the promise of such a grant); b) manumission appears to be always connected with emergency-situations in wartime, and therefore war seems to be the typical background for manumission in Classical Sparta (to the point that most scholars describe Spartan manumission as having a military nature)<sup>498</sup>; c) Spartan manumission does not seem to concern individual helots, as it is rather described in the surviving evidence as a ‘collective’ measure, in the sense that it always implies a mass-liberation of high numbers of helots.<sup>499</sup> Third, the πόλις’ decision to manumit privately-owned slaves was taken through the enactment of a ψήφισμα *ad hoc* (cf. Thuc. 5.34): this is also confirmed by the evidence from other πόλεις of the Classical age, as it was the case – for example – for Athens (as the many sources dealing with the events after the battle of Chaeronea show) and Rhodes (cf. Diod. 20.84.2-3). Fourth, no mention is made of a compensation given to slave-owners in return for the liberation of their helots: this is also true, on the other hand, for those episodes of ‘public’ manumission attested with regard to other πόλεις, as Rhodes apparently provides the

<sup>496</sup> Ducat (1990): 25-26.

<sup>497</sup> This point, on the other hand, is commonly accepted by scholars: see, for instance, Calderini (1965): 169 (who stresses that ‘a Sparta una legge vietava la manomissione private degli Iloti’); Cartledge (2003): 17; Ducat (1990): 26-27; Paradiso (2008a): 49; Lewis (2015), (forthcoming a).

<sup>498</sup> Cf., for example, Ducrey (1990): 26-27; Paradiso (2008a): 49.

<sup>499</sup> Ducat (1990): 26: ‘les seuls affranchissements que nous connaissons sont ... des affranchissements collectifs, qui résultent de décisions prises par la cité’.

only example of a πόλις that offered to buy slaves from their masters in the context of an ordinary market-transaction. Fifth, unlike in some other πόλεις of the Classical age, the fact that the helots could be granted citizenship rights alongside manumission is not mentioned in the sources, as freedom is described as the only reward that they could possibly be granted for their participation in battle: this is consistent, after all, with the very exclusive nature of Spartiate citizenship.

According to the most recent interpretations of the Spartan slave-system, this πόλις provides the most extreme example of slave society of the Ancient world, both because of the heavy interference by the state on masters' power to exercise some of the fundamental rights descending from ownership, and because Sparta relied greatly (if not completely) on the helots' work-force.<sup>500</sup> If we look at the extant evidence referring to Classical Sparta, we might suggest that this πόλις also practised the most extreme form of interference in the individual masters' right to manumit their own slaves: a slave-society based on private ownership over the helots seems to coexist with a prohibition on private manumission, an act which is described as being completely absorbed by the πόλις.

Apart from this (fundamental) peculiarity of Spartan manumission, we can draw the overall conclusion that 'public' manumission in Classical Greece is constantly described in the ancient sources as an exceptional measure, which appears to be strictly performed in those rare cases in which emergencies due to wartime required the state to interfere with individual interests. In this sense, I believe that Calderini is correct in arguing that the scarce evidence we possess for 'public' manumission reflects the rare circumstances in which such measures were carried out in ancient Greece.<sup>501</sup> On the other hand, his justification for the scarcity of collective public manumissions in the sources fails to highlight satisfactorily the rationale behind this form of manumission. Calderini maintains that this is due both to the general exclusion of slaves from participation in war, and to the fact that, at the end of a battle, a πόλις could hardly determine who among the slaves had proved brave and therefore deserved to be rewarded with

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<sup>500</sup> Lewis (forthcoming a).

<sup>501</sup> Calderini (1965): 167.



freedom.<sup>502</sup> Both these remarks are certainly correct; yet, I suggest that besides these factors (or even before them) there was another fundamental reason which prevented the πόλις from regularly performing forms of 'public' manumission, that is, the very nature of the right of ownership in Ancient Greece. In fact, the sources make it clear that only when it was commonly acknowledged that particular and exceptional circumstances required public interests to prevail upon individual rights, then the πόλις was allowed to interfere on the right of ownership of its members by forcibly expropriating privately owned slaves. It was only in these exceptional cases, in other words, that the state's interest could prevail upon individual ownership over slaves.

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<sup>502</sup> Calderini (1965): 167.



## *Conclusions*

This study has analysed the most relevant sources for Greek manumission and isolated the fundamental features characterising, on the one hand, the legal nature of the act of manumission and, on the other hand, the legal and factual dimensions of the condition of manumitted slaves in ancient Greece.

The analysis of the extant evidence has been conducted through an 'emic' approach to the ancient material, with the aim of reassessing our understanding of manumission in light of the Greeks' own conceptualisation of the legal principles and institutions surrounding the slaves' liberation.

This approach has shown that the Greeks clearly understood and described manumission as a legal act which determined the extinction of the masters' right of ownership over their slaves and, as a result, a fundamental change in the legal status of the latter, who became legally free individuals.

At the same time, a close look at the ancient documents shows that the Greek conceptualisation of manumission was shaped by a pragmatic understanding of specific legal concepts and definitions.

First, the Greeks understood the legal distinction between slavery and freedom as opposite legal statuses built around the existence or not of a relationship based on the right of ownership. More specifically, the ancient documents clearly represent slavery as the legal condition of those individuals who are the property of their owners (who can therefore exercise on them all possible rights and powers descending from ownership); whereas freedom is the opposite legal condition of those persons who cannot be considered the property of anyone.

Second, an 'emic' approach to the ancient sources shows that the Greeks had a clear and pragmatic understanding of the right of ownership, and also that they were perfectly aware of the rights and powers pertaining to slave-owners.

Third, the Greeks were clearly capable of distinguishing between legal and extra-legal meanings of slavery and freedom. This allowed them to isolate the legal and the factual

implications of manumission in the life condition of manumitted slaves, especially of those who were required to perform post-manumission services for their manumitters. More specifically, while they made it clear that manumitted slaves under παραμονή were legally free, they acknowledged the fact that, in practical terms, their lack of freedom of movement and action made their *de facto* condition somehow slavish, and this explains the reason why the vocabulary of slavery is sometimes applied to ἀπελεύθεροι under παραμονή obligation.

Most importantly, a close look at the ancient material has shown that in different πόλεις and in different historical periods of Greek history, manumission was informed by the same basic legal principles, thus pointing to a substantial unity of Greek laws and institutions in this regard.

The first purpose of my research was to highlight the way in which the Greeks conceptualised the act of manumission. As mentioned above, manumission was conceived of as a legal act which determined fundamental legal implications: on the one hand, the cessation of masters' right of ownership over their slaves; on the other hand, the transformation of slaves into legally free persons, who as such could no longer be considered the property of any (human or divine) owner.

More specifically, this work has dealt primarily with manumission in exchange for money, as most of the extant evidence for manumission mentions the fact that Greek slave-owners asked their slaves for the payment of money in return for their release from slavery. This can be explained if we consider that slaves represented a high capital value; therefore the grant of freedom to slaves entailed a significant financial loss for their owners, who renounced for good to a piece of property. It is then likely that, by asking money in return for manumission, masters aimed to recover either part of the money they spent when they acquired their slaves (as is suggested by [Dem.] 59.30), or at least the economic value of the slaves at the time of manumission. This does not necessarily imply, however, that payment in return for manumission was a legal requirement for liberating slaves in Greece. Calderini, for example, has noticed that a few inscriptions from several πόλεις mention manumissions carried out ἐπι δωρεᾶ or κατὰ δωρεάν ('for

the purpose of making a gift'), thus implying that in all these cases no payment was required in return for manumission.<sup>503</sup>

Chapter 1 has shown that specific forms of compensations in return for release from slavery (consisting in the payment of a ransom) were already attested in the *Iliad*, thus showing, at the same time, that the very first attestations of Greek manumission can be traced back to the Homeric poems. This element marks an important *continuum* between the most ancient sources for manumission in Greece and the most recent ones, as it highlights that this institution was informed by the same principles in different geographical and chronological contexts of the Greek world.

More specifically, a close look at the war-context of the *Iliad* shows that the main form of reduction into slavery was the defeat in battle and the subsequent reduction into war-captivity: several elements indeed suggest that the defeated enemies were clearly conceived of as slaves (in the legal sense of property) of the victors. At the same time, the only possibility for these slave-captives to be released from their servile condition (which ultimately resulted in their manumission) was the hope that their victors-masters accepted their supplications, consisting in the promise of the payment of a 'countless ransom' (ἀπερείσι' ἄποινα) in return for their liberation (expressed with the verbs λύειν or ἀπολύειν).

The information we find in the *Odyssey* points however in a different direction. There I have found only one episode which deals with manumission: Hom. *Od.* 212-216 describes the liberation of Eumaeus and Philoitus as a reward by their master. More specifically, their manumission is implied by their entrance in Odysseus' οἶκος as equals (ἔταῖροι) and kin (κασίγνητοι) of Telemachus. In this regard, a close look at the text of the poem has shown that the consideration of the legal data is key for distinguishing the grant of privileges to slaves – which does not itself imply manumission – from a real manumission. The first case is attested in Hom. *Od.* 14.61-65: as noted in chapter 1, the award of specific privileges to slaves (in this case, the possibility of possessing some goods, or to have a wife) does not necessarily imply that they are no longer slaves. Such

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<sup>503</sup> Calderini (1965): 217.

grants, after all, were also common to other slave societies, and yet in all these cases the legal condition of these 'privileged' slaves as property was never questioned. Conversely, the fact that two slaves are made *ἑταῖροι* of their masters' son points to the creation of a relationship which is no longer based on hierarchy and inequality, but, rather, on equality and reciprocity of rights and duties. This is certainly inconsistent with a relationship based on ownership; and even more inconsistent with slavery is the creation, between master and slave, of a kinship tie (*κασίγνητοι*). These two elements together ultimately confirm that, through the terms *ἑταῖροι* and *κασίγνητοι*, Homer clearly refers to the entrance of two slaves in their masters' *οἶκος* no longer as slaves (property) but, rather, in a position of equality and reciprocity with their master's son. This implies that they are no longer slaves but, rather, free individuals.

As noted above, evidence for payment in return for manumission was common throughout the Greek world. The main source of information comes from the epigraphic material from Hellenistic Delphi, but the same principles can be found also in the evidence from Athenian oratory.

More specifically, the Greek conceptualisation of manumission in exchange for money originated from the need to circumvent a legal obstacle: slaves were not legal subjects and therefore they lacked the capacity both to negotiate manumission with their masters and to pay them for their liberation. It follows that, even if slaves had (at least *de facto*, as a sort of *peculium*) the money they were asked to pay in return for their manumission, they lacked the capacity to pay that money in a valid transaction to their masters in order to obtain freedom. For these reasons, another actor had to intervene in their manumission for conveying that money to the slaves' masters thus concluding a legally valid and effective manumission.

In the Delphic inscriptions (which are analysed in chapter 2) the role of the 'third party' is played by the god Apollo, and this is likely due to the importance held by Apollo's sanctuary in Delphi. Scholars generally include this evidence among the so-called 'sacral' manumissions but, as chapter 2 has shown, the intervention of the god is, on the one hand, a 'local' adaptation to the general principle by which a third party had to intervene in the manumission process for delivering the money to the slaves' masters;

and, on the other hand, a pragmatic way to circumvent the legal obstacle of slaves' lack of legal personality by involving a trustworthy institution as an intermediary in the transaction.

Although these inscriptions use the vocabulary of a  $\pi\rho\alpha\tilde{\alpha}\sigma\iota\varsigma \acute{\omega}\nu\eta$  and seem to attest the sale of slaves to Apollo by their masters, chapter 2 has shown that there is no actual sale taking place, for the fundamental reason that the 'purchase money' was provided by the slaves themselves. More specifically, the constant use of the verb  $\pi\iota\sigma\tau\epsilon\acute{\upsilon}\epsilon\iota\nu$  in the formulas points to the fact that these slaves had 'entrusted' their money to the god, thus developing an expectation to the god's own performance consisting in delivering that money to slaves' masters. As an effect of the payment, manumission was concluded and the slaves became legally free individuals.

Close analysis of the texts of these inscriptions unveils a sophisticated legal construction. Since, in Greek sale, the provenance of the money was an important factor in the acquisition of ownership, the god could not become the slaves' new master, for the fundamental (legal) reason that the 'purchase money' was not provided by him, but by the slaves themselves, which entrusted it to the god. 'Sale to the god', in other words, is the external form given to manumission for legal reasons, in order to allow slaves to 'buy' their own freedom notwithstanding their lack of legal personality.

The same legal principles inform the nature of manumission as is attested in the sources referring to Classical Athens: this evidence, however, consists of sporadic references to slaves' liberation mentioned in a few forensic speeches (as it has recently been shown that the  $\varphi\iota\acute{\alpha}\lambda\alpha\iota \acute{\epsilon}\xi\epsilon\lambda\epsilon\upsilon\theta\epsilon\rho\iota\kappa\alpha\acute{\iota}$  cannot be taken as evidence for slaves' liberation in Athens). Yet, if we read this evidence in light of the information provided by the Delphic inscriptions, we can conclude that in both cases manumission was informed by the same legal principles.

The most relevant sources for manumission in Athens are [Dem.] 59 and Hyp. 3. In this latter case, however, no manumission was actually performed: manumission was in fact the original intention which moved Epicrates to negotiate with Athenogenes for the liberation of the three slaves, but Athenogenes finally persuaded Epicrates to buy these

slaves, and therefore the information we get from Hyp. 3 refer only indirectly to manumission.

Scholars have usually included this evidence among the so-called 'secular' manumissions, as opposed to the 'sacral' manumissions of the Delphic inscriptions. As noted in the introduction, however, there is no reason to suggest such a distinction. This study has shown that the Athenian 'secular' transactions were substantively analogous to the 'sacral' manumissions attested in Delphi, the difference lying in the identity of the third party: at Athens, a human agent; at Delphi, the god Apollo, possibly represented by his priests.

This is best represented by [Dem.] 59, which provides us with important information both on Neaera's manumission in Corinth and on her condition as a freedwoman in Athens. Neaera was asked by her joint-masters to pay twenty minae in return for her liberation, and she collected this money partly from her own savings, partly by recurring to an ἔρανος, partly by asking Phrynion to add τό ἐπίλοιπον. The fundamental point is that, although Neaera was directly asked by her masters to pay for manumission and although she had most of the money she needed for the transaction, it was not her, but Phrynion, who conveyed the money to Timanoridas and Eukrates, thus confirming that the intervention of a third party was necessary for the validity of the transaction. As in the Delphic inscriptions, on the other hand, the speech makes it clear that the payment completed the manumission and that Neaera became legally free (ἐλευθέραν εἶναι καὶ αὐτὴν αὐτῆς κυρίαν': cf. [Dem.] 59.46). Chapter 4 has also shown that such a conceptualisation of manumission in exchange for money was common also to other πόλεις of the Classical period, such as Corinth and Eleusis.

To sum up, a close analysis of the ancient legal documents shows that the Greeks understood manumission in exchange for money as a bilateral legal transaction between the slaves' masters and a third party, other than the slave, whose role within the manumission procedure was simply to hand over the money provided by the slaves to their masters, in order for them to be manumitted and for manumission to be legally valid and effective.



This shows that modern definitions attached by traditional scholarship to manumission in exchange for money – such as ‘fictitious sale’, ‘conditional sale’, or ‘sale for the purpose of freedom’ – are inadequate, as they not only impose modern categories over the ancient material, but also ultimately imply that the Greeks were not able to distinguish between sale and manumission and their respective legal effects. By contrast, the ancient Greek sources make it clear that sale and manumission were conceived of as two separate legal transactions with opposite legal effects (transfer of ownership as opposed to extinction of property rights), and that such a distinction is at the heart of their conceptualisation of manumission. This is also implied by the fact that the vocabulary used in the sources for describing manumission is different from that of sale, and simply suggests that the third party pays the money ‘on behalf’ of the slaves. At the same time, these sources unequivocally show that the slaves’ liberation ensued as an immediate and automatic result of payment by the third party: the ideas of ‘conditional freedom’ and ‘fictitious sale’ are therefore misleading, as nothing of the kind (such as manumission as a two-step process, or as characterised by the use of *fictiones iuris*) is attested in the ancient sources.

The second purpose of this study was to understand the way the Greeks conceptualised the condition of ἀπελεύθεροι. More specifically, I have focused primarily on the sources which mention the imposition of παραμονή obligations upon manumitted slaves. The relationship that παραμονή establishes between manumitters and manumitted slaves is key for our understanding of Greek manumission, yet it has not been properly assessed by scholars.

An ‘emic’ approach to the vocabulary and legal clauses of the ancient documents has shown, on the one hand, that the Greeks were clearly aware that manumission resulted always in a legal condition of freedom; on the other hand, that the legal dimension of the freedom thus joined by freedmen could be sometimes opposed to the practical implications of παραμονή in the everyday life of ἀπελεύθεροι (especially with regard to their former owners).

The evidence from the Delphic inscriptions and from the forensic speeches of the Attic orators shows that some manumitted slaves could be required to παραμένειν with their

former masters and perform services in their favour. This, however, was not a constant feature descending automatically from manumission upon all manumitted slaves, as the Delphic inscriptions, for instance, state that most manumitted slaves after their liberation were free to do whatever they wanted and to go wherever they pleased, thus enjoying complete freedom of movement and action.

As mentioned in chapters 2 and 4, on the other hand, the exact definition of the legal condition of ἀπελεύθεροι under παραμονή still divides scholars, who have interpreted it either in terms of slavery, or as halfway between slavery and freedom (whereas the idea that they were free individuals has traditionally received little attention). Both these views, however, have proved to be wrong, as they do not take into adequate consideration the following points: first, the specific legal nature of παραμονή as is described in the ancient sources; second, the fact that the Greeks often used the vocabulary of slavery and freedom in a metaphorical sense; third, the individual legal clauses expressly mentioned in the ancient sources as characterising the condition of ἀπελεύθεροι under παραμονή.

The Delphic inscriptions and the evidence from Athens constitute our major source of information for παραμονή. In both cases, παραμονή is described as a post-manumission obligation, which could be imposed upon some freedmen as the object of a legally binding agreement between manumitters and manumitted slaves. The fact that παραμονή implied an obligation of freedmen towards manumitters means that freedmen under παραμονή were legally free, yet still attached to their former masters' households. In this sense, they had imperfect *de facto* freedom, as they did not enjoy complete freedom of movement and action.

This takes us to the second point. Chapters 2 and 4 have shown that the fact that the ancient sources may refer to the condition of freedmen under παραμονή obligation with the vocabulary of slavery, or stress that, at the end of their παραμονή period, they became 'completely free', does not mean that they were slaves in a legal sense. Rather, it reflects a metaphorical use of the vocabulary of slavery, which was common in Greece and referred to the *de facto* condition of this specific category of ἀπελεύθεροι. Such usages, in other words, are simply aimed at illustrating that the condition of

ἀπελεύθεροι under παραμονή was a temporary one: once παραμονή was over, in addition to legal freedom (which they already enjoyed throughout the period of παραμονή), ἀπελεύθεροι also acquired *de facto* freedom in its other multifarious senses, which would allow them to live separately from their manumittor's household and to enjoy freedom of movement and action. This metaphorical usage of the vocabulary of freedom, therefore, ultimately refers to the extinction of their post-manumission obligations.

Finally, the fact that freedmen under παραμονή are legally free is further shown by some clauses mainly mentioned in the Delphic inscriptions and aimed at enforcing the performance of παραμονή duties by ἀπελεύθεροι.

Chapter 2 has shown that – besides the prohibition to sell manumitted slaves under παραμονή obligation – if ἀπελεύθεροι did not παραμένειν, their manumittors could either sell them as slaves, or their manumission was to be considered invalid and with no effects. In these two cases, the result was the same, as ἀπελεύθεροι were no longer considered to be free persons and reverted to a legal condition of slavery. Moreover, as chapter 4 has shown, reversion into slavery as an effect of the non-fulfilment of post-manumission obligations was common also in Athens, as implied by Harpocration's definition of δίκη ἀποστασίου.

Similarly, those provisions which mention physical punishment as a remedy for the non-fulfilment of παραμονή duties are not inconsistent with the legal condition of freedom enjoyed by ἀπελεύθεροι under παραμονή: as noted in chapter 2, for instance, debtors, as free individuals, could be subject to physical coercion by the creditors, as is attested in early Roman law for the *nexi*, who were nonetheless conceived of as legally free individuals.

Moreover, some Delphic inscriptions also state that if a dispute arose between manumittors and manumitted slaves regarding the performance of παραμονή obligations, such a disagreement had to be settled by three private arbitrators, whose decision was to be binding for both parties. Such a provision can hardly be explained if we believe that the Greeks thought of manumitted slaves under παραμονή as the

property of their masters; by contrast, it directly points to the fact that the two parties in the relationship were considered to be in a position of equality as legally free individuals.

Finally, the institution of ἀπόλυσις confirms that manumitted slaves under παραμονή were legally free. Ἀπόλυσις is described in the Delphic inscriptions as a bilateral legal transaction between the beneficiary of παραμονή (as the creditor) and the ἀπελεύθερος held under παραμονή (as the debtor), by which the two parties agreed that the ἀπελεύθερος was released from his παραμονή duty before the time specifically established, after he had paid money to the beneficiary of the παραμονή obligations. This institution implies: first, that ἀπελεύθεροι under παραμονή legally owned their own money; second, that they could take direct binding agreements with their manumitters without the intervention of a third party; third, that they could validly pay money to their former masters with the effect of extinguishing their obligations towards the latter. The ἀπόλυσις therefore marks a fundamental distinction between freedmen under παραμονή and slaves, as the latter could neither own money nor bind themselves to their masters with formal agreements.

Therefore, the overall conclusion suggested by the ancient documents is that there existed two categories of manumitted slaves: those who, immediately after their liberation, were free to do whatever they wanted and to go wherever they wanted (these were clearly conceptualised as free both *de iure* and *de facto*), and those who were required to 'remain with' their former masters to perform post-manumission obligations in their favour. The *discrimen* between these two categories was their *de facto* condition, that is, their capacity to live in a different household (in a legal, not a physical sense) from their manumitters. What these sources unequivocally show, however, is that in both cases they were labelled as ἀπελεύθεροι and were legally free individuals. At least in Athens, freedmen who were not under παραμονή obligation could also be referred to as χωρίς οἰκοῦντες (literally, 'dwellers apart': Dem. 4.36-37).

Chapter 3 moves to considering some of the problems that arise from the modern distinction between 'sacral' and 'secular' manumissions and, more generally, from the over-imposition of modern categories to the ancient sources.

This chapter has analysed the inscriptions from Hellenistic Cheroneia which are customarily labelled as ‘manumission through consecration’ of slaves to the god: this qualification is due to the fact that they describe masters who dedicate (ἀνατίθημι) their own slaves as sacred (ἱεροί) to a god, usually Serapis. The chapter has shown the inadequacy of the general view, which holds that these dedications were fictitious since, as an effect of consecrations, the slaves became free.

A close look at the text of these inscriptions shows that interpreting this evidence as referring to manumission is highly problematic: many elements point to the fact that, far from resulting in the extinction of any right of ownership over slaves, they rather determine a transfer of ownership over consecrated slaves to the god, who thus becomes their new owner. This is clearly suggested: by the (technical) meanings of the verb ἀνατίθημι and of the adjective ἱερός (which are constantly used in the formulas of these inscriptions); by the meaning of the μὴ προσήκοντα μηθενὶ μηθέν clause (which points to the prohibition on bringing consecrated slaves back into a condition of private ownership, as they now belong irrevocably to the god); by the fact that individuals who had already been manumitted could also be consecrated as ἱεροί to the god (thus showing that manumission and consecration were conceived of as two separate transactions); and, finally, by the vocabulary of the literary evidence referring to ἱεροί, which univocally describes consecrated slaves as the ‘slaves of the god’, and the verbs themselves describing their tasks in the temple are typical of slavery (such as, most frequently, δουλεύειν).

This conclusion is not challenged, on the other hand, by those elements that scholars have usually taken as an indication that ἱεροί were free individuals, such as, for example, the fact that they could possess some slaves in their turn, or that they could marry: these features are not themselves inconsistent with the condition of consecrated slaves as property of the god. Moreover, the vocabulary of these inscriptions is highly formulaic, and the same formulas are found elsewhere in the Greek world for regular dedications to the gods. All these elements suggest that the Cheroneian inscriptions do not record ‘fictitious’ consecrations, but real consecrations of slaves, who would then become the property of the god (ἱεροί).

This chapter has therefore highlighted one of the problems of the traditional taxonomy suggested by scholars of Greek manumission, namely, the fact that two completely different operations (manumission and consecration), fulfilling opposite functions, are made to fall into one category ('sacral manumissions'). Moreover, an 'emic' approach to these sources shows that the Greeks clearly conceptualised the condition of ἱεροί as a very peculiar one: from a legal perspective, they were considered to be slaves of the god, even though the absence of a human owner who could concretely exercise the rights and powers descending from ownership made their *de facto* condition more akin to that of free individuals. This is the fundamental reason why the sources on ἱεροί sometimes refer to them as 'free' individuals, thus recurring to a metaphorical use of the vocabulary of freedom.

At the same time, the fact that ἱεροί were conceived of as the property of the god is further confirmed, *a contrario*, by the consideration that there seems to be no evidence for consecrated slaves being released from their condition as property of the god: this seems to suggest that their condition as divine property was a permanent one, which was likely to last for the rest of their lives.

This analysis ultimately shows that the Greeks were clearly aware of the distinction between manumission and consecration and their opposite legal effects. Moreover, it further shows that adopting an 'emic' legal approach to the ancient material is vital not only for our understanding of manumission itself, but also for fulfilling the basic purpose of such an investigation, namely, for the possibility of discerning, within the ancient documents, which ones attest manumissions and which ones attest, by contrast, something completely different. The widely-held idea that these inscriptions record manumissions relies on an inadequate approach to the ancient sources and, above all, on a mistaken interpretation of the fundamental legal meaning and implications of the vocabulary of the ancient documents.

Finally, chapter 5 has focused on the evidence which deals with the liberation of privately owned slaves by the πόλις. The Greeks conceived of manumission as a typical expression of the masters' power to dispose of their right of ownership by extinguishing it. This results clearly from the ancient sources, which show that the right to manumit

slaves pertained to individual slave owners only. Consistently with this, 'public' manumissions were conceptualised as a form of expropriation (the possibility of which is implied by the so-called right to security) which, as such, was expressly limited to specific cases and circumstances.

More specifically, the ancient documents show that this kind of intervention by the *πόλις* has only been practiced when particular situations were considered to be threatening the community as a whole, with the consequence that common interests prevailed on the rights of individual slave-owners.

The evidence for 'public' manumissions is extremely scanty and the information it provides is quite general; however, a close look at the ancient sources has shown that the features and the limits of this form of interference by the state are informed by the same principles in different *πόλεις* of the Classical age.

Chapter 5 has shown that, at least in Athens, slaves could be manumitted by the *πόλις* when they informed against their masters for committing specific crimes involving serious religious offences that were considered to be threatening to the community as a whole. Lys. 5 and Lys. 7 inform us that slaves could bring a denunciation (*μήνυσις*) against their masters if the latter committed *ἀσέβεια* or *ἱεροσυλία*. This denunciation could lead to the prosecution of their masters with a public action brought by *ὁ βουλόμενος* and, if the latter were convicted, slaves were rewarded by the *πόλις* with freedom.

Most of the extant evidence for slaves' liberation by the state, however, deals with mass-manumissions performed by several *πόλεις* in the Classical period (not only Athens, but also – for example – Chios, Rhodes and Sparta) in exceptional wartime situations. In these cases, manumissions could be performed either before a battle (in order to reinforce the army with new free members) or after it (as a form of reward for slaves).

These ancient sources inform us that, in order for the *πόλις* to liberate privately-owned slaves, the enactment of a public decree *ad hoc* (*ψήφισμα*) was required. Chapter 5 has then addressed a specific issue, namely, the legality of such decrees: we know for example that when Hyperides proposed to set slaves free after the Athenian defeat at

Chaeronea, he was prosecuted with a γραφή παράνομον. This seems to suggest that a ψήφισμα allowing the manumission of privately owned slaves by the state was considered to contradict the νόμοι of the πόλις. The information we have in this regard, however, is extremely scanty and fragmentary, and we do not know the specific reasons why the proposal was charged with this accusation. Therefore, we cannot conclude that – at least in Athens – there were laws prohibiting the state to interfere with individual slave-owners’ right of ownership by forcedly manumitting their slaves.

Finally, chapter 5 has analysed the sources referring to Classical Sparta, which was characterised by a particularly unusual situation: although its slave system was based on private ownership of the helots, there is no evidence that they could be manumitted by their masters. This seems to be suggested by the nature of the extant evidence (which only refers to manumissions of helots being carried out by the state) and by the information provided by Ephorus (who expressly mentions the prohibition for individual Spartiatai to manumit their helots). The fact that a slave-system based on private ownership over slaves coexisted with the prohibition, imposed on their masters, to manumit their helots, was due to specific economic and social factors that shaped Spartan society; in Classical Sparta, however, manumission by the state was also only attested in emergency wartime situations.

To conclude, this study has shown that scholarly attempts to apply modern categories (either legal or social) to the ancient Greek documents have failed altogether not only to understand the real nature of manumission in Greece, but also to grasp the sophisticated legal conceptualisations and arrangements witnessed by the surviving evidence.

At the same time, it has shown that the variety of our evidence attests to the multitude of specific ways in which manumission could be effected by owners across the Greek world. Yet, at the heart of these different methods lies the same fundamental idea: that manumission is a legal institution determining a basic transition, one from being the property of another person to being the property of no-one at all.

We can discern in the sources a profound respect for and awareness of the legal principles behind the Greek conceptualisation of manumission. The best expression of the Greeks’ pragmatic understanding of manumission as informed by the basic legal



definitions of slavery, freedom and ownership is perhaps the ingenious way in which many Greek slaveholders managed to balance the legal constraints and conceptualisations and their personal interests: the legal principle that manumission resulted in outright legal freedom was reconciled pragmatically with the further exploitation of their former slaves' services by arranging παραμονή agreements with them as legally free individuals.



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## ABSTRACT (English)

This work analyses the most important sources for manumission in Ancient Greece from a legal perspective, with the aim of unearthing the legal concepts and definitions that informed the liberation of slaves in the ancient documents. More specifically, this study will examine the legal nature of manumission in exchange for money while also analysing the legal condition of those ἀπελεύθεροι who, after their liberation, were required to perform παραμονή-services towards their former masters. This analysis will focus on the origins of manumission in Greece (which can be traced back to the Homeric poems), on the body of Hellenistic inscriptions from Delphi and Chaeronea, on some forensic speeches from Classical Athens and, finally, on the so-called 'public manumissions'. All these sources are unequivocal in showing that, on the one hand, manumission in exchange for money had the nature of a bilateral legal transaction between the slaves' masters and a third party, other than the slaves; and on the other hand, that the legal condition of manumitted slaves is always understood as one of freedom, independently of the possible imposition of post-manumission obligations upon them. This work ultimately shows not only that the Greeks' conceptualisation of manumission relied on a solid understanding of key legal concepts such as slavery, freedom and ownership, but also that this institution was informed by common legal principles shared by different geographical and chronological contexts of the Greek world.

## ABSTRACT (Italiano)

Questa tesi si propone di indagare le principali fonti sull'affrancamento in Grecia secondo una prospettiva giuridica, al fine precipuo di gettare luce sugli istituti che caratterizzavano il fenomeno manumissorio nei documenti antichi. Più precisamente, il presente lavoro si propone di chiarire, da un lato, la natura giuridica dell'atto di manumissione a titolo oneroso e, dall'altro, di definire la condizione giuridica di quegli ἀπελεύθεροι che, successivamente alla loro liberazione, erano tenuti all'adempimento di doveri di παραμονή nei confronti dei loro precedenti proprietari. Attraverso un esame incentrato sulle origini della manumissione greca (che possono rinvenirsi all'interno dei poemi omerici), sul corpus di iscrizioni di età ellenistica proveniente da Delfi e Cheronea, sulle principali orazioni giudiziarie ateniesi, nonché – infine – sulle c.d. 'manumissioni pubbliche', questa tesi dimostra come, da una parte, i Greci concepivano la manumissione a titolo oneroso come un negozio giuridico bilaterale concluso tra il proprietario degli schiavi e un soggetto terzo rispetto agli schiavi stessi; e, dall'altra, come le fonti antiche descrivano inequivocabilmente la condizione giuridica degli schiavi liberati in termini di libertà, indipendentemente dall'imposizione o meno, in capo agli stessi, di doveri di παραμονή. Il presente lavoro, in definitiva, dimostra come l'affrancamento in Grecia non solo fosse improntato a una precisa definizione giuridica di concetti chiave quali schiavitù, libertà e diritto dominicale, ma fosse altresì caratterizzato da una sostanziale unitarietà di fondo che accomunava il fenomeno manumissorio in realtà cronologicamente e geograficamente distanti tra loro.