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Ancient Greek Law within the Tragic Tradition**

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Abstract

Literature has long been "seen as a field of activity set apart from ordinary life." But, this modern approach betrays the rich heritage from which tragic theatre arose. Contrary to this view, Greek tragedy, like the law itself, is "not a world of authoritarian clarity, ... but a world of deep uncertainty and openness, of tension and conflict and argument, a world where reasons do not harmonize but oppose one another." It is a world that was firmly connected to "Aristotelian" concepts of justice, a theory of equity and voluntariness largely understood only by academia and the legal community. Great efforts have been made within the United States and Great Britain since the 1970's to rediscover the connections between law and literature. However, outside the work of classics professors, the study of law and classical Greek literature almost exclusively has been conducted in law schools. Yet, of all American Bar Association approved law schools, only twenty-one percent of schools have indicated that they offer a course in law and literature. Those that do use classical literature have focused upon Aeschylus's *Oresteia* and Sophocles's "Antigone" and "Oedipus the King." But, even then, only "Antigone" was listed in more than one syllabus. And, most of these courses have often ignored the actual cultural, historical, and legal context in which the surviving Greek tragedies were written.

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Introduction

Literature has long been "seen as a field of activity set apart from ordinary life, and from politics and ethics as well."¹ However, this modern approach is completely at odds with our early Greek, Roman, and English traditions; and, it betrays the rich heritage from which tragic theatre arose.

Yet, today, it might be asked, "What can literature possibly have to do with law?"² The short answer is that "a good education in the humanistic past [is] essential to excellence in [the] law."³ Within a truly liberal and humanistic education, the study of foreign languages and literatures is crucial because they "teac[h] us that the ways we think, our ways of imagining ourselves and the world we inhabit, are not the only ways."⁴ Like the law itself, Greek tragedy is:

not a world of authoritarian clarity, ... but a world of deep uncertainty and openness, of tension and conflict and argument, a world where reasons do not harmonize but oppose one another. This means that it is a world of learning and invention, where a great premium is placed upon one's capacity to make sense of an immense body of material as it bears upon a particular case.⁵

And, while great efforts have been made within the United States and Great Britain since the 1970's to rediscover the connections between law and literature, the study of law and classical Greek literature has almost exclusively focused upon Aeschylus's *Oresteia* trilogy and Sophocles's "Antigone" and "Oedipus the King," both taken from his *Oedipus* cycle.

Outside of the work conducted by classics professors, this focus has often ignored the actual cultural, historical, and legal context in which Greek tragedies were written,⁶ although some of this overly-focused analysis is understandable. Since the 1800's, when German philosophers began to move into the realm of aesthetic critique, three men's analyses have overshadowed

¹ James Boyd White, "The Cultural Background of *The Legal Imagination*," in *Teaching Law and Literature*, ed. Austin Sarat, Cathrine O. Frank, Matthew Anderson (New York: MLA, 2011), 33.

² *Ibid.*, 31.

³ *Ibid.*, 29.

⁴ *Ibid.*, 32.

⁵ *Ibid.*, 34.

⁶ If we view both initial writing and later translation as a technology, then there are two primary concerns. First, if writing shapes consciousness, as suggested by Walter J. Ong [Walter J. Ong, *Orality and Literacy: 30th Anniversary Edition*, additions John Hartley (New York: Routledge, 2012)], then we must be concerned with cultural biases and intentions towards indoctrination. Second, if we accept, at face value, the validity of a translation, we fail to question the metaphysical and epistemological validity of the methods used to reach that translation. Metaphysically, the issues of time, space, and the intent held are key. For example, did the translator allow himself to fail to recognize the sociopolitical context and original intent of the initial writing? Epistemologically, the issue of methodological accuracy is key because of the modern translator's vulnerability to inadequate linguistic training, translation experience, and original texts.

all subsequent treatment of the law and classical Greek literature: first, G. W. F. Hegel's aesthetics focused on Aeschylus and Sophocles; then, Friedrich Nietzsche's aesthetics focused on the Homeric epics to the exclusion of almost all other poets, except Sophocles; and, Martin Heidegger's aesthetics focused almost entirely on Sophocles's "Antigone."⁷ Simultaneously, the Harvard University Boylston Professor Joseph McKean's shift to teaching in English after 1809,⁸ in conjunction with Francis J. Child's move towards the study of English literature versus classical composition and John Hopkins's adoption of the German model of higher education in 1876,⁹ the purposeful reduction in the teaching of Greek and Latin ensured that new critiques of Greek tragedies and their period settings, taken from their original language, would eventually fall out of favor.¹⁰

The resulting English and German interpretations of Greek tragedies focused on rule-based English interpretations set within "an essentially tragic [and pessimistic German] worldview" of dramas that had another purpose altogether.¹¹ In a world filled with larger than life gods and men, where legends and myths defined societies and created the cultural spaces and events that bought men together, the Greek tragedies stood alone in their ability to shape the whole of a polis's citizen population, with the aim "to make [them] better citizens."¹² For, only by "learning through suffering," "in an imaginary space that is not so close as to become traumatic," can one give a sense of reason to human suffering.¹³ Therefore, to present the broadest base of analysis possible, this essay will examine the history, socio-political environment, and period reception of two of the three surviving Greek tragedians,¹⁴ as well as the

⁷ See G. W. F. Hegel, *Vorlesungen über die Ästhetik* (Berlin: Duncker und Humblot, 1835); Friedrich Nietzsche, *Die Geburt der Tragödie: Aus dem Geiste der Musik* (New York: Cambridge University Press, 2010); Martin Heidegger, *Der Ursprung des Kunstwerkes* (Frankfurt: M. Klostermann 2012); See also Mark Anderson, *Plato and Nietzsche: Their Philosophical Art* (New York: Bloomsbury Academic, 2014).

⁸ Wallace Douglass, "Rhetoric of the Meritocracy: The Creation of Composition at Harvard," in *The Norton Book of Composition Studies*, ed. Susan Miller (New York: Norton, 2009), 81-82.

⁹ William Riley Parker, "Where do Education Departments Come From?," in *The Norton Book of Composition Studies*, ed. Susan Miller (New York: Norton, 2009), 11-12.

¹⁰ James A. Berlin, *Rhetoric and Reality: Writing Instruction in American Colleges: 1900-1985*, (Carbondale: Southern Illinois University Press, 1987), ch. 2; W. B. Horner, "The Roots of Modern Writing Instruction: Eighteenth-and Nineteenth-century Britain," *Rhetoric Review* 8, no. 2 (1990).

¹¹ William Allan, *Classical Literature: A Very Short Introduction* (New York: Oxford University Press, 2014), 58.

¹² *Ibid.*, 59.

¹³ *Ibid.*

¹⁴ Euripides is not treated in this essay because of his lack of achievement during his own lifetime and because of his lack of treatment within the aesthetic philosophy of the 1800s and 1900s. Euripides wrote over 90 plays [Euripides, *Euripides II: Andromache, Hecuba, The Suppliant Women, and Electra*, 3rd ed., ed. Mark Griffith and Glenn W. Most (Chicago: University of Chicago Press, 2013), 1]. And, although more of his plays survive than those of Aeschylus and Sophocles combined, Euripides is only known to have won five annual competitions [Sophocles, *Sophocles I: Antigone, Oedipus the King, and Oedipus at Colonus*, 3rd ed., ed. Mark Griffith and Glenn W. Most (Chicago: University of Chicago Press, 2013), 2]. What is known is that many members of Euripides's audience likely ridiculed his reduction of the

underlying causes for their modern reception and interpretation in the field of law and literature. Specifically, through a classical Greek legal examination of the works of Aeschylus and Sophocles, this essay will illustrate how only through a solid grounding in Greek culture and law can we gain an understanding of the misinterpretations often applied by modern readers.

Humanism, Early Modern Humanism, and Modern Legal Education

Arguably the father of the medieval humanist movement, Giovanni Boccaccio, is famous for his contributions to a movement that saw a need to return to the classics for inspiration. However, as well intentioned and successful as the fifteen volumes of his *Genealogia Deorum Gentilium* (1350 to 1362 CE) were, only the final two volumes actually attempted to defend Greek thought and poetry in general.¹⁵ Further, his defense of poetry began with Plato and moved forward from there.¹⁶ Thus, as his text became the standard of defense before the widespread reintroduction of Aristotle's *Poetics* to European scholars in the 15th century,¹⁷ the Homeric poets and the Greek tragedians were relegated to the status of being mere references within other authors' works. And, it was this shortsighted analysis that effectively set the stage for much of the modern era's literary theory.¹⁸

Subsequently, whether for selfish reasons or not, King Henry VIII's decision during the Reformation to formally declare canonical and common law unteachable within the centuries old universities of Oxford and Cambridge, with the resulting sole course of professorship and study available being civil law, ushered in a period where legal minds focused more upon the study of statues themselves than those cases which had previously accounted for the traditions of the English people.¹⁹ Yet, with the removal of one area of study, the study of Greek gained a lasting home in English universities with men like John Cheke (1540 CE),²⁰ who taught both Cambridge and the King of England Greek.²¹ Thus, although forever failing to keep up with the continent during the Humanist era, eventually English common law jurists that became "influenced by humanism no longer went in search of the ideal law in the books of

heroic tendencies of tragedies and his increase in the modernity and central femininity of his characters (Euripides, *Euripides II*, 1-2). Additionally, it is possible that his relative lack of competitive success as a playwright was linked in part to his consistent examination of the effects of social breakdown during the Second Peloponnesian War.

¹⁵ M. A. R. Habib, *A History of Literary Criticism: From Plato to the Present* (Oxford: Blackwell Publishing, 2005), 215-216.

¹⁶ *Ibid.*, 216.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ Randall Lesaffer and Jan Arriens, *European Legal History: A Cultural and Political Perspective* (Cambridge: Cambridge University Press, 2009), 365.

²⁰ "Sir John Cheke," *Encyclopædia Britannica* (Encyclopædia Britannica Online, 2015). goo.gl/GfxAs8.

²¹ "John Milton," *Encyclopædia Britannica* (Encyclopædia Britannica Online, 2015). goo.gl/audNi3.

Justinian," but began to use them merely for inspiration in order to "articulate the best possible law."²² However, it would take over 200 years for men like William Blackstone (established as the first Vinerian Professor of English Law in 1758 CE) to undo the damage done by King Henry VIII's earlier appointment of John Story (established as the first Regius Professor of Civil Law in 1540 CE).²³

In the end, what the future holds for the study of law and classical Greek literature is uncertain. What is certain is that it will survive, at least in some small way. For example, William Blackstone, arguably the most quoted common law jurist, famous for the series of lectures he conducted from 1765 to 1769 CE, which were published in the four volumes of his *Commentaries on the Laws of England*, continues to be noted by Pembroke College of Oxford for his excellence in the study of classics.²⁴ Similarly, Oliver Wendell Holmes, Jr., one of the most quoted US Supreme Court Justices, is often noted for his use of Greek philosophy and poetry in guiding his analysis within *The Common Law*, published in 1881.

Yet, today, the future of the study of law and classical Greek literature resides in the hands of a select few. For example, a 1989 survey of all American Bar Association approved law schools illustrates that only twenty-one percent of the schools indicated that they offered a course in law and literature.²⁵ And, of the schools that did, the only classical texts used were Aeschylus's *Oresteia* and Sophocles's "Antigone" and "Oedipus the King."²⁶ Only "Antigone," arguably the most misread of the Greek tragedies, was listed in more than one syllabus.²⁷ The five most popular texts, and the number of syllabi they were listed in were: Camus's *The Stranger* (7), Dickens's *Bleak House* (6), Kafka's *The Trial* (8), Melville's *Billy Budd* (11), and Shakespeare's "The Merchant of Venice" (6).²⁸

A brief survey of current law school websites and syllabi shows that nearly three decades later the situation has not changed greatly. Only a small group of jurists have dedicated their graduate studies to the classics and the law, and still fewer their subsequent teaching to any combination of the law and classical literature. In those courses that do use classical literature, the standard approach is to use the literature selected as a basis for the study and application of modern laws, norms, regulations, and statutes.²⁹ So, with so few scholars

²² Lesaffer, *European Legal History*, 366.

²³ "The Pembroke Legal Tradition: Some Famous Pembroke Lawyers." goo.gl/mtaHPa.

²⁴ *Ibid.*

²⁵ Elizabeth Villiers Gemmette, "Law and Literature: An Unnecessarily Suspect Class in the Liberal Arts Component of the Law School Curriculum," *Valparaiso University Law Review* 23, no. 3 (1989): 267-268.

²⁶ *Ibid.*, 322-332.

²⁷ *Ibid.*, 333.

²⁸ *Ibid.*, 332-333.

²⁹ The following is an example of a standard law school classroom application of classical literature. Is it truly unreasonable to forbid that the customary dignity of the grave be given to a man who sought to burn down the kingdom and enslave its citizens? (Sophocles, *Sophocles I: Antigone*, 199-204). We might ask ourselves the same question today. After his trial, Saddam Hussein was executed by public hanging on December 30th, 2006. When he was found and

learned in the area, those individuals that are can do little to change the growing trend towards statutory substitution of the common law, or to combat the increasing trend towards science and practicality over arts and critical interpretations of the legalistic world that surrounds us. And, as each new generation grows more distanced from its classical and common law heritage, teaching them either the law or classical literature will only become more difficult.

Archaic and Classical Greek Orientation

To change this one must begin by re-reading and discussing the Greek tragedies themselves. But, we must ensure that we know their proper context and how best to present that knowledge to others. Thus, a crucial first step is to orientate ourselves to the realities of the classical past.

Following the fall of Thebes, Troy, and Mycenae between 1300 – 1150 BCE,³⁰ the ancient Greek world entered a dark age of illiteracy and myth. It took nearly four hundred years for the Greek world to rediscover literacy. Yet, just as writing structures consciousness,³¹ it simultaneously "expresses its own culture,"³² both in time and space. Although largely unstudied in their original Homeric and Attic forms, the extant Greek tragedies embody the eternal quest to resolve the challenges presented by a world constantly in conflict with itself. The Greek adoption and adaptation of a phonetically-modified version of the Phoenician alphabet allowed the Greeks to fully transform thought and sound into sight through the full articulation of an alphabet that used vowels, which "gave ancient Greek culture its intellectual ascendancy over other ancient cultures,"³³ and allowed it to begin to explore those conflicts present within its society.

arrested, Muammar Gaddafi was tortured and executed on October 20th, 2011. And, both video footage of their executions and subsequent death pose photos are readily available online. So, if this type of conduct is so normal, why has the United States categorically refused to release either footage or photographs of the now deceased Osama Bin Laden following Judicial Watch's May 4th, 2011 Freedom of Information Act ("FOIA") request? To determine the proper legal response to this question, we must first analyze the limitations to FOIA requests that stem from *US v. Reynolds* (1953) and *CIA v. Sims* (1985).

³⁰ Thebes fell ca. 1300 and Mycenae fell ca. 1150 BCE [Robert Garland, *Ancient Greece: Everyday Life in the Birthplace of Western Civilization* (New York: Sterling, 2008), 284]. The best estimate for the historical date of the Trojan War is ca. 1260 to 1230 BCE [Susan Wise Bauer, *The History of the Ancient World: From the Earliest Accounts to the Fall of Rome* (New York: Norton, 2007), 254]. Specifically, "Troy VIIa" burned ca. 1240 BCE and "Troy VIIb" did not thrive, and the area was abandoned ca. 1100 BCE (Ibid., 253).

³¹ Ong, *Orality and Literacy*, ch. 4.

³² White, *The Cultural Background of The Legal Imagination*, 32.

³³ Ong, *Orality and Literacy*, 89.

Rise of the Polis, and the Theatre's Place in It

City-state culture arose in Greece around 750 BCE,³⁴ with hundreds of poleis being founded during the Archaic period from 750 to 500 BCE³⁵ By 323 BCE, approximately 1,035 identifiable Greek city-states had been founded.³⁶ However, during the period from 650 to 323 BCE, at least 121 of these poleis were destroyed.³⁷ Of those, at least 46 suffered the extreme fate of *andrapodismos*,³⁸ a process of slaughtering all men of fighting age and then enslaving all remaining women and children.³⁹ And, it is this process of *andrapodismos* that appears to have been the preferred post-conflict method used by both Athens and Sparta during the Peloponnesian Wars (460 to 445 BCE and 431 to 404 BCE).⁴⁰

But, it was also during this time of extreme violence and turmoil that what today ranks "among the foremost achievements of Athenian culture" arose,⁴¹ the birth of Greek theatre, specifically the tragedies of Aeschylus and Sophocles. Regardless of its true origins, after 534 BCE, the year that Thespis is credited with having won the first tragic competition,⁴² tragedy owes much of its initial prestige as the highest expression of poetic drama to the tyrant Peisistratos and his sons, who collectively ruled Athens from 561 to 510 BCE, and ushered in both the concept of Greek democracy (*demokratia*) and Athenian city-state unity (*homonoia*).⁴³ And, the respect given the festivals of the Greek people can be attested to by the simple fact that it was only during one of the great festivals that it was culturally understood that a cease-fire between city-states would be respected during the period of the festival itself.⁴⁴ Although there were many smaller festivals throughout the year,⁴⁵ the relevant festival within Athens was the City Dionysia, home of both the Sanctuary of

³⁴ Mogens Herman Hansen, *Polis: An Introduction to the Ancient Greek City-State* (New York: Oxford University Press, 2006), 41. The three oldest written records of the word polis in Greek illustrate that the concept was well established before 650 BCE (Ibid.).

³⁵ Ibid., 18. There is also archeological evidence to support the conclusion that Greek city-state culture arose nearly simultaneously with the Greek adoption and adaptation of the Phoenician script (Ibid., 45).

³⁶ Mogens Herman Hansen and Thomas Heine Nielsen, *An Inventory of Archaic and Classical Poleis* (Oxford: Oxford University Press, 2004).

³⁷ Hansen, *Polis*, 128.

³⁸ Ibid.

³⁹ Robert Garland, *Wandering Greeks: The Ancient Greek Diaspora from the Age of Homer to the Death of Alexander the Great* (Princeton: Princeton University Press, 2014), 98; See also Hansen, *Polis*, 128.

⁴⁰ Garland, *Wandering Greeks*, 98.

⁴¹ Garland, *Ancient Greece*, 284.

⁴² Some historians argue that tragedy was not invented until after the first institution of democracy in Greece, ca. 508 BCE (Ibid.).

⁴³ Ibid.; Hansen, *Polis*, 126.

⁴⁴ Hansen, *Polis*, 127

⁴⁵ Other lesser festivals include the Anthesteria and the Rural Dionysia [Oscar G. Brockett, *History of the Theatre: 7th Edition* (Boston: Allyn & Bacon, 1995), 22]. And, only comic writers like Aristophanes were known to write plays for both the Dionysia and the Lenaia (Ley, *A Short Introduction*, 7).

Dionysus Eleuthereus and the Theatre Dionysus, the latter of which was the chief stage for all of the surviving Greek tragedies,⁴⁶ of which only the thirty-three extant tragedies of Aeschylus, Sophocles, and Euripides survive,⁴⁷ twenty-four of which the Greek orator Lysurgus established by statue in 330 BCE.⁴⁸

The themes of the surviving classical Greek tragedies were taken largely from the myths (*muthoi*) explored in Homer's narrative epic poems, the *Iliad* and the *Odyssey*.⁴⁹ Their transformation from religious dithyrambs ("hymn[s] sung and danced in honor of Dionysus") and Homeric rhapsodies ("recitations of passages") into socio-political dramas enacted for the education and enjoyment of Athenian citizens parallels the separation between the Sanctuary of Dionysus and the Theatre Dionysus.⁵⁰ However, financing the production of the plays presented remained both a "civic and religious responsibility."⁵¹ This likely served to induce a larger number of citizens to attend these productions. Thus, if the Theatre Dionysus could seat 20,000 people,⁵² it is likely that roughly just over half of the citizen population and roughly ten-percent of the non-citizen population of Athens could be in attendance during any given performance.⁵³

Although Greek tragedies were based largely upon Homeric narratives, Greek mythology was fluid.⁵⁴ This fluidity of archaic and classical Greek mythology was historically understood and generally appreciated by Athenian spectators, which presented tragic drama with a unique standing and opportunity. Even in a growingly literate and radical democracy, participants in the civic, judicial, and military decisions of Athens had to be educated. And, it was tragedy that permitted Athenians the chance to "explore without preconditions, without mental reservations, without foregone conclusions, the costs and benefits of each venture, both to themselves and to others."⁵⁵ Effectively, "tragedy offered all Athenians the rudiments of a liberal arts education."⁵⁶

⁴⁶ Jean-Charles Moretti, "The Theater of the Sanctuary of Dionysus Eleuthereus in Late Fifth-Century Athens," *Illinois Classical Studies* 24/25 (1999-2000).

⁴⁷ Ley, *A Short Introduction*, 93-94.

⁴⁸ Franco Montanari, Stefanos Matthaios, and Antonios Rengakos, *Brill's Companion to Ancient Greek Scholarship: 2 Vols.* (New York: Brill, 2015), 15.

⁴⁹ Ley, *A Short Introduction*, 5.

⁵⁰ Garland, *Ancient Greece*, 284; Brockett, *History of the Theatre*, 15-16; Moretti, "The Theater of the Sanctuary of Dionysus Eleuthereus," 378-380.

⁵¹ Brockett, *History of the Theatre*, 24.

⁵² Plato's estimate of 30,000 seats in the Theatre Dionysus was discredited 125 years ago by John Pentland Mahaffy and Archibald Henry Sayce, and continues to be disregarded by scholars like Oscar G. Brockett, Robert Garland, and Graham Ley.

⁵³ These numbers are extrapolations of estimates produced by Geoffrey W. Bakewell, Oscar G. Brockett, Robert Garland, and Mogens Herman Hansen.

⁵⁴ Aeschylus, *Aeschylus I: The Persians, The Seven Against Thebes, The Suppliant Maidens, and Prometheus Bound*, 3rd ed., ed. Mark Griffith and Glenn W. Most (Chicago: University of Chicago Press, 2013), 167.

⁵⁵ Geoffrey W. Bakewell, "Tragedy as Democratic Education: The Case of Classical Athens," *Administrative Theory & Praxis* 33, no. 2 (2011), 262; C. Meier, *The Political Art of Greek Tragedy*, trans. A. Webber (Baltimore: Johns Hopkins University Press, 1993), 43.

⁵⁶ Bakewell, *Tragedy as Democratic Education*, 262.

Classical Athenian Concepts of Justice and Vengeance

In much of Greek mythology and poetry, even when the gods were not physically present, their laws and desires could still influence the actions and self-determination of key characters within a work. However, within classical Athenian society, the maxim "*gnomi ti dikaiotati*" implied that one should find the judicial "opinion that is most just" within a given case.⁵⁷ And, the tension between these two forces can be seen and expanded upon through an understanding of Plato's *Euthyphro* and his Divine Command Theory. Just as divine will should not interfere with justice, neither should familial connections or personal fear be the guiding principle of either divine law or retribution.⁵⁸

The Divine Command Theory also illuminates why mortal justice should hold primacy over divine law. Specifically, it states that if whatever a god declares is good and loved is categorically right, then it must be just.⁵⁹ It continues however that, if there are multiple gods as there were within Athenian culture, then the gods could disagree on the moral and ethical direction that mankind should take.⁶⁰ For example, the highest ranking member of the Greek pantheon, Zeus, was known to have raped several women, often in the form of either an animal or another god.⁶¹ Conversely, the virgin goddess of the hunt, Artemis, was esteemed for her modesty and virginity. So sacred was her modesty, that upon discovering Actaeon spying upon her bathing, Artemis transformed Actaeon into a deer and cursed him to die in the jaws of his own hunting dogs.⁶² Therefore, if there can be no universal right or just action to take in every situation, then the will of the multiple gods of the Greek pantheon cannot be deemed to be absolute in any situation.

Thus, part of the liberal education provided by tragic theatre, the often misunderstood concept of what later was termed Aristotelian justice, sought to inform the polis of the primacy of mortal law. As articulated within Aristotle's *Nicomachean Ethics*, justice is the result of virtuous education and habituation.⁶³

⁵⁷ The literal translation in ancient Greek is "The most just opinion" [John Harris, "A Short Translation Question" (Message to the author, 13 Nov. 2015)]. Another variation of this expression is "according to the view that is most just" [Michael Gagarin, "The Unity of Greek Law," *The Cambridge Companion to Ancient Greek Law*, ed. Michael Gagarin and David Cohen (New York: Cambridge University Press, 2005), 35]. Additional connotations can be found in the related terms "*dikaiokrisia*" (righteous judgment) and "*dikaiosyni*" (equitable judgment) [James Strong, *The New Strong's Exhaustive Concordance of the Bible* (Nashville: Thomas Nelson, 1990, Greek 24)].

⁵⁸ Plato, *The Trial and Death of Socrates*, trans. Benjamin Jowett, ed. Shane Weller (Mineola: Dover, 1992), 3, 12.

⁵⁹ *Ibid.*, 11.

⁶⁰ *Ibid.*, 7.

⁶¹ Depending on the version of the myths chosen, Zeus allegedly raped four women: Antiope as a satyr, Callisto as Artemis, Europa as a bull, and Leda as a swan.

⁶² Although written by Callimachus ca. 275 BCE, the "Bath of Pallas" was most famously recounted three hundred years later by Ovid [Ovid, *Metamorphoses*, trans. Stanley Lombardo (Indianapolis: Hackett Publishing, 2010), bk. III, 148-267].

⁶³ Aristotle, *Nicomachean Ethics*, trans. D. P. Chase, ed. William Kaufman (Mineola: Dover, 1998), bk. II, ch. 1.

For justice to exist, man must not only have the moral characteristics or capacity to do what is right and just, he actually has to do what is right and just.⁶⁴ And, for justice to exist in the physical world, there must be both equity and voluntariness in the interactions between men.⁶⁵ However, all action is directed by desire.⁶⁶ All mortal men and women have basic needs, and their desires are often fueled by those natural temptations aimed at ensuring their personal and collective survival.⁶⁷ But, eventually these are not enough. There will be men who break the law and men who take more than what fairly falls to their portion. And, when these individuals upset the balance of proportionality, they upset the balance of equity between men, and thereby disrupt the balance of justice within society.

Similarly, the ideal of voluntariness can be inferred from a determination of what is or is not an injustice. Because justice can only exist when people enter situations and exchanges voluntarily, Aristotle names four defenses to injustice: misadventure, mistake, compulsion, and ignorance.⁶⁸ First, misadventure occurs when one takes every action reasonably necessary to avoid a negative result, but something external interferes with the activity. Second, mistake occurs when one does not take the proper precautions, and something goes wrong. Third, compulsion occurs when someone forces another into a situation where the compelled individual then creates an injustice. Finally, there is an acceptance in Aristotelian justice for pure ignorance because not everyone has the same opportunities to reach any pre-set standard of education or mental awareness.

Furthermore, justice requires the presence of equity, compensation for it, or its reestablishment through retribution. Whether corrective retribution or punishment, it must provide society with a perception of justice.⁶⁹ Thus, in the classical world, one sees that criminal law arises from a need to restore a sense of equity to both the aggrieved and society.⁷⁰ Just as Draco wrote the first Athenian law against homicide in 621 BCE, established the need for murder trials, and distinguished homicide's two forms, either voluntary or involuntary,⁷¹ the act of writing laws down ensures "both 'equality before the law' and 'equal access to [the] law' ..."⁷² It is therefore a society's shared "commitment" to "legal procedures" that attempts "to stop [that] society [from] sliding back toward the chaos of private blood-feuds."⁷³ And, within the production of Greek

⁶⁴ Ibid., bk. II, ch. 4.

⁶⁵ Ibid., bk. V, ch.s 2, 4, and 10.

⁶⁶ Ibid., bk. I, ch.s 2 and 3.

⁶⁷ See also Abraham H. Maslow, "A Theory of Human Motivation," *Psychological Review* 50, no. 4 (1943): 370-396.

⁶⁸ Aristotle, *Nicomachean Ethics*, bk. V, ch. 8.

⁶⁹ Ibid., bk. V, ch. 1.

⁷⁰ Ibid., bk. V, ch.s 1 and 10.

⁷¹ Eva Cantarella, "Gender, Sexuality, and Law," in *The Cambridge Companion to Ancient Greek Law*, ed. Michael Gagarin (New York: Cambridge University Press, 2005), 239.

⁷² William Allan, "The Ethics of Retaliatory Violence in Athenian Tragedy," *Mnemosyne* 66, no. 4/5 (2013): 597.

⁷³ Ibid.

tragedies, the ability to continually reinforce the concept that crimes such as homicide, theft, and treason are crimes against more than a mere individual, but are in fact crimes against the city-state itself, stands as a fundamental principle of democratic Athenian law.⁷⁴ Therefore, we can see that Greek drama, like English common law, merely reflects a change in "process" and not a change in the "nature" of mankind itself.⁷⁵ In other words, we see that the criminal process in fact arises merely as a civilized version of our universal and natural desire for, and presumed right to, revenge.⁷⁶

Aeschylus (525 to 456 BCE)

Aeschylus wrote over 90 plays.⁷⁷ Yet, only seven of his plays survive,⁷⁸ and the only trilogy that survives intact is the *Oresteia*.⁷⁹ Further, according to Aristotle, Aeschylus was responsible for adding a second actor to Greek tragedy ca. 500 BCE,⁸⁰ which allowed for interaction between characters themselves. And, although "read in Greek and Roman schools throughout antiquity," Aeschylus's epitaph "mentions his service at Marathon ..., but says nothing about his achievements as a playwright."⁸¹ However, it is important to know that although he won thirteen annual dramatic competitions,⁸² he also fought at the Battles of Salamis and Plataea.⁸³ Therefore, regardless of his success as a playwright, it was his experience as a soldier during the early years of the birth of Athenian democracy that likely informed his earlier works, specifically his treatment of war, justice, and the gods. For example, as found in "Prometheus Bound," because Aeschylus often modified Homeric myths to fit current social situations,⁸⁴ the severe punishment of one divine being by another because of differences in the values held by these divinities addresses

⁷⁴ David Cohen, "Crime, Punishment, and the Rule of Law in Classical Athens," in *Cambridge Companion to Ancient Greek Law*, ed. Michael Gagarin (New York: Cambridge University Press, 2005), 222.

⁷⁵ Allan, "The Ethics of Retaliatory Violence," 599.

⁷⁶ Ersi Bozheku, "Tracing the Criminal Justice: An Inquiry into the Roots of the Modern Penal Principles," *Curentul Juridic* 18, no. 2 (2015): 97; See also Mary Whitlock Blundell, *Helping Friends and Harming Enemies: A Study in Sophocles and Greek Ethics* (New York: Cambridge University Press, 1989).

⁷⁷ Aeschylus, *Aeschylus I*, 1.

⁷⁸ Ibid. However, several scholars have disputed the authorship of both Aeschylus's "Prometheus Bound" and "Euripides's "Rheus" (Ley, *A Short Introduction*, 93-94).

⁷⁹ Aeschylus, *Aeschylus I*, 1.

⁸⁰ Aristotle, *Aristotle's Poetics*, trans. S. H. Butcher, Intro. Francis Fergusson (New York: Hill and Wang, 1961), 57.

⁸¹ Aeschylus, *Aeschylus II: The Oresteia: Agamemnon, The Libation Bearers, The Eumenides, and Proteus (Fragments)*, 3rd ed., ed. Mark Griffith and Glenn W. Most (Chicago: University of Chicago Press, 2013), 1-4.

⁸² Sophocles, *Sophocles I: Antigone*, 2.

⁸³ Leopold von Ranke, *Universal History: The Oldest Historical Group of Nations and the Greeks* (New York: Charles Scribner's Sons, 1884), 293.

⁸⁴ Patricia Easterling, "Anachronism in Greek Tragedy," *Journal of Hellenic Studies* 105 (1985): 2-3.

social concerns that, due to Aeschylus's popularity during his own lifetime and afterward, likely informs and presupposes both Plato's treatment of the Divine Command Theory in the *Euthyphro* and Aristotle's treatment of the nature of justice within his *Nicomachean Ethics*.

*The Oresteia Trilogy (458 BCE)*⁸⁵

Years before the action of the *Oresteia* itself, the grandsons of Tantalus, Atreus and Thyestes entered a feud when Thyestes seduced Atreus's wife. Instead of killing Thyestes and shunning his wife, Atreus butchered all but one of Thyestes's children and fed them to him. Within late archaic and early classical Athens, the aggrieved husband could have killed the adulterer with impunity.⁸⁶ But by continuing to live with his wife, instead of repudiating her, Atreus should have been deprived of his civic rights.⁸⁷ In this way, even before the trilogy begins, Aeschylus has begun to stage the culmination of the *Oresteia*'s jury decision. Similarly, the sons of the House of Atreus, Agamemnon and Menelaus (the Atreidae),⁸⁸ went to war to recover Menelaus's non-consensually adulterous wife Helen. However, before they could set sail for Troy, Agamemnon had to sacrifice his eldest daughter, Iphigenia, to Artemis in order to gain a favorable wind.⁸⁹ This in turn led to the bitterness of Iphigenia's mother, Clytemnestra, who spent the years that Agamemnon was absent in an extramarital affair with Aegisthus, the sole surviving heir of Thyestes.

"Agamemnon" opens with the announcement that the 1,000 Argive ships are returning victorious from Troy.⁹⁰ As Clytemnestra plies Agamemnon with hyperbole and platitudes, she lays a "crimson path" before his feet to mark the "Justice" of his return.⁹¹ Only Cassandra can see this is all part of the "net of death" that Clytemnestra has set for Agamemnon.⁹² Clytemnestra's justice is Agamemnon's murder, and the murder of Cassandra herself.⁹³ And, Cassandra's admission that "the seer who set [her] to this work" was Apollo serves to foreshadow the fate of Agamemnon's son, Orestes.⁹⁴

Then, as we find in "The Libation Bearers" and "The Eumenides," Orestes sought out "Apollo's oracle," who "charged [him] to win through [any] hazard," "to cut down in their own fashion" his "father's murderers."⁹⁵ To do so, he enlists Electra into conspiracy as they pray together to their slain father,⁹⁶ and

⁸⁵ See Appendix A.1 for a genealogical tree of the "Line of Tantalus."

⁸⁶ Ilias Arnaoutoglou, *Ancient Greek Laws: A Sourcebook* (New York: Routledge, 1998), 22.

⁸⁷ Ibid.

⁸⁸ Aeschylus, "Agamemnon," 3.

⁸⁹ Griffith and Most note that unlike most versions of Iphigenia, within "Agamemnon" there is no indication that Iphigenia's life was spared by Artemis (Aeschylus, *Aeschylus II*, 14).

⁹⁰ Aeschylus, "Agamemnon," 46.

⁹¹ Ibid., 910-911.

⁹² Ibid., 1114-1116 and 1246.

⁹³ Ibid., 1313-1314.

⁹⁴ Aeschylus, "Agamemnon," 1202.

⁹⁵ Aeschylus, "The Libation Bearers," 269-275.

⁹⁶ Ibid., 479-509.

he enlists the aid of the Nurse as his messenger.⁹⁷ But, once he has slain Clytemnestra and Aegisthus, Orestes is beset by the Eumenides, "the eternal children of Night,"⁹⁸ "wear[ing] robes of black" and "wreathed in a tangle | of snakes."⁹⁹ Although Apollo states that "he will not give [him] up,"¹⁰⁰ Orestes cannot escape the hounding of the Eumenides. So primeval and self-righteous is their indignation, they defiantly confront Apollo for his involvement in the murders, declaring that he "is more than [an] accessory," for he gave the "word to exact price for [Orestes's] father," which led to the crime of matricide.¹⁰¹

For generations, the line of Atreus has been guilty of ignoring man's law. Atreus should have been stripped of his civic rights and banished for keeping his adulterous wife and murdering his brother's children. And, although guilty of blind obedience to Artemis's demand for the sacrifice of his daughter and for not banishing his own adulterous wife, Agamemnon can be excused for not repudiating Clytemnestra because he was ignorant of her infidelity. Orestes, like his father, was guilty of blind obedience to Apollo's demand for vengeance for Agamemnon's murder. And, like his grandfather, Orestes was guilty of slaughtering members of his own family in his quest to fulfill that vengeance. Thus, he should have been stripped of his civic rights and banished. So, why then is Orestes acquitted and the House of Atreus fully restored in the *Oresteia*?

As noted, Homeric myths were often modified by their authors in order to fit them into current Athenian social norms.¹⁰² And, in the *Oresteia*, what one finds is the foundation myth of the legendary Court of the Aeropagus Council, the classical Athenian court charged with jurisdiction over homicide trials. As Rosalind Thomas notes, the homicide code of Dracon appears to begin *in media res*,¹⁰³ yet it does inform us that even unintentional homicides are punishable by exile.¹⁰⁴ Additionally, the Athenian law against the maltreatment of parents would have enhanced the penalties, even in the event that the murderer should be granted a pardon by the closest surviving male relatives of the victim,¹⁰⁵ represented here by the Eumenides, because maltreatment of a parent warrants imprisonment during the trial and the threat of disqualification from any present or future public offices if found guilty.¹⁰⁶

However, within the trial of Orestes, while the Eumenides declare that Orestes "murdered his mother by deliberate choice," the presiding judge raises the question of whether or not Orestes should be availed of the defense of

⁹⁷ Ibid., 770-773 and 837-840.

⁹⁸ Aeschylus, "The Eumenides," 416.

⁹⁹ Aeschylus, "The Libation Bearers," 1049-1050.

¹⁰⁰ Aeschylus, "The Eumenides," 64.

¹⁰¹ Ibid., 188-210.

¹⁰² Judith Fletcher, "Polyphony to Silence: The Jurors of the *Oresteia*," *College Literature: A Journal of Critical Literary Studies* 41, no. 2 (2014): 57, 71.

¹⁰³ Rosalind Thomas, "Writing, Law, and Written Law," in *Cambridge Companion to Ancient Greek Law*, ed. Michael Gagarin (New York: Cambridge University Press, 2005), 53.

¹⁰⁴ Arnaoutoglou, *Ancient Greek Laws*, 71.

¹⁰⁵ Ibid., 71-72.

¹⁰⁶ Ibid., 25, 100.

compulsion.¹⁰⁷ After hearing Orestes's initial testimony that he was "counterspurred" in his desires by threat "of pains to come | if [he] should fail to act,"¹⁰⁸ and hearing Apollo's testimony that he did in fact "bear | responsibility for [the] mother's murder,"¹⁰⁹ the eleven mortal jurors still voted six to five to convict Orestes.¹¹⁰ But, before the mortal votes are counted, Athena declares that her twelfth vote will be for his acquittal.¹¹¹ So, upon the discovery of the final tally of an equal number of votes for guilt or acquittal, the tie goes in favor of the accused, who is therefore fully restored in his House and "the land of [his] fathers."¹¹² Thus acquitted, Aeschylus assigns mortal law nigh divine status within the democratic institution of the Court of the Aeropagus Council.¹¹³ For, although it might at first appear that Athena has circumvented the jurors, as the divine embodiment of wisdom in Athens, Athena is merely serving as the inspiration for the living rule of law. Thus, while arguing in favor of mortal law over divine guidance, it becomes clear that Aeschylus was conscious of criticisms of the new democracy; that is, his works stand as a social commentary on the need for the masses to have a legitimate voice within a fledgling democracy, as well as the need for the courts of law to be accessible to the masses, in order for equality under the law to flourish.

Sophocles (496 to 406 BCE)

Sophocles wrote over 120 plays and achieved more annual victories than Aeschylus and Euripides combined.¹¹⁴ Yet, only seven of his plays survive,¹¹⁵ and the *Oedipus* cycle is the closest thing to a trilogy that survives from Sophocles's works.¹¹⁶ However, this cycle is in fact a collection of thematically similar broken trilogies written over the course of his lifetime. Additionally, according to Aristotle, Sophocles added a third actor to Greek tragedy ca. 470 BCE,¹¹⁷ which provided the tragic stage with even greater versatility. Yet, unlike Aeschylus, Sophocles rarely uses the physical presence of gods within his tragedies. Furthermore, during his long and illustrious career, Sophocles also served as a Treasurer (*hellenotamias*), General (*strategos*), and Special Magistrate (*proboulos*) of Athens.¹¹⁸ And, it was his service during the brutality of the Peloponnesian Wars that likely informed his works, most

¹⁰⁷ Aeschylus, "The Eumenides," 425-426.

¹⁰⁸ Ibid., 465-467.

¹⁰⁹ Ibid., 579-580.

¹¹⁰ Ibid., 710 (stage notes); Fletcher, "Polyphony to Silence: The Jurors of the *Oresteia*," 56.

¹¹¹ Aeschylus, "The Eumenides," 735.

¹¹² Ibid., 753-760.

¹¹³ Fletcher, "Polyphony to Silence: The Jurors of the *Oresteia*," 57, 71.

¹¹⁴ Sophocles, *Sophocles I*, 2.

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Aristotle, *Aristotle's Poetics*, 57

¹¹⁸ Sophocles, *Sophocles II: Ajax, The Women of Trachis, Electra, Philoctetes, and The Trackers*, 3rd ed., ed. Mark Griffith and Glenn W. Most (Chicago: University of Chicago Press, 2013), 2.

specifically his treatment of citizens and soldiers, as well as his seemingly comprehensive knowledge of the customs and laws of multiple poleis.

As indicated by Mary Whitlock Blundell, the distinction between "enmity" and "the total indulgence of hatred" is "based on [a] shared humanity" and the awareness that all men will suffer some misfortune in life.¹¹⁹ For example, as the *Iliad* ends with the passage "[t]hat was the funeral of Hector, breaker of horses,"¹²⁰ and "Ajax" concludes with "no nobler one has ever been than he: | I speak of Ajax, while he lived,"¹²¹ Sophocles's use of funerals and funerary law embodies the most humanistic concerns of what Greek law was meant to do, provide for the concept of *gnomi ti dikaiotati*, which implies the need to always seek that decision which is most just, even for those who may have lost their glory, honor, or even the right to call themselves a Greek.

The Oedipus Cycle, aka the "Theban Plays" (441, ca. 426, and ca. 406 BCE¹²²)¹²³

Sophocles's retelling of the woes of Oedipus begins with Laius and Jocasta visiting an Oracle of Apollo, who informed them that their son would slay his father and marry his mother. Thus, Oedipus's parents abandoned him in the wilderness. But, instead of dying in the woods of "Cithaeron's slopes,"¹²⁴ Oedipus is rescued by a shepherd and later adopted by a king. Then, just as the Oracle had predicted, Oedipus comes upon Laius one day and kills him. Later, Oedipus travels to Thebes and, after solving the riddle of the Sphinx, he becomes king.¹²⁵ There at Thebes, Oedipus and Jocasta bore four children: Eteocles, Polynices, Antigone, and Ismene. But, like other Greek tragedians, Sophocles often modified the Homeric myths to fit them into current events within Athenian society.¹²⁶ And, within the *Oedipus cycle*, the character of Antigone may well have been entirely his own invention.¹²⁷

Within the opening of "Oedipus the King," we find the king faced with a new challenge. He is a righteous and noble king, one who cares "more for [his] people than for [his] own life."¹²⁸ And, his people are beset by a plague that leaves their fields, cattle, and women barren.¹²⁹ Thus, he sends his brother-in-law, Creon, to speak with the Oracles in order to find out what must be done to lift the plague. However, the answer sets in motion the conflict of the cycle; the only "rite | of purification" that will cleanse the land is the "banishing" or "expiation" of the murderous guilt of the man that killed Laius, which now

¹¹⁹ Blundell, *Helping Friends and Harming Enemies*, 63.

¹²⁰ Homer, *Iliad*, trans. Stanley Lombardo (Indianapolis: Hackett Publishing, 199), bk. 24, 860.

¹²¹ Sophocles, "Ajax," 1416-1417.

¹²² "Oedipus at Colonus" was not produced during the author's lifetime. It was first produced five years later by his son (Sophocles, *Sophocles I*, 5).

¹²³ See Appendix A.2 for a genealogical tree of the "Line of Labdaus."

¹²⁴ Sophocles, "Oedipus the King," 1026.

¹²⁵ Sophocles, *Sophocles I*, 6.

¹²⁶ Judith Fletcher, "Citing the Law in Sophocles's Antigone," *Mosaic* 41, no. 3 (2008): 79-80.

¹²⁷ Sophocles, *Sophocles I*, 8.

¹²⁸ Sophocles, "Oedipus the King," 94.

¹²⁹ *Ibid.*, 25-28.

plagues the city.¹³⁰ Oedipus's declaration that the guilty man will not face death, but merely exile, exemplifies his just nature within the legal code of the audience the play was presented to.¹³¹ For, as Draco's law established, "[e]ven if anyone kills without intention, he shall be exiled."¹³² But, ignorance is bliss; as Teiresias informs the king, "terrible is wisdom when | it brings no profit to the man that's wise."¹³³ Teiresias then explains to the angered king, "[t]his day will show your birth and will destroy you."¹³⁴ And, while discovering the wicked truth, this righteous king's shame spurs him to blame and threaten all those most honest and loyal to him, including Teiresias and Creon, even though they continue to serve and support him. In this way, Creon proves his own just nature well before the following plays within the cycle. For example, it is Creon that delays Oedipus and suggests revisiting the Oracles when asked to drive Oedipus "to where [he] may not hear a human voice."¹³⁵

The blinding and exile of Oedipus occurs between "Oedipus the King" and "Oedipus at Colonus." And, it is Oedipus's blind condition that binds Antigone to him in the opening of "Oedipus at Colonus."¹³⁶ Yet, it is Ismene that informs us of the importance of Oedipus's acceptance of mortal law in "Oedipus the King." Oedipus accepted his own decree, and its enforcement by Polynices,¹³⁷ and left his wealth and station as a king in Thebes. Subsequently, the Oracles later relate that Oedipus has been prophesized to be a great strength "[t]hat shall be much solicited by [the] people | before [his] death – and after – for their welfare."¹³⁸ Therefore, for the benefit of his strength, he is offered a chance to return to Thebes because:

the assembly of the citizens [may] grant citizenship to an individual or to citizens of other *poleis* in exceptional circumstances, ... extend[ing] the right to ... [those who] shall swear an oath (of allegiance) according to the law.¹³⁹

Yet, Oedipus' unwillingness to rejoin Thebes, even at Creon's request on behalf of the whole of Thebes,¹⁴⁰ shows Oedipus's respect for the longstanding and justly made decision for his exile, even though he would have personally benefited from taking advantage of the law allowing for the granting of his renewed citizenship.¹⁴¹

¹³⁰ Ibid., 99-104.

¹³¹ Ibid., 229.

¹³² Arnaoutoglou, *Ancient Greek Laws*, 71.

¹³³ Sophocles, "Oedipus the King," 316-317.

¹³⁴ Ibid., 438.

¹³⁵ Ibid., 1437.

¹³⁶ Sophocles, "Oedipus at Colonus," 1-5.

¹³⁷ Ibid., 1355.

¹³⁸ Ibid., 385-394.

¹³⁹ Arnaoutoglou, *Ancient Greek Laws*, 92-93.

¹⁴⁰ Sophocles, "Oedipus at Colonus," 735-738.

¹⁴¹ In Greek mythology, Cadmus established Thebes. Thasos was an island polis established by one of his nephews (sometimes referred to as one of his brothers). And, while recognizing the "unity of law" debate, without direct evidence of the applicable Theban law for offering

Although the play's title character, Antigone, is often referred to as a heroine for standing up to a tyrant within Sophocles's "Antigone," the early Greek meaning of tyrant was merely that one ruled without hereditary title (like the Peisistratids). Yet, both Oedipus and Creon had lived lives in full respect of mortal law, only creating injustices when they were mistaken about the facts or ignorant of the facts altogether. And, it is this example of law-abiding citizenship that Antigone utterly failed to embrace in her lifetime. Further, under the law, because Antigone's father and brothers were all dead by the beginning of "Antigone," she had a legal familial obligation to Creon that extended beyond her obligation to him as a *politiss* (female citizen) of Thebes. Her uncle would have borne the legal obligation of serving as her *kyrios*, the man legally granted lifetime power and authority over her, until she married.¹⁴²

Yet, the painful importance of properly burying the beloved dead would not be lost on an audience in Athens. Although "religious ceremonies were venues for competition and the display of wealth and prestige, ... these expressions of wealth and prestige [were] subject to limits of *hybris* and cleanliness."¹⁴³ And, as stated in the laws of the honors awarded to dead soldiers, not only do funerary rights extend to honored citizens, but they also bestow privileges to the children of the dead, which included both public honors and coming of age gifts valued at more than 1,800 obols, nearly two years of daily civic pay.¹⁴⁴ Further, as articulated in Homer's *Iliad*, one should be buried quickly so that they might pass those spirits and phantoms that could bar them from passing through the gates of Hades in order to "join th[ose] beyond the River."¹⁴⁵ And, although Creon reverses his decision in the end, even while unknowingly experiencing great personal losses, it is only as king, as a minister of justice, that he does so. Upon Eurydice's discovery that Antigone hung herself and that Haemon, Creon's only son, had killed himself in "ang[er] at his father's killing," Eurydice abandons her husband to suffering in her silence.¹⁴⁶ In her silence, Creon later discovers that Eurydice committed suicide herself.¹⁴⁷ Yet, all of this tragedy befell Creon only after he had already acquiesced to the will of the polis; as the Chorus of citizens declared that he should free Antigone and bury Polyneices, he had already sworn that because it was his "decision's overturned" that he "who bound her [would] set [Antigone] free."¹⁴⁸ Thus, what Sophocles actually illustrates is that a just king hears the pleas of the people and acts to uphold the will of the mortal law as it most justly should be applied, regardless of the personal cost.

citizenship, this law from Thasos is the closest equivalent law which can be established with certainty, and has therefore been applied in this analysis.

¹⁴² Cantarella, "Gender, Sexuality, and Law," 245.

¹⁴³ Arnaoutoglou, *Ancient Greek Laws*, 142.

¹⁴⁴ *Ibid.*, 94-95.

¹⁴⁵ Homer, *Iliad*, bk. 23, 70-80.

¹⁴⁶ Sophocles, "Antigone," 1175-1245.

¹⁴⁷ *Ibid.*, 1282-1283.

¹⁴⁸ *Ibid.*, 1100-1101 and 1111-1112.

Conclusion

The success of poets like Aeschylus and Sophocles during their lifetimes was based largely on their ability to modify the famed works of Homer into current and relevant texts that could be staged before the citizens of Athens during the early years of democracy, which demonstrates how tragedy can be used as an effective medium for the transmission of a society's hopes, desires, and demands for itself and others. And, while the lasting influence of Greek thought that is found in the tragedies and their related legal and philosophical texts is undeniable, with a diminishing basic exposure to classical languages and texts, the ability of modern audiences to relate to the socio-political and legal context in which Greek tragedy arose is limited. However, even non-classicists can in fact learn to better understand the complexities of, and in-turn educate the next generation of students on, how to better appreciate the classics within their proper historical context. But, first, we must understand how and why our individual fields of study have encountered their specific limitations. And, then we must learn the accurate context of the material under study. Finally, we must engage with others outside of our particular fields of study in order to gain the insights that only those other scholars can provide. Only by our understanding and teaching others about the nature of the law as it relates to the ideals of classical Greek justice and city-state unity can modern readers gain a true sense of the scope and original intent of the extant body of Greek tragedies, and truly appreciate the lessons that Aeschylus and Sophocles actually sought to impart to their audiences. And, armed with that information, better comparative studies of past and present works can be conducted, which will allow for stronger arguments to be made both in writing (whether academic or legal) and in the courts of law.

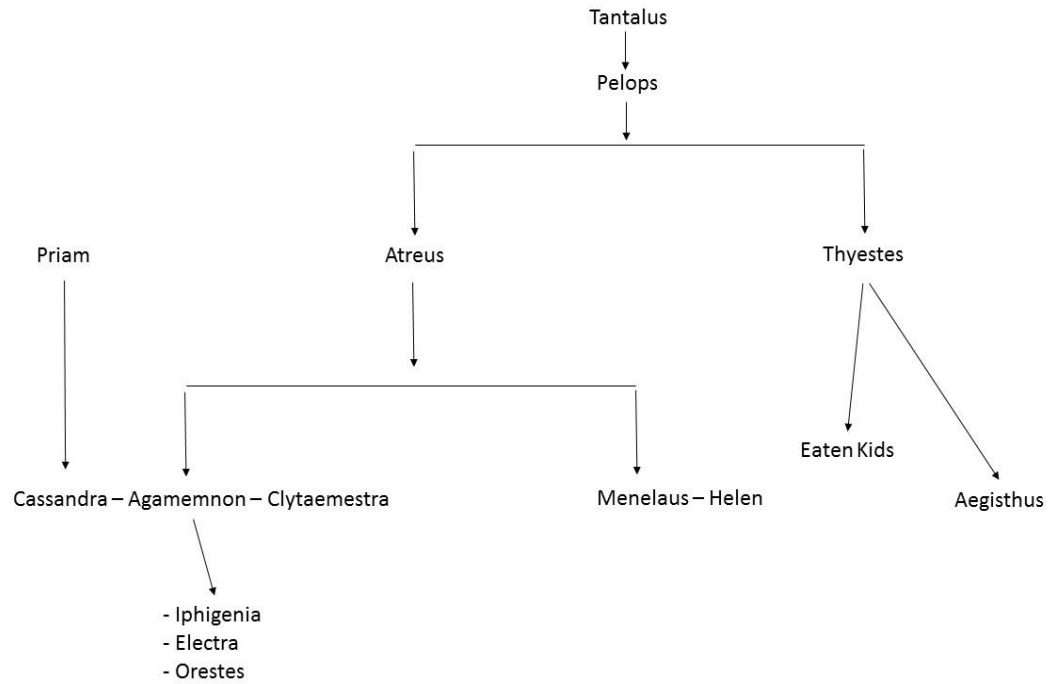
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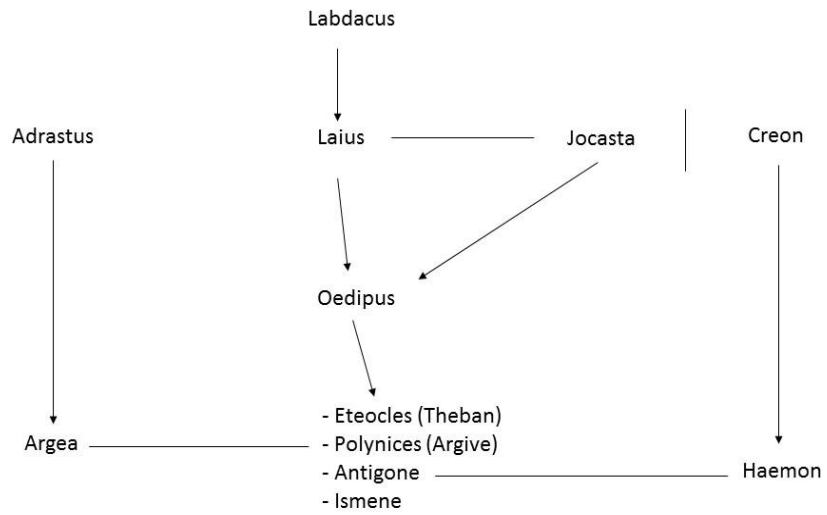
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Appendix A.1: The Line of Tantalus (*Oresteia*)



Source: J. Lynn Adams, 2016.

Appendix A.2: Line of Labdacus (*Oedipus*)



Source: J. Lynn Adams, 2016.