

**CHAOS AND OATH: THE POLITICAL MYTHOLOGY OF HESIOD'S
THEOGONY. WITH A PROLEGOMENA ON OATH-TAKING IN ANCIENT
GREECE**

by
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Abstract

In my dissertation, ‘Chaos and Oath: The Political Mythology of Hesiod’s *Theogony*,’ I investigated the significance of the political oath in connection with Zeus’s ascendance to power and sovereignty (Part III: ‘Chaos and Oath in Hesiod’s *Theogony*’). The fact that Hesiod’s *Theogony* bears some similarities with some Near Eastern texts not only led me to investigate the question of how to compare (Part II: ‘The Hesiodic Question’) but also to investigate oath-taking in daily Greek life (Part I: ‘Towards an Anthropology of Oath-taking’).

On genealogical grounds I argue that Chaos must be conceived as a spatial-temporal and social-temporal entity. The immediate offspring of Chaos, Erebus and Night as well as their offspring Aither and Day, determine it as a spatial-temporal power, the offspring of Night and Eris as a social-temporal power.

The Hymn to Styx which presents a narrative of how she received the honor of being the great oath of the gods. Scholars so far could only associate it with the assertory oath prescribed in court procedure. Since positive law does not help us to understand a passage which is concerned with a political conflict or war, I argue that the narrative of Styx receiving the honor being the great oath of the gods must be interpreted in terms of natural law philosophy.

Before the battle against the Titans, i.e. the civil war between Titans and Olympians, Zeus promised due honors to all the gods who would fight on his side. In terms of natural law philosophy, Zeus’s promise confers a legal right to those to whom the promise is given. The fact that Styx was the first to come to Mount Olympus and received the honor of being the great oath of the gods not only transforms the negative power of the oath into a positive

institution for the Olympian gods, but it also makes Zeus's promise more binding. I finally conclude that institutionalizing Styx as the great oath of the gods represents the social contract of the Olympian community.

Thus, with regard to sovereignty I point out that the political oath is a further common motif between Hesiod's *Theogony* and the Akkadian Epic *Enuma Eliš* in as much as the gods grant Marduk sovereignty through an oath ceremony. The new parallel reveals a significant difference: the Babylonian supreme god Marduk is granted sovereignty through an oath ceremony in which the other gods swear loyalty to him by anointing themselves, whereas Zeus gains sovereignty through a promise to the other gods.

The parallel concerning the function and institution of the oath between Hesiod's *Theogony* and the Hittite *Kingship in Heaven* has to be drawn in a different way. In the Hittite poem, the myth of successive divine rulers has to be seen in relation to the invocation of an elder generation of gods who serve as oath deities. The proem to the *Kingship in Heaven* invokes these old oath deities as witnesses for securing sovereignty for each divine ruler.

Unlike recent scholarship, which addresses the institution of the oath merely in the context of court procedures, i.e. in terms of the assertory or juridical oath, I argue that promissory and political oaths are much more important than usually accepted. For example, the attempted peace treaty between Greeks and Trojans in Homer's *Iliad* already entails all important features of a contract that were common in historical documents of the ancient Near East. Against this backdrop, I also point out that the oath ceremony involved in the foundation of Cyrene is a unique document of the age of Greek colonization.

In investigating the significance of political oath-taking in Greek daily life, I place an emphasis on social contracts. The phrase 'social contract' does not only refer to

promise-giving in juridical and political contracts such as peace treaties but more importantly promises of civil servants upon entering office. In discussing Lyrgurgus's statement that the oath ties together democracy, I show that the idea of the political oath is visible in the promise of the Athenian *ephebes* and *archons* upon entering office. Thus, historical texts and inscriptions give evidence that promissory or political oaths played a more significant role than usually accepted.

Readers:

Marcel Detienne and Demetrios Yatromanolakis as well as Richard Bett, Theodore Lewis, Hent de Vries.

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Introduction

The idea of writing a dissertation on Hesiod's *Theogony* occurred to me as I was writing my first term paper for a reading class on this text. In this paper I made a first step in attempting to decipher the concept of Chaos and was struck by the fact that the lineage of Chaos comes to an end with Horkos, deified Oath. Thus, I began to investigate the lineage of Chaos more thoroughly both in terms of the constellation of primordial powers and in terms of the constellation of deified Oath, Styx, and Zeus.

In order to understand what Chaos is, I was faced with the problem of how to read the first sentence of the cosmogonical passage: first Chaos came into being, then Earth, and Tartarus, and finally Eros. Scholars have developed different opinions of how the beginning has to be conceived, ranging from one origin from which everything derives, i.e. Chaos; to two independent origins Chaos and Gaia; up to a constellation of five primordial powers. The most recent views are represented by the Oxford classicist Martin West who argues for four origins, and the Parisian anthropologist Jean-Pierre Vernant who argues for five, of which only two have textual basis. On both syntactical and theoretical grounds I have argued for a constellation of three primordial powers.

On etymological grounds Chaos has exclusively been determined as a void, as a gap, as gapping void, as an empty void, as an abyss, or simply as a nothing. On genealogical grounds I argue that Chaos must be conceived as a spatial-temporal and social-temporal entity. The immediate offspring of Chaos, Erebus and Night as well as their offspring Aither and Day, determine it as a spatial-temporal power, the offspring of Night and Eris as a social-temporal power.

Due to their negative character the offspring of Night such as fate have to be considered as negativity of nature, the offspring of Eris such as lawlessness and deified Oath as negativity of culture. The fact that the lineage of Chaos comes to an end with deified Oath has never been explained, or better: scholars never even made an attempt to explain it. Throughout the history of scholarship on Hesiod, the oath in the *Theogony* has been interpreted as an assertory or juridical oath, which is taken by litigants or witnesses in court procedure. Yet, there is not a single trial scene in Hesiod's *Theogony*, which could corroborate such a view. There is, however, the Hymn to Styx which presents a narrative of how she received the honor of being the great oath of the gods. Here again, philologists and legal scholars could only somehow associate it with the assertory oath prescribed in court procedure. Since positive law does not help us to understand a passage which is concerned with a political conflict or war, I argue that the narrative of Styx receiving the honor being the great oath of the gods must be interpreted in terms of natural law philosophy.

Before the battle against the Titans, i.e. the civil war between Titans and Olympians, Zeus promised due honors to all the gods who would fight on his side. In terms of natural law philosophy, Zeus's promise confers a legal right to those to whom the promise is given. The fact that Styx was the first to come to Mount Olympus and received the honor of being the great oath of the gods not only transforms the negative power of the oath into a positive institution for the Olympian gods, but it also makes Zeus's promise more binding. I finally conclude that institutionalizing Styx as the great oath of the gods represents the social contract of the Olympian community.

In the course of research, I realized that serious scholarship on Hesiod's *Theogony* is no longer possible without taking into account its Hittite and Mesopotamian background. Parallels with the Babylonian epic *Enuma Elish* and the Hittite *Kingship in Heaven* were so

obvious that I believed that there would be a good chance to find a connection between oath-taking and sovereignty in these texts as well. Thus, with regard to sovereignty I point out that the political oath is a further common motif between Hesiod's *Theogony* and the Akkadian Epic *Enuma Eliš* in as much as the gods grant Marduk sovereignty through an oath ceremony.

During the process of writing my dissertation I received 'post-deconstructional greetings' from Marcel Detienne. I took it as a critique that my reading of Hesiod does not include enough of history and anthropology. It made me re-think my theoretical approach towards Hesiod. Thus, I started to dwell upon the following questions: What is anthropology? What does the symbiosis of classics and anthropology mean? And how does it relate to Hesiod? This has become the second part of my dissertation, 'The Hesiodic Question.' Unlike the Homeric question, which concerns the unity of the *Iliad* in connection with authorship, the Hesiodic question concerns the way of how to read and how to decipher the *Theogony* and how to compare it with its Near Eastern forebears.

Having realized that neither Oxford textual criticism nor Parisian anthropology and classics were able to interpret the first sentence of the cosmogonical passage, I became suspicious about the accuracy of their methods. In attempting to find a synthesis between Oxford textual criticism and Parisian anthropology, I show that the myth and ritual school does not give any help in understanding mythical narratives Hesiod's *Theogony*. Walter Burkert, the modern representative of this school, coins his approach as being anthropological by using traditional philosophical categories.

Therefore, I returned to the invention of modern anthropology in Kant and modern classical scholarship and mythology in Heyne, in order to show that 18th century idea of anthropological comparativism in form of traveling can be combined with philology and

theory. Kant argued that local knowledge of anthropologists needs guidance through general knowledge which is provided by philosophy. The fact that anthropology needs guidance through philosophy was accepted almost 150 years later by Lévi-Strauss who had a similar idea by developing a more theoretical anthropology on the basis of ethnographical material, something that was adopted and transformed by the Parisian school of Classics for Greek mythology as well as comparative mythology.

The Parisian school, however, paid less attention to textual criticism and philological detail. In contrast, the Oxford school of classics is less interested in sophisticated methods of interpreting myths and mythology but rather in textual criticism and philological details. Hesiod's *Theogony* is the text where both meet. This I show in terms of two narratives of the Hesiod's *Theogony* text as well as in the proem. In discussing the proem of the *Theogony*, I give an account of important Hesiodic concepts such as truth, history, and origin, according to which the text should be deciphered. Here, I argue that Hesiod's claim for historical truth leads to the quest for the beginning.

In mediating between the Oxford school and the Parisian school of Classics, I introduce one of the key intellectual figures of the 20th century, Walter Benjamin, whose concept of constellation combines philological detail and theoretical accuracy. In addition, his thinking was very much influenced by the newly rediscovered Babylon. Therefore, his ideas are valuable for comparing Hesiod's *Theogony* with its Near Eastern forebears, especially in terms of the problem of sovereignty.

In making use of Benjamin's concept of constellation, I demonstrate that the seemingly loosely connected stories are linked according to a logic of configurations as outlined by Hesiod's *mytho-logos* in the proem. Against this backdrop, I then investigate the constellation of the threefold origin consisting of Chaos, Earth, and Eros. Through its

genealogy I show that Chaos does not represent an entity that has to be defeated but a social-temporal structure that serves as a negative foil for the lineage of Earth. In giving deified Oath the conspicuous position of being the last offspring within the lineage of Chaos, Hesiod considers it as the institution upon which a new social contract has to be established.

Today, Marcel Detienne teaches us that comparative anthropology and mythology does no longer consist in adducing similar motives and themes à la Andrew Lang but in breaking the traditional categories of thinking. On this basis I was able to compare the oath in Hesiod's *Theogony* and Enuma Elish more accurately. The new parallel reveals a significant difference: the Babylonian supreme god Marduk is granted sovereignty through an oath ceremony in which the other gods swear loyalty to him by anointing themselves, whereas Zeus gains sovereignty through a promise to the other gods.

The parallel concerning the function and institution of the oath between Hesiod's *Theogony* and the Hittite *Kingship in Heaven* has to be drawn in a different way. In the Hittite poem, the myth of successive divine rulers has to be seen in relation to the invocation of an elder generation of gods who serve as oath deities. The proem to the *Kingship in Heaven* invokes these old oath deities as witnesses for securing sovereignty for each divine ruler.

In comparing Hesiod's *Theogony* with its Near Eastern forebears, it became evident that the oath is the *tertium comparationis* in my comparison, or – as Marcel Detienne has recently put it by coining a new name for it – the *reactive* of my experiment.¹ Beyond the

¹ M. Detienne, *Comparer l'incomparable*, Paris 2000, p. 95: "Sur le terrain des polythéismes grecs, l'approche expérimentale se fera plus sûrement par des objets concrets, servant de « réactifs », que par des mises en contact directes de puissances intégrales dont les traits individués, même implicitement, viendraient perturber les effets de l'opération. Le détour par les détails concrets et par les segments de situation est, sinon

attestation of the political oath in three major literary texts, there is a much broader field that needs to be investigated. Thus, the first part of my dissertation, 'Towards an Anthropology of Oath-taking,' investigates the context of oath taking and its anthropological significance in Greek societies with some references to some Near Eastern similarities. It presents some of the available material and attempts to establish the framework within which the oath in Hesiod may be understood. The discussion of oath-taking procedures includes literary texts as well as legal documents such as trial records and treaties.

Against the backdrop of the commonly accepted distinction of assertory and promissory oath as well as some ancient and modern reflections on oath-taking, I classify the available material. Concerning the assertory oath, I discuss Greek dispute settlement and court procedure as well as those provisions of the Gortyn laws that entail provisions of oath taking with references Near Eastern law codes and Old Babylonian trial records (*pars pro toto* for the other periods), where one finds evidence for both assertory and promissory oaths. In somewhat lengthier form, I discuss the promissory oath in connection with the no contest clause in Old Babylonian trial records, because it is a feature that does not occur in Greek societies.

Unlike recent scholarship, which addresses the institution of the oath merely in the context of court procedures, i.e. in terms of the assertory or juridical oath, I argue that promissory and political oaths are much more important than usually accepted. For example, the attempted peace treaty between Greeks and Trojans in Homer's *Iliad* already entails all important features of a contract that were common in historical documents of the

la voie la plus courte, du moins la plus sûre pour analyser les ensembles de relations entre dieux et ne pas se laisser séduire par les formes immédiates de dieux si portés à s'individualiser, pour leurs indigènes d'abord."

ancient Near East. Against this backdrop, I also point out that the oath ceremony involved in the foundation of Cyrene is a unique document of the age of Greek colonization.

In investigating the significance of political oath-taking in Greek daily life, I place an emphasis on social contracts. The phrase ‘social contract’ does not only refer to promise-giving in juridical and political contracts such as peace treaties but more importantly promises of civil servants upon entering office. In discussing Lyrgurcus’s statement that the oath ties together democracy, I show that the idea of the political oath is visible in the promise of the Athenian *ephebes* and *archons* upon entering office. Thus, historical texts and inscriptions give evidence that promissory or political oaths played a more significant role than usually accepted, especially in political contexts.

Despite the fact that different forms of the political oath reflect different social, political, and religious systems, they prefigure, in different ways, the Roman imperial oath and relate to the oath of office, which in various forms plays a key role within European investitures and coronation ceremonies as well as Western constitutional histories.

As a classicist I am mainly concerned with the early history of the phenomenon and institution of the oath, its anthropological features and its philosophical implications. Nevertheless, in order to overcome the endless repetition of similar arguments and phrases, it does not – and it should not – prevent me from approaching the phenomenon of the oath as well as its history – and it truly seems to be a problematic one – through the process of secularization and re-mystification of its institution in modern times. For centuries it had been believed and commonly accepted – which means that it had never been proven – that the oath is an institution that has not changed from the early days of history until modernity. According to Paolo Prodi, however, the ancient Greek-roman institution of the oath – if indeed there ever was such an institution – has developed into a new form once it

came in touch with Christianity: the *sacrament of power*.² This new form has to be seen within the broader context of the political oath. Its political dimension can be seen throughout the medieval ages in the struggles between church and state, between pope and emperor. In early modern times the oath was used as a form of gaining social discipline by the majority of European national states.

Due to its inherent force for social discipline the sacrament of power was not only different from other oaths, but it also entailed an inner dynamic for further developments. These developments culminated on August 2nd 1934. On that day as well as on the following day all German soldiers of the *Reichswehr* swore the following oath upon the *Führer*:

“Ich schwöre bei Gott diesen heiligen Eid, daß ich dem Führer des deutschen Reiches und Volkes, Adolf Hitler, dem Oberbefehlshaber der Wehrmacht, unbedingten Gehorsam leisten und als tapferer Soldat bereit sein will, jederzeit für diesen Eid mein Leben einzusetzen.”

When the soldiers of the German *Wehrmacht* swore that military oath – and they did it out of free will, since there was no legal basis to do so³ – they took a solemn oath of unconditional obedience not only upon Hitler and by God, but they also oathened the oath. As easy as it may seem to say that after Hitler an oath has become impossible, as difficult it is to decide whether any form of oath-taking has become completely superfluous for different reasons. In outlining a brief history of the oath from the early days of Mesopotamia to more recent days in modern times I do not intend to answer this question but merely address some problems and account for possible changes of its institution.

² P. Prodi, *Il sacramento del potere. Il giuramento politico nella storia costituzionale dell'Occidente*, Bologna 1992.

³ K. O. Freiherr von Aretin, “Der Eid auf Hitler,” *Politische Studien* 79 (1956), p. 1.

Thereby, I focus on the political dimension of the promissory oath and the phenomenon of the political oath itself.

Part I Towards an Anthropology of Oath-taking

Chapter 1

Prolegomena ad Iusiurandum

The important role that the oath once played in daily life from antiquity to early modern times, or even to more recent days, has survived in legal systems and procedures only. According to the *Oxford English Dictionary* the oath “is a solemn or formal appeal to God (or to a deity or something held in reverence or regard), in witness of the truth of a statement, or the binding character of a promise or undertaking.”¹ From a modern legalistic point of view the former is called *assertory oath* (*iusiurandum assertorium*), the latter *promissory oath* (*iusiurandum promissorium*). The assertory oath links the present with the past in as much as the oath-taker gives evidence of events that have or have not happened, while the promissory oath connects the present with the future in as much as the oath-taker promises to perform or not to perform certain acts in the future. In contemporary juridical contexts the former is taken in the main by witnesses in court procedure, the latter in the main by civil servants upon entering office. Accordingly, the former is often called the *witness oath*, the latter the *oath of office*.

This distinction is not exactly a definition of what an oath is but rather a description of how we talk about oaths. Nevertheless, by dwelling on various aspects of oath-taking it serves as an excellent starting point for answering the question of what an oath is and what

¹ “Oath,” *The Oxford English Dictionary*, 20 vols., Oxford 1989, vol. X, p. 631.

made the oath such an important feature in antiquity, for two reasons: first of all, the distinction has been commonly accepted, as Rudolf Hirzel pointed out some hundred years ago in the last comprehensive monograph on Greek oaths:

“So hat ein längeres Nachdenken auf die Unterscheidung des Schwurs in verschiedenen Arten geführt, je nachdem er sich auf Vergangenes oder auf Künftiges bezieht, in assertorische und promissorische Eide. Diese Unterscheidung ist wohl allgemein angenommen.”²

Secondly, this distinction has been used, with some variation in terminology, by legal scholars, legal historians, assyriologists, and classicists ever since Hirzel’s study,³ although its correctness has never been demonstrated and although its historical development remains somewhat obscure.

Despite the fact that modern scholars tend to give Hirzel the credit for having invented this distinction,⁴ he himself neither made an attempt to establish the distinction nor was he inclined to accept it. On the contrary, Hirzel overcame this dualism by adding the oath of authenticity.⁵ The oath of authenticity or *Echtheitseid* is neither a civil servant’s promise for appropriate conduct in office nor the witness’s assertion concerning the truth of past events. It is a timeless statement by oath-helpers concerning the trustworthiness of the plaintiff’s or the defendant’s character in court trials. The institution of oath helpers does not play a major role in contemporary European juridical procedures. It had its historical

² R. Hirzel, *Der Eid: Ein Beitrag zu seiner Geschichte*, Leipzig 1902, p. 2.

³ M. San Nicolo, “Eid,” *RLA* 2 (1938), pp. 305-15; A. Falkenstein, *Die neusumerischen Gerichtsurkunden*, München 1956-57; P. Steinkeller, *Sale Documents of the Ur-III-period*, Stuttgart 1989; E. Drombradi, *Die Darstellung des Rechtsaustrags in den altbabylonischen Prozeßurkunden*, Stuttgart 1996.

⁴ J. Plescia, *Oath and Perjury in Ancient Greece*, Tallahassee 1970, p. 13; R. J. Bonner and G. Smith, *The Administration of Justice from Homer to Aristotle*, 2 vols., Chicago 1930-38, vol. 2, p. 146 fn 1.

⁵ R. Hirzel, *Der Eid*, p. 6.

significance in court trials of the middle ages from where it was projected into ancient Greek court trials by modern scholars.⁶

In short: Hirzel cannot be given the authority for having created the distinction of assertory and promissory oaths that classicists and assyriologists tend to attribute to him. It may be noted as an item of scholarly curiosity that the entire discussion on oaths by modern scholars in classics and assyriology is either based on an assumption that has never been proven or on an authority that cannot be taken as an authority proper. As a consequence, important debates within the history of oath-taking as well as important reflections on them have simply been forgotten. References to some useful discussions are buried in a footnote in the beginning of Hirzel's book. The failure to reconsider important implications has led to some odd forms of application, especially by assyriologists.⁷ Thus, the oft-claimed scholarly progress is sometimes counterbalanced by an intellectual regress.

Yet, the overall claim of Hirzel's book is a different one. Not necessarily due to theoretical considerations but due to seemingly historical facts, Hirzel claimed the primacy of the assertory oath over the promissory oath.⁸ According to Hirzel, the promissory oath developed out of the assertory oath, which originally was the great oath of the gods that

⁶ On oath-helpers, see: R. M. E. Meister, "Eideshelfer im griechischen Rechte," *Rh. Mus.* 63 (1908), pp. 559-86; R. J. Bonner and G. Smith, *The Administration of Justice from Homer to Aristotle*, 2 vols., Chicago 1930-38.

⁷ Concerning Neo-Sumerian trial records, A. Falkenstein, *Die neusumerischen Gerichtsurkunden*, München 1956-57, p. 64, talks about "die streng durchgeführte Scheidung zwischen promissorisches und assertorisches Eiden," which unfortunately was given up on some occasions. According to M. San Nicolò, "Eid," *RIA* 2 (1938), p. 305, the Akkadian verb *zakāru* is used for assertory oaths, the verb *tamū* for promissory oath. The document *CT VIII 12b* (= Schorr 260), which was known to him, clearly shows that San Nicolò was mistaken. In his Akkadian grammar W. von Soden based the grammatical category of the oath on a variation of that distinction: "Unterscheiden müssen wir den assertorischen Eid, die eidliche Aussage über Vergangenes und Gegenwärtiges, und den promissorisches Eid, die eidliche Bekräftigung von Versprechen." (§ 185) According to Hirzel the present is not connected with assertory oath but with the oath of authenticity. Concerning testimony in Hittite court procedure, H. H. Hoffner, "Legal and Social Institutions," *Civilizations of the Ancient Near East*, 4 vols., edited by J. M. Sasson, New York 1995, vol. 1, p. 560, seems to have gotten the distinction completely up-side-down when he characterizes testimony under oath as "promissory oath of truthfulness."

⁸ R. Hirzel, *Der Eid*, p. 4f.

was taken by Styx.⁹ In the following, I show that Hirzel was mistaken both in terms of historical facts and in terms of theory.

1. Some Ancient Reflections on Oath-taking

The first useful reflection about the oath does not come from a lawyer or legal scholar but from a philosopher: "Ὁρκος δ' ἐστὶ μετὰ θείας παραλήψεως φάσις ἀνπόδεικτος, the oath is an unproved statement supported by an appeal to the gods, as Aristotle said.¹⁰ Clement of Alexandria considered the oath an agreement or promise determined through a divine appeal, ὁρκος μὲν γάρ ἐστιν ὁμολογία καθοριστική μετὰ προσπαραλήψεως θείας.¹¹ Cicero defined the oath as *iusiurandum est affirmatio religiosa, deo teste*, as a religious affirmation with god as witness.¹² Already in antiquity the oath was considered as a special statement, utterance, or speech-act. Its characteristic feature was the appeal to a god, the μαρτυρία τοῦ θεοῦ.¹³ For polytheistic societies one may therefore speak of the μαρτυρία τῶν θεῶν, which leads into an investigation of explaining the function of each god as well as different constellation of gods invoked in an oath.

In the first book of the *Metaphysics*, Aristotle refers to those who made Oceanus and Tethys the parents of all further creation. With regard to primordial principles, he also refers to primeval water, which they call Styx, the great oath of the gods: καὶ τὸν ὄρκον τῶν

⁹ R. Hirzel, *Der Eid*, p. 176f.; cf. Hesiod, *Theogony* 383-403; Homer, *Iliad* II 755, XIV 271, XV 37.

¹⁰ Aristotle, *Rhetorica ad Alexandrum* XVII, 1432a33.

¹¹ Clemens Alexandrinus, *Stromata* VII. Cap. VIII. 50, 1 (861 P).

¹² Cicero, *De officiis* III 29.

¹³ Ammonius, *In Aristotelis de interpretatione comentaries*, f. 4 a: τοῦ μὲν ὁμοτικοῦ τῇ μαρτυρίᾳ τοῦ θεοῦ πλεονάσαντος τῆς ἀποφάνσεως, the assertion of the 'swearing' sentence has been needlessly lengthened by addition of the divinity as a witness. See also: C. Prantl, *Geschichte der Logik im Abendland*, 4 vols., Leipzig 1855-70, vol. I 443, 117; D. M. Schenkeveld, "Stoic and Peripatetic Kinds of Speech Act and the Distinction of Grammatical Moods," *Mnemosyne* 37 (1984), pp. 291-353, esp. 324ff.

θεῶν ὕδαρ, τὴν καλουμένην ὑπ' αὐτῶν Στύγα.¹⁴ He then continues to say that what is most ancient is the most honorable, therefore the oath is the most honorable, τιμιώτατον μὲν γὰρ τὸ πρεσβύτατον, ὅρκος δὲ τὸ τιμώτατόν ἐστιν.¹⁵ According the author of the epic Titanomachy, Chiron introduced the oath along with justice and sacrifices: εἷς τε δικαιοσύνην θνητῶν γένος ἤγαγε[ν] δείξας ὅρκους καὶ θυσίας ἱλαράς.¹⁶ In fourth century Athens, Lycurgus considered the oath as a bond that ties together democracy: τὸ συνέχον τὴν δημοκρατίαν ὅρκος ἐστι.¹⁷ And Xenophon gives us the information that oath-taking was not an unusual feature in ancient Greek societies: καὶ πανταχοῦ ἐν Ἑλλάδι νόμος κεῖται τοὺς πολίτας ὁμνύναι ὁμονόησειν, καὶ πανταχοῦ ὁμνύουσι τὸν ὅρκον τοῦτον,¹⁸ and everywhere in Greece there is a law that citizens swear to agree, and everywhere they swear that oath.

These few references to the oath show that none of the ancient authors reflected the distinction of assertory and promissory oaths. The oath is seen as a speech-act, as something honorable, as something religious, as something that was introduced along with rituals, finally as something political. Thus, these references give an idea that oath-taking in ancient Greece cannot necessarily be reduced to the formal distinction of assertory and promissory oaths. One also has to consider the social-political and anthropological context.

2. Grotius, Pufendorf, Kant, and Hobbes

The modern classification of oaths into assertory and promissory oaths is also not one that was provided by Roman law or commented on by Roman lawyers, as one may have assumed, or any law code before or after, but one that was introduced by natural law

¹⁴ Aristotle, *Metaphysics* I, 3, 983b32-33; cf. Hesiod, *Theogony* 383-403; Homer, *Iliad* II 755, XIV 271, XV 37.

¹⁵ Aristotle, *Metaphysics* I, 3, 983b33-984ba1.

¹⁶ Clemens Alexandrinus, *Stromata* I. Cap. XV. 73, 3 (360-361 P).

¹⁷ Lycurgus, *In Leocratem* § 79.

¹⁸ Xenophon, *Memorabilia* IV, 4, 16.

philosopher Hugo Grotius (1583-1645) within the context of whether it is licit to lie towards the enemy in war.¹⁹ The mere distinction was taken up by Samuel Pufendorf (1632-1694) and transferred to judicial procedures,²⁰ and theoretically overcome by Thomas Hobbes (1588-1679).²¹

In reflecting the modes of speech, i.e. the difference of assertory and promissory speech-acts, the natural-law philosopher Hugo Grotius invented the distinction of assertory and promissory oath. Faced with the problem of what kinds of lies and deceptions towards the enemy are allowed in war, he claimed that it is licit to lie to enemies in assertory speech but not in promissory speech:

*“Sciendum vero quae de falsiloquio diximus ad asserentem sermonem, et quidem talem qui nulli nisi publico hosti noceat, non ad promittem referenda. Nam ex promissione, ut jam modo dicere coepimus, jus speciale ac novum confertur ei cui fit promissio.”*²²

The difference of assertory and promissory speech is not one of truth or truthfulness, it is one that concerns natural law (Recht). According to Grotius it is just and therefore justified to lie towards the enemy in assertory speech. It is, however, neither just nor justified to lie

¹⁹ H. Grotius, *De jure belli et pacis*, Paris 1625, book III. Cited according to the reproduction of the edition of 1642, with a translation by Francis W. Kelsey, Oxford 1913-25.

²⁰ S. Pufendorf, *De jure naturae et gentium*, London 1672, IV, 2 § 1 (= *Gesammelte Schriften*, edited by F. Bohling, Berlin 1998, IV, cap. II § 2). Cited according to the reprint of the 1688 edition with translation by C. H. and W. A. Oldfather, Oxford 1934.

²¹ Th. Hobbes, *De cive*, London 1651, II 20 (= Th. Hobbes, *Opera Latina* II Sp. 179).

²² H. Grotius, *De jure belli et pacis* III, 1, 18. Transl.: “But it is to be observed that we have said of false speaking in assertory discourses, applied so that it can damage none except the public enemy, is not referred to promissory declarations. For from a promise, as we have partly said, a new and special right is conferred on him to whom the promise is made.” See also III 19, 1: “*Nam vero eloquendi obligatio est ex causa, quae bello fuit anterior, et bello tolli forte aliquatenus potest: at promissio per se jus novum confert.*” Transl.: “For the obligation of speaking the truth arises from a cause which was anterior to the war, and many perhaps, in some degree, be taken away by the war; but a promise of itself confers a new right.”

in promissory speech, since a promise confers a new and special right to someone whom the promise is made to: *promissio per se jus novum confert*.²³

Grotius then transferred the distinction of assertory and promissory speech to statements or utterances under oaths, “*de jureiurando [...] sive assertivum sit, sive promissivum*,”²⁴ without characterizing the distinction of assertory and promissory oath any further. He only added a general remark about the difference of oath and speech, i.e. the distinction of normal speech-acts or utterances and speech-acts or utterances under oath. Oaths differ from normal speech “*quia non cum homine tantum, sed et cum Deo res est, cui per jusjurandum obligamur*.”²⁵ Thus, the relation to God, the μαρτυρία τοῦ Θεοῦ, characterizes the difference between assertory and promissory speech on the one hand, and assertory and promissory oaths on the other. Unlike an ordinary speech-act or utterance, which does not bind the speaker, the speech-act or utterance under oath is binding. It is the relation to God, the μαρτυρία τοῦ Θεοῦ, that makes an oath binding.

In *De jure naturae et gentium*, first published in 1672, Samuel Pufendorf took up the formal distinction and turned it into a different direction: “*Videndum porro est de jureiurando, quo sermoni nostro, omnibusque actibus, qui sermone concipiuntur, insigne accedere firmamentum judicatur*.”²⁶ The oath is considered to add certainty to speech, because “*est autem jusjurandum assertio religiosa, qua divinae misericordiae renunciamus, aut divinam poenam in nos deposcimus, nisi verum dicamus*.”²⁷ As a religious confirmation that calls down upon us divine punishment, if we do not say the

²³ H. Grotius, *De jure belli et pacis* III, 19, 1.

²⁴ H. Grotius, *De jure belli et pacis* III, 1, 19.

²⁵ H. Grotius, *De jure belli et pacis* III, 1, 19. Transl.: “Since in these, we have to do, not with men only, but with God also, and are bound by our oath to him.”

²⁶ S. Pufendorf, *De jure naturae et gentium* IV, 2 § 1 (= *Gesammelte Schriften* IV, cap. II § 2). Transl.: “We must now consider the nature of an oath, something that is looked upon as adding great force to our speech and all acts that are framed upon speech.”

²⁷ S. Pufendorf, *De jure naturae et gentium* IV, 2 § 2. Transl.: “An oath is a religious declaration, whereby we renounce our claim upon God’s pity, or call down his punishment upon us if we do not speak the truth.”

truth, the oath can be considered either a promise or a path towards reaching a decision in court: “*Possunt, & solent juramenta duplici potissimum fine adhiberi, ut vel aliquid singulari cum religione promittatur, vel via aperiatur ad decidendum aliquod factum illiquidem, & quod alia ratione commodius demonstrari nequit.*”²⁸ The path towards reaching a decision in court refers to Aristotle’s remark that an oath is a statement that cannot be proven otherwise.²⁹ It is used in court procedures as a means of giving evidence in order to enable the judge to reach a verdict and conclude the case. In addition, the judge is bound by an oath, “*prout jus & aequum suggesterit,*” that he will make his decision according to law and equity. And here, Pufendorf makes a slight, nevertheless important difference between the two forms of oath-taking. The oath of the judge is not an assertion but a promise with regard to a just verdict and therefore his oath a promissory oath: “*Nequeveroquod a iudicibus praestatur juramentum, assertorium est, sed promissorium.*”³⁰ Finally, Pufendorf distinguishes the oath of judges from the oath of litigants that is given as evidence to the court of justice. He concludes with the following distinction: “*Prioris igitur generis juramenta possimus vocare promissa, posterius assertoria.*”³¹

Kant as well makes the distinction between assertory and promissory oaths. To my knowledge, he is the first to combine it with the modern equation of assertory oath and juridical oath on the one hand as well as the promissory oath and oath of office on the other:

²⁸ S. Pufendorf, *De jure naturae et gentium* IV, 2 § 18. Transl.: “Oaths may be, and usually are, taken with two ends in view: Either to make a promise with a special religious sanction, or to open the way to a decision on some point which is still not clear, and cannot be decided more conveniently in any other way.”

²⁹ Aristotle, *Rhetorica ad Alexandrum* XVII, 1432a33.

³⁰ S. Pufendorf, *De jure naturae et gentium* IV, 2 § 18. Transl.: “The oath taken by judges is not assertory but promissory.”

³¹ S. Pufendorf, *De jure naturae et gentium* IV, 2 § 18. Transl.: “Therefore, of the two divisions of oaths mentioned above, we can call the former promissory, the latter assertory.”

“Wenn die Amtseide, welche gewöhnlich promissorisch sind, daß man nämlich den ernstlichen Vorsatz habe, sein Amt pflichtmäßig zu verwalten in assertorische umwandeln würde, daß nämlich der Beamte etwa zu Ende eines Jahres (oder mehrerer) verbunden wäre, die Treue seiner Amtsführung während desselben zu beschwören: so würde dieses teils das Gewissen mehr in Bewegung bringen, als der Versprechungseid ...”³²

Kant, who did not seem to believe in the institution of the promissory oath or oath of office, suggested, with his own form of irony, that they should be transformed into assertory oaths. Such transformation would establish better guarantees by officials. Unlike breaking an oath of office, which can always be excused by unforeseen events, the threat of perjury under an assertory oath would trouble one’s mind more than breaking a promissory oath.

In the history of ideas, only Thomas Hobbes observed that the assertory oath has to be reduced to the promissory oath:

“Neque obstat, quod jusjurandum non solum promissorium, sed aliquando affirmatorium dici posit: nam qui affirmationem juramento confirmat, permittet se vera respondere.”³³

Thus, a more proper definition of the oath would be the following: The oath is a promise to affirm the truth of a statement, or to promise proper conduct concerning a future undertaking in form of an appeal to a deity, a god, or a constellation of gods as witness(es) or avenger(s) of that promise.

Despite the fact that the assertory oath can be reduced to the promissory oath, the classification of oaths into assertory and promissory oaths provides a clear yardstick according to which ancient texts and documents can be classified and analyzed. In social-legal terms the distinction of assertory and promissory oath can be considered as distinction

³² I. Kant, *Metaphysik der Sitten*, Königsberg 1797, § 40 “Von Erwerbung der Sicherheit durch Eidesablegung” (= *Werkausgabe* Band VIII, p. 421f.).

³³ Th. Hobbes, *De cive* II 20 (= Th. Hobbes, *Opera Latina* II Sp. 179).

between the judicial or juridical oath on the one hand, and the extra-judicial or extra-juridical oath on the other. The assertory or juridical oath is the oath sworn by witnesses in modern courts of justice. As a means of evidence in court procedure, it helps the judge to reach a verdict. The promissory or extra-juridical oath is a political promise sworn by civil servants. It appears as an oath of fealty, loyalty, or allegiance upon the sovereign, the nation or the constitution, and as a coronation oath of queens and kings.

I proceed by introducing some modern relics of oath-taking before discussing the ancient material, for two reasons: First of all, in order to ‘deconstruct’ some modern ideas, secondly, in order to create the space in which oath-taking in antiquity can be reconstructed.

3. The Assertory Oath

The assertory oath is the oath taken in courts of justice. In its modern legal context of court procedure its formula runs as follows: “I do solemnly swear that the testimony I am about to give will be the truth, the whole truth, and nothing but the truth. So help me God.”³⁴ By swearing an oath in court a person is obliged to corroborate certain facts and to give true or truthful testimony of certain events. True or truthful testimony in court is given through a solemn appeal to God in witness of that truth. An oath taken in Western courts is – or, until recent times, at least, it has been – accompanied by touching a sacred object such as the bible. In different cultures, however, different sacred objects were used at different times:

³⁴ Ch. Ford, *On Oaths: A Handbook for the Use of Commissioners for Oaths in the Supreme Court of Judicature (in England), containing special forms of Jurats and Oaths, Directions and Forms for the Guidance of Solicitors seeking to be appointed Commissioners*. London: Law Times Office 1876. (²1877, ³1879, ⁵1889, ⁷1892, ⁸1903). F. A. Stringer, *Oaths and Affirmations in Great Britain and England: Being a Collection of Statutes, Cases and Forms, with Notes and Practical Directions for the Use of Commissioners of Oaths, and of all Courts of Civil Procedure and Offices attached thereto*. London: Stevens and Sons ²1893. (³1910, ⁴1928).

scepters, weapons, armor, emblems, clothing, stones, inscribed steles, or teeth. A false statement under (assertory) oath is perjury. In most contemporary legal systems perjury is considered a severe crime that demands severe punishment.

The assertory oath is taken during juridical procedures in courts of justice. Therefore, it is also called a *judicial* or *juridical oath*. The history of the assertory or juridical oath is closely connected with – what legal scholars call – the law of evidence, i.e. evidence that has to be brought forward to the court of justice in order to enable the judge to reach a verdict. As a form of bringing evidence to a case, the assertory oath is sometimes called an *evidentiary oath*.

In early medieval German law the most important means of evidence brought to a case were oath and ordeal. The accused could purify himself by taking an oath. Thus, the defendant's oath itself, not the assertion under oath, was the means of evidence upon which the judge reached a verdict and concluded the case. Such an oath is called a *purgatory oath* or an *exculpatory oath*. The court of justice only proved the form of the oath not its content. Stuttering, for example, made the oath invalid. As a means of evidence the oath was purely formal, its evidential force, however, absolute. In a material sense the oath was considered to be a conditioned self cursing or a pledge, i.e. the invocation of a supernatural power that brings vengeance and punishment upon the oath-taker in case of perjury.

Different legal systems at different times required not only witnesses or defendants be sworn, but also plaintiffs as well as judges or oath helpers. The oath of plaintiffs may also be called *declaratory oath*, that of judges a *judicial oath*, that of oath helpers an *oath of authenticity* ("Echtheitseid").³⁵ It is neither an assertory oath nor a promissory oath. Oath-

³⁵ R. Hirzel, *Der Eid*, p. 6; R. J. Bonner and G. Smith, *The Administration of Justice*, 2 vols., Chicago 1930-38, vol.1, pp. 145-191.

helpers simply give a declaration concerning the trustworthy character of the plaintiff or defendant. The judge's oath can be considered either as an decisive means of evidence brought to the case or as a promise to reach a verdict that leads to justice. Accordingly, the former would be an assertory oath, the latter a promissory oath.

In most contemporary legal systems neither defendants nor plaintiffs are supposed to tender an oath in court but witnesses are. Therefore, the assertory oath is often called *witness oath*, an institution that traditionally is considered to go back to a time when Christianity had established itself as the religion of the Roman empire and legal procedures required the witness to be sworn.³⁶ Now, there is enough and convincing evidence to trace its origins back to the ancient Near East, at least to the Old Babylonian period, if not the Neo-Sumerian period.³⁷

If a witness is called to give evidence in contemporary court trials, his or her declaration may be corroborated by an oath in some instances only. In a strict sense, it is the declaration that counts as evidence, not the oath. The oath by which a declaration is corroborated is supposed to add something that no modern scholar has so far been able to explain sufficiently. This may be partially due to the Christian tradition of oath-taking which was inherited by Western legal systems. So, what exactly does an oath add to a speech-act?

As I have remarked before, the oath formula for the assertory oath in legal court procedure of the early 20th century runs as follows: "I do solemnly swear that the testimony I am about to give will be the truth, the whole truth, and nothing but the truth. So help me God." By swearing an oath in court a person is obliged to give true or truthful testimony.

³⁶ *Codex Theodosianus* XI, 39, 3; *Codex Justiniani* IV, 20, 9.

³⁷ A. Falkenstein, *Die neusumerischen Gerichtsurkunden*, München 1956-57; P. Steinkeller, *Sale Documents of the Ur-III-period*, Stuttgart 1989; E. Dombradi, *Die Darstellung des Rechtsaustrags in den altbabylonischen Prozeßurkunden*, 2 vols., Stuttgart 1996.

True or truthful testimony in court was given through a solemn appeal to God in witness of that truth. In societies dominated by Christianity, however, God was not only a witness of a true or truthful statement under oath but also witness of a much broader truth. In saying “So help me God” the oath taker asked for the assistance of God in order to be able to bring about a true or truthful declaration. Assistance to bring about a true or truthful statement is granted only to a faithful Christian. This has some implications: If, and only if, the oath-taker bears true religion, will God assist him in telling the truth. At the same time, God will witness the oath taker’s true religion. Thus, taking an oath in court was not only an examination of truth in testimony but also an examination in the oath-taker’s religion. This was the case from the medieval ages until early modern times or even to more recent days of the early 20th century.

Since the witness oath in its religious form was an important feature as a means of evidence in court procedure from the medieval ages to modernity, the aforementioned oath-formula in itself became unclear. It is sometimes not clear whether the actual declaration counts as evidence or the oath which is taken as a corroboration of one’s statement. The witness oath is characterized by two relations, which form a sort of paradox. The oath serves as a means of evidence in finding the truth in legal procedures and at the same time it refers to something that transcends positive law. With the process of secularization the oath not only lost its force as a means of evidence in legal procedures but also its means as a guarantee, due to a loss of the transcendental religious sphere.

Today, the declaration serves as a means of evidence in finding the truth, whereas the oath, i.e. the invocation of a god, serves as a corroboration of this statement and as a guarantee of its truthfulness. But what kind of guarantee does the invocation of a god add to a speech-act? Nothing that modern logic could sustain. Thus, the declaration or affirmation

is supported by something that is transcendent to positive law and therefore cannot be explained by positive law. Thus, the assertory oath in court procedure is a relic of an uncompleted transition from trial by god to the trial of reason that started with the age of enlightenment.³⁸ Although there is no convincing argument for its use in modern court trials, the oath remains part of the procedure. Logic and law are one thing, history and law another. Law and court procedures are more determined by historical traditions than by logical reckoning.³⁹ Therefore, it is not surprising that arguments concerning the significance of the assertory or juridical oath are full of grotesque opinions, irrational statements, and paradoxes. For example, non-Christians were not always eligible to take an oath, since an oath had to be taken in its Christian religious form. Unfortunately, such unenlightened and unconsidered opinions have influenced the scholarship on oath-taking in ancient Greece during the late 19th and early 20th century.

The misuse of oath-taking made some philosophers think about its relevance in court procedure. In modern times the religious form of the oath in court procedure has been questioned. Schopenhauer called the oath in court the metaphysical donkey-bridge for jurists.⁴⁰ He could call it a metaphysical donkey-bridge, since in German courts of justice at the time the oath was still taken in its religious form, despite a decay of religion. Schopenhauer correctly observed that, if religion is in decay, then the oath as an undeniable

³⁸ J. Kohler, *Lehrbuch der Rechtsphilosophie*, Berlin 1909, p. 175: "Ein solcher Ausläufer ist der Eid, der nichts anderes ist als eine Selbstverfluchung in der Erwartung, daß man dadurch den Fluch der Gottheit auf sich zieht, falls man im Unrecht ist. Diese Einrichtung kann sich länger erhalten, denn wenn man auch nicht mehr annimmt, daß der Gottheit Fluch durch Menschenwillen und Menschenallmacht in unseren Kreis gerückt werden kann, so steht doch der Glaube, daß man mit Anrufen der Gottheit sich selbst unter ihre strafende Allmacht begibt, auch dem modernen Menschen nicht fern." (engl. transl. as J. Kohler, *Philosophy of Law* 1921, p. 254).

³⁹ R. von Hippel, "Zeugeneid – Beweismittel – Beweisrecht," *Festgabe für Ernst von Hippel*, 2 vols., Bonn 1965, vol. 1, p. 119.

⁴⁰ "Der Eid ist die metaphysische Eselsbrücke der Juristen: sie sollten sie so selten als möglich betreten." A. Schopenhauer, *Parerga und Paralipomena*, Berlin 1856, Kap. XV "Über Religion." Cited according to: A. Schopenhauer, *Gesammelte Werke*, 7 vols, herausgegeben von A. Hübscher, Wiesbaden 1946-50, vol. 6, Kap. XV, § 174, p. 375.

religious praxis will become meaningless.⁴¹ Therefore, he suggested to take over the non-religious oath-formula, *je le jurer*, which was introduced in France during the French Revolution, in order to connect it with the moral obligation to say the truth.

More than half a century before Schopenhauer, Kant considered any form of oath-taking a violation of basic human rights: “weil [...] im bürgerlichen Zustande ein Zwang zu Eidesleistungen der unverletzbaren menschlichen Freiheit zuwider ist.”⁴² Thus, any law-giving institution acts unjust, if it allows the court of justice or the judge to impose an oath on litigants or witnesses,⁴³ since oath-taking is based on superstition.⁴⁴ Kant’s remark started a counter-reaction that lasted throughout the 19th century.⁴⁵ Only towards the end of the 19th and early 20th century was the enlightening potential of Kant’s remarks reconsidered by leading jurists.⁴⁶ Unfortunately, this debate has never influenced scholarship in Classics, although Plato argued to abolish the witness oath almost two thousand years before Kant.

⁴¹ “Bei keiner Angelegenheit greift die Religion so unmittelbar und augenfällig in das praktische und materielle Leben ein, wie beim Eide. Es ist schlimm genug, daß dadurch Leben und Eigenthum des Einen von den metaphysischen Überzeugungen des Anderen abhängig gemacht werden. Wenn nun aber gar dereinst, wie doch zu besorgen steht, die Religionen sämmtlich in Verfall gerathen und aller Glaube aufhören sollte; wie wird es dann mit dem Eide stehn? – Daher ist es wohl der Mühe werth, zu untersuchen, ob es nicht eine moralische, von allem positiven Glauben unabhängige und doch auf deutliche Begriffe zu bringende Bedeutung des Eides gebe [. . .].” A. Schopenhauer, *Parerga und Paralipomena*, Kap. IX “Zur Rechtslehre und Politik,” § 133, p. 281.

⁴² I. Kant, *Die Metaphysik der Sitten*, Königsberg 1797, “Metaphysische Rechtslehre” § 40 “Von Erwerbung der Sicherheit durch Eidesablegung (Cautio iuratoria),” p. 153. (= I. Kant, *Werke in zwölf Bänden*, herausgegeben von W. Weischedel, Frankfurt 1968, vol. VIII, p. 421).

⁴³ I. Kant, *Die Metaphysik der Sitten*, Königsberg 1797, p. 153: “Die gesetzgebende Gewalt handelt aber im Grunde unrecht, diese Befugnis der richterlichen zu erteilen.” (= I. Kant, *Werkausgabe*, vol. VIII, p. 421).

⁴⁴ I. Kant, *Die Metaphysik der Sitten*, Königsberg 1797, p. 152: “Daß man hiebei nicht auf Moralität [. . .], sondern bloß auf einen blinden Aberglauben rechnete [. . .].” (= I. Kant, *Werkausgabe*, vol. VIII, p. 420).

⁴⁵ J. Chr. Schwab, *Bemerkungen über den kantischen Begriff vom gerichtlichen Eyd in der metaphysischen Rechtslehre*, Frankfurt-Leipzig 1797; *Noch etwas über den kantischen Begriff vom gerichtlichen Eyd*, Frankfurt-Leipzig 1797; *Sendschreiben an einen Recensenten in der Gothaischen gelehrten Zeitung über den gerichtlichen Eid*, Frankfurt-Leipzig 1800; *Zweites und kurzes Sendschreiben an einen Recensenten in der Gothaischen gelehrten Zeitung über den gerichtlichen Eid*, Frankfurt-Leipzig 1800.

⁴⁶ H. Strathmann, “Ist der gesetzliche Eid noch haltbar? Eine politisch-theologische Untersuchung.” *Festgabe für Theodor Zahn*, Leipzig 1928, pp. 55-103; K. Bahlmann, “Ist der Eid noch zeitgemäß?” *Anstoß und Ermutigung*, herausgegeben von H. Böll et al., Frankfurt 1974, pp. 403-429.

3.1. Oaths, Dispute Settlement, and Court Trials in Ancient Greece

According to Plato, Rhadamanthys introduced the litigant's oath in court procedure, διδούς γὰρ περὶ ἐκάστων τῶν ἀμφισβητουμένων ὅρκον τοῖς ἀμφισβητοῦσιν ἀπηλλάττετο ταχὺ καὶ ἀσφαλῶς,⁴⁷ for he administered an oath to the litigants regarding each matter in dispute, and thus secured a speedy and safe settlement. In Plato's times, however, men have fallen into disbelief of the gods. Therefore, Plato argues to change certain provisions for legal procedure:

ἐν γὰρ λήξεσι δικῶν τοὺς μετὰ νοῦ τιθεμένους νόμους ἐξαιρεῖν καὶ τοὺς ὅρκους τῶν ἀντιδικούντων ἐκατέρων, καὶ τὸν λαγχάνοντά τῷ τινὰ δίκην τὰ μὲν ἐγκλήματα γράφειν, ὅρκον δὲ μὴ ἐπομνύμαι, καὶ τὸν φεύγοντα κατὰ ταῦτά τήν ἄρνησιν γράψαντα παραδοῦναι τοῖς ἄρχουσιν ἀνώμοτον.⁴⁸

Concerning legal actions, laws that are made by reason should abolish oaths for litigants. Someone who is bringing an action against someone else ought to write down his charges, but not to swear an oath, and in like manner the defendant ought to write down his denial and hand it to the magistrate without swearing (an oath).

Unlike Schopenhauer, who argued for a non-religious oath-formula based on morals, but like Kant, who argued that any legal system that demands litigants or witnesses to take an oath does so without a reasonable basis, Plato argues that oath-taking in court procedure is not based on reason. In arguing to abolish the oath in court procedure, Plato preceded Kant by two millennia.

Although Aristotle observed, Ὁρκος δ' ἐστὶ μετὰ θείας παραλήψεως φάσις ἀναπόδεικτος,⁴⁹ that the oath is an unproved statement supported by an appeal to the gods, he did not argue against it. On the contrary, his remark can be elucidated against the backdrop

⁴⁷ Plato, *Leges* XII 948b9-c2.

⁴⁸ Plato, *Leges* XII 948d3-8.

⁴⁹ Aristotle, *Rhetorica ad Alexandrum* XVII, 1432a33.

of Athenian court procedure. In stressing the fact that the oath is an unproved statement, Aristotle's remark only implies that it cannot serve as decisive evidence in court trials. Aristotle distinguishes two kinds of proofs, guarantees, or even evidence (δύο τρόποι τῶν πίστευων): evidence in a strict sense and supplementary evidence. Evidence in a strict sense includes probabilities (εἰκότα), examples (παραδείγματα), and tokens (τεκμήρια); supplementary evidence involves witnesses (μάρτυρες) or evidence of witnesses (μαρτυρία), torture or evidence under torture (βάσανοι), and oaths or evidence under oath (ὄρκοι).⁵⁰ This leads to the conclusion that the assertory oath in Greek court procedure or early Greek dispute settlement is not necessarily a decisive means of evidence.⁵¹ This view has recently been challenged by G. Thür who claims that oaths by litigants were decisive.⁵²

References to reconstructing Greek dispute settlement and legal procedure as well as their historical developments are few: the dispute between Menelaos and Antilochos in Homer, the laws of Gortyn, Plato, Aristotle, and the Athenian orators. Yet, there is no agreement among legal scholars and historians as to how to evaluate the evidence. Did oaths by litigants settle disputes and legal procedure? Were oaths in dispute settlement and court procedure ever decisive?

3.1.1. Dispute Settlement between Menelaos and Antilochus

The dispute between Menelaos and Antilochos is the earliest example for a dispute settlement that involves an oath, at least the refusal to take it.⁵³ In a chariot race Menelaos

⁵⁰ Aristotle, *Rhetorica ad Alexandrum* VII, 1428a17ff.

⁵¹ J. H. Lipsius, *Das attische Recht und Rechtsverfahren*, Leipzig 1905-15, pp. 895-901; K. Latte, *Heiliges Recht*, Tübingen 1920, pp. 5-47; D. C. Mirhady, "The Oath-Challenge at Athens," *CQ* 41 (1991), pp. 78-83; M. Gagarin, "Oaths and Oath-Challenge in Greek Law, *Symposion 1995*, Köln 1997, pp. 125-34.

⁵² G. Thür, "Oaths and Dispute in Ancient Greek Law," *Greek Law and its Political Setting*, edited by L. Foxhall and A. D. E. Lewis, Oxford 1996, pp. 57-72.

⁵³ Homer, *Iliad* XXIII 566ff., especially 573-85.

lost second place to Antilochus due to a trick not due the velocity of his horses, οὐ τι τάχει γε, παραφθάμενος.⁵⁴ Considering Antilochos's hazardous maneuver as not complying with the rules of a chariot race, Menelaos already challenges Antilochos during the race that he will not get the prize without taking an oath, ἀλλ' οὐ μὰν οὐδ' ὥς ἄτερ ὅρκου οἴσῃ ἄεθλον.⁵⁵ After the competition, Menelaos accuses Antilochos for having violated his nobility or virtue and for having harmed his horses, ἥσυχνας μὲν ἐμήν ἀρετήν, βλάψας δέ μοι ἵππους.⁵⁶ Thus, Menelaos claims the second prize, a mare, which has been given to Antilochos. Taking a scepter in his hands, χερσὶ σκῆπτρον ἔθηκε,⁵⁷ he addresses the Achaean rulers:

573 ἀλλ' ἄγετ', Ἀργείων ἡγήτορες ἠδὲ μέδοντες,
 ἐς μέσον ἀμφοτέροισι δικάσατε, μηδ' ἐπ' ἀρωγῇ,
 575 μὴ ποτέ τις εἴπησιν Ἀχαιῶν χαλκοκιτῶνων·
 'Ἀντίλοχον ψεύδεσσι βιησάμενος Μενέλαος
 οἴχεται ἵππον ἄγων, ὅτι οἱ πολὺ χείρονες ἦσαν
 ἵπποι, αὐτὸς δὲ κρείσσων ἀρετῇ τε βίῃ τε.
 εἰ δ' ἄγ' ἐγὼν αὐτὸς δικάσω, καί μ' οὐ τινά φημι
 580 ἄλλον ἐπιπλήξειν Δαναῶν· ἰθεῖα γὰρ ἔσται.
 Ἀντίλοχ', εἰ δ' ἄγε δεῦρο, διοτρεφές, ἧ δέμις ἐστί,
 στάς ἵππων προπάροιθε καὶ ἄρματος, αὐτὰρ ἰμάσθλην
 χερσὶν ἔχε ῥαδινήν, ἧ περ τὸ πρόσθεν ἔλαυνες,
 ἵππων ἀψάμενος γαιήοχον ἐννοσίγαιον
 585 ὄμνυθι μὴ μὲν ἐκὼν τὸ ἐμὸν δόλω ἄρμα πεδῆσαι.

573 Listen to me, leaders and rulers of the Argives,
 settle the dispute between the two of us, not being in anyone's favor,
 575 so that none of the brazen chiton-wearing Achaeans could say:
 'Menelaos overpowered Antilochos with lies,
 ruined him by taking away the horse, although his horses were much worse,
 but he himself stronger in virtue and strength.'
 But I will settle the dispute by myself, and none of the Danaans should say
 580 that I strike at the other, since it will be straight forward.
 'Divine Antilochos, come here, as it is custom,
 standing in front of the horses and the chariot, and holding the tender whip
 in your hands, which you stroke before, and
 touching the horses swear (an oath) by the earth-upholding Earth-shaker

⁵⁴ Homer, *Iliad* XXIII 515.

⁵⁵ Homer, *Iliad* XXIII 441.

⁵⁶ Homer, *Iliad* XXIII 571.

⁵⁷ Homer, *Iliad* XXIII 568.

585 that you did not purposely impede my chariot by a trick.

First, Menelaos asks the other Achaean leaders to settle the dispute, *δικάσσετε*, v. 574. But suddenly, he seems to change his mind and proposes a different solution. He suggests settling the case himself, *αὐτὸς δικάσω*, by asking Antilochus to swear (an oath) that he did not intentionally impede him, *ἄμνηθι μὴ μὲν ἐκὼν τὸ ἐμὸν δόλῳ ἄρμα πεδῆσαι*. The two suggested ways of settling the dispute, or the double *δικάζειν*,⁵⁸ has confused scholars as to what kind of dispute settlement we are dealing with. Is it a formal appeal to a court, or is it a private way of settling disputes?

Being accused of a trick and asked to take an oath, Antilochus avoids addressing these points, but refers to Menelaos's greater age and virtue and proposes to give Menelaos the prize, *ἵππον δέ τοι αὐτὸς δώσω, τὴν ἀρόμην*.⁵⁹ Antilochos nevertheless claims that the mare belongs to him, but he prefers to act the way he does in order not to alienate Menelaos's heart and not to sin against the gods, *δοῦναι βουλοίμην ἢ σοί γε, . . ., ἐκ θυμοῦ πεσέειν καὶ δαίμοσιν εἶναι ἀλιτρός*.⁶⁰ Thus, Antilochos appeases Menelaos's heart rather than taking an oath by Poseidon.

Gagarin interprets the scene as a contest between 'carefully worded speeches,' which give way to settle the dispute by compromise:

"Thus, Menelaus' proposal moves the issue closer to settlement, but the dispute is not settled by an oath and it would not necessarily be settled if Antilochus accepted the oath, as he could legitimately do, and denied that his strategy was a *dolos*."⁶¹

⁵⁸ G. Thür, "Zum *δικάζειν* bei Homer," ZSS 87 (1970), pp. 426-44.

⁵⁹ Homer, *Iliad* XXIII 591-2.

⁶⁰ Homer, *Iliad* XXIII 593-5.

⁶¹ M. Gagarin, "Oaths and Oath-Challenge in Greek Law," p. 131.

Unlike Gagarin, who does not think that the oath could have been decisive, Thür argues that the formulation of an oath by Menelaos is a decisive means of evidence for settling the dispute:

“The *dikazein* of Menelaos is irrefutable: he formulates an oath, which everybody would regard as the correct way to settle a dispute about a chariot race. [. . .] Perjury would be dangerous, Poseidon would not allow a perjurer further success in chariot racing.”⁶²

Thür and Gagarin both agree that Menelaos formulates an oath in order to challenge Antilochos. They both observe that Antilochos refuses to take an oath. Thür interprets the fact of Menelaos formulating an oath and Antilochos refusing it as decisive for settling the dispute. Therefore, Thür takes the oath as a decisive means of evidence to settle any dispute. In contrast, Gagarin interprets the fact of Menelaos formulating an oath and Antilochos refusing it as settling the dispute by compromise. According to Gagarin an oath also would not have been a decisive means of evidence, if the the Achaean rulers had settled the case, as Menelaos first suggested:

“Moreover, there is no reason to think that if one of the other leaders had proposed a settlement, as Menelaos first asked, this would take the form of an oath. Oaths are not included in any other proposed settlement in Homer; they are just one of the available means of evidence for resolving disputes.”⁶³

Unlike Gagarin, who thinks that for the Achaean rulers oaths would have been just one available means of evidence to settle a dispute, Thür, again, argues that oaths would have been decisive, if Menelaos had appealed to the Achaean rulers: “An oath according to the

⁶² G. Thür, “Oaths and Dispute Settlement,” p. 65.

⁶³ M. Gagarin, “Oaths and Oath-Challenge in Greek Law,” p. 131-32.

dikazein sworn by one of the litigants would have settled the dispute. The best parallel is the *dikazein*, judgement, in the law code of Gortyn.”⁶⁴

3.1.2 The Oath of Litigants in the Laws of Gortyn

The laws of Gortyn contain some provisions according to which the oath of one of the litigants settled the case. There are a few examples in which litigants take an oath that can be considered decisive oaths, either an exculpatory oath by the defendant or a declaratory oath by the plaintiff.

The first example is an exculpatory or purgatory oath of a woman in a divorce case. The laws of Gortyn allow her to take back all the property which brought into the marriage. But if the husband claims that she had taken more than that and denies this fact, the judge has to impose an oath on her:

ὣν δὲ κ' ἐκασαννέσεται δικάσαι τὰν γυναῖκ' ἀπομόσαι τὰν Ἄρτεμιν παρ Ἀμυκλαῖον παρ τὰν Τοκσίαν.

“But as regards things which she denies (the judge) shall decree that the woman take an oath of denial by Artemis, before the statue of the Archeress in the Amyklaian temple.”⁶⁵

Accused of having taking property from her husband, the wife has to take an oath of denial (*ἀπομόσαι*) in front of the statue of Artemis. Oath-taking by Artemis does not take place in court, but probably after the meeting in her temple. In taking an oath by Artemis the woman will purify herself from all accusations. Thus, in this case the defendant's oath is decisive and settles the case.

⁶⁴ G. Thür, “Oaths and Dispute Settlement,” p. 66, where refers to *Laws of Gortyn*, col. III 5-9, which I discuss in the next paragraph 3.1.2.

⁶⁵ *Law Code of Gortyn*, edited by R. F. Willetts, Berlin 1967, col. III 5-9 (= IC IV 72.2.5-9).

Another example of a defendant's purgatory or exculpatory oath concerns the case in which someone who was entrusted with someone else's slave is being accused of responsibility for the disappearance of the slave. The defendant has to swear that he was not involved in the slave's disappearance or he has to pay the value of the slave.⁶⁶

A third example concerns the oath taken by the plaintiff in a case of adultery. If someone is accused of adultery, after he has been caught on the scene, the captor and some witnesses have to swear that they seized the man in adultery and not by a trick:

αἱ δέ κα πονεῖσι δολόσασθαι, ὁμόσαι τὸν ἐλόντα τῷ πεντεκονταστατέρῳ καὶ πλίονος πέντον αὐτὸν ἦν αὐτῷ φέκαστον ἐπαριόμενον, ... αὐτὸν μοικίοντ' ἐλέν, δολόσασθαι.

"But if anyone should declare that he has been taken by subterfuge, the captor is to swear, in a case involving fifty staters or more, with four others, each calling down solemn curses upon himself, [. . .] that he took him in adultery and not by subterfuge."⁶⁷

If the captor, i.e. the plaintiff and betrayed husband, is to swear (*ὁμόσαι*) by calling curses upon himself (*ἐπαριόμενον*), his oath in connection with those of witnesses has to be regarded as a decisive means of evidence that settles the case.

Another example for an oath of a plaintiff concerns the case in which a man who has died owed money to someone else:

ἥ δέ κ' ἀποφείποντι, δικαδδέτῳ ὁμόσαντα αὐτὸν καὶ τὸν μαίτυραν νικῆν τὸ ἀπλόον.

"And after they have testified, let (the judge) decree that (the plaintiff), when he has taken an oath himself along with the witnesses, have judgment for the simple amount."⁶⁸

⁶⁶ IC IV 47.16-26: αἱ δέ κ' ἀπόληται ὁ κατακείμενος, δικασάτῳ ὁμόσαι τὸν καταθέμενον μῆτ' αὐτὸν αἴτιον ἔμην μῆτε σὺν ἄλλῳ, μῆτ' ἐπ' ἄλλῳ φισάμην. αἱ δέ κ' ἀποθάνῃ, δεικσάτῳ ἀντὶ μαιτύρων δυῶν. αἱ δέ κα μὴ ὁμόσει ἔι ἔγραται ἢ μὴ δείξει, τὰν ἀπλόον τιμὰν καταστασεῖ.

⁶⁷ Law Code of Gortyn, col. II 36-45 (= IC IV 72.2.36-45).

⁶⁸ Law Code of Gortyn, col. IX 37-40 (= IC IV 72.9.37-40).

After the heirs have testified the judge will settle the case by asking the plaintiff and his witnesses to swear that money was owed to the plaintiff. If they swear, they will get it back. Thus, oaths settle the dispute but not the oath of the plaintiff alone, only in connection with the oath of his witnesses.

A last example for decisive oaths in settling a case concerns a dispute over land. Both litigants are asked to swear along with their supporters: ὁμνύμε[ν δὲ ἦ] μὰν τούτῳ μέν ἐστι ἀβλοπίαι δικαίῳς πρὶν μὲν λέγειν τὰν δίκαν, ὧ δ' ἐνεκύρακσαν μὲ ἔμεν· νικῆν δ' ὅτερά κ' οἱ π[λίες ὁ]μόσονται.⁶⁹ The case is decided in favor of that litigant who has the greater number of people swearing for him.

Unlike the Homeric poems, which do not give enough evidence to maintain that oaths were decisive in settling disputes, the laws of Gortyn entail some provisions according to which the judge can direct a decisive oath on a litigant specified in the laws.

3.1.3. The Oath of Litigants in Classical Athenian Court Procedure

In classical Athens both litigants met in the *anakrasis*, a preliminary hearing before the magistrate. It either served to settle the dispute or to prepare the actual trial at the *dikasterion*. In the *anakrasis* both litigants were obliged to question one another.⁷⁰ Connected with it is the *proklesis* by which the litigants demanded evidence from each other before the actual court trial took place. By *proklesis* one could question one's opponent about certain facts and ask him to swear an oath. These preliminary oaths, however, do not seem to have influenced the verdict.

⁶⁹ IC IV 81.11-16 (cf. IC IV 72.9.54).

⁷⁰ A. R. W. Harrison, *The Laws of Athens*, 2 vols., Oxford 1968-71, vol. 2, pp. 94-105; G. Thür, *Beweisführung vor den Schiedsgerichtshöfen Athens: Die Proklesis zur Basanos*, Wien 1977, pp. 154-58.

A similar but probably different procedure in which litigants took an oath was the oath challenge in classical Athens, a procedure in front of an arbitrator by which one of the litigants either offered to swear an oath or demanded his opponent to take an oath. According to Mirhady, it took place “at the arbitration stage of litigation” and “is meant to effect ‘out-of-court’ means of settlement,” thus “a method of ending a dispute alternative to a contest before the *dikasterion*.”⁷¹ The litigant who made an oath challenge did not expect his opponent to accept it. He simply used the oath challenge as an argument in court. He formulates an oath that his opponent is unlikely to accept. It is a rhetoric device phrased in such a way that the opponent had to refuse it. Upon refusal the opponent could be accused of not being interested in the truth. In Greek literature, there is only one example in which an oath challenge was accepted.⁷²

3.1.4. The Oath in Mesopotamian Court Procedure

Concerning oath-taking procedures in Mesopotamia, one can roughly say the following: Legal documents reveal that assertory oaths were taken in court procedures not only by witnesses but also by defendants and in some instances by plaintiffs. According to different law codes, however, oath taking was prescribed in the main for defendants, although in one instance it is mentioned for witnesses as well.⁷³ In the codex Hammurabi an assertory oath

⁷¹ D. C. Mirhady, “The Oath-Challenge at Athens,” *CQ* 41 (1991), p. 79. Mirhady nor any other legal historian has ever given an account on the relationship of oath-challenge and the *proklesis* in the *anakrisis*.

⁷² Demosthenes 39.3-4; 40.10-11.

⁷³ *Laws of Ur-Namma* § 29 (B iv 41-46) mentions the possibility of witnesses taking an oath:

“tukum-bi lú lú ki-inim-ma-še ib-ta-e nam-erím-ta e-gur ní-g-di-ba en-na-gál-la íb-su-su

If a man presents himself as a witness but refuses to take the oath, he shall make compensation of whatever was the object of the case.” M. T. Roth, *Law Collections from Mesopotamia and Asia Minor*, Atlanta 1995, p. 20.

Laws of Xa (rev i’ 1’-4’) describes an oath either by the plaintiff or the defendant:

“tukum-bi lú-ù é lù [...] é-a-ni x[...] lugal še-ke₄ nam-erím [...] kud] lugal é-e-ke₄ še ní-gu NE x[...]

If a man [...] the house of another man, his house [...] the owner of the grain shall swear the

was prescribed for the defendant who has been accused for crimes such as manslaughter or adultery:

šumma aššat awīlim mussa ubbiršima itti zikarim šanīm ina utūlim la iššabit, nīš ilim izakkarma ana bītiša itâr.

“If the wife of a husband has been accused by her husband but she has not been caught copulating with another male, she shall swear by the life of the god and return to her house.”⁷⁴

The defendant’s assertory oath is seen in its exculpatory force. The exculpatory force of the assertory oath is considered to bring enough evidence to the case in order to purify the defendant from the accusation that was brought forward.

Trial documents actually show that the defendant’s exculpatory oath was a common practice in court procedure. Not only defendants but also witnesses and in some instances the plaintiff had to give evidence under oath in front of a divine symbol in the temple, in most cases in front of an emblem of the city’s principal deity. In addition to court procedures, assertory oaths have also been found in connection with business contracts. Among business partners, who had established a joint venture, it was a common procedure to purify each other in the temple and to assert under oath that they did not betray each other, or if they were to go out of business, to divide up money, slaves, and estate under

assertory oath, and the owner of the house [shall ...] the grain.” M. T. Roth, *Law Collections from Mesopotamia*, p. 37.

In proper legal terms, however, one does not say to swear an assertory oath but simply to swear an oath or to give evidence under oath.

The Laws of Eshnunna § 22 mention an oath by the plaintiff or the defendant:

“šumma awīlum eli awīlim mimma la išūma amat awīlim itteqe bēl amtim nīš ilim i[zakkar] mimma elija la tīšû kaspam mala (šim?) amtim išaqqal.

If a man has no claim against another man but he nonetheless takes the man’s slave woman as a distress, the owner of the slave woman shall swear an oath by the god: ‘You have no claim against me’; he (the distrainer) shall weigh and deliver silver as much as is the value of the slave woman.”

M. T. Roth, *Law Collections from Mesopotamia*, p. 62. See also § 37.

⁷⁴ *Codex Hammurabi* § 131. For the oath of the defendant who has been accused of manslaughter, see §§ 206 and 207. There are other oaths prescribed against accusations that do not match modern legal categories: the oath of a man who seized a fugative slave (§ 20), the oath of the barber who cut the hair of a slave (§ 227), and the oath of a man whose rented ox died (§ 249).

oath.⁷⁵ Again, the exculpatory force of the assertory oath was sufficient to settle legal matters.

Many legal documents such as trial records and sale contracts also entail promissory oaths. On the formulary of these legal documents, the promissory oath was closely connected with the no contest clause or the clause of renunciation (Verzichtsklausel).⁷⁶ The sworn no contest clause concluded a contract or settled a court trial. In the no contest clause, both parties – in court procedure sometimes only the defeated party – promised under oath that they will renounce or renege from all further claims against the conclusion of a contract or the settlement of a legal case.

Following San Nicolò's observation that the no contest clause has its origin in court procedures and not in contract law,⁷⁷ it seems to be preferable to configure the material around Old Babylonian trial documents. Old Babylonian trial documents serve as a backdrop both for Old Babylonian contracts as well as Neo Sumerian, Middle Babylonian, and Assyrian contracts and trial documents.

Trial records of Old Babylonian court procedure have often preserved assertory oaths as well as promissory oaths in the same document. Assertory oaths were taken by witnesses, defendants, and plaintiffs as a means of evidence brought to a case, whereas promissory oaths by defendants and plaintiffs concluded the trial. Concerning the latter, one party or both parties promised under oath to renounce or renege from any further claims towards the judgment.

⁷⁵ M. Schorr, *Urkunden des altbabylonischen Zivil- und Prozessrechts*, Leipzig 1913, no 169-174 and 282-287 [in the following abbreviated as: *Schorr* plus number of document].

⁷⁶ J. Oelsner, "Klagevezicht," *RLA* 6 (1980-83), pp. 6-15.

⁷⁷ "Auch scheint der Ausgangspunkt der Verzichtsklausel überhaupt nicht im Vertragsrecht, sondern im Prozesse gelegen zu sein. Von den Prozeßurkunden ist sie dann auf die rechtsgeschäftlichen Verfügungen, darunter auch die Kauf- und Tauschverträge übertragen worden." M. San Nicolò, *Die Schlussklauseln der altbabylonischen Kauf- und Tauschverträge*, pp. 39f.

Before a case would be settled the judge demanded evidence. The Old Babylonian court procedure knew several ways of presenting evidence to the case: documents such as tablets containing earlier contracts or trial records, inspection of facilities in question such as measuring a field, declarations under oath by witnesses, defendants, or plaintiffs. In general the judge would first look at documents presented to the court of justice. If documents entailed enough evidence to arrive at a conclusion, the judge would settle the case without further evidence being brought to the case. However, if documents did not provide enough evidence to settle the case, then the judge would ask witnesses to give further evidence. Witnesses were handed over to the city god, i.e. to the emblem or shrine of the deity, in order to make a statement under oath. If the witness had not given conclusive evidence, or if he had only given negative evidence or even refused to take the oath, then the defendant would be handed over for the oath by the city god. In most instances the exculpatory oath of the defendant was sufficient to reach a verdict. The verdict, then, was sworn by both parties or the defeated party alone. Under oath one party or both parties promised that they will renounce from any further claims against the each other. Thus, the promissory oath not only settled the case but also entailed provisions that made it difficult to challenge it in the future.

Unfortunately, there is not one document that equally well contains all features of oath taking in court procedures. Some documents stress the provision of evidence by witnesses, others the evidence given by the defendant. Yet, other documents do not tell us much about the oath-taking procedure, but simply mention the case in question and the result in form of the no contest clause. Thus, a discussion of some selected documents shall be sufficient to make a point. A trial record from Sippar from the Old Babylonian period stresses the assertory oath of the witness and provides evidence for both assertory and

promissory oaths.⁷⁸ The document also serves as a general introduction into trial records. A second document gives evidence for an assertory oath by one of the parties as well as for a promissory oath in connection with the no contest clause.⁷⁹ It also serves as a basis for pointing some interesting variations of the no contest clause. The third document simply gives evidence of the variation of the no contest clause.⁸⁰

The first document, a trial record from Sippir from the Old Babylonian period, presents a court procedure over inheritance. Amat-Šamaš, the nadītum-priestess of Šamaš, makes a litigation against Ummi-Arahtum that Ummi-Arahtum and her husband claiming a right of inheritance. Two witnesses declare under oath that they did not know anything about such an agreement. Since the witnesses could not provide any positive evidence to the case, the defendant, Ummi-Arahtum, had to give positive evidence. She declared under oath that neither she nor her husband had ever written a tablet concerning inheritance. Through her declaration under oath, Ummi-Arahtum exculpated herself from the accusation that was made against her. Through her oath the case was settled:

⁷⁸ CT VIII 12b; Schorr 260.

⁷⁹ M 43; Schorr 259.

⁸⁰ CT II 39; Schorr 262.

1 ¹GEME₂-^dUTU LUKUR ^dUTU a-na Um-m[i-a]-ra-aḫ-tum
 2 a-na IBILA ir-gu-um-ma
 3 DI.KU₅.MEŠ di-nam ú-ša-ḫi-zu-ši-na-ti-ma
 4 ši-bi-ši-na a-na ^dUTU ù ^dIM
 5 a-na tu-ma-mi-tum
 6 i-di-nu-ma ma-ḫar ^dUTU ù ^dI[M]
 7 ki-a-am um-ma šu-nu-[ma]
 8 ša ^dUTU-ga-mil ù Um-mi-[a-ra-aḫ-tum]
 9 a-na GEME₂-^dUTU na-da-nam
 10 la ni-du-ú
 11 ù DI.KU₅.MEŠ ši-bi
 12 ú-ul im-gu-ru
 13 um-ma DI.KU₅.MEŠ
 14 ki-ma ši-bu IN.PÀ.DÈ.MEŠ
 15 ù at-ti a-na Eš₄-tár
 16 ta-ta-mi
 17 ¹Um-mi-a-ra-aḫ-tum
 18 i-na KÁ Eš₄-tár ki-a-am iq-[bi-]ma
 19 um-ma ši-ma a-na-ku ù ^dUTU-ga-mil
 20 ṭup-pa-am la ni-iš-ṭú-ru
 21 ù IBILA-ni la ni-di-nu
 22 MU ^dUTU ^dA-a ^dAMAR.UTU ^dIB
 23 ù ḫa-am-mu-ra-bi IN.PÀ.DÈ.MEŠ⁸¹

⁸¹ CT VIII 12^b (88-5-12, 160); Schorr 260.

1 Amat-Šamaš, the nadītum-priestess of Šamaš, made a claim
2 against Umm[ī-A]rahtum concerning an inheritance.
3 The judges instituted a trial for both (women)
4 and handed over their witnesses to Šamaš and Adad
5 for an oath.
6 In front of Šamaš and Adad
7 they (said) the following:
8 “Whatever Šamaš-gamil and Ummī-Arahtum
9 had given to Amat-Šamaš
10 we don’t know.”
11 The judges were not satisfied
12 with the witnesses.
13 Thus the judges (spoke):
14 “Just as the witnesses have sworn,
15 you, too, in front of Ištar
16 will swear!”
17 Ummī-Arahtum
18 in the gate of Ištar said
19 the following: “I and Šamaš-gamil
20 did not write a tablet
21 and we did not give (her) inheritance.”
22 By the name of Šamaš, Aja, Marduk, Uraš,
23 and Hammurabi they have sworn.

After Amat-Šamaš had made a litigation against Ummī-Araḫtum that Ummī-Araḫtum and her husband Šamaš-gamil had adopted her (Amat-Šamaš) and made her the heir, the judges handed over (*iddinū*) the witnesses for an oath in front of Šamaš and Adad. The two witnesses declared under oath that they had no knowledge of a testament. Since the witnesses could only provide negative evidence to the case, the defendant, Ummī-Araḫtum, was asked to give positive evidence. The judges ordered her to swear (*tamû*) at the gate of Ištar.⁸² There she declared under oath that neither she nor her husband had ever made a testament for Amat-Šamaš. Through her declaration under oath, Ummī-Araḫtum exculpated herself from the accusation made against her and the case was settled. Here, the assertory oath must be considered an exculpatory oath.

The trial record refers to the assertory oath in two different ways: as the oath instruction by the judge and as the authentic declaration under oath by the witness or the defendant.⁸³ In the oath instruction the judges hand over (*iddinū*) the witnesses *ana*^d Šamaš *u*^d Adad *ana tumāmītum*, to Šamaš and Adad for the oath. The defendant was asked to swear (*tamû*) an oath *ana Ištar*, by or in front of Ištar, and she did so *ina bāb Ištar*, in the gate of Ištar.

The most common formula for the oath instruction – to the extent that it is mentioned in the trial record at all – is not *ana tamatim* or *tumāmītum*, ‘for the oath,’⁸⁴ but *ana nīš ilim iddinū*, ‘they (the judges) hand over for the name of the god,’ i.e. the judges hand over the oath taker to the temple in order to make him swear an oath by the name of

⁸² According to M. San Nicolò, “Eid”, p. 305, the verb *zakāru* is used for assertory oaths, the verb *tamû* for promissory oath. The document that was known to San Nicolò clearly shows that he was mistaken.

⁸³ For the following, see also: E. Dombradi, *Die Darstellung des Rechtsaustrags in den altbabylonischen Prozessurkunden*, 2 vols., Stuttgart 1996.

⁸⁴ *VS* VII 7, 11 (*Schorr* 307; *Db* 7:11); *CT* VIII 12b, 11 (*Schorr* 299; *Si* 35:5). [*Db* and *Si* refer to the announced but not yet published new edition of Old Babylonian trial documents arranged according to cities by E. Dombradi]

the god.⁸⁵ The phrase *ana nīš ilim*, ‘for (the oath by) the name of the god’ is also attested in its Sumerian equivalent at this period, *ana MU.DINGIR.RA*.⁸⁶ Instead of the formula *ana nīš ilim*, ‘for (the oath by) the name of the god,’ one also finds *ana māmītim* (NAM.ME) ‘for the oath,’⁸⁷ *ana ubbubim* ‘for purification,’⁸⁸ *ana šurīnim ša* ^dUTU (*nasāhim*) ‘for (pulling out) the emblem of Šamaš.’⁸⁹

In addition to the frequently mentioned oath instruction, trial records sometimes give evidence of the declaration under oath by one of the parties. The fact that evidence has been given under oath can be expressed in the following way: PN *ina* É GN *izkur* or *itma* (*umma šūma*): “...” In the temple of GN PN has sworn the following: “...” The assertory oath is taken in the temple of the principal deity or the principal deities of the city: in Sippar in the temple of Šamaš⁹⁰ or at the gate of Ištar,⁹¹ in Babylon in the temple of Marduk,⁹² in Dilbat in the temple of Uraš,⁹³ in Dyala at the gate of NIN-mah,⁹⁴ in Lagaš in the temple of Ninmarki,⁹⁵ in Larsa in front of Lugalkimuna,⁹⁶ in Warka at the gate of Ninmarki or at the gate of Marduk as well as in the temple of Marduk and Innana.⁹⁷ In the temple of Šamaš in

⁸⁵ For example: Schorr 257, 6; 265, 6; 299, 4;

⁸⁶ TIM IV 34, 17; J. van Dijk, “Remarques sur l’histoire d’Elam et d’Ešnunna,” *AfO* 23 (1970), pp. 63-71; (Dy 4:17)

⁸⁷ *Riftin* 46, 18 (La 19:18).

⁸⁸ CT II 46, 14 (Schorr 283; Si 13:14).

⁸⁹ *ana* ^dšurīnim *ša* ^dUTU (R 103, 32; Schorr 273); ŠU.NIR *ša* ^dUTU (CT II 47, 18; Schorr 261); ŠU.NIR ^dUTU *inasah* (VS VIII 71, 3; Schorr 287); *ana* šurīnim *ša* ^dUTU (CT IV 47a, 11 and 14; Schorr 305).

⁹⁰ CT VIII 28a (Schorr 257); CT II 46 (Schorr 283).

⁹¹ CT VIII 12b (Schorr 260).

⁹² R 26 (Schorr 284); M 100 (Schorr 296).

⁹³ VS VII 7 (VAT 6279) (Schorr 307).

⁹⁴ TIM IV 34, 17.

⁹⁵ TCL I 232, 8-9 (= TD 232; Schorr 265).

⁹⁶ Kohler U 723.

⁹⁷ *ana* KÁ ^dNIN.MAR.KI (M 43, 6; Schorr 259); *ina* KÁ ^dAMAR.UTU (M 43, 21; Schorr 259); *ina* É ^dAMAR.UTU u ^dInnana (M 45, 8; Schorr 285).

Sippir the oath was taken by Aja,⁹⁸ at the gate of Ištar in Sippir the oath was taken by Šamaš and Adad.⁹⁹

Unlike the assertory oath, which in a few instances was sworn solely upon the king but in most cases sworn upon the principal deities of the city, the promissory oath was almost equally sworn by the names of the principal deities of the city and by the name of the king and in some instances upon the city. The oath formula for the promissory oath was partly logographically and partly phonetically, as the final clause of the document reveals: MU ^dUTU ^dA-a ^dAMAR.UTU ^dIB ù ḥa-am-mu-ra-bi IN.PÀ.DÈ.MEŠ or in its Akkadian translation *nīš ^dŠamaš ^dAja ^dMarduk ^dUraš u Hamurabi itamû*, “they swore by the name of Šamaš, Aya, Uraš, and Hammurabi.” The logogram MU, rendered as *nīš*, has to be translated as “name”, not as “life.” The meaning “life” is based on a Late Babylonian equation of *nīš* and *zi*.

The configuration of gods invoked in the promissory oath differs according to the city in which the oath is sworn. In Sippir the most common configuration of gods consists in Šamaš, Aja, Marduk, connected with the name of the king in power; less often only Šamaš and Marduk along with the king in power. In one instance we find an oath upon Šamaš, Marduk, Hammurabi and the city of Sippir. In Babylon the promissory oath is taken upon Marduk and the name of the king in power,¹⁰⁰ in Dilbat upon Uraš and the named king in power¹⁰¹ or upon Šamaš, Marduk, and the named king in power,¹⁰² in Lagaš upon Nannar, Šamaš, Ninmarki, and the unnamed king,¹⁰³ in Nippur *nīš šarrim*, ‘upon the

⁹⁸ Schorr 257.

⁹⁹ Schorr 260.

¹⁰⁰ TCL I 157, 64 (= TD 157; Schorr 280), R 26, 11-12 (CBM 28; Schorr 284), M 100, 21 (Schorr 296).

¹⁰¹ Gautier 2, rev. 4 (Schorr 300).

¹⁰² VS VII 16, 34 (Schorr 279).

¹⁰³ TCL 232, 19 (= TD 232; Schorr 265).

king,¹⁰⁴ in Warka upon Nannar, Šamaš, Marduk, and Hammurabi¹⁰⁵ or upon Uraš and the named king,¹⁰⁶ or king Hammurabi.¹⁰⁷

The constellation of deities invoked in the oath of the no contest clause does not reveal anything about the content of the oath sworn. The oath simply reveals that either both parties or one party alone (probably the defeated plaintiff) renounce from all future claims.

The fact that in the document in question the verb IN.PÀ.DE.MEŠ (*itamû*), ‘they swore,’ is in the plural indicates that both Amat-Šamaš as the plaintiff and Ummi-Araš as the defendant took an oath. Their oaths settled the case. But what do they swear? Why is it a promissory oath? In order to understand the implication of that final oath and the reason why it is a promissory oath, one may look at a trial record of a different court procedure.

Concerning a house Sin-eribam summoned Sumuraš to court. Sin-eribam’s claim was rejected. In addition he was sentenced for having brought the case to court:¹⁰⁸

¹⁰⁴ *Poebel* 10, 36 (*Schorr* 292); *Poebel* 49, 42 (*Schorr* 298); *Poebel* 30, 25 (*Schorr* 313).

¹⁰⁵ *M* 43, 32-33 (*Schorr* 259).

¹⁰⁶ *Gautier* 13, edge rev. 2 (*Schorr* 275).

¹⁰⁷ *M* 39, 18 (*Schorr* 284A).

¹⁰⁸ *CT* II 39 (*Schorr* 262).

1 a-na É Su-mu-ra-a-aḥ
 2 ša DA É Ni-id-nu-ša
 3 ù DA É ^dAl-la-tum
 4 ^{1d}EN.ZU-e-ri-ba-am
 5 DUMU ÚH^{ki}-ra-bi
 6 ib-qú-úr-ma
 7 a-na da-ia-nu-ni i-li-ku-ma
 8 da-ia-nu di-nam ú-ša-ḥi-zu-šu-nu-ti-ma
 9 ^{1d}sín(?)-e-ri-ba-am ar-nam
 10 i-mi-du-šu-ma
 11 ku-nu-kam ša la ra-ga-mi
 12 ú-še-zi-bu-šu
 13 ú(!)-ul i-ta-ar-ma
 14 ^{1d}EN.ZU-e-ri-ba-am
 15 a-na É Su-mu-ra-a-aḥ
 16 ú-ul i-ra-ga-mu
 17 MU ^dUTU Za-bi-um ù ZIMBIR^{KI}.¹⁰⁹

1 Concerning the house of Sumuraḥ,
 2 (which is) next to the house of Nidnusa
 3 and next to the temple of Allatum,
 4 Sin-eribam,
 5 son of Akšak-abi,
 6 made a claim and
 7 to the judges they went and
 8 the judges admitted them the case.
 9 On Sin-eribam they imposed
 10 a fine and
 11 a sealed document of no contest
 12 they drew up:
 13 Sin-eribam
 14 will not return and
 15 will not make a claim
 16 concerning the house of Sumuraḥ.
 17 By the name of Šamaš, Zabium, and Sippir (did he swear).

¹⁰⁹ M 43; Schorr 259.

The most conspicuous feature of the document is the no contest clause *ul itâr-ma . . . ul iraggamu*, not to return a not to make a claim. After Sin-eribam had lost his case, he swore upon the name of Šamaš, Zabium, and the city of Sippir that he won't return (*ul itâr-ma*) and that he won't make a claim (*ul iraggamu*) concerning the house of Sumuraḥ. However, the phrase *ul itâr-ma . . . ul iraggamu* leads into a problem that is far more complicated. What is the object of *ul itâr*? What exactly is the promise? Not to return to court as a physical act? Not to return to court and make a claim? Not to return to the claim that one has already made? Not to return to the verdict of the trial? The meaning of the sentence is clear, that Sin-eribam won't make a claim against the verdict and that he won't come back to it in the future, although the grammar of the sentence in correlation to its meaning has not been fully understood yet.¹¹⁰

The following document has a slightly different form of the no contest clause:

¹¹⁰ E. Dombradi, *Die Darstellung des Rechtsaustrags in den altbabylonischen Prozessurkunden*, vol. 2, pp. 342-47.

1 aš-šum ^{giš}kiri₆ ša ^dsín-ma-gir
2 ša DUMU-DINGIR-mar-tu a-na kaspi i-ša-mu
3 ^lDINGIR-ba-ni a-na ši-im-da-at-tu-uš
4 ib-qú-ru-ur-ma a-na DI.KU₅.MEŠ
5 il-li-ku-ma DI.KU₅.MEŠ
6 a-na KÁ (?) ^dNin-mar-ki iṭ-ru-du-šu-nu-ti-ma
7 DI.KU₅.MEŠ ša KÁ (?) ^dNin-mar-ki
8 ^lDINGIR-ba-ni i-na KÁ (?) ^dNin-mar-ki
9 ki-a-am iz-kur um-ma šu-u-ma
10 lu-ú DUMU DINGIR-sín-ma-gir a-na-ku
11 a-na ma-ru-tim il-qí-a-an-ni
12 ku-nu-uk-ki la iḫ-ḫi-pu-ma
13 ki-a-am iz-kúr-ma iš-tu DINGIR-ri-im-DINGIR-sin
14 ^{giš}kir₆ ù É a-na DINGIR-ba-ni x
15 ú-bi-ir-ru i-tu-ur
16 ^lDINGIR-sín-mu-ba-li-iṭ
17 ^{giš}kiri₆ ^dba-ni ib-qú-ur-ma
18 a-na DI.KU₅.MEŠ il-li-ku-ma
19 DI.KU₅.MEŠ a-na a-na a-lim [or: a-na a-na-a-ši]
20 ù ši-bu-tim iṭ-ru-du-šu-nu-ti-ma
21 i-na KÁ ^dAMAR.UTU ^dŠU ^dNANNA
22 ^dHU ša ^dNin-mar-ki
23 ^dMAR ša ^dAMAR.UTU
24 ^{giš}kak-ki ša ab-nu-um iz-zi-zu-ma
25 ši-bu-tum pa-nu-tum ša DUMU ^d[amurrim]
26 i-na KÁ ^dNin-mar-ki
27 DINGIR-ba-ni lu-ú ma-ru a-na-ku
28 ú-ta-mu iq-bu-ú-ma
29 ^{giš}kir₆ ù É a-na DINGIR-ba-ni ú-bi-ru
30 ^lDINGIR-sín-mu-ba-lí-iṭ la i-tu-ru-ma
31 la i-ba-ga-ru
32 MU ^dNANNA(R) ^dUTU ^dAMAR.UTU
33 ù ḫa-am-mu-ra-bi LUGAL.E IN.PA(D).¹¹¹

¹¹¹ CT II 39; Schorr 262.

1 Concerning the garden of Sin-magir
 2 which Mar-Ili-Amurrim purchased for silver.
 3 After Anum-bani according to a decree of the king
 4 made a claim and to the judges
 5 they came. The judges handed them over
 6 to the gate of Ninmarki.
 7 To the judges of the gate of Ninmarki
 8 Anum-bani in the gate of Ninmarki
 9 swore the following:
 10 “Verily, the son of Sin-magir I am.
 11 For son-ship he adopted me.
 12 My sealed tablet is not broken.”
 13 After he swore (according to) those (decrees) of Rīm-Sin
 14 the garden and the house to Anum-bani
 15 they (the judges) declared.
 16 Sin-mubalit returned.
 17 (Concerning) the garden of Anum-bani he made a claim and
 18 and to the judges they came.
 19 The judges to the city
 20 and to the elder men they sent them for testimony.
 21 In the gate of Marduk the divine emblem of Nanna,
 22 the divine bird of Ninmarki,
 23 the divine spade of Marduk,
 24 the weapon of stone to (make) stand
 25 after the earlier elder of Mar-Ili-Amurri said:
 26 “In the gate of Ninmarki
 27 Anum-bani swore
 28 ‘Verily the son I am.’”
 29 Garden and house they declared to Anum-bani.
 30 That Sin-muballit won’t return
 31 and that he won’t make a claim,
 32 has he sworn by the name of Nanna, Šamaš, and
 33 Hammurabi the king.

In a previous trial, Anum-bani claimed a garden as his property and won the case. Sin-mubalit, probably the defeated party, returned (*i-tu-ur*) to the court and brought forward a motion. Thereupon, the judges ask Anum-bani to testify that he is the son of the person who most likely had purchased the garden. In the gate of Ninmarki, Anum-bani swore that he is the son. Thus, Anum-bani's assertory oath is a decisive declaration to enable the judges to reach a verdict. But in order to settle the case completely, Sin-mubalit as the defeated party had to take an oath not to return and bring forward a motion. Sin-muballit makes a promise under oath that he won't contest the verdict in the future. His oath settled the case.

In its entirety the sworn no contest clause runs as follows: ^{giš}kir₆ ù É a-na ^dba-ni ú-bi-ru ^{Id}sín-mu-ba-lí-iṭ la i-tu-ru-ma la i-ba-ga-ru MU ^dNANNA(R) ^dUTU ^dAMAR.UTU ù ḫa-am-mu-ra-bi LUGAL.E IN.PA(D). Instead of *ul itâr-ma . . . ul iraggamu*, as given in the previous document, this document has *la itur-ma la ibagaru*. The difference in meaning between the negation *ul . . . ul* and *la . . . la* is of importance for those who like to reconstruct a legal formalism that may or may not have existed.¹¹² It is of lesser importance for those who simply like to point out the unique phenomenon of a promissory oath in court procedure to settle the case and to guarantee not to question the verdict in the future.

The promise of the defeated party or the mutual promise of both parties not to come back to the decision is one of the most striking pieces of the Old Babylonian trial documents. In most cases the no contest clause (Verzichtsklausel) is written logographically. Already, but less frequently attested in documents of the Pre-Sargonic

¹¹² E. Dombardi, *Die Darstellung des Rechtsaustrags in den altbabylonischen Prozessurkunden*, vol. 2, pp. 342-47.

period, in documents of the time of Akkad and Gudea, or in the Neo Sumerian documents of the Ur-III-period, the no contest clause a well defined formula in the Old Babylonian documents. A brief survey of the no contest clause is given by Oelsner.¹¹³

In the Old Babylonian period the no contest clause was written almost exclusively logographically. For business documents of the Old Babylonian period San Nicolò distinguishes different forms of that stipulation.¹¹⁴ Two of them may suffice, in order to make a point:

Variant A:

U₄.KÚR.ŠÈ (U₄.NA.ME.A.AK) LÚ.LÚ.RA INIM.NU.(UM.)GÁ.GÁ.(A.AK) MU ... (N.N. of gods and/or kings) IN.PÀ.(DÈ.EŠ). The Akkadian version runs as follows:

ana warkât ūmim awīlum (aḥum) ana awīlim (aḥim) lā iraggamu nīš (N.N. of gods and/or kings) *itmû*. They have sworn by ... that in the future (whenever) one does not bring a motion against the other.

Variant B:

U₄.KÚR.ŠÈ LÚ.LÚ.RA NU.MU.UN.GI₄.GI₄.DAM (DÈ) MU ... (N.N. Of gods and/or kings) IN.PÀ.(DÈ.EŠ)

ana warkât ūmim awīlum ana awīlim lā iturru nīš (N.N. of gods and/or kings) *itmû*, they have sworn by . . . that in the future one does not return against the other concerning it.

¹¹³ J. Oelsner, "Klagevezicht," *RLA* 6 (1980-83), pp. 6-15; for the UR-III period, see: P. Steinkeller, *Sale Documents of the UR-III-Period*, Stuttgart 1989.

¹¹⁴ M. San Nicolò, *Die Schlussklauseln der altbabylonischen Kauf- und Tauschverträge*, pp. 39-75.

According to San Nicolò, the meaning of the verbs *ragāmu* (gá.gá), ‘to bring a claim,’ and *tāru* (gi₄.gi₄), ‘to turn back,’ characterizes the difference between variants A and B. Some documents from Sippir explain the object, upon which one swears not to come back, as follows: *le-mu-un* (name of gods and/or kings) *ša a-na a-wa-ti-šu i-tu-ru* ‘the evil or the curse of the god or the king (shall hit him) who will turn back to his words.’ Thus, in its origin the no contest clause is a curse formula invoking vengeance for those who return to their words, meaning to return to their promise and bring forward a motion.

Legal historians, who followed San Nicolò in establishing and developing the pure formalism of the no contest clause, have overlooked the overture of his RIA-article on the oath: “Der in den Rechtskreisen des Zweistromlandes dem Eid zu allen Zeiten inliegende Fluchcharakter ist auch in Babylonien seit jeher wahrzunehmen.”¹¹⁵ This seemingly insignificant, but extremely powerful sentence not only reveals that oaths and curses have a special relation to each other, but also that oaths and curses are phenomena that have been attached to legal procedures. According to San Nicolò curse formulas appear in a letter from the dynasty of Akkad¹¹⁶ or the inscriptions of Rimuš and Maništuš,¹¹⁷ phrases with *erim* “evil” in the Sumerian *di-til-la* (decided legal case) tablets.¹¹⁸ The same way of cursing also appears in some documents from the first dynasty of Babylon in a specific north-Babylonian oath formula from Sippir: *lemun dŠamaš u Anmanila ša ana awatišu*

¹¹⁵ M. San Nicolò, “Eid” *RIA* 2 (1938), p. 305.

¹¹⁶ F. Thureau-Dangin, “Une lettre de l’époque de la dynastie d’Agadé,” *RA* 23 (1926), 23-29. Translated by L. Oppenheim, *Letters from Mesopotamia*, Chicago 1967, p. 71: “This is from Iškun Dagan to Puzur-Ištar: You are bound herewith by the oath I swear by the gods Inanna and Aba, and the gods Ašširgi and Ninhursag, and the oath by the life of the king and the life of the queen, that until you (come here and) and have seen me face to face must you touch either bread or beer, and that you until you have arrived here must you even sit down on a chair.”

¹¹⁷ ša DUB sú₄-a u-sá-sà-ku-ni den-líl ù dUtu SUHUŠ-sú li-sú-ḫa ù ŠE.NUMUN-šu li-il-qù-ta. “As for the one who removes this inscription, may the Enlil and Šamaš tear out his foundation and destroy his progeny.” *RIME* 2, Rimuš text 3, p. 46, ll. 37-47 and *RIME* 2, Maništuš text 1, p. 76, ll. 53-63.

¹¹⁸ A. Walther, *Das altbabylonische Gerichtswesen*, Leipzig 1915-17, 224; Falkenstein, NSG, no

iturru, “evil of Šamaš and Anmanila (shall come upon the one) who will come back to his words,”¹¹⁹ i.e. the curse or oath shall come upon the one who will come back to the promise he has given under oath and will change the meaning of the words that he promised. According to San Nicolò, oaths and curses were not only suited to secure the decision of legal cases but also the validation of contracts due to their sacred character.

In comparing ancient Mesopotamian and Greek court procedure, one could say that assertory oaths of witnesses, defendants, and plaintiffs were well established features in legal procedures. The most striking feature of Mesopotamian court trials, the no contest clause, does no longer appear in Greek court procedure. Nevertheless, the no contest clause, in which either the defeated party alone or both litigants promised not to challenge the verdict in the future, shows the importance of promise-giving in the ancient Near East.

In reconsidering San Nicolò’s argument that curses are inherent in all Mesopotamian oath-taking procedures, one has to conceive the river ordeal as a special form of oath taking.¹²⁰ Of importance are also curses that are mentioned in a *kudurru* inscription.¹²¹ Following Erica Reiner’s observation about the similarity of language between the *kudurru* inscriptions and a text such as *Šurpu*,¹²² one could establish a connection between the legal and ritual sphere of oath taking concerning the following question: Are there rituals for perjurers who have broken an oath? A passage from *Maqlû*

¹¹⁹ CT VIII 38b, 9; S. Daiches, *Altbabylonische Rechtsurkunden* 1903, no 4; M. San Nicolò, *Schlussklauseln der altbabylonischen Kauf-und Tauschverträge*, München 1922, p. 48, fn 17.

¹²⁰ On the river ordeal, see: T. S. Frymer-Kensky, *The Judicial Ordeal in the Ancient Near East*, Ann Arbor, Mich. 1977.

¹²¹ L. W. King, *Babylonian Boundary-Stones and Memorial Tablets in the British Museum*, 2 vols., London 1912, no V; on kudurrus, see now: K. E. Slanski, *The Babylonian Entitlement narûs (kudurrus): A Study in Their Form and Function*, Boston 2003.

¹²² E. Reiner, *Šurpu: A Collection of Sumerian and Akkadian Incantations*, Graz 1958.

indicates that such rituals did actually exist, but scholars have not yet made the connection between ritual and legal texts.¹²³

In Ancient Near Eastern societies the oath played an important role in everyday life both in legal procedures as well as in rituals. This is not only reflected in legal texts such as trial records and business contracts or in ritual texts such as *Šurpu* and *Maqlû*, but also in treaties. Treaties such as the *adê*-treaties of Esharhaddon reveal some political aspects of oath taking as well. Political, legal, and ritual aspects of oath taking are reflected in epic literature such as the *Tukulti-Ninurta*, *Etana*, or *Enuma Eliš*.

4. The Promissory Oath

In modern times the promissory oath is an oath taken in the main by civil servants upon entering office: by Members of Parliament, by lawyers, by peers on their creation, by privy councilors, by archbishops and bishops, by soldiers, and most prominently by kings and queens during coronation as well as by presidents during inauguration. This may well be the reason why the term is often used synonymously with *oath of office*. In the British legal system, for example, the oath of office emphasizes the promise to be faithful and to bear true fealty to the crown; hence one speaks of the *oath of allegiance*. The oath of allegiance is taken by members of both Houses at the opening of every new Parliament, by certain officers of the Crown on their appointment, and by aliens upon naturalization as British citizens. Upon succession to the throne the King or Queen solemnly promises to fulfill certain duties. Such an oath is called a *coronation oath*. There were times when people had

¹²³ *Maqlû* VII; A. Falkenstein, *Die Haupttypen der sumerischen Beschwörung literarisch untersucht*, Leipzig 1931, pp. 93ff.; J. S. Cooper, "Bilinguals from Boghazköi I" *ZA* 61 (1971), pp. 1-22 (esp.13ff); W. H. Ph. Römer, "Eine Beschwörung gegen den Bann," *DUMU-E₂-DUB-BA-A: Studies in Honor of Ake W. Sjöberg*, Philadelphia 1989, pp. 465-479.

to swear a *loyalty oath* or an *oath of fealty* as part of the coronation or inauguration ceremony.

Almost everybody has seen the inauguration ceremony of the American President or has heard or even read the words spoken. The President-elect takes the oath on the Capitol, where it is administered by the Chief Justice. The President-elect places his hands on the Bible, raises his right hand, and speaks the following words as prescribed by the constitution:

“I do solemnly swear (or affirm) that I will faithfully execute the Office of the President of the United States, and will to the best of my ability, preserve, protect and defend the constitution of the United States.”¹²⁴

The fact that the President of the United States has the choice either to affirm or to swear that he will protect the constitution indicates the problem we are dealing with.¹²⁵ Is the oath still a necessary feature for contemporary legal procedures or a relic of the old?

It is a widespread view that the inauguration or investiture of kings and queens is and has always been connected with an oath, either in form of a loyalty oath sworn by vassals or in form of a coronation oath sworn by the sovereign himself or herself. Their origins, however, remain dark. The first attested coronation oath is that of Charlemagne.¹²⁶ There are some cryptic references to investitures in Aristotle,¹²⁷ Livy,¹²⁸ or in the Bible.¹²⁹

¹²⁴ *American Constitution*, Article II, Section I, Clause 8.

¹²⁵ ‘To affirm’ is probably the wrong term, since an affirmation is used in court procedure to affirm the truth of past events. It is counterintuitive to affirm something that will happen in the future. Thus, ‘to promise’ would be the more accurate term to use.

¹²⁶ H. Schreuer, *Die rechtlichen Grundgedanken der französischen Kaiserkrönung mit besonderer Rücksicht auf die Deutschen Verhältnisse*, Weimar 1911; F. L. Ganshof, “Charlemagne et le serment,” *Mélanges Louis Halphen*, Paris 1951, pp. 259-70; P. E. Schramm, *Der König von Frankreich. Das Wesen der Monarchie vom 9. zum 16. Jahrhundert*, 2 vols, Darmstadt 1960; P. Prodi, *Il sacramento del potere. Il giuramento politico nella storia costituzionale dell’ Occidente*, Bologna 1992; P. Prodi, “Der Eid in der europäischen Verfassungsgeschichte,” *Glaube und Eid*, ed. by P. Prodi, München 1993, pp. VII-XXIX.

¹²⁷ Aristotle, *Politics* III 10.

¹²⁸ Livy I 18.

But they do not provide enough evidence as to maintain the existence of a coronation oath or oath of office. However, there is now evidence for a loyalty oath in the Babylonian epic *Enuma Elish*,¹³⁰ and evidence for an investiture oath in the Middle Assyrian epic *Tukulti-Ninurta*.¹³¹

In general one can say that the oath of office emphasizes the political promise to protect the constitution.¹³² Then, the promissory oath or oath of office represents a political act and may be called a *political oath*.¹³³ The political importance of oath-taking is still visible in the scandal of its refusal. For example, the Irish member of the British Parliament, Gerry Adams, refused to take the oath of allegiance.

Not every promissory oath, however, is an oath of office, since one could promise someone under oath to perform a certain action. For example, one could promise someone under oath to give him or her a certain amount of money in a month, in return for half the amount now. Such an oath would hardly be considered to be a political oath or an oath of office. Thus, not every promissory oath is a political oath either. Private promises under oath that are given without a legal basis provided by the community may be simply considered as swearing.¹³⁴

¹²⁹ According to the command of God, Saul anointed Samuel to be the prince of the inheritance of Israel, see: 1 Samuel X, 1; in Psalm 2.2:7-8, David formulated an oath of office for every future king of Israel: "I will surely tell of the decree of the lord. He said to me: 'You are my son. Today I have begotten you.' Ask of me, I will surely give the nations as your inheritance, and the very ends of earth as your possession."

¹³⁰ *Enuma Elish* VI 95-100.

¹³¹ *Tukulti-Ninurta* Col. VI B 38-40; P. Machinist, *The Epic of Tukulti-Ninurta*, Ann Arbor 1978, pp. 379, says: "... the Tukulti-Ninurta Epic praises the gods and king and confirms the king's sovereignty."

¹³² The oath of office as required by the sixth article of the Constitution for Members, Resident Commissioner, and Delegates of the House of Representatives runs as follows:

"I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

¹³³ E. Friesenhahn, *Der politische Eid*, Bonn 1928; E. Friesenhahn, "Zur Problematik des politischen Eides," *Zeitschrift für Schweizerisches Recht* 99 (1980), pp. 1-29.

¹³⁴ A. Montagu, *The Anatomy of Swearing*, London-New York 1967.

Every oath of office, however, is a promissory oath, since it entails the promise for proper conduct in that office in the future. A political oath is not necessarily an oath of office nor a promissory oath. If one assumes a political committee of inquiry that demands the corroboration of a statement in its hearing or trial, the committee may ask for an oath, which would be an assertory oath not a promissory oath or an oath of office.

A political oath can be a promissory oath without being an oath of office, if one assumes a political group that binds itself by an oath. Such an oath would be considered a promissory oath and is called a *covenant*. Covenants are the Hebrew *berit* or the Swiss *Eidgenossenschaft*. In connection with other political oaths, such as peace treaties, their influence may be detected in the early 20th century idea of the *Covenant of the League of Nations* which led to the modern institution of the United Nations.

A promise under (promissory) oath that either is willingly false or can not be kept due to external circumstances does not fulfill the fact of perjury according to most contemporary legal systems. Although it is the breaking of an oath, the emphasis is simply on breaking or not fulfilling a promise. Therefore, most law codes do not provide further legal consequences. Civil servants who do not execute their office faithfully or do not live up to standards that are implicitly demanded by that office in order to protect the constitution, will not be prosecuted for perjury. They may be prosecuted for deeds and crimes which they may have committed in connection with or by power of their office such as money laundering, bribery, or sex in office.

4.1. Lycurgus and the Political Oath in Classical Athens

A reference to political oath-taking in Greece is found in Lycurgus. He considered the oath as a bond that ties together democracy: τὸ συνέχον τὴν δημοκρατίαν ὄρκος ἐστὶ.¹³⁵ He then distinguishes three different institutionalized oaths at Athens: the oath of the archon, the oath of the judge, and the oath of the private person or citizen:

τρία γάρ ἐστιν ἐξ ὧν ἡ πολιτεία συνέστηκεν, ὁ ἄρχων, ὁ δικαστής, ὁ ἰδιώτης. τούτων τοίνυν ἕκαστος ταύτην τὴν πίστιν δίδωσιν.¹³⁶

For there are three features upon which the constitution is built: the magistrate, the judge, and the private citizen. And each of these administers this guarantee.

Presumably, each of these oaths was important for Athenian democracy as a form of guarantee or promise (πίστις), which enabled the political community to act on the basis of trust. Unfortunately, none of these oaths has come down to us. But a few scattered references may allow us to say something about their social-political and anthropological significance. References to the oath of the magistrate (ὁ ἄρχων) and a description of the ceremony are attested in Aristotle. We find references to the oath of the judges (ὁ δικαστής) in the laws of Gortyn, the Athenian orators, Plato, and Aristotle. However, there seems to be no direct evidence for an oath of the private citizen (ὁ ἰδιώτης).

4.1.1. The Oath of the Magistrate (ὁ ἄρχων)

According to Aristotle, the oath of the magistrates (ἄρχοντες) has its origins in Solonian times. When Solon established a constitution and other laws, the content of these documents was inscribed on the *kyrbeis*, placed in the portico of the king, and all Athenian

¹³⁵ Lycurgus, *In Leocratem* § 79.

¹³⁶ Lycurgus, *In Leocratem* § 79.

swore to observe them: ὥμοσαν χρήσεσθαι πάντες.¹³⁷ The nine magistrates, however, confirmed this oath by annually swearing on a stone:

*οἱ δ' ἐννέα ἄρχοντες ὁμνύντες πρὸς τῷ λίθῳ κατεφάτιζον ἀναθήσειν ἀνδριάντα χρυσοῦν, ἐάν τινα παραβῶσι τῶν νόμων· ὅθεν ἔτι καὶ νῦν οὕτως ὁμνύουσι.*¹³⁸

The nine magistrates declared by swearing upon a stone that they would dedicate a golden statue, if they transgressed one of the laws; and they still swear in the same way down to the present day.

Ever since Solon established his laws the nine magistrates (ἐννέα ἄρχοντες) declared (κατεφάτιζον) by swearing on a stone (ὁμνύντες πρὸς τῷ λίθῳ) to dedicate a golden statue (ἀναθήσειν ἀνδριάντα χρυσοῦν) in case they transgress one of his laws (ἐάν τινα παραβῶσι τῶν νόμων). The promise of the magistrates can well be regarded as a promissory oath or an oath of office. This ceremony was still in use in the time of Aristotle to the extent that the magistrates still swear in the same manner (ὅθεν ἔτι καὶ νῦν οὕτως ὁμνύουσι). Aristotle describes the inauguration ceremony of the nine magistrates (ἐννέα ἄρχοντες) of his time as follows:

*ἀναβάντες δ' ἐπὶ τοῦτον ὁμνύουσιν δικαίως ἄρξαι καὶ κατὰ τοὺς νόμους καὶ δῶρα μὴ λήψεσθαι τῆς ἀρχῆς ἕνεκα, καὶν τι λάβωσι ἀνδριάντα ἀναθήσειν χρυσοῦν. ἐντεῦθεν δ' ὁμόσαντες εἰς ἀκρόπολιν βαδίζουσιν καὶ πάλιν ἐκεῖ ταῦτά ὁμνύουσι καὶ μετὰ ταῦτ' εἰς τὴν ἀρχὴν εἰσέρχονται.*¹³⁹

Mounting it (this stone), the magistrates swear that they will govern justly and according to the laws, that they will not accept gifts because of that office, and that, if they do, they will set up a golden statue. After having taken this oath, they go from that place to the Acropolis and there they swear the same (oath) again. After that they enter upon their office.

¹³⁷ Aristotle, *Athenaion Politeia* 7.1.

¹³⁸ Aristotle, *Athenaion Politeia* 7.2; see also: Plato, *Phaedo*, 235D; Plutarch, *Solon*, 25.

¹³⁹ Aristotle, *Athenaion Politeia* 55.5.

Upon taking office the Athenian magistrates promise proper conduct during their terms. They swear (ὀμνύουσιν) to govern justly and according to the laws (δικαίως ἄρξιν καὶ κατὰ τοὺς νόμους) as well as not to take gifts or bribes during their term or on account of their office (δῶρα μὴ λήψεσθαι τῆς ἀρχῆς ἔνεκα). As a further provision against bribery they also swear to dedicate a golden statue (ἀνδριάντα ἀναθήσειν χρυσοῦν), if convicted of these offenses. Thus, the oath of the archons may well be considered an oath of office.

According to Aristotle, people think that this oath-ceremony goes back to Akastos, the mythical archon who lived around 1000 BCE: τεκμήριον δ' ἐπιφέρουσιν ὅτι οἱ ἐννέα ἄρχοντες ὀμνύουσιν ἢ τὰ ἐπὶ Ἀκάστου ὅρκια ποιήσιν,¹⁴⁰ they adduce evidence that the nine archons swear to perform the same oath-ceremony as in the time of Akastos. It is interesting to note that, in describing the oath of the archon in the time of Akastos, Aristotle does not use the words ὄμνυμι or ὅρκος but ὅρκια ποιήσιν. This may give a hint that in archaic Greece the stress is not on the spoken word but on the ceremony that accompanies the promise.

At Athens there is also evidence for oaths of office taken by other officials: the oath of the councilors (bouleutes),¹⁴¹ the oath the heliastes,¹⁴² and the oath of the *Gerarai*, the venerable priestesses of Dionysos.¹⁴³ There is also evidence for exceptional oaths for

¹⁴⁰ Aristotle, *Athenaion Politeia* 3.3.

¹⁴¹ Xenophon, *Memorabilia* 1.1.18; Lysis 31.12. In the bouleutic oath the councilors swore not to imprison any citizen prepared to give bail, except traitors and enemies of the democracy. See also: J. P. Rhodes, *The Athenian Boule*, Oxford 1972, pp. 194-98.

¹⁴² Demosthenes 24. 148-51. The heliastes swore to cast their votes in accordance with the laws and decrees passed by the Assembly and the Council. If there is no law they will cast their votes according to what seems just. They also promise to vote only on matters raised and to listen impartially to accuser and accused alike. For reconstructions of the heliastic oath which presumably goes back to Solonian times, see: M. Fränkel, "Der attische Heliasteneid," *Hermes* 13 (1878), pp. 452-66; E. Drerup, "Über die bei den attischen Rednern eingelegten Urkunden," *NJb Suppl.* 24 (1898), pp. 221-365; J. H. Lipsius, *Das attische Recht und Rechtsverfahren*, Leipzig 1905-15, pp. 151-52.

¹⁴³ Demosthenes 59.78 (= ed. Dindorf 59. 103).

officials in times of a political crisis such as the oath of the νομοθέται,¹⁴⁴ or the oath of the καταλογεῖς.¹⁴⁵ The oath of the ephebes, understood as a soldier's oath, can also be considered an oath of office.¹⁴⁶

An oath of office is also attested for the ἐπιμεληταί at Delphi,¹⁴⁷ as well as for officials in other places such as Erythrai, Kolophon, Mytilene, Eresos, Chersonesos Taurica, Ainos, Teos, Lampsakos, Smyrna, Kos, and Andania.¹⁴⁸ At Zeleia, there is evidence for an oath of the ἀνευρεταί,¹⁴⁹ at Thasos for an oath of the νεωκόρος.¹⁵⁰

To sum up: Accompanying political promises with an oath were not an uncommon procedures for magistrates and officials in ancient Greece.

4.1.2. The Oath of the Private Citizen (ὁ ἰδιώτης)

The oath of the private person or citizen (ὁ ἰδιώτης) is not attested as such. Is Lycurgus referring to an oath that private people took in court as a form of bringing evidence to the case, i.e. an assertory oath, or does he refer to a promissory oath that a private person took upon entering a public office or in order to become a citizen?

Almost hundred years ago, Erich Ziebarth claimed the oath of the private citizen (ὁ ἰδιώτης) to be the oath of the ephebes.¹⁵¹ Presumably, at the age of 19 and 20 some or even

¹⁴⁴ Andocides I 84. The oath was taken in 403 BCE. E. Ziebarth, "Eid," *RE* V (1905), p. 2079.

¹⁴⁵ Aristotle, *Athenaion Politeia* 29.2; Lysias XX 14. The oath was taken in 411 BCE. E. Ziebarth, "Eid," p. 2079.

¹⁴⁶ For the Ephebic oath at Athens, see: Lycurgus, *In Leocratem* § 76; Stobaeus, *Florelegium* 43, 48; Pollux 8, 105. For the Ephebic oath at Dreros, see: W. Dittenberger, *Sylloge*³ 527; see also: A. Chaniotis, *Die Verträge zwischen kretischen Poleis in der hellenistischen Zeit*, Stuttgart 1996, pp. 195-201, who does not consider the oath at Dreros an Ephebic oath.

¹⁴⁷ *JG* II 545; W. Dittenberger, *Sylloge*³ 672, 39. E. Ziebarth, "Eid," p. 2079.

¹⁴⁸ E. Ziebarth, *De iureiurando in iure Graeco quaestiones*, Gottingae 1892, pp. 28-30; E. Ziebarth, "Eid," p. 2079.

¹⁴⁹ W. Dittenberger, *Sylloge*³ 279, 8-10. They swear by Artemis.

¹⁵⁰ A. Jacobs, *Thasiaca*, Berolini 1893, p. 47; E. Ziebarth, "Eid," p. 2079.

¹⁵¹ E. Ziebarth, "Eid," p. 2080: "Eine allgemeine E(ides)-Formel für alle Bürger, in der sie beim Eintritt der politischen Mündigkeit versprechen mußten, ihre Pflichten gegen das Vaterland zu erfüllen, gab es in Athen

all Athenian men took an internship for a period of two years during which they received not only a military training but also a proper education which prepared them for their future tasks as citizens of the polis. Those years were considered to be a transition from childhood to adolescence, from childhood to citizenship. At what point the Athenian ephebes had to swear an oath, before they started their training, during their training, or after, is unclear. It is also unclear how far the institution of the Ephebeia reaches back in time and whether it was always connected with the same oath or different oath or an oath at all.¹⁵² Evidence for the Ephebic oath comes from Lycurgus:

ὅμῳ γὰρ ἔστιν, ὃν ὁμνύουσι πάντες οἱ πολῖται, ἐπειδὴν εἰς ληξιαρχικὸν γραμματεῖον ἐγγραφεῶσι καὶ ἔφηβοι γένωνται, μήτε τὰ ἱερὰ ὅπλα καταισχυνεῖν μήτε τὴν τάξιν λείπειν, ἀμυνεῖν δὲ τῇ πατρίδι καὶ ἀμείνω παραδώσιν.¹⁵³

There is an oath which you take, sworn by all citizens when, as ephebes, they are enrolled on the register of the deme, not to disgrace your sacred arms, not to desert your post in the ranks, but to defend your country and to hand it on better than you found it.

Probably due to the lack of a provision in a law code, Lycurgus used parts of the Ephebic oath in court in order to show that Leocrates was a deserter who moved abroad after the defeat of Chaeronea. According to Lycurgus, all young Athenians not only swore not to disgrace sacred arms (μήτε τὰ ἱερὰ ὅπλα καταισχυνεῖν) and to defend the country (ἀμυνεῖν δὲ τῇ πατρίδι) but also not to desert the post in the ranks (μήτε τὴν τάξιν λείπειν).

in dem Ephebe-E(id).” See also: G. Hofmann, *De iureiurandi apud Atheniensis formulis*, Darmstadt 1886, p. 31.

¹⁵² On the Athenian Ephebeia, see: O. W. Reinmuth, “Genesis of the Athenian Ephebeia,” *TAPhA* 83 (1952), pp. 34-50; C. Pélékidis, *Histoire de l'éphébie attique des origines à 31 avant Jésus-Christ*, Paris 1962; P. Siewert, “The Ephebic Oath in Fifth-Century Athens,” *JHS* 97 (1977), pp. 102-11; P. Vidal-Naquet, *Le chasseur noir*, Paris 1981, pp. 151-175 (P. Vidal-Naquet, *The Black Hunter*, pp. 106-28); L. A. Burckardt, *Bürger und Soldaten*, Stuttgart 1996, pp. 26-75; H.-J. Gehrke, “Gewalt und Gesetz,” *Klio* 79 (1997), pp. 23-68.

¹⁵³ Lycurgus, *In Leocratem* § 76.

Ziebarth's position that the oath of the ephebes is the oath of the private citizen (*ὁ ἰδιώτης*) as mentioned in Lycurgus is based on the argument that the ephebes take this oath when they were enrolled on the register of the deme in order to gain citizenship status.¹⁵⁴ In this case the ephebes would have taken the oath at the beginning of their training and their oath could be considered a civil or civic oath. Other scholars understood the oath of the ephebes as an oath of allegiance or fealty,¹⁵⁵ as a military or hoplite oath,¹⁵⁶ however, without referring to Ziebarth's position or giving an argument as to why they coin the oath the way they do.

In addition to later sources,¹⁵⁷ a version of the Ephebic oath is attested in an inscription from around 334/3 BCE.¹⁵⁸ It may shed some light on the problem whether the oath of the ephebes is the oath of the private person (*ὁ ἰδιώτης*) mentioned in Lycurgus:

¹⁵⁴ Ziebarth probably confused it with the oath of the demotai, i.e. the oath that members of the deme take when young men are enrolled in the demes. Under oath they decide whether a young man has reached the age of 18 and whether he is a freeman and of legitimate birth. Cf. Aristotle, *Athenaion Politeia* 42.1.

¹⁵⁵ P. Siewert, "The Ephebic Oath in Fifth-Century Athens," considers it as "oath of allegiance" (p. 102), "a reliable copy of the archaic Athenian civic oath (p. 104), "civic oath" (p. 108, 109).

¹⁵⁶ P. Vidal-Naquet, *The Black Hunter*, p. 128 fn 73, refers for a discussion of "the ephebic oath as a hoplite oath" to P. Siewert, "The Ephebic Oath in Fifth-Century Athens," p. 110, who speaks of "swearing hoplites," but he does so without providing evidence. Nevertheless, the point is interesting. What is the relation between ephebes and hoplites?

¹⁵⁷ Stobaeus, *Flouelegium* 43.48; Pollux 8.105.

¹⁵⁸ L. Robert, *Études épigraphiques et philologiques*, Paris 1938, pp. 296ff.; M. N. Tod, *A Selection of Greek Historical Inscriptions*, 2 vols., Oxford ²1946, vol. II no. 204; C. Pélékidis, *Histoire de l'éphébie attique des origines à 31 avant Jésus-Christ*, pp. 112f., 75-78; R. Merkelbach, "Aglauros (Die Religion der Epheben)," *ZPE* 9 (1972), pp. 277-83; L. A. Burckardt, *Bürger und Soldaten*, Stuttgart 1996; H.-J. Gehrke, "Gewalt und Gesetz," *Klio* 79 (1997), pp. 23-68.

5 Ὁρκος ἐφήβων πάτριος ὃν ὀμνύμαι δεῖ τ-
 6 οὺς ἐφήβους. VVV Οὐκ αἰσχυνῶ τὰ ἱερὰ ὅπ-
 7 λα οὐδὲ λείψω τὸν παραστάτην ὅπου ἂν σ-
 8 τ(ο)ιχῇσω. ἄμυνῶ δὲ καὶ ὑπὲρ ἱερῶν καὶ ὁς-
 9 ῶν καὶ ο(ὕ)κ ἐλάττω παραδῶσω τὴν πατρίδ-
 10 α, πλείω δὲ καὶ ἀρείω κατὰ τε ἑμαυτὸν κα-
 11 ῖ μετὰ ἀπάντων, καὶ εὐηκοήσω τῶν ἀεὶ κρ-
 12 αινόντων ἐμφρόνως καὶ τῶν θεσμῶν τῶν
 13 ἰδρυμένων καὶ οὕς ἂν τὸ λοιπὸν ἰδρῶσω-
 14 νται ἐμφρόνως· ἐὰν δέ τις ἀναιρεῖ, οὐκ ἐ-
 15 πιτρέψω κατὰ τε ἑμαυτὸν καὶ μετὰ πάντ-
 16 ων καὶ τιμήσω ἱερὰ τὰ πάτρια. Ἱστορες
 17 θεοὶ Ἄγλαυρος, Ἑστία, Ἐνυώ, Ἐνυάλιος, Ἄρ-
 18 ης καὶ Ἀθηνᾶ Ἀρεία, Ζεὺς, Θαλλώ, Αὐξώ, Ἡγε-
 19 μώνη, Ἡρακλῆς, ὅροι τῆς πατρίδος, πυροί,
 20 κριθαί, ἄμπελοι, ἐλαῖαι, συκαί.¹⁵⁹

5 Hereditary Oath of the Ephebes that has to be sworn by
 6 the Ephebes: "I will not disgrace sacred arms
 7 nor will I desert the comrade beside me wherever I shall be stationed
 8 in battle line. I will defend sacred and profane institutions
 9 and will not hand over a smaller fatherland,
 10 but greater and better, so far as I am able, by myself and
 11 with all, I will obey those who always exercise power
 12 reasonably and the laws as they are
 13 established and those which they will establish in the future
 14 reasonably. If anyone seeks to destroy them, I will not
 15 admit it so far I am able, by myself or with the help of all.
 16 And I will honor the traditional sacred institutions. Witnesses are
 17 the gods Aglauros, Hestia, Enuo, Enualios, Ares and
 18 Athena Areia, Zeus, Thallo, Auxo, Hege-
 19 mone, Herakles, the boundaries of the fatherland, wheat,
 20 barley, vines, olive-trees, fig-trees.

¹⁵⁹ The text is cited according to P. Siewert, "The Ephebic Oath in Fifth-Century Athens," p. 102-3.

The oath of the Athenian ephebes is a promissory oath. But what kind of promissory oath is it? An oath of office, an oath of allegiance, an oath of obedience, an oath of fealty, a civic or civil oath? Is the ephebic oath also a hoplite or military oath? What kind of political implication does the oath have? One may arrive at a somewhat closer solution by reading the constellation of gods invoked in the oath and by explaining the provisions given in the oath.

The provisions of the Ephebic oath contain both civil duties and military obligations. The military obligations contain the following promises: not to disgrace sacred arms (*Οὐκ αἰσχυνῶ τὰ ἱερὰ ὄπλα*, ll. 6-7), not to desert a comrade (*οὐδὲ λείψω τὸν παραστάτην ὅπου ἂν στ(ο)ιχήσω*, ll. 7-8), to defend sacred and profane institutions (*ἀμυνῶ δὲ καὶ ὑπὲρ ἱερῶν καὶ ὁσίων*, ll. 8-9), not to hand over a smaller fatherland (*ο(ὐ)κ ἐλάττω παραδώσω τὴν πατρίδα*, ll. 9-10). The civil duties contain the following promises: to obey those who exercise power reasonably (*εὐηκοήσω τῶν ἀεὶ κραινόντων ἐμφρόνως*, ll. 11-12), to obey existing laws and those given in the future (*τῶν θεσμῶν τῶν ἰδρυμένων καὶ οὕς ἂν τὸ λοιπὸν ἰδρύνωνται ἐμφρόνως*, ll. 12-14), not to allow someone to destroy the laws (*ἐὰν δέ τις ἀναιρεῖ, οὐκ ἐπιτρέψω κατὰ τε ἑμαυτὸν καὶ μετὰ πάντων*, ll. 14-16), and not to harm sacred institutions (*τιμήσω ἱερὰ τὰ πάτρια*, l. 16). From these duties and obligations one may infer that the ephebic oath is both a military and a civic oath.

For the transition from childhood to adolescence the Ephebes submit themselves to the goddess Hebe.¹⁶⁰ To be an ephebe means to be *epi Hebe*, to be under Hebe. Daughter of

¹⁶⁰ Lycurgus, *In Leocratem* § 76; Aristotle, *Athenaion Politeia* 42.2; Plato, *Axiochus* 366e.

Hera and Zeus as well as wife of Heracles, Hebe is the personification of splendid youth.¹⁶¹ She serves the gods on Olympus and dances with the Charites (Thallo, Auxo, and Hegemone) and the Hores.¹⁶² Her name was a battle cry at Mycale.¹⁶³ However, Hebe is not invoked in the oath.

The first deity to be addressed within the constellation of gods invoked is Aglauros.¹⁶⁴ Aglauros, daughter of Cecrops and Aglauros, was the mother of Ceryx,¹⁶⁵ the eponymous hero of the Attic gens of the Cerykes. When Attica was attacked by enemies, Apollo said that the city could only be saved, if someone sacrificed himself or herself for the city.¹⁶⁶ Aglauros sacrificed herself for the fatherland and received a sanctuary at the northern slope of the Acropolis,¹⁶⁷ where she was worshipped with music and dances.¹⁶⁸ There, the ephebes took their oath,¹⁶⁹ promising to risk their lives for the city, if necessary. The idea of *pro patria mori* may have its origin here.

Hestia is the daughter of Kronos and Rhea,¹⁷⁰ thus, sister of Zeus. As a projection from the cult of the hearth to the state household of the city,¹⁷¹ she has a place in the Prytaneium.¹⁷² Upon unification, Theseus combined the hearth of each deme into one

¹⁶¹ Homer, *Odyssee* 11, 603; Hesiod, *Theogony*, v. 922, vv. 950-52; Pindar, *Nemean* 1. 69-72; Apollodorus 1. 13.

¹⁶² Homer, *Iliad* IV 2; *Homeric Hymn to Hermes* 2, 17.

¹⁶³ Herodotus 9, 98.

¹⁶⁴ R. Merkelbach, "Aglauros (Die Religion der Epheben)," pp. 277-83.

¹⁶⁵ Pausanias I 38, 3.

¹⁶⁶ Schol. Demosthenes 19, 303; Plutarch, *Alcibiades* 15.

¹⁶⁷ Herodotus 8, 53.

¹⁶⁸ Euripides, *Ion* 496; L. Deubner, *Attische Feste*, Berlin 1932, p. 14.

¹⁶⁹ Demosthenes 19.303; Philochoros, *FrHist* 328 F 105; Plutarch, *Alcibiades* 15.7; Pollux VIII 105; Hesychius a 612; see also: R. Merkelbach, "Aglauros," p. 280.

¹⁷⁰ Hesiod, *Theogony*, vv. 453-54; On Hestia, see: L. Gernet, "Sur le symbolisme politique: Le foyer commun," (1957) in: L. Gernet, *Anthropologie de la Grèce antique*, Paris 1968; J.-P. Vernant, "Hestia-Hermes: Sur l'expression religieuse de l'espace et du mouvement chez les Grecs," in: J.-P. Vernant, *Mythe et pensée chez les Grecs*, Paris 1965, pp. 124-170; G. Nagy, "Six Studies of Sacred Vocabulary relating to the Fireplace," *HSPH* 78 (1974), pp. 17-106; R. Merkelbach, "Der Kult der Hestia im Prytaneion griechischer Städte," *ZPE* 37 (1980), pp. 77-92.

¹⁷¹ Platon, *Leges* IX 856a.

¹⁷² Schol. Pind. N. 11, 1; Athenaeus 4, 149d.

common hearth at Athens in the Prytaneium on the agora.¹⁷³ Connected with the common hearth is Hestia's function as an oath deity.¹⁷⁴ Hestia is also mentioned in the oath of the ephebes at Dreros.¹⁷⁵

Enuo or Enyo, Ares and Athena Areia are gods of war. Enyo is the female equivalent to Enyalios, thus a goddess of warfare. Her signature is the Kydoimos daimon of close combat, whom she swings like a weapon.¹⁷⁶ In a scholion to Homer she is mentioned as the mother of Ares.¹⁷⁷ In the temple of Ares at Athens was an image of her.¹⁷⁸ Invoking these war-gods connected the ephebes' promise to their military obligations in battle.

Thallo (and Karpo) were the original couple of the Hores or Charites.¹⁷⁹ Along with Auxo, one of the other Hores or Charites, Thallo is also mentioned in Pollux's version of the oath.¹⁸⁰ By invoking them, the ephebes are obliged to be responsible for the country's growth and blossom. Hegemone, another Charis,¹⁸¹ guided them through the countryside.

The training of the ephebes is generally regarded as a transition from childhood to adolescence. Transition from childhood to adolescence means gaining definite admission to the social group. Viadal-Naquet understands admission into the social group as meaning two things: marriage and entry to the hoplite phalanx or entry into the Athenian navy.¹⁸² As a "creature of the frontier area, of the *eschatia*, he [the ephebe] guarantees in his hoplite oath to protect the boundary-stones of his country, and with them the cultivated fields, the

¹⁷³ Thukydides 2, 15, 2; Plutarch, *Theseus*, 24, 3.

¹⁷⁴ Aeschines 2, 45; F. Jacobi, *Πάνθεος θεοί*, Halle 1930, p. 20f.

¹⁷⁵ W. Dittenberger, *Sylloge*³ 527, 15.

¹⁷⁶ Homer, *Iliad* V 592; XVIII 535.

¹⁷⁷ Scholia in Hom. Il. 5.333.

¹⁷⁸ Pausanias 1, 8, 4; Philostratos, *Philostrati majoris imagines* 2, 29.

¹⁷⁹ Pausanias 9, 35, 2.

¹⁸⁰ Pollux VIII 106. C. Robert argued for a trinity of Hores or Charites: Thallo, Auxo, and Karpo, others for a duality, see: A. Lesky, "Thallo," *RE* V A (1934), pp. 1214-15; H. Usener, *Götternamen*, Bonn 1896, pp. 131ff.

¹⁸¹ Pausanias IX 35.

¹⁸² P. Vidal-Naquet, *The Black Hunter*, p. 107.

wheat, barley, olive trees, vines, and figs.”¹⁸³ If the ephebes are creatures of the frontier, then it implies that they learn to know the country and its borders during their training, not as fully trained hoplites. It further implies that they take the oath in the beginning of their training. Promising to protect cultivated fields implies to obey civil and military obligation during their training. In a different place, Vidal-Naquet says: “When they take the oath that makes them full hoplites.”¹⁸⁴ This implies that the ephebes take the oath at the end of their training when they are fully trained soldiers and educated citizen.

To sum up: The Ephebic oath is a civic or civil oath as well as a military oath by which the Ephebes either enter their training or became a full citizens at Athens. The Ephebic oath containing both civil duties and military obligations can therefore also be understood as an oath of allegiance, regardless whether they take it in order to become ephebes or citizens. It can only be regarded as a hoplite oath, if the ephebes take it at the end of their training when they become full hoplites. Xenophon’s statement, *καὶ πανταχοῦ ἐν Ἑλλάδι νόμος κεῖται τοὺς πολίτας ὁμνύναι ὁμονοήσειν, καὶ πανταχοῦ ὁμνύουσι τὸν ὅρκον τοῦτον*,¹⁸⁵ and everywhere in Greece there is a law that citizens swear to agree, and everywhere they swear that oath, could be regarded as a reference to the oath of the ephebes.¹⁸⁶ But is the oath of the Ephebes the oath of the private citizen (ὁ ἰδιώτης)?

Who is an ἰδιώτης? An ἰδιώτης is a private citizen who did not take a political office or did not participate in political life.¹⁸⁷ The way the term ἰδιώτης is used implies that an ἰδιώτης is already a citizen who has chosen not to take office or to participate in political life

¹⁸³ P. Vidal-Naquet, *The Black Hunter*, p. 121f.

¹⁸⁴ P. Vidal-Naquet, *The Black Hunter*, p. 108.

¹⁸⁵ Xenophon, *Memorabilia* IV, 4, 16.

¹⁸⁶ For the Ephebic oath at Dreros, see: W. Dittenberger, *Sylloge*³ 527; see also: A. Chaniotis, *Die Verträge zwischen kretischen Poleis in der hellenistischen Zeit*, Stuttgart 1996, pp. 195-201, who does not consider it as an Ephebic oath.

¹⁸⁷ O. Gigon, “ἰδιώτης,” *Soziale Typenbegriffe im alten Griechenland und ihr Fortleben in den Sprachen der Welt*, 7 vols., edited by E. Ch. Welskopf, Berlin 1981-85, vol. 3, pp. 385-391.

otherwise. The term is never used for someone who is in transition from childhood to adolescence or in transition from childhood to citizenship. Thus, the oath of the private citizen (*ιδιώτης*) can hardly be understood to be the oath of the ephebes which entails civil obligations and military duties.¹⁸⁸

But what is the oath of the *ιδιώτης*? Due to a lack of direct evidence, a reasonable guess may be that it refers to private litigation in Athenian court procedure and may be connected with the oath challenge for settling disputes.¹⁸⁹ In that case the oath of the *ιδιώτης* would not be a promissory oath but an assertory oath.

4.1.3 The Oath Of the Judge (*ὁ δικαστής*)

The oath of the judge (*ὁ δικαστής*), as mentioned in Lycurgus, is not an oath of office but an oath that is taken in court procedure in order to reach a verdict and conclude the case. Some scattered references can be found in Plato and Aristotle as well as in the laws of Gortyn. A few examples of an oath taken by a judge come from the laws of Gortyn:

*αἱ δὲ κ' ἀντὶ δόλοι μολίοντι πονίοντες φὸν φεκάτερος ἔμεν, αἱ μὲν κα μαῖτυς ἀποπονεῖ, κατὰ τὸν μαίτυρα δικάδδεν, αἱ δὲ κ' ἔ ἀνποτέροις ἀποπονίοντι ἔ μεδατέροι, τὸν δικαστὰν ὁμνύντα κρίνεν.*¹⁹⁰

“And if they content about a slave, each declaring that he is his, the judge is to give judgment according to the witness a witness testify, but he is to decide on oath if they testify for both or for neither.”

¹⁸⁸ Xenophon, *Anabasis* 1.3.11 and 3.2.32, uses the term *ιδιώτης* also for the simple soldier in contrast to military leader, but without referring to any military obligations mentioned in the oath. See also later references: Polybios 5, 60, 3; Diodorus 19, 4, 3.

¹⁸⁹ M. R. Christ, *The Litigious Athenian*, Baltimore and London 1998, pp. 203-8, shows that for private litigation it is considered to be an advantage not to appear as a legal expert in court.

¹⁹⁰ *Law Code of Gortyn*, col. I 17-24 (= IC IV 72.1.17-24). The phrase *δικαστὰν ὁμνύντα κρίνεν* also appears in col. I 11-12, 13-14, 38-39; col. II 55-col.III 1; col. VI 53-54; col. XI 26-30. In col. III 15-16, we find the phrase *δικαστὰς ὁμώσει*, in col. IX 21 *δικαστὰς ὁμνύς κρίνέτο*.

The judge (δικαστάς), who belonged to the board of supreme magistrates (*kosmoi*), had two possibilities for settling the case: either δικάδδεν,¹⁹¹ i.e. by imposing an oath on one of the litigants and his witness(es) as a result of the proceedings, or by ὁμνυντα κρίνειν, i.e. to decide the case by taking an oath himself in order to promise a just verdict. In the first instance the judge either imposes the oath on either litigant as prescribed in the law code,¹⁹² or he decides on the basis of whose witnesses are ὀρκιότερες, more worthy to take an oath or more preferable to take an oath.¹⁹³ It means that the judge considers this witness more trustworthy and therefore gives him the preference to take the oath. In the second instance, if there is no convincing evidence for either litigant, the judge decided by his oath.¹⁹⁴ The oath by which the judge concludes the case can be considered either a means of evidence brought to the case or a promise to reach a just verdict. The former would be an assertory oath, the latter a promissory oath.

Plato, who may have referred to those proceedings, probably understood the oath of the judge as a promissory oath: ψῆφον ἱερὰν ἕκαστον φέροντα καὶ ὑποσχόμενον πρὸς τῆς Ἑστίας εἰς δύναμιν τὰ δίκαια καὶ ἀληθῆ κρίνειν, οὕτω τέλος ἐπιθεῖναι τῇ τοιαύτῃ δίκῃ,¹⁹⁵ each (of the judges) shall cast a sacred vote, promising by Hestia to give just and true judgment to the best of his power, and thus they shall bring to its end this form of trial.¹⁹⁶

In discussing monarchy of old times, Aristotle refers to dispute settlement as one of the three sovereign functions of kings:

¹⁹¹ The Dorian form δικάδδεν in the laws of Gortyn matches the form of δικάζειν which is used in classical Athens.

¹⁹² For imposing an oath on either litigants, see: *Law Code of Gortyn*, col. III 5-9 (= *IC IV* 72.3.5-9); col. II 36-45; col. IX 37-40; *IC IV* 47.16-26; *IC IV* 81.11-16 (cf. *IC IV* 72.9.54).

¹⁹³ *Law Code of Gortyn*, col. II 15 (= *IC IV* 72.1.15).

¹⁹⁴ *Law Code of Gortyn*, col. II 26-31 (= *IC IV* 72.2.26-31).

¹⁹⁵ Plato, *Leges* IX 856a.

¹⁹⁶ These procedures may have influenced S. Pufendorf, *De jure naturae et gentium* IV, 2 § 18: "Nequeveroquod a iudicibus praestatur juramentum, assertorium est, sed promissorium."

κύριοι δ' ἦσαν τῆς τε κατὰ πόλεμον ἡγεμονίας καὶ τῶν θυσιῶν ὅσαι μὴ ἱερατικαί, καὶ πρὸς τούτοις τὰς δίκας ἔκρινον· τοῦτο δ' ἐποιοῦν οἱ μὲν οὐκ ὀμνύοντες οἱ δ' ὀμνύοντες, ὁ δ' ὄρκος ἦν τοῦ σκῆπτρου ἐπανάτασις.¹⁹⁷

And they were masters concerning the command in war and over all sacrifices which were not in the hands of priests and they also decided lawsuits. Some did so by swearing (an oath), some by not swearing (an oath). The oath was sworn by holding up a scepter.

In old times the kings not only had supreme command in war as well as control over sacrifices but they also decided in lawsuits. Some settled disputes by swearing an oath (*οἱ δ' ὀμνύοντες*), others did not swear an oath (*οἱ μὲν οὐκ ὀμνύοντες*). Thus, the oath of the judge seems to be preceded by the oath of kings in archaic Greek dispute settlement.

In order to exercise these functions in a trustworthy manner, the king himself may have been inaugurated through a ceremony that may have involved an oath, either a coronation oath or an oath of loyalty by his people or vassals.

5. Oath and Religion

The differentiation of oaths into assertory and promissory oaths provided a clear yardstick according to which ancient texts and documents can be classified and analyzed, at least as a preliminary step. In connection with modern positive law, which provided us with norms and rules as to what forms of oath-taking were required in various court procedures, ancient documents could be understood in their proper legal context. In this respect, the legal distinction also served as a legalistic definition. As a legalistic definition, however, it explains the oath only within the context of positive law, not beyond. For example, positive law cannot really provide us with the reason why oaths are taken in certain situations at a

¹⁹⁷ Aristotle, *Politics* III 1285^b9-12.

given time. Therefore, one should be aware of the fact that positive law may not explain the entire phenomenon of the oath in any given society, as von Kirchmann pointed out in his lecture on *Die Wertlosigkeit der Jurisprudenz als Wissenschaft*, a lecture read in Berlin in 1848: “Das positive Gesetz ist starr; das Recht fortschreitend; deshalb wird selbst die Wahrheit jenes mit der Zeit zur Unwahrheit.”¹⁹⁸ His remarks still have their heuristic value. Since positive law (Gesetz) is only true for brief periods in time, hence always for short periods in history only, it cannot account for historical developments. Thus, it is natural law (Recht) that accounts for historical developments: “Jedes positive Gesetz ist bedingt durch den Grad der Kenntnis des natürlichen Rechts.”¹⁹⁹ The fact that positive law is based on natural law has also been admitted by such a positive minded legal scholar as Hans Kelsen: “Theory of positive law is based on a moral minimum, which is just a minimized natural law theory.”²⁰⁰

From the point of view of natural law one may ask the following questions: Is the oath something that has always been a necessary element in dispute settlement and court procedures in all societies at all times or is it something that has simply been attached to legal procedures? Has the oath always been a necessary feature of positive law at all times? Is the oath a concept of positive law at all? Does the fact of oath-taking in courts represent a paradox of positive law? Does the same apply for promises under oath? Do promises under oath that are made by former enemies upon signing a peace treaty represent a paradox as well? Are promises under oath as given by sovereigns upon inauguration a necessary feature of a social contract? Are oath of fealty or allegiance necessary for a social contract or simply instruments of gaining social discipline?

¹⁹⁸ J. H. von Kirchmann, *Die Wertlosigkeit der Jurisprudenz als Wissenschaft*, Berlin 1848, p. 22.

¹⁹⁹ J. H. von Kirchmann, *Die Wertlosigkeit der Jurisprudenz als Wissenschaft*, p. 22.

²⁰⁰ H. Kelsen, *Reine Rechtslehre: Einleitung in die rechtswissenschaftliche Problematik*, Leipzig 1934, p. 20.

In attempting to answer these questions one has to push matters beyond the limits of positive law towards a somewhat broader context that accounts for historical processes as well as for the religious and superstitious dimensions of oath-taking in any given period. According to Paolo Prodi, it is no longer justified to consider the oath as an institution that has not change in the course of history.²⁰¹ In taking an oath, the oath-taker not only establishes a bond to the oath receiver, but he also defines himself within the social-political group to which he belongs. As social and political environments have changed in the course of history, it is unlikely that an institution such as the oath should have remained a constant feature. As an extension of Walter Burkert's question – "Why must people have religion? In the ancient world, the obvious answer would have been, for the validation of oaths."²⁰² – one has to give an account of the oath in its relation not only to religion but also in its relation to myth and ritual.

5.1 The Attempted Peace-treaty between Trojans and Achaeans

The earliest oath ceremony that has come down to us from the Greek world entails a promissory oath and concerns an attempt of treaty-making between the Trojans and Achaeans. It is found in Homer's *Iliad* as Paris and Menelaos agree to fight one another in order to decide the outcome of the war. The winner of the duel is supposed to win Helena and a huge amount of treasures that are placed in the middle of Trojans and Achaeans who will sit or stand around Paris and Menelaos. Paris also suggests that, independently of the duel's outcome, the rest of the Trojans and Achaeans should make preparations to establish a treaty of friendship by swearing faithful oaths: οἱ δ' ἄλλοι φιλότῃτα καὶ ὄρκια πιστὰ

²⁰¹ P. Prodi, "Der Eid in der europäischen Verfassungsgeschichte: Zur Einführung," *Glaube und Eid*, herausgegeben von P. Prodi, München 1993, pp. VIII-IX.

²⁰² W. Burkert, *Creation of the Sacred*, Cambridge/Mass 1996, p. 169.

ταμώντες,²⁰³ or more literally “to cut friendship and faithful oaths”. Paris’s suggestion is accepted by Hector who repeats the phrase that οἱ δ’ ἄλλοι φιλότητα καὶ ὄρκια πιστὰ τάμωμεν,²⁰⁴ the rest of us should cut friendship and faithful oaths.

Thereupon Menelaos orders the heralds to bring three sacrificial lambs for the oath ceremony, a white one for Helios, a black one for Gaia, and a third one for Zeus. Menelaos further demands that Priam himself may cut the oath, ὅφρ’ ὄρκια τάμῃ,²⁰⁵ since the Achaeans considered him as the only trustworthy person among the Trojans. The heralds, then, run through the city and carry faithful oaths, φέρειν ὄρκια πιστά. The phrase φέρειν ὄρκια πιστά, “to carry faithful oath,” is somewhat odd, since it is counterintuitive that abstract entities such as oaths can be carried physically by the heralds. The oddity is removed, if one understands ὄρκια as objects that are carried to be cut. In Euripides *Suppliants* Athena advises Theseus to prepare the oath ceremony for Adrastos and the Danaids: ἐν ᾧ δὲ τέμνειν σφάγια χρή σ’ ἄκουέ μου, “hear from me, in what (tripod) you are to cut the sacrifices.”²⁰⁶ A σφάγια is a thing slaughtered or the victim slain for placation and purification. Just as the σφάγια is cut so is the ὄρκια. “The expression τέμνειν σφάγια is the equivalent of the familiar

²⁰³ Homer, *Iliad* III, 73.

²⁰⁴ Homer, *Iliad* III, 94.

²⁰⁵ Homer, *Iliad* III, 105.

²⁰⁶ Euripides, *Suppliants*, 1196. The procedure is described as follows:

1201	ἐν τῷδε λαιμούς τρεῖς τριῶν μήλων τεμών
1202	ἔγγραφον ὄρκος τρίποδος ἐν κοίλῳ κύτει
1203	κάπειτα σφύζειν θεῷ ᾧ Δελφῶν μέλει,
1204	μνημετά θ’ ὄρκων μαρτύρημά Ἑλλάδι.

1201	Over this tripod you must cut the throats of three sheep
1202	and inscribe the oath on its curved hollow
1203	and then give it for safe-keeping to the god who rules Delphi,
1204	a memorial of the oath and a witness to it in the eyes of Hellas.

τέμνειν ὄρκια,” as Jane Harrison has already pointed out.²⁰⁷ The fact that the oath is taken by cutting the sacrificial animal means that the sacrificial animal embodies the oath.²⁰⁸

The phrase ὄρκια τέμνειν reflects an old procedure common to both Indo-European and Semitic societies. By cutting the sacrificial animal covenants are cut and treaties are concluded. In Biblical Hebrew one finds the expression *berît kârat*, “to cut a covenant”. This has already been observed by Gesenius in 1835.²⁰⁹ One would expect the equivalent phrase in Hittite and Akkadian.²¹⁰ Unfortunately, it does not seem to be attested. In the UR-III-period, however, one finds the Neo-Sumerian expression *nam-erîm-Tar* “to cut an oath,” or more literally, “to cut fate.”²¹¹ At Mari an oath is taken by cutting a donkey foal.²¹²

When the Trojans and Achaeans gather in the plain, Agamemnon raises his arms towards heaven and begins to speak. First, he invokes the gods as witnesses for the oath:

276 Ζεῦ πάτερ, Ἰδοῦσεν μεδέων, κύδιστε μέγιστε,
277 Ἡελίος δ', ὃς πάντ' ἐφορᾷς καὶ πάντ' ἐπακούεις,
278 καὶ Ποταμοὶ καὶ Γαῖα, καὶ οἱ ὑπένερθε καμόντας
279 ἀνθρώπους τίνυσσον, ὅτις κ' ἐπίορκον ὁμόσση,
280 ὑμεῖς μάρτυροι ἔσθε, φυλάσσετε δ' ὄρκια πιστά.²¹³

276 Father Zeus, guardian from Ida, most honored and greatest,

²⁰⁷ Jane Harrison, *Prolegomena to the Study of Greek Religion*, Cambridge 1903, pp. 66-67; see also: P. Stengel, *Opferbräuche der Griechen*, Berlin 1910; P. Stengel, “Zu den griechischen Schwuopfern,” *Hermes* 49 (1914), pp. 90-101.

²⁰⁸ G. S. Kirk, *The Iliad: A Commentary*, Cambridge 1985, p. 274, ad ll. 73-75. On ὄρκια, see: J. F. Priest, “Ὀρκια in the Iliad and Consideration of a Recent Theory,” *JNES* 23 (1964), pp. 48-56; D. Cohen, “Horkia and Horkos in the Iliad,” *RIDA* 27 (1980), pp. 49-68; P. Karavites, *Promise-Giving and Treaty-Making. Homer and the Near East*, Leiden 1992, pp. 58-81.

²⁰⁹ F. H. W. Gesenius, *Thesaurus philologicus criticus linguae Hebraeae et Chaldaee Veteris Testamenti*, Leipzig 1829-58.; E. Bikerman, “Couper une alliance,” *Archives d'histoire du droit oriental* 5 (1950-51), p. 133ff.; J. F. Priest, “Ὀρκια in the Iliad,” p. 53; M. Weinfeld, “Covenant Terminology,” *JAOS* 93 (1973), p. 192; M. Weinfeld, “Loyalty Oath,” *UF* 8 (1976), p. 400; H. Tadmor, “Treaty and Oath in the Ancient Near East: A Historians Approach,” *Humanizing America's Iconic Book*, edited by Gene M. Tucker and Douglas M. Knight, Chico/California 1982, p. 136f.

²¹⁰ On attempts to reconstruct it for Akkadian, see: H. Tadmor, “Treaty and Oath in the Ancient Near East,” p. 136f.

²¹¹ A. Falkenstein, *Die neusumerischen Gerichtsurkunden*, München 1956-57, p. 64.

²¹² S. Dalley, *Mari and Karana*, London 1984, p. 140 (with more literature).

²¹³ Homer, *Iliad* III, 276-280; l. 279: West has τείνυσσον instead of τίνυσσον with reference to J. Wackernagel, *Sprachliche Untersuchungen zu Homer*, Göttingen 1916, p. 77ff.

277 and Helios, you who sees everything and hears everything,
 278 and the Rivers and Gaia, and you (two) who underneath punish
 279 suffering men, whoever has sworn a false oath,
 280 be our witness and protect the faithful oath.

As witnesses for the ὄρκια πιστά, as witnesses for the truthful oath or treaty between Trojans and Achaeans, Agamemnon invokes Zeus from Ida, Helios, the Rivers, Earth, and the two gods of the netherworld who punish those who have sworn a false oath, ἐπίορκον ὁμόσση. The gods are not invoked to help the oath taker to bring about the statement under oath, as in the modern era of the 18th and 19th century. Zeus, Helios, the Rivers, and Earth are invoked as μάρτυροι, as witnesses for the oath, and the two gods of the netherworld are invoked as avengers who punish the perjurer. Thus, the constellation of the gods invoked for the oath has to be read as an assemblage of witnesses and guarantors for the oath as well as avengers in case of perjury.

Trojans and Achaeans belong to different cities with a different pantheon. They invoke gods that are common to both of them. Zeus is the one who watches the war from Mount Ida and the one who listens to the songs that are sung for him. He listens like the old oath deities who are invoked in the Hittite state treaties and the epic cycle *The Kingship in Heaven*.²¹⁴ Zeus is addressed as Ἰδηθεν μεδέων, as the ruler or guardian from Mount Ida who watches any form of treaty making and thus was suited to be invoked by both parties. Helios is the one ὃς πάντ' ἐφορᾷ καὶ πάντ' ἐπακούει, who sees and hears everything. Invoking him makes the punishment for the perjurer inevitable.²¹⁵ Earth could withdraw food and grain from men.²¹⁶ Earth is expanded by the Rivers who may withdraw water from men. But

²¹⁴ KUB XXXIII 120, 1-7.

²¹⁵ E. Hedén, *Homerische Götterstudien*, Uppsala 1912.

²¹⁶ The citizens of Chersonesos swore that, if they don't keep the oath, the earth shall not bear fruits and women shall not give birth to children. W. Dittenberger, *Sylloge*³ 360, 55 (= *Sylloge*² 461, 55). cf. A. Dieterich, *Mutter Erde. Ein Versuch über Volksreligion*, Leipzig² 1913, p. 54.

who are the two gods of the netherworld? Hades and Persephone? Rhadamantys and Minos? Two Erinys? Rhadamantys and one Erinys?

There is a similar passage in *Iliad* 19 that has often been taken into consideration for elucidating the passage in question:

- 258 ἴστω νῦν Ζεὺς πρῶτα, θεῶν ὑπατος καὶ ἄριστος,
259 Γῆ τε καὶ Ἥλιος καὶ ἐρινύες, αἳ θ' ὑπὸ γαῖαν
260 ἀνθρώπους τίνυνται, ὅτις κ' ἐπίορκον ὁμόσση.²¹⁷
- 258 First Zeus, best and highest of the gods,
259 Gaia and Helios and the Erinys, who under the earth punish
260 men, whoever has sworn a false oath.

The constellations of gods invoked differs slightly, yet significantly. In the present passage a constellation of Zeus, Earth, the Sun, and the Erinys is invoked, in the attempted peace treaty between Trojans and Achaeans, however, we find a constellation of Zeus, the Sun, Earth, the Rivers, and the two unnamed gods of the netherworld. In the present passage the Rivers are absent. Zeus, the Sun, and Earth are part of both constellations. Due to this similarity it has been suggested that the Erinys match the two gods of the netherworld in the invocation for the peace treaty. Along with Hades and Persephone the Erinys are invoked by Althaea to send up curses from the netherworld upon Meleager.²¹⁸ As deities who live in the netherworld and bring up curses that make the perjurer sick, the Erinys would fulfill all the criteria for being invoked in the aforementioned oath-ceremony. However, the Erinys are only represented as a singularity or plentitude, never as a duality.

Another suggestion for identifying the two gods of the netherworld would be Rhadamanthys and Minos. Rhadamanthys is a judge of the netherworld along with Minos

²¹⁷ Homer, *Iliad* XIX, 258-260.

²¹⁸ Homer, *Iliad* IX, 565-572. For the Erinys as deities who live in the netherworld and bring curses upon the perjurer, see also: *Iliad* 9. 454-56; 571f. and *Odyssey* 15. 233-34.

and Aiakos, sometimes with Triptolemos.²¹⁹ He was conceived to have been an ancient king of Crete and ruler over the Aegean islands.²²⁰ As a son of Zeus and Europe, and as brother of Minos and Sarpedon,²²¹ Rhadamanthys was considered to be just and prudent.²²² As an important contribution to Greek court procedure he introduced the oath of both parties and thereby secured a speedy procedure.²²³ His brother Minos is also described as a judge of the netherworld.²²⁴ Thus, Rhadamanthys and his brother Minos could well be imagined to be invoked as those two gods who punish perjurers in the netherworld. The expression *καμόντας ἀνθρώπους* in *Iliad* III 278-9 does not necessarily mean dead people as suggested by LSJ in deriving it from ‘those who have passed through the toil of life’. The context of the passage makes it clear that men who have met with the disaster of breaking an oath are to be punished. Thus, the pair Minos and Rhadamanthys could meet the conditions for the punishment of perjurers. This does not exclude the fact that perjurers may be sentenced by Minos and Rhadamanthys at the end of their lives. If the two gods of the netherworld are Minos and Rhadamanthys, then the gods are not only invoked as witnesses and avengers but also as judges.

Coming back to the attempted peace treaty between Trojans and Achaeans. The oath is taken by two parties, by both Achaeans and Trojans. The gods as witnesses and possible judges and avengers guarantee and enforce the oath taken. The gods as a third party represent a transcendental sphere. Thus, we have three parties involved in the oath ceremony: the oath-taker, the oath receiver, and the constellation of gods. The Greek gods

²¹⁹ Plato, *Apologia* 41a3.

²²⁰ Apollodorus 3,6; Diodorus 5, 84.

²²¹ Homer, *Iliad* XIV, 321f; Hesiod, Fr. 140 M.-W.; Porphyrius, *De abstinencia* 3, 16, makes Dike the mother of Rhadamanthys.

²²² For Rhadamanthys as being just, see: Pindar, *Olympian* 2.83; Platon, *Leges* I 624b5f.; for Rhadamanthys as being prudent, see: Hesiod, *Theogony*, v. 701; Pindar, *Pythian* 2, 72.

²²³ Plato, *Leges* XII 948b12-c2.

²²⁴ Homer, *Odyssey* 11. 568-71.

do not examine the oath-taker concerning his religion nor do they give assistance in bringing about the oath. They are invoked as supernatural powers who witness the words of the oath taker, judge their promises, and may bring curses upon the perjurer. In Homer's *Iliad* the promissory oath is not a solemn appeal but a ritualistic oath-ceremony connected with an invocation of a constellation of gods witnessing the promise to establish friendship and peace in the future. But the gods also judge and avenge those who do not abide the promise given. The promise to cut friendship and peace entails the following conditions which can be considered as stipulations of a contract:

281 εἰ μὲν κεν Μενέλαον Ἀλέξανδρος καταπέφνη,
 282 αὐτὸς ἔπειθ' Ἑλένην ἐχέτω καὶ κτήματα πάντα,
 283 ἡμεῖς δ' ἐν νήεσσι νεώμεθα ποντοπόροισιν·
 284 εἰ δέ κ' Ἀλέξανδρον κτείνει ξανθὸς Μενέλαος,
 285 Τρῶας ἔπειθ' Ἑλένην καὶ κτήματα πάντ' ἀποδοῦναι,
 286 τιμὴν δ' Ἀργείοις ἀποτινέμεν, ἣν τιν' ἔοικεν,
 287 ἧ τε καὶ ἐσσομένοισι μετ' ἀνδράποισι πέληται.

281 If Alexander kills Menelaos,
 282 then he himself should have Helena and all treasures,
 283 and we return in sea-traversing ships.
 284 But if blond Menelaos kills Alexander,
 285 then the Trojans give back Helena and all treasures,
 286 and give due honor to the Argives,
 287 which will be for future men.

The conditions of the contract are very simple. If Paris kills Menelaos, he will keep Helena and all treasures. If Menelaos kills Paris, he will get Helena and all the treasures. Regardless the outcome of the duel, the Trojans and Achaeans will cut friendship and peace in order to end the war.

Finishing his speech, Agamemnon performs the oath-ceremony by sacrificing a lamb in order to bind the two parties to the stipulations of the contract. The sacrificial lamb

represents a sacred sphere. In addition, both Trojans and Achaeans draw wine from mixing bowls with their beakers and spill it to the ground while uttering the following words:

298 *Ζεῦ κύδιστε μέγιστε, καὶ ἄθάνατοι θεοὶ ἄλλοι,*
299 *ὀππότεροι πρότεροι ὑπὲρ ὄρκια πημήνεια,*
300 *ὣδ' ἐ σφ' ἐγκέφαλος χαμάδις ῥέοι ὡς ὄδε οἶνος,*
301 *αὐτῶν καὶ τεκέων, ἄλοχοι δ' ἄλλοισι δαμεῖεν.²²⁵*

298 “Zeus, you most honored and greatest, and you the other immortal gods:
299 Those whoever violate the oaths first
300 may their brain flow to the ground as that wine,
301 theirs and their children’s, and may their wives be subject to others.”

The words that both Trojans and Achaeans utter during the sacrificial ceremony are not an oath in the strict sense of the word but a curse. The oath proper is the invocation of a specific constellation of gods who witness the promise to cut friendship and peace. As a provision for those who violate the oath (*ὄρκια πημήνεια*), the oath-takers put curses upon themselves that they shall be killed like the lambs and that their blood as well as their brains shall be spilled from their skulls to the ground like the wine that is being poured.²²⁶ In calling curses upon themselves, if the oath is broken, both parties do not only invoke the gods as witnesses but also as avengers.

To sum up: The entire oath ceremony consists in slaughtering lambs, spilling wine, uttering curses, and invoking the gods. Slaughtering lambs and spilling wine are acts of sympathetic magic.²²⁷ The invocation of gods as witnesses introduces an oath. The invocation of gods as avengers who bring about divine punishment introduces a curse.

²²⁵ Homer, *Iliad* III 298-301.

²²⁶ R. Hirzel, *Der Eid*, Leipzig 1902, p. 138f.; F. Schwenn, *Gebet und Opfer*, Heidelberg 1927, p. 31.

²²⁷ C. A. Faraone, “Molten Wax, Spilt Wine and Mutilated Animals: Sympathetic Magic in Near eastern and Early Greek Oath Ceremonies,” *JHS* 113 (1993), pp. 60-80.

In a narrow sense, only the invocation of the gods as witnesses can be considered an oath. In a broader sense the entire ceremony can be regarded as an oath, entailing the following features:

1. invocation of the gods as witnesses for the contract or treaty
2. conditions of the treaty
3. sacrificial ritual of slaughtering lambs and spilling wine
4. invocation of the gods as avengers

The entire oath ceremony consists in slaughtering lambs, spilling of the wine, uttering cursing words, and invoking a specific constellation of gods as witnesses. Slaughtering lambs and spilling wine are acts of sympathetic magic. The ritual that accompanies the spoken words is a symbolic act in order to cause a special effect. Act and speech. But the spoken word has the force to create reality. As a spoken word the oath is a performance, an act, a speech act.

The promise to make friendship and peace becomes an oath through its invocation of the gods. Thereby the promise becomes binding for both parties. The oath as a performative act entails a promise by which each of the two parties confers a new right to one another. The Greeks confer a new right to the Trojans, the Trojans a new right to the Greeks. Or, in the words of Hugo Grotius: *promissio per se jus novum confert*.²²⁸

After the withdrawal of Paris from the duel, due to Aphrodite's intervention,²²⁹ Agamemnon claims Menelaos the victor in the duel and appeals to the Trojans for the fulfillment of the treaty:

457 νίκη μὲν δὴ φαίνεται Ἀργιφίλου Μενελάου·
458 ὑμεῖς δ' Ἀργείην Ἑλένην καὶ κτήμαθ' ἅμ' αὐτῇ

²²⁸ Hugo Grotius, *De jure belli et pacis*, Paris 1625, III, 19, 1.

²²⁹ Homer, *Iliad* III 373-382.

459 ἔκδοτε, καὶ τιμὴν ἀποτινέμεν, ἣν τιν' ἔοικεν.²³⁰

457 It seems that victory is for war-favored Menelaos.
458 Give us back Argive Helena and her treasures
459 and extend honor to us that is due.

The Trojans do not respond to Agamemnon's claim. The assembly of the gods rather decides to send Pallas Athena to the battle field, ὥς κε Τρῶες ὑπερκύδαντας Ἀχαιοὺς ἄρξωσι πρότεροι ὑπὲρ ὄρκια δηλήσασθαι,²³¹ in order that the Trojans cause to hurt the exceedingly renowned Achaeans by violating the treaty first. Coming down from Olympus into the plain where Trojans and Achaeans wage war, Athena encourages Pandaros to throw an arrow at Menelaos.²³² Hit by Pandaros's arrow Menelaos falls to the ground deeply wounded. Thereupon Agamemnon says:

155 “φίλε κασίγνητε, θάνατόν νύ τοι ὄρκι' ἔταμον,
156 οἶον προστήσας πρὸ Ἀχαιῶν Τρωσὶ μάχεσθαι·
157 ὥς σ' ἔβαλον Τρῶες, κατὰ δ' ὄρκια πιστὰ πάτησαν.
158 οὐ μὲν πως ἄλιον πέλει ὄρκιον αἶμά τε ἀρνῶν
159 σπονδαί τ' ἄκρητοι καὶ δεξιαί, ἧς ἐπέπιθμεν.”²³³

155 “Dear brother, I probably cut the oath for your death,
156 delivering (you) to fight for the Achaeans against the Trojans.
157 Since the Trojans hit you, they trampled on the faithful oath.
158 Not in vain is the oath and the blood of sheep
159 as well as the unmixed libation and the hands which we trusted.”

It is not necessarily Paris's disappearance that is considered a violation of the oath, but rather Pandaros's arrow by which he wounded Menelaos. Agamemnon knows that the oath as well as the blood of sheep and the libation were not in vain and assumes ἔσσεται ἡμαρ, ὅτ' ἂν ποτ' ὀλώλῃ Ἴλιος ἱρῇ,²³⁴ that the day will come when sacred Ilios will be destroyed.

²³⁰ Homer, *Iliad* III 457-459.

²³¹ Homer, *Iliad* IV 66f.; cf 71f.

²³² Homer, *Iliad* IV 86-103.

²³³ Homer, *Iliad* IV 155-59.

²³⁴ Homer, *Iliad* IV 164.

Between now and then the Trojans try to escape their curses, although they are divided about how to do it. Hector assumes ὅρκια μὲν Κρονίδης ὑψίζυγος οὐκ ἐτέλεσεν,²³⁵ that Zeus did not let accomplish the oath and suggest another duel with one of the Achaeans, not afraid of calling Zeus as a witness for his words: ὦδε δὲ μυθέομαι, Ζεὺς δ' ἄμμ' ἐπιμάρτυρος ἔστω.²³⁶ In contrast, Antenor suggests giving back Helena and all treasure, νῦν δ' ὅρκια πιστὰ ψευσάμενοι μαχόμεσθα,²³⁷ since we fight on false grounds having violated faithful oaths. Paris, however, does not accept. Breaking of the oath by the Trojans will finally bring destruction upon Troy. Thus, for the Trojans, oath-taking was a deadly speech-act.

²³⁵ Homer, *Iliad* VII 69.

²³⁶ Homer, *Iliad* VII 76.

²³⁷ Homer, *Iliad* VII 351-52.

Chapter 2

The Oath, the City, and the Colony: The Foundation of Cyrene

1. Wilamowitz and the Consequences

The colony to Cyrene which the Therans founded around 631 BCE is a fairly well attested event. Yet, there seems to be no agreement concerning the status of the oath ceremony involved in this mission or its meaning and its significance. The evidence for this oath ceremony does not come from Herodotus's or Pindar's accounts of the foundation of Cyrene nor from a text of the 7th century but from an appendix of a 4th century inscription that may or may not refer to the events preceding the expedition.¹

This inscription was among the textual artifacts found during the Italian excavation at Cyrene in 1923. It can be divided into two parts. The first part of the 4th century document entails a narrative, according to which some Therans were seeking citizenship in Cyrene on the basis of an alleged contract between Cyrene and its mother-city Thera. The

¹ SEG IX, no 3 (= R. Meiggs and D. A. Lewis, *A Selection of Greek Historical Inscriptions*, Oxford 1969, no 5). S. Ferri, "Alcune iscrizioni di Cirene," *Abhandlungen der preußischen Akademie der Wissenschaften*, phil.-hist. Klasse, no 5 (1926), pp. 19-24; U. von Wilamowitz, "Appendix to Ferri," *Abhandlungen der preußischen Akademie der Wissenschaften*, phil.-hist. Klasse, no 5 (1926), pp. 34-40; A. D. Nock, "A Curse from Cyrene," *AfR* 24 (1926), pp. 172-73; G. Oliverio, "Iscrizioni di Cirene," *Rivista di Filologia e di Istruzione classica*, n. s. VI (1928), pp. 222-32; A. Ferrabino, "La stele dei Patti," *Rivista di Filologia e di Istruzione classica*, n. s. VI (1928), pp. 250-54; S. Ferri, "Note d'epigrafia cirenaica," *Historia* III (1929), pp. 389-96; F. Chamoux, *Cyrène sous la monarchie des Battiades* Paris 1952, pp. 104-114; A. J. Graham, "Authenticity of the *OPKION TON OIKISTHPON* of Cyrene," *JHS* 80 (1960), pp. 94-111; L. H. Jeffrey, "The Pact of the First Settlers at Cyrene," *Historia* 10 (1961), pp. 139-147; J. Seibert, *Metropolis und Apoikie*, Würzburg 1963, pp. 9-67; J. H. Oliver, "Herodotus 4.153 and SEG IX 3," *GRBS* 7 (1966), pp. 25-29; Ch. W. Fornara, *Translated Documents of Greece and Rome*, Baltimore 1977, p. 22; S. Dušanič, "The *ἄρχιον τῶν οἰκιστῆρων* and Fourth Century Cyrene," *Chiron* 8 (1978), pp. 55-76; O. Murray, *Early Greece*, Sussex 1980, pp. 113-19; W. Burkert, *Die orientalisierende Epoche in der griechischen Religion und Literatur*, Heidelberg 1984, pp. 65-72 (W. Burkert, *The Orientalizing Revolution*, Cambridge/Mass 1992, pp. 65-73); F. Létoublon, "Le serment fondateur," *Metis* 4 (1989), pp. 101-15; C. A. Faraone, "Molten Wax, Spilt Wine and Mutilated Animals: Sympathetic Magic in Near eastern and Early Greek Oath Ceremonies," *JHS* 113 (1993), pp. 60-80; W. Burkert, *Creation of the Sacred*, Cambridge/Mass 1996, pp. 169-76.

second part of the inscription entails a narrative concerning the events that preceded the mission from Thera to Cyrene. It deals with the political decision making of the Theran assembly, the stipulations of the contract, and the oath-ceremony decreed by the assembly to enforce the contract. This appendix is entitled the ὄρκιον τῶν οἰκιστῆρων, commonly understood as the oath of the founders.

Along with other inscriptions the document was first presented to the Prussian Academy of Science by Silvio Ferri in November 1925. As it was custom in Berlin in those days, there was one man who would attend the meeting due to his curiousness in new texts: Ulrich von Wilamowitz-Moellendorff.² Knowing that he could barely contain himself in commenting on new publications, one would have expected him to produce one of his *Lesefrüchte* afterwards. He did not wait that long. Not only was the publication of Silvio Ferri edited with a short appendix written by Wilamowitz but also Ferri's text itself contained footnotes by Wilamowitz. In the appendix Wilamowitz described the content of the inscription as follows:

“Volksbeschluß von Kyrene; es ist nur der Antrag des Redners protokolliert; es deutet auf Demokratie. Den Theräern wird auf ihr Ansuchen Bürgerrecht erteilt. Darunter ist das von den Theräern vorgelegte ὄρκιον, das diese bei der Aussendung des Battos nach Libyen geschworen haben wollen. Eine Art Erzählung über den Ritus der Eidesleistung ist beigelegt. Schrift des 4. Jahrhunderts.”³

It is interesting to note that already Wilamowitz observed that the second part of the inscription, the ὄρκιον τῶν οἰκιστῆρων, contains ‘some sort of a narrative’ about the oath ritual and the oath that the Therans ‘supposedly had sworn.’ To the extent that even a native

² Starting with Wilamowitz may seem to be flogging a dead horse, but it was he who set the tone for the scholarship to come. His remarks on the inscription are not completely overcome yet.

³ U. von Wilamowitz, “Appendix to Ferri,” p. 34.

speaker may understand Wilamowitzen's *Junkerdeutsch*,⁴ the phrases 'supposedly had sworn' and 'some sort of a narrative' have to be understood with a pejorative undertone. It means that Wilamowitz did not conceive the second part of the inscription as an authentic document of the 7th century. Nor did he regard it as a form of evidence that allows us to draw conclusions from the 4th century narrative about the events on Thera in the 7th century.

Having dismissed all evidence given in the second part of the inscription on quasi theoretical grounds, Wilamowitz proceeded with what he was famous for: philology. In order to determine whether the second part of the inscription represents a Cyrenean or a Thera tradition, he turned to grammatical features and tried to determine which of the words of the inscription were Cyrenean, Thera, or Hellenistic. This kind of investigation was certainly a self-imposed problem by philology at that time, as scholars thought that one has to follow the path of Herodotus who referred to Thera and Cyrenean tradition.

It also belonged to Wilamowitzen's method to go beyond grammar and to make a final judgment that seemed often to be genial, often simply banal and absurd:

"In den Zeilen 30-40 geht der Satz ganz aus den Fugen. Es sieht so aus als ob geplant war *ἐπαρεώμενοι τὸς ταῦτα παρβεῶντας καταλείβεσθαι καὶ καταρρέν*. Da bemerkte der Verfasser dieser Urkunde, daß er die Zeremonie beschreiben müßte und schob *κηρίνος πλάσσαντες* bis *παρβεῶντα* ein. Man erkennt daran, daß ihm eine schriftliche Erzählung vorlag, die denn auch von den jungen Wörtern frei ist, an denen man die späte Mache des *ὄρκιον* erkennt, *αὐτοματίζειν*, *οἰκισία* (ganz neu), auch an der in dem alten Thera unglaublichen *ἐκκλησία*. [. . .]. Das *ὄρκιον* ist für diese Gelegenheit erfunden."⁵

Wilamowitzen's remark that the second part of the inscription was merely invented for the 4th century occasion rests on two argument that are no longer considered to be valid: that an

⁴ Concerning Wilamowitzen's German one may recall Jacob Taubes's note on Emil Staiger's remark on Wilamowitz: "[Staiger] hat Sophokles übersetzt und traute sich zu sagen in der Vorrede über die Übersetzung von Wilamowitz, es sei Gartenlauben-Deutsch; was hilft's, daß er Griechisch konnte, er kannte ja kein Deutsch." J. Taubes, *Die politische Theologie des Paulus*, München 1993, p. 11.

⁵ U. von Wilamowitz, "Appendix to Ferri," p. 39.

ἐκκλησία on Thera is unrealistic for the 7th century; secondly, that – according to modern standards dubious philological insight – the sentence (ll. 30-40) is ‘out of joint.’ Such strong philological opinions were only possible on weak theoretical grounds.

Since the days of Wilamowitz, scholarship on the inscription has much improved. Within the limits of evidence Graham convincingly argues for the existence of a Theran assembly in the 7th century BCE.⁶ Burkert and, in his footsteps, Faraone added more evidence for an oath ceremony on Thera by comparing it some Near Eastern oath rituals.⁷ Since both Burkert and Faraone primarily focused on the magical aspects of oath taking, a synthesis of the political decision of the assembly and the oath-taking procedure has not been reached.

Against this backdrop one has to read the entire inscription more carefully, not only like epigraphists and historians, who prefer to deal with inscriptions by using them merely as data, but also like literary critics or hermeneutics who give an *explication de texte*. Applying a hermeneutic approach does not mean giving the ultimate true interpretation, but rather to configure the scattered data into a coherent constellation.

The inscription as whole represents an account of the 4th century by Damis, probably a Cyrenean, who brought forward a motion that Kleudamas and other Therans were claiming citizenship in Cyrene (ll. 1-22). In seeking to obtain citizenship Kleudamas and the other Therans refer to a political decree made on Thera during the 7th century BCE, when the Theran assembly decided to send out a colony to Cyrene. The headline of this political decree that refers back to the events of the 7th century is entitled as ὄρκιον τῶν

⁶ A. J. Graham, “Authenticity of the *OPKION TON OIKISTHPON* of Cyrene,” pp. 94-111.

⁷ W. Burkert, *Die orientalisierende Epoche in der griechischen Religion und Literatur*, pp. 65-72; C. A. Faraone, “Molten Wax, Spilt Wine and Mutilated Animals,” pp. 62-65; W. Burkert, *Creation of the Sacred*, pp. 169-76.

οἰκιστήρων, as oath of the founders (ll. 23-51). It entails the regulations for the expedition according to the decision of the Theran assembly. One of these regulations stresses the fact that future generations of Theran people, who would like to settle in Cyrene, will be granted citizenship (ll. 23-40). The document then turns into a narrative about the authentic 7th century oath ceremony and describes the performance (*ῥηκία τῶν οἰκιστήρων*, ll. 40-51) and probably renders a citation of the original oath (*ῥηκος*) or at least parts of it (ll. 46-51):

1 θεός. τύχα ἀγαθά
 2 Δᾶμις Βαθυκλεῦς ἤιπε· περὶ ὧν λέγοντι τοι Θηραῖοι[ι]
 3 Κλευδάμας Εὐθυκλεῦς, ὅπως ἂ πόλις ὀρθῶται καὶ ὁ δ[ᾶ]-
 4 μος εὐτυχῇ ὁ Κυρναίων, ἀποδόμεν τοῖς Θηραίοις τ-
 5 ὰμ πολιτήϊαν κατὰ τὰ πάτρια, τὰ οἱ πρόγονοι ἐποιήσαν-
 6 το, οἳ τε Κυράναγ κα[τῶ]ικιζαν Θήραδε καὶ οἱ ἐν Θήραι [μέ]-
 7 νοντες, καθὼς Ἀπόλλων ἔδωκε Βάττωι καὶ τοῖς Θήρ[αι]-
 8 οις τοῖς κατοικίξασι Κυράναν εὐτυχὲν ἐμμένοντας το[ῖς]
 9 ὀρκίοις, τὰ οἱ πρόγονοι ἐποιήσαντο αὐτοῖ ποτ' αὐτός, ὅκα
 10 τὰν ἀποικίαν ἀπέστελλον κατὰ τὰν ἐπίταξιν τῷ Ἀπό[λ]-
 11 λωνος τῷ Ἀρχαγέτα· ἀγαθαὶ τύχαι, δεδόχθαι τῷ δάμω[ι],
 12 καταμεῖναι Θηραίοις ἴσαμ πολιτήϊαν καὶ ἐγ Κυράναι κ[α]-
 13 τὰ τὰ αὐτά· ποιεῖσθαι δὲ πάντας Θηραίους τὸς ἐπιδημέ[ον]-
 14 τας ἐγ Κυράναι τὸν αὐτὸν ὅρκον ὅμπερ τοῖ ἄλλοι ποτ-
 15 ἐ διώρκωσαν· καὶ καταστᾶμεν ἐς φυλὰν καὶ πάτραν ἐς δε
 16 ἐννῆα ἑταιρήας. καταγράφεν δὲ τὸδε τὸ ψάφισμα ἐν στάλ[αν]
 17 λυγδίναν, δέμεν τὰν στάλαν ἐς τὸ ἱερὸν πατρῷον τῷ
 18 Ἀπόλλωνος τῷ Πυθίῳ, καταγράφεν καὶ τὸ ὅρκιον ἐς τὰν στάλ[αν],
 19 τὸ οἱ οἰκιστῆρες ἐποιήσαντο καταπλεύσαντες Λιβύανδε [σὺ]-
 20 μ Βάττωι Θήραθεν Κυράνανδε. τό κα ἀνάλωμα τὸ δέμη ἐς τ[ὸν λ]-
 21 ᾶον ἢ ἐς τὰγ καταγραφάν, οἱ ἐπιστάντες ἐπὶ τὸς ἀπολόγος [κο]-
 22 μισάσθων ἀπὸ τῶν Ἀπόλλωνος προσσόδων.⁸

1 God. Good Fortune. Damis,
 2 son of Bathycles, proposes a motion. As to what was said by the Therans
 3 [and] Kleudemias, son of Euthycles. In order that the city may raise and the
 4 people of Cyrene enjoy good fortune, the Therans are to be granted citizen-
 5 ship according to ancestral customs, which (our) ancestors established,
 6 those who founded Cyrene from Thera and those who remained on Thera;
 7 just as Apollo gave good fortune to Battos and the Ther[ans],
 8 who founded Cyrene when they abided
 9 by the oath rituals, which (our) ancestors once performed to themselves,
 10 when they sent out the colony according to the order of Apo[l]lo
 11 Archagetas. With good fortune. It has been decided by the peopl[e]
 12 that the Therans shall keep equal citizenship also in Cyrene
 13 according to the same (customs); and that all Therans who will settle
 14 in Cyrene shall make the same oath that the others once
 15 swore; and that they shall be appointed to a tribe and a phratry and the
 16 nine hetaireiai; and that this decree shall be written on a marble
 17 stele and the stele be placed in the ancestral shrine of Apollo
 18 Pythios; and also, there shall be written down on the stele the oath ritual,
 19 which the settlers performed who sailed to Libya with
 20 Battos from Thera to Cyrene. And further that the expenditure necessary for
 21 the stone or for its inscribing, let the superintendents of accounts
 22 provide it from the revenues of Apollo.

⁸ R. Meiggs and D. A. Lewis, *A Selection of Greek Historical Inscriptions*, no 5.

The first part of the inscription describes the following setting: Damis, probably a Cyrenean, proposed a motion concerning citizenship for Kleudamas and some other Therans. Damis proposed this motion by referring to an account given by Kleudamas and his fellow Therans, claiming citizenship *κατὰ τὰ πάτρια* (l. 5), according to ancestral matters or ancestral customs that had been established by their forefathers. According to this account, these ancestral customs, *τὰ πάτρια*, were abided by oaths rituals, *ἐμμένοντας τοῖς ὀρκίοις* (ll. 8-9), by those who remained on Thera and those who sailed to Libya in order to found a settlement in Cyrene.

It now has been decreed by the Cyrenean people, *δεδόχθαι τῷ δάμῳ*, that Kleudamas and the other Theran citizens will be granted Cyrenean citizenship, *πολιτήριαν* (l. 13), according to the same customs, *κατὰ τὰ αὐτά* (ll. 12f.). It implies that Kleudamas and the other Therans have to take *τὸν αὐτὸν ὄρκον*, the same oath (l. 14), which the others, the original settlers and those who stayed on Thera or other Therans who came to Cyrene in the meantime, once had sworn, *τοὶ ἄλλοι ποτὲ διώρκωσαν* (ll. 14-15). Thus, *τὰ πάτρια*, the ancestral matters or customs upon which *τύχῃ ἀγαθὰ* (l. 1; l. 11), the good fortune for the colony rest, were not only established *τοῖς ὀρκίοις*, with ancestral oath ceremonies, but also with an oath, *ὄρκος*.

What does the phrase *τὸν αὐτὸν ὄρκον* mean? Was the oath, *ὄρκος*, sworn by all Therans, by those who stayed on Thera as well as the original settlers before they sailed to Libya and, as a consequence, by all those who wished to settle in Cyrene in the years to come? Or, was it simply a Cyrenean institution of gaining citizenship, which had nothing to do with the oath ritual of the original settlers before the colony?

The way the words ὅρκιον and ὅρκος are used, one could argue that they are not used synonymously, although there seems to be a transition from ὅρκιον to ὅρκος. It is not said that those Therans who apply for citizenship in Cyrene in later times, will have to perform the same oath ritual (ὅρκιον) but that they have to take the same oath (ὅρκος). Is the original oath ceremony the same as the original oath? Does the original oath ceremony entail the same oath? Is the original oath ceremony more than the oath? What is the difference between ὅρκος and ὅρκιον ? As far as I can see, none of the scholars who worked on the inscription has ever addressed these questions, nor did they ever asked the following questions: What is an oath? What could an oath have been in the time of the first Theran expedition to Cyrene? And what could have been considered an oath by the Therans and Cyreneans?

One may arrive at a solution, if one determines τοὶ ἄλλοι within the phrase τὸν αὐτὸν ὅρκον ὅμπερ τοὶ ἄλλοι ποτὲ διώρκωσαν. Who are τοὶ ἄλλοι? What does the temporal particle ποτὲ indicate? The time when the Therans performed the oath ceremony or those instances when Theran people came to Cyrene and received citizenship by taking a civil oath that set them up into a phyle, phratry, or hetaireiai?

The fact that those Therans who wished to settle in Cyrene in later times had to swear τὸν αὐτὸν ὅρκον, the same oath, may be conceived as an oath containing parts of the regulations such as political status, distribution of land, attachment to a phyle, phratry, and hetaireiai. Unfortunately, there is not enough direct evidence that would support this view. In a broader sense this oath may be conceived as a civil oath, similar to an oath mentioned by Xenophon: καὶ πανταχοῦ ἐν Ελλάδι νόμος κεῖται τοὺς πολίτας ὁμνύναι ὁμονόησιν, καὶ πανταχοῦ ὁμνύουσι τὸν ὅρκον τοῦτον, and everywhere in Greece there is a law that the citizens

shall swear to agree, and everywhere they swear this oath.⁹ There is, however, not enough evidence to support this view either.¹⁰

The temporal particle *ποτέ* could also refer to an oath that was sworn before the Therans arrived in Cyrene, thus to the political decision that was made by the assembly on 7th century Thera. In that case, the ancestral customs, *τὰ πάτρια*, decided by the Thera assembly and abided with oath ceremonies, *ἐμμένοντας τοῖς ὀρκίοις*, would also represent a decree, *τὸ ψάφισμα*, which has now been decreed to be written on a stele, *καταγράφεν δὲ τὸ ψάφισμα ἐν στάλαν*, probably because there was no written record of it on Thera or in Cyrene, only an oral tradition. Along with the decree, the oath ceremony, *καταγράφεν καὶ τὸ ὄρκιον ἐς τὰν στάλαν*, was also written on this stele. The inscribed stele was then put into the shrine of Apollo Pythios at Cyrene. This means that those Therans who would like to settle in Cyrene in later times had to administer the same oath ceremony which the original settlers once performed before they departed to Libya. This passage of the inscription is called the *ὄρκιον τῶν οἰκιστῆρων*, the oath ritual of the founders:

⁹ Xenophon, *Memorabilia*, IV 4, 16.

¹⁰ J. Seibert, *Metropolis und Apoikie*, pp. 18f.

23 Ὀρκιον τῶν οἰκιστήρων
 24 [ἐ]δοξε ταῖς ἐκκλησίαις. ἐπεὶ Ἀπόλλων αὐτομάτιξεν Β[άτ]-
 25 τωι καὶ Θηραίοις ἀποι[κί]σαι Κυράναν, ὀριστὸν δοκεῖ Θη[ραί]-
 26 [ο]ις ἀποπέμπεν ἐς τὰν [Λιβύ]αν Βάττομ μὲν ἀρχαγέτα[ν]
 27 [τ]ε καὶ βασιλῆα, ἐταίρους δὲ τοὺς Θηραίους πλέν· ἐπὶ ταῖς ἴσα[ι κ]-
 28 αῖ ταῖς ὁμοίαις πλέν κατὰ τὸν οἶκον, υἱὸν δὲ ἓνα καταλ[έ]-
 29 γεσσθαί ΤΟΣΔΒΕΛΟ c. 10 καὶ τοὺς ἡβῶντας καὶ τῶν [ἄλ]-
 30 [λ]ων Θηραίων ἐλευθέρους . . . 6 . . . πλέν. αἱ μὲν δὲ καὶ κατέχ[ων]-
 31 τι τὰν οἰκισίαν οἱ ἄποικοι, τῶν οἰκείων τὸν καταπλέον[τα]
 32 ὕστερον εἰς Λιβύαν καὶ πολιτήας καὶ τιμᾶμ πεδέχ[εν]
 33 καὶ γὰρ τὰς ἀδεσπότῳ ἀπολαγχάνεν. αἱ δὲ καὶ μὴ κατ[έχ]-
 34 ωντι τὰν οἰκισίαν μηδὲ οἱ Θηραῖοί μιν δυνῶνται ἐπικου[ρέ]-
 35 ν, ἀλλὰ ἀνάγκαι ἀχθῶντι ἔτη ἐπὶ πέντε, ἐκ τᾶς γὰρ ἀπίμ[εν]
 36 ἀδιέως Θήρανδε ἐπὶ τὰ αὐτῶν χρήματα καὶ ἡμεῖς πολιάτ-
 37 ας. ὁ δὲ καὶ μὴ λῆνι πλέν ἀποστελλοίσας τὰς πόλις, θανά[σι]-
 38 μος τέντει καὶ τὰ χρήματα ἔστω αὐτοῦ δαμόσια. ὁ δὲ ἀπ-
 39 οδεκόμενος ἢ ἀδήϊζων ἢ πατήρ υἱὸν ἢ ἀδελ-
 40 φεὸν παισεῖται ἅπερ ὁ μὴ λέων πλέν. ἐπὶ τούτοις ὄρκια ἐπ-
 41 οίησαντο οἱ τε αὐτεῖ μένοντες καὶ οἱ πλέοντες οἰκίζοντε-
 42 ς καὶ ἀρὰς ἐποιήσαντο τὸς ταῦτα παρβεῶντας καὶ μὴ ἐμ-
 43 μένοντας ἢ τῶν ἐλ Λιβύαι οἰκεόντων ἢ τῶν αὐτεῖ μεν-
 44 όντων. κηρίνος πλάσσαντες κολοσὸς κατέκαιον ἐπα-
 45 ρεώμενοι πάντες συνενθόντες καὶ ἄνδρες καὶ γυναῖκ-
 46 ες καὶ παῖδες καὶ παιδίσκαι· τὸμ μὴ ἐμμένοντα τούτοις
 47 τοῖς ὄρκίοις ἀλλὰ παρβεῶντα καταλείβεσθαί νιν καὶ κα-
 48 ταρρὲν ὥσπερ τὸς κολοσός, καὶ αὐτὸν καὶ γόνον καὶ χρή-
 49 ματα, τοῖς δὲ ἐμμένοισιν τούτοις τοῖς ὄρκίοις καὶ τοῖς
 50 πλέοισι ἐλ Λιβύαν κ[αί] τ[οῖς μέ]νοισι ἐν Θήραις ἡμεῖς πολλ-
 51 ᾶ καὶ ἀγαθὰ καὶ αὐ[τοῖς καὶ γό]νοισι.

23 Oath Ritual of the Founders
 24 Decided by the assembly. Since Apollo spontaneously told Battos
 25 and the Therans to found Cyrene, it has been decided by the Therans
 26 to send a colony to Libya with Battos as leader
 27 and king and that the Therans sail as companions; that they sail equal
 28 and alike; that according to family one son is to be
 29 chosen [.]; that adults sail and the free ones
 30 of the other Therans [whoever wishes to sail]. If the settlers establish
 31 a settlement, those of the kinsmen who sail down to
 32 to Libya later shall share citizenship and honor
 33 and shall be allotted a portion of land that is masterless. But if they do not
 34 establish a settlement and if the Therans are not able to help and
 35 they suffer inescapable pains for five years, they shall depart from that land
 36 without fear to Thera to their own property and shall be citizens.
 37 But whoever is sent out by the city and refuses to sail, will be liable
 38 to death penalty and his property shall be confiscated. And the father who
 39 recovers the son or the brother who does not separate the brother
 40 will suffer as the one who does not wish to sail. Upon these things they
 41 made oath rituals, those who stay and those who sail as founders, and
 42 they made curses against those who may transgress these things and do not
 43 abide them, those who settle in Libya and those who stay in the same place.
 44 They formed wax images and burnt them while uttering [the following]
 45 words, all assembled men women,
 46 boys and girls: "The one who does not abide by these
 47 oath rituals but transgress them, shall melt away and
 48 dissolve like the images, he himself, his descendents, and his property.
 49 But those who abide by these oath rituals, both those
 50 sailing to Libya and those remaining on Thera, shall have many
 51 good things for themselves and their descendents."

The second part of the stele begins with the following headline: ὄρκιον τῶν οἰκιστῆρων. It refers to events before the foundation of Cyrene when the assembly on Thera decided to send out a colony to Libya. It also refers to the regulations as to who is to settle in Cyrene under what conditions (ll. 24-40). These regulations issued by the assembly were to be abided by oath ceremonies (ll. 40-46) and by an oath (ll. 46-51).

After the first generation of scholars who contributed nothing to the understanding of oath-taking,¹¹ it was Chamoux who made a first attempt to contextualize the inscription within a broader framework. Unfortunately, Chamoux was only slightly more articulate than the generation of scholars before him:

“Mais l’inscription de Cyrène, paradoxalement, ne rapporte pas, quoi qu’elle dise, la formule même du serment des fondateurs. [. . .] Que faut-il conclure de cette discordance inattendue entre le titre du document, dont la transcription sur la stèle avait pourtant été expressément prescrite (ligne 18 : καταγράφειν καὶ τὸ ὄρκιον ἐς τὰν στήλ[αν]), et la teneur même de ce document? Si le serment original des fondateurs n’a pas été transcrit, c’est sans doute qu’on n’en possédait pas le texte.”¹²

In translating ὄρκιον τῶν οἰκιστῆρων as *serment des fondateurs*, Chamoux constructs an interesting paradox: despite the fact that the headline of the second part of the inscription is entitled as oath of the founders, the original oath is not inscribed, although one should expect an oath according to the headline of the inscription. Therefore, Chamoux neither considers the description of the oath ceremony as sufficient for an oath nor does he

¹¹ S. Ferri, “Alcune iscrizioni di Cirene,” pp. 19-24; U. von Wilamowitz, “Appendix to Ferri,” pp. 34-40; A. D. Nock, “A Curse from Cyrene,” pp. 172-3; G. Oliverio, “Iscrizioni di Cirene,” pp. 222-32; A. Ferrabino, “La stele dei Patti,” pp. 250-54; S. Ferri, “Note d’epigrafia cirenaica,” pp. 389-96. The first generation of scholars tried to figure out whether the inscription represents a Theran or Cyrenean tradition, a distinction made by Herodotus and suited to be taken up by epigraphists and historians. Ferri voted for a Theran tradition, Ferrabino for Cyrenean. This debate, however, did not lead anywhere. A discussion of social and political issues was not even envisaged..

¹² F. Chamoux, *Cyrène sous la monarchie des Battiades*, p. 108f.

consider the oath ceremony containing elements that may help to reconstruct the authentic oath. Paradoxical in itself, Chamoux puts those lines that may be considered as the words of the oath (ll. 46-51) in quotation marks.¹³ In the end, however, he simply denies that there was a 7th century oath or oath ceremony involved in the foundation of Cyrene, probably because there is no mention of an oath or an oath ceremony in Herodotus. Nevertheless, Chamoux addresses the paradox that may still serve as a backdrop for solving the problem.

Taking up Chamoux's understanding of the inscription but rejecting his translations of ὄρκιον τῶν οἰκιστῆρων Graham attempted to solve Chamoux's paradox:

"The title of the document ὄρκιον τῶν οἰκιστῆρων as usually translated 'oath of the founders' might be misleading. There is no oath recorded as such, and it might be argued that the compilers knew there should be an oath, but had no record of one. As it stands our ὄρκιον is clearly not an oath. This argument against the decree's authenticity is removed, however, by a different translation, 'the agreement of the founders'. This makes better sense, is perfectly in accord with usage (for ὄρκιον means solemn agreement as early as Homer, see LSJ s.v.) and can be justified from the inscription itself. In lines 8f., 18, 40, 47, 49 ὄρκιον is used, and in all of these translations 'agreement' is perfectly possible, if not preferable; in 14f., where διώρκησαν makes it certain that an oath is in question, the word used is ὅρκον."¹⁴

Graham's suggestion that it is more preferable to translate ὄρκιον τῶν οἰκιστῆρων as agreement of the founders rather than as oath of the founders then became scholarly standard in Meiggs-Lewis's edition of selected inscriptions: "ὄρκιον is best translated thus [as agreement], since the actual words of the oath are not reported."¹⁵ Meiggs-Lewis and Graham agree with Chamoux about the fact that the second part of the inscription (ll. 23-51) does not record an oath, despite its title ὄρκιον τῶν οἰκιστῆρων. In suggesting a different translation, Graham argues that the argument against the decree's authenticity is removed,

¹³ F. Chamoux, *Cyrène sous la monarchie des Battiades*, p. 107f.

¹⁴ A. J. Graham, "Authenticity of the *OPKION TON OIKISTHPON* of Cyrene," p. 103f.

¹⁵ R. Meiggs and D. A. Lewis, *A Selection of Greek Historical Inscriptions*, p. 7.

since “the document reveals a Thera politically organized, with a monarchy and an assembly, capable of arranging a colonial expedition, of conscripting citizens for it, of inflicting the death penalty and confiscating property for the state, and with a fully developed sense of citizenship.”¹⁶ In providing indirect evidence from other Greek cities and “testing the document as it stands against the probable conditions of seventh-century Thera,”¹⁷ Graham convincingly rejects the old Wilamowitzian argument that an assembly on 7th century Thera is impossible.

Against the backdrop of a 7th century assembly Graham also removes Wilamowitzen’s other position that the ὄρκιον τῶν οἰκιστήρων is a forgery that was made for the occasion. Graham argues that the inscription becomes authentic through a shift in translating ὄρκιον as agreement or solemn agreement. Translating and understanding ὄρκιον as ‘oath’ makes the inscription inauthentic, translating and understanding ὄρκιον as ‘agreement’, however, makes the inscription authentic, since an agreement of a 7th century assembly on Thera is probable, whereas an oath or an oath ceremony by the people is not. In founding his argument on the existence of a Thera assembly Graham understands the agreement as *homologia* of its members with the people without paying any further attention to the solemn aspect of the agreement.

Graham’s translation of ὄρκιον τῶν οἰκιστήρων as agreement of the founders is possible, but not the most preferable. Graham’s reference to the *LSJ*, where he picks up the Homeric use of ‘agreement,’ can not be considered as a proper argument, at best as a working hypothesis that has to be proven through texts. It is certainly not false to understand the attempted peace-treaty between Trojans and Achaeans in terms of a solemn

¹⁶ A. J. Graham, “The Authenticity of the *OPKION TON OIKISTHPON* of Cyrene,” p. 103.

¹⁷ A. J. Graham, “The Authenticity of the *OPKION TON OIKISTHPON* of Cyrene,” p. 103f.

agreement, but one also has to give an account of what is implied in the Homeric phrase ὄρκια τέμνειν.¹⁸ In order to challenge Graham's argument one only has to show that an oath or an oath-ceremony is just as possible as an assembly on Thera in the 7th century BCE. And this can be done by testing the document as it stands against the Homeric background and some Near Eastern parallels. In reconstructing traces of the 7th century oath-ceremony or even traces of an 7th century oath, it can easily be shown that Graham's translation is by no means preferable.

Against the Homeric backdrop, one could say that the term ὄρκια designates more than just political agreement. The proper legal term would be treaty or sworn contract, as Seibert argued:

“Der Vertragsabschluss vollzog sich endgültig in der Schwurhandlung. [. . .] Die Einwände gegen die Authentizität des ὄρκιον, die sich darauf stützen, daß der Titel der Inschrift ‘Eid der Gründer’ laute und keinen Eid bringe sind nicht gerechtfertigt.”¹⁹

Seibert understands the political decision of the Theran assembly as a contract or treaty between those Therans who stayed on the island and those who will settle Cyrene. Due to severe conditions on Thera, both parties had to abide this contract by an oath and an oath ceremony. Seibert also argues that the lines 46-51 represent the oath spoken.

With Seibert against Graham, Dušanič argues that the ceremony of cursing represents the words of the oath spoken and has to be abandoned.²⁰ Dušanič also argues that the oath ceremony is a 4th century procedure adopted by the Cyreneans from Egypt. He

¹⁸ See my chapter 1, pp. 38-40.

¹⁹ J. Seibert, *Metropolis und Apoikie*, p. 51.

²⁰ S. Dušanič, “The ὄρκιον τῶν οἰκιστῆρων and Fourth Century Cyrene,” p. 62: “J. Seibert's discussion [p. 51ff] of the lines 40ff has shown, beyond any doubt to me, that the ceremony of cursing described there purported to represent the <oath> spoken of in l. 23 and passim.” He concludes: “The alternative translation of the *horkion* by agreement [. . .] must be abandoned [. . .]; it was provoked by the unjustified belief that the inscription contains no oath recorded as such.” (p. 62 fn 54)

stresses two apocryphal features of the oath: first, the participation of women and girls who otherwise had nothing to do with an oath sanctioning a political agreement; secondly, “the magical act is altogether different from the symbolic acts which often accompany an oath.”²¹ Dušanič conceives the magical act as being strange, because he relies on some outdated sources.²² As he continues he does not necessarily rely on better sources. For his argument that the custom of oath taking came from Egypt, Dušanič entirely relies upon the *RE*-article on wax,²³ whose authors do not seem to have heard of the practice in the Ancient Near East. Thus, Dušanič comes back to Wilamowitzen’s argument that the second part of the inscription is a fourth century forgery.

Against Dušanič’s argument that the oath is apocryphal and the text a late-classical forgery, Faraone likes to “demonstrate that such sympathetic rituals were, in fact, commonplace in Near Eastern oaths of the eighth and seventh century BC, and used by Greeks and Romans as well, albeit only in very special situations.”²⁴ Faraone, however, seems to have completely misunderstood the state of discussion concerning the inscription: “In the last three decades, however, the consensus has shifted considerably and most scholars have come to believe that the oath preserved in this text does in fact bear some close resemblance to the actual oath sworn by the Therans in the late seventh-century BC.”²⁵ In fact, none of the scholars, Faraone is citing,²⁶ has ever arrived at a position that the oath preserved in the text of the inscription bears a close resemblance to the 7th century

²¹ S. Dušanič, “The ὄρκιον τῶν οἰκιστῆρων and Fourth Century Cyrene,” p. 63.

²² A. D. Nock, “A Curse from Cyrene,” *AJR* 24 (1912), pp. 172-73.

²³ “In fact, though the burning of wax images was rather practiced in Greece of the fourth century B.C., to become a wide-spread phenomenon in later times, it seems that such magic was not Greek in its origin; its early popularity in Egypt suggests an Egyptian custom adopted by the Cyreneans and other Greeks (mainly through Cyrene) in the post-archaic epoch only.” S. Dušanič, “The ὄρκιον τῶν οἰκιστῆρων and Fourth Century Cyrene,” p. 63, where he also refers to R. Büll and E. Moser, “Wachs,” *RE* Suppl. 13 (1973), pp. 1361ff.

²⁴ C. A. Faraone, “Molten Wax,” p. 61.

²⁵ C. A. Faraone, “Molten Wax,” p. 61.

²⁶ Seibert, the only scholar who has argued for the possibility of the oath and the oath ceremony on 7th century Thera, is not mentioned by Faraone.

oath nor that the oath preserved is a citation of the 7th century oath or contains traces of it. On the contrary, those scholars who accepted the 7th century reference of the inscription translated ὄρκιον as agreement or pact, not as oath or oath ceremony. Does Faraone, the reader may ask, understand his own presuppositions, when he translated ὄρκιον as agreement?²⁷

Faraone himself is not interested in reconstructing or understanding the oath as a legal procedure, he rather conceives the oath ceremony as a magical ritual or voodooistic event. For him such sympathetic magic seems to have been a common feature in the ancient Near East at the time that makes a similar procedure possible on Thera in the 7th century BCE. Although there is not enough evidence yet – and there probably will never be enough evidence – to show direct influence of Near Eastern oath rituals upon Greek oath ceremonies, it is sufficient to take up Burkert's idea that some Greek and Near Eastern motifs and themes correspond to each other.²⁸ Corresponding elements of the Thera oath ceremony can be found in the Aramaic Sefire Inscription, the Neo Assyrian loyalty oaths to Esarhaddon, the Hittite Military Oath, and in the Neo Assyrian incantation *Maqlû*.²⁹ The point of comparison concerns the language of cursing as well as the similarity of objects, which people have sworn upon.

The Sefire Inscription IA deals with a treaty between the king Bar-Ga'yah of Ktk and king Mati'el of Arpad. According to the treaty, which dates around 750 BCE, Mati'el swears the following:

²⁷ C. A. Faraone, "Molten Wax," p. 61.

²⁸ W. Burkert, *Die orientalisierende Epoche*, p. 68 (= W. Burkert, *The Orientalizing Revolution*, p. 68).

²⁹ The first two parallels (the Sefire Inscription and the Loyalty Oath to Esarhaddon) are mentioned in W. Burkert, *Die orientalisierende Epoche*, p. 68, the third parallel (the Hittite Military Oaths) in the English translation W. Burkert, *The Orientalizing Revolution*, p. 68, the fourth parallel (the Neo Assyrian incantation *Maqlû*) was added by C. A. Faraone, "Molten Wax, Spilt Wine and Mutilated Animals," p. 63.

- 35 “Just as this wax is burnt by fire, so may Arpad be burnt and [her gr]eat
[daughter-cities]!
36 May Hadad sow in them salt and weeds, and may not be mentioned (again)!
[...]
37 Just as this wax is burnt by fire, so may Mati[‘el be burnt by fi]re!
38 Just as (this) bow and these arrows are broken, so may Ninurta and Hadad
break [the bow of Mati’el],
39 and the bow of the nobles! And just as the man of wax is blinded, so may
Mati[‘el] be blinded. [Just as]
40 this calf is cut in two, so may Mati’el be cut in two, and may his nobles be
cut in two! [Just as]
41 a [har]lot is stripped naked, so may the wives of Mati’el be stripped naked,
and the wives of his offspring, and the wives of [his] no[bles! And just as
42 this wax woman is taken] and one strikes her on the face, so may the [wives
of Mati’el] be taken [and]”³⁰

Similar to the Therans, who, by swearing upon wax images, put curses upon themselves that they would melt away like these wax figures, if they transgress the oath, Mati’el swears that he would be burned by fire like wax, if he transgresses the oath that he has sworn. Unlike the Therans, who do not appeal to a god or invoke a constellation of gods, Mati’el concludes the treaty by invoking many local deities as well as a constellation of more common powers. He swears

- 11 “in the presence of Hea[ven and Earth, in the presence of (the) A]byss
12 and (the) Springs, and in the presence of Day and Night.”³¹

A similar constellation of gods as witnesses of the oath can be found in Homer. Similar to Mati’el, who swears in the presence of Heaven, Earth, the Abyss (*metzula*, i.e. the deep water), the Springs as well as Day and Night, Agamemnon invokes Zeus, Helios, the

³⁰ Translation by J. A. Fitzmyer, *The Aramaic Inscription of Sefire*, Roma 1995, p. 47. For further literature, see: F. Picard, “Le rite magique,” *Rev. Arch.* (1961), pp. 85-88; D. J. McCarthy, *Treaty and Covenant*, Roma 1981, pp. 98-105; A. Lemaire et J.-M. Durand, *Les inscriptions araméennes de Sfiré et l’Assyrie de Shamshi-ilu*, Genève-Paris 1984; W. Burkert, *The Orientalizing Revolution*, p. 67; C. A. Faraone, “Molten Wax, Spilt Wine and Mutilated Animals,” p. 62.

³¹ J. A. Fitzmyer, *The Aramaic Inscription of Sefire*, p. 43.

Rivers, Earth, and the two gods of the netherworld.³² The fact that the Therans do not invoke any god or even gods may be considered as an argument against an oath in the inscription.

Among the many curse formulas in the Succession Treaty of Esarhaddon (680-669 BCE), or more precisely the Neo Assyrian *Loyalty Oaths to Esarhaddon*, there is one form of cursing in particular, which is similar to the one that we find in the oath ceremony of the Therans:

- | | |
|-----|---|
| 608 | ki-i šá šal-mu šá DUH.LÀL ina IZI iš-šar-rap-u-ni |
| 609 | šá ʾi-ʾi ina A.MEŠ i-maḥ-ḥa-ḥu-u-ni |
| 610 | ([k]i-i ḥa-an-ni-e) la-an-ku-nu ina ^d GIŠ.BAR liq-mu-u |
| 611 | ina A.MEŠ lu-ṭa-bu-u. ³³ |
-
- | | |
|-----|--|
| 608 | Just as an image of wax is burnt in the fire |
| 609 | and one of clay dissolves in water, |
| 610 | (so) may your figure be burnt in the fire |
| 611 | and sunk in water. |

The burning of wax images expresses an idea common to both Assyrian and Greek culture. However, a morphological relation between the Akkadian expression for wax image (*šalmu ša DUH.LÀL* or *šalmu ša iškūri*) and its Greek equivalent (*κηρίνος κολοσός*) can not be maintained.

The third important Near Eastern parallel with the Theran oath-ceremony concerns one of the many curse formulas expressed in the Hittite military oaths:

³² Homer, *Iliad* III 276-80.

³³ S. Parpola and K. Watanabe, *Neo-Assyrian Treaties and Loyalty Oaths*, Helsinki 1988, p. 55; see also: K. Watanabe, *Die adê-Vereidigung anlässlich der Thronfolgeregelung Asarhaddons*, Berlin 1987.

VS I	47	na-aš-ta DUH.LĀL ^{UZU} Ī.UDU-ia I-NA QA-TI-ŠU-NU da-a-i
	48	na-aš-ta ha-ap-pí-na pí-eš-ši-ia-az-zi
	49	nu te-iz-zi ki-i DUH.LĀL ma-ah-ha-an
	50	šal-li-ia-it-ta Ī.UDU-ma-wa GIM-an mar-ri-it-ta
	51	na-aš-ta ku-iš-ša NI-IŠ DINGIR ^{LIM} šar-ri-e-iz-zi
VS II	1	na-aš-ta A-NA [LU(GAL KUR ^U)] ^{RU} HAT-TI ap-pa-a-li da-a-i
	2	na-aš DUH.LĀL-[aš i]-wa-ar šal-li-it-ta-ru
	3	^{UZU} Ī.UDU-m[a-w]a i-wa-ar mar-ri-e-it-ta-<ru>
	4	a-pí-e-ma da-ra-an-zi a-pa-a-at e-eš-du. ³⁴
VS I	47	Then he puts wax and mutton fat into their hands,
	48	throws them it into the fire
	49	and says: "Just as this wax melts,
	50	and just as this mutton fat dissolves,
	51	let him whoever breaks these oaths.
VS II	1	and shows disrespect [to the king of the land] of Hatti,
	2	let him melt like wax,
	3	let him dissolve like mutton fat."
	4	And they said: "Thus shall it be."

Just as the Greek and Neo Assyrian ceremonies mention the use of molten wax as an image to curse the oath taker, so does the Hittite ceremony. But unlike the Greek and Assyrian oath ceremonies, in which wax images are formed in order to melt away during the cursing words, in the Hittite ritual the wax is put into the hands of the oath taker in order to melt away. In the Hittite text the logogram DUH.LĀL is the same sign as in the Akkadian text. The Akkadian logographic writing DUH.LĀL has to be transliterated as *iškūru*, the Hittite word is still unknown.

The fourth Near Eastern parallel, which has been compared with the Thera oath ceremony, comes from the Assyrian incantation series *Maqlû*, lit. Burning Rituals:

³⁴ N. Oettinger, *Die militärischen Eide der Hethiter*, Wiesbaden 1976, p. 9, Vs. I 47-51. I have corrected the old reading GAB.LĀL to DUH.LĀL in VS I 47, 49, and VS II 2, see: C. Rüster and E. Neu, *Hethitisches Zeichenlexikon*, Wiesbaden 1989, No. 164. For an earlier edition and translation, see: J. Friedrich, "Der hethitische Soldateneid," *ZA* 35 NF 1 (1924), pp. 161-92; A. Goetze, "Hittite Rituals," *ANET* (1969), p. 353. For recent discussions, see: W. Burkert, *The Orientalizing Revolution*, pp. 67-68; C. A. Faraone, "Molten Wax, Spilt Wine and Mutilated Animals," p. 63.

146 ki-ma NU.MEŠ an-nu-ti i-ḥu-lu i-zu-bu u it-ta-at-tu-ku
 147 kaš-ša-pu u kaš-šap-ti li-ḥu-lu li-zu-bu u lit-ta-at-tu-ku.³⁵

146 Just as these figurines melt, run, and flow away,
 147 so may sorcerer and sorceress melt, run, and flow away.

The second tablet of *Maqlû* contains a series of incantations against all sorts of evil. The evil is dissolved by burning of figurines of different material: a figure of tallow or animal fat (*šalam lipi*), a bronze figure (*šalam siparri*), a bronze figure with sulphur (*šalam siparri kibri-^dit*), a dough figure (*šalami līsi*), a bitumen figure (*šalam iṭṭi*) among others. Although the incantation does not mention the burning of wax images³⁶ – it mentions, however, the burning of a clay or mud figure (*šalam ṭīti*, II 134) –, the idea of burning figurines gives enough evidence to justify the drawing of this parallel. In both instances the burning of these figurines serves as a substitution for the one to be cursed.

To sum up: all these parallels of burning wax figures as well as images of different material show that these ceremonies were well established in the Near East at a time, when the entire community of Therans held their oath ceremony or Trojans and Achaeans as described by Homer. Since some of the Near Eastern oath-rituals are almost contemporary with the Theran oath-ceremony, there is no reason to assume that such a form of oath-taking was impossible when some Therans had to sail to Libya in order to found the colony of Cyrene.

³⁵ VAT 235; *Maqlû* II 146-147 (G. Meier, *Die assyrische Beschwörungssammlung Maqlû*, Berlin 1937. See also: D. R. Hillers, *Treaty-Curses and the Old Testament Prophets*, Roma 1964, p. 20f.; W. G. Lambert, "An Incantation of the *Maqlû* Type," *AfO* 18 (1957-58), pp. 288-99; I. T. Abusch, "Mesopotamian Anti-witchcraft literature," *JNES* 33 (1974), pp. 251-62; I. T. Abusch, *Babylonian Witchcraft Literature*, Atlanta 1987, pp. 13-41.

³⁶ *šalmâni ša dak[ī]*, "wax figures", are attested in *Maqlû* IV 39-40.

2. Reading the ὄρκιον τῶν οἰκιστῆρων

In what follows I give a close reading of the inscription in a more traditional sense of *explication de texte*. I show that the first part of the ὄρκιον τῶν οἰκιστῆρων (ll. 23-40) presents an account of the religious-political decision that does not contradict Herodotus's account of the 7th century apoikia, whereas the second part of the ὄρκιον τῶν οἰκιστῆρων (ll. 40-51) refers to the 7th century oath ceremony and possibly cites the oath taken or traces of it. The oath sworn by all Therans and future Cyreneans would then be a legal document.

The expression that Apollo made a spontaneous prophecy to Battos and the Therans to settle Cyrene, ἐπεὶ Ἀπόλλων αὐτομάτιξεν Β[άτ]τωι καὶ Θηραίοις ἀποι[κί]σαι Κυράναν (ll. 24-25), is in accordance with Pindar's account of the oracle which Battos received at Delphi:

59 ὦ μάκαρ υἱὲ Πολυμνάστου, σὲ δ' ἐν τούτῳ λόγῳ
60 χρησμὸς ὤρδωσεν μελίσσας Δελφίδος αὐτομάτῳ κελάδῳ·
61 ἃ σε χαίρειν ἐστρὶς αὐδάσαισα πεπρωμένον
62 βασιλέ' ἄμφαεν Κυράνα,
63 δυσθρόου φωνᾶς ἀνακρινόμενον ποινὰ ἔσται πρὸς θεῶν.³⁷

59 O, fortunate son of Polymnestos, it was you whom in this speech
60 the oracle of the Delphic bee raised up with spontaneous cry.
61 She welcomed you thrice and revealed you to be
62 the destined king of Cyrene,
63 when you were inquiring what satisfaction there would be from the gods for your ill-sounding voice.

The Pindaric phrase that Battos, son of Polymnestos, is erected by a spontaneous cry or call of the Delphic bee, ὤρδωσεν μελίσσας Δελφίδος αὐτομάτῳ κελάδῳ, is similar the expression ἐπεὶ Ἀπόλλων αὐτομάτιξεν Β[άτ]τωι in the inscription. The fact that Battos received an oracle at Delphi is also compatible with Herodotus's account, although not in perfect harmony. Herodotus gives two different versions of the original oracle to Battos, the Theran and the

³⁷ Pindar, *Pythian*. 4. 59-63. For Battos as *oikister*, see Pindar, *Pythian* 4. 5-7.

Cyrenean version. In the Theran version Grinnos and other Therans – among them Battos – came to Delphi for a different enquiry but were told to found a city in Libya, *κτίξεν ἐν Λιβύῃ πόλιν*.³⁸ Having arrived at a certain age Grinnos told the Pythia that he was too old to sail to Libya and that she should chose a younger one. At the same time as he, Grinnos, was saying these words he pointed to Battos, *ἅμα τε ἔλεγε ταῦτα καὶ ἐς τὸν Βάττον*.³⁹ But nothing else happened. When they returned to Thera they did not care about the oracle, since they did not know where Libya was. Then there followed a seven years draught, against which they had no means. Consulting the oracle again, the Pythia reminded them of the colony to Libya. Thus, they sent out messengers in order to get to know where Libya was. These messengers met a certain Korobios who once had been to the island of Platea near Libya. He led the Therans to the island. Having returned to Thera the messengers told their fellow Therans that they had found a place near Libya and the Therans decided Battos to be their leader and king, *Θηραίοισι δὲ ἔαδε [. . .] εἶναι δὲ σφεων καὶ ἡγεμόνα καὶ βασιλέα Βάττον*.⁴⁰ Unlike Pindar, who characterized Battos as *βασιλέ'* ἄμφαεν, as destined king, the Theran version mentions Battos as *ἡγεμόνα καὶ βασιλέα*, as leader and king. Unlike the Theran version, which does not mention Battos's purpose for going to Delphi, Pindar and the Cyrenean version do. Herodotus gives the following account of the Cyrenean version:

*Βάττ', ἐπὶ φωνὴν ἦλθες· ἄναξ δέ σε Φοῖβος Ἀπόλλων
ἐς Λιβύην πέμπει μηλοτρόφον οἰκιστῆρα.*⁴¹

“Battos, you came concerning the voice. But the lord, Phoibos Apollon
Sends you to sheep-nourishing Libya as a settler.”

³⁸ Herodotus IV, 150.

³⁹ Herodotus IV, 150.

⁴⁰ Herodotus IV, 153.

⁴¹ Herodotus IV, 155.

In the Cyrenean version it is said that Battos came to Delphi to receive an oracle concerning his voice and through Pindar we may add concerning *δυσθρόου φωνός*, concerning his ill-sounding voice. Herodotus's Cyrenean version mentions that Phoibos Apollo sent Battos as *οἰκιστῆρα*, as a settler or founder to Libya, whereas the Theran version refers to him as *ἡγεμόνα καὶ βασιλέα*, as leader and king. Pindar calls him *βασιλέα*, king, the inscription concerning the founders as *ἀρχαγέτα[ν] [τ]ε καὶ βασιλῆα*, as founder and king.⁴²

Since Apollo had made a spontaneous prophecy to Battos and the Therans to found Cyrene, the Theran assembly decided, *[ἔ]δοξε ταῖ ἐκκλησίαι*, to send off a colony to Libya (*ὀριστὸν ἀποπέμπεν ἐς τὰν [Λιβ]ύαν*). They also decided to send off Battos as leader and king (*Βάττομ μὲν ἀρχαγέτα[ν][τ]ε καὶ βασιλῆα*) along with a certain amount of Therans who sail as his companions (*ἐταίρους δὲ τοὺς Θηραίους πλέν*). The fact that the Therans or a Theran assembly was capable of making a decision to sent off a colony, is in accordance both with the Theran and Cyrenean tradition.

The Therans or the Theran assembly further decided that all Therans who sail to Libya will sail *ἐπὶ ταῖ ἴσα[ι] καὶ ταῖ ὁμοίαι πλέν*, equal and alike or on fair and equal terms according to family, *κατὰ τὸν οἶκον*. They also decided that *κατὰ τὸν οἶκον*, according to family, *υἱὸν δὲ ἓνα καταλ[έ]γεσθαι*, one son was chosen. In Herodotus's Theran version the conscription is mentioned in similar terms:

*Θηραίοισι δὲ ἕαδε ἀδελφεόν τε ἀπ' ἀδελφεοῦ πέμπειν πάλω λαχόντα καὶ ἀπο τῶν χώρων ἀπάντων ἑπτὰ ἑόντων ἀνδρας, εἶναι δὲ σφεων καὶ ἡγεμόνα καὶ βασιλέα Βάττον. οὕτω δὲ στέλλουσι δύο πεντηκοντέρους ἐς τὴν Πλατέαν.*⁴³

The Therans decided to send a brother of a brother by lot as well as men from all seven communities with Battos being leader and king. Thus they sent out two Pentekonters to Platea.

⁴² See also: J. Seibert, *Metropolis und Apoikie*, pp. 32-34.

⁴³ Herodotus IV, 153.

According to Herodotus's Theran version the conscription took place by lot, *πάλῳ λαχόντα*, in a way that *ἀδελφεόν τε ἀπ' ἀδελφεοῦ*, a brother from a brother was chosen, i.e. out of two one was chosen. Since that seems to be a rather harsh decision, some scholars have changed Herodotus's text into, *ἀδελφεόν τε ἀπ' ἀδελφεῶν*, a brother from brother was chosen, i.e. one out of several.

It is of lesser importance for my argument whether one brother out of two or a brother out of several. It is more important that a brother – that fact at least can be inferred from Herodotus's account for the understanding of the inscription – was chosen by lot, *πάλῳ λαχόντα*, and that adults and free Therans could sail, if they wished to do so, *καὶ τοὺς ἡβῶντας καὶ τῶν [ἄλλ]ων Θηραιῶν ἐλευθέρως . . . 6 . . . πλέν*. The fact that in addition to all adults and all free Theran who had the choice to sail to Libya, others had to be chosen by lot, indicates that there was little enthusiasm in going to Libya. It further indicates that there was no immediate agreement (*homologia*) among the Theran people as to whether who should leave and who should stay. A decision had to be made and the agreement had to be enforced. The decision was made by the assembly, but its decree had to be adjured by all Therans.

Due to the lack of interest or even due to opposition in going to Libya, the Theran assembly decreed severe punishments for those who were chosen to go Libya and who would refuse to do so. Someone who refused to go would have been liable to death penalty and his property would have been confiscated, *θανά[σι]μος τέντει καὶ τὰ χρήματα ἔστω αὐτοῦ δαμόσια*. This punishment was also imposed upon all those who tried to protect their relatives, *ὁ δὲ ἀποδεκόμενος ἢ ἀδήςζων ἢ πατήρ υἱὸν ἢ ἀδελφεόν*, upon the father who tried to recover his son as well as upon the brother who did not separate his brother. Those who

protected their relatives, *παισεῖται ἅπερ ὁ μὴ λέων πλέν*, were to suffer the same punishment as those who refused to sail. These relatives were threatened by death penalty, *θανά[σι]μος τέντει*.

The Theran assembly also decided that in case the settlers established a settlement, *αἱ μὲν δέ κα κατέχ[ων]τι τὰν οἰκισίαν*, that those kinsmen or family-members who would sail down to Libya later, will receive and share honors and citizenship, *τῶν οἰκείων τὸν καταπλέον[τα] ὕστερον εἰς Λιβύαν καὶ πολιτήας καὶ τιμᾶμ πεδέχ[εν]*. Since the 7th century Theran assembly decided to give Cyrenean citizenship to future Therans who wish to settle in Cyrene, Kleudamas and his fellow 4th century Therans who seek to obtain citizenship in Cyrene, clearly had a point in referring to the 7th century decree.

Kleudamas and his fellow Therans, however, did not stop with references to the legal political decision. They also made a reference to the binding force of that decision: *ἐπὶ τούτοις ὅρκια ἐποιήσαντο*, upon these things they made oath ceremonies and oaths, those who stay on Thera and those who sail as settlers and founders, *οἳ τε αὐτεῖ μένοντες καὶ οἱ πλέοντες οἰκίζοντες*. Upon these things, i.e. the decision by the assembly that Battos is sent off to Libya as leader and king (*ἀρχαγέτα[ν][τ]ε καὶ βασιλῆα*), that the Therans sail as his companions on fair and equal terms (*ἐπὶ τᾷ ἴσα[ι] καὶ τᾷ ὁμοίαι πλέν*), that one son is chosen from each family (*κατὰ τὸν οἶκον υἱὸν δὲ ἓνα καταλ[έ]γεσθαι*), that those who were chosen as settlers and who will refuse to sail, will have to face death penalty (*θανά[σι]μος τέντει*), that those Therans who will come to Cyrene in later times, will receive citizenship (*τῶν οἰκείων τὸν καταπλέον[τα] ὕστερον εἰς Λιβύαν καὶ πολιτήας καὶ τιμᾶμ πεδέχ[εν]*), concerning these things they made curses, *ἀρὰς ἐποιήσαντο*, i.e. they put curses upon themselves. They made curses against those who may transgress the terms of the contract or treaty and do not abide them. All assembled Therans, men and women, boys and girls,

πάντες συνενθόντες καὶ ἄνδρες καὶ γυναῖκες καὶ παῖδες καὶ παιδίσκαι, made wax images and burnt them, κηρίνος πλάσσαντες κολοσὸς κατέκαιον, while uttering, ἐπαρεώμενοι, the following words:

46 τὸμ μὴ ἐμμένοντα τούτοις
 47 τοῖς ὀρκίοις ἀλλὰ παρβεῶντα καταλείβεσθαί νιν καὶ κα-
 48 ταρρεν ὥσπερ τὸς κολοσός, καὶ αὐτὸν καὶ γόνον καὶ χρή-
 49 ματα, τοῖς δὲ ἐμμένοισιν τούτοις τοῖς ὀρκίοις καὶ τοῖς
 50 πλείοσι ἐλ Λιβύαν κ[αί] τ[οῖς μέ]νοισι ἐν Θήραι ἤμεν πολλ-
 51 ᾶ καὶ ἀγαθὰ καὶ αὐ[τοῖς καὶ γό]νοις.

46 “The one who does not abide by those
 47 oath rituals but transgress them, shall melt away and
 48 dissolve like the images, he himself, his descendents, and his property.
 49 But those who abide by these oath rituals, both those
 50 sailing to Libya and those remaining on Thera, shall have many
 51 good things for themselves and their descendents.”

These words are the authentic statement of the oath (ὄρκος) sworn by those Therans who were send off to Libya and by those who stayed on the island, sworn by all Therans, men and women, boys and girls, before the colony took off. The presence of all Therans, men and women as well as boys and girls, seems to be justified by the fact that ἀρὰς ἐποίησαντο τὸς ταῦτα παρβεῶντας καὶ μὴ ἐμμένοντας, that curses were made against those allotted settlers and their relatives who may transgress these things and do not abide them. Burning the previously made wax images, κηρίνος πλάσσαντες κολοσὸς κατέκαιον, each of the Therans or all Therans collectively uttered that he or she may melt away, καταρρεν, like the wax images, κολοσοί, if he or she does not abide τοῖς ὀρκίοις, by the oaths spoken and the oath ceremony performed.

The first part of the ὄρκιον τῶν οἰκιστῆρων is a political agreement, treaty, or contract; the second part a narrative about the conclusion of the agreement, treaty, or contract through an oath ceremony (τὰ ὄρκια), and the third part the oath (ὄρκιον, ὄρκος) sworn by

Therans and future Cyreneans. The headline, ὄρκιον τῶν οἰκιστῆρων, refers to the second and third part. In its broadest sense it simply means ‘oath ceremony of the founders’, in a narrower sense both ‘oath of the founders’ and ‘oath towards the founders’.

It remains to work out one more feature of the ὄρκιον τῶν οἰκιστῆρων, the oath of and towards the founders. The ὄρκιον τῶν οἰκιστῆρων is not an agreement in the weak sense of decision making by the Theran assembly. The decision of the Theran assembly is abided by an oath ceremony and an oath. Thereby it becomes a contract between Therans and future Cyreneans, treaty between the city and the colony. Abided by oaths, the ὄρκιον τῶν οἰκιστῆρων as both the oath of and towards the founders becomes a special contract, a treaty by which a unity of people is split into two: into those Therans who stay on the island and those, the designated Cyreneans, who will sail to Libya. The treaty between the Trojans and Achaeans tried to overcome the hostility of the oath takers by cutting faithful oaths and friendship, whereas the Theran oath concludes a treaty that produces enmity, enmity between people who otherwise are connected by family bonds:

33 αἱ δὲ κα μὴ κατ[έχ]-
 34 ωντι τὰν οἰκισίαν μὴδὲ οἱ Θηραῖοί μιν δυνῶνται ἐπικου[ρῆ]-
 35 ν, ἀλλὰ ἀνάγκαι ἀχθῶντι ἔτη ἐπὶ πέντε, ἐκ τᾶς γᾶς ἀπίμ[εν]
 36 ἀδιέως Θήρανδε ἐπὶ τὰ αὐτῶν χρηήματα καὶ ἡμεμ πολιάτ-
 37 ας.

33 But if they do not
 34 establish a settlement and if the Therans are not able to help and
 35 they suffer inescapable pains for five years, they shall depart from that land
 36 without fear to Thera to their own property and shall be
 37 citizens.

The fact that the designated Cyreneans had to be away from Thera for at least five years is remarkable. It shows the earnest of that oath. According to Herodotus the designated Cyreneans tried to come back before that time:

*πλώσαντες δὲ ἐς τὴν Λιβύαν οὗτοι οὐ γὰρ εἶχον ὅ τι ποιέωσι ἄλλο, ὀπίσω ἀπαλλάσσονται
ἐς τὴν Θήρην· οἱ δὲ Θηραῖοι καταγομένους ἐβαλλον καὶ οὐκ ἔων τῇ γῇ προσίσχειν, ἀλλ'
ὀπίσω πλέειν ἐκέλενον.⁴⁴*

When they sailed to Libya, they did not know what else they should do, so they sailed back to Thera. But the Therans throw at those coming down (from the sea into the harbor) and did not let them come on land, but ordered them to sail back.

When the Libyan settlers tried to enter the harbor, the Therans threw stones towards their ships. Throwing stones at the settlers upon their attempted return to the island of Thera, prevented them from reaching the land. Preventing their old fellow Therans to reach the island had its inner logic according to the oath sworn. The political decision that those who sailed to Libya had promised to found a colony and stay there for at least five years before they would be allowed to return to Thera, was abided by oaths. In case the Therans had let them come to land, they would have broken their oaths.

⁴⁴ Herodotus IV, 156.

“I prefer now to emphasize the diversity of [...] configurations.”

Marcel Detienne

Part II The Hesiodic Question

Chapter 3

An Epistemological Preface to the Study of Hesiod's *Theogony*

1. Oxford Textual Criticism and Parisian Anthropology

The following two parts of my dissertation presents new readings of Hesiod's *Theogony*. Of prime importance are two narratives: the narrative concerning the myth of the beginning as well as the narrative of Styx receiving the honor of being the great oath of the gods. The former presents a constellation consisting in Chaos, Earth, and Eros,¹ which consist in three different elements that came into existence independent of each other. The latter presents a constellation consisting in Zeus, Styx, and oath or even deified Oath.² It describes the inauguration of the new Olympian sovereign against the backdrop of the still lasting origins. Re-interpreting these narratives and emphasizing their inherent constellations has become necessary, for thus far there has been accomplished neither a sufficient understanding of these crucial passages nor a satisfying comparison with their Near Eastern forerunners. This can be said both despite the philological achievements of the 'Oxford

¹ Hesiod, *Theogony*, vv. 116-122.

² Hesiod, *Theogony*, vv. 383-402.

School of Classics' in textual criticism and in commenting on myths concerning their historical and geographical origins,³ and despite the intellectual achievements of the 'Parisian School of Classics' in deciphering myths by applying the methods of social and structural anthropology as well as some interesting variations of it.⁴ Sound philological scholarship of Martin West can be regarded as the epitome of the former, sophistication as well as intellectual restlessness of Marcel Detienne and Jean-Pierre Vernant as the epitomes of the latter.

In short, there is a huge gap between the Parisian School of Classics and the Oxford School of Classics, between classical philology and the anthropology of classics or the anthropology along with classics. As obvious the gap, as scanty the attempts to bridge it. Dialogues or debates on Hesiod's *Theogony* are virtually non-existent, something that is not necessarily due to the fact that all problems are solved, but rather due to the fact that some problems have never been faced. At best classical philology takes anthropology as an *ancilla philologiae*. In reverse, anthropology of classics takes textual criticism as an *ancilla anthropologiae*. Both approaches, however, philology and anthropology, are equally important for the field of classics, if one attempts to reconstruct and understand ancient myths *per se* or as literary texts, if one attempts to understand ancient myths in their social-political context, or in their literary context as well as in comparison with myths from other cultures. Thus, anthropology without philology has no material, philology without

³ The excellent edition of *Hesiod: Theogony*, edited by M. L. West, Oxford 1966, was preceded by three important articles: M. L. West, "Hesiodea," *CQ* 11 (1961), pp. 130-45; M. L. West, "More Notes on the Text of Hesiod," *CQ* 12 (1962), pp. 177-81; M. L. West, "The Medieval and Renaissance Manuscript of Hesiod's *Theogony*," *CQ* 14 (1964), pp. 165-89. The sum of these publications brought the scholarship on Hesiod to a new level.

⁴ J.-P. Vernant, *Les origines de la pensée grecque*, Paris 1962; J.-P. Vernant, *Mythe et pensée chez les Grecs : Études de psychologie historique*, Paris 1965; J.-P. Vernant, *Mythe et société en Grèce ancienne*, Paris 1974; M. Detienne, *Les jardins d'Adonis*, Paris 1972; M. Detienne, *Dionysos mis à mort*, Paris 1977; M. Detienne, *L'invention de la mythologie*, Paris 1981.

anthropology lacks context. Trained and influenced by both schools, I do not feel obliged to submit or subject myself to the limits of either school. Appreciating both approaches I rather conduct – as Marcel Detienne would say – an experiment in comparing seemingly incomparable approaches,⁵ an experiment that imagines a dialogue between Oxford and Paris, a dialogue between classical philology and the anthropology of classics. In this way I investigate the possibilities of mediating between both schools.

Already in his early work, the centennial edition of Hesiod's *Theogony* – the masterpiece in 20th century textual criticism, which contains one of the best commentaries ever written – but in greater detail in his later work, *The East Face of Helicon*, Martin West gave a coherent picture of the Near Eastern influence upon Greek culture in general,⁶ and the influence of Near Eastern cosmogonies on Hesiod's *Theogony* in particular.⁷ By comparing different episodes in Hesiod's *Theogony* with different Near Eastern myths he summarized the textual evidence of common motifs and themes. In both of his studies, West almost exhausted the understanding of Hesiod's *Theogony* as a whole as well as the understanding of different narratives that it contains. He achieved it within the scope of sound textual criticism based on good common sense and the quest for convincing evidence. His view of understanding myths is best explained in terms of his method of teaching it:

“The sort of graduate we ought to be aiming to produce, in my view, is not one who knows what Greek myths are all about (for none of us claims to know that), nor one who has mastered some glistening Method, but one who has an idea how he might set about explaining a myth; who is at least able to formulate such questions as

⁵ M. Detienne, *Comparer l'incomparable*, Paris 2000, pp. 81-104 ; M. Detienne, “L’art de construire des comparables : Entre historiens et anthropologies,” *Critique internationale* 14 (2002), pp. 68-78.

⁶ M. L. West, *The East Face of Helicon*, Oxford 1997.

⁷ M. L. West, *The East Face of Helicon*, pp. 275-305; see also: M. L. West, *Hesiod: Theogony*, pp. 1-31.

‘what sort of myth is it? What was it for? Where did it come from?’ even if the answers are beyond reach.”⁸

On purpose, not by mere accident, Martin West refuses to engage in more glistening or sophisticated methods of interpreting myths. This should not be regarded as a weakness at all but as a strength with respect to a newly developing generation of so called more broadly trained classicists who often apply fashionable theories to translations and Loeb editions without being concerned about the text that underlies the edition, believing that variants in the manuscript tradition do not affect the theory applied. Following West’s advice that “it is better to go into one or two myths thoroughly than to cover a lot in haste,”⁹ I restrict myself to investigate and discuss two narratives, as mentioned above, more thoroughly, before confronting it with any kind of theory.

Yet, a more theoretical oriented philologist may find some limits to textual criticism that is based on common sense evidence only. If the Parisian anthropologists of classics had not established a more sophisticated discourse on the interpretation of myths and mythology, which is excluded from West’s philological approach, one could not be sure, if there was anything new to say about Hesiod’s *Theogony*. Vernant’s centennial interpretation of the Prometheus myth has already become a classical piece in Classical scholarship.¹⁰ The Hesiodic narratives of Nereus and Metis were treated in the most brilliant fashion by Marcel Detienne as well as other myths such as the myth of Orpheus or the myth of Adonis.¹¹ Both Detienne and Vernant treat myths as consisting of constituent

⁸ M. L. West, “Myth in the Undergraduate Curriculum,” *CUCD* 6 (1977), p. 5.

⁹ M. L. West, “Myth in the Undergraduate Curriculum,” p. 5.

¹⁰ J.-P. Vernant, “Le Mythe prométhéen chez Hésiode,” in: J.-P. Vernant, *Mythe et société en Grèce ancienne* Paris 1974, pp. 177-94.

¹¹ On Nereus see: M. Detienne, *Les maîtres de vérité dans la Grèce archaïque*, Paris 1967. On Metis see: M. Detienne and J.-P. Vernant, *Les ruses de l’intelligence : la Metis des grecs*, Paris 1974. On applying his

units that are not isolated from each other but in relation to one another. Different configurations of these relations establish different versions of a narrative within a social space that is given by the continuum of possible configurations. This is the basic insight of the Parisian School.¹²

What sounds abstract can be easily made more conceivable, even for philologists and classicists who base their scholarship on common sense and textual criticism. One only has to follow the beginning of Vernant's essay on Hermes and Hestia.¹³ There he starts with an observation that goes back to Pausanias who gives us a description of the statue of Zeus at Olympia made by Phidias.¹⁴ On the base relief of this statue fourteen gods are depicted in pairs of seven, flanked by Helios and Selene: Poseidon and Amphitrite, Hephaestus and Charis, Hestia and Hermes, Zeus and Hera, Apollo and Artemis, Aphrodite and Eros, Athena and Heracles. Within this constellation only the couple of Hestia and Hermes can not be explained by any known myth. Why do they form a couple? How can their configuration be conceived? And what does it mean?

First of all, Vernant shows that it is no longer sufficient to ask for the essence of a god or goddess, or his and her genealogy only. In order to understand the polytheistic system of the Greek gods, one has to give up the idea of looking at a god in isolation. What matters is the relation of one god to another. It is not the identity of gods that matters but their mutual differences. Only in difference, i.e. in reciprocity to another god, a god can be determined. Vernant shows that the couple of Hestia and Hermes represents contrary and at the same time complementary structures of space in ancient Greece. As the hearth Hestia is

method for other myths, see: M. Detienne, *Les jardins d'Adonis*, Paris 1972; M. Detienne, "Orphée au miel," *QUCC* 13 (1971), pp. 7-23.

¹² What I call the Parisian school of classics is not a homogeneous group of scholars. Concerning the difference between the approaches of Detienne and Vernant, see below.

¹³ J.-P. Vernant, "Hermes-Hestia," in: J.-P. Vernant, *Mythe et pensée chez les Grecs* Paris ²1966, pp. 97-143.

¹⁴ Pausanias 5. 11. 8.

the focal point around which the Greek *oikos* is organized.¹⁵ In contrast, Hermes represents change, the transition from one point to another. Thus, the configuration of Hestia and Hermes creates the space in which Greek social and political life takes place:

“On peut dire que le couple Hermès-Hestia exprime, dans sa polarité, la tension qui se marque dans la représentation archaïque de l’espace : l’espace exige un centre, un point fixe, à valeur privilégiée, à partir duquel on puisse orienter et définir des directions, toutes différentes qualitativement ; mais l’espace se présente en même temps comme lieu du mouvement, ce qui implique une possibilité de transition et de passage de n’importe quel point à un autre.”¹⁶

Despite the fact that the Parisian School has developed sophisticated methods of determining gods by configuring their constellations as well as sophisticated methods of interpreting myths by configuring the basic structure of a narrative,¹⁷ it never – the classical philologist may argue – provided a coherent analysis, neither structural nor comparative, of Hesiod’s *Theogony* as a whole. In addition, neither Vernant nor Detienne investigated the constellation of the beginning as well as the constellation of Zeus’s rise to power more thoroughly. Moreover, neither Vernant nor Detienne did ever give a detailed analysis of those myths that have striking parallels with ancient Near Eastern sources. Nor did they ever make an attempt to point out more motifs and themes common to Hesiod’s *Theogony* and its Near Eastern forerunners, something that could be demanded from a fully accomplished method of comparison. And certainly, no attempts were ever made to apply the comparative method to philology and textual criticism.

Within the Parisian School of Classics the anthropological approach has shifted from the early social-psychological approach to structural analysis, and is now shifting

¹⁵ On Hestia, see now the dissertation by C. Dethloff, *Corpus of the Inscriptions of the Goddess Hestia*, PhD Johns Hopkins University 2002, in which he collected all the epigraphic evidence available for the goddess Hestia.

¹⁶ J.-P. Vernant, *Mythe et pensée* 1965, p. 158.

¹⁷ J.-P. Vernant and P. Vidal-Naquet, *Mythe et tragédie en Grèce ancienne*, 2 vols., Paris 1973-86.

again to a new field of experiments: Comparativism. Comparison with other cultures, i.e. the translation from one culture into another, has always been envisaged by the Parisian School, but has never been fully accomplished. The key figure and driving force who promoted these developments certainly was and still is Marcel Detienne. Within the last couple of years the main concern of his experiments has become the comparative approach, i.e. the comparison of Greek society with other societies in general, the comparison of Greek political features with political features of other cultures in particular, most prominently with Cossack societies and modern African societies, less prominently with ancient Near Eastern societies. It was only recently that Detienne developed a program of comparing the un-comparable.¹⁸ In that respect Detienne's approach can no longer be considered as anthropology *of* the Greeks but as anthropology *along* with the Greeks. In discovering structures common to two or more than two societies Detienne opens the space in which human political ideas can be mapped. If structures are common to two or more than two societies, one could argue for certain human constants; if structures were to turn out not to be common, for structural differences. The former is certainly not Detienne's path, the latter only a preliminary step. In comparing cultures different in space and time, i.e. the translation from one culture into another, Detienne takes key concepts as *réactifs*,¹⁹ in order to break traditional categories of thinking. That's the strength of Detienne's approach.

Translating one culture into another, however, does not make sense without philology and history. Historians as well as classical and comparative philologists could make several objections against Detienne's comparative approach. The historian could

¹⁸ M. Detienne, *Comparer l'incomparable*, pp. 41-60; see also: M. Detienne, "L'art de construire des comparables. Entre historiens et anthropologies," pp. 68-78.

¹⁹ M. Detienne, *Comparer l'incomparable*, p. 95.

argue that Detienne is not concerned with historical developments at all, since he idealizes the synchronic picture and neglects the diachronic one. This may be due to his critic of French national historians in the Parisian academy, who never acknowledged the anthropologists on the left bank, less to an interest in history as such. Detienne's historical accounts on hoplite reform and warfare are extremely powerful essays, not necessarily conceivable to narrow minded historians, since 'the essay as form' develops something that in the Benjamin-Adorno-tradition is called the 'dialectics of standstill,'²⁰ or in Detienne's terms, 'Le choc de l'incomparable.'²¹

The comparative philologist could argue that it is an inherent weaknesses of the anthropological method that comparisons are often done without sufficient knowledge of other languages other than Greek and Latin. And in order to make significant contributions to the field, Detienne and the other Parisians should learn Chinese, Cossack, or Ethiopian, if they wish to compare the Greeks with those societies. In reverse, the Parisian anthropologists may argue that they have overcome this weakness through interdisciplinary research with sinologists such as Marcel Granet, with scholars in African studies such as Marc Augé, or with the leading anthropologist of our time Claude Lévi-Strauss, and more recently with scholars in Japanese studies such as François Macé or with scholars in Georgian studies such as Georges Charachidzé.²²

The classical philologist could argue that the Parisian anthropologists do no longer consider *filigran* philological skills in Greek and Latin as a goal worth attaining. They no longer produce new critical editions or commentaries, achievements which the field of classics rests upon. As a consequence, the Parisian anthropologists do not contribute

²⁰ Th. W. Adorno, "Der Essay als Form," in: Th. W. Adorno, *Gesammelte Schriften*, Bd. 11, pp. 9-33.

²¹ M. Detienne, *Comparer l'incomparable*, pp. 44-46.

²² M. Detienne, *Transcrire les mythologies: tradition, écriture, historicité*, Paris 1994.

anything to the field that is based on philology and textual criticism. In reverse, Detienne has argued that classical philology, which is exclusively based on textual criticism, has to be considered as ‘flat philology,’ since it closes itself to new ways of thinking. In this way philologists are divided into two groups: “The tribe of philologists [...] has always fallen into two distinct species: the philologist who thinks and the one who dispenses from thinking.”²³ The two tribes of philologists who think are two French species. Marcel Detienne and the Parisian School on the one hand, Jean Bollack and the Hermeneutic School of Lille, the French rivals of the Parisian anthropologists, on the other hand.

Ever since Bollack characterized the members of the Parisian school as ‘structuralist school essayists,’ who appeal to ‘the system of representation and mental and psychological structures,’ there arose an interesting rivalry between the two schools. To a non-French observer, it reveals some misunderstandings between anthropology and hermeneutics. In the main, Bollack’s argument against the Parisians runs as follows: anthropologists are not interested in the ‘unique meaning’ of a work or text but ‘borrow directly from social reality.’ For Bollack, references to ‘the influence of ethnology and anthropology’ rule out the possibility of analyzing and reflecting myths.

When the hermeneutic school organized a symposium on Hesiod in 1989 – originally announced as philosophy, anthropology, and philology²⁴ – it gave Marcel Detienne the opportunity to clarify his position as an anthropologist. Detienne made the polemic remark that hermeneutics, who have abandoned any considerations on truth in

²³ M. Detienne, “Return to the Mouth of Truth,” (Preface to the American Edition of) M. Detienne, *Masters of Truth*, New York 1996, p. 30.

²⁴ The seminar was organized by the *Centre de Recherche Philologique* in Lille in 1989 and entitled as *Hésiode. Philologie. Anthropologie. Philosophie*. Most of the talks are published in: F. Blaise et al. (eds), *Le métier du mythe*, Villeneuve d’Ascq 1996. The lecture by Marcel Detienne is published as M. Detienne, “Retour sur la bouche de la Vérité,” in: M. Detienne, *Les maîtres de vérité dans la Grèce archaïque* ²1994, pp. 5-31.

ordeals, necessarily fail to understand truthful speech in Hesiod,²⁵ since they do not configure the vocabulary appropriately. The configuration of specific vocabulary and concepts, however, is necessary. It not only elucidates certain structures within one single culture, but it also allows to compare them with structures of other cultures or with different texts of different cultures, something that the hermeneutical School of Classics cannot do. Detienne further suggested that the concept of truth can only be fully understood through a comparison with ancient Near Eastern river-ordeals. Finally, Detienne asked the fundamental question:

“Hésiode et la Vérité des Muses relevant-ils d’une « science des œuvres », ainsi que se présente l’Herméneutique ? [. . .] Est-il légitime d’appliquer à l’autour de la *Théogonie* le principe herméneutique moderne selon lequel la cohérence des significations repose en dernière analyse sur la décision autonome d’un sujet ?”²⁶

This is exactly the question to be asked.

2. The Quest for a Synthesis between Oxonians and Parisians

Hesiod’s *Theogony* is a hymn to Zeus and his sovereignty. It tells the story of Zeus’s rise to power as well as the founding of his kingship and sovereignty.²⁷ Yet, the myth of succession, i.e. the myth of successive divine ruler – Uranos, Kronos, and Zeus – which is

²⁵ M. Detienne, “Retour sur la bouche de la Vérité,” pp. 12ff., see also: M. Detienne, *Les maîtres de vérité dans la Grèce archaïque* 1994, pp. 77ff.

²⁶ M. Detienne, “Retour sur la bouche de la Vérité,” p. 13.

²⁷ F. M. Cornford, “A Ritual Basis for Hesiod’s Theogony” (1941), in: F. M. Cornford, *The Unwritten Philosophy and other Essays*, Cambridge 1950, p. 97: “The sequence of episodes itself constitutes what is, in the essence, a hymn to Zeus and also a hymn of Creation – a mythical account of the beginnings of things.” See also F. M. Cornford, *Principium Sapientiae*, Cambridge 1952 p. 202, where he adds: “Hesiod’s cosmogony [...] is the Muses’ prelude to the Hymn to Zeus.” In the following I would like to show that the cosmogony is less a prelude to the hymn to Zeus, but rather an essential part of it. The view that the *Theogony* as a whole may express a hymn to Zeus is shared by O. Gigon, *Der Ursprung der griechischen Philosophie*, p. 18: “... unter einem gewissen Gesichtspunkt ist die Theogonie nichts anderes als ein Hymnos auf Zeus, in dem erzählt wird, wie Zeus nach Überwindung der wüsten Gewalten der Vorzeit sein Reich der Gerechtigkeit aufrichtet.” See also J.-P. Vernant, *Les origines de la pensée grecque*, ch. vii, p. 103: “La Théogonie d’Hésiode se présente ainsi comme un hymne à la gloire de Zeus roi.”

considered to be the “backbone” of Hesiod’s *Theogony*,²⁸ is based on ancient Near Eastern compositions that precede Hesiod by some centuries. The closest parallel is found in the Hittite cycle *The Kingship in Heaven*, where a sequence of four divine kings is mentioned: Alalu, Anu, Kumarbi, and Tessub.²⁹ In the Akkadian hymn to Marduk, *Enuma Elish*, we find a sequence of Anu, Ea, and Marduk.³⁰ The Akkadian hymn, which praises the sovereignty of Marduk, was annually recited during the Babylonian New Years festival.³¹ This has led Cornford to suggest a ritual basis for Hesiod’s *Theogony*,³² and Burkert to assume a new revival of the myth and ritual school.³³

Walter Burkert is certainly one of the few scholars who attempts to combine both philology and anthropology. In many respects his studies in Greek myth and religion can be considered as being a synthesis of the Oxford and Parisian school of classics. Burkert’s inclination for the myth and ritual school works well for many areas of Greek religion,³⁴ especially for the Near Eastern influence on Greek culture.³⁵ As more and more Greek

²⁸ Fr. Solmsen, *Hesiod and Aeschylus*, Ithaca 1949, p. 20; M. L. West, *Hesiod: Theogony*, Oxford 1966, p. 18.

²⁹ The *Kingship in Heaven* cycle was composed before 1250 BCE. For text, editions, and translations, see bibliography.

³⁰ *Enuma Elish* was composed between 1500 and 800 BCE, see: L. Matouš, “Zur Datierung von Enuma Eliš,” *ArOr* 29 (1961), pp. 30-34.

³¹ B. Pongratz-Leisten, “Neujahr(sfest),” *RLA* 9 (1998-2001), p. 295.

³² F. M. Cornford, “A Ritual Basis for Hesiod’s *Theogony*,” (1941), pp. 95-116.

³³ W. Burkert, “Mythos – Begriff, Struktur, Funktionen.” *Mythos in mythenloser Gesellschaft: Das Paradigma Roms*, herausgegeben von F. Graf, Stuttgart-Leipzig 1993, p. 11: “‘Myth and ritual’ erfuhr einen zusätzlichen Impuls vom Altorientalischen her. Die Rückwirkung auf die klassische Philologie setzt erst 1950 ein.” The date of 1950 refers to Cornford essay “A ritual basis of Hesiod’s *Theogony*” (1941), first published in: F. M. Cornford, *The Unwritten Philosophy and other Essays*, Cambridge 1950, pp. 95-116.

³⁴ W. Burkert, “Kekropidensage und Arrhaphoria,” *Hermes* 94 (1966), pp. 1-25. W. Burkert, *Homo necans. Interpretationen altgriechischer Opferriten*, Berlin-New York 1972. The title of the English translation, W. Burkert, *Homo necans: The Anthropology of Ancient Greek Sacrificial Ritual and Myth*, Berkeley 1983, indicates his interest in the myth and ritual school from a new anthropological perspective. See also: W. Burkert, *Griechische Religion der archaischen und klassischen Epoche*, Stuttgart 1977 (Translated into English as: W. Burkert, *Greek Religion*, Cambridge/Mass. 1985).

³⁵ W. Burkert, *Die orientalisierende Epoche in der griechischen Religion und Literatur*. Vorgetragen am 8. Mai 1982. Heidelberg 1984 (Translated into English with some additions as: W. Burkert, *The Orientalizing Revolution. Near Eastern Influence on Greek Culture in the Early Archaic Age*, Cambridge/Mass. 1992); W. Burkert, “Von Ullikummi zum Kaukasus. Die Felsgeburt des Unholds,” *Würz. Jahrb. n. f.* 5 (1979), pp. 254-61. W. Burkert, “Kronia-Feste und ihr altorientalischer Hintergrund,” in: *Karnevalische Phänomene in antiken*

rituals reveal similarities with Near Eastern rituals, and as Hesiod's *Theogony* shows striking parallels with some Near Eastern motives, one is inclined to intuitively apply Burkert's myth and ritual approach to Hesiod's *Theogony*. But does the myth and ritual approach in its new shape help to explain a text such as Hesiod's *Theogony*?

Comparable to a ritual, Hesiod starts praising Zeus in the proem to the *Theogony*.³⁶ There, he describes his encounter with the Muses, who inspire the ordinary shepherd and transform him into a poet. It was they who appeared to Hesiod as he tended his sheep on Mount Helicon and taught him lovely singing:

- | | |
|----|---|
| 26 | ποιμένες ἄγραυλοι, κάκ' ἐλέγχεα, γαστέρες οἶον, |
| 27 | ἴδμεν ψεύδεα πολλὰ λέγειν ἐτύμοισιν ὁμοῖα, |
| 28 | ἴδμεν δ' εὖτ' ἐθέλωμεν ἀληθέα γηρύσασθαι. ³⁷ |
| | |
| 26 | Shepherds, dwelling in the fields, bad disgraces, mere bellies, |
| 27 | We know to tell many deceptive things similar to true sayings, |
| 28 | But we also know, if we wish, to say true things. |

The way the Muses appear to Hesiod is somewhat strange. In offending or abusing him and his colleagues as disgraces or rogues (κάκ' ἐλέγχεα) and as mere bellies (γαστέρες οἶον) the Muses give a caricature Hesiod's pastoral world. Within this caricature they intend to generate the picture of a world that is opposed to Hesiod's pastoral world. Unlike the ordinary world of a shepherd's everyday life, which consists in many falsehoods similar to

und nachantiken Kulturen und Literaturen, herausgegeben von S. Döpp, Trier 1993, pp. 11-29; W. Burkert, *Die Griechen und der Orient: Von Homer bis zu den Magiern*, München 2003.

³⁶ On the proem to Hesiod's *Theogony*, see: P. Friedländer, "Das Proömium der Theogonie," *Hermes* 49 (1914), pp. 1-16; K. von Fritz, "Das Prooemium der hesiodischen Theogonie," *Festschrift Bruno Snell*, München 1956, pp. 29-45. P. Walcot, "The Problem of the Prooemium of Hesiod's *Theogony*," *Symb. Osl.* 33 (1957), pp. 37-47; E. Siegmann, "Zu Hesiods Theogonieproömium," *Festschrift Ernst Kapp*, Hamburg 1958, pp. 9-14; R. Schlesier, "Die Musen und Zeus: Eine Untersuchung zum Proömium von Hesiods Theogonie," *Aufmerksamkeit. Fs Klaus Heinrich*, herausgegeben von O. Münzberg und L. Wilkens, Frankfurt 1979, pp. 403-41; E. Schulz, "Ἐτήτυμα μυθεῖσθαι. Ästhetisch Wahres und philosophische Wahrheit bei Hesiod und Parmenides," *Erfahrungen der Negativität. Festschrift für Michael Theunissen zum 60. Geburtstag*, herausgegeben von Markus Hattstein et al., Hildesheim 1992, pp. 53-78.

³⁷ Hesiod, *Theogony*, vv. 26-28. Hesiod is cited according to the edition of M. L. West, *Hesiod: Theogony*, Oxford 1966. Translations of Hesiod are my own, unless otherwise indicated.

reality or in many deceptive things similar to true sayings (*ψεύδεα πολλὰ ἐτύμοισιν ὁμοῖα*), which simply could be repeated by the Muses, the more authentic world of the Muses consists in true things (*ἀληθέα*). In order to give Hesiod access to true things or even the truth (*ἀληθέα*) the Muses transfigure the ordinary shepherd into a master of that domain:

- 30 καί μοι σκῆπτρον ἔδον δάφνης ἐριθιλέος ὄζον
 31 δρέψασαι, θηητόν· ἐνέπνευσαν δέ μοι αὐδὴν
 32 θεσπιν, ἵνα κλείοιμι τὰ τ' ἐσσόμενα πρό τ' ἐόντα,
 33 καί μ' ἐκέλονθ' ὑμνεῖν μακάρων γένος αἰὲν ἐόντων.³⁸
- 30 And they gave me a wondrous staff of laurel, plucked
 31 From a branch in full blossom. Then they breathed into me a voice
 32 Divine, so that I might celebrate being to come and being bygone,
 33 And they urged me to praise the family of the fortunate who always are.

Having granted him a wondrous staff or a marvelous scepter (*σκῆπτρον θηητόν*) as well as a divine voice (*αὐδὴν θεσπιν*) the Muses also inspire (*ἐνέπνευσαν*) Hesiod and thereby transform the shepherd into a master of truth.³⁹ The true things or the truth (*ἀληθέα*) that Hesiod is yet able to praise and to reveal concerns the truth of things to come and the truth of things past, the truth of what will be and what had been, the truth of being to come and being bygone (*τὰ ἐσσόμενα πρό τ' ἐόντα*).

The phrase *τὰ τ' ἐσσόμενα πρό τ' ἐόντα* is known to us from Homer in a slightly more expanded version. In Homer the seer Calchas knows *τὰ τ' ἐόντα τὰ τ' ἐσσόμενα πρό τ' ἐόντα*, the things that are, the things that will be, and the things that have been.⁴⁰ He knows the chain of events which have led to the present day that weighs so heavily upon the Greeks. Through bird-flight Calchas may foresee a solution to the problem that will take place in the future. In contrast, Hesiod as well as Hesiod's Muses do not foresee the future beyond

³⁸ Hesiod, *Theogony*, vv. 30-33.

³⁹ M. Detienne, *Les maîtres de vérité*, Paris 1967.

⁴⁰ Homer, *Iliad* I 70.

the established reign of Zeus. Unlike Homer, who celebrates heroic exploits and tells stories of events that take place within the established Olympian community, Hesiod gives an account of the history of past events and how these events determine the present, i.e. how the past determines the foundation and presence of the *μακάρων γένος αἰὲν ἑόντων*, the family of the fortunate who always are. Thus, the seemingly missing present (*τὰ ἑόντα*) in Hesiod's use of the temporal formula is expressed through *αἰὲν ἑόντων*. The genitive plural *αἰὲν ἑόντων* refers not only to things that always are (*αἰὲν ἑόντα*), but also to the gods who always are (*αἰὲν ἑόντες*). As things that always are and as those who always are, the present of the temporal formula in the Hesiodic version gains an aspect of duration and transgresses the ephemeral present (*τὰ ἑόντα*) of the Homeric version. Thus the present that we find in Homer has to be considered as an ephemeral present and the truth as an ephemeral truth.⁴¹ Calchas, who knows the events that are, those that have been, and those that will be, simply divides time into past, present, and future. Connecting the past, present, and the future by the mere chain of events defines the continuity of time in Homer. In contrast, Hesiod not only uses the Homeric division of time but also proclaims the truth of those events that once have been and that now have turned into the present. In giving genealogies, Hesiod provides a logic of history. In Hesiod the future aspect of time does not reach beyond the reign of Zeus. It only concerns the future aspect or potential of things that they may have in the past. The future aspect of things gives each entity the potential to turn into the present, where it remains in a different constellation.

The notion of true sayings or the concept of truth (*ἀληθεία*) in Hesiod's *Theogony* has to be conceived as a concept of historical truth, a truth from the beginning to the

⁴¹ E. Rohde, *Psyche*, 1894, p. 92 (= Tübingen ⁷⁻⁸1921, p. 98); W. Jaeger, *Paideia*, 3 vols., Berlin und Leipzig 1934-47, vol. I (1934), p. 112: "Auch dieses Bewußtsein, eine Wahrheit zu lehren, ist gegenüber Homer etwas Neues ..."; disagreeing F. M. Cornford, *Principium Sapientiae*, p. 104.

present. By telling this truth, the family of the fortunate who always are is not only praised but also legitimated. Moreover, Zeus is delighted when the Muses sing the truth about the history of his rise to power for him:

- 36 *τύννη, Μουσάων ἀρχώμεθα, ταὶ Διὶ πατρὶ*
 37 *ὑμνεῦσαι τέρπουσι μέγαν νόον ἐντὸς Ὀλύμπου,*
 38 *εἴρουσαι τὰ τ'έόντα τὰ τ' ἐσσόμενα πρό τ' έόντα.*⁴²
- 36 Now let us begin with the Muses, who in singing
 37 for father Zeus please his great mind on Olympus
 38 in proclaiming things that are, things to come, and things bygone.

The true sayings or the truth (*ἀληθέα*), which the Muses proclaim in their song in order to delight Zeus on Olympus, is now mentioned in the full scope of the formula that is known from Homer: *τὰ τ' έόντα τὰ τ' ἐσσόμενα πρό τ'έόντα*, the things that are, the things that will be, and the things that have been, or the being there, the being to come, and the being bygone. Although the Homeric and Hesiodic words are exactly the same, there has been a shift in their meaning from Homer to Hesiod.⁴³ As mentioned above the Hesiodic use of the temporal formula differs from the Homeric use in terms of the present. As a consequence they also differ in terms of *presence*. The participle *ᾔν* both expresses the present and the presence. Within the present there is not only the presence of the present, but also the presence of the past as well as the presence of the future, i.e. the remembrance of the past and the future aspect of that past as well as the remembrance of the development of the future aspect of the past into the present.

⁴² Hesiod, *Theogony*, vv. 36-38.

⁴³ M. Detienne, "Retour sur la bouche de la Vérité," p. 14f. "Tous s'accordent à reconnaître que d'Homère à Hésiode, les relations entre l'aède et les filles de Mémoire se transforment et s'enrichissent." This transformation, however, does not only concern 'new modalities of speech' but also new modalities of thinking, which consist in connecting often unconnected events of story telling to make a more profound logic of history.

In turning from the present to the past and its becoming, Hesiod turns back to the very beginning. The concept of truth in Hesiod refers to a durative time, a time that expresses the duration from the very beginning to the present, the present and presence of Zeus's kingship as well as the present and presence of the Olympian community:

43 αἱ δ' ἄμβροτον ὅσσαν ἰεῖσαι
 44 θεῶν γένος αἰδοῖον πρῶτον κλείουσιν αἰοιδῇ
 45 ἐξ ἀρχῆς, οὓς Γαῖα καὶ Οὐρανὸς εὐρύς ἔτικτεν,
 46 οἳ τ' ἐκ τῶν ἐγένοντο, θεοὶ δωτῆρες ἐάων.⁴⁴

43 Sending forth their divine voices
 44 They first celebrate the reverend family of the gods from
 45 the beginning, those who were brought forth by Earth and broad Heaven
 46 and those gods who were brought forth by them, the givers of good things.

The true things or the truth (ἀληθέα) are connected with the beginning (ἀρχή) and the remembrance of that beginning, for the Muses, who sing that song to Zeus and have inspired Hesiod, are the daughters of Mnemosyne.⁴⁵ The names of the Muses reflect “toute une théologie de parole chantée.”⁴⁶ The sung speech of the Muses celebrates the offspring of Earth and Heaven (Γαῖα καὶ Οὐρανός) and those who were brought forth by those offspring. The theology of sung speech not only praises the θεῶν γένος *from* the beginning, but it also reflects Earth and Heaven *as* the beginning (ἀρχή), as the beginning of the θεῶν γένος.⁴⁷

Yet, in a second step the Muses's sung speech expands the twofold beginning towards a constellation of a fourfold beginning:

105 κλείετε δ' ἀθανάτων ἱερὸν γένος αἰὲν ἔόντων,

⁴⁴ Hesiod, *Theogony*, vv. 43-46.

⁴⁵ Hesiod, *Theogony*, vv. 53-58.

⁴⁶ M. Detienne, *Les maîtres de vérité*, p. 11f.

⁴⁷ M. L. West, *Hesiod: Theogony*, p. 172 ad l. 45: “The Muses miss out the descendants of Chaos; it is not a complete cosmogony and theogony that they sing, just the ancestry of the Olympian gods.”

- 106 οἱ Γῆς ἐξεγένοντο καὶ Οὐρανοῦ ἀστερόεντος,
 107 Νυκτός τε θνοφερῆς, οὓς θ' ἄλμυρὸς ἔτρεφε Πόντος.⁴⁸
- 105 Celebrate the holy family of the immortals, who always are,
 106 Who came into being by Earth and starry Heaven,
 107 By dark Night, and those who were nourished by the salty Sea.

In addition to the primordial parents Earth (Γαῖα) and Heaven (Οὐρανός) of the twofold beginning the fourfold beginning also includes Night (Νύξ) and Sea (Πόντος).⁴⁹ Yet, even the cosmological constellation of that fourfold beginning consisting in Earth (Γαῖα), Heaven (Οὐρανός), Night (Νύξ), and Sea (Πόντος), does not seem to be the beginning proper, as the final sentence of Hesiod's proem indicates:

- 114 ταῦτά μοι ἔσπετε Μοῦσαι Ὀλύμπια δώματ' ἔχουσαι
 115 ἐξ ἀρχῆς, καὶ εἶπαθ', ὅτι πρῶτον γένητ' αὐτῶν.⁵⁰
- 114 Muses, you who have Olympian houses, tell me that
 115 From the beginning, and also tell what was first of those who came into being.

The final sentence of Hesiod's proem strengthens the question concerning the very beginning, i.e. the origin. Against the backdrop of a constellation of a fourfold beginning that includes Earth (Γαῖα), Heaven (Οὐρανός), Night (Νύξ), and Sea (Πόντος), Hesiod now asks ὅτι πρῶτον γένητ' αὐτῶν, what was first, or even what was the first of those who came into being? This question seems to be the question regarding the first entity that is, the question concerning the primordial being, the question concerning the very beginning, or,

⁴⁸ Hesiod, *Theogony*, vv. 105-107.

⁴⁹ M. L. West, *Hesiod: Theogony*, p. 189 ad l. 107: "The descendants of Earth and Heaven have been specified first, because theirs is by far the most important line; [...] The two main families are now added to complete the picture: that of Night (daughter of Chaos), and that of Pontos (the son of Earth but not of Heaven)."

⁵⁰ Hesiod, *Theogony*, vv. 114-115.

according to Aristotle, the question regarding the *one* origin, from which everything else derives: τὸ δ' ἐξ οὗ γίγνεται, τοῦτ' ἐστὶν ἀρχὴ πάντων.⁵¹

Hesiod's *Theogony* is not only a praise of Zeus's coming to power but also the story of three origins, those of Chaos, Gaia, and Eros. Admittedly, in Greek culture there are cults connected with Eros and Gaia,⁵² but there is no cult attested for Chaos. And whether rituals help to explain the primordial status that Hesiod grants Eros and Gaia, may indeed be doubted as Martin West points out: "Hesiod could be understood just as well if the cult had not existed."⁵³ Presenting the genealogies that transform the constellation of the beginning towards the current conditions of Zeus's kingship, Hesiod rather seems to focus on speculations on how the beginning of the world has to be conceived. Out of this threefold origin two beginnings are made. Unlike Eros, who has no progeny, Chaos and Gaia reproduce themselves and give birth to offspring who themselves give birth to further generations of children and grandchildren.

Chaos begets Erebus and Night.⁵⁴ Night gives birth to several children, thus extending the lineage of Chaos. First she joins Erebus in love and brings forth Aether and Day.⁵⁵ Then, entirely on her own, Night produces an entire set of negative powers such as Fate, Destruction, Death, Vengeance, Deceit, and Strife among others.⁵⁶ As the last child of Night, Strife herself gives birth to a whole series of negative powers - of lesser negativity

⁵¹ Aristotle, *Metaphysics* 983^b24-25.

⁵² "Eurysternos or Eurysterna was a cult title of the Earth at Delphi (Mnaseas Pat. *ap. sch.* = fr. 46 Müller, *FHG* iii. 157) and in Achaea (Paus. 7. 25.13). Cf. Farnell, iii. 11." M. L. West, *Hesiod: Theogony*, p. 193.

⁵³ M. L. West, *Hesiod: Theogony*, p. 196.

⁵⁴ Hesiod, *Theogony*, v. 123.

⁵⁵ Hesiod, *Theogony*, vv. 124-125.

⁵⁶ Hesiod, *Theogony*, vv. 211-225.

than those of Night - such as Toil, Fighting, Lies, Lawlessness, and finally Oath. With the birth of Oath the lineage of Chaos comes to an end.⁵⁷

Earth, the second primordial power, unfolds into Heaven, the Mountains, and the Sea.⁵⁸ Joining Heaven in love she then gives birth to Ocean, Rhea, and Kronos among others.⁵⁹ Here, within the lineage of Earth, the myth of succession, i.e. the myth of successive divine rulers, has its place. Kronos, who defeats his father, becomes king of the gods. Joining Kronos in love Rhea brings forth Zeus and the Olympians.⁶⁰ Before the battle against the Titans, i.e. the defeat of his father Kronos, the future sovereign Zeus promises to the Olympian gods their due honors and is elected king of the gods in the aftermath of the victorious battle.⁶¹

All the children of Chaos and Gaia have to be regarded as an extension of their parents, who continue to exist after their children have been born or after they have been defeated by the children they have borne. The parents, however, do not remain the same or do not remain what they once have been after their progeny has come into being, since – and this is key – their *constellation* has changed.

It has rarely been noted that there are no forms of sexual activity and fighting between the lineage of Chaos and the lineage of Gaia.⁶² With the exception of Night joining Erebus in love, there is also no sexual activity within the lineage of Chaos. All other sexual activity and all fighting that takes place in the process of the cosmogonic and theogonic development concerns the lineage of Gaia. This process may be seen against the backdrop

⁵⁷ Hesiod, *Theogony*, vv. 226-232.

⁵⁸ Hesiod, *Theogony*, vv. 126-132.

⁵⁹ Hesiod, *Theogony*, vv. 132-149.

⁶⁰ Hesiod, *Theogony*, vv. 453-506.

⁶¹ Hesiod, *Theogony*, vv. 383-403 and vv. 881-885.

⁶² P. Philippson, "Genealogie als mythische Form: Studien zur Theogonie Hesiods," *Symb. Osf. Fasc. Suppl.* VII (1936), pp. 12: "Sie mischen sich nicht, die Nachkommenschaften von Chaos und Gaia gehen keine Verbindung miteinander ein, aber sie bekämpfen sich auch nicht, es ist kein Agon zwischen Unform und Form, zwischen den Ausgeburten des Chaos und den Kindern der Nacht."

of Chaos's progeny. The negative powers within the lineage of Chaos, the children of Night such as Fate and Vengeance, best describe and comment on – or represent a foil of – the events of the succession of divine rulers that takes place within the lineage of Gaia. The powers of lesser negativity within the lineage of Chaos, the children of Strife such as Fighting, Battle, and finally Oath, describe the events that bring to an end the succession of divine rulers. Before the battle against the Titans, Zeus decrees the river goddess Styx to be the great oath of the gods while promising honors to those gods who will fight with him against the Titans. Upon Zeus's promise Styx was the first to come to Mount Olympus. Therefore he made her the great oath of the gods. The fact that Styx received the honor of being the great oath of the gods not only represents the logical link between the lineage of Chaos and the lineage of Gaia as well as the first step in creating a new order, but also the social basis of that new order, i.e. the social contract of the Olympian community.

Inasmuch as the Oath, the last offspring within the lineage of Chaos, has become the foundation upon which the kingship of Zeus is built, the negative powers of prehistory are bound. In celebrating Zeus's victory over Kronos and the Titans as well as over his last rival Typhoeus, Hesiod not only praises Zeus's sovereignty against the backdrop of the origins and still lasting beginnings, but he also praises his kingship that is built upon justice and beauty. As daughters of Remembrance, Mnemosyne, the Muses are capable of teaching Hesiod the art of praising, but also the art of telling the truth, the truth of historical event.

Hesiod's *Theogony* is not compilation of myths that is elucidated by a ritual practice nor is it a myth in itself that is recited at a festival. It is rather a compilation of selected myths that are arranged by a certain logic, a logic that is not necessarily different from a philosophical logic. Cornford's attempt to provide a ritual basis for Hesiod's text rather shows the impossibility of explaining all mythical narratives through ritual in the

Theogony. Burkert's argument that in 1950 the myth and ritual school started a new revival may well be true for various aspects of Greek culture, difficult, however, to maintain for an understanding of Hesiod's *Theogony*. Thus, Burkert's underlying assumption that the myth-and-ritual approach may be strengthened through the Near Eastern influence upon Hesiod's *Theogony* is now difficult to defend. Hesiod's *Theogony* may be taken as a frame within which certain features of Greek religion and ritual are explained, but Greek religion and rituals themselves are not necessarily helpful to explain the *Theogony*. Thus, Burkert's myth and ritual approach that is often connected with theories of biological anthropology,⁶³ is not necessarily applicable to a text such Hesiod's *Theogony*, neither to its logic nor its philosophical content.

In addition, evidence for a recital of Hesiod's *Theogony* at a new years festival or any other ritual occasion has never been found nor is it attested by later sources. Thus, Hesiod's *Theogony* is a text that cannot be understood in terms of myth and ritual theory. This implies that a phenomenon such as the inauguration of Zeus as king of the Olympian gods cannot be elucidated through social reality outside the Hesiodic text of Hesiod's *Theogony*. One has to determine it through a careful reading of the *Theogony* itself.

According to Martin West, Hesiod's *Theogony* belongs to a genre that has to be regarded as theogonic literature:

“I use ‘theogonic’ literature not in a strictly etymological sense, but to describe that which treats of the same subjects as Hesiod's *Theogony*, to wit: the origin of the world and the gods, and the events which led to the establishment of the present order. By ‘literature’ I mean either written prose, or poetry, whether written or oral. I thus exclude folk-tale and saga.”⁶⁴

⁶³ W. Burkert, *Wilder Ursprung. Opferritual und Mythos bei den Griechen*, Berlin 1991. Translated into English as: W. Burkert, *Savage Energies. Lessons of Myth and Ritual in Ancient Greece*, Chicago 2001. W. Burkert, *Creation of the Sacred. Tracks of Biology in Early Religions*, Cambridge/Mass 1996.

⁶⁴ M. L. West, *Hesiod: Theogony*, p. 1.

Theogonic literature can be found in almost all areas of the world, such as in ancient Mesopotamia, Anatolia, Syria, and the Levant as well as in ancient India and Persia, medieval Asia, modern Africa, the Americas, and Australia. On ancient Greek soil Hesiod was not alone either. Theogonies had been written by Orpheus,⁶⁵ Musaeus,⁶⁶ Epimenides,⁶⁷ Pherecydes,⁶⁸ Acusilaos,⁶⁹ cosmogonies by Linus⁷⁰ and Thamyris.⁷¹ On Greek soil, Hesiod may well have been the first who started speculations concerning the beginnings of the world and the origin of the gods. Most likely he summed up familiar or less familiar stories, which he varied and transformed according to a plan, an idea, or a logos, i.e. according to his own reckoning.⁷² Such transformations and speculations may have started some competition among others poets. Thus, Greek theogonic literature can be regarded as agonistic poetry in terms of speculations concerning the beginnings, speculations that soon were rivaled by authors who are generally considered as Pre-platonic philosophers: the Orphics,⁷³ Thales, Anaximander, Anaximenes, Empedocles, Democritus, among others.

⁶⁵ For the fragments on Orpheus, see: B 1 DK; M. L. West, *The Orphic Poems*, Oxford 1983; M. Detienne, *L'écriture d'Orphée*, Paris 1989; F. Graf, "Text and Ritual: The Corpus Eschatologicum of the Orphics," *A.I.O.N.* XXII (2000), pp. 59-77.

⁶⁶ For the fragments on Musaeus, see: B 2 DK; Fr. Graf, *Eleusis und die orphische Dichtung in Athen in vorhellenischer Zeit*, Berlin 1974, pp. 9-21 and pp. 93-98; G. Riccardelli Apicella, "Le teogonie orfiche nell'ambito delle teogonie greche." *Orfeo e l'orfismo*, a cura di A. Masaracchia, Roma 1993, pp. 27-51. M. L. West, *The Orphic Poems*, pp. 39-44.

⁶⁷ For the fragments on Epimenides, see: 3 DK; E. R. Dodds, *The Greeks and the Irrational*, Berkeley 1951, pp. 140-57. M. L. West, *The Orphic Poems*, pp. 45-53; M. Tortorelli Ghidini, "Epimenide e la teogonia cretese," *A.I.O.N.* XXII (2000), pp. 79-95.

⁶⁸ For the fragments of Pherecydes, see: B 7 DK; C. Clemen, *Die phönikische Religion nach Philo von Byblos*, Leipzig 1939; H. S. Schibli, *Pherekydes of Syros*, Oxford 1990.

⁶⁹ For the fragments of Acusilaos, see: B 9 DK; A. Kordt, *De Acusilao*, Diss Basel 1903; P. Tozzi, "Acusilao di Argo," *RIL* 101 (1967), pp. 581-624; D. Pellegrini, "Sulle »Genealogie argive« di Acusilao di Argo," *Atti Accademia Patavina di scienze, lettere e arti* 86 (1973-74), pp. 155-71.

⁷⁰ On Linus, see: G. F. Schoemann, "De poesii theogonica Graecarum" (1849), in: *Opuscula Academica*, Berolini 1856-71, pp. 4-24.

⁷¹ On Thamyris, see: O. Höfer, "Thamyris," *Roscher* V (1916-24), pp. 464-81.

⁷² Fr. Solmsen, *Hesiod and Aeschylus*, Ithaca/New York 1949.

⁷³ "For Plato, Orpheus is firmly connected with mystery cults: while 'Homer, Hesiod and Simonides' have to do with poetry, the followers of Orpheus and Musaeus are busy with initiations (literally: rituals, τελεταί) and oracular verses (χρησμοιδίαι)." F. Graf, "Text and Ritual: The Corpus Eschatologicum of the Orphics," p. 67.

3. Mythology and Philosophy

Situated on the threshold between a series of oral mythological traditions and written philosophical accounts, Hesiod's *Theogony* has always divided and still divides scholars into two groups, into those who consider Hesiod a philosopher and into those who don't. Due to a more narrow notion of rationalism members of the latter group never regarded Hesiod's *Theogony* as a piece of philosophical thought: "The speculative function of myth [. . .] precludes philosophy rather than facilitates its progress."⁷⁴ Nor did members of this group regard Hesiod as a poet with structured philosophical thoughts that may form a system: "Hesiod is not a systematic thinker."⁷⁵ Among the members of the first group, however, it was Hermann Fränkel who first emphasized the origin of philosophical thoughts in Hesiod: "Im ganzen steht also Hesiod mitten in dem gleitenden Übergang vom primitiven Mythos zur klaren philosophischen Darlegung."⁷⁶ And: "Hesiod [zeigt sich] als ein tiefer produktiver Denker."⁷⁷ He was followed by Olof Gigon: "Der erste, den wir einen Philosophen nennen dürfen, ist denn auch selbst ein Dichter, Hesiod von Askra in Böotien, der Dichter der Theogonie."⁷⁸ These views are shared by Jean-Pierre Vernant:

"Depuis l'étude classique de H. Fränkel, comment ne pas reconnaître au contraire en Hésiode le premier penseur de la Grèce, proposant de l'univers divin et humain une vision générale ordonnée, . . . "⁷⁹

Yet, the three consider Hesiod a philosopher or thinker from three different points of views. Fränkel argues from the perspective of a literary critic stressing the close connection

⁷⁴ G. S. Kirk, *The Nature of Greek Myth*, Cambridge 1975, p. 301.

⁷⁵ Ch. Kahn, *Anaximander and the Origins of Greek Cosmology*, New York 1960, p. 245.

⁷⁶ H. Fränkel, "Drei Interpretationen aus Hesiod," *Festschrift Reitzenstein*, Leipzig/Berlin 1931, p. 2.

⁷⁷ H. Fränkel, *Dichtung und Philosophie*, München 1962, p. 107.

⁷⁸ O. Gigon, *Der Ursprung der griechischen Philosophie*, Basel 1945, p. 13.

⁷⁹ J.-P. Vernant, *Mythe et société*, p. 207.

between poetry and philosophy. In terms of philosophical content Fränkel observes the predominance of negative phenomena in Hesiod's *Theogony*.⁸⁰ Against the backdrop of a configuration of negative phenomena such as Chaos and Night, the positive cosmos of the Olympian gods is created. In contrast, Gigon observes three philosophical categories in Hesiod's *Theogony*: truth, origin, and the whole, i.e. the entirety of being.⁸¹ According to Gigon, these three formal categories determine philosophical thought in Hesiod. Two of the three categories, truth and origin, are based on textual evidence.⁸² The whole as the third category of philosophical thought, however, has no textual basis whatsoever. Unfortunately, the category of the whole is of prime importance for Gigon, as it allows him to read some form of the Aristotelian concept of being into the text:

“Zur Frage nach dem Ganzen gehört noch ein letztes. Das Ganze besteht nicht nur in der Vollständigkeit, sondern auch im geordneten Zusammenhang aller Glieder. Dieser Zusammenhang wird erreicht zunächst durch das genealogische Prinzip. Alles ist mit allem verwandt, keiner der Götter bleibt außerhalb der Reihe von Eltern und Kindern; in der universalen Bezogenheit ist keine Lücke und kein Bruch. [. . .] Dies wird ein dauernder Zug der griechischen Philosophie bleiben, daß das wahre Sein ein geordnetes Sein ist, in dem Alles mit Allem zusammengehört und Jedes das Seinige tut.”⁸³

Gigon claims a primordial, gapless and unbroken unity of being, from which everything else is derived, so that everything is related to everything else. By reading Aristotelian ontology into the *Theogony* Gigon, the historian of philosophy, turns Hesiod into a premature Aristotle.

⁸⁰ H. Fränkel, “Drei Interpretationen aus Hesiod,” p. 4: “So hat auch in der Perspektive des Werdens und Entstehens das Negative vor dem Positiven den zeitlichen Vorrang: in das Leere hinein tritt die Welt; aus der Nacht wird der Tag geboren.”

⁸¹ “Die Wahrheit, der Ursprung, das Ganze sind die drei Begriffe, die auf der Ebene der formalen Kategorien das philosophische Gewicht der Theogonie bezeichnen. Als Fragen sind sie ebenso viele Wege, an deren Ende der Begriff des Seins auftauchen wird, der das Zentrum der Philosophie überhaupt ist.” O. Gigon, *Ursprung der griechischen Philosophie*, p. 27.

⁸² Hesiod, *Theogony*, vv. 26-28, v. 115.

⁸³ O. Gigon, *Ursprung der griechischen Philosophie*, p. 27.

In opposition to Fränkel and Gigon,⁸⁴ Vernant stresses the fact of Hesiod's mythical thinking. Yet, he observes the finesse of a philosophical system in Hesiod's *Theogony*. In contradistinction to an ontological account of Hesiod's *Theogony*, Vernant soberly stresses the rationalism of myth itself:

“L'œuvre d'Hésiode nous met ainsi en présence de ce qu'on peut appeler une mythologie savante, une élaboration ample et subtile, qui a toute la finesse et toute la rigueur d'un système philosophique mais qui reste encore entièrement engagée dans le langage et le mode de pensée propres au mythe.”⁸⁵

Whether indeed Hesiod's *Theogony* has the rigor of a philosophical system depends on the eye of the beholder. Philosophical rigor does not necessarily lead to an all encompassing system, and creating a system is not necessarily the result of philosophical activity. Paying attention to details as well as being able to ask certain questions or to speculate within reasonable limits may be of equal importance, or even of greater importance for a philosopher.

In so far as theogonic literature contains speculations about the beginning, the beginning of things and gods, it is not only speculation about the coming into existence of the gods and their genealogy but also philosophical speculation about the primordial powers that preceded the existence of the gods. To that extent Hesiod is concerned with issues that become more visible with the Pre-platonic philosophers. In comparison with

⁸⁴ Commenting on Fränkel, Vernant comes up with a surprising statement: “- ce qui n'enlève rien aux réserves qu'on peut formuler à l'égard d'une lecture qui se place, pour comprendre Hésiode, dans une perspective de rétrospection et qui l'interprète, à partir de la philosophie postérieure, comme une première forme d'ontologie?” J.-P. Vernant, *Mythe et société*, p. 207. In rejecting any kind of ontological approach Vernant surprisingly refers to Fränkel, who in fact had a rather critical approach towards the concept of being, insofar as he emphasized negative phenomena in Hesiod's *Theogony* as part of an argument against any understanding that acknowledges and proclaims the primacy of being. It is, however, not Fränkel but Gigon who refers to *truth*, *origin*, and *the whole* as three formal categories of being that determine philosophical thought in Hesiod. Thus, Gigon and not Fränkel should have been the authentic referent of Vernant's criticism.

⁸⁵ J.-P. Vernant, *Mythe et société*, p. 209.

later mythographers, Hesiod does not restrict himself to compile and narrate myths but he also focuses on the logos of myths as well as on the logos between myths. Thus, Hesiod's *Theogony* is not only a compilation of myths but in itself already a mythology.

It is the finesse and rigor of Hesiod's mythology or philosophy that I reconsider in terms of two narratives in Hesiod's *Theogony*, since neither the Parisians nor the Oxonians have sufficiently explained the constellation of the beginning as well as – what we may call – the social contract in Hesiod's *Theogony*. Whether indeed these two important configurations make a philosophical system is a different question. In order to coin Hesiod a philosopher, it is not necessary to show that he developed a system that is free of contradictions, but simply that he reflected the world he lived in.

These previous remarks have shown that a philosophical approach towards Hesiod's *Theogony* is more preferable than Burkert's myth and ritual approach. Despite his preferences for the myth and ritual tradition, Burkert is aware of the fact that the interest in myths and mythology is partially due to philosophers interest in them.⁸⁶ Consequently, Burkert acknowledges the fact that there are two other productive or practical approaches to myth next to the ritualistic approach: the psychoanalytical and the structural approach:

“Geblieben sind drei praktische, auch immer wieder praktizierte Zugänge zum Mythos, der ritualistische, der psychoanalytische und der struktural semiotische. Sie schließen sich m. E. nicht aus, entsprechen vielmehr den Möglichkeiten einer eher soziologisch-funktionalen, einer verstehend-phänomenologischen und einer logisch analysierenden Anthropologie.”⁸⁷

Burkert considers these three possible and practical approaches of interpreting myths – the ritualistic, the psychoanalytical, and the structural semiotic approach – as moments of an

⁸⁶ “Die klassische Philologie findet sich dabei im Verbund mit anderen Kulturwissenschaften, insbesondere auch mit Philosophie ...” W. Burkert, “Mythos – Begriff, Struktur, Funktionen,” p. 9.

⁸⁷ W. Burkert, “Mythos – Begriff, Struktur, Funktionen,” p. 11.

encompassing *science humaine*: as moments of a social-functional science, a epistemological-phenomenological or hermeneutical-phenomenological science, and logical-analytical science. Traditionally these sciences were conceived as different fields of philosophy. Yet, without giving any form of explanation, Burkert simply coins traditional philosophical approaches anthropological ones, and thereby turns philosophical interpretations of myths into anthropological interpretation of myths. Why does Burkert reduce philosophy to anthropology? Why does he ascribe categories to anthropology that traditionally belong to philosophy?

Sometimes, one may wonder why classicists have a problem with philosophy, or rather philosophers. Isn't philosophy something that, unlike anthropology, came into existence with the Greeks who developed it into a proper *science humaine*? And shouldn't philosophy therefore be more relevant for classicists than anthropology? Maybe this is due to the fact that the only notable classicist and philosopher ever, Friedrich Nietzsche, did not contribute – as more positivistic scholars would say – anything to the field of classics, except for three articles that he published in the *Rheinisches Musuem* in the 1860's. Admittedly, Nietzsche was a dilettante.⁸⁸ His passion or sickness drove him beyond his profession. Yet, he has influenced the field much more than most classicists would be ready to admit. In focusing on the dark or wild side of Greek life, Nietzsche opened the field for investigating the archaic period of Greek culture. Banned from the official discourse of classics that was determined by the greatest philologist of all times, Wilamowitz, Nietzsche's ideas were partially institutionalized by Erwin Rohde.⁸⁹ Without exaggeration

⁸⁸ "Der Dilettant unterscheidet sich vom Fachmann [. . .] nur dadurch, daß ihm die feste Sicherheit der Arbeitsmethode fehlt, und daß er daher den Einfall meist nicht in seiner Tragweite nachzukontrollieren und abzuschätzen oder durchzuführen in der Lage ist." M. Weber, "Wissenschaft als Beruf" (1917), *MWG* I 17, p. 82.

⁸⁹ E. Rohde, *Psyche: Seelencult und Unsterblichkeitsglaube der Griechen*, Freiburg i. Br. and Tübingen 1894.

and with all due respect, there is a line from Nietzsche to Rohde up to Detienne. And this does not only concern the interest in Dionysus.

Yet, classicists prefer to focus on and to take up another tradition that also was invented by the Greeks: history. From a historical perspective one may argue that philosophy is just a phenomenon like others that came into existence with the Greeks, which from an anthropological point of view may be characterized as a form of mental or intellectual activity among others. From a philosophical point of view one may argue in a same manner that history is just one possible approach among others that needs guidance through more comprehensive methods that were developed by philosophers throughout centuries. Without taking the argument to far, it was not a historian who founded the academy but a philosopher. And it also was a philosopher, not a historian who reflected the connection of history and philosophy.⁹⁰

The fact that a classicist such as Burkert is sensitive for philosophical interpretations of myths, the fact that the classicist Martin West shows interest in early Greek cosmology and philosophy, the fact that Jean-Pierre Vernant was trained as a philosopher before turning to myth, the fact that Marcel Detienne dislikes philosophy but has become the leading philosopher among contemporary classicists, leads to the following question: Why has philosophy, i.e. the philosophical interpretation of phenomena and texts, fallen into disrespect among classicists, and why is it excluded from Hesiodic scholarship and the interpretation of myths? How then do we approach Hesiod's *Theogony*? In answering these questions, which one may call the Hesiodic question,⁹¹ one has to deal with textual

⁹⁰ Aristotle, *Poetics*, 1451a-b. In the *Metaphysics* Aristotle developed the theory of philosophy as being the first science.

⁹¹ G. Nagy, "Hesiod and the Poetics of Pan-Hellenism," in: G. Nagy, *Greek Mythology and Poetics*, Ithaca and London 1990, pp. 36-82. In his paragraph, 'The Hesiodic Question,' pp. 36-47, Nagy simply transfers some aspects of Homeric scholarship to Hesiod. Whether this is the Hesiodic question, may indeed be

criticism, myths and mythology, anthropology, and philosophy as well as comparativism. Unlike the Homeric question, which concerns the authenticity of the author as well as the problem of written or oral poetry, the Hesiodic question is about whether the *Theogony* is myth, mythology, or philosophy. Finally, is the Hesiodic question an anthropological question or a philosophical question?

In order to understand what is at stake, in order to understand contemporary discourses in classics, I give a brief account of the history of the disciplines of classics, anthropology, and philosophy as well as their relationship concerning the interpretation of myths. In taking Immanuel Kant's lectures on anthropology as a starting point, I account for the invention of the disciplines of classical philology and the science of mythology in Chr. G. Heyne. I then proceed to give a brief account of the further developments of mythology in authors such as Friedrich Schlegel, F. W. J. Schelling, Friedrich Creuzer, Gottfried Hermann, C.O. Müller, Max Müller, F. G. Welcker, the Cambridge Ritualists, Hermann Usener, Ernst Cassirer, Claude Lévi-Strauss, and point out the newest developments within the Parisian School of Classics, i.e. the new comparative approach as well as its limits. In focusing on the key intellectual figure of the 20th century, Walter Benjamin, I show how these limits may be overcome.

doubted. It had no impact on Hesiodic scholarship whatsoever, not to speak of an impact on a broader intellectual audience. Indicating that he has read Detienne (p. 45, p. 60) as well as Vernant (p. 65), Nagy reduces the intellectual achievements of the Parisian school to a synthesis of Max Müller's etymologies on the one hand, and the comparative myth and ritual school (A. Lang, E. B. Tylor, J. G. Frazer) on the other, a synthesis that even scholars in Victorian England had never achieved.

4. The Rise of Anthropology, Classics, and the Science of Mythology in the Age of Enlightenment Philosophy

The idea of combining classics and anthropology is not a new attempt as some recent, or less recent articles, collections of articles, and books by classicists and anthropologists suggest.⁹² As far as the anthropological interpretation of myths is concerned, one could roughly say the following. As a theoretical method of understanding myths the idea of combining classics and anthropology goes back to Lévi-Strauss's famous attempt to decipher the Oedipus-myth.⁹³ The method of deciphering myth through structural anthropology, however, seems to be too abstract and theoretical for the taste for many classicists as to have become commonly accepted. In a less theoretical version of understanding myths, the alliance of classics and anthropology goes even farther back to J. G. Frazer and the Cambridge Ritual School;⁹⁴ in its primitive evolutionary and partially ritualistic version to E. B. Tylor;⁹⁵ in its primitive evolutionary and comparative version to Andrew Lang;⁹⁶ in its comparative philological foundation to Max Müller;⁹⁷ in its

⁹² R. R. Marett, *Anthropology and the Classics*. Six lectures delivered before the University of Oxford by Arthur J. Evans, Andrew Lang, Gilbert Murray, F. B. Jevons, J. L. Myres, and W. Warde Fowler. Oxford 1908; Cl. Kluckhohn, *Anthropology and the Classics*, Providence 1961; L. Gernet, *Anthropologie de la Grèce antique*, Paris 1968; Moses I. Finley, "Anthropology and Classics" (1972), in: M. I. Finley, *The Use and Abuse of History*, London 1975, pp. 102-19; S. Humphreys, *Anthropology and the Greeks*, London 1978; V. Hunter, "Classics and Anthropology," *Phoenix* 35 (1981), pp. 145-55.

⁹³ Cl. Lévi-Strauss, "The Structural Study of Myth," *American Folklore* 68 (1955), pp. 428-444. Translated as: Cl. Lévi-Strauss, *Anthropologie structurale*, Paris 1958, § 11, pp. 227-255.

⁹⁴ J. G. Frazer, *The Golden Bough*, London 1890. A second revised edition appeared in 1900, the final and revised third edition in twelve volumes between 1911-15; Jane E. Harrison, *Prolegomena to the Study of Greek Religion*, Cambridge 1903. Jane E. Harrison, *Themis. A Study of the Social Origins of Greek Religion*, Cambridge 1912; F. M. Cornford, *From Religion to Philosophy*, London 1912.

⁹⁵ E. B. Tylor, *Researches into the Early History of Mankind*, London 1865; E. B. Tylor, *Primitive Culture*, 2 vols, London 1871; E. B. Tylor, *Anthropology*, London 1881.

⁹⁶ A. Lang, *Custom and Myth*, London 1884; A. Lang, *Myth, Ritual, and Religion*, London 1887; A. Lang, *Modern Mythology*, London 1897.

⁹⁷ F. Max Müller, "Comparative Mythology" (1856), in: F. Max Müller, *Chips from a German Workshop*, London 1868, vol. II, pp. 1-146; F. Max Müller, *Introduction to the Science of Religion*, London-Bombay-Calcutta 1870; F. Max Müller, "The Philosophy of Mythology," in: F. Max Müller, *Chips from a German Workshop*, London 1881, vol. V, pp. 53-97.

comparative symbolic approach to Friedrich Creuzer.⁹⁸ The modern inventor of classical philology and comparative mythology, however, is almost forgotten: Christian Gottlob Heyne.⁹⁹

All these approaches, some anthropological proper others less proper, some coined as anthropological by their authors others in retrospect, are so diverse that contemporary philologist are easily confused. For the philologist it is difficult to understand what anthropology actually is, a fact that may be due to scholarly environment of anthropologists and differences within the field of anthropology itself. As a consequence it is difficult to understand the combination, symbiosis, or even the synthesis of anthropology and classics.

In general one could say that anthropology is the science of man. As such it is not a discipline that has been invented in antiquity. There is not even a proper term for it in ancient classical Greek.¹⁰⁰ It first appears in the beginning of 16th century, when Magnus Hundt raised the question of how man can be determined concerning his dignity, his nature, and his character.¹⁰¹ At the time it represented the beginning of a counter-discourse to theology. Since the 18th century the term anthropology has been used for a variety of approaches, by which scholars attempted to investigate and to determine the characteristics of the human condition: the essence of man in the world, variety of species and races of man and animal, different organizations of society, different cultural developments and

⁹⁸ G. F. Creuzer, *Symbolik und Mythologie der alten Völker, besonders der Griechen*, 4 vols., Leipzig 1810-12.

⁹⁹ C. G. Heyne, "Temporum mythicorum memoria a corruptelis nonnullis vindicata" (1763), *Com. Soc. Gott.* VIII (1785/86), *Comment. Antiqu.*, pp. 3-19; C. G. Heyne, "Quaestio de causis fabularum seu mythorum veterum physicis" (1764), in: C. G. Heyne, *Opuscula Academica collecta et animadversionibus*, 2 Bde., Gottingae 1785-88, Bd. 1, pp. 184-207; C. G. Heyne, "Sermonis mythici seu symbolici interpretatio ad causas et rationes ductasque inde regulas revocata," *Com. Soc. Gott.* XVI, class. Hist. (1807), pp. 285-323.

¹⁰⁰ In *Nicomachean Ethics* 1125a5, Aristotle coins the term *ἀνθρωπολόγος*, speaking of man, i.e. fond of personal conversation (LSJ), but not *ἀνθρωπολογία*.

¹⁰¹ M. Hundt, *Anthropologium de hominis dignitate, natura et proprietatibus*, Liptzick 1501.

achievements. With respect to those investigations anthropology was considered to be different from the Humanities:

“Anthropology and the Humanities – on verbal grounds one might suppose them coextensive; yet in practice they divide the domain of human culture between them. The types of human culture are, in fact, reducible to two, a simpler and a more complex, or, as we are wont to say [. . .] a lower and a higher. By established convention Anthropology occupies itself solely with culture of the simpler or lower kind. The Humanities, on the other hand – those humanizing studies that, for us at all events, have their parent source in the literatures of Greece and Rome – concentrate on whatever is most constitutive and characteristic of the higher life of society.”¹⁰²

No longer would any scholar accept such a crude distinction between anthropology and the humanities. Anthropology has included lots of different approaches both from the humanities and the natural sciences. Today, one can distinguish several approaches within anthropology itself: First, medical-biological anthropology which ranges from medical-biological investigations into races and psychology as it was done during the late 18th century to modern evolutionary and behavioral theories. A classicist who has based his studies on this approach is Walter Burkert.¹⁰³ Secondly, social-cultural anthropology which attempts to investigate the development and diversity of human societies based on ethnographic material. With respect to their naïve evolutionary and ritualistic approach, which is based on Darwin, Frazer and the Cambridge Ritualists fall into that category. With respect to human psychology the early writings of Vernant may fall into that category as well. *Myth and Society* was heavily influenced by the theories of Meyerson. Thirdly, structural anthropology which reflects the former approaches and reduces phenomena to complementary opposites. Thereby the space of human thinking is both created and

¹⁰² R. R. Marett, “Preface,” in: *Anthropology and the Classics*, edited by R. R. Marett, Oxford 1908, p. 3.

¹⁰³ W. Burkert, *Creation of the Sacred. Tracks of Biology in Early Religions*, Cambridge/Mass. 1996.

configured. Classicists who apply that method are Marcel Detienne and Charles Segal as well as the later Jean-Pierre Vernant. Fourthly, philosophical anthropology which explicitly asks for the human condition. Philosophical anthropology founds itself on the distinction between animals and humans, a distinction already made in antiquity. Aristotle defined language and ethics as conditions of social interaction. Modern philosophical anthropologists are Max Scheler,¹⁰⁴ Helmuth Plessner,¹⁰⁵ Arnold Gehlen,¹⁰⁶ and Michel Foucault.¹⁰⁷ Classicists or mythologists who could be mentioned here, are Max Müller, Friedrich Nietzsche, and Ernst Cassirer.¹⁰⁸ In one way or another all modern philosophical anthropologists were influenced by Immanuel Kant, who, apart from developing the critical philosophy of the age of enlightenment, started anthropology as an academic discipline.

In order to understand some of the various approaches of interpreting myths as well as their theoretical foundations, one has to understand some of the historical implications of interpreting myths. In order to understand the invention of mythology as a science, one has to take into account the formation of the fields of anthropology and classics as they developed against the backdrop of enlightenment philosophy during the late 18th century. Thus, it has become necessary to return to the beginnings of classics, anthropology, and philosophy in modern and early modern times. In configuring the constellation of their coming into existence, I point out some of the inherent potential of these disciplines that has influenced and still influences modern discourses. In addition, the historical overview may be of help in attempting to answer the following questions: What are myths? What is

¹⁰⁴ M. Scheler, *Die Stellung des Menschen im Kosmos*, Darmstadt 1928.

¹⁰⁵ H. Plessner, *Die Stufen des Organischen und der Mensch. Einleitung in die philosophische Anthropologie*, Berlin ²1965.

¹⁰⁶ A. Gehlen, *Der Mensch. Seine Natur und seine Stellung in der Welt*, Bonn ⁴1940.

¹⁰⁷ See also: M. Horkheimer, "Bemerkungen über philosophische Anthropologie" (1935), in: M. Horkheimer, *Kritische Theorie* 2. vols., Frankfurt 1968, vol. I, pp. 200-227; W. Mühlmann, *Geschichte der Anthropologie*, Bonn 1948, ³1984; J. Habermas, "Anthropologie" *Philosophie*, herausgegeben von A. Diemer and I. Frenzel, Frankfurt 1958, pp. 18-35.

¹⁰⁸ E. Cassirer, *Philosophie der symbolischen Formen*, 4 vols., Berlin 1924-28.

myth? What is mythology? What is the science of mythology? What is classics? And what is anthropology? After the brief history of those disciplines and their interactions, I will return to the gap between the Oxford and the Parisian school of classics and show how the gap can be overcome.

4.1. Kant and the Invention of Modern Anthropology

The invention of classical philology as well as anthropology can be elucidated against the backdrop of Kant's concept of philosophy *in sensu cosmopolitico* that entails both anthropology and critical philosophy. According to Kant, critical philosophy deals with three questions: "1. *Was kann ich wissen?* 2. *Was soll ich tun?* 3. *Was darf ich hoffen?*"¹⁰⁹

The first question is merely speculative, the second practical, and the third both theoretical and practical. Kant dedicated each of these questions a longer treatise. The first question is answered by *Die Kritik der reinen Vernunft*, the second by *Die Kritik der praktischen Vernunft*, and the third by *Die Kritik der Urteilskraft*. Apart from these critical writings, Kant gave lectures in anthropology, a fact that has been constantly overlooked by many anthropologists, although his lectures signify the theoretical foundation of anthropology in the early modern era as well as the beginning of anthropology as an academic discipline.¹¹⁰

In a letter to Carl Friedrich Staudlin dated from May 4, 1793, Kant added a fourth question:

"Mein schon seit geraumer Zeit gemachter Plan der mir obliegenden Bearbeitung des Feldes der reinen Philosophie ging auf die Auflösung der drei Aufgaben: 1) Was kann ich wissen? (Metaphysik) 2) Was soll ich thun? (Moral) 3) Was darf ich hoffen? (Religion); welches zuletzt die vierte folgen sollte: Was ist der Mensch?"

¹⁰⁹ I. Kant, *Kritik der reinen Vernunft*, Riga 1781 (= *Akademieausgabe*, vol. 4, p. 522. (= *Werkausgabe* 1982, pp. 677)).

¹¹⁰ B. W. Jacobs, *Kantian Autonomy and the Grounding of Human Science*, PhD Cornell University 1997; see also: B. W. Jacobs and P. Kain (eds.), *Essays on Kant's Anthropology*, Cambridge 2003.

(Anthropologie, über die ich schon seit mehr als 20 Jahren jährlich ein Collegium gelesen habe.)”¹¹¹

The fact that in 1793 Kant had already given lectures on anthropology at the University at Königsberg for more than 20 years is interesting, as it shows that the discipline of anthropology was taught in German academia about one hundred years before university chairs in England and France were established, one hundred years before anthropology was formally institutionalized.¹¹² Kant began to lecture on anthropology in the academic year 1772-73 and continued the collegium until 1796. Two years later, in 1798, he published his *Anthropologie in pragmatischer Hinsicht*, a text probably based on his lecture notes.¹¹³

How did Kant conceive anthropology? And what is anthropology in the Kantian sense? Unlike critical philosophy, which deals with the three questions that are answered by metaphysics, ethics, and religion, anthropology deals with a fourth question: “What is man?” Unlike critical philosophy, which is an inquiry into the nature of reasoning beings (*Vernunftwesen*), i.e. an investigation into the conditions of the possibilities of thinking, anthropology is an inquiry into the nature of human beings, i.e. an attempt to increase knowledge concerning man around the world. As the title of the published book indicates, Kant did not consider anthropology as a theoretical discipline but as a pragmatic one. It is neither a medical-biological approach, which tries to explain thinking in terms of bodily

¹¹¹ “Brief an Stäudlin” (4. Mai 1793), in: I. Kant, *Akademieausgabe*, vol. 11, letter 541.

¹¹² Anthropological societies were founded in second half of the 19th century. The Anthropological Society of London was inaugurated on February 24th, 1863 with a speech by James Hunt, “Introductory Address on the Study of Anthropology,” *Anthropological Review* 1 (1863), pp. 1-20. In France a chair for anthropology was not introduced until 1950 when Lévi-Strauss took over the chair of Marcel Mauss. At that time it was a chair in ethnology but not in anthropology. Lévi-Strauss was the first to hold a chair in anthropology in France.

¹¹³ The student notes are now being edited by Rainer Brandt and Werner Stark as part of the *Akademieausgabe*. They may shed some light on the beginning of anthropology as an academic discipline. On Kant’s intention to make anthropology a proper academic discipline, see the letter to Herz, in: I. Kant, *Briefe*, edited by Jürgen Zehbe, 1970, p. 54.

organs,¹¹⁴ nor a metaphysical psychology (*Seelenlehre*),¹¹⁵ but a doctrine of observation (*Beobachtungslehre*) without metaphysics that leads to encyclopedic knowledge. Kant's anthropology does not intend to find first principles or conditions of possibility but the rules describing the phenomena of our modern world such as the rules of morality, skill, social, and political intercourse.¹¹⁶ Unlike the natural sciences, which rest upon the certainty of laws, anthropology does not rest upon such certain laws. At best, it can apply some rules, extracted from sources such as historiographies, biographies, plays, and novels.¹¹⁷ The main source, however, – and this has some ironic charm to it, since Kant supposedly has never left his hometown –, the main source for anthropological research is traveling: “Zu den Mitteln der Erweiterung der Anthropologie im Umfange nach gehört das Reisen, sei es auch nur das Lesen der Reisebeschreibungen.”¹¹⁸ In focusing on traveling or accounts of travelers, Kant did already something that was established by anthropologists only a century later. In stressing social, political, cultural, and historical issues, Kant became the inventor of modern anthropology.¹¹⁹

The fact that one of the most respectable philosophers in modern times felt the need to give lectures in anthropology leads to the following questions: What is the relationship between anthropology and the critical philosophy? Kant never answered this question explicitly, neither in his critical writings nor in his lectures on anthropology. But the

¹¹⁴ E. Plattner, *Anthropologie für Aerzte und Weltweise*, Leipzig 1772.

¹¹⁵ A. G. Baumgarten, *Metaphysica*, Halae-Magdeburgae 1757.

¹¹⁶ I. Kant, *Briefe*, herausgegeben von Jürgen Zehbe, 1970, p. 54.

¹¹⁷ I. Kant, *Anthropologie in pragmatischer Hinsicht*, Königsberg 1798, p. XI (= *Akademieausgabe* vol. 7, p. 121; *Werkausgabe* XII, p. 401).

¹¹⁸ I. Kant, *Anthropologie in pragmatischer Hinsicht* 1798, pp. VII-VIII (= *Akademieausgabe* vol. 7, p. 120; *Werkausgabe* XII, p. 400).

¹¹⁹ I. Kant, “Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht,” *Berlinische Monatsschrift*, November 1784, pp. 385-411 (= *Akademieausgabe* vol. 9, pp. 15-31; *Werkausgabe* XI, pp. 31-50).

problem has been pointed out from Schleiermacher to Foucault.¹²⁰ Nevertheless, there is an interesting variation of Kant's remark mentioned above that reveals the problem:

“Das Feld der Philosophie in sensu cosmopolitico läßt sich auf folgende Fragen zurückbringen:

- 1) Was kann ich wissen? Das zeigt die Metaphysik.
- 2) Was soll ich thun? Das zeigt die Moral.
- 3) Was darf ich hoffen? Das lehrt die Religion.
- 4) Was ist der Mensch? Das lehrt die Anthropologie.

Man könnte alles Anthropologie nennen, weil sich die drei ersten Fragen auf die letztere beziehen.”¹²¹

Unlike critical philosophy, which deals with the three questions that are answered by metaphysics, ethics, and religion, philosophy in its cosmopolitan goal also includes the anthropological question: “What is man?” Philosophy in its cosmopolitan meaning not only considers the fourth question as anthropology but also all four questions together as anthropology. Since the first three questions relate to the fourth, philosophy in its cosmopolitan goal and meaning can be called anthropology. Thus, anthropology constitutes itself in opposition to critical philosophy and at the same time as its complement. It seems as if Kant intends to say that anthropology encompasses critical philosophy or that beyond critical philosophy there will be anthropology, i.e. philosophy in its cosmopolitan meaning. As cosmopolitan philosophy, anthropology remained the field of observation and encyclopedic knowledge, not a science of special cognition or analytical rigor. It is comparable with the leisure time activity of aging English people: train-spotting.

¹²⁰ Schleiermacher's views can be found in: I. Kant, *Anthropologie in pragmatischer Hinsicht*, Hamburg 1980, appendix, p. 338-43. M. Foucault, *Thèse complémentaire: Introduction à l'anthropologie de Kant*, Paris 1961 (Unpublished manuscript).

¹²¹ I. Kant, *Akademieausgabe* vol. 28.2.1, p. 533.

Kant never was able to show of how to reducing philosophy to anthropology, or to demonstrate that anthropology is the theoretical foundation for philosophy. On the contrary, it is philosophy that guides the anthropologist in approaching different cultures:

“Ohne einen solchen Plan (der schon Menschenkenntnis voraussetzt) bleibt der Weltbürger in Ansehung seiner Anthropologie immer sehr eingeschränkt. Die Generalkenntnis geht hierin immer vor der Lokalkenntnis voraus; wenn jene durch Philosophie geordnet und geleitet werden soll: ohne welche alles erworbene Erkenntnis nichts als fragmentarischen Herumtappen und keine Wissenschaft abgeben kann.”¹²²

Unlike modern anthropology, which often stresses local knowledge over general knowledge and reduces philosophy to a form of intellectual activity among others,¹²³ the enlightened version of Kant’s anthropology consists in the fact that philosophy guides anthropology on the basis of general knowledge. Thus, it is philosophy that makes anthropology a proper *science humaine*.

Kant’s lectures on anthropology not only designate the beginning of anthropology as an academic discipline, but also the differentiation of natural sciences (*Naturwissenschaften*) and the humanities (*Geisteswissenschaften*).¹²⁴ In those years, anthropology not only achieved its enlightenment meaning,¹²⁵ but it also constituted itself as a discipline that would become more visible in the year and decades to come, especially as a new form of investigation into the nature of myths.

¹²² I. Kant, *Anthropologie in pragmatischer Hinsicht* 1798, pp. VIII-IX (= *Akademieausgabe* vol. 7, p. 120; *Werkausgabe* XII, p. 400).

¹²³ C. Geertz, *Local Knowledge: Further Essays in Interpretative Anthropology*, New York 1983.

¹²⁴ A. Diemer, “Die Differenzierung der Wissenschaften in die Natur- und Geisteswissenschaften und die Geisteswissenschaft als Wissenschaft,” in: *Beiträge zur Entwicklung der Wissenschaftstheorie im 19. Jahrhundert*, herausgegeben von A. Diemer, Meisenheim am Glan 1968, pp. 175-223.

¹²⁵ W. Kraus, *Zur Anthropologie des 18. Jahrhunderts*, München 1979, p. 24.

Kant's philosophy, both in its critical and cosmopolitan meaning, also designates the end of the early modern period and the beginning of the modern era. It put an end to the traditional *querelle des anciennes et modernes* that dominated the 17th and 18th century,¹²⁶ but it also laid the anthropological and philosophical foundations for its revival in the late 18th and early 19th century when classicists started to turn towards myths. The early modern time of industrial revolution and scientific progress and success questioned both the construction and reception of the classical ancient world. The feeling of superiority of modern science over ancient science, the *Zeitgeist* of those two centuries, was transferred to other areas such as art, literature, myth and philosophy. The new rationalism was turned especially against ancient myths, which were taken as face value and were heavily criticized according to reason, moral, and religion. Myths were no longer compatible with new ways of thinking and the values of the modern time. Evil deeds of gods and heroes did not match the taste of time. Myths were considered to be unlikely, incoherent, and contradictory. During the early period of enlightenment Fontenelle and Lafitau considered myths as an early stage within the development of mankind, a stage that has been overcome by enlightenment and rationality.¹²⁷ But it was Kant who has seen one of the most important aspects of myth and religion:

“Man kann keinen anderen Grund angeben, der rechtlich Menschen verbinden könnte, zu glauben und zu bekennen, dass es Götter gebe, als den, damit sie einen Eid schwören.”¹²⁸

¹²⁶ Ch. Perrault, *Parallèle des Anciens et des Modernes en ce qui regarde les Arts et le Sciences* 1692.

¹²⁷ M. de (Bernard de Bovier) Fontenelle. “De l’origine des fables” (1724) ; J. F. Lafitau, *Mœurs des sauvages américains, comparés aux mœurs des premier temps*, Paris 1724.

¹²⁸ I. Kant, *Die Metaphysik der Sitten*, Königsberg 1797, Rechtslehre § 40. “Von Erwerbung der Sicherheit durch Eidesablegung (Cautio iuratoria),” p. 152 (*Akademieausgabe* vol. 6, p. 303; *Werkausgabe* VIII, p. 420).

According to Kant myth and religion are constructions of the superstitious mind in order to secure law. The oath, the binding affirmation or promise that becomes binding as it is given upon a god or upon a constellation of gods, is the predominant feature of the ancient world to secure legal decisions and contracts.

The connection of oath-taking and religion was not only an important feature in the ancient world, but still detectable during the age of enlightenment. Those who considered themselves as *modernes* argued for abolishing this kind of *tortura spiritualis*,¹²⁹ since it represented an instrument for gaining social discipline derived from a mythical past. Those who were regarded as *anciennes* argued to keep it for the same reason. Kant's remark concerning the oath started a huge debate,¹³⁰ a debate that basically has come to end in our time, but left us with some interesting paradoxes in law such as witness oaths in court of justices or oaths of office.

This debate, however, did not affect the discourse on myths at his time. It took another hundred years until Rudolf Hirzel pointed out the legal function of some Greek myths.¹³¹ In a similar fashion Gustave Glotz used myths in order to explain Greek ordeals.¹³² Louis Gernet also investigated the legal function of myths by emphasizing traditional terms such as Dike and Hybris but neglecting the oath.¹³³ It took another two-

¹²⁹ I. Kant, *Die Metaphysik der Sitten*, Königsberg 1797, p. 153. (= *Akademieausgabe* vol. 6, p. 304; *Werkausgabe*, vol. VIII, p. 421).

¹³⁰ J. Chr. Schwab, *Bemerkungen über den kantischen Begriff vom gerichtlichen Eyd in der metaphysischen Rechtslehre*, Frankfurt-Leipzig 1797; *Noch etwas über den kantischen Begriff vom gerichtlichen Eyd*, Frankfurt-Leipzig 1797; *Sendschreiben an einen Recensenten in der Gothaischen gelehrten Zeitung über den gerichtlichen Eid*, Frankfurt-Leipzig 1800; *Zweites und kurzes Sendschreiben an einen Recensenten in der Gothaischen gelehrten Zeitung über den gerichtlichen Eid*, Frankfurt-Leipzig 1800.

¹³¹ R. Hirzel, *Der Eid*, Leipzig 1902. See also: R. J. Bonner and G. Smith, *The Administration of Justice from Homer to Aristotle*, Chicago 1930-38.

¹³² G. Glotz, *L'ordalie dans Grèce primitive: étude de droit et de mythologie*, Paris 1904.

¹³³ L. Gernet, *Recherches sur le développement de pensée juridique et morale en Grèce*, Paris 1917, pp. 38f. and 56. Gernet talks about violating the oath as a form of sacrilege but does not give a coherent treatise concerning its juridical function in Greek social and political life. In *Droit et société dans la Grèce ancienne*, Paris 1955, Gernet is more concerned with positive law.

hundred years until a classicists addressed the relation of oath-taking and religion again: “Why must people have religion? In the ancient world, the obvious answer would have been, for the validation of oaths,”¹³⁴ as Walter Burkert answers his own question, probably without realizing that he is in the footsteps of Kant.

But how did Kant’s anthropology influence classical scholarship at the time?

4.2. The Foundation of Classical Philology and the Philosophical Discourse of Modernity: The Homeric Question

Until the early modern times myths were basically known through Ovid, Virgil, and Homer. For centuries the three were not considered as historical figures but as timeless or even transfigured poets. The myths they told were part of general education, a pool of knowledge that was necessary in order to read and write books, a feature that is still detectable in Anglo-Saxon academic tradition. Whether a myth was told by Homer, Virgil, or Ovid was of lesser importance.¹³⁵ What mattered was entertainment based on imitation and the question who is the better poet. Admiration and enthusiasm were the basic features of that comparison. Concerning their historical setting the three poets were basically indiscernible.

The mimetic tradition, however, was already inherent in the constellation of Homer and Virgil itself. It became apparent at time when Winckelmann started to published several books on art in antiquity during the 1750’s and 60’s, in which he attempted to

¹³⁴ W. Burkert, *Creation of the Sacred*, p. 169.

¹³⁵ U. von Wilamowitz-Moellendorff, *Die griechischen Heldensagen*, Berlin 1925, I, p. 41: “daß man in der Mythologie, was der Name sagt, Fabeln, luxe de croyance, Dichtererfindungen sah, ob Homer oder Ovid, war ziemlich einerlei.”

reconstruct Greek originals from Roman copies.¹³⁶ With Heyne's commentary on Virgil, which was published during the 1760's and 70's,¹³⁷ it became even more apparent that the two, Homer and Virgil, who had been compared on the basis of taste for so many centuries, have suddenly become incomparable. The prevalent opinion that Virgil is just a bad imitation of Homer's originality laid the foundation for an almost forgotten question. Who was Homer?

In early modern times the question had already been envisaged by Giambattista Vico in 1725,¹³⁸ by Thomas Blackwell in 1735,¹³⁹ and by Robert Wood in 1769,¹⁴⁰ – both through traveling and investigations into local people –, but it was Friedrich August Wolf who got the credit for addressing this question. In 1795 Wolf attempted to provide a new edition of Homer's *Iliad*, but instead wrote a brief introduction entitled as *Prolegomena ad Homerum*.¹⁴¹ According to Wolf, Homer lived in a time when the Greek script had not been invented yet. The poems were not composed in form of a written account and performed on that basis but were composed in a mnemotechnic fashion and orally transmitted by memory.¹⁴² Only main parts of the *Iliad* could have been fixed. Thus, the songs of the *Iliad* do not form a fixed unity but a variation on basic themes. Rhapsodes transmitted these basic parts orally. It were not these points that became controversial, since they had already

¹³⁶ J. J. Winckelmann, *Gedanken über die Nachahmung der griechischen Werke in der Mahlerey und Bildhauer Kunst*, Friedrichstadt 1755; *Anmerkungen über die Baukunst der Alten*, Leipzig 1762; *Geschichte der Kunst des Althertums*, Dresden 1764; *Anmerkungen über die Geschichte der Kunst des Althertums*, Dresden 1767.

¹³⁷ Chr. G. Heyne, *P. Virgilii Marconis opera varietate lectionis et perpetua adnotatione illustr.* 1767-75.

¹³⁸ G. Vico, *Principi di scienza nuova d'intorno alla comune natura della nazioni*, Milano 1725.

¹³⁹ Th. Blackwell, *An Enquiry into the Life and Writings of Homer*, London 1735.

¹⁴⁰ R. Wood, *Essay on the Original Genius of Homer*, London 1769.

¹⁴¹ F. A. Wolf, *Prolegomena ad Homerum*, Hallis Saxonum 1795.

¹⁴² F. A. Wolf, *Prolegomena ad Homerum*, p. 93 (2nd 1876, ch. 21, p. 56): "Nec vero nobis ipsis credibile esset, Carmina a vatibus et memoriter composita et unius memoriae ministerio propagata esse, ..."

been broadly accepted,¹⁴³ but Wolf's conclusion that bards expanded and varied the songs according to the basic plan until Peisistratos ordered to establish a written version at the end of the 6th century. Therefore, *Iliad* and *Odyssey* are compositions not of one but of many poets. To contemporary scholars, however, Wolf's arguments do no longer seem to be as radical as they once have been. But especially Wolf's final conclusion that the Homeric poems were not composed by Homer himself, became a matter of an intellectual debate as soon the *Prolegomena* were published and determined the discourse for the years and decades to come.¹⁴⁴

On the basis of Wolf's *Prolegomena* as well as in opposition to them, Friedrich Schlegel developed a new theory of the origins of poetry and mythology.¹⁴⁵ Schlegel detects the origins of poetry in the Homeric poems which he regards either as a font or as a plant.¹⁴⁶ The central element or structure of original poetry is mythology:

“Denn das ist der Anfang aller Poesie, den Gang und die Gesetze der vernünftig denkenden Vernunft aufzuheben und uns wieder in die schöne Verwirrung der Fantasie, in das ursprüngliche Chaos der menschlichen Natur zu versetzen, für das

¹⁴³ “Die Haupt- und Grundpunkte, dünkt mich, wird ihm ein jeder zugeben; ja seit Blackwell und Wood hat beinahe niemand daran gezweifelt.” Herder to Heyne, Brief vom 13. Mai 1795, in: *Aus Herders Nachlass*, 3 vols., herausgegeben von H. Düntzer und F. G. von Herder, Frankfurt a. M. 1856-57, vol. 2, p. 230

¹⁴⁴ S. Matuscheck, “Homer als unentbehrliches »Kunstwort«. Von Wolfs ‘Prolegomena ad Homerum’ zur »Neuen Mythologie«,“ in: *Die schöne Verwirrung der Phantasie. Antike Mythen in Literatur und Kunst um 1800*, herausgegeben von D. Burdorf und W. Schweickart, Tübingen und Basel 1998, pp. 15-28; G. Kurz, “Homerische Frage: II. Literaturtheorie um 1800,” in: *Der Neue Pauly*, Band 14, pp. 512-16.

¹⁴⁵ Fr. Schlegel, “Über die homerische Poesie. Mit Rücksicht auf die Wolfische Untersuchung (1796),” *Kritische Friedrich-Schlegel Ausgabe*, eingeleitet und herausgegeben von E. Behler, Paderborn-München-Wien 1979-, vol. 1, pp. 117-132; Fr. Schlegel, *Geschichte der Poesie der Griechen und Römer*, Berlin 1798 (= *KSA* vol.1, pp. 395-554); *Gespräche über die Poesie*, Berlin 1800 (= *KSA* vol. 2, pp. 284-362). In the origins poetry there is both creation and dissolution of art form. Thus, the origins of poetry represent a created and well structured chaos.

¹⁴⁶ “Für uns Neuere, für Europa liegt diese Quelle in Hellas, und für die Hellenen und ihre Poesie war es Homeros und die alte Schule der Homeriden. Eine unversiegbare Quelle allbildsamer Dichtung war es,” Fr. Schlegel, “Gespräch über Poesie (1800),” *KSA* vol. 2, p. 290f.; “Im Gewächs der Homerischen sehen wir gleichsam das Entstehen aller Poesie; aber die Wurzeln entziehen sich dem Blick, und die Blüten und Zweige der Pflanze treten unbegreiflich schön aus der Nacht des Altherthums hervor. Dieses reizend gebildete Chaos ist der Keim, aus welcher die Welt der alten Poesie sich organisierte.” Fr. Schlegel, “Gespräch über Poesie (1800),” *KSA* vol. 2, p. 291.

ich kein schöneres Symbol bis jetzt kenne, als das bunte Gewimmel der alten Götter.”¹⁴⁷

On the peak of philosophical thought, Schlegel suggests to return to the original chaos of human nature, to the colorful swarming of the old gods. These old gods are not necessarily considered to be the Greek gods:

“Aber auch die andern Mythologien müssen wieder entdeckt werden, nach dem Maß ihres Tiefsinns, ihrer Schönheit und ihrer Bildung, um die Entstehung der neuen Mythologie zu beschleunigen. Wären uns nur die Schätze des Orients so zugänglich wie die des Altertums! [. . .]. Im Orient müssen wir das höchste Romantische suchen.”¹⁴⁸

Returning to ancient myths does not mean to focus on the Greek gods. On the contrary, the peak of intellectual sophistication would be to create a mythology that includes oriental myths as well. Despite the fact that Schlegel conceives oriental myths as Indian, it would not be wrong to maintain that he had said something similar about Mesopotamian myths, if they had been available at the time.

Towards the end of *System des transzendentalen Idealismus*, written in the same year as Schlegel’s *Gespräch über Poesie*, Schelling briefly outlines his project of a new mythology.¹⁴⁹ Schelling states that with their fulfillment philosophy and those sciences

¹⁴⁷ Fr. Schlegel, “Gespräch über Poesie (1800): Rede über Mythologie,” *KSA* vol. 2, p. 319.

¹⁴⁸ Fr. Schlegel, “Gespräch über Poesie (1800): Rede über Mythologie,” *KSA* vol. 2, p. 319f.

¹⁴⁹ G. W. F. Schelling, *System des transzendentalen Idealismus*, Tübingen 1800, in: G. W. F. Schelling, *Sämtliche Werke*, I. Abt. Bd. 3, pp. 629: “Wenn es nun aber die Kunst allein ist, welcher das, was der Philosoph nur subjektiv darzustellen vermag, mit allgemeiner Gültigkeit objektiv zu machen gelingen kann, so ist [. . .] zu erwarten, daß die Philosophie, so wie sie in der Kindheit der Wissenschaft von der Poesie geboren und genährt worden ist, und mit ihr alle diejenigen Wissenschaften, welche durch sie der Vollkommenheit entgegengeführt werden, nach ihrer Vollendung als ebenso viel einzelne Ströme in den allgemeinen Ocean der Poesie zurückfließen, von welchem sie ausgegangen waren. Welches aber das Mittelglied der Rückkehr der Wissenschaft zur Poesie seyn werde, ist im Allgemeinen nicht schwer zu sagen, da ein solches Mittelglied in der Mythologie existiert hat, ehe diese, wie es jetzt scheint, unauflösliche Trennung geschehen ist. Wie aber eine neue Mythologie, welche nicht Erfindung des einzelnen Dichters, sondern eines neuen, nur Einen Dichter gleichsam vorstellenden Geschlechts seyn kann, selbst entstehen könne, dies ist ein Problem, dessen Auflösung allein von den künftigen Schicksalen der Welt und dem weiteren Verlauf der Geschichte zu erwarten ist.”

which were created by philosophy will return to poetry, from where they started. The middle between poetry and philosophy is mythology. In the lectures on *Philosophie der Kunst* (1802-03) Schelling conceives mythology not as an achievement of one individual but as an achievement of humanity. Based on Wolf's *Prolegomena*, who did not conceive Homer as one individual but as a guild of rhapsodes, Schelling constructs an identity between Homer and mythology:

“Ich erinnere an die Wolfsche Hypothese vom Homer, daß er auch in seiner ursprünglichen Gestalt nicht das Werk eines Einzelnen, sondern mehrerer von dem gleichen Geist getriebener Menschen gewesen. [. . .], aber ich will durch den aufgestellten Satz von der Mythologie dasselbe, was Wolf vom Homer, behaupten. Die Mythologie und Homer sind eins.”¹⁵⁰

Since Homer and mythology are identical, they both are the common root of poetry, history, and philosophy. Wolf's *Prolegomena ad Homerum* not only became part of a literary debate in Germany as well as part of the philosophical discourse of modernity, but they also revived the Homeric question and laid the foundation for classical philology as a critical discipline.

In addition to their immediate impact, the *Prolegomena ad Homerum* had far reaching effects. First of all, they can be regarded as the starting point for a historical perspective on Homer in particular and on Greek literature in general. Secondly, they not only established philology as a critical method but also the field of classical philology as one of the basic sciences in academia. Within the field of classical philology the Homeric question became the symbol of the new period and along with Homer the myths he told. Finally, mythology itself became a symbol as well.

¹⁵⁰ G. W. F. Schelling, *Sämtliche Werke*, I. Abt. Bd. 5, p. 415f. (= G. W. F. Schelling, *Ausgewählte Schriften*, Bd. 2, p. 243f.).

Under the token of symbolism, Creuzer investigated mythical narratives around the world and compared them with Greek myths. He based his comparative approach on ethnographic material available at the time.¹⁵¹ Creuzer claimed that the mythology of Homer and Hesiod were the remains of the symbolism of an ancient revelation. According to him, these remains were transmitted through the Pelasgians from Eastern or Near Eastern sources. Similar ideas can be found in Joseph Görres.¹⁵² Creuzer's mythology as symbolic form was attacked by philologists such as Gottfried Hermann,¹⁵³ Heinrich Voß,¹⁵⁴ and Christian August Lobeck.¹⁵⁵ This debate, which is difficult to comprehend for modern readers,¹⁵⁶ divided scholars into two groups: philologist who base their scholarship on textual criticism on the one hand, and comparative mythologists who include ethnographical material of other cultures on the other.

After an interplay of establishing a scientific approach to mythology by Carl Otfried Müller¹⁵⁷ and Welcker,¹⁵⁸ we find a similar division half a century later: Critical philology, etymology, and comparative mythology restricted to the Indo-European context

¹⁵¹ G. Fr. Creuzer, *Symbolik und Mythologie der alten Völker, besonders der Griechen* 1810-12.

¹⁵² J. Görres, *Mythengeschichte der asiatischen Welt*, Heidelberg 1810.

¹⁵³ G. Hermann und Fr. Creuzer, *Briefe über Homer und Hesiodus, vorzüglich über die Theogonie*, Heidelberg 1818; G. Herrmann, *Ueber das Wesen und die Behandlung der Mythologie: Ein Brief an Herrn Hofrath Creuzer*, Leipzig 1819.

¹⁵⁴ J. H. Voß, *Antisymbolik*, Stuttgart 1824-26.

¹⁵⁵ Chr. A. Lobeck, *Aglaophamus*, Regimontii Prussorum 1829.

¹⁵⁶ E. Howald, *Der Kampf um Creuzers Symbolik*, Tübingen 1926; A. Horstmann "Der Mythosbegriff vom frühen Christentum bis zur Gegenwart," *AfB* 23 (1979), pp. 7-54 and pp. 197-245; W. Burkert, "Griechische Mythologie und die Geistesgeschichte der Moderne," *Entr. Fond. Hardt* 26 (1980), pp. 159-207; B. Bravo, "Dieu et les dieux chez F. Creuzer and F. G. Welcker," *L'impensable polythéisme*, ed. F. Schmidt, Paris 1988, pp. 375-424.

¹⁵⁷ C. O. Müller, *Prolegomena zu einer wissenschaftlichen Mythologie*, Göttingen 1825.

¹⁵⁸ Fr. G. Welcker, *Griechische Götterlehre*, Göttingen 1857-62. A. Henrichs, "Welckers Götterlehre," *Friedrich Gottlieb Welcker: Werk und Wirkung*, Stuttgart 1986, pp. 179-229; B. Bravo, "Dieu et les dieux chez F. Creuzer and F. G. Welcker," *L'impensable polythéisme*, ed. F. Schmidt, Paris 1988, pp. 375-424.

of Max Müller versus unrestricted comparative mythology of anthropologists such as E. B. Tylor and Andrew Lang.¹⁵⁹

This new discourse, however, would not have been possible without a man who stood behind Wolf's *Prolegomena*: Christian Gottlob Heyne,¹⁶⁰ the inventor of modern textual criticism and mythology. Heyne was first classicist who made an attempt of investigating mythology from a philological point of view and thereby not only combined philology and mythology but also mythology and anthropology.

Heyne was the leading philologist at time who attracted many students such as Friedrich Creuzer, Gottfried Hermann, Wilhelm von Humboldt, August and Friedrich Schlegel, Friedrich August Wolf, Heinrich Voß, and Zoega (the teacher of Welcker) among others.

According to Heyne, Homer and Hesiod no longer lived in a time in which myth formed itself, but in a time in which they used and transformed myths (*genus poeticum*).¹⁶¹ Thus, Greek culture is no longer a culture of the original myths. Original myths one has to find in other cultures such as American culture. The task of a mythologist is to conduct a

¹⁵⁹ E. B. Tylor, *Primitive Culture: Researches into the Development of Mythology, Philosophy, Religion, Art, and Customs*, 2 vols., London 1871; A. Lang, *Custom and Myth*, London 1884; A. Lang, *Myth, Ritual, and Religion*, London 1887; A. Lang, *Modern Mythology*, London 1897.

¹⁶⁰ "Homers Hauptwerke: Iliade, Odyssee. Von Homer nie aufgeschrieben, die Schreibkunst war noch wenig kultiviert [...] Auch war's Sitte der Zeit, nur durch Sprechen zu lehren, durch Hören zu lernen. Vorzüglich wurden Gedichte gesungen, oft wiederholt, endlich gelernt [...] Lange erhielten sich Homers Gedichte nur in Gesängen der Rhapsoden [...]" Chr. G. Heyne, "Homer-Vorlesung Göttingen 1789. Mitschrift Wilhelm von Humboldt," in: W. v. Humboldt, *Werke*, Bd. 7, 2. Hälfte: *Paralipomena*, pp. 550-53.

¹⁶¹ Chr. G. Heyne, "Temporum mythicorum memoria a corruptelis nonnullis vindicata" (1763), *Com. Soc. Gott.* VIII (1785/86), *Comment. Antiqu.*, pp. 3-19; Chr. G. Heyne, "Quaestio de causis fabularum seu mythorum veterum physicis" (1764), in: Chr. G. Heyne, *Opuscula Academica collecta et animadversionibus*, 2 Bde., Gottingae 1785-88, Bd. 1, pp. 184-207; Chr. G. Heyne, "Sermonis mythici seu symbolici interpretatio ad causas et rationes ductasque inde regulas revocata," *Com. Soc. Gott.* XVI, class. Hist. (1807), pp. 285-323. The most important of Heyne's essays are collected and reprinted in: V. Verra, *Mito, rivelazione e filosofia in J. G. Herder e nel suo tempo*, Milano 1966. Parts of these essays are translated in: *The Rise of Modern Mythology 1680-1860*, edited by B. Feldman and R. D. Richardson, Bloomington-London 1972, pp. 215-223. On Heyne, see: A. Horstmann, "Mythologie und Altertumswissenschaften. Der Mythosbegriff bei Christian Gottlob Heyne," *AfB* 16 (1972); G. Chiarini, "Ch. G. Heyne e gli inizi di dello studio scientifico della mitologia," *Lares* 55 (1989), pp. 317-32; F. Graf, "Die Entstehung des Mythosbegriffs bei Christian Gottlob Heyne," in: *Mythos in mythenloser Gesellschaft*, edited by F. Graf, Stuttgart und Leipzig 1993, pp. 284-94.

systematic research into travel literature in order to study primitive cultures.¹⁶² In that respect Heyne, who was an enthusiastic reader of contemporary travel accounts which he often reviewed in the “Göttingische Gelehrten Anzeigen,” resembles Claude Lévi-Strauss, the enthusiastic reader of “Scientific American.”¹⁶³ Comparable with Lévi-Strauss, who, two hundred years later, will claim that myths are universal, Heyne argued that myths can be compared on the basis of a constant nature.¹⁶⁴

5. The Science of Mythology between Classics, Philosophy, and Anthropology in the 20th Century

5.1. Lévi-Strauss

With Lévi-Strauss the understanding of myths has changed forever. He not only gave some analytical and philosophical rigor to the interpretation of myth but also to the discipline of anthropology as such,¹⁶⁵ a philosophical rigor that was lacking ever since anthropology was invented in its cosmopolitan version by Kant. At the time when Lévi-Strauss entered the stage interpreting myths resembled a passage between Scylla and Charybdis, between the Scylla of interpreting them as collective dreams and the Charybdis of interpreting them on a ritual basis, between the Scylla of an idle or esthetic play and the Charybdis of pseudo philosophical speculation.¹⁶⁶ In passing through these extremes Lévi-Strauss intended to

¹⁶² Chr. G. Heyne, *Apollodori bibliothecae libri tres et fragmenta*, 1803, p. VIII.

¹⁶³ F. Graf, “Die Entstehung des Mythosbegriffs bei Christian Gottlob Heyne,” p. 290.

¹⁶⁴ Chr. G. Heyne, “Sermonis mythici seu symbolici interpretatio ad causas et rationes ductasque inde regulas revocata,” *Com. Soc. Gott.* XVI, class. Hist. (1807), p. 293.

¹⁶⁵ Chr. Johnson, *Claude Lévi-Strauss: The Formative Years*, Cambridge 2003.

¹⁶⁶ Cl. Lévi-Strauss, *Anthropologie structurale*, Paris 1958, ch. XI, p. 228: “De tous les chapitres de l’ethnologie religieuse, c’est la mythologie qui souffre surtout de cette situation. [...] Comme il y a cinquante ans, celle-ci continue à se complaire dans le chaos. On rajeunit les vieilles interprétations : rêveries de la conscience collective, divinisation de personnages historiques, ou l’inverse. De quelque manière qu’on envisage les mythes, ils semblent se réduire tous à un jeu gratuit, ou à une forme grossière de spéculation

establish a strong middle. The middle between an idle and esthetic play on the one hand and pseudo philosophical speculation on the other, Lévi-Strauss did not consider as a historical anthropological approach but as a new theory that is neither idle nor crude and more relevant than psychoanalytical and socio-historical approaches of anthropology:

“Par ailleurs, les psychanalystes, ainsi que certains ethnologues, veulent substituer aux interprétations cosmologiques et naturalistes, d’autres interprétations, empruntées à la sociologie et à la psychologie. Mais alors, les choses deviennent trop faciles.”¹⁶⁷

By contrast, Lévi-Strauss offers a solution that tends to be less sociological or psychoanalytical but more theoretical: “Les anciens philosophes raisonnaient sur le langage comme nous faisons toujours sur la mythologie.”¹⁶⁸ If ancient philosophers reasoned about language the way we reason about mythology, then it is up to the modern philosopher to offer a better interpretation of myth.

Confronted with the apparent contradiction that myths do not follow a certain predictable logic and that the variations which result from telling a myth do not seem to have limits, Lévi-Strauss observed that myths around the world are very similar. And if myths around the world are similar, then they must have a certain logic, a logic that must make them comparable. One may add that even, if myth around the world were not similar,

philosophique.” English translations: “Of all chapters of religious anthropology probably none has tarried to the same extent as studies in the field of mythology. [...] From a theoretical point of view the situation remains very much the same as it was fifty years ago, namely chaotic. Myths are still widely interpreted in conflicting ways: as collective dreams, as the outcome of a kind of esthetic play, or as a basis of ritual. Mythological figures are considered as personified abstractions, divinized heroes, or fallen gods. Whatever the hypothesis, the choice amounts to reducing mythology either to idle play or to a crude kind of philosophical speculation.” Cl. Lévi-Strauss, *Structural Anthropology*, New York and London 1963, ch. XI, p. 207.

¹⁶⁷ Cl. Lévi-Strauss, *Anthropologie structurale*, p. 229. English translation: “Psychoanalysts and many anthropologist have shifted the problems away from the natural or cosmological toward the sociological and psychological fields. But then the interpretation becomes too easy.” Cl. Lévi-Strauss, *Structural Anthropology*, p. 207.

¹⁶⁸ Cl. Lévi-Strauss, *Anthropologie structurale*, p. 229. English translation: “Ancient philosophers reasoned about language the way we do about mythology.” Cl. Lévi-Strauss, *Structural Anthropology*, p. 208.

they could have a logic within themselves that can be deciphered by simply reading the text, as scholars of the hermeneutical tradition prefer to do by giving an *explication de texte*. Lévi-Strauss, however, did not follow that tradition. He rather founded his method of reading a text on linguistic analogies and assumptions. If there is a meaning to be found in myths, he argues, it does not reside in the isolated elements which enter into the composition of a myth, but only in the way those elements are combined:

“Nous posons, en effet, que les véritables unités constitutives du mythe ne sont pas les relations isolées, mais des *paquets de relations*, et que c’est seulement sous forme de combinaisons de tels paquets que les unités constitutives acquièrent une fonction signifiante. Des relations qui proviennent du même paquet peuvent apparaître à intervalles éloignés, quand on se place à un point de vue diachronique, mais, si nous parvenons à les rétablir dans leur groupement « naturel », nous réussissons du même coup à organiser le mythe en fonction d’un système de référence temporel d’un nouveau type et qui satisfait aux exigences de l’hypothèse de départ. Ce système est en effet à deux dimensions : à la fois diachronique et synchronique, et réunissant ainsi les propriétés caractéristiques de la « langue » et celles de la « parole ».”¹⁶⁹

Reading myths is based on the following presuppositions and claims: Myths rest upon constituent units and these constituent units give myth a complex order. Thus, *les paquets de relations*, the bundles of relations or the configurations of elements, represent the logic of myth. The art of understanding myths is to decipher the relation of each element as well as the bundle of relations and to read their inherent configuration. The method of reading a text is based on Saussure’s distinction of *langue* and *parole*. *Parole* is the individual

¹⁶⁹ Cf. Lévi-Strauss, *Anthropologie structurale*, p. 233f. English Translation in: Claude Lévi-Strauss, *Structural Anthropology*, p. 211-12: “The true constituent units of a myth are not isolated relations but *bundles of such relations*, and it is only as bundles that these relations can be put to use and combined so as to produce a meaning. Relations pertaining to the same bundle may appear diachronically at remote intervals, but when we have succeeded in grouping them together we have reorganized our myth according to a time referent of a new nature, corresponding to the prerequisite of the initial hypothesis, namely a two-dimensional time referent which is simultaneously diachronic and synchronic, and which accordingly integrates the characteristics of *langue* on the one hand, and those of *parole* on the other.”

utterance of the narrator and belongs to non-reversible time, *langue* represents the deep structure of language and belongs to reversible time. As an analogy Lévi-Strauss transfers this difference to the understanding of myth: the difference between the narration and its structural framework, between deep structure and narrative surface. The narrative or the meaning of the narrative may appear to be fantastical or absurd, but it is told against the backdrop of a hidden logic that a mythologist has to decipher. Just as the linguist investigates the structure of language behind ordinary speech, so does the mythologist investigate the structure of myth behind the narration. A myth is not only a story that unfolds in time word by word and sentence by sentence along the diachronic or horizontal axis of irreversible time, but also a structure consisting in elements that are configured around the synchronic or vertical axis. The configuration of these elements establishes an order, the deep structure of the myth that produces the semantic space within which the story is told. Thus, myths can be understood on two levels, the narrative level and the configured level.

In order to decipher a myth the mythologist has to find the 'elements', short phrases, or mythemes that constitutes the story. He then has to arrange them into oppositions and homologies that do not depend on the narrative order. Short phrases that express the relationship of the constitutive elements, i.e. the mythemes, are arranged along the vertical and horizontal axes. The horizontal axis represents the order of the narration, the vertical the configuration of mythemes. Mythemes are chosen by similarity of theme. As an example to illustrate his method Lévi-Strauss took the myth of Oedipus; certainly not without irony. The body of mythemes, as Lévi-Strauss conceived them, is arranged in four columns. The first two columns describe blood relations as they are both overrated and

underrated, the third and fourth columns describe autochthony in the same over- and underrated aspect.

The first column contains all those mythemes which express an overrating of blood relations such as Cadmos efforts to find his sister, Oedipus marrying with his mother, and Antigone burying her brother. The second column contains all those mythemes which express an underrated of blood relations such as Oedipus killing his father, the two brother Polyneices and Eteocles killing one another.

The third column contains all those mythemes which deny man's autochthony such as Cadmos killing the chthonic dragon, Oedipus solving the riddle of the Sphinx. The fourth column contains all the mythemes that affirm man's autochthony such as Oedipus's swollen foot as well as other abnormal bodily features in the line of the Labdacids.

The configuration of those mythemes into four columns represents the true meaning of the myth, because they are not shown as isolated elements but as elements within a unity in which they oppose and at the same time correspond one another. With respect to the myth of Oedipus as analyzed by Lévi-Strauss – and the following aesthetic play should not be taken too seriously – the first and second column are opposed to each other as well as the third and the fourth. Thus, the relationship of the fourth column to the third is as the first to the second. The structure of a myth is constituted by these complementary oppositions. Lévi-Strauss takes them as a logical tool for the purpose of mediation.

Lévi-Strauss's seemingly a-historical approach did not intend to get rid of historical facts but of pseudo-historical claims of evolutionary anthropologists concerning the interpretation of myths. Structural anthropology wanted to get rid of evolutionary theories as found in Max Müller as well as of primitive anthropology of Andrew Lang and E. B.

Tylor. Lévi-Strauss's alternative represents an attempt to give the interpretation of myth a more solid theoretical foundation.¹⁷⁰

Lévi-Strauss's interpretation of myths, sold and accepted as an anthropological approach, turns out to be a rather philosophical one, a philosophical play that is neither idle nor crude. To that extent Lévi-Strauss remained the philosopher he was educated to be, not only the anthropologist he became famous for. In its core structural anthropology is a philosophical theory that has to prove itself not only within the philosophical discourse of modernity, but also within classical scholarship.

5.2. Vernant

In 1962, seven years after "The Structural Study of Myth" and four years after *Anthropologie structurale*, Jean-Pierre Vernant published *Les origines de la pensée grecque*, which not only established a new framework for the understanding of Greek myths but also a new framework for all further investigations of what has become the Parisian School of Classics. It is sometimes believed that Vernant applied the newly developed method of structural anthropology of Lévi-Strauss to Greek culture. But this is wrong. Vernant did not read Lévi-Strauss until Marcel Detienne convinced him to do so in

¹⁷⁰ B. Prado, "Philosophie, musique et botanique de Rousseau à Lévi-Strauss," *Échanges et communications : Mélanges offerts à Claude Lévi-Strauss*, 2 vols., Paris 1970, vol. 1, pp. 571-580; R. Schlesier, "Der bannende Blick des Flaneurs im Garten der Mythen," *Faszination Mythos: Studien zu den antiken und modernen Interpretationen*, herausgegeben von R. Schlesier, Basel und Frankfurt a. M. 1985, pp. 35-60 (reprinted in: R. Schlesier, *Kulte, Mythen und Gelehrte*, Frankfurt a. M. 1994, pp. 243-267); R. Schlesier, "Ödipus, Parsifal und die Wilden. Zur Kritik an Lévi-Strauss' Mythologie des Mythos," *Die Restauration der Götter*, Würzburg 1986, pp. 271-289 (reprinted in: R. Schlesier, *Kulte, Mythen und Gelehrte*, pp. 268-295).

the late 1960's.¹⁷¹ Thus, *Les origines de la pensée grecque* were basically influenced by the studies of Louis Gernet,¹⁷² Marcel Mauss,¹⁷³ and George Dumézil.¹⁷⁴

Vernant starts with the observation that before the decipherment of the Mycenaean Linear B script Greek culture was assumed to have started in the age of Homer. With its deciphering, however, it became evident that Greek culture started at least half a millennium earlier. Thereby he potentially opened the space for comparing the Greeks with Near Eastern cultures. The earliest evidence of written sources in Greek language is contemporaneous with Near Eastern documents written in Hittite, Ugaritic, and Akkadian. According to Vernant, the evidence in our sources reveals that the Mycenaean Greeks had a social organizations similar to that of Near Eastern societies which were based on the palaces of the kings.¹⁷⁵ But as soon as, “quand on aborde la lecture d’Homère, le tableau change : c’est une autre société, un monde humain déjà différent qui se découvrent dans l’Iliade.”¹⁷⁶ With the decline of the Mycenaean empire a certain form of kingship disappeared forever. In return, its disappearance prepared the path for two innovations: the institution of the city-state and the birth of rational thought. According to Vernant, rational thought developed within the specific political and social framework of the Greek city:

“Si nous voulons dresser l’acte de naissance de cette Raison grecque, suivre la voie par où elle a pu se dégager d’une mentalité religieuse, indiquer ce qu’elle doit au mythe et comment elle l’a dépassé, il nous faut comparer, confronter avec l’arrière-

¹⁷¹ According to Marcel Detienne.

¹⁷² L. Gernet, *Recherches sur le développement de pensée juridique et morale en Grèce*, Paris 1917; L. Gernet, *Droit et société dans la Grèce ancienne*, Paris 1955; L. Gernet, *Anthropologie de la Grèce antique*, Paris 1968.

¹⁷³ M. Mauss, *Sociologie et anthropologie*, Paris 1950.

¹⁷⁴ G. Dumézil, *Ouranós-Várana. Étude de mythologie comparée indo-européenne*, Paris 1934; *Mitra-Varuna. Essai sur deux représentations indo-européennes de la souveraineté*, Paris 1940; *Les dieux des Indo-Européens*, Paris 1952; *L'idéologie tripartite des Indo-Européens*, Bruxelles 1958; *Les dieux souverains des Indo-Européens*, Paris 1977.

¹⁷⁵ On the social structure on the palaces, see: N. Marinatos, *Minoan Religion*, Columbia, SC 1993.

¹⁷⁶ J.-P. Vernant, *Les origines de la pensée grecque*, Paris 1962, p. 5. (English Translation in: J.-P. Vernant, *The Origins of Greek Thought*, Ithaca 1982, p. 9).

plan mycénien ce tournant du VIII^e au VII^e siècle où la Grèce prend un nouveau départ et explore les voies qui lui sont propres : époque de mutation décisive qui, dans le moment même où triomphe le style orientalisant, jette les fondements du régime de la Polis et assure par cette laïcisation de la pensée politique l'avènement de la philosophie.”¹⁷⁷

The rise of the Greek city itself was promulgated through the crisis of sovereignty after the fall of the Mycenaean kings who resembled the kings of the Ancient Near East. Between these two polar opposites, the sovereignty of the Near Eastern and Mycenaean kings on the one hand, and the political debates in Athenian agora on the other, Vernant reconsiders the origin of Greek thought:

“Au lieu des anciennes cosmogonies associées à des rituels royaux et à des mythes de souveraineté, une pensée neuve cherche à fonder l'ordre du monde sur des rapports de symétrie, d'équilibre, d'égalité entre les divers éléments qui composent le cosmos.”¹⁷⁸

The concept of sovereignty as derived from the kings of the ancient Near East is the key feature that Vernant takes as a backdrop against which the space of Greek social and political life is mapped. The concept of sovereignty, which Vernant takes as a backdrop for the origins of Greek thought, is basically correct and can even be corroborated through new sources. What can be challenged is the simplification by which he applies the Dumézilian category as well as its over-determination as a symbol, since he neglects a very important aspect of sovereignty: the political oath.

Despite the breaks in history there seems to be a certain continuity from mythical to philosophical rationality:

¹⁷⁷ J.-P. Vernant, *Les origines de la pensée grecque* 1962, p. 3.

¹⁷⁸ J.-P. Vernant, *Les origines de la pensée grecque* 1962, p. 7.

“Cependant, si importante que soit cette différence entre le physicien et le théologien, l’organisation générale de leur pensée reste la même.”¹⁷⁹

Beneath the apparent continuity, however, there is a break between mythical and philosophical rationality, a break between myth and philosophy:

“Cependant, en dépit de ces analogies et de ces réminiscences, il n’y a pas entre le mythe et la philosophie réellement continuité. Le philosophe ne se contente pas de répéter en termes de phusis ce que le théologien avait exprimé en termes de Puissance divine. Au changement de registre, à l’utilisation d’un vocabulaire profane, correspondent une nouvelle attitude d’esprit, un climat intellectuel différent.”¹⁸⁰

Unlike German Romantics such as Schlegel and Schelling as well as more recent scholars such as Nestle,¹⁸¹ who claimed a gradual development from myth to reason, Vernant argues that philosophical rationality is something completely different than mythological rationality. Therefore, philosophy does not offer any help for understanding mythological rationality. In contrast, Vernant points out that the beginning of philosophy is expressed in the constellation of mystery and political controversy:

“La philosophie va donc se trouver à sa naissance dans une position ambiguë : dans ses démarches, dans son inspiration, elle s’apparentera tout à la fois aux initiations des mystères et aux controverses de l’agora ; elle flottera entre l’esprit de secret propre aux sectes et la publicité du débat contradictoire qui caractérise l’activité politique.”¹⁸²

Unlike Nestle, who claims that reason emerged within myth itself, Vernant argues for a different and separate beginning. According to Vernant, philosophy has its beginning both in the mysteries and the debates within the polis, not in myth and its rationality. Mythical

¹⁷⁹ J.-P. Vernant, *Les origines de la pensée grecque* 1962, p. 100.

¹⁸⁰ J.-P. Vernant, *Les origines de la pensée grecque* 1962, p. 101.

¹⁸¹ W. Nestle, *Vom Mythos zum Logos*, Stuttgart ²1941.

¹⁸² J.-P. Vernant, *Les origines de la pensée grecque* 1962, p. 51.

rationality is opposed to philosophical rationality. Mythical rationality as expressed in the myth of sovereignty in Hesiod's *Theogony* is a reflection of the decline of the Mycenaean empire.

In order to understand the mythological rationality underlying Hesiod's *Theogony*, one has to decipher myth. In his later book *Mythe et société* Vernant tried to establish an appropriate program of this task. Having read *Anthropologie structurale* the new program resembles that of Lévi-Strauss:

“Le mythologue ne saurait cependant limiter sa recherche au cadre formel du récit ; à l'étude philologique il doit associer une analyse de contenu visant à dégager les relations sémantiques, le jeu des correspondances symboliques, les niveaux multiples de signification engagés dans le texte, la hiérarchie des codes utilisés dans la message. Ce programme de déchiffrement met évidemment en cause tous les problèmes, de méthode et de fond, concernant le mythe.”¹⁸³

Beside a philological approach a mythologist has to decipher semantic relations, the play of symbolic correspondence, and different levels of meaning in the text, in order to work out the hierarchy of codes. Concerning Hesiod's *Theogony* Vernant explains his program of *déchiffrement* and its difficulties as follows:

“On doit s'efforcer de donner du mythe, dans le détail de sa configuration textuelle, une analyse exhaustive. En droit, il n'est pas une séquence, pas un terme du texte dont il ne faille rendre raison.”¹⁸⁴

For Vernant the decipherment of Hesiod's *Theogony* is possible both through textual and semantic configurations.¹⁸⁵ But what exactly did Vernant decipher, when he read and thought about a text such as Hesiod's *Theogony*?

¹⁸³ J.-P. Vernant, *Mythe et société en Grèce ancienne*, Paris 1974, p. 208.

¹⁸⁴ J.-P. Vernant, *Mythe et société*, p. 246.

¹⁸⁵ J.-P. Vernant, *Mythe et société*, p. 247.

“Un dieu n’a pas plus d’essence propre qu’un élément d’un récit mythique n’est en lui-même significatif ; chaque dieu se définit par le réseau de relations qui l’unit et l’oppose aux autres divinités au sein d’un panthéon particulier ; un élément d’un récit mythique n’a de sens que par la place qu’il occupe dans le système ordonné dont fait partie le mythe auquel il appartient. L’helléniste doit donc reprendre sa lecture à zéro.”¹⁸⁶

In configuring the specific constellations of gods, the space of the field of action of a god is made visible as well as structures of a myth and its rationality: “le déchiffrement du texte doit être d’abord attentif à tout ce qui relève de l’organisation narrative du récit.”¹⁸⁷ In applying that method for the decipherment of the beginning in Hesiod’s *Theogony*, Vernant soberly distinguishes “puissances primordiales, Gaia, Ouranos, Pontos, Okeanos, Tartaros.”¹⁸⁸ Hesiod, however, does not mention five primordial powers but three: Chaos, Gaia, Eros.¹⁸⁹ As a scholarly curiosity it may be noted that two of the primordial powers as given by Hesiod are not even mentioned in Vernant’s enumeration. The critical reader may wonder about the text that Vernant read. There is no edition that corroborates Vernant’s understanding nor a manuscript that contains a variant that matches Vernant’s reading. What did Vernant do? Vernant applied the widely spread separation-of-heaven-and-earth-myth without noticing its proper place in Hesiod and without sufficient knowledge of the text itself.¹⁹⁰ Vernant seems to have taken over Cornford’s attempt to establish the mythem concerning the separation of heaven and earth as the primordial event.¹⁹¹ In interpreting the beginning of Hesiod’s *Theogony*, the thinking classicist Vernant not only dispenses from

¹⁸⁶ J.-P. Vernant, “Introduction” to M. Detienne, *Les jardins d’Adonis*, Paris 1972, pp. III-IV.

¹⁸⁷ J.-P. Vernant, *Mythe et société*, p. 207.

¹⁸⁸ J.-P. Vernant, *Les origines de la pensée grecque* 1962, p. 103.

¹⁸⁹ Hesiod, *Theogony*, vv. 116-122.

¹⁹⁰ The myth of the separation of heaven and earth was introduced by A. Lang, *Custom and Myth*, London 1884 (²1885), “The Myth of Cronus,” pp. 45-63.

¹⁹¹ F. M. Cornford, “A Ritual Basis for Hesiod’s *Theogony* (1941),” in: F. M. Cornford, *The Unwritten Philosophy and other Essays*, Cambridge 1950, pp. 95-116. For the idea of comparing the myth of the separation of heaven and earth with other cultures, see: A. Lang, *Custom and Myth*, London 1884 (²1885), pp. 45-63.

textual criticism, not to mention from an *explication de texte* proper, but, and this is even more surprising, also from structural analysis, thus from thinking itself.

The Hesiodic passage is not as easy as it may seem. Even the master of contemporary textual criticism, Martin West, did not achieve a satisfying understanding however close he came. He understands the beginning of Hesiod's cosmology as a configuration of four primordial powers: Chaos, Earth, Tartarus, and Eros.¹⁹² The grammar of the text, however, suggests a three-fold origin consisting in Chaos, Earth, and Eros. Against the evidence of the oldest sources,¹⁹³ West includes Tartarus as a fourth primordial power and thereby transforms the triad into a tetrad. As I show in chapter four, the inclusion of Tartarus is based on a misconception of the grammatical structure of the sentence. This problem is easily resolved by applying an Oxford argument, i.e. the application and acceptance of greater, or even convincing evidence upon the Oxford edition of the Hesiodic text. The Oxford argument about the Oxford edition is then corroborated through a close reading of relevant passages.

The correct configuration of the beginning and its interpretation is important for the understanding of another feature in Hesiod's *Theogony*: the kingship and sovereignty of Zeus in connection with his decree to grant Styx the honor being the great oath of the gods. In configuring the specific vocabulary of *mētis*, cunning intelligence, Detienne and Vernant already made visible important structures of kingship and sovereignty in Hesiod's *Theogony* as well as for Greek culture in general:

¹⁹² M. L. West, *Hesiod: Theogony*, Oxford 1966, p. 192-95; see also his translation in: *Hesiod. Theogony and Works and Days*, translated by M. L. West, Oxford 1988, p. 6: "First came the Chasm; and broad-breasted Earth [. . .]; the misty Tartara [. . .]; and Eros." The punctuation indicates the acceptance of four primordial powers.

¹⁹³ Plato, *Symposium* 178b4-7; Aristotle, *Metaphysics* 984^b26-29.

“Si Zeus est roi des dieux, s’il l’emporte en puissance sur toutes les autres divinités, même liguées contre lui, c’est qu’il est par excellence le dieu à la mètis. Les mythes grecs qui racontent la conquête du pouvoir par le Cronide et l’institution d’un règne définitivement assuré soulignent que la victoire dans le combat pour la souveraineté devait être obtenue, non par la force, mais par une ruse, grâce à la metis. *Krátos* et *Bíē*, Domination et Force brutale, n’encadrent le trône de Zeus – comme des serviteurs pour toujours rivés à ses pas – que dans la mesure où la puissance de l’Olympien dépasse la simple force et échappe aux vicissitudes du temps.”¹⁹⁴

It was certainly a great achievement to have shown that Zeus’s sovereignty not only rests upon brute force but also on cunning intelligence. In that respect the kingship of Zeus differs from the kingship of Kronos. In contrast to Kronos, who is characterized as being of crooked council (*ἀγκυλομήτης*),¹⁹⁵ Zeus is characterized as straightforward-minded (*μητίετα*).¹⁹⁶ Being straightforward-minded makes him accountable in his political decisions and reliable concerning his promises. Before the battle against the Titans Zeus promised to all the gods who would fight on his sides due honors in the aftermath of victory.¹⁹⁷ Upon this promise, Styx was the first to come up to Mount Olympus along with her children Zelos, Nike, Kratos, and Bia. Since these children are of importance for Zeus’s power, Zeus decrees Styx to be the great oath of the gods. Thus, Zeus seems to gain his sovereignty through a promise upon which he then founds the institution of oath-taking for the Olympian gods. In order to understand the sovereignty of Zeus’s kingship, one has to give a detailed analysis of the hymn to Styx against the backdrop of oath-taking in Greece and the ancient Near East. Therefore, one has to go beyond the structural analysis as it has been

¹⁹⁴ M. Detienne et J.-P. Vernant, *Les ruses d’intelligence*, Paris 1974, p. 20.

¹⁹⁵ Hesiod, *Theogony*, v. 546.

¹⁹⁶ Hesiod, *Theogony*, vv. 56, 520, 904, 914.

¹⁹⁷ Hesiod, *Theogony*, vv. 383-403.

done by the Parisian School, not because of structural analysis but because of the lack of structural analysis, a lack of analyzing relevant passages.¹⁹⁸

5.3 'Le choc de l'incomparable'

Translating one culture into another on a large scale is certainly a strength of the Parisian School, translating and commenting texts a strength of the Oxford School, interpreting *belle lettre* a weakness of both. In reading Hesiod's *Theogony*, a poetical text containing both myths and mythology, it is no longer sufficient to restrict oneself to anthropology and philology. One also has to take into account some of the advantages of the hermeneutical tradition which may encompass both approaches. By combining philology and anthropology on a hermeneutical level, I will be following the device of August Boeckh: *Erkenntnis des Erkannten*.¹⁹⁹ To take up this device does not mean to follow a hermeneutical tradition from Boeckh to Heidegger and Derrida,²⁰⁰ but to follow it from Boeckh to Benjamin and Adorno.²⁰¹ The hermeneutics of Benjamin and Adorno are based on the epistemological concept of constellations or configurations that encompasses both philological detail and anthropological context, textual criticism and philosophical reflection. In doing so, I take up the strength of both the Oxford and the Parisian school in

¹⁹⁸ A good example is N. Loraux, *Cité divisée : L'oubli dans la mémoire d'Athènes*, Paris 1997, Chapitre V. "Serment, fils de Discorde," pp. 121-145. (English translation: N. Loraux, *The Divided City: On Memory and Forgetting in Ancient Athens*, New York 2002, Ch. V "Oath, Son of Discord," pp. 123-143), who takes Hesiod in order to create the space in which Athenian oath-taking procedures can be seen but not vice versa. In addition, Loraux is not inclined to do any comparison with other societies.

¹⁹⁹ A. Boeckh, *Enzyklopädie und Methodenlehre der philologischen Wissenschaften*, Leipzig 1886, p. 11: "so ist die Philologie [. . .] Erkenntnis des Erkannten." And p. 10: "Hiernach scheint die eigentliche Aufgabe der Philologie das Erkennen des vom menschlichen Geist Producierten, d.h. des Erkannten zu sein." On August Boeckh, see: F. Rodi, "Erkenntnis des Erkannten' – August Boeckhs Grundformel der hermeneutischen Wissenschaft." *Philologie und Hermeneutik im 20. Jahrhundert. Zur Geschichte und Methodologie der Geisteswissenschaften*, 2 vols, herausgegeben von H. Flashar, K. Gründer, A. Horstmann, Göttingen 1979, pp. 68-83.

²⁰⁰ M. Heidegger, *Sein und Zeit*, Tübingen 1928; J. Derrida, *De la grammatologie*, Paris 1967.

²⁰¹ W. Benjamin, *Ursprung des Deutschen Trauerspiels*, Berlin 1925; Th. W. Adorno, *Negative Dialektik*, Frankfurt 1966.

order to reconsider the narrative of the beginning Hesiod's *Theogony* as well as the narrative of Styx receiving the honor of being the great oath of the gods.

A more hermeneutical perspective of anthropology becomes important all the more as *Mythe et société* ends with a description of two aporias. The second is of interest for the relation of myth and philosophy:

“Le mythe ne se définit pas seulement par sa polysémie, par l’emboîtement des différents codes les uns dans les autres. Entre les termes même qu’il distingue ou qu’il oppose dans son armature catégorielle, il ménage dans le déroulement narratif et dans le découpage des champs sémantiques, des passages, des glissements, des tension, des oscillations, comme si les termes tout en s’excluant s’impliquaient aussi d’une certaine façon. Le mythe met donc en jeu une forme de logique qu’on peut appeler, en contraste avec la logique de non-contradiction des philosophes, une logique de l’ambigu, de l’équivoque, de la polarité. Comment formuler, voire formaliser ces opérations de bascule qui renversent un terme dans son contraire tout en les maintenant à d’autres points de vue à distance ? Il revenait au mythologue de dresser, en conclusion, ce constat de carence en se tournant vers les linguistes, les logiciens, les mathématiciens pour qu’ils lui fournissent l’outil qui lui manque : le modèle structural d’une logique qui ne serait pas celle de la binarité, du oui ou non, une logique autre que la logique du *logos*.”²⁰²

Distinguishing between the logic of myth and the logic of philosophy, Vernant claims that the logic of myth is a logic of ambiguity, equivocation, and polarity. In contrast, the logic of philosophy is a logic of non-contradiction. Certain traditions of philosophy, however, do not follow the Aristotelian claim concerning the law of non-contradiction.²⁰³ The law of non-contradiction represents a binary logic, which is based on the law of the excluded middle, i.e. the exclusion of the *third*. In as much as philosophy includes the *third*,²⁰⁴ it can operate with or even overcome the contradiction on the level of a binary logic. Even the philosopher who invented the law of non-contradiction, i.e. Aristotle, had a very different

²⁰² J.-P. Vernant, *Mythe et société*, p. 250.

²⁰³ Aristotle, *Metaphysics* Γ. 3 1005^b19-20.

²⁰⁴ Plato, *Parmenides* 156d1-e2; *Symposion* 210e4; *Seventh Letter* 341d1.

view on it,²⁰⁵ as commonly assumed, not to speak of Plato and the Neo-Platonists as well as Hegel and Marx in later times. The latter provided the basis for the first chapter of Vernant's book. The problem that Vernant is confronted with lays in the fact that he believes that it would be possible to map the entire world and the categories of thinking on the basis of a binary logic. Whether it is possible to develop a system based on a binary logic may indeed be questionable. Philosophy that includes the middle is certainly able to provide a logic other than the binary logic of *logos*.

Including the middle as a basic category of thinking enables the researcher to reconstruct an entirety. Hegel's dictum that truth is entirety and entirety is truth can be regarded as such an attempt,²⁰⁶ as well as Lévi-Strauss's claim that myths represent a universal mode of thinking.²⁰⁷ These attempts lead towards a reconstruction of structures or a structure, which Max Weber called the iron cage or the shell as hard as steel.²⁰⁸ Including the middle also puts the researcher into a position to destruct the whole. The destruction of the iron cage can be thought as an interruption that blows up or bursts open the continuity of history,²⁰⁹ and leads to focus on single details that can be brought into new configurations, or, to speak with Marcel Detienne, *le choc de l'incomparable*.²¹⁰ Focusing on details is a claim against those philosophers and anthropologist who claim the entirety as

²⁰⁵ Aristotle, *Metaphysics* X.

²⁰⁶ "Das Wahre ist das Ganze. Das Ganze aber ist nur das durch seine Entwicklung sich vollendende Wesen. Es ist von dem Absoluten zu sagen, daß es wesentlich *Resultat*, daß es erst am *Ende* das ist, was es in Wahrheit ist." G. W. F. Hegel, *Die Phänomenologie des Geistes*, Bamberg und Würzburg 1807 (=G. W. F. Hegel, *Werke in 20 Bänden*, Frankfurt a. M. 1968, vol. 3, p. 24.

²⁰⁷ Cl. Lévi-Strauss, *Anthropologie structurale*, p. 229.

²⁰⁸ Weber argues against the seemingly soft coat that capitalism puts around people: "Aber aus dem Mantel ließ das Verhängnis ein stahlhartes Gehäuse werden." M. Weber, "Die protestantische Ethik und der Geist des Kapitalismus," *Archiv für Sozialwissenschaft und Sozialpolitik* XX (1904) and XXI (1905), now in: M. Weber, *Gesammelte Aufsätze zur Religionssoziologie*, 2 vols., Tübingen 1922, vol. 1, pp. 17-206.

²⁰⁹ "Der Historismus stellt das »ewige« Bild der Vergangenheit, der historische Materialist eine Erfahrung mit ihr, die einzig dasteht. [. . .] Er [der historische Materialist] bleibt seiner Kräfte Herr: Manns genug, das Kontinuum der Geschichte aufzusprengen." W. Benjamin, "Über den Begriff der Geschichte," *Walter Benjamin zum Gedächtnis*, herausgegeben vom Institut für Sozialforschung, Los Angeles 1942, [5]. (= W. Benjamin, *Gesammelte Schriften*, 7 vols. 7, Frankfurt a. M. 1972-89, vol.1, p. 702 (thesis XVI).

²¹⁰ M. Detienne, *Comparer l'incomparable*, p. 44.

a result of (their) investigation. Against any form of entirety Adorno's statement is still valid: "Das Ganze ist das Unwahre."²¹¹

Contemporary philosophy goes into a similar direction: "Heute interessiert nicht so sehr das Ganze als der Anfang," as Michael Theunissen pointed out in a lecture on the possibilities of contemporary ways of philosophy. There, he continued to say:

"Unser Interesse gilt vornehmlich der Frage, wie die Grundbegriffe philosophischen Denkens entstanden sind, in welche Konstellationen ihre Genese eingebettet war, inwieweit mit ihnen Denkmöglichkeiten ausgeschlossen wurden und wohin sie die weitere Entwicklung gelenkt haben."²¹²

Contemporary philosophy is less concerned with developing new systems in which each detail is governed by the whole, but rather with historical developments of its categories and structures of thinking. Yet, contemporary philosophy is no longer concerned with a gradual development of reason as a successful undertaking in humanity. It rather focuses on the dominion of reason and points to phenomena that are excluded by reason. In turning to the 'other of reason,' modern contemporary philosophy attempts to give an account of the rise of its basic concepts and the constellation of their genesis in the Greek world as well as in those cultures that preceded the Greeks, which most scholars would call a pre-philosophical world:

"Auf dem Wege zu diesem Ziele dürfte es unausbleiblich sein, daß wir über den Logos in Richtung auf den sogenannten Mythos zurückgetrieben werden und letztlich die Grenze des Okzidents auf den Orient hin überschreiten."²¹³

²¹¹ Th. W. Adorno, *Minima Moralia: Reflexionen aus dem beschädigten Leben*, Berlin und Frankfurt 1951 (= Th. W. Adorno, *Gesammelte Schriften*, 20 vols., Frankfurt a. M. 1980, vol. 4, p. 55).

²¹² M. Theunissen, "Möglichkeiten des Philosophierens heute," in: M. Theunissen, *Negative Theologie der Zeit*, Frankfurt a. M. 1992, p. 20 (first published in: *Sozialwissenschaftliche Literatur Rundschau* 19 (1989), pp. 77-89).

²¹³ M. Theunissen, "Möglichkeiten des Philosophierens heute," p. 20.

Even contemporary philosophy no longer believes that rationality was invented by the Greeks. Unlike Vernant, who argued that the beginning of philosophy is expressed in a constellation of mystery and political controversy in Greece, Theunissen conceives the beginning of philosophy as a configuration of myth and reason that precedes the Greeks. From within the philosophical discourse of modernity, philosophy has to turn from logocentric thinking back to mythical thinking, or as Theunissen put it, from *logos to mythos*, the colorful swarming of the gods, the seemingly chaos of human nature. This does not mean that philosophy itself will become mythical thinking, but rather that philosophy starts to reflect its beginning in myth and mythical thinking. Thus, the beginning of philosophy has to be read as a *constellation* of myth and philosophy.

In order to determine the ancient constellations of myth and philosophy, i.e. the constellation of philosophical and mythical rationality, contemporary philosophy has to realize that it has become research. Here, Theunissen reminds his reader of the fact that Karl Marx spent almost ten years of his life doing research on economy in the British Library. During those years, Theunissen argues, modern philosophy has become research.²¹⁴ If philosophy has become research, then it is possible to configure local knowledge brought to light of other disciplines such as classics or ancient Near Eastern studies. On this basis contemporary philosophy also opens the field for comparing Greece and Mesopotamia.

In as much as Theunissen claims that philosophy has become research, it is first and foremost research within philosophy itself. As research within philosophy itself, it is both

²¹⁴ "Ich denke an die schlichte Tatsache, daß Marx zehn Jahre seines Lebens darauf verwandt hat, im Britischen Museum die Literatur der klassischen Ökonomie zu studieren. In diesen Jahren ist Philosophie endgültig zu dem geworden, was sie vorher nur in gewissen Bestrebungen des 17. Jahrhunderts war: zur Forschung." M. Theunissen, "Möglichkeiten des Philosophierens heute," p. 20.

history and critique of reason. Theunissen argues that the beginning of reason and philosophy is already inherent in Hesiod's *Theogony*:

“Die moderne Vernunftkonzeption [hat sich] nicht [. . .] aus dem Epos entwickelt, auch nicht aus der Keimzelle des klassisch-griechischen *nous*-Begriffs. Sie ist in letzter Instanz überhaupt nicht aus Begriffen entsprungen [. . .], sondern im vorbegrifflichen, die Vernunft anonym einführenden Entwurf Hesiods.”²¹⁵

Like Vernant and Detienne, who focused on the sovereignty of Zeus's, Theunissen investigates the dominion of Zeus. Unlike Vernant and Detienne, who determine Zeus's sovereignty in terms of brute force and cunning intelligence, Theunissen determines it as the first appearance of the dominion of reason. Therefore, Theunissen returns to Hesiod's *Theogony*:

“[Zeus'] Herrschaft [. . .] unterscheidet sich von der seiner Vorgänger durch das, was wir Vernunft nennen würden. [. . .] Den früheren Herrschern war bestimmt, Nachfolgern Platz zu machen. Es war ihnen bestimmt – das heißt: Ihre Verdrängung durch den Stärkeren hatte ihnen das Schicksal verhängt. Demnach dämmt Zeus mit seinem Sieg die Macht des Schicksals ein. Hesiods Hymne auf die Zeusherrschaft entlarvt die postmoderne Vernunftkritik als Restauration eines ungebrochenen Schicksalsglaubens.”²¹⁶

Unlike Vernant and Detienne, who reconstruct Zeus's sovereignty against the backdrop of Near Eastern kings, Theunissen is more interested in the heritage of this first sketch of reason. To the extent that philosophy is a modern critique of reason that has to give an account of its own beginning and the beginning of enlightenment, an enlightenment that always is endangered to relapse into myth, philosophy has to give an account of its own wresting away from myth. According to Theunissen, modern philosophy never got to the

²¹⁵ M. Theunissen, “Vernunft, Mythos und Moderne,” *Vernunftbegriffe der Moderne*, herausgegeben von H. F. Fulda und R.-P. Horstmann, Stuttgart 1994, p. 49.

²¹⁶ M. Theunissen, “Vernunft, Mythos und Moderne,” pp. 49f.

heart of the matter: Adorno's and Horkheimer's treatise on Homer's *Odyssee* is simply false, Heidegger's return to the archaic Greek thinking and Nietzsches's return to the birth of tragedy were attempts that did not go back far enough in time.

Theunissen reads Hesiod's *Theogony* as a dialectic of enlightenment, i.e. as a work that on the heights of enlightening insight necessarily relapses into myth. Theunissen's pessimistic view that our modern concept of reason, which refers back to a concept of reason through which Zeus established his kingship, is an unbroken belief in fate, since Zeus's dominion and its basic concept of reason is still bound to fate, is influenced by Adorno and Benjamin, not only with respect to the project of a dialectic of enlightenment but also in terms of the key epistemological concept: the concept of 'constellation'.

"Der Konstellation gewahr werden, in der die Sache steht, heißt so viel wie diejenige entziffern, die es als Gewordenes in sich trägt,"²¹⁷ says Adorno in striking parallel to Vernant. Unlike Vernant, who prefers to constellate two opposing elements that create the space in which historical developments are presented, Adorno determines one element through a constellation of several others. In a constellation an element is not only determined as what it historically has become but also as what it could turn out or could have turned out to be in the present and future, i.e. the non-identical that was repressed by the dominion of reason. This additional difference between the two thinkers becomes visible as Adorno continues:

"Nur ein Wissen vermag Geschichte im Gegenstand zu entbinden, das auch den geschichtlichen Stellenwert des Gegenstandes in seinem Verhältnis zu anderen gegenwärtig hat; Aktualisierung und Konzentration eines bereits Gewussten, das es verwandelt. Erkenntnis des Gegenstandes in seiner Konstellation ist die des Prozesses, den er in sich aufspeichert. Als Konstellation umkreist der theoretische Gedanke den Begriff, den er öffnen möchte, hoffend, dass er aufspringe etwa wie

²¹⁷ Th. W. Adorno, *Negative Dialektik*, Frankfurt a. M. 1966, p. 165.

die Schlösser wohlverwahrter Kassenschränke: nicht nur durch einen Einzelschlüssel oder eine Einzelnummer sondern eine Nummernkombination.“²¹⁸

Adorno operates with two different concepts of constellations: an objective concept of constellation and a subjective or epistemological concept of a constellation. Adorno developed the epistemological force of a constellation through a critique of Max Weber's subjective procedure of composition of ideal types:

“Er [Weber] hat dabei bloß die subjektive Seite, das Verfahren der Erkenntnis im Auge. Aber es dürfte um die in Rede stehenden Kompositionen ähnlich bestellt sein wie um ihr Analogon, die musikalischen. Subjektiv hervorgebracht, sind diese gelungen allein, wo die subjektive Produktion in ihnen unter geht. Der Zusammenhang, den sie stiftet – eben die »Konstellation« - , wird lesbar als Zeichen der Objektivität: des geistigen Gehalts. Das Schriftähnliche solcher Konstellationen ist der Umschlag des subjektiv Gedachten und Zusammengebrachten in Objektivität vermöge der Sprache.“²¹⁹

Constellations are like the result of musical productions. The composer writes down the notes in form of a subjective production, which disappears as soon as the composition has been accomplished. The composition can be read as objectivity, as spiritual content. The turn from subjective thoughts into the objective composition is possible through language and writing. The invention of writing in ancient Greece is described by Vernant in quite similar terms: “L'organisation du discours écrit va de pair avec une analyse plus serrée, une mise en ordre plus stricte de la matière conceptuelle.”²²⁰

The historical force of a constellation and its truth claim was developed by Adorno through a critique of Walter Benjamin's studies on German baroque drama, “die den Begriff der Wahrheit selbst als Konstellation fassen.”²²¹ The objective constellation

²¹⁸ Th. W. Adorno, *Negative Dialektik*, p. 165.

²¹⁹ Th. W. Adorno, *Negative Dialektik*, p. 167f.

²²⁰ J.-P. Vernant, *Mythe et société*, p. 197.

²²¹ Theodor W. Adorno, *Negative Dialektik*, p. 166.

expresses the constellation in which a matter stands, the subjective constellation is a procedure to configure constellations which come close to the objective constellation. The more objective the subjective constellation the more likely that it deciphers the code, a combination of numbers that make cognition possible. Adorno's position is similar to that of Vernant to the extent that both understand a constellation or configuration as a subjective and objective constellation: a subjective procedure to decipher the objective constellation. But unlike Vernant, who intends to reconstruct the past of history, Adorno intends to free the present history from its fate-determined past through an epistemological procedure free of dominion.

Benjamin's highly sophisticated concept of a constellation is of interest for investigating Hesiod's *Theogony* to the extent that it offers a counter-concept, as Michael Theunissen has put it, to a concept of a gapless unity as well as a departure from a mere enumeration of seemingly unrelated elements.²²² Cognition of truth is gained neither through a collection of all possible data nor through an encyclopedic knowledge but through concentration of what is already known. Only concentration that interrupts the continuity of assembling data for mere knowledge enables the scholar to cognate truth, i.e. the correct constellation of the matter.

Benjamin's thinking represents a form of intellectual mentality that does not press phenomena into categories but conceives them like the movement of stars, which can be

²²² E. Ortland et al., "Genealogie als konstellatorische Form in Hesiods »Theogonie«," *Erfahrungen der Negativität*, Festschrift für Michael Theunissen, herausgegeben von M. Hattstein et al. Hildesheim 1992, p. 27 fn 27: "Den Begriff der Konstellation führte er [Theunissen] unter Hinweis auf Walter Benjamin ein als Gegenbegriff zu dem einer bruchlosen Einheit, aber auch in Abgrenzung zu einer bloßen Aufzählung völlig beziehungslos erscheinender Moment." cf. W. Benjamin, *Ursprung des deutschen Trauerspiels*, p. 203-18, esp. p. 213: "Daß die Wahrheit als Einheit und Einzigkeit sich darstellt, dazu wird ein lückenloser Deduktionszusammenhang der Wissenschaften mitnichten erfordert. [. . .] Allein es ist diese Diskontinuität der wissenschaftlichen Methode so weit entfernt, ein minderwertiges, vorläufiges Stadium der Erkenntnis zu bestimmen, dass sie vielmehr deren Theorie positiv fördern könnte, wenn nicht die Anmaßung sich dazwischen legte, in einem enzyklopädischen Umfassen der Erkenntnisse der Wahrheit, die sprunglose Einheit bleibt, habhaft zu werden."

determined with utmost precision. For these theoretical reasons, Benjamin is not only of interest for classicists but also for returning to the ancient Near East, as Gérard Schmidt has recently suggested.²²³ According to Schmidt, the rediscovered Babylon enables philosophy to reflect its origin beyond the Greeks. It enables philosophy to view itself in the mirror of its own beginning.

According to Schmidt, Benjamin was influenced by an essay by Florens Christian Rang,²²⁴ a scholar ancient religions who has been completely neglected by assyriologists. Rang's essay deals with the Roman carnival and its Babylonian origin: "Daß der *römische Karneval babylonischer Religion* sei, wusste noch der Neu-Platonismus."²²⁵ Rang refers to an inscription, in which the *patesi*, the priest Gudea of Lagasch, mentions a festival in which the maiden takes the role of a woman and the slave the role of the master.²²⁶ He links this inscription with a similar event described in Macrobius's *Saturnalia*.²²⁷ Rang argues that there was a tradition of Near Eastern festivals that has not been forgotten. During the Saturnalian festivals these traditions were remembered. Philosophers used to have earnest conversations on calendary and astronomical issues, which the augur and pontifex Vettius Agorius Praetextatus, who supposedly knew the secret religious tradition, ascribed to the Assyrians.²²⁸ Rang interprets this fact as follows:

²²³ "Betrachtet man die 'Erkenntniskritische Vorrede' also nicht von den materiellen Einflüssen, sondern von Problemstellung und Lösungsvorschlag her, so ist sie nichts weniger als der vom ,wiederentdeckten Babylon' ermöglichte Blick des autonomen Denken in den Spiegel seines Ursprungs." G. Schmidt, "Die babylonische Renaissance. Walter Benjamin und die Einflüsse der altbabylonischen Geisteskultur auf das Denken des 20. Jahrhunderts," *AF* 22 (1995), p. 196.

²²⁴ Fl. Chr. Rang, "Historische Psychologie des Karnevals," *Die Kreatur* 1928, pp. 311-343.

²²⁵ Fl. Chr. Rang, "Historische Psychologie des Karnevals," p. 314.

²²⁶ "The slave-woman was allowed to be equal to her mistress, the slave was allowed to walk side by side with his master." Gudea E3/1.1.7.StB, col. vii, ll. 31-33, *Gudea and His Dynasty*, edited by D. O. Edzard (= *RIME* 3.1), p. 36. The New Year's Festival is mentioned in Gudea E3/1.1.7.StD, col. v, l.1.

²²⁷ Macrobius, *Saturnalia* I, ch. 12.5. There he states that March is the beginning of the year. During the New Year festivals 'servis coenas adponebant matronae, ut domini Saturnalibus: illae, ut principio anni ad promptum obsequium honore servos invitarent, hi, quia gratiam perfecti operas exolverent.' (ch. 12.7)

²²⁸ Macrobius, *Saturnalia* I, ch. 23.17-20.

“Ihm ist Karneval ein Fest der Gestirn-Religion. Ihr Neujahrsfest: an dem der neue Kalender herauskam und die Konstellation für ein Jahr sich veränderte.”²²⁹

The change of heavenly constellations is reflected by a change of the earthy constellations through change of roles during carnival. Astrology gives carnival a place in the calendar between the two calendar years:

“Karneval ist eine *Pause*, das Interregnum zwischen einer Thron-Entsagung und einer Thron-Besteigung [. . .]; ist darum eine Prozession, ein Umzug: das Abbild eines himmlischen Prozesses: der Prozession der Sterne, bis das Gestirn des Altjahrs völlig untergegangen ist und das Herrscher-Gestirn des neuen Jahrs auf die Thron-Höhe geklommen; der Korso war das Abbild der Bahn dieser Gestirne.”²³⁰

Like the stellar constellation of the previous year comes to an end and gives rise to the constellation of the year to come, in like manner there is a change of earthy constellations. The break between the two stellar constellation is an interregnum between descension and ascension to the throne of the king, thus a problem of sovereignty. Against this backdrop, it makes sense that parts of *Enuma Elish*, the epic of sovereignty, were recited during Babylonian New Year’s festival.²³¹ Such a view combines the two predominant views of interpreting Near Eastern mythology: the myth and ritual school with the school of astral mythology.²³²

On the basis that the New Year’s festival is an interregnum that is determined both through lawless lawfulness and lawful lawlessness by astrology, we are faced with the problem of the exceptional state and sovereignty: “Der Souverän repräsentiert Geschichte.

²²⁹ Fl. Chr. Rang, “Historische Psychologie des Karnevals,” p. 315.

²³⁰ Fl. Chr. Rang, “Historische Psychologie des Karnevals,” p. 317.

²³¹ On the Babylonian New Year’s festival see: B. Pongratz-Leisten, *Ina sulmi irub. Die kulttopographische und ideologische Programmatik der akitu-Prozession in Babylonien und Assyrien im 1. Jahrtausend v. Chr.*, Mainz 1994; A. R. George, “Studies in the Cultic Topography and Ideology,” *BiOr* 53 (1996), pp. 363-95. B. Pongratz-Leisten, “Neujahr(sfest),” *RLA* 9 (1998-2001), pp. 294-98.

²³² W. Heimpel, “Mythologie,” *RLA* 8 (1993-97), pp. 537-564.

Er hält das historische Geschehen in der Hand wie ein Szepter.”²³³ According to Benjamin, the sovereign is determined to rule, if external circumstances create the exceptional state. Benjamin’s claim that the modern concept of sovereignty is seen in the context of highest executive power, whereas the baroque concept of sovereignty developed out of a discussion of the exceptional state, can be transferred to the Babylonian New Year’s festival and the recitation of *Enuma Eliš*:

“This took place in the capital city in the month of Nisan, and the king had his mandate to rule renewed by the gods; to the ceremony came governors, plenipotentiaries, courtiers, top officials, and army officers to renew their oaths of loyalty to the king and royal family, just as the gods swore an oath to Marduk (or Assur), when he had been elected king.”²³⁴

Modern scholarship in Assyriology indirectly confirms Benjamin’s claim to an extent that one can say that during the interregnum of two calendary years, in the exceptional state, the sovereignty of the king is reaffirmed through oaths of his vassals. The oath of the vassals represents the earthy form of the divine oath of the gods that they have sworn to Marduk as a form of loyalty.²³⁵ Against this backdrop, the oath of loyalty in *Enuma Eliš* can be compared with the great oath of the gods that Zeus institutionalizes before the battle against the Titans, a civil war concerning the divine kingship in heaven, thus an exceptional state of sovereignty.²³⁶

On the peaks of intellectual sophistication there returns an element that one is endangered to leave out while one seems to be on the Olympus of thinking: philology and textual criticism. A turn towards philology and textual criticism becomes important, not

²³³ W. Benjamin, *Ursprung des deutschen Trauerspiels*, p. 245.

²³⁴ S. Dalley, *Myths from Mesopotamia*, Oxford 1989, p. 231f.

²³⁵ *Enuma Eliš* VI 95-100.

²³⁶ Hesiod, *Theogony*, vv. 383-403.

because it is missing in Benjamin, but on the contrary, because one could learn from him how to integrate philology and textual criticism into more precise readings of a text.

Excavations in Mesopotamia and the decipherment of cuneiform script have changed the understanding of the ancient Near East as a mythical place, which was shaped through Biblical references to Babylon and Ninive as well as the interpretation of these references until the 19th century.²³⁷ During those centuries Babylon became a synonym for the ancient Near East. Painters were fascinated with depicting the tower of Babel, poets and writers with the confusion of tongues.²³⁸ Connected with creation of the tower and its resulting language confusion, Babylon was considered as a whore. In Jes 47 the metaphor of a woman, which is connected with Zion, is transferred to Babylon: daughter Babylon. In Septuagint, Nah 3-4, Ninive is described as a whore, πόρνη, a metaphor that lead to description of Babylon as ἡ μέτηρ τῶν πόρνων, as mother of all whores in Off. 17, 5.²³⁹ In later times, Babylon was regarded as the city of the devil by Origines and Augustin.²⁴⁰ In contrast to those negative accounts, Babylon was also viewed in more positive light as the city of the ages.²⁴¹

As soon as the history and prehistory of Babylon was discovered and understood more properly, Babylon lost its mythical aura. Presumably, the tower of Babel has been found next to Marduk's sacred precinct Esagila. The temple tower is a ziqqurat building

²³⁷ Ed. W. Said, *Orientalism*, New York 1978. Fr. N. Bohrer, *Orientalism and Visual Culture. Imagining Mesopotamia in Nineteenth Century Europe*, Cambridge 2003.

²³⁸ W. Seipel (ed.), *Der Turmbau zu Babel: Ursprung und Vielfalt von Sprache und Schrift*, 3 vols., Wien-Milano 2003.

²³⁹ S. Uhlig, "Die typologische Bedeutung des Begriffs Babylon," *AUSS* 12 (1974), pp. 112-125. M. Rissi, *Die Hure Babylon und die Verführung der Heiligen. Eine Studie zur Apokalypse des Johannes*, Stuttgart 1995.

²⁴⁰ K. Galland and B. Altaner, "Babylon" *RAC* 1 (1950), pp. 1131-33.

²⁴¹ R. Schmidt, "Aetas mundi. Die Weltalter als Gliederungsprinzip der Geschichte," *ZKG* 67 (1955/56), pp. 288-317; K. H. Schwarte, *Die Vorgeschichte der augustinischen Weltalterlehre*, Bonn 1966; K. Koch, *Europa, Rom und der Kaiser vor dem Hintergrund von 2Jt. Rezeption des Buches Daniel*, Göttingen 1997.

called Etemenanki, foundation of heaven and earth.²⁴² Confusion of tongues is probably best explained as different languages spoken by people of different ethnicity.²⁴³ On the basis of these new results, ancient Near Eastern societies can be compared with Greek culture on a more solid basis.

Comparisons between Greek and Near Eastern literature and mythology have already been conducted, most prominently by Walter Burkert and Martin West who made an effort to learn Hittite, Akkadian, or Sumerian. Comparisons without mastering other languages have been envisaged by Vernant and Detienne, Faraone and Kirk. Among the latter group Kirk maintained that classicists who compare Greece with the ancient Near East can make significant contributions to the field even without knowing the languages:

“As for languages, I have never pretended to have Hittite or Akkadian at my command. But this does not preclude the possibility of making a useful contribution to the *interpretation* of myths. Someone must perform that task, and the most consummate linguist is rarely the man to do it. [S.] N. Kramer, who wrote extensively about Sumerian myths, had an exceptional control of the languages, but his cultural and literary interpretations were notabl[y] feeble. So too, H. J. Rose was a man of unusual learning and his summaries of Greek myths are neat and useful, but his talents as a critic and interpreter were rather slender.”²⁴⁴

The classicist's arrogance to maintain that the literary interpretations of the great sumerologist S. N. Kramer were feeble, makes some assyriologists certainly climbing up the walls. But the point Kirk makes is very similar to Detienne's critique towards classical philologists who do not think while being satisfied with textual criticism.²⁴⁵ Philologists

²⁴² E. A. Speiser, “Word Plays on the Creation Epic's Version of the Founding of Babylon,” *Orientalia* 25 (1956), pp. 317-23.

²⁴³ J. G. Frazer, *Folklore in the Old Testament*, 2 vols., London 1919, vol.1, pp. 362-87; A. Borst, *Der Turmbau von Babel: Geschichte der Meinungen über Ursprung und Vielfalt der Sprachen und Völker*, 4 vols., Stuttgart 1957-63.

²⁴⁴ G. S. Kirk, “Myth in the Undergraduate Curriculum (Discussion),” *OUCD* 6 (1977), p. 5-6

²⁴⁵ M. Detienne, “Return to the Mouth of Truth,” (Preface to the American Edition of) M. Detienne, *Masters of Truth*, New York 1996, p. 30.

who entirely rest upon textual criticism seem to be the predominant species within the field of Near Eastern studies. In his obituary on Wolfram von Soden, the assyriologist D. O. Edzard remembered the advice he was given by him:

“[Er] sagte [. . .] einmal, ein wenig mahnend, man sollte doch nicht mit großen und vorgefassten Ideen an die Texte herantreten. Man müsse sich nur bis ins letzte Detail unerbittlich genau mit dem Text auseinandersetzen: dann stellen sich die Ideen ganz von selber ein.”

And Edzard did not contain himself by adding his agreement: “Wie sehr ist das auch heute noch zu beherzigen!”²⁴⁶ Stressing textual criticism is certainly important, but founding an entire discipline on relentless philology sounds a little anachronistic. Being aware of philological details is something that personalities so different as von Soden and Walter Benjamin have in common. The critique of von Soden and Edzard does not concern the fact that philology should not be relentless but rather that relentless philology is not relentless enough. In ignoring any inductive epistemological thoughts, their way of relentless textual criticism is a fall back behind the philological epistemology of nineteenth century German classical scholarship, a fall back behind August Boeckh’s dictum: *Erkenntnis des Erkannten*.²⁴⁷

Stressing relentless textual criticism and paying attention to details is all the more important in times when classicists try to avoid one or the other, or even both. Paying attention to details is something classicists could learn from Near Eastern philologists. Near Eastern philology differs from classical philology to an extent that there different textual

²⁴⁶ D. O. Edzard, “Wolfram Freiherr von Soden 19. 6. 1908 – 6. 10. 1996,” *ZA* 87 (1997), p. 167.

²⁴⁷ A. Boeckh, *Enzyklopädie und Methodenlehre der philologischen Wissenschaften*, Leipzig ²1886, p. 11: “so ist die Philologie [. . .] Erkenntnis des Erkannten.” And p. 10: “Hiernach scheint die eigentliche Aufgabe der Philologie das Erkennen des vom menschlichen Geist Producierten, d.h. des Erkannten zu sein.”

tradition, no author and that there are many bilingual texts.²⁴⁸ In reverse, Near Eastern philology could learn from classical philology how to edit texts that are based on different variants.²⁴⁹

What sounds well in theory does not necessarily apply for its praxis of cuneiform studies and philology. Despite the fact that most Near Eastern scholars abide by the simple form of relentless philology, it has not necessarily lead to overwhelming results that can be perceived by scholars outside the field. Often, relevant texts, especially those that are of interest for a broader public in the humanities, do not exist in a properly edited form. Some major literary texts have never been edited, others such a long time ago that they are completely useless, as conventions of transliteration, understanding of words, and the texts themselves have changed over the time due to new findings. That's the self-flattering version of assyriologists. But there is another story. Scholars, who have promised editions of major literary texts decades ago, simply do not get the job done. This wouldn't be worth mentioning, if it weren't for the fact that it concerns the text of *Enuma Elish*.

In short, from the view point of a Classicist, the field of Assyriology is still in a pre-Wilamowitzian state. For a Classicist it is not the most graceful invitation to work in the field of Near Eastern studies, unless one is prepared to edit the texts one is dealing with. It is as if scholars in the humanities could not use the Oxford edition in order to write an article on Homer. Instead, they had to go to the Vatican first and establish the text by comparing manuscripts.

²⁴⁸ W. G. Lambert, "Ancestors, Authors and Canonicity," *JCS* 11 (1957), pp. 1-14; J. Rochberg-Halton, "Canonicity in Cuneiform Texts," *JCS* 36 (1984), pp. 127-44; S. Dalley, "Authorship, Variation and Canonicity in Gilgamesh and other Ancient Texts," *Interaction* 2 (1999), pp. 31-47; M. Foucault, "Qu'est-ce qu'un auteur?" *Bulletin de la Société Française de Philosophie* 63 (1969), pp. 73-104.

²⁴⁹ M. L. West, *Textual Criticism and Editorial Technique applicable to Greek and Latin Texts*, Stuttgart 1973.

With the concept of constellation or configuration, we have found a link between the philologist, the thinking classicist, the researching philosopher, and the comparatist. Against the backdrop of various concepts of déchiffrement, configuration, and constellation, the foundation has been established in order to return to philology and textual criticism, i.e. to the text of Hesiod's *Theogony*. Based on the proem of the *Theogony*, where Hesiod introduced important concepts such as truth, history, and origin, I give a close reading of the cosmogonical passage and the hymn to Styx.

Hesiod's configuration of truth, history, and origin forms a constellation according to which the text has to be read. The methodological key that Hesiod demands from his reader, may it be a philologist, an anthropologist, a comparatist, a literary critic, or a philosopher, can be called a logic of constellations or a logic of configurations: arrangements of historical developments from the beginning that he considered to be true. In that way, Hesiod attempts to understand history by analyzing its sediment. The correct configuration of concepts used by Hesiod provides the reader with the key to decipher his text and to understand Hesiod's theory of sedimented history, i.e. the transformation of subjective thoughts into an objective constellation due to language. In developing this kind of abstract and sophisticated methodology Hesiod less resembles the literary tradition from Homer onwards, but the philosophical tradition towards Parmenides, Plato, and Aristotle. Yet, Hesiod's conception of the beginning differs from these philosophers.

In the proem to the *Theogony*, Hesiod mentioned at least two different ways of how the beginning can be conceived or may be conceived by other rhapsodes. Through a variation of themes of different cosmogonies, he first intends to sing of those who were

brought forth by Earth (*Γαῖα*) and Heaven (*Οὐρανός*),²⁵⁰ then of those who were brought forth by Earth (*Γαῖα*), Heaven (*Οὐρανός*), Night (*Νύξ*), and Sea (*Πόντος*).²⁵¹ In concluding the proem, Hesiod asks, ὅτι πρῶτον γένητ' αὐτῶν,²⁵² what was first, or even what was the first of those who came into being? Within the philosophical tradition ever since Aristotle, this question has been understood as the question concerning the first entity that is, the question concerning the primordial being, the question concerning the very beginning, the question regarding the *one* origin, from which everything else derives: τὸ δ' ἐξ οὗ γίγνεται, τοῦτ' ἐστὶν ἀρχὴ πάντων.²⁵³ In the immediately following cosmogonical passage, however, Hesiod answers this question differently.

²⁵⁰ Hesiod, *Theogony*, v. 45.

²⁵¹ Hesiod, *Theogony*, vv. 106-7.

²⁵² Hesiod, *Theogony*, v. 115.

²⁵³ Aristotle, *Metaphysics* 983^b24-25.

Part III: Chaos and Oath in Hesiod's *Theogony*

Chapter 4

Chaos and the Constellation of the Beginning

1. The Cosmogonical Passage (Hesiod, *Theogony*, vv. 116-132)

The so called cosmogonical passage in Hesiod's *Theogony* (vv. 116-132) can be divided into two parts. The first part (vv. 116-122) gives an account of the first entities that came into being, the second part (vv. 123-132) gives an account of the progeny of those first entities.¹ Hesiod answers the question concerning the origin as follows:

116 ἦτοι μὲν πρῶτιστα Χάος γένητ'· αὐτὰρ ἔπειτα
117 Γαῖ' εὐρύστερνος, πάντων ἕδος ἀσφαλὲς αἰεὶ

¹ H. Fränkel, "Drei Interpretationen aus Hesiod," *Festschrift für Richard Reitzenstein*, Leipzig/Berlin 1931, p. 1-22 (reprinted in: H. Fränkel, *Wege und Formen frühgriechischen Denkens*, München ²1960, p. 316-34; P. Philippon, "Genealogie als mythische Form: Studien zur Theogonie Hesiods," *Symb. Osl. Fasc. Suppl.* VII (1936), pp. 1-37; O. Gigon, *Der Ursprung der griechischen Philosophie*, Basel 1945; F. M. Cornford, "A Ritual Basis for Hesiod's Theogony (1941)," in F. M. Cornford, *The Unwritten Philosophy and other Essays*, Cambridge 1950, pp. 95-116; Fr. Solmsen, "Chaos and 'Apeiron'," *Studi italiani di filologia classica* XXIV (1950), pp. 235-48; F. M. Cornford, *Principium Sapientiae: The Origins of Greek Philosophical Thought*, Cambridge 1952; U. Hölscher, "Anaximander und die Anfänge der Philosophie," *Hermes* 81 (1953), pp. 257-77 and pp. 385-418; M. C. Stokes, "Hesiodic and Milesian Cosmogonies I," *Phronesis* 7 (1962), pp. 1-37; M. C. Stokes, "Hesiodic and Milesian Cosmogonies II," *Phronesis* 8 (1963), pp. 1-34; W. Karl, *Chaos und Tartaros in Hesiods Theogonie*, Erlangen-Nürnberg 1967. J. Bussanich, "A Theoretical Interpretation of Hesiod's Chaos," *CPh* 78 (1983), pp. 212-19; M. H. Miller, "The Implicit Logic of Hesiod's Cosmogony: An Examination of Theogony 116-133," *Independent Journal of Philosophy* 4 (1983), pp. 131-42; R. Mondi, "Χάος and the Hesiodic Cosmogony," *HarvStudPhil* 92 (1989), pp. 1-41; E. Ortland et al., "Genealogie als konstellatorische Form in Hesiods »Theogonie«," *Festschrift für Michael Theunissen*, Hildesheim 1992, pp. 15-28.

118 ἀθανάτων οἳ ἔχουσι κάρη νιφόεντος Ὀλύμπου,
 119 Τάρταρά τ' ἡερόεντα μυχῶ χθονὸς εὐρυοδείης,
 120 ἣδ' Ἔρος, ὃς κάλλιστος ἐν ἀθανάτοισι θεοῖσι,
 121 λυσιμελής, πάντων τε θεῶν πάντων τ' ἀνθρώπων
 122 δάμναται ἐν στήθεσσι νόον καὶ ἐπίφρονα βουλὴν.²

116 "First came the Chasm; and then
 117 broad-breasted Earth, the seat for ever of all the
 118 immortals who occupy the peak of snowy Olympus;
 119 the misty Tartara in a remote recess of broad-pathed earth;
 120 and Eros the most handsome among the immortal gods,
 121 dissolver of flesh, who overcomes the reason and purpose
 122 in the breasts of all gods and all men."³

The first sentence of the cosmogonical passage in Hesiod's *Theogony* reveals that the world does not begin with the *one origin* which already entails the entire world and from which everything else can be derived. Chaos is first, but it does not bring forth Earth or Eros. Thus, according to Hesiod, the world begins with a constellation of different origins.

As M. L. West indicates in his translation, there seems to be a constellation of four different powers that came into existence in the very beginning: First, Chaos came into being (πρώτιστα Χάος γένετο), thereafter Earth (ἔπειτα Γαῖα), the misty Tartara (Τάρταρά τ' ἡερόεντα), and finally Eros (ἣδ' Ἔρος).⁴

There is, however, an alternative reading that does not include τὰ Τάρταρα as a primordial power within the constellation of the beginning. According to this position, one

² Hesiod, *Theogony*, vv. 116-122.

³ I have given the translation by M. L. West, *Hesiod: Theogony and Works and Days*, Oxford 1988, for several reasons: beside the fact that it is simply the best, it is also in accordance with his edition of the text and his commentary: M. L. West, *Hesiod: Theogony*, Oxford 1966. The translation points out a seemingly minor details that I would like to reconsider and clarify a little further: the colon after Olympus in line 118. At the end of this chapter I suggest a slightly different translation based on my understanding of the text.

⁴ "It is better to follow the interpretation of Plutarch 347C, Cornutus, Pausanias, and Damascius and make Tartarus a separate primeval element as in Musaeus B14 and Ar. Av. 693." M. L. West, *Hesiod: Theogony*, p. 195.

would read the text as follows: First, Chaos came into being (*πρώτιστα Χάος γένητο*), thereafter Earth (*ἔπειτα Γαῖα*), and then Eros (*ἦδ' Ἔρως*).⁵

Apart from the enumeration of their coming into existence, there is not much else that can be said about these primordial powers and their relation to each other. In terms of grammatical gender Chaos is neuter, Gaia feminine, Eros masculine, and Tartara, the primordial power in question, would be neuter. Neither of these primordial powers brings forth any of the others. Thus, these three or four different primordial powers of the beginning have to be considered as three or four different origins that are separate and independent of each other. None of them can be reduced to one of the others.

Unlike Gaia and Eros, who are characterized by an epithet and a short description of their essence, Chaos is simply introduced as *ἦτοι μὲν πρώτιστα*, as truly first, or, according to Aristotle, as the first of all things: *Ἡσιόδος δὲ πάντων μὲν πρώτιστα χάος γένητ'*, Hesiod said that of all things Chaos came into existence as the first.⁶ Unlike Eros, who does not have any offspring, but like Gaia, who brings forth several children, Chaos unfolds into progeny.

Gaia, the second primordial power, is neither brought forth by Chaos or by Eros.⁷ She is “the first distinct body”, as Cornford said.⁸ In her material quality Gaia is

⁵ Plato, *Symposion* 178b4-7; Aristotle, *Metaphysics* 984^b26-29; Diaconus, in: *Poetae Minores Graeci*, ed. T. Gaisford, Leipzig 1814 (²1823), vol. III; Lamb. Barlaeus, in: *Hesiodus*, ed. C. Schrevelius, Amsterdam 1650 (²1657); G. F. Schoemann, *Opuscula Academica*, Berolini 1857, vol. II *Mythologica et Hesioidea*, p. 66 fn 7 and p. 442; G. F. Schoemann, *Die hesiodische Theogonie ausgelegt und beurtheilt*, Berlin 1868, p. 87; L. Preller and C. Robert, *Griechische Mythologie*, Berlin ⁴1894-1921, vol. I, p. 39 fn 2; R. Peppmüller, *Hesiodos*, Halle 1896, p. 105; O. Waser, “Tartaros,” in: W. H. Roscher, *Ausführliches Lexikon der griechischen und römischen Mythologie*, Leipzig 1886- 1937, vol. V (1916-24), p. 125; P. Philippson, “Genealogie als mythische Form,” p. 8, fn 1.

⁶ Aristotle, *Metaphysics* 984^b24-25.

⁷ “Die Erde ist ausdrücklich das zweite, aber nicht aus dem ersten entstanden. So ist sie faktisch gleich ursprünglich.” O. Gigon, *Ursprung der griechischen Philosophie*, p. 31; “[Hesiod] does not say that Earth was born of Chaos, but that Earth came into being ‘thereafter’.” F. M. Cornford, *Principium sapientiae*, p. 195.

⁸ F. M. Cornford, *Principium sapientiae*, p. 195.

characterized by an epithet as broad-breasted (εὐρύστερνος) and as broad-pathed earth (χθών εὐρυόδεια). As χθών εὐρυόδεια and εὐρύστερνος, Gaia is determined in her spatial-material extension. From both characterizations one can infer that Earth will be the πάντων ἔδος ἀσφαλὲς αἰεὶ ἀθανάτων, the always unshakable or secure seat of all the immortal gods. She will be the spatial-material basis for the social community of the θεῶν γένος αἰδοῖον, the sublime family of the gods.⁹ Although Gaia represents the secure basis for the future generation of Olympian gods as well as the origin for them, she is not the unconditional beginning or the beginning proper. Without being subordinated or subsidiarized to Chaos by birth, Gaia is made subsequent and therefore post-ordinated to Chaos in sequence.

Eros is characterized by an epithet as λυσιμελής, as limb-relaxing. As λυσιμελής Eros tames the mind and thoughtful counsel (δάμναται ἐν στήθεσσι νόον καὶ ἐπίφρονα βουλήν) of all gods and all humans (πάντων τε θεῶν πάντων τ' ἀνθρώπων). Due to his limb-relaxing and taming abilities, Eros is considered the most beautiful among the immortal gods (ὅς κάλλιστος ἐν ἀθανάτοισι θεοῖσι). As the only primordial power within the constellation of the beginning, Eros is described as a god. Unlike Chaos and Gaia, who unfold into progeny, Eros does not bring forth any offspring. And except for a short passage later in the text,¹⁰ Eros is not further mentioned throughout the entire *Theogony*.

Concerning the Τάρταρα ἠερόεντα, the misty or murky Tartara, Hesiod simply says that they are in μυχρῷ χθονὸς εὐρυοδείης, in the innermost of broad-pathed earth or in not yet further specified depths of earth. In grammatical terms Τάρταρα is a nominative or accusative neuter plural. Its form may be regarded as a heterogene plural of Τάρταρος.¹¹ The

⁹ Hesiod, *Theogony*, v. 44.

¹⁰ Hesiod, *Theogony*, vv. 201-2.

¹¹ LSJ, "Τάρταρος," p. 1759.

word *Τάρταρος* itself, however, is an unexplained word, maybe a loanword.¹² It is commonly understood and translated as the netherworld.¹³ For the neuter plural *τὰ Τάρταρα*, the dictionaries do not offer a translation.¹⁴ Taken as a nominative plural *Τάρταρα ἡερόεντα* would belong to the enumeration of primordial powers, taken as an accusative plural *Τάρταρα ἡερόεντα* would be a part of earth in the same way as the top of Mount Olympus (*κάρη νιφόεντος Ὀλύμπου*).

The constellation of the beginning raises the following questions: How many primordial powers does Hesiod include in the constellation of the beginning? Three or four? Chaos, Gaia, and Eros? Or, Chaos, Gaia, Tartara, and Eros? What is their function within the constellation of the beginning? Or, to what extent does the constellation of the beginning define the function of these primordial powers?

I would like to answer these questions in several steps. First of all, I would like to pose the problem of the text to be read and how this text could be understood. Then, I would like to make some remarks about the morphology and etymology of Tartarus and try to determine the notion *τὰ Τάρταρα* in its relation to Tartarus. A brief discussion of the cosmographical passage provides all the necessary information as to whether or not *τὰ Τάρταρα* stands for Tartarus and whether or not it signifies a primordial power.¹⁵ Since in a constellation each element is defined in relation to other elements, the constellation of the beginning should determine the function of each primordial power. Therefore, it will be necessary to investigate the structure of the first sentence in terms of its connecting

¹² P. Chantraine, *Dictionnaire étymologique*, 3 vols., Paris 1968-80, vol. III, p. 1095: "Inexpliquée. Probablement emprunt oriental."

¹³ H. Frisk, *Griechisches Etymologisches Wörterbuch*, 3 vols., Heidelberg 1960, vol. II, p. 858.

¹⁴ LSJ, "*Τάρταρος*," p. 1759.

¹⁵ Hesiod, *Theogony*, vv. 720-819. In scholarly literature, the cosmographical passage is often conceived as a description of Tartaros and referred to as *descriptio tartari*. In the following, I argue that the cosmographical passage is not a description of Tartarus, although it entails it, but a description of Chaos. Thus, its proper designation would be *descriptio chaeos*.

particles. Once the structure of connecting particles is understood, I attempt to read the constellation of primeval elements.

The problem of how many primordial powers are to be accepted for the constellation of the beginning, partially arises from the transmission of v. 118 and v. 119.¹⁶ They are not mentioned in the earliest sources by Plato and Aristotle. Plato cites Hesiod in the following manner: Ἀλλ' Ἡσίοδος πρῶτον μὲν Χάος φησὶ γενέσθαι, αὐτὰρ ἔπειτα Γαῖ'εὐρύτερον, πάντων ἔδος ἀσφαλὲς αἰεὶ, ἥδ' Ἔρος.¹⁷ Aristotle cites Hesiod in a slightly different way than Plato: Ἡσίοδος δὲ 'πάντων μὲν πρώτιστα χάος γένηται', αὐτὰρ ἔπειτα γαῖ'εὐρύτερον, ἥδ' ἔρος ὃς πάντεσσι μεταπρέπει ἀθανάτοισιν.¹⁸ Since neither Plato nor Aristotle cite the verses 118 and 119, ἀθανάτων οἳ ἔχουσι κάρη νιφόεντος Ὀλύμπου Τάρταρά τ' ἡερόεντα μυχῶ χθονὸς εὐρυοδείης, both lines were often challenged and emended, despite the fact that they have been transmitted in all important manuscripts. However, neither Plato nor Aristotle were editors of the Hesiod. They both used the skeleton of the syntax, in order to make a point. And the point is, as Plato points out, that, next to Chaos, Hesiod accepts two other origins: φησὶ δὴ μετὰ τὸ Χάος δύο τούτω γενέσθαι, Γῆν τε καὶ Ἔρωτα.¹⁹ Against this backdrop, it is evident that Hesiod accepts three origins: Chaos, Gaia, and Eros. Nevertheless, some scholars have furnished the amazing idea of four origins by evaluating the manuscript tradition over the history of ideas, instead of attempting to reconcile the two.

In the following, I take up the position adopted by M. L. West, who argues that both lines belong to the Hesiodic text. Then, Τάρταρα ἡερόεντα can be taken as nominative plural as well as accusative plural. Those who reject v. 118 and accept v. 119 have to understand

¹⁶ M. L. West, *Hesiod: Theogony*, ad loc.; see also: R. Prier, "On Theogony 118 and 119," *CPh* 72 (1972), pp. 54-55.

¹⁷ Plato, *Symposion* 178b4-7.

¹⁸ Aristotle, *Metaphysics* 984^b26-29.

¹⁹ Plato, *Symposion* 178b8.

Τάρταρα ἡερόεντα as a nominative plural. In this case the particle *τε* in *Τάρταρά τ' ἡερόεντα* has to be taken as a conjunction between *Γαῖα* and *Τάρταρα*. The syntactical structure of the first few lines had to be translated as follows: First, Chaos came into being (*πρώτιστα Χάος γένετο*), thereafter Earth (*ἔπειτα Γαῖα*) and the murky Tartara (*Τάρταρά τ' ἡερόεντα*), and then Eros (*ἦδ' Ἔρος*). In this case *Τάρταρα ἡερόεντα* would be part of the enumeration of primordial powers and would belong to its constellation.

If one accepts that both v. 118 and v. 119 belong to the Hesiodic text, then one has the choice to take *Τάρταρα ἡερόεντα* either as a nominative or as an accusative plural. As a nominative plural, the phrase *Τάρταρά τ' ἡερόεντα* has to be an integral part of the enumeration of primordial powers. Again, the syntactical structure had to be understood as follows: First, Chaos came into being (*πρώτιστα Χάος γένετο*), thereafter Earth (*ἔπειτα Γαῖα*) and the murky Tartara (*Τάρταρά τ' ἡερόεντα*), and then Eros (*ἦδ' Ἔρος*). To take *Τάρταρα ἡερόεντα* as a nominative plural is attractive for those who like to accept a structuralistic interpretation of two opposing couples or a constellation of two couples.²⁰ Some scholars argue that the subordination or inferiority of Tartaros to Earth “is overridden by the pairing force of *τ'* in 119, which conjoins Earth and Tartaros as being on a par”.²¹ The pairing force of *τε*, however, does not necessarily connect words over clauses and sentences. Generally speaking, the particle *τε* connects words, phrases, clauses, and sentences.²² The phenomenon of the pairing force of *τε* connecting words over clauses or sentences has yet to be proven. Denniston, the expert on Greek particles, correctly points out the following: “An examination of the uses of *τε* shows that [...] its commonest significance is

²⁰ M. H. Miller, “The Implicit Logic of Hesiod’s Cosmogony,” p. 135 fn 21; E. Ortland et al., “Genealogie als konstellatorische Form in Hesiod »Theogonie«,” p. 16f.

²¹ M. H. Miller, “The Implicit Logic of Hesiod’s Cosmogony,” p. 131 fn 1; E. Ortland et al., “Genealogie als konstellatorische Form in Hesiod »Theogonie«,” p. 16.

²² J. D. Denniston, *Greek Particles*, Oxford 1934, p. 495ff.

combination or addition, and that it denotes, on the whole, a closer connection than *καί*.²³ Thus, it is difficult to base the entire argument on the pairing force of *τε* which connects words or phrases over clauses and sentences. It is also difficult to maintain the view that the syntactical structure represents an enumeration of four primordial powers, and thus a fourfold beginning, i.e. a constellation of four elements in the beginning. Therefore, one should consider arguments against the claim of a fourfold beginning.

Alternatively, one could understand *Τάρταρα ἡερόεντα* as an accusative plural that depends on *ἀθανάτων οἱ ἔχουσι* in the same way as *κάρη νιφόεντος Ὀλύμπου*.²⁴ *Τάρταρα ἡερόεντα* as the direct object of *ἔχουσι* would then be coordinated with *κάρη νιφόεντος Ὀλύμπου*.²⁵ In taking the particle *τε* as a conjunction between the *κάρη νιφόεντος Ὀλύμπου* and *Τάρταρα ἡερόεντα*, these lines have to be understood as follows: First, Chaos came into existence, then Earth, the always secure seat (*ἔδος ἀσφαλὲς αἰεὶ*) of all immortals (*πάντων ἀθανάτων*) who occupy (*οἱ ἔχουσι*) both the head of snowcapped Olympus (*κάρη νιφόεντος Ὀλύμπου*) and the murky Tartara (*Τάρταρα ἡερόεντα*) in the innermost heart of broad-pathed earth (*μυχῷ χθονὸς εὐρυοδείης*). In describing Gaia's coming into existence as second primordial power, Hesiod also gives a brief account of how the earth will be structured in the future. The immortal gods will live and dwell on the top of Olympus and in the murky Tartara. With Earth's coming into being, the dwelling places are provided for all the gods, both for the Olympians and the Titans. Mount Olympus will be the dwelling place for the future generation of Olympian gods and the *Τάρταρα ἡερόεντα* the dwelling places for the

²³ J. D. Denniston, *Greek Particles*, p. 496.

²⁴ P. Philippson, "Genealogie als mythische Form," p. 12: "...wobei Tartara als Akkusativ zu echousi zu ziehen ist. Tartaros ist kein selbständiger Ursprung wie Chaos, Gaia, and Eros, sondern gehört hier zu Gaia, ist als Teil von ihr mit ihrem Werden verbunden."

²⁵ M. C. Stokes, "Hesiodic and Milesian Cosmogonies – II," *Phronesis* 8 (1963), p. 2.

future generation of the Titans. Thus, τὰ Τάρταρα would simply represent some dwelling places deep inside Earth, but not Tartarus as a primordial power.

There are more arguments against those who take τὰ Τάρταρα as a primordial power. Unlike the other three primordial powers, Chaos, Gaia, and Eros, who appear in the singular form, τὰ Τάρταρα would be the only origin mentioned in the plural form. Unlike the other primordial powers, which were not generated in another medium but *per se*, τὰ Τάρταρα are generated in earth (χθών), i.e. they have come into existence in and with Earth. The fact that Τάρταρα ἡερόεντα came into existence with Earth expresses their lesser status as an independent origin. Thus, it is difficult to consider Τάρταρα ἡερόεντα as a primordial power within the constellation of the beginning, and therefore, less plausible to take Τάρταρα ἡερόεντα as a nominative plural.

The fact that Hesiod, in using τὰ Τάρταρα, may have referred to Tartarus as a primordial power does not seem to be the most intuitive, as West indicates in his commentary:

“Tartarus comes in oddly at this point, since it is really on the other side of Chaos from Earth. At the same time, since Earth has no lower limit that can be seen or definitely imagined, both Chaos and Tartarus could be considered as something not separate from Earth, but deep inside it and part of it. Cf. 841 τάρταρα γαίης. It is possible that Hesiod originally began with the trio Chaos, Earth, Eros, and inserted Tartarus later, when he came to the Titanomachy and realized that an important part of the universe had been omitted from the cosmogony.”²⁶

West’s observation concerning the location of Chaos and Tartarus is certainly correct as far as the cosmographical passage is concerned.²⁷ Within the cosmographical passage, both Chaos and Tartarus have to be regarded as a part of Earth. Within cosmogonical passage or

²⁶ M. L. West, *Hesiod: Theogony*, p. 194.

²⁷ Hesiod, *Theogony*, vv. 720-819.

the constellation of the beginning,²⁸ however, only Tartarus – if indeed τὰ Τάρταρα were to designate Tartarus – can be considered as a part of Earth, whereas Chaos has to be conceived as an entity distinct from Earth, since it is simply said that Chaos was the first to come into existence (πρώτιστα Χάος γένετο) and that the murky Tartara (Τάρταρά τ' ἡερόεντα) are in the innermost heart of broad-pathed earth (μυχῷ χθονὸς εὐρυοδείης).

As a more developed stage of the world the cosmographical passage presents a constellation that differs from the constellation of the beginning, i.e. from the cosmogonical passage.²⁹ Therefore, one has to be careful in applying the structure of the later passage to the earlier one, since the seeming contradiction of the two accounts is not necessarily due to Hesiod's immaturity, but may be due to his understanding of the world's development. Despite the fact that the cosmographical passage represents the result of Zeus's established order, it has to serve as a necessary backdrop in order to determine the elements of the beginning of the world. Thus, the *terminus ad quem* may help to explain the *terminus a quo*.

In what follows, I take the cosmographical passage as a 'grinning cat' and the cosmogonical passage as the 'cat's grin.' It is the grin that I try to understand through the grinning cat. Once the cat's grin has been determined a little further, the development of this grin into the grinning cat may also be understood better. This development, the process from the abstract grin to the concrete grinning cat, designates the future aspects of things (τὰ ἐσσόμενα), to which Hesiod has referred to in the proem.³⁰

²⁸ Hesiod, *Theogony*, vv. 116-132.

²⁹ Fr. Solmsen, *Hesiod and Aeschylus*, Ithaca 1949, p. 62: "Complete correspondence between the two accounts, the genealogical and the cosmological, can not be asserted."

³⁰ Hesiod, *Theogony*, v. 32 and v. 38.

2. The Cosmographical Passage (Hesiod, *Theogony*, vv. 720-819): The *descriptio chaeos*

In the cosmographical passage, Hesiod characterizes Tartarus as being in utmost distance to Gaia and separated by Chaos:

720 τόσσον ἔνερθ' ὑπὸ γῆς ὅσον οὐρανός ἐστ' ἀπὸ γαίης.
721 τόσσον γάρ τ' ἀπὸ γῆς ἐς τάρταρον ἠερόεντα.
722 ἐννέα γὰρ νύκτας τε καὶ ἡμέατα χάλκεος ἄκμων
723 οὐρανόθεν κατιών, δεκάτῃ κ' ἐς γαῖαν ἵκοιτο.
724 ἐννέα δ' αὖ νύκτας τε καὶ ἡμέατα χάλκεος ἄκμων
725 ἐκ γαίης κατιών, δεκάτῃ κ' ἐς τάρταρον ἵκοι.
726 τὸν πέρι χάλκεον ἔρκος ἐληλαται· ἀμφὶ δέ μιν νύξ
727 τριστοιχὶ κέχυται περὶ δειρήν· αὐτὰρ ὕπερθε
728 γῆς ῥίζαι πεφύασι καὶ ἀτρυγέτοιο θαλάσσης.³¹

720 As far below under the earth as heaven is distant from earth:
721 so far is it from earth to the murky Tartarus.
722 A bronze anvil falling from heaven for nine nights and
723 days would reach the earth on the tenth.
724 And a bronze anvil falling from earth for nine nights and
725 days would reach the Tartarus on the tenth.
726 Around it there is drawn a bronze fence. And from both sides the night
727 is poured out threefold around its neck. But above it
728 there grow the roots of earth and unfruitful sea.

In the first few lines of the cosmographical passage, Hesiod places Tartarus in utmost distance to Earth. Tartarus is as far beneath Earth as Heaven is above Earth. Unlike the cosmogonical passage, which presents τὰ Τάρταρα as unspecified places in an unspecified depths of earth, the cosmographical passage locates Tartarus as a distinctive dwelling place of the Titans in specified depth of earth: ἐννέα δ' αὖ νύκτας τε καὶ ἡμέατα χάλκεος ἄκμων ἐκ γαίης κατιών, δεκάτῃ κ' ἐς τάρταρον ἵκοι, a bronze anvil falling from earth for nine nights and days would reach the Tartarus on the tenth.

³¹ Hesiod, *Theogony*, vv. 720-728.

Around the Tartarus, a bronze fence is drawn (*χάλκεον ἔρκος*) and around its neck (*περὶ δειρήν*), i.e. at the entrance of Tartarus,³² the night (*νύξ*) is poured out threefold or in three layers (*τριστοιχὶ κέχυται*). Above the neck (*δειρή*), above the entrance to Tartarus, there grow (*πεφύασι*) the roots (*ρίζαι*) of earth and sea (*γῆς καὶ θαλάσσης*). Beneath this neck, the Titans have to dwell:

729 ἔνθα θεοὶ Τιτῆνες ὑπὸ ζόφῳ ἡρόεντι
 730 κεκρύφαται βουλῇσι Διὸς νεφεληγερέταο,
 731 χώρῳ ἐν εὐρώεντι, πελώρης ἔσχατα γαίης.
 732 τοῖς οὐκ ἐξιτόν ἐστι, θύρας δ' ἐπέθηκε Ποσειδέων
 733 χαλκείας, τεῖχος δ' ἐπελήλαται ἀμφοτέρωθεν.³³

729 There the Titanic gods are concealed under gloomy darkness
 730 According to the counsel of cloud-gathering Zeus,
 731 (there) in a mouldy place, in the utmost of gigantic earth.
 732 For them there is no exit, since Poseidon has placed bronze
 733 Doors before it, and a wall is drawn all around it on both sides.

Under gloomy or murky darkness (*ὑπὸ ζόφῳ ἡρόεντι*), i.e. beneath the entrance to Tartarus where the night (*νύξ*) is poured out in three layers, there (*ἐνθα*), in the utmost region of earth (*ἔσχατα γαίης*), the Titans (*θεοὶ Τιτῆνες*) have to dwell according to Zeus's counsel (*βουλῇσι Διὸς*). The phrase *ἔσχατα γαίης* is taken up by *τάρταρα γαίης* (v. 841), which recalls *Τάρταρά τ' ἡρόεντα μυχῶ χθονὸς εὐρυοδείης* (v. 119). The first two phrases place τὰ Τάρταρα or Tartarus in innermost depths of earth as well as the at the limits of earth. For the Titans, there is no possible way out (*τοῖς οὐκ ἐξιτόν ἐστι*), since Poseidon has placed bronze doors (*θύρας χαλκείας*) before the exit. In addition, a wall is drawn around it from both sides of this exit (*τεῖχος δ' ἐπελήλαται ἀμφοτέρωθεν*):

³² M. L. West, *Hesiod: Theogony*, p. 360 ad loc.: “*δειρήν*: presumably the “neck” formed by the top of the enclosing wall. The word implies a relatively narrow entrance, as of a jar. Perhaps once it was understood more literally, of a yawning throat, like *χάος* (116 n.) and *χάσμα* (740).”

³³ Hesiod, *Theogony*, vv. 720-728.

736 ἔνθα δὲ γῆς δνοφερῆς καὶ ταρτάρου ἡερόεντος
 737 πόντου τ' ἀτρυγέτοιο καὶ οὐρανοῦ ἀστερόεντος
 738 ἐξείης πάντων πηγαὶ καὶ πείρατ' ἔασιν,
 739 ἀργαλέ' εὐρώεντα, τὰ τε στυγέουσι θεοὶ περ·
 740 χάσμα μέγ', οὐδὲ κε πάντα τελεσφόρον εἰς ἐνιαυτὸν
 741 οὔδας ἴκοιτ', εἰ πρῶτα πυλέων ἔντοσθε γένοιτο,
 742 ἀλλὰ κεν ἔνθα καὶ ἔνθα φέροι πρὸ δύελλα δύελλης
 743 ἀργαλήη· δεινὸν δὲ καὶ ἀθανάτοισι θεοῖσι.
 744 τοῦτο τέρας.³⁴

736 and there are the limits of dark earth and murky Tartarus
 737 and unfruitful sea and starry heaven
 738 as well as their founts all in order,
 739 the painful mouldy ones, that even the gods hate,
 740 the huge yawn, where one would not come to the ground
 741 for a whole year, if one had passed the gate once,
 742 rather painful storm upon storm would carry one from one place
 743 to another. It is terrible even for immortal gods
 744 that horror.

At the neck (δειρή) of Tartarus, i.e. at the entrance to Tartarus and at the exit from Tartarus, there is the χάσμα μέγα, the huge gap or huge abyss. To put it more strongly: δειρή, the neck of Tartarus, is the χάσμα μέγα, the yawning gap, the yawning abyss, or yawning throat.³⁵ And there (ἔνθα) are not only the ῥίζαι, the roots of earth and sea (v. 728), but also the πηγαὶ καὶ πείρατα, the founts and limits of Earth, Tartarus, Sea and Heaven. Thus, the χάσμα μέγα, the yawning gap or yawning abyss, denotes the πηγαὶ καὶ πείρατα, the founts and limits of Earth, Tartarus, Sea and Heaven. In other terms, the χάσμα μέγα is the focal point out of which Earth, Tartarus, Sea, and Heaven have grown forth from their roots (ῥίζαι) or eternally pour forth from their founts (πηγαί). Thus, the cosmographical passage establishes the χάσμα μέγα as the origin of Earth (Γαῖα), Tartarus (Τάρταρος), Sea (Θάλασσα), and Heaven (Οὐρανός). At the same time the χάσμα μέγα is the focal point, into which Earth, Tartarus, Sea, and Heaven have grown and where they have reached their limits (πείρατα).

³⁴ Hesiod, *Theogony*, vv. 736-744.

³⁵ M. L. West, *Hesiod: Theogony*, p. 192f. ad loc.

Thus, the cosmographical passage, which is commonly regarded as the *descriptio tartari*, is rather a *descriptio chaeos*.

Having passed the gates through the *χάσμα μέγα*, one would be carried away by painful storms from one place to another and would not come to the ground for a whole year (οὐδέ κε πάντα τελεσφόρον εἰς ἐνιαυτὸν οὐδας ἵκοιτο). The horror of the *χάσμα μέγα* is so terrible that even the gods shudder at it or hate it (στυγέουσι θεοί). The verb *στυγεῖν* alludes to the river goddess Styx. Her water indicates whether or not somebody has committed perjury. If someone is convicted of perjury by the water of Styx, he falls into a coma for year and is excluded from the Olympian community for nine years. Does the perjured god spend those years in Tartarus? The fact that the Oath, the last offspring within the lineage of Chaos, is given to Styx, daughter of Earth's and Heaven's offspring Oceanus, indicates the cosmic division into upper-world and netherworld, into Titans and Olympians, as well as the mediation between these two worlds. But does the fact that Styx received the honor of being the great oath of the gods before the battle against the Titans also indicate a cosmic contract between the two worlds?³⁶

The *χάσμα μέγα*, or more accurately, the passage through the *χάσμα μέγα* into Tartarus, designates a huge threat for all gods. That threat had once become real, when Zeus defeated the Titans and threw them into Tartarus, where they now have to dwell beyond the *δειρή* or beyond the *χάσμα μέγα*:

813 πρόσθεν δὲ θεῶν ἔκτοσθεν ἀπάντων
814 Τιτῆνες ναίουσι, πέρην χάεος ζοφεροῖο.

813 Outside, away from all gods
814 the Titans dwell, beyond the murky Chaos.

³⁶ Hesiod, *Theogony*, vv. 383-403.

Afar from all the gods (*πρόσθεν δὲ θεῶν ἔκτοσθεν πάντων*), thus excluded from the community of the Olympian gods, the Titans dwell *πέραν χάος ζοφεροῖο*, at the border to murky Chaos or beyond Chaos (*Χάος*). Seen from within Tartarus, the Titans dwell at the border to Chaos (*Χάος*), seen from above, the Titans dwell beyond Chaos (*Χάος*), beyond the limit that is regarded as the *χάσμα μέγα* and as a *δειρή*, as a neck and yawning gap or yawning abyss.³⁷

Here in v. 814, Hesiod uses the notion *Χάος* for the second time and it certainly recalls its use in v. 116. Unlike the cosmographical passage, which mentions Chaos without an epithet and characterizes it simply as the first entity that came into existence and defines it in opposition to Gaia and Eros who came into existence thereafter, the cosmographical passage characterizes Chaos as being murky (*ζοφερόν*). From Hesiod's synonymous usage of *δειρή*, *χάσμα μέγα*, and *χάος ζοφερόν*, one can infer that primordial Chaos remains as an entity in the cosmos of Zeus. The primordial status of Chaos, however, seems to have change. But how?

3. The Constellation of the Beginning

Within the cosmographical passage, primordial Chaos (*Χάος*) is yet considered as *δειρή* and as *χάσμα μέγα*, as the yawning gap or yawning abyss, since it encompasses the *ρίζαι*, *πηγαί*, and *πείρατα*, the limits and roots of Earth, Tartarus, Sea, and Heaven. This constellation represents the constellation of Zeus's established world order, which defines the *δειρή*, *χάσμα μέγα* or the *χάος ζοφερόν* as its middle or center. Chaos is thus a great chasm and yawning throat, which encompasses the roots and limits of Earth, Tartarus, Sea, and

³⁷ This connection supports the etymology of Chaos as given in H. Frisk, *Griechisches etymologisches Wörterbuch*, vol.2, p. 1072f.

Heaven. This constellation is different from the constellation of the beginning, different from the constellation that entails Chaos, Gaia, (Tartarus), and Eros. From the cosmographical passage one cannot completely determine the function and essence of Chaos as it is defined by the constellation of the beginning. Since each of these constellations has different elements, each constellation has to be read differently, each constellation determines the elements in a different way and forces the reader to *decipher* it differently.

So far one can say that the constellation of primordial powers given in the cosmographical passage includes Earth, Tartarus, Sea, and Heaven. Their roots and limits can be found in what Hesiod calls *δειρή, χάσμα μέγα*, and *χάος ζοφερόν*. Since Tartarus is an element of the constellation, which defines Chaos as the origin of other primordial powers, *τὰ Τάρταρα* may well be representing Tartarus in the constellation of the beginning. In addition, the close morphological relationship between *Τάρταρος* and *τὰ Τάρταρα* as well as their close textual relation – both terms have the same epithet: *Τάρταρα ἡερόεντα* (119) is taken up by *ταρτάρου ἡερόεντος* (807) and *τάρταρον ἡερόεντα* (721) –, seems to make them identical concepts. Nevertheless, one should also ask for their difference.

What is the difference between *Τάρταρος* as characterized in the cosmographical passage and *τὰ Τάρταρα* in the cosmogonical passage? In the cosmographical passage Tartarus is defined as the prison of the Titans. As the prison of the Titans, Tartarus not only denotes a specified and distinct part of Earth or a specified cosmographical region located deep inside Earth, but also a theogonic power who will join Gaia in love. Their offspring Typhoeus represents a threat to the kingship of Zeus. As soon as Zeus had recognized that danger, he went into battle against Typhoeus. Earth, Heaven, Sea, and the *τάρταρα γαίης* (v. 841) were shattered. The term *τάρταρα γαίης* takes up *Τάρταρα ἡερόεντα μυχῶ χθονός*

εὐρυοδείης (v. 119). Thus, *τάρταρα* both in *Τάρταρα ἡερόεντα* (v. 119) and in *τάρταρα γαίης* (v. 841) could be regarded as a nominalized adjective denoting not further specified places in the innermost part of earth.³⁸ Since the dictionaries do not offer a translation for *τὰ τάρταρα*, one may attempt to offer an appropriate rendering. In v. 119 *τὰ Τάρταρα* are explained or defined as being in *μυχῷ χθονὸς εὐρυοδείης*, as being in the innermost part of earth. If this definition is taken up in v. 841, then the expression *τάρταρα γαίης* may be translated as ‘the innermost part of earth’ or ‘depths of earth.’ Unlike the cosmographical passage, which defines Tartarus in specific depth of earth, the cosmogonical passage does not define *Τάρταρα ἡερόεντα* in such terms. This leads to the conclusion that *Τάρταρα ἡερόεντα* in v. 119 have to be understood as unspecified or not yet specified cosmological places deep inside earth, which may or may not develop into Tartarus. Coming into existence as already being a part of earth, *τὰ Τάρταρα* cannot be regarded as a distinct primordial power and do not belong to the constellation of the beginning. Since they do not belong to the constellation of the beginning, one should edit the term as *τάρταρα ἡερόεντα*.

This leads to further conclusions: Since *τὰ τάρταρα* do not belong to the constellation of primordial powers, the term *τάρταρά τ’ ἡερόεντα* has to be taken as an accusative plural that depends on *ἀθανάτων οἱ ἔχουσι* in the same way as *κάρη νιφόεντος Ὀλύμπου*. The term *τάρταρά τ’ ἡερόεντα* has to be considered the direct object of *ἔχουσι* and, as the particle *τε* indicates, coordinated with *κάρη νιφόεντος Ὀλύμπου*. In taking the particle *τε* as a conjunction between the *κάρη νιφόεντος Ὀλύμπου* and *τάρταρα ἡερόεντα*, these lines have to be understood as follows: First, Chaos came into being, but thereafter Earth, the secure seat of all immortals (*ἀθανάτων*) who have (*οἱ ἔχουσι*) the head of snowcapped

³⁸ M. L. West, *Hesiod: Theogony*, p. 195 ad loc.: “In form the word is an adjective.”

Olympus (κάρη νιφόεντος Ὀλύμπου) and the murky depths (τάρταρά τ' ἡερόεντα) in the innermost part of broad-pathed earth (μυχῷ χθονὸς εὐρουδείης), then Eros.

Thus, the immortal gods will later live and dwell on the top of Olympus and in the murky depths of earth. With Earth's coming into being the space is provided for the future dwelling places of the gods, both the dwelling places of the Olympians and the dwelling places of the Titans. Mount Olympus will be the dwelling place for the future generation of Olympian gods, the τάρταρα ἡερόεντα μυχῷ χθονὸς εὐρουδείης the dwelling places for the future generation of the Titans. As future dwelling places for the Titans, τὰ τάρταρα simply represent a pre-figuration of Tartarus, but not yet Tartarus or even Tartarus as a primordial power. Thus, τὰ τάρταρα, denoting unspecified depths of earth, do not belong to the constellation of primordial powers.

As a pre-figuration of Tartarus, τὰ τάρταρα denote unspecified depths of earth, which later will be structured as described in the cosmographical passage. With the Titans being thrown deep into earth, τὰ τάρταρα become Tartarus. As the prison of the Titans, Tartarus will be in specified depth of earth that can be measured by the time an anvil falls from earth to Tartarus. As unspecified places deep inside earth, τὰ τάρταρα may be considered as places that, once they have turned into Tartarus, will stir up against the Olympian community. Joining Tartarus in love Earth will bring forth Typhoeus,³⁹ the final threat to the reign of Zeus.

As unspecified places deep inside earth that stir up, τὰ τάρταρα may also be regarded as places into which all the subterranean rivers pour and out of which they flow again. Thus, τὰ τάρταρα seem to be places where subterranean waters will be stirred up. Of significance is the water of Styx and its goddess, which is taken for the great oath of the

³⁹ Hesiod, *Theogony*, vv. 820-22.

gods, since Styx was the first to arrive on Mount Olympus when Zeus was looking for allies who would fight with him against the Titans. Styx in her function as the great oath of the gods represents the cosmic division into netherworld and upper world, and at the same time she mediates between them. The Olympian community seems both to swear upon the netherworld and to be sworn upon the netherworld.

Finally, concerning the edition of the Greek text, I like to suggest two minor changes, which seem to be important for the understanding of Hesiod's *Theogony*: first, to drop the colon in l. 118 after Ὀλύμπου, secondly to write *τάρταρα* instead of *Τάρταρα*:

116 ἥτοι μὲν πρῶτιστα Χάος γένητ'· αὐτὰρ ἔπειτα
 117 Γαῖ' εὐρύστερνος, πάντων ἕδος ἀσφαλὲς αἰεὶ
 118 ἀθανάτων οἳ ἔχουσι κάρη νιφόεντος Ὀλύμπου
 119 τάρταρά τ' ἠερόεντα μυχῶ χθονὸς εὐρυοδείης,
 120 ἥδ' Ἔρος, ὃς κάλλιστος ἐν ἀθανάτοισι θεοῖσι,
 121 λυσιμελής, πάντων τε θεῶν πάντων τ' ἀνθρώπων
 122 δάμναται ἐν στήθεσσι νόον καὶ ἐπίφρονα βουλήν.

116 As truly the very first Chaos came into being, but thereafter
 117 broad-bosomed Earth, the always unshakable seat of all
 118 immortals, who inhabit the head of snowcapped Olympus and
 119 the murky depths in the innermost part of broad-pathed earth,
 120 and then Eros, the most beautiful among the immortal gods,
 121 the limb-relaxing, who tames mind and thoughtful counsel
 122 in the breasts of all gods and all humans.

The comparison of the cosmographical passage with the cosmogonical passage, i.e. the difference between the constellation of primordial powers in the beginning and the constellation of those primordial powers in the established reign of Zeus, made it necessary to make two changes of editing the text. Dropping the colon after Ὀλύμπου in v. 118 and editing *τάρταρα* instead of *Τάρταρα* renders the text more appropriately according to its

syntax. The new syntax serves as a basis for a more relevant translation, a translation that actually conveys what has to be thought.⁴⁰

The cosmogonical passage in Hesiod's *Theogony* reveals that in the very beginning there are three different powers that came into existence: first Chaos came into being (πρώτιστα Χάος γένετο), thereafter Earth (ἔπειτα Γαῖα), and then Eros (ἦδ' Ἔρως). These three primordial powers came into existence independently of each other. Chaos is first, but it does not bring forth Earth or Eros. Earth, the second primordial power, is neither brought forth by Chaos nor does she herself bring forth Eros. And Eros is neither brought forth by Chaos nor by Earth. These three different primordial powers of the beginning have to be regarded as three different origins that came into existence independently of each other. Only two of the three primordial powers unfold into progeny: Chaos and Earth. Both Chaos and Earth are the origins of different lineages.

From the *descriptio chaeos* one could not infer the function and essence of Chaos as it is determined by the constellation of the beginning, since each of these constellations has different elements. Due to different elements, different constellations determine one and the same element differently. Since one and the same element is determined differently by different constellation, each constellation has to be read in a different way. Each constellation forces the reader to *decipher* it differently.

In order to understand the three-fold beginning, one has to configure a constellation of those three primordial powers, which are elements of the constellation of the beginning: Chaos, Gaia, and Eros. There seems to be an agreement about the primordial status of Gaia

⁴⁰ On how to translate, see: F. D. E. Schleiermacher, "Über die verschiedenen Methoden des Übersetzens," (1813), *Abhandlungen der philosophischen Klasse der Königlich-Preussischen Akademie der Wissenschaften aus den Jahren 1812-1813*, Berlin 1816, pp. 143-172 (=F. D. E. Schleiermacher, *KGA*, Abteilung I, Bd. 11, pp. 65-93); J. Derrida, "Qu'est-ce qu'une traduction 'relevante'?" *Quinzièmes Assis de la Traduction Littéraire*, Arles 1999, pp. 21-48 (Translated into English as: J. Derrida, "What is a "Relevant" translation?" *Critical Inquiry* 27 (2000-01), pp. 174-200).

and Eros, i.e. an agreement concerning their essence and their function. Gaia is defined as spatial-material entity, thus, as the unshakable or secure seat of the gods, whereas Eros is conceived as being responsible for the extension of her lineage. Concerning the essence and function of primordial Chaos, however, there seems to be a lesser form of agreement. Chaos is conceived as a yawning, as a gap, as yawning gap, as a gapping yawn, as an abyss, as a yawning abyss, as a gapping abyss, as a chasm, or as a nothing. Speaking in vague Aristotelian terms, one could say that Gaia represents the *causa materialis* and Eros the *causa efficiens*.⁴¹ But to determine Chaos, even in vague Aristotelian terms, is more than difficult. For the moment, one should therefore refer to Chaos as the *causa X*. In order to go a step forward in determining the essence or the function of Chaos, I take up an idea by Paula Philippson who claims that the understanding of a primordial power is based on name, epithet, and the determination of its progeny: “Von diesen drei Elementen aus: Name, Beiwort und Wesensbestimmung der Nachkommenschaft, muß das Chaos gedeutet werden.” In applying Paula Philippson’s idea, I will determine the essence of Chaos a little further by reading the *Theogony* partially backwards.

4. The Lineage of Chaos

In a form of self-reproduction or spontaneous generation, Chaos unfolds into the following progeny:

123 ἐκ Χάος δ' Ἐρεβός τε μέλαινά τε Νύξ ἐγένοντο.
 124 Νυκτὸς δ' αὖτ' Αἰθήρ τε καὶ Ἡμέρη ἐξεγένοντο,
 125 οὓς τέκε κυσαμένη Ἐρέβει φιλότῃτι μιγεῖσα.

123 Out of Chaos Darkness and black Night came into existence

⁴¹ Concerning Eros as a primordial power in Hesiod, Aristotle, *Metaphysics* 984^b29-31, remarks: ὥς δέον ἐν τοῖς οὖσιν ὑπάρχειν τιν' αἰτίαν ἣτις κινήσει καὶ συνάξει τὰ πράγματα, as if in being there had to be a cause which moves things and brings them together.

- 124 Out of Night, however, Lightness and Day were born,
 125 to whom she gave birth having conceived them by joining Darkness in love.

Chaos (Χάος) unfolds its – not yet determined – essence into Darkness (Ἐρεβος) and black Night (μέλαινα Νύξ), i.e. into two different forms of darkness, spatial and temporal darkness. Erebus and Night then bring forth Lightness (Αἰθήρ) and Day (Ἡμέρη). Lightness and Day do not bring forth further children. “The duplication of darkness into Erebus (male) and Night (female) and of light into Aether (male) and Day (female) is a transparent allegory,”⁴² as Cornford said by overlooking the fact that, with the coming into existence of Day, the light (φάος) has not been brought forth yet.

If one correlates Darkness (Ἐρεβος) and Lightness (Αἰθήρ) as well as Night (Νύξ) and Day (Ἡμέρη), one may say that Erebus, the material or spatial aspect of darkness, correlates with Aether, the material or spatial aspect of lightness; Night, the temporal aspect of darkness, with Day, the temporal aspect of lightness.⁴³ Night may not be regarded as the absence of day but rather as an entity in itself that brings forth Day (Ἡμέρη): “Die Nacht ist für Hesiod nicht der Nullzustand: Tag minus Tag.”⁴⁴ Before the birth of Day, the Night does not have a relation to Day and therefore cannot be defined by day. Since Night came into existence before Day, one may speak of Night’s primacy over Day.

So far, Chaos can be regarded as a power which, due to its immediate offspring and their offspring, has to be determined either as a spatial-temporal entity or as an entity that

⁴² F. M. Cornford, *Principium sapientiae*, p. 194.

⁴³ M. C. Stokes, “Hesiodic and Milesian Cosmogony – II,” p. 18, conceives Erebus as subterranean darkness and Night as darkness of the upper world.

⁴⁴ H. Fränkel, “Drei Interpretationen aus Hesiod,” p. 3 (1960, p. 317).

enables the creation of space and time. But in order to be able to determine the essence of Chaos further, one has to configure the powers within the lineage of Chaos.⁴⁵

Among these four powers (Nyx, Erebus, Aither, and Day), Night (*Nύξ*) is the most dominant force, as the catalogue of her children indicates as well as the cosmographical passage. The primacy of Night over Day is a feature that will not disappear under the reign of Zeus. The alternation from night to day and day to night, however, makes Night a less predominant power. In the cosmographical passage we read:

744 καὶ Νυκτὸς ἐρεμνῆς οἰκία δεινὰ
745 ἔστηκεν νεφέλης κεκαλυμμένα κυανέῃσι
746 τῶν πρόσθ' Ἰαπετοῖο παῖς ἔχει οὐρανὸν εὐρὺν
747 ἑστηώς κεφαλῇ τε καὶ ἀκαμάτησι χέρεσσιν
748 ἀστεμφέως, ὅθι Νύξ τε καὶ Ἡμέρη ἄσπον ἰοῦσαι
749 ἀλλήλας προσέειπον ἀμειβόμεναι μέγαν οὐδὸν
750 χάλκεον· ἡ μὲν ἔσω καταβήσεται, ἡ δὲ δύραζε
751 ἔρχεται, οὐδέ ποτ' ἀμφοτέρας δόμος ἐντὸς ἔεργει,
752 ἀλλ' αἰεὶ ἐτέρῃ γε δόμων ἔκτοσθεν ἐοῦσα
753 γαῖαν ἐπιστρέφεται, ἡ δ' αὖ δόμου ἐντὸς ἐοῦσα
754 μίμνει τὴν αὐτῆς ὥρην ὁδοῦ, ἔστ' ἂν ἵκεται·
755 ἡ μὲν ἐπιχθονίοισι φάος πολυδερκὲς ἔχουσα,
756 ἡ δ' Ἵπνον μετὰ χερσὶ, κασίγνητον Θανάτοιο,
757 Νύξ ὀλοή, νεφέλη κεκαλυμμένη ἡεροιδεῖ.

744 And dark Night's uncanny house
745 is placed (there) concealed in black fog.
746 Before it the son of Iapetos (Atlas) holds broad Heaven,
747 standing erect, with (his) head and un-wearying hands,
748 unswerving, where Night and Day come close
749 and greet each other, when the cross the great threshold,
750 the bronze one. One is about to descend, out of the door the other
751 comes, and the house never encloses both (of them) inside,
752 but one of them is always outside the house
753 and roams upon Earth, the other inside the house
754 awaits the hour of its path, until it comes.
755 One of them holds the light that sees much for those who dwell upon earth,
756 while the other, the harmful Night veiled in dusky fog,

⁴⁵ P. Philippson, "Genealogie als mythische Form," p. 14: "Denn diese Kinder stellen in sich – und dies ist von grundsätzlicher Bedeutung für das Verständnis der Genealogie auf dieser ersten Stufe des Weltaltermythos – die Wesensentfaltung der elterlichen Gottheiten, eben ihre Einzelmodifikation, dar. So bleibt das Chaos als Chaos unverändert bestehen, auch nachdem ihm Erebus und Nacht entstanden sind. Und ebenso bestehen Erebus und Nacht weiter, nachdem sie, sich vereinigend, Aither und Tag erzeugt haben."

To the extent that the cosmographical passage describes the alternation from night to day as well as an alternation from day to night, both Night (*Νύξ*) and Day (*Ἡμέρη*) seem to be of equal status. They are connected with each other and depend on each other as the wonderful portrait shows. Night and Day live in the same house (*δόμος*) that never encloses both of them (*οὐδέ ποτ' ἀμφοτέρως ἐντὸς ἐέρχει*). As one of them is about to leave the house, the other is about to enter the house. Then they greet each other at the great threshold (*μέγαν οὐδὸν*). As one of them roams upon earth, the other awaits the hour of her path (*μῖμνει τὴν αὐτῆς ὥρην ὁδοῦ*). The ability of waiting for the moment or hour (*ὥρη*) of one's path gives the day a structure. It further means that this moment will come again every day. Thus, the coexistence and codependence of Night and Day expresses the realization cyclical time.

The fact that the house (*δόμος*), which Night and Day share, is not considered the house of Day but *Νυκτὸς ἐρεμνῆς οἰκία δεινά*, as the uncanny house(hold) of dark Night, still reflects the predominant character of Night over Day,⁴⁶ the Day who was set forth by Night and Erebus. It also reflects the primordial, or nearly primordial status of Night as the daughter of primordial Chaos, since the house of Night is located *πάντων πηγαὶ καὶ πείρατα*, at the limits and founts of all things, thus in the vicinity of Chaos. With each newly rising day the birth of Day out of Night is being repeated as well as the overcoming of dark Night by a Day that finally carries light (*φάος*) for those who dwell upon earth. In the same way as

⁴⁶ H. Fränkel, "Drei Interpretationen aus Hesiod," p. 4 (= H. Fränkel, *Wege und Formen frühgriechischen Denkens*, ²1960, p. 318f.): "Tag und Nacht sind mit Notwendigkeit an einander geknüpft, wie das Bild von 747ff. herrlich zum Ausdruck kommt: sie begegnen und begrüßen einander auf der Schwelle zur Welt, immer herausgehend die eine, hineingehend die andere, [...], weil sie sich gegenseitig sowohl ausschließen wie auch zur Ablösung hervorrufen: das Fehlen (oder Vorhandensein) der einen ist nicht möglich ohne das Vorhandensein (oder Fehlen) der anderen. Auch in diesem Bild hat die *Nacht* den Vorrang; ihr Haus ist es, in dem auch der *Tag* wohnt – nicht umgekehrt. So hat auch in der Perspektive des Werdens und Entstehens das Negative vor dem Positiven den zeitlichen Vorrang: in das Leere hinein tritt die Welt; aus der Nacht wird der Tag geboren. Denn das Positive hat mehr Sein als das Negative, und so ist es im historischen Aufbau der immer mehr sich bildenden und füllenden Welt das jüngere."

Day holds the light (*φάος*) in its hands while roaming upon earth, in like manner, Night holds Sleep in her hands (*Ὕπνον μετὰ χειρσί*) while roaming upon earth.

The alternation of Night (*Νύξ*) and Day (*Ἡμέρη*) gives another hint that Chaos is not only a spatial power, but also a temporal force. As a temporal force, primordial Chaos cannot be regarded as expressing cyclical time. Its temporal essence has to be of different quality. For the moment, one may say that Chaos represents an empty time, Night a fate-determined time, the alternation of Night to Day and Day to Night cyclical time, i.e. the time as *chronos*.

The idea of time as *chronos* came into existence by the birth of Day (*Ἡμέρη*) out of Night (*Νύξ*), whereas the realization of time as *chronos* is expressed by the alternation of night to day and day to night. During the night, Day inhabits the uncanny house of Night; during the day, Night dwells in her own home. Within the cosmographical passage, the negation of Night is Day and the negation of Day is Night. Within the constellation of the beginning the logic of negation works differently, since the alternation of night and day has not yet been established: the negation of Day is Night, but the negation of Night is Chaos. Since Chaos is also the negation of Day and Night, Chaos is the negation of time as *chronos*. The negation of time as *chronos* can be conceived either as a timeless moment in time, or as eternity encompassing time.⁴⁷

Time that has not yet become time as *chronos*, i.e. time as the alternation from Night to Day and Day to Night, is described through the children of Night, or, with reference to the beginning of their lineage, through the grandchildren of Chaos:

⁴⁷ J. Bussanich, "A Theoretical Interpretation of Hesiod's Chaos," p. 213: "Thus, despite the literal meaning of *γένεσις*, I would argue that Hesiod isolates a timeless moment, an *Urzeit*, that is qualitatively distinct from subsequent stages of the cosmogony. In itself a durationless condition, the primordial time can only be described temporally as the past, relative to the sequence of events which follows it. This symbolization of primordial time is not philosophically precise, nor is it a presentiment of the concept of eternity. Here rational speculation is constrained by mythical thought."

211 Νύξ δ' ἔτεκε στυγερόν τε Μόρον καὶ Κῆρα μέλαιναν
 212 καὶ Θάνατον, τέκε δ' Ὕπνον, ἔτικτε δὲ φύλον Ὀνείρων.
 214 δεύτερον αὖ Μῶμον καὶ Ὀϊζὺν ἀλγινόεσσιν
 213 οὐ τινι κοιμηθεῖσα θεῶν τέκε Νύξ ἐρεβεννή
 215 Ἑσπερίδας θ' αἷς μήλα πέρην κλυτοῦ Ὠκεανοῖο
 216 χρύσεια καλὰ μέλουσι φέροντά τε δένδρεα καρπών·
 217 καὶ Μοίρας καὶ Κῆρας ἐγείνατο νηλεοποίνους,
 218 [Κλωθῶ τε Λάχεσιν τε καὶ Ἄτροπον, αἷ τε βροτοῖσι
 219 γεινομένοισι διδοῦσιν ἔχειν ἀγαθόν τε κακόν τε]
 220 αἷ τ' ἀνδρῶν τε θεῶν τε παραιβασίας ἐφέπουσιν,
 221 οὐδέ ποτε λήγουσι θεαὶ δεινοῖο χόλοιο,
 222 πρὶν γ' ἀπὸ τῷ δώωσι κακὴν ὄπιν, ὅστις ἀμάρτη.
 223 τίκτε δὲ καὶ Νέμεσιν πῆμα θνητοῖσι βροτοῖσι
 224 Νύξ ὅλοή· μετὰ τὴν δ' Ἀπάτην τέκε καὶ Φιλότητα
 225 Γῆρας τ' οὐλόμενον, καὶ Ἔριν τέκε καρτερόδυμον.

211 Night brought forth frightful Fate and black Destruction
 212 as well as Death. She also brought forth Sleep and the family of Dreams.
 214 Without laying to bed with one of the gods dark Night
 213 then brought forth Blame and painful Grief
 215 and the Hesperides who care for the beautiful golden apples
 216 beyond famous Oceanus and the trees that bear that fruit.
 217 She also bore the Moires and the pitiless-punishing Keres,
 218 [Klotho and Lachesis and Atropos, who give the possession
 219 of good and bad to mortals at their birth,]
 220 who go after the transgression of men and gods.
 221 These goddesses never leave off their terrible wrath once
 222 until they have brought vengeance upon the one who has failed.
 223 Destructive Night also gave birth to Nemesis, a suffering to
 224 mortal men. After her she brought forth Deceit and Love,
 225 destructive Old Age and stout-hearted Eris.

As a force of time Night (Νύξ) entails and brings forth powers, which capture and conquer humans and partially gods.⁴⁸ Frightful Fate (Μόρος στυγερός) is the determination to death, Destruction (Κῆρ) is the dooming to death or being to Death (Θάνατος), the absolute limit of human existence. Sleep (Ὕπνος), the brother of Death (Θάνατος),⁴⁹ overcomes both men and

⁴⁸ F. M. Cornford, "A Ritual Basis for Hesiod's Theogony" (1941), p. 96: "The children of Night prove to be a list of allegorical abstractions: Death, Sleep, the Fates, and all the afflictions which plague mankind." On the children of Night, see also: C. Ramnoux, *La nuit et les enfants de la nuit dans la tradition grecque*, Paris 1959 (21986).

⁴⁹ Hesiod, *Theogony*, vv. 756-59.

gods, thereby limiting the day. Hypnos paralyzes perception and activity.⁵⁰ The Dreams (*Ὀνειροί* or *Ὀνειράτα*) tear away man to an extent that he no longer is himself.⁵¹ Reproach or Blame (*Μῶμος*) ruins man, Grief (*Ὀϊζύς*) presses man down. Men-pursuing Moires (*Μοίραι*) and Keres (*Κῆραι* or *Κῆρες νηλεόποιοι*) catch up mortals and hit them with vengeance, Nemesis (*Νέμεσις*), the distribution of what is due, is also a power of retribution. Deceit (*Ἀπάτη*) and Love (*Φιλότης*) form a couple. Love is not seen in its beautiful aspect but as a form of deception. With Old Age (*Γῆρας*) life comes to an end, a life that is basically seen as Strife (*Ἔρις*), which destroys human existence. Thus, all children of Night are negative.⁵²

Through these negative powers humans are overcome in time. In the way Night holds Sleep in her hands while roaming upon earth, in like manner she may hold her other children in her hands when roaming upon earth. Her children characterize her as an inescapable time. Time that has not yet become the time as *chronos*, has to be conceived as a fate-determined and fate-dominated time: the dominion of time. Thus, the temporal aspect of Night is a form of negative temporality, for which Chaos is the condition.

The second part of the catalogue of Night's descendants concerns the children of her last offspring Strife, thus, the grandchildren of Night, or the great grandchildren of Chaos:

226 αὐτὰρ Ἔρις στρυγερὴ τέκε μὲν Πόνον ἀλγινόεντα
 227 Λήθην τε Λιμόν τε καὶ Ἄλγεα δακρυόεντα
 228 Ὑσμίνης τε Μάχης τε Φόβους τ' Ἀνδροκτασίας τε
 229 Νείκεά τε Ψεύδεά τε Λόγους τ' Ἀμφιλλογίας τε
 230 Δυσνομίην τ' Ἄτην τε, συνήδεας ἀλλήλησιν,
 231 Ὅρκον δ', ὃς δὴ πλεῖστον ἐπιχθονίους ἀνθρώπους
 232 πημαίνει, ὅτε κέν τις ἐκὼν ἐπίορκον ὁμόσση·

⁵⁰ In Homer, *Iliad* 14. 230-360, Hera asks Hypnos to put Zeus asleep.

⁵¹ Homer, *Iliad* 2. 1-49.

⁵² H. Fränkel, "Drei Interpretationen aus Hesiod," (1931), p. 5f. (²1960, p. 319f.; ³1968, p. 320): "Fast alle Kinder, die *Nacht* allein geboren hat, haben von der Mutter den negativen Charakter geerbt. Alles Negative gilt Hesiod als nächtig, als Ausgeburt der Nacht. Noch mehr als das Chaos und die Leere war die *Nacht* für Hesiod das Urbild dessen, was wir negativ nennen und was unter dem Titel des *μῆ ὄν* die spätere griechische Philosophie so stark beschäftigt hat."

226 Then hateful Strife gave birth to painful Toil
 227 and Oblivion and Famine and tearful Sorrows
 228 and Fights and Battles and Killings and Manslaughter
 229 and Quarrels and Lies, Arguments and Counterarguments
 230 and Lawlessness and Blindness, who are accustomed to each other,
 231 and Oath, who brings the most sufferings upon men who walk upon the
 232 earth, when someone voluntarily swears a false oath.

With the birth of Oath (Ὅρκος) by hateful Strife (Ἔρις στυγερά), the lineage of Chaos comes to an end. The conspicuous position of Horkos at the end of the catalogue indicates his importance.⁵³ Hesiod dedicates Horkos two lines. Within the enumeration of Eris's children,⁵⁴ these two lines describe the Oath in its negativity. Among all children of hateful Strife, the Oath brings the most sufferings upon men (Ὅρκον πλεῖστον ἀνθρώπους πημαίνει), when someone voluntarily swears a false oath (ὅτε κέν τις ἐκὼν ἐπίορκον ὁμόσση). The consequences of swearing a false oath are found in the enumeration of hateful Strife's children. Painful Toil (Πόνος ἀλγινόνετα), Oblivion (Λήθη), Famine (Λιμός), and tearful Sorrows (Ἄλγεα δακρυόνετα) are consequences of perjury, whereas Fights (ῥσμίναι), Battles (Μάχαι), Killing (Φόνοι), Manslaughter (Ἀνδροκτασίαι) are consequence of Strife or define Strife in terms of war or civil war, and may overcome by oath-taking. Quarrel (Νείκεα), Lies (Ψευδέα), Arguments (Λόγοι) and Counterarguments (Ἀμφιλλογίαι), Lawlessness (Δυσνομίη), and Blindness (Ἄττη) refers to the sphere of dispute settlement and court procedure.

Unlike the children of Night, who represent the fate-dominated and fate-determined world, i.e. the negativity of nature, the children of hateful Strife (Ἔρις στυγερά) represent the struggles within a social community, i.e. the negativity of culture. Both the negativity of

⁵³ The conspicuous position of Horkos has been observed by N. Loraux, *Cité divisée: L'oubli dans la mémoire d'Athènes*, Paris 1997, p. 121.

⁵⁴ On the children of Eris, see: M. Theunissen, "Hesiods theogonische Eris," in: *Eros and Eris*, edited by P. J. M. van Tongeren et al., Netherlands 1992, pp. 11-23.

nature and the negativity of culture come into existence within the lineage of Chaos. Thus, the negativity of the world is due to Chaos.⁵⁵

Unlike the children of Night, who are entirely negative, the children of Strife are of lesser negativity. Their negativity can be avoided or overcome, if oaths are sworn well. The sphere of war and civil war, i.e. Fights, Battles, Killing, and Manslaughter are overcome by peace treaties that are enforced by oaths. Quarrel, Lies, Arguments, Counterarguments, Lawlessness occur in court procedure and dispute settlement. It is probably this sphere that Hesiod has in mind when he says that the Oath brings most suffering upon men. Within the enumeration of Eris's children, these two lines describe the Oath in its negativity. But the Oath does not necessarily bring suffering upon men. In the *Erga*, Hesiod says that if oaths are sworn correctly, it will bring prosperity for the oath taker in the future.⁵⁶

The conspicuous position of Horkos at the end of the catalogue leads into a more detailed analysis of the oath in the corpus Hesiodeum. The Oath (*Ὁρκος*) as the last child of hateful Strife (*Ἐρις στυγερή*) already indicates a close connection between Styx and oath. What does it imply for the oath? Do quarrel, lies, arguments, and counterarguments refer to assertory oath that are taken in court procedures, whereas battles and fighting refer to promissory oaths that are taken in order to conclude treaties?

5. Horkos, the Oath

5.1. Hesiod's *Erga* and Dispute Settlement

It is the prevailing view, if not the only one, that the Oath in Hesiod's *Theogony* has to be seen in the context of court procedure and dispute settlement, as described in Hesiod's

⁵⁵ H. Fränkel, "Drei Interpretationen aus Hesiod" (1931), p. 3 (²1960 and ³1968, p. 317): "So wird bei Hesiod *Chaos* zur ersten Grundkraft alles Negativen. Jede andere negative Wesenheit stammt vom Chaos ab."

⁵⁶ Hesiod, *Erga*, vv. 282-285.

Erga: “Als assertorischen betrachtete den Eid Hesiod, da er ihn ein Kind der Eris nennt.”⁵⁷

Other powers such as Quarrel (*Νείκεα*), Lies (*Ψευδέα*), Arguments (*Λόγοι*) and Counterarguments (*Ἀμφιλλογίαι*), or Lawlessness (*Δυσνομίη*), who were brought forth by hateful Strife (*Ἔρις στυγερὴ*) point into this direction. Thus, the Oath, who was brought forth by hateful Strife (*Ἔρις στυγερὴ*), may well be explained through the context of Hesiod’s *Erga*. There, the theme that the oath brings suffering upon men is picked up with the addition that he, the Oath, also may bring good fortune:

282 ὃς δὲ κε μαρτυρίῃσιν ἐκὼν ἐπίορκον ὁμόςσας
283 ψεύσεται, ἐν δὲ Δίκην βλάψας νήκεστον ἀάσθη,
284 τοῦ δὲ τ’ ἀμαυροτέρῃ γενεῇ μετόπισθε λέλειπται·
285 ἀνδρὸς δ’ εὐόρκου γενεῇ μετόπισθεν ἀμείνων.⁵⁸

282 The one who in testimonies knowingly swears a false oath
283 and lies, and thus incurable folly violates justice,
284 his family will sink and will be left behind in the future.
285 The family of the man, however, who swears well, will prosper in the future.

In referring to perjury of either litigants or witnesses, Hesiod explicitly refers to oath taking in court procedure. The fact that the Oath (*Ὅρκος*) is the last offspring of Strife and the grandchild of Night may be explained as follows: If an oath is voluntarily violated, it will bring huge suffering upon man (*Ὅρκον πλεῖστον ἀνθρώπους πημαίνει*) and the family of the perjurer will be left behind in the future (*τοῦ δὲ τ’ ἀμαυροτέρῃ γενεῇ μετόπισθε λέλειπται*). If, however, an oath is sworn well or sworn correctly (*εὐόρκος*), it will bring prosperity for the family of the oath taker in the future (*μετόπισθεν ἀμείνων*), and thus overcome strife. In the enumeration of days, Hesiod tells us that the fifth day is to be avoided, for they are difficult and dire, since

⁵⁷ Hirzel, *Der Eid* 1902, p. 2.

⁵⁸ Hesiod, *Erga*, vv. 282-285.

803 ἐν πέμπτῃ γὰρ φασιν Ἐρινύας ἀμφιπολεύειν
804 Ὅρκον γεινόμενον, τὸν Ἔρις τέκε πῆμ' ἐπιόρκους.⁵⁹

803 it was on the fifth, they say, that the Erinyes attended
804 Oath at birth, whom Strife brought forth as a suffering for perjurers.

West's comment that "perjurers are punished by the deified Oath [. . .] or by the Erinyes"⁶⁰ has to be specified. As a child of hateful Strife, deified Oath is a power of culture not of nature. The Erinyes, however, if one substitutes them for the Keres in *Theogony* v. 217, can be regarded as forces of nature. The fact that they attended the birth of Oath indicates that they protect Oath and punish the perjurer with vengeance. Like the water of Styx, Horkos simply may indicate the fact of perjury but does not bring about vengeance.

The ideal world of oath-taking, in which people swear faithfully, does no longer exist. Hesiod demonstrates the decay of oath-taking in terms of the iron age:

190 οὐδέ τις εὐόρκου χάρις ἔσσεται οὐδὲ δικαίου
191 οὐδ' ἀγαθοῦ, μᾶλλον δὲ κακῶν ῥεκτῆρα καὶ ὕβριν
192 ἀνέρα τιμήσουσι· δίκη δ' ἐν χερσὶ καὶ αἰδῶς
193 οὐκ ἔσται, βλάβει δ' ὁ κακὸς τὸν ἀρεῖονα φῶτα
194 μύθοισι σκολιοῖς ἐνέπων, ἐπὶ δ' ὄρκον ὁμεῖται.
195 ζῆλος δ' ἀνθρώποισιν οἰζυροῖσιν ἅπασι
196 δυσκέλαδος κακόχαρτος ὁμαρτήσῃ στυγερώπῃ.⁶¹

190 There will be no favor for someone who swears correctly or for the righteous
191 or the good one, but rather they will honor the doer of evil and the bad
192 man. Justice is (achieved) with hands. And reverence
193 will not be there, so the evil will harm the good man
194 by telling crooked stories and will even swear an oath upon it.
195 Shrill-screaming zeal with hateful face
196 will walk together with miserable men altogether.

⁵⁹ Hesiod, *Erga*, vv. 803-4.

⁶⁰ M. L. West, *Hesiod: Works and Days*, Oxford 1978, p. 359. The connection of oath taking and the fifth day of the month has a parallel in the ancient Near East, as West point out, p. 360: "In the Assyrian almanacs the 5th is one of several days when one may not go to law, and on the 15th 'one may not take oath' (Langdon, *Bab. Menologies*, pp. 74, 77)."

⁶¹ Hesiod, *Erga*, vv. 190-96. West has a different text in v. 192-3. Smart but maybe not necessary.

According to Hesiod, the iron age comes to an end, because there is no favor (*χάρις*) for the good (*ἀγαθῶν*) or righteous person (*δικαίου*), i.e. for the person who swears well (*εὐόρκου*). Justice, i.e. judgment in court procedure (*δίκη*), is no longer gained through reverence (*αἰδώς*) but through crooked stories (*μύθοισι σκολιοῖς*) upon which oaths are sworn (*ἐπὶ δ' ὄρκον ὁμεῖται*). Thus, men of the iron age disappear, because of lack in the faith of oaths. Does it mean that for Hesiod an ideal community is tied together upon faithful oath taking as a form of guarantee that enables social interaction on the basis of trust?

In the story of the hawk and the nightingale Hesiod suggest to his brother two roads, the path of violence and the path of righteousness:

216 ὁδὸς δ' ἑτέρῃφι παρελθεῖν
217 κρείσσων ἐς τὰ δίκαια· δίκη δ' ὑπὲρ ὕβριος ἴσχει
218 ἐς τέλος ἐξελθοῦσα· παῶν δέ τε νήπιος ἔγνω.
219 αὐτίκα γὰρ τρέχει Ὀρκος ἅμα σκολιῇσι δίκησιν·
220 τῆς δὲ Δίκης ῥόδος ἐλκομένης ἥ κ' ἄνδρες ἄγῳσι
221 δωροφάγοι, σκολιῆς δὲ δίκης κρίνωσι δέμιστας.⁶²

216 The path on the other side gives
217 better passage to righteousness. Justice coming to its end
218 prevails over insolence. The fool recognizes through suffering.
219 For Oath at once runs (a race) with crooked verdicts.
220 There is rushing noise when Justice is dragged off wherever bribe-
221 devouring men take her as they give judgment with crooked verdicts.

Again, Hesiod addresses the oath in the context of court procedure. Unlike the preceding passage, in which the oath is connected with crooked stories (*μύθοισι σκολιοῖς*) of witnesses and litigants, the present passage connects the oath with crooked verdicts (*σκολιῇσι δίκησιν*) of the judges. Running along with crooked judgments could mean that witnesses and litigants compete with bribe-devouring judges (*ἄνδρες δωροφάγοι*) in terms of perjury or that judges give judgment under oath according to the bribes they receive. The former is a decay

⁶² Hesiod, *Erga*, vv. 216-21.

of the assertory oath, the latter a decay of the promissory oath. But in the end, so Hesiod, Justice (*Δίκη*) will prevail over violence and insolence (*ὑπὲρ ὕβριος ἴσχει ἐς τέλος ἐξελθοῦσα*).

5.2. Styx, Oath, and Chaos

As the last offspring of negative powers brought forth by hateful Strife (*Ἔρις στυγερά*), Oath brings suffering upon those who perjure themselves, good fortune for those who swear correctly. This is the same both for gods and humans. Thus, the Oath (*Ὀρκος*) is a power that overcomes hateful Strife (*Ἔρις στυγερά*) either by bringing prosperity upon those who swear correctly or by bringing curses upon the perjurer.⁶³ The fact that Strife is characterized as *στυγερά* refers to Styx or the water of Styx. When strife and quarrel arise among the immortals, then Iris is sent out to get the water of Styx, which flows in an area near Chaos, in order to swear the great oath of the gods. The water of Styx indicates whether an oath was foresworn or sworn well. As far as the gods are concerned, the perjurer will fall into a deep coma of an entire year. Regardless the outcome of the oath, Horkos is a personification that puts an end to struggle and strife, either by acquittal or through punishment.

The fact that the Oath (*Ὀρκος*) is the last offspring of hateful Strife (*Ἔρις στυγερά*), thus the last offspring within the lineage of Chaos may be explained as follows. Under Zeus's reign, i.e. after the victorious battle against the Titans, the great oath of the gods comes into play when strife and quarrel arise among the immortal gods. Then, Zeus sends Iris to get the great oath:

782 *ὅπποτ' ἔρις καὶ νεῖκος ἐν ἀθανάτοισιν ὄρηται,*

⁶³ M. L. West, Hesiod: Theogony, p. 231: "An oath is by origin a curse which a man lays upon himself, to take effect if what he declares is false. The god Horkos is the personification of this curse; that is why he is attended by the Erinyes in Op. 803."

783 καί ῥ' ὅστις ψεύδεται Ὀλύμπια δώματ' ἐχόντων,
 784 Ζεὺς δέ τε Ἴριν ἔπεμψε θεῶν μέγαν ὄρκον ἐνεΐκαι.
 785 τηλόθεν ἐν χρυσέῃ προχόῳ πολυώνυμον ὕδωρ
 786 ψυχρόν, ὃ τ' ἐκ πέτρης καταλείβεται ἡλιβάτοιο.⁶⁴

782 When strife and quarrel arise among the immortals
 783 and when one of those who has Olympian houses lies,
 784 then, Zeus sends Iris to get the great oath of the gods
 785 from afar the famous water in a golden bowl,
 786 the cold (water) that flows down from a sheer cliff.

Strife and quarrel (ἔρις καὶ νεῖκος) as well as the fact that someone lies (ὅστις ψεύδεται) occur not only among mortals, but also among the immortals. Hesiod transfers human affairs into the divine sphere.⁶⁵ According to the catalogue of Night's children and grandchildren, Eris is a daughter of Night, whereas Quarrel (Νείκεα) and Lies (Ψευδέα) are children of hateful Strife (Ἔρις στυγερή), and thus grandchildren of Night and great-grandchild of Chaos.⁶⁶ Strife unfolded her essence into Quarrel (Νείκεα) and Lies (Ψευδέα), which means that strife is defined as quarrel and lies. Here, however, in the cosmographical passage, strife and struggle (ἔρις καὶ νεῖκος) are connected as forming a pair. This pair is expanded by the term ὅστις ψεύδεται. Thus, the cosmographical passage presents a constellation of Strife (Ἔρις), Quarrel (Νείκεα), and Lies (Ψευδέα), expressing conflicts among the Olympian gods.

As the daughter of Thetys and Oceanus and granddaughter of Heaven and Earth, Styx belongs to the lineage or sphere that started with Gaia. Her nature as a well of the netherworld brings her close to the powers of Chaos, the Chasm from which evil things come forth:

805 τοῖον ἄρ' ὄρκον ἔθεντο θεοὶ Στυγὸς ἄφθιτον ὕδωρ,
 806 ὠκύγιον· τὸ δ' ἴησι καταστυφέλου διὰ χώρου.
 807 ἔνθα δὲ γῆς δνοφερῆς καὶ ταρτάρου ἡερόεντος

⁶⁴ Hesiod, *Theogony*, vv. 782-86.

⁶⁵ Fr. Solmsen, *Hesiod and Aeschylus*, p. 32f.

⁶⁶ Hesiod, *Theogony*, v. 229.

808 πόντου τ' ἀτρυγέτοιο καὶ οὐρανοῦ ἀστερόεντος
 809 ἐξείης πάντων πηγαὶ καὶ πείρατ' ἔασιν,
 810 ἀργαλέ' εὐρώεντα, τὰ τε στυγέουσι θεοὶ περ.⁶⁷

805 Such is the oath for which the gods set the ever-living water of Styx,
 806 the primeval (water) that gushes through a rugged place.
 807 There are next to each other the roots and limits of all,
 808 of black Earth and murky Tartarus
 809 of barren Sea and starry Heaven
 810 a painful gloom that even the gods hate.

The water of Styx that is used for the *θεῶν μέγαν ὄρκον*, the great oath of the gods, gushes through a rugged place, where one finds the roots and limits of Earth, Tartarus, Sea, and Heaven. That place is described as a painful gloom or mould which even the gods hate and at which they shudder (*στυγέουσι*). This is the *χάσμα μέγα*, the great chasm.⁶⁸

Those immortals, who have been completely expelled from the Olympian community, the Titans, have to live beyond the *χάσμα μέγα*, the great chasm:

813 πρόσθεν δὲ θεῶν ἔκτοσθεν ἀπάντων
 814 Τιτῆνες ναίουσι, πέρην χάος ζοφεροῖο.⁶⁹

813 Outside, away from all the gods,
 814 dwell the Titans, beyond the gloomy Chaos.

The water of Styx used for the *θεῶν μέγαν ὄρκον*, the great oath of the gods, comes from an area that is described as *χάσμα μέγα*, or as *Χάος*, as gloomy Chaos. As a baleful gloom from which so many evil things come forth, Tartarus, the area beyond Chaos, has to be enclosed:

726 τὸν πέρι χάλκεον ἔρκος ἐλήλαται.⁷⁰

726 Around it (Tartaros) a brazen fence is driven.

⁶⁷ Hesiod, *Theogony*, vv. 805-810.

⁶⁸ Hesiod, *Theogony*, vv. 736-739.

⁶⁹ Hesiod, *Theogony*, vv. 813-814.

⁷⁰ Hesiod, *Theogony*, v. 726.

It has often been stated and has often been refuted that ὄρκος is etymologically linked with ἔρκος.⁷¹ On morphological grounds a shift from ἔρκος to ὄρκος is possible. What gave rise to doubts was the question of how an enclosure is connected with an oath. The cosmographical passage in Hesiod's *Theogony* gives the answer. The water of Styx, which is taken from a well in the netherworld, comes from an enclosure, where the roots of all origins and still lasting beginnings come together. Beyond this enclosure the Titans must live. Taking the water of Styx from that enclosure for oath-taking procedures is not only a reference to past events but also a threat to those who do not abide by certain laws. Those who do not abide by certain laws have to face the consequence of living in the netherworld like the Titans. In that way the powers of the netherworld function not only as witnesses but also as avengers. The Titans who live beneath the earth are also invoked along with Persephone and the shivering dead in a recently found defixio: *Καταδέω ... παρὰ Φερσεφόνοι καὶ Τιτάνεσσι καταχθονίοις καὶ παρὰ π[ρ]ιχομένοισι νεκύοις.*⁷²

At this point Styx and the Oath seem to form a couple. The two personifications, Styx and Horkos, the Oath and the river-goddess, seem to converge into one as the waters of Styx become to represent the great oath of the gods. When strife and quarrel occur among the immortal gods, Zeus sends Iris to get the *θεῶν μέγαν ὄρκον*, the great oath of the gods from afar in a golden bowl:

787 ὑψηλῆς· πολλὸν δὲ ὑπὸ χθονὸς εὐρυοδείης
 788 ἐξ ἱεροῦ ποταμοῖο ῥέει διὰ νύκτα μέλαιναν,
 789 Ὀκεανοῖο κέρας, δεκάτῃ δ' ἐπὶ μοῖρᾳ δέδασται·
 790 ἐννέα μὲν περὶ γῆν τε καὶ εὐρέα νῶτα θαλάσσης

⁷¹ M. Leumann, *Homerische Wörter*, Basel 1950; J. Bollack, "Styx et serment," *REG* 71 (1958), pp. 1-35; H. Frisk, *Griechisches etymologisches Wörterbuch*, 3 vols., Heidelberg 1960, p. 418f.; P. Chantraine, *Dictionnaire étymologique de la langue grecque*, Paris 1980.

⁷² *SEG* 47 (1997), No. 1442, A 1-3. Lilybaion (Sicily) between 275-200 B.C.

791 δίνης ἀργυρέης εἰλιγμένος εἰς ἅλα πίπτει,
792 ἥ δὲ μί' ἐκ πέτρης προρέει, μέγα πῆμα θεοῖσιν.

787 Far below the broad-pathed earth
788 it flows from a sacred river through the black night,
789 a branch of Oceanus. A tenth part, however, is her lot.
790 Nine parts flow around the earth and the broad back of the sea,
791 twined in silver whirls it falls into the sea,
792 while that one part issues forth from the cliff as a great bane to the gods.

Styx is described as a sacred river (ἱερὸς ποταμός) that flows through the black night (διὰ νύκτα μέλαιναν). Again, Styx is connected to the sphere of Chaos. The sacred river Styx is the tenth part of Oceanus and gushes forth from a sheer cliff. Although the ἡλίβατος πέτρα, the sheer cliff from which the water of Styx flows down, is imagined far below the earth, it has been suggested that these lines should be read against the backdrop of geographical accounts of later Greek and Roman authors.⁷³ The accounts of Herodotus,⁷⁴ Strabo,⁷⁵ Pliny,⁷⁶ or Pausanias⁷⁷ certainly contain valuable information about Greek landscapes. The

⁷³ Herodotus, VI, 74; Strabo VIII 8, 4; Pliny, *Nat. Hist.* 2, 23 and 31, 26; Pausanias VIII, 17, 6; VIII, 18, 4. See also the essay by R. Baladié, "Le Styx, site et personnification," *Mythe et Personnification*, publiés par J. Duchemin, Paris 1980, pp. 17-25.

⁷⁴ Herodotus VI, 74:

ἐν δὲ ταύτῃ τῇ πόλει λέγεται εἶναι ὑπὸ τῶν Ἀρκάδων τὸ Στυγὸς ὕδωρ, καὶ δὴ καὶ ἔστι τοιόνδε τι. ὕδωρ ὀλίγον φαινόμενον ἐκ πέτρης στάζει ἐς ἄγκος, τὸ δὲ ἄγκος αἰμασίνης τις περιδέει κύκλος. ἡ δὲ Νῶνακρῖς, ἐν τῇ ἡ πηγὴ αὕτη τυγχάνει εἶδωσα, πόλις ἐστὶ Ἀρκადίης πρὸς Φενεῶ.

"For in this town [Nonacris], say the Arcadians, is the water of Styx; it is a small stream, trickling from rock into a pool, and the pool is surrounded by a dry-wall. Nonacris, in which the spring exists, is a town in Arcadia near Pheneus."

⁷⁵ Strabo VIII 8, 4:

Περὶ Φενεὸν δ' ἐστὶ τὸ καλούμενον Στυγὸς ὕδωρ, λιβάδιον ὀλεθρίου ὕδατος νομιζόμενον ἱερόν.

"Near Pheneus is also the water of Styx, as it is called, a small stream of deadly water which is held to be sacred."

⁷⁶ Pliny, N. H. 2, 231:

juxta Nonacrim in Arcadia Styx, nec odore differens nec colore, epota ilico necat;

"To drink of the Styx near Nonacris in Arcadia causes death on the spot, although the river is not peculiar in smell or color."

Pliny, N. H. 31, 26:

in Achaia ad Pheneum aqua profluit e saxis, Styx appellatur, quae ilico necat.

"In Achaia near Pheneus water flows forth from a rock, called Styx, which causes death on the spot."

⁷⁷ Pausanias VIII, 17, 6:

Ἐκ Φενεοῦ δὲ ἰόντι ἐπὶ ἐσπέρας καὶ ἡλίου δυσμῶν ἡ μὲν ἀριστερὰ τῶν ὁδῶν ἐς πόλιν ἄγει Κλείτορα, ἐν δεξιᾷ δὲ ἐπὶ Νῶνακριν καὶ τὸ ὕδωρ τῆς Στυγός. τὸ μὲν δὴ ἀρχαῖον ἡ Νῶνακρῖς πόλις ἦν Ἀρκάδων καὶ ἀπὸ τῆς Λυκάονος γυναικὸς τὸ ὄνομα εἰλήφει· τὰ πολλὰ ἔτι δῆλα. τῶν δὲ ἐρειπίων οὐ πόρρω κρημνός ἐστιν ἐστὶν ὑψηλός, οὐχ ἕτερον δ' ἐς τοσοῦτον ἀνέκοντα ὕψους οἶδα· καὶ ὕδωρ κατὰ τοῦ κρημνοῦ στάζει, καλοῦσι δὲ Ἑλλήνες αὐτὸ ὕδωρ Στυγός.

question of whether Hesiod's description of the river Styx is derived from a depiction of Arcadian landscape and customs or whether later authors connected Hesiodic description with Arcadian landscape and customs is of lesser importance for the argument presented here.

For the sake of the argument it is more important to focus on the consequence for those gods who perjure themselves. The cliff from which Styx gushes forth is μέγα πῆμα θεοῖσιν, a great bane for the gods. Thus, the punishment for those gods who are convicted of perjury are imagined to be severe:

793 ὅς κεν τὴν ἐπίορκον ἀπολλείψας ἐπομόσση
794 ἀθανάτων οἳ ἔχουσι κάρη νιφόεντος Ὀλύμπου,
795 κεῖται νήνυτος τετελεσμένον εἰς ἐνιαυτόν·
796 οὐδέ ποτ' ἀμβροσίης καὶ νέκταρος ἔρχεται ἄσπον
797 βρώσιος, ἀλλὰ τε κεῖται ἀνάπνευστος καὶ ἄναυδος
798 στρωτοῖς ἐν λεχέεσσι, κακὸν δ' ἐπὶ κῶμα καλύπτει.
799 αὐτὰρ ἐπὴν νοῦσον τελέσει μέγαν εἰς ἐνιαυτόν,
800 ἄλλος δ' ἐξ ἄλλου δέχεται χαλεπώτερος ἄθλος·
801 εἰνάετες δὲ θεῶν ἀπαμείρεται αἰὲν ἑόντων,
802 οὐδέ ποτ' ἐς βουλὴν ἐπιμίσγεται οὐδ' ἐπὶ δαίτας
803 ἐννέα πάντ' ἔτεα· δεκάτῃ δ' ἐπιμίσγεται αὖτις
804 εἰρέας ἀθανάτων οἳ Ὀλύμπια δώματ' ἔχουσι.

“As one goes from Pheneus to the west, the left road leads to the city of Cleitor, while on the right is the road to Nonacris and the water of Styx. Old Nonacris was a town of the Arcadians that was named after the the wife of Lycaon. When I visited it, it was in ruins, and most of these were hidden. Not far from the ruins is a high cliff, and I know of no other that rises to so great a height. The Greeks call the water that trickles down the cliff the water of Styx.”

Pausanias VIII, 18, 4:

τὸ δὲ ὕδωρ τὸ ἀπὸ τοῦ κρημνοῦ τοῦ παρὰ τὴν Νώνακριν στάζον ἐσπίπτει μὲν πρῶτον ἐς πέτραν ὑψηλήν, διεξελθὼν δὲ διὰ τῆς πέτρας ἐς τὸν Κραῖδιν ποταμὸν κάτεισι· θάνατον δὲ τὸ ὕδωρ φέρει τοῦτο καὶ ἀνθρώπων καὶ ἄλλων ζῶων παντί. λέγεται δὲ ὅτι γένοιτό ποτε ὄλεθρος ἀπ' αὐτοῦ καὶ αἰξίν, αἱ τοῦ ὕδατος ἔπιον πρῶτον· χρόνῳ δὲ ὕστερον ἐγνώσθη καὶ εἰ δὴ τι ἄλλο πρόσεστι τῷ ὕδατι τῶν ἐς θάῤῥμα ἡκόντων. ὕαλος μὲν γε καὶ κρύσταλλος καὶ μόρρα καὶ ὅσα ἐστὶν ἀνθρώποις ἄλλα λίθου ποιούμενα καὶ τῶν σκευῶν τὰ κεραμεῖα, τὰ μὲν ὑπὸ τῆς Στυγὸς τοῦ ὕδατος ῥήγνυνται· κεράτινα δὲ καὶ ὀστέινα σίδηρός τε καὶ χαλκός, ἔτι δὲ μόλιβδος τε καὶ κασσίτερος καὶ ἄργυρος καὶ τὸ ἤλεκτρον ὑπὸ τούτου σήπεται τοῦ ὕδατος. τὸ δὲ αὐτὸ μέταλλοις τοῖς πᾶσι καὶ ὁ χρυσὸς πέπονδε· [. . .] καὶ δὴ καὶ τὸ ὕδωρ οὐ δύναται τῆς Στυγὸς ὀπλὴν ἵππου βιάσασθαι μόνην, ἀλλὰ ἐμβληθὲν κατέχευται τε ὑπ' αὐτῆς καὶ οὐ διεργάζεται τὴν ὀπλὴν.

“The water trickling down the cliff by the side of Nonacris falls first to a high rock, through which it passes and then descends into the river Crathis. Its water brings death to all, man and beast alike. It is said too that it once brought death even upon goats, which drank the water first. In later times all the wonderful properties of the water were learnt. For glass, crystal, murrhine vessels, other articles men make of stone, and pottery, are all broken by the water of Styx, while things of horn or of bone, with iron, bronze, lead, tin, silver, and electrum, are all corroded by this water. Gold as well suffers just like all the other metals. [. . .] The only thing that can resist the water of Styx is a horse's hoof. When poured into it the water is retained, and does not break up the hoof.”

793 The one of the immortals dwelling on snow-capped Olympus,
 794 who has poured out the water and then swears a false oath,
 795 will lay down breathless for an entire year.
 796 He cannot come close to ambrosia and nectar for
 797 nourishment, but breathless and speechless he lays down
 798 in bed, wrapped in the shroud of evil coma.
 799 And when he has finished that illness after a great year,
 800 another, even harsher, trial awaits him.
 801 For nine years he will be excluded from the gods who always are,
 802 he neither will join their assemblies nor their feasts
 803 for nine full years. But in the tenth he again will join
 804 the assemblies of the immortals who have Olympian houses.

An Olympian god who swears a false oath (τὴν ἐπίορκον ἀπολλείψας ἐπομόσση) will lay down in an evil coma for an entire year. During that year he will not be able to receive nectar and ambrosia. After that painful year he will be excluded from the Olympian community for nine years.

The retributions enumerated should not be considered a climax of punishments, but, as Hirzel correctly pointed out, the difference between conviction and punishment.⁷⁸ The exclusion from the Olympian society is the punishment proper, whereas falling into a one year coma should be regarded as a consequence of perjury, designating the means of evidence for convicting the perjured god.⁷⁹ The effect of the water of Styx is a physical consequence, the exclusion of the perjured god a legal consequence. Exclusion from the Olympian community designates a civil punishment that is not prescribed by Styx but by Zeus and the Olympians.⁸⁰

⁷⁸ R. Hirzel, *Der Eid*, p. 181.

⁷⁹ R. Hirzel, *Der Eid*, p. 181 fn 3, compares it with the perjury of the Vedic Moon-god who suffered consumption after breaking the oath he had sworn. The Moon-god's illness, however, is the punishment. See also West, *Hesiod: Theogony*, p. 375. For the Vedic story, see: H. Oldenberg, *Religion des Veda*, Stuttgart/Berlin 1894, p. 522. The same can be said in comparison with those ancient Near Eastern river-ordeals, where drowning designates the conviction. On ancient Near Eastern river-ordeals, see: T. S. Frymer-Kensky, *The Judicial Ordeal in the Ancient Near East*, Diss. Yale 1977.

⁸⁰ See also: K. Latte, *Heiliges Recht*, Tübingen 1920, p. 6; K. Marot, *Der Eid als Tat*, Szeged 1924, p. 10; E. Schwytzer, *Indg. Forsch.* 45 (1927), pp. 255ff.

Where does the perjured god or goddess have to spent the nine years apart from the Olympians? Unfortunately, Hesiod does not give an answer, but according to Servius the perjured god has to spent those years in Tartaros.⁸¹ This implies that Tartaros is not only the prison for the Titans but also the prison for every god who is convicted of perjury. In addition, Homer tells us that every god who rebels against Zeus can also be thrown into Tartaros:

13 ἥ μιν ἐλὼν ῥίψω ἐς Τάρταρον ἡερόεντα
 14 τῇλε μάλ', ἥχι βάδιστον ὑπὸ χθονός ἐστι βέρβεδρον,
 15 ἔνθα σιδήρειαί τε πύλαι καὶ χάλκεος οὐδός,
 16 τόσσον ἔνερθ' Αἴδεω ὅσον οὐρανός ἐστ' ἀπὸ γαίης.
 17 γνώσεται ἔπειθ' ὅσον εἰμὶ θεῶν κάρτιστος ἀπάντων.⁸²

13 Or, seizing him I shall rip him into murky Tartaros
 14 far below, where the deepest pit is under the Earth,
 15 there are iron gates and a bronze door-stone,
 16 which is as far beneath Hades as heaven from earth.
 17 Then you will recognize just how much I am the most dominant of all gods.

Titans, perjurers, and rebels can all be thrown into Tartaros according to Zeus's counsel. The fact that a god convicted of perjury has to spent nine years in Tartaros perfectly fits into the Hesiodic picture. The force of Styx causes the perjurer to fall into a coma. To that extent the genealogy of her children Kratos and Bia is plausible. Her strength may also be responsible for pulling down the perjured god to the area of Tartarus, where she flows through the dark night. Why must a god who perjures himself expect such a severe punishment?

⁸¹ Servius *ad Aen.* VI 565: "Deum poenas docuit aut quas dii nocentibus statuerunt. Aut Titanum, quos legimus deos ex Terra progenitus: aut re vera dicit poenas deorum. Fertur namque ab Orpheo, quod dii peierantes per Stygem paludem novem annorum spatio puniuntur in Tartaro: unde ait Statius et Styx periuria divum arguit "

⁸² Homer, *Iliad* 8. 13-16. See also *Homeric Hymn to Hermes* 256ff., where Apollo threatens the young Hermes to be thrown into Tartarus, if doesn't tell the truth.

One may even go a step further and maintain that the Oath (Ὅρκος) is a power that entails both the force to bring back Chaos and to overcome it. The only connection between Chaos and Oath is found in Statius's *Thebaid*. In his final speech, before earth devours him, Amphiarcus says the following words:

Augur Apollineis modo dilectissimus aris
Testor inane chaos – quid enim hic jurandus Apollo?⁸³

I, once the best beloved of augurs at Apollo's shrine, call
empty Chaos to bear witness – for what power to receive an oath has Apollo here?

What kind of oath is Horkos? Is Horkos necessarily connected to Styx? Is the great oath of the gods the only one that the gods swear?

Unlike Hesiod's *Erga*, which gives an account of the human dimension of oath-taking, Hesiod's *Theogony* expresses the divine dimension of Oath (Ὅρκος). Deified Oath seems to represent a link between the lineage of Chaos and the lineage of Gaia. In the way the *Erga* presents a close connection between vocabulary of oath-taking and Styx (*Erga*, vv. 194-96), in like manner does the catalogue of Strife's children. Strife itself is characterized as fearful or hateful, *στυγερά*. The fact that the Oath (Ὅρκος) is the last child of hateful Strife (Ἐρις *στυγερά*) leads to the following question: What is the connection between Oath and Styx? What does it mean that Zeus grants Styx the honor of being the great oath of the gods?

⁸³ Statius, *Thebaid* 8, 99-100.

Chapter 5

Zeus's Promise: The Constellation of Zeus, Styx, and Oath

1. The Hymn to Styx

The narrative of Styx receiving the honor of being the great oath of the gods is one of the central pieces in Hesiod's *Theogony* and at the same time one of the most puzzling passages.¹ The report of bringing forth Zelos, Nike, Kratos, and Bia turns into a narrative that deals with Zeus's sovereignty *in statu nascendi*. At first glance, the content of the narrative seems to be very simple. It is the story of Styx coming to Mount Olympus along with her children. Upon Zeus's promise that all the gods who will fight with him against the Titans will receive due honors, Styx is the first to come to Mount Olympus and to advise Zeus to take her children as companions. Thereupon, Zeus bestows her with the honor of being the great oath of the gods. In that way Zeus fulfills his promise. The passage concludes with Zeus ruling with strength.

Clearly, Styx plays a key role in Zeus's coming to power. What is not so clear, however, is what exactly her role or her function is. While a Titan, she is also attached to the Olympians whose ascendancy to power will come at the expense of the Titans. This gives rise to the following questions: What exactly is the role of Styx in Zeus's coming to power? What exactly is the connection between Styx and Zeus's ascendance to power? And why does Styx receive the honor of being the great oath of the gods? What kind of oath is the great oath of the gods? An assertory oath or a promissory oath, a political oath or a juridical oath?

¹ Hesiod, *Theogony*, vv. 383-403.

Some scholars conceive Styx and her children as helpers in the battle against the Titans without making an attempt to relate the narrative to her function as the great oath of the gods.² Others consider the children of Styx as powers that enforce oath-taking in general without explaining the significance of oath-taking in relation to the battle against the Titans.³ Thus, scholars have never really made an attempt to determine the significance of institutionalizing Styx as the great oath of the gods in connection with the process of Zeus's path to sovereignty. This may partially be due to Hirzel's classical study on the oath.⁴

Since Hirzel's study, the Hesiodic narrative of Styx receiving the honor of being the great oath of the gods has been interpreted with respect to assertory or juridical oaths that are taken in court procedure.⁵ This would fit into the picture that most scholars have drawn concerning the world of Hesiod, whose verses often reflect a claim for justice based on the legal dispute with his brother.⁶ The narrative of Styx receiving the honor of being the great oath of the gods, however, does not depict a trial scene but Zeus's preparations to overthrow the previous generation of gods. This battle is a conflict between different generations of gods, between Titans and Olympians. The outcome of this conflict decides which party will gain sovereignty. As a conflict concerning sovereignty, the battle is also a political conflict. In attempting to win allies, Zeus promises to bestow honors to those who will fight with him. Thus, Zeus's words can not be understood as a means of evidence brought to court but as a pledge or vow, i.e. as a promise with legal implications.

² Fr. Solmsen, *Hesiod and Aeschylus*, Ithaca 1949; M. L. West, *Hesiod: Theogony*, Oxford 1966, ad loc.

³ Fr. Schwenn, *Die Theogonie des Hesiodos*, Heidelberg 1934; F. M. Cornford, *Principium sapientiae*, Cambridge 1952.

⁴ R. Hirzel, *Der Eid*, Leipzig 1902.

⁵ R. Hirzel, *Der Eid*, pp. 171-75; K. Latte, *Heiliges Recht*, Tübingen 1920, pp. 5-47; H. Fränkel, "Drei Interpretationen aus Hesiod," *Festschrift Reitzenstein*, Leipzig 1931, p. 12.

⁶ Hesiod, *Erga*.

In the following chapter, I point out that the appointment of Styx as the great oath of the gods does not primarily represent the institution of assertory oaths but more importantly the institution of promissory oaths, more precisely: the institution of the political oath.⁷ From a modern legal point of view, the category of the political oath refers to the oath of office, the oath of loyalty, or the oath of allegiance. With respect to their medieval heritage, I show that the narrative of Styx receiving the great oath of the gods can be understood much better in terms of natural-law philosophy than in terms of modern positive law. In *De iure belli et pacis*, Hugo Grotius investigates the legal implication of promissory speech during war.⁸ Grotius argues that it is licit to lie to the enemy in assertory speech but not in promissory speech, since the latter confers a new and special right (*ius*) to the person to whom the promise is given. Against this backdrop, I point out that, in promising honors to the other gods, Zeus confers new and special rights to those gods who were previously without honors. In doing so, Zeus lays the foundation for a new divine community. On the basis of that promise the Olympians elect Zeus as their king and put him into office as their supreme god after the victorious battle against the Titans.⁹ In addition, I argue, that Zeus is inaugurated as the highest god and sovereign not only through a promise that he gave to the other gods but also through founding the institution of the great oath of the gods. Thus, promise-giving and institutionalizing the great oath of the gods brings an end to the succession of divine rulers and can be regarded as an important feature of the social contract of the Olympian community.

⁷ On the political oath, see: E. Friesenhahn, *Der politische Eid*, Bonn 1928; E. Friesenhahn, "Zur Problematik des politischen Eides" *Zeitschrift für Schweizerisches Recht* 99 (1980), pp. 1-29; P. Prodi, *Il sacramento del potere: Il giuramento politico nella storia costituzionale dell'Occidente*, Bologna 1992.

⁸ Hugo Grotius, *De iure belli et pacis*, Paris 1625, Book III.

⁹ Hesiod, *Theogony*, vv. 881-885.

Finally, I point out that the myth of successive divine rulers, which is the “backbone” of Hesiod’s *Theogony*,¹⁰ bears another similarity with its Near Eastern forerunners, most prominently with the Hittite epic cycle *The Kingship in Heaven* and the Akkadian epic of sovereignty *Enuma Elish*.¹¹ In the Akkadian epic it is the god Marduk who comes forward when the other gods are struck with fear facing Tiamat and her monsters in battle. Upon promising to defeat the monsters that were created by Tiamat, Marduk is granted the tablet of destinies. After the victorious battle against Tiamat, Marduk is inaugurated through an oath ceremony that puts him above the other gods. The oath, however, that grants him sovereignty is not a promise to the other gods but an oath of loyalty performed by the other gods. The parallel concerning the function and institution of the oath between Hesiod’s *Theogony* and the Hittite *Kingship in Heaven* has to be drawn in a different way. In the Hittite poem, the myth of successive divine rulers has to be seen in relation to the invocation of an elder generation of gods who serve as oath deities. These old oath deities are also invoked as witnesses in the Hittite state treaties. The proem to the *Kingship in Heaven* invokes these old oath deities as witnesses for securing sovereignty for each divine ruler. In connection with the Homeric version of the great oath of the gods, one may not only reconstruct that the Olympian gods in Hesiod take oaths by their ancestors but also that the new society of gods has banned their ancestors by whom oaths are taken to the netherworld.

Due to the fact that the narrative of Styx receiving the honor of being the great oath of the gods has never been interpreted satisfactorily, I provide the reader with the entire passage and point out the strengths and weaknesses of previous interpretations in more detail. This has become necessary, because scholars often have strong opinions as to what constitutes an oath.

¹⁰ Fr. Solmsen, *Hesiod and Aeschylus*, p. 20; M. L. West, *Hesiod: Theogony*, p. 18.

¹¹ For a comprehensive summary of parallels concerning Hesiod’s *Theogony* with its Near Eastern forebears, see: M. L. West, *The East Face of Helicon: West Asiatic Elements in Greek Poetry and Myth*, Oxford 1997.

What an oath is, or what an oath supposedly is, depends very much on one's intellectual background. A legal or social-legal scholar will understand the oath in terms of a provision prescribed by a law code, while a scholar of religions will conceive the oath in relation to vows and ceremonial practices. A believer will regard the oath as an exam of faithfulness in front of a god, and a philosopher will understand the oath as a speech-act in its moral and ethical context. Finally, an anthropologist may take up all these aspects and compare them with similar features in different societies and cultures.

Against the backdrop of the cosmographic passage, I give – what traditionally is called – an *explication de texte*, since only a text that has been read properly can be compared with other texts. In comparing Hesiod's *Theogony* with Near Eastern texts, it is no longer sufficient to point out one-to-one parallels but to break the traditional categories by which parallels are found and discussed. In that way I attempt to set free an anthropological potential that opens the field for further investigations into the history of oath-taking in terms of its social-legal and political-religious institutions:

383 Στύξ δ' ἔτεκ' Ὠκεανοῦ θυγάτηρ Πάλλαντι μιγεῖσα
 384 Ζῆλον καὶ Νίκην καλλίσφυρον ἐν μεγάροισι
 385 καὶ Κράτος ἠδὲ Βίην ἀριδείκετα γείνατο τέκνα.
 386 τῶν οὐκ ἔστ' ἀπάνευθε Διὸς δόμος, οὐδὲ τις ἔδρη
 387 οὐδ' ὁδός, ὅππῃ μὴ κείνοις θεὸς ἡγεμονεύει.
 388 ἀλλ' αἰεὶ παρ Ζηνὶ βαρυκτύπῳ ἐδρίωνται.
 389 ὥς γὰρ ἐβούλευσε Στύξ ἄφθιτος Ὠκεανίη
 390 ἥματι τῷ, ὅτε πάντας Ὀλύμπιος ἀστεροπητῆς
 391 ἀθανάτους ἐκάλεσσε θεοὺς ἐς μακρὸν Ὀλυμπον.
 392 εἶπε δ', ὅς ἂν μετὰ εἶο θεῶν Τιτῆσι μάχοιτο,
 393 μὴ τιν' ἀπορραΐσειν γεράων, τιμὴν δὲ ἕκαστον
 394 ἐξέμεν ἦν τὸ πάρος γε μετ' ἀθανάτοισι θεοῖσι.
 395 τὸν δ' ἔφαθ', ὅστις ἄτιμος ὑπὸ Κρόνου ἦδ' ἀγέραςτος,
 396 τιμῆς καὶ γεράων ἐπιβησέμεν, ἣ δέμις ἐστίν.
 397 ἦλθε δ' ἄρα πρώτη Στύξ ἄφθιτος Οὐλυμπόνδε
 398 σὺν σφοῖσιν παίδεσσι φίλου διὰ μῆδεα πατρός·
 399 τὴν δὲ Ζεὺς τίμησε, περισσὰ δὲ δῶρα ἔδωκεν.
 400 αὐτὴν μὲν γὰρ ἔθηκε θεῶν μέγαν ἔμμεναι ὄρκον,
 401 παῖδας δ' ἥματα πάντα ἐοῦ μεταναιέτας εἶναι.
 402 ὥς δ' ἥματα πάντεσσι διαμπερές ὥς περ ὑπέστη
 403 ἐξετέλεσσ'· αὐτὸς δὲ μέγα κρατεῖ ἠδὲ ἀνάσσει.

383 Styx, the daughter of Oceanus, uniting herself with Pallas, bore
 384 Zelos and trim-ankled Nike in her halls
 385 as well as Kratos and Bie, outstanding children.
 386 They have a house not far from Zeus, and neither do they have a seat
 387 nor a path, where the god does not go before them,
 388 but they sit for ever beside deep-thundering Zeus.
 389 For so did Styx, the immortal Oceanid, deliberate
 390 on that day when the Olympian hurler of lightning
 391 called all the Olympians to high Olympus.
 392 He said that those among the gods who would fight with him against the Titans
 393 will not be bereft of honors and that each would
 394 retain the esteem (s)he formerly had among the immortal gods.
 395 He also said that the one who was dishonored and disregarded under Kronos
 396 will rise to honor and esteem, as it is set.
 397 The first who came to Olympus was immortal Styx
 398 along with her children according to the advice of the beloved father.
 399 Zeus honored her and gave her countless gifts.
 400 He then decreed her to be the great oath of the gods,
 401 and her children to dwell with him forever.
 402 As he had promised, he completed it in every
 403 detail. And he governs with great strength.

The first three lines, vv. 383-385, introduce Styx and Pallas as parents of Zelos, Nike, Kratos, and Bia. The immediately following lines (vv. 386-391) tell us that these children live as companions of Zeus according to Styx's advice that she gave him the day on which he summoned all the gods to Mount Olympus. On that day, Zeus promised honors to all those gods who will fight with him against the Titans (vv. 392-396). Upon that promise, Styx was the first to come to Mount Olympus along with her children. Therefore, she received the honor of being the great oath of the gods and her children the honor of dwelling forever with Zeus (vv. 397-401). The final lines (vv. 402-403) mention that Zeus has accomplished everything the way he had promised and that he rules with strength.

The narrative of Styx receiving the honor of being the great oath of the gods leads the interpretation into two possible directions: either to regard the children of Styx as helpers during the battle against the Titans or to regard them as executing instruments of Styx, i.e. as powers that enforce any form of oath taking among the gods. According to Fränkel and Schwenn, the children of Styx resemble their mother to the extent that they enforce the great oath of the gods during the established reign of Zeus.¹² In contrast, Solmsen and West do not observe any similarity between mother and children, and explain the children of Styx as forces whom Zeus needed during the battle against the Titans in order to secure his reign.¹³ While the two positions are different, they both start with the same question: How can the genealogy of Styx and her children be explained? Any interpretation of the first three lines is immediately faced with the problem of explaining the affinity between Styx and her children.

¹² H. Fränkel, "Drei Interpretationen aus Hesiod," p. 325f.; Fr. Schwenn, *Die Theogonie des Hesiodos*, p. 99.

¹³ Fr. Solmsen, *Hesiod and Aeschylus*, p. 33: "Why should a well of the Underworld have the exceptional honor to serve as the 'great oath of the gods'? [. . .] It was Styx who provided Zeus at a juncture of dire emergency with invaluable helpers." For a similar position, see M. L. West, *Hesiod: Theogony*, ad loc.

Unlike the children of Night or the children of Eris, who bear something of the nature of their mothers, the children of Styx do not seem to bear any resemblance with their mother at all: “Curiously enough, Nike, Kratos, Bia, and Zelos are children of Styx.”¹⁴ If there is no obvious genealogical affinity between the mother and her children, then one has to answer the following questions: Who is Styx? Who are the children of Styx? What is their nature?

Styx is the daughter of Oceanus and Thetys,¹⁵ granddaughter of Heaven and Earth. With respect to her genealogy, there are no major problems with conceiving Styx as a well of the netherworld.¹⁶ Her function as an oath goddess is not surprising either, since water was a widespread substance or principle upon which oaths were taken.¹⁷

Zelos, the power of Emulation or Aspiration, designates a force by which one takes up an eager rivalry while aspiring victory. In comparison with the negative children of Eris such as Neikos (Quarrel), who are destructive for a community, Zelos could be regarded as a more positive power. Zelos *per se* is neutral, but depending on the goal one wishes to achieve, it is both a potentially positive and a potentially negative power. In the *Erga*, Zelos is connected with a negative goal,¹⁸ here in the *Theogony* with Zeus’s positive goal of becoming the supreme god and establishing his government of justice. As a consequence, Zelos is the brother of Nike, the power of Victory, who is described as *καλλίσφυρος*, trim-ankled or fair-ankled. One may associate with Nike the statue of Zeus at Olympia. Phidias gave Zeus a Nike on his right palm. Nikai were also

¹⁴ Fr. Solmsen, *Hesiod and Aeschylus*, p. 32. See also p. 33: “For let us note that the character of Kratos, Nike, and the two others bears no specific resemblance to the personality of Styx. In other words, the point of view which created so many parent-children relationships in Hesiod has not determined this one.”

¹⁵ Hesiod, *Theogony*, v. 361, v. 776; Callimachus, *Hymn to Zeus*, v. 36.

¹⁶ O. Waser, “Styx,” *Roscher IV* (1909-15), pp. 1566-79.

¹⁷ M. Ninck, *Die Bedeutung des Wassers im Kult und Leben der Alten*, Leipzig 1921; J. Rudhardt, *Le thème de l'eau primordiale dans la mythologie grecque*, Berne 1971; T. S. Frymer-Kensky, *The Judicial Ordeal in the Ancient Near East*, 2 vols., Diss. Yale 1977.

¹⁸ In Hesiod, *Erga*, v. 195-96, Zelos is connected with the vocabulary of grief and misery: ζῆλος δ' ἀνθρώποισιν ὀϊζυροῖσιν ἅπασιν δυσκέλαδος κακόχαρτος ὁμαρτήσσει στυγερῶπης.

depicted dancing at the feet of Zeus's throne.¹⁹ At Olympia, there was also an altar of Zeus Katharsios and of Nike.²⁰ At Athens, Nike was not worshipped on her own but as an aspect of Athena Nike. Her altar on the south-west corner of the Acropolis goes back at least to the mid-sixth century.²¹ In black-figure vase-painting Nike is depicted fighting alongside Zeus against the Giants.²²

The mentioning of Kratos and Bia reminds the reader immediately of the opening scene of Aeschylus's *Prometheus Bound*. There, Kratos is represented as strength or domination, Bia as brute force or violence. A shrine of Bia and Ananke has been said to be on the way up to the Acropolis at Corinth.²³ The few attested cults of these children, however, do not provide enough information to elucidate the Hesiodic narrative. Within the *Theogony* itself, there are some verbal associations: νικήσας δὲ βίῃ καὶ κάρτει (v. 437), κάρτει νικήσας (v. 73). These verbal references give at least a hint that the constellation of Styx and her children is not a mere accident.

Zelos, Nike, Kratos, and Bia are not the most colorful powers, yet it seems important for Zeus to have them at his hand, or important to Hesiod to give them Zeus at hand. Zeus goes ahead of them and shows them their paths. Thus, they are personifications of qualities that are not necessarily related to Zeus by nature, but they become inseparably associated with him as he ascends to power and secures his kingship, as Solmsen has pointed out:

¹⁹ Pausanias 5.11.1-2.

²⁰ Pausanias 5.14.8.

²¹ A. E. Raubitschek, *Dedications from the Athenian Acropolis*, Cambridge/Mass 1949, no. 329. See also: I. S. Mark, *Nike and the Cult of Athena Nike on the Acropolis*, Diss. NYU 1979; I. S. Mark, *The Sanctuary of Athena Nike in Athens. Architectural Stages and Chronology*, Princeton 1993. A. H. Shapiro, *Personifications in Greek Art*, Zürich 1993, pp. 28-29.

²² B. Graef, *Die antiken Vasen von der Akropolis zu Athen*, Berlin 1925, pl. 39; J. D. Beazley, *Attic Black-figure Vase-painters*, Oxford 1956, 108, 6; A. H. Shapiro, *Personifications in Greek Art*, p. 28.

²³ Pausanias 2.4.6. See also: E. Simon, "Bia et Kratos," *LIMC* III (1986), p. 114. Simon also seems to accept a cult of Bia and Ananke in Pisidia. H. A. Shapiro, *Personifications in Greek Art*, p. 166 fn 353. The reconstruction of Bia and Ananke in connection with Apollo in CIG 4379^o (Pisidia), however, is not based on clear evidence either, cf. *Epigr. Gr.* 1040. This has already been seen by M. L. West, *Hesiod: Theogony*, ad loc.

“The poet’s primary idea was not that the mother of Nike and the three others must be Styx but that what Zeus needs to secure his rule is these four powers. This idea has led him to assign to Styx children who bear little resemblance to her.”²⁴

Nobody would doubt that the Hesiodic narrative addresses Zeus’s need to secure his power. But does he need these four powers to secure his kingship? How is the process of securing his power to be understood?

Following in the footsteps of Solmsen, West asks some important questions by applying his concept of interpreting myth.²⁵ He maintains that

“the reason why Styx is made the mother of Zelos, Nike, Kratos, and Bie is to be sought in the narrative digression that follows. This an aetiological myth explaining (a) why Victory and Power are evermore on Zeus’ side, (b) why the gods swear by Styx.”²⁶

West takes the genealogy of Styx and her children as a myth that explains the rest of the narrative. As we shall see, the genealogy of Styx and her children does not explain the subsequent narrative but is explained by it. Thus, the aetiological myth is the narrative that depicts the children of Styx as companions of Zeus and Styx as the great oath of the gods:

“Why do the gods swear by Styx? Because Zeus so ordained. Why did he do so? In reward for some service performed for him by Styx. In what connexion? Most likely in connexion with the Titanomachy, for that was when Zeus needed help. Then did she fight for him? Hardly in person: but she might have sent her children to fight for him. Then who can they have been, that he needed their help? Why, Victory and Strength; those were the gods he needed. Therefore those gods are made the children of Styx.”²⁷

²⁴ Fr. Solmsen, *Hesiod and Aeschylus*, p. 33.

²⁵ M. L. West, “Myth in the Undergraduate Curriculum,” *CUCD* 6 (1977), p. 5. On different approaches to myth, see the “Prolegomena ad Hesiodum” of my dissertation, in which I assess in more detail the positions of West, Vernant, Detienne, and Burkert among others.

²⁶ M. L. West, *Hesiod: Theogony*, p. 272.

²⁷ M. L. West, *Hesiod: Theogony*, p. 272. See also P. Walcot, “Hesiod’s Hymns to the Muses, Aphrodite, Styx and Hecate,” *Symb. Osl.* 34 (1958), pp. 9ff.

By imagining how the myth may have been created, West stresses the fact that Styx provided Zeus with her children as helpers during the battle against the Titans. This may explain the genealogy but it does not explain why the gods swear by Styx. If the reason why Styx is made the mother of those four powers is an aitiological myth explaining why the gods swear by Styx, then one can not argue that Zeus so ordained. The question, ‘Why did Zeus so ordain?’, may well be answered as West does: in connection with the Titanomachy. West’s answer, however, is correct only because it can imply any relation with the Titanomachy. It could imply the actual battle but also the pre- and aftermath of the battle. West’s more specific answer that the children of Styx provided physical aid during the battle against the Titans lacks evidence. There is no evidence in Hesiod, Homer, or in any authors soon after. Nor is there any evidence in vase painting.²⁸ Except for a short note in an author as late as Apollodorus,²⁹ there is no positive evidence that Styx or her children performed any service for Zeus during the Titanomachy. The verb *συνεμάχησε* could range from active physical support to other ancillary forms of support. Thus, it is unsafe to reconstruct her participation through common sense reckoning of how the myth may have been created. Text and context point in a different direction and may even dictate a different interpretation.

Nevertheless, West asks the important question of why the gods swear by Styx. West’s answer that Zeus so ordained is certainly not false but not satisfying either, since it is exactly what the text says. The question, ‘Why do the gods swear by Styx?’, may be answered in a

²⁸ E. Simon, “Kratos und Bia,” *Würb. Jahrb.* n.f. 1 (1975), pp. 177-86. B. Graef, *Die antiken Vasen von der Akropolis zu Athen*, Berlin 1925, pl. 39; J. D. Beazley, *Attic Black-figure Vase-painters*, Oxford 1956, 108, 6; A. H. Shapiro, *Personifications in Greek Art*, p. 28. Nike is depicted as fighting with Zeus against the Giants.

²⁹ Apollodorus, *Bibliotheka* I.II.4-5: ἐγένετο . . . Πάλλαντος δὲ καὶ Στυγὸς Νίκη Κράτος Ζῆλος Βία. τὸ δὲ τῆς Στυγὸς ὕδωρ ἐκ πέτρας ἐν Ἅιδου ἔειον Ζεὺς ἐποίησεν ὅρκον, ταύτην αὐτῇ τιμὴν διδοῦς ἀνθ’ ὅν αὐτῇ κατὰ Τιτάνων μετὰ τῶν τέκνων συνεμάχησε. And to Pallas and Styx . . . were born . . . Victory, Dominion, Emulation, and Violence. But Zeus caused oaths to be sworn by the water of Styx, which flows from a rock in Hades, bestowing this honor on her because she and her children had fought on his side against the Titans.

different way which may then serve as the *aition* explaining the genealogy of Styx and her children. Instead of asking why the gods swear by Styx, one should ask a slightly different question: Why did Zeus ordain Styx to be the great oath of the gods? Because she was the first to come to Mount Olympus, one may answer intuitively. But this answer is equally dissatisfying. However, it leads to another question: Why did Zeus ordain someone at all to be the great oath of the gods? And when? After the battle or before?

Unlike Solmsen and West, who consider the children of Styx as helpers during the battle against the Titans, Schwenn suggests that they have to be regarded as powers that enforce the guarantees of the oath as provided by Styx, since in the reign of Zeus, victory in court procedure is achieved by taking an oath. Thus, law is enforced through oath-taking.³⁰ Schwenn's idea is not bad as it applies the context of social reality to the text, but the Hesiodic text seems to speak of a different reality. Therefore, Schwenn's position was easily dismissed by Solmsen: "I can find no trace of this thought in Hesiod."³¹ Yet, there are traces of this thought in Hesiod. These traces become more visible, if one looks beyond the assertory or juridical oath as depicted in Hesiod's *Erga*. Without being utterly convincing, Cornford took that path:

"The allegory of the Oath of the gods, bringing Victory, Mastery, and Force to the newly enthroned King is transparent enough. Zeus takes an oath, at his coronation, to confirm the rights and privileges of his courtiers, and his own rule will last so long as he keeps his pledge."³²

³⁰ Fr. Schwenn, *Die Theogonie des Hesiodos*, p. 99: "Aber Styx? Sie erhält die Aufgabe, 'Eidbindung, ἑρκος, der Götter zu sein' [. . .], und wird dadurch unter allen Okeaninen hervorgehoben. Was befähigt sie dazu? Freier Wille des Zeus, gewiß, aber man erwartet nach dem sonstigen symbolisch-gnomischen Sinn der Stelle einen inneren Zusammenhang zwischen der Eidesgarantin und ihren 'Kraft- und 'Erfolg'kindern. Also wird man verstehen: unter den Göttern wenigstens steht der Erfolg im Zusammenhang mit dem Recht, wie es durch einen Eid erhärtet werden kann; so ist es eingerichtet, seitdem Zeus die Macht gewonnen hat."

³¹ Fr. Solmsen, *Hesiod and Aeschylus*, p. 33 fn 102.

³² F. M. Cornford, *Principium Sapientiae*, p. 222.

Cornford's interpretation of these lines is very interesting, since it combines oath-taking with Zeus's sovereignty. The idea of combining oath-taking and the ascendance of Zeus to power has received some support in recent years.³³ Zeus, however, is not enthroned or elected king until he has defeated the Titans.³⁴ Moreover, does Hesiod really say that Zeus took an oath? In his commentary Martin West correctly points out that "Ὀρκος is here not the oath itself, i.e. the act of swearing, but that by which the oath is sworn."³⁵ West's observation that no words of an oath are cited is certainly correct as well as his conclusion that *horkos* in these lines does not designate an act of swearing, but the object by which the oath is sworn: "A god takes an oath by Styx, not merely by mentioning her name, but by making a libation with her water."³⁶ West's further conclusion is corroborated by the context of the cosmographical passage as well as by comparison with Homer. But do West's conclusions exhaust the understanding of these lines? Can the treatment of oaths be reduced to citations of oath formulas, an invocation of a god, a ritual, or a ceremonial object? Or, should we also include considerations about legal aspects, social-legal aspects, or even political aspects of oath taking?

The narrative of Styx receiving the great oath of the gods has always been linked with the story that depicts Horkos as an offspring of Eris. In the *Erga* Eris is connected with quarrel, which is solved in court procedures if one party takes an oath. As an offspring of Eris, Horkos consequently was determined as an assertory oath.³⁷ In determining Oath as an assertory oath, Fränkel argued that the narrative of Styx receiving the honor of the great oath of the gods has to be understood with reference to a trial scene. According to Fränkel, the children of Styx represent

³³ D. R. Blickman, "Styx and the Justice of Zeus in Hesiod's *Theogony*." *Phoenix* 41 (1987), p. 353: "Even Zeus must swear and is bound to uphold ῥέμης."

³⁴ Hesiod, *Theogony*, vv. 881-85.

³⁵ M. L. West, *Hesiod: Theogony*, p. 276.

³⁶ M. L. West, *Hesiod: Theogony*, p. 275.

³⁷ R. Hirzel, *Der Eid*, p. 2: "Als assertorischen betrachtete den Eid Hesiod, da er ihn ein Kind der Eris nennt."

the power of the oath by which one of the litigants is victorious in juridical procedures.³⁸ Therefore, Styx as the great oath of the gods must refer to assertory oaths. The least one could say is that the text of Hesiod's *Theogony* does not provide immediate evidence that the great oath of the gods has to be determined as either assertory or promissory oath.

In the Homeric poems, the water of Styx is used for oath-taking procedures among the Olympian gods. In *Iliad* XV Hera gives an oath of faithfulness to Zeus:

- | | |
|----|---|
| 36 | ἴστω νῦν τόδε Γαῖα καὶ Οὐρανὸς εὐρύς ὑπερθε |
| 37 | καὶ τὸ κατειβόμενον Στυγὸς ὕδωρ, ὅς τε μέγιστος |
| 38 | ὄρκος δεινότατος τε πέλει μακαρέσσι θεοῖσιν. |
| 39 | σὴ θ' ἱερὴ κεφαλὴ καὶ νωίτερον λέχος αὐτῶν |
| 40 | κουρίδιον, τὸ μὲν οὐκ ἂν ἐγὼ ποτε μᾶψ ὁμοσαίμι. ³⁹ |
-
- | | |
|----|--|
| 36 | Let Earth be my witness and broad Heaven above |
| 37 | and the down-flowing water of Styx, which is the greatest |
| 38 | and most uncanny oath for the sublime gods, |
| 39 | and your own sacred head, and our bed, |
| 40 | the bed of our wedded love, by which I surely would never forswear myself. |

Hera swears an oath by the Στυγὸς ὕδωρ, the water of Styx which is the μέγιστος ὄρκος δεινότατος, the greatest and most uncanny oath for the gods. Because Hera asserts the truth of things that happened in the past, her oath is an assertory oath. Hence, bestowing Styx with the honor of being the great oath of the gods would mean that Zeus has introduced the institution of the assertory or juridical oath. It would support the position of Fränkel and Schwenn. However, the fact that an oath by the water of Styx does not necessarily represent an assertory or juridical oath is shown in at least two instances.

³⁸ "Die Mutter der vier Gewalten ist Styx. Ebenso war auch unter den streitbaren Eriskindern eines der Eid gewesen. Aber hier, in dem himmlischen Gegenbild zu der menschlich nächtigen Erisfamilie, ist Styx kein Menscheneid, sondern ein Sondereid der Olympier. Die nahe Verwandtschaft zwischen den Vier und der Eideskraft können wir dahingehend verstehen, daß im Streit, nach altem Recht, der Eid den Prozeß zugunsten des Schwörenden entscheidet. Der Eid wendet sich nicht an den Richter, sondern an die andere Partei: sie wird durch den Eid besiegt und niedergezwungen." H. Fränkel, "Drei Interpretationen aus Hesiod" (1931), p. 12.

³⁹ Homer, *Iliad* XV, vv. 36-40. The line 36-38 also occur in the oath of Calypso in *Odyssey* V, vv. 184-87 and in the oath of Leto in the *Hymn to Apollo*, v. 84.

In the *Odyssey* Odysseus asks Calypso to swear a great oath, μέγαν ὄρκον, that she will not plot against him any other evil to his suffering:

184 Ἴστω νῦν τόδε Γαῖα καὶ Οὐρανὸς εὐρύς ὑπερθε
185 καὶ τὸ κατειβόμενον Στυγὸς ὕδωρ, ὅς τε μέγιστος
186 ὄρκος δεινότατος τε πέλει μακαρέσσι θεοῖσιν,
187 μὴ τί τοι αὐτῷ πῆμα κακὸν βουλευσέμεν ἄλλο.
188 ἀλλὰ τὰ μὲν νοέω καὶ φράσσομαι, ἅσθ' ἂν ἐμοί περ
189 αὐτῇ μηδοίμην, ὅτε με χρειῶ τόσον ἴκοι·
190 καὶ γὰρ ἐμοὶ νόος ἐστὶν ἐναΐσιμος, οὐδέ μοι αὐτῇ
191 θυμὸς ἐνὶ στήθεσσι σιδήρεος, ἀλλ' ἐλεήμων.⁴⁰

184 Let Earth be my witness and broad Heaven above
185 and the down-flowing water of Styx, which is the greatest
186 and most uncanny oath for the sublime gods,
187 that I will not plot against you any other evil to your suffering.
188 But what I shall devise, and what I tell you,
189 will be the same as if your need were mine.
190 Fairness is all I think of. There are hearts
191 made of cold iron, but my heart is kind.

Calypso partially swears the same oath as Hera. The first three lines of the invocation exactly match the first three lines of Hera's invocation. Yet, Calypso's oath is not an assertion concerning the truth of past events but a promise concerning her action in the future. She promises not to add other evil (κακὸν βουλευσέμεν ἄλλο) to Odysseus's suffering (πῆμα). Thus, Calypso takes a promissory oath.⁴¹

In the *Homeric Hymn to Apollo*, Leto swears a great oath that Apollo shall have a temple:

84 Ἴστω νῦν τόδε Γαῖα καὶ Οὐρανὸς εὐρύς ὑπερθε
85 καὶ τὸ κατειβόμενον Στυγὸς ὕδωρ, ὅς τε μέγιστος
86 ὄρκος δεινότατος τε πέλει μακαρέσσι θεοῖσιν·
87 ἧ μὲν Φοῖβου τῇδε θυώδης ἔσσεται αἰεὶ
88 βωμὸς καὶ τέμενος, τίσει δέ σέ γ' ἔξοχα πάντων.⁴²

⁴⁰ Homer, *Odyssey* V, vv. 184-91.

⁴¹ Eustatius ad Od. 5. 184; E. Rohde, *Psyche: Seelencult und Unsterblichkeitsglaube der Griechen*, 2 vols., Freiburg 1890-94, pp. 45-62; P. Karavites, *Promise-Giving and Treaty-Making: Homer and the Near East*, Leiden 1992, p. 17.

⁴² *Homeric Hymn to Apollo*, vv. 84-88.

84 Let Earth be my witness and broad Heaven above
 85 and the down-flowing water of Styx, which is the greatest
 86 and most uncanny oath for the sublime gods.
 87 Surely, Phoebus shall have here his fragrant altar for ever
 88 as well as his precinct, and you he shall honor above all.

Leto's invocation exactly matches the invocation of Hera's and Calypso's oath. By invoking Earth, Heaven, and the down-flowing water of Styx (τὸ κατειβόμενον Στυγὸς ὕδωρ), Leto promises Apollo an altar. Leto's oath as well cannot be considered an assertory or juridical oath but rather a promissory oath. Apart from Hera's oath of faithfulness, all divine oaths that are taken by Styx have to be regarded as promissory oaths, likewise human oaths that are taken by the Arcadian river Styx in Nonacris.⁴³

The fact that oaths that are sworn by the water of Styx cannot necessarily be regarded as assertory oaths, leaves us with the opportunity to determine the great oath of the gods in Hesiod's narrative as a promissory oath. But to what extent can the great oath of the gods be determined as a promissory oath?

2. Reading the Narrative of Styx Receiving the Great Oath of the Gods:

Against this backdrop one may ask the following preliminary questions: When does Styx receive the honor of being the great oath of the gods? Before or after the battle against the Titans? The Hesiodic text is very precise. The narrative of Styx receiving the honor of being the great oath of

⁴³ Herodotus VI, 74: ἐνθεῦτεν δὲ ἀπικόμενος ἐς τὴν Ἀρκαδίην, νεώτερα ἔπραξε πρήγματα, συνιστὰς τοὺς Ἀρκάδας ἐπὶ τῇ Σπάρτῃ, ἄλλους τε ὄρκους προσάγων σφι, ἣ μὲν ἔψεσθαι σφεας αὐτῷ τῇ αὖ ἐξηγῆται· καὶ δὴ καὶ ἐς Νώνακριν πόλιν πρόθυμος ἦν τῶν Ἀρκάδων τοὺς προεστεῶτας ἀγινέων, ἐξορκοῦν τὸ Στυγὸς ὕδωρ. From there (Thessaly) he (Cleomenes) went to Arcadia and created new facts by uniting the Arcadians against Sparta. He imposed other oaths upon them that they truly were to follow him wherever he should lead. And he was especially eager to bring the leading men of the Arcadians to the town of Nonacris, where he them take the oath by the river Styx.

the gods does not mention any events during the Titanomachy, but it explicitly refers to events before as well as after the battle. Before the battle, Zeus promised honors to all the gods who would fight with him against the Titans. The fact that, upon Zeus's promise, Styx was the first to come to Mount Olympus along with her children must refer to events before the battle, otherwise neither she nor her children could have performed any service for Zeus during the battle. Upon her arrival on Mount Olympus, Zeus bestowed her with countless gifts and decreed her to be the great oath of the gods. Therefore, one must assume that the great oath of the gods was established before the battle against the Titans. If it were the primary function of the great oath of the gods to secure law, i.e. positive law that prescribes certain procedures within the established Olympian society, then it would have been established after the battle against the Titans. In that case, Hesiod would have made Styx a wife of Zeus or a daughter of Themis. This leads to the following question: What is the significance of bestowing Styx with the honor of being the great oath of the gods before the battle against the Titans?

In the catalogue of the Oceanids, Styx is mentioned at the end of the enumeration. Her conspicuous position at the end of that catalogue is now expanded. She joins Pallas in love and brings forth Zelos, Nike, Kratos, and Bia: Emulation, Victory, Dominion, and Violence. With reference to the established order of Zeus' kingship these children are Zeus's companions according to Styx's advise. Before the battle against the Titans, the day on which Zeus summoned all the gods to Mount Olympus, Styx advised him to take her children as companions:

389 ὥς γὰρ ἐβούλευσε Στύξ ἄφθιτος Ὠκεανίνη
 390 ἡματι τῷ, ὅτε πάντας Ὀλύμπιος ἀστεροπητῆς
 391 ἀθανάτους ἐκάλεσσε θεοὺς ἐς μακρὸν Ὀλυμπον.

389 For so did Styx, the immortal Oceanid, deliberate
 390 on that day when the Olympian hurler of lightning
 391 called all the Olympians to high Olympus.

The day on which Zeus called all the gods to Mount Olympus can be regarded as the first attempt to assemble all gods that are later called the Olympians. The expression ἡματι τῷ, on that day, connects the hymn to Styx with the narrative of the beginning, where Day (Ἡμέρη) was brought forth by Erebus and Night.⁴⁴ With the birth of Day the first part of the genealogy of Night comes to an end. Day does not unfold its essence into progeny. Day remains as what it was set forth, without qualities. Day (Ἡμέρη) did not unfold itself nor did it mingle with Aether in order to produce further offspring such as light (φάος). As Zeus summons all the gods to Mount Olympus and makes the decision to overthrow the Titans, Day's nature displays itself as the dawn of the Olympian society. The irreversible fate-determined time that was set out through the lineage Chaos-Night-Day is being transformed into cycle time, which is characterized by the change from night to day and day to night. On that day (ἡματι τῷ), Zeus promised to bestow due honors upon those gods who will fight with him against the Titans:

392 εἶπε δ', ὃς ἂν μετὰ εἶο θεῶν Τιτῆσι μάχοιτο,
 393 μὴ τιν' ἀπορραΐσειν γεράων, τιμὴν δὲ ἕκαστον
 394 ἐξέμεν ἦν τὸ πάρος γε μετ' ἀθανάτοισι θεοῖσι.
 395 τὸν δ' ἔφαθ', ὅστις ἄτιμος ὑπὸ Κρόνου ἦδ' ἀγέραςτος,
 396 τιμῆς καὶ γεράων ἐπιβησέμεν, ἥ θέμις ἐστίν.

392 He said that those gods who would fight with him against the Titans
 393 will not be bereft of honors and that each would
 394 retain the esteem (s)he had before among the immortal gods.
 395 He also said that the one who was dishonored and disregarded under Kronos
 396 will rise to honors and rights, as it is set.

On the brink of war with the Titans, Zeus invites all gods to fight on his side. During the first assembly of the Olympian gods Zeus states (εἶπε) that those gods who had honors under Kronos will keep them, but those who did not have honors, will receive some. Zeus's words refer to events that may or may not be realized in the future. His words, however, are not given in direct

⁴⁴ Hesiod, *Theogony*, vv. 124-25.

speech. Nevertheless, one can conclude that his words entail a promise to the other gods. It is a promissory speech or a promissory speech-act. What one cannot conclude is that Zeus takes an oath as Cornford does.⁴⁵ Although Cornford's remarks have no textual evidence, they point into the right direction, if one takes up an idea by the natural law philosopher Hugo Grotius.

Faced with the problem of what kinds of lies and deceptions towards the enemy are allowed in war, Hugo Grotius argues that it is licit to lie to enemies in assertory speech but not in promissory speech,⁴⁶ since a promise necessarily confers a new right to someone whom the promise is made to: *promissio per se jus novum confert*.⁴⁷ In promising honors to those gods who will fight with him against the Titans, Zeus confers a legal right to the other gods. Upon Zeus's promise, it was Styx who first arrived on Mount Olympus:

397 ἦλθε δ' ἄρα πρώτη Στύξ ἄφθιτος Οὐλυμπόνδε
398 σὺν σφοῖσιν παιδεσσι φίλου διὰ μῆδεα πατρός·
399 τήν δ' ἑ Ζεὺς τίμησε, περισσὰ δὲ δῶρα ἔδωκεν.
400 τήν μὲν γὰρ ἔθηκε θεῶν μέγαν ἔμμεναι ὄρκον,
401 παῖδας δ' ἥματα πάντα ἐοῦ μεταναίετας εἶναι.

397 The first who came to Olympus was immortal Styx
398 along with her children according to the advice of the beloved father.
399 Zeus honored her, gave her countless gifts,
400 and decreed her to be the great oath of the gods,
401 and her children to live with him forever.

⁴⁵ F. M. Cornford, *Principium Sapientiae*, p. 222.

⁴⁶ "Sciendum vero quae de falsiloquio diximus ad asserentem sermonem, et quidem talem qui nulli nisi publico hosti noceat, non ad promittentem referenda. Nam ex promissione, ut jam modo dicere coepimus, jus speciale ac novum confertur ei cui fit promissio." Hugo Grotius, *De jure belli et pacis*, (Paris 1625) Amsterdam ²1646, III, 1, 18. See also book III 19, 1: "Nam vero eloquendi obligatio est ex causa, quae bello fuit anterior, et bello tolli forte aliquatenus potest: at promissio per se jus novum confert."

⁴⁷ Hugo Grotius, *De jure belli et pacis*, III, 19, 1.

According to the advice of her beloved father, Oceanus, Styx came to Mount Olympus along with her children. This refers back to the other offspring of Oceanus and Thetys, who will be part of Zeus's regime and are regarded as protectors of the youth.⁴⁸

Styx, the daughter of Oceanus and Thetys and granddaughter of Heaven and Earth,⁴⁹ is decreed to be the *θεῶν μέγαν ὄρκον*, the great oath of the gods, since she was the first of all the gods who came to Mount Olympus. Horkos and Styx begin to form a configuration. Styx was accompanied by her children, eager Rivalry or Emulation (*Ζῆλος*), Victory (*Νίκη*), Strength or Dominion (*Κράτος*), and Violence (*Βίη*). By bestowing Styx with the honor of being the great oath of the gods and her children with the honor of dwelling with him forever, Zeus abides by the promise he has given:

402 ὥς δ' ἤματα πάντεσσι διαμπερές ὥς περ ὑπέσθη
403 ἐξετέλεσσ'· αὐτὸς δὲ μέγα κρατεῖ ἡδὲ ἀνάσσει.

402 As he had promised, he completed it in every
403 detail. And he governs with great strength.

Zeus's promise to bestow honor upon those who will support him in waging war against the Titans has now been fulfilled. In bestowing Styx with the honor of being the great oath of the gods, Zeus accomplished everything as he had promised, *ὥς περ ὑπέσθη*. In conferring a new and special right to Styx, Zeus institutionalizes her as the great oath of the gods. With respect to the newly created institution of the great oath of the gods, Zeus makes his promise more binding. The institution of the great oath of the gods not only serves as an example for those who will follow Zeus in the future, but it also provides guaranties for future actions. Zeus gains sovereignty

⁴⁸ Hesiod, *Theogony*, vv. 347-48.

⁴⁹ Hesiod, *Theogony*, v. 361, v. 776; Callimachus, *Hymn to Zeus*, v. 36.

through a promise that he gives to the other gods by founding the institution of the oath and is inaugurated as king after the victorious battle.⁵⁰

The Day that was set forth by Erebus and Night without fulfillment has now started its process of fulfillment. It began when Styx came to Olympus and received the honor of the great oath of the gods. The fact that Styx was the first to come to Mount Olympus means not only that she is first in terms of time, but also that she is first *in re*. As *θεῶν μέγας ὄρκος*, as the great oath of the gods, Styx is first *in re*, i.e. she represents the foundation upon which the Olympian community is created. Styx along with Oath (*Ὀρκος*), the last child within the lineage of Chaos, are suited to found the new order of the Olympian gods.

Despite the fact that neither Zeus swears an oath in order to validate his promise, Styx and Oath seem to be the fundamental features of the social contract of the Olympian community. Since Styx was the first to join the future Olympian community, Zeus made her the great oath of the gods as a witness for his promise. The fact that Styx received the honor of being the great oath of the gods represents not only the logical link between the lineage of Chaos and the lineage of Gaia as well as the first step in creating a new order, but also the social basis of that new order, i.e. the social contract of the Olympian community.

The enormous punishment for swearing a false oath seems to be justified for the simple reason that Styx and Oath have become the fundamental basis of the Olympian community. Violating the great oath of the gods is to question the fundamentals of the Olympian community. Therefore, Styx keeps an eye on its function. Under the reign of Zeus, the great oath of the gods can be considered both as an assertory and promissory oath. Its origin, however, is not the

⁵⁰ Hesiod, *Theogony*, vv. 881-85.

assertion of truth, as Hirzel conceived it,⁵¹ but the provision of guaranties: the promise. In the same way Thomas Hobbes observed that the assertory oath must be reduced to the promissory oath,⁵² in like manner the hymn to Styx must be understood: the promise is more basic than the assertion.

Interpreting Hesiod's *Theogony* in terms of natural-law philosophy not only elucidates the narrative of Styx receiving the honor of being the great oath of the gods, but it also opens the field for further investigations into the relation to its Near Eastern forebears. A new parallel is presented here.

3. Oath and Sovereignty in the Near Eastern Forebears of Hesiod's *Theogony*

3.1. Emil Forrer and the *Song of Kumarbi*

It all began with a lecture by Emil Forrer. At the *International Congress for Historians of Religion* in Brussels 1935, Emil Forrer introduced the scholarly world to some fragments of a Hittite text concerning the myth of Kumarbi.⁵³ Date of composition as well as cuneiform script of these fragments made it likely that several parallels with myths of other areas are expected to be found: parallels with Hurrian, Mesopotamian, or Syrian myths. The most striking parallel, however, is neither Hurrian, Mesopotamian, or Syrian, but derives from a Greek text that was composed at least half a century later: Hesiod's *Theogony*. It is noteworthy that Emil Forrer immediately saw this connection. In both texts he observed the common motif of a succession of divine rulers: the sequence of Alalu, Anu, Kumarbi in the Hittite epic seemed to match the

⁵¹ R. Hirzel, *Der Eid*, pp. 171-75.

⁵² "Neque obstat, quod iusjurandum non solum promissorium, sed aliquando affirmatorium dici posit: nam qui affirmationem juramento confirmat, permittet se vera respondere." Th. Hobbes, *De cive* II 20 (= *Op. Lat.* II Sp. 179).

⁵³ A brief summary appeared as F. Forrer, "Göttergeschichte als Weltgeschichte," *FuF* 11 (1935), pp. 398-99. A year later the lecture was published as: E. Forrer, "Eine Geschichte des Götterkönigtums aus dem Hatti-Reiche," *Mélanges Franz Cumont. Annuaire de l'Institut de Philologie et d'Histoire orientales et slaves* 4 (1936), pp. 687-713.

sequence of Uranos, Kronos, and Zeus in Hesiod. With some improvement Forrer's insight is generally accepted by Hittitologists and Classicists such Güterbock and Otten, Lesky and Dornseiff, Haas and Wilhelm, Burkert and West.⁵⁴

Forrer's other argument that the Hittite epic is a translation or adaptation of a Hurrian myth or epic, i.e. a Hurrian myth in Hittite language that reflects historical events, was less well received. On the basis that the succession from Alalu to Anu is of Babylonian origin,⁵⁵ Güterbock argued that the Hurrian or Hittite poet who composed the epic was influenced by Babylonian ideas.⁵⁶ Alalu, the first divine king in the Hittite *Song of Kumarbi*, is unparalleled in Hesiod's *Theogony* or in other sources of Greek mythology. On the basis that both Alalu and Anu are of Mesopotamian origin Speiser suggested that the right path of reconstructing the epic would have to be done against the backdrop of Babylonian mythology and literature.⁵⁷ As far as the literary genre is concerned, one could transform the problem into the following question: *Enuma Elish* or Hesiod's *Theogony*?

⁵⁴ F. Dornseiff, "Altorientalisches in Hesiods Theogonie," *L'ant. class.* 6 (1937), pp. 231-58; H. G. Güterbock, "Die historische Tradition bei Babyloniern und Hethitern," *ZA* 44 n. f. 10 (1938), p. 45-149 (esp. pp. 90-93); H. G. Güterbock, *Kumarbi: Mythen vom churritischen Kronos*, Zürich and New York 1946; H. G. Güterbock, "Kumarbi," *RLA* 6 (1980-83), pp. 324-30; H. Otten, "Vorderasiatische Mythen als Vorläufer griechischer Mythenbildung," *FuF* 25. Jahrgang, hft. 13/14 (1949), pp. 145-47; A. Lesky, "Das Kumarbiepos," *AfA* 2 (1949), pp. 90-91; A. Lesky, "Hethitische Texte und griechischer Mythos," *Anz. Öster. Ak. Phil-Hist.* 87 (1950), pp. 137-60; A. Lesky, "Zum hethitischen und griechischen Mythos," *Eranos* 23 (1954), pp. 8-17; A. Lesky, "Griechischer Mythos und Vorderer Orient," *Saeculum* 6 (1955), pp. 35-52; G. Steiner, "Griechische und orientalische Mythen," *AuA* 6 (1957), pp. 171-87; G. Steiner, *Der Sukzessionsmythos in Hesiods Theogonie und ihren orientalischen Parallelen*, Hamburg 1958; H. Schwabl, "Die griechischen Theogonien und der Orient," *Éléments orientaux dans la religion grecque ancienne*, Paris 1960, pp. 39-56; C. S. Littleton, "The 'Kingship in Heaven' Theme," *Myth and Law among the Indo-Europeans*, edited by J. Puhvel, Berkeley 1970, pp. 83-121; W. Burkert, "Götterspiel und Götterbursche in altorientalischen und griechischen Mythen," *Eranos* 51 (1982), pp. 35-67; W. Burkert, *Die orientalisierende Epoche in der griechischen Religion und Literatur*, Heidelberg 1984; W. Burkert, "Oriental and Greek Mythology: The Meeting of Parallels," *Interpretations of Greek Mythology*, edited by J. Bremmer, Tatowa 1986, pp. 10-40; V. Haas, *Geschichte der hethitischen Religion*, Leiden 1994; V. Haas, "Kalender- und Notzeitmythen. Betrachtungen zum Mythenzyklus vom Gott Kumarbi," *Atti del II congresso internazionale de hittitologia*, Pavia 1995, pp. 183-90; M. L. West, *The East Face of Helicon: West Asiatic Elements in Greek Poetry and Myth*, Oxford 1997.

⁵⁵ H. G. Güterbock, "Die historische Tradition bei Babyloniern und Hethitern," p. 93.

⁵⁶ H. G. Güterbock, "Die historische Tradition bei Babyloniern und Hethitern," pp. 90-93.

⁵⁷ E. A. Speiser, "An Intrusive Hurro-Hittite Myth," *JAOS* 62 (1942), p. 98-102.

3.2. *Enuma Eliš*: Interpretation of Chaos or Chaos of Interpretation?

Unlike the first reader of the Hittite epic cycle *Kingship in Heaven*, Emil Forrer, who immediately saw the close connection with Hesiod's *Theogony*, the pioneer in reading the first fragments of *Enuma Eliš*, George Smith, followed a different path. Despite the fact that the discovery of the first fragments of *Enuma Eliš* could have brought up some hints to Greek cosmology or mythology, their interpretation and first publication were seen solely in the context of the Biblical narrative of *Genesis*. On November 2nd 1875 George Smith read to the *Society of Biblical Archaeology* about his discoveries:

“The Fragmentary Inscriptions here brought before the Society are the principal portions now remaining of the Chaldean account of the Creation. ... I intend at a future time to bring under the notice of the Society the whole of the Genesis Legends.”⁵⁸

In alluding the first available fragments of *Enuma Eliš* to the Biblical narrative of *Genesis*, George Smith believed to have found parallels to the most important Biblical legends such as the creation of man, the fall of man, the deluge, or the tower of Babel. He followed the same path in his edition of the text.⁵⁹ As we now know George Smith was a little too confident. The new material that has become available over the years has shown that he was wrong. And there would not be any need to mention Smith's interpretation, if it weren't for the fact that his reading of the opening lines of *Enuma Eliš*, which were available in a form that could have allowed a different reading, has influenced the following generations of scholars to an extent that a key notion of interpreting the beginning has been repeated over and over again up to the present. The notion in

⁵⁸ G. Smith, “On some Fragments of the Chaldean Account of the Creation,” *TSBA* 4 (1875), p. 363.

⁵⁹ G. Smith, *The Chaldean Account of Genesis containing the Description of the Creation, the Fall of Man, the Deluge, the Tower of Babel, the Times of the Patriarchs, and Nimrod; from the Cuneiform Inscriptions*, London 1876.

question, Chaos, has no basis in the text whatsoever, not today and not at that time.⁶⁰ For this historical reasons, however, it is still interesting to read once again, how the first fragments were first translated and presented to the public and how they have influenced the scholarship to come:

- “1. When above, were not raised the heavens:
2. and below on the earth a plant had not grown up
3. the abyss also had not broken open their boundaries:
4. the chaos (or water) Tiamat (the sea) was the producing-mother of the whole of them.
5. Those waters in the beginning were ordained;”⁶¹

Beside the translation of the first few lines of *Enuma Eliš* George Smith also provided some philological remarks in order to justify his comparison with the Biblical narrative:

“The fragment [...], broken as it is, is precious as giving the description of the chaos or desolate void before the Creation of the world, and the first movement of creation. This corresponds to the first two verses of the first chapter of Genesis.

1. “In the beginning God created the heaven and the earth
2. And the earth was without form and void; and darkness was upon the face of the deep. And the spirit of God moved upon the face of the waters.”

On comparing the fragment of the first tablet of the Creation with the extract from Damascius, we do not find any statement as to there being two principles at first called Tauthe and Apason, and these producing Moymis, but in the Creation tablet the first existence is called Mummu Tiamtu, a name meaning the “sea water” or “sea chaos”. [...] It is evident that [...] the sea was the origin of all things, and this also agrees with the statement of Genesis, i. 2. where the chaotic waters are called *tehôm*, “the deep,” the same word as the Tiamat of the Creation text and the Tauthe of Damascius.

The Assyrian word *Mummu* is probably connected with the Hebrew *mehûmā*, confusion, and one of its equivalent is *Umun*, equal to the Hebrew *hāmon* ‘noise’ or ‘tumult’. Beside the name of the chaotic deep called *tehôm* in Genesis, which is, as I have said, evidently the Tiamat of the Creation text, we have the word *tôhû*, waste, desolate, or formless, applied to this chaos. This appears to be the *tehuta* of the Assyrians – a name of the sea-water [...]; this word is closely connected with the word *tiamat* or *tamtu*, the sea. The correspondence between the inscription and Genesis is here complete, both stating that a watery chaos preceded the creation, and formed, in fact, the origin and groundwork of the universe. We have here not only an agreement in sense, but, what is rarer, the same word used in both narratives as the name of this chaos, [...].”⁶²

⁶⁰ “L’ *Enuma Eliš* dépeint le chaos primitif comme une masse liquide uniforme,” R. Labat, *Le poème babylonien de la création*, Paris 1935, p. 45; “Thus *Enûma Elish* and Gen. 1:1-2.3 both refer to a watery chaos ... in both we have an etymological equivalence in names denoting this chaos,” A. Heidel, *The Babylonian Genesis: The Story of Creation*, Chicago ²1951, p. 82, see also p. 97; “the forces of evil and chaos are overcome,” S. Dalley, *Myths from Mesopotamia: Creation, the Flood, Gilgamesh, and others*, Oxford 1989, p. 228.

⁶¹ G. Smith, *The Chaldean Account of Genesis*, p. 62.

⁶² G. Smith, *The Chaldean Account of Genesis*, p. 64f.

The correspondence between the beginning of *Enuma Eliš* and the book of *Genesis* is far from being complete. In pure philological terms, it only concerns the equation Tiamat and *tehôm*, both meaning ‘deep sea,’ which Smith interprets as chaos. His argument for taking it as chaos is the following: The expression Mummū Tiamat in v. 4 can be translated as ‘sea chaos’ or simply as ‘chaos,’ since the constellation of *tehôm* and *tōhû* in the Hebrew text seems to express this idea. The meaning of Hebrew *tohuwabohu* is still unclear, but it was not translated as chaos by the Septuagint. In addition, the first attestation of the term ‘chaos’ in Greek literature as found in Hesiod does not necessarily imply disorder but time. Thus, neither the Hebrew text nor its Greek translation support Smith’s idea to read the creation of the world out of a primeval chaos into the text of *Enuma Eliš*.

In summing up his conclusions, George Smith also gave an account about the necessity of overcoming chaos, as depicted in the Biblical narrative:

“The principal Babylonian story of the Creation [...] substantially agrees, as far as it is preserved, with the Biblical account. According to it, there was a chaos of watery matter before the Creation, and from this all things were generated.”⁶³

“The narrative on the Assyrian tablets commences with description of the period before the world was created, when there existed a chaos or confusion. The desolate and empty state of the universe and the generation by chaos of monsters are vividly given. The chaos is presided over by a female power named Tislat or Tiamat, corresponding to the Thalath of Berossus.”⁶⁴

“Our next fragments refer to the creation of mankind, called Adam, as in the Bible; he is made perfect, and instructed in various religious duties, but afterwards he joins with the dragon of the deep, the animal of Tiamat, the spirit of chaos, and offends against his god, who curses him, and calls down on his head all the evils and troubles of humanity.

This is followed by a war between the dragon and powers of evil, or chaos on the one side and the gods on the other.”⁶⁵

Tiamat as chaos is seen as desolate and empty state of the universe; desolate and empty with regard to its not yet existing and established order. But even in Smith’s account chaos cannot be regarded as being completely empty, since Tiamat brings forth and entails a variety of monsters.

⁶³ G. Smith, *The Chaldean Account of Genesis*, p. 303.

⁶⁴ G. Smith, *The Chaldean Account of Genesis*, p. 14.

⁶⁵ G. Smith, *The Chaldean Account of Genesis*, p. 304.

Thus, chaos has a structure, a structure of disorder. And, in good Biblical tradition, a chaos as a structure of disorder entailing a variety of monsters made it necessary to be considered as evil. Tiamat, who presides over chaos and the evil of disorder, had to be defeated by a god who will create the world out of that chaos. In applying a layman's concept of chaos, George Smith set the tone for interpreting *Enuma Eliš* as an epic of creation out of chaos. In contrast, Hesiod's Chaos may be regarded as a void, but it does not bring forth monsters nor does it entail any such *Mischwesen*.

Smith's interpretation was more or less adopted by the generation of scholars to come. It culminated in Hermann Gunkel's *Schöpfung und Chaos*.⁶⁶ Gunkel went as far as reconstructing seemingly lost narratives in the Biblical narrative through the fragments of *Enuma Eliš*, especially those narratives involving battles with the powers of chaos.

For the years to come the layman's concept of chaos seemed to have played a key role in reading the beginning of *Enuma Eliš*. Different scholars, however, had different ideas of what might be designated as chaos in *Enuma Eliš*. Concerning the opening lines L. W. King wrote that the Babylonian story of creation "describes the condition of things before Creation when the primeval water-gods, Apsu and Tiamat, personifying chaos, mingled their water in fusion."⁶⁷ Unlike G. Smith, who considered chaos as being the desolate and empty state of the universe that is presided over by Tiamat, L. W. King seems to consider chaos as the unity of Apsu and Tiamat. In a second step, however, he re-establishes the predominance of Tiamat within the unity of chaos, yet with seemingly more philological accuracy:

⁶⁶ H. Gunkel, *Schöpfung und Chaos in Urzeit und Endzeit. Eine Religionsgeschichtliche Untersuchung über Gen 1 und Ap Joh 12*, Göttingen 1895.

⁶⁷ L. W. King, *The Seven Tablets of Creation, or the Babylonian and Assyrian Legends concerning the Creation of the World and of Mankind*, 2 vols., London 1902, pp. XXXII-III.

“The title Mummu was not only borne by Apsu’s minister, who, according to Damascius, was the son of Apsu and Tiamat, but in Tabl. I, l.4, it is employed as a prefix to the name of Tiamat herself. In this passage I have conjecturally rendered it as “chaos” (see p. 2f.). [...] we may perhaps conclude that, in addition to the word mummu, “form, pattern,” there existed a word mummu, “chaos, confusion,” and that consequently the title Mummu was capable of two separate interpretations. If such be the case, it is possible that the application of the title to Tiamat and her son was suggested by its ambiguity of meaning; while Marduk (and also Ea) might have borne the same name as the “form” or “idea” of order and system, Tiamat and her son might have been conceived as representing the opposing “form” or “idea” of chaos and confusion.”⁶⁸

“After the overthrow of Apsu, Tiamat remained unconquered, and she continued to represent in her own person the unsubdued forces of Chaos.”⁶⁹

King’s remarks are good examples that cuneiformists not necessarily work from philology to theory, but sometimes the other way round, in King’s case from bad theory to bad philology.

Already in 1890 Peter Jensen had been more careful in applying the Greek concept of chaos to the Babylonian epic of creation, as its title was suggested in those days:

“Als Laie auf dem Gebiet griechischer Philosophie kann ich mir kein Urteil darüber anmassen, [...] ob z. B. das homerische (Ilias XIV, 201): Ὠκεανόν τε θεῶν γένεσιν καὶ μητέρα Θηδύν oder [...] das χάος des Hesiod etc. originalgriechischem Geiste entsprungen oder im letzten Grunde auf den Orient und dann auf Babylonien zurückzuführen sind.”⁷⁰

Unfortunately, Jensen did not dare to follow the path of comparing the beginning of *Enuma Eliš* with early Greek speculations about the origin in general and with Hesiod’s *Theogony* in particular. Thus, it took another four decades until Paula Philippson made the first serious attempt of comparing the beginning of Hesiod’s *Theogony* with *Enuma Eliš*. In her classical – and among Hesiod scholars well known – study *Genealogie als mythische Form*, this comparison was just a minor point and seems to have been overlooked by Near Eastern scholars. The way she established the narrative of *Enuma Eliš* from a non cuneiformist’s point of view is still worth reading:

⁶⁸ L. W. King, *The Seven Tablets of Creation*, p. XXXVIII fn. 1.

⁶⁹ L. W. King, *The Seven Tablets of Creation*, pp. XL-XLI.

⁷⁰ P. Jensen, *Die Kosmologie der Babylonier*, Strassbourg 1890, p. 302f.

“Als frühes Beispiel einer sich in genealogischer Form ausprägenden Kosmogonie sei zunächst jenes babylonische Schöpfungsgedicht hingestellt. [...] Auf zwei Stufen entwickelt sich in diesem babylonischen Mythos die Welt; zwischen beiden folgen sich in genealogischer Reihe Götter, deren jüngster – Marduk – sein Königreich, die zweite Stufe gründet. Auf der ersten Stufe da existieren allein die Urmächte: Apsu, der Uranfänger, aller Erzeuger; Thiamat, die Allmutter. [...] Lange Zeiten existieren diese Mächte, die alles Sein potenziell in sich schließen, ohne weitere Individuation. Dann entstehen in genealogischer Abfolge eine Reihe von Göttern, deren Namen für uns nicht deutbar sind. Wir erfahren nur: Jeder Sohn ist seinem Vater ähnlich, [...]; aber klüger, mächtiger, stärker an Kräften als sein Ahnherr.

[...]

Es entbrennt ein Kampf zwischen den Urmächten und den Göttern. [...]

So entsteht in diesem Mythos die jetzige Welt – das Königreich des Marduk – in genealogischer Abfolge unter furchtbaren Kämpfen aus den uranfänglichen urelterlichen Mächten.”⁷¹

“In der gleichen Form, nach dem gleichen Plan wie der Babylonische Mythos fügt sich die Theogonie des Griechen Hesiod [...] Auch Hesiod sieht den Weltmythos der Form physischen Werdens, das sich als Zeugung und Geburt göttlicher Wesenheiten in einer genealogischen Abfolge von Eltern und Kindern vollzieht. Auch in Hesiods Theogonie baut sich der Mythos in zwei Stufen auf; die Musen besingen zuerst ein

- (44) *θεῶν γένος αἰδοῖον πρῶτον κλείουσιν ἀοιδῇ
ἐξ ἀρχῆς, οὓς Γαῖα καὶ Οὐρανὸς εὐρύς ἐτικτεν*

und

- (47) *δεύτερον αὖτε Ζῆνα θεῶν πατέρ’ ἥδ’ ἀνδρῶν*

Auch hier folgen sich, wie in der vorderasiatischen Dichtung, zwischen diesen beiden Stufen in einer genealogischen Reihe göttliche Väter und Söhne. Und ebenso gründet auch hier der Jüngste dieser Götter sein Reich, die jetzt bestehende Welt, unter furchtbaren Kämpfen und Erschütterungen; auch er bildet diesem Reich die Urmächte der ersten Weltphase ein.”⁷²

According to Paula Philippson *Enuma Eliš* unfolds in two steps. First, it consists in an account about the coming into being of the primordial powers and the first gods, secondly in a narrative of how this unstable order is overcome by a new order. At this point one may give some justice to George Smith, who has basically seen a similar structure, although he expressed it in different terms. But unlike Smith, who conceived the two parts as chaos and order or as good and evil, Paula Philippson is much more careful not to press *Enuma Eliš* into the Biblical narrative and to read into a concept of chaos that has no philological basis whatsoever. She simply detects similar structures between Hesiod’s *Theogony* and *Enuma Eliš*. Now, one is in a position to say that the beginning of *Enuma Eliš* represents old order, the end the established new order, whereas the

⁷¹ P. Philippson, “Genealogie als mythische Form,” p. 4f.

⁷² P. Philippson, “Genealogie als mythische Form,” p. 6

middle describes the dissolution of the old order and the transition towards a new order, a new order that will culminate in Marduk's sovereignty.

On the basis of Heidel's excellent comparison between *Enuma Eliš* and *Genesis*, in which he worked out the differences between the two texts,⁷³ W. G. Lambert opened the field for any further investigation into *Enuma Eliš*:

"Babylonian civilization was a highly composite thing, and it is no longer scientifically sound to assume that all ideas originated in Mesopotamia and moved westwards. [...] Parallels to *Genesis* can indeed be sought and found there, but they can also be sought and found among the Canaanites, the ancient Egyptians, the Hurrians, the Hittites, and the early Greeks. When parallels have been found, the question of dependence, if any, has to be approached with an open mind."⁷⁴

The new approach of open mindedness concerning similarities and possible parallels in *Enuma Eliš* with epics or accounts other than those of the Biblical narrative could have been more advanced, if Lambert had produced a critical edition that he promised 40 years ago. On the basis of a lacking edition, comparisons have been attempted by Volkert Haas with the Hittite material and by M. L. West with the Greek material.

In his recent book *The East Face of Helicon*, M. L. West draws attention to similarities between Hesiod's *Theogony* and the Babylonian hymn on Marduk's rise to power *Enuma Eliš*. He establishes six parallels:

"1. The story begins with a pair of primeval, elemental parents in close union. In the Babylonian poem they are cosmic waters, Apsu and Tiamat; in Hesiod they are Heaven and Earth, though in the Homeric theogony this position is occupied by Oceanus and Tethys, who make a closer match for Apsu and Tiamat."⁷⁵

⁷³ A. Heidel, *The Babylonian Genesis: The Story of Creation*, Chicago ²1951.

⁷⁴ W. G. Lambert, "A New Look at the Babylonian Background of *Genesis*," *Journal of Theological Studies* n.s. 16 (1965), p. 289.

⁷⁵ M. L. West, *The East Face of Helicon*, p. 282.

It is certainly not false to compare the primeval parents Apsu and Tiamat in the Babylonian *Epic of Creation* with primordial couple Gaia and Uranos in Hesiod's *Theogony*. Nevertheless, one has to be aware of the fact that in Hesiod's *Theogony* Gaia and Uranos may designate primeval parents, but not, as it is the case for Uranos, a primeval power. Gaia, however, belongs to the constellation of primordial powers:

- 116 ἦτοι μὲν πρῶτιστα Χάος γένητ'· αὐτὰρ ἔπειτα
 Γαῖ' εὐρύστερνος, πάντων ἔδος ἀσφαλὲς αἰεὶ
 ἀθανάτων οἳ ἔξουσιν κάρη νιφόεντος Ὀλύμπου
 Τάρταρά τ' ἠερόεντα μυχῶ χθονὸς εὐρυοδείης,
 120 ἥδ' Ἔρος, ὃς κάλλιστος ἐν ἀθανάτοισι θεοῖσιν.
- 116 As the truly first Chaos came into being, but thereafter
 broad-bosomed Earth, the always unshakable seat of all
 immortals, who inhabit the head of snow-capped Olympus
 and the murky depths in the innermost of broad-wayed earth,
 120 then Eros, the most beautiful among the immortal gods.⁷⁶

In Hesiod's *Theogony* the origin is represented by a constellation of three primordial powers: first there is Chaos, second there is Gaia, and third there is Eros. Chaos does not bring forth Gaia or Eros, Gaia does not bring forth Chaos or Eros, and Eros does not bring forth Chaos or Gaia. Among the primordial powers in Hesiod's *Theogony*, we find Gaia but not Uranos. Heaven is not an element of the threefold origin of Chaos, Gaia, and Eros. Chaos brings forth Erebus and Night, who in reverse bring forth Aether and Day.

With Gaia's coming into being Mount Olympus and the Tartara, the depths of earth, have come into existence as well. Through Tartara (the future Tartaros) and Mount Olympus Gaia is not just represented as the flat earth but as an entity with height and depth. Through height and depth, the future dwelling places of the Olympian and Titanic gods have already been established with Gaia's coming into being. In form of a self-reproduction, Gaia then brings forth Uranos, the

⁷⁶ Hesiod, *Theogony*, vv. 116-120.

Nymphs, and Pontos. Finally, with her son Uranos she begets Okeanos, Koios, Kreios, Hyperion, Iapetos, Theia, Rheia, Themis, Mnemosyne, Phoibe, Tethys, and Kronos; the Cyclopes Brontes, Steropes, and Arges; as well as Kottos, Briareos, and Gyes.

Gaia, the second primordial power, equals Tiamat only to the extent that they are both female and, so to speak, that they are both primeval and primordial mothers. They are different to the extent that Gaia represents earth, whereas Tiamat represents water. Unlike Gaia, who comes into being as a primordial power without her later husband Uranos, Tiamat has come into existence along with her husband and primordial power Apsu. As sweet- and salt-water, Apsu and Tiamat seem to match more accurately the position of Okeanos and Tethys in the Homeric theogony, as West has pointed out. But they can also be compared with the position of Oceanus and Tethys in the Hesiodic theogony. In Hesiod's *Theogony*, Oceanos and Tethys are offspring of Gaia and Uranos, thus in a position that comes a generation or two after the primordial powers.

The primordial couple of Apsu and Tiamat seems to allow three points of reference in Hesiod's *Theogony*. As primordial powers Apsu and Tiamat may be compared with the threefold origin of primordial powers Chaos, Gaia, and Eros under the category of origin; secondly, under the category of cause they may be compared with the primeval parents Gaia and Uranos; thirdly, under the category of matter they may be compared with Oceanos and Tethys who are the offspring of Gaia and Uranos.

If one says that Apsu and Tiamat match the couple of Oceanos and Tethys in Hesiod's *Theogony*, one has to conclude that Oceanos and Tethys do not designate primordial powers within the theogonic process as Hesiod conceives it. In Hesiod, the couple of Oceanos and Tethys is preceded by their parents Gaia and Uranos as well as by the threefold origin of primordial powers Chaos, Gaia, and Eros. Through Uranos they represent the third generation within the theogonic process, through Gaia the second generation.

Despite the fact that Uranos is not a primordial power, one can agree upon the fact that Uranos and Gaia are the primeval parents with whom the myth of successive divine rulers takes its beginning. In that respect Gaia and Uranos match Apsu and Tiamat. If one draws this parallel, then one has to take into account an apparent difference. The primeval parents of the gods in *Enuma Eliš*, Apsu and Tiamat, represent sweet water and salt water, or male and female water, whereas the primeval parents in Hesiod's *Theogony*, Gaia and Uranos, represent earth and heaven.

Apsu and Tiamat beget Lahmu and Lahamu, then Anshar and Kishar. Anshar and Kishar are born either as the second pair begotten by Apsu and Tiamat or as the only set of offspring by Lahmu and Lahamu. Whatever function and meaning one may attribute to Lahmu and Lahamu either as mud⁷⁷ or hairy heroes who hold post-gates,⁷⁸ the meaning of the following generation Anshar and Kishar is clear: *an* means heaven, *ki* means earth, and *šár* means totality or horizon. So far one can say that in *Enuma Eliš* the development goes from water to heaven and earth, whereas in Hesiod's *Theogony* the process goes into the opposite direction from earth and heaven to water.

Concerning the comparison of the primordial powers in Hesiod's *Theogony* with the primordial powers in *Enuma Eliš*, one can say that Eros has no equivalent. Chaos as "empty yawning", "emptiness", or "nothing", as it is commonly understood by those who follow the etymological explanation, may be paralleled with the state of nothingness before the existence of Apsu and Tiamat. Chaos conceived as a "yawning gap" or "yawning abyss" may be paralleled

⁷⁷ Th. Jacobsen, *The Treasures of Darkness: A History of Mesopotamian Religion*, New Haven 1976, p. 168: "and their names suggest that they represent silt which had formed in the primeval ocean." And p. 256, fn 332: "We would connect *Lahmu*, as past participle, and *Lahāmu* as infinitive with the root l-h-m of *luhamum*, *luhummu*, and *luhmu*, "slime," "mud," meaning perhaps, "to make soft, slimy."

⁷⁸ W. G. Lambert, "The Pair Lahmu-Lahamu in Cosmology," *Orientalia* 54 (1985), p. 189-201.

with the existence of Apsu and Tiamat before the coming into existence of other powers. Both comparisons, however, do not seem to be too promising.

Another possibility of understanding Chaos in Hesiod and its preceding speculation in Babylonian genealogy, may turn up, if one follows Lambert:

“So far as the concept is concerned, the idea of a watery beginning was by no means the only Mesopotamian notion. There were three basic doctrines. According to the most commonly attested, earth came first and all else emerged in some way from this. Less commonly attested is the conception of *primaeval* water, and thirdly time was considered the source and origin of all things.”⁷⁹

What about time? According to a Babylonian god list that entails the genealogy of Anu, the parents of Lahmu and Lahamu are not given as Apsu and Tiamat, but as Duri and Dari, as Ever and Ever.⁸⁰ Ever and Ever is nothing but an expression for eternity, eternity conceived as *sempiternitas*, as eternal duration. If one follows the idea suggested by Paula Philippson that the essence of a power or a god is not only given by its name and by its epitheta, but also through its genealogical relations, then one can determine Chaos in its temporality. Chaos, as we have seen, has no epitheton and its etymological determination has its limits too. Within the lineage of Chaos we observe the following: Chaos gives birth to Erebus and Night, Night and Erebus give birth to Aither and Day. Day and Aither do not have further children. The lineage Chaos-Night-Day is a line of temporality. It develops into cyclical time, expressed by the alternation from night to day and day to night. Before this alternation was realized, the children of Night defined her as a form of fate-dominated time. Chaos itself is the condition for this negative temporality. Against that backdrop, the lineage of Chaos seems to be a foil for the lineage of Gaia, both a foil for its temporal development as well as a foil for its social development.

⁷⁹ W. G. Lambert, “A New Look at the Babylonian Background of Genesis,” p. 293.

⁸⁰ W. G. Lambert, “The Pair Lahmu-Lahamu in Cosmology,” p. 190.

As the lineage of Gaia unfolds against the backdrop of Chaos's lineage, the myth of successive divine ruler enters its second stage. West draws the following parallels:

- “2. The primeval parents have many children, who remain inside their mother and cause her distress. The father hates them and wishes to suppress them, but the mother opposes him.
3. The young gods are struck dumb with fear, but then one of them (Ea, Kronos) takes bold action to overcome and disable the oppressive father. The castration motif which is shared by Hesiod with the Hurro-Hittite version is absent from the Babylonian: Apsu is made impotent in a more comprehensive sense and by other means.
4. The victor in this encounter is the son of the personified Sky and becomes the father of the eventual king: Ea is the son of Anu and father of Marduk, as Kronos is the son of Ouranos and father of Zeus. There is a further point of correspondence between Ea and Kronos in that Ea is noted for wisdom and clever ideas, while Kronos has the formulaic epithet *ἀγκυλομήτης*, originally meaning probably ‘of curved sickle’, but certainly understood by Hesiod to mean ‘crooked-planning, sly’.
5. Although Marduk has no conflict with his father, he must, like Zeus, encounter and defeat in battle a huge and terrifying opponent before establishing his rule. Again like Zeus, he uses fierce winds and lightning bolts as his weapons in the fight.
6. Following the victory, both Marduk and Zeus are acclaimed by the gods as their king.”⁸¹

All parallels or similar motives do not concern the lineage of Chaos but the lineage of Gaia. With respect to the number of children one has to note that Apsu and Tiamat have four, Lahmu and Lahamu as well as Anshar and Kishar, whereas Gaia and Uranos have a few more. The fact that the father hates his children can be said about both Uranos and Apsu. The fact that the mother opposes him is certainly not incorrect, but can be specified. The triad of successive king Uranos, Kronos, and Zeus matches the triad Anu, Ea, and Marduk.

In Hesiod's *Theogony* the succession of divine rulers proceeds when Kronos overcomes his father Uranos by castrating him with an adamant sickle, it comes to an end when Kronos, in the reverse, is defeated in battle and overcome by his son Zeus. Here, I think, one can go a step further and point out a further similarity, if not a further parallel with a significant difference. Both Marduk and Zeus have prepared their reign through a promise given to the other gods before their decisive battles.

⁸¹ M. L. West, *The East Face of Helicon*, p. 282.

3.3 Hesiod's *Theogony* 383-403, *Enuma Eliš* VI 95-100, and *KUB XXXIII* 120, 1-7

In *Enuma Eliš* the future king Marduk comes forward announcing to fight against Tiamat and her monsters.⁸² When Anshar's messenger brings Marduk's words to Lahmu and Lahamu, they assemble the gods and give the honor of kingship to Marduk. Despite the fact that no oath is sworn yet, there seems to be a contract upon Marduk's promise, a contract between Marduk and the elder generation of gods. In giving Marduk the tablet of destinies, the elderly generation of gods grant him kingship upon his promise to defeat Tiamat and to establish a new order. After the defeat of Tiamat, the other gods acknowledge Marduk as their sovereign:

- | | | |
|-----|---|--|
| 95 | ip-hu-ru-nim-ma
ši-mat ^d AMAR.UTU ul-lu-ú
ú-zak-ki-ru-ma
ina A.MEŠ ù Ì.GIŠ it-mu-ú
id-di-nu-šum-ma | DINGIR.DINGIR GAL.GAL
šu-nu uš-ken-nu
a-na ra-ma-ni-šú-nu a-ra-ru
ú-lap-pi-tu ₄ nap-šá-a-ti
šar-ru-ut DINGIR.DINGIR e-pe-šá |
| 100 | a-na be-lu-ut DINGIR.DINGIR šá AN-e u KI-tim šu-nu uk-tin-nu-šu ⁸³ | |
-
- | | |
|-----|---|
| 95 | “Then they convened, the great gods,
the destiny of Marduk they elevated, they prostrated themselves.
They laid upon themselves a curse,
With water and oil they swore, they touched their throats.
They granted him exercise of kingship over the gods |
| 100 | They established him firmly the lordship of heaven and netherworld.” |

In prostrating themselves the gods elevate Marduk. They curse themselves and swear (it-mu-ú) with water and oil (A.MEŠ ù Ì.GIŠ). Having taken this oath the gods inaugurate Marduk as their king and grant him sovereignty. The oath performed by the gods seems to be the final part of the inauguration and concludes Marduk's coronation ceremony. Marduk's path of becoming the new

⁸² *EE* III, 113ff.

⁸³ *EE* VI, 95-100. These lines are not included in R. Labat, *Le poème babylonien de la creation*, Paris 1935. They were discovered in Sultantepe, see: O. R. Gurney, “The Sultantepe Tablets,” *Anatolian Studies* II (1952), pp. 25-35; O. R. Gurney, “The Text of Enûma Eliš. New Additions and Variants.” *Afo* 17 (1954-56), pp. 353-56.

king of the gods is twofold. It started when he came forward to fight Tiamat and is being concluded after her defeat. The assembly of the gods elected Marduk as their king and gave him the tablet of destinies. After the defeat of Tiamat, the oath ceremony of the gods acknowledges not only Marduk's sovereignty but also the legal status of his kingship (*šar-ru-ut*). Although Marduk does not have to take an oath, kingship as well as lordship (*be-lu-ut*) over heaven and netherworld (*ša AN-e u KI-tim*) is being granted to him through an oath of the other gods. Unfortunately, an oath is not mentioned in one of the few attested Mesopotamian coronation ceremonies, a point that already has been seen in the context of *Enuma Eliš*, the crowning of Nabopolassar.⁸⁴

The parallels between Hesiod's *Theogony* and the *Kingship in Heaven* are centered around the myth of succession.⁸⁵ Here we find similar motifs and themes. The most striking parallel is the succession of divine kings. The sequence of Anu, Kumarbi, and Tessub exactly matches the sequence of Uranos, Kronos, and Zeus. Both Anu and Uranos represent heaven, Kumarbi and Kronos are corn and harvest-gods, Tessub and Zeus are storm- and wheather-gods. Alalu, the predecessor of Anu, has no parallel in Hesiod's *Theogony*, but from a logical point of view he may be compared with the constellation of the beginning represented by Chaos, Gaia, and Eros.

Within the myth of succession there are similar motifs and themes. Both Anu and Uranos have their genitals cut off. Kronos cuts off Uranos's genitals with a sickle, Kumarbi bites off the

⁸⁴ A. K. Grayson, *Babylonian Historical-Literary Texts*, Toronto 1975, p. 78: "The coronation of Nabopolassar [...] is the sole narrative preserved in cuneiform of the ritual attending the accession of a Mesopotamian king. The only comparable account is the crowning of Marduk as king of the gods in *Enuma Elish* (Tablet IV)." See also: Z. Ben-Barak, "The Coronation Ceremony in Mesopotamia," *OLP* 11 (1980), p. 59: "The image of an earthly coronation is reflected in the Babylonian creation myth *Enuma Eliš* [...], where the gods make Marduk their king. In the assembly of the gods, Marduk is chosen as their king; they acclaim with joy and blessing (*Marduk-ma šarru*) "Marduk is indeed/truly king". The bestow upon him the insignia of kingship, scepter, throne and symbol kingship (*palû*)."

⁸⁵ V. Haas, *Geschichte der hethitischen Religion*, Leiden 1994, pp. 106-15; M. L. West, *The East Face of Helicon*, Oxford 1997.

genitals of Anu (the motive for the separation of heaven and earth). From their genitals other gods spring forth: From the blood of Uranos's genitals the principle of divine vengeance, the Erinys, comes forth and from the foam where the genitals have fallen into the sea emerges the goddess Aphrodite. In swallowing Anu's genitals Kumarbi is impregnated with Tessub, Tasmisu, and Kanzura. After he gave birth to them he seems to swallow them again. Like Kronos, who receives a stone instead of Zeus, Kumarbi seems to be provided with a stone instead of Tessub. In each case the stone will be connected with a ritual.⁸⁶

In comparison with Hesiod's *Theogony*, in which the proem represents a hymn to the supreme god Zeus, the proem of the *Kingship in Heaven* is not a hymn to the supreme god Tessub but an invocation of the old gods of the netherworld.

1 [..... approx. 18 signs] ka-[ru]-ú-i-l[i-y]a-aš-kán DINGIR.MEŠ-iš ku-i-e-e[š]
 2 [..... approx. 12 signs]i-iš da-aš-ša-u-e-eš iš-ta-m[a-aš-k]án-du ^dNa[-ra-aš]
 3 [^dNa-ap-ša-ra-aš ^dMi-in-k]i-iš ^dAm-mu-un-ki-iš iš-ta-ma-aš-ki-id-du ^dAm-me-[e]z-za-du-
 u[š]
 4 [..... approx. 10 signs]x-aš at-ta-aš an-na-aš iš-ta-ma-aš-kán-du
 5 [. approx. 8 signs ...]x-uš ^dIš-ha-ra-aš at-ta-aš an-na-aš iš-ta-ma-aš-kán-du ^dEN.LÍL-aš
 6 [^dNIN.LÍL-aš kat-ta ša-r]a-a-ya ku-i-e-eš da-aš-ša-u-e-eš wa-ak-tu-u-ri-iš DINGIR.MEŠ-
 iš
 7 [x] – x – x[k]u-ul-ku-li-im-ma-aš-ša iš-ta-ma-aš-[ká]n-du ka-ru-ú-uš-ša-an ⁸⁷

1 [.....] (to) the old gods who
 2 [.....] (....) the strong (gods?) shall hear, Na[ra] (and)
 3 [Napsara, Mink]i and Ammunki shall hear, Amm[e]zzandu
 4 [.....](...) father (and) mother shall hear
 5 [.....](...)Ishara's father (and) mother shall hear, Enlil (and)
 6 [Ninlil, those below and ab]ove who are the mighty and perpetual gods
 7 [] shall listen: Once

The *Song of Kumarbi* begins with an invocation of the *karuileš šiuneš*, the early and old gods.

These early and old gods, however, are not necessarily considered to be primeval gods, since the

⁸⁶ V. Haas, "Der Schicksalsstein: Betrachtungen zu KBo 32.10 Rs.III," *Altor. Forsch.* 29 (2002), pp. 234-37.

⁸⁷ *KUB XXXIII* 120. The text follows the edition of E. Laroche, "Textes mythologiques hittites en transcription," *RHA* 26 fasc. 82 (1968), pp. 5-90; for the *Kingship in Heaven*, see pp. 37ff.

Song of Kumarbi is not concerned with the origins of the gods but with the history of divine kingship. The *karuileš šiuneš*, the early and old gods, are equivalent with the Hurrian *ammati-na enna*. A Hurrian-Hittite bilingual text has the following equation: *a-ma-at-te-na e-en-na = ka-ru-ú-li-uš DINGIR.MEŠ-uš*.⁸⁸ The early and old gods, *karuileš šiuneš*, are also equivalent with the *kattereš šiuneš*, the inferior gods or gods of the netherworld. *kattereš šiuneš* is also a translation of the Hurrian *enna turi-na (du-ú-ri-e-na)*, inferior gods, who live in the netherworld and belong to the first generation of gods. The distance of time has become a distance of space: the gods of the past are thought to be the gods of netherworld.

These old oath deities Nara and Napšara, Minki and Ammunki, Ammezadu, Išhara, Enlil and Ninlil are known from the Hittite state treaties.⁸⁹ They are now asked to listen, *ištamaškandu*, ‘they shall hear’. In the Tavagalava-letter there is a close connection between the imperative *ištamaškandu* ‘they shall hear’ and words that are sworn (*link-*).⁹⁰ The old oath deities are invoked as witnesses for securing sovereignty of each divine ruler within the succession of divine kings.

4. Conclusions:

In the previous chapter I have shown that adducing natural-law philosophy as well as textual evidence in Near Eastern forebears gave cause to reconsider the Hesiodic hymn to Styx. The appointment of Styx as the great oath of the gods may well represent the institution of the juridical oath as prescribed in court procedures once Zeus has established his reign. The narrative, however, does not depict events during the established reign of Zeus, but events that precede his government. On the brink of overthrowing the Titans, Zeus promises to bestow

⁸⁸ *KBo XXXII*, 1ff.

⁸⁹ V. Korosec, *Hethitische Staatsverträge*, Leipzig 1931.

⁹⁰ F. Sommer, *Die Ahhijava-Urkunden*, München 1932, pp. 4-5.

honors on those gods who ally with him. Since Styx was first to come to Mount Olympus, Zeus appointed her as the great oath of the gods. In founding the institution of the great oath of the gods, Zeus's promise becomes more binding. In making it more binding Zeus's promise comes close to a promise under oath as a binding speech act. Perhaps one can even maintain that establishing the institution of the great oath of the gods defines Zeus's promise as a promise under oath. In that case Zeus's promise could be considered as a promissory oath. It then would be the metaphysical donkey-bridge that supposedly adds more credibility to a speech-act. To that extent Zeus's promise does not differ from promises under oath that are given by kings and queens upon their inauguration. Oath or not oath, the point is that promissory speech has legal implications and does not need corroboration through an additional oath.

In fulfilling his promise Zeus validates the guarantees he had given and establishes trust among the Olympians. In that respect his promise serves as an example for future accountability. Establishing the great oath of the gods also means to create the social basis for the new Olympian community. To some extent one could say that the great oath of the gods represents the social contract of the Olympian community. Whenever a god takes the great oath, he or she is implicitly reminded of Zeus's promise. A god who perjures himself in taking the great oath of the gods threatens the social contract of the Olympians. Therefore he will be punished like a Titan who has to live in Tartaros. The perjured god, however, will return to the Olympian community after nine years. Once the great oath of the gods was established on the basis of Zeus's promise, it also served for assertory or juridical oaths.

With respect to a society that constitutes itself by establishing the institution of the oath the narrative of Styx and her children presents the great oath of the gods as something that Sartre

considers as an essential feature of a group in the process of constituting itself.⁹¹ The Near Eastern parallels with Hesiod's *Theogony*, however, exhibit significant differences to the extent that it is Hesiod who, in describing the children of Styx as Emulation, Victory, Dominion, and Violence, reflects upon the inherent violence of oath-taking, a thought that only occurs again in Sartre's discussion of the civil oath during the time of the French Revolution.

⁹¹ J.-P. Sartre, *Critique de la raison dialectique*, 2 vols., Paris 1960-85, vol. 1, pp. 518-542.

Abbreviations

<i>AbhBerlin</i>	<i>Abhandlungen der Akademie der Wissenschaften zu Berlin</i> . Berlin 1793-
<i>AbhGöttingen</i>	<i>Abhandlungen der Akademie der Wissenschaften in Göttingen. Philosophisch-historische Klasse. Commentationes Societatis Regiae Scientiarum Gottingensis</i> , Gottingae 1778-1808. <i>Commentationes Societatis Regiae Scientiarum Gottingensis recentiores</i> , Gottingae 1808/11-1832/37. <i>Abhandlungen der Göttinger Akademie der Wissenschaften, Philosophisch-historische Klasse</i> , Göttingen 1838/41-
<i>AbhMünchen</i>	<i>Abhandlungen der Königlich Bayrischen Akademie der Wissenschaften, Philosophisch-historische Klasse</i> , München 1835- (<i>Abhandlungen der Bayrischen Akademie der Wissenschaften, Philosophisch-historische Klasse</i> , n.s., München 1919-
<i>ABSA</i>	<i>Annual of the British School at Athens</i> , London 1895-
<i>Acta Antiqua</i>	<i>Acta Antiqua Academiae Scientiarum Hungaricae</i> , Budapest 1951-
<i>ActOr</i>	<i>Acta Orientalia Academiae Scientiarum Hungaricae</i> , Budapest 1950-
<i>ADOG</i>	<i>Abhandlungen der deutschen Orient-Gesellschaft</i> , Berlin 1956-
<i>AF</i>	<i>Altorientalische Forschungen</i> , Berlin 1974-
<i>AfA</i>	<i>Anzeiger für die Altertumswissenschaften</i> , Innsbruck 1948-
<i>AfB</i>	<i>Archiv für Begriffsgeschichte</i> , Bonn 1955-
<i>AfO</i>	<i>Archiv für Orientforschung</i> , Berlin 1923- (vol. 1-2 appeared as <i>AfK</i> = <i>Archiv für Keilschriftforschung</i>); Beiheft 1933-
<i>AfR</i>	<i>Archiv für Religionswissenschaft</i> , Freiburg 1898-
<i>AGG</i>	<i>Abhandlungen der königlichen Gesellschaft der Wissenschaften zu Göttingen. Philosophisch-historische Klasse</i> , Göttingen.
<i>AHw.</i>	W. von Soden, <i>Akkadisches Handwörterbuch</i> , Wiesbaden: Harrassowitz 1959-81.
<i>A.I.O.N.</i>	<i>Annali dell'Istituto Universitario Orientale di Napoli, Dipartimento di Studi del mondo classico e del mediterraneo antico. Sezione filologica-letterario</i> , Napoli
<i>AJA</i>	<i>American Journal of Archaeology</i> (second series), Princeton/Baltimore 1897-
<i>AJSLL</i>	<i>The American Journal of Semitic Languages and Literatures</i> , Chicago 1895-1941
<i>Akkadica</i>	<i>Akkadica</i> , Bruxelles 1977-
<i>AltOr.Forsch.</i>	<i>Altorientalische Forschungen.</i> , Berlin 1974-
<i>AnBi</i>	<i>Analecta Biblica</i> , Roma 1952
<i>An Anum</i>	R. L. Litke, <i>A Reconstruction of the Assyro-Babylonian God-lists, AN : A-nu-um and AN: Anu ša amēli</i> . New Haven: Yale Babylonian Collection 1998. (= Texts from the Babylonian Collection, vol. 3).
<i>ANET</i>	<i>Ancient Near Eastern Texts Relating to the Old Testament</i> . Edited by James E. Pritchard. Princeton: Princeton University Press ³ 1969.
<i>AnOr.</i>	<i>Analecta Orientalia</i> , Rome 1931-
<i>Ant. u. Abend.</i>	<i>Antike und Abendland</i> , Berlin 1945-
<i>Anz.Ak.Wien.</i>	<i>Anzeiger der Kaiserlichen Akademie in Wien</i> , Wien 1864-1917; <i>Anzeiger der Österreichischen Akademie der Wissenschaften, Philosophisch-historische Klasse</i> , Wien 1918-
<i>AO</i>	1) <i>Der Alte Orient</i> , Leipzig 1900- 2) <i>Antiquités orientales</i> (signature of the Louvre Museum)
<i>AOAT</i>	<i>Alter Orient und Altes Testament</i> . Veröffentlichungen zur Kultur und Geschichte des Alten Orients des Alten Testaments. Kevelaer 1971-
<i>AR</i>	<i>Assyrische Rechtsurkunden</i> , edited by J. Kohler and A. Ungnad, Leipzig: E. Pfeiffer 1913.
<i>ARM</i>	<i>Archives royales de Mari</i> (= TCL 22-31),
<i>ARMT</i>	<i>Archives royales de Mari</i> , traduction, Paris 1950-
<i>ARN</i>	<i>Altbabylonische Rechtsurkunden aus Nippur</i> , edited by M. Cig, H. Kizilyay, and F. R. Kraus, Istanbul: Milli Egitim Basimevi 1952
<i>ArOr</i>	<i>Archiv Orientální</i> , Prag 1929-
<i>AS</i>	<i>Assyriological Studies</i> , Chicago 1931-
<i>ASBW</i>	<i>Die Altsumerischen Bau- und Weihinschriften</i> , bearbeitet von Horst Steible, unter Mitarbeit von Hermann Behrens, Wiesbaden: F. Steiner 1982 (= FAOS 5).
<i>Athenaeum</i>	<i>Studi periodici di letteratura a storia dell'Antichità</i> , Pavia 1913-1922. Nouva series 1923-

<i>Atrahasis</i>	<i>Atra-Hasis. The Babylonian Story of the Flood</i> , edited by W. G. Lambert and A. R. Millard, with the Sumerian Flood Story by M. Civil, Oxford: Clarendon Press 1969.
<i>AU</i>	<i>Der altsprachliche Unterricht</i> . Stuttgart 1986-1998
<i>AUSS</i>	<i>Andrews University Seminary Studies</i> , Berrien Springs 1963-
<i>BA</i>	<i>Beiträge zur Assyriologie</i> , Leipzig 1890-
<i>BAP</i>	<i>Beiträge zum altbabylonischen Privatrecht</i> , edited by Bruno Meissner, 1893.
<i>BASOR</i>	<i>Bulletin of the American Schools of Oriental Research</i> , New Haven 1919.
<i>BDHP</i>	<i>Business Documents of the Hammurapi Period</i> , edited by L. Waterman, London 1916.
<i>Berl. Phil. Woch.</i>	<i>Berliner Philologische Wochenschrift</i> . Berlin 1881-1920. cf. <i>Phil. Wochenschr.</i>
<i>BIN</i>	<i>Babylonian Inscriptions in the Collection of J. B. Nies</i> , New Haven 1917-
<i>BiOr.</i>	<i>Bibliotheca Orientalis</i> , Leiden 1943/44-
<i>BSO(A)S</i>	<i>Bulletin of the School of Oriental (and African) Studies</i> , London 1917-
<i>BWL</i>	<i>Babylonian Wisdom Literature</i> , edited by W. G. Lambert, Oxford: Clarendon Press 1959.
<i>CAD</i>	<i>The Assyrian Dictionary of the University of Chicago</i> , Chicago 1956-
<i>CANE</i>	<i>Civilizations of the Ancient Near East</i> , edited by J. M. Sasson, New York 1995.
<i>CHD</i>	<i>The Hittite Dictionary of the Oriental Institute of the University of Chicago</i> , Chicago 1980-
<i>Chiron</i>	<i>Chiron. Mitteilungen der Kommission für alte Geschichte und Epigraphik des Deutschen Archäologischen Instituts</i> , München 1971-
<i>CQ</i>	<i>Classical Quarterly</i> , Oxford 1907-
<i>Com. Soc. Gott.</i>	<i>Commentationes Societatis Regiae Scientiarum Gottingensis</i> , Gottingae 1778-1808. <i>Commentationes Societatis Regiae Scientiarum Gottingensis recentiores</i> , Gottingae 1808/11-1832/37. <i>Abhandlungen der Göttinger Akademie der Wissenschaften</i> , Göttingen 1838/41-
<i>CRRA</i>	<i>Compte rendu de la ...^e Rencontre Assyriologique Internationale</i> .
<i>CS</i>	<i>Cahiers du Sud</i> , Marseille 1915-1966.
<i>CT</i>	<i>Cuneiform Texts from Babylonian Tablets in the British Museum</i> , London 1896-
<i>CTH</i>	<i>Catalogue des textes Hittites</i> , publiée par E. Laroche, Paris 1966, reprint: Paris: Klingensieck 1971.
<i>CUCD</i>	<i>Bulletin of the Council of University Classical Departments</i> , London 1971-1988.
<i>DC</i>	<i>Droit et cultures. Revue semestrielle d'anthropologie et d'histoire</i> .
<i>DK</i>	<i>Die Fragmente der Vorsokratiker</i> . Herausgegeben von Hermann Diels und Otto Kranz. Berlin: Weidmann 1903. (² 1949; ⁹ 1959-1960; ¹¹ 1964; Zürich: Weidmann ⁶ 1996-98).
<i>DVLG</i>	<i>Deutsche Vierteljahresschrift für Literaturwissenschaft und Geistesgeschichte</i> , Stuttgart 1923-
<i>Eranos</i>	<i>Eranos Jahrbuch</i> , Zürich 1933-1989.
<i>ERE</i>	<i>Encyclopaedia of Religion and Ethics</i> , edited by J. Hastings, Edinburgh 1908-26.
<i>FAOS</i>	<i>Freiburger Altorientalische Studien</i> , Freiburg 1975-; Beiheft, <i>Altassyrische Texte und Untersuchungen</i> , 1984-
<i>Fleck. Jahrb.</i>	<i>Fleckeisens Jahrbuch</i> .
<i>Folklore Studies</i>	<i>Folklore Studies</i> , Nagoya 1942-
<i>FuF</i>	<i>Forschungen und Fortschritte</i> , Berlin 1925-1967
<i>FrGrH</i>	<i>Die Fragmente der griechischen Historiker</i> , edited by F. Jacoby, Berlin: Weidmann 1922- (later volumes, Leiden: Brill 1994-)
<i>GGA</i>	<i>Göttingische Gelehrte Anzeigen</i> . Unter Aufsicht der Koeniglichen Gesellschaft der Wissenschaften, Berlin 1876-
<i>Gnomon</i>	<i>Gnomon</i> , Berlin 1925-
<i>Gött. Gel. Anz.</i>	<i>Göttingische Gelehrte Anzeigen</i> . Unter Aufsicht der Koeniglichen Gesellschaft der Wissenschaften, Berlin 1876-
<i>Gött. Nachr.</i>	<i>Nachrichten der Gesellschaft der Wissenschaften zu Göttingen</i> . Göttingen: Vandenhoeck & Ruprecht.
<i>GRBS</i>	<i>Greek, Roman, and Byzantine Studies</i> , Cambridge/ Mass 1958-

<i>Gymnasium</i>	<i>Gymnasium</i> . Zeitschrift für Kultur der antike und humanistische Bildung, Heidelberg 1890-
<i>HarvStudPhil.</i>	<i>Harvard Studies in Classical Philology</i> . Cambridge/Mass 1890-
<i>Hermes</i>	<i>Hermes</i> . Zeitschrift für klassischen Philologie, Stuttgart 1866-
<i>HG</i>	<i>Hamurabis Gesetz</i> , herausgegeben von J. Kohler und F. E. Peiser, Leipzig: E. Pfeiffer 1904-23.
<i>Historia</i>	<i>Historia</i> . Zeitschrift für alte Geschichte, Stuttgart 1950-
<i>Historia</i>	<i>Studi storici per l'antichità classica</i> , fondati da Ettore Pais, Milano-Roma 1927.
<i>Hist. Wb. Phil.</i>	<i>Historisches Wörterbuch der Philosophie</i> . Unter Mitwirkung von mehr als 700 Fachgelehrten. Herausgegeben von Joachim Ritter. Völlig neubearbeitete Ausgabe des «Wörterbuchs der philosophischen Begriffe » von Rudolf Eisler. Darmstadt: Wissenschaftliche Buchgesellschaft 1971-
<i>HKL</i>	R. Borger, <i>Handbuch der Keilschriftliteratur</i> , 3 vols., Berlin: W. de Gruyter 1967-73.
<i>HUCA</i>	<i>Hebrew Union College Annual</i> , Cincinnati 1924-; Suppl. 1976-
<i>HWDA</i>	<i>Handwörterbuch des deutschen Aberglaubens</i> , herausgegeben von Hanns Bächtold-Stäubli, Berlin und Leipzig: W. de Gruyter 1927-1942.
<i>Interaction</i>	<i>Interaction. Journal of The Tureck Bach Research Foundation</i> . Oxford 1997-
<i>Iraq</i>	<i>Iraq</i> , London 1934-
<i>JA</i>	<i>Journal Asiatique</i> , Paris 1822-
<i>JAOS</i>	<i>Journal of the American Oriental Society</i> , New Haven/Ann Arbor 1843-
<i>JBL</i>	<i>Journal of Biblical Literature</i> ., Boston/Mass 1890-
<i>JCS</i>	<i>Journal of Cuneiform Studies</i> , New Haven 1947-
<i>Jdl</i>	<i>Jahrbuch des (Kaiserlichen) Deutschen Archäologischen Instituts</i> , Berlin 1886-
<i>JEA</i>	<i>Journal of Egyptian Archaeology</i> , London 1892/93-1911/12.
<i>Jean, Larsa</i>	<i>Contrats de Larsa</i> , publiée par Charles F. Jean, Paris: P. Geuthner 1926.
<i>JHS</i>	<i>Journal of Hellenic Studies</i> , London 1880-
<i>JNES</i>	<i>Journal of Near Eastern Studies</i> , Chicago 1942-
<i>JRAS</i>	<i>The Journal of the Royal Asiatic Society of Great Britain and Ireland</i> , London 1834-
<i>JSS</i>	<i>Journal of Semitic Studies</i> , Manchester 1956-
<i>Kadmos</i>	<i>Kadmos</i> . Zeitschrift für vor- und frühgriechischen Epigraphik, Berlin 1962-
<i>KAJ</i>	<i>Keilschrifttexte aus Assur juristischen Inhalts</i> , edited by E. Ebeling (= <i>WVDOG</i> 50, 1927)
<i>KAR</i>	<i>Keilschrifttexte aus Assur religiösen Inhalts</i> I/II, edited by E. Ebeling (= <i>WVDOG</i> 28, 1919; 34, 1923)
<i>KAV</i>	<i>Keilschrifttexte aus Assur verschiedenen Inhalts</i> , edited by O. Schroeder (= <i>WVDOG</i> 35, 1920)
<i>KBo.</i>	<i>Keilschrifttexte aus Boghazköi</i> (Vol. 1-22 in <i>WVDOG</i> , Leipzig/Berlin 1916-)
<i>KUB</i>	<i>Keilschrifturkunden aus Boghazköi</i> , Berlin 1921-
<i>LÄ</i>	<i>Lexikon der Ägyptologie</i> , herausgegeben von Wolfgang Helck und Eberhard Otto, Wiesbaden: O. Harrassowitz 1975-
<i>LAMA</i>	<i>Centre de Recherches Comparatives sur les Langues de la Méditerranée Ancienne</i> , Nice.
<i>L'Ant.class.</i>	<i>L'Antiquité classique</i> , Bruxelles 1932-
<i>Lex.frühgr. Ep.</i>	<i>Lexikon des frühgriechischen Epos</i> . In Zusammenarbeit mit dem Thesaurus linguae graecae und mit der Unterstützung der UNESCO und der Joachim-Jungius-Gesellschaft, Hamburg; vorbereitet und herausgegeben von Bruno Snell; verantwortlicher Redaktor, Hans Joachim Mette. Göttingen: Vandenhoeck & Ruprecht 1955-
<i>LSJ</i>	Liddell-Scott-Jones, <i>A Greek-English Lexicon</i> , Oxford 1925-40. With a supplement ⁹ 1996.
<i>LSS</i>	<i>Leipziger Semitische Studien</i> , Leipzig 1903-20; (n. ser. 1931-32)
<i>MAD</i>	<i>Materials for the Assyrian Dictionary</i> , Chicago 1952-70
<i>MAOG</i>	<i>Mitteilungen der Altorientalischen Gesellschaft</i> , vol. 1-16, Leipzig 1925-43
<i>Maqlû</i>	<i>Die assyrische Beschwörungssammlung Maqlû</i> , edited by G. Meier, 1937 (= AfO Beih. 2)
<i>MARI</i>	<i>Mari. Annales de Recherches Interdisciplinaires</i> , Paris 1982-
<i>MDAI</i>	<i>Mitteilungen des Deutschen Archäologischen Instituts</i> , K = Abteilung Kairo, Mainz 1956-

MDOG	<i>Mitteilungen der Deutschen Orientgesellschaft zu Berlin</i> , Berlin 1898-
MDP	<i>Mémoires de la Délégation en Perse</i> , Paris 1900- (vol. 29, 1943- s. MDAI = <i>Mémoires de la Délégation Archéologique en Iran</i>)
MSL	<i>Materialien zum sumerischen Lexikon / Materials for the Sumerian Lexicon</i> , Rome 1937-; Suppl. (1, 1986)
MusHelv.	<i>Museum Helveticum</i> . Basel 1944-
MVA(e)G	<i>Mitteilungen der Vorderasiatischen</i> (from 1922: <i>Vorderasiatisch-Ägyptischen</i>) <i>Gesellschaft</i> , Berlin/Leipzig 1896-
NABU	<i>Nouvelles Assyriologues Brèves et Utilitaires</i> , Paris 1987-
NJb	<i>Neue Jahrbücher für das klassische Altertum, Geschichte und deutsche Literatur</i> , Leipzig-Berlin 1898-1924.
NGG	<i>Nachrichten von der Gesellschaft der Wissenschaften zu Göttingen</i> . Göttingen: Vandenhoeck & Ruprecht 1894. (<i>Nachrichten von der Königlichen Gesellschaft der Wissenschaften zu Göttingen</i> . Göttingen: Dieterich 1864-1893).
NG(U)	<i>Die neusumerischen Gerichtsurkunden</i> , herausgegeben von Adam Falkenstein, 3 vols., München: C. H. Beck 1956-57.
OAIC	<i>Old Akkadian Inscription in Chicago Natural History Museum</i> , edited by I. J. Gelb, Chicago 1955.
OECT	<i>Oxford Editions of Cuneiform Texts</i> , Oxford 1923-
OLA	<i>Orientalia Lovaniensia analectica</i> , Leuven 1975-
OLP	<i>Orientalia Lovaniensia periodica</i> , Leuven 1970-
Orientalia	<i>Orientalia</i> , SP = Series Prior, Rome 1920-30; NS Nova Series, Rome 1932-
PAPS	<i>Proceedings of the American Philosophical Society</i> , Philadelphia 1838-
PBS	University of Pennsylvania, <i>Publication of the Babylonian Section</i> , Philadelphia 1911-
PCBS	<i>Proceedings of the Cambridge Philological Society</i> , Cambridge 1892-
Philologus	<i>Philologus</i> , Berlin 1841-
Phil. Wochenschr.	<i>Philologische Wochenschrift</i> (incorporating <i>Berliner philologische Wochenschrift</i> and <i>Wochenschrift für klassischen Philologie</i>) 1921-
Phoenix	<i>Phoenix</i> , Toronto 1946-
Poetica	<i>Poetica</i> . Zeitschrift für Sprach- und Literaturwissenschaft, München 1967-
Problemata	<i>Problemata</i> . <i>Forschungen zur klassischen Philologie</i> .
PRU	<i>Palais royal d'Ugarit. Mission de Ras Shamra</i> , Paris 1956-
PSBA	<i>Proceedings of the Society of Biblical Archaeology</i> , London 1878-
QUCC	<i>Quaderni Urbinati di Cultura Classica</i> , Urbino 1966-
RA	<i>Revue d'Assyriologie et d'Archéologie Orientale</i> , Paris 1886-
RAC	<i>Reallexikon für Antike und Christentum</i> , 1950-
RAI	<i>Rencontre assyriologique internationale</i> , see CRRA
RBi	<i>Revue Biblique</i> . Paris 1892-
RE	<i>Realencyclopädie der classischen Altertumswissenschaft</i> , edited by Pauly/ G. Wissowa, Stuttgart 1893-
REA	<i>Revue des études anciennes</i> , Bordeaux 1930-
REG	<i>Revue des études grecques</i> , Paris 1888-
Rev. Arch.	<i>Revue Archéologique</i> , Paris 1844-
Re. Phil.	<i>Revue de Philologie</i> , Paris 1877-
RFIC	<i>Rivista di Filologia e di Istruzione classica</i> , Torino 1873-
RHA	<i>Revue hittite et asianique</i> , Paris 1930-
Rh.Mus.	<i>Rheinisches Museum für Philologie</i> , Frankfurt 1842-
RHR	<i>Revue de l'histoire des religions</i> , Paris 1880-
RIDA	<i>Revue internationale des Droits de l'antiquité</i> , 3 rd series, Brussels 1954-
Riftin	A. P. Riftin, <i>Staro-Vasilonskie iuridicheskie I administrativnye dokumenty v sobraniiaakh SSSR</i> , Moskva: Izd-vo Akademii nauk SSSR 1937.

<i>RIL</i>	<i>Rendiconti dell' Istituto Lombardo, classe di lettere, scienze morali e storiche</i> . Milano 1864- (new numbering after 1958)
<i>RIMA</i>	<i>The Royal Inscriptions of Mesopotamia, Assyrian Periods</i> , Toronto 1987-
<i>RIMB</i>	<i>The Royal Inscriptions of Mesopotamia, Babylonian Period</i> , Toronto 1995-
<i>RIME</i>	<i>The Royal Inscriptions of Mesopotamia, Early Periods</i> , Toronto 1990-
<i>RivArch.</i>	<i>Rivista di archeologia</i> , Rome 1977-
<i>RIA</i>	<i>Reallexikon der Assyriologie (und Vorderasiatischen Archäologie)</i> , Berlin 1928-
<i>RTC</i>	<i>Recueil des tablettes chaldéennes</i> , publiée par F. Thureau-Dangin, Paris: E. Leroux 1903
<i>SAA</i>	<i>State Archives of Assyria</i> , Helsinki 1987-
<i>SAAB</i>	<i>State Archives of Assyria. Bulletin</i> . Padua 1987-
<i>SAAS</i>	<i>State Archives of Assyria Studies</i> , Helsinki 1982-
<i>SAHG</i>	<i>Sumerische und akkadische Hymnen</i> , herausgegeben von Adam Falkenstein and Wolfram von Soden, Zürich/Stuttgart: Artemis Verlag 1953.
<i>SbBerlin</i>	<i>Sitzungsberichte der Preussischen Akademie der Wissenschaften zu Berlin</i> . ('Berichte' 1836-1855; 'Monatsberichte' 1856-1881) Berlin 1882 – ('Sitzungsberichte')
<i>SbBerlin</i>	<i>Sitzungsberichte der Deutschen Akademie der Wissenschaften zu Berlin</i> . Berlin.
<i>SbHeidelberg</i>	<i>Sitzungsberichte der Heidelberger Akademie der Wissenschaften, Philosophisch-historische Klasse</i> . Heidelberg
<i>SEG</i>	<i>Supplementum epigraphicum graecum</i> , Alphen aan den Rijn 1923-
<i>SMEA</i>	<i>Studi Micenei ed Egeo-Anatolici</i> , Rome 1966-
<i>SR</i>	<i>Sumerische Rechtsurkunden des III. Jahrtausends</i> , herausgegeben von D. O. Edzard, München: C. H. Beck 1968 (= AbhMünchen NF 67).
<i>StBoT</i>	<i>Studien zu den Bogazköy-Texten</i> . Herausgegeben von der Kommission für den Alten Orient der Akademie der Wissenschaften und der Literatur. Wiesbaden 1965; Beiheft 1988-
<i>Stud. Class. Or.</i>	<i>Studi Classici e Orientali</i> , Pisa 1951-
<i>Stud. Gen.</i>	<i>Studium Generale</i> , Berlin 1947-1971.
<i>Šurpu</i>	<i>Šurpu. A Collection of Sumerian and Akkadian Incantations</i> , edited by E. Reiner (= AfO Beih. 2, 1958.
<i>SVF</i>	<i>Stoicorum Veterum Fragmenta</i> , edited by H. von Arnim, Leipzig 1903-5.
<i>Symb. Osl.</i>	<i>Symbolae Osloensis</i> , Oslo 1922-
<i>TAPA</i>	<i>Transactions of the American Philological Association</i> , Boston 1870-
<i>TC</i>	<i>Tablettes Cappadociennes</i> . (1 = TCL 4; 2 = TCL 14; 3 = TCL 19-21).
<i>TCL</i>	<i>Textes cunéiformes du Louvre</i> , Musée du Louvre, Paris 1910-
<i>TD</i>	<i>Lettres et contrats de l'époque de la première dynastie babylonienne</i> , publiée par F. Thureau-Dangin, Paris: P. Geuthner 1973 (Reprint of 1910 ed.).
<i>THAT</i>	<i>Theologisches Handwörterbuch zum Alten Testament</i> , herausgegeben von Ernst Jenni unter Mitarbeit von Claus Westermann, München: Chr. Kaiser / Zürich: Theologischer Verlag 1971-1976.
<i>ThWNT</i>	<i>Theologisches Wörterbuch zum Neuen Testament</i> , herausgegeben von Gerhard Kittel, Stuttgart: W. Kohlhammer 1949-1979.
<i>TIM</i>	<i>Texts in the Iraq Museum</i> , Baghdad/Wiesbaden 1964-
<i>TLS</i>	<i>Times Literary Supplement</i> , London 1902-
<i>TRE</i>	<i>Theologische Realenzyklopädie</i> , herausgegeben von Gerhard Krause und Gerhard Müller, Berlin and New York: W. de Gruyter 1977.
<i>TS</i>	<i>From the Tablets of Sumer</i> , edited by S. N. Kramer, Illinois 1956
<i>TSBA</i>	<i>Transactions of the Society of Biblical Archaeology</i> , London 1872-1893.
<i>TUAT</i>	<i>Texte aus dem Umfeld des Alten Testaments</i> , Gütersloh 1982-
<i>UCP</i>	<i>University of California Publications in Semitic Philology</i> , Berkeley 1907-
<i>UE</i>	<i>Ur Excavations. Publications of the Joint Expedition of the British Museum and the Museum of the University of Pennsylvania to Mesopotamia</i> , Oxford/Philadelphia 1927-
<i>UET</i>	<i>Ur Excavations. Texts</i> , London 1928-
<i>UF</i>	<i>Ugarit-Forschungen</i> , Kevelaer/Neukirchen-Vluyn 1969-
<i>VAB</i>	<i>Vorderasiatische Bibliothek</i> , Leipzig 1907-

VAT	Vorderasiatische Abteilung. Tontafelsammlung des Berliner Museums.
VS	Vorderasiatische Schriftdenkmäler der (Königl.) Museen zu Berlin, Berlin 1907-
VSLA	Vetenskaps-Societeten I Lund, Lund, 1920-
VT	Vetus Testamentum, Leiden 1951-
WO	Die Welt des Orients. Wissenschaftliche Beiträge zur Kunde des Morgenlandes, Wuppertal / Göttingen 1947/1952-
Woch. kl. Phil.	Wochenschrift für klassische Philologie. 1884-1920. cf. Phil. Wochenschr.
WS	Wiener Studien, Wien 1879-
Würzb. Jahrb.	Würzburger Jahrbücher für die Altertumswissenschaften. Würzburg 1946-
WVDOG	Wissenschaftliche Veröffentlichungen der Deutschen Orient-Gesellschaft, Leipzig 1900-
WZKM	Wiener Zeitschrift für die Kunde des Morgenlandes, Wien 1887-; Beih. 1936-
YOS	Yale Oriental Series, Babylonian Texts, New Haven 1915-
ZA	Zeitschrift für Assyriologie und verwandte Gebiete resp. from 1939 und Vorderasiatische Archäologie, Leipzig 1886-
ZDMG	Zeitschrift der Deutschen Morgenländischen Gesellschaft, Wiesbaden 1847-
ZKG	Zeitschrift für Kirchengeschichte, Gotha 1878-
ZphF	Zeitschrift für philosophische Forschung, Meisenheim/Glan 1946-
ZRG	a) Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanistische Abteilung, Weimar 1880- b) Zeitschrift für Religions- und Geistesgeschichte, Köln 1948-
ZSStRom	Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanistische Abteilung, Weimar 1880-

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