

SUMMARIES

On Hermippos of Smyrna F 20 Wehrli

Yoshinao Sato

In what capacity did Pythagoras appear before the Crotoniates? Scholars have studied this problem, quoting exclusively two testimonies, Dicaearch. F 33 W and Iustin. XX 4. But, if we compare carefully Hermipp. F 20 W with the Zalmoxis episode in Hdt. IV 95, the former is found to be older than the latter. Hermipp. F 20 is a parody version rationally interpreting a serious version about the katabasis of Pythagoras. Meanwhile, the Thracians believed in immortality and their shamanistic kings practiced katabasis. The Greeks around the Black Sea identified Zalmoxis with Pythagoras because of their similarity and made the parody version (= Hdt. IV 95) of the Zalmoxis tradition under the influence of the serious version of Pythagoras. Hermipp. F 20 except a parodic interpretation is the oldest and most authentic testimony on the situation of Pythagoras' appearance. I intend to interpret this fragment in a historical context.

Croton was defeated about 530 B.C. and lost austerity and manliness. It was this moment that Pythagoras arrived in Croton. He had traveled extensively as engraver and merchant, accumulating wisdom and experience. It was conventional that, when a polis faced a national crisis, it invited a lawgiver in order to be released from the crisis. Croton also called the sage, Pythagoras. His arrival and katabasis were due to a national intention as was suggested by the fact that he went straight to the ekklesia after the katabasis.

The case of Pythagoras accords with the motif that lawgivers lead a society under anomia into eunomia. In addition, Aristox. 17 W testifies that Pythagoras was celebrated as lawgiver. He was a priest of Demeter Thesmophoros, Ceres Legifera. It follows that he was a lawgiver, though the Code of Pythagoras has never been reported. Ancient archaic laws are alien to rational and consistent systematization. They include ideas about nature, the cosmos and the gods, as well as concrete rules in daily life.

An extensive literature shows that the lawgivers were credited with divine assistance. The authority of laws depended not on human work but on the

divine origin. This explains why Pythagoras held katabasis, a procedure of fetching laws from Demeter in Hades. But before making them public, he had to confirm that he had actually descended into Hades. This confirmation was his speech at the ekklesia. He proved his sacredness by pointing out who had been found in Hades, namely, the deceased. But Hermipp. 20 reported clearly only one point spoken there, 'he declared he had returned from Hades.' And this was all that he wanted to say. The Crotoniates were persuaded and rejoiced at the appearance of a savior. This explains a riddling phrase, 'being gladdened by his words, they wept and lamented.'

He proclaimed the laws to the women in his sermon at a Thesmophoria festival. We can infer the laws, though fragmentarily, from parallels between the Ar. Ecc., Pl. R. and Lam. VP 37-57. They were conservative ethical morals such as conjugal fidelity and preserving the nuclear family. Pythagoras appeared on history as neither scientist nor philosopher but lawgiver to revive the polis.

Homicide Trial and Punishment in Early Athens

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How was a man who had killed someone intentionally treated in Athens in Draco's time? A provision on justifiable homicide cited by Demosthenes (23. 53) might afford a clue to the solution of this problem. The concluding phrase of it seems to imply that in earlier times intentional homicide as well as unintentional was punished by exile. A Locrian law on settlement (525-500 BC ?) may serve as a supporting evidence for this. The text of it suggests that in Locris it was provided by the homicide law that the killer should be banished and his house demolished. It seems very likely that this is just the same as what was customarily established in older days; for Demosthenes gives a detailed account of the extreme conservatism of the Locrians as to law and mentions that they have enacted only one new law in the past two hundred years (24. 139-141). The expulsion of a killer was not a penalty in the modern sense of the word. Its purpose was to restore the order of society that had been marred by bloodshed, in other words, to rid the whole society of pollution incurred by bloodshed.

In Solon's amnesty law (Plut. *Sol.* 19. 4) the Ephetai and the Prytaneion are referred to as those that have jurisdiction over homicide and slaughter. One could infer from this as follows: Homicide cases were all tried at the Prytaneion before Draco, but after the enactment of homicide law by him, until the jurisdiction over intentional homicide was transferred to the Areopagus, cases of normal (both intentional and unintentional) homicide were heard by the Ephetai, while in those cases in which the killer was unknown, typically in the case of indiscriminate massacre, and in those in which an animal or an inanimate object caused the victim's death the court at the Prytaneion was in charge of trial. The judicial process in the case of normal homicide in early Athens before Draco was probably as follows: The family of the deceased bring an accusation against the killer under a ceremonial oath to the effect that the defendant killed the victim; the Basileus confirms the fact proved by the oath and adjudges the defendant guilty, and then he is banished from the country. But when the defendant denies that he killed the victim intentionally, he is required to prove it by swearing an oath; when his case is proved, he is banished with the proviso that he is allowed to return home if the bereaved forgive him.

To reform such a primitive judicial system Draco founded a new court where the fifty-one Ephetai sat as a jury. However, in the case of homicide by an unknown hand and of accidental death caused by an animal or an inanimate object, in which there is no conflict between the two parties, trial was still held at the Prytaneion following the above-mentioned primitive procedure even in the fourth century BC, when a rational judicial system had been established.