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SOLON'S LAW ON *STASIS*: PROMOTING ACTIVE NEUTRALITY

In this paper, I argue for a reinterpretation of Solon's law on *stasis* as attested in [Arist.] *Ath. Pol.* 8.5: while the law has been presented from Cicero onwards as a law penalizing neutrality in *stasis*, a close reading of this passage reveals a law promoting active neutrality. In a second, shorter section, I trace the implications of my interpretation for the possible genesis of the law on *stasis*, arguing that the law appears to provide an insight into the fourth-century reception of Solon's activities.

NEUTRALITY IN *STASIS*: [ARIST.] *ATH. POL.* 8.5

From the Classical period onward, the sixth-century legislator Solon has been famous for his efforts to stabilize Athenian society and shield it from civil conflict. Yet several ancient authors attribute to him a law that seems hard to reconcile with this reputation: a law that penalizes neutrality in civil strife.[1] The most authoritative attestation of this law is a passage in the Aristotelian *Athenaion Politeia* (8.5):

ὁρῶν δὲ τὴν μὲν πόλιν πολλάκις στασιάζουσαν, τῶν δὲ πολιτῶν ἐνίους διὰ τὴν ῥᾳθυμίαν ἀγαπῶντας τὸ αὐτόματον, νόμον ἔθηκεν πρὸς αὐτοὺς ἴδιον, ὃς ἂν στασιαζούσης τῆς πόλεως μὴ θῆται τὰ ὅπλα μηδὲ μεθ' ἑτέρων, ἄτιμον εἶναι καὶ τῆς πόλεως μὴ μετέχειν.

Seeing that the *polis* was often in a state of *stasis*, and that some citizens out of indifference preferred to let events take their course, [Solon] made a special law directed against them: that anyone who, when the *polis* was in a state of *stasis*, failed to take up arms with either side should be *atimos* and have no part in the *polis*.[2]

This translation reflects the *communis opinio*:[3] modern interpreters have unanimously interpreted this passage, in accordance with the other testimonia, as

[1] Ruschenbusch fragments 38 a–g (= fr. 350–4 Martina). Cicero's, Plutarch's and Aulus Gellius' interpretation of the law (Ruschenbusch F 38 c, d–f and b), as well as Diogenes Laertius' reference to it (F 38 g) will be discussed at the end of this section. Martina (F 355–7) records three further passages in which Alexander of Aphrodisias and two Byzantine historians appear to display familiarity with the law.

[2] I disagree with R. Develin, 'Solon's law on stasis', *Historia* 26 (1977), 507–8, who on the basis of Plutarch's use of the word ἴδιος in the sense 'peculiar' with reference to this law (Plut. *Sol.* 20.1 [quoted below n. 25]) would read it with that sense here as well: it fits the rhetorical structure of this sentence better to take ἴδιον with πρὸς αὐτούς. M. Chambers, *Aristoteles: Staat der Athener* (Berlin, 1990), on [Ar.] *Ath. Pol.* 8.5, retains the ambiguity: 'erließ er gegen sie ein besonderes Gesetz'.

[3] Cf. e.g. J.A. Goldstein, 'Solon's law for an activist citizenry', *Historia* 21 (1972), 538–45, at 538; K. von Fritz, 'Nochmals das Solonische Gesetz gegen Neutralität im Bürgerzwist', *Historia* 26 (1977), 245–7, at 246; P.B. Manville, 'Solon's law of stasis and *atimia* in Archaic

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reporting a 'law against neutrality'.[4] Scholarly discussion has largely been shaped by the question whether, or how, such a law might have been part of Solon's programme. Ruschenbusch in his annotations to the fragments judges that a law against neutrality is 'unvereinbar mit der Ansicht Solons über den Bürgerkrieg'. Many scholars concur,[5] while others attempt to reconcile the law with the ideological tendency of the Solonian corpus.[6]

In my view however, the basic tenet of this law has been misunderstood from antiquity onward: as [Ar.] *Ath. Pol.* reports it, the law on *stasis* does not penalize neutrality at all, but on the contrary advocates it. I will take issue with the interpretation of the passage quoted above in two respects. First, I contest the current view that ὅπλα τίθεσθαι in Solon's law means 'to take up arms' or 'to take sides'. Instead, I argue that it refers to the physical act of setting down one's arms; in some contexts, including the law on *stasis*, this act constitutes a public display of readiness to use arms. The second part of my argument is that μηδὲ μεθ' ἑτέρων is a separate information unit, with independent negative value from the main negation ('without partiality to either party', 'being neutral'). As a result of this reinterpretation, the law should be read as one that requires citizens to play an active role in the resolution of a conflict on a basis of neutrality. After a brief discussion of the other testimonia and how their misunderstanding of the law on *stasis* may have come about, I go on to reassess the position of the law in the Solonian corpus and the question of its origins.

Athens', *TAPhA* 110 (1980), 213–21, at 217–18; E. David, 'Solon, neutrality and partisan literature of late fifth-century Athens', *MH* 41 (1984), 129–38, at 129; R. Sealey, 'How citizenship and the city began in Athens', *AJAH* 110 (1983), 97–129, at 100; and E. Gabba, 'Da qualche considerazioni generali al caso della legge sull'impossibile neutralità', in G. Maddoli (ed.), *L'* Athenaion Politeia *di Aristotele, 1891–1991: Per un bilancio di cento anni di studi* (Perugia, 1994), 103–11, at 106.

[4] e.g. V. Bers, 'Solon's law forbidding neutrality and Lysias 31', *Historia* 24 (1975), 493–8; von Fritz (n. 3), 'das Antineutralitätsgesetz des Solon'; David (n. 3), 'the law against neutrality'; J. Bleicken, 'Zum sogenannten Stasis-Gesetz Solons', in *Symposion für Alfred Heuss* (Frankf. Althist. St. 12: Kallmünz, 1986), 9–18, 'das sog. Stasis- bzw. Antineutralitätsgesetz'; P.J. Rhodes, 'The reforms and laws of Solon: an optimistic view', in J.H. Blok and A.P.M.H. Lardinois (edd.), *Solon of Athens*: *New Historical and Philological Approaches* (Leiden, 2006), 248–60, 'the law against neutrality'.

[5] M.H. Hansen, *Apagoge, endeixis and ephegesis against kakourgoi, atimoi and pheugontes* (Odense, 1976), 78: 'today hardly any scholar believes in the authenticity of the law' (but see n. 6 below). David (n. 3), 131 argues that the law is a fifth-century forgery, pointing out that '[Solon's] abhorrence of civil strife, violence and bloodshed … [and his] boast of impartiality … [do] not seem to be consistent with legislating that citizens should take up arms and join opposing camps in the case of *stasis*'. Cf. Bleicken (n. 4), 12 : '[Solon] fürchtet im Gegenteil gerade das, was das Stasis-Gesetz zu bezwecken scheint'; Chambers (n. 2): 'Es ist kaum zu glauben, daß Solon das Volk gesetzlich dazu aufgefordert haben soll, am Bürgerkrieg teilzunehmen'; C. Hignett, *A History of the Athenian Constitution to the End of the Fifth Century* B.C. (Oxford, 1952), 26–7.

[6] e.g. Goldstein, (n. 3); in favour of authenticity also e.g. B. Lavagnini, 'Solone e il voto obbligatorio', *RIFC* 25 (1947), 81–93; L. Piccirilli, 'Aristotele e l'atimia (Athen. Pol. 8.5)', *ASNP* 3.6 (1976), 739–61, at 749–51; Bers (n. 4); Develin (n. 2); Manville (n. 3), 217–18; P.J. Rhodes, *A Commentary on the Aristotelian* Athenaion Politeia (Oxford, 1981), 157 (cf. Rhodes [n. 3], 25); S. Forsdyke, *Exile, Ostracism and Democracy* (Cambridge, 2005), 98–9.

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ὅπλα τίθεσθαι

Liddell and Scott's *Greek-English Lexicon* suggests several translations for the phrase ὅπλα τίθεσθαι,[7] among which are both 'to bear arms' and 'to rest arms'. However, actual usage in fifth- and fourth-century literary texts displays more continuity than is reflected in such translations: ὅπλα τίθεσθαι always refers to the physical act of setting down one's arms – often in a particular place or position. The phrase can describe the action of setting down arms prior to resting, deliberation or negotiation;[8] it combines naturally with ἡσυχάζειν 'to rest', and can be contrasted explicitly with ὅπλα ἀναλαμβάνειν.[9] Weapons can also be placed near to or against one's person in preparation for (potential) use, notably in the expression τὰ ὅπλα εἰς τάξιν τίθεσθαι, 'to draw up in battle array'.[10] The English military term for this action would be 'to ground arms'. To articulate the exact choreography of the act in a particular context, the expression can be used with a wide variety of prepositions, such as εἰς, ἐν, μετά, κατά, παρά, περί, πρός or ὑπέρ.[11] Both ὅπλα ἀναλαμβάνειν, 'taking up one's arms' and ὅπλα τίθεσθαι, 'setting them down' can connote aspects of preparations for battle, but the act of engaging in armed conflict would normally not follow *immediately* upon ὅπλα τίθεσθαι. For example, in Xen. *Hell*. 5.3.18 the beginning of a siege is described as follows:

ὁ δὲ Ἀγησίπολις εὐθὺς ἐκ τῆς Μακεδονίας προσιὼν ἔθετο πρὸς τῇ πόλει τῶν Ὀλυνθίων τὰ ὅπλα.

Agesipolis immediately advanced from Macedonia and grounded arms near the *polis* of the Olynthians.[12]

Goldstein (n. 3), 543–4 interprets the phrase ὅπλα τίθεσθαι in Solon's law as a technical legal expression concerned with the bearing of arms as a precondition for legal citizen status, and suggests the translation 'to take up arms';[13] Sealey (n. 3), 101 proposes the translation 'to stack arms' and (following Develin [n. 2], 507) infers a metaphorical development according to which ὅπλα τίθεσθαι comes to

[7] *LSJ* [9] s.v. τίθεσθαι (A.II.10): a. *to rest arms*, b. *bear arms*, c. *lay down one's arms* and d. *keep your arms* in good order.

[8] Thuc. 2.2.4 (cited below), 7.3.1, 8.93.1; cf. Xen. *Hell*. 2.4.12.

[9] Aesop. 290: τὰ ὅπλα θεὶς ἡσύχαζεν, εἶτ' ἀναλαβὼν αὖθις ἐξῄει; cf. Thuc. 4.44.1, 4.90.4; Xen. *Hell*. 2.4.5; *An*. 1.10.16 (ἀνεπαύοντο).

[10] e.g. Xen. *Hell*. 6.5.28: εἴ τις βούλοιτο ὅπλα λαμβάνειν καὶ εἰς τάξιν τίθεσθαι ('if anyone wants to take up arms and place them in battle array'); Xen. *An*. 2.2.21, 5.4.11; cf. Thuc. 4.93.3; Xen. *An*. 2.2.8, 7.1.22; and the epigram cited in Dem. 18.289.

[11] e.g. Xen. *An*. 5.2.19: οἱ δὲ ὁπλῖται ἔθεντο τὰ ὅπλα, οἱ μὲν περὶ τὰ σταυρώματα, οἱ δὲ κατὰ τὴν ὁδὸν τὴν ἐπὶ τὴν ἄκραν φέρουσαν.

[12] Cf. Thuc. 8.25.4; Xen. *Hell.* 5.2.40.

[13] On the assumption that the law originates in the sixth century, this is a problematic interpretation: even if readiness to bear arms was a key element in civic identity, and failure to display such readiness might disqualify a man as a citizen, it is still improbable that there should have been a technical legal term to denote 'bearing arms' to regulate qualification for civic rights at a time when such rights were not yet legally defined (and neither was the concept of citizenship: cf. P.B. Manville, *The Origins of Citizenship in Ancient Athens* [Princeton, 1990], 76–7). Goldstein also discerns this technical usage in Lycurg. *Leocr*. 43, Dem. 21.145, Lys. 31.14 and *IG* II² 666.9–12, on which see below. His interpretation is accepted by Chambers (n. 2), 180; but the phrase *per se* never means 'to take up arms' – cf. Rhodes (n. 6), 158 and C. Carey, *Lysias: Selected Speeches* (Cambridge, 1989), on Lys. 31.14.

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mean 'to take sides' with someone. In my view, it is unnecessary to assume that the phrase functioned either as a technical term or as a metaphorical expression: where *τίθεσθαι τὰ ὅπλα* describes the act of putting oneself at the disposal of a specific military group or leader, it denotes the physical act of positioning oneself and one's arms within a military group.[14] This can be observed clearly at Thuc. 2.2.4; the Thebans have entered Plataea and taken a stand on the agora (*θέμενοι δὲ ἐς τὴν ἀγορὰν τὰ ὅπλα*), and a herald addresses the citizens of Plataea:

καὶ ἀνεῖπεν ὁ κῆρυξ, εἴ τις βούλεται κατὰ τὰ πάτρια τῶν πάντων Βοιωτῶν ξυμμαχεῖν, τίθεσθαι παρ' αὐτοὺς τὰ ὅπλα.

And the herald announced that if anyone wanted to join the Boeotian league according to ancestral custom, then they should place their arms with them.

The herald invites the Plataeans to do as the Thebans themselves have done and position themselves with their arms on the agora, thereby physically joining the Boeotian military force.[15]

In many other passages, the emphasis is not on the choice for a group or leader that such an action can imply, but on the action itself, which expresses that one keeps oneself ready for armed action. Thus in Lycurg. *Leocr*. 43, the example is given of someone who leaves the *polis* at a moment when it requires his military assistance:

ἐγκαταλιπόντα τὴν πόλιν μήτε τὰ ὅπλα θέμενον ὑπὲρ τῆς πατρίδος, μήτε τὸ σῶμα παρασχόντα τάξαι τοῖς στρατηγοῖς …

Leaving the *polis* and not grounding his arms on behalf of his country, and not putting himself at the disposal of the *strategoi* in order to be mobilized …

This reproach is modelled on that voiced against Philon by the speaker of Lysias 31; Philon lived abroad in Oropus during the regime of the Thirty and the Piraeus-based rebellion that eventually led to the restoration of democracy (Lys. 31.14):

ὡς οὖν ᾤκει τε ἐν Ὠρωπῷ ἐπὶ προστάτου καὶ ἐκέκτητο ἱκανὴν οὐσίαν καὶ οὔτ' ἐν τῷ Πειραιεῖ οὔτ' ἐν τῷ ἄστει ἔθετο τὰ ὅπλα.

He lived in Oropus under the protection of a patron and he had enough money; and he did not ground his arms either in the Piraeus or in the city.

Philon can hardly be blamed for not having 'sided' with the Thirty Tyrants, but the speaker does not wish to reproach him openly for not assisting in the restoration

[14] A frequently quoted example of the alleged 'metaphorical' usage (Develin [n. 2], 508; Goldstein [n. 3], 544; Sealey [n. 3], 101–2) is Pl. *Resp*. 440e: *… ἐν τῇ τῆς ψυχῆς στάσει τίθεσθαι τὰ ὅπλα πρὸς τὸ λογιστικόν* ('…when there is *stasis* in the *psyche* [we must] place our arms at the side of the *logistikon*'). However, because Plato stages this as a military metaphor with the phrase *ἐν τῇ τῆς ψυχῆς στάσει*, the passage can not be adduced to demonstrate that *τίθεσθαι τὰ ὅπλα* functioned as a set expression for 'taking sides'.

[15] Likewise Thuc. 4.68.3: *ξυνέπεσε γὰρ καὶ τὸν τῶν Ἀθηναίων κήρυκα ἀφ' ἑαυτοῦ γνώμης κηρύξαι τὸν βουλόμενον ἰέναι Μεγαρέων μετὰ Ἀθηναίων θησόμενον τὰ ὅπλα* ('and it happened that the Athenian herald on his own initiative announced that any Megarian who wanted could come and put his arms with the Athenians').

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of the democracy either.[16] Taken literally as 'grounding arms', the expression *ὅπλα τίθεσθαι* helps the speaker to circumvent this difficulty, by focussing on the fact that Philon has remained passive instead of displaying an active commitment to the affairs of the *polis* in a difficult period.[17]

To sum up: the expression *ὅπλα τίθεσθαι* denotes the action of 'setting down one's arms', and often connotes that one keeps oneself ready for armed action; 'to ground arms' seems an adequate English rendering.[18] This is how we should understand the phrase in Solon's law on *stasis*: *ὃς ἄν … μὴ θῆται τὰ ὅπλα*, 'whoever fails to ground arms', 'whoever fails to display readiness to undertake armed action'.

μηδὲ μεθ' ἑτέρων

A second aspect that is crucial to the interpretation of Solon's law on *stasis*, as it is reported in the *Athenaion Politeia*, is the use of the two negatives *μὴ … μηδὲ*, in the phrase *ὃς ἄν … μὴ θῆται τὰ ὅπλα μηδὲ μεθ' ἑτέρων*. This has unanimously been assumed to be an example of what Kühner–Gerth label 'accumulated negatives' ('Häufung der Negationen').[19] Thus, *οὐκ οἶδα οὐδέν* normally means 'I do not know anything', not 'it is not the case that I know nothing'. There are however various types of contexts in which consecutive negatives do retain their independent negative value, e.g. at [Dem.] 61.52:

μηδ', εἰ τῶν ἐντυγχανόντων κρείττων εἶ, μηδὲν τῶν ἄλλων ζήτει διενεγκεῖν, ἀλλ' ἡγοῦ κράτιστον μὲν εἶναι τὸ πρωτεύειν ἐν ἅπασιν κτλ.

And do not, if you are stronger than those with whom you are dealing, seek to differ from the others in no respect at all; but know that to be the most powerful is to be the first in everything...

In the context of the speaker's advice, it is clear that the negative value of *μηδέν* has not been cancelled by the first negation, and that the only possible interpretation

[16] If Philon's sympathy might have been expected to be with an oligarchic regime, it might even be viewed as commendable that he kept a low profile: in practice, choosing sides was the only alternative to remaining passive. The relation between Lys. 31 and the law on *stasis* will be discussed further below.

[17] Compare Aeschin. 1.29: *… τῇ πόλει ὑπὲρ ἧς τὰ ὅπλα μὴ τίθεσαι ἢ διὰ δειλίαν μὴ δυνατὸς εἶ ἐπαμῦναι μηδὲ ξυμβουλεύειν ἀξίου*. Along similar lines I read the other passages that have played a role in the discussion on technical or metaphorical usage (Goldstein [n. 3], 544; Develin [n. 2], 508; Sealey [n. 3], 102) as referring to active commitment to the affairs of the *polis*; notably Dem. 21.145 (*αὐτὸς ὑπὲρ τοῦ δήμου θέμενος τὰ ὅπλα δὶς μὲν ἐν Σάμῳ, τρίτον δ' ἐν αὐτῇ τῇ πόλει*) and *IG* II^2 666.9–12 (*λαβόντος τοῦ δήμου τὰ ὅπλα ὑπὲρ τῆς ἐλευθερίας καὶ παρακαλοῦντος καὶ τοὺς στρατιώτας τίθεσθαι* [*sc.* *τὰ ὅπλα*] *πρὸς τὴν πόλιν ὑπήκουσεν τῷ δήμῳ εἰς τὴν ἐλευθερίαν καὶ ἔθετο τὰ ὅπλα μετὰ τῆς πόλεως*).

[18] Cf. F. Durrbach, *Lycurgue*: *contre Léocrate* (Paris, 1932), 47 n. 2: 'les soldats, tout équipés … posent le bouclier sur le sol en l'appuyant contre le genou, et fichent leur lance à terre, pour attendre les ordres'.

[19] K–G 2.203–4 (§ 514.1): 'Die unbestimmten Pronomen, wie irgend jemand, irgend wo, irgend wann, irgend wie u.s.w., werden im Griechischen, wenn sie in einem negativen Satze stehen, sämtlich negativ ausgedrückt'; cf. e.g. Schwyzer–Debrunner 2.598 and J. Humbert, *Syntaxe grecque* (Paris, 1960^3), 364.

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is '*do* seek to differ'.[20] When indefinite pronouns occur in a separate information unit, they naturally have independent negative value from any negation of the sentence as a whole, for instance at Lys. 24.26:

μὴ τοίνυν, ὦ βουλή, μηδὲν ἡμαρτηκὼς ὁμοίως ὑμῶν τύχοιμι τοῖς πολλὰ ἠδικηκόσιν.

I should not, council, having done nothing wrong, suffer the same from you as those who have committed many crimes.

In this passage, *μηδέν* belongs to the appositional phrase *μηδὲν ἡμαρτηκώς*, and consequently is not affected by the main negation, whose scope extends over *ὁμοίων τύχοιμι* but not over *μηδὲν ἡμαρτηκώς*.[21]

In the Classical period *μηδὲ* or *οὐδὲ μεθ' ἑτέρων* (= **μετὰ μηδ-/οὐδετέρων*) functions as a separate information unit denoting 'without allegiance to either of two parties';[22] this phrase occurs as a predicate noun with the verb *εἶναι* in the sense 'to be neutral'. For example, at Thuc. 2.72.1 the Spartan king Archidamas offers the Plataeans the following advice as an alternative to taking sides with Sparta in the war with Athens:[23]

ἡσυχίαν ἄγετε νεμόμενοι τὰ ὑμέτερα αὐτῶν, καὶ ἔστε μηδὲ μεθ' ἑτέρων, δέχεσθε δὲ ἀμφοτέρους φίλους, ἐπὶ πολέμῳ δὲ μηδετέρους.

Keep quiet and mind your own business, and be neutral: receive both parties as *philoi*, and neither party with hostile intent.

In view of this usage, the phrase *μηδὲ μεθ' ἑτέρων* at *Ath. Pol.* 8.5 must be taken as a separate information unit, whose negative value is unaffected by the first negation.

[20] For an example with *οὐδετέρος*, cf. Parm. 28B9 DK: *ἐπεὶ οὐδετέρῳ μέτα μηδέν* ([everything partakes of either light or night,] 'for nothing belongs to neither category'). The non-cancelling use is more common with accumulated simple negations, e.g. Dem. 19.77: *μὴ οὖν … ὧν ὑμᾶς οὗτος ἐξηπάτησε μὴ δότω δίκην* ('He must not … remain unpunished for having deceived you in these matters'); cf. A. Oguse, 'Contribution à l'étude de l'emploi des négations en grec', *AC* 40 (1971), 186–200, at 192–3: 'on n'en conclura pas à une certaine défaveur de l'usage le plus rare; il y a plutôt lieu de croire que le besoin d'y recourir ne se présentait pas très souvent'. S. Follet, 'Une négation double chez Hésiode (*Travaux,* 516–8)', *RPh* 92 (1992), 7–14 discusses the flexibility of the construction with two simple negatives, noting that: 'La négation n'a pas la valeur absolue d'un signe mathémathique ou logique; son sens n'est souvent déterminé que par le contexte' (11).

[21] Similarly at Isoc. 21.13: … *ὅπως μὴ μηδὲν ἀδικῶν κακόν τι πείσοιτο* ('so that he would not, having done nothing wrong, suffer misfortune').

[22] e.g. Thuc. 2.67.4: *πάντας γὰρ δὴ κατ' ἀρχὰς τοῦ πολέμου Λακεδαιμόνιοι ὅσους λάβοιεν ἐν τῇ θαλάσσῃ ὡς πολεμίους διέφθειρον, καὶ τοὺς μετὰ Ἀθηναίων ξυμπολεμοῦντας καὶ τοὺς μηδὲ μεθ' ἑτέρων* ('from the very beginning of the war, the Lacedaemonians had treated whoever they captured at sea as enemies and killed them, those who fought with the Athenians as well as those who had no allegiance') with Classen-Steup ad loc.: '*τοὺς μηδὲ μεθ' ἑτέρων*, *die Neutralen*'. '*x μεθ' ἑτέρων*' usually means '*x* and company' or '*x* in company of others'; cf. Thuc. 6.75.4; Lys. 2.47; Dem. 47.63; Arist. *Eth. Nic.* 1166b16, 1170a6.

[23] Cf. Thuc. 7.33.2: *οὗτοι δ' οὐδὲ μεθ' ἑτέρων ἦσαν* ('they were neutral'), and Thuc. 6.44.3: *οἱ δὲ οὐδὲ μεθ' ἑτέρων ἔφασαν ἔσεσθαι* ('they said that they would be neutral').

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READING [ARIST.] *ATH. POL.* 8.5

On the basis of the arguments made above, I suggest the following translation for the reported law in [Arist.] *Ath. Pol.* 8.5:

ὃς ἂν στασιαζούσης τῆς πόλεως μὴ θῆται τὰ ὅπλα μηδὲ μεθ' ἑτέρων, ἄτιμον εἶναι καὶ τῆς πόλεως μὴ μετέχειν.

… that whoever, when the *polis* is in a state of *stasis*, does not ground his arms without allegiance to either party, shall be *atimos* and have no share in the *polis*.

The positive paradigm presented in this law is not to choose sides in a situation of *stasis*, but on the contrary to take an armed stand in a position of neutrality, without siding with either party in a conflict.[24] The following passage illustrates that to be *μηδὲ μεθ' ἑτέρων* does not necessarily describe a passive attitude; it can also express the ideal of impartial pursuit of justice by the judges in a trial (Dem. 52.2):

δέομαι οὖν ὑμῶν, εἴπερ τι καὶ ἄλλο πώποτε πρᾶγμα αὐτὸ καθ' αὑτὸ ἐδικάσατε, μηδὲ μεθ' ἑτέρων τὴν γνώμην γενόμενοι, μήτε μετὰ τῶν διωκόντων μήτε μετὰ τῶν φευγόντων, ἀλλὰ τὸ δίκαιον σκεψάμενοι, οὕτω καὶ νῦν διαγνῶναι.

I ask you, if you have ever tried a case on its own terms, forming your opinion without partiality, either towards the accusers or towards the accused, but regarding what is just, then form your opinion in such a way now as well.

Here it is to form one's opinion independent of questions of loyalty that is presented as a positive paradigm; at *Ath. Pol.* 8.5, it is intervening in a conflict on such a neutral basis. There are two instructive parallels for the act of grounding arms, *ὅπλα τίθεσθαι*, as intervention, in the sense envisaged here. The first is in Euripides' *Iphigenia in Aulis*: when Achilles learns that Iphigenia has been brought to Aulis by Agamemnon on the pretext that she would become his bride, but with the intent of sacrificing her, he declares to her (*IA* 1426–7):

> *ἐλθὼν τάδ' ὅπλα θήσομαι βωμοῦ πέλας,*
> *ὡς οὐκ ἐάσων σ' ἀλλὰ κωλύσων θανεῖν.*
>
> I will go near the altar and ground my arms,
> so that I will not permit you to die, but will prevent you from dying.

Achilles imagines that it will be enough if he takes a stance publicly as *ready* to use his arms to defend Iphigenia. This passage illustrates that the action to 'ground one's arms' for a cause is first of all a statement: ideally, making such a statement does not involve actually using weapons to attempt or even threaten to harm others.

In an episode from Xenophon's *Anabasis*, intervention is presented as an effective strategy for conflict containment in a situation in which two groups of armed men are ready to engage in combat. When a conflict between the Greek leaders

[24] This interpretation accords well with the introduction of the law as aimed against people who have a *laissez-passer* attitude to troubles of the *polis*.

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Clearchus and Meno threatens to escalate, a third Greek leader, Proxenus, positions himself literally between the opposing parties with his men (Xen. *An*. 1.5.14):

ὁ δὲ Πρόξενος … εὐθὺς οὖν εἰς τὸ μέσον ἀμφοτέρων ἄγων ἔθετο τὰ ὅπλα καὶ ἐδεῖτο τοῦ Κλεάρχου μὴ ποιεῖν ταῦτα.

Straight away Proxenus led the way into the space between the two parties, grounded arms and began to beg Clearchus not to do that [*sc*. proceed with his attack on Meno and his men].

By ordering his men to ground arms between the two parties, Proxenus manages to delay escalation of the conflict until Cyrus comes along, who by reasoning persuades Clearchus not to attack Meno and his men. This episode helps to picture the positive paradigm underlying the law on *stasis*: those citizens who are not committed to either of two parties engaged in a conflict are required to take an active stance and display their readiness to undertake armed intervention to stop the conflict from escalating further. Ideally, this would not involve actually taking recourse to violence.

The later testimonia to Solon's law on *stasis* present a rather different picture. Cicero, Plutarch and Aulus Gellius all unambiguously describe a law that penalizes neutrality in civil strife and encourages citizens to join either of two parties. Cicero (*Att*. 10.1.2):

ego vero Solonis … legem neglegam, qui capite sanxit, si quis in seditione non alteriusutrius partis fuisset.

I will ignore the law of Solon, which prescribes capital punishment, if anyone in a situation of civil strife would not commit himself to either of the two parties.

Cicero's *non alteriusutrius partis* looks conspicuously like a misinterpretation of *μὴ … μηδὲ μεθ' ἑτέρων*, and the same goes for Plutarch's paraphrases, for instance *μηδετέρᾳ μερίδι* at *Mor*. 550C:[25]

παραλογώτατον δὲ τὸ τοῦ Σόλωνος, ἄτιμον εἶναι τὸν ἐν στάσει πόλεως μηδετέρᾳ μερίδι προσθέμενον μηδὲ συστασιάσαντα.

Most strange is the law of Solon, which declares to be *atimos* whoever, in *stasis* of the *polis*, does not position himself at either side and does not join in.

Apparently, Cicero and Plutarch did not recognize the expression *μηδὲ μεθ' ἑτέρων* as a separate information unit, and accordingly mistook *μὴ … μηδὲ μεθ' ἑτέρων* for an accumulated negative. As a result, they read 'whoever does not ground arms with either side' and in their paraphrases focussed on the aspect of taking sides that such a reading implies.[26] Similarly Gellius, who indicates that his information

[25] The other two passages in which Plutarch mentions the law are *Mor*. 823F (… *μηδετέροις προσθέμενον*) and *Sol*. 20.1: *τῶν δ' ἄλλων αὐτοῦ νόμων ἴδιος μὲν μάλιστα καὶ παράδοξος ὁ κελεύων ἄτιμον εἶναι τὸν ἐν στάσει μηδετέρας μερίδος γενόμενον* ('of the other laws of Solon, this one is most peculiar and unexpected that declares to be *atimos* whoever in *stasis* fails to take sides').

[26] As we have seen above, the action of *ὅπλα τίθεσθαι* can in context amount to taking sides; if the negation is mistaken for an obligatory repetition, the preposition *μετά* is naturally taken

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derives from Aristotle, renders: *qui non alterutrae parti sese adiunxerit* ('who does not join either party' – *NA* 2.12.1). It need not surprise us that these later authors did not see their mistake, even if the resulting interpretation was unsettling to them:[27] the phrase *οὐδὲ / μηδὲ μεθ' ἑτέρων* does not occur in post-classical Greek, and appears to have been rare even in classical Greek.[28] Without familiarity with this expression as a separate information unit, the interpretation of the law offered by all testimonia postdating [Arist.] *Ath.Pol*. is a logical way to make sense of the double negation.

However, I am tempted to believe that Cicero may have been aware of an alternative to the interpretation he offers. At the time he wrote this letter to Atticus (April 49 B.C.), Cicero contemplated leaving Italy because of his sympathy for Pompey and antipathy towards Caesar. He says that he will wait for Atticus' advice before deciding what to do. In the manuscripts, the passage cited above ('I will ignore the law of Solon that penalizes neutrality') continues as follows: … *nisi si tu aliter censes* ('… unless you think otherwise').[29] This qualification may apply either to *Solonis legem neglegam* or to the paraphrase of the law itself. Cicero thus invites Atticus to correct him in one of two possible ways: he may either be wrong to ignore Solon's law as he understands it, in which case he must choose sides in the conflict between Pompey and Caesar or flee; or he may be wrong to read the law as penalizing neutrality. If so, he may still expect to play a positive (political) role: in the next paragraph, Cicero recalls Atticus' hope that Caesar might call upon him to assist in peace negotiations.[30]

Whether or not Cicero was indeed aware that he misrepresented the law on *stasis*, his authority in citing it as a law against neutrality must have contributed to its reputation in later times. Diogenes Laertius does seem to recognize that the law commends a third option, to replace the choice for either of two sides in a situation of civil strife, when he reproaches Solon for taking a passive attitude himself (1.58):

ἀλλὰ καὶ τῆς στάσεως γενομένης οὔτε μετὰ τῶν ἐξ ἄστεως οὔτε μετὰ τῶν πεδιέων ἀλλ' οὐδὲ μετὰ τῶν παράλων ἐτάχθη.

But when *stasis* came about [Solon] did not serve with the party from the city or with the party from the plain, but neither did he serve with the *paraloi*.

with the verb to indicate the action of expressing allegiance to either party by physically going over and positioning oneself in either group.

[27] In the passages cited (above and in n. 25) Plutarch calls the law *παραλογώτατον* and *παράδοξος*; cf. Gell. *NA* 12.2.2: *cum hanc legem Solonis … praediti legissemus, tenuit nos gravis quaedam in principio admiratio requirens quam ob causam dignos esse poena existimaverit qui se procul a seditione et civili pugna removissent* ('when we read this law of Solon, we were initially beset by a grave surprise, wondering why he would deem those worthy of punishment who kept themselves away from discord and civil strife').

[28] I have tried to be comprehensive in citing passages with *οὐδὲ/μηδὲ μεθ' ἑτέρων* above.

[29] Shackleton-Bailey accepts Boot's supplement *<et> nisi si tu aliter censes*. On this reading, the clause is connected to the following sentence, which proceeds: *et hinc abero et illim, sed alterum mihi est certius – nec praeripiam tamen*: *exspectabo tuum consilium …* ('I will stay away from both [either 'parties' or 'options for conduct'], but the second is more certain for me – I will however not anticipate: I shall await your advice …').

[30] *Att.* 10.1.3 *quod scribis … me attractum iri si de pace agatur*.

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The first part of this reproach concedes that Solon did not serve with either of two parties in a situation of *stasis*; but contrasted with those two options, as a climax, is the commendable alternative which replaces the first two options taken together: Solon did not serve with the third (retrospectively correct) party either.[31] Diogenes implies that Solon did not act in accordance with his own law, which advocates an active commitment to the *polis*. The reproach that Solon did not join a third, 'politically correct' faction, distorts the law on *stasis*' idealistic demand to make a stand for conflict resolution on a basis of neutrality; but in contrast to Plutarch and Gellius, Diogenes (or his source) appears at least to have recognized that the expression *μηδὲ μεθ' ἑτέρων* commended a third option over a choice between two rival parties. With only this faint echo of its portent, the law went into history as penalizing what it sought to promote according to the *Ath. Pol.*: maintaining a position of neutrality in *stasis*.

THE ORIGINS OF SOLON'S LAW ON *STASIS*

The interpretation advanced above invites a reassessment of the possible origins of Solon's law on *stasis*. Both elements of the command in the law, 'to ground arms' (*τίθεσθαι τὰ ὅπλα*) and 'without allegiance to either party' (*μηδὲ μεθ' ἑτέρων*), carry strong positive overtones. *τίθεσθαι τὰ ὅπλα* is an expression of personal commitment to the community, a readiness to assist in conflict containment even at the highest possible cost; while to be *μηδὲ μεθ' ἑτέρων* renders one's actions acceptable to everyone involved in the conflict, like the verdict of an impartial judge. The positive commitment propagated in the law on *stasis* has close parallels in the Solonian corpus; for instance in the episode from Plutarch's *Life*, where Solon opposes the Pisistratid tyranny in the following manner (30.5):

ἀπῆλθεν εἰς τὴν οἰκίαν τὴν ἑαυτοῦ, καὶ λαβὼν τὰ ὅπλα καὶ πρὸ τῶν θυρῶν θέμενος εἰς τὸν στενωπόν, Ἐμοὶ μέν, εἶπεν, ὡς δυνατὸν ἦν βεβοήθηται τῇ πατρίδι καὶ τοῖς νόμοις.

He went off to his own house, took his weapons and placed them in front of his door, in the passage, saying, 'I have done what I can to help my country and its laws'.

In this anecdote, Solon acts as an independent citizen, actively committed to the welfare of the city, and expresses this by publicly displaying his readiness to resort to the use of arms by setting them down in the street (*ὅπλα τίθεσθαι*). The circumstances in which this action is situated differ from those targeted by our law in that there is no *stasis*, but a tyranny. A situation of *stasis* does seem to be envisaged in Solon fr. 5.5–6, in which the author ('Solon') describes his

[31] The referee for *CQ* drew my attention to the apparent confusion of terminology in this passage. If we are to situate the conflict in the sixth century, we should expect the people from the plain of Attica including Athens (*οἱ πεδιεῖς*) to be contrasted with those from the coast (*οἱ πάραλοι*), and those from the hills (*οἱ διάκριοι*, Plut. *Sol.* 13 and [Arist.] *Ath. Pol.* 13.4; cf. Hdt. 1.59 [*οἱ ὑπεράκριοι*]); but the phrase *οἱ ἐξ ἄστεως* rather recalls the civil war of 404/3. Diogenes' choice of terms and their rhetorical organization, I would suggest, may have been influenced by a discussion on what Solon would have done in the political conflicts of the late fifth century: from a democratic perspective, *οἱ Πάραλοι* played a model role in the conflict of 411 (cf. Thuc. 8.73–4).

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mediating and peace-keeping function between the *dēmos* and the aristocracy with the following enigmatic metaphor:

> ἔστην δ' ἀμφιβαλὼν κρατερὸν σάκος ἀμφοτέροισι,
> νικᾶν δ' οὐκ εἴασ' οὐδετέρους ἀδίκως.
>
> I stood with a mighty shield cast around both parties,
> not allowing either to be unjustly victorious over the other.

Solon positions himself over, rather than between, the two groups, and thus presents himself as not merely refraining from, but actually above the matter of choosing sides: the metaphor of the protective shield allows him to boast an active and effective military response without the implication of violence against either group.

In another fragment, Solon contrasts his own restraint with that of hypothetical others, who would have exploited a position of authority to their own profit, concluding: ἐγὼ δὲ τούτων ὥσπερ ἐν μεταιχμίωι | ὅρος κατέστην ('I stood between them, like a boundary stone in the debated middle ground between two opposing armies', fr. 37.9–10). Solon here positions himself between the opposing parties as an objective point of reference: respect for the authority of the 'boundary stone' will convert the status of debated land into a land with clear boundaries, and thus avert the threat of armed conflict.[32] Unlike his rivals, Solon will not be tempted to use this position of authority to his own advantage: he does not mediate in the conflict as a person, but embodied in a boundary stone (*horos*). Like the shield metaphor, the *horos* metaphor ingeniously precludes any suspicion of partiality. Although the *horos* lacks the element of an active military response, this fragment parallels the law on *stasis* more closely in another respect by picturing mediation as authoritative intervention between two parties, to prevent them from engaging in armed conflict.

However, the question of authenticity or genesis of the law on *stasis* is not settled with the conclusion that it is ideologically an integral part of the Solonian corpus. We perceive much of Solon's activities through fifth- or fourth-century lenses: crises in Athenian society and a changing conceptualization of the *polis* as a political community aroused a renewed, vivid interest in Solon that seems to have occasioned reconstructions and reinventions of his activities.[33] The wording of the law on *stasis* as reported in the *Athenaion Politeia* probably originates in this period, since the phrase τῆς πόλεως μετέχειν does not occur before the fourth century. This expression appears to be a product of a concern for community definition triggered by the oligarchic revolutions; in the fourth century, it becomes central to the conceptualization of citizenship.[34] If the law as we have it was formulated in

[32] For a general discussion of and bibliography on the *horos* metaphor, see R.P. Martin, 'Solon in no man's land', in Blok and Lardinois (n. 4), 157–72, at 164–70.

[33] Cf. C. Mossé, 'Comment s'élabore une mythe politique', *Annales* ESC 34 (1979), 425–37; M.H. Hansen, 'Solonian democracy in fourth-century Athens', in W.R. Connor (ed.), *Aspects of Democracy* (Copenhagen, 1989), 71–99; Rhodes (n. 4). See also H.-J. Gehrke, 'The figure of Solon in the *Athenaion Politeia*', in Blok and Lardinois (n. 4), 276–89.

[34] For the role of this terminology in the fourth-century ideology of citizenship, see J. Blok, 'Citizenship, the citizen body and its assemblies', in H. Beck (ed.), *A Companion to Ancient Greek Government* (forthcoming).

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the fourth century,[35] how should we evaluate its tenor? Can we discern in the law on *stasis* what A. Scafuro labels a 'Solonian kernel': is it a genuine Solonian law that has undergone changes in wording?[36] Or is it a deliberate fraud? I suggest that the law on *stasis* is neither: rather, it appears to be a fourth-century reformulation of Solonian ideas in the form of a law.

In the fourth century, laws could be cited as enacted by Solon even if their content clearly post-dated Solonian legislation. For instance, Andocides (1.96–8) introduces what we now know as the decree of Demophantes (*IG* I^3 375) as a law of Solon (*τὸν Σόλωνος νόμον*), even though its prescript dates it to 410/9 and it was evidently passed after the restoration of democracy in 410 to forestall new attempts at overthrowing democracy. Falsification of Andocides' ascription must have been easy, as Rhodes (n. 4), 250 observes, given that part of the audience probably remembered the enactment of the decree just ten years previously. Yet Andocides could unproblematically ascribe Demophantes' decree to Solon. What made such manifestly 'false' ascriptions acceptable to Andocides and his contemporaries?[37]

The case of the law on *stasis* may help to answer that question. Here, the inverse situation obtains: we have later reports of a Solonian law on neutrality – but the speaker of Lysias 31 explicitly denies that such a law existed. We have to take this denial seriously, since the speaker does not gain by it.[38] When Philon is selected by lot to serve in the *boulē*, the speaker objects at his *dokimasia* that Philon is not fit to be a member of that body, on the grounds that he left Athens in the political turmoil of 404/3 to take safe refuge in Oropus. However, the speaker has to concede that he cannot adduce a law dealing specifically with absence in times of crisis (31.27):

ἀκούω δ' αὐτὸν λέγειν ὡς, εἴ τι ἦν ἀδίκημα τὸ μὴ παραγενέσθαι ἐν ἐκείνῳ τῷ καιρῷ, νόμος ἂν ἔκειτο περὶ αὐτοῦ διαρρήδην, ὥσπερ καὶ περὶ τῶν ἄλλων ἀδικημάτων.

I hear him say that, if it had been a crime not to be around at that critical time, there would have been a law dealing with that circumstance specifically, as is the case with other crimes.

The effect of the law on *stasis* as reported in *Ath. Pol.* 8.5 would have been precisely that men like Philon were to be debarred from playing a politically significant public role such as serving on the *boulē* (*ἄτιμον εἶναι καὶ τῆς πόλεως*

[35] Bleicken (n. 4) dates the genesis of the law around 403 B.C., because the requirement of direct participation for individual citizens in the solution of a crisis suits the historical and political environment at that time; David (n. 3), 136 suggests that the emphasis on the use of arms in the law on *stasis* may be traced to the influence of Theramenes' moderate oligarchic programme: 'the revolution of 411 BC was the first instance in Athenian history when citizenship was defined as a function of hoplite status.'

[36] A. Scafuro, 'Identifying Solonian laws', in Blok and Lardinois (n. 4), 175–96.

[37] D.M. MacDowell, in id. and M. Gagarin, *Antiphon and Andocides* (Austin, 1998), explains ad loc.: 'Andocides calls it "Solon's law" because it is one of the established laws of Athens'. I am inclined to think that the mention of Solon's name plays a more strategic role in the construction of authority for this law than MacDowell's explanation presupposes. For the Attic orators' habit of quoting sixth- and fifth-century decrees, see C. Habicht, 'Falsche Urkunden', *Hermes* 89 (1961), 1–35.

[38] On the basis of the conventional interpretation of the law on *stasis*, it was argued that it was not unambiguously applicable to Philon's case, because Philon was not in Athens during the conflict; cf. Goldstein (n. 3). See Bleicken (n. 4), 10 n. 9 for references to the discussion of the relationship between the law on *stasis* and Lys. 31.

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μὴ μετέχειν). A Solonian law against passivity in *stasis*, which advocates an active commitment from a position of neutrality, would have suited the speaker's rhetorical strategy perfectly: Philon has clearly offended against such a law by keeping out of harm's way, and to refer to it would cast the question of political allegiance as irrelevant to the matter of commitment to the *polis*.[39] Instead, Lysias resorts to the following rhetorical constructions: 1) Philon's offence is so heinous that we should not expect a legislator to provide for it, and 2) we should assume by analogy from the penalties for desertion (*lipotaxia*), that it is a crime to turn one's back on the *polis* when it is in danger. These belaboured manoeuvres draw attention to a weakness in Athenian civic ideology: there was no positive paradigm available for the behaviour of individual citizens in such political crises as the late fifth century witnessed.

The (largely oral) tradition concerning Solonian activity, partly preserved for us in the poetic fragments,[40] may have provided the basis for a fourth-century attempt to construe such a paradigm, perhaps even in reaction to Lysias 31 or comparable cases and the issues they raised.[41] The law on *stasis* appears to be the product of an effort to turn the traditional image of Solon, as a man whose intense commitment to the *polis* is devoid of personal interest, into a model for behaviour available to all Athenian citizens. The ideal of active commitment to conflict resolution, the notion of intervention in a large-scale political conflict described in military vocabulary, and the emphasis on impartiality – all these elements can be traced to the poetic fragments cited above. However, the law on *stasis* lacks some of the ideological subtlety of these fragments. Whereas the metaphors of the shield and of the boundary stone grant Solon a perfectly impartial role, the law on *stasis* potentially turns citizens who have remained neutral into another party to a conflict.[42]

If this hypothesis concerning the genesis of Solon's law on *stasis* is correct, the law provides a welcome glimpse of the mechanism by which Solonian ideas were put into practice, revealing both what type of context might trigger the formulation of a 'new' Solonian law, and how thoroughly such a law was grounded in the perception of Solonian activity. The Athenians of the Classical period appear to have regarded Solon as *still active*, in the sense that his ideological programme and his contribution to the formation of Athenian civic identity remained productive through their own understanding of his insights.[43]

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[39] Throughout the speech, the reproach of passivity directed against Philon is presented as independent of political allegiance, and the speaker is careful to stress that Philon did not commit himself to the oligarchic cause; cf. Bers (n. 4), 494.

[40] See A.P.M.H. Lardinois, 'Have we Solon's verses?', in Blok and Lardinois (n. 4), 15–35.

[41] This is not intended as a precise dating suggestion: the aftermath of the battle of Chaironea raised similar issues, as can be seen from the way Lycurgus recycles some of the rhetorical strategies in Lys. 31 (cf. e.g. Lyc. *Leocr*. 3 and 43).

[42] The attack on Solon in Diog. Laert. 1.58 (see above) illustrates the ideological vulnerability of the law on *stasis*.

[43] I would like to thank my colleagues at OIKOS, especially Michel Buijs, Floris van den Eijnde and Sara Wijma, the participants of the session 'Athens' at the APA meeting of 2008, the referee for *CQ* and my ἥδιστος συνεργός. The research for this paper was conducted within the NWO-funded project 'Citizenship in Classical Athens' (277–50–001).

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