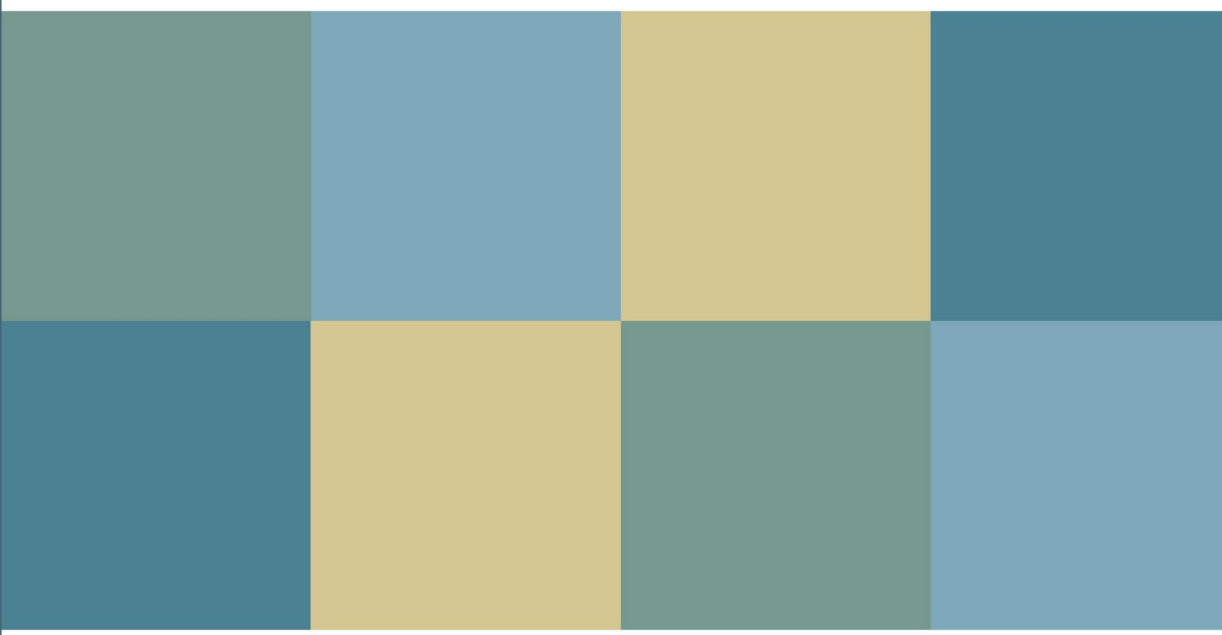
A Versatile Gentleman

Consistency in Plutarch's Writing

Jan Opsomer, Geert Roskam,
Frances B. Titchener (eds)



Leuven University Press

Reprint from "A Versatile Gentleman" - ISBN 978 94 6270 076 5 - © Leuven University Press, 2016

2016051 [Opsomer] 001-Prelims-print [date 1605241028 : version 1603101315] page -3

A VERSATILE GENTLEMAN

CONSISTENCY IN PLUTARCH'S WRITING

STUDIES OFFERED TO LUC VAN DER STOCKT
ON THE OCCASION OF HIS RETIREMENT

Edited by

J. OPSOMER – G. ROSKAM – F.B. TITCHENER

Leuven University Press

ISBN 978 94 6270 076 5
D / 2016 / 1869 / 16
NUR 735-635

Cover design: Joke Klaassen

Contents

Consistency and Criticism in Plutarch's Writings Concerning the Laws of Solon*

Delfim F. Leão

The recently published new edition of Solon's laws[1] collects and discusses a total number of 318 fragments about the legislation of the Athenian statesman, 43 of which are new fragments not recorded in the previous editions of Ruschenbusch[2]. The information collected derives from almost 60 different authors and sources of a very scattered nature, from the time of Herodotus down to the *Suda*. One of the major difficulties in dealing with this kind of uneven data is deciding what can be taken as a sign of reliable information (as happens when the number of *axones* and *kyrbeis* of Solon's laws are provided or when a rare and probably archaic word is used, thus suggesting that it may correspond to the original phrasing of the law) and what is merely a later forgery or product of legendary amplification. This operation is far from being simple or undisputed, because it is also possible and reasonable to argue that, even when we do not have the original text of a certain law, this does not mean that a 'Solonian kernel' cannot still be identified in it[3]. Solon was active at the turn of the seventh to the sixth century BC and although Plutarch lived many centuries after his time, the biographer is the most important source of information on the laws of the most famous Athenian legislator. In fact, Plutarch alone provides the basis for 57 fragments. A small part of them (11) comes from the *Moralia* with no special predomi-

* I want to thank Manuel Tröster, who read an earlier version of this paper and whose comments helped me to improve it, especially at the linguistic level. I want also to thank the organizers, for their kind invitation to contribute to this volume in honor of Luc Van der Stockt.

[1] Leão – Rhodes (2015). The Greek text, the English version and the fragment numbers of Solon's laws used throughout this paper are taken from that edition.

[2] Ruschenbusch (1966); (2010).

[3] The expression is taken from the very stimulating study of Scafuro (2006). For a conspectus of the main problems respecting the identification of Solon's laws, see Leão – Rhodes (2015) 1–9.

nance of any work[4], and all the others derive from the *Lives*, not surprisingly with a special preponderance of the *Life of Solon*[5]. This means that Plutarch provides nearly one fifth of the whole corpus of the laws. In comparative terms, only Demosthenes (or Pseudo-Demosthenes) is close in importance to Plutarch, supplying 48 fragments (with 2 other references taken from *scholia*), followed in third place by the Aristotelian *Athenaion Politeia*, which provides 24 references. Even admitting that, when dealing with other Greek and Roman statesmen, Plutarch may not be a source of equivalent importance for information concerning laws, decrees, and constitutional affairs, it is nevertheless undeniable that his work is central in discussing legal issues of a very long period.

The fragments transmitted by Plutarch concerning the legislation of Solon cover a wide range of topics[6]: homicide and wounding, amnesty for *atimoi*, moral offences (rape and procuring of free women, *moicheia*), selling of family members (daughters, sisters or children in general), verbal offences (speaking ill of the dead and of the living in public), compensation for damage, offences against the community (threat of tyranny or of overthrowing the constitution, activist citizenry and political neutrality), procedure (appeal, prosecution by *ho boulomenos*), family law (inheritance, marriage, the special case of the *epikleros*, care for elderly parents), neighbours (distance between properties, sharing of water), economic matters (measures, weights [and coinage], exports, dissuasion of idleness, ban on enslavement for debt), sumptuary laws (dowry and funerary restrictions), pederasty, constitutional and institutional affairs (rights of citizens, rules respecting the Areopagus and the Council of four hundred, grants of citizenship), religion (regulations for offerings, eating at public expense), rewards for victors in games. The obvious conclusion that can immediately be drawn from this simple inventory is that Plutarch covers all areas of Solonian legislation. At any rate, it may be argued that

[4] In fact, even if Solon is the most important character present in the *Banquet of the Wise Men*, there is only one reference there to a law respecting pederasty (*Sept. sap. conv*. 152D = Fr. 74c), determining that he "does not allow slaves to be the lover [of a free boy] or to rub dry with oil (ξηραλοιφεῖν)". The law is mentioned again twice by Plutarch (*Amatorius* 751B = Fr. 74d; *Sol*. 1,6 = Fr. 74b) and in all those instances he consistently uses the same rare verb ξηραλοιφεῖν, a possibly archaic word that serves to support the authenticity of that norm. The term occurs as well in the references to the same law in other authors. For further details, see Leão – Rhodes (2015) 122–125.

[5] One reference comes from the *Life of Publicola* (*Publ*. 9,9 = Fr. 144b), which attributes to Solon the creation of the *epitaphioi logoi*, but their institution is most probably later, and two others from the *Comparatio* (*Comp. Sol. et Publ*. 2,2 = †Fr. 39/1c; 2,4 = Fr. 37c), dealing with procedural aspects (appeal) and the way to prevent the risk of tyranny.

[6] The list presented follows the categorization of Leão – Rhodes (2015).

to offer abundant material is not the same as providing valid information, that is to say that it would not be particularly noteworthy to provide ample data if in the end these same data could not be used as reliable sources. Fortunately this is not the case, and Plutarch proves to be a highly reliable source, even if questions of genuineness are obviously open to challenge: at any rate, out of a total number of 57 fragments, only 7 are considered to be unusable, doubtful or spurious[7]. It is enough to compare this mark with that of Demosthenes (or Pseudo-Demosthenes) to perceive the difference: in fact, out of 50 references (including references in *scholia*), 16 are of doubtful authenticity.

Moreover, the spurious attributions of laws to Solon by Plutarch are, up to a certain point, understandable, if one takes into consideration the context in which the information is provided. Three of the fragments respect the law determining that the bride and the bridegroom should join in the bedroom after having eaten a quince[8], and although Plutarch may be correct in stressing the need to make the first intimate encounter of husband and wife more caring and enjoyable, the norm here adduced clearly has a connection with fertility rites, which, even if they would fit well a context in which questions of impotence are dealt with[9], are most probably not Solonian. At *De am. prol*. 493E (= Fr. 139), the biographer evokes Lycurgus and Solon together to state that they both passed laws that punished with *atimia* those men who remained *agamoi*. This is in accord with what Plutarch says about the Spartan lawgiver elsewhere (*Lyc*. 15,1–2), but it is unlikely that Solon passed a norm prescribing *atimia* for men who decided to remain single when due time for marriage comes[10]. At *Publ*. 9,9 (= Fr. 144b) Plutarch envisages the possibility of attributing to Solon the institution of the *epitaphioi logoi*, whilst they must have been established in later times; therefore this determination cannot be attributed to him, but it is also a fact that the biographer is transmitting an information "as is stated by the orator Anaximenes"[11] and not expressly maintaining this himself. The same applies to *Sol*. 31,3–4 (= Fr. 146), where Heraclides (Fr. 149 Wehrli) is adduced to state that the ancient lawgiver initiated the practice of providing grants of *sitesis* to eminent invalids. This may be true, because elsewhere (*Sol*. 24,5 =

[7] The calculation is based on the classification of Leão – Rhodes (2015).

[8] *Sol*. 20,3–4 = Fr. 127a; *Con. praec*. 138D = Fr. 127b; *Quaest. Graec*. 279F = Fr. 127c.

[9] Cf. *Sol*. 20,2–6 = Fr. 52a, of which Fr. 127a is a small part.

[10] Even if in his poetry (Fr. 27,9–10 West) Solon identifies the fifth hebdomad (i.e. roughly 35 years) as the right time for getting married and having children. See Noussia-Fantuzzi (2010) 383. Calero Secall (2012) 54–55, admits, even if cautiously, that the law may be Solonian.

[11] ὡς Ἀναξιμένης ὁ ῥήτωρ ἱστόρηκεν (*FGrH* 72 F 24). See Ruschenbusch (1966) 9–10; Scafuro (2006) 179.

Fr. 87) he is credited with the invention of the term *parasitein* ('eating at public expense'), but it is improbable that he did this on a regular basis, as implied by Fr. 146. Thus, the problem here is more a question of nuance and not so much of inauthenticity. Finally, at *Sol*. 25,4–5 (= Fr. 123b) Plutarch discusses the expression ἔνη καὶ νέα ('old and new'), which Aristophanes' Phidippides (*Nub*. 1178–1195 = Fr. 123a) considers a legal archaism, in order to maintain his own 'Sophistic' interpretation of its practical implications. Other sources consider it as well a Solonian expression coined during the reform of the Attic calendar, but it is most probably a comic forgery[12].

From what has been discussed until now, it becomes clear that Plutarch is not only the most important source for Solon's laws, but as well that the information provided by him is generally consistent and highly reliable – a conclusion that is not undermined by the contingency that a few regulations that he attributes to the Athenian legislator were, most probably, not enacted by him.

This having been established, it is now time to turn to the moments when Plutarch does not limit himself to transmitting a certain regulation, but explicitly conveys his personal opinion, either by accentuating his (ethical) approval about the aim of a particular law, or inversely by expressing bitter criticism about the scope of certain rules. A dozen examples of this practice can be found consistently distributed throughout the *Moralia* and the *Life of Solon*. Not surprisingly, the latter provides most of the instances, but it is interesting to note that all pertinent passages from the *Moralia* are centred on the same regulation: the law dealing with neutrality in times of internal strife (*stasis*). Giving its complexity and the fact that the same regulation is also criticised in Solon's biography, it will be dealt with separately in the final part of the paper.

In roughly half of the pertinent passages, Plutarch makes a short comment expressing his personal approval of the spirit of a certain law or of the effects it produced. Those passages do not give rise to special difficulties in terms of interpretation, and can therefore be considered first and more succinctly. This is the case when Solon is said to have instituted one of the most important procedural innovations: the possibility afforded to 'whoever wished' (*ho boulomenos*), among the male citizens in full possession of their rights, of prosecuting in a public suit (*graphe*). Plutarch underlines the correctness (ὀρθῶς) of this important innovation by stressing the organic dimension of the political body (*Sol*. 18,6–7 = Fr. 40b): "since the lawgiver rightly accustomed the citizens

[12] See Ruschenbusch (1966) 46; Martina (1968) 185–189; Sommerstein (1982) 218; Manfredini – Piccirilli (1998) 262–263.

like parts of one body to feel and grieve with one another"[13]. A similar sign of commendation is expressed when introducing the law that punishes verbal offences (21,1–2 = Fr. 32a): "praise is given also to the law of Solon that forbids speaking ill of the dead in public"[14]. The term used by Plutarch (ἐπαινεῖται) strongly suggests that the approval was general and not limited to his personal opinion. A positive interpretation of Solon's laws is also clearly expressed when Plutarch's mentions his regulations concerning neighbouring properties (*Sol*. 23,7–8 = Fr. 60b): "he has also shown great experience regarding the distance between planted trees"[15]. By emphasising a kind of regulation based on personal experience (μάλ' ἐμπείρως), Plutarch is being consistent with his presentation of Solon's activity in the *Life*, especially the *apodemia* that preceded the archonship, which contributed to the presentation of Solon as a person eager to increase his knowledge and wisdom (*Sol*. 2,1–2). As part of what might have been a wider regulation on damages caused by animals, Plutarch transmits another law that respects dangerous dogs (*Sol*. 24,3 = Fr. 35), which he clearly praises: "this was a clever device for promoting safety"[16].

The last reference within this block of passages expressing a general sign of approval is somehow more ambivalent and prepares the path to the kind of comments flooded with increasing degrees of criticism or at least with ironic ambiguity. It occurs when Plutarch credits Solon with the invention of the term *parasitein* (*Sol*. 24,5 = Fr. 87):

> ἴδιον δὲ τοῦ Σόλωνος καὶ τὸ περὶ τῆς ἐν δημοσίῳ σιτήσεως, ὅπερ αὐτὸς παρασιτεῖν κέκληκε. τὸν γὰρ αὐτὸν οὐκ ἐᾷ σιτεῖσθαι πολλάκις, ἐὰν δ' ᾧ καθήκει μὴ βούληται, κολάζει, τὸ μὲν ἡγούμενος πλεονεξίαν, τὸ δ' ὑπεροψίαν τῶν κοινῶν.

> Distinctive also is the law of Solon regarding the right to eat at the public table, a practice to which he gave the designation *parasitein*.

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[13] ὀρθῶς ἐθίζοντος τοῦ νομοθέτου τοὺς πολίτας ὥσπερ ἑνὸς μέρη <σώματος> συναισθάνεσθαι καὶ συναλγεῖν ἀλλήλοις.

[14] ἐπαινεῖται δὲ τοῦ Σόλωνος καὶ ὁ κωλύων νόμος τὸν τεθνηκότα κακῶς ἀγορεύειν. Sourvinou-Inwood (1995) 369–372, thinks that Fr. 32a is a Solonian law that reflects new attitudes regarding death. Blok (2006) 218, suggests that it might be more a 'social prescription' than a law.

[15] ὥρισε δὲ καὶ φυτειῶν μέτρα μάλ' ἐμπείρως. Papazarkadas (2011) 265–266 n. 19, argues that the influence of Solon's laws respecting the distance between plantations could be detected in the penalties against farmers who tilled the land too close to the *moriai*.

[16] τὸ μὲν ἐνθύμημα χάριεν πρὸς ἀσφάλειαν. In their translation of the whole fragment, Dillon – Garland (2000) 82, suggest that παραδοῦναι implies "to deliver the dog to the victim", but Plutarch is more plausible in arguing that the law had a preventive design.

> He did not allow the same person to eat there often, but he punished the man who had the right to take seat there and refused, because he considered greediness the conduct of the first, and disrespect to the community that of the latter.

The interesting aspect of this passage is that, although Plutarch's presentation of the law suggests approval of the norm, he nevertheless uses an equivocal term (ἴδιον) that can be interpreted in a positive way as 'distinctive' 'characteristic', but also with a more critical overtone, such as 'strange' 'unusual'. The first possibility is more probable, because the biographer sees the norm as reflecting the need for exercising the privilege of *parasitein* with moderation and with full respect towards the community. At any rate, a certain ambivalence of interpretation is still present, and is also consistent with Plutarch's way of envisaging some of Solon's laws in other passages, which will be dealt with more in detail in the next passages.

This is the case of the law concerning the obligations of illegitimate offspring (*nothoi*) respecting the care of elderly parents (*Sol*. 22,4 = Fr. 57/a):

> ἐκεῖνο δ' ἤδη σφοδρότερον, τὸ μηδὲ τοῖς ἐξ ἑταίρας γενομένοις ἐπάναγκες εἶναι τοὺς πατέρας τρέφειν, ὡς Ἡρακλείδης ἱστόρηκεν ὁ Ποντικός (fr. 146 Wehrli).

> But even more severe is that [law] that those born of a prostitute do not even have the obligation to support their parents, as recorded by Heraclides Ponticus.

The use of the expression σφοδρότερον ('more severe') is not necessarily critical of Solon's policies because it may simply stress the legal gap that, in practical terms, existed between legitimate and illegitimate offspring (*gnesioi* and *nothoi*). In fact, it can even be argued that the regulation concerning the moral obligations of *nothoi* was quite balanced, because they were heavily penalised in terms of legal prerogatives respecting inheritance, by comparison with rights of *gnesioi*[17]. Thereby, as an expression of some kind of reciprocity principle, the *nothoi* were discharged of the obligation of *gerotrophia*, which was strongly binding for *gnesioi*. Accordingly, the reference to the 'severity' of the law does not necessarily mean that Solon himself should be considered a harsh legislator, but simply implies that the law was severe for those who did not respect the regular composition of a family, aiming probably to affect those who were

[17] Cf. Demosthenes, 43, *Macartatus* 51 (= Fr. 50b). See Leão – Rhodes (2015) 83–85 and 95–97.

socially more prone to having illegitimate children, i.e. the aristocrats[18]. At any rate, this passage, like the one previously analysed, has a certain degree of ambiguity that still does not imply clear disapproval.

By contrast, bitter criticism is found in a set of three laws, not surprisingly those same rules that have also given rise to a more intense debate among scholars. The first one is the law that granted Athenian citizenship to persons involved in very specific circumstances (*Sol*. 24,4 = Fr. 75):

> παρέχει δ' ἀπορίαν καὶ ὁ τῶν δημοποιήτων νόμος, ὅτι γενέσθαι πολίτας οὐ δίδωσι πλὴν τοῖς φεύγουσιν ἀειφυγίᾳ τὴν ἑαυτῶν ἢ πανεστίοις Ἀθήναζε μετοικιζομένοις ἐπὶ τέχνῃ. τοῦτο δὲ ποιῆσαί φασιν αὐτὸν οὐχ οὕτως ἀπελαύνοντα τοὺς ἄλλους ὡς κατακαλούμενον Ἀθήναζε τούτους ἐπὶ βεβαίῳ τῷ μεθέξειν τῆς πολιτείας, καὶ ἅμα πιστοὺς νομίζοντα τοὺς μὲν ἀποβεβληκότας τὴν ἑαυτῶν διὰ τὴν ἀνάγκην, τοὺς δ' ἀπολελοιπότας διὰ τὴν γνώμην.
>
> Problematic also is the law about men granted citizenship, because it does not give the right to become citizens except to those in permanent exile from their own land or to those who migrate to Athens with their whole household to ply a craft. They say that he did this not so much to drive the others away as to invite these to come to Athens for a secure share in the citizenship, and at the same time that he thought these would be reliable, in the one case because they had forsaken their own land out of necessity, in the other because they had left it by choice.

The way Plutarch presents the law (παρέχει δ' ἀπορίαν) clearly shows that there was much dispute concerning its interpretation even in antiquity, and that the biographer was puzzled as well by this regulation. According to him, Solon's statute was directed mainly at two kinds of people: the treatment of the first group has to do with the support given to refugees, and the most surprising aspect is that Solon was not satisfied by the idea of conceding them asylum, but went to the point of granting these men something as precious as citizenship. Maybe the objective was to elicit a feeling of special gratitude on the part of the beneficiaries (as is underlined by Plutarch), or perhaps the law had simply philanthropic motivations – although this interpretation is less likely[19]. In what concerns

[18] Thus Lape (2002/3) 129–135, who interprets the law as a step towards the Periclean citizenship law of 451/0, with the goal of controlling the privileges of aristocrats, because they constituted the majority of those who were rich enough to afford to keep *gnesioi*.

[19] It is not possible to tell, from the way the law is presented, whether the exile was motivated by political reasons or by other causes. Leão – Rhodes (2015) 133 think that the

the second group of beneficiaries, it is easier to detect the pragmatism characteristic of other laws enacted by Solon: the statesman promised full integration in the Athenian *polis* to those who were qualified in a certain *techne* and were ready to settle in Attica together with their families, thus providing a decisive incentive to stimulate an anaemic economy[20]. At any rate, this information concerning the expansion of the citizen body by the time of Solon is to be found only in Plutarch, and it still remains an exceptional measure, because those foreigners who moved to Athens during the fifth and fourth centuries would not obtain the rights of citizenship so easily[21]. Modern scholarship therefore tends to agree with Plutarch that this regulation raises special difficulties, even accepting that it is probably genuine.

A sharper criticism is openly manifested regarding a law about the marriage of an *epikleros* ('heiress') with the next of kin of her legal husband and *kyrios*, when the latter proves to be sexually impotent (*Sol*. 20,2–6 = Fr. 52a). This regulation is complex in terms of legal approach and its discussion in detail does not fall within the scope of this paper; therefore, only the first part of the passage will now be considered, because of the suggestive way Plutarch expresses his disparagement of the regulation:

> ἄτοπος δὲ δοκεῖ καὶ γελοῖος ὁ τῇ ἐπικλήρῳ διδούς, ἂν ὁ κρατῶν καὶ κύριος γεγονὼς κατὰ τὸν νόμον αὐτὸς μὴ δυνατὸς ᾖ πλησιάζειν, ὑπὸ τῶν ἔγγιστα τοῦ ἀνδρὸς ὀπύεσθαι. καὶ τοῦτο δ' ὀρθῶς ἔχειν τινές φασι πρὸς τοὺς μὴ δυναμένους συνεῖναι, χρημάτων δ' ἕνεκα λαμβάνοντας ἐπικλήρους καὶ τῷ νόμῳ καταβιαζομένους τὴν φύσιν. ὁρῶντες γὰρ ᾧ βούλεται τὴν ἐπίκληρον συνοῦσαν, ἢ προήσονται τὸν γάμον, ἢ μετ' αἰσχύνης καθέξουσι, φιλοπλουτίας καὶ ὕβρεως δίκην διδόντες.
>
> The (law) seems illogical and ridiculous that allows an heiress, when the man under whose power and authority she is legally placed is unable to have sexual intercourse with her, to be married by one of his nearest kin. This disposition is correct, in the opinion of some, for those who are incapable of having intercourse, and take the *epikleroi* to wife only for the sake of their property, commit violence against

motivation might have been a charge of homicide or the involvement in political struggle in the original *polis*, arguing that the law could be perceived "as a secular equivalent of showing pity to suppliants".

[20] Cf. *Sol*. 22,1 (= Fr. 56/a). See also Vitruvius, *De Arch*. 6, *praefatio* 3–4 (= †Fr. 56/b); Galen, *Adhortatio ad Artes Addiscendas*, 8,1 (1,15 Kuhn) (= †Fr. 56/c).

[21] MacDowell (1978), 71, is cautious in interpreting the passage and suggests that Plutarch may be misreporting a law that enabled foreigners to become metics and not full citizens.

> nature under cover of the law. In fact, seeing that the *epikleros* can consort with whom she pleases, they will either renounce such a marriage or keep it to their shame, suffering the penalty for their greed and disrespect for dignity.

Plutarch's puzzlement is particularly vivid this time (ἄτοπος δὲ δοκεῖ καὶ γελοῖος), and he does not overlook the fact that the interpretation of this law was subject to much debate among authors who preceded him (τινές φασι), as continues to happen now among modern scholars[22]. Despite his criticism, Plutarch seems to be prone to accept as correct (ὀρθῶς) the idea that failing to find a more suitable husband for the *epikleros* was a sign of disrespect (*hybris*) regarding the dignity of the woman. This is consistent with what he states elsewhere (*Sol*. 20,4 = Fr. 51a; *Amatorius* 769A = Fr. 51b) about Solon's laws concerning the regularity of sexual intercourse between the *epikleros* and her husband, but the legislator is most probably less motivated by ethical reasons than by practical purposes: the main goal is not so much to cherish the harmony of the couple as it is to grant the birth of a *gnesios* son, descending in direct line from the *epikleros*' father, and therefore able to give continuity to his original *oikos*.

The law that motivates an even sharper criticism on the part of Plutarch is also the Solonian regulation that has given rise to the most pervasive controversy among scholars: the law regarding activist citizenry and political neutrality in times of internal strife (*stasis*). This is not the place to analyse it in detail[23], but it is particularly noteworthy that Plutarch recalls this rule four times in four different works, mostly in the *Moralia*. It is worth evoking here all of those passages because of the way they patently illustrate Plutarch's consistency, in the *Lives* and in the *Moralia*, in expressing his criticism.

> τῶν δ' ἄλλων αὐτοῦ νόμων ἴδιος μὲν μάλιστα καὶ παράδοξος ὁ κελεύων ἄτιμον εἶναι τὸν ἐν στάσει μηδετέρας μερίδος γενόμενον. βούλεται δ' ὡς ἔοικε μὴ ἀπαθῶς μηδ' ἀναισθήτως ἔχειν πρὸς τὸ κοινόν, ἐν ἀσφαλεῖ τιθέμενον τὰ οἰκεῖα καὶ τῷ μὴ συναλγεῖν μηδὲ συννοσεῖν τῇ πατρίδι καλλωπιζόμενον, ἀλλ' αὐτόθεν τοῖς τὰ βελτίω καὶ δικαιότερα πράττουσι προσθέμενον συγκινδυνεύειν καὶ βοηθεῖν μᾶλλον ἢ περιμένειν ἀκινδύνως τὰ τῶν κρατούντων. (Plutarch, *Sol*. 20,1 = Fr. 38d)

> Among his other laws, particularly peculiar and surprising is the one prescribing that 'he who in strife does not take either side shall become *atimos*'. It seems that the goal is to avoid apathy and indifference

[22] For a closer discussion of the problems raised by this regulation, with suggestions for further reading, see Leão – Rhodes (2015) 88–91.

[23] For the main lines of the discussion, see Leão – Rhodes (2015) 59–66.

> towards common interests, by putting one's private affairs in safety and glorying in not having shared the disgrace and the sickness of the country. On the contrary, they should immediately support the better and more righteous cause, face the same perils and provide assistance, instead of waiting safely for the dispositions of the winners.

παραλογώτατον δὲ τὸ τοῦ Σόλωνος, ἄτιμον εἶναι τὸν ἐν στάσει πόλεως μηδετέρᾳ μερίδι προσθέμενον μηδὲ συστασιάσαντα. (Plutarch, *De sera num*. 550C = Fr. 38e)

> Particularly unreasonable is [the law] of Solon prescribing that 'he who when the city is in strife does not attach himself to or strive with either side shall become *atimos*'.

ἀπορήσει δὲ καὶ θαυμάσει τί παθὼν ἐκεῖνος ὁ ἀνὴρ ἔγραψεν ἄτιμον εἶναι τὸν ἐν στάσει πόλεως μηδετέροις προσθέμενον. (Plutarch, *Praec. ger. reip*. 823F = Fr. 38f)

> It will cause difficulty (?) and surprise to understand what induced him to decree that 'he who when the city is in strife does not attach himself to or strive with either side shall become *atimos*'.

πάλαι γὰρ ὁ Σόλωνος ἐκλέλοιπε νόμος, τοὺς ἐν στάσει μηδετέρῳ μέρει προσγενομένους κολάζων. (Plutarch, *De soll. an*. 965D = †Fr. 38/l)

> Solon's law has long fallen into disuse which punished those who in strife gave support to neither side.

The longest version is the one presented in the *Life of Solon*, because it includes Plutarch's interpretation of the regulation. Modern scholars have added several other explanatory possibilities, but the biographer's reading remains pertinent and most probably correct. The strangeness of this law is underlined by the expression ἴδιος μὲν μάλιστα καὶ παράδοξος, and it is curious to note that the term ἴδιον was used already concerning the law regarding *parasitein* (*supra Sol*. 24,5 = Fr. 87), although there it had a more ambivalent meaning than it has in this passage, in which the puzzling nature of the law is stated explicitly. On the other hand, the word παράδοξος is closer in significance to the term παραλογώτατον in *De sera num*. 550C, and the superlative used here can be paralleled by the vigour brought by the adverb μάλιστα in the first case. At *Praec. ger. reip*. 823F Plutarch chooses to magnify the surprise by using two terms in conjunction, as he does as well in several other instances: he uses two verbs here (ἀπορήσει δὲ καὶ θαυμάσει), recuperating a term that occurred elsewhere in the biography (*Sol*. 24,4 = Fr. 75: παρέχει δ' ἀπορίαν); the

same linguistic strategy could be seen in the aforesaid passage (*Sol*. 20,1 = Fr. 38d) and already in the previously mentioned law respecting the *epikleroi* (*Sol*. 20,2–6 = Fr. 52a: ἄτοπος δὲ δοκεῖ καὶ γελοῖος), in both cases by doubling the adjectives used. There is therefore a remarkable consistency in the way Plutarch expresses the different degrees of criticism. Among this set of passages respecting the *stasis* law, the sole exception to the pattern is the *De soll. an*. 965D (= †Fr. 38/l), although the statement that the law has long fallen into disuse (πάλαι γὰρ ὁ Σόλωνος ἐκλέλοιπε νόμος) may in itself carry a different sort of criticism, implying that it was abandoned because it could no longer be put into practice[24].

From what has been analysed in the previous pages, it is at this point possible to extract some secure conclusions. The first and most obvious one is that Plutarch is indisputably the most important source for the reconstruction of the legislative activity of Solon. The majority of the references occur in the biography of the statesman, a fact that is hardly extraordinary, taking into account the nature and purposes of the *Lives*, but a good number of regulations appear as well throughout the *Moralia*, where the 10 existing references are distributed very consistently over 9 works (only the *Amatorius* has 2); the sole surprise is that the *Septem sapientium convivium* has a single reference, despite the central importance of Solon in this work. At any rate, this can be explained by the fact that here Plutarch is more interested in the deeds and sayings of Solon as a Sage (even if they are sometimes legendary), and not so much in his actual contribution to the legal and constitutional history of Athens.

Another important feature is that most of the laws transmitted by Plutarch have very good claims to be considered genuine, and even when doubts are cast on their authenticity, the biographer cannot be accused of being simply uncritical or prone to forgery, as happens in fact with other authors. Quite the opposite, Plutarch usually proves in fact to be a highly reliable source for the history of legal thought vis-a-vis Solon.

The biographer quite often adds comments of his own regarding the rules that he is transmitting, but in most cases he avoids purely pompous eulogy or acrimonious disapproval. He praises indeed some of the legislation, but normally does so with discretion and balance; sometimes, he also expresses bitter criticism, but it should not go unnoticed that this kind of mistrust or difficulty is usually shared by ancient and modern commentators, for whom Plutarch typically constitutes a very suitable guide, even if at times his interpretation can as well be questioned.

[24] Maffi (2005) 138 notes the parallel with the fourth-century Eretrian law against tyranny and oligarchy, which exhorted citizens to take arms and to restore democracy, envisaging penalties for those who did not want to get involved.

All this suggests that the value of Plutarch as an important source for legal history is a still largely unexplored area, perhaps because scholars use his work in a very scattered way, picking up laws, decrees and information about political and constitutional events, but without taking a global perspective on his contribution to this complex field. It is time to change this and stimulate a comprehensive study of the legal material that Plutarch so diligently collected for posterity.

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