Introduction

We are told Chiron "first brought justice to the race of men, revealing to them oaths, the fair sacrifices, and the characteristics of heaven";[1] Pythagoras supposedly said that "the oath is justice, and that is why Zeus is called Horkios";[2] in his speech against Leocrates Lycurgus informs us that "what holds democracy together is the oath."[3] This is a selection of some of the few comments which explicitly draw attention to the importance of a social practice which, although pervasive throughout Greek society, is for the most part mentioned only in passing. Unlike two other major social institutions, *xenia* (guest-friendship), which is a guiding theme in the *Odyssey*, and *hiketeia* (supplication), the subject of surviving plays by both Aeschylus and Euripides, no work of literature survives in which oaths or oath-taking are in the foreground. Not too many people would attribute the sack of Troy to the breaking of the oaths in Book 4 of the *Iliad*.[4]

The importance of oath-taking in early Greece may be explained from a number of perspectives, none of which can claim any substantial priority over the others. The first is political. With the collapse of Mycenaean society, its monarchical system of government disappeared as well. As the subsequent aristocratic society developed into more organised forms of government, the relationship between governing bodies and the rest of the citizens had to be more clearly defined, especially the responsibilities of those in office. The oath taken by rulers upon entering office was the means by which this was done. In Sparta, for example, the kings swore to rule in accordance with the laws, and the ephors, on behalf of the people, swore not to

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[1] *Titanomach.* fr.11.
[2] D.L. 8.33.
[3] Lycurg. *Leoc.* 79.
[4] *Il.* 4.157-68, esp. 166-8.

oppose them so long as they acted lawfully.[5] Similarly, in Athens the nine archons swore before

entering office that they would obey the laws and not accept bribes.[6] In contrast to monarchy or

tyranny in which the ruler is above the law, in both of these examples obedience to the law is the

main requirement in the conduct of office, because it places limitations on the ability of the

rulers to exercise their will arbitrarily over the rest of the community. It is the oath which

articulates this understanding between ruler and ruled.

The rulers' subordination to the law naturally draws attention to the development of law

itself in archaic Greece, in which the oath plays a crucial role. First of all the heterogeneous

character of 'Greek' law must be emphasised, in which the legal systems of the individual cities

adopted different procedural practices, types of evidence, and penalties according to the

particular forms of government and any other local idiosyncracies.[7] However, since legal

disputes everywhere seek to determine the truth from individuals who may be feared to distort or

suppress it for their own benefit, the oath was necessary in all legal systems as a means to

prevent such behaviour. The centrality of the oath in legal procedure is most clearly evident in

the extensive law code of Gortyn in Crete, roughly dated to the first half of the fifth-century.[8]

Here oaths in various types of cases were demanded from litigants, witnesses, and judges; all

such oaths are procedural and are not used as evidence, which reminds one of the numerous

different oaths employed in Athenian litigation. Yet in cases of divorce a woman's oath that she

has not stolen any of her husband's property alone determines her guilt or innocence. The Gortyn

code also provides a striking illustration of the interface between orality and literacy in early

Greece in the procedural distinction made between written and unwritten law. In situations

where the written law prescribes the penalty for a specific crime, the judge is to follow the letter

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[5] Xen. *Lac.* 15.7.
[6] [Arist.] *Ath. Pol.* 55.5.
[7] See Finley (1975), pp.134-52, esp. p.142.
[8] *Leg. Gort.*, p.8.

of the law; but in situations which are not covered by the written law, the judge must take an oath, presumably that he will give a fair and honest verdict, before making his decision.

The oath in Greece was, as is the case to a lesser extent today in western societies, an essential instrument by which individual or factional interests were restrained in order to protect the interests of society as a whole. Yet over and above its use in legal procedure and government the oath played a more general role in both identifying and upholding relations between different individuals or groups within society on a less formal basis. This can be seen, for example, in the oaths sworn by Athenian fathers, when enrolling their sons into the deme, that they are of the proper age and of legitimate birth. Likewise the adolescents themselves, after two years of military training in preparation for citizenship, have to take an oath which expresses the duties of a citizen. That an oath was used on such occasions indicates the relatively structured nature of Greek society, in which social relations were more rigidly determined by status than in modern western societies which for various reasons promote more rapid and constant changes in personal relationships. For the Greeks, oaths could be used either to confirm existing relationships or to serve as a focal point when they are reconfigured, as in the oaths already mentioned above.

There are many similarities, as can be seen from the above discussion, between the use of the oath in Greek society and our own. One point of difference is its more frequent use in marking change of status, and another is the difference in religious importance attached to oaths, on which the bulk of this thesis will focus. Yet the most important difference lies in the different levels of literacy between ancient Greece and our own society. Milman Parry's work on Homer is primarily responsible for bringing this issue to the attention of classicists, but the poems of Homer only represent the peak of a totally illiterate culture. Even after the advent of literacy in the late eighth-century the spoken word was still predominant: Turner describes the book trade in fifth and fourth century Athens as "modest,"[9] and the numerous inscriptions from classical

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[9] Turner (1952), p.21.

Athens by no means presuppose a literate culture.[10] This kind of environment did not encourage the use of written contracts, which in contemporary times have relegated oaths to the law court and medicine graduates. Instead, every agreement between two or more people about their future relations (e.g., a truce from war, or a promise to perform some action or role) had to be guaranteed with an oath, which placed the parties under the watch of the gods and so lifted the agreement out of the sphere of human caprice. In a totally illiterate culture, such an institution is fundamental in regulating the relationships between the individuals who make up a community; but even later in the classical period the religious importance attached to oaths, which forms the main subject of this thesis, is due to the continued reliance on the spoken word, as opposed to the written document.

Nineteenth-century German scholarship took to oaths in the true spirit of *Altertumswissenschaft*. In 1844 von Lasaulx published a short monograph on the topic, which collects most of the evidence for oath-taking in early to classical Greece. The work is useful because of the concise manner in which it presents the essential information, and admirable for its extensive engagement with the primary sources. There is, however, almost nothing by way of explanation or analysis.[11] Ziebarth's 1892 inaugural lecture in Göttingen, *De iureiurando in iure Graeco quaestiones*, contains several interesting ideas. He notices how the choice of god made in oath invocations is one way in which to indicate one's identity;[12] he then demonstrates how this is practised on the communal scale, which presents a vivid example of the epichoric nature of Greek religion.[13] Ludwig Ott's book presents a comprehensive account of oath-taking in the

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[10] Hedrick (1994), depending mainly on the argument that there was no widespread public education such as is necessary for promoting literacy on a large scale (p.164). Inscriptions were rather a monumental expression of what people, literate or illiterate, already knew from oral sources (p.173). This is not to say that Athens was illiterate, but that literacy was confined to a small section of society. Cf. Parker (1996), p.54, in relation to inscriptions concerning religious matters.

[11] Brief mention is made of the psychological motivation behind oath-taking at p.23; an interesting piece of information is that the practice of swearing while holding the bible, still practised in court and parliament today, originated in the fourth-century A.D. (p.25, drawing on Sozomen and John Chrysostom).

[12] Ziebarth (1892), pp.10-14; p.10: "solo iureiurando Athenis virum a muliere dignoscere potuisses."

[13] Ziebarth (1892), pp.8-10, 14.

Attic orators, which expands on Ziebarth's treatment of the oath in the Attic legal system. The chief merit of the book is its exhaustive classification of the different types of oaths used in Athens, and its linguistic examination of oaths as they occur in the orators. Rudolf Hirzel's book remains the best discussion of oath-taking in Greece. It utilises the evidence from Homer to Augustine, but does not let this impede a constant engagement with the nature of the oath and oath-taking, and so represents a departure from the books of his predecessors, whose works contain statements of fact rather than analysis of the evidence. The only drawback of his work is its continual schematization of the oath, which reflects the emphasis he gives to later Stoic discussion on the subject: when applied to the earlier evidence this sort of analysis becomes anachronistic. Some sort of explanatory framework is necessary to organise the scattered and multifarious nature of the evidence, but Hirzel is overly rigorous in his categorization of the oath which at times becomes artificial.[14] The only book in English on oath-taking, Plescia's *The Oath and Perjury in Ancient Greece*, is a useful introduction, but represents a reversion to the type of work done by von Lasaulx and Ziebarth, without their mastery of the evidence or their eye for accuracy.[15]

The subject matter of the present thesis has an emphasis somewhat different from that of these works. It will not examine the legal or political aspects of oath-taking, since this would be duplicating much of what has been written by the earlier scholars. Instead, it will examine the religious aspects of the oath in more detail than has already be done, and will then illustrate how the oath played an integral role in articulating and defining relationships in society, on both a private and public level. The use of the oath in society was certainly responsible for producing its religious significance and the forms in which it was used; but I have preferred to begin with

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[14] See below, p.95.

[15] For a sample of some of the rather embarrassing mistakes in the book, see D.M. MacDowell's review in *CR* n.s. 22 (1972), p.28f. and that of F. Mitchel in *AJPh* 93 (1972), p.489f.: "this book could after all be of use to a person interested in making a serious study of ancient oaths; to him it will furnish proof that the work still needs to be done." (I cannot pretend at this point to have made good this situation, but hope to

its religious nature, both for the sake of definition and so that its use in society can be better appreciated. Only after its religious nature and social significance have been established can the punishment for oath-breaking be properly understood. The earliest surviving references to post-mortem punishment in the underworld involve perjury, and it is an underlying purpose of the thesis to account for this phenomenon.

The thesis will use literary and epigraphic evidence for the practice of oath-taking. The literary evidence raises the important methodological issue of differentiating between literary text and actual experience. In the area of oath-taking this is not too problematic, since there is general agreement among the various genres which suggests that literary distortion is not a major concern. To this consensus is added the fact that literary composition is circumscribed by the parameters of shared experience between author and audience. Certain aspects of oath-taking may be exaggerated, but they will rarely be created *e nihilo*, since to do so invites misunderstanding and thus a failure in communication between author and audience. For instance, Sophocles' reference to picking up red-hot lumps of iron while swearing an oath might at first be taken as literary creation, and that it might be; but the fact that the rare word μύδρος is also used in Herodotus and the pseudo-Aristotelian *Athenaiôn Politeia* in oath-taking rituals suggests that the poet is distorting a practice which was nevertheless familiar to his audience. Except for rare examples such as this, the evidence from inscriptions generally supports, and so affords an important control on, the literary representations of oath-taking.

The thesis will examine the evidence variously from either a diachronic or synchronic perspective. It may be thought better for the sake of consistency to opt for one or the other method of analysis, but by using both the distortions of adhering to either alone are avoided. The evidence will mainly be treated from a synchronic perspective, but in the section which

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do so in the future.) Other useful discussions of oath-taking may be found in Bonner & Smith (1930-9), II, pp.145-91; Burkert (1985), pp.250-4; Dover (1974), pp.248-51; Mikalson (1983), pp.31-8.

examines oath-taking and eschatology it is necessary to examine the way in which the evidence develops over time in parallel with that of early Greek eschatology in general.

A word must be said about the section which discusses the terms used in the oaths of allegiance imposed on cities which have revolted from Athens. The main focus on inscriptions has been epigraphic and historical, and this is as it should be. It is only after such documents have been carefully examined to determine what they actually say, and when they were written, that any further lines of enquiry may be begun. However, the publication of the Athenian Tribute Lists from 1939 to 1952 entailed a fresh examination of the historical context of the inscriptions, culminating in Meigg's book on the Athenian empire, and the continuing excavations in the Agora by the American School of Classical Studies has unearthed much further material which necessarily keeps the emphasis on epigraphic and historical issues. As a result, little has yet been said about the literary style of the inscriptions and its purpose.[16] Although the term is currently bandied about indiscriminately, the *ideological* aspect of the inscriptions remains to be examined, and this section will attempt such a discussion in the limited area of oaths of allegiance to the Athenian empire. For the dates of the inscriptions I have relied on the discussions in Meiggs and Lewis' collection of inscriptions, because their dating is determined primarily by letter forms rather than by likely historical context; working more by the latter criterion, Harold Mattingly has down-dated several important inscriptions from the mid-fifth century to the time of the Peloponnesian war.[17] It must be said that at times the orthodox position of dating by letter forms verges on the Sorites paradox: how many inscriptions with a three-bar sigma which could plausibly be dated to after 446 would be sufficient to revise the dating of that letter form? However, as Meiggs argues, since all inscriptions which contain a three-bar sigma from a certainly ascertained date occur before 446, it is not enough to date those whose date is

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[16] A notable exception is Dover (1981).
[17] His ideas have recently been collected in Mattingly (1996).

unknown to a date later than 446 solely by historical plausibility: a date before 446 must positively be disproven, and this has not yet been done for any of the contentious inscriptions.[18]

Two qualifications must be made about the title of the thesis. Although it intends to examine oath-taking in Greece as a whole, the nature of the evidence inevitably gives it at times an Athenocentic character. In the section which examines oaths of allegiance to Athens this is deliberate. Elsewhere in the thesis evidence adduced from other areas of Greece should be sufficient to demonstrate that oath-taking in Athens was not exceptional, and that the peculiarities of oath-taking in Athens were no more widespread than those of other Greek cities. Evidence drawn from other cultures, particularly that from the Old Testament, has been used only to further illustrate aspects of oath-taking in Greece where the evidence is sparse, and no causal connection should be assumed unless otherwise indicated. This also applies to evidence drawn from later authors or inscriptions.

The following thesis will examine the religious aspects of oath-taking through an analysis of the invocation of the gods, the curse, and the rituals accompanying the oath. After a discussion of the use of the oath in society, the punishment for perjury will then be explained. In this way a relatively neglected aspect of Greek social life and religious belief will be clarified, and situated in the wider context of Greek society in general.

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[18] Meiggs (1972), p.599.

1. The Religious Background of Oath-Taking

The following chapter will examine the religious ideas and practices involved in oath-taking. After a brief discussion of the possible origin and development of the oath, the two main categories of the oath will be described. The nature of the oath-taking process itself (invocation, curse, and ritual) will then be examined.

1.1: The Oath and the Trial by Ordeal

The origin of oath-taking belongs to the prehistory of Greek culture, which makes it difficult to account for its early development and the forms in which it appears in the extant evidence. Two points, however, may be made which, taken together, give us a fairly probable picture of its early nature and development. Firstly, there is no common Indo-European word for the oath or for the act of swearing; although this does not necessarily mean that oath-taking did not exist before the diaspora, it does indicate that the specific forms of the oath and its socio-religious significance were formed separately by the individual cultures after they had begun their movements towards their future homelands. On the other hand, there are a number of similarities which suggest that there were certain basic elements in the oath, since they do occur across these cultures after they had given their particular lexical designation to the phenomenon.

Firstly, the idea of compulsion is present in some expressions used for oath-taking. The Greek word for oath is ὅρκος: it is derived from the word ἕρκος and means 'that which encloses'.[19]

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[19] Lasaulx (1844), p.5; Boisacq (1938), p.713; Frisk (1970), p.418f.; Chantraine (1974), p.821 (more hesitantly). On the formation, see Chantraine (1933), p.10. Although the etymology is philologically sound, scholars have come up with alternatives because they do not agree with the sense. Benveniste (1973), p.435, although admitting the validity of the etymology, sees it as meaningless, but offers no

Whether this denotes a barrier self-imposed by the person swearing or one imposed by others administering the oath, the idea of restriction is present. This idea is brought out by further descriptions of administering and taking oaths. In Euripides' *Iphigeneia in Tauris*, Iphigeneia is said to "throw an oath around Pylades" (περιβάλλω),[20] and in the *Medea* the protagonist relates how she "bound Jason in great oaths" (ἐνδέω);[21] likewise the Phoenicians, when ordered by Cambyses to sail against Carthage, refuse to do so because they are "bound in great oaths" with the Carthaginians.[22] Conversely, παραβαίνω became the *vox propria* of breaking an oath, denoting the way in which the oath circumscribes one's actions.[23] In Latin there is the phrase *(aliquem) in iusiurandum adigere*, 'to lead (someone) to an oath';[24] whereas the Greek word expresses the restrictive nature of the oath itself, the Latin phrase stresses the coercive nature of its administration.

Secondly, there is the idea of placing a conditional curse upon oneself: this is seen in Hittite *ling-*, which expresses the idea of refutation (cf. Gr. ἔλεγχος) and the conditional inculpation one places over oneself in case of perjury.[25] This can also be seen in the verbs 'to swear' in Irish (*tong*), Old Slavonic (*prisegati*) and Sanskrit (*am-*), all of which have the basic sense 'to touch',[26] and so express the touching of an object or sacrificial animal while swearing an oath, by which one identifies oneself with the object or animal which are the objects of an

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alternative. Leumann (1950), p.91f., starting from the equation of ὄμνυμι with Sanskrit *am-* ('grab'), already made by Benveniste, seeks a word which might fit as the object of such an action. He comes up with **sorcus* or **surcus*, meaning 'rod', through comparison with the diminutive Latin *surculus*, 'twig'. This is clutching at *surculi*, so to speak. Szemerényi (1977), p.7, rightly dismisses this attempt, but states that "ὄρκος is oath, and nothing but oath." He posits **sworko-s* as the original, cognate with English *swear*, *answer*, but he does not explain the vowel change nor the loss of –k– (or rather –h–) in the English (Germanic) forms. Moreover, he does not address the derivation from ἕρκος.

[20] E. *IT* 788.
[21] E. *Med.* 162.
[22] Hdt. 3.19.2.
[23] E.g., ML 5.47; 32.43; 47.53; cf. 13.15; 73.57; *IG* I³ 9.13 (supp. Meritt/McGregor); cf. 70.7 (supp. Lewis); Thuc. 1.78.4; 2.71.4; 5.30.1,3 etc.
[24] See *OLD*, s.v. *adigo*, 9.
[25] Benveniste (1973), p. 439f; Sturtevant (1951), p.46, para. 73 (cf. p.58, para. 81).
[26] Benveniste (1973), p.393.

aggressive act—this contains the idea of sympathetic magic, which will be examined in greater detail when discussing the curse in oaths (section 1.4).

More important in this respect is the Persian phrase for oath-taking, *sogand xurdan*, which literally means 'swallow the sulphur'.[27] Here we have a clear reference to the association of the trial by ordeal with oath-taking, an association which is paralleled in the Greek evidence. In Sophocles' *Antigone*, after they discover the partially buried body of Polynices, the guards are prepared to walk through fire, pick up red-hot lumps of iron (μύδρους), and swear an oath that they had neither committed the crime nor knew who had.[28] This is the only instance in classical literature where the oath is mentioned in association with the trial by ordeal, and it might be interpreted as a literary creation of Sophocles in order to convey the earnestness of the guards; however, there is some circumstantial evidence which suggests that the oath and the trial by ordeal were closely associated in early Greece.

In the trial by ordeal the guilt or innocence of the defendant was determined by his or her reaction to some form of physical torment. If the defendant was guilty, he or she would be harmed; if innocent, a god would prevent this harm and so vouch for the person's innocence. Dispute resolution was in this way placed in the god's hands. No doubt this method of dispute resolution eventually revealed its pitfalls, probably by various cases in which evidence later turned up proving a victim's innocence. Although it cannot be proven that the exculpatory oath actually developed from the trial by ordeal, the similarity in form and function between these practices suggests that they were, at the very least, two forms of the same method of dispute resolution.

In the exculpatory oath, which is imposed on the swearer by someone else, one or more gods are invoked as witnesses and guarantors of the truth of a statement being made by the swearer. If the person swears falsely, the gods will punish him or her for implicating them in the

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[27] Ibid.
[28] S. *Ant.* 264-7.

lie. So this kind of oath is one step removed from the trial by ordeal—justice is still in the hands of the gods, but punishment is not so indiscriminate; if a person commits perjury, the gods might strike him or her down either on the spot, or later;[29] the gods' wrath might also be visited upon the perjurer's family,[30] or be met with in the underworld.[31] So while the perjurer—the guilty person—will at some time be punished, the innocent person will not, which redresses the imbalance in the trial by ordeal.

There is still some evidence for the exculpatory oath in early Greek dispute resolution. In the funeral games of Patroclus, when Antilochus comes second in the chariot race by cheating, Menelaus challenges him to swear by Poseidon that he did not deliberately impede his chariot: Antilochus refuses to swear the oath, and second prize is then awarded to Menelaus.[32] There is a similar example in the law code of Gortyn, which dates from the first half of the fifth-century: in divorce cases, a divorced woman is made to swear an oath in the temple of Artemis that she has not stolen any of her husband's property;[33] elsewhere in the code, however, the oath is only procedural.[34] Indeed, even from the time of our earliest evidence Greek communities have developed into some form of *polis* organisation,[35] in which legal procedure has become more involved, with a far greater emphasis on witnesses and due process than on invocations of the gods. The oath still plays an important role, but it has become purely procedural, with litigants, jurors and/or judges swearing that they will perform their legal duties honestly and to the best of their ability. This is the situation in Athens by the end of the fifth century.

In the lines of Sophocles mentioned above two forms of the trial by ordeal are mentioned, walking through fire and picking up red-hot lumps of iron. The phrase 'to walk

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[29] Ar. *Nu.* 398-402.
[30] Hes. *Op.* 282-5.
[31] *Il.* 3.278-9; 19.259-60.
[32] *Il.* 23.566-600.
[33] *Leg. Gort.*, col. III, 5-12.
[34] Col. IX, 26-31; Ajax is depicted as swearing what seems to be an exculpatory oath in Polygnotus' painting in the *lesche* at Delphi (Paus. 10.26; see Lloyd-Jones (1968), p.49f.).
[35] From c.650, when a legal inscription from Dreros in Crete survives with the word *polis* (ML 2.1).

through fire', often abbreviated to the colloquial διὰ τοῦ πυρός, occurs in a number of authors—in Aristophanes and Demosthenes in the context of taking an oath, while in other authors, particularly Xenophon, it is used in the extended sense of doing something extreme.[36] In classical authors there are no references to such a practice—it is only mentioned in the later author Heliodorus in his romantic novel *Aithiopika*, written in the second or third century A.D. When the heroine Kharikleia is about to be sacrificed to the sun, she is forced to undergo a test of her purity by standing on the heated bars of a brazier. The grill is described as having such divine power that it burns anyone who is impure or has committed perjury.[37] Since the evidence for this specific practice is so tenuous and no firm conclusions can be drawn from it, I will move on to the use of the heated lumps of iron.

There are two passages from authors roughly contemporary with Sophocles which shed light on the reference to μύδροι in the *Antigone*. Herodotus describes how the Phocaeans, when besieged by the Persians in the middle of the sixth century, abandoned their city, having put their wives, children and possessions all on ships. Afterwards they returned and killed the Persian garrison in the city and then cursed whoever of them stayed behind in the city and swore that they would never return. This oath was accompanied by casting red-hot lumps of iron into the sea, with the condition that they would never return until the iron had resurfaced (πρὶν ἢ τὸν μύδρον τοῦτον ἀναφανῆναι).[38] Similarly, in the Aristotelian *Athenaiôn Politeia*, the author describes the foundation of the Delian league in 478/7, in which the Athenian Aristides sank lumps of red-hot iron (μύδρους) into the sea to confirm the oaths of the members.[39]

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[36] A. *Lys.* 133, 136; Dem. 54.40; LSJ s.v. πῦρ II, *ad fin*. In the Doloneia (*Il.* 10.246-7) Diomedes, having chosen Odysseus as his companion in the night raid, remarks: "If he came along with me we might even return from the blazing fire (πυρὸς αἰθομένοιο)" (I owe this reference to Dr. Chris Mackie); 2.340 might have a similar connotation, but both of these references might refer to the fire of a defeated and torched city.

[37] Heliod. *Aeth.* 10.8.20-3 (ed. Bekker). For other types of ordeal, see, for example, Ach. Tat. 6.6.11-14 (pipes of Pan test whether a girl is still a virgin or not), Paus. 7.25.8 (drinking of bull's blood to test the virginity of a priestess).

[38] Hdt. 1.165.3.

[39] [Arist.] *Ath. Pol.* 23.5; cf. Plut. *Vit. Arist.* 25.1; Diodorus Siculus (9.9.3) relates how the Epidamnians performed the same ritual at a time of civil strife. Cf. *Jer.* 51.63-4, where Jeremiah commands Seraiah,

These two rituals are clearly symbolic acts used to solemnify the oath (the oaths will not be broken so long as the iron remains in the depths of the sea), and it is natural that the Athenians and Phocaeans, both famed for their seafaring, would perform such a ritual.[40] However, it is surprising that in both cases the rare word μύδρος is used, since there is no need in these rituals for the irons to be red-hot—the weight, not the heat, of the metal is what is important.[41] Many different objects, even a normal cold lump of iron, a σόλος, could have been used to the same effect.[42] So it appears that in these two rituals there is a reflection of the trial by ordeal; since the oath was closely associated with that method of dispute resolution, it adopted one of the material instruments associated with ordeals—the red-hot lump of iron—which was then used in a symbolic, not a tortuous, manner.

It must be said that the two rituals described in Herodotus and the *Ath. Pol.* are isolated instances, separated by at least fifty years, amid many other oath-taking rituals in which there are no traces of any trial by ordeal. A further complication arises when considering the possibility of a real (as opposed to hypothetical) relationship between these two methods of trial. The trial by ordeal is used to ascertain what happened in the past, to discover whether a defendant was guilty or innocent before or at the time of the trial. The exculpatory oaths in Homer and the Gortyn

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after reading a book which lists the evils which are to befall Babylon, to tie a stone to the book and throw it into the Euphrates with the curse "thus shall Babylon sink."

[40] The practice may have been modelled on the use of stones as anchors (εὐναί, *Il.* 1.436) and δελφῖνες, dolphin-shaped lumps of iron used in naval warfare (Ar. *Eq.* 763). For the Athenian situation one may compare the procedure in homicide trials in Phreatto, where the (exiled) defendant was tried on board a ship off the coast of Attica; see MacDowell (1963), pp.82-5; Parker (1983), p.118f. Cf. also *Od.* 15.223.

[41] Jacobson (1975) argues that the Delian league was not founded as a permanent alliance; the symbolic interpretation of the ritual is therefore inconsistent with the nature of the alliance. He then goes on to argue that the ritual was used to solemnify the curses of the oath (i.e., 'may anyone who breaks this oath be cast into the sea like this metal') and adduces Near Eastern parallels for such curses in oath rituals — a more apposite example would be the Roman oath sworn by Jupiter in which a flint rock was thrown, with the provision that the perjurer may be thrown by Jupiter just like the rock (Plb. 3.25.8; Fest. p.102L=115M).

[42] Rose (1957), *ad* [A.] *Pr.* 366, states that a σόλος is a cold mass of iron. There is a degree of uncertainty about the precise meaning of this word which would make it unwise to rely on the distinction between it and μύδρος (see Richardson (1993) *ad Il.* 23.826 for references). Whatever the normal word for an unheated lump of iron is, μύδρος does denote a heated lump of iron. As well as the passages cited in nn.38-9, see Call. *Dian.* 50; *Anth. Pal.* 7.95; Σ. E. *Or.* 982. Σ. [A.] *Pr.* 366 and Σ. Call. *Dian.* 50 understand the word μύδρος as denoting molten iron for casting, the latter passage being at odds with the text of the hymn itself.

code perform the same function, as would the self-imposed exculpatory oath offered by the guards of Polynices' body. The oaths in Herodotus and the *Ath. Pol.*, however, which may not be broken so long as the lumps of iron remain in the sea, are promissory (see below, 1.2)—they refer to some future action. Most oath-taking rituals which employ the manipulation of objects as well as the verbal act of swearing are used in oaths in which a promise is made to do something in the future. While the difference between oaths referring to the past and to the future is significant, the inconsistency in these examples is not sufficent to dispel a connection between them; rather, it would be more natural to account for the discrepancy as a conflation of ideas and practices. The μύδρος was used in one form of the trial by ordeal, and the exculpatory oath was closely associated with that kind of trial. The μύδρος was then adopted for the specific type of oath-taking ritual mentioned by Herodotus and in the *Ath. Pol.* What seemed a strange sort of object connected with the trial by ordeal (and, by extension, with the exculpatory oath) was adopted in these two examples in the context of a promissory oath, the type of oath which was associated with rituals involving magic. The passage in the *Antigone*, which associates oath-taking with the trial by ordeal, illustrates this development which would otherwise remain obscure.[43]

1.2: Types of Oath

By the time of our extant evidence, two main types of oath occur: the promissory oath and the confirmatory oath. The promissory oath strengthens a promise to perform some act in the future, whereas the confirmatory oath strengthens a statement which refers to some past or present action or state.[44] The distinction is not formally attested for ancient times, and most

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[43] This explanation accounts for the different practices as they are found in these three authors. It could be argued, on the other hand, that either Sophocles has borrowed from Herodotus or *vice versa*; on the literary influence of Herodotus' work on Sophocles' *Antigone* see most recently S.West (1999).

[44] Various words are used for the confirmatory oath in different authors: Hirzel (1902), p.2, calls it ' assertorische", followed by Plescia (1970), p.13f., "assertory", who further subdivides this type of oath into two categories, "decisory" (my 'exculpatory') and "probative". I prefer confirmatory, since an oath is

authors of later antiquity defined the oath as either promissory or confirmatory.[45] But the general conception of past and future time in early Greece does accord with the function of these two categories, which in turn emphasise the different social uses of the oath. The future for ancient Greeks was seen as something much less certain than it is for modern people, whose outlook is substantially influenced by the certainty afforded by the empirical sciences. This uncertainty is borne out by the Greek language itself, in which future time was originally an expression of will (subjunctive) or wish (optative), but not fact.[46] In human relations this uncertainty was exacerbated by the lack of writing for social contracts which can be referred to a third party in case one party fails to fulfil the terms. The only way of achieving certainty was, then, to have the person undertaking the act let the gods also know that he or she would perform it. Failure to do so would result in a lie to the gods, who would consequently punish the perjurer. Added to this element of uncertainty about the future was a corresponding need for certainty about human relationships, necessitated by the comparatively rigid ties of blood and society. The manner in which individuals interacted with each other was determined by their knowledge of each other's position in society; by swearing a promissory oath the terms of one's relationship with other people were enunciated, and conversely breaking the oath would threaten the stability of a society in which human communication was much less fluid than today.

The confirmatory oath strengthens a statement made about some past or present act or state. Due to the lack of record keeping, disputes which arose, for example, about paternity or a business contract, could not be resolved by reference to an objective document. The past, just like the future, was riddled with uncertainty, and it was only seers and poets who could gain ready access to the past through communication with gods.[47] The difference here between the promissory and the confirmatory oath lies in the person swearing. In the former case, the person

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sworn to strengthen an assertion. Bonner and Smith (1930-8), II, p.146, use the term "evidentiary", but this has too many legal overtones to be used of oaths which were also used out of court.

[45] Hirzel (1902), pp.2-6.

[46] Delbrück (1897), p.374; Schwyzer (1950), pp.309, 319.

cannot know what the future will bring, and so these oaths are an attempt by those imposing the oath to determine the behaviour of the individual and supplement his or her own degree of willingness to fulfil the terms by bolstering them with an oath. In the confirmatory oath, on the other hand, the person swearing already knows the truth of the matter about which he or she is being asked. The oath in this case is a means whereby those who do not know the truth lessen their dependence on the person who does by making him or her subject not to human penalties (which in this case cannot discover the truth) but to divine punishment, since the gods do know whether the person is lying or not. In situations such as legal trials this oath protects justice for the group as a whole (judges, jurors, and the public in general) against the possible manipulations of a dishonest individual.

In addition to these two categories Hirzel posits a third: the 'oath of sincerity' ("Echtheitseid"), which he associates with the practice of the 'oath-helper' or 'compurgator' ("Eideshelfer").[48] In German and English law, compurgation involved a plaintiff summoning as many relatives as possible and having them swear that what he or she said was true. This practice is however barely attested for ancient Greece. The only example in early or classical Greece occurs in Aristotle, who mentions the practice at Cyme;[49] but it is unsound to develop a new category of oath on a practice attested by only one ancient example, especially since there is no mention of an oath in the passage of Aristotle, which undermines the argument. Hirzel proceeds to contrast the Echtheitseid, which refers to the present, with the promissory oath, referring to the future, and the confirmatory ('assertorische') oath which refers to the past.[50] However, the confirmatory oath does refer to oaths sworn about both past and present actions or states, and is thus distinguished from the promissory oath in that the swearer actually knows whether his or her statement is true or not. To divide confirmatory oath into two categories

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[47] See *Il.* 1.70, of Calchas, and Hes. *Th.* 32, of the Muses.
[48] Hirzel (1902), p.6f.
[49] Arist. *Pol.* B 8, 1269a1-3.
[50] Hirzel (1902), p.6.

seems unnecessary, and obscures the essential difference between the confirmatory and promissory oath. The former is used when the person taking the oath knows the truth while those imposing the oath do not, whereas the latter is used to strengthen a person's resolve to perform a future action: it attempts to impose certainty on what is inherently uncertain, the future.

1.3: Invocation of the Gods

The polytheistic nature of Greek religion finds its fullest expression, at least in the sources left to us, in the practice of oath-taking. Sometimes this can be seen in a single oath, such as the ephebic oath of Athens and in particular that of Dreros, in which a great number of gods are invoked,[51] but more generally it is illustrated by the relationship between the person or persons swearing the oath and the gods they invoke as witnesses and guarantors. The various gods invoked by different people constitute one way in which a person could express his or her identity. This applies to the individual, to the group within a *polis*, and to the *polis* itself. It is interesting to note that, in oaths sworn between two city-states, each party swore by the gods of its *polis*, instead of there being a common invocation of gods between the different parties. The pan-Hellenic way in which gods are presented in the Homeric poems and Hesiod only occasionally seems to have made the leap from poetry to politics. If Herodotus is right in saying that Homer and Hesiod described the titles, offices, and powers of the gods for the Greeks,[52] this description was only adopted in the context of an emphatically local worship of gods, which seems to have prevailed despite the influence of the poets. This is particularly evident in the gods invoked in the inter-city oaths used in treaties.

There are exceptions, however, to this general rule; although there are very few occasions in which oaths are taken among a group of Greeks from different cities where the same god is invoked for all, it does occur. The athletes in the Olympic games have to swear by

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[51] *GHI* II 204, 16-20; *SIG* 527, 14-36.
[52] Hdt. 2.53.2-3.

Zeus,[53] and it is likely that in the other contests they swore by the god in whose honour the games were held — Apollo at the Pythian, Poseidon at the Isthmian, and Nemean Zeus and Hera at the Nemean games.[54] In these pan-Hellenic, athletic situations the gods worshipped in individual cities are laid aside in favour of the god in whose honour the festivals are held, and this is most probably because the oath taken relates to conduct in the games, and any breach of conduct could be seen as an insult to the patron god. Yet this practice, where different groups of Greeks swear by the one god, is anomalous, in much the same way as the games themselves occurred sporadically throughout a couple of years in which the different cities celebrated the numerous local festivals for their own gods.

It is far more common that when different Greeks swear an oath together they swear by the gods of their individual cities. This is a natural reflex for a society in which different cities were self-consciously protective of their own civic identities, identities which began to be seriously compromised only from the reign of Alexander.[55] Given the content of Greek political history, most inter-city oaths were, however, taken to seal treaties in times of war. Under such circumstances, it was all the more natural for the different cities to invoke their own gods in the oath at the very time in which their integrity was under threat owing to enemy invasion or coercive alliances. The earliest example of this practice does not actually involve Greeks, but is found in the treaty made between Rome and Carthage in 508/7: the Carthaginians are to swear by their ancestral gods (τοὺς θεοὺς τοὺς πατρῴους) while the Romans are to take their peculiar oath by Juppiter Lapis.[56] For the truce taken between the Athenians and Spartans and their allies in 422 each city was to swear its own particular oath.[57] The word used is ἐπιχώριος, and denotes

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[53] Paus. 5.24.9.

[54] For references to these gods, see Paus. 2.32.2, 2.1.7-2.1, 2.24.2 respectively.

[55] Ziebarth (1892), p.24, notes that Crete ("naturae dono munita") retained its liberty for a longer time, so that its cities continued to employ their own particular invocations in oaths, of which he lists numerous examples.

[56] *Staatsverträge* 121.46-9 (= Plb. 3.25.6).

[57] Thuc. 5.18.9: ὀμνύντων δὲ τὸν ἐπιχώριον ὅρκον ἑκάτεροι τὸν μέγιστον (= *Staatsverträge* 188. 38-9).

that the oath is sworn by the particular deities of the individual cities.[58] In Athens this 'local' oath seems to have been sworn by Zeus, Apollo, and Demeter, who are specified as the gods of the oath in two inscriptions, one detailing Athenian regulations for Erythrae and the other confirming a treaty with Colophon.[59] It is unclear why these specific gods are named (the origin lies in the prehistory of Athenian religion), although Ziebarth argues that the gods are Zeus ἑρκεῖος and Apollo πατρῷος, with Demeter added after Athens took control of Eleusis.[60] In the other cities for which we have evidence the local oath similarly invokes a number of Olympians, usually three, although both the Ozolian and Hypocnemidian Locrians swore by five gods.[61] An interesting stipulation in Thucydides' record of the terms of the oath to be taken by the Athenians, Spartans, and their allies is that the local oath was to be also the most solemn (τὸν μέγιστον) oath.[62] This implies that there were a number of alternative invocations used by the separate cities, but that one was considered to be of greater standing than the rest.

One explanation as to why particular gods invoked in oaths taken on behalf of a community cannot be accounted for is that such oaths have been influenced by cult practice which reaches back into prehistory. It is on this basis, for example, that the otherwise surprising absence of Athena from the Athenian oath can be explained. Yet ritual offerings were made on the Acropolis from very early on in the Dark Age, and there is no evidence which suggests that Apollo received greater attention than Athena at this time.[63] This difficulty makes Ziebarth's identification more appealing: if the gods invoked cannot be accounted for on religious grounds, then a more abstract conception of divinity might lie behind the grouping. Zeus as a protector of the state's boundaries (ἑρκεῖος) and Apollo of the fatherland (πατρῷος) adequately conveyed the

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[58] Cf. *IG* I³ 86.23: hόρκ]ον τὸν πάτρι[ον (supp. Woodhead).

[59] ML 40.16 (? 453-2) and 47.52 (? 447-6) respectively.

[60] Ziebarth (1892), p.17; cf. Parker (1996), p.25.

[61] Ziebarth (1892), p.19.

[62] n. 57 above and 5.47.8; cf. Burkert (1985), p.252.

[63] See Parker (1996), p.19f.

patriotic sentiments felt upon entering an international agreement.[64] Although this proposal can only be speculation, it becomes somewhat more justified when turning to the gods invoked by individuals in oaths. In these contexts the reasons why certain gods are invoked can be more definitely ascertained, and this leads one to the conclusion that in the oaths discussed above there must have been some reason behind the particular choice of gods, even though it cannot now be recovered with certainty.

The evidence for oaths sworn by individuals is mainly to be found in the comedies of Aristophanes. To begin with gods invoked in oaths by all Greeks, it appears that Zeus held pride of place. He is the most powerful god, and, since he was the punisher of moral offences *par excellence*, he was invoked as the god who punished perjury.[65] He is the god appealed to in the two major oath scenes in the *Iliad*, as common to all Greeks,[66] and it is to him that the epithet ὅρκιος is most frequently attributed.[67] He also appears most frequently in the casual oaths (νὴ / μὰ Δία) sworn in Greek comedy and forensic oratory, which translates to the simple '(no,) by God!' of English asseverations.[68] The frequency with which Zeus is invoked in both formal and casual oaths reflects his position as the ruler of the gods.[69]

In the vast majority of cases the god or gods invoked are determined by the status of the person taking the oath or the person imposing the oath on someone else. There are several qualities which may determine the choice of god.

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[64] Zeus could also be interpreted as an ally in war (σύμμαχος); cf. E. *Hcld.* 766, and Fraenkel (1950), p.373, on A. *Ag.* 811: "The confidence that the god will take his share of the fighting or working alongside man is deeply rooted in Greek religious feeling."

[65] Ar. *Nu.* 395-7.

[66] Cf. Burkert (1985), p.251.

[67] E.g., S. *Phil.* 1324; E. *Hipp.* 1025; later evidence is consonant with this: e.g., Paus. 5.24.9; D.L. 8.33; Philostr. *VA.* 1.6. E. *Med.* 201 has ὁρκίαν Θέμιν, a goddess who is closely associated with Zeus in respect to his role as guardian of the moral order, in which the keeping of oaths was included. Cf. also Il. 169-70, where Zeus is described as the "overseer of oaths for humans" (ὅρκων | θνητοῖς ταμίας).

[68] For a list of occurrences in the orators, see Ott (1896), p.39f.

[69] Ziebarth (1892), p.7, believes that the simple oath by Zeus (μὰ τὸν Δία) without any accompanying epithet reflects a stage at which Zeus was the only god worshipped. Since the phrase begins to occur in Greek drama of the fifth century, I think it is more likely that it was because he was the most powerful of the gods instead of referring it back to a stage in religion which would be more Indo-European than Greek,

The vocation of the individual may align him or her with a specific god who is the patron of the craft. The evidence for this is slight, although there is a good example in the Hippocratic oath where doctors are to swear by Apollo Iatros, Asklepios, Hygeia, and Panakeia, as well as all the other gods and goddesses.[70] In Aristophanes' *Clouds* the chorus leader swears by Dionysus as "the god who reared me" (τὸν ἐκθρέψαντά με), and in *Wasps* the poet himself is also reported as swearing by the patron god of the dramatic festival.[71] Traders might swear by Hermes *Empolaios* or *Kerdôios*, and Aphrodite, naturally, was the goddess invoked by prostitutes.[72] Somewhat more circumstantial is the evidence offered by Arrian. In the *Cynegetica* he presents a list of the gods honoured by several professions: sailors should pay respect to Poseidon, Amphitrite, and the Nereids; farmers sacrifice to Demeter, Persephone, and Dionysus; craftsmen to Athena and Hephaestus; those involved in education honour the Muses, Apollo Leader of the Muses (*Mousagêtês*), Mnemosyne and Hermes, those in love Aphrodite, Eros, Peitho and the Graces. Finally, those who hunt must not neglect Artemis the Huntress (*Agrotera*), Pan, Nymphs, Hermes By-the-wayside (*Enodios*) and Hermes the Leader (*Hêgemonios*), nor the other mountain gods.[73] These are the gods naturally worshipped by the individuals and trade guilds involved in these different spheres, and the passage indicates the manner in which a person's environment will influence his or her religious behaviour. From the evidence above concerning Asklepios it could be argued that, just as these gods were worshipped, so too they were invoked in oaths — but a qualification must be made. While it is likely that people of the specified vocations would have sworn by the major divinities listed by Arrian, there is no evidence that deities such as the Nereids, Muses, Graces, or Nymphs were

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given that all our Greek evidence, including the Mycenean material, contains at least some traces of polytheism.
[70] Hippoc. *Iusi.* ll.1-3. For the personification of Hygieia (Ion. Hygeia), see Paus. 1.23.4 and Ariphron 813 (*PMG*); for Panakeia, see Ar. *Pl.* 702, 733.
[71] Ar. *Nu.* 519, *Vesp.* 1056.
[72] Ziebarth (1892), p.13.
[73] Arr. *Cyn.* 35.

used in oaths. The reason for this is that these groups of deities were not thought of as major

powers whose wrath could equal that of the Olympians.

An individual's religious affiliations may determine his or her choice of god. This is

particularly so in mystery cults, where the person's relationship with the god is so much more

intimate. There are no sources for this before or during the classical period, since mystery cults

had not yet substantially drawn people away from the civic religion of the *polis*. The only

evidence of such a practice in ancient times is the Pythagorean oath sworn by the *tetraktys*, but it

is far from certain whether this is an original Pythagorean custom or a development generated by

the numerological emphasis of his later followers. Oaths sworn in mystery cults only became

common from the Hellenistic period onwards;[74] yet a parody of such oaths is found in Aristo-

phanes' *Clouds*, where Socrates swears by Respiration ('Αναπνοή), Chaos (Χάος), and Air ('Αήρ),

the types of gods worshipped in his *phrontisterion* which is depicted in terms of a mystery cult

to emphasise the impiety of sophistic speculation.[75] At this point mention should be made of

Socrates' habit, as represented by Plato, of swearing 'by the dog' (νὴ / μὰ τὸν κύνα). In antiquity

this custom was interpreted as expressing Socrates' unwillingness to take the gods' names in

vain, but since elsewhere he does swear by Zeus, this view is not tenable,[76] and is also weakened

by the fact that Xanthias uses the same oath in Aristophanes *Wasps*.[77] The oath by the dog was

rather a colloquialism used in mild asseverations, to avoid placing oneself under the power of a

real god from which a sincere oath derives its persuasiveness. There is religious scruple here, but

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[74] Merkelbach (1967) discusses an oath sworn in relation to the mysteries of Isis; Cole (1984), pp.31-5, tentatively identifies two stones before a temple in Samothrace as the place where initiates swore their oath of secrecy in the cult of the *Theoi Megaloi*.

[75] Ar. *Nu.* 627; cf. 814-28; cf Parker (1996), p.205.

[76] For the ancient interpretation, see the scholion to Pl. *Ap.* 22a1, cited by Burnet (1924) in his note *ad loc.* The origin and meaning of the oath are obscure (MacDowell (1971), *ad* Ar. *Vesp.* 83). Most scholars associate it with the common tendency "to distort *nomina sacra* in swearing" (Dodds (1959), *ad* Pl. *Grg.* 482b5); cf. Burnet, loc. cit., and Dunbar (1995), *ad* Ar. *Av.* 520-1, who discusses animals in general used in oaths. Given that the scholiast on *Ap.* 22a1 associates this oath with Rhadamanthys, it is tempting to see a connection with Cerberus, but the origin of the oath is irrecoverable (the phrase μὰ τὸν κύνα τὸν Αἰγυπτίων θεόν at *Grg.* 428b5 is definitely a false scent — a recondite quip by Plato).

[77] Ar. *Vesp.* 83.

it is consistent with 'normal' belief and does not presuppose a radical system of belief such as that for which Socrates was eventually convicted.[78]

The person imposing an oath may either select the god by the above criteria, select them according to those of the person being sworn (thereby making the person swear by the god closest to him or her so as to attain a more sincere oath), or choose the god from the particular situation at hand. This is the case, for example, when Menelaus challenges Antilochus to swear by Poseidon, the god of horses, that he did not cheat in the chariot race. The most common example of this type of selection is when an altar or temple of a god is present, illustrated from comedy in the formula μὰ τὸν θεὸν τουτονί. As Ziebarth has argued, this helps account for the frequency with which Greeks resorted to oaths — it was not so much a matter of debasing the value of oaths through incessant use of them, but a natural consequence of the numerous structures, from state temple to humble altar, at which the gods were thought to be present.[79]

In Aristophanes' comedies, where casual oaths contribute to the colloquial tone of comic language, the choice of the god invoked can sometimes be quite arbitrary, although this is probably so for the sake of variation; but most of the time character or context can be seen as determining the god selected.[80] The frequency of such casual oaths in the comedies contributes to the self-righteous, bellicose characterisation of so many figures on the comic stage.

Formal oaths, sworn in association with some social practice, such as the oaths of jurors or the ephebic oath, are sworn by the gods associated with the practice in much the same way as a worker might swear by the patron god of his or her profession. These are what we may term civic oaths, and the regular invocation of the same god or gods is one way by which the identity

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[78] Josephus (*Ap.* 2.263) adds 'swearing new oaths' (καινοὺς ὅρκους ὤμνυε) to the list of charges brought against Socrates, no doubt drawing on the same tradition as the scholiast on the *Apology*.

[79] Ziebarth (1892), p.7f.

[80] Ibid., p.6f. with p.7, n.1 and p.11 (of Dionysus). Sometimes the god seems to be chosen by the poet for metrical reasons, as is the case for μὰ τὸν Ἀπόλλω 'γὼ μὲν οὔ (e.g., Ar. *Eq.* 14, *Ach.* 101, *Pax* 16), which in the iambic trimeter fills out the second half of the verse after the caesura. For an assessment of the placement of oaths in comedy, see Dover (1985), pp.328-32, who examines the matter on general principles of word order rather than metre.

of that particular social practice is reinforced. Unfortunately, the gods invoked in such oaths are often unrecorded—this is the case in the oath of the archons, the bouleutic oath, and the oath in the *diomosia*. The heliastic oath was sworn by Zeus, Poseidon and Demeter.[81] The ephebic oath at Athens, however, does illustrate the way in which gods were selected in oath invocations by reason of their connection with the social practice at hand.[82]

The way in which various gods are invoked in different oaths, depending on the character of the person swearing or the particular circumstance in which the oath is sworn, clarifies the nature of the invocation of the gods in general when swearing an oath. The invocation of a god when making a statement is used to give that statement an authority which the mere earnestness of the speaker cannot. Firstly, the gods simply know more than mortals—in this respect the invocation in an oath amounts to appealing to the gods' knowledge that the statement is true. This aspect gives rise to the difficult question of omniscience in Greek religion. Although gods were more knowledgeable than humans, they were not regularly represented as omniscient.[83] Greek authors do sometimes attribute this quality to Zeus, as the most powerful of the gods, and the idea of this god's omniscience is present in Hesiod's *Theogony* in the episode where Zeus swallows Metis. In any case this is one motive behind invoking gods in oaths; a second seems to be that when invoking a god a person in effect makes the god the recipient of the statement, the addressee being transposed from the mortal into the immortal realm. This appears to be the case when the imperative ἴστω is used in invocations;[84] for example, in the oath in *Iliad* book 19 Agamemnon states "Let Zeus know (ἴστω), highest and most powerful of the gods, and Helios and Erinyes," etc.[85] Mortals cannot tell whether someone is lying or not; gods can, because of their superior knowledge. This leads to the third motivation

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[81] Dem. 24.151.

[82] See below, section 2.2.

[83] Cf. Pulleyn (1997), p.13f.

[84] Ziebarth (1892), p.9 notes that this form of invocation was favoured by the Boeotians; e.g., Ar. *Ach.* 860, 911.

[85] *Il.* 19.258-9.

in calling upon the gods in oaths: since the gods do know whether someone is telling the truth or not, they consequently know whether someone has lied to them; and if someone does, they have the power to punish that person. This is the supernatural aspect of the invocation. These general reasons for invoking a god are all the more relevant in particular invocations where the god is called upon for any of the reasons given above. Whether it be dependent on the person swearing the oath, in which the god has a special interest in the person, or on the context itself, such as a nearby altar in which the god's interests are more generally involved, that god is invoked who has some special interest in the general situation as well as in the oath itself.

Although this explains the invocations of the gods in oaths, swearing an oath by an object which is either not divine or has only a loose connection with the gods must still be accounted for, since at first glance such invocations cannot appeal to the knowledge, perception, or threat of vengeance from the object. In the Homeric poems there are two forms of this type of oath: that sworn by natural phenomena, such as the earth, rivers, and sun; and that sworn by secular objects, like the sceptre. For the first type of oath, the idea of divinity is still present, since the natural world was for the Greeks created by the gods, and so to some extent it, too, was divine. Moreover, the invocation of terrestrial deities may further involve an appeal to the whole natural world to look upon the person swearing. For because it was visible to those swearing, it could be thought of a seeing them as well, whereas the gods, because they were invisible, could not actually be seen as acting as witnesses. Some such explanation must be sought, since this kind of invocation occurs only in oaths and does have a primitive ring to it.[86]

The oath sworn by a secular object, such as the sceptre which Achilles swears by in his quarrel with Agamemnon, at first appears to contradict the definition of an oath as a statement

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[86] Ziebarth (1892), p.7, attributes the practice of invoking natural phenomena as an indication of the vague conception of divinity in prehistoric times: individual deities had not yet been conceptualised, and nature as a whole was seen as possessing numinous qualities. A reflex of this mentality might be attributed to Hesiod's description of Mt. Helicon as ζάθεον (*Th.* 2, with West's (1966) comment *ad loc*). On the other hand, Clarke (1997) has argued that the *personification* of mountains was a characteristic of early Greek religion, and adduces Hittite evidence in support of the argument (p.74).

strengthened by referring to the authority of the gods.[87] There are two possible explanations for this type of oath. Firstly, it may be a purely literary conceit. The example of Achilles in the *Iliad* supports this kind of interpretation: he swears by the sceptre, the very symbol of that institutional power by which he has been dishonoured and which he is about to reject. In this scene the poet is using a material object in order to express the ideas involved in a more vivid and concrete manner.[88] On the other hand—or more probably in addition to this—the sceptre can still be understood as having some relation to the gods: it was originally made by Hephaestus for Zeus, and was handed down by gods and men until it was given to Agamemnon.[89] Also, kings bear the sceptre when speaking in the assembly, and it is by this speaking that they guard the laws of Zeus—once again the sceptre is related to the highest god. These oaths sworn by secular objects run counter to the definition of an oath as a statement made with an appeal to the gods. This led Hirzel to the conclusion that oaths are defined not by the invocation of a god, but by something "of particular importance or value in the eyes of the swearer".[90] This definition conveniently accounts for all kinds of invocations, the invocation of gods belonging to the category of importance. The problem with this definition, however, is that it attempts to find universality, but in doing so must dispense with the idea that the gods are invoked to punish the person swearing in the case of perjury. One should rather keep the two categories (deity and object) separate, and explain the difference in terms of diachronic development instead of collecting all types of invocation together and then formulating a definition.

Initially an oath was taken by invoking one or more gods. The reasons for doing so have been discussed above, but the most important determinant here is that a god would punish the perjurer: this factor alone distinguishes the oath from other asseverations and accounts for its use

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[87] *Il.* 1.233-39.
[88] Cf. Griffin (1980), pp.11-12.
[89] *Il.* 2.101-8.
[90] Hirzel (1902), p.15: "(sc. Man schwört bei dem), was irgend in des Schwörenden Augen besondere Würde oder besonderen Werth besitzt". This interpretation is influenced by the views of late writers such as Philo and Augustine who, like Hirzel, consider all types of oaths from a synchronic perspective.

in society.[91] Swearing by an object must therefore be secondary, and is most easily explained by relating it to oath-taking rituals. In many oath-taking rituals the swearer must make physical contact with some object. In solemn oaths this object will be the slaughtered animal; in more spontaneous oaths, it might be the altar of a god which happens to be present, or an object that is closely associated with the god, as when Antilochus is to swear an oath by Poseidon while holding his whip and touching his horses.[92] From this there developed the practice of swearing by an object which was neither part of the ritual nor related to the god by whom the oath was taken. Swearing by the sceptre is perhaps an intermediate stage in this development. One can plausibly argue that the sceptre was related to Zeus, but at least in the oath scenes in which it is used this connection is not made, and in any case the relation is blurred by a range of other socio-political connotations connected with the sceptre. From ambiguous examples such as this arose the practice of swearing by an object unrelated to the gods, but valuable to the person swearing the oath. The reason behind such oaths is that in case of perjury the well-being of that object will be impaired. This kind of oath is a form of self-sacrifice, and as such involves a mutual understanding between the person taking the oath and the person receiving the oath of the possible personal loss which induces the person swearing the oath to tell the truth, in contrast to the simple threat of divine punishment. The fact that even here the agent of punishment must still be a god also suggests that such oaths are a later development.[93]

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[91] The possible development of the oath from the trial by ordeal would further confirm this view, but given the lack of evidence the argument would remain circular.

[92] *Il.* 23.582-5. It is uncertain just how Antilochus is to hold his whip and touch his horses at the same time. Richardson (1993), *ad Il.* 23.582-5, notes that the oath by Poseidon could refer to the fact that he was Antilochus' ancestor.

[93] A more provocative reason for believing oaths taken by objects to be primitive is Benveniste's contention that ὅρκος itself originally denoted the object which one grasped while taking an oath (Benveniste (1973), pp.434-6). The conclusion is reached by referring to the practice of swearing by the sceptre, for example, and the etymological connection between Greek ὄμνυμι (ὀμ-) and Sanskrit *am-* (Skt. *a* = Gk. o), which means 'to grasp'. Yet this hypothesis can only be supported in Greek by excessively stretching the grammar of other words when ὅρκος is used alone (see Leumann (1950), p.79f.) and is seriously weakened by the use of the adjectival ὅρκια (instead of, presumably, ὅρκοι) for the sacrificial victims at *Il.* 3.245. It is less problematic to take ὅρκον as an internal accusative when it is used with ὄμνυμι.

The oaths of the gods must also be understood as a secondary development. In *Iliad* 15 Hera swears an oath to Zeus that she has taken no part in helping defend the Greeks from the Trojans. She swears by Earth and Sky, an altered form of Agamemnon's invocation in Book 1.[94] Since the gods cannot swear by themselves, they may appeal to their parents; then she invokes the water of the Styx, a notion which I will discuss in Chapter 3. Finally, she swears by the head of Zeus and their marriage bed. These last two invocations are more difficult, although Hera could be swearing by Zeus just as a mortal would, and the reference to the marriage is made to emphasize their marital union and its harmony, which at this point is under threat. Still, oaths made by the gods, which occur only in poetry, should not be examined as primary sources for oath invocations, since they are literary creations. Hence they are modelled on human practice, but are distorted because of the fact that the gods cannot invoke themselves; they are also shaped by poetic technique — Hera's reference to her marriage bed seems more of a literary conceit than a reflection of any genuine oath-taking practice.

Although these religious overtones may be detected in analysing oaths sworn by a secular object, it seems better to see in them a development of more solemn oaths in which the person swearing must come into contact with a slaughtered animal. Here too the act gives a dramatic, physical aspect to an action that is merely spoken. The difference between these two kinds of oath-taking ritual lies in the relationship between the swearer and the object touched. In sacrifices, the person taking the oath associates him or herself with the fate of the animal, in case of perjury; the ritual is part of the curse. Most of the objects by which people swear are connected with the gods—Antilochus has to touch his horse when swearing by Poseidon, and the same idea is present when swearing by altars. The purpose of such rituals is to connect the swearer physically with the god who is invoked, so that the person becomes all the more liable to punishment from that god in case of perjury.

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[94] *Il.* 15.36-40; cf. *Deut.* 4.26: "I (sc. Moses) call heaven and earth as witnesses against you" etc.

1.4: The Curse in Oaths

Since an oath calls upon the authority of a god as a witness to the truth of a statement, it has been said that every oath contains a conditional curse that the god will punish the person swearing if he or she commits perjury.[95] This is supported by Hesiod, who describes Horkos as a great bane (πῆμα) for humans,[96] and elsewhere describes it as "running along with crooked judgments", with the implication that Horkos will bring punishment upon those who have sworn to judge fairly, but have not.[97] Herodotus also reflects this attitude towards Horkos: when Glaucus asks the Delphic oracle whether he should swear a false oath in order to keep the money entrusted to him, the priestess replies that a "nameless child" of Horkos pursues the perjurer and wipes out his house and family.[98] These passages are literary creations, as the absence of any cult for Horkos indicates, but they do illustrate that the oath was subject to punishment by the gods if abused, since it involved the gods as guarantors of a statement.[99] However, this idea of a self-contained curse in every oath is only true if we understand 'curse' in the general sense as something suffered on account of the anger of the gods.[100]

More specifically, the curse in oaths is actually articulated by the swearer and closely resembles formal curses, which call upon the gods to inflict evil upon some person or thing. The main difference between the curse in oaths and other curses is that the gods are personally interested in the event—their names have been attached to it, whereas in other curses the gods would not necessarily be interested in the person or thing subject to the curse.[101] A relationship is created between the person taking an oath and the god invoked which does not exist for the

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[95] Lasaulx (1844), pp.4, 12; Plescia (1970), p.85f.; Mikalson (1983), p.36.

[96] Hes. *Op.* 804; cf. *Th.* 231-2.

[97] Hes. *Op.* 219.

[98] Hdt. 6.86.

[99] The idea is more concisely expressed in Latin where, besides the normal term for oath, *iusiurandum*, the word *sacramentum* is used—literally, an instrument by which someone is made *sacer*: under the authority of. and subject to punishment from, the gods. Cf. Benveniste (1973), p.440 and Parker (1983), p.12.

[100] On this distinction between a curse as something suffered on account of the anger of the gods (*Fluchzustand*) and the curse as an utterance addressed to the gods, see Watson (1991), p.1f.

[101] Watson (1991), p.50, does not note a difference between oath-curses and other curses; see pp.23-5 on the fulfillment of curses, and p.48: "the gods were widely believed to execute just curses."

victim of a curse—in the latter case the gods will only act if they decide to pay attention to the person employing the curse. This difference explains the way in which the oath itself, with no explicit curse, could be thought of as already containing a curse, in that the gods were willing even without any further prompting to strike down anyone who abused their authority.

When a solemn oath is taken, it is usually accompanied by a ritual which closely reflects the curse made over the oath. The constant element in oath curses is the destruction of the perjurer. More importantly, in the great majority of oath curses there also occurs the additional stipulation of the destruction of the perjurer's family and belongings. This imprecation already occurs in the curse which follows the oath sacrifice in *Iliad* book 3.[102]

οἶνον δ' ἐκ κρητῆρος ἀφυσσόμενοι δεπάεσσιν

ἔκχεον, ἠδ' εὔχοντο θεοῖς αἰειγενέτῃσιν

ὧδε δέ τις εἴπεσκεν 'Αχαιῶν τε Τρώων τε

" Ζεῦ κύδιστε μέγιστε, καὶ ἀθάνατοι θεοὶ ἄλλοι,

ὁππότεροι πρότεροι ὑπὲρ ὅρκια πημήνειαν,

ὧδέ σφ' ἐγκέφαλος χαμάδις ῥέοι ὡς ὅδε οἶνος,

αὐτῶν καὶ τεκέων, ἄλοχοι δ' ἄλλοισι δαμεῖεν.

And they drew wine from the krater and poured it into the cups, and they prayed

to the gods who live forever; and thus would one of the Achaeans or Trojans

speak: "Zeus most lordly most great, and you other immortal gods, whichever

side first breaks this oath, thus may their brains flow on the ground, just like

this wine, of them themselves and of their children, and may their wives be

captured by other men."

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[102] *Il.* 3.295-301. The text does not exactly specify who the participants are: "Thus one of the Achaeans or Trojans would say etc..." (297); for practical reasons not all soldiers of each army would pour a libation—this is presumably limited to the chieftains in the ritual—but there is no reason why l.297 may not apply to everyone, with footsoldiers voicing a curse as the libations are made by their superiors.

Most oaths contain a conditional curse upon anyone who might break the oath. In Agamemnon's invocation of gods and specification of the terms of the truce, this curse is absent, but is instead voiced by the other participants in the ritual. The curse here is closely associated with the ritual, and appears to be an instance of 'sympathetic' magic; as will be seen, this type of ritual in which the curse of the oath is modelled on the sacrificial ritual became more explicit and detailed in later times. However, there is no other instance of such magic in either of the Homeric poems, and it would be rash to conclude that this scene does presuppose ideas of sympathetic magic (a subject which will be discussed presently).[103] Instead, one can only say that the oath ritual in Homer functioned as a warning to anyone who might break the oath, and that this was effected by a graphic display of violence and destruction, such as one might meet from the gods because of perjury.

For Hesiod the consequences of perjury are the wholesale destruction of one's family and household, but there is no mention of curses in the context, which leads one to suspect that this was the general punishment for perjurers and explains the frequency with which the destruction of the family is included in the oath-curses of later times. The Glaucus mentioned above in Herodotus' tale has his entire family wiped out for merely asking whether he might break his oath. In Athens at least this idea (expressed by ἐξώλεια) became standard in solemn public oaths: it occurs in the heliastic oath and in many treaties and decrees.[104] This curse is found particularly often in all types of curses, more or less assuming the status of a formula. It is not difficult to see why. The family group was the most important unit in ancient society, however much civic institutions tried to make inroads upon its solidarity. There was not the same degree of independence as there is today, and a person's identity was strongly shaped in terms of a family line: only through one's descendants, who preserved the memory of a dead relative, could one continue to 'live', the only way to temper the silent finality of death. The

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[103] Watson (1991), p.51 lists this passage as an example of the magical element in curses.

tendance of the tomb and the tomb itself are testament to this continuity, and it is interesting that

here too the curse invoked against trespassers often included the destruction of their family.[105]

Destruction of the family was the worst fate that could befall an individual because posthumous

glory, if not one's very identity, could only be maintained by one's descendants.[106]

The formulaic curse of *exoleia* for oneself, one's family and one's property, in Athens at

least, was sworn over dismembered animals: the perjurer was to suffer the same fate as the

animal. This close relationship between the curse and the oath sacrifice is also found in more

peculiar curses. In the oath taken by the Theran founders of Cyrene in the late seventh century

wax figurines (κηρίνος κολοσός [acc. pl.]) are to be burnt while at the same time men, women,

boys, and girls are to call down curses upon anyone who does not abide by the terms of the

oath.[107] The early date of this oath has been doubted because it includes the use of wax figurines,

a practice otherwise unattested until Hellenistic times, but Christopher Faraone has argued that

such a ritual would be in keeping with the general character of oath sacrifices and adduced much

evidence for very similar rituals in the Near East.[108] The curse uttered while performing the

ritual is that those who break the oath "melt down and flow away just like these effigies."[109]

Similarly, after the libation in the oath-taking scene in *Iliad* 3 the curse runs "may the brains [of

the perjurer] flow away on the ground just like this wine." In both of these examples there is a

direct correspondence between the physical ritual and the terms of the curse (as opposed to the

more vague relation between dismemberment and *exoleia*), which leads us to the question of

whether these rituals can be understood in terms of 'sympathetic' magic.

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[104] Heliastic oath: Dem. 24.151; treaties/decrees: *IG* I³ 9.11-13 (supp. Meritt-McGregor); 15.38-9 (supp. Lewis; 37.53-4 (supp. Meritt-McGregor); 75.26-7 (supp. Jameson); cf. ML 13.15 (Ozolian Locri).
[105] See Lattimore (1962), pp.112-14.
[106] West (1999), p.35, points out that one reason for including a whole family in a curse was to prevent a man's sons from taking vengeance on the person imposing the curse. This, of course, would not lie behind the use of the clause in oath curses, and it is impossible to tell whether the clause was first used in this way or whether it was adapted from its use in oaths.
[107] ML 5.44-6. The inscription is a copy made in Cyrene of the oath taken by its original Theran founders.
[108] Faraone (1993), pp.62-5, 79.
[109] ML 5.47-8.

This is certainly true, insofar as we understand sympathetic magic as the attempt to affect some person or object by manipulating another object in a similar way. Both the curse in the libation scene of the *Iliad* and the example from Cyrene exhibit a close parallel between ritual and curse, unlike the animal-sacrifice scenes in *Iliad* 3 and 19, where there is no direct correlation between sacrifice and curse. However, the idea of sympathetic magic has recently been called into question in relation to *defixiones*. The objections to the idea are twofold; firstly, it is mistaken to think that ancient people employed these rituals as we do scientific tests, and had a primitive sense of empiricism that made them associate the manipulation of one object with similar consequences on another of a quite different nature, such as wine and human beings.[110] The rituals, it is argued, were not conceived of as having an inevitable effect on the person against whom they were directed, but as producing an effect similar to, but not caused by, the ritual act.[111] The second objection, which supports the first, is that the purpose of the *defixiones*, as defined in their inscriptions, does not reflect the physical side of the ritual; that a curse tablet deposited in a grave with the words 'may NN be as cold and lifeless as this corpse' does not mean that the person against whom the curse is directed should actually die, but that they should be as *ineffectual* as a corpse.[112] Yet although these objections seem valid in the area of *defixiones*, the curses in oaths do actually invoke destruction on the perjurer. We must at least accept that the relationship between ritual and curse is identical (in that both focus on literal destruction), and not metaphorical as in the case of *defixiones*, so that this objection to identifying an element of sympathetic magic in oath-taking rituals cannot stand. However, at least in the case of the curse made by the Theran colonisers of Cyrene, the form of destruction

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[110] Faraone (1991), p.8.
[111] Ibid.
[112] Ibid.

(melting away) has no parallels in Greek literature, and it can hardly be held that the participants considered this to be a possible means by which someone might die.[113]

Since sympathetic magic by itself does not satisfactorily explain the rituals of oath-taking, it would be more informative to examine their social function. In this respect, it should be noted that the majority of oath-rituals which closely resemble acts of sympathetic magic occur in promissory oaths. There are two possible reasons for this. Firstly, whereas events in the past are fixed, events in the future are uncertain, so that a promissory oath, which attempts to impose certainty on the future, must be sealed in an awe-inspiring manner. The dismemberment of an animal, and holding its limbs in one's hands, is a psychologically traumatic experience.[114] By participating in such a procedure the person swearing is even more encouraged to do his or her best to remain by the terms of the oath despite external and internal influences to the contrary. Secondly, whereas most confirmatory oaths, either in court or in private situations, simply swear to the truth of a past event or state, the promissory oaths for which we have an accompanying curse often occur in rites of passage, where a person is about to undergo a temporary or permanent change in status. As an example, one might cite the ephebic oath, which marks the transition of an adolescent into the adult world, and so entails a degree of responsibility for both civic and military affairs of the state which will last for the person's adult life. Pronouncing a curse on anyone who breaks the oath, together wth a detailed ritual, gives this rite of passage a dramatic aspect which marks the transition not only in words, but also in acts.

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[113] "It is a matter...of metaphors that are not common, even in indigenous use. It is the context that gives them all their semantic value." (Graf (1997), p.209). On the other hand, the metaphorical use of τήκω does suggest that for the Greeks there was a meaningful relation between melting and dying — but it is still only metaphorical (τήκω does not actually mean 'die').

[114] This should not be overstated, since bloody sacrifice was a common practice; still, there is a significant difference between normal sacrifices and such an oath-taking ritual. Not only does the person have to stand on or hold the raw, dismembered parts of an animal, but it is also an individual experience, unlike normal sacrifices in which everyone shares in the common meal. The difference between 'normal' sacrifices and those employed in oath-taking rituals is discussed more fully below, section 1.5.

This aspect of examining the oath-taking ritual also sheds light on the essentially spoken nature of the oath. Fritz Graf, following the anthropologist Stanley Tambiah, analyses oath-taking rituals in terms of 'performativity', a linguistic term used to denote verbs whose meaning and action are defined simply by uttering them, and which do not describe an action outside the act of utterance:[115] by simply pronouncing the word ὄμνυμι one performs the action of that verb. This idea can be further extended to the curses which accompany oaths, since here also the action is created and defined by its utterance. It is an oral phenomenon, but as such it is also something transitory, with no outer existence. By performing a ritual that is closely parallel to the words of the curse — to an extent determining the words of the curse, as in the Cyrenean example — the whole oath-taking process is given an immediacy which the spoken word cannot express.[116] The ritual performs a mnemonic function by giving a graphic illustration of the *meaning* (as opposed to the actual effect) of the curse. This is an interesting perspective from which to examine the curse in oath-taking rituals, but despite its plausibility it underemphasises the importance of the spoken word in the Greek world. Not to mention prayer itself, curses invoked apart from oath-taking contexts are frequently uttered without recourse to an accompanying ritual.[117] The famous Tean inscription, which lays a curse upon a whole series of malefactors, offers a good example, as do the numerous curses found on epitaphs.[118]

Alongside the simple curses of destruction upon the perjurer and his or her family, and curses whose wording is closely associated with the ritual performed in the ceremony, there also occur other more elaborate curses. Few of these occur in the early material, but there is one very

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[115] Graf (1997), p.206f.

[116] In this respect Graf (ibid., p.208) notes that the materials used for the rituals are determined by the function to be performed on it. Wax melts at a low temperature.

[117] On the relation between prayer and sacrifice, see the perceptive discussion of Pulleyn (1997), pp.7-15, which takes into account the problems associated with the representations found in the different literary genres.

[118] Tean inscription (c. 470): ML 30; epitaphs: see Lattimore (1962), pp.108-18. Cf. Watson (1991), p.50, and West (1999), p.32: "The curse itself may be conceived as a supernatural force which operates independently of other agencies, taking on the function of the avenger" (with reference to A. *Eum.* 416f.).

striking case in the curse which follows the oath taken before the battle of Plataea.[119] The curse runs as follows:

40 καὶ εἰ μὲν ἐμπεδορκοίην τὰ ἐν τῶι ὅρκωι γεγραμμένα, ἡ πόλις

ἡ 'μὴ ἄνοσος εἴη, εἰ δὲ μή, νοσοίη· καὶ πόλις ἡ 'μὴ

ἀπόρθητ|ος· εἰ δὲ μή, πορθοῖτο· καὶ ‹καρποὺ〉ς〉 φέροι ‹γῆ〉 ἡ 'μή,

ε|ἰ δὲ μή, ἄφορος εἴη· καὶ γυναῖκες τίκτοι|εν ἐοικότα γονεῦσιν,

εἰ δὲ μή, τέρατα· καὶ βοσκήματα τίκτοι ἐοικότα βοσκήμασ|ι,

εἰ δὲ μή, τέρατα.

And if I remain by the terms of the oath, may my city be free from pestilence, but if I do not, may plague befall it; and may my city not be sacked, but if I do not, may it be sacked; may my land bear fruit, but if I do not, may it be barren; and may the women bear offspring like their fathers, but if I do not, may they bear aberrations; may the herds bear offspring like themselves, but if I do not, may they bear aberrations.

The idea for a curse which extends to one's entire city can already be seen in Hesiod, where an entire city is said to suffer for the injustice of individuals.[120] The idea of abnormal offspring is found in curses in general, and is an alternative, but more horrific, way in which to express misfortune for the family line than the simple curse of destruction.[121]

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[119] *GHI* II 204. 39-46.
[120] Hes. *Op.* 238-47.
[12] The idea is anticipated in Hesiod (*Op.* 235), where in the city of just people women give birth to offspring similar to their fathers (τίκτουσιν δὲ γυναῖκες ἐοικότα τέκνα γονεῦσιν). On abnormal offspring in oath-curses, see Garland (1995), p.60.

1.5: The Rituals of Oath-Taking

The oath was the most solemn declaration available to the Greeks because it invested the statement with the sanction of the gods. As such, it is natural that various rituals accompanied the oath, in order to add even more solemnity to the occasion and to communicate with the god(s) whose sanction was to be invoked, so that the analysis of the rituals must take account of both their social and their religious elements (in so far as the two can be distinguished). The evidence for such rituals is somewhat scant, since the majority of inscriptions which refer to oaths either simply mention that an oath is taken or record the terms of the oath—nothing is said of any accompanying ritual. The literary evidence does, however, provide us with descriptions of several oath-taking rituals, some of them connected with historical events, some literary creations. The similarity between these two types of description leads one to conclude that the literary representations do not *radically* distort such rituals for dramatic effect, and that with due caution these representations may be used to illustrate the practice of oath-taking in everyday life.[122]

Animal sacrifice was often employed in oath-taking rituals. The most detailed description of this is given in *Iliad* book 3 in the truce made between Greeks and Trojans to end the war by a duel between Menelaus and Paris. The heralds, having brought in the sacrificial victims, mix the wine and pour water over the participants' hands (3.268-70).[123] Agamemnon then cuts off some hair from the victims and the heralds distribute it (271-74); then, having invoked the gods as witnesses and specified the terms of the oath, Agamemnon cuts the lambs' throats and lets them fall to the ground (275-94). Finally, a libation is made by the participants in the ritual, accompanied by a curse, and Priam places the bodies in his chariot and returns to the

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[122] A good example of literary distortion is the oath scene in Aristophanes' *Lysistrata*. Kalonike proposes that a white horse be used as the sacrificial victim for the oath-sacrifice (Ar. *Lys.* 191-2), a practice which was very rare in Greece (see Henderson [1987], *ad* Ar. *Lys.* 191b-2, who sees it as a reference to Scythian custom). Even so, the terminology of normal Greek sacrifices is still retained (τόμιον ἐντεμοίμεθα, 1.192).

city (295-313). This sacrifice differs in several ways from other sacrifice scenes in the *Iliad* and the *Odyssey*, and a comparison with these scenes provides an insight into the social and religious aspects of oath-taking that distinguish it from 'normal' sacrifices.[124]

The first act in the ritual is the washing of the hands. This is done in order to mark the transition from the profane to the sacred—thereby opening communication with the gods—an act which is common to most sacrifices.[125] One act in the preliminaries to animal sacrifice is omitted in the oath-taking ritual: throwing barley grains at the victim.[126] This act too marks the beginning of a sacrifice, and like cutting the hair is an initial act of aggression, as Burkert notes;[127] yet this action only accompanies a sacrifice made after a prayer, and it seems that the use of barley can also be seen as part of the offering to the gods, although its function has been diverted to initiate the act of violence.[128] Then Agamemnon cuts some hair from the sheep, an act once again common to animal sacrifice, used to nullify the inviolability of the victim.[129] After these preliminaries, the animal is slaughtered. In a normal sacrifice the blood is caught in a bowl or poured over the altar, if one is present,[130] again as an offering for the god(s): this too is absent from the oath sacrifice. But most importantly the animals (in this case sheep) are not butchered and cooked, both as an offering for the gods and as the restoration of social normality after the gruesome act of slaughter. Instead, Priam takes the bodies back to the city. In the similar but

[123] It is unclear precisely who the participants in the ritual are. The text gives ἀρίστοις as those to whom the hairs are distributed—presumably this indicates the chieftains listed in Book 2 who lead the various contingents.
[124] Kirk (1980), p.62, notes the risks in using the Homeric evidence too readily as a reflection on actual practice and also notes that combining the Homeric and post-Homeric evidence may lead to a construct that never in fact existed.
[125] Burkert (1985), p.77; for examples, see *Il*. 9.171; 16.230; 24.302-5; *Od*. 2.261; 4.759; 12.336; Hes. *Op*. 724-26, who gives the typically practical reason that otherwise the gods will spit back (ἀποπτύουσι) one's prayers (transposed from human practice: Parker (1983), p.219; E. *IT* 1161).
[126] *Il*. 1.458; 2.421; *Od*. 3.447; cf. 12.337-38, where leaves are used for the same purpose for want of barley.
[127] Burkert (1983), p.5.
[128] See Kirk (1980), p.46f., on the issue of 'multiple motivation' in sacrificial ritual.
[129] Burkert (1983), p.5; as well as this example, see *Il*. 19.254 and *Od*. 14.422.
[130] For references, see Denniston (1939), *ad* 791ff., and Burkert (1983), p.5, n.20, to which add E. *IT* 72 (of humans).

shorter scene in Book 19, where Agamemnon swears an oath that he has not touched Briseis, a boar is sacrificed and its carcass thrown into the sea by Talthybius.[131]

What distinguishes the oath sacrifice from others, then, is that there is no offering to the gods. The *do ut des* principle is absent, and with it that sense of community crystallized in the sacrificial ritual, acknowledging the human inability to guarantee the food supply or whatever it might be that is desired, and the ability of the gods to grant it. In a normal sacrifice the act of killing also channels aggression, which presents a latent threat to society, into a socially acceptable form, and at the same time this aggression is implicitly rejected by the shared meal which follows the sacrifice.[132] The oath sacrifice, on the other hand, is not so much an affirmation of group solidarity as a graphic warning to anyone who might threaten that solidarity by breaking an oath. The act of killing in the sacrifice not only opens communications with the gods who are called to witness, as in normal sacrifices, but also initiates the conditional curse upon anyone who might break the oath in the future. This second point seems to be the only way to explain the treatment of the victims in the two scenes. In book 19 the carcass is thrown into the sea; since sea water was commonly used for washing away pollution,[133] the boar must have been considered polluted because its death initiates the conditional curse.[134] The passage in book 1 where the Greeks, having washed themselves, throw their dirty water (λύματα) into the sea,[135] confirms this interpretation.[136] The scene in book 3 is somewhat more ambiguous, since we are not told what Priam will do with the victims he takes back to Troy. It is most probable that he

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[131] *Il.* 19. 266-67.

[132] This formulation is based on the ideas of Burkert (1983), pp. 35-48.

[133] Parker (1983), p.226f.; see also Hippoc. *Morb. Sacr.* 148.43-6. It is interesting to note that, after Alcibiades was recalled to Athens, the decrees exiling him were thrown into the sea (Diod. Sic. 13.69.2).

[134] See Parker (1983), p.7, on the connection between curses and pollution.

[135] *Il.* 1.314.

[136] The washing appears to be both literal, in order to cleanse themselves from the plague, and metaphorical, in order to purify themselves before sacrificing to Apollo. See Kirk (1985) *ad Il.* 1.313-14.

buries them somewhere outside the city walls: considering the treatment of the boar in book 19 it is very improbable that they are brought back for profane use.[137]

The two oath sacrifices in the *Iliad* are the only such rituals in which the sacrificial animal is simply slaughtered and then disposed of—all other oath-taking sacrificial rituals, as far as I know, involve the manipulation in some way or another of the dead victim. This raises the question of whether the rituals in the *Iliad* are to be considered normal, or whether other rituals, particularly those in which the swearer comes into contact with the dismembered pieces of the victim (which is most common), should thus be considered. On chronological grounds it may be argued that the rituals in Homer are primary and that the later kinds are further developments.[138] Yet there are two arguments which weaken this proposition. Firstly, the evidence from the Near East, particularly the Hittite material, indicates that elaborate oath-taking rituals, with at times detailed manipulation of the victim, were current before the time of Homer and in relatively close vicinity to Ionia; nothing can be proved about any cultural exchange on this point, but it is not unlikely, particularly through Semitic intermediaries. Secondly, the depiction of religious belief in Homer must also be taken into account. Jasper Griffin has demonstrated how Homer systematically marginalises the supernatural or unnatural in his poems.[139] In view of this, it may be argued that the oath sacrifices in Homer are expurgated versions of normal oath sacrifices in which the victim was manipulated in some way. Neither possibility can definitely be proved, but an examination of oath-taking terminology may at least clarify the issue: specifically the relationship between the word ὅρκος and its adjective ὅρκιος, and the phrase ὅρκια (πιστὰ) ταμεῖν.

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[137] Σ. *ad Il.* 3.310 (*b*) choose burying, although their statements are merely inferences from the two passages (so too Paus. 5.24.10-11). Burkert (1985), p.252, states that they are brought home "surely for profane use" (so too (2001), p.87). This seems to be based on the fact that they are not thrown into the sea, like the boar in book 19; but it is very unlikely that Priam would have barged on through the Greek camp and thrown the sheep into the sea—the oath did, after all, take place on the plain and not by the sea, like the sacrifice in book 19. Rather, he had to take them away and dispose of them in another way. Burying is the most obvious means of disposal, since burning them would approximate too closely to normal sacrifice (Kirk, (1985), *ad Il.* 3.310).

[138] Leaving aside statements from later authors, such as Pausanias, about oath sacrifices performed by mythological figures.

A lot of scholarly ink has been spilt over the difference in meaning between ὅρκος and ὅρκιος.[140] While ὅρκος is rightly taken to mean oath, ὅρκια is generally translated as 'treaty', 'terms of a treaty', or the sacrificial victims used in the oath ceremony.[141] Often ὅρκια is given a translation which seems most suitable to the context, in places where the translation 'oath' seems inappropriate, and where a definite distinction is felt to be needed between the two words.[142] This method is unsound, because the semantics of the English words used to translate the term are then taken to signify its meaning, particularly where 'treaty' is used, and from this distinctions are drawn between the legal significance of ὅρκος and ὅρκια.[143] Although it is salutary to elicit the separate meanings of two similar words and not conflate them under one over-arching translation ('oath'), the ingenious translations created by a desire to differentiate the two words can produce just as much (or in this case more) distortion as the first error.

ὅρκια exhibits a development in meaning from the concrete to the abstract.[144] In *Il.* 3.245 it refers to the sacrificial victims and wine used in the ritual which accompanies the oath: literally, 'the things of the oath'. This is straightforward enough, and also illustrates the close connection between oaths and sacrifices. Elsewhere the word is used in places where it is best translated as 'terms sworn to in a treaty', or better, "the whole treaty-making ceremony and its provisions, of which oaths were such an indispensable part (though only a part) that the whole ceremony came to be called *horkia*".[145] The difference here between ὅρκος and ὅρκια is that the former refers strictly to the invocation of a god or gods and the words of the oath—the religious aspect of oath-taking which initiates a relationship between the god and the oath-taker, and the

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[139] Griffin (1977).

[140] Mülder (1930); Priest (1964); Cohen (1980); Karavites (1992), pp.58-76; see also Plescia (1970), p.58, and Callaway (1990), pp.80-82.

[141] Callaway (1990), Karavites (1992), p. 61f.

[142] E.g., Karavites (1992), p.61, translates ὅρκια ἔθηκεν as "imposed peace"; cf. Callaway (1990), p.81: "As the individual oath-taking scenes containing ὅρκια are examined, conclusions can be made about the meaning according to their contexts and any implicit contrast with ὅρκος."

[143] For such a treatment see Cohen (1980).

[144] Cf. Leumann (1950), p.87.

[145] Priest (1964), p.52.

religious consequences of keeping or breaking one's oath. ὅρκια, on the other hand, refers more to the social aspect of oath-taking: the participation in the ritual, the ritual itself, the oath, and its terms. Yet the idea of oath-taking is explicit in both words, and should not have its meaning glossed over with the general term 'treaty' for which other terms exist.[146] It was the phrase ὅρκια (πιστὰ) ταμεῖν that was responsible for this development from the concrete to the abstract sense of ὅρκια.[147] It means 'to cut the sacrificial victims of the oath ritual'.[148] This easily lead to the use of the phrase to mean 'make an oath', because the sacrifice was the focal point of the oath-taking ritual.

Since the meaning 'cut the sacrificial victims of the oath sacrifice' (ὅρκια ταμεῖν) is used in the *Iliad* to refer to the sacrifice in which the victims are slain and their bodies disposed of without sacrificial meal, it must be asked whether it refers to the same kind of sacrifice in later Greek as well. An affirmative answer to this question is given by the fact that the phrase does not occur in descriptions of oath sacrifices in which the victim is manipulated in some way. However, since the entrails or limbs of an animal are referred to as τόμια, it could plausibly be argued that the phrase ὅρκια ταμεῖν is an abbreviated reference to the practice of dismemberment or disembowelment, and, as an abbreviation, is not used when the focus is on the results of the sacrifice, the τόμια. Since the phrase ὅρκια ταμεῖν essentially denotes the killing of the sacrificial victim in an oath-taking sacrifice, it could readily be used of both the Homeric and the other rituals.

In a Halicarnassian decree detailing a change of procedure in property rights (c. 465-450), whoever does not transgress these new regulations in accordance with the oath may bring a suit.[149] The phrase used is κατόπερ τὰ ὅρκια ἔταμον, which recalls the Homeric phrase ὅρκια

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[146] E.g., σύμβασις, ὁμολογία, which are quite secular.
[147] The phrase occurs at *Il.* 2.124; 3.73, 94, 105, 252, 256; 4.155; 19.191; *Od.* 24.483.
[148] I disagree with Karavites' idea [(1992), p.61] that the "victims embody the oaths and can be called *horkia pista.*" It does not make sense to slaughter the 'oaths.' If the victims embody anything, it is the conditional curse which is spoken after the terms of the oath.
[149] ML 32.43-4.

(πιστὰ) ταμεῖν and is most naturally taken to reflect a similar procedure. This phrase also occurs in Herodotus,[150] alongside the similar ὅρκον ποιεῖσθαι;[151] this is more vague, and although it may be understood as referring to a simple oath sacrifice as well, it is more likely that it is used in the abstract sense of 'make a treaty sealed by oaths'. This is illustrated by Herodotus' use of the words when describing the oath-taking ritual of the Scythians.[152] The general ὅρκια ποιεῦνται is used to introduce how (ὧδε) they perform an oath-taking ritual; when describing the ritual, however, the blood of 'those cutting the oath', τῶν τὸ ὅρκιον ταμνόντων, is mixed in with the wine poured into a drinking bowl.[153] The idea of making a treaty is expressed by the more vague ὅρκια ποιεῖν, whereas τὸ ὅρκιον τάμνειν refers to the ritual itself. The distinction between the use of the plural and singular of ὅρκιος illustrates how the former has come to acquire a more general, abstract meaning, so that Herodotus uses the singular to refer to the specific ritual at hand.

The oath-taking rituals for which we do have evidence all involve the cutting up of the sacrificial victim after it has been slaughtered. These rituals may be divided into three categories: standing over the dismembered victim while swearing the oath; holding the pieces of the victim while swearing the oath; and passing between the two halves of a bisected victim. In Athens the first of these rituals was used in the *diomosia* of homicide cases in the Areopagus and the Palladion. In the Areopagus the swearer had to stand over the pieces of a slaughtered boar, ram, and bull.[154] The terms of the oath were to speak the truth and not to introduce anything that was not relevant to the case at hand.[155] The oath was sworn by both parties before the speeches and the victorious party was required to swear another oath after the vote, that the jurors had voted in accordance with the truth of his statements.[156] Similarly in the Palladion the victorious

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[150] E.g., Hdt. 4.201.2 (of the Persians); 7.132.2; 9.26.4.

[151] E.g., Hdt. 1.69.3; 1.74.6; 1.141.4; 1.169.2.

[152] Hdt. 4.70.

[153] There is no occurrence of the phrase ὅρκια ταμεῖν in Thucydides; at 5.18.9 ὅρκους ποιήσασθαι occurs, and elsewhere the even more abstract σπονδὰς ποιεῖσθαι (e.g., 5.18.1; 5.47.1; 5.76.2).

[154] Dem. 23.68.

[155] MacDowell (1963), pp.92-3.

[156] Ibid., pp.97-8.

party swears the same oath, while cutting up the sacrificial victims himself.[157] The phrase that Demosthenes uses in this ritual, στὰς ἐπὶ τῶν τομίων, indicates that the swearer stood on or close by the pieces of the victim; this suggests that a relationship was initiated between the swearer and the victim—if he commits perjury, he is to end up like the slaughtered victim over which he swears.

The word τόμια itself has been taken to refer to the genitals of the sacrificial victim.[158] Since the oath sworn contains a conditional curse of destruction upon the swearer and his family (including descendants), the castration of the animal would be a fitting ritual to accompany this formulaic curse. However, since there is no direct equation of τόμια with the genitals in early sources this must remain uncertain—it is equally likely that the word refers to the full dismemberment of the victims.[159] Pausanias describes how competitors in the Olympic games, together with their fathers, brothers, and trainers, were required to swear an oath, while standing on the τόμια of a boar, that they would commit no wrongdoing at the games.[160] The oath was sworn by the temple of Zeus Horkios, whose statue held a thunderbolt in each hand.

The handling of the sacrificial victim after it had been cut up is a similar but more gruesome ritual than simply standing on the pieces. The practice is attested in Aeschines' speech against Timarchus, where the defendant is represented as holding the sacrificial victims in his hands while swearing an oath. τὰ ἱερά, not τόμια, is the wording used in the passage, which might suggest that it is not referring to dismembered victims but to the intact carcasses of the several sacrificial victims, since the plural must refer to more than one animal. Yet it would be an unwieldy exercise to lift up the bodies of at least two animals, so that it is easier to understand

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[157] Aeschin. 2.87; cf. Dem. 47.70.

[158] Stengal (1910), pp.78-85; Burkert (1985), p.251; Karavites (1992), p.64.

[159] In practice this process would have been awkward and time-consuming, especially since, in the Palladion at least, the swearer himself did the cutting (n.157 above). This makes simple castration seem more likely.

[160] Paus. 5.24.9-11; cf. 3.20.9, where Tyndareus makes the suitors of Helen swear over the τόμια of a horse, and 4.16.2, where Herakles gives and receives an oath from the sons of Neleus standing over the τόμια of a boar.

the passage as referring to a similar process of dismemberment as in the τόμια rituals; τὰ ἱερά has been used to stress the impiety of Timarchus, who dares to perjure himself even while holding consecrated objects in his hands. Herodotus has Demaratus place the entrails (τὰ σπλάγχα) of a bull into his mother's hands when asking her to tell him on oath who his father was.[161]

There is, finally, the practice of bisecting an animal and having those who are to swear the oath pass between the severed halves of the victim. There is no direct evidence for this practice in Greece itself. In Plato's *Laws* the Cretan stranger advises Clinias on the method of selection of the magistrates for the new state. After two preliminary selections, the third and final round of voting is to be conducted by the voters passing between slain victims (διὰ τομίων πορευόμενος).[162] This practice is attested among the Hittites[163] and also in the Old Testament, where God commands Abraham to cut in half a three-year old heifer, goat, and ram, and a turtle-dove and pigeon to seal their covenant. When it became dark, a burning lamp was seen passing between the bisected animals.[164] It is this last example that connects the ritual with oath-taking; in the Macedonian ritual described in Livy, in which a dog is cut in two and each half placed on the sides of the road for the army to walk through,[165] and probably also in the Hittite example, the ritual is purificatory.[166] In the passage of the *Laws* it also seems to be purificatory, since it seems unlikely that Plato would not have mentioned the oath explicitly if it was to be included in the process.[167]

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[161] Hdt. 6.68; cf. Plb. 3.11.

[162] Pl. *Lg.* 6.753d3-5.

[163] Gurney (1961), p.151; cf. Priest (1964), p.55.

[164] *Gen.* 15.9-17; cf. Jer. 34.18; for a thorough collection of parallel rituals from all kinds of different cultures, see Frazer (1919), pp.392-407.

[165] Liv. 40.6.1-3 (noted by Karavites (91992), p.64, n.42).

[166] See Parker (1983), p.22.

[167] Dictys Cretensis mentions the practice twice: before the Greek army set sail for Troy, Calchas bade them swear an oath in the market place of Argos walking between the two halves of a bisected pig with their swords drawn (1.15); the peace made between Trojans and Greeks is confirmed by an oath where the leaders pass between the bisected victims (5.10). Both of these examples may have been based on historical examples like those mentioned in Livy.

1.6: Conclusion

In this chapter the religious ideas which inform the practice of oath-taking have been discussed. Firstly, although oaths are defined by invoking, and so making oneself subject to, the gods, the two different types of oath, confirmatory and promissory, perform two different functions. The former seeks to ascertain a known fact when the person who has knowledge of it might lie. The latter seeks to impose certainty on the future which for all parties involved is inherently uncertain. These two purposes both imply a belief in the god's (or gods') knowledge either of the truth of a matter of fact or of a future event. In either case this is one facet of the problem of divine knowledge in a polytheistic system of belief. If the gods are not omnipresent, can they be omniscient? What Walter Burkert has called the "spell of Homer",[168] in which communication with the divine was dependent on a god's inclination to listen or not, fell into a certain conflict with tragic drama in the fifth-century which, in its attempt to explain, or at least depict, human misfortune often attributed a more abstract and universal character to the workings of the gods. Oath invocations form one specific category in which this problematic relationship between the human and the divine is cast into relief.

The curse in oaths illustrates both the importance of the oath for society and, through its terms, some particular values of that society. The importance of the kin group in early Greek society—the way in which a person's identity was strongly informed by notions of familial continuity—is emphasised by its inclusion in oath curses. The very person who threatens the stability of society through perjury will have his or her own 'society', the family, destroyed. The clause in the curse accompanying the Plataean oath, in which women and animals are to give birth to prodigies, is another more graphic way of expressing such familial discontinuity.

The difference between oath-taking sacrifices and 'normal' sacrifices is also informative for an understanding of the social implications of Greek religious ritual. 'Normal' sacrifices, in

which an offering is made to a god in the expectation of some return, has been interpreted as a means by which the aggressive elements in human behaviour may be channelled into a ritualised act of slaughter. This aggression is then implicitly rejected in the shared meal which follows the slaughter. The oath sacrifice supports this interpretation through its differences. In these rituals there is a simple act of killing—there is no subsequent feast by which the intensity of that act is dissipated, and so the conviction of an individual to remain by the oath is increased by exposure to a traumatic experience. Moreover, when an animal is dismembered in such sacrifices it is the oath-taker alone who handles the pieces. He or she is therefore separated from the rest of the group through contact with a consecrated object, instead of the communal experience for participants in other sacrifices. Of all Greek customs and institutions, oath-taking presents one of the most vivid examples of the way in which human society resorts to the divine in order to resolve the tensions generated by the interdependence between the different members of the community.

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[168] Burkert (1985), heading to chapter 3, section 1.