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Performing *The Book of Esther* in  
Early Modern Europe

Edited by Chanita Goodblatt

# SKENÈ Journal of Theatre and Drama Studies

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*Founded by Guido Avezzù, Silvia Bigliuzzi, and Alessandro Serpieri*

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LUCA FIAMINGO\*

# “Becoming as savage as a bull because of penalties not to be paid with money”: Orestes’ Revenge and the Ethics of Retaliatory Violence

Abstract

This article aims to suggest a different interpretation of Aeschylus’ *Choephoroi* 273-5. The terms and expressions used here and in many other sections of the *Oresteia* may have reminded the Athenian audience of the contemporary homicide laws and legal procedures, where the archaic ethics of revenge was now ‘institutionalised’ and handled by the *polis*’ authority. Moreover, these lines seem to allude to a well-known pre-legal practice whereby the violent retaliation underlying revenge could be extinguished if the offender paid a compensation (ποινή) accepted by the family of the victim. The results of this study will allow, first, to highlight some linguistic intersections and analogies between tragedy and oratory when referring specifically to the notions of justice, guilt, and responsibility in homicide cases. Secondly, the paper will propose an alternative translation for the ambiguous ἀποχρημάτοις ζημίας (Ch. 273), after examining the interpretations and hypotheses of leading scholars of this play. Finally, I will try to determine the synonymy of ζημία and ποινή from the perspective of Athenian law, since both these terms might express a variety of related concepts (revenge, money-fine, penalty, and compensation) all inherent in the offender’s punishment and the resulting satisfaction of the prosecutors’ claims for justice.

KEYWORDS: Greek tragedy; Aeschylus; *Oresteia*; ancient Greek law; revenge; retaliation; retributive justice

## 1. The *Oresteia*, Revenge, and Ancient Greek Law: a Relationship (Still) to Be Explored

As is well known, Aeschylus’ *Oresteia* (458 BC) is remarkably significant for the study of Athenian legal and political history, and it has become a constant point of reference both for ancient Greek law scholars and classical philologists.<sup>1</sup>

<sup>1</sup> The wide intersections between the *Oresteia* and Greek law have been studied, among others, by Harris 2010; Williams 2013; Harris 2019; Stolfi 2022, 39n1 (with further bibliography). I would like to thank the two anonymous readers from whose

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Few other tragedies are so directly constructed as *Agamemnon*, *Choephoroi* and *Eumenides* around central themes of Greek legal thought, or so explicitly evoke decisive events that occurred in the institutional and political history of classical Athens.<sup>2</sup> The central motif of the *Oresteia* is a widespread theme in Athenian theatre, justice (δική), that adapts itself well to the structure of the trilogy, since it allows for the presentation of a legal problem whose resolution clarify the nexus of guilt, punishment, and responsibility (i.e. some of the most important concepts developed by contemporary Attic law) as well as the inexorable action of divine justice.<sup>3</sup> Aeschylus did not simply represent one type of δίκη, but the difficult transition from a previous outdated concept of justice, based on the exercise of revenge and violent retribution, in the Archaic period (traditionally called “pre-law”),<sup>4</sup> to the justice of the Athenian *polis* where, from the seventh to fifth century BC, several legislators took the first steps towards the codification of the law (see Harris 2006, 3-28; Harris 2013, 21-59; Zaccarini 2018). Today, scholars have generally accepted that an effective transition between these two phases of the Greek legal history was never entirely completed.<sup>5</sup> This explains why the “vindictiveness”, that is the logic of revenge, and its vocabulary were still enduring in the fourth century BC, as can be noted in forensic speeches where “legal discourse did not even strictly distinguish revenge from punishment on the notional level”.<sup>6</sup> Perhaps in reality these two plans were gradually integrated (i.e. “institutionalised”) in Athenian legal context as early as the fifth century BC, with law depending on the impulse for revenge in order to operate and converting its violent suppression of particularity into systems of commensurability and compensation which, through the *polis*’ penal sanctions, continue to highlight the sense of symmetrical exchange of crime and punishment.<sup>7</sup>

Therefore, to look at revenge *only* as a widespread practice in archaic Greece, a free exercise of physical force and retaliatory violence between

careful remarks and valuable suggestions I have benefited considerably. All mistakes and deficiencies are only mine.

<sup>2</sup> See, among (many) others, Allen 2005, 374-6; Medda 2017, vol. 1, 11-17.

<sup>3</sup> Havelock 1978, 272-95; Penta 2000.

<sup>4</sup> In the words of Louis Gernet, there was a development from *prédroit* to *droit* (cf. Gernet 1968, 175-260).

<sup>5</sup> The relationship between law and “pre-law” in Classical Greece (and specifically Athens), suggested by Gernet 1968 (see above, n4), has been critically discussed by Cantarella 1987; Burchfiel, 1994; Peloso 2012, 43-8; Stolfi 2022, 85.

<sup>6</sup> Kucharski 2012, 196. The tendency to use traditional vocabulary associated with revenge in the lawcourts indicates that the Athenian laws and legal apparatus grew out of traditional (i.e. pre-legal) practices and norms rather than being a break with them. See also Nichols 2013; Rubinstein 2016.

<sup>7</sup> Cf. Kucharski 2012, 196, “they (*scil.* revenge and rule of law) are in fact seen as synergistic forces in the working of the legal system”.

litigants or opposing families, may be reductive just as it would be to assume that the justice of the lawcourts represented the solution devised by the Athenian political community to replace it definitively.<sup>8</sup> In my opinion, law and revenge may have been more frequently at odds with one another: this did not mean mutual exclusion, but rather inclusive coexistence; and the Aeschylean trilogy proves it. The *Oresteia* exploits the myth of the Atreides' cursed household to reflect on the inevitability of punishment for the bloodshed caused by vengeance and retaliatory violence, while also making it an instrument to deter anyone, especially the citizens, from the shedding of blood within the *polis* (*Eum.* 861-6) and at the same time persuading them to obey (without altering) its laws (*Eum.* 693).<sup>9</sup>

Aeschylus and the Athenians were heirs to a culture that for centuries considered revenge not only a right but also a social duty. The fundamental principle was the obligation to react to any offensive behaviour by taking revenge on the offender according to the established procedure of retaliation which reveals the same combination of the ideals of retribution and reciprocity as the concept of justice (δίκη).<sup>10</sup> Indeed, through the symmetrical murders closing the *Agamemnon* and *Choephoroi* (where the victims are always a man and a woman),<sup>11</sup> 'one' justice is fulfilled inspired by the principle of balance and equivalence, which finds in the trilogy its "most complex and comprehensive presentation in all of Greek literature".<sup>12</sup> Again 'one' δίκη

<sup>8</sup> Understandably, this has been approached with caution and reservations in more recent scholarships; see Herman 2000, 14-5; Harris 2006, 405, 418; Harris 2013, 98. For the opposite view, see McHardy 2013, 2-6; Rubinstein 2016, 60, 68-9.

<sup>9</sup> A thorough analysis of the passages mentioned above is given by Sommerstein 1989, 216-18, 252-4. For the role of the Areopagus in the *Eumenides* and the reforms of Ephialtes, see Zaccarini 2018; Harris 2019, 406ff.

<sup>10</sup> The ambiguous significance of the term δίκη (whose basic meaning in early Greek texts is "settlement"; Gagarin 1974, 186-9) seems to be the result of its prehistory, for the δίκη is apparently a very old institution (Chantraine 1999, 283-4). It is later connected with the concept of "exchange of justice" between the offender and the avenger in phrases such as δίκην λαμβάνειν (lit. "to exact justice") and δίκην δίδοναι (lit. "to give justice"). These terms are used equally of violent (so carrying the connotation of revenge) and of legal responses (e.g. Dem. 54. 24 εἰ δὲ μὴ κατὰ τούτους προειλόμεθ' ἡμεῖς δίκην λαμβάνειν, ἡμεῖς μὲν ἀπράγμονες καὶ μέτριοι φανοίμεθ' ἂν εἰκότως [If I have not chosen to proceed against him according to these laws, that should prove that I am a *peaceful* and *inoffensive* person]), remaining in the domain of δίκη, that is of balance, order, and (basically) retributive procedures. See also Kucharski 2016, 95; Rubinstein 2016, 58.

<sup>11</sup> Cf. Aesch. *Ag.* 1318-20.

<sup>12</sup> Gagarin 1976, 59. See also Aesch. *Suppl.* 403-6: Ζεὺς ἑτερορρεπῆς, νέμων εἰκότως / ἄδικα μὲν κακοῖς, ὅσια δ' ἐννόμοις. / τί τῶνδ' ἐξ ἴσου ῥεπομένον μεταλ- / γὲς τὸ δίκαιον ἔρξαι; ("Zeus surveys both sides alike in this dispute with an impartial scale, apportioning, as is due, to the wicked their wrongdoing and to the godly their works

(that of the *polis*) will be applied by the Areopagus towards Orestes in the *Eumenides*, which is concerned with “the politics in the deeper more profound sense: those shared values and beliefs that helped to maintain *justice* and *order* (emphasis mine) in Athens”.<sup>13</sup>

The juxtaposition of the archaic and “political” (in the etymological sense) δίκη is the thread running through the Aeschylean trilogy. The dialectic between several forms of justice is inherent in the historical relationship between the dynamics of revenge and their symbolised reproduction in the Athenian lawcourts (see above). Emblematic, in this sense, is the alternative (or contiguity) between two derivatives of δίκη in *Ch.* 120-1:

{ΗΛ.} πότερα δικαστὴν ἢ δικηφόρον λέγεις;  
{ΧΟ.} ἀπλωστὶ φράζουσ', ὅστις ἀνταποκτενεῖ.

[ELECTRA Do you mean a judge or an avenger?  
CHORUS Say simply, one who will kill in return. (Brown 2018, 84-7)]

When asked by the Chorus to pray “for the arrival of a god or mortal” (ἐλθεῖν τιν' αὐτοῖς δαίμον' ἢ βροτῶν τινα) who can punish Agamemnon's murderers (119), Electra wonders which alternative to choose between a judge (δικαστής) or an avenger (δικηφόρος). The Chorus refers to the latter by using the idea of reciprocity supported by it in many other points of the tragedy.<sup>14</sup> Literally, “he who brings justice” (δίκη - φόρος) is one who can “give death for death”, that is ἀνταποκτενεῖν, the same verb used by Orestes (274) to describe his revenge and express (with ἀντι) the urgency of retaliation at any cost, underlying the notion of equal exchange.

However, Aeschylus' main aim was not the exaltation of the *polis*' recent legal system as being able to inhibit violence and “push” it back to an ancient past of “vendettas and controvendettas” (Harris, Leão, Rhodes 2010, 44). On the contrary, the poet was trying to clarify the limits of both these forms of justice and the dangerous dysfunctions to which both risk giving rise<sup>15</sup>. Indeed, the endless cycle of violence and retaliation generated (especially in case of murder) by vengeance – which was not only more than the mere compensation appropriate to other offences, but also a religious duty<sup>16</sup> –

of righteousness. When these things are thus *equally balanced*, why do you fear to act *justly*? [Weir Smith]; Dem. 24. 139-41, discussed by McHardy 2013 (4-5) as example of the underlying desire to achieve balance and equality in legal reciprocity.

<sup>13</sup> Harris 2019, 415; see also 407 (“It is significant that when describing the new court, Athena uses words that are associated with justice and punishment”).

<sup>14</sup> See e.g. Aesch. *Ch.* 312-13, 400-2.

<sup>15</sup> Stolfi 2022, 81-4 (with further bibliography).

<sup>16</sup> See MacDowell 1963, 145; Parker 1983, 366-74.



could never ensure a final resolution of the dispute, since the claims of the two litigants are incommensurable and both inspired by the same principle of reciprocity and balance. On the other hand, the formal justice of the lawcourts could subvert any pre-existing order, humiliate ancient deities (the Erinyes) and generate internal conflict (στάσις),<sup>17</sup> which could only be avoided if the *polis*' δίκη achieved a difficult, but essential, balance by preserving a significant part of the ancestral violence (represented by the integration of the Furies in the institutional context of the *polis*) it intended to replace.<sup>18</sup>

From Draco's legislation (seventh century BC), the repression of homicide in Athens was 'public' (i.e. brought under political control), but homicide itself was a private (and family) matter. However, the offender was no longer exposed to the revenge of the victim's relatives, although these latter (and only they) were allowed to act as immediate personal representatives on his behalf through institutions such as the Areopagus.<sup>19</sup> The normal and indeed the ideal procedure in homicide cases was the δίκη φόνου<sup>20</sup> and only the immediate relatives of the victim had the right to bring this action. In other words, the right of prosecution lay only with blood relatives (συγγενεῖς), that is the same group (the family) to whom the right to revenge was previously reserved.<sup>21</sup>

However, it would be erroneous to read this "consonance" of roles in terms of opposition between the ancient ethics of the blood-feud and the public interest of the "State" in punishing wrongdoers. Far from any abolishment, revenge was simply embedded within the penal system of the *polis*. In Classical Athens (as well as in Greece), the secular presence of revenge in customary and social thought is not set aside in the name of more 'civilised' system, but is overcome and preserved together, converted into a mechanism equally capable of satisfying the desire for justice aroused by a crime, but such that it no longer undermines community cohesion and interrupts the potentially endless chain of bloody retaliation. This is the social and legal background presupposed by Aeschylus in the *Oresteia*.

<sup>17</sup> Aesch. *Eum.* 858-66.

<sup>18</sup> Carillo 2014, 15-16; Curi 2019, 157; Stolfi 2022, 102-10. See also Saïd 1984, 54: "L'*Orestie* souligne fortement la continuité des deux systèmes, car la vengeance est déjà une forme de justice et la justice, même administrée par un tribunal, reste vengeresse"

<sup>19</sup> Todd 1993, 271-2. A thorough overview of the controversial (and debated) relationship between Draconian laws and the Areopagus is given by Joyce 2021, who discusses the pre-existence of this court and its original jurisdiction of homicide before the lawgiver (127 ff.).

<sup>20</sup> See Tulin 1996. The alternative to traditional suit for homicide (the δίκη φόνου) was the ἀπαγωγή, the procedure of summary arrest applied in extraordinary circumstances (Antiph. 5; Dem. 23, 80-1). See Todd 1993, 110 (with further bibliography).

<sup>21</sup> Cf. Dem. 37, 59, 47, 69-70; Plato *Euthyph.* 4b; Pollux 8, 188; *scholion* to Dem. 21, 43. See also Todd 1993, 271ff.; Phillips 2008, 64-8; Pepe 2012; McHardy 2017, 71-2.

## 2. The Language of Orestes' Revenge: Intersections Between Drama, Oratory, and Prose

In archaic Greece, the shedding of blood did not in itself always represent a negative fact, nor did it necessarily give rise to a divine reaction. In the Homeric poems, the killing of a man could be both a social duty and an act of bravery that testified to the valour (ἀρετή) of the true man (ἀνὴρ) if directed against someone of equal status.<sup>22</sup> In this context, one cannot consider revenge a penalty, but rather a genuine obligation as well as a right; nor was perfect symmetry between the offence and the reaction required (not always, at least). For example, in the *Odyssey* there is the gap between the offences and guilt of the suitors (liable for ὕβρις and the devastation of Odysseus' household; *Od.* 22. 35-41) and the violent retaliation of Odysseus, which lacks proportionality of his responses. Indeed, not only does he not accept the ransom offered by Eurymachus (one of the suitors; *Od.* 22 55-7, 61-4) but he is also ready to kill the close relatives of the murdered suitors seeking revenge (*Od.* 24. 526 ff.), which Odysseus knew he could only avoid by exile (*Od.* 20. 42-3).<sup>23</sup>

Although reconciliation between the offender and the victim's relatives was not forbidden, the "price of blood" (ποινή) offered by the culprit could operate as a compensation for renouncing revenge much more strongly than compensation for the damage suffered. At the same time, the ποινή served as recognition of the honour (τιμή) of others that was not compromised by the failure to persecute the murderer.<sup>24</sup> As seen above, Athenian law conceived homicide (φόνος) not as an offence against the community (which, however, determined through its institutions what the punishment for the offender should be) but primarily as a wrong committed against the individual victim, which is why it was dealt with by δίκη. For this reason, the sanction of homicide continued to be perceived as a "private" matter,<sup>25</sup> since it mainly concerned not only the interests of two family groups, that of the offender and that of the victim, but also their honour (Harris 2015, 26-7).

We can now turn to Aeschylus' *Choephoroi*. Orestes' matricide could be an act at once terrible, due to the filial relationship with the victim, and necessary, as it was aimed at revenge, so much so that Apollo himself decreed its execution<sup>26</sup> ordering (as I argue below) that it be carried out excluding

<sup>22</sup> Cantarella 2021, 79, 221; 304ff.

<sup>23</sup> For an in-depth discussion of these passages, see Loney 2019, 132-60, 210ff.; Cantarella 2021, 220, 257-8.

<sup>24</sup> McHardy 2013, 85-94; Cantarella 2021, 306-9.

<sup>25</sup> For the difference between "private" (δίκαι) and "public" (γρῶφαι) ordinary prosecutions in Athenian law, see Todd 1993, 99ff.

<sup>26</sup> Apollo's αἰτία (i.e. "responsibility" and "guilt"; see below 2.2) will be mentioned in

any form of *ποινή*. Indeed, the contemplated alternatives for Orestes are violation of the filial relationship or the divine command and the consequent contamination (*μίαισμα*) triggered by the killing of the murderous culprits and the failure of the avengers to pursue the offender.<sup>27</sup> Finally, the tragic dilemma: the failure to avenge stains the inert and the possibility of awakening both the father's (*Ch.* 283-4) and the mother's Erinyes (*Eum.* 137-9).

After his recognition with Electra (*Ch.* 225-63), Orestes reveals why he must take revenge on Agamemnon's murderers:

{Op.} εἰ μὴ μέτεμι τοῦ πατρὸς τοὺς αἰτίους  
 τρόπον τὸν αὐτόν, ἀνταποκτεῖναι λέγων,  
 ἀποχρημάτοισι ζημίας ταυρούμενον.  
 αὐτὸν δ' ἔφασκε τῇ φίλῃ ψυχῇ τάδε  
 τεῖσειν μ' ἔχοντα πολλὰ δυστερπῆ κακά.

[ORESTES If I do not prosecute those *guilty and responsible* for my father's death in the same manner, saying to kill them in return, *becoming as savage as a bull because of penalties not to be paid with money*. He said I would pay for this in person, with my own life, suffering many ill-pleasing afflictions. (emphasis mine)]

275. *post* 277 *traiecit* Hartung, *post* 272 Rossbach, *post* 285 Klausen / *post* 296 *vel* 301 Battezzato ἀποχρημάτοισι Schütz: ἀπόχρημα τοῖσι M, ἀποχρηματοῖσι Aldina / ταυρούμενον M: μαυρούμενον Hartung, γαυρούμενον Paley.<sup>28</sup>

Before analysing the critical debate generated by 275, it is important to contextualise Orestes' claims from his powerful reply to the Chorus (269-305), where he mentions, in order: a) Apollo's oracle and the prescription of revenge; b) the physical and mental punishments unleashed by the hostile forces beneath the earth (i.e. Erinyes) against those who neglect the duty of family vengeance (278-89); c) the contamination (*μίαισμα*) and social isolation reserved for murders if Orestes does not carry out the revenge (290-6);<sup>29</sup> d) Apollo's orders and the pain for his father's death (299-300).<sup>30</sup> Aeschylus

Aesch. *Eum.* 199-200, 465, 579-80. For the different role of the god in Orestes' matricide cf. Eur. *El.* 1301-6, *Or.* 29-31, 276, 416, 593.

<sup>27</sup> Parker 1983, 115-28 (but also above, 119).

<sup>28</sup> Text and translation (the latter slightly emended) are from Brown 2018 (98-9). For the critical apparatus above, cf. Battezzato 2019, 9. At 275-7, I choose to keep the order of the manuscript M; for the reasons of their transposition, see Citti 1999, 109-13; Brown 2018, 239-40.

<sup>29</sup> See Parker 1983, 257-80; Harris 2018, 428ff.

<sup>30</sup> These "orders" are properly distinct from the god's oracles: cf. Brown 2018, 247; Battezzato 2019, 11, 15.

probably supposed that the myth's legacy would take his spectators back to a pre-legal context, where social norms were believed to derive directly from divine dictates<sup>31</sup>, which in turn determined the necessity (and inevitability) for revenge.

## 2.1 Revenge and Trial: the Use of μέτεμι in Legal and Pre-legal Contexts

Even though the action of Attic tragedy takes place in the heroic past, the characters often allude to contemporary laws or use common legal vocabulary.<sup>32</sup> It should therefore come as a no surprise that legal terms and concepts are frequently found in the *Choephoroi*. For a first example, let us consider the use of the verb μέτεμι (273), which could express two different types of prosecution (or, as we shall see, “pursue”) of the wrongdoer depending on legal or pre-legal contexts. This is a clue to understand the choice Aeschylus is making to suggest the ambiguity of Athenian legal language:<sup>33</sup> one might impose a penalty (or justice or punishment) without necessarily taking a person to court. Indeed, in Orestes' view, pursuing those who are guilty and responsible at the same time (αἴτιος; see below) for the death of his father means repairing the damage done to a member of his family and avenging him, re-establishing the principle of equal reciprocity and balance (τρόπον τὸν αὐτὸν ἀνταποκτεῖναι, 274) underlying δίκη.<sup>34</sup>

A good parallel reflecting the pre-legal connotation of μέτεμι within a context very similar to that of the Aeschylean scene, is provided by the following passage of Sophocles' *Electra* (476-8):

{Χο.} εἶσιν ἄ πρόμαντις,  
Δίκα δίκαια φερομένα χεροῖν κράτη·  
μέτεισιν, ὧ τέκνον, οὐ μακροῦ χρόνου.

<sup>31</sup> For the discussed relation between law and religion in ancient Greece, see e.g. Pelloso 2012, 21-70; Stolfi 2020, 84-90.

<sup>32</sup> Harris, Leão, Rhodes 2010; Stolfi 2022.

<sup>33</sup> Todd 1993, 205: “Athenian law never developed a fully technical vocabulary precisely because there was no way for words to be legally defined”. For the various ways in which the ambiguity and polysemy of central terms of Athenian legal language were brought out by the tragic poets, cf. Goldhill 1997, 135ff.

<sup>34</sup> See also Orestes' reaction when the Chorus reminds him of Agamemnon's dishonour (*Ch.* 434-5 τὸ πᾶν ἀτίμως ἔλεξας, οἴμοι, / πατρός δ' ἀτίμωσιν ἄρα τείσει [“Your tale is one of total dishonour, *oimoi*. For dishonouring my father, then, she will pay”], 497 ἦτοι Δίκην ἴαλλε σύμμαχον φίλοις [(*To his father's spirit*) “Either send *Justice* to be an ally to your friends”. Text and translation by Brown 2018 (emphasis mine)].

[CHORUS Justice, who sent us the omen, will come, carrying in her hands power of *justice*. She will *come in pursuit* before long, my child. (Emphasis mine)]

The brief section quoted offers an interesting item for comparison in view of the many analogies with *Choephoroi*. In the Sophoclean tragedy, the Chorus emphasises the concept of retaliatory punishment and vengeance by juxtaposing the divine figure of Δίκη with the arrival of the Erinyes, the goddesses of revenge (489-501). Here, μέτεμι expresses the Chorus' belief in retributive justice, while the notion of revenge (implied in φερομένα κράτη) allows the verb to suggest this more concretely "(Δίκη) will persecute (the murderers)". The result is that Justice somehow seems to be impersonated by Orestes, who becomes the instrument of justice itself (as suggested by the iteration Δίκαια δίκαια).

However, in the *Eumenides* (230-1) μέτεμι is significantly used by the Erinyes (i.e. the Chorus) with a different syntactic construction and a further meaning:

{ΧΟ.} ἐγὼ δ', ἄγει γὰρ αἶμα μητρῶον, δίκας  
μέτεμι τόνδε φῶτα κάκκυνηγέσω.

[CHORUS I will *pursue my case* against this man and, like a dog, I will haunt him down. (emphasis mine)]

In this case, δίκας and τόνδε φῶτα are internal accusatives with μέτεμι. The association of the verb with the polysemic word δίκη is crucial for the poet to bring the audience's attention back to the legal context (and language) of fifth-century Athens.<sup>35</sup> In fact, while Apollo and Athena often use δίκη and its compounds throughout the play as a reference to the trial of Orestes in the Areopagus,<sup>36</sup> for the Furies δίκας still means "revenge", since they have not yet become Orestes' official prosecutors in the court (ὁ διώκων, *Eum.* 583) but are still his "pursuers" (οἱ διώκοντες).<sup>37</sup> It is clear that Aeschylus is exploiting the use (very common in Attic) of verbs connected with pursuit and capture (e.g. διώκειν, φεύγειν) in relation to legal proceedings (Sommerstein 1989, 192). Therefore, it is equally possible, in my opinion, for the poet to use the same metaphor for μέτεμι (literally "to go after") that highlights how "this forensic 'pursuit' of Orestes by the Erinyes is the sequel to a literal, physical, pursuit by them" (i.e. to take revenge for Clytemnestra) "so that the

<sup>35</sup> A thorough analysis of the δίκη's polysemy and its legal meanings is given by Todd 1993, 99-102; Stolfi 2020, 187-91 (with further bibliography).

<sup>36</sup> Cf. Aesch. *Eum.* 468, 472, 573, 581-3.

<sup>37</sup> Cf. *Eum.* 131-2 (the ghost of Clytemnestra to the Erinyes); 226 (Apollo to the Erinyes); 251 (the Erinyes); see also Carillo 2014, 13.

metaphor may draw attention to the way in which the institution of courts of justice turns physical into verbal conflicts” (ibid.).

Moreover, we can assume that the Athenian audience would have easily understood the oscillating meaning of δίκη precisely from this more “technical” sense of μέτεμι. This hypothesis could be confirmed by two specific occurrences of the verb in Thucydides and Plato suggesting a diachronic continuity in the employment of these meanings of μέτεμι.

Let us examine these relevant passages, starting from Thuc. 4. 62. 3-4:

καὶ εἴ τις βεβαίως τι ἢ τῷ δικαίῳ ἢ βίᾳ πράξειν οἶεται, τῷ παρ’ ἐλπίδα μὴ χαλεπῶς σφαλλέσθω, γνοῦς ὅτι πλείους ἤδη καὶ τιμωρίαις μετιόντες τοὺς ἀδικούντας . . . οἱ μὲν οὐχ ὅσον οὐκ ἠμύναντο, ἀλλ’ οὐδ’ ἐσώθησαν . . . τιμωρία γὰρ οὐκ εὐτυχεῖ δικαίως, ὅτι καὶ ἀδικεῖται·

[And if anyone believes with certainty that he can do anything either *by right* or by force, let him beware of being harshly deceived by the unforeseen outcome of events. He should realise that, for many others before him, things went wrong, even for those who *pursued their revenge* against those who had committed injustices. Not only *did they not take revenge*, but they did not even save themselves. Indeed, revenge has no right to succeed, just because (by pursuing it) one has been wronged. (emphasis mine)]

This section of *The Peloponnesian War* (quoted by Hermocrates’ speech to the congress of Gela in 424 BC in which he demands that the Sicilians cease their quarrels and unite against the Athenians,) is very important for the information on the social perception of the concept of revenge in the fifth century. There seems to be no doubt that one immediate effect of the reconciliation agreement was to generate discussion of the expediency of permitting individuals to seek and obtain revenge against the person who had caused them harm. However much such individuals may have been perceived as having a just claim, even justified revenge, Hermocrates says, could represent a serious and destabilising force, which, if unleashed, might even threaten the very survival of the community. This view is expressed by Thucydides through the verb μέτεμι (but also ἀμύνεσθαι)<sup>38</sup>, which is perfectly suited to a context that still “oscillates” between a legal and a pre-legal dimension, as confirmed by the use of τιμωρία meaning both “revenge” and “lawful punishment”<sup>39</sup>, and (just as we have seen in Aeschylus

<sup>38</sup> The most frequent occurrences of this verb (in the middle form) in the 5th century are in Thucydides, where it often means “to take revenge on someone” (for a wrong); see e.g. Thuc. 1. 96. 1, 4. 63. 2., 5. 69. 1.

<sup>39</sup> Cairns 2015, 44: “There is in fact no real gulf between the pursuit of τιμωρία for the victim and pursuit of τιμωρία for the city or its laws”.

and Sophocles) δίκη, which denotes both equal retribution and law itself.<sup>40</sup> Finally, the combination of these terms can be a further clue that vengeance (here τιμωρία) was still at the end of the fifth century BC considered as a “private” matter, achieved only by δίκη, that is through the legal procedures and the lawcourts.<sup>41</sup>

Moreover, in a passage of Plato's *Laws* (6. 754 e) we find the same expression δίκην μέτεμι seen in Aeschylus (*Eum.* 230-1):

ἐὰν δέ τις ἕτερον φαίνεται τι παρὰ τὰ γεγραμμένα κεκτημένος δίκην ὑπεχέτω  
τῷ βουλομένῳ μετέναι.

[If one seems to possess something other than registered assets, he shall be liable to be brought to trial by anyone who wishes to *prosecute* him. (emphasis mine)]

As suggested in the translation, the correlation between μέτεμι and δίκη is included within a broader expression explicitly inspired by Athenian legal language, as confirmed by the presence of the nexus ὁ βουλούμενος.<sup>42</sup> This means that in Greek the verb continued to express not only the main idea of “bringing someone to trial” (i.e. δίκη) but also the non-secondary idea of “pursuing someone” (with the same metaphorical sense seen in Aeschylus) through the political institutions and legal procedures of the *polis* that still in the fourth-century BC retained some elements of the original logic (and vocabulary) of revenge.<sup>43</sup>

## 2.2. Some Considerations on αἴτιος and αἰτία in the *Oresteia*: Is a Connection to Guilt and Legal Responsibility Possible?

In the final section of *Agamemnon* (1481-1576), Clytemnestra and the Chorus discussed her role in the murder of her husband. Although Clytemnestra did not deny she killed him (ἐμός / πόσις, νεκρὸς δὲ τῆσδε δεξιᾶς χερός; “my husband, a corpse, through this right hand”, 1404-5), she ingeniously resumes the Chorus' former argumentation about the power of the daimon

<sup>40</sup> This oscillation is very common in the trilogy; e.g. Aesch. *Ch.* 986-90, where δίκη and its compounds mean: a) “trial” (ἐν δίκῃ, 987); b) “rightfully” or “with (retributive) justice” (ἐνδίκως, 988); c) “punishment” (ἔχει δίκην) in relation to Aegisthus' death “as the law prescribed” (ὡς νόμος, 990), i.e. according to Athenian adultery law (Harris, Leão, Rhodes 2010, 49n43).

<sup>41</sup> Gernet 1917, 138. See also above n7.

<sup>42</sup> In Athenian law, public actions (γραφαί, see above n27) could be brought by “anyone who wishes”. See Todd 1993, 100; Harris 2015, 22.

<sup>43</sup> See above 2-5.



of the Atreides' house (1481-3), which exercises its destroying power through women (1468-70). Thus, Clytemnestra can argue that the ἀλάστωρ, in her form and shape, killed Agamemnon (1501-2). However, the Chorus' reply explains that divine participation as "accomplice" (συλλήπτωρ) to a crime is a possibility (1507-8), but this does not imply the de-responsibility of the human agent.<sup>44</sup>

{ΧΟ.} ὡς μὲν ἀναίτιος εἶ  
τοῦδε φόνου τίς ὁ μαρτυρήσων;

[CHORUS That you are *neither guilty nor responsible* for this murder, who will bear you witness? (emphasis mine)]

In other words, the Chorus takes the same view of legal responsibility for homicide that one finds in Athenian law, and the presence of ἀναίτιος with the allusion to the impossibility of finding a witness in defence of Clytemnestra confirm, once again, that Aeschylus consciously drew on legal language, where αἴτιος and ἀναίτιος can express both the notion of responsibility and guilt as attested by several occurrences in the forensic speeches.<sup>45</sup>

Therefore, when Orestes states that he must pursue "those *guilty* and *responsible* for my father's death" (τοῦ πατρὸς τοὺς αἰτίους, *Ch.* 273), we can admit that the two legal notions expressed by αἴτιος almost converge to the point of merging with each other, precisely as in *Eum.* 467 εἰ μὴ τι τῶνδ' ἔρξοιμι τοὺς ἐπαιτίους ("If I failed to take this action against those *responsible and guilty*", emphasis mine), when Orestes says the same thing (with ἐπαίτιος) in front of the 'magistrate' Athena during the preliminary hearing (ἀνάκρισις) before the trial.<sup>46</sup> This intersection not only falls within the scheme of familial revenge, but also constitutes an anticipation of the

<sup>44</sup> Aesch. *Ag.* 1505-6. See also Medda 2017 vol. 3, 382-3.

<sup>45</sup> Cf. e.g. Antiph. 2. 1, 2, 11; 5. 19, 66, 71; Dem. 23. 79. On responsibility for homicide in Athenian law, see Harris 2006, 391-404.

<sup>46</sup> For Athena as a βασιλεύς in the *Eumenides*, see Harris 2019, 414-5. *Choephoroi* has the highest presence of αἰτία and αἴτιος expressing (in most cases) guilt and responsibility; cf. e.g. 68 διαλγῆς ἅτα διαφέρει τὸν αἴτιον ["The ruin that brings pain tears the *guilty*", i.e. criminal folly is *responsible*]; 117 τοῖς αἰτίοις νυν τοῦ φόνου (= 273), 836 τὸν αἴτιον (scil. Aegisthus); 873 ὅπως δοκῶμεν τῶνδ' ἀναίτιαι κακῶν [(the Chorus) "So that we can be held not guilty for these evils" - where ἀναίτιος is both an attempt at 'exoneration' and de-responsibility since the Chorus collaborate in Orestes' plan against the regicides; cf. 579-82], 910 ἡ Μοῖρα τούτων, ὃ τέκνον, παραιτία, which Brown 2018 translates "Destiny *bears some of the responsibility* for these things, child", showing the connection with what Clytemnestra said at *Ag.* 1500-4 about her de-responsibility (discussed above). On αἴτιος and αἰτία in Athenian legal language, see also Gernet 1917 368-71; Pepe 2012, 40-6.



legal justification of the killing that Orestes will give in the trial before the Areopagus, when he confesses the homicide (ἔκτεινα τὴν τεκοῦσαν, οὐκ ἄρνήσομαι, *Eum.* 463), though claiming that it was perpetrated with the realm of legality, as a direct mandate of Apollo (*Eum.* 465). However, it seems to me that this justification is already to be found in the end of *Choephoroi* where Orestes, preparing for a future “trial” (ἐν δίκῃ ποτέ, 987), claims twice that he killed his mother “rightfully” (ὡς τόνδ’ ἐγὼ μετήλθον ἐνδίκως φόνον / τὸν μητρός· 988-9) and “not without justice” (κτανεῖν τέ φημι μητέρ’ οὐκ ἄνευ δίκης, 1027), that is “with absolute justice” (Brown 2018, 441). It is certain that avenging the death of one’s relative was not in fifth-century Athens a lawful excuse for a “justifiable” (that is ἐνδίκως, literally “according to δίκη”) homicide; the duty of revenge in such circumstances could be discharged by the litigants bringing a prosecution in a lawcourt. Nevertheless, as we have seen, δίκη has several meanings in legal (and especially) pre-legal language and the audience at the Dionysia were familiar with both the dramatic plots and the vagueness of some terms of Athenian law. So, we can assume that Orestes has already foreseen the trial and is thus moving on to something new, describing Apollo’s command not as a moral justification for the matricide, but as the “cause” (αἰτία) behind it, which makes Orestes himself responsible but not culpable (1029-33).

Indeed, in defence of the hypothetical correlation between the concepts of guilt and responsibility in Aeschylus’ trilogy, we may recall precisely how the role of Apollo in Orestes’ matricide is described in the *Eumenides*. The god is gradually presented as an “accomplice” once by the Furies (μεταίτιος, 199), once by Orestes (ἐπαίτιος, 465), and after an initial accusation by the Erinyes that he is “wholly guilty and responsible” (παναίτιος, 200), Apollo himself recognises that he is more than just a simple legal patron or Orestes’ spokesperson and does not deny his own αἰτία (579-80), which, within a lawcourt, must mean that he becomes equally responsible for Orestes’ decision to commit the homicide.<sup>47</sup> As discussed above, even though the

<sup>47</sup> From the perspective of Athenian law, Apollo could be accused of βούλευσις, that is of having planned or instigated a homicide perpetrated by another person (MacDowell 1963, 62-3; Todd 1993, 274). Moreover, he combines the distinct roles of the witness and the co-defendant (μαρτυρήσεων . . . καὶ ξυδικήσεων, *Eum.* 576-9); Aeschylus’ dramatic expedient was highly effective since his audience would have been quite familiar with the juridical tradition and legal procedures. For αἴτιος expressing simultaneous guilt and responsibility in Greek oratory, see e.g. Antiph. 5. 70 οἱ δ’ ἄλλοι ἐτέθνασαν οὐδὲν αἴτιοι ὄντες [“The others had already been put to death, though they were not *guilty*” [i.e. *not responsible*] such that they did not deserve to be pursued” (emphasis mine)]; Lycurg. 1. 93 ὁ δέ γε θεὸς ὀρθῶς ἀπέδωκε τοῖς ἠδικημένοις κολάσαι τὸν αἴτιον [“And thus the god too acted rightly in allowing those who had been wronged to punish the *offender*” (emphasis mine)].

*Oresteia* is set in an imaginary mythological past that precedes the fifth-century Athenian political context and legal system, Aeschylus does not refrain from reminding the audience of contemporary homicide laws, combining several elements of “pre-law” and law, and inscribing them, respectively, in Orestes’ duty of revenge and the more general principle of punishing wrongdoers and criminals underlying the *polis*’ statutes (νόμοι) (Harris 2013, 138-74).

### 2.3 What is the Meaning of ἀποχρημάτοισι ζημίας (Ch. 275)?

A. Brown, in his recent edition of *Choephoroi*, summarises the exegetical questions posed by Orestes’ singular expression at 275: “an imposing three-word line but no one has ever been sure what to do with it” (2018, 239-40). In an attempt to resolve the issue, Brown (and other scholars) choose to put lines 276-7 before 275, following Hartung’s transposition and accepting the conjecture μαυρούμενον for ταυρούμενον transmitted by M. (ibid., 240).<sup>48</sup> On ἀποχρημάτοισι Brown argues that the common translation “penalties that have nothing to do with money” (i.e. going beyond confiscation) is “a grim understatement” and the choice to preserve this term, however difficult, is unavoidable.<sup>49</sup> Previously, Garvie argued that, if Hartung’s transposition is correct, it would be better to translate ἀποχρημάτοισι “which have nothing to do with money”, as already suggested by Tucker and Rose.<sup>50</sup> His definitive interpretation of the line is “And, he said I should pay for this in person with my own life, made savage *with loss not merely of property* (emphasis mine)”, because, upon his arrival in Argos, Orestes had already lost his property.

In my opinion, the best option is to maintain M’s order and consider ζημίας as the punishment of usurpers (Aegisthus and Clytemnestra) for their actions. In this sense, the αὐτὸν of 276 marks the antithesis between the penalty of Agamemnon’s killers and the possible punishment of Orestes if he did not take revenge. Moreover, as Garvie rightly observed, if ζημία were properly used for a “money-fine”, the expression ἀποχρημάτοισι ζημίας “would belong to the common type of oxymoron in which the epithet denies

<sup>48</sup> With μαυρούμενον Sommerstein 2008, 246-7, translates: “Enfeebled by penalties that went beyond loss of property”.

<sup>49</sup> Cf. Brown 2018, 247. Reference to the confiscation of Orestes’ property is inappropriate here because it is an erroneous “intrusion of personal motivation into description of Apollo’s command” (Garvie 1986, 112). However, the materialistic motivation of Orestes and the loss of his possessions, with the need to change the political system of Argos (now a tyranny, cf. Aesch. *Ag.* 1355, *Ch.* 973) is an important part of his speech (*Ch.* 300-5).

<sup>50</sup> Cf. Garvie 1986, 112-13, 365 (with bibliographic references to Tucker’s and Rose’s editions).

the essential meaning of the noun”, although it remains to be clarified why Aeschylus preferred this variant to “the metrically more straightforward ἀχρημάτοις” (Garvie 1986, 113).<sup>51</sup> However, I believe that there are still two fundamental questions that modern scholars have not considered. Firstly, although ἀχρημάτος (“without money” or “means”) is the only form attested in Greek literature,<sup>52</sup> we should not disregard the possibility that Aeschylus intentionally created the new form ἀποχρήματος to suggest connections with Athenian homicide law and its refusal (which seems more like an aberration and repulsion as expressed by the prefix ἀπο-)<sup>53</sup> of the ancient practice of accepting monetary compensation (ποινή) for the murder of a relative and as an alternative to revenge (itself forbidden by the laws).<sup>54</sup> Secondly, one must focus on the semantics of the term ζημία which, from the perspective of Attic law, denotes “punishment” or “penalty” regulated by the political institutions, and consisting of both money-fines and sanctions such as death, whereas, in the pre-legal context “[ζημία] s’appliquait d’abord à la réparation privée, plus exactement même à la composition” (emphasis mine)<sup>55</sup>.

In this sense, the Aeschylean passage seems to confirm that ζημία originally meant “reparation” or “compensation” for the wrongs suffered by the victim and his family. This hypothesis can be accepted if we observe the progressive evolution of ζημία (“harmful loss” or “payment”) in legal language, noting that in Athenian law some cases could be settled by fines or indemnities while in others the penalty had to be inflicted on the person.<sup>56</sup>

<sup>51</sup> A good reply to this is found in Citti 1999, who cites several stylistic reasons to explain this variant, which could have been purposely chosen or formed by the poet to convey more weight to the line (“produrre maggiore ὄγκος”, 133).

<sup>52</sup> Cf. e.g. Aesch. *Pers.* 167; Hdt. 1. 89 5; Arist. *Pol.* 1271b 16; Plut. *Cam.* 7, 4; *Br.* 28, 7.

<sup>53</sup> Cf. Citti 1999, 113-14, who translates ἀποχρήματος “that does not allow a ransom in money”. However, I am not sure that his interpretation of the nexus ἀποχρημάτοις ζημίας is entirely correct; he thinks that Aeschylus has adapted the legal expression χρηματική ζημία, which however is never attested in the fifth century and is very rare in Classical age (e.g. Plat. *Leg.* 847a 8; 855b 5, in the variant with the genitive χρημάτων), but most frequent later (e.g. Plut. *Dem.* 27. 8).

<sup>54</sup> See Harris 2015, 25. There is a difference in Athenian law between intentional killing, punished by death or exile with confiscation (e.g. *Dem.* 21. 43) and involuntary (or unintentional) killing (cf. Joyce 2021, 132). In this latter, the relatives of the victim as prosecutors (since homicide was a family matter; see above, n27) could grant pardon (αἰδεις) to the killer. This may have been purely formal, and “it may (even if only surreptitiously) have involved the payment of compensation” (Cairns 2015, 3). This is another clue of the intersections between law and “pre-law” in Classical Athens: the αἰδεις derived from the ancient rule of material retribution or compensation (ποινή) offered by the offender to the victim’s family and attested in Homeric poems (see below).

<sup>55</sup> Gernet 1917, 176. For the legal meaning of ζημία in Athenian law see e.g. *Dem.* 20. 135, 24. 83.

<sup>56</sup> See also Kucharski 2016, 96-7, 100-1.

Hence, accepting for ἀποχρήματος the rendering “which have nothing to do with money” one could better understand why Aeschylus opted for ζημία to denote Orestes’ revenge and the refusal of any compensation for it, because, as prescribed by Apollo’s oracle (itself interested in vengeance), the only eligible penalty for Agamemnon’s murderers was death.

Therefore, in *Ch.* 273-5 Aeschylus reminded the audience not only that the Athenian homicide laws banned the practice of paying a monetary fine by the offender of a murder, but also that according to the customary of early communities (or of those of the heroic past) illustrated by the Homeric poems<sup>57</sup>, Orestes could have accepted compensation. For this reason, his refusal of the money ransom (ἀποχρήματος) can be explained by considering ζημία (like the archaic ποινή) “blood money” which coincides with the death of the murderers. This hypothesis can be confirmed by a comparison with some passages in the *Iliad* where ποινή expresses not only “revenge” but also “compensation”, “ransom” or “retribution” for the murdered victim:

- a) *Il.* 14. 483-4 ἵνα μή τι κασιγνήτοιό γε ποινή / δηρὸν ἄτιτος ἔη (“So that my brother’s *revenge* does not remain long suspended for” [emphasis mine]). Acamas’ revenge (ποινή) consists of the murder of Promachus, the companion of Ajax who had killed Antenor, Acamas’ brother. So, Acamas managed also to obtain a “bloody ransom” (ποινή) for the death of his brother, who is no more “unavenged” (ἄτιτος, 484).
- b) *Il.* 16. 398 κτεῖνε μεταίσσω, πολέων δ’ ἀπετίλυτο ποινήν (“He savagely slaughtered them and made many pay the price of blood as *revenge*”, emphasis mine). Patroclus, wearing the weapons of Achilles, takes revenge on the Trojans. His action is described with the expression ποινήν ἀποτίνεσθαι. According to LSJ, the verb, in its middle form, means both “to exact / require a penalty” and “to avenge oneself on another” and, sometimes with ζημία, expresses the same ideas.<sup>58</sup>

<sup>57</sup> Cf. Hom. *Il.* 9. 632-6, 18. 497-508. The trial scene represented on Achilles’ shield is not concerned with the homicide in and of itself, but rather with the nature of the compensation (εἵνεκα ποινής, 498). The exact implications of this passage are disputed among historians of Greek law, who discuss whether in archaic Greece the victim’s relatives were able to moderate their first impulse to kill the murder by replacing it with a process of negotiation and compensation; cf. Burchfiel 1994, 92-4; Pelloso 2012, 114-17; Cantarella 2021, 311-16, 339-47. See also Curi 2019, 46, 105-7.

<sup>58</sup> *LSJ*<sup>9</sup> s.v. ἀποτίνω and the example of Hdt. 2. 65: Hdt. 2. 65, 5 δ’ ἄν τις τῶν θηρίων τούτων ἀποκτείνῃ [...] ἦν δὲ ἀέκων, ἀποτίνει ζημίην τὴν ἄν οἱ ἱρέες τάξωνται [“If someone kills one of these creatures, accidentally, he pays the penalty that the priests appoint”; that is, as if it were a “blood price” to avenge the killing of sacred animals].

- c) *Il.* 21. 27-8 ζωοὺς ἐκ ποταμοῖο δυώδεκα λέξατο κούρους / ποιήν Πατρόκλοιο Μενοιτιάδαο θανόντος· (“He took alive from the river twelve young men as *revenge* [or *ransom*] for the death of Patroclus, son of Menoetius”, emphasis mine).

Therefore, since Orestes refuses the alternative to vengeance consisting of *ποιναί* (as well as the *ζημίαι*) given by the offender to the victim or his family, he can do no more than carry out a revenge under the sign of retribution and reciprocity, which is precisely what he says he did when questioned by Athena, he claims to have killed his mother “as the *ποινή* [“penalty”, “vengeance” or “bloody compensation”; the term is used here for the first time after *Ch.* 273] in return for the killing of my dearly-loved father” (ἀντικτόνοις *ποιναίσι* φιλτάτου πατρός, *Eum.* 464).

However, while the relatives of the deceased were normally free to accept or refuse the compensation and, in case of acceptance, revenge ceased to be the solution, Orestes is obliged to refuse because he must respect divine commands to avoid the terrible consequences of an unfulfilled revenge. Indeed, at the end of the play, Orestes justifies the matricide by once again recalling Apollo’s oracle and, as discussed earlier, the guilty responsibility of the god (1030-2):

τὸν πυθόμαντιν Λοξίαν, χρήσαντ’ ἐμοὶ  
πράξαντα μὲν ταῦτ’ ἐκτὸς αἰτίας κακῆς  
εἶναι, παρέντα δ’ - οὐκ ἐρῶ τὴν ζημίαν·

[ORESTES The Pythian oracle of Loxias, who declared to me that, if I did this, I would be exempt from blame, but if I avoided it, I will not speak of the punishment. (Brown 2018, 158-9)]

In these lines, along with an effective use of the term *αἰτία* (“blame” or “responsibility”) to which *κακός* is added “to make the meaning ‘blame’ unambiguous, giving the effect of a legal formula”,<sup>59</sup> the new occurrence of *ζημία* (closer to Athenian legal language) explains why Orestes is completely unable to accept “money fines” (i.e. the meaning of *ζημία* emphasised by

See also Dem. 58. 28 τελευτήσαντος αὐτῷ τοῦ ἀδελφοῦ βιαίῳ θανάτῳ, τοιοῦτος ἐγένετο περὶ αὐτὸν οὗτος, ὥστε ζητήσας τοὺς δράσαντας καὶ πυθόμενος οἵτινες ἦσαν, ἀργύριον λαβὼν ἀπηλλάγη (“When his brother died by a *violent death*, Theocrines showed himself so utterly heartless toward him that, when he had made inquiry concerning those who had done the deed, and had learned who they were, he accepted a bribe, and let the matter drop” [i.e. as if he had accepted and not made them pay the “blood-price” by renouncing revenge and bringing the murderers to the *polis*’ justice]; W. Rennie, emphasis mine).

<sup>59</sup> Brown 2018, 442.

ἀποχρήματος) from those responsible for his fathers' murder and why he should now punish them through no other "penalties" (another sense of ζημία coherent both here and in 275) than death.

A definitive confirmation of the semantic ambivalence of ζημία can be found in Aristotle's *Rhetoric* (1372b 10), where he is describing general aspects of human nature and illustrating different reasons for which men commit wrongs (ἀδικήματα). The focus is on men who are aware of their criminal actions and consider their offences as a motive for gain, whereas the resulting punishments (ζημίαι) could only bring blame and dishonour.<sup>60</sup> In this group Aristotle includes those who commit injustice in order to gain "some praise" (εἰς ἔπαινόν τινα) such as "if one avenges one's father or mother" (οἷον εἰ συνέβη ἅμα τιμωρήσασθαι ὑπὲρ πατρός ἢ μητρός). The consequence of such actions is that "punishments [or "penalties"] only involve money, exile, or something similar" (αἱ δὲ ζημίαι εἰς χρήματα ἢ φυγὴν ἢ τοιοῦτόν τι). The presence of ζημία related to familial vengeance and the resulting credit (ἔπαινος) for the avenger are in line with *Choephoroi's* scene and, in general, with Greek social and legal traditions. The ζημίαι mentioned by Aristotle (the loss of money and exile) provided for punishing a man willing and at the same time obliged (by laws and religious beliefs)<sup>61</sup> to take revenge for the death of one of his relatives, either by bringing the culprit to trial or, in pre-legal contexts, by killing him, roughly correspond to the circumstance described in Aeschylus' play.

In conclusion, we can only add that although Orestes' revenge is bound by respect for Apollo's mandate and depends on the fear of mental and bodily illness, with the risk of contamination and alienation from human society (269-98), he nevertheless chooses to act consciously and deliberately in the name of his own legitimate motives (299-304), for which he can be held (legally) responsible. However, at the end of the play, Orestes is left with one last certainty, namely the two punishments (ζημίαι) resulting from family vengeance also mentioned by Aristotle, which involve the loss of money (frequently mentioned in the *Choephoroi*)<sup>62</sup> and exile from the city.<sup>63</sup>

<sup>60</sup> Arist. *Rhet.* 1372b 10 καὶ ὅσοις τὰ μὲν ἀδικήματα λήμματα, αἱ δὲ ζημίαι ὀνειδίη μόνον. See also Harris 2013, 63-5.

<sup>61</sup> Sometimes, in the court, the family could remind the judges that if they did not condemn the offender, the wrath of the spirits of the dead would come down on them (*Antiph.* 3. 3, 11-12; 4. 1, 3-5). See also above, 118.

<sup>62</sup> Cf. *Ch.* 135-6 ἐκ δὲ χρημάτων / φεύγων Ὀρέστης ἐστίν ["Orestes is an exile, parted from his property"], 301 καὶ πρὸς πιέζει χρημάτων ἀχηνία ["And there is pressure also from my lack of possessions". Brown 2018, 101]. Finally, after his acquittal in the trial, Orestes bought back his father's property (*Eum.* 757-8 Ἄργεϊος ἀνήρ αὐτὸς ἔν τε χρήμασιν / οἰκεῖ πατρώοις).

<sup>63</sup> *Ch.* 1038 φεύγων τὸδ' αἷμα κοινόν. ["In exile for this blood of my own family"];



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1043 ἐγὼ δ' ἀλήτης τῆσδε γῆς ἀπόξενος ["I go forth a wanderer, in exile from this land"].

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