Polis and City-State
An Ancient Concept and its Modern Equivalent

Symposium, January 9, 1998

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by MOGENS HERMAN HANSEN

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Abstract

The ancient Greek *polis* was both a nucleated settlement and a political community. *Polis* is traditionally rendered city-state, but for more than a century it has been doubted whether the urban centre of a *polis* was really a "city" and whether the political organisation of a *polis* had any resemblance to a "state" in the modern sense.

The *polis* as an urban centre is the theme of the first three papers published in the *Acts of the Copenhagen Polis Centre* 4 = Hist.Fil.Medd.Dan.Vid.Selsk. 75 (1997); and in my own contribution to the volume I argued that – both as a phenomenon and as a concept – the *polis was* a city in the Weberian (historical) sense of the term.

This volume is devoted to the other problem: was the *polis* a state? An answer to this question presupposes an answer to two other questions: (a) what is a state? and (b) what was a *polis*? I do not intend in this study to treat the origin of the *polis* but to compare the classical *polis* of the 5th and 4th centuries B.C. with the modern state of the 20th century.

Re (a) In contemporary western political thought the state, as an abstraction, has come to be seen as a public power above both ruler and ruled, whereas, in a more concrete sense, the state is a sovereign – and preferably democratic – government which enforces a legal order within a defined territory over a defined population but restricts its field of action to a public sphere while respecting people's right to live as they please in a private sphere often called (civil) society.

Re (b) As for the *polis* I start with Aristotle's definition of the *polis* as a community (*koinonia*) of citizens (*politai*) about their political institutions (*politeia*), and then explore the sources which treat the *polis* (1) as a country composed of town plus hinterland; (2) as a community of citizens; (3) as a system of political institutions; (4) as an abstract power above the citizens; (5) as an *autonomos* political unit ruled by one or more or a majority who are *kyrioi tes poleos*; (6) as a public institution which – especially in democratic *poleis* – restricted its field of action to the public sphere as opposed to a private sphere in which citizens could live as they pleased.

Unlike most recent treatments of the problem, my analysis emphasises similarities as well as differences, and I argue that, in spite of the well known differences, the concept of *polis* is closer to the modern concept of state than to the concept of state in the 17th and 18th centuries, and that to describe the *polis* as a state is not as much of an anachronism as it has become the fashion to think. The convergence of the concepts of *polis* and state during the last two centuries is ascribed, especially, to three factors: (a) the concept of sovereignty has been radically changed between the late 16th and the 20th century; (b) since the late 18th century the concept of citizenship has become a constitutive element of the concept of state; (c) in western political thought the concept of state has become almost identified with the concept of the democratic state.

The chapters about the modern concept of state were debated in a symposium held in the Royal Danish Academy on 9 January 1998. The session was attended by the members of the Polis Centre and nine scholars from other departments of Copenhagen University, each commenting on my manuscript from the point of view of his own discipline. The participants and their disciplines are listed on page 5. My manuscript was revised in the light of the discussion and is here published as the fifth volume of the *Acts of the Copenhagen Polis Centre*.

It remains for me to state my acknowledgments. I owe a great debt of gratitude to the symposiasts for their seminal contributions to the discussion. Next, I would like to thank Prof. Quentin Skinner and Prof. Theodore Buttrey for their appreciative and valuable comments on my typescript. And last, but not least, Dr. Thomas Heine Nielsen and Ms. Pernille Flensted-Jensen provide me every day with a congenial environment in which work is a pleasure.

MOGENS HERMAN HANSEN
The Copenhagen Polis Centre
94 Njalsgade, 2300 Copenhagen S

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Content

List of Participants

Respondents:
Dr. Ole Bernild (sociology)
Prof. Ole Feldbæk (early modern history)
Dr. Thomas Højrup (ethnology)
Dr. Gunner Lind (early modern history)
Prof. Gunnar Sjöblom (political science)
Mr. Ole Spiermann (international law)
Dr. Gert Sørensen (comparative literature)
Prof. Ditlev Tamm (history of law)
Prof. Henrik Zahle (constitutional law)

Members of the Polis Centre:
Ms. Pernille Flensted-Jensen
Dr. Mogens Herman Hansen
Dr. Thomas Heine Nielsen

Conventions

1. References to Greek authors follow the abbreviations of *OCD*. For references to Jacoby's *Fragmente* we print e.g. Ephoros (*FGrHist* 70) fr. 39.
2. References to inscriptions follow the latest standard editions, conventions being the ones of *SEG*.
3. Citations of modern works follow the abbreviations of *American Journal of Archaeology* (1991 issue).
4. The Polis Centre's own publications are referred to as follows:

CPCActs 1 (1993) = M.H. Hansen (ed.), *The Ancient Greek City-State*. Acts of the Copenhagen Polis Centre 1. Det Kongelige Danske Videnskabernes Selskab, Historisk-filosofiske Meddelelser 67 (Copenhagen 1993)

CPCActs 2 (1995) = M.H. Hansen (ed.), *Sources for The Ancient Greek City-State*. Acts of the Copenhagen Polis Centre 2. Det Kongelige Danske Videnskabernes Selskab, Historisk-filosofiske Meddelelser 72 (Copenhagen 1995)

CPCActs 3 (1996) = M.H. Hansen (ed.), *Introduction to an Inventory of Poleis*. Acts of the Copenhagen Polis Centre 3. Det Kongelige Danske Videnskabernes Selskab, Historisk-filosofiske Meddelelser 74 (Copenhagen 1996)

CPCActs 4 (1997) = M.H. Hansen (ed.), *The Polis as an Urban Centre and as a Political Community*. Acts of the Copenhagen Polis Centre 4. Det Kongelige Danske Videnskabernes Selskab, Historisk-filosofiske Meddelelser 75 (Copenhagen 1997)

CPCPapers 1 (1994) = D. Whitehead (ed.), *From Political Architecture to Stephanus Byzantius*. Papers from the Copenhagen Polis Centre 1. *Historia* Einzelschriften 87 (Stuttgart 1994)

CPCPapers 2 (1995) = M.H. Hansen and K. Raaflaub (eds.), *Studies in the Ancient Greek Polis*. Papers from the Copenhagen Polis Centre 2. *Historia* Einzelschriften 95 (Stuttgart 1995)

CPCPapers 3 (1996) = M.H. Hansen and K. Raaflaub (eds.), *More Studies in the Ancient Greek Polis*. Papers from the Copenhagen Polis Centre 3. *Historia* Einzelschriften 108 (Stuttgart 1996)

CPCPapers 4 (1997) = Th. Heine Nielsen (ed.), *Yet More Studies in the Ancient Greek Polis*. Papers from the Copenhagen Polis Centre 4. *Historia* Einzelschriften 117 (Stuttgart 1997)

5. All dates are B.C. unless otherwise stated. Centuries are abbreviated C6, C5, C4 (= 6th, 5th, 4th cent. B.C.)

I. Introduction
1. Desperately Foreign?

It is fashionable among ancient historians to emphasise that the ancient Greeks were radically different from us, that their concepts never match the concepts we use, and that ancient societies bear little or no resemblance to modern western societies.[1] Consequently, all alleged similarities are held to be superficial and deceptive. Athenian *demokratia* was not a democracy,[2] the Athenian citizens' quest for *eleutheria* had nothing to do with individual freedom in our sense;[3] and the *polis* may well have been a nucleated settlement as well as a political community; but in the first sense it was not a city and in the second it was not a state.[4] A bold generalisation of this approach is found in Jean-Pierre Vernant's introduction to *The Greeks*.

"We are dealing with what was uniquely Greek. To shed light upon such singularity means we must from the outset adopt a comparative point of view, and in this confrontation with other cultures, beyond any traits that might be shared, we must place the accent on divergences, separateness, and distances. The Greeks are distant from us, from the ways we act, think, and feel, ways that are so familiar to us that they seem to be natural, to go without saying, but from which we must detach ourselves when we turn towards the Greeks; otherwise we shall find them in our way when we make that turn. Also the Greeks are distant from men of other times that are not antiquity, from civilizations other than that of ancient Greece. ...

Here is an example that may clarify what I mean with apologies for its personal nature. How could we see the moon today through the eyes of an ancient Greek? I was able to do just that as a young man during my first trip to Greece. I was sailing at night, from island to island; lying on deck, I watched the sky above me where the moon was shining, a luminous nocturnal face, casting its pale reflection, immobile or dancing, over the dark back of the sea. ... It is Selene, I told myself, nocturnal, mysterious, and brilliant; it is Selene I see. Many years later, while I was watching the images of the first lunar explorer on my television screen, jumping around heavily in his spacesuit over what looked like the vast empty lot of a desolate suburb, I had an impression of sacrilege as well as a painful sensation that something had ruptured that could

never again be repaired: having witnessed those images, as the whole world had done, my grandson would never again be able to see the moon as I once had, through the eyes of the ancient Greeks. The word "Selene" has become a purely scholarly reference: the moon, as it appears in the sky, no longer answers to that name".[5]

This is a very clear formulation of what today is the prevailing view, but I note that the example contradicts the general statement. In the example the gap in comprehension lies not between the world of the Greeks and that of the twentieth century. It lies between the mid- and the late twentieth century. As a youth Vernant believed – rightly I think – that he could see the moon in the same way as the Greeks saw Selene. It was the Americans' landing on the moon in 1969 which made the difference and obscured Selene for ever. According to Vernant, a possible affinity in perception that had persisted for over two thousand years disappeared only a generation ago.

To illustrate the issue let me produce two other examples, both from the sphere of politics. In this century the concept of democracy has undergone a number of major changes of which the most important is that women obtained political rights in the years after World War One. Democracy in the 1990s is not what it was before 1920. The "rule of the people" is now – at least in ideology – the rule of all adult members of society and not the rule of the adult male citizens only.[6] If we follow Vernant's way of reasoning, the implication is that we cannot any longer have an immediate and straightforward understanding of Woodrow Wilson's slogan "to make the world safe for democracy,"[7] because it was formulated in 1917 before democracy became "the rule of the people" in our sense of the term. The Greeks, on the other hand, had no difficulty in applying the term *demokratia* to a political system in which less than half of the adult population had political rights. Thus, in this particular respect the major divide between the Greeks and us must be placed in the years after 1920.

In the so-called dark centuries, i.e. from ca. 1100 – 800 B.C., the term *polis* must have designated a stronghold with or without a small hill-top settlement.[8] In the classical period the *polis* had become a political community of citizens, living in an urban centre and its hinterland, and united in governing the population of the territory through a number of developed political institutions. Whether such a community was a state in the modern sense of the term is one of the issues addressed in this study, but many of those who deny that the *polis* was a state will probably agree, that, through the creation of the concept of citizenship,

the concept of *polis* in the classical period was closer to the concept of state in the nineteenth and twentieth centuries A.D. than to the concept of *polis* in the tenth and ninth centuries B.C. Again, there is no clearcut dichotomy into an ancient *versus* a modern concept, and in this case a milestone in the development of the concept must be placed somewhere in the early archaic period.

The degree of proximity or remoteness of ancient Greek civilisation changes all the time. Until the 1970s Greek culture was radically different from ours in its attitude to homosexuality.[9] Today we are much closer to the Greek candour about homosexuality, and in a few decades the difference in this respect between us and the Greeks may have disappeared altogether. Conversely, until the 1970s no one took offence at Ischomachos' treatment of his wife in Xenophon's *Oikonomikos*;[10] but today Xenophon's extreme paternalism is felt to be essentially different from how we think of the relation between husband and wife, and our children may be just as disgusted by the way Greek men treated their wives, as our parents were by homosexuality being an acknowledged element of ancient Greek civilisation.

Next, in many cases a difference in culture and civilisation between two contemporary societies may be greater than the difference between an ancient and a modern society. Today the British idea of democracy is far removed from what democracy is in Switzerland, and a Swiss citizen of a canton which has a *Landsgemeinde* may well feel that his understanding of what democracy is really about comes closer to the Athenian model than to the British.[11]

Conversely, the Spartan idea of what was controlled by the *polis* and its institutions was far removed from the Athenians' idea of a private sphere and their notion that citizens ought to be allowed to live as they please. Thus, as noted already by Benjamin Constant, the Athenian ideals are closer to the liberal ideals of the nineteenth century than to the Spartan concept of state and society during the late archaic and classical periods, see *infra* page 98.

Third, a difference between two persons living in the same society, ancient or modern, may be greater than the difference between, for example, a person living in an ancient Greek *polis* and one living in a European nation state. In classical Athens there was a gulf between Perikles' and Plato's concept of good government, and in nineteenth-century Europe there was a gulf between James Mill's and Hegel's concept of the best form of government. The difference between Plato's and Perikles' concept of how to govern a *polis* is in some important respects

bigger than the difference between (a) Plato and Hegel,[12] or (b) between Perikles and James Mill.[13]

These examples show, I believe, that it is much too crude to treat ancient Greece and modern western societies as two solid blocks and to assume *a priori* that the basic opposition is always between classical antiquity and contemporary culture. Both ancient and modern communities have undergone long internal developments and often the major comprehensibility gap opens somewhere in the middle of the development of either ancient or modern society, rather than between ancient and modern society. Furthermore, a difference between two ancient communities or two modern communities may be greater than a difference between an ancient and a modern community.

Another simple but basic rule – often disregarded – is that it is misleading to emphasise what is different whilst brushing aside what is similar, and, in my opinion, the following observations testify to some striking similarities between the ancient *polis* and the modern state.

In most western democracies it is almost an article of faith that freedom of speech constitutes one of the basic differences between a liberal and a totalitarian state: in a democracy all are free to criticise the political system they live under and to praise alternative systems practised in other states. In a totalitarian state criticism of the political system is a punishable offence, and praise of other political systems is mostly taken to be indirect criticism of one's own political system and thus an offence as well.[14] – In the speech *Against Leptines* Demosthenes notes that a basic difference between Spartan oligarchy and Athenian democracy is that in Athens you are free to praise the Spartan constitution and way of life, if you so wish, whereas in Sparta it is prohibited to praise any other constitution than the Spartan.[15] Whether the comparison made by Demosthenes is right or wrong is of no consequence in this context. What matters is that the claim he makes is astonishingly close to the claim made by contemporary champions of liberal democracy.

Modern democracy is often characterised as majority rule with the proviso that the decisions must be made on the basis of political equality, which means that each citizen counts for one, and only one.[16] Ancient Greek *demokratia* is described by Aristotle as majority rule based on the principle that each citizen counts for one (*Pol.* 1317b5-10), and this form of political equality is beautifully captured by Euripides in his description of Athens as an ἰσόψηφος πόλις (*Suppl.* 353).

From Machiavelli and to the present day it has been argued that a statesman's principal duty is with all means at his disposal to protect the

state itself and that, consequently, a government is entitled to resort to measures which would be considered an injustice if done by any individual person. The justification for state action in such cases is that the measure has been necessitated by the defence of public order which must take precedence over ordinary legal rules and moral norms. This principle is traditionally called "reason of state"[17] a translation via French *raison d'état* of Italian *ragione di stato*, a concept invented by the sixteenth-century Italian political philosophers and developed especially by Richelieu.[18] In recent years it has become more common to use the term "the national interest" rather than "reason of state". No matter what it is called, there is no doubt that a strikingly similar principle was advocated in classical Greece, as is attested by Plato in his *Republic* Book 3: "The rulers of the *polis*, if anybody, have a duty to lie to enemies as well as to citizens, if it is for the benefit of the *polis*. But nobody else must act like that." [19]

Today, these and other similarities between ancient and modern political concepts are sometimes explained away and sometimes even passed over in silence, while differences are pointed out and discussed. Yet, a balance has two scales, and if one of them is intentionally left empty the result must be an unbalanced picture of our topic. There are important similarities between ancient and modern societies and they are, in my opinion, as astonishing and interesting as the differences. Whether the similarities are due to the influence of the classical tradition or are essentially unrelated is a different problem which always requires a separate investigation.[20] In this study I shall treat the ancient concept of *polis* compared with the modern concepts of city and state, and I shall do my best to illuminate both the differences and the similarities.

Finally, in comparisons of ancient and modern society – no matter whether the purpose is to point out differences or similarities – we must acknowledge two important distinctions: (a) the distinction between a concept and the corresponding historical phenomenon, and (b) the distinction between ideology and realities. In both cases we must avoid skewed comparisons. Thus, to compare the modern concept of state with the ancient *polis* is illegitimate. Any comparison must be either between the state and the *polis*, or between the concept of state and the concept of *polis*. Similarly it is false to compare modern ideals with ancient realities or the reverse. Again, the comparison must be made either between political ideals or between political realities.

(Re a). An example of what I call a skewed comparison of concept

and phenomenon is Paul Cartledge's comment on the statement "men are the *polis*" made by Nikias at Thuc. 7.77.7: "The polis for the Greeks of Nicias' day, as it had been for the last three centuries or so, was not some such abstraction as our term state may conjure up, but a living, breathing, human entity – a corporate body of citizens".[21] I agree with Cartledge's description both of the modern state and of the Greek *polis* but I object to having a comparison made between a modern abstraction and an ancient historical phenomenon. The modern state is not just an abstraction, and the ancient *polis* was not just a community of citizens. In ancient Greek political thought the *polis* was often seen as an abstraction, explicitly distinguished from the persons who made up the *polis*, see, e.g, Demosthenes' statement that the term *thesmothetes* is a designation not of any person, but of the *polis* as such. Or Lysias' contention that the defendant in a political trial was not just the person in question, but the *polis* as such.[22] Conversely the modern state is not just some abstract public power above both ruler and ruled.[23] It is often identified either with the rulers (the government) or with the ruled (the people) or with the territory inhabited by rulers and ruled. This distinction between a concept and the corresponding historical phenomenon is treated *infra* pages 114-6.

(Re b). One of the ideological foundations of the liberal democratic view of the state is that there must be a sharp divide between state and society, coextensive with a sharp divide between a public and a private sphere, and that the state must not interfere with what goes on in the private sphere. Conversely, it is argued, the ancient *polis* permeated all aspects of society and there was no part of human life which was outside the reach of the *polis*. It is true that all aspects of life in the ancient *polis* were affected – at least to some extent – by laws and decrees passed by the *polis*; but the comparison is skewed because a modern ideal is contrasted with ancient realities, and it is passed over in silence (a) that any aspect of life in a modern democratic society is to some extent regulated by state law, and (b) that an ideal much cherished by the ancient democrats was the distinction between a public sphere and a private sphere in which everybody was free to live as he pleased. Again, we must compare ideals with ideals, and realities with realities. For this distinction see *infra* pages 94-5.

2. The Traditional Rendering of Polis by City-State

In the sense of political community the Greek term *polis* is traditionally rendered by *Stadtstaat* in German, by *city* or *city-state* in English, by *cité* or *cité-Etat* in French and by *città* or *stato città* in Italian.[24] Cité in French has a long history as a translation of the Greek term *polis*: it was used already by Nicole Oresme in his translation of Aristotle's *Politics* from the 1370s,[25] and has been the standard rendering of *polis* since Fustel de Coulanges in 1864 published his *La cité antique*. Similarly, city in English is attested in 1540 as a rendering of *polis* in Aristotle's *Politics*.[26] And città in Italian is found, e.g., in Machiavelli[27] and in the work of the 16th-century jesuit and diplomat Giovanni Botero.[28] All the composite terms, on the other hand, are fairly recent and do not go further back than the nineteenth century: cité-Etat[29] and stato-città[30] appear in historical scholarship published in this century, and are both derived either from the German Stadtstaat or from the English city-state, or from both. The English term city-state was probably coined in 1885 as a translation of the German term Stadtstaat.[31] And Stadtstaat seems to be attested in German for the first time in 1842 as a translation of the Danish term Bystat,[32] a word which was apparently invented by J.N. Madvig in 1840 and used as an equivalent of *civitas* in a description of Rome during the Republic before the outbreak of the Social War in 91 B.C.[33] So, curiously enough, the term city-state (in German: Stadtstaat etc) which today is central in any debate on the nature of the *polis*, seems to have originated from a stray footnote in Madvig's treatise of 1840 where it was used, not as a translation of the Greek *polis*, but in a discussion of the Roman republican constitution.[34] In the first half of the 19th century, when a composite term was used to describe the Roman *res publica* or the Greek *polis* it was rather *Stadtgemeinde*,[35] a term which in the course of the century was superseded by Stadtstaat. Madvig's treatise was essentially a discussion of some ideas advocated by Hegel in *Philosophie der Geschichte* (1837-40), and it is not inconceivable that the change from Stadtgemeinde to Stadtstaat was inspired by Hegel's influential views on political philosophy.

The composite terms used today are all alike in combining a word signifying an urban centre (città, cité, city, Stadt, by) with a word signifying a form of political community (stato, état, state, Staat, stat), and it has become common, especially among scholars writing in English or German, to criticise the traditional rendering of *polis* by one of the com-

posite terms. It is argued that city-state or Stadtstaat is a misleading translation,[36] first because there were *poleis* that did not have an urban centre, and because the urban centres of most *poleis* did not deserve to be called cities;[37] and second because the *polis* as a political community was not a state in the modern sense, but either a "stateless society" or a fusion of state and society.[38]

I have argued before that the current critique of the rendering city-state is based on an over-simplified interpretation of both the ancient concept of *polis* and the modern concept of state.[39] Roughly speaking, the word *polis* had four different senses: (a) "stronghold" or "citadel", (b) "nucleated settlement", (c) "country" or "territory", and (d) "political community".[40] In my listing of the four senses I have been careful to avoid the terms "city" and "state", so as not to prejudice the question: Is it defensible and advisable to use the terms city or town to render *polis* in sense (b), and the term state to render *polis* in sense (d)?

II. The Meanings of the Word *Polis*

Initially, however, an even more cautious approach is advisable: the four different meanings of the word *polis* have been established with reference to the modern terms we use, *viz.*, stronghold, settlement, country, community etc. This is what in linguistics is called a *lexical contrastive analysis*.[41] It is an indispensable method for modern historians who want to study ancient societies. But it must be supplemented with a question which historians all too often forget to ask: Were the ancient Greeks themselves conscious of a plurality of meanings of the term? Or is the attestation of four different meanings of the word *polis* just a result of the fact that we analyse an ancient concept through a modern language? It is an aim of the Polis Centre to study what the Greeks themselves thought a *polis* was. Consequently we must also ask whether the Greeks believed that the word *polis* always had one and the same sense or whether they were aware of using it in a number of different meanings.

1. *Pollachos Polis Legetai*

Of the many thousand occurrences of the word *polis* there are in fact a few in which an author explicitly states that *polis* was a word with several meanings. As might be expected, such passages constitute only a tiny fraction of our attestations of the term. Nevertheless, they testify to the Greeks' recognition that the word *polis* was ambiguous in meaning.

1. The first passage is, characteristically, from Aristotle's *Politics*. In Book 3 Chapter 3 the problem of whether responsibility for an action rests with the *polis* or with its rulers is linked with the problem of the identity of the *polis*: ἔοικε δ' οἰκεῖος ὁ λόγος εἶναι τῆς ἀπορίας ταύτης πως, πότε χρὴ λέγειν τὴν πόλιν εἶναι τὴν αὐτὴν ἢ μὴ τὴν αὐτὴν ἀλλ' ἑτέραν. ἡ μὲν οὖν ἐπιπολαιοτάτη τῆς ἀπορίας ζήτησις περὶ τὸν τόπον καὶ τοὺς ἀνθρώπους ἐστίν. ἐνδέχεται γὰρ διαζευχθῆναι τὸν τόπον καὶ τοὺς ἀνθρώπους, καὶ τοὺς μὲν ἕτερον τοὺς δ' ἕτερον οἰκῆσαι τόπον. ταύτην μὲν οὖν πραοτέραν θετέον τὴν ἀπορίαν (πολλαχῶς γὰρ τῆς πόλεως λεγομένης, ἐστί πως εὐμάρεια

τῆς τοιαύτης ζητήσεως· ὁμοίως δὲ καὶ τῶν τὸν αὐτὸν κατοικούντων ἀνθρώπων πότε δεῖ νομίζειν μίαν εἶναι τὴν πόλιν; οὐ γὰρ δὴ τοῖς τείχεσιν· εἴη γὰρ ἂν Πελοποννήσῳ περιβαλεῖν ἓν τεῖχος.[1]

In this context the important point is Aristotle's statement that *polis* is a word used in many different senses of which two are specified in the passage: a topographical sense and a personal one. In the topographical sense a *polis* can be split up, or move, e.g. by a *dioikismos* or a *metoikesis*, but still persist in the personal sense, i.e. as a community of citizens.[42] Conversely, a population enclosed by a circuit of walls is not necessarily a *polis* (in the personal sense). Aristotle envisages the theoretical possibility of having all of the Peloponnese enclosed by a wall, but the reference to walls seems to indicate that the sense of nucleated settlement is here explicitly differentiated from the sense of community.[43]

2. The next source is an entry in the Platonic Definitions:[44] πόλις οἴκησις πλήθους ἀνθρώπων κοινοῖς δόγμασιν χρωμένων· πλῆθος ἀνθρώπων ὑπὸ νόμον τὸν αὐτὸν ὄντων.[2] Again, a topographical sense is distinguished from a personal one: the *polis* is an *oikesis*, i.e. a settlement, but on the other hand the *polis* is also a *plethos anthropon*, i.e. a community of persons living under the same laws. It is worth noting that even as an *oikesis* the personal aspect of the *polis* is stressed: not just any settlement is a *polis* but only one which combines a political structure with the settlement pattern.

3. The third source stems from the early stoic philosopher Kleanthes (ca. 300 B.C.) and is transmitted in Stobaios' *Anthology*: ἱκανῶς δὲ καὶ Κλεάνθης περὶ τὸ σπουδαῖον εἶναι τὴν πόλιν λόγον ἠρώτησε

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1 Arist. *Pol.* 1276a17-27: "This topic seems to be part of yet another question: how are we to tell whether a *polis* is still the same *polis* or a different one? We might try to investigate this question using territory (*topos*) and inhabitants (*anthropoi*) as criteria; but this would not carry us very far, since it is quite possible to divide both territory and population into two, putting some people in one part and some into the other. That is not a very serious difficulty: it arises from our use of the word *polis* in several different senses. Such a puzzle is therefore resolved easily enough. Another question is this: when a population lives in the same place, what is the criterion for regarding the *polis* as a unity? It cannot be the walls, for it would be possible to put one wall around the whole of the Peloponnese" (translated by Sinclair and Saunders, with some minor changes).

2 Plat. *Def.* 415C: "*Polis* is a settlement (*oikesis*) of a number of persons (*anthropoi*) living under common decisions (*koina dogmata*). It is a number of persons (*anthropoi*) under the same law (*nomos*)".

τοιοῦτον· πόλις μὲν <εἰ> ἔστιν οἰκητήριον κατασκεύασμα,[1] εἰς ὃ καταφεύγοντας ἔστι δίκην δοῦναι καὶ λαβεῖν, οὐκ ἀστεῖον[2] δὴ πόλις ἐστίν; ἀλλὰ μὲν τοιοῦτόν ἐστι ἡ πόλις οἰκητήριον· ἀστεῖον ἄρ' ἔστιν ἡ πόλις. τριχῶς δὲ λεγομένης τῆς πόλεως, τῆς τε κατὰ τὸ οἰκητήριον καὶ τῆς κατὰ τὸ σύστημα τῶν ἀνθρώπων καὶ τρίτον τῆς κατ' ἀμφότερα τούτων, κατὰ δύο σημαινόμενα λέγεσθαι τὴν πόλιν ἀστείαν, κατά τε τὸ σύστημα τῶν ἀνθρώπων καὶ κατὰ τὸ συναμφότερον διὰ <τὴν εἰς> τοὺς ἐνοικοῦντας ἀναφοράν.[3] A similar Stoic definition of the *polis* is attributed to Chrysippos: ... πόλις λέγεται διχῶς τό τε οἰκητήριον καὶ τὸ ἐκ τῶν ἐνοικούντων σὺν τοῖς πολίταις σύστημα.[4]

The opposition between a settlement (τὸ οἰκητήριον) and a community (τὸ σύστημα τῶν ἀνθρώπων) reflects once again the Greeks' own awareness that *polis* is a word used both in a local sense (in which case it signifies a settlement) and in a personal sense (in which case it signifies a community). In the quote from Kleanthes a combination of the two senses is recorded as a third meaning of the word. That is perhaps not quite satisfactory from a theoretical point of view, but anyone who has read the sources must find it justified: both in literature and in inscriptions there are innumerable attestations of the word *polis* where it is impossible to decide whether the author has the sense of (nucleated) settlement or the sense of community in mind, and the correct answer is probably that the word is used simultaneously in both senses.[4][5]

4. As my last example I will quote an entry from the lexicographical

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1 Stob. *Flor.* 2.7, page 103 (W). The text is undoubtedly corrupt. The phrase κατασκεύασμα ... λαβεῖν is probably a gloss, and the context requires that the first clause is conditional. In *The Stoic Idea of the City* (Cambridge 1991) 131 M. Schofield suggests: πόλις εἰ ἔννομόν ἐστιν οἰκητήριον, οὐκ ἀστεῖον δὴ πόλις ἐστίν;

2 Though there may be some kind of pun, ἀστεῖος does not mean "urban", but "urbane" in the sense of "refined", see Schofield (1991) 130.

3 Stob. *Flor.* 2.7, page 103 (W): "Concerning the question whether the *polis* is morally good (*spoudaios*) Kleanthes has the following convincing argument: if the *polis* is a habitation where people seek refuge for the purpose of administration of justice, then the *polis* is surely refined (*asteios*). But a *polis* is such a habitation. So a *polis* is refined. Since *polis* is used in three different senses (about the settlement, about the community of people, and, thirdly, in both senses combined), the *polis* must be called refined (*asteios*) in two of the senses, i.e. in the sense of community of people and in the combined since, because of the reference to the inhabitants".

4 Chrysippos (fr. 528) in *Stoicorum Veterum Fragmenta* II 169.25-6: "*polis* is used in two different meanings: both about a settlement (*oiketerion*) and about a community of inhabitants (*enoikountes*) together with the citizens (*politai*)".

literature. It is late but like many other lexicographical notes it is based on a wide reading of the classical literature and it corroborates the distinction pointed out by the other three sources: πόλις. σημαίνει δύο· τὰ κτίσματα, ὡς τὸ "ἀλλ' ἄγε δὴ τὸν δύστηνον ἄγ' εἰς πόλιν" [Hom. *Od.* 17.10, quoted from memory], σημαίνει καὶ τὸ πλῆθος καὶ τὸν λαὸν, ὡς τὸ "Τρώων δὲ πόλις ἐπὶ πᾶσα βέβηκε θάρσυνος" [Hom. *Il.* 16.69-70].[1]

Taking the sources together I note that they oppose a local and a personal sense of the word *polis*. The two principal meanings, however, are not "town" and "state", but rather "settlement" and "community" (or "multitude of human beings"). The words in which the local sense of *polis* is described are τόπος, οἴκησις, οἰκητήριον and κτίσμα, and they are so broad in meaning that they cover habitation both on an akropolis,[46] in a town,[47] and in the countryside.[48] Aristotle's discussion of walls, however, and Kleanthes' mention of people who take refuge in the *polis* (καταφεύγοντας) shows that what they have in mind must be a *nucleated* settlement.

Again, the term used to describe the *polis* as a community rather than a settlement is not *politai* but *anthropoi*, and the definition ascribed to Chrysippos insists that the *polis* comprises all inhabitants (οἱ ἐνοικοῦντες) and not only the citizens (οἱ πολῖται). At first glance, the reference may be to a purely urban community, but that *polis* must designate a *political* community is indicated by the reference to men living under the same laws and to the administration of justice in the community.

2. Synonyms for *Polis*

If we want to go further than the opposition between the two basic senses of "settlement" and "community" and investigate the various connotations of the word *polis* recognised by the Greeks we must make a new approach and study the words used synonymously with *polis*.

1. In the sense of stronghold and/or small hill-top settlement *polis* can be used synonymously with *akropolis*, see e.g. Thuc. 2.15.6:

1 *Etym. Magn.* 680.1-4: *polis* has two meanings: the buildings, as in "Lead this unfortunate man to the *polis*" (Hom. *Od.* 17.10, quoted from memory), but it signifies also the multitude and the people, as in "The whole *polis* of Trojans has come forth against them fearlessly". (Hom. *Il.* 16.69-70).

καλεῖται δὲ διὰ τὴν παλαιὰν ταύτῃ κατοίκησιν καὶ ἡ ἀκρόπολις μέχρι τοῦδε ἔτι ὑπ' Ἀθηναίων πόλις.[1]

2a. In the sense of nucleated settlement *polis* is used synonymously with *asty* or *polisma*, see e.g. Dem. 18.215-6:[49] οὕτως οἰκείως ὑμᾶς ἐδέχοντο (sc. οἱ Θηβαῖοι) ὥστ' ἔξω τῶν ὁπλιτῶν καὶ τῶν ἱππέων ὄντων εἰς τὰς οἰκίας καὶ τὸ ἄστυ δέχεσθαι τὴν στρατιὰν ἐπὶ παῖδας καὶ γυναῖκας καὶ τὰ τιμιώτατα ... οὔτε γὰρ εἰς τὴν πόλιν εἰσελθόντος τοῦ στρατοπέδου οὐδεὶς οὐδὲν οὐδ' ἀδίκως ὑμῖν ἐνεκάλεσεν,[2] or Thuc. 1.107.2:[50] καὶ Φωκέων στρατευσάντων ἐς Δωριᾶς τὴν Λακεδαιμονίων μητρόπολιν, Βοιὸν καὶ Κυτίνιον καὶ Ἐρινεόν, καὶ ἑλόντων ἓν τῶν πολισμάτων τούτων ... οἱ Λακεδαιμόνιοι ..., τοὺς Φωκέας ὁμολογίᾳ ἀναγκάσαντες ἀποδοῦναι τὴν πόλιν ἀπεχώρουν πάλιν.[3]

2b. In the sense of nucleated settlement *polis* is occasionally used synonymously with *emporion* or *teichos*, and exceptionally with *kome*. For *polis* = *emporion*, see Xen. *Anab.* 1.4.6: ἐντεῦθεν ἐξελαύνει διὰ Συρίας ... εἰς Μυρίανδον, πόλιν οἰκουμένην ὑπὸ Φοινίκων ἐπὶ τῇ θαλάσσῃ. ἐμπόριον δ' ἦν τὸ χωρίον καὶ ὥρμουν αὐτόθι ὁλκάδες πολλαί.[4] For *polis* = *teichos*, see Hdt. 7.108.2: παραμείβετο δὲ πορευόμενος ἐκ Δορίσκου πρῶτα μὲν τὰ Σαμοθρηίκια τείχεα, τῶν ἐσχάτη πεπόλισται πρὸς ἑσπέρης πόλις τῇ οὔνομά ἐστι Μεσαμβρίη.[5] For a rare attestation of *polis* used synonymously with *kome*, see *SEG* 37 340.3-9:[51] τὸς [Ἐ]λ[ισ]ϝάσιος Μαντινέας ἦναι ϝῖσος καὶ ὑμοίος, κ[ο]ινάζοντα[ς πάν]των ὅσων καὶ οἱ Μαντινῆς, φέρ[ο]ντας τὰν χώραν καὶ τὰν π[όλιν] ἰμ Μαντιν[έ]αν ἰν τὸς νόμος τὸς Μαντινέων,

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1 Thuc. 2.15.6: "and because of the ancient habitation on the akropolis, it is even to this day called *polis* by the Athenians".

2 Dem. 18.215-6: "The Theban welcome was such that, though their heavy infantry and their cavalry were stationed outside, the Athenian army was received into their houses and into their *asty*, and admitted among women and children and their most treasured possessions ... When our army entered the *polis* no complaint, however unjustified, was made of its members ...".

3 Thuc. 1.107.2: "When the Phokians had started a campaign against the Dorians, the *metropolis* of the Lakedaimonians, i.e. Boios, Kytinion and Erineos, and when they had captured one of these *polismata* ... the Lakedaimonians compelled the Phokians to come to terms and to give back the *polis* which they had taken ... " (translated by Rex Warner).

4 Xen. *Anab.* 1.4.6: "Thence Kyros marched through Syria ... to Myriandros, a *polis* on the sea-coast, inhabited by Phoenicians. It was an *emporion*, and many merchant ships were lying at anchor there" (translated by Brownson).

5 Hdt. 7.108.1: "On his march from Doriskos he first passed the Samothrakian forts (*teichea*), of which the westernmost is a *polis* by the name of Mesambria".

μινόνσας τᾶς [πό]λιος τῶν Ἐλισϝασίων ὥσπερ ἔχε[ι] ἰν πάντα χρόνον, κώμα[ν] ἔασαν τὸς Ἐλισϝάσιος τῶν Μαντινέων – θεαρὸν ἦναι ἐξ Ἐλισό[ν]τι κατάπερ ἐς ταῖς ἄλλαις πόλισι (400-350 B.C.).[1]

*3. In the sense of territory or country *polis* is used synonymously with *ge* or *chora*. For the sense of territory, see Din. 1.77:[52] δεῖ ... τὸν τῆς Ἑλλάδος ἀλειτήριον ἀποκτείναντας ἐξόριστον ἐκ τῆς πόλεως ποιῆσαι compared with Lycurg. 1.89: μονώτατος <δ'> ἂν προσηκόντως ἐξορισθείη ἐκ τῆς χώρας.[2] Thuc. 2.72.3: ὑμεῖς δὲ ... γῆς ὅρους ἀποδείξατε compared with *I. Prusias ad Hypium* 135:[53] ὅρος πόλε(ως).[3] For the sense of country as a geographical rather than a political concept, see Poll. 9.27: τοῖς γὰρ ποιηταῖς καὶ τὰς χώρας λέγουσι πόλεις οὐ προσεκτέον ὡς παρ' Εὐριπίδῃ ἐν Τημενίδαις ἅπασα Πελοπόννησος εὐτυχεῖ πόλις.[4]

4. In the sense of community *polis* is often used synonymously with *anthropoi* or *andres* or *politai* about the population of a *polis*. For *anthropoi* comprising all the inhabitants of a *polis*, see Plat. *Def.* 415C: πόλις ... πλῆθος ἀνθρώπων ὑπὸ νόμον τὸν αὐτὸν ὄντων.[54] For *andres* or *politai* denoting the adult male citizens only, see Thuc. 7.77.7:[55] ἄνδρες γὰρ πόλις, καὶ οὐ τείχη οὐδὲ νῆες ἀνδρῶν κεναί.[5] *IG* IV 839 = *Syll.*[3] 359.3-5: ἔδοξε τᾶι πόλι τᾶι Καλαυρεατᾶν (C4l) compared with *IG* IV 841.12: ἔδοξε τοῖς πολί[ταις, sc. of Kalauria (C3);[6] Arist. *Pol.* 1274b41: ἡ γὰρ πόλις πολιτῶν τι πλῆθός ἐστιν.[7]

Two frequent variants of this usage are (a) *polis* used synonymously

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1 *SEG* 37 340.3-9: "The Heliswasians are to be Mantineans, with the same and equal rights <as the Mantineans>, participating in all that the Mantineans do, incorporating their territory and *polis* into Mantinea <and> into the laws of the Mantineans, while their *polis* remains as it is, for all time, being themselves a *kome* of the Mantineans. There is to be a *thearos* from Helisson, in the way there is from the other *poleis*" (translated by Thomas Heine Nielsen).

2 Din. 1.77: "you ought to kill this arch-criminal of Greece and have his body cast over the borders of the *polis*". Lycurg. 1.89: "he of all men deserves to be cast out of the *chora*".

3 Thuc. 2.72.3: "You must show us the borders of your territory". *I. Prusias ad Hypium* 135: "border of the *polis*".

4 Poll. 9.27: We must not pay attention to the poets who use the word *polis* even about countries (*chorai*), as for example Euripides in the *Temenidai*: "all of Peloponnesos is a prosperous *polis*". [χώρας a conjecture by Kühn. The MSS. have κώμας]. See *infra* page 127.

5 Thuc. 7.77.7: "a *polis* consists of men, not of walls or empty ships".

6 *IG* IV 839 = *Syll.*[3] 359.3-6: "it was decided by the *polis* of the Kalaurians"; *IG* IV 841.12: "it was decided by the citizens".

7 Arist. *Pol.* 1274b41: "The *polis* is a multitude of citizens".

with *demos* in the sense of people; and (b) *polis* used synonymously with a city-ethnic in the plural, denoting the citizen body of a *polis*. (a) is attested in some third-century citizenship decrees from Karthaia: *IG* XII.5 534.2-5: ἐπειδὴ Ἡγησικλῆς Ἀγαθοφάνου Κύθνιος ... εὔνους ὢν [δ]ι[ετέ]λ[ε]ι τῶι δήμωι τῶι Καρθαιέων ... compared with *IG* XII.5 540.2-4: ἐπειδὴ Λύκων Πυθέα Βυζάντιος εὔνους ὢν τυγχάνει τῆ[ι] πόλει τῆι Καρθαιέων.[1] (b) is attested in the Delphic accounts of gifts for the rebuilding of the temple of Apollon, in which τάδε πόλεις καὶ ἰδιῶται ἐπάρ[ξαν]το is followed by a list of city-ethnics of which the plural forms denote political communities and the singular forms individuals (*CID* II 4, 361/0).[56]

5. In the sense of community *polis* often denotes the governing body of the *polis* in question, especially the popular assembly, and is used synonymously with e.g. *ekklesia* or *demos* or *halia* vel sim., see *IPArk.* 5.22-4: τὰν πόλιν βωλεύσασθαι, ὅτι δ' ἂν βωλεύσητοι ἁ πόλις, κύριον ἔστω (Tegea, 324/3);[2] or *SEG* 43 310.1-4:[57] Ἀπολλοφάτου Διοδοτείου Σκιαθίου ἔδουκε ἁ πόλις Σκοτοεσσαίουν πολιτείαν ... (C4-C3),[3] or *IG* IV^2 615.1-2: ἐστεφάνωσε ἁ πόλις ἁ τῶν Ἐπιδαυρίων Κλεόμβροτομ ... (C4), compared with *IG* IV^2 49.2-3: ἔδοξε βουλᾶι καὶ δάμωι τῶν Ἐπιδαυρίων... (C4l).[4] When *polis* denotes the supreme body of government in an oligarchy, the reference is, e.g., to a *gerousia*, see *SEG* 27 631.1: ἔϝαδε Δαταλεῦσι καὶ ἐσπένσαμες πόλις Σπενσιθίωι, ἀπὸ πυλῶν πέντε ἀπ' ἐκάστας .... (Lyttos, ca. 500 B.C.)[58]

6a. From *polis* used synonymously with a body of government there is only a hair's breadth to the more abstract use of *polis* as a designation of the political community as such, see *IG* XII 5 594 = *Syll.*^{3} 172.1-3: ἐὰν δέ τις [τῶγ Κείων φε]ύγηι ἐς Ἰστίαιαν ἢ τὴν Ἰστι[αιέων χώραν, μὴ δε]κέσθω ἡ πόλις (363/2), or: *Syll.*^{3} 278.5-7: Ἀντιγόνωι ... προθύμωι ἐόντ[ι εἰ]ς τὴμ πόλιν τὴμ Πριηνέων ... (334/3 B.C.), or: *Syll.*^{3} 279.14-5, 25: ...ἐκτίνεν τὴν τιμὴν τὸν ἰδιώτην τῆι πόλει (334/3), or: *I. Lokris* 2.6-7: ἐχρήσατο ἁ πόλις πὰρ τῶ θεῶ τὸν πρῶτον κατάβο-

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1 *IG* XII.5 534.2-5: "since Hegekleides son of Agathophanes of Kythnos has been and is loyal to the Kartheian *demos*"; *IG* XII.5 540.2-4: "Since Lykon, son of Pytheas of Byzantion is loyal to the Kartheian *polis*".

2 *IPArk* 5.22-4: let the *polis* decide, and what it decides shall be in force. Cf. lines 3: κατὺ τὰ ἐ[πανωρ]θώσατυ ἁ πόλις, and 58: τοῖς ἔδοξε τᾶι πόλι.

3 *SEG* 43 310.1-4: "the *polis* of the Skotoussans bestowed citizenship on Apollophates son of Diodoteios from Skiathos".

4 *IG* IV^2 615.1-2: "the *polis* of the Epidaurians crowned Kleombrotos"; *IG* IV^2 49.2-6: "passed by the *boule* and the *demos* of the Epidaurians".

λον δόγματι βωλᾶς καὶ δάμω (C5).[1] In this more abstract sense of the term, Aristotle describes the *polis* as a κοινωνία πολιτῶν πολιτείας (*Pol.* 1276b1) or a κοινωνία πολιτική (*Pol.* 1252a7), see the following section.

6b. In the sense of community *polis* is used synonymously with the general term for community or society, *viz.*, *koinonia*,[59] see the first lines of Aristotle's *Politics*: ἐπειδὴ πᾶσαν πόλιν ὁρῶμεν κοινωνίαν τινὰ οὖσαν καὶ πᾶσαν κοινωνίαν ἀγαθοῦ τινος ἕνεκεν συνεστηκυῖαν ... δῆλον ὡς πᾶσαι μὲν ἀγαθοῦ τινος στοχάζονται, μάλιστα δὲ καὶ τοῦ κυριωτάτου πάντων ἡ πασῶν κυριωτάτη ... αὕτη δ' ἐστιν ἡ καλουμένη πόλις καὶ ἡ κοινωνία ἡ πολιτική (1252a1-7).[2] This usage is best attested in Aristotle and seems, in any case, to be restricted to philosophical texts, see also Pl. *Resp.* 371B: τὶ δὲ δή; ἐν αὐτῇ τῇ πόλει πῶς ἀλλήλοις μεταδώσουσιν ὧν ἂν ἕκαστοι ἐργάζωνται; ὧν δὴ ἕνεκα καὶ κοινωνίαν ποιησάμενοι πόλιν ᾠκίσαμεν,[3] or the stoic idea of a divine *polis* reflected in Dio Chrys. 36.23: μίαν γὰρ δὴ ταύτην καθαρῶς εὐδαίμονα πολιτείαν εἴτε καὶ πόλιν χρὴ καλεῖν, τὴν θεῶν πρὸς ἀλλήλους κοινωνίαν, ...[4]

6c. In the sense of one's country or fatherland *polis* is often used synonymously with *patris*, see Din. 1.18: τὴν Θηβαίων πόλιν περιεῖδεν ἀνάστατον γενόμενην compared with Ant. 5.79: ἐπεῖδον δὲ τὴν ἑαυτῶν πατρίδα ἀνάστατον γενομένην. Din. 3.14: τοὺς προδότας τῆς πόλεως γεγενημένους compared with Aeschin. 3.252: προδότης τῆς πατρίδος.[5]

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1 *IG* XII 5 594 = *Syll.*[3] 172.1-3: "If any [of the Keians] seeks refuge in Histiaia or the *chora* of the Histiaians, let the *polis* reject him"; *Syll.*[3] 278.5-7: "Antigonos who is well disposed towards the *polis* of the Prienians"; *Syll.*[3] 279.14-5, 25: "the person shall pay the penalty to the *polis*"; *I. Lokris* 2.6-7: "The *polis* borrowed the first instalment from the God in accordance with the decision of the *boule* and the *demos*".

2 Arist. *Pol.* 1252a1-7: "Observation tells us that every *polis* is a *koinonia*, and that every *koinonia* is formed with a view to some good purpose. ... Clearly then, as all *koinoniai* aim at some good, that *koinonia* which is the most sovereign among them all and embraces all others will aim highest, i.e. at the most sovereign of all goods. This is the *koinonia* which we call *polis*, the *koinonia* which is political (*politike*)" (translated by Sinclair and Saunders).

3 Pl. *Resp.* 371B: "Again, in the *polis* itself how are the various sets of producers to exchange their products? That was our object, you will remember, in forming a *koinonia* and so laying the foundation of our *polis*" (tranlated by Cornford).

4 Dio Chrys. 36.23: "This is the only constitution or indeed city one should call purely happy: the community of gods with one another". (Translated by M. Schofield).

5 Din. 1.18: "He (Demosthenes) ignored the *polis* of the Thebans being destroyed." →

7. In the sense of community *polis* is, exceptionally, used synonymously with *ethnos* about a people inhabiting not just a town with its hinterland but a whole region or a part of a region, see *SEG* 15 397:[60] ἀγαθὰ τύχα· – αἰτεῖται ἁ πόλις ἁ τῶν Χαόνων τὸν Δία τὸν Νᾶον καὶ τὰν Διώναν ἀνελεῖν εἰ λῶιον καὶ ἄμεινον καὶ συμφορώτερόν ἐστι τὸν ναὸν τὸν τᾶς Ἀθάνας τᾶς Πολιάδος ἀγχωρίξαντας ποεῖν (4th cent. B.C.)[1] compared with Theopompos (*FGrHist* 115) fr. 382: τῶν μὲν οὖν Ἠπειρωτῶν ἔθνη φησὶν εἶναι Θεοπόμπος τετταρεσκαίδεκα. Τούτων δ' ἐνδοξότατα Χάονες καὶ Μολοττοί ..., cf. Ps.-Skylax 28: οἰκοῦσι δὲ κατὰ κώμας οἱ Χάονες.[2]

3. Synonyms for Polis Distinguished from Polis

The investigation of the synonyms for *polis* can be taken one step further by investigating whether, in other contexts, the synonyms listed above are *distinguished* from *polis* or sometimes even *opposed* to *polis*.

Re 1, *akropolis*. In the sense of nucleated settlement *polis* is normally distinguished from the *akropolis*, which is the citadel lying inside the *polis* and sometimes protected by a separate defence circuit, see e.g. Hyp. 6.17:[61] ἐώρων γὰ[ρ (the Athenian citizen army) τὴν μὲν π]όλιν τῶν Θηβαίων οἰκτ[ρῶς ἠφα]νισμένην ἐξ ἀνθρώπων, [τὴν δὲ ἀ]κρόπολιν αὐτῆς φρουρου[μένην] ὑπὸ τῶν Μακεδόνων ...[3]

Re 2a, *asty* and *polisma*. To the best of my knowledge there is no clear example of *polis* in the sense of a nucleated centre being distinguished from or opposed to either *asty* or *polisma*. *Polisma* seems almost always to be used synonymously with *polis* (in the sense of nucleated settlement);[62] and whenever a distinction is made between *polis*

Ant. 5.79: "They (the Mytilenaians) saw their own *patris* being destroyed." Din. 3.14: "those who have been traitors to the *polis*." Aeschin. 3.252: "A traitor to the *patris*."

1 *SEG* 15 397: "The *polis* of the Chaonians asks Zeus Naos and Dione to state whether it is more profitable and better and more advantageous on their return to build a sanctuary for Athena Polias".

2 Theopompos (*FGrHist* 115) fr. 382: "Theopompos says that there are fourteen *ethne* of Epirotans; the most prominent are the Chaonians and the Molossians". Ps.-Skylax 28: "The Chaonians are settled in *komai*".

3 Hyp. 6.17: "They saw that the *polis* of the Thebans had been tragically annihilated from the face of the earth, that its *akropolis* was garrisoned by the Macedonians ....". (translated by Burtt).

and *asty*, it is *polis* in the sense of either country or community which is distinguished from *asty*, see Lycurg. 1.18:[63] ἀφικόμενος εἰς Ῥόδον ... ἀπήγγειλεν (Leokrates) ὡς τὸ μὲν ἄστυ τῆς πόλεως (country) ἑαλωκὸς καταλίποι, τὸν δὲ Πειραιέα πολιορκούμενον ...[1] Thuc. 6.44.2: παρεκομίζοντο τὴν Ἰταλίαν (The Athenian navy), τῶν μὲν πόλεων (political communities) οὐ δεχομένων αὐτους ἀγορᾷ οὐδὲ ἄστει, ὕδατι δὲ καὶ ὅρμῳ, ...[2] This distinction between *asty* and *polis* is well described by Steph. Byz. *s.v.* ἄστυ, ἡ κοινῶς πόλις. διαφέρει δὲ, ὅτι τὸ μὲν κτίσμα δηλοῖ ἡ δὲ πόλις καὶ τοὺς πολίτας (139.12-3).[3]

Re 2b *emporion, teichos* and *kome*. Almost all attested *emporia* of the classical period were, in fact, *poleis* which possessed an *emporion*, but if this *emporion* was a prominent feature of the settlement it was common usage to say that the settlement *was* an *emporion* rather than to say that it *had* an *emporion*.[64] Similarly, some *poleis*, especially dependent *poleis*, were essentially garrison towns and in such cases, too, it is only to be expected that the settlement was classified sometimes as a *teichos*, and sometimes as a *polis*.[65]

Kome, however, is different: like village and town in contemporary society *kome* and *polis* are almost always mutually exclusive site-classifications, see Pl. *Resp.* 475D: οἵ τε φιλήκοοι ... περιθέουσι τοῖς Διονυσίοις οὔτε τῶν κατὰ πόλεις οὔτε τῶν κατὰ κώμας ἀπολειπόμενοι.[4] The overlap between the two terms seems to occur principally when *kome* is used in a political sense about a subdivision of a larger *polis*, as in the case of Helisson, which remained a *polis* in the urban sense and, furthermore, acquired the right to provide a chief magistrate, like the other *poleis*, i.e. the other *poleis* dominated by Mantinea.

Re 3, *chora* and *ge*.[66] The two pairs of words: *polis/chora*, and *polis/ge* are essentially two pairs of antonyms, just like city/country in contemporary society, see *SEG* 37 340.3-9: τὸς [Ἐ]λ[ισ]ϝάσιος Μαντινέας ἦναι ... φέρ[ο]ντας τὰν χώραν καὶ τὰν π[όλιν] ἰμ Μαντιν[έ]αν

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1 Lycurg. 1.18: "On his arrival in Rhodes ... Leokrates reported that, when he left, the *asty* (urban centre) of the *polis* (territory) had been conquered and that the Piraeus was besieged".

2 Thuc. 6.44.2: "they then sailed down the Italian coast, finding that the *poleis* would not provide them with a market or even allow them inside the *asty*, but would only give them water and liberty to anchor" (translated by Warner). See also Hdt. 5.29.2.

3 Steph. Byz. 139.12-3: "*asty* is usually called *polis*. The difference is that *polis* signifies both the settlement and the citizens".

4 Pl. *Resp.* 475D: " ... the enthusiastic listeners who run around in order to attend all the Dionysiac festivals, missing neither those that take place in *poleis* nor those in *komai*".

ἐν τὸς νόμος τὸς Μαντινέων (Mantinea, 400-350 B.C.), and *SEG* 9 72.4-5: [αἴ] κα ἐπὶ τὰγ γᾶν ἢ ἐπὶ τὰμ πόλιν ἐπείηι νόσο[ς ἢ λιμὸ]ς ἢ θάνατος ..., (Kyrene, late 4th century).[1] However, by a common kind of participatory opposition, which linguists sometimes call semantic marking,[67] both *polis* and *chora* are attested as the generic term for the totality of town (called *polis*) and hinterland (called *chora* or *ge*). See Arist. *Pol.* 1326b26 & 27a3-5: παραπλησίως δὲ καὶ τὰ περὶ τῆς χώρας (country) ἔχει ... τῆς δὲ πόλεως (town) τὴν θέσιν εἰ χρὴ ποιεῖν κατ' εὐχήν, πρός τε τὴν θάλατταν προσήκει κεῖσθαι καλῶς πρός τε τὴν χώραν (hinterland).[2] Aen. Tact. 15.9-10: οἱ δὲ Τριβαλλοί ... ἔκειρον τὴν χώραν τὴν 'Αβδηριτῶν (hinterland) οὐ πόρρω τῆς πόλεως (town), οἱ δὲ 'Αβδηρῖται .... ἐπεβοήθουν πανσυδίῃ πάσῃ ῥώμῃ καὶ προθυμίᾳ· οἳ δὲ ὑπῆγον αὐτοὺς εἰς τὰς ἐνέδρας. ὅπου δὴ λέγεται ἐκ μιᾶς πόλεως (community), τοσαύτης γε τὸ μέγεθος, πλείστους ἐν ἐλαχίστῳ χρόνῳ ἀπολέσθαι.[3] The use of the terms can be illustrated in the following way:

polis (community or country)	
polis (town)	*chora* (hinterland)

chora (territory)	
polis (town)	*chora* (hinterland)

As a generic term, *polis* is attested far more frequently than *chora*. Accidentally, I believe, no single passage seems to have survived in which *ge* is used both as a generic term in the sense of country and in the specific sense of hinterland, being opposed to *polis*.

Re 4, *politai*. Sometimes the *politai* are distinguished from the *polis* in the sense of town, see: Xen. *Hell.* 3.1.21: ὁ δὲ Δερκυλίδας ... τοὺς μὲν τοῦ Μειδίου φρουροὺς ἐξήγαγε, παραδοὺς δὲ τοῖς πολίταις τὴν

1 *SEG* 9 72.4-5: "If plague or famine or death befall the country or the city".

2 Arist. *Pol.* 1326b26 & 27a3-5:" The case is similar when we turn our attention to the territory (*chora*) ... Next the position of the town (*polis*): if we were to put it exactly where we would like best, it should be conveniently situated for both the sea and the hinterland (*chora*)".

3 Aen. Tact. 15.9-10: "The Triballians ... started to ravage the countryside (*chora*) of the Abderites only a short distance from the city (*polis*). ... The Abderites ... made an enthusiastic counter-attack at full strength – only to be drawn into the enemy ambushes. So this of course was the occasion when they reportedly suffered heavier losses more quickly than any single community (*polis*), at least of comparable size, had ever done before" (translated by Whitehead).

πόλιν ... ἐξελθὼν ἠγεῖτο ἐπὶ τὴν Γέργιθα,[1] or *IG* I^3 40.4-6: οὐχ ἐχσελῶ Χαλκιδέας ἐχ Χαλκίδος, οὐδὲ τὲν πόλιν ἀνάστατον ποέσο (446/5).[2] Mostly, however, the distinction made is between *polis* in a more abstract sense, denoting the political community as such (see *infra* re. 6), and the *politai* as a physical manifestation of the community, i.e. "the people", see Thuc. 8.72.1:[68] πέμπουσι δὲ καὶ ἐς τὴν Σάμον δέκα ἄνδρας παραμυθησομένους τὸ στρατόπεδον καὶ διδάξοντας ὡς οὐκ ἐπὶ βλάβῃ τῆς πόλεως καὶ τῶν πολιτῶν ἡ ὀλιγαρχία κατέστη.[3] It is worth noting that *polis* and *politai* never occur as mutually exclusive terms in phrases like, e.g., "the *polis* did this, but the *politai* did that".

Re 5, *ekklesia vel sim.* The numerous attestions of a distinction being made between *polis* and *ekklesia vel sim.* should cause no surprise since, in such cases, *polis* refers to the community in a more abstract sense, whereas *ekklesia* specifically denotes the popular assembly, see *SEG* 30 990.4-10: ἐπειδὲ Ξενοκλῆς καὶ Παυσίμαχος Ἀθηναῖοι ἐμ παντὶ καιρῶι διατελοῦντι εὔνοοι ὄντες τᾶι πόλει καὶ τοῖς παραγενομένοις τῶν πολιτᾶν εἰς Ἀθήνας, ἔδοξε τᾶι ἐκκλησίαι ... (Korinthos, 325-275).[4]

Re 6a, *koinonia* (*politike*). As already noted, *polis* is distinguished from the citizens (*politai*) or from the political institutions whenever it occurs in the more abstract sense of political community and designates a kind of public power above both ruler and ruled,[69] see *Syll.*^{3} 359.3-8: ἔδοξε τᾶι πόλι τᾶι Καλαυρεατᾶν, ἐπαινέσαι τὰμ πόλιν τὰν Σιφνίων ὅτι διατελεῖ εὔνους ἐοῦσα τᾶι πόλι τᾶι [Καλαυρεατᾶν] (C4).[5] It can be debated whether the message conveyed by the enactment formula is that the decree is passed by the Kalaurian *polis* as such or, more specifically, by its popular assembly, but there can be no doubt that the honorand is the "Siphnian *polis*" as such, not just its government, and that the Siphnian *polis* has been the benefactor of the Kalaurian *polis* as such, and not just of its chief political institution.

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1 Xen. *Hell.* 3.1.21: "After Derkylidas had led forth Meidias' garrison, and surrendered the *polis* to the *politai* he departed and marched against Gergis". See also Pl. *Lg.* 746A.

2 *IG* I^3 40.4-6: "I shall not deport Chalkidians from Chalkis or devastate the *polis*".

3 Thuc. 8.72.1: "They also sent ten men to Samos to secure the goodwill of the army. They were to explain that the oligarchy had not been established to do any harm to the *polis* or to the *politai*" (translated by Warner).

4 *SEG* 30 990.4-10: "Since the Athenians Xenokles and Pausimachos have always remained friendly towards the *polis* and towards the *politai* who came to Athens, the Assembly has decided that ...".

5 *Syll.*^{3} 359.3-8: "The *polis* of the Kalaurians decided to honour the *polis* of the Siphnians beause it remains loyal to the *polis* of the Kalaurians".

Re 6b, *koinonia*. Aristotle claims that the political community is the supreme form of community and comprises all other forms of community, of which some are social, some are religious, and some are commercial etc. Thus, the *polis* is one specific type of *koinonia* distinguishable from other types, see, e.g., *Pol.* 1252b30-1: διὸ πᾶσα πόλις φύσει ἔστιν, εἴπερ καὶ αἱ πρῶται κοινωνίαι.[1] Yet, although *polis* is one of several types of *koinonia*, there is no trace in the sources of an opposition between *polis* and *koinonia* corresponding to our opposition between state and society, see *infra* page 89.

Re 6c, *patris*. There is no attestation of *polis* and *patris* being used as antonyms; but from a Panhellenic perspective Hellas could be described as the *patris* and contrasted with the individual *poleis*,[70] see Isoc. 4.81: τὸν αὐτὸν δὲ τρόπον καὶ τὰ τῶν ἄλλων διῴκουν ... ἰδίᾳ μὲν ἅστη τὰς αὑτῶν πόλεις ἡγούμενοι, κοινὴν δὲ πατρίδα τὴν Ἑλλάδα νομίζοντες εἶναι.[2]

Re 7, *ethnos*. Like *polis* and *chora*, *polis* and *ethnos* are essentially antonyms and not synonyms. When opposed to *chora*, the word *polis* is used in the sense of settlement, see *supra* re 3, but when opposed to *ethnos*, the emphasis is on *polis* as a community, see Hdt. 5.2.2: ὡς δὲ ἐχειρώθη ἡ Πέρινθος, ἤλαυνε τὸν στρατὸν ὁ Μεγάβαζος διὰ τῆς Θρηίκης, πᾶσαν πόλιν καὶ πᾶν ἔθνος τῶν ταύτῃ οἰκημένων ἡμερούμενος βασιλέϊ, or *IG* IV^2 68.76-8 (= *Staatsverträge* 446, 303/2 B.C.) [προέ]δρους δὲ εἶναι πέντε ἐκ τῶν σ[υν]έδρων ... μὴ{ι} ἀποκληρούσθωσαν δ' ἐνὸ[ς πλείο]υς ἐξ ἔθνους ἢ πόλεως.[3]

The synonymous use of *polis* and *ethnos* is, in almost all cases, due to the fact that *polis* could be used as a generic term for "political community", comprising not just the small *poleis* which we today call city-states but also other types of political community, such as whole regions which were not (yet) split up into *poleis* (e.g. Aitolia), or federal states often composed of *poleis* (e.g. Boiotia), or large kingdoms (e.g.

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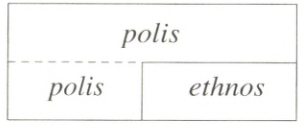
1 Arist. *Pol.* 1252b30-1: "consequently, every *polis* exists by nature, as much as the original *koinoniai*".

2 Isoc. 4.81: "They managed their external affairs in the same way ..... regarding their individual *poleis* as *aste*, and considering Hellas to be their common *patris*."

3 Hdt. 5.2.2: "And when Perinthos had been subdued Megabazos marched his army through Thrace and saw to it that every *polis* and every *ethnos* settled in those regions was brought under the supremacy of the king of Persia". *IG* IV^2 68.76-8 (= *Staatsverträge* 446, 303/2 B.C.): "There shall be five presidents chosen by lot from among the councillors ... No more than one president shall be chosen by lot from any single *polis* or *ethnos*" (translated by Austin).

Macedon). This usage is particularly common in headings[71] and is found both in documents and in literary sources: the list of members of the Second Athenian Naval League is headed by the phrase: Ἀθηναίων πόλεις αἵδε σύμμαχοι – "these *poleis* were allied to the Athenians;"[72] but in addition to forty-four *poleis* in the strict sense the list includes three rulers, two federations and at least one splinter community.[73] Thucydides who opens his account of the Peloponnesian War with a survey of the allied *poleis* of, respectively, the Lakedaimonians and the Athenians: πόλεις δὲ ἑκάτεροι τάσδε ἔχοντες ξυμμάχους ἐς τὸν πόλεμον καθίσταντο (Thuc. 2.9.1);[1] but in the following list peoples like the Boiotians, the Lokrians and the Phokians are placed side by side with proper *poleis* such as Megara, Ambrakia, Leukas and Anaktorion. Since *ethnos* was commonly used to designate any form of political community which was not a *polis* in the proper sense, the opposition between *polis* and *ethnos* is, essentially, an example of the same kind of semantic marking as in the case of the antonyms *polis*/*chora* and it can be illustrated in the following way:



In references to an individual political community, on the other hand, attestations of *polis* = *ethnos* are few and far between, see Appendix I *infra*.

4. The Relative Importance of the Different Meanings

Summing up: a study of the sources which avoids a contrastive lexical analysis leads to the conclusion that *polis* is attested in the following different senses: (1) = *akropolis*, (2) = *asty* or *polisma*, (3) = *chora* or *ge* (especially when *polis* is used as a generic term for *polis* + *chora*), (4) = *politai* or *anthropoi*, (5) = *ekklesia* or some other supreme body of government, (6) = *koinonia (politike)* or *patris*, and (7) = *ethnos* (especial-

1 Thuc. 2.9.1: "Each of the two parts went to war having the following *poleis* as their allies". For a full quote of the passage, see *infra* page 124.

ly when the plural form *poleis* is used as a generic term for *poleis + ethne*).

The senses are listed here in what is generally believed to be their historical sequence,[1] but they are all attested in sources of the late archaic and classical periods. On the other hand, they are not equally important and some hardly ever occur.

(a) It is well known that the original sense of stronghold (*akropolis*) is rare in archaic texts and, apart from some frozen formulas, it disappears in the course of the classical and Hellenistic periods.[74] A study of the relative frequency with which the different senses occur shows that, apart from the frequent occurrence of *polis* = Akropolis in early Attic inscriptions,[75] attestations of *polis* in the sense of stronghold amount to fewer than one per hundred of all attestations;[76]

There are especially two passages in Thucydides which illustrate that even in Athens, where the formulaic use of *polis* in the sense of *akropolis* was widespread, an Athenian would not have the meanings "stronghold" or "citadel" springing to his mind when he heard the word *polis*, except, of course, when it was applied in one of the frozen formulas. In all other cases the word *polis* would not be used synonymously with, but rather distinguished from or even opposed to *akropolis*.

When Thucydides tells us that the Akropolis was called *polis* by the Athenians he points out that the reason for this usage is that the Akropolis was once the centre of the urban settlement (Thuc. 2.15.6, quoted *supra* pages 20-1). Again, when Dekeleia was fortified and all grain had to be brought by sea to Athens Thucydides has the comment that Athens had become a fortress instead of a *polis*: ἀντὶ τοῦ πόλις εἶναι φρούριον κατέστη (Thuc.7.28.1). This would be a strange comment if *polis* had been commonly used as a synonym of *akropolis* in the sense of stronghold or fortress. On the contrary the comment suggests that a *polis* was, essentially, different from a *phrourion*, i.e. a town, not a fortress.

(b) Passages in which country or territory is the principal sense of *polis* constitute fewer than two per cent of all occurrences;[77] It must be added, however, that in numerous passages "territory" or "country" is a connotation that goes with the principal sense of (nucleated) settlement or (political) community or both, cf., for example, Lys. 3.10: οὕτω δὲ σφόδρα ἠπορούμην ὅ τι χρησαίμην, ὦ βουλή, τῇ τούτου παρανομίᾳ,

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1 On the sequence of the senses of (a) "nucleated settlement" and (b) "political community", see Hansen (1997A) 37-42.

ὥστε ἔδοξέ μοι κράτιστον εἶναι ἀποδημῆσαι ἐκ τῆς πόλεως.[1] Aen. Tact. 4.5: πολεμοῦντα οὖν χρὴ ... τὰ ἀποστελλόμενα ἐκ τῆς πόλεως κατὰ γῆν ἢ κατὰ θάλατταν ... μετὰ συσσήμων ἀποστέλλεσθαι.[2] In the Lysias passage the verb *apodemein* shows that the plaintiff preferred to leave not just the city of Athens, but also Attika, whereas in Aineias the Tactician it is the political sense of *polis* which is closely linked with the territorial.

Again, the territorial sense of *polis* is intertwined with the urban and the political when *polis* is used in the generic sense of community comprising a nucleated settlement (*polis*) and its hinterland (*chora* or *ge*), see Lycurg. 1.38: εἰς τοσοῦτον προδοσίας ἦλθεν, ὥστε κατὰ τὴν τούτου προαίρεσιν ἔρημοι μὲν <ἂν> ἦσαν οἱ νεώ, ἔρημοι δ' αἱ φυλακαὶ τῶν τειχῶν, ἐξελέλειπτο δ' ἡ πόλις (town) καὶ ἡ χώρα (hinterland). καίτοι κατ' ἐκείνους τοὺς χρόνους, ὦ ἄνδρες, τίς οὐκ ἂν τὴν πόλιν (community) ἠλέησεν; ...[3] Or when *polis* is used in the generic sense of settlement comprising a nucleated settlement (*plethos oikion*) and its hinterland (*chora* or *ge*), see Arist. *Oec.* 1343a10-1: πόλις μὲν οὖν οἰκιῶν πλῆθός ἐστι καὶ χώρας καὶ κτημάτων αὔταρκες πρὸς τὸ εὖ ζῆν.[4]

Thus, in the overwhelming majority of all passages *polis* is used either in the sense of nucleated settlement or in the sense of political community. But, as noted by Kleanthes, the two senses of settlement and community are often combined and indistinguishable, as is attested, for example, at Thuc. 4.49.1: καὶ οἱ ἐν Ναυπάκτῳ Ἀθηναῖοι καὶ Ἀκαρνᾶνες ἅμα τελευτῶντος τοῦ θέρους στρατευσάμενοι Ἀνακτόριον Κορινθίων πόλιν, ἣ κεῖται ἐπὶ τῷ στόματι τοῦ Ἀμπρακικοῦ κόλπου, ἔλαβον προδοσίᾳ.[5] The description of Anaktorion as Κορινθίων πόλιν indicates that it was a dependent *polis*, i.e. a political community; but

1 Lys. 3.10: "I was so much in doubt about what to do in face of my opponent's lawless behaviour that I decided to leave the *polis*".

2 Aen. Tact. 4.5: "In time of war it is necessary that troops sent out of the *polis* are furnished with signals ...".

3 Lycurg. 1.38: "To such a pitch did he carry his treason that, so far as his decision went, the temples were abandoned, the posts on the wall unmanned and the *polis* and the *chora* left deserted. And yet in those days, gentlemen, who would not have pitied the *polis*...".

4 Arist. *Oec.* 1343a10-1: "a *polis* is a mass of houses (*oikiai*), of hinterland (*chora*) and of possessions sufficient for a good life". – That οἰκιῶν πλῆθός denotes a nucleated settlement is apparent from 12-3: ἔτι δὲ ἕνεκα τούτου συνέρχονται, cf. Arist. *Pol.* 1252b20: συνῆλθον.

5 Thuc. 4.49.1: "At the end of the summer the Athenians and Akarnanians in Naupaktos waged war against Anaktorion, a Korinthian *polis* lying at the entrance of the Ambrakian Gulf, and took it by treason".

the phrase ἔλαβον προδοσίᾳ shows that the *polis* was also a fortified town which the Athenians conquered because it was betrayed.

To sum up: the ancient definitions indicate that *polis* was used in two basic meanings: (1) a settlement and (2) a community. The study of synonyms, on the other hand, shows that, in the sense of settlement, a *polis* was almost invariably an *asty*, and only exceptionally an *akropolis* or an *emporion* or a *teichos*. In the sense of community, the *polis* was almost invariably a *politike koinonia*, sometimes identified with its territory (consisting of a *polis* with its *chora*), sometimes with its population (especially its body of *politai*), and sometimes with its political institutions (especially its *ekklesia*).

Furthermore, when used as a generic term denoting a number of named political communities, *polis* comprised not just *poleis* in the meaning of the word described above (a *polis* with its *chora* organised as a *koinonia politon politeias*), but all types of community which in other contexts were usually classified as *ethne* or *koina*.

The rare attestations of *polis* denoting a *chora* in the geographical sense without being a political community (see section 2 *supra* page 25) are best explained as an extension of the much more frequent use of *polis* to denote the territory of a political community. And the exceptional attestions of *polis* denoting an individual *ethnos* should be seen in the light of *polis* used as the generic term for *poleis* plus *ethne*. Both usages are so marginal that further discussion can safely be relegated to Appendix I *infra*.

Having demonstrated, I hope, that the Greeks were well aware that *polis* was a term with several meanings and that the two basic meanings were "(nucleated) settlement" and "(political) community" I return to the question whether city-state is a misnomer or a well-chosen rendering of the term *polis*. What is at issue, of course, is not just the term *polis* and how to render it. The crucial problems concern the concept behind the term and the form of society denoted by the term. Does it make sense to describe the Greek *polis* as a *state* centred on a *city*? Or was ancient Greek society so different from our notions of city and state that we should avoid these modern concepts and find some others instead? That is what many modern historians recommend. But focusing on the concept of *polis* they have often failed to make it clear what they understand by a "city" or a "state". Yet, these two concepts are at least as controversial as the concept of *polis*. To assert that city-state is a misleading concept in an analysis of the ancient Greek *polis* presupposes that one has answered the questions: what is a city? and what is a state? Any

comparison of the ancient concept of *polis* with the modern concept of city-state must therefore include an analysis of the concepts of city and state. In *CPCActs* 4 (1997) I published a study of the *polis* as an urban centre and argued that, as a nucleated settlement, the *polis* was indeed a city in the Weberian (historical) sense.[78] This study is devoted to the concepts of state and *polis* (in the sense of political community).

Let me already here anticipate my conclusion: without denying the differences I want to emphasise important similarities between the ancient concept of *polis* and the modern concept of state, and I will argue that the prevailing criticism of the rendering city-state is exaggerated and based on a one-eyed and sometimes even distorted view of both the ancient *polis* and the modern state.

III. The Concept of State

To what extent was the *polis* (in the sense of political community) a state in the modern sense? As argued above, this question must be broken up into two sub-questions: what did the ancient Greeks think a *polis* was? and what do we today think a state is? Let me begin by the modern notion of state.

What is a state? It has been argued that the word state has so many different uses that it is impossible to establish its meaning in ordinary language.[79] This is an overpessimistic view.[80] Yet, there can be no denying that the answer to the question "what is a state?" depends on to whom it is put. Historians hardly ever define their concepts,[81] and in historical contexts the term state is used in a fairly broad sense about any highly organised political community.[82] Political philosophers from Hobbes to Hayek have had much to say about what a state *ought* to be but have not felt the same call to describe existing states and define what a state is.[83] For a long time students of political science neglected the concept of state. In an attempt to move the central point of their discipline from jurisprudence towards sociology they preferred a functional to a structural approach and defined the study of politics as a science of power rather than a science of the state.[84] On the other hand, the scholars who have always been preoccupied with the concept of state are the professors of law and especially the professors of constitutional law and of international law. For them the state is the "atom" of their discipline. In constitutional law it is studied in isolation and analysed into its parts, whereas international law concerns the relations between states. Traditionally, the concept of state was a key theme in constitutional law.[85] Contemporary professors of the discipline, however, tend to take the concept of state for granted, something they do not have to debate at all, and in a modern textbook of constitutional law to find a discussion of the concept of state is rare indeed, especially in Anglophone scholarship.[86] Thus, to define the state we must, first of all, turn to international law. In this discipline the notion of state is invariably discussed and it is almost universally accepted that three elements are involved in the concept of a state: a territory, a people and a government with the sole right to exercise a given legal order within a given area over a given population.[87]

At first sight it may seem a narrow and conservative approach that a definition based on concepts which are primarily discussed by jurists in a specific legal discipline is given preference over the wide spectrum of diverse definitions advanced by students of political science and philosophy. But if we move from the lecture rooms and studies to the world of politics and public opinion we have to admit that it is this basically juristic definition of the concept of state that has carried the day. In The Montevideo Convention on the Rights and Duties of States, for example, the concept is defined in Article 1.[88] All the members of the UN are by definition "states" in this sense of the term.[89] As a result of the conference on Yugoslavia in 1991, the UN arbitration committee declared "that the state is commonly defined as a community which consists of a territory and a population subject to an organized political authority; that such a State is characterized by sovereignty".[90] And in modern dictionaries and encyclopedias the three concepts of country (territory), government (institutions) and population (citizens) are the essential bricks used to describe the edifice of the (sovereign) state.[91] Moreover, in recent years political scientists have restored this concept of state to favour,[92] and the notion of the state as acknowledged in law and politics is once again being taken into account in political science. The result has been that, today, there is a surprisingly broad area of agreement about what constitutes the essential elements of the modern state, and this agreement stems from the basically juristic definition of the concept of state as applied world-wide in politics.[93] Let me add a modification, however, before I proceed with my analysis of the concept of state: The international community, now consisting of close to 200 states, is not established through international law; on the contrary, international law presupposes such a system. Thus, the concept of state is not an integral part of international law, but a precondition for its emergence, existence and development; and the three elements do not, technically, amount to a legal definition of the concept of state, but are rather the three foci which are especially important in international law and politics and, in fact, in any contemporary discussion of the concept.

1. The Three Basic Elements

As argued above, population, territory and government are the three essential elements of a state. However when the emphasis is on the con-

cept of the state rather than just the elements and important characteristics of a state, at least three further requirements must be added. First, the state is more than the sum of the three elements, i.e. it is not just "a geographically delimited segment of human society united by common obedience to a single sovereign".[94] By a kind of abstraction and de-personification the state has become "a continuous public power above both ruler and ruled".[95] The second requirement concerns the concept of sovereignty: a community must have a *sovereign* government and be in possession of full external sovereignty in order to be a state.[96] The third requirement involves the concept of society, often called civil society: the distinction between state and civil society is a characteristic of the modern state,[97] and especially in liberal democratic thought it has become common to hold that a political system which does not acknowledge this distinction is not a state in the proper sense of the term.[98]

With no less than six different characteristics, some of them even complex, the definition of state comes closer to a Weberian ideal type than to a definition in the strict sense.[99] But the plurality of descriptive criteria, a characteristic of most modern definitions of "state",[100] enables us to subsume under one concept what has often been taken to be evidence of a plurality of concepts of state. The territorial state is not necessarily something different from the sovereign state, or from the state as a community of citizens, or from the state as an abstract power structure, or from the state as class rule. Rather, different characteristics become prominent in different contexts. We are landed with a method for analysing the state which resembles Aristotle's "aporetic" method for analysing the *polis*: about the *polis* many different questions can be asked, each from a different point of view; now, each new question must result in a new answer; but all the different answers are not mutually exclusive; each sheds light on one specific aspect of the *polis*, and to understand what a *polis* is, we must take all the answers into account; thus, the answers become complementary rather than opposed.[101]

Let me return to the various criteria: the state as a quasi-person, the concept of sovereignty, and the distinction between state and society will be treated later; but first I will describe the three basic elements in a little more detail. Today the so-called international community consists of close to 200 units[102] which are called either "states" or "nations" or "countries".[103] Country is a geographical concept; nation is a personal one; state combines both aspects with a third one: the state is the government which controls a country and rules its nationals.[104]

a. Territory. Being one political unit among other political units the

state can be analysed from two different points of view: internally a state is primarily identified with the government. Externally the most prominent aspect of the state is the territory: a state is a geo-political unit, usually with clearly marked borders;[105] and to defend the territorial integrity is one of the primary objectives of the state (in its personal sense), one which for centuries has resulted in numerous wars. The territoriality of European states is often traced back to the Peace of Westphalia in 1648 (see *infra* page 112) and today the entire globe is subdivided into territorial states.

b. People. In everyday language the word state is only infrequently used synonymously with the word people, but in political discourse the people are almost invariably singled out as one of the essential characteristics of a state.[106] In many recent works it is even emphasised as the most important of the three elements;[107] and in this context it is not uncommon to identify the state with the democratic state,[108] associated with the notions of citizenship[109] and popular sovereignty,[110] and to refer to the preamble of the American constitution: "We the people of the United States".[111] Definitions of the modern state which leave out the people as an essential characteristic can be found,[112] but are not typical.

The identification, however, of a state with its people raises the question: are the people to be identified with the nationals only?[113] or with all who inhabit the territory?[114] The answer to this question depends upon whether the state is seen primarily as a political community or primarily as a community governed by law. If the state is identified with a government which has the sole right to enforce a given legal order over the people, then the people comprise all who inhabit the territory, nationals as well as foreigners. But if the state is identified with its government and the people with all who are entitled to participate in the government, then the people are the nationals to the exclusion of foreigners settled or staying in the territory; and it has become common in this context to speak about the "nation-state" rather than just the state.[115] Today the liberal democratic nation-state has become the dominant form of state,[116] and, as noted above, the identification of the state with its people is linked with the notions of self-government and popular sovereignty:[117] the people must have the right to be consulted about constitutional changes and the right directly or indirectly to elect the state's government. But in this context the people are the citizens only.

The distinction between citizens and population also appears in relation to nationals living outside the territory: the government of a state cannot enforce the legal order outside its territory, but nationals who

live abroad are often entitled to participate in political decision-making, for example by voting by letter.

In spite of the importance of citizenship for the modern democratic state, the dual aspect of the concept of people in relation to the concept of state is sometimes suppressed, especially in brief accounts of what a state is, and sometimes even rejected as irrelevant for the concept of statehood.[118] Some emphasise that the people comprise all inhabitants,[119] whereas others tend to identify the people of a state with its nationals,[120] in spite of the fact that often huge numbers of foreigners are settled in a state's territory and subject to the legal order enforced by the state.[121] The reason for the divergence is probably that rules about citizenship pertain to national, and not international law.

c. Government. After "country" and "nation" the most common synonym for the state is unquestionably the word "government".[122] This usage can be traced a long way back,[123] and *stato* in the sense of government is attested already in Machiavelli.[124] The habit of equating the state with its government prevails in modern accounts of the concept of state;[125] and in international law "there is a strong case for regarding government as the most important single criterion of statehood",[126] although, of course, the distinction between state and government is emphasised too.[127]

Unfortunately, the jurists are rather vague and do not explain what they mean by government,[128] although the term is used in several different meanings: sometimes in a more abstract functional sense, connoting the way in which a state is governed, and sometimes in a more concrete structural sense, denoting one or more bodies of persons. From a functional point of view government is usually divided into law-making *versus* implementation and enforcement of laws. Structurally, the corresponding division is between the legislature *versus* the executive and the judiciary.[129] This dual aspect of the state viewed as government corresponds to the two different aspects of the state outlined above.

When the state is understood as a political community, the government is primarily the legislature, in democratic states the parliament, elected by the people.[130] From this point of view government is specified as being a representative government.[131]

When the state is seen as an organisation for the enforcement of a legal order, the emphasis is on the executive, i.e. the entire hierarchy of state institutions headed by a government. which enforces a legal order within a territory over a people by the legitimate use of physical force.[132] It is only in this second sense that we meet the opposition between state and people,[133] whereas the state seen as a political community is

sometimes even identified with the people through the concept of popular sovereignty.[134]

The monopoly of force is now universally emphasised in almost every discussion of the concept of state.[135] It is usually traced back to Max Weber whose definition of a state runs as follows: "Staat ist diejenige menschliche Gemeinschaft, welche innerhalb eines bestimmten Gebietes ... das Monopol legitimer physischer Gewaltsamkeit für sich (mit Erfolg) beansprucht".[136]

The sheer monopoly of force, however, does not in itself constitute a state. The state's prerogative is the *legitimate* use of physical force, and for a specific purpose: *viz.*, the enforcement of a legal order; and from this point of view the concept of state is inseparably connected with the legal system as such and with the rule of law as the end of the state.[137]

Finally, from an institutional point of view the monopoly of force is divided into two parts, one corresponding to the internal and one to the external aspect of the state. The two institutions are, of course, the police force and the armed forces. The police is the personnel through which the state enforces the legal order within the territory over the population; it is the long arm of the bureaucracy, whereas the army is the personnel through which the state protects the integrity of its territory and the independence of its people.[138] In most discussions of the concept of state this very tangible aspect of the monopoly of force is only briefly touched.[139] Nevertheless, in recent years there has been a growing emphasis on the military aspect of the concept of state, and especially on the importance of standing armies for the emergence of the state. It is acknowledged not only that states make war, but also that war makes states; and it is increasingly brought to light to what extent the development of a state's institutions and resources is connected with the state's maintenance of an army and a navy.[140]

2. The State as a Superpersonal, Permanent Power

After my treatment of the three elements I turn to the three additional requirements: the state as a superpersonal, permanent power, the sovereignty of the state, and the distinction between state and society. Let me begin by the first of the three.

The state has been identified with its government since the Renaissance. But even in this sense the modern state is something more than

the sum of its highest political institutions. It is commonly conceived as a "continuous public power above both ruler and ruled".[141] The famous saying of Louis XIV: "l'état c'est moi", belongs in the past.[142] The driving force behind the modern de-personification of the state is aptly revealed by Burdeau: "les hommes ont inventé l'État pour ne pas obéir aux hommes," followed by Chanteboux: "Obéir à un homme est toujours plus ou moins humiliant; obéir à un entité plus ou moins mystérieuse et par définition supérieure aux hommes est au contraire parfaitement naturel".[143] The state, through its offices, is seen to have a superpersonal quality of which one of the oldest attestations I know is another famous saying, namely that of Friedrich II of Prussia: "un prince est le premier serviteur et le premier magistrat de l'État".[144] But a servant has a master whose orders he obeys; and orders are, necessarily, given by human beings. The metaphor used by King Friedrich betrays that, in our imagination, we tend to see the state as some kind of supernatural person. Thus, the de-personification of the state is followed by a re-personification on an abstract level. When we say that the state makes a law or imposes a tax or punishes an offender we personify the concept. The persons who are entrusted with making the laws and having them enforced are not the state; they are acting *on behalf of the state*; and this state is seen both as a superpersonal institution and, metaphorically, as some supernatural person. Also, in international law the state is explicitly taken to be a juristic person in the technical sense of this term.[145]

The more abstract view of the state as a public power above both ruler and ruled is closely related to a simpler but very widespread view of the state as a community consisting of some who govern and some who are governed.[146] In the monarchical version of this view the state consists of sovereign and subjects. In its more modern democratic form the relation is between government and citizens. This view differs from the view which identifies state and government in that the state is here seen as a synthesis of government *and* people.

The state is also a *continuous* public power. An essential aspect of the state is its permanence. True, some states have existed a few years only or sometimes only few weeks.[147] But they are exceptions and do not detract from the basic notion that the people change, the rulers change, but the state persists. A state is not normally transformed if a change of government takes place in accordance with the rules of succession. In the era of absolutism the rules by which monarchs succeeded to the throne were an essential aspect of the concept of sovereignty,[148] and to-

day the rules by which democratic governments are appointed are at the core of the whole political system.[149] The prevailing view is that a state continues to exist even despite revolutionary changes in government.[150] Permanence of at least a part of the territory is usually taken for granted,[151] but apart from the territory continuity is connected sometimes with the people, sometimes with the government.

(a) The permanence of the state is linked to the people when kinship and descent are emphasised: the future citizens are born of the present citizens who, again, are the descendents of former citizens.[152] This line of thought is connected with the views that the people are primarily the citizens to the exclusion of resident foreigners and that they constitute a nation with common culture and traditions, i.e. that the state is essentially a nation-state.

(b) Alternatively, the permanence of the state is linked to the government when sovereignty is emphasised as an essential aspect of the concept of state: "The impersonal scheme of the constitution is permanently present, day by day and year by year; it acts continuously, and without interruption, as the permanent control of the whole operation of the state".[153]

As a superpersonal and abstract entity the state is not just a power, it is also a symbol which provides its citizens with a feeling of common identity. Even though the citizens of a state may be of different ethnic origin, and speak different languages, and belong to different religious communities, they are united in the belief that their state is their fatherland, they are proud of the victories won by the state's soldiers in battles and by its athletes in the Olympic Games. They also take pride in their state's prosperity, the country's nature and monuments as well as its history and political system, to which they can contribute themselves, in the old monarchies by being loyal to the sovereign, and in modern democracies by being politically active. This cluster of shared beliefs is usually described as (one form of) national identity, and it is in such contexts that that citizens are called "nationals" and states are called "nation states" or "nations", even though very few existing states can claim to be nations in the strict sense of the term.[154]

3. The Sovereignty of the State

State and sovereignty are two concepts so inextricably bound up with one another that they are sometimes merged, e.g. by Austin in his sixth

lecture on jurisprudence.[155] Though closely connected the two concepts are, however, separate and it is the concept of sovereignty which came first and paved the way for the emergence of the concept of state.[156]

The concept of sovereignty was invented by Bodin but further developed especially by Hobbes, and in its classical form it had, at least, five elements: (1) sovereignty is unlimited and indivisible;[157] (2) sovereignty is inalienable;[158] (3) sovereignty consists primarily in having supreme legislative powers.[159] (4) the sovereign is above the law.[160] (5) the sovereign has the final decision in any matter.[161] Although sovereignty cannot be divided, it does not have to rest with an individual, namely the monarch; in a republic it can be possessed by a collective body, and here again a distinction can be made between oligarchy in which sovereignty rests with a minority of wealthy people, and democracy in which sovereignty rests with the whole of the people in assembly.[162] The doctrine of sovereignty was developed to underpin absolute monarchy, and not much ink was spilled over sovereignty in relation to the two republican forms of government. The focus of attention was upon the sovereign monarch rather than upon a body of government, and often upon the sovereign himself rather than upon the more abstract concept of sovereignty.

Since the seventeenth century, however, the concept of sovereignty has been changed almost beyond recognition.

Re (1). Sovereignty has been made divisible by the notion of separation of powers as advocated especially by Locke and Montesquieu. In its pure form the developed doctrine prescribes that government be divided into three branches: the legislature, the executive and the judiciary. To each branch corresponds a function of government: legislative, executive or judicial. None of the branches is allowed to encroach upon the functions of the other branches (the doctrine of separation of functions), and no individual is allowed to be at the same time a member of more than one branch (the doctrine of separation of persons).[163] The legislative is still claimed to be the sovereign branch of government,[164] but especially in foreign policy the executive is largely independent of the legislature, and the judiciary is not only a separate branch of government: by judicial review, a factor of growing importance in many modern states, the judiciary has been placed above the legislature as the final power within the political hierarchy.[165]

Next, sovereignty has been further divided by the emergence of federal states, beginning with the creation of the United States in 1787-89. In federal states the power to legislate rests in some matters with the

federal legislature but in other matters with the legislatures of the member states. Both the federal parliament and the parliament of a member state must, of course, respect the principles laid down in the federal constitution, but insofar as they comply with the constitution both institutions must be recognized as the supreme legislative authority, each within its own field.[166] The separation of powers combined with a federal structure has resulted in the emergence of states without a sovereign. Thus, in the United States of America there is no body of government endowed with sovereign power.[167]

Finally, at least in ideology if not necessarily in practice, sovereignty has lost the attribute of being unlimited by the requirement in most democratic states that there must be a distinction between state and society and that the state must confine its activities to what rightly belongs in the public sphere and that it must respect the existence of a private sphere in which people are allowed to live as they please.[168]

Re (2). Sovereignty has been made both divisible and alienable by the emergence in the 17th century of international law and especially by the development in this century of supra-national organisations. Insofar as international law is made up of rules which states are obliged to obey, it is essentially incompatible with the concept of an international community of sovereign states. If the concept of sovereignty is upheld in its full sense, international law is valid for a state only if it is recognised by this state as valid for its organs.[169] Or the concept of sovereignty has to be redefined as "the residuum of power which the state possesses within the confines laid down by international law".[170] Moreover, in recent years the concept of sovereignty and thus of the independent state has been changed by the EEC, now the EU, and by the Security Council of the UN.[171] The EU claims that the sovereign legislative authority of the member states is subordinate to that of the legislative organs of the community,[172] and a number of the resolutions passed by the Security Council have undeniably interfered with the national sovereignty of some of the members.[173]

Re (4) The sovereign is no longer a person or a collective body above the law. Most modern states subscribe to the view that supreme legislative authority rests with the parliament,[174] but everywhere, apart from Britain, the powers of the Parliament are defined and circumscribed by a constitution; and in a growing number of states it is left to a branch of the judiciary to decide whether the laws passed by the parliament conform with the constitution.[175]

An alternative view is to ascribe sovereign powers to that body of

government which is entitled to change the constitution. In almost all constitutions the rules for amendment involve a vote of the people, and invoke (explicitly or implicitly) the principle of popular sovereignty.[176] But the rules for changing the constitution are everywhere laid down by the constitution itself; thus, the constitution-making body of government derives its powers from the constitution itself and cannot be properly described as a sovereign above the law.[177] Finally, by a different interpretation of the doctrine of popular sovereignty, the sovereign is sometimes identified with the electorate and connected with the election of a president and/or the members of parliament.[178] But this form of popular sovereignty does not mean that the people must govern, only that government must be authorised by the people. To claim that the people are sovereign in the classical sense of the term, makes sense only in direct democracies,[179] or in representative democracies in which a considerable number of parliamentary decisions must be ratified by a vote of the people.[180]

Re (5). In states which have judicial review of laws, the final decision about legislation rests with a branch of the judiciary, not with the parliament. In the administration of justice the last resort is the state's supreme court, and in the prerogative of mercy the decision rests with the Head of State, i.e. the president or the monarch, not with the legislature. Thus, the principle of parliamentary sovereignty is undermined.

Re (3). The only part of the classical concept of sovereignty that still stands is the view that the sovereign within the state itself is the supreme legislative body which has the sole right to sanction the enforcement of the laws it has made for the people.[181]

In spite of the developments outlined above, there has been and still is an inclination to uphold the classical concept of sovereignty[182] and thus to insist that, essentially, sovereignty is absolute, inalienable, indivisible and unlimited.

The fragmentation of sovereignty resulting from a separation of powers between various branches of government has been countered with the theory that sovereignty belongs to the state as such, the abstract public power above the various branches of government, each exercising its own part of the sovereignty of the state,[183] or, alternatively, that popular sovereignty is the unifying supreme authority behind the various political institutions.[184]

The alienation of sovereignty caused by the emergence and development of international law is parried by asserting that international law

consists of treaties concluded between sovereign states, each empowered, at any time, to revoke its consent.[185]

The view that, in a federation, sovereignty is divided between the federal government and the governments of the member states has resulted in the view that sovereignty is the attribute of a unitary state only, and that, consequently, a federation is not a state in the true sense; see the following section. An alternative solution has been to assert that a federation is indeed a state, and that both the federation and each member state possess sovereignty in the full sense. What is divided between them is not sovereignty, but the various tasks to be performed by the state.[186]

However, these and similar gallant attempts to uphold the classical concept of sovereignty seem to have failed both in world politics and in political thought, and there is today a growing tendency to admit that sovereignty is divisible, alienable and limited. Furthermore, in consequence of the development of international law it is now common to distinguish between two different forms of sovereignty. As formulated by the French sociologist Maurice Duverger, a distinction must be made between the sovereignty *of* the state (*la souveraineté de l'état*) and the sovereignty *within* the state (*la souveraineté dans l'état*).[187] The first form of sovereignty applies in international law. It concerns the relation between states, and here sovereignty takes the form of independence or autonomy.[188] The second form applies in constitutional law, and here sovereignty is linked with the supreme authority to make and enforce a given legal order within a state. Both forms of sovereignty are indispensable characteristics of a state. Thus, in international law, a political community is only a state if it possesses full independence and the capacity to enter into relations with other independent political communities; and, in constitutional law, a political community is only a state if it possesses a supreme legal authority to which the people habitually pay obedience.

4. Federations and Members of Federations

The distinction between the two forms of sovereignty relates to the two questions (a) whether a federal state is a state in the true sense and (b) whether the member states of a federation are states in the true sense.

Re (a) Those who deny that a federation is a state prefer to focus on the internal aspect of sovereignty: if a state must have a sovereign, and

if sovereignty is indivisible, then a federation is not a state, since sovereign legislative powers are divided between the legislatures of the member states and the federal legislature.[189] Since however, sovereignty has been made divisible in so many different ways, this line of thought carries little weight, and today the prevailing view is that a federal state *is* a state, and that sovereignty has been divided.[190] Moreover, if the emphasis is on the other aspect of sovereignty, *viz.*, the sovereignty *of* the state, there is no doubt that federations are states just as much as unitary states, and in international law no essential difference is made between these two different types of state.

As regards members of a federation it is the sovereignty *of* the state which is seen as an obstacle to proper statehood. In international law, as explicitly stated in the Montevideo convention, the "capacity to enter into relation with other states" is singled out as a fourth element of the state,[191] and it is, in fact, this characteristic by which independent states are distinguished from member states of a federation: they possess a territory, a people and a government but insofar as they cannot enter into relations with other states it is said that they are not states in the proper sense.[192]

We must not forget, however, that many member states have some right to conclude treaties with other states,[193] and that, from the internal point of view, they are essentially sovereign: they possess a supreme legislature and a government which is responsible for enforcing the legal order within the territory over the population.[194] Nevertheless, when sociologists and students of political science debate the concept of state, member states are mostly passed over in silence,[195] or are sometimes even denied the status of being states.[196] In order to find a proper treatment of this subject one has to consult the specialists of international law,[197] or to conduct an empirical study of all constituent states, which, at least from the internal point of view, duly fullfil the criteria for being states.

To conclude: if the state is seen as an independent political community with a government in possession of full external sovereignty,[198] then member states of federations are not states. But if a state is, first of all, a government which enforces a legal order within a territory over a population, then both federations and members of federations are states. An important consequence of this view is that the concept of state is no longer horizontal: the view that all states are equally states[199] does not apply any longer, and we have to admit that we have states within states. To some extent, the concept has become hierarchical.

5. State and Society

In continuation of the contract theories of the early modern period it became common in the 19th century, at least since Hegel, to distinguish between state and society, and in this century the distinction has developed into a downright opposition between the two concepts. The contract theorists wanted to explain political obligation by the idea that the state was set up by an original contract between the members of society.[200] Some argued that political society was created by a single contract between individuals who previously had lived isolated in a state of nature.[201] Others distinguished between an original social contract (by which individual human beings agreed to form a society) and a subsequent contract of submission (by which they set up a state with a sovereign government).[202] In the nineteenth century, when the contract theories went out of fashion, Hegel took the concepts of state and society to be two different stages of the political order.[203] According to Marx and Engels the state was the political system controlled by the ruling class in order to perpetuate its domination over society.[204] Quite a different stand was taken by the classical liberalists who opposed individual freedom in the private sphere to collective control in the public sphere, but then took sometimes even opposed views of the relation between state and society. They all agreed that the individual enjoyed freedom in the private sphere but was exposed to oppression in the public sphere.[205] But some placed society in the public sphere and were inclined to identify state with society,[206] whereas others placed society in the private sphere and saw the public sphere as the domain of the state as opposed to society.[207] Today the second trend prevails and has resulted in the sharp divide in modern political thought between state and society, a divide which is acknowledged not only by liberalists, but also by Marxists,[208] socialists in general,[209] and champions of the welfare state:[210] they all take the opposition between state and society to be an essential aspect of the democratic state (in Marxist thought: the capitalistic state) and they all tend to define society negatively as all social relations not regulated by the state.[211] The difference between champions of the liberal state and of the welfare state is that they want to draw the line between state and civil society in different places.[212]

The modern concept of society is used at two different levels: at one level a country comprises an innumerable number of different societies, but at another level all these societies constitute one large society, which is called "civil society" and is co-extensive with the state.[213] The

concept of civil society has been aptly defined as "an aggregate of institutions whose members are engaged primarily in a complex of non-state activities – economic and cultural production, household life and voluntary association – and who in this way preserve and transform their identity by exercising all sorts of pressure or controls upon state institutions".[214]

Thus, in contemporary western political thought "society" or "civil society" is a comprehensive term for all associations within the community apart from the state itself. The state differs from all other organisations by at least two characteristics. (a) It has the sole right to enforce its rules whereas all other associations are voluntary and possess no means to enforce their will on their members apart from group pressure and exclusion. (b) The principal purpose of the state is the maintenance of the legal order and the relation with other states; furthermore, in welfare states, to provide a basic social and economic network for the members of society; all other associations exist for some specific purpose: economic, religious, educational, social etc.[215]

Especially in classical liberal thought it has become a requirement that state activities must be restricted to a public sphere, and that there must be a private sphere in which the state does not interfere but allows people to live as they please.[216] The private sphere is entrenched by a set of fundamental rights (of speech, of association, of religion etc). In all democratic states, Britain exempted, these fundamental rights are listed in a written constitution which even the legislature, that is the sovereign, has to respect.[217] This requirement applies, strictly speaking, only to states which proclaim themselves as (liberal) democracies, and we tend to forget that people in the rest of the world may have a very different notion of what a state is;[218] see section 6 *infra* page 50.

Thus, to be a true state, i.e. a true democratic state, a political community must acknowledge the basic distinction between state and (civil) society, and the term state ought not to be used about a political system in which the state regulates everything so that the result is a fusion between state and society. This ideology is deceptively clear in principle but impossible to implement. The state is seen as a hierarchy of institutions whose principal task is to uphold the legal order. But even in a minimal state the legal order includes a large number of rules which regulate people's life in the private sphere: every political community, ancient or modern, has laws regulating marriage, inheritance, ownership and possession of private property, education etc., but all these aspects of human life obviously belong in the private sphere. Thus, the is-

sue is not how to separate the public from the private sphere but to decide how much of the private sphere ought to be regulated by law and controlled by the public. The US is often seen as a paradigm of democratic liberalism, but several of the states have laws about how people are to have sex with one another, and these laws apply even to what married people do in their family home;[219] they have laws about the consumption of alcohol and thousands of other laws which regulate people's behaviour in the private sphere; cf. *infra* pages 94-5.

Finally, it is worth noting that the distinction between state and society results in a restriction on the powers of the state and thus runs counter to the requirement that the state must have a sovereign who, in principle, has powers to legislate about any aspect of community life; see *supra* page 44.

6. The State Seen as the Liberal Democratic State

The insistence on a basic distinction between state and society and on the protection of individual rights is linked with a marked preference in western political thought for equating the concept of state with the concept of the liberal-democratic state.[220] However, to ingraft democratic institutions and ideals upon the concept of state itself is an alarming development, if only because democratic states constitute a minority of all states. Admittedly, at the end of the 20th century most states claim to be democracies, but, when properly scrutinised, the number of real democracies has not risen dramatically since 1980 when – in a rather optimistic count – their number was assessed at 51.[221] This is well known and the link between "state" and "democracy" is instead established by the belief that the liberal-democratic state is the paradigmatic modern state,[222] and the paradigm is often seen as a requirement that a state *ought* to be democratically governed in order to be a true state.[223] But then an otherwise empirical description of what a state is has come to include a normative element, which is even more alarming, and has proved to be a dangerous weapon in the hands of the western great powers, just as Christianity was in the 19th century. Today "crusades" in the name of democracy are fought just as, in the age of colonisation, "crusades" were fought in the name of religion. A hundred years ago the message was: people must be Christians in order to be true human beings. Today the message is: states must be democracies in order to be

true states. But although it is objectionable and dangerous to ingraft a normative element on an otherwise empirical concept, it is nevertheless a strong and prevailing trend in western political thought, which cannot be neglected and must be taken into account as an important element when the modern concept of state is compared with the ancient concept of *polis*.

IV. The Concept of *Polis*

Turning from the concept of state to the concept of *polis* I want first to repeat what I have said above about the different senses in which the term *polis* occurs in our sources. It is used (1) synonymously with *akropolis* in the sense of "stronghold"; (2) synonymously with *asty* or *polisma* in the sense of "town" or "city"; (3) synonymously with *ge* or *chora* in the sense of "country" or "territory"; (4) synonymously with *politai* or *anthropoi* in the sense of community and specifically the citizen body of a political community; (5) synonymously with *ekklesia* vel sim. in the sense of body of government; (6) synonymously with *politike koinonia* in the more abstract sense of political community; (7) synonymously with *ethnos*, especially in the plural (7a) as a heading of a list of political communities of which some were *poleis* but some were *ethne*, exceptionally in the singular (7b) designating an individual, named ethnic community.

Leaving aside the archaising sense of stronghold (1)[224] and the rare attestations of *polis* denoting an *ethnos* (7b),[225] I want to emphasise the following observations on the other senses. Re (2-3): when the principal meaning is town, *polis* often has the connotation "civic centre", and almost invariably denotes the urban centre of a *polis* in the political sense.[226] When the principal meaning is country (i.e. city-plus-hinterland) *polis* almost invariably has the connotation "territory", and denotes the territory of a *polis* in the political sense. Re (4): when used in the sense of political community the *polis* is commonly identified, occasionally with all its inhabitants (*anthropoi, enoikountes*) but much more frequently with its citizens (*politai*). Re (5-7a): *polis* commonly denotes the political institutions (especially the *ekklesia*), but is frequently used, too, in the more abstract sense of "public power" or "political community."

Thus, the three aspects of territory (2-3), population (4) and government (5-7a), appear in the different contexts in which *polis* is used, and this tripartition is further illustrated by the metaphor of the ship of state. This famous image goes back to classical Greek sources in which, of course, the comparison is between *polis* and *naus* (ship). Three elements are involved: the ship, the crew and the helmsman. The helmsman is the ruler of the *polis*, the crew is the people, and the ship itself is

the *polis* town with its circuit of walls and/or its hinterland. The most detailed version of the metaphor is Plato's in the *Republic*,[227] whereas the clearest equation between ship and town-plus-hinterland is found in Sophokles' *Oidipous Tyrannos*: "Restore this *polis* and make it safe ... for if you intend to rule this land (*ge*) as you do now, it is better to rule it with its men rather than deserted. For neither a tower nor a ship is of any use unless populated by men who live inside".[228] Thus, constitution, citizenry and country are the three principal aspects of the *polis* and each deserves a more detailed analysis.

1. The Territory

According to the Greek conception, most clearly formulated by Aristotle, a *polis* was, "a community (*koinonia*) of citizens (*politai*) with regard to the constitution (*politeia*)".[229] It is at once apparent that Aristotle only picks up two of the three elements that comprise the modern juristic idea of a state, the people and the constitution: the territory is left out altogether, and that is not by chance. For Aristotle asserts that no one is a citizen by mere domicile in a particular place (*Pol.* 1275a7), and that a common space to live in is not the essential aspect of a *polis* (*Pol.* 1280b30). Thus, Aristotle hits upon one important difference between the *polis* and the modern state. We nowadays tend to equate a state with its territory – a state is a country (see *supra* page 38); whereas the Greeks identified the *polis* primarily with its population – a *polis* is a people (see *infra* pages 56-64).

This is well known and basically true. But it must not lead to the inference that the territory was *not* an element in the concept of the *polis*. Aristotle's definition of the πόλις as a κοινωνία πολιτῶν πολιτείας (*Pol.* 1276b1) is proposed in connection with the problem of the identity of the *polis*, and Aristotle discusses three different criteria for deciding when a *polis* has changed so much that it has become a different *polis*: (a) change of place (*topos*), (b) change of people (*anthropoi*) and (c) change of constitution (*politeia*).[230] He rejects (a) and (b) as superficial and prefers (c), but it is important to note that the territory is discussed as one of the three relevant parameters. Similarly, in Book 2 of the *Politics* Aristotle asserts that the *polis* is a community, and that its first and most fundamental aspect shared by the members is the place where they live (1260b40-61a2). A common space to live in is, after all, a necessary prerequisite for a *polis* (1280b31-2).

Of course the Greeks knew all about the territory of a *polis*: the frequently-used penalty of exile[231] consisted precisely in the right of anyone to kill the outlaw if found within the territorial bounds,[232] and we know of laws and verdicts which prescribed that the corpse of an executed criminal be thrown over the border of the *polis*.[233] So the Greeks were perfectly capable of saying "the *polis* stretches to this-and-this point and not beyond". The borderline of a *polis* was often marked with boundary stones (*horoi*);[234] we are told that territorial disputes had to be settled by international arbitration[235] and might result in wars between *poleis*.[236]

Next, the term *polis* is sometimes used in the sense of territory, denoting both the *polis* (in the sense of town) and its hinterland: Herodotos tells us that Xerxes' army in 480 marched straight through a *polis* called Agore; and Xenophon reports that Agesilaos pillaged "the eastern part of the *polis* of Thebes right up to the *polis* of Tanagra".[237] In both these passages *polis* is used to denote the *territory* of a *polis*: Xerxes' army did not march through the gates of the city of Agore, and Agesilaos did not pillage "the countryside east of the city of Thebes up to the city of Tanagra".[238] There are some four score of other examples of territory as the principal meaning of *polis*,[239] and they show that the territory in question almost always is a town and its hinterland. Attestations of *polis* in the sense of country and used about large regions are few and far between.[240]

Similarly, a toponym could be used to designate a *polis* not only in the senses of nucleated settlement or political community but also in the sense of territory. Thus the name Τάναγρα designates not only the urban centre (Heraclides 8 in *GGM* I page 101); it can also be used synonymously with the ethnic Ταναγραῖοι to denote the Tanagraian political community (Xen. *Hell.* 5.4.49) or synonymously with ἡ Ταναγραική to denote the hinterland (Thuc. 1.108.1),[241] just as the term *polis* was used to designate either the Tanagraian political community (Thuc. 4.91.1 & 93.4) or the town (Heraclides 8 in *GGM* I page 101) or the territory (Xen. *Hell.* 5.4.49).[242]

To sum up: of the three aspects of the concept of *polis* the territory mattered less than the people and the government, but it was still an important element which the ancient Greeks did not ignore. It is true that a people thrown out of their territory could still persist as a *polis*. Thus, Themistokles claimed that Athens – or rather the Athenians – were still a *polis* although the Persians had occupied Attika (Hdt. 8.61.2; Aesch. *Pers.* 349-50). But in a similar situation Nikias told his army that they

were strong enough to *become* a *polis*, as soon as they chose to settle down in some place.[243] So, although "the *polis* is its men" (Thuc. 7.77.7) a *polis* is also a settlement in a given place.

Apart from such exceptional cases as the Athenian army in 480, every *polis* had a territory and the concept of the *Polis ohne Territorium*, coined by Franz Hampl in 1939,[244] should be abandoned as a fallacy. Yet, following Hampl, some historians still seem to believe that a *polis* could be completely deprived of its territory but nevertheless persist as a self-governing community of citizens, i.e. as a *polis*.[245] The concept of *Polis ohne Territorium*, however, has been rejected by other historians, mostly on general grounds.[246] Let me add here that none of Hampl's examples carries conviction, not even his first (and best), i.e. Mytilene after 427. I have no quarrel with Hampl's contention (1-2) that Mytilene persisted as a *polis* although the land was shared out to Athenian klerouchs; but it does not follow that Mytilene, then, was a *Polis ohne Territorium*. There is no indication that the city itself became Athenian property; thus Mytilene may for some years have been a *polis* without a hinterland, but not a *polis* completely deprived of its territory.

Hampl's second best example is Chalkis (7-10). But in 446 when the Athenians installed klerouchs in Chalkis, the Chalkidians were not only deprived of (some of) their territory, but also of many other rights. Chalkis became a dependent *polis* (*hypekoos polis*), not a "*Polis ohne Territorium*". Both these and Hampl's other examples, which are even less convincing, testify to the existence of *hypekooi poleis*, and he points out quite correctly (16-7) that a city which lost its *autonomia* could persist as a *polis*. But that does not amount to evidence of "*Poleis ohne Territorium*".[247] Just as an Attic deme had a territory marked with *horoi* inside Attika which was the territory of the Athenian *polis*, so, at a higher level, we have dependent *poleis* whose territory was part of the territory of a larger *polis*.

One example is Argoura, a small Euboian *polis* which, according to the 4th-century historian Aristoteles of Chalkis was lying inside the territory of a much larger *polis*, *viz.* Chalkis.[248]

Another example is Rhitten on Crete. A fifth-century decree of Gortyn concerning Rhitten acknowledges the Rhittenioi as *autonomoi* and *autodikoi* (*I. Cret.* IV 80), and there can be little doubt that Rhitten was a *polis*. But it is also apparent from the treaty that Gortyn owned at least part of the territory occupied by the Rhittenioi, perhaps all of it. The inference is that Rhitten was a dependency of Gortyn with a territory within that of Gortyn.[249]

A third example is Mykalessos in Boiotia. It is called a *polis* both in the urban and in the political sense by Thucydides at 7.29-30; the city-ethnic (in its collective and external use) is attested by Thucydides at 7.30.3. In the Hellenistic and Roman periods Mykalessos was located in the territory of Tanagra (Strab. 9.2.11, 14; Paus. 9.19.8), and that seems to have been the case already in the early 5th cent. B.C.[250] Within the Tanagraian territory, however, Mykalessos had its own territory, called Μυκαλησσός, which seems to have stretched as far as the Euboian Gulf.[251]

2. The People

As is well known, the Greeks had a strong inclination to identify the *polis* with its population. "A *polis* is made up of men, not of walls nor of empty ships," said Nikias in 413 B.C.[252] The speech is reported by Thucydides and echoes both Alkaios who made the same point almost two hundred years earlier,[253] and Aischylos who did it in his account of the battle of Salamis.[254] That the *polis* is its people is a thought expressed already in the *Iliad*,[255] and it recurs in every type of source.

Let me adduce yet another example. An Athenian epigram commemorating a man killed in the war is opened with the clause: "if only a *polis* were made up of such men ...". Another much earlier epigram by Anakreon has it that "the whole *polis* mourns over Agathon who died in battle for Abdera;" a similar *topos* is found in sepulchral epigrams from Arkesine and Larymna; and Demosthenes asserts that those fallen in the war are buried publicly by the *polis*.[256]

The idea that the *polis* is a community rather than a country is reflected in the way the Greeks named their *poleis*. It has often been noted that today we use toponyms as names of states whereas the ancient Greeks preferred ethnics derived from the toponyms.[257] Admittedly, there are attestations of the toponym being used as the name of a *polis*-state,[258] but they are rare compared with the regular habit of using a city-ethnic, either in the nominative plural or in the genitive as a complement to the words *demos* or *polis*. Thus, as a political community, the *polis* Karthaia on Keos is usually called either Καρθαιεῖς (*IG* II^2 43.121, cf. 78), or ὁ δῆμος ὁ Καρθαιέων (*IG* XII 5 534.5) or ἡ πόλις ἡ Καρθαιέων (*IG* XII 5 540.4).[259]

In accordance with this concept of the *polis* as a community we find

that, in definitions of the *polis*, the people are singled out as its most essential characteristic: in the Platonic *Definitions* a *polis* is defined both as a settlement and as a multitude of human beings;[260] and in *Politics* Book 3 Aristotle defines the *polis* as a multitude of citizens.[261]

The variation between a multitude of men in the Platonic *Definitions* and a multitude of citizens in Aristotle's *Politics* raises an important but often neglected question.[262] There can be no denying that, in ancient Greek thought, a *polis* was identical with its people, but did the people comprise all the inhabitants or only the citizens? Modern historians have two very different answers to this question. According to George Forrest, for example, the *polis* "was a community of citizens (adult males), citizens without political rights (women and children), and non-citizens (resident foreigners and slaves), a defined body, occupying a defined area, living under a defined or definable constitution, ...". [263] Ernst Meyer, however, offers the following description: "die 'Polis' ist also die Gesamtheit seiner Bürger, nähmlich aller derjenigen, immer nur männlichen Angehörigen des Volkes, die die politischen Rechte besitzen, 'am Staat Anteil haben'".[264]

Both Forrest and Meyer (and their followers) can find support for their view in Aristotle's *Politics*. In Books 1 and 3 Aristotle offers two very different accounts of what a *polis* is. In Book 1 he gives a socio-economic analysis of the *polis*: the atom of the *polis* is the household, *oikia* (*Pol.* 1253b2-3), in Book 3 it is the citizen, *polites* (*Pol.* 1274b41; 1275b20), and the distinction is carried through with remarkable consistency. Book 1 has nothing to say about the citizen, and the term *polites* occurs not even once. In Book 3 Aristotle has hardly anything to say about households, and the *oikia* is only mentioned in a few scattered passages[265] of which only one is central to the argument.[266] Two different ways of subdividing the *polis* results in two diffferent views of the *polis*: the *oikia* comprises man, wife, children and slaves (*Pol.* 1253b4-7). Consequently, in Book 1 women, children and slaves are members of the *polis*. The men are not, of course, supposed to treat them as equals, but they are nevertheless insiders. In Book 3 the atom is the citizen, but citizen rights are restricted to adult males born of citizens. Consequently, in Book 3 women, children and slaves are outsiders. They live in the *polis* but are not members of the *polis* (*Pol.* 1275a7-8; cf. 1326a18-20); and in several passages Aristotle distinguishes between those who share in the *polis* and those without whom a *polis* cannot exist (*Pol.* 1278a2-3; 1328a21ff). There cannot be a *polis* without women, children and slaves, just as there can not be a *polis* without do-

mestic animals. But, like the livestock, these human beings are excluded from the *polis* (*Pol.* 1280a31-4; *Eth. Nic.* 1099b29-1100a1), that is from participation in the *politeia*. As a purely social phenomenon even some animals, such as bees, are described as *zoa politika* (*Pol.* 1253a7-8), i.e. as animals living in what can be called a *polis* (*HA* 617b13-4). But as a specifically political institution the *polis* is a community peculiar to mankind, and even to a part of mankind only (*Pol.* 1280a31-4).[267]

Aristotle's two complementary views of the members of a *polis* are not just the product of a philosopher theorising about society. They match what we know from other sources, and, as usual, Aristotle's empirical background seems to be all the small and middle-sized *poleis* as much as Athens where he spent most of his adult life.

(I) *The polis = the citizens.* There is an abundance of evidence for the *polis* as a community of *politai*, that is of adult male citizens. The literary sources are mostly Athenian and testify to the identification of the *polis* with the citizens in assembly, or the citizens in the people's court or the citizens at large.

Similarly, to participate in the *polis* (μετέχειν τῆς πόλεως) was taken to be the prerogative of the citizens to the exclusion of foreigners and slaves.[268] Conversely, the entire population of the *polis* – including foreigners and slaves – is often referred to with the prepositional group οἱ ἐν τῇ πόλει, an expression which, implicitly, indicates a distinction between the *polis* itself, namely the *politai*, and those who live in the *polis* without being members of the *polis*. Let me illustrate the conceptions by quoting some of the sources.

(1) First some passages in which the *polis* designates the citizens acting as a body of government.

Xen. *Hell.* 2.3.35: ἐγὼ δὲ (Theramenes) ἀπολογούμενος ... ἔδοξα τῇ πόλει (the assembly) εἰκότα λέγειν.

Aeschin. 3.4: ἡ προεδρεύουσα φυλή, τὸ δέκατον μέρος τῆς πόλεως (the assembly).

Dem. 18.196: εἰ μὲν γὰρ ἦν σοι πρόδηλα τὰ μέλλοντ', Αἰσχίνη, μόνῳ τῶν ἄλλων, ὅτ' ἐβουλεύεθ' ἡ πόλις (the assembly) περὶ τούτων, τότ' ἔδει προλέγειν (assembly).

Dem. 18.273: εἰ δὲ παρῆτε μὲν ἐν ταῖς ἐκκλησίαις ἁπάσαις, ἀεὶ δ' ἐν κοινῷ τὸ συμφέρον ἡ πόλις προὐτίθει σκοπεῖν .... πῶς οὐκ ἀδικεῖς ...; (assembly, *boule*)

Aeschin. 3.2: ἵνα ἐξῇ πρῶτον μὲν τῷ πρεσβυτάτῳ τῶν πολιτῶν ... τὰ βέλτιστα τῇ πόλει συμβουλεύειν ... (assembly)

Dem. 43.72: τί ποτ' οἴεσθε ἡμᾶς πάσχειν ... ὑπὸ τούτων ..., ὅπου

ὑμῶν, πόλεως τηλικαυτησί (the people's court), κατεφρόνησαν καὶ τῶν νόμων τῶν ὑμετέρων;[1]

(2) Next, some passages in which the *polis* is used synonymously with the citizens at large.

Andoc. 2.1: εἴπερ γὰρ ἡ πόλις ἁπάντων τῶν πολιτευομένων (all citizens) κοινή ἐστι, καὶ τὰ γιγνόμενα δήπου ἀγαθὰ τῇ πόλει κοινά ἐστι.

Xen. *Symp.* 8.7: ὅτι γε μὴν σύ, ὦ Καλλία, ἐρᾷς Αὐτολύκου πᾶσα μὲν ἡ πόλις οἶδε, πολλοὺς δ' οἶμαι καὶ τῶν ξένων.

Xen. *Hell.* 5.2.32: ηὗρε δ' ἐκεῖ τοὺς μὲν ἐφόρους καὶ τῆς πόλεως τὸ πλῆθος χαλεπῶς ἔχοντας τῷ Φοιβίδᾳ, ὅτι οὐ προσταχθέντα ὑπὸ τῆς πόλεως ταῦτα ἐπεπράχει. ....

Thuc. 5.18.5 (Peace of Nikias): ὅσας δὲ πόλεις παρέδοσαν Λακεδαιμόνιοι Ἀθηναίοις, ἐξέστω ἀπιέναι ὅποι ἂν βούλωνται αὐτοὺς καὶ τὰ ἑαυτῶν ἔχοντας.

Pl. *Lg.* 753C-D: τὰ δὲ τῶν πινακίων κριθέντα ἐν πρώτοις μέχρι τριακοσίων δεῖξαι τοὺς ἄρχοντας ἰδεῖν πάσῃ τῇ πόλει, τὴν δὲ πόλιν ὡσαύτως ἐκ τούτων φέρειν πάλιν ὃν ἂν ἕκαστος βούληται.[2]

(3) Finally some passages in which οἱ ἐν τῇ πόλει comprise citizens as well as non-citizens.

Thuc. 6.30.2: ὁ ἄλλος ὅμιλος ἅπας ὡς εἰπεῖν ὁ ἐν τῇ πόλει καὶ ἀστῶν καὶ ξένων ...

Lys. 22.6: ἡμεῖς γὰρ ὑμῖν παρεσχόμεθα τὸν νόμον, ὃς ἀπαγορεύει

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1 Xen *Hell.* 2.3.35: "In my defence, I argued that ...., and the *polis* found that my arguments were reasonable". Aeschin. 3.4: "the presiding tribe, the tenth part of the *polis*". Dem. 18.196: "if you alone of all men could predict the future, Aischines, you ought to have told the *polis* when it debated this matter". Dem. 18.273: "If you attended all meetings of the *ekklesia*, where the *polis* always invites to an open discussion of what is beneficial, you are guilty of a criminal act ....". Aeschin. 3.2: "that it can be possible for the oldest citizen ... to give the *polis* his best advice". Dem. 43.72: "what do you expect to suffer from these persons, when they showed such a contempt for you, who are such a great *polis*, and for your laws?"

2 Andoc. 2.1: "if the *polis* is common to all citizens (*politeuomenoi*) then all the benefits which fall to the *polis* are common as well". Xen. *Symp.* 8.7: "all the *polis* and even many foreigners know that you, Kallias, are in love with Autolykos". Xen. *Hell.* 5.2.32: "and there he found that the ephors and the majority of the *polis* were angry with Phoibidas, because he had not complied with what had been ordered by the *polis*". Thuc. 5.18.5: "all the *polis* which the Lakedaimonians surrendered to the Athenians shall possess the possibility of emigrating to wherever they want to go with their possessions". Pl. *Lg.* 753 C-D: the tablets which are judged to be first, to the number of 300, shall be shown by the magistrates to the whole *polis*, and the *polis* shall in like manner select from these the candidates whom they prefer (translated by Jowett).

μηδένα τῶν ἐν τῇ πόλει πλείω σῖτον πεντήκοντα φορμῶν συνωνεῖσθαι.

Dem. 9.3: ὑμεῖς τὴν παρρησίαν ἐπὶ μὲν τῶν ἄλλων οὕτω κοινὴν οἴεσθε δεῖν εἶναι πᾶσι τοῖς ἐν τῇ πόλει, ὥστε καὶ τοῖς ξένοις καὶ τοῖς δούλοις αὐτῆς μεταδεδώκατε, καὶ πολλοὺς ἄν τις οἰκέτας ἴδοι παρ' ἡμῖν μετὰ πλείονος ἐξουσίας ὅ τι βούλονται λέγοντας ἢ πολίτας ἐν ἐνίαις τῶν ἄλλων πόλεων, ἐκ δὲ τοῦ συμβουλεύειν παντάπασι ἐξεληλάκατε.

Dem. 25.16: πᾶς ἐστι νόμος ... πόλεως δὲ συνθήκη κοινή, καθ' ἣν πᾶσι προσήκει ζῆν τοῖς ἐν τῇ πόλει.[1]

One further indication that the *polis* was primarily a community of *politai* is the use and meaning of the adjective ἄπολις: to be without a *polis*. When this adjective is applied to a person, it is always to one without citizen rights, specifically a stateless person,[269] and the opposite of being *apolis* is not just to live in a *polis*, but to be a *polites*.[270] When applied to the *polis* itself the adjective has two different senses, according to whether *polis* is used in the sense of town or community. In the first case an *apolis polis* is a demolished *polis*,[271] but in the second sense it is a *polis* without (proper) political institutions.[272]

All the sources quoted above are literary and Athenian. When we shift the focus of attention from Athens to the ca. 1499 other *poleis* we must turn to the epigraphical evidence.

(1) *Polis* designating a body of citizens acting as a body of government is attested in, for example, a law from Lokris which lays down, *inter alia*, that "whoever proposes partition (of land) or gives his vote for it in the *preiga* (senate) or in the *polis* (assembly) or in the *apoklesia* (committee), ... shall be exiled ..."

(2) *Polis* used synonymously with the citizens at large, probably including women and children, is attested in a sepulchral inscription from Arkesine which states that "Kleomandros' death brought sorrow and tears to the *polis*".

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1 Thuc. 6.30.2: "all the other inhabitants of the *polis*, both citizens (*astoi*) and foreigners (*xenoi*) ...". Lys. 22.6: "for we produced to you the law which forbids anyone in the *polis* to buy up more than 50 measures of grain". Dem. 9.3: "In other matters you think that freedom of speech must be extended to everybody in the *polis* and the result is that you have granted this privilege even to foreigners and slaves, and that among you one can see many household slaves speaking their mind with greater freedom than citizens do in some other *poleis*. But you have driven them away from joining the debate in any political meeting". Dem. 25.16: "Every law is ... a general covenant of the whole *polis*, in accordance with which all inhabitants of the *polis* ought to regulate their lives".

(3) Finally, οἱ ἐν τῇ πόλει comprising the entire population of a *polis* is attested in a decree from Gortyn which regulates salaried work performed "by all who live in the *polis*, the free as well as the slaves".[273]

More epigraphical sources can be cited, also some relating to Athens, but there can be no denying that the epigraphical evidence, Athenian as well as non-Athenian, is sparse compared with the literary Athenian sources, undoubtedly because inscriptions usually testify to the actual political organisation of a *polis* rather than to how this political organisation was conceived by the people in question. However, in addition to the evidence presented above there are at least two types of information which show that, in the rest of the Greek world as well as in Athens, the *polis* was identified with its *politai:* (a) decrees passed by the *polis* and (b) personal names used as evidence of membership of the *polis*.

(a) Ancient Greek laws and decrees are often opened with a prescript and an enactment formula. A very common enactment formula is a form of the verb δοκεῖν *vel sim.* construed with a dative, for example: ἔδοξε τῶι δήμωι. But in quite a few decrees the dative used is τῆι πόλει, see, for example, ἆδ' ἔϝαδε πόλι in an enactment from Dreros of the late seventh century (Meiggs-Lewis, *GHI* 2), or ἔδοξε τᾶι πόλει τῶν Τεγε[α]τᾶν in a fourth-century decree from Tegea.[274] The presumption is that *polis* is here used synonymously with *demos* to denote the people in assembly; and that is confirmed by, for example, some decrees from Delphi in which we find the enactment formulas: ἔδοξε τᾶι πόλει τῶν Δελφῶν ἐν ἀγορᾶι τελείωι (*F. Delphes* III.4 414.3-4) and τά[δ]ε ἔδοξ[ε]ν Δ[ε]λφοῖς (*F. Delphes* III.4 371.33-4). It is reasonable to presume that, in small *poleis*, virtually all enfranchised citizens turned up for the sessions. In large *poleis* like Athens only a fraction of the citizens attended the sessions, but a decision made by the assembly was nevertheless supposed to be a decision made by *all* citizens.[275] Thus, in a democratic *polis* enactments made by the *polis* are enactments made – in theory – by all citizens and the *polis* is identified with its body of citizens. For the difference between the body of full citizens in a democracy and in an oligarchy, see Arist. *Pol.* 1292a39-41; 1320b18-30.

(b) All over the Greek world city-ethnics,[276] such as Korinthios, Megareus or Rheginos, were added to the name and patronymic as a kind of surname whenever a citizen had to identify himself outside his own *polis* or if, in his own *polis,* he was recorded side by side with citizens from other *poleis*. Furthermore, in some *poleis* it was customary for citizens to use a sub-ethnic to indicate membership of a civic subdi-

vision, such as a *demos* or a *phratria* or a *phyle* etc. But the use of sub-ethnics and city-ethnics was a prerogative of the citizens to the exclusion of foreigners and slaves: to have a sub-ethnic or a city-ethnic was an indication of one's status as a citizen and not just a habitation name indicating where one was born or lived.[277] Wherever sub-ethnics are attested, e.g. demotics in Athens or Eretria, they seem to be used as surnames of citizens only and, similarly, a Korinthios was one of the Korinthians who, collectively, were identical with the Korinthian *polis* viewed as a community of citizens: used in the singular the city-ethnic designated a member of the *polis*, used in the plural it designated the *polis* itself.[278]

(II) *The polis = all the inhabitants*. It is much more difficult to find sources in which the *polis* is identified with all inhabitants. The best passage I know is from Plato's *Laws* 838D: οὐκοῦν ὀρθὸν τὸ νυνδὴ ῥηθὲν, ὅτι νομοθέτῃ, βουλομένῳ τινὰ ἐπιθυμίαν δουλώσασθαι τῶν διαφερόντως τοὺς ἀνθρώπους δουλουμένων, ῥᾴδιον γνῶναί γε ὄντινα τρόπον χειρώσαιτο ἄν καθιερώσας ταύτην τὴν φήμην παρὰ πᾶσι, δούλοις τε καὶ ἐλευθέροις καὶ παισὶ καὶ γυναιξὶ καὶ ὅλῃ τῇ πόλει κατὰ τὰ αὐτά, οὕτω τὸ βεβαιότατον ἀπειργασμένος ἔσται περὶ τοῦτον τὸν νόμον (about restrictions of sexual intercourse).[1] Here ὅλῃ τῇ πόλει is probably used synonymously with πᾶσι τοῖς ἐν τῇ πόλει and comprises all the persons enumerated: slaves and free (citizens and foreigners combined), children and women. However, in other Athenian sources there is some evidence of a more general nature.

(a) In *Republic* Book 2 Plato describes the emergence of the *polis* in the sense of a nucleated settlement intended to facilitate production by specialisation of function and division of labour. The original members of the *polis* are a farmer, a builder, a weaver and a cobbler, but the *polis* grows all the time and comes to include smiths, herdsmen, traders, day labourers, producers of all kinds of luxury and in the end also an army. The members of this *polis* are called *politai*, but there is no mention of citizen rights and political participation. *Polites* is here used in the rare sense of "townsman" and even the day labourers are described as members of the *polis*.[279] Speaking of the *polis* in the sense of a political com-

1 *Lg.* 838D: "Am I not also right in saying that the legislator who wants to master any of the passions which master man may easily know how to subdue them? He will consecrate the tradition of their evil character among all, slaves and freemen, women and children, throughout the *polis*: – that will be the surest foundation of the law which he can make" (Jowett).

munity, Aristotle denies that Plato's *polis* in *Republic* Book 2 is a true *polis* (Arist. *Pol.* 1280b17-23). But if Plato's primeval *polis* is seen as a primarily economic community of which all the inhabitants are members, it is not far removed from the original *polis* described by Aristotle himself in *Politics* Book 1.

(b) When a *polis* was conquered its population was often exterminated by killing all adult males, whereas women and children were sold into slavery, a procedure called *andrapodismos.* In 428 B.C., when the Athenians had forced the Mytilenaians into surrender, they were first determined to kill all the men and expose the women and children to an *andrapodismos*,[280] but only one day later they regretted their relentlessness and decided to reconsider the matter: καὶ τῇ ὑστεραίᾳ μετάνοιά τις εὐθὺς ἦν αὐτοῖς καὶ ἀναλογισμὸς ὠμὸν τὸ βούλευμα καὶ μέγα ἐγνῶσθαι, πόλιν ὅλην διαφθεῖραι μᾶλλον ἢ οὐ τοὺς αἰτίους (Thuc. 3.36.4,[1] cf. 3.49.2).[281] Here the persons denoted by the word *polis* must be all the *polis*' inhabitants, not just the citizens, and the basic distinction made is not between citizens and non-citizens but between gender and age groups, i.e. men, women and children.

(III) *Female citizens*. Insofar as many women and children living in a *polis* were of citizen birth, there was a certain overlap between the two different views. Women had no political rights but they were nevertheless citizens. In a way, they were members of the *polis* not only in the sense of town plus hinterland, but also in the sense of political community and that is reflected both in the terminology used about women of citizen birth and in the way they were named.

(a) The Greeks had two words for "citizen", viz., *polites* and *astos*, but they are not perfect synonyms: *astos* signifies a man of citizen birth whereas *polites* is used when the emphasis is on a citizen's exercise of his political rights.[282] Accordingly, the feminine *aste* is the regular term used about female citizens whereas *politis*, the feminine form of *polites* is very rare.[283] (b) In the Athenian sepulchral inscriptions city-ethnics in the feminine nominative are attested for women coming from forty-five different *poleis*, cf. for example: Μυρτὼ Δημητρίου Αἰγινῆτις.[284] Most of these women, and perhaps even all of them, must have been metics who had not returned to their city of origin. In official parlance Athenian metics, both men and women, were named after the deme in

1 Thuc. 3.36.4: "Immediately on the following day the Athenians had second thoughts and a new debate: it was a cruel and far-reaching decision to destroy a whole *polis* rather than the guilty".

which they lived. The sepulchral inscriptions are private documents which reflect how the Athenian metics wanted to be commemorated. Although we lack definitive proof the presumption is that all these women were female citizens of the city whose city-ethnic is recorded on the stone. Thus, although all these sepulchral inscriptions are Attic they indicate that Greeks from all parts of the Mediterranean world treated women of citizen birth as citizens just as the Athenians did, and in this respect the women were the equals of the men who could use the city-ethnic in the masculine as part of their full name.

To conclude: we have two opposed but complementary views of who were members of a *polis*. When the *polis* was viewed as a political community, membership was restricted to the full citizens, designated by terms such as *astoi* (of citizen birth), or *politai* (with political rights), or *politeuomenoi* (politically active).[285] In this context the *polis* was an exclusively male society and its atom was the *polites*, the adult male citizen. Insofar as women were recognised as citizens, they were referred to as *astai* rather than as *politides*. When the *polis* was viewed as a social and economic community consisting of a city with its hinterland the people comprised all inhabitants: citizens, free foreigners and slaves of both sexes and all ages. They were all members of households and in this context the atom of the *polis* was the *oikia* rather than the individual citizen.[286] Finally, the view that the *polis* comprised all inhabitants is conspicuously rare compared with the view that the *polis* was a community of adult male citizens. In the sources we have, the *polis* is seen as a political rather than as a social organisation. It is impossible to tell whether the preservation of other types of source would have given a different picture.

3. The Government

In modern definitions of the concept of state the third element is the government, a term which is understood in two different but related meanings. Sometimes it is used in a broader sense and designates the political structure at large, i.e. the whole hierarchy of law-making and law-enforcing institutions;[287] but often it has a narrower meaning and denotes the top of the power pyramid, i.e. the chief executive which, in parliamentary systems, is also the head of the legislature.[288]

In *Politics* Book 3 Aristotle holds comparable views. He defines the *polis* as a κοινωνία πολιτῶν πολιτείας, i.e. as a community (*koinonia*)

of citizens (*politai*) about the constitution (*politeia*).[289] The third element of this definition is, on the face of it, an abstract entity, namely the constitution, as *politeia* is traditionally and, in my opinion, correctly translated. But a few pages on *politeia* is further defined as the *polis*' organisation of its officials (*archai*), and principally those who constitute the top of the hierarchy.[290] Later again *archai* are defined as "those who are empowered to deliberate about some matters, and to pass judgements and, especially, to issue commands".[291] But in a democracy it is the whole body of citizens who deliberate and pass judgements (*Pol.* 1298a9ff). Is it correct to say that the body of citizens is an *arche*? Yes, says Aristotle, if we distinguish between *archai* in the structural and more technical sense used about the officials which in a *polis* are elected or selected by lot, as against the *archai* in a looser but more functional sense used about those who rule the *polis* by deliberating in the *ekklesia* and by passing judgements in the *dikasteria* (*Pol.* 1275a22-33).

Aristotle's analysis conforms with the documents which have been preserved. In Athens both the people's assembly and the popular courts, and the Council of Five Hundred, and any other official could be identified with the *polis*, as is apparent from the examples quoted *supra* page 58. Let me here add a few more Athenian examples, and some from other *poleis*:

Lys. 24.22: ἡ πόλις ἡμῖν ἐψηφίσατο τοῦτο τὸ ἀργύριον. 23: ἃ δ' ἡ πόλις ἔδωκε (the *ekklesia*).

Dem. 21.32: ἐὰν δὲ θεσμοθέτην (ὑβρίσῃ τις), ἄτιμος ἔσται καθάπαξ. διὰ τί; ὅτι τοὺς νόμους ἤδη ὁ τοῦτο ποιῶν προσυβρίζει καὶ τὸν ὑμέτερον κοινὸν στέφανον καὶ τὸ τῆς πόλεως ὄνομα. ὁ γὰρ θεσμοθέτης οὐδενὸς ἀνθρώπων ἔστ' ὄνομα, ἀλλὰ τῆς πόλεως, (an *arche*, cf. Lysias 28.10).

Arist. *Ath. Pol.* 42.1: κἂν μὲν μὴ δόξῃ δικαίως ἐγγράφεσθαι, πωλεῖ τοῦτον ἡ πόλις (the *poletai* and the *boule*).[292]

Dem. 18.240: τί ἂν οἴεσθε, εἰ τότ' ἐμοῦ περὶ τούτων ἀκριβολογουμένου, ἀπῆλθον αἱ πόλεις καὶ προσέθεντο Φιλίππῳ ... (envoys representing their *poleis*)

SEG 27 631.1: ἔϝαδε Δαταλεῦσι καὶ ἐσπένσαμες πόλις Σπενσιθίωι, ἀπὸ πυλᾶν πέντε ἀπ' ἐκάστας ... (a *boule* and possibly a *gerousia*, from Lyttos, ca. 500 B.C.).[293]

Buck No. 23.2: βασιλεὺς Στασίκυπρος κὰς ἀ πτόλις 'Εδαλιῆϝες (from Idalion ca. 450-400).

SEG 11 1051: ἔδοξε τᾶι πόλει τῶν Τεγε[α]τᾶν Νικέαν Θερρίλαυ 'Ορκομένιον πρόξενον ἦναι ... (from Tegea ca. 325-300).

Meiggs-Lewis, *GHI* 2.1: ἃδ' ἔϝαδε πόλι (from Dreros 650-600).

Syll.[3] 4, Kyzikos: [τὴν δὲ στ]ήλην τήνδε πόλις Μανῆ ἔδωκε τῶι Μεδίκ[εω].[1]

Of the sources quoted above the most revealing is the passage from Demosthenes' speech against Meidias. Meidias had punched Demosthenes in the face in public and during the Greater Dionysia (1, 6, 12, 25). Demosthenes brought a public action against Meidias (1-12), and in his speech for the prosecution he debates whether Meidias' offence is a public matter of relevance for the *polis*, or belongs in the private sphere of life (25-35). The crucial point is, according to Demosthenes, that on that occasion he was performing a public task as the *choregos* of his tribe (26, 31, 34), and in that capacity he was wearing a crown (33), just as any *thesmothetes* wore a crown when he performed his duties. But a person who behaves insolently towards a *themosthetes* is punished not with a fine *vel sim.* but with a permanent loss of rights (*atimia*), "because *Thesmothetes* is the name not of an individual person but of the *polis*" (32-3). Here a distinction is made between the person as an individual and as an official, and the office he fills is seen as a direct manifestation of the *polis*.

It is significant that many of the sources in which the *polis* is identified with the citizens may just as well be quoted here to illustrate an identification of the *polis* with its political institutions. And this coincidence brings out quite an important nuance in how a political community is regarded. As noted above, a state can be looked at from two standpoints, either as a community of citizens manifesting itself in a set of organs with a government at the head,[294] or as a set of organs, typical-

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1 Lys. 24.22: "The *polis* granted us this money by decree"; 23: "... what the *polis* gave". Dem. 21.32: "But if anyone assaults a *thesmothetes* he shall suffer permanent loss of rights (*atimia*). Why so? Because such a perpetrator assaults the laws as well, and also your public crown and the name of the *polis*. For *thesmothetes* is not the name of any individual person but of the *polis*". Arist. *Ath. Pol.* 42.1: "and if (the jurors) decide that a young man has been falsely inscribed (in the deme's roster of citizens) the *polis* shall sell him at public auction". Dem. 18.240: "what do you suppose would have happened if I had adopted a principle of exact calculation and all the *poleis* had gone off and joined Philip?" *SEG* 27 631.1: "The Dataleis resolved, and we the *polis* pledged to Spensithios, from the tribes five from each ...". *Buck* No. 23.2: "King Stasikypros and the *polis*, the Edalians". Meiggs-Lewis, *GHI* 2.1: "The *polis* decided as follows". *SEG* 11 1051: "The *polis* of the Tegeans decided that Nikias son of Therrilaos of Orchomenos be a *proxenos* ..." *Syll.*[3] 4, Kyzikos: "The *polis* gave this *stele* to Manes the son of Medikes".

ly a government, exercising rule over its citizens.[295] In modern states, even democracies, there is a tendency to identify the state with the government rather than with the citizens, and government and people are represented as two opposed parts of the state.[296] But in a democratic *polis*, government and citizens largely coincided, primarily through the institution of the Assembly of the People, and the dominant ideology was that the *polis* was the people (*demos*). It manifests itself, for example, in the enactment formulas of laws and decrees which alternate between ἔδοξε τῇ πόλει and ἔδοξε τῷ δήμῳ.[297] In ancient Greece the citizens were proud to say: "we are the *polis*"[298] whereas modern citizens prefer to use the pronoun "they" about the government and will hardly ever be inclined to identify themselves with those who rule their country.

4. The *Polis* as a Superpersonal, Permanent Power

From the *polis* designating a body of government there is only a small step to the more abstract notion that the *polis* as such performed a task which, strictly speaking, was performed by one of the bodies of government. In this more abstract sense *polis* appears as the subject in a number of sentences in which we would use the term state as the subject and have a similar kind of personification in mind: thus, a *polis*

passes a law (Dem. 18.120; *I.Cret* IV 43B.a.3, Gortyn).[299]
or passes a sentence (Pl. *Cri.* 50C; *Syll.*[3] 530.4, Dyme)
or arrests somebody (Thuc. 6.53.1; Meiggs-Lewis, *GHI* 43.7, Miletos)
or appoints a panel of jurors (Dem. 39.11; *F.Delphes* III.4 352.II.5, Delphi)
or elects an official (Xen. *Hell.* 6.3.4; *SEG* 27 631.1-10, Lyttos)
or sends out envoys or representatives (Thuc. 1.73.1; *CID* II 74, the members of the Delphic amphiktyony)
or takes an oath (*IG* II[2] 44.14; *IG* XII 9 191, 42-3 & 49, Eretria)
or goes to war (Aeschin. 3.122; Thuc. 5.79.4, quoting a treaty between Sparta and Argos).
or makes peace (Xen. *Mem.* 4.4.14; Thuc. 5.79.1, quoting a treaty between Sparta and Argos).
or enters into an alliance (*IG* II[2] 43.32; *OlBer.* 7 [1961] 207-10, Poseidonia)

or defects from a league or a ruler (Aeschin. 3.142; Hdt. 5.106.5, the Ionian *poleis*)
or founds a colony (Thuc. 1.24.6; Meiggs-Lewis, *GHI* 5.37, Thera)
or collects a revenue (*IG* II^2 411; *CID* II 76, Delphi)
or defrays expenses (*Agora* XIX L4.20-1; *IvO* 16.7-8, Elis and Skillous)
or takes up a loan (Arist. *Pol.* 1276a8-16; *Costabile*, no. 2, Epiz. Lokris)
or enters into a contract (*IG* II^2 411.12, 24; *IG* XII 9 191.49, Eretria)
or owes money (*IG* II^2 111.6; *IG* V 2 6B.96, Tegea)
or strikes coins (Dem. 24.212-4; *IG* XII 2 1, Mytilene and Phokaia)
or repairs the walls (Xen. *Hell.* 6.5.5; *CEG* 668, Paphos)
or sends out an army (Xen. *Hell.* 6.1.19; *IG* IV^2 68.95, Epidauros)
or organises a festival (Dem. 21.26, 34; *IG* VII 1.14, Megara)
or makes sacrifices to a god (Xen. *Ath. Pol.* 2.9; *LSAM* 24, Erythrai)
or dedicates something to a god (*IG* II^2 1388.36-7; *IG* IX 1 130.2, Elateia)
or consults an oracle (Xen. *Symp.* 4.47; *IG* IV^2 122.77, Epidauros)
or buries the citizens killed in war (Dem. 18.208; *IG* XII 9 1195.8, Histiaia).
or bestows a crown on a benefactor (*IG* II^2 7393; *IG* IV^2 615.1, Epidauros)
or naturalises a foreigner (Dem. 23.201; *SEG* 43 311, Skotoussa)
or shelters a refugee (*IG* II^2 222.33-5; *Syll.*^{3} 173.1-3, Histiaia)

In all these cases the action performed by the *polis* is, in actual fact, a resolution passed by some decision-making body, typically an *ekklesia* or a *boule*, and subsequently performed by some *polis* officials. I find it important to note that *ethnos*, the other Greek word for "political community", is not normally attested as an agent in the same way as *polis*. In archaic and classical sources there is no occurrence of an *ethnos* passing a law, or collecting a fine, or electing an official, or burying its citizens *etc.*[300] When, exceptionally, *ethnos* is used as the subject of an active verb, it is primarily in international contexts, e.g. in a reference to the Delphic Amphiktyony in which each *ethnos* had two votes.[301] Obviously, an *ethnos* was not seen as a personified public power or a political unit as the *polis* often was. But then we must ask: is it legitimate from such a personification to assume that the Greeks were aware of a distinction between the *polis* identified with its political institutions and the *polis* in a more abstract sense of a permanent power over and above the rulers? In my opinion, the answer is yes.

Discussing what a *polis* is, Aristotle tells us that, after a revolution, it could be debated whether an obligation contracted by the former government was still binding on the new rulers; and in such a debate a crucial issue was whether the obligation was conceived as one contracted by the deposed rulers only or by the *polis* as such.[302] This passage is the closest we get to the notion that the *polis* could be regarded as what we today call a juridical person. One might suspect that such a refined line of argumentation tells us what Aristotle thought but not what was commonly believed. But I can see no reason to doubt Aristotle's explicit statement that this problem was in fact a political issue in some *poleis*, one of them being Athens where, after the restoration of the democracy in 403, it was decided by the people in assembly, but only after a long debate, that 100 talents borrowed by the Thirty from the Spartans had to be repaid by the new democratic regime.[303] Furthermore, the non-Athenian evidence shows that this abstract view of the *polis* was not just peculiar to the Athenians. In the Milesian decree cited above some men are outlawed and it is further stipulated that if the *polis* apprehends them, then some officials, called the *epimenioi*, shall have them executed.[304] Here a distinction is made between the Milesian *polis* as such and the Milesian officials who are instructed to carry out the verdict passed by the *polis*.

In the passages listed above the *polis* acted through its bodies of government. In other passages, however, an action is performed by the *polis* as such but cannot be nailed down to any specific public institution:

A *polis* wages war (Xen. *Hier.* 2.8; Aeschin. 3.122)
or fights a civil war (Xen. *Mem.* 2.7.2)
or worships the gods (Xen. *Mem.* 1.1.1; Arist. *Rhet.* 1399a10)
or falls out with an unworthy citizen (Dem. 24.6)
or brings a charge against another *polis* (Thuc. 1.82.6)

It is worth noting that, even here where *polis* is used in its more abstract sense, the action described is almost invariably one which we would describe as political and belonging in the public sphere. In Athens we do not hear that the *polis* was trading, or producing goods, or educating the children.[305] When, exceptionally, the *polis* is importing grain, it is either in the form of a tax,[306] or an emergency measure, to save the citizens (but not the foreigners) from starvation;[307] and when the *polis* undertakes to rear children, it is only the upbringing of orphans of the war dead which is provided for.[308] The closest we get to the notion that the

polis – in the sense of all who live in the *polis* – is the subject of a verb is in the oath allegedly taken before the Battle of Plataiai where the imprecation formula includes the phrase that the *polis* may not contract a disease,[309] or, more frequently, in expressions of emotions such as joy or grief: a *polis* may rejoice (Thuc. 3.40.3; Ar. *Eq.* 1317; Arist. *Ath. Pol.* 35.3) or mourn (Aeschin. 3.211; *IG* XII 7 108), and the presumption is that these feelings are shared by all and not just by the citizens: a man who is killed in battle "is lamented alike by the young and the elders and all his *polis* goes into mourning and grieves for his loss" (Tyrt. fr. 12). But even here the context often indicates that the subject of the emotion is the *polis* as a political community: in Thucydides Kleon warns the Athenians lest "the *polis* may have to pay a heavy penalty for its light pleasure" (Thuc. 3.40.3). Thus, the way the language is used suggests that the *polis* was associated with the political sphere rather than with community life at large.

As a political organisation the *polis* consists of rulers and ruled, and in our sources the participles *archontes* and *archomenoi* are opposed as the two essential components of a *polis*.[310] The opposition is most conspicuous in monarchies and oligarchies,[311] but is also applied to democracies in which, in a sense, all citizens are rulers; but in this case it is emphasised that they take turns and so, through the principle of rotation, democracy too is seen as a political system subdivided into government and subjects.[312]

An alternative way of expressing that the *polis* was some higher political entity, different from the institutions, was to state that a citizen or a body of government has acted "for the sake of the *polis*" or "on behalf of the *polis*", in Greek: ὑπὲρ τῆς πόλεως or, in the passive, that a task has been performed ὑπὲρ τῆς πόλεως. A political leader moves a proposal (Din. 1.36) or brings a public action (Aeschin. 3.216) ὑπὲρ τῆς πόλεως. An envoy speaks ὑπὲρ τῆς πόλεως (Dem. 18.135; cf. *IG* XII suppl. 412, Thasos); in the *bouleuterion* a sacrifice is made and a prayer is said ὑπὲρ τῆς πόλεως (Ant. 6.45); the jurors have taken the heliastic oath ὑπὲρ τῆς πόλεως (Dem. 19.132); a punishment is inflicted on a person ὑπὲρ τῆς πόλεως (Lys. 1.47); the citizens meet in the *ekklesia* ὑπὲρ τῆς πόλεως (Andoc. 3.13); citizens fight ὑπὲρ τῆς πόλεως (Aeschin. 2.170; *AJP* [1935] 377-9 no. 3) and they are prepared to die ὑπὲρ τῆς πόλεως (Plat. *Menex.* 246A; Isoc. 4.77).

The frequent personification of the *polis* leads to the representation of the *polis* as an animate being with life (*bios*)[313] and soul (*psyche*),[314] and with an intellect as well as a will of its own.[315] In Sophokles' tragedy

Oidipous cries out in despair: ὦ πόλις, πόλις, a famous address parodied in several comedies;[316] and, conversely, in Plato's *Kriton* the *polis*, identified with the laws of the *polis*, addresses Sokrates and has him cross-examined about political obligation in general and Sokrates' duties towards the *polis* in particular.[317] In the *Republic* Plato compares justice in the *polis* and justice in man with the same text written in, respectively, large and small letters.[318] Even Aristotle once takes the *polis* to be some kind of person (1302b33ff). But the philosophers use metaphorical language. In another passage from *Politics* Aristotle points out that the *polis* is not a living creature in the same way as man is (1261a15ff; 1263b29ff). The juxtaposition of state and person is an analogy (1277a6). True, the *polis* is a natural entity and prior to its members (1252b30, 1253a19), but only in the obvious sense that, unlike an individual, the *polis* is self-sufficient (*autarkes*) and it can persist and perform its function without any of its members, whereas no man can persist and perform his function as a true human being without the *polis* (1253a18-29).[319] Also, the *polis* has no separate purpose different from the good life of its citizens, rulers and ruled alike (1278b21-4). Aristotle criticises Plato for overemphasising the unity of the *polis*, almost forgetting that the *polis* is a composite substance. It is a multitude, not a monad (1261a15-22). But even Plato's comparison between the cardinal virtues in the *polis* and in the individual must not be taken to imply that Plato considered the *polis* to be an animate being in the literal sense.[320]

One would expect that the personification of the *polis* was accompanied by a deification of the *polis* and a cult of the *polis* as such. In Athens the democratic constitution was represented as a goddess, Demokratia, to whom the *strategoi* made annual sacrifices.[321] But the deification of the *politeia* seems neither in Athens nor in any other archaic or classical *polis* to have been matched by a deification of the *polis* itself. The personified *polis* represented as a god is a Hellenistic innovation, attested for the first time in ca. 300 B.C. when Eutychides created the cult image of Antiocheia in the shape of Tyche with a turret crown on her head and her right foot on the river God Orontes.[322]

The archaic and classical *poleis*, on the other hand, had one or more of the Olympic gods or goddesses as the patron divinities of their *polis*.[323] It is often Zeus or Athena who in this capacity are called Zeus Polieus and Athena Polias or Poliouchos,[324] but Apollon (with various epithets) was often chosen as the tutelary divinity of a *polis*.[325] Apart from Hades everyone of the twelve Olympic Gods is attested. In the

colonies the founder was often buried in the *agora* and worshipped as a hero.[326]

The closest we get to a cult of the *polis* as such is the public cult of Hestia, placed in a building which in most *poleis* was called the *prytaneion*.[327] Innumerable *poleis* – perhaps even every *polis* – had a *prytaneion*,[328] and every *prytaneion* seems to have housed a cult of Hestia, the goddess of the hearth.[329] There may not always have been a cult image of Hestia, but the focus of the cult seems everywhere to have been a hearth with an eternal flame which was meant to symbolise the eternal life of the *polis*.[330] And when a *polis* founded a colony the colonists were sent out with a spark of fire from the *prytaneion* of the *metropolis*.[331]

The public cult of Hestia and the eternal flame symbolise the permanence of the *polis*, an aspect of the concept which links up with beliefs and myths of the origin of the *polis*. Thus, Thucydides had no doubt that the Athenian *polis* had emerged long before the Trojan War, and his account of Theseus' unification of Attika is placed in the twilight between myth and history (Thuc. 2.15.1-2). Similarly, the accepted tradition was that, in 416 B.C., Melos had been a *polis* for more than 700 years (Thuc. 5.112.2).

To conclude: the *polis* is usually identified with its *politai*, especially when the citizens act collectively as a body of government. But by a kind of depersonalisation the *polis* is also conceived as a permanent public power above both ruler and ruled. In some contexts it is close to becoming a juridical person. In international relations envoys sent to other poleis or to large conventions are taken to represent their *polis*; and internally the politically active citizens are seen not just as the *polis* in action but as some who act *on behalf of* the *polis*. The *polis* is re-personified, but only on an abstract level. The *polis* is never deified, and when the *polis* is spoken of as an animate being with body and soul and a life of its own, it is in a metaphorical rather than in a metaphysical sense.

The *polis* provided its citizens with a feeling of common identity, based on traditions, culture, ceremonies, symbols and sometimes (presumed) common descent. For a Greek citizen the *polis* was his fatherland (*patris*)[332] for which he was expected, if necessary, to die. Great victories won by the army of the *polis* were celebrated annually. Victories in the Olympic Games were won by athletes representing their *polis*. The *polis* had no flag and its coins (if it had a mint) should not be taken necessarily as a manifestation of its independence.[333] But when-

ever citizens from different *poleis* were mentioned together, city-ethnics were used as a kind of surname which at the same time indicated the bearer's status as a citizen of the *polis* in question.

5. The Concept of Sovereignty Applied to Ancient Societies

(a) Sovereignty within the State

Did the ancient Greeks posses a concept comparable to the concept of sovereignty? Reading ancient historians' account of the Greek *polis* in general or the Athenian democracy in particular one is tempted to answer this question in the affirmative.[334] Yet, Bodin, who invented the concept of sovereignty claimed that it was unknown in the ancient world. "Aristotle, Polybius and Dionysius Halicarnassus alone among the Greeks discussed the attributes of sovereignty. But they treated the subject so briefly that one can see at a glance that they did not really understand the principles involved". Bodin then quotes and discusses Aristotle's theory about the three parts of the body of citizens and their various powers and concludes: "It is clear therefore that none of the three functions of the state that Aristotle distinguishes are properly attributes of sovereignty".[335]

In the most influential modern account of the history of the concept of sovereignty Hinsley tends to agree with Bodin, though his focus is not Aristotle's doctrine of the parts of the constitution in *Politics* 4.14-6, but the classification of constitutions in *Politics* 3.6-8: when Aristotle in Book 3 of the *Politics* distinguished between tyranny and monarchy, between oligarchy and aristocracy, and between democracy and polity, he did not avail himself of the concept of sovereignty; and this was not merely because he lacked a suitable term. According to Hinsley there were two insuperable obstacles to the idea of sovereignty in his way of thought: (1) he made no distinction between the community and the state; but this distinction is a necessary condition for having the concept of the state and "the concept of sovereignty will not be found in societies in which there is no state" (page 22); (2) the *polis* was conceived of as a community that was rightly ruled by the law and not by men; the Greeks had no conception of law as positive lawmaking without restraint, but the core of the concept of sovereignty is the existence of a supreme legislator.[336]

Hinsley's first objection is questionable, as will be argued in the following section. His second objection, on the other hand, is substantial but must, in my opinion, be reformulated to fit what Aristotle actually says. Aristotle's sixfold classification of constitutions is based on two principles: (a) the distinction between the three basic types of government (the rule of a monarch, or of the rich, or of the poor) is established by answering the question: who is *kyrios* in the *polis*?[337] (b) The distinction between the positive and the negative variant of each type is established by answering the question: does the *kyrios* person or body of persons rule in accordance with the *nomoi* and for the public good or are they above the laws and exercise their power exclusively in their own interest?[338]

The key word in Aristotle's classification of constitutions is, then, the adjective *kyrios*, which means "master of" and in a constitutional context it is used in two different but related senses: (a) competent and (b) supreme. In sense (a) there is no trace of the connotation "sovereign", and *kyrios* is used, for example, about magistrates who are empowered to summon an *ekklesia* or a *dikasterion* but do not have the powers to make any decision of any consequence.[339] In sense (b), however, *kyrios* bears some relation to our concept of sovereign(ty), especially when it governs an objective genitive as in the phrases *kyrios tes poleos* (master of the *polis*) or *tes politeias* (the constitution) or *panton* (all things).[340]

There are, however, at least two important differences between our concept of sovereignty and Aristotle's use of *kyrios*.

(a) By contrast with the modern concept the focus of attention in ancient political thought was the person rather than the principle: one could ask τίς κύριος πάντων; and the rendering: who is sovereign? may to some extent be defended. In his description of democracy, for example, Aristotle holds that supreme power rests with the *demos*, i.e. the common people, who frequently meet in the assembly, that the *demos* decides all important issues in the assembly by passing decrees, that the *demos* is above the laws, and that the laws are often replaced by the decrees of the *ekklesia*.[341] Thus, ancient political theorists developed the notion that the *kyrios* could be a body of government rather than a person or a group of persons,[342] that this body was the supreme legislator and that it was above the law. But from the adjective κύριος used about "the sovereign" the Greeks did not develop an abstract concept of soverignty, expressed by a noun.[343]

(b) According to the classical concept of sovereignty – as developed

by Bodin – the sovereign is the supreme legislator who is himself above the laws and subject only to God and/or the laws of nature. The ancient Greeks, on the other hand, did not like to go behind the laws and ask who had made them; and they did not approve of the idea that the legislator was above the laws he had made.

A citizen of a classical Greek *polis* would much prefer the view that the laws were *kyrioi*;[344] the idea behind this notion was a kind of personification of the laws, and the phrase οἱ νόμοι κύριοι was used synonymously with the phrase νόμος βασιλεύς.[345] Bodin and Hobbes, on the other hand, would never identify the sovereign with the laws but hold that the sovereign was the supreme legislator or legislature.

According to Aristotle a *polis* in which *hoi kyroi* are above the laws and rule without due respect for the laws is a perversion, and this view applies to all three types of constitution which in their perverted form are called tyranny, oligarchy and democracy.[346] Aristotle equates being above the law with disregarding the law in order to rule in one's own interest, just as he equates ruling in accordance with the law with ruling in everybody's interest. He holds, furthermore, that the majority of all existing *poleis* are in fact either oligarchies or democracies,[347] i.e. they are ruled by a supreme body of government, either a council or a popular assembly, which legislates all the time, but is itself above the laws it imposes on the community. It follows that, in some sense, all these *poleis* possess a sovereign as defined by Bodin. The fundamental difference is that Aristotle deplores this way of organising a *polis* whereas, according to Bodin, it is precisely how a state ought to be governed: he assumes more or less *a priori* that the rule imposed by the sovereign legislator will be the rule of law and for the common good.[348]

True, Aristotle admits that the best of all constitutions would be a form of monarchy in which a noble king is omnipotent and governs for the benefit of the governed. But this form of absolute monarchy, called *pambasileia*,[349] is an abstraction, and a *polis* ruled by such a monarch is a Utopia.[350] In the real world an omnipotent monarch turns out to be a tyrant,[351] and in its extreme form this type of constitution destroys the *polis*: if all power is in the hands of one single person, who treats his subjects as slaves, the community no longer has a proper constitution (*politeia*) and cannot any longer be regarded as a true *polis*.[352]

The same thought is found more than a century earlier in Aischylos' *Supplices*. The Egyptian maidens assume that Pelasgos, the king of Argos, must possess absolute powers just like an oriental despot.

σύ τοι πόλις, σὺ δὲ τὸ δήμιον.
πρύτανις ἄκριτος ὢν,
κρατύνεις βωμόν, ἑστίαν χθονός,
μονοψήφοισι νεύμασιν σέθεν,
μονοσκηπτρίοισι δ' ἐν θρόνοις χρέος
πᾶν ἐπικραίνεις· ἅγος φυλάσσου.[1]

This stance is the closest we get in Greek literature to the sovereign as described by Bodin and Hobbes. Louis XIV's: "l'état c'est moi" sounds almost like an echo of σύ τοι πόλις and ἄκριτος places the monarch high above the law. But the chorus' picture of the sovereign monarch is contrasted with Pelasgos' view of the king as the servant of the people.[353] To be sovereign is represented as a barbarian form of government which does not fit the Greek *polis*.

The conclusion is that Bodin is right when he holds that his concept of sovereignty cannot be found in the classical authors. But the case is different if we compare Aristotle's use of the adjective *kyrios* with the modern concept of sovereignty instead of that developed in the 16th and 17th centuries to underpin absolute monarchy. Today sovereignty is associated with concepts such as the rule of law and constitutionality; sometimes it is even stated that the sovereign is the constitution[354] or the legal order as such[355] – views that remind us of *hoi nomoi kyrioi* and *nomos basileus* as an ideal of the ancient Greek *polis*. Consequently, the notion of the sovereign as being above the law is, if not explicitly abandoned, then at least given a lower priority. Also, the duel in this century between democracy and dictatorship has resulted in an almost instinctive suspicion that rule unfettered by law must develop into tyranny where naked might has taken the place of right. As a result Aristotle's concept of what it means to be "master of the *polis*" (*kyrios tes poleos*) "in accordance with the rule of law" (*kata tous nomous*) is much closer to the contemporary concept of sovereignty than to the classical concept as defined by Bodin and Hobbes. Consequently, it is much more justifiable for us to render *kyrios* by sovereign than it was in the Age of the Baroque or the Enlightenment. It may still be the case that the concept of sovereignty itself is better avoided in an analysis of ancient

1 Aesch. *Suppl.* 370-5: "You are the state, you are the people, being a lord subject to no judge. You rule the altar, the hearth of the country; decisions are made by a nod of your head alone; and you alone with sceptre on the throne decide all issues. Beware of pollution."

Greek *poleis*. Yet, on the other hand, we must also avoid the erroneous view that the ancient Greek *polis* cannot be a state in the modern sense *because* the Greeks did not have a concept of sovereignty. For the concept of sovereignty invoked in this judgement is one which applied in the seventeenth century, but does not apply today.

(b) Sovereignty in the Sense of Independence or Autonomy

So far I have compared the modern notion of sovereignty with the Greeks' view of the institutional structure of the *polis*, and I have left aside sovereignty in international relations. Does it make sense to read our sources in the light of the distinction between international and constitutional law and, correspondingly, between the sovereignty *of* the state and the sovereignty *within* the state?

Among our sources there are some documents in which the institutional structure of the *polis* is a key issue: partly laws and decrees preserved on stone[356] and partly some forensic speeches written in Athens and delivered before the people's court in connection with public actions against the unconstitutional proposal of a law (*nomos*) or a decree (*psephisma*).[357] But for a more conceptual and theoretical analysis of the *polis* and its parts we have to read the philosophers: Plato's dialogues, principally the *Republic*, the *Statesman* and the *Laws*, as well as Aristotle's *Politics* and the Aristotelian *Politeiai*, principally *The Constitution of Athens*. Yet, neither Plato nor Aristotle has much to say about the relation between *poleis*; alliances, leagues and federations made up of *poleis* go unmentioned, although in the classical period the majority of all *poleis* were members of leagues and a large minority were member states of federations. If it were not for the remarks about the defence of the *polis* and the need for foreign trade,[358] one would think that the *polis* as described by the philosophers existed in splendid isolation.

We possess no philosophical treatise which analyses the relation *between* different *poleis* in the same way as Plato and especially Aristotle treat the structure *of* the *polis*. On the other hand, there is no lack of documentary sources for international, or rather inter-*poleis* relations in classical Greece: most important are the treaties we have preserved, e.g. The Peace of Nikias of 422/1 (Thuc. 5.18), or the King's Peace of 387/6 (Xen. *Hell.* 5.1.31), or the so-called Charter of the Second Athenian Naval League (*IG* II^2 43 = Tod, *GHI* 123); next come some symbouleutic speeches, especially Demosthenes' speeches to the assembly (Dem. 1-6, 8-10, 13-16); and finally the historians' accounts of warfare and di-

plomacy, which contain a wealth of information concerning the interaction between *poleis*. Conversely, the historians show little interest in constitutions and in the institutions of the *polis*, unless such matters are directly relevant for the course of events.

As argued above, if in ancient political thought there is a harbinger of the concept of sovereignty in the sense of supremacy, it is expressed by the adjective *kyrios*. The ancient equivalent to the modern concept of sovereignty in the sense of independence or autonomy, on the other hand, is the adjective *autonomos* and its derivatives: the noun *autonomia* and the verb *autonomeisthai*. Now, if we match the use of the adjectives *kyrios* and *autonomos* with the distinction established above between sources dealing with the institutional structure of the *polis* and sources dealing with the relation between *poleis* we can observe an interesting pattern, *viz.*, that being *kyrios* is a key concept in Aristotle's Politics and in the forensic speeches dealing with constitutional matters, whereas the concept of *autonomia* is conspicuous by its absence from these texts.[359] Conversely, the term *autonomos* and its derivatives abound in the treaties, in the symbouleutic speeches and in the historians, where, on the other hand, hardly any attestation of *kyrios* can be found. In classical literature there are very few passages indeed in which the terms *kyrios* and *autonomos* are juxtaposed.[360] Obviously, the proper context of *kyrios* is constitutional matters, whereas *autonomos* belongs primarily in the province of international relations;[361] and the difference between being *kyrios* and being *autonomos* is essentially similar to the difference between *la souveraineté dans l'état* and *la souveraineté de l'état*. The adjective *kyrios* has been treated above and it remains to analyse the concept of *autonomia*.[362]

Many modern historians take autonomy (*autonomia*) to be one of the main characteristics of the *polis* in the archaic and classical periods.[363] With some notable exceptions[364] the prevailing view seems still to be that the *polis* was by definition *autonomos*; but what is an αὐτόνομος πόλις? A ready answer is either (1) to render the term by "the independent city (or city-state)"[365] or (2) to use the English equivalent of *autonomos* and speak of the "autonomous city-state",[366] or (3) to combine the two terms and define the *polis* as an autonomous and independent political unit.[367] Both answers, however, are problematical, and one is not better off by combining them. Re (1) To define the *polis* as an independent political unit runs counter to the fact that many *poleis* were dependencies.[368] Re (2) To define the city as an autonomous political unit conceals an essential difference between contemporary English and an-

cient Greek terminology: the English words "autonomy" and "autonomous" are ambiguous in meaning and can be used to denote anything from the sovereignty of states to the self-government exercised by constituent states or so-called "autonomous regions" or even local communities.[369] The Greek adjective αὐτόνομος, on the other hand, means "living under one's own laws"[370] but in the sense of being "independent" rather than just "self-governing".[371] Moreover, the concept of local autonomy used by historians to describe the status of, e.g., the Lakedaimonian perioikic communities[372] is based on the modern use of the term autonomy, whereas the only source we have shows that the perioikic communities were deprived of their *autonomia*.[373] Re (3) To define the *polis* as an independent *and* autonomous political unit clarifies the ambiguity insofar as the phrase "independent and autonomous" is taken to mean what we call "independent" and the Greeks called *autonomos*. In that case the English term tallies with the Greek one but, as stated above, it does not make sense to define the *polis* as an independent (or *autonomos*) political unit if, in the 6th and 5th centuries, many, and in the 4th century, even most *poleis*, were dependencies.

In order to avoid the contradiction in terms some historians maintain that the archaic and classical *polis* was *ideally* an autonomous political unit.[374] Here the definition of the *polis* is moved from a description of political realities to the normative world of political ideology. What this definition implies is just that all *poleis wanted* to be *autonomoi* and that dependencies did their best to obtain *autonomia*. But to be valid this definition presupposes that we have a number of archaic and classical sources in which *autonomia* as an ideal is matched with the concept of the *polis*. Such sources, however, cannot be traced further back than the King's Peace of 387/6 (Xen. *Hell.* 5.1.31). Furthermore, the view that every *polis* strove for *autonomia* is universally asserted but never substantiated and not supported by our sources. Quite the contrary.[375] Civil war (*stasis*) was endemic in most Greek *poleis* and often the rival factions of a *polis* were willing to collaborate with partisans in neighbouring *poleis* and to sacrifice the independence of their own *polis* in order to get the upper hand.[376] Such behaviour contradicts the modern claim that the *autonomia* of the *polis* was cherished by the citizens above all other values.[377]

So a definition of the archaic and classical *polis* which focuses on autonomy as a universal ideal and implicitly identifies autonomy with *autonomia* is without any foundation in the sources when applied to the archaic and early classical periods. It can make sense only if applied to

the *polis* of the fourth century; and even here it is a qualified truth to say that *autonomia* was an ideal cherished by all *poleis*.

Further analysis, then, of the relation between the two concepts of *polis* and *autonomia* requires an answer to the questions: what is αὐτονομία?[378] and: when did the concept emerge?

We must not forget that in quite a few passages the context is the internal political life of a community and that the negative is tyranny.[379] But since Bickermann's and Ostwald's careful studies there is consensus that the proper context of the concept was the relationship between states. It is often claimed that it covers not just independence but also self-government in a much more restricted sense. But I prefer to side with those who believe that *autonomia* originally meant "self-government", not necessarily in the negative and restricted sense of "self-government which is willing to accept subordination to a superior power in some matters"[380] but rather in the positive sense of an often unqualified independence in one's own affairs.[381] If the concept of *autonomia* from the outset had been loaded with all the negative aspects assumed by Bickerman and Ostwald, it would never have become a popular political slogan invoked with increasing frequency in the course of the late 5th and 4th centuries.[382]

Now, if we take *autonomia* to be a defining characteristic of the *polis* and assert, *e contrario*, that a *polis* without *autonomia* is not a true *polis,* the result is that the following political communities will be deprived of the status of being a *polis* "in the true sense of the term":[383]

All tyrannies, e.g. Athens under the Peisistratids, Samos under Polykrates, Syracuse under the Deinomenids or Dionysios I & II, as well as Eretria in the mid-4th century under Ploutarchos or Chalkis under Kallias.

All members of the Delian League from ca. 450 and to 404, apart from Samos (until 439 and after 412),[384] Chios and Lesbos.

All the cities along the coast of Asia Minor when ruled by Persia or (in the early 4th century) controlled by a Spartan garrison under a harmost, e.g. Miletos, Ephesos, Kolophon and all the other Ionian cities.

Many of Sparta's allies, especially in the period 386-371, e.g. Thebes, Phleious and several of the Arkadian cities.

The Parrhasian cities when they were members of the alliance led by Mantinea.

Member states of a hegemonic federation, such as the Boiotian and the Chalkidic federations and perhaps members of other federations as well, i.e., in the 4th century, most of the cities in Phokis, Lokris, Euboia, Thessaly, Epeiros, Aitolia, Akarnania, Achaia, and Arkadia.[385]

The Athenian klerouchies in the 5th and 4th centuries, e.g. Skyros, Lemnos, Imbros, Sestos and Samos.

All the perioikic communities in Lakonia (e.g. Kythera), Messenia (e.g. Asine), Triphylia (e.g. Lepreon) and Elis (e.g. Tympaneiai).

With alliances and leagues, on the other hand, things were different. An ancient *polis* could, of course, enter into a *symmachia* with other *poleis* without any infringement of its *autonomia*.[386] The problem was that alliances and leagues between independent *poleis* were frequently turned into *hegemonic* leagues or even empires and that meant a violation of the original *autonomia* of the members of the alliance. They became *hypekooi* instead of *autonomoi*.[387] The line between one and the other was often blurred, but the essential difference was connected with the concept of consent. Members of a *symmachia* might have to pay a tribute, in the Delian League called *phoros*, in the Second Athenian Naval League called *syntaxis*. If the tribute was enforced by the hegemonic city, it was an infringement of the *autonomia* of the member states; if the members of their own free will had agreed to paying it, there was no violation of the *autonomia* of the members.[388]

Apart from members of egalitarian alliances and leagues, all the communities listed above, though explicitly called *poleis* in all our sources, would not be "true" *poleis* according to any definition which singles out *autonomia* as a defining characteristic of the *polis*. In the fourth century at least every third, and perhaps even every second of the Greek *poleis* would be deprived of the status of being a *polis*. Such a conclusion is obviously absurd, and the inference is that the link between the concept of *polis* and the concept of *autonomia* must be rejected, and that can safely be done since the link is a modern invention not warranted by sources of the archaic and early classical periods.[389]

(a) As stated above, neither Plato nor Aristotle has anything to say about *autonomia*, and to assert with some modern historians that Aristotle in the *Politics* is writing about "the autonomous *polis*" is simply wrong.[390] For Aristotle it is the concept of *autarkeia*, not of *autonomia*, that is inseparably connected with the concept of the *polis*;[391] and his concept of *autarkeia* has two aspects only: economic self-sufficiency (i.e. to be independent of import and export) and demographic self-sufficency (i.e. to have the right number of full citizens required to accomplish man's purpose in life: to live a *politikos bios*). There is no hint that political self-sufficiency (i.e. independence) was an element of the Aristotelian concept of *autarkeia*.

(b) The opposite of *autonomia* is being *hypekoos*.[392] If *autonomia*

had been an essential characteristic of the *polis*, the term *hypekoos polis* would have been either a nonsense or an oxymoron. But quite a few sources speak about *hypekooi poleis* in a straightforward manner.[393]

(c) The orthodox view of *autonomia* as a defining characteristic of the concept of the *polis* is applied to the archaic and classical *polis* alike; but the concept of *autonomia* itself did not emerge until the mid-5th century.[394] Moreover, the link between the concept of *autonomia* and the concept of *polis* was made for the first time in the treaty between Sparta and Argos in 418 (Thuc. 5.79.1), it figures prominently in the King's Peace of 387/6 (Xen. *Hell.* 5.1.31) but it was not asserted as a universal principle until ca. 375 in the revisions of the King's Peace of 386, both in paraphrases of the original peace (Xen. *Hell.* 6.3.12) and in paraphrases of the Peace of Kallias (Lycurg. 1.73), with which the King's Peace is often contrasted. Thus for chronological reasons alone any discussion of the *autonomos polis* as a general principle should be restricted to the 4th century and later, and avoided in descriptions of the concept of *polis* in the archaic period and in the 5th century. The sources in which the concept of *autonomia* are indeed linked with the concept of *polis* are the treaties between city-states and alliances of city-states, especially those multilateral treaties of the 4th century in which the Greeks tried to establish a κοινὴ εἰρήνη, i.e. a "common peace" binding on all Greek *poleis*;[395] and it is only in the Hellenistic age that the concept of *autonomia* spread and became closely linked to the concept of the *polis*. But then the concept of *autonomia* had changed its meaning from "independence" to "self-government combined with subordination to a superior power";[396] in the course of the Hellenistic period the concept was further eroded, and in the end *autonomia* came to imply little more than self-government in local affairs. In this sense it could easily be asserted by and predicated of almost any Greek *polis*.[397] Thus, the history of the *autonomos polis* does not end in 338 with the battle of Chaironeia. That is where it begins, or rather, it begins with the King's Peace of 387 and catches on in the course of the 4th century so that in the Hellenistic period the concept of the *polis* more and more easily suggests the concepts of *autonomia*, *eleutheria* or *demokratia* – and *vice versa*.

Summing up, in an attempt to understand the nature of the Greek *polis* it is misleading to focus on independence as an essential characteristic of the concept of the *polis*, since hundreds of Greek *poleis* were dependencies. Similarly, it is misleading to confine the concept of the *polis* to *autonomoi poleis*, first because hundreds of Greek *poleis* were *not*

autonomoi, second because the link between the concepts of *autonomia* and *polis* was purely ideological and developed in the 4th century only, and third because in the Hellenistic period, when *autonomia* was often bestowed on individual *poleis* by royal rescripts, *autonomia* had changed its meaning from "independence" to "self-government" combined with "subordination to a superior power".

(c) Conclusion

This investigation of the internal and external aspects of sovereignty compared with the ancient concepts of (a) being *kyrios* and (b) being *autonomos* has led to a reversal of the prevailing views.

Though the terms sovereign and sovereignty have been much used by historians, there seems to be a growing consensus that the concept of sovereignty was unknown in the ancient world and is "misleading when applied to classical Greek forms of political organization".[398] But there is an astonishing agreement, too, that independence and autonomy were concepts inseparably connected with the concept of *polis*.

Independence and autonomy, however, constitute one aspect of the concept of sovereignty, namely the external sovereignty,[399] the *souveraineté de l'etat*. Thus, from the traditional link between *autonomia* and *polis* it follows that the dissociation of the concept of sovereignty from the concept of *polis* must be modified and, if valid, restricted to the internal aspect of sovereignty only, *viz.* the denial of the existence *within* the *polis* of a supreme power vested in a person or a body of government.

The present investigation has led to the opposite conclusion about both aspects of sovereignty: it is the concept of external sovereignty – i.e. independence and *autonomia* – which should be dissociated from the concept of *polis*. Conversely, the concept of being *kyrios*, though different from the classical concept of absolute sovereignty, is not all that far removed from the modern modified notion of internal sovereignty, *viz.* the existence in any state of a supreme legislative body of government, to whom the people habitually pay obedience, but whose powers are circumscribed by the constitution, by the doctrine of separation of powers, by the idea of popular sovereignty, and by the distinction between state and society.

V. The Concepts of State and Society Compared with the Concept of Polis[400]

1. The Fusion of State and Society

In 1864 Fustel de Coulanges published his pioneer monograph *La cité antique*, in which he argued that the *polis* was a type of political community which permeated all aspects of human life: politics, religion, family, education, production and trade. The *polis* was a fusion of state and society, with religion as the dominant aspect of community life.[401] Since the publication of this work Fustel de Coulanges' name is habitually connected with this view of the ancient Greek *polis*,[402] although, in fact, it was widely held already in the early nineteenth century.[403] What is more important, however, is that it is still held by many ancient historians, only it is now often turned upside down: Fustel de Coulanges believed that the *polis* was a state permeating society, and the passage I have quoted comes from a chapter called *De l'omnipotence de l'État*. The fashionable view nowadays is to believe that the Greeks had no notion of state, and that the *polis* was a society of citizens.[404] Thus the Greek *polis* is now seen as a form of stateless society, whereas de Coulanges argued that it was a form of society-less state. Behind the volte-face is undoubtedly the trend among modern scholars to see the state as a (bureaucratic) government and to show very little regard for the other aspects of the concept of state, *viz.*, the people and the territory.[405] A variant view is that the *polis* was both a state and a society and that the difference between the modern state and the Greek *polis* is that the modern state is based on a separation, the Greek *polis* on a fusion of state and society.[406]

My first problem with this view is that it is stated in a much too sweeping manner. A closer investigation of the relation between state and society in ancient Greece cannot be conducted for the Greek *polis* as such. Because of the nature of our sources it must be narrowed down to an examination of the two oversized *poleis* in classical Greece, viz. Athens and Sparta. And to make things worse: most of the relevant sources are Athenian, even those that concern Sparta. Consequently, an Atheno-centric analysis is in this case inevitable, although scattered sources relating to other *poleis* can be cited or quoted in some of the notes. The perspective can only be broadened by some subsequent

thoughts on the question whether Athens or Sparta was the more typical *polis*.

Fustel de Coulanges' and many modern historians' picture of the Greek city is in agreement with the utopian cities described by Plato in *Republic* and *Laws* and by Aristotle in *Politics* Books 7 and 8. In these works the well-ordered *polis* has public education, and magistrates to control social life and public morality; and elected magistrates have almost unlimited powers to enforce the social order.[407] Thus, Fustel de Coulanges' original interpretation of the *polis* as an all-powerful state is much more to the point than the modern variant which sees the *polis* as a stateless society. But we must never forget that the Platonic and Aristotelian ideal states were held up to the Athenians and to other Greeks as models in order to show them how a *polis ought* to be organised. In all three treatises the severe strictures passed by Plato and Aristotle on almost all existing cities show that the philosophers were well aware of the gap between ideals and realities.[408] In the *Republic*, for example, Plato strongly denies that the *polis* permeates all aspects of life in democratically governed communities. Quite the contrary. Here the authority and power of the *polis* has simply vanished: the democratic ideal of personal freedom (*eleutheria*) has undermined the unity of the *polis* and created a community which looks like a garish patch-work dress: everybody lives as he pleases and disregards both the laws of the *polis* and the verdicts intended to enforce the laws.[409]

If we turn from philosophy to history there can be no doubt that Fustel de Coulanges' picture of the *polis* fits Sparta. Sparta had public education, public regulation of marriage and family life, public restrictions on production and trade, and an enforced system of commensality incumbent on all male citizens between 20 and 60.[410] The Spartan political system was compared to the discipline in a camp.[411] Its most prominent feature was, allegedly, obedience to the magistrates and the laws.[412] Virtue was considered a public duty and its negligence in any matter was a punishable offence.[413] The complete fusion of the Spartan state with Spartan society squares well with the fact that Sparta is almost the only existing *polis* that found favour in the eyes of the philosophers.[414] In particular the Spartan system of public education is singled out as a positive aspect of the constitution.[415]

The essence of the ancient view of Spartan society is summed up by Plutarch in his *Life of Lykourgos* in a passage which may be his own generalisation rather than a paraphrase of an earlier author, but nevertheless correctly reproduces what we know from classical sources: "No

man was at liberty to live as he pleased; the *polis* was like one great camp, where all had their stated allowance and knew their public charge, each man concluding that he was born, not for himself, but for his country".[416] It may indeed be doubted to what extent the Spartans lived up to Lykourgos' intentions, but there is no question about the character of the ideology: the Spartan *polis* regulated all aspects of a citizen's life.

2. The Opposition Between the Public and the Private

The Athenian democrats took the opposite view: they found the Spartan way of life intolerable and incompatible with their own democratic values. In the *Funeral Oration* Perikles, as reported by Thucydides, contrasts Athens and Sparta and points out first that Athens is an open *polis*, Sparta a closed one from which foreigners are expelled; and then that the Athenians prefer an unconstrained life-style without the compulsory education of the young which characterises Sparta.[417] And, as mentioned before, in the *Leptines Speech* Demosthenes notes that a basic difference between Spartan oligarchy and Athenian democracy, which is based on liberty, is that in Athens you are free to praise the Spartan constitution and way of life, whereas in Sparta it is prohibited to praise any other constitution than the Lakedaimonian.[418]

Sparta and Athens were opposites and the Athenians practised a separation between a public and a private sphere of life.[419] The principle is clearly expounded by Demosthenes in the speech *Against Timokrates*: "In all *poleis* there are two different sectors regulated by law. One is how we treat one another, associate with one another, regulate what we ought to do in private matters, and, in general, conduct our social relations. The other is how each of us ought to behave publicly towards the *polis*, if one chooses to be active in politics and professes to care for the *polis*. Now, it is to the advantage of the common people that the laws which concern private matters are mild and lenient. On the other hand, it is to your advantage that the laws which regulate public matters are stern and severe".[420]

The same emphasis on private laws and actions opposed to the administration of justice in the public sphere is developed by Demosthenes in his speech *For the Crown:* "Even you, gentlemen of the jury, should not adopt the same attitude of mind when you hear private and public actions. You should consider the contracts of daily life in the

light of private laws and actions, but for the principles of public policy you must regard the values set by your ancestors. With your staff and dicastic ticket in hand you should each of you feel that he carries with him the spirit of the *polis* when you enter on public actions, if you want to behave in a manner worthy of your ancestors".[421]

The dichotomy of public and private is apparent in all aspects of life: what is *idion* is set off against what is *demosion* or *koinon*.[422] The private person (*idiotes*) is opposed to the politically active citizen (*ho politeuomenos*);[423] citizens' homes to public buildings;[424] private profit to the national interest;[425] private means to public finance;[426] private litigation to administration of justice in public actions.[427] Offences are often described as either private or public, and the distinguishing mark is whether the injured party is an individual or the *polis* itself.[428] Forensic speeches are full of arguments such as: "this dispute is a private matter and not to be brought before the jurors by a public prosecution which concerns the *polis*".[429] Or, conversely, as Demosthenes declares in the speech *Against Meidias*: "Meidias' assault on me is a public matter, since it was made on Demosthenes as representative of the *polis*, not on the person Demosthenes".[430] As argued above, the laws of the city are often subdivided into private (regulating the relations of private persons) and public (concerning the activities of government agencies). An offender is brought to trial either as a private individual or as a citizen exercising his political rights.[431] Legal proceedings are subdivided into public actions (*demosiai dikai*) to be brought by any citizen, and private actions (*idiai dikai*)[432] to be brought by the injured person only.[433] And one penalty, the loss of rights (*atimia*), was exclusively imposed on citizens convicted of crimes related to public law.[434] The administration of justice had many different aspects, and the line between public and private was not always drawn precisely in the same place. Some private offences, for example, were redressed by public actions to be brought by any citizen,[435] and conversely, some claims arising out of liturgies were nevertheless considered to be actionable through private actions.[436]

Thus, the Athenians did distinguish a public sphere from a private sphere; but how is this distinction to be interpreted? Here an initial note of warning is in order: the Athenian distinction between the private (*to idion*) and the public (*to koinon* or *demosion*) is not the same as our opposition between the individual and the state. First, in many modern discussions, e.g. of democratic freedom, the contrast individual/state is itself somewhat twisted: the opposite of individual freedom is not state

authority but public control,[437] which comprises *both* the legitimate use of force by the state *and* all kinds of compulsion practiced in society, such as the creation of public opinion or group pressure, threats to individual freedom which were emphasised first by Perikles in the *Funeral Oration*,[438] later by many classical liberalists,[439] and also adapted to Marxist thought, especially by Gramsci's distinction between direct domination operating in the state sphere versus hegemony operating in civil society.[440]

Next, interpreting the Athenians' distinction between the public and the private some scholars hold that the private sphere was restricted to what was peculiar to the individual, whereas all collective activities belonged in the common domain.[441] But an allocation of all social life to the public sphere is contradicted by the sources. In the *Funeral Oration*, as reported by Thucydides, Perikles contrasts social relations in the private and in the public sphere;[442] and in the speech *Against Aristogeiton* Demosthenes describes his opponent as an anti-social person who shuns participation in private as well as in public community life.[443] Again, αἱ ἴδιαι ὁμιλίαι is a standard phrase for social relations in the private sphere.[444] It is true that the public sphere is mostly associated with the *polis*,[445] but the private sphere is often a social sphere without any emphasis on the individual: family life, business, industry and many types of social or religious association belonged in the private and not in the public sphere. An outstanding piece of evidence is the "Solonian" law validating decisions made by associations, public as well as private: demes and phratries are listed side by side with dining clubs, burial associations and trading companies.[446] In conclusion: the Athenians did not connect the opposition between public and private with the opposition between the *polis* and the individual. They might well oppose the *polis* against the individual,[447] but in such cases they distinguished between the individual as a private person and the individual as a citizen,[448] because in their opinion the *polis* was identical with the sum of its citizens, see *supra* page 57.

Thus, the public sphere was a political sphere, but the private sphere was not restricted to what concerned the individual; it comprised a network of social institutions which were different from and sometimes even opposed to the *polis*. In contemporary political thought we have become used to distinguishing between state (the political community) and society (all the private associations). The ancient Greeks distinguished between *polis* (the political community) and ... what? Did the ancient Greeks have a comprehensive term for all the associations we

subsume under the heading society? According to Aristotle the answer is yes, and the term is *koinonia*. Both in *Ethics* and in *Politics* this word is used to denote any form of association of human beings, the crew of a ship (1159b28; 60a15), a band of soldiers (1159b29; 60a16), an association of tradesmen (1132b32; 1241b26), a religious community such as a *thiasos* (1160a19), or civic subdivisions such as *demoi* or *phylai* (1160a18); but all these *koinoniai* are subsections of the all-comprehensive *politike koinonia* which is the *polis* (1160a9, 21; 1252a4-6). This form of political analysis is not far removed from our use of the term society to denote any association within a country and our use of civil society to denote the sum of all such associations, whereas the term political society is often identical with the state. Again, some of the ancient *koinoniai* were private, such as associations of sailors and tradesmen;[449] others were in a grey zone between the private and the public, such as *orgeones* and some *thiasoi*, and others again were simply public, such as *demoi* and *phylai* and other forms of civic subdivision. Similarly, in the modern world some societies or associations are private, but some are public such as the church in many modern states; and some are in a grey zone between the private and the public, such as the political parties which are private associations for the purpose of placing their leaders, through elections, in public office.[450]

We must not forget, however, that Aristotle's frequent use of the term *kononia/koinoniai* in the sense of society/societies is not reflected in other authors. Parallels can be found in Plato and traced in the Attic orators[451] but, apart from Aristotle, *polis* and *koinonia* are not juxtaposed in Greek literature, whereas state and society are constantly used as opposed terms in modern political thought. In Greek sources, as argued above, our distinction between state and society is commonly expressed by opposing what is *koinon* or *demosion* to what is *idion* or, alternatively, by contrasting those who were members of the *polis*, to those who were members of society in the broader socio-economic sense. The first group of persons consists of citizens (*politai*) and they are called "the members of the *polis*" (οἱ τῆς πόλεως μετέχοντες),[452] whereas the second group is referred to with the phrase "the inhabitants of the *polis*" (οἱ ἐν τῇ πόλει οἰκοῦντες), and they comprised women, foreigners and slaves as well as citizens.[453]

The public sphere was identified with the *polis* sphere, and the *polis* sphere was, first of all, a *political* sphere, as is apparent from the following two observations: (1) the *polis* did not regulate all matters, but only a limited range of social activities, mostly connected with the po-

litical aspects of the community. (2) The *polis* conceived as a decision-making community did not comprise all who lived within its borders, but only the *politai*, i.e. the adult male citizens.

Re (1). Matters such as education, industry, agriculture and trade were left to private enterprise.[454] To some extent they were, of course, regulated by law (*nomos*),[455] just as they are in modern societies, but regulation by law was less restrictive than in most modern states; and, as pointed out above, the democratic ideology prescribed that such laws had to be lenient and not too severely enforced.[456] Furthermore, all these topics were not much debated in the *ekklesia*, and they are hardly ever dealt with in any of the many hundred preserved Athenian decrees (*psephismata*).[457] As long as the citizens complied with the laws, they were allowed to do as they pleased. Also, the Athenians were regularly allowed to think and say what they liked about anything,[458] if only they abstained, e.g., from profaning the Mysteries, or from forming new cults and religious societies without due permission.[459] We have public prosecutions of philosophers for impiety. But most of these trials are anecdotal. The trial of Anaxagoras is the only one which is reasonably well attested.[460] But if we can trust our sources, in order to have a law that warranted a suit of that kind, a certain Diopeithes had to propose and carry a decree that public action be brought against atheists and astronomers, probably a hendiadys for atheistic astronomers.[461] The urgent need for a decree in order to have Anaxagoras put on trial indicates that the Athenians did not normally interfere with what people thought about the gods.

That the Athenians did in fact enjoy a remarkable freedom in the private sphere is not denied by those historians who emphasise the omnipotence of the *polis*,[462] but they counter it by another observation: if the Athenians in their assembly *decided* to interfere with education or production, etc., they were entitled to do so, and no one could plead that that was a violation of individual rights. Similarly, the people could at any time impose restrictions on freedom of speech, and sometimes did.[463] So "there were no theoretical limits to the power of the State, no activity, no sphere of human behaviour, in which the state could not legitimately intervene ...".[464] But that correct observation ought not to be invoked to establish a difference between the ancient *polis* and the modern state, because precisely the same observation applies, for example, to Britain: no aspect of human life is *in principle* outside the powers of Parliament and there is no constitutional protection of individual rights, though in practice they are highly regarded and mostly respected.[465]

Re (2). The concept of the *polis* as an essentially political community emerges even more clearly if we consider the privileges (or lack of them) of the different sections of the population of Athens. The *polis* was a society of *citizens*.[466] It was a male society from which women were excluded;[467] all foreigners were also excluded, and metics and slaves, though domiciled in the *polis*, were not members of it,[468] a fact of which they were reminded every day of their lives, when the citizens went off on their own to deal with affairs of state in the assembly or the council or the courts. If a metic or a slave was found participating in a political assembly he was arrested and risked being condemned and executed.[469] Yet every day, when the meetings to deal with affairs of state were over, citizen, metic and slave went off to work side by side as artisans, traders or farmers: in the economic sphere strangers and slaves were part of the society, though in the political sphere they were not.

Freedom to participate in the democratic institutions applied only to citizens and only in the political sphere. Private freedom, however, to live as one pleased, applied to all who lived in Athens, including metics and sometimes slaves.[470] According to the critics of democracy that kind of freedom was extended even to women,[471] but that shocking charge was, of course, denied by the champions of the Athenian constitution.[472]

3. The Notion of Rights

The modern distinction between state and society is closely connected with the concept of individual rights, often entrenched in a state's constitution and intended to form a barrier between state and society and to protect the citizens against the encroachment of public authority. Are such rights a modern phenomenon without any parallel in ancient Athens? The prevailing view is that the Athenians had no notion of individual rights[473] and that "in principle the power of the Greek *polis* was total: it was the source of all rights and obligations, and its authority reached into every sphere of human behaviour without exception".[474]

True, the ancient Greeks had no notion of natural rights based on the assumption that "all men are created equal".[475] For one thing, even champions of *demokratia* did not believe that all men were created equal,[476] and to think of rights possessed by man in a state of nature preceding the formation of state and society is foreign to Greek political thought. The Greeks had no notion either of "human rights" belonging

to every member of any political community. Whenever we hear about "rights" they are civil rights conferred by law and/or custom on specified classes of persons. But again, insofar as such rights existed in ancient Greek city-states they were not "fundamental rights" in the sense of rights protected by a "Bill of Rights" or some other constitutional document.[477] They are not even spoken of as "rights", as they are today. But all these negative statements do not change the fundamental fact that, quite apart from every citizen's entitlement to participate in the running of the political institutions, the Athenians strongly believed that there were some precious privileges which were the prerogative of the citizens and inextricably bound up with the democratic constitution. Enjoyment of these privileges is usually described as participation, and the nouns used are *methexis*, *metousia*, and *koinonia*, or, more frequently the related verbs: *metechein*, *metousia*, and *koinonein*.[478] But participation has as its opposite exclusion, and the participation of citizens is matched by the exclusion of non-citizens. Women, foreigners and slaves do not participate in the *polis*, they are not members of the *polis*, they are driven away from it, as Demosthenes says.[479] A fundamental distinction is made between insiders and outsiders, and it is, in this context, of little importance that the Athenians did not normally construe these privileges as "rights"[480] but as prerogatives based on participation (in the *polis*). An attempt has been made to hold that, by contrast with the modern concept of rights, the ancient concept of participation implies a completely different ideology: "the degree to which [a person] is a citizen is not determined by himself, but by the expectations of the community of which he is a part in terms of the contributions he can make to its functioning".[481] I do not share this view and, in my opinion, the sources show that the degree to which a person was a citizen *was* to a large extent determined by himself,[482] and that to withdraw from public life and pursue private ends was perfectly respectable.[483] In this context the important point is that, apart from the specific political rights, several of the prerogatives of the citizens concerned the protection of their property and their right to live as they pleased, and they are surprisingly similar to what we today describe as rights or liberties. The most important were the following.

Several of the orators state with approval the rule that no citizen could be executed without due process of law.[484] Admittedly, thieves and robbers were not included: they could be put to death immediately if they were caught in the act and had to confess.[485] But that limitation, though important, does not seriously alter the fact that "no execution

without a trial" (*medena akriton apokteinai*) was felt to be a right which all citizens enjoyed.[486]

Another rule forbade torture of Athenian citizens. It was warranted by a decree (*psephisma*) probably passed immediately after the expulsion of the tyrants in 510/9 before the introduction of the democracy.[487] It was nevertheless adopted by the democrats and, like the expulsion of the tyrants, was later associated with democracy. The principle that free men are exempt from corporal punishment is closely connected with democracy in Demosthenes' speech against Androtion.[488]

The Athenian democracy further provided some protection of a citizen's home. Demosthenes was severely criticized by Aischines for breaking into a house and arresting the alleged traitor, Antiphon, without a warrant, i.e. a *psephisma* of the people,[489] and in the assembly Aischines got his way and secured the man's release. Demosthenes, in his turn, accuses Androtion of having surpassed the Thirty in brutality: they had people arrested in the market place, but, when exacting arrears of *eisphora*, Androtion conducted the Eleven to the debtors' houses and had them arrested there.[490]

Finally in Aristotle's *Constitution of Athens* we are told that as soon as the *archon* enters upon his office, he proclaims through the public herald that whatever a person possessed before he entered upon his archonship he will have and possess until the end of his term.[491] Like the ban on torture of citizens this is probably a survival from the sixth century. It may even go back to Solon and have been a measure to reassure the Athenians that, after the *seisachtheia*, no further infringements of private property would take place.[492] But even if the origin and original purpose of the proclamation are obscure, what we know for sure is that it was still made in the 4th century and understood as a guarantee that no redistribution of property would take place in Athens, as happened in other Greek *poleis*.

In addition to the protection of person, home and property, the most treasured of individual rights is freedom of speech, cherished by democrats but suppressed by supporters of authoritarian rule.[493] Once more we find the same ideal in democratic Athens,[494] as in Demosthenes's remark that a basic difference between Spartan oligarchy and Athenian democracy is that in Athens you are free to praise the Spartan constitution and way of life, if you so wish, whereas in Sparta it is prohibited to praise any other constitution than the Spartan.[495]

It is not enough, however, to have laws and regulations protecting the citizens: there must also be ways of enforcing them when infringed by

the democratic *polis* itself and its officials. Consequently the Athenians provided for both public and private prosecution of magistrates and connected the democracy with the rule of law and the protection of citizens against their magistrates: public actions when the magistrates had harmed the *polis* by maladministration, and private actions (brought by the injured person) if he had violated the rights and interests of the citizens. The best known procedure is the *euthynai*, the calling to account of all magistrates at the expiration of their office. On this occasion any citizen who believed he had been wronged by a magistrate was invited to bring a private suit (a *dike*) against the magistrate in question to be heard first by one of the public arbitrators and eventually, in case of appeal, by the people's court.[496] Magistrates could also be brought to trial by a public action, and that such a trial was believed to be brought not just against the defendant but against the *polis* as such is explicitly stated by Lysias in the *eisangelia* against the general Ergokles.[497]

Thus, I will turn the accepted picture upside down: in our day there is no longer a sharp distinction between state and society. The state interferes everywhere – and much more than the *polis* did – in education, in trade, in production, and in, for example, the consumption of stimulants. As one of his remarkably few examples of state tyranny in the Greek world Fustel de Coulanges adduced a ban on drinking wine enforced in Epizephyrian Lokris, and, for women only, in Miletos and Massalia.[498] Quite apart from the fact that the evidence we have for these laws is thin and not very reliable,[499] we are well advised to remember the prohibition period in USA 1919-33,[500] and the restrictions on the selling of alcohol which are imposed even today in, for example, Norway and Sweden and several of the member states of the USA.

The prevailing view that the modern distinction between state and society did not apply in the ancient world[501] is based on a double distortion of the evidence: the gap between the ancient and the modern world is created by exaggerating the distinction between state and society in the modern world and, at the same time, by minimising or even brushing aside the evidence we have for that distinction in ancient Greek civilisation. Ancient historians who follow this line include, for example, Ellen Meiksins Wood: "But another possibility existed for Americans which had not existed for the Greeks: to displace democracy to a purely political sphere, distinct and separate from "civil society" or the "economy". In Athens there was no such clear division between state and civil society, no distinct and autonomous economy, not even a conception of the state as distinct from the community of citizens. There

was no state of Athens and Attica, only the Athenians".[502] Now, for the Americans' "clear division between state and civil society" compare the following observation by Cerny: "the private car has been seen, in Anglo-American culture above all, as an embodiment of the freedom and self-direction of the individual over and against state authority ... Yet, before you can turn over the ignition on your freedom-machine, you must have a driving license granted by the state, have road-worthiness established by a Ministry of Transport test, have paid Road Tax to Customs and Excise, have a state-mandated form of insurance, have ensured that you do not have more than the permitted level of alcohol in your blood, have fastened your seat belt, have made sure that small children are appropriately strapped into the back seats and so on. Only then, may you tear off (observing the speed limit and other elements of the Highway Code) down the state-maintained Queen's highway! Disengaging state and society proves to be a more or less impossible task".[503] Scores of similar examples can be adduced. The difference between the public and the private sphere diminishes all the time, notwithstanding the current fashion for privatization.

In Athens, on the other hand, it was in some respects easier to draw the line between the *polis* and the community: in the political sphere the adult male Athenians acted as citizens and isolated themselves from metics and slaves. In the social, economic and educational spheres males were joined by women and citizens mingled with foreigners and slaves. The religious sphere was a border zone in which Athenian women played a prominent part and metics and slaves were to some extent allowed to participate. In the private sphere regulation by law was slight compared with modern states; furthermore, we must not forget that state interference presupposes an elaborate state bureaucracy and a police force, institutions which do exist in modern states but did not exist in most ancient Greek *poleis*.[504] And this difference between the modern state and the ancient *polis* leads to another aspect of the relation between state and society.

The opposition between state and society concerns not only the protection of individual freedom against state intervention. From the state's point of view the principal element of the opposition is that the state has the right and the obligation to enforce the legal order throughout society. An essential aspect of the modern concept of state is that, in Weber's terms, it has "the monopoly of the legitimate use of force". The right of coercion is the characteristic that distinguishes the state from all other associations within the society. By this criterion, for example,

most of the so-called primitive societies are *not* states. They often possess institutions entrusted with the settlement of disputes between the members of the community, but the judgements are enforced partly by group pressure and partly by self-help, not by direct action from public institutions.

Where does the *polis* belong? Did it establish a monopoly of force? In classical Athens it was legal to resort to self-help against adulterers (Arist. *Ath. Pol.* 57.3), thieves (Dem. 24.113), traitors (*SEG* 12 87) and exiles found in Attika (Dem. 23.28); and similar laws are known from other *poleis*.[505] Thus, the *polis* did not have an absolute monopoly on the legitimate use of force. On the other hand the victims of these crimes did not have to resort to self-help; by the procedure called *ephegesis* they could always call on the officials to take action against an offender. Furthermore, in all other matters than those listed above no person was allowed to take the law in his own hands, and an offender had to be tried before a court appointed by the *polis*. In private matters the execution of the verdict was, in the first instance, left to the parties to the case, just as it is in modern states, but in public actions the execution of the judgement was an obligation incumbent on the *polis,* and only officials were allowed to inflict a punishment.

Thus, with a few exceptions the *polis* did have a monopoly of force, and this prerogative was not just a fact which attracted little attention. In many of the sources which contrast the private and the public the exclusive right to punish is recognised as one of the essential features of the *polis*.[506] Yet there can be no doubt that the enforcement of the legal order was less effective in the ancient *polis*, and it is worth noting that the monopoly of physical force is never singled out as an essential feature in any ancient definition of the *polis* whereas it constitutes an important aspect in most modern definitions of what a state is.

Recently the discussion of the relation between state and society in ancient Greece has been seen in a new perspective. The distinction is traditionally represented as a simple dichotomy: some communities establish a distinction between state and society and attempt to confine state activity to a public sphere; in other communities such a distinction does not exist and all aspects of human life are regulated and controlled by the community – modern western democracies belong in the first category, the ancient Greek *polis* belongs, allegedly, in the second. Inspired by Max Weber, Oswyn Murray suggests a more sophisticated tripartition: in addition to communities which either do or do not distinguish between state and society he allows for a third type of commu-

nity, one which recognises a difference between the public political institutions and other institutions (religious, economic, social etc.) but, on the other hand, allows the political institutions to dominate the others and to determine what goes on in all sectors of society. According to Murray the Greek *polis* belongs in this intermediate category. "The dominance of the political led to an early recognition of the difference between the various spheres of social activity (Max Weber's "formal rationality"), and of the possibility of conflict between them, which is especially exemplified in the public art of tragedy."[507] Sparta is singled out as an example, correctly in my opinion. Where I differ from Murray is in his belief that Athens and other democratic *poleis* too belong in this category.

4. Was Athens or Sparta the more "Typical" Polis?

After this long exposition about Athens I return to the question: was the Greek *polis* a fusion of state and society? The answer is "yes", if we look at Sparta, but "no" if we look at Athens. Consequently we must ask: what about the other ca. 1498 Hellenic *poleis*? Was Sparta the norm and Athens the exception, or was it the other way round? The answer to this question has for centuries been connected with the question whether the Greek concept of *eleutheria* was similar to or different from the modern concept of freedom.

Most historians emphasise the difference between the two concepts and refer to Benjamin Constant's illuminating essay: *De la liberté des anciens comparée de celle des modernes*.[508] Here ancient liberty is taken to be purely political and to consist in collective decision-making by all citizens in assembly, whereas modern liberty is *individual* and focuses on guarantees against infringements of every man's right to live as he pleases. It is this type of freedom which presupposes a distinction between state and society and, according to Constant, it was unknown in ancient Greece and Rome.[509] It is Constant's analysis of ancient liberty which lies behind Fustel de Coulanges' picture of the Greek *polis*.[510] But historians who quote Constant usually forget to add that Constant explicitly excepts classical Athens from his general analysis of ancient liberty. In Athens, he says, the concept of freedom was very similar to the modern concept, allegedly because commerce was an important factor in the Athenian economy: "Athènes était de toutes les républiques grecques la plus commerçante, aussi accordait-elle à ces citoyens infiniment plus de liberté individuelle que Rome et que Sparte".[511] Whether Constant's explanation is right or wrong is debatable. The important point is that he detected the obvious similarity between ancient Athenian *eleutheria* and the "modern" type of liberty he experienced in his own age. But he took Sparta and not Athens to be the model of a Greek *polis*, and thus based his analysis of the *polis* as such on Sparta and on the philosophers (who admired Sparta more than Athens), whereas he took Athens to be the exception.

One of the first to take the opposite stand was George Grote, who

maintained that – in most respects – Athens was the rule and Sparta the exception. Consequently he believed that the democratic ideal of every man's right to live as he pleased might well have been typical of classical Greece. "This portion of the speech of Perikles [§ 37] deserves peculiar attention, because it serves to correct an assertion, often far too indiscriminately made, respecting antiquity as contrasted with modern societies – an assertion that the ancient societies sacrificed the individual to the state, and that only in modern times has individual agency been left free to the proper extent. This is preeminently true of Sparta: – it is also true in a great degree of the ideal societies depicted by Plato and Aristotle: but it is pointedly not true of the Athenian democracy, nor can we with any confidence predicate it of the major part of the Grecian cities".[512]

In spite of its unquestionable importance for our understanding of the ancient Greek *polis* this issue is hardly ever debated. It is often stressed that both Athens and Sparta were exceptionally large *poleis*[513] and in many important respects different from what with a German term is sometimes called the "Normal*polis*",[514] i.e. the small or middlesized *polis* with a territory of often less than 100 km^2 and an adult male citizen population of less than 1,000 *politai*. In consequence of this view an alternative approach to Greek history has been to write either individual studies of small or middlesized *poleis*[515] or more comprehensive studies of what with another German term has been called *das dritte Griechenland*, *viz.* the Greek world "*jenseits von Athen und Sparta*".[516]

These valuable studies have added an important new dimension to our understanding of ancient Greek society, but they have not relieved us of the duty to answer the question whether the norm in classical Greece was the Spartan fusion of state and society or the Athenian distinction between a public and a private sphere in which the citizens were allowed to live as they pleased. The best way of investigating this problem would of course be to adduce evidence from a number of small *poleis* to the effect that this particular *polis* either did or did not acknowledge a distinction between a public or a private sphere. Such evidence is, alas, not available and therefore the only way of addressing the problem is to examine whether the sources we have tend to see either Sparta or Athens as the norm and the other as the exception. In my opinion, the sources support the view advocated by Grote and his followers.

Whenever Sparta is compared with other *poleis* it is the "otherness" of the Spartans which is emphasised: Sparta differed from most *poleis* by having a system of public education (Arist. *Eth. Nic.* 1180a24-30).

Sparta was for a long time the only *polis* which had a professionally trained body of citizens who, consequently, excelled in war and gymnastic competitions (Arist. *Pol.* 1338b24-9). Before the Hellenistic period the only women to win Olympic victories came from Sparta (Paus. 3.8.1). By contrast with almost all other *poleis* Sparta had maintained good laws and avoided *stasis* for almost 400 years (Thuc. 1.18.1). By contrast with other *poleis* unconditional respect for the law was a characteristic of Spartan society (Xen. *Mem.* 4.4.15). As an urban centre classical Sparta was peculiar by being a *polis kata komas oikoumene* in the old-fashioned style (Thuc. 1.10.2).

By far the longest and most detailed account of the Spartan institutions is that of Xenophon in his *Lakedaimonion Politeia*, and throughout this treatise he emphasises, time and time again, that Sparta is different from other *poleis*. The "otherness" of the Spartans concerns all aspects of life: the begetting of children (1.3), the physical training of females (1.4), sexual intercourse between man and wife (1.5), marriage (1.6-7), education of boys (2-3 *passim*), and regulation of the lives of adult citizens (4 *passim*). In the rest of the treatise (5-15) Xenophon decribes the rules and customs which apply to all Spartans irrespective of age.

In all these matters the Spartan way of life is opposed to how the same matters are organised "by the other Hellenes"[517] or "in other *poleis*".[518] One might suspect that "in other *poleis*" is an euphemism for "in Athens", but when, in one particular case, Xenophon specifies which other cities he has in mind the reference is to Boiotia and Elis (2.12); and, in my opinion, there is no reason to doubt that whenever Xenophon says "in other *poleis*" he means "in other *poleis*", probably including Athens but certainly not restricted to Athens.

The treatise is introduced with a general statement that Lykourgos (who is entrusted with the entire system of Spartan institutions) did not try to imitate other *poleis*; on the contrary, he believed that it would be to the benefit of his fatherland if he introduced customs which were the opposite of those found in other *poleis* (1.2). Later on Xenophon anticipates that people might have difficulty in understanding how different Sparta is from other *poleis*; and in another passage he lets fall a remark to the effect that everybody admires Sparta, but nobody is willing to imitate their institutions.[519]

On several occasions Xenophon touches what is of special interest in this context: that all aspects of life were governed by the *polis* and that next to nothing was left to the individual Spartan to decide for himself.

And here is repeated what Xenophon has stated in relation to all the individual matters he has described, *viz.*, that Sparta was different from other *poleis*: "we all know that obedience to the magistrates and the laws is found in the highest degree in Sparta ..... In other states the more influential citizens do not want it to be thought that they fear the magistrates: they believe such fear to be servile".[520]

Thucydides, Plato and Xenophon were Athenian citizens and Aristotle was an Athenian metic. We cannot preclude the possibility that they present us with an Atheno-centric picture of Sparta, and that authors from other Greek *poleis* would have felt much more familiar with the Spartan way of life and political organisation. To get a balanced view we must consult a non-Athenian account of the Spartan *polis*; and here Herodotos comes into the picture as our (only) surviving alternative to the Athenian sources. His *Historiai* are written by a non-Athenian and intended for a non-Athenian audience.[521] Sparta figures prominently not only in his description of the Persian War in Books seven to nine, but also in the first six books of the work, in which there are long digressions, of which several about Spartan history and Spartan society.

Whenever Herodotos allows himself a digression about contemporary customs and institutions it is because he presumes that he can tell his audience something they do not already know. Since his audience was Greek and could be expected to know what went on every day in their own *poleis*, almost all such anthropological and sociological digressions are about barbarian peoples, whereas the digressions about Greek matters are primarily historical, e.g. his digressions about Kypselos or Solon or Kleisthenes. But in Book 6.56-60 Herodotos has a long digression about the Spartan kings, not a historical account of the origins of the institution (found in Book 1), but a description of the powers of the kings and, in particular, the customs associated with their burials. These customs are explicitly compared with customs found in Asia Minor, in Persia, and in Egypt. In this digression the Spartans are represented as "the others", people who are different from Herodotos himself and his audience.[522]

To conclude, all the evidence we have, Athenian as well as non-Athenian, suggests that Sparta was exceptional. The only parallel always mentioned both in the sources and in modern literature is Crete. But Crete was split up into at least 70 *poleis*,[523] and the unified Cretan *politeia* is an artificial construct invented by the philosophers,[524] or perhaps taken over from Ephoros[525] in order to explain the origin of the Spartan *politeia*. During the classical period, however, Crete and her

city-states lay in relative isolation, and few details were known about the diversity of the social and political institutions of the Cretan *poleis*.[526] The so-called Cretan constitution referred to both by Ephoros, Xenophon, Plato, and Aristotle is just a reflected image of the Spartan constitution based on inadequate information about the Cretan *poleis*.

As for an explanation of the peculiarity of Sparta's and, allegedly, Crete's institutions our sources agree that, by contrast with almost all other *poleis*, Sparta had kept up a system introduced many centuries earlier;[527] and that assumption is compatible with the view that Spartan society was originally like that of most other *poleis*, and that the difference between Sparta and other *poleis* was a more recent phenomenon due to the fact that the Spartan *polis* had been frozen by the "Lykourgan reforms" whereas all other *poleis* had changed. This is in fact the position of many modern historians,[528] and it may well be essentially true, but it does not change what matters in this particular context, *viz.* that in the classical period Sparta was an outsider and that its way of enforcing a political system upon all aspects of society was unique, and was duly recognised as unique both by champions and by enemies of the system.

Let us pass from Sparta to Athens. Was the Athenian view of the relation between *polis* and *politai* as exceptional as the Spartan? Or were the Athenian democratic ideals cherished in many, perhaps even in the majority of the Greek *poleis*? In recent years it has become increasingly common to hold that Athenian democracy was virtually unique, that Greek democracy was born in Athens,[529] that all democracies outside Athens were imitating Athens and/or imposed by Athens,[530] that "even in the classical period there were probably never a great many democracies in existence"[531] and that they were probably less stable than the Athenian democracy and often shortlived.[532]

All these statements are questionable and most of them are contradicted by our sources. The view that Greek democracy was born in Athens has no support in the sources and is contradicted by Herodotos: in ca. 530 B.C. and probably under Battos III, Demonax of Mantinea introduced popular rule in Kyrene (4.161.3). After the death of Polykrates in 522 his successor, Maiandrios, proposed to introduce popular government (3.142.3). After the supression of the Ionian Revolt in 494, Mardonios expelled the tyrants from all the Ionian *poleis* and installed democracies (*demokratiai*) instead (6.43.3). It is most unlikely that these democracies were imitations of the Athenian and, again according to Herodotos, they were in fact rooted in local traditions: in a speech made several years before Kleisthenes' reforms, the Milesian Histiaios refers

to champions of popular rule in the Ionian *poleis* (4.137.2). Finally, in the 490s the tyrant of Kos handed over the rule of the state to the Koan people (7.164.1). It is indeed tempting to connect Herodotos' account of *demokratiai* in the late sixth century with the mention of a *demosie boule* in an inscription from Chios from ca. 575-50 B.C. (Meiggs-Lewis, *GHI* 8). For many years Herodotos' testimony to the existence of early democracies outside Athens has been either rejected or passed over in silence on the *a priori* assumptions that any reference to *demokratia* before ca. 460 must be anachronistic, or that most *poleis* cannot have had any clear notion of any form of constitution before they came into contact with Athens.[533] Recently, however, a much more persuasive and totally different view of early democracies outside Athens has been advanced by J.L. O'Neil and E. Robinson.[534]

For the classical period the infrequency of democratically governed *poleis* is explictly contradicted by Aristotle. He claims that, in his day, democracy and oligarchy were the two prevailing forms of constitution,[535] and that it had become almost impossible to set up any other form of government than democracy.[536] His general statement is confirmed by what we know about the constitutions of 4th-century *poleis*. Apart from Orchomenos, all the Boiotian *poleis* became democracies after the expulsion of the Spartans from Thebes in 379. The Arkadian federal constitution of 370/69 was democratic and led to the introduction of democracy in Tegea. Mantinea was a democracy, except for the period of the *dioikismos*, and it is reasonable to assume that a great many of the other Arkadian *poleis* were democracies as well. Next, we know from Thucydides and from other sources as well that many *poleis* imitated the Athenian democratic institutions, a fact which indicates but does not prove that they took over the Athenian view of democratic *eleutheria* as well. To imitate Athenian democracy may well be an euphemistic way of saying that Athens forced its constitution on a good many of its dependencies, but that does not change the fact that Athens thereby became the model for other *poleis*. Admittedly, some of these *poleis* became oligarchies after the Athenian defeat in 404, but others stuck to their democracy.

The existence of a great number of democratic *poleis* in fourth-century Greece, however, does not necessarily entail that these *poleis* practised the same distinction as the Athenians between political and individual freedom. Yet, the Athenian ideal "to live as one pleases"[537] is praised as a fundamental democratic value by at least one non-Athenian author, *viz.* Herodotos who imputes it to Otanes in the famous Constitu-

tional Debate (Hdt. 3.83.2-3). More important: in his general description of democracy in Book 6, Aristotle lists the double concept of *eleutheria* as the most fundamental aspect of *demokratia*: "A basic principle of the democratic constitution is liberty. That is commonly said, and those who say it imply that only in this constitution do men share in liberty; for that, they say, is what every democracy aims at. Now one aspect of liberty is being ruled and ruling in turn ... Another element is to live as you like. For this, they say, is what being free is about, since its opposite, living not as you like, is the condition of a slave. So this is the second defining principle of democracy, and from it has come the ideal of not being ruled, not by anybody at all if possible, or at least only in turn".[538]

Many scholars hold that Aristotle's account of democracy is Athenocentric;[539] but such a view is contradicted by an analysis of Aristotle's empiricism in *Politics*. Throughout the treatise Aristotle adduces some 270 historical examples to illustrate and exemplify his analysis of the *polis*.[540] Only thirty of his historical examples concern Athens, whereas the 240 other examples are drawn from a wide range of Greek *poleis*, Greek peoples and barbarian peoples. Among the Greek *poleis* Lakedaimon (thirty-three examples) and Syracuse (seventeen examples) score highest, but 170 examples concern other Greek *poleis*, many of them middle-sized or small. The impression one gets from reading *Politics* and especially the empirical part of the treatise, viz. Books 3-6, is that the work is far from being Atheno-centric, quite the contrary.

It may, of course, be objected that Aristotle is interpreting all the other *poleis*, and especially the democratic *poleis*, in the light of the Athenian constitution; but as far as they can be checked Aristotle's generalisations about the *polis* seem to be based on the non-Athenian much more than on the Athenian examples. One example is Aristotle's contention that in many *poleis* metics are not allowed to appear in court but are represented by their *prostates* (1275a11-4). This piece of evidence is often quoted in descriptions of Athenian democracy on the assumption that Aristotle must have thought, first of all, of Athens;[541] but the Athenian evidence shows beyond dispute that the Athenian metics appeared in person both as plaintiffs and as defendants, and if they had others to speak on their behalf these advocates were *synegoroi* and not *prostatai*.[542] Another example is Aristotle's distinction between metics and manumitted slaves (1277b39-78a2). In Athens manumitted slaves became registered as metics with their former master as *prostates*.[543] A third example is Aristotle's description of pure democracy as a constitu-

tion in which all important deliberative matters, including verdicts in capital cases, are decided by the *ekklesia*.[544] In *Politics* Athens is indisputably classified as a pure democracy (1274a5-11; 1319b19-27). Nevertheless, in the age of Aristotle, the Athenian *ekklesia* was deprived of the right to hear impeachments (*eisangeliai*), and all sentences of death were passed either by the Areopagos or by the popular courts.[545] There are many other examples but it is superfluous to list them in this context.

Furthermore of the thirty Athenian examples in *Politics* only seventeen pertain to the democratic institutions,[546] whereas twelve concern Kodros, Drakon, the Peisistratidai, or the two oligarchies of 411 and 404-3, and one is just a reference to the Athenians' common habit of playing the flute.[547] Thus, the seventeen references to Athenian democracy are outnumbered by fifty-three references to the institutions in twenty-eight other democracies, of which some were large *poleis* (Syracuse and Kyrene), some were middle-sized (Mantinea and Taras) and some were small (Aphytis and Tenedos).[548]

The belief that Aristotle must have Athens in mind whenever he speaks about democracy is bound up with the view that *Politics* was composed after Aristotle's return to Athens in 335 and accordingly must reflect his own environment. But to think that Aristotle could see no further than his nose is not a compliment to pay the philosopher, and moreover, it is worth remembering that the last datable event in the *Politics* is the murder of Philip the Second (1311b1ff), which took place before Aristotle returned to Athens. The inference is that a large amount of the evidence and perhaps much of the treatise was conceived before Aristotle returned to Athens. The Atheno-centric interpretation of the *Politics* is misguided. Aristotle's capacity for empirically based generalisations should not be underestimated and his description of the two different forms of *eleutheria* in a democratic *polis* is probably what it purports to be: an ideal which was cherished in a large number of Greek democracies, probably including Athens, but in no way restricted to Athens.

To conclude: the sweeping statement that *the* ancient Greek *polis* was a fusion of state and society is, in any case, a false generalisation. It is true for Sparta, but false for Athens. Again Sparta seems in the classical period at least to have been the exception and Athens much closer to what we can expect to have been the case in other *poleis*, at least in democratically governed *poleis*. The presumption is, however, that Sparta, though exceptional, was a *polis* to the same degree as Athens

and *poleis* organised like Athens. Whether a given *polis* was a fusion of state and society or separated state from society is irrelevant for its status as a *polis*, but is, of course, relevant for the modern historian's discussion of whether it was a state or, to be more precise, a state in the modern liberal-democratic sense.

VI. How Old is the State?

I now return to the question whether it is an anachronism to use the concept of state in our description of the ancient Greek *polis* and whether it is mis-guided to render *polis* by city-*state*. Let me begin by the state. How old is the modern concept of state? And, a different question, how old is the modern state? The three essential elements of the modern concept of state are territory, people and government so that, according to which of the elements one chooses to emphasise, a state can be defined as "a geographically delimited segment of human society united by common obedience to a single sovereign"[549] or "a government with the sole right to enforce a given legal order with a given area over a given population".[550] When was this concept formulated? And when in history did communities emerge which fit the modern definition of a state?

1. The Political Philosophers of the 16th and 17th Centuries

It is commonly held that the term state in its modern sense appears for the first time in Machiavelli and is found later in the same century in, for example, Bodin.[551] But to trace the modern concept of state back to 1513 when Machiavelli wrote *Il Principe* is only a qualified truth. In this work there are indeed some attestations of *stato* designating "a form of public power" or "a government";[552] and insofar as the state is identified with its government or political structure it is not wrong to say that Machiavelli is the first to use *stato* in this sense. But the territory and especially the people of a state are aspects not properly covered by Machiavelli's use of *stato,*[553] and there is no other term in his work which brings these three concepts together to form the basic elements of a political community.

Similarly, in *Les six livres de la république* by Louis Bodin *estat* appears in the sense of (form of) government and sometimes even in the sense of political community.[554] But when he speaks of what we would call states he uses *république* rather than *estat* and the three elements of the modern concept of state are never juxtaposed.

After Machiavelli and Bodin the third great political philosopher whose work is connected with the concept of state is Thomas Hobbes. But he prefers the terms commonwealth or republic or, in Latin, *civitas*. "State" is only infrequently attested, and occurs principally in the sense of government, or form of government. It is debatable whether it can signify a public power above both ruler and ruled, and territory and people are aspects not covered by the term as used by Hobbes.[555]

The picture changes drastically if we move on a century and come to Montesquieu. In some sections of his *De l'esprit des lois* the term *État* occurs on every page and now unquestionably in what can truly be called its modern sense.[556] Similarly, the term *république* is no longer used in the general sense of political community but in its modern, more specific sense of a democratically or aristocratically governed state without a monarch.[557] Montesquieu employs the term *État* both when the reference is to a geographically delimited political community[558] and when he thinks of the political organisation and institutions of such a community. And *État* denotes not only the territory and the government of a state, but also, occasionally, its population.[559] Furthermore, when political organisation is emphasised, the state is sometimes explicitly distinguished from the government,[560] and is, in a more abstract sense, a public power above ruler and ruled.[561]

Thus, during the 16th and 17th centuries it became fairly common to use the words *stato* (Italian), *estat* (French) and *state* (English) to denote the sovereign, or the government, or the form of government of a country, but not yet to denote the country itself or its population, and the term "state" in its modern sense emerges only in the course of the 18th century.

2. The Great Lexica of the 18th Century

Attestations of "state" in the sense of a geographically delimited political community begin to turn up in the late seventeenth century,[562] but the use of the word state in the territorial sense did not catch on immediately, as is amply illustrated by the articles *Staat*, *état*, and *state* in the great eighteenth-century dictionaries, lexica and encyclopaedias, in which, on the other hand, *state* in the sense of *people* is sometimes attested.

In Johann Heinrich Zedler's *Grosses vollständiges Universal-Lexikon* in 64 volumes, published 1732-54, the entry *Staat* is opened with

the following description: "Staat, Stand, Lat. *Status*, Frantz. *Etat*, Ital. *Stato*, heisst insgemein, zumahl bei denen Publicisten und Staats-Kundigen nichts anders, als die Regierung, oder die Regiments-Forme und Verfassung zwischen Obrigkeit und Untertanen eines Landes."[563] The entry indicates that nothing has changed since Machiavelli: a state is a government; the other two elements, territory and people, are conspicuous by their absence.

It was de Jaucourt who wrote the article "Etat (Droit polit.)" for Diderot's *Encyclopedie* and in the spirit of Aristotle he singled out the people and the government as the two essential characteristics, whereas he has no mention of the territory: "terme générique qui désigne une société d'hommes, vivans ensemble sous un gouvernement quelconque, heureux ou malheureux".[564]

In Johnson's *Dictionary* (1755) the synonyms printed *s.v.* "State" are: "the community; the publick; the commonwealth". In some of the examples quoted the word "state" has the connotation "form of state", "ruler" or "government" whereas there is no attestation of "territory" or "people" as connotations which go with the principal sense of "community".[565] The term state in its modern sense seems to be little used in England in the eighteenth century, and this impression is corroborated by the first edition of the *Encyclopædia Britannica* (1768-71) in which the entry state fills a bare two lines: "State, or estate, an empire, kingdom, province or extent of country under the same government".[566] To subsume a province under the heading "state" does not conform with our understanding of what a state is,[567] and, by contrast with the definition of état proposed by de Jaucourt, the people are missing from the Britannic concept of state. Furthermore, in the tenth volume of the second edition of the *Encyclopædia Britannica*, published in 1783, the entry "state" disappeared altogether, whereas the word state now turned up on the title page of each of the ten volumes in the programmatic statement that the *Encyclopædia* contained, *inter alia*, "a General History, Ancient and Modern, of the different Empires, Kingdoms and States". Here "state" is found in the specific sense of "republic" (*versus* "monarchy"), a usage attested in Johnson's dictionary and in Hobbes' *Leviathan*.[568] We have to wait until the 10th edn. of the *Encyclopædia Britannica*, published in 1902, before the entry "state" re-appears and contains a definition which identifies the state with its government.[569] Similarly, it was the sixth edition of the *Dictionnaire de l'Académie française*, published in 1835, which for the first time under the entry "État" added a reference to the people and

thus recorded all three aspects of the concept: gouvernement, peuple and pays.[570]

3. The Textbooks of International Law

The lexicographical notes may direct us to the context in which the concept of the modern state emerged. In the French encyclopaedia the entry was not just "état" but "état (droit polit.)" and it is indeed in public law that the three elements of territory, people and government were eventually combined to form one concept which, ultimately, was labelled state. But it took indeed a long time for the fully developed concept to emerge.

Contemporarily with the publication of the great European encyclopaedias M. de Vattel wrote what is universally recognised as the first great textbook of international law: *Le droit des gens ou principes de la loi naturelle* (London 1758), and here "les nations ou états" are described as "des Corps Politiques, des Sociétés d'hommes unis ensemble pour procurer leur salut & leur avantage, à forces réunies". – Nothing is said here about the territorial aspect of the state.[571]

In nineteenth-century Germany the most famous textbook of international law was A.W. Heffter, *Das europäische Völkerrecht der Gegenwart.* In the first edition of 1844 the concept of *Staat* was defined in section 15 and according to Heffter the existence of a state presupposes: "(I) das Dasein einer Gemeinde mit den nöthigen Mitteln und Kräften, um sich in ihrer Vereinzelung zu behaupten; (II) das Dasein eines ausschliesslichen organischen Gesammtwillens – der Staatsgewalt – ...; (III) eine Stetigkeit der Verbindung (ein *status*)...". It is only in the 7th, posthumous edition of 1882 that the editor, H. Geffcken, noted: "Diese Definition übersieht die Nothwendigkeit des Gebietes für den Staat".

Among English studies in public law one stands out and has been republished only a few decades ago. It is John Austin's *The Province of Jurisprudence Determined*, whose first edition appeared in 1832. In the sixth lecture, in a long note about various terms and concepts, Austin says that he will use "state" synonymously with "sovereign" but adds that "an independent political society is often styled a 'state' or a 'sovereign and independent state'". There is no hint that a state has a territory.

The casual, fluctuating and ultra-short treatment of the term state

(état, Staat) in the 18th-century lexica and encyclopaedias, and the equally fluctuating definitions of the term state in legal textbooks confirm the impression obtained from reading political philosophy: before ca. 1750 the term state was not commonly used, and when it is attested, it designated primarily the government or the sovereign, often opposed to the people who were seen as subjects; the concept of state had not yet taken the complex shape it has today. Furthermore to see the state as an abstract form of public power distinct from both ruler and ruled is a development of the concept which took place between the mid-17th century, when Louis XIV allegedly said "l'État c'est moi" and the mid-18th century when Friedrich II of Prussia said "un prince est le premier serviteur et le premier magistrat de l'État".[572]

4. Alternative Terms

In this very brief survey I have focused on the term "state", but let me add that, from the Renaissance to the Enlightenment, there is no other term which covered what we today call a state in the sense of a (sovereign) government exercising a legal order within a territory over a people. In Latin political communities were mostly called *regna*, or *res publicae*, or *civitates*, and these terms recur in various forms in the various vernacular languages. But I have not (yet) seen any of them used in the same way as the modern term state to denote a territorially delimited political unit inhabited by a people who pay habitual obedience to a sovereign. The term nation, as used in English and French in the 18th century onwards, is the one that comes closest to state, see, e.g., the article in Diderot's *Encyclopedie*: "NATION (Hist. mod.) mot collectif dont on fait usage pour exprimer une quantité considérable de peuple, qui habite une certaine étendue de pays, renfermée dans de certaines limites, qui obéit au mème gouvernement".[573] The entry in the first edition of the *Encyclopædia Britannica* is a direct translation of this note;[574] And in the *Dictionary of the English Language s.v.* "nation" Samuel Johnson has the following quote from Temple, (a contemporary of Hobbes): "A nation properly signifies a great number of families derived from the same blood, born in the same country, and living under the same government".[575]

So, in a historical analysis of the modern state it is the term nation rather than the term state we have to look for if we want to pursue our study of the *concept* of state back behind the 18th century.[576]

5. The Emergence of the Concept of the Territorial State

Summing up, the modern concept of state has three elements: a territory, a people and a government, and can thus be defined as a sovereign public power which, if analysed into its parts, consists of a hierarchy of political institutions entrusted with the enforcement of a legal order within the territory over the people. This concept emerged in the course of the 18th cent, but then the term used was "nation" rather than "state", and the emphasis was on the people rather than the territory or the government. Even in the early 19th century the state was principally identified with the government or the sovereign, a usage which can be traced back to the 16th century. The word state sometimes occurs in the sense of people or territory, but to combine the three elements to form one concept is a development of political thought which belongs in the 19th century.

Thus, the modern concept of state did not find its final form until ca. 1750, and it took a long time for the concept to take on, but what about the state as a historical phenomenon? When and how did Europe become divided into territorial states, each ruled by a sovereign body of government? There is general agreement among historians that the emergence of the European states was a protracted process that can be traced back more than a millenium. To put it very crudely it started with the treaty of Verdun in 843, it was brought a long step forward in France, especially during the reign of Philippe le Bel (1285-1314), and it culminated with the Peace of Westphalia in 1648.

Already Proudhon believed that the Peace of Westphalia gave birth to the modern state and thus inaugurated a new era in European history,[577] and modern students of political science seem to agree with Proudhon. According to Easton, for example, it is an anachronism before that date to speak of the state both as a historical phenomenon and as a concept: "The territorial state as we have known it since the Treaty of Westphalia has thus become the prototype from which the criteria for all political systems are derived. But prior to the seventeenth century, for the vast span of time in which men lived and governed one another, according to this interpretation of the state at least, no state was in existence. At most there was a truncated form of political life. Greece had its city-community, mistranslated today as the city-state....". [578] Similarly, in his analysis of the concept of state David Held speaks of what he

calls "The Westphalian Model ... which entrenched, for the first time, the principle of territorial sovereignty in inter-state affairs".[579]

In feudal Europe the powers established by a lord over his vassals were based on personal bonds irrespective of where the vassals were living.[580] It is probably true that it was the Peace of Westphalia – i.e. the treaties of Osnabrück and Münster of 1648 – which put an end to the feudal and hierarchical system of political communities and laid the basis for a Europe consisting of territorially based and, in principle, equal communities, each in possession of the sovereign right to rule within the territory and to conclude treaties with other sovereign communities.[581] Yet in the peace treaty, written in Latin, there is no trace of the concept of state. The term *status* signifies the estates, and terms such as *res publica* or *regnum*, which are sometimes used about what we today would call a state, are never elaborated and described as, for example, "a territorially based population under a government".[582] The *concept* of territorial sovereignty was not fully established until after the Congress of Vienna in 1814-15.[583]

Historians and political scientists may be right in believing that the modern territorial state as a historical phenomenon can be traced back to 1648, but, as argued above, it took a century or more before politicians, lawyers, historians and political philosophers developed the *concept* of the modern territorial state. Thus, we have to note that a historical phenomenon may antedate the corresponding concept, and that is something we have to keep in mind in our analysis of the concept of *polis* and its relation to the concept of state.

VII. Conclusion: The Concepts of *Polis* and State Compared

1. The Concept versus the Historical Phenomenon

Does it promote our understanding of ancient Greek society to use the concept of state in our analysis of the concept of *polis*? It is an indisputable fact that the term state is still incessantly used in descriptions of ancient Greek political communities, and this persistent habit of applying a modern political term to societies which antedate the formation of the concept by more than two thousand years forces us to make a choice between the following four possibilities:

(a) Some ancient and medieval political communites came close to being states in the modern sense, and in some ancient and medieval languages we encounter terms the meaning of which comes close to the meaning of the term state. Thus, both as a historical phenomenon and as a concept the state is much older than the eighteenth century when the term state emerged in its modern sense.

(b) Some ancient and medieval political communities came close to being states in the modern sense, but in ancient and medieval political thought there is no equivalent term or concept. Thus, as a historical phenomenon the state is much older than the concept.

(c) Some ancient and medieval thinkers came close to formulating a concept not far removed from our concept of state, but a network of political communities conforming to this concept did not emerge until much later, *viz.*, in Europe in the course of the seventeenth century.

(d) Before the concept of state emerged there were no states in anything like the modern sense, nor can anything like the concept of state be found in ancient and medieval sources.

Before I embark on my comparison of *polis* and state as concepts and as historical phenomena I find it useful first to adduce some other examples which illustrate the four possibilities.

Re (a). In the modern world *citizenship* is the legally defined hereditary membership of an individual in a state whereby the member (called a citizen or a national) acquires political, social and economic rights which a non-citizen member of the community does not enjoy, or en-

joys only partially.[584] As a rule, a person is a citizen of one state only.[585] Both the concept of citizenship and the legal status designated by the term were known in ancient Greece, and the corresponding terms used were *politeia* to denote citizenship itself, and *polites* to denote the citizen if the emphasis was on a citizen's exercise of his political rights, whereas *astos* (masculine) and *aste* (feminine) were commonly used to denote a person of citizen birth. As a rule a person was a *polites* of one *polis* only.[586]

Re (b) In political science *charisma* is "a form of authority which derives from the extraordinary qualities of an individual leader rather than from the occupation of an established office or post".[587] The concept was coined by Max Weber who borrowed the term from the Bible.[588] This form of authority has, of course, existed in all periods of world history and in all societies.[589] But in the *New Testament* the Greek word *charisma* means "grace" and in ancient Greek texts there is no term and no concept corresponding to political *charisma* as defined by Weber.

Re (c) A robot is a machine that (resembles and) can perform the actions of a person operated automatically or by remote control.[590] For some decades robots have been used, especially in the car industry, but although the first robots were designed in the 1950s, the concept can be traced as far back as to Aristotle: "suppose that every tool we had could perform its task, either at our bidding or itself perceiving the need, and if – like the statues made by Daidalos or the tripods of Hephaistos, of which the poet says that "self-moved they enter the assembly of the gods" – shuttles in a loom could fly to and fro and a plucker play a lyre of their own accord, then master-craftsmen would have no need of servants nor masters of slaves".[591]

Re (d) In most history-books the political leaders in classical Athens are called "politicians".[592] Yet, a modern politician is a decision-maker (either individually or in a body) and is elected by the people, or is at least a candidate for election; he is paid for his activities; his accountability is often restricted by immunity from prosecution, and he is almost sure to be linked to some political party.[593] In fact the word often has a pejorative ring: in many countries you would not find a political figure willing to stand up and say: "I am a politician".[594] The Athenian political leaders, by contrast, were not elected but self-appointed; they never took decisions, only made proposals; they risked being penalized if they made money out of their political activity; they were constantly brought to account before the People's Court, and there were no political parties for them to belong to.[595] Nor was there the same discrepan-

cy between how the political leaders saw themselves and how others saw them: the terms *rhetor* and *ho politeuomenos* could be used pejoratively, but they were quite as often used in a favourable sense, and Demosthenes in the *Crown* prides himself on having been *rhetor* and *politeuomenos*.[596]

Thus, the Athenian political leaders were not politicians in our sense, and the concept of politician is better avoided in modern historical analysis of Athenian democracy. If the word "politician" is too familiar to be eradicated from books on ancient Greek history the historians who use it ought at least to tell their readers that the word does not denote what we understand by a politician, but is used as a convenient designation of the persons whom the Athenians themselves called *rhetores kai strategoi* or *politeuomenoi*.

In which of these four categories does the term state belong? And is it legitimate to describe the ancient Greek *polis* as a type of state? Both political scientists and historians are divided into two opposed camps: those who prefer model (a) and analyse the Greek *polis* as well as many other early societies in terms of statehood,[597] and supporters of model (d) who deny that ancient and medieval political communities were states and that the concepts of *polis* and *civitas* etc. bear any resemblance to the concept of state.[598] Scholars who advocate models (b) or (c) are conspicuous by their absence. Yet there can be no doubt that, for certain periods of world history, model (b) matches the evidence we have much better than (a) and (d). Thus, we are faced with an attestation of model (b) above, according to which the concept of the territorial state emerged in consequence of the corresponding phenomenon, but much later.

In our comparison of state and *polis* we must answer two types of question: (a) *was* the *polis* a network of political institutions determining and enforcing a legal order within a given territory over a given population and, at a more abstract level, a form of public authority above both ruler and ruled? And: (b) did the ancient Greeks *conceive* the *polis* as a network of political institutions determining and enforcing a legal order within a given territory over a given population and, at a more abstract level, a form of public authority above both ruler and ruled? In the sections above about state and *polis* I have treated the aspects of territory, people and government and pointed out differences and similarities indiscriminately. In this final section I will sum up by listing differences and similarities separately .

2. Differences between *Polis* and State

1. Compared with modern states the Greek *polis* was a Lilliput. In the 4th century B.C. Athens had a population of ca. 250.000 persons and covered an area of ca. 2.500 km^2.[599] Modern Luxembourg is a state of 2,600 km^2 with a population of 400,000 persons. Thus, the largest of all *poleis* in classical Greece was about the size of one of the smallest modern states.

2. According to Plato and Aristotle it was a requirement for a well-ordered *polis* that all citizens be acquainted. The *polis* was, essentially, a face-to-face society, at least in the sense that the adult male citizens would know one another. A few contemporary micro-states excepted,[600] this kind of interrelation between citizens is completely unknown in modern states.[601]

3. The *polis* was identified primarily with its population, whereas a modern state is rather the territory (from an external point of view), or the government (from an internal point of view). The Greeks said that the Korinthians were a *polis* rather than that Korinth was a *polis* (in the political sense). Today no-one would say that the French are a state but only that France is a state, either in the sense of territory (France borders on Germany) or in the sense of government (France has signed a treaty with Germany).

4. As a political community the *polis* was a male society and as such opposed to the household (*oikia*) which was considered to be the women's principal domain.[602] By contrast, since the 1920s the modern state has been a community of men and women alike.

5. A *polis* (in the political sense) was identified with its citizens, the *politai*, rather than with its entire population, *hoi enoikountes*, and the percentage of the population which was excluded from participation in the *polis* was much larger than the percentage of foreigners in a modern state. In Germany some 90% of the adult population have political rights, whereas in a democratic *polis* the *politai* would probably not exceed 25% of the adult population, and in oligarchies the full citizens would total only a tiny fraction of all inhabitants.

6. The identification of the *polis* with its citizens entailed the view that the *politai* would often speak of the *polis* in the first person: "we are the *polis*" or a speaker addressing a political body would use the second person: "you are the *polis*". The prevailing modern view is to see an opposition between the state and the citizens; the state is identified with the government and referred to in the third person as a "they" or an "it" rather than a "we".

7. The close connection between the urban and the political aspects of the *polis* is an essential dimension of ancient Greek society whereas the concept of state is not necessarily linked with the concept of an urban centre. This difference between state and *polis* is reflected in the political terminology: in the pair of antonyms "city" *versus* "country", it is the concept of country which in European culture has been identified with the concept of state, whereas the Greeks identified their political community with the concept of city and called it a *polis*.

8. In international law autonomy in the sense of independence is an indispensable criterion for being a state, whereas the requirement that a *polis* must be *autonomos* was a late development and never became more than an ideal; *autonomia* did not become an essential element of the concept of *polis* until the fourth century B.C. and as a consequence *autonomia* lost its original sense of independence.

9. The Renaissance and Baroque concept of the sovereign as a supreme legislator who himself stands above the laws is foreign to the ancient Greeks who invariably emphasised the supremacy of the laws and held that a *polis* ruled by a monarch who set himself above the law was a tyranny, a perverted form of community which, in its extreme form, had ceased to be a *polis*.

10. All states are equal in the sense that a micro-state is a state to the same extent as a Great Power; and member states of a federation are not regarded as states in the proper sense. A *polis*, on the other hand, did not lose its identity as a *polis* by becoming a member of a federation, and there was a whole range of other forms of dependencies which were nevertheless *poleis*. The world of *poleis* was organised hierarchically and not in accordance with any egalitarian principle to the effect that all *poleis* were equal.

11. The modern distinction between state and society entails the view that a community which does not respect this distinction is not a state in the proper sense, but a fusion of state and society. Accordingly, the concept of state does not fit archaic and classical Sparta, where the *polis* permeated all aspects of community life.

12. When the modern state is described as an organisation which possesses the monopoly of the legitimate use of violence for the enforcement of the legal order, the two institutions which are always singled out are the police (the internal aspect of the state) and the army (the external aspect). A Greek *polis* did not possess a police force or a standing army; and the exclusive right to use force is not a characteristic which is emphasised in those sources which define and describe what a *polis* is.

3. Similarities between *Polis* and State

1. Territory, people and government are the three essential elements of the ancient *polis* as well as of the modern state. For the concept of *polis*, territory was the least important of the three, but it is misleading to dismiss the territory altogether as an element in the concept of *polis* and to suppose that there were *poleis* completely without a territory.

2. The *polis* was, first of all, identified with the *politai* and, similarly, in modern accounts of the concept of state the people are often singled out as the most important of the three elements.

3. Both in the ancient *polis* and in the modern state the people are primarily identified with the citizens, and it comes almost as an afterthought that, from a different point of view, the people must include all the inhabitants of the *polis* or the state.

4. In principle, the concept of state is not linked to any particular form of government. A state must have a government, but whether it is monarchic, oligarchic or democratic is irrelevant for the community's status as a state. Similarly, the concept of *polis* was not *per se* connected with any of the three basic forms of government: monarchy, oligarchy or democracy.

5. In contemporary western societies, however, the concept of the state is often identified with the concept of the democratic state. Similarly, the classical *polis par excellence* was the democratic *polis*, as even Aristotle had to admit (1275b5): if a *polis* is identical with its *politai*, and if a *polites* is defined functionally as a person who participates in political decision-making, then oligarchies and especially monarchies are not *poleis* to the same extent as democracies are.

6. The identification of the state with the democratic state suggests the concept of popular sovereignty which, again, suggests the idea of "we the people", Thus, like the *politai* of a *polis*, the citizens of a modern state may identify themselves with the political community as such, and think of the state as a "we" rather than as a "they", just as the Greek *politai* in their political assemblies were in the habit of identifying themselves with the *polis*.

7. In the sense of political system the modern state is often personified and identified with its government, and similarly the *polis* is often personified and identified with its principal political institutions. On a more abstract level the ancient *polis*, like the modern state, is often seen not just as a system of political institutions, but as a permanent public power above both ruler and ruled.

8. Like the modern state the *polis* provided its citizens with a feeling of common identity, based on traditions, culture, ceremonies, symbols and sometimes (presumed) common descent. For a Greek citizen the *polis* was his fatherland (*patris*) for which he was expected, if necessary, to die, just as the modern state expects "every man to do his duty".[603] Both in the ancient and in the modern world victories in the Olympic Games are won by participants representing, respectively, their state or their *polis*.[604] The *polis* had no flag; but city-ethnics (Naukratites, Milesios etc.) were used as a kind of surname which, at the same time, indicated the bearer's status as a citizen of the *polis* in question. Other symbols were the eternal flame burning in the *prytaneion*, cult festivals, monumental architecture etc.

9. The modern state is a synthesis of rulers and ruled and, similarly, the *polis* is a synthesis of *archontes* and *archomenoi*. This view applies not only to *poleis* ruled by monarchs, aristocrats or oligarchs, but also to democratic *poleis* in which citizens take turn and thus, by the principle of rotation, are divided into rulers and subjects.

10. The modern concept of sovereignty is subdivided into supremacy (internal sovereignty) and independence (external sovereignty). Our sources for the ancient Greek *polis* reveal a somewhat similar divide between an internal supremacy expressed through the adjective *kyrios* and an external independence expressed through the adjective *autonomos*.

11. The widespread tendency in this century to depersonify the concept of sovereignty and to take the sovereign to be the legal order as such or, specifically, the constitution is not far from the ancient Greeks' belief that the laws (*nomoi*) were the masters (*kyrioi*) of the *polis*.

12. In Athens and probably in many other democratic *poleis* too there was a distinction between a *polis*-sphere and a private sphere in which the *polis* did not interfere but allowed the inhabitants to live as they pleased, both as individuals and in their private associations. This distinction corresponds essentially to the modern distinction between state and civil society. But in ancient *demokratiai* as well as in modern democracies this distinction between state and society is blurred and can never be clearly drawn.

13. Apart from some forms of self-help and a master's right to punish his slaves the *polis* seems, at least in the classical period, to have acquired the sole right to use force, and in forensic speeches it is not infrequently pointed out that to punish offenders is the prerogative of the *polis* and its officials.[605]

14. If the most essential characteristics of a state are a defined territory, a juridically defined population and a sovereign legislature, then member states of federations are essentially states. Consequently, like the ancient concept of *polis*, the modern concept of state is hierarchical. But while the dependent *polis* existed in a great variation of types in ancient Greece, the state hierarchy in the modern world has until recently been kept at two fairly distinct levels: independent states and member states of federations. In recent years however, the two-tier hierarchy seems to break down and intermediate forms to develop, just as there were many types of *polis* in ancient Greece: the members of EU are no longer sovereign states; nor are they member states of a federation. A new fluent concept of state is developing, one in which sovereignty and independence are concepts that have to be either redefined or dissociated from the concept of state. A new parallel between the concepts of *polis* and state is growing up, one which did not exist a few decades ago, but one which might be of importance in our re-evaluation of the concept of state in the years to come.

The comparison between the concepts of *polis* and state reveals important differences as well as similarities; and the question: was the *polis* a state? cannot be answered with a "yes" or a "no". An analysis of the two concepts leaves us with a much more complicated picture. The most curious result of this investigation is, probably, that both the principal difference and the principal similarity usually emphasised by historians are misleading and must be considerably modified. Historians who hold that the *polis* was *not* a state emphasise that the distinction between state and civil society is an essential characteristic of the state whereas the *polis* was a fusion of state and society.[606] Conversely, most historians hold that autonomy in the sense of independence was an essential characteristic of the *polis* (as it is of the modern state).[607]

The investigation I have conducted here points in both cases to a different conclusion: like the modern (democratic) state the democratically governed *polis* seems to have acknowledged a distinction between a political sphere and a private sphere in which the citizens were allowed to live as they pleased without oppression from the state or from other citizens. The distinction is blurred in the modern state as well as in the ancient *polis* but it is nevertheless an essential element of both ancient and modern democratic ideology. The fusion of state and society was *not* a characteristic of the ancient Greek *polis* but of some *poleis* only, principally Sparta. Conversely, it is misleading to focus on independence or autonomy as an essential characteristic of the concept of the *po-*

lis, since hundreds of Greek *poleis* were dependencies without *autonomia* and were acknowledged as dependencies, as indicated by the term *hypekoos polis*. The unfortunate connection between the concept of *polis* and the concept of *autonomia* is probably due to a tendency to think of the *polis* along modern notions of statehood even in contexts where the difference between the two concepts outweighs the similarity: a state is by definition autonomous; the *polis* is the ancient equivalent to a state; thus the *polis* must be *autonomous*.[608]

My conclusion is that the distinction, both in ideology and in practice, between state and society constitutes one of the similarities between the modern democratic state and the ancient democratic *polis*, whereas independence as an essential aspects of the state makes the modern concept of state different from the ancient concept of *polis*, since the notion of *polis* did not include *autonomia* as one of its essential characteristics. On the other hand, if member states of a federation are acknowledged as states, the concept of state becomes hierarchical and dissociated from the concept of independence – just as the concept of *polis* was in ancient Greece.

The most striking similarities between state and *polis*, however, are associated with the concept of citizenship. The modern concept of state is closely linked to the concept of citizen; and citizenship, as stated above, is the legally defined hereditary membership of an individual in a state whereby the citizen acquires political, social and economic rights which a non-citizen member of the community does not enjoy, or enjoys only partially.

Similarly, the concepts of citizen (*polites*) and citizenship (*politeia*) were the basic elements of the political systems in classical antiquity. And they were characteristic of both Greek and Roman society.[609] The concepts disappeared with the fall of the Roman empire but re-appeared in the late Middle Ages with the emergence of the Italian and German city-states.[610] It took several more centuries, however, before the concept of citizen became an essential element of the European nation-state.

The reappearance of the concept of citizen on nation-level was conditioned by the growing importance of the bourgoisie, and two milestones were the American and French revolutions in 1776 and 1789. But behind both revolutions were the ideas of Rousseau in whose political treaties the traditional opposition between sovereign and subjects was replaced by the concept of the sovereign subjects, *viz.*, the citizens.[611] And in this context it is important to remember how much

Rousseau's concept of citizenship owes to the fact that he was himself born a citizen of the Genevan city-state,[612] and that he admired its constitution which he mistakingly thought to be a democracy.[613] Thus, one of the most important single features of the modern state, namely the concept of citizenship, owes its emergence and development to the existence in early modern Europe of city-states which, essentially, resembled the Greek *polis*.

However, the political privileges connected with citizenship emerged only slowly with the democratisation of the western world during the 19th century and the introduction of universal suffrage; and the economic privileges connected with citizenship appeared in the wake of social legislation from the second half of the nineteenth century onwards. Today the concept of citizenship is comparable to the concepts of *politeia* and *civitas* and, outside the scattered medieval and early modern city-states, no similar concept existed between the dissolution of the Roman empire and the eighteenth century. By the importance of political rights connected with political participation the concept of citizen has been closely associated with the concept of democracy, and the link between citizen rights and democracy matches the modern tendency to identify the concept of state with the concept of the democratic state. Thus, in this important respect the modern concept of state, of which citizenship is an essential part, is closer to the concept of *polis* than to any other concept of political community between the *polis* and the modern state. Let us remember that, according to Aristotle, the concept of *polis* was closely linked to the concept of *polites* and the concept of *polites* was first of all associated with being a *polites* in a *demokratia*. Empirically, the *polis par excellence* was the democratic *polis*, just as the modern state *par excellence* is the democratic state, and in this context the rendering of *polis* by city-*state* is essentially legitimate and not a misnomer. From this point of view it would be even better, as sometimes suggested, to prefer the rendering citizen-state,[614] but then we would lose the essential link between the urban and the political aspect of the *polis*. Thus, after all, in spite of the differences listed above, city-state is the best possible equivalent to *polis*, and the modern critique of the term has been sometimes exaggerated and sometimes even misguided.

Appendix I
Polis denoting a Large Geographical or Political Unit

In the sense of country *polis* usually designates a territory restricted to one urban settlement plus its hinterland,[615] and similarly, when *polis* is used in the sense of political community, the reference is almost always to a Lilliput.[616] But there are a few passages in which *polis* in the sense of territory or country is used about a whole region, and a few other passages in which *polis* in the sense of community designates a major political unit. These examples sometimes figure prominently in even very short discussions of the meaning of the term *polis*.[617] I have therefore decided to devote a whole appendix to the evidence, although the result is that an exceptional usage of the word *polis* will be discussed in more detail than the thousands of attestations of the term applied to the territory, or the people, or the government of the typical small political unit in archaic and classical Greece. The best collection and most thorough discussion of the evidence is that of Sakellariou;[618] I will use his material as the basis of my discussion but omit some of his examples which, in my opinion, belong in other contexts.[619] On the other hand I include a discussion of Ephoros fr. 133 and Theopompos fr. 75.

A case apart is the plural *poleis* as a generic term or a heading referring to a plurality of communities of which only some are *poleis* in the sense of one urban centre plus its hinterland, whereas others are larger units, each comprising a number of *poleis*. Such lists of diverse political communities are mostly subsumed under the broader and more correct heading *poleis kai ethne*, but sometimes *poleis* alone is used to cover communities of which some were *ethne*.[620] One example is Thucydides' list of the allies of Sparta at the beginning of the Peloponnesian War: πόλεις δὲ ἑκάτεροι τάσδε ἔχοντες ξυμμάχους ἐς τὸν πόλεμον καθίσταντο. Λακεδαιμονίων μὲν οἵδε ξύμμαχοι· Πελοποννήσιοι μὲν οἱ ἐντὸς Ἰσθμοῦ πάντες πλὴν Ἀργείων καὶ Ἀχαιῶν (τούτοις δὲ ἐς ἀμφοτέρους φιλία ἦν· Πελληνῆς δὲ Ἀχαιῶν μόνοι ξυνεπολέμουν τὸ πρῶτον, ἔπειτα δὲ ὕστερον καὶ ἅπαντες), ἔξω δὲ Πελοποννήσου Μεγαρῆς, Βοιωτοί, Λοκροί, Φωκῆς, Ἀμπρακιῶται, Λευκάδιοι, Ἀνακτόριοι. τούτων ναυτικὸν παρείχοντο Κορίνθιοι, Μεγαρῆς, Σικυώνιοι, Πελληνῆς, Ἠλεῖοι, Ἀμπρακιῶται, Λευκάδιοι, ἱππέας δὲ Βοιωτοί, Φωκῆς, Λοκ-

ροί· αἱ δ' ἄλλαι πόλεις πεζὸν παρεῖχον (Thuc. 2.9.1-2).[1] Of these allies the Achaians, the Boiotians, the Phokians, the Lokrians and the Eleans were *ethne*; moreover, the first three were also federations. It would be wrong from the heading ταῖς πόλεσιν to conclude that these five peoples were *poleis* in any usual sense of the term. Here, as in all similar cases,[621] it is important to distinguish between a term used as a generic term or as a heading and applied to a plurality of denotata, and the same term applied to one specific denotatum. Let me point to a modern example to illustrate what I mean. Today the terms state, nation and country are frequently used as headings in similar contexts. USA, for example, is a member of the United Nations; but it would be a mistake to conclude that USA is a nation in the same sense as France or Denmark. Thus, passages in which a term is used as a heading or a generic term must be analysed separately from individual cases, and we must confine this investigation to the following sources in which the term *polis* is applied specifically to a named country or community.

Aesch. *Pers.* 213: κακῶς δὲ πράξας οὐχ ὑπεύθυνος (Xerxes) πόλει, 511-2: ὡς στένειν πόλιν Περσῶν, 682: τίνα πόλις πονεῖ πόνον; 715: λοιμοῦ τις ἦλθε σκηπτὸς, ἢ στάσις πόλει; 781: ἀλλ' οὐ κακὸν τοσόνδε προσέβαλον πόλει. Xen. *Cyrop.* 1.3.18: καὶ ὁ σὸς πρῶτος πατὴρ τὰ τεταγμένα μὲν ποιεῖ τῇ πόλει ... 1.4.25: καὶ ὁ Κῦρος δὲ ἐνταῦθα λέγεται εἰπεῖν ὅτι ἀπιέναι βούλοιτο, μὴ ὁ πατήρ τι ἄχθοιτο καὶ ἡ πόλις μέμφοιτο, 1.5.7: ἄνδρες φίλοι, ἐγὼ προσειλόμην μὲν ὑμᾶς, οὐ νῦν πρῶτον δοκιμάσας, ἀλλ' ἐκ παίδων ὁρῶν ὑμᾶς ἃ μὲν καλὰ ἡ πόλις νομίζει, προθύμως ταῦτα ἐκπονοῦντας[2] – In all these

1 Thuc. 2.9.1-2: "At the outbreak of the war each of the two sides was allied to the following *poleis*. The Lakedaimonians had the following allies: All the Peloponnesians inside the Isthmos except the Argives and the Achaians (who maintained friendly relations with both sides. Of the Achaians the Pellenians were the only people to join the war immediately whereas all the others did it later). Outside the Peloponnese: the Megarians, the Boiotians, the Lokrians, the Phokians, the Ambrakiots, the Leukadians, the Anaktorioi. Of these those who provided ships were: the Korinthians, the Megarians, the Sikyonians, the Pellenians, the Eleans, the Ambrakiots, the Leukadians. Those who provided cavalry were: the Boiotians, the Phokians, the Lokrians. The other *poleis* provided infantry".

2 Aesch. *Pers.* 213: "if he (Xerxes) fails, he is not called to account by the *polis*"; 511-2: "the *polis* of the Persians will mourn"; 682: "What burden does the *polis* have to bear?" 715: "Did some kind of plague or civil war hit the *polis*?" 781: "I did not inflict such a disaster on the *polis*". Xen. *Cyrop.* 1.3.18: "and your father is the first to comply with the orders of the *polis*"; 1.4.25: "And it is told that Kyros said that he wanted to leave, lest his father should be displeased and the *polis* should reproach him"; 1.5.7: "My friends, when I chose you, it is not because I have come to approve of you now for the first time, but because I know that, right from your childhood, you have always been eager to do what the *polis* approves of as right".

passages the reference is to the Persian empire. In the *Persae* Aischylos speaks from a Greek perspective, as if the Persian War had been a war between two *poleis*. In the *Cyropaedia* Xenophon intentionally describes a foreign culture and seems to use *polis* for want of another word with the meaning "political community".

Lys. 6.6: ἔπειτα δὲ καὶ διώχληκε πόλεις πολλὰς ἐν τῇ ἀποδημίᾳ, Σικελίαν, Ἰταλίαν, Πελοπόννησον, Θετταλίαν, Ἑλλήσποντον, Ἰωνίαν, Κύπρον.[1] The verb διοχλεῖν, "to annoy exceedingly",[622] shows that πόλις is here used in the sense of community rather than in the sense of country. But none of the regions listed in the passage was a unified political community. The text may be corrupted. If it is sound, the use of *polis* looks like a slip of the mind.[623] A fairly close parallel is Pl. *Resp.* 599E: σὲ δὲ (Homer) τίς αἰτιᾶται πόλις νομοθέτην ἀγαθὸν γεγονέναι καὶ σφᾶς ὠφεληκέναι; Χαρώνδαν μὲν γὰρ Ἰταλία καὶ Σικελία, καὶ ἡμεῖς Σόλωνα.[2] Nobody, I think, would quote this passage as an instance of Italy and Sicily being classified as *poleis*.

Harp. *s.v.* Κεῖοι· Λυσίας (fr. 96) ἐν τῷ περὶ τῶν ἰδίων εὐεργεσιῶν "οἱ Κεῖοι μὲν πόλις τοσαύτη". Κέως μία τῶν Κυκλάδων νήσων, παρακειμένη τῇ Ἀττικῇ. τὴν νῆσον δὲ πόλιν ὠνόμασεν ὁ ῥήτωρ. καὶ Εὐριπίδης (*Ion* 294) τὴν Εὔβοιαν "Εὔβοι' Ἀθήναις ἐστί τις γείτων πόλις". Ἀριστοφάνης δὲ (*Pax* 251, quoted from memory) περὶ Σικελίας φησὶν "οἵα πόλις τάλαινα διαλυμαίνεται".[3] Harpokration takes the quote from Lysias to be an attestation of the word πόλις in the sense of νῆσος, But the use of the ethnic Κεῖοι instead of the toponym Κέως strongly indicates that the reference is to Keos as a kind of political community. There is, however, no reason to suppose that the four *poleis* on Keos formed a federation when, in 403/2, Lysias delivered his (lost) speech. The four *poleis* are recorded separately in the so-called Charter of the Second Athenian Naval League (*IG* II^2 43.A.82, B.23-6), but they are grouped together and called Κεῖοι in the fifth-century tribute lists (*IG* I^3 262.V.22 etc). Thus, they may well have acted in concert in foreign policy, and that might explain Lysias' reference to the Keans

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1 Lys. 6.6: "During his subsequent journeys he exceedingly annoyed many *poleis*: Sicily, Italy, the Peloponnese, Thessaly, the Hellespont, Ionia and Cyprus".

2 Pl. *Resp.* 599E: "which *polis* would claim that you had been a good legislator and their benefactor? Italy and Sicily name Charondas, and we Solon".

3 Harp. s.v. "*Keians*. Lysias in his speech about his own benefactions: 'And the Keians are such a large *polis*'. Keos is one of the Kykladic Islands, lying next to Attika. The orator called the island a '*polis*'. And Euripides Euboia: 'Euboia is a *polis* bordering on Athens'. And Aristophanes says about Sicily: 'how this unfortunate *polis* is suffering'".

as a *polis*. The passage from Aristophanes is quoted from memory. Lines 250-1 in Aristophanes' *Pax* run as follows: ΠΟ: ἰὼ Σικελία καὶ σὺ δ' ὡς ἀπόλλυσαι. ΤΡ: οἵα πόλις τάλαινα διακναισθήσεται.[1]

Pollux 9.27: τοῖς γὰρ ποιηταῖς καὶ τὰς χώρας λέγουσι πόλεις οὐ προσεκτέον ὡς παρ' Εὐριπίδῃ ἐν Ἴωνι (294) "Εὔβοι' Ἀθήναις ἔστι τις γείτων πόλις", καὶ πάλιν ἐν Τημενίδαις (Fr. 730, Nauck) "ἅπασα Πελοπόννησος εὐτυχεῖ πόλις".[2] – Pollux judiciously warns against the habit among poets to use *polis* synonymously with *chora*. It should be added that both the Euripidean tragedies were set in the Heroic period when all of Euboia was ruled by Elephenor (Hom. *Il.* 2.540) or, again, by Eurytos (Soph. *Trach.* 74-5 with Jebb's note *ad locum*). Similarly, the isolated line from the *Temenidae* may describe the period before the Peloponnese was divided between Temenos, Aristodemos and Kresphontes. Let me add that the region Doris is called a *polis* at *Ion* 1590.[624]

Strabo 8.3.31: τινὲς δὲ πόλιν μὲν οὐδεμίαν γεγονέναι Πίσαν φασίν. εἶναι γὰρ ἂν μίαν τῶν ὀκτώ· κρήνην δὲ μόνην, ἣν νῦν καλεῖσθαι Βίσαν, Κικυσίου πλησίον, πόλεως μεγίστης τῶν ὀκτώ· Στησίχορον δὲ (fr. 86, Page) καλεῖν πόλιν τὴν χώραν Πίσαν λεγομένην, ὡς ὁ ποιητὴς (Hom. *Il.* 24.544) τὴν Λέσβον Μάκαρος πόλιν, Εὐριπίδης δ' ἐν Ἴωνι (294) "Εὔβοι' Ἀθήναις ἐστί τις γείτων πόλις". καὶ ἐν Ῥαδαμάνθυι (fr. 658, Nauck) "οἳ γῆν ἔχουσ' Εὐβοΐδα πρόσχωρον πόλιν". Σοφοκλῆς δ' ἐν Μυσοῖς (fr. 377, Nauck) "Ἀσία μὲν ἡ σύμπασα κλῄζεται, ξένε,/ πόλις δὲ Μυσῶν Μυσία προσήγορος".[3] – As duly noted by Strabo, it was a moot point already in antiquity whether Pisa was a *polis* before it was subdued by Elis. Next, Homer

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1 Ar. *Pax* 250-1: "Polemos: Sicily! How you will suffer! Trygaios: How this unfortunate *polis* will be crushed!"

2 κώμας MSS – χώρας Kühn. Ἰξίωνι MSS – Ἴωνι Bethe. Poll. 9.27: "We must not pay attention to the poets who use the word *polis* even about countries (*chorai*), as for example Euripides in Ion 'There is Euboia a neighbouring *polis* to Athens', and again in the *Temenidai*: 'all of Peloponnesos is a prosperous *polis*'".

3 Strabo 8.3.31: "But some say that there was no *polis* by the name of Pisa (for if there had been, it would have been one of the eight *poleis*); but only a spring now called Bisa, near Kykesion, the largest of the eight *poleis*; and Stesichoros, they explain, uses the term '*polis*' for the territory called Pisa, just as Homer calls Lesbos 'the *polis* of Makar'; so Euripides in his *Ion*: 'There is Euboia, a neighbouring *polis* to Athens' and in his *Rhadamanthys:* 'who hold the Euboian land, a neighbouring *polis*'; and Sophocles in his *Mysians*: 'The whole country, stranger, is called Asia, but the *polis* of the Mysians is called Mysia'" (translated by H.L. Jones).

does *not* call Lesbos a *polis* in the Iliad, neither at *Il.* 24.544 or elsewhere. Strabo must have misremembered the passage, unless he refers to a lost epic poem.

Pl. *Ep.* VII 332C: Διονύσιος δὲ εἰς μίαν πόλιν ἀθροίσας πᾶσαν Σικελίαν, ὑπὸ σοφίας πιστεύων οὐδενί, μόγις ἐσώθη.[1] – Syracuse was a *polis* in the proper sense, and by Dionysios' policy of expansion Syracuse came close to ruling over all of Sicily, just like Sparta, a proper *polis*, came to rule over all of Lakonia and Messenia. True, Sparta and Syracuse were oversized *poleis*, but there is no reason to treat Syracuse under Dionysios differently from Sparta – or Athens.

Ephoros (*FGrHist* 70) fr. 133 = Joseph. *Ap.* 1.67: περὶ μὲν γὰρ Γαλατῶν τε καὶ Ἰβήρων οὕτως ἠγνόησαν οἱ δοκοῦντες ἀκριβέστατοι συγγραφεῖς, ὧν ἐστιν Ἔφορος, ὥστε πόλιν οἴεται μίαν εἶναι τοὺς Ἴβηρας τοὺς τοσοῦτο μέρος τῆς ἑσπερίου γῆς κατοικοῦντας.[2] – The explanation suggested by Josephus is that Ephoros simply did not know what he was talking about. An alternative, and in my opinion preferable, explanation is that Ephoros used the term *polis* about the Iberian people in the same way as Aischylos and Xenophon used it about the Persians.

Theopomp. (*FGrHist* 115) fr. 75: δύο δὲ εἶναι πόλεις ἔλεγε (Theopompos) μεγέθει μεγίστας, οὐδὲν δὲ ἀλλήλαις ἐοικέναι· καὶ τὴν μὲν ὀνομάζεσθαι Μάχιμον, τὴν δὲ Εὐσεβῆ ... οἱ δὲ τῆς Μαχίμου πόλεως μαχιμώτατοι τέ εἰσι ... καὶ παμπόλλων ἐθνῶν μία πόλις κρατεῖ αὕτη. εἰσὶ δὲ οἱ οἰκήτορες οὐκ ἐλάττους διακοσίων μυριάδων.[3] Theopompos' Utopia is repeatedly classified as a *polis* although it has a population of 2,000,000 persons (citizens?) and rules all the neighbouring *ethne*. By comparison, it is worth noting that Plato's Utopia, Atlantis, is a community of similar size but consists of ten self-governing *poleis* of which one is the capital (Criti. 119B).

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1 Pl. *Ep.* VII 332C: "Having united all of Sicily into one *polis*, Dionysios only just survived, because he was too 'clever' to trust anybody". At 334C μὴ δουλοῦσθαι Σικελίαν ... μηδὲ ἄλλην πόλιν probably means: not to enslave Sicily ... or any *polis* at all, see *LSJ* s.v. ἄλλος II.8.

2 Ephoros (*FGrHist* 70) fr. 133: "Writers with the highest reputation for accuracy have betrayed such an ignorance about the Galatians and the Iberians that Ephoros, for example, believes that the Iberians are one single *polis*, although they inhabit such a large part of the western world".

3 Theopomp (*FGrHist.* 115) fr. 75: "He related that there were two enormous *poleis*, not at all alike, and that one was called Machimos, the other Eusebes ... The people of Machimos were extremely belligerent ... This single *polis* ruled many *ethne*, and its population numbered some two million persons (citizens?)".

Arist. fr. 498, Rose = Schol. Vat. on Eurip. *Rhes.* 307: ... καθάπερ φησὶν Ἀριστοτέλης ἐν Θεσσαλῶν πολιτείᾳ γράφων οὕτως διελὼν δὲ τὴν πόλιν Ἀλεύας ἔταξε κατὰ τὸν κλῆρον παρέχειν ἑκάστους, ἱππέας μὲν τεσσαράκοντα, ὁπλίτας δὲ ὀγδοήκοντα[1] ... The MSS have τὴν πόλιν which Rose changed into τὰς πόλεις. Gigon (fr. 504.1) conjectures πολιτείαν without even indicating that there is a textual problem (!). J.A.O. Larsen, *Greek Federal States* (Oxford 1968) 17 defends the text and concludes that "in this connection *polis* must refer to the Thessalian state" and that "there was a tendency in the fourth century to adopt *polis* as a name for every kind of state, even a federal state". He may be right but apart from *poleis* used as a heading (see *supra*) this is the only example which can be adduced!

Diod. 7.16 (= PW 226, Fontenrose L51): ὅτι Περδίκκας τὴν ἰδίαν βασιλείαν αὐξῆσαι βουλόμενος ἠρώτησεν εἰς Δελφούς· ἡ δὲ ἔφη.

> ἔστι κράτος βασίλειον ἀγαυοῖς Τημενίδαισι
> γαίης πλουτοφόροιο· δίδωσι γὰρ αἰγίοχος Ζεύς.
> ἀλλ' ἴθ' ἐπειγόμενος Βοττηίδα πρὸς πολύμηλον·
> ἔνθα δ' ἂν ἀργικέρωτας ἴδῃς χιονώδεας αἶγας
> εὐνηθέντας ὕπνῳ, κείνης χθονὸς ἐν δαπέδοισι
> θῦε θεοῖς μακάρεσσι καὶ ἄστυ κτίζε πόληος.[2]

This legendary oracular response may go back to the late archaic or early classical period, and purports to have been given some two hundred years before that date.[625] The meaning of the last line must be: "and found an urban centre (*asty*) of the state (*polis*)". Given the Delphic oracle's involvement in colonisation, ἄστυ κτίζε πόληος may have been a standard phrase in such versified responses – genuine as well as forged – about the foundation of a new colony,[626] and not too much weight must be placed on the fact that the *polis* in this case is the Macedonian nation and not just a city-state.

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1 Arist. fr. 498, Rose: "Just as Aristotle says in the *Constitution of the Thessalians*, where he writes that 'having subdivided the *polis* in this way, Aleuas ordered everybody to provide forty knights and eighty hoplites per unit'".

2 Diod. 7.16: "Perdikkas, wishing to increase the strength of his kingdom, sent to Delphi to consult the oracle. And the Pythian priestess replied to him: 'Stands o'er a wealthy land a might of kings of Temenos' right noble line, of Aigis-bearing Zeus. But swiftly go to Bottiaïs, rich in flocks; and then where you shalt see white-horned goats, with fleece like snow, resting at dawn, make sacrifice unto the blessed gods upon that spot and raise the chief city (*asty*) of a state (*polis*)'".

SEG 15 397: ἀγαθὰ τύχα· – αἰτεῖται ἁ πόλις ἁ τῶν Χαόνων τὸν Δία τὸν Νᾶον καὶ τὰν Διώναν ἀνελεῖν εἰ λῶιον καὶ ἄμεινον καὶ συμφορώτερόν ἐστι τὸν ναὸν τὸν τᾶς Ἀθάνας τᾶς Πολιάδος ἀγχωρίξαντας ποεῖν.[1] This inscription shows that when the Chaonian people in the mid-4th century consulted the oracle of Zeus at Dodona, they called their own community a *polis*, although at that time the Chaonians were settled *kata komas*[627] and must have been an *ethnos* rather than a *polis*. The self-description of the Chaonians as a *polis* may be due to the fact the their consultation concerns the temple of Athena Polias.

Krateros (*FGrHist* 342) fr. 18 = Schol. Hom. *Il.* 14.230: πόλιν θειοίο <Θόαντος ὡς Εὐριπίδης, "Εὔβοι' Ἀθήναις> ἐστί τις γείτων πόλις", ἀντὶ τοῦ "νῆσος", οἱ δὲ ἀντὶ τοῦ "χώρα" <ὡς> ἐν ψηφίσματι <ὃ παρα> τίθεται Κρατερός, "ἐστε Αἴγυπτον καὶ Λιβύην τὼ πόλεε".[2] The text printed here is that of Wade-Gery who has the following comment: "These words are cited to illustrate the use of πόλις in the sense of 'island' or 'country'. This usage occurs in poetry, though rarely; its presence in documentary prose needs accounting for. I have long thought that the phrase might be from the treaty: τότε μὲν γὰρ ἡμεῖς φανησόμεθα τὴν ἀρχὴν τὴν βασιλέως ὁρίζοντες (Isoc. 4.120). Since Persian documents were drafted in Aramaic, I asked G.R. Driver if any Aramaic word was likely to be responsible for this curious usage in the Greek translation, and he tells me that the Aramaic *medinah* 'juridical area,' is used sometimes of a city, sometimes of a province. '[As far as?] the two administrative areas of Egypt and Libya'. The King's dominions are being defined; they are to stretch, in this direction, to the areas which had rebelled under Inaros (Thuc. 1.104.1)".[628]

If all these sources are grouped according to whether *polis* is used in its topographical or in its political sense the following picture emerges:

(A) *Polis* is used in the sense of country to refer to a geographical unit larger than the territory of an individual city-state.

The Peloponnese: Eur. fr. 730; Lys. 6.6.
Thessaly: Lys. 6.6.
Italy: Lys. 6.6.

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1 Quoted and translated *supra* page 25 with note 1.

2 Krateros (*FGrHist* 342) fr. 18: The divine Thoas' *polis*, as Euripides: 'there is Euboia, a neighbouring *polis* to Athens' instead of 'island' (*nesos*), but according to others instead of 'country' (*chora*) as in the decree which Krateros adduces: 'as far as the two *poleis* Egypt and Libya'".

Sicily: Ar. *Pax*. 251; Lys. 6.6.
Euboia; Eur. *Ion* 294; fr. 658.
Keos: Lys. fr. 96 (as interpreted by Harp.).
The Hellespont: Lys. 6.6.
Ionia: Lys. 6.6.
Egypt and Libya: Krateros fr. 18.
Mysia: Soph. fr. 377.
Cyprus: Lys. 6.6.

(B) *Polis* is used in the sense of community to refer to a political unit larger than a city-state or to named political communities which were *ethne* rather than *poleis*.

The Persian empire: Aesch. *Pers*. 213, 511-2, 682, 715, 781; Xen.*Cyrop*. 1.3.18; 1.4.25; 1.5.7.
Egypt and Libya: Krateros fr. 18, as interpreted by Wade-Gery.
Machimos and Eusebes: Theopomp. fr. 75.
The Iberian people: Ephoros fr. 133.
Keos: Lys. fr. 96, as interpreted *supra*.
Sicily (ruled by Syracuse): Pl. *Ep*. VII 332C.
Thessaly: Arist. fr. 498.
Macedon: Diod. 7.16.
The Chaonians: *SEG* 15 397.

Most of these examples are from works written in verse, where poetical expression matters more than terminological precision.[629] The only one directly attested in classical prose is Lys. 6.6, and here the context is awkward and/or the text corrupted. In several cases *polis* is used to describe barbarian peoples whose political and administrative structure was radically different from that of the Greeks. And when the reference is to a Greek region or community it is worth noting that these passages are known from ancient critics who produce the quotes as instances of a rare and anomalous usage (Harp. *s.v.* Κεῖοι; Pollux 9.27; Strabo 8.3.31; Schol. Hom. *Il.* 14.230). Especially the line from Euripides' *Ion* about Euboia as a *polis* seems to have been the obvious parallel to quote if an author used *polis* about a large island or a region larger than the territory of a *polis*. The evidence does not amount to much and, accordingly, we must be cautious about our conclusions.

For want of a better word, the Greeks seem to have used *polis* when they had to describe the Persian empire or its satrapies as political or

administrative units. Similarly, they may occasionally have used *polis* about a political community which, strictly speaking, was organised as an *ethnos*: this usage is attested only in two oracular responses: one referring to the Chaonian "*polis*", and one to the Macedonian "*polis*". Also a federation composed of *poleis* might be called a *polis*. The fragment from Aristotle's *Constitution of the Thessalians* is the only known attestation, and only on the assumption that the passage is a direct quote from Aristotle and that the text is correctly transmitted. On the other hand, to use *polis* about the Chaonians, or Macedon, or the Thessalian confederacy seems a natural development of the plural form *poleis* used as a heading or a generic term to denote communities of which some were *poleis*, some were *ethne*, and some were *koina*.

The extension of the use of *polis* to cover geographical segments larger than a *polis* may have developed from the common habit of using ethnics as the third part of a personal name. Thus, the name of a citizen of Naxos was Στρόμβων Νάξιος (*CID* II 4.20) and the name of the Naxian *polis* was (οἱ) Νάξιοι (*CID* II 4.16). Ethnics – though usually indicating citizen status – were topographical in meaning, and many ethnics refer neither to a *polis* nor to any other form of political community, e.g. Πελοποννάσιος, Κρής, Σικελιώτης.[630] Now, in lists of persons from different *poleis*, if citizenship is not of paramount importance we sometimes find Korinthioi, Megareis, Athenaioi, and Mantineis listed side by side with e.g. Euboians or Keioi. Since most of these ethnics were city-ethnics, – i.e. ethnics indicating that the person in question was a citizen of a *polis* – it not surprising that the other ethnics could occasionally be treated in the same way. So, the straightforward notion that a Naxian came from the *polis* Naxos, may have given rise to the parallel expression that an Euboian came from the *polis* Euboia, although, strictly speaking, the island Euboia was not the territory of a polis called Euboia, but was split up between several different *poleis*.

Appendix II
Aristotle's Definition of *Polis* at *Pol.* 1276b1-2

In *Politics* Book 3 Chapter 3 Aristotle defines a *polis* as a *koinonia politon politeias*, 1276b1-4: εἴπερ γάρ ἐστι κοινωνία τις ἡ πόλις, ἔστι δὲ κοινωνία πολιτῶν πολιτείας, γινομένης ἑτέρας τῷ εἴδει καὶ διαφερούσης τῆς πολιτείας ἀναγκαῖον εἶναι δόξειεν ἂν καὶ τὴν πόλιν μὴ εἶναι τὴν αὐτήν,...[1] This is the shortest and most elegant formulation of what Aristotle says again and again in this part of the *Politics*. In a number of passages, for example, πόλις is defined as a number of citizens, πολῖται (1274b41; 1275b20-1); next, a citizen is defined as one who participates in jurisdiction and government (1275a22-3; 1275b18-20); πολιτεία is defined as the organization (τάξις) of those who live in the πόλις (1274b38) and more specifically as the organization (τάξις) of the political institutions (ἀρχαί), in particular the highest political institution (1278b8-10, cf. 1279a25ff). So in *Politics* the *polis* is constantly defined by two other terms: *polites* and *politeia*; and the juxtaposition of *polis*, *polites* and *politeia* as the three cornerstones of political organisation is abundantly attested in other Athenian sources as well.[631]

An Aristotelian *polis*, of course, like any other substance, is a compound of form and matter, and in case of the *polis*, the matter is the *politai* (1325b39-26a5) and the form is the *politeia* (1276b2-11), see Hansen (1996E) 207 note 5. Since for Aristotle the form is always more important than the matter, it is no surprise that Aristotle takes a change in the form (*politeia*) of a *polis* to be more important than a change of its matter (πλῆθος πολιτῶν).

Following the British scholar Richard Congreve, Oswyn Murray believes that the text is corrupt and for ἔστι δὲ κοινωνία πολιτῶν πολιτείας he prefers to read ἔστι δὲ κοινωνία πολιτῶν πολιτεία. I prefer to leave the text as it is. I take κοινωνία πολιτῶν πολιτείας to be a combination of a subjective and an objective genitive, cf. e.g. 1280b40-81a1: πόλις δὲ ἡ γενῶν καὶ κωμῶν κοινωνία ζωῆς τελείας καὶ

1 Arist. *Pol.* 1276b1-4: "If the *polis* is a community, and a community of citizens with respect to the constitution, it follows inevitably that, when the constitution takes on a different form and becomes different, then the *polis* too can no longer be the same".

αὐτάρκους.[1] The *polis* is participation (*koinonia*) of the citizens (*politai*) in the *politeia*, i.e. in the political institutions. To have both a subjective and an objective genitive depending on κοινωνία is a problem of translation, not of grammar or interpretation. κοινωνία means "participation" as well as "community". It is only in our translation that we have to make a choice. If we prefer "participation" we have no difficulty in saying the participation of A in B; but then we miss the connotation "community". If we translate "community" we run into difficulties (in English) with the two genitives, cf. M.B. Sakellariou, *The Polis-State. Definitions and Origin* (Athens 1989) 215 & 227. Incidentally there is no problem in German (Der Staat ist eine Gemeinschaft von Staatsbürgern in einer Verfassung) or in Danish (staten er borgernes fællesskab om forfatningen). In both languages the word for community (Gemeinschaft, fællesskab) may imply participation, and in both languages it is unproblematical to combine this word with two prepositional groups of which one stands for an objective and the other for a subjective genitive. In conclusion, I follow most editors in finding Congreve's conjecture unconvincing and unnecessary.

1 Arist. *Pol.* 1280b40-81a1: "A *polis* is the community of clans and villages with respect to a perfect and self-sufficient life".

Appendix III
Was the *Oikos* a Civic or a Private Institution?

In any society the basic social unit is the family or, rather, the household, in ancient Greek called *oikos* or, sometimes, *oikia*. In some contexts the *oikos* is restricted to the members of the family; thus, in Athenian inheritance speeches the *oikos* specifically designates the descendants through the male line.[632] But in Solon's laws *oikeus* is a term used for a slave,[633] and in classical Athens *oiketes* was the most common designation of a household slave.[634] Similarly, in Aristotle's *Politics* the *oikia* (1253b5-7) = the *oikos* (1255b19) comprises husband, wife, children and slaves.

The bulk of our sources, namely the Athenian evidence, shows that the *oikos* was solidly placed in the private sphere of life.[635] It is described as *idion*[636] and often opposed to what is *koinon*, or to the *polis* itself,[637] an opposition emphasised by, for example, Aischines in his speech against Timarchos: "Solon believed that one who manages his private household badly will manage the public affairs of the *polis* in the same manner".[638]

Another indication that the Athenian *oikos* belonged in the private sphere is the observation that the *oikos* as an institution seems not to have been recognised in Athenian law, either in the sense of family or in the sense of household. When *oikos* in the law of inheritance is (once) used as a legal term, it designates the property (of a family), not the family or the household itself.[639] And if a non-family member of an *oikia* was killed, the master had no right to prosecute the killer.[640]

Nevertheless some historians want to associate the *oikos* with the public sphere and to emphasise the interaction of private and public rather than the separation of the two spheres.[641] One argument in support of this view is that family matters – such as marriage, inheritance and children's obligations towards their parents etc. – were regulated by laws passed by the *polis*.[642] But that applies in modern states too, and yet in this case no-one doubts that the family belongs in the private sphere as opposed to the public sphere.[643] If the private sphere has to be restricted to matters which are completely outside public control, there is no private sphere at all in any community, ancient or modern, and the

opposition between private and public has to be scrapped as non-existent.

Another argument for connecting the *oikos* with the public sphere has been that Aristotle in *Politics* Book 1 takes the *oikia* to be the smallest unit of the *polis*. But in this context he thinks of the *polis* as a social and economic community. As soon as Aristotle in Book 3 begins to analyse the *polis* as a political community he tells us that the smallest unit is the citizen, see *supra* page 57, and in this context the *oikos* is opposed to the *polis* and placed in the private sphere of community life (*Pol.* 1280b25-6; 1330b21).

That the *oikos* was *not* normally part of the *polis* seen as a political organisation is confirmed by a study of all attested subdivisions of the *polis*. Many *poleis* were subdivided into *demoi* (municipalities), or *komai* (villages), or *phylai* (tribes), or *phratriai* ("brotherhoods"), or *gene* ("clans").[644] But with only one possible exception the *oikos* was not a civic subdivision of the *polis*. The exception is a third-century citizenship decree from the *polis* Karthaia on Keos in which it is laid down that the honorands be inscribed in the *phyle* and *oikos* of their choice.[645] In his monumental study of civic subdivisions Nicholas Jones has the following comment: "The nature of the *oikos*, or House, unexampled elsewhere in Greek public organization, is far from clear. The word itself suggests a kinship organization such as, to mention familiar examples, the phratry or genos".[646]

The evidence from Karthaia, however, shows that in some *poleis* the *oikos* might be an integrated part of the political structure, and there are other sources which point in the same direction. In Plato's *Laws* the *polis* is subdivided into 5,040 hearths (ἑστίαι) or households (οἶκοι),[647] and there can be no denying that in Plato's Magnesia the household is a basic subdivision of the *polis*.[648] Again, in *Politics* Aristotle twice refers to a requirement that the number of *oikoi* and the number of *politai* must be kept equal to one another. The first reference is to a law to that effect attributed to the old legislator Pheidon of Korinth (1265b12-6). The second reference is to the oligarchic constitution of Knidos: in each family only one adult male possessed political rights, usually the father to the exclusion of his adult sons, and upon his death only the oldest of the brothers (1305b12-6). Such a system can be administered only if the basic political unit is the family rather than the individual.

To conclude: in studies of the Greek *polis* to declare either that the *oikos* belonged in the public sphere of life or, conversely, that it was exclusively a private institution is a false generalisation. In Athens and

many other *poleis* the *oikos* belonged basically in the private sphere; but in some *poleis*, especially some with an oligarchic constitution, the citizen *oikoi* were, at least to some extent,[649] an element of the public sphere of life and an integral part of the *polis* in the sense of a political community.

Appendix IV
The Term State as Used by Machiavelli, Bodin and Hobbes

Recently, in a brilliant analysis of the origin of the term state, Quentin Skinner has argued that the concept of state understood as a public power distinct from both rulers and ruled is fully articulated in Hobbes, that it can be traced back to Bodin, but that it is not yet to be found in Machiavelli.[650] I agree with Skinner about Machiavelli, but confess that I have some doubts about Bodin and Hobbes.[651]

Machiavelli. The term *stato* is attested in the *Discorsi*[652] and *Istorie Fiorentine* as well as in *Il Principe*. In the latter treatise, however, *stato* is used much more frequently than in the other works, and the scholars who have studied Machiavelli's use of the term tend to focus on this short book in which the noun *lo stato* occurs no less than 115 times. Its meaning, however, has for generations been a hotly debated issue, and even today scholars are, basically, divided into two opposed camps: some hold that Machiavelli is using *stato* in what is essentially its modern sense, see most recently Sebastian de Grazia, who believes that *stato* in *Il Principe* is an abstract term which comprises all the three elements of the modern concept of state: a dominion (territory), an imperium (authority to command) and a people (who are located in the territory and obey the commands).[653] Others argue that the principal meaning of *stato* is command, power, government; admittedly, there are some attestations of *stato* denoting, more specifically, an apparatus of government,[654] but even here the power structure in question is not viewed as independent of those who have charge of it.[655] The principal advocate of this view is J.H. Hexter, who presents what, in my opinion, is by far the best analysis of Machiavelli's use of the word *stato*.[656] He begins by noting that *stato* is usually connected with verbs which mean to acquire, to hold, to maintain, to take away, to lose and other verbs which all have what Hexter calls "an exploitative tonality" (156). Furthermore, *stato* is almost always the subject of a passive verb or the object of an active one, and only exceptionally attested as an acting subject (157, 159). So, unlike the modern state, the Machivellian *stato* is not some abstract public power which legistates, or punishes an offender, or sends out an army, or defeats a neighbouring community etc. Next, as Hexter points

out, it is almost always unclear whether Machiavelli thinks of the territory or the people or the political institutions (164-5, 175). *Lo stato* is "the prince's instrument for manipulation and exploitation of people at the hand of the prince," and "What distinguishes Machiavelli's *stato* from the state as we ordinarily think of it is not that he thinks of the state in an exploitative way, but that in *Il Principe* he does not think of it in any other way. ... For us the state is among other things a body politic. In *Il Principe lo stato* is never a body politic" (167).

If, however, we analyse Machiavalli's text retrospectively – and, probably, anachronistically – in the light of the modern concept of state we may among the 115 occurrences of *stato* in *Il Principe* find some in which two of the three elements, namely government and territory presumably appear as a connotation. For *stato* used in the sense of government see e.g. Chapter 2: "*tale ... principe si manterrà nel suo stato*" (for such a ruler ... his government will always be secure). Again, for *stato* in the sense of the territory of a state, see, e.g., Chapter 3, pages 97-8: *Veniziani, che volsono guadagnarsi mezzo lo stato di Lombardia* (the Venetians, who wanted to gain half of Lombardi); but in this sense *stato* may also designate the possessions of, e.g., a baron, see Chapter 4 page 107: *questi baroni hanno stati e sudditi proprii* (Such barons have their own territories and subjects). And *stato* is sometimes used about a country which was *not* a political community, e.g., the passage in Chapter 4 page 110 about Spain, France and Greece under the Roman empire: *... le spesse ribellioni di Spagna, di Francia e di Grecia da' Romani, per li spessi principati che erano in quelli stati* (the frequent uprisings against the Romans in Spain, France and Greece, because of the many principalities which existed in those countries). So even when *stato* connotes a territory it is not necessarily the territory of a state in the political sense, but of a country in the geographical sense. Finally, there is no clear attestion of *stato* denoting the people, i.e. the citizens or subjects who obey the commands issued by the Prince. The closest we get is the reference in Chapter 3, page 94 to *nuovi abitatori, che sono una minima parte di quello stato* (the new settlers, who consitute a small part of this state).

Let me round off this exposition with a comment on the first period of the first chapter of the treatise: "*Tutti gli stati tutti e' dominii che hanno avuto e hanno imperio sopra gli uomini, sono stati et sono o republichi o principati*". The translation offered in the Cambridge edition is: "All the states, all the dominons that have held sway over men, have been either republics or principalities"; and the interpretation offered in

Appendix B suggests that Machiavelli's *stato* is, essentially, a modern state.[657] Skinner, on the other hand, suggests that *stati* is here used in the sense of "form of government", a sense frequently attested elsewhere in Machiavelli's works,[658] and I find it worth noting that the Latin translation of 1560 strongly supports Skinner's interpretation: "*quaecunque fuit unquam, aut est imperandi ratio, qua homines hominibus dominari consuêre, ea, aut Respub. aut principatus appellatur*".[659] Thus, *stato* and *dominio* are taken to be synonyms, used in the sense of "form of government" and rendered by *imperandi ratio*.[660]

Bodin. République is the term most frequently used in Bodin's work to denote a political unit, i.e. what we call a state or a country. Sometimes *cité* is used, especially about ancient societies,[661] and to find the word *estat* in this sense is rare indeed.[662] When *estat* occurs it is found either in the sense of "order", to denote one or all of the estates: clergy, nobility, and commoners,[663] or alternatively in the sense of "form of state", to denote (one of) the three basic forms of constitution: monarchy, aristocracy or democracy. Let me quote one of the few passages in which state is used first in the sense of country, but then repeatedly in the normal sense of form of state: "*Or s'il est utile que le Prince souverain, pour bien gouverner un estat, ait la puissance des loix sous la sienne, encore est-il plus expedient au seigneur en l'estat Aristocratique, et necessaire au peuple en l'estat populaire*".[664] Even here the juxtaposition of the three forms of government indicates that, in the first occurrence, *estat* means monarchy rather than state. Bodin's persistent use of *estat* to denote the forms of constitution *as such* leads him to establish a rather unusual but noteworthy distinction between state and government: *Car il y a bien difference de l'estat, et du gouvernement: qui est un reigle de police qui n'a point esté touchee de personne: car l'estat peut estre en Monarchie et neanmoins il sera gouverné populairement si le Prince fait part des estats [territories], Magistrats, offices et loyers egalement à tous sans avoir esgard à la noblesse, ni aux richesse, ni à la vertu.*[665]

In other contexts, however, estat obviously corresponds to our term "government" and here again "state" would be a misleading translation. In Book 3 Chapter 4, for example, the heading: "*Il vaut mieux quitter l'estat, que d'obeir à chose qui soit contraire à la loy de nature*", is followed by the following observation: "*Il est beaucoup plus expedient pour la Republique, et plus seant pour la dignité du Magistrat de se demettre de l'estat (comme fit le Chancelier de Philippe II. Duc de Bourgogne) que de passer une chose inique*" (page 105). Now, in modern parlance "*quitter l'etat*" would mean to emigrate, but that was not what

happened to Nicholas Rolin, the chancellor of Philip the Good. In 1457 the office of chancellor was suspended and Rolin lost his position, but did not leave the duchy.

My impression is that if we look for a harbinger of the concept of state in Bodin we ought to study the term *republique*, employed by Bodin about monarchies as well as republics, rather than the term *estat*.[666]

Hobbes. The term state in its modern sense is not to be found in the texts of his political treatises, but in the prefaces, especially in the preface to the English translation of the *De cive* where Hobbes describes his method and says that "to make a more curious search into the rights of States, and duties of Subjects, it is necessary. ... "[667] In my opinion, however, the opposition between States and Subjects indicates that "States" is used here synonymously with "rulers" or "government", rather than with some abstract authority *above* rulers and ruled. And this interpretation is supported by a comparison with the Latin text which is: "*Ita in jure civitatis, civiumque officiis investigandis opus est, non quidem ut dissolvatur civitas, sed tamen ut tanquam dissoluta consideretur, id est, ut qualis sit natura humana, quibus rebus ad civitatem compaginandem apta vel inepta sit, & quomodo homines inter se componi debeant, qui coalescere volunt, rectè intelligatur*". Thus, the Latin word for state is *civitas*, a term which in the English version is regularly rendered "civill government", and in the Latin version it is defined as follows: *civitas, ergo, ut eam definiamus, est persona una, cujus voluntas, ex pactis plurium hominum, pro voluntate habenda est ipsorum omnium, ut singulorum viribus et facultatibus uti possit ad pacem et defensionem communem*.[668] I infer that Hobbes has not yet come to see the state as "an impersonal form of political authority distinct from both rulers and ruled".[669] His state, in Latin: *civitas*, was first of all, the sovereign,[670] and, in any case, his concept of the state did not have "people" or "territory" as connotations to go with the principal sense of "ruler(s)" or "government".

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Notes

References to books and articles are given in full the first time an item is cited, and sometimes the full reference is repeated later if I think it may help the reader. All other references take the form of author's surname, plus year of publication, plus letter (A-G) when an author has several items published in the same year, plus page number(s).

1 M.I. Finley, *Aspects of Antiquity* (Harmondsworth 1960) 11-5: "Introduction. Desperately Foreign".

2 See, e.g., Chr. Meier and P. Veyne, *Kannten die Griechen die Demokratie?* (Berlin 1988); F. Gschnitzer, "Von der Fremdartigkeit griechischer Demokratie," in K.H. Kinzl, *Demokratia. Der Weg zur Demokratie bei den Griechen.* Wege der Forschung 657 (Darmstadt 1995) 412-31. For the opposite view see M.H. Hansen, *Was Athens A Democracy?* (Copenhagen 1989).

3 See, e.g., I. Berlin, *Four Essays on Liberty* (Oxford 1969) xl-xli. For the opposite view see Hansen (1989A) 8-17; J. Dunn, "Conclusion," 242-3, 265-6 in J. Dunn (ed.), *Democracy. The Unfinished Journey 508 BC to AD 1993* (Cambridge 1992); M.H. Hansen, "The Ancient Athenian and the Modern Liberal View of Liberty as a Democratic Ideal," in J. Ober and Ch. Hedrick, *Demokratia. A Conversation on Democracies, Ancient and Modern* (Princeton 1996) 91-104.

4 See *infra* page 16 with notes 37 & 38.

5 J.P. Vernant (ed.), *The Greeks*, translated by Ch. Lambert and T.L. Fagan (Chicago & London 1995) 2-3. Originally published in 1991 as *l'Uomo greco*.

6 Cf., e.g. J.M. Clark, "The Democratic Concept in the Economic Realm," *Science, Philosophy and Religion* (3rd symposium, New York 1943) 211: "Democracy is the government by men and women elected in free elections by all members of society entitled to vote; the right to vote being held by every adult member of society". – We tend to forget, however, that, e.g., 10% of all adult members of society in contemporary Germany are guestworkers and refugees who have no political rights.

7 The slogan was coined in Wilson's War Message to Congress of 2 April 1917: "The world must be made safe for democracy, its peace must be planted on the tested foundations of political liberty".

8 M.H. Hansen, "ΠΟΛΛΑΧΩΣ ΠΟΛΙΣ ΛΕΓΕΤΑΙ (Arist. *Pol.* 1276a23). The Copenhagen Inventory of *Poleis* and the *Lex Hafniensis de Civitate*," *CPCActs* 3 (1996) 34-6.

9 K.J. Dover, *Greek Homosexuality* (London 1978) 1. "Greek culture differed from ours in its readiness to recognise the alternation of homosexual and hetereosexual preferences in the same individual, its implicit denial that such alternation or coexistence created peculiar problems for the individual or for society, its sympathetic response to the open expression of homosexual desire in words and behaviour, and its taste for the uninhibited treatment of homosexual subjects in literature and the visual arts".

10 Xen. *Oec.* 8-10. See W. Schuller, *Frauen in der griechischen Geschichte* (Konstanz 1985) 56.

11 In the ongoing debate in Britain about whether the forthcoming monetary union and

other issues have to be ratified by a vote of the people it has been argued, especially by some British conservative politicians that referenda are "undemocratic", see Gallagher, M. "Conclusion," in Gallagher, M. and Uleri, P.V. 1996: *The Referendum Experience in Europe* (London) 226-50. For a comparison between the Swiss and the Athenian notion of democracy see, e.g., P. Stolz, *Politische Entscheidungen in der Versammlungsdemokratie. Untersuchungen zum kollektiven Entscheid in der athenischen Demokratie, im schweizerischen Landsgemeindekanton Glarus und im Kibbuz* (Bern 1968).

12 M.B. Foster, *The Political Philosophies of Plato and Hegel* (Oxford 1935).

13 See James Mill's article "Government," first published as a supplement to the fifth edition of the *Encyclopaedia Britannica* (1820) and later published separately as an essay.

14 See, e.g., B. Holden, *The Nature of Democracy* (London 1974) 4-5, 189, 231.

15 Dem. 20.105-8. For the opposition between freedom (*eleutheria*) under a democracy and slavery (*douleia*) under a tyranny see Democr. fr. 251.

16 See e.g. I. McLean, *Democracy and New Technology* (Oxford 1987) 34, 157.

17 The classical formulation of this principle is that of Friedrich Meinecke in *Die Idee der Staatsräson* (München 1924) 1: "Staatsräson ist die Maxime staatlichen Handelns, das Bewegungsgesetz des Staates. Sie sagt dem Staatsmanne, was er tun muss, um den Staat in Gesundheit und Kraft zu erhalten." That *Staatsräson* sometimes implies the breaking of legal and moral norms is argued on pages 2-3. See also Vincent (1987) 69-73; R.N. Berki, "Reason of State," in Bogdanor (1987) 522.

18 Church (1972) 46; Skinner (1978) I 248-9.

19 Pl. *Resp.* 389B: τοῖς ἄρχουσιν δὴ τῆς πόλεως, εἴπερ τισὶν ἄλλοις, προσήκει ψεύδεσθαι ἢ πολεμίων ἢ πολιτῶν ἕνεκα ἐπ' ὠφελίᾳ τῆς πόλεως, τοῖς δὲ ἄλλοις πᾶσιν οὐχ ἁπτέον τοῦ τοιούτου.

20 For the view that no direct tradition connects the Athenian triad *demokratia-eleutheria-isonomia* with its modern counterpart democracy-liberty-equality see M.H. Hansen,"The Tradition of the Athenian Democracy," *G&R* 39 (1992) 14-30.

21 See P. Cartledge's popular but profound chapter: "Power and the State," in P. Cartledge (ed.), *Ancient Greece* (Cambridge 1998) 139. Cartledge's statement sounds almost like an echo of U. von Wilamowitz-Moellendorff, "Staat und Gesellschaft der Griechen und Römer," in *Kultur der Gegenwart*, Teil II, Abt. IV,1 (Berlin 1910) 42: "Aristoteles gleicht den Staat mit der Stadt, der Polis, und wenn wir dieses Wort nicht gelten lassen, so fehlt dem Griechischen überhaupt ein Wort für Staat ... Mit einem solchen kalten Abstraktum wie Staat darf man eigentlich an das warme Leben gar nicht herantreten". Wilamowitz' description of the state as a cold abstraction is undoubtedly influenced by F. Nietzsche, *Also sprach Zarathustra*: "Staat heisst das kälteste aller kalten Ungeheuer. Kalt lügt es auch: und diese Lüge kriecht aus seinem Munde: 'Ich, der Staat, bin das Volk'." *Werke in drei Bänden* (München 1966) 2.313.

22 Dem. 21.32: ὁ γὰρ θεσμοθέτης οὐδενὸς ἀνθρώπων ἔστ' ὄνομα, ἀλλὰ τῆς πόλεως. Lys. 28.10: οὐκ 'Εργοκλῆς μόνος κρίνεται, ἀλλὰ καὶ ἡ πόλις ὅλη. See *infra* pages 67-73.

23 This very precise and elegant description of the modern concept of state was first formulated by Quentin Skinner in *The Foundations of Modern Political Thought* (Cambridge 1978) II 353. It has been adopted in several recent books about the state and I will return to it repeatedly in this treatise, see *infra* pages 28, 37, 41, 72, 108, 119.

24 This section is a summary of M.H. Hansen, "*Polis*, *Civitas*, Stadtstaat and City-State," *CPCPapers* 1 (1994) 18-22.

25 A.D. Menut, *Maistre Nicole Oresme le Livre de Politiques d'Aristote*. Transactions

of the American Philosophical Society 60.6 (1970) 45: "nous voions que toute cité est une communité ... (1252a1). It is worth noting that the Latin translations of Aristotle have *civitas*. For later attestations see, e.g., L. Bodin, *Les six livres de la république* (1576, reprinted Paris 1986) Book 1 Chapter 6, page 118: "Aristote nous a defini la cité une compagnie de citoyens ..."; J.J. Rousseau, *Discours sur les sciences et les arts* (1750), in Vol. 3 of the *Pléiade* edn. of the *Oeuvres complètes* (Paris 1964) 12 and *Contrat Social* (1762), Book 1 Chapter 6 note 1: les maisons font la ville, mais ... les Citoyens font la cité.

26 Th. Elyot, *The Image of Governance* (London 1540) 267: "Aristotle, in defynyng what is a citie doth not cal it a place builded with houses, and environned with walles, but saith that it is a company ... ".

27 N. Machiavelli, *Il Principe* (1513) 5 (Greek *città* destroyed by the Romans); 7 (Greek *città* in Ionia and in the Hellespont under Dareios); *Discorsi* (1513-19) 1.1: *città di Roma* (page 125), *la città di Alessandria da Alessandro* (page 126).

28 Giovanni Botero lived from 1540 to 1617 and published in 1588 a treatise entitled *Delle cause della grandezza e magnificenza della città,* where *città* is used indiscriminately about the modern Italian and the ancient Greek and Roman city-states.

29 R. Martin, *L'urbanisme dans la Grèce antique* (2nd edn. Paris 1974) 31-2; C. Mossé & A. Schnapp-Gourbeillon, *Précis d'histoire grecque* (Paris 1990) 115.

30 See, e.g., G. Mosca, "Lo Stato città antico e lo Stato rappresentativo moderno," *La Riforma Sociale* 25 (1924) 97-112; or: città-stato, see C. Ampolo, "Il sistema della "*polis*". Elementi costitutivi e origini della città greca," in G. Einaudi (ed.), *I Greci* 2.2 (Torino 1996) 297, 302-3. – I should like to thank Professor Ampolo for his valuable assistance and for providing me with the references to Botero and Mosca.

31 J.B. Bluntschli, *Theory of the State* (London 1885) 60: "the Greek States were essentially city States (πόλεις). Rome expanded from a city State to a world State". The English edition was a translation of the 6th German edition entitled *Lehre vom modernen Staat* I-III (Berlin 1886). [The English edition was translated from the proofs of the German edition and appeared before the original]. H. Sidgwick, *The elements of Politics* (London 1891) 211, 595-6 and W. Warde Fowler *The City-State of the Greeks and Romans* (London 1893) 8-9 obviously echo Bluntschli's statement.

32 "By" is the Danish word for "town" or "city". Madvig's treatise is entitled: *Blicke auf die Staatsverfassungen des Alterthums, mit Rücksicht auf die Entwicklung der Monarchie und eines umfassenden Staatsorganismus*. Einladungsschrift zum Universitätsfeste in Kopenhagen am 6. Juli 1840, in Anleitung der Salbung und Krönung Ihrer Majestäten König Christian des Achten und der Königin Carolina Amalia, aus dem Dänischen des Herrn Professors Dr. J.N. Madvig, von dem Kammerrath Sarauw. *Archiv für Geschichte, Statistik, Kunde der Verwaltung und Landesrechte der Herzogthümer Schleswig, Holstein und Lauenburg*. Herausgegeben von Dr. U. Falck I (Kiel 1842) 12-51. The term Stadtstaat occurs in the foot-note on page 42: "Ueber Cicero's politische Theorien, die jedoch mit einer gesuchten Nachahmung Plato's behaftet sind, urteilt Hegel (l.c. S. 321) richtig. Allein in seiner Darstellung ist der Bundesgenossenkrieg und des Stadtstaats gewaltsame Erweiterung zum Staate für ein Land (Italien), welche die Hauptpunkte sind, übersehen worden".

33 Indbydelsesskrift til Universitetsfesten den 6te juli 1840 i Anledning af Deres Majestæters Kong Christian den Ottendes og Dronning Caroline Amalies Salving og Kroning indeholdende: *Blik på Oldtidens Statsforfatninger med Hensyn til Udviklingen af Monarchiet og en omfattende Statsorganisme* af Professor Dr. J.N. Madvig (Kjöbenhavn 1840). Note that the same idea, without the coining of the term, appears in F.C. von Savigny, *System des heutigen Römischen Rechts* 2 (1840) 248: "Ganz Italien, seitdem es unter Römi-

scher Herrschaft stand, zerfiel in eine grosse Anzahl von Stadtgebieten, so dass Städte lang Zeit die einzigen selbstständigen Gemeinden waren. Alle diese Städte wurden zugleich als wirkliche Staaten gedacht ..."

34 I note that Rome is the only example mentioned in Grimm's *Deutsches Wörterbuch* s.v. stadtstaat: "*Staat an dessen Spitze eine Stadt steht, so von Rom*: vom ersten bis zum letzten tage ist das römische reich ein stadtstaat gewesen. Pflugk-Harttung *in* Grotes *allgem. weltgesch.* 4,4,222; dieses richtige erfassen von Italien als stadtstaat war von grosser tragweite. 398". The reference is to Th. Nathe *et alii* (eds.), *Allgemeine Weltgeschichte* IV. Band. *Das Mittelalter* von Julius von Pflugk-Harttung 1 (Berlin 1889). Both quotes sound like rebuttals of the view expressed by Madvig *supra* note 32.

35 *Stadtgemeinde* is attested as a translation of *città* in M. Kramer, *Das herrlich Grosse Teutsch-Italiänische Dictionarium* (Nürnberg 1700-02). For Stadtgemeinde = *res publica*, see von Savigny (1840) 249; for Stadtgemeinde = *polis*, see K.F. Hermann, *Lehrbuch der griechischen Staatsalterthümer* (4th edn. Heidelberg 1855) 45; and J. Burckhardt, *Griechische Kulturgeschichte* (Berlin 1898) 61.

36 U. von Lübtow, "Gab es in der Antike den begriff des Stadtstaates?" in *Festschrift für Ernst Heinitz* (Berlin 1972) 89-109; A. Snodgrass, "Interaction by Design: the Greek City-State," in C. Renfrew & J. Cherry (eds.), *Peer Polity Interaction and Socio-Political Change* (Cambridge 1986) 47.

37 M.I. Finley, *The Ancient Greeks* (London 1963) 45; F. Kolb, *Die Stadt im Altertum* (München 1984) 59; W.G. Runciman, "Doomed to Extinction: The *Polis* as an Evolutionary Dead-End," in O. Murray and S. Price (eds.), *The City-State from Homer to Alexander* (Oxford 1990) 348; I. Morris, "The Early Polis as City and State," in J. Rich & A. Wallace-Hadrill (eds.), *City and Country in the Ancient World* (London 1991) 25; W. Schuller, *Griechische Geschichte* (München 1991) 104.

38 Wilamowitz (1910) 42, quoted *supra* note 21; R. Osborne, *Demos: the Discovery of Classical Attika* (Cambridge 1985) 8; P. Cartledge, "La politica," in S. Settis (ed.), *I Greci Storia Cultura Arte Società* I (Torino 1996) 45-6; D. Easton, *The Political System* (2nd edn. New York 1971) 109 quoted *infra* page 112.

39 M.H. Hansen, "The *Polis* as a Citizen-State," *CPCActs* 1 (1993) 15-6.

40 Hansen (1996C) 25-39.

41 R.E. Ascher (ed.), *The Encyclopedia of Language and Linguistics* (Oxford 1994) s.v. *Contrastive Analysis*, page 738.

42 See, for example, one of the clauses of the Peace of Nikias, quoted at Thuc. 5.18.5: ὅσας δὲ πόλεις παρέδοσαν Λακεδαιμόνιοι Ἀθηναίοις, ἐξέστω ἀπιέναι ὅποι ἂν βούλωνται αὐτοὺς καὶ τὰ ἑαυτῶν ἔχοντας.

43 See also *Pol.* 1280b13-5: εἰ γάρ τις καὶ συναγάγοι τοὺς τόπους εἰς ἕν, ὥστε ἅπτεσθαι τὴν Μεγαρέων πόλιν καὶ Κορινθίων τοῖς τείχεσιν, ὅμως οὐ μία πόλις.

44 The *Definitions* (*horoi*) are clearly a post-Platonic work, not earlier than Speusippos, and as it is transmitted it is not earlier than the third century; but the core of information seems to go back to the early Academy. See R. Adam, "Über eine unter Platos Namen erhaltene Sammlung von Definitionen," *Philologus* 80 (1925) 366-8. In the Budé edition 155-8 Souilhé takes a more pessimistic view of the fourth-century origin of the work.

45 See e.g. Hdt. 7.22.3-23.1; Thuc. 1.25.1; Xen. *Hell.* 4.5.3. Hansen (1996C) 27-8.

46 Thuc. 2.15.6, quoted *infra*.

47 *IG* I^2 110.30-2: [καὶ ἔγκτεσι]ν εἶναι αὐτοῖς ὧμπερ Ἀθηναίοις, [καὶ γεπέδο]ν καὶ οἰκίας, καὶ οἴκεσιν Ἀθένεσι...

48 Thuc. 2.16.1: τῇ τε οὖν ἐπὶ πολὺ κατὰ τὴν χώραν αὐτονόμῳ οἰκήσει ...

49 Hdt. 5.101.2: καιομένου δὲ τοῦ ἄστεος οἱ Λυδοί τε καὶ ὅσοι Περσέων ἐνῆσαν ἐν τῇ πόλι ... συνέρρεον ἔς τε τὴν ἀγορήν ... Eur. *El.* 298-9: πρόσω γὰρ ἄστεως οὖσα τἀν πόλει κακὰ οὐκ οἶδα. See also *SEG* 39 1414, an early fourth-century inscription in which Xanthos, Pinaros and Telmessos are called τρία ἄστη in line 5, but πόλις τρεῖς in line 24.

50 See also Thuc. 2.30.1 (Sollion). Harp. *s.v.* Αἰνίους, = Ephoros (*FGrHist* 70) fr. 39. Cf. Kos/Kalymna, Paton, *I. Kos* 18 = *Riv. Fil.* NS. 20 (1942) p. 14, no. 6.

51 On Anthela and Alpenoi classified by Herodotos both as *poleis* and as *komai* see Hansen (1996C) 41.

52 See also Lycurg. 1.8: τί γὰρ χρὴ παθεῖν τὸν ... ἅπασαν ... τὴν χώραν (or πόλιν) ὑποχείριον τοῖς πολεμίοις παραδόντα; – One of the two principal manuscripts (N) has τὴν χώραν whereas the other (A) reads τὴν πόλιν. But cf. Lycurg. 1.38 where *polis* in the sense of town is opposed to *chora* in the sense of hinterland: ἐξελέλειπτο καὶ ἡ πόλις καὶ ἡ χώρα.

53 Undated. The purpose of this *horos* must have been to demarcate the territory, see *Bull. Epig.* in *REG* 1963 page 178 no. 264. For ὅρος πόλεως demarcating the line between the town and its hinterland see *CPCActs* 3 (1996) 37 with note 148, to which add: *I. Chios* 250. Cf. also Xen. *Hell.* 4.4.6: αἰσθανόμενοι δὲ ἀφανιζομένην τὴν πόλιν διὰ τὸ καὶ ὅρους ἀνασπᾶσθαι καὶ Ἄργος ἀντὶ Κορίνθου τὴν πατρίδα αὐτοῖς ὀνομάζεσθαι... compared with Isoc. 4.87: βοηθήσαντας ἐπὶ τοὺς ὅρους τῆς χώρας. cf. Thuc. 4.92.4.

54 For the full text and an interpretation of it see *supra* page 18.

55 Cf. Thuc. 7.77.4: λογίζεσθε δὲ ὅτι αὐτοί τε πόλις εὐθύς ἐστε ... Hdt. 7.234.2: ἔστι ἐν τῇ Λακεδαίμονι Σπάρτη πόλις ἀνδρῶν ὀκτακισχιλίων μάλιστα.

56 See M.H. Hansen, "City-Ethnics as Evidence for *Polis* Identity," *CPCPapers* 3 (1996) 193.

57 That the Skotoussan *polis* is here identical with the popular assembly is confirmed by two Hellenistic decrees: *IG* IX 2 519.III.8-9, referring to envoys sent to [τὸν] δῆμον τὸν Σκοτουσσαίων compared with *SEG* 43 311.4: ἐψαφίξατο ἁ πόλις, the enactment formula of a C2e decree.

58 See the note in *SEG* 27 631 *ad locum* (page 159): "The full assembly of Dattalla decided to appoint Spensithios, and the πόλις, in the narrowest sense of the term, i.e. the council of elders, consisting of five men from each tribe within the city, published the appointment".

59 On *koinonia* in the sense of "society" or "community" see *infra* pages 88-9. On all the different types of *koinonia* attested in Aristotle, see Sakellariou (1989) 216-7.

60 The inscription is a 4th-century oracular response from Dodone. The Chaonians are well attested as an *ethnos* and the unexpected self-description of the Chaonians as a *polis* may be due to the fact that their consultation concerns a temple of Athena Polias.

61 See also *Rhet. ad Alex.* 1.8.8 (1429b21-2); Aen. Tact. 29.1; Xen. *Hell.* 3.1.21.

62 The only recognizable distinction is that *polisma* is mostly used about barbarian towns, towns in a remote past and towns in the border districts. The reason may be that such towns could be urban centres without being political centres as well. See P. Flensted-Jensen, "The Bottiaians and Their *Poleis*," *CPCPapers* 2 (1995) 129-31: Appendix: *Polisma*.

63 Cf. Pl. *Lg.* 848E and the Delphic Oracle's response to Perdikkas, reported by Diod. at 7.16 and concluded with the phrase: καὶ ἄστυ κτίζε πόληος "and raise the chief city of a state", see *infra* page 129.

64 See M.H. Hansen, "*Emporion*. A Study of the Use and Meaning of the Term in the Archaic and Classical Periods," *CPCPapers* 4 (1997) 83-105.
65 See M.H. Hansen, "*Teichos* in the sense of Fortress or Garrison Town", forthcoming.
66 For a full discussion of *polis versus chora* or *ge* see M.H. Hansen, "The *Polis* as an Urban Centre. The Literary and Epigraphical Evidence," *CPCActs* 4 (1997) 20-5.
67 J. Lyons, *Semantics* I (Cambridge 1977) 307-8. As an example consider the antonyms ἡμέρα and νύξ. Like the English word "day", ἡμέρα can denote both the twenty-four hour period and the daytime as opposed to the night hours, whereas νύξ invariably means "night".
68 See also Ar. *Eccl.* 414; Isoc. 15.251; Pl. *Tim.* 26C; *Lg.* 729D.
69 See *infra* pages 67-73.
70 The cosmopolitan view is severely criticised and dismissed by Lysias at 31.6: οἳ δὲ φύσει μὲν πολῖταί εἰσι, γνώμῃ δὲ χρῶνται ὡς πᾶσα γῆ πατρὶς αὐτοῖς ἐστιν ἐν ᾗ ἂν τὰ ἐπιτήδεια ἔχωσιν, οὗτοι δῆλοί εἰσιν ὅτι <ῥᾳδίως> ἂν παρέντες τὸ τῆς πόλεως κοινὸν ἀγαθὸν ἐπὶ τὸ ἑαυτῶν ἴδιον κέρδος ἔλθοιεν διὰ τὸ μὴ τὴν πόλιν ἀλλὰ τὴν οὐσίαν πατρίδα ἑαυτοῖς ἡγεῖσθαι.
71 See M.H. Hansen, "*Polis* as the Generic Term for State," *CPCPapers* 4 (1997) 9-15.
72 *IG* II^2 43.78, see M. Dreher, "*Poleis* und Nicht-*Poleis* im Zweiten Athenischen Seebund," *CPCActs* 2 (1995) 171-200.
73 Dreher (1995) 174-81.
74 Plut. *Pelop.* 18.1; Paus. 1.26.6. See Hansen (1996C) 34-6.
75 In Attic inscriptions there are, presently, some 120 occurrences (many of them restored) of *polis* designating the Akropolis. For 394/3 as the *terminus ante quem*, see A. Henry, "Polis/Akropolis, Paymasters and the Ten Talent Fund," *Chiron* 12 (1982) 91-118. But in the sacrificial calendar of Erchia, dated to ca. 375-50, there are eight occurrences of *polis*, two designating the Akropolis in Athens, and six the local akropolis in Erchia.
76 Wyse (1904) 476-7, with 24 quotes from Attic literature; Lévy (1983A) 56-60 denies that this sense of *polis* is attested in Homer; but see *Il.* 4.514 and 7.370. Sakellariou (1989) 155-59 and Hansen (1996B) 35 adduce a few examples from non-Athenian inscriptions. – There are altogether some 10,000 ocurrences of *polis* in archaic and classical literature and some 1,000 more in inscriptions, many of them restored.
77 See page 54 and note 239 *infra*.
78 Hansen (1997A) 9-86.
79 T.D. Weldon, *The Vocabulary of Politics* (Harmondsworth 1953) 46-50. Weldon's general view of how to analyse political terms is that "words do not have meanings in the required sense at all; they simply have uses" (19). See also Easton (1971) 107.
80 See, e.g., J. Meadowcroft, *Conceptualizing the State. Innovation and Dispute in British Political Thought 1880-1914* (Oxford 1995) 3-9.
81 See, e.g., the monumental research project *The Origins of the Modern State in Europe 13th to 18th Centuries* I-VII, edited by Wim Blackmans and Jean-Philippe Genet (Oxford 1996-). In the *General Editors' Preface* on pages v-viii of each volume there is no definition or description of what is understood by the concept of the modern state. One notable exception is the article by E. Conze *et alii*, "Staat und Suveränität" in *Geschichtliche Grundbegriffe* 6 (Stuttgart 1990) 1-154.
82 This usage prevails among historians but is also adopted by many political scientists, anthropologists and jurists, who, however, are usually more careful about defining their concepts. See, e.g., M. Forsyth, "State," in *The Blackwell Encyclopaedia of Political Thought* (Oxford 1987) 504; L. Krader, *Formation of the State* (Englewood Cliffs 1968);

and the monumental posthumous work by S.E. Finer, *The History of Government* I-III (Oxford 1997) 2 and *passim*.

83 For this distinction between political philosophers and political scientists see also D. Held, *Political Theory and the Modern State* (Cambridge 1989) 13.

84 D. Easton, *The Political System* (New York 1953) 106-24. M. Duverger, *Sociologie Politique* (3rd edn. Paris 1967) 14.

85 J.C. Bluntschli, *Allgemeine Staatslehre* (6th edn. 1886) 14-84: "Der Staatsbegriff"; G. Jellinek, *Allgemeine Staatslehre* (3rd edn. Berlin 1914) 144-8, 394-434, subsuming the concepts of *Staatsterritorium*, *Staatsvolk* and *Staatsgewalt* under the term *Dreielementelehre*; H. Kelsen, *General Theory of Law and State* (Cambridge Mass. 1946) 207-69.

86 One rare exception is P.J. Dalton and R.S. Dexter, *Constitutional Law* (London 1976) 7-14. For accounts in German and French, see e.g. R. Zippelius, *Allgemeine Staatslehre* (12th edn. München 1994) and G. Ignasse, "L'État," in J. Moreau, *Droit public. Théorie générale de l'État et Droit Constitutionnel Droit administratif* (3rd edn. Paris 1995) I 21-34.

87 K. Doehring, "State," in *Encyclopedia of Public International Law* (North Holland 1987) 424; A. Verdross & B. Simma, *Universelles Völkerrecht* (3rd edn. Berlin 1984) 224-5; J.G. Starke, *Introduction to International Law* (10th edn. London 1989) 95; R. Jennings and A. Watts (eds.), *Oppenheim's International Law* I (9th edn. Harlow 1992) 120-3.

88 The Montevideo Convention was signed in 1933 by the United States and a number of Latin American states. The text of Article 1 runs: "The State as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) a Government; and (d) a capacity to enter into relations with other states." From 1949 onwards the *International Law Commission* has repeatedly debated whether an updated clarification of the meaning of the term state was needed; for a short survey, see Duursma (1996) 113-5. In 1956 the following draft was made by special rapporteur Fitzmaurice, intended to be Article 3 of the Convention on the Law of Treatises. "The term state means an entity consisting of a people inhabiting a defined territory, under an organized system of government, and having the capacity to enter into international relations binding the entity as such, either directly or through some other state."

89 *Charter of the United Nations and Statute of the International Court of Justice*, Chapter 2 Article 3: "The original members of the United Nations shall be the states which ... sign the present Charter and ratify it in accordance with article 10". Article 4: "Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter ...". See also *Rules of Procedure of the General Assembly* (New York 1985) Rules 134 and 136. Cf. R. Cohen, "The Concept of Statehood in United Nations Practice," *University of Pennsylvania Law Review* 109 (1961) 1127-71.

90 *International Legal Materials* (1992) 1495.

91 D.D. Raphael, "State," in *The New Encyclopædia Britannica* 17 (1975) 609; *The Longman Encyclopaedia* (1989) 1006; *Grand dictionnaire encyclopédique Larousse* 4 (1983) 3948; *Brockhaus Enzyklopädie* 21 (1993) 13-4.

92 T. Skocpol, "Bringing the State Back In: Strategies of Analysis in Current Research," in P.B. Evans *et al.* (eds.), *Bringing the State Back In* (Cambridge 1985); A. Vincent, *Theories of the State* (Oxford 1987); Meadowcroft (1995) 3 with further references in note 11.

93 C. Pierson, *The Modern State* (London 1996) 6.
94 F.M. Watkins, "State," in *The International Encyclopedia of the Social Sciences* 17 (1972) 150.
95 Vincent (1987) 19; Held (1995) 38, both echoing Q. Skinner, *The Foundations of Modern Political Thought* (Cambridge 1978) 353.
96 Watkins (1972) 150; Verdross & Simma (1984) 226; *Oppenheim* (1992) 122-6; Ignasse (1995) 24-5; R.H. Jackson and A. James, "The Character of Independent Statehood," in R.H. Jackson and A. James (eds.), *States in a Changing World* (Oxford 1993) 6-11; Starke (1989) 100; For the view that there are non-sovereign states see H. Hinsley, *Sovereignty* (2nd edn. Cambridge 1986) 17; Vincent (1987) 32-7, and *infra* pages 46-7.
97 N. Bobbio, *Democracy and Dictatorship* (Cambridge 1989) 22-43.
98 Vincent (1987) 22-4, 112-4, cf. 13; Morley (1949) 55-82.
99 On the Weberian ideal type see A. Heuss, *Zur Theorie der Weltgeschichte* (Berlin 1968) 64-79.
100 Pierson (1996) 8; Dunleavey (1993) 611.
101 On Aristotle's method see, K. Friis Johansen, *A History of Ancient Philosophy* (London 1998).
102 The *UN* has currently 185 member states, to which number we must add Switzerland, Taiwan and a few micro-states in the Pacific.
103 For the identification of states with nations, see the *Charter of the United Nations and Statute of the International Court of Justice*, Chapter 2, Article 3: "The original members of the United Nations shall be the states which ... sign the present Charter and ratify it in accordance with article 10". Article 4: "Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter ...". See also *Rules of Procedure of the General Assembly* (New York 1985) Rules 134 and 136.

For the identification of states with countries, see the *Olympic Charter* of 15 June 1995, issued by the *International Olympic Committee*, Chapter 46, Section 1: "Any competitor in the Olympic Games must be a national of the country of the *NOC* which is entering him". Section 2: "All disputes relating to the determination of the country which a competitor may represent in the Olympic Games shall be resolved by the *IOC* Executive Board".
104 See, e.g. the title page of the second edition of the *Encyclopædia Britannica* (Edinburgh 1777): "A Dictionary of Arts, Sciences, &c. ... A Description of all the *Countries*, Cities, principal Mountains, Seas, Rivers, etc. throughout the World; A General History, Ancient and Modern, of the different Empires, Kingdoms, and *States*; and An Account of the Lives of the most eminent Persons in every *Nation* ...". (my italics). For "state" in the sense of "Republic" see e.g. Hobbes, *Leviathan* 4.45.35.
105 There is, however, no *rule* that the land frontiers of a state must be fully delimited and defined, see *Oppenheim* (1992) 121 with note 3 and Verdross & Simma (1994) 224.
106 Raphael (1975) 609: "The "state", as the term refers to the political organization of society, is used in two ways, one more general, meaning the whole body of persons who are politically organized, the other more specific, meaning the institutions of government. In the first usage the state comprehends all the citizens; in the second, it may be contrasted with the citizens. Since the second meaning is just as well, if not more clearly expressed by the term government, it is best for purposes of expression and understanding, to concentrate on the idea of the state as being the whole body politic". Blackstone (1765-9): a state is "a collective body composed of a multitude of individuals, united for their

safety and convenience and intending to act together as one man"; Jellinek (1914) 144-5; Doehring (1987) 424-5; Verdross & Simma (1984) 225; Oppenheim (1992) 121.

107 Raphael (1975) 609; Doehring (1987) 424; Oppenheim (1992) 121.

108 E. Barker, *Principles of Social and Political Theory* (Oxford 1951) 91: "After the end of the eighteenth century it may be said: *L'État, c'est nous!* The State is now the whole community: the whole legal association; the whole of the juridical organization. This is democracy, or a result of democracy: we must henceforth think of the State as ourselves ... and we must henceforth give the name of 'Government' to the authority – before called 'State' – which is now seen as exercising on our behalf the powers which it had hitherto claimed as its own".

109 Brubaker (1992) 21: "Citizenship is not a mere reflex of residence; it is an enduring personal status ... In this respect the modern state is not simply a territorial organization but a membership organization, an association of citizens".

110 A.V. Dicey, *Introduction to the Study of the Law of the Constitution* (1885) 73: "That body is politically sovereign or supreme in a state the will of which is ultimately obeyed by the citizens of the state. In this sense of the word the electors of Great Britain may be said to be, together with the Crown and Lords, or, perhaps, in strict accuracy independently of the King and the Peers, the body in which sovereign power is vested".

111 This line of thought prevails, of course, in American literature, but is well attested in European scholarship as well, see e.g. Jellinek (1911) 144 note 1. See also the French constitution of 1793, Art. 7: "le peuple souverain est l'universalité des citoyens français".

112 Two examples are: M. Mann, "The Autonomous Power of the State: Its Origins, Mechanisms and Results," in J.A. Hall, *States in History* (Oxford 1986) 112, and D. Held, *Democracy and the Global Order* (Cambridge 1996) 48-9.

113 Raphael (1975) 609: "The State comprehends all the citizens". Doehring (1987) 423: "The state has personal jurisdiction in view of its nationals". Ignasse (1995) 22: "Le lien juridique qui unit les ressortissants d'un État et cet État s'appelle la nationalité. Ce lien juridique est un lien personnel qui ne recouvre pas exactement le fait de vivre sur tel territoire (deuxieme élément constitutif de l'État)".

114 S.G. Cole, *The Social Theory* (London 1920/1989) 75-6: "The State, as an association, has members, and its members are all the persons ordinarily resident within the area within which the state ordinarily exercises authority. Such persons are members of the state, whether or not they have votes or other political privileges, by virtue merely of their ordinary residence within the state area". Oppenheim (1992) 121: "A people is an aggregate of individuals who live together as a community though they may belong to different races or creeds or cultures, or be of different colour". Barker (1951) 42, 53.

115 Held (1989) 214: "The concept of the nation-state – the idea of a people determining its own fate within the framework of a national political apparatus". See L. Tivey (ed.), *The Nation-State* (Oxford 1980); A.D. Smith, "Nation-state," in *The Blackwell Encyclopaedia of Political Institutions* (Oxford 1987) 380-1; Brubaker (1992) 27-9; Pierson (1996) 13-4. The term nation-state is commonly used synonymously with state even though the nationals of many modern states (a) do not share the same culture and (b) do not recognise each other as belonging to the same nation, see Gellner (1983) 7.

116 A.D. Lindsay, *The Modern Democratic State* (Oxford 1943); Barker (1951) 91 quoted *infra* note 294; Cole (1920/1989) 74-5; Held (1995) 31; Pierson (1996) 59, see *infra* pages 50-1.

117 As noted already by Jellinek (1911) 144; Cole (1920/1989) 76; Laski (1921) 210:

"The theorist insists that only the state – the people, so he will say, viewed as a political unit – can exercise supreme power." Brubaker (1992) 28; Ignasse (1995) 25-6.

118 Kelsen (1946) 141; J.Crawford, *The Creation of States in International law* (Oxford 1979) 40-2.

119 Oppenheim (1992) 121; J.C. Duursma, *Fragmentation and the International Relations of Micro-States* (Cambridge 1996) 119-20.

120 Verdross & Simma (1984) 225; Doehring (1989) 424; Ignasse (1995) 22, see *supra* note 106.

121 Brubaker (1992) 33-4, 114-37 (about Germany). In 1997 some 8,000,000 persons living in Germany out of a total population of some 80,000,000 persons are foreigners without citizenship.

122 Laski (1925) 131: "the State is, for the purposes of practical administration, the government." 295: "The modern State, for practical purposes, consists of a relatively small number of persons who issue and execute orders which affect a large number in whom they are themselves included." See Raphael (1975) 609, quoted *supra* note 106; G. Marshall, *Constitutional Theory* (Oxford 1971) 31-4. *Regierung* in German and *gouvernement* in French both have a much narrower meaning than government in English (Vincent [1987] 30) and in definitions of the state the German term most often used is *Staatsgewalt* (Verdross & Simma [1984] 225). In French there is no fixed term, but the state viewed as a government may be described as e.g. "un pouvoir de coercition institutionnalisé" (Braud [1997] 26) or "un mode particulier d'organisation politique" (Koubi & Romi [1993] 46).

123 *State* used synonymously with *government* is attested, for example, in the first edition of *le dictionnaire de l'Académie Françoise* (Paris 1694): "Estat: Gouvernement d'un peuple vivant sous la domination d'un Prince, ou en Republique". Note, however, that Bodin carefully distinguishes between state and government: "Il y a bien difference de l'estat et du gouvernment". *Six Livres* 2.2. page 34, see Appendix IV, *infra*.

124 *Il Principe* Chapter 9 *ad finem*: "For such a ruler cannot rely upon what he sees happen in peaceful times, when citizens have need of his government (*quando e' cittadini hanno bisogno dello stato*), because then everyone comes running, everyone is ready with promises, and everyone wants to die for him, when the prospect of death is far off. But in troubled times, when the government needs the services of the citizens (*quando lo stato ha bisogno de' cittadini*), few are then to be found". In Guicciardini's *Ricordi* the phrase *lo stato di Firenze* is used in the sense of "the institutions of Florentine government", see Skinner (1989) 101.

125 In Jowitt's *Dictionary of English Law*, State is defined as "in its internal relations that part of the sovereign government of a state which is entrusted with the executive power; Skocpol (1979) 22; Vincent (1987) 29-32. Held (1989) 12 opens his book with the statement: "the state – or apparatus of government – appears to be everywhere...".

126 Crawford (1979) 42.

127 Crawford (1979) 27-9.

128 Crawford (1979) 30: "One of the prerequisites for statehood is the existence of an effective government; and the main, indeed, for most purposes the only, organ by which the state acts in international relations is its (central) government". Oppenheim (1992) 122: "There must ... be a government – that is, one or more persons who act for the people and govern according to the law of the land". The only further specification is that it has to be a *sovereign* government (*ibidem*).

129 B.A. Rockman, "Government," in Bogdanor (1987) 257-61.

130 Miller *et alii* (1996) 194: "We recognize that, for most purposes of ordinary discourse, the terms "parliament" and "government" are interchangeable."

131 J.S. Mill, *Considerations on Representative Government* (London 1861); H.F. Pitkin, *The Concept of Representation* (Berkeley and Los Angeles 1967) 225-52; Marshall (1971) 33-4.

132 What Max Weber in *Wirtschaft und Gesellschaft* (5th edn. Tübingen 1972) 825-6 calls "das Beamtentum" = "der Apparat der Bürokratie". Skocpol (1979) 29: "The state properly conceived ... is a set of administrative, policing, and military organizations headed, and more or less well coordinated by, an executive authority". Among the characteristics of a state Finer (1997) 2 lists: "a common paramount organ of government ... served by specialized personnel; a civil service, to carry out decisions and a military service to back these by force where necessary and to protect the association from similarly constituted associations".

133 Raphael (1975) 609, quoted *supra* note 106; P. Hillyard and J. Percy-Smith, *The Coercive State* (London 1988), Chapter 1: "The State *vs* the People".

134 Dicey (1885) 73, quoted *supra* note 110; Barker (1951) 65-8; Hinsley (1986) 222-3; Pierson (1996) 15-6.

135 D'Entrèves (1967) 4; Gellner (1983) 3; Zippelius (1994) 52-3; Held (1995) 48; Pierson (1996) 7.

136 M. Weber, *Wirtschaft und Gesellschaft* (5 edn. Tübingen 1972) 822.

137 For legitimacy as a defining characteristic of the state, see Donleavy (1993) 611; Held (1995) 48; Pierson (1996) 8. Cf. also Vincent (1987) 37-9. For the state as a personification of the legal order see Kelsen (1946) 181. See also d'Entrèves (1967) 2, 5, 82-8, 141-50.

138 Weber (1972) 516; d'Entrèves (1967) 2; Finer (1997) 17-9, 59-72.

139 Finer (1997) 2 is exceptional in that he explicitly mentions the bureaucracy and the military forces in his definition of the state.

140 Tilly (1975) 73-6; Finer (1997) 59-63.

141 Vincent (1987) 19, echoing Skinner (1978) II 353.

142 An apocryphal statement allegedly made by Louis XIV in the Paris Parliament on 13 April 1655. The statement is, however, contemporary and thus good evidence of how the term state was used in the mid-17th century.

143 G. Burdeau, *L'État* (Paris 1970) 15; B. Chantebout, *De l'État, une tentative de démythification* (Paris 1975) 53; The same was stated in 1888 by Karl Pearson: "to sacrifice ourselves for government appears utterly ridiculous; but to do so for the welfare of the state ought to be the truest heroism" (quoted in Meadowcroft [1995] 33).

144 Friedrich d. Grosse, *Oeuvres* I page 123; Diderot, *s.v.* "Autorité politique," *Encyclopedie* 1 (1751) 899: "C'est n'est pas l'état qui appartient au prince, c'est le prince qui appartient à l'état".

145 See Article 1 of the Montevideo Convention, quoted *supra* note 88; Oppenheim (1992) 119-20, 330-1.

146 Laski (1921) 22: "The state, after all, is fundamentally a territorial society divided into government and subjects". Robert A. Dahl (1976) 10, quoted *infra* note 196.

147 The United Arab Republic, for example, was created in 1958, but dissolved again in 1961.

148 Hobbes, *Leviathan* 2.19.9-23, and the Danish absolutistic constitution of 1665, the *Lex Regia*, of which Sections 1-7 are devoted to the constitution itself, Section 19 to the indivisibility of the monarchy, and Section 26 to the permanence of the absolutistic con-

stitution. Sections 8-14 regulate guardianship and the coming of age of the monarch; Sections 15-18 concern the ascension itself; Sections 20-25 deal with the royal family, and Sections 27-40, by far the longest chapter, lay down all the complicated rules concerning the succession to the throne.

149 See, e.g., Ignasse (1995) whose general chapter about state and sovereignty is focused on elections and especially, proportional election in democratic states (26-32).

150 Crawford (1979) 28.

151 Crawford (1979) 403-4.

152 Verdross & Simma (1984) 231.

153 Barker (1951) 61.

154 A.D. Smith, *National Identity* (Harmondsworth 1991).

155 J. Austin, *The Province of Jurisprudence Determined* (London 1832) Lecture 6 note 19: "'*The* state' is usually synonymous with '*the* sovereign'. It denotes the individual person, or the body of individual persons, which bears the supreme powers in an independent political society. This is the meaning which I annex to the term, unless I employ it expressly with a different import." Nettl (1968) 24: "Sovereignty presents no problem in countries with well-developed traditions of state since the one is identical with the other".

156 *Contra*: Hinsley (1986) 22 who holds that the concept of sovereignty followed long after the emergence of the state. See *infra* page 44 with note 168.

157 Unlimited: Bodin 1.8, page 181, 187ff; Hobbes, *Lev.* 2.22.5. Indivisible: Bodin 1.10, page 299; Hobbes *Lev.* 2.18.16; 2.19.3.

158 Inalienable: Bodin 1.10, page 327; Hobbes *Lev.* 2.18.17; 2.30.3.

159 Bodin 1.8, page 204; 1.10, page 306; Hobbes, *Lev.* 2.18.10. Other elements of sovereignty are: supremacy in jurisdiction (*Lev.* 2.18.11), in foreign policy (*Lev.* 2.18.12), in choice of counsellors (*Lev.* 2.18.13), and in bestowing rewards (*Lev.* 2.18.14-5).

160 Bodin 1.8, pages 194, 205, 228; Hobbes, *Lev.* 2.29.9; 2.30.3. However, The sovereign is, of course, bound by divine and natural law: Bodin 1.8, pages 192-3.

161 Bodin 1.10, page 319.

162 Bodin 2.6 (aristocracy), 2.7 (democracy); Hobbes, *Leviathan* 2.19.1.

163 M.J.C. Vile, *Constitutionalism and the Separation of Powers* (Oxford 1967) 13.

164 J. Locke, *The Second Treatise of Government* (1690), Chapter 13 para. 149-50. Montesquieu, *De l'esprit des lois* (1748), Book 11, Chapter 6, especially page 401 in the Pléiade edn. See Vile (1967) 62 (Locke), 95-6 (Montesquieu).

165 J.L. Waltmen and K.M. Holland (eds.), *The Political Role of Law Courts in Modern Democracies* (London 1988) – note especially the German Bundesverfassungsgericht (96-8), and the French Conseil Constitutionel (140-4); A.R. Brewer-Carías, *Judicial Review in Contemporary Law* (Cambridge 1989).

166 *The Federalist* no. 32, of 2 Jan. 1788, by Hamilton; A de Tocqueville, *De la démocratie en Amerique* (1835-40) I.1.8 and I.2.10 (pages 126-7 and 422-31 in the Pléiade edition).

167 Nettl (1968/1994) 19; Skocpol (1985) 22; MacCormick (1987) 583.

168 For the distinction between state and society see *infra* pages 48-50 and 94-5. To illustrate the problem I refer to the account of sovereignty in Hinsley (1986): The concept of sovereignty emerges in the wake of the rise of the state (17, 21), but in every state there is a distinction between state and society (3-4). It follows that sovereignty becomes linked with the distinction between state and society and confined to the state aspect of community life.

169 H. Kelsen, "Sovereignty and International Law," in W.J. Stankiewicz (ed.), *In Defence of Sovereignty* (London 1969) 119.
170 Starke (1989) 100.
171 R. Drago (ed.), *Souveraineté de l'Etat et interventions internationales* (Paris 1996) 23-31: "La souveraineté de l'État et le droit des Nations Unies," by P.-M. Dupuy and 49-56: "La souveraineté de l'État et l'Union Européenne," by D. de la Rochère.
172 See the verdict of the Court of Justice of the European Communities in the case Costa v. ENEL of 15 July 1964.
173 See the Security Council's resolutions concerning Libya (the Lockerbie crash), Iraq, Haiti and former Yugoslavia, all discussed by O. Spiermann, "Om Staters Suverænitet," *Tidsskrift for Rettsvitenskap* (1996) 575-661.
174 G. Marshall, *Constitutional Theory* (Oxford 1971) 35-53.
175 J.L. Waltman and K.M. Holland, *The Political Role of Law Courts in Modern Democracies* (London 1988).
176 P.H. Merkle, "Popular Sovereignty," in *The Encyclopedia of Democracy* III (London 1995) 984.
177 Marshall (1971) 46-8; A. Ross, *On Law and Justice* (London 1958).
178 Merkle (1995) 985.
179 J.J. Rousseau, *Du contrat social*, Book 1 Chapter 7; Book 2 Chapters 1-2; Book 3 Chapter 4.
180 E.g. in Switzerland, see A.H. Trechsel and H. Kriesi, "Switzerland: the Referendum and Initiative as a Centrepiece of the Political System," in Gallagher and Uleri (1996) 186-90.
181 Dicey (1885) 38: "The principle of Parliamentary sovereignty means neither more nor less than this, namely, that Parliament thus defined has, under the English constitution, the right to make or unmake any law whatever; and, further, that no person or body is recognised by the law of England as having a right to override or set aside the legislation of Parliament". See also Marshall (1971) 33-4, 35-72.
182 Stankiewicz (1969) 295 and *passim*.
183 See, e.g., Hegel in *Grundlinien der Philosophie des Rechts* (Berlin 1821) § 278.
184 See the French constitution of 3 September 1791, Titre 3 Art. 1: "la souveraineté est une, indivisible, inaliénable et imprescriptible. Elle appartient à la Nation: aucune section du Peuple, ni aucun individu, ne peut s'en attribuer l'exercice", and Jellinek (1914) 498-502.
185 See, e.g., The Permanent International Court's decision in the Wimbledon case (1923): "The Court declines to see in the conclusion of any Treaty by which a state undertakes to perform or refrain from performing a particular act an abandonment of its sovereignty." *PCIJ* Series A No.1, page 25.
186 Jellinek (1914) 503: "Zwischen Bundes- und Gliedstaat ist daher weder die Souveränetät noch die Staatsgewalt geteilt. Geteilt sind die Objekte, auf welche die Staatstätigkeit gerichtet ist, nicht die subjektive Tätigkeit, die sich auf diese Objekte bezieht."
187 M. Duverger, *Sociologie politique* (Paris 1966) 15-6. This distinction corresponds to the much older distinction between an external and internal aspect of sovereignty, see, e.g., Hegel's *Grundlinien* § 278 where "Souveränität *nach innen*" is distinguished from "Souveränität *nach aussen*".
188 Duursma (1996) 120-3; Verdross & Simma (1984) 28-30, 225-6; Oppenheim (1992) 382-5.

189 Nettl (1968) 15; Vincent (1987) 39.
190 Oppenheimer (1992) 249: since a federal state is itself a state, side by side with its member states, sovereignty is divided between the federal state on the one hand, and, on the other, the member states. See also notes 166 and 186 *supra*.
191 The first Article of the Montevideo Convention is quoted and discussed by Starke (1989) 95-6.
192 Starke (1989) 96: "A State must have recognised capacity to maintain external relations with other states. This distinguishes states proper from lesser units such as members of a federation, or protectorates, which do not manage their own foreign affairs, and are not recognised by other states as fully-fledged members of the international community".
193 Crawford (1979) 293; Oppenheimer (1992) 249-52; Zippelius (1994) 65. Federal states in which the constituent states retain a substantial amount of competence in international affairs are traditionally called confederations and opposed to federations in which virtually all powers in international affairs rest with the central government, see Crawford (1979) 291-4.
194 See *supra* page 46.
195 Vincent (1987); Jackson and James (1993).
196 In his definition of a State as a political system made up of the residents of a territorial area and the Government of the area Robert A. Dahl (1976) 10 capitalises the word State in order to "avoid confusion with constituent states in federal systems". See also Starke quoted *supra* note 192.
197 Crawford (1979) 291-4; Oppenheim (1992) 248-53; Zippelius (1994) 63-64.
198 See *supra* page 46 with note 188.
199 "The principle of sovereign equality of states" was adopted by the United Nations General Assembly in 1970, see Starke (1989) 108-10. See also Jackson and James (1993) 26; Held (1995) 78; Pierson (1996) 48.
200 J.W. Gough, *The Social Contract* (2nd edn. Oxford 1957).
201 E.g. Hobbes in *Leviathan* 2.17.13. In 1620 the Pilgrim Fathers on the Mayflower took an oath to "covenant and combine ourselves together into a civil body politic".
202 E.g. A.L. Schlözer, in *Allgemeines Statsrecht und Statsverfassungslere* (Göttingen 1793). Society and state are set up successively (37). Society (Bürgerliche Gesellschaft) emerges in consequence of a *pactum unionis virium* (contrat social) (63-65), whereas the state (Stat) is created by a *pactum subjectionis* whereby a sovereign comes to rule all the other members of society as subjects (75).
203 G.W.F. Hegel, *Grundlinien der Philosophie des Rechts* (Berlin 1821) § 157; *Die Familie*: §§ 158-81; *Die bürgerliche Gesellschaft*: §§ 182-256; *Der Staat*: §§ 257-360. By contrast with the family, which represents the first stage of the development, both civil society (*bürgerliche Gesellschaft*) and state (*Staat*) are aspects of the political order. *Die bürgerliche Gesellschaft* represents the lower stage centred on the economic sphere in which the laws are enforced for the purpose of preservation of property and person. *Der Staat* is the higher stage with a full realisation of *Sittlichkeit*.
204 F. Engels, *Ludwig Feuerbach und der Ausgang der klassischen deutschen Philosophie* (1866): "Im Staate stellt sich uns die erste ideologische Macht über den Menschen dar. Die Gesellschaft schafft sich ein Organ zur Wahrung ihrer gemeinsamen Interessen gegenüber inneren und äusseren Angriffen. Dies Organ ist die Staatsgewalt. Kaum entstanden, verselbständigt sich dies Organ gegenüber der Gesellschaft, und zwar um so mehr, je mehr es Organ einer bestimmten Klasse wird, die Herrschaft dieser Klasse direkt zur Geltung bringt" (*MEW* vol. 21 pages 301-2). The "classical" Marxist account of this

view of the state is in V.I. Lenin, *The State and Revolution* (1917), Chapter 2, with numerous quotations from Engels' works.

205 W. von Humboldt, *Ideen zu einem Versuch die Grenzen der Wirksamkeit des Staats zu bestimmen* (1792) 30 "Die Sorgfalt des Staats für das positive Wohl der Bürger ist ferner darum schädlich, weil sie auf eine gemischte Menge gerichtet werden muss, und daher den Einzelnen durch Massregeln schadet, welche auf einem Jeden von ihnen nur mit beträchtlichen Fehlern passen". H. Spencer, *The Man versus the State* (London 1884) 173-5 (postscript); I. Berlin, *Four Essays on Liberty* (Oxford 1969) 122-31.

206 J. S. Mill, *On Liberty* (1859) Chapter 1; B. Bosanquet, *The Philosophical Theory of the State* (1899, 4th edn. London 1923) 172-3, strongly influenced by Hegel.

207 Tom Paine, *Common Sense* (1776) 3. This view of the distinction between state and society dominates modern American political thought to such an extent that alternative views are hardly discussed or even mentioned, see, e.g., "State and Society" by Felix Morley, first published as a chapter of *The Power in the People* (1949), later reprinted in K.S. Templeton (ed.), *The Politization of Society* (Indianopolis 1979) 53-82.

208 A. Gramsci, *Quaderno del carcere* (Torino 1795) 12 §1 (1518-9) "Si possono, per ora, fissare due grandi «piani» suprestrutturali, quello si può chiamare della «società civile», cioè dell'insieme di organismi volgarmente detti «privati», e quello della «società politica o Stato» e che corrispondono alla funzione di «egemonia» che il gruppo dominante esercita in tutta la società e a quello di «dominio diretto» o di commando che si esprime nello Stato e nel governo «giuridico»".

209 J. Keane, *Democracy and Civil Society* (London 1988) 3: "Despite its considerable achievements during the post-war years, the programme of state-administered socialism [the Keynesian welfare state] has lost much of its radical appeal in western Europe because it has failed to recognize the desirable form and limits of state action in relation to civil society".

210 E.W. Böckenförde, *Die Verfassungstheoretische Unterscheidung von Staat und Gesellschaft als Bedingung der individuellen Freiheit.* Rheinisch-Westfälische Akademie der Wissenschaften, Vorträge G 183 (Opladen 1973).

211 Bobbio (1989) 22, 40-3.

212 F.A. Hayek, *The Constitution of Liberty* (Chicago 1960) 251-394; Zippelius (1994) § 35.IV, 350-3.

213 Bobbio (1989) 24-6; Pierson (1996) 67-70.

214 Keane (1988) 14.

215 Barker (1951) 3-5.

216 Hayek (1960) 146: "Yet the fact that conduct within the *private sphere* is not a proper object for *coercive action by the state* does not necessarily mean that in *a free society* such conduct should also be exempt from the pressure of opinion and disapproval" (my italics). Dunleavy (1993) 611.

217 K.C. Wheare, *Modern Constitutions* (2nd end. Oxford 1966) 38-51; P. Jones, *Rights* (London 1994) 222-7.

218 H.M. Said (ed.), *The Islamic Concept of State* (Karachi 1983); or see the description in Finer (1997) of the Chinese state (442-528, 738-854, 1129-61), or the Japanese state (1077-1128).

219 See e.g. the Criminal Code of Georgia Sec. 16-6.2 (1984) "... (a) A Person commits the offense of sodomy when he performs or submits to any sexual act involving the sex organs of one person and the mouth or anus of another ... (b) A person convicted of the offense of sodomy shall be punished by imprisonment for not less than one nor more than

20 years...". Quoted from: D. Cohen, *Law, Sexuality and Society. The Enforcement of Morals in Classical Athens* (Cambridge 1991) 1.

220 The starting signal was given in 1917 with Woodrow Wilson's slogan "to make the world safe for democracy", see *supra* note 7. For the concept of the (liberal) democratic state, see: A.D. Lindsay, *The Modern Democratic State* (Oxford 1943); Barker (1951) 91, quoted *infra* note 294; Cole (1920/1989) 74-5; Hesse (1976) 496, 502; Dunn (1992) 246-9; Czempiel (1992) 250-71; Dunleavy (1993) 614; Ignasse (1995) 25; Held (1995) 31; Pierson (1996) 59; Finer (1997) 1482-4.

221 A. Lijphart, *Democracies. Patterns of Majoritarian and Concensus Government in Twenty-One Countries* (New Haven 1984) 38: 51 countries containing roughly 37% of the total world population. A similar – optimistic – count in 1991 resulted in 62 countries containing roughly 44% of the total world population, see F. Fukuyama, "Liberal Democracy as a Global Phenomenon," *PS: Political Science and Politics* 24 (1991) 659-64.

222 Finer (1997) 1284.

223 Fukuyama (1991) 659-64.

224 Treated in *CPCActs* 3 (1996) 34-6.

225 Treated in Appendix I, *infra* pages 124-32.

226 The *Lex Hafniensis de Civitate*, which runs as follows: "in Archaic and Classical sources the term *polis* used in the sense of town to denote a named urban centre is not applied to just any urban centre but only to a town which was also the political centre of a *polis*. Thus, the term *polis* has two different *meanings*, town and state, but even when it is used in the sense of town its *reference* seems almost invariably to be what the Greeks called *polis* in the sense of a *koinonia politon politeias* and what we call a city-state", see Hansen (1996C) 33.

227 Pl. *Resp.* 488A-89A, cf. *Resp.* 389C-D; *Euthyd.* 291D; *Pol.* 296E; *Lg.* 758A. Other instances of the metaphor are: Thgn. 855-6; Aesch. *Sept.* 2-3; 652, 795-6; Soph. *Ant.* 187-91, 994; Eur. *Suppl.* 473-5; Ar. *Vesp.* 29; Dem. 9.69-70.

228 Soph. *OT* 51-7: ἀλλ' ἀσφαλείᾳ τήνδ' ἀνόρθωσον πόλιν ... ὡς εἴπερ ἄρξεις τῆσδε γῆς, ὥσπερ κρατεῖς, ξὺν ἀνδράσιν κάλλιον ἢ κενῆς κρατεῖν· ὡς οὐδέν ἐστιν οὔτε πύργος οὔτε ναῦς ἔρημος ἀνδρῶν μὴ ξυνοικούντων ἔσω. See also Aesch. *Sept.* 758-65.

229 Arist. *Pol.* 1276b1: εἴπερ γάρ ἐστι κοινωνία τις ἡ πόλις, ἔστι δὲ κοινωνία πολιτῶν πολιτείας, γινομένης ἑτέρας τῷ εἴδει καὶ διαφερούσης τῆς πολιτείας ἀναγκαῖον εἶναι δόξειεν ἂν καὶ τὴν πόλιν μὴ εἶναι τὴν αὐτήν,... See Appendix II *infra* pages 133-4.

230 Place (*topos*) and people (*anthropoi*): *Pol.* 1276a18-22, 34-40; constitution: *Pol.* 1276b1ff, quoted *supra* note 229.

231 Lys. 6.15: οὗτος μὲν κατὰ τοὺς νόμους τοὺς ἐξ Ἀρείου πάγου φεύξεται τὴν τοῦ ἀδικηθέντος πόλιν. *IG* II^2 24 b-c 3-4.

232 Dem. 23.37, 39ff; Philoch. (*FGrHist* 328) fr. 30.

233 Din. 1.77: τὸν τῆς Ἑλλάδος ἀλιτήριον ἀποκτείναντας ἐξόριστον ἐκ τῆς πόλεως ποιῆσαι.

234 Xen. *Hell.* 4.4.6: αἰσθανόμενοι (the Korinthians) ἀφανιζομένην τὴν πόλιν διὰ τὸ καὶ ὅρους ἀνασπᾶσθαι καὶ Ἄργος ἀντὶ Κορίνθου τὴν πατρίδα αὐτοῖς ὀνομάζεσθαι ... See D. Rousset,"Les frontières des cités grecques. Premières réflexions à partir du recueil des documents épigraphiques," *Cahiers du Centre G. Glotz* 5 (1994) 97-126. *IG* XII 5 543 (Karthaia); *IG* VII 2792 = *SEG* 36 411 (Boiotian *horos* marking the border between Akraiphia and Kopai); *Syll.*^{3} 134.22-3 (Miletos and Myous); Thür & Täubner, *IPArk.* 14 (Orchomenos).

235 Arbitration between Miletos and Myous, ca. 391-88 (*Syll.*^{3} 134 = Tod, *GHI* 113);

Orchomenos 369-1 (Thür & Täubner, *IPArk.* 14); the Delphic Amphiktyony judges a border dispute between Amphissa and Delphi in ca. 338/7? (*BCH* 27 [1903] 140-53, Ager [1996 no. 1]); Alexander the Great calls for a boundary settlement between Aspendos and a neighbour, perhaps Side in 333 B.C. (Arr. *Anab.* 1.27.4, Ager [1996] no. 6).

236 Dem. 15.17; Thuc. 5.79.4 (Treaty between the Lakedaimonians and the Argives, 418 B.C.): αἱ δέ τινι τᾶν πολίων ᾖ ἀμφίλλογα, ἢ τᾶν ἐντὸς ἢ τᾶν ἐκτὸς Πελοποννάσω, αἴτε περὶ ὅρων αἴτε περὶ ἄλλω τινός, διακριθῆμεν.

237 Hdt. 7.58.2: ὁ δὲ κατ' ἤπειρον στρατὸς ... ἐποιέετο τὴν ὁδὸν διὰ τῆς Χερσονήσου ... διὰ μέσης δὲ πορευόμενος πόλιος τῇ οὔνομα τυγχάνει ἐὸν 'Αγορή. Xen. *Hell.* 5.4.49: τὰ πρὸς ἕω τῆς τῶν Θηβαίων πόλεως ἐδῄου (ὁ 'Αγησίλαος) μέχρι τῆς Ταναγραίων ἔτι γὰρ τότε καὶ τὴν Τάναγραν οἱ περὶ Ὑπατόδωρον, φίλοι ὄντες τῶν Λακεδαιμονίων, εἶχον.

238 As is apparent from the passage the Tanagraians were allied with the Lakedaimonians, and accordingly it is unbelievable that Agesilaos pillaged the western part of the territory of Tanagra up to the city of Tanagra. Thus the genitive πόλεως to be understood after τῆς Ταναγραίων must denote the territory, not the town, and, similarly, in the phrase τῆς τῶν Θηβαίων πόλεως the term πόλις must denote the territory of Thebes, not the city of Thebes. Thus, *pace* LSJ s.v. ἠώς, the genitive τῆς τῶν Θηβαίων πόλεως must be partitive and not separative. See also τοῦ Τελευτίου ἐστρατευμένου πρὸς τὴν τῶν 'Ολυνθίων πόλιν at *Hell.* 5.3.3.

239 Hes. *Scut.* 380-2; Stesich. fr. 86, Page; Aesch. *Eum.* 77; Eur. *Alc.* 553; Hdt. 6.74.2; 7.58.2; Thuc. 5.63.4; Xen. *Hell.* 3.2.9; 4.4.6; 4.7.2; 5.2.6; 5.4.49; 5.4.62; 6.5.12; 7.4.11; 7.5.5; 7.5.11; Ant. 5.76; Andoc. 1.103, 105, 106; Lys. 3.10, 32; 6.15, 27-9, 46; 9.4, 21; 12.35, 57, 95, 97; 14.44; 26.2; 34.4; Isoc. 5.51; 6.68, 73; 14.28, 35; 16.4, 8; 19.20; Dem. 3.31; 8.40; 9.67, 70; 10.63; 18.132; 19.342; 22.13; 23.42, 52; 25.87, 89, 95; 40.32; Hyp. 5.29, 31; Din. 1.70, 77, 80; Lycurg. 1.68, 90, 105, 133; Pl. *Grg.* 457B, 460A; *Resp.* 415D; Arist. *Pol.* 1261a1; 1276a18-20; Aen. Tact. 1.1; Theopomp (*FGrHist* 115) fr. 105; Philoch. (*FGrHist* 328) fr. 30.

240 See Appendix I, *infra* pages 124-32.

241 Hansen in *CPCActs* 1 (1993) 20 with notes 139-40; *CPCActs* 3 (1996) 28 with note 88; *CPCPapers* 3 (1996) 192-3. See also D. Whitehead, "*Polis*-toponyms as personal entities (in Thucydides and elsewhere)," *MusHelv* 53 (1996) 1-11.

242 Let me add that the case of Tanagra is not an exception; rather, it is the rule, and other examples of names of town which can be used about the territory as well include Chaironeia (Lycurg. 1.16), Haliartos (Xen. *Hell.* 3.5.17), Koroneia (Arist. *Mir.* 842b3), Lebadeia (Xen. *Mem.* 3.5.4), Mykalessos (Paus. 9.19.5), Orchomenos (Thuc. 1.113.2), Oropos (Hyp. 3.16), Plataiai (Xen. *Hell.* 5.4.48), Siphai (Arist. *Part. An.* 696a5) and Thebes (Xen. *Hell.* 5.2.25), to mention just the examples from Boiotia.

243 Thuc. 7.77.4: λογίζεσθε δὲ ὅτι αὐτοί τε πόλις εὐθύς ἐστε ὅποι ἂν καθέζησθε.

244 F. Hampl, "Poleis ohne Territorium," *Klio* 32 (1939) 1-60.

245 E.g. F. Gschnitzer, *Abhängige Orte im griechischen Altertum* (München 1958) 161-78; E. Meyer, *Einführung in die antike Staatskunde* (Darmstadt 1968) 68; R. Duthoy, "Qu'est-ce qu'une *polis*," *LEC* 54 (1986) 6; E. Lévy, "La cité grecque: invention moderne ou réalité antique," *Cahiers du Centre Glotz* 1 (1990) 55.

246 See Chr. Habicht's review of Gschnitzer in *Gnomon* 31 (1959) 705ff; V. Ehrenberg, "Von den Grundformen griechischer Staatsordnung," in *Polis und Imperium* (Zürich & Stuttgart 1965) 115-9; C. Ampolo, *La città antica* (Roma-Bari 1980) xxxiii-xxxiv; Sakellariou (1989) 80-4; Ampolo (1996) 305.

247 Correctly emphasised by Ampolo (1980) xxxiv.

248 Harp. s.v. Ἄργουρα ... ἔστι δὲ πόλις τῆς Εὐβοίας ἐν τῇ Χαλκιδικῇ κειμένη, ὡς Ἀριστοτέλης ὁ Χαλκιδεὺς ἐν τῷ περὶ Εὐβοίας.

249 See P. Perlman, "Πόλις Ὑπήκοος. The Dependent *Polis* and Crete," *CPCActs* 3 (1997) 262-6.

250 J.M. Fossey, *Topography and Population of Ancient Boiotia* (Chicago 1988) 83-4, 222-3, interpreting Hdt. 9.43.2; Hansen in *CPCActs* 2 (1995) 36-7.

251 Paus. 9.19.5, S.C. Bakhuizen, *Salganeus and the Fortifications on its Mountains* (Groningen 1970) 20-1, 148-9.

252 Thuc. 7.77.7: ἄνδρες γὰρ πόλις, καὶ οὐ τείχη οὐδὲ νῆες ἀνδρῶν κεναί. cf. 7.77.4: λογίζεσθε δὲ ὅτι αὐτοί τε πόλις εὐθύς ἐστε ...

253 Alc. fr. 426 (Z 103 in Lobel and Page) τὸν λόγον ὃν πάλαι μὲν Ἀλκαῖος ὁ ποιητὴς εἶπεν .. ὡς ἄρα οὐ λίθοι οὐδὲ ξύλα οὐδὲ τέχνη τεκτόνων αἱ πόλεις εἶεν ἀλλ' ὅπου ποτ' ἂν ὦσιν ἄνδρες αὐτοὺς σῴζειν εἰδότες ἐνταῦθα καὶ τείχη καὶ πόλεις. Cf. fr. 112: [ἄνδρες γὰρ πόλι]ος πύργος ἀρεύ[ιος] (E 1.10 in Lobel and Page).

254 Aesch. *Pers.* 349-50: Βα: ἔτ' ἄρ' Ἀθηνῶν ἔστ' ἀπόρθητος πόλις; – Αγγ: ἀνδρῶν γὰρ ὄντων ἔρκος ἐστὶν ἀσφαλές. For an identification of the *polis* with the armed forces see also Eur. *Heracl.* 399: πόλις ἐν ὅπλοις.

255 Hom. *Il.* 16.69-70: Τρώων δὲ πόλις ἐπὶ πᾶσα βέβηκε θάρσυνος, see *supra* page 20 with note 1.

256 *CEG* 488.1 (= *IG* II^2 10780, C4e): εἰ τοιῶνδε ἀνδρῶν ἔη πόλις, ... Anakreon fr. 100, Diehl (= *AP* 7.226): Ἀβδήρων προθανόντα τὸν αἰνοβίην Ἀγάθωνα / πᾶσ' ἐπὶ πυρκαϊῆς ἥδ' ἐβόησε πόλις. Arkesine: *CEG* 2 664 (= *IG* XII 7 108), quoted *infra* note 273; Larymna: *IG* IX 1 235.6: πᾶσ, ἐδάκρυσε πόλις. Dem. 18.208; 23.209.

257 W. Tittmann, *Darstellung der griechischen Staatsverfassungen* (Leipzig 1822) 528; F. Gschnitzer, "Stammes- und Ortsgemeinden im alten Griechenland," *WS* 68 (1955) 121-2.

258 See *supra* page 54 with note 241.

259 Hansen (1996B) 191-5.

260 Plat. *Def.* 415C: πόλις οἴκησις πλήθους ἀνθρώπων κοινοῖς δόγμασιν χρωμένων. πλῆθος ἀνθρώπων ὑπὸ νόμον τὸν αὐτὸν ὄντων.

261 Arist. *Pol.* 1274b41: ἡ γὰρ πόλις πολιτῶν τι πλῆθός ἐστιν. Cf. 1275b20.

262 The following two sections are a slightly revised version of the view stated in *CPCActs* 1 (1993) 16-7. For a full account of the issue, see M.H. Hansen, "Aristotle's Two Complementary Views of the Greek *Polis*," in R.W. Wallace and E. Harris (eds.), *Transitions to Empire. Essays in Greek and Roman History in Honor of E. Badian* (Norman 1996) 196-203.

263 W.G. Forrest, "The History of the Archaic Period," in J. Boardman, J. Griffin and O. Murray (eds.), *The Oxford History of the Classical World* (Oxford 1986) 19 followed by e.g. J. Ober, *The Athenian Revolution* (Princeton 1996) 168. For a lucid discussion, see Lévy (1990) 63-7, followed by Ampolo (1996) 301-2.

264 *Einführung in die antike Staatskunde* (Darmstadt 1968) 68. See also: Finley (1963) 48-9; Will (1972) 418; Welwei (1983) 10; Owens (1991) 1; Morris (1991) 26.

265 *Pol.* 1277a7ff; 1278b38; 1280b26; 1282a20; 1285b32.

266 *Pol.* 1280b32-3. Cf. also *Pol.* 1289b28-9 (Book 4).

267 For a discussion of what *zoon politikon* means and of animals living in *poleis* see Hansen (1996E) 199-200.

268 Arist. *Ath. Pol.* 26.3; *Pol.* 1329a20; Dem. 57.51; 59.28; Is. 3.37.

269 Ant. 2.2.9; Isoc. 8.44; Xen. *Hell.* 6.3.1; Eur. *Hipp.* 1029.

270 Lys. 20.35; μὴ ἡμᾶς ἀντὶ μὲν ἐπιτίμων ἀτίμους ποιήσητε, ἀντὶ δὲ πολιτῶν ἀπόλιδας. Medea, when settled in Thebes as a freeborn foreigner, describes herself as *apolis*: σοὶ μὲν πόλις ἥδ' ἐστι καὶ πατρὸς δόμοι ... ἐγὼ δ' ἔρημος ἄπολις οὖσ' ὑβρίζομαι πρὸς ἀνδρός, ...

271 Eur. *Tro.* 1291-2: ἁ δὲ μεγαλόπολις ἄπολις ὄλωλεν οὐδ' ἔτ' ἔστι Τροία. Aesch. *Eum.* 457.

272 Pl. *Lg.* 766D: πᾶσα δὲ δήπου πόλις ἄπολις ἂν γίγνοιτο, ἐν ᾗ δικαστήρια μὴ καθεστῶτα εἴη κατὰ τρόπον.

273 Buck, *GD* 59.9-12: hόστις δὲ δαιθμὸν ἐνφέροι ἒ ψᾶφον διαφέροι ἐν πρείγαι ἒ 'ν πόλι ἒ 'ν ἀποκλεσίαι ... αὐτὸς μὲν ϝερρέτω ... (Lokris, near Polis, C5e). *IG* XII 7 108.1 = *CEG* 2 664 (Arkesine, C4f): Κλεομάνδρο τόδε σῆμα, τὸν ἐμ πόντωι κίχε μοῖρα, δακρυόεν δὲ πένθος ἐθηκε πόλει θανών. *I. Cret.* IV 79.7-12 (ca. 450 B.C.) = 144.8-11 (ca. 400 B.C.): ϝεργάδδεθαι δὲ ἐπὶ τôι μιστôι αὐτôι πάντα τοῖς ἐμ πόλι τοῖς τ' ἐλευθέροις καὶ τοῖς δόλοις.

274 *SEG* 11 1051, Tegea. Other examples are: *SEG* 26 445, Epidauros; *Syll.*[3] 359, Kalauria; *IG* V 2 389, Lousoi; *IG* VII 3055, Lebadeia; *IG* IX[2] 1 390, Stratos; Meiggs-Lewis, *GHI* 2, Dreros; *SEG* 40 996, Pladasa. Cf. Eur. *Heracl.* 1019; *Suppl.* 349. See M. Sakellariou, *The Polis-State. Definition and Origin* (Athens 1989) 197-203; P.J. Rhodes, *The Decrees of the Greek States* (Oxford 1997) 65-471.

275 Hdt. 5.97.2; Dem. 18.169, see M.H. Hansen, *The Athenian Assembly in the Age of Demosthenes* (Oxford 1987) 138 with note 40.

276 For the distinction between regional ethnics, city-ethnics and sub-ethnics, see M.H. Hansen, "City-Ethnics as Evidence for *Polis* Identity," *CPCPapers* 3 (1996) 171-6, 194.

277 Hansen (1996B) 181-7.

278 See, e.g. *I.Cret* 4.236: ἁ πόλις οἱ Γορτύνιοι (ca. 350-250 B.C.), cf. Hansen (1996B) 191-4.

279 Plat. *Resp.* 371E: πλήρωμα δὴ πόλεώς εἰσιν, ὡς ἔοικε, καὶ μισθωτοί. For *pleroma* in the sense of "complement" used about the full members of the *polis* see Arist. *Pol.* 1267b16; 1284a5; 1291a17 (paraphrasing Plato's first *polis*).

280 Thuc. 3.36.2: ἔδοξεν αὐτοῖς ... ἀποκτεῖναι ... τοὺς ἅπαντας Μυτιληναίους ὅσοι ἡβῶσι, παῖδας δὲ καὶ γυναῖκας ἀνδραποδίσαι.

281 See also Xen. *Hell.* 7.1.10: ἐπεὶ δὲ ἅπαξ ἠττήθησαν (the Spartans) ἐν τῇ γῇ, εὐθὺς καὶ περὶ παίδων καὶ περὶ γυναικῶν καὶ περὶ ὅλης τῆς πόλεως κίνδυνος αὐτοῖς ἐγένετο. Isoc. 14.31: ἔθεντο (the Thebans) τὴν ψῆφον, ὡς χρὴ τήν τε πόλιν (Athens) ἐξανδραποδίσασθαι ...

282 Arist. *Ath. Pol.* 26.4: διὰ τὸ πλῆθος τῶν πολιτῶν Περικλέους εἰπόντος ἔγνωσαν μὴ μετέχειν τῆς πόλεως ὃς ἂν μὴ ἐξ ἀμφοῖν ἀστοῖν ᾖ γεγονώς. E. Lévy, "*Astos* et *politès* d'Homère à Hérodote," *Ktema* 10 (1985) 53-66; Hansen (1997A) 11.

283 Arist. *Pol.* 1275b33; 1278a28; *SEG* 14 532.2 = Migeotte, *Souscriptions* no. 56, C4l-C3e. C. Mossé, "ΑΣΤΗ ΚΑΙ ΠΟΛΙΤΙΣ. La dénomination de la femme athénienne dans les plaidoyers démostheniens," *Ktema* 10 (1985) 77-80.

284 *IG* II[2] 7959. See Hansen (1996B) 183 with the list of ethnics in Appendix II on page 196.

285 *Ho politeuomenos* is mostly used in the sense of political leader, but in the plural the term is sometimes used about all politically active citizens. See Andoc. 2.1 (quoted above page 59 with note 2); Lys. 18.16; Isoc. 8.76.

286 For a lucid statement of this view, seen in relation to ownership, see L. Foxhall, "Household, Gender and Property in Classical Athens," *CQ* 39 (1989) 42-3.

287 Skocpol (1979) 29; Finer (1997) 2, both quoted *supra* note 132. Dahl (1976) 8: "Perhaps the most obvious political roles are played by persons who create, interpret, and enforce rules that are binding on members of the political system. These roles are *offices*, and the collection of offices in a political system constitutes the government of that system". I note that in this sense the government includes the courts.

288 Barker (1951) 237: "We thus come to the fourth and last organ in the successive series [the three first are party, electorate and Parliament]; the responsible government or cabinet, which is the organ of government *par excellence* (though also, and at the same time, only *one* of a number of organs of government in the wider sense of the word), and which is therefore commonly called *the* Government"; Vincent (1987) 29-30. I note that in this sense the courts are usually excluded from the concept of government.

289 See *supra* note 229 and Appendix II *infra* pages 133-4.

290 Arist. *Pol.* 1278b8-10: ἔστι δὲ πολιτεία πόλεως τάξις τῶν τε ἄλλων ἀρχῶν καὶ μάλιστα τῆς κυρίας πάντων. For the interpretation of πόλεως τάξις as a subjective genitive see Hansen (1994B) 93.

291 Arist. *Pol.* 1299a25-7: ἀρχὰς λεκτέον ταύτας, ὅσαις ἀποδέδοται βουλεύσασθαί τε περί τινων καὶ κρῖναι καὶ ἐπιτάξαι, καὶ μάλιστα τοῦτο.

292 See M. Langdon, "Poletai Records" in *The Athenian Agora* 19 (Princeton 1991) 66.

293 See the note in *SEG* 27 631 *ad locum* (page 159): "The full assembly of Dattalla decided to appoint Spensithios, and the πόλις, in the narrowest sense of the term, i.e. the council of elders, consisting of five men from each tribe within the city, published the appointment".

294 Barker (1951) 91: "After the end of the eighteenth century, it may be said, L'État, c'est nous! The state is now the whole community: the whole legal association. This is democracy, or a result of democracy: we must henceforth think of the state as ourselves.... and we must henceforth give the the name of 'government' to the authority – before called 'state'". See *supra* page 38.

295 H. Spencer, *The Man versus the State* (London 1884).

296 Laski (1921) 22: "A state, after all, is fundamentally a territorial society divided into government and subjects;" cf. B. Holden, *Understanding Liberal Democracy* (London 1988) 22-3.

297 See *supra* page 61 with note 274.

298 Eupolis *Demoi* fr. 118, Kassel-Austin: ἅπασα γὰρ ποθοῦμεν ἡ κλεινὴ πόλις; Pl. *Menex.* 244C: διανοουμένη δὲ ἡ πόλις ... ἡμῶν οὖν ἐν τοιαύτῃ διανοίᾳ ὄντων ... In speeches made to the people's assembly or the people's court it is, of course, the second person that is used: *you* are the *polis* (Dem. 43.72, quoted *supra* pages 58-9). In references to decrees of the assembly the phrase ἔδοξε τῷ δήμῳ (Dem. 18.75) is used synonymously with ἔδοξεν ὑμῖν (Andoc. 1.73) and ἔδοξε τῇ πόλει (Dem. 60.1); and ἡ πόλις ... ἐψηφίσατο (Lys. 24.22) is used synonymously with ὑμεῖς, ὦ ἄνδρες Ἀθηναῖοι, ... ἐψηφίζεσθε ... (Dem. 19.125).

299 In every case I have adduced one Athenian and one non-Athenian source. For the Athenian sources I print the reference only, for the non-Athenian sources I add the name of the *polis* in question.

300 For an occasional later example, see e.g. *TAM* II 1-3 905, from 152-3 A.D.

301 Aeschin. 2.116: δύο γὰρ ψήφους ἕκαστον φέρει ἔθνος.

302 Arist. *Pol.* 1276a8-16.

303 Isoc. 7.68.

304 Meiggs-Lewis, *GHI* 43.7: ἢν δὲ ἡ πόλι[ς ἐ]γκρατ<ὴ>ς γένηται, κατακτῆναι [αὐ]τὸς τὸς ἐπιμηνίος [ἐ]π' ὧν ἂν λαφθέωσιν.

305 Except in a very general sense, see Eur. *Cycl.* 276: τίς ὑμᾶς ἐξεπαίδευσεν πόλις. On public education see *infra* page 90 with note 455.

306 *Hesperia* Suppl. 29 (1988). The tax of 1/12 of the grain from the klerouchies is collected in kind. The *polis* is involved in the import of this grain (lines 16, 17, 20-1, 33) partly for fiscal reasons and partly to provide grain for the *demos* (lines 5-6), that is for the citizens.

307 Dem. 34.38-9; S. Isager & M.H. Hansen, *Aspects of Athenian Society* (Odense 1975) 200-08.

308 Thuc. 2.46.1. But in poetry we meet a freer use of the language: (Eur. *Cyc.* 276).

309 Tod, *GHI* 204.39-41: καὶ εἰ μὲν ἐμπεδορκοίην τὰ ἐν τῶι ὅρκωι γεγραμμένα, ἡ πόλις ἡ 'μὴ ἄνοσος εἴη, εἰ δὲ μή, νοσοίη.

310 Arist. *Pol.* 1332b12-14: ἐπεὶ δὲ πᾶσα πολιτικὴ κοινωνία συνέστηκεν ἐξ ἀρχόντων καὶ ἀρχομένων, τοῦτο δὴ σκεπτέον, εἰ ἑτέρους εἶναι δεῖ τοὺς ἄρχοντας καὶ τοὺς ἀρχομένους ἢ τοὺς αὐτοὺς διὰ βίου. Isoc. 8.91.

311 Monarchies: Xen. *Cyrop.* 8.1.21; oligarchies: Xen. *Hell.* 2.3.41; Pl. *Resp.* 556B-C.

312 Pl. *Epin.* 976D; Arist. *Pol.* 1317b2-3.

313 Arist. *Pol.* 1295a40-b1: ἡ γὰρ πολιτεία βίος τίς ἐστι πόλεως. Cf. Arist. *Pol.* 1327b4.

314 Isoc. 7.14: ἔστι γὰρ ψυχὴ πόλεως οὐδὲν ἕτερον ἢ πολιτεία, cf. 12.138.

315 Thuc. 3.82.2: ἐν μὲν γὰρ εἰρήνῃ καὶ ἀγαθοῖς πράγμασιν αἵ τε πόλεις καὶ οἱ ἰδιῶται ἀμείνους τὰς γνώμας ἔχουσι... See Hornblower (1991) 482.

316 Soph. *OT* 629; Eupolis, *Poleis* fr. 205; Ar. *Ach.* 27.

317 Pl. *Cri.* 50A: εἰ ... ἐλθόντες οἱ νόμοι καὶ τὸ κοινὸν τῆς πόλεως ἐπιστάντες ἔροιντο· εἰπέ μοι, ὦ Σώκρατες, τί ἐν νῷ ἔχεις ποιεῖν;

318 Pl. *Resp.* 368E: δικαιοσύνη, φαμέν, ἔστι μὲν ἀνδρὸς ἑνός, ἔστι δέ που καὶ ὅλης πόλεως. – πάνυ γε, ἦ δ' ὅς. – οὐκοῦν μεῖζον πόλις ἑνὸς ἀνδρός; – μεῖζον, ἔφη. – ἴσως τοίνυν πλείων ἂν δικαιοσύνη ἐν τῷ μείζονι ἐνείη καὶ ῥᾴων καταμαθεῖν.

319 See the lucid account in F.D. Miller Jr., *Nature, Justice, and Rights in Aristotle's* Politics (Oxford 1995) 37-56.

320 Judiciously pointed out already in Barker (1906) 102-3.

321 *IG* II^2 1496.131-2, 140-1. Palagia (1982) 111.

322 J.Ch. Balty, "Antiocheia," *LIMC* 1 (1981) 840-51.

323 Athens had Athena (Solon fr. 3.4); Kyrene had Apollon (*SEG* 9 3.7). A. Schachter, "Policy, Cult, and the Placing of Greek Sanctuaries," in *Le Sanctuaire Grec*. Entretiens sur l'antiquité classique 37 (Genève 1992) 1-64; S.G. Cole, "Civic Cult and Civic Identity," *CPCActs* 2 (1995) 292-325; U. Brackertz, *Zum Problem der Schutzgottheiten griechischer Städte* (Berlin 1976).

324 Brackertz (1976) 191-211, with the modifications expounded by Cole (1995) 298-305.

325 E.g. Apollon Pythios (Thasos) or Daphnephoros (Eretria).

326 E.g. Battos, the founder of Kyrene, Pind. *Pyth.* 5.93-5, I. Malkin, *Religion and Colonization in Ancient Greece* (Leiden 1987) 204-12.

327 S.G. Miller, *The Prytaneion. Its Function and Architectural Form* (Berkeley and Los Angeles 1978); Malkin (1987) 113-34.

328 Thuc. 2.15.2; Aen. Tact. 10.4; Arist. *Mund.* 400b19.
329 Miller (1978) 13-4.
330 Pollux 1.7; Theoc. *Id.* 21.34-7.
331 Schol. Aristid. 103.16 (page 47 Dindorf); cf. Hdt. 1.146.2.
332 In Lykourgos' patriotic speech *Against Leokrates*, the Athenian who fled from his fatherland in 338 after the defeat at Chaironeia, there are no less than 70 occurrences of *patris*, often juxtaposed with the laws (*nomoi*) and the sanctuaries (*hiera*). To leave one's *patris* is attested in Hesiod (*Scut.* 1), and to die for one's *patris* in Anakreon (*Anth. Pal.* 13.4). For the identification of *polis* with *patris* see *IvO* 154.1; *SEG* 14 459; Pl. *Cri.* 51B; *Lg.* 642B. An Olbian tyrannocide (?) is claimed to have restored the [freedom and *autonomia*] of his *patris* (*SEG* 31 702). *Patris* is used about Argos (*IG* IV^2 618.3), Korinthos (*SEG* 27 298), Oianthea in Lokris (*IG* IX.1 867 = Meiggs-Lewis, *GHI* 4), Thebes (*IG* VII 2536), Larisa (*CEG* 2.639), Samos (*SEG* 22 483), Pella (*SEG* 18 222) Herakleia Pontica (*IG* VII 2531), Magnesia on the Maiander (*SEG* 14 459) and many other *poleis*. Some sources may show that, occasionally, one's patris could be not a *polis*, but a whole region, e.g. Phokis (*F. Delphes* III 4 222). For the cosmopolitan view that one's *patris* is wherever one wants to live, see Eur. frr. 774, 1034; Ar. *Plut.* 1151; Isoc. 4.81.
333 Th. R. Martin, *Sovereignty and Coinage in Classical Greece* (Princeton 1985); *Idem*, "Coins, Mints and the *Polis*," *CPCActs* 2 (1995) 257-91.
334 Aymard (1954) 53-54 defines the *polis* as "une communauté de citoyens, entièrement indépendante, souveraine sur les citoyens qui la composent, cimentée par des cultes et régie par des *nomoi*". In Lonis' seminal account of the Greek city (1994) 8 the *polis* (in the constitutional sense of the term) is described as "une entité souveraine". See also Duthoy (1986) 5. For the *ekklesia* as the "sovereign" body of government, see G. Glotz, *La cité grecque* (Paris 1928) 190; E. Will, *Le monde grec et l'Orient. I. Le Ve siècle* (Paris. 1972) 422; M.I. Finley, *Democracy Ancient and Modern* (2nd edn. London 1985) 18; R.K. Sinclair, *Democracy and Participation in Athens* (Cambridge 1988) 16, 20; J. Bleicken, *Die athenische Demokratie* (2nd edn. Paderborn 1994) 161. For the opposite view, see *infra* note 336. I confess that in the 1970s I did myself resort to the concept of sovereignty in my analysis of Athenian democracy, see *The Sovereignty of the People's Court in Athens in the Fourth Century B.C. and the Public Action against Unconstitutional Proposals* (Odense 1974) 9, 13-8. I did not, however, apply the Classical concept of sovereignty to ancient Athens, but the modern concept as defined by E. Barker in his *Principles of Social and Political Theory* (Oxford 1951) 59ff, see my book page 17 with note 25. For my later view see *The Athenian Assembly in the Age of Demosthenes* (Oxford 1987) 105-7 where I avoid using the concept of sovereignty altogether. On page 107 line 9 there is a deplorable misprint; read, please: "But the step from the supreme *demos* to the supreme *demos*-in-the-*ekklesia* ...".
335 Bodin (1576) Book 1 Chapter 10 page 296. "Entre les grecs il n'y en a pas un qui en ait rien escrit, qui soit en lumiere, horsmis Aristote, Polybe, et Denys d'Alicarnas : mais ils ont tranché si court, qu'on peut juger à veuë d'œil, qu'ils n'estoyent pas bien resolus de ceste question. Je mettray les mots d'Aristote (Arist. *Pol.* 1297b35-98a9) : Il y a, dit-il, trois parties de la Republique, l'une à prendre advis et conseil : l'autre à establir officiers, et la charge d'un chacun : et la troisieme à faire justice : il a entendu parler des droits de la majesté, encores qu'il die parties de la Republique : ou bien il faut confesser qu'il n'en a point parlé : car il n'y a que cest endroit là". Bodin is aware that Aristotle does not speak about parts of the constitution, but about parts of the state = parts of the body of citizens.

336 H. Hinsley, *Sovereignty* (2nd edn. Cambridge 1986) 27-32.

337 Arist. *Pol.* 1279b16-26; 1281a11-3, 40, etc.

338 Government πρὸς τὸ κοινὸν συμφέρον *versus* πρὸς τὸ συμφέρον τὸ τοῦ μοναρχοῦντος, or τῶν εὐπόρων, or τῶν ἀπόρων: *Pol.* 1279a28-b10). Government κατὰ νόμον, monarchy: 1285a25-9; oligarchy: 1293a27-30; democracy: 1292a7-9.

339 In *Ath. Pol.* 59.1 Aristotle states that the *thesmothetai* are *kyrioi* (i.e. competent) to prescribe the days on which the courts are to sit, but in *Pol.* 1317b29-30 he asserts that the magistrates in a democracy should be *kyrioi* of nothing or of as few matters as possible.

340 *Kyrios tes poleos* (*Pol.* 1264b34; 1278b10-11; 1279b21; 1281a11; 1314b9) or *tes politeias* (1279b18, 24, 33; 1289a17; 1290a33; 1292b26; 1293a10; 1299a1; 1309a30; 1316b32; 1322b15) or *panton* (1274a4-5; 1278b10; 1281a29; 1282a28; 1285a5; 1285b29-30; 1286a1; 1287a11; 1288a18; 1292a27; 1317a29; 1321b38; 1325a35; *Ath. Pol.* 41.2).

341 Supreme power rests with the *demos* (Arist. *Pol.* 1278b12), = the common people (1279b18-9), who meet in the *ekklesia* (1319a30), the *demos* decides all important issues (1292a11) in the Assembly (1282a28; 1317b28-9) by passing decrees (*psephismata*, 1292a33-6), the *demos* is above the laws (1298b15; 1305a32; 1310a4), and the laws are replaced by *psephismata* (1292a5-7).

342 *Pol.* 1282a34-5: οὐ γὰρ ὁ δικαστὴς οὐδ' ὁ βουλευτὴς οὐδ' ὁ ἐκκλησιαστὴς ἄρχων ἐστίν, ἀλλὰ τὸ δικαστήριον καὶ ἡ βουλὴ καὶ ὁ δῆμος.

343 Note that τὸ κῦρος is sometimes attested in the sense of supreme power or authority, see e.g. Hdt. 6.109.4: κῶς ἐς σέ τοι τούτων ἀνήκει τῶν πρηγμάτων τὸ κῦρος ἔχειν, νῦν ἔρχομαι φράσων; but the noun did not catch on. Similarly, ἡ κυριεία or κυρία is attested in the same sense in the Hellenistic and Roman periods, see e.g. Polyb. 6.15.6: τοῦ γὰρ ἐπαποστεῖλαι στρατηγὸν ἕτερον, ... ἔχει τὴν κυρίαν αὕτη (the Senate). The neuter of the adjective, i.e. τὸ κύριον, does occur as a noun, but then designates a supreme body of government, not a concept of supreme power, see, e.g., Arist. *Pol.* 1267b39-40; 1281a11; 1322b15. For κυριότης in late sources, e.g. *P.Masp.* 151.199 (6th cent. AD).

344 Aischin. 1.177; Dem. 22.46; 23.73; 24.118; 25.20-1; Hyp. 3.5; Arist. *Pol.* 1286a8ff; 1292a5,24; 1293a17,32; 1298b15.

345 Pind. fr. 169a, Maehler, cf. Hdt. 3.38.4; Pl. *Grg.* 484B. Pl. *Symp.* 196C: οἱ πόλεως βασιλῆς νόμοι. Arist. *Rhet.* 1406a22: τοὺς τῶν πόλεων βασιλεῖς νόμους. Pl. *Ep.* 8 354B.7: νόμος ἐπειδὴ κύριος ἐγένετο βασιλεὺς τῶν ἀνθρώπων, ἀλλ' οὐκ ἄνθρωποι τύραννοι νόμων. Parodied by Hippias at Pl. *Prt.* 337B: ὁ δὲ νόμος, τύραννος ὢν τῶν ἀνθρώπων ...

346 Of the two types of monarchy kingship is in accordance with law (κατὰ νόμον), tyranny is domination according to the ruler's will (κατὰ τὴν αὐτῶν γνώμην) (*Pol.* 1295a15-7). The fourth and final form of oligarchy resembles monarchy and the final form of democracy in that men rather than the law have supreme powers (*Pol.* 1293a32: κύριοι γίγνονται οἱ ἄνθρωποι, ἀλλ' οὐχ ὁ νόμος). The ultimate and worst form of democracy is one in which supreme power rests with the common people and not with the law (*Pol.* 1292a4-6: κύριον δ' εἶναι τὸ πλῆθος καὶ μὴ τὸν νόμον). At 1292b5-10 the view is explicitly applied to all three perverted forms of constitution together.

347 Arist. *Pol.* 1286b21-2; 1291b7-13; 1296a22-3; 1301b39-40.

348 For Bodin's account of kingship, as opposed to despotism, see Book 2 Chapter 3, pages 43-53, and for his account of kingship as the most harmonious form of government, see Book 6 Chapter 6, pages 299-312.

349 1284a3-17; 1224b27-34; 1285b20-8; 1287a8-10; 1288a3, 24-9; 1289a39-b1.

350 See P. Carlier, "La notion de *pambasileia* dans la pensée politique d'Aristote," in Piérart (1991) 103-18.

351 Eur. *Suppl.* 429-32: οὐδὲν τυράννου δυσμενέστερον πόλει, ὅπου τὸ μὲν πρώτιστον οὐκ εἰσὶν νόμοι κοινοί, κρατεῖ δ' εἷς τὸν νόμον κεκτημένος αὑτὸς παρ' αὑτῷ.

352 Arist. *Pol.* 1266a2-3; 1293b27-30; 1295a17-24; 1313a34-14a24. See also Soph. *Ant.* 737: πόλις γὰρ οὐκ ἔσθ' ἥτις ἀνδρός ἐσθ' ἑνός. Aen. Tact. 10.11: ταῖς δὲ δημοσίαις ἀφικνουμέναις πρεσβείαις ἀπὸ πόλεων ἢ τυράννων ἢ στρατοπέδων οὐ χρὴ ἐν αὐτοῖς τὸν ἐθελοντα διαλέγεσθαι. H. Berve, *Die Tyrannis bei den Griechen* (München 1967) x: "Der Tyrann is der gegenspieler der Polis", and *passim.*

353 Aesch. *Suppl.* 397-401, 600ff.

354 Barker (1951) 61.

355 Kelsen (1946) 383-5; Stankiewicz (1969) 23.

356 E.g. Meiggs-Lewis, *GHI* 8, ca. 575-50, a law from Chios on the council of the people; *SEG* 9 1, ca. 320 B.C., the constitution of Kyrene which is probably the oldest surviving written constitution in the world.

357 Dem. 18, 20, 22-24; Aechin. 3 and Hyp. 4.

358 Defence: see e.g. Pl. *Resp.* 373E; Arist. *Pol.* 1322a30-b6; foreign trade: see e.g. Pl. *Resp.* 371A; Arist. *Pol.* 1327a25-40.

359 In Plato's dialogues, the *Republic*, the *Statesman* and the *Laws* the noun αὐτονομία and the adjective αὐτόνομος do not occur, not even once. In Aristotle's *Politics* there is one (casual) occurrence of the adjective, *viz.* at 1315a6.

360 One example is Hyp. 6.25 in which *autonomia* is connected with the rule of law: φέρει γὰρ <οὐδὲν> πᾶσαν εὐδαιμονίαν ἄνευ τῆς αὐτονομίας. ο<ὐ> γὰρ ἀνδρὸς ἀπειλήν, ἀλλὰ νόμου φώνην κυριεύειν δεῖ τῶν εὐδαιμόνων.

361 That *autonomia* was a concept used in international relations was pointed out already by Bickerman (1958) 325. For a modification of this essentially correct observation see *infra* page 80.

362 The following section (pages 78-83) is essentially an updated and condensed version of my article "The 'Autonomous City-State'. Ancient Fact or Modern Fiction?" *CPCPapers* 2 (1995) 21-43.

363 One recent example is Oswyn Murray's description of *polis* in *OCD*[3] 1205: "*polis* ... its main features are small size, political *autonomy, social homogeneity, sense of community and respect for law." .... "Autonomy was jealously guarded". The asterisk is a reference to the entry *autonomy* (Gk. αὐτονομία) on page 224. Lehmann (1997) 368 describes the *polis* as "der Typus der autonomen Gemeindesiedlung".

364 Hampl (1939) 16-7; Lévy (1990) 55-6; Raaflaub (1991) 241 note 122; A. Giovannini, "Greek Cities and Greek Commonwealth," in A.W. Bulloch *et alii* (eds.), *Images and Ideologies: Self-Definition in the Hellenistic World* (Berkeley 1993) 268-9, 283.

365 O. Murray, *Early Greece* (2nd edn. London 1993) 62; R. Osborne, *Classical Landscape with Figures* (London 1987) 11.

366 O. Murray & S. Price (eds.), *The Greek City-State From Homer to Alexander* (Oxford 1990) vii; M.I. Finley, "The Ancient City from Fustel de Coulanges to Max Weber and Beyond," in *Economy and Society in Ancient Greece* (London 1989) 4-5; G. Clemente, "Concluding Reflections," in A. Molho, K. Raaflaub, J. Emlen (eds.), *City-States in Classical Antiquity and Medieval Italy* (Stuttgart 1991) 642-3.

367 C.G. Thomas, "The Greek Polis," in R. Griffeth & C.G. Thomas (eds.), *The City-State in Five Cultures* (Santa Barbara 1981) 40; Cf. xiii, xv; L. Bruit Zaidman & P.

Schmitt Pantel, *Religion in the Ancient Greek City*, English edn. translated by P. Cartledge (Cambridge 1992) 7.

368 See M.H. Hansen, "A Typology of Dependent *Poleis*," *CPCPapers* 4 (1997) 29-37.

369 D. Miller (ed.), *The Blackwell Encyclopaedia of Political Thought* (Oxford 1987) 31: "Literally meaning 'self-rule', autonomy is ascribed in popular political parlance to self-governing states, or to institutions or groups within states that enjoy a substantial degree of independence and initiative". – Autonomous regions are, e.g., Tibet and Oman, see Crawford (1979) 211-4, or Jericho and Gaza, see the Israeli Government's report of 2 June 1994, quoted in Hansen (1995B) 23 note 6.

370 *IG* I^3 127.15-6: τοῖς δὲ νόμοις χρῆσθαι τοῖς σφετέροις αὐτῶν (the Samians) αὐτονόμος ὄντας. See Hansen (1995B) 26 with note 24.

371 E. Lévy, "Autonomia et éleuthéria au V^e Siècle," *RPhil* 57 (1983) 256; K. Raaflaub, *Die Entdeckung der Freiheit* (München 1985) 198-200; Hansen (1995B) 25-8;

372 W.G. Forrest, *A History of Sparta* (London 1968) 30; P. Cartledge, *Sparta and Lakonia* (London 1979) 178;

373 Our source is the exchange of words in 371 between Agesilaos and Epameinondas (Paus 9.13.2; Plut. *Ages* 28.1-3), see Hansen (1995B) 25 with note 15. For the opposite view, see A. Keen, "Were the Boiotian *Poleis Autonomoi*?" *CPCPapers* 3 (1996) 115-7; *contra*: M.H. Hansen, "Were the Boiotian *Poleis* Deprived of their *Autonomia* During the First and Second Boiotian Federations? A Reply," *CPCPapers* 3 (1996) 134-6.

374 E. Will, *Le monde grec et l'Orient* I (Paris 1972) 416. Cf. F. Gschnitzer, "Autonomie," *Lexikon der alten Welt* (Zürich & Stuttgart 1965) 419; R. Brock, "*polis*," in G. Speake (ed.), *A Dictionary of Ancient History* (Oxford 1994) 507.

375 Isoc. 12.56: καίτοι πάντες ἴσασι τὰς πόλεις τὰς ὑφ' ἑτέροις γιγνομένας, ὅτι πλεῖστον χρόνον τούτοις παραμένουσιν, ὑφ' ὧν ἂν ἐλάχιστα κακὰ πάσχουσαι τυγχάνουσιν.

376 H.-J. Gehrke, *Stasis. Untersuchungen zu den inneren Kriegen in den griechischen Staaten des 5. und 4. Jahrhunderts v. Chr.* (München 1985) 359: Die Griechen liessen sich relativ leicht beherrschen, paradoxerweise nicht, weil sie zur Servilität geboren waren, sondern im Gegenteil, weil sie nichts mehr perhorreszierten als Herrschaft, die Herrschaft ihres inneren Gegners, und nichts mehr schätzten als Freiheit, die Freiheit von eben dieser Herrschaft". In my opinion, this lucid analysis of the role of *stasis* in Greek society is fully supported by the sources, e.g. by Brasidas' speech in Akanthos as reported by Thucydides at 4.86.4-5: οὐ γὰρ ξυνστασιάσων ἥκω, οὐδὲ ἂν σαφῆ τὴν ἐλευθερίαν νομίζω ἐπιφέρειν, εἰ τὸ πάτριον παρεὶς τὸ πλέον τοῖς ὀλίγοις ἢ τὸ ἔλασσον τοῖς πᾶσι δουλώσαιμι. χαλεπωτέρα γὰρ ἂν τῆς ἀλλοφύλου ἀρχῆς εἴη ... For a different view, dictated by different circumstances see Thuc. 8.48.5.

377 V. Ehrenberg, "Polypragmosyne: a Study in Greek Politics," *JHS* 67 (1947) 48: "Was not Athenian treatment at least of the loyal States moderate? ... But no Greek ... would ever see things in this light ... because they could not help thinking mainly, if not exclusively, in political terms, that is to say in terms of Polis life and in particular of Polis autonomy ... Nothing counted when weighed against the loss of political freedom". Quoted and convincingly contradicted by G.E.M. de Ste. Croix, "The Character of the Athenian Empire," *Historia* 3 (1954-5) 29.

378 E.J. Bickerman, "*Autonomia*: sur un passage de Thucydide (1.144.2)," *RIDA* 5 (1958) 313-44; M. Ostwald, *Autonomia: its Genesis and Early History* (New York 1982); E. Lévy, "Autonomia et éleuthéria au V^e siècle," *RPhil* 57 (1983) 249-70; K. Raaflaub, *Die Entdeckung der Freiheit* (München 1985) 193-207; B. Bosworth, "Autonomia: the

Use and Abuse of Political Terminology," *StIt* 10 (1992) 122-52; D. Whitehead, "Samian Autonomy," in R.M. Rosen & J. Farrell (eds.), *Nomodeiktes: Greek Studies in Honor of Martin Ostwald* (Ann Arbor 1993) 321-9; M. Ostwald, "*Stasis* and *Autonomia* in Samos: A Comment on an Ideological Fallacy," *Scripta Classica Israelica* 12 (1993) 51-66.

379 See Bosworth (1992) 123 and the examples cited in Hansen (1995b) 34.

380 Ostwald (1982) 29; Cf. Bickerman (1958) 327: »La subordination est toujours présente sur l'arrière-plan mental de l'idée d'autonomie«, cf. 328, 330, 337.

381 Lévy (1983B) 256, 260; Raaflaub (1985) 199-200. Attestations of communities which are described as *autonomoi* in the sense of independent are: (1) Asian peoples before they became subjected to the Medes (Hdt.1.96.1). (2) Plataiai in 479 according to the oath taken after the battle of Plataiai (Thuc. 2.71.2, 4; 72.1). (3) Boiotia after the Athenian defeat at Koroneia in 447/6 (Thuc. 1.113.4). (4) Thracian tribes which were independent of the Odrysian kings (Thuc. 2.29.2; 2.96.2-4;2.98.4; 2.101.3). (5) Delphi as stipulated in the Peace of Nikias (Thuc. 5.18.2). (6) The Sikels living inland (Thuc. 6.88.4). (7) Leontinoi, Messene and the Sikels according to the treaty concluded in 405 between Dionysios I and the Carthaginians (Diod.13.114.1). (8) The peoples along the south coast of the Black Sea who, apparently, were never brought under Persian rule (Xen. *Anab.* 7.8.25). (9) The Mysians (*Hell. Oxy.* 24.1, Chambers). (10) The Greek cities in the mainland and on the islands according to the King's Peace when first imposed in 386 and later renewed in 375 (Xen. *Hell.* 5.1.31).

382 Judiciously pointed out by Raaflaub (1985) 198.

383 For references to the sources see Hansen (1995B) 34-5.

384 Thuc. 8.21, see Ostwald (1993) 55.

385 The Arkadian Confederation seems to have been organised on the principle that decisions made by the federal government overruled decisions made by the individual members of the federation: ὅτι νικῴη ἐν τῷ κοινῷ, τοῦτο κύριον εἶναι καὶ τῶν πόλεων (Xen. *Hell.* 6.5.6). If the federal bodies of government are κύριοι τῶν πόλεων, the implication is that the member *poleis* have become ὑπήκοοι and thus no longer αὐτόνομοι.

386 Cf. e.g. *IG* II^2 34, 35, 43. Thuc. 4.86.1; 4.88.1; Thuc. 1.97.1: ἡγούμενοι δὲ αὐτονόμων τὸ πρῶτον τῶν ξυμμάχων καὶ ἀπὸ κοινῶν ξυνόδων βουλευόντων τοσάδε ἐπῆλθον ... Thuc. 5.27.2; 5.79.1; 7.57.3.

387 Thuc. 5.31.2-4 (Elis); 7.57.3 (the Delian League).

388 *IG* II^2 126.13-8: [τὰς δὲ πόλει]ς τὰς Ἑλληνίδας τὰς ἐ[ν Χερρονήσωι ὑποτελούσας Β]ηρισάδει καὶ Ἀμαδόκ[ωι καὶ Κερσεβλέπτηι τὸμ φό]ρον τὸμ πάτριον καὶ Ἀ[θηναίοις τὴν σύνταξιν, ἐλε]υθέρας εἶναι καί αὐτονό[μους ... Note that both terms (φόρος and σύνταξις) have been restored and (with good reason) questioned by Cargill (1981) 127 note 36. – On the willingness to submit to international arbitration cf. Thuc. 5.27.2.

389 The only attestation in Classical sources of a dependency described as *autodikos* and *autonomos* is Rhitteneia, *I.Cret.* 4.80.1, see Perlman (1996) 242-6 and *supra* page 55.

390 E.g. Finley (1981) 4-5; Welwei (1983) 10.

391 Arist. *Pol.* 1252b27-53a1; 1261b10-4; 1275b20-1; 1291a9-10; 1326b2-8; 1328b16-8.

392 Thuc. 5.33.1 & 3; 6.84.2-3; 7.57.3; *Hell. Oxy.* 24.1, Chambers: εἰσὶ γὰρ οἱ πολ[λ]οὶ [τ]ῶν Μυσῶν αὐτ[όνομοι καὶ] βασιλέως οὐχ ὑπακούον[τ]ες.

393 Ps.-Xen. *Ath. Pol.* 2.3; Thuc. 1.8.3; 1.15.2; 2.63.3; 4.108.1; 7.57.3-4; 8.64.1; Xen. *Hell.* 3.1.3; 5.2.15; Isoc. 12.53; Eur. *Heracl.* 286-7.

394 Bickerman (1958) 339; Ostwald (1982) 23; Lévy (1983B) 250-3; Raaflaub (1985) 203-7. See also E. Badian, *From Plataea to Potidaea* (Baltimore 1993) 140.

395 T.T.B. Ryder, *Koine Eirene* (Oxford 1965) 28, 32 (392/1); 39 (387/6); 58 (375), 69-71 (371), 102-4 (338/7); R. Urban, *Der Königsfrieden von 387/6 v. Chr.* (Stuttgart 1991).

396 See the sources listed and discussed in Hansen (1995B) 40-3.

397 See e.g. Cic. *Att.* 6.1.24; 6.2.4. Already Mommsen described the *autonomia* of the Greek cities under Roman rule as "communale Selbstregiment" (*Römische Staatsrecht* III.1 [1888] 658).

398 Hinsley (1986) 27-32, Ober (1996) 30, 108.

399 See Bickerman (1958) 343.

400 For my earlier discussions of this issue see *Was Athens a Democracy?* (1989A) 17-21; "The Political Powers of the People's Court" (1990) 231-2; *The Athenian Democracy* (1991) 61-4, 74-81; "The Ancient Athenian and the Modern Liberal View of Liberty as a Democratic Ideal," (1996D) 91-104.

401 F. de Coulanges, *La cité antique* (Paris 1864) 280-1: "La cité avait été fondée sur une religion et constituée comme une Église. De là sa force; de là aussi son omnipotence et l'empire absolu qu'elle exerçait sur ces membres. Dans une société établie sur de tels principes, la liberté individuelle ne pouvait pas exister. Le citoyen était soumis en toutes choses et sans nulle réserve à la cité; il lui appartenait tout entier. La religion qui avait enfantée l'État, et l'État qui entretenait la religion, se soutenaient l'un l'autre et ne faisaient qu'un; ces deux puissances associées et confondues formaient une puissance presque surhumaine à laquelle l'âme et le corps étaient également asservis".

402 G. Glotz, *La cité greque* (Paris 1928) 2-6;

403 B. Constant, *De la liberté des anciens comparée de celle des modernes* (1819) 495: alongside political participation "les anciens ... admettaient ... l'assujettisement complet de l'individu à l'autorité de l'ensemble. Vous ne trouverez chez eux presque aucune des jouissances que nous venons de voir faisant partie de la liberté chez les modernes". This view is repeated over and over again, see e.g. Tittmann (1822) 16: "Die grosse Ausdehnung der Staatsgewalt bei den Griechen und des Volkes Zufriedenheit damit erklärt sich ... daraus, dass, nach der Richtung des Strebens der Nation und nach ihrer Vorstellung vom Staate, so sehr das gesammte Leben in dem Staate aufging." J.S. Mill, *On Liberty* (1859) 16: "The ancient commonwealths thought themselves entitled to practise, and the ancient philosophers countenanced, the regulation of every part of private conduct by public authority, on the ground that the State had a deep interest in the whole bodily and mental discipline of every one of its citizens ...". Bluntschli (1886) I 62: "Die antike Staatsidee umfasst das gesamte gemeinsame Menschenleben, in Religion und Recht, Sitte und Kunst, Kultur und Wissenschaft. Priesteramt ist Staatsamt. Der antike Staat kennt noch nicht die volle Geistesfreiheit der Individuen".

404 G. Sartori, *Democratic Theory* (Westport 1962) 251: "when we speak of the Greek system as a democratic state we are being grossly inaccurate, both terminologically and conceptually. For what characterised that democracy was that it was stateless, in the precise sense that it dispensed with the State and was a democracy to the extent that the demos replaced the State...". Vincent (1987) 10: There is no Greek or medieval State, at least not as we understand it: these are misnomers. The State is not, apart from some unavoidable conventional usage, the same as the ruling council of a tribe or an empire. Thus there is a great deal to be included under the rubric of a 'stateless society'". Easton (1971) 109, quoted *infra* page 112. Cartledge (1996B) 176: "The Greeks ... did not have the

fortune to know the separately instituted 'State' in any post-Hobbesian sense," with note 12: "with the partical exception of Sparta ancient Greek poleis were technically 'state-less political communities'". Cf. also Wood (1996) 128, quoted *infra* page 94. Held (1987) 17-8; (1995) 6; Vincent (1987) 22;

405 See *supra* page 39 with note 125.

406 Barker (1951) 5: "[the *polis*] went far beyond the legal purpose of declaring and enforcing a body of rules for the control of legal relations. It was State and Society in one, without distinction and differentiation; it was a single system of order, or fused "society-state", of the type unconsciously assumed by Burke in the theory of his *Reflections*". M. Ostwald, *From Popular Sovereignty to the Sovereignty of Law* (Berkeley and Los Angeles 1986) xix: "The absence in ancient Greek of a distinction between "state" and "society" justifies [my] approach, since it indicates that the social and political facets of community life were not as sharply differentiated from the other as they are for us. The same is true of the economy and, to a lesser extent, of religion". Ober (1996) 163: "Viewing the polis as at once society and state I can, I think, contribute in meaningful and useful ways to our understanding of Aristotle's polis and the historical polis". See also Manville (1994) 24.

407 In Plato's *Republic* the *polis* is protected by guardians (φύλακες, first mentioned at 374E) from among whom are selected one or more overseers (ἐπιστάται, first mentioned at 412A-C) and they are more or less omnipotent (φυλακικώτατοι, 412C). In *Laws* the most important officials are the Guardians of the Laws (νομοφύλακες) (752D-55B), the Minister of Education (ὁ τῆς παιδείας ἐπιμελετής) (764C-66B) and the Nocturnal Council (νυκτερινὸς σύλλογος) (951C-52D; 961A-68E), see R.F. Stalley, *An Introduction to Plato's Laws* (Oxford 1983). In Aristotle's *Politics* every well-ordered *polis* has guardians of women, of laws, of children and of gymnastics (γυναικονομία, νομοφυλακία, παιδονομία, γυμνασιαρχία) (Arist. *Pol.* 1322b38-9).

408 Pl. *Resp.* 544A: "But at any rate you said that, if this constitution were right, all others must be wrong, mentioning, if I remember, four varieties as worth considering with an eye to their defects". Pl. *Ep.* VII 326A: "Looking at all the *poleis* which now exist, I perceived that one and all they are badly governed; for the state of their laws is such as to be almost incurable without some marvellous overhauling and good-luck to boot". Arist. *Pol.* 1260b34-5: "we only undertake this inquiry because all the constitutions which now exist are faulty".

409 Pl. *Resp.* 557B-58C; see also *Laws* 701B-C; Arist. *Pol.* 1310a31-6; 1316b23-5; 1317b11-7; Theopomp. (*FGrHist* 115) fr. 62.

410 Xen. *Lac. Pol. passim*, see, e.g., A. Powell, *Athens and Sparta* (London 1988) 214-62.

411 *Lg.* 666Dff: ἡμεῖς γοῦν ... καὶ οἵδε: [i.e. we Kretans and the Spartans. (England 1.315)] ... στρατοπέδου γὰρ πολιτείαν ἔχετε ἀλλ' οὐκ ἐν ἄστεσι κατῳκηκότων, ἀλλ' οἷον ἀθρόους πώλους ἐν ἀγέλῃ νεμομένους φορβάδας τοὺς νέους κέκτησθε.

412 Xen. *Lac. Pol.* 8,1 introduced with the statement: ὅτι μὲν ἐν Σπάρτῃ μάλιστα πείθονται ταῖς ἀρχαῖς τε καὶ τοῖς νόμοις, ἴσμεν ἅπαντες. Cf. Hdt. 7.104.4.

413 Xen. *Lac. Pol.* 10, with the difference between Sparta and other *poleis* stressed in section 4: ἡ Σπάρτη εἰκότως πασῶν τῶν πόλεων ἀρετῇ διαφέρει, μόνη δημοσίᾳ ἐπιτηδεύουσα τὴν καλοκἀγαθίαν.

414 E.g. Pl. *Crit.* 52E. In Plato's *Republic* the Cretan and Spartan constitutions come second to the ideal constitution and before both oligarchy, democracy and tyranny (*Resp.* 544C); In Aristotle's *Politics* the Spartan constitution is described alongside the Cretan

and the Carthagenian constitutions as the best among the existing *politeiai* (*Pol.* 1269a29-71b19, see also 1288b41-89a1; 1293b16-8; 1296a18-21). We must not forget, however, that both Plato and Aristotle took a very critical view of many Spartan institutions; Aristotle's account in Book 2 of this allegedly well ordered *polis* amounts to one long series of points of criticism. The philosophers' principal reservation is that Spartan society is one-eyed and focused on the military aspects of human life (Pl. *Lach.* 182E; Arist. *Pol.* 1271b2-3; 1324b7-9; 1333b12-35; 1334a40-b4; 1338b9-14). But in spite of the frequent strictures passed on Sparta by Plato and Aristotle their basic view seems to be that it is better to be one-eyed than blind. For an illuminating account of Plato and Aristotle's view of Sparta see E. Rawson, *The Spartan Tradition in European Thought* (Oxford 1969) 61-80.

415 Arist. *Eth. Nic.* 1180a24-30; *Pol.* 1337a31-2.

416 Plut. *Lycurg.* 24.1: οὐδεὶς γὰρ ἦν ἀφειμένος ὡς ἐβούλετο ζῆν, ἀλλ' οἷον ἐν στρατοπέδῳ τῇ πόλει, καὶ δίαιταν ἔχοντες ὡρισμένην καὶ διατριβὴν περὶ τὰ κοινὰ, καὶ ὅλως νομίζοντες οὐχ αὑτῶν, ἀλλὰ τῆς πατρίδος εἶναι, διετέλουν .... cf. 15.14, and Pl. *Resp.* 520A-B; *Lg.* 666E; Isoc. 6.81.

417 Thuc. 2.39; Eur. *Suppl.* 187-8, Xen. *Mem.* 3.12.5 see Powell (1988) 155-6.

418 Dem. 20.105-8, cf. Hyp. 4.1. See *supra* page 12. The praise in fourth-century Athens of the ancestral democracy, however, entailed a much more positive evaluation in Attic oratory of Spartan institutions, see N.R.E. Fisher, "Sparta Re(de)valued: Some Athenian Public Attitudes to Sparta between Leuctra and the Lamian War," in A. Powell and S. Hodkinson (eds.), *The Shadow of Sparta* (London 1994) 347-400.

419 Musti (1985). The following section is a partly rewritten and better documented version of Hansen (1989A) 18-9; (1990) 231-3 and (1991) 79-81.

420 Dem. 24.192-3: ἔστιν, ὦ ἄνδρες Ἀθηναῖοι, δύ' εἴδη περὶ ὧν εἰσιν οἱ νόμοι κατὰ πάσας τὰς πόλεις ὧν τὸ μέν ἐστιν, δι' ὧν χρώμεθ' ἀλλήλοις καὶ συναλλάττομεν καὶ περὶ τῶν ἰδίων ἃ χρὴ ποιεῖν διωρίσμεθα καὶ ζῶμεν ὅλως τὰ πρὸς ἡμὰς αὐτούς, τὸ δέ, ὃν τρόπον δεῖ τῷ κοινῷ τῆς πόλεως ἕν' ἕκαστον ἡμῶν χρῆσθαι, ἂν πολιτεύεσθαι βούληται καὶ φῇ κήδεσθαι τῆς πόλεως. ἐκείνους μὲν τοίνυν τοὺς νόμους τοὺς περὶ τῶν ἰδίων ἠπίως κεῖσθαι καὶ φιλανθρώπως ὑπὲρ τῶν πολλῶν ἐστιν· τούσδε δὲ τοὺς περὶ τῶν πρὸς τὸ δημόσιον τοὐναντίον ἰσχυρῶς καὶ χαλεπῶς ἔχειν ὑπὲρ ὑμῶν ἐστιν. For εἶδος in the sense of sphere, sector, province see e.g. Arist. *Pol.* 1286a3.

421 Dem. 18.210: ἐπεὶ οὐδ' ὑμᾶς, ἄνδρες Ἀθηναῖοι, ἀπὸ τῆς αὐτῆς διανοίας δεῖ τάς τ' ἰδίας δίκας καὶ τὰς δημοσίας κρίνειν, ἀλλὰ τὰ μὲν τοῦ καθ' ἡμέραν βίου συμβόλαια ἐπὶ τῶν ἰδίων νόμων καὶ ἔργων σκοποῦντας, τὰς δὲ κοινὰς προαιρέσεις εἰς τὰ τῶν προγόνων ἀξιώματ' ἀποβλέποντας.

422 Athens: *IG* I^{3} 105.29; Thuc. 2.37.1-2; Eur. *Or.* 766; Ar. *Eccl.* 206-8; Xen. *Hell.* 1.4.13; Lys. 12.2; Andoc. 1.9; Pl. *Resp.* 458C; Isoc. 7.31; Dem. 20.136; Aeschin. 1.30; Is. 7.30; Lycurg. 1.3; Din. 2.8; Hyp. 5.30; Arist. *Pol.* 1330a9ff; law quoted at Dem. 46.26. The Athenian evidence is massive and I have restricted myself to presenting one reference to each author, one to an inscription and one to a law. For the distinction attested outside Athens see, e.g., *IG* V.2 6A.II.39, Tegea ca. 350; *IG* XII.9 189.36-7, Eretria ca. 300; Hornblower, Mausolos M7.2, Labraunda.

423 In Athenian sources the noun ἰδιώτης is used in two different senses to denote either (1) the active ordinary citizen who takes an active part in the running of the political institutions, but only occasionally and never professionally, or (2) the passive citizen who avoids all involvement in the affairs of the city. For *idiotes* in sense (1) see, e.g., Aeschin. 3.214; Dem. 24.112; *IG* II^{2} 16.19; for sense (2), the one I refer to in this context, see, e.g.,

Aeschin. 1.195; 3.125; 3.252; Dem. 10.70; 26.3-4. For the distinction see Hansen (1989B) 13-4 with note 37 and Rubinstein (1998).

424 Dem. 3.25-9; 13.30; 21.17; 23.207-8; 55.16, all about Athens. Arist. *Pol.* 1321b19-23: in every *polis* a board of *astynomoi* are entrusted with the inspection of private and public buildings and property. Arist. *Pol.* 1267b33-4: in the ideal *polis* invented by Hippodamos of Miletos there is a tripartition into sacred, public and private space. Precisely the same distinction is found in a fourth-century law from Tegea (*IG* V.2 6A.39). See M.H. Jameson, "Private Space and the Greek City," in Murray and Price (1990) 171-95; Hansen (1997A) 12-7.

425 Xen. *Hell.* 1.4.13; Dem. 18.255, 295; 19.1; 21.8; Hyp. 1.39.

426 Lys. 19.18; Andoc. 3.20; Isoc. 7.24; Dem. 11.20; 49.23; 50.7, 26-8; Din. 2.18.

427 Pl. *Euthphr.* 2A; Dem. 46.26 (quoting a *nomos*).

428 Dem. 21.25-8, 32, 44-5; Pl. *Lg.* 767B; Arist. *Rhet.* 1373b18-24.

429 Hyp. 3.27-30.

430 Dem. 21.26, 31-4.

431 Aeschin. 3.252-3; Dem. 25.40; 26.3-4.

432 Lys. 1.44; Is. 11.32; Pl. *Euthphr.* 2A; Dem. 22.25-8; 46.26 (*nomos*); Arist. *Ath. Pol.* 56.6. Cf. J.H. Lipsius *Das attische Recht und Rechtsverfahren* i-iii (Leipzig 1905-15) 237-62.

433 Isoc. 20.2, cf. M.H. Hansen, "The Prosecution of Homicide in Athens: A Reply," *GRBS* 22 (1981) 12-3.

434 M.H. Hansen, *Apagoge, Endeixis and Ephegesis* (Odense 1976) 74; *idem*, "*Atimia* in Consequence of Private Debts," *Symposion 1977* (Köln 1982) 113-20.

435 In Dem. 21.32, for example, the *graphe hybreos* is described as a type of (public) action to be used in the private sphere.

436 *Skepseis* brought by trierarchs are heard by courts manned with 201 jurors, i.e. they are considered to be private and not public actions, see *IG* II^2 1629.204-17.

437 Ch. Taylor, "What's Wrong with Negative Liberty?" in A. Ryan (ed.), *The Idea of Freedom. Essays in Honour of Isaiah Berlin* (Oxford 1979) 175-7.

438 Thuc. 2.37.2: "Freedom is a feature of our public life; and as for suspicion of one another in our daily private pursuits, we do not frown on our neighbour if he behaves as he pleases or set our faces in those expressions of disapproval that are so disagreeable, however harmless". Grammatically πολιτεύομεν goes with ἔχοντες as well as with the first part of the period (Steup/Classen *ad locum*), but, as usual in Thucydides, the sense is twisted; ὑποψία and δι' ὀργῆς ἔχειν reveal that in the private sphere the Athenian citizens are acting emotionally as persons and no longer as members of decision-making institutions. The phrase ἐλευθέρως δὲ τά τε πρὸς τὸ κοινὸν πολιτεύομεν is indeed enigmatic. As pointed out by Kakridis 29-30 the passage must be read as a continuation of what precedes: [no man is by poverty barred from participation in public life]. On the other hand, freedom is a feature of our public life, i.e. no man is *forced* to participate and to devote his entire life to public matters (as citizens are in Sparta and similar *poleis*). Thus, I follow Gomme: "Perikles asserts that in Athens the important principle was observed that, though there was majority rule, there was no tyranny by the majority over individuals, either in public or in private affairs". Gomme pertinently refers to Nikias' speech: τῆς ἐν αὐτῇ ἀνεπιτάκτου πᾶσιν ἐς τὴν δίαιταν ἐξουσίας (7.69.2) and points out that in the case of Alkibiades, the Athenians did not live up to their own ideals: ἕκαστοι τοῖς ἐπιτηδεύμασιν αὐτοῦ ἀχθεσθέντες (6.15.4) (*Commentary* 2.11).

439 J.S. Mill, *On Liberty* (1859) 17: "there is also in the world at large an increasing in-

clination to stretch unduly the powers of society over the individual, both by the force of opinion and even by that of legislation; and as the tendency of all the changes taking place in the world is to strengthen society, and diminish the power of the individual, this encroachment is not one of the evils which tend spontaneously to disappear, but, on the contrary, to grow more and more formidable".

440 Gramsci (1975) 12 §1, quoted *supra* note 208.

441 P. Schmitt-Pantel, "Collective Activities and the Political in the Greek City," in Murray & Price (1990) 208. One of Schmitt-Pantel's principal arguments is that anything described as *koinon* or a *koinonia* must belong in the public sphere. But this linguistic observation does not hold up to scrutiny. The *oikos* (household), for example, is a *koinonia* (Arist. *Pol.* 1252b10) but in scores of passages it is nevertheless described as *idios*, see Appendix III *infra* page 135 with notes 636 and 638. Conversely, not everything called *idion* belonged in the private sphere: the noun *idiotes* is often juxtaposed with the noun *rhetor* and used almost as a technical term to denote the true democratic citizen who occasionally – and not professionally – moves a *psephisma* or brings a *graphe*, see *supra* note 423. Our understanding of the distinction between the private and the public in ancient Greece must be based on passages in which the adjectives *idios* and *koinos* are juxtaposed. For a similar "trap" cf. the adjective *hosios* which in isolation means sacred but juxtaposed with *hieros* means profane. Or the modern term "society" which used in opposition to the term state belongs in the private sphere but opposed to the term individual is used almost synonymously with state and belongs in the public sphere of life.

442 Thuc. 2.37.3: ἀνεπαχθῶς δὲ τὰ ἴδια προσομιλοῦντες τὰ δημόσια διὰ δέος μάλιστα οὐ παρανομοῦμεν ...

443 Dem. 25.51-2.

444 Anaximenes *Rhet ad Alex.* 1421b17-20: καὶ πρῶτον μὲν τὰς προτροπὰς καὶ ἀποτροπάς, ἐπείπερ ἐν ταῖς ἰδίαις ὁμιλίαις καὶ ταῖς κοιναῖς δημηγορίαις ἐν τοῖς μάλιστα αὐτῶν χρῆσίς ἐστι, διέλθωμεν. "First let us discuss exhortation and dissuasion, as these are among the forms most employed in private conversation and in public deliberation." See also Xen. *Mem.* 3.7.5.

445 Is. 7.30; Dem. 20.57.

446 *Dig.* 47.22.4 (= fr. 76a, Ruschenbusch): ἐὰν δὲ δῆμος ἢ φράτορες ἢ ὀργεῶνες ἢ γεννῆται ἢ σύσσιτοι ἢ ὁμόταφοι ἢ θιασῶται ἢ ἐπὶ λείαν οἰχόμενοι ἢ εἰς ἐμπορίαν ὅτι ἂν τούτων διαθῶνται πρὸς ἀλλήλους, κύριον εἶναι, ἐὰν μὴ ἀπαγορεύσῃ δημόσια γράμματα ..... Lambert pages 86, 90.

447 For this opposition, see Pl. *Cri.* 50A-54D, especially 50B: ἢ δοκεῖ σοι οἷόν τε ἔτι ἐκείνην τὴν πόλιν εἶναι καὶ μὴ ἀνατεθράφθαι, ἐν ᾗ ἂν αἱ γενόμεναι δίκαι μηδὲν ἰσχύωσιν ἀλλὰ ὑπὸ ἰδιωτῶν ἄκυροί τε γίγνωνται καὶ διαφθείρωνται; Thuc. 2.60.2: ἐγὼ γὰρ ἡγοῦμαι πόλιν πλείω ξύμπασαν ὀρθουμένην ὠφελεῖν τοὺς ἰδιώτας ἢ καθ' ἕκαστον τῶν πολιτῶν εὐπραγοῦσαν, ἀθρόαν δὲ σφαλλομένην ... cf. 1.82.6; 1.144.3; 3.10.1; 3.82.2, cf. S. Hornblower, *Thucydides* (London 1987) 178; Aeschin. 3.158; Pl. *Symp.* 178D; *Grg.* 507D; *Resp.* 578D-E; Arist. *Prob.* 952b33.

448 See Aeschin. 3.233: ἀνὴρ γὰρ ἰδιώτης ἐν πόλει δημοκρατουμένῃ νόμῳ καὶ ψήφῳ βασιλεύει (here the *idiotes* is an individual citizen, exercising his political rights); Lys. 16.18: ἀλλ' οὐκ εἴ τις κομᾷ διὰ τοῦτο μισεῖν· τὰ μὲν τοιαῦτα ἐπιτηδεύματα οὔτε τοὺς ἰδιώτας οὔτε τὸ κοινὸν τῆς πόλεως βλάπτει (here the *idiotes* is an individual moving in the private sphere).

449 E.g. the κοινωνικά mentioned by Demosthenes in the speech on the symmories (Dem. 14.16). The term is explained by Harpokration s.v. and his note ends as follows:

τάχα δὲ καὶ περὶ τῶν ἐκουσίον κοινωνίαν συνθεμένων ἐμπορίας ἤ τινος ἄλλου, ὧν ἕκαστος οὐκ εἶχε τὸ ὅλον τίμημα τῆς κοινῆς οὐσίας.

450 For the definition of a political party, see Sartori (1976) 58-64; for the parties as semi-private or semi-public associations, see Barker (1951) 67; Bobbio (1989) 25.

451 Pl. *Resp.* 371B: ὧν δὴ ἕνεκα καὶ κοινωνίαν ποιησάμενοι πόλιν ᾠκίσαμεν. Harp. s.v. κοινωνικῶν: ... τάχα δὲ καὶ περὶ τῶν ἐκούσιον κοινωνίαν συνθεμένων ἐμπορίας ἤ τινος ἄλλου, ὧν ἕκαστος οὐκ εἶχε τὸ ὅλον τίμημα τῆς κοινῆς οὐσίας.

452 Dem. 59.28; τοὺς μὲν φύσει πολίτας καὶ γνησίως μετέχοντας τῆς πόλεως. Cf., e.g., Lys. 6.48; Dem. 26.2; 57.51; Arist. *Ath. Pol.* 8.6; 26.3; *Pol.* 1275a21-33; 1329a20; *I. Iasos* 48; Milet I 3 (1914) 136 = *Syll.*[3] 286.20. Soph. *OT* 629-30: OI. ὦ πόλις, πόλις. KP. κἀμοὶ πόλεως μέτεστιν. οὐχὶ σοὶ μόνῳ.

453 See *supra* pages 20 and 57-9.

454 Hansen (1987) 56, 118. See page 69.

455 In the speech *Against Timarchos* Aischines quotes some laws about the age of children sent to school, the number of children in a class, opening hours of schools and sports centres, etc. (Aeschin. 1.9-11); for laws on schools see also Pl. *Cri.* 50C-E. Again, the grain trade was regulated through legislation and the following laws are known from the forensic speeches: it is forbidden to purchase more than fifty *phormoi* of grain at a time (Lys. 22.6); it is a capital offence for persons resident in Athens to ship grain to harbours other than the Piraeus (Dem. 34.37); any grain ship touching in at the harbour of the Piraeus is required to unload at least two-thirds of her cargo and may re-export a maximum of one third (Arist. *Ath. Pol.* 51.4); it is forbidden for persons resident in Athens to extend a maritime loan unless the ship under contract conveys grain to the Piraeus (Dem. 56.6, 11).

456 For *praotes* as a democratic ideal see: Pl. *Resp.* 558A, 562D; Isoc. 14.17; Dem. 22.51 = 24.163; 24.69; 24.190-6; Hyp. 1.25; Arist. *Ath. Pol.* 22.4. That the laws ought not to be too severely enforced in private matters is argued by Demosthenes at 25.85-91.

457 Hansen (1987) 108-18.

458 K. Dover, "The Freedom of the Intellectual in Greek Society," in *The Greeks and their Legacy* (Oxford 1988) II, 135-58; M.H. Hansen, *The Trial of Sokrates – From the Athenian point of View* (Copenhagen 1995) 19-21. The possibility and actual occurrence of restrictions are emphasised by Mulgan (1984) 15.

459 On the prosecution of persons who profaned the mysteries cf. the trial of Diagoras of Melos in 433/2(?), described by Jacoby (1959); the trial of Alkibiades and thirty others in 415/4, described in Hansen (1975) Cat. Nos. 11-40. On the prosecution of persons who introduced new cults without proper authorisation, see the trial of Phryne (Hyp. frr. 202-10, Sauppe), the trial of Ninos (Dem. 39.1; 40.9; 19.281 with scholia); the trial of Theoris (Dem. 25.79; Philoch. fr. 60) and, of course, the trial of Sokrates. The principal charge brought against Sokrates was probably not atheism but rather that he introduced other new divinities by referring to his *daimonion* as the source of his prophecies, see Hansen (1995A) 24-6; On the trials of Andokides and Nikomachos in 400-399, see Connor (1991).

460 Plut. *Per.* 32.5; *Nic.* 23.4; Diod. 12.39.2; Diog. Laert. 2.12-4. The trial is dismissed by Dover (1988) 138-41, but defended by Ph. Stadter, *A Commentary on Plutarch's Pericles* (Chapel Hill 1989) 298-9.

461 Plut. *Per.* 32.2-5; *Mor.* 169E; Diod. 12.39.2; Diog. Laert. 2.12.

462 Mulgan (1984) 15-6.

463 If we can trust the scholia to Ar. *Ach.* 67 a decree limiting the right to ridicule indi-

viduals in comedies was passed in 440/39, but abrogated again in 437/6. We have no information about any trial warranted by this act, cf. also Schol. Ar. *Av.* 1297. Again, if we can trust the scholiast's interpretation of Ar. *Ach.* 376-82, Kleon, because he had been ridiculed in the *Babylonians*, dragged Aristophanes before the Council of Five Hundred and accused him of having made fun of the magistrates in the presence of foreigners. But Aristophanes does not say that he was put on trial, and even supposing that Kleon did bring some kind of public action, we must infer that Aristophanes had been acquitted.

464 Finley (1985) 116.

465 Waltman & Holland (1988) 108: "First, Parliament may legislate on any subject whatsoever; and second, no other public body may move to nullify an act of Parliament. In logic, this leaves no room at all for the rule of law".

466 Arist. *Pol.* 1274b41; 1276b1-2. See *supra* pages 57-62.

467 Ar. *Eccl.* 210ff; Pl. *Resp.* 451C-57B.

468 Arist. *Pol.* 1275a7-8; 1326a16-21. Dem. 9.3.

469 Metics and slaves were excluded from political assemblies (Dem. 9.3). The type of public action to be used in case of infringement was summary arrest, see Hansen (1976) 55-6. The sentence was fixed at the discretion of the court (*ibidem* 96-8), and since we have an attestation of capital punishment inflicted on an *atimos* citizen who served as a juror (Dem. 21.182), it is reasonable to assume, *a fortiori*, that metics and slaves would have risked their lives if they attempted to attend a session of the assembly, the council or the law courts.

470 Ps.-Xen. *Ath. Pol.* 1.12; Dem. 9.3.

471 Pl. *Resp.* 563A-C.

472 Thuc. 2.45.2.

473 K.J. Dover, *Greek Popular Morality in the Time of Plato and Aristotle* (Oxford 1974) 157-8; Mulgan (1984) 13-4; Ostwald (1996) 53-57; Cartledge (1996B) 182 note 12. Noted already by, e.g., Bluntschli (1886) I 61.

474 Finley (1963) 49; (1985) 116; Mulgan (1984) 16.

475 Miller (1995) 88-9; for an interpretation of "all men are created equal", see F. McDonald, *Novus Ordo Seclorum. The Intellectual Origins of the Constitution* (Lawrence 1985) 50-5.

476 *Pace* Ostwald (1996) 53 with note 18: "Aristotle shares with the Declaration of Independence the belief that all men are 'by nature' equal" supported by a reference to *Pol.* 1261a39-b2: διὰ τὸ τὴν φύσιν ἴσους εἶναι πάντας. But here and elsewhere in the *Politics* the reference to equals is to adult male (Hellenic) citizens, whereas, in a every well-ordered *polis*, women, slaves, barbarians and *banausoi* are excluded. Thus, those who are equal are the adult male citizens in a polity or aristocracy – the only two types of constitution in which the *polis* is governed by equals who take turns ruling and being ruled. For a brief account of Aristotle's hierarchical anthropology, see Miller (1995) 217-8. For ancient democratic equality being an equality of opportunity only, see Hansen (1989A) 21-5.

477 Duly noted by R.W. Wallace in "Law, Freedom, and the Concept of Citizens' Rights in Democratic Athens," in Ober and Hedrick (1996) 109.

478 Argued and documented by Ostwald (1996) 55-7.

479 Dem. 9.3, quoted *supra* page 60 with note 1.

480 It has recently been argued that Aristotle in *Politics* pursues a line of thought that is not far removed from the modern notion of rights, see Miller (1995). For the debate provoked by Miller's book see *The Review of Metaphysics* 49 (1996) 731-907.

481 Ostwald (1996) 56.

482 Dem. 10.70-4; 18.308; 19.99.

483 Lys. 19.18, 55; Is. 1.1; Isoc. 15.38; Pl. *Apol.* 17D. See Hansen (1989A) 10 with notes 59-60.

484 Lys. 19.7; 22.2; Andoc. 1.94; Isoc. 15.22; Dem. 25.87. One of the principal charges against the oligarchic regime of 404-3 was that the Thirty had executed hundreds of Athenian citizens without trial, see Lys. 12.36, 82, 83; Isoc. 7.67; 20.11; Aeschin. 2.77; 3.235. Hansen (1989A) 13.

485 Arist. *Ath. Pol.* 52.1, cf. Hansen (1976) 119 and (1990) 234 note 93.

486 Lys. 19.7; Dem. 25.87.

487 Andoc 1.43; see D.M. MacDowell, *Andokides. On the Mysteries* (Oxford 1962) 92-3.

488 Dem. 22.55: καὶ μὴν εἰ θέλετε σκέψασθαι τί δοῦλον ἢ ἐλεύθερον εἶναι διαφέρει, τοῦτο μέγιστον ἂν εὕροιτε, ὅτι τοῖς μὲν δούλοις τὸ σῶμα τῶν ἀδικημάτων ἁπάντων ὑπεύθυνόν ἐστιν, τοῖς δ' ἐλευθέροις, κἂν τὰ μέγιστ' ἀτυχῶσιν, τοῦτο γ' ἔνεστι σῶσαι εἰς χρήματα γὰρ τὴν δίκην περὶ τῶν πλείστων παρὰ τούτων προσήκει λαμβάνειν. See Saunders (1991) 339-40.

489 Dem. 18.132: ... βοῶν ὁ βάσκανος οὗτος καὶ κεκραγώς, ὡς ἐν δημοκρατίᾳ δεινὰ ποιῶ τοὺς ἠτυχηκότας τῶν πολιτῶν ὑβρίζων καὶ ἐπ' οἰκίας βαδίζων ἄνευ ψηφίσματος ...

490 Dem. 22.52: οὗτος τοίνυν (Androtion) τοσαύτην ὑπερβολὴν ἐποιήσατ' ἐκείνων (the Thirty) τῆς αὐτοῦ βδελυρίας ὥστ' ἐν δημοκρατίᾳ πολιτευόμενος τὴν ἰδίαν οἰκίαν ἑκάστῳ δησμωτήριον καθίστη, τοὺς ἔνδεκ' ἄγων ἐπὶ τὰς οἰκίας.

491 Arist. *Ath. Pol.* 56.2. Cl. Mossé, "La démocratie Athénienne et la protection de la propriété," *Symposium* 4 (1981), 262-71.

492 P.J. Rhodes, *A Commentary on the Aristotelian* Athenaion Politeia (Oxford 1981) 622.

493 J. Rawls, "The Basic Liberties and Their Priority," in S.M. McMurrin (ed.), *Liberty, Equality and Law* (Salt Lake City 1987) 55-79.

494 Eur. *Hippolytos* 421-3; Dem. 45.79; *Ep.* 3.13. K. Raaflaub, "Des freien Bürgers Recht der freien Rede," in *Studien zur antiken Sozialgeschichte: Festschrift Friedrich Vittinghoff* (Köln 1980).

495 Dem. 20.105-8.

496 For the *euthynai*, see Arist. *Ath. Pol.* 48.4-5. Furthermore, a whole range of public actions were specifically designed to be brought against magistrates who were remiss in their duties and/or maltreated individual citizens, e.g. the *graphe bouleuseos*, referred to in *IG* II^2 1629.385-98. If the Superintendents of the Dockyards do not duly record the return of some oars by Sopolis, a former trierarch, then, since the *polis* has now received the oars in question, Sopolis and his relatives are entitled to bring a *graphe bouleuseos* against the magistrates. The text explicitly states that the oars are returned to the *polis* (387, 396) which, at the trial are represented by the Superintendents.

497 Lys. 28.7: ἐνθυμεῖσθε γάρ, ὦ ἄνδρες Ἀθηναῖοι, ὅτι οὐκ Ἐργοκλῆς μόνος κρίνεται, ἀλλὰ καὶ ἡ πόλις ὅλη.

498 de Coulanges (1864) 281: "à Locres, la loi défendait aux hommes de boire du vin pur; à Rome, à Milet, à Marseille, elle le defendait aux femmes".

499 The sources adduced are Ael. *VH* 2.37 and Ath. 429A: παρὰ δὲ Λοκροῖς τοῖς Ἐπιζηφυρίοις εἴ τις ἄκρατον ἔπιε μὴ προστάξαντος ἰατροῦ θεραπείας ἕνεκα, θάνατος ἦν ἡ ζημία Ζαλεύκου τὸν νόμον θέντος. παρὰ δὲ Μασσαλιήταις ἄλλος νόμος τὰς

γυναῖκας ὑδροποτεῖν. ἐν δὲ Μιλήτῳ ἔτι καὶ νῦν φησι Θεόφραστος τοῦτ' εἶναι τὸ νόμιμον.

500 Manufacture and distribution of alcoholic beverages were prohibited in 1919 by the 18th amendment to the Constitution, and the prohibition was lifted only in 1933 by the passing of the 21st amendment.

501 Held (1987) 17-8; (1995) 6; Vincent (1987) 22.

502 Wood (1996) 128.

503 P. Cerny, *The Changing Architecture of Politics* (London 1990) 189-95, paraphrased by Pierson (1996) 93.

504 K. Mannheim, *Freedom, Power and Democratic Planning* (London 1951) 44; N. Bobbio, *The Future of Democracy* (Oxford 1987) 111.

505 J. Velissaropoulos-Karakostas, "Νηποινεὶ τεθνάναι," *Symposion 1990* (Köln 1991) 93-105.

506 Dem. 23.23-43; Dem. 21.29, and 74-6.

507 O. Murray, "*Polis*," in *The Oxford Classical Dictionary* (3rd edn. Oxford 1996) 1206.

508 Berlin (1969) 129; Bleicken (1994) 431-2.

509 B. Constant, *De la liberté des anciens comparée a celle des modernes* (1819) reprinted in: M. Gauchet, *De la liberté chez les modernes: écrits politiques* (Paris 1980) 491-515.

510 In an attempt to assimilate Athens to Sparta Fustel de Coulanges refers to the laws on marriage: "la loi athénienne, au nom de la religion, défendait à l'homme de rester célibataire. Sparta punissait non-seulement celui qui ne se mariait pas, mais même celui qui se mariait tard" (281). The source for the Athenian law is Pollux' reference at 8.40 to a γραφὴ ἀγαμίου which is universally rejected by all modern students of Athenian law, see, e.g., Lipsius (1905-15) 337-8.

511 Constant (1819) 500; cf. note 8: "L'on jouissait à Athènes d'une liberté individuelle beaucoup plus grande qu'à Sparta, parce qu'Athènes était à la fois guerrière et commerçante et que Sparta était exclusivement guerrière...". and note 14: "Si le caractère tout a fait moderne des Athéniens n'a pas été suffisament remarqué, c'est que l'esprit général de l'époque influait sur les philosophes, et qu'ils écrivaient toujours en sens inverse des mœurs nationales". It should be added, however, that Constant is critical of ostracism, and believes that here Athens was like other Greek *poleis* and exercised a form of state tyranny over its members (507).

512 G. Grote, *History of Greece* VI 180 (Everyman's Library edn.).

513 Schuller (1991) 145-6.

514 E. Ruschenbusch, *Untersuchungen zu Staat und Politik in Griechenland vom 7.-4. Jh. v. Chr.* (Bamberg 1977) 12; *idem*, "Die Zahl der griechischen Staaten und Arealgrösse und Bürgerzahl der "Normalpolis"," *ZPE* 59 (1985) 253-63.

515 R. Etienne & D. Knoepfler, *Hyettos de Béotie et la chronologie des archontes fédéraux entre 250 et 171 avant J.-C.* (Paris 1976) *BCH* Suppl. 3.; G. Shipley, *A History of Samos 800-188 B.C.* (Oxford 1987); J.G. Vinogradov & S.D. Kryžickij, *Olbia. Eine altgriechische Stadt im Nordwestlichen Schwarzenmeerraum* (Leiden 1995).

516 H.-J. Gehrke, *Jenseits von Athen und Sparta. Das Dritte Griechenland und seine Staatenwelt* (München 1986).

517 οἱ μὲν ἄλλοι or οἱ μὲν ἄλλοι Ἕλληνες usually followed by ὁ δὲ Λυκοῦργος: Xen. *Lac. Pol.* 1.3*bis*, 5, 10; 2.1, 14; 3.1; 4.7; 5.2.

518 ἐν μὲν ταῖς ἄλλαις πόλεσι usually followed by ὁ δὲ Λυκοῦργος, Xen. *Lac. Pol.* 1.2; 5.5; 6.1; 7.1; 8.2, 4; 9.4; 10.5; see also 2.14; 10.4, 8.

519 *Lac. Pol.* 10.8: καὶ γὰρ τὸ πάντων θαυμαστότατον ἐπαινοῦσι μὲν πάντες τὰ τοιαῦτα ἐπιτηδεύματα, μιμεῖσθαι δὲ αὐτὰ οὐδεμία πόλις ἐθέλει.

520 Xen. *Lac. Pol.* 8.1-2: ἀλλὰ γὰρ ὅτι μὲν ἐν Σπάρτῃ μάλιστα πείθονται ταῖς ἀρχαῖς τε καὶ τοῖς νόμοις, ἴσμεν ἅπαντες ... ἐν μὲν ταῖς ἄλλαις πόλεσιν οἱ δυνατώτεροι οὐδὲ βούλονται δοκεῖν τὰς ἀρχὰς φοβεῖσθαι, ἀλλὰ νομίζουσι τοῦτο ἀνελεύθερον εἶναι.

521 See especially Hdt. 7.139 and Ch. Fornara, *Herodotus. An Interpretative Essay* (Oxford 1971) 74, 80, 44-58. Herodotos did visit Athens (Hdt. 5.77.3-4), but we do not know how long he stayed, and we do not have to trust the apocryphal story that he was paid 10 talents for a lecture he gave there (Plut. *Mor.* 862A-B).

522 See F. Hartog, *Le miroir d'Hérodote* (Paris 1980) 166-70, especially page 170; P. Cartledge, *The Greeks* (Oxford 1993) 80-2.

523 Perlman's inventory of Cretan *poleis*, forthcoming.

524 See the fundamental study by P. Perlman, "One Hundred-Citied Crete and the 'Cretan ΠΟΛΙΤΕΙΑ'," *CP* 87 (1992) 193-205.

525 O. Murray, *Early Greece* (2nd edn. 1993) 176-7.

526 Perlman (1992) 204.

527 Thuc. 1.18.1; Xen. *Lac. Pol.* 14.1; 15.1; Pl. *Lg.* 691D-92A. Aristotle, on the other hand, was aware of several important changes of the Spartan constitution, especially the introduction of the ephorate (fr. 611, Rose and *Pol.* 1313a26-30).

528 See Osborne (1996) 77, 180.

529 Bleicken (1994) 47, 417-21.

530 Bleicken (1994) 47, 418, 420. *Contra*: Robinson (1997) 129.

531 J. Ober, *The Athenian Revolution* (Princeton 1996) 5 with note 6.

532 R. Sinclair, *Democracy and Participation* (Cambridge 1988) 218. One source which explicitly supports this view is Dem. 10.4: καὶ πόλις δημοκρατουμένη βεβαίως οὐκ οἶδ' εἴ τίς ἐστι τῶν πασῶν λοιπὴ πλὴν ἡ ἡμετέρα. Note that Demosthenes claims that Athens is almost the only existing *stable* democracy, not that it is the only democracy. Furthermore, the statement is highly rhetorical and its veracity not beyond dispute.

533 Bleicken (1994) 419: "Mit grosser Wahrscheinlichkeit haben die meisten Städte vor der Begegnung mit Athen überhapt keinen besonderen Verfassungsbegriff gekannt".

534 J.L. O'Neil, *The Origins and Development of Ancient Greek Democracy* (Lanham 1995); E. W. Robinson, *The First Democracies. Early Popular Government Outside Athens*. *Historia* Einzelschriften 107 (Stuttgart 1997).

535 *Pol.* 1290a13-6; 1291b7-13; 1296a22-3; 1301b39-40.

536 *Pol.* 1286b20-22: since *poleis* have increased in size it is no longer easy to set up any other form of constitution than a democracy.

537 To live as one pleases (ζῆν ὡς βούλεταί τις) is cherished by the Athenian democrats as a fundamental ideal, see Thuc. 2.37.2; 7.69.2; Lys. 26.5; Dem. 10.4; 25.25; and it is dismissed as a democratic vice by the critics of popular rule: Pl. *Resp.* 557B; *Def.* 412D; Isoc. 7.20, 37; 12.131.

538 Arist. *Pol.* 1317a40-b17; cf. 1310a32-3; 1318b40; 1319b30. Cf. J. Barnes (1990) page 254.

539 Most recently Ober (1996) 20-1. See also Foxhall (1989) 40, stating that "Aristotle is apparently referring to Athens" in a passage (1282a26-32) in which he describes a specific type of democratic *politeia*: the *ekklesia* decides everything, including the audit of magistrates (*euthynai*); and elegibility to the *strategia* and other important magistracies (*archai*) is restriced by a high property qualification (*timema*). But in classical Athens *euthynai* were heard by the *dikasteria*; there was no *timema* as a condition for

becoming a *strategos*; and the original *timema* attached to other *archai* was no longer enforced.

540 Note, however, that the long descriptions of the Lakedaimonian constitution (1269a29-71b19), the Cretan constitution (1271b20-72b23), and the Solonian constitution (1273b34-74a21) are counted as one example each. Similarly, difficulties about deciding whether a passage contains one or two historical examples makes it impossible to come up with an exact count.

541 See, e.g., A.R. W. Harrison, *The Law of Athens* 1 (Oxford 1968) 190-1.

542 Metics appeared in person both as prosecutors and defendants (Isoc. 17; Lys. 12; Din. fr. xlii; Dem. 21.175; Dem. 59.54; Harp. s.v. πολέμαρχος). For metics assisted by *synegoroi*, see Rubinstein (1997).

543 Harp. s.v. μετοίκιον and ἀποστασίου.

544 1298a3-7, b28-30; 1317b28-30.

545 Hansen (1991) 152, 159, 179, 290-2.

546 Athenian democracy from Solon to Perikles (1273b34-74a21), Solon (1266b14-7; 1281b31-4; 1296a18-21), Kleisthenes (1275b35-7; 1319b19-27), the Areopagos (1304a20-4), the court in Phreatto (1300b27-9), ostracism (1302b18-9), the Eleven (1322a19-20), the Athenian empire (1284a39-41; 1307b22-4), loss of hoplites in the Peloponnesian War (1303a8-10), public upbringing of children of citizens killed in war (1268a8-11), the common people in the Piraeus (1291b24; 1303b10-2), public slaves (1267b16-9).

547 Kodros (1310b37), Drakon (1274b15-8), Peisistratos and the Peisistratids (1305a21-4; 1310b30-1; 1311a36-9; 1312b29-31; 1313b18-22; 1315b21-2; 1315b29-34), The Four Hundred (1305b25-7; 1304b12-5), the Thirty (1304b25-6), Athenians playing the flute (1341a34-5).

548 Aigina (1291b24), Ambrakia (1303a23-5; 1304a31-3), Aphytis (1319a14-9), Argos (1302b18-9; 1303a6-8; 1304a25-7), Byzantion (1291b23; 1303a33-4), Chalkis (1304a29-31), Chios (1291b24; 1306b3-5), Erythrai (1305b18-22), Heraia (1303a15-6), Herakleia Pontica (1304b31-4; 1305b34-6; 1327b11-5), Histiaia (1303b33-7), Istros (1305b2-4, 10-1), Karchedon (1316b5-6; 1320b4-7), Knidos (1305b12-8; 1306b3-5), Kos (1304b25-7), Kyme (1304b35-9), Kyrene (1319b14-9; 1319b19-27), Leukas (1266b21-4), Mantinea (1318b23-7), Megara (1300a17-9; 1302b31; 1304b35-9; 1305a21-6), Miletos (1298a12-3; 1305a16), Oreos (1303a19-20), Rhodos (1302b23-5; 1302b32-3; 1304b27-31), Syracuse (1302b31-2; 1303a38-b2; 1304a27-29; 1305a26; 1310b30; 1312b10-8; 1316a32-3), Taras (1291b23; 1303a2-6; 1320b9-14), Tenedos (1291b25), Thebes (1302b29-30), Thourioi (1307a27-33; 1307b6-19).

549 Watkins (1972) 151.

550 M.H.Hansen, *The Athenian Democracy in the Age of Demosthenes* (Oxford 1991) 58, based on all the works cited *supra* in the notes to pages 35-40.

551 Watkins (1972) 151; K. Dyson, "State" in *The Blackwell Encyclopaedia of Political Institutions* (Oxford 1987) 591.

552 Cf. for example *Il Principe* Chapter 9 towards the end: *lo stato ha bisogno de' cittadini* – the government needs the services of the citizens, the whole passage is paraphrased and discussed *supra* note 124. For *stato* used in the sense of power see, e.g., Chapter 3: *el sesto errore di Luigi fu di torre lo stato a' Viniziani* (The sixth error committed by Louis [XII of France] was that of putting down the Venetians). See Skinner (1978) II, 352-8.

553 For an analysis of Machivelli's use of the word *stato* in *Il Principe* see Appendix IV *infra* pages 138-40.

554 Book 1 Chapter 8 (page 205)
555 See Appendix IV *infra* page 141.
556 Montesquieu speaks about: les États de l'Europe (14.11); la constitution de l'État (3.5), les obligations de l'État (23.29), les revenus de l'État (13.1); guerres civiles de quelques États (5.11); un État qui en a conquis un autre (10.3); and the famous chapter about the separation of powers is introduced with the statement: Il y a dans chaque État trois sortes de pouvoirs (11.6).
557 In 2.1 Montesquieu distinguishes between three forms of government: le républicain, le monarchique et le despotique, and in 2.2 he further distinguishes between two forms of la république: Démocratie and Aristocratie.
558 État in the sense of a territorial state is attested in the following passages: le domaine d'un État (26.16); l'étendue de l'État (9.6); le petit État ... le grand État (13.2); lorsqu'on a pour voisin un État (10.10); un État dépeuplé (23.28).
559 In 15.13 the metaphor le corps de l'État is used to describe the population of a despotically governed state.
560 E.g. in 8.8: "lorsque l'État passe d'un gouvernement modéré à un gouvernement modéré, comme de la république à la monarchie ..."
561 See, e.g., the definition of the term in 11.3: "Dans un État, c'est-à-dire dans une société où il y a des lois". The state is distinguished both from citizens and ruler in the reference to: "la gloire des citoyens, de l'État et du prince" (11.7). In some contexts the state is seen as, essentially, the power centre of the community: "Autrefois chaque village de France était une capitale; il n'y en a aujourd'hui qu'une grande: chaque partie de l'État était un centre de puissance; aujourd'hui tout se rapporte à un centre et ce centre est, pour ainsi dire, l'État même" (23.24). The reference must here be to Versailles as the residence of the absolute monarch, Louis XV.
562 One of the first attestations of the term state as both a government and a territory is found in a German book of 1687 entitled: *Teutsche Staats-Geographie* and introduced with the following explanation of the title: "Man hat [dem Buch] den Titul einer Teutschen Staats-Geograhie beygeleget, aus keiner andern Ursache, als weil eines jeden Staats in Europa Gräntzen, derselben von andern Unterschied deutlich gesetzet, deren Provintzen, Oerther, Regierung, Angelegenheiten ... Einkünfte und dergleichen vorgestellet worden sind". (Quoted from the article "Staat und Suveränität" in Conze (1990) 22. For another attestation see the first edition of the *Dictionnaire de l'Académie Française* (1694) in which the entry "état" runs as follows: "gouvernement d'un peuple vivant sous la domination d'un Prince ou en République" and "le pays mesme qui est sous une mesme domination".
563 Band 39, col. 639-40.
564 Vol 6 (1756) 19.
565 Samuel Johnson, *A Dictionary of the English Language* I-II (London 1755) s.v. "State" (5).
566 Vol. 3 (1771) 625
567 For "province" as a political entity between "city" and "commonwealth" see, e.g. Althusius, *Politica methodice digesta* (2nd edn. 1614) Ch. vii, §1, page 104.
568 Leviathan 4.45.35: "When Augustus Caesar changed the State into a Monarchy". See also Johnson, *Dictionary* s.v. "state" (7): "A republick; a government not monarchical".
569 *Encyclopædia Britannica*, 10th edn. 1902: s.v. "The word state expresses the abstract idea of government in general, or the governing authority as opposed to the governed. ... In international law the term has a more precise meaning, according to which the state is the external personality or outward agency of an independent community".

570 État ... "se dit également d'un peuple, en tant qu'il est constitué en corps de nation, qu'il forme une société politique distincte".

571 M. de Vattel, *Le droit des gens ou principes de la loi naturelle* 1-2 (London 1758), republished by the Carnegie Institute of Washington with an introduction by A. de Lapradelle: "Les Nations, ou Etats sont des Corps Politiques, des Sociétés d'hommes unis ensemble pour procurer leur salut & leur avantage, à forces réunies. Une pareille société a ces affaires & ces intérêts, elle délibére & prend des résolutions en commun; & par là elle devient une Personne morale, qui a son Entendement & sa Volonté propre, & qui est capable d'Obligations & de Droits." .... "Toute Nation qui se gouverne elle-même, sous quelque forme que ce soit, sans dépendance d'aucun étranger, est un Etat Souverain". (1-2). Vattel's definition is repeated by Blackstone (1803) I Appendix page 7: "A nation or state is a body politic, or a society of men united together to promote their mutual safety, and advantage, by means of their union". In the introduction to the republication of Vattel's treatise it was noted that "pour la première fois, la personnalité et la souveraineté de l'état se subsistuent à la personnalité et à la souveraineté du prince".

572 See *supra* page 41.

573 Vol. 11 (1765) 36. See also the entry Nation in *Dictionnaire de l'Académie françoise* (3rd edn. 1740) 177: "Terme collectif. Tous les habitans d'un même État, d'un même pays, qui vivent sous les mêmes loix, & parlent le même langage, &c".

574 1st edn. of the *Encyclopaedia Britannica* s.v. "Nation, a collective term, used for a considerable number of people inhabiting a certain extent of land confined within fixed limits, and under the same government" (vol. 3 [1771] 361).

575 Quoted by Samuel Johnson in his *A Dictionary of the English Language* (London 1755) s.v. "Nation". For earlier occurrences of the word nation in this sense, see also John Locke, *Two Treatises of Government*, e.g. at II Section 106: the history of nations.

576 A typical example of the term nation to denote a country is Adam Smith, *The Wealth of Nations*, first published in 1776.

577 F. Dickmann, *Der Westfälische Frieden* (Münster 1959) 6-7.

578 Easton (1971) 109.

579 Held (1995) 77.

580 M. Bloch, *Feudal Society* (London 1961).

581 Dickmann (1959) 6: "Da ist zunächst seine Bedeutung für die europäische Staatengesellschaft und für das Völkerrecht zu nennen. An die Stelle der einstigen Kirchen- und Glaubens-einheit setze er eine Gemeinschaft souveräner Staaten ... Der Friedensvertrag bestätigte die Grundsätze der Souveränität und Gleichberechtigung aller ausdrucklich in zahlreichen Einzelbestimmungen und wurde so gleichsam das Grundgesetz der neuen Staatengesellschaft".

582 K. Müller (ed.), *Instrumenta Pacis Westphalicae*. Quellen zur neueren Geschichte 12-13 (Bern 1949).

583 S.E. Finer, "State-Building, State Boundaries and Border Control," *Social Science Information* 13 (1974) 86 with notes 3-4.

584 Diderot (1753) 488-9; T.H. Marshall, *Citizenship and Social Class* (Cambridge 1950) 8; Brubaker (1992) 21-34, 179-89; Pierson (1996) 27-30.

585 Poverty and civil wars in this century, however, have resulted in a horrendous number of stateless persons and, conversely, the increased migration between states has resulted in a rapidly growing number of persons with double citizenship.

586 For the use of *polites* versus *astos* and *aste* see *supra* page 63. Citizens of a *polis* which founded a colony acquired citizen rights in the colony but lost *politeia* in their *po-*

lis of origin, see Busolt (1920) 229; Graham (1965) 111, 117. If, however, by an honorary decree, a *polis* bestowed citizenship on a foreigner, this person seems to have retained citizenship in his *polis* of origin. In most cases, however, naturalisation of foreigners by decree was purely honorific, see Osborne (1983) 187-92, and not of any demographic importance, see Hansen (1983) 177-80, except, of course, in the case of block grants to, e.g., political refugees, see Osborne (1983) 202-4. Most persons were citizens of one *polis* only, but double citizenship was not uncommon, see Busolt (1920) 229-30. The Athenian klerouchs, for example, were citizens both of Athens and of their own (dependent) *polis*, as is indicated by the decrees of the *boule* and *demos* passed by the klerouchs of the various klerouchies, surveyed and discussed by Cargill (1995) 157-65. In the Hellenistic period double citizenship became much more common, especially through the institution of *isopoliteia*. One of the oldest attestations of *isopoliteia* is the treaty between Keos and Eretria of ca. 380 B.C. (*Staatsverträge* II 232).

587 D. Beetham, "Charisma," in Bogdanor (1987) 87-8.

588 Max Weber, *Wirtschaft und Gesellschaft* (1972) 654-81.

589 For one example from classical Greece see Xen. *Mem.* 2.6.13: ἤκουσα μὲν ὅτι Περικλῆς πολλὰς (ἐπῳδὰς) ἐπίσταιτο, ἃς ἐπᾴδων τῇ πόλει ἐποίει αὐτὴν φιλεῖν αὑτόν.

590 *Oxford Advanced Learner's Dictionary of Current English* (4th edn. Oxford 1989) 1095.

591 Arist. *Pol.* 1253b35ff. The modern word was coined by Karel Čapek in the play *R.U.R.* (1920).

592 A.H.M. Jones, *Athenian Democracy* (Oxford 1957) 128; J.K. Davies, *Wealth and the Power of Wealth in Classical Athens* (New York 1981) 124; P.J. Rhodes in Eder (1995) 77.

593 G.C. Moodie "Politician," in *A Dictionary of the Social Sciences* (New York 1964).

594 H. Sperber and T. Trittschuh, *American Political Terms. An Historical Dictionary* (Detroit 1962).

595 Hansen (1989B) 1-24; (1987) 49-50.

596 Dem. 18.173, 212.

597 Finer (1997) I, 2-15; C.F. Smith, "What Constitutes a State?" *CJ* 2 (1907) 299-302; M.I. Finley, *Politics in the Ancient World* (Cambridge 1983) 8. In discussions of urbanisation Finley opposed the modern rendering of *polis* by city, see (1963) 45; whereas, treating the political aspects of the *polis*, he never questioned the rendering state, see, e.g., (1973) 78: "There were no theoretical limits to the power of the state, no activity, no sphere of human behaviour, in which the state could not legitimately intervene ... The Athenian state did from time to time pass laws abridging the freedom of speech". The preface to E. Meyer's *Einführung in die antike Staatskunde* (Darmstadt 1968) includes the following programmatic statement in the preface (7): "Ein grosser Teil der Ausdrücke, die wir im staatlichen Leben verwenden, ist griechisch oder lateinisch, und wir verbinden mit diesen Wörtern noch die gleichen oder doch ungefähr gleichen Vorstellungen, sofern wir ihren Sinn nicht aus politischen oder anderen Gründen absichtlich verfälschen". In R. Lonis, *La cité dans le monde grec* (Nancy 1994) the first section of the chapter *Definition de la cité* (7) is concluded with the statement: "elle est vue alors comme un État souverain".

598 Sartori (1962) 251: "when we speak of the Greek system as a democratic state we are being grossly inaccurate, both terminologically and conceptually. For what characterised that democracy was that it was stateless, in the precise sense that it dispensed with the state and was a democracy to the extent that the the demos replaced the State...". Vincent (1987) 10: "There is no Greek or medieval State, at least not as we understand it:

these are misnomers. The state is not, apart from some unavoidable conventional usage, the same as the ruling council of a tribe or an empire. Thus there is a great deal to be included under the rubric of a 'stateless society'". Easton (1971) 109, quoted above page 112. Cartledge (1996B) 176: "The Greeks ... did not have the fortune to know the separately instituted 'State' in any post-Hobbesian sense," with note 12: "with the partial exception of Sparta ancient Greek poleis were technically 'state-less political communities'". Cf. also Cartledge (1998) 139 and the works cited above note 38.

599 Hansen (1991) 59-60.

600 D. Ehrhardt, *Der Begriff des Mikrostaats* (Aalen 1970); J.C. Duursma, *Fragmentation and the International Relations of Micro-States* (Cambridge 1996).

601 Pl. *Lg.* 738E; Arist. *Pol.* 1326b16. Today it is commonly acknowledged that Athens was much too big to fulfill this requirement, see most recently E. Cohen, "A Modern Myth: Classical Athens as a 'Face-to-Face' Society," *Common Knowledge* 6 (1997) 97-124. Similarly, many middle-sized *poleis* were too populous to allow all inhabitants to be acquainted, but in all small and in most middle-sized *poleis* the number of adult male citizens would not exceed a few thousand, and since Plato's and Aristotle's requirement applied to members of the *polis* only, i.e. to the adult male citizens and not to all inhabitants, there is no reason to question the view that the *polis* was, essentially, a face-to-face society, see Hansen (1997A) 42-3.

602 Pl. *Meno* 71E: αὕτη ἐστὶν ἀνδρὸς ἀρετή, ἱκανὸν εἶναι τὰ τῆς πόλεως πράττειν ... εἰ δὲ βούλει γυναικὸς ἀρετήν, οὐ χαλεπὸν διελθεῖν, ὅτι δεῖ αὐτὴν τὴν οἰκίαν εὖ οἰκεῖν, σώζουσάν τε τὰ ἔνδον καὶ κατήκοον οὖσαν τοῦ ἀνδρός, cf. 73A and Xen. *Oec.* 7.30-43.

603 The signal allegedly sent by Admiral Nelson to all his ships just before the Battle of Trafalgar in 1805.

604 For the ancient Olympic Games, see Hansen (1996) 18 with note 50. For the modern games see the references in Hansen (1997B) 9 with note 3 and *supra* note 103.

605 Xen. *Hell.* 7.3.6; Dem. 23.32. See Saunders (1991) 97.

606 See *supra* page 84 with notes 404, 406.

607 See *supra* page 78 with notes 363, 365-7.

608 See e.g. W. Gawantka, *Die sogenannte Polis* (Stuttgart 1985) 9 note 1: "Da ein *un*autonomer Stadt*staat* evident ein Widerspruch in sich wäre ...".

609 J.A. Crook, *Law and Life of Rome* (London 1967) 37-43; A.N. Sherwin-White, *The Roman Citizenship* (2nd edn. Oxford 1973).

610 R. Griffeth, R. & C.G. Thomas (eds.), *The City-State in Five Cultures* (Santa Barbara 1981) 78-9 (the Italian city-states), 125-6 (the German and Swiss city-states).

611 *Du Contrat Social* Book 3 Chapters 1-4 (pages 397, 404, 404-6 in *Oeuvres complètes* III [1964]) and the Lettre à d'Alembert: "dans une démocratie, où les sujets et le souverain ne sont que les mêmes hommes considérés sous différens rapports", quoted *ibidem* page 1447 note 3.

612 J. Miller, *Rousseau. Dreamer of Democracy* (New Haven 1984) 41-3, 72-3.

613 Dédicace to *Sur l'origine de l'inégalité* in *Oeuvres complètes* III (1964) 111-21.

614 Bürgerstaat: Schönbauer (1929) 374; citizen-state: Runciman (1990) 348; Hansen (1993) 7; stato cittadino: Ampolo (1996) 302.

615 See *supra* page 54 with note 239.

616 See the investigations conducted in *CPCActs* 2 (1995) 39-45: Thucydides; *CPCActs* 3 (1996) 39-54: Herodotos; *CPCActs* 3 (1996) 29-30: Aineias the Tactician; *CPCPapers* 2 (1995) 83-102: Xenophon's *Hellenika*; *CPCPapers* 3 (1996) 137-67: Ps.-Skylax;

CPCPapers 4 (1997) 17-28: Hekataios; investigations of the Attic orators, Aristotle Theopompos, Ephoros and the epigraphical evidence have been conducted but are still unpublished.

617 See, e.g., J.K. Davies, *Democracy and Classical Grece* (2nd edn. London 1993) 154.

618 Sakellariou (1989) 172-75: The Extension of the Term Πόλις to *Ethne* and *Koina*; 205-6: Πόλις: The Territory of a State; 206-7: Πόλις: A Country in General.

619 Sakellariou adduces the following sources in which the reference is probably to a *polis* in the usual sense of the term: (a) page 173 note 2: Eur. *Or.* 1209: Φωκέων δ' ἔλθοι πόλιν. – C.W. Willink, *Euripides. Orestes* (Oxford 1986) *ad loc.* notes that the reference is to Delphi. (b) page 205 note 4: Hes. *Scut.* 380-2: πᾶσα δὲ Μυρμιδόνων τε πόλις κλειτή τ' Ἰαωλκὸς / Ἄρνη τ' ἠδ' Ἑλίκη Ἀνθειά τε ποιήεσσα / φωνῇ ὑπ' ἀμφοτέρων μεγάλ' ἴαχον. – The Myrmidonians were ruled by Achilleus and lived in Phthia, a part of Thessaly which the Greeks apparently took to be a *polis*, just like Thebes or Troy, see e.g., Steph. Byz. 663.16; Hesych. *s.v.* (390); Suda *s.v.* (489). (c) page 205 note 5: Pind. *Isthm.* 5.48: Salamis called πόλις Αἴαντος. – Salamis was probably a *polis* in the political sense, see Ps.-Skylax 57 and Hansen in *CPCActs* 3 (1996) 32 & 7 with note 6. (d) page 205 note 6: Aesch. *Eum.* 77: ὑπέρ τε πόντον καὶ περιρρύτας πόλεις. – Not an improper generalisation since most islands were single unified *poleis*, see Reger in *CPCActs* 4 (1997) 455. (e) page 205 note 7: Stesichoros fr 86, Page: Στησίχορον δὲ καλεῖν πόλιν τὴν χώραν Πίσαν λεγομένην. – If we follow the tradition (questioned here by Strabon) that Pisa was once a *polis*, the inference is that Stesichoros applied *polis* to the *chora* of Pisa, and thus used the term to denote the territory of a *polis*, see *supra* page 54 with note 239. (f) page 207 note 2: Pl. *Ep.* VII 334C: μὴ δουλοῦσθαι Σικελίαν ... μηδὲ ἄλλην πόλιν. – ἄλλος is perhaps here used in the sense "as well" or "besides", i.e. "neither Sicily nor any *polis* besides," see *LSJ* s.v. ἄλλος II.8.

620 M.H. Hansen, "Πόλις as the Generic Term for State," *CPCPapers* 4 (1997) 9-15.

621 Sakellariou (1989) adduces the following sources in which *polis* is used as a generic term about a plurality of diverse political communities: – Page 173 note 3: Tod, *GHI* 144.29-30 (πόλεις restored), 35-6: [ἁπάσαις τ]αῖς πόλεσι. Alliance between Athens, Arkadia, Achaia, Elis and Phleious 362/1 B.C. – Page 173 note 4: Dem. 17.15-6: ταῖς κοινωνοῦσαις πόλεσι. The members of the Korinthian League who had also taken the oath on the *koine eirene* of 338. – Page 174 note 1: *Staatsverträge* 476.85: [καὶ τοῖς ἀπὸ ἑκάστης] πόλεως. Generic term denoting the signatories of an alliance of 267-5 between Athens, Sparta, Elis, Achaia, Tegea, Mantinea, Orchomenos, Phigaleia, Kaphyai, the Kretans and some others. – There is no reason to list Sakellariou's other examples all dating from the Hellenistic and Roman periods. For some other sources referring to the Classical period, e.g., *IG* II^2 43 and 96, see Hansen (1997B) 9-11.

622 The translation given by *LSJ s.v.*, citing the Lysias passage.

623 All editors translate the passage as if the text was ἐν Σικελίᾳ, Ἰταλίᾳ κτλ. e.g. Gernet-Bizos in the Budé edn.: il a porté le trouble dans maintes cités, en Sicile, en Italie ... etc.; W.R.M. Lamb in the Loeb edn.: he has caused commotion in many cities, in Sicily, in Italy etc.

624 Eur. *Ion.* 1590-1: Δῶρος μέν, ἔνθεν Δωρὶς ὑμνηθήσεται πόλις κατ' αἶαν Πελοπίαν.

625 M.B. Hatzopoulos, *Macedonian Institutions under the Kings* I (Athens 1996) 464-5.

626 See Parke-Wormell 228.3; 230.2; 374.15.

627 Ps.-Skylax 28: οἰκοῦσι δὲ κατὰ κώμας οἱ Χάονες.

628 H.T. Wade-Gery, "The Peace of Kallias," in *Athenian Studies Presented to William Scott Ferguson* (Cambridge Mass. 1940) 155-6.

629 Thus, commenting on Ar. *Pax* 250-1, Platnauer (Oxford 1964) believes that Aristophanes may have used the term *polis* about Sicily, as indicated by the scholiast, "but more probably Aristophanes here has Syracuse in mind".

630 Hansen (1996B) 181-91.

631 Lys. 18.1; Aeschin. 3.8; Dem. 8.69-70; 18.308; Lycurg. 1.142; Isoc. 7.20; 8.50-1; 16.17-8; Pl. *Resp.* 501E; *Lg.* 715B.

632 Dem. 43.19, 48, see D.M. MacDowell, "The *Oikos* in Athenian Law," *CQ* 39 (1989) 15-21.

633 Quoted by Lysias at 10.19. In the Gortynian law code a ϝοικεύς is a serf (*I.Cret* 4.72 Coll. 2-4) who belongs to the household and even has a (remote) right to inherit the estate if the master of the household dies without any heirs at all (Col. 5.25-8 with Willet's commentary *ad locum*).

634 Arist. *Ath. Pol.* 57.3; Aeschin. 3.44; Dem. 37.26; Is. 8.41.

635 Chr. Meier, *The Greek Discovery of Politics* (Cambridge Mass. 1990) 146.

636 Aeschin. 1.90; Ant. *Tetr.* 3.1.3; Arist. *Pol.* 1330b21; Dem. 10.40; 22.52 = 24.164; 25.87; Isoc. 4.103; 6.66; Lycurg. 1.139; Pl. *Resp.* 464B; 562E; *Lg.* 909D; Thuc. 8.63; Xen. *Cyrop.* 1.1.1.

637 Anaximenes, *Rhet. Ad Alex.* 2.7; Arist. *Pol.* 1280b26; Dem. 13.29; Isoc. 15.99, 285; Pl. *Eutyphr.* 14B; *Tim.* 19E; *Lg.* 890B.

638 Aeschin. 1.30: τὸν γὰρ τὴν ἰδίαν οἰκίαν κακῶς οἰκήσαντα, καὶ τὰ κοινὰ τῆς πόλεως παραπλησίως ἡγήσατο διαθήσειν ...

639 Law quoted at Dem. 43.75, see MacDowell (1989) 20.

640 Dem. 47.70-1, see Foxhall (1989) 24 with note 15.

641 E.g. H.J. Wolff, "Eherecht und Familienverfassung in Athen." *Traditio* 2 (1944) 43-95, concluded with the statement that "die πόλις war ein Zusammenschluss von οἶκοι und bewahrte so in gewissem Umfange die Idee des Stammstaats (93)"; followed by B. Strauss, *Fathers and Sons in Athens* (Princeton 1993) 33-53; Strauss quotes Aeschin. 1.30 and some of the sources cited *supra* notes 636 and 637 as an indication of a *connection* between the *oikos* and the *polis*. He is, of course, right insofar as an opposition is a form of connection. See also Lonis (1994) 19; Ober (1996) 168.

642 De Coulanges (1864) Livre II: *La famille*, pages 41-142 in the 1866 edn.

643 Bobbio (1989) 4.

644 It should be emphasised that, at least for the classical period, "brotherhoods" and "clans" are misleading renderings of *phratriai* and *gene*. Both types of association were originally kinship organisations, but later purely artificial groupings of citizens, see Hansen (1996B) 170 note 11 with further references.

645 *IG* XII 5 1061.15-6: [κ]αὶ εἶναι αὐτὸν πολίτην καὶ τοὺς ἐκγόνους αὐτοῦ τῆς πόλεως τῆς Καρθαιέων, καὶ φυλῆς ἧς ἂν βούλωνται καὶ οἴκου εἶναι. It cannot be precluded, however, that οἶκος here designates, not a family but some kind of association as it does in one Attic inscription, *viz. IG* II^2 1237.33: τὸν Δεκελειῶν οἶκον, see Ch. W. Hedrick Jr., *The Decrees of the Demotionidai* (Atlanta 1990) 44-52, 75-85.

646 N.F. Jones, *Public Organization in Ancient Greece* (Philadelphia 1987) 206.

647 Pl. *Lg.* 740B-E; 877D; 929A. See Morrow (1960) 113 note 56.

648 Piérart (1974) 52-61.

649 Even in Plato's *Laws* the *oikia* is placed in the private sphere as opposed to the public sphere. 909D: ἱερὰ μηδὲ εἷς ἐν ἰδίαις οἰκίαις ἐκτήσθω θύειν δ' ὅταν ἐπὶ νοῦν ἴῃ τινί, πρὸς τὰ δημόσια ἴτω θύσων, καὶ τοῖς ἱερεῦσί τε καὶ ἱερείαις ἐγχειριζέτω τὰ θύματα...

650 Q. Skinner, "The State," in Bell, Farr & Hanson (1989) 90-131. The article contains an elaboration of the views argued in *The Foundation of Modern Political Thought* (Cambridge 1978) II 353-8.

651 In this appendix I concentrate on the concept of state in Machiavelli, Bodin and Hobbes. Skinner's analysis includes a host of other authors as well, and their use of the term state, I confess, is sometimes closer to the modern usage than the attestations found in the three major political philosophers.

652 In the *Discorsi* the terms most frequently used to denote a political community are *republica* and *città*, whereas the term *stato* is often used in the sense of "form of government" to denote (one of) the three types of constitutions, monarchy, oligarchy or democracy, see Book 1 Chapter 2 (page 130). In Chapter 2 of *Il Principe* Machiavelli states that, in this treatise, he will deal with *principati* to the exclusion of *republiche*, a term here used in the more specific sense of republic.

653 S. de Grazia, *Machiavelli in Hell* (2nd edn. London 1996) 158-9. The principal advocate of this view is F. Chiapelli, *Studi sul linguaggio di Machiavelli* (Florence 1952) 59-68.

654 See the examples quoted *supra* notes 124 and 552.

655 Skinner (1989) 102-3.

656 J.H. Hexter in *The Vision of Politics on the Eve of the Reformation* (New York 1957) 150-78; A conclusion not far from Hexter's but without his shrewd linguistic analysis of all the occurrences can be found in H.C. Dowdall, "The Word State," *The Law Quarterly Review* 153 (1923) 98-109.

657 Q. Skinner and R.Price, *Machiavelli: The Prince* (Cambridge 1988). Both the translation (page 5) and the interpretation (pages 102-3) are by Price, and does not represent Skinner's view, for which see the works cited in note 650.

658 see e.g. Chapter 5: "*Li Spartani tennero Atene e Tebe, creandovi uno stato di pochi*" (The Spartans held Athens and Thebes by establishing oligarchies). See also *supra* note 552.

659 *Nicolai Machiavelli ... de Principe libellus ... Nunc primum ex Italico in Latinum sermonem uersus per Syluestrum Telium Fulginatem* (Basel 1560).

660 An inspection of how all the other occurrences of *stato* are translated into Latin shows that the terms used are: ditio, imperium, principatum, rerum status, potestas, possessio and provincia, whereas the Latin words denoting a political community, namely res publica, civitas and regnum, are unattested.

661 1.6 page 118: "Aristote nous a defini la cité une compagnie de citoyens..."

662 Skinner (1978) II 355-6 and (1989) 120 points out that Bodin "uses the word *estat* on several occasions as a synonym for *république*, and speaks about *estat en soi*, describing it both as a form of authority independent of particular types of government, and as the locus of indivisible and incommmunicable sovereignty," But when Bodin refers to *estat en soi* "the state in itself" the reason for the addition *en soi* is that, in this passage, *estat*, (the form of) state, is contrasted with *gouvernement*, (the form of) government, as it is in 2.2 page 34, quoted *infra*. So the opposition seems to be between the *form of* state in itself (monarchy, aristocracy, or democracy) and the way in which the government is actually practised in each individual case.

663 1.6, page 150: "c'est pourquoy nous voyons la distinction des citoyens en trois estats, à sçavoir l'Ecclesiastic, la Noblesse, et le peuple,". 1.8 pages 198-203: estats de France, d'Espagne, d'Angleterre.

664 1.8 page 205.

665 *République* 2.2, page 34: See Y. Ch. Zarka, "État et gouvernement chez Bodin et les théoriciens de la raison d'État," in Y. Ch. Zarka (ed.), *Jean Bodin. Nature, histoire, droit et politique* (Paris 1996) 156-8.

666 In (1978) II 358 Skinner holds that "in a work such as Bodin's *Six Books*, we not only find the term "State" being employed in a recognisably modern sense, but also find the rights and powers of the State beginning to be analysed in a distinctively modern style".

667 Skinner (1989) 90, 118-21 and 124, 126. The quote is from § 9 of the preface to the English version of the *De cive*. The whole passage runs: "so to make a more curious search into the rights of States, and duties of Subjects, it is necessary (I say not to take them in sunder, but yet that) they be so considered, as if they were dissolved, (i.e.) that wee rightly understand what the quality of human nature is, in what matters it is, in what not fit to make up a civill government, and how men must be agreed among themselves, that intend to throw up into a well-grounded State".

668 § 12. In Hobbes' text the underlined words are in italics. For an English version of this definition see note 667.

669 Skinner (1989) 120.

670 The Commonwealth, in Latin: *Civitas* is "The Great Leviathan ... And in him consisteth the essence of the commenwealth; which, to define it, is one person, of whose acts a great multitude, by mutual covenants with one another, have made themselves everyone the author, to the end that he may use the strength and means of them all, as he shall think expedient, for their peace and common defence. And he that carrieth this person, is called SOVEREIGN, and said to have *sovereign power*, and every one besides, his subject.

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CARSTEN WEBER-NIELSEN

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