§18. HOMICIDE LAW

Perhaps the most remarkable feature of the homicide regulations is the insistence on scrupulous observance by the homicide of the 'purification' rituals. These rituals, which arose from the belief that the homicide was almost physically 'stained' or 'polluted' and hence a danger to the community, are attested in Athenian law also. Plato seems to go out of his way to inspire the murderer with feelings of intense horror and shame; his insistence on these matters probably goes beyond contemporary Athenian practice. We may note also the careful discussion of murder in anger as midway between voluntary and involuntary murder; this third category is an innovation on Plato's part. If we take this together with §17, *we can see Plato's concern with the notions of motivation and responsibility (compare also 'Persons Unfit to Plead' below). Finally, from among many other points too numerous to mention, it is interesting to see how important the* status *of the victim is in assessing a penalty – killing a parent, for instance, is an indication of extreme injustice in the soul.*

PERSONS UNFIT TO PLEAD

ATHENIAN: Now let's go back to the point where we started to digress, and carry on with our enactment of the legal code. Our regulations about those who pillage from the gods, and about traitors, had, I think, already been made; we had also dealt with those who do violence to the laws in order to subvert the existing constitution. A man who commits one of these crimes might be suffering from insanity, or be as good as insane either because of disease, or the effects of advanced senility, or because he is still in the years of childhood.

44. (a) If clear proof of any of these states is ever shown to the judges selected in each case, on the submission of either the criminal or his counsel, and in the opinion of the court the man was in that condition when he committed his crime,

he must pay, without fail, simple recompense for any damage he may have inflicted on anyone, but the other details of the penalty should be waived,
except that

(b) if he has killed someone and his hands are polluted by murder,

he must depart to a place in another country and live there in exile for a year.

45. If he comes back before the legally appointed time, or even puts a foot into any part of his native country,

he must be imprisoned in the public gaol by the Guardians of the Laws for two years, after which he shall be released.

INVOLUNTARY HOMICIDE

The start we have made points the way forward: we need not 865
scruple to lay down a comprehensive set of laws that will cover every category of murder. First we should deal with those committed unintentionally, through force of circumstances:

46 A. If anyone has unintentionally killed a man who is not an enemy

(a) in a contest or public games – whether death occurs immediately, or later as a result of the wounds,
(b) in war similarly,
(c) in military training, whether in javelin-exercises without the protection of armour, or when some weapons are being carried in imitation of wartime usage,

the offender shall be free of pollution when he has been purified in accordance with the relevant law from Delphi.

(d) All doctors, if their patient dies as an unintended result of their treatment,

are to be free of pollution according to law.

B. If one man kills another by his own act, but unintentionally,
(α) by his own hand,
(i) without weapons, or

(ii) by tool, weapon, administration of food or drink, application of fire or cold, or deprivation of air, whether

(β) (i) directly, by his own body, or
(ii) by other physical objects,

in all cases it must be reckoned his own act and he must pay penalties as under:

If he kills

(a) a slave,

he must indemnify the dead man's master against the damage, reflecting what the loss would be if his own slave had been killed. (If he fails to indemnify the master, he must pay a penalty of twice the value of the dead man, as assessed by the judges.)

C. He must resort to greater and more numerous purifications than those who have killed in contests; and such expounders as are chosen by the oracle are to be in charge of these purifications.

B. cont. (b) If he kills a slave of his own,

let him purify himself, and be quit of the murder according to law.

(c) If he kills a free man, inadvertently,

he must undergo the same purifications as the killer of a slave.

He should not take lightly an old story that comes from our collection of ancient tales. It runs as follows:

Having lived in the full proud spirit of freedom, the man murdered by violence, freshly dead, turns his fury on the person responsible. The dead man is full of fear and loathing at his own violent sufferings; he abominates the sight of his own murderer going about localities once familiar to himself; to the full limit of his powers he visits his own anguish on the perpetrator of the crime, the man and his deeds; and his allies are the memories that haunt the murderer. Therefore

D. (a) *A killer* must keep clear of his victim for all the seasons of an entire year, by staying away from the dead man's usual haunts in the whole of his native country.

(b) If the deceased is a foreigner,

the killer should keep clear of the foreigner's homeland as well for an identical period. 866

If a man obeys this law without demur, the deceased's next of kin, who will take note of his compliance with these requirements, will grant him pardon and will be entirely correct to live on peaceable terms with him.

E. If the killer disobeys,

(a) by daring to enter temples and perform sacrifices, polluted as he is, and then

(b) by refusing to complete the above-mentioned period abroad,

the deceased's next of kin must prosecute the killer on a charge of murder. In case of conviction, all penalties are to be doubled.

F. If the next of kin does not prosecute the crime,

the pollution must be deemed to have arrived at his own door, owing to the murdered man's supplications for atonement. Anyone who wishes may bring a charge against the next of kin and force him to keep away from his native country for five years, according to law.

G. (a) If a foreigner unintentionally kills a foreigner who is living in the state,

anyone who wishes should prosecute under the same laws.

(b) If the killer is

(i) a resident alien,

he must go abroad for a year;

(ii) a non-resident alien,

he must keep away, for the whole of his life, from the country that lays down these laws, in addition to performing the purifications; this is to apply whether he kills (1) a non-resident alien, (2) a resident alien, or (3) a citizen.

H. If he returns

(a) illegally,

the Guardians of the Laws must punish him by death, and if he has any property, they must present it to his victim's nearest relative;

(b) unintentionally,

(i) being shipwrecked on the coast,

he must camp out where the sea washes by his feet and await an opportunity to sail away;

(ii) being forcibly brought in overland by someone,

the first official of the state that comes across him must set him free and dispatch him unharmed beyond the border.

HOMICIDE IN ANGER

If someone kills a free man by his own hand, but the deed is done in anger, we must first make an internal distinction within this type of crime. Anger is common to (1) those who kill a man by blows or similar means, owing to a sudden impulse: here the action is immediate, there is no previous intention to kill, and regret for the deed follows at once; (2) those who have been stung by insults or opprobrious actions and who pursue their vengeance until, some time later, they kill somebody: they *intend* to kill, and the deed causes no repentance. So it looks as if we have to establish two categories of murder; broadly speaking, both are done in
867 anger, but a proper description would be 'falling somewhere midway between "voluntary" and "involuntary"'; however, each type comes closer to one or other of these extremes. The man who nurses his anger and takes his vengeance later – not suddenly, on the spur of the moment, but with premeditation – approximates to the voluntary murderer. The man whose anger bursts forth uncontrollably, whose action is instant, immediate, and without premeditation, resembles the involuntary killer. Yet even so, he is not an entirely involuntary killer: he only resembles one. It is therefore sometimes difficult to categorize murders done under the influence of anger, and to know whether to treat them in law as voluntary or involuntary. The best course, which corresponds most closely to reality, is to classify them both under what they most

resemble, and to distinguish them by the presence or absence of premeditation. We should lay down comparatively severe penalties for those who have killed in anger and with premeditation, and lighter ones for those who have killed on the spur of the moment without previous intent. Something which resembles a greater evil should attract a greater punishment, whereas a lesser penalty should be visited on that which resembles a lesser evil. This, then, is the course our laws should take.

CLEINIAS: Indeed it is.

ATHENIAN: Then let's go back to our subject and carry on as follows:

47 A. If someone kills a free man with his own hand, and the deed is done in a fit of anger, without previous intent,

his penalty should in general be that appropriate to a man who has killed without anger; but in addition he should be obliged to go into exile for two years, by way of a curb for his anger.

B. If a man kills in anger, but with premeditation,

his penalty should in general be that inflicted in the previous instance; but his exile should be for three years as against the other's two, the period of punishment being longer because of the greater violence of his passion.

In such cases, regulations for the return from exile should run as follows. (It is not easy to make hard and fast rules: sometimes the fiercer criminal as defined by the law may turn out easier to manage, whereas the man who is supposedly more manageable may turn out to be a more difficult case, having committed a murder with some savagery; the other, conversely, may have dispatched his victim without brutality. However, my account does describe the cases you'll find are typical.)

The Guardians of the Laws should act as assessors of all these points, and when the period of exile prescribed for either category has come to an end, they should send twelve of their number, as judges, to the borders of the country.

During the time that has elapsed these twelve should have made a still more exact investigation into what the exiles did,[1] so as to decide whether to grant pardon and permission to return; and the exiles are bound to acquiesce in the judgement of these authorities.

868 C. (a) If a returned exile of either category is ever again overcome by anger and commits the same offence,
he must go into exile and never come back.
(b) If he does come back,
his penalty will be the same as that imposed on the foreigner who returns [46H].

D. (a) If a man kills his own slave,[2]
he must purify himself.
(b) If he kills another's slave, in anger,
he must pay double damages to the owner.

E. If a killer in any category flouts the law and in his unpurified state pollutes the market-place, the sports stadium, and other holy places,
anyone who wishes should prosecute both the killer and the relative[3] of the dead man who allows the killer to do this, and compel the relative to exact payment of twice the fine and the other expenses;[4] and the prosecutor shall be legally entitled to take for himself the money so paid.

F. (a) If a slave kills his own master, in anger,
the relatives of the deceased shall treat the killer in whatever way they like (except that under no circumstances whatever may they let him go on living), and be free of pollution.
(b) If a slave murders a free man who is not his master, in anger,
his master shall deliver him up to the relatives of the deceased, who will be obliged to kill him, the manner of the execution being within their discretion.

1. I.e. the circumstances of the murder.
2. Doubtless, in view of 47D(b) and 46B(b), we may add 'in anger'.
3. That is, the relative who has the duty of prosecuting the killer and warning him to keep away from public places.
4. The expenses of the purification rituals, presumably.

G. (This is a rare occurrence, but not unknown.)
(a) If a father or mother kills a son or daughter in anger by beating them or by using some other form of violence,
the murderers must undergo the same purifications as apply in the other cases, and go into exile for three years.
(b) When they come back, the female killer must be separated from her husband and the male from his wife, and they must have no more children; and they must never again share hearth and home with those whom they have robbed of a son or brother, or join in religious ceremonies with them.

H. If someone is impious enough to disobey these regulations,
he shall be liable to a charge of impiety at the hands of anyone who wishes.

I. (a) If a man kills his wedded wife in a fit of anger, or a wife her husband,
they must undergo the same purifications and spend three years in exile.
(b) On his return, a person who has done such a deed must never join his children in religious ceremonies nor eat at the same table with them.

J. If the parent or the child disobeys,
he shall equally be liable to a charge of impiety at the hands of anyone who wishes.

K. If in anger
(a) a brother kills a brother or a sister, or
(b) a sister kills a brother or a sister,
the same purifications and periods of exile as applied to parents and children should be specified as applying in these cases too. (That is, they should never share hearth and home with the brothers whom they have deprived of their fellow-brothers nor with parents whom they have deprived of children, nor join in religious ceremonies with them.)

L. If anyone disobeys this law,

869 *he will* be subject to the relevant law of impiety already laid down, as is only right and proper.

M. If anyone gets into such an ungovernable temper with his parents and begetters that in his insane fury he dares to kill one of them, and

(a) is let off responsibility for murder by a voluntary statement of the deceased before death,

he must perform the same purifications as those who commit involuntary murder; and when he has followed the rest of the procedure prescribed for those cases, he may be considered purified.

(b) If he is not let off,

the perpetrator of such a crime will be indictable under many laws. He will be subject to the most swingeing penalties for assault, and likewise for impiety and temple-robbery – he has plundered the shrine that is his parent's body, and deprived it of life. Consequently if one man could die many times, the murderer of his father or mother who has acted in anger would deserve to die the death over and over again. In this single case no law will permit a man to kill: not even in self-defence, to save his own life, may he kill his father or mother, who brought him into the world. The law will instruct him to put up with all manner of suffering before he does such a thing. But what other penalty than death could the law appropriately lay down for this criminal? The law, then, should run:

(b) cont.

the penalty for the murderer of a father or mother is to be death.

N. (a) If a brother kills his own brother in a political brawl or some similar circumstances, in self-defence when his victim had struck first,

he should be regarded as free of pollution (as though he had killed an enemy).

(b) The same applies if

(i) a citizen kills a citizen, or

(ii) a foreigner kills a foreigner.

(c) If in self-defence

(i) a citizen kills a foreigner, or

(ii) a foreigner kills a citizen,

the culprit should be in the same position with regard to the freedom from pollution, and likewise if

(iii) a slave kills a slave.

O. If however a slave, in self-defence, kills a free man, *he should* be subject to the same laws as the parricide [47M].

P. The regulations stated about the acquittal from responsibility for murder granted by a father are to apply to every acquittal in such cases (when, that is, one man voluntarily absolves another of responsibility, on the grounds that the murder has been committed involuntarily):

the criminal must undergo the purifications and spend one year away from the country according to law.

VOLUNTARY HOMICIDE

That will do to describe murders committed unintentionally (through force of circumstances),[5] and in anger. Our next task is to speak of voluntary murders, which are premeditated and spring from sheer injustice – the lack of control over the desire for pleasure and over one's lusts and jealous feelings.[5a]

CLEINIAS: True.

ATHENIAN: First of all, we ought again to make as complete a list as possible of these sources of crime.

The chief cause is lust, which tyrannizes a soul that has gone 870 wild with desire. This lust is most usually for money, the object of most men's strongest and most frequent longing. Because of the innate depravity of men and their misdirected education, money has the power to produce in them a million cravings that are impossible to satisfy – all centring on the endless acquisition of wealth. The cause of this incorrect education is the pernicious praise given to wealth by the public opinion of Greeks and non-Greeks alike. In

5. Or 'with violence'; cf. p. 377.

5a. See the definition of 'injustice' on p. 374.

fact, wealth takes only third place in the scale of goodness;[6] but they make it pre-eminent, to the ruination of posterity and themselves. The best and the noblest policy for all cities to follow is to tell the truth about wealth, namely that it exists to serve the body, just as the body should be the servant of the soul. Although the ends which wealth naturally serves are indeed 'good', wealth itself will take third place, coming after the perfection of the soul and the body. Taking, therefore, this argument as our guide, we shall find that the man who means to be happy should not seek simply to be wealthy, but to be wealthy in a way consistent with justice and self-control. Murders needing still more murders in expiation would not occur in cities that had taken this lesson to heart. But as things are, as we said when we embarked on this topic, we have here one cause, and an extremely prominent cause at that, of the most serious charges of deliberate murder.

Second, an ambitious cast of mind: this breeds feelings of jealousy, which are dangerous companions to live with, particularly for the person who actually feels jealous, but potentially harmful to the leading citizens of the state as well.

In the third place, many a murder has been prompted by the cowardly fears of a guilty man. When a man is committing some crime, or has already committed it, he wants no one to know about it, and if he cannot eliminate a possible informer in any other way, he murders him.

These remarks should constitute the preface applying to all these crimes. In addition, we must tell the story which is so strongly believed by so many people when they hear it from those who have made a serious study of such matters in their mystic ceremonies. It is this:

Vengeance is exacted for these crimes in the after-life, and when a man returns to this world again he is ineluctably obliged to pay the penalty prescribed by the law of nature – to undergo the same treatment as he himself meted out to

6. See the lists on pp. 148–9 and 213.

his victim, and to conclude his earthly existence by encountering a similar fate at the hands of someone else.

If a man obeys and heartily dreads such a penalty after merely hearing the overture, there is no need to play over the relevant law. But in case of disobedience the following law 871
should be stated in writing:

48 A. (a) If a man by his own hand unjustly kills a fellow-citizen, with premeditation,

he must be excluded from the places where people usually gather, and not pollute temples or market or harbours or any other common place of assembly, *whether or not* someone makes a proclamation against the culprit in these terms. (The reason is that the law itself makes the proclamation. It makes a permanent and public proclamation on behalf of the whole state, and always will.)

B. If a man fails in his duty to prosecute the culprit or bar him by proclamation, and is a relative (no more distant than a cousin) of the deceased on either the father's side or the mother's,

the pollution, together with the enmity of the gods, should arrive at his own door. (The curse imposed by the law turns the public voice against him.) He must be subject to prosecution at the hands of any man who wishes to take vengeance for the deceased, and the man who thus wishes to take vengeance must scrupulously perform all the appropriate ablutions and all the other ritual details the god[7] prescribes for such cases; and when he has published the proclamation, he must go and make the criminal submit to the imposition of the penalty, under the law.

It is easy for a legislator to demonstrate that all this should be accompanied by a number of prayers and sacrifices to those gods who make it their business to prevent murders occurring in society. The Guardians of the Laws, in association with expounders, soothsayers, and the god,[7] should rule who these gods are to be, and specify the procedure for bringing such cases that would be most in harmony with the requirements of

7. Presumably the Delphic oracle.

religion; they should then follow it themselves in bringing these cases to court, which should be the same as the one given final authority over temple-robbers.[8]

48 A. cont.

(b) If a man is found guilty,

he must be punished by death and be deprived of burial in the country of his victim. (In this way we can show he has not been forgiven, and avoid impiety.)

C. (a) If the defendant makes off and refuses to submit to trial,

he must remain in exile permanently.

(b) If such a person sets foot within the country of the murdered man,

the first of the relatives of the deceased who comes across him, or indeed any citizen, should either

(i) kill him with impunity, or

(ii) tie him up, and hand him over to the judges who tried the case for them to carry out the execution.

D. When a man undertakes a prosecution, he should immediately demand sureties from the accused. The latter must duly provide his sureties, who must be deemed, in the eyes of the judges who constitute the court in these cases, to be credit-worthy; and these three credit-worthy sureties must pledge themselves to produce the accused at his trial. If a man refuses, or is unable, to produce sureties,

the authorities must arrest him and keep him bound and under guard, so that they can produce him at the hearing of the case.

872 E. If a man does not actually kill with his own hands, but simply plans the murder, and although responsible for it by virtue of intent and plotting, continues to live in the state with his soul polluted by homicide, his trial for this crime should proceed along the same lines as before, except as regards the bail. If he is convicted,

8. See p. 359.

he may be granted burial in his native land, but the other details of the punishment should conform with the regulations previously laid down for this category.[9]

F. These same regulations about the actual commission and mere plotting of a murder should apply when

(a) (i) foreigners prosecute foreigners,

(ii) citizens prosecute foreigners and foreigners citizens, and

(iii) slaves prosecute slaves.

(b) But an exception should be made in the business of the surety. Just as it was said [48D.] that *actual* murderers should provide sureties, the person who proclaims the ban arising from the murder should simultaneously demand sureties in these cases too [48F(a)(i–iii)].

G. If a slave intentionally kills a free man, whether he did the deed himself or planned it, and is convicted,

the public executioner should haul him off in the direction of the deceased's grave to a point from which the culprit can see the tomb. He should then scourge him, giving as many strokes as the successful prosecutor instructs. If the homicide survives the scourging, he is to be executed.

H. If a man kills an innocent slave, fearing that he will inform against his own shocking and disgraceful conduct, or prompted by some similar motive,

he should submit to trial, when a slave has died in these circumstances, precisely as he would have submitted to trial for murder if he had killed a citizen.

Certain crimes, which may occur, make the mere composition of laws for them an unpleasant and distasteful business, but it is impossible to omit them from our code. I mean deliberate and wholly wicked murders of relatives, whether the murderer commits the crime in person or merely plots it. Generally speaking, these killings occur in states that are badly administered or have a defective system of education, but occasionally one of them might crop up even in a country

9. That is, for those who *do* kill with their own hand.

where one would hardly look for it. What we have to do is to repeat our explanation of a moment ago, hoping that anyone who hears it will be more willing and able to avoid committing murders that are absolutely the most detestable in the sight of Heaven. The 'myth', or 'explanation',[10] or whatever the right word is, has come down to us in unambiguous terms from the lips of priests of long ago.

Justice stands on guard to exact vengeance for the spilling of the blood of relatives; she operates through the law we have just mentioned, and her decree is that a man who has done something of this kind is obliged to suffer precisely what he has inflicted. If ever a man has murdered his father, in the course of time he must suffer the same fate from violent treatment at the hands of his children. A matricide, before being reborn, must adopt the female sex, and after being born a woman and bearing children, be dispatched subsequently by them. No other purification is available when common blood has been polluted; the pollution
873 resists cleansing until, murder for murder, the guilty soul has paid the penalty and by this appeasement has soothed the anger of the deceased's entire line.

Thus the fear of such vengeance, exacted by the gods, should hold a man in check. But this is the law the human legislator will lay down in case some people should be overwhelmed by the terrible misfortune of committing such a crime:

I. (a) If they should dare to tear the soul from the body of their father, mother, brothers or children, deliberately and with premeditation,

the proclamations of banishment from places of public resort, and the sureties, should be identical to those detailed in previous cases.

(b) If a man is convicted of such a murder, having killed one of the aforementioned persons,

the court-assistants and the officials shall execute him, and

10. An 'explanation', in Platonic terms, seeks to *prove*, by reason; a 'myth' seeks to *persuade*, to recommend a truth to our feelings, using the language of poetry and mythology.

throw him out, naked, at a specified place where three roads meet outside the city. All the officials, on behalf of the entire state, must take a stone and throw it at the head of the corpse, and thus purify the entire state. After this, they must carry the corpse to the borders of the land and eject it, giving it no burial, as the law instructs.

SUICIDE

But what about the killer of the person who is, above all, his 'nearest and dearest', as the expression is? What penalty ought he to undergo? I am talking about the man who kills *himself*, who (1) uses violence to take his fate out of the hands of destiny, (2) is not acting in obedience to any legal decision of his state, (3) whose hand is not forced by the pressure of some excruciating and unavoidable misfortune, (4) has not fallen into some irremediable disgrace that he cannot live with, and (5) imposes this unjust judgement on himself in a spirit of slothful and abject cowardice. In general, what ritual observances should take place with regard to purification and interment in this case, are matters known to God; the relatives must seek guidance from expounders and the relevant laws, and act in these instances according to their instructions. But

49. (a) People who perish in this way must be buried individually, with no one to share their grave.

(b) They must be buried in disgrace on the boundaries of the twelve territorial divisions, in deserted places that have no name.

(c) The graves must not be identifiable, either by headstone or title.

ANIMALS AND INANIMATE OBJECTS AS KILLERS

50. (a) If a beast of burden or any other animal kills anyone (except when the incident occurs while they are competing in one of the public contests),

(i) *the relatives* must prosecute the killer for murder;

(ii) *the next of kin* must appoint some Country-Wardens (whichever ones he pleases, and as many as he likes), and they must try the case;

(iii) if the animal is found guilty,
they must kill it and throw it out beyond the frontiers of the country.

(b) If some inanimate object causes loss of human life (but not if it is a stroke of lightning or some similar weapon wielded by God – it must be one of the other things that kill a man by falling on him, or because he falls on it),

(i) *the next of kin* must appoint the nearest neighbour to
874 sit in judgement on the object, and thus effect the purification of himself and the deceased's entire line;

(ii) *the condemned* object must be thrown over the frontiers, in the way specified in the case of animals.

MURDER BY PERSONS UNKNOWN

51. If someone is found dead, and the killer is not known and cannot be discovered by diligent efforts to trace him,
the proclamations should be the same as laid down in former cases, being made, however, against 'the murderer': when the prosecutor has established his case, he must give notice in the market-place to the killer and convicted murderer of so-and-so, that he must not enter holy places nor any part of the country of the deceased; he must threaten that if he does turn up and is recognized, he will be executed, denied burial, and his body ejected from the country of his victim.

JUSTIFIABLE HOMICIDE

So much, then, for the law on that sort of murder. In the following conditions, however, it will be right to regard the killer as innocent:

52. (a) If he catches a thief entering his home at night to steal his goods, and kills him,
he shall be innocent.

(b) If he kills a footpad in self-defence,
he shall be innocent.

(c) If anyone sexually violates a free woman or boy,
he may be killed with impunity by the victim of the violence, or by the victim's father or brothers or sons.

(d) If a husband discovers his wedded wife being raped and kills the attacker,
the law will regard him as innocent.

(e) If a man kills someone while saving the life of his father (provided the latter is not committing a crime), or while rescuing his mother or children or brothers, or the mother of his children,
he shall be completely innocent.