



THE UNIVERSITY OF
CHICAGO

JUSTICE IN THE ORESTIA
“THE LOST JURY DELIBERATIONS”

By Daniel S. Kaplan

March 2010

The *Oresteia* is a tale of justice in a world governed by gods’ dictates and man’s free will. Beginning ten years after the start of Agamemnon’s epic struggle for vengeance, tragic events unfold as Agamemnon kills Iphigenia, Clytaemestra kills Agamemnon and Cassandra, and Orestes then kills Clytaemestra and Aegisthus. This culminates in what would be called in more recent times, the “trial of the century.” Was the killing of Clytaemestra by Orestes justifiable matricide? And if so, what in the ancient Greek culture led to the conclusion that justice was served?

Recognizing you probably read hundreds of papers on “justice in the *Oresteia*,” I thought you might appreciate approaching the topic in a novel manner. I also noticed Aeschylus makes no mention in *The Eumenides* of the jury deliberations, other than state they were deadlocked. Accordingly, I thought it might be interesting, and hopefully appropriate, to speculate what this Greek jury might have said. Nevertheless, understanding that this paper is for a class on Greek tragedy and not creative writing, some additional impressions are separately presented on how Aeschylus’ presents “evidence” in support of a need for a rule of law.

It is notable that in *The Eumenides*, the jury actually hears almost no “evidence.” This “imperfection” has several explanations. Most obvious, is that “rules of evidence” simply did not yet exist. Accordingly, Aeschylus or an audience being exposed to a trial for the first time would certainly not consider this problematic. More importantly, in Aeschylus’ form of tragedy, it is essential that the audience understand why the rule of law offers them hope. This acceptance, I believe, requires that the audience first be shown “evidence” of escalating tragedies showing how the tragic heroes are in “no-win” situations. Only after the evidence is presented in this manner, can the audience accept why Aeschylus’ solution is necessary. This path to “hopefulness” could be terminally detoured, along with the dramatic suspense, if the trilogy began with the jury, and thereby the audience, being told of the tragedies that already occurred. Finally, from a purely practical perspective, the Dynastic festival format made presenting all the evidence to the jury artistically unworkable. Aeschylus could not effectively repeat to the jury in *The Eumenides*, everything that was just presented in *Agamemnon* and *The Libation Bearers*.

I choose to resolve this lack of “evidence” issue by presumptuously assuming, without textual support, that Athena in her wisdom and fairness allowed the jury to consider other evidence outside the summary arguments of Apollo, the Furies, Orestes and Athena. Namely, what Orestes and his sister Electra said in the texts. Aeschylus’ plays are, for my purposes, the trial transcripts.

Also noticeably absent in Aeschylus’ views of justice, are modern notions of compassion or pity. While the audience feels compassion for Orestes, the decision regarding his justifiable innocence is based on reason. I believe the motivation for this approach is

found by examining what justice meant at the time Aeschylus wrote the *Oresteia* and why change was needed.

I view pre-Aeschylus justice as comprising the ancient Hebrew rule of law of “an eye for eye” but with a “vengeance” variant. It is distinguishable, however, from the Hebrew concept, because “offenses” such as the “abduction” of Helen were not remedied simply by the “abduction” of another. Rather, a serious offense would also generally result in collective punishment, including a curse on the offender, his family and community, with actions magnified many fold in relation to the original transgression. This vengeful form of “justice” was viewed as necessary to remedy a dishonor or disrespect of the gods primarily, and only secondarily men.

This form of justice however, has its obvious limitations in a developing and emerging democracy. Most significant is that the only natural limits of unbridled vengeance are total capitulation, annihilation and servitude. Aeschylus, as well as the other great tragedians, reminds us that one offense, such as Helen’s transgression, can cause a seemingly never-ending cycle of mass destruction. Moreover, under the existing system, leaders with heroic qualities, such as Agamemnon, while pursuing vengeance are often forced to succeed local administration to others who might be less qualified and lack charisma. This can leave those left behind feeling directionless, as well as vulnerable to their enemies.

Equally important is to remember that Aeschylus’ Greek society was polytheistic and men were not subjected to the will of a single deity. (*See Parsons 1977: 110.*) Aeschylus believed the gods are “actively and sometimes willfully controlling” how men must deal with situations. (*See Bellah, American Sociology Review, June 1964, P. 368.*) We see, time and time again throughout the *Oresteia*, and the other Greek tragedies, that while Zeus reigns

supreme, men often must make seemingly conflicting choices based on gods' differing agendas and occasional cruelty. Thus, the struggle between different groups was viewed first and foremost as a struggle between rival gods or as a change of a god's favor towards the group. (*Id.*) Aeschylus' brilliance in the *Oresteia* is in his ability to reason that Zeus' has divinely inspired men to learn what is just through great suffering, reason and exercise of their free will. And, thereby halt the circle of violent retribution.

With that said, the debate that follows are the recently discovered – albeit unauthenticated - jury deliberations.

The Case Against Orestes

I, Themistokles offer my opinions, shared by three of my brethren, on the guilt of Orestes.

We must begin our deliberations by first deciding what evidence is relevant. We all agree that Aegisthus' "sharing a bed" with Clytaemestra would cause any son to experience rage beyond the limits of tolerance. It shocks our collective conscience that this tyranny occurred when Agamemnon was away so bravely fighting in battle, the germination of which were lustful longings. We might also want to ask whether Aegisthus had any direct role in the killings of Agamemnon and Cassandra, the evidence of which we find admittedly weak. Or, did Aegisthus simply, as he so frequently did in the past, leave this task to the more "manly" Clytaemestra? Similarly, we can all easily conclude that Electra is not without some fault in this matter, even if we sympathize with her plight. Electra stood in solidarity with Orestes and encouraged his actions. Alias, however, we must remember that Athena has charged us only with deciding whether Orestes was justified in killing his mother. Whether he also is guilty of murdering Aegisthus or whether Electra should be charged as a conspirator,

are questions left for another day.

Turning now to the issue of premeditation, the evidence plainly shows that the killings were carefully planned. Orestes told his beloved sister, Electra, that he would kill their mother and Aegisthus in a manner not unlike how his mother and Aegisthus killed their father. Specifically, Orestes said, “*by treachery tangled in the self same net they too shall die.*” (LB 556 – 558.)¹ Orestes then told Electra that he and Pylades would disguise themselves and wait outside until someone let them inside his father’s home. Once inside, Orestes said “[I] *shall plunge my sword with lightning speed, and drop him dead.*” (LB 576 – 577.) As to the planning and premeditation, therefore the Furies are undeniably correct, even if it is for the wrong reasons.

Premeditation should not be a critical component in our decision. Rather, the most difficult of questions, which I greatly struggled before reaching the proper conclusion, is what choice did Orestes have? Could he control his fate? Could Orestes disobey Apollo? Are we as mortals free to disobey or disregard the commandments of a god?

In deciding these issues, I believe it is essential to begin our analysis with recognition that Athena surely would not have asked us to deliberate the fate of Orestes, if we are only to conclude that Orestes had no choice but to follow the commandment of a god. We are reminded that Orestes forthrightly told Athena of Apollo’s decree, which Apollo corroborated before the decision was made to convene a trial. We therefore with reason must conclude that if Athena wanted us to stay only “on the surface” and conclude that an order is an order and must not be disobeyed, she would not have asked us to deliberate. It cannot be as simple as innocence for following a god’s demand and guilty for not.

¹ References to *Agamemnon*, *The Libation Bearers* and *The Eumenides* are “A___,” “B___,” and “E___,” respectively from *The Complete Greek Tragedies* edited by David Grene and Richard Lattimore.

The answer to what is justice therefore must lie somewhere in the “depths below.” To reach the just conclusion we must critically ask what lead Apollo to tell Orestes to kill his mother? Such a thoughtful analysis, I believe leads to the conclusion that Orestes’ actions cannot be justified. We all know that the gods as powerful as they are, do not have complete control of our fate. Orestes had free will not to kill his mother and free will not to seek approval from the gods to do so.

Also, what does the evidence actually show in regards to the god’s role? Is it reasonable for us to conclude that the gods might not have become involved had Orestes not been so insistent in his pleas for vengeance? We should begin an inquiry into this by not forgetting that Apollo, Athena and Helen are all children of Zeus. Clytaemestra is also the sister of Helen. Yet, Athena did not even recognize Orestes as the son of Agamemnon, despite in Orestes’ words, his father was Athena’s “*companion*” when she “*made the Trojan city of Ilium no city any more.*” (E 456 – 458.)

Similarly, in Orestes’ first discussions with Electra, he seeks permission from Zeus to seek vengeance. Specifically, it is said, “*Zeus, Zeus grant me vengeance for my father’s murder. Stand beside me, of your grace.*” (LB 17 – 18.) Orestes later says in his prayers, “*Zeus, Zeus, force up from below ground the delayed destruction on the hard heart and the daring hand, for the right of our fathers.*” (LB 382 – 385.) This is followed by Orestes stating, “*May Zeus . . . pound . . . his fist upon them . . . I ask for right.*” (LB 394 – 399.) Simply stated, from the evidence we therefore conclude that the gods would not have become involved, but for Orestes’ pleas. Orestes, like all mortals, must be careful what is asked for from the gods, for it may lead to tragic consequences. Orestes had free will and could have and should have ended the cycle of violence before it started.

Finally, as mentioned, we all have much sympathy for Orestes dire situation. Orestes should have been able to return to his home and his rights. Or, as Orestes said, "*Hear me, you lordships of the world below. Behold in assembled power, curses come from the dead, behold the last of the sons of Atreus, foundering lost, without future, cast from house and right. O god, where shall we turn?*" (LB 405 – 409.) However, if we do not find him guilty, what are the consequences for us as a society of enlightened and reasoned people? Would not a verdict of innocence be an invitation for others to take matters into their own hands? I fear that the only right decision in this case and to protect generations to come, is to find Orestes guilty.

We therefore vote that to serve justice, Orestes must be found guilty of matricide.

The Case For Orestes

I, Demokritos offer my opinion, shared by three of my brethren as to why we must find Orestes innocent of matricide and why a contrary position is unjust.

This deliberation admittedly should cause all much consternation. However, our decision must be made, and as Athena commands, based on a critical examination of the evidence and not emotion. Otherwise, our decision will have no meaning today or for future generations.

I will not belabor the issue of whether his actions were premeditated, for this is conceded and of little importance. We do, however, disagree that Orestes' free will was improperly exercised, and that he actually had any such free will. We further submit that Themistokles misconstrued the role of the gods in Orestes' fateful decisions. Orestes is a tragic hero who must go free.

Our inquiry into whether Orestes' actions were justified must begin with reference to Agamemnon's esteemed character. No man is more worthy of respect and gratitude. Agamemnon tirelessly fought for what he believed was right without desire for personal gain. That Agamemnon's actions were diemonic should not diminish, but rather add to his greatness. As it has been said, we, "*salute him with good favor, as he well deserves, the man who has wrecked Ilium with the spade of Zeus vindictive, whereby all their plain has been laid waste.*" (A 521 - 523.) There is no legitimate doubt that Agamemnon should be "*honored far above all men alive.*" (A 531.) He did not deserve the shame and dishonor that befell him.

We also do not believe Agamemnon's tortured decision to sacrifice his young daughter Iphigenia should diminish our view of Agamemnon's character. Nor do we believe it justifies Clytemnestra's act. We know that Agamemnon was inextricably torn between his love for his children, his people and god's dictates. As it is written about the event, "*The elder lord spoke aloud before them: My fate is angry if I disobey these, but angry if I slaughter this child, the beauty of my house, with maiden blood shed staining these father's hands beside the altar.*" (A 206 – 210.) Agamemnon asked Zeus for guidance regarding Iphigenia. Specifically, "*Zeus: whatever he may be, if this name pleases him in invocation, thus I call upon him. I have pondered everything yet I cannot find a way, only Zeus, to cast this dead weight of ignorance finally from out my brain.*" (A 160 -166.) It is tragic that he was not given the answer he wanted, but instead was told that that he must suffer to gain wisdom. Specifically, "*Zeus, who guided men o think, who has laid it down that wisdom comes alone through suffering. Still there drips in sleep against the heart grief of*

memory; against our pleasure we are temperate from the gods who sit in grandeur grace comes somehow violent.” (A 175 – 183.) The wisdom, however, we should learn from the suffering and bloodshed is that it must now come to an end through our reasoned decision.

Once it has been established without a doubt that Agamemnon’s death was worth avenging, we must examine how Orestes went about seeking such vengeance. No man would have been expected to do more than Orestes. We have heard the agonizing testimony that his first actions were pleas to the gods for guidance and wisdom to do what was right and just. Since this is the bar from which all amongst us should be measured, we cannot properly find fault in this decision. To not ask the gods for guidance would be to dishonor and disrespect them.

Moreover, lest we not forget that Orestes was willing to pay dearly for the consequences of his actions and any assertion to the contrary misconstrues the evidence. Even Electra recognized, there would be a question of whether, the god’s would, “*Come to judge them, or to give them punishment?*” (LB 122). Electra asks in reference to the vengeance sought, “*I can ask this, and not be wrong in the gods’ eyes?*” (LB 123.) Most telling is what Orestes said in regards to the consequences of his ultimate decision, “*Let me take her life and die for it.*” (LB 438.)

Moreover, although it may appear to some that Orestes is defending his actions through the testimony of Apollo, we believe this is a misreading of the evidence and it is not that simple. The better and more appropriate inquiry is why did Apollo tell Orestes to kill his mother? As explained, Apollo, like us, could not condone the un-avenged

Agamemnon's murder brought "*the gods' disgust*" (LB 1028) just as it must ours. Similarly, we believe that the deeper meaning behind Apollo telling Orestes he would "*not be charged with wrong*" (LB 1030) and that Apollo would "*not abandon*" him (E 84) is that others, such as this deliberative body, would determine that Orestes' actions were not wrong and were in reality just.

Please note we are also not attempting to justify Orestes' decision based on his testimony that great harm might befall him if he did not kill his mother. Specifically, we reference the testimony that Apollo "*told me [Orestes] to cut them down in their own fashion, turn to the bull's fury in the loss of my estates. He said that else I must myself pay penalty with my own life and suffer much sad punishment.*" (LB 274 – 277.) Rather, we conclude simply what Orestes did was right regardless of whether Apollo answered his, "*call upon the god who stands close, to look on, and guide the actions of my sword.*" (LB 583 – 584.)

It is also critical in our deliberations to consider whether Orestes could have found justice in some other manner? The simple answer is, no. At the time Orestes made his decision, there was no court system in place for which Orestes' mother could or would be tried by a jury. Justice at the time of the events meant bloodshed for bloodshed and Agamemnon would not rest until his death was avenged.

The final question that must therefore be decided is what will result if we find Orestes' actions justifiable? Will it result, as it has been argued, that more blood feuds will be promoted? We reason not. Wise Athena has created this forum in which the Furies, the gods and men can find justice. The wisdom from suffering we should learn

from the tragedy before us is to let reason play a role in retribution, rather than blind rage and force. A decision of not guilty will not send a message, as suggested, that “*every man will find a way to act at his own caprice.*” (E 494 – 495). Nor will it “*rear a heart that nowhere goes in fear.*” (E 521 – 522.) The House of Priam and the citizens of Argos have a new forum for justice. A finding of not guilty is the right decision at the right time and will be a guide to Athens and many generations to come.

We therefore vote that Orestes’ actions were justified. He is not guilty of matricide.