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FOREIGN JUDGES AND ΔΙΚΑΙΟΔΟΣΙΑ: A RHODIAN FRAGMENT

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## FOREIGN JUDGES AND ΔΙΚΑΙΟΔΟΣΙΑ: A RHODIAN FRAGMENT\*

Included in the corpus of Rhodian inscriptions collected by L. Martín Vázquez is a fragment first published by G. Pugliese Carratelli in the 1950s.<sup>1</sup> The small fragment of stone, now in the museum on Rhodes, measures only a little over a foot in both width and height. It was originally part of a base, perhaps for a statue. The inscription appears to have been an honorary decree of some sort, and since the stone is intact on its upper side, the opening lines of the decree should be preserved here. Below (on the left) is the edition and apparatus of Pugliese Carratelli, reproduced by Martín Vázquez; the text on the right represents an effort to restore the probable sense, though not the exact wording:

----- ἀ πόλις	[ τύχα ἀγαθά (e.g.). ὁ δᾶμος καὶ] ἀ πόλις
----- Φίλωνος	[τῶν ----- ἐπαινεῦντι (name) τοῦ] Φίλωνος
[- - ἔνεκ]α καὶ εὐνοίας	[καὶ τὸν δᾶμον τὸν Ῥοδίων ἀρετᾶς ἔνεκ]α καὶ εὐνοίας
[τᾶς εἰς ἀ]ύτους.	[ᾶς ἔχων διατελεῖ ἐν παντὶ καιρῶι εἰς ἀ]ύτους.
5 -----εις δικαστάς	[ἐπειδὴ ὁ δᾶμος τῶν Ῥοδίων παρακληθ]εῖς δικαστάς
-----οδοσίαν	[ἀποστεῖλαι κατέστησε (name) εἰς δικαιο]δοσίαν,
[- - - - κ]αὶ ὁσίως	[ὅς τὰς μὲν συνέλυσσε τᾶν δικᾶν δικαίως κ]αὶ ὁσίως,
[- - - ἀκο]λούθως	[τὰς δὲ λοιπὰς διέκρινε τοῖς νόμοις ἀκο]λούθως
	[- -----]

5: [αἶρεθ]εῖς or [κλαρωθ]εῖς?

The appearance of the word δικαστάς (line 5) in conjunction with various terms implying a job well done (εὐνοίας, line 3; ὁσίως, line 7) suggests that this was a decree in honour of judges. The most obvious context for such a decree is that of the institution of “foreign judges”. In the opening lines an unknown Dorian state probably rendered thanks to the son of Philon, and perhaps to his home state as well. This gratitude would have been for the good will displayed by that state in dispatching the judges, and for the pious behaviour of the judges themselves, behaviour which was in accordance with the laws.

The standard interpretative treatment of the institution of foreign judges remains that of Louis Robert, who drew on over 200 inscriptions for his examination of the phenomenon.<sup>2</sup> The custom of dispatching judges from one πόλις to resolve internal quarrels and disputes in another was widespread in the Hellenistic period. A multitude of inscriptions attests to the practice, the vast majority of them consisting of honorary decrees promulgated by the state which had benefitted from the judges’ labours. These judges, chosen probably by their own home state, would travel to the state which had requested their assistance, and there settle outstanding disputes among the citizens, or perhaps even between certain citizens and the state. Reconciliation of disputing parties was preferable to a strictly judicial decision, but foreign judges routinely performed both tasks.

Most of the restorations offered are for the sake of example only. This reconstruction obviously assumes greater line lengths than implied in the original edition of the inscription. The reading [ἔνεκ]α καὶ εὐνοίας | [τᾶς εἰς ἀ]ύτους, offered by Pugliese Carratelli, is sensible enough on the face of it, but

\* I am grateful for suggestions Professor R. Merkelbach offered on an earlier draft of this article.

<sup>1</sup> Pugliese Carratelli, *Supplemento epigrafico rodio*, *ASAtene* n. s. 14–16 (1952–54) pp. 246–316, 25 (p. 272); Martín Vázquez, *Inscriptiones rodias* (Dissertation, University of Madrid, 1988) 1522.

<sup>2</sup> Les juges étrangers dans la cité grecque, *ΞENION. Festschrift für P. J. Zepos I* (Athens/Freiburg 1973), pp. 765–782 (= *Op. Min.* v, pp. 137–154). C. Crowther’s dissertation *Foreign judges from Priene. Studies in Hellenistic epigraphy* (London 1990) offers an updated catalogue, with some 250 entries.

the lacunae in the other lines cannot possibly be so brief. With such a fragmented text it is impossible to offer a secure reading, but all the restorations offered here are attested in other foreign judge inscriptions.<sup>3</sup> The one word that is relatively unusual is δικαιοδοσία, about which more will be said shortly.

This restoration also differs from Pugliese Carratelli and Martín Vázquez in seeing δικαστάς as an accusative plural rather than a Doric nominative singular. Such an assumption may beg the question of why only one judge appears to be honoured here. The answer is twofold. First of all, there is no guarantee that the inscription does honour only one man. Secondly, if this is indeed a statue base, it may have been that the judges were honoured separately. Another inscription, an even smaller fragment from the same venue, exhibits exactly parallel wording and disposition, and may be an inscription honouring another individual connected with the same case.<sup>4</sup> Statues were not commonly one of the honours granted to foreign judges; but they could be erected either in honour of the judge as an individual or in honour of the judge's city.<sup>5</sup> If these fragments do come from statue bases, that may also account for the possibly abbreviated form of the inscription; normally one would expect a more discursive account of the benefactions performed.

This inscription probably recorded honours granted to a Rhodian. As Robert points out, the majority of honorary decrees for foreign judges have been found in the home state of the judge.<sup>6</sup> Furthermore, Rhodes is conspicuous by her absence from the list of states *requesting* the aid of foreign tribunals. Robert singles out Rhodes (in addition to Athens) for comment as a state which never resorted to *metapempta dikasteria*:

Rhodes, la fière république qui jouait un grand rôle dans la politique internationale, dont la constitution passait pour un modèle d'équilibre avec la souci du πλήθος et qui jouissait, grâce à son commerce et à sa marine, de la prospérité économique.<sup>7</sup>

On the other hand, Rhodes was a great *dispenser* of judicial favours, and frequently appears as the home state of foreign judges.<sup>8</sup>

The original editor of this fragment offered no restoration for line 6. Sufficient letters remain to make the conjecture [δικαι]οδοσίαν a certain one, and the term is appropriate here. The precise implications of the word may vary according to context, but the basic sense is always that of a granting of justice. In the literary sources from the Hellenistic age, where the word first appears, it often refers to a reciprocal agreement between disputants (individuals or states) to have their claims submitted to neutral arbitration.<sup>9</sup> It is the disputing parties who “grant justice” to one another. By the Roman period there seems to be a shift of emphasis, away from mutual agreements to give and receive justice, and in the direction of justice as granted by the authoritarian *fiat* of a judge.<sup>10</sup>

<sup>3</sup> Cf. O. Kern, *Die Inschriften von Magnesia am Maeander* (Berlin 1900) 15; F. Hiller von Gaertringen, *Die Inschriften von Priene* (Berlin 1906) 60; A. Rehm, *Milet* i.3 (Berlin 1914) 153; *IG* v.1 1336, ix<sup>2</sup>.1 417, xii.3 320, xii.5 869; *Fouilles de Delphes* iii.1 272; H. Engelmann/R. Merkelbach, *Die Inschriften von Erythrai und Klazomenai* (Bonn 1972) 119; W. Blümel, *Die Inschriften von Iasos* (Bonn 1985) 73, 607; et al.

<sup>4</sup> Pugliese Carratelli, *ASAtene* (note 1 above) 25a: ---ΥΣ]---ΙΚΑΣΤΑΣ]---ΣΙΑΝ]---ΑΙΟΣΙΩΣ]---ΑΟΥΘΩΣ.

<sup>5</sup> See *IG* xii.5 722; *SEG* xxvi 677.

<sup>6</sup> Robert (note 2 above) p. 772.

<sup>7</sup> Robert (note 2 above) p. 777. But in the later 2nd century, when her star was sinking, Rhodes did turn to others to help her settle some of her *external* disputes; see *Inschriften von Iasos* (note 3 above) 612.

<sup>8</sup> See Ç. Şahin, *Die Inschriften von Stratonikeia* (Bonn 1981) 9, *IG* xii.5 652, *Inschriften von Iasos* (note 3 above) 76, W. Blümel, *Die Inschriften von Mylasa* (Bonn 1987) 125/126 (*SEG* xl 993), *Inschriften von Erythrai* (note 3 above) 119. Rhodes also made use of her international judicial skills in the sphere of interstate arbitration; see Ager, *Historia* xl (1991) pp. 10–41.

<sup>9</sup> See Polybios iv.16, 20; xxii.4; xxiii.1; xxxii.7; xxxviii.11; xxxix.5.

<sup>10</sup> It becomes a term commonly used of the actions of Roman governors; see Diodoros xxxvi.11; xxxvii.5, 8; Plutarch, *Pompey* x; Strabo iii.4; xiii.4; xvii.1.

While epigraphic references to the term δικαιοδοσία are relatively rare, there are a few examples from the Hellenistic period. An inscription from Miletos, recording a decree of Eretria, honours three judges who had been sent by the Milesians to help out the Eretrians.<sup>11</sup> The beginning of the inscription is missing, but the Eretrians appear to refer to the good will of the Milesians, who appointed these judges in order to fulfill δικαιοδοσία (lines 4–5: ὅπως ἐπιτελεσθῆι ἡμῖν ἢ πρὸς ἀλλήλους δικαιοδοσία). The term appears also in an inscription from Chalkis from about the same period: Ἐπειδὴ τοῦ δήμου σπεύδοντος ὑπὲρ τῆς πρὸς ἑαυτοὺς δικαιοδοσίας καὶ προκρίναντος τὸν δῆμον τὸν Ἄνδρίων, παρ' οὗ τὸ δικαστήριον αἰτεῖν δοκοίη or αἰτητέον δοκοίη].<sup>12</sup> An official decision had been made to call in assistance in the form of a δικαστήριον from Andros, a tribunal which would somehow further δικαιοδοσία among the citizens.

The inscriptions refer to ἢ πρὸς ἀλλήλους δικαιοδοσία and ἢ πρὸς ἑαυτοὺς δικαιοδοσία. This suggests that δικαιοδοσία in these inscriptions, and probably in the Rhodian inscription as well, still means what it generally did to the Hellenistic writers; the emphasis of the term lies less on the giving of judgements than on the granting of justice to one another by the disputing parties. In spite of the term δικαστής by which he was called, a foreign judge was regularly expected to mediate settlements wherever possible, rather than impose judgements. The strictly judicial activity of the son of Philon was probably less important than what he did to facilitate the voluntary rendering of mutual justice between citizens previously in dispute.

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<sup>11</sup> *Milet* (note 3 above) 154 (early 2nd century B.C.).

<sup>12</sup> *JG* xii.9 903 (after 196 B.C.). A second century B.C. inscription from Larisa bears similar language (A. Giovannini, *Demetrias* i [Bonn 1976] pp. 205–213; *SEG* xxvi 677).