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ROYAL AUTHORITY AND CITY LAW UNDER ALEXANDER AND HIS HELLENISTIC SUCCESSORS[1]

When the Macedonians had conquered Greece, city-states continued to exist alongside the more powerful kingdoms, and were often forced to accommodate their policies to the wishes of the powerful kings who were, in theory, their allies. If kings and cities were to co-operate effectively, there would need to be some way of adapting the authority of royal wishes to the theoretical rights of the cities to self-determination.

The contrast between the powers of a king, theoretically all-powerful within his kingdom, and the autonomy of a city did not need to be total. Aristotle, who was acquainted with the Macedonian kingdom, made a clear distinction between kingship and tyranny, between rule by the law and autocracy. He listed Macedonia alongside Sparta and Epirus as kingdoms which were ruled in the interests of all.[2]

On the other hand, Polybius, another observant, contemporary witness, had no doubt that Macedon was an autocracy and criticized the Thessalians, who thought that they were ruled by the law, when they were in fact ruled by the kings of Macedon (4.76.2). Polybius thought that his own Achaea was ruled by law and not by the authority of Philip V, but Plutarch, *Aratus* 45, records the opinion that Aratus had preserved only the freedom of his own tongue, which shows that even Achaea under the Macedonian alliance could be seen as subject to royal autocracy.[3] Even a relatively powerful city or league was subject to the authority of its royal ally.

Furthermore, there is no reason to believe that there was a written lawcode in Argead Macedonia or the early successor states.[4] Even where there was written law, in an allied or subject city or under the Ptolemies, we should not expect systematic codified law, or impose our modern ideas of how law works.[5] Macedonian law, or custom if we prefer, would have been even less systematic.[6] So a king's ideas of what constituted good law probably differed from those of the citizens of states allied, or subject, to him.

It seems worthwhile to examine the various cases where we find royal authority being used to determine city law, in order to see what features, if any, they have in common. We should place the greatest emphasis on contemporary evidence, in particular inscriptions. These may not tell us all we would like to know, but they will show us how the cases were presented to the people of the time.

After looking at the individual cases, it is worth examining how they match what we

[1] I wish to thank Professor F. W. Walbank for commenting on an earlier version of this paper, and an anonymous *CQ* referee for helpful criticism. Any remaining errors are mine.

[2] Arist. *Politics* 1285a2–b6, cf. W. L. Newman, *Commentary* ad loc., vol. 3 (1902), 258ff.; see 1310b35 for the comparison with Sparta.

[3] R. M. Errington, 'Philip V, Aratus and the "Conspiracy of Apelles" ', *Historia* 16 (1967), 23.

[4] P. de Francisci, *Arcana imperii*, II.371; A. Aymard, 'Sur l'assemblée macédonienne', *REA* 52 (1950), 127 = *Études d'Histoire Ancienne* (1967), 154; R. A. Billows, *Antigonos the One-Eyed*, (Berkeley, 1990), 259; E. N. Borza, *In the Shadow of Olympus* (Princeton, 1990), 245.

[5] M. I. Finley, *Use and Abuse of Greek History* (London, 1975), 143; M. Gagarin, *Early Greek Law* (Berkeley, 1986), 106; D. M. MacDowell, *The Law in Classical Athens* (London, 1978), 59; R. Osborne, 'Law in action in classical Athens', *JHS* 105 (1983), 53.

[6] V. Arangio-Ruiz, *Rariora* (Rome, 1946), 242.

can determine of the ideology of the king as lawmaker and then also looking at the question of how far Alexander or his successors could change the way a city's laws worked. Could they make new laws which went against the previously existing rules of an allied city?

The earliest inscription dealing with a king as lawmaker is Alexander's letter to the Chiots (*Syll*^{3} 283). After Alexander's forces had expelled the Persians from Chios,[7] he laid down regulations for a new democratic constitution,[8] the recall of exiles and the creation of a new lawcode. Alexander did not write the new laws himself, but authorized the Chiots to elect *nomographoi*, who were to correct the laws so that there was nothing against the democracy and the return of the exiles, and ordered the new laws to be brought to his court (lines 4–7)—presumably so that he could confirm that his wishes had been obeyed.

Similarly at Eresus the demos made the decision on what to do about former tyrants and their descendants after sending ambassadors to Alexander about it and receiving an ordinance (διαγραφή) from him. It was decreed that judgments should be made in these cases according to Alexander's ordinance and the laws (presumably of Eresus: *OGIS* 8.34–5, 58ff.). Here we see Alexander's ordinance treated as having similar authority to the laws of the city.

In these cases Alexander did not act himself as a law-giver, but as a higher authority than the cities involved. He authorized the Chiots themselves to review their lawcode and indicated the lines along which they should do so. He also inspected the finished product, no doubt reserving the right to overrule any laws that did not meet his approval. But the work of revising the laws was left to the Chiots themselves. At Eresus Alexander did set out rules for judgment, but it was the decision of the Eresian demos which made them binding at Eresus.

With the exiles' decree of 324 B.C., Alexander did legislate himself, overruling numerous laws and decrees of the various cities, under which those exiles had been expelled from their home cities. But Alexander was careful to show that he was acting with respect to the fundamental principles of justice, since he excluded temple-robbers and homicides.[9] Alexander had the authority, or assumed he had it, to overrule the cities subject to him, but he was careful to show that he did so in the general interest, preserving the basic principles of higher justice.[10]

Similar principles to those at Chios and Eresus are found under the successors, for example in the decree issued by Antigonus I on the synoecism of Teos and Lebedus (*Syll*^{3} 344). Here Antigonus, like Alexander, stressed that his actions were in the general interest, and he authorized law in three different ways, but in no case did he issue specific laws himself. Existing lawsuits were to be decided according to the laws of the city in which they had been initiated, and decided within two years (lines 24ff.). In order to create a new lawcode for the new city, the king authorized the election of three *nomographoi*, who had to be over forty years of age, who were to write a new lawcode in the city's best interest (lines 44ff.). In the interim, Antigonus prescribed, after consultation with his subjects, that the laws of Kos were to be used in the new city (lines 55–60) and men were to be chosen to go to Kos to acquire a copy of these laws, departing within five days of their election (lines 120–1).

[7] T. Lenschau, 'Alexander der Grosse und Chios', *Klio* 33 (1940), 203ff.

[8] This was a more developed democracy than the previous one at Chios: J. L. O'Neil, *The Origins and Development of Ancient Greek Democracy*, (Lanham, MD, 1995), 167–8, cf. 24–5.

[9] D.S. 17.109.1. Polyperchon's similar decree of 319 B.C. excluded those exiled for homicide or impiety (D.S. 18.56.4).

[10] Cf. E. R. Goodenough, 'The political philosophy of Hellenistic kingship', *YCS* 1 (1928), 61.

Like Alexander at Chios, Antigonus authorized the appointment of law-makers and did not legislate himself. Zancan has suggested that Antigonus did not have authority to legislate at Teos and Lebedus, but acted as arbitrator between the two cities, just as another city might have done.[11] However, her view overlooks two points: firstly, the problems that the citizens raised to the implementation of Antigonus' decisions suggest that not all of them desired the synoecism but could not oppose it outright.[12] Secondly, Antigonus reserved the right to punish the *nomographoi* if they enacted laws which are not in the interests of the new city (lines 54–5). Clearly Antigonus delegated his authority to legislate to men chosen by the city, while reserving his ultimate power over the laws they produced. It was not that he did not have legislative power over the cities allied to him, just that he preferred to keep his involvement in their affairs to a minimum.[13]

Other Hellenistic evidence shows that cities adopted the recommendations of Hellenistic kings, sent to them by royal letter, regulation (διάγραμμα) or ordinance (πρόσταγμα).[14] These royal recommendations were then made into law by decrees of the people. However, we may doubt how far it would have been possible for an allied city to have ignored the advice of its royal overlord. Inscriptional evidence may conceal opposition to, or dislike of, the exercise of royal authority over an allied city's laws.

In 318 B.C. Polyperchon, acting as guardian to the kings sent Phocion and other Athenian fugitives back to Athens, ostensibly for trial, but, as Plutarch says (*Phocion* 34.2), in fact already condemned to death. The royal letter was read out, declaring that the men were traitors, but handing them over to the Athenians, as free and autonomous people, for trial (para. 4). As it happened, there was popular enthusiasm for Phocion's condemnation, but there was also pressure on his friends to keep silent and to deny the accused a chance to defend themselves.

Here royal authority, as expressed by the regent Polyperchon, was the decisive factor. The 'free and autonomous' Athenians might well have reached the same verdict without the royal prejudgment of the case, but a different verdict could only have been reached if they were willing to ignore the views that the regent had already clearly stated in the king's name, and that would mean challenging the regent's authority.

In the case of Demetrius the Besieger's relations with Athens, it is clear that the royal will prevailed, whether the city liked it or not. Demetrius had a young friend, Cleainetus the son of Cleomedon, whose father was in debt to the state and could not pay. Cleainetus prevailed on Demetrius to write to the Athenians asking that they should remit his father's debts, and the Athenians complied.

However, they were upset at this interference in their affairs and passed a self-denying ordinance, which forbade any citizens asking Demetrius for a letter to the demos in the future. This attempt to restrict his influence in Athens so outraged the king that the Athenians were forced to abrogate it. The proposers of the offensive decree were punished by death and exile, and the Athenian people then decreed that whatever Demetrius ordered should be considered holy before the gods and just among men (Plutarch, *Demetrius* 24.6–9). So the Athenians were obliged to enshrine in their laws the royal authority they had hoped to restrict.

[11] P. Zancan, *Il Monarcato ellenistico* (Padua, 1934), 30.

[12] C. J. Welles, *Royal Correspondence* (London, 1934), 25. Cf. Billows (n. 4), 214. There is no evidence that Antigonus was actually infringing the autonomy of the cities (ibid., 213).

[13] Billows (n. 4), 232.

[14] *OGIS* 7.221, 231, 282, 335; *SEG* 7.62. Cf. A. Heuss, *Stadt und Herrscher des Hellenismus* (Leipzig, 1937), 80–90.

Even so, Demetrius did not act by overruling Athenian laws. When he wished to be initiated into the Eleusinian mysteries, even though he could not be in Athens at the proper times, he asked the Athenians to make it possible. They responded by twice temporarily altering the name of the current month, so that Demetrius could undergo the parts of the initiation proper to the newly renamed months (Plutarch, *Demetrius* 26). Thus both Demetrius and the Athenians gave the appearance of observing the letter of the law, while making sure that the royal wish was not thwarted by the provisions of that law.

We have documentary evidence on the position of the Ptolemies with regard to the law in two different cases, one within the allied city of Cyrene and the other within the kingdom of Egypt, which they ruled directly. In Cyrene, Ptolemy I had liberated the city after a period of civil war and imposed a new constitution of ten thousand—more liberal than the preceding regime of one thousand, but less than the democracy sought by its antagonists.[15] As part of his creation of the new regime, Ptolemy allowed the current laws to be valid in so far as they do not conflict with his own decree (*SEG* 9.1.7–8). The king also had the power to confer Cyrenaean citizenship on anyone he wished (line 5), presumably without the need of any Cyrenaean decree to ratify his decision.

Furthermore, Ptolemy could act as judge in Cyrene, and those charged with capital offences might choose to be judged according to the laws in the courts of Cyrene or to have their case heard by Ptolemy himself (lines 39–40). The wording implies that Ptolemy was not bound to judge such cases by the laws of Cyrene. Ptolemy's legal authority existed beside that of the city of Cyrene, but where there was any conflict, his authority was superior. He also had a higher degree of involvement in the law at Cyrene than Alexander had exercised at Chios or Antigonus at Teos and Lebedus.

Within the kingdom of Egypt, we would expect Ptolemy to have had even greater authority. We do have the royal edict (διάγραμμα) governing the procedure of the royal courts preserved, since it was produced by the plaintiff in one surviving case and placed in the court papers.[16]

The edict says that cases are to be decided according to the royal *diagrammata*, where such exist, then they are to be decided according to the civic laws (πολιτικοὶ νόμοι), probably the laws of Alexandria.[17] Whatever the *politikoi nomoi* actually were, their name indicates that they were considered to be some kind of city law. If neither the royal decrees nor the city law supplies an appropriate law, the case is to be decided by the 'most just opinion' (γνώμῃ δικαιοτάτῃ).[18] This rule that the royal decrees had greater authority than the city laws seems to have applied not only in the country, where we find it attested, but, from its wording, also in the Greek cities in Egypt.[19]

Once again, the king's decrees constitute the highest form of law. However, he has not provided a complete set of laws, and a secondary form of law, which already existed, is used. The idea of a general sense of justice could also be used by the courts

[15] O'Neil (n. 8), 84–5.

[16] P. Gurob 2 = *Select Papyri* 256.

[17] See W. Schubart, 'Spuren politischer Autonomie in Aegypten unter den Ptolemäern', *Klio* 10 (1910), 47–9; R. Taubenschlag, *The Law of Greco-Roman Egypt in the Light of the Papyri* (Warsaw, 1955²), 9. J. Partsch, 'Die alexandrinischen Dikaiomata', *Archiv für Papyrusforschung* 6 (1920), 42, disagrees.

[18] Athenian law had a similar provision: Dem 20.118, 39.40; Pollux 8.122.

[19] P. M. Fraser, *Ptolemaic Alexandria* (Oxford, 1972), 114; L. Amundsen, 'The classical Greek background of Ptolemaic law and the administration of justice', in *Acta Congressus Madvigiani Hafniae 1954*, I (Copenhagen, 1958), 257–9.

and it is likely that this was not only to be used in the last resort, but the royal decrees and the civic laws were felt to be based on general criteria of justice and equity. This would parallel Antigonus' emphasis on the justice and utility of the new lawcode at Teos/Lebedus.[20] However, in the Egyptian countryside, we find only royal (delegated) courts and no parallel city administration.

Other examples of kings granting laws to a city and people are briefly attested. Ptolemy I granted laws and their ancestral constitutions to the islands of the Nesiotic League (*Syll*^{3} 390.13ff.). Philip V of Macedon granted its ancestral laws to Nisyros after he had annexed the island (*Syll*^{3} 572)—but it is not certain whether he was eliminating Nisyros' status as a Rhodian deme.[21] The Seleucids are attested as having granted the Jews the right to use their ancestral laws twice—once by Antiochus III and later by Antiochus V after the failure to suppress the Maccabean revolt.[22] This granting of the right to use the laws that are already in use seems to be a demonstration of the superiority of the king's legal power, since only with his permission can the existing state of affairs continue. It is not the king actually issuing a code of laws.

Philip V of Macedon is found creating new law at Larisa towards the end of the third century. Philip became concerned over the decline in the citizen population there, and judged (κρίνω) that the Larisaeans should admit other Thessalians and Greek resident aliens to their citizenship, following the Roman model. The Larisaeans duly passed a decree (ψήφισμα) putting the king's judgment into effect. In a further letter and a second decree, both Philip and the Larisaeans refer to the decision as having been made according to the king's letter and the city's decree (*Syll*^{3} 543).

There are a number of points to be noted. Firstly, the royal authority and that of the city are treated as co-ordinate, although in practice the king's would have prevailed in the event of conflict. Secondly, Philip does not just issue a royal order; he justifies it as being in the interests of the city and by citing a precedent, even though it is a non-Greek one.

Finally, there is a marked distinction between Philip's procedure at Larisa and what he did in the case of the cult of Sarapis at Thessalonica. Even though this might seem to have been the affair of the city of Thessalonica, Philip issued a *diagramma* without reference to, or confirmation by, the Thessalonicans.[23] Philip's action does show a difference of treatment between Thessalian cities and Macedonian ones, even if, in practice, it would have been less significant than the Thessalians, whom Polybius derided, thought it was.

A similar pattern to Philip's at Larisa is found in the Attalids' relations to the law of Greek cities—even in Pergamon itself. A fragmentary decree of Pergamon cites several letters from the Attalids on priesthoods for their kinsman Athenaeus and incorporates them within the laws of Pergamon.[24] An earlier letter from Eumenes II to the Guild of Dionysian Artists tells us that the jurors at Teos swore to judge by the laws, the letters of the kings, and the decrees of the demos.[25]

The king's authority, as at Larisa, is co-ordinate with the city's. It is not clear whether there is any significance in the fact that the Attalid letters come second in the

[20] *Syll*^{3} 344, lines 46–7. The laws should be best and helpful to the city.

[21] Nisyros' status as a Rhodian deme is not attested before the second century: P. M. Fraser and G. E. Bean, *The Rhodian Peraea and Islands* (London, 1954), 147–52.

[22] Josephus, *AJ* 12.142, 13.381. Antiochus IV had reneged on this permission: S. Sherwin-White and A. Kuhrt, *From Samarkhand to Sardis* (London, 1993), 52.

[23] C. B. Welles, 'New texts from the chancery of Philip V', *AJA* 42 (1938), 249ff.

[24] Welles (n. 12), 65–7. For the Pergamene decree: p. 267.

[25] Ibid., 53.

list, unlike the primacy of the Ptolemaic *diagrammata*, but there is no sign that they are of less authority than the laws. The king's position may not have been emphasized at Teos as it was in Egypt. While diplomacy might conceal the king's greater power, it would not affect the reality.

It is possible that Attalus III was concerned to make sure that his decisions on the cult of Sabazius had authority after the end of his dynasty.[26] However, kings' decrees did not lapse on their death and even one of the later, fairly powerless, Seleucids makes a decree on the temple of Zeus of Batocaeca valid 'for all time'.[27] It is more likely that the Attalids were showing respect for the laws of a city under their control and that they did this to a greater exent than did the Ptolemies.

There is one last royal decree from a Greek city in the east, where we find a king acting as law-giver. In A.D. 21, a certain Hestiaeus son of Asius was re-elected to the treasurership at Susa (Seleucea on the Eulaeus) even though the prescribed interval of three years since he had held that office was not yet up. The case was referred to the Parthian king Artabanus III, who ruled that the election was legal and that no further action could be taken against Hestiaeus on this account.[28]

Now Parthians may not seem to be a good example of Hellenistic kingship, but they sought to legitimate themselves on both Iranian and Hellenistic models.[29] They allowed the Greek cities within their empire to continue functioning in the Greek fashion, and they maintained a Greek secretariat alongside an Aramaic one.[30] The letter to Susa is an example of the Parthian king presenting himself as a Hellenistic monarch, rather than as an Iranian king of kings. Even though the last Hellenistic monarchy had come to an end fifty years previously, the Parthians were still following Hellenistic practice in their relations with their subject Greek cities.

The letter does not make it clear whether the requirement for the three-year gap was a city law or an edict of the king, although the phrasing of lines 12–13 at the end of the letter, that no action may be taken on account of any other royal edict, tends to favour the latter.[31] If so, Hestiaeus would have been wise to seek royal authority for not having complied with the rule. But it would have been wise to seek the permission of the highest legal authority for his disputable tenure, and that would be the king. Furthermore, as a holder of the titular rank of 'one of the first and most regarded friends and one of the bodyguards', Hestiaeus already had a connection with the Parthian court, which was in a Hellenistic form. He would have been wise to maintain that connection by securing Parthian approval for the potentially illegal election.

There is a fairly common pattern in these cases, although there are differences to be seen. The king had the highest legal authority and his word was decisive, either stated openly or in actual fact. This authority was exercised quite often as a result of initiatives from below, and the king was normally concerned to show respect for the laws of the cities, provided they showed respect for his authority. In the few cases where the king did legislate on his own initiative, he was concerned to show that he was acting in line with general conceptions of justice.

This seems to be reflected in the neo-Pythagorean views on kingship preserved in

[26] Ibid., 271.

[27] R. M. Errington, 'Macedonian "royal style" and its significance', *JHS* 94 (1974), 24; Welles (n. 12), 70.5.

[28] Welles (n. 12), 75.

[29] J. Weisehöfer, 'Kingship in ancient Iran', in P. Bilde et al. (edd.), *Aspects of Hellenistic Kingship* (Aarhus, 1996), 58ff.

[30] N. C. Debevoise, *A Political History of Parthia* (Chicago, 1938), xl ff.; Welles (n. 12), 302.

[31] Welles (n. 12), 304.

fragments in Stobaeus' *Florilegium*. Here the king is seen as νόμος ἔμψυχος, 'living law',[32] and a lawful ruler. If he acts unjustly, he is not a true king.[33] In addition to being just, the king, in these views, also uses equity to soften the harsh voice of the law,[34] and considers the welfare of his subjects, showing goodwill to them like a father to his sons.[35]

The stress in royal edicts that the king's decisions (and those of his delegates) are in the interests of those for whom the edict has been issued clearly reflected a strong concern with Hellenistic ideas of kingship. Goodenough took these Pythagorean works as being Hellenistic in date and as showing the way in which kingship was conceived at that time, but Delatte makes a stronger case for an imperial date.[36]

However, the early imperial writers Philo Judaeus and Musonianus make passing reference to the idea of the king as *nomos empsychos*, which indicates that it was an idea well established by their time.[37] Similar ideas are found in fourth-century writers. For example, Aristotle, *EN* 5.1132a19 talks of the judge as 'living justice', and he holds that the law-giver cannot prescribe for every case, but equity must be used to correct the written law (*Rhetoric* 1354b4ff.) The Aristotelian *Rhetorica ad Alexandrum*, which is probably of early Hellenistic date,[38] says that the king's reason under a monarchy plays the same role as the law under a democracy.[39]

The Pythagorean ideals of kingship and the fourth-century material can thus be used to supplement the royal decrees to build up a general picture of the king's position in law as seen in Hellenistic times. The king's authority is as good as that of the law, and may even be better because he can consider the special cicumstances of a particular case. The royal word is a higher authority than any law, either openly admitted (particularly within his kingdom itself) or because he held greater power than any ally or subject, effectively so in fact.

Neither the royal decrees nor the theoretical treatises on kingship actually address one of the major issues raised by the speeches of Anaxarchus and Callisthenes in Arrian: could the king, by his royal action, change the nature of what was considered just? The Pythagorean treatises would seem to imply that the king, being supernaturally just, would not think to do so. Anaxarchus argued that the king's will defined justice (just as Thrasymachus defined justice as the interests of the stonger in Plato's *Republic*).

In ordering the recall of exiles in 324 B.C., Alexander was changing the law, but not altering the conceptions of justice. Political exiles could have been recalled by their own communities, but Alexander annexed that right to himself. However, he did not recall those exiled for murder or sacrilege, which would have overturned Greek ideas of what was right. Most of the cases we have examined are similar.

Philip V's edict to the Larisaeans, adopted by them as their own law, does mark a change from normal Greek practice, for which he chose to cite a Roman precedent. Even this is a change in the size of the enrolment of new citizens (and other cities may have been more generous than Athens) rather than the overthrow of an existing norm.

[32] Archytas 4.1.132; Diotogenes 4.7.61.
[33] Archytas 4.1.135; Diotogenes 4.7.61; Sthenidas 4.7.62.
[34] Sopater 4.5.60, cf. 57; cf. Diotogenes 4.7.62.
[35] Diotogenes 4.7.62; Ecphantus 4.7.64; cf. Archytas 4.1.137.
[36] Goodenough (n. 10), 99ff; L. Delatte, *Les Traités de Royauté d'Ecphante, Diotogène at Sthénidas* (1942), 286.
[37] Philo, *Life of Moses*, 2.4; Stobaeus 4.7.67. Cf. Goodenough (n. 10), 94.
[38] H. Rackham, Aristotle, *Rhetorica ad Alexandrum* (Cambridge, MA, 1937), 258.
[39] [Aristotle], *Rhetorica ad Alexandrum* 1420a19–b12.

The Macedonian tradition that the king ruled according to the law within his kingdom, however imperfectly it may have been observed in practice, enabled him to present an appearance of respect for the laws of a theoretically free community, such as Larisa. In fact, as Polybius observed, the royal power was paramount.

A pattern of royal respect for the autonomy of an allied city, followed by the enactment by the city of the royal suggestions, can be seen from the time of Alexander to the Parthians in the first century A.D. This pattern does not change notably over time, but a major difference can be seen between those cities which were regarded as in some sense free, like the Thessalians, and those, like Thessalonica, which were directly under the authority of the king. In both cases, the king's wishes would be followed, but he generally avoided giving a direct order to a free city.

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