Sophocles' Antigone and Its Argumentative Value: A Legal-Philosophical Reading

Puppo, Federico; Boogaart, Ronny; Garssen, Bart; Jansen, Henrike; Van Leeuwen, Maarten; Pilgram, Roosmaryn; Reuneker, Alex

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Sophocles' *Antigone* and Its Argumentative Value
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FEDERICO PUPPO

Faculty of Law
University of Trento
Italy
federico.puppo@unitn.it

ABSTRACT: The aim of this paper is to propose an analysis of one of the fundamental texts of legal and philosophical thought, namely Sophocles' *Antigone*. In particular, I will examine the dilemmatic structure of the tragedy and who, between Antigone and Creon, is wrong and who is right, trying to overcome the interpretation that still reads the classical tragedy in terms of a certain kind of legal hierarchical order of laws – something that did not exist at that time. To understand this point is to understand their reasons for acting and the role of *hybris* in relation to *phronesis*. In this way, it will be possible to understand Sophocles' intentions and why he did not offer a positive solution to the dilemma.

KEYWORDS: Antigone, dilemma, hybris, justice, *phronesis*, Sophocles, tragedy

1. INTRODUCTION

Sophocles' *Antigone* is certainly one of the most famous and well-known classical tragedies, a true point of reference for every lawyer, philosopher and scholar since 442 B.C., the year in which it was first performed. It will not be necessary, therefore, to recapitulate the plot of the play, since everyone knows that Antigone was the only one to defy the decree of Creon, king of Thebes, who had ordered that the body of Antigone's brother, the traitor Polyneices, be left unburied outside the city walls on pain of death.

To this end, the paper will be structured as follows:1) first, I will briefly recall some fundamental characteristics of myth, in relation with *logos*, and tragedy; 2) then, I will examine *Antigone* in order to discuss its dilemmatic value; 3) this will allow me to uncover the respective wrongs and motives of Antigone and Creon, 4) highlighting the political- legal value of Sophocles' work and the questions it leaves open; 5) lastly, I will present some conclusions.

2. ON MYTH, *LOGOS* AND TRAGEDY

When it comes to classical tragedy, we must first of all remember that we are dealing, from a certain point of view, with the scenic representation of myths, although myth and tragedy are different, since, as it has been said, "myth was both in tragedy and at the same time rejected by it" (Vernant & Vidal-Naquet, 1990, pp. 14-15).

It is therefore necessary to immediately clear the field of the idea that the myth was a kind of fable or imaginary story, completely devoid of cognitive value because it was not backed up by historiographical evidence: "the ancient Greeks themselves did not simply

relegate myth, in the name of the *logos*, to the shadows of unreasons and the untruths of fiction" (Vernant, 1990, p. 220). Likewise, the theatrical representation was not (as it may be today) a moment of entertainment or, at best, cultural growth. Theatre had a political value. For the public, it was a veritable institution of social memory, an instrument for preserving and transmitting knowledge (*logos*), whose role was decisive. Indeed, it should be emphasised how

> extremely composite are the relations between mythological elaboration and philosophical practice. The weaving of myth was already intended to provide answers to a variety of awe-inspiring aspects [...]. The myth appears to be much more than a childish prelude to the *lógos* [...]. In it we already find the expression of a peculiar rationality (Stolfi, 2020, p. 49. My translation).

Myth, tragedy and *logos* thus live in continuity with each other, without any form of opposition: it is Aristotle himself, already in the era of the mature classical Athenian philosophy (thus at a rather later stage with regard to the context we are considering here), which recognises this. According to tradition, "philosophy begins with wonder" (Aristotle, 1908, 982b I 2): but "even the lover of myth is in a sense a lover of wisdom, for myth is composed of wonders" (Aristotle, 1908, 982b I 2). Myth is, therefore, a true form of knowledge (Vernant, 1990) that has a precise pedagogical, social and political value in the life of the Greek *poleis*.

It was a dynamic, living, authentic rationality that questions the *polis* on its very reasons for being, constantly recalling its archaic roots. Myth, like tragedy, lives in the *polis*, and the *polis* recognises itself in myth. This is also due to the fact that already in the transmission of myths, but then also in their tragic representation, 'variations on myth' were implemented, which made it possible to interweave the events enshrined in common memory with those of the present. For example, the traditional reasons given by Antigone to justify her gesture before Creon were resolved, before the Sophoclean version, in the fact that Polyneices was her brother and she could have no other. Indeed, she would not have acted in the same way if it had been her husband or her son (Sophocles, 2001, v. 909- 912). It was then Sophocles who introduced, alongside and before these motives, the more famous reasons of a legal justification: from then on, and for reasons we shall see, Antigone will invoke the unwritten lawsinher defence against Creon (Sophocles, 2001, v. 450-470).

The myth, then, was not only not imaginary, it was not even a static story: it had a living and dynamic nature, it was in dialogue with its listeners, it was completely topical for them, and this topicality had another characteristic that distinguishes tragedy from drama and comedy.

Tragedyalways presents a dilemma.

A dilemma is such because neither of the possible choices (typically two) appears immediately as the preferable one. In fact, both possible choices have their own legitimacy, each presenting valid reasons for preferring it to the other, so that they are mutually exclusive. The spectator (i.e. the whole *polis*) is confronted with and experiences the suffering of a situation that presents a difficult problem to solve, identifying himself with the characters he sees on the stage.

From this point of view, one of the characteristics of what we will later call 'the classics' is immediately apparent. The citizens of Athens knew this very well, and we should remember it ourselves: these tragedies did not speak simply *to* the Athenians, nor do they speak simply *to* us today. They spoke *about* the Athenians, and they continue to speak

about us: myth and tragedy remind us of archetypes whose relevance never diminishes because we continue to embody them, with the variations due to the passage of time and changing contexts. Look at Sophocles' *Antigone*: Creon's decree is perfectly valid, the *polis* (represented by the chorus) recognises it as such. On the one hand, Creon plays the role of a good ruler, acting for the good of the *polis* (and on the other hand, in Greece at that time, sometimes traitors were left unburied outside the walls of the *polis*). But equally valid are those unwritten laws (the ancient founding traditions of the *polis* itself) that Antigone invokes, along with her love for her brother, to justify her choice.

This is the dilemma of Sophocles' tragedy: there are two sets of laws, Creon's written laws and Antigone's unwritten laws. Which prevails and why? And this question reverberates even further, to the roots of law: should a law be obeyed if it seems unjust, and on what basis can its unjustness be established?

3. *ANTIGONE*'S DILEMMA

The dilemma posed by Sophocles is usually answered as follows: between Creon and Antigone, Antigone's position prevails. This could be called the 'modern interpretation', in which a criterion of a hierarchical, theoretical-legal nature assumes particular importance.

This can be seen, for example, in the reinterpretations of Anouilh's or Brecht's theatrical versions in the second half of the 20th century. For them, Antigone is the heroine who stands up to the tyrant Creon (in modern terms: Hitler) and thus represents the courageous gesture of someone who, at the cost of her own life, stands up to evil in the name of higher values and principles or, it could be said, some kind of natural law.

Well, this interpretation corresponds, in the context of legal theory, to the image of a pyramid in which there are norms of a lower rank and others of a higher rank: the norm of a higher rank justifies, in this case, the existence and the binding nature of the norm of a lower rank, because if the norm of a lower rank violated the norm of a higher rank, it would be unjust and would therefore have to be disobeyed.

So, the situation would look something like the pyramid in fig. 1:

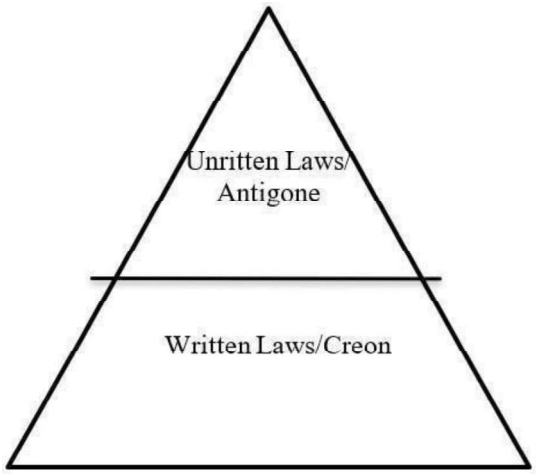

Fig. 1

Hierarchy is precisely the image that informs the mind of modern jurists, which finds consecration in Kelsen's theory (Delmas-Marty, 1998). Admittedly, for Kelsen (1967) it is the formal and not the substantive aspects of the logical links between the norms that make up the staircase that count, whereas in the interpretation of *Antigone* the emphasis is more on the justice of the written norm, without, however, missing the reference (to put it in modern terms) to the non-delegation of power to Creon (Sophocle, 2001, v. 454-457). What is disturbing, however, is the fact that, for whatever reason, the superiority of Antigone's position is affirmed over that of Creon.

The written law, which therefore does not respect the unwritten laws (today we would probably say: constitutional principles or human rights), would therefore be unjust and should not be obeyed. Antigone therefore acted justly, even if the price was her own death, whereas Creon would have acted unjustly.

But is this reading correct? From one point of view, it seems so. It was Sophocles himself who introduced the reference to unwritten laws as a justification for Antigone's choice. It is also true that the tragedy presents two possible legal and political models: Creon ends up representing the tyrant, that absolute power which will find its best representation long afterwards in Hobbes. There are many passages in Sophocles' text that suggest this, such as the following, for example when Antigone tells Creon: "A tyrant says and does / what he pleases. That's his great joy" (Sophocles, 2001, v. 506-507). Or when Creon tells his son Haemon: "What the city takes a leader, you must obey, / Whether his commands are trivial, or right, or wrong" (Sophocles, 2001, v. 666-667). In fact, in Creon's view his judgment but his own should guide his hands – "you think the people should tell me what orders to give? ((Sophocles, 2001, v. 734) –, because the *polis* is under his will: "I should rule this country for someone other myself?" (Sophocles, 2001, v. 736). For Creon, "a city belongs to his master" (Sophocles, 2001, v. 738).

Faced with such a tyrant, Antigone and Haemon remind Creon, and all of us, of another possible paradigm, as evidenced by these poignant words from the son to the father. This is what Haemon tells his father:

> Andnow, don't always cling the same anger, / Don'tkeep saying thatthis, andnothing else, is right. / If a man believes that he alone has a sound of mind, / And no one else can speak or think as he does, / Then, when people study him, they'll find an empty book. / But a wise man can learn a lot and never be ashamed; / He know he does not have to be rigid and close-hauled (Sophocles, 2001, v. 705-711).

In fact, if someone thinks as Creon does, he should be the "ruler of a desert, all alone" (Sophocles, 2001, v. 739), and it is into this account that Antigone's immortal and famous statements about her uncle's decree are inserted:

> I never heard it was Zeus / Who made the announcement. / And it wasn't justice, either. The gods below / Didn't lay down this law for human use. / And I never thought your announcements / Could give you – a mere human being – / Power to trample the god's unfailing / Unwritten laws. These laws weren't made now / Or yesterday. They live for all time, / And no one knows when they came into the light (Sophocles, 2001, v. 450-455)

But this is only a part of the tragedy. The characters live in it, and as they live they change; they are not icons, though in time they have become so. The positions of Creon and Antigone are not static: at the beginning of the tragedy everyone cheers for Creon.

Thebes shares his decision. Creon's law seems just. Creon is not a tyrant at first. He becomes one when he begins to close himself off in his position, refusing dialogue with Antigone and then with Haemon, when Creon thinks that the polis is an object of his possession, subject to his power. Here Creon commits the sin of *hybris*. But then, as we know, he changes his mind: after listening to Tiresias, he runs to Antigone to save her, only to find her dead and suicidal. And then disaster strikes Thebes: Haemon and Eurydice, Creon's wife, also kill themselves.

Now look at Antigone. She refers to the unwritten laws, which are not the equivalent of our human principles or laws: they are the laws that have a customary origin, they are what expresses the ancient identity of the *polis*. It is as if she were reminding Creon that he cannot consider himself the sole source of law: his decision, Antigone tells him, cannot disregard what precedes him and expresses the ancient identity of the polis he rules. Creon errs because he is incapable of considering anything other than himself, because he is closed in on himself. But this will be exactly the same behaviour as Antigone's: she too is closed in on herself, she affirms that she is no longer part of the *polis*, the realm of the living, she is part of the realm of the dead. Antigone, too, sins with *hybris*. She too refuses to confront anyone other than herself, first with Ismene, then with Creon, then with anyone: she takes her own life, thus eliminating the minimal condition for any kind of dialogue and recognition of possible alternative positions to her own.

4. SOPHOCLES' MESSAGE

Antigone and Creon are therefore ultimately equal. Neither is right because both are wrong. Tragedy, then, is truly a dilemma: "As the Greek defined it, tragedy is not the triumph of evil over good, but the triumph of one good over another good that causes suffering" (Kaplan, 2023, p. XIV).

On the other hand, if the answer we seek were the one offered by the modern interpretation, we would not be faced with a dilemma, and thus with tragedy. It would therefore be too easy to say that Antigone is right: with all due respect, if this were Sophocles' message, I do not think we would have recognised its immortal value for over two thousand years. If neither Antigone nor Creon are right, then logically there is only one alternative: they are both wrong. To understand this, it is necessary to consider that

> Antigone and Creon are both incapable of reconciling the laws of their own country with the justice of the gods […]. Each of them, by becoming rigid in his position, becomes an *apolis* – that is, without city and without country – because of his exaggerated audacity, his arrogance [...]. Both Creon and Antigone are *auto-nomos*, people who have made the law their own. Both lack *phronesis* and therefore fall into *hybris* (Ciaramelli, 2017, p. 59. My translation).

This adjective 'auto-nomos' is particularly important for understanding what is being said. It can be explained in different ways:

> The most common is 'of one's own accord', 'of one's own will'. But in order to emphasise the central theme of nomos, and to understand the term as a possessive compound, it can be more effectively translated as 'making the law of oneself', 'according to one's own law', which means that Antigone constitutes herself by herself, with an irrepressible and idiosyncratic movement, as a city, as a political community (D. Susanetti, 2012, p. 318. My translation).

But can a political community be constituted by a single person? Obviously, it cannot. By definition, a community is one in which there is more than one subject in relation to one another: and it is in this community that man, according to the prevailing classical conception, lives by nature – as Aristotle would explain, theorising the anthropological model of the *zoon politikon*.

This event, of course, also explains Creon's mistake: the fact that he comes to believe that he can rule the *polis* alone makes the *polis* the object of his power. But this presupposes that he can isolate and free himself from it, and this is impossible: he should live in a desert.

In conclusion, then, *Antigone*'s dilemma is not the one experienced by the Sophoclean heroine, but the one that emerges from the tragedy as a whole. Sophocles' message is not the construction of a hierarchy of norms: the reason he introduces the reference to unwritten laws is: a) political-legal, and b) the value of his message is entirely argumentative.

a) He is addressing Athens, which at the time was in a difficult situation in the complicated relationship between the *demos* and the *aristoi*: and these are the parties represented in the play. The *demos*, the emerging political part, is represented by Creon; the *aristoi*, the old political part, the repository of the ancient and traditional values of Athens, including the customs represented by the unwritten laws, is represented by Antigone. The clash between the two political sides was in danger of tearing Athens apart, and Sophocles' political involvement alongside Pericles was precisely aimed at avoiding this disaster.

b) And this is the direction in which *Antigone* moves: Sophocles shows the citizens of Athens what will happen if the parties do not talk to each other; he puts the polis in front of the ruin that awaits it if each remains locked in its own position, without listening to the reasons of the other. The hint that then comes to imagine a possible solution (without knowing what it might have been) is thus clear, and it has a deep argumentative value, since what can save from *hybris* is *phronesis*. *Phronesis* is the practical wisdom which is characterized, beyond any possible interpretation or explanation of it (see for example Berti, 2005; Hacker-Writgh, 2021; Schmidt, 1995), by the capacity for discernment which requires, above all, the ability to listen to the other person, to accept his or her reasons, in order to be able to evaluate *together* the problem to be solved. The attitude that seems so necessary, above all to avoid *hybris*, is that of entering into dialogue with others (Gadamer, 1989):

> Antigone's isolation ultimately determines the content of her *hybris* because, by leading her to an illusory self-sufficiency, it distances her from social exchange, but above all it prevents her from acquiring and cultivating what Kant, in the *Critique of Judgment*, called 'extended mentality', which consists in the ability to take into account the point of view of one's interlocutors (Ciaramelli, 2017, p. 118. My translation).

Sophocles shows each of us the result of our political-legal action without *phronesis*. Here is the myth which, as already said, through the representation of archetypes, not only speaks to us, it speaks *about* us. *We are* Creon and Antigone today, as in the 5th century B.C., or we risk being so, when, although in a certain sense we are right (Creon has his good reasons, Antigone even more so), we close in on ourselves.

We do not know what would have happened if Antigone and Creon had spoken, but we do know what will happen if they do not. Sophocles' message is all negative, offering no answers, but posing a question that indelibly marks the history of legal philosophy.

5. CONCLUSION

This paper has first highlighted the value of myth and its proximity to *logos*, and the importance of this form of knowledge in constituting the basic categories of what would later become philosophical and philosophical-legal knowledge in the Western tradition.

Tragedy, in particular, inherits its dilemmatic value from myth. In Sophocles' *Antigone*, this characteristic is emphasised in the alternative represented by Creon's decree forbidding the burial of Polyneices, on the one hand, and by the unwritten laws invoked by Antigone, the only citizen of Thebes who violates this decree in order to bury her brother, on the other. The dilemma exists because there is no hierarchy of norms: the unwritten laws invoked by Antigone are not superior to the written law enacted by Creon. They are two different and conflicting systems of law, each with its own legitimate claim to justice.

The dilemma posed by Sophocles cannot therefore be resolved by establishing that Antigone is right and Creon is wrong: indeed, it has been shown how the two characters change their behaviour in the course of the tragedy. They both end up committing the sin of *hybris*, an action that in many ways has the same result.

Sophocles does not explain how the dilemma could have been resolved, but he offers a solution in the negative: he shows what happens when, by persisting in the sin of *hybris*, one is incapable of acting according to *phronesis*, which will later become the main virtue of the rhetorician and thus of the lawyer (Amaya, 2012; Puppo, 2023). It is not, therefore, a question of establishing an abstract hierarchy of values, but of being able to judge, from time to time, which solution is the best, the fairest, by listening to the arguments of the various parties involved in the conflict. This is exactly what Athena, the goddess of reason, does in Aeschylus' *Eumenides*: but that is another story, to be told another time.

Here, with Sophocles, we must rememberthe Chorus:"Many wonders, may terrors,
/ But none more wonderful than the human race / Or more dangerous" (Sophocles, 2001, v. 332-334): and that surely it is precisely the claim to be right alone, without being open to confrontation with the other, that in history, but also in the life of each one of us, can cause pain and suffering to ourselves and to others.

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