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***Aitia* and Cause in Early Greek Law**

The traditional translations of the Greek terms *aitia/aitios* as "responsibility/ responsible" beg an important question for Greek law, namely, whether or not causation implies the moral necessity to answer for some wrong. LSJ give "responsibility", "guilt", and "blame" as the original meanings of the term *aitia* (I.1), thus giving a moral interpretation to a term that clearly came to mean "cause" in the natural-scientific sense in authors such as Aristotle (II). On this model the scientific meaning must be understood to derive from the moral: at first, the moral implied both causation and a liability to be called to answer for the causation, and then, in time, the scientific meaning allowed the issue of liability to fall away, leaving a morally neutral implication. Squarely in the middle of these issues is *aitia* in Greek law: "to accuse" (*aitiaasthai*) someone of something in the legal sense is to attribute its cause to that person. But does *aitios* necessarily "look to the consequences of guilt–liability–rather than to the initial cause" (Carawan 1998:42)? Many of the Homeric uses of this terminology assign *aitia* to Zeus, to whom it makes no sense to apply morally loaded terms such as "guilt" or "blame" in the sense that Zeus is to be made to answer for his actions. At a basic level the term does in fact look to the "initial cause". The association of it with "responsibility" or "liability" is then part of a larger cultural construct, often mediated through legal processes, that purports to be able to take action against the "cause" of some wrong and thus to eliminate it, or its ill effects. It forms part of a "moral science", which in the early Greek world cannot be fully differentiated from (natural) science. According to this science the ill effects of some wrong ultimately redound against their cause. It is, however, important to articulate the meanings of these terms in Greek law because of their significance for related notions such as miasma, dispute resolution, and reconciliation.

In Homer, the adjective *aitios* usually indicates a person/divinity who has caused something. In some passages, there are notions of justice whereby the person who is the cause of some wrong should suffer for it, by a sort ethical necessity (*Il.* 1.153-7, 2.87, 15.137, 21.370; *Od.* 22.49-50). In many passages, however, the gods are the "cause" of human troubles (*Il.* 3.164, 13.222-7, 19.86-8, 410; *Od.* 11.559). In an important programmatic passage for the *Odyssey* (1.32-4), Zeus explicitly rejects this notion, saying that mortals bring on their own troubles through their own recklessness. There are also suggestions that good men ought to move beyond an assignation of cause (*Il.* 13.111-15).

In the code of Draco, the Kings are said "to judge to be causative of murder the agent or planner" (11-13). Among other things, this judgment of cause allowed the polis to escape a collective miasma of bloodguilt (*Ant.* 2.1.3). As idioms developed in forensic contexts a defendant in a lawsuit likewise came to "have *aitia*" for some wrong (*Ath. pol.* 57.4; *Dem.* 23.36; cf. 58.29; *Aes.*, *Eum.* 579) and so had to "flee the *aitia*" (*Lys.* 4.4) in order to be acquitted, i.e., to be "released from the *aitia*" (*Ant.* 1.7, 2.2.11, 5.40, 6.15, 32; *Lys.* 7.8; cf. *Aes.*, *Eum.* 83). The code of Draco, however, goes beyond the judgment of *aitia* to a decision of the Ephetai regarding volition and actions of the victim's family in allowing reconciliation. In the *Homeric Hymn to Hermes*, likewise, although the babe Hermes protests that he is not the cause (4.275, 383) of Apollo's cattle being missing,

when the strife between the brothers is resolved by the arbitration of Zeus, the father avoids the issue of cause altogether and directs Hermes to help his brother find the missing animals. Zeus moves beyond *aitia* to a basis of reconciliation, to find resolution or, as the hymnist puts it, *homophrona thumon* (4.391). Thus, even in the early Greek world, there were notions of justice that went beyond a primitive moral science of cause and effect.