

DIKE

RIVISTA DI STORIA DEL DIRITTO GRECO ED ELLENISTICO

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Rachel Zelnick-Abramovitz
Whose Grave Is This?
The status of Grave Plots in Ancient Greece*

Abstract

It is commonly accepted that funerary practices and legislation reflect social and political structures as well as attitudes to death. But some basic questions have only recently started to attract scholarly attention: Who owned the grave plot? What was its legal status? Were cemeteries administered by any person or group? Was the legal status of a grave situated on private land different from that of a grave in a necropolis? How can we explain burials of non-citizens and slaves in the polis's territory, if they were debarred from owning land? Who was responsible for protecting the grave? These questions are of great importance in the study of ancient social and political norms. Moreover, they relate to the broader issue of the distinction between 'public' and 'private' in the Greek polis. This paper re-examines the evidence pertaining to the subject of grave plots' legal status, so as to offer some tentative answers.

È opinione comune che le pratiche e le leggi funerarie siano il riflesso di strutture sociali e politiche come pure dell'atteggiamento nei confronti della morte. Solo di recente alcuni problemi fondamentali hanno attirato l'attenzione degli studiosi: chi era proprietario del lotto di terra ove era posto il sepolcro? Qual era lo statuto giuridico di quest'ultimo? I cimiteri erano amministrati da una persona, o da un gruppo di persone? Lo statuto giuridico di una tomba posta in un fondo privato era diverso da quello di una tomba posta in una necropoli? Come si può giustificare il fatto che individui non cittadini e schiavi fossero sepolti nel territorio della polis, visto che a essi era fatto divieto di possedere fondi? Chi era responsabile della protezione della tomba? Simili domande sono di importanza cruciale per lo studio di norme sociali e politiche antiche; inoltre, esse sono collegate al più ampio problema della distinzione tra "pubblico" e "privato" nelle *poleis* greche. Questo articolo cerca di offrire delle risposte attraverso un riesame delle fonti relative al tema dello statuto giuridico dei lotti sepolcrali.

* An earlier version of this paper was read at the Institute of Classical Studies in London during my stay there as a visiting fellow in 2015. I have greatly benefitted from comments made on that occasion. I am also grateful to the anonymous readers of *Dike* for their suggestions.

Funerary practices, funerary legislation, and burial types have long been recognized and studied as reflecting social and political structures as well as attitudes to death.¹ But some basic questions have only recently started to attract scholarly attention, although they are no less important for our understanding of ancient social and political norms. Moreover, they relate to the broader issue of the distinction between ‘public’ and ‘private’ and the crystallization of the polis as a state. These questions, which are the focus of this study, are: Who owned the grave plot? What was its legal status? Were cemeteries administered by any person or group? Who was responsible for protecting the grave?²

Still other questions arise: We use the word cemetery, or necropolis, to describe areas in the territories of ancient Greek settlements where large numbers of graves were concentrated, usually alongside roads. But archaeological and literary evidence also attest to isolated graves, located on or adjacent to private estates, usually in the *chōra*.³ Was the legal status of a grave situated on private land different from that of a grave in a necropolis?

Tombs played a crucial role in the Athenian civic identity as is obvious from the question put to candidates for the archonship: whether and where they had family tombs;⁴ and burial in one’s family’s precinct could be used as a proof of citizenship.⁵ Can we therefore infer that the polis regulated the construction and the maintenance of graves in its territory? Of course, we may assume, without a great deal of certainty, that the so-called *Dēmosion Sēma*, or Public Grave, in Athens, where war dead and distinguished citizens were buried at public

1 The bibliography on the subject is vast. The following is only a select list. Sourvinou-Inwood, 1983; Morris 1987; Osborne 1989: 300-320; Toher 1991; Morris, 1991; Humphreys 1993; Morris 1994; Osborne 1996, 41-51, 82-101; Snodgrass 1998; Engels 1998; Frisone 2000; Whitley 2001, 187, 365-374; Schweyer 2002; Snodgrass 2009.

2 These questions are related but not identical to the link suggested by some scholars (e.g. Morris 1987, esp. 171-184) between burial patterns and the emergence of the polis. The question of the grave’s status has been raised in the Athenian context by Brueckner 1909, 35-55, followed by Bergemann 1997, 17-18. See also Closterman 1999, 156-88, Patterson 2006a, 48-56, Patterson 2006b, 9-48, and lately Faraguna 2012. Harter-Uibopuu 2010, 2012, 2014, and Harter-Uibopuu and Wiedergut 2014 have tackled the issue in the context of Roman Asia Minor. Oliver 2000: 77 raises the question but leaves it unanswered.

3 Lohmann 1993, 184-189; Marchiandi 2011, 105, 108-109; Marchiandi 2013, 121 (in Athenian cleruchies). On the pattern of isolated settlements in Attika see Snodgrass 1998, and Knigge 1991, 159-165 on the co-existence of graves and public baths, workshops and private houses outside the city gates of Athens.

4 [Arist.] *Ath. Pol.* 55.3. Cf. Bergemann 1997, 24-33; Engels 1998, 92-93; Hildebrandt 2006, 187-189; Faraguna 2012, 166.

5 Dem. 57.28, 67. See Aischin. 2.152 on one’s share (μετουσία) in ancestral shrines and tombs; cf. 3.156. For the topos of ancestral shrines and tombs see Dem. 14.32; 18.90, 182; 19.267, and many more. But see Thuc. 1.93.2, Aischin. 3.236 and Lyk. 1.44 on tearing down and re-using tombstones for fortifications in emergency times.

expense, was to some extent under the polis's supervision.⁶ But what about the 'ordinary' graves by the roads outside the city walls?

Another thorny question is this: since land ownership was the privilege of the citizen, was the grave plot his private property even if it lay beside a road some distance from his house or estate? And if it was, how can we explain burials of non-citizens, even slaves, in the polis's territory?⁷

True, these questions might be just another case of the modern preoccupation with legal subtleties which did not much trouble the Greeks. But as I hope to show, some such questions were on their mind, and some developments did occur, which may also suggest changes in the concepts of 'public' and 'private'.

This paper re-examines the evidence pertaining to the subject of grave plots' legal status and the problem of non-citizens' burial, so as to offer some tentative answers. Burial types and funerary legislation are not discussed here unless directly relevant to my subject. My discussion is divided into three parts: first, the grave-plot ownership; secondly, non-citizens' burial; thirdly, the responsibility for the graves' protection.

1. Ownership of Grave Plots

I start with Demosthenes' oration 55, *Against Kalliklēs*.⁸ The lands of the speaker and of his neighbour Kalliklēs were separated by a public road. Rainwater streaming from the hills flowed partly onto the road and partly over adjoining fields. The speaker's father, Teisias, had long ago built a wall to prevent the water from flooding his land (10-11). Kalliklēs now claims that the wall encroached on public land and caused the rainwater to burst onto *his* land and cause damage (12-13, 20-21). Of interest to our subject is that when Teisias bought this piece of land there were old graves on it (14),⁹ perhaps those of the former owner's family. This text, then, attests to graves built on private rural land.¹⁰ That the land was considered private property (χωρίον ἴδιον, §§ 9, 13) is accepted by both parties; but who owned the graves? Were Teisias, and his

6 See Patterson 2006b, 16; Arrington 2010, 524. See also Jacoby 1944; and cf. Pl. *Leg.* 873d on the public burial of the "good Examiners".

7 See Patterson 2006a: 56; Patterson 2006b, 16; Faraguna 2012.

8 For the legal issues involved in this oration see Harrison 1998 [1968], 249-252. See also Usher 1999, 186-188; MacDowell 2009, 63-65; Papazarkadas 2011, 219-221.

9 § 14: καὶ τὰ μνήματα παλαιὰ καὶ πρὶν ἡμᾶς κτήσασθαι τὸ χωρίον γεγεννημέν' ἐστίν.

10 In section 11 the speaker comments that the former owner neglected the land because he disliked the place and was more of an urban type (ἀμεληθὲν δ' οὐπω τοῦ πατρὸς ἔχοντος αὐτό, ἀλλ' ἀνθρώπου δυσχεραίνοντος ὅλως τοῖς τόποις καὶ μᾶλλον ἀστικοῦ). The speaker's reproach gives the impression that unlike the former owner he himself resided on the farm. Roy 1988 and Langdon 1991: 211 argue that section 23 of the oration attests to residence on isolated farms in Attika, against Osborne 1985, 17-18 (who mistakenly understands that the graves were those of the speaker's family). See also n. 12 below.

son after him, responsible for their maintenance? Could the deceased's relatives, if any still lived, appear and perform the dutiful funerary rites?¹¹ Nothing in the text enables us to answer these questions, which are important for understanding the legal status of graves and of land plots.¹² However, another text, which we shall see later, might help us understand.

Two other literary texts may inform us about grave plots' status in Athens. Plutarch (*Kimōn*, 4.2) says that the historian Thucydides was buried in Kimōn's family's burial area, near the grave of Kimōn's sister, Elpinikē. Plutarch notes that Thucydides and Miltiadēs' family belonged to different demes, but a little before that he says that the two families were related (4.1). Still, Plutarch seems to see this act as unusual. Perhaps Thucydides, as a convicted exile, could not be buried in Attika (see below); if that were the case, Kimōn's family allowed Thucydides to be buried on their plot, possibly with the other citizens turning a blind eye, but in any case acting as full owners of the place.¹³

The second passage comes from Aischines' oration *Against Timarchos* (1.99). Timarchos, says Aischines, was so negligent of his patrimony and his duties to his mother that he ignored her request not to sell their land in the deme Alōpekē, or at least to let her be buried there.¹⁴ Timarchos' mother's request again makes clear that burial on private land was customary. Moreover, had

11 Harrison 1998 [1968], 250 seems to infer such a right.

12 The speaker does not say explicitly that the graves belonged to the former owner and, in fact, seems to deliberately avoid connecting the graves with anyone's family. Since Kalliklēs sued him for encroachment, it is possible that originally the graves were *outside* the estate, perhaps beside the public road; so by building the wall Teisias may have appropriated them together with public land. On graves built on or adjacent to farms see also D.S. 11.38.4-5 (on Gelon); Lohmann 1993, 184-185, arguing that such graves prove that the owners also lived on the scattered farmsteads; *contra* Snodgrass 1998: 37-41, who argues that the buried deceased or their relatives may have just wanted to have their name linked in perpetuity to the land. See also Jones 2004, 43. In Pl. *Leg.* 958D-E burial in cultivated or productive land is prohibited. The situation described in Dem. 55 resembles that of the cemetery adjacent to the theatre in deme of Thorikos, which was prone to floods: see Mussche 1994, 213, and Mussche 1998, 41.

13 Patterson 2006b, 17 sees this story as proof that these tombs were not placed on privately owned land or in cemeteries, and that the prominent family of Kimōn "claimed a prominent place for its tombs at a prominent entry point into the city". According to Hdt. 6.103.3, Kimōn's grandfather and namesake was buried in front of the city, across the road called Dia Koilēs ("Through the Hollow"), so this may have been the family's burial precinct.

14 I understand the phrase *ἰκετευσούσης καὶ ἀντιβολουούσης τῆς μητρος, ὡς ἐγὼ πυνθάνομαι, ἔασαι καὶ μὴ ἀποδόσθαι, ἀλλ' εἰ μὴ τι ἄλλο, ἐνταφῆναί γ' ὑπολιπεῖν αὐτῇ* as implying two options Timarchos' mother posed: either he refrain from selling the land or at least let her be buried there before selling. The translations of Chris Carey (2000: "...to leave this [i.e. the land in Alōpekē], if nothing else, unsold and to leave this plot at least for her to be buried in") and Nick Fisher (2001: "his mother supplicated and begged him to let alone ... and not sell; let him leave that [i.e. the land in Alōpekē], if nothing else, for her to be buried in") make Timarchos' mother beg him not to sell the estate in Alōpekē *and also* to let her be buried there, which seems to miss the point. See also Fisher's suggestion (p. 237) that Timarchos' mother begged for this piece of land because it was part of her dowry.

Timarchos granted her request, her grave would have been in the same situation as the graves on Teisias' land in Demosthenes 55.12-14 (discussed above).¹⁵

The epigraphic evidence is much more abundant, but harder to understand. Numerous grave markers from Attika and other places have been discovered, often bearing only the deceased's name without a patronymic. These grave inscriptions are an important source of demographic and social information,¹⁶ but I am looking for clues as to the status of the grave plot. Some inscriptions do seem to suggest that the deceased and their relatives considered the grave plots private property.¹⁷ Thus *IG* II² 2583 reads: ὄρος[ος] ἰσήματο[ς] Ἰλυσίμ[α]χος Ἰ[ὸ]αθεν (“*horos* of the grave (of) Lysimachos of the deme Oa”). Arguably, such inscriptions simply mark the place where this or that person was buried; but more explicit is *IG* II² 2558 (fourth century BCE): ὄρος μν-ἰ[ή]ματος ἰ παρὰ μὲ-ἰν τὴν ὁδ-ἰὸν ποδῶ-ἰν τριάκ-ἰοντα κ-ἰαὶ τεττά-ἰρων, εἰς ἰ [δὲ τὸ] εἶσ-ἰω — — (“*horos* of the grave, measuring 34 feet on the side of the road; and the inner length...”). The measures given suggest that the occupant of the grave or his relatives made a point to distinguish the plot from other, adjacent grave plots, thus clearly declaring their ownership.

Simple tombstones and those bearing a single name may belong to people of lowly status, whether poor citizens or foreigners and even slaves.¹⁸ So it is often difficult to distinguish citizens' graves from others'. Therefore, in this section I discuss only grave markers which may definitely be associated with citizens, such as *IG* II² 2558 mentioned above. What do the words “the grave *horos* of X” mean? Were the deceased or their heirs the owners of the grave plot? The fact that *IG* II² 2558 specifies measures indicates that the deceased or his fam-

15 Among the properties that Timarchos' father had sold was a workshop at the silver mines in the area of Maronea, ἐπὶ Θρασύλλῳ (101). The same expression is used in Demosthenes 37 (*Against Pantainetos*) 25, which Harpocration s.v. quotes and explains as an Attic usage for “near Thrasyllus' grave monument” (Ἀττικὸν ἔθος ἀντὶ τοῦ ἐπὶ τῷ Θρασύλλου μνήματι). On Thrasyllus see Kirchner 1901, no. 7333 and Traill, *PAA* 517480, who do not mention his grave. On the other hand, many accounts of the *poletai* mention the name Θράσυμος as one of the landmarks describing a mine in the area of Sounion (e.g. *Agora* XIX P5, 6, 9, 11, 13, 18, 26 etc.) and it is also indexed as such in *SEG* 28; see also Aperghis 1998, 11, and cf. Labarbe 1977, 40-41, no. 39; 44-45, no. 42. Was Θράσυλλος an erroneous rendering of Θράσυμος, as MacDowell 2009, 266 and n. 40 (commenting on Dem. 37.25) argues? Even so, it seems that Thrasyllus was famous enough for his grave to become a landmark. Since his deme is not known, we cannot know whether he was buried at or near his home or near a farm belonging to him. He might also have been buried in an isolated place because of his execution. But note that the tomb became a landmark some fifty years after Thrasyllus' death.

16 See e.g. Fraser and Rönne 1957; Fraser 1977; Nielsen et al. 1989; Meyer 1993.

17 On Athenian grave *horoi* see Lalonde 1991, 16-18 Strozsek 2013, who also discusses the various terms for grave markers.

18 Fraser and Rönne 1957, 95-96 argue that many of the single-name gravestones belong to slaves, clearly those bearing servile names. But as the authors themselves admit, and as recent studies show (e.g. Vlassopoulos 2010), slaves and citizens often shared the same nomenclature. See also Fraser 1995.

ily considered this burial ground, plausibly bought from another citizen, real property. Some scholars indeed see grave *horoi* as property markers, especially since in the Athenian Agora sets of two and three *horoi* were found, which reasonably surrounded and demarcated burial plots.¹⁹ But unlike the graves described in the literary texts discussed above, these inscribed gravestones were not located in private estates but very probably originally stood in the areas we call cemeteries, that is, beside public roads. So again we must ask: who owned *these* graves?

Another grave *horos* from Athens, *Agora* XIX, H67 (= *Hesperia* 10, 1941, p. 53, no. 15; fourth-third century BCE), resembles real estate sale documents: it records the vendor's name and the dimensions of the asset: ὄρος μνήμα[τος] | οὐ ἀπέδοτο Δ[ιότι(?)]μος· εἰς μέτω[πον] | ἐννέα πόδες, [εἰς τὸ] | εἴσω δέκα (“*horos* of the grave that D[ioti(?)]mos sold, the front measuring 9 feet, the inner length 10”). The purchaser's name is not preserved, or perhaps had been inscribed on another marker. Likewise, a slightly earlier inscription, *IG* II² 2567 (Athens, fourth century BCE), reads: ὄρος | μνήμα[τος]· ἀπα[γ]ορεύει | Ἀριστοτέλης | Ἀχαρνεὺς καὶ | Ἱεροκλῆς Πόροιο<ς> | ταῦτα μὴ ὄνελσθαι (*horos* of the grave. Aristotelēs of Acharnai and Hieroklēs of Poros prohibit its sale”). The ban on selling the grave surely means that Aristotelēs and Hieroklēs considered it their private property. Remarkably, the owners do not seem related, but hold the grave in joint ownership.²⁰

The evidence from Athens, then, shows that in the fourth century BCE (and perhaps earlier, if what Plutarch says about Thucydides is reliable) citizens regarded grave plots as private property, although we have no indication that they were so considered by the authorities too.²¹

As in Athens, single-name grave inscriptions in other parts of the Greek world make it difficult to distinguish citizens' graves and from non-citizens'. In some places the single name seems to be part of a formulaic, cultural practice, as in Boiotia and other places in central Greece,²² or to denote humble and servile status.²³ In the Peloponnese another explanation may be adduced. According to Plutarch (*Lyk.* 27.2), Lykourgos prohibited the inscription of names on tombs except of war dead or of women who served in a religious office, or, according to another interpretation, died in childbirth. Inscriptions bearing the formula “Single Male Name + ἐν πολέμῳ” and the formula “Sin-

19 Kurz and Boardman 1971, 105-108; Lalonde 1991, 17-18, suggesting that the *horoi* implied sanctions against intruders and protected the grave sites; Closterman 1999, 156-188.

20 Cf. Faraguna 2012, 171-172.

21 In contrast to sales of land and houses, which in the fourth century were registered and taxed; see e.g. the so-called *Rationes Centesimarum*, recording sales of land by Attic corporate groups (demes, phratries, etc.) to individual citizens in the second half of the fourth century BCE and the one-percent tax (*hekatostē*) paid on them: Lambert 1997. But see n. 126 below on Lambert's suggestion.

22 Fraser and Rönne 1957, 92-94, 98-101.

23 *Ib.* 96, 98; Fraser 1977.

gle Female Name + λεχόι” indeed have survived.²⁴ But such inscriptions, even those of Spartan warriors, cannot inform us about the status, real or conceived, of citizens’ grave plots.

More explicit evidence may be drawn from an inscription from Amphipolis, *SEG* 41.557 (=Hatzopoulos 1996, Epigr. App. No. 84; Game 2008, 28-30, no. 3), dated before the city’s conquest by Philip II in 357 BCE. This is not a grave inscription but a sale document, recording Polykratēs’ purchase, from Sōstratos’ wife and children, of an ἐπτάκλινοσ (“seven-beds”) – interpreted as an *andrōn*, used for entertaining male guests – together with the adjacent land, except for a part (a cave?) that Polykratēs left the vendors for their father’s burial (lines 1-10).²⁵ Here, in contrast to the Attic inscriptions, payment of a sale tax and the names of the witnesses to the transaction are recorded; but, as noted, this is a sale contract of a house not of a grave.

This inscription has further interest. The case it presents seems analogous to the one described in Demosthenes’ oration *Against Kalliklēs*, where the speaker argues that his father bought the land together with the graves in it (see above). If we may infer from the Amphipolitan case the situation in the Athenian, it may be assumed that grave plots belonged to the deceased’s family, even if transferred to another man. If so, Timarchos’ mother’s grave (Aischin. 1. 99, see above) too would have been in that position had her request been granted to be buried in the land Timarchos sold. We have no Greek parallel to what we find in the Roman jurists that by burying on one’s own land the grave becomes *locus religiosus*, and that anyone could bury in another person’s ground with the owner’s permission.²⁶ However, evidence (admittedly sparse) may point to similar concepts in some places. Thus an early law preserved in a fragmentary inscription from Gortyn, dated to the first half of the fifth century BCE (*IC* IV 46B, ll. 6-14), lays down that if there is no public road, people may carry a corpse to burial through another person’s private property, immune from penalty; anyone who tries to prevent it shall pay ten staters. The text goes on to stipulate what is to be done in the case where, despite there being a public way,

24 Peloponnesian grave inscriptions of warriors: *IG* V 1, 701-710, 918, 921, 1124, 1125, 1320, 1591; *IG* V 2, 251; see Pritchett 1985, 244-246; Zavou 1992-1998, nos. 1, 2; Zavou 1999: 66-67, no. 6; Hodkinson 2000, 250-256. Women’s grave inscriptions: *IG* V 1, 713-714; see Engels 1998, 55 and n. 13; Low 2006. Interpreting Plutarch as referring to women in the religious sphere: Hodkinson 2000, 260-262; Brulé and Piolot 2002; Brulé and Piolot 2004, 151-78; women who died in childbirth: Dillon 2007 (with bibliography). On the otherwise equal burials in Sparta see Hodkinson 2000, 247-249.

25 I follow (as does Game 2008, no. 3) the text of Hatzopoulos 1991, no. III. A new interpretation of line 14 appeared in Hatzopoulos 1996, no. 84. On the ἐπτάκλινοσ see Game 2008, 29, and cf. Youni 1996, 137-138 and n. 9 on a loan contract from Olynthos, dated to 350/49 BCE and the implications of the purchase of only part of a house.

26 E.g. *D.* 1.8.6.4, and cf. *D.* 47.12. According to Cicero (*Leg.* 2.61) Table X already protected grave ownership. See Snodgrass 1998, 38.

the relatives carry the corpse through another man's property — but here the text breaks off.²⁷

The question is what made the *ekphora* through another's property necessary. Van Effenterre and Ruzé (*Nomima* II, 310 no. 85) visualise a crowded settlement on a slope, such as the old district of Gortyn on the hillside of Ayios Ioannis. Brice Erickson, followed by Michael Gagarin and Paula Perlman, interpret this law as indicating the existence of formal burial grounds, arguing that if burial on private land was customary there would have been no need for a public road. Flavia Frisone, however, comments that relatives would hardly choose to carry their dead through another person's property if a road was available, hence the law did not refer to an urban context.²⁸ She suggests that it was common in Gortyn, as in Attika, for family groups to bury their dead in small burial precincts, lacking access by rural roads, or that the land where the graves were located was subject to a partial or total subsequent sale, so to reach the grave crossing the property of others was unavoidable.²⁹ Such circumstances, if indeed envisioned by the law, can be compared to Demosthenes 55.12, Aischines 1.99 and the inscription from Amphipolis, discussed above. Another, indirect, indication may be found in Dio Chrysostomos 31.94, who reproaches the Rhodians for re-using old statues, likening it to people who ruin old tombs and claim that they do no wrong because the dead are neither related nor known to them. Dio Chrysostomos' reproach suggests that it was thought inappropriate to violate others' graves (see also below), which people were expected — by custom if not by law — to respect. Hypothetically, graves sold with lands were protected, at least in some places, and relatives sought permission to cross to them — whether by right enshrined in law as in fifth-century BCE Gortyn or as respected by custom.³⁰

Two inscriptions from Aigina, found on stelai fixed in the ground in a burial area, also look like sale contracts, specifying the names of the vendors and the buyers. The first, *IG IV 2² 875* (fourth century BCE?), says “Purchased from

27 Text and commentary in Frisone 2000, 25-30, who argues that the law's purpose was to establish when infringing the boundaries of another person's private property was allowed or prohibited; she also suggests that the lost part of the document stipulated that those carrying a corpse through private property despite there being a public road were to be fined (29). Cf. Gagarin and Perlman 2016, 316-318, G46. And see Gagarin 1986, 96-97 on fines in early law.

28 Erickson 2010, 254; Gagarin and Perlman 2016, 318; Frisone 2000, 29. Kotsonas 2002: 54 argues that this law may indicate small burial plots, not located on public ground.

29 Frisone 2000, 29. In this Frisone follows Koerner 1993, 406-407, who envisages a situation where the land with the grave was no longer in the family's ownership. Cf. Engels 1998, 52.

30 For concessions of access to the grave in Rome (*iter ad sepulcrum*): *D.* 11.7.10, 12 (Ulpian, 25 ad Ed.); 47.12.3.4, 47.12.5 (Pomp. 6 ex. Plaut.); *CIL* VI 8667 (last decades of the first century CE; *itus, actus, aditus ambitus*), 12133 (first half of the first century CE; *itus, aditus, ambitus* — here access to freedmen to offer sacrifices), 13823: (first/second century CE; *itus, aditus, ambitus*, to offer sacrifices). See Evangelisti and Nonnis 2004.

Kleodikos son of Agemachos and from Melainis daughter of Hērakleidēs”; the other, *IG IV 2² 883* (Hellenistic period?) says “Aristopeithēs son of Euthēnidēs purchased from Mnasitelēs”.³¹ However, most evidence of graves’ purchases comes from Roman Asia Minor. Thus *TAM II 752* from Kandyba in Lykia (first century BCE) says: “Laïs daughter of Apollōnios, of the city Kandyba, purchased this tomb from the people of Kandyba for herself and her husband and her father-in-law and her children and for whoever she may give consent. The sale-contract has been engraved (or: registered in the archive?).”³² Here a new player comes in, the *demos* — as can be seen in another Lykian grave inscription, *TAM II 41c* (Telmessos, imperial period). Lines 1-10 of the inscription read: “In the year 460, Parna[s]ios(?) and Hē[r]akleōn, the children of Sōpatros and Epaph[rod]eitis daughter of S[y]m[mach]os restored(?) this grave, having bought it from the people.”³³

If Kaja Harter-Uibopuu is right in stating that these texts refer to plots put on sale by the polis as part of the development of a new site for a necropolis, or were abandoned grave plots that came into the state’s ownership and were then put up for sale,³⁴ these plots were public land.³⁵ The polis’s involvement in Lykia goes even further back to the fourth century BCE. As Harter-Uibopuu notes, all the direct evidence of purchases from the polis of grave plots comes from Lykia, which also yields the earliest evidence of regulations concerning burial and the protection of graves (see section III below). She offers an inscription from Ephesos as another possible attestation of public land given for burial: *I.Ephesos 2256 II* (undated) reads “Aulus Pomponius Agathoneikos built the tomb on the site allocated to him, and he paid for the entrance of the grave and built the staircase from his own resources.”³⁶ As possible reasons for the transfer of the land Harter-Uibopuu suggests the grave owner’s naturalization in Ephesos or his immigration into the city, or the establishment of a new necropolis in Ephesos. The verb here translated as “allocated”, ἐκληρώθη, in-

31 *IG IV 2² 875*: πὰρ Κλεοδίκου τοῦ Ἀγεμάχου | καὶ Μελαινίδος Ἡρακλείδας ἐπρίατο. *IG IV 2² 883*: Ἀριστοπειθῆς | Εὐηθίδα ἐπρίατο | πὰρ Μνασιτέλεος[ς].

32 *TAM II 752* τὸν τάφον ἐωνήσατο Λαῖς Ἀπολλωνίου Κανδύβισα | παρὰ Κανδυβέων το[ῦ] δήμου ἑαυτῆ καὶ ἀνδρὶ καὶ γανβρῶ | καὶ τέκνοις καὶ οἷς ἂν συ[ν]χωρήσῃ. | ἡ ὤνῃ ἀναγέγραπται.

33 *TAM II 41c*: ἔτους υξ΄ | [τὸ μνημεῖον] | τ[ο]ῦτο ἐ[ξ]ειργά[σ]α[ν]το Παρνά[σ]ι[ος] καὶ Ἡ[ρ]ακλέων οἱ Σωπά[τ]ρου καὶ Ἐπαφ[ρ]ό[δ]ειτος Σ[υ]μ[μά]χου ἡγορασμέ[ν]ον ἀπὸ τοῦ δήμου.

34 Harter-Uibopuu 2012, 192. See also *TAM II 124* (Telmessos); *TAM II 624* (Tlos).

35 See also Faraguna 2012, 178-180 and below on the possibility of public land being sold or leased for burial in Athens.

36 *I.Ephesos 2256 II*: Αὐλὸς Πομπώνιος Ἀγαθόνεικος | ταύτην τὴν σορὸν κατεσκευά[σεν] | εἰς ὃν ἐκληρώθη | τόπον, συνδαπανήσας καὶ εἰσοδὸν [εἰς] | τὸ μνημεῖον, | ἐκπετρώσας δὲ | καὶ τὴν κλείμακα | ἐκ τῶν ιδίωγ. Harter-Uibopuu 2012, 192-193 comments that most of the texts that mention purchase of a burial plot do not name the previous owner. Previous owners are mentioned in inscriptions from Amphipolis and Aigina, as we saw above.

deed usually denotes allocation or appointment by lot, and Aulus Pomponius Agathoneikos probably saw fit to record this fact as a precaution against future challenges to his right over the grave.³⁷

I now turn to burial grounds of associations, by which I mean private religious and/or social organizations such as *orgeones*, *eranoi* and *thiasoi*, or what the ancient sources often name simply *koina*. I also include here the polis's formal sub-divisions, such as the demes in Attika, because obviously most burials were located in the territory of this or that deme.³⁸ However, although concentrations of burials have been excavated in several Attic demes³⁹ and, as we shall see, it has been suggested that the demes had an important role in allocating and preserving graves, I postpone the discussion of the Athenian demes to the last part of my paper, because there is no direct evidence of burial by a deme or in a pre-planned, demarcated burial ground, specifically assigned by a deme for that purpose. Also, private associations of foreigners only, will be discussed in the second part of the paper, together with burial of non-citizens. Still, as will be shown below, even associations whose members were of a mixed ethnic origin owned lands, presumably purchased or granted by members who were citizens; such cases are dealt with in this section.⁴⁰

It has long been shown that associations owned landed properties.⁴¹ These seem to have included burial plots, as implied by numerous inscriptions that also convey these associations' function in attending to their members' burials. The latter function, attested in some inscriptions of Attic associations, has led some scholars to assume the existence of burial societies in Athens, especially since a passage in the *Digesta* (47.22.4), in which Gaius ascribes to Solon a law on associations, mentions *homotaphoi*.⁴² To judge by Aischines 1.149 and Plutarch *Mor.* 359b, the term means "those buried together"; but there is no evi-

37 But since the verb can also simply denote possession (e.g. Ailian *NA* 5.31; Hp. *Ep.* 20; Procl. *Inst.* 110), it may well refer to private inheritance, which nevertheless attests to private ownership of grave plots. In Miletos copies of documents recording the purchase of burial plots were deposited in the polis's archives: see Harter-Uibopuu and Wiedergut 2014, 160-164 (and cf. 150 n. 11 for the archive in Smyrna and Lykia).

38 Yet people migrated to and were buried in other demes. For Athens see Cox 1998, 40-57.

39 In Thorikos, e.g., no less than four cemeteries were found (one adjacent to a theatre); Mussche 1994, 212-214; Mussche 1998, 22-44. On graves located in demes see also Trail 1975, 73-74; Whitehead 1986, 137-138; Lambert 1993, 227.

40 This practice is different from grants of *enktesis* by poleis to non-citizens, sometimes to ethnic groups asking permission to build shrines to their deities; e.g. *IG* II² 337, granting in 333/2 merchants from Kition the right to purchase land and build a shrine to Aphrodite; the decree also mentions a former grant to Egyptians to build a shrine to Isis. See Pečírka 1966, 59-61.

41 E.g. *IG* II² 2720 + Lambert 1996, from Attika; *IG* XII(5) 872 from Tenos; *IG* XII(7) 58 from Amorgos. See Finley 1952, 58, 89, 93-98; Nemes 1980: 4-8; Whitehead 1986, 152-158; Lambert 1993, 192-198; Lambert 1997, 233-237.

42 See Arnaoutoglou 1998, 70-73; Jones 1999, 266, 316-317; *contra* Ziebarth 1896, 17; Faraguna 2012, 169-170.

dence of burial grounds belonging to private associations in Athens.⁴³ Outside Athens, an inscription from Cumae (*LSAG*² 240, 12 = *SEG* 4.92, 36.911; ca. 450 BCE) clearly refers to a grave plot reserved for initiates only: “It is forbidden to be buried here, save for the initiated” (of the Bacchic or Orphic cult).⁴⁴ The graveyard in which the inscription was found may be the one to which it refers. In second-century BCE Tanagra, Galatas was buried by “Dionysos’ worshippers” (*IG* VII 686).⁴⁵ This does not prove that the area where Galatas was buried belonged to the association, but it may well have been. However, the following two Rhodian inscriptions leave no doubt that at least some associations had their own cemeteries. *IG* XII(1) 736 from Kamiros (= *Syll.*³ 1118; third century BCE?) records a gift of land to an *eranos* by one of its members. Lines 2-9 explicitly state that the purpose was the establishment of a graveyard for the association: “[EY-----] granted in gift to the association of the *erani-stai*, for the purpose of burial (ἐς ταφία), the lands in Rhonkiōn(?) by the road that leads from Angyleia to Hippoteia, measuring 25 orgyai in length, 16 orgyai in width, according to how the *horoi* are set. (Here follows a list of other gifts of land).”⁴⁶ *SEG* 39.737 Face B.1 (found in Korakonero), dated to 185 BCE, is a subscription list of members of an *eranos*, of mixed ethnic origin, donating money to buy land.⁴⁷ Since the inscription was found in a burial area it has been taken to refer to that very place;⁴⁸ if this is correct, at least one member had to be of a citizen status to be able to purchase land.

That burial grounds constituted one of the main categories of lands owned by *koina* comes out even more clearly from a second-century BCE decree of the

43 So Engels 1998, 22 is apparently right to understand the term as referring to all those belonging to the same family and having common graves. Ismard 2007, 20 n. 14 and 2010, 52-54, however, suggests that it described collective burials of associations which, relying on the archaeological finds, could have been practised already in the archaic period. See also Cabanes 1998: 442-443. A third-century BCE decree of an Attic *thiasos* (*LSCG* II, no. 126 = *IG* II² 1275, ll. 5-10) mentions its duty to help with proper burial of its members, but does not mention a cemetery belonging to it; cf. *IG* II² 1323, ll. 10-11; 1327, ll. 10-12; 1368, ll. 161-163.

44 *LSAG*² 240, 12: οὐ θέμις ἐνιτοῦθα κεισθαι ἢ μὲ τὸν βεβραχχευμένον. Turcan 1986, 227-226 argues that the participle βεβραχχευμένον describes not a participant in the cult of Dionysus but an initiate of the Orphic cult.

45 *IG* VII 686: Γαλάτας· ἰ οὔτον ἔθαψαν τὸ Ἰ Διονυσιασστή.

46 *IG* XII(1) 736, lines 2-9: [ἐ]ρανιστᾶν τῶι κοινῶι ἔιδωκε δωρεᾶν ἐς ταφία ἢ τᾶς γὰς τᾶς ἐν Ῥογκύ(?)ω[ι] ἢ ὡς ἂ ὁδὸς ἂ φέρουσα ἐξ Ἀ[γ]γυλίας εἰς Ἴπποτειαν ἢ μάκος ὀργυᾶν εἴκοσι πέντε, πλάτος ὀργυᾶν δεκαλέξ, ὡς ὄροι κείνται· κτλ.

47 *SEG* 39.737, Face B.1 (= ed. pr. Kontorini II, 1989, 73-85, no. 10), lines 1-5: ἐπ’ ἱερῶς Νικασαγόρα τοῖδε τῶν ἐρανιστᾶν δηλόμενοι συνεπαύξιν ἢ τὸν ἔρανον ἐπαγγείλαντο δώσειν ἢ δωρεᾶν ἄργύριον εἰς τόπον ποτ’ ὠλᾶν καὶ ἀπέδωκαν. On Face A, lines 7-12, the association is called “the *erani-stai* Samothraikiastai, Aristobouliastai, Hermaistai, Panatheaisthai who are with Ktēsiphōn”; the latter, described as the *koinon*’s *euergetēs* and presumably its leader, is a Chersonitēs (that is, from the Rhodian Peraia) hence a citizen.

48 Kontorini II, 1989, 76; Gabrielsen 2001, 229.

koinon of the Aphrodisiastai Hermogeneioi in Rhodes (SEG 3.674; Pugliese-Carratelli, *ASAtene* 22 [n.s. 1-2], 1939/40, no. 18),⁴⁹ proposed by its *euergētēs*, Zēnōn. Lines 3-14 read:

In order that the documents relating to the title deeds of the lands belonging to the *koinon* and of all the burial plots (τᾶν ταφιάν) may be accessible as far as possible to all members of the *eranos* forever, and that no injustice will be done to anyone, it has been decreed by the *koinon*: after this decree is ratified, let the *koinon* elect immediately a man, who will provide a stele and, after receiving from the archons the title deeds of all the landed properties and the burial plots belonging to the *koinon*, let him engrave them on the stele and set the stele up in the graveyard of the *koinon* (εἰς τοὺς τοῦ κοινοῦ τάφους), in whatever place may seem to him the most conspicuous and safe.

The inscriptions cited above clearly show that associations considered their burial grounds their real estates. Most of these associations included foreigners who could not own lands and houses; but, as noted above, this obstacle seems to have been bypassed by members who were citizens, who purchased or donated lands. How associations composed only of foreigners could own burial grounds will be discussed in section II below. The question still remains concerns the juridical status of properties owned by associations, whether composed of citizens or non-citizens. This complex subject cannot be discussed here, but it is commonly held that the concept of associations as juridical bodies developed much later.⁵⁰

49 SEG 3.674: ὅπως οἱ ἀμφοριασμοὶ ἰ τῶν ἐγγαίων τῶν ὑπαρχόντων τῷ κοινῷ καὶ τᾶν ταφιάν ἰ ἐμφανεῖς ὑπάρχωντι ὡς ἐν δυνατῷ πᾶσι τοῖς ἐραμισταῖς ἰ εἰς πάντα τὸν χρόνον καὶ μηθὲν ἀδίκημα γίνηται περὶ αὐτούς, ἰ ἀγαθὰ τύχαι δεδόχθαι τῷ κοινῷ· κυρωθέντος τοῦδε τοῦ ψαφίσματος ἐλέσθαι τὸ κοινὸν παραχρῆμα ἄνδρα, ὁ δὲ αἰρεθεῖς ἰ κατασκευάσθω στάλαν λαρτίαν καὶ λαβῶν παρὰ τῶν ἀρχόντων τοὺς ἀμφοριασμοὺς πάντων τῶν ὑπαρχόντων τῷ κοινῷ ἰ ἐγγαίων καὶ τᾶν ταφιάν ἀναγραψάτω αὐτοὺς εἰς τὴν στάλαν ἰ καὶ ἀναθέτω τὴν στάλαν εἰς τοὺς τοῦ κοινοῦ τάφους εἰς τόπον, ὅς κα αὐτῷ δοκῆ εὐσαμότατος καὶ ἀσφαλῆς εἶμειν· The decree is one of two documents, inscribed on a block “which was evidently erected within the burial precinct” (Fraser 1977, 60). The second document records only one transfer of land, not related to the association’s burial grounds; nonetheless, as Fraser notes, the decree makes it clear that burial grounds “formed one of the main categories of land owned by *koina*, and they were no doubt extensive” (61). For associations’ burial grounds see also *ib.* pp. 58-70; Gabrielsen 1997, 123-129; van Nijf 1997, 43-49, discussing various types of burial plots; Gabrielsen 2001, 229-230; Borbonus 2014, 58-59. On Roman funerary *collegia* see Hopkins 1983, 201-217.

50 Foucart 1873, 47-50 argued that associations were recognized as civil persons, able to possess, sell and buy in their own name. Baslez 1998, 431-434 notes an evolution in the fourth century, by which associations distinguished private property from that belonging to the *koinon*, but argues that the polis’s authorities never treated associations as juridical bodies but as individuals. See also Ustinova 2005, 179-182, who nevertheless notes some exceptions in the Hellenistic period. Whitehead 1981: 227-229 and Ismard 2010, 186-204, discussing the philosophical schools at Athens, conclude that associations held collective properties and were regarded as groups.

Private ownership of graves by individuals and associations may also be assumed in Hellenistic Alexandria. The collective Tomb B1 in the necropolis of Gabbari has yielded some dipinti that imply the activity of entrepreneurs who seem to have obtained concessions on walls (or parts of walls) in *loculi* and sold them to others.⁵¹ For example, Boussac and Empereur 2001, no. 1 reads: “(concession) of Hermias. The (entire) wall from the water to the top of the *exedra*.”⁵² These monumental multi-chambered tombs were used by families and, later, by associations of various kinds. An inscription dated to 120 CE (Kayser 1994, 90-97, no. 24) attests to a burial ground of the *politeuma* of the Lykians in Alexandria who assert their right to protect it.⁵³

The evidence so far seems to point to private or — in the case of associations — collective ownership of graves, at least from the fourth century BCE onwards. But the following examples may indicate some constraints on private citizens’ freedom to bury as and where they wished. Thucydides (1.138.6) says that Themistoklēs’ bones were brought home at his request by his relatives and buried in Attika without the Athenians’ knowledge: “for it was not possible to bury him there because he had been banished for treason.” As noted above, Thucydides himself was interred in the burial precinct of Kimōn’s family perhaps for the same reason (Plutarch, *Kim.* 4.2). Again, a law against burial of temple-robbers and traitors in Attika, quoted by Euryptolemos in his speech at the Assembly in defence of the Generals after the battle of Arginousai (Xen. *Hell.* 1.7.22), may be the same law that prevented the burial of Themistoklēs. Just before that in the text (1.7.20), Euryptolemos also quotes a decree that anyone convicted of doing wrong to the Athenian people will be put to death by being cast into the pit (τὸ βάραθρον). That Athens restricted the burial of those convicted for treason or murder is also proved by other sources.⁵⁴ By inference from Plato’s *Laws* (873b-d) about late fifth- and fourth-century Athens, those who murdered a family member or committed suicide would have been

51 Boussac and Empereur 2001, 230 suggest that the dipinti were intended to disappear progressively with the development of *loculi* and burial chambers, and that this situation, together with the inscriptions’ frequency and location in the same place (inside the same *loculi*), seemed to suit undertakers. See also Venit 2002, esp. 21; Borbonus 2014, 57.

52 Boussac and Empereur 2001, no. 1: Ἐρμίου ἐξ ὕδατος ἕως ἐπὶ τὴν κορυφὴν τῆς ἐξέδρας [ὄλος ὁ?] τοῖχος.

53 Note, however, that the word for “grave-protection”, μνηματοφυλακίαν (lines 5-6) is a *hapax*; see Kayser 1994, 94, who also suggests that the Lykians’ interest lay in the fruit gardens that may have existed on the burial ground (97). Two first-century CE papyri from Tebtynis, *P.Mich.* V 243 (ll. 9-12) and 244 (ll.16-18) attest to the duty of associations to help their members with the funeral, but do not mention burial grounds; see Boak 1937, 218 (also referring to analogous Demotic texts) and Arnaoutoglou 2005: 201.

54 For traitors, see also Hyp. 4.18; Lyk. 1.113, 115; Lys. 19.7; Plut. *Phok.* 37.2-3 (Phokion’s remains were secretly buried by his wife). A famous fifth-century dramatic treatment of the subject is Sophokles’ *Antigone*; see Patterson 2006b. Convicted murderers: e.g. Dem. 21.106. Hyp. 1.20 also names convicted adulterers. See also Thuc. 1.126.12 on the “accursed”. According to D.S. 16.35.6, temple-robbers were also thrown into the sea.

denied proper burial and the right to a marked grave (like traitors, according to Thucydides and Xenophon).⁵⁵ Criminals in Sparta were also denied proper burial, and instead were thrown into the *καιάδας* (Thuc. 1.134.4; Paus. 4.18.4).

Another example, of a different kind and from a different place and time, is *I.Rhod.Per.* 352 (= Bresson 1991, 49; *SEG* 14.683) from Amos, dated to ca. 200 BCE. The inscription records a lease of land by what is here described as the *koinon* of the Amians. Lines 7-9 on Face B interdict burial in the leased field and stipulate that the wrongdoer will pay 100 silver dr. to the *hieromnēmōn* and to the *koinon* of the Amians, and the corpse will be carried out of the field.⁵⁶ When this contract was made, Amos was part of the Rhodian *Peraia* in Karia and its status was probably similar to that of a deme.⁵⁷ Hence the word *koinon* here describes not a private association but the people of Amos, namely a formal state sub-division. Burial in one's privately owned or cultivated land appears to have been as common in Hellenistic Amos as in classical Athens. So why was it deemed necessary to include this prohibition in the lease contract? The motive may have been fear of pollution, or perhaps the wish to restrict burial in Amos to certain areas.⁵⁸ Nevertheless, it seems to me that the Amians were anxious to prevent tenants from acquiring a permanent claim — of the kind we saw in Athens and Amphipolis — to part of the land, thus also decreasing its value. Apparently, burial conferred some kind of entitlement, in effect if not legally.⁵⁹

In the same context we may perhaps consider a late third-century BCE inscription from Gonnoi in Thessaly (*Gonnoi* II, no. 93 = Ager 1996, 147-150, no. 54 II), which records an arbitration by emissaries of King Philip V between

55 For Athenian influence on Plato in the matter of murderers and suicides see Chase 1933: 151. On suicides cf. *LSCG* 154 from Kos (270-260 BCE), lines 33-36. Aischin. 3.244 says that when a man kills himself, the hand that did the deed is buried apart from the body; Dio Chrysost. 47.4 ascribes to the lawgiver Damonassa a law forbidding the burial of suicides. Yet Dem. 57.70 implies that they were not denied proper burial.

56 *I.Rhod.Per.* 352, Face B lines 7-9: μηδὲ ἐξέστ]ω θά[π]τειν γ[ε]κ]ρόν. τ[ι]να ἐν τῷ ἀγρ]ῷ [τῷ] μεμ[ισθωμέ]||νωι· εἰ δὲ μή], ἀποτε[ισ]άτω [ἀρ]γ[υ]ρί]ου [δ]ρ[αχμ]ᾶς ἐ[κ]ατὸν ἱερ[ο]μνάμοσι | καὶ Ἀμίων κοιν]ῷ, καὶ τὸν [ν]ε[κρ]ῶν ἐ[κ]φερέτω ἐκ τοῦ ἀγρ]οῦ. Börfker 1978 dates the inscription to 150-108 BCE; Rice 1999, 47-48 supports a date in the late third/early second century BCE. The inscription is heavily restored, but the restorations are generally accepted.

57 In the fifth century Amos was one of the *Χερρονήσιοι* who formed a *synteleia* in the Athenian tribute lists and was incorporated in the *Peraia* before 408. By 200 BCE it may have become a deme of Lindos. See Fraser and Bean 1954, 79-80 (the text of the inscription is their no. 8, discussed on pp. 12-20); Gabrielsen 1997, 122; Papachristodoulou 1999, 41-43; Rice 1999, 46-50; van Bremen 2009, 109.

58 A burial area was found in Amos, north of the city walls: several rock-cut tombs together with some inscriptions and fragments of monumental architecture.

59 Cf. *IK Herakleia Pont.* 70 (= *LSAM* 83; ca. 400 BCE): ὄρορος τὸ | ἱερὸ τόπο | ἔνδος μὴ | θάπτειν. Cf. *IG XII(3)* 87 = *Syll.*³ 1220 (Nisyros, third century BCE) — a fragmentary law prohibiting burial, but its specifics are not clear; see Garland 1989: 13; Engels 1998, 72; Frisone 2000, 157-8.

Gonnoi and Herakleion over disputed land. Lines 17-20 on Face B, which are part of a witness's testimony, in the first person, show how a private grave may serve as proof of the polis's ownership of a disputed territory: "And I also know that ... the citizens of Gonnoi [sold/leased?] the land in Pothnaieus and in [... to ...], and he is buried beside the road that leads from ... to Limnē."⁶⁰ Thus the latter four cases, although of different places and times, demonstrate how public interests sometimes clashed and sometimes agreed, or even identified, with private interests.⁶¹

Before going on let us summarize the evidence so far: numerous gravestones all over the Greek world commemorated deceased citizens by giving their names, sometimes also their patronymics and demotics. However, we cannot tell by such inscriptions what the graves' legal status was; they may have served as signposts of private property or merely as grave markers. Still, at least from the classical period, inscriptions that mention the graves' dimensions and the fact that they were purchased show that they were deemed private property by their users, be they individuals or associations and formal sub-divisions of the polis. This may be corroborated by a remark of Praxagora in Aristophanes' *Ekklesiazousai* (590-594), that some people do not even have land to be buried in.⁶² Evidence from three different places also implies that the grave was some kind of an extra-territorial area: it could be transferred with the land, but the dead and their kin had certain rights to it — very likely the right to perform the funerary rites and perhaps also to bury other relatives there. This seems to be true even of graves located in what we call a cemetery, or necropolis. I say "what we call" because there is in fact no evidence that poleis officially and intentionally demarcated areas as cemeteries.⁶³ Only in the colonies founded in the eighth and seventh centuries BCE have archaeological excavations revealed what may be interpreted as pre-planning of burial areas beside public and pri-

60 Gonnoi II, no. 93, lines 17-20: οἶδα δὲ καὶ ΠΙΕ. ΟΝΤΑΥΠΙΟΝ[. . . c. . .] | . ΑΝΒΟΡΕΑΣ τὴν ἐν Ποθναίει καὶ τὴν ἐν ΧΑΣ| — — ἄς ἔδωκαν αὐτῷ οἱ| | Γοννεῖς· ὅς καὶ τέθαπται παρὰ τὴν ὁδὸν τὴν ἄγουσαν ἐκ Τ| — — | . . ους εἰς Λίμναν· See Hatzopoulos 1996, 241-242, 399-400 on the nature of this document.

61 It might be useful to compare with these texts a different kind of interference: Plut. *Lyk.* 27.1-2 says that to eliminate all superstitious fears Lykourgos allowed the Spartans to bury their dead *within* the city and to have memorials of them near sacred places (cf. Plut. *Mor.* 238d). See Engels 1998, 55-58 (with bibliography); Cartledge 2002 [1979], 90, 158. Hodgkinson 2000, 249-255, however, argues that the funerary monuments were unconnected with the very place of burial.

62 Faraguna 2012, 172 argues that all *periboloi* were private property. Note, however, that not all graves lay in *periboloi*.

63 Even the word 'necropolis' is late and appears first in Strabo (17.1.10); late also is *koimēterion*, from which 'cemetery' derives; see Patterson 2006b, 12 and n. 9; Snodgrass 2009, 100. See also Hope 2009, 155-157 on Rome. Morris 1987, 63 argues that only from ca. 700 B.C. did burials take place almost exclusively in areas especially reserved for the dead.

vate residential areas.⁶⁴ The polis seems to assume the right of ownership only later, when private interests interfered with public interests.

2. *Burials of Non-Citizens*

If I am right, how may we understand the numerous gravestones that attest to burials of non-citizens and slaves in many poleis? If the burial plot was private landed property, or at least was allowed to be considered such, and ownership of land was the privilege of citizens only, why were non-citizens allowed to be buried and have grave monuments erected in the polis's territory? The recording of foreigners and slaves on the Athenian casualty lists and their possible burial in the *Dēmosion Sēma* have been discussed.⁶⁵ But as far as I know, only Brueckner fleetingly raised the question of the presence of foreigners among private Attic graves; he was followed many years later by Cynthia Patterson, who noticed the discrepancy between ideology and material findings of 'ordinary' burials of non-citizens, and by Michele Faraguna.⁶⁶

Another problem, already mentioned, is this: We know that a given gravestone commemorates a non-citizen only if it bears an unequivocal inscription. But in many places, including Athens, grave inscriptions simply give the name of the deceased, without any further status indication, such as a demotic, patronymic or ethnic. In such cases it is difficult to tell citizens, free foreigners, and slaves apart. It has been assumed that the simplest graves were those of less well-to-do, but these could be citizens or non-citizens.⁶⁷ Therefore, as in the case of citizens' graves, I stick to the safer evidence.

I start with the Demosthenic speech 43 (*Against Makartatos*) 57-58 — a text discussed again below, in a different context. This passage is one of several

64 E.g. the grid of the roads in the necropolis of Olbia, founded in the seventh century BCE, shows that all the roads radiated from the city and followed straight lines, regardless of the terrain, which may indicate planning. See Martin 1973, 111; Wąsowicz 1975, 79-81; Vinogradov and Kryžickij 1995, 122.

65 E.g. Bradeen 1969.

66 Brueckner 1909, 42; Patterson 2006a: 56; 2006b, 16, 25-33; Faraguna 2012, 172-175.

67 On non-citizens' gravestones see Fraser and Rönne 1957, 92-101; Fraser 1977, 46-47, 64-69; Fraser 1995; Clairmont 1993, vol. V, 9-10; 68; Bäbler 1998; Vestergaard 2000; Storzseck 2002/2003; Hildebrandt 2006, 202-208. See also Oliver 2010 on foreign names and intermarriage in Athens. Oliver 2000, 74-78, discussing costs of stones and inscriptions, adopts the orthodox view that in fourth-century Athens the richer were more likely to have erected funerary monuments. On costs and purchase of grave stones see also Clairmont 1993, introductory vol., 66-72, arguing that "including the workmanship [and engraving], the total cost would amount to less than 20 drachms and probably not much more than ca. 10 drachms if decorated with a small standard relief" (66). In the *Kerameikos*, the back southern side of the Street of the Tombs was used for simple earth burials (with *kioniskoi*), dating to Hellenistic and Roman times; see Knigge 1991, 110. Meyer 1993 (esp. 119) argues that the increase in the use of demotics in fourth-century Athens was politically motivated.

laws quoted by the speaker, Sositheos, regarding the right of succession. The law, if authentic,⁶⁸ starts by establishing the duty of relatives in a case of murder, but then seems to move to another subject:

And regarding persons who die in the demes and no one takes them up for burial, let the demarch notify their relatives to take them up and bury them and to purify the deme on the day on which each of them dies. In the case of slaves he shall notify their masters, and in the case of freemen — those possessing their property; and if the deceased had no property, he shall notify the relatives of the deceased. And if, after the demarch has given notice, the relatives do not take up (the body), the demarch, on the same day, shall contract for the taking up and burial of the body and the purification of the deme at the lowest possible cost. And if he do not so contract, he shall be bound to pay one thousand drachmas into the public treasury. And whatever he expend, he shall exact double the amount from those liable; and if he do not exact it he shall himself be under obligation to repay it to the demesmen.⁶⁹

The demarch's responsibility in bringing bodies to burial is discussed in detail in section III below. For our immediate concern it is important to see, first, that slaves — like free persons — must be buried and that it was their masters' duty to see to it; secondly, although the text is not explicit on this point, slaves are apparently included in the last provision as well: if the master does not bury his dead slave, the demarch is to contract for the burial and purification. The purpose of this law is obviously religious or hygienic; but it clearly assumes that slaves were buried in Attic soil. Still, where the demarch buried slaves' discarded bodies remains unclear. May we assume that as in Rome there were mass burial places for the poor and slaves?⁷⁰ This question is further discussed below.

68 The law's authenticity has been questioned by Edward Harris in his paper "The Authenticity of the Document at [Dem.] 43.51 and the Other Documents in Against Macartatus", read at the conference "Aspects of Family Law in the Ancient World", 22-24 April 2015 in UCL — although he did not discuss the section on the demarchs. See also Canevaro 2013. See also below.

69 [Dem.] 43.57-58: τοὺς δ' ἀπογινομένους ἐν τοῖς δήμοις, οὓς ἂν μηδεὶς ἀναιρῆται, ἐπαγγέλλετο ὁ δήμαρχος τοῖς προσήκουσιν ἀναιρεῖν καὶ θάπτειν καὶ καθαίρειν τὸν δῆμον, τῇ ἡμέρᾳ ἢ ἂν ἀπογένηται ἕκαστος αὐτῶν. ἐπαγγέλλειν δὲ περὶ μὲν τῶν δούλων τῷ δεσπότῃ, περὶ δὲ τῶν ἐλευθέρων τοῖς τὰ χρήματ' ἔχουσιν: ἐὰν δὲ μὴ ἢ χρήματα τῷ ἀποθανόντι, τοῖς προσήκουσι τοῦ ἀποθανόντος ἐπαγγέλλειν. ἐὰν δὲ τοῦ δημάρχου ἐπαγγείλαντος μὴ ἀναιρῶνται οἱ προσήκοντες, ὁ μὲν δήμαρχος ἀπομισθώσάτω ἀνελεῖν καὶ καταθάψαι καὶ καθῆραι τὸν δῆμον αὐθημερόν, ὅπως ἂν δύνηται ὀλιγίστου. ἐὰν δὲ μὴ ἀπομισθώσῃ, ὀφειλέτω χιλίας δραχμᾶς τῷ δημοσίῳ. ὅτι δ' ἂν ἀναλώσῃ, διπλάσιον πράξασθω παρὰ τῶν ὀφειλόντων: ἐὰν δὲ μὴ πράξῃ, αὐτὸς ὀφειλέτω τοῖς δημόταις. The text continues with yet a third subject: punishment of those who do not pay rent on the lands of the goddess or of the gods and the eponymous heroes.

70 See Patterson 2006b, 33 and Snodgrass 2009, 102 on the possibility of mass burial in fifth-century BCE Athens. For Rome see Hopkins 1983, 201-17; Bodel 1994 (esp. 49 on the

The next two Attic grave inscriptions unmistakably belong to Athenian metics. The first, *IG II² 7865* (fourth century BCE), has a very short text: “Dromōn. *Isotelēs*”. Dromōn proudly announces his privileged metic status as *isotelēs*, that is, he paid the same taxes as citizens. Note that no patronymic or ethnic is provided: apparently Dromōn considered his status in Athens more important than stating his origins. The second inscription, *IG II² 7873* (after ca. 350 BCE), is the epitaph of an *isotelēs*’s daughter, Melitta, who was the wet nurse of Hippokratē, the woman who set up the monument. The epitaph has many points of interest: the affection felt by the woman citizen for her former nanny, Melitta’s pride at being the daughter of an *isotelēs* and Hippokratē’s taking care to inscribe it on the gravestone, and the patently matter-of-fact attitude to the burial of a non-citizen.⁷¹ Although most wet nurses were slaves and although Melitta is here called χρηστή (“good / useful”) as slaves often are on grave-stones, her father’s status makes it clear that she was a free person.⁷²

Except for clear-cut cases like these inscriptions,⁷³ it is not easy to distinguish foreigners with metic status from other non-citizens. It is, however, certain that grave inscriptions bearing ethnics belong to non-citizens. Some of them are simple,⁷⁴ others more elaborate, like the elegant monument of a family from Istria, *SEG 24.258*, dated to the second half of the fourth century BCE (found in Kallithea, now in the Archaeological Museum of Piraeus), which clearly belonged to a well-to-do metic family.⁷⁵ One of the most interesting and curious grave inscriptions is that of Atōtas the miner, possibly from Laureion (*IG*

redepmtores); Bodel 2000; Graham 2006, 63-84 (who rejects the theory that the *puticuli* on the Esquiline were created and used as mass graves of the poor, epidemic victims, unclaimed bodies, and unwanted slaves).

71 *IG II² 7873*: Απολλοδώρου | ισοτελοῦ θυγάτηρ | Μέλιττα· ἐνθάδε τὴν χρηστὴν τίθην κατὰ γαῖα καλύπτει | Ἴπποστράτης· καὶ νῦν ποθεῖ σε· καὶ ζῶσαν σ’ ἐφίλου, τίθη, καὶ νῦν σ’ ἐτι τιμῶ | οὐσαν καὶ κατὰ γῆς | καὶ τιμήσω σε ἄχρι ἂν ζῶ· οἶδα δὲ σοὶ ὅτι καὶ κατὰ γῆς, εἴπερ χρηστοῖς γέρας ἐστίν, πρότει σοὶ τιμῶν, τίθη, παρὰ Φερσεφόνει Πλούτωνί τε κείνται. Based on an erasure just before the father’s name and the different hand engraving the name Melitta above the figure of the child in the relief (which originally represented Hippokratē), Clairmont 1993, vol. I, 510-512, no. 1.969, argues that the stone was re-used in the second century BCE for the grave of a girl also named Melitta. I saw the stone in the BM (my gratitude to Andrew Liddle) and the *razura* is indeed distinct.

72 See Dem. 57 (*Against Euboulides*), 35-36, 42, 44-45, on the claim that even poor citizens’ wives sometimes worked as wet nurses. On wet nurses and their status see Kosmopoulou 2001: 285-292; MacLachlan 2012, 75-76; Wrenhaven 2012, 93-100.

73 Cf. *IG II² 7862-7864; 7866-7872; 7874-7881; 8652; Agora XVII 385*.

74 E.g. *IG II² 10971* (Piraeus; mid-fourth century BCE): Βοίδιον Φιλίσκου θυγάτηρ, | Φιλοξένου γυνή. | Περσίς (“Boidion daughter of Philiskos; Philiskos’ wife. A Persian”); *IG II² 9032* (Piraeus; after mid-fourth century BCE): Ἡρακλείδης | Κιτιεύς (“Hērakleidēs. A Kittian”); *IG II² 8855* (Athens, post mid-fourth century BCE): Αἰσωπος Ἡπειρώτης | Πλανγῶν Θηβαία[α], | Αἰσώπου γυνή (“Aisōpos of Epeiros. Plangōn of Thebes, Aisōpos’ wife”).

75 Closterman 2006, 63 notes that the monument “reflects eastern influence, overtly declaring the foreign origin of the family”. See also Faraguna 2012, 173. On foreigners’ richer grave monuments see also below.

IG II² 10051), dated to ca. 350-300 BCE: “Atōtas, Miner. Atōtas the great-hearted Paphlagonian from the Black Sea, far away from his land, has given his body a rest from toil. In skill no one rivalled me; from the stem of Pylaimenēs am I, he who died mastered by the hand of Achilles.”⁷⁶ It has been suggested that Atōtas was a slave because of his occupation and his foreign name, but he may well have been a free, or freed, skilled miner.⁷⁷ This seems likely in view of his beautiful white marble gravestone and elaborate epitaph. Note the lofty, Homeric words and Atōtas’ pride in both his skills and his pedigree — allegedly the Homeric Pylaimenēs.⁷⁸ In death, the possibly once slave broadcasts to the world a noble (perhaps invented) genealogy.

Outside Athens the picture is similar. Many gravestones bear ethnics indicating that the deceased were foreigners in the polis where they were buried.⁷⁹ Sometimes their status is more obvious. For example, IG XII(1) 485 from Rhodos (undated), is the gravestone of Hippias, who is described as ἐγγενής, “in-born”; taken together with his epithet *chrēstos* (“good, useful”), which at least in Athens was often attributed to slaves, we may perhaps infer that he was a home born slave.⁸⁰ Another grave inscription from Rhodos (IG XII(1) 317; second-century BCE) commemorates a man from Phasēlis who received the *epidēmia*, or *epidamia* — a privilege whose exact nature and connection to the status of ῥόδοι has been widely debated but apparently was the right of residence granted to foreigners.⁸¹ In Delos, grave monuments of slaves and manumitted slaves did not differ from those of free people, but slaves can sometimes be recognized if their names are followed by the adjective *chrēstos*, and foreign-

76 IG II² 10051: Ἀτώτας μεταλλεύς. | Πόντου ἀπ’ Εὐξείνου Παφλαγῶν μεγάλθυμος Ἀτώτας | ἦς γαίας τηλοῦ σώμ’ ἀνέπαυσε πόνων. | τέχνηι δ’ οὔτις ἔριξε. Πυλαιμένους δ’ ἀπὸ ῥίξης | εἶμ’, ὅς Ἀχιλλῆος χειρὶ δαμεις ἔθανεν.

77 Slave: Raffaeiner 1977, 14-16, no. 2; Braund 2011, 131-132; perhaps manumitted and certainly holding an important position: Lauffer 1979, 132-133, 198-204. On the large number of non-citizens in the Laureion area see Morris 2011, 184.

78 See II. 2.851; 5.576.

79 Fraser and Rönne 1957, 92-101; Fraser 1977, 47, 68-69. Cf. IG XII(1) 545, 547.

80 For the term ἐγγενής describing slaves see also Cf. IG XII(1) 545 and 547 from Rhodes; FD III 2.172 and SGDI II 2092 from Delphi. And see Fraser and Rönne 1957, 100; Nielsen et al. 1989: 419; Bäbler 1998, 65.

81 See also IG XII(1) 43, l. 25 (ca. 100-50 BCE); SEG 43.526, ll. 22-23 (ca. 100 BCE); G. Jacopi, *Clara Rhodos* 2 (1932) 177, no. 6, col. II, l. 21 (first century BCE). On the meaning of the *epidamia* see Pugliese Carratelli 1953; Morelli 1956: 129-131; Gauthier 1972, 130; Fraser 1977, 48; Rice 1988: 141; Gabrielsen 1992; Faraguna 2014, 172. See also Zelnick-Abramovitz 2004: 94-95 (with bibliography), where the phrase ἡ ἐπιδαμία δίχη in the agreement between Chaleion and Oeantheia (IG IX I², 717 = *Nomima* I, no. 53, lines 6-8; mid-fifth century B.C.) is understood as the local laws pertaining to metics in each of the contracting poleis (αἱ μεταφοικεοὶ πλέον μενὸς ἔ | ὁ Χαλειεύς ἐν Οἰανθέαι ἔ | Οἰανθεὺς ἐν Χαλειῶνι, τὰ ἐπιδαμῖαι δίκαι χιρόεστο). For other examples of foreigners’ gravestones see *Thess. Mnemeia* 164, 21 (Demetrias; ca. 200 BCE): a Sidonian; *Polemon* 3 (1947/48) 10, 228 (Demetrias; ca. 293-168 BCE): a Megarian woman.

ers are recognizable if their name is followed by an ethnic.⁸² Thus Kerdōn the *chrēstos* (Couilloud 1974, 348), who was buried by his comrades (ἑταῖροι), and the Alinē (Couilloud 1974, 468, 125-100 BCE), whose epitaph states that she was of Askalon (line 4). In Olbia (*I.Olbia* 98), an Athenian was buried in the third century BCE; he has a patronymic, so he may have been a free resident. In Metapontion and Siris in southern Italy, modes of burials and signs of the same disease in some skeletons suggest mixed burial of Greeks and indigenous people in the same cemeteries from the seventh century to at least the classical period.⁸³ But there are no inscriptions or other evidence to verify this conjecture.

An example of a rich foreigner's monument is the funerary altar of Dionysodoros of Alexandria (Maiuri, *Nuova Silloge*, 46, Face A), a very active foreigner in Rhodos, member and benefactor of several associations, and the addressee in a number of honorary inscriptions issued by these associations.⁸⁴ Inscribed on the other side of the altar are the names of his brother and other family members. This wealthy and prominent foreigner clearly belonged to a family well established in Rhodos. Yet we should remember that although the Hellenistic period saw the weakening of status boundaries in the Greek polis, land ownership remained the privilege of citizens only.

A series of *hydriai* from Alexandria, which were used as containers for the ashes of foreigners and are called Hadra vases after the Hadra cemetery where they were found, bear inscriptions which record the names of the deceased, the date of their death and frequently a signature in the form "by so-and-so". These vases may show that the burial of foreigners in Alexandria was under the supervision of the Ptolemaic kings: Braunert argued that the persons signed on the vases were royal officials charged with the burial of foreign visitors or emissaries to the royal court who died in harness.⁸⁵ One of the officials, Theodotos, active at the end of Ptolemy III Euergetes' reign and in Ptolemy IV Philopator's, is described as *agorastēs*. Cook rightly wonders why a word that usually means "buyer" should describe an official in charge of the burial of foreigners, but offers no explanation.⁸⁶ Nevertheless, even if the theory that *agorastai* were officials who took care of ambassadors' burial is correct, it relates to a narrow stratum of society and is connected to the kings, not to Alexandria as a polis.

In the previous section I discussed burial grounds belonging to associations. As noted, many associations had non-citizen members; evidence of purchases of lands by association members attests to these benefactors' citizen status,

82 See Couilloud 1974, 332-334.

83 Carter 1998, 57-58, 167-168.

84 *IG XII 1* 155. On the associations mentioned in this inscription and its relation to Dionysodoros' funerary altar see Gabrielsen 1994.

85 Braunert 1950-1951.

86 On Hadra vases see Cook 1966. On the *agorastēs* see Cook 1968-1969: 121-123; see also Boussac and Empereur 2001, 230. One of the Hadra vases signed by Theodotos is dated to 213 BCE.

therefore such cases were discussed above. But since associations are usually known by their names, which derive from the name of the deity they worshipped (like the Aphrodisiastai, the Hērmogeneioi, the Diōniousiastai, etc.), or simply as the *koinon* or the *eranos* “with X”, it is often impossible to know which association was composed of foreigners only. Accordingly, the following examples may be of associations of mixed ethnic origin, but there is no clear sign that citizens belonged to them.

The appearance of many foreigners on gravestones in the Attic Kerameikos has led Brueckner to assume that the burial ground was established and managed by cult associations to which foreigners had access. He finds corroboration in inscriptions of at least two associations of Artemis’ worshippers; they were found in the vicinity of the cemetery. But as Brueckner himself admits, none of these stones was found in the original location, and none is older than the third century BCE.⁸⁷ Safer evidence comes from outside Athens.⁸⁸ An inscription from Rhodes, *SEG* 33.639 (ed. pr. Kontorini 1983, 71-79, no. 8; ca. 100 BCE), listing at least thirty-six members of a *koinon* of the Sabaziastai, records its decision to praise and crown annually Aristōn the Syracusian (thus a foreigner in Rhodes), “because of his *arētē* and his care for the graves” (ἀρετῆς ἔνεκεν καὶ ἐπιμελείας τῆς περὶ τῶν τάφους, lines 13-14). The inscription was found on a wall situated in front of one of two burial chambers uncovered in 1963 in the south-eastern necropolis, and Kontorini suggests that this inscription may have had to do with the complex near which it was found.⁸⁹ The text does not specify in what way Aristōn took care of the graves. According to Kontorini’s restoration of line 17, the annual praise and crowning were to take place in the Nekysia, “la fête des morts”. So the festival and the ceremony possibly took place in the *koinon*’s graveyard.⁹⁰

A mid-first century CE inscription, engraved on a rock-cut tomb in Lamos, Kilikia (Bean and Mitford 1970, no. 197), is one of several grave inscriptions of a *koinon* of masons originating from Selgē in Pamphylia. Lines 6-12 read: “The *koinon* (laid) the grave. No one is allowed to inter a body from outside. Otherwise (the wrongdoer) will pay the *koinon* 100 denarii. No one is allowed to sell his share.”⁹¹ The prohibitions, one against non-members who are warned not

87 Brueckner 1909, 42. On mixed private associations in Athens and the epigraphic evidence see also Foucart 1975 [1873], 5-12, 148-152; Poland 1909, 303-314; Mikalson 1998, 141-142 (who argues that *orgeones* were wholly or at least partially composed of citizens, whereas *thiasoi* were exclusively foreign); Arnaoutoglou 2011; Gottesman 2014, 49-53 — none of whom, however, discusses the possibility of associations’ burial grounds.

88 See Poland 1909, 504-513.

89 Kontorini 1983, 71-73. See also Borbonus 2014, 58.

90 See also *SEG* 37.700, and cf. *IG* XII(1) 155 d, lines 66-69 (one of the decrees in honour of Dionysodoros; see above): ὑπάρχειν δὲ αὐτῶι | τὰν ἀναγόρευσιν καὶ στεφάνωσιν | καὶ ἐπὶ τῶν τάφων ἐμ μὴνι Ὑακινθίωι καὶ μεταλλάξαντι τὸν βίον...

91 κοινὸν τὸ μνήμα: μεθενὶ ἐξέστω ἐνθίναι ἐξοθεν σῶμα· εἰ δὲ | μέ, ἐκτίσει <ι>ς τὸ κοινὸν δηλνάρια ἑκατόν. μῆθενὶ ἐξέστω{ι} πολῆσαι {πωλῆσαι} τὴν ἐλατοῦ μερίδα.

to invade the association's burial ground, the other against members, warning them not to sell their shares (presumably to outsiders), indicate that the tomb was considered the property of the *koinon*.⁹² Bean and Mitford argue that this association was formed to provide the members with burial and funeral costs, that is, they see the *koinon* as a burial society.⁹³

In summarizing the evidence so far, it is important to emphasize again that non-citizen's gravestones are identifiable only when an ethnic or a status signifier is given, and that slaves' gravestones are identifiable only when slave names or a servile signifier are given. Note also that the official Athenian demotic formula of metics, οἰκῶν or οἰκοῦσα ἐν + name of deme, is missing from their gravestones, even in clear-cut cases like those of *isoteleis*: as if in death they lost even this provisional right of residence, but gained a permanent one by being buried in Attic soil. Still, the absence of the characteristic Athenian demotic formula of metics makes it difficult to distinguish them from other foreigners. Some of the non-citizens had elaborate monuments and even *periboloi* (like that of the family from Istria mentioned above). Hence Michele Faraguna has suggested that such foreigners may have received the right of *enktesis*, that is, the right to purchase real estate in Athens, or that all foreigners without discrimination — primarily for religious reasons — enjoyed a kind of a post-mortem *enktesis*. Another possibility, which Faraguna finds more convincing for reasons discussed below, is that the cemeteries were located in areas of public or common land, in which foreigners were allowed to be buried.⁹⁴

Judging by the location of graves identifiable as belonging to free non-citizens and slaves, it seems that they could be buried anywhere. Nevertheless, archaeological and epigraphical findings have led some scholars to assume the existence of 'ethnic cemeteries'. For example, discussing the grave stele of Erēnē of Byzantion, Christoph Clairmont states that it was found in 1833 in the "so-called Cemetery of the People from the Chersonese in the Piraeus".⁹⁵ Balbina Bähler, while questioning Clairmont's statement, herself suggests, concerning two gravestones of Phoenicians found in the Piraeus, that there might have been a special cemetery for Phoenicians in this area, where a consider-

On the graves excavated in Lamos see also Townsend and Hoff 2009, esp. 7-9, 13; and see van Nijf 1997, 46-48.

92 See also Bean and Mitford 1970, nos. 196, 198, 200, 201, 202, 205. No. 201 prohibits members who "go up" — interpreted by Bean and Mitford as going back to Selgē — to sell their share "from outside", but they may recover thirty staters and leave the *koinon*; if a man who has brothers wishes to sell his share, his brothers shall purchase it (lines 18-28). For another example see *SEG* 20.92 (= Paribeni and Romanelli 1914: 166-167, no. 114), dated to the second century CE.

93 Bean and Mitford 1970, 182.

94 Faraguna 2012, 175. Niku 2004, 93 argues that after 229/8 BCE foreign residents in Athens no longer had the limitations of metic status, but they were still not allowed to own land without a special privilege. On the right of *enktesis* see Pečírka 1966.

95 Clairmont 1993, vol. II, 727, no. 2.849.

able number of them also lived and led their religious life.⁹⁶ That burial areas existed where people of the same ethnic group were buried may well be true. Distance from home and cultural considerations might have encouraged people in a foreign land to socialize with their compatriots and to be buried in the same vicinity as well. This is perhaps even more likely in the case of *koina* which included non-citizens or consisted of them alone. Still, the legal status of ‘ethnic’ cemeteries is an open question; the extant evidence of grants of *enktesis* never includes the right to establish a burial ground. As noted, Brueckner argues that foreigners memorialized on Attic gravestones belonged to associations which included non-citizens and also functioned as burial societies.⁹⁷ But this explanation cannot hold for *all* the foreigners buried in Athens. Rhodes in the last two centuries BCE has provided us with most of the evidence related to *koina* and their possession of burial grounds, but there is also much evidence from Kos.⁹⁸ However, as Fraser⁹⁹ notes, much remains uncertain — for example, whether burial in the plot was open to all members of the *koinon* or only to selected members. In any event, we may add the possibility that ‘ethnic burial grounds’ existed in some places, though we lack clear evidence.

As for slaves, Bäbler suggests that usually they were buried in their owners’ *periboloi*, in the space at the rear.¹⁰⁰ The same argument is postulated by Kurz and Boardman, who base their conclusion on the fact that no ‘slave cemeteries’ have been identified.¹⁰¹ This may be verified by a fourth-century BCE Attic grave-inscription (*IG II² 10208*), commemorating first Peithias son of Leōn the Salaminian; then comes the single name Thraitta — a common name for female slaves originating from Thrace; then a son: Leōn son of Peithias the Salaminian; the son’s wife: Plangōn daughter of Chairias; and finally the grandson: Peithias son of Leōn the Salaminian. The second place accorded to the slave may simply be because she died before the others. A stone skyphos found in Rhodos bears the inscription ΑΠΟΤΑΦΩΝ ΤΑΦΩΝ (ἀποταφῶν ταφῶν). Fraser suggests that the skyphos stood on a column or a small base and formed a *horos*-stone of a cemetery, marking the special burial ground of slaves fallen in battle beside their masters.¹⁰² According to Hesychius, ἀπόταφοι were liberated slaves who now had the right to a separate burial place. But Dinarchos,

96 Bäbler 1998, 146.

97 Brueckner 1909, 42. Van Nijf 1997, writing on associations in the Roman East, comments (48-49) that regulations concerning the ownership and management of burial grounds seem largely to relate to associations of foreigners because of the particular legal requirements imposed on them with regard to land ownership. But he does not explain how they were able to own land.

98 For associations’ burial grounds in Kos see e.g. Paton-Hicks 155-157; Herzog 1899, nos. 40, 41. See also Fraser 1977, 61.

99 Fraser 1977, 63.

100 Bäbler 1998, 53, 60.

101 Kurz and Boardman 1971, 198.

102 Fraser 1977, 68-69.

according to the Suda, s.v., said that these were people deprived of the right of burial in the tomb of their forefathers. Whether or not this skyphos related to slaves, the inscription clearly refers to graves and seems to have marked a graveyard. In Lykia, in the Roman period, tombs' owners assigned their slaves, *threptoi*, and freedmen to the lower rooms of their tombs.¹⁰³

Presumably, since slaves were seen as property, their masters naturally buried them in their burial plot and were not bothered by the question I pose here. Still, two problems persist. First is the status of the *citizens'* burial ground itself, which — as assumed earlier — may have been considered private property but was nowhere registered as such. Only from the late fifth century,¹⁰⁴ and only in certain places, do we start to see registration of landed property — mainly in leases and sales. True, grave plots were often marked by *horoi*, but were these markers backed up by registration in the polis archives? Explicit evidence of formal registration of grave plots comes only from the Roman period. The second problem arises when we assume that not *all* slaves were buried in families' precincts, for instance, public slaves or those whose owners did not trouble to see to their burial.¹⁰⁵ Or consider the situation of a slave owned by a foreigner. As already noted, there is no explicit evidence of 'slave cemeteries'; slaves, like citizens and free non-citizens could be buried anywhere.

Before further evaluating the subject of burials of foreigners and making some suggestions, I turn to the third and last subject of my paper.

3. Responsibility for the Protection of the Graves

Since individuals and associations considered their grave plots private property, we may expect them to have taken measures to protect the graves. However, evidence of such measures is scant and starts only in the fourth century BCE. Thus we saw above that in fourth-century BCE Athens two citizens made a point of interdicting the sale of their grave plot (*IG II² 2567*). In Amphipolis, in the first half of the fourth century BCE, a sale contract specifies that a part of the land is left for the vendors' father's grave (*SEG 41.557*). Associations too prohibited alienation of their burial ground (Bean-Mitford, *Journeys* 1964-68, no. 197) and some members were appointed or volunteered to take care of the graves (*SEG 33.639*). In this section I examine evidence of the involvement of

103 E.g. *TAM II* 322 (Xanthos). See also Frézouls and Morant 1985: 236 n. 4 on *threptoi*; Bryce 1986, 116-119. By contrast, Article 14 of the *Code Noir* of Louisiana of 1724 says that masters must bury their baptized slaves in cemeteries especially intended for this purpose; unbaptized slaves are to be buried at night, in a field near the place where they had died. See Sala-Molins 1988, 118.

104 E.g. in Erythrai (*SEG 37.17*).

105 Dio Chrysost. 31.121, claims that the vale where the Corinthians conduct gladiatorial shows is such a place, where no one will bury even a freeborn citizen. Such places were perhaps used for burial of slaves, like the Roman mass burial sites; see Hopkins 1983, 201-217.

other institutions and the polis itself in protecting the graves. This involvement points to the gradual assumption by the polis of responsibilities formerly belonging to the private sphere, thus implying a further stage in the development of the concept of state.

Funerary practices were an important part of many poleis' legislation, but as noted above, despite its immense significance I shall not enter into this here except to note a regulation ascribed to Solon by Cicero. Discussing the Athenian funerary laws Cicero remarks (*Leg.* 2.64): "About Solon's funerary laws there is nothing more except that 'no one should destroy the grave or bury another corpse in it', and (he imposes) a penalty 'should anyone violate, tear down or shatter the tomb (*bustum*)' — for I deem this is what is called *tymbon* — 'or the monument (*monumentum*)', he says, 'or the column (*columna*)'."¹⁰⁶ A little before this Cicero mentions Demetrios of Phaleron as his source for Solon's restriction of sumptuous funerals, so this may have been his source in this case too. This evidence is striking because it alone credits Solon with protection of graves. Moreover, although this law seems to accord with other funerary laws and the wider legislation ascribed to Solon which protected citizens' property (e.g. *Plut. Sol.* 23.5-6), it is the only evidence of state responsibility before the Hellenistic period. If reliable, Cicero's words mean that already in early sixth-century BCE Athens graves' security and the burying party's rights to it were enshrined in law.¹⁰⁷ This law raises further questions: What was the "penalty" (*poena*) mentioned in this text? If it was a monetary fine, Cicero's paraphrase does not clarify to whom it was paid and who enforced the law; in later times such a legal procedure would probably have been perceived as a private suit (*dikē*).¹⁰⁸ Another question concerns the types of graves mentioned: was the column (*columna*) a typical grave mark in Solon's time?¹⁰⁹ Cicero reports that Demetrios restricted grave markers to *columella* (not exceeding 3 cubits high), *mensa*, and *labellum*, so Cicero may be ascribing to Solon what was actually legislated by Demetrios.¹¹⁰

106 *Cic. Leg.* 2.64 (=F 72a in Ruschenbusch): *De sepulcris autem nihil est apud Solonem amplius quam ne quis ea deleat neque alienum inferat, poenaque est, si quis bustum (nam id puto appellari τύμβον) aut monumentum, inquit, aut columnam uiolarit, deiecerit, fregerit.* See the commentary of Dyck 2004 *ad loc.*

107 Toher 1991, 163-164, Seaford 1994, 75, Engels 1998, 92, Blok 2006, 218-219, and Banfi 2010 accept this law, without discussion, as Solonian; Engels 1998, 92 even sees it as the starting point of later Athenian penal provisions against the violation of gravestones. For Demetrios of Phaleron as the source of Cicero's summary of Attic funeral laws see Dyck 2004, 414; Sullivan 2009, 48.

108 See Gagarin 1986, 68-69, 96-97 on settlements of legal disputes and the enforcement of the law in early Greece. The only allusion to violation of graves in classical Athens appears in a comical context: *Ar. Ran.* 1149, where Hermes is called a *τυμβώρυστος*, "grave-robber".

109 Kurz and Boardman 1971, 166 suggest that this was the type known as *kioniskos*. See also Dyck 2004, 414.

110 As suggested by Dyck 2004, 414. However, there is at least one earlier column grave marker in the Kerameikos — that of Achilles and Bion: Kurz and Boardman 1971, 129, fig. 26.

In classical Athens, but perhaps only in the fourth century, the polis's responsibility is manifested in one of the duties of the ten annually elected *astynomoi* (five in the Piraeus, five in the city), whose jurisdiction regarding corpses, as described in [Arist.], *Ath. Pol.* 50.2, was confined to the streets — apparently considered a public or common place: “And they take up for burial the bodies of those who die on the streets, having public slaves for this service.”¹¹¹ Compare this evidence with the law quoted in [Dem.] 43 (*Against Makartatos*) 57-58, a text discussed above (section II) in the context of burial of non-citizens. Here the demarchs, not the *astynomoi*, are charged with removing unclaimed bodies from the demes, that is, this duty is performed on the level of the polis's subdivision, not on a “national” level. In *I.Eleusis* 177, lines 181-182 (= *IG II²* 1672, lines 119-120) a metic is paid for removing a corpse from the Rharian field and purifying the place; if this evidence can be connected to [Dem.] 43.57-58, we may perhaps understand that the demarchs delegated the removal of corpses and the purification to others.

If *Ath. Pol.* 50.2 and [Dem.] 43. 57-58 are reliable texts and can be connected to the same period,¹¹² they pose some interesting questions about the distinction between public and private land and between the polis's and the deme's land. For instance, were the streets considered public space? If so, should we say that the graves located along them were built on public land? Was the deme's land considered territory separate from that of the polis as a whole? (See further below.) This evidence also shows that the polis had assumed responsibility for burial in some cases, even if the motive was fear of pollution. But note that this responsibility did *not* include the establishment and maintenance of cemeter-

111 [Arist.] *Ath. Pol.* 50.2: καὶ τοὺς ἐν ταῖς ὁδοῖς ἀπογιγνομένους ἀνααιροῦσιν, ἔχοντες δημοσίους ὑπηρέτας. See Rhodes 1981, *ad* 50.2. In *Is.* 1.15 the *astynomoi* are also said to safeguard wills (but in § 14 this duty is described as the archons'). See Cox 2007, who argues that their jurisdiction was over property in the city.

112 Whitehead 1986, pp. 137-138 n. 97 notes that there are good reasons to doubt the authenticity of the law in [Dem.] 43; see also below. Lambert 1993, 227 accepts it; Engels 1998, 92 suggests that it was ascribed to Solon on the basis of the considerable competence and diverse functions of demarchs in the fourth century; cf. Lalonde 2006: 96-97. Some scholars find support for this text in a case mentioned in the *poletai's* accounts of 367/6 BCE (*Agora XIX P5*): Isarchos son of Philon of the deme Xypetē claimed a debt of 30 dr. owed him on a house (registered as public property) in the deme Alōpekē, because — so he claimed — he brought to burial Theophilos of the deme Xypetē — whose house this was — and his wife. The reason for his deed was that the couple's son, Theosebēs, was convicted of sacrilege and fled the country. Since Isarchos and Theophilos shared the same demotic, Lambert 1993, 318-319 believes that Isarchos was a demarch and acted in accordance with the law cited at [Dem.] 43.57-58. See also Oliver 2000, 63-64; Faraguna 2006, 168. Rhodes and Osborne 2003, 180, however, note that the house was located in Alōpekē, where — they assume — Theophilos and his wife were living at the time of death, and not in Xypetē, and that the sum of 30 dr. was too cheap for burial. Yet the house in Alōpekē may not have been the main residence of Theophilos (it could also have been leased out); as for burial expenses, see Oliver 2000, 61-65, who argues that the 30 dr. were the double sum prescribed by the law in the Demosthenic speech and covered only the funeral rites, not the gravestone.

ies. In *Politics* 6, 1321b 18-30, Aristotle again charges the *astynomoi* with the supervision of the roads (as well as preserving the boundaries between neighbours) and explains that there is a parallel office for the area outside the city, but nothing is said about burial.

Things, however, are more complicated. A scholion to Demosthenes 24 (*Against Timokratēs*) 112 says that the *astynomos* was in charge of public property (*dēmosia*) and of cleansing the polis, and that some called this official ‘Father of the polis’.¹¹³ An inscription dated to 320/19 BCE (*IG* II² 380) notes the transfer of the *astynomoi*’s responsibilities to the *agoranomoi*, but only in the Piraeus; in 283/2 BCE, the *astynomoi* are mentioned with the same duties in the city (*IG* II² 659).¹¹⁴ In any case, the *astynomoi* were the polis’s officials, not the deme’s. If Plato’s *Laws* was based on the Athenian model, we might infer from it the *astynomoi*’s duties. In 759a, the *astynomoi* are made responsible, among other things, for roads and buildings and their maintenance, both within the city bounds and on its outskirts (ἐν αὐτῷ τε τῷ τῆς πόλεως περιβόλῳ καὶ προάστειῳ). It might be asked whether the word προάστιον refers also to the demes. Moreover, *Laws* 873b-d gives to the “judges’ assistants” and to unspecified magistrates (οἱ μὲν τῶν δικαστῶν ὑπηρέται καὶ ἄρχοντες) the duty of killing murderers and disposing of the corpses at cross-roads outside the city, stoning them and hurling them out of the polis’s borders unburied.

However, in [Arist.] *Ath. Pol.* 54.1 the road maintenance is assigned to the five *hodopoioi* chosen by lot from the ten tribes and helped by public slaves. Their duties perhaps also included street cleaning, as emerges from a scholion to Aischines, 3.25,¹¹⁵ though burial of unclaimed bodies is not mentioned. Plutarch (*Themistocles* 22.2) also associates public slaves with the disposal of bodies: he says that Themistoklēs built a temple to Artemis Aristoboulē near his house in Melitē, “where now the public slaves¹¹⁶ cast out the bodies of those who have been put to death, and carry forth the garments and the nooses of those who have hanged themselves, after taking them down”. Plutarch’s “now” may be taken to mean in his own time and city, but his words seem to comple-

113 Schol. Dem. 24.112: ἀσύννομος δὲ ὁ τῶν δημοσίων ἐπιμελούμενος καὶ τοῦ καθαρᾶν εἶναι τὴν πόλιν, ὃν καλοῦσιν τινες πατέρα τῆς πόλεως.

114 On the *agoranomoi* in Athens see Oliver 2012.

115 Aischin. 3.25 claims that in bygone days the controllers of the Theoric Fund were — among other important functions — also the *hodopoioi*. Rhodes 1981, *ad Ath. Pol.* 54.1, finds no explanation why the *hodopoioi* (whom he sees as those providing funds for the road-builders) were not included in *Ath. Pol.* 50-51. Lohmann 1993, 238-239, suggests that theirs was only a supervisory office, leasing major works to private entrepreneurs and seeing that private land-owners paid for the maintenance of the roads. That roads in Athens were a concern of the state can also be inferred from *horoi* found in the Agora: e.g. *Agora* XIX H 33 (= *Hesperia* 10, 1941, 40, no. 8) of the fourth century BCE): ὄρος τ[ῆς] | ὀδῶ | τῆ[ς] | | πατοῖα[ς]; *IG* II² 2628 (Acropolis, Roman period): ὄρ[ος] | | δη[μοσίας] | | πλα[τείας] (a ‘wide road’ — highway).

116 Plutarch uses the word οἱ δῆμοι, which seems to mean public slaves.

ment what is said in the *Ath. Pol.* 50.2 about the *astynomoi*.¹¹⁷ Plutarch mentions the deme Melitē, which was adjacent to the Kerameikos, so he may mean that area; but neither he nor the *Athenaion Politeia* mention demarchs.

The *hodopoioi*, like the *astynomoi* and in contrast to the demarchs, were officials who acted for the whole polis, so it might be inferred that in Athens the duties of maintaining and securing the roads were divided between those who acted in the *asty* itself (perhaps the *astynomoi*) and the demarchs, each of whom was responsible for his respective deme. But the difference between the *astynomoi* and the *hodopoioi* is not clear; nor can we deduce from the evidence presented above which of the two boards of officials in Athens was responsible for the removal of unclaimed corpses and of executed convicts.¹¹⁸ What can be safely assumed is that in Athens, as elsewhere (see below), fear of pollution encouraged regulation for the removal of bodies and the purification of the polis or deme.¹¹⁹ This issue is further discussed below.

We have very scant evidence from outside Athens of officials charged with the disposal of unclaimed corpses. A second-century BCE decree of Pergamon (*OGIS* 483 = *SEG* 13.521; dated before 133)¹²⁰ mentions *astynomoi* as officials who see to the roads in the countryside (*chōra*). The decree regulates the width of the highways and orders those whose properties adjoin the roads to ensure that these are clean and passable, and to share in the costs of their maintenance. *Astynomoi* are also known in other poleis,¹²¹ but nothing is said there about removal or burial of corpses. Column B of an inscription from Gortyn *IC* IV 76B; 450-400 BCE) contains a law similar to that cited in [Dem.] 43.57-58 ordering the claimants of a dead body to purify it; if they do not, the judge himself is to perform the purification, and whatever he spends he is to collect double.¹²² Note, however, that the extant text does not mention burial or unclaimed bodies. Finally, in third-century BCE Kos another law like that in

117 And perhaps also accords with what is prescribed in Pl. *Leg.* 873b-d about those who commit suicide: they are to be buried in an isolated place and “in those borders of the twelve districts which are barren and nameless, without note, and with neither headstone nor name to indicate the tombs” (transl. R.G. Bury); see above and n. 55.

118 Lohmann 1993, 239 argues that the *hodopoioi* were responsible for the entire road network. See Bodel 2000, 130-135 on the analogy between the demarchs and the Roman *aediles*, noting that the Roman practice did not arise for fear of religious pollution.

119 A scholion to Sophocles’ *Antigone*, line 255, explains that the Athenian Heros Bouzyges inflicted curses on whoever neglected an unburied corpse. Ailian *VH* 5.14 mentions a law in Athens that ordered whoever chanced upon an unburied body to bury it. In both sources this duty is imposed on the individual.

120 Cf. Klaffenbach, *Abh. Berlin* 1953, 6 [1954].

121 E.g. in Rhodos (*IG* XII(1) 1, lines 2, 7; undated), in fourth-century BCE Iasos (*Syll.*³ 169, line 10), in second-century BCE Knidos (*IK* I 187, line 4), in first-century BCE Tenos (*IG* XII(5) 883, line 14).

122 See *Nomima* II, no. 86, where the editors suggest that the involvement of a judge indicates a legal dispute; Engels 1998, 52-53; Frisone 2000, 30-35; Gagarin and Perlman 2016, 434-435, G76.

[Dem.] 43. 57-58 (*LSCG* 154 B, lines 17-32) seems to stipulate that if an unclaimed corpse or a human bone is found in a deme the demesmen are charged with bringing it for burial, and they may exact the costs incurred from the dead person's kin.¹²³

Can these confusing and sometimes contradictory pieces of information help us decide whether the graves were the responsibility of the polis and its authorities?

In an article published in 2006 Cynthia Patterson suggests that tombs and monuments in Athens, whether privately or publicly created, by citizens or non-citizens, had a status deriving from the roads beside which they lay. So as part of the public domain they were the concern of both deme and polis, and as such were protected by public officials, but also liable to public appropriation in times of need.¹²⁴

Some six years later, Michele Faraguna in a seminal article reached similar though not identical conclusions. Basing his arguments on the law quoted in the Demosthenic speech 43, *Against Makartatos*, on the fact that graves were usually located *beside* the roads, that is, within the demes' jurisdiction, and on the assumption — already postulated by Brueckner and Bergemann — that the earthworks and terraces in the Kerameikos suggest the intervention of a higher-level body,¹²⁵ Faraguna argues that the demes, with the demarchs as their representatives, were responsible for burial and the cemetery. Adopting Lambert's suggestion in his study of the *Rationes Centesimarum* that the demes had marginal lands preserved for collective use, Faraguna suggests that these lands may also have been used for burial.¹²⁶ Faraguna also urges us to distinguish the Kerameikos, a term referring mainly to the axis road linking the northwest corner of the Agora with the Academia, and by extension the monuments and buildings facing it, from the deme Kerameis. Inside what modern scholars call the Kerameikos were areas belonging to the administration of the polis and areas pertaining to the deme. The latter, suggests Faraguna, were leased out for the burial of citizens *and* non-citizens, juxtaposed with privately owned *peri-*

123 Lines 17-19 of *LSCG* 154 B (= Herzog 1899, no. 8) are restored thus: [αἱ δὲ κα νεκρὸς ἄταφος ἐν τινι δάμῳ ἢ θεσμὸς ἐμφανῆς ἢ ἢ <ὁ>στέον ἀνθρώπου, | [ἢ πρόβατον ἐσέλθηι ἔξ τι τέμενος] ἢ νομὸς μὴ κεκαθαρμένος κατὰ τὸν νόμον | [τὸν ἱερόν, τὸ μὲν νεκρὸν ἢ τὸ ὀστέον ἐκφερόντω καὶ θαπτόντω τοὶ δαμότα, εἰ κα ἢ τὸ ἱερόν. See also Parker 1983, 38 n. 21, 39 n. 23; Garrison 1991: 5.

124 Patterson 2006b, 16, 23. Cf. Closterman 1999, 163-165.

125 Brueckner 1909, 42 argues that the land was public, whereas the occupants of the graves were possessors; cf. Bergemann 1997, 17-18. See also Zaphiropoulou 2013, 116 on what looks like uniform graves in Thera. Uniform or similar sizes of grave plots could also be the result of entrepreneurs selling for burial land divided into equal plots.

126 Faraguna 2012, 176. Lambert, 1997, 212, 234 n. 75, referring to (his) F9B, ll. 20-21, a *chōrion* sold in the deme Phaleron by one of the Tetrakomoi, raises the possibility (among others) that [...^{ε7}...] βία? may refer to τυμβία (cemetery). But this is a conjecture and has no other evidence to corroborate it.

boloi. What emerges, he says, is a mosaic of land and plots of different legal statuses.¹²⁷

Fraguna's theory is attractive and quite persuasive. But we should note, first, that what the ancient texts assign to the demarchs, the *astynomoi*, or other officials is the duty of removing unclaimed bodies or executed criminals — not of supervising the burial of *all* citizens. Moreover, as noted above, the law quoted in the Demosthenic speech *Against Makartatos* may not be authentic, as Edward Harris believes.¹²⁸ Harris did not discuss the section on the demarchs, but being 'sandwiched' between the duties of relatives in a case of murder and a law concerning those who fail to pay the rents due for lands of the gods or the eponymous heroes, this section too raises suspicions. Note however the similar phrasing in both the Demosthenic text about the demarchs (τοὺς δ' ἀπογιγνομένους ἐν τοῖς δήμοις) and in *Ath. Pol.* 50.2 about the *astynomoi* (τοὺς ἐν ταῖς ὁδοῖς ἀπογιγνομένους), which may point to a common source that might have been altered by whoever inserted the laws into the Demosthenic oration. But even if the law is authentic, sections 57-58 should be read in their context: they are presented as part of a law prescribing the duty of relatives in case of a murder; so it seems to me that they refer to murdered people whose relatives — or in the case of slaves whose masters — did not perform what was required of them. Of course, evidence abounds that Athenian citizens *were* buried in their demes, but these were people properly buried.¹²⁹ Secondly, how much vacant public, marginal land did the demes have to accommodate the thousands of dead people, citizens or not? Moreover, as yet no evidence exists that the polis of Athens leased or sold land for burial, of the kind we see, for instance, in Lykia.¹³⁰ Thirdly, if, as Fraguna argues,¹³¹ the *periboloi* were private land, did all the families who had *periboloi* own land along the roads? If not, the question of the grave plots' status remains unanswered. Finally, Fraguna's and Patterson's theories are confined to classical Athens; the question is what was the case outside it.

Plutarch preserves an aetiological story — whose reliability and time are difficult to establish — explaining the word *katakautai* ("burners") as the title of those among the Tyrrhenians who came to Crete and whose mission was to bury

127 Fraguna 2012, 179-180.

128 See n. 68 above.

129 To the bibliography cited in n. 39 above, add Plut. *Mor.* 849C on the graves of Isocrates (a family precinct near Kynosarges) and Hypereides, and Plut. *Arist.* 27, where he says that the city constructed a tomb to Aristides in Phaleron (but note that this was not his deme).

130 As noted (n. 126 above), Lambert 1997, 212, 234 n. 75 suggests that [...^{c.7}...]βία? in F9B, ll. 20-21 may be restored as τυμβία. But this conjecture cannot serve as evidence; moreover, leasing means that the property is given to the lessee's use for a limited time, whereas burial is supposedly forever (unless we regard leases of burial plots like those leases of mines which were made for an unfixed time: see Aperghis 1998: 1-20). On the polis's administration of the mines see Fraguna 2006.

131 Fraguna 2012, 172, 177.

the dead (*Quaest. Gr.* 21). Two Greek inscriptions from Lykia, probably from the Hellenistic period, attest to the involvement of a Lykian organization called Mindis (miñti) or Menditai, in the protection of graves. Petersen-Luschan, *Reisen* II 22, no. 27 (Kyaneai; third century BCE?) reads: “This tomb Perpenēnis ... son of Appadis constructed, the upper and the lower parts, for himself and for his wife; and no one is permitted to open the grave where the ... is, but let all the relatives use the other tombs in the upper and lower parts. And no one is permitted to open without the Mindis’ permission, but the latter should approve them (for opening); otherwise they shall be authorised to hinder and punish them.” The second inscription, *TAM* II 40 (Telmessos, late fourth century BCE) reads: “(The grave of) Moschiōn son of Pedeteris of Limyra. The Menditai imposed a fine on those who open the grave: six Alexandrian drachmas.”¹³²

The nature and role of this organization, also mentioned in many epichoric inscriptions, are not entirely clear, but they apparently were to protect graves and punish wrongdoers.¹³³ So here we find responsibility shouldered by a public or semi-public body. The Lykian graves present more interesting aspects, especially in the Roman period:¹³⁴ grave owners, besides inscribing on them warnings and threats of monetary penalties, to be paid to divinities (presumably their temples), gradually involve the polis and its institutions, naming them as the graves’ protectors and the fines’ recipients.¹³⁵ Grave inscriptions also encourage people to denounce violators by promising them part of the money (usually a third). Thus *TAM* II 250 from Sidyma in Lykia (133 CE) commemorates Eutychēs son of Hermaortos, who declares that he constructed the grave “in accordance with the Council’s decision” (καθὼς ἡ βουλή ἐπέτροψε, lines 2-3) for himself, for his wife, and for his and his wife’s descendants and their children; then comes a warning: “No other person may be buried (here), otherwise he who buries (another) shall pay to the people of Sidyma (Σιδυμέων τῷ δήμῳ) 500 denarii, of which the denouncer will take to himself a fifth of the fine” (lines 7-15).¹³⁶ Harter-Uibopuu sug-

132 Petersen-Luschan, *Reisen* II 22, no. 27: τὸν τάφον τοῦτον κατεσκεύασεν τὸν τε ἄνω καὶ τὸν κάτω Περπένηνις ... Ἄππάδιος ἑαυτῷ καὶ τῇ γυναικί· καὶ μη[θ]ενὶ ἐξέστω ἀνοίξαι τὴν σορὸν οὐ ἡ... ἔστιν, τοῖς δὲ λοιποῖς τάφοις τοῖς τε ἄνω καὶ τοῖς κάτω χρήσονται πάν[τες] | οἱ συγγενεῖς· μὴ ἐξέστω δὲ ἀνοίγειν μηθενὶ ἄνευ τῆς μίνδιος, ἀλλὰ συναρ[α]ίνετωσαν αὐτούς, εἰ δὲ μὴ, κύριοι ἔστωσαν κωλύοντες καὶ ζημοῦντες αὐτούς. *TAM* II 40: Μοσχίωνος τοῦ Πεδετέριος | Λιμυρῶος. ταγὴν δὲ ἔταξαν οἱ | μενδίται τοῖς ἀνοίγουσιν τὸ | μνήμα Ἀλεξανδροῦ δραχμῶν ἕξ.

133 Bryce 1986, 120-122 argues that this body actually supervised burial and received a fee; see also Zimmerman 1992, 147-151. Schürr 2008: 159-161, 166 argues that they were probably nothing other than a cemetery administration. See also Schweyer 2002, 76-89 on a change in responsibility for the protection of graves in Lykia.

134 Arkwright 1911; Bryce 1986; Cormack 2004; Harter-Uibopuu 2012.

135 Oliver 1941, 24 suggests that the *gerousia* named in grave inscriptions was not the receiver of the fines, and that its mention only indicates that it was a powerful body, capable of securing condemnation of offenders.

136 On the inscriptions from Sidyma see Frézouls and Morant 1985; Cormack 2004, 128-132.

gests that the Council's decision was needed because the grave was possibly erected not in a cemetery but in a public place.¹³⁷ If this is correct, the polis Sidyma in the second century BCE had public lands which it leased or sold to individuals. Recall also that in the first century BCE the Lykian polis Kandyba sold a grave plot to Laïs daughter of Apollōnios (*TAM* II 752) and that in the Roman imperial period the same is attested in Telmessos (*TAM* II 41c) — both inscriptions were discussed in section I above. Adding the evidence on the Mindi in the Hellenistic period (*TAM* II 40 and Petersen-Luschan, *Reisen* II 22, no. 27), it seems that Lykia had a long tradition of state involvement in protecting the graves and supervising burial. Naming the *dēmos* as the recipient of the fine does not necessarily mean that fines were paid to the polis's treasury but that any legal dispute could be brought to court and that the polis was considered responsible for the safety of private property — be it land, houses, or graves.¹³⁸

But not only in Lykia; in the Roman period similar changes are attested elsewhere.¹³⁹ For instance, the grave inscription of Mukia Epiktēsīs in Athens says that she built it for her husband and for herself; anyone interring in it another body shall pay the polis 500 denarii (*IG* II² 13217; second or third century CE). The grave inscription of Aurelius Philippos son of Philippos of Abdēra, found in Thasos (*IG* XII(8) 561), threatens anyone who dares to bury another corpse in the grave he built for himself, his wife, and his children with a fine of 2,000 denarii to the polis and an equal sum to the Emperor's treasury (τῷ ἱερῶτάτῳ ταμείῳ).¹⁴⁰ In third-century CE Halikarnassos, Marcus Aurelius, a *threptos* of Mēnodotos son of Mēnophilos, "purchased from Myrtilos son of Seilianus and registered the part of the tomb which is under the stairs in accordance with the deed of surrender and conveyance in the archive. No one is allowed to bury anyone without the purchaser's agreement; should anyone disregard (the prohibition), he shall deposit 500,000 Attic drachmas in the Imperial treasury" (*SEG* 29.1073). This inscription has several points of interest. First, as a *threptos*, presumably a former slave, Marcus Aurelius was possibly able to purchase only the lower chamber of the tomb (see section II above). Secondly, on top of the usual warning and the threat of a fine, the grave's owner also specifies which part he bought and from whom. Thirdly, and remarkably, the grave inscription is an abridgement of the sale contract which was registered and deposited in the

137 Harter-Uibopuu 2012, 195.

138 Helmis 2012, 160-161 argues that the tradition of sepulchral fines originated with the Greeks, whereas the imprecation formulas reflect Anatolian influence, as already claimed by Strubbe 1991.

139 Cormack 2004; Harter-Uibopuu 2010; Harter-Uibopuu 2014; Harter-Uibopuu and Wiedergut 2014.

140 Cf. *IG* X(2) 1 534 (Thessalonikē; second/third century CE). For ταμείον as rendering the Latin *fiscus* (in contrast to the *erarium* = *aerarium* of the Roman People) see Robert 1965, 211-212.

archive. So here we have explicit evidence of the recognized status of a grave as private property.¹⁴¹

In addition, many grave inscriptions from various places in Roman Asia Minor threaten violators with legal action under the law of *τυμβωρυχία*. This law probably covered various crimes committed against the grave and those buried in it, and it is always tied to monetary fines. However, we know nothing about the actual content of the law and whether it differed from place to place, or about the legal procedures.¹⁴²

4. Conclusions

In conclusion, the grave's status seems to have been special; it was considered private property and as such could be alienated. As private property the grave's safety was the family's obligation, but increasingly the polis assumed some responsibility. Athenian sources provide a confused picture: the demarchs, according to a law quoted in [Dem.] 43.57-58, whose authenticity is uncertain, or the *astynomoi*, according to *Ath. Pol.* 50.2, were responsible for the burial of unclaimed bodies found in the streets; other officials had comparable duties in removing bodies of executed people or suicides. Moreover, according to *Ath. Pol.* 54.1, five *hodopoi* chosen by lot each year were to supervise and maintain roads.¹⁴³ In face of the uncertainty surrounding the identity of the authority in charge of this task I would suggest that the *astynomoi* or the *hodopoi*, as the officials concerned with keeping the roads clean and passable, were also responsible for building terraces on which grave monuments were then erected by private people. This would explain both Brueckner's (1909, 41) and Faraguna's (2012, 77-78) impression that some authority was in charge of laying out the cemetery. But the *astynomoi* or the *hodopoi* (nor the demarchs) were *not* responsible for demarcating and maintaining cemeteries or for regulating burial.¹⁴⁴

Outside Athens we know of the Minda in Hellenistic Lykia, and already in first-century BCE Kandyba, burial plots could be bought from the polis. But only in the Roman period do we see in various places how the polis is practically 'dragged' into being responsible for the safety of private graves. Before that, relatives apparently buried their dead on their private land, bought land

141 See n. 37 above. Helms 2012, 161 argues that the fact that the fines were established by private individuals and not by a public authority does not deny their punitive function, but demonstrates a 'state' vacuum, filled by private initiative.

142 On *τυμβωρυχία* and its attestation in Asia Minor see Bryce 1986, 120; Helms 2012, 156; Harter-Uibopuu and Wiedergut 2014, 158-160.

143 See above and n. 115.

144 Cf. Bergemann 1997, 18. Knigge 1991, 110, on the other hand, argues that the high stone retaining-walls, built to keep the earth fill of the terraces in place, served at the end of the fifth century BCE "to divide up the area in preparation for the planned necropolis".

from others, or looked for a suitable place along the major roads and just took it. In Pharaonic and Ptolemaic Egypt a tax was exacted on burial and on grave plots. The tax receipts, usually specifying the payment as 2 1/2 kite, irrespective of the size of the plot, were issued by Temple personnel. It was most commonly described as the “money of the Overseer of the Necropolis”. The size of the plot was sometimes given and the plot was always identified by specifying its neighbours. A tax was also sometimes levied on sales of tombs. But unlike the Greek polis, all the land in Egypt belonged to the Pharaohs and later to the Ptolemaic kings, so the responsibility was delegated by the kings and/or the temples, not by poleis.¹⁴⁵

In contrast to official care of the dead, attested only in some places and relatively late, private individuals or societies of caretakers and grave makers, known by various names, are attested from at least the fifth century BCE. Line 844 in Aristophanes’ *Clouds* mentions the σοροπηγοί. A scholion (Dindorf, 1838) explains that these are coffin makers, another name for νεκροθάπται, grave diggers. The workshop of such a professional was called σοροπήγιον (Poll. 7.160). A synonym for that profession was σοροποιός (Poll. 10.150). Other names are preserved in the *Dissoi Logoi* (ca. 400 BCE), 1.3 (Diels): “Death is bad for those who die, but good for those who sell tombs (ένταφιοπώλαι) and for grave diggers (τυμβοποιοί)”. More frequently used in later times was κοπάτης, or κοπάς (grave digger).¹⁴⁶

Concerning foreigners and slaves, I know of no objection to their burial in the polis’s territory.¹⁴⁷ On the contrary, foreigners’ graves were interspersed among citizens’. For instance, in Demetrias, of the nearly 350 painted stelai, dated from the late fourth century BCE to the late Hellenistic period, 104 bear inscriptions with foreign ethnics.¹⁴⁸ In the Athenian Kerameikos, grave precincts

145 On the burial tax in Egypt see Malinine 1961, 138-168; Vleeming 1995, 252-255; Muhs 2005, 6-9, 87-96; Heilporn 2009, 167-172.

146 E.g. *BCH* 24 (1900), 305, 2, from Macedonia (Roman Imperial Period); *SEG* 42.1128 from Amaseia (fourth/fifth century CE?). See L. Robert, *Hellenica* I, 30-32. Yet other names are found in Hesychius: καταγεώτης, ήιεργής. In Ptolemaic Thebes the *choachytes* were responsible for the dead from the moment of the mummification: they prepared the funeral, stored and transported the mummies, sold the tombs to the relatives, and took care of the tombs. See Vleeming 1995; Venit 2002, 12.

147 Euxitheos, the speaker in Dem. 57 (*Against Euboulides*) 70, says that if he is convicted his mother (who was accused of being a foreigner or even of servile origin) will not be able to be buried in the family graves; can this be interpreted simply as the denial of access to non-relatives? – being proven to be of non-citizen status, her marriage, hence her connection to the family, would be void. See also Soph. *OC*, 638: Theseus grants Athenian citizenship to Oedipus (if indeed χώρα δ’ έμπολιν κατοικιῶ can be thus understood; apart from here and l. 1156, έμπολις appears only in Eupolis, Fr. 137) after Oedipus informs him that his grave will be of great benefit to the polis; may we infer that in Athens only citizens could be buried in the polis’s territory? Thuc. 8.84.5 says that the Milesians were so angry with the Spartan commander Lichas that when he died of an illness they would not allow him to be buried where the Lacedaimonians desired; again: would they have let him otherwise?

148 Fraser and Rönne 1957, 98.

of foreigners lay adjacent to those of citizens; for example, the precinct of the family from Herakleia adjoins, to the east, that of the family of Lysanias of the deme Thorikos and his son Dexileōs, and to the west the precinct of Dionysios of Kollytos.¹⁴⁹ Some foreigners in Athens even received public burial.¹⁵⁰ Most of these presumably had the right of *enktēsis* but we do not know whether this privilege included the right to purchase land for burial — permanent possession of a plot of land,¹⁵¹ and it does not help us to understand the thousands of other simple burials of foreigners all over Greece.¹⁵² The Greeks' attitude to foreigners was ambivalent: on the one hand the *xenos* was the antithesis of the fully privileged citizen and the word was used as an invective against political rivals; on the other hand, a rich, well-connected foreigner could gain an esteemed social position and even receive honours from the polis. But since even lowly non-citizens were buried in the polis's territory, and since in Athens ancestral burial ground was one proof of citizenship, we must assume that the grave's status was exceptional and that there was an unfathomable incongruity.

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- 149 Knigge 1991, 121-123 suggests that the family belonged to Herakleians who fled to Athens, starting in 364 BCE. The precinct of Dionysios of Kollytos: *ib.*, 123-125. Another example is the precinct of Philoxenos of Messenia and his family (Brueckner 1909, 98-101; Garland 1982, 140; Kovacovics 1990, 87-130; Knigge 1991, 117-121; Bergemann 1997, 186; Closterman 2007: 638-640), adjacent to the grave of the citizen Makareus and to that of Demetria and Pamphilē. In the same precinct at least 50 simple earth burials were found, dating to the second half of the fourth century BCE; Knigge 1991, 120 suggests that these too were of Messenians who had settled in Athens as metics and unlike Philoxenos, who certainly was a privileged foreigner, did not have the right of *enktēsis*, hence could not themselves own a burial ground. An elegant bilingual stele, found in the Kerameikos but whose original location is unknown, is that of Antipatros of Askalon (*IG II²* 8388), who might have died while on a journey; see bibliography in Tribulato 2013.
- 150 E.g. the *polyandron* of the Spartans, killed in 403 BCE (*IG II²* 11678): *Xen. Hell.* 2.4.32-33, *Lys.* 2.63; Willemsen 1977. Other examples: the grave precinct of the ambassadors of Kerkyra (*IG II²* 5224, ca. 375 BCE): Brueckner 1909, 6-13; Knigge 1991, 97-100. The grave monument of the *proxenos* Pythagoras of Selymbria (*IG I³* 1154, 460-450 B.C.): Brueckner 1909, 6-13; Knigge 1991, 97-101 (right under this monument ran a terracotta pipe bringing water to some place in the western part of the Kerameikos (Knigge 1991, 103) — which means that this public burial was allowed to stand on a public water system).
- 151 See Faraguna's thorough discussion of the *enktēsis*: 2012, 173-175.
- 152 Faraguna 2012, 173 argues that the number of foreigners in Athens, in identifiable monuments of the fifth to the fourth century BCE, amounted to more than one third of that of citizens.

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