Discussion
on the Nature of Antique Polities

In volume 3, number 2 (September 2004) of our Journal the article titled 'Democracy and Early State' was published. Its author, Leonid Grinin, touched upon the complicated issue of the nature of antique polities. The editors proposed starting a discussion on the issue, namely whether the Greek *polis* and Roman Republic were early states or non-state complex societies of a specific type. In this volume we present the first contributions to it.

The editors are looking forward to receiving new contributions, either full-length articles or brief comments.

Polis. The Problem of Statehood

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ABSTRACT

In this paper I study the nature of the statehood of the citizens-states of classical Antiquity in the perspective of three, in my opinion fundamental, aspects of statehood: the monopoly of coercive force, the framework of institutions, and the capacity of the state. I depart from a discussion of the modern concept of the state, which, as a consequence of its ambivalence, its simultaneous abstraction and concreteness, is difficult to define in a way usable for comparative research. Yet, responding to a recent thesis put forward on the statelessness of the Greek polis, I argue that the Greek poleis essentially were states.

The emphasis in this contribution is on the Greek polis, first the classical Athenian democracy, and, second, the early evolution of the polis. Concerning Athens the focus is the administration of Athens, in respect of, among others, the navy and the exploitation of the Laurion mines, and the administrative tasks of the Council in general. Concerning the early polis institution building, institutional control of office-holders and legislation are the central points. Subsequently, the administration of justice and the place of the judicial system in the polis is an important element in the discussion on the statehood of the polis. The Roman Republic is dealt with, summarily, in the same perspective.

Because of the key position of the Early State concept and the debate on the chiefdom/state transition in evolutionist anthropology, the final part of this paper deals with a systematic comparison of the classical citizens-state with the Early State.

PRELIMINARY: THE PROBLEM OF THE STATE

The answer to the question whether a certain historical society or political system should be called a state, depends on how we define the state. In this discussion two, opposing, approaches can be observed. According to one we can only speak of states in early modern Europe, from where the state has been spread over the world (see a.o. d'Entrèves 1969; Van Creveld 1999; Vincent 1987). It has even been questioned whether the United States and modern England are states in the proper sense! (Hansen 2002: 18) The other approach is anthropological. It departs from the anthropological distinction of stateless societies (like tribes, big man systems and chiefdoms) and state societies. Here the discussion focuses on the distinction of chiefdoms and states in particular, a discussion which has been dominated by typologies and stages of evolution like those defined by Service and Fried (Service 1975; Fried 1967; cfr. Earle in Johnson and Earle 1987; Lewellen 1983). In this discussion the 'Early State' concept, as defined by Claessen c.s. features prominently (Claessen and Skalník 1978). Recently, however, a very restricting definition of the state has been proposed by Marcus and Feinman (1998). Apart from the discussion among anthropologists and archaeologists, there exists a great variety of definitions of the state. Already in 1931 Charles H. Titus counted 145 definitions, whereon he remarked: 'Less than half of the definitions were in general agreement. Even this statement is based on the assumption that when the same words were used by two writers they were to mean the same thing; I doubt whether the assumption is entirely justifiable' (Titus 1931: 45). These final words are an understatement. In a similar vein Fried observed: '[I]t is impossible to offer a unified definition of the state that would be satisfactory even to a majority of those seriously concerned with the problem' (Fried 1968: 145). More recently Van Creveld observed simply that: 'Definitions of the state have varied widely' (Van Creveld 1999: 1).

The reason for this lack of agreement on the definition of the state must be sought in the essential ambivalence of the state. On the one side, the reality of the institutions through which the state acts is undeniable, while on the other, the concept itself is highly abstract. Thus d'Entrèves (1969: 1) speaks of 'a mysterious but omnipresent entity, of an indefinite but at the same time irresistible power'. Vincent (1987: 3) states: 'The State ... is the most prob-

lematic concept in politics ... [its] problem [is] – its certainty and yet its elusiveness', and: 'On a purely factual plane, the State does not exist'. Yet we are constantly confronted by persons who are acting on behalf of this abstraction (d'Entrèves 1969: 19), and who, most importantly, with that authority can force and limit our actions in a very concrete way in a certain direction which we may not wish. The ambivalence of the state concept thus appears in particular therein that on the one hand the state is represented as the ultimate abstraction, and on the other – as an acting person[1]. The state is personified (Vincent 1987: 8).

The state, according to Poggi, 'constitutes ... a modality of a somewhat wider phenomenon – the institutionalization of political power', that causes a 'growing depersonalization of power relations' and a 'growing formalization' (Poggi 1990: 18; cfr. 33, referring to Popitz 1986: 69). The reification of the state implies more. The state is considered as being a goal in itself existing to guarantee its own continuation (Krader 1968: 104–110, spec. 108). The main point of the discussion thus becomes, according to Easton (1971: 108) the delineation, in respect of each other, of 'society' and 'state', 'state' and 'government', and 'society' and 'government'. The main discussion here is whether the distinction of state and society is real, and, if real, relevant. When the state is identified with the nation-state, that, in my opinion, only troubles the discussion. When 'non concrete structures are specified, ... the state, being coterminous with society, vanishes in universality' (Fried 1968: 143; cfr. Vincent 1987: 24). On the other side, Vincent states rightly (1987: 29–32 and in particular 31): 'Historically and anthropologically it is clear that both the concept and practice of government existed before the State. Government can and does exist without the State'[2]. Van Creveld thus discerns besides stateless societies, 'tribes with rulers (chiefdoms)' and the State in its proper sense 'societies with government', that exist in a great variety, among them the 'city-states' of classical Antiquity and more or less bureaucratic empires of the past and the feudal policies of the Middle Ages (Van Creveld 1999). The main characteristic, and the main weakness, of these systems is that they are person bound. The state, in other terms, is more than government alone, more than its organs of government[3].

'The state is ... an institution of political rule' (Krader 1968: 10, 106–107). It cannot be sufficiently emphasized that the essence

of the state is the '*Herrschafts*verhältniss' inherent in it, as stated by Weber (d'Entrèves 1969: 11, referring to Friedrich 1963: 180, n. 1; see also Hansen 2002: 21). The English equivalent of German 'Herrschaft' is 'rule'. Rule, Friedrich (1963: 180) says concisely, 'is an institutionalized political power'. Institutionalization is an essential aspect of state formation. The presence of certain institutions, which are permanent and through which legitimate force can be used, proves in my opinion the presence of the state. These institutions can vary, in time and place depending on historical circumstances. Such an institution can be medieval kingship, which existed also when there was no living king (Kantorowicz 1957) present, and the citizenry of the Greek polis. The two aspects of force of coercion and legitimacy are decisive. Besides, the state is connected with territory, respectively with the population within a territory. I follow here the definition given by Abélès (1996: 529). The central element of this approach is whether there is an institutionalized, lasting and legitimate monopoly of force. Ultimately, this definition derives from Weber (1972: 521). The problem with the concept of legitimacy is, however, that legitimacy is not tangible. Weber speaks justly of a 'Legitimitätsglaube'. Legitimacy appears through the obedience and obsequiousness of the population, and through what the authorities are obviously able to achieve. An essential point is that neither the power of the state nor legitimacy are absolute (Fried 1968: 146; Jackman 1993: 40). They always depend on the situation and circumstances.

These considerations should allow us to formulate the criteria whereby we can decide whether the city-states and citizens-states of classical Antiquity were 'real' states, or not[4]. First, there must be stable and permanent political institutions. The institutions must form a coherent system. They must be formal, impersonal as Vincent (1987: 21) states: '[the] public power is formally distinct from both the ruler and the ruled'. The institutions must integrate the society as well as cohere. By their coherence I mean that '[their] decisions are formally coordinated with one another' (Tilly 1975, quoted by Poggi 1990: 19). Thereby the presence of a pivotal centre to delegate and coordinate is not necessarily required. The system may also have a heterarchical form, because the form does say nothing about its nature. Also political systems with a heterarchical organizational form can be states (definition of heterarchy by Crumley 1995: 30). In such a heterarchical system the institutions should be both mutually de-

pendent and complement one another functionally. There is no need for institutions to be centralized in a hierarchical order to support each other and to function as a coherent political system (see Friedrich 1970: 22). Decisive, in my opinion, is the Weberian principle of the legitimacy of the monopoly of force, which also can be found in the midst or complementarity of the institutions. This approach, I think, will give us more grip on the German concept of 'Staatlichkeit' (statehood). In the whole resides the power of the state, and through its institutions obedience and compliance can be, ultimately, legitimately enforced.

That brings me to the point of the organizational capacity of the state (see on this concept Jackman 1993). As I said, legitimacy and the degree of legitimacy appear from the capacity of the regime concerned (Jackman 1993: 121)[5]. That is immediately connected with the extension of the state, its degree of complexity and societal format. Most important, the institutions should be permanent. 'The really crucial feature of the State which has most continuity and certainty in all States, is that it is a continuous public power' (Vincent 1987: 21). Both, the institutions and their functions must have become, as Weber says, 'veralltäglicht', or 'routinized' (Jackman 1993).

POLIS AND POLEIS

How does the Greek polis qualify as a state? Recently, Berent in a number of articles has challenged the idea that the polis was a state (Berent 1996; 2000a; 2000b; 2004). Hansen has responded to this, rather vehemently, emphasizing both the actions of the polis as an institution, and the administration of justice and the enforcement of punishment by its authorities (Hansen 2002). Elsewhere he states: 'a Greek polis was a self-governing community centered on a city: but was it a state in our sense? Well, yes and no' (Hansen 2002). The question is how we should interpret here the words 'in our sense'. As I pointed out in the earlier part of this paper, we may choose between a broad, anthropological definition, and the narrower one of the modern, hobbesian, concept of the state which excludes both earlier European manifestations of statehood (in the Middle Ages, for instance, and in classical Antiquity) and those which are defined by anthropologists as such. The Early State, for instance, is not a state in this narrower perspective. Besides, we should distinguish the presence of state power and the form of the institutions whereby the state is constructed.

On the other side, the matter is complicated by the fact that there are great differences between 'great', 'middle' and 'small' poleis, which affect their level of statehood, and even the question whether they may be called states at all. There can be no doubt whether a certain Greek community is a polis, qualified as such by the presence of the typical polis institutions, but the level of statehood it has developed may differ. Most obvious are the differences in size of territory and number of citizens (Glotz 1953: 32–34). That may have had consequences for their internal social relations and power structure. See, for instance, classical Athens of the fifth century B.C. with its empire dominating nearly all the poleis of the islands and littoral of the entire Aegean. These poleis were subject allies, but on the other hand, they kept a (very) high degree of internal autonomy. Compare classical Athens with the contemporary small Cretan poleis, and an intermediate range from Sparta, with its, relatively, huge territory and subject country and population of Messenia, to city-states like Argos, Korinth, Chios, Mytilene, Thebes and Megara, which apparently was both externally and internally weak. But notwithstanding their small societal format and obvious nature as face-to-face societies, the Cretan poleis, like Dreros and Eleutherna, distinguished themselves not only by their clearly defined territory and independence, but in particular by their written laws which defined and circumscribed their political institutions and which are an obvious indication of their statehood. The matter of scale is not only a matter of scale in space, but also in time. The question of the degree of statehood thus becomes crucial when we discuss its evolution from a stateless pre-polis society to a polis-state.

The main problem here, however, is the difficulty of measuring legitimacy and its presence. As we observed in many discussions on the Early State: legitimacy is apparent. Reasoning in the same way we may thus conclude, that the presence of a state is also apparent through what its political system is obviously able to achieve. That will be my point of departure in discussing first the statehood of classical Athens, and then of the early polis. Next I will comment on Berent's approach and make some remarks on the statehood of the Roman Republic. I will end this article with a comparison of the polis and the Early State.

CLASSICAL ATHENS

In the course of the fifth century B.C. the Athenian power extended over nearly the entire Aegean and its shores with the exception of

Crete. This dominion was lost in the fourth century not as a result of the weakening of the Athenian state, but of the emergence of rival powers like Sparta and Thebes, the strengthening of poleis like Byzantine, Chios and newly formed (synoecised) Rhodes, and, not in the last place, the rise of the kingdom of Macedonia. The Athenian domination had been based on the possession of a fleet of 200 warships, each rowed by 170 men. The maneuvering of these ships required professional training, the rowers being mainly citizens. Athens, however, was not the only polis to possess such a fleet, other poleis like Korinth, Chios, and Mytilene also did have one albeit in much smaller numbers (40–60) of ships. The difference was made by the enormous wealth of Athens. This wealth was acquired and maintained by the Athenian power – the annual 'contributions' the allies of Athens had to pay to her, which had developed into a regular tribute in the second half of the fifth century. In Athens the payments were accepted, registered and published by the Council. Against those allies who were behind, actions were undertaken (Meiggs and Lewis 1988: nos. 46 and 69). Besides, Athens sent 'rulers' (archontes) to the various districts of its alliance to keep them under control without, however, intervening directly in their internal relations (Meiggs 1972: 205–254). Fleet and archontes, however, were not the only Athenian instruments of empire. The fleet, besides, was also used to guarantee the grain supply needed by Athens, mainly through the Bosporos from Southern Russia and the Crimea.

The maintenance of a warship was the responsibility of individual, wealthy Athenian citizens, who had to perform that task regularly and in turns for one year. This was regulated and strictly controlled by the authorities (Gabrielsen 1994). The Athenian Council inspected the state of maintenance of the ships in the docks. Besides, it was one of the responsibilities of the Council to have new ships built in order to maintain the strength of the fleet ([Aristotle], *Ath. Pol*. 46,1). There were kept and published lists of which 'trierarch' was responsible for which ship and its condition and needs of repair. The fleet, however, was not the only instrument of support and expression of the might of the Athenian state. Like many other poleis, with the notable exception of Sparta, the town of Athens was protected by defensive walls. But in this respect there was also an enormous difference in scale. In the beginning of the fifth century the so-called Long Walls had been built connecting the city with the harbor town of Peiraious, at a distance

of about 6 kms. Later, the Korinthians built a similar defensive construction. In the second half of the fifth century the monumental constructions on the Akropolis, the Parthenon temple, its Propylaia and the erection of a huge statue of the goddess Athena, with gold and ivory, were the symbolic expression of the power and wealth of Athens. In this respect it must be also remarked that it was not these activities as such that were exceptional, but their scale. Concerning the statehood of the polis it is more important to note how it was organized and administered. Unfortunately, the sources thereof are nearly all lost, but what remains of them gives us a clear impression of an elaborate administration, of materials used – and remaining – and of wages paid (*e.g.* Meiggs and Lewis 1988: nos 54, 59, 60). The authorities had to publish the costs and to account for them.

Similarly we are informed of the exploitation of the silver mines of Laurion, one of the most important sources of income of the Athenian state. The exploitation was leased to individual entrepreneurs, Athenian citizens, who worked their concessions with slaves. The various concessions were clearly delineated in respect of each other and, apparently, had to be regularly renewed. The silver that was mined was minted and coined by the Athenian authorities, an agreed amount being the profit of the concessionaire. The regulation of this kind of tasks (like indirect taxation, the exploitation of public property, the construction of public buildings) through leasing, was a normal practice in classical antiquity, both in Greek and Roman times, as well as in later periods with apparently much more evolved statehoods. In Athens also the inning of harbor and market duties were leased. The level of taxation, import and export duties for instance, was fixed and at the market the control of weights and the exchange of foreign money were subjected to inspection and control by the authorities (Rhodes and Osborne 2003: no. 25).

Control was the key concept of the functioning of the political system of the Athenian democracy. Its various office-holders and functionaries were subjected to regular votes of trust. After their term of office, usually one year, they had to submit their accounts to control by the people. In particular in the fourth century there were special committees to check their accounts, and special procedures for giving them in case of complaints and judicial charges ([Aristotle], *Ath. pol.* 48; and repeated rulings in inscriptions). This apparatus was not made up of a vast bureaucracy, like we are used

to, but of committees of citizens, who, in this quality, were each other's equals and who had been selected and appointed by a system of presenting themselves, and subsequently by lot. The numerous mechanisms of control balanced the amateurism of the office-holders and at the same time were an instrument against the abuse of power. The essence of citizenship, in the view of Aristotle, was participating in office and thus being able to rule as well as to be ruled (*Pol*. 1275a 22–33; 1277a 25–28).

It is impossible to imagine that this entire apparatus of government could have functioned without an administration and without archives. We have sufficient evidence of their presence (Sickinger 1999). Public contracts, public sales, lists of ships, lists of citizens, inventories of all kinds etc, all the evidence of this kind of administration is documented in the inscriptions. Much has been lost, including everything that had not been written on stone. But we know that the Athenian Council had archives at its disposal, that were kept in the Metroon, the building adjoining the building where the Council assembled and deliberated (Francis 1990: 116–120). Both the Council and the People had their secretaries, who among other things took care of the formulation of decrees. These secretaries were citizens and had been selected and appointed to their office by the well-known way of self-presentation and lot or election. They changed annually. We do not know whether they or the other office-holders did have at their disposal a vast staff of administrative assistants, a kind of bureaucracy, of how many people these staff consisted and of whom. It seems obvious in case of the latter to think of public slaves, but slaves were usually imported from non-Greek areas and as non-native speakers of Greek they may haven been considered as unsuitable for these tasks. On the other side, we find ex-slaves among bankers. It is certain, however, that the Athenians had a police force of public slaves, with bows armed Scythians. In the beginning of Aristophanes' comedy, the *Acharnians*, the president of the popular assembly orders the 'Bowmen!' to remove someone from the assembly who is not entitled to take part. His order is immediately obeyed, as it should be done in a regular state (vv. 54–59).

This not the place for a detailed discussion on the administrative apparatus of Athens. It is more important to consider, how it had developed or rather how it could have been developed because of the presence of a frame of regular, functioning institutions. The institutions were the building material of the polis. The polis was articu-

lated through its institutions. The formation of the polis and the creation of its institutions were the two sides of the same coin, one process interacting with another. Simultaneously with the formation of the polis, the state emerged therein. The institution building was both an instrument of ordering political and social relations, and an instrument to maintain and strengthen that order, by enforcing obedience. They were established, sometimes, but not always, in written laws. An anecdote tells how an (exiled) Spartan king explains to the Persian king that there is one thing that the free Spartans fear more than the subjects of the Persian king fear their Lord and Master: their Law (Herodotos VII, 104). We must be careful, however, and avoid interpreting the Greek concept of law(s) in a modern way, but the connotation of institutions that dispose legitimate power that is rooted in the laws, is obviously present.

Besides, we must not forget that the institutions of the Athenian polis – to keep Athens, again, as the best known example – were not restricted to the presence of a general assembly of male citizens. The order and agenda of the assembly were subject to established rules. The Council of 500, newly appointed every year, prepared the decision-making, kept the administration, and established the agenda of the assembly. The secretaries of the Council and the People have been already mentioned. A lot of administrative tasks and responsibilities were allotted to what we would call sub-committees of the Council. This system was elaborated in due course of time (see the extensive survey in [Aristotle], *Ath. pol.* 47–54). But Council and Assembly were not the only organs of government. In the fifth century the annually elected 10 strategoi, the military leaders, or at least one of them, possessed much political influence and power. Besides them we find the 9 'archontes' or 'leaders' with a 'secretary' as their tenth member, who from 487 B.C. were appointed by lot and whose main task was the organization of judicial procedures but who had also individual specific tasks, including important cultic ones. The accountability of the various office-holders was regulated by law. An important role therein was given to the so-called people's courts, whose way of operation, again, was established by the laws (see Hansen 1991).

The extension and size of Athens, and consequently the complexity of its administrative apparatus were exceptional, but that does not mean that the content and range of its authority were also exceptional. The same basic political structure, formed by assembly, council and specific office-holders, was found in every polis,

although each polis might develop its own individual institutional forms that were often historically determined (for a survey see Rhodes and Lewis 1997). Sparta, that appeared to have been much more primitive, with its archaic double kingship and the peculiar social organization of its citizenship, was not less able than Athens, as soon as it had the necessary financial means, to possess a strong navy of *trierai*, to dominate a large part of the Greek world, to gather 'tribute' in the form of contributions from its allies, and to control their internal political relations through its governors. Obviously, the apparatus of the Spartan state was prepared to perform these tasks when the occasion presented itself. Before, the Spartans already ruled over the extensive territory of Messenia including its subject population. At least since the early fifth century the main power of the Spartan state was concentrated in the hands of the annually appointed 5 ephors, besides the Council of Elders and the Assembly (Link 1994: esp. 64–71 on the structural power of the ephors). And also smaller poleis, like Thebes, Korinth, Argos, Mytilene, Chios, Chalkis, Gortyn, Knossos, etc. functioned internally as states in a similar way (see also the important collection of studies: Brock and Hodkinson 2000). Finally, the Greek poleis in practice mutually recognized their autonomy like the European states did by and after the Peace of Westphalia.

THE EARLY POLIS

On the island of Crete we observe two characteristic phenomena of the Greek polis. It was densely settled with a great number of small and autonomous poleis, and it is distinguished by the numerous examples of written legislation made public, and thus preserved, by inscriptions on stone. The latter is so frequent on the island that it even may be considered a typical Cretan phenomenon. From Crete, precisely from Dreros, we also have the first testimony of an inscription with the law regulating the constitutional order of the polis (Meiggs and Lewis 1988: no. 2; cfr Ehrenberg 1965). The law explicitly limits the duration of the tenure of the highest office, that of *kosmos*, to one year and prohibits reiteration of the same person within a period of at least ten years. The kosmos was entitled to impose and collect fines. That is apparent from the penalty that is imposed when he does not leave his office after one year. The law is confirmed by an oath sworn by 'the Twenty of the Polis'. Did this law have teeth (Hoebel 1954: 26), and was its obedience, if needed, enforced? Thereof we have no further informa-

tion, but we neither have any indications that it was not intended or an unrealistic expectation.

In Athens, which was much greater than Dreros, in the sixth century the constitution could not be kept up against the ambitions of mighty, individual aristocrats. The number of outstanding men was small, but their personal wealth and influence were much greater than it would have been possible in a small polis, and, consequently, they could not be kept under control by the demos, the people. In Athens internal and in particular social conflicts had been the background and reason of Solon's legislation. Besides measures as the liberation of debt-slaves and the 'bringing back' of those who had been sold outside Attika or who had fled, Solon 'wrote the laws' ('*thesmous egrapsa*'; fr. 36W, 18–20). What he did achieve, he did through binding 'right and force' (*biè*: fr. 36W, 15–17) to each other. In order to be entitled to perform this task he had been elected archoon, 'ruler, leader' with unlimited powers as long as needed. This was a not uncommon procedure in archaic Greece, as we know from Aristotle who calls this kind of office-holding, mostly that of an *aisymnetes* or 'arbitrator', as tyranny (monarchy) by popular election ([Aristotle], *Ath. pol.* 5,21; Aristotle, *Pol.* 1285a29–b1; b25–26; 1295a7–17). Yet Solon's legislation did not immediately establish a stable constitution or state. When he had accomplished what he had intended to, he withdrew from public life. Not long afterwards, one of his successors as archoon, Damasias, refused to leave his office after its regular tenure of a year. After two years the people forced him to desist from his office. Subsequently, according to the tradition, the holding of the archonship became subject to stronger regulation about who were to hold it, but that did not end the problems ([Aristotle], *Ath. pol.* 13,2). Rivalry between three mighty men for the first place in Athens resulted, after years of struggle and changing coalitions, into the establishment by force of *tyrannis*, one-man rule without legal foundation, by one of them, Peisistratos. Obviously, his rule was personal and informal, while under his supervision and that of his sons and successors the regular offices continued functioning (Thucyd. VI, liv, 6 with Meiggs and Lewis 1988: no. 6; cf Herodotos I, 59). It doubtlessly gave the legitimate power to the office-holding that it kept after the tyrants had been driven away. We may conclude that actually the tyranny of the Peisistratids created the power of the state and its institutions, and thus laid the basis for the developments in the fifth century.

Sparta did not have written laws. The Spartan 'constitution', the rules whereby the Spartan polis was established and that prescribed how it had to function, were orally transmitted and preserved. But words also have power – perhaps even more effectively and lasting than muscles. With words people can be mobilized to act if they are ready to be mobilized, that is, in case of state formation, if the structural conditions therefor are present. Words are most surely preserved and transmitted in the form of poetry. Thus the Spartan 'constitution' has been transmitted, among others, in the words of the Spartan poet Tyrtaios who must have lived at the time of or not long after its establishment (Tyrtaios fr. 4W; Plut., *Lyc*. 6; Meier 1998). Also Solon convinced the Athenians with his poetry. That is rather important because poets in ancient Greece had a particular charismatic authority. Also everywhere in archaic Greece persons who had much political influence and played an important role in political conflicts that resulted into the institutionalization of the polis, were poets, like Alkaios on Lesbos. Besides, regarding Sparta it must be noted that the formation of the Spartan state went in tandem with the conquest and subjection of the neighbouring country of Messenia, where, I think, the process of polis and state formation had started too late for the Messenians to put up effective resistance to the Spartan expansion. The decisive factor in the final conquest of Messenia by the Spartans seems to have been the use by the Spartans of the new weapon of the hoplite phalanx. I will return to that aspect shortly.

The archaic laws (7th century B.C.) we know from an inscription from Tiryns, a small polis on the Peloponnesos, deal with different matters. The text is preserved rather fragmentary and we are in the dark about the precise nature of the offices mentioned in it, but in so far it is clear that here we have the regulation by the polis of cultic matters which were essential to the functioning of the polis as a political institution. They contain mainly the imposition of fines on those office-holders who neglected their duties. The final judgment is with the community and the institutions of the polis (Osborne 1997: 75). The evidence we have of early Greek legislation shows, that the matter regulated by the various poleis in this way varied and depended on local circumstances and actual conflicts (Hölkeskamp 1992, 1999; van der Vliet 2003; and the collection of laws in inscriptions by Koerner 1993, and van Effenterre and Ruzé 1994–1995). On the other hand, and that is essential, it is ob-

vious that procedures were established by these laws, competences of office-holders were defined and delineated, in short, there occurred the process of institutionalization (Huntington 1968: 8–12) whereby the polis formed the state in and through itself. This was not an easy or self-evident development; it was intentional and it had to surmount opposition. It was often accompanied by conflicts, like in Mytilene where Alkaios with his aristocratic friends opposed – without success, however – the election of the not less aristocratic Pittakos as an *aisymnetes*, and in Megara, where it appears that the entire socio-political construct once, temporarily, had collapsed (Plut., *Mor.* IV, *Quaest. graec.* 295 C–D; 304 E–F).

COMMENTS ON BERENT'S THESIS

It is not my intention here to answer Berent's arguments in detail (that has already been convincingly done by Hansen 2002), but to limit myself to the main points of his approach. It will be obvious from the first part of this paper that I do not follow him in using the restricted, hobbesian definition of the state in the study of the Greek polis. But at least even important is his selective use of sources. The main foundation of his discussion of the statehood of the polis is Aristotle's analysis. Thereby, however, he overlooks Aristotle's specific intentions when studying the polis. Ultimately, his concern is less the nature of its internal power relations (although he emphasizes the need of their stability) than the ethics as the moral basis of human society. Only next there comes the question how that is to be achieved through pragmatic politics. That results into a certain bias in Aristotle's study, stressing the character of the polis as a community of citizens and the importance of consensus instead of the use of force among them. Berent neglects the epigraphic sources, which give us an inside view into how the polis functioned as a political entity, a state in my opinion, showing which apparatus of government they actually possessed. This source material in particular shows what the polis as a political organism could do, what it was able to achieve. And these aspects in my opinion should be decisive in answering the question whether a polis was a state or a stateless society.

The Greeks possessed and used the concept of *archè*. That means rule, and in the first place ruling over others, but also ruling within the polis. The officially highest office in Athens was, literally, that of

the archontes, the rulers. That may be not the decisive proof of the presence of the state, but it comes very close to it. Besides, it stands not on itself. There are, however, two elements in Berent's argumentation that require a more extensive reaction. The first concerns the way the polis did, or did not, interfere in judicial procedures and in particular in the carrying out of sentences. The second one is that of the community of citizens as a community of warriors.

In respect of the maintenance and execution of the laws, we are best or even only informed about the practices in Athens, and I will thus take the Athenian situation as my starting point. It is remarkable that obviously the authorities did not involve in the execution of judicial sentences and left that to the winning parties themselves. Besides, there was no system of public prosecution and accusations were left to the initiative of individual citizens. In these respects, however, there is not much difference in practice between the classical city-state and the early modern state! That does not diminish the fact that the polis did have explicitly defined judicial institutions and procedures, and that they were used as such and thus were further constituted through practice (Hunter 1994: 185–189; Hall 1996). Besides, Berent departs from a modern, or rather a modernistic view of what the law is and what the administration of justice should be. Going to court among the ancient Greeks was less a way of resolving conflicts between litigants than a way of continuing them. Thus, seeking justice was a series of connected conflicts. It was a different matter when pollution of the community through murder or manslaughter had occurred, and then the polis did act with sanctions. Common criminals, when they were caught in the act, were done with and summarily executed by the responsible authorities. But 'civil' procedures were an *agoon*, a game. Todd has convincingly shown that social side, the 'scope' of the Athenian law (Todd 1993). For him who wanted to accuse someone a choice of judicial instruments was available, and it was a matter of tactics besides intent, which he chose. In this context it is self-evident, that the execution of the sentence is left to the winning party itself. But judicial procedures were established by the laws, the magistrate decided on the legal ground of the prosecution, and the courts were institutions of the state. The prosecution was left to the individual citizen (*ho boulomenos*) also when the common interest of the polis was involved. The authorities as such did not prosecute. But to consider this as a testimony to the absence of

the state is to deny the nature of Greek citizenship and the peculiar nature of the polis as a citizens-state. The individual acted as a citizen, that is he represented the common interest (Rubinstein 1998). Not a separate organ of the state, but the individual citizens together were responsible for the maintenance of laws. That does not imply that it was less effective – quite the contrary, perhaps.

Finally, the matter of the community of citizens as a community of warriors. It cannot be denied that being a warrior, heavily armed as a hoplite footsoldier and as a member of the community, was an essential if not the constituting element of citizenship (Raaflaub 1997). But the way a citizen army of hoplites was formed is incomparably different from the way and context wherein tribal groups or segmentary lineages (the Greek kinship system consisted not of corporate lineages, but of patrilinear nuclear groups) assembled warrior bands by a kind of self-organization. The hoplite phalanx in the first place was a reflection and expression of order, that is of an organized discipline. That discipline did not come automatically from the inside, but it was enforced from outside – or above. We tend to forget this when reading Xenophon's description of the easy formation of such a battle line by 10,000 warriors (*Anabasis* I, vii, 15–18), not realizing that with Xenophon we are at the end of a long tradition and in the company of well-trained and experienced mercenaries, professional soldiers.

The essence of a battle between Greek armies of hoplites is that it occurred between massive, heavy armed – with shields, spears and corselets – formations. The formation was closed and the coherence of the battle line was decisive. They met head on, running. The line that broke was lost. That was a way of fighting that required discipline in the first place, and discipline implies enforcement. Early in the archaic period warrior bands consisted probably of small, heavily armed elite-warriors who could protect each other with their shields (Singor 1988: 300–302). The hoplite phalanx appears with the polis. Besides the round shield that served to give protection to the man on your left and receive it from the one on your right, the specific offensive weapon of the hoplite was the thrusting spear, used by man against man – and shield against shield, and crest against crest, as Tyrtaios says (fr. 11W, 29–34). This is not the place to discuss when, where and why the hoplite phalanx was introduced, but I find Osborne's suggestion attractive, that it created the opportunity to arm

great numbers of citizen warriors because the protection offered by the collectivity made it less necessary for every individual warrior to possess an expensive equipment (Osborne 1996: 175–176). Any-how, it created awe-inspiring armies. Their introduction may be compared to the development of the equally fear inspiring and de-structive armies of the Zulu king Shaka in the nineteenth century, which was based, similarly, on the replacement of the javelin by the short thrusting spear for fighting at close distance and in formation (Otterbein 1967). Its effect was terrifying, and these armies swept all that came in their way. These changes in warfare were closely related to the simultaneous process of state formation. In archaic Greece, the only effective defense against a phalanx of hoplites was obviously a phalanx of hoplites, and without the power of the state, that could not be formed.

STASIS

One of the most particular features of the Greek polis was *stasis*, a phenomenon which evidently was so inherent to the polis that it even appears that the Greeks considered it as an institution of the polis (van Effenterre 1985: 25, 266; see in general Gehrke 1985). Stasis is the conflict between the two parts of the polis divided in, on the one side, the common citizens (the demos) and on the opposing side the elite, mostly the same as the wealthy. Stasis could become so escalated, that it ended in open civil war, wherein the conquering party might drive the opposing into exile (they would return!), if it did not end in a massacre. The latter, extreme form is known from the Peloponnessian war at the end of the fifth century, where it oc-curred for the first time in Kerkyra (Thucyd. III, lxx–lxxxiv). In the first decennia of the fourth century stasis appeared to have been en-demic in the poleis of the northeast Peloponnesos. It might seem obvious to interpret *stasis* as a kind of fission of the political system and thus as a testimony of the absence of the state. But that it is not. Stasis was clearly and undeniably a fight over the possession of the power in the polis. It presupposes the presence of the state. An oli-garchic constitution has other institutional forms than a democratic one, but in both constitutions the polis remains the same (cf. the problematic discussion by Aristotle, *Pol*. 1275b34–76b15, where the difficulties of his approach are obvious). The issue of the conflict between oligarchs and democrats was about which citizens were qualified to rule over the citizenship, in short, a struggle over the

power of the state. The presence of stasis in this classical form – which must be distinguished from the struggles between factions of aristocrats and their followers in the archaic period, which were part of the process of polis formation – thus is a clear indication that the polis concerned had become a state.

THE ROMAN REPUBLIC

If the Greek poleis were states, then the Roman Republic certainly was. The size of the city of Rome at the end of the Regal Period (± 500 B.C.), the extension of the Roman territory and the Roman expansion until the territory dominated, directly or indirectly, by the Romans encompassed the whole of Italy south of the Po plain, their rule and exploitation of the provinces outside Italy from 241 B.C., the complexity of Roman society, its multi-layered stratification (formally into knights and five property-classes, citizens and non-citizens, free and slaves) – all that points to Rome having been a state from the beginning of the Republic (the most recent and authoritative studies on early Rome are Cornell 1995 and Drummond 1989a and 1989b). But that is not the most important argument. The Romans knew the concept of the 'state' in the abstract expression of the Res Publica, the 'affairs' of the populus, the people as a collectivity formed by the individual cives, the citizens, and distinguished from the concept of Res privata, the 'affairs' of the individual (Meyer 1961: 251). The Roman state did not have a written constitution – not unlike, probably, the majority of the Greek poleis – but it was strictly bound to its traditions (mos maiorum) as if they were written laws. The traditions regulated both the magistracies and the authority of the senate, and they were, in due course of time, made explicit and complemented by real and written legislation. Thus both the way of appointment (by election by the people) of magistrates and the legislation were regulated and circumscribed. The evolution of the Roman state in the first centuries of the Republic is characterized, on the one side, by a gradual differentiation and increase of magistracies, and on the other side, increasing legislation limiting the range of their powers.

The highest magistrate, the consul, had unlimited power of command, the imperium, but only 'militiae', that is as the leader of the citizens as warriors and thus only outside the pomerium, the sacred border that separated the city from the outside world. Be-

sides, all the actions of a consul could be annulled by his fellow-consul (collega). Inside the pomerium (domi) the actions of the consul were subject to the potestas and the intervention (and thus could be canceled) of the tribune of the plebs. Both, the imperium of the magistrate and the potestas of the tribune of the plebs, implied the legitimated monopoly of the use of force on behalf of the state. They possessed the right of coercitio (coercion), 'the right and duty to maintain public order' (Lintott 1999: 97). The power of the Roman magistrate was symbolically expressed through his regalia, the bordered toga, his stool (*sella curulis*), and in particular the lictors who accompanied him, bearing the fasces, the rods and the axes signifying his authority to command and to punish and to execute his orders (Lintott 1999: 96). The tribune of the plebs did not have similar signs and instruments of his power (which was of another kind than the magistrate's imperium), but that did not mean that he had less actual power. Their sacrosanctitas protected them against any action by a magistrate. Compared with the office-holding in the Greek polis, in Rome the explicit sanctity and sacral legitimation of political power is remarkable. That implied that all actions had to respect and were bound by strict ritual rules. Also the origin of the Roman law must be sought in the sphere of separating the sacra from the publica (Thomas 2002: 1440–1447). The historiographical tradition on the internal history of the first centuries of the Roman Republic is dominated by the story of the 'Struggle of the Orders', wherein the plebs, the non-patrician citizens, step by step arrogated the exclusive prerogatives – political, judicial, and ritual – of the patricians. The patricians, probably a kind of aristocracy by birth (Cornell 1995: 249–258; Drummond 1989a: 167–171) who facing the Roman plebs certainly strove at becoming an endogamous group, legitimated their special prerogatives by their sacrality, without which magistracies and priestly functions could not be performed (Livy VI, xli, 4–11; cfr. Stewart 1998). We meet this kind of stratification of elite and common people also in (complex) chiefdoms and Early States. It is evident, however, that the elaborate and powerful political system of early Rome was more than that of a chiefdom.

The freedom of the individual nobles, even when they did not held a magistracy, to act and to intervene on their own initiative and authority on behalf of the common interest might be an argu-

ment against the characterization of the Roman Republic as a state. Thus, the 'clan' of the Claudii (the gens Claudia) who in the early history of the Republic in its entirety (patronus and clientes, 5,000 in all) had settled among the Romans and become a part of them, appears to have kept for a long time a kind of 'status aparte' (Liv. II, 16, spec. 4–6; Dion. Halic., *Rom. Antiq.*. V, 40, 2–5). A more striking example in the history of the early Republic is the 'private war' waged by the gens Fabia, with all their members and clients, on behalf of the Romans against the Etruscan city of Veii, and wherein they all but one perished (Livy II, 48,8–50,11). At the other end of the history of the Roman Republic, the senator (and ex-consul) Scipio Nasica intervened on his own initiative to end the troubles and contestations surrounding the reelection of Tiberius Gracchus as a tribune of the plebs (Plut., *Ti.Gracch*. xix, 2–4; App., *B. Civ*. I, ii, 16). The later emperor Augustus also boasted that when a young man he had intervened in the affairs of the state as a 'privatus', assembling an army on his own (*Res Gestae* I, 1). More examples of this can be found. A Roman citizen, and in particular a high ranking Roman citizen, indeed had the freedom if he thought it necessary and in the interest of the Roman state to intervene by force. But can that be used as an argument against the statehood or the presence of the state in the Roman Republic? That is a different matter. One of the basic concepts of both Roman society and Roman politics and the exercise of authority and power is 'fides'. Fides is much more than the English translation 'good faith' suggests. Every Roman magistrate acted 'ut ei e re publica fideque sua videtur': 'wie es ihm den Staatsinteresse und seine eigene Achtung zu entsprechen scheine' (Meyer 1961: 257). The basis of fides is mutual trust. It may express the relations of the citizens among themselves and thus be reciprocal, but more often it characterizes a relationship of inequality and dependence. 'Se in fidem populi Romani dedere' is said of those who surrender unconditionally to the Romans. It implies strong obligations on the part of the dependent. In the case of a magistrate, his fides determines his position facing the Res publica and its citizens, which is thus obligating. The obligation to offer protection and help resulting from fides towards those who are in the inferior position, are not less binding for those in the superior position. Without this, Roman politics cannot be properly understood. Acting on behalf of your fides, thus, has nothing to do with the presence or absence of the state.

On the other hand, the intervention of a privatus in the public interest is only lawful when it has been sanctioned, sometimes afterwards, by the authority of the senate. Without this sanction the privatus could be declared a public enemy. The 300 senators were appointed on the basis of both birth and office-holding. It would go too far here to describe the details of how the senators were selected and appointed, and how that changed over time. The general principle is that everyone who had hold a magistracy was automatically qualified for being a senator. The designation of the senators together as the 'patres conscripti' seems to mean that originally their nucleus, or even all of them, were senators by hereditary right as the patres (fathers) of the patrician gentes (Liv. II, 1, 11; Festus 304L; cfr. Cornell 1995: 247; Drummond 1989b: 181). The expression, known in the Late Republic, that in the absence of a consul in the state – when both had died, for instance – the 'auspicia return to the patres' (Cic., *ad Brut*. I, 5–4) may suggest that the authority over the state then ultimately belonged to the senators. Whether this interpretation is correct, however, is uncertain. In the constitution of the Roman Republic as we know it, the senate did not have power, but only auctoritas (authority). The authority of the senate weighted heavy and usually was decisive. It extended over the entire public domain. It was after all the senate who decided what the specific tasks (provincia) of every magistrate with imperium would be in his year of office. Among the exclusive prerogatives of the senate were the dealing with foreign powers and the control of the state finances. The senate debated, but presented its opinion as unanimous. The opinion of the senate was thought to incorporate the interests of the state. That explains why a Roman noble was allowed to act as a 'privatus' on behalf of the state, if it was sanctioned, sometimes afterwards, by the authority of the senate.

The Roman magistrates had at their disposal a staff of 'apparitores' (Mommsen 1887: 320–371, esp. 332–355; Meyer 1961: 144). They were the servants of the state and paid by the state. This administrative body is the beginning of an administrative bureaucratic apparatus that grew in the course of time. Unfortunately, our sources are not interested in the functioning and development of such a low ranking institution, and thus we remain in the dark about much of it. But that does not mean, that a kind of what we

might call a bureaucracy was absent from the Roman Republican political system. As in the case of classical Greece, in this respect the one-sidedness and inadequacy of our sources is a great hindrance to our knowledge of the development of the state. We know that officialdom existed, but how it worked and was organized, how it was recruited, and how it was educated, escapes our knowledge. But the argument *e silentio* should not be an argument against the statehood of classical political systems. The Rome of the Republic was a citizens-state, although its character is less pronounced when compared with the Greek poleis because of the size and the much greater hierarchy of the Roman society. In Rome the state was much more expressively articulated and the power of the state more tangible than in the Greek poleis.

RES PUBLICA, POLIS, AND THE EARLY STATE

Some time ago I have argued that the Roman political system of the Regal Period could be qualified as an Early State according to the definition by Claessen and Skalník (van der Vliet 1990). In this view, the end of the Regal Period implied the collapse of this Early State and the, temporary, disappearance of the state from Roman society. We know very little of the Roman Regal Period that is uncontested, and now I would speak rather of a temporary power vacuum than of a collapse of the state. I am also less certain whether the qualification of Rome under the last three kings as an Early State is entirely convincing, but I still think that the Roman political system in that period came most closely to that concept, in a similar way as the *tyrannis* in the Greek poleis. In general, the Greek polis is farther removed from the Early State than the Roman Republic, of which the political system is more expressively hierarchical and centralized.

The differences of the political system of the Greek polis and the Early State are systemic. We are dealing here with opposites or alternatives of political evolution and state formation. The Early State (Claessen 1978) is centralized and hierarchical, even monarchically ruled, and the political system of the polis has a flat structure. Its centre is not above, but in the midst of its citizens. Three-tiered settlement hierarchies, which can be deemed as typical of Early States, are not characteristic of the world of the polis, where settlement hierarchies are commonly two-tiered at their most. The

frame of the political system of the Early State, and in particular of the inchoate Early State, is formed by a network of corporate kinship relations based on lineages or even ramages; the kinship system of archaic and classical Greece does not present such a basis for a political structure, being rather fragmented and nucleated than hierarchical. The economics of the Early State is characterized by a system of redistribution; in the economics of the polis redistribution has only a very secondary role; it was dominated by a form of generalized reciprocity that developed into market exchange within and on the borders of the polis (Tandy 1997; von Reden 1995). In the Early State the unequal relations between the rulers and the ruled are legitimated by the ideology of reciprocity, but materially the reciprocity is unbalanced. In the Greek polis we meet the idea of the political equality of the citizens and institutions that are legitimated through generally accepted cooperative values. In more general terms, the political system of the polis can be characterized as heterarchical instead of centralized hierarchichal, or as a sequential rather than a simultaneous hierarchy (Johnson 1982). The formation of the polis and the formation of the state within the polis are the result of corporate strategies (Feinman 1995, Blanton 1998; cf. Détienne 2000), and not of the network strategies which result obviously in the formation of chiefdoms and Early States (cf. van der Vliet 2000 and forthcoming).

There is a remarkable paradox here. On the one side, it appears that the more democratic a state is the weaker it is to enforce its power because of its rather strong dependency on the consent and cooperation of its citizens, who do not want to be forced but who wish to be convinced. Plato complained that the Athenian democracy did not execute the penalties its courts imposed (Plato, *Politeia* 557E–558A). On the other side, that is also the strength of the citizens-state. The strong arm of the power does not reach further than it is. When consensus is absent, the rulers meet passivity or even opposition, and cooperation must be enforced upon unwilling people. Where decisions and rules are based on a broad consensus, the efficiency of the measures is greater, even if the process whereby they were reached had been a long and tortuous way. Cooperation in such a case is rooted in generally accepted social values. As it has been observed, force needs legitimation, but might result from legitimacy. It makes the political power of

the citizens-states of classical Antiquity, and their statehood, not less real. Characteristic of what Hölkeskamp calls the 'Stadtstaatlichkeit' ('City-statehood') is the specific normative frame whe-reby the rules, procedures and institutions that constitute it, are established. Their force and in particular their statehood thus result from what Hölkeskamp calls (2004: 68) their 'Habitualisierung', their acceptation through and in the practice of acting. A minimum of centralization, hierarchy and formalization, however, must be present, connected with a defined territory (Hölkeskamp 2004: 67). It is on this point, however, that in my opinion – pace Hölkeskamp – the Weberian criterion of the legitimated monopoly of enforcement is more decisive. But as I said: power, like legitimacy, *is apparent*.

CONCLUDING REMARKS

A state is more than its institutions. The more exists therein, that office-holders possess the legitimate monopoly of force as an instrument of institutionalized office. The institutions should cohere, complement and support each other. It does not require the expression of the presence of the etic concept of the state in some form or another. In the citizens-states of classical Antiquity the state resides in its citizenship, and is expressed in its ideology of citizenship, the participation of the citizens in office-holding and decision-making on various levels (see the recent discussion by Dozhdev 2004 on Rome, and Grinin 2004 in general and on the Greek polis in particular). The citizenship constitutes the state, as well as participation in the state defines the citizen. That is a two way process. The typical, flat, structure of these states resulted from the dynamics and interactions on as well as between various social levels. The kind of regime-building it produced, with its strong emphasis on political equality and participation, thus deviates essentially from the way the Early State was built. That does not mean, however, that they were weaker or relatively stateless. Quite the contrary. Besides, we should not forget that citizenship was a privilege for many, but still a privilege for a strictly delimited part of the population. The institutional framework of the classical citizens-states provided them with the means to become powerful, also to the outside world. Their typical political structure, however, hides much of the apparatus by which this power was and could be administered. It has been the aim of this paper to emphasize these aspects.

NOTES

[1] Cf. Vincent 1987: 6: 'The state is a complex of ideas and values, some of which have an institutional reality'.

[2] But Vincent also speaks of states only from the 16th century.

[3] Krader 1968: vii: 'it is not the only political institution, for there are other ways of governing a society than by means of the state'.

[4] On the characterization of the Greek polis as a citizens-state, see Runciman 1990: 348; Hansen 1993b, 2000; Morris 1991: 26 and 48; on city-states see Burke 1986.

[5] The same state thus may be strong in one respect, and weak in another, depending on its history and traditions.

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