

The Lord of the Wings: Political Leadership and the Rhetorical Manipulation of Athenian Law in Aristophanes' *Birds*

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1. Introduction

The importance of law in Old Comedy is reflected by the numerous legal terms mentioned in Aristophanes' plays,¹ but there have rarely been literary interpretations of comedies that take into account the juridical phraseology and imagery as a comic device. It is my opinion that, in comic drama, the frequent appearance of legal expressions and forensic vocabulary indicates that playing with contemporary law was considered useful as a source for laughter.

Under this general framework, my specific purpose here is to provide a comprehensive reading of juridical references in Aristophanes' comedy *Birds* (414 BCE). My point of departure is the well-stated conclusion that the protagonist of the play, Peisetaerus —not surprisingly named as “he who persuades his companions”—,² becomes an outstanding master of rhetoric, who smoothly manages to use his *logos* to convince birds, gods and mortals about his own ruling primacy.³ What I intend to show here is that this triumph is not only achieved by the mere power of language, but can be explained more specifically as the result of a well-thought legal manipulation. A close reading of the play —as I will try to demonstrate— can illustrate how Peisetaerus is capable of adjusting Attic law to different situations, both bringing and pushing back —at the same time— his personal experience as a former citizen of the Athenian imperial *polis*. By means of marriage and succession, conventional law will serve to subvert the power of Zeus and to achieve —in the hands of the comic hero— the colonization of the Olympian territories.

2. Citizenship, Relativism and Political Conventions in *Birds*

¹ It is certain that comic effects can be created by the use of specialized language out of its normal contexts, as some complementary books on the subject have recently analysed (Kloss 2001; Willi 2003 and Beta 2004). With the understandable exception of specific articles on *Wasps*, only Carey 2000 and more recently Cuniberti 2011 have provided a short overview on the importance of legal language in Aristophanic comedy. The interesting chapter by Wallace 2005 deals only with legal issues arising from comic freedom of expression and does not go beyond to study judicial vocabulary or references. Two specific collective monographs on law and drama have not addressed the issue either: the recent book by Cantarella and Gagliardi 2007 has not included any chapter on Aristophanes' comedies, and there is only one general paper (only focused on *Clouds*) by MacDowell 2010 in the volume edited by Rhodes, P. J., Harris, E. M. and D. Ferreira Leão. On judicial and extra-judicial allusions in New Comedy —a topic which has traditionally earned much more scholarly attention— cf. Scafuro (1997). I have tried to offer a comprehensive account of the major problems of law in Old and New Comedy in Buis 2013.

² Marzullo 1970: 182 sostiene que “Solo Πεισέταρος sembra dunque poter esprimere il πείσαι τὸν ἕταρον, riconosciuta abilità del protagonista”.

³ “...il suo progetto di dominio universale rivelerà una libido dominandi non inferiore a quella di un Alcibiade”, Zanetto 1987: 189.

Aristophanes' *Birds* was first performed in 414 BCE during the Great Dionysia. The Sicilian Expedition, promoted enthusiastically by Alcibiades and opposed by Nicias – perhaps Athens' most experienced general at the time–, had set out the year before with the hope of achieving success in one of the most daring moments of the war against Sparta. Shortly before the expedition was launched, the mutilation of the Hermai and the profanation of the Eleusinian mysteries had arisen a number of questions among the population of Athens on the impact and consequences of religious offences.

Despite this evident historical background, scholars have not been able to agree on how to interpret the fictional scope of the plot: balancing their opinions between the key centrality of allegorical representations of political or religious issues,⁴ on the one hand, and an extreme rejection of all serious content in what is to be nothing but an Utopian-like fantasy,⁵ on the other hand, discussions among specialists have been endless.⁶

I believe that, taking into account the direct and first-hand knowledge of law that Athenians had,⁷ the study of the legal dimension in *Birds*—which seems to appear from the very beginning and has nevertheless been widely ignored—⁸ can contribute to our understanding of the political impact of the play and the relationship of its plot to recent events both in Athens and Sicily.

In the extradramatic context of an expansionist Athens, the play starts with two old men, Peisetaerus and Egeialos, escaping from their *polis* because of the excessive *philopragmosunê* they live in. They both reject the litigiousness and dangers characterizing the political environment, and plan to find a new place to settle down under the advice of Tereus, once a human and now the king of birds. The external displacement in space (from Athens to the skies) that is shown on stage soon becomes, at the same time, an internal displacement of status, a change in social categories. So when the two *gerontes* explain to the audience what their objectives are, they say they suffer from a strange illness (30–35):

The thing is, you gentlemen who are listening, that we are suffering from the opposite affliction to Sacas. He's not a citizen trying to force his way in (οὐκ ἄστος ἐσβιάζεται). We, having the full status of tribe and clan membership (φυλῆ καὶ γένει τιμώμενοι), citizens among citizens (ἄστοι μετ' ἄστων) and without anyone trying to shoo us away, have upped and flown out of our country on two swift feet (ἄμφοιβ ποδοῖν).⁹

It seems clear to me that the explicit references to citizenship are a key element of the passage. The triple mention of ἄστος in these lines¹⁰ should be read along the presence

⁴ The allusions in the play to the Athenian expedition to Sicily in the summer of 415 were identified by van Looy 1978; Katz 1976; Konstan 1990:186–188; Kliachko 1956 and Vickers 1989, 1995 and 1997. Dunbar 1995:3 finds two indirect –and yet clear– references to the event: the verse 639 (alluding to Nicias' strong opposition in the Assembly) and the verses 145–147 (where Alcibiades' arrest is dealt with). Furthermore, verses 163–164 might be referring to the plans of Nicias and Lamachus to establish a military camp in Syracuse. In spite of these references, she concludes that “...attempts to find in *Birds* any extensive allegorical comment on the expedition to Sicily are unconvincing.”

⁵ Mazon 1904; Croiset 1909; Norwood 1931:241; Gelzer 1960:259; Murray 1933:136; Whitman 1964:169; Dover, 1972:145; *inter alios*.

⁶ A survey of these different approaches can be found in MacDowell 1995:221–228 and Konstan 1998:3–6.

⁷ Spectators attending the staging of comedies or tragedies were used to listening to legal expressions, it is not surprising that dramatic productions were capable of exploiting this shared knowledge as a functional literary device. See different aspects of this isomorphism between courts and the staging of dramas, among others, in Ober and Strauss 1990, Hall 1995 and Todd 2005.

⁸ With the only exception perhaps of Turato 1971–1972, who focuses on the problems of unwritten law in the play.

⁹ All English translations correspond to Sommerstein's 1987 edition of the play.

¹⁰ The word implies the possession of political rights, as stated by Patterson 1981:151–174.

of a specific vocabulary related to a political, familiar, and institutional organization of Attica that can be traced back to Cleisthenes' reform in 508/7 BCE: φυλή, here next to γένος (33). The concept of φυλή was essential for the exercise of Athenian citizenship,¹¹ and its presence here is not accidental, since the opposition between ἄστοι and οὐκ ἄστοι is well marked in the text: Peisetaerus and Evelpides are citizens, unwilling to stay in Athens, and Sacas, being a foreigner (a ξένος, according to the scholium) aggressively wanted to make his way in.

These references, in my opinion, are reinforced by another subtle appeal to the question of citizenship. The prologue of the comedy shows a curious insistence of participles in dual number, mostly related to the first person ἡμεῖς presented in 30. I am referring to participles such as μισοῦντ' (36), ἔχοντε (43), ζητοῦντε (44), καθιδρυθέντε (45) and δεομένω (47). Similarly, in our first quotation, Peisetaerus and Evelpides say that they had flown with both feet (ἀμφοῖν ποδοῖν, 35); what is more, they call the Hoopoe with a double noise (ἴν' ἧ διπλάσιος ὁ ψόφος, 55) and, when they finally meet the Hoopoe's servant, they are wrongly perceived as bird hunters and are threatened by a verbal dual imperative: ἀπολεῖσθον. When they even pretend to be winged creatures instead of human beings, they also employ a dual noun: ἀλλ' οὐκ ἐσμὲν ἀνθρώπω.

I contend that the repeated allusion to the dual number plays with the content of the citizenship law attributed to Pericles in 451/0 BCE.¹² Even ἀμφοῖν ποδοῖν, that clearly refers to the dual nature of feet, is emphasized here by a humorous intention, as long as wings (and not legs!) were expected in the verse (after ἀνεπτόμεσθ') instead of them.¹³ According to available sources, Pericles' law established that only the offspring of *two Athenian citizens* could be considered as such too.¹⁴ In accordance with this provision, citizen status—that is, the possibility of participating in civic and political affairs—¹⁵ was to be reserved only to those who were born from two citizen parents: μὴ μετέχειν τῆς πόλεως, ὃς ἂν μὴ ἐξ ἀμφοῖν ἀστοῖν ἧ γεγονώς, [Aristotle] *Constitution of the Athenians* 26.3).¹⁶ A similar wording will be found again in late sources, such as a fragment by Aelian and a short passage in Plutarch's *Life of Pericles*, as well as in the Suida testimony;¹⁷ they all rely on a negative phrasing¹⁸ and include an explicit mention to the dual when pointing to the need of both parents to be Athenian-born. The coincidence of all these indirect sources, at least as far as these two specific aspects are concerned, constitute

¹¹ The φυλαί provided the organizational structure for state activities (the citizen army and the Council of the 500), as stated by Anderson 2003, but also played a central role in defining the political body of the city: “La possibilità di esercitare i diritti di cittadino, fra cui quello di ereditare, non era legata quindi alla qualità di demota, che non viene neppure posta in discussione, ma a quella di fratero,” Prandi 1982:16. The importance of φυλαί in the play will be notorious in verses 1649–1671.

¹² Cf. Harrison 1968:24–27 and, in particular, Patterson 1981 and Boegehold 1994.

¹³ Rogers 1906:7. This *paraprosdokian* shows a clear insistence in the change of status between birds and men.

¹⁴ See Walters 1983.

¹⁵ Cf. Patterson 2005:273. On this concept of having a “share in the polis,” cf. Cohen 2000:58.

¹⁶ The italic in the quotation is mine. According to Seaford 1994:214: “The effect of the law is to create an endogamous city-state, an enclosed community whose members can be produced only by other members. This is quite consistent with the conception of the polis as a descent group, with the same (divine or heroic) ancestors. The polis is indeed itself envisaged in terms of a household; and so ‘Perikles’ law created a new class of ‘public’ or polis νόθοι, whose relation to the public Athenian ‘family’ was analogous to that of the private νόθοι to his paternal family.”

¹⁷ ...μὴ εἶναι Ἀθηναῖον ὃς μὴ ἐξ ἀμφοῖν γέγονεν ἀστοῖν (Aelian, *Varia Historia* 13.24); Περικλῆς [...] ἔγραψε μόνους Ἀθηναίους εἶναι τοὺς ἐξ δυεῖν Ἀθηναίων γεγονότας (Plutarch, *Pericles* 37.3); Suida s.v. δημοποίητος: [...] μὴ ἐξ ἀμφοῖν (ἀστὺ)πολίτην μὴ εἶναι.

¹⁸ Blok 2005:17n59.

a strong argument for suggesting that the legal original text included both a negative syntactic structure and an emphatic appeal to duality.¹⁹

If, as some sources imply,²⁰ during the archonship of Euclides in 403/2 the law had to be reinforced and was reenacted,²¹ it might be worth considering the fact that in the 410s —when *Birds* was represented— there could have been a considerable debate on the question of citizenship in the context of the Peloponnesian War.²² As evidence for this, we know that there is some evidence for the passing of a decree —not dated, but most probably immediately after the Sicilian disaster,²³ granting a sort of ‘bigamy’ concession when stating “that a man could marry one citizen woman (ἄσπῆ) and have children from another one”.²⁴

An additional argument to support my view is the fact that the allusion to Pericles’ law becomes more relevant as the play evolves. At the beginning of the play, as we have seen, the two main characters employ an interesting vocabulary related to the legal aspects of citizenship that reproduces the institutional organization of the *polis*. As an antithesis for the two Athenians, Tereus —presented here in his bird costume as the Hoopoe, as his mythological story recalls— will be far from being a citizen: instead of being a “citizen among citizens”, he is nothing but a bird made bird (if we consider ὄρνις ἐγένετ’ ἐκ τῶν ὀρνέων in verse 16 as part of the original text).²⁵ And nonetheless, his dual nature (once a human, now an animal in feathers) will appear as soon as he talks to the newcomers.

When introducing himself, Tereus will refer to the Athenian old men as ξένοι, accepting the human (and civic) rites of hospitality related to foreigner visitors. He remembers at that time his own past as a man (ἦν γὰρ, ὦ ξένοι, ἄνθρωπος, 97–98) and, when he calls for his wife Procne to meet the Athenians, he manages to place them institutionally, once again, as legal outsiders: “*Come outside and show yourself to our visitors*” (ἐκβαίνε καὶ σαυτὴν ἐπιδείκνυ τοῖς ξένοις, 666). Yet, it is interesting to notice that at the same time, when he talks back to the birds, the precise political sense of the vocabulary he shares with Peisetaerus and Egepides loses precision. Facing the birds, he mentions these men as ‘relatives’ to his wife, when in fact there is no blood link whatsoever that would justify the term under Athenian social or political patterns (366–368):

Here, tell me, you vilest of all creatures, why are you trying to murder and tear apart two men (ἄνδρε) who have done you no harm –men who are relations and fellow-tribesmen (ζυγγενεῖ καὶ φυλῆτα) of my wife?

¹⁹ Rhodes 1981:335 also claims that the expression μετέχειν τῆς πόλεως also belonged to the original text of the *nomos*. *Contra*, Blok 2005:18n64, who postulates a different formula: μὴ Ἀθηναῖον εἶναι ὃς ἂν μὴ ἐξ ἀμφοῖν ἀστοῖν ἦ γεγονώς.

²⁰ Demosthenes 57.30 (around 345/4 BC) and a late scholium to Aeschines 1.39.

²¹ Maybe this had to be done in order to adapt the legislation to democratic times (possibly because it fell in *desuetudo* during the previous decade). For a historical account of the provisions on this matter, see Papageorgiou 1997. Cf. MacDowell 1993:360.

²² For Scafuro 2012:154n3, *Birds* shows that the citizenship law was still in force (or at least “on the books”) in 414 BCE. She also describes in detail the socio-political climate in the late fifth century BCE — contemporary to the play— concerning discussions on adoption, citizenship and the right of *enktesis*.

²³ Wolff 1944:85–86.

²⁴ Diogenes Laertius 2.26. It could be said that, after the loss of so many man, the decree was intended to reaffirm one of the key underlying principles of Pericles’ law, i.e. provide husband for all marriagable Athenian citizen women. Cf. Pomeroy 1975:67; Walters 1983:324; Ogden 1996:73. It is reasonable to infer that the content of this decree should have originated a debate in public fora, which contributes to our thought that, in times of the Sicilian expedition, the debate on citizenship would have been intense.

²⁵ Gulick 1899:117. On the problems of this verse as a possible interpolation, see the comment in Dunbar 1995:141–142.

The use of nouns such as ξυγγενεῖ or φυλέτα (morphologically close to the expression φυλῆ καὶ γένει in 33) can only be explained *lato sensu*: the old men and Procne are all Athenians, and therefore –in generic terms– belong together to a different species than birds.

Animals and gods do not share their institutional framework and cannot handle the Athenian legal notion of citizenship, whereas Peisetaerus cleverly does. The birds never mention the word ξένος in the play and, when they talk of γένος, they seem to be thinking in terms of race, a sense which is quite different to the meaning attributed under Athenian political practice: they identify a race of birds (699, 1707, 1727), of gods (700, 702), of tongue-eaters or *Englottogastors* (1696, 1700) or even of human beings (334). The Olympian gods, who will appear on stage in the second part of the play, also use γένος to refer plainly to the race of birds (1239).

The Hoopoe, as we have seen, shows an ambivalent attitude towards the use of specific vocabulary: when he chats with the Athenian men and they tell him they are human, he immediately asks them what γένος they come from –as if he knew the political connotations of the expression (108). However, as soon as he is surrounded by birds and sings with them, he uses vague and unspecified terms to simply indicate a natural concept of race: “*the myriad tribes (φῦλα) of barleycorn-eaters and the races (γένη) of seed-gatherers that fly swiftly*” (231–232).²⁶

The Hoopoe himself explains, in political terms again, how he taught the linguistic conventions to the birds, since they were previously barbarians and did not speak Greek, (199–200).²⁷ The change of status here is obvious, but will still become even more evident once Peisetaerus starts deploying his oral weapons and convinces the birds of their old supremacy (467 ff.) and of their need to reclaim their ancestral power from the gods (554 ff.). Far from supporting the cause of the birds for their own sake, the protagonist’s position will not be limited to the role of an intermediary for much longer; the birds in fact will not end up winning but —just as the new city erected by Peisetaerus— will always stand in the middle (μεταξύ, 551) as real metics.²⁸ Perhaps in a comic revival of Aeschylus’ well-known passage in *Agamemnon* 57,²⁹ the metaphor of the birds being now metics in heaven, as imposed by the comic hero, seems consistent with the centrality of citizenship as a common background to the whole plot.

The manipulation of the alien condition of a group of birds that are unaware of the Athenian culture and can thus be treated as partial citizens in ‘their’ own newly-built city is

²⁶ “Dans une société organisée en Cité, il n’est jamais question de *phyla*. C’est en *phylai* que son repartis les citoyens”, Roussel 1976:162. Both according to Plato (*Laws* V 745be) and Aristotle (*Politics* II 1263b), there cannot be any city without φυλαί.

²⁷ Language and citizenship go together: “... one of the signs of racial citizenship was performance; and one of the key ways of acting Athenian was to speak good Attic Greek,” Lape 2010:70–71.

²⁸ I thank R. Martin for this comment. Interestingly, μέτοικος is —for the Athenian culture— a person who has changes his οἶκος from one city to another. The term itself, etymologically, may imply displacement and change of status (the prefix *meta*–), Chantraine 1999:689–660. For that reason, it is better to translate it as “immigrant” rather than a “resident alien,” as suggested by Whitehead 1977:6–7. The intermediate situation of a metic is (obscurely) clear from a political angle: not a πολίτης, not a ξένος, he is nevertheless legally integrated in the community. On the reference to metics in Aristophanes, see Whitehead 1997:39–40, who mentions *Acharnians* 507–508, *Knights* 347, *Peace* 297, and *Lysistrata* 580. As I will explain here, *Birds* 1345 should be added to the list.

²⁹ ὕπατος δ’ αἴων ἢ τις Ἀπόλλων / ἢ Πᾶν ἢ Ζεὺς οἰωνόθροον / γόνον ὄξυβόαν τῶνδε μετοίκων / ὑστερόποινον / πέμπει παραβάσιν Ἐρινῦν (55–59). Fraenkel 1950:37 explains that “...those loft regions belong really to the gods; they alone have full rights of citizenship there. The birds that are permitted to live there too are μέτοικοι in the heavenly πόλις: they stand accordingly under the protection of the lords of heaven.” Cf. Whitehead 1977:35.

only the first step in Peisetaerus full-scope plan. A native Athenian, a true specialist in the arts of sophistry, Peisetaerus is ready to move further: he is ready to impose his own imperial regulations in Cloudcuckooland and finally become the main leader of everything, even against the supreme will of Zeus.

3. Facing the Intruders: Rejecting Athenian Law?

The negative image of the abuse of justice is so strong in the play that Peisetaerus presents himself and Egeialos as "jurorphobiacs" (ἀπηλιαστά, 110) instead of being jurors (ἡλιαστά, 109), as Tereus would have expected from his Athenian origins.³⁰ The term ἀπηλιαστής —coined by Aristophanes— plays with common juridical language and also with the situation of legal displacement,³¹ if we take into account that the prefix ἀπο- is frequent attested to indicate a past status that is not valid or exercised any longer.³² When explaining that they are looking for an ideal place, Peisetaerus and Egeialos make it clear that they are seeking an environment located far away from problems and trials (39–45):

That's the thing: the cicadas chirp on the branches for a month or two, the Athenians chirp away at lawsuits continually all their lives long (Ἀθηναῖοι δ' αἰεὶ / ἐπὶ τῶν δικῶν ἄδουσι πάντα τὸν βίον). That's why we're trekking this trek; with basket, a pot, and some myrtle-wreaths, we are wondering in search of a trouble-free place (τόπον ἀπράγμονα), where we can settle and pass our lives.

Their objective of settling down elsewhere seems to take place as soon as they manage to convince Tereus of building a new city for the birds, which will be named Cloudcuckooland, in the middle of the sky. At the beginning, the *polis* is intended to host a society only ruled by the laws (*nomoi*) of nature and not by Attic legislation, which the comic hero insists on rejecting.³³

By examining some passages of the interaction between Peisetaerus and his rivals in these *Intruderszenen* (903–1057, 1337–1469), it is easy to assess to what extent the protagonist manages to reject the law and, at the same time, wants to impose his own legal system. So, for instance, when an Athenian decree-seller (*psephismatopôlês*)³⁴ appears on stage to offer new possible *nomoi* for the place (1035–1045), he is expelled from Cloudcuckooland by an angry Peisetaerus, who even acknowledges to have defecated on the pillar of the law (1054). Similarly, when a sycophant —one of Aristophanes' favorite

³⁰ This is a frequent strategy in Old Comedy. Thus, as a way of rejecting the immediate link between Athenian citizenship and passion for law, Trygaeus quickly states in *Peace* 191 that, even if he comes from Athens, he is neither a sycophant nor a lover of public troubles. Similarly, an old woman in *Wealth* 970–971 denies being an 'informers' (συκοφάντρια) when she enters on stage and talks to Chremylus. Paradoxically, as it will be shown, in Aristophanes this robust rejection is built as a rhetorical strategy to hide sometimes a very deep knowledge of law.

³¹ It is "one who keeps away from the Ἡλιάδα" (LSJ, s. v.).

³² I owe this idea to A. Chaniotis, who made reference to the scope of the word during the symposium. The frequency of this feature can be attested in examples of legal vocabulary such as ἀπογραφή, ἀποτίμημα, ἀποπομπή, ἀποκήρυξις, ἀπελεύθερος, ἀπόδρομος, ἀπόλειψις, among many others.

³³ On *nomos* in Aristophanic comedy, see Lopez Férez 1997. The word in Greek refers both to written law and to customary rules, as Ostwald 1969 and 1986 has consistently explained. By the end of the century, a specific difference is established between *nomoi* (identified now as general laws with permanent standing) and *psephismata* (decrees in particular which dealt with immediate and individual issues), Wilson Nightingale 1999:105. A more detailed explanation of this displacement of the legal values of rules can be found in Quass 1971 and Hansen 1978.

³⁴ On this character, see Jackson 1919.

target figures—³⁵ comes asking for wings with a political goal and a very litigious purpose, a similar rejection is put into place. The blackmailer's intention is to be granted the possibility of better serving as a public officer to fetch outsiders across the colonies and allied states and take them back to face trial under Athenian jurisdiction. Just as it happens with all other Athenian characters in the play (who are skilled in Athenian political discourse),³⁶ the informer uses the right technical vocabulary. Therefore he is able to include the term γένος when he points to his family institutional background (1451–1452): *I'll not disgrace my ancestry* (τὸ γένος). *Informing* (συκοφαντεῖν) *is my hereditary way of life.*

When the sycophant clarifies his reason to fly, he describes his position within the Athenian administration of justice, but Peisetaerus suspects of the kind of work he does (1422–1435):

Inf.]: –... *I am a summons-server to the islanders* (κλητήρ εἰμι νησιωτικός), *and an informer* (συκοφάντης)— *Peis.]:* –*Happy you, to have such a profession!* *Inf.]:* – *and a lawsuit-hunter* (πραγματοδίφης): *and so I want to get wings and then sweep all the way round the allied states, serving summonses* (περισοβεῖν τὰς πόλεις καλούμενος). *Peis.]:* –*Will you summons them any more skilfully with wings on your shoulders?* *Inf.]:* –*No, no; it's in order, for one thing, not to be bothered by pirates, and secondly so that I can come back again from those parts together with the crane, having swallowed for ballast a large number of lawsuits* (πολλὰς καταπεπωκὼς δίκας). *Peis.]:* –*You mean that's the job you do? Tell me –a strong man like you– you denounce foreigners* (συκοφαντεῖς τοὺς ξένους) *for a living?* *Inf.]:* –*What am I supposed to do? I never learnt how to dig.* *Peis.]:* –*But surely there are other occupations, from which a big chap like you could make a living honestly, rather than cobbling up lawsuits* (δικορραφεῖν).

The mention of the κλητήρ νησιωτικός (1422) —a seemingly invented term referring to a summons-server who hunts for trials against the islanders —³⁷ is important for a political and legal reading of the play. Spectators could recall a similar rejection of the judicial aspects related to the legal subordination of Athenian allies when both Peisetaerus and Eupides tried to get information from the Hoopoe on where to establish the perfect city to live in. When the Hoopoe suggested a place near the sea, a comment was suddenly made on the possibility of being chased by Athenian legal officers if found on a seaside location (144–147):

Ter.]: – ... *Well, there is a happy city of the sort you're talking about, beside the Red Sea.* *Peis.]:* – *Help! Nowhere beside the sea* (παρὰ τὴν θάλατταν) *for us, on any account –where the Salaminia can pop out one morning with a summons-server on board* (κλητήρ ἄγους ἔωθεν ἢ Σαλαμινία)!

³⁵ Sycophants, who were professional litigants who blackmailed indiscriminately for a personal gain, give rise to complaints in both oratory and comedy (on this see Harvey 1990, who responds to the unconvincing ideas set up by Osborne 1990). More recently, see Doganis (2001) who examines the complexity of the figure in Aristophanes.

³⁶ Once the inspector comes as a newcomer, the first thing he asks is where to find the πρόξενοι (1021), which is an essential representative for interstate relations. When he is mistreated by Peisetaerus, he will summon him for outrage for the month of Mounichion (1046), which according to the scholiast was the time, at the beginning of the sailing season, in which accusations could be presented against foreigners (πρὸς τοὺς ξένους).

³⁷ Zanetto 1987:294.

Such an allusion to the Salaminian galley³⁸ is useful to assess Peisetaerus' rejection of Athenian *polupragmosynê* and imperial dreams. As the audience knew well, the Salaminia served as a messenger ship for the Athenian government in charge of arresting people *in situ* and bringing them to Athens for court proceedings.³⁹ It was an efficient way through which Athens imposed its jurisdiction by intending to deny local *autodikia* to allies overseas,⁴⁰ and Peisetaerus will tell the sycophant that he does not find it appropriate to make a legitimate living out of it. His rejection is not new; he had also mentioned the vessels, with a hesitating point of view, once the big walls were built around the new city and Iris, the Olympian messenger, was sent down to enter Clouducuckooland's gates with some news from the gods. In a highly comic interaction, Peisetaerus managed to have her stopped and asked for her immigration papers, fearing her in fact to be an Athenian trireme coming after him (1203–1209):⁴¹

Peis.]: –And what's your name, Paralus or Salaminia (Πάραλος ἢ Σαλαμνία)?
Ir.]: –Iris the fast. Peis.]: –Do you mean a fast boat, or a fast bitch? Ir.]: –What is this? Peis.]: –Won't a buzzard fly up and arrest this person? Ir.]: –Arrest me? What on earth is this awful nonsense? Peis.]: –You are really going to howl!; Ir.]: –This is an extraordinary business! Peis.]: –By what gate did you enter the fortress, you utter villain?

The fact that the goddess is not able to understand the reference to the galleys clearly shows how the immortals are not familiar with the political institutions used by the Athenians to get control of the seas. Peisetaerus, despite rejecting these legal instruments created to consolidate Athenian power, is well aware of them. And, of course, he will even resort to Attic institutions when deemed necessary for the establishment of his own little empire and its borders.

In Clouducuckooland the interaction between Peistaerus and Iris is marked by an interesting overlapping of the vocabulary of international relations and sexual activities. As soon as she enters into the city—and onto the stage—she is asked if she was “stamped” with a seal (σφραγῖδ' ἔχεις) by the storks (1213) and if the chief-bird stuck an entry-pass (σύμβολον ἐπέβαλεν) on her (1214–1215). This *double entendre* (“nobody's been *sticking* me”, οὐκ ἔμοιγ' ἐπέβαλεν οὐδεὶς, 1216) will prepare the set for Peisetaerus' immediate attempt to violate her in 1253–1255. The vocabulary, of course, recalls the words of the comic hero when instructing the birds on how to proceed in order to get Zeus' ἀρχή (555–560):

³⁸ Jordan 1975:173 emphasizes that the Salaminia was consistently used during the fifth and fourth centuries BCE. An interesting but isolated fragment of Aristophanes's first comedy, *Daitalês* (*Banqueters*), represented in 427 BCE provides for an interesting example of the judicial role of the maritime magistrates to conduct a legal procedure against foreigners: ἐθέλω βάψας πρὸς ναυτοδίκας ξένον ἐξαίφνης (fr. 237 Kassel and Austin). Cf. also the charge for treason implicit in *Wasps* 288–289 (Bonner 1933:176). According to Balcer 1978:125, “the process of transfer of allied cases to Athens and their trials were not only common but were conducted according to the articles of Athenian imperial judicial procedures.” He suggests the existence of an “Athenian Judicial Decree,” according to which all charges brought in allied cities (with the possible exception of Lesbos, Samos and Chios) were immediately taken to Athenian tribunals. This implied a progressive loss of sovereignty in favour of Athenian interests.

³⁹ Among the various tasks performed for the government, she was sent to Sicily to fetch Alcibiades back to Athens for trial, following his accusation for atheism after the profanation of the Hermae. The historical link to the comic allusion is well illustrated by Thucydides 6.53.

⁴⁰ In this context, *autodikia* refers to the right a *polis* has to conduct trials under its own jurisdiction. On the concept and its relationship to other vocabulary related to independence and sovereignty, cf. Ténékidès 1954:9.

⁴¹ On this scene in the play and its importance for Peisetaerus' purposes, cf. Scharffenberger 1995 and de Cremoux 2009.

And if he (Zeus) says no and is unwilling and doesn't immediately concede defeat, you proclaim a holy war against him, and prohibit the gods from passing to and fro through your territory (διὰ τῆς χώρας) with their cocks up, in the way they used to come down previously to debauch (μοιχεύσοντες) their Alcmenas and their Alopes and their Semeles. And if they violate your borders (ἐπίωσ'), then put a seal (ἐπιβάλλειν σφραγῖδ') on their skinned pricks, so they can't screw (βινῶσ) those women any more.⁴²

By placing together the private world of sexual intercourse and the public realm of foreign policy, Peisetaerus intends to force the gods to refrain from doing exactly what he will end up doing. My intention is to show how getting Basileia at the end of the play, under a metaphor that relates marriage to colonization, is presented as a personal triumph and as an imperial victory than can be depicted as a reversal of Zeus' sexual assaults on women as referred to in mythical tales.

3. Imposing Law: The Juridical Construction of a Tyrannical Regime

Peisetaerus' opposition to Athenian justice, as far as his interactions with the decree-seller or the informer demonstrate, soon conflicts with his own passion for law and judicial autonomy in the newly established Cloudcuckooland. The contradiction, however, is only superficial: as I will try to indicate, the law he rejects is only the one he is not able to manipulate. Thus, the disrespectful behaviour of Peisetaerus as far as laws are concerned⁴³ is soon left aside and transformed into a close respect for legal provisions when the statutes become useful to his own personal advantage.

When the chorus-leader invites everyone to join the birds in 755–756 (*“Everything which here by <human> custom is disgraceful, among us birds is creditable”*), the opposition between Athens and Cloudcuckooland—or real life and theatrical representation—⁴⁴ is basically consolidated around family values: *“For instance, if here customs considers it disgraceful to strike one's father, away there with us it's creditable”*, 757–758).⁴⁵

This open invitation sets the ground for the arrival of the newcomers, who expect to fly and do among the birds what they are not allowed to do in Athens. So when a new character appears on stage saying that he wants to get wings to be able to peck and throttle his father, Peisetaerus needs to react. In reply, Peisetaerus invents a law—by reproducing the linguistic framework of Attic rules and endorsing the natural obligation of *gerotrophia*—that forbids all violence against parents (1353–1357):

Ah, but we birds have an ancient law (νόμος / παλαιός) written on the Pillars of the the Storks (ἐν ταῖς τῶν πελαργῶν κύρβεισιν): “When the father-stork has reared all his young storks and made them ready to leave the nest, then the young birds must in their turn maintain their father”.

⁴² On the sexual sense of ἐπιβολή (with the prefix *epi-*) and σφραγίς—defines as anything “which fills up or closes, or which one stamps upon something”—, see Henderson (1975:124).

⁴³ Slater 1996:103 deals with this passage and considers: *“Another very quick joke suggests that the stone versions of decrees were actually points of resistance or display of disrespect to the laws....”*

⁴⁴ The deixis (ἐνθάδε) is playing *between* both levels of meaning (Rogers 1906:103).

⁴⁵ In this upside-down world, “vengono citati due dei tabù più profondamente radicati nella cultura greca: quello de la paternità e quello della cittadinanza, cioè l'appartenenza per diritto alla comunità,” Zanetto 1987:243. In a political reading of the play, the participle κρατούμενα (755)—frequently rejected by the editors— can mean “tenuti a freno,” “dominati” (Imperio 2004:403): from an imperial perspective, what *nomos* prescribes in Athens is useful to ‘dominate’ its subjects.

The reference to the storks' *kurbeis* points to the ancient wooden tablets in the Athenian Agora on which the traditional laws of Draco and Solon had been inscribed,⁴⁶ and can give an idea of the character's ability to use the Attic legal documents to impose his will. And yet the manipulation of Athenian law—which is a typical landmark of contemporary sophistic thinking—⁴⁷ will only reach its highest level towards the end of the play, when the gods send three ambassadors on a failed diplomatic attempt to convince Peisetaerus to allow the sacrificial smoke to reach Mount Olympus and to quit his personal project (1565–1693).

Coming back once again to the Athenian provisions on citizenship, Aristophanes finds a last comic way to allow his main character to persuade his enemies and achieve his goals. In verses 1660–1666, Peisetaerus quotes at large a Solonian *nomos* on bastardy as a strategy to convince Heracles that he would not inherit Zeus' property because he is an illegitimate son:

*Indeed I'll actually quote you the law of Solon: "A bastard shall not have the rights of a near kinsman, if there are legitimate children. Should there be no legitimate children, the next of kin shall share in the estate".*⁴⁸

I will not address here the various problems arising from the Solonian law as quoted by Aristophanes.⁴⁹ What I am interested in is that, following this argument on *ankhisteia* and its importance for succession,⁵⁰ a reference will be made to the Apaturia and the ceremony of *amphidromia*.⁵¹ In this sense, Heracles will not receive anything from his father because Zeus has never introduced him as his son to his *phrateres*: "*Has your father yet introduced you to his phratry?*" (ἤδη σ' ὁ πατήρ εἰσήγαγ' ἐς τοὺς φράτερας;, 1669).⁵² Due to the fact that he is born to Alcmene, who was a "foreign" (i.e. mortal)

⁴⁶ On Solonian *kurbeis*, see Stroud 1979:3–6, who identifies only six references (all of them from dramatic sources) for *kurbeis* in Athens before the recodification of the laws in the late fifth century BCE. The mention here of storks can be explained as an allusion to their proverbial filial piety (cf. Zanetto 1987:289, Dunbar 1995:656–657). I follow here a comment by Prof. A. Chanotis, who rather sees here a comic reference to Athens, once again: the *Pelargikon*, in fact, was the northern slope of the Acropolis at Athens; cf. *Birds* 832.

⁴⁷ The rhetorical manoeuvring of laws, endorsed by the sophists, is a result of the acceleration of the writing process and the secularization of law; cf. Sancho Rocher 2009:95.

⁴⁸ The specific content of the law that is quoted here has been heavily discussed. However, it seems clear that Attic law established that the absence of legitimate children could allow collateral relatives to become heirs (Miles 1950, Jones 1956, Davies 1977–1978, Cobetto Ghiggia 1999).

⁴⁹ The law is also referred to in Demosthenes 43.51 and Isaeus 6.47; for a comparison of the different versions, cf. Ogden 1996:36. Dunbar 1995:733 explains that the problem concerns the expression *παίδων ὄντων γνησίων* ("if there are legitimate children"). Was this qualification attached to the preceding words in a real law, or was it added by Aristophanes himself, as claimed by Humphreys 1974:89? It seems that the intention here of possible putting together pieces coming from different laws on bastardy and succession was to play with the expectations of Heracles in a comic way: if there were legitimate children—Heracles is told—, you would not be capable of inheriting; but if there were not legitimate children... then you still would not inherit.

⁵⁰ On the semantic scope of *ἀγχιστεία* in Athenian Law, see Todd 1993:217, who defines it as "the statutorily defined group of kin who had both rights and duties in default of direct heirs"; Biscardi 1982:107 considers that it includes "l'insieme di quei rapporti che, determinatisi nella famiglia legittima e limitati ad un certo grado di parentela (...) erano produttivi di determinate conseguenze giuridiche in material successoria e sacrale."

⁵¹ Cf. 494 and 922. On the legal importance of the *amphidromia* as a means to endorse the legitimacy of a newborn, Beauchet 1897:343; Harrison 1968:64; Todd 1993:180.

⁵² The comic relationship between Zeus and Heracles here seems to be a reversal of a tragic motif that has been studied by Mikalson (1986).

woman (ξένης γυναικός, 1652), Heracles stands then as a bastard (*nothos*) under the terms of Pericles' citizenship law and therefore will not be able to become his father's legal heir.⁵³

The problems of citizenship reappear with the reference to the need to enroll the legitimate sons of citizens in the father's phratry,⁵⁴ but once again to the exclusive benefit of Peisetaerus:⁵⁵ By applying Attic law to the gods, Heracles understands that he has never been officially presented to Zeus' *phrateres*, and thus cannot be considered legitimate.

As the play shows, the skilled Peisetaerus will go beyond this line of thought and, being able to use rhetoric to his own advantage, will do his best to achieve the final purpose of marrying Basileia, as Prometheus secretly suggested to him. When expressing his intention, once again a vocabulary related to citizenship and inheritance is employed.

In 1652–1654 (ἢ πῶς ἄν ποτε / ἐπικληρον εἶναι τὴν Ἀθηναίαν δοκεῖς, / οὔσαν θυγατέρ', ὄντων ἀδελφῶν γνησίων;, *Or how do you imagine that Athena as a daughter could be the Heiress, if she had legitimate brothers?*), a reference to Athena as the only heiress to Zeus (an *epiklêros*) shows that she will transmit the property of her father when he dies.⁵⁶ The reference to Athena as ἐπικληρος has been understood as part of a cultural epithet,⁵⁷ but most importantly as an indication that she is indeed the only "Athenian" descendent of Zeus.⁵⁸

From a legal point of view, the *epiklêros* was a woman who remained alone upon an estate (*klêros*) if all males of his father's household died.⁵⁹ In our case, having been born out of Zeus' skull —after Zeus swallowed Metis—, there is no reason to question Athena's legitimacy and her chances to transmit his property after his death in accordance with the Athenian regulation of the epiklerate. So when in 1656 Heracles is maliciously told that "*Poseidon here, who's raising your hopes now, will be the first to lay hold on your father's property, claiming that he is his legitimate brother*", it makes sense to think that a very naïf Heracles imagines Zeus giving his property to him as a bastard, "while presumably bequeathing his royal power to his legitimate child Athena"⁶⁰

⁵³ The concept of *nothos* is obscure, as Ogden 1996:17 suggests. Even if the passage here seems clear for comic purposes, it should be said that —from a legal point of view— the discussion is much more complex. For instance, there is no consensus on whether children born from two Athenian citizens who were not legally married were considered legitimate or not. See the debate between MacDowell 1976 and Rhodes 1978 and, for a detailed explanation of the opposing views, Patterson 1990. It is perhaps possible to think that there was a provisional measure allowing children born from existing mixed unions to attain citizenship (Ogden 1996:63 *contra* Humphreys 1974, Patterson 1981:96–97). In any case, and in spite of the possibility of certain tolerance, it is hard to imagine this waiver still existing in 414 BCE. It is true that "such ancestry came into conflict with the beliefs that the law encouraged," Lape 2010:69.

⁵⁴ This enrolment was performed during the first Apaturia festival —held in Pyanopsion (September–October)— after birth (Isaeus 8.19) and was considered to be the proof of citizen status (Demosthenes 57.54). As Imperio 2004:410–411 acknowledges, "(u)n modo efficace per mettere in discussione il diritto di cittadinanza di qualcuno era quindi accusarlo di non essere mai ammesso in una fratria o di aver ottenuto l'ammisione solo per frode o tramite corruzione"; cf. Aristophanes' *Frogs* 417–8, Isaeus 6.21–26 and Demosthenes 39.2–4.

⁵⁵ In 764–765, the chorus-leader explained that if, among the audience of the play, there was a slave and a Carian like Execestides, "let him grow papas with us, and a citizen kin-group (φράτερες) will come to light for him." Cf. Lambert 1993:33–34. This strategy to convince people to support the birds' cause —showing that even foreigners and strangers, if they can prove an ascendancy, could belong to a phratry— will be once again rejected by the comic hero when denying all citizen's rights to Heracles.

⁵⁶ Boegehold 1994:60 suggests avoiding the translation of ἐπικληρος as "heiress," since she is "a woman without brothers who acts as an intermediary for an estate."

⁵⁷ Rogers 1906:219–220.

⁵⁸ Both possibilities are considered by Zanetto 1987:312. The scholia identify Ares and Hefaeustus as Zeus' γνησίους υἱούς, Sch. Av. 1653b (Holwerda 1991:231).

⁵⁹ Karnezis 1972:214.

⁶⁰ Dunbar 1995:732.

It is clear that in a comic world, where gods are subject to human norms, Athenian laws regulate divine inheritance.⁶¹ If this is the case, and Athena is therefore to be described as Zeus' ἐπίκληρος and will transmit his property, the spectators should have thought of the law that obliged the closest relative of the deceased to marry her.⁶² However, for an Athenian audience it was “perhaps too scandalous” to imagine Poseidon (Zeus' brother and thus closest next-of-kin) marrying Athena,⁶³ who —on the other hand— was always represented as a perpetual virgin.

How is this solved in the play? In my opinion, the figure of Basileia is relevant to the understanding of the play and explains the result of Peisetaerus' master plan. Basileia, whom Prometheus introduces when he enters the stage, has been traditionally conceived as an abstract figure, the personification of the supreme power of Zeus.⁶⁴ But in fact, since the character is *Basíleia* and not *Basileía*, Aristophanes' intention was not to depict her as an abstract concept, but actual as a real princess.⁶⁵ In consequence, some authors have tried to see in Basileia an “Aristophanic divinity”,⁶⁶ or have just compared her to Pandora,⁶⁷ Dike⁶⁸ or Hera⁶⁹.

But Basileia is a young woman (κόρη, 1537 and 1634) ready for marriage (παρθένος 1633–1634), that the text unequivocally presents as Zeus's daughter.⁷⁰ This is shown by the verb δίδωμι in 1632–1635 when Peisetaerus bestows Hera on Zeus (παραδίδωμι), but claims that Basileia be given away to him (ἐκδοτέον), and when Zeus is supposed to give her away (καὶ τὴν Βασιλείαν σοὶ γυναῖκ' ἔχειν διδοῖ).

It is my opinion that, as part of the plot of the play, Basileia should be assimilated to Athena.⁷¹ The tasks which both of them are in charge of performing are identical: when Basileia is presented by Prometheus as a beautiful girl who watches for Zeus' thunder and everything else: καλλίστη κόρη, / ἥπερ ταμειεύει τὸν κεραυνὸν τοῦ Διὸς / καὶ τᾶλλ'

⁶¹ Throughout the play, Athenian private law is applicable among the Olympians (van Leeuwen 1902:248).

⁶² On the ἐπίκληρος, see MacDowell 1978:95–108; Harrison 1968:132–138; Lacey 1968:139–145; Schaps 1979:25–42; Sealey 1990:16–21; Cox 1998:94–99, Patterson 1998:91–101, Karabélias 2002. We know from oratory that if before his death the father had not given his only daughter in marriage to someone that he adopted as his son, she became assignable or liable to adjudication (*epidikos*) (Isaeus 2.2, 6.4, 7.3) and was adjudicated by the archon based on claims submitted to him. The order of preference is given in Demosthenes 43.51.

⁶³ Dunbar 1995:732.

⁶⁴ Rogers 1906:204–5.

⁶⁵ Newiger 1957:99n510, supports this view: she is *Basíleia* ('Königin') and not *Basileía* ('Royauté'). Dunbar (1995:703) sees her, nevertheless, as a feminine abstraction, close to other “glamorous female personifications” as Opora in *Peace* or Diallage in *Lysistrata*: to her, “the old mistranslation ‘Sovereignty’ is less misleading than most mistranslations.”

⁶⁶ Zannini Quirini 1987:82; Epstein 1981.

⁶⁷ Holzhausen 2002.

⁶⁸ Alink (1983:233), who compares this appearance of Basileia with the personification of Dike in 1238–1243.

⁶⁹ According to Zanetto 1987:303, since at the end of the play Basileia will be taken to Zeus' thalamus (1757–1758), “Βασιλεία deve dunque essere la partner di Zeus, che Pisetero strappa all' avversario sconfitto.”

⁷⁰ Dunbar 1995:704; according to the scholiast, Διὸς θυγάτηρ ἡ Βασιλεία, Sch. Av. 1536a (Holwerda 1991:219).

⁷¹ Already the scholia mention this relationship when Basileia is linked to ἀθανασία in a lost passage from Bachilides (Sch. Av. 1536a, in Holwerda 1991:219). The identification of Basileia and Athena has been firstly suggested by Wieseler 1843:130. The description of Basileia “sounds much like a description of Athena, and at least some members of the audience may have noticed the similarities” (Anderson and Dix 2007:322). Bonner (1943:209) explains that “Aristophanes may have chosen the name Basileia to avoid a possible complaint of impiety,” although there has been some jokes on Athena in comedy (cf. Anderson 2008). On this assimilation between Basileia and Athena in the play see Newiger 1957:92–103 and Hofmann 1976:147–160.

ἀπαξόπαντα ... (*she's a most beautiful maiden, who is custodian of the thunderbolt of Zeus and of absolutely everything else —wisdom, law and order, good sense, dockyards, mudslinging, paymasters and three-obolses, 1537–1541*), that reminds of Athena's role (cf. Aeschylus, *Eumenides* 827–828).⁷²

Like Athena, Basileia is in charge of many distinctively Athenian things. My suspicion is that she is given an identity distinct from Athena because Peisetaerus could not be represented as marrying *the* – perpetually virgin – goddess of the city.⁷³ Basileia is, like Athena, perceived as a comic *epiklêros*.

The insistence in "getting everything" if Peisetaerus marries Basileia (ἦν γ' ἦν σὺ παρ' ἐκείνου παραλάβης, πάντ' ἔχεις, *if you receive her from his hands, you've got everything, 1543*) recalls the expression used by the father-beater when he shows he wants to kill his father in order to "get everything" (ἄγχειν ἐπιθυμῶ τὸν πατέρα καὶ πάντ' ἔχειν, *I'm eager (...) to throttle my father and have the lot, 1352*). It is also the same expression used by the informer in 1460 when Peisetaerus asks him if he wants wings to seize the property of the accused who are away from home facing trial (ἀρπαζόμενος τὰ χρήματ' αὐτοῦ) and he responds that, if you do that, you *have everything*: πάντ' ἔχεις.⁷⁴

The diplomatic negotiations between Peisetaerus and the Olympian embassy explain the final success of the marriage. Since an *epiklêros* was supposed to marry a kinsman, we would have to assume that Poseidon (who would be first in line, as the senior uncle) and all other kinsgods are waiving their claims.⁷⁵ They need peace with the birds badly, and Peisetaerus takes advantage of this in order to stage the informal negotiations of a comic *diadikasia*.⁷⁶ As it happened in other areas of judicial activities, the *diadikasia* — the whole mechanism for claiming an *ἐπίκληρος* at a court presided by the archon—⁷⁷

⁷² *Eumenides*, on the other hand, dated in 458 BCE, also addressed some of the problems of citizenship in ways which can be compared to those represented in *Birds*: Patterson 1981:138–139n26. When Apollo expresses that "(a) father could give birth without a mother; near to hand there is one to bear witness —the daughter of Olympian Zeus..." (663–664) and alludes to Athena, he is providing a legal evidence (τεκμήριον, 662) to defend Orestes. Podlecki (1989:178) identifies here "Apollo's haughty and even sophistic lecturing." For Sommerstein 1989:208, Apollo's argument is "a clever and specious but fallacious piece of forensic pleading." Finally, Verrall (1908:121) considers that the allusion to Pallas serves merely to hurry off the argument and introduce the bid for interest; something similar will happen —in my opinion— with Peisetaerus' arguments and the manipulation of family norms in *Birds*.

⁷³ Dunbar 1995:705 mentions the "unlikelihood even in comedy of a mortal marrying the city patron goddess." My view is different; in a play in which Zeus can die, Poseidon is a cheater, and Heracles behaves like a narrow-minded infamous glutton, very few things end up being unlikely.

⁷⁴ Peisetaerus will only express interest in getting to know Basileia once the abusive speech, the money and the jury-pay are mentioned; Dunbar 1995:706. As Roger (1906:205) puts it, "to the canny old Athenian's ears, the climax is reached with the word τριώβολα, the dicast's pay." Even if the suggestion of asking for Basileia is presented by Prometheus, it's Peisetaerus who seems to come up with the idea of marrying her, as the mention of "everything" (i.e. all the property) in an emphatic position (at the beginning of the verse) may suggest: ἅπαντα τὰρ' αὐτῷ ταμιεύει! (*You mean she looks after everything for him, does she?*, 1542). At this point he just realized that inheriting Zeus is possible!

⁷⁵ Charles (1938:34) considers that, if there were no relatives willing to marry the *ἐπίκληρος*, it was the duty of the ἀγχιστεύς to betroth her to an outsider by means of ἐγγύησις, just as if he were his father, cf. the law in Demosthenes 43.54, which is probably authentic —it is also mentioned in Isaeus 1.39; cf. Scafuro (2011:162n92)— that stated that "if the nearest of kin does not wish to marry one, let him give her in marriage" (ἐὰν μὴ βούληται ἔχειν ὁ ἐγγύτατα γένους, ἐκδιδότω ἐπιδοῦς...). For an interpretation of this provision, see Cudjoe 2010:194.

⁷⁶ On the procedure for the claims, Demosthenes 46.22 makes it clear that it was not possible to possess an estate without an adjudication hearing (in dates determined by the archon); according to Isaeus 3.58, the law prescribed that claims for an estate must be made within five years of the heir's death. The herald used to make a proclamation asking if anyone wanted to dispute the claim or to put down a deposit for a hearing whether on the basis of kin circle or will (Demosthenes 43.5). Cf. Cudjoe 2010:196.

⁷⁷ Scafuro (2011:22–24) explains that, if no one disputed the claim, the Archon or the court awarded the estate; the procedure was the *epidikasia* —an adjudication hearing for the award of an estate in which one

implied a procedure in which the best arguments were based on good rhetorics and not (only) on having the best real basis for supporting the claim (blood-proximity or the existence of a will, in this case).⁷⁸

Therefore, by succeeding in becoming the *epiklêros*' husband through the use of an efficient *logos*,⁷⁹ Peisetaerus will place himself as the legitimate heir of Zeus and will claim his authority according to the Athenian succession law. A short passage in *Wasps* can be useful in order to understand the legal basis for inheritance that Peisetaerus manages to impose on gods (583–586):

And if a father (ὁ πατήρ) leaves a daughter as heiress and gives her to someone (τῷ δῶ καταλείπων παῖδ' ἐπίκληρον) on his deathbed (ἀποθνήσκων), then we tell the will it can boil its head, and the same to the shell that's lying very grandly over the seals, and we give the girl to anyone whose entreaties persuade us (ἔδομεν ταύτην ὅστις ἂν ἡμᾶς ἀντιβολήσας ἀναπέιση).

Philocleon's words describe a situation on which a dead man has left a will specifying who is to have his daughter and property, but the interpretation or validity of the will is disputed by another claimant.⁸⁰ The result of the trial is surprising, since the ἐπίκληρος is awarded not to the nearest relative but to another man who had the skill of persuading the jury.⁸¹ The relationship of this passage to the terms referred to in 1644–1645 when Poseidon is trying to convince Heracles that he will be the legitimate descendant is useful to support this interpretation: "because you've got all the property coming to you that Zeus leaves behind at his death" (σοῦ γὰρ ἅπαντα γίγνεται / τὰ χρήμαθ', ὅσ' ἂν ὁ Ζεὺς ἀποθνήσκων καταλίπη).

The antithesis is clear: whereas the father-beater was expelled from Cloudcuckooland, Peisetaerus has been able to persuade (ἀναπέιση) the others, be given Basileia as a wife and inherit everything (ἅπαντα ἔχειν) from the great Zeus.

A brief comparison between sex and foreign policy was presented when discussing the episode of Iris' arrival to Cloudcuckooland. That relationship should be now complemented

claimant is involved. But if there were different claimants, after the payment of a deposit, there would be a hearing in which each claimant would present arguments and finally the jury's verdict decided the case (*diadikasia*, i.e. an adjudication hearing for the award of an estate in which numerous claimants are involved). This legal actions had the same legal effects as marriage (Isaeus 6.14), cf. Cantarella 2005:249.

⁷⁸ In court, claimants for an ἐπίκληρος would have to prove proximity of relationship to the deceased and probably seniority as well, as indicated by Scafuro 2011:25, but proof would have been extremely difficult (MacDowell 1978:102-103). Besides, we know that all legal institutions concerning citizenship were political, and thus constantly open to debate. In particular, Pericles' law on citizenship was "an invitation to litigation" (Connor 1994:41), and by the late fifth century BCE juries were probably inclined to draw verdicts following the effects of political discourse rather than relying on the precise legal strength of each claim. Needless to say that exceptions ought to have been granted almost on a regular basis, especially knowing that Pericles himself had convinced the Athenians to grant citizenship to the son he had with Aspasia —against the text of his own decree— after the death of his legitimate sons (Plutarch, *Pericles* 37.2–5).

⁷⁹ Karabélias 2002:106-108 explains that there should have been always someone legitimized to claim the *epiklêros*; the absence of all family members would have been extremely rare. In the case staged in *Birds*, it is irrelevant whether any other male was in condition of asking for Basileia/Athens; having no relationship whatsoever with the goddess, Peisetaerus will be awarded the heiress after a successful diplomatic negotiation.

⁸⁰ MacDowell 1971:211.

⁸¹ Charles (1938:40) determines that, at least in the later fifth century BCE, "Athenian juries were inclined to settle *epikleros* cases as they saw fit with small regard for the legality of the case." Merry (1893:48) pays attention to the relationship of these verses with *Birds* 1652 and concludes that they may well be referring to a recent scandal at Athens in which someone was given an ἐπίκληρος without any real or close connection to the family of her dead father.

by the final marriage of Peisetaerus and Basileia, which represents the culmination of the protagonist’s territorial expansion and conquest desires.

Marriage and colonization have been frequently associated in Greek antiquity as “institutions of integration and acculturation, concerned with uniting opposites and transforming that which is wild and foreign into a fruitful and productive experience”, in such a way that colonization offers a metaphor for conceptualizing sexual interaction, and marriage ideology—including rape—provides a rhetoric to describe colonial representation.⁸²

In political terms, the contact with virgin women is assimilated to the obtention of fertile lands;⁸³ it represents the imposition of culture and civilization over nature and wildness.⁸⁴ If this metaphorical overlap finds an efficient example in the founding of cities as a result of the mythical violation of local nymphs by Zeus, *Birds* manages to implement an opposite tension. I contend that, when marrying Basileia, Peisetaerus (who carried at the beginning of the play all the elements required to found a city)⁸⁵ reverses the narrative pattern: he imposes the (human) logics of Athens in order to found a new empire in the palace of Zeus.⁸⁶ In comedy, the foundation of the city precedes the hybrid (human-divine) marriage and serves as a springboard for the consolidation of the tyrannical power of the raper:

MYTHICAL PATTERN OF NON-COLONIAL FOUNDATION NARRATIVES

supreme (divine) power > sexual union to (human) woman > name of new city > integration of human *pólis*
[individual] ----- [collective]

COMIC (INVERTED) PATTERN OF FOUNDATION NARRATIVES

desintegration of human *pólis* > name of new city > sexual union to (immortal) woman > supreme (divine)
power
[collective] ----- [individual]

If the traditional mythical pattern is facilitated by the poem (Pindar, Aeschylus) who is close to the gods in inspiration, the comic pattern needs a mediator such as Prometheus, who plays a role—coherent with his past—betraying the gods in order to help the humans.⁸⁷ The inversion also implies that the violence of gods is replaced by Athenian institutions (rape is masked under “marriage”, *bia* is masked under *nomos*):⁸⁸ the raw force of Zeus is replaced by the sophistic *logos* of Peisetaerus. If in *Birds*, as the protagonist explained, gods were not

⁸² Dougherty (1996:61). This use of marriage to explain the legal relationship between the Athenian empire and its allied states can be also traced in Eupolis’ *Poleis*, where Athenian males were supposed to marry the chorus of female cities. On these fragments from a more general perspective dealing with the cross-fertilization of sexual and political metaphors in Old Comedy, cf. Buis 2012.

⁸³ Cf. Pindar, *Pythian* 4. 254–257. Vernant (1977:ix) describes Greek marriage as “a form of ploughing, with the woman as a furrow and the husband as the labourer.”

⁸⁴ “Plugging the marriage/agriculture metaphor into colonial discourse paints overseas settlement in the rosy hues associated with the gift of fruitful civilization to a previously wild and savage land,” Dougherty (1993:74).

⁸⁵ A basket, a stew-pot and some myrtle boughs are mentioned in 43(κανοῦν δ’ ἔχοντε καὶ χύτραν καὶ μυρρίνας).

⁸⁶ The traditional narrative pattern, typical to Pindar’s poetry, is well represented in Aeschylus’ *Aetnaeae*, where the foundation of Etna in Sicily by Hiero in 476 BCE was apparently explained in terms of Zeus—transformed into an eagle—violating the nymph Thalia. An amphora from Paestum, now lost, contained the image of the abduction (Kossatz-Deissman 1978:36). The relationship of this plot with *Birds* is interesting, not only because the poet who enters the city parodies Pindaric choral poetry (917–919), but also because Zeus is represented in the play with an eagle (514–515) reproducing his traditional image of φίλτατος οἰωνῶν (*Iliad* XXIV 293, XXIV 311), cf. Zannini Quirini (1987:132).

⁸⁷ Hesiod, *Works and Days* 50 ff. Prometheus himself acknowledges in the play that he has always been friendly to human beings (1545); cf. Zannini Quirini 1987:66–67.

⁸⁸ Zeitlin 1986:143 asserts that marriage already included opposites in a harmonious ensemble: on the one hand, a general cultural and civilized harmony and, on the other one, the violent struggle or the animal world “where the male tames his horses and the hunter pursues and overtakes his pray.”

going to be allowed anymore to descend to earth and rape women anymore, on the comic stage the hero would be able to get Zeus' daughter instead.

With this wise manipulation of the Athenian laws on citizenship, marriage and successions, Peisetaerus' transformation is complete. A legal reading of the play helps to understand why he will no longer be treated as a deceiver and will instead become a true τύραννος in the eyes of the birds (1708),⁸⁹ the only ruler of a city that always belonged to him (1125, 1246-1250, 1278-1279, 1307).⁹⁰ Politically, the play represents how birds are cheated and how they are subtly forced through mild persuasion to accept the cultural superiority of a skilled *rhêtôr* who employs Athenian political vocabulary to define his own regime and to brand his opponents.⁹¹ The rules of the *polis*, that Peisetaerus paradoxically wanted to avoid in the first lines of the drama, can find a suitable new space among the colonized population.⁹²

The last episodes of the play show a true apotheosis.⁹³ The wedding of Peisetaerus and Basileia is explicitly assimilated to that of Zeus and Hera (1731–1735, 1736–1742),⁹⁴ and so the comic hero becomes the new leader of the gods;⁹⁵ even Clouduckooland (that served its purpose) will be left deserted, since his leader has taken over now the palace of Zeus and has moved there (1757).

In political terms the assimilation of Peisetaerus to Zeus is a representation of his new condition as a tyrant.⁹⁶ With his final entrance —next to Basileia/Athena— the audience of the play could have been reminded of the ancient image of Peisistratos returning to Attica, when he had dressed a woman named Phye in full armor and put her, impersonating Athena, on the chariot in which he entered the city to convince everyone that the goddess herself was accompanying his arrival.⁹⁷

By marrying the patron goddess of a city much like Athens,⁹⁸ Peisetaerus becomes her legal *kurios*,⁹⁹ overturns Zeus and —through the mediation of birds and with human (i.e. anti-divine) weaponry— disarrays all mythical patterns in order to transform himself into a ruthless autocrat.

5. Final Remarks

⁸⁹ On Peisetaerus and tyranny, cf. Reckford 1987:333–334.

⁹⁰ Sommerstein 2005:81.

⁹¹ Whereas gods are depicted as democratic (1570–1571), Peisetaerus will protect his own 'democracy' by grilling his political enemies: "It's a number of birds who have been found guilty of attempting to rebel against the bird democracy" (ὄρνιθές τινες / ἐπανιστάμενοι τοῖς δημοτικοῖσιν ὀρνέοις / ἔδοξαν ἀδικεῖν, 1583–1585).

⁹² In sophistic terms, convention seems to defeat nature, which was basically the original environment among the birds; cf. Pozzi 1986.

⁹³ Newiger 1957:97.

⁹⁴ Sommerstein 2005:83.

⁹⁵ He is not Zeus, however, but only *like* him: "l'unico elemento certo, invece, è che l'ateniese *non* può essere identificato col dio, il quale deve figurare in questo contesto come l'avversario sconfitto" (Zannini Quirini 1987:81).

⁹⁶ The comparison between self-centered demagogues and gods was frequent in Old Comedy. Pericles, for instance, was described as the greatest tyrant, son of Stasis and Cronos, in Cratinus' *Cheirons* (fr. 258 KA). On *Dêmos* as a tyrant in Aristophanes' *Knights* (1111-1120), see Henderson 2003:160.

⁹⁷ Herodotus 1.60.4–5. On the relationship between the two episodes, see Bowie 1993:162–166 and Anderson and Dix 2007:324. Sinos 1998:74 identified a number of elements (including the presence of Athena as the bride) in both texts.

⁹⁸ Anderson and Dix 2007:323.

⁹⁹ The man to whom the ἐπίκληρος was awarded by the court presided over by the archon became her guardian and was responsible for everything about her (Demosthenes 46.18); cf. Cudjoe 2010:197. After the *epidikasia*, the man was also designated her legal *kurios*, as explained by Harrison 1968:19.

At the end of the play, Peisetaerus is hailed as the new leader.¹⁰⁰ Having flown from statute to statute, from law to law —just as the cicadas move from branch to branch— he succeeded in expelling all representatives of the political, economical and legal spheres of Athenian society in order to reach his decisive victory. Through some *ad hoc* statements that alternate acceptance and rejection of the Athenian institutional mechanisms, Peisetaerus has turned into the absolute lord of the wings. The comic message is finally ready to be disseminated.

Peisetaerus efficiently quotes the relevant Athenian laws and uses the forensic background with the purpose of overthrowing the gods and becoming the ruler of everything after his final wedding with Basileia. The play shows, in the end, that personal political power can be subtly attained on stage by manipulating justice and laws, and citizens should be aware of the dangers of sophistic arguments and the endless power of persuasion.¹⁰¹ By creating a new city like Clouduckooland —that (re)presents an alternative Athens up in the sky—¹⁰² Aristophanes gives rise to a protagonist that behaves like a self-centered demagogue driven by personal interests. I believe, to conclude, that examining the allusions to conventional law in *Birds* is an efficient mechanism to reveal Aristophanes' critical perception of the spectators' political anxieties. It stands as a comic warning about the challenges of the democratic system and the questionable ethics of charismatic leadership in times of war and political expansion.¹⁰³

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¹⁰⁰ “Peisetaerus begins *Birds* in a peaceful thicket far from the hubbub of Athens and her empire, but by the play’s end he has built (chiefly by means of typical Athenian techniques) a far busier, far more extensive empire of his own” (Henderson 1975:86).

¹⁰¹ As Hubbard (1997) has demonstrated when describing the new city built up with words.

¹⁰² Slater (1997).

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