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Societas leonina or the lion's share.

An analysis of *Aesopica* 149, Phaedrus I.5 and Babrius I.67.

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Aristo refert Cassium responsisse societatem talem non coiri posse,
ut alter lucrum tantum, alter damnum sentiret,
et hanc societatem leoninam solitum appellare.¹

According to this information in Ulpian's *Digesta* the imperial lawyer Titus Aristo (ca. 100 A.D.) once told the story that his teacher and mentor C. Cassius Longinus had given the responsum that a legal contract or company cannot be established, if one part obtains the entire profit and the other one only the loss. We are furthermore informed that Cassius, who as part of his political career was *consul suffectus* in 30 A.D., used to call such a company *societas leonina*. This term appears to have originated, not from the conventional judicial-commercial terminology of the period, but being a contemporary of Phaedrus, a freedman of the emperor Augustus and a poet of fables, Cassius may have coined his phrase on a specific literary work of his time, i.e. the poet's story about the lion's share contained in *Fabula* I.5.

The phenomenon which Cassius ex hypothesi termed *societas leonina* and we traditionally define as the 'lion's share', appears to belong to the genre of ancient fables. In fact, we have similar versions of this story among the Greek fables ascribed to Aesop (*Aesopica* 149) and in Babrius' *Mythiambi* I.67, as well as ca. 20 medieval, mostly prosaic and anonymous, Latin versions of Phaedrus' text according to Hervieux's edition of *Les fabulistes latins*.²

It is my intention to limit the interpretation to a comparative analysis of this phenomenon in the three classical fables. In order to identify the peculiarities and implications in Phaedrus' version I shall focus on the divergences of the three texts, the poets' applications of the moral

¹ Ulpian, *Digesta* XVII:2.29 §2

² Léopold HERVIEUX, *Les fabulistes latins depuis le siècle d'Auguste jusqu'à la fin du moyen âge. Phèdre et ses anciens imitateurs directs et indirects*, I-II, Paris 1893-94 (reprint Hildesheim – New York 1970 (Georg Olms)), II 134, 160, 197, 235, 247, 264, 306, 318, 353, 385, 397, 419, 456, 476, 516, 568, 718, 759.

issues expressed in the *fabula docet* lines and the immanent conflict of nature and culture ('physis' and 'nomos') in the two main spheres of the fable.

Below follow the analysed texts according to the traditional dates of the three writers: 1) Aesop was said to be a slave of Thracian origin who stayed in various places in Greece and was killed by the Delphians in 564 B.C.; 2) Phaedrus was born probably around 15 B.C., a slave of Thracian origin as well, but manumitted through the testament of emperor Augustus he lived in Rome ca 15-50 A.D., and 3) Babrius was an Italian who lived and worked as a tutor at some royal court in Asia Minor around 100 A.D. and therefore wrote in Greek and dedicated his work to the young prince Branchus.³

1. *Aesopica* 149: "The lion, the ass and the fox".⁴

λέων καὶ ὄνος καὶ ἀλώπηξ κοινωνίαν πρὸς ἀλλήλους σπεισάμενοι
ἐξῆλθον εἰς ἄγραν. πολλὴν δὲ αὐτῶν συλλαβόντων ὁ λέων προσέταξε
τῷ ὄνῳ διελεῖν αὐτοῖς. τοῦ δὲ τρεῖς μοίρας ποιήσαντος καὶ ἐκλέξασθαι
αὐτῷ παραινοῦντος ὁ λέων ἀγανακτήσας ἀλλόμενος κατεθοινήσατο
αὐτὸν καὶ τῇ ἀλώπεκι μερίσαι προσέταξεν. ἡ δὲ πάντα εἰς μίαν μερίδα
συναθροίσασα καὶ μικρὰ ἐαυτῇ ὑπολιπομένη παρήνει αὐτῷ ἐλέσθαι.
ἐρομένου δὲ αὐτὴν τοῦ λέοντος, τίς αὐτὴν οὕτω διανέμειν ἐδίδαξεν, ἡ
ἀλώπηξ εἶπεν· „αἱ τοῦ ὄνου συμφοραί.“
ὁ λόγος δηλοῖ, ὅτι σωφρονισμὸς γίνεται τοῖς ἀνθρώποις τὰ τῶν πέλας
δυστυχήματα.

(A lion, an ass and a fox formed a company and went hunting. Having taken a great quantity of game, the lion ordered the ass to divide it up for them. When the ass had made three equal portions and urged the lion to choose for himself, the lion was infuriated. Then he attacked and devoured the ass. Afterwards he ordered the fox to apportion the pieces. The fox gathered everything into one heap, leaving aside only a tiny bit for himself, and then invited the lion to choose. When the lion asked him "Who taught you to divide it in this manner?", the fox answered "The fate of the ass!".

The story indicates that man obtains self-control from the misfortunes of his nearest).⁵

2. Phaedrus, *Fabula* I.5: "The cow, the goat, the sheep and the lion".

Numquam est fidelis cum potente societas.
Testatur haec fabella propositum meum.

³ The various details of their lives and dates are discussed in the introductions of Ben E. PERRY, *Babrius and Phaedrus*, Cambridge Mass. 1965 (reprint 1984, Loeb Classical Library), pp. xxxv-xlvi (Aesop), lxxiii-lxxxii (Phaedrus), and xlvii-lii (Babrius), and of Niklas HOLZBERG, *The ancient fable. An introduction*, Bloomington – Indianapolis 2002 (Indiana University Press), pp. 14-16 (Aesop), p. 39 (Phaedrus) and p. 59 (Babrius). Whereas Perry and the latest French editor Daniel Loayza (*Esopé, Fables*, Paris 1995 (GF-Flammarion) pp. 22-26) accept some historical truth in the ancient testimonies about Aesop's origin and life, Holzberg and the earlier French editor Émile Chambry (*Ésope, Fables*, Paris 1985 (Collection Budé), pp. ix-xvii) are more doubtful about the truth of these sources and seem to regard Aesop in terms of a legendary inventor of the fable genre.

⁴ Ben E. PERRY, *Aesopica. A series of texts related to Aesop or ascribed to him or closely connected with the literary tradition that bears his name*, Urbana 1952 (University of Indiana Press), pp. 378-379.

⁵ The translations of the various texts in this study are my own.

Vacca et capella et patiens ovis iniuriae
 socii fuere cum leone in saltibus.
 Hi cum cepissent cervum vasti corporis,
 sic est locutus, partibus factis, leo:
 « Ego primam tollo nomine hoc quia rex cluo ;
 secundam, quia sum consors, tribuetis mihi;
 tum, quia plus valeo, me sequetur tertia;
 malo adficietur, si quis quartam tetigerit”.
 Sic totam praedam sola improbitas abstulit.⁶

(Partnership with a mighty is never trustworthy. This little story bears witness to my statement. A cow and a goat and a patient sheep were partners with a lion in the woods. When they had captured a stag of mighty bulk, it was divided into portions, and the lion spoke: “I take the first portion because of my title, since I am addressed as king; the second portion you will assign to me, since I’m your partner; then because I am the stronger, the third will follow me; and an accident will be the result, if anyone touches the fourth”. Thereby the ruthlessness carried off the entire booty alone).

3. Babrius, *Mythiambi* I.67 : « The wild ass and the lion »

Θήρης ὄναγρος καὶ λέων ἐκοινώνουν.
 ἀλκῆ μὲν ὁ λέων, ὁ δ’ ὄνος ἐν ποσὶν κρείσσων.
 ἐπεὶ δὲ λείαν ἔσχον ἄφθονον ζώων,
 ὁ λέων μερίζει καὶ τίθησι τρεῖς μοίρας,
 καὶ “τὴν μὲν αὐτός” φησὶ “λήψομαι πρώτην·
 βασιλεὺς γάρ εἰμι· λήψομαι δὲ κακείνην
 ὡς ἐξ ἴσου κοινωνός. ἢ τρίτη δ’ αὕτη
 κακόν τι δώσει μὴ θέλοντί σοι φεύγειν.”
 Μέτρει σεαυτόν· πρᾶγμα μηδὲν ἀνθρώπῳ
 δυνατωτέρῳ σὺναπτε μηδὲ κοινώνει. .⁷

(A wild donkey and a lion formed a partnership to go hunting. The lion excelled in strength and the donkey in swiftness of the foot. When they had made a large killing of animals, the lion divided the booty in three portions and said: “The first portion I shall take myself, because I am king; I shall also take the second one, since we are partners on equal terms. The third one will bring you troubles, unless you’re willing to run away”. Measure yourself! Do not engage in any business or partnership with a man more powerful!

Let us start the analysis by focusing on the differences in the various descriptions of the three spheres or levels involved in the stories. The first difference appears in the *fabula docet* parts and relates to its application to mankind and the human world, which might be defined

⁶ I have quoted the text as edited by PERRY, *Babrius and Phaedrus*, p. 198. While the rest of the text essentially is identical in all editions of I.5, various solutions have been suggested to emend the bad metre in the second half of verse 7 in the text of the primary codex from IX century, *codex Pithoeanus* (= P): *nominor quia leo*. While the editors Müller (1878) and Guaglianone (1969) keep the text of P (the latter putting a crux in his edition), Bentley (1726) suggested *nominee hoc* to replace *nominor*; in stead of *quia leo* Hervieux (1894) prints *qu[on]ia[m] leo*, Havet (1895) put *quia rex meast* with a reference to Babrius I.67 and Postgate (1919) suggests *quia rex cluo*. Pery’s text then appears to be a compromise of the emendations.

⁷ PERRY, *Babrius and Phaedrus*, pp. 82-84.

as the *illustrandum* of the story.⁸ Whereas the two Greek fabulists apply the conventional components of a tripartite structure, i.e. exposition, action proper and a character's closing remark, by simply presenting their narratives and then deducing the moral from it in the form of an *epimythium*, Phaedrus manifests a different stylistic approach. As in the majority of the 31 fables in his first Book and in many critical comments on imperial society,⁹ Phaedrus opens with a *promythium*, i.e. with a moral principle, which he, according to his own statement in the following line, wants his fable to illustrate, and even supplies his text with a concluding remark. While we initially might consider if Phaedrus' choice of fable really illustrates his opening statement, the question in regard to the texts of Aesop and Babrius seems to be, if their deduction of moral is the correct one or the only one to be learned through the fable.

The next difference concerns the world of the animals in what we may term the *illustrans* of the story. Considering the categories and number of animals in the three fables, we observe that the old master Aesop presents three animals, i.e. a lion, an ass and a fox, that Babrius' version presents only two hunting partners, i.e. a lion and a wild donkey, while Phaedrus tops the list with four animals taking part in the hunting company, i.e. a cow, a goat, a sheep and a lion. Without anticipating the discussion of their applications of the fable, we might point to the circumstance that whilst Phaedrus and Babrius let the carnivorous lion join forces with cud-chewing herbivores, Aesop lets his herbivorous ass participate in the hunting with two carnivorous animals.

The third main difference concerns the term in focus in all the three stories, i.e. *societas*, which indicates that the judicial-commercial sphere is setting the scene and dominating the ideological aspects of the implied morals. Once again we may observe the various approaches chosen by our storytellers to present the establishment of the animals' hunting companies. While Aesop and Babrius both have applied active verbs to indicate that their animals all took an active part in forming the partnership (κοινωνίαν πρὸς ἀλλήλους σπεισάμενοι and ἐκοινωνούν), Phaedrus regards the partnership as an established fact by using only forms of the verb *esse*. He does not mention anything about which animal is the initiative-taking part of the process but only states that his four animals "were partners in the woods" (*socii fuere in saltibus*).

⁸ Regarding the terminological description and definition of the *illustrandum* and *illustrans* of metaphors, see Holger FRIIS JOHANSEN, *General reflection in tragic rhesis. A study of form*, Copenhagen 1959.

⁹ Cf. HOLZBERG, *The ancient fable*, pp. 42-45, and the various chapters in John HENDERSON, *Telling Tales on Caesar. Roman Stories from Phaedrus*, Oxford 2001 (Oxford University Press).

Although apparently of minor importance and occasionally overlooked in translations,¹⁰ this difference appears significant when it comes to the implications of the fable.

The introduction of the term *societas* indicates that we, in addition to the two traditional levels of the fable genre, i.e. the world of animals and that of mankind, have to take into consideration the judicial-commercial terminology, since this sphere supplies the battleground of the *illustrandum* and *illustrans* of the fables. In order to illustrate some of the implications, which this specific term offers in regard to the further analysis of the fables, let us consider the following passage in *Institutiones* written around 160 A.D. by the famous teacher of law Gaius. His explanation partly confirms the implications in Cassius' responsum mentioned above about the establishment of a legitimate *societas* and partly underlines the rights as well as the obligations of the partners in such a company.

Gaius, *Institutiones* III.149-150.

Magna autem quaestio fuit an ita coiri posit societas, ut quis maiorem partem lucretur, minorem damni praestet ... et illud certum est, si de partibus lucri et damni nihil inter eos convenerit, tamen aequis ex partibus commodum et incommodum inter eos commune esse.

(It is however a big question if a company can be established so that one party obtains the greater portion of the profit and the minor part of the loss ... and it is evident that if the partners have not made an agreement concerning the proportions of profit and loss, then advantages and disadvantages are commonly to be shared between them on equal basis).

In all three fables the fundamental concept, that forming a *societas* implies equal shares to all involved, is taken for granted, when it comes to the division of the game assembled during the hunt. Based on the contract of partnership these animals have eliminated the natural state of conflict between the strong and the weak, the herbivores of the plain have obtained a balance of equity instead of being the natural prey of their carnivorous partners of the woods, a state of justice has been defined to replace the traditional anarchy of the pre-contractual world. This implies a return to or re-establishment of the mythological golden age of peace, justice and equality between all living creatures, which Babrius seems to allude to in the opening lines of his dedication to Branchus: "Twas a race of just men who lived first on the earth, the race that men call Golden ... Now in the Golden age not only men but all the other

¹⁰ E.g. Perry appears too influenced by the judicial-commercial sphere and translates the first line, "To go shares with the mighty is never a safe investment", and the fourth line "went into partnership" (*Babrius and Phaedrus*, p. 199). A similar rendition is offered by Karsten FRIIS-JENSEN, "Løvens part (Fædrus I.5)" ("The lion's share (Phaedrus I.5)", *Museum Tusulanum* 32-33, Copenhagen 1978, pp. 72-74.

living creatures had the power of speech and were familiar with such words as we ourselves now use in speaking to each other, and assemblies were held by these creatures in the midst of the forests”¹¹

When ordered by the lion, the ass in Aesop’s fable therefore divides the assembled game in three equal portions, whilst Babrius lets the lion divide the two hunters’ prey, but in three portions, which establishes the first act of violence of their partnership. Also concerning this particular detail Phaedrus has left us somewhat in the dark when it comes to determining which animal is taking the initiative to apportion the game. By applying the absolute ablative, *partibus factis*, he indicates that the division of the four portions constitutes a point of minor importance in contrast to the ensuing speech of the lion.

With regard to the activities of the lion, who is presented as the natural head figure in all three fables, Aesop is the most differentiated about the dissolution of the partnership: Having ordered the ass to divide their game, the lion becomes infuriated and devours the ass because of its fulfilment of the supposed equal rights of their partnership. Then the lion orders the fox to divide the prey, and being the mythological sly and cunning among the animals the fox is astute to learn his lesson and prepares two unequal portions, the largest intended for the lion and only a small one for himself -- he is after all a carnivore. Bewildered and surprised the lion asks the reason for such a sharing and gets the obvious answer “The fate of the ass”. Thereby the fox is chosen to deliver the moral within the story itself, before the *epimythium* applies it on mankind in more general turns.¹²

As mentioned above Babrius’ lion violated the fundamental principle of partnership when he divided the game in three portions – but without the poet making any critical comments on this behaviour! The second violation is manifested in the last two arguments which the lion presents about the assignment of the portions of the prey: The first argument “I am king” is in line with the lion’s mythological status and might have been accepted within the frame of the story, had he made only two portions. The last two, however, imply the dissolution of their company as a natural consequence, because his second argument “we are partners on equal terms” contradicts his previous division of the game, and the third underlines his true power in the pre-contractual status of nature. The lion’s arguing speech forms the basis of Babrius’

¹¹ PERRY, *Babrius and Phaedrus*, p. 3.

¹² I write *epimythium* and not Aesop, since it is a topic of discussion among scholars whether the *epimythium* formed part of the original Aesopian fable or not; see e.g. Chambry, *Ésope, Fables*, p. xxxvii-xxxviii.

epimythium, in which the poet offers a personal and individually applied moral directed at the weaker.

Although similar in structure and contents, the lion's violation of the partnership does not appear until later in Phaedrus' version. Contrasting the four lines of the story of the formation of the *societas* as well as the hunting scene Phaedrus allows the lion to present four arguments to match the four *socii* – each argument is occupying a single line – and applies a rhetorical approach to motivate this behaviour. Disregarding the editors' various choice of reading in the second part of line 7, whether *leo* or *rex* is to be the significant word, the lion's arguments resemble the ones in Babrius' version: 1) "I am the lion (or the king)", 2) "I am your partner (i.e. on equal terms, *consors*)", 3) "I am stronger than you" (the purport of which explains the natural aspects of the first argument), and the fourth constitutes the logical consequence of the other three, being similar to the third argument in Babrius' story.

Unlike the two Greek versions the narrator in Phaedrus' fable comments the narrative in the last line: *sic totam praedam sola improbitas abstulit*. In contrast to the descriptions used in the Greek fables he applies value-laden antonyms to characterize the animals, as he describes the three herbivores as *patiens iniuriae*¹³ opposed to the concluding *sola improbitas abstulit* to define the lion's perpetration. According to Holzberg, Phaedrus has added a touch of irony to the story by using an abstract substantive instead of the adjective *improbus* that we might have expected; similarly to the concluding line in his fable on the fox and the crow in I.13.12, *tum demum ingemuit corvi deceptus stupor* ("then the crow's deceived foolishness groaned"), Phaedrus has changed his style from the pervading *sermo urbanus* to a kind of mock-heroic epic feature as "an imitation of Homeric diction – as found, for example, in *Odyssey* 16.476 - ... with its deliberately affected choice of expression".¹⁴

As Holzberg's example does not seem too convincing, we may instead look at the broader context of the fable, as the use of the abstract phenomena *societas* and *improbitas* versus the concrete hunting animals seems to signify that Phaedrus' intention is to criticize the quality, not any particular person. Placing *patiens iniuriae* and *improbitas* as an antithetical pair in the first and the last line of his fable and identifying the latter with the *potens* of the *promythium*, Phaedrus appears to express a kind of sympathy with the three herbivores being victims of a violent and unjust despot. In this aspect he differs from his almost contemporary colleague

¹³ Formally only the sheep is described as *patiens iniuriae*, which might be an allusion to the story of the wolf and the lamb in I.1.

¹⁴ HOLZBERG, *The ancient fable*, p. 44.

Babrius who lets his moral form a warning to the weaker. Initially describing his two hunting animals positively (ἀλκῆ μὲν ὁ λέων, ὁ δ' ὄνος ἐν ποσὶν κρείσσων) and using ἀνθρώπων δυνατωτέρω in the *epimythium*, Babrius manages to keep clear of the negative connotations found in Phaedrus' version in which *sola improbitas abstulit* are used to define the moral quality of the neutral adjective *potens*, the Latin equivalent to δυνατωτέρω.

Aesop appears to avoid a too political statement with his moral on the natural relationship of the strong and the weak, since his concluding remark in the *epimythium* that “man obtains self-control from the misfortunes of their nearest” is the applicable lesson to be learned by any individual. If we follow the traditional historical elements of Aesop's *vita*, we might explain this moral as based on his experiences in different social communities.

By using the imperative in his *epimythium* even Babrius seems to address his moral to the single individual (“Measure yourself!”). On the other hand he has, owing to the dedication of his work to his princely pupil Branchus as mentioned above, placed his stories in the fabulous world of the mythical Golden Age, which is the home of the established monarchy. Since he moreover in some cases assigns the role of the critical supervisor to an elderly animal as well as he applies the 1st pers. sing. in some of his *epimythia* to indicate the tutorial of the poet,¹⁵ we might assume that the number of fables which are moralizing in contents were composed for the educational benefit of the prince. Read in such a context a number of the statements in his texts subsequently appear to be made from an anti-democratic viewpoint and designate its author as a laudatory sympathizer of the powerful king. Read in this context the moral of the *epimythium* in our fable indicates that Babrius warns the weak against attempts of any social or political uprising, since such an action would only “bring you troubles”.

Phaedrus is on the other hand clearly taking the side of the oppressed despite his apparent resignation and ideologically conformist statements. Acknowledging as the basic fact of life and nature that “partnership with a mighty is never trustworthy”, this fable is in line with his most pervading *Leitmotive*, which is an advice to all imperial subjects to behave as the fable's three hunting herbivores and not defy the carnivorous authorities – an action which would transform them into game – but to accept things that cannot be changed as they are what they are: “you must learn to live with it, because you can never have the lion's share of life”. However, his identification of *potens* and *improbitas* sends a critical message to the property-owners of Rome similar to that of his *epimythium* in the very first fable about the thirsty wolf

¹⁵ In Book I of *Mythiambi* the elderly animal appears as supervisor in e.g. fables 21, 24, 93 and 104, and the 1st pers. sing. is used in e.g. 11.11, 14.5, 56.8, 57.12, 65.7 and 66.7.

and the lamb. In both cases he manifests his other social and political *Leitmotive* when he tells the powerful not to “oppress innocent people on fabricated pretexts” (I.1.15), since they have already the lion’s share of the property.

While Babrius applied the didactic aspects of the fable genre in the service and favour of a royal employer, Phaedrus got into serious troubles with Rome’s imperial authorities according to the defensive prologue to Book III, in which he comments on the accusations of Sejanus, prefect of the Praetorian Guard till 31 A.D.. Seemingly identifying himself with some of the ridiculous figures exposed in Phaedrus’ stories, Sejanus appears in his reactions to the first two books of fables to exemplify the visible fear of any political opposition and its potential supporters, which the principate demonstrated after the death of Augustus. Phaedrus’ troubles with Sejanus signalled that the empire under Tiberius and his praetorian prefect was showing typical signs of *dominatio*, i.e. it was manifesting the ‘moral quality’ of the *potens improbitas* of this fable and a true specimen of Cassius’ *societas leonina*.

Considered in the political context of imperial Rome, it seems appropriate to bring into consideration the two variants in line seven: *leo*, which is transmitted in the primary source P and read by most editors, and *rex*, that is suggested by Havet and Postgate with reference to Babrius’ text. According to our ancient sources the word *rex* as well as the adjective *regius* conventionally contained negative connotations to the Romans, similar to those of the term *tyrannos* to the Athenians but unlike the ones embodied in *basileus*. As the proper royal title *basileus* is in its place in Babrius’ fable, but that constitutes no valid argument for choosing its Latin synonym in Phaedrus’ fable. Had he written the word *rex*, Phaedrus’ implied message would appear too directly addressed to and too openly criticizing the imperial authorities for being mere tyrants, and Sejanus would have had every reason to be offended by the fables. Although I quoted Perry’s edition of Phaedrus, I prefer the variant *leo* written in P, not only because it is the transmitted reading but also the more subtle and ambiguous of the two words. It is furthermore the proper term in the world of animals, i.e. in *illustrans*, while *rex* as proper term belongs to the world of man, i.e. to the *illustrandum* level of the story.¹⁶

While Babrius was a Roman writing in Greek and applying the fable genre in his teaching at an oriental court, both Aesop, according to the abovementioned tradition, and Phaedrus had experienced the conditions of slavery and used the fable as camouflage. But whilst the three animals in the Aesopian version seem to indicate different social levels in society, Phaedrus’

¹⁶ Metaphorically also *leo* conveys the concept of kingdom since the lion was known as the mythological king of the animals.

implied ideology includes only the oppressors and the oppressed. He is writing for the benefit of the powerless, who as his fable's herbivores may stay alive if they avoid partnership with *potens improbitas*. Telling his version of the truth about imperial domination by disguising it in fables and by stressing the seriousness of his message in a paradoxical fashion, Phaedrus wants to amuse as well as communicate insight¹⁷ to anyone who has the eyes to read between the lines and learn the lesson of the oppressed: "We can never have the lion's share of the property but we may have our share of amusement".¹⁸

¹⁷ Cf. the statement in the prologue to Book I: *duplex libelli dos est: quod risum movet,/ et quod prudenti vitam consilio monet*.

¹⁸ I want to thank my colleagues Eva-Carin Gerö and Anders Cullhed for their critical reading and comments. In memory of Barbro von Hofsten, my mother-in-law, who did her best to adjust my English.