

## THE CONSTITUTIONAL DEBATE: HERODOTUS’ EXPLORATION OF GOOD GOVERNMENT\*

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*Abstract:* Herodotus’ Constitutional Debate is an important contribution to the development of political thought, since Herodotus provides in it definitions of the three forms of government, democracy, oligarchy, and monarchy. Yet the narrative context of the debate, as well as the *Histories* entire, often undermines these descriptions. In this article I attempt to show how Herodotus focuses much more on the pragmatic goals of government—accountability, good decision making, and stability—than on pure constitutional forms, and such a pragmatic focus suggests that Herodotus may be an early proponent of a ‘mixed’ constitution.

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### I. Introduction

Thucydides is the first writer to identify a constitution as ‘mixed’ when he describes the rule of the 5000 in Athens in 411 BCE (8.97.2). The concept of a mixed constitution flourished in the fourth century, and was taken up by Plato in the *Laws* (693d–e) and later Aristotle in the *Politics* (4.8–9), both of whom subjected the concept to philosophical rigour and theory. Plato argues that a mixed constitution provides a space for stability, intelligence, and freedom in government, and Aristotle claims that it provides stability. The practice of the mixed constitution, however, had been around a long time before Thucydides gave it a name. Plato identifies Sparta as enjoying a mixed constitution, and posits that at times both the Athenians and Persians benefited from a mixed constitution in the sixth and fifth centuries (*Laws* 693d–701d). In their development of the idea, both Plato and Aristotle first developed descriptions of the ‘mother’ or pure constitutions, and their degenerate forms, before theorising the mixed constitution.<sup>1</sup> Plato and Aristotle are following a long tradition of constitutional comparison that began with Pindar’s brief division of constitutional types in *Pythian* 2.86–8. But it is Herodotus who offers the first fully fleshed-out comparisons of constitutions that we have. The Constitutional Debate in Herodotus proves that this kind of classification was familiar in the late fifth century, that the Greeks were already describing these constitutions in terms of how

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<sup>1</sup> See Plato’s *Republic* (Books 8–9) and *Laws* (Book 3), Aristotle’s *Politics* (Book 4) and Polybius’ *Histories* (Book 6).

power was distributed, and that they were also making distinctions between rational rule and impulsive, bad rule.<sup>2</sup> In the analysis which follows, these distinctions will be apparent. The focus of this paper, however, will be on Herodotus' historical *narrative*, which raises questions of its own and suggests other categories of thinking about constitutions. Herodotus' presentation is valuable because it shows what an historian may have to offer in understanding the development of constitutional debate and perhaps even of the mixed constitution, since it brings specifically *historical* thinking to what was or was to become an abstract philosophical problem.

Herodotus sets the Constitutional Debate in Persia, and both the setting of the debate and its more abstract and Sophistic nature have caused some scholars to argue that it must be imported from another source.<sup>3</sup> Although Herodotus himself addresses the problematic setting, both in his introduction of the passage and elsewhere in the *Histories*,<sup>4</sup> constitutional debates are viewed as quintessentially Greek events, and this has been the source of a great deal of controversy about how to handle and interpret the passage.<sup>5</sup> Pelling (2002), among others, has shown that the setting of the debate in Persia brings it into part of Herodotus' Persian ethnography, and that we learn about Persia and Persian political values from it. I suggest that the removed setting, away from the Greek world, also invites the Greek audience to look at the debate with a little bit of distance and perhaps more abstractly. The debate offers a way for the Greek audience to think more clearly about the choices that the Persians may have made, and aids in explaining the conflict between the Greeks and Persians. This feature cannot help but cause the Greeks to think about their own choices in this matter.<sup>6</sup>

My analysis therefore focuses on theoretical aspects of the debate while not ignoring its immediate context in Herodotus' *Histories* nor the wider narrative in general. Through this kind of examination, I believe that we can

<sup>2</sup> Hahm (2009) 179.

<sup>3</sup> De Ste. Croix (1977); Bleicken (1979).

<sup>4</sup> See 3.80.1 and 6.43.4.

<sup>5</sup> Hammond (1951), de Ste. Croix (1977), Hartog (1988), Meyer (1990) and Cartledge (2002) see the debate as essentially Greek and thus manufactured by Herodotus. Ostwald (2000) believes the debate to be a Greek invention, but grants that there may have been some kind of discussion among the Persians. Pelling (2002) argues that the debate is Persian in intent if not in origin. Benardete (1969) and Lateiner (1989) suggest that the setting of the debate is unimportant; rather it is the schematic aspect of the debate that gives it significance for interpreting the *Histories*.

<sup>6</sup> Friedman (2006), through her analysis of Solon, Arion, and Democedes, suggests that dislocation is important for the practice of *theoriê*. A similar process may be at work here.

see that Herodotus provides us with a picture of the traditional understanding of political constitutions by examining how power is divided up and, moreover, offers his own insight concerning the underlying political ideologies of those proposing these constitutions, which finds support in the many societies presented in the *Histories*.

I start from the perspective of how Herodotus makes this debate strange or surprising through the speakers' arguments. The debate does not *seem* to fit in the Persian narrative.<sup>7</sup> It sets out the traditional divisions of constitutional types and the Persians do indeed choose one, but the subsequent actions of the Persian conspirators contribute to a deeper reading of the debate. By putting the debate in this larger historical and narrative context, Herodotus brings to the fore the difficulty of applying the traditional three-part division when decisions based on such a discussion do not turn out to be as coherent in practice. I argue that Herodotus shows that it may be useful to consider the three constitutions separately, but also that events have a way of complicating these distinctions. His is thus a significant contribution to the history of constitutional thought, because it brings specifically historical thinking to bear in the analysis of the debate. It is telling that two later proponents of a mixed constitution, Aristotle and Plato, draw on historical examples from this time period in their analysis.

## II

Where did we get our independence from and who gave it to us? Was it from the people or an oligarchy, or a monarch? I hold the opinion that since we were freed through the acts of a single individual, we should keep doing things this way. And, additionally, we should not dissolve our ancestral customs which do well for us. (3.82.5)<sup>8</sup>

The future king Darius concludes his argument for re-establishing the monarchy in Persia with an acknowledgment of the importance of both freedom<sup>9</sup> and respect for custom. Both freedom and respect for culture are among Herodotus' most valued concepts, as seen in episodes across the

<sup>7</sup> Brannan (1963) points out that if the debate were to be removed, the narrative progresses without noticeable interruption.

<sup>8</sup> All translations are my own, using Hude's 1927 OCT text.

<sup>9</sup> Darius defines freedom as national autonomy, which Hansen (2010) 7 identifies as a common definition of freedom outside the democratic *polis*. Raaflaub (2004) 118, 203 shows that the definition of freedom as defined by interstate relations predates the idea of freedom within the state.

*Histories*. Herodotus promotes the benefits of freedom both explicitly (5.78) and implicitly. He lectures on the importance of cultural relativism in the Cambyses *logos* and elsewhere.<sup>10</sup> Thus, Darius' argument, based on freedom, may strike many readers of Herodotus as strange, especially since his argument is one supporting monarchy, which so often transforms into tyranny in the societies Herodotus describes.<sup>11</sup>

If we find Darius' argument somewhat unsettling, the arguments of Otanes, the first speaker of the debate, are downright amazing to find in the mouth of one of Herodotus' Persians, as Herodotus himself acknowledges (3.80.1). Otanes argues for *isonomia*, or, more specifically, a democratic form of government which governs by lot, practices *euthunai* (the public examination of office holders), and puts power in the hands of the people. Otanes' arguments against tyranny have many strong parallels in the text, and his praise of *isonomia* is echoed in Herodotus' praise of Athenian democracy at 5.78.

Even Megabyzus, the second speaker in the debate and the advocate for oligarchy, offers a solution that may also appear surprising, although much less so. Megabyzus offers an argument for what is, *de facto*, Persia's style of government, which is not at all emphasised in Herodotus' narrative about Persia and its kings.<sup>12</sup> He argues for an oligarchy because he wants a wise government, and this too is a concern of Herodotus' since he often highlights the necessity for wisdom in politics, as seen in the metahistorical interaction between Solon and Croesus (1.30–3) and the episode of the Persian ambassadors and the Ethiopian king (3.21).<sup>13</sup>

These surprising tensions in the Constitutional Debate are often distorted or overlooked in the analysis of the meaning of the debate, most particularly when scholars focus upon the different institutional forms proposed in the debate. Our overt focus on what 'democracy' or 'oligarchy' or 'monarchy' means problematises what each speaker intends when he uses these

<sup>10</sup> See Munson (2003) on Herodotus' cultural relativism.

<sup>11</sup> Pelling (2002) 145 on Darius' argument for the best man and ancestral customs: 'strange not only because that here means an appeal to tyranny, but because the narrative itself has suggested that these "traditions" could not so blandly be assumed to "be good ones", not after Cambyses, not, we would think, after Otanes' speech.'

<sup>12</sup> See Munson (2009) 462–9 for the argument that Persian government strongly resembles an oligarchy.

<sup>13</sup> For an overview of scholarship on the programmatic interaction between Solon and Croesus, see Roy (2010) 1–4; for an overview on kings as programmatic figures in the *Histories*, see Christ (1994).

terms.<sup>14</sup> A more comprehensive analysis of the debate may be possible when one examines instead the different underlying philosophies of government which each speaker promotes. These underlying philosophies, to which Herodotus seems remarkably neutral,<sup>15</sup> may reveal an important element of Herodotus' political thinking. All three arguments in any case reflect a healthy dose of Herodotus' pragmatism; in the end, the Persians choose monarchy because it has worked for them in the past and they are thus following *nomos*.<sup>16</sup> The basic assumptions put forth by each speaker about government and what it should do are of primary importance; the external trappings of the constitutional forms they debate are significant for how they reveal elements of each speaker's assumptions.<sup>17</sup> We need to consider each speaker's argument for a specific type of constitution as a reflection of his philosophy of government, rather than the other way around. The rest of Herodotus' narrative does not usually express issues or opinions about government in such overt ways, and so we should not assume that this passage is any different. Rather than confining the analysis of the debate to this passage and assuming an overtly philosophical tone, an examination of Herodotus should look outward to other examples with an awareness that he is a narrative artist. The interpretive tension of the debate motivates this claim, for the narrative of the *Histories* offers many stories with themes rele-

<sup>14</sup> Ward (2008) 105 argues that Herodotus, in this passage, 'indicates that words can conceal as well as reveal the truth. They can represent the particular not simply as the particular but also incorrectly as the universal—and make what is complex seem simple.' The speakers use the descriptions of government in slippery ways; for example, Otanes uses monarchy words interchangeably with tyranny words, whereas Darius never uses tyranny words.

<sup>15</sup> Romm (1998) 177 claims that Herodotus gives 'a full and convincing airing of the case for and mostly against each of the major systems'.

<sup>16</sup> Romm (1998) 178.

<sup>17</sup> Both Pelling (2002) 128–9 and Asheri (2007) *ad loc.* suggest that the debate is a translation into Greek terms of a Persian argument between a looser Cyrus-style monarchy and a centralised Cambyses-style monarchy. Although differently focused, their suggestion lends support to my proposal to seek out underlying arguments rather than focusing on the three forms *per se*. Cartledge (2002) 108 argues that Herodotus was 'uninterested in the niceties of constitutional structure and practice'. Forsdyke (2006) comments on a new institutional focus on Herodotean scholarship. In maintaining that Herodotus is more interested in the motivations behind government than in the government itself, I am not taking a step back from this line of analysis, but, rather, I recognise that institutionality is not primary in *this* debate.

vant to ideas presented in the debate,<sup>18</sup> but the speakers present these narrative themes in unexpected ways.<sup>19</sup>

Let us begin with the narrative context of the debate. The debate occurs after Cambyses has died and the Magus, pretending to be Cambyses' brother Smerdis, has assumed the throne. In our first glimpse of the Magus' rule, Herodotus explains that (perhaps surprisingly) many non-Persians are content with his rule because he has declared a three-year tax hiatus and exemption from military service (3.67). By telling us this, Herodotus signals that it is mainly Persians, not the subjects of the Persian Empire, who are discontented with the Magus. The ethnographic and aetiological nature of the debate suggests that we are dealing with a philosophy of government within a state, not within an Empire, and this makes the debate both more Persian and more universalisable because it deals with a single, largely homogenous, autonomous country.<sup>20</sup> The Persian nature of the event is further underscored by the reaction of the Persian people after the conspirators have killed the Magi—they kill all the Magi they can find—and a holiday, the Magophonia, is established to commemorate the event (3.79). The people's mirroring of the conspirators' actions suggests that the conspirators, as they embark on their debate, can be viewed as representative of the Persian people. Also, the particularly Persian nature of the overthrow suggests that the conspirators, in their debate on government, are concerned with internal, Persian affairs rather than with the management of the empire,<sup>21</sup> not surprising when we observe that concern for internal affairs is a motivating

<sup>18</sup> Lateiner (1989) 172–9.

<sup>19</sup> Pelling (2002) 132.

<sup>20</sup> Pelling (2002) 127–9 claims that the debate provides ethnographic information about the Persians; he points in particular to the Behistun inscription, in which Darius justifies his ascent to the throne. Immerwahr (1966) 101 n. 71 also suggests that the debate provides ethnographic and aetiological information about the Persians because it tells us how they came to have a monarchy. Munson (2009) 463 argues that this part of the narrative 'features a number of aristocrats who ultimately remain loyal to the monarchy as their ancestral custom (3.82.5), but who are disenchanted with what it has become'. Perhaps, instead, we see a number of aristocrats who are loyal to Persia, but not necessarily the monarchy.

<sup>21</sup> I make this argument in opposition to Lateiner (1989) 169, who claims that Darius 'avoids questions of domestic administration, the substance of Otanes' criticism of autocracy. He is more interested in external aggression, by which means the Persians had achieved freedom and power. He criticizes the degenerate forms of other constitutions while maintaining a discreet silence on tyranny. Freedom in his speech refers only to the nation's freedom to dominate others.' I suggest that Darius' focus on freedom externally expressed is his argument for keeping a Persian custom.

factor in societies considering constitutional change.<sup>22</sup> For example, when the Spartans wish to overthrow the newly formed Athenian democracy, the Corinthians convince Sparta and her allies not to do so by using an argument based upon the negative effects of tyranny within a society (5.92).<sup>23</sup> Herodotus does make a connection between good constitutions and the ability of a state to be effective internationally,<sup>24</sup> but he does not present military might as a *motivating* factor of constitutional change.

The conspiracy arises because Otanes manages to prove that his daughter's husband is an earless Magus, not Smerdis the son of Cyrus (3.69). Herodotus explains that the Magus was earless because Cambyses had them cut off as punishment for a crime, a fact which adds insult to injury. Otanes gets credit for organising the conspiracy and proving the Magus' identity; yet, as we soon discover, several others had their suspicions. Herodotus tells us that the two men whom Otanes brings in, Aspathines and Gobryas, also wondered if the Magus was who he claimed to be (3.70.1). Darius, who was not intended to be a part of the conspiracy, arrives and claims that he too questioned the false Smerdis' identity (3.71.1). In this development, we already see a contrast arising between Otanes and Darius: Otanes tests his suspicions and carefully builds a group of conspirators, whereas Darius rushes in with the intention of killing the Magus (3.71.1). He urges immediate action; Otanes wants to continue with his slow and steady plan to gain supporters (3.71.2).<sup>25</sup>

He cautions Darius: 'Do not hasten this action without taking time for counsel, but act more moderately. There should be more of us present before we attack' (3.71.2). He indicates again that he values caution and careful planning, but Darius overrides his concerns by pointing out that the news is growing faster than Otanes can contain it by his own actions. Darius makes plain the danger of their position by threatening to inform on the conspiracy

<sup>22</sup> It is also a primary focus of later theorists of constitutions. In the *Republic*, Socrates focuses on the health of the state in each of his descriptions of constitutions, and in the *Laws*, the Athenian focuses on the empowering effects of the constitution on the citizens, which later result in the ability of Persia and Athens to expand their power internationally.

<sup>23</sup> The conversation between Demaratus and Xerxes (7.101–4) comparing Spartan freedom under the law to Persian kingship and slavery provides a potential counter example. Their conversation occurs within the context of an impending battle and is not aimed towards constitutional change.

<sup>24</sup> Herodotus claims that when the Spartans changed their constitution under Lycurgus, they 'were no longer content with peace' (1.66.2). When the Athenians freed themselves from tyranny, they became much more powerful in war (5.78).

<sup>25</sup> Pelling (2002) 130 casts Otanes as the cautious initiator with a strong concern for self-protection.

himself (3.71.3). Otanes worries that they do not have a plan and is conspicuously concerned about self-protection, but Darius assures him of the ease of action. He positions himself as a man of action opposed to Otanes' cautious position as a man of words: 'Otanés, many things cannot be made clear by speech, but can be by action' (3.72.2). Darius underlines his preference for action by arguing that they should lie to gain entrance to the palace. He explains that there is not much difference between lying and telling the truth when the end is the same (3.72.4).<sup>26</sup> In sum, Darius cares more for what is accomplished than for how it is accomplished.

At this time, Gobryas speaks up in support of Darius' argument for immediate action. This earlier 'debate' comes in two parts between two stereotypical characters of every political debate: the more conservative and the more aggressive speaker. It follows a more customary structure in the *Histories* than the tripartite debate that follows.<sup>27</sup> Yet, if this is so, it sets up strange expectations for the debate that will follow it. Asheri notes that both characters continue in the same style of speaking and character, and yet in the later debate, it is Otanes who proposes a radical solution. In addition, this first debate fits into an expected exchange; two speakers go back and forth until a position is decided upon. The reader is not prepared to expect a tripartite debate later.<sup>28</sup> The conspirator Gobryas acts as a mediator in the debate between Darius and Otanes, for he speaks third and supports Darius' position. Asheri reads Gobryas as a faithful supporter of Darius,<sup>29</sup> but Gobryas is introduced as a close trusted friend of Otanes and is one of the first to be brought into the conspiracy (3.70.1). Gobryas' speech shows that he has lis-

<sup>26</sup> Darius supports lying, which is something that Herodotus tells us the Persians do not do (1.136.2), which may serve as an early indication of the breakdown of what will follow.

<sup>27</sup> Asheri (2007) ad loc. Examples of two-part debates include the argument between the Tegeans and the Athenians before Plataea (9.26–7), which is resolved by the Spartans, and the debate between the Persians in Book 7 about the invasion of Greece, which is, of course, resolved by Xerxes (7.8–19). Christ (1994) 187–8 suggests that this is one element of kingly inquiry, such as Darius' comparison of Indian and Greek burial practice at 3.38. Two positions are put forward and a conclusion is drawn by a third party. In both of the debates in Book 3 about the Persian throne, the circumstances are unusual, because there is no powerful figure with the ultimate job of deciding (as noted by Roy (2010) 38).

<sup>28</sup> Davie (1979) 161 argues that 'the tripartite division of *politeia* assumed by the three speakers recalls Pindar's classification earlier (*Pyth.* 2.86ff) and strikes no new chord.' This may be true of constitutional debate, but not debate in Herodotus in general. Also, it is hard to support this assumption since Herodotus provides our earliest full example of a debate on the three constitutions.

<sup>29</sup> Asheri (2007) 468.

tened to both speakers, for he picks up on Darius' concern for immediate action and Otanes' concern that the earless Magus is king: 'when will there be a better opportunity for us to recover the rule, or if we are not able to take it back, to die? Especially when we who are Persians are ruled by a Mede, a Magus even, one who has no ears' (3.73.1). As a mediator, Gobryas functions in this debate much as Athena does in Aeschylus' *Eumenides*, for she too acknowledges both sides and yet chooses the less conservative side. Gobryas' participation indicates that the decision is already leaning in Darius' direction, but also prefigures the constitutional debate as an argument between two speakers and a mediating response from a third player who decides the debate.

The conspirators take action against the Magus, and the people, as mentioned above, mirror their actions in the Magophonia. Then Herodotus introduces the debate as a whole by claiming, 'When the tumult had settled and five days had passed, the conspirators against the Magi took counsel about all the affairs' (*ἐπείτε δὲ κατέστη ὁ θόρυβος καὶ ἐκτὸς πέντε ἡμερέων ἐγένετο, ἐβουλευόντο οἱ ἐπαναστάντες τοῖσι μάγοισι περὶ τῶν πάντων πρηγμάτων*, 3.80.1). He then introduces Otanes' argument: 'Otanēs urged that they lay down these affairs before the Persian people' (*Ὀτάνης μὲν ἐκέλευε ἐς μέσον Πέρσησι καταθεῖναι τὰ πρήγματα*, 3.80.2). The speech is marked as pro-democratic by the phrase *ἐς μέσον* ('into the middle'),<sup>30</sup> but the verbal parallel between *πρηγμάτων* and *πρήγματα* offers a dilemma. Otanes is participating in a discussion of affairs by a limited group, although Herodotus claims that he supports the idea that the people should have such a discussion. This is the first of many signs that suggest that the debate is problematic, as is the situation. The conspirators may be understood as representative of the Persian people, but they are not formally empowered by them in this way. The problem leads one to consider how governments are successfully formed; this situation at any rate does not augur well for democracy.<sup>31</sup> Otanes' participation may be a necessary organisational tactic, but it

<sup>30</sup> Herodotus uses this phrase several times to describe joint decision making. He uses it again in a specifically democratic context in the stories of Demonax (4.161.4), who established a government in the hands of the people, and of Maeandrius of Samos, who wanted to relinquish the tyranny and put power 'in the middle' (3.142–4). See Raaflaub (2004) 207 for an analysis of this parallel situation.

<sup>31</sup> The reader should consider two parallel situations: Maeandrius of Samos' failed attempt to establish democracy on Samos (3.142.3) and Cleisthenes' successful organisation of the democracy in Athens. The difference between these two events lies in the source of the action. Maeandrius attempts to establish a democracy from the top down and is foiled in his attempt. Cleisthenes, although he initially offered power to the people, is exiled by Isagoras' faction. The people themselves revolt and then empower Cleisthenes to organise them (if one accepts the reading put forth by Ober (2007) 88. This may suggest

is essentially anti-democratic. This calls into question whether Otanes is a true supporter of democracy who has been forced into this position by the more dominating Darius—who does not want to wait for a groundswell of support before killing the Magus—or whether he does not fully understand or embrace democracy. As mentioned above (p. 301), Herodotus shows us how events can complicate the abstract theories of government put forward by the conspirators. This may just be the first such example of how the situation complicates and potentially undermines ‘pure’ political ideology.

Otanes argues that none of the conspirators should any longer be monarch, because that is neither pleasant nor noble (ἐμοὶ δοκέει ἕνα μὲν ἡμέων μούναρχον μηκέτι γενέσθαι οὔτε γὰρ ἦδὲ οὔτε ἀγαθόν, 3.80.2). Otanes’ initial statement is against one of the conspirators being made the king, rather than the institution of monarchy itself, although this usage will follow.<sup>32</sup> His argument is essentially personal, for it focuses on the effects of being king first on the individual and then on the community, more than it focuses on the danger of the institution. Otanes’ indictment of monarchy is based upon its tendency to breed hubris and envy in the individual (3.80.3), which has consequent negative effects on the population at large. The bad behaviour of the tyrant causes the wrong people to succeed and the right people to fail (3.80.4). Otanes emphasises the dangerous power of the individual who has no accountability (ἀνευθύνω, 3.80.3). This individual will subvert custom, violate women and kill without trial (νόμιαί τε κινέει πάτρια καὶ βιάται γυναῖκας κτείνει τε ἀκρίτους, 3.80.5). While this is definitely true of Otanes’ immediate model, Cambyses, it is not true of every monarch or even tyrant presented in the *Histories*.

Otanes fears tyranny for its effect on individuals and thinks in terms of individuals as his models, but he speaks generally and seems to posit a general theory on the dangers of tyranny. And yet, as numerous scholars have acknowledged, even while supporting Otanes’ position, this list does not apply universally to examples of one-man rule in the *Histories*.<sup>33</sup> This is another one of Otanes’ flaws in his personal philosophy (as will become even clearer

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that democracy needs to be organised from the bottom up or by someone with special status (such as Demonax, who is empowered as a mediator by Delphi (4.161)). Flory (1987) 145 also makes this comparison, as does Saxonhouse (1996) 50.

<sup>32</sup> Otanes first uses μούναρχος (3.80.2), then μουνναρχίη (3.80.3), and then τύραννος (3.80.4); then μούναρχος again (3.80.6), and finally μουνναρχίη (3.80.6).

<sup>33</sup> As Romm (1998) 176 comments: ‘For Herodotus, too, analyses of political systems are always contingent on the characters of those who take part in them, and assessments of kingship vary as widely as the personalities of kings.’ Also, taken as a group, Otanes’ criticisms apply better to Greek tyrannies than Persian kingship (Bringmann (1976) 270). See also Waters (1972), Gammie (1987).

later): he does not sufficiently separate personal from public concerns. It is this lack of ability to do so that pushes Otanes to suggest a government by lot, for he does not think others can separate the public and private either. Otanes points out the dangerous risks to government that he sees as inherent in one-man rule: hubris and envy which lead to corruption. He also posits a solution: accountability through a democratic government.

Otanes proposes rule of the many (*πλῆθος ... ἄρχον* 3.80.6)<sup>34</sup> and calls it *isonomia*, which he describes as the most beautiful name of all (*οὐνομα πάντων κάλλιστον*, 3.80.6). The term *isonomia* has been much discussed, and general consensus is that context tells us that Otanes means democracy here, yet it is worth emphasising that *isonomia* does not have to mean democracy. Other nations can attain *isonomia* without a democratic framework.<sup>35</sup> For Otanes, the rule of the many implies rule by lot, accountability, and making decisions in common (3.80.6). These are distinctive features of democratic government, but his list does not consider elections, which are an important element of choice in any democracy.<sup>36</sup> Otanes wants his government to be free from individual caprice and focused upon the common good. A good stable government avoids corruption and tyranny by paying attention to individuals and limiting their power. It seems easy to combine examination of Otanes' argument for democracy with Herodotus' praise of the effects of *isēgoria* or democracy in Athens at 5.78.<sup>37</sup> The two passages complement each other when one focuses upon the damaging effects of a tyrant, but are in opposition when thinking about the freeing power of the democracy. Herodotus praises Athens—'having been freed, each man was eager to achieve for himself' (*ἐλευθερωθέντων δὲ αὐτὸς ἕκαστος ἐωυτῷ προεθυμέετο κατεργάζεσθαι*, 5.78.1)—and focuses upon the positive effects of empowerment on the individuals within the city. Control of power is important, but Otanes' explicit emphasis upon it may be overzealous. His argument reflects the knowledge that power is dangerous, power corrupts,<sup>38</sup> but not that it can

<sup>34</sup> It is interesting to note that Otanes not only does not use the word *δημοκρατία*, he also does not use the word *δῆμος*. In his suggestion for rule by many, he calls it *ἐς μέσον* (3.80.1), *πλῆθος ἄρχον* (3.80.6, *bis*), *ἐς τὸ κοινόν* (3.80.6), and *ἐν τῷ πολλῷ* (3.80.6). This suggests the 'bad name' that democracy might have in Herodotus' text (see Vlastos (1964) for this idea in the mid-fifth century in general). Otanes will avoid using *dēmos* words just as Darius will avoid *tyrannos* words in his speech.

<sup>35</sup> See Vlastos (1964) 18–21, Ostwald (1969) 113–9, Nakategawa (1986) 261, and Pelling (2002) 136–7. In addition, accountability is not necessarily democratic either, although it is a common feature of democratic constitutions: Robinson (2011) 226.

<sup>36</sup> Saxonhouse (1996) 52.

<sup>37</sup> Lateiner (1989) 165.

<sup>38</sup> Ward (2008) 91.

also be liberating. Otanes does not mention freedom in his speech at all, which may suggest that his interpretation of democratic government, although tied to the ‘freedom from tyranny’ argument seen in Athenian conceptions of their democratic freedom, is closer to the idea of *despotés nomos*, the principal espoused by Demaratus when he claims that the Spartans are ‘free, but not wholly free’ (7.104.4).

### III

If this debate is modelled on the one that precedes it, then we should expect the next speech to stand in contrast to Otanes’ speech and suggest an alternative course of action. The audience may not be expecting a tripartite speech, especially when Otanes sets up in his speech a binary opposition between tyranny and democracy. Thus, Herodotus’ introduction of Megabyzus may come as a surprise, since we might expect an argument for one-man rule here: ‘then Megabyzus urged them to turn to oligarchy, saying these things’ (Μεγάβυξος δὲ ὀλιγαρχίῃ ἐκέλευε ἐπιτρέπειν, λέγων τάδε, 3.81.1).<sup>39</sup> Herodotus calls Megabyzus’ proposal *oligarchiê*, but nowhere in his speech does Megabyzus use that word. Megabyzus begins by agreeing with Otanes about the problems of tyranny, but then argues against his suggestion of giving power to the many. This leads the reader to expect that the second speech will offer a contrasting solution to the same problem: tyranny. Thus, Megabyzus’ proposal to establish an oligarchy is not so surprising for the late fifth-century reader who is accustomed to hearing comparisons of oligarchy and democracy.<sup>40</sup>

Megabyzus casts the power of the many as mob rule and claims that it is useless, more unintelligent and more brutal (ὁμίλου γὰρ ἀχρηίου οὐδὲν ἐστι ἀξυνετώτερον οὐδὲ ὑβριστότερον, 3.81.1). His use of the comparative ὑβριστότερον is a clear response to Otanes’ emphasis upon the hubris of a tyrant. Megabyzus understands Otanes’ point about power, but suggests that it is a greater risk when spread out among the many. Megabyzus prefers a knowledgeable despot to the ignorant masses (3.81.2), for, as he argues, the masses do not understand anything fine (κῶς γὰρ ἂν γινώσκοι ὅς οὐτ’ ἐδιδάχθη

<sup>39</sup> But then again, we rarely see people arguing specifically for a tyranny. A notable exception is the Ionian tyrants, when they are deciding whether or not to help the Scythians against the Persians (4.137).

<sup>40</sup> Raaflaub (2004) 213.

οὔτε εἶδε καλὸν οὐδέν, 3.81.2). This too may be a direct response to Otanes' claim that *isonomia* has the most beautiful name.<sup>41</sup>

In his conclusion, Megabyzus suggests choosing some of the best men (ἡμεῖς δὲ ἀνδρῶν τῶν ἀρίστων ἐπιλέξαντες ὁμίλην τούτοισι περιθέωμεν τὸ κράτος, 3.81.3). His use of the plural may be a correction of Otanes and also a concession to him. Otanes worries about the effect of power on even the best man (ἄριστον ἀνδρῶν πάντων, 3.80.3), so Megabyzus suggests selecting many 'best men'. He repeats the adjective *aristos*, in the plural, twice more in the same section. Unlike Otanes, who worries about accountability and corruption, Megabyzus values wisdom and good decision-making. In his proposal, Otanes recognises that decision making must happen, but he does not focus upon what kind. Like Otanes, Megabyzus' concerns and arguments are supported throughout the text.<sup>42</sup> For example, the emphasis upon wisdom in ruling may be found in the prevalence of the 'wise advisor' motif in the *Histories*, and in the institution of the *gerousia* in Sparta and the elected generals in Athens—there both institutions recognise that knowledge and experience help the society. Megabyzus' concern for the idiocy of the masses finds a specific parallel in Athenian support of Aristagoras in the Ionian revolt. Cleomenes, one man, was wisely able to avoid being drawn into a bad conflict (aided by his wise advisor daughter), but the Athenians gladly joined and drew the attention of the Persian kings to Greece (5.97).

Many find fault with Megabyzus' failure to offer better, more positive support for his position of founding an oligarchy.<sup>43</sup> Otanes, however, does not really offer strong support for his democracy either, but rather arguments against tyranny. The lack of support provided for either position may be a result of the prevalence of democracies and oligarchies in the late-fifth century, since arguments in their favour would be especially well known to the Greeks as part of the developing conflict between Athens and Sparta

<sup>41</sup> Pelling (2002) 142–3 suggests that this fits into Herodotus' characterisation of the Persians as a 'people to whom the notion of an educated ordinary people is simply unthinkable'.

<sup>42</sup> Ward (2008) 93 claims that support for Megabyzus' argument may be found in Gobryas' actions in killing the Magus (3.78), which is especially telling since Gobryas brought Megabyzus into the conspiracy. She also mentions Zopyrus, Megabyzus' son, as another individual who thrives under an autocrat. Flory (1987) 132 also claims that Herodotus proves valid Megabyzus' arguments against democracy. Lateiner (1989) 180 claims that the function of the 'wise advisor motif' is to 'illustrate the despot's lack of common sense'. And yet we see wise advisors functioning more positively for monarchs (Croesus and Bias of Priene, 1.27) and in the democracy, where Themistocles correctly interprets the 'wall of wood' oracle (7.143).

<sup>43</sup> Pelling (2002) 141; Lateiner (1989) 168 argues that this is because oligarchies are unimportant in Herodotus' narrative.

and so would not need to be fully fleshed out for a Greek reader. The brevity and lack of specificity in the speeches of Otanes and Megabyzus allow us to focus on the underlying assumptions of each speaker.

#### IV

If we understand Otanes and Megabyzus as offering two contrasting solutions to the problem of tyranny, Darius' speech should come as a surprise. Following the model of the earlier 'debate' on what to do about the Magus, we should look to Darius as a sort of mediator.<sup>44</sup> In support of this idea, Herodotus does not give an indication of what Darius will argue in his introduction to his speech, unlike his practice with Otanes and Megabyzus. He merely claims that Darius spoke third (3.82.1). As we shall see, Darius addresses many of the issues that Otanes and Megabyzus raise about tyranny (although he never calls it that) and his argument shows that he has been listening to them.

Darius is a mediator in that he takes into account the arguments of the two speakers who precede him. Unlike Gobryas, the earlier mediator, he does not side with one or the other, but suggests a third solution: monarchy. Darius' whole speech works to reframe the debate in his own terms. Darius suggests that the conspirators consider the best form of each kind of government—the best democracy, the best oligarchy, and the best monarchy—and argues that the best monarchy is the best of the three (*τριῶν γὰρ προκειμένων καὶ πάντων τῷ λόγῳ ἀρίστων ἑόντων, δήμου τε ἀρίστου καὶ ὀλιγαρχίης καὶ μονάρχου, πολλῶ τοῦτο προέχειν λέγω*, 3.82.1). The monarch has the best views (he is wise), he rules blamelessly (and so there is no need of official accountability), and is good at keeping his plans secret from hostile opponents (3.82.2). This last point may be a direct rebuke of Otanes for his slowness in motivating the conspiracy that prompted Darius' threat to unmask them (3.72). Darius recognises the arguments of Otanes, but he does not entertain them as valid against his argument for monarchy. It is common for scholars to claim that Darius does not sufficiently confront the problems with one-man rule that Otanes raises,<sup>45</sup> but it may be that Darius

<sup>44</sup> And in our one preceding episode of Darius in the *Histories*, the achronological comparison of funeral customs at 3.38, we see Darius in exactly this role, so again, the audience is in no way primed to expect a third suggestion, beyond, of course, their knowledge that Darius does end up becoming king of Persia.

<sup>45</sup> Lateiner (1989) 169 claims that 'Darius' brittle argument is as notable for what it omits as for what it includes. He pointedly equates monarchy with ancestral customs (*νομῶν*), while Otanes had claimed that the monarch violates ancestral customs.' Aside from the point that the most recent term Otanes has used to designate the kind of rule he is

does indeed think that monarchy is the best regime<sup>46</sup> and that there is not much need to address the problems that Otanes outlines in his speech, which apply to tyranny rather than to monarchy.

Darius then presents his alternative views of oligarchy and democracy. He shows that in an oligarchy, personal feuds arise, which create factions, which leads to bloodshed, and ultimately a monarchy. (His analysis is supported by Herodotus' accounts of aristocratic competition in Athens before the Athenians finally establish their democracy.<sup>47</sup>) In his argument, Darius uses the term *stasis* twice (3.82.3), a term which carries with it the negative connotations of civil war. Herodotus states his own disapproval of *stasis* in Book 8, when he claims that 'compared to a united war effort, civil war is worse than a unified war-front just as war is when compared to peace' (στάσις γὰρ ἔμφυλος πολέμου ὁμοφρονέοντος τοσοῦτω κάκιον ἐστὶ ὅσῳ πόλεμος εἰρήνης, 8.3.1).

Darius goes on to argue that corruption and incompetence are inevitable in a democracy, for bad people make friends with each other (δήμου τε αὖ ἄρχοντος ἀδύνατα μὴ οὐ κακότητα ἐγγίνεσθαι· κακότητος τοίνυν ἐγγινομένης ἐς τὰ κοινὰ ἔχθεα μὲν οὐκ ἐγγίνεται τοῖσι κακοῖσι, φιλίαι δὲ ἰσχυραί· οἱ γὰρ κακοῦντες τὰ κοινὰ συγκύψαντες ποιεῦσι, 3.82.4). His argument responds to and refutes Otanes' claim that corruption is a disease particular to tyranny and simultaneously affirms Megabyzus' claim that democracy inevitably makes bad decisions. Note also the repeated use of *kako*-words. Darius is constructing a contrast between both Otanes' most beautiful (*kalliston onoma*) and Megabyzus' best men (*aristoi*). Darius shows that in his opinion the monarch is the result of and the solution to that problem. Darius argues that corruption leads to a champion of the people (*prostas*) who puts an end to corruption and, in so doing, ends up becoming monarch. This progression is demonstrated in the story of Deioces, the model tyrant whom Herodotus presents at 1.96–101.

Darius concludes his speech with the argument for monarchy, quoted at the beginning of this article. Darius asks his listeners:

κόθεν ἡμῖν ἢ ἐλευθερίῃ ἐγένετο καὶ τεῦ δόντος; κότερα παρὰ τοῦ δήμου ἢ ὀλιγαρχίης ἢ μουνάρχου; ἔχω τοίνυν γνώμην ἡμέας ἐλευθερωθέντας διὰ

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talking about is *tyrannos* (3.80.4), it can be claimed that both speakers make valid points about the importance of *nomos* in their speeches. Darius could be correcting or redefining the argument using Otanes' terms rather than 'assuming points which have already been cast into decisive doubt' (Pelling (2002) 145).

<sup>46</sup> Hartog (1988) 327.

<sup>47</sup> Anderson (2005) demonstrates the cycle of competition and tyranny in sixth- and fifth-century Greece.

ἔνα ἄνδρα τὸ τοιοῦτο περιστέλλειν, χωρίς τε τούτου πατρίους νόμους μὴ λύειν ἔχοντας εὖ.

Where did we get our independence from and who gave it to us? Was it from the people or an oligarchy, or a monarch? I hold the opinion that since we were freed through the acts of a single individual, we should keep doing things this way. And, additionally, we should not dissolve our ancestral customs which do well for us. (3.82.5)

As mentioned above, Darius frames his argument for monarchy in terms of freedom granted to the Persians as a group. He believes that the Persians maintain their identity through a certain form of government, a monarchy, and he frames his argument in terms of ancestral custom (*πατρίους νόμους*). This comment, too, is a response to Otanes' argument that monarchs violate customs. Overall, Darius argues for monarchy because it prevents corruption and instability and maintains existing Persian custom. And indeed there is support for Darius' arguments for kingship to be found in several societies in the *Histories*. For example, the Ethiopian king is selected by his people and explains their customs to outsiders (3.21). Herodotus also suggests that the monarch can provide stability and strength for a people when he claims that if the Thracians had a single king, they would be the most powerful people in the world (5.3).<sup>48</sup>

## V

Pelling notes that Darius says nothing on 'the advantages of tyranny, nothing on cohesion of command and the discipline which tyranny can give, again a point familiar from elsewhere in Herodotus' text, nor on the value of accumulated experience, another favourite of apologists for monarchy',<sup>49</sup> and this is similar to Otanes' method, where no positive arguments for democracy are advanced. It is true that Darius leaves out several possible arguments for monarchy, but this may be because he does not wish to open the door to more criticism. Or alternatively, as Munson has pointed out, 'in the Persian ethnography, negative statements are a point of pride, indicating not what the Persians cannot have, but what they choose not to have or

<sup>48</sup> Flory (1987) 121 claims that 'Herodotus' attitude to one-man rule is ambivalent and deliberately contradictory'. He goes on to argue that Herodotus supports monarchy, which may be going too far.

<sup>49</sup> Pelling (2002) 145; he sums up by claiming that Darius' points are 'remarkable for what they concede'.

do.<sup>50</sup> Darius is not making a bad argument because he does not argue in support of monarchy; rather, he is making a Persian argument in showing the negative aspects of what the Persians choose not to have. The same argument holds for Otanes' and Megabyzus' speeches as well.

Darius' argument is suggestive of *choosing* the best form of government and, in essence, choosing the best man to be king. Darius presents opting for monarchy as a choice, rather than having the situation devolve into one, as he suggests will happen with an oligarchy or a democracy. Pelling argues that Darius represents a potential and particularly Persian belief in the inevitability of tyranny, which would sound strange to an audience of Greeks, who had seen many tyrannies overthrown in their own cities.<sup>51</sup> Before the battle of Marathon, however, Miltiades speaks of the potential devolution of Athens into a tyranny if they do not choose to fight (6.109), and, in general, several Greek societies were structured to avoid both stasis and tyranny. In addition, Herodotus shows us at least two Greek societies where some members seem to prefer tyranny, Athens under Peisistratus (1.61.4), and Samos under Maeandrius (3.143). What Darius represents is, in part, a rather proactive yet Persian response to the inevitability of tyranny, rather than betraying a particularly Persian belief in the inevitability of tyranny.

Another problem raised concerning Darius' argument is that he does not take into account the long term.<sup>52</sup> He presents the institution of monarchy by the best man, but says nothing about how it will be continued. And, as Lateiner points out, 'the narrative of Herodotus records the internal strain and external errors of policy of autocratic governments much more often than of governments structured by institutions'.<sup>53</sup> The problems with Lateiner's argument, however, are that many more societies in the *Histories* are autocratic than they are institutional (as he notes) and that autocratic governments, such as a good kingship, can be institutional. Also, all three speakers present their chosen form of government as a snapshot in time rather than a progression over time. They only analyze their opponents' regimes in this way. Otanes shows what happens to tyranny over time, Megabyzus shows the disastrous outcomes of democratic government, and Darius presents the downward spirals of both democracy and oligarchy. Thus, all three portraits of the constitutional forms and the negative arguments

<sup>50</sup> Munson (2009) 466.

<sup>51</sup> Pelling (2002) 146–9. A similar argument may be found in Lateiner (1989) 169 in a summary of Darius' argument: 'Therefore, in theory and actual practice, monarchy is the best and inevitable form of government, the result of natural political processes.'

<sup>52</sup> Kurke (1999) 80 on short-term solutions; also Pelling (2002) 151.

<sup>53</sup> Lateiner (1989) 170.

against them are flawed, for they fail to consider both long-term and short-term ideals.<sup>54</sup>

The lack of reconciliation between long term and short term ideals coupled with an acknowledgement of the goals of government suggests that we should think about the debate not just as a debate about the forms of government, but as a debate that reveals different understandings of government and its goals. By looking at each speaker's underlying philosophy of government, we can reconcile their flawed abstractions of constitutional types.

Otanes presents the basic view of government as something which should control the power of individuals through accountability. The primary goal of government is equality before the law and the avoidance of a tyrant, who would subvert the normal ways in which the country should work. Therefore, Otanes argues for democracy. Megabyzus' basic view of government is that it should be wise and aimed towards good decision making. In his opinion, the limitation of citizen involvement is necessary because of the limitations of human intelligence. Therefore, he supports oligarchy. Darius presents a view of government that is focused on stability, as well as freedom and good decision making. He sees monarchy providing these features. We have seen how all of the elements that the conspirators value in government are supported elsewhere in Herodotus' text and in the narrator's own words, but the specific forms they suggest are presented as much more problematic.<sup>55</sup> We are left, then, with the problem of how to interpret this debate.

This is a debate between forms of government, but its underlying concerns go beyond the three forms proposed. It shows how difficult the abstract considerations of constitutional forms can be, because these considerations are affected by the concerns and underlying philosophies of governments of individuals, and are undermined by their comparison with constitutions in practice.<sup>56</sup> Herodotus makes this clear in his narrative of the af-

<sup>54</sup> Plato identifies this as a problem of inherited monarchy in Persia (694c–96b) and inherited success in Athens (699e).

<sup>55</sup> There is a long literature on the problem of kingship or one-man rule in Herodotus (see, *inter alia*, Immerwahr (1966), Waters (1972), Gammie (1986), Flory (1986), Christ (1994), and Dewald (1997)), and rising awareness that Herodotus does not present democracy in a completely positive light (Baragwanath (2008) 192–202). The few times we have seen an oligarchy it is in the process of degenerating into a tyranny, such as in Corinth before the tyranny of Cypselus (5.92) and in Athens before the tyranny of Peisistratus (1.59–64).

<sup>56</sup> There are notable situations where abstractions are drawn about types of government, such as Xerxes' argument about effective military organisation under a single ruler (7.101) or in Herodotus' praise of Athenian *isēgoria* (5.78). Xerxes, however, is proven

termath of the debate, in which the three forms of governing are immediately jumbled together in the subsequent actions of the conspirators.

Once the speeches are concluded, the conspirators vote to re-establish the monarchy. In the act of voting, we see already the conspirators applying a seemingly democratic principal to the decision to form a monarchy. At this point, Otanes explains that he ‘wants neither to rule nor be ruled’ (οὔτε γὰρ ἄρχειν οὔτε ἄρχεσθαι ἐθέλω, 3.83.2). He does not wish to participate in whatever method they decide a king should be chosen, by lot or vote of the Persian people. But he goes on to demand certain privileges for himself and his family, and he gets them. This leads Herodotus to claim: ‘and even now his house, alone of the Persians, continues to be free and is ruled as much as it wants to be ruled, as long as it does not transgress the laws of the Persians’ (καὶ νῦν αὕτη ἡ οἰκίη διατελέει μούνη ἐλευθέρη ἐοῦσα Περσέων καὶ ἄρχεται τοσαῦτα ὅσα αὐτὴ θέλει, νόμους οὐκ ὑπερβαίνουσα τοὺς Περσέων, 3.83.3). Otanes refuses the role of king while at the same time claiming kingly powers, most importantly, the permission to be an independent follower of Persian law. This request shows that Otanes’ *actions* follow much more closely Herodotus’ praise of *isēgoria* at 5.78, although his arguments within the debate do not. Otanes retains his focus upon the individual, as he has throughout the debate, but this time to the point of putting himself on the level of the king. Otanes refuses to partake in the society he sought to help and does not accept the outcome of a democratic vote—very monarchic behaviour indeed.

After the discussion of Otanes’ position in Persia, the conspirators agree on special powers that they will all enjoy. For example, they are allowed access to the king whenever they want (unless the king is with a woman) and the king must marry within the conspirators’ families (3.84.2). They also agree that they will choose a king by riding out at dawn and giving the kingship to whosever horse neighs first (3.84.3). Although the conspirators reject the form of oligarchy that Megabyzus proposed, they enact certain principles implied within oligarchic government. First, they choose to provide benefits to a select group and acknowledge that the conspirators should be granted some form of equality with the king. Second, by electing to leave the choice of king up to chance—which is, in itself, a feature of Otanes’ proposal for democratic government<sup>57</sup>—they acknowledge that they view each

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wrong by the outcome of the Persian War, and Herodotus’ praise of Athenian *isēgoria* is, in my view, praise of the particular results in Athens. Elsewhere in the *Histories*, we see problems arise in the Athenian assembly (most notoriously the decision to aid the Ionians, 5.97) and in other assemblies or advisory groups as well (such as the Persian debates before the expedition to Greece, 7.8–11).

<sup>57</sup> As pointed out by Saxonhouse (1996) 56.

other as equals and more worthy than other people to be considered for the kingship. Plato (*Laws* 693c–d) claims that under Darius, as under Cyrus, the Persians had a blend of monarchy and oligarchy, which helped them remain successful for another generation.

The conspirators, although deciding upon monarchy, allow democratic and oligarchic features to influence their future government. This suggests that, in practice, the separation of constitutional forms is not as emphatic as a first reading of the Constitutional Debate might make it seem. Rather, the narrative suggests that governments of all kinds engage in democratic, oligarchic, and monarchic methods. Herodotus' narrative brings out the false distinction between forms and shows constitutional mixture in practice if not in theory. This may be one contribution Herodotus makes to the development of constitutional thought, in that he provides a portrait of each kind of government separately—but the historian in him cannot help but show the mixture that is the result of events taking their course.

Herodotus, however, undermines the element of the narrative that shows how government can be mixed in practice with an earthy folk story about how Darius is actually chosen to be king. He offers two versions, both reported by the Persians, of how Darius's groom Oebares encouraged Darius' horse to neigh first. The presence of these two versions might lead one to wonder if this represents some kind of resistance to Darius' rule, except for the fact that, according to Herodotus, Darius himself recognises his groom in an inscription commemorating his coming to power: 'Darius, son of Hytaspes, by the virtue of his horse and of his groom, Oebares, took the kingship over the Persians' (3.88.3). This suggests that the story must appeal to the Persians as they are imagined by Herodotus. This may be the key to understanding why monarchy is successful in Persia. In one of his first acts in order to gain the kingship, Darius gains power through a successful trick. The Persians want their king to act the king, and admire this in him. And Darius acts as he said that a monarch can act—he prevents indecision and highlights the possibility of choice. He chooses himself.

## VI

As argued above, the narrative of the Constitutional Debate leads the reader to react to the arguments put forth with surprise. The initial debate sets up the expectation of a two-part debate, with a third speaker affirming the solution. The Constitutional Debate, since it is unusual in its three-part structure, will be read as a two-part debate at first. The debate also shows that people have different *philosophies* of government which lead them to prefer different *forms* of government. These philosophies are not argued against but

accepted as part of the discussion; the forms to achieve those philosophies are what is at stake. Darius' particular philosophy of government leads him not only to win the debate, but to manipulate the situation with the horses to his advantage. The earlier debate reveals that speakers can and do influence each other, even when the outcome is in favour of one over the other. Gobryas weighs in on behalf of Darius, but acknowledges Otanes' concern. Darius weighs in on behalf of monarchy, but directly responds to the concerns of Otanes and Megabyzus.

The interaction between the speakers' arguments in the debate also suggests that Herodotus sees each constitution as a negotiation and mediation of the pure constitutional form. This kind of negotiation also suggests that the constitutions proposed are not necessarily the most important feature of each speaker's argument, which leaves us again with the idea that the important element of the argument is the underlying philosophy of government each speaker projects. These philosophies—that government should provide accountability, wisdom, or stability—present ideals that can be achieved *or lost* by any of the constitutions in practice. This is Herodotus' second contribution to the theory of a mixed constitution, for Herodotus underpins his Constitutional Debate with these potential purposes of government that go beyond traditional constitutional forms.

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