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## ***Humanitas*: A Double-edged Sword in Apuleius the Orator?**

In his famous contribution “*Humanitas*: Romans and Non-Romans”, Paul Veyne argues that *humanitas* is a key value in indicating inclusion as well as exclusion in Roman society.<sup>1</sup> Although in Apuleius’ oeuvre the term does not carry the notion of Romanity, *humanitas* is employed as an oratorical weapon which can suggest identification and disidentification between the accused and other categories of people. Interestingly, this happens not only in Apuleius’ true judicial speech, the *Apologia*, but also in the oration which Lucius delivers in his own defence in the mock trial of *Metamorphoses* 3. As I will show in this chapter in fact, while in the *Apologia* *humanitas* is simply a weapon of inclusion and exclusion, in the mock trial which takes place in Hypata during the Risus Festival of *Metamorphoses* 3 it becomes a double-edged sword, that is, a rhetorical tool whose consequences seem to be positive in the beginning, but turn out to be negative in the end.

Let me start from the *Apologia*. Apuleius delivered this speech in his own defence about 158–159 AD. The story, as is narrated by Apuleius, is quite simple: at his friend Pontianus’ insistence, Apuleius marries Pontianus’ mother Pudentilla, a wealthy widow who is significantly older than him. When Pontianus dies, Pudentilla’s family, evidently resorting to a pretext, accuses Apuleius of having seduced her by magical means — hence the alternative title *De magia* — in order to inherit her property after her death. During the trial, which takes place in Sabratha, Apuleius probably demonstrates the inconsistency of the charge against him and is presumably acquitted. It is true that the *Apologia* as we read it is almost certainly a re-elaborated version of the original speech he delivered,<sup>2</sup> but it nonetheless shows the absurdity of the accusation, mainly revealing that, according to Pudentilla’s will, it was not Apuleius but her sons who stood to inherit her wealth.

As is usually the case with judicial orations, Apuleius’ strategy needed to be twofold in order for his defence speech to work: on the one hand, he had to prove that the prosecution had no evidence against him; on the other hand, he sought

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1 Veyne 1993.

2 But cf. Gianotti 2004<sup>2</sup>, 162: “Per quanto ritoccata con intenti letterari che potenziano i *colores* retorici e indulgono alle digressioni a effetto, la stesura a noi giunta dell’*Apologia* non ha perso il carattere di orazione giudiziaria cui è affidato il destino d’un imputato”.

to create an exclusive bond between the judge, i.e. the proconsul in this case, and himself. What is interesting for the purposes of this chapter is the latter aspect of his strategy. Aware of his superior education, Apuleius mainly relied on it, believing this would be the common denominator between the proconsul Maximus and himself. The fact that Apuleius bombards Maximus and the audience with citations from and allusions to ancient writers is ultimately due to his desire to display his extensive learning. Although times had changed and the golden age of Ciceronian oratory was just a memory, Apuleius' emphasis on the importance of education and culture throughout the *Apologia* is reminiscent of Cicero's *Pro Archia*, where this idea was mainly expressed through the use of the word *humanitas*.<sup>3</sup> The reader in search of this same educational idea of *humanitas* in Apuleius' *De magia* would probably be disappointed. But in spite of the different nuances that the term takes on, in both orations *humanitas* is one of the qualities praised in the judges. Apuleius makes this clear at *Apol.* 35, when he rejects the accusation of using two marine animals for the sake of his erotic pleasure.<sup>4</sup> Finding this accusation ridiculous, he addresses Maximus as follows:

*ne tu, Claudi Maxime, nimis patiens vir es et oppido proxima humanitate, qui hasce eorum argumentationes diu hercle perpessus sis; equidem, cum haec ab illis quasi gravia et vincibilia dicerentur, illorum stultitiam ridebam, tuam patientiam mirabar.*

Really, Claudius Maximus, you are a very patient man, and sympathetic to the townspeople, to put up so very long with their arguments. Speaking for myself, I smiled at their stupidity and marveled at your patience when they mentioned such items as if they were grave and overwhelming.<sup>5</sup>

Whoever aims at creating an exclusive bond also needs a category of those who are excluded from this bond. In the *Apologia*, not only the accusers, but also the inhabitants of Sabratha as a whole constitute this category. True, Apuleius scorns them because of their stupidity and lack of education (*illorum stultitiam ridebam*); nevertheless, he admires (and flatters) Maximus, whose *patientia* and *humanitas* enable him to tolerate their ignorance (*tuam patientiam mirabar*).<sup>6</sup> Since Apuleius needs to widen the gap between Maximus and the throng, it would be counter-

<sup>3</sup> On *humanitas* and education in the *Pro Archia*, cf. e.g. Panoussi 2009; Nesholm 2010; Høgel 2015, 60.

<sup>4</sup> On these two fishes in the *Apologia*, cf. Binternagel 2008, 61–63; Pellicchi 2012, 156–157 (with further bibliography). The terms *virginal* and *veretilla* were probably coined by Apuleius himself: cf. Caracausi 1986–87, 169; Nicolini 2011, 132 n. 405.

<sup>5</sup> English translations, sometimes slightly adapted, are taken from the Loeb Classical Library.

<sup>6</sup> Cf. Hunink 1997, 113 on this passage: “One of the numerous examples of flattery of the judge”.

productive — and even outrageous — to claim that Maximus' *humanitas* is *proxima oppido* (very close to the townspeople), if *humanitas* took on educational nuances as in Cicero's *Pro Archia*. Needless to say, neither a proconsul nor his education can be put on the same level as the throng. Conversely, *proxima oppido* strengthens the philanthropic idea that *humanitas* takes on here. But because of the uniqueness of the expression to which it gives birth, *proxima* was sometimes suspected of being a wrong *lectio*, in spite of both the manuscripts F and  $\phi$  attesting this reading. By contrast, in the attempt to defend it, Butler and Owen maintained that this and two other instances of *proximus* in Apuleius' *Apologia* are not to be seen as superlative, but as positive forms whose meaning would be "easy, obvious, convenient".<sup>7</sup> In support of their thesis they pointed out that a comparative *proximius* can be found in Ulpian and Minucius Felix. Nowadays it is far easier for scholars to verify that the instances are actually many more, among which we can include Seneca, *Epist.* 108.16 (*abstinentiae proximioem*) and, when the adjective is substantivised, Prisc. *Gramm.* II.97.15: *proximus quando pro cognato accipitur, positivi significationem habet ideoque a legis latoribus etiam comparative profertur*.<sup>8</sup> Yet it is my contention that *proxima* is really a superlative at *Apol.* 35. Despite the fact that the overall understanding of the passage does not probably depend on this issue, it must be noted that the context seems to suggest the presence of a superlative: *nimis patiens* makes in fact clear that Apuleius is talking about a behaviour and an attitude which are extraordinary and excessively tolerant and benevolent because they are undeserved. If in the following phrase *proxima* were taken as a simple, positive adjective, the tone of the sentence would be weakened, and Apuleius' wonder at Maximus' patience less comprehensible.

But in the *Apologia* there are other ways in which Apuleius exploits the *humanitas* argument to spotlight the boundary which separates Maximus and himself from his rivals and the inhabitants of Sabratha. At *Apol.* 86, while rebuking Pudentilla's son, who is guilty of divulging some of his mother's most private letters, he praises the different behaviour of the Athenians in an analogous situation:

*Athenienses quidem propter commune ius humanitatis ex captivis epistulis Philippi Macedonis hostis sui unam epistulam, cum singulae publice legerentur, recitari prohibuerunt, quae erat ad uxorem Olympiadem conscripta.*

<sup>7</sup> Butler/Owen 1914, 24.

<sup>8</sup> Cf. *TLL* 10.2.2040.74–2041.23 for a more detailed list.

Now the Athenians observed the common laws of humanity when they had intercepted their enemy Philip's letters. They had each of them read out in public, but prohibited the reading of one that he had written to his wife Olympias.

The same anecdote is recorded by Plutarch in two places, *Precepts of Statecraft* 799 E and *Life of Demetrius* 22.<sup>9</sup> Compare in particular the passage taken from the *Life of Demetrius*:

καὶ τὴν Ἀθηναίων οὐκ ἐμίμησαντο [scil. οἱ Ῥόδιοι] φιλανθρωπίαν, οἱ Φιλίππου πολεμοῦντος αὐτοῖς γραμματοφόρους ἐλόντες, τὰς μὲν ἄλλας ἀνέγνωσαν ἐπιστολάς, μόνην δὲ τὴν Ὀλυμπιάδι<sup>10</sup> οὐκ ἔλυσαν, ἀλλ' ὥσπερ ἦν κατασσημασμένη πρὸς ἐκεῖνον ἀπέστειλαν.

In this they [i.e. the Rhodians] did not imitate the considerate kindness of the Athenians, who, having captured Philip's letter-carriers when he was making war upon them, read all the other letters, indeed, but one of them, which was for Olympias, they would not open; instead, they sent it back to the king with its seal unbroken.

The two passages of Plutarch suggest that this story was probably well known by Apuleius' day. Although Apuleius is clearly not translating Plutarch, it is striking that when the Greek author attributes this Athenian behaviour to their φιλανθρωπία the Latin attributes it to their *ius humanitatis*, a rare expression which had been previously used by Cicero.<sup>11</sup>

Moreover, the presence of *communis*, in specifying that each and every Athenian possesses the idea(s) expressed by *ius humanitatis*, implies a widening of the gap between the civilized inhabitants of Athens and the "barbarians" of Sabratha, none of whom allegedly know *humanitas*. In contrast, there is no hint of comparison in the Ciceronian occurrences, but again the adjective undoubtedly strengthens the bond within the civic community. This bond is neither innate in every man nor culturally established, but safeguarded by law (*ius*). In commenting on the passage under investigation, and on the phrase *commune ius humanitatis* in particular, Hunink has observed: "an expression referring to what is commonly called *ius gentium*, a judicial and philosophical concept which had become widespread in Apuleius' days".<sup>12</sup> Yet this statement raises some doubts. It is true that such an expression mirrors the people's mentality, which regarded (milder

<sup>9</sup> On anecdotes in Apuleius' *De magia*, cf. Binternagel 2008, 136–167 (148 on this very anecdote).

<sup>10</sup> Manuscripts as well as modern editions read Ὀλυμπιάδος. However, in the wake of Plutarch's *Precepts of Statecraft* 799 E and in the light of this Apuleian passage, I suspect that in the *Life of Demetrius* 22 too we should assume that the Athenians did not open a letter sent *to*, and not *from*, Olympias: I will discuss this issue in depth in a separate article.

<sup>11</sup> Cf. Cic. *Flac.* 57, *Deiot.* 30.

<sup>12</sup> Hunink 1997, 211.

and more humane) laws as a cornerstone of Roman society, especially in the Antonine age.<sup>13</sup> Nor is it due to chance that the phrase only appears in judicial contexts.<sup>14</sup> Technically speaking, however, Roman law did not include any formal *ius humanitatis*, and Hunink's reference to Gaius' *Institutiones* 1.1 only proves the existence of a "formal" *ius gentium* and not the equivalence between *ius gentium* and *ius humanitatis*.<sup>15</sup> On the contrary, Gaius says that such a universal right is only called *ius gentium*, without allowing any other definition. Moreover, given the undeniable relationship between Greek φιλανθρωπία and Latin *humanitas*, the comparison of *Apol.* 86 with Plutarch, *Demetr.* 22 rather confirms the philanthropic component which lies behind the expression *ius humanitatis* than this law being shared by all the peoples of the world.

In addition to the Athenians and Maximus — and, implicitly, Apuleius himself — the category of the "chosen few" includes a fourth protagonist, Lollianus Avitus, Maximus' predecessor as proconsul. After he is merely named at *Apol.* 24, his presence in the *Apologia* becomes more significant from paragraph 94 onwards. Here, Apuleius provides examples that show against the claimants that he has always been in favour of and not against his stepsons. An example he gives is a letter of recommendation he wrote for Pontianus to Lollianus Avitus, "seen as a climactic point in the case".<sup>16</sup> Judging from Apuleius' account, the proconsul must have been pleased to receive his letter:

*Is epistulis meis lectis pro sua eximia humanitate gratulatus Pontiano, quod cito errorem suum correxisset, rescripsit mihi per eum quas litteras, di boni, qua doctrina, quo lepore, qua verborum amoenitate simul et iucunditate, prorsus ut "vir bonus dicendi peritus". scio te, Maxime, libenter eius litteras auditorum.*

On reading my letter, as the extraordinarily kind person he is, he congratulated Pontianus on having promptly corrected his mistake, and through him he sent back such a letter to me — heavens above — so cultivated, so elegant, in language both so charming and so pleasant, absolutely like "the good man skilled in speech" he is. I know, Maximus, that you will be glad to hear his letter.

<sup>13</sup> Cf. e.g. D'Elia 1995, 41–43; De Pascali 2008; Costabile 2016, 193.

<sup>14</sup> Alongside with the rarity of this phrase, this is the reason why statements such as "the notion of *humanitatis iura* is commonplace" (Gotoff 1993, 251) do not stand up to scrutiny. Analogously, I would not push the argument as far as to claim with Norden 1912, 59: "Da Apulejus den Ausdruck *commune ius humanitatis* nahezu wie ein Schlagwort gebraucht, dürfen wir annehmen, dass zu seiner Zeit die Idee des Weltbürgerrechtes eine feststehende geworden war". On the second Apuleian occurrence of *commune ius humanitatis* in *Met.* 3.8 cf. below, pp. 382–383.

<sup>15</sup> Cf. Gaius *Inst.* 1.1.

<sup>16</sup> Harrison 2000, 83.

The error to which Apuleius refers concerns his stepsons' misunderstanding: previously convinced that he would take advantage of his position and try to seize Pudentilla's property, they — or at least Pontianus — had by that time realised that this had not been the case. At any rate, what matters here is something else. As Harrison puts it: "It is of course a parallel for Avitus' successor Maximus' support for Apuleius in the case in progress; the panegyric pronounced on Avitus matches the praise of Maximus already frequently expressed in Apuleius' speech".<sup>17</sup> As we have seen, right from the beginning Apuleius displays his knowledge and erudition. On the one hand, this enhances his credibility as interpreter of the texts (letters, for instance) which will be read during the trial.<sup>18</sup> On the other — and it is worth stressing this again — "Apuleius seeks to develop a complicity between himself and Maximus", whose eulogy is mainly based on his philosophical knowledge and literary education, and sets the two of them apart from the throng.<sup>19</sup> In the passage under investigation Apuleius is thus simply including Maximus' predecessor in this exclusive relationship. Avitus' learning (*doctrina*) and charm of language (*lepos, verborum amoenitas et iucunditas*) even make a *vir bonus dicendi peritus* of him.

Moreover, it should not pass unnoticed that Apuleius is again showing off his own literary knowledge by quoting Cato the Elder's definition of the good orator, which clearly links the superior culture that a good orator ought to possess (*dicendi peritus*) to the moral sphere (*vir bonus*).<sup>20</sup> In a way, we might say that the idea of *humanitas*, in potentially implying both παιδεία and φιλανθρωπία, corresponds to this definition.<sup>21</sup> Or, in other words, the idea of *humanitas* perfectly fits the orator. Accordingly, in general terms both *doctrina* and *lepos* could be closely related to *humanitas*.<sup>22</sup> But to what extent is this the case in the *Apologia*? While Avitus shows his *humanitas* in the act of congratulating Pontianus, who has understood that Apuleius is not to be seen as an enemy, he displays his *doctrina* and *lepos* in his own reply to Apuleius. For all their connections, these two episodes are distinct. As in the previous instances in the *Apologia*, here again *humanitas* is

<sup>17</sup> Harrison 2000, 83. Also Hunink 1997, 232.

<sup>18</sup> Noreña 2014, 40–41.

<sup>19</sup> Harrison 2000, 46. Also Sandy 1997, 132–133. For a Platonic reading of this opposition between learned and vulgar people, see Costantini 2019.

<sup>20</sup> On this definition and other passages in which eloquence is closely linked to morality, cf. Picone 1978, 150–151.

<sup>21</sup> On *humanitas* as the sum of the two Greek concepts of παιδεία and φιλανθρωπία, Pohlenz 1947, 451; Stroh 2008; Mollea 2018.

<sup>22</sup> The pair of *humanitas* with *lepos* is typically Ciceronian: cf. *Prov.* 29, *De orat.* 2.270, 2.272, 3.29, *Fam.* 11.27.6.

rather to be seen as having connotations of philanthropy. What is at stake in its use is Avitus' benevolence, not his education. Nevertheless, one may reasonably argue that his education lies behind his φιλανθρωπία. Although there is no evidence for this and such an interpretation would come into conflict with Apuleius' use of *humanitas* at *Apol.* 35 (where *humanitas* can hardly take on educational nuances), the polysemy of *humanitas* does allow for this reading. Regardless of this issue, it is evident that *humanitas* does play an important role in Apuleius' defence — perhaps not as a means of expressing education and knowledge, but along with (or as a consequence of) education and knowledge, *humanitas* is what brings together the civilized Athenians, the two proconsuls Maximus and Avitus, as well as, we might add, Apuleius himself, and what sets them apart from the common inhabitants of Sabratha and Apuleius' accusers. In other words, the *Apologia* is among the cases in which only an elite group of people can possess *humanitas*, though everybody can benefit from it. If Apuleius was actually acquitted, it was also thanks to his strategy and his careful use of *humanitas*.

While in the *Apologia* *humanitas* is a weapon of exclusion, in the mock trial which takes place in Hypata during the Risus Festival (*Metamorphoses* 3), it becomes a double-edged sword. The protagonist Lucius, who is charged with murder, immediately realizes that, in the hope of being acquitted, he needs to win over the audience. Thus, he seeks to show that he too is part of the same community as the Hypatans: certainly not as a fellow citizen, but at least as a fellow human being. As Apuleius in the *Apologia*, though with the opposite aim in mind, Lucius also resorts to the *humanitas* argument in his defence speech, which van der Paardt refers to as an *Apologia parva*.<sup>23</sup> But Lucius' weapon backfires, for the witnesses for the prosecution seem to be able to use *humanitas* in a more sophisticated way, thereby reiterating Lucius' exclusion from the community. On the one hand, this mock trial corroborates the potential of the *humanitas* argument in the legal sphere, at least in Apuleius' view; on the other hand, the versatility of *humanitas* shows that this concept can be applied to opposite purposes, that is, to create both exclusion and inclusion.

While returning one night to his host Milo's house, Lucius, yet to be turned into a donkey, sees three robbers at the door. Being drunk, he does not hesitate to pull out his sword and kill the three of them. He then goes to bed. The following morning, when he gets up, the local magistrates are waiting to arrest and try him.

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<sup>23</sup> Van der Paardt 1971, 63. Apart from the resemblance of these two speeches, on which cf. also May 2006, 182 (and n. 1 for further bibliography), Apuleius is believed to allude on several occasions to the *Apologia* in the *Metamorphoses*: cf. Mason 1983, 142–143; Harrison 2000, 9–10 and 2013, 84 (n. 12 for further bibliography).

Both during his journey to the courtroom and theatre, where the trial is eventually to take place, and during the trial itself, while Lucius is in despair, the crowd is laughing. The reason for this is eventually revealed: Lucius has not killed three men, but three wineskins that had been turned into men through a magic trick. In other words, having been the victim-protagonist of the Risus Festival which takes place every year at Hypata (Thessaly), Lucius has “served as patron of the Hypatans’ community”.<sup>24</sup>

Apuleius’ *Metamorphoses* is generally thought to be based on the lost *Metamorphoses* by the Greek Lucius of Patrae.<sup>25</sup> The relationship between the two — and the *Onos*, which is included in the Lucianic corpus — is disputed, but most scholars believe the Risus Festival, or the trial at the very least, to be originally Apuleian.<sup>26</sup> A survey of the use of *humanitas* within the trial of Hypata (and of the trial’s interaction with the *Apologia*) will also back up this view.

Lucius’ defence begins at 3.4 and the judges’ and people’s *publica humanitas* is immediately invoked as the common value that should grant Lucius the right to defend himself even if the accusation seems to be incontestable:

*Nec ipse ignoro quam sit arduum trinis civium corporibus expositis eum qui caedis arguatur, quamvis vera dicat et de facto confiteatur ultro, tamen tantae multitudini quod sit innocens persuadere. Sed si paulisper audientiam publica mihi tribuerit humanitas, facile vos edocebo me discrimen capitis non meo merito sed rationabilis indignationis eventu fortuito tantam criminis invidiam frustra sustinere.*

I am not unaware how difficult it is, in the full display of the corpses of three citizens, for him who is accused of their murder, even though he speak the truth and voluntarily admit to the facts themselves, to persuade so large an audience that he is innocent. But if your *humanitas* will briefly grant me a public hearing, I shall easily convince you that I am not on trial for my life through any fault of my own, but rather, I am groundlessly suffering the great odium of the accusation as an accidental outcome of reasonable indignation.

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<sup>24</sup> Habinek 1990, 54.

<sup>25</sup> This has been the main strand of thought since Bürger 1887. An exception is represented by Bianco 1971, who believes that Apuleius’ *Metamorphoses* derives directly from the *Onos*.

<sup>26</sup> Cf. Perry 1923, 221 and 1925, 253–254; Summers 1970, 511; Walsh 1970, 148; Bianco 1971, 49–63; May 2006, 188 (n. 19 for further bibliography), and a *status quaestionis* with further bibliography in De Trane 2009, 199. More generally on the relationship between Apuleius’ *Metamorphoses*, Lucius of Patrae’s *Metamorphoses* and the *Onos* cf. Walsh 1970, 145–149; Bianco 1971; Mason 1978, 1–6; Scobie 1978, 43–46; Ciaffi 1983; James 1987, 7–16; Schlam 1992, 18–25; De Trane 2009, 15–22; Harrison 2013, 197–213 — on topographical differences — and 233; Tilg 2014, 1–18 and further bibliography in Harrison 1999, xxx.



Compared to Apuleius' *Apologia*, the different use of *humanitas* is immediately striking: while in the trial of Sabratha *humanitas* is seen as a prerogative of some people or social categories but not of its citizens, here *humanitas* is a quality which characterizes the inhabitants of Hypata as a whole. This is much highlighted by the adjective *publica*. Set at the *exordium* of the oration, this phrase immediately shows that Lucius "has created his speech to the throng".<sup>27</sup> As for the meaning of *humanitas*, *publica* strengthens the idea of a bond that unites all human beings as such, a bond whose features Lucius clarifies later on.

The "*Apologia parva*", delivered by Lucius-protagonist and recounted by Lucius-narrator, is just over when Lucius-narrator reflects upon the results he hoped to have achieved:

*Haec profatus, rursum lacrimis obortis porrectisque in preces manibus per publicam misericordiam, per pignorum caritatem maestus tunc hos tunc illos deprecabar. Cumque iam humanitate commotos, misericordia fletuum affectos omnes satis crederem, [...] conspicio prorsus totum populum — risu cachinnabili diffuebant — nec secus illum bonum hospitem parentemque meum Milonem risu maximo dissolutum. (Met. 3.7)*

When I had finished this speech my tears welled up again and I stretched out my hands in supplication, sorrowfully begging now one group in the name of public mercy and now another for the love of their own dear children. When I felt sure that they had all been sufficiently stirred with human sympathy (*humanitas*) and moved by the pathos of my weeping, [...] I caught sight of the audience: absolutely the entire populace was dissolved in raucous laughter, and even my kind host and uncle, Milo, was broken up by a huge fit of laughing.

In the light of the previous passage at the outset of his defence speech, it becomes clear that in saying *cumque iam humanitate commotos, misericordia fletuum affectos omnes satis crederem*, Lucius is not only alluding to his bursting into tears and begging the judges and audience after the speech — after all, this would be quite an ingenuous pretension. More significantly, he is alluding to the tone and content of the speech itself, which right from the beginning was connoted by a plea for mercy. In this way, Lucius also reveals the key role he purposely assigned to *humanitas* in his oration. There can be no doubt that this was a stratagem: Frangoulidis shows that the Hypatans are portrayed as a savage, cruel people throughout the *Metamorphoses*.<sup>28</sup> Given the evidence against him, as Apuleius in the *Apologia*, so Lucius in the *Apologia parva* thought flattery was the best weapon he had at hand.

<sup>27</sup> Finkelpearl 1998, 89.

<sup>28</sup> Frangoulidis 2008, 184–185.

On a linguistic level, this passage also helps us define Lucius' understanding of *humanitas*. Its affinity to *misericordia* is manifest: after characterizing it through the adjective *publica* (*per publicam misericordiam*), which instead connoted *humanitas* at 3.4, Lucius even goes so far as to consider *humanitas* a synonym of *misericordia*. This is made clear by its use in the “asyndeton bimembre with rhetorical effect” *humanitate commotos, misericordia fletuum affectos*, where *humanitas* is used apparently to avoid the repetition of *misericordia*.<sup>29</sup> While the pairing of the verb *commoveo* with *misericordia* is in fact extremely common, especially in Ciceronian orations, it is never so tightly linked to *humanitas* before this Apuleian occurrence.<sup>30</sup> However, this does not imply that Apuleius (or his narrator Lucius) was the first to perceive a close relation between *humanitas* and *misericordia*. On the contrary, these two terms quite often appear together, mainly in Cicero, Seneca and Quintilian.<sup>31</sup> On occasion, *clementia* is also related to them.<sup>32</sup>

If on the one hand Lucius invokes *humanitas* as a defence instrument, on the other the widows of two of the three alleged corpses resort to the same argument to obtain vengeance. At 3.8, their theatrical reaction is as follows:

*“Per publicam misericordiam, per commune ius humanitatis,” aiunt “miseremini indigne caesorum iuvenum, nostraeque viduitati ac solitudini de vindicta solacium date. Certe parvuli huius in primis annis destituti fortunis succurrite, et de latronis huius sanguine legibus vestris et disciplinae publicae litate.”*

“In the name of public mercy,” they cried, “in the name of the common rights of humanity (*per commune ius humanitatis*), have pity on these unjustly slaughtered youths and grant us the solace of vengeance in our widowhood and bereavement. At least succour the fortunes of this poor little child, orphaned in his earliest years, and make atonement to your laws and public order with that cut-throat’s blood”.

The opening of this speech echoes both Lucius' first words (*si paulisper audientiam publica mihi tribuerit humanitas*) and his reference in indirect speech to what he did and said right after delivering his oration (*per publicam misericordiam*). We might pinpoint just one significant difference: the widows prefer *ius*

<sup>29</sup> Van der Paardt 1971, 66.

<sup>30</sup> To quote just a few Ciceronian instances of *commoveo* with *misericordia*: *Ver.* 4.87, *Rab. perd.* 24, *Clu.* 24, *Mur.* 65, *Deiot.* 40. One occurrence is also to be found in Quintilian 11.3.170.

<sup>31</sup> *Cic. Cat.* 4.11, *Mur.* 6, *Flac.* 24 (where we have seen one of the rare occurrences of *ius humanitatis* appears); *Quint.* 6.1.22; *Sen. Ben.* 3.7.5, 5.20.5.

<sup>32</sup> *Cic. Lig.* 29; *Rhet. Her.* 2.50; *Sen. Ben.* 6.29.1.

*humanitatis* over the more banal *humanitas*. As well as suggesting lack of improvisation on the widows' part, the technicality and rarity of this expression, which we have also noticed at *Apol.* 86, reveal, more than the simple *humanitas*, the superior knowledge and the Latin education of the person speaking.<sup>33</sup> If we then wanted to push the reasoning a step further, we might say that this use of *ius humanitatis* seems to unveil the author who lies behind the characters, Apuleius. Thanks to this expression, the widows not only resort to the same weapons that Lucius used, but they also try to make those weapons more effective. They achieve this through the tear-jerking presence of a child who has been made fatherless, allegedly, by Lucius' crime, and also by means of a more sympathetic vocabulary. In this respect, the pomposity of *per commune ius humanitatis* flatters the jury with their importance, and the adjective *commune* in particular contributes to Habinek's interpretation of the Hypatan festival "as a procedure whereby the community re-establishes its internal harmony and differentiates between its own civic identity and the world beyond its boundaries".<sup>34</sup> While at *Apol.* 86 *commune* helps oppose the civilized Athenians to the less civilized inhabitants of Sabratha, here it sets Lucius apart from the inhabitants of Hypata. But given the theatricality of the Risus Festival as a whole, readers are likely to suppose that the scene of the widows and their speech were not improvised. Fortunately for Lucius, the unveiling of the three wineskins brings about the end of the mock trial. The reader will never know whether Lucius would have been acquitted, but might imagine that in addition to the evidence against him, the widows' use of the *humanitas* argument would also have been more successful than his.<sup>35</sup> We might add that in the framework of the Risus Festival the technicality of *ius humanitatis*, alongside Lucius' use of *humanitas*, also contributes to what Walsh calls "parody [...] of the procedure and characteristic speech of the law-court".<sup>36</sup> Certainly, this is facilitated by Lucius' skill as an orator, but even more by Apuleius'.<sup>37</sup> His oratorical experience as well as the same technical, typically Latin use of *humanitas* that can also be noticed in the *Apologia* may support the thesis according to which the Risus Festival, or the mock trial of Hypata at the very least,

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33 Cf. above pp. 375–377.

34 Habinek 1990, 54. On ritual and/or apotropaic interpretations of the mock trial cf. also De Trane 2009, 232–234.

35 After all, as De Trane 2009, 214 rightly remarks, neither his speech nor his pathetic gesticulation after the speech seem to allow Lucius the audience' sympathy: all people continuously laugh at him, but no one feels sorry for him.

36 Walsh 1970, 58. Also Walsh 1970, 155; Finkelppearl 1998, 86–88; De Trane 2009, 211.

37 The importance of Lucius' oratorical skill within the mock trial is well highlighted by James 1987, 88. Also De Trane 2009, 212–213.

is originally Apuleian, that is to say that this episode was not present in Lucius of Patrae's *Metamorphoses*.

In conclusion, Apuleius' use of *humanitas* reflects the general tendency of the Second Sophistic, regardless of the appropriateness of defining Apuleius a sophist. The talent to manipulate the concept to his own advantage, making it evoke now exclusion (*Apologia*, the widows in the *Metamorphoses*) now inclusion (Lucius in the *Metamorphoses*), clearly reveals all his oratorical skills, and even reminds us of the sophists of the first generation, who were able to speak, with equal ability to persuade, both in favour of and against a given topic. In the *Apologia*, in particular, in addition to the ideas of education and knowledge, *humanitas*, understood as φιλανθρωπία, is what excludes the uncultivated inhabitants of Sabratha from the elitist group constituted by the Athenians, the two proconsuls Maximus and Avitus, and Apuleius himself. By the same token, in the mock trial of the Risus Festival in *Metamorphoses* 3, Lucius uses the *humanitas* argument to try to persuade the Hypatans to include himself into their community. Yet two Hypatan widows resort to the same concept of value to frustrate Lucius' attempt: this way, not only do they make of *humanitas* a double-edged sword, but also reveal, once and for all, the superior power of rhetoric.<sup>38</sup>

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