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THE EXAMPLE OF THE GRACCHI AND CICERO'S PUBLICATION OF HIS CATILINARIANS[1]

Abstract

The paper is a contribution to the ongoing scholarly debate on the possible editorial revision of Cicero's consular orations. It focuses on one particular feature of the speaker's rhetorical strategy, namely the use of the example of the Gracchi brothers. The analysis of three passages from the *Catilinarians* shows that some of Cicero's references to the past tribunes of the plebs are more relevant to the political climate of 60 BCE than to the original setting of the speeches. It is argued that, due to its various uses of the same historical exemplum, the text as we have it would be a good model for the aspiring orators and the students of rhetoric.

Keywords: Cicero, editorial revision, historical exemplum, the Gracchi, *Catilinarian* orations, fictional orality

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It is highly unlikely that any extant oration of Cicero is an exact reproduction of his original performance. With the exception of the *Post reditum in senatu*, which was delivered *de scripto* ("from manuscript"),[2] his usual practice was to write down the speech after its delivery.[3] Drafts and notes prepared beforehand were sometimes used on specific occasions (e.g. motions proposed in the senate), but otherwise a Roman was expected to speak extempore.[4] If someone decided to publish his speech, it would have been not only difficult to render it word for word, but also somewhat misguided: why pass over the opportunity to polish the "final version" and not take advantage of second thoughts?

Throughout the past century of scholarship, many aspects of Ciceronian oratory have been looked at with a view to determining the degree to which the written version of a speech agrees with its original, e.g. Cicero's reactions to his opponents' and the audience's behavior; the arguments from outside the case (*extra causam*); chronological inconsistency (anachronism); the speaker's treatment of the legal issues, etc.[5] Despite the growing interest of classical scholars in the so-called exemplary discourse,[6] however, historical exempla have not, to the best of my knowledge, been studied from this viewpoint. Therefore, the general objective of this paper is to investigate whether or not the study of exemplum can contribute to the debate. Because there is no way of knowing how the audience responded to particular exempla,[7] our best point of departure seems to be the rhetorical theory. Although an orator did not

[2] Cic. *Planc.* 74; cf. HELM 1979, 2 with n. 5.

[3] Cf. Cic. *Tusc.* IV 55; HUMBERT 1925/1972, 1.

[4] Cf. Cic. *Brut.* 91 with DOUGLAS 1966, 78 ad loc.; Quint. *Inst.* X 7, 30 with HUMBERT 1925/1972, loc. cit.; HELM 1979, 1; FUHRMANN 1990, 55; BLÄNSDORF 2001, 209–210.

[5] See HUMBERT 1925/1972 and the discussion of STROH 1975, 31–54.

[6] For an overview of the recent works on the exemplary discourse/ historical exempla in Roman (republican) culture, see esp. the introductory remarks in BÜCHER 2006 and ROLLER 2018.

[7] See STEMMLER 2000, 148 with n. 21.

always "obey the precepts", the rhetorical handbooks provide us at least with a general view of the audience's expectations.[8] In the present inquiry into possible editorial revisions, therefore, not only the historical background of a given oration, but also the speaker's use of exempla in relation to rhetorical theory is taken into account. As a case study, I have chosen the brothers Gracchi for several reasons: the way in which Cicero refers to them has often been brought forward to demonstrate that exempla are flexible; Quintilian's illustration of one type of exemplum was most likely inspired by Cicero's use of the Gracchi; and finally, they appear three times in Cicero's *Catilinarians*, a body of speeches that has been regarded as considerably revised for publication.[9] Due to space limitations, this paper focuses on these three passages. My goal is not so much to show how the speaker adapted "the use of (historical) exempla in order to suit the audience's preconceptions,"[10] because this aspect of Roman exemplary discourse is well researched,[11] but rather how he could later adjust them to the new circumstances, when the speech was to be published. As the written version was often aimed at students of rhetoric, I argue that the changes Cicero made are largely due to didactic considerations. In what follows, I will first outline briefly the problem of editorial revision in the *Catilinarian* orations and then move on to the analysis of the passages in question.

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[8] See DOUGLAS 1973, 98–99; CRAIG 1993, 3–8.

[9] As opposed, for instance, to the *Pro Cornelio* of 67 BCE, of which only fragments survive. If we can believe Nepos (fr. 38 MARSHALL ap. Hieron. *Contra Ioann. Ierosol.* 12 [*PL* 23.381 MIGNE] = T10 CRAWFORD), the published version of this speech corresponded almost exactly to its original. That being the case, the example of the Gracchi invoked by Cicero (*Corn.* 2 fr. 5 CRAWFORD ap. Asc. 80.7 C = 62.16 St) would have also remained unchanged. For the commentary on this fragment, see CRAWFORD ^{2}1994, 140–141.

[10] VAN DER BLOM 2010, 125.

[11] Cf. n. 5 above and the works of H. VAN DER BLOM herself (esp. 2010 and 2011). Add e.g. SCHOENBERGER 1910; RAMBAUD 1953, 25–54; DAVID 1980, 1998; ROBINSON 1986, 1994; STINGER 1993; HÖLKESKAMP 1996 = 2004; STEMMLER 2000; CASAMENTO 2011; URBAN 2011.

The Publication of Cicero's *Catilinarians*: An Overview of the Problem

Cicero's consular orations have been shown, on the strength of external evidence, to have been published no sooner than three years after their delivery. Such inference can be drawn from a letter to Atticus of June 60 BCE, which is worth quoting here at length (II 1, 3 = 21 SB):

> I'll send my little speeches, both those you ask for and some more besides, since it appears that you too find pleasure in these performances which the enthusiasm of my young admirers prompts me to put on paper [*scribimus adulescentulorum studiis excitati*]. Remembering what a brilliant show your countryman Demosthenes made in his so-called *Philippics* and how he turned away from this argumentative, forensic type of oratory to appear in the more elevated role of statesman, I thought it would be a good thing for me too to have some speeches to my name which might be called 'Consular'. […][12] I shall see that you get the whole *corpus*, and since you like my writings as well as my doings the same compositions will show you both what I did and what I said.[13]

According to most scholars, this paragraph implies that the *orationes consulares* were still unpublished at the time when this letter was written, since Atticus had not seen them so far.[14] Given that over two years had elapsed between their delivery and publication, it is often assumed that Cicero made considerable revisions to adjust the text to the current political

[12] At this point Cicero enumerates the ten speeches in question, with the exclusion of the *Pro C. Pisone* and the *Pro Murena*, which he must have considered strictly 'forensic'. Cf. KRÖNER 1990, 66; CAPE 2002, 118–119.

[13] Tr. D. R. SHACKLETON BAILEY.

[14] The view of LAURAND (1936/1965, 9–10 with notes), that Atticus may have requested these speeches because he wanted either to reread them or make copies of them, has been rejected. See FUCHS 1959, 463; SETTLE 1962, 137–141; BERRY 1996, 55, n. 258; CAPE 2002, 116–120; DYCK 2008, 10 and now somewhat carefully LA BUA 2019, 29–30.

circumstances. The *Catilinarians* are perhaps the best case in point, as the authenticity of the last three speeches had been questioned even in the past.[15] For a long time since, there have been numerous attempts, for instance, to isolate later additions and to detect anachronistic expressions. The scholarly debate as to when these speeches were first published and to what extent their written version corresponds to the delivered one is still ongoing.[16] The customary approach to the problem has been to determine, on the basis of both internal and external evidence, whether certain passages should be considered revisions or not.[17] The present study confines itself to an examination of those portions of the text where the Gracchi are referred to as historical exempla. Here is a brief summary of these passages:

[15] Johann Caspar VON ORELLI (1787–1849) would ascribe them to Tiro, who had supposedly interpolated the passage of the letter to Atticus quoted above in order to present his compositions as written by Cicero himself. This view was rightly rejected long ago. Cf. LAURAND 1936/1965, 10, n. 1; BROŻEK 1960, 65.

[16] The scholarship on the subject up to the 1950s is reviewed by FUCHS 1959, 463–464, n. 3. According to SETTLE 1962, 136–137, some passages that tend to be thought of as additions may in fact have been incorporated into the *Catilinarians* from several unpublished orations which Cicero delivered in connection with the conspiracy between September and December 5, 63 BCE. See further BROŻEK 1960, 64–66, 68; MEIER 1968, 98 (n. 46); BATSTONE 1994, 214, n. 7 for a brief discussion of more recent research and DYCK 2008, 11–12 for some examples. A different position was taken e.g. by MCDERMOTT 1972, who argued for publication of the consular speeches in 63 BCE, soon after their delivery. In general terms, CAPE 1995, 257–259; 2002, 114–120 upholds this view, but not without some reservations (n. 20): "[…] it seems best to say that the speeches were published fairly soon after delivery, probably in 63 or early 62, but quick publication does not rule out the likelihood that Cicero edited them". Recently, MARTIN 2011 has supported the historicity of the fourth *Catilinarian* by calling attention to the exhortative strategy of the speech. According to HELM 1979, 6–8 (who depends largely on STROH 1975 and whose conclusions are described by MARTIN 2011, 314, n. 21 as "ein extremer Fall"), the speeches were published in 60 BCE, but the changes resulting from Cicero's editorial revision date back to the period soon after delivery.

[17] See above all HELM 1979, 94–264.

1. Following the famous exordium of the first oration is a list of people killed by their fellow citizens so that order might be restored to the state (*Cat.* 1, 3 and 4). The speaker praises P. Scipio Nasica and L. Opimius for having the courage to dispose of Tiberius and Caius Gracchus respectively. In order to emphasize the seriousness of the crisis caused by Catiline, Cicero says of Scipio, the *pontifex maximus*, that he *Ti. Gracchum mediocriter labefactantem statum rei publicae privatus interfecit* (§ 3). By employing the adverb *mediocriter* in connection with Tiberius, he plays down the danger the republic was facing back in 133 BCE; by describing Scipio explicitly as *privatus*, on the other hand, he stresses his own responsibilities as a consul.[18] Similarly, C. Gracchus was killed *propter quasdam seditionum suspiciones* (§ 4), meaning that the so-called *SCU*, which was issued against him, is definitely more appropriate for the present situation. Thus, by quoting earlier instances of the extreme measures taken by the senate, Cicero views the *senatus consultum ultimum* within the framework of the *mos maiorum*,[19] a well-established procedure, which he himself should have used against Catiline. This part of the exordium serves to exonerate the senate on the one hand, and to make the consul's duty appear as urgent as possible, on the other.[20]
2. Towards the end of the same speech, Cicero uses these exempla once again for personal motives. He says that

[18] Cf. ROBINSON 1986, 52–53; BÜCHER 2006, 239–240.

[19] See BÜCHER 2006, 240; cf. BÜCHER 2009, 100. The circumstances under which the so-called *SCU* was issued against the Gracchi have recently been explored by APPEL 2013, 22–116. For a summary of the legal aspects of *Cat.* 1, see e.g. MACKENDRICK 1995, 64–65. The complex problem of whether or not the *SCU* was a legally sanctioned procedure during the final years of the republic need not be addressed in the present paper. For the sake of convenience, when speaking of the *SCU* in the following analysis, I omit the qualification "so-called".

[20] Cf. STINGER 1993, 119–120; BATSTONE 1994, 231–232.

the distinguished men of the past not only did not defile themselves by killing Saturninus and the Gracchi, but even enhanced their standing (*Cat.* 1, 29). This statement allowed the speaker both to juxtapose himself with his illustrious predecessors and to curb in advance the criticism (*invidia*) which his policy was likely to attract.[21]

3. Cicero mentions all three notorious tribunes for the third time at the beginning of the fourth *Catilinarian* (§ 4). Again, he belittles the danger the republic was facing because of their actions, in order to present the conspirators captured inside Rome as a much greater threat. This is common to all three passages: the brothers deserved punishment even though their motives may have been just because their activity was harmful to the state; Catiline and his followers, by contrast, attempted a coup and planned to slaughter members of the upper class, with no such just motive. Unlike him, Tiberius Gracchus only sought a second term as tribune of the plebs, while his younger brother's project concerned redistribution of public land.[22]

In general, the speaker avoided mentioning the Gracchi in the speeches before the people (*Cat.* 2, 3), lest he alienate the crowds. When addressing the senators, on the other hand, he presented the brothers' activity as only moderately harmful, but still highly objectionable.[23]

The First *Catilinarian* and Quintilian's Discussion of Exempla

After receiving reports about Manlius' designs to start the revolt by the end of October, Cicero persuaded the senate to pass the *consultum ultimum* on October 21.[24] We know

[21] Cf. ROBINSON 1986, 54; BÜCHER 2006, 241.

[22] Cf. STINGER 1993, 127; Dyck 2008, 215 ad loc.

[23] See BÜCHER 2009, 105 and my remarks below.

[24] See Sal. *Cat.* 29, 2; Plut. *Cic.* 15, 5 with MAGNINO 1963, 52 ad loc., who notes that Cassius Dio (XXXVII 31, 2) wrongly dates the event to October 22. Cf. for instance the discussions of MEIER 1968, 99; GELZER 1969, 84–85;

that the first *Catilinarian* was delivered on November 8.[25] By that time, the speaker must have deemed it appropriate to compare the present situation with previous occurrences of the *SCU*. According to some scholars, however, the example of L. Opimius could not have served Cicero's purpose well, because the *SCU* was issued in 63 BCE under entirely different circumstances than in 121 BCE.[26] The implication to be drawn is that the exemplum would not improve the original argument. This is where rhetorical theory comes to our aid.

If we were to ascribe the first *Catilinarian* to one of the three main genres of oratory, it would probably fall under the category of the "deliberative kind."[27] When it comes to the *genus deliberativum* (δημηγορικόν), Quintilian (*Inst.* V 11, 10), in his discussion of exempla, observes that the best choice for this kind of oratory are the so-called *imparia* ('unequal examples').[28] Whether 'from greater to lesser' (*a maiore ad minus*) or the other way around, the two occurrences compared by means of such exempla are unequal ('dissimilar') to one another with regard to at least one[29] of the following qualities: the status of the agents, the nature of the actions they perform, or the circumstances in which the actions take place. In practical oratory, this inequality normally manifests itself in

MITCHELL 1979, 232–233, and above all APPEL 2013, 169–225 with secondary literature.

[25] E.g. HELM 1979, 97 (with n. 6 for the scholarship up to the 1970s); BONNEFOND-COUDRY 1989, 206 (Nov. 8, hesitatingly); MACKENDRICK 1995, 58; BLÄNSDORF 2001, 212; MARINONE ²2004, 87 with n. 9 for an overview of the other possibilities suggested by various scholars.

[26] See APPEL 2013, 202–203, following DRUMMOND 1995, 96.

[27] On the controversial issue of exactly which genre of rhetoric the first *Catilinarian* belongs to (whether epideictic/ invective or deliberative), see HELM 1979, 110; BATSTONE 1994, 218–219 and DYCK 2008, 12–13. MACKENDRICK 1995, loc. cit., for instance, defines its purpose as "invective, warning".

[28] Cf. Arist. *Rh.* 1368a 29–31; *Rhet. Her.* III 9; COUSIN 1935/1967, 289–290; MARTIN 1974, 121; PRICE 1975, 170, 173; ZORZETTI 1980, 44; LAUSBERG ³1990, 55 (§ 61.2), 124 (§ 228); GAZICH 1990, 93; DEMOEN 1997, 131 with n. 18 and more recently FRANCHET D'ESPÈREY 2010, 68.

[29] Cf. KASTER 2006, 203 on Cic. *Sest.* 37.

the form of an argument *a fortiori*.[30] For Cicero, therefore, to say that Tiberius Gracchus was killed "even though he was not seriously undermining the constitution of the Republic", as was his brother, "on vague suspicions of treason", would make an excellent argument *a fortiori*,[31] given that Catiline, "whose aim it is to carry fire and the sword throughout the whole world [*orbem terrae caede atque incendiis vastare cupientem*]",[32] is still alive (1, 3–4). Similarly, by lumping together various historical figures slain for threatening the well-being of the state, the speaker manages to justify the extreme measures currently being taken as belonging to the *mos maiorum*, as has already been stressed. Nothing in the text, whether looked at as reflecting the actual performance or as a result of editorial revision, seems out of place from a rhetorical perspective.

That is not the case with the other passage from the same speech (1, 29). Previously, the men who were killed served as points of reference and Catiline, who was depicted as deserving to die, as a designate, respectively. Now, the focus is switched from the objects of the action to the agents.[33] The passage in question runs as follows:

> If our leading men and most distinguished citizens have been honoured rather than besmirched by the blood of Saturninus, the Gracchi, Flaccus, and of many before them, I certainly had no call to fear that any wave of unpopularity would flood over me because I have executed this murderer of citizens [*certe verendum mihi non erat ne quid hoc parricida civium interfecto invidiae in posteritatem redundaret*]. If,

[30] Cf. LEEMAN ET AL. 1989, 113 on Cic. *De or.* II 172.

[31] On Tiberius, cf. HELM 1979, 103: "Wenn selbst ein Privatmann einen Revolutionär getötet hat, um wieviel gerechtfertigter wäre es, wenn der Konsul Cicero ebenso handelte!" (emphasis added). In fact, Quintilian did quote Cic. *Cat.* 1, 3 as an example of amplification based on comparison which *incrementum ex minoribus* [= *ex minore ad maius*] *petit* (*Inst.* VIII 4, 9). Cf. LAUSBERG [3]1990, 222 (§ 404).

[32] For the *Catilinarians*, I quote the translations of C. MACDONALD.

[33] Cf. BÜCHER 2009, 105.

> however, it did seriously threaten me, I have always been of the opinion that unpopularity derived from doing what is right is not unpopularity but honour.

This is how Cicero addresses the complaints raised against him by the *patria* in the second speech which he ascribes to her in *Cat.* 1 (§ 27–29) by way of *prosopopoeia*.[34] The imaginary charge to be taken on here is one of *inertia*, the consul's idleness in the face of a major threat to the state.[35] By having the fatherland itself ponder over what course of action is most appropriate, the speaker creates an illusion that all his fellow citizens (§ 27: *si mecum patria,* […] *si cuncta Italia, si omnis res publica*) share the same views and expectations. With the words *quid tandem te impedit? mosne maiorum? at persaepe etiam privati in hac re publica perniciosos cives morte multarunt* (§ 28), the figure of the *patria* picks up the example which I have discussed in the previous paragraphs. Next, she mentions the laws which have been passed concerning the punishment of Roman citizens,[36] and, finally, the latter half of her speech (§ 28–29) is devoted to the consul's fear of *invidia*, 'unpopularity'. Seen from this perspective, Cicero's exemplum seems to be aimed directly at soothing these concerns. At this point in 63 BCE, however, he had not yet been confronted with the question of how to deal with someone convicted of attempting a coup. His immediate purpose during this meeting of the senate was to denounce Catiline's

[34] See e.g. Quint. *Inst.* IX 2, 32, XII 10, 61; cf. on the subject DRAHEIM 1917, 1063; NISBET 1964, 62–63; HELM 1979, 105, 144; STINGER 1993, 121–122; MACKENDRICK 1995, 73; CAPE 2002, 144–145; DYCK 2008, 99 on *Cat.* 1, 18.1–2 and on the *prosopopoeia* in general e.g. MARTIN 1974, 292–293; MAY 1988, 166; LAUSBERG [3]1990, 411–413 (§ 826–829).

[35] See BATSTONE 1994, 255–256.

[36] The three *leges Porciae* of the early second century BCE, which allowed a citizen whom a magistrate had subjected to a degrading punishment to appeal to the people (*provocatio*). Cf. GREENIDGE 1901/1971, 320–323; ROTONDI 1912, 268–269, and more recently WILLIAMSON 2005, 212.

plans and to force him to leave the city.[37] Only later, after the execution of the conspirators, did this wave of unpopularity (*invidia*) flood over him. A large share in creating this political atmosphere belonged to P. Clodius Pulcher, whom Cicero had antagonized in 61 BCE.[38] Cicero's words, which follow the example quoted above, that there are some wicked and ignorant people who would consider his actions cruel and tyrannical should he condemn Catiline (§ 30: *si in hunc animadvertissem, crudeliter et regie factum dicerent*),[39] would have been therefore more apt in the context of 60 BCE.[40] Cicero is careful enough to mention only one, hypothetical victim (*hoc parricida* […] *interfecto*), but the "later" audience would have easily read this as a synecdoche and the entire passage as the speaker's justification of the decisions he made after Catiline left Rome. This exemplum would resonate much better with the audience aware of the events that took place in December, when the conspirators captured inside the city were sentenced to death. It would be also more transparent for the students of rhetoric, able to draw an exact parallel between the respective points of reference and designates.

This passage is what Quintilian might have had in mind when discussing the (*totum*) *simile* type of exemplum. At *Inst.* V 11, 6 he divides similar examples into either *tota* or *ex*

[37] See Sal. *Cat.* 31, 4–7; Plut. *Cic.* 16, 3–5. Cf. Cic. *Cat.* 2, 1; *Mur.* 6, etc.; DRAHEIM 1917, 1063; HELM 1979, 109; CAPE 2002, 145.

[38] For more details, see e.g. Cic. *Sull.* 7 with BERRY 1996, 145 on 7.10; *Att.* I 16, 7–8 = 16 SB, I 19, 6 = 19 SB with the comments of BROŻEK 1960, 74; DRAHEIM 1917, 1062; HELM 1979, 8 (sources listed in n. 20); BENNER 1987, 41, n. 17; KRÖNER 1990, 65; CRAWFORD ²1994, 227–233; MARTIN 2011, 307–308.

[39] Cf. Cic. *Sull.* 29; HELM 1979, 112–113.

[40] Cf. BATSTONE 1994, 245, n. 58 and 252, n. 69. At pp. 263–264 the scholar provides a convenient list of all the occurrences of the word *invidia* in the first *Catilinarian* oration. Similarly, Cicero's words at *Cat.* 4, 20 (*quod si aliquando alicuius furore et scelere concitata manus ista plus valuerit quam vestra ac rei publicae dignitas*) are possibly an allusion to Clodius' activity. See FUCHS 1959, 466 with n. 2. A completely different view is held by G. MARTIN (below, n. 44).

parte similia, the latter of which are called *imparia* (the previous reference to the Gracchi, as we saw, belongs to this category). The example of the former is as follows: *iure occisus est Saturninus sicut Gracchi*. Given that Cicero evokes the Gracchi on numerous other occasions, on what grounds can we identify *Cat.* 1, 29 as Quintilian's source? By looking at how Cicero employs this exemplum elsewhere, we can exclude most of the other possibilities. In general, they were evoked in the orations as either a positive or negative exemplum depending on what kind of audience was being addressed, the senate or the people.[41] In the consular speeches, however, a certain change of attitude towards the Gracchi is apparent. Before the late sixties BCE, Cicero tended to portray them in brighter colors, whereas from the fifties onwards their image was becoming less favorable.[42] In his *Catilinarians*, as F. Bücher observes,[43] Cicero for the first time speaks of the death of the Gracchi as justified. Later on, he usually describes them simply as troublemakers (*seditiosi*), without explicit reference to their killing. The only exception among the extant speeches is *Mil.* 8, but here the names of C. Gracchus and L. Saturninus are absent. Instead, Cicero lists the men responsible for their deaths. If the passage under discussion indeed underlies Quintilian's *iure occisus est Saturninus sicut Gracchi*, it would follow that his example lacks the designate (in this case Catiline) and has two points of reference.[44] If one takes *Cat.* 1, 29 out of its historical context, as Quintilian might have done for educational purposes, it is a good example of a *totum simile* type.

[41] On the flexibility of the Gracchi exemplum, see SCHOENBERGER 1910, 18–22; MACKENDRICK 1995, 463, n. 7; VAN DER BLOM 2010, 103–107, following BÜCHER 2006, 295; and now MANUWALD 2018, xlvii, 168.

[42] On Cicero's use of the Gracchi in his orations, see above all ROBINSON 1986, 41–82; 1994 and BÜCHER 2009. For Cicero's overall judgment on the brothers, consult BÉRANGER 1972. The scholarship up to 2005 is reviewed by SANTANGELO 2007, 488.

[43] BÜCHER 2009, 110–111. Cf. ROBINSON 1986, 76.

[44] Cf. BÜCHER 2006, 283; VAN DER BLOM 2010, 107.

For the audience of 63 BCE, however, this may have seemed a far-fetched parallel, even if only hypothetical.

As befits a speech which is deliberative in tone, both passages I have discussed so far can be classified as coming under the *status qualitatis*: at *Cat.* 1, 3/4 Cicero argues that killing Catiline is the best thing to do, whereas at § 29 he speaks as though Catiline were already dead. The first exemplum is concerned with the future (*Catilina interficiendus est*), while the second aims at justifying an action that took place in the past (*Catilina iure interfectus est/sit*). Again, given that none of this had yet happened, why would Cicero get ahead of himself in trying to prevent in that way the unpopularity resulting from his actions? Unlike the first example, this one might have proved counterproductive in the original setting of 63 BCE. When it comes to the "secondary audience", on the other hand, this argument is valid, in that the speaker addresses a real charge of acting with cruelty and abusing his power as a magistrate.[45]

A Display for Students? The Fourth *Catilinarian*

The debate on the punishment of the conspirators held in custody took place during the meeting of the senate, convened by Cicero, on December 5. After the consul reported on the threat still looming over the state and stressed the necessity of adopting immediate measures, the senators were asked to

[45] For similar reasoning cf. HELM 1979, 106, 109–111, for whom Cicero's statements at *Cat.* 1, 12 and 30, that he will have Catiline executed (under the authority of the SCU) only after the latter leaves Rome, are pointless unless the audience is already aware of the execution of the conspirators. On this ground he specifies December 5, 63 BCE as the *terminus post quem* for the revision of this speech. DRAHEIM 1917, 1063–1064, on the other hand, considered the whole passages of *Cat.* 1 containing exempla (§ 2–6, 22–32) to be later additions. *Contra* MARTIN 2011, 308–312, who argues that Cicero had already had good reasons to be concerned about the consequences of punishing the conspirators in 63 BCE, and that driving Catiline "into exile" could be regarded by the *populares* as an act above the law on the part of the presiding consul.

express their opinions, in order of rank (first the consuls elect, then the *princeps senatus*, the consulars, etc.).[46] Cicero, who presided over the proceedings, took an active part in the debate as the fate of the Catilinarians was being determined.[47] The words he allegedly spoke that day came down to us as the fourth *Catilinarian* oration, which is the only (wholly) extant example of this kind of oratory. This speech was considered by some[48] to be an amalgam of what Cicero had actually said in front of the senate on December 5 – the so-called deliberative kernel – and of themes characteristic of judicial speeches, introduced for the benefit of aspiring orators, especially in the exordium and the peroration. A. Lintott[49] has gone so far as to say that "the fourth [i.e. *Catilinarian* oration] is manifestly a cento" and that "whether its elements are genuine or invented, *In Catilinam* 4 as a whole is fiction – a combination of an introductory *relatio* with an *interrogatio* in the course of a debate". In the exordium, before referring the actual case to the senate, Cicero assures the audience that his own personal safety is of less importance than the well-being of the entire community. Then follows another reference to the Gracchi and Saturninus (*Cat.* 4, 4):

> It is no Tiberius Gracchus that is brought to trial before the bar of your severity for wishing to become a tribune a second time, no Gaius Gracchus for attempting to incite to violence those who

[46] Cf. CAPE 1995, 260, with n. 26 (scholarship on the subject); MARTIN 2011, 312–313.

[47] See e.g. MEIER 1968, 100–101; HELM 1979, 206–210; BONNEFOND-COUDRY 1989, 502, 550–551; CAPE 1995, passim; 2002, 150–151; DYCK 2008, 208. The course of these proceedings is somewhat oversimplified by DRAHEIM 1917, 1062 and STINGER 1993, 127. Besides Cicero, the crucial contributors to the debate included D. Iunius Silanus, C. Iulius Caesar, Ti. Claudius Nero, and M. Porcius Cato, whose respective standpoints need not be summarized for my present purposes. Caesar's part will be touched upon later on.

[48] See WINTERBOTTOM 1982, 62; cf. DYCK 2008, loc. cit. This view, however, has recently been criticized by MARTIN 2011, 308 and passim, who defends the internal consistency of the speech.

[49] LINTOTT 2008, 17. Cf. FUCHS 1959; MEIER 1968, 100.

> sought agrarian reform, no Lucius Saturninus for the murder of Gaius Memmius. There are in custody men who stayed back in Rome to burn the city, to massacre you all [*ad vestram omnium caedem*], to welcome Catiline […].

At first sight, the speaker seems simply to reiterate the argument from lesser to greater (*a minore ad maius*)[50] advanced originally at the beginning of the first oration. The motives of the past tribunes of the plebs were far less malign than those behind Catiline's conspiracy. "The implication", as A.W. Robinson observes,[51] "is that, although the Gracchi deserved the fate they met, the conspirators deserve it much more". (How) would this exemplum fit into Cicero's original line of argumentation? First of all, it is worth noting that, according to some scholars,[52] the speaker's preliminary report most likely began with the words *institui referre ad vos* at § 6, followed by a survey of the conspirators' designs. Ch. Helm further argues that the example of the Gracchi and Saturninus could hardly be reconciled with Cicero's rhetorical goal at the time, since the opinions on them varied, and what the consul required was agreement among all senators, including those who supported the interests of the people. As a consequence, the words *ad vestram omnium caedem* (§ 4, quoted above), as well as the whole sentence with which this paragraph ends,[53] should also be regarded as later additions,

[50] Cf. *Schol. Clun.* ad loc. (270 St): *Tiberius Gracchus, tribunus plebi seditiosissimus, studio repetendi tribunatum multa commisit audacter eoque penas luit. Sed licet alia maiora commiserit, delegit orator quod levius erat, ut esset quo coniuratorum spes videretur audacior.*

[51] ROBINSON 1986, 55. Cf. STINGER 1993, loc. cit.

[52] See HELM 1979, 216–218, following CHAMBALU 1888, 20–21.

[53] Cic. *Cat.* 4, 4 fin.: *id est initum consilium ut interfectis omnibus nemo ne ad deplorandum quidem populi Romani nomen atque ad lamentandam tanti imperi calamitatem relinquatur.* The original audience would easily recognize it as a silly exaggeration, as they knew what both the Allobroges and the conspirators captured at Rome had revealed about Catiline's and his supporters' intentions.

serving to highlight the contrast between the points of reference and the designate.[54]

So far, therefore, we have established why this exemplum was unsuitable to the original setting of the senate meeting on December 5, which raises the question of why he incorporated it into the final version of the speech. This exemplum stands out in terms of its use of the emphatic negatives arranged in an anaphoric sequence (*non Ti. Gracchus* […], *non C. Gracchus* […], *non L. Saturninus* […]).[55] It looks as if Cicero was challenging the view that the present situation was analogical to the riots in which the brothers Gracchi and Saturninus were involved. This kind of refutation of inappropriate exempla[56] would fit well into an oration purporting to form part of a senatorial debate. In fact, later on in the same speech (§ 13) Cicero does question Caesar's standpoint by reminding the audience that L. Caesar (*cos.* 64) argued for death penalty for Lentulus, his brother-in-law.[57] L. Caesar also recalled that his maternal grandfather, M. Fulvius Flaccus, the supporter of C. Gracchus, was slain by a consul's order. Here, once again, the speaker plays down the latter's measures by asking: "What deed had those men done (*quorum quod simile factum*), what plan to destroy the Republic had they made as terrible as the plots of these conspirators?" This argument gains strength if we assume that someone, presumably C. Caesar, had already made the connection between the Gracchi and the conspirators to suggest that none of them deserved capital punishment. Cicero would challenge his statement by denying the similarity between the brothers and Catiline's followers. Unlike the latter, who wanted to burn the city and massacre all the senators, Tiberius merely wished "to become a tribune a second time", and Caius only attempted "to incite to violence

[54] See HELM 1979, 218–219.
[55] Cf. SCHOENBERGER 1910, 64.
[56] See e.g. Arist. *Rh.* 1403a 5–9; *Rhet. Her.* II 46; Cic. *Inv.* I 82.
[57] Cf. ROBINSON 1986, loc. cit.; CAPE 1995, 269; BÜCHER 2006, 241.

those who sought agrarian reform". The argument which Quintilian offers as an illustration of *refutatio* is very instructive in this context. If we are unable to show that something did not happen, it will be crucial to demonstrate that what did happen does not under any circumstances match the present situation (*Inst.* V 13, 24):

> […] if, after the murder of Tiberius Gracchus, Nasica were defended by the example of Ahala, who killed Maelius, we could argue that Maelius aimed to be king [*regni adfectatorem*], whereas Gracchus had only brought forward popular laws, and that Ahala was Master of the Horse [*magistrum equitum*], and Nasica simply a private citizen [*privatum*].[58]

This is, I think, how Quintilian understood the notion of dissimilarity, i.e. either a faulty exemplum itself or an argument advanced to counter a faulty exemplum.[59] Perhaps, therefore, Cicero formulated his argument in this way to make it appear to reinforce L. Caesar's impartial input to the ongoing debate and, at the same time, to strongly oppose C. Caesar's proposal. This exemplum, as was suggested above, could prove harmful to his case during the actual meeting of the senate in 63 BCE but, given Caesar's increasing power and influence in the following years, a deft argument directed at him would certainly entertain Cicero's "young admirers".[60]

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[58] Tr. D.A. RUSSELL.

[59] Similarly PRICE 1975, 158–163, who divided the *dissimilia* into (1) faulty exempla, easy to refute for the opponent, and (2) those which include a "non" proviso, i.e. "it is not the case that…", and for whom "a 'dissimile' argument is one in which there is one point of dissimilarity between *illustrans* [= the point of reference] and *illustrandum* [the designate] which is not in the main verb".

[60] *Contra* CAPE 1995, 269–272, who maintains that Cicero, by usurping a *popularis* vocabulary and turning Caesar's argument around, aims to appear "popular" while supporting an "unpopular" solution. "[T]his position", we read at p. 271, "does not reflect a later attempt to justify Cicero's actions or throw responsibility onto the Senate, […] it was the role a presiding magistrate

This brings us back to the question of why Cicero published his consular orations. At the beginning of the abovementioned paragraph of the letter to Atticus, as we have seen, he states clearly that it was the enthusiasm of his young admirers that prompted him to put these orations on paper (*scribimus adulescentulorum studiis excitati*).[61] According to one expert, moreover, by the year 60 BCE he was one of the few speakers, if not indeed the only one, whose orations could serve as a model for the students of rhetoric.[62] Changes made "for the benefit" of the students could not be significant because, as W. Stroh points out, only then can a written version of the speech fulfill its pedagogical function, when it stays true to its original, delivered in a certain historical reality.[63] Minor revisions such as those we are currently discussing, however, would hardly dissociate a speech from reality, especially because the use of exempla in general, and that of the Gracchi in particular, was flexible (cf. n. 40).

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was expected to play". The scholar, however, does not take the exempla into account in his discussion.

[61] LEEMAN 1982, 198–199 saw the educational value of a given oration as a main reason for its publication (cf. BROŻEK 1960, 68–69; FUHRMANN 1990, 55–56; VASALY 1993, 9 with n. 12; *contra* VAN DER BLOM 2010, 184, n. 39), while NARDUCCI 1997, 166–167 (quoting Cic. *Att.* II 1, 2–3 = 21 SB) considered the political and pedagogical factors equally important. With reference to this passage, MANUWALD 2007, 58 wrote that "A combination of self-presentation and self-fashioning, [...] education of young orators and literary intentions, [...] seems to be the most plausible motivation for the publication of Cicero's speeches".

[62] See SETTLE 1962, 128–129. Cf. BÜCHER 2006, 63–64.

[63] See STROH 1975, 53 (with reference to LAURAND 1936/1965, 15–16): "Aber [...] gerade die *oratio scripta* kann ihren neuen Zweck, den Zweck der Belehrung durch das Musterhafte, nur dann erreichen, wenn sie ihrem Wesen nach mündliche Rede in historischer Situation bleibt, anders gesagt: wenn sie dem Schüler zeigt, wie unter bestimmten Umständen, vor bestimmten Zuhörern, in bestimmter Angelegenheit zu reden ist" (original emphasis). For the impact the young readers may have had on Cicero' editorial practice, see KRÖNER 1990 and ACHARD 2000. Cf. recently the general discussion in LA BUA 2019, 27–30.

Conclusions: Exempla and Fictional Orality

I have already called attention to A. Lintott's remark that the fourth *Catilinarian* "as a whole is fiction". In what sense does this notion apply to Ciceronian oratory in general? According to M. Fuhrmann, the text of a Roman speech should be thought of as fictional orality ("fiktive Mündlichkeit"), because, in the course of the process of publication, the speech becomes detached from its original purpose. The written version, however, in order to preserve authenticity, cannot deviate significantly from its original. By putting his words on paper, a speaker aims either to display his rhetorical skills or to promote certain ideas but, as has just been pointed out, he may also have young students in mind.[64] Since the use of exempla was a deeply rooted practice of Roman orators, it is hard to tell whether a given historical exemplum better suits the speaker's original or secondary purpose. In ancient rhetorical theory there is but one piece of information that I can find about the relation between the *oratio scripta* and *habita* with regard to exemplum. Namely, the 'teachers of rhetoric' recommended its use in the spoken version. Quintilian, who disagrees with this assessment, expressed the following opinion in the last book of *The Orator's Education* (*Inst.* XII 10, 51):

> These subtle teachers (as they have persuaded themselves and others that they are) have pronounced that the Example is more suited to the spoken word, and the Enthymeme to the written [παράδειγμα *dicendo*, ἐνθύμημα *scribendo esse aptius tradiderunt*]. In my view, however, speaking well and writing well are one and the same thing, and a written speech is nothing but the record of a spoken pleading.[65]

[64] See FUHRMANN 1990, 55–56, 61.

[65] Tr. D. A. RUSSELL. Cf. on this passage HELM 1979, 9, n. 22; LA BUA 2019, 39.

It is difficult to identify those self-proclaimed teachers.[66] Aristotle had said of παραδείγματα that they are more suitable to speeches in the assembly (*Rh.* 1418a 1–2), while a little earlier (1413b 3–10) he stressed the differences between the delivery and the oration recorded in writing.[67] At any rate, it is precisely because rhetorical theory recommended exempla for oral performances that they occur so frequently in the published speeches. Given that one of the main features of exemplum was its flexibility, however, a speaker could invoke the same historical character in a number of ways, depending on his rhetorical goal. If the purpose of a written version of the speech does not coincide with its original purpose in every respect, the author can easily adapt his use of exempla so that they fit the circumstances under which the process of revision takes place.

This was most likely the case with the example of the Gracchi in Cicero's *Catilinarians*. Some arguments which he advances in connection to this historical exemplum are clearly more relevant to the political climate of 60 BCE, when his position was growing weaker and Caesar's influence stronger. This holds especially true for the fourth *Catilinarian* and for Cicero's response to the *patria* in his first oration delivered in front of the senate (§ 29). In the latter passage, the example of the Gracchi serves to justify *ex post* his execution of the conspirators; in the former (*Cat.* 4, 4), its inclusion helps maintain the illusion of an exchange of opinions with Caesar. One of them is simply dispensable, whereas the other seems to weaken Cicero's argument during the debate concerning the punishment of the conspirators, as it would certainly alienate those of the senators who were sympathetic to *popularis* views. One of the reasons why Cicero changed the original exempla or introduced one that he had not employed by the end of 63

[66] Cf. COUSIN 1935/1967, 670; AUSTIN [2]1954, 193 ad loc.: "masters in finesse".

[67] Cf. BLÄNSDORF 2001, 207.

BCE was the fact that the political situation was different later in the 60s BCE. The reworking of the Gracchi exemplum is best explained, however, as being the result of Cicero's educational purpose. *Cat.* 1 can be viewed as an oration in which the same example was employed in two different ways, once as an argument *a fortiori* (*impar*) and then a second time as a *totum simile*. In *Cat.* 4 the brothers are referred to for yet another purpose, namely to refute an argument advanced by one of the opponents (*dissimile*). Thus, the example of the Gracchi occurs three times in the published version of the *Catilinarian* orations, and each time its use falls under a different category within Quintilian's classification. Should a student of rhetoric need a model of how to employ exemplum efficiently, reading these two orations would certainly be a good place to start. Unlike many other rhetorical devices, historical exempla were by no means static. If a speaker modified and/or added them during the editorial revision, it would not ostensibly change his main argument. Therefore, they certainly deserve the attention of those who are studying fictional orality in Cicero.

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