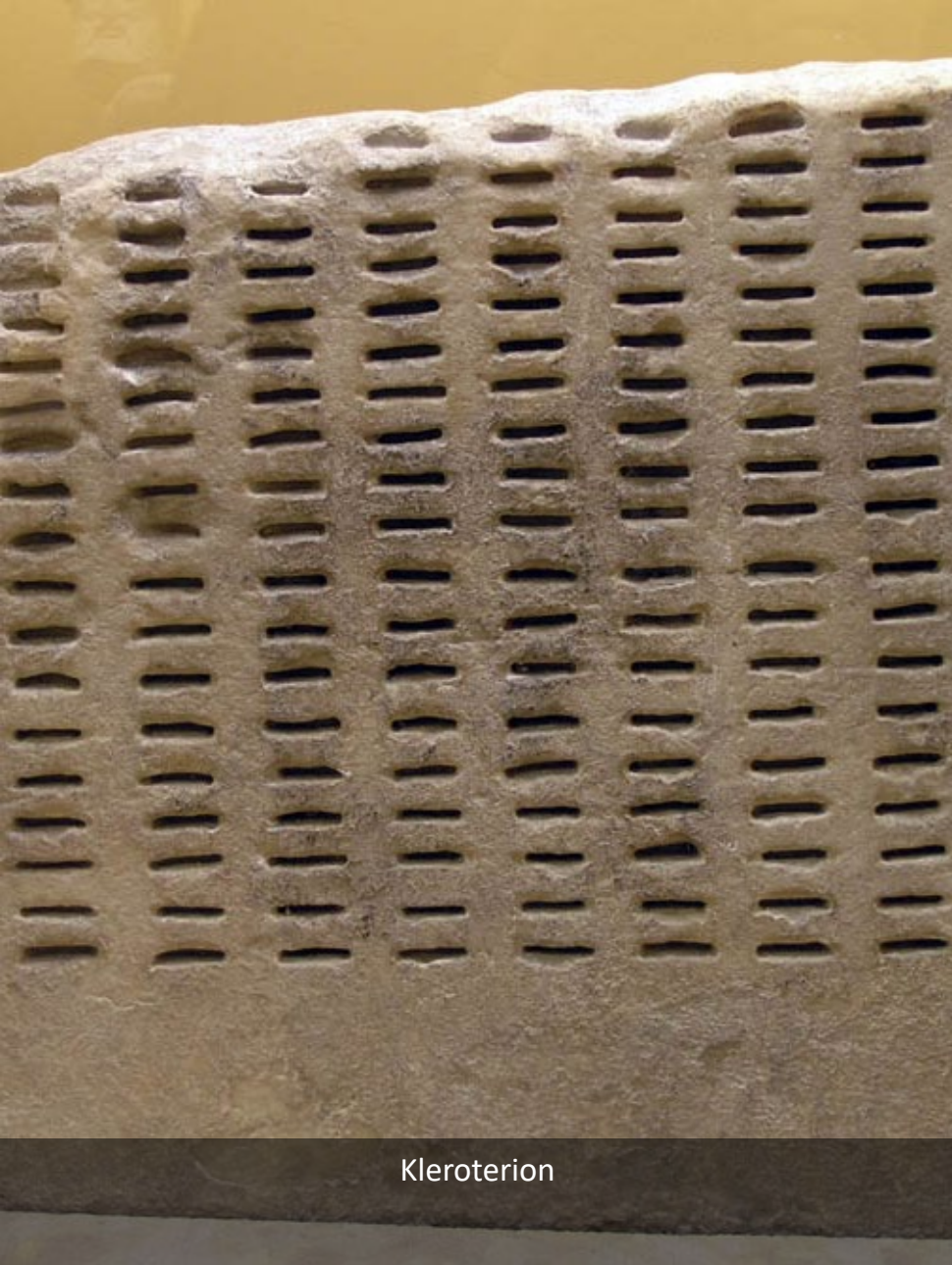


Laws, Gender and Sex

Aischines Against Timarchus



Kleroterion

Laws and Courts in Classical Athens: Basics

- Short, easily understandable laws
- No judges or lawyers
- Smallest court 51 jurors – largest 1000+
- Jurors chosen by lot from all citizens over 30
 - 6000 chosen every year
- Courts run around 200 days, 4-40 cases per day, multiple courts
- Major effort to avoid corruption or bribery
- Evidence:
 - Inscriptions (few)
 - Speeches (many more) – works of the great orators
 - Survival due to oratorical schools later
 - Published vs real version
 - Normally elite clients (who has the money to employ a major orator?)

Speeches: The basics



**Addressed to an audience
of jurors**



NOT amateurs



**Written by professional
orators**

What survives is the uncommon,
not the common

Most people would speak on their
own

Commissioned speeches from
many orators – we only have the
best



Aim is to win the case



**They use laws, evidence,
witness statements,
documents**

Aischines

- 4th century orator and politician
- Connected to Phocion and Eubulus
- Pro-Macedonian → opponent of Demosthenes
- Held several posts in Athenian magistracies
- NOT a speechwriter (uncommon in the surviving orators)
- All surviving speeches are forensic, but political
- Known for clarity of argument and beautiful speech. Also for fierceness.

Against Timarchus

- A POLITICAL speech
 - Timarchus was connected to Demosthenes
 - Was prosecuting Aeschines re the Embassy at the time
 - Timarchus was politically active – had held some offices
 - Aischines won! Timarchus had to leave Athens
- 345 BCE
- Focuses on Timarchus' personal vices
- Law: "If any one attempts to speak before the people who beats his father or mother, or fails to support them or to provide a home for them. Or the man who has failed to perform all the military service demanded of him, or who has thrown away his shield. Or the man who has debauched or prostituted himself. Or the man who has squandered his patrimony or other inheritance. Let any citizen who chooses and is competent thereto, challenge him to a suit of scrutiny." Ais. 1.28-32 (excerpts)

Child prostitution

- “if **any boy is let out for hire as a prostitute**, whether it be by father or brother or uncle or guardian, or by any one else who has control of him, prosecution is not to be against the boy himself, **but against the man who let him out for hire and the man who hired him**; against the one because he let him out for hire, and against the other, it says, because he hired him. **And the law has made the penalties for both offenders the same. Moreover the law frees a son, when he has become a man, from all obligation to support or to furnish a home to a father by whom he has been hired out for prostitution**; but when the father is dead, the son is to bury him and perform the other customary rites.” Ais. 1. 13

Law on Hubris

- The law against outrage, which includes all such conduct in one summary statement, wherein it stands expressly written: if any one **outrage** a child (and **surely he who hires, outrages**) or a man or woman, or any one, free or slave, or if he commit any unlawful act against any one of these. Here the law provides prosecution for outrage, and it prescribes what bodily penalty he shall suffer, or what fine he shall pay...Now perhaps some one, on first hearing this law, may wonder for what possible reason this word “slaves” was added in the law against outrage. But if you reflect on the matter, fellow citizens, you will find this to be the best provision of all. For it was not for the slaves that the lawgiver was concerned, but he wished to accustom you to keep a long distance away from the crime of outraging free men, and so he added the prohibition against the outraging even of slaves. In a word, he was convinced that in a democracy that man is unfit for citizenship who outrages any person whatsoever. Ais. 1.15-7

From boy to man

- And I beg you, fellow citizens, to remember this also, that here the lawgiver is not yet addressing the person of the boy himself, but those who are near him, father, brother, guardian, teachers, and in general those who have control of him. **But, as soon as the young man has been registered in the list of citizens, and knows the laws of the state, and is now able to distinguish between right and wrong, the lawgiver no longer addresses another, Timarchus, but now the man himself.** Ais. 1.18

Adult male prosecution & politics

- Careful where he moves away from the law into interpretation

- And what does he say? “If any Athenian,” he says, “shall have prostituted his person, he shall not be permitted to become one of the nine archons,” because, no doubt, that official wears the wreath; “nor to discharge the office of priest,” as being not even clean of body; “nor shall he act as an advocate for the state,” he says, “nor shall ever hold any office whatsoever, at home or abroad, whether filled by lot or by election; nor shall he be a herald or an ambassador” —nor shall he prosecute men who have served as ambassadors, nor shall he be a hired slanderer— “nor ever address senate or assembly,” not even though he be the most eloquent orator in Athens. And if any one contrary to these prohibitions, the lawgiver has provided for criminal process on the charge of prostitution, and has prescribed the heaviest penalties therefor. Ais. 1.19-20



The political man = citizen

- Rights and obligations of citizenship
 - Equality before the law
 - Access to lawcourts
 - Military service
 - !!Political participation!!
 - In assembly and courts
 - As magistrate
 - As speaker

Masculinity and Oratory = The glorious past

- And so decorous were those public men of old, **Pericles, Themistocles, and Aristeides** (who was called by a name most unlike that by which Timarchus here is called), **that to speak with the arm outside the cloak, as we all do nowadays as a matter of course**, was regarded then as an ill-mannered thing, and they carefully refrained from doing it. And I can point to a piece of evidence which seems to me very weighty and tangible. I am sure you have all sailed over to Salamis, and have seen the statue of **Solon** there. You can therefore yourselves bear witness that in the statue that is set up in the Salaminian market-place Solon stands with his arm inside his cloak. Now this is a reminiscence, fellow citizens, and an imitation of the posture of Solon, showing his customary bearing as he used to address the people of Athens. Ais. 1. 25

Masculinity and Oratory - Timarchus

- See now, fellow citizens, how unlike to Timarchus were Solon and those men of old whom I mentioned a moment ago. They were too modest to speak with the arm outside the cloak, but this man not long ago, yes, only the other day, **in an assembly of the people threw off his cloak and leaped about like a gymnast, half naked, his body so reduced and befouled through drunkenness and lewdness that right-minded men, at least, covered their eyes, being ashamed for the city, that we should let such men as he be our advisers** Ais. 1.26

A blast from the past: Kleon

- When Pericles died, Nicias, who died in Sicily, held the headship of the men of distinction, and the head of the People was Cleon son of Cleaenetus, who is thought to have done the most to corrupt the people by his impetuous outbursts, and was the first person to use bawling and abuse on the platform, and to gird up his cloak before making a public speech, all other persons speaking in orderly fashion. Then after these Theramenes son of Hagnon was chief of the others and Cleophon the lyre-maker of the People, who first introduced the two-obol dole; he went on distributing this for a time, but afterwards Callicrates of the Paeanian deme abolished it, being the first person to promise to add to the two obols another obol. Both of these two leaders were afterwards condemned to death; for even though the multitude may be utterly deceived, subsequently it usually hates those who have led it to do anything improper. Ps-Arist. AthPol 28.3