

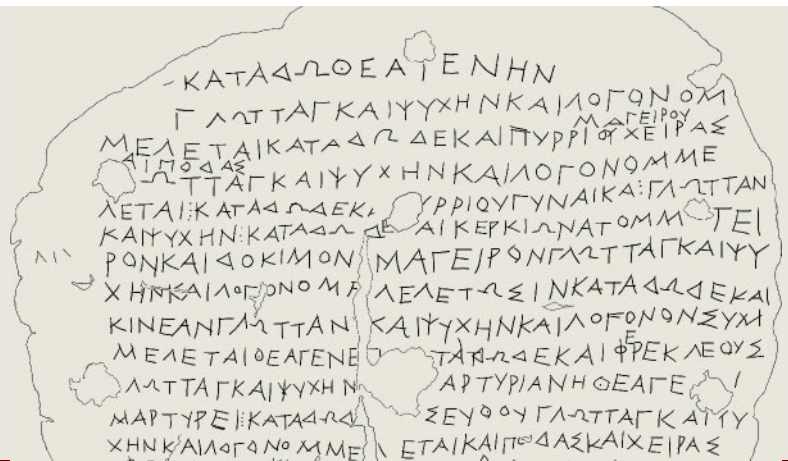
Zinon Papakonstantinou

Cursing for Justice

Magic, Disputes, and the Lawcourts
in Classical Athens

HAMBURGER STUDIEN
ZU GESELLSCHAFTEN
UND KULTUREN
DER VORMODERNE
BAND 14

Franz Steiner Verlag





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*Magic, Disputes, and the Lawcourts
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Zinon Papakonstantinou

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Editorial

In der Reihe *Hamburger Studien zu Gesellschaften und Kulturen der Vormoderne* haben sich geisteswissenschaftliche Fächer, die u. a. die vormodernen Gesellschaften erforschen (Äthiopistik, Alte Geschichte, Byzantinistik, Islamwissenschaft, Judaistik, Theologie- und Kirchengeschichte, Klassische Archäologie, Klassische und Neulateinische Philologie, Mittelalterliche Geschichte) in ihrer gesamten Breite zu einer gemeinsamen Publikationsplattform zusammengeschlossen. Chronologisch wird die Zeit von der griechisch-römischen Antike bis unmittelbar vor der Reformation abgedeckt. Thematisch hebt die Reihe zwei Postulate hervor: Zum einen betonen wir die Kontinuitäten zwischen Antike und Mittelalter bzw. beginnender Früher Neuzeit, und zwar vom Atlantik bis zum Hindukusch, die wir gemeinsam als „Vormoderne“ verstehen, zum anderen verfolgen wir einen dezidiert kulturgeschichtlichen Ansatz mit dem Rahmenthema „Sinnstiftende Elemente der Vormoderne“, das als Klammer zwischen den Disziplinen dienen soll. Es geht im weitesten Sinne um die Eruierung sinnstiftender Konstituenten in den von unseren Fächern behandelten Kulturen.

Während Kontinuitäten für die Übergangszeit von der Spätantike ins Frühmittelalter und dann wieder vom ausgehenden Mittelalter in die Frühe Neuzeit als zumindest für das lateinische Europa relativ gut erforscht gelten können, soll eingehender der Frage nachgegangen werden, inwieweit die Kulturen des Mittelalters im Allgemeinen auf die antiken Kulturen rekurrierten, sie fortgesetzt und weiterentwickelt haben. Diesen großen Bogen zu schließen, soll die neue Hamburger Reihe helfen. Es ist lohnenswert, diese längeren Linien nachzuzeichnen, gerade auch in größeren Räumen. Vielfältige Kohärenzen werden in einer geographisch weit verstandenen mediterranen Koine sichtbar werden, wobei sich die Perspektive vom Mittelmeerraum bis nach Zentralasien erstreckt, ein Raum, der für die prägende hellenistische Kultur durch Alexander den Großen erschlossen wurde; auch der Norden Europas steht wirtschaftlich und kulturell in Verbindung mit dem Mittelmeerraum und Zentralasien – sowohl aufgrund der Expansion der lateinischen Christenheit als auch über die Handelswege entlang des Dnepr und der Wolga.

Der gemeinsame Impetus der zur Reihe beitragenden Wissenschaftlerinnen und Wissenschaftler besteht darin aufzuzeigen, dass soziale Praktiken, Texte aller Art und Artefakte/Bauwerke der Vormoderne im jeweiligen zeithistorischen und kulturellen Kontext ganz spezifische sinn- und identitätsstiftende Funktionen erfüllten. Die Ge-

meinsamkeiten und Alteritäten von Phänomenen – die unten Erwähnten stehen lediglich *exempli gratia* – zwischen Vormoderne und Moderne unter dieser Fragestellung herauszuarbeiten, stellt das Profil der Hamburger Reihe dar.

Sinnstiftende Elemente von Strategien der Rechtsfindung und Rechtsprechung als Bestandteil der Verwaltung von Großreichen und des Entstehens von Staatlichkeit, gerade auch in Parallelität mit Strukturen in weiterhin kleinräumigen Gemeinschaften, werden genauso untersucht wie Gewaltausübung, die Perzeption und Repräsentation von Gewalt, Krieg und Konfliktlösungsmechanismen. Bei der Genese von Staatlichkeit spielen die Strukturierung und Archivierung von Wissen eine besondere Rolle, bedingt durch ganz bestimmte Weltvorstellungen, die sich z. T. auch in der Kartographie konkret niederschlugen. Das Entstehen von Staatlichkeit ist selbstverständlich nicht nur als politischer Prozess zu verstehen, sondern als Gliederung des geistigen Kosmos zu bestimmten Epochen durch spezifische philosophische Ansätze, religiöse Bewegungen sowie Staats- und Gesellschaftstheorien. Diese Prozesse der *longue durée* beruhen auf einer Vielzahl symbolischer Kommunikation, die sich in unterschiedlichen Kulturen der Schriftlichkeit, der Kommunikation und des Verkehrs niedergeschlagen hat. Zentrum der Schriftlichkeit sind natürlich Texte verschiedenster Provenienz und Gattungen, deren Gehalt sich nicht nur auf der Inhaltsebene erschließen lässt, sondern deren Interpretation unter Berücksichtigung der spezifischen kulturellen und epochalen Prägung auch die rhetorische Diktion, die Topik, Motive und auktoriale Intentionen, wie die *aemulatio*, in Anschlag bringen muss. Damit wird die semantische Tiefendimension zeitlich weit entfernter Texte in ihrem auch symbolischen Gehalt erschlossen.

Auch die für uns teilweise noch fremdartigen Wirtschaftssysteme der Vormoderne harren einer umfassenden Analyse. Sinnstiftende Elemente finden sich auch und v. a. in Bauwerken, Artefakten, Grabmonumenten und Strukturen der jeweiligen Urbanistik, die jeweils einen ganz bestimmten Sitz im Leben erfüllten. Techniken der Selbstdarstellung dienten dem Wettbewerb mit Nachbarn und anderen Städten.

Glaubenssysteme und Kulturpraktiken inklusive der „Magie“ sind gerade in ihrem Verhältnis zur Entstehung und Ausbreitung des Christentums, der islamischen Kultur und der Theologie dieser jeweiligen Religionen in ihrem Bedeutungsgehalt weiter zu erschließen. Eng verbunden mit der Religiosität sind Kulturen der Ritualisierung, der Performanz und des Theaters, Phänomenen, die viele soziale Praktiken auch jenseits der Kultausübung erklären helfen können. Und im intimsten Bereich der Menschen, der Sexualität, den Gender-Strukturen und dem Familienleben gilt es ebenfalls, sinn- und identitätsstiftenden Elementen nachzuspüren. Medizinische Methoden im Wandel der Zeiten sowie die Geschichte der Kindheit und Jugend sind weitere Themengebiete, deren Bedeutungsgehalt weiter erschlossen werden muss.

Gemeinsamer Nenner bleibt das Herausarbeiten von symbolträchtigen Elementen und Strukturen der Sinnhaftigkeit in den zu untersuchenden Kulturen gerade im kulturhistorischen Vergleich zu heute.

Die Herausgeber

For Elif

Table of Contents

Preface	11
Chapter 1	
Introduction	13
Chapter 2	
Binding Curses in Classical Athens: Sorcerers, Agents, and Litigation	23
2.1 Binding Curses and the Public Sphere in Classical Athens	23
2.2 Curse Tablets in the Realm of Athenian Litigation	33
2.3 Sorcerers and Curse Tablets	38
2.4 Conclusion	42
Chapter 3	
Interpersonal and Group Conflict in Classical Athens:	
Broad-based Disputes	43
3.1 Disputes in a Diachronic and Comparative Perspective	43
3.2 Support Networks	48
3.3 Mediation, Arbitration, and Litigation in Broad-based Disputes	53
3.4 Paradigms of Argument	58
3.5 Conclusion	61
Chapter 4	
Broad-based Disputes in Action	63
4.1 Lysias 3 (<i>Against Simon</i>)	64
4.2 Lysias 4 (<i>On a Wound by Premeditation</i>)	67
4.3 Isaeus 6 (<i>On the Estate of Philoktemon</i>)	69
4.4 Demosthenes 21 (<i>Against Meidias</i>)	71
4.5 Broad-based Disputes in Forensic Oratory: Information Control and Public Reception	74
4.6 Conclusion	84

Chapter 5

Curse Tablets in Athenian Disputes	86
5.1 A Dispute Involving Trierarchs – <i>SLCTA</i> no. 4	87
5.2 Disputes and Curses among Athenian Elites	93
5.3 Disputes and Space: Residential, Demotic, and Professional Affiliations in Athenian Curse Tablets	98
5.4 <i>SGD</i> 48: Politicians, Peddlers, and Prostitutes	105
5.5 Women in Athenian Disputes and Curse Tablets	108
5.6 Broad-based Disputes and Litigation in Other Athenian Curse Tablets	112
5.7 Conclusion	116

Chapter 6

Athenian Curse Tablets: Agency and Emotions	118
6.1 Individual and Collective Agency	118
a. Agency, Power, and Structure: The Case of Athens	120
b. High-Level Agency in Athens	122
c. Subjectivity and Agency in Athenian Disputes and Curse Tablets	126
6.2 Disputes, Emotions, and Curse Tablets	127
6.3 Broad-based Disputes, Agency, and Magic: The Case of the Athenian <i>dikastai</i>	134
6.4 <i>Dikastai</i> in Athenian Litigation and Curse Tablets	138
6.5 Conclusion	145

Chapter 7

Conclusion	147
-------------------------	-----

Abbreviations	152
----------------------------	-----

Bibliography	153
---------------------------	-----

Indexes	163
----------------------	-----

A. Curse Tablets	163
B. General Index	165

Preface

The present book brings together a long-standing interest in Greek disputes, law, and magic, especially binding curses. While there is much evidence for these themes in all periods of Greek antiquity, the present study focuses on Classical Athens. I should state at the outset that the present book is neither a comprehensive survey of the practice of magic nor an exhaustive assessment of law and disputes in Classical Athens. My aim has been rather modest: to link in scholarly discourse the symbolism and practice of binding curses to dominant modes of Athenian dispute behavior and its manifestations (e.g. methods of communication, emotive states, litigation) in a manner that demonstrates the necessity for a processual and contextual analysis. I perceive scholars and other advanced students of Classical Athens as the principal target audience of the book. But it could potentially be of assistance in a comparative context, in studies of magic, disputes, and agency.

In writing the book, I have benefitted tremendously from the insightful work of numerous scholars from both sides of the Atlantic. I have made every effort to acknowledge these intellectual debts in the discussion and notes. To be sure, scholarly nuances abound and will undoubtedly continue to exist, especially in connection with issues related to law, disputes, and magic in Athens. I see such diversity and multivocality as a positive token of the dynamism of our field. It is only hoped that the ensuing discussion will complement and further enhance wider debates as well as contribute to the analysis of finer points in studies of all persuasions, irrespective of methodological perspective.

The bulk of the present manuscript was written while I held a Fellowship for Experienced Researchers awarded by the Alexander von Humboldt Foundation. I am indebted to the Alexander von Humboldt Foundation for the fellowship, but also for the professionalism and efficiency of all the Foundation staff that I came in contact with – they all did their absolute best in dealing with logistical matters and making sure that I had everything I needed to pursue my research. I held the fellowship intermittently from 2013 to 2016, hosted by the University of Hamburg. I am grateful to Professor Dr. Werner Riess who acted as academic host and made sure that there were always optimal conditions for my work. Moreover, he provided invaluable feedback (including on the complete manuscript), support, and camaraderie throughout my stay in Hamburg and beyond. My heartfelt thanks also go to the entire university community, and most

notably to the faculty, students (especially my research assistant Elisabeth Schick), and staff at the Ancient History section of the Department of History at the University of Hamburg. They generously welcomed me and assisted me in numerous ways, academically or otherwise, during my stay in Hamburg.

Among scholars working on Athenian magic, disputes, and culture, special thanks go to Dr. Jaime Curbera for his collaboration, for allowing me to publish his drawing of *DT* 49 in the cover of the book, and for sending me copies of his, sometimes unpublished, work; to Professor Felice Costabile for providing me with copies of his work; to Dr. Sara Chiarini for sending me a copy of her *Habilitationsschrift* before publication; as well as to the anonymous reviewer of the *Hamburger Studien zu Gesellschaften und Kulturen der Vormoderne* for the insightful feedback. Needless to say, I am solely responsible for any remaining shortcomings in the ensuing discussion. Earlier versions of chapters or sections of this book have been presented in conferences, research seminars or invited lectures in universities in the USA (Northwestern University; University of Chicago; as well as in two Annual Meetings of the Society for Classical Studies), Germany (University of Hamburg; and at the 1st Colloquium Atticum, held also in Hamburg), Canada (Western University), Greece (Netherlands Archaeological Institute in Athens) and Turkey (Akdeniz University). I thank the hosts and audiences on all these occasions for giving me the opportunity to present my work and for providing their valuable feedback.

My wife Elif was steadfastly supportive and inspirational throughout the writing of yet another book. Her enthusiasm for scholarly inquiry and her insightful comments during our countless conversations on ancient Athens, as well as on broader issues of historical theory and methodology, helped me clarify many points, suggested alternative avenues of analysis, and motivated me to pursue my research. For all these reasons, this book is rightfully dedicated to her.

Chicago, August 2020

Chapter 1

Introduction

Sometime in the second half of the fourth century,¹ a sorcerer in Athens received an unusual in its scope, though not extraordinary in its content, commission. A client, possibly a man of elevated social standing, handed over a list of nearly one hundred individuals with a request that they should be targeted in a magical binding curse. Such curses were the stock-in-trade for sorcerers who were lured to Athens from many parts of the Greek-speaking world by the opportunities afforded by a populous and affluent city. The sorcerer in question duly executed his client's commission in the form of a single curse tablet (what is today known as *SGD* 48) which was then deposited west of the urban center of Athens, possibly near a temple.²

The tablet itself contains the most extensive list of targets among extant binding curses from Classical Athens, but other features of the curse also stand out. The ferocious opening plea to “bind, bury, wipe out from mankind”³ all targets is remarkable for its aggressiveness, yet paralleled in other Athenian acts of magic. The list of the targets also invites comparisons to other Athenian curses, e. g. regarding the binding of individuals of diverse genders, ages, professions, and social classes.

Texts like *SGD* 48, as well as most other curse tablets from Athens, open a window to the microcosm of experiences and interactions of Athenians (by which I mean all residents of Attica, irrespective of legal status, gender or age) as they went about their daily lives in their shared lifeworld. But is *SGD* 48 and other curse tablets in a position to illuminate, and even enhance, our assessment of Classical Athenian society and culture? To answer that question, we first must attempt to understand what Athenians thought that curse tablets could accomplish. Curse tablets were certainly not formal scripts (in the sense that e. g. a decree approved by the Athenian assembly and published on a stone inscription was) but were nevertheless formulaic and the end products of a ritual process, much like many of the formal texts produced in

1 Unless otherwise indicated, all ancient dates are BCE. Internal cross references refer to chapters or chapter sections (e. g. 4.5).

2 For this tablet and its provenance see Ziebarth 1934, 1A and 1B; Jordan and Curbera 2008.

3 καταδῶ, κατορύττω, ἀφανίζω ἐξ ἀνθρώπων.

Classical Athens. However, even from the brief recreation of the process that led to the production of a tablet like *SGD* 48, it becomes apparent that the discourses and values that mediated the narrative of this text differed, to a certain extent, from the rhetoric and process expected in state-sanctioned, formal contexts (e.g. a court of law). Curse tablets emerge as communicative actions that to some extent did not unequivocally espouse all aspects of the normative framework and agenda that regulated – on a statutory basis, at least – the interaction of people in controlled/formal contexts.

Such a preliminary assessment of the wider position of binding curses in the discursive universe of Athenian social life is of course contingent on the circumstances, motivations, and emotive states behind each curse. If, as commonly assumed, animosities, rivalries, and conflicts can be deduced behind curse tablets and other acts of magic, then what sort of conflict could lie behind a curse tablet with nearly 100 targets like *SGD* 48, or any other Athenian curse tablet that aimed at incapacitating diverse groups of Athenians?⁴ At times Athenian curse tablets suggest something of the social milieu of the conflict, e.g. by indicating the professions of targets or by pinpointing to individuals known from other sources. Yet prosopography, useful as it might be, has its limitations in any attempt to understand conflict. Both in premodern and modern societies conflict is a complex kaleidoscope of relationships, emotions, aggressions, and negotiations. The totality of experiences related to a situation of conflict is usually fleeting for most observers. In the case of Athens, curse tablets are mere fragments of such situations of conflict. Nonetheless, curse tablets are indicative of salient patterns of disputing behavior in Athens, especially during the fourth century. One of these patterns, it is argued in this book, is the preponderance of “broad-based” disputes as documented in Athenian literary evidence.

Cultural approaches on Athenian conflict and disputes have made great advances in recent decades. Conflict is increasingly seen as performative, whether it was conducted in a court of law or in less formal social settings. Until recently, curse tablets had played only a marginal role in scholarly debates on the cultural value of conflict in Classical Athens, and they have been mostly overlooked in formalist studies that restrictively identify the legal domain of action with civic adjudicatory procedures (e.g. mediation, lawsuits) and institutions (e.g. popular courts).⁵ It is a major contention of this book

4 The ensuing analysis focuses, for the most part, on curse tablets that target broader groups of individuals as they correspond better to patterns of dispute and litigation documented in Athenian forensic orations. By this choice I do not mean to suggest that curse tablets could not have been employed for strictly dyadic disputes, hence targeting a single person. It is nevertheless the case that, at least as far as Classical Athens is concerned, curse tablets that targeted a single adversary were rare – indeed even most fragmentary tablets from Athens appear to target several individuals and thus point to wider disputes.

5 Notable exceptions to this wider trend include Faraone 1999b; Rubinstein 2000 and 2018; Eidinow 2007a and 2016; Riess 2012; Papakonstantinou 2014, 2018a and 2018b. These works organically incorporate curse tablets in analyses of litigation, conflict, and discursive negotiation of violence.

that, building on past scholarship, curse tablets can further enhance scholarly discussions and assessment of disputing behavior in Classical Athens. Since curse tablets are the products of conflicts, all curse tablets are indicative of such disputing behavior, irrespective of whether the dispute implied in the curse ever reached the stage of formal litigation.⁶ To be sure, we can ascertain that many curse tablets were generated by disputes that were subjected to adjudication by the courts or magistrates of Athens. However, litigation was never a programmatic destination but merely a phase in a universe of collateral acts that constituted Athenian disputes – that was especially so in broad-based disputes. Athenian curse tablets intimate this overlapping seriality and fluidity of disputes and litigation – an example of how these magical texts can throw new light on central aspects of Athenian daily life.

The core of the book commences with a chapter (chapter 2) in which salient aspects in the process of producing curse tablets are introduced. This chapter is not meant to be a synopsis of sources and scholarship on magic in ancient Athens. It is rather conceived as a selective, and hence perhaps idiosyncratic, outline of those features of Athenian curse tablets that make them amenable to the analytical discussion in subsequent chapters. The emphasis here is on the logistics of commissioning and generating curse tablets in Classical Athens. A distinction between “legal” and “potentially legal” curse tablets is introduced in accordance with the presumed stage of the dispute in which each curse tablet was commissioned and produced. The concept of curse tablets as communicative actions operating amid the flow of information that was inherent in any Athenian dispute is also introduced in chapter 2, especially in connection with the social background of the agents of Athenian curse tablets. Both points (curse tablets as communicative action; situating curse tablets in the social landscape) are further elaborated in subsequent chapters.

Moreover, Athenian curse tablets have been studied mainly from the perspective of magical beliefs and religious practices. See e.g. Faraone and Obbink 1991; Graf 1997; Dickie 2001; Mirecki and Meyer 2002; Collins 2008; Ogden 2008; Edmonds 2019. Though valuable, such scholarly works that focus on magical beliefs and ritual practices in a diachronic perspective (cf. however the contextual approach by Stratton 2007) are largely beyond the scope of the present monograph that approaches curse tablets as communicative actions and embodiments of conflict in the specific cultural milieu of Classical Athens. Finally, there are also some studies that focus on formalist aspects or the typology/taxonomy of curse tablets (e.g. Versnel 1991; Dreher 2018a, German version 2018d), the results of which have been integrated into wider discussions of magic in Athens.

6 Throughout the book by “formal” I refer, for the sake of convenience, to institutionalized, civilly endorsed practices of litigation, arbitration, or other modes of interaction between Athenians and the Athenian state. By distinguishing formal adjudication as a separate category of dispute management in Classical Athens I do not wish to minimize the extent and the importance of negotiation and reciprocity between institutional and extra-institutional (or formal/informal, official/popular etc.) forms of justice and interpersonal interaction. See in general Papakonstantinou 2008; Forsdyke 2012, especially chapter 5. Indeed, it is one of the aims of this study to underscore the reflexivity between “formal” and “informal” perceptions and practices of law and justice as demonstrated primarily through the use of binding curses.

Chapter 3 turns to the wider context of Athenian disputing practices and introduces the concept of broad-based disputes. The concept builds on previous scholarship that foregrounds the role of disputes and litigation as social and performative stages wherein identities, relationships, and statuses were negotiated and articulated. At their early phases broad-based disputes in Classical Athens usually (but not always) began as conflicts that engaged only a small number of primary disputants – often they were dyadic, interpersonal conflicts. Eventually such conflicts evolved to a point where they consisted of a set of practices and interactions that often spanned several years, and in some cases decades and generations of disputants. Furthermore, broad-based disputes were usually cyclical as they involved numerous phases of intense interaction, including at times physical aggression and litigation/mediation between disputants, which alternated with phases of strategic planning. Recruiting solid and extensive networks of supporters was crucial in achieving success (however it was defined by each disputant) in Athenian broad-based disputes. Such networks consisted of kin, friends, and associates but often, because much of disputing occurred in public, also of accidental participants in a dispute (e.g. passersby who had witnessed an incident or other stage of an ongoing conflict). As a result, broad-based disputes infiltrated most aspects of a disputant's daily life, including domestic and professional, as well as other social interactions.

Chapter 4 further elaborates the discussion of broad-based disputes in Classical Athens by examining in greater detail four case studies of such disputes attested in the Athenian forensic orations corpus. One such case study concerns the dispute between Demosthenes and Meidias, a dispute that went on for over twenty years (4.4). The main source for the dispute is the one-sided prosecution speech (21, *Against Meidias*) by Demosthenes. Despite the biased tone of the speech the broad outlines of the dispute, including its genesis and transmutations over the decades, can be reconstructed with relative confidence. In a fashion typical of Athenian broad-based disputes, the two main disputants engaged in numerous tactical and collateral moves over the years and were active in recruiting large numbers of supporters. The high social standing and wealth of the main disputants certainly accounts for the fact that much of the dispute was played out within the boundaries of the formal legal sphere, as well as for the notoriety of the dispute in mid fourth-century Athens. To be sure, less socially prominent disputants would normally have less leverage in their attempts to influence wider public opinion beyond their core support network. They could, however, engage in broad-based disputes, and there is sufficient evidence that they did. Another case study examined in chapter 4 concerns the dispute, as described in *Lysias 3 Against Simon*, of two such Athenians (4.1). Both men were after the affections of a young male prostitute, a situation that led to chronic and acrimonious conflict. In this case as well, the two main disputants pursued diverse tactics in different phases of the dispute, while at the same time recruiting a solid core network of supporters and engaging with hundreds of other Athenians as accidental witnesses/participants in single episodes of the dispute. The