

Ancient Contract Disputes: Character Evidence and Context in the Democratic Courts of Classical Athens

The pervasive use of character evidence in the courts in the *dikasteria* (courts) of classical Athens has long puzzled researchers as an apparent incongruity with the city-state's democratic values. While Athens celebrated ideals of justice and fairness, forensic argumentation indicates (*prima facie*) that jurors were presumed to base judgements on extra-legal grounds. As a result, modern scholars have frequently criticized the Athenian legal system for its seemingly lax standards of evidentiary relevance, pointing largely to litigants' unrestrained use of character attacks and emotional appeals.

The focus of this research is on evidentiary relevance within maritime court speeches—specifically, whether or not notions of relevance were higher in comparison to non-maritime court speeches—in response to a claim made by Adriaan Lanni. Lanni's overall interpretation of the Athenian legal system is that it was intentionally designed for the attainment of personal justice and *epieikeia* and, consequently, prone to delivering unpredictable verdicts (Lanni 2004). This ad hoc approach therefore justified the use of extra-legal argumentation, and it is this broader characterization of Athenian justice that forms the basis of Lanni's claim about maritime suits: Lanni hypothesizes there being a distinctive notion of relevance for maritime speeches on the basis of (1) the relative absence of character attacks and emotional appeals, and (2) the litigants' exceptional focus on written agreements (Lanni 2006). This research challenges Lanni's claim on two fronts: first, through direct evidence from the speeches themselves, and second, through a critique of her interpretation of the legal system as a whole. It will do so through two case studies of Athenian forensic speeches.

The first case study examines *Against Lacritus*, a maritime speech cited by Lanni in support of her claim. The second is on *Against Athenogenes*, a non-maritime speech similar to *Against Lacritus* in that it involves a contract as well as a non-citizen litigant. By examining the evidence and rhetorical *topoi* used in both speeches, this research argues that any apparent evidentiary irregularities in maritime cases are not markers of a separate procedural standard, but calculated responses to the specific demands of each case. Such choices reflect how speakers calibrated their arguments to suit the jury, the available evidence, and the social and moral expectations of the polis. Furthermore, while sometimes less overt, character-based argumentation not only appears throughout the extant maritime speeches, but also mirrors patterns found across Athenian forensic oratory, thereby undermining any claim of exceptional evidentiary constraint. Lastly, this research applies Greek ideas of character, ethical motivation, and practical reasoning to its analysis of the speeches, drawing on Adamidis' (2016) comprehensive framework for objectively interpreting Athenian argumentation. In doing so, it reveals the clear relevance of arguments previously dismissed as irrelevant. This study argues that Athenian litigants across both maritime and non-maritime cases relied on a shared set of rhetorical strategies, adapted to the particulars of each dispute rather than constrained by any codified procedure. What modern scholars label "extralegal" argumentation was, for the Athenians, integral to establishing the truth of a case. If, as evidence suggests, non-citizens were treated on equal footing with citizens in maritime courts, this would further indicate that no exceptional standards governed such trials: what counted as relevant in non-maritime suits likewise counted in maritime ones.

References

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