

The Punitive Force of Fines in Athenian Law

While fines were a source of revenue for public and sacred treasuries in Classical Athens, it is unclear how much revenue was accrued from fines. The fact that fines are never listed as a specific revenue source in any Attic inscription suggests that fines did not account for a large fraction of the sacred treasury incomes (Horster 2004: 203). Few scholars have addressed the unaffordability of many fines for the majority of Athenians in the fifth and fourth centuries. By examining fines specified in inscriptions, I argue that the costs of many fines were disproportionately expensive for most Athenians. Relative to the attested daily wages for the fifth and fourth centuries, most fines documented in the epigraphic record ranged from onerous, such as 50 dr., to unaffordable, such as 10,000 dr. for most Athenians outside of the liturgical class (cf. documented Athenian wages in Loomis 1998: 261-9). Furthermore, according to Diodorus Siculus (18.18.4-.5), by the late fourth century, less than two-thirds of the Athenian population owned property worth more than 2,000 dr. This suggests that from at least the early fifth century onwards, Athenians regarded many fines first and foremost as punitive legal instruments rather than revenue sources for treasuries.

Rhodes and Osborne 2003: 315 points out that the three traditional forms of punishment in Athens were either execution, deprivation of civic rights (*atimia*), or fines. Yet there was an overlap between fines and *atimia*: if a fine was unaffordable for the convicted citizen, he thereby became *atimos* by virtue of being a state-debtor (Andoc. 1.73). Many fines could be so crippling that a convicted Athenian had little chance of raising the necessary funds. Demosthenes refers to this debilitating aspect of Athenian fines when he states that the Athenians should end the political career of Aristogeiton by

either the death penalty or an exorbitant fine (Dem. 25.92). Massive fines could function as politically devastating weapons.

As far as fines for individual offences determined by decrees, similar sums recur from the early fifth through the late fourth century BCE: 50 dr. (*IG II²* 1362 lines 7-18), 100 dr. (*IG I³* 71, line 29), 500 dr. (*IG II²* 1237, lines 48-50), 1000 dr. (*IG I³* 245 lines 8-9), and 10,000 dr. (*IG II²* 1629, lines 236-7). Fines on the order of 100 dr. and higher become even more striking in comparison with the attested wages and potential annual incomes of non-rich Athenians. Markle (1985: 293-7) proposes that in the fourth century an unskilled Athenian worker could earn 1 ½ per day while a skilled worker could earn between 2 and 2 ½ dr. per day. If we assume that a skilled worker could work approximately 300 days per year (Bubelis 2014: forthcoming), he could earn between 600 and 750 dr. per year. If we map these potential earnings onto the fines specified by decrees, we can see that fines in Athens were potentially far more punitive than fines in most modern societies. Even a sum of 20 dr. (*pace* Schaps 2004: 237-8) may have acted as a deterrent if Markle's approximate estimates are correct.

The stable range of fines throughout the Classical period suggest that despite there being several periods of inflation and deflation in the fifth and fourth century (Loomis 1998: 256-7), the Athenians did not adjust for inflation when assigning fines. This alone implies an archaic texture to the fining system. Fines, I suggest, were more often than not expensive and even a low-grade fine of 50 dr. (e.g. *IG II²* 1362 lines 7-18) could function as a deterrent for most non-rich Athenians.

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