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The Legal and Social Condition of the Enslaved Population in Classical Athens

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During the 5th and 4th centuries B.C., Athenian society was what we nowadays would not hesitate to label as *slave-holding society*. [1] This assertion implies that the social role played by the servile sectors of the ancient *constituency* was of a nature that could be considered as 'vital' for the agricultural, commercial, financial, and, in general, productive activities of the *polis* and its *hinterland* (Attica), as well as for its administrative and governmental scaffolding.

Nowadays, and thanks to the discovery and translation of abundant traces and sources, it is not difficult to find relevant information that communicates the legal status of the enslaved population within the ancient and emblematic Athenian *polis*—though it has been difficult for classical historians and philologists to interpret those legal codes, filling the apparent or evident gaps and contradictions contained within them. However, the correspondence of those laws that regulated the social and economic realities of Classical Athens is a problematic matter as far as, in some cases, the codes tend to reflect, and are adapted to, the 'material' requirements and demands of commerce and trade, yet there are other occasions in which the legal dispositions may appear not to correspond with the social dynamics, customs, and habits of the dissimilar social aggragation that the laws intended to regulate.

The main purpose of this paper is to contribute to the debate on the correspondence of law and collective 'reality' within the classical Athenian society in regard to the legal and communitarian presence and status of the enslaved sectors, pointing out some situations in which the law adapted its forms and procedures to the needs of the 'material reality' while, at the same time, manifesting the way in which those legal regulations also served the ideological and hegemonic purposes of some sectors of the upper social fractions that inhabited and ruled the *polis*, employing their hegemonic privileges to impose and perpetuate their conception of social order and virtue.

As a hypothesis, this paper sustains that the normative principles that regulated the social performance and governmental dispositions of the Athenian urban constituency may have contained the rules that enabled and funneled the commercial, financial, and collective activities of the enslaved sectors, on which the wealth and prestige of the *polis* relied to an important degree. Still, those laws may have also reflected what could be assumed as the *ideal types* of social order and division on labor privileged from certain elitist points of view, thus containing in their inner essence the legitimacy of a hegemonic vision of the communitarian world that justified the existence and subjugation of broad *servile* [2] sectors of the population.

This paper will be structured as follows. First, it will offer a general review respecting the Athenian legal regulations in relation to slavery. Second, it will expose how those laws—in principle, strongly restrictive in concern with the social status and role of the enslaved population—adopted a more pragmatic perspective towards the servile subjects who participated both in commercial and financial activities, and those who were owned by the State. Third, this essay offers an interpretation of the formal rules that governed the lives and destinies of the servant constituents within the Athenian community, stressing the ideological notions that inspired and justified some of their contents, particularly on the basis of the notorious preconceptions and prejudices held by some of the most privileged and prominent sectors that inhabited the classical *polis*.

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Limiting the scope of the topic to narrow legal terms, a slave could be conceived as, or be reduced to, the status of “merchandise”. Technically, the law defined a slave as an object or chattel. [3] This was so because the enslaved subject was perceived as intrinsically inferior to his master who, in most cases, was also a citizen—though there were cases in which foreign residents (metics), or even privileged slaves, also possessed slaves. [4]

In broad terms, slavery was conceived as both an extremely grave misfortune and a punishment. It was a misfortune as far as any individual, in disregard of his social position and rights (wealthy citizens or metics), could descend to the social level of a slave as a consequence of some particular situations. For instance, if an Athenian citizen was captured by the enemy side during a war, or by pirates, he could be submitted and integrated into the *slave labor force*. If the latter was the case, that Athenian citizen could have been rescued by his friends or relatives, taking recourse to the payment of a ransom. However, the freed-by-ransom citizen would also have been indebted to those who paid the price of his freedom. Thus, if the beneficiary of the financial procedure was unable to, or did not want to, cancel the debt, he could have been reduced to servitude under the concerned party that paid for his release. Moreover, it is also relevant to notice that, before the Solonian legal reforms, debts could also have been a reason for enslaving a citizen, but that practice was proscribed after the cited legal modifications. [5]

It is important to notice that some slaves were considered to be born as such, and that was the result of the special circumstances of their birth, as it was considered that a slave whose parents were also slaves was ‘destined’ to share his/her parents’ misfortune. [6] Regarding the foreigner urbanites’ situation, they could be subjugated as slaves when they were caught simulating to be citizens, when they were in a permanent union with an Athenian citizen, or when they had not paid their taxes. [7]

Another feature of the Athenian administration of justice that confined the enslaved population to the lowest legal status was the banning of the servile subjects from most of the courthouses. [8] From a judicial perspective, a slave was unable to represent his own cause at court due to his *childish* moral and behavioral characteristics—in terms of lack of self-control and maturity—a trait that sharply contrasted with the self-controlled and, thus, virtuous tone of the (idyllic) Athenian citizenry. [9] This contrived the slaves to appeal to their masters for representation in their pursuance of justice, [10] although it also implied that slaves, as in the case of any Greek child, were not fully accountable for the possible misdemeanors that they could have committed, or at least not in the same way as a free man. [11] The childish and, thus, unreliable condition of the slaves was also manifested in their inability to produce trustable testimonies that could have been useful in the ongoing of judicial procedures. This argument was legally translated into the dispositions that admitted the testimonies of slaves only if those accounts were obtained by means of torture. [12]

It is common knowledge that ‘every law has its exception’, and Athenian legal dispositions during the classical period were not indifferent to this sort of ‘general social principle’. The legal framework that regulated the lives and daily activities of Athenians, though expressing rules imposed by both collectively produced conceptions and hegemonic aims, had to be adapted to the communal realities manifested ‘on the field’ in a transaction that implied the acceptance and even the encouragement of certain habits, procedures, and usages that, while technically ‘non-trendy’ (not to say illegal), were still performed on a regular basis.

The first ‘materialist contravention’ that the Athenian legal framework had to deal with, and ultimately incorporate into its *corpus*, was the *de facto* social recognition of the enslaved subjects’ *humanity*. [13] One thing are the laws produced by certain sectors and representatives of the social elites, which attempt to impose on the constituency their views and perspectives regarding collective regulations and order. Yet, a different and more problematic matter is the apprehension, comprehension, (re)interpretation, and response to that official body of regulations by the diverse sectors that compound the community. Based on that assumption, it is plausible to surmise that the lower layers of the free citizenry, accompanied by important sectors among the ‘metic’ population, had not shared the ‘dehumanizing’ legal perspective held by those who wrote and enforced the dispositions referred in the previous section. For those non-wealthy sectors of the Athenian constituency who, in most cases, shared the labor spaces, tasks, and troubles of the enslaved sectors, the latter were far from being mere ‘merchandise’ or simple ‘mobile tools’; instead, it is reasonable to think that the Athenian commons valued their enslaved counterpart as human beings who shared the ordinary issues, labors, and needs of any other average Athenian subject (natural or

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resident). The persons who suffered the moral, legal, and social burden of being classified as enslaved labor force, when manifesting virtues such as honesty or allegiance, were valued as it was the case of any other member of the community who behaved in a virtuous manner. This situation that could have been manifested during the ongoing of common people's everyday life was introduced within the Athenian laws in the form of rules and premises that protected the slaves from the abuses and mistreatment that almost any constituent would have intended against them. [14]

In accordance with Ferreira's argumentation, the labor performed by slaves, when honestly and efficiently executed, was both valued and recognized by most members of the Athenian community because, for the majoritarian sectors of the polis, who actually had to work as the only suitable way to make a living, *labor* was not a detrimental venture or forced burden undertaken by intellectually 'incapable' subjects, as it was sustained by the certain Athenian elitist point of view. [15] Instead, it was a decent activity that dignified its performers while, simultaneously, served as one of the most transcendental aspects of the Athenian economic life. [16]

This fundamental breakthrough between the hegemonic notions contained within the legal dispositions and the commons' *rationale*, strongly influenced by the realities of quotidian life, enforced the factual acceptance of alternative dynamics by means of which some privileged slaves [17] subverted the restrictive norms that intended to subjugate them. This was the case of the so-called 'public slaves', who could be defined as the enslaved labor force owned by the polis, whose purpose was to assist in specific tasks necessary for the correct functioning of the administrative public structures. It is well known that this particular 'faction' within the servant population had certain privileges due to their advantageous position within the institutional framework, among which one could count the interwoven networks composed of politically and socially valuable 'contacts', the development of specialized skills, and the subsequent accumulation of important amounts of capital—either by virtue of their salary or by their engagement in bribery. [18] It would not be farfetched to assume that the financial, political, and social assets seized by the privileged public slaves were also materialized in a qualitative improvement of their social condition, though their essential legal characteristics (as enslaved hand labor) were never called into question. [19]

Another group of slaves that was particularly fortunate was the *khôris oikountes*, literally translated as "independent servile domicile." [20] By and large, the Athenian law has traditionally conceived the slave as attached to his master's *oikos* (household) on account of the former's condition that reduced him to be the latter's property. This is besides the fact that the servant was also deemed as characterized by a *childish* (irresponsible) character, a feature that incapacitated him/her for self-representation, either towards the civil government or in front of the court. However, and as a consequence of the Athenian intense commercial and financial activities, it became *trendy* for free financiers and merchants to employ their enslaved subjects as administrators of their businesses. It would not be unreasonable to deduce that this usage of enslaved labor in order to perform duties in high-level positions within the financial realm was due to: 1) the owner's interest in dedicating more time to leisure activities, and 2) the profitability of this new type of *contractual relation*, as the masters would have been able to earn a percentage of the incomes produced by their slaves' businesses without actually working. [21]

At this point, the concession of certain privileges and rewards in exchange for increased revenues also became part of this type of owner-slave mutualistic interaction, an innovative aspect that derived in the master's allowance to his servant to constitute and live in his own household and away from the owner's. This was an element that became a strong incentive, as it granted the disenfranchised part greater leeway for business management, in addition to the privilege that represented for any "self-movable tool" to have the opportunity to constitute his own family. [22]

This trend towards the introduction of social innovations, motivated by the prominent economic role played by slaves, who were able to become important businessmen, gained so much relevance within the Athenian constituency that some legal modifications had to be introduced in order to guarantee the servile traders and financiers certain independency and proficiency that favor their activities. The aforementioned was regularized by bestowing those privileged 'living merchandises' the right and privilege to be parts by their own in the courts on the occasion of business litigation. [23]

As an interpretative comment on the Athenian laws regarding slavery, this essay asserts that, from a particular elitist

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perspective, the legal construction that intended to regulate the lives and deeds of slaves within the Athenian society hinged on two elements that complemented the ideological arguments employed to legitimize the *status quo*, as were the inner *irrationality* and *barbarism* that characterized those who were reduced to the status of enslavement.

To begin, an important quantity of the slaves who were present in Attica during the classical period was integrated by foreigners and, [24] as one could expect, several elements within the (outsider) enslaved population did not share the physiognomy of their Greek 'hosts'. Those 'taxonomical' differences were assumed by certain elements of the Athenian elites as an evidence of *difference* and *inferiority*. This perception cannot be equated with contemporary *racism* because the latter set of prejudices is mostly based on biological arguments, while the classical Athenian approach to the foreigners' physical appearance was based on an ancient version of the contemporary 'environmental or geographic determinism': briefly, this concept alludes to the way in which geographical and environmental conditions determine people's culture, 'moral probity', rational capacity, and productivity. [25] In this case, the Athenian elites tended to tie, for instance, the dark skin of an African slave with the particular geographical context in which the subject was born and raised—an intensively sunny environment—turning that slave into a lazy subject in reason of his inordinate exposure to the elements. As a result, rendering the black slave's skin color as mere physical evidence of the person's geographic provenance and overexposure to an adverse meteorological *milieu* ultimately determined his inferior character. [26]

The last ideological argument was deeply entangled, in terms of causality, with the inner *irrationality* and *moral deficiency* of the slave, who was depicted by some Athenian notables as suitable to perform only basic reasoning tasks that involved the accomplishment of elemental commands and the execution of manual assignments. [27] In this sense, the social elites considered the enslaved portion of the population to be composed by individuals whose *basic* and unmoral 'nature' as naturally disloyal and gossipy, as well as ones singularized by their complex reasoning capacity and their self-controlled conduct. In other words, the social elites saw both the right and the duty to introduce the legal/legitimate subjugation of those 'others' in a way that, by harnessing the slave's 'corporal' sufficiency and employing it in productive, physical (and, thus, inferior) activities, they were doing the best for the constituency as a whole. [28]

The previous reasoning found its ultimate expression in the so-called 'philosophy of the whip', which was based on the elitist conception according to which the slave, as a subject naturally incapacitated for complex reasoning and, thus, irremissibly condemned to exploitation of his physicality in order to survive and fulfill a useful social role, was unable to understand arguments. As a result, the slave had to be persuaded from his erroneous manners and/or punished for his misdemeanors by taking recourse to the employment of a tool that would also reinforce his master's sense of superiority; that tool was the whip. A clear example of the previous logic was the legal disposition regarding the crimes which a civil servant might have incurred. If, for instance, an enslaved coin-tester committed a fault, he, as any other slave, 'was accountable in his own body' or, in less fancy words, he had to receive fifty lashes; the situation of a free civil servant was quite different as far as, in case of incurring a criminal act, he was forced to pay fifty drachmas. [29]

Notwithstanding the latter, it is still possible to controvert the social acceptance and applicability of such notions and measures as far as, and as it was shown in this essay's previous sections, several members of the Athenian enslaved populace demonstrated sufficiently and on a daily basis their rationality and probity to the extent that some of them were performing relevant economic and social activities, assuming the roles of merchants, businessmen, public servants, and so on. It is also difficult to imagine that a wealthy and influential public slave would have been 'accountable on his body' for an offence, though the possibility must never be totally excluded.

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[1] This was so because, as the Athenian society was composed by a rate of four slaves for each 'freeborn' subject, it is neither difficult nor unreasonable to infer that the economic and financial support of that community was strongly determined by the dynamics of production and trade in which the enslaved sectors of the population were involved in an important, if not predominant, degree. In this regard, and in accordance with Cohen's convincing argument, "Attika (sic) constitutes one of the few attested true 'slave economies'—those in which the contribution of a large number of unfree persons to the totality of wealth production is so substantial that a society's overall production, distribution and consumption is highly dependent on slave labor". Cohen, Edward E. (2000): The Athenian nation. Princeton, N.J: Princeton University Press, pp. 130-131.

[2] This essay will use the terms "slave" and "slavery", on the one hand, and "serf" and "servitude", on the other, as metonyms. This will be so not in reason of the assumed conceptual correspondence among those terms—which actually reflect dissimilar social realities—but only as a narrative/aesthetic recourse.

[3] Ferreira, José Ribeiro (1990): A democracia na Grécia antiga. Coimbra: Livraria Minerva (Minerva História, 5), p.. 73.

[4] Cohen, Edward E. (2000): The Athenian nation... Op. cit., p. 136.

[5] Leão, Delfim F. (2005): Cidadania e exclusão. mecanismos de gradação identitária. In Maria do Céu ed lit Fialho, Maria de Fátima Sousa e. ed lit Silva, Ana Leonor ed lit Pereira (Eds.): Gênese e consolida\c cão da ideia de Europa Vol. I: De Homero ao fim da época clássica. Coimbra: Imprensa da Universidade de Coimbra, pp. 68-70.

[6] This particular situation is more complex, though, because, and as it was said before, if both parents were slaves, the son resulting from that union was also constituted as a slave. Notwithstanding, if there was a subject whose father was a slave but whose mother was a free woman, then the resulting individual was not a slave, yet he was not a citizen either. The affair turns into an even more complicated matter when one has to deal with the legal ambiguity of an individual whose father was a free subject and whose mother was a slave, but it is believed that, in that particular case, the product of such a union could enjoy the legal recognition of his most fortunate parent. Harrison, Alick Robin Walsham (1998): The family and property. New ed. London: Duckworth [u.a.] (The law of Athens, 1), p. 164.

[7] Leão, Delfim F. (2005): Cidadania e exclusão... Op. cit., pp. 68-70.

[8] Harrison, Alick Robin Walsham (1998): The family and property... Op. Cit., p. 167.

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[9] Wrenhaven, Kelly L. (2011): Greek Representations of the Slave Body. A Conflict of Ideas? In Richard Alston, Edith Hall, Laura Proffitt (Eds.): Reading ancient slavery. London, New York: Bristol Classical Press, p. 107.

[10] The general principle of 'the master's liability at law' was assumed to be one of the cornerstones of the Athenian legal codes. However, the appliance of that principle was refined in order to serve special considerations in two particular cases: if the servile offender committed the crime on his owner's instructions, then the latter could have been made fully responsible for the perpetrated crime; yet, if the slave transgressed the law on his own behalf, then he would have been the one to be sued in court, but the judgment would have been conducted towards the slave and his master. Harrison, Alick Robin Walsham (1998): The family and property... Op. Cit, pp. 173-174

[11] Yet, the Athenian legal framework regarding the accountability of slaves for their crimes and the contractual responsibilities attached to the slave's owner were more troublesome as, for instance, the normative dispositions concerning cases in which a slave might have killed another individual stipulated that the offender should have been made accountable and punished in a particularly severe manner. Ibid., pp. 173-175.

[12] In addition, it is necessary to stipulate that slaves' testimonies were allowed in court (without appealing to torture) in serious cases such as processes for sacrilege, treason, or theft of public money; however, it was stipulated that if the procedure ended up with the conviction of the accused part, then the slave could have obtained his freedom, but if the process finished with the absolution of the allegedly suspect, then the slave could have paid for his accusations with his life. Ibid., pp. 170-171.

[13] Leão, Delfim F. (2005): Cidadania e exclusão... Op. cit., p. 68.

[14] Ferreira, José Ribeiro (1990): A democracia na Grécia antiga. Coimbra: Livraria Minerva (Minerva História, 5), p.73.

[15] Actually, it appears to be the case that, for some sectors of the Athenian elites, there was not an essential difference between free and enslaved laborers since both groups, though legally different, still performed the same economic activities, using their bodies as tools. Wrenhaven, Kelly L. (2011): Greek Representations of the Slave Body... op. cit., pp. 99-100.

[16] By the 5th century B.C., Athens was already recognized as the par excellence "techne" polis. Ferreira, José Ribeiro (1990): A democracia na Grécia antiga... op. Cit., pp. 73-74.

[17] Slaves in classical Athens, as any other human group, were not homogeneous and, as it is shown in several sources, they were far from developing a shared "class" or cast identity. The reasons for this were from a diverse nature, but I would like to highlight the evident cleavages that existed between those servants who were intended to work in the countryside vis-à-vis their urban counterparts, or those 'human tools' who were fortunate enough to be purchased by wealthy free individuals, in comparison of those who did not enjoy the fortune of being acquired by a socially and financially well positioned part, as certainly was the case of the unfortunate ones who were employed in the mines. Cohen, Edward E. (2000): The Athenian nation... Op. cit., p. 137.

[18] MacDowell, Douglas M. (1978): The law in classical Athens. London: Thames and Hudson (Aspects of Greek and Roman life), p. 83.

[19] Here, it is particularly relevant to allude to the case of the 'coin-testers', a group of slaves who were committed to guarantee the quality of the currency on circulation. Their position conferred to these slaves access to important amounts of money; additionally, among their prerogatives, they were authorized to confiscate any coinage perceived to be false (with the obvious abuses that this type of measure might have acquiesced). Ibid, pp. 136-137. Yet, as the slaves retained their inner condition, the law prescribed that if an enslaved coin-tester was found guilty of committing any illegal action, he should have been condemned to receive fifty lashes (because slaves were primarily accountable for their faults 'in their own bodies'), while a free civil officer would have received a fine. Wrenhaven, Kelly L. (2011): Greek Representations of the Slave Body... op. cit., p. 104.

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[20] Cohen, Edward E. (2000): The Athenian nation... Op. cit., p. 131.

[21] MacDowell, Douglas M. (1978): The law in classical Athens... op. cit., p. 81

[22] Cohen, Edward E. (2000): The Athenian nation... Op. cit., pp. 145-154.

[23] Harrison, Alick Robin Walsham (1998): The family and property... Op. Cit, pp. 175-176.

[24] This was so because, at that time, many Athenians, and Greeks in general, had some 'questions of conscience' towards the moral validity of enslaving a fellow Greek. Ferreira, José Ribeiro (1990): A democracia na Grécia antiga... op. Cit., p. 66.

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[26] Wrenhaven, Kelly L. (2011): Greek Representations of the Slave Body... op. cit., pp. 107-108.

[27] Ibid., pp. 99-100.

[28] Thalmann, William G. (2011): Some Ancient Greek Images of Slavery. In Richard Alston, Edith Hall, Laura Proffitt (Eds.): Reading ancient slavery..., op. cit., pp. 72-74.

[29] As some Athenians used to say, "Slaves were always in want for a whipping". Wrenhaven, Kelly L. (2011): Greek Representations of the Slave Body... op. cit., pp. 103-104.

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Written for: Dr. Delfim Ferreira Leão
Date written: December 2013