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THE *CHARACTERS* OF THEOPHRASTUS: REFLECTIONS OF LEGAL PRACTICE IN EVERY DAY LIFE

Abstract: The paper examines information on private law (family, slaves, professions) and litigation contained in the *Characters* of Theophrastus. Behavioural flaws, seen as the opposite of the norm, present a mirror reflection of the “code of behaviour” of the good citizen. It is argued that the work offers an insight on legal conceptions and communal values of the late fourth-century BCE and “photographic” images of the Athenian law in action in both private and public life.

Keywords: Theophrastus, *Characters*, Athenian Law, Family Law, Athenian Lawcourts

The *Characters*, a collection of thirty concise sketches of socially deviant types of male personalities, is Theophrastus' perennial bestseller among the 227 titles attributed to him by Diogenes Laertius (5.36-57). Χαρακτήρ initially meant the stamp used to mint coins, a term applied by Theophrastus to those who bear the “stamp of life”.¹ Each *Character* corresponds to a vice, which, after being briefly defined, is illustrated by short examples of this person's actions and statements, without (in the original text) any moral commentary.² By classifying characters – according to the so-called “taxonomic impulse” of the peripatetic school – into thirty human types, Theophrastus identified forever the word χαρακτήρ in subsequent language with the semantic field of psychology.³ Considered one of the most influential Hellenistic books, the *Characters* created a new genre which has inspired many subsequent authors,⁴ including Theophrastus' pupil Menander in the

¹ Arist. *Pol.* 1257^a 41. Metaphorically χαρακτήρ defined a man's features, Hdt.1.116.1, and could be derived from his speech, Men. fr. 72.

² The introduction, moralizing preface and closing remarks of some *Characters* are considered later, spurious additions dating from the Roman or Byzantine period.

³ Aristotle is distinguishing ἡθικὰ ὑπερβαῖν and their excesses or deficiencies (κακίαι) in the *Nicomachean Ethics* in 13 pairs. Nine of these vices are also present in Theophrastus' *Characters*, describing them though, unlike Aristotle's ethical theorising, in real action, in Athens. Several of the same *Characters* are also present in subsequent comedy plays, see Diggle 2004: 8.

⁴ See Gordon 1912: 49-86, Kapsalis 1982, Habicht 2006: 139-141, Millett 2007:10-15.

New Comedy and Jean de La Bruyère in the 17th century, who added his own *Characters* to the translation of the original.⁵

The purpose of the *Characters* has long been debated among scholars: didactic, ethical, rhetoric, entertaining, a social satire, even a dining companion to the scholars of the Peripatetic school, or a “*thinly-veiled attempt to shield Theophrastus from the consequences of overtly satirical descriptions of his political contemporaries*”.⁶ The work's value as historical evidence on Athenian social life is overall acknowledged.⁷ By general consensus the *Characters* are considered based on the observation of real Athenians,⁸ in Athens,⁹ where Theophrastus (originating from Eresos in Lesbos) lived for close to 50 years, and succeeded Aristotle at the head of the Lyceum.¹⁰ According to the prevailing view, they were written over a number of years, during the last quarter of the fourth-century BCE (between 324-315).¹¹ In most sketches we can assume that the Athenians are described as living under a democracy,¹² in which popular courts and other public institutions are operating normally.

⁵ *Les Caractères de Théophraste traduits du grec avec Les Caractères ou les mœurs de ce siècle* (1688).

⁶ Allthough the affinities of the work with the Nicomachean Ethics of Aristotle have often been discussed, the purpose of the *Characters* was different from that of Aristotle's ethical philosophical works. On a summary of scholars' views, see Smeed 1985: 3-4, Lane Fox 1996: 138-140, Diggle 2004: 12-16. See also Furley 1953, Van de Woestyne 1929. Ranocchia 2011, 1: 69-91 is claiming that the views that the work was intended as a complement to a treatise of moral philosophy or as a literary work written in an artistic prose with a humorous intention are not sustainable, seeing as most probable the theories about a rhetorical exercise in schools of rhetoric or an appendix to a treatise of political theory. See also Millett 2007: 28-41, arguing for entertainment.

⁷ Halliwell 2004: 131.

⁸ Lane Fox 1996: 129, has noted that eight *Characters* mentioned institutions and settings known to be Athenian and many others connected to contexts attested in Athenian life and none to a city other than Athens. See p. 142 for suggested personal similarities with real Athenian historical figures.

⁹ The Athenian background is made evident by several references, such as to Theseus' συνοικισμός of Attica (26.6), to races of the ephebes during Athenian religious festivals (27.4), to men addressing the Assembly by “ὧ ἄνδρες Ἀθηναῖοι” (21.11) and several references to the institution of liturgies (22, 23).

¹⁰ Our main source for biographical details about Theophrastus is Diogenes Laertius in his *Lives of Eminent Philosophers*, 5.36 (fr. 1 FHS&G).

¹¹ Recent studies maintain that different sketches were composed over different times, a safe range being between 324-315, see Boegehold 1959, Lane Fox 1996: 134-136, Diggle 2004: 27-37. The introduction and closing moral arguments on some of texts are considered spurious, as later additions.

¹² Therefore after the edict of Polyperchon of 319 restoring democracy, although in some sketches the city appears to have come under Cassander's rule (no 8, Λογοποιός).

Theophrastus, other than his broad interest in philosophy and the sciences, was according to Cicero (*de Finibus* 5.4)¹³ also an expert on both Greek and barbaric law.¹⁴ The few surviving fragments of his book *Nomoi*¹⁵ and close to forty “legal” titles among his lost works confirm that he attempted a complete survey of the legal culture of his time, this aspect of his legacy being though among the less studied by the growing Theophrastean bibliography.¹⁶ In the *Characters*, the portraits of men acting within the *oikos* and the polis,¹⁷ in the Agora, in litigation, in various institutions and exchanges, are also set out against the background of Athenian moral and legal norms¹⁸ and customs, many of which are also attested in Attic oratory and epigraphy. Behavioural flaws, seen as the opposite of the norm or an exaggerated version of it,¹⁹ offer a reverse, mirror reflection of a “code of behaviour” of the good citizen,²⁰ of what was considered lawful and honourable in Hellenistic Athens. They illustrate how the law, or the expectations surrounding legal duties and obligations, known to the Greeks as νόμος ἄγραφος,²¹ those that according to the Thucydidean Pericles (2.37.3) brought αἰσχύνην ὁμολογουμένην if trespassed, infiltrated every aspect of Athenian life, private and public. Examples of behaviors in the *Characters* that –directly or indirectly– allow us some insight on the substrata of Athenian legal conceptions can be roughly divided into three broad

¹³ Cic. *Fin.* 5.4: Omnium fere civitatum non Graeciae solum, sed etiam barbariae ab Aristotele mores, instituta, disciplinas, a Theophrasto leges etiam cognovimus. Cumque uterque eorum docuisset qualem in re publica principem [esse] conveniret, pluribus praeterea conscripsisset qui esset optimus rei publicae status, hoc amplius Theophrastus: quae essent in re publica rerum inclinationes et momenta temporum, quibus esset moderandum, utcumque res postularet.

¹⁴ Roman jurists were familiar with his works, some excerpts of which are cited in the Digest, see Παπαρρήγα-Αρτεμιάδη 2006: 65-66.

¹⁵ On fragments of his lost works see Wimmer: 1866 (1964). On the work of Theophrastus *Περὶ Νόμων* see Fortenbaugh 2003: 162-170, Keaney 1974: 179-194, Connor – Keaney 1969, Szegedy-Maszak 1981, Δημοπούλου 2015: 214-218.

¹⁶ See Rossetti 2004: 5-11.

¹⁷ On this distinction see Roy 1999.

¹⁸ The social norms of which do not seem to differ fundamentally from these of the previous century, see Millett 1991: 20. Contra, Gabba 1983: 65-66, argues that the *Characters* are depicting citizens more concerned with their private affairs as a new “trend” of the end of the fourth-century. See also Giglioni 1980, Volt 2010: 303-332.

¹⁹ The element of exaggeration necessary for the humorous effect, although it is to be considered when using the *Characters* as a historical source, only reinforces what constituted the “normal” behaviour, see Volt 2011: 215.

²⁰ According to Millett 2007: 52, the *Characters* look like “an implied code of behaviour written (unlike oratory and drama) for an élite audience, engaging with the practicalities of their lives within the polis. The implied end-product of this process of norm-reversal might resemble the Peripatetic ideal of a citizen, tempered to suit the circumstances of a democratically-minded polis. We could label him ‘Theophrastus’ Man’.”

²¹ Or ἄγραφα νόμιμα, Pl. *Laws* 7.793a, Dem. 18.275. On such epigraphic instances see Velissaropoulos-Karakostas 2011 (I): 88-96.

categories (private law, litigation, public law).²² Among these only some of the elements pertaining to private law and to litigation are discussed in this paper.²³

Gender, family, sexual relations

The *Characters* are focusing exclusively on the behaviour of male citizens. They confirm that the foremost duty of the Athenian *pater familias* was to provide for his parents, wife and children. An example of the shamelessness (ἀπόνοια) of a common criminal is to let his mother starve (*Char.* 6.6),²⁴ an allusion to the moral and legal obligation of *gerotrophia* and the seriousness of the relevant crime.²⁵ Family milestones, such as funerals and weddings, appear as founded on social reciprocity: friends are expected to attend both, without any legal restrictions.²⁶ It is considered excessive to commemorate a woman on her tombstone also by her mother's name and place of birth, as confirmed by Attic epitaphs, where women are mainly identified through their male relatives.²⁷ The marriage consists in a series of rites and steps including a legal, religious and social aspect:²⁸ upon the ἔκδοσις ceremony, sacrifices take place by priests, followed by a banquet²⁹ at the bride's

²² We must though always keep in mind that we miss the exact circumstances and chronology of many individual references and that some passages –written in dense Greek or being sometimes corrupt– are open to different interpretations.

²³ The analysis of all different legal elements in the *Characters*, a draft of which was presented at the Symposion conference in Tel Aviv (2017), will make the object of an independent future publication. I hereby thank all the Colleagues, including my respondent Eva Cantarella, Gerhard Thür, Alberto Maffi, Stephen Todd, Adele Scafuro, Philipp Scheibelreiter, Delfim Leão, Michele Faraguna, who by their comments and suggestions contributed to clarifying legal elements contained in certain passages discussed in my paper.

²⁴ *Th. Char.* 6.6: τὴν μητέρα μὴ τρέφειν.

²⁵ Established under Solon, D.L. 1.55: εἰάν τις μὴ τρέφῃ τοὺς γονέας, ἄτιμος ἔστω. See Harrison 1971, I: 78, MacDowell 1978: 92, Γιούνη 1988:177-179, Leão 2011. Such a crime would give rise to a γραφή κακώσεως γονέων or εἰσαγγελία leading to the παντάπασιν ἀτιμία and even to the death sanction. MacDowell 2005: 85-86

²⁶ Although the “slow in mind” ἀναίσθητος Character wishes the deceased “Tyché Agathé”, *Th. Char.* 14.7: καὶ ἀπαγγέλλοντος αὐτῷ, ὅτι τετελεσμένη τις αὐτοῦ τῶν φύλων, ἵνα παραγένηται, σκυθρωπάσας καὶ δακρύσας εἰπεῖν “ἀγαθὴ τύχη.” According to the sumptuary laws of Demetrius of Phaleron, funerals should take place before the sunrise, see Habicht 2006: 73-74.

²⁷ He is also adding that they were all “χρηστοί”. Women were usually listed on Attic funerary inscriptions by their name and by that of the males (father or husband) and their deme, the mother's name rarely appearing, while χρηστός was a name usually reserved to slaves. See Lane Fox 1996: 149-150, Vestergaard – Bjertrup – Hansen – Nielson – Rubinstein 1985 [1992]. The matronymic was used either for illegitimate children of free women with slaves, who owed their legal status to their mother, or, on the other hand, by women of the ruling classes descending –from the mother's side– to a respectable family, see McLean 2002: 94.

²⁸ On these rites, see Perentidis 1997.

²⁹ On the wedding banquet see Sinos 1993: 11-12, 22-24, Pacheco 2013: 278.

house, with servants hired for the occasion. The stingy father (*Char.* 22.4) sells off the sacrificial meat and asks the servants to bring their own food.³⁰ Generosity was expected on behalf of the guests, who should bring a gift to the newlyweds, the profiteer (αἰσχροκερδής) leaving town some time before in order to avoid the expense (*Char.* 30.19).³¹ The concern of men belonging to different *Characters* with the expenses involved in weddings and banquets of all sorts, help us better understand limitations on the number of people attending such events, introduced or proposed by legislators.³² Social occasions could also offer an opportunity for display of vanity, like the father who is bringing his son to Delphi to dedicate a lock of hair for his ceremony of coming of age (*Char.* 21.3).³³

Women appear in the *Characters* only as wives or daughters suffering their male relatives' eccentricities. They act in their traditional household roles: a wife is entrusted by her husband with the safekeeping of the money chest, the cupboard, with locking the house door (*Char.* 18.4).³⁴ A husband who can afford it, is supposed to provide his wife an attendant for her outings.³⁵ The dowry is mentioned twice as supposed to secure the wife's status, life-style and comfort.³⁶ The stingy husband doesn't buy a slave-girl to his wife, who has brought a handsome dowry, but only rents the services of one to follow her when she goes out of the house (*Char.* 22.10).³⁷ Submitting a wife who contributed a fortune to the marriage to a Spartan lifestyle (even after she bore her husband a son),³⁸ by giving her pennies for her shopping and making her bath in cold water (*Char.* 28.4),³⁹ is considered almost

³⁰ Th. *Char.* 22.4: καὶ ἐκδιδοὺς αὐτοῦ θυγατέρα τοῦ μὲν ἱερείου πλὴν τῶν ἱερωσύνων τὰ κρέα ἀποδόσθαι, τοὺς δὲ διακονοῦντας ἐν τοῖς γάμοις οἰκοσῖτους μισθώσασθαι.

³¹ Th. *Char.* 30.19: καὶ γαμοῦντός τινος τῶν φίλων καὶ ἐκδιδομένου θυγατέρα, πρὸ χρόνου τινὸς ἀποδημήσαι, ἵνα <μὴ> πέμψη προσφοράν.

³² Plato, *Nom.* 77a, wished to limit the number of guests at weddings to twenty. On similar legal regulations and limitations of guests see O'Sullivan, L. 2009: 200-201. On the limitations of thirty guests imposed by Demetrius of Phaleron see Habicht 2006: 73.

³³ Th. *Char.* 21.3: καὶ τὸν υἱὸν ἀποκεῖραι ἀγαγὼν εἰς Δελφοῦς. On this ceremony see Vêrilhac – Vial 1998: 288-289.

³⁴ Th. *Char.* 18.4: καὶ τὴν γυναῖκα τὴν αὐτοῦ ἐρωτᾶν κατακεῖμενος, εἰ κέκλεικε τὴν κιβωτόν, καὶ εἰ σεσήμανται τὸ κυλικεῖον, καὶ εἰ ὁ μοχλὸς εἰς τὴν θύραν τὴν αὐλείαν ἐμβέβληται.

³⁵ Plut. *Sol.* 21.4-5. On women in public in Athens, see D. Cohen 1989: 3-15, idem 2005: 33-46. On women's activities taking them out of the house see D. Cohen 1990: 157-158.

³⁶ Schaps 1979: 74-79. On different opinions regarding the rights of married women on their dowries see Dimakis 1978.

³⁷ Th. *Char.* 22.10: καὶ τῇ γυναικὶ δὲ τῇ ἑαυτοῦ προῖκα εἰσενεγκαμένη μὴ πρίασθαι θεράπαιναν, ἀλλὰ μισθοῦσθαι εἰς τὰς ἐξόδους ἐκ τῆς γυναικείας παιδάριον τὸ συνακολουθήσον.

³⁸ According to Diggle 2004: 496, after the birth of the child his behaviour aims to ensure the dowry remains with his family, since without a child it would revert to his wife's family in case of his or her death.

³⁹ Th. *Char.* 28.4: τῇ δὲ πονηρία οὐδὲν ὅμοιον· σημείον δέ· τῇ γὰρ αὐτοῦ γυναικὶ τάλαντον εἰσενεγκαμένη προῖκα, ἐξ οὗ παιδίον αὐτῷ γεννᾶ, τρεῖς χαλκοὺς <τῆς

a breach of contract or, at least, of the reciprocity expected in the enjoyment of marital assets.

Male indulgence in paid sex, although socially acceptable,⁴⁰ is expected to comply with certain norms of decency.⁴¹ It is considered tacky (ἀηδία) to advertise to your guests that you will fetch a girl from the pimp to delight them (*Char.* 20.10),⁴² a comment targeting not the act itself, but the host's manner (τὸ τέρπον τοὺς παρόντας παρεσκεύασται).⁴³ A man in mid-life crisis, infatuated with a prostitute to the point of quarrelling with rivals, is attracting ridicule (*Char.* 27.9).⁴⁴ It is the sign of a *rustic* (ἀγροικίας) to secretly make out with the bread-maker, while milling with her the flour for his family (*Char.* 4.10).⁴⁵ The obsequious man (ἄρεσκος) lingers in gymnasia to watch the *ephebes* exercise (*Char.* 5.7),⁴⁶ possibly in look for boys to pick up.⁴⁷ As for women, snatching men passing by from the street is understandably disreputable, but it is considered slander (κακολογία) to claim *this* house has “*its legs in the air*”, that women “*copulate in the street like dogs*” or even that they are answering the door themselves (*Char.* 28.3):⁴⁸ this simple act, targeted as a sign of sexual availability, also attests the frequency of attempts to seduce unattended women.

ἡμερας> εἰς ὅσον δίδωσι καὶ [τῷ] ψυχρῷ λουῖσθαι ἀναγκάζει [τῇ] τοῦ Ποσειδῶνος [ἡμέρᾳ].

⁴⁰ See Wallace 1997.

⁴¹ As for sexual relations between the spouses, a husband was supposed to do his wife the courtesy of washing up before sleeping with her, unlike the repulsive δυσχερής. Th. *Char.* 19.5: ἀναπίπτοντος ἐν τοῖς στρώμασι μετὰ τῆς γυναικὸς αὐτοῦ κοιμᾶσθαι.

⁴² Th. *Char.* 20.10: καὶ ξενίζων δὲ δεῖξαι τὸν παράσιτον αὐτοῦ ποίος τίς ἐστι, τῷ συνδειπνοῦντι· καὶ παρακαλῶν δὲ ἐπὶ τοῦ ποτηρίου εἰπεῖν ὅτι τὸ τέρπον τοὺς παρόντας παρεσκεύασται καὶ ὅτι ταύτην, ἐὰν κελεύσωσιν, ὁ παῖς μέτεισι παρὰ τοῦ πορνοβοσκοῦ ἤδη, “ὅπως πάντες ὑπ’ αὐτῆς αὐλώμεθα καὶ εὐφραινώμεθα.”

⁴³ Lane Fox 1996: 148.

⁴⁴ Th. *Char.* 27.9: καὶ ἐρῶν ἐταίρας καὶ κριὸς προσβάλλων ταῖς θύ<ραις> πληγὰς εἰληφὼς ὑπ’ ἀντραστοῦ δικάζεσθαι.

⁴⁵ Th. *Char.* 4.10: καὶ τὴν σιτοποιὸν πειρῶν λαθεῖν, κᾶτ’ ἄλῃσι μετ’ αὐτῆς τοῖς ἔνδον πᾶσι καὶ αὐτῷ τὰ ἐπιτήδεια.

⁴⁶ Th. *Char.* 5.7: τῶν δὲ γυμνασίων ἐν τούτοις διατρίβειν, οὓς ἂν ἔφηβοι γυμνάζωνται. On the modifications attributed to Demetrius of Phaleron to the *ephebeia*, see O’Sullivan 2009: 86-89.

⁴⁷ Dover 1978: 54-55. On the interdiction of adults entering schools, see Aesch. *Tim.* 1.12: καὶ μὴ ἐξέστω τοῖς ὑπὲρ τὴν τῶν παίδων ἡλικίαν οὓσιν εἰσιέναι τῶν παίδων ἔνδον ὄντων, ἐὰν μὴ υἱὸς διδασκάλου ἢ ἀδελφὸς ἢ θυγατρὸς ἀνὴρ: ἐὰν δέ τις παρὰ ταῦτ’ εἰσῇ, θανάτῳ ζημιούσθω. καὶ οἱ γυμνασιάρχαι τοῖς Ἑρμαίοις μὴ εἴτωσαν συγκαθιέναι μηδὲνα τῶν ἐν ἡλικία τρόπῳ μηδενί: ἐὰν δὲ ἐπιτρέπῃ καὶ μὴ ἐξείργῃ τοῦ γυμνασίου, ἔνοχος ἔστω ὁ γυμνασιάρχης τῷ τῆς ἐλευθέρων φθορᾷ νόμῳ.

⁴⁸ Th. *Char.* 28.3: “Αὐταὶ αἱ γυναῖκες ἐκ τῆς ὁδοῦ τοὺς παριόντας συναρπάζουσι,” καὶ “Οἰκία τις αὕτη τὰ σκέλη ἠρκυῖα· οὐ γὰρ οἶον λῆρός ἐστι τὸ λεγόμενον, ἀλλ’ ὥσπερ αἱ κύνες ἐν ταῖς ὁδοῖς συνέχονται,” καὶ “Τὸ ὄλον ἀνδροκόβαλοι τινες,” καὶ “Αὐταὶ παρὰ τὴν θύραν τὴν αὐλῆον ὑπακούουσι”.

The financial burdens of the obligation of παιδοτροφία⁴⁹ are alluded to by the μεμψίμοιρος (grumbler) who, in reply to the bearer of the good news of the birth of a son, says (*Char.* 17.7) “if you add ‘half your property is gone’ you’ll be telling the truth”.⁵⁰ Stingy fathers resort to several tricks to avoid paying in full the schoolmaster’s salary (*Char.* 22.6, 9.5, 30.14),⁵¹ a reference to schools being private and quite expensive for the poorer parents.⁵² Although both slaves (a wet nurse – τίτθη– and a παιδαγωγός,) and professionals (διδάσκαλοι and παιδοτρίβαι) are involved in the children’s upbringing (*Char.* 9.6, 16.13, 20.5, 27.13), men are depicted in several *Characters* in scenes contradicting the ancient stereotype of the distant and absent figure of male parenthood: they feed a baby, cuddle and baby-talk (*Char.* 14.10),⁵³ lose in the eternal battle of the bed-time routine, when the children demand one more story from the sleepy father (*Char.* 7.10),⁵⁴ play and exercise with them to the point of exhaustion (*Char.* 14.10),⁵⁵ kiss them, buy them treats, let them sleep on their lap, sometimes for the wrong reasons as the κόλαξ (*Char.* 2.6),⁵⁶ and the ἄρεσκος do (*Char.* 5.5),⁵⁷ in order to reach out to the father. Even if Theophrastus (a bachelor with no offspring himself) ranks among vices the over-indulging of children, such humane scenes attest to the perennial vivacity of paternal emotions and to the existence of active fatherly involvement within the Athenian family.

⁴⁹ On the economic dependence of sons on their fathers in Athens and the potential tensions arising thereof, see Cantarella 2010. On παιδοτροφία see Leão 2011. On family relations in the *Characters* see Millett 2007: 78-81, who notes (78) that this comment is ignoring the reciprocal obligation imposed on children to care for their parents in later life.

⁵⁰ Th. *Char.* 17.7: καὶ πρὸς τὸν εὐαγγελιζόμενον ὅτι “Υἱός σοι γέγονεν”, εἰπεῖν ὅτι “ἂν προσθῇς: ‘καὶ τῆς οὐσίας τὸ ἥμισυ ἄπεστιν’ ἀληθὴ ἔρεις”.

⁵¹ Th. *Char.* 22.6: καὶ τὰ παιδία δὲ δεινὸς μὴ πέμψαι εἰς διδασκάλου, 9.5: ἄγειν δὲ καὶ τοὺς υἱοὺς εἰς τὴν ὑστεραίαν καὶ τὸν παιδαγωγόν, 30.14.

⁵² Hansen 1991: 312.

⁵³ Th. *Char.* 20.5: καὶ τὸ παιδίον τῆς τίτθης ἀφελόμενος, μασώμενος σιτίζειν αὐτὸς καὶ ὑποκορίζεσθαι πομπύζων καὶ πανουργιῶν τοῦ πάπου καλῶν.

⁵⁴ Th. *Char.* 7.10: καὶ σκωπτόμενος ὑπομεῖναι καὶ ὑπὸ τῶν αὐτοῦ παιδίων, ὅταν αὐτὸν ἤδη καθεύδειν βουλόμενον κωλύῃ λέγοντα “Πάπα, λάλει τι ἡμῖν, ὅπως ἂν ἡμᾶς ὕπνος λάβῃ”. See Lane Fox 1997: 128, for this humane scene being unique in ancient literature.

⁵⁵ Th. *Char.* 14.10: καὶ τὰ παιδία ἐναντῶι παλαίειν ἀναγκάζων καὶ τροχάζειν [καὶ] εἰς κόπον ἐμβαλεῖν.

⁵⁶ Th. *Char.* 2.6: καὶ τοῖς παιδίοις μῆλα καὶ ἀπίους πριάμενος εἰσενέγκας δοῦναι ὀρώντος αὐτοῦ, καὶ φιλήσας δὲ εἰπεῖν “Χρηστοῦ πατρὸς νεόττια”.

⁵⁷ Th. *Char.* 5.5: καὶ κεκλημένος δὲ ἐπὶ δεῖπνον κελεύσαι καλέσαι τὰ παιδία τὸν ἐστιῶντα, καὶ εἰσιόντα φῆσαι σύκου ὁμοιότερα εἶναι τῷ πατρί, καὶ προσαγόμενος φιλήσαι καὶ παρ’ αὐτὸν καθίστασθαι, καὶ τοῖς μὲν συμπαίζειν αὐτὸς λέγων “Ἀσκός, πέλεκυς”, τὰ δὲ ἐπὶ τῆς γαστρὸς ἔαν καθεύδειν ἅμα θλιβόμενος.

Master – slave relationship

Half of the *Characters* are mentioned as slave owners, some of which, as the Rustic, do not fit an upper-class profile.⁵⁸ The excesses, good or bad, of masters towards their slaves,⁵⁹ allow an insight into the obligations implied in the master-slave relationship, such as the master's duty to provide enough food for the slave. Openly inviting your slave to enjoy the meat and bread when you are a guest at a dinner is considered shameless (*ἀναίσχυντον*), since feeding him out of your host's pocket is to be avoiding your own obligations (*Char.* 9.3).⁶⁰ A stingy master tries to economise by using a miserly measure cup to slim down the ration of his slave (*Char.* 30.11)⁶¹ and is deducting from his daily rations the price of a pot or dish the slave accidentally breaks (*Char.* 10.5).⁶² Even if the only thing the slave could do was to complain, pinpointing such reactions as character flaws implies a master normally acting “as if bound by a contract”,⁶³ one in which if he wanted his slave to behave as expected, he also had to comply to his part of obligations as well, by providing him with enough food.

Slaves in the *Characters* often execute commissions for their masters in the market,⁶⁴ such as buying provisions (*Char.* 14.9, 30.8),⁶⁵ although a mistrustful master (*ἄπιστος*) sends two of them, one to shop, the other one to check upon the price paid by the first (*Char.* 18.2).⁶⁶ Slaves working outside the master's house⁶⁷ are mentioned in relation to the profiteer master (*αἰσχροκερδής*), who, when he collects a portion of the daily proceeds of his slave's work (*ἀποφοράν*),⁶⁸ charges to

⁵⁸ Lane Fox 1996: 131.

⁵⁹ Slaves are often mentioned as “*παιδιά*”, Th. *Char.* 14.9, 21.8, 22.11, 23.2, 23.8, 24.12, 25.2, 30.15. They include both sexes and one servant is Ethiopian, Th. *Char.* 21.3. On the treatment of slaves in the *Characters* see Millett 2007: 73-78.

⁶⁰ Th. *Char.* 9.3: καὶ προσκαλεσάμενος τὸν ἀκόλουθον δοῦναι ἄρτον καὶ κρέας ἀπὸ τῆς τραπέζης ἄρας καὶ εἰπεῖν ἀκουόντων πάντων “Εὐωχοῦ, Τίβειε.”

⁶¹ Th. *Char.* 30.11: Φειδωνεῖω μέτρῳ τὸν πύνδακα εἰσκεκρουμένῳ μετρεῖν αὐτὸς τοῖς ἔνδον τὰ ἐπιτήδεια σφόδρα ἀποψῶν.

⁶² Th. *Char.* 10.5: καὶ οἰκέτου χύτραν [εἶναι] ἢ λοπάδα κατὰξαντος εἰσπράξει ἀπὸ τῶν ἐπιτηδείων.

⁶³ Johnstone 2011: 79.

⁶⁴ On the participation of slaves in business arrangements, see E. Cohen 1997: 248-251.

⁶⁵ Th. *Char.* 14.9: καὶ χειμῶνος ὄντος μάχεσθαι τῷ παιδί, ὅτι σικύους οὐκ ἠγόρασεν, 30.8: καὶ ἀλειφόμενος ἐν τῷ βαλανεῖῳ καὶ εἰπὼν “Σαπρὸν γε τὸ ἔλαιον ἐπρίω, ὦ παιδάριον” τῷ ἄλλοτρίῳ ἀλείφεισθαι.

⁶⁶ Th. *Char.* 18.2: ὁ δὲ ἄπιστος τοιοῦτός τις οἷος ἀποστείλας τὸν παῖδα ὀψωνήσοντα ἕτερον παῖδα πέμπειν [τὸν] πευσόμενον πόσου ἐπρίατο.

⁶⁷ E. Cohen 1992: 93.

⁶⁸ On ἀποφορά see [Xen.] *Ath. Pol.* 1.10-12, And. 1.38, Men. *Epitr.* 378-380, Aesch. 1.97. On slave μισθοφόρον see Maffi 2009: 208-210. On slaves making a living in Athens, see E. Cohen 2000: 130-154.

him the ἐπικαταλλαγή (*Char.* 30.15),⁶⁹ the cost he will have to pay to the banker for exchange of the copper coins to silver ones. It is thus confirmed that normally slaves were entitled to keep the surplus. The profiteer is also apt, when travelling with companions, to use their servants and hire out his own, without sharing the proceeds (*Char.* 30.17):⁷⁰ he violates the customary norm among the ad hoc κοινωνία (partnership) that travel companions formed, to share equally means and expenses.⁷¹

The conventional wisdom that considered slaves untrustworthy⁷² is illustrated by the master who asks his slave to walk not behind him, but in front, for fear of him escaping (*Char.* 18.8).⁷³ Too much familiarity with slaves is considered the sign of an unwise master, as the rustic (ἄγροικία), who is entrusting to his servants the most important matters instead of friends and family (ἄπιστεῖν, *Char.* 4.6).⁷⁴ A master is clearly expected to keep a certain distance both from slaves and slavish manual work,⁷⁵ such as grinding and distributing the daily ration of meal, household chores (*Char.* 22.12),⁷⁶ even answering the door (*Char.* 4.10).⁷⁷ Although slave corporal punishment is considered normal,⁷⁸ it was not supposed to result in death and cruelty is frowned upon: a bystander watching a slave being whipped (the most common form of slave punishment for all kinds of offenses), who comments that one of his own slaves had hanged himself after being beaten (*Char.* 12.12),⁷⁹ is shown as an example of pain-inducing inappropriate talk (ἄκαιρία λυπούσα).

⁶⁹ Th. *Char.* 30.15: καὶ παρὰ παιδὸς κομιζόμενος ἀποφορὰν τοῦ χαλκοῦ τὴν ἐπικαταλλαγὴν προσπαταεῖν. On ἐπικαταλλαγή, calculated at the time to 5-6%, see Bogaert 1968:448.

⁷⁰ Th. *Char.* 30.17: συναποδημῶν δὲ μετὰ γνωρίμων χρήσασθαι τοῖς ἐκείνων παισί, τὸν δὲ ἑαυτοῦ ἔξω μισθῶσαι καὶ μὴ ἀναφέρειν εἰς τὸ κοινὸν τὸν μισθόν.

⁷¹ Millett 1991: 149-150.

⁷² Dover 1974: 114-115.

⁷³ Th. *Char.* 18.8: καὶ τὸν παῖδα δὲ ἀκολουθοῦντα κελεύειν αὐτοῦ ὅπισθεν μὴ βαδίζειν ἀλλ' ἔμπροσθεν, ἵνα φυλάττῃ αὐτόν, μὴ ἐν τῇ ὁδῷ ἀποδρᾶ.

⁷⁴ Th. *Char.* 4.6: καὶ τοῖς μὲν φίλοις καὶ οἰκείοις ἀπιστεῖν, πρὸς δὲ τοὺς αὐτοῦ οἰκέτας ἀνακοινοῦσθαι περὶ τῶν μεγίστων.

⁷⁵ On household operations relegated to slaves and women as non-fit for the Athenian concept of ἀνδρεία, see E. Cohen 2001: 100-112.

⁷⁶ Th. *Char.* 22.12: καὶ ἀναστὰς τὴν οἰκίαν καλλῦναι καὶ τὰς κλῖνας ἐκκορῆσαι.

⁷⁷ Th. *Char.* 4.10: καὶ παρὰ τὴν θύραν ὑπακοῦσαι αὐτός.

⁷⁸ On slaves' punishment and beating, see Hunter 1994: 154-173, for relevant offenses mentioned in the (mainly comedy) sources, see esp. 168-169.

⁷⁹ Th. *Char.* 12.12: καὶ μαστιγομένου οἰκέτου παρεστῶς διηγείσθαι ὅτι καὶ αὐτοῦ ποτε παῖς οὕτως πληγὰς λαβὼν ἀπήγατο.

Professions

Among several professions and activities mentioned in the *Characters*, some are considered *contra bonos mores* (αἰσχρὰ ἔργασια, *Char.* 6.5):⁸⁰ running an inn⁸¹ or a brothel,⁸² acting as a tax collector,⁸³ auctioneer,⁸⁴ cook⁸⁵ or gambler. References to other hired labourers (μισθωτοί),⁸⁶ probably paid by the day and possibly servile, include workers in the fields, servants at a wedding banquet, a servant escorting the wife to the market,⁸⁷ flute girls who provide more than musical entertainment during banquets (*Char.* 11.7).⁸⁸ Schoolteachers, certainly of free status, are paid by the month,⁸⁹ the profiteering father, in case of sickness of his children deducting accordingly sums from the teacher's salary. He is also not sending the children to school for the whole of *Anthestirion* month to skip paying for numerous holidays (*Char.* 30.14)⁹⁰ in which children are dispensed from class.⁹¹ The stingy father (ἀνελεύθερος) keeps them at home pretending they are sick at the annual celebration for the Muses, in order to avoid the traditional gifts to the teachers (*Char.* 22.6).⁹²

⁸⁰ Th. *Char.* 6.5: δεινὸς δὲ καὶ πανδοκεῦσαι καὶ πορνοβοσκῆσαι καὶ τελωνῆσαι καὶ μηδεμίαν αἰσχρὰν ἔργασίαν ἀποδοκιμάσαι, ἀλλὰ κηρύττειν, μαγειρεῦν, κυβεύειν. On the reputation of these professions see Diggle 2004: 255-256. On προνοβοσκεῖν and on the assimilation of inn-keeping and whore-herding, see E. Cohen 2016: 143-144.

⁸¹ Reputable travellers were expected to be lodged at friend's houses, cf. Pl. *Lg.* 918D.

⁸² On negative sentiments towards such trades see E. Cohen 2007: 210-224, idem 2016: 365. Brothel-keeping was also linked with usury, Arist. *EN* 1121^b 32 - 1122^a3.

⁸³ Cf. Ar. *Eq.* 248.

⁸⁴ The deep-rooted distrust for tax collecting and the bad reputation of auctioneers will continue well into Roman times throughout the Greco-Roman world, see Bond 2011.

⁸⁵ Those hired in the Agora to butcher and cook animals during sacrifices.

⁸⁶ On hired labour see Martini 1997. On mainly slaves serving under such "employment" see E. Cohen 2000: 142-143.

⁸⁷ Other professions mentioned in the *Characters* include a butcher (κρεοπώλης, 9.4), bathhouse keeper (βαλανεύς, 9.8), teacher (διδάσκαλος, 7.5), contractor (ἐργολάβος, 8.4), fuller (γναφεύς, 10.14, 18.6), seller of fish (ἰχθυοπώλης, 6.9), salted fish (ταριχοπώλης, 6.9), nuts (κάρυα, μύρτα, ἀκρόδρυα, 11.4), horses (ἵππους, 23.7), clothes (ἱματισμὸν, 23.7), perfume (μυροπώλης, 11.8), wine (οἶνοπώλης, 30.5), logographer (λογογράφος, 17.8), banker (τραπεζίτης, 21.12). On such specializations see Harris 2001.

⁸⁸ Th. *Char.* 11.7: αὐλητρίδας μισθοῦσθαι.

⁸⁹ Forbes 1942: 29-32, Marrou 1965: 223.

⁹⁰ Th. *Char.* 30.14: καὶ τῶν υἱῶν δὲ μὴ πορευομένων εἰς τὸ διδασκαλεῖον τὸν μῆνα ὅλον διὰ τὴν ἀρρωστίαν ἀφαιρεῖν τοῦ μισθοῦ κατὰ λόγον, καὶ τὸν Ἀνθεστηριῶνα μῆνα μὴ πέμπειν αὐτοὺς εἰς τὰ μαθήματα διὰ τὸ θέας εἶναι πολλὰς, ἵνα μὴ τὸν μισθὸν ἐκτίνη.

⁹¹ Cf. the same exemption in *IMagnesia* 100, l. 29-31, Velissaropoulos-Karakostas 2011 (II): 99.

⁹² Th. *Char.* 22.6: καὶ τὰ παιδία δὲ δεινὸς μὴ πέμπειν εἰς διδασκάλου, ὅταν ᾗ [τοῦ ἀποτιθέναι καὶ τὰ παιδία] Μουσεῖα, ἀλλὰ φῆσαι κακῶς ἔχειν, ἵνα μὴ συμβάλλονται.

Crimes and criminals

The Shameless man (*ἀπονενοημένος*) spends more time in jail than at home,⁹³ an indication of the frequency of his arrests and convictions, since in the *δεσμοκτήριον*⁹⁴ a prisoner was only held before the trial, in view of the execution of a sentence,⁹⁵ or for outstanding debts to the state. Among criminals mentioned in the *Characters*, the man “out of his mind” (*ἀπονενοημένος*) is arrested for theft⁹⁶ by the procedure of *apagoge* (*ἀπάγεσθαι κλοπῆς*),⁹⁷ alluding to any immediate arrest and appearance before the magistrate of those caught in the act of stealing. A common form of theft mentioned (constituting though a serious crime)⁹⁸ is stealing clothes in the baths (*Char.* 8.11),⁹⁹ especially by those distracted by long speeches, who are almost considered guilty of contributory negligence. A man showing his genitals to a respectable woman (*βδελυρός*) by raising his robe is committing an offense against decency (*Char.* 11.2).¹⁰⁰ An assault ending up in court (probably by a *graphe traumatos*)¹⁰¹ is the case of a mature Casanova (*ὀψιμαθής*) infatuated with a prostitute, who gets beaten up by a rival lover.¹⁰² Frequenting those who have been defeated in public cases (*δημοσία δίκη* – a term used here in its general meaning of “action”), is considered a way of learning the tricks of the evil trade from the best, espoused by the *φιλοπόνηρος Character*

⁹³ Cf. Din. 2.2: ἐν τῷ δεσμοτηρίῳ πλείω χρόνον ἢ ἕξω διατέτριψε.

⁹⁴ Th. *Char.* 6.6: τὸ δεσμοκτήριον πλείω χρόνον οἰκεῖν ἢ τὴν αὐτοῦ οἰκίαν.

⁹⁵ Allen 1997: 121-135, Hunter 1997: 296-326.

⁹⁶ Th. *Char.* 6.6.

⁹⁷ On the *apagoge* procedure see Hansen 1976: 36-53, Todd 1993: 117-118, Gagarin 2003: 183-191. According to Aristotle, *Ath. Pol.* 52.1, the *lopodytai* were among the *kakourgoi* brought before the Eleven archons by *apagoge*, to be summarily executed if they acknowledged the deed.

⁹⁸ D. Cohen 1983: 69-83. Arist. *Probl.* 952 a ff., is discussing why if a man steals from the baths or a similar public place, he is punished with death, whereas if he steals from a house he pays back double the value of what he has stolen, offering the explanation that in a house one can keep safe his property by strong walls, locks, and having slaves to guard them, whereas at baths and similar public spaces it is easy for any one who wishes to commit a crime and things are immediately placed at the mercy of a thief, as soon as someone leaves his sight. He goes on to describe the wicked character of those who commit theft in public places.

⁹⁹ Th. *Char.* 8.11: [πολλάκις γὰρ αὐτῶν οἱ μὲν ἐν τοῖς βαλανείοις περιστάσεις ποιούμενοι τὰ ἱμάτια ἀποβεβλήκασιν]. This reference is included in the Epilogue of this *Character*, which, as the Preface of the work, are considered spurious passages.

¹⁰⁰ Th. *Char.* 11.2: ὁ δὲ βδελυρὸς τοιοῦτός <τις> οἷος ἀπαντήσας γυναιξὶν ἐλευθέρας ἀνασυράμενος δεῖξαι τὸ αἰδοῖον.

¹⁰¹ Hansen 1983.

¹⁰² Th. *Char.* 27.9: καὶ ἐρῶν ἐταίρας καὶ κριὸς προσβάλλον ταῖς θύ<ραις> πληγὰς εἰληφὼς ὑπ' ἀντεραστοῦ δικάζεσθαι.

(27.9).¹⁰³ This comment serves as an illustration of the public stigma connected with loosing public profile cases.¹⁰⁴

Court etiquette

The behaviour of parties involved in legal disputes, as judges, arbiters or litigants, gives rise to remarks in almost half of the *Characters*, attesting to the importance and frequency of litigation in Athenian society.¹⁰⁵ The reactions illustrated as excessive show *a contrario* what was considered acceptable in terms of court etiquette and legal ethics. Out of the norm is the behaviour of the man (εἴρων) who after attacking people behind their back, commiserates with the defendants for losing a lawsuit (*Char.* 1.2).¹⁰⁶ To congratulate a man who has lost a major trial is also considered gross (βδελυρία, *Char.* 11.7),¹⁰⁷ especially in view of the lack of right of appeal and of the obligation to pay (*Char.* 12-4)¹⁰⁸ whatever was due that may come with losing a case. It is also considered abnormal to be forgiving to those who slander you, to laugh at anything said against you, even to respond calmly to those who have been wronged and are outraged (*Char.* 1.2-3).¹⁰⁹ Such statements indicate that, according to the democratic moral standards, personal abuse should not be tolerated, on the contrary, popular morality expected a free man to respond passionately to an offense.¹¹⁰

Arbitration is mentioned three times in the *Characters*,¹¹¹ as a duty among friends. In private arbitration, other than the impartial arbiter who had to be accepted by both parties, each party could appoint an equal number of arbiters.¹¹²

¹⁰³ Th. *Char.* 29.1: ὁ δὲ φιλοπόνηρός [ἐστὶ] τοιόσδε τις οἷος ἐντυγχάνειν τοῖς ἡττημένοις καὶ δημοσίους ἀγῶνας ὠφληκόσι καὶ ὑπολαμβάνειν, ἐὰν τούτοις χρῆται, ἐμπειρότερος γενήσεσθαι καὶ φοβερώτερος.

¹⁰⁴ Harrison 1971, II: 75-6. On the usage of the term δίκη also in the general sense of action, both private and public, see Hansen 1983: esp. 313-314.

¹⁰⁵ On the relatively important role litigation plays in the *Characters*, see Gagarin 2000: 359-360, Millett 2007: 91-92.

¹⁰⁶ Th. *Char.* 1.2: καὶ ἐπαινεῖν παρόντας οἷς ἐπέθετο λάθραι καὶ τούτοις συλλυπεῖσθαι ἡττωμένοις.

¹⁰⁷ Th. *Char.* 11.7: καὶ ἡττωμένῳ δὲ μεγάλην δίκην ἀπὸντι ἀπὸ τοῦ δικαστηρίου προσελθεῖν καὶ συνησθῆναι.

¹⁰⁸ Th. *Char.* 12.4: καὶ δίκην ὠφληκότα ἐγγύης προσελθὼν κελεῦσαι αὐτὸν ἀναδέξασθαι. If he was the prosecutor in a civil case, he also bore the risk of being called to pay the penalty of *epobelia*, the 1/6th of the amount claimed, see MacDowell 2008. On other transaction costs involved in litigation see Thür 2015.

¹⁰⁹ Th. *Char.* 1.2-3: καὶ συγγνώμην δὲ ἔχειν τοῖς αὐτὸν κακῶς λέγουσι καὶ ἐπὶ τοῖς καθ' ἑαυτοῦ λεγομένοις <γελᾶν>. καὶ πρὸς τοὺς ἀδικουμένους καὶ ἀγανακτοῦντας πράως διαλέγεσθαι.

¹¹⁰ Dover 1974: 116.

¹¹¹ Lane Fox 1996: 146.

¹¹² On arbitration in Athens see MacDowell 1978: 203-206, Karabélias 1997. On private arbitration see Scafuro 1997: 13-14, on public arbitration idem: 35-37, 383-391.

To wish to be considered friendly not only by the party who has appointed you, but also by the opponent, is thus the mark of the man who is trying too hard to please everyone (ἄρεσκοις, *Char.* 5.3).¹¹³ The same *Character* is apt to tell foreigners that they have a better case than his fellow-citizens (*Char.* 5.4),¹¹⁴ an example illustrating *a contrario* the expected bias towards one's ethnic group.¹¹⁵ On the other hand, the arbiter's functions¹¹⁶ are not to be executed "by the way", casually or hastily: the Arrogant (ὑπερήφανος) is delivering his judgement while walking down the street (*Char.* 24.4).¹¹⁷ The primary duty of the arbiter being reconciliation, it is the sign of a Tactless man (ἄκαιρος) to exacerbate the dispute when both parties wish to reconcile (*Char.* 12.13).¹¹⁸

In court, the Garrulous juror (λάλος) prevents his fellow jurors (or arbiters),¹¹⁹ from reaching a verdict (*Char.* 7.8),¹²⁰ probably by producing –more than the ordinary– θόρυβος.¹²¹ The φιλοπόνηρος, who asks the court (or the *ekklesia*), to "judge the case, not the man" (*Char.* 29.4),¹²² embodies judicial misconduct: as chief of the villains, he forms cliques on juries for bad causes and upon reaching judgement, he distorts the arguments of the adversaries (*Char.* 29.5).¹²³ This might be interpreted as a reference to partial or corrupt jurors, gathering together in factions,¹²⁴ in spite of the lot system of selection¹²⁵ of jurors and of their seating in the δικαστήριον.¹²⁶

The importance of a timely appearance in court is illustrated by the Absent-minded (ἀναίσθητος): he has a lawsuit to defend and should be going to court, but

¹¹³ Th. *Char.* 5.3: καὶ παρακληθεὶς δὲ πρὸς δίκαιαν μὴ μόνον ᾧ πάρεστι βούλεσθαι ἀρέσκειν, ἀλλὰ καὶ τῷ ἀντιδίκῳ, ἵνα κοινὸς εἶς εἶναι δοκῇ.

¹¹⁴ Th. *Char.* 5.4: καὶ τοὺς ξένους δὲ εἰπεῖν ὡς δικαιοτέρα λέγουσι τῶν πολιτῶν.

¹¹⁵ Also, it implies that it was regarded as harmful not to support your fellow Athenians.

¹¹⁶ We cannot distinguish if Theophrastus is referring to public arbitration in this case. The first lists of public officials acting as arbiters, *SEG* 16.136, 16.145, are dated in the 330s.

¹¹⁷ Th. *Char.* 24.4: καὶ βαδίζων ἐν ταῖς ὁδοῖς τὰς διαίτας κρίνειν [ἐν] τοῖς ἐπιτρέψασι.

¹¹⁸ Th. *Char.* 12.13: καὶ παρὼν διαίτη συγκρούειν, ἀμφοτέρων βουλομένων διαλύεσθαι.

¹¹⁹ On the use of the verb δικάζω for arbiters too, cf. Dem. 40.16: καὶ τὸ μὲν πρῶτον παραγραφάμενοι Σόλωνα Ἐρχιέα διαιτητὴν τοῦτῳ ἐπετρέψαμεν δικάσαι περὶ ὧν ἐνεκαλοῦμεν ἀλλήλοις.

¹²⁰ Th. *Char.* 7.8: καὶ συνδικάζων δὲ κωλύσαι κρίναι.

¹²¹ Bers 1985.

¹²² Th. *Char.* 29.4: καὶ εὖνους δὲ εἶναι τῷ ἐν ἐκκλησίᾳ λέγοντι ἢ ἐπὶ δικαστηρίου κρινόμενῳ. καὶ πρὸς <τοὺς> καθημένους δὲ εἰπεῖν δεινὸς ὡς "Οὐ δεῖ τὸν ἄνδρα, ἀλλὰ τὸ πρᾶγμα κρίνεσθαι".

¹²³ Th. *Char.* 29.5: δεινὸς δὲ καὶ προστατῆσαι φαύλων καὶ συνεδρεῦσαι ἐν δικαστηρίοις ἐπὶ πονηροῖς πράγμασιν καὶ κρίσιν κρίνων ἐκδέχεσθαι τὰ ὑπὸ τῶν ἀντιδίκων λεγόμενα ἐπὶ τὸ χεῖρον.

¹²⁴ Thür 2008: 54 considers the formation of such factions among jurors unlikely.

¹²⁵ Lane Fox 1996: 131-132, Hansen 1991: 284-285.

¹²⁶ Boegehold 1995: 38, 67-76.

forgets about it and goes to the country instead (*Char.* 14.3).¹²⁷ A spurious addition to the λογοποιός *Character* mentions that he gets so carried off in irrelevant speeches that he risks losing his case for failure to appear (*Char.* 8.11).¹²⁸ The ἄκαιρος man is showing up to give testimony after the case has been decided (*Char.* 12.5),¹²⁹ thus failing to provide the emotional and practical support to the litigant,¹³⁰ that his testimony was meant to secure.¹³¹

The shameless man (ἀπονεινομένος, *Char.* 6.8),¹³² when acting as litigant, is all too familiar with court proceedings and uses the procedure abusively:¹³³ shamelessly switching sides, he is acting now as defendant and then as plaintiff, denying some suits by oath (ἐξωμοσία).¹³⁴ He also shows up with an ἐχίνος full of evidence¹³⁵ in the fold of his cloak and handfuls of little notes. This caricature of a litigant loaded with documents illustrates, other than the growing importance written evidence acquires from the mid-fourth century, stalking practices of the opponent in court (commonly practiced by lawyers up to our days): filing numerous unfounded lawsuits, lying under oath, attempting to present last minute evidence in order to limit the adversary's possibility for a proper rebuttal and presenting long submissions, delivered with the help of notes provided by the logographer.¹³⁶

¹²⁷ Th. *Char.* 14.3: καὶ δίκην φεύγων καὶ ταύτην εἰσιέναι μέλλων ἐπιλαθόμενος εἰς ἀγρὸν πορεύεσθαι.

¹²⁸ Th. *Char.* 8.11: οἱ δ' ἐν τῇ στοᾷ πεζομαχία καὶ ναυμαχία νικῶντες ἐρήμους δίκας ὠφλήκασιν.

¹²⁹ Th. *Char.* 12.5: καὶ μαρτυρήσων παρῆναι τοῦ πράγματος ἤδη κεκριμένου.

¹³⁰ Potentially offering grounds for a *dike lipomarturiou* against the witness who had failed to appear, see Todd 1990: 25, Thür 2005, esp. 158.

¹³¹ Since witnesses gave evidence before the trial and were expected to confirm their testimony in court, failing to appear on time deprived the litigant of precious evidence for his case, see Todd 1990: 19-39. On the support provided by testimonies in court see Rubinstein 2005: 99-120.

¹³² Th. *Char.* 6.8: ἱκανὸς δὲ καὶ δίκας τὰς μὲν φεύγειν, τὰς δὲ διώκειν, τὰς δὲ ἐξόμνυσθαι, ταῖς δὲ παρῆναι ἔχων ἐχίνον ἐν τῷ προκολλίῳ καὶ ὀρμαθοῦς γραμματείδιον ἐν ταῖς χερσίν.

¹³³ MacDowell 1978: 208.

¹³⁴ Todd 1990.

¹³⁵ Evidence produced by the plaintiff and the defendant was placed in different sealed jars (ἐχίνοι) pending the trial, such as the one discovered in the ancient Agora of Athens, see Boegehold 1982. On different uses of the *echinos* during the appeal procedure against a judgement by a public arbitrator, in other trials and during preliminary examination (ἀνάκρισις) see Diggle 2004: 260. On the use of *echinoi* as containing the documents to be read out in trial see Thür 2008.

¹³⁶ On the introduction of written testimonies in the lawcourts see Rubinstein 2000: 72-75. See also Thomas 1989: 42-45. Faraguna 2008: 67-72 argues in favor of the importance of written documentation in trials and that this particular mention may refer to the collection of documents in the phase of the *anakrisis*. *Contra*, Gagarin 2008: 84 n. 2, argues that this Character brings an *echinos* into court with him, trying to substitute the

The importance of being in touch with the audience, and of knowing when to press an issue and when to rest your case,¹³⁷ is stressed by the overzealous *Character* (περίεργος), who, when people are in agreement that his cause is just, insists and loses his case (*Char.* 13.3).¹³⁸ The Grumbler (μεμψίμοιρος), even after winning his case by a unanimous vote (which must have been extremely rare, given the hundreds of jurors),¹³⁹ criticizes his λογογράφος, for leaving out many valid arguments (*Char.* 17.8).¹⁴⁰ Probably thus, the case was discussed before drafting the pleadings between the professional ghost speech-writer and his client, who, then as now, had his own opinion (not always founded) on what should be stressed in court.¹⁴¹

Regarding oaths in connection to trials, Theophrastus only mentions them in a negative context and seems to believe they should be avoided as much as possible:¹⁴² taking an oath too readily (ταχύ) is depicted as a disgraceful act (ἀπόνοια, *Char.* 6.1).¹⁴³ So, to advertise, as the περίεργος¹⁴⁴ *Character* does, to court bystanders (περιεσθηκότας, *Char.* 13.11),¹⁴⁵ the many oaths¹⁴⁶ one has taken, is to undermine his own credibility.

Conclusion

The anonymous Athenians¹⁴⁷ illustrated in the *Characters* relied on networks of relatives, friends, neighbours and citizens for all sorts of exchanges in their private and public life. Such instances offered occasions to demonstrate a more or less “correct” behaviour, both by moral and by legal standards. The importance of these –often unwritten– rules and conventions regulating behaviour in Athens was directly proportional to the frequency and variety of these exchanges. Especially in

one with the documents presented in the preliminary hearing. Canevaro 2013:1 opts also for documents in the preliminary hearing.

¹³⁷ On the judges' emotions being manipulated by the accusers and the defendants see Harris 2017: 223-242.

¹³⁸ Th. *Char.* 13.3: καὶ ὁμολογουμένου τοῦ πράγματος δικαίου εἶναι ἀνταναστὰς ἐλεγχθῆναι.

¹³⁹ Todd 1993: 83.

¹⁴⁰ Th. *Char.* 17.8: καὶ δίκην νικήσας καὶ λαβὼν πάσας τὰς ψήφους ἐγκαλεῖν τῷ γράψαντι τὸν λόγον ὡς πολλὰ παραλελοιπότι τῶν δικαίων.

¹⁴¹ Hansen 1991: 194, Lanni 2006: 37.

¹⁴² Sommerstein - Torrance 2014: 392.

¹⁴³ Th. *Char.* 6.1: ὁ δὲ ἀπονενοημένος τοιοῦτός τις, οἷος ὁμοσαι ταχύ.

¹⁴⁴ Th. *Char.* 13.11: καὶ ὁμνῦναι μέλλων εἰπεῖν πρὸς τοὺς περιεσθηκότας, ὅτι “Καὶ πρότερον πολλάκις ὁμώμοκα”.

¹⁴⁵ See Lanni 1997: 183-189.

¹⁴⁶ On oaths in the context of trials, sworn by witnesses or litigants, see Harrison 1971 II: 150-153, Plescia 1970: 40-57, Thür 1996: 57-72, Gagarin 1997: 125-134, idem 2007: 39-47, Todd 1990: 35. On oaths in Theophrastus' *Characters* see Sommerstein - Torrance 2014: 392, Harrison 1971, II: 151-152.

¹⁴⁷ On real men serving as inspiration for the *Characters*, see Smeed 1985: 1-5.

a democratic city with an egalitarian sense of community, the equality and freedom shared among the citizens were balanced by the intensive public scrutiny of actions that, even if not straightforward illegal, violated the moral norm. Being in Athens – and not in Rome of the censors– the subtle irony by which Theophrastus pinpoints several vices is acting as a form of social control, by means of comic relief.

As modern scholars have pointed out, the *Characters* offer a reversed model of dominant Athenian values. They are a collection of the opposite of the “cardinal virtues”¹⁴⁸ which formed the repertoire of good deeds of the citizens honoured in city decrees, such as φιλοτιμία, εὐταξία, σωφροσύνη, εὐσέβεια, δικαιοσύνη, εὐνοία. Following the principle of reverse psychology, they instruct us on how good citizens should behave, according to the *boni mores* complementing the law in Hellenistic Athens. By providing a most vivid description of actions, mentalities and practices strongly related to legal acts, transactions, duties and obligations, the *Characters* help us understand which behaviour constituted the norm in late fourth-century BCE in Athens, or, on the contrary, trespassed the limits of what was considered acceptable.¹⁴⁹ Whether these norms were those endorsed by popular morality in Athens,¹⁵⁰ reflect the value-system of the better-off,¹⁵¹ or are these of an outsider, a scholarly metic such as Theophrastus, is a question open to debate.¹⁵² The popularity of his book among a wider public could though be in part attributed to its values sounding plausible also to his contemporaries observers.¹⁵³ The society described in the *Characters* is one in which every citizen had a strong public

¹⁴⁸ Whitehead 1993, Lane Fox 1997: 154-155.

¹⁴⁹ Millett 1991: 245, n. 7, “By observing how negative behaviour transgresses norms it is possible to infer the norms themselves.”

¹⁵⁰ On norms reflected in the *Characters* see Millett 2007: 109, “what emerges from *Characters*’ actions is not how to be a good man; nor even necessarily how to be a good citizen. Rather the message is how to be good at being a citizen in the context of a democratic polis.” Habicht 2006: 141, “*Théophraste fait voir quelles étaient les normes de la conduite ordinaire, puisque, précisément, ses ‘caractères’ s’en écartent plus ou moins nettement et, par là même, se font remarquer comme représentants d’un type bien défini.*” Halliwell 2008: 238, “However exactly one weights the value of the *Characters* as historical evidence for specificities of social life, its judgements and nuances can be read in a way that casts a sharp sidelight on the operations of socio-ethical norms.” Volt 2010: 303, “these sketches have much to tell us about various aspects of Athenian social and cultural values.”

¹⁵¹ Rostovtzeff, 1941: 1352, maintained that the portraits belong to Athenian bourgeois or middle class. Although some of the *Characters*, like the Oligarch, belong to elite Athenians, several others do not, see Lane Fox 1996: 130. On the fortune and citizen status of different *Characters*, see Giglioni 1980.

¹⁵² Martin 2004: 26-29, argues for example that the set of religious etiquettes presented in the *Characters* are relevant to the author’s own class and not to ethics. See also Millett 2007, *passim*, on the *Characters* showing the Athens’ elite perspective.

¹⁵³ Such as the 2000 students reputedly attending Theophrastus’ lessons in Athens.

profile, in which one's behaviour was constantly “judging and being judged”¹⁵⁴ and where a uniform code of behaviour seems to have applied, especially to the wealthier citizens.

The riddle of the purpose of the *Characters* is not easy to solve. Before giving an answer as to the motivation behind the little book, it is important not to underestimate the legacy of this collection of witty sketches. Character typification, partly rooted in ethical philosophy, has been essential in the development of ancient rhetoric, especially of forensic oratory.¹⁵⁵ The *Character's* technique of classifying examples of actions as defects may be pararellised with the *λοιδορία*, the “character assassination” followed by litigants before the Athenian courts, in which an orator would undermine his opponent's *ethos* and would construct his own exemplary *ethos* in order to enhance his credibility.¹⁵⁶ The Byzantines and some modern scholars have even argued that Theophrastus' treatise was written as a handbook providing the orator with ready-made character depictions, introducing a method of typecasting adopted by rhetorical education from the Roman period onwards.¹⁵⁷

We can imagine the inquiring, eloquent polymath that was Theophrastus, having a great time observing –over a number of years– and noting down in a booklet, with humour and wit, instances of borderline behaviour he noticed around him. By typecasting personalities with the help of set of examples of characteristic words and actions, he inaugurated a method that makes him a pioneer of prescientific psychology. The *Characters* could be seen as an ancestor of the “personality theory” formulated by psychiatric research in our days, which is using typical behaviours to diagnose deviant personalities.¹⁵⁸ The timeless quality of his portraits is undeniable: as Lane Fox had aptly put it,¹⁵⁹ “*after two and a half thousand years, when I read the Characters, I doubt if I am alone in recognizing parts of myself and my colleagues in so many of their types.*” At the same time, the *Characters* are offering us a vivid reflection of the communal values of their own time, the late fourth-century Athens, including “photographic” images of the Athenian law in action. Offering to the legal historian a goldmine of observations on Athenians interacting with various institutions, the *Characters* also pre-dated, by two and a half millennia, the field of legal psychology; a field only recently developed in science, focusing on the empirical psychological observation of

¹⁵⁴ Millett 2007: 83.

¹⁵⁵ Diggle 2004: 11–12, De Temmerman 2007: 85–110, Fortenbaugh 1994: 15–35.

¹⁵⁶ Russell 1990: 197–212, Lane Fox 1997: 155.

¹⁵⁷ De Temmerman 2007: 88–89. As seen in works on forensic oratory, this technique has been perfected prior to the *Characters* and this theory is hard to subscribe to.

¹⁵⁸ Evolving around diagnostic criteria developed in the 50's to classify individuals within clinical categories, see Millon (et alii) 2000, describing such personality types as the Antisocial, Avoidant, Obsessive-Compulsive, Dependent, Histrionic, Narcissistic, Schizoid, Paranoid, Borderline.

¹⁵⁹ Lane Fox 1996: 128.

people who come into contact with the law, as decision makers, citizens, family members, litigants or parties in every day transactions.¹⁶⁰

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¹⁶⁰ On Theophrastus as a pioneer of the descriptive approach to personality, by providing typical behaviours in concrete situations and about the psychological content of the *Characters*, see De Raad – Ceulemans 2001: 168-184.

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