

EDWARD E. COHEN (PHILADELPHIA, PA)

## ATHENIAN LEGISLATION LIMITING MALE PROSTITUTES' POLITICAL RIGHTS

As a mercantile activity, prostitution was not untouched by Athenian antagonism toward commercial and manual pursuits, and numerous negative allusions toward prostitutes and prostitution are found in Greek sources — often implicitly, sometimes explicitly. However, a detailed study of the terminology of Greek prostitution finds that for prostitution “terms that imply moral shame are not widely attested before the second to third century CE” (Kapparis 2011: 228), a half-millennium and more after the classical period. Many other commercial activities did not fare as well: pursuits today not evoking negativity were often denigrated in classical Athens. Bankers were denounced as “most pestiferous.”<sup>1</sup> Selling ribbons or serving as a wet-nurse evoked contempt<sup>2</sup> — as did auctioneering, cooking, inn-keeping, tax collecting, brothel-keeping and gambling.<sup>3</sup> Employment as an actor generated negativity similar to that engendered by operating a primary school.<sup>4</sup> Any form of hired day-labor, even agricultural work requiring personal effort, was seen by some as offensively inappropriate for an Athenian woman.<sup>5</sup> Some citizens so disdained Athenians working in retail trade that “sitting in

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<sup>1</sup> Τὸς τραπεζίτας: ἔθνος τούτου γὰρ οὐδέν ἐστιν ἐξωλέστερον. (Antiphanēs Fr. 157 [K-A]).

<sup>2</sup> Dem. 57.29, 35.

<sup>3</sup> Theophr. *Khar.* 6.2-10: ὁ δὲ ἀπονενομημένος . . . δεινὸς δὲ καὶ πανδοκεῦσαι καὶ πορνοβοσκήσαι καὶ τελωνῆσαι . . . κηρύττειν, μαγειρεύειν, κυβεύειν.

<sup>4</sup> See the ridicule heaped on Aiskhinēs for his involvement in these activities: Dem. 19.70, 246, 249.

<sup>5</sup> Dem. 57.45: πολλὰ δουλικά καὶ ταπεινὰ πράγματα τοὺς ἐλευθέρους ἢ πενία βιάζεται

a brothel was no more despicable to the elite than working in the agora” (Glazebrook 2011: 35) — a contempt so virulent that a law had been passed prohibiting insults targeting business activity in the market (*agora*) by male or female citizens.<sup>6</sup>

In this paper, I will seek to show (1) that because even prominent citizens were far from invisible in meretricious activity, Athenian legislation limiting male prostitutes’ political rights constituted a relevant and meaningful response to actual acts of prostitution by Athenian political leaders, and (2) that these laws should not be interpreted anachronistically as uniquely antagonistic to prostitution as a *métier* (*tekhne*), but rather as an effort to discourage the transformation of traditional elite homoerotic sexual courtship into a culture of sexual purchase, and as an attempt to combat corruption in public life (which was believed to be pervasive) by denying political leadership to a broad grouping of persons --- not only or even principally “prostitutes” --- who had exhibited an excessive lust for money.

### A. Citizens as Prostitutes

Although Athenian prostitution is often seen as “the special preserve of foreigners,”<sup>7</sup> citizens allegedly functioning as courtesans are the focus of the only surviving materials dealing in detail with male prostitution (Aiskhinês 1 and Lysias 3),<sup>8</sup> and citizens, male and female (*politai*, *politides*), are explicitly characterized as prostitutes in many other contexts. For example, a prominent member of the *Boulê* under the rule of the Thirty, Epikharês, is charged by Andokidês with having been a promiscuously inexpensive male whore, compliantly and shamefully “taking small sums from any one inclined.”<sup>9</sup> Aiskhinês claims that “one of the citizens” prominently involved in public affairs made idiomatic the phrase “whoring under contract” by working as a male prostitute under written covenants deposited with a third party.<sup>10</sup> The political leader Androtiôn is explicitly characterized as a prostitute by Diodôros.<sup>11</sup>

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ποιεῖν . . . πολλὰ καὶ τιτθαὶ καὶ ἔριθοι καὶ τρυγήτριαι γεγόνασιν . . .

<sup>6</sup> Dem. 57.30: τοὺς νόμους οἱ κελεύουσιν ἔνοχον εἶναι τῇ κακηγορίᾳ τὸν τὴν ἐργασίαν τὴν ἐν τῇ ἀγορᾷ ἢ τῶν πολιτῶν ἢ τῶν πολιτῶν ὀνειδίζοντά τινα. See Wallace 1994: 116.

<sup>7</sup> Dover [1978] 1989: 34. The “untouchability” of those members of “the privileged citizen class” and their right to “throw their weight around to intimidate *metics* and slaves” supposedly precluded for *politai* the demeaning dependence inherent in functioning as prostitutes (Winkler 1990: 49). But criticism of this theory as inconsistent with factual evidence is rising: see especially Davidson 2004, 2007; Hubbard 2014: 142–46; Thornton 1997: 193–202.

<sup>8</sup> For detailed discussion of these two cases, see E. Cohen 2000: 167–77.

<sup>9</sup> σὺ . . . ὅς ἐνὶ μὲν οὐχ ἠταιρήσας (καλῶς γὰρ ἂν σοι εἶχε), πραττόμενος δ’ οὐ πολὺ ἀργύριον τὸν βουλόμενον ἀνθρώπων, ὡς οὗτοι ἴσασιν, ἐπὶ τοῖς αἰσχίστοις ἔργοις ἕξης (Andok. 1.100).

<sup>10</sup> Aiskh. 1.165: πόθεν οὖν ἴσχυκε καὶ σύνηθες γεγένηται λέγειν, ὡς κατὰ γραμματεῖον ἤδη τινὲς ἠταιρήσαν, ἐρῶ. ἀνὴρ εἷς τῶν πολιτῶν . . . λέγεται κατὰ συνθήκας ἠταιρηκέναι τὰς παρ’ Ἀντικλεῖ κειμένας οὐκ ὦν <δ>’ ἰδιώτης, ἀλλὰ πρὸς τὰ κοινὰ προσιῶν καὶ λοιδορίας περιπίπτων, εἰς συνθήειαν ἐποίησε τοῦ λόγου τούτου τὴν πόλιν καταστῆναι, καὶ διὰ τοῦτο ἐρωτώσιν τις, εἰ κατὰ γραμματεῖον ἢ πράξις γεγένηται.

<sup>11</sup> Dem. 22.29: Ἀνδροτίων, καὶ σὺ μὴ διὰ ταῦτ’ οἶου σοι προσήκειν μὴ δοῦναι δίκην εἰ

While Aiskhinês identifies the influential Hêgêsandros as a “whore” (*pornos*) and as Laodamas’ paid “woman,”<sup>12</sup> Demosthenês makes allegations of prostitution against Aiskhinês’ brother Aphobêtos and his brother-in-law Nicias.<sup>13</sup> In Lysias 3, Theodotos is the citizen-prostitute balancing lucrative compensation from two citizen-patrons.<sup>14</sup> In Demosthenes 22, the parents of two *politai* are alleged to have been prostitutes<sup>15</sup>: since the children were Athenian citizens, the two prostitutes were necessarily holders of Athenian citizenship under the Perikleian law that restricted *politeia* to the offspring of two citizen parents.<sup>16</sup> In a letter attributed to Aiskhinês, prostitution is attributed to the mother of Melanopos (who had served as *thesmothetês*) and to Melanopos himself.<sup>17</sup> In Aiskhinês 1 a motley crowd of customers — “traders, other foreigners, *politai*” — is allegedly serviced by a young prostitute who is a *politês*.<sup>18</sup>

Athenian literature also records a number of examples of Athenian citizen-women working as prostitutes.<sup>19</sup> The prostitute Naïs is explicitly reported to have had a “*kyrios*,” the household representative who controlled, at least formally, the affairs of a woman of the citizen class,<sup>20</sup> while another Athenian prostitute, identified as a “citizeness” (*astê*), is parodied by Antiphanês as having neither guardian nor kinsmen (and so presumably lacking a dowry).<sup>21</sup> In Demosthenes 59, Neaira is accused of having for decades improperly passed as an Athenian *politis* (“citizeness”) while functioning as a whore — an improbable (and therefore unpersuasive) accusatory coupling if prostitution were truly incompatible with “citizenship.”<sup>22</sup> Isaios alludes to the recurring phenomenon of

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γφράφεις ἡταιρηκώς . . . .

<sup>12</sup> See Aiskhin. *passim* and esp. 1.70, 111 (Hêgêsandros son of Hêgêsias: Osborne and Byrne 1994: 200–201; Fisher 2001: 188–89).

<sup>13</sup> Dem. 19.287: καὶ περὶ πορνείας ἔλεγεν . . . δυοῖν μὲν κηδεσταῖν παρεστηκότιν . . . Νικίου τε τοῦ βδελουροῦ, ὃς ἑαυτὸν ἐμίσθωσεν εἰς Αἴγυπτον Χαβρία . . . καὶ τί ταῦτα; ἀλλὰ τὸν ἀδελφὸν ὄρων Ἀφόβητον.

<sup>14</sup> Lysias explicitly identifies Theodotos as a Plataian (§5), and hence an Athenian *politês* under the decree providing *politeia* to the Plataians (preserved at Dem. 59.104). For efforts to negate the “plain meaning” of the text, see E. Cohen 2000: 169–71.

<sup>15</sup> §61: τοῦ δὲ τὸν πατέρ’ ἡταιρηκέναι, τοῦ δὲ τὴν μητέρα πεπορνέσθαι.

<sup>16</sup> See Aristot. *Ath. Pol.* 36.1, 40.2; Lys. 16.3, 30.15; Dem. 59.105. For variant formulations of the requirement, see Mossé [1962] 1979: 141–44. For the application of the “Citizenship Law” in actual practice, see Patterson 1990; E. Cohen 2000: 49–78.

<sup>17</sup> σοὶ δὲ τὸ μέχρι μὲν χθὲς καὶ πρώην θεσμοθετοῦντος ἤδη σοῦ προεστάναι τὴν μητέρα . . . σὲ δὲ πραθέντα τρισκιλίων δραχμῶν τὴν ἀκμὴν ἡταιρηκέναι . . . (7.3).

<sup>18</sup> § 40: ἐκάθητο ἐν Πειραιεῖ ἐπὶ τοῦ Εὐθυδικοῦ ἰατροῦ, . . . πωλεῖν αὐτὸν προηρημένος . . . Ὅσοι μὲν οὖν τῶν ἐμπόρων ἢ τῶν ἄλλων ξένων ἢ τῶν πολιτῶν τῶν ἡμετέρων κατ’ ἐκείνους τοὺς χρόνους ἐχρήσαντο τῷ σώματι Τιμάρχου, ἐκὼν καὶ τούτους ὑπερβήσομαι.

<sup>19</sup> By 1918, Hirzel had already gathered a portion of the evidence ([1918] 1962: 71, n. 1).

<sup>20</sup> Lys. Fr. 82 [Th.]: Ἔστιν οὖν γυνὴ ἑταίρα, Ναῖς ὄνομα, ἧς Ἀρχίας κύριός ἐστιν.

<sup>21</sup> Fr. 210 (K.A.) (= *Athên.* 572a): ἐν γειτόνων αὐτῷ κατοικούσης τινὸς | ἰδὼν ἑταίρας εἰς ἔρωτ’ ἀφίκετο, | ἀστῆς, ἐρήμου δ’ ἐπιτρόπου καὶ συγγενῶν . . . On *astai*, see E. Cohen 2000: 50–63.

<sup>22</sup> Whether Neaira herself actually was a former prostitute is beyond our knowledge, but

Athenian men, influenced by passionate desire, entering into marriages with prostitutes: because Athenian law prohibited marriage between a male citizen (*astos*) and a foreign woman (*xenê*), these courtesans were necessarily Athenian citizens.<sup>23</sup> In Isaios 3, for example, the consort of a *politês* is accused of having been a prostitute, but “her citizen status is never brought into question in the speech” (Roy 1997:16). A well-known prostitute was reportedly the mother of the Athenian general Timotheos (whose father was the preeminent military leader, Konôn),<sup>24</sup> and a citizen *hetaira* was allegedly the consort of the wealthy Athenian Olympiôdoros.<sup>25</sup> The prostitute Theodotê (identified in antiquity as an Athenian [*Attikê*]) is queried concerning the real estate which she owns — in a community where only citizens could own landed property.<sup>26</sup>

Because of the partisan nature of Athenian private forensic presentations and the Athenian political orators’ penchant for slandering opponents,<sup>27</sup> it would be unwise to assume the truthfulness of any of these individual charges of prostitution.<sup>28</sup> Accordingly, some scholars simply dismiss these assertions as mere vituperative slander endemic in Athenian agonistic presentations.<sup>29</sup> Such conclusions, in my opinion, are overly simplistic. Although Athenian forensic addresses are rhetorical contrivances that virtually always present evidence tendentiously (and often dishonestly), the presuppositions underlying litigants’ claims are generally reliable: since forensic presentations were made to panels composed of hundreds of jurors, an allegation dependent on premises blatantly inconceivable would be inherently unpersuasive.<sup>30</sup> Advancing clearly incredible accusations would not have aided a speaker’s effort at

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the speaker’s presupposition (that such a woman could pass for decades as an “Athenian”) is significant.

<sup>23</sup> Isai. 3.17-18. For the law forbidding Athenian men to marry foreign women, see Dem. 59.16.

<sup>24</sup> *Athên.* 577b: Τιμόθεος δ’ ὁ στρατηγῆσας Ἀθηναίων ἐπιφανῶς ἐταίρας ἦν υἱὸς Θράπτης τὸ γένος. Foreign birth is ascribed to the mothers of other preeminent Athenian political leaders and generals, including Kleoboulê, mother of Demosthenes. Because these leaders were necessarily Athenian citizens, their mothers must have been accepted as Athenian citizens: see E. Cohen 2000: 77, n. 184.

<sup>25</sup> Dem. 48.53-54. For her status as an Athenian, see McClure 2003:16.

<sup>26</sup> Xen. *Apom.* 3.11.4: ἔστι σοι ἀγρός; . . . οἰκία προσόδου ἐχουσα; Characterization as Athenian (Θεοδότῃν τὴν Ἀττικὴν ἐταίραν): *Athên.* 535c; see Cox 1998: 175, n. 37.

<sup>27</sup> See Worman 2008: 213-74; Wrenhaven 2012: 158, n. 101.

<sup>28</sup> Regarding “*hetaeas*... the orators fabricated characteristics or circumstances to serve their rhetorical ends” (McClure 2003: 41). See also Cooper 1995: 303, nn. 2-3, and Gagarin 2001.

<sup>29</sup> Garner, for example, alludes to the “outrageous” accusations “regularly” advanced by speakers in court (1987: 81-82).

<sup>30</sup> Although some scholars view Athenian litigation as largely “theatre” (Humphreys 2007) or as a venue for the venting of elite social animosities (D. Cohen 1995: 70, 82), with litigants sometimes seeking actually to lose their cases (E. Cohen [forthcoming]; Todd 2011: 138, 1994: 131, n. 180), I view Athenian litigation as essentially the effort of real people to prevail in actual conflicts by persuading a majority of jurors to vote in their favor (see Harris 2013: 12-13).

persuasion, and Athenian jurors would have been far more capable than ourselves to evaluate the plausibility of inflammatory charges against their own political leaders.

Aiskhinēs insists that, in proscribing political leadership by those who had prostituted themselves, Athenian legislation was following a historical pattern of dealing with improper behavior that people actually did engage in.<sup>31</sup> Athenian litigants, in fact, frequently insist on a connection between the adoption of particular laws (or the absence thereof) and the prevalence (or absence) of the behavior in question. Lykourgos, for example, in the late fourth century claims that Athenian law made no provision for the punishment of persons abandoning the city in time of war only because such offenses had not occurred in earlier times.<sup>32</sup> Lysias similarly asserts that the Athenians did adopt legislation in response to crimes that actually were taking place but not against offenses whose actual occurrence was implausible.<sup>33</sup> Modern legal scholars have long noted the correlation between the adoption of proscriptive legislation and the prevalence (or perceived prevalence) of the objectionable behavior<sup>34</sup>: recent prohibitions of cyber-bullying and of corporate tax-motivated international “inversions” offer dynamic examples of legal responsiveness to practices not previously occurring — or at least not previously having come to the legislator’s attention.

The enactment of two laws limiting the political rights of male citizens who had prostituted themselves suggests that such prostitution had occurred frequently enough and with significant enough import to have engendered a legislative response. According to Aiskhinēs (speaking in the mid-fourth century<sup>35</sup>), any male citizen who had acted as a *hetairos*<sup>36</sup> was precluded from holding any governmental office or from offering any

<sup>31</sup> 1.13: Νομοθετεῖ (sc. ὁ νομοθέτης) περὶ ἀδικημάτων μεγάλων μὲν, γιγνομένων δ’οἶμαι ἐν τῇ πόλει· ἐκ γὰρ τοῦ πράττεσθαι τιν’ ὧν οὐ προσῆκεν, ἐκ τούτου τοὺς νόμους ἔθενθ’ οἱ παλαιοί.

<sup>32</sup> *Leok.* 9: παρεῖσθαι δὲ τὴν ὑπὲρ τῶν τοιούτων τιμωρίαν συμβέβηκεν, οὐ διὰ ῥαθυμίαν τῶν τότε νομοθετούντων, ἀλλὰ διὰ τὸ μὴ ἐν τοῖς πρότερον χρόνοις γεγενῆσθαι τοιοῦτον μηδέν, μηδ’ ἐν τοῖς μέλλουσιν ἐπίδοξον εἶναι γενήσεσθαι. On Lykourgos’ argumentation here, see most recently Ober 2008: 183-190; Mossé 2007: 181-88.

<sup>33</sup> 31.27: ἀκούω δ’αὐτὸν λέγειν ὡς, εἴ τι ἦν ἀδίκημα τὸ μὴ παραγενέσθαι ἐν ἐκείνῳ τῷ καιρῷ, νόμος ἂν ἔκειτο περὶ αὐτοῦ διαρρήδην, ὥσπερ καὶ περὶ τῶν ἄλλων ἀδικημάτων . . . τίς γὰρ ἂν ποτε ῥήτωρ ἐνεθυμήθῃ ἢ νομοθέτης ἤλπισεν ἀμαρτήσεσθαι τίνα τῶν πολιτῶν τοσαύτην ἀμαρτίαν;

<sup>34</sup> See, for example, Windlesham 1996: vii, 40, discussing the UK adoption of the Criminal Justice Act 1993 and the US adoption of Public Law 103-322. See also Heinz 1982; Fisher and Sloan, eds. 2013, discussing multiple laws passed in response to perceptions of an “epidemic” of peer-on-peer sexual assaults in American institutions of higher education. McGinn warns against the “attempt to read social practice” from the adoption of legislation even as he cites the US Congress’s adoption of the Mann Act in response to perceived widespread trafficking in women (2014: 90).

<sup>35</sup> Attic year 346/5 (see Fisher 2001: 6-8).

<sup>36</sup> The word *hetairos* (“male companion”) can mean “male prostitute” but appears relatively rarely in Greek in sexual context (see, however, Sémon. 7.49; Aristoph. *Ekkklēs.* 912; *Athén.*

opinion whatsoever in the Council (*Boulê*) or in the Assembly (*Ekklesia*),<sup>37</sup> a proscription enforceable by a *graphê hetairêseos* (“Prosecution for ‘Companionship’”). Separately, Aiskhinês describes a process — *dokimasia rhêtôrôn* (“Examination of Speakers”) — through which the right to speak in the *Ekklesia* might be denied to anyone who had acted as a prostitute (*hetairos* or  *pornos*).<sup>38</sup> Much academic attention has in recent years been focused on elucidation of these laws — especially at prior Symposia in which Lanni, Todd, Gagliardi, Wallace, MacDowell and others have considered in detail the consequences, procedures and interaction of the *dokimasia rhêtôrôn* and the *graphê hetairêseos*,<sup>39</sup> resulting in a consensus that posits the two procedures as essentially complementary, offering alternative procedural routes to limiting a male prostitute’s participation in public life, but neither directly nor indirectly outlawing prostitution.<sup>40</sup> From an economic aspect, the legislation was of slight impact, for it had no effect on the vast majority of potential or actual male prostitutes — registered foreigners resident in Athens (*metics*), aliens visiting or unregistered, slaves, citizens who actually earned their living as prostitutes rather than as political leaders (*rhêtôres*) and who easily could ensconce themselves among the mass of citizens refraining from political activity (the so-called *apragmones*).<sup>41</sup> Indeed, thousands of Athenian men, literally the majority of citizens, chose not even to attend Assembly meetings<sup>42</sup> — a right of attendance retained by male prostitutes. In any event, few Athenians ever reached the level of public activity targeted by the “Examination of Speakers” — that of *rhêtôr*, synonymous at Athens with “political leader.”<sup>43</sup>

Still, for the democracy’s chieftains, the legislation was not without impact. The

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571c); men’s receipt of compensation for sex is often communicated through *hetairein*, the verbal cognate of *hetairos*.

<sup>37</sup> ἐάν τις Ἀθηναίων ἑταιρήσῃ, μὴ ἐξέστω αὐτῷ τῶν ἐννέα ἀρχόντων γενέσθαι . . . μὴδ’ ἱερῶσύνῃν ἱερῶσασθαι . . . μὴδὲ συνδικῆσαι τῷ δημοσίῳ, μὴδὲ ἀρξάτω ἀρχὴν μηδεμίαν μηδέποτε, μήτ’ ἔνδημον μήτε ὑπερόριον, μήτε κληρωτὴν μήτε χειροτονητὴν μὴδὲ κηρυκευσάτω μὴδὲ πρεσβευσάτω (μὴδὲ τοὺς πρεσβεύσαντας κρινέτω, μὴδὲ συκοφαντεῖτω μισθωθεῖς) μὴδὲ γνώμην εἰπάτω μηδέποτε μήτε ἐν τῇ βουλῇ μήτε ἐν τῷ δήμῳ . . . Aiskh. 1.19–20.

<sup>38</sup> Δοκιμασία ῥητόρων· ἐάν τις λέγῃ ἐν τῷ δήμῳ . . . ἢ πεπορνευμένος ἢ ἡταιρηκῶς . . . τούτους ἀπαγορεύει μὴ δημηγορεῖν. ἐὰν δὲ τις παρὰ ταῦτα . . . λέγῃ . . . δοκιμασίαν ἐπαγγειλάτω Ἀθηναίων ὁ βουλόμενος, οἷς ἔξεστιν. Aiskh. 1.28–32. Aiskhinês explains ἡ πεπορνευμένος ἢ ἡταιρηκῶς as referring to τὸν τὸ σῶμα τὸ ἑαυτοῦ ἐφ’ ὕβρει πεπρακότα (Aiskh. 1.29). The fullest exegesis of *dokimasia* at Athens — in all its varied forms — is Feyel 2009.

<sup>39</sup> See Lanni 2010, (forthcoming); Todd 2006, 2010; Gagliardi 2005, 2006, 2010; Wallace 2006; MacDowell 2000, 2005.

<sup>40</sup> Prostitution lawful at Athens: among many others, see MacDowell 2005: 85; Foxhall 2013: 103; Robson 2013: 67; Lanni 2010: 55; Osborne 2004: 14.

<sup>41</sup> Lanni 2010: 45; D. Cohen 1991: 222–23; Halperin 1990: 98–99. On the *apragmones*, see Carter 1986: esp. 52–75; Lanni (forthcoming).

<sup>42</sup> Archaeological evidence reveals that the fourth-century Pnyx, even after renovation and slight enlargement from the fifth-century gathering site, could barely contain the 6,000 *politai* needed for a quorum. See Thompson 1982: 138–39.

<sup>43</sup> On the significance of *rhêtôres* at Athens, see my discussion below pp. 375–76.

prosecution of Timarkhos (the subject of Aiskhinês 1) was far from unique<sup>44</sup>: actual prosecutions potentially targeting political activity by “prostitutes” are relatively well-attested.<sup>45</sup> Already in the fifth century, Aristophanês in *The Knights* makes allusion to successful actions depriving sexual malefactors (*kinoumenoi*) of citizenship rights, including specifically the capacity to act as *rhêtors*.<sup>46</sup> Fourth century sources include several explicit references to prosecutions for speaking, or attempting to speak, after engaging in acts of “prostitution.” Thus when Androtiôn, a prominent political leader, complains in court that Diodôros has abusively accused him of having been a prostitute but has never brought a *graphê hetairêseos* against him, Diodôros assures Androtiôn that his cavil is unjustified: we will proceed to initiate such a prosecution for prostitution before the tribunal of the Thesmothetes.<sup>47</sup> Aristophôn of Azênia is reported to have gained victory in his personal “war” against Hêgêsandros by threatening to charge him with prostitution under the procedure of *dokimasia rhêtorôn* employed by Aiskhinês against Timarkhos.<sup>48</sup> In the early fourth century, Andokidês treats the legislation against political leadership by male citizen prostitutes as realistically relevant, arguing that one of his accusers, Epikharês, far from being in a position to make charges against others, does not — because of his own repeated acts of prostitution — have the right even to address a court in his own defense. Andokidês even claims that Epikharês, himself a whore, has had the audacity to bring charges against others for having been prostitutes!<sup>49</sup>

But what did it mean to term an Athenian political leader a prostitute? Although the legislation explicitly purports to apply to any citizen who has acted as a *pornos* or as a

<sup>44</sup> In addition to the cases set forth in the text arising from charges of prostitution, a number of prosecutions are attested relating to other offenses which would have disqualified a would-be speaker, e.g. avoidance of military service (ἀστρατεία, λιποτάξιον: see Hyper. *Athen.*; Lykourg. *Leôkr.*, discussed below, pp. 376-77.

<sup>45</sup> The number of surviving examples is significant in the context of the extremely small amount of information now extant from the vast number of Athenian legal cases litigated over scores of years. Nonetheless, the absence of statistical material and the chance nature of testimonial survival mean that “it is impossible to say how frequently these laws were formally enforced” (Lanni 2010: 57).

<sup>46</sup> Lines 876-80: ΠΑ' ὅστις | ἔπαυσα τοὺς κινουμένους, τὸν Γρυῖπον ἐξαλείψας. | ΑΛ' οὐκ οὖν σε δῆτα ταῦτα δεινόν ἐστι πρωκτορηρεῖν | παῦσαι τε τοὺς κινουμένους; κούκ ἔσθ' ὅπως ἐκείνους | οὐχὶ φθονῶν ἔπαυσας, ἵνα μὴ ῥήτορες γένοιτο.

<sup>47</sup> Dem. 22. 21, 23: (21) Ἐτι τοῖνυν ἐπιχειρεῖ λέγειν περὶ τοῦ τῆς ἑταιρήσεως νόμου, ὡς ὑβρίζομεν ἡμεῖς . . . καὶ φησὶ δεῖν ἡμᾶς, εἴπερ ἐπιστεύομεν εἶναι ταῦτ' ἀληθῆ, πρὸς τοὺς θεσμοθέτας ἀπαντᾶν . . . (23) ὅταν (sc. φῆ) δ' ὅτι πρὸς τοὺς θεσμοθέτας προσῆκεν ἐπαγγέλλειν ἡμῖν, ἐκεῖνο ὑπολαμβάνετε, ὅτι καὶ τοῦτο ποιήσομεν καὶ νῦν προσηκόντως περὶ τοῦ νόμου λέγομεν.

<sup>48</sup> Aiskhin. 1. 64: ὁ Ἥγησανδρος, ὅτε καὶ προσεπολέμει Ἀριστοφῶντι τῷ Ἀζηνιεῖ πρὶν αὐτῶ τὴν αὐτὴν ταύτην ἐν τῷ δήμῳ ἠπέλιπεν ἐπαγγελίαν ἐπαγγελεῖν ἥνπερ ἐγὼ Τιμάρχῳ . . . . Cf. MacDowell 2005: 83-84.

<sup>49</sup> 1.100-101: σὺ (sc. Ἐπίχαρες) περὶ ἑταιρείας ἐμοὶ μνεῖαν ποιῆ καὶ κακῶς τινας λέγεις; δεῖς ἐνὶ μὲν οὐχ ἠταίρησας (καλῶς γὰρ ἂν σοι εἶχε) πραττόμενος δ' οὐ πολὺ ἀργύριον τὸν βουλόμενον ἀνθρώπων . . . ἐπὶ τοῖς αἰσχίστοις ἔργοις ἔζης, . . . (101) Ἄλλ' ὅμως οὗτος ἑταίρων τομᾶ καταγορεῖν, ᾧ κατὰ τοὺς νόμους τοὺς ὑμετέρους οὐδ' αὐτῷ ὑπὲρ αὐτοῦ ἔστιν ἀπολογεῖσθαι.

*hetairoi*, no definition of these terms is offered in the law.<sup>50</sup> It did not necessarily signify that the man was a “prostitute” in the sense of earning his primary income from selling his body for sexual purposes or of practicing this *tekhne* as his principal occupation. McClure has shown that for Athenian males “prostitution is often represented as an activity, but not a state of being” (1983: 17). A man might appropriately be termed a *hetairoi* or a *pornos* not because his *métier* was personal erotic commerce, but merely because he had at some point accepted something of value in the context of a sexual relationship. Gift-giving — pervasive in the male pederastic culture of Athens — left many male citizens vulnerable to charges of “prostitution.”<sup>51</sup>

### B. Elite Homoerotic Culture

In the context of an Athenian sexual relationship, it was not easy to differentiate appropriate from inappropriate gifts, a quandary that potentially imperiled many of the city’s leaders. Thus Aiskhinês seeks to distinguish between “chaste” male sexual submission to a lover — “admirable” (*kalon*) — and the “contemptible” (*aiskhron*) self-prostitution motivated by compensation for service (*misthos*).<sup>52</sup> In contrast to the wanton sexual excesses of a youth hired for money (financial patronage that is characteristic of monstrously uncivilized men), romantic passion for upstanding and moral youths is the experience (*pathos*) of the “generous” (*philanthropos*) and charitable male soul.<sup>53</sup> Although the generosity conveyed by the adjective *philanthropos* carries a connotation of benevolence and humaneness, *philanthropos* in common usage often implies material benefit.<sup>54</sup> Accordingly, the gift-giving prominent in “chaste” male homosexuality was not devoid of tangible gain.<sup>55</sup> The female “companions” (*hetairai*) prominently present at male parties are paralleled by the young men who (in the phrase of Ehippos) paid with sex for the delicacies they enjoyed at male

<sup>50</sup> Nowak 2010: 183.

<sup>51</sup> Lanni 2010: 54; Hubbard 1998: 64; Fisher 2001: 49-50; Hindley 1991: 173 n. 29.

<sup>52</sup> Aiskhin. 1.137.5-7: καὶ τὸ μὲν ἀδιαφθόρως ἐρᾶσθαί φημι καλὸν εἶναι, τὸ δ' ἐπαρθέντα μισθῶ πεπορνεῦσθαί αἰσχρόν. “*Misthos*” is the term applied to cash received in exchange for labor: τοὺς καταισχύνοντας αὐτοὺς μισθοὺς φησι πράττεσθαι τοῦ πράγματος (Aiskhin. 1.94). Receipt of a salary (*misthophoria*) was the hallmark of a slave: when the Athenian state required coin-testers and mint-workers for continuing service, legislation explicitly provided for the payment of *misthophoriai* to the skilled public slaves (*dēmosioi*) who provided these services (SEG 26.72, lines 49-55; Figueira 1998: 536-47).

<sup>53</sup> Aiskhin. 1.137.1-5: ὀρίζομαι δ' εἶναι τὸ μὲν ἐρᾶν τῶν καλῶν καὶ σωφρόνων φιλανθρώπου πάθος καὶ εὐγνώμονος ψυχῆς, τὸ δὲ ἀσελγαίνειν ἀργυρίου τινὰ μισθούμενον ὕβριστοῦ καὶ ἀπαιδεύτου ἀνδρὸς ἔργον εἶναι ἡγοῦμαι

<sup>54</sup> The term is frequently used in the context of endowment or gratuity: see, for example, BGU I 202.10; *Mon. Anc. Gr.* 9.10. Cf. UPZ 162.vii.21; OGI 139.20.

<sup>55</sup> Although the modalities of gift-giving in male courtship are alluded to in only a few literary passages (all in comedy: Aristoph. *Orn.* 705-7; *Hipp.* 904-9, 1104-1199, *Plout.* 153-57), courtship comprises more than half of the pederastic scenes surviving on ceramic representations: Lear and Cantarella 2008: 237, n. 38.

dinner parties.<sup>56</sup> Expensive animals are conventionally tendered as offerings in male courtship context.<sup>57</sup> Representations on ceramic material produced in Athens — although not transparently direct illustrations of actual life — frequently portray men proffering to youths a broad variety of valuable gifts.<sup>58</sup> *Eromenoi*,<sup>59</sup> “represented as if they were citizen youths,”<sup>60</sup> are even portrayed on Athenian vases as receiving sacks of money: no apparent iconographic differentiation can be discerned between such deliveries of cash and other less explicitly mercenary gifts to youths who have been identified by modern scholars as recipients of presents from lovers.<sup>61</sup> This phenomenon is explained perhaps by the assertion of the characters Khremylos and Kariôn in Aristophanês’ *Wealth* that there’s no real difference between the *pornoi* who deliver sex “for money, and not for love,” and the “noble” (*khréstoi*) *eromenoi* who “being ashamed to demand cash” ask instead for a good steed or a pack of hounds.<sup>62</sup>

Aiskhinês does attempt to differentiate “males being pursued through modest courtship” from “males working as brothel whores” (*peporneumenous*, the category into which he places Timarkhos, the rival political leader whom he is accusing of having been a prostitute).<sup>63</sup> This Manichean distinction, however, in no way illuminates the line between “generous” benefits that enhance the recipient, and “uncivilized” benefits that prostitute the recipient — the central issue raised by the prosecution of Timarkhos (Aiskhinês 1.137). But like other aspects of Athenian behavior, gift-giving in an erotic context tends to be evaluated on whether it is appropriate to a free person, or suggestive of a servile relationship, a differentiation necessarily focused on the Athenian concept of *kharis* — a value often seen to lie

<sup>56</sup> ὅταν γὰρ ὦν νέος | ἀλλότριον εἰσελθὼν ὄψον ἐσθίειν μάθῃ | ἀσύμβολόν τε χεῖρα προσβάλλῃ βορᾷ, | διδόναι νόμιζ’ αὐτὸν σὺ τῆς νυκτὸς λόγον (Fr. 20 [K-A]). Cf. Alexis Fr. 244 (K-A).

<sup>57</sup> Dover 1978 [1989]: 92-93. Cf. Aristoph. *Ornith.* 707, *Plout.* 157.

<sup>58</sup> Lear 2014: 108; Lear and Cantarella 2008: 39.

<sup>59</sup> Plural form of “*eromenos*,” the term used in ancient Greek for the person being courted, for whom the *erastês* (“lover”) “has a passionate desire” (Dover 1978 [1989]: 16).

<sup>60</sup> Von Reden 1995: 198-99. The youths, as pictured, are usually of athletic build, crowned, wearing *himations* and often carrying spears. Cf. Bazant 1985: 41.

<sup>61</sup> See the representations on these vases: Copenhagen Nat. 3634, Bochum Univ. S 507, New York 52.11.4. Cf. Lear and Cantarella 2008: 78-86; Hubbard 2009: 11; von Reden 1995: 195-211; Meyer 1988. Even Ferrari, who asks “are there moneybags in these pictures?,” recognizes that “current scholarship” uniformly believes that “the identification of the bag with a money pouch is a fact rather than a hypothesis” (2002: 14, 251, n. 21).

<sup>62</sup> KA: καὶ τοὺς γε παῖδάς φασι ταῦτο τοῦτο δρᾶν, | οὐ τῶν ἐραστῶν, ἀλλὰ τὰργυρίου χάριν. | XP. οὐ τοὺς γε χρηστούς, ἀλλὰ τοὺς πόρνους ἐπεὶ | αἰτοῦσιν οὐκ ἀργύριον οἱ χρηστοί. KA. τί δαί; | XP. ὁ μὲν ἵππον ἀγαθόν, ὁ δὲ κύνας θηρευτικούς. | KA αἰσχυρόμενοι γὰρ ἀργύριον αἰτεῖν ἴσως | ὀνόματι περιπέττουσι τὴν μοχθηρίαν (Il. 153-59).

<sup>63</sup> Aiskh. 1.159: . . . χωρὶς μὲν τοὺς διὰ σωφροσύνης ἐρωμένους, χωρὶς δὲ τοὺς εἰς ἑαυτοὺς ἐξαρμαρτάνοντας, ὑμεῖς ἤδη τοῦτ’ ἐρωτηθέντες ἀποκρίνασθε πρὸς ἐμέ, εἰς ὁποτέραν τὴν <τάξιν> Τίμαρχον καταπέμετε, πότερα εἰς τοὺς ἐρωμένους ἢ εἰς τοὺς πεπορνευμένους.

at the heart of Attic culture.<sup>64</sup> Athenians generally felt an obligation to help their friends, and an expectation of resultant gratitude (and an entitlement to future reciprocity).<sup>65</sup> Exchange based on money — in sexual context, “prostitution” — stood in stark and fundamental opposition to exchange based on reciprocal *kharis*.<sup>66</sup> In the modern world commercial services, for monetary payment, are increasingly supplying personalized labor (caring for children, the elderly, the disabled and the handicapped, and so forth) that was formerly provided at no monetary charge by relatives and friends motivated by personal feeling for and/or a sense of obligation toward the recipient. Similarly the new “monetised and money-using economy of fourth-century Athens,”<sup>67</sup> a process manifestly coming to supersede a prior system based primarily on familial, social and political relations,<sup>68</sup> tended to convert every aspect of life — including the sexual — into monetary transactions.<sup>69</sup> And in both the modern world<sup>70</sup> and in fourth-century Athens this transformation has generated intense dissonance between persons attached to the older order and those utilizing the new. Traditional male homoerotic society, based on *kharis* rather than purchase, resisted the transformation of sexual courtship to sexual purchase.

Even in the fourth century, as Athens was increasingly becoming an exemplar of a monetary economy, Aristotle is still emphasizing reciprocity in sexual relations as a central distinction between free men and slaves. Through *kharis*, good deeds must be repaid (and bad likewise), and the free citizen when recipient of a benefit has the presumed opportunity, and the moral obligation, to repay that benefit — and to initiate a fresh contribution to his benefactor in the future. “Otherwise a free man’s life would be like that of a slave.”<sup>71</sup> Such an example of pure and exalted *kharis* Aristotle finds in the *eromenos*’s free offer of himself to the burning erotic need of his

<sup>64</sup> *Kharis* defined: Davidson 2007: 523, n. 1; Millett 1991: 58. For the importance of reciprocal relationships at Athens, see Missiou 1998; Herman 1998; Millett 1998.

<sup>65</sup> Millett 1991: 24-52 and various essays in Gill et al. eds. 1998.

<sup>66</sup> See von Reden 1997: 154; Kurke 1994: 42; Seaford 1994: 199. Cf. Seaford 1998; von Reden 1998; Steiner 1994; Kurke 1989.

<sup>67</sup> Shipton 2000: 14. Cf. Schaps 2004: 111-21; Shipton 1997; Gofas 1994; Kanellopoulos 1987: 19-22; Theokharēs 1983: 100-14.

<sup>68</sup> Recent studies have demonstrated the extraordinary impact of the introduction in the sixth and fifth centuries of coined money, a phenomenon that culminated ultimately in the detached monetary transactions of fourth-century Athens. See Schaps 2008; Shipton 2001; Picard 2008: 147-51; Davis 2014: 347; von Reden 2010: 30-33.

<sup>69</sup> Aristot. *Pol.* 1258a10-14: ἀνδρείας γὰρ οὐ χρήματα ποιεῖν ἐστὶν ἀλλὰ θάρσος, οὐδὲ στρατηγικῆς καὶ ἰατρικῆς, ἀλλὰ τῆς μὲν νίκην τῆς δ’ ὑγίειαν. οἱ δὲ πάσας ποιοῦσι χρηματιστικὰς, ὡς τοῦτο τέλος ὄν, πρὸς δὲ τὸ τέλος ἅπαντα δέον ἀπαντᾶν.

<sup>70</sup> Western antagonism to the sale of sex, long grounded in religious and moral beliefs, has been somewhat attenuated by the emergence of secular liberal societies but has been concomitantly intensified by feminist analyses and by the increasing (or at least increasingly more publicized) coercive aspects of commercial sex.

<sup>71</sup> Aristot. *NE* 1132b-1133a: ἢ γὰρ τὸ κακῶς ζητοῦσιν, εἰ δὲ μή, δουλεία δοκεῖ εἶναι εἰ μὴ ἀντιποιήσει· ἢ τὸ εὔ.

*erastês* — a gratuitous contribution, without direct recompense.<sup>72</sup> In *The Symposium* (in a discussion attributed to Pausanias) Plato explains that erotic *kharis* is present when an *erastês* is prepared to sacrifice dignity and self-importance in seeking to consummate his longing — to make servile sacrifices that no slave would bear — and when the *eromenos* in turn in his quest for wisdom and knowledge is likewise willing to be enslaved in every way (*hotioun hypourgôn*).<sup>73</sup> Ironically, in a society permeated by a profusion of true slavery, the highest amatory relationship of free men would, in this formulation, involve the mutual assumption of interactive servitude. But elite negativity toward cash and commerce remains a leitmotif: such obeisance if undertaken for monetary motivation would be contemptible.<sup>74</sup>

Sexual culture, expressed through moral considerations set in philosophical paradigm, is not, however, the sole justification for closing political leadership to those who have prostituted themselves. Some Athenians simply did not wish to entrust public process, in any way, to those excessively self-interested in money.

### C. Erotic Greed

For the Athenians, management of the right to “address the people” (*dēmēgorein*) was a critical element of governance, not a jejune limitation on a theoretical freedom of speech. This significance reflected the unique importance of “speakers” (*rhētores*) in the Athenian political process. Unlike conventional modern political arrangements, the Athenian constitution (*politeia*) did not provide for a relatively small number of high officials elected or appointed for a substantial period of time to head a government that would function more or less autonomously of the day-to-day will of the people. Instead on-going public affairs were administered by large numbers of short-term officers chosen by sortition. Accordingly, the true political leaders of Athens were the prominent *rhētores* in the Assembly, a gathering of the People (*dēmos*) that met frequently and was the dominant organ of Athens’ “pure democracy.”<sup>75</sup> And in the Assembly individual speakers were often dominantly influential in the determination (and often in the implementation) of public policies: Thucydides observes that in the

<sup>72</sup> *Rhet.* 2.7.2-3: ἔστω δὴ χάρις . . . ὑπουργία τῷ δεομένῳ μὴ ἀντί τινος, μηδ' ἴνα τι αὐτῷ τῷ ὑπουργοῦντι ἀλλ' ἴνα τι ἐκείνῳ· μεγάλη δὲ ἂν ἢ σφόδρα δεόμενος . . . δεήσεις δέ εἰσιν αἱ ὀρέξεις, καὶ τούτων μάλιστα αἱ μετὰ λύπης τοῦ μὴ γιγνομένου. τοιαῦται δὲ αἱ ἐπιθυμίαι, οἷον ἔρωσ . . .

<sup>73</sup> 183b3-c4, 184d4-d7: τῷ δ' ἐρώντι πάντα ταῦτα ποιοῦντι χάρις ἔπεισι . . . καὶ τὸ ἐρᾶν καὶ τὸ φίλους γίνεσθαι τοῖς ἐρασταῖς. (184d4) ὁ μὲν χαρισάμενος παιδικοῖς ὑπηρετῶν ὅτιοῦν δικαίως ἂν ὑπηρετεῖν, ὁ δὲ τῷ ποιοῦντι αὐτὸν σοφὸν τε καὶ ἀγαθὸν δικαίως αὐτὸν ὅτιοῦν ἂν ὑπουργῶν <ὑπουργεῖν> . . .

<sup>74</sup> Pl. *Symp.* 184e5-185a5: γὰρ τις ἐραστῆ ὡς πλουσίῳ πλούτου ἔνεκα χαρισάμενος ἐξαπατηθεῖη . . . οὐδὲν ἦττον αἰσχροῦν . . . ἔνεκα χρημάτων ὅτιοῦν ἂν ὄψωσιν ὑπηρετοῖ, τοῦτο δὲ οὐ καλόν. Cf. 183a2-8: εἰ γὰρ χρήματα βουλόμενος παρά του λαβεῖν . . . ἐθέλοι ποιεῖν οἷάπερ οἱ ἐρασταὶ πρὸς τὰ παιδικά, . . . ἐμποδίζοιτο ἂν μὴ πράττειν οὕτω τὴν πρᾶξιν καὶ ὑπὸ φίλων καὶ ὑπὸ ἐχθρῶν . . .

<sup>75</sup> Ober 1996: 95-96, 1989: 105-112; Hansen 1991: 143-45; Davidson 1997: 252.

fifth century Periklēs' persuasive sway over the Assembly made Athens a democracy in name, but in fact a society ruled by a single speaker ("the leading man").<sup>76</sup> In the fourth century, private *rhētores* and the popularly elected "generals" (*stratēgoi*) were frequently equated as the preeminent officers of the state,<sup>77</sup> and were dually recognized as the chieftains of the people.<sup>78</sup> In fact, the orators are sometimes explicitly spoken of as if they actually were the elected long-term high officials that Athens in fact did not have.<sup>79</sup> Yet these "speakers" — leading a society where bribery and embezzlement were believed to be commonplace<sup>80</sup> — received no salary or other public compensation. The Athenians not surprisingly were obsessively alert to the danger of destructive monetary influence on speakers' advocacy. "The man who had sold his own body outrageously would also readily vend the public interest of the state."<sup>81</sup>

Such sentiments argued for preemptive exclusion from the *bēma* of those who had demonstrated a predilection toward excessive financial self-interest. In discussing the *dokimasia rhētorôn*, Aiskhinēs identifies a variety of offenses — largely involving money-related behavior — that would deprive a citizen of the right to address the *Ekklesiā*: wasting ("consuming") family or inherited assets; receiving improper compensation for sex; not providing nourishment or housing for a (presumably elderly) parent; refusing military service for which a citizen has been conscripted (or acting in a cowardly way — "throwing away one's shield" — in combat).<sup>82</sup> Most of these offenses transparently involve monetary consideration, but even the act of avoiding military service is not without a peripheral financial dimension: those called up for duty would often suffer monetary disadvantage through their consequent

<sup>76</sup> 2.65.9: ἐγίγνετό τε λόγω μὲν δημοκρατία, ἔργω δὲ ὑπὸ τοῦ πρώτου ἀνδρὸς ἀρχή. Thucydides' leading expounder explains: "Perikles wielded such influence, and for a long period, as has been given to few men to wield over their fellow countrymen; but his constitutional powers were small, and he could only continue to keep his position through his direct influence with the ekklesia" (Gomme 1956: 194). Cf. Rhodes 2016: 10-11. During his ascendancy, Periklēs was frequently elected as *stratēgos*.

<sup>77</sup> Hyper. 4.27, 5.24; Dein. 1.112, 3.19; Dem. 18.171, 23.184; Aristot. *Rhet.* 1388b17-18. Cf. Hansen 1983; Perlman 1963: 353-54.

<sup>78</sup> Dein. 1.71: καὶ τοὺς μὲν νόμους προλέγειν τῷ ῥήτορι καὶ τῷ στρατηγῷ . . . πάσας τὰς δικαίας πίστει παρακαταθέμενον οὕτως ἀξιούσιν προεστάναι τοῦ δήμου. Cf. Dem. 18.212.

<sup>79</sup> See, for example, Lykourg. Fr. A.2.1 (Burt)= V.1a (Conomis): Τρεῖς δοκιμασίαι κατὰ τὸν νόμον γίνονται: μία μὲν ἦν οἱ ἑννέα ἄρχοντες δοκιμάζονται, ἑτέρα δὲ ἦν οἱ ῥήτορες, τρίτη δὲ ἦν οἱ στρατηγοί.

<sup>80</sup> Aiskhin. 3.173; Aristoph. *Hipp.* 438-44, 824-35, 930-33, 991-96, 1141-50, 1218-26, *Plout.* 377-79, 567-70, *Sphék.* 669-77; Dein. 1.41, 1.77; Dem. 3.29, 19.275, 58.35; Lys. 19.57, 25.9, 25.19, 27.10-11, 28.9, 29.6, 30.25. Cf. Sinclair 1988: 179-86; Davies 1978: 319.

<sup>81</sup> τὸν γὰρ τὸ σῶμα τὸ ἑαυτοῦ ἐφ' ὕβρει πεπρακότα καὶ τὰ κοινὰ τῆς πόλεως ἡγήσατο (sc.ὁ νομοθέτης) ἀποδώσεσθαι (Aiskhin. 1.29).

<sup>82</sup> Aiskhin. 1.28-30: τούτους οὐκ ἔα δημηγορεῖν . . . (τις) τὸν πατέρα τύπτων ἢ τὴν μητέρα, ἢ μὴ τρέφων, ἢ μὴ παρέχων οἴκησιν . . . ἢ τὰς στρατείας μὴ ἐστρατευμένος, ὅσαι ἂν αὐτῷ προσταχθῶσιν, ἢ τὴν ἀσπίδα ἀποβεβληκῶς . . . ἢ πεπορνευμένος ἢ ἡταιρικῶς . . . ἢ τὰ πατρῶα κατεδηδοκῶς, ἢ ὧν ἂν κληρονόμος γένηται .

inability to maintain income or to pursue business opportunities. Athênogenês, the target of a law-court presentation written by Hypereidês, is vilified by his opponent for dodging military service by leaving Athens and moving to Troizênê shortly before the war with Phillip. While other residents of Attika participated in the ground campaign ending in disaster at Chaironeia, Athênogenês prospered in exile, “with the intention of returning later to carry on his business when peace was established.”<sup>83</sup> Similarly Leôkratês is accused of failing to report for military service when Athens was mobilizing to resist Philip after Chaironeia<sup>84</sup>: instead he allegedly left Athens in order to pursue business activities — trading in grain with capital that he had brought from Athens and engaging in other substantial financial transactions.<sup>85</sup>

In its battle against personal financial peccadilloes that might signal a propensity toward corruption in public affairs, Athens also deemed as unfit to address the Assembly those individuals who had “consumed” ancestral assets (*patrôia*), including property over which a would-be speaker had become, by inheritance, the titular owner (*klêronomos*).<sup>86</sup> Preservation of this property was critical to preservation of the *oikos*. A failure to preserve ancestral assets — in the language of the *dokimasia* law quoted by Aiskhinês, breach of a duty not to “consume” *patrôia* — reflected an individual’s preference for his personal financial advantage over that of the prime constituent element in Athenian society — the *oikos* that at Athens was the fundamental element of society and the primary repository of wealth.<sup>87</sup>

Athens may not have wanted its political advisors and leaders to include individuals who gave an inappropriate priority to their personal material advantage. But the fact that prostitution remained lawful may have had a somewhat countervailing positive expressive effect on society’s overall attitude toward providers of commercial sex.<sup>88</sup>

<sup>83</sup> Hyper. *Athên.* 29-31: ἐν δὲ τῷ πολέμῳ τῷ πρὸς Φίλιππον μικρὸν πρὸ τῆς μάχης ἀπέ[λιπε] τὴν πόλιν· καὶ μεθ’ ὑμῶν μὲν οὐ συνεστρατεύσατο εἰς Χαϊρώνειαν, ἐξώκησε δὲ εἰς Τροιζῆνα . . . ἐργασόμενος ἐπεὶ εἰρήνη γέγονεν . . . εἰς Τροιζῆνα ἐλθὼν καὶ ποιησαμένων αὐτὸν Τροιζηνίων πολίτην, ὑποπεσῶν Μνησίαν τὸν Ἀργεῖον καὶ ὑπ’ ἐκείνου κατασταθεὶς ἄρχων . . . (Text and Translation: Burt 1954).

<sup>84</sup> Lykourg. *Leôk.* 147: ἔνοχον ὄντα Λεωκράτην . . . λιποταξίου δὲ καὶ ἀστρατείας οὐ παρασχὼν τὸ σῶμα τάξει τοῖς στρατηγοῖς. Cf. §16-17: ἐψηφίσαστο ὁ δῆμος . . . τοὺς δὲ στρατηγούς τάττειν εἰς τὰς φυλακάς τῶν Ἀθηναίων καὶ τῶν ἄλλων τῶν οἰκούντων Ἀθήνησι, καθ’ ὅτι ἂν αὐτοῖς δοκῆ. . . τὴν φυλακὴν ἔρημον τὸ καθ’ αὐτὸν μέρος κατέλιπεν.

<sup>85</sup> Lykourg. *Leôk.* 17, 26-27: μετὰ τῆς ἐταίρας Εἰρηνίδος προσέπλευσε καὶ ὤχετο φεύγων . . . οἷς παρ’ ὑμῶν ἐξεκομίσαστο χρήμασιν ἀφορμῇ χρώμενος, ἐκ τῆς Ἠπείρου παρὰ Κλεοπάτρας εἰς Λευκάδα ἐσιτήγει καὶ ἐκείθεν εἰς Κόρινθον . . . ἔπειτα τὸν προδόντα μὲν ἐν τῷ πολέμῳ, σιτηγήσαντα δὲ παρὰ τοὺς νόμους. . . Cf. §22-23 (sale of slaves and generation of cash from refinancing).

<sup>86</sup> ἢ τὰ πατρῶα κατεδηδοκῶς, ἢ ὧν ἂν κληρονόμος γένηται (Aiskhin. 1.30).

<sup>87</sup> See Ferrucci 2006; Cox 1998: 132-35.

<sup>88</sup> On the expressive effect of legislation, see Sunstein 1996; Lanni 2010, (forthcoming).

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