

**Kostas Apostolakis (University of Crete) : "Liturgies and the Rhetoric of Law in Fourth-Century Athens"**

**I. Αποφαίνειν vs ἀποκρύπτεσθαι in antidosia law**

**i. Interweaving law and character**

1.([D.] 42.4 διὰ τοῦτο γὰρ οἱ νόμοι καθ' ἕκαστον ἔτος ποιοῦσιν τὰς ἀντιδόσεις, ὅτι τὸ διευτυχεῖν συνεχῶς τῇ οὐσίᾳ οὐ πολλοῖς τῶν πολιτῶν διαμένειν εἴθισται. "for it is on this account that the laws every year provide for the tendering of exchanges, because to enjoy unbroken prosperity is not wont to be the permanent fortune of any large number of our citizens."

2. ([D.] 42.11 ὁμόσας γὰρ τῇ ἐνδεκάτῃ τοῦ βοηδρομιῶνος μηνὸς ἀποφανεῖν ὀρθῶς καὶ δικαίως τὴν οὐσίαν, καὶ τοῦ νόμου διαρρήδην λέγοντος τριῶν ἡμερῶν ἀφ' ἧς ἂν ὁμόσῃ δίδόναι τὴν ἀπόφασιν..." For although he had sworn on the eleventh of the month Boedromion to give me a true and just inventory of his property, and the law expressly declares that the inventory shall be given within three days after one takes the oath..."

3. [D.] 42.12 ἡγησάμενος δ' ἐγὼ καὶ μετρίου καὶ ἀπράγμονος εἶναι πολίτου μὴ εὐθὺς ἐπὶ κεφαλὴν εἰς τὸ δικαστήριον βαδίζειν, ἐπείσθην..." thinking it was becoming to a good citizen who wished to avoid quarrels not to rush headlong into court, was persuaded to consent."

4.[D.]42.23 ἀποκρύπτεσθαι γὰρ καὶ διαδύεσθαι καὶ πάντα ποιεῖν ἐξ ὧν μὴ λητουργήσεις τουτοισὶ μεμάθηκας "for you have learned secrecy and evasion and how to do everything to escape rendering service to your fellow-citizens here." .....

**ii.Revealing a false Phaenippus**

5.[D.] 42.24 πρῶτον δέ μοι τὸν νόμον ἐκείνον ἀνάγνωθι τὸν οὐκ ἑὼντα τῶν ἐν τοῖς ἔργοις οὐδὲν ἀποφαίνειν καὶ τὴν πρόκλησιν, ἔπειτα τὰς μαρτυρίας ὡς δὴ οἴκων λητουργούντων οὕτοσιν φαίνιππος κεκληρονόμηκεν. ΝΟΜΟΣ. ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΥΡΙΑΙ. Ἐν μόνον ἂν τις ἔχοι δεῖξαι τουτονὶ **Φαίνιππον πεφιλοτιμημένον εἰς ὑμᾶς**, ἄνδρες δικασταί· **ἵπποτρόφος** ἀγαθὸς ἐστὶν καὶ φιλότιμος, ἅτε νέος καὶ πλούσιος καὶ ἰσχυρὸς ὢν. τί τούτου μέγα σημεῖον; **ἀποδόμενος τὸν πολεμιστήριον ἵππον καταβέβηκεν ἀπὸ τῶν ἵππων**, καὶ ἀντ' ἐκείνου ὄχημ' αὐτῷ τηλικούτος ὢν ἐώνηται, ἵνα μὴ πεζῇ πορεύηται· τοσαύτης οὗτος τρυφῆς ἐστὶ μεστός. " There is one thing only, men of the jury, in which anyone could show that this man Phaenippus has been ambitious of honor from you: he is an able and ambitious breeder of horses, being young and rich and vigorous. What is a convincing proof of this? He has given up riding on horseback, has sold his war horse, and in his place has bought himself a chariot—he, at his age!—that he may not have to travel on foot; such is the luxury that fills him."

**II. Rhetorical uses of law. i. Adding to the text**

6.[D.] 42.12 ἕτερον δὲ τὸν κελεύοντα κυρίας εἶναι τὰς πρὸς ἀλλήλους ὁμολογίας, **ἃς ἂν ἐναντίον ποιήσωνται μαρτύρων**. ...§16 λέγε τῶν ἀρτίως εἰρημένων τὰς μαρτυρίας καὶ τοὺς νόμους. ΜΑΡΤΥΡΙΑΙ. ΝΟΜΟΙ. "and, secondly, that which declares that mutual covenants, agreed upon in the presence of witnesses, shall be binding....§16 Read the depositions in support of what I have just said, and the laws." Depositions"" Laws"" Cf. [D.] 47.77 τὸν νόμον ὃν κελεύει κύρια εἶναι ὃ τι ἂν ἕτερος ἐτέρῳ ὁμολογήσῃ'56.2 τοῖς νόμοις τοῖς ὑμετέροις οἳ κελεύουσι, ὅσα ἂν τις ἐκὼν ἕτερος ἐτέρῳ ὁμολογήσῃ κύρια εἶναι; Hyp. Athen. ὅσα ἂν ἕτερος ἐτέρῳ

όμολογήσει κύρια είναι; Din.3.4 καὶ ὁ μὲν κοινὸς τῆς πόλεως νόμος, ἐάν τις τοῖς  
ἕνα τινὰ τῶν πολιτῶν ὁμολογήσας τι παραβῇ, τοῦτον ἔνοχον εἶναι κελεύει τῷ  
ἀδικεῖν; Pl.Symp. 196c 2-3 ἀ δ' ἂν ἐκὼν ἐκόντι ὁμολογήσει, φασὶν "οἱ πόλεως  
βασίλης νόμοι" δίκαια εἶναι; Arist.Rhet.1375b 9-10 οἷον ἐνίοτε ὁ μὲν κελεύει κύρια  
εἶναι ἅπ' ἂν συνθῶνται, ὁ δ' ἀπαγορεύει μὴ συντίθεσθαι παρὰ τὸν νόμον.

7. The voice of the laws: [D.] 42.15 χρὴ δ', ὦ ἄνδρες δικασταί, μὴ τοῖς ἰσχυροτέραν  
νομίζουσι τῶν νόμων τὴν αὐτῶν βδελυρίαν εἶναι, πλεον τούτοις τοῦ δικαίου  
νέμειν (εἰ δὲ μή, πολλοὺς ποιήσετε τοὺς καταγελῶντας τῶν ἐν τοῖς νόμοις  
δικαίων γεγραμμένων), ἀλλ' ἐκείνοις βοηθεῖν, οἵτινες ἂν **τὴν τῶν νόμων φωνὴν**  
ὑμετέραν εἶναι νομίζωσι, καὶ τὴν ἡμέραν ταύτην, τὴν εἰς τὸ δικαστήριον, ὑπὲρ  
τῶν ἡδικομένων εἶναι [νομίζωσιν], μὴ τῶν ἡδικοτόων. " But, men of the jury, you  
should not grant more than their due to those who hold their own shamelessness to  
be stronger than the laws; if you do, you will multiply the numbers of those who  
mock at the just provisions of the laws. No; you should succor those who regard the  
voice of the laws as your voice, and the day appointed for coming into court as  
established in the interest of those who have been wronged, not of those who have  
done wrong." Cf. D.33.33 μάρτυρά μοι φημι τὸν νόμον εἶναι; 34.4 οἱ μὲν οὖν νόμοι,  
καθ' οὓς ὑμεῖς δικασταὶ κάθησθε, οὐχ οὕτως λέγουσιν;

## ii. Interpreting 'grey zones'

8.[D.] 42.18 ὑμεῖς δ' ἴστε, ὦ ἄνδρες δικασταί (ὑμεῖς γὰρ ἔθεσθε) τὸν νόμον, ὃς  
διαρρήδην οὕτω λέγει, 'τοὺς δ' ἀντιδιδόντας ἀλλήλοις, ὅταν ὁμόσαντες  
ἀποφαίνωσι τὴν οὐσίαν, προσομνύειν τόνδε τὸν ὅρκον "ἀποφαίνω τὴν οὐσίαν  
τὴν ἐμαυτοῦ ὁρθῶς καὶ δικαίως, **πλὴν τῶν ἐν τοῖς ἔργοις τοῖς ἀργυρείοις, ὅσα  
οἱ νόμοι ἀτελῇ πεποιήκασι**".' "...the law... that which expressly makes this  
provision, that those tendering exchanges to one another, when they under oath  
report their inventories, shall swear also the following oath: "I will give a true and  
honest inventory of my property except that in the silver mines, all of which the laws  
have made exempt from taxes."

9.Isae.3.22 Ξενοκλῆς τοίνυν Βῆσαζε μὲν ἰὼν εἰς τὸ ἐργαστήριον τὸ ἡμέτερον εἰς τὰ  
ἔργα; Aeschin.1.101 Φοβηθεὶς γὰρ τὰς λητουργίας ἀπέδοτο ἃ ἦν αὐτῷ κτήματα  
...χωρίον Κηφισιάσιν, ἕτερον ἀγρὸν Ἀμφιτροπῆσιν, ἐργαστήρια δύο ἐν τοῖς  
ἀργυρείοις, ἐν μὲν ἐν Αὐλῶνι, ἕτερον δ' ἐπὶ Θρασύλλῳ; D.37.4 πρᾶτῃρ μὲν δὴ τοῦ  
ἐργαστηρίου καὶ τῶν ἀνδραπόδων ὁ Μνησικλῆς ἡμῖν γίγνεται ...

10.[D.]42.27 Ἐπίσχες. αὕτη ἐστίν, ὦ ἄνδρες δικασταί, ἡ Ἀριστονόη τοῦ  
Φιλοστράτου θυγάτηρ, μήτηρ δὲ τουτουί. ταύτη χρέως φησὶν ὀφείλεσθαι  
Φαίνιππος τὴν προῖκα, ἣς οἱ νόμοι κύριον τοῦτον ποιοῦσιν, ψευδόμενος καὶ οὐ  
δικαίως χρώμενος τῇ ἀποφάσει. διὰ τί γὰρ ἐγώ, Φαίνιππε, **μενούσης μοι τῆς  
μητρὸς ἐν τῷ οἴκῳ** καὶ ζώσης καὶ προῖκα ἐπενεγκαμένης, οὐκ ἀπογράφω τὴν  
προῖκα χρέως αὐτῇ, **οὐδὲ παρακρούομαι τοὺς δικαστάς**, ἀλλ' ἐγὼ μετέχειν τῶν  
ἐμαυτοῦ τὴν μητέρα, ἂν τε τὴν Φαίνιππου ἂν τε τὴν ἐμαυτοῦ ἔχω οὐσίαν; ὅτι οἱ  
νόμοι ταῦτα κελεύουσιν, ὧ βέλτιστε· σὺ δὲ πάντα ποιεῖς παρὰ τοὺς νόμους.

11.[D.] 43.49 ἀλλὰ μὴν 'γνησίῳ' γ' ὅταν λέγῃ καὶ 'κυρίως κατὰ τὸν θεσμόν',  
παρακρούεται παρὰ τοὺς νόμους.

12.IG II/III2 2722 ὅρος χωρίου πεπραμένου ἐπὶ λύσει Εὐθυδίκη προικός.

