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Atimia: dishonour, disfranchisement, and civic disability in archaic and classical Athens

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PhD in Classics

The University of Edinburgh

2022
**Signed declaration**

I declare that this thesis has been composed solely by myself and that it has not been submitted, whole or in part, to any previous application for a degree or professional qualification. Except where stated otherwise by reference or acknowledgement, the work is entirely my own.

Signed:

Linda Rocchi

Edinburgh,

20/07/2022
This thesis centres around the legal penalty of *atimia* (‘dishonour’ or ‘disrespect’) in the archaic and classical periods of Greek history, analysed against the wider backdrop of the role of *timē* (‘honour’/‘worth’ or ‘respect’), of which *a-timia* is the exact antonym. The main contention of this thesis is that, contrary to the *communis opinio*, the legal penalty of *atimia* was not an exclusive concern of male citizens – in fact, its scope was much wider, and the legal remedy was available, for example, also against citizen women, and (male and female) resident aliens and foreigners. My thesis argues, therefore, that this flexibility of the penalty of ‘dishonour’ and the rationale behind its use in policing anti-social behaviour are better understood through the lens of ‘honour’. This, contrary to current (and mistaken) understandings of the concept, is not a limited non-material commodity, pursued mostly by males in often violent forms of ‘zero-sum’ competition, and a disruptive value typical of Mediterranean societies, but rather a pluralist and bidirectional notion that has to do with the interplay of deference (i.e. both one’s respect for others’ claims and others’ respect for one’s own) and demeanour (i.e. the respectable conduct, self-presentation, and self-respect that safeguard one’s own claims to deference) – an interplay which the Greeks understood and construed intuitively through the conceptual structure of their language. Thus, *timē* is not simply one value among many, but a measure of the value of any quality or set of qualities, and a motivational mechanism that accommodates both competitive and cooperative behaviour. After an Introduction that summarises the *status quaestionis* and lays out the methodology of the thesis, informed by sociological approaches and behavioural science, Chapter 1 explores the notion of *timē* in the legal sphere and argues that the ancient Greek notion of ‘honour’ was used to define both the (legal) status (*timē* as a mass noun) of an individual and the rights and privileges (*timē* in the singular, *timai* in the plural) attached to that status. By approaching *timē* from the standpoint of *atimia*, then, and by examining what it is that *atimia* deprives one of, it is possible to understand, *e contrario*, what *timē* really is. Chapter 2 examines the notion of *atimia* through its historical development, starting from archaic literature and arriving to legal (both literary and epigraphic) texts of the classical period. In Chapter 3, the legal penalty of *atimia*, the relevant procedures through which it was enforced, and the types of crime for which it was meted out in the classical period are investigated in full. Through a
close reading of the relevant statutes as they are presented in the ancient sources and the analysis of the social dynamics that underpinned these laws, it is possible to see how the threat of ‘dishonour’ was used to promote cooperative behaviour by communally censoring ‘dishonourable’ (i.e. anti-social) conduct through the (political and social) exclusion of the offender. This discussion is complemented by Chapter 4, which deals with the consequences of legal dishonour for those more marginalised groups – citizen women and (male and female) free non-citizens – who nevertheless enjoyed a legally recognised status (and legally recognised rights) within the polis, and is followed by a Conclusion that sums up the main findings of the thesis.
Lay summary

This thesis centres around the legal penalty of *atimia* (‘dishonour’ or ‘disrespect’) in the archaic and classical periods of Greek history, analysed against the wider backdrop of the role of *timē* (‘honour’/’worth’ or ‘respect’), of which *a-timia* is the exact opposite. The main contention of this thesis is that, contrary to the conventional view, the legal penalty of ‘dishonour’ was not an exclusive concern of male citizens – in fact, its scope was much wider, and the legal remedy was available, for example, also against citizen women, and (male and female) resident aliens and foreigners. My thesis argues, therefore, that this flexibility of the penalty of ‘dishonour’ and the rationale behind its use in policing anti-social behaviour are better understood through the lens of ‘honour’. This, contrary to current (and mistaken) understandings of the concept, is not a limited non-material commodity, pursued mostly by males in often violent forms of ‘zero-sum’ competition, and a disruptive value typical of Mediterranean societies, but rather a pluralist and bidirectional notion that has to do with the interplay of deference (i.e. both one’s respect for others’ claims and others’ respect for one’s own) and demeanour (i.e. the respectable conduct, self-presentation, and self-respect that safeguard one’s own claims to deference) – an interplay which the Greeks understood and construed intuitively through the conceptual structure of their language. Thus, honour is not simply one value among many, but a measure of the value of any quality or set of qualities, and a motivational mechanism that accommodates both competitive and cooperative behaviour. After an Introduction that summarises the *status quaestionis* and lays out the methodology of the thesis, informed by sociological approaches and behavioural science, Chapter 1 explores the notion of honour in the legal sphere and argues that the ancient Greek notion of ‘honour’ was used to define both the (legal) status of an individual and the rights and privileges attached to that status. By approaching honour from the standpoint of dishonour, then, and by examining what it is that the legal penalty of ‘dishonour’ deprives one of, it is possible to understand, in turn, what ‘honour’ really is. Chapter 2 examines the notion of dishonour through its historical development, starting from archaic literature and arriving to legal (both literary and epigraphic) texts of the classical period. In Chapter 3, the legal penalty of dishonour, the relevant procedures through which it was enforced, and the types of crime for which it was meted out in the classical period are investigated in full. Through a close reading of the relevant
statutes as they are presented in the ancient sources and the analysis of the social dynamics that underpinned these laws, it is possible to see how the threat of ‘dishonour’ was used to promote cooperative behaviour by communally censoring ‘dishonourable’ (i.e. anti-social) conduct through the (political and social) exclusion of the offender. This discussion is complemented by Chapter 4, which deals with the consequences of legal dishonour for those more marginalised groups – citizen women and (male and female) free non-citizens – who nevertheless enjoyed a legally recognised status (and legally recognised rights) within the polis, and is followed by a Conclusion that sums up the main findings of the thesis.
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Thanks are also due to my fellow-members of the ERC project ‘Honour in Classical Greece’, Kleanthis Mantzouranis, Bianca Mazzinghi Gori, and Matteo Zaccarini: one could not have asked for better ‘partners in crime’ to share this adventure. I would also like to thank my colleagues and friends Niccolò Aliano, Nicola Barbagli, Justin Biggi, Pia Campeggiani, Sam Ellis, Alberto Esu, Giacinto Falco (without whom I would have probably missed the opportunity to apply for this PhD position in Edinburgh), Stefano Frullini, Fabio Guidetti, Theodora Hadjimichael, Antonio Iacoviello, Edward Jones (who also made sure these acknowledgments were written in decent English), Davide Massimo, Enrico Emanuele Prodi, who helped me find bibliography, listened to my rants, offered advice, and more generally provided a shoulder to lean on (or cry on, or laugh on…) when I needed it most.

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Finally, this thesis, like everything I do, is dedicated to my husband Matteo, ἐπὶ γὰν μέλαιναν τὸ κάλλιστον.
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Abbreviations

Ancient authors and works are abbreviated according to the *Oxford Classical Dictionary* (fourth edition). All other abbreviations are listed below:

**Adler**

**Agora XII**

**Agora XXV**

**Agora XVI**

**Agora XIX**

**BCH**
*Bulletin de correspondance hellénique* (Paris, 1877–).

**Bekk.**

**Carey**

**Chios**

**CID I**

**Dilts**

**Dindorf**

**DTA**
Wünsch, R., *Defixionum Tabellae Atticae* (Berlin, 1897).

**EKM 1**

**Erythrai**

**FD III**
*Fouilles de Delphes, III. Épigraphie* (Paris, 1929–).

**FGrH**

**Forster**
<p>| <strong>IG</strong> | <em>Inscriptiones Graecae</em> (Berlin, 1972–). |</p>
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<th>Author(s)</th>
<th>Title</th>
<th>Publisher, Year(s)</th>
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<td>RO</td>
<td>The Oxyrhynchus Papyri</td>
<td>London, 1898–</td>
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<td>Rose</td>
<td>Rose, V. Aristotelis qui ferebantur librorum fragmenta</td>
<td>Leipzig, 1886</td>
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<td>SEG</td>
<td>Supplementum Epigraphicum Graecum</td>
<td>Leiden, 1923–</td>
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<td>Th.</td>
<td>Thalheim, T., Antiphontis orationes et fragmenta</td>
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<td>Wimmer</td>
<td>Wimmer, F., Theophrasti Eresii opera quae supersunt omnia</td>
<td>Leipzig, 1862</td>
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Introduction

This thesis centres around the notion of *atimia* (‘dishonour’ or ‘disrespect’) in the archaic and classical periods of Greek history, analysed against the wider backdrop of the role of *timē* (‘honour’/‘worth’ or ‘respect’), of which *a-timia* is the exact antonym. In particular, the focus will be on the legal penalty of *atimia*, normally rendered as ‘disfranchisement’, and on the ways in which it was meted out and enforced in the Greek – and especially Athenian – legal system. In the following chapters, I will argue that *atimia*, as a legal remedy that targeted an individual’s status (*timē*) and rights (*timai*), originated in the socio-ethical sphere, and that, contrary to the *communis opinio*, it was not an exclusive concern of male citizens – in fact, its scope was much wider, and the legal penalty was available, in different forms and degrees, also against citizen women, and (male and female) resident aliens and foreigners. My thesis will demonstrate, therefore, that this flexibility of the penalty of ‘dishonour’ and the rationale behind its use in policing anti-social behaviour are better understood through the lens of ‘honour’ (*timē*).

The phenomenon of *timē* in classical Greece is, in a way, a paradox. On the one hand, the word is extremely common: any student of ancient Greek will learn it in the very first weeks of his or her acquaintance with the language, and is likely to memorise it – conveniently attached to its stock translation, ‘honour’ – with no particular effort, since s/he will stumble upon it continuously and consistently, regardless of his or her own literary preferences. Its pervasiveness in Greek literature as a whole, then, is hardly questionable, and, consequently, the notion is analysed, or at the very least mentioned, in virtually any study of Greek society and culture, and the impression one gets from scholarship on the subject is that the notion of Greek ‘honour’ has been definitively and thoroughly understood. On the other hand, and despite this impression of completeness, a closer look at the sources reveals that our current understanding of *timē* is in fact dramatically partial, very often confusing, and at times even contradictory.

This paradox surrounding *timē* depends, for the most part, on a problem of translation. As mentioned above, the preferred word for the Greek *timē* in English is ‘honour’. But, even though there are indeed instances in which the use of the term

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1 According to MacDowell (1978: 75), “one of the most difficult topics in the study of Athenian law”. See also Youn (2019: 361), who sees *atimia* as “one of the most complicated and debated subjects in the study of Athenian law”. 
‘honour’ in its most commonly understood sense might be acceptable, this translation remains highly unsatisfactory for two main reasons, intimately connected with one another. First, the ancient Greek word *timē* covers a much wider semantic range than a translation such as ‘honour’ can account for: from its basic meaning of ‘value’,\(^2\) the term encompasses, for example, not only the notion of a person’s ‘worth’, both in his or her own eyes and in the eyes of others, and thus dynamics of esteem and self-esteem,\(^3\) but also notions such as ‘status’ and ‘role’, and the ‘rights’ and ‘prerogatives’ (*timai* in the plural) attached to a particular status or role.\(^4\) Second, and perhaps more importantly, it is necessary to note that, in modern English, ‘honour’ is by no means a neutral term.\(^5\) Throughout the long history of its usage, the word ‘honour’ has taken on a complex of meanings, imagery, and values that evoke primarily, if not solely, militaristic and somewhat old-fashioned scenarios, where men engage in violent ‘macho’ behaviour in order to assert their honour, and women preserve theirs by safeguarding their chastity (through which men’s honour can also be harmed). Such conceptualisations of honour go back a long time,\(^6\) and are still very powerful in popular culture: for instance, in his 2006 book entirely devoted to honour, essayist and columnist James Bowman was able to conjure up many examples drawn from literature, films, TV series,\(^7\) and real-life episodes,\(^8\) which appear to support his view of honour as a ‘primitive’, hierarchical, competitive, and disruptive concept.

In some respects, the way honour is normally understood in the field of Classics is similar to Bowman’s, and still deeply influenced by mid-twentieth-century anthropological works on the subject,\(^9\) which build upon earlier theories

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\(^3\) See Cairns (2011a).
\(^4\) See Cairns (2019) and Canevaro (2020); see also Chapter 1, Section 1.1.
\(^5\) Cf. Stewart (1994: 33): “The varied and tendentious definitions [of the word ‘honour’] ... are a further source of the confusion that surrounds the word.” Stewart then further explains that a problem in defining the concept of honour comes from the fact that it is a highly ideologised term: “the word ‘honor’ has a very wide range of meaning, ... many different ideologies have tried to make the word their own.”
\(^6\) See the examples in Bowman (2006), a book that has at least the merit of presenting “a history of the notion of honour in the West, and especially in the modern novel” (Cairns 2011a: 25).
\(^7\) From Shakespeare’s *Hamlet to Sex and the City* (cf. e.g. pp. 25, 37–38, 41, 56, 62, 63–64, 225, 255, 259, 287–288).
\(^8\) Mainly taken from recent American history, such as the Korean War (pp. 179, 190, 193–199, 221–222 et passim), the Vietnam War (pp. 207–255 et passim), and the terrorist attacks of 9/11 (pp. 21–22, 31, 285–286 et passim).
\(^9\) Cf. e.g. Campbell (1964); Peristiany (1965), esp. Bourdieu (1965); Gilmore (1987); Walcot (1970); Miller (1990: 29–34).
developed by Franz Boas and his school. These works mistakenly depict honour as a distinctive element of aggressive, male-dominated ‘zero-sum’ competition peculiar to equally male-dominated and hierarchical communities, and as an exclusive feature of Mediterranean societies. This view has long been abandoned by those very anthropological milieux that originally promoted it, and beyond: as Cairns (2011a) has pointed out, a growing body of works has made it clear that honour is not the idiosyncratic obsession of aggressive and ‘primitive’ Mediterranean societies, but rather just one reflex of an attachment to esteem and a need for self-esteem that is fundamental to all human societies. For instance, in their analysis of the “economy of esteem”, Brennan and Pettit (2004) recognise from the outset that human beings “are, and always have been, an honour-hungry species” (p. 1), and that a concern with esteem and honour is widespread at any level of society, and not just among those marginalised or ‘deviant’ groups – such as inner-city gangs or other criminal organisations – with which honour is traditionally associated. This, as Cairns (2011a: 27–28) remarks, is confirmed also by recent research in epidemiology: works like Marmot (2004), Wilkinson (2005), Wilkinson and Pickett (2009), and, most recently, Wilkinson and Pickett (2018) have shown that there exists a correlation between material inequality and morbidity and mortality rates, and this is because a concern with status is so engrained in us human beings that “inequality can affect both health and the quality of social relations” (Wilkinson 2005: 57), and elicit specific negative biological responses. Moreover, studies such as Pollock’s (2007) investigation of honour in early-modern British society have shown that the pursuit of honour was not simply a matter of violence and retaliation: on the contrary, honour “was a pervasive feature of life, structuring individual and communal behavior” (p. 9), and violence was only a facet, among many others, of much more complex cultural systems in which honour was fundamental also to conflict resolution and to the promotion of social cohesion. It is clear, then, that honour is a much more fundamental and pervasive notion than the ‘Mediterraneanist model’

10 Most notably Mead (1937) and Benedict (1947). For a full discussion of the influence of these works on classical scholarship, see Cairns (1993: 22–47).
11 Cf. e.g. Stewart (1994); Krause (2002); Welsh (2008); Appiah (2010); Sessions (2010); Oprisko (2012); Cunningham (2013).
12 And even some primate societies: see e.g. Shively and Clarkson (1994).
13 Incidentally, as Cairns (2011a: 26–27) notes, Brennan and Pettit’s (2004) model also explains why members of marginalised groups might display a heightened concern with honour and esteem: since they have a very limited amount of esteem to begin with, these people will necessarily be more prone to take risks than those who have more to lose.
allows, and that this “is not a phenomenon that we should approach from the outside looking in”, because “there is a general sense in which what mattered to (for example) Homer’s heroes is a reflex of something that still matters to us” (Cairns 2011a: 29).

Indeed, several classicists have adopted a more nuanced perspective towards the notion of honour, and this is evident especially in relation to Homeric society, which was – and often still is – mistakenly taken as the prototypical example of Mediterranean honour-culture, where violent retaliation is the norm, and of a ‘shame-culture’, almost exclusively concerned with reputation and external tokens of esteem.14 Against this interpretation, for instance, Long (1970) has challenged Adkins’ (1960) famous division of Homeric values into ‘competitive’ and ‘cooperative’, and recognised (albeit still rather too cautiously) that, in the Homeric world, “τιμή is involved in some joint enterprises as well as individual acts of prowess and the hero’s personal status” (p. 123). Similarly, Riedinger (1976), in his study of timē in the Homeric poems, emphasises the societal dimension of ‘honour’, and especially its importance in the promotion of cohesion among members of a peer group: honour has a pivotal role “dans les relations privées” (p. 247), chiefly with family and friends, and does not act primarily as an unsettling force. Schofield (1986) shares a comparable perspective in describing timē as an inclusive notion that has to do with a plurality of values; in particular, he engages with Finley’s (1956) denial of the importance of counsel and judgement (boulē)15 in the Homeric world and argues instead that euboulia, ‘good counsel’, is “a pre-eminent virtue of the Homeric chieftain” (Schofield 1986: 9). The way in which timē defines a fundamental relation between the individual and a larger group, and is something that can be bestowed in different degrees and as a reward for a variety of qualities, is highlighted by Ulf (1990, esp. 4–12), while van Wees (1992: 69) equates Greek timē

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14 This view largely derives from influential studies from the second half of the twentieth century: cf. e.g. Dodds (1951), who first used Benedict’s (1947) distinction between shame-cultures and guilt-cultures to analyse ancient Greek society and concluded that Homeric society was a shame-culture, where honour ultimately came down to external recognition (see e.g. the clear formulation in Dodds [1951: 18]; on the untenability of the distinction between shame and guilt based on the reliance – or otherwise – on external sanctions, see Cairns [1993: 14–26]); Finley (1956), whose description of “the world of Odysseus” provides the image of an aggressive and competitive environment where “honour … [is] exclusive, or at least hierarchic”, because “When everyone attains equal honour, then there is no honour for anyone” (p. 118); and see also Adkins (1960), who sharply divided Homeric values between ‘competitive’ and ‘cooperative’, and argued for the greater importance of the former in determining what is honourable and what is not. On the importance placed on avoidance – or at least peaceful resolution – of conflicts by both the poet and the heroes in the Homeric epos, and especially in the Iliad, see most recently Allan and Cairns (2011).

15 See e.g. Finley (1956: 114–116).
both to “our notion of status” and “to what we call deference”, thus stressing the fact that honour is not defined by wealth only, and does not “consist merely of possessing and receiving scarce material resources” (p. 77). A view of *timē* as deference is expressed also by Scodel (2008: 1–32), who also emphasises several times that honour is not exclusively zero-sum and winner-take-all, and that negotiations involving *timē* are normally far more complex than what is often believed.

Most notably, Cairns (1993; 1996; 2011a; 2019) and Canevaro (2018a; 2020) have repeatedly shown that *timē*, far from being only a matter of aggressive self-assertion, and a concern that is unique to certain types of people or societies, is in fact a bidirectional notion that has to do with the interplay of what Goffman (1967) calls ‘deference’ and ‘demeanour’, which are the two fundamental aspects of his “interaction ritual”: ‘deference’ defines both one’s respect for others’ claims and others’ respect for one’s own, while ‘demeanour’ refers to the respectable conduct, self-presentation, and self-respect that protect and secure one’s own claims to deference. As such, *timē* is a mechanism that represents the basis of human interaction – it lives in intersubjectivity, and entails, for all the individuals involved, reciprocal obligations and expectations which are often expressed in Greek with the term *charis* and cognates, because honourable interactions imply giving others the respect they are due, and being entitled to expect that one’s due respect will be given in return. This clearly shows that *timē* (and honour more generally) is not only a matter of hierarchy – it is not exclusively the discriminating factor in determining people’s places within a rigid social structure. In fact, the Greek word *timē* simultaneously encompasses the “two kinds of respect” identified by Darwall in his influential 1977 article of the same title: “appraisal respect”, i.e. “an attitude of positive appraisal of [a] person either as a person or as engaged in some particular pursuit”, and “recognition respect”, i.e. “a disposition to weigh appropriately in one’s deliberations some feature of the thing [that is being recognised] and to act accordingly” (Darwall 1977: 38). This distinction clearly interacts with what Stewart

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16. Cf. e.g. Cairns (1993: 13): “to be concerned with one’s own honour is to envisage oneself as one among others, also bearers of honour; thus to limit one’s own claim to honour is to accept one’s status *vis-à-vis* others, to inhibit self-assertion is to recognize how such conduct would impinge upon the honour of others, and to experience inhibition before the audience whose disapproval might lead to impairment of one’s honour is clearly akin to the inhibitory self-consciousness one might feel in a situation in which one was forced to consider one’s own status in relation to that of another person.”

17. The importance of reciprocity and *charis* in social relationships based on *timē* has been highlighted by Cairns (1993) and, recently, Canevaro (2016: 90–91) and Blok (2017). See also some of the examples discussed in Chapters 1 and 2.
(1994) calls the ‘horizontal’ and the ‘vertical’ dimensions of honour: while appraisal respect is primarily concerned with placing individuals in a ranked order, and thus is mostly related to ‘vertical’ honour, recognition respect has more to do with those features and characteristics – such as enjoying a status or role – that do not come by degrees, and is therefore more akin to the horizontal dimension of honour; although, of course, a specific status or role might also simultaneously entail different ‘vertical’ honour for an individual as compared to the rest of society. Thus, for instance, citizens in a polis might acquire special, differential honour – for example, a crown, or the right to dine in the Prytaneion – for going above and beyond their duties in rendering some outstanding service to the city (appraisal respect), but they could also expect, by virtue of their very status as citizens, to be treated in a certain way by the individuals with whom they interacted, who ought to take into account others’ citizen status in regulating their behaviour towards them (recognition respect). As shown also by these examples, however, while this distinction between appraisal respect and recognition respect is certainly analytically useful in discerning between different aspects of the notion of honour, it is important to note, with Cairns (2019: 81 n.21), “that … Darwall’s two kinds of respect often co-exist, feed into each other, and overlap”, and that “the ancient Greeks (or ancient Greek) [did not] operate[] with an explicit distinction of that sort”. On the contrary, the continuity between the two typologies is made even more evident by the Greek usage of the terminology of ‘honour’, due to the fact that, as shall be discussed in more detail in Chapter 1, even the basic recognition respect that was, in principle, guaranteed by the enjoyment of a specific status and role was ultimately dependent on the individual’s ability to conform to the expected standard of behaviour and not to ‘fall short’. As will be seen below, then, honour is indeed also a regulating principle in relationships of mutual accountability among members of a peer group. This evidently goes against what Darwall himself maintains in his more recent contributions on the subject, where he postulates a further distinction, within recognition respect, between “second-personal respect”, which entails mutual accountability, and “honor respect”, which, in his

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18 See also Appiah (2010: 14), who, in pointing out that to these two kinds of respect “correspond two kinds of honor … competitive honor … [and] ‘peer honor’”, emphasises how “these two kinds of honor are [not] always tidily compartmentalized in actual usage”.

19 See e.g. Allan and Cairns (2011) on Homeric society, and my remarks on citizen honour in Chapters 1 and 4.

20 See Darwall (2006; 2013; 2021a; 2021b), with criticism of some aspects of Darwall’s theoretical framework in Honneth (2021a; 2021b).
view, is elicited exclusively by special, privileged statuses and roles, and is part of a superficial and insincere social pantomime that is only geared towards reputation and external signs of recognition, with no concern for the genuineness of the reasons upon which they are bestowed, and that has no bearing on a person’s actual worth and self-esteem. However, as Appiah (2010: 18) points out, honour is not simply a matter of appearance, because it “requires me to conform to the standard for its own sake [i.e., out of a real concern for the values at stake], not merely for the sake of reputation and its rewards”; and, as a matter of fact, the Greek notion of timē is much closer to the idea of “second-personal respect” than Darwall’s account of ‘honour’ would allow. Indeed, from our sources, it is very clear that mutual accountability and sincerity of a person’s feelings when bestowing honour on another were pressing concerns for the Greeks at any level of interaction: in Xenophon’s Hiero, for example, the tyrant Hiero insists upon the fact that honours and tokens of esteem that are only granted because of coercion or fear are not true honours, and give no pleasure to the person who receives them. Similarly, in Book 9 of the Iliad, one of Achilles’ main complaints about Agamemnon’s attempt to restore Achilles’ honour through an offer of reparatory gifts is that Agamemnon is – in Achilles’ view at the very least – insincere: his desire to make amends does not stem from a genuine recognition of the error of his ways and a real desire to acknowledge Achilles’ outstanding contribution to the war effort. By the same token, the idea that honour was a question of mere appearance, with no relation to the individual actually possessing the qualities for which s/he was honoured, is disproved by passages such as the opening paragraphs of the treatise on ‘virtue’ (aretē) by the so-called Anonymus Iamblichi, where the author shows a clear concern for reputation (doxa) that is actually deserved, i.e. based on real qualities of the individual: reputation is an end one can achieve by being what one seems to be and seeming what one actually is, thus demonstrating to be in possession of those characteristics for which one is

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22 Cf. Xen. Hier. 7.5–10 (esp. § 7: οὐδὲ οἳ ὑποσχέσθη οἳ παρὰ τῶν φοβουμένων τιμᾶί εἰσι). Incidentally, this passage (with Simonides’ previous argument at 7.1–4) also shows that everyday expressions of honour are essentially non-material (e.g. rising from one’s seat or looking at someone in a respectful manner), which further suggests that, in Greek conceptualisations, honour is indeed an ordinary feature of any form of social interaction.
23 On the Embassy in Book 9, and its implications for the relationship between Achilles and Agamemnon and the Iliad as a whole, see Allan and Cairns (2011: 121–130).
esteemed in the first place. Moreover, the fact that Greek reflections on honour very often tie it to the notion of reciprocity – usually discussed, as was mentioned above, with the language of charis – plainly shows that relationships based on honour necessarily imply mutual accountability between the individuals involved in those relationships, through which claims and obligations will emerge for both parties. To return to an example mentioned above, when Agamemnon sends gifts to Achilles but fails to show the appropriate regard towards him, the latter says in so many words that Agamemnon is showing no charis, because he gives the same honour (timē) to both the coward and the brave man; in a similar fashion, Hesiod suggests that not reciprocating, both in symmetrical relationships (such as that between two hetairoi, or, at least in part, two brothers) and in asymmetrical relationships (such as that between host and guest, or parents and children), is tantamount to dishonouring, while Demosthenes maintains that reciprocating is in fact honouring, i.e. giving one what one is due. It is within this framework that Xenophon feels entitled to claim that Seuthes’ failure to reciprocate his previous favour is signalling, both to Xenophon himself and to the rest of the army, that the Thracian ruler is (unjustly) dishonouring Xenophon by not treating him with the proper regard. Therefore, it is clear that, because it invariably comes into play in every iteration of the “interaction ritual”, honour is not something that pertains only to particular, ‘special’ statuses and roles, and the mutual accountability it entails brings the fundamental cooperative aspects of the notion to the fore: in order for an interaction to be carried out smoothly, all the involved parties need to share a willingness to play by the rules and accord each other the amount of honour they are entitled to, by reference to the standards of behaviour agreed upon by the community.

Of course, this is not to say that there is no competitive side to honour: there are indeed circumstances in which it is possible for some individuals to get more honour than others, and, in the case of intrinsically aggressive pursuits, such as warfare and certain kinds of violent sports (e.g. boxing, wrestling, pankration), honour – insofar as it coincides with victory – is won at the expense of others.

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26 Hes. Op. 182–188, on which see also Chapter 2, Section 2.1, and Blundell (1989: 31).
27 Dem. 20.6; see Blundell (1989: 33).
28 Xen. An. 7.7.46; see Blundell (1989: 33).
Moreover, as van Wees (2011: 1) points out, “competitiveness is a widespread human characteristic”, and honour, both in its material and its immaterial forms, can certainly be the object of such competitions. But this need not mean that competitions over honour are invariably zero-sum, nor that honour is exclusively, or even fundamentally, about violence and competition: as the example of violent sports suggests, gaining a larger share of honour ultimately depends upon playing by the rules – it is not the case that honour can be obtained by any means necessary, and, for instance, we will see in Chapter 2, Section 2.1, with the example of the suitors in the *Odyssey*, that, more often than not, the uninhibited pursuit of honour, with no regard for the context and the types of deference and demeanour it calls for, is labelled as *hybris*, and results in a diminished status and reputation for the abuser rather than for the abused. In dynamics of honour, both aspects – competition and cooperation – coexist and are ultimately reflections of mechanisms that give shape to all types of social relations and negotiations of social identities. To be sure, these mechanisms are not infallible – they do not always work as they are supposed to, and not all interactions are carried out without incidents. As (again) the quarrel between Achilles and Agamemnon in the *Iliad* lays bare, breakdowns of the system do happen, because individuals can sometimes be unwilling to accommodate others’ demands and claims – to play by the rules. But it would be methodologically unsound to assume that precisely those instances in which something goes wrong are the prime example of how the system works, or is supposed to work – in fact, even the Iliadic example of Achilles and Agamemnon is not presented by the poet (or any of the characters, for that matter) as the norm, let alone as an ideal to strive towards, but rather as a deviation from the normal pattern of interactions regulated by honour, and as a contravention of the correct strategies of conflict resolution as illustrated, for instance, by the way the dispute between Antilochus and Menelaus over a prize

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29 Incidentally, we should note, with van Wees (2011: 4), that competition (just as a concern with honour and esteem) is not an exclusively elite phenomenon, but rather “operates in relations between individuals in all sectors and at all levels of society”. On “l’universalité de la mentalité agonistique en Grèce”, see also Duplouy (2014a: esp. 68–71) and (2018a).

30 See also Fisher and van Wees (2011: xi): “the legitimacy of one’s competitive success depends on ‘playing (more or less) by the rules’ – or else being able to change the rules in one’s favour, especially if one can offer some justification for the necessity of these changes.”

31 Note also that, in a culture of reciprocity, it really matters whether one initiates violence or is responding to violence: the question of ‘who started it’ (and how others respond) does indeed make a difference. On this, see also Allan and Cairns (2011: esp. 143 n.57) and Cairns (2011b).

32 See also Pollock (2007), mentioned above.
during Patroclus’ funeral games is handled in Book 23.\textsuperscript{33} Thus, it is clear that \textit{timē} is not simply one value among many, with a specific normative content, but a measure of the value of any quality or set of qualities – based on previous recognition and creating a ground for future recognition – that the community deems important, and a motivational mechanism that accommodates both competitive and cooperative behaviour and comes into play every time two agents interact.\textsuperscript{34}

Despite these new approaches, however, the view of honour as a martial, violent, and ‘primitive’ phenomenon still holds sway, not only in analyses of the Homeric epos, but also in works that focus on the democracy of classical Athens. These works can be divided into two main strands. According to the first, while honour (\textit{qua} propensity for violent self-assertion) allegedly was a key ‘value’ in the archaic (and especially Homeric) world, this was no longer the case at the height of the Athenian democracy, where it was replaced by a different, more peaceful and cooperative mode of interaction. Thus, for instance, Herman (2006) sees honour as a specifically Homeric concept which, having undergone a radical transformation, supposedly re-emerged in democratic Athens as “an entirely new form of ‘honour’ that had nothing to do with violent retribution”, thus rejecting that “‘macho’ behaviour” that had previously been its very essence (p. 267).\textsuperscript{35} In Herman’s view, then, honour would have transitioned from solely competitive to solely cooperative, but it still represents a single value with a definite normative content, which can accommodate only a narrow range of interactions – overly competitive in the Homeric society, exclusively cooperative in the Athenian democracy.\textsuperscript{36} This alleged disappearance of the ‘Homeric’ honour\textsuperscript{37} was recently reaffirmed by Apfel (2011), who again frames it as a rigid notion with a clearly defined normative content and sets it in contrast with “the more co-operative ethics of the \textit{polis}” (p. 237).\textsuperscript{38} According to Apfel, the transition between the two systems of values was favoured

\textsuperscript{33} See Allan and Cairns (2011: 133–137). By contrast, “Agamemnon and Achilles allow tensions to erupt in Book 1 and the Achaeans spend the rest of the poem trying to recover” (Allan and Cairns 2011: 138).

\textsuperscript{34} On the importance of notions of esteem and self-esteem in both one’s relationship with oneself and one’s relationship with others, see Honneth (1995), who focuses specifically on social conflicts and frames them as struggles for recognition.

\textsuperscript{35} For Herman’s (2006) description of ‘Homeric’ honour, see pp. 261–263.

\textsuperscript{36} On the problems of Herman’s (2006) discussion as a whole, see van Wees’ (2008) review.

\textsuperscript{37} Cf. e.g. Apfel (2011: 219): “the goal of the Homeric hero, \textit{qua} hero, is the pursuit of honour and glory.”

\textsuperscript{38} A similar point is made also by Balot (2014) in his discussion of courage in Athens; for a refutation of Balot’s points, see Canevaro (2019a).
by the problematisation of ‘traditional’ honour in fifth-century tragedies.\textsuperscript{39} On Athenian dramatic stages, honour would have allegedly lost ground in favour of notions such as loyalty and friendship,\textsuperscript{40} and this shift in focus was to be essential in the shaping of the new democratic \textit{ēthos}.\textsuperscript{41}

More commonly, however – and this is the second strand – honour in classical Athens has been presented as the organic continuation of the supposedly disruptive value that fuelled the desire for competition of both the Homeric heroes and male citizens of the democratic \textit{polis}. This view of honour as a solely unsettling and aggressive notion, with no connection with ideas of social cohesion, is quite predictably displayed especially in studies devoted to the interpretation of disputes and litigations in classical Greece, where the element of rivalry and competition, while undeniably present,\textsuperscript{42} was nevertheless stretched to disproportionate lengths.\textsuperscript{43} For instance, in his study of the regulation of violence in Athenian courts, D. Cohen (1995) treats at length the concept of ‘vengeance’, which he takes to be the most apt translation of the Greek \textit{timōria},\textsuperscript{44} a term pertaining to the same semantic field and derived from the same root as \textit{timē}. More precisely, he describes the pursuit of \textit{timōria} through legal means as the natural development of the ancient practice of private vengeance, which allegedly persisted also in the institutional framework of democratic Athens. Thus, in his view, seeking \textit{timōria} through the courts was simply a means to keep an existing feud alive in a new setting – that of the law court. For Cohen, then, litigation in classical Athens was just another way of fostering competition and obtaining honour for oneself at the expense of others.\textsuperscript{45} Similar opinions are expressed also by Osborne (1985: 52), who maintains that “Athenian law courts were a public stage upon which private enmities were played out”, and a means to flex one’s muscles and enhance one’ status. Indeed, a concern with honour

\textsuperscript{39} Here, the influence of Vernant and Vidal-Naquet (1988: 23–28) is evident.
\textsuperscript{40} These two concepts are often mentioned together throughout the book, and specifically set against “anger and honour” when discussing Sophocles’ \textit{Philoctetes} (Apfel 2011: 239).
\textsuperscript{41} For a full discussion of these issues, see Cairns’ (2013) review of Apfel (2011).
\textsuperscript{42} Cf. e.g. Lys. 10, quoted as an example of ongoing private enmities in a legal setting also by Todd (1993: 258–259). While there is an element of truth in this (see also Cairns 2015: 651), Todd’s formulation underplays the importance placed by the Athenians on conflict resolution: although the system could be – and sometimes was – abused, conflict resolution was always the ideal (cf. Harris 2013a: 168).
\textsuperscript{43} Cf. e.g. Cairns (2015: 652): “the fact that a homicide trial, like any sort of case, may be used in pursuit of purely personal vengeance does not in any way prove that the intrinsic purpose of a homicide trial was nothing more than personal vengeance.”
\textsuperscript{45} See also Todd (1993: 53): “a lot of what occurs in the orators is not so much dispute settlement as dispute perpetuation.”
(philotimia), since at least Ober’s (1989, esp. pp. 243; 307; 333) influential monograph on cross-class democratic ideology in classical Athens, has been normally described as a phenomenon that pertained primarily – if not exclusively – to the elite, and, in later works, Ober (1996; 2012) expressly draws a sharp distinction between the concept of honour (elitist, violent, and hierarchical) and that of democratic dignity, the latter being an evolution of the former and the only operative and central category in the functioning of Athenian democratic institutions. The ‘old’ notion of honour, i.e. the aggressive self-assertion of the individual at the expenses of others, was thus relegated to its supposedly traditional (and peripheral) quarters, those of the litigious aristocrats who strived to perpetuate the somewhat anachronistic values of the Homeric warriors.\textsuperscript{46} According to these scholars, then, honour was an unsettling force, a residue of a ‘primitive’ proclivity for violence which the laws and institutions of the democratic polis tried (more or less successfully) to curb, or at the very least channel into less violent and disruptive forms of competition.

These views of honour have been especially detrimental to the study of atimia in the ancient Greek legal system, because they have largely prevented scholars from appreciating how issues of honour and dishonour can be – and indeed are – relevant to the administration of justice.\textsuperscript{47} In particular, the idea that timê, in classical Athens, referred exclusively to a very specific kind of ‘honour’, pertaining only to male citizens, resulted in the understanding of the legal penalty of atimia exclusively as ‘deprivation of (male) civic rights’. This has been the consensus since at least the first half of the nineteenth century, when van Lelyveld (1835: 17), in what was the first extensive study of atimia, maintained that “hac appellatione [atimoi] continebantur omnes quicumque communibus civium Atheniensium juribus non plene fruerentur”, and argued that what he translated with the Latin word infamia was something which concerned citizen men and citizen men only.\textsuperscript{48}

This opinion was further developed, most notably, by Swoboda, both in his

\textsuperscript{46} Cf. Ober (1996: 101): “the language of timê clearly meant one thing in the world of aristocratic competition, quite another in the world of the ordinary citizen.” For honour as something antithetical to cooperative values, see also Lanni (2006: 28–29).

\textsuperscript{47} For instance, in his analysis of the social structure of the Bedouins of central Sinai, Stewart (1994) has shown that ‘ird (honour), far from being a violent and masculine notion that operates systematically outside the boundaries of the law and sometimes in open contrast to it, also represents a meaningful and central element for the peaceful resolution of conflicts within a clearly defined legal framework.

\textsuperscript{48} See also van Lelyveld (1835: 269–270).
1893 article about Arthmius of Zelea,\textsuperscript{49} which has since then become the classic starting point for any survey on the historical development of the notion of \textit{atimia}, and in his \textit{Beiträge zur griechischen Rechtsgeschichte} (1905), where he provides a fuller discussion of the matter. By taking the Persian emissary from Zelea as a case-study, Swoboda claims that the meaning of the term \textit{atimia} had (quite radically) changed over time. First, in the archaic period, \textit{atimia} would have meant generically ‘outlawry’, from alpha privative and \textit{timē} in the sense of ‘vengeance’, ‘punishment’: any man, whether citizen or foreigner, could become \textit{atimos} and, as an outlaw, this person could be killed by anyone without possibility of redress.\textsuperscript{50} Thus, on this view, Arthmius’ \textit{atimia} was nothing but a vestige of this pre-classical arrangement. Then, after the Solonian reforms, the term \textit{atimia} had allegedly taken the more civilised sense of ‘disfranchisement’, from alpha privative and \textit{timē} in the sense of ‘honour’, ‘worth’: during the classical period, the \textit{atimos} was simply (and invariably) a citizen who had lost (some of) the privileges and franchises attached to citizenship. This interpretation has dominated throughout the twentieth century and found its way into handbooks,\textsuperscript{51} from which it passed through to successive studies. Although the link between \textit{atimia} and outlawry has been disproved, first by Youni (1998; 2001; 2018; 2019)\textsuperscript{52} and then by Joyce (2018),\textsuperscript{53} Swoboda’s contention that there existed an exclusive link between \textit{atimia} and citizenship was never really disputed, and his influential theory impressed upon subsequent scholarship the idea that apparent inconsistencies in this general picture – i.e. instances in which the penalty was applied to non-citizens, or even to female citizens – could be explained away, by virtue of a strictly developmental approach, as the result of the imperfect subsumption of an archaic notion into a more modern and formalised legal system.

The assumption that there existed an exclusive connection between \textit{atimia} and citizenship was most notably taken up by Hansen (1976). Starting from the

\textsuperscript{49} On Arthmius of Zelea, see Chapter 4, Section 4.3.
\textsuperscript{50} Cf. Swoboda (1893: 64–65): “In diesem Sinne ist also ἀτιμία nicht der Verlust der bürgerlichen Ehre, der Jemandem angedroht wird, sondern die Straflosigkeit für Denjenigen, der den Geächteten niederschlägt.”
\textsuperscript{52} For a refutation of the supposed equivalence of the formulae νηποὶνε ἢ τεθνάτω and ἄτιμος ἔστω, see also Velissaropoulos-Karakostas (1991). This equivalence is ultimately based on the wrong interpretation of Dem. 9.44, on which see Chapter 4, Section 4.3, and below. On Youni’s (1998; 2001; 2018; 2019) arguments, see below.
\textsuperscript{53} The connection between \textit{atimia} and outlawry has been recently – but inconclusively – defended by Dmitriev (2015): see especially Joyce (2018) – whose article is discussed in more detail below – for a refutation of Dmitriev’s arguments.
definition of the term (p. 54), he begins his analysis by claiming that *atimoi*, as opposed to common wrongdoers (*kakourgoi*), “often belonged to the Athenian elite”, thus suggesting – in keeping with the idea of *timē* as an exclusively aristocratic phenomenon – that *atimia* was primarily a concern of well-off citizens, and not even of ‘regular’ citizens. Moreover, although Hansen (1976: 55) admits that *atimia* “was never identical with the loss of civic rights”, he tends to present the “clear connection between *epitimia/atimia* and Athenian civil rights” as an exclusive one. With this preconception in mind, he fails to recognise that – as will be seen in more detail in Chapters 3 and 4 – both the existence of partial *atimia*, by which one could lose privileges singularly, and the possibility to lose prerogatives “enjoyed by metics and foreigners as well as by Athenians” (p. 55) have implications for the definition of *atimia*, and in fact seem to suggest that it was far more nuanced a concept than we are normally ready to accept. Similarly, Hansen acknowledges that “the word *[atimia]* originally means ‘dishonour’” (p. 60) and detects a continuity between the archaic and the classical forms of *atimia*, arguing that “the contrast … is less marked than usually assumed” (p. 75), but he does not fully explore the consequences of the relationship between *timē* and *atimia*, and the elements of continuity between *atimia* as the social sanction of ‘dishonour’ and the fully institutionalised legal penalty of the classical period – which in turn strongly advise against the strict developmental approach with which he tackles the issue.

Hansen’s core arguments are endorsed, for instance, by Manville (1980), who further tries to accentuate the exclusivity of the relationship between *atimia* and citizenship by linking the “evolution” (p. 220) of *atimia* to the Solonian reforms, and in particular to the law on *stasis*. This law had already been analysed by Swoboda (1905: 153), who took it as evidence that the ‘change’ of *atimia* from a more severe to a milder penalty had already occurred by Solonian times. Manville’s contention

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54 Hansen (1976: 54) also suggests that *atimia* was “the typical penalty for failure to perform civil duties or abuse of civic rights”; although this was certainly the case, this does not mean that it was applicable only to such failures. Cf. also p. 74; “*atimia* was the penalty *par excellence* which an Athenian might incur in his capacity of a citizen, but not for offences he had committed as a private individual.”

55 See Chapter 1.

56 See Chapter 2, esp. Section 2.1.


58 The authenticity of this law has been disputed. Recently, van ’t Wout (2010) has used Scafuro’s idea (2006: 175) of the “Solonian kernel” of certain laws – which seems indeed very difficult to prove – to suggest that this law might have been “a fourth-century reformulation of Solonian ideas in the form of a law” (p. 300), arguing for a reinterpretation of it in the direction of “active neutrality” and listing previous bibliography on the topic (pp. 289–290, nn.3–4). See also Dmitriev (2015) and Valdés...
is that the supposed differences between ‘archaic’ and ‘classical’ *atimia* can be explained as a by-product of the emergence of the concept of citizenship and the clear definition of the prerogatives attached to it: “Not until these prerogatives were established can one imagine losing them to be a punishment” (p. 217).  

Similarly, Sealey (1983) devotes a long section (pp. 98–111) of his article on the origins of Athenian citizenship to the concept of *atimia*. In his view, in Athens, the fundamental distinction was, originally, not one between ‘citizens’ (*politai*) and ‘aliens’ (*xenoi*), but rather one between ‘protected’ and ‘unprotected’ persons, conceptualised respectively as *epitimos* and *atimos*. Thus, Sealey subscribes to the idea that *atimia* moved from the initial meaning of ‘outlawry’ to the meaning of ‘deprivation of civic rights’, and placed this ‘shift’ around the time of Cleisthenes.  

Hansen’s theories also influenced Todd’s handbook on Athenian law (1993: 142–143). Despite Todd’s presentation of a more problematised view of *timē* as a legal concept, and despite his admission that “*Atimia* literally denotes the removal of *timē*”, he nonetheless follows closely Hansen’s conclusion that “it was a penalty which seems to have been imposed only on (male) citizens” thus perpetuating the widely shared idea that *atimia* and male citizenship had a somehow privileged connection. A meticulous blend of Swoboda’s and Hansen’s views is presented also by Scafuro’s entry on *atimia* in the *Encyclopedia of Ancient History* (2013: 923): going from outlawry to disfranchisement, *atimia* would have allegedly undergone an alleviation of its severity as a penalty, already completed towards the end of the fifth century, by virtue of which, from this period onwards, it targeted specifically “all or some of the rights attached to citizenship”. Similarly, Kamen (2013: 71–78), in her survey of different statuses in Athenian society, maintains that *atimia* went from outlawry to disfranchisement, and reaffirms the connection between its latest development and (male) citizenship status.  

This framework, though prevalent, has of course not gone completely unchallenged: as mentioned above, Youni (1998; 2001; 2018; 2019) and Joyce...
(2018) have conclusively refuted the idea that *atimia* progressively changed its meaning from ‘oulawry’ to ‘disfranchisement’. More specifically, in her most recent contribution on the subject, which clarifies and develops arguments made in her previous research, Youni (2019) has conducted a survey of all the instances of *atimia* in epigraphical and literary sources and shown that the term and its cognates are never used to convey the idea of outlawry, which is rather marked by terms such as *echthros* and *polemios* (‘enemy’), as well as specific formulae such as *nēpoinei tethnatō* (‘[the offender] shall be killed with impunity’). Similarly, Joyce (2018) clarifies that *atimia* is different from both outlawry and exile, despite the fact that often *atimoi* decided to leave their *polis* of origin of their own volition, and both he and Youni rightly stress the persistence of an element of extra-legal shame and disgrace attached to the penalty. It is, nevertheless, important to point out here that their account of the penalty is still burdened by some preconceptions on the nature of *atimia* that ultimately derive from the same Swobodian tradition that they are criticising, and suffers from the widespread narrow perception of the notion of *timē* as the single, exclusively disruptive value described above. In particular, both Youni and Joyce are in line with the rest of the scholarship in placing undue emphasis on the connection between *atimia* and citizenship, which is by no means as undisputable as is often made out to be: while the existence of well-defined legal rights and prerogatives is necessary for the legal penalty to emerge – because *atimia* ultimately targeted these – and citizen rights and prerogatives are often presented by the sources as the benchmark against which other rights and prerogatives are

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62 On this formula, see Velissaropoulos-Karakostas (1991).
63 On the differences between *atimia* and exile in the Homeric poems, see Maffi (1983), discussed below. Note, however, that – with the exception of Stahl (1891: 483), who suggested that at least some kinds of *atimia* included exile – scholars do not normally presuppose that exile and *atimia* are synonymous, but rather suggest that *atimia* is tantamount to exile, on the basis of the alleged unprotected status of the *atimos* as an ‘outlaw’; see also below.
64 On the continuity between legal and extra-legal senses, see below.
65 Cf. e.g. Youni (2001: 124): “honour” for “those who have a leading place in society due to their aristocratic origin”; Joyce (2018: 41): “To have *τιμή* means to enjoy a special status or privilege” (my emphasis).
66 Cf. Youni (2001: 126): “*Atimia* consist in the loss of all those privileges composing citizenship”; (2001: 128): “The nature of the privileges taken away indicates that this is a penalty inflicted only on citizens”; (2018: 151): “*atimia* entailed the loss of civic rights, and by its own nature it was destined only for citizens”; (2019: 368): “*atimia* … consisted in the deprivation of some or all the rights pertaining to a citizen”; Joyce (2018: 39): “*atimia* as … deprivation of citizen rights and prerogatives”. Youni (2001: 128) goes even further in claiming that the penalty of *atimia* “presupposes a democratic government”, but the examples of Sparta (on which see Chapter 1, Section 1.2, and Chapter 2, Section 2.1 below) and Dreros (see e.g. SEG 27.620, dated to the mid-7th cent. BCE, with Perlman [2004: 1158], where the term *achrēstos* is used) suggest otherwise. As will be seen below, then, the exclusive connection with citizenship, and citizenship in a democratic context more specifically, is not sufficiently substantiated by the sources.
discussed and bestowed, this need not mean that the penalty itself can only be used against these prerogatives. Moreover, Joyce (2018: 53) suggests that it is not possible to reach a positive definition of what the legal penalty of *atimia* was in the archaic period, but this is actually not the case: as will become clear in the following chapters, and especially with the example of inscriptions in Chapter 2, Section 2.2, *atimia*, in a legal setting, has been, from the very outset, the withdrawal of one or more prerogatives, or rights, attached to one’s status, the precise nature of which was determined on the basis of the offender’s status. Finally, with regard to the already mentioned story of Arthmius of Zelea and the alleged use of the expression *atimos tethnatō* (‘let [this person] die *atimos’*),67 it is necessary to make a few preliminary remarks. Indeed, both scholars are right to point out that the term *atimos* takes on different connotations when used in different contexts and thus, in principle, there is a difference between the formula *atimos estō* (‘let [this person] be *atimos’*), which is the regular legal formula that we find both in inscribed legislation and in citations from statutes in our literary sources,68 and the clause *atimos tethnatō* (‘let [this person] die *atimos’*),69 which would be used to signify outlawry.70 However, we should note that the expression *atimos tethnatō* is found only in one passage, in Demosthenes’ *Third Philippic* (Dem. 9.44),71 and is not repeated in any other ancient document, not even in other discussions of the decree against Arthmius.72 Moreover, as will be discussed in more detail in Chapter 4, Section 4.3, there are good reasons

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67 Dem. 9.44, on which see also Chapter 4, Section 4.3 below.
68 See especially Chapter 2, Section 2.2 below.
69 But the notion, supported by both Youni (2001: 125) and Joyce (2018: 37), that there exists a sharp distinction between verbs, adjectives, and nouns from the same stem (thus, e.g., between *atimia* and *atimos*), and that, therefore, it is not possible to draw conclusions on the use of one word on the basis of another word from the same family does not actually hold water: while it is true that the different terms can take different connotations, the basic reference will remain the same, and our sources clearly show that words sharing the same root usually have more in common than just that; see also Cairns (1993: 1–2).
70 I, however, think that Youni (2001: 129–130) is wrong in claiming that, while in the clause *atimos estō* the term *atimos* refers to *timē* in the sense of ‘honour’ or ‘prerogative’, in the clause *atimos tethnatō* the same adjective would refer to *timē* in the sense of ‘price’ (i.e. ‘retribution’ or ‘punishment’); even if the latter clause really were a legal formula (and, as will be discussed below, there is no reason to doubt it were), there is no reason to believe that the notion of *timē* referred to by the term *atimos* would change; in the case of *atimos tethnatō*, it might be the case that the adjective *atimos* is used to add a further element of ignominy and disrepute to the death penalty (with perhaps a reference to the specific legal sanction of the denial of burial rights for the offender).
71 Cf. Youni (2018: 142): “A thorough search of literary and epigraphical sources … gives no other instance of the phrase ‘ἀτιμος τεθνάτω’ in Athenian evidence from all periods.” In the one inscription mentioned by Youni (2001: 129), Ι.Κυμη 11 (3rd cent. BCE), the word *atimos* is supplemented, mainly on the basis of Dem. 9.44; see also Chapter 2, Section 2.2 below.
72 As noted also by Youni (2018: 141). The decree, which is very likely to be a fourth-century fabrication (see Habicht 1961: 23–25) is discussed again at Dem. 19.270–271; Aesch. 3.258; Din. 2.24–25.
to believe that paragraph 44 of the *Third Philippic* is, in fact, a later insertion: Canfora (1968: 193–194), for instance, has pointed out the undeniable lowering in register of this passage, alongside repetitions and syntactical difficulties, which come within a speech were interpolations are legion.\(^{73}\) Canfora uses these difficulties to argue against the possibility that Demosthenes had actually used the word *atimos* to describe Arthmius’ condition, but fails to notice that the term is used, twice,\(^{74}\) in the genuine sections of the text. And, as a matter of fact, Dindorf (1849: 192–193), who had no qualms about expunging the passage, has brilliantly explained that paragraph 44 cannot be genuine, first and foremost, because Demosthenes – and his audience – knew perfectly well that Arthmius’ *atimia* was a *proxenos’ atimia*: the rights that are being taken away from him are the rights of a *proxenos* of the Athenians.\(^{75}\) Whoever wishes to keep paragraph 44 in the text, then, needs to reckon with the fact that the information found in that passage is contradicted by the rest of the evidence, where – as will be seen in more detail below – there does not seem to be any confusion about imposing *atimia* on foreigners, or at the very least about prescribing it as a penalty for crimes – such as, most notably, military misconduct, but, at least in principle, for most of the crimes described in Chapter 3 below – for which also resident aliens (and sometimes foreigners *tout court*) could be convicted. Ultimately, then, both Youni (1998; 2001; 2018; 2019) and Joyce (2018) – and, in this respect, Canfora (1968) – fall victim of the reductive view of *atimia* as abolition of citizen rights, and consequently fail to recognise that the passage upon which Swoboda based much of his account of *atimia* is actually extremely dubious to begin with. Despite these issues, however, the core of Youni’s and Joyce’s arguments – i.e., that there existed a clear distinction, from very early on, both between *atimia* and outlawry and between *atimia* and exile – is sound, and their work represents the most recent sustained attempt to go beyond Swoboda’s developmental approach to the notion.

To be sure, doubts about Swoboda’s reconstruction had already been expressed by Lipsius and Thalheim, the first arguing that *atimia* “ist … überall Rechtlosigkeit” (1905: 931 n.2), with no change in meaning from one period to the other, and the second showing how, from the Homeric epos onwards, *atimia* and its cognates simply conveyed the idea of ‘dishonour’, without any reference whatever to

\(^{73}\) See Canfora (1967).
\(^{74}\) Dem. 9.42 (ἀτίμος), 43 (ἀτίμους).
\(^{75}\) See also the example of Euthycrates of Olynthus and, in more detail, Chapter 4, Section 4.3 below.
outlawry. Vleminck (1981), too, while still maintaining that *atimia* in the classical period referred specifically to the “privation des droits de citoyen” (p. 263), nevertheless challenges Swoboda’s equation of *atimia* and outlawry in the archaic period: according to him, *atimia* had always meant ‘loss of (civic) rights’ and was never identical to the possibility of killing the wrongdoer without redress. In a similar fashion, Maffi (1983) takes issue particularly with the idea of a connection between *atimia* and *phygē* (exile) in the archaic period, an idea which had been expressed in a variety of ways in previous works, and had been justified by virtue of the supposed unprotected status of the person affected by *atimia* since, as an ‘outlaw’, he could be killed with impunity, the *atimos* virtually always chose to seek salvation by fleeing the city, and this allegedly resulted in the (at least *de facto*) total coincidence of *atimia* and *phygē*. This, again, would have changed during the classical period, when the ‘new’ conception of *atimia* as loss of civic rights would have led to a differentiation between being *atimos* and being an exile. By examining the Homeric texts, Maffi not only demonstrates that *atimia* and *phygē* had always been two distinct concepts, but he also makes the case that *atimia* was, from the very outset, a far more nuanced concept than has been normally assumed, one which implied also a ‘moral’ assessment of the *atimos*. Even though he still describes *atimia* as a “disconoscimento della dignità del cittadino” (p. 257), Maffi does in fact recognise how the term *atimos* had always been “un termine generico che può essere riempito di contenuti molteplici” (p. 254), thus highlighting not only the possibility to modulate the concept according to the status of the person to whom it was applied, but also the role of the community in collectively creating and enforcing the criteria upon which *atimia* was imposed. Poddighe (2001; 2006) takes up Maffi’s perspective on the ‘moral’ dimension of *atimia* and the involvement of the

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76 See Thalheim (1918).
77 See for instance Swoboda (1893: 58): “ἀτιμία … in der richtigen Bedeutung, dass damit die Acht bezeichnet ist … – eine Bedeutung, die später obsolet wurde”; this idea was recently reiterated by Scafuro (2013: 923): “Such *atimia* [i.e. ‘outlawry’] was tantamount to expulsion from Athens.”
78 As will be seen in Chapter 3 below, *atimoi* in Athens were forbidden from speaking in the law courts, and so they could not bring any kind of private prosecution; however, unless they had absolutely no friends or relatives willing to bring public actions (*graphai*) on their behalf, it would be difficult to consider them completely unprotected, and they certainly could not be killed with impunity just by virtue of being *atimos*. On the impossibility, for an *atimos*, to get access to the courts, see e.g. Isae. 10.20.
community, but she exaggerates the importance, or rather the exclusivity, of the atimia-citizenship nexus to the point of translating timē as “dignità civica” (2001: 39). Finally, van ’t Wout (2011a; 2011b) further emphasises the continuity of legal and non-legal senses of atimia and rightly moves away from hyper-legalistic accounts of the notion; however, in doing so, she tends to downplay the extent to which atimia, as a penalty, was a fully institutionalised legal remedy that functioned according to specific laws, and not an entirely fluid category that ultimately operated outside of the legal sphere.

These approaches, then, certainly have the merit of having emphasised not only the importance of the relationship between timē and atimia, but also the connection between the legal and the extra-legal meanings of these concepts,\(^8\) which, however, generally tend to be viewed as proof of the supposedly rudimentary character of the Greek legal system. Thus, it is clear that the mistaken view of timē as a single value, with a defined normative configuration, that was allegedly relevant only to the elites – i.e., in the democracy of classical Athens, (wealthy) male citizens\(^8\) – has prevented the full appreciation of the actual scope of the penalty of atimia, and promoted a narrow interpretation that does not accommodate all the instances in which the term and its cognates are used – and writes off as ‘aberrant’ or ‘primitive’ those that do not fall neatly into the developmental pattern that the alleged link between atimia and citizenship presupposes.\(^8\)

The present work has the aim of providing a new account of the legal penalty of atimia, based on the understanding of timē as a pluralist and inclusive notion that underpins any kind of social interaction – an understanding that is ultimately supported by recent scholarship on the concept of ‘honour’, both in the field of Classics and beyond. Chapter 1 explores precisely the notion of timē in the legal sphere and, through the examination of the vocabulary employed in our sources to discuss different modes of participation within the polis, follows Cairns (2019) and

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\(^8\) Cf. e.g. Youni (2018: 138): “the word ἀτιμία in the earlier sources has a direct reference to the moral sphere and is strictly associated with the notion of τιμή meaning ‘honor’.”

\(^8\) Cf. e.g. Youni (2018: 151) “atimia entailed the loss of civic rights, and by its own nature it was destined only for citizens”; (2019: 368): “the penalty of atimia, which entailed disqualification for participation in civic life and public offices, was reserved for Athenian citizens and was never imposed on non-citizens.”

\(^8\) In his study of atimia in Athens, Dmitriev (2015: 37) does challenge the view that atimia and citizenship were connected and admits that “foreigners, too, could be declared ἄτροι”, but he does so by postulating a persistence of the supposed archaic meaning of atimia (‘outlawry’) also in the classical period; in his view, then, “ατιμία as a penalty that inflicted death with impunity survived in later times”. See again Joyce (2018) for a refutation of these arguments.
Canevaro (2020) in arguing that the ancient Greek notion of ‘honour’ was used to define both the (legal) status (timē as a mass noun) of an individual and the rights and privileges (timē in the singular, timai in the plural) attached to that status, as well as the deference and respect towards these statuses and rights, and just esteem for admired qualities. This will show not only that, contrary to what is generally believed, timē and atimia were notions used to articulate any kind of status – and not just citizen status – but also that, by approaching timē from the standpoint of atimia, and by examining what it is that atimia deprives one of, it is possible to understand, e contrario, what timē really is.

Chapter 2 examines the notion of atimia through its historical development, starting from archaic literature and arriving to legal (both literary and epigraphic) texts of the classical period. In addition to providing further evidence against the alleged progression of atimia from ‘outrawry’ to ‘disfranchisement’, this analysis will highlight elements of continuity between the socio-ethical and the legal aspects of atimia, and show that the penalty represented the result of a process through which pre-existing social dynamics were entrenched in the laws of the city. Moreover, the examination of the relevant sources – in particular, the speeches of the Attic orators – will clarify that, in the classical period, both technical and non-technical senses of atimia were used across the board without creating any misunderstanding, and that this was achieved not only thanks to the different contexts in which the terminology was employed, but also through a differentiation and specialisation of the two families of denominative verbs stemming from atimia: atimoō/latimaō to define an actual diminution of status for the victim of atimia (perfective) and atimazō to talk about an attempt to bring about such diminution that can, however, be unsuccessful (imperfective/conative).

In Chapter 3, the legal penalty of atimia, the relevant procedures through which it was enforced, and the types of crime for which it was meted out in the classical period are investigated in full, starting from the most complete contemporary discussion of atimia in classical Athens: Andocides’ survey of atimoi in his defence speech On the Mysteries (Andoc. 1.73–76). Through a close reading of the relevant statutes as they are presented in the ancient sources and the analysis of the social dynamics that underpinned these laws, it will be possible to see how the threat of ‘dishonour’ was used as one of the strategies for the promotion of cooperative behaviour, by a communal effort to censor ‘dishonourable’ (i.e. anti-
social) conduct through the (political and social) exclusion of the offender, and the lengths to which the Athenians were prepared to go in order to uphold and enforce such exclusion.

This discussion is complemented by Chapter 4, which deals with the consequences of the legal penalty of dishonour for those more marginalised groups – citizen women and (male and female) free non-citizens – who nevertheless enjoyed a legally recognised status (and legally recognised rights) within the polis. Drawing on the findings of the first three Chapters, it will be demonstrated that the translation of atimia as ‘loss of citizenship rights’, and specifically those rights that pertained to citizen men, is incomplete, and ultimately misleading. Rather than representing the vestiges of a ‘primitive’ arrangement, those instances in which atimia is applied to free individuals who are not male citizens prove that the contrast between atimoi – i.e. disqualified persons – and epitimoi – i.e. people in possession of their full rights – actually cuts across different categories: there could be male citizens who were epitimoi and male citizens who were atimoi, but this distinction could be applied to other groups of people, too. This, as will be seen, is possible by virtue of the very nature of atimia, which was a legal penalty through which a loss of status (timē) or rights (timai) came into effect: the mechanism stays the same, but its content – the status or rights that are being lost – changes not only according to the crime committed, but also according to the specific status and rights the offender originally possessed.

By studying the legal penalty of atimia, then, it will become clear that dynamics of respect and disrespect – of honour and dishonour – are not the exclusive concern of a specific subset of the population: because any quality (or set of qualities) can be ‘honoured’, i.e. valued, and constitute a ground for respect and recognition within a community, honour is an inclusive and pluralistic notion that allows for nuances, modulations, and degrees, rather than a monolithic commodity that can only be bestowed and taken away en bloc. Thus, as will be seen in the following pages, within the clearly defined parameters of the specific law codes, dishonour (atimia) programmatically remained a variable and flexible penalty, and a key aspect of a social mechanism through which Greek communities collectively regulated participation to the life of the polis by policing the behaviour of all the social agents who had a stake in it – of all the individuals who had something to lose. Excluding those who behaved dishonourably (i.e. in a way that warranted the legal
sanction of *atimia*) was a communal effort that required the cooperation of all the members of the community, including the dishonoured individual who was to be the first enforcer of his or her own exclusion: while this did entail a high degree of oppressive social control, it ultimately had the aim of strengthening and reaffirming the values of the community, and is a testament to the Greeks’ conceptualisation of honour not so much – or not solely – as a potentially disruptive force, but rather as a tool that could also be used in the promotion of social unity and cohesion.
Chapter 1

Timē and atimia in Greek legal discourse

From a strictly linguistic point of view, the meaning of the term atimia seems fairly straightforward – a compound of alpha privative and timē, a-timia literally captures the ‘absence’ or ‘negation of timē’; thus, in keeping with the stock translation of timē as ‘honour’, atimia has generally – and quite naturally – been translated as ‘dishonour’. However, we have seen in the Introduction that this translation is not as unproblematic as it first seems, because our understanding of Greek notions of ‘honour’ and ‘dishonour’, and of the dynamics regulating the bestowal and withdrawal of honour, have largely been informed by outdated – and for the most part superseded – twentieth-century anthropological works on the subject, which mistakenly depict honour as a limited non-material commodity, pursued mostly by males in often violent forms of ‘zero-sum’ competition, and as a value typical of Mediterranean societies. Although this model has influenced the interpretation of virtually every aspect of Greek literature and thought, modern studies of ancient Greek law and rhetoric have arguably been most profoundly affected by it, due to the necessarily adversarial nature of litigation and the element of competitiveness intrinsic to rhetoric in general. Thus, while often scholars correctly identify the centrality of honour to the sources they analyse, they mistakenly read it as a sign that ancient Greece was a typical competition-fuelled Mediterranean ‘shame society’, and present a distorted picture that has no room for the full range of honour dynamics displayed in our sources.

The inclusion of atimia, as a penalty, in the legal landscape of the polis in the progression from the archaic to the classical period – which will be analysed in more detail in the next Chapter – was ultimately a consequence of the prominence of the notion of timē in that same landscape. Until recent years, the concept of honour in the study of ancient Greek literature and culture was associated, almost exclusively, with the archaic period, and in particular with the Homeric society, which was depicted as supposedly more ‘primitive’, and closer to those Mediterranean cultures described as ‘honour-obsessed’ by older anthropological scholarship on the subject. As was discussed in the Introduction, more recent works on honour have exposed this view

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1 See the Introduction.
3 See again the Introduction.
as outdated and incorrect: not only is the Homeric society not ‘primitive’ at all, and in fact characterised by a complex and nuanced approach to honour dynamics, but honour dynamics themselves, whether in the Homeric world, in classical Athens, or in the present day, are an integral part of human interaction, the smooth operation of which they contribute to promoting and safeguarding, because ‘honour’ is, in fact, just one name for a much more fundamental and pervasive notion. And yet, when it comes to the study of ancient Greek law, there still appears to be some resistance to the idea of honour having a place, let alone a prominent place, in the legal systems of the classical poleis. Whenever honour enters the picture, it still tends to be mistakenly presented as a residual primitivistic element from bygone times, an aspect of the allegedly feuding, and somewhat underdeveloped, character of the ancient Greek judicial system – as a ‘bug’, hard to get rid of, rather than a feature – and even those scholars who, like Herman (2006), argue that honour was still a relevant category in classical Athens, depict it as a discrete notion with a specific normative content, radically different from the ‘Homeric’ honour, rather than as a mechanism that could accommodate a plurality of values. Moreover, these views of honour – either as a primitive aggressive notion or as its democratic reversal into a non-violent value or ideal – seem to be predicated upon the assumption that, whenever socio-ethical categories appear to be operative in the legal sphere, it is not the result of a complex interaction between these categories and legal notions, which come to inform and enrich one other, but rather – again – proof that the Greek legal system was less formalised and ‘advanced’ than its modern counterparts, and functioned more on the basis of extra-legal elements that were never quite integrated in the law code but largely overrode it and allowed agents to stretch it almost at will. What this means in practice, then, is that these approaches do not acknowledge that legal institutions are in fact sustained and underpinned not only by formal rules, but also by practices and narratives which can be seen, in themselves, as fundamental parts of these legal institutions.

The interaction between rules, practices, and narratives is especially evident in the legal penalty of atimia, which was essentially the institutionalisation of an ethical, social, and political category. As will become clear from the examples

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4 Cf. Cairns (2011a) and the Introduction.
5 Cf. e.g. Osborne (2018).
6 This is the perspective adopted by those scholars who subscribe to the scholarly trend in political science known as ‘New Institutionalism’ (and see also Historical Institutionalism and Discursive Institutionalism): see Lowndes and Roberts (2013).
below, and from the discussion in Chapter 2, it was because of its very effectiveness as a social sanction that *atimia* became a proper legal institution: the – informal, but communally endorsed – dynamic by which the enjoyment of entitlements, or rights (*timai*), within the community was dependent on ‘honourable’ behaviour (i.e., behaviour that was worthy of, and rewarded with, *timē*) was solidified into law. On the other hand, as the term itself suggests, the sanction of *atimia* allowed the community to take away these entitlements and rights from those who engaged in types of behaviour that had come to be construed as dishonourable. I should note here that, when I use the terms ‘honourable’ and ‘dishonourable’, I do so with reference to the more inclusive and nuanced perspective on ‘honour’ outlined above, and I refer to scenarios, situations, types of behaviour, and institutions that are described in our sources with the language of *timēlatimia* and cognates; my assumption here is that, for example, when the penalty of *atimia* is meted out, it is reasonable to believe that the action or type of behaviour that is being punished with it could be described – both by us and by the Athenian legislator who selected the penalty for that crime in the first place – as ‘deserving of *atimia*’ or ‘bringing *atimia*’ upon the offender – as ‘dishonourable’. Of course, in Greek, the adjective *atimios* is never attested, but the fact that, in a language, a concept is not described with a particular lexical token does not mean that the community that uses that language has no notion of that concept, especially when the relevance of the concept itself is made abundantly clear by the discourse around it, and by the description of situations in which the concept is operative: it is ultimately a matter of function in context. Moreover, I should also point out that, while in my discussion I tend to use the word ‘dishonour’ and cognates when the sources present instances of *atimia*-terminology, too strict a lexical approach would ultimately be counterproductive, because the notion of ‘dishonour’ – especially, but not exclusively, in the extra-legal sphere – is well marked by references to *hybris* (as shall be seen in Chapter 2, Section 2.1 below) or *nemesis*, and to other pejorative terms such as *aischos, aischros, aeikes*,

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7 Due to a mechanism that political scientists like Arthur (1994) and, more recently, Pierson (2000; 2004) label as ‘path dependence’, which operates through self-reinforcement, positive feedback, and increasing returns.

8 Note also that the corresponding adjective *timios* seems to refer more to the notion of ‘venerability’, and to ‘recipients’ of honour, rather than to people who behave honourably: that is, the focus seems to be more on the effect (i.e. the fact that one has or has obtained honour) rather than on the process (i.e. what one has done to deserve it).


10 Cf. e.g. Cairns (1993: 4).
aeikelios, elenchos, kakos, etc.,\textsuperscript{11} which bring out the ‘ugliness’ and ‘unseemliness’ of the types of behaviour normally stigmatised as \textit{atimia}, and especially the fact that they are ‘unbecoming’ for the individual, not appropriate to his or her status.\textsuperscript{12} Indeed, even in the legal sphere, the lexical approach proves to be insufficient, because it obscures the similarities between the penalty of \textit{atimia} and other comparable penalties described with terms such as \textit{achrēstos},\textsuperscript{13} \textit{aporrhētos},\textsuperscript{14} or \textit{tresas},\textsuperscript{15} which seem to operate along the same lines as \textit{atimia}, with reference to the same standards of behaviour regulated within the compass of honour.

As we shall see below, then, by taking advantage of practices and narratives that had emerged and developed throughout the archaic period, \textit{atimia} retained all the basic features of the archaic social sanction, and was gradually incorporated into the legal system of various classical \textit{poleis} precisely because it worked: it was part of an effective method of policing behaviour and ensuring compliance that functioned through the bestowal and withdrawal of honour. In the following paragraphs, I will examine some of the available evidence from classical Greece – and, in particular, classical Athens – which will illustrate the extent to which honour was fundamental to the administration of justice in the ancient Greek world, as a tool to regulate participation and police behaviour, both by encouraging honourable conduct – which, in this field, tends to be pro-social conduct – and by punishing dishonourable – i.e. anti-social – tendencies.

1.1 \textit{Timē} as ‘(legal) status’, timē as ‘(legal) right’\textsuperscript{16}

As has been demonstrated by a growing body of works,\textsuperscript{17} \textit{timē} “is a key concept when it comes to thinking about virtues, roles, and duties in ancient Greek ethics and

\begin{itemize}
  \item \textsuperscript{11} For the use of these terms to mark dishonourable behaviour in the Homeric poems, see Cairns (1993: 50–68).
  \item \textsuperscript{12} Cf. Cairns (1993: 13 n.27): “the values of ‘honour’ in ancient Greek are intimately connected with quasi-aesthetic standards of appropriateness which classify actions or states of affairs as ‘beautiful’, ‘ugly’, ‘unseemly’, etc.”; cf. also p. 433. See also Canevaro (2016: 86): “tò aìrgyôv” is a “termine connesso alla dimensione dell’onore”.
  \item \textsuperscript{13} Cf. e.g. an inscription from Drenos (SEG 27.620, mid-7th cent. BCE), where the term \textit{achrēstos} is used in the same way as \textit{atimos}: see Perlman (2004: 1158), who explicitly mentions \textit{atimia}.
  \item \textsuperscript{14} Cf. e.g. \textit{IG} XII 9.1273/1274, an inscription from Eretria dated to the sixth century BCE where the term \textit{aporrhētos} is virtually interchangeable with \textit{atimos}.
  \item \textsuperscript{15} A term used in Sparta for a penalty that Athenian sources describe as \textit{atimia}: see Section 1.2, and Chapter 2, Section 2.1 below.
  \item \textsuperscript{16} On \textit{timē} and subjective rights, see in more detail Canevaro and Rocchi (forthcoming).
  \item \textsuperscript{17} Cf. the Introduction and see in particular Cairns (1993; 2011a; 2019) and Canevaro (2020).
\end{itemize}
The notion of *timē* as ‘role’ or ‘status’ is already present in Homer and Hesiod, and this use of the term is prominent also in the classical period. Cairns (2019) explores the concept of *timē* as ‘status-role’ in the work of Herodotus, and in particular its relation to the idea of kingship and the role of king, but he also touches upon its usage outside the historiographical tradition: for example, in Plato and Aristotle, where *timē* often refers to offices and magistracies, i.e. specific roles within the *polis*.

The term is employed, with the same meaning, also in the corpus of the orators – we see it in pamphlets, such as Isocrates’ speech *To Nicocles* (Isoc. 2), in which, for instance, the office of king is described as a *timē*, but also in forensic speeches proper. At Lys. 26.20, in a *dokimasia* speech against a prospective archon, the speaker mentions the offices of cavalry commander (*παραρχεῖν*), general (*στρατηγεῖν*), and ambassador (*πρεσβεύειν*) as examples of “the greatest honours” bestowed by the *dēmos* upon honest oligarchs after the regime of the Thirty (αὐτοῦς ὁ δῆμος ταῖς μεγίσταις τιμαῖς τετίμηκεν).

That the term could mean both ‘honour’ – as ‘reward’, ‘mark of esteem’, or ‘status symbol’ – and ‘office’, ‘magistry’, or ‘status’ (t*out court*) is also exploited by the orators in the rhetorical framing of their arguments. For instance, in the speech *Against Meidias* (Dem. 21), the interplay between these two meanings of *timē* is used to give the false impression that Meidias’ offence against Demosthenes (i.e. punching him in the face while Demosthenes was performing his duty as *chorēgos*) could somehow be assimilated to similar offences committed against public officials, more precisely (and perhaps exclusively) against the nine archons. At Dem. 21.32–33, Demosthenes mentions a law regulating physical and verbal abuse against these magistrates, but his language

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18 Cairns (2019: 75).
21 I should note here that I am interested primarily to the notion of ‘legal status’, even though, as Davies (2017) clarifies, a person’s status is in fact a complex and multi-faceted notion that comprises both institutionalised and non-institutionalised elements, such as, for example, wealth (as it translates into ‘social capital’: cf. Bourdieu 1986) and social connections.
22 Isoc. 2.37.
24 See also another *dokimasia* speech, Lys. 31, where passing a *dokimasia* for office, thus attaining a specific status and prerogatives, is described as an honour (with the verb *timāō*) and framed as a reward for good behaviour at §§ 24–25 and 31.
25 See recently Harris (2013a: 26–27), with earlier bibliography.
26 See also Chapter 3, Section 3.3.
seems to be intentionally ambiguous.\textsuperscript{27} He says that, if one abuses the archon in his institutional capacity, the abuser will become \textit{atimos}, but if the abuse is perpetrated against the archon as a private individual, the abuser will only be liable to a private prosecution (§ 33). The term Demosthenes (and perhaps the relevant statute) uses to identify the archon during performance of his duties is \textit{estephanômenos}, literally ‘crowned’; then, towards the end of the paragraph, he highlights the continuity between the ‘crowning’ (\textit{stephanēphoria}) and other kinds of \textit{timē}. Indeed, \textit{timē} (as status-role) is often marked symbolically through a crown – which is the most common form of \textit{timē} as reward, not only for special exploits, such as a panhellenic victory, but also, for example, for citizen honorands in honorific decrees. Thus, as MacDowell (1990: 241) notes, the crown was an honorific symbol of the archons’ dignity, but it also identified their status and official role as such, and “For an archon to be deprived of his crown or to have it given back to him was synonymous with being removed from or restored to office.” But, of course, \textit{chorēgoi} were, in a way, officials, too – and, like the archons, they, too, wore crowns as markers of their special status, even though their specific duties and prerogatives were different from those of archons. And this is where Demosthenes’ reasoning becomes slightly deceptive: at the end of the section, after paraphrasing the law protecting the archons, he exploits the fact that both \textit{chorēgoi} and archons, in their official capacity, wore crowns to imply that provisions similar to those he has just described for archons would apply to whoever, for whatever reason, happened to wear a crown bestowed by the \textit{polis},\textsuperscript{28} and especially to his specific case as \textit{chorēgos}. By saying that this was the case “also for all to whom the city gives any crowning (\textit{stephanēphoria}) or any \textit{timē}”, Demosthenes takes advantage of the fact that both officials – \textit{chorēgos} and archon – wore crowns to assimilate two \textit{timai} (roles) that were, in fact, quite different: the only point of contact was that they were marked symbolically by the same honorific symbol (\textit{timē}), a crown. Demosthenes knows it, and so he uses the language of \textit{timē} to play between the two status-roles and make Meidias’ act of punching him while he, as \textit{chorēgos}, was wearing a crown seem even worse than it actually was – almost an offence that would warrant \textit{atimia}. The following sentence, however, shows very clearly that Demosthenes does not in fact go quite as far as that: he makes the remark almost in passing, without saying that Meidias was liable

\textsuperscript{27} MacDowell (1990: 251) also suggests this.
\textsuperscript{28} Dem. 21.33 (καὶ οὐ μόνον περὶ τούτων οὔτω ταῦτα ἔχει, ἀλλὰ καὶ περὶ πάντων οἷς ἂν ἡ πόλις τινὰ ἄδειαν ἢ στεφανηφορίαν ἢ τινα τιμήν δῷ).
to the punishment described (which would not have been true), and then immediately employs the existence of different penalties for the abuse of archons (i.e. a specific type of public official) and of private citizens to draw an analogy with his own situation and clarify why he chose a type of public suit, rather than a private one, to prosecute Meidias – he did it because Meidias, once again, had offended the city as a whole with his behaviour, by abusing someone who was, to some extent, representing the polis.

The example above also shows that the term *timē* is often used by the orators as a synonym of *archē*, especially when they want to stress the honorific aspect of holding a magistracy. For example, at Dem. 21.172, Demosthenes has just listed some of the offices that Meidias was elected to in the past (§ 171: ὑμεῖς γὰρ … ἔχειροτονήσατε τοῦτον) – treasurer of the sacred ship Paralus, cavalry commander, an administrator of the Eleusinian Mysteries, overseer of some unspecified religious ceremony, purchaser of sacrificial animals, “and other things like these” (καὶ τὰ τουλάχιστα δῆ) – and he describes them as ἀρχαὶ καὶ τιμαί καὶ χειροτονίαι, “prestigious and elective magistracies”. The first καί is epexegetical: τιμαί and χειροτονίαι are, in this context, synonyms of ἀρχαὶ that are used to characterise it and bring out key aspects of Demosthenes’ argumentation, namely, that these offices were bestowed by the people, through their vote, both as tokens of trust and esteem and as actual positions of power that gave access to certain claims and prerogatives. However, the notion of *timē* does not exclusively define ‘special’ statuses and roles, such as that of king, or magistrate, or priest and priestess, but also, very prominently, the status of citizen, which could be given to foreigners through honorific grants (i.e. as a *timē*). Moreover, as will be further discussed in Chapter 4, Sections 4.2 and 4.3, the semantic field of *timē* is used also to conceptualise and define the status of metics and other foreigners who entertained relations with Athens – especially privileged foreigners, as for example proxenoi – vis-à-vis the polis, and the privileges and disabilities that either approximated their status to citizen status or distanced the former from the latter.

That statuses and roles in general were discussed with, and defined by, the language of *timē* is clear also from the concept of *epitimia*, which is used in Greek,

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30 Cf. e.g. Lys. 31.29, where the special rights given to metics as a reward for helping the democracy are discussed with the verb *timaō*. On metics, see in more detail Chapter 4, Section 4.2.
virtually exclusively as the opposite of *atimia*,\(^{31}\) precisely to describe “A person’s legal standing or capacity” within a community, and represents “an index to [the person’s] legal rights and duties, powers, and disabilities”,\(^{32}\) especially when the rights and powers ascribed to that status – and the possibility of losing them – came into play. For example, at Dem. 21.106, Demosthenes mentions his *epitimia* as something he could have lost, alongside his city, family, and prospects, had Meidias been successful in his plans – when saying that he was in danger of losing his *epitimia*, he is referring specifically to the loss of status that he could have suffered, through the penalty of *atimia*, if he had been convicted for desertion at Meidias’ instigation.\(^{33}\) Previously in the speech, at § 61, Demosthenes had also described himself as a citizen in possession of his full rights, as opposed to others who were not, using the adjective *epitimos*.\(^{34}\) Similarly, at Aeschin. 1.160, Aeschines argues that whoever strays from *philotimia* through shameful (literally, ‘ugly’) deeds – that is, by behaving in a way unworthy of one’s status – should not be considered *epitimos* later in life: engaging in demeaning acts actually diminished one’s standing within the community, because the enjoyment of one’s *epitimia* (i.e. one’s status and the rights attached to it) depended upon honourable behaviour,\(^{35}\) as the insistence on *philotimia* and *epitimia*, both derivatives of *timē*, goes to show. And that *epitimia qua* full enjoyment of one’s rights, even ‘basic’ citizenship rights, was seen both as a status and as a kind of reward for honourable behaviour is clear from passages like Dem. 19.313, where Demosthenes describes justly depriving Aeschines of his *epitimia* as a fitting punishment for someone who tried unjustly to deprive the dead of the glory of their deeds: revoking one’s *epitimia* (as status, and rights pertaining to that status), i.e. revoking the enjoyment of one’s *timē*, is the just retribution for disregarding honorific tokens of esteem – in this case, “praises and acclamations”.\(^{36}\)

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\(^{31}\) This point was first made in Canevaro (2010: 353) and repeated in Canevaro (2013: 203).

\(^{32}\) Which is Martin’s (2006: 477) definition of ‘status’ in her dictionary of law.

\(^{33}\) In a graphē lipotaxiou that did not go to court: cf. Dem. 21.103. On military offences and *atimia*, see in particular Chapter 3, esp. Sections 3.1 and 3.3.

\(^{34}\) Thus, in general, *epitimia* and *epitimos* seem to be used to talk about rights and privileges when the danger of losing them is either real or lurking in the background – they can be described as being under threat, or lost and restored, or more broadly in contexts where a comparison between people who have them and people who do not is implied: aside from the examples quoted above, cf. e.g. Andoc. 1.73, 80, 103, 107, 109; Lys. [6].13, 44; 12.21; [20].19, 35; 25.27; Dem. 18.15, 312; 21.96, 99; 29.50; Aeschin. 2.88; 3.210; Din. 2.2; Isae. fr. 33 Forster; Hyp. fr. 27–28 Jensen; Lycurg. *Leocr.* 41; *Suda* δ 415 Adler (s.v. Δημάδης); π 2539 Adler (s.v. προδήλων). Cf. also Ar. *Ran.* 686–702; Thuc. 5.34.2 (on Sparta); Xen. *Hell.* 2.2.11; [Arist.] *Ath. Pol.* 39.1. See also Chapter 4, Section 4.3.

\(^{35}\) On this passage, see also Chapter 3, Section 3.4.

\(^{36}\) Cf. also Dem. 19.262, where Demosthenes asks specifically that Aeschines be made *atimos* (with the technical verb *atimoō*: see Chapter 2, Section 2.1 and Appendix I).
In the passage, then, Demosthenes engages with both dimensions of *timē*: the horizontal dimension that comes into play in the equal distribution of *timē* among citizens (*epitimia*)\(^{37}\) and the vertical dimension of the honour due to those who go above and beyond what is expected of them.\(^{38}\) These two dimensions are clearly part of the same mechanism, because both depend upon behaviour – either good or exceptional – and both grant access to claims and prerogatives.

And these claims and prerogatives attached to one’s role or status (*timē*) – be it a special, unique status or a status shared among a percentage of the population – are also described, in Greek, as *timai*. For instance, Aristotle states that the status of citizen is defined as that of “one who shares in the *timai*” (ὁ μετέχων τῶν τιμῶν);\(^{39}\) here he is referring specifically to *timai* as participatory rights, and not as offices.\(^{40}\) Nor is he referring to *timai* as tokens of esteem that operate outside of the legal sphere: just as we have seen that *timē* in Greek can be used to describe a legal status (king, magistrate, priest or priestess, citizen, metic, *proxenos*, and so on), our sources show that *timai* in the plural, and *timē* in the singular as one of these *timai*, often refers to “interest[s] or privilege[s] recognized and protected by law”, or the ability “to exercise any power conferred by law” (Martin 2006: 435) – essentially, to legal rights.

Recently, Caneparo (2020: 160–163) has shown that the Greek term *timē* conveys all the aspects and facets of the modern notion of right as identified by Hohfeld (1919) in his seminal study on fundamental legal conceptions. Hohfeld believed that, when we talk about ‘rights’, we generally mean one of four different concepts: claim-right, privilege, power, or immunity. As a response to the “ambiguity and looseness of our legal terminology” (p. 28), Hohfeld identifies eight “basic conceptions of the law” that “enter into all types of jural interests” (p. 27): right, privilege, power, immunity, no-right, duty, disability, and liability.\(^{41}\) These eight fundamental legal elements can be coupled together in two different ways, either as opposites – right and no-right, privilege and duty, power and disability, immunity and liability – or as correlatives – right and duty, privilege and no-right,

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\(^{37}\) Note that here we are talking about the *timē* and the *epitimia* of citizens, but these concepts are not limited to citizens: see in more detail Chapter 4.

\(^{38}\) On these two dimensions of honour, described by Stewart (1994), and how they interact with Darwall’s (1977) notions of ‘appraisal respect’ and ‘recognition respect’, see the Introduction.

\(^{39}\) *Arist. Pol.* 1278a35–36.

\(^{40}\) Cf. Cairns (2019: 78, with n.10).

\(^{41}\) See Hohfeld (1919: 36).
power and liability, immunity and disability. When they are considered as opposites, they describe aspects of the legal situation of a juridical subject: either one has a right or a no-right, either one has a privilege or a duty, and so on. Conversely, when they are considered as correlatives, the attention is focused on actual legal transactions with other juridical subjects, and specifically on the effects and responses these transactions create in others. Thus, for example, the type of right that Hohfeld (1919: 38) labels as “claim” simultaneously implies the existence of a no-right – the impossibility of advancing such claim – and creates a correlative duty for others either to perform or refrain from performing certain activities in relation to the right-holder. Privilege is “a legal ‘liberty’ or legal ‘freedom’” to act (Hohfeld 1919: 47) – it is, in essence, the absence of a duty not to act in a certain way, and it thus neutralises the right-claim someone else might have in that respect. Similarly, a power is a “(legal) ability” (Hohfeld 1919: 51) to alter legal positions and relations – its etymological opposite is disability, and its very existence creates liabilities in other legal subjects. Finally, an immunity is precisely the absence of a liability brought about by power, and it thus creates a disability for other people, who are then unable to exercise their power on the immunity-holder.

Although, according to Hohfeld, the claim-right is the only kind of right that we can legitimately label as ‘right’ *stricto sensu*, in real-life situations the boundaries between the different aspects of the notion – claim-right, privilege, power, immunity – appear to be less clear-cut than Hohfeld wants them to be: it is very hard fully to disentangle these elements from one another, because they overlap and exist simultaneously even when one of them in particular comes to the forefront in a specific context. Nevertheless, Hohfeld’s classification certainly has the merit of precisely defining the different elements intrinsic to the notion of right, and the areas in which they operate. And these areas, as mentioned above, are those in which the term *timē* and cognates are used in ancient Greek.

The concept of claim-right, i.e. the entitlement to have other people acting (or refraining from acting) in certain ways towards one with respect to a particular issue, is regularly expressed, in Greek, through the language of *timē*. For instance, in Athens, when a person failed to fulfil an obligation (guaranteed by law) towards another, the law allowed the victim to exact *timōria* from the perpetrator through the
courts.\textsuperscript{42} timōria indicates the restoration of a balance in terms of timē that is guaranteed by and enshrined in the laws of the city.\textsuperscript{43} Canevaro (2020: 162) takes the example of the right to physical integrity of free persons, protected in Athens by the dikē aikeias, a private suit for battery. As an example of this, we might take Isocrates’ Against Lochites (Isoc. 20), where the plaintiff argues that physical integrity is regarded by the courts as a serious matter,\textsuperscript{44} and that it should be a chief concern of all free people (§ 6: ὑπὲρ ἄν προσήκει τοὺς ἑλευθέρους μᾶλιστ’ ὀργίζεσθαι καὶ μεγίστης τυγχάνειν τιμωρίας). The prosecutor repeatedly uses the noun timōria,\textsuperscript{45} along with the verb timōreomai,\textsuperscript{46} to convey the fact that he believes that he is entitled to redress, because Lochites did not abide by his duty not to attack people, and he even goes as far as specifically to equate the assault (aikeia) with atimia, the negation of timē.\textsuperscript{47}

As a privilege, that is, as the ability and liberty to perform (or not to perform) an action, timē is used, for example, to describe the right to dine in the Prytaneum at public expense,\textsuperscript{48} granted to both citizens and foreigners,\textsuperscript{49} but also to identify all the rights accorded to metics and other aliens of special status. As we will see in more detail in Chapter 4, Sections 4.2 and 4.3, resident aliens and other privileged foreigners were given special rights which normally approximated their status to citizen status and were labelled as timai – as, for example, enktēsis (the right to own land in Attica) or isoteleia (the right to pay the same taxes as citizens) – through honorific decrees.\textsuperscript{50} And, incidentally, the very conceptualisation of these privileges for foreigners as timai helps us see, as with the negative of a photograph, citizenship

\begin{footnotes}
\item[42] A compound of τιμή and ὀδόω, cf. Chantraine (1977) and Beekes (2010) s.v. τιμωρός. On timōria as ‘redress’ in legal terminology, see Cairns (2015). Note especially, as Cairns (2015: 654–655) does, that, for instance, in homicide cases there is a difference in timōria according to the identity of the victim: it is “clearly a matter of the relative value of the different categories of victim; their difference in legal and social status – i.e. timē – is reflected in a difference in sanction – i.e. timōria.”
\item[43] See e.g. Dem. 23.32, where Euthycles says that the law should have power (‘be kyrios’) over timōria.
\item[44] Isoc. 20.1.
\item[45] Isoc. 20.1, 3, 6, 19.
\item[46] Isoc. 20.2, 12–13, 15.
\item[47] Isoc. 20.5–6. Note, however, that there is a difference between the (imperfective/conative) atimia as the disregard for one’s claim and the (perfective) atimia as actual legal disability, and here the very fact that the plaintiff is seeking redress construes this atimia (qua lack of respect) as unwarranted: see Chapter 2, Section 2.1.
\item[49] This privilege could take the form of a one-off award (deipnon for citizens and xenia for foreigners) or be of a more permanent nature (sītēsis for both foreigners and citizens): see Miller (1978: 4–11). For sītēsis in the Prytaneum as a timē, cf. e.g. Dem. 23.130.
\item[50] See also Harpocration (t 24 K. s.v. ἱσοτέλης καὶ ἱσοτέλεια), who explicitly says that isoteleia is “a kind of honour given to those metics who seem worthy” (τιμὴ τῆς ὀδομένη τοῖς ἄξιοις φανέστι τῶν μετόικων).
\end{footnotes}
rights – and especially elements of freedom, autonomy, and independence in citizen 
timē – in sharper contrast. For example, in Demosthenes’ speech Against Eubulides 
(Dem. 57), the speaker, Euxitheus, rebuts the allegation that his mother was a 
foreigner, made chiefly on the premise that she used to sell ribbons in the agora, 
precisely by stating that she did so without having to pay the ‘foreigner tax’;\(^{51}\) while 
this is perfectly within a citizen’s rights, a foreigner would not be able to enjoy this 
privilege without a grant of isoteleia.

The usage of timē to convey the idea of power, as the possibility to reshape 
and modify another’s (or one’s own) legal position, is very closely linked to the 
notion of timē as archē, and more generally as ‘status’: we have seen above that, in 
Greek, both statuses and/or magistracies and the rights attached to them were defined 
as timai.\(^ {52}\) But it is worth bearing in mind that the notion of power is not exclusively 
related to the concept of archē: for instance, the possibility to exact timōria through 
the courts, and thus to obtain redress – which, in certain cases, could also take the 
form of a drastic change in the status of the opponent – by reassessing and rectifying 
a balance in terms of timē, is often connected to the idea of power as a legal capacity 
that is not the exclusive prerogative of only a selected few. For example, at Isoc.
20.2, the orator says that graphai and dikai were created so that “inasmuch as each of 
us happens to be willing (βουλόμενος) and able (δυνάμενος), he may secure 
punishment (τιμωρεῖσθαι) for those who do wrong”. The idea of ‘being able’ 
(δυνάμενος) can of course imply the ability to take legal action deriving from 
personal circumstances (e.g. time, political connections, and/or money), but the 
language in this passage, which opens with a reference to the absence of a 
preliminary monetary deposit in cases involving bodily harm, suggests that what is 
primarily implied here is the ability to prosecute granted by law to those who wish to 
do so (hoi boulomenoi) and are in possession of their full rights. The concept of ho 
boulomenos as used in Athenian statutes is also usually linked to and qualified by 
legal capacity. This is the case when ho boulomenos identifies the voluntary 
prosecutor in a public charge, as, for instance, in an eisangelic law proposed by 
Timocrates,\(^ {53}\) quoted at Dem. 24.63, which lays down a procedure for dealing with 
prisoners awaiting trial, and states that “anyone who wishes among the qualified

\(^{51}\) Dem. 57.34. 
\(^{53}\) On eisangelia, see most recently Harris with Esu (2021).
Athenians shall prosecute” (κατηγορεῖν δ’ Ἀθηναίων τὸν βουλόμενον ὠς ἔξεστιν).\(^{54}\)

As explained by Canevaro (2013: 156), who quotes, exempli gratia, Agora XVI 56, lines 24–25, and SEG 21.493, such provision is “very typical” in inscriptions, and we find similar expressions also in the orators, for example in Aeschines’ discussion of the law on the dokimasia rhētorōn at Aeschin. 1.32 (δοκιμασίαν … ἐπαγγελέατῳ Ἀθηναίῳν ὁ βουλόμενος, ὤς ἔξεστιν).\(^{55}\) The same goes also for § 23 of the same speech, where Aeschines describes the introductory stages of an Assembly meeting and details the herald’s invitation, after older members of the Assembly had had their say, that “any other Athenian who wishes” (τῶν ἄλλων Ἀθηναίων τὸν βουλόμενον) might speak, provided he was among those who had this possibility (οἳς ἔξεστιν). It is very clear that Aeschines, here as in the rest of the speech, is drawing attention to the fact that Timarchus, as a disqualified (atimos) citizen, did not have the legal capacity to speak in the Assembly.

As a matter of fact, the pervasiveness of expressions with the verb exēinai (‘to be allowed’) in discourses about the legal limitations entailed by atimia plainly illustrates that the legal capacity of an individual, in the Greek perspective, had chiefly to do with his or her timē. Aside from other examples of the verb used in connection with atimia in the speech Against Timarchus, such as, for instance, the citation of the law detailing the activities which prostitutes, as atimoi,\(^{56}\) were “not allowed” to perform,\(^{57}\) we can find several other instances both in contemporary and in earlier speeches. For example, in Demosthenes’ speech for a graphē paranomōn against Androtion (Dem. 22), where one of the main arguments of the prosecutor is that Androtion could not propose any decree – let alone illegal decrees – because he was atimos qua prostitute and public debtor,\(^{58}\) the law imposing disabilities on such categories is discussed exactly in the same terms.\(^{59}\) Similarly, the young speaker bringing an endeixis against Theocrines ([Dem.] 58) because the latter was actively frequenting the law courts despite being a debtor to the state, and therefore atimos,
repeatedly states that Theocrines was “not allowed” (§ 2: οὐκ ἔξον αὐτῷ) to engage in public life.60 The prohibition against addressing the δῆμος can be seen in action in the well-known example of the atimos Strato of Phalerum, whom Demosthenes describes as “not even allowed to tell you whether what happened to him was just or unjust” (καὶ οὔδ’ εἰ δίκαι’ ἢ δικαία πέσανθεν, οὔδ’ ταῦτ’ ἔξεστιν αὐτῷ πρῶς ὑμᾶς εἰπέτειν).61 And, of course, during Andocides’ trial in the long aftermath of the profanation of the Mysteries and the mutilation of the Herms, both Andocides and his prosecutors throw back at each other accusations of being (or being in real danger of becoming) atimoi,62 and engaging in activities and actions they were “not allowed” (οὐκ εξεστὶν, μὴ ἔσκειν) to perform.63 Moreover, in his long discussion of the various categories of atimoi,64 Andocides illustrates, among other things, the disabilities of the soldiers who remained in Attica during the oligarchy of the Thirty by saying that “they were not allowed” (οὐκ ἔξην αὐτῶς) to partake in the activities of the Assembly and the Council.65

A prime example of ἀτελεία as immunity is ateleia,66 literally ‘exemption from taxes’, which generally took the form of an exemption from liturgies (and other taxes, like harbour taxes or the metoikion) or military service. These exemptions, as detailed in Demosthenes’ Against Leptines (Dem. 20), could interest citizens and aliens (resident or otherwise) alike,67 and, although in some cases they were granted automatically by virtue of the specific circumstances of the recipient, protected by law,68 they were also routinely bestowed through honorific decrees. And this is not the only element that makes the relationship between ateleia and ἀτελεία especially evident – the flexibility of the institution itself, the actual substance of which varied

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60 Cf. also [Dem.] 58.45, 47.
61 Dem. 21.95 (transl. Harris). On Strato, see also Chapter 2, esp. Section 2.1.
62 See Andoc. 1.33, where it is said that, if Cephisius does not get one-fifth of the votes and subsequently becomes atimos, “he’s not allowed (οὐκ ἔξεστιν αὐτῷ) to go into the Two Goddesses’ temple” (transl. MacDowell). Note that, later on in the speech (§§ 91–93) Andocides maintains that Cephisius was an atimos (qua public debtor) turned malicious informer (ἀντὶ δὲ ἀτίμου σιωπῶντις), and also that Epichares was atimos because he had been a prostitute, and therefore could not even speak on his own behalf (§ 100: καὶ τὰς νόμως τοὺς ὡμιτέρους οὔδ’ αὐτῷ ὑπὲρ αὐτοῦ ἔστιν ἀπολογεῖσθαι), let alone accuse other people.
63 Cf. [Lys.] 6.9, 52.
64 On which see Chapter 3, Section 3.1.
65 Andoc. 1.75.
67 Cf. Dem. 20.29.
68 For example, through ateleia, someone who had discharged a liturgy in the previous year, or a trierarchy in the previous two years, was automatically exempt from other liturgies during the current year, whereas orphans, epiklēroi, and cleruchs were always exempt. Some magistrates were excused from military service, and sixty-year-old citizens could avoid becoming public arbitrators if they were holding a different office or were outside of Athens. See Canevaro (2016: 55–56).
according to the status and particular situation of the *atelēs*, shows that it was inscribed in the kind of interpersonal dynamics regulated by honour. Again, the *Against Leptines* gives good evidence for this: on top of explicitly describing *ateleia* as an honour,\(^\text{69}\) the concept is constantly linked to discussions of justice and desert, which are intertwined with conceptions of honour.\(^\text{70}\) Moreover, it is interesting to note that *ateleia* operated in key areas among those in which misdemeanour was punished with *atimia*: most notably, tax-paying and military service, but also public arbitration. As will be discussed in more detail in Chapter 3, Sections 3.1 and 3.2, defaulting debtors were punished with *atimia*, which was revoked only once the debt was paid, and passed on to the next generation if it was not. Similarly, *atimia* was meted out upon conviction for military offences, among which not showing up when drafted without valid grounds for exemption was one of the most prominent. The case of arbitration is also very interesting: not only was *atimia* the penalty for mishandling one’s power as arbitrator,\(^\text{71}\) but also for failing to serve as a public arbitrator after the age of sixty without holding an official dispensation.\(^\text{72}\) Thus, in perfect Hohfeldian terms, the absence of an immunity (*ateleia*) results in a liability (*atimia*) – but, as will be made clear in the following Chapters, this liability is also simultaneously a disability, limiting the subject’s legal ability, and creates the corresponding duty to refrain from certain activities which, in its turn, ultimately negates the subject’s original claim-rights with respect to those activities.

From these examples it is clear that, as was said above, these Hohfeldian categories are not always easily discernible, and that the notion of *timē*, as much as the notion of ‘right’ in modern legal theory, can accommodate all the nuances and interconnections between them: *timē* (and cognates) can indeed cover all the main elements of subjective rights (without its semantic range being exhausted by them). However, Hohfeld’s classification is still useful in that it shows very clearly that interpersonal relations are a paramount facet of legal rights: whatever aspect of the idea of ‘right’ is considered, it will inevitably produce an interrelated effect on another individual in the relationship. And this aspect is especially prominent also in the ancient Greek approach to rights: Canevaro (2020) has shown that central to the

\(^{69}\) Dem. 20.123.
\(^{70}\) Cf. e.g. Dem. 20.2, 41, 56–57, 72, 121, 151, where the notion of *axia* is prominent. For the relationship between honour and notions of justice and desert, see Cairns, Canevaro, and Mantzouranis (2022).
\(^{72}\) Cf. [Arist.] *Ath. Pol.* 53.5.
notion of *timē*, in the legal sphere as in any other sphere, are social relations between individuals. And an important addition to this point is that, in the words of MacCormick (1977: 206), “we should not accept the Hohfeldian view of ‘rights’ as being reducible without residue to atomic relationships (belonging to one or other of his four types) between pairs of identified individuals; or even to sets of such relations”: the audience too – i.e. the community witnessing and assessing those relations – has a part to play in the construal and bestowal (or withdrawal) of rights and entitlements. As a matter of fact, the ancient Greek view of rights differed from the Hohfeldian taxonomy precisely in the aspect with which MacCormick takes issue: from the Greek – or, at the very least, Athenian – perspective, the different facets of the notion of subjective rights were not invariably conceptualised merely as relations between two “identified individuals”, but rather these relations simultaneously involved and encompassed the community at large – these were intersubjective relations that imply the reliance on social norms and the presence of an audience. This is because, in ancient Greek thought, one’s status and rights are never unconditional – they are not ‘human rights’, which are meant to be unquestionable. 73 Indeed, for the Greeks, rights are socially construed, in the sense that they depend not only on the one’s behaviour towards oneself and other members of the community, but also on the community’s assessment of said behaviour. As Canevaro (2020: 166) has argued, despite covering virtually all the senses and nuances implied by the modern notion of subjective rights, the Greek term *timē* is also fundamentally different from it in that, whereas modern subjective rights are rooted in individual autonomy, the concept of *timē* (as status and as right) lives and exists in the interaction and negotiation among social agents. Recognition, bestowal, and withdrawal of *timē* were rooted in intersubjectivity, because having rights (*timai*) meant having a stake in the community: rights were essentially membership to the community in action. Of course, the enjoyment of (at least some) rights depended, in the first instance, on meeting certain (legally defined) criteria that do not immediately relate to intersubjective relationships: for example, in order for an individual to be considered a citizen in classical Athens, the basic requirement was having two Athenian parents. However, it will become evident below (especially in

73 ‘Human rights’, as detailed in the United Nations’ Universal Declaration of Human Rights, are the starting point of the survey in Canevaro (2020), who also points out how, in Dworkinian legal theory, rights are in fact a prior, antecedent to the construction of the legal system, and the basis of positive law: see Dworkin (1977). On “The tension between private and collective autonomy that characterizes the liberal democratic system of rights”, see Honneth (2014, esp. pp. 79–80).
Chapter 3) that the continuous enjoyment of even the most basic rights was ultimately dependent on performance, on being able to live up to a standard (even when it is just a matter of ‘not falling short’): from this point of view, no right was truly inalienable for anybody. In this sense, then, the “approche comportementale”\textsuperscript{74} to citizenship, i.e. the idea of “citizenship as performance”, advocated by Duplouy (esp. 2018a; 2018b) particularly with reference to archaic citizenship, can be applied, to some extent, also to classical Athenian notions of citizenship: as noted by Duplouy (2018a: 253) himself, for instance, procedures such as the dokimasia (on which see Chapter 3, Section 3.4 below) were not simply interested in “required qualifications”, but also in “expected behaviours of a citizen”. This, of course, does not mean that legal criteria were unimportant: first, because “even a performative citizen status could also have been supplemented … with more formal criteria of citizenship” (Duplouy 2018a: 254), which are not mutually exclusive concepts; second, because, as the penalty of atimia clearly shows, particular types of behaviour were actually required by law, with the opposite types of behaviour being sternly punished – they reflected the shared values of the community, protected by the laws of the city.\textsuperscript{75} Thus, including or excluding someone through giving or taking away rights was fundamentally a communal act, and its communal nature was evident in the fact that such processes of interaction and negotiation were not entirely worked out on a case-to-case basis, but rather happened and were assessed within parameters that had been approved by the community, because they were facilitated, and ultimately regulated, by the laws of the city, which the Athenians perceived to be the expression of their ēthos.\textsuperscript{76} Timai, then, can be seen as legal rights – although, of course, they are not exclusively legal rights – because, as MacCormick (1977: 189) puts it, they were, just like modern legal rights, “conferred by legal rules”.\textsuperscript{77}

\textsuperscript{74} First employed by Duplouy (2006a) in his work on elite prestige and then extended to the notion of archaic citizenship; see Duplouy (2006b; 2014a; 2014b; 2018a; 2018b).

\textsuperscript{75} In this sense, then, I think that Prauscello (2014: 230–235) exaggerates the extent to which “the model of citizenship-as-practice” presented in Plato’s Laws would be “counter-hegemonic” with respect to the (alleged) classical Athenian model of “citizenship-as-achievement”: as will be explored in more detail below, in classical Athens, citizen status (and any other status, for that matter) was much more than something one could achieve \textit{sic et simpliciter}.

\textsuperscript{76} Cf. e.g. Dem. 20.13–14 with Canevaro (2016: 209 and 2018b: 283); cf. also Dem. 20.64, were inscribed decrees are conceptualised as “manifestazioni concrete e monumentalizzate dell’èthos della polis” (Canevaro 2016: 301). See Luraghi (2010).

\textsuperscript{77} Although MacCormick is a legal positivist, he does recognise, as seen above, the importance of intersubjectivity for legal rights.
1.2 *Atimia* as ‘loss of status’, *atimia* as ‘loss of rights’

The conceptualisation of *timai* as legal rights, and the involvement of the community in the enforcement of the laws that regulated access to those rights, are perhaps even more evident when we examine the dynamics of exclusion entailed by the legal penalty of *atimia*. As will become evident below, and especially in the following Chapter, the concept of dishonour originated in the socio-ethical sphere and was then gradually recast in legal terms and incorporated in the law code of the *polis* as an efficient device to police behaviour and punish anti-social behaviour. But it is very important to remember that, although the continuity between these two spheres – socio-ethical and legal – is paramount to our understanding of *atimia* as a legal penalty, there is a clear distinction between *atimia* as ‘disrespect’, which could be unwarranted (or at least represented as such) and, in any case, did not necessarily translate into a diminished (legal) standing in the community,\(^{78}\) and *atimia* as the result of a legal process, which resulted in an actual and indisputable legal disability, sanctioned by the laws of the city.\(^{79}\) And, as was mentioned briefly above, this legal *atimia* – representing the exact etymological opposite of *timē*, which in the legal sphere usually meant either ‘status’ or ‘right’ – could endanger either one’s status as a whole, or one (or more) right(s) attached to that status, and we will see in Chapters 3 and 4 that the penalty itself was flexible enough to cover a wide range of statuses and rights. The important unifying factor, however, is that *atimia* as a penalty was used to deprive the individual of the ability to act in certain ways and enjoy certain rights (*timai*) which s/he previously enjoyed by virtue of his or her status (*timē*), and, as will be discussed in Chapter 3 (esp. Section 3.3), it was meted out precisely because one had misused one of these rights, or because one had, more generally, engaged in dishonourable behaviour. And, at least for classical Athens, we see clearly that dishonourable behaviour had come to be codified by law because it was ultimately anti-social behaviour, behaviour that fell short of the standard expected of

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\(^{78}\) Which in fact, as will become clear in Chapter 2, seems to be the default reference.

\(^{79}\) The difference, in the corpus of the orators (and other prose texts from the classical period), is in part conveyed also by the different verbs used (*atimoō/atimaō* vs. *atimazō*): see Chapter 2, Section 2.1, with Appendix I. Of course, also cases of legally imposed *atimia* could occasionally be construed as unjust or undeserved (as in the case of Strato of Phalerum in Dem. 21 or Demosthenes’ own case in his *Letters*), but it was nonetheless described with *atimoō/atimaō* because its legal reality was an indisputable fact: see below and again Chapter 2.
one’s status, codified and enshrined in the laws of the city and protected by the relevant procedure agreed upon by the community at large.

The socio-ethical dimension of the legal penalty of *atimia* is evident, first and foremost, from the nature of the crimes punished by it, which, for the most part, carried with them an implication of moral baseness, and from some of the prohibitions that the penalty entailed, which seem to impose social as much as political disabilities. A clear example of *atimia* as a legally sanctioned penalty that has the additional purpose of bringing (extra-legal) shame upon the offender is what Aristotle defines as the “kind of *atimia*” (πτως ἄτμια) that the *polis* mandates against those who take their own life, who are seen as committing a crime against the *polis* itself. According to Garrison (1991: 19), this *atimia* probably consisted in “lack of commemoration, and perhaps curtailment of the usual rites”, and, for Athens, Aeschines cites the practice of burying “the hand that did the deed” (τὴν χεῖρα τὴν

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80 The continuity between social and legal elements of the penalty is already highlighted in Ducat’s (2006) study of *atimia* in Sparta: see below.

81 Especially ‘cowardice’ (i.e. military misdemeanour) and maltreatment of parents, the two paradigmatic cases of crimes punished with *atimia*: see Chapter 2, Section 2.1, and, especially, Chapter 3. See also Arist. Rh. 1384a8–15 on the shame of being excluded from those things in which other people in similar circumstances have a share, especially when the exclusion is the person’s own fault (cf. also 1365a6: ἄτμια γὰρ τὸ μὴ μετέχειν, and 1384a15–17 on how people are ashamed of “those things that bring *atimia* and reproach” (τὰ τουτέστατα ... δὲ εἰς ἄτμιαν φέρει καὶ ὀνειδή)).

82 As, for example, the prohibition against entering agora and temples (although of course this could also have broader political implications): see Chapter 3. The *atimia* imposed on women who were caught with a seducer, which forbade them to wear jewellery and attend cultic ceremonies, is also a good example of this: see Chapter 4, Section 4.1. This dimension of the penalty is also prominent for cases of *atimia* in Sparta: see below.

83 Whitehead (1993: 501) believes that *atimia* is used here as a non-technical term, but the specific mention of it as a state-mandated punishment suggests otherwise. However, it is certainly true that this *atimia* is different from the kinds of *atimia* that could be imposed on living criminals upon conviction in Athens, and especially the prototypical case of total *atimia*, but the penalty itself was designed to be flexible and adaptable: see below and in the following Chapters. Another example of punishment administered after death is the penalty for treason: aside from the immediate penalty of either death or exile, there was also a ban on burial in Attica for the offender: see Chapter 2, Section 2.2. According to Whitehead, Aristotle might here be talking in general, and not specifically about Athens, but the passage does give the impression that he has a specific law code in mind, or at least widely shared practices.

84 Arist. *EN* 1138a6–14; διὸ καὶ ἡ πόλις ἔθει, καὶ τις ἄτμια πρῶτος τῷ ἐσωτήριν διωμήσασθαι ὡς τὴν πόλιν ἀδικοῦντι. This is because, as Zavaliy (2019: 330), quoting Arist. *Pol.* 1253a23–30, notes, “citizens incur obligations to the state simply in virtue of being members of it”, and cannot bypass these obligations by ending their own life at will. I would also add here that obligations towards the state did not come only from being a citizen, but they applied also, at the very least, to resident aliens, as the comparison with service in the army shows, and very likely to any individual who entertained a relationship with the *polis*: see Chapter 4.

85 Zavaliy (2019: 330) is probably right in saying that Garrison might have, at the back of her mind, Plato’s description of the treatment of suicides in his ideal city (Pl. *Leg.* 873d2–e1; cf. also n.74 below), which she discusses earlier in the paper (Garrison 1991: 16–18), and that Aristotle seems to be thinking of concrete examples instead, but it is very probable that these concrete examples had to do with burial practices and rites, because this *atimia*, as Whitehead (1993: 501) also notes, is clearly imposed on the deceased person (τῷ ἐσωτήριν διωμήσασθαι).
τοῦτο πράξασαν) separately from the body. As Zavaliy (2019) notes, Aristotle appears to see a connection between suicide and cowardice, especially because he first mentions suicide — as a means to escape from poverty, (painful) love, and other types of distressing experience (τί λυπηρόν) — in his discussion of courage, and suggests that committing suicide is the mark of a coward (δειλοῦ). In light of this, I would argue that the fact that Aristotle mentions atimia — which was notoriously the penalty for ‘cowardice’ (deilia) in Athens — as a punishment for suicides reinforces the impression that the two crimes were, to his mind, akin, and further suggests that this kind of atimia against suicides must be understood as a proper legal institution with clear ramifications in the socio-ethical sphere.

But this connection of the penalty to the social sphere is evident also from the involvement of the community in assessing and punishing dishonourable behaviour. For example, we know that the vast majority of crimes for which the penalty was atimia was dealt with through public cases, where the prosecution was entrusted to whoever wished to undertake the task (ho boulomenos): the procedure could be initiated by any (entitled) individual precisely because there existed a shared value system, both internalised and instantiated in the laws, by virtue of which whoever wished to do so was able to call out inappropriate behaviour in need of being sanctioned. This not only aimed at creating a heightened sense of social responsibility, but also had the potential to engender a higher level of (oppressive) social control among members of the community that ultimately had the purpose of strengthening the attachment to core community values, chiefly through the institutionalisation of the normal social tendency to exclude deviant individuals.

And, once again, these — rather repressive — mechanisms of social control show that

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86 Aeschin. 3.244.
87 This connection is explicit also in Pl. Leg. 873d2–e1, where demeaning burial arrangements are sanctioned by law for the person who kills him- or herself “as a result of idleness and unmanly cowardice” (ἀργίᾳ δὲ καὶ ἄνανδρίας δειλίᾳ). It is interesting to note here that not only cowardice, but also (recidivist) idleness was punished with atimia in Athens: see Chapter 3, Section 3.3. For the problematisation, in tragedy, of the connection between suicide and cowardice, see Yoshitake (1994).
88 Arist. EN 1116a11–15.
89 With the exception of third conviction in a dikē pseudomartyriōn and the partial exception of the dikē exoulēs if the defendant could not afford to pay the fine to the public treasury resulting from conviction: see in more detail Chapter 3, esp. Sections 3.1 and 3.2.
90 Cf. Rubinstein (2003: 94): “the role of the volunteer prosecutor was perceived by the Athenians as essential for upholding the laws of the community and for preserving the democratic institutions.”
91 Cf. e.g. Marques, Abram, Páez, and Hogg (2001: 415): “a different way to make intragroup norms salient is to make people explicitly accountable to fellow ingroup members.”
timē did have to do with claims and rights, but also always had rather demanding performative requirements (enshrined in the laws of the city): rights were not primarily understood as underpinning personal autonomy, but rather as negotiating mutual claims and smoothing out social interactions. In this framework, conviction in court, for cases that entailed atimia, was a unified endorsement by the community – represented by the judges – of the fact that the accuser’s assessment was correct, the defendant had no share in the community, and should therefore formally lose those same rights s/he was not allowed to enjoy in the first place by virtue of his or her conduct.

We can see a similar emphasis on community, social control, and relationships between members of the community in the procedure of adeia as related to atimoi: from a law cited at Dem. 24.45, we know that annulment of atimia (both for atimoi qua public debtors through cancellation of their debts and for other atimoi more generally) could be discussed only if a quorum of 6,000 Athenians had voted for immunity (adeia) for the proposer by secret ballot (psēphophoria). As was shown by Esu (2021), the procedure of adeia was originally created as a means to allow legal change by temporarily suspending the effects of a law: it granted ‘absence of fear’ – i.e. the etymological meaning of the term – for the consequences one would face, under normal circumstances, for trying to modify a law. In the case of atimia, adeia was used in a similar way: it authorised a discussion of the restoration of the legal status of certain individuals who had been previously deprived, through the established laws of the city, of (some of) the rights attached to it. This ‘absence of fear’ was necessary for any discussion of the annulment of atimia because reintegrating (i.e. making epitimos) an individual who was atimos was, essentially, overturning a communal decision of the people rooted in the laws of the polis. Thus, it is clear that even the mere discussion of matters pertaining to atimoi required a quorum of 6,000 Athenians to grant adeia to the proposer because, if these disqualified people were to be reintegrated into Athenian society and allowed to exercise rights that they had previously lost due to dishonourable conduct, the (virtual) totality of the currently active members of that society, whose participation up to that point had depended upon their honourable behaviour (i.e. their living up to

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93 The law is genuine: see Canevaro (2013: 127–132).
the standard required of them), needed to take part in that decision.\textsuperscript{94} This was required also for other procedures that had to do with participation and membership in the \textit{polis}; as Esu (2021) has recently reminded us, a quorum of 6,000 votes by secret ballot was required also for ostracism and citizenship grants.\textsuperscript{95} Welcoming a new citizen into the civic body or removing – whether physically or only socially and politically – an existing one from it were decisions that affected the very social fabric of the community: what was at stake was Athenian identity as a whole. But, whereas for citizenship grants and ostracism the quorum by secret ballot was needed to ratify the decision, in the case of \textit{adeia}, as a procedure to authorise both legal change and the annulment of \textit{atimia}, the consensus was required in advance, to allow the discussion to happen, rather than as a mere ratification. This is because, as suggested above, these debates could potentially lead to modifying what was written in the laws of the city, or to overturn decisions taken in accordance with the laws of the city,\textsuperscript{96} which were perceived as the quintessential expression of what it meant to be an Athenian.\textsuperscript{97} Becoming \textit{atimos}, and, as such, becoming unable to exercise one’s rights within the community and essentially being excluded from the community, was the result of going against the law by engaging in dishonourable behaviour: the ultimate purpose of the penalty was that of marginalising individuals who failed to live up to what was expected of them according to their role within the community and behaved in an undesirable fashion in areas of life which, as will be seen in Chapter 3 (esp. Section 3.3), were deemed to be paramount to the correct functioning of society. The reintegration of these disqualified individuals was a serious matter, because, by punishing these people and removing them from the context in which they misbehaved, the community aimed to achieve two goals: first, discouraging emulation; and second, reaffirming and reinforcing the values of the community itself.\textsuperscript{98}

\textsuperscript{94} For the quorum as the representation of the consensus of the whole civic body, see Gauthier (1990) and, more recently, Canevaro (2018c; 2019b).
\textsuperscript{95} Ostracism: [Arist.] \textit{Ath. Pol.} 43.5; Philoch. \textit{FGrHist} 328 F 30; Diod. 11.55; Plut. \textit{Arist.} 7.6; citizenship grants: [Dem.] 59.89.
\textsuperscript{96} These anxieties are partially justified by the fact that “Deviant behavior draws attention to the possibility that the ongoing standard or norm for behavior is not correct” (Marques, Abram, Páez, and Hogg 2001: 412), thus threatening group stability.
\textsuperscript{97} As explained by Marques, Abram, Páez, and Hogg (2001: 406), “Derogation of ingroup deviants is functional for the group” because “it protects positive social identity by enforcing normative solidarity”.

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Of course, every penalty does, to some extent, set an example for other members of the same community and warn off possible imitators, but the fact that the precise substance of atimia – as will be seen especially in Chapters 3 and 4 – was ultimately determined by the specific right(s) targeted in each case reveals one important feature of the penalty: it was a legal remedy that allowed the polis to modulate exclusion and to operate with different levels of exclusion. Although many of them chose the path of voluntary exile, atimoi were not legally required to emigrate and, despite some impairments of their freedom of movement, they were not banned from the civic space altogether. This, as Ducat (2006: 19) notes, means that the exclusion of these people was all the more painful to them because it was not total: for instance, citizen atimoi still remained citizens of their polis – they were simply barred from exercising specific rights. But, more importantly, this exclusion was not only painful to the atimoi – it was also, as was said earlier, visible to others. This meant that their presence in a liminal space – neither fully in the

[99] That the penalty was perceived in this way is suggested also, for example, by Arist. Pol. 1335b41–1336a2, where, within a discussion of the relationship between spouses and issues of reproduction in his ideal city, Aristotle says that if a man is caught engaging in extramarital sex (όν τις φανερα
touíoν τι δρόν) in the period that should be dedicated to reproduction, he shall be punished (ζημιοσθω) with an atimia appropriate to the offence (ἀτιμία … προς την ἄμαρτίαν): see Canevaro in Bertelli and Canevaro (2022: 496–498), who mentions as comparanda also Arist. Pol. 1336b8–12 (with different types of atimiai for different age groups engaging in aischrologia), Pl. Leg. 784d–e (with atimia as legal prohibition to access specific prerogatives for both men and women of reproductive age who commit adultery, and atimia as ‘disrespect’ for older men and women who do it), and 841d–e (with atimia as a penalty for both adultery and homosexual relations). This is confirmed also by the evidence that will be examined in the following Chapters: the loss of timē needs to be appropriate to the offence committed, and can be assessed on a case-to-case basis, especially because the assessment must take into account what kind of status (timē) and prerogatives (timai) the offender had to begin with.


[102] Ducat (2006: 32) notes that atimia was “a sanction with a highly variable geometry”, both in Sparta and in Athens, and also points out that already Ehrenberg (1937) had discussed the flexibility of the penalty.

[103] Although their demotion did, in some ways, approximate their status to that of metics or foreigners (e.g. in the fact that they could not hold magistracies anymore), the status of citizen atimoi was not entirely assimilable to that of non-citizens: many prohibitions that applied to citizen atimoi (e.g. the prohibition against entering the agora and the temples) did not apply to metics and foreigners (or even to enslaved individuals, for that matter); moreover, as will be discussed in Chapter 4, Sections 4.2 and 4.3, also metics and foreigners could become atimoi. For the notion that citizen atimoi were still conceptualised as citizens (albeit, of course, with a diminished status), see e.g. Dem. 21.88 and esp. 95. For atimia and citizenship in Sparta, see Ducat (2006: 27–30).

[104] We might note here that this remained in force also in different cities of the Greek world and in later periods, as we can observe in epigraphical material from Beroea (EKm 1 Beroia 1 = SEG 27.261, pre-168/167 BCE, esp. B.26–29) and Tralleis (2nd cent. CE, published by Malay, Ricl, and Amendola 2018). Here, too, we can see exclusion from gymnasia (and, in the second case, also sanctuaries) expressed with the same terms that we found in earlier sources. We can also see how the dimension of honour and dishonour is brought into play by the mention of hybris (a concept intrinsically linked to such dynamics: see also Chapter 2, Section 2.1) and of people who behaved “licentiously”.

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community nor fully outside of it – acted as a potent reminder for the epitimoi that their own inclusion strongly depended on their capacity to perform their role successfully within the community. The visual element of this exclusion was, for example, particularly evident in Sparta: according to Xenophon, atimoi were required – among other things – not to look too cheerful when in public (λιπαρὸν δὲ οὖ πλανητέον), and, in Plutarch’s later testimony, it is said that these disqualified individuals were easily recognisable through their (legally mandated) shabby physical appearance. This highlights one further element, also stressed by Ducat (2006: 26): the atimoi themselves were supposed to be the first makers of their own exclusion, both by steering clear of forbidden places and activities and (as was perhaps the case in Sparta) by using specific clothing and/or maintaining a specific countenance – they were actively participating, together with the community, in the communal enforcement of their own exclusion.

As a penalty, then, atimia sought both to neutralise the threat posed by deviant individuals, by basically sanctioning their social death, and to reduce the risk of emulation, by visibly demonstrating that status, and the rights and prerogatives attached to it, were never a given – there always existed the possibility of losing some (or even all) of them by failing to abide by the rules regulating the political, social, and religious spaces of the polis, thus becoming marginalised from those very spaces. However, the atimoi’s very (to some extent paradoxical) integration in the community, and their responsibility in enforcing their own partial exclusion, did also potentially create a certain amount of tension and instability within the polis – indeed, it would be utopian to believe that each and every disqualified person would duly and quietly not only accept, but also help bring about his or her own marginalisation without a struggle. And, as a matter of fact, some ancient authors do suggest that atimoi could pose a threat to the established order: for example, at [Lys.] 20.4, the speaker deems it reasonable that someone who was made atimos under a specific regime would court a change in the political constitution of the polis, and the same sentiment is expressed also at Lys. 25.11 and in Antiphon’s defence against the charge of having taken part in the oligarchic coup of 411 BCE. Another discussion of this potential threat is in the final chapters of the polemical treatise on the

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105 Examples are collected by Ducat (2006).
108 Van ’t Wout (2011a: 128–129 n.16) discusses these passages, but she does not take into account the bidirectionality and context-specificity of the dynamics they imply: see Chapter 2, Section 2.2.
Athenian constitution by the so-called ‘Old Oligarch’,\(^{109}\) where the author maintains that *atimoi* in Athens could not possibly represent a decisive factor in destabilising the democracy – the only dangerous ones were those who had suffered *atimia* (ἡτίμωνται) unjustly (ἀδίκως), and these were very few, whereas it is implied that those who had been justly (δικαίως) made *atimoi* had no grounds for complaint and therefore would not strive to overthrow the democracy. Even though this argument is certainly specious,\(^{110}\) it is clear that this last passage is particularly interesting, because it highlights a further key element of the notion of *atimia*: its bidirectionality and context-specificity were, at the same time, both a strength and a weakness of the penalty, because they allowed the legitimacy of the exclusion it mandated to be questioned. Essentially, since the notion of *atimia* did not, in itself, have a precise normative content, but rather simply described ‘disrespect’ that could be warranted or unwarranted depending on the circumstances,\(^{111}\) the legal penalty of *atimia* took its effectiveness from the existence of a communal standard of behaviour through which certain activities were construed as demeaning; however, what this means is that the stability of the legal institution ultimately depended on the stability of this standard, and of the law code in which it was enshrined: convicted *atimoi* could not only try to claim that their own conviction happened through a misrepresentation of their actions and the situation in which they took place, but also – if there were enough of them – challenge the very system that made them *atimoi* in the first place, and seek to change the standard altogether.\(^{112}\) This is perhaps one of the reasons why, as will be discussed in Chapter 2, Section 2.1, the verbs used to talk about *atimia* (*atimoō*/*atimaō* and *atimazō*) gradually came to be used in different contexts, to convey different connotations of the concept,\(^{113}\) and it also helps explain the presence, in Athens, of several ‘second-degree’ procedures, analysed in Chapter 3.

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\(^{109}\) [Xen.] *Ath. pol.* 3.12–13, also discussed by van ’t Wout (2011a: 129 n.17); see n.108 above.


\(^{111}\) And in fact, as was said above and will be seen in more detail in the following Chapter, the prototypical reference seems to be to unwarranted forms of behaviour.

\(^{112}\) This, according to Appiah (2010: 169), is how moral revolutions happen: “The right way to proceed … is not to argue against honor but to work to change the grounds of honor, to alter the codes by which it is allocated.”

\(^{113}\) This provides clarity, but of course does not eliminate the tension altogether – which is the reason why Demosthenes can imply that Strato of Phalerum was made *atimos* unjustly (Dem. 21.95), and that he himself did not deserve to incur *atimia* (cf. esp. Dem. *Ep.* 2): even once a distinction between the two senses of *atimia* – ‘unwarranted disrespect’, which was framed as *hybris* and could be vindicated through *timória*, and ‘warranted disrespect’, which translated into an actual legal disability – was drawn, the notion itself gave room to construe the situation in different terms, because as long as there exists an ongoing relationship between two parties there will always be the possibility to re-negotiate one’s position. See above and esp. Chapter 2, Section 2.1, with Appendix I.
Section 3.4, that ensured that atimoi complied with the disabilities imposed upon them, and kept them in check.

It is clear, then, that the presence of atimoi in the civic landscape was, quite literally, living proof for the epitimoi that the danger of seeing (part of) their rights revoked was tangible and real. And this helps bring out one of the fundamental differences between our own and the Greeks’ conceptions of ‘rights’: as Canevaro (2020: 167–168) points out, whereas, in modern legal theory, some rights are presented as universal, unconditional, and inalienable,114 and are not ultimately enjoyed on the basis of performance, from a Greek perspective, rights always depended on the individual’s ability to behave correctly (i.e. honourably) within the community and to carry out successful social interactions, where everyone’s claims to respect (timē) are given their due – essentially, on performance. Rights were tied to being a member of the community, and dependent on behaving as one.115 The strong performative aspect of rights is especially evident, for example, in the case of foreigners who were granted citizenship:116 as we can see in several passages,117 the notion of axia, as ‘worth’ and ‘desert’,118 often comes to the forefront in such discussions, because the foreigner in question always needed to prove that he or she was ‘worthy’ (axios/axia), according to the criteria laid down by the polis, of receiving that status (timē).119 But, crucially, the same emphasis on being worthy of the rights bestowed by the city applies just as strongly to existing citizens,120 and this, once again, is best understood through the lens of atimia:121 in Athens, being born of two citizen parents was enough only in principle, because entitlement to the status of citizen always needed to be reaffirmed and re-enacted through behaviour that was up to standard. The example of Timarchus is the first to come to mind, because the issue of atimia, as we will see in Chapter 3 (esp. Section 3.4), is central

114 As, for instance, human rights: see n.73 above.
115 See esp. Section 1.1 above.
116 See e.g. Dem. 45.78, where it is said that naturalised citizens have a greater duty to reciprocate (i.e. give charis) than citizens by birth.
117 Cf. e.g. Dem. 23.18, 187; [Dem.] 59.89–91.
118 Note that ‘desert’ is only one form of axia, but not the only one – axia itself defines a “sense of entitlement” (Cairns, Canevaro, and Mantzouranis 2022: 11) that can be based on different grounds.
119 In the Politics, for example, Aristotle makes it clear that “claims to consideration on the basis of ἀξία are claims to τιμή” (Cairns, Canevaro, and Mantzouranis 2022: 4 n.5).
120 And especially so in the case of the right to hold office: see e.g. Lys. 26.8, where the speaker reminds the bouleutai that they have sworn “to crown the man who is worthy of the office” (ὑμεῖς ὁμολογεῖτε… τὸν ἀξίον τῆς οἰκονομίας… στεφανώσειν). Cf. also n.116 below.
121 As will be discussed in Chapter 4, atimia was not a penalty that was meted out only to citizens; however, the case of citizens is particularly apt to explaining the fundamental performative nature of Greek rights.
to the litigation. Throughout the speech, Aeschines is arguing that Timarchus’ *atimia* should be ratified by the judges because, thanks to his own dishonourable conduct,¹²² Timarchus has made himself unworthy: this is implied, for instance, at § 29, within a general discussion on the law on the *dokimasia rhētorōn*, where Aeschines states that no one who falls short in one of the aspects covered by the provision should deem himself worthy of addressing the people (μηδὲ συμβουλεύειν βουλεύειν ἀξίου). Timarchus’ exclusion is indeed conceptualised by Aeschines, with the language of *timē*, in terms of ‘redress’, or *timōria*:¹²³ first at § 34, when he asserts that there is no use in trying to shout people like Timarchus down from the platform – “they have no sense of shame”, and the Athenians “must break them of their habits through penalties (τιμωρίαις τούτους ἀπεθίζειν χρῆ)”;¹²⁴ and then at § 122, when he ironically suggests to Timarchus a ‘proper’ line of defence, in which a fictitiously respectable and decent Timarchus should claim that

not only if I had actually committed any such act, but even if I seemed to you to have lived a life at all resembling the charges made by that man [i.e. Aeschines], I should think my life to be not worth living, and I should offer up my punishment as the defence for the city to make to the rest of the Greeks (παραδίδωμι τὴν εἰς ἐμαυτὸν τιμωρίαν ἐναπολογήσασθαι τῇ πόλει πρὸς τοὺς Ἕλληνας).¹²⁵

As Cairns (2015: 657) has shown, *timōria* “is something done to the offender, but also something extracted from the offender and given to the victim” (emphasis in original). In this case, Aeschines, in accordance with the all-encompassing scope he has chosen for this speech, represents the entire *polis* as the victim of Timarchus’ behaviour. By usurping the prerogatives of a rightful citizen, Timarchus is putting at risk not only the Athenians’ own identity, but also their reputation with “the rest of the Greeks” – ultimately, their *timē*, which includes both their sense of their own

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¹²² It is interesting to note that such conduct, which brought *atimia* upon Timarchus, is consistently marked throughout the speech (and from the very outset) with the language of *hybris* (cf. e.g. Aeschin. 1.17, 55, 137, 185) and ‘ugliness’ (an ‘ugliness’ that is simultaneously illegal, “contrary to all laws”: cf. Aeschin. 1.5, 8); cf. e.g. Aeschin. 1.3, 26, 42, 54, 55, 105, 121, 127, 129 (where those who are *philotimoi* are explicitly contrasted with those whose life is ‘ugly’, *aischros*), 137, 157, 160 (where it is said that those who stray from *philotimia* “through ugly pleasures” [δι᾽ αἰγρᾶς ἱδονᾶς] should not expect to be *epitimoi* later in life), 180 (where the example of Sparta is brought), 185, and see the Introduction above.

¹²³ Cf. n.42 above.

¹²⁴ Transl. Fisher.

¹²⁵ Transl. Fisher.
worth and the respect due to them on the grounds of that worth. The legal enforcement of Timarchus’ \textit{atimia} is therefore of paramount importance precisely because he was already \textit{atimos} according to the laws of the city: as Aeschines conceives it, letting a matter such as this slide would be tantamount to undermining the foundations upon which every social transaction in the \textit{polis} took place, whereas a conviction would, as seen above, reaffirm the values of the community through the justified marginalisation of an individual who has strayed from the norm.

Aside from the litigation involving Timarchus, there are several other examples of speeches where the enjoyment of rights is described as conditional on one’s performance and worth. For instance, in discussing his alleged status of \textit{atimos} and throwing the accusation of being \textit{atimos} back in Epichares’ face, Andocides stresses the notion of worth based on honourable conduct: he is perfectly worthy (§ 132: \textit{ἐμαυτὸν ἄξιον νομίζω ἑναι}) of entering the Eleusinion and offering sacrifices, because, as he argues in the speech, he has done nothing wrong and is not in fact \textit{atimos}; his opponent, on the other hand, enjoys the rights of citizenship even though, \textit{qua atimos}, he is unworthy of that status (§ 99: \textit{οὐκ ἄξιος ὄν}). Similar arguments are used in Lys. 18, where the famous general Nicias’ nephew, one of the two sons of Eucrates, is trying to persuade the court not to confiscate his family’s estate.\footnote{Lys. 18.1.} After reminding the judges that his family are running the risk of losing not only their property (\textit{ousia}), but also their civic status (\textit{politeia}),\footnote{Cf. esp. Lys. 18.21.} the speaker proceeds to tell them that it would not be right to deprive him and his kinsmen of such things, on account both of their (monetary) contributions to the democracy and of their (and their ancestors’) virtue and worth.\footnote{The grounds for such confiscation are unclear: see Todd (2000: 192).} The point is even clearer in the speech \textit{For Polystratus} ([Lys.] 20):\footnote{Although this speech was almost certainly not written by Lysias, the general consensus is that it represents a real speech: see Todd (2000: 217).} while facing \textit{atimia} – presumably as the result of a heavy fine upon conviction\footnote{On \textit{atimia} and fines, see Chapters 2 and 3.} – on account of his father’s (seemingly brief) involvement in the oligarchy of the Four Hundred, the speaker envisages continued enjoyment of \textit{epitimia} for him and his family as the “just reward” (§ 31: \textit{τὴν ἄξιαν χάριν}) for their honourable behaviour,\footnote{Cf. [Lys.] 20.19. See also [Lys.] 20.35, where it is also said that \textit{atimia} would essentially mean that the members of the family are “unworthy … of the city” (ἄναξίοι … τῆς πόλεως).} and again advises the judges to show \textit{charis} appropriate to one’s worth (\textit{κατ’ ἄξιαν χαριζόμενοι}), to elicit honourable behaviour, from them and

\begin{footnotes}
\item\footref{126} The grounds for such confiscation are unclear: see Todd (2000: 192).
\item\footref{127} Lys. 18.1.
\item\footref{128} Cf. esp. Lys. 18.21.
\item\footref{129} While facing \textit{atimia} – presumably as the result of a heavy fine upon conviction\footref{130} – on account of his father’s (seemingly brief) involvement in the oligarchy of the Four Hundred, the speaker envisages continued enjoyment of \textit{epitimia} for him and his family as the “just reward” (§ 31: \textit{τὴν ἄξιαν χάριν}) for their honourable behaviour,\footref{131} and again advises the judges to show \textit{charis} appropriate to one’s worth (\textit{κατ’ ἄξιαν χαριζόμενοι}), to elicit honourable behaviour, from them and
\end{footnotes}
from others, in the future.\textsuperscript{132} The same language is employed in Lys. 21, in the context of an accusation of ‘taking bribes’ (\textit{dōrodokia}),\textsuperscript{133} where Lysias’ client presents a host of examples of honourable behaviour from his part as proof that the penalty of \textit{atimia} is at variance with his actual worth.\textsuperscript{134} ‘Taking bribes’ is, notoriously, also the charge brought against Demosthenes in the famous \textit{affaire} Harpalus, and Dinarchus,\textsuperscript{135} accordingly, maintains that Demosthenes’ behaviour has made him “unworthy of the city” (της πολεως ἄναξιον).\textsuperscript{136} What shines through these examples, then, is that the enjoyment of rights was never separated from the notion of worth: what we call ‘rights’ are subsumed in Athenian concepts such as \textit{timē}, and \textit{axia}, because actively participating to the life of the \textit{polis}, in any capacity, was a privilege earned through unfaltering abidance by legal norms.

1.3 Conclusions

We have seen above that the Greek term \textit{timē} accounts for all the senses and nuances of the modern notion of ‘rights’, with one important caveat: in the Greek \textit{polis}, the enjoyment of any rights, from the most basic to the most exclusive, depended upon honourable conduct. Against this background, then, the threat of \textit{atimia} was one of the main safeguards against substandard behaviour, because the enjoyment of rights depended on performance, and the penalty essentially consisted in the revocation of specific rights tied to one’s status as a response to unsatisfactory performance. Much in the same way as honour (\textit{timē}), \textit{atimia} was essentially about a communally shared set of values and norms which informed, and percolated into, the laws of the city: dynamics of honour and dishonour were used as a tool in regulating inclusion and exclusion, with the aim of ensuring and enforcing appropriate behaviour from each

\begin{itemize}
  \item \textsuperscript{132} At the beginning of the speech ([Lys.] 20.4), the speaker also explores the idea of \textit{atimia} as a plausible ground, for disqualified individuals, for wanting to overthrow the democracy: see above.
  \item \textsuperscript{133} For the connection between the crime and \textit{atimia}, cf. Andoc. 1.74 and see in more detail Chapter 3, Section 3.1.
  \item \textsuperscript{134} Cf. esp. Lys. 21.25, where the speaker frames \textit{atimia} as one of the things that are ἄναξια μὲν ἡμῶν αὐτῶν …, ἄναξια δὲ τῶν εἰς ἡμᾶς ὑπηργήσαν (“unworthy of ourselves and unworthy of what has been done for you”, transl. Todd).
  \item \textsuperscript{135} Din. 1.41.
  \item \textsuperscript{136} And, accordingly, he was fined a hefty sum and became \textit{atimos}: see Dem. \textit{Ep.} 2.24. Demosthenes was no stranger to being accused of not being worthy of other honours, as in the case of the Crown litigation: see Aeschin. 3.188 (where the men who restored the democracy are said to have been “honoured according to their worth”, κατ’ ἄξιον ἐτιμήθησαν), 205. Of course, in matters pertaining to special rights and privileges, the question of worth is even more prominent: see, e.g., Isoc. 18.67, where a crown is discussed; Din. 3.12, where Philocles is accused of having held offices despite being unworthy; and Lys. 26 (esp. §§ 3, 8–12), with other \textit{dokimasia} speeches (Lys. 16, 25, 31, fr. 9).
\end{itemize}
of the inhabitants of the ancient city, thus striving to foster the smooth functioning of crucial aspects of the life of the *polis*. As a penalty, then, *atimia* came in various nuances and degrees, but whether it targeted one specific prerogative (*timē*) in an array of different prerogatives (*timai*) or one’s worth or status overall (*timē*), conviction was always morally charged: it was about not having lived up to the standard which granted one certain rights, and having lost the very claim to those rights as a result. How exactly the legal penalty of *atimia* emerged as the institutionalisation of a social dynamic will be explored in the next Chapter.
Chapter 2

Atimia from archaic literature to classical legal documents

In the previous Chapter, we have seen how modern discussions of Greek honour in the legal sphere have largely failed to highlight how the terminology of timeς is central to Greek conceptualisations of the notion of ‘rights’, and how this is mainly a function of narrow views of (Greek) honour itself. Moreover, I have begun to explain how our current understanding of the legal penalty of atimia is a textbook example of the pitfalls of these views, which tend to overstate the competitive aspects of honour while virtually ignoring its cooperative side. For the most part, when analysing ‘dishonour’ in the legal sphere, scholars have combined exclusively legalistic approaches with ‘Mediterraneanist’ preconceptions on the nature of honour, and failed to take into account the ways in which timeς – as was argued in the Introduction – actually underpins all forms of social and legal identity. In particular, since Swoboda’s contributions on the atimos Arthmius of Zelea, scholarship on this subject has tended to present a markedly developmental account of atimia, according to which a gradual change in the meaning of the concept – from ‘outlawry’ to ‘disfranchisement’, or from an exclusively socio-ethical concept (‘dishonour’) to an exclusively legal one (‘deprivation of civic rights’) – was linked to the evolution of citizenship. The understanding of citizenship as the highest timeς, or honour (as status), within the polis (relative to non-citizen status) has translated into the understanding of atimia solely as ‘deprivation of civic rights’. As a result, atimia has been generally regarded as a penalty that applied exclusively to (male) citizens, and even those scholars – such as, more recently and convincingly, Youni (1998; 2001; 2018; 2019) and Joyce (2018) – who have rightly challenged Swoboda’s developmental view and conclusively demonstrated that atimia and outlawry have always been two different penalties still subscribe to this assumption, and firmly link atimia to the notion of citizenship.

1 Swoboda (1893) and (1905). I will discuss the story of Arthmius of Zelea in Chapter 4, Section 4.3.
2 As seen in the Introduction, already Thalheim (1896; 1904; 1918) and Lipsius (1906; 1908) had expressed objections to Swoboda’s theories, and Maffi (1983) was the first to note that the verbs atimazein and phugein have different meanings in the Homeric poems and, consequently, that atimia, exile, and outlawry are different sanctions. Dmitriev (2015) has argued that atimia essentially meant ‘outlawry’ even in the classical period, but his theory has been disproved by Joyce (2018: 54–58).
3 For the theory that there existed an exclusive relationship between atimia and citizenship, see in particular Manville (1990). This view had already been propounded by Hansen (1976): see the Introduction.
Although these and other recent works correctly stress the connection between the extra-legal and legal aspects of the penalty of *atimia*, the idea that the concept of *atimia* radically changed after the formation of the notion of citizenship has significantly hindered a full appreciation of those elements that the legal penalty retained from the socio-ethical sphere, and the thorough understanding of the ways in which key features of *atimia* that were already present in the archaic period were codified and incorporated in the legal system during the classical period: the legal penalty represented the solidification into law of pre-existing social dynamics. In particular, as the examples below will show, it is possible to describe the subsumption of the socio-ethical category of dishonour as a legal penalty in the Greek legal system as the result of what moral philosophers call ‘groupishness’ – i.e. “a tendency to cooperate and be prosocial” that makes “the cost of antisocial behaviour … very high” – which we can find both in legal and in non-legal contexts: there is a natural human tendency to contempt and shun deviant individuals, and this proves to be an efficient way to police behaviour and pressure individuals to conform.

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4 In addition to the already mentioned Youni (1998; 2001; 2018; 2019) and Joyce (2018), see in particular Poddighe (2001; 2006), who builds on Maffi (1983) and van ‘t Wout (2011a; 2011b), who, however, tends to underestimate the full institutionalisation of the penalty, and to underplay the extent to which social and ethical notions can inform laws and institutions: see the Introduction.

5 As Joyce (2018: 43–44) rightly notes, “the withdrawal by the community of particular rights and prerogatives in response to particular breaches of the communal ‘honour code’ … is not necessarily ‘legal’ and ‘institutionalised’, but it is certainly suitable for institutionalisation into a legal mechanism”. Indeed, “*ἀτιμία* and its cognates had a social meaning which … survived into the classical age and could easily be translated into law”.

6 In this sense, then, this process could be described as the result of what New Institutionalists call ‘path dependence’: a social process that has proved to work (positive feedback) is gradually institutionalised. See Arthur (1994) and, more recently, Pierson (2000; 2004), mentioned also in Chapter 1.


8 Note also that “the (individual as well as collective) exclusion of free-rider from repeated interaction networks increases cooperation” (Egas and Riedl 2008: 877). On ‘altruistic punishment’, i.e. a type of punishment that comes at a cost for the punisher but ultimately promotes pro-social behaviour, see also e.g. Gintis (2000); Fehr and Gächter (2002).

9 Cf. e.g. Erdal and Whiten (1994) and Whiten (1999) on the notion of “‘counter-dominance’, in which all other members of the group cooperate to put down the upstart by such tactics as ignoring, ridiculing, or ostracizing them” (Whiten 1999: 181); Boehm (1999, esp. 64–89; 2012; 2017) on the idea that “Group members exercise the right to take action if a deviant begins to … threaten the social equilibrium of the group or its very ability to function” (Boehm 1999: 73); and the notion, proved by game theory (cf. e.g. Axelrod 1980; Axelrod and Hamilton 1981; Maynard Smith 1982), that, in iterated ‘Prisoner’s Dilemma’ games, where two players have to decide between cooperating and pursuing self-interest, tit-for-tat – i.e. “a strategy of cooperation based on reciprocity” (Axelrod and Hamilton 1981: 1393) by which a player’s first move is cooperative, and each subsequent move matches the other player’s previous move – soon excludes defaulters.

10 See also Appiah (2010: 191): “people in an honor world automatically regard those who meet its codes with respect and those who breach them with contempt. Because these responses are automatic,
In this chapter, I will first investigate the notion of *atimia* in archaic literary sources, to explore the socio-ethical roots of the concept, and the ways in which dishonour operated before the emergence of a more formalised legal system in Greece; this material will be then compared with that offered by classical (especially legal) sources, to show how the legal penalty never lost its social and ethical undertones: on the contrary, extra-legal and legal senses of *atimia* reinforced and fed into each other, and normally coexisted without arousing confusion, not only in the same type of sources, but also within the same text. This will show that *atimia*, much in the same way as *timē*, is an intrinsically flexible and context-specific notion, and is normally used to describe either an action or a condition: as an action, it is imperfective (and thus conative) in aspect – it represents an attempt to bring about a condition of *atimia* that can however fail; as a condition, on the contrary, its aspect is perfective – it constitutes the present result of a successful action performed in the past.\(^{11}\) It was from this second sense – from the notion of *atimia* as the result of a process in which the individual’s *timē* is denied by the individual’s peers – that *atimia* developed its features as a legal penalty: failure to abide by the standards of behaviour expected by the community resulted either in a loss of status altogether, or in the forfeiture of (all or some of) the prerogatives attached to that status.\(^{12}\) As we shall see below, the coexistence of these two aspects of the notion was aided not only by the different contexts in which *atimia*-terminology was used, but also by a gradual specialisation of the verbs used to talk about *atimia*: *atimoō*/*atimaō* for the legal penalty, *atimazō* for broader applications of ‘dishonour’. Finally, I will move to inscriptions from the fifth and fourth centuries BCE, to examine how *atimia*-terminology was employed in legislation and other documents related to the legal sphere, and how these uses interacted with broader social senses of the notion.

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11 This is in part reflected also in the ratios of the verbal aspect – imperfective, aorist, perfective – for the two families of denominative verb (*atimoō*/*atimaō* and *atimazō*) stemming from *atimia* outlined in Appendix I: whereas *atimazō* is mostly used in its imperfective forms (thirteen times out of eighteen occurrences), *atimoō*/*atimaō* tends to be used in its aorist (x19) and perfective (x11) forms (out of forty occurrences). For the analysis of the distinctions between these verbs, see below.

12 As will be seen in Chapter 3, however, it is important to note that *atimia* as a legal penalty was not meted out for *every single departure* from Athenian popular morality: it was available only for certain legal offences.

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2.1 *Atimia* from archaic to classical literary texts

As will be seen in more detail in the following Chapter, *atimia* was, in classical Athens, an unequivocally institutionalised legal response, meted out for specific crimes, that gave legal substance to the community’s efforts to marginalise those individuals who did not abide by the standard of behaviour agreed upon, and codified into law, by the community itself. The penalty of *atimia*, then, was perceived and presented as a justified and appropriate response to (legally) dishonourable behaviour: being excluded from active participation in the communal life of the *polis* was the result of a failure to live up to the expectations set by the *polis* for one’s status and role.

In archaic sources, however, *atimia*-language seems to be used primarily to describe instances of disrespect that are decried as unwarranted by their targets – and also, at times, by the narrator or a third party. The *Iliad* offers several examples of this, and especially at the very beginning of the poem. For instance, in Book 1, when Chryses brings splendid and copious gifts to the Achaean army to request that his daughter, Chryseis – who had been given as a prize to Agamemnon himself – be returned to him, Agamemnon’s response to Apollo’s priest is extremely harsh, and entirely at odds with the approving reaction of the rest of the army: his behaviour is openly against the collective will of his community. Agamemnon’s treatment of Chryses is framed twice as *atimia* (qua lack of respect): first, at lines 11–12, when the narrator says that Apollo has sent a pestilence upon the Achaeans “because the son of Atreus had disrespected the priest Chryses” (ὁ ἦνεκα τὸν Χρύσην ἠτίμασεν).

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13 And beyond: see, to an extent, the examples from Sparta in Chapter 1, Section 1.2, and especially the evidence of inscriptions below.
14 Aside from the examples cited in nn.16 (*Iliad*) and 29 (*Odyssey*) and those examined below, see also *Hom. Hymn Dem.* 158; *Hymn Hom. Ap.* 72, 312; Thgn. 1111; Mim. fr. 1.9, 5.4 W. 2. Another instance is Alc. fr. 311 Lobel-Page, but the fragment is so short that it is impossible to determine how *atimia* was used in this context.
15 This point (although not specifically on archaic literature) is made also by van ’t Wout (2011a), but she fails to recognise the importance of the institutionalisation of the legal penalty of *atimia*, and does not appreciate the ways in which the contexts in which *atimia* and cognates were used shaped the interpretation of such terminology; see Section 2.2 below.
16 Instances of *atimia*-terminology in the *Iliad*: 1.171, 1.516, 16.90 (ἀτίμος); 9.648, 16.59 (ἀτίμητος); 1.94, 1.356, 1.507, 2.240, 6.522, 8.163, 9.62, 9.111, 14.127 (ἀτιμάω). On the use of *atimazein* in the Homeric poems, especially as opposed to *pheugein*, see Maffi (1983).
17 Of sixteen instances in which *atimia* and its cognates are used in the poem, nearly half are in the first two books, and chiefly in Book 1.
19 See Allan and Cairns (2011: 114).
20 Cf. Scodel (2008: 128): “[Agamemnon] is very aware of Chryses’ claim to respect, but does not take it seriously.”
ἀρητῆρα / Ατρείδης); then, at line 94, when Calchas, during an assembly called by Achilles on the tenth day of the pestilence, reveals to the army that Agamemnon’s disrespect of Chryses is indeed the cause of Apollo’s wrath (ἐνεκ ἀρητήρος ὅν ἡτίμησ’ Ἁγαμέμνων), the devastating effects of which further confirm that Agamemnon’s response to Chryses’ plea was misguided and called for retribution, because it did not take into account the priest’s status, the appropriateness of his ransom offer, and the wishes of the rest of the army, who (sensibly) wanted to accept the offer.21 The use of atimia-terminology is central also to Achilles’ arguments in the ensuing quarrel with Agamemnon. As Allan and Cairns (2011: 113) have shown, even though the immediate matter of contention between the two heroes is the geras, i.e. the ‘prize’ or ‘mark of esteem’ conferred by the whole army, the issue soon becomes a much larger dispute “over the claims to precedence of different qualities or excellences” – ultimately, over the grounds upon which timē (esteem) should be accorded. It is important to note, in this context, that “the avoidance of conflict is presented in the poem as one of the highest social aims”,22 and that the Iliad itself is arguably a detailed case-study of the disastrous consequences – for both the individuals involved and the collective – of not being willing to recognise that multiple claims to respect can be accommodated and exist simultaneously within the same system of values: as a matter of fact, this is precisely the message that Nestor is trying to convey to Achilles and Agamemnon when he explains to them that they are both wrong in not acknowledging the legitimacy of each other’s claims.23 Famously, the two heroes do not listen to him, and Agamemnon – misguidedly, as the events will prove – seeks to assert the primacy of his claim first by threatening to appropriate the geras of some other hero,24 and then by announcing that he will take Achilles’ geras specifically, completely ignoring Achilles’ own claims.25 Accordingly, Achilles feels (unjustly) disrespected, and states very clearly that he believes Agamemnon is constantly letting him be atimos by not giving him (what Achilles feels to be) the appropriate share of the booty he puts so much effort into obtaining (170–171: οὐδὲ σ’ ὄϊω / ἐνθάδ’ ἄτιμος ἐὼν ἄφενος καὶ πλοῦτον ἄφενείν). He also describes Agamemnon’s action of taking away his prize with the verb atimaῖο when recounting the events to his mother, Thetis (355–356: ἤ γάρ μ’ Ατρείδης εὖροῦ

24 Hom. Il. 1.137–139.
κρείων Ἀγαμέμνων / ἡτίμησεν ἐλλὸν γὰρ ἔχει γέρας αὐτὸς ἀπούρας). She then repeats Achilles’ words to Zeus (506–507), while simultaneously framing a hypothetical refusal to grant her wishes from his part as a way of treating her as “the most dishonoured god of all” (516: μετὰ πάσιν ἄτιμοτάτη θεός): from her opening remark to Zeus, where she asks him to help her son “if ever before in word or deed I benefited you among the immortals” (503–504: εἴ ποτε δή σε μετ᾽ ἀθανάτοις ὁνήσα / ἥ ἔπει ἥ ἔργω) – and especially from the previous narrative of how she did in fact help him during a rebellion of the other gods by summoning Briareus (or Aegaeon), one of the Hecatoncheires, to Olympus – it is clear that, to her, Zeus’ refusal would be an entirely unjustified lack of respect, because the standards of reciprocity they all subscribe to require him to return the favour.

The usage of atimia-vocabulary in the Odyssey is comparable to that in the Iliad, and tends to describe a type of dishonour that is wrongly directed towards an undeserving target. The vast majority of instances are found in the second part of the poem, from Book 14 onwards, first when Odysseus’ miserable and tattered appearance as a beggar elicits considerations on the respect owed to strangers, and, later on, when disrespectful attitudes towards Odysseus – both as himself and as a beggar – and his household come into sharper focus and are described as atimia. So, for example, at 14.56–58, the swineherd Eumaeus tells Odysseus, whom he has just taken to be a foreigner and admitted inside his hut, that he would never disrespect (57: ἄτιμαται) a stranger, because guests are under the protection of Zeus, irrespective of their outward aspect.

26 The words are repeated also by Thersites (Hom. II. 2.239–240: δὲ καὶ νῦν Ἀχλῆα ἤδε μέγερ᾽ ἄμεινονα φῶτα / ἡτίμησεν ἐλλὸν γὰρ ἔχει γέρας αὐτὸς ἀπούρας).
27 Recounted by Achilles at Hom. II. 1.396–406.
28 In this case, then, Thetis is suggesting that Zeus would be engaging in ‘negative reciprocity’: while in reciprocal exchanges it is not necessary to reciprocate immediately, the expectation is that the original gift or favour creates an obligation for the receiver to reciprocate in the future; if s/he fails to do so, s/he appears to be trying to get advantages from others without giving anything in return. On reciprocity, and especially negative reciprocity, see Sahlin (1972, esp. 195–196).
30 Cf. also Hom. Od. 14.506, where Odysseus, still in disguise, laments that, by being refused a cloak, he is being treated with disrespect by the swineherds on account of his mean clothes (νῦν δὲ μ’ ἄτιματον κακὰ χρόνος ἐμίστε ἐγοντα), and states that, if he had been young and strong (503: δὲ νῦν ἢσσόμην ἢ τε μοι ἐπιτελοῦς ἢν), he would not have been mistreated like that. His wording does imply that the old and the weak can be disrespected more easily (cf. the example of Peleus at 11.494–503), but the fact that he is given a cloak in the end (507–512), chiefly on account of him being a ‘suppliant’ (511: ἴκτεν), suggests that denying him a cloak, and thus ‘dishonouring’ him, would represent a failure in appropriate conduct towards guests.
but it is still a statement of a norm: from Eumaeus’ words, and especially from his mention of themis in line 56,\(^{32}\) it is clear that he believes strangers to be legitimately entitled to certain prerogatives (i.e. hospitality, and especially food and a bed) – refusing to grant them these prerogatives would be disregarding a claim to timē that is sanctioned by Zeus.\(^{33}\) The same prerogatives are detailed by Telemachus in his dialogue with Eurycleia at 20.129–133, when he asks her whether the ‘foreigner’ – Odysseus – has been ‘honoured’ with a bed and food (129–130: τὸν ξείνον ἐτιμήσασθ’ ἐνί οἶκῳ / εὐνῇ καὶ σίτῳ). Indeed, Telemachus explains, he knows that his mother can be peculiar: sometimes she would honour a lesser man (132–133: ἔτερόν γε τίει μερόσπον ἀνθρώπων / χείρονα) and “send away dishonoured” a better one (133: τὸν δὲ τ’ ἀρείον’ ἐτιμήσασ’ ἀποσέμπει). As Telemachus conceives it, then, ‘honouring’ others can simply mean giving them their due, and failing to do so despite their legitimate claims can accordingly be defined as a kind of ‘dishonouring’ that evidently does not affect such claims: labelling this as ‘dishonour’ serves to highlight the fact that rightful demands are being unjustly disregarded.

Similarly, the disrespectful treatment of the suitors towards Odysseus, his household, and his wife and son is regularly characterised as atimia not only by the poet, who, at 21.98–100, remarks that Antinous is unjustly disrespecting (99: ἀτίμα) the ‘blameless’ (amymōn, cf. 99) Odysseus, and inciting the other suitors to do the same (100: ἔπι δ’ ὀφνυε πάντας ἐπαίρους), but also by Odysseus himself, who foretells his own return to Eumaeus in Book 14, and states that Odysseus will punish anyone who disrespects (164: ἀτιμάξει) his wife and son: the very idea that such atimia will be met with revenge shows how much Odysseus believes there to be a misalignment between the honour his family should receive and the dishonour they are dealing with instead, and how much he feels the need to reassess a balance. The importance of avenging atimia is made evident also in Penelope’s rebuke to Antinous at 16.431, after she has discovered the suitors’ plot to kill Telemachus, when she indignantly states in so many words that Odysseus’ home is atimos as a result of the suitors’ behaviour (τοῦ νῦν οἶκον ἄτιμον ἔδειξ): by using the adjective atimos, Penelope wants to underline that there is a misalignment between the actual worth of Odysseus’ house and the lack of respect that the suitors are showing, and

\(^{32}\) Cf. Cairns (1993: 109 n.185): “[Eumaeus] states his obligation to help xeinoi and beggars as themis (the right thing to do).”

\(^{33}\) Cairns (1993: 105) draws attention to how strangers derive their claim to timē from Zeus, described as epitimētōr at Hom. Od. 9.270.
that the suitors’ failure to recognise this worth – and act accordingly – is a dire mistake that exposes their inability to ‘play by the rules’. This demonstrates that, although redress is very significant indeed in matters of timē and atimia, this is not a simple winner-take-all transaction where agents increase their own honour by taking it away from others: the picture is complicated not only by the respective (and often contrasting) assessments of a given situation offered by the people involved, but also by how others – the audience – decide to construe what is happening.34 As Penelope tells Eurymachus at 21.331–333, for example, the suitors cannot expect to have good fame among the people (331–332: oĩ πως ἐστιν ἐδικλείας κατὰ δήμον / ἐμμεναι) because they ‘dishonour’ and eat up the house of a noble prince (332–333: oĩ δὴ οἴκον ἀτιμάζοντες ἔδουσιν / ἀνδρὸς ἀριστῆος).35 Thus, not only does the act of unjustly dishonouring someone who does not deserve it have potentially no effect on the target’s status – it also effectively detracts from the perpetrator’s good reputation.36 Moreover, the fact that Odysseus – and, by extension, his household – does not deserve to be treated with dishonour is made clear also by the use of the language of hybris, both at the beginning of Penelope’s rebuke to Antinous (at 16.418)37 and throughout the poem, to describe the suitors and their conduct:38 construing specific behaviour as hybris serves to convey to one’s audience – real or internalised – that the atimia suffered was misguided and is being met with anger and disdain.39 This, therefore, is not a society in which one’s honour is constantly vulnerable to others’ predations, but one in which it is assumed that one will respect the honour of others – one in which failure to do so is condemned and labelled as unwarranted atimia.

But the notion of atimia does not only signify disregard for one’s status and prerogatives – as was seen in Chapter 1 (esp. Section 1.2), it is also used to describe

34 Cf. Cairns’ (1993: 59) discussion of aischos, aischros, etc.: “whether one is or is not actually dishonoured may depend on the situation, the status of agent and patient, and the partiality or otherwise of any potential audience.”
35 This is, in effect, the same point, with some of the same words, as Hom. Od. 16.431.
37 Cf. also Hom. Od. 16.410.
38 See Hom. Od. 1.227, 368; 3.207; 4.321, 627; 15.329 (= 17.565); 16.86, 410, 418; 17.169, 487, 581; 18.381; 20.170, 370; 23.64; 24.282, 352 (cf. also Cairns 1993: 56, esp. n.42). Another interesting instance is at 17.245, where a hybristic disposition (against the disguised Odysseus) is ascribed to the goatherd Melanthius, who is then said to be a favourite of the suitor Eurymachus (cf. 17.256–257).
39 Note, for instance, that Agamemnon’s behaviour is framed as hybris by Achilles at Hom. Il. 1.203 and 9.368. At 1.124, Athena, too, describes Agamemnon’s behaviour as hybris. Cf. also Arist. Rh. 1378b29–30, where it is said that atimia is a feature of hybris, and whoever is dishonouring (ὁ δὴ ἀτιμάζοντας) someone else is belittling (ὁλυγοφῆ) him or her, with the example of Achilles’ anger at Agamemnon’s disrespectful treatment (atimia) given shortly after (1378b31–35).
the absence of status and prerogatives "tout court". A clear example of this is in Hesiod’s *Theogony*: Zeus tells the assembled gods that, if they help him fight the Titans, he will not deprive them of their privileges (393: μή τιν’ ἀπορραίσειν γεράον) and will leave their status – that is, their purview and area of influence – untouched (393–394: τιμὴν δὲ ἐκαστὸν / ἐξέμεν ἢν τὸ πάρος γε μετ’ ἀθανάτωσι θεοῖσι): moreover, those of them who had no standing and no privileges (395: ἀτιμῳς … ἀγέραστος) before will rightly gain both (396: τιμῆς καὶ γερῶν ἐπιβησέμεν, ἢ θέμις ἑστίν) as a result of their efforts against the Titans. Thus, in Hesiod’s fictional reconstruction of the creation of a new community, the foundational moment is described precisely in terms of ‘honour’: belonging to a community and having a particular sphere of operation is a matter of *timē*, and being left out is a form of *atimia*. Whereas, in this instance, the fact that some of the gods were previously denied a share of *timē* is presented in comparatively neutral terms, and the only indication that their *atimia* is unjust lies in the overall injustice of Cronus’ rule and in the prospected enjoyment of *timē* under Zeus, in the *Works and Days* the concept of *atimia* is even more clearly related to a kind of disrespect that is unwarranted and misguided, and calls for retribution. In discussing the behaviour of the fifth race of men – the men of iron – Hesiod laments the fact that, since they do not take into account divine retribution (187: οὐδὲ θεῶν ὑπὶ εἰδότες), these men will disregard their parents as soon as they start aging (185: αἶψα δὲ γηρᾶσκοντας ἀτιμήσοσι τοκῆςς), and this disrespect will translate into a failure, from their part, to reciprocate the care that their parents have given them when they were little (187–188: οὐδὲ μὲν οἱ γε / γηρᾶντεσσι τοκεσσιν ἀπὸ θρεπτηρία δοίεν). This link between *atimia* and failure to reciprocate, which we have seen also above, highlights the discrepancy between the respect that parents can lay claim to due to their role in child-rearing and the unseemly treatment they are receiving from their offspring, and the misguidedness of these men’s conduct towards their elders is further emphasised through the description of their violent behaviour – essentially, what Hesiod is describing is a sort of upside-down world where the laws of reciprocity (*charis*) are

40 In the *Theogony*, *timē* is often used to indicate gods’ area of competence: cf. e.g. 73–74; 112; 203–204; 452; 885. See also Hom. II. 15.189.
41 See, e.g. Hom. Od. 2.130–131, where Telemachus states that he will not send his mother away after she bore him and cared for him: cf. Cairns (1993: 91).
42 Note that “the norm of reciprocity requires that if others have been fulfilling their status duties to you, you in turn have an additional or second-order obligation (repayment) to fulfil your status duties to them” (Gouldner 1960: 176).
43 E.g. the example of Thetis and Zeus at Hom. II. 1.516.
completely disregarded, hybris is rewarded with honour, and those who would legitimately deserve respect are instead the object of atimia.

That it is simply wrong to disrespect one’s parents, and that such atimia represents an ill-advised failure to show appropriate regard that ultimately reflects badly on the agent, is shown also by a passage in the Theognidea (821–822) that proclaims that those who disrespect their aging parents (οἱ κ’ ἀπογηράσκοντας ἀτιμίζοσι τοκῆς) are entitled to little esteem (τοῦτων τοι χώρη … ὀλίγη τελέθει), and indeed we will see in Chapter 3 that in classical Athens – in an instance of near-poetic justice – the penalty for maltreating (and generally disregarding) one’s parents is precisely atimia: ignoring a legitimate claim to respect translates into the legally sanctioned loss of one’s own claim to respect.

Thus, we have seen that references to atimia and cognates in archaic sources normally take the form of complaints about denial of due timē. But the passage in the Theognidea cited above offers a glimpse into the potential of these dynamics of respect and disrespect to promote positive social behaviour: as we have seen also in the Homeric examples, an unwarranted lack of respect (atimia) could ultimately reflect badly on the perpetrator, and this could affect his or her ability to command respect, potentially leading to a lessened standing in the community. Behaving dishonourably (i.e. failing to abide by the communally endorsed standard of behaviour) warranted a diminution in one’s status and prerogatives – in one’s timē. In such cases, then, considering an individual atimos might be the appropriate response to his or her actually reprehensible conduct.

The best example of this in archaic literature is probably Tyrtaeus’ exhortation to Spartan youth that they fight bravely in the forefront of the battleground (fr. 10 W.2) – if they fail to do so, they will find themselves displaced and poor, forced to beg and wander around with their whole family, with no friends, and subjected to any kind of atimia and distress (10: πᾶσα δ’ ἀτιμίη καὶ κακότης ἔπεται). Tyrtaeus does not spell out precisely what “any kind of atimia” would amount to in practice, and it is clear that he does have something broader than a

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46 Aside from atimia against parents, see also Hes. Op. 193: βλάψει δ’ ὁ κακὸς τὸν ἄρσίων φύλτα.
47 Note that the awareness that older people might be unable to exact retribution by themselves when (unjustly) slighted – which is also in the background of passages like Hom. Od. 11.494–503 (on Peleus) – is very likely part of the reason why their claim to respect was granted special protection in Athenian legislation and could be enforced by ho boulomenos.
48 See also Youni (2019: 366–367).
specific legal penalty in mind, but it is also obvious from the context that the reference is to a tangible loss of status and prerogatives that the dishonoured individual previously enjoyed.\textsuperscript{49} To be sure, the poet seems to be, at least in part, sympathetic to the struggles of the defeated, but he does imply that their misfortunes are a direct result of their military shortcomings, and therefore that their \textit{atimia} is, to some extent, deserved: by not giving their utmost in battle, these men have brought disgrace on their line and belied their noble appearance (9: \textit{αἰσχύνει τε γένος, κατὰ δ’ ἀγλαὸν εἶδος ἐλέγχει}), and ultimately given up their claim to honourable treatment.

As was suggested earlier, it is on this latter sense – on the notion of \textit{atimia} as the justified and appropriate reaction to dishonourable behaviour – that the legal penalty of \textit{atimia} seems to have been modelled: the penalty represents the legal actualisation of the lowering in status that has been triggered by the dishonourable behaviour itself. But, of course, the fact that \textit{atimia} had been subsumed in the legal system, and dishonourable behaviour codified by law, did not change the fact that the terminology of \textit{atimia} was still used in its non-technical sense, and often specifically in its meaning of ‘unwarranted disrespect’, also in the classical period (and beyond), and also in legal contexts. Thus, there are very good reasons to doubt the current widespread understanding that, from the time of Homer to the classical period, there had been a progressive shift in the meaning of \textit{atimia}, and that there existed a sharp distinction between the technical and non-technical senses of the term: on the contrary, both coexisted simultaneously and mutually shaped each other. This continuity between legal and extra-legal spheres can be seen in literary sources from the classical period, and most significantly in the speeches of the Attic orators.

First, and against any alleged progressive shift in the meaning of the term, it is important to note that, in fourth-century oratory, the two senses – technical and supposedly ‘newer’, on the one hand, and non-technical and supposedly ‘older’, on the other – normally coexisted, even in the same text.\textsuperscript{50} A case in point is Demosthenes’ speech \textit{Against Meidias} (Dem. 21). For instance, when discussing the law regulating the crime of contempt towards magistrates,\textsuperscript{51} for which the penalty

\textsuperscript{49} Adkins (1972: 36) sees \textit{atimia} in this context as a reference to “absence of property, rights and status”. As will be discussed in Chapter 3, the penalty for military misconduct in Athens was precisely \textit{atimia}. The notion of \textit{atimia} in Sparta has been touched upon in Chapter 1, Section 1.2; see also below.

\textsuperscript{50} See Joyce (2018: 42): “the moral sense of ἀτιμία was never lost”; even more recently, Youni (2019: 368) notes that “While maintaining its moral meaning, the term \textit{atimia} appears in fifth-century epigraphic and literary sources also in a technical sense.”

\textsuperscript{51} Dem. 21.32–33; cf. also Chapter 3, esp. Section 3.3.
was permanent *atimia* (§ 32: ἀτιμος ἔσται καθάπαξ), Demosthenes is clearly referring to the strict legal meaning of *atimia* as a specific penalty codified by law. We have seen in Chapter 1 that *atimia* could target very precise rights (*timai*), and we will see in Chapter 3 that, in the case described here by Demosthenes, these rights were, chiefly, entering the *agora* and the temples, addressing the people (in the Assembly, the Council, and the law courts), serving as a judge, holding any kind of office, receiving crowns.\(^{52}\) In other instances, however, Demosthenes is clearly not referring to the legal penalty, but rather to what we normally translate as ‘dishonour’ or ‘disrespect’ – the negation of *timē* as the respect due to someone by virtue of his or her status as a free person. A clear example is the story of the killing of Boeotus at the hands of Euaeon after the former had punched the latter.\(^{53}\) According to Demosthenes, it is not the blow that made Euaeon angry (§ 72: οὐ γὰρ ἤ πληγή παρέστησε τὴν ὀργήν), but the *atimia* (ἀλλ’ ἢ ἀτιμία) – and Demosthenes fully sympathises with whoever defends himself when suffering *atimia* (§ 74: ἀτιμαζόμενος).\(^{54}\) We should note, however, with Canevaro (2018a: 111–114), that with these words Demosthenes does not mean to suggest that Euaeon, in being struck by Boeotus, had effectively lost any honour, let alone that he had actually lost certain rights as a result of the punch: he simply means to say that Euaeon felt angry because Boeotus, by punching him, had disrespected him – he had disregarded his claim to *timē*. And the key to understanding this is, once again, the bidirectionality of both *timē* and *atimia*: since, as we have seen in the Introduction, *timē* can be both a quality of the individual (based on previous recognition and constituting a claim to ongoing recognition) and others’ recognition of that quality, so *atimia* can be both a position in which the individual finds him- or herself relative to others and the attitude of others towards that individual. Here *atimia* means ‘unwarranted disrespect’ – it defines the disregard for someone’s legitimate claim, which, however, does not translate into an actual shift in status or loss of legal rights: *atimia* lies in the other’s attitude, not in the condition of the person who is the focus of that attitude. In this case, then, *atimia* is not the result of the punch – it is rather the primary cause of anger, even more than the punch, because, as Demosthenes clarifies, Boeotus’ attack

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\(^{52}\) As will be seen in more detail in Chapter 4, some of these rights are specific to citizens (e.g. serving as judge or addressing the people in the Assembly), but some others are not.

\(^{53}\) Dem. 21.72–74.

\(^{54}\) MacDowell (1990: 131–133) translates ἀτιμία as “dishonour” (at § 72), and ἀτιμαζόμενος as “when dishonoured” (at §74); Harris (2008: 112) has “humiliation” for ἀτιμία and “[being] the victim of outrage” for ἀτιμαζόμενος.
is offensive not so much in itself, but rather in that it shows that he did not take Euaeon’s claim to *timē* seriously, and treated him in a way that did not match his actual worth.\(^5^5\)

Earlier in the speech, *atimia* is employed in a similar, non-technical fashion, as ‘unwarranted disrespect’: Demosthenes describes Meidias’ appalling behaviour, and claims to have a substantial list of people who have been mistreated by Meidias and are very eager to recollect “all his acts of insolence ( rośβρεις) and dishonour (άττημιας)”.\(^5^6\) In this instance, Meidias’ actions are labelled with the plural *άττημιας*: since, typically, plural forms of abstract nouns refer to concrete examples of the notion expressed by those nouns, the word is here used to describe a disposition that manifests itself in acts, much in the same way as the previous plural * rośβρεις*,\(^5^7\) which, however, do not result in states of affairs – if the victims had actually lost honour through Meidias’ attempts to deprive them of it, it is highly unlikely that they would be as eager to testify about Meidias’ acts as Demosthenes describes them to be. Indeed, the mention of *hybris* in close proximity to *atimia* is very important in this respect: as we have seen above in some of the Homeric examples,\(^5^8\) flagging certain types of behaviour as hybristic is a way of construing the disrespectful treatment as unwarranted and, as such, unlikely to bring about any real diminution of honour for the victim. The text, then, does not imply that *atimia*, as a loss of status or prerogatives, was the result of the act – it was indeed the motive, a lack of respect which had led Meidias to trample upon other people’s legitimate claims as a consequence of overestimating his own claim to *timē*.\(^5^9\)

And not only are the two meanings of *atimia*, technical and non-technical, used seamlessly within the same speech, but sometimes both ends of the spectrum are implied in the same context. One example is the penalty meted out to Strato of Phalerum, which Demosthenes describes as “*atimia*, that is, loss of legal rights and everything else” (*άτιμία καὶ νόμων καὶ δικῶν καὶ πάντων στέρησις*).\(^6^0\) In this

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\(^{5^5}\) See Arist. *Rh.* 1378b29–30, mentioned above (“*atimia* [as disrespect] is an element of *hybris*, and one who disrespects others [ὁ δ’άτιμαξων] treats them as if they have no worth [διλεγομένου]”).

\(^{5^6}\) Dem. 21.23 (transl. MacDowell).

\(^{5^7}\) Harris (2008: 95) translates * rośβρεις* … καὶ *άττημιας* as “outrages and insults”. In Cairns’ (1996: 2) paraphrase of Arist. *Rh.* 1378b13–15, *hybris* is primarily “a kind of attitude”, but it is “necessarily manifested in word and deed”.

\(^{5^8}\) Chieflly in the case of Agamemnon in the *Iliad* and the suitors in the *Odyssey*: see above and n.39.

\(^{5^9}\) See Canevaro (2018a: 109–110), who rightly points out that here *άτιμία* “is used in a way that stresses not the status of the victims as a result of Meidias’ actions, but Meidias’ disrespectful behaviour, which fails to respect the *timē* they lay claim to”.

\(^{6^0}\) Dem. 21.92 (transl. MacDowell modified).
context, Demosthenes is clearly referring to *atimia* as the specific legal penalty, translating into actual legal disabilities, that was imposed on Strato by his fellow arbitrators at the end of his term of office due to the alleged irregularities he committed in this capacity. And yet, the language clearly shows that the ‘loss’ (στέρησις) that Strato suffered entailed both opportunities to act in certain ways (rights) and the recognition of the community (“everything else”), because, as was discussed in Chapter 1, one’s status (and the rights attached to it) depended upon both the individual’s behaviour, which needed to conform to the expectations of the community, and the assessment of that behaviour by the very community. Of course, in this instance, Demosthenes is subtly implying that Meidias, by lying about the arbitration, has caused a misinterpretation of Strato’s actual conduct, which has led to his conviction. More often than not, however, the penalty of *atimia* is presented by the prosecutor as the defendant’s fault, as a direct consequence of his or her own blameworthy behaviour – as something one can do to oneself because of one’s failure to live up to the standards prescribed for one’s specific status: as we have seen in Chapter 1 and will discuss in more detail in Chapter 3 (esp. Section 3.4), the speech against Timarchus (Aeschin. 1) is a prime example of this, and also of the fact that engaging in dishonourable behaviour – like prostituting oneself as Timarchus allegedly did – led to legally sanctioned forms of exclusion from the community precisely because it was particularly shameful in the first place. Such focus on appropriateness of behaviour is another element which strongly suggests that the legal penalty of *atimia*, despite undoubtedly being an institutionalised legal response that targeted specific rights, always retained a very strong connection to the socio-ethical sphere and, as was the case for the ‘warranted disrespect’ described in the Tyrtaeus passage examined above, was meted out for those crimes that were commonly regarded as especially shameful, as for instance maltreating one’s parents or shirking one’s military duty, which, as will be discussed in Chapter 3, were both

61 The fact that a verdict of *atimia* brought with it a modicum of shame is suggested also by the fact that Demosthenes takes great pains to convince the judges that Strato is poor but not a bad man, and in fact quite respectable: cf. Dem. 21.83 (ἀνθρώπους πάνης μὲν τι καὶ ἀφρόμου, ἄλλος δ᾿ οὐ πονηρός ἀλλὰ καὶ πάνιν χρυσότερος) and 95 (οὔτε ... πάνης μὲν ἧπως ἔστω, οὐ πονηρός δὲ γε. οὔτε μέντοι πολίτης ἐκ, ἐστρατευμένως ἐπάσας τὰς ἐν ἡλικίας στρατεύσεις καὶ δεινον οὐδὲν εἰργασμένος κτλ.). This narrative, of course, also has the purpose of framing Strato’s *atimia* as undeserved: cf. the next note.

62 Cfr. Dem. 21.86, where Demosthenes says that the vote by which Strato was disfranchised happened “against all the laws” (παρὰ πάνης τοῖς νόμοις), and 95, where he remarks that Strato cannot even tell the judges whether he suffered rightly or wrongly (καὶ οὐθ᾽ ἐδικαίον ἢ δικαία πάσιν, οὐδὲ ταυτ' ἔχεσθαι αὐτῷ πρὸς ὑμᾶς εἰπέντε), thus strongly suggesting that his conviction was a mistake brought about by Meidias’ wickedness.
punished with *atimia* in classical Athens. For example, in book two of the *Memorablia*, Xenophon has Socrates explain to his son Lamprocles that being ungrateful (*acharistos*) to one’s mother is a form of injustice that is sternly reproved prior to (and on top of) being illegal: according to Socrates/Xenophon, everyone would shun (*πάντες ἀτιμᾶσωσιν*) those who maltreat their parents, regardless of any official proclamation of *atimia* in court. Similarly, being a coward was illegal and punished with *atimia*, but it is clear that it was also considered contemptible outside of the legal sphere: among many examples, we can see Aristophanes’ “standing joke” on the politician Cleonymus throwing away his shield; or taunts of cowardice thrown around by litigants in court; or Aristotle’s suggestion that throwing away one’s shield or fleeing battle due to cowardice is a cause of shame; or – again – the treatment that the so-called ‘tremblers’ (i.e. cowards) received in Sparta, which was labelled as *atimia* by Athenian authors and included both legal and more informal sanctions, such as being avoided in the streets and left out in ball games, and perhaps even sporting a particularly ridiculous attire. The Spartan example tallies very well with the archaic evidence – also from Sparta – represented by the Tyrtæus passage examined above, where the sanction described presents a clear overlap between the social and the legal disabilities entailed by *atimia*. Therefore, both before and after its codification as a full-fledged legal penalty, *atimia* was also a social sanction: the legal institution developed and fed off elements that were already present in the archaic period.

As was discussed above, *atimia* could either mean ‘disrespect’ – when it was not socially or institutionally confirmed – or ‘loss of *timē*’ – when the ‘disrespect’ translated into an actual loss of status and/or prerogatives, and we have seen in Chapter 1 that, as a legal penalty, it was an institution sustained both by an extra-legal, socio-ethical discourse that presented ‘honourable’ behaviour as the most

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64 Note that the verb used is *atimazō*: see below.
65 Youni (2019: 367) cites, as an example, Xerxes’ decision to impose the *atimia* of staying home with the women on Artabanus as a response to his cowardice: cf. Hdt. 7.11.1.
67 Here Aeschines’ repeated jibes at Demosthenes’ supposed cowardice come to mind: cf. Aeschin. 3.7, 148, 151–152, 155, 159, 161, 167, 175, 181, 187, 212, 214, 231, 244, 247, 253 (passages collected by Dorjahn 1940).
69 Cf. Hdt. 7.231–2; Thuc. 5.34.2; Xen. *Lac. Pol.* 9.3–6; Isocr. 8.143; Diod. 19.70.4–6; Plut. *Ages*. 30.2–4. See Ducat (2006) and Chapter 1, Section 1.2.
appropriate mode of social interaction, and by formal procedures to enforce it which were implemented by the institutions of the *polis*. For this reason, failure to abide by the standards expected by the community resulted either in a loss of status altogether, or in the forfeiture of some of the prerogatives attached to that status, as well as in a diminished social standing within that community. However, despite this institutionalisation, it is clear from the examples above that there existed a tension between ‘(actual) loss of honour’ and ‘disrespect’ – a tension that was already built into the structure of the Greek language itself, which captures the importance of the interplay between deference and demeanour, as well as the importance of the audience, in such dynamics of respect and disrespect. Indeed, there were actions that could be construed as dishonourable, and in such cases the disapproval of the community translated into a tangible diminution in the perpetrator’s social and legal standing – into *atimia* as an actual loss of *timē*. But we have seen above – not only in the Homeric passages, but also with the example of Meidias in Dem. 21 – that unwarranted disrespect was also labelled as *atimia*: it is the larger picture – the situation, and one’s ability to convince others to subscribe to one’s interpretation of the situation – that allows to distinguish between the two kinds of *atimia*. The two senses existed in a continuum, and the Greeks themselves seem to have been aware of the potential ambivalence of these notions, which depends both on their bidirectionality and on their context-specificity. Now, it is obvious that only ‘warranted disrespect’ was institutionalised – only warranted disrespect translated into legal *atimia* for the target, who was then regarded as lacking or having lost the claims to recognition that characterise members of the community whose good standing affords them full rights of participation. But that this ambivalence created some anxiety is especially clear from the fact that the institutionalisation of legal *atimia* brought with it a clear differentiation in the verbs used to talk about it.

There are two denominative verbs stemming from *atimia*: *atimotoō* (or *atimaoē*) and *atimazō*. Whereas, in Homer, these verbs are used entirely interchangeably – and, as was seen above, essentially to talk about unwarranted disrespect rather than actual loss of *timē*70 – in our sources from the classical period (and especially legal sources) this is not the case. In these texts, *atimazō* is normally used to describe unwarranted disrespect in situations where one believes that one is being unjustly

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70 Cf. also Joyce (2018: 42), who notes that in Homer and other archaic sources “the verbs ἀτιμάζειν and ἀτιμάν are … normally used in a moral sense to imply the imparting of disgrace or dishonour”.
treated with contempt (or, more generally, instances of disrespect or ‘shunning’ that
do not necessarily lead to legal consequences), while atimoō/atimaō is consistently
used in discussions about the actual legal penalty of atimia qua legitimate and
warranted loss of rights, or in any case in instances where the loss of status is
tangible and real. Once again, Demosthenes’ Against Meidias is particularly telling
in this respect, and especially the two examples mentioned above: that of Strato of
Phalerum and that of Euaeon and Boeotus.71 To discuss Strato’s fate, Demosthenes
invariably employs the verb atimoō:72 at § 87–91,73 when he recounts the full story of
his conviction, and at § 99, when he highlights the irreversibility and seriousness of
Strato’s situation by saying that “he had quite simply been made atimos by the
strength of Meidias’ anger and hybris” (ὑπλόος οὐτος ἠτίμωται τῇ ῥώμῃ τῆς ὀργῆς
καὶ τῆς ὑβρεως τῆς Μειδίου).74 The verb is similarly used to talk about the legal
penalty of atimia in two other instances in the speech. First, at § 103, where
Demosthenes reminds the judges of how ‘dusty’ Euctemon, who had been hired by
Meidias to lodge an accusation for cowardice against Demosthenes,75 “made himself
atimos” (ἐκεῖνος ἠτίμωκεν αὐτόν) by failing to “follow through” with the accusation:
as we will see in Chapter 3 (esp. Sections 3.1 and 3.3), the penalty for this was
precisely (partial) atimia, i.e. the loss of the right to bring any type of public charge
in the future. Second, at § 182–183, in a discussion of the penalties meted out upon
conviction to those who commit offences during a festival, Demosthenes mentions
people who have been put to death or made atimoi by the court,76 sometimes through
the imposition of heavy fines.77 On the other hand, for the episode involving Euaeon
and Boeotus, Demosthenes uses the verb atimazō:78 as was seen above, Demosthenes maintains that, by being punched, Euaeon suffered atimia in that he was disrespected

71 Youni (2019: 375 n.52) touches upon these examples (and Dem. 21.23, which I have discussed
above) when examining the technical and non-technical uses of the noun atimia, but does not mention
the differences in the usage of atimoō/atimaō and atimazō.
72 Even while admitting that the (legal) penalty of atimia also entailed social consequences for Strato
(cf. Dem. 21.92, discussed above), and even while implying that a miscarriage of justice — which
nevertheless led to tangible legal consequences — had occurred: cf. nn.61–62 above.
73 Cf. esp. § 87 (ἀτιμοί [Meidias]) and § 91 (ἠτίμωσεν [Meidias]; ἠτίμωσε [Strato]).
74 In this instance, the proximity of the language of hybris serves further to underline that, according
to Demosthenes, even though Strato had legally and objectively become atimos, he did not deserve it.
75 Clearly in an attempt to tarnish Demosthenes’ reputation: as Demosthenes himself maintains,
Meidias simply wanted the indictment to be posted in front of the monument of the Eponymous
Heroes “for all to see” (ἵνα … πάντες ὁρῶν) — another indication that the crime was regarded as
shameful.
76 Cf. § 182 (ἡτίμωσαν … εἰςίν); 183 (ἡτίμωσαν).[Strato].
77 As had been the case for Smicrus and Scito, mentioned by Demosthenes at § 182: cf. also some of
the inscriptions in Section 2.2 below.
78 Cf. § 74 (ἀτιμαζόμενος).
by Boeotus, not in that he was punished with legal \textit{atimia}, or even in that he lost the respect of his peers because of the punch. And this distinction in the use of the two verbs is observed throughout the rest of the corpus of the orators: among the forty instances of \textit{atimoō}/\textit{atimaō},\footnote{Antiph. 2.4.7; Isoc. 5.64; 16.47, 49; Isa. 5.19; 8.41; Andoc. 1.33, 106; [Lys.] 6.25; Lys. 10.22; 20.34; 25.24, 26; Dem. 18.82; 19.257, 262, 284; 21.87, 91 (x2), 99, 103, 182, 183; 27.67; 28.21; 37.24, 49; [45]84; 51.12; [59]6, 10, 27; Aeschin. 1.134, 183; 3.232; Hyp. 2.12 (fr. 15b.8 Jensen); 3.27; 4.34; fr. 118.5 Jensen. There is another instance at Dem. 21.93, but the testimony inserted at that paragraph is a later forgery: cf. MacDowell (1990: 316–317) and Harris (2008: 120 n.150). A table with all occurrences is in Appendix I.} only one passage (in a non-forensic speech) is not immediately related to the legal penalty of \textit{atimia}: Isoc. 5.64. In this pamphlet, Isocrates is addressing Philip II of Macedon and inviting him to unite all the Greek city-states to lead an expedition against the Persians. Within his argument, he uses the example of Conon who, after the battle of Aegospotami (405 BCE), had a fall from grace, but then recovered at the battle of Cnidus (394 BCE) and managed to revive the fortunes of Athens as well. “And yet”, Isocrates asks, “who would have thought that the affairs of Greece would be overturned by a man who was doing so poorly, and that some of the Greek cities would suffer \textit{atimia (ἀτιμωθήσεσθαι)} while others would raise to prominence?” Of course, Isocrates is not referring to the actual legal penalty of \textit{atimia} here – what he wants to stress, by using the verb \textit{atimoō}, is the fact that this reversal of fortune did in fact happen to these cities. It is not that, subjectively, these city-states felt disrespected – they actually suffered an objective loss of status, and forfeited the position of power they previously enjoyed. But there are also instances where the connection with the legal penalty has not always been recognised.\footnote{There has been some confusion also on Aeschin. 1.183: see Chapter 4, Section 4.1.} In the first of the two speeches against Stephanus ([Dem.] 45), the speaker – Apollodorus, who is perhaps also the author of the speech\footnote{Cf. MacDowell (2009: 120).} – is accusing the defendant of having given false testimony in a previous \textit{paragraphē} trial against his former slave and now stepfather, Phormio. To undermine Stephanus’ credibility, Apollodorus attacks not only him (§§ 53–70), but also his associates, including of course Phormio (§§ 71–82) and his own (Apollodorus’) brother, Pasicles, whom Apollodorus accuses of being actually Phormio’s son and therefore illegitimate (§ 83–84). And indeed, at § 84, Apollodorus claims that, when Pasicles is taking legal action together with Phormio, a slave (\textit{ὁταν γὰρ τῷ δούλῳ συνδικῇ}, and making his own brother \textit{atimos} in the process (\textit{τὸν ἀδελφὸν ἀτιμῶν}), it is very easy to suspect as much. Scafuro (2011: 265), perhaps thinking of the embarrassment and discomfort
which facing one’s sibling in court might cause, seems to read the verb *atimoō* as a reference to ‘dishonour’ in the non-technical sense, and translates “when he [Pasicles] acts as an advocate for the slave and dishonors his brother”; however, the reference to the legal penalty becomes clear when one considers the outcome of the *paragraphē* that led to Stephanus’ prosecution. As Apollodorus himself admits (§ 6), he had lost the previous suit rather spectacularly, having to pay a heavy *epōbelia* of more than three talents,² and Pasicles’ testimony, which is discussed at Dem. 36.22,³ appears to have been instrumental in Phormio’s victory. As was mentioned above – and will be explored in detail in Chapter 3, Sections 3.1 and 3.2 – failure to pay a debt to the state resulted in legal *atimia*, and therefore it makes sense that Apollodorus is here depicting his brother’s association with Phormio as an attempt to make him *atimos* as a result of the debt.⁴ Gernet (1957: 178) does indeed interpret the passage from this perspective, and translates “Lorsqu’on le voit faire cause commune avec son esclave pour faire condamner son frère à l’atimie”,⁵ bringing Dem. 27.67 as a *comparandum*.

The instances of *atimazō* – eighteen in total⁶ – undoubtedly show that the verb is used, in the orators, primarily to convey the idea of ‘unwarranted disrespect’, and in any case to express a notion that does not quite overlap with the legal penalty of *atimia*: aside from the clear example at Dem. 21.74 cited above, a couple of instances in Aeschines’ speech *On the Embassy* (Aeschin. 2) will help clarify this point. In the opening paragraphs of the speech, Aeschines calls out Demosthenes’ inconsistencies in his presentation of Aeschines’ character, and maintains that he is presenting him (Aeschines) simultaneously as both an insurmountable threat and a man of no importance whatsoever. In doing so, Aeschines claims, Demosthenes ‘dishonours’ (§ 9: ἀτιμάζει) him – he disrespects him, not recognising him his due

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² Cf. Scafuro (2011: 126). For the notion that *epōbelia* was paid to the treasury rather than to the opposing litigant, see Whitehead (2002).
³ A speech written by Demosthenes in defence of Phormio for the *paragraphē* trial.
⁴ That the attempt was misguided (and ultimately unsuccessful) is highlighted repeatedly by the speaker through the language of *hybris* (cf. §§ 1, 6, 39, 67, 80, 83, 86, and also § 4, where Apollodorus says that he tried to lodge a suit for *hybris*), and perhaps also through the references to Apollodorus’ current poverty (§§ 73–74, 85), which might suggest that he had paid the fine – as well as, of course, through the fact that Apollodorus himself is in court pleading his case, and therefore not *atimos*.
⁵ Gernet (1957: 178 n.2): “Comme conséquence possible de l’épobélie pour le demandeur débouté et insolvable.”
⁶ Isoc. 2.14; 10.58; 15.72 (essentially quoting 2.14), 235; 20.19; [Andoc.] 4.31 (the use of the verb is comparable with the rest of the corpus, but the speech itself is probably quite late: see MacDowell in Gagarin and MacDowell 1998: 159–161); Lys. 2.27; 16.5; 31.30, 33; Dem. 21.74; 22.62; [40].26, 27, 29; 57.36; Aeschin. 2.9, 121. A table with all occurrences is in Appendix I.
and treating him with contempt. A similar usage of the verb is found at § 121, where Aeschines suggests that an envoy who had been prevented by his colleagues from reporting to the Assembly might rightly consider himself disrespected (ἀτιμασθείς), clearly implying that such behaviour on the part of his fellow ambassadors would be absolutely unwarranted and plainly wrong, and would certainly not entail legal consequences for the disrespected envoy. The same form of the verb is used by Demosthenes, coupled with the passive participle of prospēlakizō, “to drag through the mud” (ἀτιμασθεὶς καὶ προσπηλακισθείς) at Dem. 22.62, when the speaker, Diodorus, is describing how those who had been unjustly slandered and insulted by the defendant, Androtion, had understandably come to hate and antagonise him because of this. In a comparable fashion, in the Antidosis, Isocrates implies that the label of ‘sophist’ qua truly wise man, which had been applied to the likes of Solon and the others of the Seven Sages, is now (unjustly) “disrespected” (ἀτιμαζομένη) and “on trial” (κρινομένη). Another clear instance is in one of the forensic speeches of Isocrates, the Against Lochites: within his discussion of “equality in justice”, the speaker reminds the court that, even though he is poor and not renowned, he is still entitled to a monetary compensation for the crimes of his opponent, and that, by disregarding common people, the judges would be ‘dishonouring’ themselves (ήμας γὰρ ἄν αὐτοῦ ἀτιμάζοιτι εἰ τοιάτα γιγνώσκοιτε περὶ τῶν πολλῶν). Of course, the speaker is presenting this as a mere possibility, as distressing as it is improbable: the judges are unlikely to engage in forms of behaviour that are plainly at odds with their status and role. However, the speaker is

88 The same verb is used in Agora Inv. II. 1702, first published by Jordan (2000): see also Harris (2006) and Harvey (2007). This is a lead letter from the Athenian agora addressed by an enslaved individual (Lesis) to his mother and a certain Xenocles, where Lesis complains that he is being “treated like dirt” (προσπηλακίζομαι) by the “terrible man” (ἀνθρώπωι πάνω πονηρῷ) to whom his “masters” (τὸς δεσπότας) have handed him over, and begs his mother and Xenocles to find a better situation for him. The comparison between this letter and Dem. 22.62 further strengthens the point that dynamics of timē and atimia need not invariably be tied to notions of legal status: of course, an enslaved individual has no timē per se, and yet s/he can still feel that s/he is being disrespected on some level – in this case, for instance, Lesis feels that he is being treated unjustly because he has done nothing to deserve the treatment he is enduring (cf. Harris 2006: 275–276 n.10).
89 Cf. also the previous paragraph, Dem. 22.61, where Diodorus describes the scandalous remarks uttered by Androtion and implies that some of them were actionable under the law on slander.
90 Isoc. 15.235.
91 Cf. Mirthady and Too (2000: 204): “Isocrates is thus the individual who shows that the label ‘sophist’ may be rehabilitated for the fourth century, once the public understands that the true sophist … is one who works for the best interests of the democratic city.”
93 Isoc. 20.19.
94 As the use of the optative (ἀτιμάζοιτι… γιγνώσκοιτε) suggests.
not saying that they would actually become *atimoi* if they did: it was not possible to prosecute a judge, or a body of judges, for mishandling of justice, and therefore impossible to impose *atimia* on them in this way. What the speaker is saying, then, is simply that the judges would be behaving in a way that is beneath them, and that this would be morally wrong, even though it would not lead to negative legal consequences for themselves. Similarly, in the pamphlet *To Nicocles*, Isocrates urges the king to train his intellect “To the extent that you more earnestly despise (*ἀτιμάσης*) the stupidity of others”\(^95\) – contempt for stupidity is justified, but stupidity itself is not a crime. Actual humiliation, but clearly devoid of legal consequences, is implied also in *Lys.* 2.27, a funeral oration, where the speaker describes a Xerxes “cheated of his hope, humiliated (*ἀτιμαζόμενος*) by events, oppressed by disaster, and angry (*ὁργιζόμενος*) at those responsible”\(^96\) from the mention of anger it is especially clear that, from Xerxes’ perspective at least, there has been a misalignment between what he and his dynasty could legitimately expect, given their position and power, and the actual outcome of his father’s expedition.\(^97\)

An interesting example of the use of the verb is presented also by the second speech *Against Boeotus* ([Dem.] 40),\(^98\) which is concerned with the recovery of Mantitheus’ mother’s dowry, especially because the dispute raises important issues of citizenship and legitimacy – and so, potentially, of *atimia* and *epitimia* in the technical sense.\(^99\) To be sure, Mantitheus does often cast doubt on whether his father, Mantias, was also the father of Boeotus and his brother Pamphilus,\(^100\) and of course uncertainty as to their father’s identity would have endangered their citizen status,\(^101\) because being born of two Athenian parents was the *condicio sine qua non* to be considered citizens by birth.\(^102\) However, he sensibly does not make much of this claim in his

\(^{95}\) Isoc. 2.14 (transl. Mirhady and Too). The same wording is found at Isoc. 15.72, where Isocrates is summarising precisely his speech *To Nicocles*.

\(^{96}\) Transl. Todd.

\(^{97}\) Note that, in the *Rhetoric*, Aristotle suggests that anger is the normal response in cases of unwarranted disrespect (1378b29–35).

\(^{98}\) The first speech is Dem. 39.

\(^{99}\) Although, as will be explained in Chapter 4, *atimia* and *epitimia* are relevant not only to (male) citizens, but also to other categories of people that entertain relations with the *polis*, they are of course extremely important to them.

\(^{100}\) For example, at [Dem.] 40.9–11, where Mantitheus describes how his father was tricked into adopting Plangon’s sons despite not being convinced that they were his.

\(^{101}\) Cf. Dem. 39.2: according to Mantitheus, Boeotus claimed that he was being robbed of his citizen rights (*τῆς πατρίδος ἀποστερεῖται*) if Mantias did not recognise him as his son – evidently, he was otherwise unable to prove dual Athenian parentage. See also Dem. 39.34–35 for Boeotus’ anxiety regarding his status and rights.

\(^{102}\) After Pericles’ citizenship law of 451/450 BCE, on which see Patterson (1981) and, more recently, Blok (2009). See also my remarks in Rocchi (2021: 96–97; 100–102).
argumentation: first, because he himself is forced to admit that Mantias seemed to have been, at some point at least, very fond of Boeotus’ mother Plangon, and thus it is not so far-fetched to assume that they had had children together; and second, because it is far easier (and more advantageous to Mantitheus’ argument) to maintain that Mantias and Plangon, even though they had a romantic relationship, were never actually married, since this would effectively disprove the existence of Plangon’s dowry and, in addition, endanger Boeotus’ and Pamphilus’ claim to a portion of Mantias’ estate in the first place – as Joyce (2019) has shown, children of Athenian parents born out of wedlock were still citizens, but were unable to inherit. Thus, it is clear that, when Mantitheus repeatedly uses the verb atimazō in a series of arguments from probability at §§ 26–29, it is not legal atimia that he has in mind, especially since he starts the discussion by assuming his opponent’s point of view and suggesting that Boeotus would say that Mantias had disrespected (§ 26: ἡτίμαζεν) him, his brother, and their mother for the sake of Mantitheus and his mother: obviously, from Boeotus’ perspective (as described by Mantitheus), being excluded from Mantias’ household despite being his son had been a misrecognition of a legitimate claim. Indeed, in the following paragraphs, Mantitheus not only maintains that it would have been far more likely for Mantias to ‘dishonour’ (27: ἄτιμαζεν) – i.e. exclude or banish from his household – him rather than Plangon’s children, but also that Boeotus cannot even claim that Mantias had adopted him as a child and then (unfairly) ‘dishonoured’ (§ 29: ἡτίμαζεν) him later on due to his anger at Plangon. Here the action of dishonouring (atimazein) is explicitly contrasted to adoption and admission into Mantias’ family, and although adoption is a legal procedure and entails legal consequences, it is obvious that exclusion from one particular household does not in itself amount to legal atimia: as is explained at § 10, Mantias had even arranged for Boeotus and Pamphilus to be adopted by Plangon’s brothers, which would have preserved their political rights intact (τούτων γὰρ γενομένων οὕτε τούτους ἀποστερήσεσθαι τῆς πολιτείας) while still preventing them from joining his family – which, in Boeotus’s view as Mantitheus presents it, was a

103 See the reluctant remark at [Dem.] 40.8, the reference to passion at § 9, and the admission that Mantias had a relationship with Plangon both before and after Mantitheus’ mother’s death at § 27.
105 Although he does suggest, at § 22, that Boeotus and Pamphilus might have been atimoi because their maternal grandfather (Pamphilus) was still listed as a state debtor, but this has nothing to do with their father Mantias and with the issues of paternity and legitimate birth.
106 Cf. Dem. 39.23.
clear lack of respect (atimia), irrespective of whether they kept their citizen status or not.

Similarly, the verb atimazō makes an appearance, from the perspective of the defendant, in another speech where the issue of citizenship is even more prominent: Demosthenes’ Against Eubulides (Dem. 57), a speech delivered in the aftermath of the citizen review (diapsēphisis) of 346/345 BCE. The speaker, Euxitheus, is striving to prove that his exclusion from the deme’s register has been a mistake – or, rather, the result of an elaborate ploy orchestrated by his desmesman and longstanding enemy Eubulides – and that he actually is an Athenian citizen because both his parents were Athenians. When discussing his mother’s citizenship, Euxitheus concedes that she has previously worked as a wetnurse, that she sells ribbons in the agora, and that she undertook these ‘servile’ occupations because of his family’s poverty. And yet, he claims, this is no proof of her (and his) non-citizen status: there are plenty of poor but honest Athenians who work in the agora, and the court should not unjustly disrespect them (§ 36: μηδαμῶς … τοὺς πένητας ἀτιμάζετε) by misrepresenting them as aliens and thus denying them what they are due. Once again, then, the speaker uses the verb atimazō to flag what he wants to represent as unwarranted ill-treatment. It is also worth noting here that, technically speaking, the unsuccessful defendant in this kind of appeal would have been sold into slavery, rather than suffering atimia – this is undeniably a dishonourable and shameful fate, but the two legal penalties (atimia and slavery) remain distinct, even though both achieve the result, one way or another, of excluding an individual from the community by effecting a change in status.

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109 Cf. Dem. 57.35, 40, 42, 44–45.
110 Cf. Dem. 57.31, 34–35.
111 Cf. Dem. 57.42, 45, 52.
112 At the beginning of the speech (§ 1), the speaker also mentions the shame (aischynē) of being convicted in such a trial, thus highlighting the socio-ethical, extra-legal damage that this entailed.
113 Note also that Euxitheus, with a tit-for-tat strategy that is not uncommon in forensic speeches, seeks to present the person who is trying radically to exclude him from the community as the one who truly does not have the credentials for participation: since presumably it was not viable for him to maintain that Eubulides was not a real citizen himself, he first claims that he was partially atimos because he failed to secure one-fifth of the votes in an impiety trial and lost his right to bring public charges (cf. § 8; this would not have affected his ability to act as an elected prosecutor in this trial: see Harris 2006: 409), and then implies that Eubulides would be liable to the law against idleness, a crime for which recidivism led to atimia (§ 32; see also Chapter 3, Section 3.3). This might suggest that the speaker saw the issues of apopsēphisis (i.e. the cancellation of a name from the citizen list) and atimia as different but contiguous.
Indeed, in some other instances, despite the fact that *atimazō* itself is undoubtedly not a technical verb, its connection with the notion of *atimia* clearly has the potential to evoke the legal penalty without explicitly mentioning it in contexts where it would have been either inappropriate or inexpedient to do so, and it is therefore interesting to see how the orators can sometimes exploit this possibility as a rhetorical device. The best example of this is perhaps in Lys. 31, a *dokimasia* speech against a prospective member of the Council, Philon. After explaining at length why Philon is not worthy of Council membership, often by suggesting that the prospective *bouleutēs* had engaged in actions – such as maltreatment of parents or military misconduct – that are punishable with *atimia*, the speaker says in so many words that the members of the outgoing Council, who are presiding over the *dokimasia*, should punish Philon at least “with the *atimia* available at this moment” (§ 29: τῇ γε παρούσῃ ἀτιμίᾳ), that is, rejection from office – since, as was discussed in Chapter 1, the notion of *timē* can identify a legal right, revocation of a right can be construed as *atimia*. Lysias, however, is well aware of the fact that this *atimia*, despite effectively preventing the victim from exercising a legal right, is contiguous but not entirely assimilable to the legal penalty, i.e. the *atimia* that he evoked when speaking of neglecting one’s parents or deserting one’s post. Therefore, he duly moves, in the following paragraph (§ 30) to a more general remark about how the Council honours good men (τὸς ἄγαθος ἄνδρας … τιμᾶτε) and dishonours the bad ones (τὸς κακοὺς ἄτιμαξετε) – he uses the non-technical verb *atimazō* not only to broaden the scope of his argument, but also because, strictly speaking, the Council does not convict people in the same way as a law court does, and certainly, from the legal point of view, rejecting a prospective councillor at his *dokimasia* is not equivalent to a conviction for the relevant crimes, even though it might lead to it. Accordingly, at § 33, Lysias’ client explains to the members of the Council that they

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114 Youni (2019: 375) notes the rhetorical play between *atimia qua ‘loss of rights’* and *atimia qua ‘dishonour’ or ‘disgrace’* in this speech, but again makes no point about the verbs used.
115 Failure to bury his mother: §§ 20–23; likening of his behaviour to desertion in battle: § 28 (cf. Carey 1989: 200). If the Solonian law on *stasis* prescribing *atimia* for those who do not side with either party is genuine (cf. n.138 below), this could be framed as relevant in Philon’s case, but it is true that Lysias’ client does not mention it outright – despite the fact that he uses the same words (at § 14) that, according to [Arist.] *Ath. Pol. 8.5*, stood in the Solonian text – and, more disturbingly, seems to maintain that such a law does not exist ( §§ 27–28). On this problem, see Todd (2000: 308–309) and Valdés Guía (2021: 194–195), whose argument, however, appears to me not entirely convincing.
116 And indeed the *atimia* represented by the debarment from office is contrasted with the bestowal of special rights (*timai*) on deserving metics at the beginning of the same paragraph.
117 See especially Chapter 3.
118 See also Carey (1989: 201), quoted also by van ’t Wout (2011a: 126 n.5).
would not disrespect Philon (οὐ γὰρ ὑμεῖς νῦν αὐτὸν ἀτιμάζετε) by not letting him hold office, but it is rather he himself who has behaved in a manner that has made him unworthy of active participation (ἀλλ᾽ αὐτὸς αὐτὸν τότε ἀπεστέρησεν): in this instance, with one verb, Lysias not only shows his awareness of the relationship (and difference) between rejection at a dokimasia and atimia upon conviction, but also suggests that, by excluding Philon, his client’s fellow councillors are not ‘unjustly disrespecting’ him – he would indeed have no right to be angry (μόνος δὴ … δικαίως οὖν ἂν ἄγανακτοι ἡ τυχὼν), as for example Euæon with Boeotus, or those who were slandered and disrespected by Androtion, or even Xerses (from his own point of view) when he felt unjustly humiliated, because Philon fully deserves to be excluded from office. The expression, then, exonerates the outgoing councillors from the accusation of having unjustly disrespected Philon while simultaneously suggesting that Philon himself has indeed made himself atimos, and his atimia could (and should) very well be actualised.

A rhetorical use of the verb that fully capitalises on its connection with the legal penalty of atimia is in Isocrates’ Encomium of Helen: in what appears to be a response to Gorgias’ work of the same title, which Isocrates defines a defence speech (apologia) rather than an encomium (§ 14), he focuses on Helen’s most notable and praiseworthy characteristic, her beauty, and sets aside some paragraphs (§§ 54–58) to discuss the importance of beauty in general. At the end of this section, Isocrates remarks that our reverence and concern for beauty are so great that “of those who possess beauty, we dishonour (ἀτιμάζομεν) those who hire themselves out (τοῖς … μισθαρνῆσανταῖς) and make bad decisions with regard to their youthful charms more than those who wrong the bodies of others”. The reference to the legal penalty of atimia could not be more evident: as we know from the Against Timarchus –where, incidentally, the verb mistharneō (‘to hire oneself out’) is repeatedly used – male citizens who engaged in prostitution were regarded as atimoi and required to behave as such. And yet, Isocrates does not quite want to use the technical term precisely because the verb here governs two categories, one of which – actual male prostitutes

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119 Which, as was seen above, is the most common sense of atimazō.
120 Dem. 21.74 (cf. § 72 for the reference to orgē).
121 Dem. 22.62.
122 Lys. 2.27.
123 Isoc. 10.58.
125 See especially Chapter 3, Section 3.4.
might be subject to *atimia* in either sense (technical and non-technical), while the
other – those who mishandle their beauty – would more normally be subject to it
only in the non-legal sense. Moreover, Isocrates wishes his statement to have general
validity from a moral standpoint: he is not interested in examining the legal
consequences of (male) prostitution – which are not immediately relevant in this
case – but rather in using this analogy, grounded by the allusion to legal *atimia*, to
demonstrate the extent to which the misuse of beauty is generally regarded as
morally base. In addition to this, it is interesting to note how, throughout the speech,
isocrates often borrows forensic terms – like ‘judge’, ‘witness’, or ‘proof’ – but
intentionally gives them a different spin by using them in entirely non-legal
contexts: he toys with legal notions and terminology without committing to a
forensic style or to full-blown legal argumentation but both to show awareness of the
apologetic style of the previous *Encomium of Helen* – his polemical target – and to
highlight, by contrast, his superior command of the encomiastic genre. In light of
this, it is not entirely unlikely that, in alluding to *atimia*, Isocrates might have had at
the back of his mind a specific passage of the Gorgian speech, where the legal
penalty is directly mentioned in a discussion on how “the undertaking undertaken by
the barbarian [scil. abducting Helen and using *hybris* on her] was barbarous in
word and law and deed and deserves blame in word, *atimia* in law (νόμῳ δὲ ἀτιμίας),
and punishment in deed”.

Isocrates would then be showcasing not only his greater
ability in using legal elements appropriately within a non-forensic speech, but also
his deeper knowledge of Athenian law – while, in classical Athens, (male)
prostitution did invariably result in *atimia qua* debarment from active participation in
government, the penalty upon conviction for *hybris* was not fixed by law. Finally,
a striking example is represented by Lys. 16.5. Among the passages in which the
non-technical verb *atimazo* is used, this is the one for which the connection with the
legal penalty of *atimia* would seem, at first sight, indisputable: when the speaker,

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126 Isoc. 10.38, 41, 42, 46, 47. Cf. also the use of the verbs *skopein* and *dokimazein*, with reference to
Paris, at § 47 (dealloc δὲ σκοπεῖν ὄποιος τις ἤν καί δοκιμάζειν αὐτὸν οὐκ ἓκ τῆς ἀρήγης τῆς τῶν ἀποτυχοσθέν', ἀλλ' ἓκ ὄν ἄπασας βουλευσάμενα προεέλλοντο τὴν ἐκείνου διάκονον).
127 Isoc. 10. 38 (μάρτυς), 63 (μαρτυρεῖν).
128 Isoc. 10.8, 60 (with the characteristic turn of phrase μέγατον δὲ τῶν εἰρημένων τεκμήριων).
129 Cf. the beginning of the passage: εἰ δὲ βία ἤπατθή καί ἀνόμας ἐξίσοτη καί ἀδίκως υβρίσθη, δῆλον ὅτι ὁ <μὲν> ἄρπασας ὡς υβρίσας ἥδικηγέν, ἢ δὲ ἄρπασθέντα ὡς ἄρπασθέντα ἑυσυγέρεθην.
130 Gorg. Hel. 7 (transl. Gagarin and Woodruff modified).
131 Gorgias was, after all, from Leontini.
132 Although, in principle, it could be *atimia*, most probably as the result of a sizeable fine.
Mantitheus,\textsuperscript{133} says that the Thirty “would rather dishonour (ἦτιμαζοῖν) those who joined them in overthrowing the δῆμος” than giving people who were abroad – like himself – a share in the constitution (μεταδιδόναι τῆς πολιτείας), it might be hard to believe that he did not think, perhaps almost exclusively, of the diminution of rights of those who were debarred from active participation almost overnight by the Thirty, which can be framed as a type of legal atimia. But the use of atimazō instead of the technical verb atimoō\,latimaō does not seem, to me, casual: as will be seen in more detail in Chapter 3, imposing atimia on an individual (atimoō\,latimaō) is always the result of a legal process which, even though mistakes can be made,\textsuperscript{134} is fundamentally sound and depends upon criteria that have been agreed upon by the community. On the contrary, the Thirty’s regime had been the epitome of illegality and unlawfulness – they killed and exiled, removed citizens from government,\textsuperscript{135} and disregarded the legitimate claims of both citizens and metics, and nothing they did, Mantitheus seems to suggest, can be described with the language of the law. While the unlawful exclusion enacted by the Thirty can be (and at times is) described as atimia,\textsuperscript{136} with the non-technical verb atimazō Mantitheus is able to embrace – and stigmatise – a wider range of disrespectful treatments, and all the examples of ungratefulness even towards those who helped them, perpetrated by the Thirty, and simultaneously to imply that they were operating completely outside the boundaries imposed by the law.

Our legal sources,\textsuperscript{137} then, appear to be remarkably consistent: although both families of verbs – atimazō on the one hand and atimoō\,latimaō on the other – stem

\begin{itemize}
  \item \textsuperscript{133} Who might or might not belong to the same family involved in Dem. 39 and [40]; cf. Todd (2000: 178), who quotes Davies (1971: 364–365, no. 9667).
  \item \textsuperscript{134} As, for example, Demosthenes seems to imply in Strato’s case (cf. Dem. 21.83–100 and see above), and even in his own (cf. Dem. Ep. 2 and Chapter 1).
  \item \textsuperscript{135} Cf. Lys. 30.15.
  \item \textsuperscript{136} Cf. Lys. 12.21, where Lysias is expanding on the list of crimes of the Thirty and says that “many who were epitimoi they made atimoi” (πολλοὶ ὡς ἐπιτίμους ὄντας ἄτιμους {τῆς πόλεως} κατέστησαν). In this case, the illegality of their behaviour is the main point of the speech and does not need to be further highlighted in this context.
  \item \textsuperscript{137} But also other prose texts: cf. e.g. Thuc. 3.42.5 (where atimazō is used in a generic sense and contrasted with zēmioō ‘to punish’, which would not make sense if atimazō referred to atimia as a penalty); 6.38.5 (where atimazō is used with the sense of ‘unjustly depriving one of one’s due’); Xen. Hell. 4.1.27 and Ages. 5.5 (where atimazō conveys the idea of ‘unwarranted disrespect’) contrasted with [Xen.] Ath. pol. 1.14, 3.12–13 (where atimoō has the technical sense of ‘imposing the penalty of atimia’); Pl. Ap. 30d2 and Resp. 8.55b5 (where atimoō is used in the technical sense) compared with Ap. 19.c5, 34e1 and Resp. 8.549d5, 551a4–5 (where atimazō is used to identify disrespect or disregard); [Arist.] Ath. Pol. 53.6 (where atimooō describes the penalty meted out to misbehaving public arbitrators) compared with Arist. Pol. 1302b11–12 and Rh. 1378b30 (where atimazō identifies disrespect that is perceived as unjust by the victim). Another interesting passage is Pl. Leg. 784d2–e1, where Plato prescribes that, in his ideal city, both men and women of reproductive age who engage in
from the noun *atimia*, only *atimoō* or *atimaō* is used to describe the legal penalty, or other instances where the diminution in status is indisputable; in contrast, *atimazō* always expresses a kind of disrespect that is felt to be – or might be construed as – unjustified by its target or the wider audience. Both nuances are present in the noun *atimia* and the adjective *atimos*: the contexts in which these words are used are the key to understand them.

2.2 *Atimia* in legal inscriptions from the fifth and fourth centuries BCE

As a full-fledged legal penalty, *atimia* seems to have started to be used rather early in the history of Greek legislation. Aside from the entrenchment clause of a seemingly ancient homicide law and three laws attributed to Solon, which survive in later sources, the first appearance of *atimia* in legislation is in an entrenchment clause of an inscribed decree, *IG* IX 1\textsuperscript{2} 3.718, a bronze plaque found in Galaxidi (ancient Chaleion) and normally dated to the early fifth century BCE, and we will see that the inclusion of *atimia* in entrenchment clauses will carry on until at least the late fourth century BCE. The document reported on *IG* IX 1\textsuperscript{2} 3.718 relates to the extramarital sex shall be *atimoi* (expressed with the legal formula ἄτιμος ἔστω) and lose certain prerogatives – attending marriages and children’s birthday parties, as well as, for women, female excursions (τῶν ἑξόδων ... τῶν γυναικῶν) and other feminine ‘honours’, i.e. rights (τιμῶν) – whereas, in contrast, older men and women would simply be held in disesteem (ἄτιμαξίζησθο). On this passage, see also Chapter 1, Section 1.2.

138 Entrenchment clause: Dem. 23.62; Solon’s ‘law on stasis’: [Arist.] *Ath. Pol.* 8.5; Solon’s ‘tyranny law’; [Arist.] *Ath. Pol.* 16.10 (on *atimia* being no mild punishment at all also in this case, see Youni 2018: 143); Solon’s ‘amnesty law’: *Plut., Sol.* 19.3. The entrenchment clause in Dem. 23.62 is probably authentic, but this need not mean that it belongs to Draco’s homicide law (see Canevaro 2013: 71–73); the Solonian laws present several problems that are still an object of debate and would deserve a detailed treatment of their own but, for the present purpose, suffice it to say that the usage of *atimia*-terminology is comparable with that of inscriptions, and none of the texts confirms the purported relationship between *atimia* and outlawry: see Youni (1998; 2001; 2018; 2019) and Joyce (2018; 2021).

139 In the words of Lewis (1974: 81), an entrenchment clause is “a clause inserted in a decree in an attempt to give it greater permanence and to limit any future attempt … to reverse the decree by making it impossible or at least very difficult and dangerous to do so”; cf. Harris (2006: 23–25). See also Rainer (1986: 163–164), who draws a distinction between entrenchment clauses and penalties proper, and most recently van ’t Wout (2011b: 145), who has re-examined the use of *atimia* in entrenchment clauses and concluded that “it was the product of a verbal strategy to construe authority for communal agreements”. While I agree that *atimia* is used to construe authority, I think van ’t Wout unduly underplays the legal aspects of the notion, which she labels as “a quasi-magical speech act” (p. 146), and overcomplicates the issue by failing to take into account the bidirectionality of *timē* and *atimia*: see below.

140 Koerner 49 = ML 20 = *Nomima* I 43.

141 Jefferies (1961: 105–106) dates the inscription around the period 525–500 BCE. The date is accepted also by Harris and Lewis (2022: 238).

142 Cf. *IG* XII 9.191 below. Other later inscribed documents, which will not be included in this survey, where *atimia* appears are: *IG* XII 2.645 (c.315 BCE); *IG* V 2 = *IPArk* 17 (300–303 BCE), which is the
recolonisation of Naupactus through the joint efforts of settlers from Opuntian Locris and Chaleion, and contains a series of provisions regulating the relationship between these settlers, their new hometown, and their respective motherlands. The first three – unnumbered – provisions (lines 1–11) seem to be of a very general nature, and constitute the premise to the following nine – numbered and more specific – regulations.\(^{143}\) They have to do with the status of the settlers in relation to their cities of origin from the social, religious, and economic points of view, and make clear that a Hypocnemidian Locrian, once he had moved to Naupactus, became a citizen of Naupactus.\(^{144}\) For example, the decree lays down, first, that if a colonist happened to be in his original home town (line 3: ἐπιτυχόντα), since he was now a Naupactian (line 2: Ναυπάκτιον ἕνα), he was allowed (line 3: ἐξείμεν) to participate in social life and religious activities (λανχάνειν καὶ θύειν, cf. lines 2–3)\(^{145}\) to the extent to which it was appropriate for a foreigner (line 2: ἧς ὡς ξένον οσία, with the verb ἦστι implied),\(^{146}\) if he so wished (line 3: αἰ κα δείλεται); second, that he and his family (line 4: αὐτὸν καὶ τὸ γένος) held these rights of participation (again expressed as λανχάνειν καὶ θύειν in lines 3–4), in perpetuity (line 4: κατ’ αἰϝίε), both from the whole civic body (line 4: δάμο) and from other associations (line 4: ϒοινάνον); third, that the colonists were not supposed to pay any taxes (lines 4–5: τέλος ... μὲ φάρειν) among the Hypocnemidian Locrians, unless they restored their former Eastern Locrian citizenship (line 6: φρίν κ’ αὖ τις Λορχὸς γένεται τὸν ἡποκναμιδίον). The following provisions go into more detail with regard to rights and duties – especially in terms of inheritance laws – of the colonists,\(^{147}\) and give a glimpse also of the differences in status between these colonists: the fifth provision of the decree (lines 22–28), for instance, seems to prescribe that the two groups of the Percothariae and

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\(^{143}\) On the form and arrangement of this decree, see Graham (1964: esp. 230–232).

\(^{144}\) See Graham (1964: 51–52).

\(^{145}\) The verb λανχανό literally means ‘to obtain one’s (due) share’ and the context, where different modes of participation are being detailed, makes clear that it should be read as ‘occupy one’s place in society’, Contra Peels (2017: 113), who maintains that “λανχανεῖν concerns the food distribution after the sacrifice” (emphasis in original).

\(^{146}\) On the word hostios, see Peels (2016).

\(^{147}\) The second provision (lines 14–16) is particularly interesting in that it states that, if any of the colonists has unsettled debts in Naupactus, “he is to be (shut out) from the Locrians until he has paid his due to the Naupactians” (ἀπὸ Λορχὸν ἐμαν ἐνε τὸι νόμιμα Ναυπακτίος), thus indicating a type of exclusion that seems to have been different from atimia.
Mysacheis – who were probably “specially privileged groups” (Graham 1964: 58) – were allowed to keep their property in Hypocnemidian Locris, as opposed to other classes of colonists, who were presumably expected to give up property rights in their motherland. At the end of this list detailing specific entitlements and obligations of different groups of colonists (relative both to their respective motherland and their respective status), the ninth and last provision contains the entrenchment clause (lines 38–41), which states that “whoever disregards these decisions by any cunning or device whatsoever (lines 38–39: τέχναι καὶ μαχανὰτ καὶ μυῖα), unless it is agreed upon by both parties, the assembly of the Opuntian Thousand and the assembly of the Naupactians colonists, shall be atimos and his property shall be confiscated (lines 40–41: ἄτιμον εἶμεν καὶ χρήματα παματοφαγεῖσται).” The provision continues by saying that the appointed magistrate shall grant a trial to the accuser within thirty days and that, if he fails to do so, he too shall be punished with atimia and his property, comprising both the estate and any enslaved individual, shall be confiscated (lines 41–45, esp. 44–45: ἄτιμον εἶμεν καὶ χρήματα παματοφαγεῖσται, τὸ μέρος μετὰ ρουκιστᾶν). Although it is clear that the colony was made up of quite a heterogeneous group of people, then, it is also equally clear that the penalty for disobeying the statute – and, in the case of the magistrate, for interfering with the prosecution of those who disobey the statute – is always atimia, to be meted out, it would seem, after a trial. And the penalty of atimia seems in fact particularly apt in such contexts where those who need to be punished might not share the same status and rights. As was discussed in Chapter 1, Section 1.1, timē can refer both to ‘status’ (in general) and to ‘rights’ (in particular), and thus atimia can be used to target either one’s rights or one’s status altogether, whatever these status and rights might be, and we will see below – and in more detail in Chapter 4 – that there is evidence that atimia was used against different categories of people, insofar as they entertained a relationship with the polis administering the penalty. Since entrenchment clauses function as blanket statements in prescribing a punishment for anyone who acts against the statute, atimia represents the perfect penalty, because it is specific in identifying the type of punishment – a loss of status and rights – but adaptable and flexible enough to be applied to whomever happened to break the provision of the statute, who would then lose whatever status and rights s/he previously enjoyed. In the case of this decree, for

148 On the exception in case of modification approved by both parties, see van ’t Wout (2011b: 155 n.40).
instance, it is obvious that members of the Percothariae or the Mysacheis who disobeyed the statute would have more to lose if they incurred *atimia*, because their rights were more extensive to begin with. Selecting *atimia* as a penalty for this type of offence, then, allowed the authorities to be simultaneously clear, thorough, and concise.

Another early example of an inscribed decree including *atimia* as a penalty comes from Chios (*Chios* 76). The inscription itself, normally dated to the period 475–450 BCE, seems to be composed of two distinct — but thematically related — documents, of which only the bottom half remains on the stone: on face A, a decree detailing the delimitation of an area named Lophitis through the positioning of seventy-five boundary-stones (*horoi*); on faces B, C, and D, dispositions regarding the sale of possibly confiscated properties. The *atimia*-clause is found on face A, where it serves the purpose of protecting the boundary-stones by prescribing that, if anyone removes, misplaces, or conceals the boundary-stones “to the detriment of the *polis*” (lines A 12–13: ἐπ’ ἀδικί-η τῆς πόλεως), this individual is to owe one hundred staters and be *atimos* (lines A 13–15: ἐκατόν σ-τατήρας ὀφειλέτω, κάτ-μος ἐστω): thus, *atimia* is not here the (temporary) consequence of not paying the fine, as happened also in classical Athens, but rather a penalty on top of the fine. The ‘guardians of the stones’ (*horophylakes*) are to exact the fine and, if they do not, they are liable to the same amount (lines A 15–18). Responsibility to collect the fine from the *horophylakes* then rests with “the Fifteen” (lines A 18–19: οἱ πεντεκαὶδεκα), and, should they also fail, they are to be placed under a curse (lines A 20–21: ἐν ἐπι-αρη ἔστον), presumably pronounced by the *basileus* (cf. lines C 7–9). In this case, then, the curse serves to enlist divine help “as the last resort, at the top of a chain of accountability” (Rubinstein 2007: 275): it acts as a device to ensure that punishment is administered in case of negligence on the part of magistrates, and also to spur them to do their job by — quite literally — ‘putting the fear of god’ into them.

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152 See in more detail Chapter 3, Sections 3.1 and 3.2. Cf. also *FD* III 1 294 and *CID* I 9 below.
154 See also Scafuro’s (2007) response.
155 Cf. Faraone (2002). A curse is used in connection with *atimia* in *Erythrai* 1 (on which see below). The fact that, in many inscriptions where *atimia* and confiscation of property are envisaged, a tithe of
The practice of including *atimia* in legislation is well attested also for Athens, and especially for those decrees that have to do with foreign policy. In *IG I³* 21, a very fragmentary treaty that has been dated to either 450/449 BCE,\(^{156}\) *post* 450/449 BCE (and possibly in the period 446–442 BCE),\(^{157}\) or 426/425 BCE,\(^{158}\) and details a series of provisions regulating the relationship between Athens and Miletus, the restoration of lines 27–28 as ἄτι-[μο]ς ἔστο καὶ τὰ χρέματα ἀ[ντὸ δεμόσια ἔστο τὲς τε θεὸ τὸ ἐπιδέκατον (“let him be *atimos* and his property be made public and the tithe go to the goddess”) is hardly disputable.\(^{159}\) It is not immediately clear who the target of *atimia* would be, whether the five officials sent by Athens (cf. lines 4–5), in case they do not perform as instructed by the decree, or a larger group including also Milesian authorities who are probably expected to liaise and act in tandem with the Athenian officials,\(^{160}\) or indeed any of the allies (lines 26–27: τὸ-[ὀν χιε]μάχον ἡπὶ τὶ ἀμ μὲ άθε[ναίοις …]), or all those who are expected to swear the oath (cf. lines 69–72), but, as we have seen above, the flexibility of the penalty could easily accommodate a wide range of different scenarios involving individuals with different political and social statuses.

Another similar clause is found in *IG I³* 40,\(^{161}\) a statute that relates to a conflict between Chalcis and Athens and has been dated to either 446/445 BCE or 424/423 BCE.\(^{162}\) This well-preserved document – composed of two decrees (lines 1–39 and 40–69 respectively)\(^{163}\) and a rider (lines 70–80) – has been regarded as extremely important evidence in investigating how Athenians managed their allies,\(^{164}\) especially because it was passed in the wake of a revolt, and its main aim seems to

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\(^{156}\) Cf. Oliver (1935: 182).


\(^{161}\) ML 52 = OR 131.

\(^{162}\) See Osborne and Rhodes (2017: 180–181). For the second date, see Mattingly (1961) and (2002), but see the comments in Lambert (2017: 28–31), who concludes that “the case for neither date is decisive … but in the present state of evidence and debate, 446 looks more likely.”

\(^{163}\) As suggested in lines 41–43, the text of the first decree (containing the oaths) is the same as that of the decree detailing the settlement between Athens and Eretria, now identified with *IG I³* 39 (cf. Osborne and Rhodes 2017: 176).

have been that of preventing this from happening again.\textsuperscript{165} The atimia-clause (lines 33–36) – which is similar to but perhaps not exactly coterminous with an entrenchment clause\textsuperscript{166} – appears right after the text of the oath (lines 21–31) that is to be sworn by all Chalcidians of military age (lines 31–32: ὀμόσαι δὲ Χαλκιδέων τὸς ἥβοντ-ας ἡπάντως), and specifically states that whoever does not swear (line 33: ἥς δ ὃ μὲ ὂμόσει) is to be atimos (lines 33–34: ἀτιμοὶ αὐτ-όν ἐναι), his property made public (line 34: καὶ τὰ χρέματα αὐτοῦ δεμόσια) and a tithe of it dedicated to Olympic Zeus (lines 34–36: καὶ τὸ Διὸς τὸ Ὀλυμπίο τὸ ἐπιδέκατον ἡρῴ-ν ἓστο τὸν χρεμάτων). Although an oath – whose text is reported at lines 4–16 of the first decree – is sworn also by the Athenian judges and Counsellors, it is clear that the threat of atimia concerns the Chalcidians specifically. This is suggested not only by the position of the clause in the stele (immediately following the Chalcidians’ oath), but also by the fact that the tithe of the property of the atimos is to be dedicated in the temple of Olympic Zeus at Chalcis (cf. lines 61–62). Moreover, as is made clear at the end of the text of the Athenians’ oath (lines 14–16), the Athenians’ observance of their end of the bargain is dependent upon the Chalcidians’ compliance with the terms of their oath, and the fact that no other constraints are placed upon the Athenians – together with the overall tone of the inscription\textsuperscript{167} – has the plain purpose of showing that they had the upper hand in this situation. The notion of atimia features prominently also elsewhere in the document: first, in the Athenians’ oath, where they promise not to inflict atimia on any private individual (lines 6–7: οὐδὲ ἑιδότεν οὐδένα ἄτιμ-όσο)\textsuperscript{168} – alongside the promise not to lay waste to the city and not to expel, exile, imprison, execute, and confiscate the money of anyone who had not been convicted in court (lines 4–9) – “without the authority of the Athenian people” (lines 9–10: ἄνευ τοῦ δέμο τοῦ Αθ-εναίον);\textsuperscript{169} second, in the rider appended to the second decree, where it is clarified that the Chalcidians are allowed to hold audits of magistrates in their own courts (lines 71–73), except where a penalty of exile, death, or atimia is involved (lines 73–74: πλέν φυγές καὶ θανάτ-ο καὶ ἄτιμας), which

\textsuperscript{165} Cf. the beginning of the oath sworn by the Chalcidians in lines 21–25, where they promise not to revolt and to denounce anyone who does, as well as the final sentence on “obey[ing] the Athenian people” (lines 31–32).

\textsuperscript{166} The clause is not listed in Lewis’ (1974) survey of entrenchment clauses in Athenian decrees and, strictly speaking, it does not protect the decree from reversal, but rather spells out the consequences of not swearing the oath.

\textsuperscript{167} Which is “polite but very firm” (Meiggs and Lewis 1969: 140). See also Lambert (2017: 22).

\textsuperscript{168} Note that the verb used is the technical verb atimoō: on the denominative verbs stemming from atimia, see Section 2.1 above, with Appendix I.

\textsuperscript{169} What Lambert (2017: 23) calls “a sting in the tail”.

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shall be referred to the court of the thesmothetai in Athens (lines 74–76: περὶ δὲ τοῦτον ἔφεσιν ἔνα-ι Αθηναζὲ ἐς τὲν ἐλαίαν τὲν τὸν θεσμο-ετῶν κατὰ τὸ φσέφισμα τὸ δέμο). Combining this last note with what we read at the beginning of the Athenians’ oath, it is possible to surmise that the Athenians reserved the right to control – or at the very least have the last word in – any judicial process in Chalcis for which the penalty upon conviction was particularly serious, and especially when it took the form of exclusion from the community (whether physical and permanent or in the form of a diminution of participatory rights). 170 This is perfectly consistent with the context – the aftermath of a revolt – in which these decrees were passed: the Athenians wished to keep a close watch on the composition of the Chalcidian dēmos – and chiefly on those people who held a position of power and would undergo a scrutiny, some of whom might well have been favourable to the Athenians and therefore unpopular with some sections of the Chalcidian population 171 – to prevent and forestall any further unrest. Thus, it is clear that the Athenians exercised very broad and comprehensive judicial – and, thanks to their supervision of dēmos-composition through the courts, political – control over Chalcidian affairs, and that those who were made atimoi by the Athenians lost (some or all of) the rights that they enjoyed in the Chalcidian community – as well as, presumably, any particular privilege they might hold in Athens by virtue of the relationship between the two poleis. 172

IG Ι 3 46, 173 a decree laying down provisions for the establishment of an Athenian colony at Brea, 174 which is probably to be dated in the 430s BCE, 175

170 I differ from Meiggs and Lewis (1969: 143) in that I take εὐθύνας in line 71 to mean precisely ‘audit’ or ‘scrutiny’ of magistrates rather than simply ‘punishments’, but I also differ from Osborne and Rhodes (2017: 179) in that I believe that what the document is saying here is that all cases that entail exile, death, or atimia are to be judged by an Athenian court, whereas, in the case of audits of magistrates, the Chalcidian courts can take care of the whole process unless the examination ends with a guilty verdict for which the penalty is one of those listed above – in which case, the decision shall be reviewed by the court of the thesmothetai in Athens (lines 74–76 quoted above). The provision found in the rider seems to me to be a clarification in response to a concern that was probably expressed by the Chalcidian envoys who negotiated this arrangement, as is likely to be the case also for the note on hostages in lines 47–52 of the second decree: cf. Meiggs and Lewis (1969: 140; 141) and Osborne and Rhodes (2017: 177–178).


172 The document is discussed also by Youni (2019: 368–370), but she does not explore its significance in terms of the relationship between Athens and Chalcis.

173 ML 49 = OR 142.

174 The precise location of this polis is under dispute: see, most recently, Psoma (2009), with previous bibliography, who follows Pazaras and Tsanana (1990; 1991; 1992; 1996) in identifying Brea with modern Verghia, south of Nea Syllata, in Chaldice.
presents another mention of *atimia*, in an entrenchment clause, in the context of Athens’ imperialistic efforts in the northern Aegean. The first part of the document is now missing, but from what we can make out from the first readable section (lines 5–7) it appears that some legal arrangements were being discussed, followed by several other practical issues: recommendation to seek good omens (lines 7–10); provisions on land distribution (lines 10–12); indication of the oecist, Democlidès (lines 12–13); regulations on sacred precincts (lines 13–15); arrangements on the appropriate offerings from the colony to Athens for specific festivals (lines 15–17); provisions for the defence of the colony (lines 17–21); mention of the publication of the stele (lines 21–24); entrenchment clause (lines 24–30); further details on the colonisation party, which is to include soldiers as well, and the time frame for the foundation (lines 30–35); and a short rider (lines 36–46) asking that a certain Phantocles be introduced to the Assembly at the following meeting, and requiring that only *thētes* and *zeugitai* – the two lower citizen classes in Athens – be involved in this enterprise. The entrenchment clause is seemingly quite harsh: in addition to the indication that “if anyone puts to the vote a motion contrary to the stele, or if any *rhētōr* makes a proposal or tries to issue a summons diminishing or rescinding any of what has been voted, he shall be *atimos*” (lines 24–27: *ἐὰν δει τις ἐπιφσεφίζει παρὰ τῆ[ν στελ]-[ἐν ἐ ρρέ]τορ ἄγορευτι ἡ προσκαλέσθαι[ν ἐγχερ]-[ἐι ἀφαι]ρέσθαι ἐ ὠν τι τόν ἕφσεφι[σμὸν], [ἐτίμον] ἐναι), with the usual corollary that his property is to be confiscated and a tithe dedicated to the goddess (lines 28–29), the provision also states that his children, too, are to be *atimoi* (line 27: *αὐτὸν καὶ παῖδας τὸς ἐχε [ἐκένο])]. This, as will be discussed in more detail in Chapter 3, is possible but not necessary with *atimia*, which in fact is not normally extended to the descendants unless explicitly specified, and is automatically hereditary only in the case of public debtors. In this instance, the comprehensiveness of the penalty is probably to do with the strategic and political importance of the colony, and testifies to the fact that both the colonists and the Athenians wished for the colony to persist and prosper in

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175 Psoma (2009) and, more extensively, (2016) argues for the end of the archon year (late spring or early summer) 434/433 BCE, and a date in the early 430s BCE is suggested also by Osborne and Rhodes (2017: 243), but other dates have been put forward: Woodhead (1952) proposes 439/438 BCE; Mattingly (1963; 1966) has 426/425 BCE; Meiggs and Lewis (1969: 132–133) offer 446/445 BCE.

176 The decree is discussed also by van ’t Wout (2011b: 146–148).

177 Youni (2019: 373–374) mentions this decree, alongside IG I2 71 and 1453 and Dem. 23.62, for the expression ἀτίμος δεῖτο in entrenchment clauses.

the future. However, the seriousness of the punishment is partially curbed by the final (fragmentary) note in the entrenchment clause (lines 29–30: ἐὰμ μὲ τὶ αὐτὸι ἕοι ἵποι[οι ...][... δὲ]ονταί), which seems to envisage an exception in case a request – presumably for changes in the very detailed dispositions listed above – is issued by the colonists themselves. As Graham (1964: 61) notes, “the Athenian demos controls … changes [in the provisions of the decree]”, because any proposal would be discussed in the Assembly, “but denies itself the right to initiate them” by automatically imposing atimia on any proposer who is not a colonist. The assumption was probably that colonists would be more qualified to request necessary modifications to the arrangements of the decree after experiencing life in the apoikia, whereas a rhetōr in the metropolis might be more likely to propose inexpedient changes for personal gain. It seems clear, however, that the threat of atimia loomed over both citizens of the colony and citizens of the metropolis, with different sets of rights being lost in each case.

Another Athenian imperialistic document, the tribute reassessment decree of 425/424 BCE (IG I3 71), similarly contains an entrenchment clause envisaging atimia for the offender. Although, as Lambert (2017: 37) remarks, “the state of preservation of this inscription” can be described as “frustrating”, the general gist of the document is fairly easy to piece together: in response to the tremendous financial pressure Athens was under due to the aggressive military policies of the mid-420s BCE, the Athenians decided to increase the tribute paid from allied city-states, and laid down provisions to this effect. It has been observed that the tone of the inscription is particularly aggressive towards Athenian officials, and indeed the whole document contains several mentions of monetary penalties, sometimes as high as 10,000 drachmae, for those magistrates who fail to perform their duty, or fail to do it on time. Thus, the entrenchment clause (lines 31–33) – with the usual prescription of atimia and confiscation of property, with a tithe dedicated to the goddess, for anyone impeding the assessment of the tribute during the Great Panathenaea – is perfectly consistent with the general character of the monetary

180 ML 69 = OR 153.
182 Cf. e.g. Meiggs and Lewis (1969: 197); Osborne and Rhodes (2017: 318); Lambert (2017: 39, 42).
183 Cf. lines 15; 37–38. See also Blok (2022) and n.185 below.
penalties, especially because, very often, hefty fines that were almost impossible to pay acted as a roundabout way of imposing atimia on an individual as a debtor to the state. However, the entrenchment clause is not a simple reduplication, in clearer terms, of what is implied by the monetary penalties, because, although Athenian officials are still included in the provision, the clause seems to be broader in its scope: by imposing atimia on “anyone else” (line 31: τις ἄλλος) who might try to disturb or impede the assessment, this measure effectively seeks to counteract any possible disruption of the process from any quarter. After all, envoys from the allied city-states were probably supposed to be involved, to some extent, in the tribute assessment, and they could appeal to an Athenian court presided by the polemarch in case of disagreement with the Athenian tribute-assessors. Therefore, it is not impossible that they might need to be discouraged from being too vocal in the inappropriate setting – perhaps with the threat of losing the right to get access to the suitable legal channels.

For the penalty of atimia applied to foreigners, we also have a parallel in IG I3 1453, which will be further discussed in Chapter 4, Section 4.3. This composite inscription, whose text has been reconstructed from nine fragments, some of which are now lost, reports provisions (normally numbered 1 to 12) of a decree enforcing the use of Athenian coins, weights, and measures in all tributary allied city-states of the empire. Once again, the date of this document is uncertain, but most scholars seem to agree on “either a date in the 420s or a date closer to 415”. Aside from the (extremely harsh) entrenchment clause in provision § 6, which establishes the death penalty – with, however, the possibility to dispute the charge – for anyone proposing

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185 Cf. e.g. Dem. 21.181, with MacDowell (1990: 398); 37.49; [58]; [59].6. See also Isoc. 20.16, where the speaker seems to suggest that, in charges of hybris, the penalty for the convicted defendant should be high enough to prevent that individual from engaging in such behaviour again (περὶ δὲ τῆς ὑβρίσεως, δοσον ἀποτίκου ὡς φοίνων παύσατο μὲλλει τῆς παροῦσης ἀπολογείας) – perhaps a reference to the social, legal, and political neutralisation suffered by a victim of atimia. Blok (2022) discusses how these 10,000-drachma fines seem to be a specific feature of decrees dated from c.430 to c.414 BCE, and argues that “the amount of these fines are not just monetary values, but penalties with a forceful social meaning” (p. 111). Moreover, she notes that “the decrees threaten [offenders] in effect with being rendered atimos” (p. 114), and that “the atimia that might result was not just collateral damage, but intentional” (p. 115). See also Johnstone (2022: 93) who, in his discussion of the notions of punishing and valuing, states that “a large fine … was equivalent to atimia”.

186 Cf. lines 6–7. We also know from IG I 68 that tribute-collectors were chosen among the population of the allied cities (cf. also Antiph. fr. 52 Th.), and they presumably had to respond to Athenian authorities (cf. Antiph. fr. 51 Th. with Meiggs 1972: 241); see also the next note.

187 Cf. lines 11–16, and see also fragments of two speeches by Antiphon written on behalf of Lindos and Samothrace regarding their tribute payment (frr. 25–33 and 49–56 Th.); cf. Meiggs (1972: 240–242); Lambert (2017: 39).

188 See Osborne and Rhodes (2017: 328).

189 Osborne and Rhodes (2017: 337). Note, however, that there is no secure basis for this date.
a different use of the funds,\textsuperscript{190} and the following indication (clause § 7) that generals who fail to assist the heralds are to be fined 10,000 drachmae,\textsuperscript{191} there is another interesting entrenchment clause for a provision found earlier in the text. In clause § 3, the decree states that “if any of the magistrates, citizen or foreigner, fails to comply with the dispositions of the decree, he is to be atimos, and his property be made public, and a tithe be dedicated to the goddess” (ἐὰν δὲ [τις τῶν ἄλλ]ῶν ἀρχόν[τον ἐν τ]άσι πόλεσιν μὴ ποιή καὶ[τὰ τὰ ἐνήνισμένα ἢ τῶν πολιτῶν ἢ τῶν ἄξιων, [ἀγί]μ[ῶς ἐστῶ καὶ τὰ χρή]ματα δημόσια [ἔστω καὶ τῆς θεοῦ τῷ ἐπιδόκου]).\textsuperscript{192} Osborne and Rhodes (2017: 337) maintain that “this is the only time an entrenchment clause is applied to allied officials, rather than to Athenian citizens”, but, as we have seen above and will see further below, other entrenchment clauses in Athenian decrees seem to have entailed legal consequences for members of other communities.\textsuperscript{193} Moreover, the indication that both citizen and foreign officials, if noncomplying, had to be made atimoi sheds some further light on the use of atimia as a penalty, and strongly suggests that the punishment was available for different categories of individual: what each of these officials lost ultimately depended upon the kind of rights he had to begin with. This disposition is further clarified in the following clause (§ 4), where it is stated that, if in any city there are no Athenian officials present, local magistrates need to enforce the decree,\textsuperscript{194} with what seems to be another entrenchment clause (ἐὰμ μὴ ποιήσῃ κατὰ τό ἐνήνισμένα) possibly mentioning atimia again (τοῦτον περὶ ἀτι[]) towards the end of the section.\textsuperscript{195}

A similar attitude towards atimia is displayed also in the later Athenian decree (378/377 BCE) inviting states inhabited both by Greeks and by ‘barbarians’

\textsuperscript{190} Cf. Osborne and Rhodes (2017: 337).

\textsuperscript{191} Which, as we have seen, will have been the same as atimia for at least some of them: cf. n.185 above.

\textsuperscript{192} This clause has not been much discussed in scholarship on atimia. Hansen (1976), who has defended the exclusive link between atimia and citizenship, only discusses IG I\textsuperscript{3} 1453 in connection with apagōgē (p. 17 n.3; p. 20 n.21; p. 21 n.25). Van ’t Wout (2011b: 147 n.15) translates “when a politician in the cities acts against the decisions of the citizens and the xenoi, he must be atimos”, but her translation is based upon an incorrect text (τὰ ἐνήνισμένα τῶν πολιτῶν ἢ τῶν ἄξιων instead of τὰ ἐνήνισμένα ἢ τῶν πολιτῶν ἢ τῶν ἄξιων).

\textsuperscript{193} See IG I\textsuperscript{3} 46, where atimia seems to be envisaged also for colonists, and IG II\textsuperscript{2} 43 below. Cf. also IG I\textsuperscript{3} 21, where it is specifically stated that the Chalcidians who did not swear had to be atimoi on the authority of the Athenian courts. Of course, these Chalcidians were technically citizens (of Chalcis), but the fact remains that the Athenians are here imposing a penalty on members of a foreign community who entertain a special relationship with Athens.

\textsuperscript{194} Cf. Meiggs and Lewis (1969: 113): “Responsibility for carrying out the decree is to rest with Athenian officials in the cities … and, if there are none, with local officials.”

\textsuperscript{195} Note that the letter ἀ in ἀτι[ is uncertain: cf. Osborne and Rhodes (2017: 330).
(cf. lines 15–18) to join the Second Athenian League, *IG* II² 43. After a series of promises from the Athenians, which were meant to protect the allies from the imperialistic excesses that had characterised the Delian League (lines 15–46), and the clarification that this was to be a defensive alliance (lines 46–51), the usual entrenchment clause (lines 51–57) imposing *atimia* and confiscation of property with a tithe dedicated to the goddess further specifies that this fate would befall any offender, whether magistrate or private citizen (lines 51–53: τις ... ἣ ἄρχον ἣ ἰδιώτης), and adds that the miscreant who made a proposal contrary to the decree was to be judged by the Athenians and the allies (lines 57–59). Aside from suggesting that decisions were to be less unilateral – at least nominally – than they appear to have been within the Delian League, the adjudication by a joint panel further reinforces the impression that the entrenchment clause was not meant to function solely against Athenian citizens and officials, but rather against any member of the alliance who went against the provisions of the decree. The reference to capital punishment and exile as possible penalties upon conviction (lines 59–63) probably indicates that the charge could be disputed, but the litigant, if unsuccessful, might incur even more serious penalties on top of *atimia*. Moreover, the fact that the offender who suffered the death penalty had to be buried outside of Attica and allied territories seems to be a further expression and confirmation of *atimia qua* negation of a right – to be buried in one’s homeland – that also maintained social and extra-legal undertones of ‘disgrace’; the ‘dishonour’ unsuccessfully disputed in court followed the criminal to the grave.

Aside from the Naupactus decree discussed above, entrenchment clauses that employ *atimia* are found also in a few other non-Athenian decrees. In *IG* XII 8.264, a decree from Thasos, dated to the late fifth or early fourth century BCE, awarding Thasian citizenship to children of a foreign man and a Thasian woman (cf. lines 8–10), the mention of property confiscation at the end of the entrenchment

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196 RO 22.
198 See examples above, especially *IG* I³ 40 and *IG* I³ 71.
199 Cf. Rhodes and Osborne (2003: 102): “Proposals to depart from the prospectus could presumably be made by an Athenian in the council or assembly or by a *synedros* in the *synedrion*, or perhaps by a citizen of an allied state in his own state.”
200 Cf. also SEG 31.67 = RO 29, a stele containing a *dogma* of the allies of the Second Athenian League dated to 373/372 BCE (preceded by an Athenian decree dated to 372/371 BCE) which details a reconciliation after a civil war in Paros and possibly contains a mention of *atimia* (meted out collectively by the allies) in the last readable lines: see Accame (1941: 229–244).
201 For *atimia* and burial practices, see Chapter 1, Section 1.2.
clause in line 16 (καὶ τὰ χρήματα αὐτὸ ἱρὰ ἔστω τὸ Ἑρακλέ[ος]) strongly supports the supplement ἀτιμὸς or ἀτιμός ἔστω in the lacuna at the end of line 15, after ὦ δὲ ἀμ ἀμ ἀμ παρὰ ταύτα ἐπιψηφίση vel ποιήσῃ vel sim.,203 with perhaps the indication that the same penalty was envisaged for both magistrates and private citizens (ἦ ἄρχων ἢ ἰδιώτης) who acted against the dispositions of the decree.204 That the notion of atimia was relevant to these regulations, which had to do with participation in the community, is suggested also by the fact that the decree had apparently something to do with “the law on atimia” (lines 11–12: πρ-ός τὸν νόμον τὸν τῆς ἀτιμῆς τόδε τὸ ψήφισμα).205 A comparable entrenchment clause is found in IG XII 7.3, a decree from Arcesine (Amorgos) regulating mediation processes in legal disputes,206 dated to the beginning of the fourth century BCE. Here, the entrenchment clause is slightly more complicated, and comes after the specification that the prytanis shall not make a proposal or put a proposal to the vote regarding the decree and, likewise, that the introducing magistrate (eisagōgeus) shall not introduce a case contrary to the decree (lines 38–41: μηδὲ πρύτανι[ς] προτιθέτω μηδὲ ἐπιψηφιζέτω μηδὲ ἐσα[γ]ωγεύς ἐσαγέτω). The clause itself is then twofold: the first part is more generic, and states that the person who introduces a case contrary to the decree – presumably the eisagōgeus207 – or does anything against the decree – presumably the prytanis, but perhaps also anyone making a proposal – shall owe a 3,000-drachma fine dedicated to Hera and be atimos (lines 40–42: ἄν δὲ ἐσάγη παρὰ τὰ γε-γραμμένα ἢ ποιήσῃ, ὀφελέτω τρισχίλια δραχμάς τῆς Ἡρη καὶ ἀτιμὸς ἔστω); the second part specifies that also the other eisagōgeus – and not just the one who specifically introduced the case – is to owe the same monetary penalty and be atimos (lines 42–44: αἱ ὦ ἔ[ς]-αγογεύς ἐκάτερος ὀφελέτω τρισχίλια δραχμάς καὶ ἀτιμὸς ἔστω),208 and will be considered responsible “for having brought a case contrary to this decree and the statute of limitation” (lines 44–46: καὶ ὑπόδικος καθ’ ὅ ἄν ἐσαγάγη δίκην παρὰ τόδε

203 I am, on the contrary, not entirely convinced by the supplement for lines 5–6 in IG XII supp. p. 152: ἣν δὲ τις ταύτα ἀναδημικ[η] ἢ ἄρχων ἢ ἰδιώτης, αὐτόν τε ἀτιμὸν καὶ τὰ δόξαντα ἄκωρα εἶναι.

204 IG XII 8.264: ὦ δὲ ἀμ ἀμ παρὰ ταύτα ἐπιψηφίση(ται), ἀτιμὸς ἔστω; IG XII supp. p. 152: ὦ δὲ ἀμ παρὰ ταύτα ἐπιψηφίσῃ ἢ ἄρχων ἢ ἰδιώτης, ἀτιμὸς.

205 Perhaps it had to be inscribed alongside or in addition to the law on atimia: cf. IG XII supp. p. 152: προσγράμματο πρ-ὁς τὸν νόμον κτλ.


207 These magistrates are referred to in the plural at lines 18–19; 25; 28–29, and they were probably two: cf. ἐκάτερος in line 43.

208 Atimia is again here a penalty on top of the fine, rather than the consequence of not paying the fine: see Chios 76 above.
ψήφισμα καὶ τῆμ προθεσμίην). A late example, belonging to the last decades of the fourth century BCE, is provided by IG XII 9.191, a contract between the city of Eretria and the businessman Chaerephanes regarding the draining of a swamp, which Chaerephanes has pledged to carry out within four years (cf. lines A 7–9) in exchange for the right to exploit the reclaimed land for ten years (cf. lines A 5–6). In order to perform this job, he is granted exemption from taxes (ateleia) and immunity (asylia) for both himself and his workers, for the whole duration of this enterprise, and all citizens and ephebes are made to swear an oath to uphold these decisions. The entrenchment clause at lines A 29–33 is particularly stern if anyone (τις), whether magistrate or private citizen (ὅ ἢ ἄρ[τι]ς ἢ ἰδιώτης), disputes the validity of the agreements, or proposes or votes something against these agreements, thus preventing Chaerephanes and his workers from fulfilling their obligations, he shall be atimos (ἄτιμος ἐστο), his property dedicated to Artemis (καὶ τὰ χρήματα αὐτοῦ ἐστο ἱερὰ [τῆς Ἀρτέμιδος]), and whatever he might suffer, he shall suffer with impunity (ὅ ἢ πάθω, ἡμὴν ἡμᾶς πασχέτω). Another entrenchment clause in roughly the same terms (lines A 56–58), directed at anyone who might speak, or make or vote proposals, against the oath with a view to the annulment of these agreements, is appended to the text of the oath, and the penalty of atimia might have been prescribed also for those who did not swear (cf. line A 43: δὲς δὲ ἢ μὴ ὑμὸς, [ἄτιμος ἐστο]). This is especially interesting because, if the integration of ἄτιμος ἐστο in this clause were correct, we would have yet another...

209 On liabilities of boards of officials, see Rubinstein (2012), who mentions this inscription at p. 349 n.51.
212 Unless war (lines A 13–16) or his own death (lines A 27–29) prevent this – in the latter case, his heirs will benefit from the same agreement.
213 Cf. lines A 2–5 and 9–10.
214 Cf. lines A 35–38.
215 Cf. lines A 10–13, 42–47 (details on the ephebes), 48–51 (text of the oath). Sides B and C of the decree report the names of all citizens and ephebes who have sworn.
216 And this, along with the special privileges voted for Chaerephanes and his workers, is a testament to the importance of this undertaking: cf. Foxhall (2007: 69–71).
217 It is possible that this condition was extended to the descendants as well, if the supplement [καὶ αὐτῶς καὶ γένος τὸ ἐξ ἀυτοῦ] in line A 32 is correct.
218 Youni (2001: 132) discusses this passage and stresses that this is not an open invitation to kill the offender, but rather the indication that he is not protected by law. This, incidentally, further suggests that the term atimos does not have the basic sense of ‘to be killed with impunity’ or ‘outlaw’ (i.e. a completely unprotected person): if this meaning were already implicit in the term, it would make no sense to specify it further with ἡμοιοί πασχέτω. Cf. also Youni (2018).
219 [ἐὰν δὲ τις λέγῃ ἢ] [γράφῃ ἢ ἐπιγραφῇ παρὰ τοῖς δρόκους] [δὲς ἀκουόν δὲ ἡ τάς συνθήκες] [ἀτιμίῳ] [ἐστο καὶ τὰ χρήματα αὐτοῦ τιμά ἔστω τῆς Ἀρτέμιδος τῆς Ἀμαρσίλας καὶ δὲ] [ἀν πάθητι] [ἡμοῖοι πασχέτω κ.][αὶ αὐτὸς καὶ γένος τὸ ἐξ αὐτοῦ].
example of *atimia* used against different categories of people: we know from the text that both citizens and ephebes were required to swear, and the fact that two different magistrates – the *probouloi* for the citizens and the *stratēgoi* for the ephebes (cf. lines A 44–48) – were in charge of administering the oath to the two groups, as well as the presence of two separate lists of names, one for the citizens and one for the ephebes, at the end of the decree clearly show that they were perceived as two distinct groups. Of course, ephebes were essentially young men on their way to full citizenship, but they were not full-right citizens yet: thus, the notion of *atimia* would embrace here both the existing rights of full-fledged citizens and the prospective citizenship rights of ephebes, plus any particular entitlements they might have *qua* ephebes, such as, for example, not only participation in the ephebic training itself, but also access to the gymnasium, permission to participate in special contests and processions, particular seats in the theatre, immunity from liturgies, and perhaps even membership in Ephesian groups.

Other legal inscriptions include *atimia* in contexts slightly different from entrenchment clauses, as for example the well-known Athenian law against tyranny of 337/336 BCE (*IG* II³ 1.320), where *atimia* – for both the offender and his descendants – and confiscation of property with a tithe dedicate to the goddess are prescribed as the penalties against any Areopagite who keeps performing this function in case of overthrowal of the democracy. Outside of Athens, *atimia* is mentioned in an inscription, dated to the end of the fifth or the beginning of the fourth century BCE, from Erythrai (*Erythrai* 1), as the penalty, on top of a fine, against any *grammateus* who serves more than once (lines 9–13), as well as in two

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220 Henderson (2020, esp. 3–35) maintains that ephebes were already full-right citizens prior to their service in the *ephēbeia*, but the thesis is ultimately not convincing: see Chankowski (2022).

221 Cf. e.g. the four obols that the ephebes received in Athens according to [*Ath. Pol.*] 42.3.

222 For rules regulating access to the gymnasium for ephebes (and others), see e.g. *EKM* 1 Beroia 1 (= *SEG* 27.261), i.e. the Gymnasiarchal Law of Beroea; see also *SEG* 65.420, i.e. the Ephebarchic Law of Amphipolis, for regulations about contests and processions, theatre attendance, and immunity.

223 *RO* 79.

224 It is interesting to note, with Youni (2018: 150), that, in the same decree, the penalty for the person who established a tyranny or tried to overthrow the democracy is to be killed with impunity (*IG* II³ 1.320 lines 7–11); the fact that this penalty and *atimia* against Areopagites are listed as two different sanctions for two different crimes against different categories of offender further confirms Youni’s idea that outlawry and *atimia* are two different legal remedies. See also Joyce (2018: 55–56), refuting Dmitriev (2015).

225 Koerner 74 = *Nomima* I 84.

226 Who is declared *atimos* and ‘cursed’ (line 11: κατάρητον): again, the curse seems to be used as a device both to enlist the gods’ help in the enforcement of the penalty and to instil religious concerns in the potential offender. Koerner (1993: 279) is perhaps right to believe that the same penalty would
inscriptions from Delphi which impose \textit{atimia} as a temporary penalty for public debtors.\textsuperscript{227} The first (\textit{FD} III 1 294),\textsuperscript{228} a law regulating the interest of loans dated to the period 425–375 BCE, envisages consecration (to Apollo) of the offender’s property (col. 7 lines 9–11), as well as the condition of \textit{atimia} “until the debt is paid” (col. 7 lines 11–12: \textit{ἀντίς [ἄτιμο]ς ἕστω πᾶ[ρ Δ]-[ἀλφοῖς ἔντε κάπακαλα]γῆι τοῦ \[χρέους]}, in case the person does not fulfil a payment on time (cf. col. 7 line 9). The second (\textit{CID} I 9),\textsuperscript{229} dated to the late fifth or early fourth century BCE, is the re-inscription of a late archaic law of the so-called ‘phratry’\textsuperscript{230} of the Labyadae in Delphi.\textsuperscript{231} This text, inscribed on the four faces of a block, mentions temporary \textit{atimia} for defaulting debtors, without confiscation of property, twice: first, at lines B 40–45, where it is the penalty for Labyad magistrates (\textit{tagoi}) who have been fined for having accepted marriage and childbirth offerings contrary to the law and are to be \textit{atimoi} among the Labyadae, with regard to both this and any other monetary penalties, until the debt is paid (\textit{αἵ δὲ καὶ μὴ ἄπο-τέσημη, ἄτιμος ἕστω ἕγ Λαβυαδᾶν καὶ ἐπὶ τοῦτοι καὶ ἐπὶ ταῖς Ἀλλάις ζαμίας ἑντε κ’ ἀποτε-ίσημ});\textsuperscript{232} second, in a more generic provision at lines C 16–19, which prescribes \textit{atimia} until payment of the debt (\textit{ὕστερ-ς δὲ κα ζαμίαν ὀφείλη}, ἄτ-μος ἕστω ἑντε κ’ ἀποτε-ίσημ) for anyone who is fined as a result of a trial introduced by the \textit{tagoi} and judged by the \textit{alia}, the assembly of the Labyadae (cf. lines A 38–44).\textsuperscript{233} This second document from Delphi is particularly interesting because it represents a piece of legislation that concerns a specific subgroup, rather than the entire community. Therefore, these provisions clearly illustrate how \textit{atimia} could be used as a legal device to mandate exclusion

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\begin{itemize}
\item have befallen also any magistrate employing such a \textit{grammateus}, as well as anyone proposing or putting to the vote the re-election of a \textit{grammateus}.
\item Which, as will be seen in Chapter 3, esp. Sections 3.1 and 3.2, was the case also in classical Athens.
\item \textit{BCH} 50.3 (Homolle 1926).
\item Koerner 46 = RO 1.
\item On the term ‘phratry’ used for this gentilicial group, see Sebillotte (1997). On phratries in Attica, see Lambert (1993). For the view that phratry membership in Attica regulated inheritance claims rather than citizenship entitlement (although it could be used as proof of citizenship), see Joyce (2019).
\item As Rhodes and Osborne (2003: 8) point out, there are “two further versions of at least part of the regulations” inscribed in \textit{CID} I 9, one from Delphi (\textit{CID} I 9 bis = \textit{Nomima} 71) and one from Panopeus/Phanoteus (on which see, recently, Rousset, Camp, and Minon 2015), both from the late archaic period.
\item Again, \textit{atimia} is used here as a tool to keep magistrates in check: see above \textit{IG} IX F 3,718 (esp. lines 41–45); \textit{IG} I 71; \textit{IG} I 1453; \textit{IG} XII 7.3; \textit{IG} II 1.320; \textit{Erythrai} 1 (and potentially \textit{IG} I 21). See also Youni (2001: 127). Note that the penalty of \textit{atimia} is particularly significant for a magistrate, who would of course also lose his special status as magistrate alongside ‘regular’ rights.
\item Cf. Rhodes and Osborne (2003: 9): the \textit{alia} is the assembly of the whole of the Labyadae and can act as “a court before which cases involving group business are heard, and which has the power to remove membership rights and to impose fines”.
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\textsuperscript{227} Which, as will be seen in Chapter 3, esp. Sections 3.1 and 3.2, was the case also in classical Athens.

\textsuperscript{228} \textit{BCH} 50.3 (Homolle 1926).

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\textsuperscript{233} Cf. Rhodes and Osborne (2003: 9): the \textit{alia} is the assembly of the whole of the Labyadae and can act as “a court before which cases involving group business are heard, and which has the power to remove membership rights and to impose fines”.

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from groups that need not coincide with the citizen body: although it is likely that the Labyadae represented a subdivision or subset of the Delphic population, and they seemed to conform to the laws of Delphi at least in some respects, which in turn implies a close relationship with the institutions of the polis, membership to the Labyadae was not equivalent to polis membership – that is, while it might very well be the case that all Labyadae were citizens, it certainly does not follow that all citizens needed to be Labyadae. Accordingly, in the first provision related to atimia, it is specified that the defaulting tagos “is to be atimos among the Labyadae” (line B 41: ἄτιμος ἔστω ἐγ Λαβυαδᾶν), and this is very likely to be the case also for the second provision. This presumably means that the person would lose the possibility to participate in group activities, such as assembly meetings and religious festivals, and, in the case of a tagos, that he would also be deposed from office, but it is unlikely that this exclusion was enforced also at polis level, because the fines were specifically owed to the Labyadae.

From its use in legal inscriptions, then, it seems clear that atimia had taken up a very distinctive legal shape quite early on in its history as a penalty, and that this legal shape was informed by its sense of ‘warranted disrespect’, which took the form of a diminution of status and rights within the community, in response to actual shortcomings – a sense that is ultimately to do with the bidirectionality and flexibility of the notion of timē itself, which the Greeks understood and construed intuitively through the conceptual structure of their language: as we have seen in the Introduction, the vocabulary of timē fully captures the interplay between deference, i.e. both one’s respect for others’ claims and others’ respect for one’s own, and demeanour, i.e. the respectable conduct, self-presentation, and self-respect that safeguard one’s own claims to deference, which is the foundation of human

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234 Cf. lines B 15–17 with Rhodes and Osborne (2003: 9). That there existed also laws specific to the Labyadae in addition to those of the polis is confirmed by lines A 1–3.

235 Note that also the person whose unlawful offerings have been accepted “is not to be a member of the Labyadai nor share the common funds or institutions” (lines B 45–50, transl. Rhodes and Osborne 2003: 4). It is likely that, in this case, the atimia-terminology was avoided because, as we have seen in Section 2.1 above, it is also morally charged: the person making the offering might have made a mistake in good faith, and could always rectify it and apply for membership again, whereas the tagos was considered fully responsible.

236 Religious festivals are the object of face D of the document: these seem to be, for the most part, festivals open to the whole population “to which a feast of the Labyadai is attached” (Rhodes and Osborne 2003: 11), but there is also mention of a festival (Apellae), similar to the Apaturia, which was exclusive to the group. Presumably, the individual who was atimos among the Labyadae could not be excluded from civic festivals altogether and was simply excluded from the Labyad celebrations.

interaction. As was the case already in the Tyrtaeus passage examined above, the kinds of behaviour that are sanctioned with (warranted and justified) atimia are those that are dishonourable in the first place, and especially those that expose anti-social tendencies. This is especially clear for entrenchment clauses, where atimia is the penalty for a person who attempts to go against a decision that was agreed upon by the community, thus displaying deviant and destabilising behaviour, but also for those cases where atimia is the consequence of breaking an oath, the undertaking of which clearly entails religious and social obligations alongside the judicial aspect of the procedure\textsuperscript{238} – and, indeed, disregarding an oath was ‘dishonourable’ in that it was obviously bound to harm one’s reputation of trustworthiness, and threatened the viability of exchanges and transactions based on trust.\textsuperscript{239} The notion of moral obligation seems relevant also to the selection of atimia as the punishment for those magistrates who fail to perform their duty as detailed in the inscribed laws and decrees: these individuals have been granted a special status that should allow them to act for the common good – a status that comes with a clearly defined role, and with clearly defined prerogatives. Therefore, if they betray the trust of the community by being negligent or abusing their power, thus failing to do what is required and expected of them, the circle of their timē (and timai) is broken: they lose the very power they have abused – and, more broadly, the right to participate in the very community they have harmed – as a result.

An interconnection between the legal and extra-legal senses of atimia is clear also from the use of the term in the so-called ‘diagramma of Ptolemy’ (SEG 18.726 = SEG 9.1),\textsuperscript{240} a late decree, normally dated to 322/321 BCE,\textsuperscript{241} which offers several details on the form of government and the composition of the dēmos in Cyrene under Ptolemy Soter before his acquisition of the royal title. From the outset (lines 2–4), the decree states that men born from Cyreenean fathers and Cyreenean or Libyan mothers “in the region stretching from the Katabathmos to Autamalax”\textsuperscript{242} shall be citizens (line 2: πολλαὶ ται ἔσονται). The citizen body, or politeuma (line 6: πολιτεύμα), will be made up of the Ten Thousand (line 6: οἱ μύριοι), indicated by

\begin{footnotesize}
\textsuperscript{238} Cf. e.g. Rhodes (2007) and other essays in Sommerstein and Fletcher (2007).
\textsuperscript{239} See also Thgn. 1135–1150.
\textsuperscript{240} This interconnection was noted by Poddighe (2001), who builds on conclusions drawn by Maffi (1983).
\textsuperscript{241} Cf. recently McAuley (2015: 428).
\textsuperscript{242} McAuley (2015: 428–429), who also stresses how this territory was extremely vast, and how this “leads us towards seeing this constitution as federal”.
\end{footnotesize}
Ptolemy, who meet the necessary property requirements (cf. lines 7–9), while the government will be in the hands of the Council of Five Hundred, chosen by lot among those of the Ten Thousand who are older than fifty (lines 16–17). The decree, however, makes clear that meeting the property requirements, in itself, is not enough to be part of the active members of the politeuma: whoever is a doctor, a paidotribēs or more generally a physical trainer, or a herald in the Prytaneion cannot aspire to those magistracies that are reserved to the Ten Thousand (lines 44–45: μὴ συνπορε[νσ]-θω μυριακάς ἄρχας) and, if selected by lot, is expected to give up the position (line 45: δὲ ἂν τῶν ἔπικληρω[θε]ι, τῆς ἄρχης [παλ]υσάσθω). But there is also a further (fragmentary) specification, which seems to state that any one who is a member of the citizen body (line 46: δὲ ἂν τῶν πολιτῶν) – presumably by virtue of being born into that condition – and happens to be too litigious (lines 46–47: πολυδίκης ἐστωσαν) or to work as a middleman (line 47: παλικαπηλε[ύηι]), regardless of whether he meets the property requirements or not, is to be in a condition of atimia (line 48: ἐν τῇ ἀτιμίᾳ ἔστωσαν), which presumably entailed the exclusion from those rights to which he would have been entitled by birth. In addition, all those employed in menial occupations are also completely banned from becoming a stratēgos (lines 48–50). Thus, it would seem that a distinction is being drawn between two different kinds of exclusion: the first is an exclusion from the magistracies for those who, despite having a ‘high-profile’ profession that is either intellectual or is to do with leisure activities, still work for pay – something which is notoriously frowned upon by Greek elites; the second is a more radical exclusion that stems from either a fault of character – litigiousness – or the engagement in a profession that is evidently considered far beneath not only the dignity of a magistrate, but also the dignity of a citizen tout court. In these two provisions, then, the use of atimia-terminology in the second case but not in the first seems to depend on the element of negative judgement (here attached more prominently to humble

243 The assumption is that middlemen might increase the price of an item without providing any additional service in return: cf. [Dem.] 56.7; [Arist.] Ath. Pol. 51.3.
244 There also seems to be a reference, in line 47, to προδικία, ‘priority of trial’, but the role it plays here is unclear.
245 Oliverio (1928: 209) already noted that in an Aristotelian fragment (fr. 611.18 Rose) it is stated that in Cyrene “there was a law according to which those who were excessively litigious and initiated malicious prosecutions were brought to court by the ephors, who fined them and made them atimoi” (νόμος ἂν τοῖς πολυδίκοις καὶ κακοπράγμονας ὑπὸ τῶν ἀρρόνων προέγγυσθαι, καὶ ζημιοῦν τοῦτος καὶ ἀτίμως πουεῖν).
246 Poddigehe (2001: 43 n.33) gives several examples of the prejudice against menial work in the classical period.
banausic professions) which, as was discussed above, is an intrinsic element of the penalty: although being rejected or having to step down from office is sometimes described in terms of atimia, the governing body seems, here, keen, or at least tactful enough, to avoid attaching excessively or openly negative undertones to the first type of exclusion detailed in the decree (i.e. debarment from magistracies for doctors, physical trainers, and heralds), because it would be at the very least impractical completely to alienate, en bloc, each and every member of these categories – that is, people who perform useful services, have regular interactions with citizens (which might be simplified by a proximity in status between the social agents), and might decide to move away from the polis, with great disadvantage for the polis itself, rather than put up with a diminished standing within the community. Thus, even though, in principle, the people excluded from magistracies through the first provision might still feel resentful about it, the document does at the very least refrain from openly humiliating these more distinguished – and more useful – occupations. On the contrary, misusing the courts and having a lowly banausic profession are depicted, through the language of atimia, as irrevocably shameful circumstances that bring about unpleasant legal consequences – specifically, exclusion from the civic body tout court.

But the link between legal and extra-legal senses of atimia is even more evident in two earlier documents related to the legal sphere: Agora XXV 1071, an ostrakon which was possibly directed against the Alcmaeonid Callixenus, son of Aristonymus, and is therefore to be dated to 483 or 482 BCE, and DTA 107, an Attic judiciary curse tablet from the late fifth or early fourth century BCE. The ostrakon (Agora XXV 1071) simply reads ---।τιμος, and has been linked to Callixenus – thus with the reading Καλλίχσενος τιμος – primarily because it was found in a deposit from which 40% of the identifiable ostraka had Callixenus as their target. In her analysis of this text, van ’t Wout (2011a: 126–127) rightly points out that the language of atimia in the judicial sphere, while referring to “tangible legal

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247 See the example of Lys. 31 in Section 2.1 above.
248 Cf. also n.235 above.
250 Inv. No. P 17615 = Agora XII 337.
251 Cf. Stamires and Vanderpool (1950) and Consogno (2005).
252 These documents were examined by van ’t Wout (2011a), who was the first to observe that “they attest to the continuity between legal and non-legal uses of the term ἄτιμος” (p. 127), but, as will become clear below, our analyses differ on several key points.
253 As van ’t Wout (2011a: 127) remarks, “That the text must be read as ἄτιμος is widely accepted.”
consequences”, is normally used “with reference to the wider sphere of social interaction”, and indeed we have several examples of moral judgements being hurled at ostracism candidates, so that it is very likely that the term atimos on this ostrakon was intended primarily as an insult, and implied a negative moral evaluation of the target from its author. She is also correct in saying that “an interpretation of this text must take into account the … overlap with the issues regularly associated with ἀτιμία in the … technical sense” (p. 128), because ostracism is, after all, a legal procedure that has the purpose of temporarily removing an individual from the community, and shares therefore some of the features of atimia as a penalty. However, her (unqualified) contention that “the term ἄτιμος normally expresses a complaint” and that, since “the author of the ostrakon cannot have been sympathetic towards the candidate of his choice”, he must have “adopt[ed] the other’s perspective … in a sarcastic manner”, which leads her to paraphrase the ostrakon as ‘For X, the unfairly treated one’, seems to me to overcomplicate the issue. Although it is true, as we have seen above and as van ’t Wout (2011a: 128) remarks, that “Ἀτιμία-terminology could be used by victims of a conflict situation that they perceived as posing a threat to their proper social position”, this use always coexisted with the notion of atimia as the appropriate response for dishonourable behaviour. This is because, as was discussed in Chapter 1, at its core atimia always identifies a lack of respect – whether warranted or unwarranted, it is a matter of point of view, perception, and construal, of both the parties involved and their audience. Thus, it is not true that “the legal use of the word [atimos] does not make sense in this context”, nor is it true that “someone who already was ‘technically’ ἄτιμος could not pose a political threat” (van ’t Wout 2011a: 128): as will be discussed in more detail in the next Chapter (Section 3.4), for instance, the case of Timarchus as described in Aeschin. 1 is a perfect example of how someone who already was technically atimos – because he had prostituted himself – could indeed pose a political threat, and might in fact need a court verdict to be forced into compliance, through the threat of even more serious consequences, with the terms of his atimia. Of course, as van ’t Wout (2011a: 128) notes, ostracism is not “a procedure that would make an individual technically ἄτιμος”, but this is not what the author of the

255 Van ’t Wout (2011a: 127 n.11) quotes e.g. Kerameikos Inv. no. O 2514; 4825; 5511; 7490 (= T 1/106; 1/111; 1/41; 1/150 respectively in Siewert 2002). See also Siewert (1991), who investigates the relationship between the political and the moral accusations against politicians targeted by ostraka.
257 See especially the Tyrtaeus passage discussed in Section 2.1 above.
ostrakon is looking for – he is merely clarifying the reason why he wants the politician in question to go:258 he is pointing out that, in his opinion, Callixenus (or whomever else this ostrakon was directed to) is not fit to share in the community – perhaps because, in the inscriber’s view, the target was already in some sense atimos – and should therefore be formally excluded from it, with whatever means. There is a similar rationale, for example, behind those ostraka that dub the candidate as ‘traitor’:259 treason (prodosia) is a crime that is prosecuted by law,260 and ostracising someone is not the same as having him convicted of treason, but ostracism does represent an attractive legal alternative to get rid of an individual that one perceives to be a traitor and, as such, a threat to the state. The term ‘traitor’, then, is appended to the name of the candidate as an explanation of the choice. Presumably, the person who cast Agora XXV 1071 would have been content with seeing the atimia of this politician confirmed by a court verdict, but this would have required investing time and money in a trial, as well as openly facing the defendant: ostracism, on the other hand, is free, anonymous, and, if effective, provides a similar result.

The other comparable para-legal document is the binding curse reported on DTA 107. This type of lead tablets, or defixiones, were used in Sicily, Attica, and Olbia by litigants, in the lead-up to a trial, in order to influence the outcome of the trial itself.261 In DTA 107, the defigens, alongside the usual request for his opponent and his supporters (syndikoi) to be ‘bound’ (lines 1 and 8: καταδεδέσθω) before Hermes and Hecate, includes also a curse in the form of a persuasive analogy,262 asking that “just as this lead is atimos and cold, so let him [the opponent] and what is his be atima and cold, and for those who are with him the things they might say and plan in my regard [be atima and cold]” (lines 4–5: καὶ ὡς οὗτος ὁ βόλυβδος ἄτιμος καὶ ψυχρός, οὕτω ἀκένος καὶ τὰ ἀκένῳ ἄτιμα [κ]–αἰ ψυχρά ἔστω καὶ τοῖς μετ’ ἕκένο ἃ

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258 Descriptive remarks in ostraka are “used to explain the choice for a specific candidate” (van ’t Wout 2011a: 127).
259 Van ’t Wout (2011a: 127) mentions, among others, one such ostrakon (Agora XXV 589 = Inv. No. P 3786) directed against Callixenus ([Καλλιχέσσος [ho προδότες]. If, as it seems, he really was an Alcmaeonid, this might be a derogatory reference to his family’s supposed role in sending signals to the Persians after the battle of Marathon: see Gillis (1969), reprinted as Gillis (1979: 45–58).
260 Cf. Xen. Hell. 1.7.22. The penalty was probably either death or exile, with confiscation of property, and a ban on burial in Attica (irrespective of whether the traitor suffered the death penalty or died in exile); cf. MacDowell (1978: 176–177), with Thuc. 1.138.6; Idomeneus (FGrHist 338) F 1; Pl. Grg. 516d.
περὶ ἐμὸν λέγοις καὶ βουλευοίτω).\textsuperscript{263} Again, the link to the legal sphere is very clear from the context, and van ’t Wout (2011a: 131) is right in pointing out that “the clause ἐκεῖνος καὶ τὰ ἐκεῖνον … closely resembles a legal formula”,\textsuperscript{264} as found for example in the entrenchment clause reported in Dem. 23.62.\textsuperscript{265} In light of this, it becomes clear that van ’t Wout’s (2011a: 131) argument that “a description of ἀτιμία along the lines of a legally defined penalty is unhelpful for the interpretation of this text” is incorrect – in fact, it is quite the contrary. Although, as van ’t Wout (2011a: 131) highlights, the term atimos, referred to a bit of lead, has its etymological sense of ‘worthless’,\textsuperscript{266} related to the notion of \textit{timē} as ‘value’, and therefore this is the primary connotation here, it must be recognised that it is virtually impossible – especially given the judicial context of this curse tablet – that the author of this \textit{defixio} was not aware of the legal significance of the term.\textsuperscript{267} In this case, then, it is likely that the adjective atimos was not chosen at random, but precisely because its meaning of both ‘worthless’ and ‘(legally) deprived of rights’ allowed the defigens to make the persuasive analogy even more biting: the author seems to be deliberately playing with words, and wishing his opponent not only to be tongue-tied in court, but also to become legally atimos as a result of the trial.\textsuperscript{268} Thus, it is not that “the composer conceived of ἀτιμία, not as a technical term for a legal penalty, but rather as a value term for a condition of social disability that he hopes to make his victim suffer”\textsuperscript{269} – the term atimos, in this curse tablet, simultaneously encompasses both meanings, and therefore represents a striking – although, as we have seen, not isolated – case of continuity between legal and socio-ethical senses of \textit{atimia}.

\textsuperscript{263} Note that, in line 5, Wünsch’s (1897: 28) edition has ΨΥΧΡΑ in the diplomatic transcription and the wrong ψυρχά in the critical text – no pictures or drawings of the tablet are provided, but it is possible that the wrong form is just a slip of the pen on Wünsch’s part.

\textsuperscript{264} And van ’t Wout (2011a: 131) herself recognises that “The phrase appears to have been chosen deliberately to recall such a formula.”


\textsuperscript{266} Van ’t Wout (2011a: 131) reports the translations “worthless” (Faraone 1991), “cheap” (Gager 1992), and “held in no esteem” (Price 1992).

\textsuperscript{267} Thus, the author is playing on the main metaphor behind the notion of \textit{timē}; similar considerations on the real and metaphorical ‘value’ of laws or external marks of esteem can be found also in Dem. 20 and 24: cf. e.g. Dem. 20.10, 27; 24.183.

\textsuperscript{268} If Gager (1992: 117) is right in saying that judicial curse tablets were generally commissioned by defendants, this might even be an allusion to (partial) \textit{atimia} as the penalty for frivolous prosecution (on which see Chapter 3, esp. Sections 3.1 and 3.3): the defendant would then be wishing for his accuser to get less than one-fifth of the votes.

\textsuperscript{269} Van ’t Wout (2011a: 133).
2.3 Conclusions

The evidence examined above is thus clear: the meaning of *atimia* never actually shifted from ‘outlawry’ to ‘disfranchisement’, nor from a ‘moral’ sense to a legal one, the latter completely separated from the former. Rather, the continuity between the social and the legal spheres allowed the notion of *atimia* to develop, alongside, and in parallel with, its socio-normative meaning, also a legal one. However, at no point did the socio-normative sense cease to exist – it gave shape and strengthened the legal sense, and the latter, in turn, fed back into the former.

Some of the confusion that has characterised previous analyses of the term – and of the legal penalty more specifically – is in part due to the failure, or unwillingness, to recognise the bidirectionality and context-specificity of notions of honour and dishonour. It is not that the Greeks used these terms loosely – the terminology itself is nuanced and flexible because it describes dynamics that exist in the interaction between individuals, which can be construed and understood simultaneously from different (but interconnected) points of view. And, similarly, it is not that the Greeks were unaware of the possible ambiguity of these terms, especially in the legal sphere, and it is for this reason that the notions of ‘warranted’ and ‘unwarranted’ disrespect were consciously differentiated in an attempt to enlist righteous and justified dishonour in the exclusion of anti-social individuals. As a proper legal sanction, then, *atimia* achieved a high level of formalisation, but the link to the socio-ethical sphere remained in that, as was discussed in Chapter 1, the penalty still operated within areas that were central to the survival of the community, still entailed an element of blame and reproach separate from (but feeding into) the legal sphere, still relied upon social control (through the necessary involvement of ‘whoever wished to prosecute’) to be properly enforced, and was still meted out as the actualisation of what the community deemed to be apt disrespect. This both discouraged emulation and reaffirmed the values of the community in the process, thus striving to promote unity through the collectively enforced marginalisation of dishonourable individuals.\(^{270}\) The precise workings of the penalty of *atimia*, and the various rights and statuses it could endanger, will be the topic of the next two Chapters.

\(^{270}\) See Gouldner (1960: 174) on the “significance of shared values as a source of stability in social systems”.

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Chapter 3

Atimia as a penalty in classical Athens

In Chapter 2, we have seen that, from the archaic to the classical period, there was continuity between *atimia* as a social sanction and *atimia* as a legal penalty. Swoboda’s (1893 and 1905) view that *atimia* went from designating archaic ‘outlawry’ to representing classical ‘disfranchisement’, though widespread until recent years, is ultimately untenable. As was seen in the previous Chapter, in our sources the language of *atimia* is used to talk about processes that can be either imperfective (i.e. conative) – and thus describe an attempt, which is usually unsuccessful, to ‘dishonour’ an individual – or perfective – and thus indicate the result of a successful attempt to make an individual *atimos*. And this distinction, in classical oratory (and other prose texts), had come to be clearly demarcated through the use of different denominative verbs stemming from *atimia*: *atimazō* for ‘disrespecting’ or ‘attempting to dishonour’, and *atimō*/*atimaō* for ‘diminishing one’s status’ or ‘punishing with *atimia*’ in the technical sense. The condition of *atimia* that the technical verb described, however, was not the same in each case: what ‘being (legally) *atimos*’ meant in practice depended, first, on the relevant statute regulating each offence; and, second (and perhaps more importantly), on the status of the person involved, i.e. the *timē* he or she had to begin with.

With the gradual emergence of more structured institutional and political environments, Greek city-states started to formulate law codes and design court systems which made them increasingly capable of regulating and policing the conduct of their inhabitants, and the latter’s relationships to one another.¹ These institutions, however, did not come out of thin air: the legal landscape of the *polis* had its roots in the social norms and values that had been – and, at least to some extent, continued to be – negotiated among those who, in some capacity, took part in the social life of the community. As we have started to see in the analysis of the inscriptions discussed in the previous Chapter (Section 2.2), it was within that framework that the socio-ethical sanction of *atimia* was subsumed into the legal system, and its characteristics took a more precise and more sharply defined legal shape. As a full-fledged legal penalty, in classical Athens, *atimia* was meted out for

¹ See Harris and Lewis (2022), who demonstrate how archaic law, like classical law, was mostly substantive and “regulated almost every conceivable area of life, stabilising rights and duties for all members of society and providing redress against violations of the rules”.

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several different offences, and took several different forms depending on a number of variables. From the information provided by our sources, scholars and commentators have been able to list quite a few distinctions in the forms in which this sanction could manifest itself: *atimia* could be either total or partial; either permanent or temporary; either hereditary or specific to one individual; either automatic or imposed upon conviction in a law court. Despite some controversial features and difficulties of interpretation, a good starting point to tackle these complexities is certainly Andocides’ survey of *atimoi* in his speech *On the Mysteries* (Andoc. 1.73–76), which will be analysed in the next section.

3.1 The analysis of Andoc. 1.73–76

The defence speech *On the Mysteries* was delivered by Andocides in the autumn of 400 (or 399) BCE. The orator was brought to trial by *endeixis*, a procedure that consisted in the denunciation of a transgressor, by any citizen who wished to undertake the task (τοὺς βουλόμενον ... τὸν πολίτην), to the relevant magistrate. As we will see in more detail below (Section 3.4), this was the standard procedure against *atimoi* who did not abide by the disabilities imposed on them by virtue of their *atimia*. The penalty, upon conviction, was normally assessed by the judges; for specific violations, however, the death penalty seems to have been imposed automatically by law. In Andocides’ case, his opponents denounced him to the

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2 I purposefully leave out the purported text of Patroclides’ decree (§§ 77–79), which is a late forgery (see Canevaro and Harris 2012, with Novotný 2014 for additional arguments, and, in more detail, Canevaro and Harris 2017) and, as such, is not helpful in reconstructing the functioning of *atimia* as a penalty in the classical period. See also Appendix II.

3 MacDowell (1962: 204–205), following Makink (1932: 32–35), brings several convincing arguments in favour of “the autumn of 400 as the likeliest date”.

4 Cf. [Dem.] 58.14. See also *Suda* ε 1170 Adler (s.v. ἔνδειξις).


9 As seems to have been the case for state debtors who nevertheless held office despite their *atimia* (cf. Dem. 20.156, with Canevaro 2016: 418) and – at least during the period in which Leptines’ proposal was in effect – for those who held an office after becoming *atimoi* as a result of proposing *ateleia* in the Assembly (cf. Dem. 20.156). See Hansen (1976: 96), who suggests that the death penalty “may have been imposed” also on state debtors who entered the temples – judging from Andoc. 1.33 – and on those who had been thrice sentenced in a *dikē* *pseudomartyriōn* but did not
and alleged that, by attending the Eleusinian Mysteries, he had violated the terms of the decree of Isotimides: according to this decree, passed in 415 BCE, anyone who had committed impiety and admitted to it was to be barred from the temples and the agora. MacDowell (1962: 4) suggested that this might have been an *ad hominem* decree, aimed specifically at Andocides, but, from the narrative and the list of names reported at Andoc. 1.15, it seems safe to infer that at least the metic Teucer, too, had been punished with the same kind of *atimia*. We do not possess the text of the decree, but it is very clear that the limitations imposed by it were perceived as *atimia*. In the paraphrasis given by Andocides, the language of exclusion – the same language that we find in the speech Against Andocides ([Lys.] 6) – is plainly employed, and at [Lys.] 6.25 such exclusion is specifically labelled as *atimia*: “nobody else”, the speaker says, “has ever suffered *atimia* on a charge like this” (οὐδεὶς γὰρ πῶ … ἐπὶ τουατή αἰτία ἡτιμώθη). Thus, Andocides’ discussion of various categories of *atimoi* is particularly relevant to his case, because his opponents had indicted him by *endeixis* precisely on the charge of being *atimos* and not respecting the terms of the *atimia* imposed on him by the decree of Isotimides. Andocides himself makes this very clear when summarising his line of argument at §§ 71–72: he was never *atimos* in the first place, because he had “neither committed impiety nor admitted it” (§ 71 οὔτε ἥσεβηται οὔτε ὠμολόγηται), so the decree of Isotimides did not apply to him (§ 71 ψήφισμα … ὃ ἔπει Ἰσοτιμίδης, οὐ ἐμοὶ προσήκει οὐδέν); and, even if the decree did apply to him and he had in fact been *atimos*, that was no longer the case, thanks to the decree of Patroclides. The key to the whole case, then, is Andocides’ status as either *atimos* or *epitimos*, and the

respect the limits of their *atimia* – as we might infer from Pl. *Leg.* 937c. For Plato’s *Laws* as “a reasoned criticism of contemporary Athenian law”, see Piéart (2016).

9 Cf. Andoc. 1.111, with MacDowell (1962: 142): “The notice was given to the basileus because the charge concerned religion.”

10 See Andoc. 1.8, 71, 132 (where only temples are mentioned) and [Lys.] 6.9, 24, 52 (where the prosecutor refers to both the temples and the *agora*).

11 As Novotný (2014: 80) notes, “verbs like ἀπαγορεύω or ἐἴργω” and compounds “were commonly used in connection with prohibitions and exclusions imposed on public debtors, the disfranchised and other unwelcome persons.”

12 This is stressed also by Novotný (2014: 82). See also Thalheim (1896: 2103) and Hansen (1976: 62), already quoted by Novotný (2014: 83 n.105), who suggest that the prohibition against entering the *agora* and the temples is almost synonymous with total *atimia*.

13 Andoc. 1.71.

14 Cf. [Lys.] 6.24 (αὐτῶν ἀφέγγαθα τῆς ἀγορᾶς καὶ τῶν ἱερῶν) and Andoc. 1.71 (ἀφέγγαθα τῶν ἱερῶν). As Novotný (2014: 80) notes, “verbs like ἀπαγορεύσω or ἐἴργω” and compounds “were commonly used in connection with prohibitions and exclusions imposed on public debtors, the disfranchised and other unwelcome persons.”

15 Note that “In the area of Greek legal terminology, verbal forms are more frequently attested than noun forms” (Novotný 2014: 79).

judges’ evaluation of the two decrees in question: for this reason, Andocides sets aside quite a substantial section of his speech to demonstrate that, even in the very remote possibility that the decree of Isotimides applied to his case, the decree of Patroclides, promulgated in 405 BCE, had effectively made its provisions void. It is worth examining this section (§§ 73–76) in full:

[73] ἔπει γὰρ αἱ νήσες διεφθάρησαν καὶ ἡ πολιορκία ἐγένετο, ἐβουλεύσασθε περὶ ὀμονοίας, καὶ ἔδωκεν ὡς τοὺς ἄτιμους ἐπίτιμους ποιῆσαι, καὶ ἔπει τὴν γνώμην Πατροκλείδης. οἱ δὲ ἄτιμοι τίνες ἦσαν, καὶ τίνα τρόπον ἐκαστοῦ; ἐγὼ ύμᾶς διδάξω. οἱ μὲν ἄργυριον ὁφείλοντες τῷ δήμοσιῷ, ὁπόσῳ εὐθύνας ὄφλον ἄρξαντες ἀρχαῖς, ἢ ἐξούσιας ἢ γραφάς ἢ ἐπιβολάς ὄφλον, ἢ ὠνάς πριάμουνε ἐκ τοῦ δήμοσιοῦ μὴ κατεβάλων τὰ χρήματα, ἢ ἐγγόνας ἠγγονήσαντο πρὸς τὸ δήμόσιον· τοῦτοις ἢ μὲν ἐκτείνεις ἢ ἐπὶ τῆς ἐνάτης πρυτανείας, εἰ δὲ μὴ, διπλάσιον ὁφείλει καὶ τὰ κτήματα αὐτῶν πεπράσθαι. [74] εἰς μὲν τρόπος οὕτως ἄτιμως ἦν, ἐτερος δὲ ἂν τὰ μὲν σώματα ἄτιμα ἦν, τὴν δ' οὐσίαν εἴχον καὶ ἐκέκτησιν· οὕτως δ' αὖ ἦσαν ὁπόσῳ κλοπῆς ἢ δώρων ὄφλοιν· τοῦτοις ἔδει καὶ αὐτοῖς καὶ τοὺς ἐκ τούτων ἄτιμους εἶναι· καὶ ὁπόσῳ λίποιν τὴν τὰξιν ἢ ἀστρατείας ἢ δευλίας ἢ ἀναμαχίαν ὄφλοιν ἢ τὴν ἀσπίδα ἀποβάλοιν, ἢ τρίς ψευδομαρτυρίον ἢ τρίς ψευδοκλητείας ὄφλοιν, ἢ τοὺς γονέας κακῶς ποιοῦν· οὕτως πάντες ἄτιμοι ἦσαν τὰ σώματα, τὰ δὲ χρήματα εἴχον. [75] ἄλλοι αὖ κατὰ προστάξεις, οἴτινες οὐ παντάπασιν ἄτιμοι ἦσαν, ἀλλὰ μέρος τι αὐτῶν, οἷον οἱ στρατιῶται, οἷς, ὅτι ἐπέμειναν ἐπὶ τὸν τυράννον ἐν τῇ πόλει, τὰ μὲν ἄλλα ἦν ἀπερ τοὺς ἄλλους πολίτες, εἰπεὶ δ' ἐν τῷ δήμῳ οὔκ ἔχειν αὐτὸς οὐδὲ βουλεύσας. τούτων ἦσαν οὕτως ἄτιμοι· αὐτὴ γὰρ τὴν τούτων πρόσταξις. [76] ἐτέρος οὖκ ἦν γράμμασθαι, τοῖς δὲ ἐνδείξας· τοῖς δὲ μὴ ἀναπλεῦσας εἰς Ἐλλήσποντον, ἄλλοις δ' εἰς Ἰωνίαν, τοῖς δ' εἰς τὴν ἁγορὰν μὴ εἰσίναι πρόσταξις· ταῦτ' οὖν ἐνθησάσθην εξελέγη πάντα τὰ ψηφίσματα, καὶ αὐτὰ καὶ εἷς ποὺ τι ἀντίγραφον ἦν, καὶ πίστιν ἀλλήλοις περὶ ὀμονοίας δοῦναι ἐν ἀκροπόλει, καὶ μοι ἀνάγνωσθι τὸ ψήφισμα τὸ Πατροκλείδου, καθ' δ' ταῦτα ἐγένετο.

[73] After the navy was destroyed and the siege began, you had a discussion about unity. You decided to make the atimoi epitimoi,17 and Patroclides proposed his decree. Who were the atimoi, and what rights had each of them lost? I’ll explain to you. Some owed money to the treasury; they were men who

17 I do not translate here words derived from atimia or epitimia in order not to compromise the interpretation of the passage.
had been found guilty at the examination after they held office, or who had been found guilty in dikai exoulēs or graphai, or who owed fines, or who had purchased tax-collecting rights from the treasury and failed to pay the money, or who had acted as sureties to the treasury (these had to pay during the ninth prytany; otherwise they had to pay double, and their property was confiscated for sale). [74] That was one type of atimia. Another was of those who themselves were atimoi, but kept possession of their property. These were again those who had been found guilty of embezzlement or corruption (these men’s descendants, as well as themselves, had to be atimoi), and those guilty of desertion or evasion of military service or cowardice or evasion of naval service or throwing away their shields, or who had been found guilty of giving false evidence on three occasions or falsely testifying to a summons on three occasions, or who had maltreated their parents. All these were themselves atimoi but kept their money. [75] Others again, who weren’t atimoi in every respect, but only in some, became atimoi by virtue of special injunctions. For example, the soldiers who remained in Athens in the time of the tyrants had all the same rights as the other citizens except that they weren’t allowed to speak in the Assembly or be members of the Council. Those were the rights they lost; for they were given this order. [76] Others were forbidden to bring a public prosecution (graphē), and others to bring an indictment (endeixis). Some were ordered not to travel to the Hellespont, others to Ionia, and some were ordered not to enter the agora. You voted that all these decrees should be abolished, both the documents themselves and any copy that existed anywhere, and that pledges for unity should be exchanged on the Acropolis. Please read the decree of Patroclides, by which this was done.18

It has now been convincingly proved that the text that follows, at §§ 77–79, is a late forgery.19 Thus, as was the case also for the decree of Isotimides, we do not possess the actual words of the decree of Patroclides. However, it is very clear from our sources that the main provision of the decree was that of making the atimoi epitimoi again – Andocides spells this out very clearly at the beginning of this passage (§ 73: ἐδοξεν ὡμίν τοὺς ἀτίμους ἐπιτίμους ποιῆσαι), and repeats this at § 80 (κατὰ μὲν τὸ ψήφισμα τουτὶ τοὺς ἀτίμους ἐπιτίμους ἐποίησατε), right after having the text read out by the clerk, and again at § 103 (οὗς ἀτίμους ὅντας ἐπιτίμους ἐποίησατε). The

18 Transl. MacDowell modified.
19 See n.2 above and, in more detail, Appendix II below.
provision is related in precisely the same terms also by Xenophon and Lysias,\textsuperscript{20} and it is thus fairly certain that the same wording was to be found in the actual text of the decree as well.\textsuperscript{21} Andocides then goes on to explain who these ex-\textit{atimoi} were, and what disabilities had been imposed upon them, by dividing them into three groups: (1) those who owed money to the treasury and had become \textit{atimoi} because they could not pay their debt (§ 73); (2) those who were \textit{atimoi} but did not lose their property (§ 74); (3) those who were \textit{atimoi} by virtue of a particular injunction or provision (κατὰ προστάξεις, §§ 75–76). Categories (1) and (2) are the most straightforward, but they also include a wide variety of subcategories of \textit{atimoi}.

Let us begin with category (1) – public debtors. Being a debtor to the public coffer was, in Athens, quite a serious matter: from the moment in which the debt was incurred,\textsuperscript{22} the debtor became, to all effects and purposes, \textit{atimos} until the debt was paid. Thus, if we examine the sanction from a modern penological perspective, it appears that, for this kind of offenders, \textit{atimia} was not a penalty proper, in the sense that it was not inflicted by a panel of judges at the end of a trial, but rather happened automatically,\textsuperscript{23} as a consequence of the debtors’ inability to pay the sum. As such, \textit{atimia} was certainly also a means to ensure payment on the part of the debtors, and was, moreover, only a temporary condition, meaning that the sanction was automatically annulled once the debt was paid. This, however, does not mean that the debtors’ situation – as well as their disadvantages – was not serious, or that their \textit{atimia} was bound to be short-term: first, even though their condition was not permanent, their disabilities were serious and far-reaching;\textsuperscript{24} second, at the moment of the debtor’s death, both the debt and the \textit{atimia} were inherited by the person’s

\textsuperscript{20} Xen. \textit{Hell.} 2.2.11 (διὰ ταῦτα τούς ἀτίμους ἐπιτίμους ποιήσαντες) and Lys. 25.27 (τοὺς δ’ ἀτίμους ἐπιτίμους ἐποίησεν).

\textsuperscript{21} And this, incidentally, is one of the main reasons why the text as it stands in our manuscripts at §§ 77–79 cannot possibly be genuine: see Canevaro and Harris (2012: 102).

\textsuperscript{22} Cf. [Dem.] 58.21 λέγε δὴ κάκεινον τὸν νόμον τὸν ἀπ’ ἐκείνης κελέοντα τῆς ἡμέρας ὑπερείκον ἄρ’ Ἕκ ἄν ὅλη, ἐὰν τε ἐγγεγραμένοις ἦν, ἐὰν τε μη, “read also that law that stipulates that the man is in debt starting from the day he is fined, whether his name is posted or not” (transl. Bers); see also [Dem.] 58.48–49, with Harrison (1971: 174–175). The only exception was represented by tax farmers and their sureties, who became public debtors only at the end of the ninth prytany: see below.

\textsuperscript{23} For other categories of people who became \textit{atimoi} automatically, see below, esp. Section 3.4. See also the entrenchment clauses in the inscriptions analysed in Chapter 2, Section 2.2.

\textsuperscript{24} See e.g. Din. 2.13 for the prohibition for state debtors against speaking in the Assembly, and Din. 2.2 and [Dem.] 58.2 for the prohibition against initiating judicial procedures. In Dem. 24.123, along with the impossibility for state debtors to “attend the Assembly”, Demosthenes also mentions the fact that such people were debarred from serving as judges, and we know of at least one case in which the death penalty was imposed on a public debtor who served as a judge (Dem. 21.182).
descendants, who then needed to settle it in order to see their rights and privileges restored.

The first subgroup of state debtors discussed by Andocides consists of those who had been found guilty at their scrutiny (*euthynai*), a type of public examination which the vast majority of Athenian magistrates had to undergo at the end of their term of office; the procedure, synthesised by Ps.-Aristotle (*Ath. Pol. 54.2*), was divided into two parts, the first concerning financial misconduct and the second more general abuse of office.25 Andocides is here concerned only with the first stage of the investigation, in which ten auditors (*logistai*) examined each magistrate’s account of expenditure (or the written statement certifying a lack thereof) and submitted it to the law court. Should irregularities be detected, ten public prosecutors (*synēgoroi*) presented the case against the magistrate under examination: if he was found guilty of non-specified (but apparently minor) financial misdemeanour (*adikion*),26 he had to pay the simple amount,27 which, if not paid by the ninth prytany, was then doubled,28 as is the case also for other debts to the public treasury;29 if he was found guilty of embezzlement (*klopes*) or of having taken bribes (*dōra*), he was sentenced to pay ten times the amount embezzled or received as bribe,30 which, however, could not be doubled.31 The ex-magistrate would thus be *atimos* until his debt was paid.32

Andocides then mentions those who had been convicted in *dikai exoulēs*. The *dikē exoulēs*, a private suit for ejectment, was indeed a very interesting procedure, which, as Carey (2018: 88) puts it, was situated “at the intersection between the public and private action”: procedurally it was a private action, and, as such, available only to the offended party; but penologically it shared some features with public procedures in that the defendant had to pay not only the sum assessed by the

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25 For the *euthynai* procedure in general, see Piérart (1971) and Fröhlich (2004).
26 According to MacDowell (1983: 58), it “is a less serious offence”, and it “probably … means causing loss of public money by culpable neglect or inadvertence, as opposed to deliberate deception”.
27 Cf. Hyp. 5.24.
30 Alongside [Arist.] *Ath. Pol.* 54.2, see Din. 2.17; Dem. 24.112; Hyp. 5.24.
31 On the penalties for those guilty of embezzlement and of corruption, see more in detail below.
32 See, for example, the story of Phormio son of Asopus, related by Androtion (*FörHist* 324 F 8): at the end of his generalship, Phormio was fined 100 *minae* at his *euthynai* and, being unable to pay, became *atimos* (*ἀτιμωθείς*); when the Acarnanians asked him to be general again, he refused by saying that it was not possible for *atimos* to fulfil that role (*μὴ ἐξελθεῖν τοῖς ἀτίμοις*), and so the *dēmos* paid the fine for him in order to dissolve his *atimia* (*λαοῖς τὴν ἀτιμίαν*).
court to the successful plaintiff, but also an equal amount to the public treasury. Until the debt to the state was repaid, then, the defendant became *atimos qua* public debtor.

Other *atimoi qua* public debtors discussed by Andocides are those convicted in non-specified *graphai*, i.e. public actions. Here Andocides is being quite vague, but it is clear from the context that, as MacDowell (1962: 109) suggests, he has in mind only those people who lost a public case and were thereby sentenced to a fine that they could not pay. We know from our sources that it was fairly common for defendants – or for rich defendants at least – to bring money directly to the trial, in order to be able to pay whatever fine they might incur in the event of defeat, but this might not always have been possible in practice, especially if the fine was very substantial. For instance, in his speech *Against Meidias* (Dem. 21), Demosthenes mentions the case of Smicrus and Scito, who, upon conviction in a *graphē paranomōn* (public prosecution for proposing an illegal decree), incurred a fine of ten talents each, which they were unable to pay, and became *atimoi* (ἠτιμωμένοι ... εἰσίν) as a consequence.

The situation was similar also in the case of other fines labelled as *epibolai*. The term *epibolē* seems to have been used both for fines meted out in the courtroom and for summary fines imposed by magistrates, without the need of a previous judicial verdict, on anyone who interfered with the performance of their duties. It is possible that these kinds of fine did not exceed the limit of fifty *drachmae*, as might be inferred from an inscription, dated to 421/420 BCE, which describes duties and responsibilities of the *hieropoioi*; it is also possible that, for more important magistrates, the maximum amount might have been even higher.

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34 Cf. [Dem.] 56.18, with Hansen (1976: 92). This shows that they did not want to stay *atimoi* even for the time it took to get the money. For the idea that fines were often a roundabout way to make someone *atimos*, see Chapter 2, esp. Section 2.2.
35 Dem. 21.182.
36 MacDowell (1962: 109) infers this from Ar. Vesp. 769.
37 Cf. [Dem.] 43.75. See also Lys. 9.11.
38 IG I’ 82 lines 26–28. The most recent edition of this text can be found in Makres and Scafuro (2014). The sum of fifty *drachmae* is mentioned also in Aeschin. 1.55, but this is a late forgery: see Fisher (2001: 180).
39 The date is given, with the name of the eponymous archon Aristion, in line 3 of the inscription.
Nevertheless, fifty *drachmae* were not an insignificant sum, and failure to pay amounted to *atimia*.42

The fifth example of *opheilontes tōi dēmosiōi* brought by Andocides is that of defaulting tax collectors (όνας πρώμενοι ἐκ τοῦ δημοσίου μὴ κατέβαλον τὰ χρήματα), along with those “who had acted as sureties to the treasury” (ἐγγύας ἠγγύσαντο πρὸς τὸ δημόσιον). As Fawcett (2016: 154) has argued, in a recent article on Athenian taxes and tax policy, “taxes were a key factor in Classical Athenian public finance and state formation”, and it is therefore obvious that failing to collect or not handing in taxes was bound to be met with harsh treatment. We know that in Athens there was no board of officials specifically appointed to collect taxes. Rather, there was a board of *pōlētai*, working in close proximity with the Council, that was responsible – among other things – for selling tax-collection contracts.43 The rights to collect taxes were sold every year, and this seems to have happened through auction.44 The successful purchaser would try to muster up the amount he had bid by collecting the tax from the people liable to it, and, if possible, to raise some extra money for himself in order to make a profit once he had handed in the money to the treasury.45 However, should he fail to secure the sum he had originally promised, he was required to make good any losses from his own pocket. The threat of *atimia* was not the only thing that kept tax farmers in check – they also needed, once they had bought the tax-collection contract, to provide sureties, who would step in to pay in case the collector failed to gather enough money. These sureties, as Andocides highlights, were liable to the same penalties as the defaulting tax collectors, if they failed to pay in their place. Andocides also clarifies that there was one difference between this last group of state debtors – i.e. tax farmers and their sureties – and the other subcategories mentioned above: whereas the latter became public debtors, and therefore *atimoi*, from the moment in which the debt was incurred, the former met the same fate only if they had not paid by the ninth prytany (τούτοις ἡ μὲν ἔκτασις ἦν ἐπὶ τῆς ἐνάτης πρυτανείας). Only then were they officially

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42 Evidence from Lys. 9.6–10 and Dem. 21.32–34 appears to suggest that abusing or speaking ill of a magistrate – and probably only the archon – performing his duty was punished with *atimia*: see Chapter 1, Section 1.1. It is also possible that the speakers are referring to the *atimia* resulting from not being able to pay a hefty fine imposed by the abused magistrate.

43 Our main source on the *pōlētai* is [Arist.] *Ath. Pol.* 47.2–3.

44 As maintained by Langdon in *Agora* XIX, p. 58. This seems to me very clear from the description, made by Andocides (1.133–134), of Agyrrhius’ shenanigans while collecting the *pentēkostē* (“two per-cent tax”) on imports and exports.

45 See again Andoc. 1.133–134.
inscribed in the list of public debtors on the acropolis, their debt was doubled, and their property confiscated (ἐὶ δὲ μὴ, διπλάσιον ὑφείλειν καὶ τὰ κτήματα ἀοτῶν πεπρᾶσθαι) – they were thus atimoi from that moment until their debt was paid.

The second category of atimoi, treated at § 74, is made up of those who kept their property (ousia), despite their persons (sōmata) being atima. The description of this category, given by Andocides right at the beginning of the paragraph, seems to be quite simple, but some elements of the subsequent list of examples have indeed been regarded as problematic by several scholars. For instance, Paoli (1930: 304–307), followed by MacDowell (1962: 110), was puzzled by the mention of those “guilty of embezzlement or corruption” as the first subdivision in this group, to the point that he proposed to emend the text and move the whole section (οὗτοι δ’ αὐτῆς ἡςαν ὑπόσοι κλοπῆς ἢ δόρων δολοειν· τοῦτοις ἐδει καὶ αὐτούς καὶ τοὺς ἐκ τούτων ἀτίμως ἔναι) to the end of the previous paragraph as ὑπόσοι δ’ αὐτῆς κλοπῆς ἢ δόρων κτλ. According to MacDowell’s commentary to the passage, the locution δ’ αὐτῆς, with the meaning of ‘and again’, would be “obviously out of place with οὗτοι ἠςαν” at § 74, because it does not introduce “a fresh item in the list”. This argument, however, does not seem particularly convincing. In fact, what appears to be happening here is that Andocides, while making a transition to a new point in his legal argumentation, sets aside some time to indicate clearly that he has concluded his discussion of the first group of atimoi (ἐἷς μὲν τρόπος ὑπότοις ἀτίμιας ἔν), and then to introduce the second group by spelling out the salient characteristic of the category he is about to examine (οὗν τὰ μὲν σώματα ἀτίμωμεν τὴν δ’ οὐσίαν ἔξον καὶ ἐκέκτημεν). It is then perfectly reasonable to mark with δ’ αὐτῆς the first subgroup, with which the list actually resumes after a sort of parenthetical remark, and the presence of this locution is not enough in itself to justify a transposition that sits rather uncomfortably with the sense and structure of this passage.46

MacDowell (1983: 70–71) does nevertheless identify another problem: the mention of the offences labelled as klopes and dōra seems to suggest that Andocides, here, is again referring to magistrates convicted at their euthynai, a subgroup that he has already treated as the first example of state debtors at § 73. As discussed above, men convicted of these crimes were liable to a fine of ten times the amount embezzled or received as bribe, and failure to pay the sum translated into atimia. Then “why the duplication”, asks MacDowell (1983: 71), and why is this group of

46 And that was accordingly rejected in Dilts’ and Murphy’s OCT edition of Andocides (2018).
state debtors not discussed in the previous paragraph along with the others? These questions are legitimate, and the answer is not immediately clear. However, a solution to this conundrum can be found through close inspection of Andocides’ very words. It is true that conviction on a charge of ‘theft’ (klopē) or ‘gifts’ (dōra), i.e. ‘taking bribes’, resulted in a fine, and not paying the fine resulted in debt to the state and temporary atimia, but here Andocides is referring to a different kind of penalty – namely, to atimia as a sanction imposed by a court, as opposed to atimia as an automatic consequence of the debt. As noted by Canevaro (2013: 235), to gain a clearer picture of this item in Andocides’ list we should probably integrate the information provided by Andocides in this paragraph with the description of the euthynai procedure found at Ath. Pol. 54.2: of course, the imposition of a fine at a fixed rate was a constant element for this kind of offenders, because the treasury needed both to recover the money and to set an example, in order to ward off similar misconduct in the future; but, from some of our sources, it is possible to infer that, apart from the tenfold fine, there was also a second stage to the trial that was timētos, i.e. a stage in which an additional penalty was discussed in court and assessed by the panel of judges. After all, not all cases of embezzlement and corruption are the same, and there might have been in practice a desire to act more sternly towards more serious instances of malversation – it is likely that mismanagement of larger sums warranted more severe kinds of retribution. Dinarchus clearly mentions the death penalty in connection to bribery, and, if Blass’ restoration of the fragmentary passage at Hyp. 5.24 is correct, Hyperides also appears to allude to this possibility. Dinarchus in particular seems to imply that the death penalty was an alternative to the fine (δύο μόνον τιμήματα …, ἢ θάνατον … ἢ δεκαπλοῦν τοῦ ἐξ ἄρχης λήμματος τὸ τίμημα τῶν δώρων); Hyperides, on the other hand, appears to suggest that the fine was fixed (οἱ δὲ νόμοι … δεκαπλάδ τὰ ὁφλήματα προστάτουσιν ἀποδιδόναι), while

47 Youni (2001: 127) notes that “Of all known cases found in the Attic orators, atimia was never inflicted in an agon timetos”, but [Arist.] Ath. Pol. 67.5 seems to suggest that, for some public suits, there was an additional penalty (πρόσεστι) that could either be imprisonment, death, exile, atimia, or confiscation of property: see Rhodes’ (1985: 728) commentary ad loc. Note that atimia as a sanction imposed by a court (although in an agon atimētos) was the penalty inflicted also on those convicted for military offences, who are discussed by Andocides in this same paragraph, right after this first subgroup.

48 Hyp. 5.24; Din. 1.60; and perhaps also Dem. 19.273. See below.

49 Din. 1.60.

50 Hyp. 5.24: οἱ δὲ νόμοι τῷ ἐκ τῶν νόμων τούτων μόνοις ἄνθρωποι δικαστεῖς· οἱ δὲ τοίς ἐκ τῶν νόμων τούτων μόνοις ἐν τῷ τίμημα τῷ ὄφλημα προστάτουσιν ἀποδιδόναι· καὶ διὰ τὸν θάνατον τὸ τίμημα τῇ ἐπιθετεί τῆς ἐστὶν ἐκ τῶν νόμων τούτων ἀποδιδόναι· “the laws set a simple fine for those committing misdemeanours, but for those accepting bribes they prescribe a fine ten times the amount taken; and under the law, the death penalty can be assigned to these men alone.” (transl. Cooper).
the death penalty was assessed by the court (καὶ θάνατον τὸ τίμημα τιμῆσαι). This interpretation is implicitly encouraged by the fact that Ps.-Aristotle clearly describes the tenfold fine as a recurrent element in case of conviction, so it might indeed be possible that the death penalty was imposed, in some (extremely serious) cases of bribery, as an additional penalty on top of the fine.\textsuperscript{51} Aside from the more drastic – and permanent – solution of physical elimination, however, it is possible that, in order to put an end to the careers of corrupt magistrates who would nevertheless be able to afford the hefty fine imposed by default (and thus to get rid of the disabilities of their temporary condition of \textit{atimoi}), the law might have also granted the possibility of imposing, in addition to the fine and instead of the death penalty, a permanent kind of \textit{atimia}, which could not be erased simply by settling the debt. This is suggested also by Aeschines,\textsuperscript{52} who says that the judges “make \textit{atimoi}” (ἀτιμοῦτε) men convicted of corruption (τοῦς … τὰς τῶν δόρων γραφὰς ἄλλοκομένους). This form of \textit{atimia} would not have required the confiscation of property, because it was not the result of an outstanding debt, so the fact that this subgroup of \textit{atimoi} is listed among those who kept their \textit{ousia} is hardly surprising. The only piece of evidence that suggests that embezzlement and corruption were punished by confiscation – which represents the main reason why Paoli and MacDowell proposed the transposition of the clause in the first place – is the law on bribery quoted at Dem. 21.113, which states that any Athenian accepting bribes shall become \textit{atimos} along with his children and property (ἀτιμος ἔστω καὶ παῖδες καὶ τὰ ἐκείνου). It has, however, been demonstrated by Harris (in Canevaro 2013: 233–236) that this law is a late forgery, and we should not therefore base any assumption on this text. Another clue that Andocides is here referring to a kind of \textit{atimia} different from the automatic sanction for public debtors can be detected in the parenthetical remark that the \textit{atimia} imposed on those guilty of embezzlement and bribes was extended to the descendants – and not merely inherited by the descendants.\textsuperscript{53} Had Andocides been thinking about the temporary \textit{atimia} of defaulting debtors, this remark would not have made any sense, because the debt (and the \textit{atimia}) were passed on to the

\textsuperscript{51} A parallel for the possibility of inflicting additional sanctions, on top of those fixed by law, can be found in the speech Against Timocrates, (Dem. 24.41, 44, 46, 55, 72, 77, 79), where the speaker, Diodorus, discusses the possibility of adding incarceration to the other penalties normally meted out to public debtors; the verb employed is \textit{prostimaō}.

\textsuperscript{52} Aeschin. 3.232.

\textsuperscript{53} In a decree of the Council reported at [Plut.] \textit{X orat.} 834b (and cf. also 833a–b), it is said that Antiphon and Archepoltemus were inscribed as \textit{atimoi} with their descendants after being condemned to death as traitors, but the decree is not likely to be genuine: see Harris (forthcoming a).
debtor’s descendants only at the moment of the debtor’s death. Thus, there is no reason to accept Paoli’s (1930) emendation and transpose the sentence: the text as it stands in the manuscripts is to be regarded as genuine, and the first subcategory of the second group of *atimoi* is to be understood as those convicted for embezzlement and corruption who received, in addition to the tenfold fine, also permanent *atimia*, which was extended to the descendants as well.

Next, Andocides moves to the sphere of military discipline, an area for which we are comparatively well informed. As Harris (2013a: 217) has demonstrated, under the general rubric of ‘cowardice’ (*deilia*), anyone who wished to do so could bring a public prosecution (*graphe*) against a soldier who had either abandoned his post in battle (*lipotaxion*), or deserted from the army (*lipostracion*) or from the fleet (*anaumachiou*), or failed to show up for duty when drafted (*astrateia*), or threw away his shield (*iēn aspida apobeblēkenai*). Andocides gives an overview, and mentions, *exempli gratia*, most of these offences, which were all covered by the same statute. These *graphai* were *agônes atimêtoi*, and Andocides explains that the fixed penalty was the confirmation of the offender’s *atimia*. This is supported also by other sources: for instance, Demosthenes states clearly that “a man who deserts the position assigned to him by the general should become *atimos* and allowed no share in the community”, and the same is implied also by Aeschines, when he maintains that draft-dodgers, cowards, and deserters were debarred by the lawgiver from the *agora* and the temples, and could not be crowned. Moreover, Apollodorus recalls the case of Xenoclides, a poet and former lover of the courtesan Neaera, who was convicted and made *atimos* (*ητιμώθη*) on a charge of *astrateia*, and was accordingly

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54 See [Dem.] 58.2, where the speaker points out that he is able to prosecute Theocrines only because his father is still alive and, therefore, has not yet passed his *atimia* on to his son.
56 And as was noted in passing also by MacDowell (1962: 111).
57 The law was originally quoted in Lys. 14.5, but is not preserved in the manuscripts. That it applied to several different instances of military indiscipline is clear also from the following paragraphs (§§ 6–7) and from Aeschin. 3.175, where *δειλίας γραφαί* are mentioned. See also Lys. 10.28, where, when discussing how Theomnestus has thrown away his shield, the speaker talks about Theomnestus’ (*and Theomnestus’ father’s*) *deilia*, and Aeschin. 1.29, where not showing up when drafted and throwing away one’s shield are described as actions performed “through cowardice” (*διὰ δειλίαν*).
58 We know of this offence only from Poll. 8.40, where also a charge *liponaution* – presumably in analogy with *lipotaxion* – is mentioned.
59 For a detailed examination of the specific differentiations between these kinds of *deilia*, see Harris (2013a: 217–222).
60 Dem. 15.32: τὸν λαξόντα τὴν ὁποίο ὁ στρατηγὸς τάξιν ταρθείσαν, ἀτιμον ... προσήκειν εἶναι καὶ μηδένος τῶν κοινῶν μετέχειν. The translation is modified from Trevett (2011).
61 Aeschin. 3.176.
62 [Dem.] 59.26–27.
unable to testify in court. Thus, even though, as we have seen in the previous
Chapters, military offenders were considered ‘dishonourable’ – and therefore atimoi
– from the moment the offence was committed, the kind of atimia imposed on those
guilty of cowardice was an actual penalty, in the strictest sense of the term, incurred
upon conviction in a trial. As the additional atimia that might be imposed on those
convicted for embezzlement and corruption, it was a permanent sanction, and
indeed quite far-reaching: aside from the exclusion from the agora and the temples,
discussed by Aeschines (3.176), the prohibition against speaking in public also seems
to have been particularly extensive. Apollodorus implies that the law court is one of
the places where ‘cowards’ – like atimoi in general – could not speak, either as
litigants or as witnesses; but, more generally, ‘addressing the people’, i.e.
‘speaking in the Assembly’ (dēmēgorein), was equally forbidden to such
disqualified persons: for instance, in Lysias’ speech Against Theomnestus (Lys.
10), the defendant is said to have been previously challenged, by a certain
Lysitheus, when he spoke in the Assembly despite not having the right to do so (οὐκ
ἐξὸν αὐτῷ), because he had thrown away his shield; and we know, from Aeschines’

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63 As seen in Chapter 1, Section 1.2, according to Dem. 24.45, annulment of atimia (both for public
debtors through cancellation of their debts and for other atimoi) could be discussed only if a quorum
of 6,000 Athenians had voted for immunity (adeia) by secret ballot: ἐὰν μὴ ψηφισμένοις Ἀθηναίοις
τὴν ἄδειαν πρότον μὴ ἔλαβον ἐξοικερήλιον, οἷς ἀν δόξῃ κρύβοιν ψηφισμένος. From the paraphrase
of the law contained in the following paragraph (§ 46), it is safe to assume that the information
contained in it is correct. On the authenticity of this law, see Canevaro (2013: 127–132). On adeia in
general, see Esu (2021).

64 A good example is Strato of Phalerum’s story, described at Dem. 21.83–87 (with further remarks at
§§ 88–92); see also Chapter 2, Section 2.1. Strato was denounced by Meidias and convicted on the
charge of having mishandled his office of arbitrator; on this, see in more detail Section 3.3 below.
Strato himself seems to have been present during the trial against Meidias, and his inability to speak
in that occasion is highlighted by Demosthenes (21.95), who calls him up and has him standing before
the court, in silence; note that “the lawcourts were not technically part of the Agora” (MacDowell
1990: 319), and so Strato was at least allowed to get inside. Also, Andocides (1.100), when attacking
Epichares and accusing him of having been a male prostitute (and therefore atimoi), maintains that he
did not even have the right to appear in court: ἀλλ' ὁμοίως οὗτος ἐπέραν ἐπόλμα κατηγορεῖν, ὃς κατὰ
tοὺς νόμους τοὺς ἑμετέρους οὖν ἀτιμὸν ὑπὲρ αὐτοῦ ἔστιν ἀπολογεῖσθαι, “yet this man dared to accuse
other people, when by the laws of Athens he can’t even defend himself!” (transl. MacDowell).

65 Cf. Andoc. 1.100.

66 Cf. [Dem.] 59.26–27.

67 Todd (2007: 664) quotes Lys. [6.33] and 16.20 as parallels of Lys. 10.1 for this use of the verb.

68 Lys. 10.1: ὁτε Λυσίθεος Θεόμνηστον εἰσηγήθηκε ὡς ἐπὶ ἀποβεβληκότα, οὐκ ἐξὸν αὐτῷ
δημηγορεῖν, “when Lysitheus brought an eisangelia against Theomnestos, on the grounds that he was
speaking in public when it was not permissible for him to do so because he had thrown away his
shield.” (transl. Todd). There are problems here with the use of the verb ἑισαγήθηκε; on this, see

69 Todd (2007: 664) notes that the expression is often used in the orators to “denote a formal
disqualification”, and quotes Dem. 24.126, [58].2, and Din. 2.2.2, 2.13. Todd also mentions [Dem.]
25.38, the first speech Against Aristogeiton in the Demosthenic corpus, which is very likely to be a
late forgery and should therefore be used with extreme caution. However, it is possible that both the
prosecution of Timarchus (Aesch. 1),\(^\text{70}\) that the procedure of *dokimasia rhētorōn* existed precisely in order that “any of the Athenians who is entitled”\(^\text{71}\) could prevent noncomplying *atimoi* from speaking in the Assembly and arraign them before a court.\(^\text{72}\)

Andocides then mentions those *atimoi* who incurred the penalty after being convicted three times, either in a *dikē pseudomartyriōn* (for giving false testimony in court)\(^\text{73}\) or in a *graphē pseudoklēteias* (for falsely testifying to a summons).\(^\text{74}\) This ‘three-strike rule’ – which, according to some sources, was a feature also of the *graphē argias*,\(^\text{75}\) ‘for idleness’ (on which see Section 3.3 below) – clearly shows that what called for *atimia* was not so much (or not only) the crime itself, but rather the recidivism, which indicated the existence of a pattern: evidently, according to the Athenian lawgiver, it was possible for a person to make a mistake, and it was even possible to make the same mistake twice, but misusing the right to testify for three times clearly showed that an individual was prone to abusing rights and had the type of character that was unfit to share in the community.\(^\text{76}\)

The last subgroup at § 74 is that of those who maltreated their parents. Again, there existed a specific procedure to prosecute these people, the *graphē kakōseōs goneōn*,\(^\text{77}\) which could be brought by anyone who wished.\(^\text{78}\) Thus, also in the case of

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\(^\text{70}\) Aesch. 1.29. Aeschines repeats both at § 27 and again at § 32 that these disqualified individuals – among which the ‘cowards’ are listed – are prevented from addressing the people.

\(^\text{71}\) Aesch. 1.32: ἐπαγγελλάτω Ἀθηναίων ὁ βουλόμενος, ἀπὸ ἔξοστρ.\(^\text{72}\) Note that the disabilities entailed by total *atimia* for cowards – as well as for male prostitutes, wastrels, and parent-abusers, cf. Aeschin. 1.27–32 – became potentially effective from the moment in which the offence was committed, even if they had not been convicted yet (cf. Wallace 1998: 64); they could of course decide to run the risk of addressing the people despite their situation. However, should someone take the trouble of prosecuting them through a *dokimasia rhētorōn*, their *atimia* would then be ratified by a court; and, should they disregard it again, things could get even uglier. On this, see in more detail Section 3.4 below.

\(^\text{73}\) See Hyp. 2.12. Cf. also Antiph. 2.4.7; Lys. 10.22; Isae. 5.19; Dem. 29.16, 29.50.

\(^\text{74}\) See [Dem.] 53.15–17; cf. also Harp. ὅ 2 K. (s.v. ψευδοκλητέα) and Poll. 8.44.

\(^\text{75}\) According to Lys. fr. 40b, Dracon had established death as the penalty for idleness, whereas Solon had shifted it to *atimia*. However, according to Poll. 8.42 (τῆς δὲ ἀτης ἐπὶ μὲν Δράκωντος ἀτεια ἤ τὸ τίμημα· ἐπὶ δὲ Σόλωνος, ἐπὶ τρίς τις ἠλόη, ἡγομόντο), the sanction had always been *atimia*, but whereas in Dracon’s law code the penalty was incurred even by first-time offenders, in Solon’s legislation the three-strike rule was introduced. On *graphē argias*, see Cecchet 2016 (and in more detail Section 3.3 below).

\(^\text{76}\) In Plato’s *Laws* (937c), the penalty for being thrice convicted *pseudomartyriōn* is described as the loss of the right to testify specifically (ἐὰν δὲ τρίς ἦν ἡ ἀτεια, μιμέτοι ἐξέστω τόιῳ μαρτυρήτῳ).

\(^\text{77}\) Which, as we learn from Isae. 8.32, was available not only in cases of maltreatment of father and mother, but also “grandfather, and grandmother, and their father and mother, if they are still alive” (καὶ πάππος καὶ μητήρ καὶ τούτων μήτηρ καὶ πατὴρ, ἐὰν ἦν ἔτει ζώστιν). See Youni (1998: 177–178).

\(^\text{78}\) See Harp. κ 12 K. (s.v. κακόστρα).
parent-abusers we are dealing with a penalty proper – even though, as we have seen in the previous Chapters and will further discuss below, both maltreating one’s parents and not performing one’s military duties were seen as dishonourable even prior to conviction. That the penalty upon conviction in a graphē kakōseōs goneōn was the ratification of the offender’s atimia appears to be confirmed by Dem. 24.103,79 where Demosthenes states that those who were convicted of this crime (της ἀλούς της κακόσεως τὸν γονέων) could be imprisoned (qua atimoi behaving like epitimo) if found in the agora. We also know from Aeschin. 1.28 that alleged parent-abusers were liable to the dokimasia rhētorōn if they addressed the people, just like those who were believed to have committed military offences.80 Together with the remarks in Andoc. 1.74, then, the information found in these sources confirms that the penalty upon conviction in a graphē kakōseōs goneōn was atimia. As Youni (1998: 178) has noted, most of the actions prosecuted under this statute were offences of omission: aside from beating (typtein), maltreating one’s parents could entail not providing them with food (mē trepein) and shelter (mē parechein oikēsin) in their old age, and not taking care of their graves (tous taphous mē kosmein) once they were dead.81

The main difference between the first two categories of atimoi discussed by Andocides at §§ 73–74 may thus be synthesised as follows: the atimoi in category (1), who became atimoi automatically as a consequence of a debt, obviously needed to give up their patrimony, or at least part of it, in order to pay up what was due to the treasury – once the debt was paid, however, their atimia was immediately revoked; by contrast, the atimoi in category (2), who incurred their atimia as a result of a conviction in court, were able to keep their property (which was then epitima), but they were, at least in principle, atimoi forever.

The third and last category that Andocides examines, at §§ 75–76, is that of atimoi kata prostaxeis. The expression kata prostaxeis has caused some debate among scholars, and there has been so far no agreement as to its precise meaning.

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79 The relevant law is purportedly quoted at Dem. 24.105, but the document has been proved to be a late forgery: see Canevaro (2013: 157–173).
80 More on this below.
81 Youni (1998: 178, n.5) quotes Isae. 1.39; Lys. 13.91; Dem. 24.107; Lycurg. Leocr. 147; Xen. Mem. 2.2.13; Ar. Av. 1353–1357, Ran. 149; Poll. 8.45; Diog. Laert. 1.55. We should note that, at Lys. 13.91, the death penalty is mentioned in connection with maltreatment of parents, but Lysias is there drawing a comparison between treason against the dēmos (which he equates to an adoptive father) and actual maltreatment of one’s biological father, and the reference to the death penalty seems to relate more to the first part of the equation.
For instance, MacDowell (in MacDowell and Gagarin 1998) translates it as “in specific ways”, because the expression is used in a context in which the idea of ‘partial’ *atimia* (i.e. the kind of *atimia* that targeted one specific prerogative) is present. However, it would be a mistake to read *kata prostaxeis* as a technical or legal expression for partial *atimia* itself, especially because this interpretation is primarily based on §§ 77–79, which, as said above, cannot possibly report the actual text of the decree of Patroclides and therefore is unlikely to be useful in reconstructing classical Athenian legal terminology. In a recent article, Novotný (2014) has investigated the issue, and analysed the term *prostaxis* – also in relation with the verb *prostassō* – both in Andocides’ passage and in other literary contexts, concluding that the meaning of the term is always that of ‘ordinance’, ‘command’, ‘injunction’. Some previous scholars, such as Paoli (1930: 304–307) and Kahrstedt (1934: 111, 122–123, 126–128), had already investigated the basic meaning of *prostaxis*, and this had led them to believe that Andocides used the expression *kata prostaxeis* in lieu of *kata psēphismata*, and that it should therefore be translated as “by decree”. As Novotný (2014: 81) notes, however, the translation “by decree” is not entirely unproblematic. As a matter of fact, Andocides seems to be specifically avoiding the use of the word ‘decree’ (*psēphisma*) precisely because he is discussing partial *atimia* and trying to present it as something less serious than total *atimia* – but he is also well aware of the fact that also total *atimia* could be imposed by decree.

This is a critical passage in his argumentation, because he had been made partially *atimos*, or at least so he claims, through a decree, that of Isotimides, by which he was forbidden from entering the *agora* and the temples – a prohibition dangerously similar to the main disabilities imposed through total *atimia*. Accordingly, his purpose here is to draw attention to the partiality of the sanction by mentioning only those decrees that targeted single prerogatives, and focussing specifically on the particular injunction contained in each decree. Moreover, in this paragraph, Andocides is not only discussing the kind of partial *atimia* that was imposed by decree, but also the partial *atimia* resulting from frivolous prosecution or failure to bring a case to court: as Harris (2006: 405–422) has demonstrated, those prosecutors who failed either to “follow through” (*epexelthein*) with their case or to obtain one-

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82 See also Appendix II.
83 See the expression ἄτιμος ἔστω/ἄτιμος εἶναι (cf. Novotný 2014: 81).
84 “Either by bringing the case to court or by formally withdrawing the charge at the anakrisis” (Harris 2006: 413).
fifth of the votes in a public suit had to pay a fine of 1,000 drachmae, and were punished with what Theophrastus calls "a kind of atimia", which consisted in the prohibition against bringing any public suit in the future, in addition (ἐτι) to the fine. Andocides thus seems to be using the word prostaxis as a catch-all term, which includes both the partial atimia resulting from specific injunctions contained in decrees and that resulting from the injunction contained in the law on frivolous prosecution. This, however, does not mean that prostaxis itself was a technical term for partial atimia – it was simply a convenient term to group together partial limitations deriving from specific injunctions in such a way that would make Andocides’ atimia look less serious, even though the injunction contained in the decree of Isotimides looked very much like total atimia.

What, then, are the examples of partial atimia that Andocides brings in? First, he explores the condition of “the soldiers who remained in Athens in the time of the tyrants” (§ 75) after the restoration of the democracy, when their right to speak in the Assembly and to be members of the Council of Five Hundred was revoked, probably by decree. Andocides is very careful to underline the fact that, despite these disabilities, they were like “the other citizens” in every other respect: this means that, while they had lost the power to participate in the decision-making process and thus influence the political life of the city, all their other rights (e.g., the right to enter the temples and the agora, or their property rights) remained untouched. Then Andocides mentions, as said above, those who incurred partial atimia as the penalty for frivolous prosecution, with the words ἕτεροις οὐκ ἦν γράφασθαι, τοῖς δὲ ἐνδεξαμένους (“others were forbidden to bring a graphē, and others to bring an endeixis”)

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86 Theophr. fr. 4b Szegedy-Maszak (= schol. ad Dem. 22.23 [13b Dilts]) Ἀθήναις οὖν έν τοῖς δημοσίοις ἀγάσιν, ἐδώ μή μεταλάβῃ της το πέμπτον μέρος, χρίστας ἀποτελεῖ καὶ ἐτὶ πρόσεπτο τις ἀτιμία οὖν τὸ ἐξείλαι μήτε γράφασθαι παρανόμον μήτε φαίνειν μήτε ἐφηγεῖσθαι, “at Athens in public cases, if someone does not gain a share of one-fifth [of the votes], he owes a fine of 1,000 drachmas and in addition he loses certain rights such as the ability to bring a graphē or a phasis or an ephēgesis against an illegal action” (transl. Harris).
87 The most relevant passages (Dem. 18.266; 21.103; 26.9; [53].1; [58].6; Hyp. 4.34) are discussed by Harris (2006: 408). See also, more recently, Harris (2019a).
88 After all, being banned from the agora meant being excluded from a wide variety of activities (e.g. the selection of judges, or the meetings of the Council), buildings (such as the Bouleuterion or the Metroon), and other possibilities (for instance, the ability to check what was posted at the monument of the Eponymous Heroes), so there are reasons to believe that Andocides is slightly exaggerating the partiality of his own atimia. On the fact that the law courts were technically outside of the agora, see MacDowell (1990: 319), quoted in n.64 above.
90 Novotný (2014: 72, n.50) suggests that they were probably punished only with partial atimia because “they were still needed as soldiers”.

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formulation itself is interesting, because it further exemplifies Andocides’ desire to break down even this partial atimia into its smaller components, in order better to convey the idea of partiality: the penalty itself, as we mentioned earlier, consisted in the prohibition against bringing any kind of public suit, of which graphai and endeixeis were only a few commonplace examples. By mentioning only these two – and leaving out, for instance, the procedures of apagōgēlephēgēsis, or apographē, or phasis – Andocides manages to avoid any impression of completeness, which might dangerously evoke the idea of total atimia, and simultaneously to emphasise, through examples, how this kind of atimia targeted a very specific prerogative, the right to initiate public prosecutions. Finally, Andocides examines his own case, i.e. the case of those who were atimoi in that they “were ordered not to enter the agora” (§ 76), and packages it with what seem to be very well-defined and circumscribed examples of partial atimia: the prohibition against travel to the Hellespont or to Ionia.91 Here Andocides is very aware that he is treading on dangerous ground: true, his atimia might have been only partial, and have targeted specifically his ability to enter the agora and the temples, but this was a feature that was also shared by total atimia. Moreover, his atimia had been imposed by decree, a means through which total atimia was often meted out.92 This is the reason why he chooses to introduce his own example with two of the narrowest kinds of atimia he could think of, a sort of travel-ban on specific locations which had also probably been imposed by decree.93

To sum up, I offer below a summary of this passage, modelled on MacDowell (1962: 106–107). The atimoi described by Andocides are:

A. Public debtors, who lost both their rights and their property (at least to the extent needed to recover the sum owed) automatically, from the moment at which the debt was incurred; they got back their rights once the debt was paid, but, if they died without having paid the debt, their atimia was passed on to their heirs. These were:

1. Men found guilty of financial misdemeanour at their euthynai (scrutiny)

91 As Novotný (2014: 72) notes, these rights had nothing to do with citizenship rights – more on this in the next Chapter.
92 See also the decrees examined in Chapter 2, Section 2.2.
93 See Novotný (2014: 72).
2. Men found guilty in *dikai exoulēs*, private suits for ejectment in which, upon conviction, the losing party had to pay the same amount both to the winner and to the state
3. Men found guilty in *graphai* (public suits) for which the penalty was a fine that they were unable to pay
4. Men who incurred other types of fine (*epibolai*) that they could not pay
5. Defaulting tax collectors and their sureties, who, however – unlike the previous four groups mentioned – only became *atimoi* if they had not paid after the ninth prytany

B. People who were *atimoi* but kept their property. These people, who incurred *atimia* as a penalty proper, were:
   1. Men found guilty of embezzlement or corruption, who, on top of the fixed ten-fold fine, could also be punished with a kind of permanent *atimia*, extended to their descendants, which could not be revoked by paying the debt
   2. Men found guilty in *graphai deilias*
   3. Men thrice convicted in *dikai pseudomartyriōn*
   4. Men thrice convicted in *graphai pseudoklēteias*
   5. Men found guilty in *graphai kakōseōs goneōn*

C. Those who were *atimoi kata prostaxeis*, i.e. “by virtue of special injunctions” that targeted one specific right among many. Andocides mentions *exempli gratia*:
   1. The right to speak in the Assembly or be members of the Council of Five Hundred, lost by the soldiers who stayed in Athens during the oligarchy of the Thirty Tyrants
   2. The right to bring a public case (e.g. a *graphē*, or an *endeixis*), which could be lost if one failed to “follow through” with a suit or gain one-fifth of the votes in court
   3. The right to travel to the Hellespont
   4. The right to travel to Ionia
   5. The right to enter the *agora*
As we can see, then, group A covers total and temporary *atimia* as the automatic consequence of an outstanding debt; group B treats total and permanent *atimia* as a penalty proper, incurred upon conviction in a court of law; and group C deals with partial and permanent *atimia*, mostly (but not exclusively) imposed by decree, or by an injunction contained in a law which nevertheless did not entail conviction in court for outright criminal conduct – even though the types of behaviour displayed by these people were still considered reprehensible enough to warrant a curtailment of their rights. Thus, the main criterion guiding Andocides in grouping together these examples seems to be the way in which *atimia* is incurred in each case, whether because of a debt, as a sanction resulting from conviction, or by decree or other official injunction independent of a guilty verdict. Of course, the seriousness of the penalty plays a part in Andocides’ arrangement of the material: he knows that *atimia* was considered – and indeed was – a serious, if multifaceted, penalty, and so he makes a point – within the framework he constructs – of presenting his *atimia* as one of the least serious kinds by stressing its partiality. But, with regard to the first two groups, Andocides does not really seem to take a stand as to which of the two should be regarded as the most serious form of *atimia* – since ‘seriousness’ is a highly subjective matter, he simply presents the facts and lets his audience decide for themselves what they consider worse: the temporary *atimia* of state debtors, who could potentially lose all of their patrimony in order to recover their rights, or the permanent *atimia* of those convicted in court, who would virtually never regain their rights but could still enjoy their wealth, or even use it to emigrate. He is not trying to write a normative account of how *atimia* works; he is presenting a range of examples in a way that serves his overall argumentation.

This brings us to another key point for our analysis: since Andocides’ list is part of a defence speech, and not a normative and exhaustive account of the workings of *atimia*, it is not surprising that he does not present a comprehensive analysis of the different types of *atimia*. However, it is important to note that Andocides does not seem to be interested in determining a consistent sliding scale of seriousness, mainly because determining precisely which kind of *atimia* is the most serious adds nothing to the point he is trying to make, namely, that there are different types of *atimia* and that his was the least serious.

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94 And, theoretically, could also lose all of their patrimony and still remain *atimoi*, if the value of their possessions was not enough to settle the debt.

95 For this reason, I think that neither Paoli (1930: 306) – who maintains that Andocides is using both the criterion of cause and the criterion of severity inconsistently – nor Hansen (1976: 84–85) – who believes that the groups are arranged according to the degree of benefit they obtained from the amnesty – are correct. Novotný (2014: 69–70) rightly criticises both scholars, but equally maintains that Andocides is using the criterion of seriousness as his guiding principle and arranging his material from ‘most serious’ to ‘less serious’ penalty. His arguments are more compelling, but I am still not entirely convinced that Andocides is here interested in determining a consistent sliding scale of seriousness, mainly because determining precisely which kind of *atimia* is the most serious adds nothing to the point he is trying to make, namely, that there are different types of *atimia* and that his was the least serious.
and specificities of atimia, it is of course not complete – nor does it need to be.\textsuperscript{96} This, however, means that we must supplement it with other sources to get a more thorough picture of how atimia actually worked in classical Athens, and this will be the topic of the next three sections.

3.2 Atimia and public debtors

The notion of atimia, and especially automatic atimia, in classical Athens is generally associated with the status of public debtor.\textsuperscript{97} As noted by Hansen (1976: 67), in our sources “ἐπίτιμοι are often opposed to ὀφείλοντες τῷ δήμοσίῳ”, and atimia and cognates “are frequently used with reference to state-debtors”. It is easy to understand why: after all, state debtors were one of the subgroups of the category of atimoi\textsuperscript{98} – possibly the most widely represented subgroup – and are accordingly the first category examined by Andocides in his list (§ 73). Moreover, as discussed in Chapter 1, the concept of timē (and atimia) was always related to performance. Meeting the basic criteria for the enjoyment of a certain status, and the prerogatives attached to it, was not enough to maintain it – one also had to act according to the standard of behaviour required of a person of that status. Within this framework, then, it is obvious that paying what one owed to the polis was seen as part of acting in accordance with one’s timē as a free person (and/or a citizen), and failing to comply meant waiving one’s rights (timai) until the criteria for participation were met again.

But, crucially, being atimos and being a public debtor were not totally co-extensive conditions, and, to quote Hansen (1976: 67) again, “we have … several examples of a distinction being made between ἄτιμοι and ὀφείλοντες”.\textsuperscript{99} As Andocides explains, debts to the state could be incurred in a variety of ways: in addition to the cases he discusses, we can for example mention also those people

\textsuperscript{96} As noted also by Hansen (1976: 85).
\textsuperscript{97} Hansen (1982) examines the possibility that atimia might have been incurred as a consequence of some private debts, but concludes that “only debtors to the state incurred atimia”, and that “some of the debts hitherto interpreted as private debts were in fact public debts, or did in some way entail a debt to the state.”
\textsuperscript{98} Cf. Canevaro (2013: 130).
\textsuperscript{99} Cf. e.g. Dem. 24.45. In his discussion of this law, Canevaro (2013: 130 n.161) lists some examples in which the two categories are treated as distinct: [Dem.] 25.30 (which, however, is likely to be a Hellenistic speech); [58].45; Pl. Resp. 555d; [Arist.] Ath. Pol. 63.3; Hyp. fr. 29 Jensen.
who defaulted on leases taken from particular sanctuaries, or those who incurred fines from magistrates at the Eleusinian Mysteries and did not pay on the spot (a category which could fall under Andocides’ heading on epibolai). Nevertheless, owing money to the public coffer sic et simpliciter was not enough in itself to become atimos: in this sense, then, becoming atimos was not entirely automatic. Incurring the debt was, of course, the first step, and the accuser in the speech Against Theocrites ([Dem.] 58) specifies that the limitations of atimia were in effect from the very moment in which the debt was incurred. However, the second necessary step, in order to be formally pronounced atimos, was to have one’s name entered in the official list of public debtors, situated on the acropolis, as we are informed by the same Demosthenic speech: those public debtors who became atimoi as a consequence of their debts were recorded in a register on the acropolis, “next to the goddess” (παρὰ τῷ θεῷ). Thus, for instance, we have seen that, whereas the vast majority of public debtors mentioned by Andocides became atimoi from the moment in which the debt was incurred – and, as such, had their names inscribed in the official list of debtors on the acropolis – with their debt doubled if they had not paid by the ninth prytany, the names of tax collectors and their sureties were added to the list on the acropolis only if they had not paid by the ninth prytany, therefore becoming atimoi from that moment until their debt was settled. Canevaro and Harris (2017: 18–21) have shown that this list on the acropolis was the only register of atimoi qua public debtors in Athens: to be sure, there existed other official lists that

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100 See, for example, IG I3 84 lines 22–25, a decree enacted during the archonship of Antiphon (418/417 BCE) regarding the leasing of the sanctuary of Neleus, which instructs the basileus to keep a record of the leases, presumably on the wall of the Royal Stoa (see Papazarkadas 2011: 72–73). As Canevaro and Harris (2017: 19) rightly point out, this register compiled by the basileus is not another list of atimoi qua public debtors, because the lessees are not in fact public debtors. Should one of them default, “then the normal procedure would be followed: the basileus would report the name of the defaulter to the praktores, who would record it on the list of public debtors on the Acropolis” (Canevaro and Harris ibid.).

101 Cf. I.Eleusis 138 lines 29–38, esp. lines 34–35: “The basileus is to have one of the praktores and the secretary, starting on the first (of Boedromion) until the assembly of initiates is dissolved, and they (the praktor and the secretary) are to record the fines which the basileus or any of the epimeletai impose” (trans. Clinton).

102 [Dem.] 58.21.


104 This expression, found in Harp. ψ 1 K., is repeated in [Dem.] 25.28, which has been proved to be a Hellenistic forgery: see Sealey (1993: 237–239) and, more recently, Harris (2018a, esp. 195–197). The speech should obviously be used with extreme caution when reconstructing classical Athenian law, but in this case the evidence it provides is confirmed by [Dem.] 58 (cf. §19: εἰς ἀκρόπολιν), a speech whose authorship is disputed but which certainly belongs to the classical period.

105 This happened because taxes had to be collected annually, and the collection was contracted at the beginning of the year. Obviously, then, successful contractors could not be asked to pay straightaway, because they would need time to collect the tax first. The same was true with leases: payment of the agreed sum was due by the ninth prytany, after the lessee had exploited what he had leased.
registered the names of defaulting debtors, but these concerned only those debtors who did not become *atimoi* as a result of their outstanding debt – they were simply *opheilontes tōi dēmosiōi*.

A very clear example of public debtors who were recorded in official lists different from that on the acropolis, and therefore were not *atimoi*, is that of defaulting ex-trierarchs. From our sources, especially [Dem.] 47, it is apparent that those ex-trierarchs who did not return the naval equipment under their responsibility in good condition – or did not file a *diadikasia* to justify the bad condition of said equipment\(^\text{106}\) – were conceptualised as public debtors ("*opheilontes tēi polei*\(^\text{107}\)) and a record was kept, with their names and the amount due, in the inventories of the overseers of the ship sheds ("*epimelētai tōn neōriōn*\(^\text{108}\)). We possess quite a few inscriptions of these naval inventories, which seem to have been originally erected at Piraeus,\(^\text{109}\) and served both as inventories of naval equipment and as records of "the day-to-day transactions between naval authorities and trierarchs" (Gabrielsen 1994: 14).\(^\text{110}\) As such, they obviously recorded also the sums due by ex-trierarchs, constituting in practice official lists of their debts. Whereas, in earlier records, the lists were compiled by ship, we can see that later on, especially for the years 360–340 BCE, the focus was clearly on individual trierarchs, who were described as ‘owing money’\(^\text{111}\). Yet, in his work on the Athenian fleet, Gabrielsen (1994: 157–169) shows that they were treated with significantly more leniency than other public debtors: they could incur a *diplōsis*, i.e. a fine that consisted in twice the amount of their original debt, and in some cases their property might be confiscated,\(^\text{112}\) but

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\(^{107}\) See [Dem.] 47.19, 20, 21, 22, 25, 29, 31, 33, 37.


\(^{109}\) Liddel (2007: 188, n.289) reports the opinion of Shear (1995: 180), who suggests that the fragments of naval inventories found in the * agora* had been “erected in Piraeus and later transported to the city”\(^\text{110}\).

\(^{110}\) Cf. [Dem.] 47.22 γεγράμμενους οὖν ἀφίκοις ἀμφοτέρους ἐν τῇ στήλῃ ὄφειλοντας τὰ σκεύη τῇ πόλει, “both these men had had their names inscribed upon the *stēlē* as owing equipment to the city” (transl. Scafuro).

\(^{111}\) See Liddel (2007: 190, esp. n.297), who quotes IG II\(^\text{2}\) 1618 line 79 (οἵδε ὄφειλοντον), with IG II\(^\text{2}\) 1615, 1617, and 1619 as *comparanda*.

\(^{112}\) See also [Dem.] 47.44, where a decree ordering confiscation of property is mentioned. Gabrielsen (1994: 163) speaks about three “individuals whose property was confiscated because of failure to defray a naval debt that had been doubled”, but suggests that these cases are likely to have been *aposraphai*, in which the person making the denunciation acts in collusion with the defaulter in order to help him clear his liability".  

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"atimia" was never the automatic penalty for this category of defaulting debtors. This, however, does not show, as Hansen (1976: 59) seems to imply, that "a blind eye was often turned to atimoi who behaved as epitimoi" – Athenians seem to have been quite serious, and thorough, in enforcing the disabilities that could be imposed through atimia. Neither does it mean, as suggested by Hansen (2015: 889–890), that there existed several different lists of atimoi qua public debtors, in addition to that on the acropolis. On the contrary, defaulting trierarchs were simply not treated as atimoi, because their debt did not legally entail automatic atimia – this is why their debt was not recorded in the list on the acropolis but only in the inventories of naval equipment. Naval debtors, as opposed to other kinds of debtors, were dealt with through more lenient means, because it was not considered expedient to punish them with automatic loss of rights. The rationale behind this was simple: fitting a trireme and preparing it for sailing was an expensive business, and it was very hard, especially after the Social War (357–355 BCE), to find enough individuals who had the necessary means and were willing to employ them to fulfil this task. Punishing the defaulters too harshly could have scared off subsequent potential trierarchs, and “in the end what seems to have mattered most to the authorities was the recovery of equipment rather than the punishment of a defaulter” (Gabrielsen 1994: 166).

In much the same way, people who were liable to the property tax (eisphora) but fell behind with the payment did not become atimoi. The eisphora was one of the extra-ordinary military liturgies – or, more precisely, “a form of direct taxation for war costs” (Canevaro 2018d: 448). Whereas at its inception it was an ad hoc tax, in the fourth century BCE it was levied once a year and befell the richest tier of the population, citizens and metics alike. Hansen (1976: 59 n.22) adduces the example

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113 *IG II²* 1631 lines 350–403, discussed by Gabrielsen (1994: 163–164), is interesting in this respect: Sopolis, who had become liable for the naval debt of his brother Cephasdorus, was prosecuted by the supervisors of the dockyards and convicted in court to pay a fine of more than twice the value of the equipment his brother had failed to return (lines 353–360) and his property was confiscated (lines 360–365). At this point, with a fine imposed in a courtroom, Sopolis might have become atimos, but Polyteuctus, who had brought the *apographē* against him, decided to let him keep some of the reward, so that he could retain his rights (lines 365–368: καὶ ἀφεῖκε Πολύδοκας ὁ ἀπογράφων τὰ ἕκ τῶν νόμων καὶ τῆς ἀπογραφῆς Σωπόλιδι τὰ γγομένα εἰς τὴν ἐπτώμαν, “and Polyteuctus, the one who denounced him, remitted him the sum due in accordance with the laws and the apographē, so that Sopolis could keep his epitimia”). Once again, this seems to confirm that defaulting trierarchs were treated with some more tolerance.

114 For a refutation of Hansen’s statement, and a demonstration that Athenians did in fact take the disabilities imposed by atimia very seriously, see Harris (2006: 405–422) and Section 3.4 below.

115 It cost one talent: see Canevaro (2016: 49 and 2018d: 449), who quotes Lys. 21.2; Lys. 32.24, 27; Dem. 21.155.

of Leptines,\textsuperscript{118} who was able to be very active in politics despite owing the (comparatively small) sum of 34 \textit{drachmae} for quite a few years, when Androtion eventually recovered it as collector of the arrears of the \textit{eisphora} in 356/355 BCE.\textsuperscript{119} Evidently, also in the case of the property tax, the priority for state authorities was not alienating a group of rich and influential men that could potentially contribute in meaningful ways to the political and economic life of the \textit{polis} – depriving them of their prerogatives (and their property), even for the time necessary to settle the debt, would have probably done more harm than good in the long run.

In light of these examples, it is clear that the word ‘debtor’ (\textit{opheilōn}) in Athens had both a marked and a generic, unmarked sense. Only those who had their names inscribed in the list of public debtors on the acropolis (and not in other lists) were public debtors in the marked sense, and therefore officially – and totally – \textit{atimoι} until the debt was settled, with all the disabilities that this entailed. This was the key point, and the fact that public debtors in the unmarked sense were not \textit{atimoι} was institutionalised and displayed in practice through the registration of their names in official records other than the list on the acropolis. The reason why debtors in the marked sense and debtors in the unmarked sense were treated so differently probably lies in the manner in which their respective debts were incurred. We have seen that the debtors described by Andocides owed money to the state because they had done something wrong: they had been found guilty of something, or had incurred a fine for some type of bad behaviour. On the other hand, people like ex-trierarchs or those who fell behind with their \textit{eisphora} payment had not technically broken any laws – they had been called to perform a service for the state,\textsuperscript{120} from which (at least in the case of the trierarchy) they were exempt only in specific circumstances,\textsuperscript{121} and from which they could not actually make any monetary profit whatever.\textsuperscript{122} Moreover, as we mentioned above, these services were expensive, and people in the liturgical class represented only 4\% of the Athenian population.\textsuperscript{123} Therefore, it stands to reason that the \textit{polis} did not want to discourage them by treating them too sternly in case of

\textsuperscript{118} Probably the same person as the Leptines of Dem. 20: see Canevaro (2016: 33).
\textsuperscript{119} Dem. 22.60.
\textsuperscript{120} Although some people did volunteer for the trierarchy: see Gabrielsen (1994: 73).
\textsuperscript{121} I.e., if they were performing another liturgy, or if they had performed another liturgy the year before, or the trierarchy itself in the two previous years: see Canevaro (2016: 55, 58–63; 2018d: 452, 455–459). They could also, of course, initiate an \textit{antidosis}: see Gabrielsen (1994: 73 and 188–189) and recently Canevaro (2016: 47; 2018d: 447).
\textsuperscript{122} As tax farmers, on the contrary, did: see below.
\textsuperscript{123} Canevaro (2016: 58). Cf. also, more recently, Canevaro (2018d: 454 n.77).
default, especially when the main concern was not so much punishing the defaulters but rather finding ways of recovering equipment and money without crippling the liturgical system as a whole. Tax collectors and their sureties, together with lessees, who are also mentioned by Andocides, represent a partial exception in that they had misbehaved simply in so far as they were late with their payment: perhaps the reason why they are not grouped with ex-trierarchs and eisphora-payers is that they had willingly agreed to lease a good, or collect money for the state, with an eye to personal profit, too. As we said above, tax farmers purchased tax-collecting rights through an auction, and whatever money exceeded their original bid stayed in their pockets. Similarly, those who leased a good were expecting to make a profit out of it. Thus, no one had in any way compelled them to take on this task, for which possible advantages, as well as risks upon failure, were presumably quite clear from the start.

From what we have observed, then, we can draw two main points. First, it seems clear that we should disaggregate the category of public debtor, which is not as monolithic as it would appear at first glance: only debtors in the marked sense – whose category was ‘marked’ not only abstractly, but concretely by having the debtors’ names inscribed in a particular list, that on the acropolis – were atimoi, and there were precise reasons why this fate was not shared by ‘unmarked’ state debtors. These reasons had to do, in part, with the importance that this latter category of state debtors had for the correct functioning of the liturgical system: as mentioned above, they represented the richest stratum of Athenian society, and the only one that was subject to direct taxation. As such, they were obviously more useful to the polis if they remained in full possession of their rights and, especially, their property. But the reasons also, and perhaps more importantly, had to do with the circumstances in which the individuals’ respective debts were incurred – as we have seen, debtors in the marked sense had broken a law or otherwise misbehaved, whereas debtors in the unmarked sense had been asked by the polis to perform a service and had not fulfilled it to complete satisfaction. Second, and as a corollary to what has just been said, it is important to clarify that with ‘automatic atimia’ we are not describing a simple cause-and-effect mechanism by which each and every debtor was punished with atimia: only those whose names were recorded in the list on the acropolis were. For these people, inability to defray the cost automatically triggered atimia as an

\[124\] E.g., by engaging in behaviour that called for a fine, or by not paying on time after having voluntarily purchased tax-collecting rights or leased some good.
institutionalised and formal legal response that followed specific laws. We should note, moreover, that of this group of debtors in the marked sense of the term, the vast majority were people who incurred a debt because they had committed specific crimes and were convicted and fined in court, or who had otherwise misbehaved in ways that warranted a fine that they could not pay. In this sense, then, the atimia incurred as a consequence of a debt to the state was, in most cases, not entirely dissimilar to that incurred as the standard penalty for specific crimes, which we will treat in the section below.

3.3 Atimia as sanction for inappropriate behaviour

As discussed above, there existed in Athens some forms of behaviour that were perceived by the community as not worthy of the timē of a free person. These ‘unworthy’ actions came to be codified by law and, accordingly, could be prosecuted through particular charges. For these crimes, the penalty set out by law was usually atimia, and, in most cases, total atimia: conviction on one of the relevant charges, then, led either to the loss of one specific right, which the person had abused, or to the loss one’s timē altogether, as a result of not having lived up to the expectations placed upon the individual according to his or her status.

Along with embezzlement (prosecuted through graphē klopēs) and corruption (dealt with through graphē dōrōn, also called graphē dōrodokias), for which the penalty of atimia seems to have been one option, among many, that could be selected in the timēsis part of the trial (see Section 3.1 above), Andocides lists a few other offences for which the trial was atimētos and the penalty, upon conviction, was invariably total atimia: neglect of military duty, prosecuted through graphē deilias, and maltreatment of parents (or grandparents, or great-grandparents), prosecuted through graphē kakōseōs goneōn. He mentions two further crimes for which the penalty was total atimia, but this was incurred only in the event of a third conviction on the same charge, which thus became proof of recidivism: giving false testimony in court (dikē pseudomartyriōn) and falsely testifying to a summons (graphē pseudoklētetas).

125 See Harp. δ 88 K. (s.v. δῶρων γραφή).
126 See esp. n.47 above.
Andocides’ list of crimes that entailed total *atimia* as a penalty, although very substantial, is nevertheless incomplete: one procedure that he does not mention, for instance, is the *graphē argias* (public prosecution for idleness). This procedure has been recently studied by Cecchet (2016), who suggests that the *nomos argias* in Athens had originally been introduced “in the context of the sixth-century agrarian crisis”, but had then gradually broadened its scope during the fifth and, especially, fourth century BCE (p. 118). As Cecchet (2016: 118–119) explains, we find three mentions of a *nomos argias* in our sources from classical Athens: the first mention is found in a Lysianic fragment from a speech *Against Ariston for idleness*,\(^{128}\) where the law is attributed to Draco. According to this fragment, in Draco’s legislation the penalty, upon conviction on a charge for idleness, was death, but this was changed by Solon into a fine of one hundred drachmas for the first two convictions, and *atimia* in the event of a third conviction. Another Lysianic fragment from the speech *Against Nicides*,\(^{129}\) which apparently was, again, a prosecution for idleness,\(^{130}\) reasserts the Draconian paternity of the *nomos argias*, and also suggests that the procedure was a public prosecution (*graphē*), which could be brought by anyone who wished (καὶ ὁ ἄργος ὑπεύθυνος ἔστω παντὶ τῷ βουλομένῳ γράφεσθαι).\(^{131}\) The *nomos* is then mentioned again, briefly, by Demosthenes,\(^{132}\) and the information regarding Draco’s authorship of the law and Solon’s modification of the penalty meted out upon conviction is asserted also by Plutarch.\(^{133}\) While “a real Draconian authorship”,

\(^{128}\) Lys. fr. 40b Carey: Δυσίας ἐν τῷ κατὰ Ἀρίστον ὁφηθ᾽ ὦτι Δράκον ἤν ὦ θεῖς τόν νόμον, καθίς δὲ καὶ Σόλον εὐχήσατο, θάνατον οὐχ ὀρθάς ὅσπερ ἔκεισσος, ἀλλὰ ἀτύμων, ἐὰν τίς ἄλλο τρίς, ἐὰν δ᾽ ἄπαξ, ζημιοσκότη ἰδραμάς ἔκαστο, “in *Against Ariston* Lysias says that Draco is the one who introduced the *nomos (argias)*; also Solon used it, yet without recurring to death penalty as Draco did, but to *atimia* in the event that one was spoken guilty three times; in the event that one was found guilty once, he set a fine of one hundred drachmas” (transl. Cecchet).

\(^{129}\) Lys. fr. 246 Carey (= Diog. Laert. 1.55): δοκεῖ δὲ καὶ κάλλιστα νομοθετήσαι· ἐὰν τις μὴ τρέφῃ τοὺς γονέας, ὀτιμὸς ἔστω· ἄλλα καὶ ὁ τά πατρίδα κατεδηδοκάς ὁμοίως, καὶ ὁ ἄργος ὑπεύθυνος ἐστω παντὶ τῷ βουλομένῳ γράφεσθαι. Δυσίας δ᾽ ἐν τῷ κατὰ Νικίδον Δρᾶκοντα φησὶ γεγραφέναι τόν νόμον … “it seems that [Solon] made very good laws: in the event that someone does not maintain the parents, he shall be *atimos*; similarly (this shall happen) to the one who dissipates the patrimony of his ancestors. And the *argos* shall be liable to public prosecution by anyone who wishes. Lysias in the speech *Against Nicides* says that Draco wrote the law …” (transl. Cecchet modified).

\(^{130}\) This speech originally stood after Lys. 25 in *Pol.* gr. 88, but was completely obliterated due to physical damage to the manuscript.

\(^{131}\) The prosecution for idleness is listed among *graphai* also in Poll. 8.40 and, possibly, in *An. Gr.* I 310 Bekk. with Rose’s punctuation (Arist. fr. 420 Rose [*Historica*]: πρὸς τὸν ἄργοντα κακότατος ἐλαχιστόνοτα γράφαι καὶ τῶν γονέων εἰ τούτῳ τις αἰτῶν ἄξον κακὸν καὶ τῶν ὁρφανῶν, ἔτι δὲ παρανοίας καὶ ἄργας, καὶ ἐπιδικάσαι ἐπικλέρον γνωστὰν, “public cases both for maltreatment of parents, if someone had done wrong to them, and for the maltreatment of orphans were brought before the archon, and also public actions for *paranoia* and *argia* and inheritance disputes over *epikleroi*”, transl. Cecchet modified).

\(^{132}\) Dem. 57.32.

\(^{133}\) Plut. *Sol.* 17.1.
as Cecchet (2016: 124) points out, “is unlikely”, it is entirely possible that the law had been originally enacted under Solon, with a view to avoiding misadministration of public fields and protecting family rights by allowing members of an oikos to claim a piece of land that was being neglected by its rightful heir, in order to prevent dissipation of the patrimony of the oikos. On the other hand, the remark in Demosthene's speech Against Eubulides (Dem. 57) suggests that, by the fourth century BCE, the graphē argias could also – and perhaps primarily – be used against those who could not prove that they had an honest job and thus could be thought to be making a living through some kind of criminal activity. This new concern of the nomos argias with unemployment and poverty is shown also in other fourth-century sources: Cecchet (2016: 129–137) quotes Aristophanes, Isocrates, and a fragment of the comic poet Diphilus, supposedly concerned with a Corinthian law but more probably describing a procedure that an Athenian audience could recognise and understand. All three passages link idleness – or, more generally, lack of a clear legitimate source of livelihood – with poverty and evil-doing; in particular, Isocrates describes how poverty comes about through idleness, which in its turn generates a tendency towards criminal behaviour (τὰς ἀπορίας μὲν δὲ τὰς ἀργίας γιγνομένας, τὰς δὲ κακουργίας διὰ τὰς ἀπορίας), while Diphilus mentions the possibility that unemployed people might choose to earn money through sycophancy (line 16: συκοφαντεῖν) and false testimony (lines 16–17: μαρτυρεῖν ψευδῆ). Thus, Cecchet notes (2016: 128), “fourth-century sources suggest that argia was perceived as a threat to public order and to the well-being of the polis.” This is perfectly understandable against the backdrop of a city impoverished and prostrate after an almost thirty-year war effort, and explains why multiple convictions for this kind of behaviour were met with a measure as harsh as total atimia: this severe penalty acted as a deterrent for unproductive and

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134 Note that also Herodotus (2.177.2) attributed the law to Solon, although describing its wider, fifth-century field of application rather than the archaic one; cf. also Diod. Sic. 1.77.5 (both quoted by Cecchet 2016: 124 n.39). Cecchet (2016: 124–125) examines also the possibility, suggested in Theophr. fr. 99 Wimmer = Plut. Sol. 31.2, that the nomos had been enacted by Pisistratus, but concludes that a Solonian authorship is more likely.

135 Ar. Pl. 510–516.

136 Isoc. 7.44.

137 Diphilus fr. 31 K.-A.


139 Also Dem. 57.32 and 34 suggest that Eubulides is amenable to the nomos argias because he is a sycophant: see Cecchet (2016: 126–127).

potentially dangerous behaviour, and further promoted social order and economic growth.

Another type of atimia that Andocides does not analyse is the one incurred by magistrates who did not perform their duty, although he does mention atimia as the result of a fine that could be incurred by magistrates at their scrutiny (euthynai), should financial irregularities be detected, and as the additional penalty for egregious cases of embezzlement and corruption. As we have seen in Chapter 2, Section 2.2, several inscriptions testify to the popularity of atimia as a means to keep officials in check, and we also know from literary sources that, for instance, atimia was the penalty for citizens over sixty who failed to serve as arbitrators without official dispensation, or who mishandled their power as arbitrators,141 as well as for heralds who announced manumissions of slaves and proclamations of crowns in the theatre:142 being a magistrate meant enjoying a special status (timē), and not living up to the expectations bestowed on such special status, and thus betraying the trust of the polis, meant losing the right to participate in the very community one had let down.

Thus, aside from the latter case of magistrates, we have seen that, in classical Athens, there were essentially two categories of crime for which the penalty was, invariably, total atimia: those that warranted atimia after the first conviction (i.e. military offences and maltreatment of parents) and those for which the aggravating factor, calling for atimia, was recidivism (i.e. false testimony and idleness). Failure to perform military duty, especially if left unchecked, represented a very concrete danger for public safety:143 without a disciplined and well-functioning army, the polis would be unable to defend itself against foreign attacks. Neglect of the elderly could potentially lead to an equally disrupted situation, where, in the absence of a centralised welfare system, a whole section of the population, unable to fend for themselves, would be left without any means to survive. Moreover, and perhaps more importantly, refusing to take care of one’s older relatives would have represented a breach of the system of reciprocity that underpinned the mechanism of timē, upon which virtually every relationship within the polis was based: parents who

142 Aeschin. 3.44; cf. Youni (2019: 373).
143 Cf. e.g. Arist. Rh. 1373b22–24, where it is said that the person who does not serve in the army commits injustice (ἀδικεῖ) against the community (τὸ κοινόν).
had taken care of their children had the right to be taken care of by them in return, both in their old age and after death, when the offspring had the duty to look after their ancestors’ graves. Similarly, as highlighted above, idleness represented a problem for the life of the polis, first, because fourth-century Athens needed to promote productivity among her inhabitants due to her difficult financial situation after the Peloponnesian War, and, second, because idleness and unemployment were perceived as potentially leading to criminality. Interestingly, idleness is specifically linked by Diphilus (fr. 31 K.-A.) to another crime for which recidivism called for atimia as a penalty, i.e. giving false testimony: of course, false testimony – be it false testimony in a law court or falsely testifying to a summons – endangered the smooth functioning of the court system, thus preventing justice from being served, and therefore needed to be very clearly discouraged through harsh penalties. A similar rationale was probably also behind the choice of atimia as the penalty for negligent or misbehaving magistrates, whose impeccable conduct was paramount to the proper running of the state and its institutions. What all these offences had in common, then, was that they posed a threat to key aspects of the correct functioning of society and, as such, were presented as the kind of behaviour that was unworthy of one’s status as a free person.

But one could also abuse only one specific right (timē), in which case that very right would be revoked through a kind of atimia that was only partial. Andocides (§ 76) brings the example of the penalty for frivolous prosecution, which was discussed above: failure to ‘follow through’ or to gain one-fifth of the votes resulted in the prohibition against bringing public suits in the future, a disability

144 See e.g. Xen. Mem. 2.2.13, discussed also in Chapter 2, Section 2.1, where not providing for one’s mother is classified as a form of acharistia. See also Arist. Pol. 1334b38–1335a5, with Canevaro’s commentary in Bertelli and Canevaro (2022), where charis is explicitly mentioned, and EN 1161a14–22 (cf. Cairns, Canevaro, and Mantzouranis 2022). That the relationship between parents and children was, like any other, based on reciprocity – and, as such, situated in the sphere of timē: see the Introduction – is clear e.g. from the law against procuring (Aeschin. 1.13), where it is specified that, if a boy’s father (or tutor) had hired him out as a prostitute, thus obviously failing in his parental duties, the boy no longer had the duty to provide for his father in his old age.

145 In this case, the offence also had a religious dimension and, as such, was potentially dangerous in terms of the polis’ relationship with the gods in general: see the law on procuring, mentioned in the note above, according to which, even though a boy who had been hired out as a prostitute by his father was not required to take care of him when he was old, he was still expected to look after his father’s grave (cf. also Aeschin. 1.14).

146 As we have seen, Diphilus also mentions sycophancy (line 16: συκοφαντεῖν), which was mostly dealt with through the penalty for frivolous prosecution.

147 See also the entrenchment clauses examined in Chapter 2, Section 2.2, which aimed at safeguarding important provisions voted and approved by the community.
described by Theophrastus as “a kind of atimia”. This is a kind of atimia. Another example is that of third conviction in a graphē paranomōn (public prosecution for proposing an illegal decree). The evidence from classical Athens suggests that, for this charge, just as it happened with the dikē pseudomartyriōn, the graphē pseudoklēteias, and the graphē argias, what we called the ‘three-strike’ rule applied: Hyperides implies it when he compares third conviction in a graphē paranomōn with third conviction in a dikē pseudomartyriōn, and the fourth-century comic poet Antiphanes spells this out explicitly when he says that a public speaker (ῥήτωρ) becomes “voiceless” (ἄφωνος) if he is convicted three times paranomōn (ἵν ἄλῳ τρίς παρανόμων). Another passage in Demosthenes appears to confirm the existence of the ‘three-strike’ rule for the graphē paranomōn, and it also adds one further detail: after the third conviction (ἐὰν ἄλῳ τὸ τρίτον), the orator would be punished with partial atimia and, accordingly, lose part of his rights (μέρος ἠτιμῶσθαι τοῦ σώματος). There have been, however, some issues with the interpretation of this passage. Harrison (1971: 176 n.2), for instance, wants a different punctuation, and argues that the passage should be “interpreted as meaning ‘one who is convicted of speaking not according to the law (i.e. a ῥήτωρ who has proposed an illegal decree) may be penalized as to one-third of his rights as a citizen’, i.e. may lose the right to be a magistrate, the three main rights of a citizen being ἐργαζαν, δικαζαν, and ἐκκλησιαζαν”. There are three problems with Harrison’s reading of the sentence. First, with his punctuation, the passage would imply that whenever an orator was convicted paranomōn, regardless of whether it was the first, second, or third conviction, this penalty of losing “one-third of his rights as a citizen” was meted out. We know from our sources that this was simply not the case: the graphē paranomōn was an agôn timētōs and, as such,
the penalty upon conviction was not fixed, but had to be assessed by the court.\textsuperscript{154} Second, there are no parallels for the right to be a magistrate being described in ancient sources as one-third of someone’s citizen rights.\textsuperscript{155} Third, even if Harrison’s interpretation were correct, it seems to me that loss of the right to be a magistrate would be better described as partial \textit{atimia}, because it targets one specific right, and so it is not clear to me how Harrison (1971: 176) can maintain that “The rule most probably was that on the third conviction in a γραφή \textit{παρανόμων} the jury fixed the penalty as in a normal ἄγών τιμητός, but there was added to it total ἀτιμία of the normal type.”\textsuperscript{156} On the contrary, the classical sources we have examined seem to be describing a kind of partial \textit{atimia} that targeted the right to speak in the Assembly: aside from Demosthenes’ testimony, which is somewhat vague (μέρος … τοῦ σῶματος), the terms employed by Antiphanes (ῥήτωρ ἄφωνος) point towards the dimension of public speaking as the area in which this disability was experienced.\textsuperscript{157} Moreover, later sources appear to confirm that the penalty, after the third conviction for illegal proposals, was indeed the loss of the right to speak in the Assembly: Diodorus,\textsuperscript{158} for instance, clearly states that Demades the orator could not \textit{symbouleuein} (i.e. participate in the activities of the Assembly) because he was \textit{atimos} as a result of having been convicted three times \textit{paranomōn}.\textsuperscript{159} The rationale,

\begin{itemize}
  \item \textsuperscript{154} See Aeschin. 3.210. The most usual penalty upon conviction seems to have been a fine, although of course the amount varies: for instance, we have a fine of 25 \textit{drachmae} at Hyp. 4.18, and then a fine of 10 talents in [Dem.] 58.31. As discussed in Chapter 2, Section 2.2, very high fines were sometimes perceived as a way of imposing \textit{atimia} – and, for instance, in [Dem.] 58 the debtor in question did become \textit{atimos}.
  \item \textsuperscript{155} On the contrary, τὸ τρίτον is normal Greek for ‘the third time’: see e.g. Hyp. 2.12 (ὁσπερ τοῖς τῶν \textit{καταδύσεων} διὰ ἥλιοκόστων διεδόκατε ἡμεῖς τὸ τρίτον μὴ μαρτυρεῖν μὴ δ’ ὀίς ἄν παραγένονται … οὕτω καὶ τοῖς ἥλιοκάσι Παρανόμους ἐξετάν μικτεύ γράφειν). Similarly, Hansen (1991: 207) cannot be right when he states that “A third judgement against the same person led to total and permanent \textit{atimia} as an automatic appendage.” It is true that the penalty was automatic and permanent, but, as we have seen, there is no reason to believe that it was total as well.
  \item \textsuperscript{156} The fact that Andocides does not mention the \textit{graphē paranomōn} alongside \textit{dikē pseudomartyrīōn} and \textit{graphē pseudoklēteias}, despite the fact that the three charges shared the feature of the ‘three-strike’ rule, might also support the view that the penalty for third conviction in a \textit{graphē paranomōn} was partial rather than total \textit{atimia} (as was the case for \textit{dikē pseudomartyrīōn} and \textit{graphē pseudoklēteias}), but of course we need to bear in mind that Andocides’ list is not exhaustive, and his examples are, after all, just examples.
  \item \textsuperscript{157} Diod. Sic. 18.18.2: ἦν γὰρ τρεῖς ἥλιοκόσις παρανόμων καὶ διὰ τοῦτο γεγονὸς ἄτιμος καὶ κωλύομενος ὑπὸ τῶν νόμων συμβουλευόμενον ἀπολαβὼν δὲ τὴν ἐπιτίμιαν ὑπὸ τοῦ δήμου παραιχῆμα ἐξεπέμφθη πραξεῖν καὶ τοῖς Φοικίδιοις καὶ τοῖς άλλοις, “for he had been convicted three times of introducing illegal measures and because of this he had become \textit{atimos} and was prevented by the laws from speaking in the Assembly; but after he had got back his \textit{epitimia} from the people, he was immediately sent as an ambassador with Phocion and some others.”
  \item \textsuperscript{158} Plutarch (\textit{Phoc.} 26.2) says that Demades had become \textit{atimos} (γεγονός ἄτιμος) and, as such, was debarred from speaking (ἐξερήτρικα τὸ λέγειν) because he had been convicted \textit{paranomōn} seven times (ἣλὼκε γὰρ ἐκτὰ γραφάς παρανόμων), but, in the light of the other sources, it is safe to assume that...
\end{itemize}
then, seems to have been the same as with the penalty for frivolous prosecution: abusing one specific right (be it bringing public prosecutions or making proposals in the Assembly), either egregiously or one time too many, resulted in the permanent loss of that right.\textsuperscript{160} What all these sources show, ultimately, is that not conforming to the standard of behaviour meant being pushed to the margins of communal life, because one’s place in society needed to be earned – how it was earned, and especially how, upon losing it, the exclusion of undeserving individuals was enforced, will be the issues discussed in the section below.

3.4 Automatic \textit{atimia}, checking credentials, and overstepping boundaries: \textit{dokimasia}, \textit{apagōgē/ephēgēsis}, and \textit{endeixis}

In the previous section, we have examined several offences for which, upon conviction, the penalty was \textit{atimia}, and we have seen that the penalty was \textit{atimia} precisely because these offenders had behaved dishonourably in the first place: they had done something that was unworthy of the status they enjoyed within the community.\textsuperscript{161} However, we have not yet clarified one important consequence of this connection between the penalty of ‘dishonour’ and these offences: since it was the behaviour itself that was considered intrinsically blameworthy and dishonourable, regardless of conviction in court, a person who performed any one of these acts was \textit{atimos} – and, as such, subjected to all the limitations entailed by \textit{atimia} – from the very moment in which the act was performed. Should this person be brought before a court on account of his or her dishonourable act, it was the judges’ job to review the evidence and establish whether the act had been performed or not. If the defendant was then found guilty, at least in the case of \textit{graphē deilias} and \textit{graphē kakōseōs} \textit{goneōn}, the court verdict – i.e. the penalty of \textit{atimia} – represented basically a

\footnotesize
\begin{enumerate}
\item the figure of seven must be either Plutarch’s mistake or a corruption in the text. Interestingly, \textit{Suda} \textsuperscript{δ} 415 Adler (s.v. Δημάδης) states that Demades was convicted for illegal proposals only twice (δις δὲ παρανόμου ἵλοι).\textsuperscript{160}
\item See Harris (2006: 418): “The right to bring \textit{graphai} and other public charges was a valuable privilege, one so important that the Athenians considered just one serious abuse of the right as grounds for permanently revoking it.”
\item See, e.g., Isa. 1:39, where failure to provide for one’s parents is presented as both shameful and illegal (καὶ ταῦτ’ ἤμας καὶ ἡ συγγένεα καὶ οἱ νόμοι καὶ ἡ παρ’ ὦμων αἰσχύνη σωμέν ἦν· ἤνάγκαζεν ἦν).
\end{enumerate
confirmation of the person’s *atimia*, which had simply been ‘inactive’ up to that moment.\textsuperscript{162}

It is possible that, for some *atimoi*, the penalty upon conviction was even more serious than the formal confirmation and activation of their (already existing) *atimia*: that would be the case for the unsuccessful defendant in a *graphē hetairēseōs* (i.e. a public prosecution against a male prostitute who behaved like an *epitimos*), if we are to read Aeschines’ mention of “the greatest penalties”\textsuperscript{163} in the law on male prostitution as a reference to the death penalty. Regardless of whether conviction in this *graphē* actually entailed capital punishment, the case of male prostitutes is nonetheless particularly instructive, because it shows very clearly how the performance of a disgraceful act automatically translated into an actual loss of legal rights, even before conviction. From Aeschines’ citation of the law, we learn that the disabilities imposed on a male once he had prostituted himself – and, evidently, prior to conviction in a *graphē hetairēseōs* – amounted to total *atimia*: he could not become one of the nine archons, hold a priesthood, be a *syndikos* for the state, hold an office of any kind (either at home or abroad), or address the Council or the Assembly. Thanks to a remark in Andocides,\textsuperscript{164} we also know that men who were believed to have prostituted themselves, *qua atimoi*, were required to keep away from law courts as well.\textsuperscript{165} Aeschines essentially confirms that (unconvicted) male prostitutes were to be regarded as *atimoi* when he says that they “should not share in the common affairs of the city” (*μὴ μετέχειν τὸν τῆς πόλεως κοινῶν*), and that they equally should not expect, if they had kept aside “from the ambition for noble honours” (*τῆς εἰς τὰ καλὰ φιλοτιμίας*) by prostituting themselves when they were young, suddenly to be *epitimoι* once they became older (πρεσβύτεροι γενόμενοι).

\textsuperscript{162} Wallace (1998) talks about “unconvicted” or “potential” *atimoi* as opposed to convicted *atimoi*, building upon Paoli’s (1930) distinction between “incensurati” and “pregiudicati”.

\textsuperscript{163} Aeschin. 1.19–20 (*τὰ μέγιστα ἐπιτίμια*).

\textsuperscript{164} Andoc. 1.100, where he maintains that one of his opposers, Epichares, had been a male prostitute and, as such, could not even defend himself in court (*αὐτὸν ... ἀπολογεῖσθαι*), let alone accuse someone else (*καὶ γερογείν*).

\textsuperscript{165} What Kapparis (2017: 163) fails to understand, in his analysis of Andoc. 1.100, is that the law on male prostitution explicitly required unconvicted prostitutes to respect the terms of their *atimia* (by not holding offices, speaking in public, etc.), otherwise they could be prosecuted. Thus, it is not that “The *atimia* which Epichares hypothetically deserved could be due to his unsavory deals with the Thirty, his sycophantic activities, and so many other alleged unpatriotic actions in his record” – Andocides is clearly talking about Epichares’ activities as a prostitute, which called for *atimia* (*ἀλτὰ σοὶ περὶ ἐπαφῆς ἐμοὶ μενεῖν ποιῆ καὶ κακῶς τινας λέγας; ὡς ἐν μὲν ὡς ἡμᾶς ἄρα καλὸς γὰρ ἂν τοις ἐμὺς προτιμῶμενον δ’ ὡσ τοι ἄργον ἀργόφθων τὸν βουλόμενον ἀνθρώπων, ὡς ὦτοι ἱεσιν, ἐπὶ τοῖς αἰσχροῖς ἄνθρωποις ἐξίηςς, καὶ ταῦτα ὦτοι μοχθήρους ὄν τὴν ἴδεαν*).
ἐπίτημον εἶναι).\textsuperscript{166} That the act itself – of having subjected oneself to sexual intercourse in exchange for money – was regarded as dishonourable prior to conviction,\textsuperscript{167} and even if the encounter (and the monetary transaction) had happened without the consent and willingness of the prostitute, is clear also from Aeschines’ commentary of a law on procuring that applied specifically to cases in which the procurer was either the father, brother, uncle, or in any case the legal guardian of the person who was being hired out.\textsuperscript{168} According to this law, it was not possible to prosecute the boy himself (κατ᾽ αὐτοῦ μέν τοῦ παιδὸς οὐκ ἔδραφήν εἶναι), but only the panderer and the client (κατὰ δὲ τοῦ μισθοσαμένος καὶ τοῦ μισθωσαμένου), and the – unspecified – penalty was the same for both. This, however, does not mean that there were no consequences for the boy: Aeschines explains that, by hiring him out as a prostitute, his father (or legal guardian) had deprived the boy of his \textit{parrhēsia}, i.e. the right of free speech, which evidently involved also the ability to address the people or speak in a law court.\textsuperscript{169} It is apparent, then, that neither consent nor conviction played any part in the assessment of the act. Having engaged in prostitution, whether willingly or unwillingly, was incompatible with performing an active role in the \textit{polis}: the prostitute was to be regarded as \textit{atimos} by the community, and should behave as such. However, even though procuring a free boy or woman was certainly illegal,\textsuperscript{170} it is important to stress that – as implied also by the law on

\textsuperscript{166} Aeschin. 1.160 (transl. Fisher).
\textsuperscript{167} See e.g. Aeschin. 1.165 (where the punishment for prostitution is “a verdict of shame upon the perpetrator”, κατέγνωκε τοῦ πράξαντος αἰγύπτην), 182 (which speaks of “acts of shame”, τὰς αἰγύπτινας), 187 (again with τὰς αἰγύπτινας); cf. also § 154, where it is said that Hegesandrus’ habits are “habits as a result of which the laws forbid the man who behaves like that from addressing the people” (ἐκ τούτων ἕν τὸν πρᾶξαντα οἱ νόμοι ἀπαγορεύουσι μὴ δημηγορεῖν), transl. Fisher.
\textsuperscript{168} Aeschin. 1.13–14. As is clear from the wording in §14, there existed a separate law on procuring (\textit{proagōgeia}) in general. See also n.168 below.
\textsuperscript{169} Carey (2000: 28 n.15) describes it as “the right to address the Assembly, the Council, or the courts”.
\textsuperscript{170} We have seen above that there were provisions for cases in which the procurer was the father or the legal guardian of the prostitute: the father (or legal guardian), upon conviction, was to suffer the same penalty as the client. As noted by MacDowell (2000: 17–18), the wording in Aeschin. 1.13 suggests that this penalty was not death, because it is specified that the boy, once he got older, was under no obligation to take care of his father (although he was still required to look after his father’s grave after his death). If the penalty were death, this remark would make no sense. There existed also a more general law on procuring (\textit{proagōgeia}), according to which the convicted procurer or procuress was to be sentenced to death: cf. Aeschin. 1.14, 184. However, MacDowell (2000: 18) is mistaken in thinking that this law is “hardly consistent” with the one quoted at Aeschin. 1.13–14. In fact, 	extit{pace} also Kapparis (2017: 156), it makes perfect sense to have two different penalties for what were perceived as two different crimes: to the Athenian lawyer, one thing was to be a professional brothel-keeper who was trying to make a profit by exploiting a vulnerable free person, another was to be a (potentially struggling) father who might have decided to prostitute his son in an attempt to support his family (as suggested, albeit sceptically, also by MacDowell). Evidently, in the second case, extenuating circumstances might have been taken into account.
male prostitutes quoted at Aeschin. 1.19–20 – prostitution was not: indeed, as Kapparis (2017: 155) highlights, “in the entire Greek world there was not a single city-state, not a single town or village, not even a remote corner where prostitution was illegal.” What was illegal, then, was for the male prostitute, who was atimos according to the law on prostitution, to attempt to behave like one of the epitimoi, and especially – as we will see in more detail below – to be active in politics. If the male prostitute (or ex-prostitute), as an unconvicted atimos, spontaneously respected the terms of his atimia, no-one could legitimately prosecute him, because he would be behaving according to his worth as a disqualified person. But if he did something contrary to the provisions of the law (ἐὰν δὲ τις παρὰ ταῦτα πράττῃ) by trying to participate in public life,171 anyone could bring a graphē hetairēseōs against him.

The prohibition against speaking in public for male prostitutes is especially highlighted – due in part also to the nature of the trial itself, a graphē paranomōn – by Diodorus, the speaker in Dem. 22, in his speech against Androtion, who had allegedly been a male prostitute (as well as a public debtor): the law on prostitution is explicitly mentioned at § 21 and attributed to Solon at § 25 and again at § 30.172 In this whole section of the speech (§§ 21–32), Diodorus insists upon the fact that Androtion should not have been making proposals tout court, not even legal proposals – he was, as a male prostitute, disqualified (atimos) by law. But the importance that the Athenians placed on preventing (unconvicted) atimoi in general from addressing the people is shown also by the availability of another procedure, open to ho boulomenos, directed specifically against those who spoke in public despite having performed one (or more) of the actions that called for atimia: the dokimasia rhētorōn.

Aeschines’ speech Against Timarchus (Aeschin. 1) is the only speech in our possession that was delivered in a dokimasia rhētorōn,173 and it is evident that the accusation of being a male prostitute represents one of the main charges held against the defendant, along with that of having squandered his patrimony. Within the speech, however, the law regulating the procedure as a whole is discussed,174 and all the categories of people to whom it applied are listed: not only prostitutes and wastrels, but also parent-abusers and cowards. We have seen above that all these

171 Aeschin. 1.20.
172 The Solonian paternity is implied also in Aeschin. 1.6. See also Diog. Laert. 1.55 (Σόλωνα δὲ τὸν ἰθαγνοτὰ ἐργαζόμεν τῷ βῆματος, “and Solon prevented prostitutes from speaking in the Assembly”).
174 Aeschin. 1.28–32.
categories of offender could be arraigned before a court through specific types of public prosecution: parent-abusers and cowards could be prosecuted, respectively, through *graphê kakôseôs goneôn* and *graphê deilias*, and the *graphê hetairêseôs* was available for male prostitutes. As for wastrels, they probably fell under the scope of the *nomos argias*, often with the implication that they were living above their means thanks to some kind of criminal activity (e.g. sycophancy, false testimony, or prostitution). However, the availability of the *dokimasia rhêtorôn* alongside these procedures should not be seen as a duplication, because they were, in fact, not interchangeable. Both the *dokimasia* and these *graphai* could be initiated against someone who had not been previously convicted in court for the relevant crime, i.e. an unconvicted *atimos* – the mere suspicion that he had misbehaved was enough to allow anyone who wished to initiate one of the procedures.\(^{175}\) Accordingly, the task of the prosecutor in a *dokimasia rhêtorôn* and that of the prosecutor in one of the *graphai* mentioned above were very similar: both prosecutors needed to prove that the unconvicted *atimos* in question had actually committed the dishonourable act. Upon conviction, then, that person’s *atimia* would be confirmed and formally actualised by the court verdict, with the partial exception of the *graphê argias* – for which three convictions were needed, because recidivism was what called for *atimia* – and the *graphê hetairêseôs* – for which the death penalty might have been a possibility (see above). But the main difference between these *graphai* and the *dokimasia rhêtorôn* lay precisely in the specific focus on public speaking of the *dokimasia*, which could be used short-term, as a sort of emergency measure, to prevent anyone to whom dishonourable behaviour could be ascribed from addressing the Assembly. Thus, whereas all the *graphai* mentioned above could be used at any moment, the *dokimasia rhêtorôn* was created and used specifically as a means to prevent alleged *atimoi* from addressing the people at the very moment in which they were trying to do so. And not only was the timing of the procedure different – the set of proofs and the arguments of the prosecution needed to be different too, because, as was said above, the *dokimasia* was concerned specifically with public speaking, whereas the other *graphai* mentioned either targeted a specific form of criminal behaviour (e.g. in the case of *deilia* or *kakôsis goneôn*), with official confirmation of...

\(^{175}\) At least in principle, the *dokimasia rhêtorôn* might have also been used, as an emergency, on-the-spot measure, to stop convicted *atimoi* who disregarded their court verdict and tried to address the people, but this in practice could not have happened very often. In such cases, we must assume that the prosecutor’s job in court would have simply been to prove that the *atimos* in question had indeed been previously convicted.
atimia as the penalty upon conviction, or, as was the case with the graphē hetairēseōs, they had a broader scope: the concern was not only public speaking, but rather any of the activities forbidden to atimoi. The core element, however, remained the same for all these procedures: the defendant had engaged in some dishonourable activity which entailed the forfeiture of one’s rights within the polis, and the court verdict was a means to set the record straight and dispel any doubt as to the status of the defendant, both for the defendant and for the audience.

These two important aspects of the penalty – atimia (qua dishonour that translates into actual legal disabilities) as the direct result of the defendant’s behaviour and the court verdict as a confirmation of this state of affairs – are perfectly exemplified by the prosecution against Timarchus: Aeschines himself suggests that conviction would have meant the ratification of Timarchus’ atimia when, pre-emptively counterattacking his opponents’ arguments, he claims that they are going to maintain that

it would seem … very bizarre, if you, when you are about to have children, all pray that your unborn sons may be fair and noble in appearance and worthy of the city, yet those that have been born, in whom the city may well take pride, if they are exceptional in beauty and youthful charm and if they arouse the desires of some men and become the objects of fights because of erotic passion, you are then to disenfranchise (ἀτιμώσετε) such men, on the persuasion of Aeschines. 176

We also possess more detailed information on Timarchus’ fate thanks to Demosthenes,177 who is very clear about the outcome of the trial: the wretched man (ὁ … ταλαίπωρος ἄνθρωπος) would remain atimos (ἠτιμώσεται) as a result of Aeschines’ successful prosecution in the dokimasia rhētorōn. Thus, it is clear that conviction on one of the relevant charges meant, in practice, the actualisation of one’s atimia. But it is also clear that this atimia was perceived as the result of the person’s act itself, rather than the responsibility of the prosecutor and/or the judges. 178 Aeschines insists on this point throughout his whole speech, which is a

176 Aeschin. 1.134 (transl. Fisher). Note the use of the technical verb atimaō/atimoō: see Chapter 2, Section 2.1 above and the Appendix I below.
177 Dem. 19.284. Note again the use of the technical verb atimaō/atimoō: see Chapter 2, Section 2.1 above and the Appendix I below.
178 See e.g. Lys. 31.33, discussed in Chapter 2, Section 2.1: it is not the Council that is unjustly disrespecting Philon (οὗ γὰρ ὡμίξεις νὸν αὐτῶν ἀτιμάζετε), but he himself who has forfeited the
detailed argumentation of precisely why Timarchus “should not share in the common affairs of the city” (§ 160): the bottom line is that he had already usurped rights and prerogatives (timai) which were not his – in his specific case, addressing the people. The judges, then, simply had the duty formally to ratify something that was already informally true. We should note, however, that ‘informal’ here does not mean ‘extra-legal’: as we have seen, there existed a specific law that “prescribed who were and who were not permitted to speak before the people” (§ 27). As a result, this disability (atimia) for unconvicted parent-abusers, draft-dodgers, wastrels, and prostitutes was a legally sanctioned reality, and, as we have seen, failure to abide by this law could lead ho boulomenos to initiate a dokimasia rhētorōn. Once the law had been broken, because the atimos in question had not kept away from the bēma, this legal procedure was a way to redress the misguided self-assessment of the person’s own worth by means of a communal assessment: if the rhētōr had indeed unduly arrogated to himself a prerogative (timē) to which he had no claim (i.e. addressing the people), his atimia was then ratified and enforced by the unfavourable verdict of an Athenian court – but he was already atimos because of his action, and only had himself to blame. Throughout the whole speech, and from the very beginning, Aeschines frames the trial as something which Timarchus had brought upon himself: “the laws proclaimed to him, because he had lived so shameful a life, that he should not speak before the people”179 – a simple enough thing to do, which Timarchus disregarded. Hence, Aeschines’ request that the judges force Timarchus to comply with the rules set out for his condition of atimos.

We can see, then, that there were differences between all these procedures, despite the fact that they all targeted dishonourable behaviour that entailed automatic legal disabilities: the graphē kakōseōs goneōn and graphē deilias are the most straightforward, because they had the aim of punishing dishonourable acts that were also outright criminal offences. Similarly, the graphē argias was concerned with behaviour that was associated to criminality, but what led to formal atimia in that case – aside from the disgracefulness of that kind of behaviour – was persisting in one’s blameworthy line of conduct even after two previous convictions for such dishonourable act. The graphē hetairēseōs, however, was slightly different. As with the graphē kakōseōs goneōn and the graphē deilias, the defendant was regarded as

179 Aeschin. 1.3 (transl. Fisher).
legally *atimos* from the moment in which the act was performed, but, in the case of the male prostitute, it was not the act itself that was illegal: the only thing that was illegal was for the male prostitute to engage in public life. Thus, as long as the male prostitute minded his own business, no-one could bring an indictment against him.\(^{180}\) Of course, engaging in public life (and, chiefly, addressing the people) was illegal also for those *atimoi* who had maltreated their parents or committed an act of cowardice, and for *atimoi* in general, regardless of conviction.\(^{181}\) The only difference from the case of male prostitutes was that, since cowardice and maltreatment of parents were both dishonourable and illegal (as opposed to prostitution, which was only dishonourable), withdrawing from public life might not in practice be enough for the perpetrator to avoid prosecution.

There were, then, types of behaviour which were deemed to be incompatible with public life. Some of these represented actual criminal acts, whereas others were simply regarded as unworthy of one’s status (of citizen and/or free person) without necessarily being illegal. All of them, however, were perceived and understood as bringing disgrace and diminishing one’s standing in the community (and the legal rights attached to it) prior to and irrespective of conviction. This is shown very clearly also by other *dokimasia* procedures that existed alongside the *dokimasia rhētorōn*. In Athens, to perform any kind of public role, from magistracies to priesthoods,\(^{182}\) it was necessary to pass a preliminary examination (*dokimasia*) of one’s credentials, in order to ascertain whether or not the candidate possessed all the necessary prerequisites required by law to fulfil that position. From *Ath. Pol.* 55.3 we know the questions that were asked of prospective archons, and, from what Dinarchus says in his prosecution of Aristogeiton,\(^{183}\) it is also possible to infer that these were the basic questions asked at any *dokimasia*, although it is likely that, depending on the specific office at issue, other additional questions, particular to that


\(^{181}\) This is true also for public debtors: for instance, Diodorus in Dem. 22 makes clear that Androtion was *atimos* both because he had been a male prostitute and because he was a public debtor, so he was not entitled to make proposals on both grounds. See also the case of Pyrrhus, who was indicted (and condemned to death) because he served as a judge while he was in debt to the treasury (Dem. 21.182): evidently, it was illegal for *atimoi* to fulfil this kind of public role.

\(^{182}\) Note that it is reasonable to assume, from Pl. *Leg.* 759c, that both priests and priestesses underwent a *dokimasia*: cf. also Feyel (2009: 212–218) and Lambert (2010: 156 n.71). See also Chapter 4, Section 4.1.

\(^{183}\) Din. 2.17.
role, were added.\(^{184}\) These questions verified, first, the double Athenian parentage of the candidate and other kinship relations – as the questions on Apollo Patroos and Zeus Herkeios seem to suggest\(^{185}\) – to determine one’s status as citizen, which was the baseline for political participation. The following set of questions, however, is more interesting, because it represents an even more specific inquiry into one’s \textit{epitimia}: by asking whether the candidate treated his parents well (and, in the event that they were dead, that he honoured their tombs), paid his taxes, and performed his military service, the Council was basically asking whether the candidate was amenable to either a \textit{graphē kakōseōs goneōn} or a \textit{graphē deilias}, and checking that he managed his finances responsibly and was not a public debtor – in essence, the Council was making sure that the candidate was not disqualified (\textit{atimos}). Even though there was no direct question regarding one’s sexual conduct,\(^{186}\) it is clear from the law on prostitution (Aeschin. 1.19–20) that misbehaviour in that area was a concern in all \textit{dokimasia} procedures, and not just in the \textit{dokimasia rhētorōn}: we know that virtually all the offices mentioned by Aeschines as precluded to prostitutes (archon, priest, herald, ambassador, speaker in the Council and in the Assembly)\(^{187}\) were subjected to a preliminary examination. Moreover, during the trial arisen from his \textit{dokimasia} as a prospective member of the Council, Mantitheus informs the \textit{bouleutai} that he is in possession of his full rights by telling them that he has not been involved in any “shameful” (\textit{αἰσχρά} \textit{dikē}, \textit{graphē}, or \textit{eisangelia}):\(^{188}\) of course, he is in part subscribing to the ideal of the quiet citizen,\(^{189}\) by whom being involved in \textit{any} kind of litigation might potentially be perceived as somewhat shameful, but the mention of shameful litigations seems also to allude, to some extent, to those crimes that, as we have seen above, warranted \textit{atimia} because they were considered

\(^{184}\) For example, the archon \textit{basileus} needed to be married, and it is thus likely that his marital status was inquired into during his \textit{dokimasia}: see Feyel (2009: 180). Rhodes (1972: 2) quotes Din. 1.71, where it is said that “ῥήτορες and στρατηγοί were required to have legitimate children and to own land within the boundaries of Attica”, and suggests that “this too may have been required of \textit{bouleutai}”.

\(^{185}\) See Parker (2003: 17–20).

\(^{186}\) Which, as Aeschines points out, can be quite difficult to assess: cf. e.g. Aeschin. 1.160–165.

\(^{187}\) For all these roles we know that specific \textit{dokimasiiai} existed: cf. Feyel (2009: 148–220). We do not possess direct evidence on a \textit{dokimasia} for \textit{syndikoi} (also mentioned by Aeschines), but it seems fair to assume that they, too, as public magistrates, had to undergo a preliminary exam.

\(^{188}\) Lys. 16.12. On the connection between the language of “ugliness” and \textit{atimia}, see the Introduction, and Chapter 1, Section 1.2 above.

\(^{189}\) A commonplace in Lysias: see Lateiner (1982) and Kapellos (2014).
blameworthy in the first place.\textsuperscript{190} Finally, it is clear from our sources that being rejected at a *dokimasia* was conceptualised as a type of *atimia*, because it meant being denied the possibility to exercise a right (*timē*). The speaker in Lys. 31, in asking the members of the outgoing Council to prevent Philon from serving in the following year, invites them to punish him with the *atimia* available at the moment (τῇ γε παρούσῃ ἀτυμίᾳ),\textsuperscript{191} that is, rejection at the *dokimasia* and debarment from office.\textsuperscript{192}

We have seen, then, that Athenians were very thorough in making sure that no disqualified person could participate in public life, because participation was, in itself, an honour: most aspects of public life were available as rights (*timai*) tied to one’s status (*timē*), and needed to be exercised honourably, that is, following standards of behaviour rooted in honour and controlled by social and legal sanctions of dishonour (*atimia*). Thus, dishonourable behaviour (and, in some cases, recidivism) was punished with the ratification of one’s dishonour in court, and proof of honourable behaviour was required and verified in *dokimasia* procedures before one could actually fulfil any official role in the *polis*, with disqualification for office considered a kind of *atimia* in itself. One type of *dokimasia*, the *dokimasia rhētorōn*, was specifically created, as an emergency measure, to prevent (allegedly) dishonourable individuals from addressing – and potentially corrupting – the people. But what happened when a disqualified person overstepped the boundaries of *atimia* in other respects? What legal remedies were available against *atimoi* who were seen, for instance, hanging around the *agora* or frequenting the temples, from which they were banned by law? As a testament to the urgency with which the Athenians approached these issues, we know of at least one additional procedure that could be used to deal with whoever did not respect the legal disabilities of *atimia*: *endeixis*. This procedure has often been connected to two other procedures, *apagōgē* and *ephēgēsis*, because all three were open to *ho boulomenos* and involved – at least in principle – imprisonment in the *desmōtērion*. There are, however, differences between them.

\textsuperscript{190} That *atimia* was at the back of the speaker’s mind in this passage is confirmed also by the remark on his impeccable military conduct at the end of the paragraph: Mantitheus wants to reassure the Council that he is not *atimos* in any way. See further Lys. 16.13, 15–18.

\textsuperscript{191} Lys. 31.29.

\textsuperscript{192} For the rhetorical play between the concept of *atimia* (qua loss of rights) and the verb *atimazō*, see Chapter 2, Section 2.1.
Apagōgē literally means ‘leading away’, ‘arrest’, and its main features appear to be two: first, the offender needed to be caught ep’ autophōrōi, that is, in circumstances and/or with strong evidence that made the guilt manifest;193 second, the accuser carried out the arrest himself and brought the criminal in front of the Eleven. We have very little information on ephēgēsis in our sources, but it appears that it functioned in the same way as apagōgē, with the only difference that, instead of personally arresting the offender, the accuser simply needed to lead the Eleven to the criminal, so that they could take care of the arrest.194 Thus, the central point seems to have been that the accused had to be caught ep’ autophōrōi. As shown by Harris (2006: 386–388), who quotes Ath. Pol. 52.1 in this respect, this provision restricted the categories of wrongdoers who were routinely prosecuted through apagōgē (or ephēgēsis) to essentially three: thieves (kleptai), clothes-snatchers (lōpodytai), and enslavers (andrapodistai),195 who could of course be caught in the very act of committing the crime, but could also be found in possession of the corpus delicti (i.e. the stolen object or the wrongfully enslaved person) at a later time – which would make their guilt manifest (at least prima facie) even after the fact. From the prosecution of Agoratus (Lys. 13) and the speech on the murder of Herodes (Antiph. 5), it seems that apagōgē could be used also against suspected murderers,196 but it is very clear, from both speeches, that this was not a routine procedure in cases of homicide. Given what we know about the relevant statute, it seems fair to assume that apagōgē (or ephēgēsis) might have been used against an alleged murderer only when the accuser believed that he had enough incriminating evidence, i.e. when he was confident that he could demonstrate that the offender had been caught ep’ autophōrōi:197 hence, for example, the insistence of the Eleven that Dionysius put the words ep’ autophōrōi in his indictment of Agoratus.198 The use of this procedure was probably permitted also in cases in which, for example, the offender was seen either committing the murder or leaving the scene of crime, so that bystanders – even if they were not related to the victim – could seize a murderer before s/he could get

195 See also Harris (2013a: 53–54).
196 Cf. esp. Lys. 13.85–87 and Antiph. 5.8–10.
197 If he was unable to demonstrate that, it is possible that he could be prosecuted through a case for confinement (díkē heirgmou), but the evidence is doubtful: see MacDowell (1978: 126).
198 Lys. 13.86.
away.\textsuperscript{199} From Dem. 23.80, it appears that this procedure was also used to remove an alleged killer from prohibited rites or places (lustral water, libations, bowls of wine, holy places, and the \textit{agora}).\textsuperscript{200} In this case, the reason behind allowing anyone who wished to seize the potential murderer – provided that one had enough evidence to justify one’s action – was certainly a concern regarding pollution: as is well known, prosecution for homicide, as a rule, was the responsibility of the victim’s family, but preventing the murderer from contaminating the \textit{polis} was everyone’s business.\textsuperscript{201} According to MacDowell (1963: 139–140) and Hansen (1976: 99–100), \textit{apagōgē} could be used also to arrest suspected murderers against whom a proclamation of the \textit{basileus} had already been issued and who were nevertheless frequenting prohibited places, but this assumption rests solely on a law quoted at Dem. 24.105 which, however, is undoubtedly unauthentic.\textsuperscript{202} Earlier in the same speech, Demosthenes does not directly mention \textit{apagōgē} (or cognate terms), but rather speaks more generically of imprisonment (\textit{desmos}) as an option against “those who have unclean hands and enter the Agora”, along with “those who betray the public interest” and “those who harm their parents”.\textsuperscript{203} For this reason, it seems more likely that, in the case of suspected murderers against whom a proclamation had been made, the correct procedure was in fact \textit{endeixis}.

\textit{Endeixis} is described by Harpocratene as “a kind of public suit (\textit{ἐλιθος δίκης δημοσίας}) under which those who were excluded by law from certain places or practices were prosecuted (\textit{τοις ἐκ τῶν νόμων εἰργομένως τινῶν ἢ τόπων ἢ πράξεων}), if they did not keep themselves from said places and practices (\textit{εἰ μὴ ἀπέχοιτο αὐτῶν})”.\textsuperscript{204} The offender was denounced by \textit{ho boulomenos} to the relevant magistrate,\textsuperscript{205} and could, in principle, be imprisoned by the Eleven while awaiting

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\begin{itemize}
\item\textsuperscript{199} Cf. Youni (2018: 152): “procedures in court were not sufficient for dealing with flagrant and urgent situations”.
\item\textsuperscript{200} Dem. 20.158. If we believe the law at Dem. 23.28, it seems that \textit{apagōgē} could be used also against convicted murderers who had gone into exile but were found in Attica, but it is impossible to assess the authenticity of this law. \textit{IG I\textsuperscript{1}} 104 lines 30–32 was, in older editions, supplemented on the basis of Dem. 23.28, so it is not helpful in this respect. Moreover, we should note, with Harris (2013a: 38 n.77), “that Demosthenes (23.31) explicitly states that the \textit{thesmothetai} carried out the arrest of a murderer who returned from exile”.
\item\textsuperscript{201} For the permanence of concerns about pollution in fourth-century Athens, see Harris (2015a) and (2018b).
\item\textsuperscript{202} Canevaro (2013: 157–173).
\item\textsuperscript{203} Dem. 24.60 (transl. Harris).
\item\textsuperscript{204} Harp. ε 48 K. (s.v. \textit{Ἐνδιξέως}).
\item\textsuperscript{205} See above.
\end{itemize}
trial, but this does not appear to have been mandatory. Thus, as we can see, there are some procedural similarities between *apagōge* and *endeixis*, but there are also several important substantive differences. First, with *apagōge*, the determining factor was that the alleged offender might be arrested on the condition that the accuser had (or at least claimed to have) incriminating evidence against the defendant – that is, evidence that the accused was in possession of a stolen object or a wrongfully enslaved person, or that the person was seen and apprehended while committing either one of these crimes or a murder. However, in the case of *endeixis*, there was no such requirement: instead, the charge could be brought only against a person who was debarred by law from entering certain places and performing certain activities, i.e. against a disqualified person. What this means, in practice, is that *endeixis* was, in a way, a ‘second-degree’ charge, aimed specifically at *atimoi* who refused to abide by the limitations imposed on them by *atimia* and behaved like *epitimoi* instead.

The procedure, then, did of course concern *atimoi* who had been convicted in court: as we have seen above, Demosthenes – although “providing a quick and simplified account of the procedure described at [Arist.] *Ath. Pol.* 63.3” (Canevaro 2013: 167) – maintains that those who had been convicted of maltreating their parents and entered the agora were to be put into prison (after being tried by *endeixis*), and mentions military offenders in the same context. But it was not restricted to those *atimoi* against whom there had been a previous conviction: any official document that attested that an individual was *atimos* was enough to allow anyone who wished to bring an *endeixis* against that individual, should he or she appear in one of the forbidden places. Thus, for instance, we have mentioned above that Andocides was prosecuted by *endeixis* because, according to

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208 Hansen (1976: 94–95 nn.2–3) discusses the possibility that sometimes *apagōge* (i.e. arrest) might have followed the denunciation by *endeixis*. MacDowell (1990: 280) believes that the cases described at Dem. 21.59–60 are proof that *apagōge* was the correct procedure against *atimoi*, but see Canevaro (2013: esp. 170 n.273), with Scafuro (2005: 55 n.11). Indeed, as Canevaro (2013: 170–171) observes, “*Apagoge* against *atimoi* is unparalleled in our sources.”

209 According to [Arist.] *Ath. Pol.* 63.3, *endeixis* was also the procedure used against state debtors or (other) *atimoi* who served as judges. The penalty upon conviction was assessed by the judges and it could be quite harsh: from Dem. 21.182 we know that a certain Phyrus was condemned to death in the trial that arose from his *endeixis* (*ἐνδειχθέντα*).

210 Dem. 24.103. Demosthenes, however, does not mention that imprisonment was a possibility only after offenders were tried and condemned to a fine they could not pay; see Canevaro (2013: 170): “if convicted parent abusers or draft dodgers transgress the conditions of their *atimia*, they must be tried and, if their penalty is a fine, they must be imprisoned until the fine is paid.”
the prosecution, he was *atimos* by virtue of Isotimides’ decree and was disregarding the disabilities imposed on him by attending the Eleusinian Mysteries. 211 Another case of *endeixis* we possess is the one detailed in [Dem.] 58, which was brought against a public debtor (or so the accuser claims) who was not respecting the terms of his *atimia*. 212 As explained above, there existed an official list on the acropolis, where all the names of people indebted to the public treasury were inscribed, and this list was clearly a pivotal point in the litigation: the young prosecutor mentions the list several times, 213 and clearly states that the defendant, Theocrines, is going to challenge his grounds for bringing an *endeixis* on the basis of that list. The accuser is evidently eager to demonstrate, first, that Theocrines’ name (or his grandfather’s) 214 was indeed inscribed in the official list, 215 and second, that, even if it were not, there existed a law according to which a debtor was to be considered as such from the moment in which the debt was incurred. 216 But the speaker’s very insistence on (and anxiety around) the list, as well as the frequent repetition of the name of the procedure (*endeixis*) throughout the speech, 217 seem to suggest that the strongest element of Theocrines’ defence was precisely the absence of an undisputed mention of his name on the official list, which is likely to have been a necessary condition in the statute regulating *endeixis*: only when prosecutors were acting upon an existing official document, issued by one of the institutions of the polis, were they able to bring this procedure against a transgressing *atimos*. 218 Therefore, it stands to reason that suspected murderers who were yet to undergo their trial and nevertheless appeared in public were dealt with through *endeixis*, rather than *apagōγεληφήγεσις*: the proclamation of the basileus represented an official document, which signified that a *dikē phonou* had already been undertaken by the victim’s family and that the defendant – who was given at least the benefit of the doubt because, evidently, there was no incontestable evidence that could justify the use of force against him or her –

211 Andoc. 1.
212 [Dem.] 25–26 also deal with *endeixis* against a public debtor, but the speeches were composed during the Hellenistic period and present many mistakes about Athenian history and institutions: see Harris (2018a: 195–196).
214 Theoretically speaking, it made no difference who incurred the debt, as long as it was an outstanding debt: as we have seen above, both the debt and the *atimia* were inherited by the debtor’s descendants until the debt was paid.
215 [Dem.] 58.16.
216 [Dem.] 58. 48–52.
217 *Endeixis* (or the verb *endeiknymi*) is mentioned at § 1, 5, 6, 11, 14, 17, 22, 23, 25, 36, 39, 42, 45, 48, 52, 57, 59, 69.
218 Of course, Theocrines’ claim that his name was not in the list is disputed, too – otherwise the prosecutor’s indictment would not have been accepted by the magistrate.
was officially debarred from specific places, as a precautionary measure, until the trial.\textsuperscript{219} Finally, it is possible that also alleged parent-abusers, cowards, and prostitutes who were awaiting trial were required to keep away from the forbidden places, and dealt with through \textit{endeixis} – on the basis of the written plaint, or \textit{engklēma}, which was given to the relevant official when accuser and defendant met before him and then posted in the \textit{agora} by that same official – if they did not.\textsuperscript{220}

To sum up: aside from \textit{dokimasia}, which acted as a preliminary barrier for \textit{atimoi}, both real and presumed, who were trying to take up offices open only to the \textit{epitimoi}, there existed several procedures, open to \textit{ho boulomenos}, that ensured that disqualified persons complied with their disabilities. First, if an unconvicted \textit{atimos} was loitering about one of the forbidden places, anyone who wished could indict him (or her, when applicable) under the relevant statute: \textit{kakōsis goneōn} in the case of an alleged parent-abuser, \textit{deilia} in the case of an alleged coward, \textit{hetairēsis} in the case of an alleged prostitute, and so on. In addition to these \textit{graphai}, unconvicted \textit{atimoi} who tried to address – and possibly misguide – the people could be stopped in the act through the emergency procedure of \textit{dokimasia rhētorōn}. Finally, for those disqualified individuals against whom an official document was available – be it a previous court conviction, a decree, the official list of debtors on the acropolis, or a proclamation of the \textit{basileus} – there existed the possibility to prosecute through \textit{endeixis}. Only those offenders whose guilt was manifest – mostly thieves, clothes-snatchers, and enslavers, but also murderers against whom there was overwhelming evidence, prior to and independent of any proclamation from the \textit{basileus} – could be forcibly carried to prison through \textit{apagōgēplephēgēsis}. When these latter procedures were used, the penalty upon conviction was death. With \textit{endeixis}, by contrast, the penalty was assessed by the judges, with, perhaps, the death penalty only for certain offences.\textsuperscript{221}

\textsuperscript{219} Note that three ‘pre-trials’ (\textit{prodikasiai}), one each month for three consecutive months, were held by the \textit{basileus} before a homicide case could actually go to court in the fourth month, with the result that no homicide cases could be tried in the last three months of the year, after which the \textit{basileus’} term of office would expire (see MacDowell 1978: 118, with Antiph. 6.42): this, in practice, means that an alleged murderer had to keep away from specific places for at least four months, and potentially more.

\textsuperscript{220} On the \textit{engklēma} and its structure, see Faragina (2006) and (2007: 93–95), and, especially, Harris (2013b).

\textsuperscript{221} See n.209 above.
3.5 Conclusions

From the evidence examined in this Chapter, it is clear that the penalty of *atimia*, in fourth-century Athens, was extremely well regulated and rigorously enforced: there existed procedures to control access to the various public roles available to those in possession of their full rights, as well as specific legal actions, ‘second-degree’ procedures, and emergency measures. Determining whether an individual was *atimos* or *epitimos* was the crux for participation in the political, religious, and social life of the *polis*. Participation was an honour, and it depended upon honourable behaviour, that is, behaviour that lived up to the standard expected of one’s status, codified and enshrined in the laws of the city. Thus, accordingly, *atimia* was imposed by law on those people who, by not living up to such standards, might pose a threat to the normal and smooth functioning of Athenian institutions, should their behaviour be left unchecked: dishonourable behaviour was anti-social behaviour, behaviour that was considered a danger to the democracy.

For instance, the penalty of *atimia* was automatically meted out to certain categories of public debtors because not paying taxes and fines was bound to debilitate the finances of the *polis* and harm its ability to carry out public works or to finance war efforts. Similarly, failing in one’s military duty would endanger public safety: the ‘old lie’ might not have been enough to hold all the soldiers in the Athenian army in check, and the threat of the social death of *atimia* was used to counter the fear of actual death on the battlefield. Making sure that children, once grown up, would look after their parents relieved the city from the incumbency (and financial strain) of taking care of the elderly, for which it lacked resources and infrastructures. Moreover, checking that descendants were taking proper care of their ancestors’ tombs was an essential element in safeguarding the relationship of the *polis* with its gods. In addition, both these aspects of ‘looking after one’s parents’ – both in life and after death – represented the blueprint upon which all the other relations within the city were modelled: they were the marks of a relationship based on *charis*, which generated mutual expectation, claims, and obligations that had to be fulfilled. The penalty of *atimia* was extremely prominent also for those crimes that could obstruct the correct functioning of the legal machinery of the city: giving false testimony might lead to miscarriages of justice, and was especially dangerous when
it appeared to be a habit,\textsuperscript{222} while failing to follow through with a public charge or win at least one-fifth of the votes at the trial represented, at worst, a conscious attempt to secure an unjust verdict, and, at best, an egregious (if accidental) abuse of one’s ability to prosecute, a lack of respect for both magistrates and judges, and a substantial waste of everyone’s time (and public money), for which the unsuccessful prosecutor lost the very right which he had so carelessly misused. Proposing illegal decrees might also lead to potential (and more fundamental) miscarriages of justice, as well as poor decisions detrimental to the common welfare, and while the Athenians allowed for the possibility of making a genuine mistake twice, the third conviction on such a charge was considered a sign of malicious intent, and \textit{atimia qua} prohibition against addressing the people was the answer of the \textit{polis} to deter these tendencies. Equally frowned upon was recidivism with respect to idleness, often connected to poverty and unemployment that could lead to criminality (e.g. sycophancy, or false testimony in exchange for money): as we have seen above, this was perceived as a real and tangible threat to public order, which was especially worrying against the backdrop of the Athenian political situation after the Peloponnesian War. Finally, male prostitutes, despite not being criminals, were considered and treated as \textit{atimoi} because their business involved selling their bodies for money, as if they were enslaved individuals rather than free people – accordingly, they were then debarred from exercising the rights of free people, and treated sternly when they did.

Thus, \textit{atimia} was used for a wide variety of crimes, and was, by its very nature, a penalty that allowed for different nuances and gradations: as we have seen above, there was the \textit{atimia} that happened automatically – either upon incurring a debt or upon committing a dishonourable act – and the \textit{atimia} that was confirmed in a law court; there was the temporary \textit{atimia} of debtors and the permanent \textit{atimia} of all the other disqualified individuals, which was, at least in principle, irrevocable. Moreover, \textit{atimia} was normally specific to one person, but it could be extended to the offender’s children for certain offences,\textsuperscript{223} and was regularly passed on to the descendants of public debtors who had died without settling their debt. Finally, \textit{atimia} could be either ‘total’, i.e. targeting one’s status and all the rights attached to it, or ‘partial’, i.e. targeting specific rights among many. We have discussed above

\textsuperscript{222} Hence the ‘three-strike’ rule: see Sections 3.1 and 3.3 above.
\textsuperscript{223} This seems to have been the case for particularly serious cases of embezzlement and corruption (see Section 3.1 above); on \textit{atimia} extended to the descendants, see also n.53 above.
that what this meant in practice depended, first and foremost, on the relevant statute regulating each offence for which *atimia* was the penalty required by law. But, in the second instance and perhaps more importantly, this also depended on the status of the person involved, i.e. the *timē* he or she had to begin with. This will be the topic of the next Chapter.
Chapter 4

Identity, status, and ‘dishonour’: was atimia relevant only to (male) citizens?

The analysis in the previous Chapter has shown that the legal penalty of atimia (‘loss of timē’) was meted out for offences that were considered ‘dishonourable’ in the first place: the legal usage of atimia relied upon, and was in fact actively informed by, its socio-ethical meaning. The evidence, and in particular that from classical Athens, has shown that the two aspects, legal and extra-legal, were never separated, neither in theory nor in practice: the legal penalty always retained a strong element of blame that extended outside the judicial sphere and that ultimately found its origin in the unsuitability of certain types of behaviour to the life of the community. Thus, once anti-social behaviour had been codified by law, behaving like an atimos resulted in becoming also legally atimos. Anti-social behaviour became illegal on top of, and not instead of, being collectively regarded as dishonourable – it became illegal because it was collectively regarded as dishonourable. Moreover, we have seen that, as a penalty, atimia was extremely varied and multi-faceted: it could be aimed either at one’s status (timē) as a whole, and all the rights (timai) attached to it, or at one specific right (timē), or group of rights, among many; it could last for a limited amount of time or, at least in principle, forever; it could involve one individual or be passed on to that individual’s heirs; it could be incurred automatically or be ratified by conviction in a law court. All this ultimately depended on the nature of the crime committed: to different illegal breaches in the relevant standard of behaviour corresponded different types of atimia.¹ But our sources also show that the legal penalty of atimia had that same level of flexibility in relation not only to types of offence, but also to the status of the offender. And, as will be discussed in this Chapter, even though the evidence we possess is mainly concerned with male citizens, about whom we are better informed with regard not only to court practice in general, but also virtually to any other aspect of communal life, we can still gather some information on the experiences of other social agents within the polis: citizen women, metics, and foreigners.

¹ That this was an intrinsic feature of the penalty is suggested also by Aristotle when, while discussing the penalties for extra-marital relationships for men in his ideal state (Arist. Pol. 1335b41–1336a2), he proposes that, in each case, the man should be punished with an atimia suited (προσόντως) to the crime (πρὸς τὴν ἄμεριαν). See Canevaro’s commentary ad loc. in Bertelli and Canevaro (2022: 496–498). On this passage, see also Chapter 1, Section 1.2.
4.1 Atimia and citizen women

As was mentioned in the Introduction, due to the conventional (and incorrect) view of *timē* as a non-material good available in limited supply, pursued and obtained mostly by males in often violent forms of zero-sum competition, *atimia* has been conceptualised, especially in the legal sphere, in an increasingly narrow – and reductive – way, as a notion that underwent a radical change in the progression from the archaic to the classical period, where it became a penalty (‘deprivation of civic rights’)[2] that only pertained to male citizens – and whatever instance did not fit into this general picture has been explained away as insignificant, or residual, or incorrect.

In Chapter 2 (esp. Section 2.1), however, we saw that the technical (legal) and non-technical (socio-ethical) senses of *atimia* went hand in hand, even in fourth-century sources, where, according to the developmental approach outlined above, the supposedly ‘newer’ technical sense of the word should be prevalent, if not exclusive.³ Moreover, despite repeated descriptions, in modern scholarship, of *atimia* as something that concerned citizen men and citizen men only – from van Lelyveld (1835: 269–270) to Hansen (1976: 56), who maintains that “Atimia was, of course, a penalty incurred by men only” – our sources present a very different picture, and clearly mention *atimia* also regarding other groups, such as, for example, citizen women. According to recent studies, especially Blok’s (2017) book on Athenian citizenship, the fact that, in Athens, women born from two Athenian parents were classified as citizens (*politis, astē*) as much as their male counterparts (*politēs, astos*) was much more than a matter of nomenclature: women, too, had an active role to play in the *polis*. One of the spheres in which women most asserted their right to citizenship, alongside and on a par with men, was religion. Blok has rightly emphasised the importance of religion in the institutional life of the *polis*, an idea

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2 The exclusivity of the link between *atimia* and (male) citizenship has been asserted most notably by Hansen (1976), who also maintains that *atimoi* “often belonged to the Athenian elite” (p. 54). Cf. also Manville (1980), Sealey (1983), Todd (1993: 142–143), Scafuro (2013: 923), Kamen (2013: 71–78); see the Introduction.

3 In fact, the difference between technical and non-technical senses of *atimia* was primarily signalled by the verbs used to talk about it (*atimoō/atimaō vs. atimazō*): see Chapter 2, Section 2.1, with Appendix I.
that has been gaining ground since at least the mid-1980s,\textsuperscript{4} and pointed out the
pervasiveness of religious concerns in every aspect of Greek society. Religion was
certainly deeply embedded in Greek public life, and it straddled the boundaries of
several domains which today we would regard as wholly separated from the religious
sphere:\textsuperscript{5} for instance, every Assembly and Council meeting began with a precise set
of religious rituals,\textsuperscript{6} the Council-chamber hosted a shrine of Zeus Boulaiaos and
Athena Boulaia,\textsuperscript{7} and court proceedings were by no means unconcerned with matters
of pollution,\textsuperscript{8} or impiety,\textsuperscript{9} while the practice of oath-swearing was not only accepted,
but widespread.\textsuperscript{10} Moreover, active participation in those religious activities that
were considered civic was, in itself, an indicator of participation in civic life, even
though religion did also create more inclusive “emotional communities”\textsuperscript{11} than just
that of citizens: for example, participation in the Eleusinian Mysteries was more a
matter of initiated versus uninitiated, rather than a matter of civic membership,
despite the fact that the cult itself was central to the religious life of the polis.\textsuperscript{12}
Several other cults allowed the presence also of metics and foreigners, who were

\textsuperscript{4} Blok (2017: x) quotes, in this respect, de Polignac (1984) and Sourvinou-Inwood (1990), who
stresses how “the polis provided the fundamental, basic framework in which Greek religion operated”
(p. 322).
\textsuperscript{5} Although even in modern societies there is, in some instances, a certain degree of overlapping
between secular and religious spheres: for example, the custom of swearing an oath on the Bible in
court, widespread until recent years and not yet completely obsolete, even though no longer
mandatory. In England and Wales, for instance, a motion to end Bible oath in court was rejected in
\textsuperscript{6} A sacrifice, a curse, and a prayer: see Blok (2017: 80). A detailed description can be found in
Rhodes (1972: 36–37).
\textsuperscript{7} Cf. Antiph. 6.45.
\textsuperscript{8} Pollution most commonly came from homicide cases, but also from sacrilege (and, e.g., sex). The
standard book on Athenian homicide law is still MacDowell (1963). In a recent study on the views on
homicide and pollution both in Athenian law and drama, and especially in relation to the Oedipus Rex,
Harris (2010) has highlighted how the “laws of the gods” and the “laws of the polis” did not actually
conflict, as was previously suggested by Dodds (1966) and Vernant (in Vernant and Vidal-Naquet
1988). See also Harris (2006, esp. pp. 50–57). On pollution in fourth-century Athens, see Harris
(2015a) and (2018b).
\textsuperscript{9} On impiety trials, see Filonik (2013) and, most recently, Janko (2020), with earlier bibliography.
\textsuperscript{10} Gagarin (2007: 39) observed twenty-three oath-challenges in the orators, of which, however, only
the one described at Dem. 39.3–4, [40].8–11 was accepted. Moreover, in Athens the 6,000 judges
were required to swear an oath at the beginning of their year of service. On the so-called ‘Judicial
Oath’ in general, see Harris (2013a: 101–137, with appendix 3, pp. 353–356). On oath-swearing, see
Sommerstein and Bayliss (2013).
\textsuperscript{11} In the words of Rosenwein (2006: 2), “emotional communities” are “groups in which people adhere
to the same norms of emotional expression and value – or devalue – the same or related emotions”,
and “in which people have a common stake, interests, values, and goals” (p. 24).
\textsuperscript{12} As explained by Sourvinou-Inwood (2003: 26): “the Eleusinian cult had a double nature: it was an
integral part of Athenian polis religion and at the same time a restricted cult accessible through
initiation by individual choice, which led to membership of a category of mystai to which Athenians
and non–Athenians had access”; cf. e.g. Andoc. 1.12, 28–29, 31. The “criteria for eligibility” were that
the prospective mystai “should speak Greek and have pure hands”, and even slaves could partake in
the cult (Sourvinou-Inwood 1997: 144–145).
often involved in the fulfilment of prominent religious tasks and the administration of the cult.\(^\text{13}\) It is nonetheless true that citizenship status had always been an essential prerequisite for most male and female priesthoods in the context of ‘polis cults’.\(^\text{14}\) And it is precisely as priestesses that women most prominently acted in the public sphere as citizens and, in this capacity, they could gain a considerable amount of \(\text{timē}\). Connelly (2007: 197–221) devotes an entire chapter of her survey on priestesses in ancient Greece to “priestly privilege”, and highlights how, at least from the Hellenistic period onwards, priestesses were routinely honoured with “gold crowns, reserved seats in the theater, and portrait statues” (p. 203). In the same period, other elite women with no connection to cults or priestly tasks were honoured with crowns, too,\(^\text{15}\) and there is also visual evidence of crowns being awarded to priestesses during the fifth and fourth centuries BCE.\(^\text{16}\) Moreover, according to Parker (2011: 55), there existed a “near equivalence of priest and magistrate”, and we have evidence that priestesses underwent \(\text{euthynai}\),\(^\text{17}\) and very likely a \(\text{dokimasia}\),\(^\text{18}\) just as priests did, along with all the other magistrates of the \(\text{polis}\).

Despite their capacity to serve as priestesses, however, it is clear that the way in which women exercised their rights to citizenship on a day-to-day basis was extremely different from the way men did. Blok points out, from the very outset (2017: ix), that women were excluded from specific civic rights and duties that were regularly implemented and performed by male citizens: for instance, holding a civic magistracy (\(\text{archē}\)), acting as a judge, or addressing the people – either in the Assembly, in the Council, or in the law courts.\(^\text{19}\) This, however, does not mean that

\(^{13}\) See, for instance, the cult of Bendis and, possibly, the cult of Ammon in the Piraeus (cf. Lambert 2010: 161–164).

\(^{14}\) Lambert (2010) analyses two examples: the cult of Athena Nike, for female citizenship priesthood (pp. 153–156), and the cult of Asclepius for male citizenship priesthood (pp. 156–158). Another important feminine priesthood in Athens, for which citizenship – and even membership to a specific \(\text{genos}\) – was required, was that of Athena Polias: according to Connelly (2007: 59), “The priestess of Athena Polias held one of the most distinguished offices in the Greek world.”

\(^{15}\) See Connelly (2007: 205).

\(^{16}\) Connelly (2007: 204 n.67) mentions two reliefs, one in Berlin (Antikensammlung K 104), and the other in Athens (AM 2758 + 2427). In both reliefs, the female figures hold the temple key, a typical attribute of priestesses in visual representations (cf. Connelly 2007: 95–97).

\(^{17}\) Cf. Aesch. 3.18.

\(^{18}\) See the previous Chapter, Section 3.4.

\(^{19}\) They could, however, appear in court, not only to give depositions (as is the case with Agariste in Andoc. 1.16) or to swear oaths (for which challenges were fairly frequent, cf. e.g. Lys. 32.13, Dem. 29.26, 33, 56; 55.27; Dem. 39.3–4 = [40.]8–11 is the only instance in which the challenge was put to effect), but also as litigant themselves, even though they could not deliver their own speech. The only extant speeches against women are [Dem.] 59, the prosecution of Neaera, and Antiph. 1, the speech against the stepmother. However, we know about several other trials against women: the most famous are probably the trial of Theoris of Lemnos, identified either as a sorceress (\(\text{pharmakis}\)) in the
women who were not involved in religious performances did not have any chance to get a share of timē in the eyes of the polis – quite the contrary. For instance, after Pericles’ citizenship law of 451/450 BCE, which stated that only a person born of two Athenian parents could be an Athenian, citizen women acquired a pivotal role in the begetting of lawful citizens. We should, however, note, with Joyce (2019), that the nature of the relationship between the parents, i.e. whether they were legally married or not, had no bearing on the citizen status of the children: ‘bastards’ (nothoi) whose parents, albeit not married, were both Athenians were citizens all the same. The marital status of the parents did, however, bear on the children’s ability to inherit: only gnēsioi offspring, born in wedlock, were entitled to a share of the inheritance.20 Thus, being capable of giving birth to citizens, and especially citizens who could legitimately inherit property and be the head of a household, was considered an extremely valuable quality in a woman – a quality that increased her timē. But the role of the woman in marriage was not limited to guaranteeing that her husband’s property was safely and lawfully passed on to their children: she was fundamental also to the transmission and preservation of goods belonging to her own oikos, especially but not solely in the absence of male heirs.21 Each Athenian woman, when getting married, received a dowry (proix) from her kyrios (legal guardian or agent), but the dowry was not simply transferred to the husband as her new kyrios – although it did not actually ‘belong’ to her, at least not in the modern sense, the dowry was nevertheless attached to the woman, meaning that, if she died childless or divorced her husband, it had to be returned to her original oikos. She could not alienate her dowry, since it was not technically hers to give or sell – and, moreover,
women were not legally allowed to handle more than the monetary equivalent of a *medimnos* of barley\(^22\) – but her husband was not allowed to dispose of it either.\(^23\) More generally, it would have been at the very least impractical for a husband to manage his wife’s dowry in a way contrary to her wishes, especially because she could always threaten him with divorce.\(^24\) Of course, these institutions had the ultimate aim of protecting the wealth of both *oikoi*, the wife’s and the husband’s, and making sure that any asset stayed within the family, either by returning to the woman’s original family or by being passed on to her (especially male) offspring. But the possibility to offer or withdraw her dowry through marriage and divorce gave the woman some leeway in the management of the possessions she brought in her new household, even though her husband was always to be her public agent in any dealings outside of the domestic environment. The consequence of this latter point, however, was that a woman’s ability to exercise some level of informal control over her goods depended, first, on the actual amount of wealth she brought with her into the marriage – especially as compared to her husband’s possessions\(^25\) – and, second, on her ability to cultivate and maintain a good relationship with her *kyrios*.\(^26\) And the basis for cultivating and maintaining such relationship was behaving and presenting herself as a valuable, good wife – she needed to play by the rules and conform to the standard of behaviour that applied to all citizen women, through which she could maintain, increase, or lose her *timē*.\(^27\)

And the nature of this standard of behaviour is most readily evinced from the detailed legislation regulating the conduct of women, especially but not solely in the sexual sphere, that can be found in several Greek city-states,\(^28\) Athens included. For

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\(^{22}\) Cf. Isae. 10.10. As E. Cohen (2016: 718) notes, this sum is “more than sufficient to meet the normal cost of single retail transactions”.

\(^{23}\) In practice, the husband did own the money or property given for the dowry, but he was required to pledge land as security for their return in case of divorce: see Harris (2006: 207–239) on *apotimēma*. What the wife owned was her trousseau, that is, personal items.

\(^{24}\) See Foxhall (1989), who, however, overplays the extent to which a woman’s dowry was actually her own: see Wolff (1944); Schaps (1979); Johnstone (2003: 268–269).


\(^{27}\) Cf. e.g. Xen. *Oec*. 7.42, where it is said that, if she is a good partner (*κοινωνός*) to her husband and a good housewife (*οἶκου φύλαξ*) for her children, a woman should not fear becoming less respected (*ἀτιμοτέρα*) as she grows older (*ἀρσενόσες τῆς ἡλικίας*) – she will actually be more respected in the household (*τιμιωτέρα ἐν τῷ ὀίκῳ*).

\(^{28}\) For instance, in the so-called ‘Gortyn Code’, the condition of women is treated at some length, both in matters of marriage and adultery and in matters of inheritance and property: a useful overview can be found in Gagarin (1982). Women’s status seems to have been characterised by a higher degree of freedom in Gortyn, compared to Athens (cf. Gagarin 2008; 2012a; 2012b), and the same can be said about Sparta (cf. Hodkinson 1986: 394–404) – in general, women seem to have fared better under
instance, the “good order of women” (ἡ τῶν γυναικῶν εὐκοσμία) – and the dire consequences of not abiding by it – was the subject of a (purportedly) Solonian law paraphrased by Aeschines in his speech Against Timarchus (Aeschin. 1). The paraphrase is placed emphatically towards the end of the speech, within a section focused on the importance of enforcing good laws. In this section, which, in a sort of ring composition, evokes a Leitmotiv of the first paragraphs of the speech, “Solonian’ legislation concerned with sophrosyne and good order” (Fisher 2001: 334), Aeschines’ choice of words is particularly interesting: as he explains it, by preventing (οὐκ ἐὰν) a woman caught with a seducer (τὴν ... γυναῖκα ἐφ᾽ ἑαυτὴν ἀλλὰ μοιχός) from adorning herself and attending public cults, and by allowing anyone (τὸν ἐντυχόντα) to do to her virtually whatever he pleases – short of murder and mutilation – if she does, the legislator is making the woman’s life “not worth living” (τὸν βίον ἀτιμοῦν οὐτέ παρασκευάζων) and “punishing her with atimia” (ἀτιμῶν).

The verb used is precisely the technical verb atimoō/atimaō, and the substance of this verb is precisely the loss of specific female prerogatives: wearing nice clothes and jewellery and going to cultic ceremonies, not to mention the right to respect that a citizen woman of good standing should expect when being outside the household – both things one can do and claims that should be respected, as is the case also for male citizens. Indeed, according to Fisher (2001: 336), “the restrictions on the women [caught with seducers] should be seen as properly and precisely parallel to the exclusion of male citizens punished with atimia from the agora and the sanctuaries”.

Similar provisions are described also by Apollodorus in the speech Against Neaera ([Dem.] 59): at §§ 85–86, it is stated that women who were caught in oligarchies than under democracies. Specific magistrates, the gynaikonomoi, who, in various Greek poleis, oversaw women’s eukosmia, are mentioned by Aristotle (Pol. 1299b18–20): see Canevaro (2014: 334–335).

29 Aeschin. 1.183.
30 There seems to be some connection between atimia and bios abiōtos. For instance, in [Lys.] 6.31, the speaker (according to Begodt 1914: 39–51, Meletus), associates Andocides’ misfortunes after he allegedly committed impiety and suffered atimia to a bios abiōtos. The same reasoning applies to Aeschin. 1.122, where Aeschines, suggesting a proper line of argument to Timarchus, maintains that if someone were guilty of the crimes for which the defendant was facing trial, he should deem the rest of his life not worth living (ἀβίωτον ... τὸν λογίου βιον).
31 On atimoōlatimaō vs. atimazō, see Chapter 2, Section 2.1, with Appendix I.
32 Fisher (2001: 335) talks about “los[ing] the right to display their own feminine kosmos” as the precise effect of ‘falling short’ on eukosmia, ‘good order’.
33 While discussing these women, Todd (1993: 279) defines the provisions against them as “the female equivalent of male atimia”. The opinion has most recently been reiterated by Kamen (2013: 74), but neither she nor Todd (nor Fisher 2001) notice the use of the technical verb atimoōlatimaō.
moicheia were to be excluded by law both from the house of their husbands and from public religious ceremonies. Thus, the language of the passage also implies that, if the woman who engaged in moicheia was married, there was at least an expectation, if not a legal requirement, that her husband divorce her, and, even though in practice there was nothing shameful in divorce itself, the fact of being sent away by the husband, especially as the result of an adulterous relationship, was perceived as not respectable for the woman, adding to her ‘dishonour’. Although, within the passage, the term atimia and its cognates are never overtly mentioned, it is very clear that atimia is what Apollodorus has in mind here, because the language of exclusion (and the involvement of ho boulomenos in enforcing the penalty) is the same as we find in other instances in which atimia, as a penalty meted out to male citizens, is at issue: we are looking at dynamics of honour and dishonour that entail the misguided self-assessment of one’s own worth and the communal effort to

34 It is worth noting here, as Carey (1995: 407–408) does, that although “marriage” was probably “the most common context for moicheia”, the term itself “covered illicit sex with relatives other than a man’s wife”, and it is better translated as ‘seduction’, rather than ‘adultery’. Moreover, ‘adultery’ is inappropriate also because it is symmetrical – both parties are guilty of the same offence – whereas in moicheia the man moicheuei (active) and the woman moicheuai (passive).

35 The law quoted in the following paragraph ([Dem.] 59.87) stipulates that the penalty for not divorcing an unfaithful wife was atimia for the husband. This is not implausible in itself, but the information is not confirmed by any other contemporary source, and the document itself is likely to be a late forgery; see Canevaro (2013: 190–196). According to Fisher (2001: 336), a reference to this law can be seen at Hyp. 1.12, but, as Cooper (in Worthington, Cooper, and Harris 2001: 76 n.25) notes, “the allusion is very obscure.”

36 See also Lys. 14.28 (Ἰππόντος δὲ … ἐξήμισε τὴν αὐτοῦ γυναῖκα). The verbs used for divorce initiated by the husband were usually ekpempein (cf. [Dem.] 59.55–56) and apopempein (cf. [Dem.] 59.52): see Carey (1989: 166).

37 See Just (1989: 46–47) on the “high incidence of remarriage”.


39 Commentators, however, seem to recognise the link with atimia, especially through the comparison with Aeschin. 1.183: see Kapparis (1999: 357–358); Glazebrook (2006: 47). A similar case is Aeschin. 1, a speech where atimia is, quite literally, the elephant in the room, almost never mentioned but ever-present in the background of the legal proceedings: the only faint reference to it is at § 134. And yet, as we have seen in Chapter 3, Section 3.4, it is clear that atimia is, to all intents and purposes, the main issue: it is the penalty which Timarchus was going to face (and did face: cf. Dem. 19.284) upon conviction, because Timarchus, qua atimos, “should not share in the common affairs of the city” (§ 160).


41 Cf. § 85: προσήκειν … ἀπέχεσθαι; οὐκ ἔξεσθαι; § 86: ἀπαγορεύουσιν; ἐκβεβλήμενη ἢ ὅταν. Cf. e.g. Dem. 24.126, where Diodorus laments that Androton, who had allegedly been a male prostitute and a public debtor and was therefore atimos, εἶπη εἰς τὴν ἀγορὰν οὐκ ἔξεσθαν αὐτῷ, “entered the Agora when he was not allowed” (transl. Harris). Cf. also Andoc. 1.33 (οὐκ ἔξεσθαν αὐτῷ εἰς τὸ ἱερὸν τοῦ θεοῦ εὐσέβειαν); Dem. 21.95 (οὐδὲ ταῦτα ἔξεσθαν αὐτῷ πρὸς υἱὸς εἰςέπειν); Dem. 22.29 (οὐ γὰρ ἔξεστιν). 33 (οὐκ ἔξεσθαν αὐτῷ εἰς τὸ ἱερὸν τοῦ θεοῦ εὐσέβειαν); Dem. 24.123 (ἐὰν τε … ἄλλο τι ποιήσῃ· αὐτὸν αὐτῷ ἀπαγορεύεσθαι, οὐ γὰρ); [Dem.] 59.27 (οὐ … ἔδοξαν αὐτὸν τοὺς νόμους μαρτυρεῖν); Aeschin. 1.19 (ἀν τις Αθηναῖοι … ἐπαρχῆς, μὴ ἔξεσθαι αὐτῷ κτλ.), 32 (τοὺς οὖν ἐξῆργα ἀπὸ τοῦ βήματος, τοῦτοις ἀπαγορεύεσθαι· μὴ δημηγορεῖν), 40 (ἀπαγορεύεις ὁ νόμος μὴ πράττειν ἤ μὴ δημηγορεῖν), 154 (ἐκ τούτων ἂν τὸ πράξαν ἡ νόμος ἀπαγορεύσει, μὴ δημηγορεῖν).
restore a balance in terms of *timē*. Thus, we really seem to be dealing with a kind of feminine *atimia* that functions according to the same mechanism as the penalty applied to men, and is marked by the same technical verb (*atimoō/atimaō*): it is a loss of specific *timai* attached to women’s status – and obviously different from those of a male citizen – as the result of dishonourable behaviour. Failure to act in accordance with the communally shared set of values implied the loss of the very claims and entitlements to which abidance by those values gave access. We can see, then, that Athenian institutions were constantly trying to tie active participation in the community to socially accepted forms of behaviour and encouraging social agents – presumable, with variable degrees of success – to scrutinise the activities of others, and to marginalise and push away those individuals (male or female) who did not conform.

4.2 *Atimia* and metics

Citizens (men and women), however, were not the only ones who took part in the life of the community and who, in order to keep enjoying the prerogatives that came with their status within the community, were expected to behave in an honourable, pro-social way.

For instance, a very interesting case is that of metics. It is clear from our sources that their status, as resident aliens, was significantly different from that of citizens: to name just a few of their limitations, they could not own land unless this right (*enktēsis*) was granted to them, often as a reward for outstanding benefactions, through an honorific decree (i.e. as an award of *timē*); they had to pay a special tax, the *metoikion*, and also a ‘foreigner tax’ to sell goods in the *agora*, and they had

42 Cf. e.g. Dem. 22.29; Aeschin. 1.34, 122.
43 Cf. Youni (2019: 367): “women also possessed honor, albeit with a different content … the content of honor was different from one person to another, according to their legal and social status, sex, expectations and other parameters.” Despite these remarks, Youni (2019) still maintains that *atimia*, at least as a penalty, is something that pertains to male citizens only.
44 The case of Harmodius’ sister, described at Thuc. 6.56.1, is another example of female *atimia* in the non-technical sense: the young girl had been invited by Hipparchus to be one of the basket-bearers at a procession, and then rejected with the aim of insulting her brother (*προυπηλάκισεν*). It is obviously not a penalty imposed by a law court, but it does describe the loss of a specific prerogatives on grounds of ‘not being worthy’ (*λέγοντες οὐδὲ ἐπτρέπεικα τὴν ἄργην διὰ τὸ μὴ ἄξιον εἶναι*), and indeed Ps.-Plato in the *Hipparchus* (229b–c) specifically mentions *atimia* (*διὰ τὴν τῆς ἀθλητῆς Αριστοτέλους ἀτιμία τῆς κανηφορίας*); see also Keim (2016).
45 See Whitehead (1977: 30); for *enktēsis*, he quotes IG II² 505, 554; IG II² 1.324, 352, 367, 473 (where the word *enktēsis* is integrated), 989, 1140, 1141. See also Chapter 1, Section 1.1.
46 Twelve *drachmae* per year for men, six for independent women: see Whitehead (1977: 75–77).
to be under the protection of a prostatēs.48 And all these limitations are normally conceptualised, in fourth-century sources, in terms of timē and atimia. A good example is Dem. 23.23–24. Euthycles, while discussing Aristocrates’ proposal to grant special protection to the general Charidemus, a naturalised Athenian citizen, considers different categories of individual: foreigners, metics, and citizens. He makes a great show of graciously inscribing Charidemus among the citizens and, by doing so, he claims to be “plac[ing] him in this rank in which he would obtain the most honour” (transl. Harris). This expression, “the most honour” (§ 24: πλείστης … τιμῆς), is important, because it evidently implies that metics (and, as we shall see, foreigners), too, had a share of honour within the polis – it was just less than that of a citizen. The citizen, then, is conceptualised as the standard against which other expressions of honour are measured and modulated according to the status of each social agent. Thus, as was noted in Chapter 1, Section 1.1, the timē of metics can help to shed light, by contrast, on the timē of citizens. This is shown also by the fact that virtually all the rights and privileges granted to resident aliens with honorific decrees tended to approximate metic status to citizen status:49 apart from the obvious (and ultimate) privilege of becoming a citizen, we have already mentioned enktēsis, i.e. the right to own land in Attica, but there was also isoteleia, the right to pay taxes equal to those of citizens,50 which probably meant being exempt from the metoikion and the ‘foreigner tax’.51 That isoteleia was considered a mark of esteem (timē) is clear not only from the fact that it was the object of honorific grants,52 but also from the evidence of funerary inscriptions, where the title of isotelēs is often appended to the names of metics who had been awarded that privilege.53 But it is also clear that these honorific grants were not just symbolic – they gave access to actual timai as rights, i.e. abilities to act in certain ways: as was discussed in Chapter 1, both aspects are implied by the term itself, and often go hand in hand.

49 For ateleia, literally ‘exemption from payment’, which probably also involved exemption from liturgies, military service, and other duties, and could be awarded to citizens, metics, and foreigners, see MacDowell (2004) and, recently, Canevaro (2016, esp. 55–63). See also my discussion in Chapter 1, Section 1.1.  
50 See again Whitehead (1977: 30); for isoteleia, he quotes IG II² 505, 554, 715; IG II³ 1.418, 473, 989 (where the word isoteleia is integrated).
51 See Whitehead (1977: 11–13).
52 And see also Harp. 1 24 K. (s.v. ἰσοτελής καὶ ἰσοτέλεια).
53 Cf. IG II³ 1.418 and IG II² 7879; see Whitehead (1977: 29).
Similarly, the disadvantages to which metics were subjected in classical Athens are clearly labelled as *atimiai* in passages such as Xen. *Vect.* 2.1–5. Taking the citizen as benchmark, Xenophon sees the additional duties and disabilities imposed on metics as unnecessary diminutions in their share of *timē* – described by the plural *atimiai* – because they further widen the gap between them and Athenian citizens without actually benefiting the *polis*. Of course, Xenophon is here thinking about a very precise section of the metic population whose loyalty to Athens he wishes to secure: wealthy metics who can contribute to the financial wellbeing of the city. We should note, moreover, that Xenophon is not actually advocating equalisation between metics and citizens – on the contrary, he stands for a much clearer differentiation. He seems to be proposing that two separate spheres of honour should be created, one for metics and one for citizens, in which both groups can pursue *timē* in different ways. The main sphere he treats is that of hoplite warfare: Xenophon does not approve of the fact that citizens and metics serve together in the army, and, in the passage mentioned above, he suggests that metics should serve in the cavalry instead. And Xenophon reiterates this opinion also at Xen. *Eq. mag.* 9.6, using once again the language of *timē*: he maintains that metics “would be proud” (*φιλοτιμεῖσθαι*) to serve in the cavalry, and that they would discharge such duty *philotimōs*.

Xenophon’s discussion of metics in the army brings out another very important point in relation to resident aliens and *atimia*: we know, from Xenophon but also from Thucydides, that citizens and metics served together in the Athenian army and navy, and we have seen in the previous Chapter that, for any military offence, the prescribed penalty was *atimia*. Unfortunately, we have only a handful of *graphai deilias*, and none of them is connected to metics. This has led Hansen (1976: 56) to conclude that “a metic convicted of the same crime [i.e. military misconduct]” would not suffer *atimia*, because, in his view, it was “a penalty only pertinent to Athenian citizens” and thus “the same forfeit of rights” could not apply to metics as well. Two points need to be made here. First, the fact that none of the speeches we possess was written against metics does not mean much *per se*: this *argumentum e silentio* is particularly dangerous with such a small sample of speeches for *graphai*

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54 Despite Xenophon’s testimony, Whitehead (1977: 82–86) seems to believe that there existed separate contingents for citizens and metics, but both Xenophon’s texts and casualty lists from classical Athens seem to discourage this hypothesis: see Zaccarini (2020, esp. 79).
55 Cf. e.g. Thuc. 2.31.1; 3.16.1; 4.90.1.
deilias, and especially for the corpus of the orators, which tends to represent mainly the experience of (wealthy) male Athenian citizens, who could pay to have their speech written by a successful logographer. Other documents, however, such as the so-called phialai inscriptions,⁵⁷ present a more nuanced and varied image of the demographics of court-users in classical Athens, where metics, both male and female, are widely represented.⁵⁸ Second, as we have seen in previous Chapters, and especially Chapters 2 and 3, atimia was, by its very nature, a flexible penalty: the rights (timai) it targeted always depended on the nature of the crime.⁵⁹ But, as the example of women has shown, the actual scope of atimia depended also on the status of the offender, i.e. the timē he or she had to begin with, and the timai (as rights) attached to it: the “forfeiture of rights” that this penalty entailed could not be – and in fact was not – the same for everyone. Given that citizen women who engaged in dishonourable behaviour were legally punished with a loss of rights, specific to their status and different from those of men, that was nevertheless described as atimia as much as the penalty administered to dishonourable citizen men, and marked by the same technical verb, one would also expect atimia to be used against metics who behaved dishonourably: as was briefly mentioned in Chapter 3, Section 3.1, the metic Teucer probably fell victim to the same decree of Patroclides by virtue of which Andocides was excluded from the agora and the temples.⁶⁰ It is also, then, reasonable to assume that, if a metic failed to perform his military duty, he would have been punished with atimia: there is nothing in the evidence that suggests otherwise and, on the contrary, our sources are unanimous in saying that the penalty for such crimes was atimia, with no further qualification – further qualification was not needed, because changing and adapting to the specific situation was an intrinsic quality of the penalty itself. The same is true also for other types of suits for which the penalty was atimia that could, in principle, be brought against resident aliens as well: for instance, it does not seem implausible that a metic could be prosecuted for false testimony or for idleness, or even for maltreatment of parents, if the whole family were residing in Athens. Moreover, we know from several sources, but

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⁵⁷ See n.19 above.
⁵⁸ See also e.g. the probolē case brought by Menippus (a Carian) against Evander (a Thespian), discussed in Dem. 21.175–177 and analysed by Harris (2019b: 150); on access of foreigners to courts, see Harris (2020).
⁵⁹ The use of atimia in entrenchment clauses also testifies to the flexibility of the penalty: see Chapter 2, Section 2.2.
⁶⁰ Cf. Andoc. 1.15 and above.
especially from Apollodorus’ speech Against Neaera ([Dem.] 59),\(^{61}\) that at least some kinds of public suit were open to non-citizens as well as citizens, and it is entirely possible that failing to secure one-fifth of the votes brought the same *atimia*, i.e. the forfeiture of the right to bring public suits in the future, to the unsuccessful plaintiff, regardless of his status, although of course citizens would lose the right to bring any kind of public suit, whereas non-citizens would lose the right to bring only the limited number of charges that were originally available to them. That metics were relatively active as public prosecutors is suggested also by [Arist.] *Ath. Pol.* 43.5, where it is said that, of the accusations of sycophancy discussed by the Council during the main meeting in the sixth prytany, three were against citizens and three against metics: as Harrison (1968: 196 n.1) notes, resident aliens could engage in sycophancy “by and large … by prosecuting in public suits”, and so it seems straightforward that a metic bringing a frivolous prosecution would incur *atimia* like everyone else. This is not to say that there was never any difference between the *atimia* of a citizen offender and that of a metic who committed the same crime, because it is clear that the rights they could lose could overlap only partially: for instance, the right to address the people (in the Council or the Assembly) pertained to citizens only, and so it was a prerogative (*timē*) that only citizens could lose, but prohibition against entering the *agora* and the temples, or against appearing in court, are disabilities, routinely dispensed through *atimia*, that might apply both to citizens and to resident aliens. Moreover, it is possible that there existed differences within the metic population, too: for example, for a metic who was a freedman (i.e. who originally came to Athens as an enslaved person) *atimia* might have had consequences different from those that a metic who had come to Athens as a free ‘economic migrant’ would have faced. In each case, the precise essence of the legal penalty of *atimia* becomes entirely clear only once we understand the configuration of rights and duties pertaining to the individual to whom it was applied.

4.3 *Atimia* and foreigners

We have seen above that, within the Athenian community, foreigners, too, could get their share of *timē* – Euthycles in Dem. 23.23–24 implies as much when, pressed to choose between the status of citizen, metic, or foreigner for Charidemus, he places

\(^{61}\) Cf. [Dem.] 59.52, 66; see also Dem. 21.175.
him in the rank of citizen, which will grant him “the most honour” as compared to
the other two, who, evidently, enjoyed fewer privileges within the community. But
‘fewer privileges’ does not mean ‘no privileges’, and it is hardly likely that a free
non-Athenian could be disrespected and abused with no fear of repercussion for the
perpetrator. In fact, we know that Athens had intense commercial relations with
places outside of Attica, and it is obvious that the interests of foreigners, too, needed
to be protected, in order for Athens to remain an attractive commercial destination.62
This was done through specific legislation: the exact details are not always clear (and
not particularly relevant here), but our sources tell us that cases involving metics and
other foreigners with special status were heard before the polemarch,63 and there
existed also magistrates called xenodikai (for cases involving other aliens) and
nautodikai (literally, ‘judges of sailors’),64 at least until the mid-fourth century, when
these magistracies fell into disuse and dikai emporikai, ‘mercantile cases’, heard
before the thesmothetai, were created, replacing the vast majority of (commercial)
cases involving foreigners.65

It is obvious, then, that these institutions were put in place in order to protect
the rights and interests of any free non-citizen who entertained honourable relations
with citizens – but, of course, at the same time they also protected the rights and
interests of citizens, by providing a clear set of penalties that could be used against
foreigners who had dealings with Athens in some capacity and happened to break the
law. And we possess evidence that, among these penalties, atimia represented a
feasible option, especially when interaction between whole communities was
concerned. Yet, as was noted above, scholars have been reluctant to accept that
atimia could be meted out to foreigners: Hansen (1976: 55–56) maintains that
“atimia is never mentioned in connection with metics and foreigners” and that it was
“a penalty pertinent only to Athenian citizens”. Of course, it stands to reason that free
non-citizens would be bound to experience atimia less often than citizens because,
quite simply, citizen-to-citizen interactions occurred with more regularity. Moreover,
the legal capacity of non-citizens, in Athens, was less than that of citizens and, in the

62 Cf. Xen. Vect. 3.1–5. From the inscriptions examined in Chapter 2, Section 2.2 (e.g. IG I3 71), it is
also clear that foreigners could appeal to Athenian courts. See also e.g. the Phaselis decree (IG I3 10),
with Fornara (1979).
63 Perhaps all cases before the late fifth century and at least private cases after that period, when it is
possible that public cases started to be introduced by the same magistrates who took care of cases
involving citizens: see MacDowell (1978: 223).
64 On nautodikai, see Erdas (2021).
65 See MacDowell (1978: 231–234). On the law regulating these dikai, see Harris (2015b).
case of foreigners, such as merchants or envoys from other city-states, who were in Athens only for brief periods of time, their relationship with the polis was so sporadic that there were necessarily fewer opportunities to get things wrong and compromise their standing within the community. That said, the prevailing view that depicts foreigners as completely beyond the reach of atimia is contradicted by the sources. Two inscriptions, which were examined in detail in Chapter 2, Section 2.2, are particularly relevant in this respect: IG I3 40, a provision, dated to either 446/445 BCE or 424/423 BCE, relating to post-revolution regulations in Chalcis,\(^66\) and IG I3 1453, the well-known decree enforcing the use of Athenian coins, weights, and measures in allied cities, dated to the period 425–415 BCE.\(^67\) Both these documents have to do with international politics connected with the Delian League and, as such, relate to those city-states that, by virtue of their close relationship with Athens, had both claims upon and obligations towards her. This is the reason why, as stated at IG I3 1453 line 3,\(^68\) it was possible, under that statute, to impose atimia on officials, citizen and foreigner alike (ἠ τῶν [πολιτῶν ἤ τῶν ξένων]), if they did not respect the terms of the decree. We should note that, at least in principle, the word xenos in this context could mean two things: on the one hand, the term might refer to the perspective of the polis in which the decree was displayed, i.e. a non-citizen of that specific polis – in which case, it is difficult to pinpoint exactly what kind of officials would be concerned here. On the other, more probably, the word xenos might be used here from the Athenian perspective, i.e. to refer to a non-Athenian who is a citizen of the polis in question. This would mean that Athens was able to intervene on the internal politics of the other members of the League to such an extent that she could deprive, for instance, a Chalcidean citizen of his rights and prerogatives. This seems to be the case at IG I3 40 (lines 71–76), where it is stated that matters relating to exile, execution, and atimia in Chalcis had to be referred to an Athenian court. Early on in the same decree, at lines 6–7, the Athenians had already pledged not to make anyone atimos in Chalcis “without the approval of the Athenian dēmos” and, at lines 32–36, the atimia-clause specifies that any Chalcidian of military age who had not sworn the oath detailed in the decree shall be atimos, his property confiscated, and a tithe dedicated to Olympian Zeus.\(^69\) It seems, then, that the person in question would

\(^{66}\) See esp. lines 3–10; 32–36; 71–76.

\(^{67}\) See esp. lines 3–4.

\(^{68}\) The word ἄτιμος is partially restored on the stele, but the supplement is virtually inevitable.

\(^{69}\) For atimia in entrenchment clauses, see again Chapter 2, Section 2.2.
become *atimos* and surrender the standing he previously enjoyed in relation to both communities, Chalcis and Athens, losing a specific set of rights in each of them. Thus, from these decrees it is evident that both citizens and foreigners (whether resident or not) could be punished with *atimia* – the penalty was formally the same for both, but the actual disabilities entailed in each case depended on the status of the offender and on the nature of his or her relationship with the *polis*, as well as on the relationship between his or her *polis* of origin and Athens, and the rights to which this relationship gave access.

Aside from the ‘baseline’ protection of the interests of every free individual who behaved honourably, regardless of his or her citizen status, and aside from large-scale international relations, our sources, and especially honorary decrees, often directed at non-citizens, also show that some foreigners were entitled to a very significant share of *timē* in Athens and, as such, the stakes for them were even higher: when it came to *atimia*, they had even more to lose. From the evidence of honorary decrees, two things are clear. First, special rights and privileges that, as we have seen above, tended to approximate foreigner (and metic) status to citizen status were granted to individuals as a reward for – or, sometimes, to elicit – remarkably honourable behaviour, which more often than not took the form of benefactions towards the city. Second, and as a corollary to this, receiving honours from Athens implied a relationship, either already existing or in the process of being created, between the *polis* and the foreigner who was being honoured: *timē* was meant to regulate and act as a safeguard for social interactions, both in internal and in foreign policy, because it had to do with mutual expectations and reciprocity – it created claims and obligations on both parties. More importantly, as was the case also for metics, these honours granted by the city to foreigners were not simply symbolic honours, but actually gave them access to rights (*timai*) that they could actively exercise: for example, the right to own land in Attica (*enktēsis*); exemption from taxes (*ateleia*), e.g. the tax to enter and exit the harbour; the right to dine at the Prytaneum (*sītēsis*); the right to occupy a seat of honour at festivals (*prohedria*). These privileges – sometimes all together, sometimes only a few of them – were often awarded alongside the title of *proxenos* or *euergetēs*, or both. Thus, in practice,

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70 For a list of sources, see Domingo Gygax (2016: 110, with notes).
71 What Domingo Gygax (2016: 45–57) calls “proleptic honors”.
72 See Xen. *Vect.* 3.4, which suggests that foreign merchants who are granted honours in Athens will be more likely to visit, to make use of the privileges they have obtained.
the precise status and rights of these *proxenoι* and/or *euergetai* needed to be specified in the relevant decree, because there could be slight variations between what two people with the same title were entitled to do: it is not that “the concrete privileges were ill defined”, as Domingo Gygax (2016: 111) put it, but rather that, since the nature of these privileges was determined by how the community decided to reward (or entice) benefactions, they were context-specific. And, since the continued enjoyment of these rights ultimately depended on performance, they could of course be revoked at any time, if the privileged alien did not behave as expected, through the penalty of *atimia*. That this rationale existed and made sense is clear from Dem. 20, where Demosthenes discusses the prospective law, devised by Apsephion, that he and Phormio were promising to enact as a replacement for Leptines’ law.\(^{73}\) According to Demosthenes, there was no need indiscriminately to cancel all the *ateleiai* from liturgies, as Leptines’ law envisaged – that would have been cruel and unjust, and shameful to the city.\(^{74}\) If there were honorands who were (or had become) undeserving of the benefits previously bestowed on them by the Athenian people,\(^{75}\) what was needed was a clear procedure to revoke those specific benefits. We do not possess a text of the proposed law, but from Demosthenes’ paraphrasis it is clear that the procedure was to be a *graphē* brought by *ho bouleomenos*,\(^{76}\) and that it would basically inflict targeted *atimia* against these unworthy honorands, whether they be citizens, metics, or foreigners – and, indeed, the examples adduced by Demosthenes at §§ 29–66, all related to foreign benefactors, clearly testify to the prominent place that foreigners occupied in the debate on procedures involving *timē* and *atimia*.

When discussing *atimia* and foreigners, especially privileged ones, the classic (and much-debated) example is that of Arthmius of Zelea, the Persian spy who, according to fourth-century orators, tried to bribe the Greeks – or, less broadly, the Peloponnesians – and was consequently declared *atimos* by the Athenians with a special decree, inscribed on a bronze pillar displayed on the acropolis.\(^{77}\) We have already seen, in the Introduction and, briefly, in Chapter 2, that Swoboda (1893 and 1905) used the example of Arthmius to illustrate how, in his view, the penalty of

\(^{73}\) Cf. esp. Dem. 20.95–101.

\(^{74}\) See e.g. the opening paragraphs of Dem. 20 (esp. §§ 2, 6, 8, 10–12).

\(^{75}\) As Canevaro (2016: 337) notes, Demosthenes talks generically about *dōreai*, so it is possible that he envisaged a broader application for the replacement law, not limited exclusively to *ateleiai*.

\(^{76}\) Cf. Dem. 20.137, with Canevaro (2016: 337).

\(^{77}\) See especially Dem. 9.41–45 (with Harp. α 258 K. s.v. ἄτιμος) and Aeschin. 3.257–259. Cf. also Dem. 19.271; Din. 2.24–25; Plut. Them. 6.1–5; Aristid. Or. vol. I 190 (with schol. 14 Dindorf), 218, 303 Jebb; schol. ad Aesch. Pers. hyp.2 line 21.
atimia had changed from ‘outlawry’, in the archaic period, to ‘deprivation of (civic) rights’, in the classical one. As discussed above, the pivotal passage is Dem. 9.44. After presenting the inscription that declared Arthmius, along with his descendants, atimos and enemy of the Athenians and their allies (§ 42: ἄτιμος καὶ πολέμιος τοῦ δῆμου τῶν Ἀθηναίων καὶ τῶν συμμάχων αὐτός καὶ γένος), and repeating at § 43 that both Arthmius and his genos were atimoi (ἐχθρὸν … αὐτὸν καὶ γένος, καὶ ἄτιμους), our manuscripts offer this paragraph:

τοῦτο δ’ ἐστὶν οὐχ ἢν οὕτωσι τις ἢν φήσειεν ἁτιμάν· τί γὰρ τῷ Ζελείτη, τῶν Ἀθηναίων κοινῶν εἰ μὴ μεθέξειν ἐμελέλεν; [ἄλλ’ οὐ τοῦτο λέγει] ἄλλ’ ἐν τοῖς φονικοῖς γέγραπται νόμοις, ὑπὸν ὅν ἢν μὴ διδῷ φόνον δικάσασθαι, [ἄλλ’ εὐσαγές ἢ τὸ ἄποκτείνα], ‘καὶ ἄτιμος’ φησί τεθνάτω.’ τοῦτο δὴ λέγει, καθαρῶν τὸν τοῦτων τιν’ ἀποκτείναντ’ εἶναι.78

But this is not what is commonly meant by atimia – for what would a Zelean care if he were not to take part in Athenian public life? [But that’s not what it says] but it is written in the laws of homicide, regarding those cases for which prosecution may not be brought, [but the act of killing would be free from pollution]: “and let him die atimos.” This is what it says: that anyone who kills such a man shall be pure.

We have seen above that the passage is extremely strange, on account both of its style and syntax and of its content, and it was indeed already expunged by Dindorf (1849: 192–193), followed only by Canfora (1974). As Canfora himself (1968: 193–194) notes, the subject of the verb διδῷ appears to be missing,79 and the whole structure, with expressions such as τοῦτο δ’ ἐστίν and τοῦτο δή λέγει (inelegantly placed too close to one another), along with the sudden lowering in register, give the impression of a scholion interpolated into the text. Moreover, Demosthenes’ argumentation flows better without § 44. At § 43, he invites his fellow citizens to

Consider, by the gods, what was the purpose and resolve of the Athenians of

78 The first sentence in square brackets (ἀλλ’ – λέγει) is omitted by codex S and Harp. α 258. K. (s.v. ἄτιμος); the second (ἄλλ’ – ἀποκτείνα) is omitted by the same entry in Harpocratio, and by codices S and Y before correction.
79 As Canfora (1968: 193) explains, scholia are divided between ὁποιοὶ τις and νόμος, while in codex S (Par. gr. 2934) a recent hand has added τις supra lineam, which has penetrated into the text in Par. gr. 2961.
that time in taking this action. They wrote that a man of Zelea, Arthmius, a slave of the King [for Zelea is in Asia], because in the service of his master he had brought money to the Peloponnese – not to Athens – should be declared their and their allies’ enemy, himself and his descendants, and that they should be atimoi.\textsuperscript{80}

He then continues at § 45 by saying that

These men thus thought it their duty to ensure the safety of all of Greece. For they would not have been concerned if someone was bribing and corrupting other people in the Peloponnese, unless they held this opinion;\textsuperscript{81} and they were punishing and seeking redress from those whom they discovered to such an extent that they posted their names on pillars.\textsuperscript{82}

As was suggested also in the Introduction, then, what now stands in our manuscripts as § 44 is clearly interpolated: it interrupts Demosthenes’ train of thought with a poorly written exegetical note. That the passage has an explanatory intent and tone had already been noted by Harpocraterion,\textsuperscript{83} who comments on it by saying that Demosthenes adds the remark at § 44 “as if explaining” (ὡσπερ ἔξηγομένος) what he just said.\textsuperscript{84} The whole speech, and this section in particular, is rife with interpolations and misplaced passages: Canfora (1967: 164) suggests that what we have is in fact an archival copy, which would create even more opportunities for scholia to be subsumed in an already confused text. Thus, § 44 cannot be used to illustrate the alleged shift from ‘outraywry’ to ‘deprivation of rights’: first, because the passage itself is very likely to be interpolated, and second, because, as was shown by Habicht (1961: 23–25), the whole ‘affaire Arthmius’ was probably a fourth-century invention in the first place, and thus not relevant to the diachronic analysis of the penalty. But, conversely, the spuriousness of this paragraph cannot be used, as it has been, to attempt to demonstrate that atimia could not be meted out to foreigners. Canfora (1968: 194) is certainly mistaken when he maintains that the atimia

\textsuperscript{80}Transl. Trevett modified.
\textsuperscript{81}This sentence is expunged by Canfora (1974).
\textsuperscript{82}Transl. Trevett modified.
\textsuperscript{83}Which shows that § 44 had been interpolated at a relatively early date, although, likely, several centuries after Demosthenes’ time, when the precise functioning of atimia had already become unclear.
\textsuperscript{84}Harp. α 258. K. (s.v. ἄτιμος): cf. Canfora (1968: 194).
discussed here by Demosthenes is unusual: as we have seen above, this impression is given only by the later interpolated paragraph. Demosthenes himself seems to find nothing particularly bizarre or unusual about Arthmius’ and his descendants’ *atimia*,\(^{85}\) which he mentions twice in the ‘sound’ sections 42 and 43, and, if Habicht (1961) is correct about the fourth-century concoction of Arthmius’ story, it seems obvious that the usage of *atimia* in those passages would reflect normal fourth-century practice and attitudes towards the penalty. But the doubt expressed at § 44 might, however, still stand: what would it matter to a Zelean like Arthmius to be forbidden to participate in Athenian public life? What would it mean for him, in practice, to be *atimos*? The answer, as already noted by Dindorf (1849: 192–193),\(^{86}\) lies in a remark by Aeschines, from which we learn that Arthmius had been – or was believed and portrayed to have been, in the eyes of a fourth-century audience – a *proxenos* of the Athenians, and had apparently lived in Athens;\(^{87}\) the further reference to the fact that the Athenians had basically driven him out of the land – or ‘banned’, as Dinarchus says\(^{88}\) – might be an allusion, in a fourth-century framework, to the loss of the right of *asylia*, which was occasionally bestowed on foreigners in the classical period.\(^{89}\)

The impression that Arthmius’ *atimia* was conceptualised as a *proxenos*’ *atimia* is corroborated also by another fourth-century example: that of the other (relatively) famous foreign *atimos*, Euthycrates of Olynthus, on whose historical vicissitudes we are slightly better informed. We learn from Demosthenes and, much later, from Diodorus that, apparently, he, along with Lasthenes, betrayed the Olynthians, virtually handing the city over to Philip II of Macedon.\(^{90}\) Two very interesting remarks in the *Suda*, which derive from a speech by Demades written in response to Demosthenes’ speech in support of the Olynthians,\(^ {91}\) provide additional information: first, we learn that Euthycrates was a *proxenos* of the Athenians; second, that, after the Athenians had imposed *atimia* on him, Demades proposed that he be *epitimos* again. The word *epitimos* is extremely important, because, as was

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\(^{85}\) *Atimia* could be meted out by decree; and this, incidentally, is reminiscent of *atimia* as a penalty for embezzlement and corruption that could be selected in the *timēsis* part of the trial: see Chapter 3, Section 3.1 above.

\(^{86}\) See also Colin (1933: 253).

\(^{87}\) Aesch. 3.258: ἐπιδημήσαντα εἰς τὴν πόλιν, πρόξενον ὄντα τοῦ δήμου τοῦ Ἀθηναίων.

\(^{88}\) Din. 2.25: ὁ δήμος ἔξαλεν τούτον ἐκ τῆς πόλεως.

\(^{89}\) See Domingo Gygax (2016: 108, 111).

\(^{90}\) See Dem. 8.39–40; 19.265, 342; Diod. Sic. 16.53.2.

\(^{91}\) *Suda* δ 415 Adler (s.v. Δημάδης); π 2539 Adler (s.v. πρόξενος).
mentioned in Chapter 1, Section 1.1, in Greek legal discourse, it appears to be used primarily in a restorative sense:⁹² as noted by Canevaro (2010: 353) and (2013: 203), *epitimia* describes the situation of one who is taken back to where one is supposed to be according to one’s *timē*.⁹³ In this case, then, Euthycrates, a citizen of Olynthus, was declared *atimos* by the Athenians, and there existed the possibility that those same Athenians might restore his previous condition. But, again, paraphrasing (what now stands in) Dem. 9.44, what would it matter to an Olynthian like Euthycrates to be excluded from, or reintegrated into, Athenian public life? The very wording of the *Suda*, which appears to follow closely that of Demades’ speech,⁹⁴ suggests that it would matter for precisely the same reason why it would have mattered to Arthmius, too: the *timē* that the Athenians had taken away from Euthycrates, and that Demades was proposing to restore by giving him back his *epitimia*, was that of a *proxenos*, with all the specific rights (*timai*) it might entail in his case – that was the capacity in which he could partake in the Athenian community.

4.4 Conclusions

As we have seen in Chapters 1 and 2, *atimia* was regularly used, in fourth-century legal discourse, in both its technical and its non-technical sense. Far from generating confusion in the audience, these two senses were complementary: from its basic non-technical sense of ‘loss of *timē*’, *atimia* in the legal sphere took up the meaning of ‘loss of status’ or ‘loss of right(s)’ – the precise nature of what was being lost varied depending on the offence committed and on the status of the people involved. Both *timē* and *atimia* are fundamentally context-specific: this means that, when translating these words into English, we have to pay special attention to the situation and the person to which they refer. Thus, it is clear that *atimia* was indeed relevant to male Athenian citizens, but it was not something which pertained exclusively to them: for instance, I have argued in this Chapter that there are very good reasons to believe that *atimia* as a penalty might have been inflicted not only upon female citizens, but also upon metics and foreigners – but, of course, the rights at stake in each case were necessarily different from those of male citizens. In other words, the laws of the *polis*

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⁹³ Cf. e.g. Andoc. 1.73; Dem. 21.99; 24.90; Aeschin. 1.160.
⁹⁴ See e.g. *Suda* α 2184 Adler (*s.v. ἀνδροληψία*), where the paraphrasis is quite close to Demosthenes’ actual text at 23.82–83.
strove to guarantee the enactment, endorsement, and protection of the rights (*timai*) attached to the status (*timē*) of each individual who enjoyed a relationship with the *polis*, on the condition of honourable behaviour for both parties: the entitlement to *timē* was subjected to some degree of negotiation, depended on performance, and required the participants to abide by a shared set of values and demands. Citizen men, citizen women, metics, foreigners: all these people had a part to play in the Athenian honour system, a part whose outlines were defined by the relative *timē* they could bring to bear. Failure to act in accordance with the demands of their *timē* resulted in *atimia* – to each their own.
Conclusions

The starting point of this thesis is, in a sense, an obvious one, but also one that has often been overlooked: to understand the notion of atimia, and especially the legal penalty of atimia as it was used in the judicial systems of ancient Greece, it is necessary to investigate it through its relationship with timē. But the study of atimia has also, in turn, revealed several aspects of honour, aspects that are clarified ex negativo from the study of the deprivations and disabilities that ‘dishonour’ entailed.

More specifically, the analysis of timē and atimia in the legal sphere (Chapter 1) has shown that this terminology is used to articulate ideas of ‘status’ and ‘rights’ (or lack thereof), with no pretence of exclusivity: at no point are these notions unique to discussions of privileged statuses – such as the status of magistrate or priest, or even male citizen, with whom the penalty of atimia is traditionally associated in scholarship – but they are rather used to describe and define all types of social and legal identity. This is because honour and dishonour are not solely elite phenomena – they are fundamental aspects of any kind of social intercourse, and help negotiate claims and obligations between different agents interacting with one another. The importance of interpersonal relationships, and more generally of the socio-ethical sphere, helps bring out also the importance of performance in these dynamics of bestowal and withdrawal of timē – of respect and disrespect. Within this framework, the enjoyment of rights and prerogatives (timai) is ultimately dependent upon honourable conduct: participation in society was an honour that required adherence to a shared set of behavioural standards, standards which were enshrined in the laws and institutions of the polis. In particular, we have seen that engaging in disruptive and anti-social behaviour was regarded as dishonourable, and, accordingly, the penalty of dishonour had the aim of realigning the offender’s actual worth with what was perceived to be his or her appropriate ‘standing’, by curtailing his or her social and legal capacity.

The legal penalty of atimia, then, finds its rationale in the natural tendency of human beings to shun and isolate deviant individuals; as such, the legal remedy of dishonour originated in the socio-ethical sphere and was gradually subsumed into law codes throughout Greece. This is evident especially for classical Athens, on which we possess a great amount of evidence, but other sources – especially epigraphic – have shown (Chapter 2) that atimia as a legal penalty was used, in some
form or another, also in other parts of the Greek world, and until at least the very end of the classical period. The complex of terms pivoting on atimia centres fundamentally on dishonour and disrespect. In the archaic period, the prevalent (though not exclusive) sense that was conveyed through atimia-terminology was that of ‘unwarranted disrespect’: this terminology was mostly used to refer to an attempt to diminish the status of another person that could either succeed or fail; conversely, by the classical period, the possibility of legitimately despising an individual for certain forms of substandard behaviour (i.e. of treating this person with ‘warranted disrespect’) was codified into the legal penalty of atimia – that is, although there always existed extra-legal, purely interpersonal ways to hold someone in legitimate contempt, and not all legitimate disrespect would lead inevitably to legal action, the dishonourable character of certain offences found legal confirmation in the use of dishonour as a punishment. However, the term did not simply cease to be used in the sense of ‘unwarranted disrespect’: first, because law is only one limited aspect of society; second, because the two senses – warranted and unwarranted disrespect – always existed simultaneously. This is a function of the bidirectionality of notions of honour and dishonour: granting or withdrawing timē is not a straightforward process, a one-way transaction that is essentially predetermined by the status of those who participate in the interaction, or that depends entirely upon the reaction of the audience – upon what other people think of that interaction; it is rather the result of the interplay between the self-presentation, self-esteem, and self-respect of the agents, the respect and esteem they are willing to accord one another, their respective statuses, and their (and their audience’s) evaluation of the situation. Similarly, the continuity between warranted and unwarranted disrespect does not mean that the penalty of atimia could be disputed, disregarded, or negotiated at will in any given situation: on the contrary, the clear differentiation, during the classical period, of the verbs used to talk about disrespect – atimoō/latimaō for an actual lowering in status that is normally brought about by the legal penalty of atimia, atimazō for those instances in which the attempt to ‘dishonour’ the victim is perceived as misguided – shows that, while neither of them took precedence, the two aspects of atimia operated in distinct and distinguishable ways, and were not confused with one another. In other words, though the language of atimia enters the legal sphere from the wider social sphere, it comes to take on a more specific shape from its application in specifically legal and civic contexts: this is because Greek specialised legal
language is never disconnected from normal usage, but, rather than merely reflecting extra-legal social relations, it interacts with such relations while assuming a distinctive (and distinguishable) legal colouring.

Indeed, the notion of *atimia* was intrinsically elastic and flexible, but the limits within which the legal penalty could be stretched and adapted were precisely defined by law. As discussed in Chapter 3, only certain crimes warranted *atimia* upon conviction, and second-degree procedures – often envisaging very severe penalties – were in place to prevent offenders from disregarding the disabilities imposed on them. Prosecution for these crimes, along with prosecution through second-degree procedures, was for the most part entrusted to *ho boulomenos* (i.e. whoever wished to undertake the task) precisely because the *polis* wished to frame the control and repression of anti-social tendencies as everyone’s concern, and as a matter of public order. Accordingly, what all the crimes punished with *atimia* have in common is the disgraceful quality of the offence itself; in most cases, where the penalty was meted out in response to failures in cooperation which threatened the correct functioning of key institutions and practices, this disgraceful quality appears to have been linked to the perceived disruptiveness of the offence, but there were also instances – as exemplified, for example, by the disabilities imposed on male prostitutes – in which the act in question was regarded as beneath the dignity of a full-right free individual even if no cooperative failures were involved, and even if absolutely nothing untoward (in concrete terms) were to follow from it. The focus on appropriateness of behaviour is even clearer in those crimes for which recidivism is the crux: it is not so much the act itself that is punished with *atimia* after several convictions, but rather the disposition of the criminal, who is showing a weakness of character – or even plain wickedness – in his or her persistence in the illegal behaviour.

If, in terms of the types of crime that could be punished with it, the flexibility of *atimia* was partly reined in, or rather balanced out, by the constraints of specific written statutes, the advantages of such adaptability were fully exploited not only in the modulation of the exclusion entailed by the penalty, which was achieved through the possibility of targeting (and removing) only specific rights or sets of rights, depending on the offence committed, but also in the selection of the different categories of individuals on which *atimia* could be imposed. Thus, we have seen in Chapter 4 that, in the classical period, the legal penalty of *atimia* was meted out not
only to male citizens – on whom we are, by necessity, better informed – but also to citizen women and foreigners (male and female) who entertained relations with the polis. Enjoying a status that granted certain prerogatives, i.e. the ability to act in certain ways, was an honour, dependent on honourable behaviour – being dishonoured through atimia meant losing these abilities and prerogatives (timai), or even one’s status altogether (timē).

The study of dishonour in archaic and classical Greece, and especially of the penalty of atimia in the well-documented framework of the classical Athenian legal system, has provided us with a better understanding not only of a legal category that has long been considered baffling and even erratic, and of the legal system that regulated and incorporated it, but also of the social world of the polis on a larger scale, through the examination of the attitudes that underpinned and justified the use of dishonour as an institutionalised penalty to prevent or redress disruptive acts – acts that did not conform to collective ‘honourable’ standards of behaviour. This analysis, then, has certainly shown that the Athenians – but also, it would seem, the Spartans, and, to some extent, other Greeks in various poleis (cf. Chapters 1 and 2) – seem to have been rather happy (or, at least, not too unhappy) with high levels of (rather oppressive) social control and public scrutiny of one’s actions that would, quite rightly, make us uncomfortable today. However, this examination of atimia has also highlighted the centrality of cooperation, and of shared standards for the restraint of behaviour construed as insufficiently group-oriented, to honour dynamics, which are aspects that are often overlooked in favour of the competitive elements of such dynamics, and emphasised the potential of public opinion to shape and direct individual behaviour towards (what is perceived to be) the common good. Thus, of course, the type of (sometimes suffocating) social control that seems to have been promoted, at least in some respects, in classical Athens is certainly not something we should aspire to as societies; nevertheless, if there is one lesson that we can take from Greek conceptualisation of bidirectional dynamics of respect and disrespect is that being part of a community, and having a positive impact on a community, always entails engaging with such dynamics, and being able to strike a balance between the assertion of our own claims to respect and the recognition of those of others.
Appendix I

Use of ἀτιμοῦ/ἀτιμαό vs. ἀτιμᾶζω in the corpus of the Attic orators

1. ἀτιμοῦ/ἀτιμαό (x40)

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<th>AORIST</th>
<th>PERFECTIVE</th>
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* I have disregarded the instance at Dem. 21.93, because the testimony reported there is a late forgery: cf. MacDowell (1990: 316–317) and Harris (2008: 120 n.150).
## 2. atimazo (x18)

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For a full discussion of the differences between *atimō*/*atimaō* and *atimazo*, see Chapter 2, Section 2.1.
Appendix II

The Decree of Patroclides (Andoc. 1.77–79)

Two articles by Canevaro and Harris on the documents in Andocides’ *On the Mysteries* (2012 and 2017) have demonstrated that the text of the document found at Andoc. 1.77–79, purportedly reporting the decree of Patroclides by which the Athenians, in 405 BCE, voted to “make the *atimoi epitimoi* again” (§ 73: τοὺς ἀτίμους ἐπιτίμους ποιήσαι), is a late forgery, and this view is now recognised by many scholars. It would be impractical to repeat here all the arguments – historical, procedural, and syntactical – against its authenticity listed by Canevaro and Harris; however, there are a few more points that I wish to make, with regard to the penalty of *atimia* as depicted in these paragraphs, which will constitute further evidence that the document inserted at § 77–79 cannot possibly reproduce the original decree and must have been added at a later date.

The text that we find in our manuscripts reads as follows:

[77] Ψήφισμα. Πατροκλείδης εἴπεν· ἐπειδὴ ἐψηφίσαντο Αθηναῖοι τὴν ἄδειαν περὶ τῶν ὀφελόντων, ὅστε λέγειν ἐξέιναι καὶ ἐπιψηφίζειν, ψηφίσασθαι τὸν δήμον ταῦτα ἀπετέλεσαν τὸν ἄμεσον. Περὶ δὲ τῶν ἔπιγεγραμμένων εἰς τοὺς πράκτορας ἢ τοὺς ταμίας τῆς θεοῦ καὶ τῶν ἄλλων θεῶν ἢ τὸν βασιλέα, ἢ εἰ τις μὴ ἔξηγγραφη, μέχρι τῆς ἐξελθοῦσας βουλῆς ἐφ᾽ ᾧ Κάλλιας ἠρχαν, [78] δοὺς ἄτιμοι ἦσαν ἢ ὀφελόντες, καὶ δοῦν εὐθύνον τινὲς εἰσὶ κατεγνωσμέναι ἐν τοῖς λογιστηρίοις ὑπὸ τῶν εὐθύνων ἢ τῶν παρέδρων, ἢ μήπο εἰσηγημέναι εἰς τὸ δικαστήριον γραφαὶ τινὲς εἰς περὶ τῶν ἐυθύνων, ἢ προστάξεις, ἢ ἐγγύη τινὲς εἰς κατεγνωσμένα, εἰς τὸν αὐτὸν τοῦτον χρόνον· καὶ δοὰν ὁμόματα τῶν τετρακοσίων τινὸς ἐγγέγραται, ἢ ἄλλο τι περὶ τῶν ἐν τῇ ὀλιγαρχίᾳ πραγμάτων ἐστὶ που γεγραμμένον· πλὴν ὁπόσα ἐν στήλεις γέγραπται τοῦ μὴ ἐνθάδε μεινάντος, ἢ ἐξ Αρείου πάγου ἢ τῶν ἐφετῶν ἢ ἐκ πρυτανείου ἢ Δελφίνου ἐδικασθῆ ἢ ὑπὸ τῶν βασιλέων ἢ ἐπὶ φόρον τις εἰς φυγῇ ἢ θάνατος κατεγνώσθη ἢ σφαγεῖσθαι ἢ τυράννους· [79] τὰ δὲ ἄλλα πάντα ἐξελεύνα τοὺς

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1. Canevaro and Harris (2017: 10 n.3) mention Luraghi (2013: 51 n.12); Joyce (2014: 37–54); Novotný (2014); D’Ajello (2014: 313); Halliwell (2015: 168 n.25); Könczöl (2016: 37 n.23); Pébarthe (2016: 227); Esu (2016); Mikalson (2016: 267 n.1), as well as “Leslie Threatte per litteras” and “Denis Knoepfler in conversation”; we should also add, most recently, Dilts and Murphy in the latest OCT edition of Andocides’ text (2018) and Liddel (2020 passim). *Contra* Hansen (2015), but the second article by Canevaro and Harris (2017) comprehensively responds to Hansen’s points and confirms the inauthenticity of the text at §§ 77–79.
πράκτορας καὶ τὴν βουλὴν καὶ τὰ εἰρημένα πανταχόθεν, ὅπου τι ἔστιν ἐν τῷ
dημοσίῳ, καὶ εἰ ἀντίγραφόν που ἐστι, παρέχειν τοὺς θεσμοθέτας καὶ τὰς
ἀλλὰς ἀρχὰς. Ποιεῖν δὲ ταῦτα τριῶν ἡμερῶν, ἐπειδὰν δόξῃ τῷ δήμῳ. Α δ’
εἰρηται ἐξαλείψαι, μὴ κεκτῆσθαι ιδίᾳ μηδὲν ἐξείναι μηδὲν μνησικακῆσαι
μηδέποτε: εἰ δὲ μὴ, ἐνοχὸν εἶναι τὸν παραβαίνοντα ταῦτα ἐν τοῖς αὐτοῖς ἐν
οἴσπερ οἱ ἦν Ἀρείου πάγου φεύγοντες, ὅπως ἀν ὃς πιστῶτα ἔχῃ Ληθαιῶις
cαι νῦν καὶ εἰς τὸν λοιπὸν χρόνον.

[77] Decree. Patroclides made the motion. Since the Athenians have voted
immunity about (public) debtors so that it is permitted to speak and submit
(proposals about them) to a vote, the people have voted the same measures
which were in force during the Persian Wars and which proved beneficial to
the Athenians for their better interests. Regarding those who have been
registered with the praktores or with the Treasurers of the Goddess and the
Other Gods or with the Basileus, or if he was not removed (i.e. his name was
not removed), before the Council left office during the archonship of Callias,
[78] all who were without rights or debtors and those whose audits (of their
terms of office) have been decided in the Auditors’ office by the Euthynoi
and their assessors or whose public charges arising from their audits have
not yet been brought to the court or their orders (?) or pledges of personal
security have been judged at the same time; and all the names of anyone of
the Four Hundred whose names have been recorded or any other act done
during the oligarchy has been recorded anywhere except for the names of all
those who did not remain here or were judged by the Areopagus or the
Ephetai or by the Prytaneion or by the Delphinion or by the Basileis or who
have been condemned to exile or death on a charge of murder or (?) for
massacre or (?) for tyranny. [79] The praktores and the Council are to delete
all the other names anywhere in accordance with the aforesaid wherever they
are publicly exposed and if there is a copy anywhere, and the Thesmothetai
and the other officials are to produce them. They are to do this within three
days after the people decides. It is not permitted for anyone to acquire
privately those documents which it has been proposed to delete nor at any
time to recall harm done in the past. If one does not, he who violates these
regulations is to be subject to the same penalties as those who are in exile
Regarding *atimia* specifically, the first major problem, noted also by Canevaro and Harris (2012: 102; 2017: 14–15), is already found in the opening paragraph of the text. Here it is stated that *adeia* (‘immunity’) needed to be granted to discuss the case of public debtors, and no mention of other *atimoi* is made, whereas the law at Dem. 24.45–47 spells out explicitly that voting *adeia* was necessary to discuss both *atimoi* (in general) and public debtors (in particular): see also Chapter 1, Section 1.2. Sauppe was the first to emend the text as περὶ <τῶν ἄτιμων καὶ> τῶν ὀφειλόντων, and the emendation has been recently defended by Hansen (2015: 886), but Canevaro and Harris (2017: 15) rightly point out that “it is methodologically unsound to postulate a corruption wherever the document does not make sense, and then use the emended text to argue that the document can be considered authentic.” As we have seen in Chapter 3, Section 3.1, Andocides makes it abundantly clear that public debtors, described at § 73, are only one subcategory of the larger category of *atimoi*: not all public debtors were *atimoi*, and certainly not all *atimoi* were public debtors. Of course, in the speeches of the orators the boundaries between these categories are sometimes a bit blurred, either for the sake of brevity or for the sake of the argument, or both. But, whenever the matter is discussed in close proximity to the quotation of a related law, or when the argument itself requires the speaker to be very precise in his description of legal details, the relevant distinctions are carefully noted and both groups, *atimoi* and public debtors, are mentioned separately: aside from Dem. 24.45–47, this is the case also at [Dem.] 58.45, within a speech delivered, by a plaintiff whose father was *atimos qua* public debtor as a result of a fine incurred upon conviction in a *graphē paranomōn*, against another alleged public debtor, and at Hyp. fr. 29 Jensen, concerned with a decree, proposed by Hyperides himself, through which the Athenians would have, among other things, cancelled outstanding debts and made the *atimoi epitimoi* again. Thus, it is at the very least unlikely that, after Andocides had set aside a considerable amount of time to introduce and clarify the scope of the decree by describing the subsets into which the general category of *atimoi* was divided, the document quoted would then actually open with a reference

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2 Transl. Canevaro and Harris modified.
to only one of those subsets, rather than to the general category itself, which is mentioned only once throughout the whole decree, at § 78.

The reference to debtors and *atimoi* at § 78 presents a similar problem: Canevaro and Harris (2012: 105; 2017: 23) indicate that the phrasing ὁσοὶ ἂτιμοι ἦσαν ἡ ὀφείλοντες depicts these two groups, *atimoi* and public debtors, as separate categories, whereas we have seen above that the latter is a subset of the former. This, along with the opening passage we have just examined, seems to suggest that whoever compiled this document had not understood exactly how *atimia* worked, and was getting many things wrong while trying to work out the details of the penalty and the provisions of the decree from Andocides’ arguments in the surrounding text. That the compiler was trying to figure out what stood in the document primarily from Andocides’ description is especially clear also from the remainder of this paragraph, where we find elements that are already present in Andocides, but used rather haphazardly, with no real understanding of what they actually meant. For instance, the document lists “those whose audits (of their terms of office) have been decided” (ὁσον εὐθύναι τινές εἰσι κατεγνωσμέναι) as if they represented another separate category. Yet, in Andocides’ discussion of *atimia*, the reference to outgoing magistrates who had been found guilty at their scrutiny (§ 73: ὁπόσοι εὐθύνας ὄφλον ἄρξαντες ἄρχας) is used just as one example among many of the first subcategory of *atimoi* he describes, i.e. public debtors: it is not a separate category, but rather, once again, a subset of a broader category. This is true also for the reference to *graphai* (§ 78: ἡ μῆπῳ εἰσηγμέναι εἰς τὸ δικαστήριον γραφαί τινές εἰσι περὶ τῶν εὐθύνων), where, however, the misunderstanding goes even further, because not only does the compiler fail to gather, from the explanation at § 73 (ὁπόσοι … γραφάς … ὄφλον), that Andocides is talking about another example of a specific subgroup of public debtors, those who happened to have lost a *graphē* for which the penalty was a fine they could not pay, but he also tries to make sense of his own misinterpretation by limiting the *graphai* implied here to those “arising from … audits”, whereas Andocides is considering any *graphē* that could entail a fine upon conviction. The same misunderstanding applies also to *engyai*, ‘sureties’ (§ 78: ἡ ἐγγύας τινές εἰσι κατεγνωσμέναι): the compiler copied the reference from Andoc. 1.73 (ἡ [ὁπόσοι] ἐγγύας ἠγγυῆσαντο πρὸς τὸ δημόσιον) but, on top of misconstruing this, once again, as a reference to a distinct group rather than as an example of *atimoi qua* public debtors, he uses the verb *katagignōsko* (‘give judgement’, ‘decide a suit’),
which, as shown by Canevaro and Harris (2012: 106; 2017: 27–29), makes no sense in this context — engyai are neither penalties nor crimes, nor can they identify persons against whom judgements are issued. By the same token, the reference to prostaxesi, construed with the same verb (ἡ προστάξεις … τινές εἰσι κατεγνωσμέναι), makes even less sense: as shown by Novotný (2014), prostaxis means ‘order’ or ‘command’, and we have seen in Chapter 3, Section 3.1 that Andocides appears to use it to describe both the partial atimia meted out in accordance with specific decrees — which was, in theory, what happened to him following the decree of Isotimides — and that resulting from frivolous prosecution, which he mentions exempli gratia. Thus, the compiler seems to have taken an educated guess and, finding the terms prostaxis and engyē in Andocides’ text but not understanding what they meant, to have repeated the verb he had used for euthynai and hoped for the best.

As a final note, I would like to draw attention to one further element — not immediately related to atimia — that exemplifies the compiler’s modus operandi, and strengthens the impression that the document found in our manuscripts is not the faithful reproduction of a genuine decree, but rather a poorly arranged and confused collection of information deriving mainly from Andocides’ text. At § 79, the decree purportedly instructed the Athenians not to acquire private copies of the revoked decrees — which, as Canevaro and Harris (2012: 109; 2017: 32–33) point out, is a very strange and unparalleled provision — “nor at any time to recall harm done in the past” (μηδὲ μνησικακῆσαι μηδὲποτε). In principle, there seems to be nothing particularly problematic in having, within a decree that specifically reintegrates atimoi (i.e., broadly speaking, a category of ‘ex-offenders’) into the community, a clause prohibiting recollection of past wrongs, although we should note that there is no parallel for this. But the passage becomes especially suspect when we examine Andocides’ subsequent narrative. After the quotation of Patroclides’ decree, the orator offers a quick overview of the events that followed its approval in 405 BCE: the Athenians made a truce with the Spartans, then the walls were destroyed, the exiles were called back, the Thirty came to power, and a civil war ensued (§ 80). Once the war was over and the pro-democratic party — or “you”, the Athenians, as Andocides generously concedes — “came back from Piraeus” (§ 81: ἐπανήλθετε ἐκ Πειραιῶς), the decree detailing the terms of the amnesty was voted, in 403 BCE: its key provision, or at least the one our sources focus on, was “not to recall past
wrongs” (μὴ μνησικακεῖν) – the same provision as already found in the text of Patroclides’ decree at § 79, voted two years earlier, in completely different circumstances, and to tackle a completely different problem. Once again, the verb mnēsikakeō is not suspect in itself: it is perfectly good, regular Greek for ‘remembering past injuries’ and ‘bearing malice’, already attested in Herodotus and Thucydides (cf. LSJ9 s.v.). What is suspect here is that the verb is found twice in the space of two paragraphs: in one instance, at § 81, in the context of an amnesty the main provision of which is detailed by that very verb, and in the other, at § 79, where it seems slightly out of place, because, as explained by Rhodes (1985: 468), “μὴ μνησικακεῖν … is the regular formula for an amnesty”, which the decree of Patroclides, technically, was not. This, along with Canevaro’s and Harris’ analysis (2012 and 2017) and the problems highlighted above, seems yet another reason to be suspicious of the text found at Andoc. 1.77–79, and adds a further argument against the authenticity of the document as a whole.
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