

Jury selection in Athens was informed by considerations more of democracy than of either religion or justice.

In a *Festschrift* for Mogens Hansen ("Just Rituals," in *Polis and Politics* 2000), Victor Bers argues that the "rigmarole" of jury selection described in *Ath. pol.* 63-66 is best understood as a "ceremony aimed at alleviating the Athenians' anxiety about the democratic jurors – their general quality, number, and probity" (553), and that "the ordinary man is likely to have felt that it was not an entirely random process that assigned *dikastai*" (558), i.e., there was a divine element in the lottery. Bers' paper represents a solid advance on previous accounts (*cp.* Rhodes in Eder 1995), but it seems unlikely that most Athenian citizens had anxieties about democratic jurors, for a great number of them were Athenian jurors themselves. And the religious origin of the lottery seems a forgotten element inasmuch as the selection system conceded that the lottery could inadvertently select unqualified jurors. The *Ath. pol.* itself remarks repeatedly on measures being used that prevented cheating, but that seems a fascination of its author rather than a defining element of the system.

The democratic elements of the jury selection process that need clarification are those that depart from the purely random selection of citizens. They include the age requirement, tribal distribution (including divisions within tribes), and the level of jury pay. That the *dikastai* were all at least thirty years old seems akin to the requirement that public arbitrators had to be fifty-nine, that is, the Athenians put some premium on experience. That the *dikasteria* included equal numbers from each of Athens' ten tribes, randomly divided in ten further divisions, suggests that the Athenians valued geographical distribution. That the Athenians introduced jury pay at two obols, increased it to three obols, and then stuck with that number, while levels of pay for other forms of democratic participation climbed, suggests that they had some appreciation for a level of payment that would produce what Aristotle describes in the *Politics* as an appropriate mixture of rich and poor.

The premiums put on experience, geographical distribution, and the level of jury pay created a *dikastêrion* that was not a purely random selection of the *dêmos*. Experience no doubt led to better informed judgments, but it also served the democratic value of equality by balancing off judicial power against the physical superiority of younger citizens. Geographical distribution served the interests of political unity, and jury pay served to redress practical inequities of opportunity to participate among the rich and poor. The rigmarole that Bers laments evolved over time, as Boegehold has documented (*Athenian Agora* 28 21-41), with new innovations being added incrementally. A selection system created *de novo* would no doubt have been more efficient. However, the innovations appear always to have served to perfect the randomness of the selection process and thus the democratic principle of equality.