

Legal binding curses (*defixiones iudicariae*) constitute a sub-genre of ancient sympathetic magical practices that reached a high point of popularity in classical (5th-4th centuries BC) Athens. Even though magic cannot be completely dissociated from other facets of social life, due to their primary objective – i.e. to influence the outcome of litigation in the courts of justice – it can be argued that legal binding curses stand at the intersection of civic institutions and the occult. After a brief examination of the logistics of commissioning and dedicating legal *defixiones* in classical Athens, this paper addresses two major questions: why did *defixiones iudicariae* become for the first time most popular in classical Athens, and especially during the late fifth and the fourth centuries BC? And secondly, how does the extensive use of legal binding curses affect our understanding of the nature of the legal system in classical Athens?

Regarding the first issue, recent work (E. Eidinow, “Why the Athenians began to Curse” in R. Osborne (ed.), *Debating the Athenian Cultural Revolution*, Cambridge 2007, 54-71) has emphasized the vexing circumstances of the late fifth century (profanation of the Eleusinian mysteries in 415, oligarchic coups in 411 and 404, Peloponnesian war) as among the main instigators behind the surge in cursing in the late fifth and fourth centuries. Contrary to this view, I argue that an explanation in the context of shifting perceptions on the role of writing, growing numbers of literacy and changes in the Athenian legal system can account better for the popularity of legal binding curses in the period in question.

With respect to the issue of the position of *defixiones* within the legal system of classical Athens, most historians of Athenian law largely overlook them, perhaps because binding curses and magic in general are today widely perceived as irrational and superstitious practices. However contrary to forensic orations, whose content is conditioned largely by the exigencies of each case and the need to please the jury, binding legal curses are among the very few pieces of primary evidence where the litigants could express more candid, and no doubt at times more authentic, views of the legal system. According to these views litigation is not only a process whereby justice prevails but also, and often primarily, the means of getting revenge from an opponent, dominating in court, and gaining economic and social advantages. The fact that many Athenians relied partly on magic to achieve these ends suggests a mistrust and cynicism towards the legal system, feelings that in the mind of the *defigentes* justified their attempts to abuse the legal process through recourse to supernatural powers. Contrary to recent scholarship that emphasizes the demarcation between lawcourts and social conflict in classical Athens and argues instead that the primary objective of the courts of justice was the promotion of the “Rule of Law” (e.g. E. Harris, “Feuding or the Rule of Law?” in R. Wallace and M. Gagarin (eds.), *Symposion 2001*, Wien 2005, 125-41), *defixiones iudicariae* suggest a legal system that, besides being an integral part of democratic Athenian society, was at the same time vulnerable to potential manipulation by litigants and other interested persons who at times had little interest in justice but sought instead to promote their personal or wider political agendas.