

# Solon the Lawgiver: Inequality of Resources and Equality before the Law

*Vasileios Adamidis*

*The focus of this paper is on Solon's attitude towards wealth as can be extracted by his legislation and poems. The argument is that part of the rationale of Solon's legislation aimed at the regulation and check of the influence of wealth in the Athenian administration of justice and the emerging legal system of the polis. In this era of spreading monetisation, there was a conscious effort on the part of the Athenian lawgiver to place limits on the use of wealth and to make economic resources a positive feature, at the service of law and community, rather than the opposite. In the Solonian reforms we find traces of subsequent dominant characteristics of the Athenian legal system (such as amateurism and egalitarianism) which might offer new insights on the modern manifestations of inequality before the law.*

**Keywords:** Athenian law; Solon; Amateurism; Equality before the law; Wealth; Money.

## Introduction

Equality before the law is highly desired, yet it is still a challenging issue in modern legal systems. The economic crisis has acted as the catalyst of the retreat of the welfare state. For instance, inequality before the law is escalating after the legal aid cuts in the UK. Under the the Legal Aid, Sentencing and Punishment of Offenders Act 2012, many categories of criminal and, especially, civil cases no longer qualify for legal aid funding. The emerging trend is called Do It Yourself justice and the number of people who have no choice but to represent themselves in court has risen sharply. In the United States, since 1963, when the US Supreme Court decided the case of *Gideon v Wainwright*<sup>1</sup>, any defendant who cannot afford an attorney is entitled to have one appointed to implement the right to counsel as provided in the sixth amendment of the US constitution. Yet many states still charge

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<sup>1</sup> 372 US 335 (1963).

indigent defendants for the cost of their counsel, with legal representation not always been adequate.

This right to legal aid and professional legal representation is even more imperative in countries with adversarial legal systems, where it is the responsibility of the parties to gather evidence and prove the justice of their case. In the case of inequality on the efficiency of legal representation, it is a logical consequence that the better-represented party will have more chances of success, the truth will not be discovered, and justice will be impaired. Under these circumstances, the ideals of the rule of law and equality before the law are in danger of becoming empty slogans.

The issue of equality before the law in ancient Athens is too general. In analysing it, reference could be made to the features, rules and procedures of the Athenian legal system which promoted equality (at least political, not social or economic) for all its admitted participants. These are concepts such as *isonomia* and *isegoria*, the rotation and selection by lot of public officials, the equality of rights and duties, and the (at least nominal) equality of opportunity offered by the Athenian democracy. Focusing on the courts in particular, one could refer to the entirely symmetrical position of litigants, the equal duration of speeches, the swearing of identical oaths and other similar features promoting equality before the law. All these cumulatively provide a manifestation of equality in the era of maturity of the classical Athenian democracy. Nonetheless, in order to understand the evolution of the notion of equality and its contribution to the final product, namely the developed Athenian legal system of the fourth century BC, it is necessary to take a step back and narrate the story of this system from its early days. A sine qua non of this narration is the discussion of the reforms of Solon in the early sixth century BC.

The focus of this paper will be on Solon's attitude towards wealth as can be extracted by his legislation and poems. The argument is that part of the rationale of Solon's legislation aimed at the regulation and check of the influence of wealth in the Athenian administration of justice. There was a conscious effort on the part of the lawgiver to place limits on the use and influence of wealth and to make economic resources a positive feature, at the service of law and community, rather than the opposite. In the Solonian reforms we find the seed of the subsequent dominant characteristics of the Athenian legal system which might offer new insights on the modern manifestation of inequality before the law: egalitarianism and amateurism.

### **Egalitarianism and Amateurism**

Egalitarianism was strictly preserved in the Athenian legal order. In all its institutions and constituents, the fourth century Athenian legal system was consistent in its (sometimes futile) pursuit of strict

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democracy. Total political equality by demolishing the barriers of birth and wealth, signified a right for each Athenian citizen to participate in public business. In the courts in particular, every Athenian citizen had the right to initiate proceedings or to serve as a juror in the popular panels deciding cases. Each year, any male citizen over the age of thirty could put himself forward and be selected by sortition as one of the 6,000 jurors that manned the Athenian courts. Private cases were decided by a democratic jury of at least 201 members, public cases by at least 501, a number that in most serious cases was multiplied and (though extremely rarely if ever) could extend to all 6,000 jurors. Verdicts were taken by majority vote, without the guidance and aid of legal experts or judges.

Directly connected with the democratic nature of the Athenian legal system, is the pervasive ideology of amateurism. In essence, the interconnection of these two characteristics lays on the Athenian belief that professionalism and democracy were regarded as, at bottom, contradictory. Litigants, sometimes with (in principle) minimal help from *logographoi* (speechwriters), conducted research into the relevant laws and decrees, and they largely decided the strategy and presentation of their case. The ideology of amateurism in the Athenian legal system led the protagonists to neglect any systematic and professional treatment of legal rules. The Athenians, departing from the idea of expertise, regarded law as grounded on common sense and being the common property of the citizens. Egalitarianism and amateurism were deeply entrenched in the democratic ideology of the polis, to the extent that legal experts were seen with suspicion and hostility, being characterised as sycophants. Modern scholarship suggests that this democratic ideology was the basis of amateurism in the Athenian legal system. A prominent classical scholar has described the rationale behind amateurism as follows:

‘The Athenians ensured the absence of professionalism in their administration... In order to make the law democratic, the Athenians saw to it that no bar or bench should grow up: pay for advocates was forbidden and juries were composed of several hundred ordinary citizens.’<sup>1</sup>

This is true but it is only part of the explanation. After all, many of the egalitarian features of the Athenian legal system were introduced before the emergence of democracy and others only gradually evolved in order to meet the democratic ends of the fifth and fourth centuries. Solon, introduced his reforms in the early sixth century, almost a century before the reforms of Cleisthenes in 508/507 BC which are considered to be the beginning of the democratic constitution in Athens. In the newly monetised city states of the archaic period, with Athens being the most characteristic example, amateurism was a way to overcome the shock of the emerging monetisation, and address the potential or real

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<sup>1</sup> Hansen (1991).

problem of corruption by placing limits on the influence of wealth in the public sphere and by making it subordinate to and at the service of law.

*The problem*

In the archaic period between the 8th and the 6th centuries BC, there was widespread discontent with the rule of aristocrats by birth. Evidence shows that, instead of the traditional approach viewing the masses as insignificant and passive enduring a lot from the arbitrariness of the elite, there actually existed a firm sense of identity and self-esteem of the peasant class', expressed in a 'deep-rooted and self-conscious literary expression of anti-aristocratic opinion'<sup>1</sup>. Since the epics of Homer we can observe in the speech of Thersites the dissatisfaction with the king's greed, selfishness and disregard of fair distribution and dealing. In spite of the pro-aristocratic orientation of the Homeric epics, an emerging class ideology of the masses is evident in Thersites' remarks, even if it was not legitimate for him to take part in this intra-elite quarrel:

"Agamemnon," he cried, "what ails you now and what more do you want? Your tents are filled with bronze and with fair women, for whenever we take a town we give you the pick of them. Would you have yet more gold, which some Trojan is to give you as a ransom for his son, when I or another Achaean has taken him prisoner? Or is it some young girl to hide and lie with? It is not well that you, the ruler of the Achaeans, should bring them into such misery. Weakling cowards, women rather than men, let us sail home, and leave this man here at Troy to stew in his own prizes of honour, and discover whether we were of any service to him or no." (Homer, *Iliad*, 2.224-238)

Among the rights and responsibilities of the elite was the adjudication of disputes. In another passage of the *Iliad*, we can observe for the very first time in Greek literature the idea that crooked judgments of the aristocrats trigger the wrath of gods:

"[a]nd Zeus sends violent rain, in anger against those who deliver corrupt judgements in free assembly, careless of divine vengeance and void of all justice." (Homer, *Iliad*. 16.387)

The criticism against the elite's monopoly of administration of justice is much more evident in Hesiod. In the *Works and Days* a causal link is argued between corruption and crooked judgments by the 'bribe-devouring kings'.

"There is a noise when Justice is being dragged in the way where those who devour bribes (ἄνδρες δωροφάγοι) and give sentence with crooked judgements, take her. And she,

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<sup>1</sup> Donlan (1973).

wrapped in mist, follows to the city and haunts of the people, weeping, and bringing mischief to men, even to such as have driven her forth in that they did not deal straightly with her.” (Hesiod, *Works and Days*, 216-224)

“And there is virgin Justice, the daughter of Zeus, who is honoured and revered among the gods who dwell on Olympus, and whenever anyone hurts her with lying slander, she sits beside her father, Zeus the son of Cronos, and tells him of men's wicked heart, until the people pay for the mad folly of their *basileis* who, evilly minded, pervert judgement and give sentence crookedly. Keep watch against this, you *basileis*, and make straight your judgements, you who devour bribes (*δωροφάγοι*); put crooked judgements altogether from your thoughts.” (Hesiod, *Works and Days* 256-265)

The first written laws that date from this period signify a serious effort on the part of the community (or of other competitor members of the elite trying to associate themselves with the community<sup>1</sup>) to check any abuse of the system by the ruling officials<sup>2</sup>. Evidence for this increasingly significant role of the *demos* (which has even been interpreted as ‘a pan-Hellenic movement towards egalitarianism’<sup>3</sup>) can be sought for in the plebiscitary politics of the early archaic age and the initial stages of polis-development<sup>4</sup>. Even with the consolidation of the elite ideology and aristocratic power in the seventh and sixth centuries, other groups, notably the emerging hoplite farmers served as a check, with written law being a means to this end<sup>5</sup>. For example, the written inscription from Dreros (dated from c. 650 BC) provides against the misappropriation of the public office of *kosmos* against the laws and procedures of the polis<sup>6</sup>. In a law from Chios (c. 600-550 BC) we find a provision granting the right of appeal to a popular council against the decisions of magistrates. Apparently, the Chians tried to limit the monopoly of adjudicative powers of the elite judges, probably as a

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<sup>1</sup> The fact that the community was acting as the legitimising force of the written laws is evident from the wording of the inscriptions which generally provides that ‘The polis has thus decided’.

<sup>2</sup> See Gagarin (1986) and Gagarin (2005). Cf. Thomas (2005) at 52: ‘Archaic Greek cities seem to have been aware that the officials themselves might be the problem, hence the clauses in so many archaic laws that seek to control the officials and force them to obey the new law’. A written (especially homicide) law code strengthens the judicial power in limiting the unchecked reciprocal violence within the community stemming from self-help.

<sup>3</sup> Robinson (1997).

<sup>4</sup> Hammer (2005); Raaflaub & Wallace (2007).

<sup>5</sup> See Donlan (1997); Raaflaub (1997).

<sup>6</sup> ‘The city has thus decided; when a man has been kosmos, the same man shall not be kosmos again for ten years. If he does act as kosmos, whatever judgment he gives, he shall owe double, and he shall lose his rights to office, as long as he lives, whatever he does as kosmos shall be nothing.’

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response to arbitrariness. Moreover, the same law provided for sanctions against the acceptance of bribes by public officials<sup>1</sup>. Similar laws were passed slightly later in Eretria and Gortyn.

As far as Athens is concerned, we are better informed about the circumstances which prevailed before the legal initiatives of Draco (c. 624-620 BC) and Solon (594/3 BC). This was a time of internal instability, mainly due to intra-elite competition and conflict as can be seen in the Cylonian affair (632 BC). The resulting weakening of the competing elite groups and, probably, their effort to associate themselves with wider sections of the population in order to find the popular support necessary for the establishment of tyranny<sup>2</sup>, were conducive to the escalation of disorder which affected the whole polis. Moreover, the arbitrariness of elite officials as can be seen in the role of the Alcmaeonid archon Megacles in the Cylonian *agos* (Plutarch. *Solon* 12), highlighted the need for a radical reform. As a result, recourse to written law for the survival of the polis was made imperative. From then on, instead of oral laws known to a special class, at times arbitrarily applied in an ad hoc manner, laws were publicly available, thus becoming a common property of the citizens<sup>3</sup>. Despite the success of Draco's law on homicide<sup>4</sup>, strife had not ended in Athens. By 600 BC the small farmers were in actual danger of total dependency or even enslavement to the rich landowners who, in addition to their monopoly of political and religious authority, exploited their economic advantages to the extreme. According to Aristotle the situation was close to a bloody *stasis*, "the party struggle being violent and the parties remaining arrayed in opposition to one another for a long time" (*Athenaion Politeia* 5.2). Plutarch is explicit in attributing the perilous condition of the city to economic division, namely a 'disparity between the rich and the poor' (cf. *Athenaion Politeia* 2.1)...All the common people were in debt to the rich. For they either tilled their lands for them, paying them a sixth of the increase (whence they were called Hectemoroi and Thetes), or else they pledged their persons for debts

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<sup>1</sup> 'And if either one of the *demarchoi* or the *basilees* accepts bribes they shall pay double...'.  
<sup>2</sup> Ellis & Stanton (1968).

<sup>3</sup> Gagarin (1986); Gagarin (2005) and Gagarin (2008). Cf. Thomas (2005) at 47:

'There was also surely the fear that laws, once agreed, would be ignored or countermanded by the very officials or other members of the ruling elite who were supposedly bound by them: the publicly written versions were accessible and visible, and even if few of the citizens could actually read them, there were perhaps enough who could and more who could point to the public inscription as a reminder of the law. Thus there are sometimes severe penalties for tampering with the inscription.'

<sup>4</sup> The traditional view is that only Draco's homicide laws survived Solon's intervention. To be sure, they were re-inscribed on stone stelai by the anagrapheis in 409/8 BC, placed in front of the Stoa of the King Archon, and were retained down to the fourth century. Also, there is uncertainty as to the scope of Draco's legislation. Carey (2013) recently has argued that 'more of Draco's work survived into the Classical period, both in substance and in procedure' and that Draco had not confined himself in drafting laws solely on homicide.

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and could be seized by their creditors, some becoming slaves at home, and others being sold into foreign countries (cf. *Athenaion Politeia* 2). Many, too, were forced to sell their own children (for there was no law against it), or go into exile, because of the cruelty of the money-lenders. At this point, the wisest of the Athenians cast their eyes upon Solon.’ (Plutarch, *Solon*, 13)

Solon was chosen for his impartiality and honesty, yet we are also informed that the rich accepted him ‘readily because he was well-to-do’ (Plutarch, *Solon*, 14). This is likely as it probably represents the status quo of dispute-settlement in Athens, whereby the rich largely controlled the administration of justice<sup>1</sup>. According to Humphreys, ‘one of the elements in the crisis which Solon was called upon to resolve in the early 6th century was their harsh application of the measures available to creditors seeking to recover debts... It is not surprising therefore that Solon’s contributions to the development of Attic law, in the early 6th century, were mainly concerned with preventing abuse of the powers which had been given to magistrates and were still wielded by local landlords’<sup>2</sup>. The political stranglehold exercised over the state by the noble Eupatridai (meaning ‘of good fathers’) was extended to the administration of justice mainly through the composition of the Areopagus by the ex-archons<sup>3</sup>.

The problem was evident and it was probably aggravated by the emerging monetisation of the archaic Greek city-states (if not yet the adoption of coinage). Wealth and especially money could be seen as a factor which improperly influenced the administration of justice by elite experts, hinted in the criticism of aristocratic ideology and practice as expressing greed, injustice, violence, excess, love of luxury, factionalism, hubris<sup>4</sup>. Therefore, among the developments and innovations which assisted in checking the power of the elite such as

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<sup>1</sup> According to Gagarin (1986) at 51, some officials did hear cases formally before Draco’s appointment as lawgiver in about 620BC (note the apparent offer of a trial in the case of Cylon’s conspiracy, testified only by Plutarch in *Solon* 12). It appears that before Solon lawsuits were tried either by the Areopagus (or other homicide courts) or by individual officials who were appointed on the basis of birth and wealth. Therefore appointment of officials was limited to a circle of leading families (Ath. Pol. 3.6). Also, indicative of the status quo is the episode mentioned by Plutarch (*Solon* 12.2) involving the trial of the polluted Alcmaeonids who accepted to appear before a court of ‘three hundred jurors selected from the nobility’.

<sup>2</sup> Humphreys (1983) at 237.

<sup>3</sup> To give but an idea of how things could have been in practice, we might point to an example of a slightly later date which nevertheless is telling. According to the Ath. Pol. 16.8, Peisistratus, while he was a tyrant, was summoned to the Areopagus to be tried on a charge of murder, he appeared in person to make his defence, and the issuer of the summons was frightened and left. Yet, we are informed by Thucydides (6.54.6) that ‘the family of Peisistratus took care that one of their own number should always be in office’ and this might explain why Peisistratus did not hesitate to appear before the court but also how intimidating the elite administration of justice could have been to the commoners.

<sup>4</sup> Donlan (1999) at 68-75.

public written statutes, broader distribution of political power, widening the qualification for holding the public offices, and harsh penalties for magistrates, the influence of money in the legal system should also be controlled.

### Solon's Approach to Wealth

In order to understand how Solon's reforms countered these problems, it is useful to analyse his approach to wealth as communicated in his poetry. Nevertheless, a digression is necessary, since a discussion of the persona of the archaic Greek 'lawgiver' who appears precisely at this time is a prerequisite. Common patterns emerge in relation to these quasi-mythical figures, illuminating their (actual, imputed or desired) attributes and mentality. The lawgivers mainly emerged as a response to the social discord of the archaic poleis<sup>1</sup>. As Wallace noted, 'in redressing their social problems, three paths were open to archaic poleis: a single ruler, legal and constitutional reform, or popular revolt and what the sources call mass government, however we understand that concept'<sup>2</sup>. Some of the lawgivers, such as Pittakos of Mytilene, emerged as elected *aisymnetai* before becoming semi-tyrants (the word still lacked pejorative connotations), whereas others initially acted as arbitrators, subsequently devising more or less ad hoc legal responses to the socio-political problems<sup>3</sup>. These lawgivers, who became famous and legendary in subsequent years, were entrusted by the incipient political communities as impartial, wise, and politically astute figures who could rearrange the life of the community in a better way<sup>4</sup>.

Later (largely mythical) tradition has sketched the lawgivers as impartial (sometimes outsiders)<sup>5</sup>, exceptionally wise and virtuous, uniquely qualified to fulfil their challenging task, while some of them were 'credited with divine assistance'<sup>6</sup>. These attributes allowed them to transcend the communal problems while remaining subordinate to the law. Famous is the episode involving Charondas, the lawgiver of Catany, who declared it a capital offence to enter the assembly carrying a weapon. Diodorus narrates this story:

'He had set out to the country carrying a dagger because of the robbers, and on his return the Assembly was in session and the commons in an uproar, whereupon he

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<sup>1</sup>Szegedy-Maszak (1978). This is mostly true for the Greek mainland *metropoleis*, but to some extent not applicable to the Greek colonies.

<sup>2</sup>Wallace (2007).

<sup>3</sup>Hölkeskamp (1992).

<sup>4</sup>Aristotle discusses the greatest of these lawgivers at the end of Book 2 of the *Politics* (2.1274a).

<sup>5</sup>Harris (2013); Cf. Epimenides in Plutarch, *Solon*. 12.4-5.

<sup>6</sup>According to tradition, they acquired their instruction through extensive travel and study with one of the great philosophers. See Szegedy-Maszak (1978) at 202-204.



approached it because he was curious about the matter in dispute... And when one of them said, "You have annulled your own law," he replied, "Not so, by Zeus, I will uphold it," and drawing the dagger he slew himself.' (Diodorus Siculus 12.19)<sup>1</sup>

Despite the questionable accuracy of such tales, the idea of equality before the law was manifestly urged by expecting the lawgiver himself to capitulate to the authority of the law. The law has become supreme<sup>2</sup>.

### *Solon's ideology*

Solon was the legendary, ideal lawgiver of Athens who played the role of 'the authority-figure who demonstrated the ethical coherence of Athenian laws and the legal system's almost mystical continuity through time. This imagined figure impersonated the ethical prototype of the Athenian legal system, persuading the jurors to interpret the Athenian laws by reference to his demands'<sup>3</sup>. It is a fortunate event that we are in a position to reconstruct Solon's philosophy through the surviving fragments of his poems and legislation. Solon was a Eupatrid who, nevertheless, did not hesitate to criticise his class and even go against its short-range interests. According to him, the hubris of the people's leaders and their inability for moderation were to be blamed for the violent civil strife. Hubris is usually (correctly) translated as excess, which can be rephrased as the lack of appropriate limits. Therefore, this excessive desire for wealth leads them to unrighteous deeds, paying no attention to the forthcoming punishment by Dike:

'Her own people, for lucre's sake, are fain to make ruin of this great city by their folly. Unrighteous is the mind of the leaders of the commons, and their hubris goes before a fall; for they know not how to hold them from excess nor to direct in peace the jollity of their present feasting... but grow rich through the suasion of unrighteous deeds.'

'[and] steal right and left with no respect for possessions sacred or public, nor have heed of the awful foundations of Justice.'<sup>4</sup> (Fr. 4 [West])

<sup>1</sup> This biographical *topos* can be found in relation to other lawgivers such as Zaleucus (Ael. VH 13.24; Val. Max. 5.3, Eust. Ad Il. 1.197) and Diocles (Diod. Sic. 13.33 and 12.19). Subordination to the law is recorded for Solon and Lycurgus. In particular, Plutarch (*Solon* 25) mentions that Solon 'set sail, after obtaining from the Athenians leave of absence for ten years'.

<sup>2</sup> According to Szegedy-Maszak (1978) at 208 this final stage can be described thus: 'the crisis resolved; the code is firmly established with some provision for its permanence, and the lawgiver departs'.

<sup>3</sup> Adamidis (2017) at 185.

<sup>4</sup> Noussia-Fantuzzi (2010). Disrespect for sacred money was considered a sign of a tyrant's behaviour in Xen. Hier. 4.11, and in Diod. Sic. 14.67.4, of barbarians in Hdt. 1.105.2 etc. Also, Aeschylus, Eum. 539-42 is also a very close passage to Solon, since

Excessive desire for wealth, identified by Solon as the main cause of civil strife, is associated with *Dysnomia* (Lawlessness). On the other hand, *Eunomia* ‘puts fetters upon the unrighteous...checks excess...straightens crooked judgments’ (Fr. 4). As a result, a warning was given to the wealthy elite:

‘And as for you, who now have all the wealth you want, make the stern spirit gentler in your hearts, adjust to moderation. We will not accept this state of things, nor will it work for you.’ (Fr. 4c)

In this fragment we find Solon (a Eupatrid) associating himself with the less well-to-do. This is even more evident in the next passage:

For many *kakoi* are rich, and *agathoi* poor; but we will not exchange with them *arete* for wealth’. (Fr. 15)

In relation to this strong statement, Donlan observes that

‘Not only does Solon identify himself with the *agathoi* poor, he places wealth in direct opposition to *arete*. According to the old epic-aristocratic system of values wealth was an essential ingredient of *arete*, but by now this latter concept had been modified to the extent that wealth could be depicted as an impediment to it’<sup>1</sup>.

Solon was not universally opposed to wealth<sup>2</sup> though he was very much concerned about the role and power of money<sup>3</sup>. He was one of the first thinkers who acknowledged the dangerous aspects of it, especially in the (then) new form of monetisation.

‘And as for wealth, there's no limit set clearly down; for such as have to-day the greatest riches among us, these have twice the eagerness that others have, and who can satisfy all?’ (Fr. 13)

Money itself (and the desire for it) may be said to be unlimited<sup>4</sup>. According to Seaford ‘It was this new unlimit that created the severe crisis of indebtedness that he was appointed to resolve’<sup>5</sup>. Solon himself, who was the first to point to the unlimited desire for wealth, also insists that there are limits to its power<sup>6</sup>. This brings to mind Solon’s interview

we find there the same connection between lust for money, violation of Dike's altar and punishment.

<sup>1</sup> Donlan (1999) at 74.

<sup>2</sup> See Fr. 13: ‘Wealth I desire, but not to hold it unrighteously, for surely sometime retribution comes.’

<sup>3</sup> Seaford (2004) at 90: ‘The first unequivocal evidence for money seems to be provided by the legislation of Solon’.

<sup>4</sup> Aristotle, *Politics*, 1.1256b: “But there is another kind of acquisition that is specially called wealth-getting, and that is so called with justice and to this kind it is due that there is thought to be no limit to riches and property.”

<sup>5</sup> Seaford (2004) at 94.

<sup>6</sup> Fr. 24: ‘Equally rich is he who has abundancy of silver, gold, and acres under plough, horses and mules, and he that only has the means to eat well, couch well, and go softly shod... This is a man’s true wealth: he cannot take all those possessions with

with Croesus, reported by Herodotus (*Histories*, 1.30) and Plutarch (*Solon*, 27) where moderation is contrasted to hubris, limit to limitless, natural order to wealth's capriciousness. According to Plutarch

‘Croesus at once judged Solon to be a strange and uncouth fellow, since he did not make an abundance of gold and silver his measure of happiness, but admired the life and death of an ordinary private man more than all this display of power and sovereignty’<sup>1</sup>.

Solon was one of the first and most prominent theorists of moderation. He was the first who gave practical substance to it in his legislation by understanding the value of limits – not surprisingly, he connected this idea to wealth. He exercised moderation by denying becoming a tyrant<sup>2</sup> and he put his idea of justice and equality from the world of ethics into the practice of legislation by trying to reach a compromise between the combating interests of the different classes<sup>3</sup>. Solon's equality is not numerical but proportional, giving to each man and class their due according to their merit<sup>4</sup>. Yet, Solon's great contribution is that even unequal laws (for example, his division of classes according to wealth and his laws providing for unequal distribution of political rights and privileges) might be upheld quite equally and objectively while accepted and sanctioned by the community at large<sup>5</sup>.

Another, equally important, contribution of Solon relates to the acknowledgment of the capricious reversibility of fortune (as reflected on the capricious and unjust distribution of wealth by the gods and illustrated in the story of Croesus)<sup>6</sup>. Although this idea is to be found in earlier Greek poets, notably Hesiod, what is original in his thought is

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him when he goes below. No price he pays can buy escape from death, or grim diseases, or the onset of old age’.

<sup>1</sup> Seaford (2004) at 166: ‘Nor is it a coincidence that our earliest source for Solon, apart from his own words, is Herodotus (1.29–33), who also describes him as concerned with unlimited wealth –the unlimited wealth of Croesus, which he contrasts with the ritualised limit (public death ritual) of the life of an Athenian man named ‘Tellos’ – suggestive of telos, whose basic sense of limit or completion qualifies it to refer to ritual.’

<sup>2</sup> Frs. 32 (To Phocus), 33. For the link in tragedy between tyranny and obsession for money, see Seaford (2003).

<sup>3</sup> He even compares himself with a boundary-stone (a limit): ‘whereas I, I stood as a mark in the midway betwixt the two hosts of them’.

<sup>4</sup> This traditional understanding of equality for the Greeks provided the basis for a more detailed treatment of equality and justice by later philosophers such as Plato and Aristotle (e.g. Aristotle, *Nicomachean Ethics* Book V).

<sup>5</sup> Vlastos (1953) at 351: ‘It is instructive that these reforms which go so far in the direction of judicial equality should not have been termed Isonomia in either Solon's poems, whose ideal is Eunomia, or any of our later sources’.

<sup>6</sup> Solon fr. 13 (West): ‘Tis sure the Gods give us men possessions, yet a ruin is revealed thereout, which one man hath now and another then, whensoever Zeus sendeth it in retribution’ and fr. 15: ‘Many bad men are rich, many good men poor; but we, we will not exchange virtue for these men's wealth; for the one endureth whereas the other belongeth now to this man and now to that’.

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that ‘he introduces faith in a principle of divine order consisting of the continuous change of the targets of *ate* and the perennial redistribution of riches’<sup>1</sup>. Having said this, law as a human creation (νόμος, from the verb νέμω ‘to distribute’) can become an artificial way of educating citizens in (the permanent asset of) virtue (fr. 15) and creating order (mirroring the divine order Solon believed in) within an otherwise chaotic and unjust world (especially regarding the unpredictable distribution of wealth). Unlimited desire for the future unlimited accumulation of material wealth causes divine punishment. According to Solon’s worldview ‘Equally rich is he who has abundancy of silver, gold, and acres under plough, horses and mules, and he that only has the means to eat well, couch well, and go softly shod... This is a man’s true wealth: he cannot take all those possessions with him when he goes below. No price he pays can buy escape from death, or grim diseases, or the onset of old age’ [fr. 24 (West)]

According to Vlastos ‘[I]n this respect the peasant is the equal of the great landowner. For the latter’s surplus cannot be converted into immediate satisfaction and can therefore be crossed out of the equation of true wealth. And since the increase of wealth may not keep pace with an even greater increment of desire, the quotient satisfaction may decrease with the accumulation of property and the *pentakosiomedimnos* may be actually ‘poorer’ than the contented *thes*.’<sup>2</sup> In applying this idea to the Athenian legal system and the Solonian reforms, the statement might be rephrased with minor amendments. Firstly, although Athenian citizens had not been afforded the same political rights and privileges, they should enjoy the same protection by and be equal before the law, regardless the quantity of their material wealth. This is reflected in the Solonian reforms and, quite surprisingly, it was the ambivalent nature of wealth itself that assisted this quest. Secondly, the landowners’ surplus ‘should not’ be converted into immediate satisfaction as far as the legal system was concerned. The administration of justice should be impartial and remain uninfluenced by the respective wealth and power of participants. In the same way that no one can escape death or disease, all citizens are to receive, proportionally, objectively and impartially, what is their due by the law. The power of wealth must stay outside the realm of the legal system. This human artifice therefore, copies the natural and god-administered idea of justice and order and adapts it to the realm of the polis. Although the aforementioned ideas are not made explicit in Solon’s poetry, they may be extracted from his targeted reforms. Uncovering these ideas is the aim of the next section.

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<sup>1</sup> Noussia-Fantuzzi (2010) at 201.

<sup>2</sup> Vlastos (1946) at 78.

## Solon's Legal Reforms in the light of his approach to Money and Wealth

The third part of this paper examines Solon's legal reforms in the light of his approach to money and wealth discussed in part II. As has already been stated, Solon was one of the first thinkers to understand the power and the potential influence of money. For him, these signified a need for the new-born legal system to control its impending impact; yet he couldn't disregard the reality of emerging, widespread monetisation. The following analysis of some indicative and most relevant to the issue reforms will illustrate that these provide an innovative and purposeful regulation of the role and influence of wealth based on three axes:

- i) Wherever appropriate, money should stay outside the legal system or, in other words, the law (together with other venerated things) should be considered as beyond the realm of money.
- ii) Money should be used for the advantage of the legal system.
- iii) The unlimit of money should be taken seriously; the legal system must reset the socio-political boundaries, overcome any unnecessary barriers and create appropriate limits.

The most famous of Solon's reforms was the *seisachtheia* (shaking-off of burdens). Its meaning is disputed but according to Harris it 'liberated the *hektemoroi* from the payments of 'protection money' they had to pay to their lords'<sup>1</sup>. With this reform Solon liberated the mortgaged land and reinstated the ancestral boundaries, thus resetting proper limits which reinstated and promoted more suitable and just social and political limits.

Whereof before the judgement-seat of Time  
The mighty mother of the Olympian gods,  
Black Earth, would best bear witness, for 'twas I  
Removed her many boundary-posts implanted:  
Ere then she was a slave, but now is free. (Solon Fr. 36)

Richard Seaford in his *Money and the Early Greek Mind* writes that 'The accumulation of money... may destroy the limits that define social relations. The same Solon who complained that people multiply their wealth without limit was faced with a crisis consisting of the destruction of vital ancient limits on the land: the poor man, unable to repay debt, sees his land absorbed into his rich neighbour's.'<sup>2</sup> This exact problem, created by the undue power and use of wealth, was corrected by Solon. Certain things should be considered beyond the realm of money, the ancestral land being one of them. Moreover, the setting of appropriate limits squares with Solon's philosophy and ideology as discussed in the previous section. Proper limits and

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<sup>1</sup> Harris (1997).

<sup>2</sup> Seaford (2004) at 277.

boundaries are signs of moderation and of just, proportionate distribution. In a fragment (37.10), Solon even calls himself a boundary-stone standing impartially between the opposing sides. This reform, which could be visible by Athenians on the now free land of Attica, was the depiction and practical expression of Solon's perception of *hubris* (excess) and moderation. Finally, reaffirming Solon's ideology regarding proper limits, his laws instituted a ceiling to maximum property size - regardless of the legality of its acquisition (i.e. by marriage) - meant to prevent excessive accumulation of land by powerful families.

Related to the *seisactheia* was the abolition of debts and of debt-bondage. Rhodes and Leao maintain that this probably referred to 'an abolition of the obligations and of the status of the *hektemoroi* (dependent farmers who cultivated what used to be their own land and gave one sixth of produce to their creditors): they had been liable to enslavement and loss of their land if they defaulted on their obligations, and with the removal of their obligations that liability was removed too... It is possible – but we cannot be sure – that he cancelled some debts in addition to the obligations of the *hektemoroi*, and that he rescued and liberated some slaves in addition to defaulting *hektemoroi*.'<sup>1</sup> From then on, the freedom of an Athenian citizen stood above the realm of money: his body could not be used as collateral in a monetary transaction and, although he could temporarily find himself in debt-bondage (bound to the creditor until his debt was discharged), he could not be permanently enslaved for debt (i.e. the creditor does not have all the rights exercised by an owner, just the right to his services for a certain period of time).<sup>2</sup> This particular reform facilitated the creation of a new, venerated sense of Athenian identity, distinct and separate from the sphere of monetary transactions.

Solon did not simply liberate the less well-to-do; he gave them (limited, proportional but extremely important) political rights. He utilised this new authority of wealth in order to break up with the old aristocratic order by creating new social classes based not on birth anymore but on wealth<sup>3</sup>. In this way he facilitated wider participation of the population in the decision-making process (taking part in the administration as members of the assembly and as jurors in the new *Heliaea*). Moreover, it instilled a legitimate motivation and ambition for success and development in the minds of the lower classes since it allowed for social mobility. The participation of the *thetes* (lower class) in the law-court proved to be extremely important, being characterised by Aristotle in the *Athenaion Politeia* (9.1) as one of the three most

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<sup>1</sup> Rhodes & Leao (2016) at 114.

<sup>2</sup> Harris (2002).

<sup>3</sup> Plutarch. *Solon* 18; Ath. Pol. 7; cf. Rhodes and Leao (2016) at 129: 'Using wealth as the sole criterion of eligibility suggests that there was now in Athens a significant body of rich men outside the leading families, who claimed and to whom Solon wanted to give a share in political leadership'.

democratic measures. Plutarch describes this measure in the following words:

‘This last privilege seemed at first of no moment, but afterwards proved to be of the very highest importance, since most disputes finally came into the hands of these jurors. For even in cases which Solon assigned to the magistrates for decision, he allowed also an appeal to a popular court when any one desired it. Besides, it is said that his laws were obscurely and ambiguously worded on purpose to enhance the power of the popular courts. For since parties to a controversy could not get satisfaction from the laws, the result was that they always wanted jurors to decide it, and every dispute was laid before them, so that they were in a manner master of the laws.’<sup>1</sup> (Plutarch. *Solon* 18)

According to Aristotle, ‘Solon for his part appears to bestow only the minimum of power upon the people, the function of electing the magistrates and of calling them to account’ (*Politics* 1274a). The process was that ‘the archons were appointed by lot from men pre-elected by each of the tribes: for the nine archons each tribe pre-elected ten men, and they performed the allotment on these.’ (*Athenaion Politeia* 8.1) Therefore, although the poor did not have the right to hold magistracies, this power of electing them promoted necessary checks on their power as well as a more inclusive and accountable approach to government<sup>2</sup>. A similar purpose (limiting the power of the aristocrat by creating checks and balances in the constitution) was served by the creation of the Council of Four Hundred (*Athenaion Politeia*. 8.4, Plutarch. *Solon* 19.1-2) which balanced the power and influence of the traditionally aristocratic Council of the Areopagus<sup>3</sup>.

This requirement for efficient cooperation of the different classes and institutions sought to promote harmony and concord among the citizens. A Solonian reform serving this aim was the provision regarding prosecution of certain forms of wrongdoing by *ho boulomenos* (whoever wishes). In this way he tried to overcome any barriers

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<sup>1</sup> According to Thomas (2005) at 42 in the more developed Athenian democracy of the 5<sup>th</sup> and 4<sup>th</sup> centuries: ‘Democrats were content to leave the jury scope for interpretation in individual cases, and oligarchs were keener to iron out ambiguities’. This is supported by the Ath. Pol. (35.2) which states that ‘The Thirty removed the laws of Ephialtes and Arcestratos about the Areopagus, and *annulled the laws of Solon which had ambiguities and abolished the authority of the jurors*’.

<sup>2</sup> Rhodes and Leao (2016) at 129: ‘If Solon wanted to provide an opportunity for rich men outside the leading families, election in the first stage would exclude men palpably unsuitable while allotment in the second would improve the chances of these outsiders’.

<sup>3</sup> The Areopagus was manned by the ex-archons who would for some time continue to be members of the old leading families. The Council of Four Hundred, a separate body responsible for preparing the agenda of the assembly, would take away some of the powers of this traditional institution.

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inhibiting justice and to compensate for the weakness of the multitude to stand against the powerful members of the elite. As Plutarch maintains,

‘The law-giver in this way rightly accustomed the citizens, as members of one body, to feel and sympathize with one another's wrongs. And we are told of a saying of his which is consonant with this law. Being asked, namely, what city was best to live in, ‘That city’ he replied, ‘in which those who are not wronged, no less than those who are wronged, exert themselves to punish the wrongdoers.’ (Plutarch, *Solon* 18)

Solon aimed at using money for the benefit of the polis and its legal system. The legal reform that better illustrates this effort is the definition of penalties in monetary terms. This does not solely apply to Solon. It is precisely the definition of penalties that was particularly remembered in traditions about the other early lawgivers; and the early laws known from inscriptions are also concerned to specify penalties. Solonian legislation specified monetary sums as compensation for injuries. According to Athenian tradition, Solon repealed the laws of Draco, all except those concerning homicide, because they were too severe and their penalties too heavy. For one penalty was assigned to almost all transgressions, namely death, so that even those convicted of idleness were put to death, and those who stole salad or fruit received the same punishment as those who committed sacrilege or murder. Solon by defining the penalties in monetary terms, introduced the notion of justice as proportionality and elevated public agreement to the status of the legitimising force behind these new provisions<sup>1</sup>. In addition, the monetary definition of compensation promoted legal certainty and precision (against the old ad hoc and potentially arbitrary approach to sentencing), depersonalisation of disputes and dispute-settlement, and uniformity. As Seaford describes<sup>2</sup>, ‘the judicial enforcement of equivalence between offence and monetary compensation implies the equivalence also of the hostile parties. As Aristotle will make explicit, it does not matter whether a base person has offended against a decent one or vice-versa: ‘the law looks only at the harm inflicted, and treats the people involved as equals’ (EN 1132a5).

Finally, Solon was very much concerned with regulating economic matters in the polis and checking the influence of wealth in its obvious and subtle manifestations. Solon’s reforms empowered the polis as an institution to supersede the power of the individual *oikoi*. Plutarch (*Solon* 20) describes a law concerning the regulation of dowries by the polis, thus dealing with marriage, an institution very much related to

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<sup>1</sup> Seaford (2004) at 195: ‘Public agreement on the amount of compensation for injuries is a vital means of ensuring peaceful order in the polis by preventing the perpetuation of conflict.’

<sup>2</sup> Seaford (2004) at 195.



intra-familial and inter-*oikos* matters. The law provided for ‘the prohibition of dowries; the bride was to bring with her three changes of raiment, household stuff of small value, and nothing else. For he did not wish that marriage should be a matter of profit or price, but that man and wife should dwell together for the delights of love and the getting of children.’<sup>1</sup> In accordance with our interpretative model, marriage and the establishment of a family are institutions to be regulated by the polis standing above and beyond the sphere of money. A similar effort to regulate intra-*oikos* economic matters is evident in the law concerning wills. Solon conceded to the owner the legal ability to dispose of his possessions. Other examples include the regulation and restriction of funeral expenditures directed against the prerogatives of certain groups (especially the aristocrats) whose economic power and social influence Solon wanted to control by limiting their luxurious manifestations of mourning<sup>2</sup>, the precise monetary assessment of offerings, sacrifices<sup>3</sup> and prizes for athletic victories<sup>4</sup>. Wherever possible and appropriate, the influence of wealth should stay outside the legal sphere as certain things and objects are venerated. Otherwise, acknowledging the new reality of widespread monetisation, money should be used for the benefit of the polis.

## Conclusion

In the reforms of Solon we find traces of the ideology of the developed Athenian legal system of the classical period. According to this interpretation, amateurism (or, the complete absence of professionalism) in the courts of classical Athens, is not to be attributed solely to egalitarianism and the pursuit of strict democracy but also to this polis’ approach towards wealth. In order to control the influence of money, the Athenians (following the spirit and the practice of their great lawgiver) made a conscious decision not to allow expertise to escalate the always present inequalities that exist within a legal system. Perfect equality before the law can only be achieved in an ideal world; yet the Athenians strived for it, sometimes by following unusual paths, with the ideas of Solon being their guide.

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<sup>1</sup> Rhodes and Leao (2016) at fr. 71a.

<sup>2</sup> Rhodes & Leao (2016) at fr. 72a:119

<sup>3</sup> Rhodes & Leao (2016) at fr. 80/2; 81

<sup>4</sup> Rhodes & Leao (2016) at fr. 89/1a.

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