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978-0-521-38837-5 - Law, Violence, and Community in Classical Athens

David Cohen

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The theme of this book is the legal regulation of violence and the role of litigation in Athenian society. Using comparative anthropological and historical perspectives, David Cohen challenges traditional evolutionary and functionalist accounts of the development of legal process. Examining Athenian theories of social conflict and the rule of law, as well as actual litigation involving the regulation of violence, he emphasizes the way in which the judicial process operates in an agonistic social field. In this light, it appears that judges and litigants alike view the courts as a competitive arena where ongoing conflicts are played out, continued, and exacerbated according to a logic characteristic of feuding societies. A sustained account of Athenian litigation places this subject in a new theoretical perspective and offers a new interpretation of the social and political dimensions of legal process.

This book will be of interest to a broad audience of students and scholars in classics, history, anthropology, sociology, law, and political science.

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DAVID COHEN

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Preface

This book aims to provide an account, for a broad audience, of litigation and the legal regulation of violence in Athenian society, and of their relation to democratic ideology and conceptualizations of the rule of law. While most studies of the Athenian legal process rely primarily upon analysis of statutes and institutional structures and of how they developed, I attempt to reconstruct the framework of social, ideological, and discursive practices of which the law was an integral part. In this sense the project attempts to blend the methods and insights of social history, anthropology, and historical legal sociology in portraying the role of litigation in an agonistic democratic society. This study thus departs from the conventional framework of much research in Athenian law and institutions, but I see little point in rehearsing yet again, with slight variations, well known facts with all too familiar methods.

Along the way I have profited greatly from the criticisms and advice of many friends and colleagues. Central ideas for the book were tried out at two faculty Work-in-Progress seminars at the University of Chicago School of Law, where I received helpful comments from numerous colleagues. I owe special thanks to the continuing support of Professors Dieter Simon and Dieter Nörr in providing me with access to the incomparable facilities of the Max Planck Institut für Rechtsgeschichte in Frankfurt and the Leopold Wenger Institut für antike Rechtsgeschichte in Munich, as well as for giving me the benefit of their criticisms of the project as it evolved. I would also like to thank Professors Anne-Marie Burley, Douglas Baird, Richard Posner, Wolfgang Naucke, William Miller, Carol Clover, John Comaroff, Robert Bartlett, Kenneth Dover, Keith Hopkins, Martin Ostwald, Mark Griffith, and Tony Long for reading individual chapters or related essays. Professors

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Richard Saller and Geoffrey Miller were unwise enough to volunteer to read through a complete draft and I was fortunate to have the benefit of their criticisms and insights. My research assistants, Patricia Reilly, Susan Lee, and Jing Tsu made an important contribution to the completion of the book, as did, in his own way, Dr. Kelvin Lee. I would also like to thank the Simon Guggenheim Foundation for its generous and invaluable support, and, last but not least, the Editors of the Key Themes series.