

Ransom at Athens ([Dem.] 53.11)

ABSTRACT: “The laws even command that he who is ransomed belongs to the one who ransomed him from the enemy, if he does not pay the ransom” ([Dem.] 53.11). This is widely regarded as an exception to Solon’s law against enslavement for debt. Harris has made a strong case that the law cited by Apollodoros’ opponent did not concern debt-slavery. This paper suggests, furthermore, that the law did not apply to him and his situation at all; that we have misunderstood what this law “commands;” that ransom was a more varied process than scholars have allowed; and that the law on ransom, so often thought to have been an exception to the ban on debt-slavery, may in fact have been essential to the broader objective of which the ban was part.

KEYWORDS: debt, manumission, ransom, slavery, Solon

While pursuing three runaway slaves, Nikostratos was himself captured at sea, shipped to Aigina, and sold (ἐπράθη) ([Dem.] 53.6.). Lucky for him, he was a neighbor and friend of Apollodoros, who, on hearing the news, dispatched Nikostratos’ brother to him with 300 drachmas in travel money. Nikostratos later arrived to report that he had been ransomed (λελυμένος) for 26 minas and to bid his friend contribute toward the ransom (τὰ λύτρα) (53.7-8). Apollodoros waived claim to the 300 drachmas, borrowed 1000 more, and gave them as a gift (53.9). Nikostratos left, only to return in tears; the foreigners (ξένοι) who had lent him the ransom (οἱ δανείσαντες τὰ λύτρα) demanded payment in full, and under the contract (ταῖς συγγραφαῖς) he would owe double if he should not pay within 30 days (53.10). Having failed to raise the remaining debt by selling his farm or borrowing against it, Nikostratos now asked Apollodoros for a further loan, lest he be liable to seizure (ἀγώγιμος); he would pay off the foreigners and raise an *eranos* loan with which to repay Apollodoros (53.11). Nikostratos apparently ended his request with a reference to the law: “‘You know,’ he said, ‘that the laws even command that he who has been ransomed belongs to the one who ransomed him from the enemy, if he does not repay the ransom.’”¹ Apollodoros arranged the loan. But the relationship was wrecked and the men wound up in court.

As complicated as the financial and social dynamics of this episode are,² the legal aspects concerning ransom are thought to be straightforward. It is assumed that in such cases the ransomer first purchased and then freed the enslaved Athenian;³ that the ransomer next imposed on him a debt, treating the money spent on purchase as a loan to him; finally, that in the event of default the ransomer was once again to own him. Thus, the law is held to permit an exception to

¹ [Dem.] 53.11: ‘οἴσθα δ’, ἔφη, ‘ὅτι καὶ οἱ νόμοι κελεύουσιν τοῦ λυσαμένου ἐκ τῶν πολεμίων εἶναι τὸν λυθέντα, ἐὰν μὴ ἀποδιδῶ τὰ λύτρα.’

² E. E. Cohen, *Athenian Economy and Society: A Banking Perspective* (Princeton 1992) 210-213; P. Millett, *Lending and Borrowing in Ancient Athens* (Cambridge 1991) 53-59; S. Johnstone, “Women, Property, and Surveillance in Classical Athens,” *ClAnt* 22 (2003) 247-274, 262-264.

³ A. Bielman, “Λύτρα, prisonniers et affranchis,” *MusHelv* 46 (1989) 25-41, 33-35, and *Retour à la liberté. Libération et sauvetage des prisonniers en Grèce ancienne. Recueil d’inscriptions honorant des sauveteurs et analyse critique* (Lausanne 1994) 316-317, with n.338, seems to hold that the captive was not a slave in the first place, which means that he was not purchased, but simply released into the custody of his ransomer, where he was between free and slave. J. D. Sosin, “Manumission with *Paramone*: Conditional Freedom?” *TAPA* 145 (2015) 325-382, argues that such hybrid status is a modern invention. Captives were slaves: E. M. Harris, *Democracy and the Rule of Law in Classical Athens: Essays on Law, Society, and Politics* (Cambridge 1996) 262-263. On enslavement versus enslavement with a view to ransom: V. J. Rosivach, “Enslaving “*Barbaroi*” and the Athenian Ideology of Slavery,” *Historia* 48 (1999) 129-157, 137-140.

Solon's ban on debt-slavery,⁴ perhaps the only one.⁵ On this view, Nikostratos was free, if precariously, when he approached Apollodoros. But Harris has made a strong case that Nikostratos' predicament and the law that he invoked have nothing to do with enslavement for debt:⁶

[t]he person who was captured in war ... became the slave of his captor. If someone paid ransom for [a] captive, he had two options: either he could release him for free or he could insist that the captive pay him back. If the latter, the former captive remained a slave in the ownership of the man who paid ransom until the ransom was paid. ... Nicostratos became a slave when he was captured by the enemy. His enslavement was the result of warfare, not debt. The law states that he will remain in the power of those who paid his ransom until he repays the money they spent to buy him from his captors. In other words, it stipulates that the man who has become a slave through capture in war will remain a slave until a certain condition is fulfilled. The law does not authorize a creditor to enslave a free man for failure to pay a debt. It does not therefore form an exception to the rule forbidding loans on the security of the body.

On this interpretation Nikostratos was a slave when he approached Apollodoros and remained so until he paid the foreigners who had ransomed him from his captors.

Here, then, are two competing interpretations. Both assume that the law quoted by Nikostratos applies directly to his circumstances, but they differ as to what those circumstances were. One holds that he was a free man at risk of enslavement for debt and the other that he was enslaved by the enemy and would remain so until repayment. Both cannot be correct.

Nikostratos Was Free

The common view assumes that purchase and conditional manumission were transacted together or in tight sequence: to ransom was to buy and promptly manumit. On Harris' competing view, a ransomer could either do precisely this (at no charge) or else purchase the slave and then define the terms of a future manumission, which would require payment to the ransomer.

Most of what we know about ransom and manumission comes from outside of Athens. Slaves are known to have saved funds to repay their ransomers and so be returned to liberty, just as Harris suggests. Kallikrates and Praxo "dedicated a male slave whose name is Antiochos to Apollo Pythios, on condition of freedom, after having received from him ransom-from-enemies."⁷ Antiochos was captured and then sold to the two men, who apparently agreed to manumit him once he repaid them. He did and they dedicated him to the god, on condition that the god, or his agents, free him. In another case, Xenochares sold Sosikles to Apollo on similar condition that he be free; if a person should lay hands on Sosikles with a view to enslavement, anyone was permitted to rescue him "on grounds that Xenochares had received the ransom-from-

⁴ Strictly speaking, Solon banned lending against security of the borrower's person. *Ath.Pol.* 2.2: καὶ οἱ δανεισμοὶ πᾶσιν ἐπὶ τοῖς σώμασιν ἦσαν μέχρι Σόλωνος; 6.1: κωλύσας δ[ανε]ίξιν ἐπὶ τοῖς σώμασιν; 9.1: δοκεῖ δὲ τῆς Σόλωνος πολιτείας τρία ταῦτ' εἶναι τὰ δημοτικώτατα: πρῶτον μὲν καὶ μέγιστον τὸ μὴ δανείξιν ἐπὶ τοῖς σώμασιν.

⁵ S. C. Todd, *The Shape of Athenian Law* (Oxford 1993) 181n25: "sole attested exception;" V. Bers, *Demosthenes, Speeches 50-59* (Austin 2003) 60n21: "a partial exception."

⁶ Harris, *Democracy and the Rule of Law* 263.

⁷ *SGDI* II 2172.5-9: ἀνέθηκαν ἰ Καλλικράτης Καλλινόου, Πραξὸ Κλεομένεος ἰ Ἐριναῖοι σῶμα ἀνδρείον ὦ ἄνομα Ἀντίοχος τῷ Ἀπόλλωνι τῷ Πυθίῳ ἐπ' ἐλευθερίαι, ἀπειλαφόρες παρ' αὐτοῦ λύτρα ἐκ πολεμίων.

enemies.”⁸ As was so common at Delphi, the slave raised the funds with which to secure his purchase by the god, who bought and then freed the slave. Here, we learn that the purchase price was repayment for prior ransom, a rarity among the Delphic records of sale. In another instance, a Cretan soldier named Eraton married and fathered two sons while campaigning on Kypros; but when he died there his family was taken captive. His son Epikles was sold off to Aetolian Amphissa where he eventually “paid the ransom” and resided with his children.⁹

A ransomer might promise manumission on condition of prior service (*paramone*).¹⁰ Thus, Ammia sold to Apollo a female slave named Symphoron, on condition that she continue to serve Ammia until her death, and then become free.¹¹ But another inscription shows that Ammia permitted commutation of the service, releasing Symphoron upon receipt of ransom.¹² Apparently, Symphoron was to repay the ransom with her own labor, but that arrangement was altered, to permit payment in cash.¹³

A ransomer might even demand payment in money in addition to *paramone* as a precondition to manumission. So Agon and Timandros of Delphi “set Laodika free, after she has remained by Timandros so long as Timandros lives, the wife of Agon, Xenotima, giving her consent, since she (Laodika) paid the ransom-from-the-enemy to Agon and Timandros. It shall not be possible to enslave nor lead off Laodika in any way, but Laodika shall be free and untouchable. ... But

⁸ *SGDI* II 2086.4-7: ἐπὶ τοῖσδε ἀπέδοτο Ἰενοχάρης Πολυξένου, συνευδοκούντων καὶ τῶν ὑῶν αὐτοῦ Πολυξένου καὶ Ἀρίστωνος, ἰ τῶι Ἀπόλλωνι τῶι Πυθίωι σῶμα ἀνδρείον παιδάριον ὡ ἄνομα Σωσι[κλή]ς, τιμᾶς ἀργυρίου μᾶν δύο ἰ στατή[ρων] ἐπ[τὰ] δραχμᾶς, ἐφ’ ὅτε ἐλεύθερον εἶμεν καὶ ἀνέφαπτον ἀπὸ πάντων τὸν πάντα χρόνον; 9-10: [εἰ δέ τις ἐφάπ]οιτο Σωσικλέος ἐπὶ καταδουλισμῶι, κύριος ἔστω ὁ παρατυχῶν συλέων Σωσικλή ὡς λύτρα ἰ [Ξενοχάρης λαβόν]τος ἐκ πολεμίων. This justification is unique among the more than 1000 such sales from Delphi. We might expect manumission by the god to be adduced as the justification for rescue, but manumission *per se* is scarcely mentioned in the so-called Delphic manumission inscriptions, which are in fact records of sale. On these sales see Sosin, *TAPA* 145 (2015) 328-348; D. Mulliez, “Les actes d’affranchissement delphiques.” *CCG* 3 (1992) 31-44.

⁹ *Syll.*³ 622.1-10 [*IC* II v 129]: Φαξίων οἱ κόσμοι καὶ ἁ πόλις Αἰτωλῶ[ν συνέδροις] καὶ τῶι στραταγῶι καὶ τῶι ἰπάρχει χαίρειν. γινώ[σκε]τε Ἐράτωνα πολίταν ἀμὸν ἰόντα, ἐκπλεύσαντα δὲ ἐπὶ στ[ρ]ατ[ε]ίαν εἰς Κύπρον ἰ καὶ λαβόντα γυναῖκα τεκνοποιήσασθαι υἱ[ο]ὺς δύο, Ἐπικλήν ἰ καὶ Εὐαγόραν. συνέβα δὲ ἀποθανόντος τῶ Ἐράτωνα ἐν τᾶι ἰ Κύπρωι, αἰχμαλώτως γενέσθαι τὸν πε[ρ]ὶ τὸν Ἐπικλήν καὶ ἰ τὰμ ματέρα αὐτῶν καὶ προαθήμεν τὸν Ἐπικλήν εἰς Ἀμφισσαν· ἰ καταβαλὼν δὲ τὰ λύτρα ὁ Ἐπικλῆς οἰκε[ῖ] π[α]ρ’ ὑμὲ ἐν Ἀμφίσσαι, ἰ πολίτας ἰὼν ἀμὸς αὐτὸς τε καὶ ἰ τὰ τέκ[να αὐ]τῶ Ἐρασ[ι]φῶ[ν] [καὶ] ἰ Τιμῶναξ καὶ θυγάτηρ Μελίτα.

¹⁰ *Paramone* was fulfilled in servitude: Sosin, *TAPA* 145 (2015) 379. Plenty of slaves who are not said to have been acquired by ransom were set free on condition of prior service, as slaves: e.g. *IG* IX.1 39.2-4, 86.10, 126.3, 193.12; *IJG* II xxx 40.II.6-11; *I.Bouthrotos* 168.6-12; *Tit.Cal.* 154.1-3; 163.5, 7, 164.5-6, 13, 166.4, 8, 199.6-7.

¹¹ *SGDI* II 2168.2-4: ἀπέδοτο Ἀμμία Καλλιδά<μ>ου τῶι Ἀπόλλωνι ἰ τῶι Πυθίωι ἐπ’ ἐλευθερίαι σῶμα γυναικεῖον ἁ ἄνομα Σύμφορον; 10-12: παραμνάτω ἰ δὲ Σύμφορον Ἀμμία ἕως κα ζῶηι, ποιούσα τὸ ἰ ἐπιτασσόμενον πᾶν; 13-15: εἰ δέ τι ἰ γένοιτο ἀνθρώπινον περὶ Ἀμμίαν, ἐλευθέραι ἰ ἔστω Σύμφορον.

¹² *SGDI* II 2167.2-5: ἀπέλυσε Ἀμμία τὰς παραμολῆς Σύμφορον, λαβούσα λύτρα ἐκ ἰ πολεμίων.

¹³ Release from service triggered the manumission. At this point Apollo owned Symphoron and release was enacted in the presence of his priests (*SGDI* II 2167.5-13): συναρῶντων καὶ τῶν βουλευτᾶν... καὶ τῶν ἱερέων Ἐμμενίδα ἰ καὶ Λαιάδ<α>. We know that Ammia had acquired Symphoron by ransom only because she, evidently later, accepted payment in lieu of service, a possibility that the inscribed record of sale did not mention. This might suggest that other slaves who acquired freedom via purchase by Apollo were also paying off ransom, but that this was not disclosed in the records of sale. Explicit reference to ransom in the archive is very rare.

Laodika shall first remain by Timandros so long as Timandros lives.”¹⁴ Laodika was captured and sold to Agon and Timandros. At some point she repaid the ransom, but was not freed thereby. Rather, she was to serve one of her ransomers, until his death, at which point she was to be free. In effect, she paid an installment in cash and the balance in slave labor.¹⁵

It was also possible to purchase a slave, manumit him, and then impose an obligation to repay the ransom. According to Diogenes Laertius, the philosopher Lykon stipulated in his will:¹⁶ “For Demetrios, who is free for some time now, I waive the ransom and give five minas and a *himation* and *chiton* so that, since he has labored much with me, he may have a becoming life. And for Kriton of Chalkedon, for him too I waive the ransom and give four minas.”¹⁷ Demetrios was free, formerly unfree, and—until the execution of the will—owed ransom to Lykon. Lykon must have bought Demetrios and then manumitted him and contracted repayment. Demetrios was a free man, working for his purchaser-then-manumittor, earning money to discharge the debt.

Kriton’s status is less obvious. He is not declared free already, as Demetrios is, or Syros in the next clause, but neither does the will set him free as it does Mikros, for example, in the very next sentence.¹⁸ If he was free like Demetrios, then the will omitted this important fact; if he was a slave pending payment of the ransom then it failed to include the most essential utterance, “ἀφίημι ἐλευθέρον.” Either way, the legal instrument would be loose or defective (or else corrupt). But there is one person whom one could neither quite call “free for some time now” nor formally “set free.” That is the debt bondsman.¹⁹ Perhaps Lykon purchased Kriton, set him free, and then contracted repayment, to be secured with a pledge of services. If so, then in waiving the debt Lykon released Kriton from the contractual obligation; in that case, the will specified precisely what it had to.²⁰

¹⁴ *FD III.2 120.10-17*: ἀφίημι Ἄγων καὶ Τίμανδρος Λαοδίκαν ἐλευθέραν, παραμ<ε>ίνασαν παρὰ Τίμανδρον ἄχρι καὶ ζῶντι Τίμανδρος, συν[ε]παινε[ού]σας καὶ τ[ᾶ]ς ἰ γυναικὸς Ἄγωνος Ξενοτίμας, [ἐ]πει κ[ατ]έβαλε τ[ᾶ]ς ἰ λύτρα ἐκ τῶν πολεμίων Ἄγωνι καὶ Τιμ[άνδρ]ωι. μ[ὴ] ἰ ἐξέστω [δὲ] καταδουλίξασ<θ>αι μηδὲ ἄγειν Λαο[δί]καν κατὰ μηθένα τρόπον, ἀλλὰ ἐλευθέρα καὶ ἀνέφ[α]πτος Λαοδίκα ἔστω; 24-26: πα[ρ]αμ<ε>ίνατω δὲ Λαοδίκα παρὰ Τίμανδρον ἄχρι καὶ ζῶντι Τίμ[ανδρ]ωι.

¹⁵ I take Laodika as the subject of κ[ατ]έβαλε. If Xenotima is the subject then a very different story emerges: when Agon and Timandros wished to purchase Laodika, Agon’s wife financed the acquisition, paying the ransom (to the seller) *for* Agon and Timandros; Laodika was not freed thereby or upon payment of cash at all; rather, she was to pay entirely in labor, until Timandros died, and then to become free. The former construction is perhaps more likely; compare *JG IX.1 125.2-4*: Ἀγύλος Διόκλειαν καὶ τὰν θυγατέρα αὐτᾶς Καλλίδα, ἐν ἐννό[μ]ω ἐκκλησίᾳ τῶν συνέδρων, γραμμα[τε]ύοντος - -], ἰ ἐπει κατέβαλον τὰ λύτρα τὰ ἐκ τῶν πολεμίων; here, fragmentary though the text is, there does not appear to be space for the mention of multiple third-party financiers.

¹⁶ On the authenticity of the philosophers’ wills recorded by Diogenes see M. Canevaro and D. Lewis, “*Khoris oikountes* and the Obligations of Freedmen in Late Classical and Early Hellenistic Athens,” *Incidenza dell’Antico* 12 (2014) 91-121, 103-106.

¹⁷ *D.L. 5.72*: Δημητρίω μὲν ἐλευθέρω πάλαι ὄντι ἀφίημι τὰ λύτρα καὶ δίδωμι πέντε μνάς καὶ ἰμάτιον καὶ χιτῶνα, ἵνα πολλὰ πεπονηκῶς μετ’ ἐμοῦ βίον εὐσχήμονα ἔχη. Κρίτωνι δὲ Χαλκηδονίῳ, καὶ τούτῳ τὰ λύτρα ἀφίημι καὶ δίδωμι τέτταρας μνάς.

¹⁸ *D.L. 5.73*: δίδωμι δὲ καὶ Σύρω ἐλευθέρω ὄντι τέτταρας μνάς καὶ τὴν Μηνοδώραν δίδωμι. ... καὶ τὸν Μίκρον ἀφίημι ἐλευθέρον.

¹⁹ On debt-bondage at Athens: Harris, *Democracy and the Rule of Law* 249-269, to whose examples this one may perhaps be added.

²⁰ Bielman, *Retour à la liberté* 263-264, suggests that Demetrios was a freedman who had owed a special kind of *lytra*—mainly attested in Thessaly—that was simply payment for manumission (not ransom at all), whereas Kriton paid a different kind of *lytra*, which a free-born man paid to ransom himself after being enslaved. Practice at

Some women at Athens may have had similar experiences. Olympiodoros is attacked for having no wife and kids, but rather keeping a *hetaira* whom he had ransomed for himself.²¹ Hypereides maintained several expensive *hetairai*, one of whom he “kept after he had freed her, having purchased her for much money,” or as another version of the account tells, “after he ransomed her for himself.”²² Philokleon tells a flute-girl, “when my son dies, after ransoming you for myself I will keep you as my *pallake*.”²³ Apollodoros is accused of “having ransomed a *hetaira* for himself,” although he was married.²⁴ It has been suggested that these women acquired freedom by a kind of “fictive sale” that constrained them in a legal state of semi-slavery.²⁵ On a simpler reading women such as these were purchased and then freed, perhaps on condition of prior service, perhaps on condition of subsequent payment and perhaps as debt-bondswomen. In

Thessaly seems to have been somewhat peculiar; on the Thessalian manumissions see R. Zelnick-Abramovitz, *Taxing Freedom in Thessalian Manumission Inscriptions* (Leiden 2013). R. Zelnick-Abramovitz, *Not Wholly Free: The Concept of Manumission and the Status of Manumitted Slaves in the Ancient Greek World* (Leiden 2005) 210, suggests that the two were semi-free; the Roberts, I urge, were right to see here two cases of simple ransom: *Bull.épigr.* (1946-47) 87a.

²¹ Dem. 48.53: Ὀλυμπιόδωρος γὰρ οὐτοσί, ὧ ἄνδρες δικασταί, γυναίκα μὲν ἀσπὴν κατὰ τοὺς νόμους τοὺς ὑμετέρους οὐδεπώποτε ἔγημεν, οὐδ’ εἰσὶν αὐτῷ παῖδες οὐδὲ ἐγένοντο, ἐταίραν δὲ **λυσάμενος** ἔνδον ἔχει, καὶ αὕτη ἐστὶν ἡ λυμαινομένη ἅπαντας ἡμᾶς καὶ ποιούσα τουτοῖα περαιτέρω μαίνεσθαι.

²² Ath. 13.58 [590c-d] (= Idomeneus of Lampsakos, *FGrHist* 338 F14a): Ὑπερείδης δ’ ὁ ῥήτωρ ἐκ τῆς πατρῶας οἰκίας τὸν υἱὸν ἀποβαλὼν Γλαύκιππον, Μυρρίνην τὴν πολυτελεστάτην ἐταίραν ἀνέλαβε, καὶ ταύτην μὲν ἐν ἄσπει εἶχεν, ἐν Πειραιεὶ δὲ Ἀρισταγόραν, Φίλαν δ’ ἐν Ἐλευσίνοι, ἣν πολλῶν **ὠνησάμενος** χρημάτων εἶχεν **ἐλευθερώσας**, ὕστερον δὲ καὶ οἰκουρὸν αὐτὴν ἐποιήσατο. [Plut.] *X orat.* 849D: ἐγένετο δὲ καὶ πρὸς τὰ ἀφροδίσια καταφεροῖς, ὡς ἐκβαλεῖν μὲν τὸν υἱὸν εἰσαγαγεῖν δὲ Μυρρίνην τὴν πολυτελεστάτην ἐταίραν, ἐν Πειραιεὶ δ’ ἔχειν Ἀρισταγόραν, ἐν Ἐλευσίνοι δ’ ἐν τοῖς ἰδίοις κτήμασι Φίλαν τὴν Θηβαίαν, εἰκοσι μνῶν **λυτρωσάμενος**.

²³ Ar. *Vesp.* 1351-1353: ἐὰν γένη δὲ μὴ κακὴ νυνὶ γυνή, / ἐγὼ σ’ ἐπειδὰν οὐμὸς υἱὸς ἀποθάνῃ, / **λυσάμενος** ἔξω παλλακὴν, ὧ χοιρίον.

²⁴ Dem. 36.45: οὐδὲ δικάζεταί σοι, οὐδὲ δεινὰ φησι πάσχειν, εἰ σὺ μὲν χλανίδα φορεῖς, καὶ τὴν μὲν **λέλυσαι**, τὴν δ’ ἐκδέδωκας ἐταίραν, καὶ ταῦτα γυναῖκ’ ἔχων ποιεῖς. He is accused of having “given another away in marriage;” could the claim have been that he had “hired out the other *hetaira*” (see LSJ s.v. ἐκδίδωμι I.3), perhaps in a manner cognate with what is envisaged at Ant. 1.14: καὶ ἦν αὐτῷ παλλακὴ, ἣν ὁ Φιλόνεως ἐπὶ πορνείον ἔμελλε καταστήσαι?

²⁵ D. Kamen, “Sale for the Purpose of Freedom: Slave Prostitutes and Manumission in Ancient Greece,” *CJ* 109 (2014) 281-307, 299, suggests that the middle (*λυσάμενος*, *λυτρωσάμενος*, *λέλυσαι*) indicates that the men themselves did not manumit the women but rather paid their owners to do so and then to hand over the freedwomen. This is the so-called “*πρᾶσις ἐπ’ ἐλευθερίᾳ*,” in which a third party “purchased [a] slave’s freedom” by paying its master to manumit the slave and then release the freedperson into the custody of the purchaser: A. Glazebrook, “The Erotics of Manumission,” *Eugesta* 4 (2014) 53-80, 56-57, 73. This is not what transpired with Neaira; she paid her owners, who in turn manumitted her ([Dem.] 59.30-32). The *πρᾶσις ἐπ’ ἐλευθερίᾳ* appears to be a modern invention; the best evidence for the alleged mechanism is a transaction that never took place (Hyp. *ad Ath.* 5-6). See Sosin, *TAPA* 145 (2015), 365-368 (on Neaira), 360n120 (*πρᾶσις ἐπ’ ἐλευθερίᾳ* invented), 359-364 (on Hyp. *ad Ath.*). The putative mechanism was poorly suited to the goals of those who wanted to acquire sex-workers, as was known in antiquity (Hyp. *ad Ath.* 5-6); safer to purchase a slave with a view to manumission afterwards, when one could set the terms of manumission and repayment as one liked. As for the middle voice, the common reflexive is simpler; the men “bought themselves” or, rather, “ransomed themselves” some *hetairai*.

any case, the terms of their manumission (unless they were manumitted for free), whether past or in prospect, will have required them to pay, perhaps with sex, perhaps not.²⁶

If the Athenian experience was similar to what we find elsewhere, then the ransomer appears to have had more than two options, including (1) purchase and manumission without payment or condition, (2) purchase and manumission, with the requirement of subsequent payment (Demetrios), (3) purchase and manumission, with the requirement of subsequent payment, to be fulfilled in a state of debt bondage (Kriton), (4) purchase with the option of manumission upon payment (Antiochos), (5) purchase with the promise of manumission upon completion of a defined term of service, perhaps with the option of early manumission upon cash payment (Symphoron), or (6) even with the requirement of both payment and service (Laodika).²⁷

Thus, it is possible that when Nikostratos approached Apollodoros he was already free. Likely even, for, according to Apollodoros, Nikostratos claimed that he was party to a written contract with his ransomers, and that failure to uphold his end would result in financial penalty and liability to arrest (*agogimos*). Slaves are thought by some to have been party to written contracts, but known cases are few and generally found in business settings,²⁸ so that the simpler explanation is that Nikostratos was free. Moreover, in addition to signaling liability to arrest and extradition to face legal process in general, the term *agogimos* described a free debtor's liability to arrest and/or distraint in order to secure repayment.²⁹ Finally, inasmuch as ransom was essentially purchase with the intent, prospect or promise to manumit, if the foreigners had not yet freed Nikostratos then they (and Nikostratos) would have been shopping for a ransomer and not for a lender. The only hint that Nikostratos might have been enslaved at the time of his interaction with Apollodoros is the law that he cites, which, as we shall see next, had no bearing on his circumstances. On balance, then, virtually nothing indicates that Nikostratos was still a slave and some features of the narrative suggest that he had already been manumitted.

This Law Did not Apply to Nikostratos

On one crucial point the common interpretation and Harris' competing view agree: that the law cited by Nikostratos aptly relates to his situation. But if Nikostratos had already been ransomed

²⁶ R. F. Kennedy, *Immigrant Women in Athens: Gender, Ethnicity and Citizenship in the Classical City* (New York 2014) 112-117, 136-140, argues that scholars have often mis- and over-interpreted the words *hetaira* and *pallake*.

²⁷ This characterization of options accepts the conclusions of Sosin, *TAPA* 145 (2015) 325-382; but even if those should prove incorrect, ransom was nevertheless more varied than tends to be recognized. Under the prevailing view that *paramone* was performed by freedmen scenarios (1), (2), and (4) would remain as described, and scenarios (3), (5), and (6) would amount to essentially the same thing.

²⁸ E.g. E. E. Cohen, "Juridical Implications of Athenian Slaves' Commercial Activity," in B. Legras, G. Thür (eds.) *Symposium 2011: études d'histoire du droit grec et hellénistique (Paris, 7-10 septembre 2011) = Vorträge zur griechischen und hellenistischen Rechtsgeschichte (Paris, 7.-10. September 2011)* (Vienna 2012) 213-223; and in the same volume: A. Dimopoulou, "Le rôle des esclaves dans l'économie athénienne : réponse à Edward Cohen," 225-236.

²⁹ *Ath. Pol.* 2.2: καὶ εἰ μὴ τὰς μισθώσεις ἀποδίδοιεν, ἀγώγμοι καὶ αὐτοὶ καὶ οἱ παῖδες ἐγίγνοντο· καὶ οἱ δανεισμοὶ πᾶσιν ἐπὶ τοῖς σώμασιν ἦσαν μέχρι Σόλωνος. This describes two different processes. Those whose *misthoseis* were in arrears were seized, presumably with a view to securing payment, while those who borrowed money, at least until Solon's ban, did so on the security of their person. In the first case default seems to have resulted in bondage and in the second, slavery. See also *Men. Sic.* 138-139: ὄντ' ἀγώγιμόν σε τούτῳι πυθομένη τῶν τοῦς νόμους / εἰδότην τήν τ' οὐσίαν σου, and *Ar. Nub.* 239-241: ὑπὸ γὰρ τόκων χρήστων τε δυσκολωτάτων / ἄγομαι, φέρομαι, τὰ χρήματ' ἐνεχυράζομαι; with Harris, *Democracy and the Rule of Law* 260.

and approached Apollodoros as a free man, then three important conclusions follow. First, since Apollodoros was not the ransomer, the Athenian law as cited could not permit him to make any claim on Nikostratos' person should the latter fail to pay whoever was.³⁰ Second, if the foreigners who had lent Nikostratos the ransom money were his ransomers, then, inasmuch as they were non-Athenians operating on Aigina, the Athenian law could not have granted them any rights over his liberty either. Third, if the foreigners had lent the funds to the enslaved Nikostratos on condition that he secure his own liberty therewith³¹ and subsequently repay them, then they were but parties to a contract of loan. As lenders—not ransomers—they may have been entitled to demand a steep financial penalty in case of default, but could have had no greater claim to Nikostratos' person than Apollodoros did. This law, in other words, did not touch Nikostratos.

Why, then, would Nikostratos cite it? If he was referring to a common Greek practice³² or to what “The (Aiginetan) laws command,” we would expect him (and Apollodoros) to have said so, and in the latter case we might not expect Apollodoros to “know” those laws. Did he hope that Apollodoros would fail to note the irrelevance of the law and be persuaded to help by the direness of his friend's situation? Was he stretching the truth in a dishonest attempt to win sympathy? Or over-reaching in an understandable effort to emphasize that he would take repayment seriously, as if Apollodoros were ransoming him, as if his very freedom were on the line? But maybe Apollodoros was hinting that Nikostratos was up to no good, and that he himself had been naïve to trust his friend.³³ For whatever Nikostratos' intent, in the words that immediately follow his reference to the law, Apollodoros reports that he agreed to help his friend “upon hearing these (words) of his, and figuring that he was not lying.”³⁴ The alleged untruth is

³⁰ W. L. Westermann, *The Slave Systems of Greek and Roman Antiquity* (Philadelphia 1955) 44: “When Nikostratos later asked for further support from the plaintiff, he explained his request by the plea that he might become a slave of his ransomers if he did not repay the advance made for his release: “You know,” he said, “that the laws order that the person released from the enemy is [the possession, that is, the “slave”] of the man who released him if he does not repay the ransom money.”” This is unclear, but “if he did not repay the advance” seems like it ought to mean ‘if Nikostratos did not repay Apollodoros for the advance that Apollodoros had already made.’ If so, then Westermann appears to say that if Nikostratos failed to repay Apollodoros, Nikostratos would become the slave of the foreigners who ransomed him. That cannot be right. See also J. M. Dillon, *Salt and Olives: Morality and Custom in Ancient Greece* (Edinburgh 2004) 96n32: “The situation in cases of ransom was that one might find someone to come up with the sum required in the short term, as a purely commercial venture, but unless one could repay the loan within a stated time, one became legally the slave of one's ransomer.” If this considers the “ransomer” to differ from the person who offered the loan, then this suggestion is like Westermann's.

³¹ Apollodoros has Nikostratos report his ransom with the middle/passive, so that it is unclear whether he said “that he had been ransomed” or “that he had ransomed himself,” i.e. paid his captor/owner (with the borrowed funds) on condition that the latter free him ([Dem.] 53.7): λέγων ὅτι ἕξ καὶ εἴκοσι μῶν λελυμένος εἶη. Neaira similarly (with funds raised through gifts and apparently not loans) paid her owners on condition that they manumit her ([Dem.] 59.30-32).

³² L. Gernet, *Démotène. Plaidoyers civils* (Paris 1959) III 85: “A ce propos, nous voyons formulé le principe (§11), probablement de droit commun hellénique, que celui qui a avancé les fonds possède un droit de gage sur le prisonnier racheté, lequel est contraignable par corps (ἀγώγιμος). Ce droit pouvait-il être exercé par un étranger contre un Athénien à Athènes? On hésiterait à l'affirmer.”

³³ For naivete as a feature of rhetorical strategy see S. C. Todd, *A Commentary on Lysias, Speeches 1-11* (Oxford 2007) 51, on Lys. 1.

³⁴ [Dem.] 53.12: ἀκούων δὲ αὐτοῦ ταῦτα καὶ δοκῶν οὐ ψεύδεσθαι.

not likely to have been that the law existed, but rather the implication that it applied in these circumstances.³⁵

Thus, whether we accept the common interpretation (that he was a freed man at risk of re-enslavement) or Harris' competing interpretation (that he was a slave already and trying to secure manumission), the clause that Nikostratos invoked had no bearing on his own situation. When he implied that under Athenian law he was at risk of becoming/remaining the property of his ransomers Nikostratos (or Apollodoros) was either mistaken or lying, but he was not describing any reality that this law made. He was free already and this law could not have made him otherwise.

What the Laws Permit

If Nikostratos was free then the common view is correct in that particular detail. But Harris is right to underscore the fact that purchase and manumission were discrete acts. The act of "ransom" covers a set of processes that begins with the purchase of a slave and eventually includes manumission, via witnessed oral or written pronouncement, dedication, or sale to a god; but manumission might follow cash payment or completion of service (*paramone*), or a combination of both; or, it might precede payment in cash, either simply or secured by pledge of service (debt-bondage). Moreover, in any case in which money changed hands, the enslaved individual might have borrowed it and, where payment preceded manumission, ransomed him/herself, as it were. Ransom was not a single legal act, but multiple transactions that were framed and ordered to define the terms of a captive's transition from servitude to liberty.

The clause that Nikostratos cited, however, does not appear to create options: "the laws even command that he who has been ransomed belongs to the one who ransomed him from the enemy..." ([Dem.] 53.11). But the Greek is more ambiguous than scholars have allowed. The verb *κελεύω* is a common marker of a law's binding utterance, but whether a law commands (or bids or orders) that something must or may be the case is most often unmarked by grammar, a distinction to be inferred from context. Compulsion is the general rule, but even more often than has been recognized the law clearly permits rather than requires.³⁶ Where *kakourgoi* have admitted wrongdoing "the laws permit one to punish them without trial."³⁷ The law neither

³⁵ Millett, *Lending and Borrowing* 266: we might "see the lie as referring, not to Nicostratus' intention to repay Apollodoros, but to his citation of laws relating to the rights of a ransomer over the person ransomed." And somewhat less clearly: "I am inclined to see Nicostratus' claim (if he ever made it) as intended to put pressure on Apollodoros and not as an accurate statement of Athenian law." The penalty for "presenting" a law that did not exist was death (Dem. 26.24): *καὶ θάνατον μὲν ὄρικέναι τὴν ζημίαν, ἐάν τις οὐκ ὄντα νόμον παράσχηται*. In the fourth century, this meant providing written copy: e.g. Is. 6.8, Lys. 9.8. M. Canevaro, *The Documents in the Attic Orators: Laws and Decrees in the Public Speeches of the Demosthenic Corpus* (Oxford 2013) 27-32, suggests that willful misrepresentation of laws' contents was less common than is often thought.

³⁶ D. M. MacDowell, "The Authenticity of Demosthenes 29 (Against Aphobos III) as a Source of Information about Athenian Law," in G. Thür (ed.), *Symposion 1985: Vorträge zur griechischen und hellenistischen Rechtsgeschichte* (Cologne and Vienna 1989) 252-263, 259-261, adducing Dem. 20.89, 33.1, 34.45, 43.62-64, 48.10, 58.1-2, 59.66; Hyp. *Pro Eux.* 29; Is. 2.13, 11.33; Lys. 1.49; [Xen.] *Ath. Pol.* 2.18. Harris, *Democracy and the Rule of Law* 131, follows, adding [Dem.] 59.4.

³⁷ Dem. 24.65: *ὡσπερ τοίνυν, ὃ ἄνδρες Ἀθηναῖοι, τῶν περὶ τᾶλλα κακούργων τοὺς ὁμολογούντας ἄνευ κρίσεως κολάζειν οἱ νόμοι κελεύουσιν*. Similarly Aesch. 1.113: *Οἱ δὲ νόμοι κελεύουσι τῶν κλεπτῶν τοὺς μὲν ὁμολογούντας θανάτῳ ζημιοῦσθαι, τοὺς δ' ἄρνούμενους κρίνεσθαι*.

requires a magistrate to seek reward for honest discharge of duties³⁸ nor compels a man to dispose of his estate to whomever he wishes.³⁹ An entrenchment clause permits legal action against anyone who proposed contrary legislation.⁴⁰ The law lets one eject a foreign chorus member,⁴¹ allows one to bring a *graphe agraphiou* against a debtor who has had his name erased from the register prematurely,⁴² admits hearsay testimony from the dead,⁴³ even permits the slaying of any who held office in the Athenian democracy's abeyance.⁴⁴ These acts were legal options, not requirements. This is not to say that the law was neutral or soft on the matter of rights and liabilities; the law prescribed their existence. Thus, even where the verb indicates permission, we might say that a law "commands (that it be possible for) one to" take a given action.⁴⁵

Athenians were accustomed to hear in the same phrase compulsion and permission, and to distinguish the two as context demanded.⁴⁶ When an orator meant to differentiate permission

³⁸ *IG II³* 469.28-31: ἐπε[ι]δὴ δὲ κα[ὶ] ὁ νόμος κελεύει, ἐὰν δόξει [δικαίως ἄρ]ξαι τὴν [ἀρχήν, εἶ]ναι αὐ[τῶ]ι εὐλόγεσθαι πα[ρὰ] τοῦ [δήμου]. Also on stone, the Athenian *boule* wrote the allies "not ordering, but bidding (urging, inviting) them to contribute first fruits, if they wish" (*I.Eleusis* 28a.30-34): ἐπαγγέλλεν δὲ τὴν βολὴν καὶ τῷσι ἄλλεσι πόλεσιν τῆσι ἡελλ[ε]νικισιν ἀπάσεσι, ἡόποι ἂν δοκεῖ αὐτῷ δυνατὸν εἶναι, λέγοντας μὲν κατὰ ἡὰ Ἀθηναῖοι ἀπάρονται καὶ οἱ χσύμμαχοι, ἐκέ[ν]ο[ι]ς δὲ μὲ ἐπιτάττοντας, κελεύοντας δὲ ἀπάρονεσθαι, ἐὰν βόλονται, ἡ κατὰ τὰ πάτρια καὶ τὴν μαντεῖαν τὴν ἐγ Δελφῶν. In the Delphic slave sales, this was the verb of choice for permitting a third party to punish a disobedient slave who was serving *paramone*; e.g. *SGDI II* 1776.22-26: ἐξέστω Ἀστυόχῳ κολάζειν τὸμ μὴ ποιέοντα τὸ ποπιτασσόμενον καθῶς κα αὐτὸς θέληι καὶ [ἄλ]λιῳ ὑπὲρ Ἀστύοχον ὄν κα Ἀστύοχος κελεύσει.

³⁹ Is. 10.2: ὁ γὰρ νόμος κελεύει τὰ μὲν ἑαυτοῦ διαθέσθαι ὅτω ἂν ἐθέλη, τῶν δὲ ἀλλοτρίων οὐδένα κύριον πεποίηκε. See also Hypereides *In Ath.* 17 below (n.46).

⁴⁰ Dem. 24.32: ἀνάγνωθι δέ μοι λαβῶν τουτονὶ πρῶτον τὸν νόμον, ὃς διαροήδην οὐκ ἐᾷ νόμον οὐδέν' ἐναντίον εἰσφέρειν, ἐὰν δέ τις εἰσφέρει, γράφεσθαι κελεύει.

⁴¹ And. 4.20: κελεύοντος γὰρ τοῦ νόμου τῶν χορευτῶν ἐξάγειν ὃν ἂν τις βούληται ξένον ἀγωνιζόμενον.

⁴² [Dem.] 58.51: ὅτι ὁ νόμος οὐ κατὰ τῶν ὀφειλόντων καὶ μὴ ἐγγραφέντων κελεύει τὰς γραφὰς τοῦ ἀγραφίου εἶναι, ἀλλ' οἷτινες ἂν ἐγγραφέντες καὶ μὴ ἐκτείσαντες τῇ πόλει τὸ ὄφλημα ξαλειφθῶσι.

⁴³ [Dem.] 44.55: ὁ δὲ γε νόμος ἀκοήν τῶν τετελευτηκότων κελεύει διαμαρτυρεῖν, <οὐ> ζῶντος τοῦ πατρὸς τὰ ὑπ' ἐκείνου πραγθέντα.

⁴⁴ And. 1.95: ὁ δὲ νόμος τί κελεύει, ὃς ἐν τῇ στήλῃ ἔμπροσθέν ἐστι τοῦ βουλευτηρίου; «ὃς ἂν ἄρξη ἐν τῇ πόλει τῆς δημοκρατίας καταλυθείσης, νηποινεῖ τεθνάνα, καὶ τὸν ἀποκτείναντα ὄσιον εἶναι καὶ τὰ χρήματα ἔχειν τοῦ ἀποθανόντος.»

⁴⁵ Explicitly at Lys. 22.5 (text below, n.49) and perhaps at Hyp. *In Ath.* 17: κελεύει γὰρ ἐξεῖν[αι] τὰ ἑαυτοῦ [δια]τίθεσθαι[ι ὅπως ἂν] τις βούληται. Also, Is. 2.13: τὸν νόμον ... ὃς κελεύει τὰ ἑαυτοῦ ἐξεῖναι διαθέσθαι; similarly, Is. 10.13: κελεύει γὰρ ὁ νόμος σὺν ταύταις κύριον εἶναι δοῦναι, ἐὰν τῷ βούληται, τὰ ἑαυτοῦ.

⁴⁶ The verb could convey both senses at once ([Dem.] 59.66): κατὰ τὸν νόμον ὃς κελεύει, ἐὰν τις ἀδίκως εἴρηξῃ ὡς μοιχόν, γράψασθαι πρὸς τοὺς θεσμοθέτας ἀδίκως εἰρχθῆναι, ... ἐὰν δὲ δόξη μοιχὸς εἶναι, παραδοῦναι αὐτὸν κελεύει τοὺς ἐγγυητὰς τῷ ἐλόντι, ἐπὶ δὲ τοῦ δικαστηρίου ἄνευ ἐγγειριδίου χρῆσθαι ὃ τι ἂν βουληθῆ, ὡς μοιχῶ ὄντι. Here the law "permits (one), if a person unjustly detains (him) on grounds that he is a *moichos*, to bring a public suit before the *thesmothetai* that he has been unjustly detained But if he is found to be a *moichos*, it **commands** his sureties to **remand** him to the victor, and (**permits**) him, before the court, without a knife/weapon, to **treat** (the convicted *moichos*) however he wishes." Not just in the orators. At Hdt. 3.31 Cambyses asks the royal judges whether any law permits a man to marry his sister: εἴρετο καλέσας τοὺς βασιληῖους καλεομένους δικαστὰς εἴ τις ἔστι κελεύων νόμος τὸν βουλόμενον ἀδελφεῆ συνοικεῖν; they respond that they found no such, but rather another law that the Persian king shall be able to do whatever he wishes: φάμενοι νόμον οὐδένα ἐξευρίσκειν ὃς κελεύει ἀδελφεῆ συνοικεῖν ἀδελφεόν, ἄλλον μὲντοι ἐξευρηκέναι νόμον, τῷ βασιλεύοντι Περσέων ἐξεῖναι ποιεῖν τὸ ἂν βούληται.

from compulsion, we hear it,⁴⁷ and when he sought to exploit this “useful ambiguity in the verb”⁴⁸ we hear that too. The speaker of Lysias 22 asks the defendant “whether [he] admit[s] buying up (or collusively) more than” what “the law commands is possible (ἐξεῖναι κελεύει),” to which the defendant responds, “I did so purchase, on the magistrates’ command (τῶν ἀρχόντων κελευόντων).”⁴⁹ Or was it permission? For at the center of this case was ambiguity as to what precisely the laws and magistrates commanded and permitted.⁵⁰ The speaker of Lysias 1 claims that Eratosthenes “got precisely what the laws command;” that the laws “not only have acquitted [the speaker] of wrongdoing, but even have commanded [him] to exact this penalty.”⁵¹ The law did permit a man who caught another “with” his wife to kill him lawfully,⁵² but it certainly did not compel him to do so.⁵³ This bit of pushy excess was part of a broader strategy “of both *suppressio veri* and *suggestio falsi*.”⁵⁴

“The laws,” then, do not “command that he who has been ransomed belongs to the one who ransomed him from the enemy, if he does not repay the ransom.” Rather, they “even permit” it,⁵⁵

⁴⁷ E.g. Dem. 23.67: ἴστε δήπου τοῦθ’ ἅπαντες, ὅτι ἐν Ἀρείῳ πάγω, οὐ δίδωσ’ ὁ νόμος καὶ κελεύει τοῦ φόνου δικάζεσθαι; 72: τί οὖν ὁ νόμος κελεύει; τὸν ἀλόντ’ ἐπ’ ἀκουσίῳ φόνῳ ἐν τισιν εἰρημένους χρόνους ἀπελθεῖν τακτὴν ὁδόν, καὶ φεύγειν ἕως ἂν ἰαυδέσθαι τινα τῶν ἐν γένει τοῦ πεπονθότος. τηλικαῦτα δ’ ἦκειν δέδωκεν ἔστιν ὃν τρόπον, οὐχ ὃν ἂν τύχη, ἀλλὰ καὶ θῦσαι καὶ καθαρθῆναι καὶ ἄλλ’ ἄττα διεῖρηκεν ἅ χρῆ ποιῆσαι, ὁρθῶς, ὡς ἄνδρες Ἀθηναῖοι, πάντα ταῦτα λέγων ὁ νόμος; 216: οὐκ ἐὰ μετὰ ταῦθ’ ὁ δεῦτερος νόμος οὐδὲ τὸν ἐαλωκότ’ ἀνδροφόνον λυμαίνεσθαι οὐδὲ χρήματα πράττεσθαι· ὁ δ’ ἐν τῷ ποιεῖν ἀγώγιμον πάντα ταῦτα δέδωκεν.

⁴⁸ Todd, *A Commentary on Lysias, Speeches 1-11*, 121, on Lys. 1.27. This ambiguity was old: D. Beck, *Speech Presentation in Homeric Epic* (Austin 2012) 90-91.

⁴⁹ Lys. 22.5: ἀπόκριναί δή μοι, εἰ ὁμολογεῖς πλείω σίτον συμπρίασθαι πεντήκοντα φορμῶν, ὧν ὁ νόμος ἐξεῖναι κελεύει. ‘ἐγὼ τῶν ἀρχόντων κελευόντων συνεπρίαμην.’ Similar formulation, without ἐξεῖναι: Hyp. *Pro Eux.* 3: Διογνίδης μὲν καὶ Ἀντίδωρος ὁ μέτοικος εἰσαγγέλλονται ὡς πλέονος μισθοῦντες τὰς ἀύλητρίδας ἢ ὁ νόμος κελεύει.

⁵⁰ Lys. 22.6: ἂν μὲν τοίνυν ἀποδείξῃ, ὡς ἄνδρες δικασταί, ὡς ἔστι νόμος ὃς κελεύει τοὺς σιτοπώλας συνωνεῖσθαι τὸν σίτον, ἂν οἱ ἄρχοντες κελεύωσιν, ἀποψηφίσασθε; 9: ὡς τοίνυν οὐ συμπριαμένους καταθέσθαι ἐκέλευεν αὐτούς, ἀλλὰ μὴ ἀλλήλοις ἀντωνεῖσθαι συνεβούλευεν; 10: ὅτι μὲν τοίνυν οὐχ ὑπὸ τῶν ἀρχόντων κελευσθέντες συνεπρίατο τὸν σίτον, ἀνηκόατε· ... περὶ γὰρ ὧν εἰσι νόμοι διαρρήδην γεγραμμένοι, πῶς οὐ χρῆ διδόναι δίκην καὶ τοὺς μὴ πειθόμενους καὶ τοὺς κελεύοντας τοῦτοις τάναντια πράττειν. The defense seems to have claimed also that a command “not to purchase against each other” (*antoneisthai*) was tantamount to a command/permission “to purchase with each other” (*synoneisthai* / *sympriasthai*). Whether the latter was collusive or monopolistic is debated: R. Seager, “Lysias against the Corndealers,” *Historia* 15 (1966) 172-184; T. Figueira, “*Sitopolai* and *Sitophylakes* in Lysias’ “Against the Grain Dealers:” Governmental Intervention in the Athenian Economy,” *Phoenix* 40 (1986) 149-171.

⁵¹ Lys. 1.27: οὕτως, ὡς ἄνδρες, ἐκεῖνος τοῦτων ἔτυχεν ὧνπερ οἱ νόμοι κελεύουσι τοὺς τὰ τοιαῦτα πράττοντας; 1.34: ἐμοῦ τοίνυν, ὡς ἄνδρες, οἱ μὲν νόμοι οὐ μόνον ἀπεγνωκότες εἰσι μὴ ἀδικεῖν, ἀλλὰ καὶ κεκελευκότες ταύτην τὴν δίκην λαμβάνειν.

⁵² C. Carey, “Rape and Adultery in Athenian Law.” *CQ* NS 45 (1995) 407-417, 409-410; Harris, *Democracy and the Rule of Law* 293.

⁵³ The speaker admits in closing (Lys. 1.49): κελεύουσι μὲν, ἐάν τις μοιχὸν λάβῃ, ὅ τι ἂν οὖν βούληται χρῆσθαι. This comes dangerously close to acknowledging that the law only permits one to kill in such circumstances. For the same law cannot have required (1) whatever remedy the injured party wished and (2) that the remedy be killing (1.34).

⁵⁴ Harris, *Democracy and the Rule of Law* 284.

⁵⁵ Translators tend to ignore the καὶ in ὅτι καὶ οἱ νόμοι κελεύουσιν (e.g. Bers, *Demosthenes, Speeches 50-59* 60: “that the laws provide;” Millett, *Lending and Borrowing* 56: “that the laws enact.”). David D. Phillips, *The Law*

as one option under a range of variously strict procedures (table below). To purchase and manumit a fellow citizen promptly and without charge was a generous and liberal act. To purchase and manumit with the requirement of subsequent repayment, a little less so; to require the freed person to secure repayment with a pledge of services even less. To make manumission contingent on prior payment was a tougher imposition, to demand repayment in labor perhaps harsher still, and to require both cash and labor was exceptionally hard. Where manumission preceded payment, default would result in actions defined in the contract, for example a doubling of the debt, such as Nikostratos faced. Where manumission followed payment servitude simply persisted until payment was made, as Harris observed.

scen. ⁵⁶	Step 1	Step 2	Step 3	Sanction / status
1	Purchase	manumission	∅	∅
2	Purchase	manumission	payment	default → penalty per contract
3	Purchase	manumission	payment (debt-bondage)	default → penalty per contract
4	Purchase	payment in cash	manumission	servitude pending payment
5	Purchase	payment in paramone	manumission	servitude pending completion
6	Purchase	in cash and paramone	manumission	servitude pending both

The ransomer was a purchaser; the purchaser was an owner; the owner set the terms of manumission and payment, and in this he had options. He could even go so far as to impose continued enslavement pending repayment. Where Nikostratos' situation was on this spectrum we are not told. Most likely, I urge, he was promised manumission on condition that he first pay (scenario 4), to accomplish which he borrowed from the foreigners; then, as a newly freed man, he took a second loan from Apollodoros in order to pay off the first. Whatever the case, we can well imagine him trying to sway Apollodoros by claiming, with his inept or underhanded citation of the law, that his situation was dire and “the law even permits” worse.

As mentioned, the clause in question is thought to be “[t]he sole attested exception” to the “the reforms of Solon [that] made it impossible for citizens ever to descend into slavery,” for it “claims that an Athenian who had borrowed money from a fellow citizen to ransom himself from pirates could be sold as a slave by his creditor if he defaulted on the loan.”⁵⁷ But the clause says nothing about loans. It states simply that if an individual who has been ransomed from the enemy fails to pay the ransomer s/he is to belong to the ransomer. It does not apply, therefore, to scenario (1), which involved no payment, or to (3), whose penalty would be an extension of service rather than forfeiture of liberty. It applied to (5) only if performing service was

of *Ancient Athens* (Ann Arbor 2013) 399 no.316 attempts to reflect it: “‘You know,’ he said, ‘that in fact the laws command that a ransomed person shall be the property of the one who ransoms him from the enemy, if he does not repay the ransom.’” But where “even” or “also” are sensible, “in fact” is a stretch.

⁵⁶ For these scenarios see above p.00.

⁵⁷ Todd, *The Shape of Athenian Law* 181 with n.25. A. R. W. Harrison, *The Law of Athens*² (London 1998) I 164-165: since Solon “a free Athenian could not become a slave in Athens. There were only two exceptions to this rule.” First, ransom; but also where a freedman lost a case of *dike apostasiou* and so was returned to slavery (see Harpo. s.v. ἀποστασίου). But at Athens manumission did not result in citizenship; thus, such a conviction could generate an exception, only where the convicted freedman had been an Athenian citizen prior to enslavement, had re-gained citizenship upon manumission, but then lost it again, along with his liberty, upon conviction. But to be liable under *dike apostasiou*, one had to violate one or both of the requirements that a freedman abide by his manumittor and choose him as *prostates* (Harpo. s.v. ἀποστασίου). But there is no evidence that ransomed/restored citizens were subject to these requirements.

construable as “paying” or “rendering” the ransom (ἐὰν μὴ ἀποδιδῶ τὰ λύτρα). The law is compatible with scenarios (4) and (6), under which payment is a prerequisite to manumission.

But could the law apply to scenario (2)? If it did then, for example, Lykon could have been within his rights to re-enslave Demetrios, who had been “free for some time” but still owed the *lytra* (D.L. 5.72 above). I know of no case in which a manumission both required subsequent payment and threatened re-enslavement in case of failure to pay. Among the 1200+ manumissions that are attested at Delphi provision for invalidating a sale (and so presumably the manumission that followed) in retribution for transgressions committed after manumission was extremely rare, occurring perhaps only once.⁵⁸ Moreover, there does not appear in that archive a single instance in which a slave is freed on condition of subsequent payment whose default is stipulated as producing re-enslavement. Neaira’s owners freed her on condition that she not work in Corinth,⁵⁹ but we do not know whether they claimed or were permitted a right to re-enslave her if she took work there. Such a penalty would be, in a way, analogous to re-enslavement for failure to pay *lytra*. For in both cases re-enslavement was the price for failure to meet a contracted term of manumission. But it was one thing to strip liberty from a freedperson who had been born a slave, and quite another for an Athenian jury to re-enslave a citizen who had the misfortune first to be seized by enemies and then to be unable to repay his ransom.⁶⁰ Where contracts were concerned Athenian law gave wide but not infinite latitude: the force of Solon’s ban on lending against another’s person was to render an otherwise and theretofore legal type of contract illegal.

Thus, while it is perhaps theoretically possible that this Athenian law would have permitted an Athenian to purchase Nikostratos from his captors and then to free him on condition of subsequent payment, under threat of re-enslavement should he default, absent a compelling parallel for such contractually stipulated re-enslavement, I doubt whether this possibility existed. For all we know Athenians were barred from tying any debt—not just those originating in loans—to the debtor’s person and liberty. Punitive re-enslavement was not a pressing necessity anyway, for any ransomer too cautious to manumit first and then collect payment was free to invert the order of those two acts, retaining the captive in a state of legal servitude until payment could be made. It is simplest, I urge, to see the law as pertaining to scenario (4), affirming that, unless the parties had agreed otherwise, the law permitted ransomed individuals to remain the property of their ransomers until they paid.

⁵⁸ Sosin, *TAPA* 145 (2015) 344 with n.73, on *SGDI* II 1718.10-15. On the conventional interpretation, every manumission with *paramone* conferred a kind of semi-liberty that was revocable wherever the conditions of service were not met; but this construction, I urge, is wrong and *paramone* was performed in servitude: Sosin, *TAPA* 145 (2015) 325-381; if I am proven incorrect and *paramone* was performed in a state of revocable semi-freedom then it will become much easier to accept that Athenian law tolerated scenario (2), in which a citizen was re-enslaved for default on payment, after manumission.

⁵⁹ [Dem.] 59.32: κατατίθησιν αὐτῆς τὰς εἴκοσι μνᾶς τῷ Εὐκράτει καὶ τῷ Τιμανορίδᾳ ἐπ’ ἐλευθερίᾳ καὶ ἐφ’ ᾧ ἐν Κορίνθῳ μὴ ἐργάζεσθαι.

⁶⁰ Rosivach, *Historia* 48 (1999) 139 n.45, perceptively: “It is sometimes asserted, solely on the basis of [Dem.] 53.11 quoted above, that Athenians who could not repay their ransomers became their slaves, but the Greek does not specifically say this, and it is difficult to imagine Athenian law and Athenian courts surrendering an Athenian citizen to be enslaved, especially when, as here, the ransomers to whom he would be enslaved were foreigners (ξένοι [53.10], possibly metics).”

Whatever the case, as far as Nikostratos is concerned, he was neither purchased nor freed by an Athenian, so that no construction of the law cited at [Dem.] 53.11 applied to him anyway. Moreover, nothing in the Greek or the scenarios enumerated above violates Solon's ban.

The Aim of the Law

If Nikostratos' invocation of Athenian law is, in the Athenian legal context, nonsense, perhaps misdirection, and from the modern scholarly perspective a red herring, the law itself makes fine sense. It affirmed the ransomers' right of ownership. As owner, only he could set the terms under which the slave would return to freedom; only he could decide whether, how, when, and what the slave would be required to pay. The law, then, gave strong protection to the ransomer qua purchaser and scarcely any to the Athenian who had been deprived of his liberty and then sold to a fellow citizen. Thus, even if this is compatible with Solon's law, it does raise a question: If you were forbidden to enslave your defaulting neighbor, but could buy him from a pirate and define terms of payment and manumission that would keep him your slave for years, how was this not unsettlingly close to violating the purpose of Solon's law?!

The preserved fragments of Solon nowhere frame Athenian liberty as inalienable. They do, however, boast a grand effort to free and repatriate dislocated Athenians who had been sold into slavery abroad, lawfully or not, and to emancipate Athenians who had been enslaved at home.⁶¹ We are not told the precise mechanism by which Solon restored these unlucky people to freedom and franchise. But slaves cost money, and for a city so often at war, so active at sea and abroad, the aggregate cost of ransom might easily exceed Athenian citizens' will to pay—Nikostratos, recall, was ransomed for a hefty 26 minas.

Not only were costs high, but, if evidence from outside Athens is any indication, the process was potentially fraught. A section of the Gortyn code stipulates:⁶²

if under necessity one effects the ransom of someone, on his (the captive's) call, from a foreign city, then he (the ransomed man) shall be in the power of him who ransomed him back, until he repays what is due. But if they do not agree about the amount or because he is (was?) not calling to be ransomed, the judge shall decide, on oath, as to the matters brought forward.

Phaistos and Miletos agreed that:⁶³

Milesian shall not purchase a Phaistian free person, nor Phaistian (purchase) a Milesian, unless he purchase on his (the captive's) call. And if he purchase on his call, let him ransom him off at the same price. But if he purchase not on his call, then let the Phaistian be led away from Miletos and the Milesian from Phaistos.

⁶¹ Solon fr.36.8-15 [West]: πολλοὺς δ' Ἀθήνας πατρίδ' ἐς θεόκτιτον / ἀνήγαγον προθέντας, ἄλλον ἐκδικῶς, / ἄλλον δικαίως, τοὺς δ' ἀναγκαίης ὑπὸ / χρειοῦς φυγόντας, γλώσσαν οὐκέτ' Ἀττικὴν / ἰέντας, ὡς δὴ πολλαχῆι πλανωμένους: / τοὺς δ' ἐνθάδ' αὐτοῦ δουλίην ἀεικέα / ἔχοντας, ἦθη δεσποτέων τρομεομένων, / ἔλευθέρους ἔθηκα.

⁶² IC VI 72.vi.46-55: αἱ κ' ἐδδυσ[άμενον] πέτρα[νδε] ἐκς ἄλλοπολίας ὑπ' ἀνιάνκας ἐκόμενος κελομένο τις λύσεται, ἐπὶ τῷ ἀλλυσαμένοι ἔμεν πρίν κ' ἀποδοῖ τὸ ἐπιβάλλον. αἱ δέ κα μὲ ὁμολογίοντι ἀμπὶ τὰν πλεθὺν ἔ μὲ [κ]ελομέ[ν]ο αὐτῷ [λ]ύσασθαι, τὸν δικαστὰν ὁμνύντα κρίνεν πορτὶ τὰ | μολιόμενα. I leave untranslated the first part of this provision, whose restoration and reconstruction has defied definitive solution.

⁶³ *Milet.* I.3 140C.53-57 [*Staatsvertr.* III 482]: σώμ[α] | ἐλεύθερον μὴ ὠνείσθω ὁ Μιλήσιος Φαίστιον μηδ' ὁ Φαίστιος Μιλ[ή]σιον, ἀμ μὴ κελομένου πρίαται: ἂν δὲ κε<λ>ομένου πρίαται, τὰς ἰσων[ί]λλας ἀπολυσάτω· ἂν δὲ μὴ κελομένου πρίαται, ἀπαγέσθω ὃ τε Φαίστιος ἐγ Μιλήτου καὶ ὁ Μιλήσιος ἐκ Φαιστοῦ.

Similarly, “Delphian shall not lead off Pellanian, nor Pellanian Delphian, unless at his call.”⁶⁴ Under provisions such as these, individuals from other polities could ransom slaves on whatever terms they wished, but fellow citizens or co-signatories could not. These rules constrained them. A captive might not agree to be ransomed in the first place and whatever the ransomer thought had been agreed, the ransomed person might later dispute the price, or that he had ever consented to begin with, making the recovery of expenses even less certain than it might otherwise be.

We do not know whether Athens required, in Solon’s time or Nikostratos’, an Athenian to obtain the permission of a citizen captive before ransoming him, or whether it enjoyed such interstate agreements. But imagine for a moment that it did. Now, his ransomers, so long as they did not come from a city that was signatory to such agreement, would not have been obligated to care about Nikostratos’ consent, would have been free to set the price and terms of release as they would.⁶⁵ If Apollodoros had ransomed Nikostratos directly his hand would not have been so free. Though the total cost of ransom might exceed the ransom price (allowing for travel *vel sim.*)⁶⁶ he might be unable to recoup all costs; he might wind up in court, having to prove that the ransomed man had duly granted permission. But even if Athens did not regulate manumission in the ways that other cities did, the terms of repayment (unless properly written, witnessed, and retained) might be disputed in court. And then, if Solon’s laws and actions sought to diminish the presence of Athenian slaves at Athens and reflected a common distaste for the same, a court or magistrate might be inclined to favor the ransomed over the ransomer. Thus, Athenians with the wherewithal to ransom others might be put off not only by the initial expense but also by the prospect of its recovery, fearing lest their fellow citizens, once restored, be able to walk away on easier terms or scot free.

The protection of monied interests that we find in the law invoked by Nikostratos would be easily explained if it was meant to address just this problem. If the broader objective was to safeguard Athenians’ liberty,⁶⁷ and a goal of the law of which this clause was a part was to encourage wealthy citizens to ransom their fellows, then flexibility and options may well have

⁶⁴ *FD III.1 486.I.B.5-7*: ὁ Δελφὸς τὸν Πελλανέα [μὴ] ἀ[γέ]τω, μηδὲ ὁ Πελλανεύς τὸν Δελφόν, εἰ μὴ κελ[εύοντος· εἰ δὲ εἰδὼς ἐλευθέρον ὄ]ντα πρίαται, στερείσθω τὰς τιμ[ά]ς [καί] ἰτάν βλάβαν ὀφειλέτω ἄν κα τοὶ δικασταὶ γν[ῶντι κατὰ τοὺς νόμους τὰς πόλιος].

⁶⁵ This might explain the high price that they set. On the middle-man’s profit in such operations see V. Gabrielsen, “Piracy and the Slave Trade,” in A. Erskine (ed.) *A Companion to the Hellenistic World* (Malden 2003) 389-404, 394: “It was not the original captor/vendor who profited most from this transaction but rather the retailer in Aigina.” Bielman, *Retour à libéré* 316 with n.333, suggests that 26 minas was probably the original sale price, since Miletos and Phaistos agreed that ransom ought not to exceed purchase price (*Milet. I.3 140C.55-56*: ἄν δὲ κε<λ>ομένου πρίαται, τὰς ἰσων[ί]ας ἀπολυσάτω); “Telle devait être la règle.” There is no reason to think that this was a general rule, but even if an Athenian ransomer was so bound, the “foreigners” who ransomed Nikostratos could not have been. The slave trader, from whom they purchased Nikostratos, would have been motivated sell quickly and move on; this will not have been compatible with initial sale at such a high price. The foreigners would then have marked the price up. G. Herman, *Ritualised Friendship and the Greek City* (Cambridge 1987) 93 suggests that these *xenoi*, were ‘friends,’ not ‘aliens,’ and that they offered a friendly loan; Millett, *Lending and Borrowing* 265-266, dismisses the idea.

⁶⁶ These were non-trivial expenses; Apollodoros gave Nikostratos’ brother 300 drachmas for the relatively short trip to Aigina. How much was needed for conveying multiple Thracians from Mytilene to Ainos (Ant. 5.20)?

⁶⁷ Nothing in the cited clause indicates restriction to Athenian citizens and the law may well have applied to all ransomed individuals, regardless of their citizenship. Athenian citizens, however, must have been the focus; for there will have been little need to affirm the validity of purchases of a non-Athenian slaves, whether ransom was in view or not.

been essential to implementation. Not everyone could afford to spend such quantities of money without prospect of repayment; and of those who demanded repayment, some will have been more conservative, less trusting, than others.⁶⁸ If the law stated clearly that a ransomer enjoyed the option to own the ransomed person until payment was made, perhaps wealthy Athenians might be more inclined to risk their assets in order to free their fellows. Without that protection they might shy away or step forward in smaller numbers.

This will have been especially important in the case of prisoners of war, where the potentially staggering cost of ransoming many individuals might require the assistance of numerous wealthy Athenians. Here it is worth reiterating that the cited clause specifically protected the ownership rights of the man who had ransomed another “from the enemy” (ἐκ τῶν πολεμίων). If that phrase bore the weight of the clause in a narrow sense, then it applied only or principally to captives of war.⁶⁹ If so, then the clause neither had anything to do with enslavement for debt nor even framed a general rule about ransom; instead, it targeted a single scenario in which potentially large numbers of Athenian citizens might be in need of ransom. In any case, formal declaration of war cannot have been the essential criterion here and in such cases “the enemy” likely included pirates or any number of hostile parties.

Ransom at Athens, then, featured no exception to Solon’s ban on enslavement for debt, although it did butt up against what many may have valued as a principle, if not a law: “Once a citizen, in theory always a citizen.”⁷⁰ But even if Athenians should maintain that they were theoretically impervious to enslavement, the pirate who captured and sold an Athenian knew well the limits to that notion, even as he received payment from another Athenian. An Athenian ransomer knew it too, even as he awaited repayment by a still-enslaved fellow. The purchaser might prefer to call his act “release,” out of embarrassment, conscience, or ideology (so, a pet rescue might speak of adoption fees and adoptive families, though the transaction is in most jurisdictions a sale and the ‘adopter’ an owner); the law that affirmed his right of ownership might speak of ransom rather than purchase, stating that the ransomed man shall “belong to” him, avoiding the ugliness of saying that he shall “slave for him.” But the labels did not alter the reality: ransom was in the first case purchase—perhaps purchase with manumission in mind, but purchase nonetheless. The law cited by Nikostratos affirmed that fact, with a view, I urge, to encouraging Athenians to ransom their unfortunate fellows. If this suggestion is accepted, then the provision that has so often seemed to be at odds with Solon’s objectives may in fact have been critical to accomplishing them.⁷¹

⁶⁸ Attitudes varied. Ransoming poorer citizens is mentioned as a gentleman’s duty (Lys. 19.59). Ransom is mentioned with liturgies, which were both burden and honor (Lys. 12.20). One man is skewered for having ransomed no one, just as he had performed no liturgies (Is. 5.43-45, esp. 44). Another is said to be worthy of execution for having extorted (ἐσυκοφάντησεν) money from prisoners by refusing to ransom them if they should not furnish the ransom from their own resources (Lys. 27.24). The fact that Demosthenes first *lent* ransom money to Athenian captives at Pella did not prevent him from bragging that he later forgave those debts (Dem. 19.169-171, esp. 170; also 18.268 and 8.70, where he does not mention loans); never mind that circumstances may have given him little choice but to waive repayment: V. Rosivach, “Some Athenian Presuppositions about ‘The Poor’,” *G&R* 38 (1991) 189-198, 194, followed by M. R. Christ, *The Limits of Altruism in Democratic Athens* (Cambridge 2012) 23-24.

⁶⁹ A good observation that I owe to one of the anonymous readers.

⁷⁰ Todd, *The Shape of Athenian Law* 181.

⁷¹ Thanks to John Aldrup-MacDonald, and to the anonymous referees, to one of whom I am especially grateful for the tough, detailed criticism and many valuable suggestions.

Joshua D. Sosin
Department of Classical Studies
Duke University
Durham, NC USA
joshua.sosin@duke.edu