

# 1 Tax Evaders in Classical Athens?

## Attacks and Strategies of Defence in Attic Oratory<sup>1</sup>

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### 1.1 Introduction

Tax evasion is not a phenomenon peculiar only to the modern and contemporary world. It also existed in ancient societies. In two important works, M. Christ explored the practice of tax evasion in classical Athens based, mainly, on orators' speeches. He shed light on a large number of passages in which orators refer to citizens evading (or attempting to evade) fiscal duties.<sup>2</sup> However, while we have many attestations of attacks and arguments targeting supposed tax evaders, there is only scanty evidence concerning the point of view of these people. What were the arguments and the rhetoric strategies that the presumed tax evaders used in order to defend themselves or even legitimise their position? In this chapter, I argue that we can attempt to answer this question by looking, on the one hand, at the way references to tax evasion were framed in court speeches and, on the other, at the widespread attestations of discontent concerning the distribution of financial duties among the wealthy of Athens in the fourth century BC. This discontent is probably at the root of several attempts made by the Athenians to reform their tax system in the period between 378 and 340 BC. In order to understand Athenian taxation, a broad tax conception is required that not only includes financial obligations pertaining to the Athenian elites, but also the "financial performances" that the elites were required to conduct.<sup>3</sup>

One caveat for the reader: this chapter does not investigate the historical practice of tax evasion in terms of its extent, frequency and impact, but rather its discursive presentation in court speeches. In many cases, tax evasion is not the central topic of these speeches, nor is it the charge at issue; rather it is usually one of the facts speakers refer to in order to discredit their opponents.

1 My special thanks go to the organisers of the Frankfurt Conference "Not Paying Taxes!" in March 2020 and to the other participants, both for their useful comments on the drafts of this paper and their successful work in making a digital event possible during the Covid-19 pandemic.

2 Christ (1990, 2006). The pioneering study on rhetoric *topoi* in Attic oratory and strategies of communication between the elites and their audiences is Ober (1989).

3 On the applicability of the modern concept of "tax" to the ancient Greek world, see Rohde (2019, 6–7). Cf. Rohde (2012, 23–40).

This does not mean that facts concerning dodging taxes were always just invented as part of rhetoric strategies (though some probably were). Tax evasion did indeed exist and it was perceived as negative behaviour, violating the ethics of civic generosity and the regulations of the *polis*.

Two other preliminary clarifications are necessary. First, the public speeches discussed in this chapter, as the major part of Athenian orations, were written for (and by) members of the Athenian elites and mostly concerned the actions of these elites, but they were delivered to large audiences, such as the assembly or the courts. Thus, they addressed not only the elites but also ordinary citizens. The fact that tax evasion is a recurring topic in these orations suggests that this phenomenon was well-known to Athenian society at large.

Second, in classical Athens, there was no system of *pro capite* taxation applied to all citizens, while indirect taxes were levied on several kinds of goods and commercial activities. Only resident aliens (*metics*) were required to pay a direct *pro capite* tax, the *metoikion*. However, wealthy Athenians (and wealthy resident aliens) were expected to financially support the city by means of liturgies and *eisphorai*. These two kinds of contributions, which were, as we shall see below, different in terms of both their nature and appointment procedures, were fundamental for providing the city with the financial resources it needed in many fields, from sport and theatre competitions to infrastructure and war equipment.<sup>4</sup>

## 1.2 Liturgies, *Eisphorai* and their Performance

When we look at the fiscal system of Classical Athens, it is the *eisphora* that more closely resembles a direct wealth tax. This was, originally, a special contribution, based on income and property assessments, which was levied ad hoc for military purposes. In the course of the fourth century BC, the *eisphora* became a regular requirement falling on the elites and on the upper middle classes. Decisions about levying an *eisphora* were based on the decrees of the assemblies, the execution of which was mandatory.<sup>5</sup> Liturgies, by contrast, were a different form of institution. They did not entail the direct levy of money, but rather the organisation and performance of a task or service for the community. These kinds of private expenses for the public good can further be subdivided into festival liturgies (such as the *choregia*, i.e. bearing the costs for equipping and training a chorus for a play or funding a *lampadarchia*, a torchlight procession) and war liturgies (such as the *trierarchia*, i.e. bearing the costs for equipping a warship). Some of the liturgies were cyclical institutions, which were regularly performed (generally on an annual basis); others, by contrast, were occasional services.<sup>6</sup>

4 For detailed discussions, see Liddel (2007) and Rohde (2019) (see also footnotes 4 and 5 below).

5 For the first attested *eisphora* in 428/7 BC, during the Peloponnesian War, see Thuc. 3.19.1. On *eisphora* in general, see Thomsen (1964); Christ (2007, 53–69); Rohde (2019, 189–197); Lyttkens (1992).

6 For a discussion of the different types of liturgies and the procedural aspects of these institutions, see Liddel (2007, 109–209); Rohde (2019, 198–215).

But who were the people required to perform and pay liturgies and *eisphorai* in Athens? In his seminal work on wealth in classical Athens, J. K. Davies argued that citizens became liable to perform liturgies at an individual wealth threshold of at least three talents.<sup>7</sup> The threshold for *eisphora* is judged to have been lower by most scholars, possibly between 2,500 drachmae and 1 talent.<sup>8</sup> Following the work of Davies, there has lately been renewed discussion of the financial criteria for performing liturgies in favour of a less rigid threshold,<sup>9</sup> but it remains a fact that liturgists were among the wealthy, usually described as *plousioi* in the literary record. Their number varied over time but is estimated to be in the range of 1,200–1,500 individuals from an overall male citizen population of approximately 30,000 in the fourth century BC.<sup>10</sup> The group of individuals liable to pay the *eisphora*, by contrast, was more heterogeneous, ranging from the very rich to those whose fortune was close to the threshold. There is no consensus on their number, with estimations between 1,200 and 6,000 individuals.<sup>11</sup> Resident aliens (*metics*) were also liable to perform liturgies and pay the *eisphora*-tax.<sup>12</sup>

According to the Aristotelian *Constitution of the Athenians*, a document written in the fourth century BC, which is our best source of information on the institutional organisation of Athens, liturgies were appointed by the city officials.<sup>13</sup> This fact is at odds with the picture of liturgists as generous benefactors, which is strongly promoted by court speakers. Scholars generally

7 Davies (1971, xxiii–xxiv) and (1981, 30–31).

8 On the 2,500 drachmae threshold, see Jones (1957, 23–29; 83–84). For the one-talent threshold, Davies (1981, 34), followed by many; among them, recently, Van Wees (2011, 111).

9 Gabrielsen (1994, 45–53). For a new discussion of Davies' criteria, see Kierstead and Klapaukh (2018, 376–401).

10 Davies (1981, 19–20, 34) argued for a low figure of 200–400 liturgists, whose number increased to 1,200 in the fourth century after Periander's reform (357 BC, see footnote 27 below). Already Rhodes (1982, 1–19) noted that the figure 200–400 was too low, arguing in favour of a figure of 1,200 liturgists even before 357 BC. For objections to Davies' theory, see also Gabrielsen (1994, 45–53). A figure of 1,200–1,500 liturgists is generally accepted among scholars. On Athenian demography, see Akrigg (2011, 37–59) and (2019) with discussion of earlier scholarship.

11 On 6,000 as the total number of *eisphora*-payers, see Jones (1957, 56, 83–84); more cautious is Osborne (2010, 130): "at least 1,200 and perhaps rather more". The reform in 378 BC (see footnote 25 below) comprised a pool of 1,200 *eisphora*-payers; this pool, however, might not refer to all of the individuals liable to pay *eisphora*, but rather to those liable to pay in a given year, in order to raise the necessary sum of money. The majority of scholars believe a plausible figure for *eisphora*-payers is in the range of 1,200–2,000 contributors.

12 On *metics* performing liturgies, see Whitehead (1977, 77–82); on *metics* as *eisphora*-payers see Isoc. 17.41. Cf. Van Wees (2011, 105).

13 The *choregoi* of the City Dionysia and the Thargelians were appointed by the eponymous archon ([Arist.] *Ath. Pol.* 56.3); trierarchs by a *strategos* ([Arist.] *Ath. Pol.* 61.1). In other cases, liturgies were assigned by lot (for example, the *athlothetai*; [Arist.] *Ath. Pol.* 60.1). For commentary on these passages, see Rhodes (1981, 623–624, 669, 677). On the possibility that the *choregoi* at the Lenaia Festival were chosen by the *archon basileus*, see Rhodes (1981, 624). On assignment of liturgies by public officers, see Christ (2006, 194–198); Liddel (2007, 265) (*choregia*) and 270 (*trierarchia*); Kremmydas (2012, 18–19).

consider liturgies as semi-voluntary practices, i.e. contributions in which personal initiative often intermingled with social pressure and formal procedure (appointment by the city's magistrates).<sup>14</sup> The fact that magistrates appointed liturgists also raises questions regarding possible registers for the liturgies. While official lists of *eisphora*-payers are documented, the existence of such lists for the liturgies is subject to discussion among scholars.<sup>15</sup> However, whether recorded in official lists or not, the identity of the rich and their liability to act as potential liturgists must have been well-known at least within the restricted territorial and administrative unit of the deme.<sup>16</sup>

Presenting liturgies as voluntary donations in court speeches indeed contributed to the self-portrayal of the wealthy as generous citizens, but was not just a rhetorical strategy. The performance of liturgies did in fact contain some elements of voluntarism, an aspect which was prompted by intra-elite competition and the desire of the liturgists to acquire public visibility. This mechanism is not per se surprising in light of the competitive character of Athenian public life.<sup>17</sup> In *Lysias 21*, for example, a court speech presumably delivered in 403/2 BC, the speaker made a detailed list of the liturgies and *eisphorai* he had undertaken for the city, and he concluded:<sup>18</sup>

Of these sums that I have enumerated, had I chosen to limit my public services to the letter of the law, I should not have spent one quarter.

The element of private initiative, in this case, is the fact that the speaker claims to have spent a considerably larger sum than required.<sup>19</sup> Nonetheless,

14 Cf. Whitehead (1977, 88) spoke of a “paradoxical conjunction of burden and honour”; cf. Fawcett (2016, 156): “[liturgies] held a position in the ‘gray area’ between compulsory taxes, like *eisphora*, and *epidoseis* [i.e. voluntary contributions, my addition]”.

15 See, for example, the debate on the existence of registers for the *trierarchia*: Davies (1971) and (1981) believes they existed and were stored in central archives; Stanley (1993, 29–30) argues in favour of their preservation in deme’s archives. Gabrielsen (1994, 182–199, 221) believes no such registers existed. Rohde (2019, 198–199) maintains that liturgical lists existed (not only for the trierarchy) and that they were drawn up with the same procedure as cavalry lists, as described in [Arist.] *Ath. Pol.* 49.2.

16 Finley (1973a, 1973b) believed that Athens was a “face-to-face society”, a definition challenged first by Osborne (1985, 64–65). Although Athens was too vast a community to be defined overall as a “face-to-face society”, the deme was indeed a more restricted community, in which the identity of “big men” was likely to be well known. On the people’s knowledge (including non-elites) of financial matters concerning the city, see Pritchard (2019, 229–243).

17 For a case study on public competition for offices (*gymnasiarchia*), see Günther and Weiße (2014, 59–97). On the aristocratic tradition of displaying wealth in the archaic period, see Duploux (2006).

18 *Lys.* 21.1–5. Citation is from *Lys.* 21.5: καὶ τούτων ὄνκατέλεξα, εἰ ἐβουλόμην κατὰ τὰ γεγραμμένα ἐν τῷ νόμῳ λητοουργεῖν, οὐδ’ ἂν τὸ τέταρτον μέρος ἀνήλωσα. This and the following translations of classical texts are based upon those of the Loeb Classical Library, unless otherwise noted. The emphasis added to each translated text is mine.

19 Liddel (2007, 267) notes that this is not a reference to a specific law but rather to statutory requirements.

the degree of voluntarism was fairly limited. In addition to appointments for liturgies by city officials, public pressure could lead the wealthy to take them up. Attic orations, for example, attest to a recurring rhetoric of public praise surrounding performers of liturgies. This kind of rhetoric, which finds an echo in the enumeration of liturgies in public dedications, was itself a powerful tool in the hands of the community to persuade rich citizens to bear these financial burdens.<sup>20</sup> But there were other, more direct instruments such as the *antidosis* procedure. Someone who was appointed to perform a liturgy (or perhaps just pointed out as a potential liturgist) could refuse by indicating a fellow citizen liable to perform the liturgy. In the event of this fellow citizen refusing, the individual originally appointed to the task could challenge him to an exchange of property.<sup>21</sup>

Thus, if a liturgy was not directly assigned by a magistrate, the decision to perform a liturgy was fostered by various motives, such as a sense of civic duty, honour and pride, the drive to acquire prestige and visibility and also by the fear of being involved in the *antidosis* procedure and the public shame evoked by a refusal. Undertaking a liturgy therefore often had little to do with choice and generosity. The mixed nature of this institution, which was halfway between donation and taxation, was often exploited by court speakers in their rhetorical strategies when they accused somebody of dodging such duties or defended themselves against such claims. In the next section, we will see some examples of this rhetoric.

### 1.3 *Topoi* and Rhetoric Strategies Concerning Tax Evasion

In Isocrates' speech *Against Callimachus*,<sup>22</sup> the speaker describes the behaviour of the Athenian trierarchs after the lost battle at Aegospotamoi in 405 BC – one of the decisive Athenian defeats during the Peloponnesian War:

Now when the city had lost its ships in the Hellespont and it was short of its power, I so far surpassed the majority of the trierarchs that I was one of the few who saved their ships: and of these few I alone brought back my

20 See Liddel (2007, 196–209) for discussion of public dedications as instruments of collective coercion and pressure on liturgists; for competitive outlay, see *ibid.*, 273–274.

21 [Dem.] 42 provides useful information. On *antidosis*, see Gabrielsen (1987, 7–38); Christ (1990, 161–164).

22 Isoc. 18.59–60: [59] ὅτε γὰρ ἡ πόλις ἀπώλεσε τὰς ναῦς τὰς ἐν Ἑλλησπόντῳ καὶ τῆςδυναμείως ἔστερήθη, τῶν μὲν πλείστων τριηράρχων τοσοῦτον διήνεγκον, ὅτι μετ' ὀλίγων ἔσωσα τὴν ναῦν, αὐτῶν δὲ τούτων, ὅτι καταπλεύσας εἰςτὸν Πειραιᾶ μόνος οὐ κατέλυσα τὴν τριηραρχίαν, [60] ἀλλὰ τῶν ἄλλων ἀσμένως ἀπαλλαττομένων τῶν λητουργιῶν καίπρὸς τὰ παρόντ' ἀθύμως διακειμένων, καὶ τῶν μὲν ἀνηλωμένων αὐτοῖςμεταμέλον, τὰ δὲ λοιπὰ ἀποκρυπτομένων, καὶ νομιζόντων τὰ μὲν κοινὰδιεφθάρθαι, τὰ δ' ἴδια σκοπουμένων, οὐ τὴν αὐτὴν ἐκείνοις γνώμηνἔσχον, ἀλλὰ πείσας τὸν ἀδελφὸν συντριηραρχεῖν, παρ' ἡμῶν αὐτῶνμισθὸν διδόντες τοῖς ναύταις κακῶς ἐποιοῦμεν τοὺς πολεμίους.

ship to the Piraeus and I did not resign my duties as a trierarch; but when the other trierarchs were glad to be relieved of their duties and were discouraged over the situation, and not only regretted the loss of what they had already spent, but were trying to conceal the remainder and judging that the city was completely ruined, were looking out for their private interests, my decision was not the same as theirs; but after persuading my brother to be joint-trierarch with me, we paid the crew out of our means and proceeded to harass the enemy.

The speaker was an anonymous Athenian trierarch who was proud not to have interrupted his service of equipping warships for the city after the defeat of 405 BC, unlike many other trierarchs who “were glad to be relieved of their duties”, as he claimed. The orator further notes that these people tried to conceal the remainder of their wealth, which seemed to be an attempt to avoid future liturgical appointments. The exact significance of the description (or reproach) that fellow trierarchs had concealed their wealth is not entirely clear, but other orations give some clues about similar practices, as we shall see further on.

In the comedy *The Frogs*, authored by Aristophanes in 405 BC,<sup>23</sup> we read the following fictional conversation between the two tragedians Aeschylus and Euripides upon their encounter in the underworld:

AESCHYLUS: First you dressed the kingly types in rags, so they’d look pitiful to the audience.

EURIPIDES: And what harm did I do by that?

AESCHYLUS: Because of that, no wealthy man was willing to fund the navy, but wrapped in rags he weeps and claims that he’s poor.

Aeschylus refers here to a typical feature of Euripides’ dramas, namely, the display of rags to enhance the pathetic character of the scene and the protagonists involved.<sup>24</sup> The idea that these dramatic performances contributed to the fact that, at the end of the fifth century, no one was willing to undertake a trierarchy is an obvious exaggeration. But Aristophanes might here well refer to the widespread discontent among trierarchs who were bearing the costs of war operations in good part. This discontent intensified in the period following the end of the war. After 404 BC, following Athens’ defeat in the Peloponnesian War, the loss of the tribute paid by its allies and the loss of Athenian land overseas, Athens entered a period of financial hardship. One of

23 *Ar. Ran.* 1063–65: Αἰσχύλος. πρῶτον μὲν τοὺς βασιλεύοντας ῥάκι ἀμπισχόν, ἴν’ ἔλεινοί / τοῖς ἀνθρώποις φαίνοντ’ εἶναι. / Εὐριπίδης. τοῦτ’ οὖν ἔβλαψά τι δράσας; / Αἰσχύλος. οὐκ οὐκ / ἔθέλει γε τριηραρχεῖν πλουτῶν οὐδεὶς διὰ ταῦτα, / ἀλλὰ ῥακίους περιελάμενος κλάει καὶ / φησὶ πένεσθαι. /

24 On this, Cecchet (2015, 67–88).

the many consequences of the war was the necessity to internally restructure the economy, rebuild the fleet and, from the mid-390s onward, supply money for the costs of new military operations during the Corinthian War. All of these operations entailed intensified fiscal pressure, requiring the more efficient organisation of taxes and liturgies. In the 370s, Athens introduced some important reforms pertaining to the liturgical system and the levying of the *eisphora*, presumably in order to achieve a better and fairer distribution of the financial burden and at the same time a more efficient system of raising money. With the *eisphora* reform of 378 BC, payers were grouped into 100 taxation units (the *symmoriai*).<sup>25</sup> From 362 BC, the entire amount of money in each taxation unit had to be paid in advance by the three richest members of each tax unit, the so-called *proeispherontes*, who thereafter had to collect the rest of the tax debt from their fellow members.<sup>26</sup> The total of 300 *proeispherontes* belonged to the richest stratum of the Athenian society. With the law proposed by Periander in 357 BC, the *symmory* system was also extended to the trierarchy: 20 tax categories were introduced consisting of 60 liturgy payers each.<sup>27</sup> In the year 354, Demosthenes proposed another reform of the trierarchy, namely, to increase the number of contributors from 1,200 to 2,000 in order to compensate for the high number of exemptions. The proposal was probably rejected.<sup>28</sup> In 340, however, the orator succeeded in having another law passed, which restricted the number of contributors to the trierarchy to the 300 wealthiest.<sup>29</sup>

How should we interpret these different reforms and attempts to reform the *eisphora* and the trierarchy system over a time span of almost 40 years? It is conceivable that they were a way to cope with the problem of equity which is intrinsic to the question of who must carry the fiscal burden. In fact, in parallel with growing financial pressure on the wealthy since the last period of the Peloponnesian War, the problem of adopting reasonable criteria for a fair distribution of the fiscal burden arose as a topic of public debate, at least among the well-to-do class. As shall be shown, echoes of this debate are attested in several expressions of discontent regarding the performance of liturgies contained in court speeches. This discontent focused on two key aspects. Firstly, the presumably unfair distribution of the fiscal burden among the wealthy was discussed by orators such as Demosthenes who claimed that the “less wealthy” among the *plousioi* were carrying too large a share of this

25 On 378 BC as the date of the reform of the collection of the *eisphora*: Phil. FrgrHist 328 F 41; on the new number of *symmoriai*: Cleid. FrgrHist 323 F 8.

26 Is. 6.60. On the *proeispherontes*, see Wallace (1989, 473–490); cf. MacDowell (1990, 368–369).

27 On Periander’s law of 357 BC, see [Dem.] 47.21; Rhodes (1982, 5–11); MacDowell (1986, 438–449; 1990, 372); Gabrielsen (1994, 182–193); Liddel (2007, 271).

28 Dem. 14.16. For discussion, see Canevaro (2018, 459–460). For an earlier discussion, see also Rhodes (1981, 680).

29 Dem. 18.102–109; Aeschin. 3.222; Din. 1.42; Hyp. Fr. 134 Jensen. However, Gabrielsen (1994, 153–158) maintains that this group of 300 was in charge of bearing most but not the entire cost of trierarchy. Cf. Hansen (1999, 172–173).

burden. Secondly, court speeches can be read as a source for cases where fiscal duties were evaded or attempts were made to evade such duties.

When we look at orations, we see that they show two different rhetoric narratives concerning liturgies and taxes, which were, nonetheless, related. Along with the narrative that denounces the dishonest rich man who tries to escape his duties, there is also the narrative of the honourable rich man who spends large sums of money on the city, performing his liturgies even more generously than he is supposed to do. The second *topos* often served the purpose of enhancing the contrast between one's virtuous behaviour and the behaviour of tax evaders. It presumably also served as protection against prospective accusations of tax evasion and, in general, was a way to gain the favour of the audience in case of future law-suits. The speaker in Lysias 25, for example, says that he undertook the trierarchy five times as well as several other liturgies in order to win the people's favour in case he should have trouble in future.<sup>30</sup>

A very clear example of these two narratives – the rich tax dodger and the rich honest citizen – can be found in Demosthenes' speech *Against Meidias*, presumably written in the early 340s. The speech contains an interesting portrayal of Meidias, a liturgist and *eisphora* leader or *hegemon*, responsible for the collection of contributions from the members of his tax bracket.<sup>31</sup> Demosthenes attacks Meidias largely by highlighting that the hegemon had avoided liturgies on many occasions, and in several ways.<sup>32</sup> The orator delivers a long list of all the retraction strategies Meidias applied in order to avoid taxation, starting with the fact that he performed the trierarchy only after reform of the system following Periander's law, i.e. after the introduction of the *symmoriai* and the board of 1,200 contributors (*synteleis*).<sup>33</sup> According to Demosthenes, Meidias collected one talent from all of the other contributors and in this way managed to avoid paying his own contribution.<sup>34</sup> Other tricks involved the use of the trireme, an oar-propelled warship, which Meidias had equipped in the trierarchic service as his private cargo vessel, and riding a friend's horse instead of buying one when he was cavalry leader.<sup>35</sup> To this description of Meidias's ill behaviour, Demosthenes juxtaposed his self-portrayal as an honest and generous liturgist: despite being younger than Meidias, Demosthenes claimed that his own liturgies were equal in number

30 Lys. 25.12–13.

31 It is unclear whether this oration was actually delivered in a trial. Aischines 3.52 claims it was not, but not all historians agree, see Harris (1989, 117–136). Be that as it may, the orator's intention in the oration is to discredit his rival Meidias, and we cannot take every accusation at face value. But, as mentioned at the beginning of this chapter, we are interested here in the rhetoric concerning tax evasion and this oration offers a good example.

32 Dem. 21.152–174.

33 See n. 27 above.

34 Dem. 21.155.

35 Dem. 21.167 and 174. On the rhetoric strategies deployed in the speech, see also Ober (1994). On the historical background and origin of the quarrel, see MacDowell (1990, 1–37) and Harris (2008, 75–87).



to those performed by Meidias and reaffirmed his assertion by enumerating his liturgies to the audience.<sup>36</sup>

We do not have direct evidence of Meidias' own perspective. In general, we do not have much evidence of how presumed tax evaders rebuked such accusations or deflected suspicions, or of how they attempted to legitimise their behaviour. One obvious possibility is that they denied these accusations altogether. However, this strategy might not always have proved easy, as liturgists were publicly visible to the magistrates, their fellow liturgists and the Athenian people, depending on the kind of liturgy. To wrongfully claim to have undertaken a certain liturgy was hence difficult. Other possible rhetoric strategies are indirectly revealed by information contained in the speeches of opponents, such as in the case of Demosthenes. In the oration *Against Meidias*, Demosthenes states that he cannot bear the arrogance of Meidias and he mimics Meidias' regular exclamation (uttered "in every assembly meeting") as follows: "We are the rich! We are those who pay the *eisphora* tax in advance!"<sup>37</sup> If we assume that Demosthenes' quotation is based on words uttered by Meidias, such a proud remark before the assembly might at first appear to be a flawed strategy for winning the favour of the audience. But insistently highlighting the contributions one had already paid for the good of the *polis* could also be a way to divert attention from the contributions one had evaded, or an implicit strategy to beg forgiveness with the excuse that one had already given enough.

This relates to a strategy of defence that we can reconstruct from the orators' hints at tax evasion. This strategy consisted of claiming that past fiscal commitment had been so burdensome that it had led to impoverishment. The supposed evader argued that he was unable to accept new duties after he had lost all (or a good part) of his property by bearing the costs of liturgies and taxes. It is from this perspective that we should interpret the words of Aeschylus in the aforementioned passage of Aristophanes' *Frogs* concerning the rich man who "wrapped in rags weeps and claims he is poor". We do not know how frequently the display of poor clothing before the court occurred, but the rhetoric of poverty was indeed often deployed in order to evoke the sympathy and the pity of the audience.<sup>38</sup> We find an echo of this rhetoric also in literary genres other than oratory. The anonymous author of the late fifth-century pamphlet *The Constitution of the Athenians* – a sympathiser of

36 Dem. 21.154–157. On the hostile feelings evoked by liturgy evasion in court speeches, see Sanders 2012, 376–379.

37 Dem. 21.153: εἰ μὲν ἔστιν, ὦ ἄνδρες Ἀθηναῖοι, τὸ λητοურγεῖν τοῦτο, τὸ ἐν ὑμῖν λέγειν ἐν ἀπάσαις ταῖς ἐκκλησίαις καὶ πανταχοῦ ἡμεῖς οἱ λητοურγοῦντες, ἡμεῖς οἱ προεισφέροντες ὑμῖν, ἡμεῖς οἱ πλούσιοι ἔσμεν, εἰ τὸ τὰ τοιαῦτα λέγειν, τοῦτ' ἔστιν λητοურγεῖν, ὁμολογῶ Μειδίαν ἀπάντων τῶν ἐν τῇ πόλει λαμπρότατον γεγενῆσθαι: ἀποκναίει γὰρ ἀηδία δῆπου καὶ ἀναισθησία καθ' ἑκάστην τὴν ἐκκλησίαν ταῦτα λέγων.

38 For a presumed case of display of poor clothing (perhaps rags) before the court, see [Dem.] 44.3–4. In general, on law-court "dramas", Hall (1995); on the rhetoric of seeing in court speeches, O'Connell (2017). On the portrayal of the defenceless in court speeches, Rubinstein (2013); on the rhetoric of poverty in Attic oratory, Cecchet (2015, 141–226).

oligarchy – refers to the impoverishing of rich Athenians as a phenomenon caused by the burdensome liturgies the *polis* imposes on them.<sup>39</sup> The Athenian citizen Charmides, in Xenophon’s *Symposium*, refers to himself as having been “a slave” of the *polis* when rich.<sup>40</sup>

But let us return to oratory. In the course of the fourth century, the portrayal of the “poor liturgist” had become a *topos*. The speeches of Demosthenes are particularly rich in self-portrayals of “poor liturgists”, including the author himself. In his second speech *Against Aphobus* (364/3 BC), Demosthenes explains: “I mortgaged my house and all my property, and paid the cost of the service in question [...]”.<sup>41</sup>

Demosthenes attacks here one of his legal guardians, Aphobus, who had fraudulently deprived him of his property after the death of his father. In this context, he mentions one of the liturgies he had undertaken when younger, which had been a very significant burden. Similarly, in the speech *Against Polycles* (delivered between 360 and 358 BC), the orator and wealthy liturgist, Apollodoros, highlights how he had been obliged to mortgage his property and run up other debts in order to perform the trierarchy:<sup>42</sup>

7: Having mortgaged my property and borrowed money, I was the first to man my ship, hiring the best sailors possible by giving to each man large bonuses and advance payments [...] 13: I mortgaged my farm to Thrasylochus and Archeneus, and having borrowed thirty minae from them and distributed the money among the crew, I put to sea...

Selling or mortgaging property in order to bear the costs of liturgies and *eisphorai* is a practice to which orators often refer. In the pseudo-Demosthenic speech *Against Evergus and Mnesilochus* (355 or 354/3 BC), the plaintiff describes how his opponents broke into his house to seize his property but found much less than they had expected:<sup>43</sup>

They thought to get, not so much merely, but far more, for they expected to find the stock of household furniture, which I formerly had; but

39 [Xen.] *Ath. Pol.* 1.13.

40 Xen. *Symp.* 4.32.

41 Dem. 28.17: ἀπέτεισα τὴν λητουργίαν ὑποθεῖς τὴν οἰκίαν καὶ τὰ μαυτοῦ πάντα, βουλόμενος εἰς ὑμᾶς εἰσελθεῖν τὰς πρὸς τουτουοὶ δίκας.

42 [Dem]. 50.7 and 13: [7] ὑποθεῖς δὲ τὴν οὐσίαν τὴν ἑμαυτοῦ καὶ δανεισάμενος ἀργύριον πρῶτος ἐπληρωσάμην τὴν ναῦν, μισθωσάμενος αὐτάς ὡς οἷόν τ’ ἦν ἀρίστους, δωρεὰς καὶ προδόσεις δούς ἐκάστῳ αὐτῶν μεγάλας. [13] ὑποθεῖς δὲ τὸ χωρίον θρασυλόχῳ καὶ Ἀρχένεῳ, καὶ δανεισάμενος τριάκοντα μνᾶς παρ’ αὐτῶν καὶ διαδοὺς τοῖς αὐταῖς, ψόχῳ ἀναγόμενος... Cf. Lys. 19.25–26: Demos, son of Pylilampes, takes a loan of 16 minae in order to pay a trierarchy. For a collection and discussion of cases, see Gabrielsen (1994, 146–172).

43 [Dem]. 47.54: ὦντο μὲν γὰρ οὐ τοσαῦτα μόνον λήψεσθαι, ἀλλὰ πολλῶ πλείω: τὴν γὰρ οὐσάν μοι ποτὲ κατασκευὴν τῆς οἰκίας καταλήψεσθαι: ἀλλ’ ὑπὸ τῶν λητουργιῶν καὶ τῶν εἰσφορῶν καὶ τῆς πρὸς ὑμᾶς φιλοτιμίας τὰ μὲν ἐνέχυρα κεῖται αὐτῶν, τὰ δὲ πέπρατα.

because of my public services and taxes and my liberality toward you, some of the furniture is lying in pawn, and some has been sold [...].

These stories might either show the dire case of “impoverished” rich Athenians or, more probably, they reflect a strategy of selling property in order to gain liquidity to realise other aims, such as profitable investments, or in order to make wealth “less visible”. In the first speech *Against Stephanus* (350/49 BC), Apollodorus accuses his opponent, Stephanus, of avoiding liturgies by hiding cash in the bank of Pasion:<sup>44</sup>

This course of action, involving so great disgrace, he has adopted, men of Athens, with a view to evading his duties to the state and to conceal his wealth, that he may make secret profits by means of the bank, and never serve as choregus or trierarch, or perform any other of the public duties which befit his station. And he has accomplished this object. Here is a proof. Although he has so large an estate that he gave his daughter a marriage portion of one hundred minae, he has never been seen by you to perform any public service whatever, even the very slightest [...].

In some other cases, orators refer to sales of land as a strategy to avoid liturgies and *eisphorai*.<sup>45</sup> In fact, the strongest proof of individual wealth in classical Athens – and in the majority of the Greek cities – was land ownership, despite the fact that Athenians could acquire wealth from a variety of sources and investments.<sup>46</sup> Lack of landed property could thus be advocated as proof of relative poverty among the rich, regardless of the fact that it might not have reflected economic poverty at all. The orator Aeschines in the speech *Against Timarchus* (346/5 BC) says:<sup>47</sup>

For the father, afraid of the special services [i.e. liturgies. L.C.] to which he would be liable, sold the property that he owned (with the exception of the items I have mentioned)— a piece of land in Cephisia, another in Amphitrope, and two workshops at the silver mines, one of them in Aulon, the other near the tomb of Thrasyllus.

44 [Dem]. 45.66: ταῦτα μέντοι τὰ τοσαύτην ἔχοντ' αἰσχύνην, ὧ ἄνδρες Ἀθηναῖοι, ἐπὶ τῷ τῆν πόλιν φεύγειν καὶ τὰ ὄντ' ἀποκρύπτεσθαι προήρηται πράττειν, ἵν' ἐργασίας ἀφανεῖς διὰ τῆς τραπέζης ποιῆται, καὶ μήτε χορηγῆ μήτε τριηραρχῆ μήτ' ἄλλο μηδὲν ὧν προσήκει ποιῆ. καὶ κατείργασται τοῦτο. τεκμήριον δέ: ἔχων γὰρ οὐσίαν τοσαύτην ὥσθ' ἑκατὸν μνάς ἐπιδοῦναι τῇ θυγατρὶ, οὐδ' ἠγνισοῦν ἐώραται λητουργίαν ὑφ' ὑμῶν λητουργῶν, οὐδὲ τὴν ἐλαχίστην.

45 Gabrielsen (1986, 99–114); cf. also Gabrielsen (1994, 53–60); on visible and invisible wealth, see also Ferrucci (2005, 145–169).

46 Harris (2002, 67–99); Taylor (2017).

47 Aesch. 1.101: φοβηθεῖς γὰρ τὰς λητουργίας ἀπέδοτο ἃ ἦν αὐτῷ κτήματα ἄνευ τῶν ἀρτίως εἰρημένων, χωρίον Κηφισιάσιν, ἔτερον Ἄμφιτροπήσιν, ἐργαστήρια δύο ἐν τοῖς ἀργυρεῖοις, ἓν μὲν ἐν Αὐλώνι, ἕτερον δ' ἐπὶ Θρασύλλῳ.

Indeed, we cannot know if Aeschines was right here about the motives for the sale of the property by Timarchus' father as such sales could also have served to obtain cash for profitable investments. Overall, it is difficult to assess how frequently wealthy Athenians sold property to avoid tax liability.<sup>48</sup> It was probably not widespread as land ownership remained a strong sign not only of economic wealth but also of prestige. Given also the paucity of land in Attica and the loss of Athenian land overseas after defeat in the Peloponnesian War, wealthy landowners would not easily sell their ancestral estates. The wealthy Phaenippus, whom the unnamed speaker of [Demosthenes'] oration 42 accuses of violating the rules in the procedure of *antidosis*, apparently preferred hiding the wood, wine and grain which were stored on his farm by providing false information in the inventory of his property and by making up debts (according to Demosthenes). But he certainly did not sell his large farm in order to conceal his wealth.<sup>49</sup>

What we know for sure is that wealthy Athenians did not suddenly become "poor" in the fourth century. And, despite the fact that some of them lost their overseas assets after 404 BC, fourth-century Athens was characterised by a thriving economy. The wealthy had multiple options for investing their money.<sup>50</sup> It is clear that in some cases orators are playing with the vocabulary and concept of poverty when describing fiscal oppression. In the speech *Against Leptines* (355/4 BC), Demosthenes warns against the arguments which might be used by his rival Leptines who in 356 BC had passed a law that cancelled all exemptions from liturgies:<sup>51</sup>

Well, perhaps Leptines might possibly try to distract you from this point by making the following argument: liturgies are now falling on poor men, but as a result of this law, the richest men will perform liturgies.

According to Demosthenes, Leptines would probably argue that exemptions from liturgies were contributing to the maintenance of – unjust – financial

48 Epigraphic documents provide evidence mainly of sales of public land (see Lambert 1997) and sales of confiscated property (*Agora XIX*, 58–60 and *Catalogue*), while *horoi*–security inscriptions attest to different kinds of mortgage (*Agora XIX*, 37–52). We know little about land transactions among private citizens in Athens, let alone the case of *hypothekai*. A related question concerns the existence of registers of private land in Athens; for discussion, Faraguna (1997).

49 According to the speaker, Phaenippus never performed a liturgy ([Dem.] 42.3). Violating the procedure of *antidosis*, he carried away stuff from his storehouses, namely, wine and grain ([Dem.] 42.2, 19 and 30), wood (42.9) and possessions from inside the house (42.26). He also made up debts (42.9 and 27–28).

50 See, for example, Aristarchos, in Xen. *Mem.* 2.7.2–12: after losing his land in the civil war of 404/3 BC, he set up a family business of wool working. For discussion, Taylor (2016, 267–269).

51 Dem. 20.18. Trans. Harris (2008): τάχα τοίνυν ἴσως ἐκεῖνο λέγειν ἂν ἐπιχειρήσειε Λεπτίνης, ἀπάγων ὑμᾶς ἀπὸ τούτων, ὡς αἱ λητουργίαι νῦν μὲν εἰς πένητας ἀνθρώπους ἔρχονται, ἐκ δὲ τοῦ νόμου τούτου λητουργήσουσιν οἱ πλουσιώτατοι...For comments on the passage, Kremmydas (2012, 216–217). Cf. Cecchet (2015, 213–214) and Canevaro (2016, 218–219).

pressure on the “the poor” (*penetes*). But the poor in question were still members of the liturgical class, i.e. Athenians with fortunes of no less than three talents! This “flexible” and exaggerated use of the label “poor” is based on the relative nature of the concept of poverty in discursive practice. Thus, a wealthy Athenian might comfortably describe all those who were below his level of wealth as poor (*penetes*). This discursive practice is widely attested also in private court cases (in particular in those concerning inheritance litigation), where it was aimed at evoking the sympathy of the jurors, many of whom had probably never performed a liturgy.<sup>52</sup>

But interesting for us here is the anticipated argument of Leptines, which referred to questions of (un)fair taxation. If exemptions from liturgies were maintained, the “poor” would have to bear their costs. This implies that if the “poor” in question were accused of evading taxes and liturgies, they would probably attempt to defend their position by pointing to exemptions from liturgies as a cause for inequity and excessive burden on their shoulders.

Demosthenes used a similar rhetoric strategy when he presented the liturgists as *penetes* (poor) in *On the Crown* (330 BC). In the following excerpt, Demosthenes reminds the audience of the law with which he had proposed the trierarchy of 340 BC:<sup>53</sup>

I saw, Athenians, that your fleet was falling apart, that while small payments left the wealthy practically untaxed, citizens of moderate and small means were losing their property, and further, that the situation was causing the city to miss opportunities. I proposed a law through which I compelled some, the rich, to assume their fair burden, stopped the unjust treatment of the poor, and brought about what the city most needed—armed forces ready for action.

The “unjust treatment of the poor” was the problem Demosthenes had identified in the previous trierarchy system. Recalling the situation prior to 340, he claimed that the wealthy had been left “practically untaxed”. Instead, those who lost their property were the citizens who were forced to sell or mortgage it. Reading between the lines, we can recognise the complaints of the liturgists who lamented losing “all they had”. It is not difficult to envisage

52 On the relative nature of the concept of poverty and the role of the reference group in discursive practice, see Cecchet (2015, 13–48); on the rhetoric of poverty in court speeches, see *ibid.*, 141–224.

53 Dem 18.102. Trans. Yunis 2005: ὄρων γάρ, ὧ ἄνδρες Ἀθηναῖοι, τὸ ναυτικὸν ὑμῶν καταλυόμενον καὶ τοὺς μὲν πλουσίους ἀτελεῖς ἀπὸ μικρῶν ἀναλωμάτων γιγνομένους, τοὺς δὲ μέτρι' ἢ μικρὰ κεκτημένους τῶν πολιτῶν τὰ ὄντ' ἀπολλύοντας, ἔτι δ' ὑστερίζουσιν ἐκ τούτων τὴν πόλιν τῶν καιρῶν, ἔθηκα νόμον καθ' ὃν τοὺς μὲν τὰ δίκαια ποιεῖν ἠνάγκασα, τοὺς πλουσίους, τοὺς δὲ πένητας ἔπαυσ' ἀδικουμένους, τῇ πόλει δ' ὅπερ ἦν χρησιμώτατον, ἐν καιρῷ γίγνεσθαι τὰς παρασκευὰς ἐποίησα. For sources attesting the contents of the law, see footnote 28 above.

how they replied to accusations of evading liturgies by pointing out their lack of means and by stressing the unjust character of the current system.

One last – and even more refined – example of this kind of rhetoric is contained in Demosthenes' speech *Against Androtion* (354 BC). Here, a certain Diodoros attacks Androtion, a wealthy Athenian who was in charge of collecting the arrays on an earlier *eisphora*. Diodoros claims that Androtion treated the *eisphora* payers who had defaulted their payments unfairly. He takes up their defence by presenting the audience with a set of rhetoric questions. The first reads as follows:<sup>54</sup>

And yet, men of Athens, what do you think when a poor man— or even a rich man who has spent a lot and is perhaps likely to be short of money in some way— either goes up over the roof to reach his neighbors or slips under his bed to avoid being physically seized and dragged off to prison? Or when he suffers the kind of indignities appropriate for slaves, not free men?...

Those who had no money, so the argument goes, should not be imprisoned or treated as criminals (as Androtion had done) because they defaulted on taxes (*eisphora*), particularly as these impoverished citizens were not the ones doing the real harm to the *polis*, as Diodorus suggests in his second question, which is fictively addressed to Androtion.<sup>55</sup>

Take two kinds of people: men who farm and are frugal but fall behind in paying taxes [*eisphorai*, L.C.] because they spend money on raising children or household expenses or other liturgies, and then men who steal money from those who wish to pay the tax and from our allies, then waste it. If someone asked him which group he thinks commits the greater crime against the city, he would certainly not be so bold (despite his utter shamelessness) as to claim that those who do not pay the tax on their own property commit a greater crime than men who steal public funds.

We here find a portrayal of Athenian liturgists and *eisphorai* payers as members of a middle class of small farmers, tilling their own land and, at the

54 Dem. 22.53. Trans. Harris (2008): καίτοι, ὧ ἄνδρες Ἀθηναῖοι, τί οἴεσθ' ὅπότ' ἄνθρωπος πένης ἢ καὶ πλούσιος, πολλὰ δ' ἀνηλωκῶς καὶ τιν' ἴσως τρόπον εἰκότως οὐκ εὐπορῶν ἀργυρίου, ἢ τέγος ὡς τοὺς γείτονας ὑπερβαῖνοι, ἢ ὑποδύοιθ' ὑπὸ κλίνην ὑπὲρ τοῦ μη τὸ σώμ' ἄλους εἰς τὸ δεσμοτῆριον ἔλκεσθαι, ἢ ἄλλ' ἀσχημονίῃ ἃ δούλων, οὐκ ἐλευθέρων ἐστὶν ἔργα...

55 Dem. 22.65. Trans. Harris (2008): εἰ γάρ τις ἔροιτ' αὐτὸν πότερ' αὐτῷ δοκοῦσ' ἀδικεῖν μᾶλλον τὴν πόλιν οἱ γεωργοῦντες καὶ φειδόμενοι, διὰ παιδοτροφίας δὲ καὶ οἰκεῖ' ἀναλώματα καὶ λειτουργίας ἑτέρας ἔλλειποῦτες εἰσφορᾶν, ἢ οἱ τὰ τῶν ἐβελησάντων εἰσενεγκεῖν χρήματα καὶ τὰ παρὰ τῶν συμμάχων κλέπτοντες καὶ ἀπολλύντες, οὐκ ἂν εἰς τοῦτο τόλμης δήπου, καίπερ ὦν ἀναιδῆς, ἔλθοι, ὥστε φῆσαι τοὺς τὰ ἑαυτῶν μὴ εἰσφέροντας μᾶλλον ἀδικεῖν ἢ τοὺς τὰ κοῖν' ὑφαιρουμένους.

same time, struggling to cope with the high financial pressure of liturgies and *eisphorai*. This picture is, largely, a distortion of reality. Demosthenes plays here with a real fact: as we mentioned in the beginning of this chapter, the *eisphora* was also levied from citizens who were less rich than those qualifying for liturgies. The threshold of 2,500 drachmae probably indicates the upper part of the middle classes. It thus by no means applied to the poor, as the above portrayal claims. Yet again, Demosthenes deploys the well-consolidated *topos* of the poor taxpayer. Rather than mirroring reality, this *topos* reflected the intensive debate about the criteria used for fiscal distribution among the wealthy and the arguments of those who claimed the existing system was unjust. The fact that Demosthenes' trierarchy law of 340 was finally passed confirms that the Athenians felt an urgent need to improve the system and concentrate fiscal pressure on the wealthiest stratum of the "liturgical class".

#### 1.4 Conclusion

This chapter attempted to reconstruct the defence strategies of presumed tax evaders based on information contained in court speeches. One chief strategy involved claiming impoverishment after bearing the costs of financial duties. Other arguments consisted of stressing the burdens individuals had carried in the past and indicating the unjust distribution of fiscal pressure among the different groups of the wealthy. This last argument was at the heart of an intensive debate concerning the criteria adopted in the distribution of financial duties. This debate culminated in several attempted or successful reforms of the *eisphora* and the trierarchy system in the fourth century. The reform measures were aimed at reducing fiscal pressure for the less wealthy and concentrating it on the very rich.

Whatever opinions wealthy Athenians might have had on liturgies and *eisphorai*, they never publicly questioned the very legitimacy of these institutions before the court or the assembly. Rather, the wealthy always had to come to terms with the audience they were addressing in public speeches. This audience consisted, largely, of middle and lower class citizens who had never performed liturgies or paid *eisphorai*, but who were aware of the importance of these contributions for the financial well-being of the city. One of the cornerstones of Athenian democratic ideology was that individual liberty was possible only within the limits of the civic obligations intended to preserve the common good of the city and the civic community. Carrying the burden of liturgies and *eisphorai* was, for the rich, one of these obligations.

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