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THE ISSUE OF JUDICIAL BINDING SPELLS IN CLASSICAL ANTIQUITY

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Abstract

People as part of an effort to promote different interests of the legal parties and aiming to steal a march on others, at times, are resorting to a number of practices; feeling weak and helpless to cope with what they perceive as strong supporting networks of their opponents, they resort to magical practices. Judicial spells (*κατάδεσμοι* in Greek) can be viewed in the light of an attempt to gain legal advantages in the court. It is, therefore, a popular practice that has survived throughout the centuries and consists of a manifestation of the fact that it carries a deep-rooted tendency towards large amounts of the archaic and classical population, who desire - in some way - to take the law into their own hands. One manner of sharing with these magical practices is to constitute a more general mistrust against the entire legal system and its components. Hence, the many people used the spells against their adversaries and their admirers as an attempt to gain as much as possible in the tribunal. In this way, spells take the form of atypical, resistant and are against the law practices; they take the form, rhetorical arguments which compete with the structure of the complex and possibly often uneven legal system.

Keywords: *magic, spell, litigation, trial, foe, revenge.*

Binding spells are magical practices and actions designed to harm or (less likely) prevent harm, with the aim to subjugate the potential victim to the will of the person performing the magic practice. The methodology of drafting a binding spell requires its author to integrate it into a set of concrete and systematic steps, so that this magical practice can work. So, there are two ways (kinds) or forms of binding spells. The "Tattling" and the "Tying". We are able to know that the practice followed in Greece during the archaic period and the classical antiquity is that one of the "tying". This completely contradicts the practice followed during Roman antiquity. In Roman antiquity, we often find binding spells in the form of "tattling" (*Defixiones*)⁹¹. The practice we call binding spell essentially refers to drawing a curse on a leaden plate and more rarely on other materials⁹². Archaeological excavations have shown that this practice was often accompanied by magic idols which have been found near the

⁹¹ From the verb "*defigere*" which means to tattle, but it also to hand over somebody to the chthonic forces.

⁹² A. Vakaloudes, "The evolution of magic in ancient Greece", *Magic in ancient Greece*, Athens 2008, p. 145.

spells⁹³. The text of the spell is placed along with the other magical objects usually placed in a tomb⁹⁴ or at a point that is considered to be somehow connected to the underworld. The binding spells are funeral findings from premature or violent deaths. These innocent dead were the best means of achieving the goals stated in the spells, and this is because their spirits are believed to be eager for any revenge, either by themselves, or by transferring the spell's message to the chthonic deities. So, this is how we understand that many spells were found in wells. Combining this fact to what has just been said, with the desire to connect this practice to the chthonic deities most often cited, we can draw some important conclusions regarding the role that these deities play in achieving justice.

Scholars have come to a quadruple distinction with regard to binding spells. At first, we can talk about theater rivalry, erotic rivalry, litigation and finally all kinds of corruption⁹⁵. Though, in the present research, we will mainly focus on the litigation cases.

The judicial binding spells

«Καταδῶ Εὐάρατον καὶ ὅσοι σύνδικοι καὶ Τελεσῖνον τὸν Ἰδιῶταν
καὶ τὴν ψυχὴν καταδῶ ἰδιώτου, γλῶτταν καὶ αὐτόν[...]»⁹⁶

("I spell on Evaratos, his representatives and on Telesinos and my spell on his soul, his tongue and himself...")⁹⁷

A judicial binding spell consists, according to the typology above mentioned, of a magical act designed to harm the author of the allegation or the witnesses, who are willing to testify against the author. It is constructive to report some neuralgic evidence related to the judicial binding spells.

First of all, it should be mentioned that especially in the classical period, judicial binding spells, do not support either justification or the name of the author. This will be done a little later with the so-called "prayers for justice", which will be discussed in more detail below. With regard to the lack of the author's evidence now, these types of spells can be interpreted if we look at them, not independently, but intrinsically in relation to the everyday life of the archaic and classical perceptions. We may find that in the author's claims, it is already known that there is a desire to harm the other party. But it is equally

⁹³ It is worth noting that we are not referring to "black magic dolls" (*Καταπασσαλεύσεις*), which are essentially wax representations of victim that were nailed down.

⁹⁴ H. Versnel, "Beyond Cursing: The Appeal to justice in judicial prayers", *Magica Hiera*, Oxford University press, New York 1991, p. 81

⁹⁵ Ibid, p.61

⁹⁶ *Corpus inscriptionum Atticarum, consilio et auctoritate*, Academiae Litterarum Regiae Borussiae, Vol. 4, Apud G. Reimerum, Berlin 1873, p. 52

⁹⁷ Free Adaptation into English

possible that the fear of a possible “identity-punishment⁹⁸” might somehow force the author to conceal his identity. It is clear that we are moving into the realm of popular superstition of the classical and archaic world. There is a very specific methodology when drawing up such a spell, while at the same time morphological, syntactically and lexically, the spells are similar to each other. The authors of the judicial spell even use the same “formulas” to introduce divinity as quickly as possible into the whole issue. Most scholars agree on the distinction of the four following types⁹⁹:

- i. The type of the direct binding.
- ii. The type of the praying spell.
- iii. The type of the desiring spell.
- iv. Similia similibus formula¹⁰⁰.

According to Archeology it has been initially believed that what is now called a “judicial binding spell” was in fact a revenge curse. A curse, which has been drawn up after the outcome of a trial, apparently by the losing party. This today cannot be accepted. As stated above, judicial binding spells are intended to remove the ability of the opposing party to think and speak clearly during the trial. A very important conclusion can be drawn here. Judicial binding spells deal with the victim's mental and vocal abilities. This is in stark contrast to any other type of curse or spell. As we shall see below, the author of the judicial binding spell aims to acquire the mind and language of the opposing party. The author does not care about his opponent's emotions or his ability to move (as he would if he was the author of an erotic or even a sports rivalry).

As part of an effort to promote the different interests of the parties and aiming for the ultimate success of the trial, the parties were likely to resort to a number of practices. Justiciary binding spells can be seen in the light of an attempt to gain legal advantages in the legal proceedings. The invocation of deities for the administration of justice and the ultimate punishment is in fact motivated by the absolute conviction that justice is first and foremost divinely inspired. It is therefore a popular practice that has survived for centuries and it consists of a manifestation of a deep-rooted tendency towards a large portion of the archaic and classical population who want - in some way - to take the law into their own hands.

They, thus, aim at a number of legal factors, usually at the opposing party as well as the eyewitnesses who support him.

⁹⁸ The researcher C. Faraone first introduced this case, giving it the term "Counter Magic".

⁹⁹ C. Faraone, *The agnostic context of Early Greek Binding Spells*, "Magica Hiera", Oxford University press, New York 1991, p. 5.

¹⁰⁰ Judicial binding spells apply more to the first and second type.

Typology of judicial binding spells

Judicial binding spells, as part of the more generic phenomenon of “magical commitment”, have particularly addressed the interest of classical philologists and archaeologists. For many years, in science, it has been argued that it would be more appropriate to develop a kind of typology within the phenomenon of the judicial binding spells. There is no doubt that the deliberate intention of the spell’s authors is the ultimate punishment of the opponent. But what matters here is the means, or more accurately, the way in which the authors’ claim will be achieved. As mentioned above, the points at which judicial binding spells attack are the language or the mind of the opposing party. So, in the first case, the term “muzzling” (*φιμωτικοί κατάδεσμοί* in Greek) is now accepted. It is precisely these links that attack the language of the opponent. In the other case we can talk about binding spells which attack the intellectual capacity of the other party.

An example of a muzzling spell:

(Free Adaptation into English) *“I spell on Siminiridis and his supporters to Hermes and to Persephone and to Lethi. I spell on his mind, his tongue, his soul and everything he does against me in connection with the trial that Siminidiris has initiated against me”*¹⁰¹.

It should be noted the fact that in the past, there has been some attempt for a further division of the judicial binding spells, according to the spells’ recipient. This has a particular value given the fact that many of these spells attack politicians. It is reasonable, of course, that such a distinction has not been accepted by scholars. This could be a result of many factors. Initially, a secure match cannot be caused between the names of the spells and the political figures. Then, the term “political binding spells”, if accepted, comes within the confines of the judicial spells sphere¹⁰². On the opposite, we can talk about bindings spells against witnesses and advocates. This is of special importance considering the judicial spells in the Hellenic period. These forms of spells have a much more illuminating content. This has, of course, to do with our increased knowledge on the legal regimes of the cities, in comparison to what happens during the archaic period.

¹⁰¹ A. Chaniotis, “Like the unjust curse. The archeology of a metaphor”, *Magic in ancient Greece*, Athens 2008, p. 52.

¹⁰² C. Faraone, *The agnostic context of Early Greek Binding Spells*, “Magica Hiera”, Oxford University press, New York 1991, p. 16.

A) *Binding spells against witnesses*

In most judicial binding spells, the author attacks the witnesses. Witnesses enjoy much of the spell author's attention, and this naturally reflects their importance in the eyes of the parties for the outcome of a case. It is worth mentioning that the Athenian men who had full political rights could testify as a watcher, while there are doubts as to whether women could bear witness. However, we should note that no judicial binding spells, attacks a female witness. It is worth to mention that witnesses testify about what they know, not as ear witnesses, but as eyewitnesses.

In the field of a great piece of judicial binding spells, we have been able to identify several which are targeting and attacking witnesses. For reasons of space economy, we shall present an indicative one, but morphologically syntax and meaningfully it is not a lot dissimilar than the other types of binding spells.

Found in the Daphne area in 1866:

*"ΑΡΟΣ Καλλ[ία]ς Εὐκτῆμονος
Χαραῖς Καλλίας ἐφ' ὑμῖν
Καλλία[ν] μάρτυρες ἡ δικασταί [...]"¹⁰³*

B) *Binding Spells against the "advocates"*

During our survey, we also found binding spells attacking the "advocates". Apparently, the writers of these spells are attacking the opponents' advocates. Subsequently all, as we shall see below, there is another group of judicial spells, which directly attacks the opponent.

For the safe of space of the present study, we intend to cite some of these kinds of binding spells. The first one was found in Athens in 1881 and directs against "Evaratos and his advocates".

*"Καταδῶ Εὐάρατον καὶ ὅσοι σύνδικοι καὶ Τελεσίνο[ν]
Τ[ὸ]ν Ἰδιῶτα[ν] καὶ τὴν ψυχὴν καταδῶ ἰδι[ώ]το[ν],
γλῶτταν κα[ὶ] αὐτόν[...]"¹⁰⁴*

(I spell on Evaratos and his proponents, I spell on him, his soul and his tongue)¹⁰⁵

Another binding spell from Attica, calls Hermes, presenting him with the predicate as "holder".

¹⁰³ *Corpus inscriptionum Atticarum, consilio et auctoritate, Academiae Litterarum Regiae Borussiae, Vol. 4, Apud G. Reimerum, Berlin 1873, p. 52*

¹⁰⁴ *Corpus inscriptionum Atticarum...*, p. 52.

¹⁰⁵ Free Adaptation into English.

« Ἑρμῆ κάτοχε,
 κάτεχε φρενας γλῶτ[τ]αν
 (τοῦ Καλλίου δέω)
 ἐναντίαν εἶναι Καλλίαν πρὸς Μικίωνα
 ὅτι ἂν εἴποι καὶ τοιαῦτα
 Καλλίου συνδίκους κατὰ Μικίωνος[...]»¹⁰⁶

(“Hermes, the holder, please keep his tongue, the one of Callias, as he stands against Mikion, whatever he or his advocates may say against Mikion”)¹⁰⁷

Another binding spell found on Piraeus Street in 1877, invites Hermes and Persephone (they are both chthonic deities¹⁰⁸) to intervene and assist the author of the spell:

“Ἑρμ[ῆ] καὶ Φερσεφ[ό]ν[η]
 τήνδε ἐπιστο[λ]ήν ἀποπέμπω
 ὅποτε ταῦτα ἐς ἀνθρώπο[υ]ς ἀμαρτωλοὺς φέρω αὐτο[ύ]ς
 Δίκη, τυχεῖν τέλο[υ]ς δίκης[...]»¹⁰⁹

(“Hermes and Persephone, this letter I send, so every sinner it can reach. The completion of the trial, shall it be”)¹¹⁰

And just at a lower place the author mentions:

«Λυσίμαχος, Φιλοκλῆς, Δημόφιλος καὶ σύνδικοι
 καὶ εἴ τις ἄλλος φίλος αὐτοῖς»¹¹¹

(Lysimachos, Philocles, Demophilos and advocates, and any other friend of theirs)¹¹²

C) Binding spells against advocates, judges and opponents

It is worth mentioning the fact that from our study we have found that several binding spells are attacking advocates. Of outstanding importance is a spell found, which includes an attack against judges. Thus, the corpus of judicial spells presents a variety with regard to the recipients of the curse. The spell's authors are trying to gain legal advantages and in order to achieve it; they may

¹⁰⁶ Ibid., p. 20.

¹⁰⁷ Free Adaptation into English.

¹⁰⁸ H. Versnel, *Beyond Cursing: The Appeal to justice in judicial prayers*, "Magica Hiera", Oxford University press, New York 1991, p. 64

¹⁰⁹ *Corpus inscriptionum Atticarum, consilio et auctoritate*, Academiae Litterarum Regiae Borussiae, Vol. 4, Apud G. Reimerum, Berlin 1873, p. 66

¹¹⁰ Free Adaptation into English.

¹¹¹ Ibid, p. 66.

¹¹² Free Adaptation into English.

include in their spells even their own judges. However, we suspect that the case of attacking against judges, may be one of the rarest cases of spells, after the completion of a litigation and it may be related to a negative conviction against the spell's author:

«[...]καὶ μετ' ἐκείνων μηνυτῶν καὶ τῶν δικαστῶν¹¹³»
 ([...] and along with these opponents and the judges)¹¹⁴

The binding spell quoted below is one of those that provide a more informative content. The writer talks about “opponents”, “rights”, “judges” and “justice”.

«Δέσποτα κάτοχε
 καταδηγύω Διοκλέα ὡς τὸ(ν) ἐμὸν ἀντίδικον,
 τὴν γλῶτταν καὶ τὰς φρένας καὶ τοῖς Διοκλέους βοηθοῖς
 πάντα καὶ τὸν λόγον αὐτοῦ καὶ τὰς μαρτυρίας καὶ τὰ δικαιώματα
 ἅπαντα τὰ παρασκευάζεται ἐπ' ἐμὲ καὶ κάτεχε αὐτόν
 ἅπαντα τὰ δικαιώματα Διοκλέους
 τὰ ἐπ' ἐμὲ παρασκευάζεται
 μὴ ἀνύσσαι τοὺς βοηθοὺς τοῦ Διοκλέους
 καὶ ἡττᾶσθαι Διοκλέα ἀπ' ἐμοῦ
 ἐν παντὶ δικαστηρίῳ
 καὶ μεθ' ἐν ἀντῆ Διοκλεῖ δίκαιον.¹¹⁵»

(Lord, holder, I spell on Diocleas, my opponent, I spell on his tongue and logic, on his assistant's speech and logic, I spell on his witnesses and his rights, on everything he spies against me, so his assistants never rise and so he fails in the court against me)¹¹⁶

¹¹³ Ibid, p. 75. J. Velissaropoulos, *Wishes, curses and justice*, Antikensor (*Αντικήνωρ*), Vol. 1, 2013. The elements which, according to Versnel, differentiate “judicial invocations” from common spells are: 1. The reference, *μνεία* in Greek (as a rule) to the name of the curse's recipient. 2. The justification of practicing the binding spell by reference to the injustice caused. 3. Certain binding spells include a claim for impunity of the spell's author, for possible effects of his act. 4. Other Gods are mentioned along with the chthonic deities. 5. To show respect to deities (references like: master, mistress or even friend). 6. They include pleading expressions such as «ίκετεύω», «βοήθει μοι», «βοήθησον αὐτῶ» etc. 7. Finally, a decisive element of judicial invocations is the plea of gods with the aim to punish (*κολάζειν*) the guilty, so their intervention will lead to justice.

¹¹⁴ Free adaptation into English.

¹¹⁵ Ibid, p. 62.

¹¹⁶ Free adaptation in English.

The Evolution of binding spells – “Prayers for justice”

Gradually, the practice of drawing judicial binding spells seems to have receded. Of course, it is very probable that this did not take place within a short period of time. There is evidence of yet another magical practice that could be seen as an extension of the judicial binding spells. It can as well be viewed as a completely independent practice compared to that of judicial binding spells. We execute, nevertheless, obtain some common components to the binding spells. The mien of this exceptional class of binding spells was first pointed out by the Dutch historian of ancient religion, H. Versnel, who evoked the term “prayers for justice” to pick out these magical texts from mere curses that do not hold an indirect justification. So here we have a common denominator. Both the author of the judicial binding spell and the author of a “prayer for justice” have as ultimate purpose the performance of justice, as well as the removal of some legal faults. The noticeable difference goes as follows: In the case of the “prayers for justice” there is inherent justification in the text, while in the judicial binding spells there are no justifications.

Some other major deviation is the morphology and style applied in these two forms of magical practices. As we have seen in the judicial spells case, it is prevailing the belief that justice must be protected by the deities, because justice is deeply divinely inspired, and this is the reason why the wording between them changes. In the binding spells cases, the verbs that “force” the gods to obey and execute the commandments of the spell are: “ξορκίζω σε” “καταδίδημι”, “καταδέω”, “δέω”, “καταγράφω”, “ανατίθημι”. In the prayers for justice, the author is very careful when referring to the opponent recipient of the message. The authors here downgraded themselves into a position of dependence on the gods, inviting them to intervene and punish their adversary. We could confront these new wordings according to the theories of politeness, that domain of linguistics today so called “Pragmatics”. In the judicial binding spell cases this is a lacking ingredient. The writer of a judicial spell considers as an obligation and duty of the deity to provide assistance. If the judicial spell works as a reminder, prayers for justice are considered a kind of supplication. As follows, we cite the text of a “prayer for justice” in liberal translation.

«Κύριε παντοκράτωρ, εσύ με δημιούργησες ,αλλά ένας κακός άνθρωπος με κατέστρεψε. Να εκδικηθείς τον θάνατο μου γρήγορα»¹¹⁷
 (Lord, the Almighty, you did create me, a bad though the person has destroyed me.
 Please soon take revenge of my demise)

¹¹⁷ Ibid, p. 66.

Binding spells and literature citations

There are quite many literature references which indicate that a poor performance in court by a talented orator, for example, could often lead to the charge that he had been the victim of a judicial binding spell. Aristophanes in "The Wasps" cites, for example, the sudden paralysis of the well-known speaker Thucydides, Melesios' son, during an important trial. Another case comes to us from Roman antiquity, from the late period of democratic Rome. Cicero states about a dissenting advocate who suddenly forgot about his case and lost. This unfortunate man later claimed that his poor performance was the result of magic (*Veneficiis et cantionibus*)¹¹⁸.

In late antiquity, orators continued to accuse magic for incidents like sudden memory loss and moments of unexplained fear and anxiety they experienced during their speech. Lebanios, in his autobiography, cites that at some point in his life he became seriously ill and was no longer able to read, write or speak in front of his students. They all blame the judicial binding spells for the bad situation they came into¹¹⁹.

Laws against binding spells

There is quite little evidence of legislation against magical practices, such as judicial binding spells. In Athens, for example, there was no law that directly deals with any form of magic, while in other areas such as in the northern coast of Ephesus, there was a ban on manufacturing harmful drugs. Regarding the whole spectrum of magical activities such as curses and spells, Greek law was inexplicably silent. Of course, it is not presumed that the lack of legislation indicates a lack of concern against magic, nor do we have a whole body of law upon which our statements could be based¹²⁰. Nevertheless, there is much indirect evidence that some types of magic were considered more harmful than others. That type of magic, which could potentially lead to the property's or individuals' harm, was certainly forbidden even if we weren't any body of law that would confirm our hypothesis¹²¹. Unfortunately, regardless how many legislative concerns we can find, they are usually consumed and converged on the use of pharmacy. Through oblique literary criticism and through Plato's work, we can of course trace references regarding magical practices such as binding spells¹²².

¹¹⁸ C. Faraone, *The agnostic context of Early Greek Binding Spells*, "Magica Hieria", Oxford University press, New York 1991, p. 16.

¹¹⁹ Ibid, p. 16.

¹²⁰ D. Collins, *Magic in the ancient Greek World*, Blackwell publishing, Oxford 2008, p. 135.

¹²¹ Ibid, p. 135.

¹²² Ibid, p. 139.

Conclusions

Regardless the anthropological inferences drawn from the practice of binding spell, there is an undoubtedly important, informative content about an overall understanding of both parties, in the classical era. One manner to dispense with these practices is to constitute a more generic distrust of the entire sound system and its components. The parties, feeling faint and helpless to make do with what they comprehend as the solid support networks of their opponents, resort to magical practices. Alternatively, we can study the binding spells, as a strategy developed by the parties throughout the territory. According to this second perspective, the law is not a dominant force with which one must passively comply, but becomes a social creation that can be manipulated in the altar of achieving the goals of the spell's author.

Thus, the parties are resorting to binding spells against their opponents and their supporters as an effort to gain every possible advantage in the court. In this way, spells become unorthodox and law-abiding practices, they become rhetoric courses that compete with the structure of a complex and possibly often uneven legal system. The practice of judicial binding spells has been hit hard by the growing consistency of the medical community of Athens, which has resisted against religious retreats. Hippocrates' works, such as "On Airs, Waters, and Places", are considered to be a hymn to rationality, and we should consider the "retreat" of the practice of binding spells according to a more general historical context. Across a study of Byzantine texts, we will find out that this practice did continue, during the Eastern Roman Empire. This can be proved by the words of M. Psellos, who cites that "tragic passions are tied together with a fine piece of wax or lead" (means demons), while Theodore Balsamon speaks of "wax figurines" which magicians used to leave inside the burial chambers.

References

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