Radosław Miśkiewicz

University of Warsaw, Poland
ROR: 039bjqg32
ORCID: 0000-0002-5788-1705
r.miskiewicz@uw.edu.pl

Anagrapheis ton nomon and the 'Evolving Law Reform' Against the Background of Athenian Legal Culture in Late 5th Century BCE

Gli *Anagrapheis ton nomon* e la 'riforma legislativa in evoluzione' sullo sfondo della cultura giuridica ateniese alla fine del V secolo a.C.

Abstract
The paper aims to reconstruct the procedures of the scrutiny of the laws (a vital part of the 'evolving law reform') in late 5th century BCE Athens, approaching them from a broader legal-cultural perspective that highlights the *anagrapheis tōn nomōn*'s vital role in revealing features of Athenian legal culture. I argue that the *anagrapheis* were neither mere transcribers of the laws nor officials vested with extensive legislative authority. Instead, their significance lay in the logistical challenges of finding, identifying and collecting laws during the preparatory step, before submission to the *Ekklēsia* for final approval. The *Anagrapheis*' works underscore not their individual relevance *per se*, but rather the broader complexity, flexibility, and importance of legal scrutiny itself for late 5th century Athens. Thus, contextualising their role within the 'evolving law reform' illuminates multiple aspects of Athenian legal culture – ranging from ways of legal thinking, to social attitudes toward legislation, as well as the materiality of laws and the logistical complexities of legal inquiries, such as the establishment of archives, or the ways of publishing laws. After briefly presenting the sources (II), and outlining Nicomachus' trial (III), I analyse the evidence to highlight key features of legal scrutiny, focusing on the *anagrapheis*' vital role (IV), and conclude each subsection by considering what this reveals about Athenian legal culture (IV). A broader examination of the legal scrutiny procedures, law reform complexities, and their connections to legal culture is presented in the final sections (V–VI).

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L'articolo si propone di ricostruire le procedure di esame delle leggi (parte essenziale della "riforma legislativa in evoluzione") nell'Atene della fine del V secolo, analizzandole in una prospettiva giuridico-culturale più ampia che evidenzi il ruolo fondamentale degli *anagrapheis tōn nomōn* nel rivelare le caratteristiche della cultura giuridica ateniese. Gli *anagrapheis* non erano né semplici trascrittori delle leggi né funzionari investiti di un'ampia autorità legislativa. La loro importanza risiede piuttosto nelle sfide logistiche di trovare, identificare e raccogliere le leggi durante la fase preparatoria, prima della presentazione all'*ekklēsia* per l'approvazione finale. Il lavoro degli *anagrapheis* non sottolinea la loro rilevanza individuale in sé, ma piuttosto la più ampia complessità, flessibilità e importanza dell'esame stesso delle leggi per l'Atene della fine del V secolo. La contestualizzazione del loro ruolo all'interno della "riforma legislativa in evoluzione" illumina quindi molteplici aspetti della cultura giuridica ateniese, che vanno dai modi di pensare il diritto agli atteggiamenti sociali nei confronti della legislazione, così come la materialità delle leggi e le complessità logistiche della ricerca dei testi giuridici, come la creazione di archivi o le modalità di pubblicazione delle leggi. Dopo aver presentato brevemente le fonti (II) e aver delineato il processo di Nicomaco (III), analizzo la documentazione per evidenziare le caratteristiche fondamentali del controllo giuridico, concentrandomi sul ruolo chiave degli *anagrapheis* (IV), e concludo ogni paragrafo considerando ciò che questo rivela sulla cultura giuridica ateniese (IV). Nelle sezioni finali (V-VI) viene presentato un esame più ampio delle procedure di controllo giuridico, delle complessità della riforma legislativa e delle loro connessioni con la cultura giuridica del tempo.

Keywords: Athenian law, law reform, scrutiny of the laws, legal culture, lawgiving, Solon, Solonian laws, Draco's law, *anagrapheis tōn nomōn*, trial of Nicomachus, trial of Andocides

Parole chiave: diritto attico, riforma legislativa, esame delle leggi, cultura giuridica, legislazione, Solone, leggi soloniane, legge di Draconte, *anagrapheis tōn nomōn*, processo di Nicomaco, processo di Andocide

I. Introduction[1]

[1] The article is funded by the National Science Centre, Poland under the project PRELUDIUM-21 entitled 'The Intellectual Background of the Law Reform in Late Fifth-Century BCE Athens', research grant no. 2022/45/N/HS3/02918. Numerous threads from this paper were debated in many academic forums. Especially, I thank the participants of the workshop at the University of Münster entitled *Consolidation of Law. Experiencing Ancient Documents* (29 Nov–2 Dec 2023) for their helpful comments. On various occasions, I also had the opportunity to discuss parts of this research with other scholars, namely Mirko Canevaro, Michele Faraguna, Claudio Simon Huayna Ávila, David Lewis, Eleni Volonaki, Marek Węcowski, Aleksander Wolicki, Oliver Zizzari – conversations with them were very stimulating for my ongoing research on this topic,

In the late 5th century,[2] the Athenians embarked on a landmark legal project to search, collect, scrutinise, revise, and republish all generally valid laws. A pivotal role in achieving this was performed by a specially constituted board of officials known as the *anagrapheis tōn nomōn*[3], whose work on the so-called 'the scrutiny of the laws' spanned the periods 410-404 (interrupted by the Thirty) and 403-399 (resumed after the restoration of democracy)[4]. Turbulent dynamics of the late 5th century, specifically the Peloponnesian War and two oligarchic coups, repeatedly reshaped the scope and direction of this legal effort.[5] The project thus evolved in response to shifting social, political, and institutional needs, as well as the logistical challenges of conducting legal scrutiny. The work of the *anagrapheis* was a vital part of the deeper legal developments of this period – 'evolving law reform', with its premises, working methods, and the legal-institutional framework that adopted the changing factors in late 5th century Athens.

So far, scholars have examined in detail the role of the *anagrapheis* in the scrutiny of the laws, beginning with the thesis of Paul Gantzer.[6] The studies

and I am grateful for them. Additionally, I would like to thank Jonathan Griffiths for proofreading the very first version of the text. Last but not least, I owe a particular debt of gratitude to Jakub Filonik, Janek Kucharski, Maria Nowak, Mariana Franco San Román, and Jakub Urbanik, as well as anonymous Reviewers, for helpfully revising and commenting on the draft of this paper. All remaining errors and shortcomings are mine and mine only.

[2] All dates are BCE unless otherwise noted.

[3] Throughout this paper, I will simply refer to them as *anagrapheis* (sg. *anagrapheus*). Moreover, the terms *Boulē* and the 'Council (of Five Hundred)', as well as *Ekklēsia* and the 'Assembly', are used interchangeably.

[4] Scholars differ in how they describe the outcome of the *anagrapheis*' work. The most common designations refer to a 'law revision' (Gantzer 1894; Oliver 1935; MacDowell 1962; Clinton 1982; Ostwald 1986; Natalicchio 1990; Sickinger 1999; Pébarthe 2006; Harris 2020); others prefer terminology closer to 'code' or 'codification' (Harrison 1955; Hansen 1990; Rhodes 1991); others: Robertson 1990 ('review and publication'), Volonaki 2001 ('the re-publication of Athenian laws'), Shear 2011 (the most often: 'reorganisation of the laws'). However, the 'scrutiny of the laws' best reflects the meaning of the verb *dokimazein* (Andoc. 1.82), meaning 'to test' or 'to scrutinise', and is directly tied to the revival of the project after 403 (thus, Carawan 2013; Joyce 2022; cf. Harris-Canevaro 2023, 17-18 – 'the *dokimasia* of the laws'). The term 'law reform' is also used occasionally to emphasise the broader scope of legal developments in this period, e.g., Todd 1996, 120-131; Canevaro 2015, 33-46.

[5] For the crisis as a determinant of constitutional-legal changes in the late 5th century, see Carugati 2019, 38-74.

[6] Gantzer 1894.

include the sacred calendar,[7] the republication of Draco's law on homicide[8], or Nicomachus' trial as the sole *anagrapheus* known by name.[9] Scholars have raised questions about the procedural aspects of the legal scrutiny, the chronology and scope of the *anagrapheis*' work, the format and location(s) of the published laws, and the impact of the oligarchic coups[10] – mainly focusing on 410-399. Despite recognising the two 'terms' of the *anagrapheis*' activity (410-404, 403-399)[11] and, thus, the 'stages' of the scrutiny of the laws, their work has rather been seen as a coherent whole, which has often led scholars to a 'stability trap', assuming that the range of tasks and procedures must have remained relatively similar throughout the entire period.[12] From a broader, though rarer, adopted perspective, scholars have also addressed questions concerning the origins of the law reform, the role of the *anagrapheis*, its effects, and its significance for the development of the Athenian legal order.[13] Yet most studies, with a few exceptions, have interpreted the remit of the *anagrapheis* as purely procedural, reducing their role to that of mere scribes.[14]

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[7] Dow 1953-1957; Dow 1960; Dow 1961; Lambert 2002; Fingarette 1971; Gawlinski 2007 (publication of a new fragment – Agora I 7577); see *CGRN* 45 (ed. by J.- M. Carbon).
[8] Stroud 1968; Gallia 2004; Pepe 2012, 7-78; Schmitz 2023, esp. 88-110 (with most recent bibliography).
[9] See Carawan 2010; cf. recently Oranges 2018 and Davis 2024 (yet, also with emphasis on the sacred calendar).
[10] On the latter, see the comprehensive approach set out in Shear 2011.
[11] The chronology of their terms is not obvious; see Rhodes 1991, 88-89; Todd 1996, 103 n. 5; cf. Dow 1960, 271-272, who argues for 411/0-404/3 and 403/2-400/399, and for the trial after terminating Nicomachus' office in 399/398; Ostwald 1986, 407 n. 249 opts for 411/410-405/404. See also n. 35 below.
[12] Some scholars have observed these factors but have not always elaborated on them; see Rhodes 1991, 91; cf. Harrison 1955, 30; MacDowell 1978, 46-47; Clinton 1982, 28; Robertson 1990, 53; Volonaki 2001, 149 n. 24; Shear 2011, 79-85; Oranges 2018, 59 n. 34.
[13] Todd 1996, 120-131; cf. Sickinger 1999, 94-105 (through the prism of the archive); Canevaro 2015, 1-43 (who discusses the tensions between the prevailing ideology of legislation that mistrusted legal change, on the one hand, and the pragmatic need for legal change, on the other hand, or what he calls 'tacit legal change'; on *anagrapheis*, *ibid*. 33-37); Dreher 2022 (considering the model of repealing laws); also Carawan 2013, 232-250, *contra* Joyce 2022, 98-107 (in the context of the amnesty, the latter interprets the pledge of μὴ μνησικακεῖν to mean that both sides agreed not to bring cases about the past to court; the former perceived it as only a promise to abide by the terms of the agreements concluded in 403 and later).
[14] See Robertson 1990, 45; Rhodes 1991, 92-93; Natalicchio 1990, 65; Oranges 2018, 67-76; Harris 2020, 155. On the broader remit of the *anagrapheis*, see Dow 1963, 38;

My primary aim, by contrast, is to reconstruct the procedures of the scrutiny of the laws (as a vital part of the 'evolving law reform'), approaching them from a broader legal-cultural perspective that gives more importance to the *anagrapheis*' role in describing certain features of Athenian 'legal culture'. I argue that the *anagrapheis* were neither mere transcribers of the laws nor officials vested with extensive legislative authority. Instead, their significance lay in the logistical challenges of finding, identifying, collecting and drafting laws during the preparatory stage, before submission to the *Ekklēsia* for final approval. The *Anagrapheis*' works underscore not their individual relevance *per se*, but rather the broader complexity, flexibility, and importance of legal scrutiny itself for late 5th century Athens. Thus, contextualising their role within the 'evolving law reform' offers valuable insight into multiple elements of Athenian legal culture – ranging from ways of legal thinking, to social attitudes toward legislation, ideology of legislation[15] as well as materiality of laws and the logistical complexities of legal inquiries, such as the establishment of archives, the use of media for law or the ways of publishing laws.

For 'legal culture',[16] I adopt Lawrence M. Friedman's definition: *those parts of general culture - customs, opinion, ways of doing and thinking - that bend social forces toward or away from the law and in particular ways*.[17] I also follow Roger Cotterrell, who perceives legal culture as *clusters of social phenomena: patterns of thought and belief, patterns of action or interaction, and characteristic institutions.*[18] This paper does not seek to impose a theoretical framework on the ancient evidence, but rather to explore whether such a perspective reveals patterns embedded in Athenian legal culture – particularly the relationship between *ways of doing* and *ways of thinking*. After briefly presenting the sources (II), and outlining Nicomachus' trial (III), I analyse the evidence to highlight key features of legal scrutiny, focusing on the *ana-*

Stroud 1968, 25; Todd 1996, 108; Volonaki 1998; Volonaki 2001, 144-145.

[15] I borrow the notion of the 'ideology of legislation' from Canevaro 2018 (also used in Canevaro 2015, 7).

[16] Though each definition of legal culture has its limits, the concept is seldom applied explicitly in studies of ancient law, with some exceptions: Hawke 2011, 4-21; Etxabe 2019, 1-19; Stolfi 2020. Cf. also recent work on Greek law and institutions in the New Institutionalism approach, e.g. Joyce 2022; Esu 2024.

[17] Friedman 1975, 15.

[18] See Cotterrell 2006, 88; R. Cotterrell is, however, critical towards L. Friedman's concepts (see *ibid*. 83-96); in particular, he stresses the vagueness of the notion and its components, including the definition of 'culture'.

grapheis' vital role (IV), and conclude each subsection by considering what this reveals about Athenian legal culture (IV). A broader examination of the legal scrutiny procedures, law reform complexities, and their connections to legal culture is presented in the final sections (V–VI).

II. Sources for the *anagrapheis tōn nomōn* and 'evolving law reform'

Lysias' *Against Nicomachus*,[19] Andocides' *On the Mysteries*,[20] and epigraphic evidence represent the primary sources for the 'evolving law reform'. The only certain result of the *anagrapheis*' work is a fragmentary inscription dated to 409/8 (*IG* I^3 104) – the decree with Draco's law on homicide.[21] The majority of scholars also link their work with other inscriptions dating to 410-399 (also very fragmentary), such as the law on the *Boulē* (*IG* I^3 105)[22] dated to ca. 409, and intensely debatable laws on the sacred calendar, which are mostly opisthographic.[23] Based on their content and, above all, the type of alphabet, the two Faces are dated as follows[24]: Face A, a text engraved in the Ionic alphabet, is dated to the II Stage of the *anagrapheis*: 404/3-400/399 (here we have one part of the sacred calendar *SEG* 52.48A), while Face B, which is written in the Attic alphabet, is thus dated to the I

[19] I follow the *OCT*'s edition of Carey 2007; translations are taken from Todd 2000. I used the commentaries: Edwards 1999 and Volonaki 1998 (I am grateful to Eleni Volonaki for granting me access to her PhD thesis).
[20] I follow the *OCT*'s edition: Dilts-Murphy 2018 and *On the Mysteries*' commentary: MacDowell 1962 (translation by D.M. MacDowell in Gagarin-MacDowell 1998).
[21] Stroud 1968, cf. *OR* 183A; Schmitz 2023 (Sol F2), and the latest edition of the text in Harris-Canevaro 2023.
[22] See *OR* 183B, found on the Acropolis (though J. Shear argues it was a 'walking inscription' originally displayed in the Agora: Shear 2011, 96; *contra* Lewis 1967, 132); cf. Boffo-Faraguna 2021, 108-113.
[23] Linking these inscriptions with the *anagrapheis* has been widely accepted, as in J.-M. Carbon's edition of the sacred calendar – *CGRN* 45; cf. Lambert 2002; *AIO* 1185, *AIO* 1189; also Dow 1960; Rhodes 1991, 89-90; Robertson 1990. M. Canevaro initially supported such an attribution (Canevaro 2015, 37-38), but later, with E.M. Harris, expressed greater caution (Canevaro-Harris 2016-2017, 43-45; cf. Joyce 2022, 105-107). Accepting *IG* I^3 105 and the opistographic inscriptions as products of the *anagrapheis* does not contradict M. Canevaro and E.M. Harris's view that Teisamenus' decree is inauthentic, and that these inscriptions were not created by the procedure it describes or formed part of a 'wall' – a position I share. I return to this issue when discussing the laws' location (below, 4.9).
[24] Lambert 2002, 355; cf. Shear 2011, 79-89.

Stage of the *anagrapheis*: 411/0-404/3 (in spite of the other part of the sacred calendar: *SEG* 52.48B, this Face also contains a law on trierarchy: *IG* I³ 236a; there is also a separate inscription in the Attic alphabet with a kind of tax law – *IG* I³ 237)[25]. Although the unpreserved prescripts cannot certainly prove that the *anagrapheis* produced these inscriptions (as *IG* I³ 104 does), their content, dates, and links with other sources have convincingly led the vast majority of scholars to such a conclusion.[26]

The main challenge is the inconsistencies in interpreting these sources, especially the decrees incorporated in the MS of Andocides. Until roughly the last decade,[27] studies barely addressed the doubts on the (in)authenticity of the decrees cited in MSS. The documents in *On the Mysteries* are especially relevant in this paper.[28] Mirko Canevaro and Edward M. Harris have argued that Teisamenus' decree (Andoc. 1.83-84) is not a genuine document but a later forgery. In their view, many such fabrications may have originated in schools as rhetorical exercises, possibly during the Second Sophistic[29]. Yet, Mogens H. Hansen and Edwin Carawan argued for their genuineness[30]. Indeed, several inconsistencies can be explained by elim-

[25] Though found on the Acropolis, these are linked to the legal scrutiny, as the same hand is identified as in *IG* I³ 236a (Lambert 2002, 355 n. 12, 360, 391, after D. Lewis); both transl. by S. Lambert (*AIO*).

[26] For a comprehensive epigraphic and archaeological perspective, considering all of the inscriptions mentioned above as *anagrapheis*' work, see Shear 2011, 79-97. For the sacred calendar, see above n. 23. For *IG* I³ 105, this is acknowledged in: *OR* 183B, *AIO* (s.v. 'Laws about the Council of 500', n. 1); Rhodes 1991, 89-90; Robertson 1990, 56; Boffo-Faraguna 2021, 108-109 with n. 32 (the stele with *IG* I³ 105 seems to have a similar size to *IG* I³ 104).

[27] On the history of this research, originating in the 19th century and based on documents in the *Corpus Demosthenicum*, see Canevaro 2013a, 3-7 (incl. a chapter by E.M. Harris; on the stichometric method, *ibid*. 10-27). As the decrees in *On the Mysteries* are not stichometrically marked, see criteria for inauthenticity in Canevaro-Harris 2012, 98-100; cf. Scafuro 2016, 75 (the review of Canevaro 2013a) on general non-stichometric methods.

[28] Canevaro-Harris 2012 analyse the decrees of Patrocleides (Andoc. 1.77-79), Demophantus (Andoc. 1.96-98), and minor legal citations (e.g. Andoc. 1.85, 87), all deemed inauthentic. Sommerstein 2014 agrees on Patrocleides, Teisamenus, and the minor laws, but defends Demophantus (*contra* Harris 2015).

[29] For detailed analysis, see Canevaro-Harris 2012, 110-116; Canevaro 2013a, 337-338.

[30] However, there has recently been greater acceptance of M. Canevaro and E.M. Harris's stand, e.g., Simonton 2020; Boffo-Faraguna 2021, 152, 208; Joyce 2022; see also Canevaro-Harris 2016-2017, 10 n. 3 mentioning others supporting their point, such as N. Luraghi, M. Novotny, L.F.T. D'Ajello, S. Halliwell, M. Könczöl, and C. Pébarthe; also Dilts-Murphy 2018, *ad loc* and Dreher 2022, 23. On authenticity of

inating this decree from the analysis.[31] Ultimately, a clear stance remains indispensable in this debate. Given the above, it seems methodologically safer to avoid relying on the decrees in Andocides' *On the Mysteries*.

III. The trial of Nicomachus – a glimpse into the nature of the *anagrapheis*' office

The turn of the 5th and 4th centuries saw an increase in well-known trials with an evident political motivation.[32] Despite the amnesty covenant, which aimed at preventing further *staseis*, the desire for revenge against political opponents was still immense in 5th century Athens. As a result, several famous trials, such as that of Socrates (399)[33], Agoratus (399)[34], Nicomachus (399)[35], and Andocides (likely 400),[36] occurred at the turn of the century. Despite the legal angle, our sources on the law reform should also be read against this political backdrop, as they reflect the nature of emotions of the time. This is particularly true of the charges against Nicomachus. Even if building a general view of *anagrapheis* based only on this man's activities could be misleading, his case gives us some insights into the 'character of the office' as a whole.

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the decrees: Hansen 2016; Hansen 2017 (accepts the *ep' andri* law in Andoc. 1.87); *contra* Canevaro-Harris 2016-2017; Carawan 2017 (decrees derive from a 4th century compiler, Craterus); *contra* Harris 2021 (rejects this since most of the documents, which Craterus was working on, date 480-410). M.H. Hansen's view acknowledged by Oranges 2018, 61 n. 39; Lasagni 2018, 241-242; Schmitz 2023, 8-10.

[31] Most scholars discussed it before (!) the debate on (in)authenticity and sought to explicate the inconsistencies, mostly by arguing in favour of the superior reliability of the decree; see Harrison 1955, 30-33; MacDowell 1962, 194-199; Sickinger 1999, 99-100; Rhodes 1991, 95-100; Robertson 1990, 62-63; Volonaki 2001, 159-163 n. 48. For explanations which reject the decrees, see Joyce 2022, 124; cf. also Dreher 2022, 23, n. 51.

[32] On the period's political agenda, see Todd 1996, 115-120; Joyce 2022, 129-142; Carawan 2013, 115-138. Despite political enmity, Davis 2024, 283 stresses a third possible motive against Nicomachus: the loss of benefits and status (families involved in sacrificial offices might lose emoluments if sacrifices were reduced).

[33] See Joyce 2022, 170-189, with the most recent bibliography.

[34] See *Against Agoratus* (Lys. 13.12 vis-à-vis Cleophon's case); Todd 1996, 117-119.

[35] As per the date of the speech, either 400/399 or 399/8 is accepted; it depends on the interpretation of Lys. 30.2, 4. via the peculiarities of the Athenian calendar and their implications for chronology, either inclusively or exclusively; see Todd 1996, 103 n. 5, cf. Dow 1960, 271-273; Ostwald 1986, 407; Rhodes 1991, 88-89.

[36] MacDowell 1962, 11-15 (who dates the trial to 400, which means that it would predate the trial of Nicomachus).

Although the title of the speech in the manuscript (κατὰ Νικομάχου γραμματέως εὐθυνῶν κατηγορία)[37] points to a prosecution at the audit of magistrates (*euthynai*), the exact charge against Nicomachus and the type of the procedure are not commonly agreed[38]. It has been suggested that it might have been an *eisangelia* (as described in *Ath*. *Pol*. 45.2: the so-called '*eisangelia* to the Council', to use Mogens H. Hansen's classification).[39] The *euthynai*[40] seems, however, a preferable interpretation; assuming that the procedure of the private accusation took place during the audit of *euthynoi* (as *Ath*. *Pol*. 48.4-5), we can be rather sure that Nicomachus must have undergone earlier, at least, the financial audit before the *logistai*. Hence, the prosecutor brought vague charges (various allegations are given in Lys. 30.2-5, 9-15, 28) without evoking in the text of the speech any particular law which Nicomachus would have broken[41]. Unfortunately, we do not know the result of the trial.[42]

The evidence suggests that Nicomachus underwent *euthynai* at some

[37] Later summaries and titles of speeches often relied on the speech content, leading to errors – such as calling Nicomachus a *grammateus*; see Rhodes 1991, 89 n. 14; cf. Todd 1996, 104 n. 6; Oranges 2018, 60.

[38] See Carawan 2010, 85-87 n. 41 and 44 (who suggests a *graphē paranomōn*; the prosecutor would initiate proceedings by *hypomosia*, before the Council or the Assembly).

[39] See Hansen 1975, 23, 116-117; Edwards 1999, 155-159. Todd 1996, 104-106, leans toward *eisangelia*, although he acknowledges uncertainty; he also considers *graphē alogiou* (cf. Oranges 2018, 58 n. 29). '*Eisangelia* to the Council' allowed impeachment for official misconduct (Lys. 30.7: ἐν τῇ βουλῇ), followed by referral to a court (Lys. 30.1: ὦ ἄνδρες δικασταί); on the explanation of the *Boulē* in Lys 30.7, see Harris-Esu 2021, 87; cf. Oranges 2018, 56. Recently on *eisangelia*, see Harris-Esu 2021 (with reinterpretation of Hansen 1975).

[40] On Athenian *euthynai*, see Efstathiou 2007; cf. Oranges 2021. The procedure comprised two stages: first, a financial audit by ten *logistai*, with possible charges (*Ath*. *Pol*. 54.2); Oranges 2018, 55-56, revisiting Robertson 1990, 71-72, argues that Nicomachus was accused of *adikion* (maladministration) at this point. Second, *euthynoi* examined broader misconduct (*Ath*. *Pol*. 48.4-5), and any citizen could bring charges within 30 days. Written accusations were passed from *euthynoi* to *thesmothetai* and then to a relevant tribunal. Harris-Esu 2021, 79-80 (*contra* Hansen 1975, 116-117) locate Nicomachus' charge here, based on Lys. 30.5.

[41] This does not mean the specific law underpinning the accuser's case was not specified at the trial's indictment, as this was a central principle of Athenian law (see, e.g. Harris 2013b). Yet, the text of the speech reveals that the accuser did not request the reading of any particular law, summoning only witnesses (Lys. 30.20).

[42] Some scholars have tried to prove that Nicomachus failed the trial, see Robertson 1990, 75; also more recently Carawan 2010; *contra* Davis 2024, 274, 284-285.

point during his office, either during Stage I or at the end of his term (Stage II), therefore exempted from annual control (Lys. 30.3, 5, 29).[43] One may assume that, since the *anagrapheis* held the status of *archai*, they were subject to administrative control, and that *euthynai* might have been required upon the completion of the scrutiny of the laws. This, however, did not occur quickly, due to political interruptions and other challenges the *anagrapheis* may have encountered.[44] Nicomachus held his office between 410 and 404, and then, after the Thirty, he was reappointed under the restored democracy in 403 until 399 (see more below). Indeed, the legally prolonged term of Nicomachus suggests that his work met with general approval in democratic Athens. The office of the *anagrapheis* was unusual and almost without precedent for such a complex task[45], which may explain why the Athenians introduced exceptional provisions for this office, including *euthynai* (cf. Lys. 30.29).[46]

The oligarchic associations of the prosecutor are rather apparent (cf. Lys. 30.7) and recognised by vast majority of the scholars. Although he charged Nicomachus with such political leanings, the situation was probably *vice versa*, as pointed out convincingly by Sterling Dow for the first time: Nicomachus must have been associated with the democrats, while the accuser belonged to the oligarchs, which is mainly proved by the fact that he was re-established as *anagrapheus* by the resurrected democracy

[43] Lys. 30.3: 'The city had been reduced to utter disaster before he gave up his office and agreed to submit accounts' (ἀλλὰ πρότερον ἡ πόλις εἰς τὰς μεγίστας συμφορὰς κατέστη, πρὶν τοῦτον ἀπαλλαγῆναι τῆς ἀρχῆς καὶ τῶν πεπραγμένων εὐθύνας ὑποσχεῖν). Interpretations vary: Stroud 1968, 25 n. 29, and Ostwald 1986, 122 argue that Nicomachus was excused from annual *euthynai*; others suggest he underwent it during Stage I – see MacDowell 1962, 197; Clinton 1982, 29; Todd 1996, 109; Volonaki 2001, 151; Shear 2011, 74; Blok 2017, 82; Oranges 2018, 58-60; Esu-Harris 2021, 86-87; Davis 2024, 275. *Contra* Rhodes 1991, 89 and n. 12 (only final *euthynai* in 399); Carawan 2010, 82 (he was exempt as he was not a proper *archōn* but an employee).

[44] Cf. Rhodes 1991, 89.

[45] On the possible relevance of the *anagrapheis* or *syngrapheis* mentioned during the first oligarchic coup (*Ath*. *Pol*. 29.2, 30.1-2, using only the participle τοὺς ἀναγράψοντας) for understanding the *anagrapheis* of 410–399, see Volonaki 2001, 141-144. M. Ostwald (Ostwald 1986, 407-408, 414-416) argued that the *anagrapheis* continued drafting constitutions until 404, guided by *syngrapheis* possibly appointed during the coup (cf. *Ath*. *Pol*. 29.2). M. Ostwald's view is not widely accepted, see Volonaki 2001, 143-144; Rhodes 1991, 88-89; Robertson 1990, 52 n. 25; Sickinger 1999, 228 n. 23.

[46] Perhaps, the *Ekklēsia* was even involved in the renewal of this office – see Efstathiou 2007, 127 n. 47.

in 403.[47] Moreover, during the rule of the Thirty, he did not even reside in the city, a fact the accuser could not refute (Lys. 30.15). Supporting his allegations, the accuser referred to the case of Cleophon (opponent of the oligarchs[48]), which concluded with the death penalty in ca. 405 (Lys. 30.9-14), in which Nicomachus was blamed as he had 'presented' (*apodeiknynai*: Lys. 30.11) the appropriate law. I read this, however, as a slanderous interpretation of his activity, considering that he was doing his tasks as required.[49]

Regarding further political innuendos, in Lys. 30.11, the accuser uses the verb *systasiazein*, which suggests that he was part of some political faction (*stasis*). Furthermore, a close reading of the speech shows that Nicomachus' accuser was not acting alone in the trial (Lys. 30.1, 34-35), but the defendant may also have had his *synēgoroi*.[50] All of the above supports the view that significant strife existed among various political groups, with tensions dating back to the late 5th century. Nicomachus, as a prominent figure likely associated with democratic sympathies, appears to have been involved in these dynamics as well.

Although Nicomachus' general work was approved (re-established at the office in 403), there is even more evidence that presents him as a contentious figure. Assuming that the same Nicomachus is meant,[51] one may find traces of such a controversy in Aristophanes' *Frogs*, performed at the Lenaia in 405. In one of the scenes, Hades advises some Athenian political

[47] Dow 1960, 291; cf. Todd 1996, 115-117. Carawan 2010, 89-90 (rejecting the emendation in Lys. 30.8 to 'Four Hundred and Five Thousand') argues the prosecutor was one of the Three Hundred, linked to the Thirty (cf. *Ath. Pol.* 35.1), and suggests opposition came from aristocrats returning from Eleusis in 401/0; *contra* Joyce 2022, 101-102; accepted by Davis 2024, 282 n. 43, 284.

[48] On Cleophon, see further Baldwin 1974.

[49] I return to this passage below in 4.1.

[50] Suggested already by F. Blass and more recently accepted by Rubinstein 2000, 38; more sceptical Todd 1996, 114. The speech was likely a *deuterologia*, elaborating key arguments and drawing the judges' attention to issues warranting further emphasis; cf. Oranges 2018, 51-52 n. 6 and 54-55 n. 8-9. Moreover, it remains uncertain whether the Nicomachus named in a *defixio* from the Kerameikos (dated ca. 400), listed alongside other prominent individuals involved in a trial, is to be identified with the *anagrapheus* from Lys. 30. Some scholars support this association (see Gager 1992, 127-129 no. 41; cf. Hansen (H.) 1990, 2-4; Costabile 2000, 75-84; Schmitz 2023, 5 n. 11).

[51] See PAA 716230; cf. the prosopographical overview of the name Nicomachus, Hansen (H.) 1990, 1-4. Even if without doubt, generally, this identification is accepted by most scholars.

figures, including Cleophon and Nicomachus, to commit suicide (Ar. *Ran*. 1500-1507).[52] As Annabella Oranges[53] observed, Aristophanes condemns the presence of many *hypogrammateis* in the city (cf. Lys. 30.28), who are 'accused' by him of constantly deceiving the people in another scene, preceding the latter (Ar. *Ran*. 1083-1086). It is tempting to include Nicomachus and other *anagrapheis* in this collective portrait. However, one should still remember the character of such a genre: Aristophanes is particularly keen on mocking democratic politicians. So even if we can detect social criticism towards officials such as *anagrapheis*, it is intriguing that the (likely oligarchic-oriented) accuser seems angry at the judges (who broadly represent the Athenian *dēmos*) because they had appointed via election (not sortition)[54] such a bad man as Nicomachus to serve an office (Lys. 30.28-29). In this passage, he is mentioned alongside Teisamenus, son of Mechanion, a prominent demagogue of the late 5th and early 4th centuries, as recently argued by Matt Simonton[55]. Given all the above, Nicomachus emerges not merely as an anonymous citizen performing clerical duties. Instead, he was a politically and socially recognised figure, which likely facilitated his democratic election as an *anagrapheus*.

As for Nicomachus' social background, Lys. 30.2 (cf. 30.5-6, 27, 29) describes him as the son of a *dēmosios* (state slave) – a common rhetorical topos aimed at undermining an adversary's citizenship. Yet his role as a liti-

[52] Myrmex is mentioned alongside Cleophon and Nicomachus (though Myrmex is otherwise unknown); cf. Baldwin 1974, 37. Notably, Aristophanes calls Nicomachus and Myrmex *poristai*, likely referring to a financial office linked to provisioning, although the details remain unclear (cf. Antiph. 6.49; see Simonton 2020, 15). If accurate, this would imply Nicomachus held two offices simultaneously, which would have been very unusual.

[53] Oranges 2018, 77 n. 90.

[54] Lys. 30.29: 'And finally, you have chosen Nicomachus to write up the ancestral [regulations] (...)': καὶ τὸ τελευταῖον Νικόμαχον εἵλεσθε ἀναγράφειν τὰ πάτρια (...). J. Blok notes that αἱρεῖν can generally mean 'to appoint' or 'select' (esp. when method unspecified); see Malkin-Blok 2024, 383 n. 330. Yet J. Blok's doubts, based on Arist. *Pol*. 4.1300a8-b5, overlook that Aristotle distinguishes αἱρεῖν (to select via election) from κληροῦν (to select via sortition). In Lys. 30.28-29, the accuser blames the Athenians for knowingly electing Nicomachus (even contrasting him with lawgivers like Solon). Similarly, Andoc. 1.82 contrasts κληροῦν for the *Boulē* with αἱρεῖν for *nomothetai* (cf. *Ath*. *Pol*. 30.1: board of 100 elected – αἱρεῖν – by the Five Thousand). I am grateful to Claudio Simon Huayna Ávila for the remarks on this point.

[55] See Simonton 2020, 1-10. On Teisamenus, see more below n. 60-61.

gant confirms he was a citizen by the time of the trial. While many *dēmosioi* held administrative and archival positions in Classical Athens (*Ath. Pol.* 47.5, 48.1), recent scholarship shows that free citizens also performed such roles.[56] Moreover, in both Greece and Rome, we can identify families that appear to have inherited specialised knowledge in particular professions (e.g. heralds)[57]. The election of *anagrapheis* like Nicomachus (Lys. 30.28-29) suggests that they were expected to possess not only standard clerical skills but also concrete experience and expertise necessary for carrying out their duties.

To sum up, the *anagrapheis* were almost unprecedented in Athens for such a complex endeavour. The new project of scrutinising the laws, with its exceptional legal challenges, required special rules for those officials (like those for their *euthynai*). The *anagrapheis* were elected, so they featured the necessary skills and experience (not just clerical). They were likely to be people closely associated with democracy (as the 'law reform' was a democratic project), recognisable among the Athenian public, and therefore potentially controversial; some, such as Nicomachus, were also involved in the current political network. It makes Nicomachus, and likely other *anagrapheis*, not random citizens, but meaningful public figures that belong to one of the aspiring groups of 'secretarial experts' that Aristophanes sharply satirised at the time.

IV. The *anagrapheis* and the Athenian legal culture

It has often been observed that there was a paramount shift in 404/3 when the Thirty interrupted the work of the *anagrapheis* and overthrew the Athenian democracy; this is why scholarship frequently discusses the first (410-404) and the second (403-399) 'terms' of the office separately, by dividing the period of the scrutiny of the laws. This is accurate, but this division was not premeditated. Rather, it was a forceful intervention

[56] See Volonaki 1998 *ad* Lys. 30.2. On Nicomachus within the context of state slaves, see Ismard 2015, 109-110 and the critical review of this book by Hansen 2019a, 342-343 (who treats the discussed passages on Nicomachus' slave origins only as slanders); cf. Pébarthe 2015 (also review). I would like to thank one of the Reviewers for rethinking this aspect.

[57] In Athens, we also have the *hyperetai*, the assistants to the officials (for example, some military personnel). In the mid-4th century, the *hyperetēs* was (also) a minor council official (see more Abbott 2012, 83-84). I am grateful to Aleksander Wolicki for bringing this context to my attention.

in the work of the *anagrapheis* (hence, perhaps the terms 'stages' describe it better).

The accuser claimed that Nicomachus had prolonged the stages of the office: in Stage I for six years, which was supposed to be finished in four months (Lys. 30.2), and in Stage II for four years, instead of thirty days (Lys. 30.4). This may indicate that the public expected a quick and efficient completion of the project, yet the reality turned out to be quite different. I will not focus on a division of the *anagrapheis*' work into Stages I and II. Instead, I will highlight the features of these procedures from a synchronic perspective and potentially underline their diachronic (!) facets from this approach. Ultimately, after 404, the project evolved into a law reform, so I will address this juncture separately, focusing on a vital feature of this procedure – flexibility.

Most scholars agree that Nicomachus held the office of *anagrapheus tōn nomōn*.[58] Addressing him with *nomothetēs* (Lys. 30.2, 27) or *hypogrammateus* (Lys. 30.27)[59] was likely ironic or simply derogatory.[60] Moreover, *IG* I^3 104 informs us that the office was collegial, so Nicomachus did not operate alone, even though the accuser intends to give such an impression. We do not know, however, the number of *anagrapheis*.[61]

[58] Lys. 30.2, 25 against *IG* I^3 104, ll. 5-6; moreover, the prosecutor repeatedly uses the verb *anagraphein*: Lys. 30.2, 4, 19, 20, 21, 25, 29.

[59] An office of *hypogrammateus* is attested for the end of the 5th century (*IG* I^3 476, l. 268); see more in *OR* 181B.

[60] Thus Harrison 1955, 29; Rhodes 1991, 92; Robertson 1990, 52; Todd 1996, 104; Volonaki 2001, 145; Pébarthe 2006, 135 n. 147; Schmitz 2023, 6 *contra* Hansen 1990, 68-69, also Oranges 2018, 61-82, who suggests that Nicomachus was *nomothetēs* after the overthrow of the Thirty in 403. This assumption relies on, among other sources, Lys. 30.28, where a certain Teisamenus appears (see note below), and the recognition of the decree of Teisamenus as authentic. Indeed, all these terms appeared in late 5th century Athens in legal and administrative contexts; see Volonaki 2001, 141-146; cf. Stroud 1968, 20-28.

[61] There have been attempts to identify the *anagrapheis* with the activity of the 'Twenty' mentioned by Andocides (Andoc. 1.82), the *scholion* to Aeschin. 1.39 (it is quoted below, n. 91) and in Poll. 8.112; see Stroud 1968, 25 n. 24. In Lys. 30.28, the accuser rhetorically insults a certain Teisamenus, son of Mechanion, who would perform the same tasks as the *hypogrammateis* (trying to act as *nomothetēs*). Therefore, some scholars have tried to identify this figure with Teisamenus from the alleged decree in the speech of Andocides; Edwards 1999, 172; cf. more recently Oranges 2018, 77 n. 90; cf. MacDowell 1962, 198; Volonaki 2001, 158; see also Hansen (H.) 1990, 4-6. From the other perspective, recently M. Simonton argued that we can infer that Teisamenus would be rather *anagrapheus* like Nicomachus, see Simonton 2020, 4-5.

The tasks of the *anagrapheis* are explained in the prescript of Draco's homicide law (*IG* I^3 104, ll. 1-10)[62]:

1a Θ] E O [I
1b Διόγν[ε]τος Φρεάρριος ἐγραμμάτε[υε]·
Διοκλε͂ς ἔ͂ρχε·
ἔ͂δοχσεν τε͂ι βουλε͂ι καὶ τοῖ δέμοι· Ἀκα[μ]αντὶς ἐπ[ρ]υτάνευε, [Δ]ιό[γ]-
νετος ἐγραμμάτευε, Εὐθύδικος [ἐ]πεστάτε, ..Ε…ΑΝΕΣ εἶπε· τὸ[ν]
5 Δράκοντος νόμον τὸμ περὶ το͂ φό[ν]ο ἀναγρα[φ]σά[ν]τον οἱ ἀναγραφε͂-
ς τὸν νόμον παραλαβόντες παρὰ το͂ β[α]σ[ι]λέ[ος με]τ[ὰ το͂ γραμμ]ατέο-
ς τε͂ς βουλε͂ς ἐστέλει λιθίνει καὶ κα[τ]α[θ]έντ[ον πρόσ]θε[ν] τε͂ς στο-
ᾶς τε͂ς βασιλείας· οἱ δὲ πολεταὶ ἀπομι[σθο]σ[άντον κατὰ τὸν ν]όμο-
ν, οἱ δὲ ἑλλενοταμίαι δόντον τὸ ἀρ[γ]ύ[ρ]ι[ον]. vac.
10 προ͂τος ἄχσον. (…)

1a Gods.
1b Diognetos of Phrearrhioi was secretary.
Diokles was archon.
The Council and the People decided. Akamantis was in prytany.
Diognetos was secretary. Euthydikos was chairman. –phanes proposed:
5 the writers-up of the laws shall inscribe Draco's law on homicide,
taking it over from the king, with the secretary
of the Council, on a stone stele and set it down in front of the
royal stoa. The official sellers shall make the contract in accordance with
the law,
and the Greek treasurers shall provide the money.
10 First axon. (…)

In interpreting the contexts of the accuser's use of *anagraphein*, together with *IG* I^3 104, ll. 5-7, many scholars assume that the *anagrapheis*' principal task was to transcribe the laws in a stone after they were voted on in the Assembly, or, in other words, to publish these laws (these are both meanings which the verb *anagraphein* can carry).[63] Noel Robertson[64] suggested

[62] I follow here the revised edition and translation of the inscription from Harris-Canevaro 2023 (based on Stroud 1968); they add line 1a in the quoted fragment of the inscription.
[63] J. Sickinger sees it as 'investigating and recording the city's law' (Sickinger 1999, 98); M. Canevaro states that 'originally the task of the *anagrapheis* was believed to be simply that of finding the actual laws of Solon (which were presumably at the time still readable on *axōnes*) and republishing them most visibly' (Canevaro 2015, 37); P.J. Rhodes perceives *anagrapheis* as 'men of secretarial status' whose job was to find, compile and republish the laws of Solon (and later, all the laws currently in force); Rhodes 1991, 93.
[64] See Robertson 1999, 45, 50.

that the *anagrapheis*' role was simply clerical, involving the collection and copying of laws for the new archive in the Metroon, dating back to the late 5th century.[65] As Eleni Volonaki highlights[66], the verb *anagraphein* in various sources may denote any of these activities. However, she concludes that the remit of the *anagrapheis* was not only secretarial but required a sort of discretionary power (being comprised, in the first instance, of tracing and selecting all binding laws)[67]. I will elaborate on the importance of the preparatory step in the legal scrutiny, focusing on what the tasks of 'searching for' such laws may have precisely entailed.

4.1. The preliminary step of legal scrutiny: significance and logistical challenges

IG I³ 104, ll. 6-7 attests that the *anagrapheis* (plural form!) took over (*paralambanein*) Draco's law from the *archōn basileus* and inscribed it (*anagraphein*) in a stone in front of the Royal Stoa. However, they did not do it alone; the secretary of the Council was also accountable since the *grammateis* were almost always entrusted with the publication of the law (among others, they delegated such a task to an appropriate stonemason).[68] Interestingly, *IG* I³ 118 (*OR* 185; dated 408/407) provides another example of an

[65] On the history of the Metroon, see Harrison 1955, 27-29 (dating to ca. 403); cf. Boegehold 1972, 30 (who proposes 409); cf. Sickinger 1999, 105-113 (who does not rule out a link between the construction of the Metroon and the legal scrutiny and the *anagrapheis*' activities); Pébarthe 2006, 147-171; and recently Boffo-Faraguna 2021, 207-209.

[66] See Volonaki 2001, 141; cf. MacDowell 1978, 46; Clinton 1982, 30; Rhodes 1991, 91; Pébarthe 2006; also *LSJ* s.v. ἀναγράφω.

[67] Volonaki 2001, 164-165. The broader remit of *anagrapheis* is also noticed by Dow 1963, 38; Stroud 1968, 25; Todd 1996, 108 (the title of the paper is meaningful: '…the Fate of the Expert in Athenian Law').

[68] On the secretaries, see *Ath*. *Pol* 54.3-5; generally on the secretary of the *Boulē*, see Rhodes 1972, 134-143 (the *grammateus tēs boulēs* from *IG* I³ 104, ll. 6-7, is identified with the *grammateus kata prytaneian* mentioned at the beginning of *Ath*. *Pol*. 54.3 – '(...) he has authority over the documents, guards the resolutions passed, makes all copies and is present at the council sessions' (ὃς τῶν γραμμάτων ἐστὶ κύριος, καὶ τὰ ψηφίσματα τὰ γιγνόμενα φυλάττει, καὶ τἆλλα πάντα ἀντιγράφεται καὶ παρακάθηται τῇ βουλῇ); cf. also Volonaki 2001, 145; Oranges 2018, 60 n. 38. Critical edition of the *Athenaion Politeia*, which I use: Aristotele, *Costituzione degli Ateniesi*, a cura di P.J. Rhodes, traduzione di A. Zambrini, T. Gargiulo, P.J. Rhodes, Milano 2016 (I refer here as Rhodes 2016). I draw primarily on the commentary on this work: Rhodes 1985², (first published 1981, reprinted with corrections 1985); English translation from Rhodes 2017.

atypical involvement in the publication of an inscription, one that includes not only the secretary of the Council.[69] It preserves a decree approving an alliance treaty with the citizens of Selymbria. This agreement had to be finalised by Alcibiades and sworn to by, among others, the *strategoi*. From this (especially ll. 31-36), we see that the *strategoi* must have been involved earlier in negotiating the alliance, which is probably why they were also in charge of publication together with the secretary of the *Boulē*. This parallel raises the question of why the *anagrapheis* were necessary when, in principle, control over the supposedly simple task of publishing the laws should have been sufficiently ensured by the secretary of the *Boulē*.[70]

The tasks of *anagrapheus* could be concluded from the list of abuses allegedly committed by Nicomachus. The accuser lists several instances of Nicomachus' abuses of the magistrate of *anagrapheus*. These include: the extension of the office and the allegation of taking bribes: Lys. 30.2, 4, 25; the failure to submit the *euthynai* and a general charge of disobedience to decrees and laws: Lys. 30.5; and, most importantly, fraud in producing the sacred calendar. An interesting statement is made among the accusations, which is repeated almost in the same words, in Lys. 30.2: 'He was paid daily for adding [laws] and erasing others' (καθ᾽ ἑκάστην δὲ ἡμέραν ἀργύριον λαμβάνων τοὺς μὲν ἐνέγραφε τοὺς δὲ ἐξήλειφεν), and Lys. 30.5. Regarding the sacred calendar, the main charge was that Nicomachus wrote out more sacrifices than he had been instructed to do (Lys. 30.19: ἀναγράψας γὰρ πλείω τῶν προσταχθέντων). Moreover, in Lys. 30.20, he is accused of listing the sacrifices in such a way that there was a lack of money in the *polis* for the ancestral sacrifices; this is described as Nicomachus' fault, as he improperly *anagraphein* the sacrifices with their prices.

It has been observed that the latter allegations against Nicomachus do not withstand scrutiny.[71] Noel Robertson already emphasised the relevance

[69] On the collaboration between the secretary and *strategoi*, see Filias 2025 (esp. pp. 231-232 also providing analogy with the *anagrapheis*).

[70] Cf. Oranges 2018, 69 n. 66.

[71] Cf. Dow 1960, 275; Sickinger 1999, 98-99; Volonaki 2001, 148; Rhodes 1991, 92; Shear 2011, 83; Joyce 2022, 103-105. K. Clinton assumes that the *anagrapheis* were only concerned with scrutinising laws that altered Solon's laws in any way, whereas other laws were left out of the scrutiny – hence, the accuser's allegation that Nicomachus added and erased laws; Clinton 1982, 29. Hansen 1990, on the other hand, argues that the charge of 'adding' and 'erasing' laws refers to the actual power of the *anagrapheis* to destroy the texts of laws (including, as I grasp his argument, the *stēlai*, which, however, does not seem plausible to me). Yet, the accusation of destroying legal text (most likely inscriptions)

of *engraphein* and *exaleiphein* in the context of the *anagrapheis*' work[72]. He has rightly pointed out that these verbs refer not only to 'adding' and 'erasing' something in stone (like *stelai*) but also to other portable materials, e.g., papyri or wooden tablets (such as *sanides*)[73]. These would have served as copies of laws transcribed for the Metroon. Even if this is a valuable observation, I would not conclude that the *anagrapheis* were mere 'transcribers of laws'. Their responsibilities required much greater expertise, primarily due to the logistical nature of their work and the (pre-)conditions of the Athenian legal landscape, which I discuss in detail throughout Section 4.

Notably, in *IG* I^3 104, l. 6, the *anagrapheis* were ordered to take over (*paralambanein*) the law from the *archōn basileus*. The verb *paralambanein* means 'receiving' portable items, such as money or a sacred object, from another official.[74] Hence, the conclusion is that the *anagrapheis* took from the *archōn basileus* some copy of the laws on a portable material (papyri or another material known in Athens, such as *pinakes*, or *sanides*). The *archōn basileus* was responsible for these matters, so he could have possessed the text of such laws (one of the rare arguments for the existence of this kind of archive in the 5th century).[75]

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appears here to be the rhetorical strategy of the accuser. In Lys. 30.25 he implies that people like Nicomachus devastate Athenian legislation (νομοθεσίαν ἀφανίζοντας). Indeed, this verb is found in clauses preserving inscriptions or other documents from deterioration (as forms of 'curses'); examples are collected in Lombardi 2010, 181-183 (e.g. *ibid*. 183: I.Iasos II, no. 220, ll. 7-8, dated to ca. 425-375: 'whoever makes unseen these stele or this inscription, let him be punished like a sacrilegious person' (ἢν δέ τι⟦ς τὴν στήλην ἀφανίσηι ἢ τὰ] γ[ρ]άμ[ματα,] πα⟧σχέτω vacat ὡς ἱερόσυλος; cf. *CGRN* 42; see also so-called the Teian 'Dirae': *OR* 102, frg. B, ll. 35-41, dated to 1st half of 5th century); notably, Nicomachus is also called ἱερόσυλος in Lys. 30.21.

[72] On the *anagrapheis* as 'transcribers', see Robertson 1990, 45-55. For archival contexts, see Pébarthe 2006, 135 n. 148 (who cites the law from Paros – concerning the reorganisation of the archives – which also uses these two verbs; he cites this law after the edition of Lambrinudakis-Wörrle 1983, 285, ll. 7-12). Lycurgus (Lys. 1.66) also reports removing the law from the archives of the Metroon: on this *loc*, see Boegehold 1996, 205-207.

[73] For these verbs, see also Rhodes 1991, 93 n. 31; cf. Dreher 2022, 66-67. Epigraphic evidence also shows *anagraphein* used for *pinakes* (*IG* I^3 78a / *OR* 141, l. 26; dated likely 435) and *sanides* (*IG* I^3 68 / *OR* 152, l. 17; dated ca. 428-425).

[74] Boffo-Faraguna 2021, 103-104; cf. Stroud 1968, 28-29.

[75] Robertson 1999, 56; cf. Sickinger 1999, 62-92 (arguing that, in the 5th century, the archive must have been used by the Council and administered by the secretary of the *Boulē*).

Regarding some parallels in the use of *engraphein* and *exaleiphein*, the *Athenaion Politeia* refers to the official act of recording various public affairs. For example, when describing the disputes between the Thirty (*Ath. Pol*. 36.2), we learn that, while drawing up the list of the three thousand citizens, the oligarchs 'erased some of the men written in it and added instead some of those excluded' (τοὺς μὲν ἐξήλειφον τῶν ἐγγεγραμμένων, τοὺς δ' ἀντενέγραφον τῶν ἔξωθεν). In another passage, we read about the scope of work of *apodektai*, the officials involved in administrating the public revenues[76] (*Ath. Pol*. 48.1): 'There are ten *apodektai*, allotted by tribes. These take over the boards, and wipe off (παραλαβόντες τὰ γραμματεῖα, ἀπαλείφουσι) the monies paid, in the presence of the council in the council house, and they give back the boards (ἀποδιδόασιν τὰ γραμματεῖα) to the public slave. And if anybody misses a payment he is written in there (ἐνταῦθ' ἐγγέγραπται), and he is obliged to pay double the amount missed or to be imprisoned, and the council has the power to exact this and to imprison, in accordance with the laws.' Here, we may discern another form of *apaleiphein*[77] – 'to wipe out', 'to erase', or 'to cancel' – clearly concerning some portable writing material (*grammateion*). Another relevant passage also pertains to the administration of leases of estates in the *polis* via the description of the scope of the *pōlētai* (*Ath. Pol*. 47.2): 'And the taxes sold for a year they hand to the council, writing up on whitened boards the purchasers and the prices for which they are purchased' (καὶ τὰ τέλη τὰ εἰς ἐνιαυτὸν πεπραμένα, ἀναγράψαντες εἰς λελευκωμένα γραμματεῖα τόν τε πριάμενον καὶ ὅσου ἂν πρίηται, τῇ βουλῇ παραδιδόασιν). Thus, the verb *eksaleiphein* can also indicate the action of 'wiping out'.

Given these points, the verbs *engraphein* and *exaleiphein*, along with the accuser's main allegations, should be reinterpreted against the background of Nicomachus' activity as *anagrapheus* until the preparatory step of the scrutiny of the laws, that is, before voting at the Assembly and final publication of the laws. This was the step where the *anagrapheis* were expected to write down the early versions of the laws, most likely on portable tablets, such as *sanides* or *pinakes*. They may have also created lists or catalogues of laws for citizens to consult before the Assembly meetings, as it was done during the 'annual revision' of laws in 4th century *nomothesia*' proceedings, when the drafts of the laws were displayed before the Monu-

[76] On the Athenian administration of such public revenues, see Sickinger 1999, 68-69.
[77] *LSJ* s.v. ἀπαλείφω; cf. the abridged glossary at the end of Boffo-Faraguna 2021, 756.

ment of the Eponymous Heroes[78]. Even if the drafts of these laws were not made accessible to the citizens already in that period, the *anagrapheis* must have recorded them provisionally on the portable materials before handing them over to other officials (i.e. mainly to the *Boulē*) for further consultation and/or further proceedings, i.e. initiating 'probouleumatic path' for the Assembly (see below).

Since the *anagrapheis* possessed a certain degree of expertise in the documentary and administrative affairs of the *polis*, as elected officials, and, even more importantly, due to their ongoing legal inquiries while scrutinising the laws, they ultimately became well acquainted with the Athenian legal landscape. From this perspective, it is also possible to interpret the prosecutor's accusations against Nicomachus, who was said to have 'revealed' (*apodeiknunai*) the law allowing the Council's involvement in the trial, which would ultimately lead to Cleophon's conviction (Lys. 30.11).[79] The closest parallel to using *apodeiknunai* in this passage[80] is in Xen. *Hell*. 2.3.11, in which Xenophon reports the activities of the Thirty: 'Though they were chosen to draft laws for a constitution, they continually delayed drafting and displaying them (συγγράφειν τε καὶ ἀποδεικνύναι), but they appointed a council and the other officials just as they saw fit'. Here, the activity expressed by *apodeiknunai* is preceded by the operations of *syngraphein nomous*, which pertains to some work on laws concerning the constitution. The Thirty operated without democratic procedures and made

[78] On 4th-century Athenian *nomothesia*, see Canevaro 2013b, 139-160 (analysis of Dem. 20.94); Canevaro 2016; cf. Dem. 24.25, 24.18. Draft laws were typically posted near the Monument of the Eponymous Heroes, following established procedure (Dem. 24.25; 20.94). Early literary references to this monument can be found in Ar. *Eq*. 977-980 (performed in 424), with firmer evidence in Ar. *Pax* 1183-1184 (performed in 421). Isoc. 18.61 (dated 402) mentions a decree proclaimed before the monument – it is discussed by Shear Jr. (T.L.) 1970, 203-204 n. 89.

[79] 'The Council wanted to destroy Cleophon and were afraid that they would not be able to get him executed there. So they persuaded Nicomachus to reveal a law which said that the Council should judge the case together with the *dikastai* (πείθουσι Νικόμαχον νόμον ἀποδεῖξαι ὡς χρὴ καὶ τὴν βουλὴν συνδικάζειν). And this fellow, the greatest of knaves, was so openly part of the faction that he revealed this law (ἀποδεῖξαι τὸν νόμον) on the day the trial was held' (transl. S.C. Todd, slightly modified).

[80] The verb *apodeiknunai* has several connotations, such as 'to prove something', 'to display', 'to produce', 'to give advice' (Hdt. 1.170), or in the physical sense (which seems to be accurate in Lys. 30.11) 'to deliver something', such as accounts (Hdt. 7.119: ἀποδείκνυμι τὸν λόγον). See also *LSJ* s.v. ἀποδείκνυμι. Translation of this passage of Xenophon is mine.

changes as they pleased, but the laws had to be made known in public. In Cleophon's case, Nicomachus could have simply 'presented' the relevant law on tablets to the public, or shared the results of their 'legal inquiry' with the Council, as the *anagrapheis* were normally supposed to do.[81] Thus, the Council was only informed that such a law was potentially part of the legal order and was in force. The possibility to consult some laws with *anagrapheis* makes their role in the scrutiny of laws quite important. If it were so easy just to find valid laws at that time, citizens would simply do it without their help.

Therefore, one of the most vital tasks of the *anagrapheis* was to draft and write down a catalogue or even a text of laws on portable tablets, to be publicly displayed and consulted by the Athenians before voting in the *Ekklēsia*. Writing down might seem like a straightforward task, but the activities of *engraphein* and *exaleiphein* suggest that the *anagrapheis* had to make careful preliminary selections and conduct inquiries across numerous legal documents, often dispersed across different media. Notably, the very distinguishing of the general valid laws on the given topic (*nomoi*) was the most challenging activity. Indeed, it was only after the restoration of democracy in 403 that a formal distinction between *nomoi* and *psēphismata* was introduced, along with a clear hierarchy.[82] This very distinction may have, in part, emerged from the practical experience of the *anagrapheis* themselves.[83] In this context, their work was far from merely clerical: it demanded familiarity with archival practices and the competence to determine the legal nature and status of particular texts.[84] From this perspective, we can better understand the rhetorical, slanderous image the accuser constructed, claiming that Nicomachus acted like a *nomothetēs*, even pretending to be Solon (Lys. 30.2, 28). Indeed, the *anagrapheis* did not wield extensive institutionally inbuilt legislative powers. However, the logistical and technical nature of their work highlights their vital role in the legal

[81] As will be discussed below in 4.2, the most common verbs denoting the sharing of 'documents' between officials are *paradidonai* and *paralambanein*; this is why I prefer the first interpretation of *apodeiknumi* in Lys. 30.11 as publicly displaying a relevant law.

[82] On the distinction between *nomoi* and *psēphismata*, see Hansen 1978. In the 4th century, in conjunction with this separation, we have two procedures: for *psēphismata*, the existing *graphē paranomōn*, and for *nomoi* the *graphē nomon mē epitēdeion theinai*; see Canevaro 2019.

[83] Cf. Sickinger 1999, 98.

[84] Dreher 2022, 18 has also made this suggestion; cf. Canevaro 2015, 36-38.

scrutiny project, with adequate knowledge of both the administration and the 'legal landscape' of Athens.

Moreover, the possibility for citizens to consult the laws before the Assembly was an essential element of Athenian legal culture (as in, e.g., *Ath*. *Pol*. 29.3)[85]. Even if the hypothesis of public displaying draft of laws is rejected, the *anagrapheis* must have rewritten preliminary versions of the legislation for the *Boulē* 's further work (on which more below); they must have used some portable material, a point which is also consistent with Athenian administrative practices attested in 5th century evidence. The *anagrapheis* were not simply 'transcribers of the laws', and this is why their works were 'controlled' in various ways, as I will also argue below.

4.2. The anagrapheis *and official cooperation*

In Lys. 30.3, the accuser charges Nicomachus with refusing to hand over the laws (*paradounai tous nomous*).[86] Moreover, in *IG* I^3 104, l. 6, we read that the *anagrapheis* were tasked with taking over (*paralambanein*) the laws from the *archōn basileus*.[87] In the *Athenaion Politeia*, these two verbs ('to hand over': *paradidonai* and 'to receive': *paralambanein*)[88], refer to the cooperation of various officials (such as *apodektai*) in handing over certain objects to other magistrates for further reworking. It could also be understood that Nicomachus was reluctant to hand over the laws which he found (on tablets or papyri), i.e., to transfer them to other officials, such as the *Boulē* or other magistrates responsible for a particular law (who supervised the ongoing results of the archive's inquiry, as the *archōn basileus* probably could, because he possessed the copy of Draco's homicide law).

[85] There is great discussion of the verb σκοπεῖν ('to read', 'to inspect'); see more on this in Lasagni 2018.
[86] I discuss Lys. 30.3 in detail below in 4.6.
[87] Cf. Stroud 1968, 28 (citing A. Wilhelm's observation, who also called attention to these verbs).
[88] See *LSJ* s.v. παραδίδωμι; *Ath*. *Pol*. 44.2-3: the *Boulē* transmits the agenda of the *Ekklēsia*; *Ath*. *Pol*. 47.2: the transmission of whitewashed tablets; *Ath*. *Pol*. 48: the handing over of the accounts of the *dikastēria*; *Ath*. *Pol*. 49.2: handing over the inventory (I quote some of these passages above, see, above, in 4.1). We have a parallel which shows the cooperation of the secretary of the Council with a public slave (*dēmosios*) in writing down public datasets in a stone, as well as making several (!) copies of these documents in other forms: there is a decree on the inventory of the treasury at Chalkotheke on the Acropolis (*IG* II^2 120, esp. ll. 13-19), dated to 353/352; see Sickinger 1999, 125; cf. Pébarthe 2006, 275; Lasagni 2011, 347-348.

This reluctance might have stemmed from the fact that the task had taken longer than expected. Thus, the cooperation during the scrutiny of the laws was aimed at preventing abuses in creating a new body of laws.

Due to the nature of this work, there may have been challenges in tracking down the legal texts and making such an initial compilation, or catalogue, of laws. Furthermore, laws in the late 5th century were available as inscriptions scattered around the *polis*. Before the Metroon was built, the officials controlled the archives according to their jurisdiction in a specific area of law, in addition to the *Boulē* 's archive. Possible doubts about the discretionary activities of the *anagrapheis* may have arisen precisely at this preliminary step because they had to search the archives, look through the various *stēlai* to find laws of a general nature in force (so some selection of various documents was logistically indispensable), and, eventually, surrender them to the *Boulē* for further scrutiny proceedings. The *Boulē* could not monitor everything the *anagrapheis* did. In practice, then – indeed, by bypassing the Athenian rules (discussed in section 4.3) – the *anagrapheis* had a 'logistical space' allowing them to potentially disregard some laws identified at the preliminary scrutiny step. Otherwise, the accusation would not hold up to logic or even to basic probability.

One can imagine what it meant for the *anagrapheis* to 'find laws' using a parallel the description of the establishment of the rule of the Four Hundred (*Ath*. *Pol*. 29.2-3):

> Pythodorus' decree was of this nature: the assembly should elect together with the ten *probouloi* already in existence twenty others from those over the age of forty, who should swear to draft what they thought best for the city and should draft proposals for their salvation; anybody else who wished could make proposals, so that they could choose the best from all. (3) Cleitophon proposed in other respects as Pythodorus, but that those who were elected should also search out the traditional laws which Cleisthenes enacted when he established the democracy (προσαναζητῆσαι δὲ τοὺς αἱρεθέντας ἔγραψεν καὶ τοὺς πατρίους νόμους οὓς Κλεισθένης ἔθηκεν ὅτε καθίστη τὴν δημοκρατίαν), so that they could hear these too and arrive at the best policy (admittedly, he added, the constitution of Cleisthenes was not democratic, but similar to that of Solon).[89]

The verb *prosanazētein* – 'to search out besides' or 'to investigate' –

[89] Transl. by Rhodes 2017, with the last sentence slightly modified; see Rhodes 1985², *ad loc*.

is found in this form only in this passage.[90] The word derives from the verb *zētein*, which shares a similar semantic range.[91] However, what does searching out or investigating the laws entail? It would appear that both senses are pertinent to the preparatory step of the *anagrapheis*' work.[92] In *IG* I^3 52 (the decree of Callias; *OR* 144; ca. 434/433), a new treasury was established for the 'Other Gods', to which money previously 'borrowed from them' for expenses to the *polis* had to be returned. We read in this inscription (ll. 7-13):[93] that the *prytaneis*, together with the Council (πρυτάνες

[90] *LSJ* s.v. προσαναζητέω (cf. s.v. ἀναζητέω; ζητέω). Jakub Filonik has helpfully drawn my attention to the prefix *pros* here, which may have suggested preliminary or additional activities; this may entail that it was part of some bigger inquiry undertaking. There is also the form *anazētein* (found in, e.g. Thuc. 8.33.4, 2.8.3), which commentators on Thucydides (Gomme-Andrewes-Dover 1981, 214-215) comprehend as meaning to 'investigate something whose existence is already known or presupposed' (cf. Hdt. 1.137); in the sense of 'search for' it occurs later and less frequently; thus, they believe that Cleitophon must have assumed that Cleisthenes' laws were available somewhere (or he was being disingenuous), a point which may also be confirmed by the content of *IG* I^3 105. On the availability of the laws of Cleisthenes, see Rhodes 1985^2, 375-376; cf. Shear 2011, 31 n. 43.

[91] J.L. Shear draws attention to a scholion *ad* Aeschin. 1.39 (see Shear 2011, 230, with n. 11), which is rarely cited by scholars, in which we are informed of the activities of the Twenty who took the first steps to restore democracy and remedy the effects of the Thirty (cf. Andoc. 1.81-82). The scholion reads: 'When the demos had recovered its freedom, twenty citizens were appointed to search out and write up the laws which had been destroyed (ἀπολαβὼν οὖν ὁ δῆμος τὴν ἐλευθερίαν εἵλετο πολίτας εἴκοσι τοὺς ζητήσοντας και ἀναγράφοντας τοὺς διεφθαρμένους τῶν νόμων), and they decreed that they propose new laws in the place of the destroyed ones in the archonship of Eucleides, who was the first archon after the Thirty' (transl. by J. Shear; Teubner edition: Dilts 1992, 22). This passage presents a slightly different account from that of Lysias and Andocides. Although it seems that the rule of the Twenty can be conceived of as coordinating activities of seeking out and writing down the laws of the destroyed ones, we do not know whether the *anagrapheis* were also engaged in this activity.

[92] Cf. Boffo-Faraguna 2021, 112.

[93] 'Let the thirty accountants ([*h*οι λ]ογισταὶ) now in office reckon what is due to the gods accurately, and let the Council have full power for the convening of the accountants (συναγογεῖς δὲ τοῖ λογιστοῖν ἑ βολὲ αὐτοκράτορ ἔστο). Let the prytany together with the Council repay the monies, and delete the records when they have repaid them, seeking out the boards and the writing tablets and anything that may be written anywhere else' (ἀποδόντον | [δὲ τ]ὰ χρέματα *h*οι πρυτάνες μετὰ τεῖς βολεῖς καὶ ἐχσαλειφόντον ἐπει | [δὰν] ἀποδοῖσιν, ζετέσαντες τά τε πινάκια καὶ τὰ γραμματεῖα καὶ ἐάμ π | [ο ἄλ]λοθι εἰ γεγραμμένα). Let the priests and the religious officials and anybody else who knows reveal what is written (ἀποφαινόντον δὲ τὰ γεγραμμένα *h*οί τε *h*ιερ | [εῖς κ]αὶ *h*οι *h*ιεροποιοὶ καὶ εἴ τις ἄλλος οἶδεν); transl. by S. Lambert, P.J. Rhodes from *AIO*; see *OR* 144. I also noticed that the task of seeking out the boards is linked with supervising records, including 'deleting' (*exaleiphein*) something.

μετὰ τεῖς βολεῖς), were supposed to search (*zētein*) for accounts concerning the expenditure on loans from the treasury of the Other Gods recorded on various tablets (*pinakes*, *grammateia*), which were held mainly by the appropriate officials. It is curious that, in the case of the appointment of new magistrates, we have precise instructions on how to search for accounts; proper officials, and also others who had accounts, were required to reveal them and thus facilitate the work of the other magistrates. I believe that a similar work organisation, based on officials' cooperation, may have been adopted in the case of the *anagrapheis*, especially concerning later *nomoi* that overlapped with Solonian laws and were thus difficult to identify.

Furthermore, *IG* I³ 104 provides us with more noteworthy information on this score. Notably, it reports a relatively conventional legislative procedure, indicated by the phrase 'the Council and the people decided' (l. 3: ἔδοχσεν τεῖ βουλεῖ καὶ τοῖ δέμοι) and implying a 'probouleumatic procedure'.[94] The specific mover is named, suggesting that one of the *bouleutai* had already submitted a motion to the Council for voting on this particular law under the scrutiny at the Assembly. This confirms the general principle of Athenian decision-making: that no proposal could advance without a preliminary decree (*probouleuma*) of the *Boulē* (cf. *Ath*. *Pol*. 45.4; Dem. 22.5). Relying on Peter J. Rhodes' studies, which has found broad acceptance in the scholarship, a *probouleuma* could be either 'open' – where the *Boulē* merely outlined a general framework to be developed in the Assembly – or 'closed', presenting a fully formulated proposal for approval or rejection. In both cases, however, the final decision layed with the *Ekklēsia*, which retained the power to modify or reshape each *probouleuma*; while it is difficult to determine the exact character of *IG* I³ 104,[95] the final action to instruct the *anagrapheis*, would not have been possible without the probouleumatic initiative of the Council. This raises the essential questions about its role – including that of the secretary of the Council – at the

[94] On the role of the 'probouleumatic' decrees, see Rhodes-Lewis 1997, 11-24; cf. Esu 2024, 57-58.

[95] P.J. Rhodes notes that the formula ἔδοχσεν τεῖ βουλεῖ καὶ τοῖ δέμοι represents 'the standard enactment formula when the publication of Athenian decrees becomes frequent, c. 460'; as late as the 4th century such a formula indicated the taking of the *verbatim* motion of the *Boulē* as opposed to another formula, ἔδοχσεν τοῖ δέμοι, which was used when the *Ekklēsia* introduced something more; see Rhodes-Lewis 1997, 20. In *IG* I³ 110, dated 408/7 (i.e. a year later after Draco's law), we find the formula ἔδοξεν τῆι βολῆι καὶ τῶι δήμωι (ll. 2-3), and in ll. 26-27 we have an amendment to the motion (Ἀντιχάρης εἶπε· τὰ μὲ | ν ἄλλα καθάπερ τῆι βολῆι).

very preliminary step before laws reach the Assembly. When the Athenians passed this decree in 409/8 in the Assembly, it was clearly understood as part of the exceptional project of legal scrutiny, and it conformed to the general framework and instructions governing that process (see Section 4.3 for further discussion).

The *Boulē* played a vital role in scrutinising the laws, coordinating the transmission of relevant motions to the Assembly, and setting the agenda of the *Ekklēsia*. Martin Dreher has recently asked if each law was voted on separately, considering the possibility that specific laws (those deemed 'kürzere und unproblematischere'; yet it is debatable what this means) may have been voted on *en bloc*.[96] We lack the sufficient evidence to address this question definitively. Yet, it was within the discretion of the *Boulē* to decide, on a case-by-case basis, which matters to include in a given Assembly session.

One can, therefore, observe a close cooperation between the *anagrapheis*, the officials responsible for the law under the scrutiny at a given point in time (such as the *archōn basileus* from *IG* I^3 104, who also oversaw copies of the laws), the *Boulē* (and its secretary), and ultimately the *Ekklēsia*, where the laws were voted on. The Council may have been consulted on matters such as the order of issues to be addressed, evident contradictions in the regulations, the wording of the laws, or other challenges faced by the *anagrapheis*.[97] Unfortunately, we cannot reconstruct these proceedings accurately due to the lack of sources. Yet, the analogy drawn from the Callias decree suggests that the *anagrapheis* could have relied on the cooperation of a wide range of offices for this purpose.

Considering the Athenian legal, administrative, political, and constitutional order as a whole, the issue of cooperation between various institutions was pivotal. Recently, Alberto Esu[98] has discussed an interesting perspective on decision-making in Classical and Hellenistic Greece, which he calls 'divided power'. According to him, decision-making in these periods involved a complex and horizontal exchange and sharing of authority, discourse and expertise among various institutions in the Greek *poleis*, such as councils, officials, assemblies, and tribunals. In the case of law reform, one may see a similar paradigm of thinking and acting. Depending on their

[96] See Dreher 2022, 22.
[97] Cf. Stroud 1968, 25; Sickinger 1999, 98-99; Volonaki 2001, 145, 150.
[98] Esu 2024, *passim*.

competence, various officials and institutions added something themselves while inspecting and verifying the work of their antecedents at various levels. Of course, the final version of the laws being scrutinised was voted on in the Assembly, but, before this could happen, it was the *anagrapheis* who had to begin the arduous work of legal inquiry in collaboration with the institutions discussed above. Therefore, the cooperation of the offices in the legal scrutiny and, later, in the law reform is one of the most vital elements of Athenian legal culture. Yet this is not seen in Lysias since the accuser wants to put all the blame for the improprieties in the laws, especially those relating to the sacred calendar, on Nicomachus, so he omits the participation of the other institutional bodies and officials in the proceedings.

*4.3. Legal instructions (***syngraphai***) – the principle of 'legalism'*

Besides the cooperation of democratic bodies, there was another element aimed at controlling the activities of the *anagrapheis*. They seem to have been instructed to compile the texts of laws (including, perhaps, a list of sources from which to index them). Thus, the prosecutor attempted to prove Nicomachus' abuses in producing the calendar, insinuating that he had written out more than he should have. The main consequence of these abuses was that 'ancestral offerings' could no longer be performed (cf. Lys. 30.17-25). It is useful to examine in detail Lys. 30.17, in which the accuser embarks on a long thread about the sacred calendar:

> πυνθάνομαι δὲ αὐτὸν λέγειν ὡς ἀσεβῶ καταλύων τὰς θυσίας. ἐγὼ δ᾽ εἰ μὲν νόμους ἐτίθην περὶ τῆς ἀναγραφῆς, ἠγούμην ἂν ἐξεῖναι Νικομάχῳ τοιαῦτα εἰπεῖν περὶ ἐμοῦ· νῦν δὲ τοῖς κοινοῖς καὶ κειμένοις ἀξιῶ τοῦτον πείθεσθαι. θαυμάζω δὲ εἰ μὴ ἐνθυμεῖται, ὅταν ἐμὲ φάσκῃ ἀσεβεῖν λέγοντα ὡς χρὴ θύειν τὰς θυσίας τὰς ἐκ τῶν κύρβεων καὶ 1οὐ πλείω κατὰ τὰς συγγραφάς, ὅτι καὶ τῆς πόλεως κατηγορεῖ· ταῦτα γὰρ ὑμεῖς ἐψηφίσασθε. ἔπειτα εἰ ταῦτα νομίζεις δεινά, ἦ που σφόδρα ἐκείνους ἡγεῖ ἀδικεῖν, οἳ τὰ ἐκ τῶν κύρβεων μόνον ἔθυον.
>
> Apparatus: 1 στηλῶν Taylor: εὔπλων, ὅπλων MSS; Nelson 2006: οὐ πλείω[99]
>
> I am informed that he claims I have committed impiety by abolishing the sacrifices. If I had been the person who made the laws about writing-up, then I admit that Nicomachus would have been entitled to say things like this about me. But as it is, I believe that he should obey the established rules

[99] M. Nelson's emendation is not included in the *OCT* Carey's edition of Lysias (Carey 2007, *ad loc*).

> that we hold in common. When he claims that I am committing impiety by saying that we should perform the sacrifices from *kurbeis* (and not in excess) according to *syngraphai*, I am astonished at his failure to realize that he is accusing the city also - for this is what you have decreed. And if you, Nicomachus, think this is so terrible, then presumably you believe that those who used to sacrifice only from the *kurbeis* were committing the greatest of crimes. (transl. by S.C. Todd, slightly modified)

The accuser reveals here the existence of certain νόμοι περὶ τῆς ἀναγραφῆς, the content of which regrettably remains unknown.[100] Since Nicomachus and other *anagrapheis* were elected (Lys. 30.29), specific instructions might have been provided for them, ordaining how the laws would be recorded (*anagraphein*). One may assume this occurred at the preliminary step before the *Ekklēsia*. Additionally, the accuser alludes to a decree – the verb *psēphisasthai* is used, implying that the citizens themselves ordered how Nicomachus should write out the sacrifices.[101] Such an action aligns with the accuser's crucial statement that 'we should perform the sacrifices from *kurbeis* (and not in excess) according to *syngraphai*'.

These *syngraphai* may have been components of the decree containing νόμοι περὶ τῆς ἀναγραφῆς (unfortunately, the prosecutor does not refer to them directly in the speech). Nevertheless, their existence is implied, and it was common in 5th-century Athens to establish *syngraphai* through decrees that produced both general and detailed laws. In such cases, *syngrapheis* acted as proposers of decrees (e.g., *IG* I³ 78a/*OR* 141/*CGRN* 31, ll. 3-4; *IG* I³ 21, l. 2). Some decrees even ordered the drafting of *syngraphai* and outlined procedures for the election of *syngrapheis* (cf. *IG* I³ 35, ll. 14-17). Therefore, *syngrapheis* were typically *ad hoc* officials tasked with drafting specific regulations or technical instructions – often in matters of religion, finance, or architectural technicalities – and may rightly be seen as 'expert' boards.[102]

However, a proper understanding of Lys. 30.17 requires noting the problematic manuscript transmission: καὶ τῶν στηλῶν is an emendation intro-

[100] Although Lysias grammatically used the subjunctive moods, we can assume that he refers to real circumstances in which the *Ekklēsia* established such *nomoi*. I want to thank Janek Kucharski for paying attention to this aspect of the grammar.
[101] Instead, Davis 2024, 276 interprets this allusion through the lens of the instructions given in Draco's homicide law (*IG* I³ 104, ll. 4-7).
[102] See more, in Koch 1999; Carusi 2006, 11.

duced by Joannes Taylor in the 18th century.[103] Recently, Max Nelson[104] has proposed an alternative reading of this passage, suggesting οὐ πλείω, meaning 'not in excess' (based on Lys. 30.19, 21). Accepting this emendation, we may interpret that the accuser means that the *syngraphai* (see below) included the sacrifices (or, perhaps more broadly, *ta hosia kai ta hiera*; Lys. 30.25 *pr*.) only from *kurbeis*, and *not in excess*. This implication could also be supported by the closing sentence of Lys. 30.17, which mentions ἐκ τῶν κύρβεων μόνον ('only those from the *kurbeis*'; cf. the outset of Lys. 30.18). Hence, when talking about ancestral sacrifices, Lysias notes only those recorded on the *kurbeis*, implying that these were the only ones stipulated in the *syngraphai*. Some scholars have interpreted this to mean that the *stēlai* would have been amendments to the original sacred calendar, including listing the most ancient sacrifices and later modifications to the Solonian sacred calendar, which were written down on the *kurbeis*.[105] Such an interpretation is only compatible with Lys. 30.17 when we consider Max Nelson's emendation (otherwise, the accuser would point to the 'proper source' of the ancestral sacrifices also being *stēlai*).[106]

Therefore, we may observe that, at the start of the scrutiny of the laws,

[103] The MS reads either εὔπλων or ὅπλων; J. Taylor, *Lysiae orationes et fragmenta*, London 1739, *ad loc*. His emendation has been widely accepted. The tradition of this corrigendum is described in Nelson 2006.

[104] M. Nelson translates this phrase as: 'it is necessary to make the sacrifices from the *kurbeis* (and not in excess) according to the drafts' (Nelson 2006, 311). Few scholars have accepted his emendation (e.g. Meyer 2016, 376 n. 199; Boffo-Faraguna 2021, 104 n. 14), while others reject it (Oranges 2018, 74 n. 85; Davis 2024, 273, 277). The passage is significant, as M. Nelson's correction has been used to reconstruct lacunae in the sacred calendar inscriptions – particularly in the so-called 'ek-rubrics' (see Lambert 2002, 378). S. Dow interpreted the 'ek-rubrics' as references to sources from which offerings were to be recorded, not as funding sources (*pace* Oliver 1935). On Face A of the inscription (in the Ionic alphabet, thus dated to the *anagrapheis*' activity, 404/3–400/399), frg. 2, cols. 1-3, l. 77 is typically restored as ἐκ τῶν σ̣τ[ηλῶν], though the τ̣ is highly uncertain. P.J. Rhodes, inspecting the stone with C. Habicht, noted that the area after *sigma* is too damaged to be legible (Rhodes 1991, 94 n. 40); Oliver 1935 read *symbolōn*; Dow 1953-1957 preferred *stēlōn*, which P.J. Rhodes found more likely; Robertson 1990, 68-70 suggests *syngraphōn*.

[105] See Parker 1996; Lambert 2002 ('post-Solonian' sacrifices) 257 n. 23. A comparable meaning could be [ἐκ (?)] νέων [...?..]: 'from the new ones' – Face A, frg. 2, line 3; cf. Rhodes 1991, 95.

[106] Some scholars noticed the uncertainty on this point but did not elaborate on that much, see Harrison 1955, 34 n. 5; cf. Todd 1996, 111 n. 19; Rhodes 1991, 95; Nelson 2006, 310-311; Boffo-Faraguna 2021, 104-105 n. 15.

there was a step of fixing the remit of the *anagrapheis*, prescribed by laws (*nomoi*) and instructions (*syngraphai*) – presumably in the form of a decree – from which the *anagrapheis* were to proceed (cf. Lys. 30.4; and the use of the verb *prostattein* in Lys. 30.2, 4, which may denote following orders).[107] Thus, I follow Peter J. Rhodes, who states that '*syngraphai* should denote a draft presented to the Assembly for approval, in this case presumably the decree which ordered the *anagrapheis* to revise the sacrificial calendar and which specified the sources to be followed'.[108]

We do not know whether there were such instructions from the very beginning of the project (in the form of *syngraphai*), or the Athenians introduced them later on as the work became more cumbersome, or with only specific areas of laws (such as the laws associated with *ta hiera kai ta hosia*). Notably, the term reconstructed [..?.. κατὰ (?) τ]ὰς χσυγγραφὰ[ς ..?..] in the sacred calendar appears in Face B of an inscription written in the Attic alphabet, dated to 410-404. If we connect these *syngraphai* to the other so-called 'ek rubrics' written in the Ionic alphabet[109], dated after 404/3, we may assume that the precise instructions for the sacred calendar were documented since 410.

The discussion of *syngraphai* in the context of the work of the *anagrapheis* on the scrutiny of the laws shows that they did not have complete discretion in their operations but that the scope of their work, to a certain

[107] Cf. Hdt. 7.21.2; *IG* II² 10, l. 8 (see *AIO* 1191).

[108] Rhodes 1991, 95; similarly Harrison 1955, 34; also Parker 1996, 45 n. 6; Oranges 2018, 72-75. By contrast, Robertson 1990, 70ff. argues that the *syngraphai* were distinct sources from which the *anagrapheis* transcribed laws – complementing the *stēlai* and encompassing what lay beyond the *kurbeis*. Carawan 2010, 75-79, sees *syngraphai* as expert compilations of sacred law. Davis 2024, 278, likewise entertains the meaning of 'schedule of some kind', e.g. in parallel to *IG* I³ 46, l. 19 – though even there, broader interpretations are possible.

[109] On Face A of the sacred calendar inscription (after 403), the so-called 'ek rubric' accurately provides the authoritative sources (after Lambert) for the inscribed sacrifices: ἐκ τῶν φυλοβασιλικῶν ('from the king of phyle'; appears 3 times: frg.1, col.3, l. 6, frg. 3, col.1-3, vv. 33-34 and 45-46), ἐκ τῶν κατὰ μῆνα ('of those according to the months'; appears 3 times: frg. 1, col. 1, l. 4, frg. 3, col.1-3, l. 6 and 21), ἐκ τῶν μὴ ῥητῆι ('of those unspecified,' i.e. moving days, appears once: frg. 1, col. 3, l. 24). These are all taken to be subcategories of the Solonian calendar. J.-M. Carbon in *CGRN* 45 adds (after Lambert 2002, 257): 'Also, the rubric "from the stelai" is "likely to relate to the newer, 'post-Solonian' sacrifices", which the appointed commission needed to integrate in the revision of the laws' (except that, as I have elaborated on above in n. 104, this place is probably not identifiable as a *stēlai*); see Lambert 2002, 357 and *CGRN* 45; the 'ek rubrics' are also discussed by Robertson 1990, 67-68.

extent, was defined by the law. This highlights the place of Athenian 'legalism', that is, the belief (or the general rule) implying that public institutions must act only on the basis of – and within the limits of – the law[110]. The prescription of specific legal frameworks was intended to facilitate the work of the *anagrapheis*, but also to prevent them from arbitrarily including some issues in their work. Particularly relevant in this respect were the laws concerning cults and their financing, as Athenians usually prepared *syngraphai* concerning religious matters. It is hard to say whether similar instructions were prescribed for other areas of the law. In any case, the context of Lysias' speech and the logic of the scrutiny of the laws indicate that an attempt was made to carry out the work within a legal framework and compliant with the existing administrative practice. Notably in Lys. 30.5, there is a serious charge that he operated without caring about the laws (as in Lys. 30.5: μήτε τῶν νόμων φροντίζειν). This is a strong argument because, for the Athenians, 'legalism' in the process of legal scrutiny was one of the essential elements in proceedings and generally reflected their approach to the functioning of the *polis*.

4.4. The (Solonian) laws – between materiality and the imaginaries of Athenian laws

At the end of the 5th century, laws of Solon were often perceived as the best and moderate pieces of legislation, an example of the implementation of *eunomia* and the remedy for *stasis*. In the last decades of the 5th century, the desire to reinstate the ancestral constitution (*patrios politeia*) and the ancestral laws (*patrioi nomoi*) gained popularity, becoming associated on many occasions with the figure of Solon.[111] Both groups favouring oligarchy (e.g. *Ath*. *Pol*. 29.3) or democracy used these catchwords (e.g. Thuc. 8.76.6). Solon in the 5th century, or even earlier, was a semi-legendary[112] figure; hence,

[110] There is no space here to elaborate on the definition(s) of 'legalism' in the context of legal and constitutional theory. It is worth quoting Article 7 of the Constitution of the Republic of Poland of 2nd April 1997: *The organs of public authority shall function on the basis of, and within the limits of, the law.* This is related to a general reflection on the rule of law in modern democracies.

[111] See Hignett 1952, 5-7; Fuks 1971; Finley 1975; Ostwald 1986, 415; Walter 1976 (argued that *patrios politeia* as an oligarchic ideal was an invention of 4th century) *contra* Rhodes 2011, 16-17 (he also pays attention to the flexibility of this catchword; on Nicomachus, *ibid*. 21-22); cf. also Shear 2011, 41-51; Canevaro 2015, 22-23.

[112] See Sagstetter 2013; cf. Carey 2015 on Solon's reception in classical Athens. 'Figure

almost all the laws of Athens were ultimately attributed to him. Indeed, one may also find such an image in *Against Nicomachus.*

The accuser in the speech (Lys. 30.2) states that Nicomachus had been instructed to publish the laws of Solon (τοὺς νόμους τοὺς Σόλωνος) within four months. It would seem, therefore, that the scrutiny of the laws concerned only the laws of Solon, which was not true, as we have other sources. Andocides, while describing the legislative activity after the overthrow of the Thirty (Andoc. 1.81-82), refers to the laws of Solon and Draco. The attribution of the law on homicide to Draco was quite clearly established in the Athenians' legal consciousness.[113] Yet, the prosecutor focuses exclusively on the sacred calendar, the core of which must have also been established during Solon's time, albeit for logistical reasons[114] subsequently altered throughout the 6th and 5th centuries. Other epigraphic sources related to the activities of the *anagrapheis*, such as the laws on the *Boulē* (*IG* I^3 105), taxation and the trierarchy (*IG*^{3} 236a and *IG*^{3} 237), clearly indicate later pieces of legislation. So far, one can also assume the most straightforward solution. The speech focuses only on Nicomachus as one of the *anagrapheis*, so the accuser implies that the defendant was not dealing with Draco's law but with other laws explicitly attributed to Solon.

Although most laws in Athens were traditionally attributed to Solon, such a provenance often does not stand up to scrutiny.[115] The longstanding tradition of attributing nearly all laws to Solon can be traced back to the 5th

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of Solon' is also found in stories about the Twelve Tables' origins; see Miśkiewicz 2023, 99-103.

[113] In Antiphon's speeches, which were written before the legal scrutiny, it is clear that the laws concerning homicide were considered to be among the oldest and best (e.g. Antiph. 6.2). However, it is curious that Antiphon does not explicitly link Draco to these laws – perhaps this was obvious to the citizens at the time. On Draco's law reception in Athenian oratory, see e.g. Carey 2013.

[114] See Leão-Rhodes 2015, 140-143; cf. Schmitz 2023, 509-539; Parker 1996, 43-55.

[115] Several sources attribute later laws to Solon. Andocides, e.g., presents the anti-tyranny decree of Demophantus (ca. 410) as Solonian (Andoc. 1.95), which some interpret as suggesting an original Solonian law against tyranny – see Schmitz 2023, 79-86 (with recent bibliography and divergent views on its authenticity and dating). More relevant here is the projected image, not the historicity. Cf. also Andoc. 1.111 (κατὰ τὸν Σόλωνος νόμον, on the *Boulē*), Dem. 20.93 (on *nomothesia*), Hyp. 3.22 (on the distinction between *nomoi* and *psēphismata*). For reconstructions of Solonian laws, see Ruschenbusch 1966; updated in Ruschenbusch-Bringmann 2014 (with translation); Leão-Rhodes 2015; Schmidt 2023. Scafuro 2006 has argued, however, that there may be some laws that, despite not being authentic archaic in their form, may contain a 6th century 'Solonian kernel'.

century, with an increased emphasis in the 4th century, possibly influenced by the discourse on the scrutiny of the laws. For the Athenians, Solonian laws constituted the entirety of valid laws, except for laws on homicide, which were explicitly attributed to Draco. It is plausible that the Athenians were aware that some laws were enacted at later dates.[116] However, the main objective of this imagination was to underscore Solon's pivotal role as a *prōtos heuretēs* of the Athenian legal and constitutional order. Solon epitomised the archetypal *nomothetēs*, a view which also led him to be represented as the leading candidate for the title of the 'father of democracy' by the late 5th century.[117] Furthermore, Solon's laws were reinforced by the public display of his archaic laws on *axōnes*/*kurbeis*, allowing citizens to associate specific geographical spots with Solon's legislative legacy. Indeed, linking locations to a particular historical figure was integral to preserving collective and cultural memory.[118]

But, the *anagrapheis* had to deal with a very concrete task, so they were required to ask themselves about where to search for laws. James P. Sickinger[119] notices that several sources attest that *psēphismata* were stored in the archive of the Council, as coordinated by its secretary[120]. The *anagrapheis* also had access to the Solonian laws written down on *axōnes*/*kurbeis*, which must also have been displayed in the major public spots; the sources mention many places (such as the Acropolis, the Stoa Basileios, or the *prytaneion*) and pinpoint the moments when these objects were moved between them.[121] Wherever they may have been, or whatever their medium was, they

[116] Clinton 1982, 30; cf. Gagarin 2020.
[117] On various candidates for the 'father of democracy' (Theseus, Solon, or Cleisthenes), see Ruschenbusch 1958, cf. Rhodes 2014, see Hansen 1989, Loddo 2018, esp. 39-88.
[118] On cultural memory in general, see Assmann 1999. In the case of so-called figures of memory, there is very often space allocated (such as concrete objects, buildings or routes); no matter where the 6th- and 5th-century *axōnes*/*kurbeis* with Solon's (and Draco's) laws were stored, a direct association was fostered. This fed the assumption that laws were bestowed mainly by Solon (and Draco); cf. Thomas 1996, 31, who draws attention primarily to writing down the laws, mainly inscriptions, as part of the 'monumentalisation' of the law and their role in Greek civilisation; cf. Wolpert 2002 (on the scrutiny of the laws, see *ibid.* 37-42).
[119] See Sickinger 1999, 94-97.
[120] The laws stored in the Council's archive were arranged based on certain rules, with decrees ordered by *prytany* and name of the Council's secretary, and possibly by the first secretary to the Council; see Sickinger 1999, 63-92.
[121] More recently, Davis 2011, 22ff recapitulates the discussions on what the *axōnes*/*kurbeis* might have been, considering all ancient testimonies as well as discussing all

were available to 5th century Athenians.[122] Beyond collective memory or oral tradition regarding Solon, Athenian (or broader Greek) laws had also, equally vital, material and visible form – a point demonstrated in recent studies by James P. Sickinger, Michele Faraguna, and Laura Boffo.

Moreover, *IG* I^3 104 implies that the officials in charge of the law might have had their own archives, as the *archōn basileus*. Notably, the publication of decrees in the form of inscriptions was not automatic, and several laws may have been published on other portable materials (double publication of laws or making copies is also likely[123]). The *anagrapheis*, therefore, prepared drafts of copies of laws by doing queries in all public spots where laws could be written down in any[124] form (e.g. *stēlai* with inscriptions, archives of officials, the *Boulē*'s archive in the Old Bouleuterion, or the 'place(s) of availability' of *axōnes*/*kurbeis*).

At this point, we can discern how the ideology of legislation ascribing all generally valid laws to Solon (and some to Draco) did not cohere with reality; there were many non-Solonian laws in the Athenian legal order. This is also a crucial point in understanding Athenian legal culture, as it highlights the connection (in this case, the contradiction) between the *way of thinking* and the *way of doing*, as Lawrence M. Friedman described it. The belief that all applicable laws were the laws of Draco and, above all, Solon, was important not only at the level of the ideology of legislation

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passages which mention the spots and transfer of *axōnes*/*kurbeis*. The earliest evidence comes from Anaximenes of Lampsakos, ca. 380-320, who was supposed to have written that Ephialtes transferred *axōnes*/*kurbeis* from the Acropolis to the Bouleuterion and the Agora. *Ath*. *Pol*. 7.1 implies that Solon's laws on *kurbeis* were displayed in the Stoa Basileios, which is also questionable since the Stoa was erected much later, in the 5th century; Polemon (early 2nd century) is said to have seen them in the *prytaneion*, a point which is also confirmed by Plutarch, who saw the remnants of the laws and called them *kurbeis*; see Davis 2011; cf. Hansen (H.) 1991, 127-200; also Leão-Rhodes 2015, 1-9; cf. Meyer 2016; Boffo-Faraguna 2021, 105-106 n. 20. For more recent discussions, see Schmitz 2023, 15-62 and Chabod 2024.

[122] For several scholars, the turning point for keeping the laws and producing potential copies of them was Xerxes' sacking of Athens in 480; see Davis 2011, 3. Davis 2024, 279 also stresses the problem of the possible bad physical condition of *kurbeis* and the issue of reading some of them by *anagrapheis*.

[123] See Andoc. 1.76: Andocides recounts that, after the enactment of Patrocleides' decree in 405, which annulled the convictions of *atimia* previously imposed on citizens, the Athenians decided to 'remove all these decrees, both their original versions, as well as copies' (ταῦτ' οὖν ἐψηφίσασθε ἐξαλεῖψαι πάντα τὰ ψηφίσματα, καὶ αὐτὰ καὶ εἴ πού τι ἀντίγραφον ἦν); cf. Shear 2011, 84-85.

[124] See Volonaki 2001, 150 n. 25; also Thomas 1989, 45-60; cf. Shear 2011, 83-85.

and the discourse on the best laws but also for a specific forensic strategy that was quite often used by parties in court.[125] But from a pragmatic point of view, such an assumption was misleading because the *anagrapheis* had to find all general and abstract laws in force and, therefore, needed to face the real problems while doing legal inquiries and finding all generally valid laws on various media in different locations where they were written – including those enacted after Solon and Draco. This huge task required a high level of competence and knowledge of the Athenian administration.

4.5. Working methods of the **anagrapheis** *and the 'divisions' of the law*

An attractive hypothesis has been put forward by Gil Davis,[126] who argued that Solon's original laws were produced in the form of wooden *kurbeis*, and that the *anagrapheis*, in 410-399, introduced the division into *axōnes* and their numbering. There are no direct sources to confirm this hypothesis; however, it is undeniable that the *anagrapheis* must have structured their legal inquiries in some way. Even if *IG* I³ 104 refers to the collegial nature of their work, Lys. 30 concentrates on the actions of Nicomachus specifically – who was also subject to individual *euthynai* – and the very scope of the task would have necessitated a preliminary division of responsibilities. This inscription itself continues the division of Draco's law into separate *axōnes*, by mentioning the πρῶτος ἄχσον (l. 10) and the [δεύτ]ερος [ἄχσον] (blurred in l. 56). This also shows that *anagrapheis* likely were enjoined to take the laws already ordered and divided into *axōnes* at the moment of the final publishing[127]. To what extent this division reflects broader patterns in the structure of Athenian law remains debatable. But one may try to answer such a question, considering the general scholarly studies on the relationship between substantive and procedural elements in Athenian law.

Recent scholarship has revealed a more complex view, where the Athenian laws appear to focus equally on both the substantive and procedural elements, and moreover, *nomoi* seem to be even primarily organised by substantive 'categories' as argued by Edward M. Harris.[128] Mogens H. Han-

[125] See e.g. Gagarin 2020.
[126] Davis 2011, *passim*.
[127] See Boffo-Faraguna 2021, 107-108.
[128] Harris 2013a, 138-175, 359-378 (discussing the previous scholarship) *contra* (e.g.) Hansen 1975, 10, 14, 21 and Todd 1996, 123-124 (both stressing procedural orientation of Athenian law); cf. more recently Harris-Lewis 2022 (for the substantive

sen ultimately stresses that procedure often follows substance, and a certain degree of procedural unity is often found in laws with similar substantive concerns[129]. Taken together, these perspectives prompt us to think that the *anagrapheis*, in their compilation efforts, may have approached the laws from both angles, though the final arrangement likely prioritised substantive orientation, as will be shown below.[130]

IG I³ 104 (ll. 4-5) refers explicitly to the transcription of Draco's homicide law (τὸ[ν] Δράκοντος νόμον τὸμ περὶ τοῦ φό[ν]ο ἀναγρα[φ]σά[ν]τον), which suggests a 'substantiative element' as main reference. But, it is at the same time developed in cooperation with the *archōn basileus*, who had a prescribed legal-procedural jurisdiction over such regulations and possessed a copy of homicide law as well. On the other hand, *IG* I³ 105, with the law on the *Boulē*, contains several independent older documents (from different periods) joined together.[131] And, indeed, it proves a rather substantive orientation of the law, focusing on the constitutional matter. The same substantive focus can be found in Lys. 30, where the emphasis is on the laws concerning cults, calendars, and sacrifices (see below).

IG I³ 105 may offer helpful insight into the working methods of the *anagrapheis*. David M. Lewis has observed that, in l. 43. ([…] *h*όπος ἂν δοκεῖ ::: δέμοι τοῖ Ἀθεναίον πλε[θύοντι ..23..]) instead of the editors' supplemented τοῖ, there are three times two overlapping dots – marks which also appear in ll. 34, 44, and 50, to separate portions or clauses of the text, but which in this case would have been used by *anagrapheis* to indicate that the original text was damaged and they could not read it.[132] The consequence of this is that the *anagrapheis* may sometimes have found it diffi-

focus of Greek archaic laws). A balance view was presented in Carey 1998 (p. 109: 'The evidence does not allow us to exclude the possibility of a change in the balance between procedural and substantive law between the archaic and the classical period; but we can state that from Solon onwards the Athenians were using laws with both a procedural and a substantive emphasis according to the nature of the issue subjected to legislation'). I thank one of the Reviewers for the critical remarks that prompted me to rethink this thread.

[129] See Hansen 2019b, 465-468.

[130] Cf. Joyce 2022, 116-117; Schmitz 2023, 11.

[131] Rhodes 1972, 198; Ryan 1994, 121; Gallia 2004, 454; Shear 2011, 76-78; Boffo-Faraguna 2021, 109, 112.

[132] Lewis 1967, 132: 'stone, which was carved by a careful man transcribing a damaged original with such fidelity that he preferred to mark three blank spaces which he could not read rather than make what appears to us the easiest of conjectures'; cf. Shear 2011, 78; and also recently Boffo-Faraguna 2021, 112.

cult to read the text of the laws which they were tracking down, but, more crucially, at no step of the scrutiny of the laws (*Boulē* or *Ekklēsia*) was it decided (in this precise example of the law(s) on the Council) to update the archaic language or to 'fill in' gaps in the text of the old law. Thus, the *anagrapheis* had to find the laws on a given topic (such as, here, a separate law on the functioning of the *Boulē*), draft preliminary versions for further work in the *Boulē* and the Assembly, and, for the final publication, follow the instructions of the *Ekklēsia*'s decree, which enacted the edition of the law in question, thus authorising the definite version of the legal text. As we can see, the *anagrapheis* did not even 'correct' an apparent discrepancy. Still, they had to follow the instructions of the Assembly, and, at this stage of their activities, they could be called mere 'scribes'.[133] Yet, at the preliminary step of their tasks, they needed to search for all laws concerning the Council, which might have been a challenge.

One may inquire here about Nicomachus' role in the division of *anagrapheis*' work. After all, he is the only *anagrapheus* about whose remit we are informed. Nicomachus was indeed tasked with the work on the laws concerning religious matters, including the sacred calendar.[134] He served as an *anagrapheus* during two stages of the scrutiny of the laws. In Lys. 30.25, the accuser's statement, 'He who became *anagrapheus* of *ta hosia kai ta hiera*' (ὃς καὶ τῶν ὁσίων καὶ τῶν ἱερῶν ἀναγραφεὺς γενόμενος), has led some scholars[135] to infer that the prosecutor suggests that Nicomachus han-

[133] Still, it is worth stressing that *IG* I³ 105, with its meticulous preservation of archaic language, does not exclude the possibility that there was a substantive amendment during the scrutiny of the laws to the 'body of legislation' concerning the *Boulē*, not by the *anagrapheis*, but at the moment of the debating laws at the Assembly (see below, 4.7).

[134] Davis 2024, 280-282 discusses various categories of sacrifices ('ancestral sacrifices': *patrioi thusiai* and 'additional feasts': *epithetoi heortai*) on which Nicomachus would work on.

[135] In the context of Lys. 30.25 the distinction between Stage I (410-404: secular) and Stage II (403-399: sacred) also makes no sense (thus Todd 1996, 109-110), as is also pointed out by M. Edwards and E. Volonaki (although the latter maintains this sacred/secular division); Edwards 1999, 171; Volonaki 2001, 148-149. Because of this dichotomy of secular and sacred, Shear 2011, 83 n. 51 questions Francken's emendation in Lys. 30.25, which removed the *kai tōn hierōn* at this point: οὗτοι δ' ἐπὶ τῇ τῶν νόμων ἀναγραφῇ [καὶ τῶν ἱερῶν] δῶρα λαμβάνοντες; then *nomoi* would be secular rules and *hiera* would be religious ones; Hansen 1990, 70 (attributing Nicomachus' work with secular and sacred laws in the II Stage also invokes this passage). However, there are no such divisions in the sources.

dled both secular (*ta hosia*) and sacred matters (*ta hiera*). However, such an interpretation should be rejected. The phrase *ta hosia kai ta hiera* carries a specific meaning that involves financing religious activities in Athens and encompasses theatrical performances, worship practices, and other associated expenses. Josine Blok emphasises this distinction, stating: '*Hiera kai hosia* does not mean 'matters sacred and profane,' but refers to human obligations to the gods in two distinct but related ways: human gifts to the gods (*hiera*) and conduct toward gods and humans demonstrating proper respect for the gods (*hosia*).'[136] Based only on the accuser's depiction of Nicomachus' duties, one would presume that he dealt with a specific type of law, likely on cult (which was inherently linked to financial issues), during both the I and the II Stages of the *anagrapheis*' remit, as is also attested by the inscriptions which preserve fragments of the sacred calendar.[137]

Given the Athenians' ways of legal thinking, the separation between 'secular' and 'sacred' laws should certainly be rejected, as this would be a decidedly anachronistic distinction. However, Lysias' speech clearly distinguishes a certain area of the laws related to cults, and especially their financing, and this may have been the main task of Nicomachus during his two stages of work: to search out all the laws related to this (as instructed in *syngraphai*). Laws on *ta hiera kai ta hosia*, Draco's homicide law, and the surviving fragments on the law about the *Boulē* illustrate the significant emphasis placed on substantive focus in Athenian law. This does not preclude, however, that – given the organisational complexities involved in legal inquiries – the *anagrapheis* may have initiated the process of locating relevant laws by consulting the magistrates responsible for their administration, such as the *archōn basileus*.

4.6. Contradictory laws and its social perception

As discussed above, we have seen that the *anagrapheis* faced some difficulties in finding the laws with their written media and following instructions on how to proceed with the task. Of course, as I have shown in the example of the law on the *Boulē*, the *anagrapheis* did not introduce for their own any formal amendment to laws under scrutiny (including grammatical or stylistic changes). But they still needed to find the various laws on the same

[136] Blok 2017, 99; also recently noted by Oranges 2018, 81-82.
[137] On these inscriptions, see above, n. 23-26 and, below, n. 187, 192.

topic; and tracing later amendments to the Solonian laws on the same matter was not easy. Moreover, the *anagrapheis* may have encountered conflicting laws during their legal inquiries – an outcome of the growing problem in the late 5th century arising from the absence of clear procedures and rules for making and changing laws, as recently persuasively emphasised by Mirko Canevaro.[138] From this perspective, I now turn to the significance of Lys. 30.3.:

> εἰς τοῦτο δὲ κατέστημεν ὥστε ἐκ τῆς τούτου χειρὸς ἐταμιευόμεθα τοὺς νόμους καὶ οἱ ἀντίδικοι ἐπὶ τοῖς δικαστηρίοις ἐναντίους παρείχοντο, ἀμφότεροι παρὰ Νικομάχου φάσκοντες εἰληφέναι. ἐπιβαλλόντων δὲ τῶν ἀρχόντων ἐπιβολὰς καὶ εἰσαγόντων εἰς τὸ δικαστήριον οὐκ ἠθέλησε παραδοῦναι τοὺς νόμους:[139] ἀλλὰ πρότερον ἡ πόλις εἰς τὰς μεγίστας συμφορὰς κατέστη, πρὶν τοῦτον ἀπαλλαγῆναι τῆς ἀρχῆς καὶ τῶν πεπραγμένων εὐθύνας ὑποσχεῖν.
>
> We were reduced to such straits that we had laws rationed out to us from his hands, and litigants brought forward contradictory laws for the lawcourts, both sides claiming that they had received them from Nicomachus. **When officials were imposing penalties and introducing cases into court, he was still reluctant to hand over the laws**. The city had been reduced to the direst disaster before he gave up his office and agreed to submit accounts for his conduct of office (transl. by S. Todd; modified; emphasis is mine).

First, I consider the sentence printed in bold. Nicomachus is accused of refusing to hand over the laws (οὐκ ἠθέλησε παραδοῦναι τοὺς νόμους). What exactly could this have meant? Nicomachus had already been working 'too long' on these preliminary draft laws to submit them for further consultation, thus delaying the scrutiny proceedings even further.[140] The verb *paradidonai*, used by the accuser, is also attested in several sources

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[138] Canevaro 2015, esp. 18-43. Even if M. Canevaro rightly notices Lys. 30.3 (*ibid*. 22-23), I will try to emphasise the greater importance of this passage. See also Dreher 2022 for a more complex view of the mechanism for repealing laws in Athens from the archaic to the classical period.

[139] Surprisingly, the understanding of this phrase is quite uncontroversial, which, until now, many scholars have somewhat misunderstood and mistranslated. I follow here N. Robertson 1990, 54 n. 36: 'And when the archons were imposing fines and bringing cases into court, he was still reluctant to hand over the laws'; similarly Edwards 1999, 164; cf. Carawan 2010, 81 n. 30 *contrary* cf. Todd 2000: 'When the Archons imposed summary fines on him, and summoned him before a lawcourt, he still refused to surrender the laws' (similarly Volonaki 1998, *ad loc* and Gernet 1962, *ad loc*). Further on, in the main body of the text, I clarify my understanding of the passage.

[140] Cf. Shear 2011, 83.

cited above[141] in relation to transferring certain boards to other officials for further administrative or legal proceedings. It should be remembered that this was a legal project that went beyond the original premises. The work must have proved arduous and lengthy. However, most citizens realised this; after all, Nicomachus had been in office for the entire duration of the scrutiny of the laws in 410-399.

Certain 'social factors' must also have mattered, which is how I interpret the information from Lys. 30.3 that the litigants in court told each other that they had obtained the laws from the hand of Nicomachus (ἐκ τῆς τούτου χειρὸς ἐταμιευόμεθα τοὺς νόμους)[142], and *nomoi* turned out to be contradictory. It is plausible that the Athenians, having heard that such a legal scrutiny was taking place and that the *anagrapheis* were querying old laws, may have kept bothering Nicomachus and other officials, seeking their help. Moreover, the Athenians meticulously reviewed the information on the new legal project. They knew who was working on the legal scrutiny very well, so they later tried to 'legitimise' their actions in court by saying that, in case something happened, it was Nicomachus who discovered the laws. Most Athenians could not afford a logographer to undertake legal research for them. The average citizen could have taken advantage of the ongoing interim period while the laws were being revised and tried to exploit the conspicuous inconsistencies. These are merely hypotheses, of course, but one must always consider the social factor in this type of reform. Sometimes systemic problems are hidden, and making them public causes people to start looking at them with increased attention, trying to take advantage of the prevailing chaos. Citizens could turn to Nicomachus and other *anagrapheis* for help, and then the litigants would claim to have received laws from them; they probably obtained the information that such laws, and not others, were available and had been enacted at some point. I understand similarly, as discussed above, the involvement of Nicomachus in Cleitophon's case (Lys. 30.11), when he 'revealed' (*apodeiknunai*) the existence of a law on the Council. Generally, the situation where laws were contradictory was no fault of Nicomachus, but it provides a 'snapshot' of the quite chaotic legal and judicial state in late 5th century Athens.[143]

[141] See above, in 4.1.

[142] The verb ταμιεύειν denotes here derogatory meaning; I want to thank one of the Reviewers to paying my attention to this.

[143] See recently Canevaro 2015, 15, 17 and Dreher 2022, 32 on legislative chaos in the context of the *anagrapheis*.

Such an interpretation may also be supported by the proper reading of one sentence of Lys. 30.3: ἐπιβαλλόντων δὲ τῶν ἀρχόντων ἐπιβολὰς καὶ εἰσαγόντων εἰς τὸ δικαστήριον οὐκ ἠθέλησε παραδοῦναι τοὺς νόμους. It should not be understood here (as most scholars do)[144] as meaning that Nicomachus was fined and brought to court (for in Greek, we do not have the complement to ἐπιβαλλόντων and εἰσαγόντων). This is simply a general report on the state of the facts, i.e. the presence of conflicting laws in the legal order; in such a situation, the administration and courts of Athens had to proceed regardless, such that officials still introduced cases into tribunals, imposing penalties even when conflicting laws existed (τοὺς νόμους ἐναντίους). The litigants (*antidikoi*) 'brought forward for the court' (ἐπὶ τοῖς δικαστηρίοις παρείχοντο) contradictory laws; this must refer to the phase of *anakrisis* in which the parties presented the laws they wanted to be read by the secretary in the *dikastēria*[145], or the laws on which the *enklēma* (written plaint) was formulated. Therefore, the officials (*archontes*), having conflicting laws at their disposal, still had to decide whether the issue was admissible or not (the accuser uses the crucial verb *eisagein*).

By the 'conflicting laws' (*nomoi enantioi*), in Lys. 30.3, I understand regulations whose inconsistencies could not be eliminated by interpretation (linguistic improvements of laws, as proved, were not implemented[146]). They would be somewhat directly contradictory laws, such as different penalties for one offence (a specific number of drachmas in the case of a fine or limits on the ability of officials[147] to impose a fine) or the allocation of powers to handle the same case to various magistrates (which would make

[144] See above, n. 139.

[145] Cf. Antiph. 5.20, 22; Lys. 23.8; on the Athenian trial, see Harrison 1971; cf. Todd 1993, 77-167; Harris 2013b. On court documentation, see also Filonik 2024.

[146] See above on the *Boulē* in 4.5; also on Draco's law in Harris-Canevaro 2023.

[147] Indeed, officials had the autonomy to impose fines on citizens; see Edwards 1999, 163-164; cf. Rhodes 1985², *ad Ath. Pol*. 56.7; MacDowell 1978, 235-237; Harrison 1971, 4-7. In Lys. 30.3 Lysias used the word ἄρχων, a term which can mean simply 'official' (*LSJ* s.v. ἄρχων); cf. Aesch. 3.27 (καὶ ἐπιβολὰς ἐπέβαλλε, καθάπερ οἱ ἄλλοι ἄρχοντες). Compare also the inscription regulating the conduct of the festival in honour of Hephaestus, dated 421/0, which allows *hieropoioi* to impose fines of up to 50 drachmas on those disrupting the order of the festival, and if someone deserved a higher penalty they had to bring a case into court with the official concerned (ll. 25-28: καὶ ἂν τίς τι ἀκοσμέ[ι, κύριοι ὄντον αὐ] | τοὶ μὲν ζεμ[ιῶν μέχρι πε]ντέκοντα δραχμῶν καὶ ἐκγράφε ἐς [.....12..... ἐὰ] | [ν] δέ τις ἄχσ[ιος ἒι μέζον]ος ζε[μ]ίας, τὰς ἐπιβολὰς ποιό[ντ]ον [ποπόσας ἂν δοκεῖ κ] | [α]ὶ ἐσαγόν[τον ἐς τὸ δικασ]τέρι[ο]ν τὸ τοˆ ἄρχοντος), see *CGRN* 43, ed. by J.- M. Carbon, S. Peels, V. Pirenne-Delforge).

it difficult for officials to decide whether a case was *eisagogimos* or not).

Certainly, blaming Nicomachus for the existence of contradictory laws in the Athenian legal order was part of the accuser's rhetorical strategy. However, as I have tried to show, it could actually reflect the public perception of his work (as well as that of the other *anagrapheis*) due to the unprecedented nature of this scrutiny. The scrutiny of the laws may have paradoxically opened Pandora's box, by revealing the inconsistencies in the legal system, exposing its loopholes, and highlighting the inclusion of directly conflicting laws that could not be circumvented by interpretation, such as the question of variations in sanctions of penalties, or the attribution of a particular case to a particular official.

This social aspect of perceiving the law reform through the lens of the activities of *anagrapheis* is vital to Athenian legal culture. Such a perspective helps to understand the Athenians' behaviour and mindset regarding the legal or judicial order. Indeed, Athenians were aware of the courts' power, so they eagerly litigated to fight for their interest and, from a more ideological point of view, for justice. We can assume they knew how the judicial order functioned and recognised its benefits and weaknesses. In Lys. 30.3 we are informed about the parties in courts evoking contradictory laws, which means that the order – for some reason – stopped working, and it might have been an impulse to benefit from this state of affairs. The same is said by Andocides (Andoc. 1.86), when he describes the reasons behind introducing (after 403) one of the vital rules and threats related to the possible breaking of the amnesty due to sykophancy (*sykophantein*), as part of the layered political and legal circumstances after the Thirty. Yet, it seems that abusing the inconsistency of the legal order appeared from the beginning of the legal scrutiny when the *anagrapheis*' activities were publicly known.

Nicomachus was not responsible for this state of affairs. He was just aware that this was the way things were, and in the course of the work, which took a long time, he just had to seek out and trace these inconsistencies. The place for the final verification of the laws was the Assembly, where the laws were voted on, which the accuser overlooks throughout the speech.

4.7. Debating laws at the Assembly

Regarding the shifting of decision-making primarily to the Assembly, there

is a passage that scholars have largely overlooked.[148] The second part of Lys. 30.21 reads: 'And in the middle of this, that temple robber is running around, claiming that he has written down piety rather than thrift. Moreover, he says that if these things do not please you, you should erase them (κἀν τούτοις ὁ ἱερόσυλος περιτρέχει, λέγων ὡς εὐσέβειαν ἀλλ᾽ οὐκ εὐτέλειαν ἀνέγραψε: καὶ εἰ μὴ ταῦτα ὑμῖν ἀρέσκει, ἐξαλείφειν κελεύει).[149] In this passage, the accuser seems to be invoking the behaviour of Nicomachus, who had to defend himself by reminding the judges that he did not have the power to authorise the laws under scrutiny. Instead, an external body, like the Assembly, needed to approve them; the verb *areskein*, in some contexts, can denote a decision taken by a public body.[150] Furthermore, if such a thrust was accurate, Nicomachus' attitude would show his great self-confidence and, at the same time, demonstrate that he believed the Athenians were pleased with the outcome of his work on the legal scrutiny.[151] But it also reflects the most important thing that, even if the *anagrapheis*' remit was not merely clerical at the preliminary step of legal scrutiny, the most crucial step in the decision to create a refreshed body of laws were the orders of the Assembly – as we learned from *IG* I^3 104. After proceedings by the *anagrapheis* with cooperation with other officials (mainly the *Boulē*), there was a meeting of the Assembly, which voted on accepting or rejecting a particular law. Yet, I assume that the Assembly, from the very beginning of this legal project, was also able to introduce amendments.

Recently, Mirko Canevaro and Edward M. Harris, when analysing Draco's law, have convincingly argued that *IG* I^3 104 contains an original archaic law of Solon that has not undergone any amendment (as indicated, among other things, by the language used).[152] Eventually, even if their analysis of the inscription together with other sources on Athenian homicide law has shown that we are dealing with an archaic text of Draco's law, which was not amended during the scrutiny of the laws, it does not have to imply that the

[148] I have only noticed it in Oranges 2018, 75-76.
[149] Transl. S.C. Todd, slightly modified (my gratitude to Janek Kucharski and Jakub Filonik for their remarks on this passage).
[150] *LSJ* s.v. ἀρέσκω (ἀρέσκει *is used impers. to express the opinion or resolution of a public body*; cf. Latin *placet*), as i.e. Hdt. 8.19 (ταῦτα ἤρεσέ σφι ποιέειν); Ar. *Eq*. 1311 (ἢν δ᾽ ἀρέσκῃ ταῦτ᾽ Ἀθηναίοις).
[151] Cf. Hansen (Hardy) 1990, 48.
[152] Harris-Canevaro 2023; I accept their main conclusions on the original and unamended Draco's homicide law.

same happened with each law under scrutiny. I will now argue that amendments cannot be excluded from the procedures of this project.

One of Mirko Canevaro and Edward M. Harris' arguments involves the use of the verb *dokimazein* by Andocides to denote the scrutiny of laws (Andoc. 1.82) as only 'yes or no' voting on the laws. Indeed, by referring to various contexts in which this verb appears, such as the *dokimasia* of officials, they conclude that, during the legal scrutiny, the Assembly could either accept or reject the law in question, as this is the general sense of *dokimasia*.[153] Nevertheless, the scrutiny of laws in the Assembly was a distinctive process, in which deliberation might have preceded the final voting. At the end of this procedure, some laws would be approved without amendments, others were modified, and some rejected, depending on whether the *Ekklēsia* ultimately passed a given law or not. From this perspective, the verb *dokimazein* can be understood not as a mere dichotomy of approval or rejection, but as a flexible framework for legal evaluation. This is not unlike modern legislative practices, where ultimately a law is either enacted (with or without amendment) or not at all – *tertium non datur*.

Beyond the well-known Andoc. 1.82, there is another telling example of *dokimazein* in a legislative context. In Xen. *Mem*. 4.4.14, during a moral-philosophical discussion, Hippias observes: '*Socrates, how could anyone believe that laws or the obedience to them are a serious matter,* ***when the very people who set them down often change them, having rejected them after scrutiny?*****' (…οὕς γε πολλάκις αὐτοὶ οἱ θέμενοι ἀποδοκιμάσαντες μετατίθενται**).[154] The aorist ἀποδοκιμάσαντες (from the verb ἀποδοκιμάζειν that means 'reject on scrutiny') alongside the verb μετατίθενται (from μετατίθημι that means 'replace', 'change', 'substitute') are strictly connected here.[155] Moreover, the verb *dokimazein* is used in a more abstract context by Plato (Pl. *Resp*. 3.407c) to perceive philosophy in terms of virtue that can be practised and tested (ὥστε, ὅπῃ ταύτῃ ἀρετὴ ἀσκεῖται καὶ δοκιμάζεται); from this angle, *dokimazein* does not necessarily imply dichotomy of approving and rejecting of something, but a kind of checkpoint of the way of improvement[156]. Considering the specific legislative context of *dokimasia* of

[153] The core idea of *dokimasia* was to check whether someone (or something in the case of, e.g., *dokimasia* of silver) fitted some standards (e.g. legal, religious, social or economic). See Todd 2010; cf. Harris-Canevaro 2023, 19; Chabod 2024, 274 n. 97.
[154] Transl. by A. L. Bonnette (emphasis is mine) taken from Bonnette–Bruell 1994.
[155] *LSJ* s.v. ἀποδοκιμάζω and μετατίθημι.
[156] More abstract and philosophical senses of political and legal vocabulary are observed

the laws, I would argue that there was a space for amending the laws.

Moreover, supposing that some laws may have been contentious, eliminating the possibility of amendments could block the enactment of such a law altogether, effectively 'boycotting' the re-enactment of the contemporary *nomoi*. Within the general framework of making *psephismata* in Athens, an inherent feature is the possibility of making amendments.[157] Before the introduction of *nomothetai* (and the separation *of nomoi* from *psephismata*) at a later stage of the law reform, making general laws seemed to fit somehow the standard decree-making process[158]; the prescript with Draco's law reflects it (at least partially) as the proposer presented his motion before the *Boulē* (see above). Amendments were always inserted in the inscriptions with the content of a *psēphisma* after the main portion of the proposal. Albeit *IG* I^3 104 has not been preserved in its entirety[159], the amendment that revised the text of the main law may have already been applied to the text of the inscription[160] or, which was more common in Athens, appeared only after the 'original' text of a law, as also we have in Great Code from Gortyn. Generally, Greeks instead did not make a coherent version of the amended text of the law as it is common in modern promulgations of laws.[161] Indeed, there

in Lloyd 1979, 252-253 with n. 120 (also on 'testing and examining ideas').

[157] In the inscription on the first fruits of Eleusis (*IG* I^3 78a), where the proposers were *syngrapheis* (a group of experts in sacred matters), the opportunity for amendments was also retained (l. 47: the amendment was made by the prophet Lampon). On the legislative process of Athens in the context of epigraphic formulas, see Rhodes-Lewis 1997, 11-31; cf. Rhodes 1972, 52-81 and Henry 1977, 17-18 (stressing the inconsistencies in epigraphic formulas). On the politics of amendment in 5th century Athens, see recently Osborne 2024 (focuses on a more statistical approach showing that the Assembly seems to more often amend decrees in the 5th century than in the 4th century; cf. Osborne 2018 with the meaningful title: *the theatre of the amendments*). On the 'probouleumatic' formulas, see above in 4.2.

[158] Cf. Esu 2024, 24-26 on the separation of law-making and decree-making in Athens and Greece; cf. Rhodes-Lewis 1997, 17, 32; Canevaro 2015, 14, 18-20.

[159] Notably, the inscription begins with *kai* —'and' or 'even if' (?) – what raised the question of whether original law might have started this way; see Sickinger 1999, 20-21; cf. Harris-Canevaro 2023, esp. 27-37.

[160] We have at least one such case, *IG* I^3 110 (see *OR* 184), a decree of honour (dated 408/7) for Oiniades of (Palai)skiathos, which contains an amendment (ll. 26-31: Antichares proposed: in other respects in accordance with the Council, but in the proposal a correction shall be made for 'of Skiathos', so that there shall be written, 'Oiniades of Palaiskiathos'. This amendment is already engraved and included in the main text of the decree: ll. 7-8; on that amendment, see Osborne 2018, 43-44.

[161] In the *Gortyn Law Code*, amendments to some earlier provisions appear only at the end of the inscription. They include in the section 11.24-5 an amendment to 1.1-

is no direct evidence of such intervention in the Draco's law inscription. Nevertheless, considering the broader linguistic and epigraphic context, we cannot entirely exclude the possibility of amendments to other laws under scrutiny, assuming that all such laws were intended to follow a pattern similar to that of *IG* I³ 104. There is even more evidence to support this.

IG I³ 105 proves that the law on constitutional matters was part of the legal discourse of the late 5th century and ultimately was part of the scrutiny of the laws. We know that before this happened, the law on *Boulē* had changed a few times, and simultaneously, the oath of Council must have been amended as well[162]. In *IG* I³ 1453 (*OR* 155; decree enforcing use of Athenian coins, weights and measures, dated ca. 414), we learn that the secretary of the Council is to add the necessary clause to the oath of the Council (l. 10: προσγράψαι δὲ καὶ πρὸς τὸν ὅρκον [τ]ὸν τῆς βολῆς). Moreover, we know from the fragment of Philochorus (*FGrHist* 328 F 140) that in 410/9, Athenians changed the law on *Boulē*, introducing the sortition of seats and thus modifying the bouleutic oath as well.[163] Indeed, we do not have much evidence to link the latter amendment with the *IG* I³ 105 (understood as the very same legislative operations within the scrutiny of the all laws concerning *Boulē*), even if it fits with the chronology. But, still, there is evidence that Athenian modified their laws on the same matter when it was necessary, and the secretary of the Council was in charge of establishing relevant text (similar is stressed in Diocles' law on the clauses of the law validity; see below). Remarkably, even if the law on the *Boulē* (and the oath as well) was modified, Athenians in the 4th century regarded the *hōrkos* as wholly in force in the version from Cleisthenes' reforms (*Ath*. *Pol*. 22.2).

Unfortunately, we do not have clear evidence to establish the exact pro-

2.2 (on seizure before trial), in 11.31-45 a supplement to 9.24-40 (on obligations of the deceased), in 11.46-55 an amendment to 2.45-3.16 (on divorce), in 12.1-5 an amendment to 10.14-25 (on gifts to Women), in 12.6-19 an amendment to 8.42-53 (on heiresses who are Children); I follow the edition and commentary of Gagarin-Perlman 2016 (G.72); also see Gagarin 1982, esp. 145-146.

[162] See Sommerstein-Bayliss, 2012, 40-43.

[163] *FGrHist* 328 F 140: φησὶ γὰρ Φιλόχορος ἐπὶ Γλαυκίππου «καὶ ἡ βουλὴ κατὰ γράμμα τότε πρῶτον ἐκαθέζετο· καὶ ἔτι νῦν ὀμνῦσιν ἀπ' ἐκείνου καθεδεῖσθαι ἐν τῶι γράμματι ὧι ἂν λάχωσιν. However, Rhodes 1991, 93 does not link this amendment with scrutiny of the laws (for *ratio legis* behind this 'new law', see Rhodes 1985², 192; Ostwald 1986, 321-322, 418-419). Moreover, the oath of the Council was also modified because of the amnesty clauses, see Andoc. 1.91.

cedures for amending old laws during the scrutiny of the laws (either of the stages of this project). Still, the logic of these developments, contradictory laws (Lys. 30.3: the place of this passage in the speech suggests the I Stage), and other political, constitutional, and economic factors led to the conclusion that modifying old laws must have happened from 410. If Athenians 'dared' to reject Solonian laws during legal scrutiny, why would they not consider amending them – it would even more suit the image that such laws were still Solon's laws. It was from the time of the Four Hundred's regime onwards that Athenians began explicitly discussing the old laws, often (ab)using slogans such as *patrioi nomoi* — in contrast to the earlier dominant legislative ideology, which was generally suspicious of legal change.[164] Of course, the procedural situation may have changed when, in 403, Athenians established the board of *nomothetai* to work on their new laws; perhaps from this moment, they were working additionally on amendments to the Solonian laws as part of the scrutiny of the laws (with certain cooperation with the *anagrapheis* at the preliminary step).[165]

Indeed, *anagrapheis* did not formally amend or edit the laws; this stage was related to the formal setting of the final version of the laws in force and the deliberations in the Assembly. Nicomachus and others, at this stage of the scrutiny of the laws, merely carried out the instructions of the *Ekklēsia*, based on their inquiries so far and the preliminary texts of the laws discovered and collected earlier.

Lysias' speech shows that the laws concerning worship and sacrifices, especially their financial dimension, were controversial among some Athenians. It was probably about them that the most heated debates took place at the Assembly. In contrast, the old laws of Draco were broadly held in esteem, and there was no perceived need to change them. Thus, legal discourse[166] is an essential element of Athenian legal culture embedded within a broader culture of deliberation. From this perspective, we can observe a spectrum of crucial values for some groups; in Lys 30.21, discussed above, we learn that, for some people, the argument for arranging the new sacred calendar was a mark of *eusebeia*, and for others, *euteleia*. Even if we do not

[164] On mistrusting legal change and tacit legal change, see more Canevaro 2015, esp. 30-43.

[165] I would like to thank Mirko Canevaro for suggesting such a possibility.

[166] On the legal discourse in Greece, see Humphrey 1988 (on Nicomachus and the law reform, see especially *ibid*. 476); cf. Wohl 2010, 291-316.

know the particular Athenian law, we can try to examine what we can learn through the perspective of legal discourse to detect crucial values or ways of thinking, at least for some parts of Athenian society. The Assembly was one of the apparent forums of legal discourse for the scrutiny of the laws (the 'evolving law reform'). Lys. 30.21 shows that Nicomachus was also aware of the strength of this argument, as he was supposed to point out that he only 'removed' (*exaleiphein*) something if the Athenians so decided. From this perspective, it was the people (*dēmos*) who were lawgivers; this was a considerable change in the light of the previous ideology of legislation, which perceived only specific great *nomothetai* as true lawgivers (cf. Lys. 30.28).[167] It marked a crucial shift in late 5th century mentalities – one that reflects a key element of Athenian legal culture: the connection between *ways of doing* and *ways of thinking* in the context of legal change.

4.8. Flexibility: from the scrutiny of the laws to the 'law reform'

I have tried to emphasise that a fundamental feature of the late 5th century legal developments was the flexibility in response to changing political, social, and military circumstances and growing administrative problems and challenges. A watershed moment came in the coming to power of the Thirty, which began bloody and brutal interventions in Athenian laws and the courts (*Ath*. *Pol*. 35.2); tinkering with Solon's laws entailed emending some while destroying the inscriptions and preserving others.[168] Undoubtedly, the Thirty also interrupted and intervened in the work of the *anagrapheis*. Some scholars have interpreted the destruction of inscriptions with the sacred calendar written in the Ionic alphabet as the ravaging activities of the Thirty.[169] When democracy was restored and scrutiny of the laws resumed,

[167] Discussed in more detail in Canevaro 2015, 32-33.

[168] On the oligarchy's general approach to violence and stability, analysed against the background of the Thirty's activities, their treatment of the court and the law, see Simonton 2017, 90-93; cf. Osborne 2003, 262-266; Shear 2011, 176-186; Rhodes 1985[2] *ad Ath*. *Pol*. 35.2; on destroying inscription by Thirty, see Culasso Gastaldi 2014, 4; cf. Low 2020, 250-254 (stresses the symbolic meaning of such operations; cf. Shear 2011; Aesch. 3.190).

[169] On the sacred calendar, see more above, n. 23-26 and, below, n. 187, 192. The inscription reporting on the traces of wiping out are frgs. 2 and 3 in Lambert's edition; see more in Rhodes 1991, 93-95 (a brief overview of scholarly positions on interpreting damage marks); cf. Clinton 1982, 32, 35; Robertson 1990, 44-45; Lambert 2002, 355; Shear 2011, 240-243; Joyce 2022, 106-110.

the project took on a new dimension.

This stage is elucidated in Andocides' *On the Mysteries*. In this case, the orator tried to convince the judges that, after democracy was restored and amnesty was declared, all laws (both *nomoi* and *psēphismata*), including those established before the archonship of Eucleides (403/2), were no longer valid (Andoc. 1.89). Consequently, the decree of Isotimides from 415, which imposed penalties on Andocides, was no longer in force (Andoc 1.71). Therefore, the prosecutors in this lawsuit were precluded from charging him with impiety (*graphē asebeias*)[170] for his involvement in the Eleusinian Mysteries in 400.[171] Nevertheless, Lysias' speech challenged the idea that restoring democracy entailed repealing all previous activities of the *anagrapheis* and initiating a new review of the laws, as implied in Andoc. 1.82. The amnesty agreement did not aim to invalidate previously enacted decrees.[172] On the contrary, it intended to preclude litigation for actions committed before 403/2 (i.e. mainly during the rule of the Thirty) as argued by Douglas M. MacDowell.[173] Thus, Andocides confused legal application with legal validity.[174] The following passage deserves particular attention (Andoc. 1.81-82):[175]

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[170] On the broader background of the trials for *asebeia*, see Filonik 2013, 42-43. However, R. Van Hove has recently argued that Andocides' trial took place under *endeixis atimias* (Van Hove 2025).

[171] This case is recently discussed by Joyce 2022, 24-25 and 107-126, who enumerates Andocides's factual and legal manipulations; cf. MacDowell 1962, Hamel 2012, Hagen 2021.

[172] See Joyce 2022, 115.

[173] MacDowell 1962, 128, 200; Joyce 2022, 110-111, 120. Another example of manipulation of Andocides in this context is the portrayal of Leon's condemnation to death by the Thirty as a result of Meletos' actions (Andoc. 1.94) – Meletos could not be held responsible for this, as this would have contradicted the amnesty covenant that individuals could not be tried in court for deeds preceding the archonship of Eucleides.

[174] It is worth stressing that Athenians, to some extent, seem to have distinguished legal vocabulary to denote 'applying' laws (the form from χράομαι; 'using' laws by magistrates and by the litigants; cf. *Ath*. *Pol*. 53.3) and 'making laws (in)valid' (κυρίους εἶναι confirming that the law is a part of the legal order; as in Diocles's law, see below n. 185). Thus, even Andocides, highlighting archonship of Eucleides as the crucial caesura, employs almost verbal form χρῆσθαι (Andoc. 1.88-89, 93), only for somewhat rhetorical impression tries to convince that it makes decree of Istotimides 'invalid': ἄκυρόν ἐστιν (Andoc. 1.8, 72; cf. the juggling of the key verbs in Andoc. 1.99). Generally, on the Greek legal terminology on (in)validity, see Dimopoulou 2014; cf. Dreher 2022, 63-67.

[175] See Canevaro 2015, 38-40.

[81] ἐπειδὴ δ᾽ ἐπανήλθετε ἐκ Πειραιῶς, γενόμενον ἐφ᾽ ὑμῖν τιμωρεῖσθαι ἔγνωτε ἐᾶν τὰ γεγενημένα, καὶ περὶ πλείονος ἐποιήσασθε σῴζειν τὴν πόλιν ἢ τὰς ἰδίας τιμωρίας, καὶ ἔδοξε μὴ μνησικακεῖν ἀλλήλοις τῶν γεγενημένων. δόξαντα δὲ ὑμῖν ταῦτα εἵλεσθε ἄνδρας εἴκοσι: τούτους δὲ ἐπιμελεῖσθαι τῆς πόλεως, ἕως ἄλλοι οἱ νόμοι τεθεῖεν: τέως δὲ χρῆσθαι τοῖς Σόλωνος νόμοις καὶ τοῖς Δράκοντος θεσμοῖς. [82] ἐπειδὴ δὲ βουλήν τε ἀπεκληρώσατε νομοθέτας τε εἵλεσθε, ηὕρισκον τῶν νόμων τῶν τε Σόλωνος καὶ τῶν Δράκοντος πολλοὺς ὄντας οἷς πολλοὶ τῶν πολιτῶν ἔνοχοι ἦσαν τῶν πρότερον ἕνεκα γενομένων, ἐκκλησίαν ποιήσαντες ἐβουλεύσασθε περὶ αὐτῶν, καὶ ἐψηφίσασθε, δοκιμάσαντες πάντας τοὺς νόμους, εἶτ᾽ ἀναγράψαι ἐν τῇ στοᾷ τούτους τῶν νόμων οἳ ἂν δοκιμασθῶσι. καί μοι ἀνάγνωθι τὸ ψήφισμα.

ἄλλοι Stahl : ἂν οἱ A (ἂν del. Dobree) : αὖ οἱ Weidner : δὴ οἱ Richards[2]

[81] After your return to Athens from Piraeus, though it was in your power to take revenge, you decided to let bygones be bygones. You thought the preservation of Athens more important than personal vengeance, and you resolved not to revive accusations against one another for what had happened. On this resolution you appointed twenty men; they were to have charge of the city until other laws should be enacted. Meanwhile the *nomoi* of Solon and the *thesmoi* of Draco were to be applied. [82] After you had drawn lots for a Council and appointed lawmakers, they found that under many of the *nomoi* of Solon and of Draco many citizens were liable to penalties for what they'd done earlier. You called an Assembly, discussed about it, and decreed that all the laws should be scrutinised, and then those laws which were scrutinised should be inscribed in the Stoa. Please read the decree. (transl. by D.M. MacDowell, slightly modified)

Andocides mentions here the appointment of temporary officials, the Twenty, who were to exercise interim rule and monitor the legal chaos in the wake of the overthrow of the Thirty, including bringing order to the laws they had destroyed (cf. a *scholion*[176] to Aesch 1.39). In restoring democracy and the rule of law[177], the Athenians resumed the scrutiny of the laws and implemented appropriate legal measures to prevent further *stasis*. In addition to the hitherto known procedures related to the legal scrutiny, an additional element was introduced to constitute a systemic law reform, namely the 'lawmakers' (*nomothetai*); at the same time, this was not an

[176] See above, n. 91.

[177] There is an ongoing discussion on applying the rule of law to Athens; for such a perspective, see Harris 2013a and Canevaro 2017, and recently, in the context of the legal scrutiny, also Joyce 2022, 93-98.

office related to the scrutiny of the laws, as some scholars[178] have argued, but a body appointed to draft and produce new laws that would establish principles of a 'constitutional' nature (Andoc.1.86-1.88). These included settling the validity of the law and decisions, establishing the division of *nomoi* and *psēphismata*, and enforcing the rule not to enact laws against individuals (*ep' andri*).[179]

Andocides, in the sentence introducing the decree (Andoc. 1.82), erroneously – whether deliberately or not – equates two things: the scrutiny of the existing laws and the enactment of new laws (which is why the decree of Teisamenus[180] has caused so many problems for those who accept its authenticity). We do not know precisely how these *nomothetai* were elected. Their remit was plausibly to produce new laws rather than revise the existing ones.[181]

What Andocides confirms is the Assembly's decision to 'scrutinise (*dokimadzein*) all the laws' and then to publish (*anagraphein*) them in the Stoa. It appears that a literal understanding of this passage does not imply that Andocides, when referring to the decision of the Assembly, meant the actual *Ekklēsia* in which the legal scrutiny of all Athenian laws had already occurred. Instead, the decision had just been made to complete this process. This decision signified rather a continuation of the earlier work, in which the *anagrapheis* played a crucial role. Undoubtedly, the activities of the *anagrapheis* continued until 399, as Lys. 30 explicitly confirms.

It is also important to note that Nicomachus' trial came after the An-

[178] A. Oranges viewed Nicomachus as a *nomothetēs* after the overthrow of the Thirty; see Oranges 2018*, contra* Harris-Canevaro 2012; also Canevaro-Harris 2016-2017, 39-40 (*contra* Hansen 2016).

[179] See more in Canevaro 2015, 40-43.

[180] This is a crucial point in interpreting the procedural issues and in holistically considering the role of the *anagrapheis* in this 'stage' of law reform. In the recent secondary literature on the scrutiny of the laws, as far as I have noticed, only C. Joyce, following studies of E.M. Harris and M. Canevaro, does not accept the authenticity of this decree (cf. above n. 30 with a list of other scholars who, while studying other topics, accept their views). Contrary to C. Joyce, I draw from such an assumption a slightly different interpretation of the passages from *On the Mysteries*. I generally skip in this section the scholarship that consciously (Oranges 2018; Hansen 2016) or not (MacDowell 1962; Hansen 1990; Shear 2011) takes into account the authenticity of the decree of Teisamenus and attempts to reconcile the contradictions stemming from Lysias and this document.

[181] However, we cannot exclude the possibility that after 403 – additionally – they might have had some influence on the amendments to old laws; see above in 4.7.

docides case, which indicates that the entire scrutiny project had already been completed. Still, the retrospective description of the law reform undertaken by Andocides suggests that, already in 400, all of the laws were scrutinised.[182] Difficulties in presenting the chronology[183] of the events arise especially with Andoc. 1.85 (after the inserted the decree of Teisamenus), in which it is reported (transl. by Douglas M. MacDowell, slightly modified): 'So the laws were scrutinised in accordance with this decree, and the ones which were confirmed were inscribed in the Stoa. When they'd been inscribed, we passed a law which is universally enforced (ἐδοκιμάσθησαν μὲν οὖν οἱ νόμοι, ὦ ἄνδρες, κατὰ τὸ ψήφισμα τουτί, τοὺς δὲ κυρωθέντας ἀνέγραψαν εἰς τὴν στοάν. ἐπειδὴ δ' ἀνεγράφησαν, ἐθέμεθα νόμον, ᾧ πάντες χρῆσθε).' Here Andocides seems to imply that the scrutiny of the laws took place rather quickly, as a new law was enacted immediately afterwards. However, the orator does not specify the timing of the events described, nor does he indicate when new laws and fundamental decrees with the constitutional principles – described in Andoc. 1. 85, 86 and 88 – were enacted.

Andocides does not refer to the office of *anagrapheis*; however, he uses a key verb in this regard: *anagraphein*.[184] At the same time, he is not eager to mention the work of the *anagrapheis* because, if he did, he would have to acknowledge a 'continuity' of their work from 410. On the contrary, the orator is keen to establish the starting point for the validity of the newly enacted laws. Andocides omits the critical issue of the validity of norms introduced by Diocles' law (Dem. 24.42), which may directly refer to the work of the *anagrapheis* in the years 410–404 by acknowledging the effects of their works as valid laws.[185] I would follow the interpretation of

[182] Hansen 1990, 65.

[183] On the chronology, see Canevaro-Harris 2016-2017, 39-42.

[184] Ultimately, this need not come as a surprise since, unlike Lysias in *Against Nicomachus*, Andocides is not interested in the office of *anagrapheis* as something especially relevant. Besides, Lysias often just uses the verb *anagraphein* (and not the name of the office *anagrapheus*); likewise, when the *Athenaion Politeia* discusses various types of *syngraphein*-type activities, we are dealing with a description of an activity and not always indicating a specific office, see Volonaki 2001, 141-143.

[185] Dem. 24.42: 'Diocles proposed: The laws enacted before the archonship of Eucleides during the democracy and as many as were enacted after the archonship of Eucleides and are recorderd are to be valid. Those enacted after the archonship of Eucleides and enacted in the future shall be valid from the day each is enacted except if a date has also been specified on which the law is to take effect. (Διοκλῆς εἶπεν: τοὺς νόμους τοὺς πρὸ Εὐκλείδου τεθέντας ἐν δημοκρατίᾳ καὶ ὅσοι ἐπ᾽ Εὐκλείδου ἐτέθησαν καὶ εἰσὶν ἀναγεγραμμένοι, κυρίους εἶναι. τοὺς δὲ μετ᾽ Εὐκλείδην τεθέντας

the announcement of the scrutiny of the 'old' laws as a continuation of the systematic work until 399.

Both the controversy over the inclusion of contradictory laws in the order (Lys. 30.3) and the lack of specific transitional rules from the beginning of this legal project, combined with the interference of the Thirty in legal scrutiny, led to the decision in 403 to introduce systemic measures, ordering not only the comprehensive legal scrutiny but also the introduction of general rules of a constitutional nature; this is why we are ultimately dealing with a comprehensive and 'evolving law reform'.

How did the changes after 403 affect the work of the *anagrapheis*? The sources do not directly provide insights, as Andocides does not focus on this aspect. Diocles' law (Dem. 24.42) seems to make invalid all laws enacted during the Thirty and, simultaneously, to make order in the previous works of the *anagrapheis* in 410-404 by making them valid. This is how one may comprehend the first clause of this regulation: 'The laws enacted before the archonship of Eucleides during the democracy and as many as were enacted after the archonship of Eucleides and are recorded (*anagegrammenoi*) are to be valid'.[186] For the *anagrapheis*, the destruction of inscriptions containing the laws introduced by the Thirty may have hindered further work. However, the most important thing is that the legal situation was systematically sorted out, which did not happen from the beginning of the legal project. This is why already, since 410, there were some problems and the *anagrapheis* and the *polis* must have reacted flexibly to ongoing challenges (perhaps by introducing more *syngraphai* or by prolonging the remit of the *anagrapheis* and establishing different rules

καὶ τὸ λοιπὸν τιθεμένους κυρίους εἶναι ἀπὸ τῆς ἡμέρας ἧς ἕκαστος ἐτέθη, πλὴν εἴ τῳ προσγέγραπται χρόνος ὅντινα δεῖ ἄρχειν). The secretary of the Council is to add this clause to the established laws within thirty days. In the future, let whoever happens to be serving as secretary add that the law is valid from the date on which it has been enacted' (transl. adapted from Harris 2018). It is questionable how we should understand these laws, especially the three periods (before/in/after the archonship of Eucleides of 403/2), given the uncertainty of the chronological scope of the phrase ἐν δημοκρατίᾳ (meaning in the time between 410 until the rule of the Thirty) and also ἀναγεγραμμένοι (which may allude to the activities of the *anagrapheis*; cf. Anodc. 1.86, 88). On Diocles' law in the context of Andoc. 1. 86, 88 and the understanding of *anagraphein*, see also MacDowell 1962, 87, 126-127, 197; Clinton 1982, 34; Hansen 1990, 64-65; Rhodes 1991, 97 n. 43; Canevaro-Harris 2012, 116 n. 98; Canevaro 2013a, 123; Joyce 2022, 117.

[186] See note above.

for their *euthynai*). The Athenians responded to this legal project, given that its main aims lay in consolidating the laws and establishing a more consistent legal order.

4.9. The publication of laws

The place and format of publication are among the most debated aspects of the scrutiny of the laws.[187] According to *IG* I³ 104, Draco's law was commissioned to be published in a stone by the *anagrapheis* together with the secretary of the Council in front of the Royal Stoa (πρόσ]θε[ν] τε͂ς στοᾶς τε͂ς βασιλείας); Andocides writes about writing (*anagraphein*) laws: ἐν τῇ͂ στοᾷ (Andoc. 1.82) and εἰς τὴν στοάν (Andoc. 1.86). Thus, most scholars presume that the legal scrutiny led to the publication in stone nearby the Stoa Basileios. More doubts arise over the form of the publication due to the interpretation of the mention of a wall (Andoc. 1.84: εἰς τὸν τοῖχον) in the decree of Teisamenus. The contradiction between Andocides's paraphrases and the contents of the *psēphisma*, among others, has led Mirko Canevaro and Edward M. Harris to question the authenticity of the decree. Noel Robertson separated the question of compiling the laws and transcribing them for the Metroon archive from the issue of publishing the laws. According to him, the Stoa referred to by Andocides was the South Portico I in the Agora.[188] I endorse Kevin Clinton's view that not all Athenian laws

[187] In fact, every scholar has had to address this issue, starting with Dow 1961; Robertson 1990; Rhodes 1991; Canevaro-Harris 2012 and Canevaro-Harris 2016-2017, 40-44; see Joyce 2022, 103-107 for a recent summary of the discussion (recognising the stands of M. Canevaro and E.M. Harris on the non-existence of the wall) and Schmitz 2023, 9-11 (who maintains the plausibility of the wall). See also Lambert 2002, 356 n. 17, who states: 'However I prefer 'stele-series' to Dow's term 'wall' and Dow's attribution of the surviving fragments to two, or perhaps three, 'walls', while possible, is questionable. Of the published fragments with both faces preserved only two have the same thickness. Moreover, it is quite possible that stelai of different thickness were joined in a single series, with Face A aligned, Face B protruding back to a differing extent (indeed, a positive case can be made for this in the case of the group A fragments) and/or that there was more than one stele-series which contained stones of the same, or about the same, thickness'. Cf. Canevaro-Harris 2016-2017, 43 n. 100; cf. Shear 2011, 239-247.

[188] Robertson 1990, 52-60 thinks that the publication of Draco's law came before the Stoa Basileios, arguing that this was because the law on homicide was under the jurisdiction of the *archōn basileus*. Cf. Rhodes 1991, 91, who states that the Stoa Basileios was chosen, due to tradition, because the laws of Solon and Draco in the 5th century would have been kept there at the *axōnes*/*kurbeis*.

under scrutiny could have fit in front of the Royal Stoa[189]. Kevin Clinton explains this by arguing that the scrutiny likely covered only Draco's or Solon's laws (and possibly their later modifications). However, the evidence discussed above suggests that the project encompassed all Athenian laws. In my view, Kevin Clinton's observation prompts a further question: were all laws under scrutiny actually published as inscriptions?

Some scholars assume that there was some kind of initial selection of which laws should be produced in this additional form.[190] Athenian epigraphic culture, as discussed above, lends credence to the idea that scrutinised laws, in their primary form, were recorded on another material: possibly papyri, perhaps *sanides* or *pinakes*, which were eventually archived in the Metroon. Andoc. 1.82 refers to the publication (*anagraphein*) of all laws in the Stoa, although, as discussed above, the verb can also denote writing on portable materials. In contrast, *IG* I³ 104 explicitly mandates the inscription of Draco's homicide law on a stone stele, which nonetheless does not exclude the possibility that additional copies were made for archival purposes. In the 4th century, the Royal Stoa, as Mogens H. Hansen noted, is not associated with published laws as a specific reference point; instead, the orators mention either the Metroon or a particular freestanding stele. Therefore, it seems that having archival copies on portable devices was essential during the scrutiny of the laws. This is also suggested by the decision to establish a state archive overseen by the Council.[191]

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[189] See Clinton 1982, 32-33, also Hansen 2016, 45.

[190] Sickinger 1999, 104 implies that, given the inscriptions written in the Attic alphabet (that is, the sacred calendar, those of the trierarchy, and taxes), perhaps one criterion for selection was to publish in inscriptional form those laws related to Athens' finances. In contrast, one may ask, what is the connection between Draco's law and finance? We have too few sources (on the epigraphic ones, see Dow 1961, 67) to give any criteria in this respect.

[191] J. Sickinger offers the most persuasive reconstruction: 'Hansen has pointed out that we do not meet a law code published in the Royal Stoa in the orators after Andokides' speech, and he suggests that after the code had been inscribed, changes to it forced the Athenians to abandon the idea of a full publication of all laws on stone; henceforth, they chose to deposit laws written on papyri in the Metroon. This suggests a two-staged development: laws were originally published on stone and only later housed in an archive. But publication of laws on stone and their simultaneous deposition in an archive are not mutually exclusive, and the Boule's archives may have received copies of the revised code throughout the entire review process'; Sickinger 1999, 103-104; cf. Hansen 1990, 64-67. However, it seems to make more sense to select accordingly which laws to publish in a stone as well as on portable materials, and which only on portable materials. Some archival copy must always have been there. The most recent

I follow the interpretation that exclude the view of the final publication of laws under scrutiny in the form of the wall.[192] Edward M. Harris and Mirko Canevaro dismiss this idea, pointing to significant differences in the depth of the discussed fragment of inscriptions.[193] Yet, 'clips' between the *stēlai* have been spotted in one location. It is speculated whether they were part of the inscription from the start. The opisthographic character of the inscription implies a specific organisation into some cohesive unit; however, they are still too fragmentary to allow an ultimate stance. It is not impossible that more laws were published as freestanding inscriptions in a stone at the very beginning. However, while working on the sacred calendar, conceivably a series of freestanding *stēlai* Athenians introduced later. Ultimately, it is hard to determine this. Instead, the available sources, including Julia L. Shear's detailed archaeological research, indicate that the Royal Stoa was the final location where the scrutinised laws were made public. But it is true when Athenians decided to use the inscriptional form for them, because archival copies played primary function – thus I see double publication as the most likely scenario.

In the context of Athenian legal culture, public access and the opportunity to consult a law's relevant version was the most crucial element in the publication of the laws. In this context, the construction of the Metroon was pivotal as pointed out by Noel Robertson, James P. Sickinger or recently Michele Faraguna; indeed, this seems far more important than the 'monumentalisation' of the law in the form of free-standing *stēlai* set up in the Royal Stoa (this aspect of publishing laws was known in Athens since Solon). Citizens needed to be sure which versions of laws were valid so they could later invoke them in court, and the officials (and judges) would also know what laws to adopt and what sanctions to apply (cf. Lys. 30.3).

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discussions of this crucial problem are gathered by Boffo-Faraguna 2021, 218-223.

[192] For J. Shear, in a way, it was; see Shear 2011, 95: 'The term 'wall' describes the screen construction created by the inscriptions and the columns in the two annexes [of Stoa Basileios – note R.M.]. In 403/2, the phrase 'where they were written up before' [Andoc. 1.84 – note R.M.] refers to the laws inscribed by the *anagrapheis* during their first term of office on the *stelai* in the intercolumniations of the stoa's two wings'; *ibid*. 245 ('in 399, at the end of the project of recollecting and restoring the laws, accordingly, the little Stoa Basileios contained vast amounts of inscribed text: great *stelai* with the texts of the laws stood once again between the columns of the two annexes, while the sacrificial calendar now covered the back wall of the building'). One must remember that J. Shear recognises the authenticity of the decree of Teisamenus.

[193] See Canevaro-Harris 2016-2017, 43.

V. Summary of the procedures for the scrutiny of the laws

Below, I propose reconstructing the legal scrutiny procedures, considering that they may have evolved throughout 410-399, and as flexibility seems to have been their main feature.

Step I: the decision of the Assembly to scrutinise all existing laws, electing the *anagrapheis* and setting the remit for them:

1. Election (not selection by lot!) of the *anagrapheis* after the overthrow of the oligarchic rule in 410 (Lys. 30.5, 29). Perhaps they were elected for a fixed period, which was later extended (in)formally (?) due to the scale of the work (the accuser's manipulation of alleged terms in Lys. 30.2: 4 months 'extended' to 6 years; Lys. 30.4: 30 days 'extended' to 4 years).

2. The establishment of the rules according to which the *anagrapheis* were to compile the laws (possible the *nomoi peri tēs anagraphēs* in Lys. 30.17). We do not know the content of these rules, but, by analogy with Callias' decree, a general range of tasks and methods of procedure must have been specified. The accuser alludes to some instructions, which were probably incorporated into a decree (Lys. 30.2, 4-5, 17). The central question is at what step and concerning which laws certain *syngraphai* were presented to *anagrapheis*. After the restoration of democracy, when it was decided to continue the scrutiny of the laws (Andoc. 1.82), perhaps some instructions were refined (potentially against the laws devastated by the Thirty).

Step II: 'preparatory': the primary work of the *anagrapheis* and other democratic bodies on the drafts of laws under scrutiny [*anagraphein* for the first time]:

3. Allocating responsibilities among the *anagrapheis* (perhaps Nicomachus was in charge of *ta hiera kai ta hosia*) and cooperation with other officials, especially including members of the *Boulē*. Possibly arranging a timetable for the work, as well as the sequence in which to deal with particular laws; setting up a plan to 'search' for spots where there could be *nomoi* (while also establishing some rules for querying the archive of the *Boulē* or other officials).

4. Searching for laws, among other places in the archives, logistically distinguishing between *nomoi* and *psēphismata*, tracing similar regulations and contradictions in the laws, preparing draft laws for further consultation with the *Boulē*, as well as possibly with other officials under whose jurisdiction the laws in question were enforced.[194] Strict cooperation of the

[194] See Sickinger 1999, 98-99: 'Starting from the laws of Drakon and Solon, they traced

officials and the transmission (*paradidonai*/*paralambanein*) of the drafts of laws to each other.
5. Work on the drafts of laws in the *Boulē*. A concrete mover of the decree (such as in *IG* I^3 104, l. 4) commissioned which law(s) needed to be scrutinised at the Assembly.
6. Possible promulgation of the agenda of the *Ekklēsia*, perhaps including posting specific drafts (or at least a catalogue of the laws), so that citizens could familiarise themselves with them. These were possibly displayed in front of the Monument of the Eponymous Heroes, written out as portable boards: *pinakes* or *sanides*.
Step III: Debate and vote at the Assembly:
7. Voting on the existing laws at the Assembly. I assume that the *Ekklēsia* could propose amendments from 410. A discussion had to occur about some of the 'problematic' laws; possible changes had to be introduced then. After 403, hypothetically, *nomothetai* worked additionally on amendments to some old laws under scrutiny.
Step IV: Publication of the laws [*anagraphein* for the second time]:
8. The *anagrapheis*, together with the Secretary of the Council, coordinated the publication of the laws after scrutiny at the *Ekklēsia* according to the instructions in the decree passed by the Assembly. I accept the primary publication of the laws in portable form (papyrus, perhaps wooden tablets) for the new emerging Metroon archive and, possibly also, if the Assembly so resolved, the display of the inscription in the Royal Stoa.

VI. Conclusion: Decoding features of the Athenian legal culture

I may start my final remarks, as the late Peter J. Rhodes once did when studying the Athenian law reform in 410-399, by noting: 'This has been an intricate study'.[195] Indeed, this reform is undoubtedly a complex topic due to, i.a., the fragmentary and ambiguous nature of the available evidence as well as, sometimes, the contested authenticity of some sources.

The work of the *anagrapheis* illustrates the complexity, difficulty, and flexibility of this legal project, particularly in light of the logistical chal-

later supplements to these laws and which provisions were still in force. In cases where ambiguity or uncertainty existed, they may have been required to defer to the *Boulē* and *Ekklēsia* for a final decision, though appeals of this sort are unattested in our sources'. Cf. Volonaki 2001, 145 and 150 n. 24; Stroud 1968, 25.
[195] Rhodes 1991, 100.

lenges they faced. I have argued that they were neither mere scribes nor officials vested with institutional legislative authority. Instead, as elected officials, they were expected to possess a certain degree of expertise necessary for locating laws recorded on various dispersed 'media', identifying general laws (*nomoi*) even before their formal distinction from *psēphismata*, tracing later amendments and contradictions, and thus collecting laws for further submission to the *Boulē* and, subsequently, the *Ekklēsia*. The final act of *anagraphein* – publishing the laws after the Assembly's approval – was, in fact, mainly a clerical task.

Recognising the significant role played by the *anagrapheis* in the scrutiny of the laws – as part of the broader undertaking of the law reform – opens up a wider reflection on Athenian legal culture. In particular, it invites an inquiry into how *ways of thinking* about law (such as prevailing images of lawgivers and their legislation, conceptual divisions within Athenian law, or social expectations surrounding legal scrutiny) intersected with *ways of doing* – namely, the materiality of legal texts or the technical structure of legal inquiries. This outline merely touches on a spectrum of questions that illuminate key dimensions of Athenian legal culture. I am aware, however, that these issues require further conceptual development and methodological refinement. In what follows, I briefly summarise the most salient elements that emerged through this study.

An essential element of Athenian legal culture, perceptible through the prism of law reform, is the unique standing in Athenian cultural memory and legal consciousness of lawgivers such as Solon, Draco, and Cleisthenes. Political and public narratives were constructed around these *nomothetai* (with a special place reserved for Solon), and the ideology of legislation was used in the public space to promote certain legal and constitutional changes. This element of Athenian legal culture certainly still requires further research because it often reflects clashes between ways of doing and thinking regarding legal issues.

The Athenians began scrutinising the laws in 410 directly as a reaction to the oligarchic coups. Consolidating the laws and granting them renewed legitimacy when they were voted on in the Assembly was a remedy to strengthen democracy (as well as the rule of law). Nicomachus' profile as an *anagrapheus* and his continuation in office even after the overthrow of the Thirty demonstrates that the scrutiny of the laws, or more broadly the 'evolving law reform', was a democratic project, i.e. one which was

endorsed by supporters of democracy and implemented by the democratic institutions and means. Remarkably, *à rebours*, the oligarchs tried to cynically use democratic mechanisms to give legitimacy to their actions (such as the use of *syngraphai* or the intimidation of the Assembly to vote on changes) because they were aware of how significant the democratic institutions were for the majority of Athenian society.

The critical factor behind the procedure for scrutiny of the laws is what I have called the 'principle of legalism', according to which, first, the legal changes had to be established by a law voted by the Assembly and, second, new competent officials (*anagrapheis*) were elected by the *dēmos* (not drawn by lot), who were given a specific task and instructions (including in the form of a *syngraphai*) on how to proceed. This was the preparatory step of work on legal scrutiny, which was a significant responsibility and required relevant knowledge and skills. This grounds my characterisation of the *anagrapheis* not as secretarial scribes who mechanically transcribed statutes but as specific 'experts' familiar with the legal and archival-administrative aspects of the *polis*. This also testifies to the professional scale of this project from the inside, as the *anagrapheis* were the first to face these challenges (including, apparently, being able to distinguish between *nomoi* and *psēphismata*, which until 403 was not formally and archivally recognised). The final version of the laws was voted on in the Assembly, and then published by the *anagrapheis*, and only the law that passed the appropriate scrutiny procedure was valid (at least from a particular moment of the reform). Despite the existence of doubts from 410 onwards on what to do with conflicting *nomoi* in the legal order, in the context of a still ongoing scrutiny that lasted a couple of years (cf. Lys. 30.3), the matter was sorted out after 403, when additional rules ordering the validity of the law were duly implemented, such as the law of Diocles (Dem. 24.42). This stipulated (retrospectively, according to the period 410-403), firstly, that only the laws established under the democracy were valid, repealing the oligarchic actions before 403/2 and, at the same time, those laws in force which had gone through the proper scrutiny procedures and had been published by the *anagrapheis* (*anagegrammenoi*). Secondly (prospectively for future legislation: within the continuation of the legal scrutiny, as well as new laws – from 403 as the area of responsibility of *nomothetai*), Diocles' law prescribed the general rule that law is in force at the moment when it is enacted by the Assembly (unless another time is indicated at the *Ekklēsia*).

Despite these difficulties, the Athenians, in the scrutiny of the laws, tried to adhere to the democratic principle of legalism, acting within the limits and based on the law.

The activity of the *anagrapheis* in the context of executing the scrutiny of the laws also shows that they did not act alone but collaborated with other magistrates of Athenian institutions (the *Boulē*, the officials in charge of bringing cases into courts, such as the *archōn basileus*, the *Ekklēsia*). The cooperation of officials in this respect was essential and represents a significant part of Athenian thinking about decision-making and the *polis*, which fits in with the concept of 'divided power' (as recently discussed by Alberto Esu). Co-operation both strengthened the professional aspects of law reform but was also an element that controlled abuses (which, in Lysias' speech, obviously fell solely on Nicomachus as *anagrapheus*, while the participation of the *Boulē* or the *Ekklēsia* in this process was passed over in silence).

Another element of Athenian legal culture discernible for the 'evolving law reform' is the place of legal discourse, i.e., the perception of law as a matter that can be discussed and argued about and, consequently, for which new solutions may be put forward. This is why it seems likely that the Athenians drafted laws and displayed them publicly before the discussion and voting at the Assembly. This fits with their general approach to legislation (also evident later in the 4th century) and the general democratic principle of acquainting citizens with draft laws before voting and allowing anyone who wishes (*ho boulomenos*) to put forward their suggestions. The oligarchs even promoted a similar idea in 411 (see *Ath*. *Pol*. 29.3). To what extent the oligarchs realistically took this into account is secondary; what matters is that democratic standards were invoked.[196] Moreover, from the perspective of legal discourse, it seems reasonable to assume that the laws under scrutiny could also be amended rather than only accepted or rejected. From a discourse perspective, it is also possible to grasp only part of the potential discussions concerning the criteria and values for examining (*dokimazein*) the law, such as the question of 'piety' (*eusebeia*) or 'thrift' (*euteleia*) in the case of laws with a sacred calendar (cf. Lys. 30. 21).

The publication of the law in the form of free-standing inscriptions in the Royal Stoa emerges directly as a competence of the *anagrapheis* under *IG* I^3 104. This certainly had to take place as an additional element of the

[196] See Rhodes 1985^2, 374; cf. Lasagni 2018.

'monumentalisation of the law', but, given the scale of the problems with the previous dispersal of the law in various places, as well as the technical impossibility of publishing all the laws in the form of inscriptions, it seems that the construction of the Metroon, the central archive, was fundamental to the scrutiny of the laws, primarily in terms of the accessibility of the law and its certainty, i.e., by ensuring a legal state of affairs in which the law is valid and can be invoked before an official or in court.

The model of the office of the *anagrapheis* shows that we deal with a rather unprecedented office for this type of work because the very project of scrutinising all the laws in force in Athens was innovative at the time. Hence, there were also problems with the implementation of this project, which must have arisen as the *anagrapheis* began to inquire into the laws: issues with identifying the laws of Solon or Draco or subsequent amendments to these laws, establishing the relevant text of the laws, contradictions in the laws, and so on. Therefore, quite a flexible approach had to be adopted with many aspects of this project from 410 onwards (as can already be seen in the potential extension of the office of *anagrapheis*). This probably also raised the social controversy surrounding the office of *anagrapheis* (including Nicomachus). Moreover, the legal scrutiny was also linked to a constantly changing political, constitutional, economic, military, and social situation, culminating in the Athenians' defeat in the Peloponnesian War and the rule of the Thirty. The continuation of the legal scrutiny after 403 had to be adapted, among other things, to the validity of the amnesty clause.

The significance of such legal developments in the context of Athens' systemic problems with building a coherent legal order and the problem of the presence of contradictory laws in the system would require a separate treatment. Certainly, however, one must be very careful when applying concepts such as 'law code' to the activities of the *anagrapheis*.[197] Given the evolution of the work on the laws and the critical systemic changes after 403, it seems to me that the most suitable term would be a law reform, or, more precisely, an 'evolving law reform'. This is also part of Athenian legal culture, which, given its experience of 'developing or building democra-

[197] Scholarship often uses the term 'law code' without explanation; critically on that notion concerning Solonian laws, see Hölkeskamp 2005. As in the potential law code from the late 5th century, it is also often used without any justification, as in Rhodes 1991 (but Joyce 2022, 97 stresses the problematic nature of such a notion).

cy'[198], was able to respond to multiple crises and ultimately find the appropriate legal, political, and systemic instruments to prevent further conflicts in the *polis*.[199] The activity of the *anagrapheis* in the context of the scrutiny of the laws was only one important element of the efforts to rebuild the rule of law in Athens, and this is why it is vital to look at their activity from the broader perspective of legal culture.

[198] From the perspective of the chronological reshaping of Athenian democracy, one may assume that we may start with Solon; yet, I leave aside the ongoing debates on the origins of democracy; see, e.g. Węcowski 2009, 350-360.

[199] As M. Węcowski points out, the pursuit of the *dēmos* to permanently adjust the systemic mechanisms that ensure their power and this power's stability and safety can be considered one of the characteristics of democracy from a synchronic point of view. See Węcowski 2009, 389-390.

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