"RECONSTRUCTING THE PAST: FORENSIC STORYTELLING ABOUT THE ATHENIAN CONSTITUTION IN LYSIAS 12 AND 13"

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Abstract

Lysias' *Against Eratosthenes* (12) was presumably delivered a few months after the restoration of the democracy in 403 BC, at the *euthyna* of Eratosthenes, one of the Thirty who had remained in the city of Athens and was willing to give his accounts in order to obtain the protection from the Amnesty agreement (*Ath.Pol.* 39.6), Lysias accuses the defendant of being as guilty of the murder of his brother, Polemarchos. Almost five years later, Lysias composed the speech *Against Agoratos* (13), which was delivered by a kinsman of Dionysodoros – a victim of the Thirty in a case of *apagoge phonou*.

Despite the different procedural frame, the two public orations follow analogous patterns concerning the forms of argumentation, structure and rhetorical features. They both concern homicide referring back to the regime of the Thirty, where the main concept is the idea of intentionality focused on the defendant's degree of responsibility. With regards to chronology, Agoratos is tried for his actions which allegedly preceded the establishment of the Thirty, whereas Eratosthenes is prosecuted for a crime he committed when he was in power.

It is clear that various forms of argumentation overlap. The narratives focus on the oligarchic plots to eliminate innocent democrats on the basis of untrue charges (12.6-13.21). Although both Eratosthenes and Agoratos are presented as acting for personal profit, the differentiation in emphasis lies in the fact that Eratosthenes was a man of power, whereas Agoratos was used as a tool of those who were powerful. The chapter will compare the rhetorical modes in reconstructing the past, in particular the aftermath of the Peloponnesian War, the changes in the Athenian constitution, the political rivalries and the reality of the Amnesty agreement, as presented in these two speeches by Lysias at two trials, which were heard almost the same time. It will explore, the differentiation in the emphasis stressed in each speech on the same part of Athenian history and will further examine the reflection of these two forensic narratives in the collective citizen identity toward the end of the fifth century.

1. Time and Space in Narrative: the political setting of Lysias 12 and 13.

Narrative may, in line with the theoretical discussion of Aristotle in the *Rhetoric*, be a single, extended passage within the speech but even from the speeches of the earliest orators it appears that in practice a narrative might well be divided into two or more sections, which deal with different temporal stages or thematic aspects of the story.[1] When the orators use a discrete narrative, it is typically introduced by a formulaic transition sentence such as 'I wish to recount these matters from the beginning', and then begins with the particle *gar*.[2] The narrative story is normally presented in such a way as to prove or disprove the accusation for the alleged offence. In this sense, the narrative serves as a vehicle of persuasion, in particular in a forensic speech, which according to Aristotle is oriented toward the past. It does not only tell the story but establishes and proves the arguments that surround the legal case and the story as a whole.

> 'There is a temporality particular to each type of rhetoric: to deliberative oratory the future, since it gives advice, pro or con, concerning what will happen; to forensic oratory the past, since both prosecution and defence always speak about events that have happened; and to epideictic oratory the present, since all speakers praise or blame according to existing conditions, though they often also recall the past and anticipate the future'. (Aristotle, *Rhetoric* 1.3.4)

The present paper will explore the composition of narratives in two forensic speeches, composed by Lysias for two public cases, the trial against the tyrant of the Thirty, Eratosthenes and the trial against Agoratos, a man of servile origin, who made denunciations against the Athenian demos. Both cases involve the history of the last decade of fifth century Athens, in particular, the events before

[1] Edwards (2004) 352

[2] Edwards' analysis of the narrative sections in speeches from all orators (2004: 317-352) shows that the start of the narrative is clearly defined by meta-narrative narratorial interventions, and various types of concluding remark indicating its close.

and after the rise of the Thirty, the civil war, the restoration of the democracy with the Amnesty agreement. Lysias' two speeches appeal for civic and legal memory and punishment and in this sense these trials constitute a breach to the spirit of the Amnesty. My interest lies in a comparison between the two forensic narratives in the presentation of the story, their structure and composition, the rhetorical techniques of unfolding the facts, and the means of persuasion for a specific reconstruction of the past that suits the argumentation of each case.

Time and space, as part of the narrative's structure affecting our basic understanding of the text, are central to our interpretation and comparative analysis of the narrative strategies and techniques. Temporal relationships within the representation of the past relate to the order, repetition and duration of the events, and the variations in duration; temporal patterns are employed to create suspense, story-time curiosity and surprise. On the topographical level, objects, locations and people around a narrative world reconstruct the past and the plausibility of the story lies in such details. Thus, in our narratives concerning the crimes of the Thirty and those who were allegedly supporting them, time and space are crucial to the reconstruction of the scene of the murders, as well as the motivation and guilt of the accused.

Wohl (2010: 201-242) discusses thoroughly the juridical discourse in Lysias' speeches 12 and 13, and analyses the logographer's strategies of applying the 'remember and forget' argumentation in the Athenian law courts after the Amnesty agreement of 403 BC. Wohl explains that both speeches return to the traumatic history of the civil war and deal with the temporal and legal continuity. In the case of Lysias 13, *Against Agoratos*, it is the law's own continuity that needs repair, its fundamental connection between past crime, present trial and future punishment, while the speaker seeks to close the temporal gap between past crime and present prosecution.[3] On the other hand, in the case of Lysias 12, *Against Eratosthenes*, there is no gap since the Amnesty and the past presses too close; thus, the speaker creates a critical space between past and present to allow future justice.[4]

The historical continuity of the Athenian fifth-century democratic polis was based upon the unity of the law, but the ideal temporal chain was suddenly

[3] Wohl (2010) 217
[4] ibid 227

broken for both Athenian politics and jurisprudence by the crisis at the end of the Peloponnesian War. The Thirty oligarchs took control of Athens in the spring of 404 BC and for eight months they governed by violence, seizing property and, exiling or executing citizens without trial. In consequence, a civil war broke out between the so-called "men of the city", who were supporting the oligarchs, and the "men of the Peiraeus", who were supporting the demos. The democracy was restored in the autumn of 403/2 BC and was formalized in the reconciliation agreement that ended the civil war.[5]

All Athenian citizens swore the Amnesty oath and its term of *me mnesikakein*, literally 'not remember the evils', against any of the citizens, except the Thirty and the Eleven, and not even against any of these if they were willing to give an account (*euthyna*) of their magistracy and were found not guilty.[6] This Amnesty was intended to repair democratic unity in the present and continuity with the past.[7] However, the Amnesty agreement was a ban specifically on legal memory; it was most probably designed to prevent citizens from bringing legal prosecutions for crimes committed during the period of the Thirty tyrants. This assumption is strengthened by the institution of the *paragraphe* – a legal procedure available to defendants to prevent a case from being brought on the grounds that it contravened the amnesty.[8] Attempts to evade the spirit of the Amnesty or to break the Amnesty oath either in form or substance can be discerned in forensic speeches delivered in court toward the end of the fifth century and during the first half of the fourth century. It is striking that allegations about the misfortunes that befell the city of Athens during the regime of the Thirty constitute a common rhetorical topos that is used in forensic oratory throughout the fourth century to associate the litigants' behaviour with the Thirty's criminality and *poneria* and to arouse the judges' hostile emotions from revenge. Wolpert (2002) has shown that the court cases of the early fourth century allowed the Athenians to work through these events, constructing an official history of the period and, deploying a rhetoric of mutual understanding to resolve past differences in the interest of future agreement. In other words, legal memory

[5] For the events of this period, cf. Krentz (1982); Ostwald (1986) 460-524; Strauss (1986) 89-120; Wolpert (2002) 3-28; Wohl (2010) 201-06.
[6] And. 1.90; *Ath.Pol.* 39.6. Further on the reconciliation agreement, cf. Loening (1987); Allen (2002) 237-42; Wolpert (2002) 30-35.
[7] cf. Loraux (2002) 145-69.
[8] For the *paragraphe*, cf. Wohl (2010) 204 with n.15.

helped the Athenians to forget the traumatic experience of the political conflict and to restore the future democratic unity. Wohl suggests that 'the civil war and amnesty posed a crisis for the temporality of the law' and her approach is not so much on legal memory but on civic forgetting.[9] In accepting all these approaches to the reconstruction of the past, my focus lies in the representation of the events in accordance with the aims of each prosecutor in order to win his case as to evade the Amnesty law, break the reconciliation agreement and exact punishment as revenge. In this context, the truth from the past derives from the evil crimes committed by the Thirty tyrants and all their supporters.

2. Lysias 12, *Against Eratosthenes*

The case in Lysias 12, *Against Eratosthenes*, is extraordinary since it is the only case we have in which Lysias acts as a prosecutor in his own voice. There is a dispute whether Lysias spoke at all, since he was not an Athenian citizen but a metic, and as a metic he would normally have been excluded from speaking in the Athenian cours. Some scholars, therefore, regard this speech as a pamphlet that was circulated but was never actually delivered in court.[10] Others believe that Lysias did deliver the speech in court, during the short period after Thrasyboulos had introduced a decree in 403/2, granting metics citizenship, until this decree was revoked by Archinos seven months later.[11] It is possible that Lysias had this brief opportunity to prosecute Eratosthenes, one of the Thirty, and recall in public all his misfortunes, in particular the violent murder of his brother Polemarchos.

As has already been stated, the Thirty were excluded from the Amnesty oaths, unless they were willing to submit to formal *euthyna* –that is, account for their actions (And. 1.90). And if they were acquitted of criminal conduct, they were allowed to stay in the city of Athens (*Ath.Pol.* 39.6). The legal procedure of *euthyna* as used to get the Thirty to trial actually admits the possibility of remembering and possibly forgiving even those presumed to be most guilty.[12] On

[9] Ibid 206
[10] Carawan (1998) 376-77
[11] For the decree of Thrasyboulos, cf. *Ath. Pol.* 40.2. There has been much debate on the implications of Thrasyboulos' decree for the date and delivery of this speech; cf. Edwards and Usher (1985) 337; Wohl (2010) 227, n. 44.
[12] Wohl (2010): 228

the other hand, this clause of the Amnesty agreement seeks to impose justice on those most responsible for the crimes of the oligarchy.

Euthyna was a process of submitting accusations before the *euthynoi* against politicians concerning their misconduct; in the mid-fourth century a *euthyna* might, in effect, lead to another kind of a legal prosecution and trial.[13] However, here it is more likely that we are dealing with a trial within the legal scope of the *euhyna* procedure, as held under the specific circumstances of checking upon the tyrants, and the charge is homicide of a metic (Polemarchos, Lysias' brother). According to the Amnesty agreement, a *dike phonou* could initiate against alleged murderers only if they had committed homicide with their own hands (*autocheiriai*; cf. *Ath.Pol.* 40.2). Eratosthenes, however, did not commit the murder with his own hands but is simply charged with the responsibility for Polemarchos' murder. Thus, it seems plausible that Eratosthenes' trial was not a homicide trial but was heard openly at a heliastic court as a result off the *euthyna* process.

Lysias' own sufferings during the oligarchy of the Thirty appear inseparable from the sufferings of the city; speech 12 as a whole constitutes a public declaration of the crimes of the Thirty, and deliberately brings the past moments in the present, even though the temporal gap is not long. The Athenians are called to experience again, moment by moment and step by step, the hostility of Eratosthenes and the Thirty against the speaker's family.

The narrative in Lysias 12 is a model of clear simplicity, but contains many personal reflections (e.g. in 7, 26, 31) and is designed to arouse sympathy and indignation; it has two main objectives: the specific and practical one of establishing Eratosthenes' personal responsibility for the death of Lysias' brother Polemarchos, and the general one of representing the Thirty as motivated purely by greed.[14] There is, firstly, the main narrative concerning the murder of Polemarchos, and there are two more separate narrative sections in the speech aimed at substantiating Eratosthenes' wicked conduct and his own responsibility for all the crimes of the Thirty. All the three narrative sections are more or less of equal length, consisting roughly of twenty to twenty-five sections each. As it

[13]On the case that *euthyna* was a preliminary procedure, which did not end up in a law-court, cf. Efstathiou (2009): 113-135
[14] Edwards and Usher (1985) 237

appears, the three narrative sections comprise the three quarters of the speech used to tell the story and substantiate the prosecution's argumentation.

The main story begins with a preliminary narrative, a so-called *prodiegesis* according to Aristotle (*Rhet.* 3.13.5) describing the status of Lysias' family in Athens prior to the events that led to Polemarchos' murder (12.4-5). The friendship between Lysias' father Kephalos and Perikles[15] is stressed from the very beginning to underline the democratic background of the prosecutor's family, referring back to the popular politician who had advanced the democratic constitution. The reconstruction of the past goes back to the golden era of the Periklean Athens, when democracy had been fully established and developed. The Athenians are called on to feel proud of their city at the time and connect the victim's family with its thriving period. It is stressed that Kephalos had lived in the city of Athens for thirty years without any involvement in litigation with anyone and the family's conduct during the democracy was of such a kind that they did not offend others nor did they suffer injustice at their hands.

Time is telescoped from the glorious period of the democratic constitution to the very recent past; Lysias moves directly to the period when the Thirty had come to power and it was then that their life changed completely. This dramatic shift from distant to recent past aims to underline the unexpected violation imposed upon Lysias' family; they were mostly appreciated as friends of Perikles himself whereas later the Thirty treated them with contempt as enemies. In this context, the Thirty are characterized as men of a wicked and slanderous character ('πονηροὶ μὲν καὶ συκοφάνται'), as was reflected in their deceitful behaviour toward the demos: 'they pretended that it was necessary to purge the city of wrongdoers and to direct the rest towards virtue and justice, but they had the audacity not to follow these words with the appropriate actions' (12.5).[16] The contrast between words and deeds, pretexts and true motives is the place where the judges are asked to explore the historical background and give their own critical approach. The fact that the Thirty are presented as having made appeals for justice

[15] Their relationship is reflected in the opening scene of Plato's *Republic*, which is set in Kephalos' house in the Peiraeus.

[16] Edwards (1985) 157; (φάσκοντες χρῆναι τῶν ἀδίκων καθαρὰν ποιῆσαι τὴν πόλιν καὶ τοὺς λοιποὺς πολίτας ἐπ᾽ ἀρετὴν καὶ δικαιοσύνην τραπέσθαι).

and virtue whereas in practice they enforced injustice and malice makes them very dangerous enemies of the city.

The formal charge against Eratosthenes is narrated and covered in 12.6-36. No evidence is called, and two methods are used to stress the guilt of the accused. The first is the careful construction of a narrative which assumes without stating it that the Thirty were corporately and individually corrupt. The second is the cross-questioning of Eratosthenes himself (12.25), as a result of which Eratosthenes appears to be basing his defence on a plea that he was taking orders from superiors, which Lysias forcefully criticizes. Nearly two-thirds of the speech, however, are devoted to material that is prejudicial rather than formally relevant (12.37-100), broadening into an attack on the rest of the Thirty and their associates (12.53-61). This leads into a specific and extended attack on the controversial figure of Theramenes (12.62-78), the leader of one of the factions among the Thirty, who had been executed by his more extreme rival Kritias (Xen. *Hellenica* 2.3).[17] The attack on Theramenes also contains elements of narrative which aim to show that Eratosthenes cannot be associated with him in any way of to justify his actions.

The first narrative section (12.6-24) describes the events which brought Lysias' personal damage and his brother's death. Lysias openly reminds the Athenians of their own sufferings during the regime of the Thirty (12.5: καὶ περὶ τῶν ὑμετέρων ἀναμνῆσαι πειράσομαι); it is necessary for the hearing of the case and it appears legal to recall the past without violating the Amnesty agreement.

The whole story starts with a conspiracy initiated by Theognis and Peison, who used the excuse to punish some citizens allegedly disaffected with the regime of the Thirty, while in reality they only wished to make money (Lys. 12.6):

> 'Θέογνις γὰρ καὶ Πείσων ἔλεγον ἐν τοῖς τριάκοντα *περὶ τῶν μετοίκων*, ὡς εἶέν τινες τῇ πολιτείᾳ ἀχθόμενοι: *καλλίστην* οὖν εἶναι *πρόφασιν* τιμωρεῖσθαι μὲν δοκεῖν, *τῷ δ' ἔργῳ* χρηματίζεσθαι: πάντως δὲ τὴν μὲν πόλιν πένεσθαι τὴν δ' ἀρχὴν δεῖσθαι χρημάτων.'

[17] For the structure of the speech, cf. Todd (2000) 116-17

> ‘Theognis and Peison spoke in a meeting of the Thirty about the resident aliens, saying that some were disaffected with their regime. This would afford an excellent excuse to appear to be punishing them, while in reality to be making money. At any rate, the city was impoverished, and the government needed money. They had no difficulty in persuading their audience, who thought nothing of putting men to death but a lot of acquiring money.’ (Edwards and Usher 1985)

The phrase περὶ τῶν μετοίκων draws the distinction from the citizen body to the intentional maltreatment of the metics by the Thirty as a kind of policy. Metics were known for their wealth and business and even though killings were actually committed against citizens as well, the emphasis here is meant to persuade the judges of the specific motivation and thus for the plan to kill Lysias’ brother and seize the family’s property. The antithesis **καλλίστην** οὖν εἶναι **πρόφασιν** τιμωρεῖσθαι μὲν δοκεῖν, **τῷ δ**’ **ἔργω** χρηματίζεσθαι’ confirms the previous characterisation of the Thirty as deceivers of the Athenian people on the grounds that their deeds were contrary to their words. The plan was to arrest ten metics, two of them poor, so that they could plead in the case of the others that this had not been done for money but was for the benefit of the constitution (12.7). Thus the narrative is constructed upon the ethos of the Thirty as greedy and self-seeking men, and as such they would not hesitate to commit any crime for their own benefit, especially murders. This is further underlined by the sarcastic comment on their attitude, ‘as if they had had valid reasons for any of their other actions!’ (12.7).

The events are vividly unfolding with the interchange of present and past tenses and the insertions direct speech, especially when describing the conspiratorial tone of discussions between supporters of the oligarchy, such as Peison, Melobios and Mnesitheides, and Damnippos and Theognis. Emphatic repetitions to the Thirty’s motivation of getting as much money as possible in exchange of the victims’ life are central to the narration of the story to such an extent that the narrative echoes an extended period of continuous bargaining and negotiating for safety between the Thirty and their associates on the one hand and Lysias, as the victim, on the other (Lys. 12.7-15):

[7] καὶ τοὺς ἀκούοντας οὐ χαλεπῶς ἔπειθον: ἀποκτιννύναι μὲν γὰρ ἀνθρώπους περὶ οὐδενὸς ἡγοῦντο, **λαμβάνειν δὲ χρήματα περὶ πολλοῦ ἐποιοῦντο**….

They had no difficulty in persuading their audience, who thought nothing of putting men to death but a lot of acquiring money. (Edwards and Usher 1985)

[8] ἐγὼ δὲ Πείσωνα μὲν ἠρώτων **εἰ βούλοιτό με σῶσαι χρήματα λαβών**. ὁ δ᾽ ἔφασκεν, **εἰ πολλὰ εἴη**. [9] εἶπον ὅτι **τάλαντον ἀργυρίου** ἕτοιμος εἴην δοῦναι: **ὁ δ᾽ ὡμολόγησε ταῦτα ποιήσειν**….

I asked Peison whether he was prepared to accept money in return for my safety. He said he would, if it was a large sum. So I said I was prepared to give him a talent of silver, and he agreed to my proposal. (Edwards 1985)

[10] ἐπειδὴ δὲ **ὤμοσεν**, ἐξώλειαν ἑαυτῷ καὶ τοῖς παισὶν ἐπαρώμενος, **λαβὼν τὸ τάλαντόν με σώσειν**,…

When he had taken the oath to take the talent and save me, calling down destruction upon himself and his children, (Edwards and Usher 1985)

[11] ἐπεὶ δὲ οὐχ ὅσον ὡμολόγητο εἶχεν, ὦ ἄνδρες δικασταί, ἀλλὰ **τρία τάλαντα ἀργυρίου καὶ τετρακοσίους κυζικηνοὺς καὶ ἑκατὸν δαρεικοὺς καὶ φιάλας ἀργυρᾶς τέτταρας**,…

As he now had not the amount which I had agreed, gentlemen of the jury, but three talents of silver, four hundred cyzicenes, a hundred darics and four silver cups, (Edwards and Usher 1985)

[11] ὁ δ᾽ ἀγαπήσειν με ἔφασκεν, **εἰ τὸ σῶμα σώσω**.

But he said I should be content if I saved my skin. (Edwards and Usher 1985)

[14] καλέσας δὲ Δάμνιππον λέγω πρὸς αὐτὸν τάδε, ‘ἐπιτήδειος μέν μοι τυγχάνεις ὤν, ἥκω δ᾽ εἰς τὴν σὴν οἰκίαν, **ἀδικῶ δ᾽ οὐδέν, χρημάτων δ᾽ ἕνεκα ἀπόλλυμαι**.

I called Damnippus and said to him: "You are a friend of mine and I have come into your house. I have done no wrong but am being destroyed for my money. (Edwards and Usher 1985)

εἴ τις ἀργύριον διδοίη. [15] ἐκείνου δὲ διαλεγομένου Θεόγνιδι (ἔμπειρος γὰρ ὢν ἐτύγχανον τῆς οἰκίας, καὶ ἤδη ὅτι ἀμφίθυρος εἴη) ἐδόκει μοι ταύτῃ πειρᾶσθαι σωθῆναι, ἐνθυμουμένῳ ὅτι, ἐὰν μὲν λάθω, σωθήσομαι, ἐὰν δὲ ληφθῶ, ἡγούμην μέν, εἰ Θέογνις εἴη πεπεισμένος ὑπὸ τοῦ Δαμνίππου **χρήματα λαβεῖν, οὐδὲν ἧττον ἀφεθήσεσθαι**, εἰ δὲ μή,…

if anyone offered him money. While he was talking with Theognis, (I happened to be familiar with the house and knew that it had doors at both front and back) I decided to make my bid for safety this way, reflecting that if I were undiscovered, I should be saved, while if I were caught I thought that if Theognis had been persuaded by Damnippus to accept money, I should be released none the less, and if not I should die just the same. (Edwards and Usher 1985)

The detailed account of the night of Lysias' arrest includes reported conversations and reconstructed thoughts and motives from both sides.[18] Following his arrest at night, Lysias initially made a deal to give a talent to Peison in order to save his life but, when he was later caught in his room, was then compelled to give three talents of silver, four hundred cyzicenes, a hundred darics and four silver cups (11). It is to be noted that no evidence is provided for the alleged seizure of Lysias' property, nevertheless the detailed account of the specific number of goods adds plausibility to the whole scene. Moreover, the description of the place, Lysias' room, is meant to underline the attack against the victim's privacy. When he was taken to Damnippos' house, after following Melobios and Mnesitheides against his will (12-13), Lysias attempted to bribe Damnippos himself in order to save his life (14); the direct speech interchanged between Lysias and Damnippos makes the bargain more vivid and persuasive. Furthermore, space is used in such a thorough and detailed manner that Lysias' escape, though not proven, makes the story more

[18] Wohl (2010) 229.

conceivable and distracts from the fact that Lysias was not actually harmed by the Thirty and their associates. As becomes obvious, Lysias as a close friend of Damnippos was so familiar with the house as to know that it had two doors leading into the street.[19] It is striking that all three doors happened to be open at the time while the oligarchs were guarding the courtyard door. The scene of escape is constructed upon a climax of suspense and a dramatic atmosphere, which is emphasised by the careful and deliberate use of space as fundamental part of the narrative. As to the time, conspiracy and intrigue against innocent people, wealthy metics and enemies of the Thirty occur during the night; quick and silent movement and guards are all over the places in the city – probably located at houses well known to the Athenian judges –, and the darkness of late evening is identified with illegality and death. The persons involved in the scene of Lysias' escape, Peison, Theognis, Melobios and Mnesitheides are all members of the Thirty (Xen. *Hell.* 2.3.2), also well known by the Athenians, whereas Damnippos, though apparently trusted by them, was not one of their number.

Lysias portrays the group of the Thirty and their supporters as ruthless murderers. On the other hand, Lysias himself appears desperate for his life, making negotiations in the face of death and ending up losing most of his property. The speaker reaches the dramatic peak with Lysias' arrival at Archeneos' house, where he heard that his brother was executed (16). The news is that Eratosthenes had arrested his brother, Polemarchos, in the street and taken him off to prison, and that the Thirty gave Polemarchos their customary command to drink hemlock, with no prior statement as to the reason for his execution, not even a trial and a chance to defend himself (12.17). Eratosthenes is mentioned for the first time, together with the most negative piece of evidence against him. The element of dramatisation is rhetorically used as revealing the truth of the story, appealing for the judges' hatred of and anger against Eratosthenes. The details following Polemarchos' death reflect even more clearly the cruelty and impiety of the Thirty, since they showed no respect to the dead man, his burial and the relevant divine laws. Since the main charge against Eratosthenes is homicide, the religious dimension is very

[19] According to Todd (2000: 118, n.7) the two doors are presumably outer doors leading into the street, since otherwise the reference to three doors at 12.16 would not make sense; Edwards and Usher (1985: 239) explains that the three doors are that of the room in which he was being detained, and two leading out of the back of the house, corresponding with the two (*auleios* and *metaulos*) in the front (for these two doors, cf. Lys. 1.17).

important to the case and therefore Lysias presents the Thirty as breaking all the rules to a point of brutality (12.18-19):

> [18] καὶ ἐπειδὴ ἀπεφέρετο ἐκ τοῦ δεσμωτηρίου τεθνεώς, τριῶν ἡμῖν οἰκιῶν οὐσῶν ἐξ οὐδεμιᾶς εἴασαν ἐξενεχθῆναι, ἀλλὰ κλεισίον μισθωσάμενοι προὔθεντο αὐτόν. καὶ πολλῶν ὄντων ἱματίων αἰτοῦσιν οὐδὲν ἔδοσαν εἰς τὴν ταφήν, ἀλλὰ τῶν φίλων ὁ μὲν ἱμάτιον, ὁ δὲ προσκεφάλαιον, ὁ δὲ ὅ τι ἕκαστος ἔτυχεν ἔδωκεν εἰς τὴν ἐκείνου ταφήν.
>
> [19] καὶ ἔχοντες μὲν ἑπτακοσίας ἀσπίδας τῶν ἡμετέρων, ἔχοντες δὲ ἀργύριον καὶ χρυσίον τοσοῦτον, χαλκὸν δὲ καὶ κόσμον καὶ ἔπιπλα καὶ ἱμάτια γυναικεῖα ὅσα οὐδεπώποτε ᾠοντο κτήσεσθαι, καὶ ἀνδράποδα εἴκοσι καὶ ἑκατόν, ὧν τὰ μὲν βέλτιστα ἔλαβον, τὰ δὲ λοιπὰ εἰς τὸ δημόσιον ἀπέδοσαν, εἰς τοσαύτην ἀπληστίαν καὶ αἰσχροκέρδειαν ἀφίκοντο καὶ τοῦ τρόπου τοῦ αὑτῶν ἀπόδειξιν ἐποιήσαντο: τῆς γὰρ Πολεμάρχου γυναικὸς χρυσοῦς ἑλικτῆρας, οὓς ἔχουσα ἐτύγχανεν,
>
> ‘And as he was being carried dead from the prison they did not allow a funeral to be conducted from any one of our three houses, but they laid him out in a small hut they had hired. We also had many cloaks, yet they refused their request for one for his burial; but one of our friends supplied a cloak, another a pillow, and others what they each happened to have, for the burial. They had seven hundred shields of ours, they had all that silver and gold, with bronze, jewellery, furniture and women’s clothes, all in quantities exceeding their greatest expectations, and a hundred and twenty slaves, the best of which they took for themselves and the rest they handed over to the public treasury. But the action which illustrates their character and the extremes of insatiable greed that they reached was this: on first entering the house, Melobius tore from her ears the gold earrings which Polemarchus’s wife happened to be wearing.’ (Edwards and Usher 1985)

The scene offers a good example of the emotive potentialities of *enargeia*. The humiliating burial for the rich dead man, whose property was seized by the Thirty, and the violent removal of the golden earrings from the dead man's wife aim to maximise the brutality of the Thirty and arouse the contempt and hostility of the judges. On the other hand, as Edwards and Usher (1985: 239) point out: 'the Thirty's desire to avoid a public spectacle of grief is understandable, because it would attract sympathetic crowds and perhaps lead to serious disorder'.

The injustice enforced by the Thirty is further underlined with Lysias' reference to the services his family had offered to the city, such as acting as theatre-producers, paying many special taxes, and in general behaving as responsible and obedient men, while having no enemies and ransoming many Athenians from the enemy (12.20). In a dramatic form, the speaker narrates the misfortunes that befell the city because of the Thirty, and these involve crucial civic matters of family and social status; in particular many citizens were driven into the enemy camp, many were unjustly killed and then left unburied, many were deprived of their civic rights and the daughters of many citizens were prevented from being married (12. 21).

The past moment lives in the present since the judges were also witnesses and victims. Not only does Lysias remind the Athenians of their sufferings but he also makes each group of citizen re-experience a different misfortune by the Thirty. Thus, Lysias arouses the audience's anger and frustration, saying that it was outrageous for the tyrants to come to court and pretend that they have done nothing 'wicked' or 'shameful'. In contrast, Lysias tells the truth and this is that Eratosthenes killed his brother Polemarchos pursuing his own lawless aims (12.23). Eratosthenes' audacity is nothing but a continuation of his past crimes, and subsequently the judges, still victims, are called to bring justice; thus their verdict will have an effect in future and in the past.

In the narration of Lysias' story, Eratosthenes' name is mentioned only twice, once to indicate that he was the one who arrested Polemarchos and took him to prison, implying that he was responsible for his death but without giving any proof of this, and the second time at the end of the story, when Lysias explicitly uses the verb ἀπέκτεινεν to accuse him of his brother's murder. As has been shown, the dramatic elements and the conversations held during the negotiations

between Lysias and the members of the Thirty enhance the persuasiveness of the story rather than offering actual evidence. Moreover, the presentation of ethos involves the Thirty collectively rather than Eratosthenes alone, which is purposely done in order to identify him as a tyrant and as responsible for the deeds; consequently, he should have been expelled and not been given an opportunity to defend himself.

The cross-examination of the defendant – a holy and pious procedure as it is called by the speaker (12.24-34) –, following the narrative section, brings the past into the present trial in a rather emotional mode, strengthening the accusations against the Thirty for deception and showing that they were pleased to act as they did, even though they had the opportunity to avoid the crime.[20] Throughout the cross-examination the main argument is that Eratosthenes did nothing to prevent Polemarchos from being murdered, and that he worked for the interests of the Thirty not of the demos. Lysias actually asks the judges to get angry and furious against those who entered their houses. When he turns to the consequences of the judges' verdict upon aliens and Athenian citizens, Lysias cites as an example of a capital punishment in the past the case of the condemnation of the generals at Arginousai, even though they had won the battle. In a form of epilogue, Lysias states that the charge has been fully argued and expresses sarcasm against the Thirty on account of their deeds (12.37-41).

A fresh start to the narration follows, which is a detailed historic account of the oligarchy of the Four Hundred for involvement in which Eratosthenes is charged. The events are the following: the aftermath of the battle at Aigospotamoi, the conspiracy of the oligarchy before the rise of the Thirty against the democracy with Kritias and Eratosthenes as leaders (12.43-44), the events after the regime was in power, the conduct and role of Eratosthenes as an overseer (12.45-47), and his lack of patriotism even after Thrasyboulos' had seized Phyle. Then, the civil war (12.48-52) followed, and the behaviour of other members of the oligarchy, such as Pheidon's flight to Sparta, urging the Lacedaimonians to mount an expedition against Athens with Lysander as a leader (12.53-61). The historic account of these events runs through the period of political instability and

[20] Further on other instances of cross-examination and the procedure, cf. Wohl (2010) 229, with n. 48.

disturbances, rhetorically amplifying Eratosthenes' illegal role as a tyrant, and making him responsible for all the changes to the constitution.

This section of narrative goes back to the oligarchy of the Four Hundred and condenses the period down to the oligarchic revolution before the regime of the Thirty in order to underline Eratosthenes' continuous oligarchic position within a long period of time. The emphasis is placed upon Eratosthenes' oligarchic conduct before and during the oligarchy of the Thirty in such a way as to show his own responsibility for his choices and actions. Firstly, he should not have acted illegally but ought to have exposed the falsity of all the impeachments before the Boule (12.48-49). Secondly, he openly and without fear supported the Thirty, in particular Theramenes and did nothing to protect the safety of the Athenian *demos* (12.50-51). Moreover, he could have shown his patriotism after Thrasyboulos had seized Phyle, but, instead, he went with his partners in power to Salamis and Eleusis and led off three hundred of the citizens to prison, and by a single resolution condemned all of them to death (12.52).

Lysias' rhetorical strategy in the presentation of the political tensions and relations within the rule of the Thirty is to offer a simplistic divergence between the oligarchs and the democrats. The label of tyrant for Eratosthenes, as one and identical to the group of the Thirty, is emphatically stressed throughout the speech in a mode of historical simplification and forensic polarization. There are no moderate oligarchs and no moderate democrats, there is only the tyrant Eratosthenes and his victims, who were the Athenian demos. Thus, Lysias rejects the view that opposing factions existed within the oligarchy of the Thirty and even though Pheidon and Eratosthenes together with Hippokles, and Epichares were allegedly the worst enemies of Charikles and Kritias, they were only interested in greater power and quicker enrichment (12.53-61). In this context, Lysias divides the citizens into two groups, those who destroyed the city and those who struggled to save it during and after the civil war. In such a depiction of the political crisis, the Athenian demos has been represented as passive and silent when the oligarchy was coming to power, and this is emotionally and dramatically stressed just to remind the judges that now is their chance to give their verdict against them. The historical details in this section are used to arouse hostility for all the deeds of the tyrants in the shape of Eratosthenes.

It is interesting that in this narrative section time is condensed whereas space is expanded to include all kinds of illegal actions on behalf of Eratosthenes and those associated with him, the city itself, the Peiraeus, Salamis, Eleusis and all other places where the crimes of the Thirty were committed. The association of Eratosthenes with Theramenes gives specific momentum to the reconstruction of the past, since these two persons share many similarities and appear to have a special connection and mutual political ideology.

The third narrative section (12.62-78) starts with the phrase: 'φέρε δὴ καὶ περὶ Θηραμένους ὡς ἂν δύνωμαι διὰ βραχυτάτων διδάξω' ('well now, I shall teach you about Theramenes in as few words as I can') and focuses on a prejudicial approach to Theramenes' career as deceiving the Athenian demos, being responsible for the oligarchy of the Four Hundred, for the murders of Antiphon and Archeptolemos, for the bad terms of the peace with Sparta, for the rise of the Thirty, and in general for all evils and shameful actions. What we have got here is the narration of the same story and period focusing on the ambiguous personality of Theramenes, for one reason only to refute Eratosthenes' argument that he was associated with Theramenes, a moderate oligarch, and should thus be acquitted. The Athenians were witnesses and victims but were not all democrats or oligarchs. Lysias creates a polarization to alienate political differentiations and make all the members of the jury to support the restored democratic constitution; in this light, Theramenes and Eratosthenes are no less guilty than anyone involved in the regime of the Thirty. The attack against Theramenes serves the purpose of arousing intense emotions against all enemies of the constitution, either out of fear or need for vengeance.

Lysias extends the period of Theramenes' oligarchic activity. Lysias starts from the oligarchy of the Four Hundred and emphasis is then placed upon Theramenes' contribution to the revolution before the oligarchy of the Thirty. He was trusted by the Athenians to negotiate the peace terms between Sparta and Athens after the end of the Peloponnesian War; he failed, however, to secure better peace terms and he brought all the disasters to the city and encouraged the establishment of the Thirty in the Assembly with Lysander's intervention (12.68-78). The detailed account of the Assembly, where the Thirty were voted for by a minority of the Athenians out of fear, is purposely expanding the time when

Theramenes was plotting against democracy. It is plausible that those worthy men who had recognized the plot and preferred to leave the Assembly instead of voting for the Thirty are members of the jury in Eratosthenes' trial. The emphasis upon time and space is meant to remind them all that both Theramenes and Eratosthenes, since they shared similar conduct throughout a long period from the oligarchy of the Four Hundred until the oligarchy of the Thirty, are guilty of the overthrow of democracy. Theramenes' death is thus presented as worthy of his actions and Eratosthenes is the one who should now be convicted and punished with death.

3. Lysias 13, *Against Agoratos*

A similar strategy of polarization between two extreme groups the oligarchs and the democrats without leaving space for a moderate group, which most probably did exist in Athens during the political crisis of late fifth century,[21] is also used in Lysias' attack against Agoratos in speech 13. Almost five years after the trial of Eratosthenes, Lysias composed the speech *Against Agoratos* which was delivered by a kinsman of Dionysodoros – a victim of the Thirty in a case of *apagoge phonou*. This procedure was based on the arrest and trial of a suspected killer who was found in public places but the charge in effect involved homicide – a crime that was not allowed to come to trial after the Amnesty agreement, unless it was committed *autocheiriai*. Despite the different procedural frame, both these public speeches of prosecution involve homicide referring back to the regime of the Thirty, where the main concept is the idea of intentionality focused on the defendant's degree of responsibility. With regards to chronology, Agoratos is tried for his action which allegedly preceded the establishment of the Thirty, whereas Eratosthenes is prosecuted for a crime he committed when he was in power.

It is clear that various aspects of argumentation between Lysias 12 and 13overlap. The narratives involve the oligarchic plots to eliminate innocent

[21] After the restoration of the democracy in 403, the Athenians decided not to remember the evils of the Thirty, with the so-called Amnesty agreement. The climate, however, was polarised; all those who had suffered by the Thirty were seeking for revenge and restoration, whereas those who had allegedly supported the Thirty by staying in the city during their regime were considered to be their enemies. This polarisation is reflected in the forensic trials in the end of the fifth century and beginning of the fourth century, for example Lysias' speeches: 12, 13, 16, 30 etc.

democrats on the basis of untrue charges (12.6 – 13.21). Though both Eratosthenes and Agoratos are presented as acting for personal profit, the differentiation in emphasis lies in the fact, that Eratosthenes was a man of power, whereas Agoratos was used as a tool of those who were powerful.

The completeness of the narrative in speech 13 is striking given that it is a *synegoria* speech, and it consists of 43 chapters almost half of the speech. In it, many details on the historical and political background are depicted from the period after the end of the Peloponnesian War onwards. Lysias' strategy is to show that the victims of Agoratos were the victims of the Thirty, so that Agoratos is presented not only as a murderer but also an enemy of the democracy. Lysias' technique proceeds from general to specific and at the end of the section returns to the initial general point, constructing a ring composition. Starting with the defeat of the Athenians in the battle at Aigospotamoi, the speaker describes in full detail the period of civil conflicts in Athens between the oligarchs and the democrats until the restoration of democracy (403). While Theramenes was sent to negotiate peace with Lysandros, as ambassador with full power, conspiracies were fully in action in Athens before the establishment of the Thirty. The depiction of Theramenes reflects the same judgement on his conduct, as in Lysias 12. He is accused of misleading the Athenian demos and conspiring against the constitution (12.68-13.9, 10). The attack is stronger in speech 12, where Lysias needs to anticipate Eratosthenes' appeal to his affiliation with Theramenes. Here, Theramenes is also described as responsible for the elimination of those who opposed the peace terms (13.17). At this point, of course, Theramenes was not acting alone; a group of oligarchs were conspiring against the constitution (13.12) and prepared the ground for the rise of the oligarchy (13.6). Their conspiracy had further support from the Boule of the year before the rise of the Thirty. The oligarchs plotted the death of Kleophon and also of all the opponents of the peace terms (i.e. taxiarchs and generals). It is interesting how Kleophon is also used in the same year (399 BC) at the trial of Nikomachos (Lysias 30) as a victim of the accused and the oligarchic plotters against the democracy before the rule of the Thirty, even though the speaker admits that Kleophon might have deserved the death penalty but not for ideological reasons, as he was condemned by the conspiracy of Nikomachos and the oligarchs at the time, immediately after the restoration of the democracy. The intertextuality shows that the tension between

oligarchs and democrats was a common rhetorical topos in reconstructing the past, recent or distant, before, during and after the regime of the Thirty, when litigants were represented as enemies of the city. In the context of the prosecution of Agoratos, it is important for Lysias to underline Theramenes' role during the negotiation between Sparta and Athens in order to strengthen the view that an oligarchic conspiracy had political control in the city before the subversion of the democracy.

Agoratos was involved as *menytes*, an informer, and was brought to give information before the Boule and the Assembly. The prosecution needs to convince the judges that Agoratos deliberately denounced his victims in order to establish the charge of responsibility for murder. The claim that Agoratos was party to the oligarchic conspiracy against the democrats is stressed throughout the speech. According to the speaker's description of the oligarchic plot Agoratos' denunciation was organised so as to seem involuntary (13.19ff.). For this purpose the Boule passed decrees for Agoratos' arrest on the basis of an allegation by a man named Theokritos that there were people acting against the constitution. The presentation of the decrees passed for Agoratos' arrest adds plausibility to the speaker's case. In order to convince the jury of the existence of the plot, Lysias attacks the Boule before the Thirty for its oligarchic conspiracy against the democracy. The whole idea of conspiracy and plotting creates a temporal duration for the oligarchic criminality and illegality. It all started with the Boule's initiative of bringing cases of *eisangelia* against citizens who clearly objected to the oligarchic plans. Agoratos was used, according to the speaker's case, for this purpose.

In order to support the argument that Agoratos willingly became a tool of the oligarchs, the speaker repeatedly points out that he had rejected the chance he was given by his sureties to save his life and avoid giving any names (13.25-38, 52-54). The details of the incident are plausibly presented but are not substantiated. We hear that Agoratos' sureties were willing to accompany him and also that two vessels were prepared for the expedition. The fact, however, that no proof is offered raises some doubts over the reliability of the allegations. The speaker further indicates that if Agoratos had fled from Athens, he would have suffered no loss or harm on the ground that he was not an Athenian citizen. In fact, Agoratos may have had good reasons for not wishing to escape from Athens; he

was presumably a privileged metic granted the right of *enktesis*, and he may have had a family, run a business or owned property. Moreover, it cannot be certain whether Agoratos' safety was guaranteed by the democrats and it is possible that he put his faith in the oligarchs who were at the moment rising to power. It is even possible that he actually accepted bribes to act in accordance with the oligarchic plans. Nevertheless, his refusal to leave, if true, does not prove that he voluntarily made the depositions.

The narrative describes stage by stage the prosecution and conviction of the victims who were finally put to death by the Thirty. The speaker plausibly argues that if Agoratos had not made the denunciation, his victims would not have been subsequently put to death by the Thirty but would have been tried by the *heliastic* court of two thousand jurors (13.35-36). The argument focuses on the cruelty of the tyrants to put the blame on Agoratos.[22] The depiction of Agoratos as a benefactor of the Thirty for giving true information and in consequence being released alone of the rest (13.38) is exaggerated; the speaker suppresses the point that Agoratos was tried together with his victims as a defendant and also that before the Thirty he had laid the information under compulsion which he had not resisted (13.60-61). Here, strikingly the emphasis is placed upon the specific trial of Dionysodoros and allegedly of many other democrats, which was held by the Thirty in the most illegal way, blackmailing the judges to vote in accordance with the decision of the Thirty. The details of the existence of two urns, the one next to the other, first the convicting and second the acquitting one, with an open voting procedure are purposely given to dramatise the whole scene of the trial, to persuade the judges of Agoratos' guilt and to anticipate the request toward the end of the speech from the judges to vote now for a second time to acquit those democrats who had been then put to death and in revenge for their death to convict the Thirty and all the oligarchs who had conspired against the constitution (13.92-97)[23].

[22] On the rhetorical topos of assigning the blame for the Thirty to litigants in court in the early fourth century, cf. Volonaki (2004): 33-51.

[23] For the opportunity offered to the judges now to take revenge upon the death of the democrats and undo the past, Wohl (2010: 222) notes: 'Through the speech's temporal synopticism the jurors can undo the effects of time; years after the fact they can "catch the Thirty in the act' and bring them to a just and (at last) immediate punishment.'

The most emotional and dramatic scene found in the narrative of the speech is the scene of *episkepsis*, the process where final instructions are offered by the victims of Agoratos in prison to members of their families; here, the victim, Dionysodoros, supposedly gave instructions to his relatives to take revenge for his murder from Agoratos, naming him as a murderer and thus, justifying the trial initiated by the victim's relatives against the defendant (13.39-42):

> ἐπειδὴ τοίνυν, ὦ ἄνδρες δικασταί, θάνατος αὐτῶν κατεγνώσθη καὶ ἔδει αὐτοὺς ἀποθνήσκειν, μεταπέμπονται εἰς τὸ δεσμωτήριον ὁ μὲν ἀδελφήν, ὁ δὲ μητέρα, ὁ δὲ γυναῖκα, ὁ δ᾽ ἥ τις ἦν ἑκάστῳ αὐτῶν προσήκουσα, ἵνα τὰ ὕστατα ἀσπασάμενοι τοὺς αὑτῶν οὕτω τὸν βίον τελευτήσειαν. καὶ δὴ καὶ Διονυσόδωρος μεταπέμπεται τὴν ἀδελφὴν τὴν ἐμὴν εἰς τὸ δεσμωτήριον, γυναῖκα ἑαυτοῦ οὖσαν. πυθομένη δ᾽ ἐκείνη ἀφικνεῖται, μέλαν τε ἱμάτιον ἠμφιεσμένη ... , ὡς εἰκὸς ἦν ἐπὶ τῷ ἀνδρὶ αὐτῆς τοιαύτῃ συμφορᾷ κεχρημένῳ. ἐναντίον δὲ τῆς ἀδελφῆς τῆς ἐμῆς Διονυσόδωρος τά τε οἰκεῖα τὰ αὑτοῦ διέθετο ὅπως αὐτῷ ἐδόκει, καὶ περὶ Ἀγοράτου τουτουὶ ἔλεγεν ὅτι οἱ αἴτιος ἦν τοῦ θανάτου, καὶ ἐπέσκηπτεν ἐμοὶ καὶ Διονυσίῳ τουτῳί, τῷ ἀδελφῷ τῷ αὑτοῦ, καὶ τοῖς φίλοις πᾶσι τιμωρεῖν ὑπὲρ αὑτοῦ Ἀγόρατον: καὶ τῇ γυναικὶ τῇ αὑτοῦ ἐπέσκηπτε, νομίζων αὐτὴν κυεῖν ἐξ αὑτοῦ, ἐὰν γένηται αὐτῇ παιδίον, φράζειν τῷ γενομένῳ ὅτι τὸν πατέρα αὐτοῦ Ἀγόρατος ἀπέκτεινε, καὶ κελεύειν τιμωρεῖν ὑπὲρ αὑτοῦ ὡς φονέα ὄντα. ὡς οὖν ἀληθῆ λέγω, μάρτυρας τούτων παρέξομαι.
>
> When the death sentence had been passed, gentlemen of the jury, and it was time to die, each of them summoned to the prison his sister, or his mother, or his wife, or whoever was most closely related to each one. They did this so as to greet their families for a final time before dying. Dionysodorus summoned to the prison my sister, who was his wife.

> Hearing the summons, she arrived dressed in a black cloak, as was appropriate for one whose husband had been struck down by such a terrible fate. In the presence of my sister, Dionysodorus made arrangements for his household in the way he thought best. He identified this man Agoratus as the cause of his death, and he directed me and his brother Dionysius here, and all his friends, to take vengeance against Agoratus on his behalf. Believing that his wife was carrying his child, he directed her too, if she bore him a boy, to tell him as he grew up that Agoratus had killed his father, and to encourage him to take vengeance on Agoratus as a murderer for his father's sake. I shall produce witnesses that I am telling the truth. (trans. Todd)

It is striking that dramatisation and emotional appeals here are used in a frame of legal process to strengthen the victim's statement that Agoratos is a murderer. Even though, witnesses are presented, immediately after the scene of *episkepsis*, it is unlikely that there was a legal impact of the victim's allegation but rather it is rhetorically manipulated to arouse the sympathy of the judges. A parallel scene of *episkepsis* is to be found in Andokides' speech *On the Mysteries* – his own defence against the accusation of impiety (*asebeia*) in relation to the Eleusinian mysteries and the mutilation of the Herms after the Amnesty agreement toward the end of the fifth century. There is a vivid description of his imprisonment where a moving interactive discussion takes place between himself and his cousin Charmides on the issue of submitting the requested information in order to save his family (And. 1.48-51). Andokides describes the *episkepsis* made by the victims of the informer, Diokleides, in prison, where mothers, sisters and wives went to visit them. This narration presents the events just before Andokides' denunciation and aims to justify his action. Moreover, the dramatic dialogue between Charmides and Andokides, where the former tries to persuade Andokides to make the denunciation in order to save those who have supported him, appeals to their emotions under the threat of death, especially after the execution of Andokides' friends. Finally, the dramatic tone reaches its peak with a series of rhetorical questions asked by Andokides, where he refers to his own misfortune and show his desperation not to let three hundred Athenian perish unjustly. The scene of *episkepsis* in Andokides' speech functions in a similar way to the one in Lysias'

speech reaffirming the circumstances or identification of persons involved in a denunciation and, arousing the *pathos* of the audience.[24]

Finally, the narrative section in the speech *Against Agoratos* ends with the presentation of all the misfortunes which befell the city during the oligarchy of the Thirty. Emotional appeal is central to narrative and is elaborated through *auxesis* or *deinosis*. Lysias maintains the fiction of a politically undifferentiated audience in order to engage their support. He manipulates the enmity against the Thirty and emphasises their injuries to the city with the tragic effect that he arouses hostility against Agoratos. Sympathy for all victims is emotionally built up in the figure of Dionysodoros.

4. Conclusions

The narratives of Lysias' speeches 12 and 13 display a parallel line of presentation of the events and persons involved in the period before, during and after the oligarchy of the Thirty. In essence, they both break the spirit of the Amnesty agreement, though typically they follow the letter of law. The narrative techniques involve the temporal telescoping and expansion in order to place the emphasis upon the guilt of the defendants. Space also plays a significant role in the form of a detailed account of location and movement in order to persuade the listener of the plausibility of the representation of the events.

In Lysias 12, *Against Eratosthenes*, the past presses very close and Lysias needs to persuade the judges of Eratosthenes' guilt of homicide. His reconstruction of the past involves three different phases: the first is the night of Polemarchos' murder while the Thirty were in power, the second goes back to the oligarchy of the Four Hundred and condenses the period down to the oligarchic revolution before the regime of the Thirty, and the third phase expounds a long period from the time of the peace negotiations with Sparta until the rule of the Thirty focusing on the role of Theramenes. This pattern shows a strategy of time according to which Lysias initially telescopes and then expands for the closure. Similar emphasis on specific persons, such as Lysias' own experience during the night that his brother, Polemarchos, was murdered and on the oligarchs who were moving

[24] Similarly, the instructions given by the father to his young son for revenge, in Antiphon *Against the Stepmother for Poisoning* (1.29-30), constitute an effective argument to arouse *pathos*.

around houses of Athenian citizens (i.e. Peison, Melobios, Mnesitheides, Theognis), and the spatial locations where the events took place (i.e. Lysias' house, Theognis' house) provides details that reconstruct a persuasive representation of Polemarchos' murder and Eratosthenes' guilt. Polarisation between groups of citizens who represent the 'democrats' and the 'oligarchs' is stressed to identify the victim with the first and the accused with the second, and as such enemies. Thus, homicide is presented as a crime committed out of enmity, cruelty and political opposition.

In Lysias 13, *Against Agoratos,* the narrative has a complex structure due to the intervention of emotional appeals. One significant element is that it does not follow a simple linear pattern. Lysias' technique follows a pre-emptive process by telescoping the time, as for example when he jumps into the exile of the democrats while still narrating the events of the treaty between Sparta and Athens (13.13) or when he refers to the entry of Lysandros without offering precise detail of the actual decision on the peace-terms (13.34). Later events are anticipated to establish arguments from motivation and to emphasise the scale of Agoratos' responsibility.

There seems to be some inconsistency within the events narrated in terms of chronology, which is due to rhetorical manipulation. Lysias uses the technique of expanding the time in which the events narrated allegedly occurred; in particular, he creates the impression that long periods intervened between certain events after the end of the Peloponnesian War in order to add plausibility to the presentation of the role of political figures at the time. For example, he uses an interval to set up the oligarchic plot against the opponents of the peace with Sparta in order to convince the audience of Agoratos' collusion with the oligarchs (13.17). Whether the plot preceded or followed the convention of the Athenian Assembly to vote for the peace-terms in 404 and consequently whether the denunciations were made before or during the regime of the Thirty are questions that cannot be answered with certainty. It seems significant for the prosecution to distinguish Agoratos' action from the crimes committed during the regime of the Thirty in order to strengthen the plausibility of his own action being voluntary and increase the degree of his responsibility. Therefore, Lysias needs to present the whole conspiracy as being initiated before the establishment of the Thirty. On the view that Lysias aims to implicate Agoratos in the surrender of the walls and the other misfortunes of the city, one can explain further chronological inconsistencies

concerning the time when the plot was decided and when the victims openly expressed their opposition to the peace in the Athenian Assembly (13.15-17).

Another element of Lysias' narrative technique involves his way of presenting the facts; in both narratives, characteristically, he includes judgement in the form of explicit comments to influence the judges' response to the events narrated. The effect of this method is that the speaker creates the impression that the judges are free to have their own view of the story while simultaneously influencing their response to the defence case. Also, the use of short and effective comments distorts the factual events and presents the guilt of the defendants as inevitable. Such comments are made, for example, when Lysias in speech 12 explains that Eratoshenes committed homicide out of personal benefit and illegality, following a series of questions interrogating Eratoshenes over his responsibility for murder and continuing the arguments from probability to prove his own conscious actions (12.23-34); or the speaker in Lysias 13 attempts to explain why Agoratos was chosen as the tool of the oligarchs (13.17-18), when he characterises the oligarchic plot in advance (13.18), when he exploits the corrupt character of the Boule before the Thirty to imply that its decisions should not be trusted (13.20) and when he criticizes Agoratos' behaviour at the temple of Artemis to suggest that he had colluded with the oligarchs (13.25ff.)

Together with the application of the speaker's judgements within the narrative, in speech 13, Lysias make unusual use of apostrophe, as he also does in speech 12, especially in the section of cross-examination and immediately after that. The use of apostrophe makes the emotional appeals more effective, as for example when he manipulates the topos of servile behavior to imply that Agoratos was bribed and therefore not afraid of being tortured in the Boule (13.26, 27). Also, at the end of the narrative section, the use of apostrophe emphasises the guilt of Agoratos in contrast to the innocence of his victims (13.48).

To sum up, the narratives in speeches 12 and 13 are the most extensive in length in the corpus Lysiacum, in the first case two-thirds of the speech, in the second more than half of the speech consists of narrative sections and elements. Both cases involve homicide, in particular the responsibility of the defendants for the death of their victims, Polemarchos and Dionysodoros. In both trials, the legal cases are not strong since it is highly difficult to prove such an extent of intentionality in conspiracy and responsibility for murder that was not committed

‘with one’s own hands’. Moreover, the actual cases are rather weak, since neither enough poof nor evidence is provided to substantiate the allegations against the defendants that they were party to certain conspiracies of eliminating democrats, in the first case for money, in the second for taking away those who resisted the peace terms.

As has become clear, in the narratives Lysias intermingles facts with proof involving emotional appeals so that the audience is directed to accept the guilt of the defendants. Dramatic elements, rhetorical devices, characterisation, conversations and justified motivations in a form of comments are widely used in both narratives in order to direct the audience’s response and influence upon their verdict. Despite the many similarities of the speeches, however, the emphasis is different. The representation of ethos follows a different line of argumentation in each speech. As a well-known political figure, Eratosthenes is attacked for his misconduct during the regime of the Thirty and is identified as being a representative of all of them. It is clear that he is ‘one of them’. In effect, the attack uses other members of the oligarchy in order to establish the motivation of the defendant. In Agoratos’ trial, the attack has personal character. Although Agoratos may have had links with active political figures in the post-war political life of Athens, who were indirectly attacked through the present prosecution, he was not a prominent political figure and, therefore, the attack focuses more on his personality. Lysias offers a complete portrayal of his unscrupulous character in both private and public life. The speaker of Lysias 13 presents himself as a simple citizen who acts mainly from personal enmity and also public concern. The issue of personal vengeance determines the evaluation and judgement of political and historical evidence.

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