

**METICS AND IDENTITY IN DEMOCRATIC ATHENS**

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## **ABSTRACT**

This thesis investigates the metics, or resident aliens, in democratic Athens and how they affected ideas of identity, with a particular focus on the fourth century BC. It looks at definitions of the metics and how the restrictions and obligations which marked their status operated; how these affected their lives and their image, in their own eyes and those of the Athenians; how the Athenians erected and maintained a boundary of status and identity between themselves and the metics, in theory and in practice; and how individuals who crossed this boundary could present themselves and be characterised, especially in the public context of the lawcourts.

The argument is that the metics served as a contradiction of and challenge to Athenian ideas about who they were and what made them different from others. This challenge was met with responses which demonstrate the flexibility of identity in Athens, and its capacity for variety, reinvention and contradiction.

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When I returned to University in 2008, after six years away, I had the intention only of doing a Master's degree and seeing where it might take me; it is a testament to the people and ethos of the Institute of Archaeology and Antiquity at the University of Birmingham, then, that I have ended up producing this work. First I would like to thank my supervisor, Niall Livingstone, for all the academic help and support he has given me, and, perhaps above all, for the assistance he has given me in learning the Greek language. I must also thank Niall McKeown, who encouraged me to take up doctoral studies and gave me invaluable help in applying for funding. Without the bursary I received from the University's College of Arts and Law I do not think I could have taken up my studies, so I must thank that body and whoever selected me for funding.

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# INTRODUCTION

## 1. Summary and Argument

This thesis investigates the metics, or resident aliens, in democratic Athens and how they affected ideas of identity. Due to the nature of the evidence the focus is particularly on the fourth century BC, though the fifth is also covered. As non-citizens of many different backgrounds and ethnicities, who were nevertheless free and in some cases citizens of other states, the metics offered a challenge to what might otherwise be relatively straightforward oppositions between Athenian and foreigner, Greek and barbarian, and, in the case of freedmen, free and slave. My aim is not to produce simple, definitive summaries of ‘what the Athenians thought’, but rather to look at and explore the varied, sometimes contradictory ways in which they thought about and made use of identity.

In the first chapter I look at definitions of the metics – the conception of them as immigrants and non-citizens, descriptions of their legal status, what modern scholars have made of them and their relation to the rest of Athenian society, and what marked them out as metics.

In the second chapter, the focus is on how these marks of status operated, and what special restrictions the metics lived under: the effects, both practical and ideological, which these had on the metics; what they meant to the Athenians; why they were put in place; and how they related to areas of life in which metics were more integrated into Athenian society. I argue that the overriding concerns were establishing difference, a boundary, between Athenians and metics, and putting in place a framework in which those metics who attempted to avoid the

restrictions, and thus blur the boundary, were severely punished. The importance of these concerns far outweighed any practical negative impact that was involved, but nevertheless carried with them considerable disadvantages, and prejudice against metic groups could be and was exploited by Athenians when it was to their benefit. They also tended to deny male metics access to traditional ways of expressing masculine identity. None of this, however, stopped Athenians and metics from forming close relationships and networks of support, and outside of official Athenian structures and institutions there was considerable scope for metics to compensate for their denial of agency (and potential isolation) in private and among their own communities.

In chapter three, I look at how the Athenians theorised, explained and justified their privileged position through the myth of autochthony and the extreme boundary of status and identity which it represented, through its public proclamation and enactment via the ritual of the funeral oration. I consider the effects and importance it had not only for Athenians, but also for the metics who witnessed it. I also examine doubts about and dissent against this model and its effects. My conclusion is that its ritual context privileged it and protected it from rational analysis, allowing what would otherwise seem to be obvious falsehoods to both unify the Athenians and divide them from the other residents of the *polis*, at least for the duration of the ritual; there is evidence, however, that it was not entirely effective or genuinely believed in.

The fourth chapter examines how (and how successfully) this boundary was enacted and policed in practice, and the efforts of the Athenians to keep themselves pure by preventing metics from crossing the boundary and infiltrating the citizen body. The evidence indicates

that the measures they took to keep infiltrators out were ineffective, and often acknowledged as such, but that this did not lead the Athenians to abandon their ideology of difference and superiority. As a group they were prepared, when required for pragmatic reasons, to allow non-Athenians into the citizen body, either tacitly or overtly, but when this was no longer necessary they reverted to type. The anxiety this contradiction created led to their taking, in the mid-fourth century, extreme action against those who they believed had become citizens illegitimately. They also attempted to make the boundary between Athenian and metic more clear-cut by marking the agora, the most cosmopolitan area of the town, as specifically Athenian space, and by remaking Athenian citizens through the institution of the reformed *ephêbeia*.

Finally, in chapter five I look at individuals who did cross the boundary, and how they presented themselves and were characterised when in the courts: how naturalised citizens, those metics who had managed legitimately to become Athenian citizens, acted when facing a jury of Athenians; the strategies which could be used to attack citizens who had not lived up to the Athenian ideal; and how a man whose citizenship and Athenian identity had been judged invalid appealed against the decision. My conclusions are that in our examples, in a courtroom context naturalised citizens presented themselves only as provisional, qualified citizens who still knew their inferior place and recognised the fundamental difference between themselves and the real Athenians; they acted more like highly honoured metics than citizens. This identity, however, could be and was exploited to their advantage. With ‘unworthy’ and rejected citizens there was considerable scope for variety; it was possible to present either an idealised version of Athenian identity, which more-or-less matched the

ideology (at least as an aspiration), or a more pragmatic, honest conception which looked realistically at the doubtful basis of what the Athenians professed to believe.

In most cases Greek names have been given in their traditional English form or Latinised (e.g. Neaera rather than Neaira) for the sake of what consistency is possible. Greek words are usually transliterated and put in italics except in quotations. Except where indicated the translations are my own, made in consultation with the usual editions and those listed in the bibliography; Greek oratory, in particular, has become increasingly well served by English translators over recent years. Where textual questions are relevant they are discussed, usually in the footnotes.

## **2. Scope and Evidence**

I make use of evidence relating to Athens from the mid-fifth century down to the 320s BC. I have not attempted to trace the development through time of metic status or the attitudes towards them, however, because our evidence does not enable us to do so; the picture it provides is not comprehensive enough. As my focus is on identity and Athenian attitudes and values, I have focused mostly on forensic oratory and the law; I have not ignored other types of evidence, but could have looked in far more depth at the views about and depictions of metics in philosophical texts, for example. I have not done so because I wish to use evidence that is as representative of typical Athenian attitudes as possible – and that kind of evidence

comes from the law courts. This evidence is far from unproblematic, however, and therefore I shall outline its difficulties and how it can be used.<sup>1</sup>

In the first place, we often do not know what the text of a law actually was, because we are frequently dependent on the tendentious summaries of them given by orators. There is also no reason to assume that the Athenian laws were comprehensive or non-contradictory, or that they were not frequently ignored.<sup>2</sup> Even when a law seems clear, understanding the motives behind it is extremely difficult. We cannot reasonably hope to give definitive answers to the questions of why the Athenians in the mid-fifth century made citizenship qualifications more restrictive, for example, or indeed why they convicted Socrates.<sup>3</sup>

Quite apart from this difficulty in reconstructing motives, there is also the problem that what a law actually meant, and what the Athenians *thought* was its purpose, could change, and was there to be argued over. In Todd's phrase, 'the language of the law was the language of the street';<sup>4</sup> the original context in which a law might have been written is never discussed by Athenian litigants, except as a '*reductio ad absurdum*'.<sup>5</sup> Instead, litigants speak with reference to its 'natural and contemporary meaning' and purported effects.<sup>6</sup>

Litigants could argue about intent and meaning, and if they persuaded the jurors successfully they could set 'informal but nonetheless authoritative *social* precedents'<sup>7</sup> – or at least that is

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<sup>1</sup> The key modern works, on which my approach is based, include Ober 1989, Carey 1994, Todd 1990a, 1990b, 1990c. For descriptions of Athenian law see Todd 1993, MacDowell 1978 and Harrison 1968.

<sup>2</sup> Foxhall 1996: 142-143.

<sup>3</sup> Lanni 2006: 177.

<sup>4</sup> Todd 1996: 121; Carey 1994: 178 calls it 'the language of everyday life'.

<sup>5</sup> Todd 1996: 120-122, Lysias 10 being the *reductio ad absurdum* and only example.

<sup>6</sup> Todd 1996: 121.

<sup>7</sup> Lape 2006: 140.

what the litigants themselves would have the jury believe.<sup>8</sup> Whether these precedents were actually binding in practice is another matter. A litigant could argue that the jury should be consistent with a decision made in the past,<sup>9</sup> but his opponent could counter that the original verdict was a terrible mistake, perhaps due to the pleading of an unscrupulous *sukophantês*. In other words, the meaning of a trial and the jury's decision could still be reinterpreted;<sup>10</sup> jurors did not give reasons for their verdicts, so they were there to be argued over.<sup>11</sup>

We should be very careful, then, about looking for the meaning of laws. We can, however, understand how individual Athenians (and sometimes foreigners) explained and made use of laws, precedents and past events in particular situations. When the context of these situations is understood we can understand what at least some of the aims of the individual were, and hence what sort of response he hoped to create in his audience.

The context is that of the law courts, which in Athens had large juries made up of citizen males over the age of thirty.<sup>12</sup> As a general rule, it can be supposed that a litigant's main aim was to convince a jury to find in his favour.<sup>13</sup> Any statements he made are therefore likely to have been calculated to present his case in a light which, to the litigant's own mind, was most likely to strike a chord with the jury. In other words, given the make-up of an Athenian jury, any ideological statement is likely to reflect an individual Athenian's assessment of what a

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<sup>8</sup> Quillin 2002 provides a model, based on decision theory, of how jurors could reach verdicts based on what they perceived to be the social consequences of their decisions. Quillin looks specifically at cases involving supporters of the Thirty Tyrants, but the model could be applied more generally.

<sup>9</sup> Aeschines 1.173 provides us with an extreme example when he claims that the example of the execution of Socrates compels the jury to convict Demosthenes.

<sup>10</sup> Rubinstein 2007: *passim* and esp. 360-361.

<sup>11</sup> Lanni 2006: 120.

<sup>12</sup> On the make-up of the Athenian juries and their attitudes see Todd 1990c.

<sup>13</sup> Ober 1989: 45. They had considerable leeway; as Carey 1994: 177 notes that 'the criteria for decision-making were never spelled out'.

majority of adult male citizens thought and/or wanted to hear. Whether the facts they present are true is usually unimportant; as Edward Cohen has put it, ‘although Athenian forensic speeches are rhetorical contrivances that virtually always present evidence tendentiously (and often dishonestly), the presuppositions underlying litigants’ claims are generally reliable’.<sup>14</sup>

There are important limiting factors to be placed on this confidently stated principle, however. First, the facts of the case may have compelled a litigant to make statements or take positions that were controversial, or reflected a minority view or ideology. In such cases, however, we can reasonably expect a defence of the position to be made, and since these instances are likely to be rare it should be possible to spot them through their incongruity.

Second, while a desire to win the case will always be one motive, it may not be the only one, and conceivably might not even be the main one. The higher the stakes of a case, of course, the greater the imperative for victory must have been. But in some circumstances, the defence or furtherance of the litigant’s general reputation might be of more importance than winning this particular case.<sup>15</sup> Alternatively, there might simply be a desire for the truth to be heard.

Another complicating factor that is particularly relevant to cases concerning metics<sup>16</sup> is that speeches were often given on behalf of someone else. Here it is evident that the speaker’s own reputation, as well as that of the litigant himself, was on trial. In such cases the speaker’s desire for an acquittal might be less dominant a motive than in a case where the defendant himself speaks. The need to appeal in terms that were conventional and acceptable to the jury,

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<sup>14</sup> E. Cohen 2005: 160.

<sup>15</sup> Wout 2010: 179-181, 197, Foxhall 1996: 152.

<sup>16</sup> See section 2.2 (d).

however, would remain; the speaker would still be subject to the moral and social, if not the legal, judgement of his peers. There was also the extra-legal audience of onlookers to consider; this could include foreigners,<sup>17</sup> but it was surely the citizen component that was considered the most important.

Third, there is also the possibility that a speaker has misread or misrepresented the ideology of the jury through stubbornness, ignorance or incompetence. In this case, the fact that almost all of the speeches we have were written by professional<sup>18</sup> logographers is an advantage. Their experience and the ability which made them successful are likely to have reduced the chances of such blunders being made.<sup>19</sup> This does not completely eradicate the possibility, however, firstly because a misjudgement can be made by anyone, and secondly because we cannot rule out the input of the litigants themselves. If a litigant insisted on taking a particular line of argument the logographer would presumably have been obliged to follow it, even if it was against his better judgement.

The question of the influence of clients on forensic speeches has been controversial. Dover argued that full collaboration between a logographer and his client was the norm, to the extent that the words of the speech itself were the product of the two.<sup>20</sup> This extreme position was directly opposed by Usher,<sup>21</sup> who argued that the ancient terminology and testimony pointed to no collaboration at all – ‘after initial consultation, which would vary in thoroughness according to the complexity or difficulty of the case, the actual composition of

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<sup>17</sup> Hyperides says in his *Against Diondas* that many Thebans were in the courtroom, though he wishes they were not – see Carey et al. 2008: 8, 12.

<sup>18</sup> Or at least experienced, as in the case of Apollodorus – see section 5.1.

<sup>19</sup> Ober 1989: 44.

<sup>20</sup> Dover 1968.

<sup>21</sup> Usher 1976: 31.

the speech was done by the speechwriter in his own words and with the exact degree of emphasis and emotional appeal that he considered necessary.’<sup>22</sup> Usher’s arguments have apparently convinced most,<sup>23</sup> and it would be wrong to revive the idea of full collaboration. The ‘consultation’, however, could have had considerable influence on the themes and argument in general of a speech, if not on the actual words themselves, though this is impossible to determine in any individual case. Again, this is not necessarily a problem for our purposes, as a professional logographer will have known through experience which strategies, arguments and ways of presenting his client are likely to have worked; as long as we use the speeches as evidence for what was likely to appeal to Athenian jurors, rather than for what litigants honestly thought, we can be fairly confident in them.

Similarly, while the versions of speeches which we have may have been rewritten for publication or circulation, the aim of the logographer must still have been to present a good speech, which was likely to convince a jury, and so should not affect its use as evidence for social attitudes and values.

In sum, any speech that we wish to use for evidence of Athenian attitudes will need to be analysed carefully; when an argument or appeal crops up time and again, however, it is safe to assume that it did indeed hit a chord with typical Athenian jurors. Litigants are, after all, hardly likely to use tactics that had been tried many times before if they had not been successful. It does not necessarily follow, however, that this means we have discovered ‘the

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<sup>22</sup> Usher 1976: 36. He also cites Plut. *Mor.* 504c and Theophrastus *Char.* 17.8 as examples where there is no collaboration, but in the former the client complains about his speech before it is delivered, presumably with the aim of getting it changed. Lavency 2007 [1964]: 7 had reached similar conclusions to Usher’s, noting that while clients would have made suggestions, these would often have been obstacles to overcome rather than helpful contributions. Worthington 1993: 70 suggests that the client may have been authorised to make extemporaneous comments. On supposedly extemporaneous comments in written speeches see Dorjahn 1957.

<sup>23</sup> Carawan 2007b: xiii.

Athenian view' on a particular matter; it was one possible, attractive and potentially persuasive take on matters, but alternative strategies might also have been possible and had considerable appeal. We must also remember that the law court was only one, public, context, and in other spheres different values might apply.

### **3. Theoretical Background – Identity and the Past**

My analysis of the Athenians' society, behaviour and attitudes depends on understanding them as a group, with an identity which they believed bound them together. The boundary which the Athenians attempted to create and maintain between themselves and the metics is thus a key element of this thesis. Such boundaries have received a great deal of attention in a number of scholarly disciplines, particularly since Fredrik Barth's introduction to the 1969 volume *Ethnic Groups and Boundaries*. Barth made the case for the boundary between groups being more important than the 'cultural stuff' which it contains.<sup>24</sup> As regards boundary *crossing*, he made it clear that 'boundaries persist despite a flow of personnel across them. In other words, categorical ethnic distinctions do not depend on an absence of mobility, contact and information, but do entail social processes of exclusion and incorporation whereby discrete categories are maintained *despite* changing participation and membership in the course of individual life histories'.<sup>25</sup>

Effectively, then, the fact that the boundary between citizen and metic was crossed, and therefore in a sense ineffective,<sup>26</sup> does not mean that it ceased to exist, or undermined

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<sup>24</sup> Barth 1969b: 15 and *passim*.

<sup>25</sup> Barth 1969b: 9-10.

<sup>26</sup> See chapters four and five.

Athenian identity; they simply had to come up with strategies to deal with this fact. I do not, then, accept that scholars are faced with a dichotomy between metics as on the one hand disadvantaged and oppressed, or on the other valued and integrated. The fact, for example, that restrictions on metics appear to get more strict in the fourth century does not necessarily mean that in other respects their position worsened, and may be a response to concerns that the boundary was becoming increasingly blurred in everyday life.<sup>27</sup>

It is tempting to apply the label of ‘ethnic’ to the Athenian group. The difficulties with this term have been examined most fully by Marcus Banks, who went as far as to remark that ‘Unfortunately... it is too late to kill it off or pronounce ethnicity dead; the discourse on ethnicity has escaped from the academy and into the field’.<sup>28</sup> His argument is that ‘ethnicity’ as an academic term is better seen as a tool for analysis rather than a phenomenon to be analysed, and that it should be used ‘only if the approach taken recognizes that to study it is to bring it continually into being.’<sup>29</sup> It is presumably warnings such as this that led Susan Lape to title her recent work *Race and Citizen Identity in the Classical Athenian Democracy*, and begin it with the caveat that ‘nothing in this project hangs on the use of the term “racial” per se. One might read this entire study substituting “ethnic” or some other less controversial term for “racial”’.<sup>30</sup> However it is termed, Lape is keen to stress that it is merely one type of social identity, but one with specific features which make it worthy of study in its own right.

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<sup>27</sup> See chapter two; cf. B. Cohen 2001: 242 on how ‘ethnic exclusivity in Athenian art was a response to encounters with diversity in Athenian life’.

<sup>28</sup> Banks 1996: 189.

<sup>29</sup> Banks 1996: 189.

<sup>30</sup> Lape 2010: ix.

Banks, in his analysis of the various approaches to ethnicity used by scholars, determined that they fall somewhere on a spectrum between what he called ‘instrumentalist’ positions (in which ethnicity is seen as being used by groups to achieve goals) and ‘primordialist’ positions (in which ethnicity is treated as ‘an innate aspect of human identity’).<sup>31</sup> It must be noted, however, that while some theorists have adopted positions on the extremes of the spectrum, such as Abner Cohen, who advanced the idea of ‘political ethnicity’, summarised by Banks as ‘ethnicity not so much as a form of identity as ethnicity as a strategy for corporate action’,<sup>32</sup> the two poles are not necessarily mutually exclusive. There is no objection in principle to ethnicity (or indeed any other form of identity) as a phenomenon that comes from a natural human tendency to categorise but which can also be manipulated to achieve goals. This may well be in response to changing circumstances or competition for resources.

To take an Athenian example, there are a number of conceivable motives for the Periclean citizenship law of 451/450 BC. Even if we accept the claim in the *Ath. Pol.* that it was passed διὰ τὸ πλῆθος τῶν πολιτῶν (and take that as meaning ‘because there were too many citizens’), there are still various possible explanations as to why the citizen body was thought to be too large.<sup>33</sup> A primordialist position could be that the Athenians were following a natural tendency to mark themselves out from other groups, and keep their own ethnic identity pure. At the other extreme, an instrumentalist might suppose that it was about citizens maximising their own group (and hence individual) privileges and access to the benefits of citizenship by excluding others.

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<sup>31</sup> Banks 1996: 39.

<sup>32</sup> Banks 1996: 34.

<sup>33</sup> Manville 1994: 26-27.

It is evident that the one explanation does not exclude the other. On the contrary, both would have been reasons for taking such action. Given the open and wide-ranging nature of Athenian political debates, it is possible, and perhaps likely, that both were advanced as arguments in favour of the legislation. There is no particular reason to suppose that the Athenians were any less inventive or prone to speculation than are modern scholars. Thus the modern suggestion that the law was intended to discourage aristocratic inter-polis marriages,<sup>34</sup> for example, is perfectly plausible as one reason. The question of whether it was a vital enough issue to be the major or overriding motivation is much more difficult to answer.

This is not merely due to the lack of evidence. There is also the fundamental difficulty that any group decision is difficult to explain, since each decision-maker's motives may have been different. Equally, voters may choose a position based on an instinctive reaction rather than a reasoned opinion, or simply follow their peers without considering the options for themselves. The result is that even when we are able to ask decision-makers why they chose as they did, we are often unable to give a full or coherent explanation.

As will be seen, there was an apparent division between Athenians and non-Athenians, at least in the minds of the former, which gave them a group identity; and since this was supposedly based on descent,<sup>35</sup> it would be reasonable to describe them as an ethnic group in analytical terms. I have generally avoided the term, however, because it seems unnecessary; simply speaking of them as a group, or 'the Athenians', is sufficient and avoids the connotations of ethnicity.

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<sup>34</sup> See Lape 2010: 23-24 with references.

<sup>35</sup> See chapter three.

Research in the field of social psychology is also informative when it comes to groups and identity. It has found that often those whose status as group members is felt to be insecure tend to be the ones who are most conscious of group boundaries and most keen to maintain them.<sup>36</sup> They are also the most likely to show bias against non-members and adhere to the standards by which a group defines itself.<sup>37</sup> These standards may be represented by a ‘prototypical’ figure (or stereotype) that is thought to act in a way which typifies how a group member should (ideally) act.<sup>38</sup> Those whose status within a group is marginal may actually opt ‘to alter the self to become more prototypical’, changing their behaviour or self-image in order to conform.<sup>39</sup>

These findings, however, are not entirely unproblematic. They are largely based on studies of small groups, in which subjects are assigned identities; members have nevertheless been found to form groups based on these arbitrary distinctions and discriminate against those outside of their group. These distinctions may be as arbitrary as which Impressionist paintings a subject prefers, or even tossing a coin. The aim is to create for each participant an ‘in-group’, which he or she identifies as being a member of, and an ‘out-group’, which he or she does not. In experiments which feature rewards, grouped subjects have been found to prefer strategies which maximise the difference in outcomes between groups to strategies which lead to the maximum profit for all; participants would apparently rather have a more decisive ‘win’ than an equal result even when the latter would give them a higher reward.<sup>40</sup>

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<sup>36</sup> Pickett and Brewer 2005: 97.

<sup>37</sup> Pickett and Brewer 2005: 89.

<sup>38</sup> See Huddy 2001: 133-134.

<sup>39</sup> Pickett and Brewer 2005: 93.

<sup>40</sup> Tajfel 1981: 269-271.

While this is valuable information, especially when considering how groups form and how new identities may be reinforced by group members, it essentially concerns artificial situations. Participants who are thrown together, for example, may wish to form bonds rapidly with others to dispel feelings of uncertainty and disorientation in an unfamiliar environment.<sup>41</sup> Furthermore, the arbitrary and temporary nature of these identities makes them different from the identities people adopt in the real world; as the political psychologist Huddy put it, social identity theory can be ‘faulted for ignoring... powerful identities’.<sup>42</sup> Equally, it has not shed much light on questions of why some individuals identify with a group more than others, and has not allowed for identity *choice*.<sup>43</sup>

Social psychologists are, of course, aware of such drawbacks, and have attempted to avoid them in some experiments. Some have replicated the format of these arbitrary group experiments with groups with strong, real life identities, for example English and Welsh people. Others have manipulated subjects’ existing identities, often by telling some subjects that they are deviant from the norm in some way. In one experiment, for example, some male participants were told that they had a low score on a ‘masculinity index’.<sup>44</sup> These experiments have supported the key findings listed above, both in terms of in-group bias and the behaviour of insecure or marginal group members.<sup>45</sup>

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<sup>41</sup> Huddy 2005: 136.

<sup>42</sup> Huddy 2005: 137.

<sup>43</sup> Huddy 2005: 138-139.

<sup>44</sup> Schmitt and Branscombe 2001.

<sup>45</sup> Pickett and Brewer 2005: 98-100.

Nevertheless, it cannot simply be assumed that the findings of experimental social psychology will be replicated in the real world. Even when real identities are used, the conditions of the experiment are fundamentally artificial. Social psychology can, however, provide a framework for understanding identity in conjunction with disciplines such as sociology and social anthropology, which examine real societies. It remains true, of course, that these cannot be extended into the past automatically or uncritically,<sup>46</sup> but they can provide insight into the workings of the minds behind the ancient evidence. These can then provide explanations for why the Athenians acted as they did, and found some aspects of their identity troubling.

There is one particularly important difference between real world and experimental conditions which is worth noting at this point. In an experiment, identities are generally assigned clearly and accepted by participants. A group will identify itself as an in-group, and this in-group is in turn seen as an out-group by others. All participants agree on who is in which group. In real societies, because it is only in-groups that are self-defined, sometimes there will be a disagreement over how groups are constituted. In other words, the people whom an in-group defines as an out-group will not always agree that they are a group at all. In democratic Athens, this can be seen in the way metics were grouped. The Athenians might speak of ‘the metics’ as a group, but the metics themselves appear to have rejected this as an identity. They preferred their own self-defined and constituted group identities as citizens of other *poleis*.<sup>47</sup> They thus formed an out-group when seen from the perspective of the Athenians, but not an in-group, because they did not define themselves as such. In

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<sup>46</sup> Pálsson 1993: 5.

<sup>47</sup> See chapter one.

anthropology, this has been termed a ‘hollow category’;<sup>48</sup> it only has meaning as an identity when viewed from the outside. It can, on the other hand, have meaning as a label, possibly with a degree of stigma attached.

Identity, then, can both have a powerful impact on individuals and their behaviour, and be used and manipulated for their advantage. It is in this light that my investigation of the metics and identity in Athens will proceed.

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<sup>48</sup> Banks 1996: 133. Cf. Turner and Bourhis 1996 on ‘groups’ and ‘categories’.

## CHAPTER ONE: DEFINITIONS ANCIENT AND MODERN

The usual definition of the Athenian metic derives from David Whitehead's *The Ideology of the Athenian Metic*, published in 1977 and still invariably cited as the standard reference work on the subject. Before this, the metics were usually seen as a privileged group, of higher status than other foreigners; Whitehead, however, produced a comprehensive argument for a very different definition, in which metic status was an obligation rather than a privilege, automatically acquired by anyone staying in Athens for more than a short time, and came with responsibilities which were for the most part disadvantages; in short, it was not a status which anyone would have desired, but rather one which people were obliged to endure.<sup>1</sup>

Under this definition, the metics as a group consisted of everyone who lived in Athens who was not a citizen or a slave – the traditional translation is ‘resident aliens’, and a simple and accurate definition would be ‘free non-citizens living in Athens’. This group could be subdivided into the following categories: immigrants;<sup>2</sup> Athenians who had lost their citizen status; freed slaves;<sup>3</sup> and the descendants of any of those. One further group, whose status has always been controversial, is the illegitimate children of two Athenian parents. Scholars have recently tended to suppose that they were not citizens;<sup>4</sup> unfortunately, certainty about them is not possible given the state of our evidence;<sup>5</sup> personally, on balance I believe that they were permitted to be citizens, rather than included with the metics.<sup>6</sup>

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<sup>1</sup> Whitehead's work and its background is described in detail in section 1.3 below.

<sup>2</sup> There is now near-universal agreement that immigrants became metics simply by residing in Athens for a time, though Lévy has questioned whether this was an automatic process in the fifth century; this is discussed in section 1.3.

<sup>3</sup> Whether all freed slaves became metics has fairly recently been doubted by Zelnick-Abramovitz, whose argument will also be discussed, in section 1.5.

<sup>4</sup> Scafuro 2011: 13 n.15.

<sup>5</sup> Blok 2005: 17 n.60 describes the question as ‘unsolved and insoluble’, though elsewhere she states that she believes they were not citizens (2009a: 145 n.12).

<sup>6</sup> The most comprehensive treatment of the question is Ogden 1996; it covers the Greek world during the Classical and Hellenistic periods but roughly half of it concerns Athens. Ogden argues that Athenian bastards

The last group, comprising the descendants of metics, requires a little more explanation. After 451/0 and the introduction of Pericles' citizenship law, legally speaking Athenian citizens had to have two Athenian parents.<sup>7</sup> This meant that in theory there was no way for a metic's descendants to become Athenians after this time, other than by naturalisation, which required a decree to be passed by the assembly.<sup>8</sup> Whether, how, and when this was actually enforced in practice is the subject of chapter four; in this chapter I will deal with how the theoretical, legal situation affected matters. Edward Cohen has challenged the usual understanding of this point in his book *The Athenian Nation*, with the radical theory that the children of metics would ordinarily become citizens, in exactly the same way as those born of two Athenians. His view on this point has not found favour with many scholars (or with me) and is discussed in section 1.4 below. When the metic system ended is uncertain, but it must have been between c. 300 and the late third century.<sup>9</sup>

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could not be citizens, and his position is supported by numerous scholars (e.g. Rhodes 1997: 100, who had already stated his view at Rhodes 1981: 496-497; others with the same view include Humphreys 1974, Carlier 1992). The problem is that there is no decisive statement which says so, despite there being situations in which we would expect clarity (e.g. *Ath. Pol.* 42.1, 55.3, *Dem.* 57.17). When legitimacy (or phratry membership, which does seem to have required it) is brought up in court cases it is as supporting evidence of status, not something which was a requirement – see MacDowell 1976. Sealey 1984 also argues that illegitimate Athenians were citizens; Patterson 1990: 60 argues that it is a 'red herring' to focus on this group – the *nothoi* as usually thought of would be children with a foreign mother who were recognised by their Athenian father. It is still interesting, however, to assess whether or not the children of two unmarried Athenians could be citizens, even if this does not address all the issues concerning *nothoi*.

<sup>7</sup> On this legislation and its impact see section 4.1 (a).

<sup>8</sup> For cases of mass grants of citizenship see section 4.2; for individual naturalised citizens in court see section 5.1.

<sup>9</sup> In 1977, Whitehead argued that it ended around 300 BC, because after that time there are no more epigraphic references to *metoikoi* or the *metoikion*, and there are no more *oikôn en* formulas (Whitehead 1977: 164-165). By 1986, however, he had revised his opinion, and was no longer confident in this; he suggested a date of abolition of 262/1, under Antigonos Gonatas (1986c: 150-153). References to *isoteleia* continue for most of the third century; Whitehead argued that these could have been purely honorary, and/or hereditary, whereas Niku has taken them as indicating that the *metoikion*, and therefore metic status, continued to exist until 229/8 (Niku 2007: 29-32, 50-51). I agree with Whitehead that the *isoteleia* inscriptions prove nothing about whether or not the system continued to operate; an honour can easily, and often does, keep an obsolete name for tradition's sake. Niku also argues that there would have been no reason to abolish the system before 229/8 (2007: 24, 32-33, 41), but I fail to see how we are in a position to know that. I would therefore leave the question open.

## 1.1 Metics as Immigrants, and the ‘Ideal Metic’

*Metoikos* and *metoikein* had two senses in the classical period; they applied in general terms to any person who was dwelling in a city different from his own, and more specifically to those with a particular legal status, as at Athens.<sup>10</sup> Until the 1970s, the standard etymological explanation of *metoikos* was that it come from *meta* and *oikein*, and signifying ‘dweller with’.<sup>11</sup> Whitehead challenged this, arguing for the alternative sense of *meta* as implying a change, and hence for *metoikos* as a ‘home-changer’ or ‘immigrant’; in his view, the ‘burden of proof’ rested on those who denied this implication.<sup>12</sup> This ‘immigrant’ meaning must be understood, however, in the sense of referring to a metic’s family origin, and not necessarily to his place of birth, since the children of metics, even those born in Athens, retained the status of their parents. This usage has obvious parallels in the way some English speakers use the word ‘immigrant’, as is also the case in the French language.<sup>13</sup>

In any case, it is clear that the word took on a ‘life of its own’ in Athens, regardless of its origins.<sup>14</sup> In its general, widely applicable sense we see it used in tragedy,<sup>15</sup> as for example in Sophocles’ *Oedipus Tyrannus*, where Teiresias says of Laius’ murderer that he is ξένος λόγῳ μέτοικος, εἶτα δ’ ἐγγενής / φανήσεται Θηβαῖος.<sup>16</sup> This appears to be a simple description of his situation, and it is notable that there is no opposition between the *xenos* and the *metoikos* as categories; rather, the one expands on the other. Oedipus appears as a foreigner who is

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<sup>10</sup> Clerc 1893: 13; Harrison 1968: 187; Gauthier 1972: 108.

<sup>11</sup> See e.g. Clerc 1893: 9 (‘étymologiquement, il désigne simplement un homme qui habite avec d’autres’).

<sup>12</sup> Whitehead 1977: 6-7. Lévy has since examined the question, concurring with Whitehead on the grounds of its use with prepositions (Lévy 1988: 47-50), and the fact that it is never applied to indigenous people, unlike for example *perioikoi* (1988: 50). It can be used as an apparent synonym for *sumoikein* in classical literature, but Lévy concludes that it is the idea of a change of residence which predominates (1988: 50-53).

<sup>13</sup> Gauthier 1988: 28.

<sup>14</sup> Whitehead 1977: 7.

<sup>15</sup> Vidal-Naquet 1992: 297.

<sup>16</sup> Soph. *Oed. Tyr.* 452-453: ‘Supposedly a foreign metic, but soon to be revealed as a native-born Theban’.

living as a metic.<sup>17</sup> The opposite is the *engenês Thêbaios*, the native of the city; the opposition is matched in the following lines by those between seeing and blindness, and the rich man and the beggar.

There are some differences, however, in that these other transformations involve real, physical changes to his condition, whereas his change of identity is a matter of revealing something that was always there. Also significant is the fact that the metic-native revelation would usually be a positive thing, since under normal circumstances this would be a rise in status. Such devices would become typical plot resolutions in New Comedy,<sup>18</sup> but there is also one in Euripides' *Ion* of c. 413,<sup>19</sup> where the revelation of the title character's birth averts catastrophe rather than spurring it on. As Sophocles' play seems to predate this<sup>20</sup> we should probably not see his choice of words as an ironic reversal of a dramatic tradition, but they could certainly be a response to the social situation at Athens, in which elevation from metic to citizen would involve a marked increase in rights and status. The irony would depend, however, on a relatively straightforward understanding of the meaning of *metoikos*.

Sophocles' depiction of Antigone adds another level of meaning. She declares herself to be μέτοικος οὐ ζῶσιν, οὐ θανοῦσιν,<sup>21</sup> which Whitehead translates as 'a metic, [belonging] neither with the living nor the dead'.<sup>22</sup> But as her point is that she has no home with either group – the preceding line reads βροτοῖς οὔτε νεκροῖς κυροῦσα<sup>23</sup> – the meaning seems to be that she is 'a metic neither among the living nor the dead'; if she *were* a metic, she could find some home with them. It is true that Antigone later says that πρὸς οὐς ἀραῖος ἄγαμος ἄδ'

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<sup>17</sup> Whitehead 1977: 36.

<sup>18</sup> Mossé 1992: 276.

<sup>19</sup> Discussed in detail in section 3.3 (a).

<sup>20</sup> BNP s.v. Sophocles suggests 436-433 as likely dates.

<sup>21</sup> *Soph. Ant.* 851.

<sup>22</sup> Whitehead 1977: 36.

<sup>23</sup> *Soph. Ant.* 850.

ἐγὼ μέτοικος ἔρχομαι,<sup>24</sup> but shortly afterwards Creon says that μετουκίας δ' οὖν τῆς ἄνω στερήσεται.<sup>25</sup> The metic status, then, is something which she has but of which Creon will deprive her. Whitehead's interpretation was that 'pathos is the keynote of this cluster of three metic metaphors',<sup>26</sup> but as Citti has argued the word *metoikos* itself does not have such connotations here.<sup>27</sup> It is true that key elements are her dislocation and the absence of any social or familial support, but those are the result of her particular circumstances rather than a result of being a metic *per se*. Certainly in the case of Creon's words her *metoikia* is what she is being deprived of, and does not seem to be meant as a state to be pitied; and in the first reference it is her prospective *lack* of (metaphorical) metic status which seems the cause of her distress.

Nevertheless, Antigone is both a metic and cut off from any network of support. Patterson, seeing parallels with the metic's social and legal position in Athens, went as far as to describe Antigone as 'the quintessential metic'.<sup>28</sup> Such an interpretation obviously depends on one's view of metics in the real world; and it is not at all evident that this was how the metic was usually thought of. They may have been outsiders, and lacked recourse to the structures and institutions of the polis in the same way as they were offered to citizens,<sup>29</sup> but it does not follow that they were seen as lacking family contacts, or support networks formed within their own communities. Antigone lacks these things, but it is clearly a stretch to use this as evidence, by itself, for connotations of the word *metoikos*. Sophocles drew on the concept of the metic to illustrate his ideas about Antigone's character, but it is much more difficult to establish the extent to which this drove the characterisation. On balance, it seems rather more

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<sup>24</sup> Soph. *Ant.* 867-868: 'I go to them [my dead parents] accursed, unmarried, a metic'.

<sup>25</sup> Soph. *Ant.* 890: 'She will be deprived of home as a metic above' – she will either die or live entombed.

<sup>26</sup> Whitehead 1977: 36.

<sup>27</sup> Citti 1988: 459.

<sup>28</sup> Patterson 2000: 96-97.

<sup>29</sup> See chapter two.

likely that the myth determined the character, and that the metic concept merely met Sophocles' requirements. Nevertheless, for it to do so it must have been easy, at least to an audience of Athenian citizens, to fit the character and their concept of what it meant to be a metic together. Presumably, then, they could easily imagine a metic being isolated and lacking security and support, like Antigone; but it was not necessarily the case that this was their view of the 'typical' or 'quintessential' metic. What such a depiction suggested to metics themselves must remain a mystery.

Euripides provides another insight in his *Suppliants*, when he has Adrastus give this idealised description of Parthenopaeus, the Arcadian who grew up in Argos:

Ἀρκὰς μὲν ἦν, ἐλθὼν δ' ἐπ' Ἰνάχου ῥοὰς  
 παιδεύεται κατ' Ἄργος. ἐκτραφεὶς δ' ἐκεῖ  
 πρῶτον μὲν, ὡς χρὴ τοὺς μετοικοῦντας ξένους,  
 λυπηρὸς οὐκ ἦν οὐδ' ἐπίφθονος πόλει  
 οὐδ' ἐξεριστῆς τῶν λόγων, ὅθεν βαρὺς  
 μάλιστ' ἂν εἶη δημότης τε καὶ ξένος.  
 λόχοις δ' ἐνεστῶς ὥσπερ Ἀργεῖος γεγῶς  
 ἤμυνε χώρα, χάπότη' εὖ πράσσοι πόλις,  
 ἔχαιρε, λυπρῶς δ' ἔφερεν, εἴ τι δυστυχοῖ.  
 πολλοὺς δ' ἔραστὰς κάπῳ θηλειῶν ὄσας  
 ἔχων ἐφρούρει μηδὲν ἐξαμαρτάνειν.<sup>30</sup>

Here we have a clear description of how to act ὡς χρὴ τοὺς μετοικοῦντας ξένους, which Whitehead called 'explicitly a blueprint for the ideal metic'.<sup>31</sup> But there is actually little sense of a barrier between citizen and metic being set up here. The actions which Parthenopaeus is praised for avoiding are in themselves negative; no citizen would be praised for being λυπηρὸς, ἐπίφθονος or especially ἐξεριστῆς τῶν λόγων, as the text makes clear in line 893.

<sup>30</sup> Eur. *Supp.* 889-900: 'He was an Arcadian, but came to Inachus' streams, and was educated in Argos. Brought up there, in the first place, as foreigners living as metics should be, he was not troublesome, or a source of envy in the city, or a stubborn arguer, by which both citizen and foreigner make themselves most troublesome. He stood in the ranks just like a native Argive and defended the land, and whenever the city was doing well he rejoiced, but took it hard whenever misfortune struck. Many men, and many women, loved him, but he took care to do no wrong.'

<sup>31</sup> Whitehead 1977: 37.

The desire appears to be for assimilation above all, as he identifies with his new city to the point where his own happiness reflects its fortune. His modesty and willing subjugation to the good of the city are mirrored in the descriptions Adrastus gives of his non-metic counterparts among the Seven; Hippomedon devotes himself to the hunt and the military arts πόλει παρασχεῖν σῶμα χρήσιμον θέλων,<sup>32</sup> and Capaneus is a man ἄκραντον οὐδὲν οὔτ' ἐς οἰκέτας ἔχων οὔτ' ἐς πολίτας.<sup>33</sup> But the specific qualities that each is said to possess, while desirable in any man, do reflect a particular status. Capaneus, a wealthy man, does not put himself above his poorer neighbours; the poor man Eteoclus does not allow himself to become dependent on his rich friends; and Parthenopaeus, as a metic, is careful to live a private life and avoid involving himself in any disputes.<sup>34</sup> That is the particular type of hubris<sup>35</sup> which Adrastus' speech sets him up as avoiding, and this presumably reflects the boundary which it was least acceptable for a metic to cross.

Having said that, it is also true that Parthenopaeus does not fit the immigrant template as well as he might, because he came to Argos as a child and was brought up there. He was thus brought up in accordance with his new city's ways, unlike the first generation immigrant who would come as an adult to make his or her life in a new city. Parthenopaeus is characterised by his total loyalty to his new city, and therefore implicitly his rejection of that of his birth; this is made easy because his upbringing, we are told, was in Argos and not in Arcadia. The ideal metic, it would seem, must lose every trace of his home city, and the best way to do this is to be brought up in his new one. Ironically, then, the 'immigrant' character of the metic is actually lost, and the 'ideal' metic would logically be a second generation one. Crucially,

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<sup>32</sup> Eur. *Supp.* 887: 'wishing to make his body useful to the city'.

<sup>33</sup> Eur. *Supp.* 870-871: 'that left no promise unperformed either towards his own household or his fellow-citizens', tr. Coleridge.

<sup>34</sup> Michelini 1994: 242-243.

<sup>35</sup> A theme which Michelini sees as being interwoven throughout the play, though the exact term is not used here.

however, in the case of Parthenopaeus he remains ever-aware of the boundary which separates him from the citizens.

As part of this idealised devotion to a new city there is the idea of the metic as a permanent home-changer, rather than a temporary visitor or sojourner, which can be seen in Euripides' *Hippolytus*, where a distraught Theseus says τὸ κατὰ γᾶς θέλω, τὸ κατὰ γᾶς κνέφας μετοικεῖν σκότῳ θανῶν,<sup>36</sup> and in his *Heracleidae*: καὶ σοὶ μὲν εὖνους καὶ πόλει σωτήριος μέτοικος αἰεὶ κείσομαι κατὰ χθονός.<sup>37</sup> Here the metic status extends into death; it is not merely a condition limited by a resident's life span.<sup>38</sup> Lévy argues that this image could not have been 'imposed' if metics had been seen as mere temporary residents,<sup>39</sup> but it is perfectly possible for the term to cover both permanent and temporary migrants, as shall be seen. It has already been shown that in tragedy a 'metic' could be isolated, like Antigone, or integrated like Parthenopaeus. We may say, however, that metics do not appear in tragedy as characters who intend to return to their original homes.

Aristophanes' *Acharnians* also shows the metics as an integral, though inferior, part of the city.<sup>40</sup> With the ξένοι and ξύμμαχοι absent Dicaeopolis declares that ἀλλ' ἐσμὲν αὐτοὶ νῦν γε περιεπτισμένοι: τοὺς γὰρ μετοίκους ἄχυρα τῶν ἀστῶν λέγω.<sup>41</sup> This passage must be seen in context, however. Dicaeopolis, at least within the comic conceit, is arguing that οὐ γὰρ με νῦν γε διαβαλεῖ Κλέων ὅτι ξένων παρόντων τὴν πόλιν κακῶς λέγω.<sup>42</sup> To make this case, he

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<sup>36</sup> Eur. *Hipp.* 836-837: 'Under the earth, to the darkness under the earth I wish to change my dwelling, after dying in darkness'.

<sup>37</sup> Eur. *Heracl.* 1032-1033: 'Friendly to you, and providing protection to the city, a metic I will always lie beneath the earth'.

<sup>38</sup> Lévy 1988: 53.

<sup>39</sup> Lévy 1988: 54.

<sup>40</sup> Whitehead 1977: 39.

<sup>41</sup> Ar. *Ach.* 507-508: 'for we ourselves are winnowed clean – for the metics I call the bran of the citizens', tr. Whitehead.

<sup>42</sup> Ar. *Ach.* 502-503: 'For Cleon will not attack me now because I speak ill of the city with strangers present'.

must show that metics do not count as *xenoi*; there is no particular reason to believe that what he says was considered to be correct, or even that it was meant to be taken seriously.

Athenian drama, then, while it does not explicitly set out to define the metic, gives us a flavour of the range of meanings it could take. Attic oratory similarly fails provide us with an explicit definition, but it also suggests some things which characterised the metic. These are rather more concrete than the somewhat esoteric ideas found in tragedy. When Lycurgus attacks Leocrates for fleeing Athens<sup>43</sup> he says ὄκει ἐν Μεγάροις πλείω ἢ πέντε ἔτη προστάτην ἔχων Μεγαρέα,<sup>44</sup> and reiterates that he lived ἐν Μεγάροις ἐπὶ προστάτου.<sup>45</sup> Every metic was required to have a *prostatês*, perhaps best defined as a ‘patron,’ and their role and importance will be examined in the next chapter.<sup>46</sup> Isocrates also stresses their importance, saying that τοὺς μὲν μετοίκους τοιοῦτους εἶναι νομίζομεν, οἴους περ ἂν τοὺς προστάτας νέμωσιν.<sup>47</sup> The metic’s worth is determined by his reliance on another. In Demosthenes’ third speech against Aphobus it is the payment of the *metoikion* which singles out a metic: Μέγαράδ’ ἐξώκηκεν κάκει μετοίκιον τέθηκεν.<sup>48</sup> A speech of Lysias brings these two ideas together: ἐνθένδε εἰς τὴν ὑπερορίαν ἐξώκησε, καὶ ἐν Ὀρωπῷ μετοίκιον κατατιθεὶς ἐπὶ προστάτου ὄκει, βουληθεὶς παρ’ ἐκείνοις μετοικεῖν μᾶλλον ἢ μεθ’ ἡμῶν πολίτης εἶναι.<sup>49</sup> The link with a *prostatês* and the payment of the *metoikion* are the two tangible qualities which the Athenians associate with being a metic.

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<sup>43</sup> Discussed in detail in section 5.2 (b).

<sup>44</sup> Lyc. 1.21: ‘he lived in Megara for over five years, having a Megaran *prostates*.’

<sup>45</sup> Lyc. 1.145: ‘in Megara under a *prostatês*.’

<sup>46</sup> Section 2.1 (b).

<sup>47</sup> Isoc. 8.53: ‘we judge the metics by the *prostatai* they choose’.

<sup>48</sup> Dem. 29.3: ‘he emigrated to Megara and has paid the *metoikion* there’.

<sup>49</sup> Lys. 31.9: ‘he emigrated from here to beyond the border, and paying the *metoikion* in Oropus lived under a *prostatês*, wishing more to live as a metic among them than to be a citizen with us.’

In each case there is also a clear contemptuous connotation to the description. It should be remembered, however, that the men being discussed in these speeches were Athenian citizens who had left their city. The Athenians had a rather chauvinistic attitude towards their city and its relation to others; it will suffice for now to note that while the Athenians might consider it a disgrace for one of their own to leave his city voluntarily, it does not necessarily follow that they viewed the decision of foreigners to come to Athens in the same way. In other words, if Athens was a great city it might be reprehensible to wish to leave it, but entirely understandable to wish to move there.

## 1.2 Metics as Non-Citizens

For Aristotle, citizenship was defined by participation in the political life of the city – its decision making bodies, magistracies, and law courts. Thus his starting definition of a true citizen is as follows: πολίτης δ' ἀπλῶς οὐδενὶ τῶν ἄλλων ὀρίζεται μᾶλλον ἢ τῷ μετέχειν κρίσεως καὶ ἀρχῆς.<sup>50</sup> This naturally provides us with a simple way of defining the metic, as someone who is not able to participate in such things. The problem, however, was that the Greeks referred to lots of people as citizens (*politai*, though at least at Athens the word *astoi* was also used – see below) who did not have access to such offices; Aristotle's definition excluded many people who were ordinarily thought of as citizens. This was of course most common in oligarchic *poleis*. The philosopher, who was himself a metic at Athens, argued therefore that there were different kinds of citizen: ὅτι μὲν οὖν εἶδη πλείω πολίτου, φανερόν ἐκ τούτων, καὶ ὅτι λέγεται μάλιστα πολίτης ὁ μετέχων τῶν τιμῶν, ὥσπερ καὶ Ὅμηρος

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<sup>50</sup> Arist. *Pol.* 1275a23-25: 'A citizen pure and simple is defined by nothing else so much as by the right to participate in judicial functions and in office', tr. Rackham. For Aristotle's other definitions of the citizen see Johnson 1984.

ἐποίησεν “ὡς εἴ τιν’ ἀτίμητον μετανάστην.” ὥσπερ μέτοικος γάρ ἐστὶν ὁ τῶν τιμῶν μὴ μετέχων.<sup>51</sup>

The metic does not share in the ‘honours’ of citizenship, but in this he is no different from a certain kind of (so-called) *politês*. Under a *politeia* such as Athens’ during the years of the democracy there would be little difficulty here – so long as we disregard for a moment the question of women – as all male citizens were able to take part in the running of the polis, with the exception of those suffering from *atimia*. The difficulty would be stark, however, when examining the regimes of the oligarchies in 411 and 403, and particularly the rule of Demetrius of Phaleron, when property qualifications applied.<sup>52</sup> Presumably those who did not meet the qualifications were still citizens in the sense that they were not subject to the obligations owed by metics, and could theoretically become fully participating citizens if they were able to acquire enough property. A distinction between these two groups is sometimes made by describing them as ‘active’ and ‘passive’ citizens.<sup>53</sup>

To classify these groups in rigid terminology, one might call all of them *astoi*, and reserve the title of *politai* for the ‘actives’; but such terminological issues did not seem to bother most Greeks. The oligarchy of 411 appears to have used the term *politai* for its ‘passive’ citizens,

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<sup>51</sup> Arist. *Pol.* 1278a35-38: ‘That there are many kinds of citizen is plain from these things, and it is well said that a citizen is one who shares in the honours, just as Homer had it: ‘Like a dishonoured migrant’. For someone who does not share in the honours is like a metic.’

<sup>52</sup> Van Wees 2011: 101-102 makes the interesting suggestion that under Demetrius’ system those Athenians who did not meet the property requirements were reclassified as metics, based on the idea that the ‘census’ figures of his time, recorded by Ctesicles (*FrGrHist* 245 F1 = Athenaeus 6.103, reporting 21000 Athenians, 10000 metics, 400000 *oiketai*), only make sense on that basis. Alternative explanations, however, are that 21000 is a perfectly acceptable figure for the adult, male citizen population of Athens (Sekunda 1992: 320), or that only those ‘fit for the call up’ (Hansen 1991: 92-93) were counted. There is no reason to believe, with Van Wees, that under such interpretations a figure of 10000 metics is ‘implausibly high’ (p.104) – we do not have any other figures that are even nearly contemporary, so there is nothing to contradict it other than a vague idea that it is more than we might guess.

<sup>53</sup> See Mossé 1979, 1982.

who could not participate in the running of the polis but were still citizens by descent;<sup>54</sup> Thucydides says the oligarchs publicly urged οὔτε μεθεκτέον τῶν πραγμάτων πλέοσιν ἢ πεντακισχιλίοις,<sup>55</sup> rather than expel those outside the 5000 from the citizen body, and is happy to refer to those who were not in the 5000 as *politai*.<sup>56</sup> Similarly, Xenophon's account of the rule of the Thirty Tyrants and the civil war contains no hint that the Thirty intended to reclassify those who were to be excluded from government in any way.

The straightforward definition of the metic as a resident who cannot participate in government, then, is problematic. Aristotle does, however, make it clear that for him a barrier does and should exist between citizen and metic, as he warns that in populous states ἔτι δὲ ξένοις καὶ μετοίκους ῥάδιον μεταλαμβάνειν τῆς πολιτείας.<sup>57</sup> This is presented in and of itself as a negative thing, and a reason for states to limit their size. In the *Eudemian Ethics* he approaches this barrier in a different way, stating that what is fitting for a metic is not necessarily fitting for others: οὐθεὶς ἂν εἴποι μικρόψυχον, εἴ τις μέτοικος ὧν ἄρχειν μὴ ἀξιοῖ ἑαυτόν, ἀλλ' ὑπεῖκει· ἀλλ' εἴ τις εὐγενῆς ὧν καὶ ἡγούμενος μέγα εἶναι τὸ ἄρχειν.<sup>58</sup> Whitehead glosses εὐγενῆς as 'citizen',<sup>59</sup> which would perhaps be justified if Aristotle were specifically speaking about Athens, where *eugeneia* could be said to be held by all citizens,<sup>60</sup> but this is not supported by the general ethical context of the passage. I would therefore prefer to translate it as 'well-born', as Aristotle seems to have in mind someone aristocratic.<sup>61</sup> It is notable that when Aristotle looks for the opposite of the politically active, well-born citizen he chooses the metic as his example. As in Adrastus' speech in the *Suppliants*, we see that

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<sup>54</sup> Blok 2005: 34.

<sup>55</sup> Thuc. 8.65.3: 'Not more than 5000 should have a share in matters of government'.

<sup>56</sup> Thuc. 8.70.1, 8.72.1.

<sup>57</sup> Arist. *Pol.* 1326b21: 'It is easy for foreigners and metics to get possession of citizenship'.

<sup>58</sup> Arist. *Eum. Eth.* 1233a28-30: 'nobody would say a metic was mean-spirited if he did not think himself worthy of holding office, but rather withdrew from it; but [one would] if he were well-born and thought highly of holding office'.

<sup>59</sup> Whitehead 1977: 59.

<sup>60</sup> Most notably in the Funeral Orations – see section 3.2.

<sup>61</sup> Rackham in his Loeb translation chooses 'of noble birth'.

what is appropriate behaviour for a metic is defined by his status, and it is again non-interference in public matters that is the key quality.

So for Aristotle the metics were characterised by their inability to participate in the rights of citizenship, and keeping them out was somehow desirable. But he does not define exactly how the metic is to be differentiated from what we might call the non-political citizen – at Athens, the *astos* in the sense of ‘native’. The *astoi*, at least at Athens, were all those who were Athenians (whether ‘active’ or ‘passive’), including women. Under the Aristotelian scheme the *astai*, which one might think could be translated as ‘female citizens,’ would be completely excluded from citizenship. Certain modern scholars have agreed that this was the case, notably Nicole Loraux, for whom ‘there *were* no female citizens, only Athenian women who were daughters and wives of citizens’.<sup>62</sup> This position stresses the exclusionary nature of citizenship, which included a misogyny that denied women any place in the imagined polis at all.

This model has, however, come under sustained criticism, particularly from Cynthia Patterson and more recently Josine Blok, arguing that by focusing purely on the political aspect of citizenship we have ignored its other, more varied and inclusive aspects. Certainly, after 451, Athenian women, as *astai*, had a claim to some form of citizenship inasmuch as only they could be the mothers of *politai*; the *Ath. Pol.* explicitly says that οἱ ἐξ ἀμφοτέρων γεγονότες ἀστῶν share in the *politeia*. They were thus part of the descent group, if nothing else.<sup>63</sup> Beyond this, Patterson argued that as *astai* or *Attikai* female Athenians, just like their male *astoi* or *Attikoi* counterparts, had ‘an inherited, communal and familial connection with

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<sup>62</sup> Loraux 2000: 25.

<sup>63</sup> Gould 1980: 45-46 points out that this is the exception to the rule that in law Athenian women were only seen through their *kurios*.

the Athenian polis'.<sup>64</sup> The *astê* may have lacked connotations of political involvement which often went with the word *politês* – the feminine equivalent *politis* occurs only very rarely<sup>65</sup> – but, like the masculine *astos*, it 'retained a more communal meaning of "insider" – especially as viewed against the *xenos* or "outsider"'.<sup>66</sup> These two categories, *astoi* and *xenoi*, are regularly opposed, and when used together appear to cover everyone who was free.<sup>67</sup>

Blok, and David Cohen, have argued that women were also citizens in a religious sense, through their participation in cult, sacrifices and festivals.<sup>68</sup> There was the specifically female Thesmophoria, where women lived on the Pnyx (the place of the specifically Athenian and political *ecclesia*) for three days, completely separated from the men, and under their own control and organisation.<sup>69</sup> This was mirrored in five of the other major festivals;<sup>70</sup> these must have, as Cohen puts it, formed 'an ongoing, central, and persistent feature of public life at Athens... [and] an important structuring element in the life course of girls, young women and adults'.<sup>71</sup> The key point, when we come to consider metics, is that this participation 'fundamentally and irrevocably demarcate[d] citizen women from the slaves, foreigners and children with whom they are so often grouped'.<sup>72</sup>

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<sup>64</sup> Patterson 1986: 50.

<sup>65</sup> Soph. *Electra* 1227, Eur. *Electra* 1335, Plato *Laws* 814c, Dem. 59.107; See Patterson 1986: 55, who also suggests that women are included under *politai* at Aesch. *Eum.* 991, which does not seem to be the case to me.

<sup>66</sup> Patterson 1986: 54. Takabatake 1988: 449-450 formulates the word *xenos* as 'constant in indicating the people who did not belong to the same community'.

<sup>67</sup> Blok 2005: 16.

<sup>68</sup> Just has a similar idea, but phrased differently, with Athenian women as non-citizens (1989: 13) but part of a 'community' (1989: 23).

<sup>69</sup> D. Cohen 2005: 42-43.

<sup>70</sup> D. Cohen 2005: 42.

<sup>71</sup> D. Cohen 2005: 43.

<sup>72</sup> D. Cohen 2005: 43. Even when metics were given roles in Athenian festivals they tended to be separate from and inferior to the citizens – see section 2.2 (c).

Athenian women also had a role in the important, public and mixed-gender festivals, most notably the Panathenaic procession, which was by definition Athens on public display.<sup>73</sup> The evidence from art on pottery also suggests that women were often involved in sacrifices, often separately from men but sometimes together with them.<sup>74</sup> Certain priesthoods also had to be filled by Athenian women, and the wife of the basileus had religious functions to perform.<sup>75</sup>

These roles are arguably bound up in the expression *hiera kai hosia*, which is sometimes used in connection with citizenship – the ephebic oath featured a promise that ἀμυνῶ δὲ καὶ ὑπὲρ ἱερῶν καὶ ὀσίων,<sup>76</sup> and Demosthenes in his speech *Against Aristocrates* refers to the naturalisation of Charidemus as follows: διὰ τῆς δωρεῖας ταύτης μετεδώκαμεν αὐτῷ καὶ ἱερῶν καὶ ὀσίων καὶ νομίμων καὶ πάντων ὄσων περ αὐτοῖς μέτεστιν ἡμῖν.<sup>77</sup> For Blok, this is enough to conclude that being Athenian, male or female, meant participating in these *hiera* and *hosia*.<sup>78</sup> She defines them as ‘participation in cult [*hiera*] and in human practices pleasing to the gods or sanctioned by divine law [*hosia*],’<sup>79</sup> and argues that ‘every member of the community had a part in maintaining this relationship; in this sense, the polis comprised a covenant between all its human members and the gods’.<sup>80</sup>

The ephebic oath, however, was written in archaic language, which may well reflect an early date;<sup>81</sup> we should not therefore take it at face value as a description of a fourth-century

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<sup>73</sup> D. Cohen 2005: 44; Blok 2009b: 91.

<sup>74</sup> Borgers 2008: 76-77, demonstrating that men predominate, though not to the exclusion of women, in depictions of ‘sacrificial processions’ and sacrifices, and women predominate in libations.

<sup>75</sup> As we know from Apollodorus’ prosecution of Neaera – see section 5.1 (c) and Just 1989: 23-24.

<sup>76</sup> Rhodes and Osborne 2003: 440; Siewert 1977: 102-103; Kellogg 2008: 373-375. Cited by Blok 2009a: 160.

<sup>77</sup> Dem. 23.65: ‘Because of this gift we gave him a share in the *hiera* and *hosia*, legal rights, and everything in which we ourselves have a share’.

<sup>78</sup> Blok 2009a: 160, 2009b: 89.

<sup>79</sup> Blok 2009a: 160. See also Blok 2011 for a fuller description of *hosiê* and its relationship to the law.

<sup>80</sup> Blok 2009a: 161.

<sup>81</sup> Siewert 1977: 109-111, arguing that it could even be pre-Solonian.

‘definition’ of citizenship. Equally, while Demosthenes does say that a citizen will share in the *hiera* and *hosia*, he also adds the *nomima*, which could cover ‘customs’ but also ‘legal rights’, and indeed ‘everything’ in which the Athenians themselves shared. Blok’s conclusion therefore seems reductive, though it is surely fair to say that participation in religious rites was one of the ingredients in the mixture of associations which made up Athenian citizenship.

Things become trickier with Blok’s claim that ‘every member of the community’ was involved. For this to work, this must mean ‘citizen community’, and indeed she goes on to define being a citizen as meaning being part of the community, which included both women and men.<sup>82</sup> But the word ‘community’ can of course have wider meanings than that, and could potentially include everyone living in Attica (slaves and metics as well as Athenians); alternatively, if all the Athenian *oikoi* were meant, slaves belonging to (and living with) Athenian citizens would be included. Blok’s ‘community’, then, which she also describes as ‘the socio-polis’,<sup>83</sup> has to be limited by the word ‘citizen’, which naturally makes it somewhat problematic if it used as a definition – we would effectively be saying that the citizens were everyone in the citizen community, which is not particularly helpful. There is also the problem that metics had a role in at least some of the Athenian festivals, albeit one different from that of the Athenians themselves, so were in some sense part of this religious community; yet they are evidently not citizens.<sup>84</sup>

The problem is that there does not seem to have been a definition of Athenian citizens which is wholly satisfying, and did not depend to some degree on circularity – thus the Periclean citizenship law defined an Athenian as the child of two Athenians. In practice, any

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<sup>82</sup> Blok 2009a: 161-162.

<sup>83</sup> Blok 2005: 32-33, who contrasts it with Ober’s ‘geo-polis’, meaning everyone who lived in Attica, and ‘politico-polis’, meaning the adult male citizens.

<sup>84</sup> See further section 2.2(c).

individual's status as a citizen came to be determined by the other citizens.<sup>85</sup> Citizenship both gave access to, and was demonstrated by participation in, certain institutions and events – these included religious rites and ceremonies for everyone, and political institutions for adult males, either at polis, deme or tribe level, as well as informal public and private acts. While these could demonstrate citizenship, however, they did not bestow or define it – it was still possible to question someone's citizenship on the basis of descent (either by casting doubt on the identity of someone's parents or their status) even if they had carried out all of the usual citizen activities. These activities could, however, be produced as *evidence* that an individual was, in fact, a citizen.<sup>86</sup>

'Non-citizen', then, is an apt definition for the metics because they were outsiders – the Athenians, as a group, did not consider them to be citizens, and so they were not. Their exclusion from the activities which went along with citizenship is both a result and a determinant of this; they were excluded because they were not citizens, and their exclusion in turn demonstrated and justified that fact. It remains, however, to discuss what actively defined the metic, alongside the negative description of them as non-citizens; what were the defining attributes were which separated them from both the Athenians and the pure *xenoi*, non-Athenians who were also not metics?

### **1.3 Legal Definitions and the Lexicographers**

This is a question which has vexed scholars both ancient and modern; they had to reconstruct the legal meaning of a term which described a defunct institution. The earliest extant example

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<sup>85</sup> See Scafuro 1994.

<sup>86</sup> We have an example of a speech which does just that in Dem. 57, discussed in section 5.2 (c).

is Aristophanes of Byzantium,<sup>87</sup> who defined the metic as follows: Μέτοικος δέ ἐστιν ὁπότεν τις ἀπὸ ξένης ἐλθὼν ἐνοικῆ τῇ πόλει, τέλος τελῶν εἰς ἀποτεταγμένας τινὰς χρείας τῆς πόλεως· ἕως μὲν οὖν ποσῶν ἡμερῶν παρεπίδημος καλεῖται καὶ ἀτελής ἐστιν· ἐὰν δὲ ὑπερβῆ τὸν ὠρισμένον χρόνον, μέτοικος ἤδη γίνεται καὶ ὑποτελής· παραπλησίως δὲ τούτῳ καὶ ὁ ἰσοτελής.<sup>88</sup>

This is the only definition which indicates a time frame for becoming a metic: the ‘certain number of days’, which were apparently a specified period. The fragment does not make it clear whether this is a reference to Athens or is purely generic;<sup>89</sup> Aristophanes’ failure to specify a time presumably means that he had the systems of a number of cities in mind.<sup>90</sup> Furthermore, while the term *isotelês* is certainly present at Athens, the *parepidêmos* is not found in the fourth- and fifth-century sources;<sup>91</sup> and the ἀποτεταγμένας τινὰς χρείας τῆς πόλεως do not appear to reflect any arrangement at Athens.

Harpocration, who focused on the vocabulary of Attic oratory and is usually more accurate than most ancient scholars,<sup>92</sup> defines the metic when he discusses the tax they paid (the *metoikion*): μέτοικος μὲν ἐστιν ὁ ἐξ ἐτέρας πόλεως μετοικῶν ἐν ἐτέρᾳ καὶ μὴ πρὸς ὀλίγον ὡς ξένος ἐπιδημῶν, ἀλλὰ τὴν οἴκησιν αὐτόθι καταστησάμενος.<sup>93</sup> The μὴ πρὸς ὀλίγον does not in itself contradict Aristophanes’ ποσῶν ἡμερῶν, and any interpretation which would put an implication of a permanent move on τὴν οἴκησιν αὐτόθι καταστησάμενος is, as Whitehead

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<sup>87</sup> Third or fourth century BC; see BNP s.v.

<sup>88</sup> Aristoph. Byz. Fr.38 Nauck (Fr.Paris. 16): ‘A metic is someone who lives in the city, having come from a foreign one, and pays tax towards some of the city’s fixed needs. For a certain number of days he is called a *parepidêmos* and is free from tax, but if he goes beyond the appointed time he becomes a *metoikos* and subject to tax; and the *isotelês* is similar to this’.

<sup>89</sup> MacDowell 1978: 77.

<sup>90</sup> Gauthier 1972: 122.

<sup>91</sup> Whitehead 1977: 10.

<sup>92</sup> Dickey 2007: 94.

<sup>93</sup> Harpocration s.v. *Metoikion*: ‘a metic is someone who moves from one city and settles in another, not staying for a short time like a *xenos* but having established his residence there’.

argued, contradicted by a fourth-century decree giving exemption from the *metoikion* to Sidonians staying in Athens for trade, as long as they still ‘live’ in Sidon (ὅποσοι δ’ ἄν Σιδωνίων οἰκόντες ἐς Σιδῶνι καὶ πολιτευόμενοι ἐπιδημῶσιν κατ’ ἐμπορίαν Ἀθήνησι).<sup>94</sup> A detailed examination of this tax and its implications for metic status will be carried out in section 2.1 (c). We have already seen its connection with the status in passages from the orators,<sup>95</sup> and can add that Pollux states simply μέτοικος ὁ τὸ μετοίκιον συντελῶν.<sup>96</sup> Hesychius gives this definition: μέτοικοι· οἱ ἐνοικοῦντες ξένοι ἐν τῇ πόλει καὶ τελοῦντες ἀνά δραχμὰς δώδεκα τοῦ ἐνιαυτοῦ εἰς τὸ δημόσιον.<sup>97</sup>

These definitions bring in a number of other terms, and use them inconsistently. For Hesychius, a metic was a *xenos* living in the city, whereas for Harpocration metics were partially defined by their not living like *xenoi*; this is similar to the idea behind the statement in the *Acharnians* quoted above. The lexicon attributed to Ammonius tackles this issue head on:

ἰσοτελής καὶ μέτοικος διαφέρει. ἰσοτελής μὲν γὰρ ὁ τετιμημένος μέτοικος ἐν τῷ ἴσῳ τάγματι τοῖς πολίταις καὶ τὸ μὲν μετοίκιον μὴ τελῶν, πάντα δὲ ἔχων τὰ αὐτὰ τοῖς πολίταις πλὴν τοῦ ἄρχειν. μέτοικος δὲ ὁ μετοικήσας εἰς ἑτέραν πόλιν ἐκ τῆς ἑαυτοῦ καὶ τοῦ μὲν ξένου πλέον τι ἔχων, τοῦ δὲ πολίτου ἔλαττον. ἐτέλει δὲ ὁ μέτοικος κατ’ ἐνιαυτὸν δραχμὰς δέκα,<sup>98</sup> καὶ ἐν τῇ τῶν Ἀθηναίων πομπῇ σκάφην ἔφερε κηρία ἔχουσαν. ὅθεν καὶ σκαφηφόρους ἔλεγον τοὺς μετοίκους. πολλὰκις δὲ καὶ συνεστράτευον τοῖς Ἀθηναίοις.<sup>99</sup>

<sup>94</sup> Whitehead 1977: 8, quoting *IG* ii<sup>2</sup> 141, which dates to 376/5. cf. Gauthier 1972: 118-120, who believed this to be a change from the situation of the fifth century.

<sup>95</sup> Dem. 29.3 and Lys. 31.9.

<sup>96</sup> Pollux 3.55: ‘a metic is one paying the *metoikion*’.

<sup>97</sup> Hesych. μ 1107 (Latte): ‘Metics: those foreigners living in the city and paying twelve drachmas a year to the treasury’.

<sup>98</sup> Believed to be a corruption of δώδεκα; see Whitehead 1977: 101 n.39. It is possible that the writer had access to a source quoting 10 as a figure, but if so it is surprising that apparently no other writer did, and no discrepancy is ever mentioned either by Ammonius or anyone else. Harpocration, s.v. *Metoikion*, states that the level was 12 drachmas for men and 6 for women – see section 2.1 (c).

<sup>99</sup> Ammonius 247 (Nickau): ‘*Isotelês* and *metoikos* differ. For an *isotelês* is a metic who has been honoured in equal rank with the citizens and does not pay the *metoikion*, having all the same rights as the citizens except to *archein* [i.e. participate in the assembly and hold office]. But a *metoikos* is one who has migrated from his own city to another, and has something more than the foreigner but less than the citizen. The metic used to pay as tax ten drachmas a year, and would carry a bowl holding honeycombs in the procession of the Athenians. On account of this they called metics “bowl-carriers”. They joined in campaigns with the Athenians many times.’

This intermediate status, between *xenos* and *politês*, is perhaps the most accurate definition we have encountered so far, since, as shall be seen in the next chapter, metics had access to certain rights that were denied to *xenoi* who were merely visiting Athens, but were denied those of the citizen. This does not, however, mean that we can accurately speak of the status as a ‘privilege’. This was indeed the orthodox opinion of scholars until the 1970s, set out most fully by Clerc;<sup>100</sup> Harrison later used it as a guiding principle of his discussion of the metic’s status.<sup>101</sup> Gauthier partially dissented, accepting Aristophanes of Byzantium’s definition for the fourth century;<sup>102</sup> drawing on the apparent prejudice against metic barbarians displayed in Xenophon’s *Poroi*, he argued that the acceptance of metics as part of the community in the fifth century was not shared by the Athenians of the later fourth.<sup>103</sup>

MacDowell also doubted the privilege model, asking why the Athenians would allow some foreigners to avoid paying tax by not registering as metics.<sup>104</sup> But Whitehead first produced a comprehensive redefinition of the metic. He argued that it was not a privilege that was earned, but a status that was simply automatically acquired, as in Aristophanes of Byzantium’s definition, and that it did not carry with it any connotations of honour. In support of this, he demonstrated that the term μέτοκος was only rarely used by the Athenians when honouring metics, with the usual designation being name, patronymic and ethnicity; the ethnic component recorded their status as citizens elsewhere, which was evidently felt to be more worthy of recording than their metic status at Athens.<sup>105</sup> When the term μέτοκος does appear, it is in what Whitehead termed ‘business’ or ‘neutral’ contexts, with euphemisms used in

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<sup>100</sup> Clerc 1893. See pp. 1-8 for his summary and analysis of work prior to his own, the most influential of which was Wilamowitz-Möllendorf 1887.

<sup>101</sup> Harrison 1968: 189, 192; cf Whitehead 1977: 90, describing this as ‘merely the modern orthodoxy at its most naked’.

<sup>102</sup> Gauthier 1972: 118-120.

<sup>103</sup> Gauthier 1972: 124-126; Gauthier 1976: 73-74.

<sup>104</sup> MacDowell 1978: 77.

<sup>105</sup> Whitehead 1977: 27-30.

other situations.<sup>106</sup> Similarly, in catalogues and lists the terminology is an οἰκῶν ἐν formula, reflecting the deme in which a metic lived, except when a metic has been made an *isotelês*; clearly this was an honour worth recording, whereas metic status alone was not.<sup>107</sup> The clearest indication for Whitehead, however, was the inscriptions which metics themselves erected. These were tombstones, in which the formula is always name, patronymic, and then home city, except, again, when the man concerned was an *isotelês*. This, apparently, was seen as more worthy of record than a metic's citizen status elsewhere.<sup>108</sup>

Whitehead's work has become the standard text on the subject,<sup>109</sup> and largely accepted by scholars as far as it goes, although Lévy has attempted to revive the privilege model on the basis of epigraphy and fifth-century tragedy. He pointed to the scenes in Aeschylus' *Suppliants* where the Argives vote to allow the suppliants to stay under their protection, using the language of the Athenian assembly (ἔδοξεν Ἀργείοισιν etc.)<sup>110</sup>, and to the king's description of himself and his fellow citizens as their *prostatês*: προστάτης δ' ἐγὼ ἄστοί τε πάντες, ὧνπερ ἦδε κραίνεται ψῆφος.<sup>111</sup> Similarly, in *Oedipus at Colonus* he saw the local demesmen deciding on whether Oedipus should remain with them.<sup>112</sup> This led him to

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<sup>106</sup> Whitehead 1977: 31.

<sup>107</sup> Whitehead 1977: 31-32. In his follow-up piece Whitehead 1986c: 146 & n.19 notes that there is now an example of the name of an *isotelês* recorded with an *oikôn en* formula, recorded in the publication of a list of leases of sacred properties by Walbank 1983: 108 (text), 132 (commentary). The inscription dates to the archonship of Pythodotus in 343/2 (1983: 125).

<sup>108</sup> Whitehead 1977: 33-34. Fraser 2009: 80-81, however, points out that there are many tombstones at Athens which have no demotic or ethnic, so we are not safe in concluding that such identifiers were of importance to everyone. For epitaphs and citizenship see Meyer 1993. Osborne and Byrne 1996: xxiv-xxv state that where a name has an ethnic component the holder 'presumably could still claim the privileges of citizenship in their "home city"', whereas those without 'may be assumed not to have had full citizen status either in Athens or elsewhere'. But who was policing such things in Athens? It is hard to see how anyone could have been stopped from putting a city on an inscription if that is what they wished to do, regardless of whether they actually had formal citizenship qualifications there.

<sup>109</sup> See e.g. Hansen 1991: 116-120; Todd 1993: 195; Sinclair 1991: 28-29 + n.27.

<sup>110</sup> Aesch. *Supp.* 605-624.

<sup>111</sup> Aesch. *Supp.* 963-965.

<sup>112</sup> Soph. *Oed. Col.* 77-80. Lévy 1988: 55.

conclude that foreigners were required to undergo a similar procedure in order to become metics.<sup>113</sup>

Lévy admitted that these incidents as presented were exceptional, but argued that they seem too precise to be pure poetic imagination.<sup>114</sup> This is hardly convincing. The dramatists drew on institutions and procedures from real life in their plays, and particularly in the case of Aeschylus' *Suppliants* this may well reflect a concern with and interest in a status which was a recent legal development;<sup>115</sup> it does not follow, however, that they reproduced them exactly. Lévy's theory finds no confirmation in oratory, political writings or the lexica, and is contradicted by the decree granting exception from the *metoikion* to the Sidonian merchants mentioned above. It could be argued that these are all either from the fourth century, or derive from fourth-century sources. Lévy's evidence is not strong enough, however, to demonstrate that the system was any different in the earlier period.

#### **1.4 *Metoikoi, Astoi and Xenoi* – Redefinition in Cohen's *Athenian Nation***

Others have accepted Whitehead's definition of the metics but questioned their relation to other categories of inhabitants of Athens. The most radical challenge was Edward Cohen's, who argued in *The Athenian Nation* that some metics were also considered to be *astoi*; on his view, the *astoi* were all the residents of Attica.<sup>116</sup> This in turn would mean that their children became *politai* according to the Periclean citizenship law, which as we have seen established

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<sup>113</sup> Lévy 1988: 55-56.

<sup>114</sup> Lévy 1988: 56.

<sup>115</sup> Bakewell 1997: 223-225.

<sup>116</sup> Cohen 2000: 49.

that the children of two *astoi* would ‘share in the *politeia*’; the *politai* themselves were thus a subsection of the *astoi*.<sup>117</sup>

This would mean that the children of those metics who were considered *astoi* became fully integrated into the citizen body. Cohen’s argument is based on the regular opposition between *xenoi* and *astoi* which is found in many texts<sup>118</sup> and some examples where he claims metics are counted as *astoi*. The main one is from Thucydides, who describes Hippocrates’ ἀναστήσας Ἀθηναίους πανδημεί, αὐτοὺς καὶ τοὺς μετοίκους καὶ ξένων ὅσοι παρήσαν.<sup>119</sup> While the metics are separated from the *xenoi* here, the natural interpretation would be that Thucydides was specifying that all foreigners, even those who were not metics (and therefore only staying in Athens briefly), were called up. Alternatively, it has been argued that here *xenoi* means ‘allies’, and thus that Hippocrates’ force included any allies who happened to be in Athens at that time.<sup>120</sup> A few passages later, however, Thucydides refers to this same force as ξένων τῶν παρόντων καὶ ἀστῶν,<sup>121</sup> which Cohen argues means he is including the metics as *astoi*, though not as *Athēnaioi*.<sup>122</sup> Cohen also cites the passage from Aristophanes’ *Acharnians* discussed above.<sup>123</sup> On the basis that this evidence has established that metics could be *astoi*, he presents evidence which makes the uncontroversial point that to be a *politês* required having parents who were *astoi*.<sup>124</sup>

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<sup>117</sup> Cohen 2000: 49.

<sup>118</sup> E.g. Ar. *Ach.* 508, *Birds* 32; Soph. *Oed. Col.* 171, 184, 206; see Cohen 2000: 51.

<sup>119</sup> Thuc. 4.90.1: ‘having raised the Athenians in a mass, they themselves, the metics, and whatever *xenoi* were present’.

<sup>120</sup> Whitehead 1977: 42-43. These allies, however, must also have been staying temporarily in Athens so there is not, for our purposes, a great difference between the two interpretations.

<sup>121</sup> Thuc. 4.94.1: ‘the *xenoi* who were there and the *astoi*’.

<sup>122</sup> Cohen 2000: 55.

<sup>123</sup> Cohen 2000: 58.

<sup>124</sup> Dem. 57.30, Isaeus 12.

Robin Osborne's review, while praising elements of the book, pointed out that Cohen's evidence is not incompatible with the orthodox view of *astos* and *politês* as synonyms.<sup>125</sup> The regular opposition between *xenoi* and *astoi*, rather than *politai*, can be explained as a standard pairing of words rather than a result of formal categorisation. Osborne also points out that when it comes to Thucydides, the historian is not necessarily using *xenoi* in the same sense in both passages.<sup>126</sup> Thucydides appears to have been stressing the point that even non-resident foreigners were being called up in the first passage; that having been done, there was no reason why he could not revert to the usual terminology in the second. With the *Acharnians* passage, if Cohen is right then it becomes very hard to see what Dicaeopolis' argument is supposed to be – if the metics were ordinarily considered to be *astoi*, why is it necessary to 'prove' it in this way?

Dem. 57 also furnishes evidence that makes Cohen's theory hard to agree with. He cites section 30 as proof that in order to be a *politês*, a man must be descended from *astoi* (on one side only in this case, according to the speaker, since his father was born before the archonship of Eucleides in 403).<sup>127</sup> This, of course, is true, but the passage does not suggest that there is any difference between the terms *astos* and *politês*. The speaker does not say that he must show his father was 'born' of an *astos*, but that he *was* an *astos*, in order to be rightly a *politês* – εἰ καὶ κατὰ θάτερον ἄστος ἦν, εἶναι πολίτην προσήκειν αὐτόν.<sup>128</sup> If Cohen's model had been in operation we would surely expect the difference between the categories to be pointed out here.

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<sup>125</sup> Osborne 2002: 94.

<sup>126</sup> Osborne 2002: 94. Cf. Whitehead 1977: 42-43.

<sup>127</sup> For the relaxation and re-enactment of the citizenship law see section 4.1(b).

<sup>128</sup> Dem. 57.30: 'If he was an *astos* on one side, he would rightly be a *politês*.'

Even more clearly, in section 24 the speaker explicitly says that τὰ μὲν τοίνυν ὑπὸ τῶν συγγενῶν καὶ φρατέρων καὶ δημοτῶν καὶ γεννητῶν, ὧν προσήκει, μαρτυρούμεν' ἀκηκόατε. ἐξ ὧν ἔστιν ὑμῖν εἰδέναι, πότερόν ποτ' ἀστὸς ἢ ξένος ἦν ὃ ταῦθ' ὑπῆρχεν.<sup>129</sup> According to Cohen's theory, none of these things would be needed as evidence that someone was an *astos*, which was supposedly a simple matter of residence. In this case *xenos* clearly covered metics, and indeed anyone who was not a citizen, and there is no difference between an *astos* and a *politês* as far as the speaker is concerned. As the speech is about citizenship, and the speaker's being deprived of it, it is inconceivable that he would have spoken as he did if Cohen's theory were correct.

Osborne also argued that Cohen's theory would make the Periclean citizenship law 'incomprehensible', since what it was intended to prevent becomes very unclear if Cohen is right, and that there is no evidence in the sources for there being two types of metic, one of which was considered to be an *astos*.<sup>130</sup> This would have to be the case for Cohen's argument to work, as Neaera, prosecuted by Apollodorus in Dem. 59, is presented as being a metic but not an *astê*. Cohen argues that Neaera's extensive travels meant she would not count as an *astê*, since that required having a connection with the territory of Athens.<sup>131</sup> This, however, would require a set of rules governing which metics counted as *astoi*; there is no evidence for any such rules, and as Osborne noted there is no evidence for there being two such categories of metic at all.

I would add that Cohen's theory depends on a rigid distinction in terminology that is not mentioned in Attic oratory and has not been transmitted to the lexicographers. Neither does

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<sup>129</sup> Dem. 57.24: 'So you have heard the testimony by my kinsmen, the members of my phratry, the demesmen, and the members of my gens, who are the proper people to ask. From these you can know whether someone is an *astos* or a *xenos* who has this testimony on his side.'

<sup>130</sup> Osborne 2002: 94-95.

<sup>131</sup> Cohen 2000: 53.

Aristotle seem to be aware of it. As Cohen notes,<sup>132</sup> he writes in the *Politics* that in some cities citizenship was limited to children of two *politai*,<sup>133</sup> but later uses the term *astoi* for others: τέλος δὲ μόνον τοὺς ἐξ ἀμφοῖν ἀστῶν πολίτας ποιοῦσιν.<sup>134</sup> In the latter case, however, Aristotle is referring to the final (*telos*) stage of a city's restrictions. He would surely use the most restrictive definition of which he was aware, yet he uses the term *astoi* rather than *politai*. This can only mean that there was no difference between the two as far as Aristotle was concerned; and since, as a metic at Athens, he must have been familiar with the arrangements there we can safely conclude that legally speaking the categories of *politês* and *astos* were one and the same.<sup>135</sup>

### 1.5 Other Categories: *Isoteleis* and Freedmen

There are also questions over other categories, and whether their members were considered metics. The *isoteleis*, mentioned above, are a case in point; since they did not pay the *metoikion* they would not, under Pollux's definition, be metics. Hesychius, however, is satisfied to define them as μέτοικοι ἴσα τοῖς ἀστοῖς τέλη διδόντες,<sup>136</sup> in spite of the close link between metics and the *metoikion* in his definition of μέτοικοι. The discrepancy, however, is not a problem if we accept that *metoikos* had various shades of meaning. An *isotelês*, to judge from Whitehead's tombstone evidence, might have preferred not to be called a metic; and when the writer of the *Athênaiôn Politeia* discusses the responsibilities of the polemarch he says that δίκαι δὲ λαγχάνονται πρὸς αὐτὸν ἴδια μόνον αἱ τε τοῖς μετοίκοις καὶ τοῖς ἰσοτελέσι

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<sup>132</sup> Cohen 2000: 60.

<sup>133</sup> Arist. *Pol.* 1275b22-23.

<sup>134</sup> Arist. *Pol.* 1278a34-35: 'finally, they only make those born of two *astoi* into *politai*'.

<sup>135</sup> See also Whitehead 1977: 60-61.

<sup>136</sup> Hesych. ι 988 (Latte): 'metics paying taxes equal to the citizens'.

καὶ τοῖς προξένοις γιγνόμεναι.<sup>137</sup> The reason the three categories are listed is presumably to show clearly that those honoured with *isoteleia* and the more common *proxenia* were still dealt with by the polemarch; as the text is describing how the system worked, the author evidently wished to make it clear that their privileges did not extend to being treated in the same way as Athenians when it came to legal matters. Similarly, a law quoted by Demosthenes proclaims μηδένα μήτε τῶν πολιτῶν μήτε τῶν ἰσοτελῶν μήτε τῶν ξένων εἶναι ἀτελεῖ.<sup>138</sup> Here there was a particular reason to list them separately, as the writer of the law would have wanted to clarify that all categories were liable to the tax without exception.

When specificity was required, then, it was considered worthwhile to list the *isoteleis* separately from the ordinary metics. In more general contexts, however, they are absorbed into the wider metic category; thus a litigant discusses the status of a foreigner not living at Athens, who had received an honorary grant of citizenship, in terms of πότερα ξένος ἢ μέτοικος ἢ πολίτης ἐστίν.<sup>139</sup> μέτοικος in this sense must refer to all resident foreigners at Athens. As non-Athenians, the *isoteleis* must in any case have qualified as metics in the ‘immigrant’ sense, since their family origin lay elsewhere.

The metics themselves could also be treated as part of a wider category, namely that of the *xenos*.<sup>140</sup> The word’s ambiguities are numerous; it can refer to a stranger, a guest-friend, an ally, or indeed any foreigner in an imprecise sense.<sup>141</sup> As in Demosthenes 23, it could refer specifically to non-resident foreigners. Elsewhere, as in Demosthenes 20, it embraces metics as well. The speaker of Demosthenes 57, who is appealing against his disfranchisement, asks

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<sup>137</sup> *Ath. Pol.* 58.2: ‘Only private law-suits are brought before him which involve metics, *isoteleis* and *proxenoi*’. The papyrus reads μὲν for μόνον; Rhodes 1981: 652 argues that this would lead us to expect a δημοσίαι δὲ clause, the absence of which makes the emendation likely to be correct.

<sup>138</sup> Dem. 20.29: ‘nobody, neither of the citizens nor the *isoteleis* nor the foreigners shall be exempt from tax’.

<sup>139</sup> Dem. 23.23.

<sup>140</sup> Whitehead 1977: 10-11.

<sup>141</sup> Whitehead 1977: 10-11; Todd 1993: 194, 324-326, Takabatake 1988.

εἶτ' ἐγὼ ξένος; ποῦ μετοίκιον καταθείς;<sup>142</sup> and is concerned that ἐμὲ ψηφίσαισθ' εἶναι ξένον.<sup>143</sup> The term could therefore be used in a very broad sense, which led Harrison to rule that 'it would perhaps be safe to say that in a legal context the word ξένος will be held to include metics unless they are specifically excluded.'<sup>144</sup> This seems like a fair interpretation, but it should be noted that where the law was not specific there would always be room for litigants to argue over what the words used meant.<sup>145</sup>

Included among the metics were another group: the freedmen. We know this because of the testimony of Harpocration: ὅτι δὲ καὶ οἱ δοῦλοι ἀφεθέντες ὑπὸ τῶν δεσποτῶν ἐτέλουν τὸ μετοίκιον ἄλλοι τε τῶν κωμικῶν δεδηλώκασι καὶ Ἀριστομένης. Μένανδρος δ' ἐν Ἀνατιθεμένη καὶ ἐν Διδύμαις πρὸς ταῖς ἰβ' δραγμαῖς καὶ τριώβολόν φησι τούτους τελεῖν, ἴσως τῷ τελῶνι.<sup>146</sup> The three obol additional charge remains a mystery; we have no idea whether it was a single payment or an annual fee.<sup>147</sup> My suspicion is that it derives from a joke about the rapaciousness of the tax collectors, who will be discussed in section 2.1(c). There is also evidence for freedmen and metics paying the *eisphora* together; Androtion's prosecutor claims that he abused a citizen when δοῦλον ἔφη καὶ ἐκ δούλων εἶναι καὶ

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<sup>142</sup> Dem. 57.55: 'Am I then a foreigner? Where have I paid the *metoikion*?'

<sup>143</sup> Dem. 57.44: 'you might vote that I am a foreigner.'

<sup>144</sup> Harrison 1968: 188.

<sup>145</sup> On legal terminology as the 'language of the street' see Todd 1996, Carey 1994. In this case it is hard to see how metics could convince anyone that a law about *xenoi* did not cover them, as their opponents could rely on the *astoi-xenoi* opposition and argue that since metics were not *astoi*, they must be *xenoi*. There was perhaps more room for manoeuvre for *isoteleis*, if a law only mentioned metics; they might be able to argue that, in a certain context, it was only supposed to apply to those unprivileged metics who paid the *metoikion*. We do not know if such claims were feasible, and if they were employed it was doubtless as only one strand in an argument which took in the facts of the case as well.

<sup>146</sup> Harpocration s.v. *Metoikion*: 'that slaves set free by their masters also paid the *metoikion* is made clear by Aristomenes and other comic writers. Menander, in *Anatithemene* and *Didymai*, says that they paid three obols as well as the twelve drachmas, perhaps to the tax collector.' Aristomenes was a writer of Old Comedy apparently active from 439 until the early fourth century; see BNP s.v.

<sup>147</sup> Harrison 1968: 185. Kapparis 2005: 108 suggests that it was 'a small administrative fee... payable to the secretary who processed the payment', but this fails to take account of the fact that the money was paid to contracted tax collectors, not polis officials – see section 2.1 (c).

προσῆκειν αὐτῷ τὸ ἕκτον μέρος εἰσφέρειν μετὰ τῶν μετοίκων.<sup>148</sup> Again, we do not know exactly what this ‘sixth part’ was, but it is apparent that both freedmen and metics were required to pay it.

Harpocration defines the *apostasiou* lawsuit as follows: δίκη τίς ἐστι κατὰ τῶν ἀπελευθερωθέντων δεδομένη τοῖς ἀπελευθερώσασιν, ἐὰν ἀφιστῶνται τε ἀπ’ αὐτῶν ἢ ἕτερον ἐπιγράφονται προστάτην, καὶ ἃ κελεύουσιν οἱ νόμοι μὴ ποιῶσιν.<sup>149</sup> The freedmen therefore possessed the two characteristic qualities of the metic: they paid the *metoikion* and they had a *prostatês*.

Zelnick-Abramovitz, however, has argued against the idea that all former slaves were metics. Her case is that Harpocration’s evidence for their paying the *metoikion* is only available to us out of context, and not supported by anything earlier; that Aristophanes of Byzantium and Harpocration define a metic as an immigrant coming from another city, which would exclude freedmen; and that a metic was one who was settled, prepared to pay taxes and permitted to register in a deme – it was only when these conditions had been fulfilled that an ex-slave would become a metic.<sup>150</sup>

The first point is not a problem, since Harpocration cites a number of comic playwrights, two of them by name. His own late date is irrelevant, because his sources are fourth- and fifth-

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<sup>148</sup> Dem. 22.61: ‘he said that he was a slave and that he was born of slaves, and that it was fitting for him to pay the sixth part with the metics.’ The practice of continuing to refer to freedmen as ‘slaves’ (at least when attacking them in some way) is most notoriously displayed in the prosecution of the freedman and naturalised Athenian Phormion by Apollodorus, who was himself the son of a freedman. The background and speeches are examined in section 5.2.

<sup>149</sup> Harpocration s.v. *Apostasiou*: ‘a prosecution given against those who have been freed by those who freed them, if they should run away from them, or register with a different *prostatês* and do not do the things which the laws command.’

<sup>150</sup> Zelnick-Abramovitz 2005: 308-310.

century.<sup>151</sup> He is not relying on an isolated or ambiguous source, and we have no grounds for overruling his interpretation. It could be objected, however, that his evidence shows only that some freedmen paid it, and not that all were subject to it.

As concerns Zelnick-Abramovitz's second point, we have already seen that the children of metics held the same status as their parents, even if they were born in Athens and not themselves migrants. Aristophanes of Byzantium does not mention them; either his definition is not comprehensive, or he uses the word ἐλθών in a very broad sense, referring to a metic's ancestral origin. Under either interpretation, we have no reason to exclude either them or freedmen from the category of metics. Zelnick-Abramovitz's remark that 'clearly manumitted slaves are not included in these definitions, although they, too, may be regarded (especially according to Aristophanes' wording) as coming from another country'<sup>152</sup> is puzzling, and appears to be self-contradictory; if the second clause is true, her first point cannot be 'clear'. She also fails to note that, under Hesychius' definition, freedmen, as non-Athenian *xenoi* rather than *astoi*, would count as metics, and she accepts Pollux's definition of the metic as one who pays the *metoikion*, which would imply the same.<sup>153</sup> Her third argument depends on the assumption (no positive evidence is offered) that 'gaining metic status depended not only on a decision by the polis, but also on a non-citizen's intention to settle in Athens'.<sup>154</sup> In fact, as Whitehead showed, the evidence strongly suggests that it depended on neither.

The difficulties with the definitions are instructive, however, as they throw light on an important point. The ancient lexicographers were in a position similar to our own, in that they

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<sup>151</sup> Aristomenes was active from 439 – 388 BC (BNP s.v.).

<sup>152</sup> Zelnick-Abramovitz 2005: 309.

<sup>153</sup> Zelnick-Abramovitz 2005: 308-309.

<sup>154</sup> Zelnick-Abramovitz 2005: 310.

had to create definitions based on evidence that was incomplete and sometimes confusing. A fifth- or fourth-century Athenian, as we have seen, could speak of a metic in a number of senses, and no doubt if asked to produce a comprehensive definition they too would have struggled. This chapter has shown, however, that it is Whitehead who has most convincingly defined metic status as something acquired automatically, if anything a burden rather than a privilege. We can confidently say that all free non-citizens who were resident in Athens could be described as falling within the category of metics. The *isoteleis* may not have liked that, and perhaps argued that they were not ‘really’ metics because they did not pay the *metoikion*; possibly some Athenians, in some contexts, would have agreed with them. In others, however, they would have automatically put them in the metic group, and the evidence suggests that in no sense could they have been considered to be Athenian citizens, whether the term used was *politai*, *astoi* or *Athênaioi*.

## CHAPTER TWO: LIVING AS A METIC

In this chapter I shall look at the various facets of life as a metic. Obviously many aspects of their lives would have been largely, if not entirely, separate from their metic status; there were, however, certain times and conditions when their status had a significant effect on their lives. First, I shall examine what effect the key defining features of the metic had – as we saw in the last chapter, having a *prostatês* and paying the *metoikion* were the characteristics which Athenians brought up when discussing someone’s status as a metic, when referring both to metics in Athens and Athenians who were living as metics elsewhere. Then I shall turn to the rights and restrictions which applied to metics in the fields of marriage, religion and the law, and what these can tell us about their place in society. Finally, I shall examine the evidence for metics’ everyday, and especially economic, integration in Athens, and how this relates to the restrictions and limitations already discussed.

### 2.1 The Metic’s Defining Features

#### 2.1 (a) Registration

Besides the *prostatês* and the *metoikion*, our sources give us glimpses of another defining feature: registration. For new arrivals in Athens this was supposed to take place shortly after arrival; for metics who had been living in Athens as children it must surely have been when they came of age.<sup>1</sup> The evidence for this act comes only from ancient scholarly works,<sup>2</sup> and

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<sup>1</sup> Whitehead 1977: 75.

<sup>2</sup> Pollux (3.57) mentions those μη ἐγγεγραμμένοι εἰς τοὺς μετοίκους δέον (‘not registered in the metics, as is necessary’), and there are also two possibly relevant scholia on Aristophanes – τὰ ὀνόματα τῶν ξένων γράφεται εἰς τοὺς πίνακας, (*Birds* 1669 schol: ‘the names of the foreigners are written on the boards’) and νόμος γὰρ ἦν τοὺς ἐξ ἀλλοδαπῆς Ἀθήνησι κατοικεῖν ἐθέλοντας εἰς πολίτας, ἐνταῦθα χρόνον ὀλίγον διατρίψαντας ἐγγράφεισθαι. (*Frogs* 416 schol: ‘for the law was that those from a foreign (city) wishing to settle at Athens as

does little more than tell us that registration was required; there is no hint of how it worked.<sup>3</sup> The registration may well have taken place at deme level, however, since a Scambonid deme decree<sup>4</sup> would apply only to metics living in that deme; it seems likely, therefore, that there was some kind of record of who they were,<sup>5</sup> although it is possible that the demesmen relied on personal knowledge of the local metics. The *oikôn en* formulas would also seem to indicate that there was some kind of formal link between metic and deme, and also that this was dependent on where the metic resided. This in turn has been used as evidence that demes had a geographically defined territory.<sup>6</sup> If the register was public, it would be of assistance to the collectors of the *metoikion*, but we do not know if that was the case.

We have no evidence for this registration's actual use in practice in oratory or literary texts. It is not mentioned as a defining feature of the metics in the way that the *prostatês* and the *metoikion* are. From this we may conclude that it was probably not felt to be a prominent fact of metic life, and neither a burden nor a stigma; its obvious parallel to the registration of citizens makes this conclusion even more likely. It was most likely a neutral administrative act. Some scholars have seen a metic's registration as a matter of choice, with the individual registering when he or she decided to stay in Athens permanently.<sup>7</sup> But this ignores the automatic and compulsory nature of becoming a metic. Registration was an obligation, something to be done within a specified time of arriving in the city; the motive for doing so was to avoid becoming subject to legal action or seizure by the tax collectors.

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citizens were registered after spending a short time there'). The *Birds* example is probably a reference to allies or metic soldiers, however, as the scholiast is explaining a variant reading of the line which ends εἰς τοὺς φυλῆτας. The *Frogs* example is difficult because of its reference to those desiring to become citizens; this does not match what else we know of naturalisation at Athens.

<sup>3</sup> Whitehead 1977: 75.

<sup>4</sup> *IG* i<sup>3</sup> 244.

<sup>5</sup> Clerc 1893: 249.

<sup>6</sup> Jones 1999: 66-67.

<sup>7</sup> E.g. Hunter 2000: 22, following Lévy 1988.

## 2.1 (b) The *Prostatês*

The registration procedure must have involved naming a *prostatês*, since that was a compulsory requirement which went with metic status. A failure to do so could be punished through a *graphê* called the *aprostasiou*, which Harpocration defines as follows: εἶδος δίκης κατὰ τῶν προστάτην μὴ νεμόντων μετοίκων· ἤρεϊτο γὰρ ἕκαστος ἑαυτῷ τῶν πολιτῶν τινὰ προστησόμενον περὶ πάντων τῶν ἰδίων καὶ τῶν κοινῶν. Ὑπερείδης ἐν τῷ κατ' Ἀρισταγόρας ἀπροστασίου β'.<sup>8</sup>

The Hyperides speech has not survived; but the punishment in such a case, according to the Suda, was confiscation and sale of property by the *pôlêtai*.<sup>9</sup> It is possible that this penalty also involved the convicted metic being sold into slavery.<sup>10</sup> That was the penalty for failing to pay the *metoikion*, as is shown by Demosthenes' first speech against Aristogeiton: λαβὼν αὐτὸς αὐτοχειρίᾳ πρὸς τὸ πωλητηρίον τοῦ μετοικίου ἀπήγαγεν: καὶ εἰ μὴ κείμενον αὐτῇ τὸ μετοίκιον ἔτυχεν, ἐπέπρατ' ἄν διὰ τοῦτον.<sup>11</sup> That, however, was the summary penalty dealt out by the *pôlêtai* rather than a result of a court case (see further section 2.1(c) below). The Athenians, then, seem to have seen something appropriate in using slavery as a punishment for metics; it marked a substantial difference between them and citizens, and made a metic's status at least theoretically precarious.<sup>12</sup>

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<sup>8</sup> Harpocration s.v. *Aprostasiou*: 'a type of prosecution against metics who do not have a *prostatês*; for each took one of the citizens to manage all private and public matters for him. Hyperides in his second *aprostasiou* against Aristagoras.'

<sup>9</sup> Suda s.v. *Pôlêtai* (2159 Adler).

<sup>10</sup> Harrison 1968: 190.

<sup>11</sup> Dem. 25.57: 'Having seized her with his own hands he led her away to the *pôlêtêrion* of the *metoikion*, and if her *metoikion* had not happened to be deposited she would have been sold because of this man.' Cf. the various versions of Xenocrates' run in with a tax collector discussed at Whitehead 1981: 236-238; see section 2.1 (c) below.

<sup>12</sup> Hunter 2000: 18-19.

The most common occasion when someone would become liable to this *graphê* was presumably when he or she overstayed the limit without registering as a metic (and therefore with a *prostatês*).<sup>13</sup> The prosecutor would have to demonstrate to the jury that his opponent had been in Athens for a sufficient time without registering. Possible defences might include claiming not to have been in Athens for a long enough time; claiming to have registered, and providing witnesses to this fact; or claiming to be exempt from the need to register. This latter defence could involve being covered by a treaty such as that which concerned the Sidonian merchants, or claiming to be an Athenian citizen (though if that was feasible it seems unlikely that the case would have got so far).<sup>14</sup>

It is undisputed that it was necessary for a metic to have a *prostatês*; beyond this, however, the relationship between metic and *prostatês* has been the subject of a degree of controversy in the past. The key debate has been over whether the relationship existed solely for the purposes of registration, or whether it was a lasting connection in which the *prostatês* served as his metic's legal representative.<sup>15</sup> Todd has rightly called this a 'false dichotomy', since there is clearly scope for a relationship that was in between the two.<sup>16</sup> Gauthier, for example, suggested a subtler role, in which the *prostatês* was 'une sorte de garant du métèque' but not a representative on whom the metic had to rely in court.<sup>17</sup> It is apparent that, ideologically speaking, the *prostatês* had a vitally important role in defining and limiting the status of the

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<sup>13</sup> It has recently been argued that the *graphê apostasiou* also covered cases where the *metoikion* had not been paid (Meyer 2010) – I agree that the two were related, but doubt whether the *graphê* specifically covered it. This will be discussed along with the *metoikion* itself in the next section.

<sup>14</sup> A second occasion might be when a metic child came of age, but failed to take a *prostatês*, assuming that metic children did not have one. Unfortunately we have no idea how these arrangements worked – it could be that they automatically had the same *prostatês* as their father or mother, but we simply cannot tell. A third occasion when the *graphê* might come into play would be if a metic's *prostatês* died, or for some reason repudiated the metic (assuming the law allowed for such a thing), or perhaps if the *prostatês* left Athens. We are utterly in the dark as to whether such circumstances were dealt with in the law; if they were not, it would of course be possible for the metic to plead that there were extenuating circumstances (such as that he was not aware that his *prostatês* had died) when faced with the jury.

<sup>15</sup> Harrison 1968: 189-190.

<sup>16</sup> Todd 1993: 198.

<sup>17</sup> Gauthier 1972: 133.

metic. We have already seen that it was one of the two features mentioned in the context of Athenians living as metics elsewhere. To this can be added the testimony of Aristotle, who says that in many places (πολλαχοῦ) for a metic to go to law νέμειν ἀνάγκη προστάτην.<sup>18</sup> But this stops short of saying that the metic was required to produce the *prostatês* to speak for him in court. Such interpretations are, however, found in the lexicographers, who drew on a larger body of evidence than is available to us now. Harpocration claimed that the *prostatês* managed all public and private matters for the metic,<sup>19</sup> and the Suda that τῶν γὰρ μετοίκων ἕκαστος μετὰ προστάτου τῶν ἀστῶν τινος τὰ πράγματα αὐτοῦ συνώκει καὶ τὸ μετοίκιον κατετίθει.<sup>20</sup>

Such strong interpretations are contradicted by the evidence of Attic oratory, however, where we see a number of cases involving metics without any sign of a *prostatês*.<sup>21</sup> Lysias' fragmentary speech *Against Hippotherses* was certainly delivered by someone representing Lysias, but it is not clear whether it was his *prostatês* or simply a *sunêgoros*.<sup>22</sup> Even if it was his *prostatês*, that would not in itself prove that there was any legal requirement; a *prostatês* would most likely be a friend in any case, so might step in to represent a metic even if the law did not require it. The only proven example of a *prostatês* representing a metic is from Demosthenes' first speech against Aristogeiton, where Zobia's *prostatês* is called as a witness,<sup>23</sup> but this cannot be held to prove anything about legal requirements or practice in general.

<sup>18</sup> Arist. *Pol.* 1275a: 'it is necessary to have a *prostatês*'.

<sup>19</sup> s.v. *Aprostasiou*.

<sup>20</sup> Suda s.v. *Nemein Prostatên* (Adler v 166): 'For each of the metics managed his affairs with a *prostatês* from among the citizens and paid the *metoikion*'.

<sup>21</sup> E.g. Dem. 32, 33, 34; see Harrison 1968: 191-192.

<sup>22</sup> Whitehead 1977: 91.

<sup>23</sup> Dem. 25.58.

As Whitehead has noted, the apparent contradiction has usually been resolved by arguing that a role which was very strong in the fifth century gradually lost importance and became ‘a virtual dead letter by the fourth century’.<sup>24</sup> Harrison, for example, argues that the *prostatês* was required to speak in court for a metic until the early fourth century,<sup>25</sup> when, rather conveniently perhaps, our evidence from relevant forensic speeches begins. But there are practical reasons for doubting that things were substantially different in the fifth century, though it is impossible to prove.

In the first place, there are the simple practical difficulties inherent in demanding the presence of a particular person in court, who could be incapacitated through sickness or unavailable through business or absence from central Athens at any time; it would be an inconvenience to both the *prostatês* and the legal system to enforce such a rule. Second, any rule demanding the presence of a *prostatês* rather than any Athenian citizen could be made meaningless by the simple expedient of a metic changing his *prostatês*; there is no evidence for any restriction on this other than for freedmen, who would be subject to a *dikê apostasiou* if they did so without permission.<sup>26</sup> The existence of this law, specifically targeting freedmen, surely indicates that other metics were not subject to a similar restriction. Thirdly, the evidence for the ‘strong’ *prostatês* comes from lexicographers, but when they name their sources they refer to fourth-century speeches.<sup>27</sup> Whitehead speculated that by the time they were writing ‘lexicographers could only guess at [the *prostatês* ] original duties’;<sup>28</sup> we cannot, however, eliminate the possibility that they confused statements about the ideal role of the *prostatês* with the actual legal situation. If, for example, a speech had described what a

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<sup>24</sup> Whitehead 1977: 90.

<sup>25</sup> Harrison 1968: 193.

<sup>26</sup> Harpocration s.v. *Apostasiou*.

<sup>27</sup> E.g. Harpocration s.v. *Aprostasiou* and Suda s.v. *Nemein Prostatên* (Adler v 166), both citing Hyperides; unfortunately the quotation preserved in the Suda is corrupt.

<sup>28</sup> Whitehead 1977: 91.

*prostatês* ought to do, or what one particular *prostatês* had done, rather than what was legally required, the lexicographers might have extrapolated a general rule from what was actually desirable, but not required, behaviour. Alternatively, they may have quoted laws that were technically in force but had fallen into disuse. In any case, there is no positive evidence to suggest that they were enforced any more rigorously in the fifth century than in the fourth.

Since there is no compelling evidence for a compulsory role for the *prostatês* in the Athenian legal process, the question becomes one of what exactly the *prostatês* did do, and why the institution survived if it was merely a dead letter. It might be supposed that the *prostatês* was obliged to aid the metic in some way, or under certain circumstances, but again we have no evidence for this actually happening, other than Zobia's *prostatês* appearing as a witness. Lysias makes no mention of his *prostatês* when describing the dangers and outrages he was exposed to in his speech *Against Eratosthenes*. When Xenophon proposed means of attracting more metics to Athens in his *Poroi* he suggested setting up a board of 'guardians of metics' (*metoikophulakes*), like the 'guardians of orphans'.<sup>29</sup> It is unfortunate that we have no idea what the role of the *orphanophulakes* who served as Xenophon's model actually was.<sup>30</sup> But whatever he imagined these *metoikophulakes* doing, it is significant that he felt the need to invent a new institution rather than discuss the existing *prostatês*. The idea that a metic looked to a *prostatês* for protection, or that being a *prostatês* was a source of honour or advantage, seems alien to Xenophon here.

If we examine the ancient vocabulary, we see that the terminology used to describe the relationship was νέμειν προστάτην.<sup>31</sup> The Suda glosses the verb as ἔχειν,<sup>32</sup> presumably the

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<sup>29</sup> Xen. *Poroi* 2.7.

<sup>30</sup> Gauthier 1976: 68-71. Doty 2003: 31 notes that such officers did exist at Naupactus.

<sup>31</sup> See e.g. Hesychius s.v. *Prostatou* (Schmidt II 3896); Harpocration s.v. *Prostatês*.

<sup>32</sup> Suda s.v. *Nemein Prostatên* (Adler v 166).

word was used often enough and in general enough contexts for the compiler to conclude that it meant nothing more specific than ‘to have’.<sup>33</sup> If we accept this, it is possible that the purpose of the *prostatês* was nothing more than to exist; perhaps a metic was required to have one for no other reason than to mark him or her as a metic. This is not to suggest that having a *prostatês* was a trivial matter; the harsh penalties of the *graphê apostasiou* show that it remained an important matter to the Athenian citizens.

Todd has suggested that ‘the *prostatês* had a primarily symbolic function: failure to have a *prostatês* was to insult the citizen community by attempting unilaterally to blur the distinctiveness of your subordinate status’.<sup>34</sup> This seems plausible, but it ignores the negative connotations which Attic orators put on the condition in and of itself. There was a shame involved that made them use it as ammunition in their attacks on their opponents; Lysias stresses that not only did his opponent live as a metic, but he also ἐπὶ προστάτου ᾔκει.<sup>35</sup> It is true that the main thrust of the case is that Philon, the opponent, was disloyal, but the fact that this could be used against him indicates that the condition of having a *prostatês* in and of itself was negative.<sup>36</sup> It was the shame that this involved, at least in the mind of a citizen, which the Athenian orators could exploit as being so disgraceful rather than any more tangible or material associations having a *prostatês* might have had.

While living under a *prostatês* was necessarily a bad thing, it does not follow that all *prostatai* were as bad as each other. Isocrates said that τοὺς μὲν μετοίκους τοιοῦτους εἶναι νομίζομεν, οἷους περ ἂν τοὺς προστάτας νέμωσιν,<sup>37</sup> which suggests that having a respected or

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<sup>33</sup> Lyc. *Leoc.* 21 also uses the term *echein* when describing a metic’s relationship with his *prostates*.

<sup>34</sup> Todd 1993: 198. Kapparis 2005: 108 similarly describes it as an ‘implicit acknowledgment on behalf of the metic of his non-citizen status’.

<sup>35</sup> Lys. 31.9.

<sup>36</sup> This speech is discussed in detail in section 5.2 (a).

<sup>37</sup> Isoc. 8.53: ‘we judge the metics to be of such a kind as the *prostatai* they have’.

illustrious *prostatês* was far preferable to making do with a common citizen. Those most able to take a wealthy *prostatês* would of course be those metics who were wealthy themselves; indeed, Isocrates' statement implies that he imagined a *prostatês* would be of 'such a kind' as the metic he was connected to. There is no evidence for metics actually taking pride in their *prostatês*, however, so having a wealthy one might be better phrased as 'less shameful'.

### 2.1 (c) The *Metokion*

The picture is a little different when we come to the payment of the *metokion*, since all metics apart from the privileged *isoteleis* were subject to it; unless he had received that honour the richest metic would be on a level with the poorest. According to Harpocration, it was set at twelve drachmas a year for men and six for women who did not have sons who were paying it;<sup>38</sup> presumably this means that married women were also excluded from the obligation, since their husbands would have been paying the tax.<sup>39</sup> Harpocration cites Isaeus, so he was evidently describing the situation of the later fourth century. The only evidence for this amount having ever been different is Ammonius' figure of 10 drachmas, which is likely to be a corruption;<sup>40</sup> the level, then, seems to have remained the same in spite of the apparent rise in wages during the classical period.<sup>41</sup> Gauthier theorised that the figure was set at twelve drachmas because it was paid in monthly instalments,<sup>42</sup> which is a plausible suggestion.

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<sup>38</sup> Harpocration s.v. *Metokion*.

<sup>39</sup> Whitehead 1977: 75. See section 1.4.

<sup>40</sup> Whitehead 1977: 101 n.39.

<sup>41</sup> Todd 1993: 197; Loomis 1998: 241-242 calculates a median wage inflation of 100% for 'public sector' Athenian workers between 403 and c. 330, with significant variations between jobs.

<sup>42</sup> Gauthier 1972: 122.

The tax was unique in Athens in that it was a poll tax, but in another respect it was conventional, as it was farmed out in the same way as most other Athenian taxes.<sup>43</sup> This is a point which often escapes modern scholars who write on the subject,<sup>44</sup> but which has important implications for how the tax was collected and how it fit into the metic system. The key point is that the collectors took on the tax with the sole purpose of making money from it. They collected and kept the actual money which was paid by those individuals subject to it.<sup>45</sup> The collectors themselves paid money directly to the treasury, and they paid only the amount which was agreed when they made the contract with the polis. The difference between the two figures was their profit margin, and they will only have agreed contracts if they believed it would be healthy.<sup>46</sup> The metics paid their *metoikion* to tax collectors, not to polis officials.<sup>47</sup>

The *Athênaiôn Politeia* describes the process by which taxes were farmed out. It does not specifically list the *metoikion*, referring only to *ta telê*, but an inscription recording the failure of a collector to pay his contract on time proves that it was one of them.<sup>48</sup> There were ten *pôlêtai* who sold (*misthousi*) the taxes; the names of the successful bidders and the price they agreed to pay were written on *leleukômena grammateia*, whitened tablets which were handed over to the *boulê*. As each payment was made, once per prytany in the case of the *metoikion*, the relevant tablets were taken down and erased by the ten *apodektai*. Those collectors who failed to pay on time were noted, and liable to pay double the original agreed amount as a penalty.<sup>49</sup>

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<sup>43</sup> And indeed taxes in general in the ancient world (Michell 1957: 356).

<sup>44</sup> E.g. Kapparis 2005.

<sup>45</sup> E. Cohen 2007: 204.

<sup>46</sup> Michell 1957: 357. This is a point which seems to escape e.g. Meyer, who is aware that the *telônai* collected the money but suggests (2010: 42) that their profits were made by prosecuting defaulters; see further below.

<sup>47</sup> On this taxation system see Jones 1974, Migeotte 2001; for the close study of a particular tax see Stroud 1998.

<sup>48</sup> Agora 19, Poletai p 26, published with text, translation and commentary in Meritt 1936; see below.

<sup>49</sup> *Ath. Pol.* 47.2-48.2.

A tax auction is described in Andocides' speech *On the Mysteries*. Andocides alleges that the bidders for the customs tax colluded in keeping down the price they paid to thirty talents, and that he stepped in with his partners (*metaschontes*) to offer thirty six, on which he made a small profit.<sup>50</sup> Leaving aside the question of how accurately Andocides recorded a real event, the anecdote shows how serious a business the tax farming system was. Another auction is recorded in Plutarch's *Life of Alcibiades*, where the *telônai* are induced to bribe a rival bidder with a talent in order to preserve their profit margin.<sup>51</sup>

Such a system is inevitably at risk of corruption, although as Jones has noted it had a number of advantages as well: it gave the Athenians a predictable level of income, it avoided the need for auditing the accounts of magistrates collecting the tax, and as long as there were competing syndicates the auction system would lead to a reasonable price being contracted.<sup>52</sup> It also guaranteed a certain level of efficiency in the tax's collection, because the successful bidders had to maximise their income to ensure that they were able to pay the contracted sums on time and obtain the largest possible profit for themselves. The consequences of failing to do this are recorded in the inscription mentioned above, which records the confiscation of property belonging to a certain Meixidemus: ὀφείλοντος τῷ δημοσίῳ τῷ Ἀθηναίων ἐγγύην [ἧ]ν ἐνεγυήσατο Φιλιστίδην: Φιλιστίδου: Αἰξ: μεταρχόντα τέλους μετοικίου ἐπὶ Πυθοδότου ἄρχοντος ἕκτην καὶ ἑβδόμην καὶ ὀγδόην καὶ ἐνάτην τέτταρας ταύτας ἐκάστην τὴν καταβολήν: Η: δραχμὰς.<sup>53</sup>

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<sup>50</sup> Andocides 1.133-134.

<sup>51</sup> Plut. *Alc.* 5.

<sup>52</sup> Jones 1974: 154-155.

<sup>53</sup> Meritt 1936: no. 10.123-129: 'who owes to the public treasury of the Athenians a bond which he guaranteed for Philistides, son of Philistides, of Aixone who shared in levying the metic tax in the archonship of Pythodoros (343/2): the sixth and seventh and eighth and ninth payments, these four, each of 100 drachmae', tr. Meritt.

This rate of one hundred drachmas per prytany means he agreed to pay one thousand drachmas over the year (assuming, as seems reasonable, that his contract extended over the whole year). To break even, he would have had to collect the *metoikion* from a minimum of eighty four (male) metics paying twelve drachmas each. The logical supposition is that his allocation was decided on the basis of demes,<sup>54</sup> or possibly subdivisions of demes, since some urban demes must have had very high concentrations of metics. If there was a public register of metics, this would naturally be of invaluable assistance to the tax collectors. There is, however, no evidence to confirm that demes were the basis of dividing up jurisdictions. In any case, this was probably left up to the successfully bidding syndicate to arrange, as there is nothing to suggest that the Athenians sold this tax in a sub-divided form.<sup>55</sup>

In practice, all this would mean that the collectors would have a powerful incentive to make a positive effort to collect the tax, and to exact punishment from those who failed to pay it. When an individual bid to collect a tax he was gambling on his being able to extract enough money to meet what he was contracted to pay to the polis, plus enough extra to cover his costs, with enough profit left after that to make the effort worthwhile. So it was in the interests of the *telônai* to get as many people as possible registered as metics, so that they became subject to the *metoikion*. Equally, they would have a clear incentive to prosecute those foreigners who failed to register or take a *prostatês*, and their familiarity with those metics living in the area they covered would enable them to identify any unregistered newcomers with greater ease than a citizen not involved in collecting the *metoikion*. The risk was that they over-estimated the number of metics from whom they could collect the tax, or that metic numbers fell for some reason – as might occur if a significant number of metics

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<sup>54</sup> Meyer 2010: 41.

<sup>55</sup> This does not mean that relations within the syndicates were necessarily always harmonious; Lycurgus records a case in which Leocrates was prosecuted for damaging the collection of the customs tax (Lyc. 1.19).

left Athens, or the deme which a certain *telônês* had the rights to collect from, if that was indeed how the tax was subdivided.<sup>56</sup>

With the *metoikion*, the difference was that the speculation was about metic numbers and the collector's ability to get money out of them. It should be noted that the grain tax law says nothing about the collectors making a profit, which was evidently considered to be their 'own concern'.<sup>57</sup> The law makers must, however, have been aware that this was how the system worked. There would have been the obvious question about what would motivate the collectors to bid if there was nothing in it for them; and in the case of the grain tax, the law was proposed by Agurrius of Collytus, the same man who had led the allegedly profiteering tax syndicate which Andocides claimed he had outbid for the benefit of the polis.<sup>58</sup> He will have drawn on his own experience in drafting the law, and no doubt in the discussions which went on about it before the *nomothetai*.<sup>59</sup> These presumably involved an explanation and justification of each of the law's provisions. The profit-making of the *metoikion* collectors was not something which was unknown to Athenians; on the contrary, it was the basis of their system, and anyone involved in polis administration can hardly have been unaware of that fact.

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<sup>56</sup> This can be compared to the grain tax law of 374/3, preserved in an inscription and published with commentary as Stroud 1998, where the tax collectors were effectively speculating on grain production (Stroud 1998: 109-110). They bid for contracts to hand over a certain number of *medimnoi* of grain, to be collected from a certain territory on Lemnos, Imbros or Skyros (Stroud 1998: 26). They were able to extract grain from the farmers who grew it at a rate of  $8\frac{1}{3}\%$  (Stroud 1998: 37). To fulfil a contract of 500 *medimnoi*, the territory for which they had bid would have to produce a total of 6000 *medimnoi*, which would yield the tax collector 500 *medimnoi* at  $8\frac{1}{3}\%$ . If less than 6000 *medimnoi* was grown, the tax collector would have broken the contract and faced punishment; if more was grown, the  $8\frac{1}{3}\%$  he extracted from the surplus was his to keep and sell. If the collector's surplus was sold for enough to cover the costs of his initial bid and of the collection process, he would have made a profit (Stroud 1998: 109-110).

<sup>57</sup> Stroud 1998: 112.

<sup>58</sup> Stroud 1998: 19.

<sup>59</sup> As this was the fourth century it would have been passed by them rather than the assembly; Stroud 1998: 20, 15.

There are two examples of metics falling foul of this system. The first involves Aristogeiton, who attempted to have Zobia sold into slavery.<sup>60</sup> The second concerns the philosopher Xenocrates, and is recorded in a *Life* of the orator Lycurgus: τελώνου δέ ποτ' ἐπιβαλόντος Ξενοκράτει τῷ φιλοσόφῳ τὰς χεῖρας καὶ πρὸς τὸ μετοίκιον αὐτὸν ἀπάγοντος, ἀπαντήσας ῥάβδῳ τε κατὰ τῆς κεφαλῆς τοῦ τελώνου κατήνεγκε, καὶ τὸν μὲν Ξενοκράτην ἀπέλυσε, τὸν δ' ὡς οὐ τὰ πρέποντα δρᾶσαντα εἰς τὸ δεσμοτήριον κατέκλεισεν.<sup>61</sup>

In both cases we have metics who are unjustly taken by apparently unscrupulous individuals. These examples have been seen as illustrating the isolated and risky position which they held in Athenian society.<sup>62</sup> But the Zobia story indicates that there was some way of proving that a *metoikion* had been paid; the speaker claims that she would have been sold had her *metoikion* not been κείμενον.<sup>63</sup> One would assume either that some token was given on payment, or that witnesses were present. The Xenocrates story can be interpreted as showing that a metic depended on his citizen friends in such situations, but is surely an example of this working to the metic's benefit.

On the other hand, both anecdotes suggest that the burden of proof rested on the metic rather than on his or her accuser, unless by τὰ πρέποντα we are to understand that some evidence had to be provided in advance. The word could mean something like 'the clearly visible things' or 'the suitable things'; we can therefore infer either that some sort of public announcement(s) had to be made, or that there were some specific procedures which ought to be followed. I incline to the former option because it fits better with what happened in the

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<sup>60</sup> Dem. 25.56-58, quoted in section 2.1 (b) above.

<sup>61</sup> [Plut.] *Lives of the Ten Orators* 842B-C: 'Once, when a tax collector was laying his hands upon Xenocrates the Philosopher and leading him off to the *metoikion*, he came upon them and brought down a rod on the tax collector's head, and released Xenocrates. He shut the tax collector up in prison for not performing the proper procedures.' Cf. Diog. Laert. 4.14; Plut. Phoc. 29.4, Tit. 12.4. See Whitehead 1981: 236-238.

<sup>62</sup> E.g. Patterson 2000: 102.

<sup>63</sup> Dem. 25.57.

Zobia story, and because if the latter were the case we might expect a wording (*ta deonta*, for example) which made it clearer that these were requirements which had to be fulfilled. If this is right, the system allowed for the friends of metics to intervene if they felt there was a case to be made; alternatively, they could ensure they were at the sale of the metic into slavery, and by out bidding others pay what would effectively be a ransom. It would probably be easier simply to pay off the tax collector, of course.

Both of those anecdotes ended happily for the metics concerned; for those who had genuinely failed to pay their tax, or get themselves registered and take a *prostatês*, it would be a different matter. If a tax collector seized a metic and took him or her to be sold, after publicising the fact in some specified way, the possible defences would be (1) that the metic had, in fact paid their *metoikion*, or (2) that they were not required to pay it. This did not, according to the Zobia anecdote, take place in court, but before the body which did the selling. In other words, no *dikê* or *graphê* had yet been brought.

The first defence, as with Zobia, would be employed through providing evidence that the tax had been paid, and presumably that would be the end of it as long as the officers concerned were convinced.<sup>64</sup> The second might be rather more complicated. The accused could claim to be exempt through having *isoteleia*, which would be relatively straightforward to demonstrate, or through a treaty like that covering Sidonian merchants, which might be more difficult if the terms of the treaty were complex. Alternatively they could claim to be an Athenian citizen, or exempt because they had not been in Athens for long enough to be required to pay the tax. In the case of any of these defences, the decision was probably taken on the spot whether to

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<sup>64</sup> In Zobia's case they clearly were convinced – the speaker of Dem. 25 used them as witnesses to Aristogeiton's actions (Dem. 25.58).

proceed with the sale or release the accused. In the latter case, the tax collector could pursue the metic through the courts if they so desired.<sup>65</sup>

There may not, then, have been a suit which specifically targeted those who had not paid their *metoikion*; it was perhaps only targeted indirectly, with the formal suit attacking the basis of whatever defence was claimed. The law may simply have specified that non-payment was to be punished by sale into slavery, and set out how this was to be done. Otherwise it is hard to make sense of what happened in the case of Zobia, since she should surely have been prosecuted if there was such a suit. Since the speaker is attacking Aristogeiton, if he was doing anything that was procedurally invalid we would expect some sort of attack on that basis; but it is not the action of dragging someone before the *pôlêtêrion* which is criticised, but his doing it to someone he knew and who had helped him in the past.

On the other hand, a specifically targeted suit would have made it easier for the *telônai* to get their money in cases where the metic concerned was better able to defend himself; and Pollux states that κατὰ δὲ τῶν οὐ τελούντων τὸ μετοίκιον ἢ προστάτην μὴ νεμόντων ἀπροστασίου δίκη.<sup>66</sup> Elsewhere, in what Meyer calls the ‘shorter version’, Pollux claims only that ἀπροστασίου δὲ κατὰ τῶν οὐ νεμόντων προστάτην μετοίκων, in a passage in which he is differentiating it from the *apostasiou*.<sup>67</sup> One could naturally say that having a *prostatês* was the primary association, with the *metoikion* connection being subordinate, to explain this discrepancy, but it is worrying that none of the other lexica mention it. Pollux gives no source

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<sup>65</sup> The suit chosen would reflect which defence had been offered. If the metic had claimed to be Athenian, it would be the *graphê xenias*; a false claim to be an *isotelês*, or covered by a treaty, might be actionable through a suit targeting giving false information; and if the accused had claimed not to have been in Athens long enough the collector would be able to bring a *graphê apostasiou* if they doubted the truth of this assertion.

<sup>66</sup> Poll. 3.56: ‘The *dikê apostasiou* was against those not paying the *metoikion*, or not having a *prostatês*’. The Suda s.v. *Apostasis* (α 3546 Adler) also claims that the *metoikion* was covered by the *aprostasiou*, but adds that claiming to be a citizen was as well; the latter is certainly wrong, as that came under the *graphê xenias*, so we cannot take this as useful evidence for the *metoikion* either.

<sup>67</sup> Poll. 8.35.

for this information; it might, then, simply be the writer's inference that the *graphê* covered the *metoikion* as well. It is in a passage very shortly after this that Pollux refers to metics as 'defaulters' who are not registered, do not pay the *metoikion*, or do not 'carry the tray'; the ascription of the term to the last group at least seems to be derived from comedy, so we might well wonder if the use of such sources has misled Pollux here.

Meyer has proposed that cases of failure to pay the *metoikion* came under the *graphê aprostasiou*, as part of her study of the *phialai* or 'silver bowl' inscriptions, in which she argued that they were the result of *aprostasiou* suits, rather than *apostasiou* suits as is usually concluded;<sup>68</sup> however, as we have seen, this does not fit with the anecdotes as described. If the *metoikion* was not covered by the *graphê aprostasiou*, there may still have been another suit which did target non-payment of the tax, but as it is not mentioned anywhere this does not seem particularly likely; and the anecdotes about Zobia and Xenocrates suggest that the legal recourse in such a situation was simply to attempt to exact the penalty of sale into slavery by persuading the *pôlêtai* that no payment had been made, and the accused was liable to the tax.<sup>69</sup>

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<sup>68</sup> The orthodox view and its development are described by Meyer 2010: 17-21. These inscriptions record dedications of bowls offered by the victorious defendants in suits whose name is preserved only as -]στασίου. That the defendants are all metics is proved by the use of the *oikôn en* formula, but since freedmen were included among the metics (see section 1.5) this does not help us decide which suit was meant. Meyer has convincingly argued that these represent the 'inventorying, at a later date, of the silver bowls'; the actual dedications took place beforehand, and the inscriptions are not contemporary with the dedications or the trials which led to them (2010: 9, 56-61). This removes the need to suppose that these were 'fictive' trials which were actually uncontested formalities, due to the fact that many cases apparently occurred on the same day; that explanation was never satisfactory, since it required us to believe that the Athenians colluded in these fictive trials, and that a large number of erstwhile slave-owners willingly gave up their rights over freedmen (Todd 1993: 191-192; Zelnick-Abramovitz 2005:187, 283). If non-payment of the *metoikion* was not included under the *graphê*, however, it is hard to see how so many *aprostasiou* cases came to court, as it would be a simple matter to demonstrate that one had a *prostatês* (Meyer 2010: 50). I thus believe that the *apostasiou* is more likely; this gains support from the fact that Harpocration claims there were many such suits mentioned in the speeches of the orators (Harpocration s.v. *Apostasiou*).

<sup>69</sup> Such summary justice seems also to have been the norm when dealing with thieves, who were handed over to (and executed by) the Eleven, although there was the possibility of a court hearing if they denied the crime – see Debrunner Hall 1996: 81-82. Lanni 2006: 137 wonders 'why anyone would confess in such circumstances'; perhaps the right to appeal to a court was simply ignored in practice in cases where the accused's guilt was obvious (and they were relatively powerless), or confessions were gained by violence.

In practice, however, the tax collectors probably used the possibility of a metic's being seized and sold as a threat more often than as an actual course of action. It would have been an effective way of encouraging them to pay up, especially since the actual financial burden of the *metoikion* was not particularly great, especially if paid in instalments. For a poor metic it would hardly be negligible, however. The inscriptions recording payments made to workers on the *Erechtheon*<sup>70</sup> indicate that a worker on the project received one drachma a day, so such a metic would have to part with a full day's wage each month.<sup>71</sup> As Loomis has shown, however, this cannot reasonably be taken as a standard or 'average wage',<sup>72</sup> since although all workers were paid the same, whether citizen or metic, it was a public and religious project which we cannot assume was representative of conditions in the private sector.<sup>73</sup>

For the project to have attracted free workers, then, it must have paid wages that were reasonable, if not rather high. The amount perceived as being required for subsistence in the fourth century seems to have been somewhat less than a drachma a day, since Xenophon proposed paying Athenian citizens three obols per day in order to relieve them of the need to work for a living,<sup>74</sup> while at the time of the *Ath. Pol.* the ephebes' provisions were bought from a pool of four obols each.<sup>75</sup> So one drachma a month would have been a noticeable and at the least irritating, if not necessarily hardship-inducing, burden. In any case, those metics

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<sup>70</sup> IG i<sup>3</sup> 475, 476.

<sup>71</sup> Whitehead 1977: 76.

<sup>72</sup> So described by e.g. Burke 2005: 11.

<sup>73</sup> Loomis 1998: 235-239. Epstein has also argued that as it was a one-off, 'occasional' project it will have differed from ongoing labour projects in terms of the labour force it drew on. Longer term projects, or jobs requiring permanent labour, will have found it easier to hire slave labour, since slave-owners will have been more willing to buy slaves for projects which they knew would last a long time, making the initial expense a worthwhile investment (Epstein 2008: 108-109); Owners are unlikely to have kept an excess capacity of slave labour, simply because it did not make economic sense; thus 'while additional demand for [an] unskilled workforce was created through public building, it could not be met by slave labour', which would have been tied up elsewhere (2008: 110).

<sup>74</sup> Xen. *Poroi* 3.9, 4.33, Doty 2003: 5-7.

<sup>75</sup> *Ath. Pol.* 42.

most at risk of failing to pay the tax would be those who could not find work, or were incapacitated through age or illness. Unlike citizens, they could not rely on state support<sup>76</sup> or the income provided by attendance at the assembly or law courts, and the risk which this put them under should not be ignored.

Auctioning off the *metoikion* must have earned the polis a considerable number of talents, even with the profit margin of the *telônai* to consider.<sup>77</sup> How financially significant this was would depend on the state of Athens' total sources of income at any particular time.<sup>78</sup> We should not, however, assume that its perceived importance was related to the proportion of income which it made up, or even to its absolute level; it was very likely tied up with ideas about what metics 'should' be contributing to the polis, and it is perfectly possible that this was conceived in individual, moralistic terms rather than on a large scale.<sup>79</sup> Similarly, in the law courts at least, the Athenians appear to have had a great deal of time for arguments which claimed there were wide, social consequences to be derived from individual misbehaviour and juries' treatment of it.<sup>80</sup>

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<sup>76</sup> For support for the disabled see e.g. Lys. 24; all the evidence for 'welfare support' is gathered at Loomis 1998: 220-231. See Burke 2005 for the alleged effect the 'habit of subsidization' had on Athenian ideology.

<sup>77</sup> The revenue which the *metoikion* raised for the Athenians was not enormous, proportionally speaking, but it was nevertheless significant; Andreades calculated that it would have made up approximately ten percent of Athenian revenues in 431 (Andreades 1933: 280). Even the lower figure of ten thousand metics during the rule of Demetrius of Phalerum, however, preserved by Ctesicles via Athenaeus, would provide twenty talents per annum (FrGrHist 245 F1 = Athenaeus 6.103; Whitehead 1977: 76), and Hansen's estimate of around 20000 adult male metics in the fourth century, extrapolated from that census, would provide double this (Hansen 1991: 92-93; Hansen 1985: 28-36). The profit margin of the *telônai* would have to be subtracted from these figures, however, and unfortunately we do not know what it typically was. If Andocides' claims are true, the syndicate he opposed attempted to get what would have turned out to be at least 17% of the total income (they offered to pay 30 talents, yet Andocides and his partners still made some money on 36); but we have no idea how typical this was, or how much Andocides' syndicate actually made.

<sup>78</sup> In the fourth century this varied wildly, hitting a low of 130 talents p.a. after the Social War before recovering to 400 in the 340s and then rising spectacularly to c.1200 in the years after Chaeronea (Burke 2010: 393-394).

<sup>79</sup> There are innumerable examples of this kind of thinking from our own time, focused in the UK for example on benefit claimants, asylum seekers or more recently tax avoiders, which are frequently (though not always) discussed in moral terms rather than in relation to their actual effect on the nation's finances.

<sup>80</sup> Carey 1994: 176. See for example Dem. 59 and Lyc. 1, examined in sections 5.1 (c) and 5.2 (b).

So the practical burden on the individual metic was not always insignificant, and neither was the contribution of the tax as perceived by the Athenians. The other significance of the *metoikion* was symbolic, since, as has long been recognised, it marked the one paying it as a non-citizen and an inferior.<sup>81</sup> That is not the whole story, however, since the system also placed metics in positions that were anathema to Athenians, as they had to pay a compulsory tax, and they were placed in the power of the *telônai*. A useful illustration of this antipathy is to be found in Demosthenes' speech *Against Androtion*. The speaker accuses his opponent of abusing his powers as a collector of the *eisphora*, and calls his methods worse than those of the Thirty Tyrants, since they merely arrested men in the agora, whereas Androtion turned their homes into prisons by bringing in the Eleven.<sup>82</sup> He asks the jury a question:

καίτοι, ὦ ἄνδρες Ἀθηναῖοι, τί οἴεσθ' ὀπότε' ἄνθρωπος πένης ἢ καὶ πλούσιος, πολλὰ δ' ἀνηλωκῶς καὶ τιν' ἴσως τρόπον εἰκότως οὐκ εὐπορῶν ἀργυρίου, ἢ τέγος ὡς τοὺς γείτονας ὑπερβαίνει, ἢ ὑποδύοιθ' ὑπὸ κλίνην ὑπὲρ τοῦ μὴ τὸ σῶμ' ἀλοῦς εἰς τὸ δεσμωτήριον ἔλκεσθαι, ἢ ἄλλ' ἀσημημονοίῃ ἅ δούλων, οὐκ ἐλευθέρων ἐστὶν ἔργα, καὶ ταῦθ' ὑπὸ τῆς αὐτοῦ γυναικὸς ὀρῶτο ποιῶν, ἦν ὡς ἐλεύθερος ἠγγυήσατο καὶ τῆς πόλεως πολίτης[;]<sup>83</sup>

This disgrace is little more than what the metic was potentially exposed to on a regular basis. The disgust at being forced to act more like a slave than a free man is paralleled in the risk a metic ran of being sold into slavery for failing to pay the tax. Later, the speaker clarifies what it was that was particularly galling about his opponent's methods: τίνοσ οὖν εἶνεκ' ἀφεις τὸ τὰ χωρία δημεύειν καὶ τὰς οἰκίας καὶ ταῦτ' ἀπογράφειν, ἔδειξ καὶ ὑβρίζεις πολίτας ἀνθρώπους καὶ τοὺς ταλαιπώρους μετοίκους, οἷς ὑβριστικώτερον ἢ τοῖς οἰκέταις τοῖς σαυτοῦ κέχρησαι;<sup>84</sup>

<sup>81</sup> Clerc 1893: 21., Austin and Vidal-Naquet 1977: 99.

<sup>82</sup> Dem. 22.52.

<sup>83</sup> Dem. 22.53: 'And so, men of Athens, what do you think if a poor man, or even a rich man who has spent a great amount and is perhaps in some way naturally not well off for money, should have to climb up to his roof to get to his neighbours, or hide under his bed, so he will not be physically captured and dragged off to the prison, or should shame himself doing other things which are the work of slaves and not of free men, and should be seen doing them by his own wife, whom he married as a free man and a citizen of the polis?'

<sup>84</sup> Dem. 22.54: 'So for what reason did you abandon the confiscation of land and houses, and the making of list of them, and then imprison and humiliate citizen people and the wretched metics, whom you have abused more hubristically than your own slaves?'

There is, as Whitehead noted, a degree of pathos in the *ταλαιπώρους μετοίκους*, but the terminology is hardly flattering.<sup>85</sup> There is an element of solidarity, perhaps, in that both metics and citizens are treated more hubristically even than slaves, but another implication is that Androtion has reduced citizens to the level of the *ταλαιπώρους* metics. Later, he says that Androtion *κατὰ τὴν ἀγορὰν ὕβριζεν ὁμοῦ μετοίκους, Ἀθηναίους: δῶν, ἀπάγων, βοῶν ἐν ταῖς ἐκκλησίαις ἐπὶ τοῦ βήματος.*<sup>86</sup> Perhaps the speaker felt it necessary to mention the metics in front of a jury of citizens purely to present them with more of Androtion's victims, but the intention may also have been to imply that treating citizens and metics alike was crossing a boundary in a way that was unacceptable.

The speaker's main point, however, is that it is the punishment of the body as opposed to the confiscation of goods that is worst of all. He continues:

καὶ μὴν εἰ θέλετε σκέψασθαι τί δοῦλον ἢ ἐλεύθερον εἶναι διαφέρει, τοῦτο μέγιστον ἂν εὗροίτε, ὅτι τοῖς μὲν δούλοις τὸ σῶμα τῶν ἀδικημάτων ἀπάντων ὑπεύθυνόν ἐστιν, τοῖς δ' ἐλευθέροις, κἂν τὰ μέγιστ' ἀτυχῶσιν, τοῦτό γ' ἔνεστι σῶσαι: εἰς χρήματα γὰρ τὴν δίκην περὶ τῶν πλείστων παρὰ τούτων προσήκει λαμβάνειν. ὁ δὲ τοῦναντίον εἰς τὰ σώματα, ὥσπερ ἀνδραπόδοις, ἐποιήσατο τὰς τιμωρίας.<sup>87</sup>

This divide is apparently crucial, but the metics were on the wrong side of it when it came to taxation, since if they failed to pay the *metoikion* they were condemned to slavery.

Androtion was at least operating as an official magistrate.<sup>88</sup> The *eisphora* was a tax administered by the Athenians themselves rather than farmed out,<sup>89</sup> and it was one which

<sup>85</sup> Whitehead 1977: 47-48.

<sup>86</sup> Dem. 22.68: 'committed outrages in the agora against metics and Athenians together, binding them, leading them away, shouting from the platform in the assemblies'.

<sup>87</sup> Dem. 22.55: 'If you wanted to examine what the difference is between a slave and a free man you would find the greatest factor is that with slaves, the body is liable for all their wrongs, but with free men, even if they are extremely unfortunate, they are least protected from this – for in most matters the penalty to be taken from them is money. But he (Androtion) did the opposite, and just like with slaves took his vengeance out on their bodies.'

<sup>88</sup> Although the speaker accuses him of having won this role under false pretences: Dem. 22.48.

<sup>89</sup> Jones 1974: 154-155.

even a metic could claim credit for having paid; Lysias lists it as one of the contributions he and his brother made to the city along with providing a dramatic chorus.<sup>90</sup> Unsurprisingly, he does not mention the *metoikion*.<sup>91</sup>

The *telônai* proper and their activities were, as one might expect, disliked,<sup>92</sup> and they were subject to a variety of abuse.<sup>93</sup> These were the men in whose hands the metics could find themselves, and since all metics apart from the *isoteleis* had to pay the *metoikion* there was no escape from them other than to leave Athens altogether. It is in the light of this degrading fact that the preference for recording one's status as an *isotelês* above even citizenship elsewhere, which we saw in metic tombstones, must be understood.

Among the unprivileged metics there was clearly a distinction between the poor and the better off when it came to paying tax, in that the richer would obviously be far less likely to be unable to make a payment. We might also reasonably imagine that the *telônai* would treat them with rather more respect than they would an impoverished metic. So in terms of practical disadvantage the *metoikion* would not have been terrible for well-off metics, but they would still have shared the ideological and emotional disadvantage; and in the eyes of the citizens they would have been marked, at least in this sense, as inferiors. There is no evidence that the Athenians ever questioned the morality of this; as Kyratas puts it, the tax was considered 'normal and justified'.<sup>94</sup>

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<sup>90</sup> Lys. 12.20.

<sup>91</sup> Cf. Isoc. 17.41, where the speaker also points to his having paid the *eisphora* but does not mention any specifically metic obligations.

<sup>92</sup> Michell 1957: 357.

<sup>93</sup> Pollux 9.29-32 records it at exhaustive length.

<sup>94</sup> Kyratas 2002: 147.

## 2.2 Restrictions

### 2.2 (a) Landowning Rights

The wealthy metics could at least hope to achieve the privileged status of the *isotelês*, and there was an honour which could exempt them from another restriction put on metics. The inability to own land has been described as ‘worrisome’,<sup>95</sup> but actually it was unlikely to be a practical concern for a poor metic, since buying property would have been beyond their financial means. In this they must have had something in common with the poorer citizens, whose political equality, when considered in opposition to their inequality in terms of landholding, has been described as a ‘paradox’ by Foxhall; she has suggested that it was instead the ‘right’ to own land that was key at Athens.<sup>96</sup> Another element might have been the idea of ‘keeping Attica for the Athenians’, but the wealthy metics could hope for *enktêsis*, which is recorded as both *gês kai oikias* and *oikias* alone;<sup>97</sup> it was also granted to some foreign communities for religious purposes.<sup>98</sup> The attractiveness of *enktêsis* was recognised by Xenophon, who made this proposal in his *Poroi*: εἶτα ἐπειδὴ καὶ πολλὰ οἰκιῶν ἔρημά ἐστιν ἐντὸς τῶν τειχῶν καὶ οἰκόπεδα, εἰ ἢ πόλις διδοίη οἰκοδομησομένοις ἐγκεκτῆσθαι οἱ ἂν αἰτούμενοι ἄξιοι δοκῶσιν εἶναι, πολὺ ἂν οἴομαι καὶ διὰ ταῦτα πλείους τε καὶ βελτίους ὀρέγεσθαι τῆς Ἀθήνησιν οἰκήσεως.<sup>99</sup>

He does not specify how these metics would prove themselves to be ‘worthy,’ but as Whitehead has pointed out the beneficiaries would be those who applied and were judged

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<sup>95</sup> Hunter 2000: 16.

<sup>96</sup> Foxhall 2002: 218.

<sup>97</sup> Whitehead 1977: 30, citing *IG* ii<sup>2</sup> 351, 360, 373, 505, 551, 554, 786, 835.

<sup>98</sup> See section 2.2 (c).

<sup>99</sup> Xen. *Poroi* 2.6: ‘Then since there are many sites which are empty of houses within the walls, if the city gave to those who would build on them the right to own land – if they requested it and seemed worthy – I think many more and better people would want to live in Athens because of it’.

deserving; in effect, Xenophon was arguing for a more systematic extension of the existing haphazard granting of property rights.<sup>100</sup> The idea of a foreigner requesting a privilege (through a citizen intermediary) has been explored by Zelnick-Abramovitz,<sup>101</sup> who recorded examples such as this from Lysias' speech *For Polystratus*: καὶ εἰ μὲν ξένος τις ἐλθὼν ὑμᾶς ἢ χρήματα ἤττει ἢ εὐεργέτης ἀναγραφῆναι ἠξίου, ἔδοτε ἂν αὐτῷ.<sup>102</sup> The 'benefactor' could hope to be rewarded with honours later on; this quid pro quo is shown in Demosthenes' speech *Against Leptines*, when he opposes τοὺς εὐεργέτας ἀφελέσθαι τὰ δοθέντα.<sup>103</sup> These honours were inscribed, thus recording and displaying them publicly.<sup>104</sup> The ultimate reward for a metic benefactor was of course naturalisation, which I shall examine in chapter five. It will suffice to say for now that even in that case the new citizen's assimilation was far from complete, but it was at least something which a rich metic could hope for.

## 2.2 (b) Marriage

We have already seen that the Periclean citizenship law prevented the children of metics from becoming citizens. At some point prior to the delivery of Apollodorus' speech *Against Neaera* (around 340) this restriction was tightened to forbid metics and citizens from intermarrying at all.<sup>105</sup> The law, as preserved, is extremely strict; the harsher punishment meted out to metics is worth noting, although even the thousand drachma fine applied to citizens would be ruinous to an ordinary Athenian: ἐὰν δὲ ξένος ἀστῆ συνουκῆ τέχνῃ ἢ μηχανῆ ἠτινιοῦν, γραφέσθω πρὸς τοὺς θεσμοθέτας Ἀθηναίων ὁ βουλόμενος οἷς ἔξεστιν. ἐὰν δὲ ἄλλῳ, πεπράσθω καὶ αὐτὸς καὶ ἡ οὐσία αὐτοῦ, καὶ τὸ τρίτον μέρος ἔστω τοῦ ἐλόντος. ἔστω

<sup>100</sup> Whitehead 1977: 127-129.

<sup>101</sup> Zelnick-Abramovitz 1998.

<sup>102</sup> Lys. 20.19: 'and if some foreigner came and asked you for money, or thought himself worthy of being recorded as a benefactor, you would have granted it to him.'

<sup>103</sup> Dem. 20.23: 'depriving benefactors of what they have been given.' Zelnick-Abramovitz 1998: 561-562.

<sup>104</sup> See Lambert 2011b, 2012.

<sup>105</sup> Harrison 1968: 26.

δὲ καὶ ἐὰν ἡ ξένη τῷ ἀστῷ συνοικῆ κατὰ ταῦτά, καὶ ὁ συνοικῶν τῇ ξένη τῇ ἀλούσει ὀφειλέτω χιλίας δραχμάς.<sup>106</sup>

Whether this is preserved from the original text or a reconstruction based on Apollodorus' very similar summary of it in the subsequent section, it is apparent from the rest of the speech that here *sunoikein* refers only to marriage.<sup>107</sup> To demonstrate this, as Patterson argues, Apollodorus attempts to show that Neaera 'formed a household with Stephanos... participating as a wife in the productive and reproductive, as well as the social and religious, activities of an Athenian household'.<sup>108</sup> That there were alternative types of relationship is indicated by Apollodorus when he discusses the defences which Stephanos might use, listing the possibilities as being that she was actually an *astê*; that she was not his wife but his *pallakê*; or that she was his *hetaira*.<sup>109</sup> Clearly having a relationship with these latter two 'types' does not fit within the legal definition of *sunoikein* as he sees it, and in any case it is hard to believe that the Athenians would pass a law that criminalised such behaviour. He goes on: τὸ γὰρ συνοικεῖν τοῦτ' ἔστιν, ὃς ἂν παιδοποιῆται καὶ εἰσάγη εἰς τε τοὺς φράτερας καὶ δημότας τοὺς υἱεῖς, καὶ τὰς θυγατέρας ἐκδιδῶ ὡς αὐτοῦ οὔσας τοῖς ἀνδράσιν. τὰς μὲν γὰρ ἑταίρας ἡδονῆς ἔνεκ' ἔχομεν, τὰς δὲ παλλακὰς τῆς καθ' ἡμέραν θεραπείας τοῦ σώματος, τὰς δὲ γυναῖκας τοῦ παιδοποιεῖσθαι γνησίως καὶ τῶν ἔνδον φύλακα πιστὴν ἔχειν.<sup>110</sup>

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<sup>106</sup> Dem. 59.16: 'If a foreigner lives with an Athenian woman in any way or manner whatsoever, he may be charged before the Thesmothetae by anyone who wishes of the Athenians, who are able to do so. And if he is convicted, he shall be sold, both himself and his property, and a third share will go to the one who convicted him. This will also apply if a foreign woman lives with an Athenian man, and an Athenian man who lives with the convicted foreign woman will be fined one thousand drachmas.'

<sup>107</sup> Todd 1993: 178; cf. MacDowell 1978: 87. See section 3.2 (d) for the flexibility with which terms were defined in the Athenian lawcourts.

<sup>108</sup> Patterson 1994: 207.

<sup>109</sup> Dem. 59.118-119.

<sup>110</sup> Dem. 59.122: 'For this is what *sunoikein* is – when someone has children and introduces the sons to the members of his phratry and his deme, and betroths the daughters to men as his own. For we have *hetairai* for the sake of pleasure, and *pallakai* for the daily service of our bodies, but wives for producing legitimate children and so that we have a trusted guardian of our household affairs.'

We should of course be wary of taking a litigant's interpretation of the law as the absolute truth, but in this case it is difficult to see what else, other than marriage, the law could be prohibiting. Apollodorus would hardly have discussed the potential defences had they not been perceived as valid, and if a cohabiting relationship with a *pallakê* or *hetaira* was permitted then clearly the law cannot have been intended to prevent the birth of children of mixed Athenian and metic parentage; the homicide law preserved in Demosthenes' *Against Aristocrates* makes it clear that there was a kind of *pallakê* ἦν ἄν ἐπ' ἐλευθέροις παισὶν ἔχῃ.<sup>111</sup> The concern was that these children might be passed off as Athenian citizens.<sup>112</sup> Bakewell, however, has suggested that it would have been impossible for this to occur, as the repeated and public nature of the affirmations of citizenship which took place throughout an Athenian's life would have made it infeasible for a metic to later claim to be a citizen.<sup>113</sup> The Athenians, however, evidently did not believe that it was impossible, as they had legal mechanisms to prevent and punish it, and even carried out a scrutiny of all citizens' claims to be Athenian.<sup>114</sup>

While this could have been one concern behind the law, it was not necessarily the only one. Bakewell proposed that one aim could have been to discourage Athenian men from 'marrying irresponsibly' with metics,<sup>115</sup> who as foreign women may have had a particular exoticism and 'erotic potential'.<sup>116</sup> There may well be truth in this, but we should be careful not to assume that there was a single 'metic stereotype' coming into play here; they were a disparate group, and there may have been a number of stereotypes which went with different constituent types of people within it. Neaera, as Bakewell argues, would certainly fit the bill of an exotic and

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<sup>111</sup> Dem. 23.53: 'Whom one might have for the purpose of free children'.

<sup>112</sup> Kapparis 1999: 4.

<sup>113</sup> Bakewell 2009: 98, Carlier 1992: 116.

<sup>114</sup> Discussed in section 4.1 (b).

<sup>115</sup> Bakewell 2009: 107.

<sup>116</sup> Bakewell 2009: 106.

seductive foreign woman, and we also see many foreign courtesans in New Comedy;<sup>117</sup> but it does not follow that they typified ‘the metic woman’.<sup>118</sup>

A significant consequence, and perhaps motive, of the law would be that while a relationship between a metic and an Athenian was possible, it could not gain the legitimacy of a true marriage; to avoid the risk of prosecution the man could not, presumably, call his partner his wife, or his children legitimate. The qualitative difference between a wife and a *pallakê* is shown by Lysias, who notes that the ‘lawgiver’ ἐπὶ ταῖς παλλακαῖς ταῖς ἐλάττονος ἀξίας τὴν αὐτὴν δίκην ἐπέθηκε<sup>119</sup> as he did in cases concerning wives. A key principle at work in the law was thus a concern to preserve a strict status barrier between citizens and metics, and stigmatise those who seek to blur it. The arm of the law, of course, had a limited reach, and no doubt in private and among friends the relationship could be referred to as a marriage; equally, in practice a ceremony could probably be carried out as long as it took place before people who were trusted. There was, however, the risk of the relationship’s being discovered and used by enemies for their advantage.<sup>120</sup>

Practically speaking, then, this law may not have impinged on metics’ everyday life – they could enter into relationships with whomever they liked, as long as they did not openly claim that it was a marriage<sup>121</sup> – but it made their subordinate position in Athenian society clear, at least in public contexts. We have also seen this principle at work in the requirement to have a *prostatês* and to pay the *metoikion*, and the extremely harsh penalties faced by metics who

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<sup>117</sup> Mossé 1992: 272.

<sup>118</sup> Similarly, while metic men seem to have often been traders and craftsmen (Németh 2001: 336), in New Comedy they appear as professional soldiers (Mossé 1992: 272).

<sup>119</sup> Lys. 1.31: ‘applied the same penalty in the case of *pallakai*, who are of less worth.’

<sup>120</sup> As typified by the case of Stephanus and Neaera, at least as they are presented by Apollodorus in Dem. 59 (D. Cohen 2005: 36-37).

<sup>121</sup> I thus disagree with Hunter’s contention (2000: 20) that the law existed ‘to control the metic population’.

transgressed in these areas; the consequence of not acting as a metic should was potentially to lose one's status as a free man or woman altogether.

## 2.2 (c) Religious Activities

This barrier was also shown in the Athenian religious festivals. A tolerance for foreign cults and freedom for metics to pursue their own religious activities<sup>122</sup> was balanced by exclusion or limited participation in the specifically Athenian festivities. Demosthenes tells us that metics could not hold priesthoods,<sup>123</sup> and this prohibition even extended to naturalised citizens.<sup>124</sup> Metics must also have been excluded from at least some of the activities that took place within citizen-only groups such as the phratries and tribes.<sup>125</sup> These started young, and included an adolescent 'ritual of maturation' for boys known as the *koureion*, which included sacrifices.<sup>126</sup> The phratries and their rituals could thus serve as rites of passage.<sup>127</sup> It should be noted, however, that membership of a phratry was not a formal requirement for citizenship,<sup>128</sup> so there will presumably have been Athenians who did not go through these rituals. The culminating rite of passage ritual, however, of the ephebic oath, will have been taken by all male citizens, and will have been intended to constitute something of a transformative event.<sup>129</sup> Athenian girls do not seem to have had any place in the phratries,<sup>130</sup> but could participate in religious rites of passage such as the *arcteia*, related to the cult of Artemis at Brauron.<sup>131</sup>

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<sup>122</sup> See Baslez 1988; Whitehead 1977: 88-89.

<sup>123</sup> Dem. 57.48.

<sup>124</sup> Dem. 59.92.

<sup>125</sup> Whitehead 1977: 86.

<sup>126</sup> Cole 1984: 233-235.

<sup>127</sup> Davies 1978: 109.

<sup>128</sup> MacDowell 1978: 70.

<sup>129</sup> Faraguna 2006: 26. For the *ephêbeia* see section 4.4 (b).

<sup>130</sup> Cole 1984: 237, though Noy 2009: 403 suggests that some may have admitted them.

<sup>131</sup> Cole 1984: 239-243.

The lexicographers record that in the Panathenaea the metics had the role of carrying bowls, and that this led Athenian writers to dub them *skaphêphoroi*. Harpocration gives the fullest explanation: Σκαφηφόροι: Δείναρχος ἐν τῷ κατὰ Ἀγασικλέους φησὶν “οἱ ἀντὶ σκαφηφόρων ἔφηβοι εἰς τὴν ἀκρόπολιν ἀναβήσονται, οὐχ ὑμῖν ἔχοντες χάριν τῆς πολιτείας, ἀλλὰ τῷ τούτου ἀργυρίῳ,” ἀντὶ τοῦ μέτοικοι· οὗτοι γὰρ ἐσκαφηφόρου Ἀθήνησι.<sup>132</sup>

There seems to be a degree of contempt in the Dinarchus quote, though we have it out of context. Again, however, the rules relating to metics marked them out and gave them a role that was specifically non-citizen. The old idea that the system was designed to humiliate them has rightly been rejected,<sup>133</sup> and it is reasonable to suppose that among metics it was considered an honour, but it was honour in which only a subordinate group could share.<sup>134</sup>

There was thus some recognition for the role which metics could play in religious festivities, which in turn must have reflected an attitude that they were in some sense part of a community, albeit an inferior part. Participation, of any kind, will also have given them some sense of involvement, and access to a degree of common knowledge and experience; and there were a great many festivals for them to get involved with.<sup>135</sup> The polis also, as Wijma has emphasised, sometimes gave official recognition to foreign cults, and sanctioned metics and Athenians participating in them. An example is the cult of Bendis, the acceptance of which into the polis serves as the event which attracted Socrates to the Piraeus in Plato's

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<sup>132</sup> Harpocration s.v. *Skaphêphoroi*: ‘*Skaphêphoroi*: Dinarchus in his *Against Agasicles* says “instead of carrying bowls they will ascend the acropolis as ephebes, not having gratitude to you for their citizenship, but to his money.” [Used] instead of ‘metics,’ because they used to carry bowls at Athens.’ He goes on to cite Demetrius’ *Nomothesia* and Theophrastus for laws ‘ordering’ the metics to do this, and their daughters to carry pitchers and sunshades. Cf. Hesychius s.v. *Skaphêphoroi* (Σ 878 Schmidt); [Ammonius] 247 (Nickau).

<sup>133</sup> See Whitehead 1977: 87-88.

<sup>134</sup> R. Osborne 1994: 145, examining the Panathenaic procession as presented on the Parthenon frieze, stresses the scenes’ ability ‘to accommodate all comers’, but adds that ‘there is a space for every citizen here... this is a community which is inclusive and not exclusive’. That, naturally, would only apply to the Athenians.

<sup>135</sup> Ober 2009: 194-195.

*Republic*. A public shrine to Bendis is recorded in a list dating to 429/8;<sup>136</sup> as a third-century inscription records the earlier granting τοῖς Θραιξὶ μόνοις τῶν ἄλλων ἔθνῶν τὴν ἐγκτησιν καὶ τὴν ἰδρυσιν τοῦ ἱεροῦ,<sup>137</sup> Wijma argues that they must have received *enktêsis* for the shrine before the time of the earlier inscription.<sup>138</sup> She further argues that ‘by granting them *enktêsis* the Athenians opened the door to the Thracians to be part of the community, even though they could never become full members, as citizens, by descent’.<sup>139</sup>

It can certainly be said that it gave them a connection with the polis, and a degree of recognition and honour; from a practical point of view it will have enabled the Thracians to build a permanent centre for their god, on land which belonged to them. The sanctuary presumably also served as something of a centre and gathering point for the Thracian community in Athens. This will not, however, have led to their assimilation, as even though the polis was giving them recognition, they remained visibly and notably separate; they were recognised and honoured, but as outsiders. The stressing of their difference is something which Wijma accepts, as according to the description in the *Republic* the Athenians and Thracians in the festival ‘were publicly, visibly separated. It is not the question whether the separation of the Thracians was emphasised or the communal participation; both were.’<sup>140</sup> The participation, however, involved the two groups doing different things. A particularly Thracian quality was brought out by having a horseback torch race, which as Wijma puts it ‘demonstrate[d] their ethnic identity at the gaze of the Athenians’.<sup>141</sup>

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<sup>136</sup> *IG* i<sup>3</sup> 383.

<sup>137</sup> *IG* ii<sup>2</sup> 1283.

<sup>138</sup> Wijma 2007: 3.

<sup>139</sup> Wijma 2007: 3.

<sup>140</sup> Wijma 2007: 4.

<sup>141</sup> Wijma 2007: 4.

It seems, then, that being part of the community went along with stressing their difference from the Athenians. This may have made the exhibition more palatable to Athenians who were worried about foreigners infiltrating the citizen body, or getting ideas above their station, by stressing that they fundamentally remained apart, or alternatively riled some up by showing how cosmopolitan and, in some respects, non-Athenian Athens actually was. We should not, however, neglect the Thracians' own experience of the events; for them, there is likely to have been something of a tension between a willingness to conform with and perhaps even assimilate to Athenian norms and a desire to remain connected to their roots and the wider Thracian communities outside of Athens. The festival may have been their way of negotiating this. It was not necessarily the case, however, that it was always a happy compromise.

There is evidence that other groups had similar arrangements. A decree from 333/2 gives *enktesis* to merchants from Citium in Cyprus to build a sanctuary of Aphrodite, *καθάπερ καὶ οἱ Αἰγύπτιοι τὸ τῆς Ἰσιδος ἱερὸν ἱδρύνται*.<sup>142</sup> The Citian decree was proposed by the leading Athenian statesman and orator Lycurgus, and Simms has argued that the Egyptian decree is likely to stem from the same source, and to date to shortly before our inscription, on the grounds that otherwise its terms would not have been so easily recalled.<sup>143</sup> This seems likely, though an alternative would be that the Isis sanctuary was particularly famous for some reason. At any rate, to refer to it in this way surely suggests that it was prominent and well-known at the time. Simms is on rather shakier ground when arguing that 'the grants of *enktesis* to the Citians and the Egyptians had a purely economic motive',<sup>144</sup> on the basis that they were aimed at merchants, and Lycurgus was interested in trade but not in religion other

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<sup>142</sup> *IG* ii<sup>2</sup> 337.

<sup>143</sup> Simms 1989: 218-220; Lambert 2012: 26 concurs.

<sup>144</sup> Simms 1989: 220.

than in its public, official form – ‘Lycurgus supported her [i.e. Isis]’ entrance into the Piraeus *in spite of* his interest in religious matters’.<sup>145</sup>

This does not seem to be a reasonable inference to make; we do not know what Lycurgus’ motives were, and an interest in polis religion is certainly not incompatible with an interest in other types of religious activity as well. He, and the Athenians who voted his proposal through, must have thought through the implications of what they were doing, and must, therefore, have considered how it would affect the religious landscape as well as its economic impact. This is not to suggest that there was no economic motive at all.<sup>146</sup> That the Athenians then went on to grant the same right to the Citians, however, indicates that the Egyptians’ permanent, religious presence was not seen as a problem; evidently relations between polis and community remained strong. In the later fourth and third centuries we find references in inscriptions to ‘communities’ (*koina*) of foreigners, as gathered and analysed by Baslez; these appear to have had a religious character.<sup>147</sup> There seems to have continued to be the capacity, then, for foreign groups to gain recognition in some way.

Athens was also home to one of the great Panhellenic festivals in the form of the Eleusinian Mysteries.<sup>148</sup> Participation in this would depend on the home city of a metic, and of course on whether or not they had been initiated;<sup>149</sup> it would thus serve as an opportunity to be involved on an equal basis with Athenians, yet also divide the metics between those who were part of the festival and those who were not. It would also have been a convenient and enjoyable opportunity for Greek metics to meet with fellow members of their home polis who did not

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<sup>145</sup> Simms 1989: 221.

<sup>146</sup> See Ober 2010: 171.

<sup>147</sup> Baslez 1988: 141-142, citing *IG* ii<sup>2</sup> 2946 (Sidonians, dated to 319/8), *IG* ii<sup>2</sup> 1261 (302/1, containing a reference to a community of worshippers), and examples from the third century.

<sup>148</sup> See Clinton 1994.

<sup>149</sup> It was also possible for *poieis* to be excluded if they did not obey the rules (Clinton 1994: 162-163).

live in Athens. The celebration and promotion of the Mysteries appears to have reached its height in the second quarter of the fourth century, and included the Athenian issue of a special bronze coinage for use at the festival.<sup>150</sup>

## 2.2 (d) Metics in Court

When it comes to the legal system, there is a certain pattern in the way metics were treated which is similar to the recognised, but separate and inferior, status which they appear to have had in the major Athenian festivals. The difference between them and the citizens which must have been most readily apparent was that cases in which they were concerned went through the office of the polemarch rather than the other officials, as is made clear by the *Athênaiôn Politeia*.<sup>151</sup> This is partially confirmed by Pancleon's prosecutor when, believing him to be a metic, he goes to the polemarch.<sup>152</sup> There are no clear examples, however, of a prosecution brought by a metic against a citizen being dealt with by the polemarch, although the wording of the *Athênaiôn Politeia* does not rule this out.<sup>153</sup> In any case, this was no doubt a matter of bureaucracy rather than of any great significance, as the case was passed on to a jury regardless of whether the archon or the polemarch brought it. The only disadvantage to which a metic was subject was the possibility of his prosecutor demanding that he provide sureties at this point,<sup>154</sup> again, this was an area where the richer and better connected a metic was, the less the impact this disadvantage would have. It could have been a serious blow to a poor metic.

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<sup>150</sup> Clinton 1994: 169.

<sup>151</sup> *Ath. Pol.* 58.2-3.

<sup>152</sup> *Lys.* 23.2.

<sup>153</sup> Whitehead 1977: 92. See Harrison 1968: 194; Gauthier 1972: 136-138.

<sup>154</sup> *Isoc.* 17.12.

The substance and procedure of the law did mark the metics out as lacking a certain degree of standing. There were at least some *graphai* which metics could not bring, as the formula ὁ βουλόμενος Ἀθηναίων in the cases of *graphai hubreôs* and *xenias* suggests.<sup>155</sup> In the former case, the law apparently read ἐάν τις ὑβρίζει εἰς τινα, ἢ παῖδα ἢ γυναῖκα ἢ ἄνδρα, τῶν ἐλευθέρων ἢ τῶν δούλων, ἢ παράνομόν τι ποιήσῃ εἰς τούτων τινά, γραφέσθω πρὸς τοὺς θεσμοθέτας ὁ βουλόμενος Ἀθηναίων οἷς ἕξεσθιν.<sup>156</sup>

What is particularly interesting here is that the law gives protection to all, but a penalty can be exacted only through a citizen's intervention. Even when the Athenians are granting what the speaker claims to be an exceptionally generous privilege to metics (and slaves),<sup>157</sup> their inferior status is marked out. The metic had to rely on a citizen's intervention, and in the case of this law he or she was no better off than a slave; and as Todd has suggested, in Athenian law it was procedure that took priority over substance.<sup>158</sup> The metic, deprived of the ability to initiate such a procedure himself, was here denied access to the law in his own person, even when it offered him protection. We can only speculate on how difficult it might have been to engage a citizen to act on one's behalf in such a case, and this must have varied greatly depending on who was involved. But the essential point is that metics were required to act through another. In this respect male metics were put on a level with women, since both had to rely on the intercession of an Athenian male for justice to be done. They were denied the ability to perform the archetypal masculine role of defending themselves and their *oikos* through their own action.

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<sup>155</sup> Todd 1993: 196.

<sup>156</sup> Dem. 21.47: 'If anyone should commit hubris against any child, woman, or man, whether free or slave, or do anything against the law to any one of these, whoever of the Athenians is willing and able may indict him before the thesmothetes.' Cf. Dem. 59.16.

<sup>157</sup> Dem. 21.48-49.

<sup>158</sup> Todd 1993: 64-67, 70-71.

I should also be noted that here *hubris* had the same meaning (or range of meanings) as in ‘ordinary speech’.<sup>159</sup> This gave the law a good degree of flexibility, and meant that definitions could be established and re-established by litigants and jurors. As Edward Cohen notes, in this example *hubris* itself is not actually defined in law – ‘the meaning of *hubris* in any specific legal context would depend on a decision-maker’s conclusion in that particular matter’.<sup>160</sup> This meant that any aggressive action against a person could count as *hubris*, as long as the jury was convinced.

It also opened the door for the jury to make decisions based on the status and standing of the victim. An action which was hubristic when carried out against an adult Athenian might be perfectly acceptable when committed against a child or a slave – particularly if the slave was the property of the one who carried it out. Similarly, it would have been at least conceivable, if risky, to adopt a strategy of arguing that it was acceptable to do something to a metic which admittedly would have been *hubris* if done to a citizen.<sup>161</sup> In support, one could point to the differences in legal standing which are currently being discussed.<sup>162</sup>

While metics were thus limited in the types of suit they could bring, they could, on the other hand, appear as witnesses.<sup>163</sup> A restriction on the extent of this is implied by Harpocration’s citation of Isaeus, from a speech which concerned an *apostasiou* case, ὅτι οὐχ οἴόν τε διαμαρτυρεῖν ξένους.<sup>164</sup> A *diamarturia* was a sworn statement of fact, given to object to a

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<sup>159</sup> Carey 1994: 179. See Introduction.

<sup>160</sup> E. Cohen 2007: 214.

<sup>161</sup> See sections 5.2 (b) and (c) for arguments that a different standard of behaviour was required and to be expected from naturalised, as opposed to natural born, citizens.

<sup>162</sup> There is an example of this type of thinking in Aesch. 1.195: τοὺς δὲ τῶν νέων, ὅσοι ῥαδίως ἀλίσκονται, θηρευτὰς ὄντας εἰς τοὺς ξένους καὶ τοὺς μετοίκους τρέπεσθαι κελεύετε, ἵνα μήτ’ ἐκεῖνοι τῆς προαιρέσεως ἀποστερῶνται μήθ’ ὑμεῖς βλάβησθε (‘Command those hunters of young men who can easily be taken to turn to the foreigners and metics, so that they won’t be deprived of their inclination, but you will not be harmed either’).

<sup>163</sup> E.g. Lys 22.5. See Todd 1990: 27.

<sup>164</sup> Harpocration s.v. *Diamarturia kai Diamarturein*. For the problem of what the word ‘*xenos*’ means in any given context, see section 1.4.

suit's being brought;<sup>165</sup> unfortunately we do not know which contexts Isaeus' statement applied to, or even if what he was saying was true.<sup>166</sup> If metics were, however, unable to swear a *diamarturia* then this must be another situation in which they had to find an amenable citizen to do it on their behalf; again, they were denied the agency to act on their own behalf.

There is also a suggestion that they could be subject to torture in Lysias' speech *Against Simon*, where the speaker mentions the risk of a Plataean boy (Theodotus) convicting him by information βασανιζόμενον.<sup>167</sup> This is problematic, however, because there is some confusion over the boy's status; many of the Plataeans had been naturalised at this point,<sup>168</sup> which would have given him the same rights as a citizen. If his father had not been naturalised, however, because he was not in Athens when the decree was passed in 427, Theodotus would be a metic.<sup>169</sup> Of course, his 'Plataean' identity could be fabricated, and he could be a slave (whether Plataean or not). Cohen has pointed out that the Greek can refer to a test or examination as well as to torture;<sup>170</sup> in this case, especially given the boy's youth and inexperience, it is conceivable that this is what the speaker meant, and he was merely implicitly exaggerating the ordeal which questioning would put him through. That seems something of a stretch, however, as in a courtroom context we would expect the usual, legal terminology to be understood. The answer may have been in Simon's, our speaker's opponent's, arguments – if he had claimed that Theodotus was a slave then it would have made sense for the speaker to raise torture as a possibility. In any event, the situation is too

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<sup>165</sup> MacDowell 1978: 212-219. For a 'diamarturia pot' see Wallace 2001.

<sup>166</sup> Harpocration goes on to say that, according to Hyperides, a *diamarturia* could be made by any *xenos* or *epichorios* who wished in an *aprostasiou* case; it could be that this was the exception to the rule, but we cannot know for sure. See Whitehead 1977: 95.

<sup>167</sup> Lys. 3.33: 'having been tortured'.

<sup>168</sup> See section 4.2 (b).

<sup>169</sup> E. Cohen 2000: 170 is wrong to claim that all Plataeans were naturalised; see section 4.2(b).

<sup>170</sup> Cohen 2000: 170-171.

confused for the speech to demonstrate that metics could be subject to torture. Elsewhere the use of torture is explicitly linked to slaves, with a Demosthenic speech notoriously claiming:

Ἵμεῖς τοίνυν καὶ ἰδίᾳ καὶ δημοσίᾳ βάσανον ἀκριβεστάτην πασῶν πίστεων νομίζετε, καὶ ὅπου ἂν δοῦλοι καὶ ἐλεύθεροι παραγένωνται, δέη δ' εὐρεθῆναι τὸ ζητούμενον, οὐ χρῆσθε ταῖς τῶν ἐλευθέρων μαρτυρίαις, ἀλλὰ τοὺς δούλους βασανίζοντες, οὕτω ζητεῖτε τὴν ἀλήθειαν εὐρεῖν. εἰκότως, ὧ ἄνδρες δικασταί· τῶν μὲν γὰρ μαρτυρησάντων ἤδη τινὲς οὐ τάληθῆ μαρτυρῆσαι ἔδοξαν· τῶν δὲ βασανισθέντων οὐδένες πώποτ' ἐξηλέγχθησαν, ὡς οὐκ ἀληθῆ τὰ ἐκ τῆς βασάνου εἶπον.<sup>171</sup>

This is obviously said with the intention of turning the jury against his opponent, who had refused to hand a slave over to torture; it evidently draws, however, on what were thought to be the jury's prejudices.<sup>172</sup> The justification for torture seems to be that it was fitting, usual and acceptable for slaves; the opposition is with the free, which would imply that the justification would not hold for metics.<sup>173</sup> Indeed, in Lysias 4 the speaker claims that his opponent refused to allow a woman to be tortured on the grounds that she was free, i.e. that she was a metic (if the argument had been that she was an *astê* we would have expected Lysias to say so).<sup>174</sup> Unfortunately for our understanding of the law, however, this does not prove that there was a legal impediment to torturing any free people, only that in this case it was used as a moral justification for refusing the challenge; the likelihood, however, is that it was prohibited.<sup>175</sup>

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<sup>171</sup> Dem. 30.37: 'Therefore you believe that in private and in public torture is the most accurate of all proofs, and when both slaves and free men are present, and it is necessary to find out what is being investigated, you don't use the testimony of the free men, but torture the slaves in order to discover the truth. And rightly so, men of the jury. For in the past some witnesses seem not to have sworn truthfully, whereas none of those who have been tortured have ever been convicted of not speaking the truth under torture'. Cited with discussion by MacDowell 1978: 245-246.

<sup>172</sup> E. Cohen 1994: 149, however, points out that slaves are never actually tortured in any of the cases which we have.

<sup>173</sup> Cf. Dem. 22.55, quoted in section 3.1 (c) above.

<sup>174</sup> Hunter 2000: 17 n.30. Lys. 4.12, 14.

<sup>175</sup> There are examples of foreigners being tortured, but only in unusual circumstances or as what seems to be part of the punishment – see MacDowell 1978: 247 and 274 n.562, citing Dem. 18.132-133; Aesch. 3.224; Ant. 1.20; and the anecdote reported at both Plut. *Nic.* 30.2, and *Mor.* 509b (*de Garr.* 13). In the last case, however, there is nothing to indicate that the victim is not an Athenian. None of these gives a clear indication that foreigners would have reason to fear torture under ordinary circumstances; they do, however, suggest that metics who were found guilty, or suspected of conspiring against the *polis*, could expect short shrift from the Athenian legal system.

A further sign of metics' status is to be seen in their treatment in cases of homicide. The murderer of a metic was subject to a *dikê phonou*, but in the case of a premeditated killing the court which heard the case was the Palladion; in the case of a citizen victim this would have been the Areopagus.<sup>176</sup> The substantive difference was that the Palladion, which dealt with unpremeditated killings of citizens, could only decree a punishment of exile rather than of death.<sup>177</sup> The murderer of a metic could still be punished severely, but the message was clear: the life of a citizen was of more value.<sup>178</sup> This, along with their other legal disadvantages, marked metics as lacking the equality before the law which was a key element of democracy.<sup>179</sup> As we have seen, in many areas the protection of the law extended to metics, but it did not always treat them as equals.

One area where equality was given, from c. 350 onwards,<sup>180</sup> is in the *dikai emporikai*, cases involving trade where the rules of contract seem to have been pre-eminent<sup>181</sup> – only cases where there was a written contract were permitted.<sup>182</sup> They were open to anyone trading in Athens, whether citizen, metic or non-resident foreigner, and perhaps even to slaves;<sup>183</sup> they

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<sup>176</sup> *Ath. Pol.* 57.3; Dem. 47.70.

<sup>177</sup> Dem. 23.72.

<sup>178</sup> Whitehead 1977: 93-94.

<sup>179</sup> Aeschines 1.5 linked law and democracy very closely, declaring that τὰ μὲν τῶν δημοκρατουμένων σώματα καὶ τὴν πολιτείαν οἱ νόμοι σφύζουσι ('the laws protect the constitution and the persons of those living in a democracy'); cf. Dem. 25.6 οἱ δὲ νόμοι τὸ δίκαιον καὶ τὸ καλὸν καὶ τὸ συμφέρον βούλονται, καὶ τοῦτο ζητοῦσιν, καὶ ἐπειδὴν εὔρεθῆ, κοινὸν τοῦτο πρόσταγμα ἀπεδείχθη, πᾶσιν ἴσον καὶ ὅμοιον ('the laws want what is just and good and beneficial – they seek it, and when it is found, it is appointed as a common command, equal and the same for everyone'). See Hansen 1991: 84-85.

<sup>180</sup> Todd 1993: 195, Rhodes 1981: 665.

<sup>181</sup> Lanni 2006: 161-162, followed by Ober 2010: 166, argues that the surviving speeches from such cases focus primarily on the actual terms of the contract, citing the quotation of the whole contracts at Dem. 34.7, 35.10 and 56.6. As we shall see, however, in the case of Dem. 35 this did not stop the litigant from basing his case on naked prejudice against his opponents' nation. Lanni accepts this (2006: 167) but argues that in non-*emporikai* cases involving contracts there was a far greater tendency to bring in factors outside the contract (2006: 164-167).

<sup>182</sup> Dem. 32.1.

<sup>183</sup> Lanni 2006: 154.

thus offered ‘rapid justice’ and ‘procedural equality to all free men’.<sup>184</sup> These have been seen as evidence for a more cosmopolitan, open and fair Athens, and a mercantile community ‘in which the old distinctions of citizenship and nationality were unimportant’.<sup>185</sup> But it is worth wondering why such cases were needed. Their ‘monthly’ character meant they were handled quickly, which was clearly to the benefit of merchants (especially ones not normally resident in Attica); as with giving metics access to the courts in general, there was clearly a need which was being met.<sup>186</sup> But this does not seem to have gone along with a minimisation of the importance of status in other spheres; and we might well wonder why equality was only given on this basis to cases where there was a contract.

Presumably it was because cases without a contract were likely to be far harder to resolve quickly (and indeed at all). There would also have been a substantial, built in advantage for Athenians who were disputing with foreigners in that they would usually be able to find witnesses and supporters more easily; insisting on contracts would minimise this advantage. This does not, however, mean that it ceased to exist. There is evidence that Athenian juries were perceived as having a tendency to ignore contracts if they felt the justice of the matter lay elsewhere.<sup>187</sup> We have an example of a contract case (which was not covered by the rules of the *dikai emporikai*, as it did not concern trade into or out of Athens, though it dates to 330-324,<sup>188</sup> so is contemporary with them) in Hyperides’ *Against Athenogenes*. According to the speaker,<sup>189</sup> he was tricked into assuming large debts by Athenogenes, an Egyptian perfume-seller – supposedly he desired to buy the freedom of a slave and his family, but Athenogenes persuaded him to buy them as property instead, along with the perfumery,

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<sup>184</sup> Todd 1994: 135.

<sup>185</sup> MacDowell 1978: 234.

<sup>186</sup> E. Cohen 1994: 143-144. Lanni 2006: 151 points out that they matched Xenophon’s call in the *Poroi* for swifter and fairer legal procedures for foreign merchants.

<sup>187</sup> Lanni 2006: 164, Christ 1998: 221-223.

<sup>188</sup> Whitehead 2000: 266-267.

<sup>189</sup> Possibly named Epicrates – see Whitehead 2000: 327.

which would involve taking on their (ostensibly small) debts.<sup>190</sup> As it transpired, however, one of the slaves owed large debts which had not been enumerated in the contract: τὰ δὲ πολλὰ τῶν χρεῶν καὶ τὰ μέγιστα οὐκ ἐνεγέγραπτο ἐπ' ὀνομάτων, ἀλλ' ἐν προσθήκης μέρει ὡς οὐδὲν ὄντα, 'καὶ εἴ τῳ ἄλλῳ ὀφείλει τι Μίδαος.'<sup>191</sup>

Edward Cohen has argued that this speech gives us an insight into the disadvantages of being a citizen, in the sense that one was bound by an ideology which discouraged business practice and could therefore lead to losing out, financially.<sup>192</sup> In this case, he argues, Athenogenes and his ally, a *hetaira* named Antigone, were able to exploit the speaker to their own advantage, drawing on his inexperience (and lack of interest) in business affairs.<sup>193</sup> From the Athenian viewpoint, this material disadvantage might be imperceptible – Cohen cites the famous remark of Hippocleides, οὐ φροντὶς Ἴπποκλείδῃ, after dancing away his engagement as an example of such thinking.<sup>194</sup>

The speech also demonstrates, however, how an Athenian citizen could attempt to get out of his contract by using his superior standing and playing on the jury's sympathies. Cohen accepts that the speaker is effectively creating personae here;<sup>195</sup> it is not necessarily the case that they reflect the real situation, though of course they are playing on the perceived attitudes of the jurors. The speaker describes his opponent in terms which can only really be characterised as 'overtly racist',<sup>196</sup> stating that he is ἄνθρωπον λογογράφον τε καὶ ἀγοραῖον,

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<sup>190</sup> Hyp. 3.5-7.

<sup>191</sup> Hyp. 3.10: 'Many, and the greatest, of the debts were not recorded by name, but set out in part of a supplement which seemed like nothing: "and whatever Midas might owe to anyone else".'

<sup>192</sup> E. Cohen 2002: 100. See also, however, E. Cohen 2005, in which he argues that the Athenian tax system encouraged rich citizens (and metics) to 'hide' their money by investing it in 'invisible markets', implying a rather greater understanding of business practice.

<sup>193</sup> E. Cohen 2002: 107.

<sup>194</sup> E. Cohen 2002: 107, translating 'Who gives a damn?' (Hdt. 6.129).

<sup>195</sup> E. Cohen 2002b: 107.

<sup>196</sup> Whitehead 2000: 270.

τὸ δὲ μέγιστον, Αἰγύπτιον.<sup>197</sup> This draws on stereotypes about Egyptians as cheats and liars;<sup>198</sup> the speaker actually places this above his apparently reprehensible personal roles as a logographer and ‘man of the agora’. In context, the speaker is making the point that associating with this type of man would naturally make the behaviour of his accomplice, Antigone, even worse – and he has already described her as γυναικὸς ἢ δεινότητι μὲν τῶν ἐταίρων, ὡς φασιν, ἐφ’ ἡλικίας ἐγένετο.<sup>199</sup>

The obvious strategy for Athenogenes to pursue in this case was to insist on the terms of the contract, according to which his opponent was liable for the debts which he took on. The speaker acknowledges this, saying that ἐρεῖ δὲ πρὸς ὑμᾶς αὐτίκα μάλα Ἀθηνογένης ὡς ὁ νόμος λέγει, ὅσα ἂν ἕτερος ἐτέρῳ ὁμολογήσῃ κύρια εἶναι. τά γε δίκαια, ὃ βέλτιστε: τὰ δὲ μὴ τοῦναντίον ἀπαγορεύει μὴ κύρια εἶναι.<sup>200</sup> He follows this with what seems a rather desperate collection of laws, which he claims imply that this agreement was invalid.<sup>201</sup> He then goes on to attack Athenogenes’ personal character and history;<sup>202</sup> essentially, his argument is that contracts do not hold if entered into dishonestly, and that Athenogenes was a dishonest man, and one likely to cheat someone. As Whitehead puts it, ‘it was more by dint of who he was than what he had (allegedly) done that Athenogenes could so readily be made to alienate an Athenian citizen jury’.<sup>203</sup> If the speaker can be believed, this alienation had already been

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<sup>197</sup> Hyp. 3.3: ‘A speechwriter, a man of the agora, and, above all, an Egyptian.’

<sup>198</sup> Whitehead 2000: 287. Isaac 2004: 326 cites Plato *Rep.* 435e-436a, *Laws* 747c for the Egyptians (and Phoenicians) having a reputation for avarice.

<sup>199</sup> Hyp. 3.3: ‘a woman who was the cleverest of *hetairai*, so they say, of her time’.

<sup>200</sup> Hyp. 3.13: ‘Athenogenes will immediately tell you that the law says that whatever one person agrees with another shall be valid. With fair agreements, that’s true, my friend – but with agreements that are not fair, it’s the opposite, and the law forbids that they be valid.’

<sup>201</sup> Hyp. 3.13-18. Lanni 2006: 163 argues that this demonstrates that there was no law which specifically invalidated fraudulent or unfair contracts.

<sup>202</sup> Hyp. 3.19, 29-32, 35

<sup>203</sup> Whitehead 2000: 269.

demonstrated – when the two parties were arguing over the matter in the agora the onlookers supposedly abused Athenogenes.<sup>204</sup>

The speaker must still, of course, ward off the *caveat emptor* response that he ought to have checked what the debts were, as the contract made it perfectly plain that any extra debts would have to be covered by the speaker; alternatively, Athenogenes could have argued that the speaker was well aware of them and was simply now trying to weasel his way out of paying. If the latter was the case, however, there is no anticipation or refutation of it in the speech.

In any case, the speaker takes pains to present himself as a farmer who had no interest in or knowledge of business: οὔτε μυροπώλης εἰμι οὔτ' ἄλλην τέχνην ἐργάζομαι, ἀλλ' ἄπερ ὁ πατήρ μοι ἔδωκεν χωρία ... ταῦτα γεωργῶ, πρὸς δὲ τούτων εἰς τὴν ὄνην ἐνεσείσθη. πότερα γὰρ εἰκός ἐστιν, ὃ Ἀθηνόγενες, ἐμὲ τῆς σῆς τέχνης ἐπιθυμῆσαι, ἢς οὐκ ἤμην ἔμπειρος, ἢ σε καὶ τὴν ἑταίραν τοῖς ἐμοῖς ἐπιβουλεῦσαι;<sup>205</sup> We are dealing with a presentation in which certain personae are created; the speaker casts himself as ‘a naïve farmer ripe for financial plucking’ as opposed to the cowardly but sly and ‘market-savvy’ Athenogenes.<sup>206</sup> Rather amusingly, in order to explain how this persona could fit with an apparent degree of familiarity with the laws, which he had cited at length, he had claimed to have spent his time searching through them, day and night, so afraid was he of Athenogenes’ cleverness.<sup>207</sup> This, of course, is clearly a lie, since the speech was paid for and written by a logographer,<sup>208</sup> and

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<sup>204</sup> Hyp. 3.12.

<sup>205</sup> Hyp. 3.26: ‘I am no perfume seller, and nor do I earn my living in any other trade, but by the lands which my father left me... I farm them, and I was driven into buying by these people. Which is likely, Athenogenes? That I desired your trade, of which I had no experience, or that you and the *hetaira* had designs on my property?’

<sup>206</sup> Cohen 2002b: 107.

<sup>207</sup> Hyp. 3.13.

<sup>208</sup> As we have seen, the speaker attacks Athenogenes for being a logographer while employing one himself, an ironic but common enough tactic (Carawan 2007b: xi, Mirhady 2000: 182).

was, one would think, itself quite obviously not the product of someone as supposedly foolish as the speaker.<sup>209</sup> Apparently, however, it was supposed to convince the jury, and allow him to set up an opposition between himself as a stereotypical Athenian farmer and Athenogenes as a shifty businessman, which was apparently exemplified by his being Egyptian.<sup>210</sup> Once done, he could ask the jury whether it was likelier that he, the solid, traditional Athenian, would want to enter into some trade, or if an Egyptian was up to his usual dishonest tricks.

So far, so straightforward – there were negative stereotypes about foreigners which could be drawn on by Athenians when it suited them, and these were clearly felt to be likely to hit a chord with jurors.<sup>211</sup> But there are hints that Athenogenes was not really as definitely Egyptian as we might have thought. Elsewhere in the speech he is described as ὁ ἐκ τριγωνίας ὄν μυροπώλης.<sup>212</sup> Unless the speaker was claiming some knowledge of a family background in Egypt, he presumably meant that his family had been established in Athens for that many generations.<sup>213</sup> This makes it likely that Athenogenes was born and raised in Athens, as does his name; and the fact that he could be characterised as a ‘logographer’ surely implies that he was a native Greek speaker.<sup>214</sup> People descended of immigrants would still be metics, unless they had been naturalised or managed to infiltrate the citizen body; what we might call a third or fourth generation immigrant would not, ordinarily, be an Athenian citizen, but remain a metic.<sup>215</sup> Athenogenes, then, was a ‘foreigner’ who probably spoke like an Athenian.<sup>216</sup> In

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<sup>209</sup> Whitehead 2000: 271.

<sup>210</sup> Isaac 2004: 355.

<sup>211</sup> For common stereotypes of various groups, including certain groups of Greeks, see Hodot 1992; for the representation of their language in Old Comedy see Colvin 2000.

<sup>212</sup> Hyp. 3.19: ‘being a third generation perfume seller’. Whitehead 2000: 319-320 suggests that this reflects the importance given in Athenian oratory and law to three generations, as for example in *Ath. Pol.* 55.3. Here, Whitehead argues, focusing on three generations of trading ‘is plainly designed to be prejudicial’.

<sup>213</sup> Patterson 2000: 106.

<sup>214</sup> Interestingly, in Dem. 35, another speech attacking ‘dishonest’ foreigners (see below), the non-Athenian Greek Lacritus is attacked for teaching rhetorical tricks (Dem. 35.41); see Mirhady 2000: 182.

<sup>215</sup> Whitehead 2000: 266. In Athenogenes’ case, however, even Whitehead does not seem to give enough weight to this point, describing him as an ‘immigrant... of Egyptian origin’ (Whitehead 2000: 287), and wondering

spite of this, he could be characterised as an ‘Egyptian’ apparently without qualification. As we have seen, the Egyptians seem to have been a prominent community at Athens, with their own sanctuary,<sup>217</sup> and Athenogenes presumably had connections with it. It is also possible that, as a perfume seller, he played on his ethnic origins to give his business and wares an exotic quality.

In spite of what seems to have been a long-standing connection with the Athenian people and polis, however, Hyperides and his client evidently thought it an effective strategy to attack him in racist terms, playing on what they believed to be the jurors’ prejudices. An even more blatant example of this type of appeal comes from a case which was actually related to the *dikai emporikai*. Interestingly, it is aimed against a Greek group, namely the inhabitants of Phaselis, a Greek city in what is now southern Turkey.<sup>218</sup> In the Demosthenic *Against Lacritus* our speaker begins his speech with a tirade against these people, the group of which his opponent was a part:

Οὐδὲν καινὸν διαπράττονται οἱ Φασηλιῖται, ὧς ἄνδρες δικασταί, ἀλλ’ ἅπερ εἰώθασιν. οὗτοι γὰρ δεινότατοι μὲν εἰσιν δανείσασθαι χρήματα ἐν τῷ ἐμπορίῳ, ἐπειδὴν δὲ λάβωσιν καὶ συγγραφὴν συγγράψονται ναυτικὴν, εὐθύς ἐπελάθοντο καὶ τῶν συγγραφῶν καὶ τῶν νόμων καὶ ὅτι δεῖ ἀποδοῦναι αὐτοὺς ἃ ἔλαβον, καὶ οἴονται, ἐὰν ἀποδῶσιν, ὥσπερ τῶν ἰδίων τι τῶν ἑαυτῶν ἀπολωλεκένοι, ἀλλ’ ἀντὶ τοῦ ἀποδοῦναι σοφίσματα εὐρίσκουσιν καὶ παραγραφὰς καὶ προφάσεις, καὶ εἰσὶν πονηρότατοι ἀνθρώπων καὶ ἀδικώτατοι. τεκμήριον δὲ τούτου· πολλῶν γὰρ ἀφικνουμένων εἰς τὸ ὑμέτερον ἐμπόριον καὶ Ἑλλήνων καὶ βαρβάρων, πλείους δίκαι εἰσὶν ἐκάστοτε αὐτῶν τῶν Φασηλιτῶν ἢ τῶν ἄλλων ἀπάντων. οὗτοι μὲν οὖν τοιοῦτοί εἰσιν.<sup>219</sup>

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how he might have ‘acquired’ his name, noting that his ‘actual ethnic origin’ would have been open to visual assessment by the jurors (Whitehead 2000: 287).

<sup>216</sup> And for all we know may have had some Greek ancestry as well – there is no particular reason to suppose that both his parents were Egyptian.

<sup>217</sup> See section 2.2 (c).

<sup>218</sup> BNP s.v. Phaselis.

<sup>219</sup> Dem. 35.1-2: ‘The Phaselites are doing nothing new, men of the jury, but exactly what they usually do. For they are the most skilled at borrowing money in the exchange, but when they get it and have signed a written maritime contract they immediately forget about contracts, and the laws, and that they should pay back what they have received – they think that if they pay something back it’s as though they have lost some of their own private property, so instead of paying it back they come up with cunning and dishonest tricks, counterpleas and false pretexts. They are the most villainous and criminal of men. There’s proof of this – many come to your

This, to reiterate, is how our speaker opens his case – a naked appeal to the jurors to indulge in prejudice. Interestingly, the fact that he feels he has to ‘prove’ that the Phaselites are so dishonest implies that actually this was not a group that had a particularly bad reputation; nevertheless, the speaker was evidently confident that there was enough there for him to work with. In this case, unlike the Athenogenes speech, the speaker is arguing for what he presents as a strict interpretation of the contract; his point is that the Phaselites are notorious for ignoring them when it is to their advantage. It is not, then, simply a matter of drawing on anti-trading prejudice (given the fact that the speaker was a money-lender this would hardly have been an unproblematic strategy), but rather of attacking the honesty and trustworthiness of individuals, and in this case of an entire group. MacDowell minimises the importance of this, comparing the speaker’s words to the way ‘the English sometimes say rude things about the Welsh or vice versa’.<sup>220</sup> If this were a comic play, he might have a point; but to make such statements in a law court, especially as the introduction to a case, surely indicates that there was a greater significance.

This material indicates that even when the law was deliberately designed to treat metics (and other foreigners) equally with citizens, Athenians still found ways to take advantage of their privileged status by bringing in arguments based on prejudice and the difference of their opponents. They also evidently had no particular desire to extend legal equality beyond mercantile cases (where there was a pressing need for it), or limit the jury’s scope in other types of case to the rules of contract alone.<sup>221</sup>

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exchange, both Greeks and barbarians, yet each time there are court cases the Phaselites have more of them than all the others.’

<sup>220</sup> MacDowell 1978: 234.

<sup>221</sup> Lanni 2006: 173-174.

## 2.3 Social and Economic Integration

It remains to examine what we might call the everyday integration of metics into Athenian society. A crucial element of this is the economic aspect; as metics could not ordinarily own land they will have to have laboured or traded for a living, or lived as a tenant farmer and paid rent to an Athenian landlord.<sup>222</sup> The nature of the evidence I have examined so far, which essentially derives largely from forensic oratory, naturally leads us to look at legal matters and ideological attitudes towards status. How these differences added up to form a theoretical and practical barrier between citizens and metics, and the extent to which it could actually be policed, will be discussed in chapters three and four. The everyday aspect, however, is rather different.

As Cohen and especially Vlassopoulos have demonstrated in recent years, there were many aspects of daily life that were untouched by any of the formal restrictions and obligations under which metics lived. There were also alternative, non-official forums for interaction such as the working, trading and gossiping space that was the agora, or the cosmopolitan Piraeus. Vlassopoulos has pointed out that even at a political level matters were not merely carried out through the formal institutions – Dinarchus says of Demosthenes that περιῶν οὔτος κατὰ τὴν ἀγορὰν ἐλογοποιεῖ καὶ τῶν πραττομένων εἰσεποιεῖ κοινωνὸν αὐτόν,<sup>223</sup> and Aeschines rhetorically asked what Demosthenes would have done had he gone against the

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<sup>222</sup> That some metics did the latter is indicated by *IG* ii<sup>2</sup> 10, which records foreigners who fought for Athens in the civil war – some five individuals are listed as farmers. Some scholars, however, seem to have simply assumed that tenant farming could not take place – Gauthier 1972: 115, for example, asserted that the restriction on land-ownership ‘condemned’ the metics to pursue crafts or trades. Németh 2001: 335-336, looking at sixth- and fifth-century evidence, found no record of metics working in agriculture, however.

<sup>223</sup> *Din.* 1.32: ‘Going about the agora he made speeches and thrust himself into the projects as a partner.’

wishes of the people: οὐκ ἐνέπλησας βοῆς καὶ κραυγῆς τὴν ἀγορὰν [;]<sup>224</sup> This sort of public interaction could involve anyone in Athens, though we cannot know how a known metic's getting involved would have gone down. It is true that here such behaviour is being criticised, but that does not mean that it was not common or effective.

We can also see the importance of places like the *koureia*, the barber shops such as the one παρὰ τοὺς Ἑρμᾶς, οἱ Δεκελειεῖς προσφοιτῶσιν<sup>225</sup> where Pancleon's opponent went to ascertain if he was really a demesman of Decelea; in the same speech he is advised to go εἰς τὸν χλωρὸν τυρὸν τῆ ἔνη καὶ νέα: ταύτη γὰρ τῆ ἡμέρα τοῦ μηνὸς ἐκάστου ἐκεῖσε συλλέγεσθαι τοὺς Πλαταιέας.<sup>226</sup> Our evidence only affords us glimpses of these places and the people who frequented them, but we should not forget the unofficial support networks which they represented. Metic communities might have lacked official recognition in that they had no formal equivalent to the deme structures, but there was nothing to stop them from gathering informally but regularly. The example of the Plataeans is a good one – large numbers had been naturalised early in the Peloponnesian War, and distributed among the demes, so as a single community they were not recognised as a formal group within the polis.<sup>227</sup> Evidently, however, they kept a community going in spite of this. Its unofficial quality may well have enabled it to cut across the citizen-metic divide in that those Plataeans who had not been naturalised, having moved to Athens after the passing of the relevant decree, could still attend these informal gatherings. Other groups must have had similar arrangements, as well as in some cases more official ones – there were the religious centres, and if metics originating in other Greek *poleis* wished to continue to have some claim to

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<sup>224</sup> Aeschines 2.86: 'Would you not have filled the agora with your shouts and screams?' Vlassopoulos 2007: 40.

<sup>225</sup> Lys. 23.3: 'by the Herms, which the Deceleans frequent.'

<sup>226</sup> Lys. 23.6: 'to the fresh cheese market on the last day of the month, for on that day of each month the Plataeans gather there.' Cf. Plutarch's comments on the general notoriety of barbers and their shops as places for talking in *Mor.* 509b = *de Garr.* 13.

<sup>227</sup> Discussed in detail in section 4.2 (b).

citizenship there they may have operated their own, small scale initiations and rites of passage in Athens. The difficulty is that evidence of such things would not have survived in our sources.

We do, then, have hints that metics operated networks as an alternative to the Athenian ones, about which we are relatively well informed. It is not safe to conclude, then, as does Patterson, that the typical metic was isolated and unsupported because they lacked access to the tribe and deme.<sup>228</sup> The extent to which we suppose metics and Athenians were integrated into *shared* networks depends on our conception of Athenian society and its economy in general at the time. The economic debate has essentially focused on whether Athens was a ‘primitive’ economy, in which custom and social status largely determined economic relations such as contracts, prices and wages, and a ‘modernist’ view which sees supply and demand as the vital factors; as Cohen has observed, the persistent strength of these two approaches was demonstrated by the appearance of two ‘voluminous but seemingly contradictory interpretations of Athenian credit’, in the form of books by Millett and Cohen himself at the beginning of the 1990s.<sup>229</sup> One view is that Athens in the classical period saw a transition between the two; Vélissaropoulos-Karakostas has interpreted the metics, inasmuch as they constituted part of the ‘new poor’ of the fourth century, as a key factor in this. Since they lacked ties with each other and the citizens, there was a need for ‘real contracts’ to replace the trust-based relations between citizens of an earlier time.<sup>230</sup> Such arguments had already received short shrift from Edward Cohen, who described the idea of an ‘evolutionary pattern’ from status to contract as ‘irrelevant and unconfirmable’, since the evidence for

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<sup>228</sup> Patterson 2000: 101.

<sup>229</sup> Cohen 2002a: 1 with n.4, referring to Millett 1991 and Cohen 1992. The classic primitivist text is Finley’s *The Ancient Economy*, which Edward Harris amusingly and rather dramatically described as having cast a ‘dark shadow’ over subsequent interpretations at the *Beyond Self-Sufficiency* conference in Durham in 2011. Akrigg 2007: 36 described the primitivist-modernist debate as a ‘sterile argument’, though it seems to me to have produced a significant amount of interesting work.

<sup>230</sup> Vélissaropoulos-Karakostas 2002: 132-134.

contracts prior to the fourth century is so slim.<sup>231</sup> This seems a fair point – we should not simply assume that things were radically different in the fifth century. At any rate, there is still plenty of evidence suggesting that status remained conceptually very important in the fourth century,<sup>232</sup> and in the Athenian legal system a jury’s conception of events and personalities was clearly of vital importance.

If the primitivist view is correct, the metics, and particularly those who were first generation immigrants, would suffer because they lacked the bonds that connected citizens to each other. This would be a far less significant problem if the modernists are right. It is beyond the scope of this chapter to enter into all the aspects of this debate, but it will be useful to discuss briefly its relevance to the agora, where economic relations would have been most visible and had the most direct impact on metics. Millett has argued that the ‘established price’ (*kathestêkuia timê*) of grain attested by Demosthenes<sup>233</sup> shows that while that particular commodity was evidently subject to supply issues, the Athenians thought of prices as essentially customary.<sup>234</sup> He also pointed to the Athenians’ habit of gathering in certain places in the agora.<sup>235</sup> He also stressed the importance of personal relations between traders and their customers, as shown in Theophrastus’ *Characters*, when the ‘shameless’ man reminds his butcher of the favours he has done him in the past, and when the ‘rustic’ knows from which trader he will buy his produce.<sup>236</sup>

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<sup>231</sup> E. Cohen 1994: 142.

<sup>232</sup> Todd 1994: 135 argues that, if anything, status seems to have become *more* important in the fourth century.

<sup>233</sup> Dem. 34.39.

<sup>234</sup> Millett 2002 [1990]: 193.

<sup>235</sup> In Lys. 24.20 we hear that ἕκαστος γὰρ ὑμῶν εἴθισται προσφοιτᾶν ὁ μὲν πρὸς μυροπόλιον, ὁ δὲ πρὸς κουρεῖον, ὁ δὲ πρὸς σκυτοτομεῖον, ὁ δ’ ὅποι ἂν τύχη, καὶ πλείστοι μὲν ὡς τοὺς ἐγγυτάτω τῆς ἀγορᾶς κατασκευασμένους... ἅπαντες γὰρ εἴθισθε προσφοιτᾶν καὶ διατρίβειν ἅμοῦ γέ που. (‘for each of you is accustomed to visit a regular haunt, one to a perfume shop, one to a barber’s, one to a shoemaker’s, or wherever he happens to go, and in most cases to the ones which have been set up nearest the agora... for you are all accustomed to visit regularly and spend time somewhere’). Millett 2002 [1990]: 190-191, also citing Xen. *Mem.* 4.2.1.

<sup>236</sup> Theophrastus *Char.* 9.4, 4.14; Millett 2002 [1990]: 190-191.

Harris argued against Millett's interpretations and conclusions, gathering a substantial body of evidence for price fluctuation and awareness of supply and demand,<sup>237</sup> and that a personal relationship between a trader and his or customers is nothing more than good business practice.<sup>238</sup> I would add that any examples drawn from Theophrastus must be seen in context; he is describing behaviour that in some sense is seen as deviant or reprehensible, particularly in the case of the 'shameless' man, so it would be unwise to extrapolate a general tendency from his sketches. Millett's conclusion regarding the 'rustic' is also suspect, since just before he decides to go to his usual trader he is described as asking the passers-by what price items are selling for.<sup>239</sup> The joke is presumably based on the contradictory nature of his actions.

In spite of Harris' objections, however, it is reasonable to say that there is evidence for Athenians making use of personal ties in the agora, gathering at certain places and favouring certain shops over others; indeed it would be rather surprising were that not the case. The immigrant metic trader setting up his business must therefore have been at a certain disadvantage when compared to his citizen counterparts; but he was also disadvantaged as opposed to established metics. An example of such an established trader, as we have seen, was Athenogenes; and, at least according to the story as presented by his opponent, he was only in a position to fool the speaker because he trusted him enough to sign an agreement without, quite literally, reading the small print.<sup>240</sup> If the metic had not been an accepted part of the Athenian agora he would not have had the opportunity to make such deals.

Established metics, then, will have had friends and acquaintances, both citizens and foreigners, with whom they did business, and could come to for help; in the cases of at least

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<sup>237</sup> E.g. Ar. *Peace* 1198-1202, 1212-1213; *Knights* 644-645; Xen. *Poroi* 4.6. Harris 2002: 76-77.

<sup>238</sup> Harris 2002: 87 n.12.

<sup>239</sup> Theophrastus *Char.* 4.12.

<sup>240</sup> Hyp. 3.10-11.

some metic communities, such as the Egyptians, there were religious sanctuaries which could perhaps serve as centres for support and making contacts. If they were born and raised in Attica they will have had personal experiences of their home area which even Athenians from other demes will have lacked. Robin Osborne has recently written on the physical locality of the demes Rhamnous and Thorikos, arguing that they affected their citizen inhabitants' experience of what Athens was, and their relation to it, as well as having a strong influence on their experience of the *astu* when they visited it.<sup>241</sup> Their inhabitants will have had a different conception of what Attica, as a homeland, was like.

The same will have applied to Athenian-raised metics; even though they were not Athenians, and were not therefore included in many of the local, deme-based institutions, they will have had a connection with and particular conception of their home area. They would naturally be more familiar and at home there than Athenian citizens who were merely visiting. Since a significant number of metics, because of the nature of their work, are likely to have lived in the town or the Piraeus,<sup>242</sup> this will have created a situation in which metics could have felt more connection to the most important and prominent parts of the polis than many Athenians did themselves. Indeed, in many respects the Athenian inhabitants of the city demes and Piraeus will have had more in common with metics raised in the same area than with Athenian citizens from other areas. As we have seen, however, the defining features of the metic seem to have involved a great deal of marking the metics out as different from citizens; while there will have been much in common between them, the polis system ensured that there were also differences, which were particularly noticeable on a symbolic level.

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<sup>241</sup> R. Osborne 2011. Thorikos was a deme with a rich history, apparently one of Athens' original towns, and was an important site in the silver mining industry (2011: 29-32); Rhamnous was dominated by its fort and the military (2011: 32). When they went to the city itself, the Thorikans will have been surprised by its scale and busyness (2011: 36), whereas the Rhamnousians will have found the absence of a military presence surprising (2011: 36-37).

<sup>242</sup> Whitehead 1986a: 82-85 demonstrates that of metics recorded with *oikôn en* formulas, c.60% lived in Athens or its suburbs, and c.20% in the Piraeus.

An example of what appears to be an integrated community is to be found in Plato's dialogues, and most notably in the *Republic*, which is set in the house of the wealthy metic family of Cephalus and Polemarchus, the father and brother of Lysias; the relations between the group seem to be those of equals, with no social differentiation to be seen.<sup>243</sup> It is notable, however, that in spite of this setting, the subject of metics as immigrants and non-natives is not dealt with when describing the ideal polis;<sup>244</sup> their most memorable appearance in the main body of the dialogue is when Socrates complains that in the democratic city they will feel themselves to be equal to the *astoi*.<sup>245</sup> Németh notes that on this occasion it seems as if Plato has simply forgotten the dialogue's setting, and argues that this demonstrates that 'the metics were, as a social group, treated with the contempt reserved for all non-citizens'.<sup>246</sup> Similarly, in the *Laws* Plato was keen to stress the importance of keeping the metics apart from the citizens, restricting them to working in trades and preventing long-standing communities from developing, or individuals 'putting down roots'<sup>247</sup> by limiting the amount of time they could spend in the polis to twenty years.<sup>248</sup> He also seems to have been worried about foreign visitors' having a corrupting effect on the citizens.<sup>249</sup> It would seem that, when conceived of as a group, the metics were seen as problematic by Plato.

The strong relationships which he depicts between Socrates and certain metics, however, are illustrative of the fact that, irrespective of what one's opinions might be about foreigners or

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<sup>243</sup> E. Cohen 2000: 21.

<sup>244</sup> This could be explained as a result of the *ideal* nature of the polis, or the fact that it is a macrocosm of the ideal soul, in which there is no equivalent to the metic (Plato *Rep.* 368d-e). The presence of intelligent, educated metics could be due to Socrates' acceptance that fine qualities can be present in individuals of any origin (see Richter 2011: 22-23, 30-31, citing *Meno*; he also notes, however (p.39) that at *Rep.* 470b-c Socrates accepts a natural difference between Greeks and barbarians).

<sup>245</sup> Plato *Rep.* 562e-563a. Whitehead 1977: 129.

<sup>246</sup> Németh 2001: 331.

<sup>247</sup> Patterson 2000: 100.

<sup>248</sup> See Whitehead 1977: 129-135.

<sup>249</sup> Isaac 2004: 240-241.

outsiders in the abstract or in general, it was still possible and natural to form close, friendly relationships with individuals – particularly with those of one’s own social class and level of education. That such ties could and did exist, however, does not negate the impact which the material disadvantages and ideological connotations which went with being a metic could have on other relationships. Nor, as Plato’s characters’ remarks on the inferiority of metics demonstrate, did they mean that a strong personal relationship with one or more metics automatically went along with a similar opinion about metics in general.

## 2.4 Conclusions

The evidence examined in this chapter has demonstrated that the legal requirements and markers of metic status were not especially onerous, but they did place metics in situations and relationships which were undesirable, and put them at risk of suffering very serious consequences if they did not comply with them. The system therefore does not seem particularly likely to have been designed to humiliate or denigrate metics as such – even though that was probably often a consequence of the *metoikion* system, due to the power which it gave to the tax collectors – but rather to stress that they remained inferior to the citizens and, perhaps even more importantly, separate from them: the overriding concern was with establishing a clear difference between citizens and metics. The penalties for transgression were so extreme, presumably, to act as a deterrent and to make the point that attempting to cross the boundary between citizen and metic was unacceptable.<sup>250</sup>

It is difficult to reconstruct the metic experience of all this. The restrictions and obligations under which they were placed tended towards depriving the male metics, at least

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<sup>250</sup> Hunter 2000: 18-19.

symbolically, of autonomy and masculine agency. Females, on the other hand, had a certain degree of legal ‘personality’, albeit through having to pay a tax, which was denied their citizen counterparts. This meant that the difference between male and female metics could be seen as less ‘clear cut’ than that between male and female Athenians.<sup>251</sup> We should not suppose, however, that these unusual and transgressive positions came to dominate or define their lives in a simple way. They still had the option to conform with standard social norms in their private lives and within their own communities. If anything, their inferior and undesirable situation in the public sphere might have encouraged overcompensation outside of it – Foxhall points out that “subaltern” males virtually always collude with the ideals of hegemonic masculinity at least in the suppression of women’.<sup>252</sup> Similarly, while metics were denied a role in polis decision-making and competition, they could make up for this lack within their own associations or through the channels that were open to them, such as success in business.

As to the question of metic integration into the polis, it can and has been argued that the formal restrictions were not matched by reality. Edward Cohen, for example, has argued that there is a difference in this case between tradition, in which citizen difference and superiority were seen as very important, and practice, in which they were becoming increasingly irrelevant – the legal measures and restrictions were ways of negotiating between these two poles.<sup>253</sup> This, however, seems to ignore the real consequences that went along with them. In a personal crisis, such as a court case, there were evidently prejudices which could be played on to the metic’s disadvantage. The nature of these would vary with the group, of course; and their impact would depend on the individual metic’s situation. Patterson has argued that

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<sup>251</sup> Todd 1997: 114-115.

<sup>252</sup> Foxhall 1998: 5.

<sup>253</sup> E. Cohen 1994: 142. See also Foxhall 1996 for the incomplete, though still important, role which law had in the social sphere at Athens.

typically, the metic would be isolated and lack support, particularly in court situations. She pointed to the metic corn dealers of Lysias 22, who are presented as ‘the enemy within’.<sup>254</sup> But is always dangerous to look only at one side of an argument; we do not know what kind of support they may have had. The point is that this would vary; a metic could be isolated and unimportant or honoured and have powerful connections in Athens. As we have seen, however, their status as inferiors to the Athenian citizens was reinforced in many symbolic ways, regardless of how prosperous and well-connected they might have been. The attitudes which these reflect, and which were played on in court, cannot but have had effects in everyday life as well. Thus a metic might live his or her life ordinarily enough, but there was always the potential for their status to be held against them, whether with materially significant consequences or merely emotional ones. The Athenian social system cannot but have affected their self-esteem, as well as their material prosperity.

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<sup>254</sup> Patterson 2000: 104-105.

### CHAPTER THREE: THE BOUNDARY IN THEORY – AUTOCHTHONY

In this chapter I shall turn to the theoretical basis for the division between citizen and metic, which explained and legitimised the erection and maintenance of the boundary between them; in the next chapter I will examine how this boundary was enacted in the real polis, through the laws which aimed at keeping the Athenian citizen body pure and the measures taken both to encourage compliance with them and deal with the uncomfortable fact that they were often ineffective or ignored.

This theoretical boundary was rooted in what the Athenians believed – or at least professed to believe – about their origins. They claimed to be autochthonous, i.e. that they were the pure-bred descendants of people born of the earth of Attica itself. This, at least, was the official, or public, version which was expressed most noticeably in the genre of the funeral oration. The purity of the group was supposed to be maintained by citizenship laws which, after 451/450, limited Athenian citizenship to those born of two Athenian parents; the earth-born origin was established by myth and reiterated by oratorical performance. It also featured in tragedy, as best preserved in Euripides' *Ion*.<sup>1</sup> In that play, Erechthonius is said by his granddaughter to have 'grown from the earth' (ἐκ γῆς... ἔβλασταν),<sup>2</sup> and references are made to autochthony and its noble connotations.<sup>3</sup>

I shall begin this chapter by discussing the myth and the reasons for its apparent popularity; then I shall examine its performance in the public ritual of the funeral oration; then the concept's exploration by Euripides in his *Ion*; and finally the critical treatment of the myth

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<sup>1</sup> See also Calame 2011 on autochthony and Euripides' fragmentary *Erechtheus*.

<sup>2</sup> Eur. *Ion* 267-268.

<sup>3</sup> E.g. 589-590, 737. See section 3.3 (a) below.

and its attendant ideology by Herodotus, Thucydides and most importantly Plato in his *Menexenus*.

### 3.1 Autochthony as Myth and Theory

The idea of autochthony appears to have developed during the fifth century,<sup>4</sup> and was not universally accepted. Both Thucydides and Herodotus suggested alternatives, and as Rosivach suggests, there are hints that the ordinary Athenians of that time may not have bought into it; in the *Knights*, for example, when Cleon calls Demos *Erechtheidê* he has no idea what he is talking about.<sup>5</sup> The earth-born element, which became very important, may not have come to predominate until the fourth century.<sup>6</sup> The actual events which took place in democratic Athens also appear to contradict at least the notion of Athenian purity, if not origin;<sup>7</sup> there were times when the citizenship laws appear to have been relaxed or disregarded and some individuals acknowledged that they were imperfect and inadequate, as will be discussed in the next chapter.

Turning first to the myth itself, one important question is why the Athenians believed (or professed to believe) it; or to put it another way, what benefit, if any, did it bring them?<sup>8</sup> Scholars have made various suggestions, such as that it gave them a greater age and thus nobility than other peoples.<sup>9</sup> Two of the most important explanations appear to be that it gave them a sense of unity and equality<sup>10</sup> – if all had a common descent, all were in a sense equal,

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<sup>4</sup> See Blok 2009a and 2009c.

<sup>5</sup> Rosivach 1987: 296, Ar. *Knights* 1015-1022.

<sup>6</sup> Blok 2009c: 251-252.

<sup>7</sup> Richter 2011: 26-27.

<sup>8</sup> On the various 'theories of myth' see P. Cohen 1969; on methods of understanding 'cultural representations' see Sperber 1993; on Greek 'belief' in myths see Veyne 1988.

<sup>9</sup> Rosivach 1987: 302-303.

<sup>10</sup> Loraux 1986: 277-278.

and had a share in *eugeneia*<sup>11</sup> – and that it served as an effective way of distinguishing them from non-citizens, who would always lack it. It could also distract from and mask uncomfortable truths about individual Athenians’ origins,<sup>12</sup> which as the next chapter will demonstrate were numerous and hard to avoid. It thus raised the Athenians above, and kept them separate from, others on an ideological level, just as the restrictions on metics did. This myth-based ideology, however, applied both to those foreigners who lived elsewhere, and were mostly experienced in the imagination of Athenians, and those who were encountered regularly in real life: metics and slaves.

Where Athenian women fit into this has been a disputed question. For Loraux, autochthony excluded them – ‘there *were* no female citizens, only Athenian women who were daughters and wives of citizens’<sup>13</sup> – whereas others have seen it as giving them a stronger identity as citizens, since they too were part of the exclusive descent group and, after 451, an Athenian was not supposed to be a citizen unless his mother was as well. Women thus acquired an important role, through reproduction, in the creation of the racial citizen group; they had a place in the concept of even male citizenship, albeit as an unintended consequence of mythmaking and legislation that was aimed at a different goal.<sup>14</sup> This role is not elaborated on in the treatments of the myth contained in the funeral orations, where Athenian citizen identity remains closely connected to classically male and military ideals. When it comes to tragedy, there is a more nuanced picture; Calame has pointed to the key role played by women in the myth of Praxithea as presented by Euripides in his *Erechtheus*, who urged her husband (Erechtheus) to sacrifice their daughter for the sake of the city’s victory.<sup>15</sup> This, he

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<sup>11</sup> Richter 2011: 25. Sissa 2009: 108 describes it and its iteration via the funeral oration as ‘a gentrification of the crowd’.

<sup>12</sup> Connor 1994: 38.

<sup>13</sup> Loraux 2000: 25. Sissa 2009: 109 agrees that being born from the soil ‘bypasses the feminine body’.

<sup>14</sup> Lape 2010: 112.

<sup>15</sup> Calame 2011: 3-4.

argues, makes autochthony ‘also a woman’s concern’, and the sacrificed daughter ‘replaces the son who gives his life for Athens by dying a heroic death’, her mother saying to the citizens *χρήσθ’, ὧ πολῖται, τοῖς ἐμοῖς λοχεύμασιν, / σφύζεσθε, νικάτ’*.<sup>16</sup> Euripides’ *Ion* also involves women, with Creousa treated as an object of wonder by Ion due to her noble Athenian origin.<sup>17</sup> In any case, the fact that the dominant citizen ideology which we can see in our sources is largely masculine does not mean that alternative models were not available, or that a female conception of Athenian identity did not exist. On the contrary, there were ample opportunities for such ideas to develop and be enacted, particularly in the religious field. Unfortunately, we can only partially reconstruct them.<sup>18</sup>

Lape’s analysis of the Athenians’ ‘racial’ citizenship suggests that autochthony and the racial concept of citizenship which accompanied it served the purpose of justifying citizen privilege – it ‘provided a rationale for pre-existing practices and norms’.<sup>19</sup> It could also be used to justify the actions of the Athenians, for example when it came to their imperial policy; as autochthones, the Athenians were unique and favoured by the gods, which could justify their ruling other peoples.<sup>20</sup> Autochthony thus had an intellectual and emotional effect, easing the anxieties that Athenian citizens might have about their place in the polis and the wider world, and the morality of their actions. As an explanation this seems persuasive, but certainly does not rule out or replace the idea that it boosted unity and excluded others; on the contrary, the explanations seem complementary. The justification of Athenian citizen privilege could not

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<sup>16</sup> Calame 2011: 15-16, Eur. fr. 360.50-51 (Nauck): ‘Citizens, use my children, save yourselves, be victorious’.

<sup>17</sup> Eur. *Ion* 261-263. The characters in that play also accept the part that women play in genetics, as Creousa refers (without being challenged) to the ‘mingling’ of seed (*παίδων ὅπως νῶιν σπέρμα συγκραθήσεται*, Eur. *Ion* 406). For Lape, this ‘characterizes her as subscribing to the view of inheritance implied by the norms of Athenian citizenship’ (Lape 2010: 115), since the idea of purity of descent on both the father’s and the mother’s side implied some input from the female. The plot of the play, however, requires this view to be held, as without it Ion would not have a genetic connection to Athens, as he is Apollo’s son. The view that the male only had any input was also at least feasible, and was expressed by Apollo in Aeschylus’ *Eumenides* and by Anaxagoras and others (Lee 1997: 203, Aesch. *Eum.* 657-666).

<sup>18</sup> See section 1.2 and e.g. Patterson 1986, D. Cohen 2005, Borgers 2008.

<sup>19</sup> Lape 2010: 4.

<sup>20</sup> Lape 2010: 18-19.

happen if it was not also clear that the others were being excluded from something. Lape's explanation does, however, allow for a broader conception of the polis than would Loraux's; the Athenians are justifying their superior position within a community which in some sense at least involves the 'outsiders', whereas Loraux's argument would suggest that they were totally excluded. There was no need to justify privilege at all, as the outsiders were simply irrelevant.

So whichever view we prefer, autochthony was a myth which had a strong exclusionary element. It also took its place in the repeated, public iteration of Athenian ideals which was the funeral oration; it was presented, publicly, as the official origin story of Athens, and as one of the things that made Athens and the Athenian *dêmos* special and worthy of praise.

### **3.2 (a) Performing Autochthony – the Funeral Oration and its Context**

We have six examples of funeral orations from classical Athens: the ones I will be examining are those of Lysias, Demosthenes and Hyperides, plus Thucydides' version of one delivered by Pericles and Plato's *Menexenus*.<sup>21</sup> The latter is a dialogue which contains a funeral oration recited from memory by Socrates, but which was composed, according to Plato's conceit, by Aspasia for delivery by Pericles. Hyperides' oration was delivered in 322,<sup>22</sup> and its authenticity is not in doubt;<sup>23</sup> it is, however, fragmentary since it survives on a partially damaged papyrus roll.<sup>24</sup>

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<sup>21</sup> The other comprises short fragments of a funeral oration written by the sophist Gorgias, which may well have been written as a demonstration rather than delivered during an actual funeral ceremony (Herrman 2004: 23); in any case, the fragments which we have do not touch on ideas of Athenian identity, even though one of the themes of the speech was apparently the need for Greek unity (Herrman 2004: 23 n.3). See Philostratus, *Lives of the Sophists* 1.9 (493).

<sup>22</sup> Worthington 1999: 30, 34.

<sup>23</sup> Loraux 1986: 9.

<sup>24</sup> Herrman 2004: 78.

Demosthenes' oration was supposedly delivered in 338 after the battle of Chaeronea, but its authenticity has been doubted. We know that Demosthenes did deliver a funeral oration on that occasion, as he refers to his being chosen in his speech *On the Crown*,<sup>25</sup> but it has been suggested that what we have is a 'poor imitation', since 'it is certainly a very disjointed and rambling speech, and one unworthy of Demosthenes for such a sober and important occasion'.<sup>26</sup> Quality will always have some bearing on whether a text is deemed authentic, but in this case it does not, alone, seem a good enough reason to reject it, and in other respects there is no proof of forgery.<sup>27</sup> While other speeches in the corpus could be genuine products of the fourth century even if mistakenly ascribed to Demosthenes,<sup>28</sup> if the orator did not write this one it must be a later forgery; yet there are no anachronisms.<sup>29</sup> Worthington has raised the possibility that certain passages might have a particular resonance with Demosthenes' own background and policy,<sup>30</sup> though of course a knowledgeable imitator could have added them himself. The key point, however, and one made in particular by Loraux, is that given the 'constraints of a formal genre' we should not expect funeral speeches to conform to an orator's usual style.<sup>31</sup> We do not, therefore, have good reason to reject its authenticity.

The same would apply to objections made against the authenticity of Lysias' funeral speech on stylistic grounds. Doubts were expressed in the nineteenth century, using what Loraux calls 'arguments so feeble that they invalidated the thesis they sought to establish',<sup>32</sup> though

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<sup>25</sup> Dem. 18.285.

<sup>26</sup> Worthington 1999: 35.

<sup>27</sup> Herrman 2004: 63 n.2.

<sup>28</sup> As, for example, are the speeches delivered by Apollodorus, with the probable exception of Dem. 45 – see section 5.1 (c).

<sup>29</sup> Worthington 2003:154.

<sup>30</sup> Worthington 2003: 154-156.

<sup>31</sup> Loraux 1986: 10.

<sup>32</sup> Loraux 1986: 91.

others have found objections more persuasive.<sup>33</sup> Todd has noted a positive reason to believe Lysias was behind it in the reference it makes to the dead *xenoi* who fought for Athens, something which no other extant example of the genre does; this would fit well with Lysias' metic status and background.<sup>34</sup> It thus seems likely that the speech is correctly attributed. Lysias, however, being a metic, cannot have delivered the speech himself. It is true, as Frangeskou points out, that 'we have no clear evidence that metics were barred from this duty',<sup>35</sup> but it still seems fundamentally unlikely that such an important and citizen-focused role would be given to a foreigner.<sup>36</sup> If the idea was unthinkable, we would not expect to find any specific prohibition.

In the case of Lysias, this general point is compounded by the text of the speech itself, in which there is no hint that the man delivering it (as opposed to writing it) was an outsider; indeed, the speaker specifically refers to the Athenians of former generations as 'our ancestors'.<sup>37</sup> If we accept its attribution to Lysias we must then suppose either that it was written for delivery by someone else, or that it was written as a model, exercise or pamphlet. Herrman is happy to conclude that it was never delivered because, speechwriting being 'not well regarded in Athens... It is unlikely that any prominent citizen who was given the honor of delivering the funeral oration would have used a speech written by a professional speechwriter'.<sup>38</sup> This argument is not compelling. On the contrary, a major public occasion such as the public funeral is exactly the kind of circumstance where a speaker would want the best speech possible, and any stigma about using a speech written by another would only develop if the fact was revealed.

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<sup>33</sup> E.g. Usher 1999: 350 n.5.

<sup>34</sup> Todd 2007: 162.

<sup>35</sup> Frangeskou 1999: 317.

<sup>36</sup> Todd 2007: 163.

<sup>37</sup> Lys. 2.17, 23.

<sup>38</sup> Herrman 2004: 27.

Todd also doubts that it was actually delivered, on the grounds that whoever was chosen to give the oration would have been selected ‘at least partly on the basis of his ability to produce an appropriate speech’.<sup>39</sup> This does not necessarily mean he would not have used a logographer, however. In Apollodorus, the son of Pasion, we have one example of a well-known public speaker, who normally wrote his own speeches, using a professional writer for what he evidently felt was a particularly important case.<sup>40</sup> The same could have happened with the Lysianic funeral speech. Even if not actually delivered, however, it would still stand as an example of the genre.<sup>41</sup>

Thucydides’ version of Pericles’ oration, delivered in 431 after the first year of the Peloponnesian War, throws up a rather different set of problems. The key question is to what extent it represents what Pericles actually said, and to what extent it is the historian’s own invention, composed to serve his literary and historical purposes. Scholars have tended to regard it as a more-or-less faithful reproduction, at least in its themes and essential points; Loraux argues that ‘Thucydides’ mark is to be sought... in the register of expression accorded to the work as a whole, rather than in the context and strategy of the oration’.<sup>42</sup> For the purposes of this chapter it is not necessary to discuss this issue in detail,<sup>43</sup> as the Periclean oration does not mention autochthony; this may be ascribed to the opinions of Thucydides, the speech’s fifth-century context (in which the concept of autochthony was still in development), or simply the choice of either the orator or the historian.

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<sup>39</sup> Todd 2007: 163.

<sup>40</sup> The speech is Dem. 45, discussed in section 5.1 (c).

<sup>41</sup> Written with a specific occasion during the Corinthian War (395-386) in mind (Loraux 1986: 91; Herrman 2004: 27, drawing on §67). Todd 2007: 164 suggests that the reference to the walls of Conon in §63 would date it to after 392.

<sup>42</sup> Loraux 1986: 192.

<sup>43</sup> Rusten 1989: 7-17 analyses Thucydides’ use of speeches in general and in this particular instance, arguing for an essentially faithful reproduction in this case. As he notes (1989: 7 n.22) ‘the literature is endless’. Pelling 2009 gives an excellent summary of the key points of the argument and a detailed assessment of Thucydides’ own presentation of his methods.

Plato's *Menexenus* is yet another very different text. The speech which it presents is a parody which has, nevertheless, been used as an example of the genre, on the grounds that, as Lape puts it, 'the speaker is under the spell of the very ideology he presumes to parody'.<sup>44</sup> It contains many of the tropes common in the other extant orations, and it may well be parodying elements of still others, performed but not necessarily recorded, which would be otherwise unavailable to us. In such cases, however, it is impossible to tell how exaggerated the examples are, and the distorted versions of themes which we do recognise from the real orations require careful analysis. They cannot be taken as simple expressions of the *epitaphios* genre. I will thus examine the *Menexenus* separately, after discussing the other examples.

What we have, then, is only a tiny proportion of the actual genre. The majority of the funeral orations which were delivered are lost to us, and were performed by individuals about whom we know nothing.<sup>45</sup> It is thus very difficult to make generalisations about the genre; we have little idea of how far from the norm an oration would usually stray, for example. Equally, our texts may be responding to previous orations that are now lost, and indeed were never circulated in written form. There are, however, tropes which come up time and again in our texts, and it is reasonable to suppose that we can use these to talk about standard features.<sup>46</sup> With the exception of Thucydides' oration and the fragmentary one by Gorgias, all of the funeral speeches refer to the Athenians' autochthonous origins. This, it would seem, was a standard feature which was regularly visited (though we can hardly say that it was required to

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<sup>44</sup> Lape 2010: 143. Cf. Frangeskou 1999: 316: 'Its fictitious character and the lack of a specific setting for its composition allows us to regard it as more typical than any of the orations actually delivered'. Isaac 2004: 123 extends this further, suggesting that it 'may still be taken as representative of the mood among many contemporary Athenians'.

<sup>45</sup> Herrman 2004: 7.

<sup>46</sup> Herrman 2004: 5-8.

talk about it). As we shall see, there is some degree of variance in how it was employed by the orators. But before going into the detail of what the speeches say on this theme, it will be useful to describe the context of the oration as ceremony and a literary genre.

The oration was only one part of a larger ritual, namely the funeral itself.<sup>47</sup> This was performed for those who had died in battle for Athens. According to Thucydides, the bones were laid out for two<sup>48</sup> days in a tent, so that people could make offerings to ‘their own’ dead;<sup>49</sup> they were then buried in the Kerameikos following a public procession.<sup>50</sup> It was here that the oration took place, delivered by an ἀνὴρ ἡρημένος ὑπὸ τῆς πόλεως, ὃς ἂν γνώμη τε δοκῇ μὴ ἀξύνετος εἶναι καὶ ἀξιόσει προήκη.<sup>51</sup> When Demosthenes describes his own selection as funeral orator he suggests that there was a strong competitive element, boasting that he was chosen by the *dêmos* over Aeschines (his opponent in the case), Demades and Hegemon, in spite of a complaint by Aeschines and Pythocles.<sup>52</sup> In the *Menexenus*, it is the *boulê* which makes the choice.<sup>53</sup> It was thus an honour and privilege to deliver the oration, and no doubt an occasion heavy with expectation.

The audience present at the grave would include acquaintances, personal friends and relatives of the dead, as well as a broader section of society for whom they must have had a representational importance. To judge from the examples which we possess, it was to this latter (and presumably larger) section of the audience that the oration was primarily

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<sup>47</sup> On the iconography of Athenian state burials see Stupperich 1994.

<sup>48</sup> Older translations (and more recently Loraux 1986: 17 and Herrman 2004: 12) tend to give the literal but misleading ‘three days before’ or ‘for three days’ for πρότρητα; Rusten 1989: 136 explains that ‘since days were counted inclusively in antiquity this actually means – like *ante diem tertium* – “two days before”’.

<sup>49</sup> ἐπιφέρει τῷ αὐτοῦ ἕκαστος, by which Thucydides presumably means the relatives of the dead, though there is no indication that the tent was not open to anyone who wished to enter it.

<sup>50</sup> Thuc. 2.34. Loraux 1986: 20-22 gives a somewhat speculative reconstruction of the route of the procession from the agora.

<sup>51</sup> Thuc. 2.34.6: ‘a man chosen by the polis, who should by reputation be most intelligent, and of the highest character’.

<sup>52</sup> Dem. 18.285.

<sup>53</sup> Plato *Menex.* 234b.

addressed; with the exception of Hyperides' speech, which focuses on the general Leosthenes, there is no singling out of individuals.<sup>54</sup> It is as a group that the Athenians are praised.<sup>55</sup> The friends and relatives of the dead were not forgotten, but their experience too was represented through communal, non-individuated praise that treated the dead as representatives of the best of Athens as a whole; Demosthenes says that the surviving relatives are to be pitied for their loss, but not only because of the personal sorrow caused – they will also feel bereaved because of the damage done to their fatherland.<sup>56</sup> There had already been an opportunity for private grief and offerings during the two-day display of the bones; now, while relatives will naturally have continued to experience their own personal relationship, the focus was on the communal and transcendent.

The audience, however, was not made up solely of Athenians. On the contrary, we know from Thucydides that anyone who happened to be in the city could attend – *ξυνεκφέρει δὲ ὁ βουλόμενος καὶ ἀστῶν καὶ ξένων, καὶ γυναῖκες πάρεις αἱ προσήκουσαι ἐπὶ τὸν τάφον ὀλοφυρόμεναι.*<sup>57</sup> These would include metics but also other foreigners, i.e. short-term visitors or traders who were in Athens.<sup>58</sup> Plato also refers to foreigners in attendance, when he has Socrates remark that usually foreigners come and listen with him.<sup>59</sup> Both of these references, however, are in the build-up to the speech as presented, and are not followed up by addresses in the speeches themselves.<sup>60</sup> It is true, however, that there is a *mention* of these foreigners in the *epitaphios* of Thucydides, who quotes Pericles as saying *νομίζων ἐπὶ τε τῷ παρόντι οὐκ ἂν ἀπρεπῆ λεχθῆναι αὐτὰ καὶ τὸν πάντα ὄμιλον καὶ ἀστῶν καὶ ξένων ξύμφορον εἶναι*

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<sup>54</sup> Herrman 2009: 16.

<sup>55</sup> Thomas 1992: 91; on the tendency of the Greek polis to focus on 'collective achievement' see Thomas 1992: 111-112.

<sup>56</sup> Dem. 60.32.

<sup>57</sup> Thuc. 2.34.4: 'Whoever wants to, from among both citizens and foreigners, joins the procession, and female relatives lament at the grave.'

<sup>58</sup> Loraux 1986: 80.

<sup>59</sup> Plato *Menex.* 235b.

<sup>60</sup> Loraux 1986: 80-81.

ἐπακοῦσαι αὐτῶν.<sup>61</sup> Given that we cannot be sure how closely Thucydides' version resembles the original delivery, it would be dangerous to take too much from this, but the passage does seem to reveal an important point about the genre and its occasion. It is useful for everyone to hear the speech, in spite of (and possibly even because of) the fact that it is essentially addressed to citizens. The position of the foreigners is as outsiders, observers looking on a scene in which the participants are citizens.

Demosthenes also acknowledges their presence, and accepts the need to gain their favour if the speech is to be successful: ἀνάγκη δ' ἐν τῷ μεταξύ διαλαβεῖν, καὶ πρὸ τοῦ τὰ τοῖσδε πεπραγμένα τοῖς ἀνδράσιν δηλοῦν καὶ τοὺς ἔξω τοῦ γένους πρὸς τὸν τάφον ἠκολουθηκότας πρὸς εὖνοιαν παρακαλέσαι.<sup>62</sup> This, he says, is because of the need for a speech to persuade; if it does not have the goodwill of the audience, it is doomed to fail.<sup>63</sup> He almost immediately, however, moves on to describe the deeds of the dead;<sup>64</sup> he merely asserts that the foreigners should have a positive attitude but does not actually say anything to engender it. Even when acknowledging their presence, the focus must swiftly return to the Athenians. The foreigners' presence is important, but they do not get addressed directly, even when an orator claims he has to reach them.

In other orations, even when foreign soldiers are mentioned, the foreign part of the audience is not addressed. When Lysias refers to the bravery of the fallen *xenoi* (who must include metics as well as, possibly, allies)<sup>65</sup> he says:

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<sup>61</sup> Thuc. 2.36.4: 'Since I think it is not inappropriate to say these things on the present occasion, and that it is profitable for the whole crowd, both citizens and foreigners, to hear them.'

<sup>62</sup> Dem. 60.13: 'It's necessary, in the meantime, to pause before describing the deeds of these men, to encourage the goodwill of those from outside of our race who have come with us to the grave.'

<sup>63</sup> Dem. 60.13-14.

<sup>64</sup> Dem. 60.15ff.

<sup>65</sup> Todd 2007: 265. Herrman 2004: 41 simply translates 'allies', and refers (n.60) to 'foreign mercenaries' mentioned by Hyperides and Thucydides, but the word clearly could have wider meanings than that.

ἄξιον δὲ καὶ τοὺς ξένους τοὺς ἐνθάδε κειμένους ἐπαινέσαι, οἳ τῷ πλήθει βοηθήσαντες καὶ περὶ τῆς ἡμετέρας σωτηρίας μαχόμενοι, πατρίδα τὴν ἀρετὴν ἡγησάμενοι, τοιαύτην τοῦ βίου τελευτὴν ἐποιήσαντο· ἀνθ' ὧν ἡ πόλις αὐτοὺς καὶ ἐπένησε καὶ ἔθαψε δημοσίᾳ, καὶ ἔδωκεν ἔχειν αὐτοῖς τὸν ἅπαντα χρόνον τὰς αὐτὰς τιμὰς τοῖς ἀστοῖς.<sup>66</sup>

There is no move to actually address the allies or their people, some of whom must have been in the audience, even though there is an obvious message about ideal behaviour here. Foreigners should regard virtue as their homeland, which, naturally enough, becomes synonymous with Athens in this case. The allies fought for the salvation of Athens, and serve as a model not dissimilar to Parthenopaeus, the ‘ideal metic’ discussed in section 1.1. If the speech is correctly attributed, there is a personal connection there, since Lysias supported Athens’ democracy and very nearly died at the hands of the Thirty Tyrants.<sup>67</sup> Nevertheless, the speech is addressed to and ostensibly aimed at the Athenians, even when it contains a message for the *xenoi* as well. Similarly, Hyperides refers to Leosthenes’ command of allied troops,<sup>68</sup> but does not address any allies who might be present.

On this basis, Loraux refers to the Athenians’ ‘narcissism’<sup>69</sup> – the funeral oration is of, about and addressed to Athens. At one point she speculates that the foreigners could be necessary only so that Athens ‘could admire itself in others’ eyes’.<sup>70</sup> Later, after establishing that the overarching purpose of the funeral oration is unity, she argues that it suppresses ‘internal differences, to present to foreigners the image of a unity which no external intervention can

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<sup>66</sup> Lys. 2.66: ‘It’s right to praise also the foreigners who lie here, who helped the people and fought for our safety – they believed virtue was their fatherland, and thus made this kind of end to their lives. In return, the city has lamented them and honoured them with public funeral rites, and given to them, for all time, the same honours as it gives to citizens.’

<sup>67</sup> The civil war is in fact referred to just before the passage about the foreign dead (Lys. 2.61-65), and it seems likely that it is the foreigners who died during that conflict whom Lysias is referring to; certainly that is Loraux’s interpretation (Loraux 1986: 35), although it could be intended to have a broader application (Cf. Herrman 2004: 41 & n.60).

<sup>68</sup> Hyp. 6.11, 13.

<sup>69</sup> E.g. Loraux 1986: 149.

<sup>70</sup> Loraux 1986: 81.

infringe'.<sup>71</sup> The idealised, prototypical Athenian of the funeral oration is the hoplite, and all citizens are subsumed into it.<sup>72</sup> 'Those "strangers within", that is, the metics and slaves, are ignored by the official oration with a consistency that cannot be accidental'.<sup>73</sup> It is true that the oration does not address them, but their presence is felt nevertheless. They throw the Athenians into relief – each time they are praised the metics and slaves are implicitly excluded. They can never join the ranks of the citizens. Even if, as Lysias has it, it is possible for them to be honoured in the same way as citizens, they can only do this after death, and they remain separate – ideal metics and allies, but still *only* metics and allies.

Loraux argues that what the funeral oration is displaying is an 'imaginary' Athens; in the speeches there is a difference between 'the Athenians' (i.e. the dead, including the Athenians of the distant past), 'us' (the living audience of the oration) and 'the city', 'constituted by these two groups and transcending both'.<sup>74</sup> This imaginary, idealised city serves as a 'model that inspires action'.<sup>75</sup> One of its aims, then, is to exhort the audience to emulate the heroic forebears whose exploits are described. Flattery alone is not the aim.<sup>76</sup> But beyond this is the oration's unifying effect, which is best achieved by concealing and suppressing differences within its (for Loraux) exclusively male, citizen audience.<sup>77</sup> In tandem with its removal of differences within, the imagined city 'has no periphery' – no metics, slaves or women.<sup>78</sup> It serves as a kind of dream from which, presumably, the audience awakes when they return to their everyday lives. But this does not account for the aspects of the ritual which stretch beyond the exclusive citizen group. The fact that an oration only 'tacitly conveys an idea of

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<sup>71</sup> Loraux 1986: 279.

<sup>72</sup> Loraux 1986: 278.

<sup>73</sup> Loraux 1986: 331.

<sup>74</sup> Loraux 1986: 270.

<sup>75</sup> Loraux 1986: 276.

<sup>76</sup> Sheard 1996: 779.

<sup>77</sup> Loraux 1986: 330-331.

<sup>78</sup> Loraux 1986: 331.

exclusion<sup>79</sup> actually makes it more effective – by only *implicitly* telling the non-citizens that they have no role in the occasion, it refuses to acknowledge them as even an inferior part of the polis.

Work focusing on this ritual aspect of the occasion has stressed the unifying power which it could exert on citizens. Carter, for example, has described epideictic-oratory-as-ritual's ability to connect 'participants to the cosmos or a transcendent principle[,] take the participants out of time'<sup>80</sup> and 'generate a sense of harmony by unifying the contraries that one finds in life'.<sup>81</sup> Carter also states that 'another crucial function of ritual is creating and enhancing a sense of community among its participants'.<sup>82</sup> On the face of it, the funeral and its oration would appear to fit with this straightforwardly, with Athenian unity and community bolstered. The picture, however, is more complicated, since the Athenians did not make up the entire audience. A vital part of the ritual is precisely that foreigners witness it – it is a performance of narcissism and unity that, for sure, could have a simple effect on its Athenian audience members but which also reminded them of those who were excluded, even when they lived in the polis. It thus has both a unifying effect on the citizens as a group and a divisive effect on the audience as a whole. For the visitor, this would be of little importance; but for the metic, who had made his or her home in the Athenian polis, the meaning would be clear and powerful. This is *our* occasion, says the orator; what is left unsaid, but clear nonetheless, is that the metic can only be an onlooker. His or her connection with and contribution to the polis is limited (or even non-existent) and can never match that of the citizens. Even when Lysias mentions the fallen allies and the fact that they have been

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<sup>79</sup> Loraux 1986: 331.

<sup>80</sup> Carter 1991: 214.

<sup>81</sup> Carter 1991: 215.

<sup>82</sup> Carter 1991: 215.

honoured just like the citizens, he inescapably stresses their difference as well. They and the people like them are not included in the address the speaker is making.

One further point should be made about the ritual and its context. As a funeral occasion, there was a certain solemnity and respect which had to be given. It was not an occasion for disputation. In a sense, this gave the orator leeway to say things which could be challenged in another context, but in return a need does seem to have been felt to justify the approach taken, and the introduction of certain themes. Thus Hyperides takes the time to explain why he is focusing on an individual, and is careful to stress that this does not mean he wants to denigrate or minimise the role of the rest of the fallen:

καὶ μηδεὶς ὑπολάβῃ με τῶν ἄλλων πολιτῶν μηδένα λόγον ποιῆσθαι, ἀλλὰ Λεωσθένη μόνον ἐγκωμιάζειν. συμβαίνει γὰρ τὸν Λεωσθένην ἔπαινον ἐπὶ ταῖς μάχαις ἐγκώμιον τῶν ἄλλων πολιτῶν εἶναι· τοῦ μὲν γὰρ βουλευέσθαι καλῶς ὁ στρατηγὸς αἴτιος, τοῦ δὲ νικᾶν μαχομένους οἱ κινδυνεύειν ἐθέλοντες τοῖς σώμασιν· ὥστε ὅταν ἐπαινῶ τὴν γεγυνημένην νίκην, ἅμα τῇ Λεωσθένην ἡγεμονίᾳ καὶ τὴν τῶν ἄλλων ἀρετὴν ἐγκωμιάσω.<sup>83</sup>

Such a justification may have been needed if the speech was to be remembered well, but while it was taking place it must have remained above challenge. Unlike the agonistic context of the lawcourt or assembly, where interruptions from the audience appear to have been an accepted part of the process, the solemnity of the funeral will have excluded disrespect or interventions from those who were not chosen to contribute. There will also have been a receptive audience that wanted the speaker to succeed; as it was a ritual devoted to the dead, the audience will have wanted everything to go smoothly, and positively desired to be moved by the oratory. This made it the perfect context to recite and talk about ideological ‘truths’, especially those which were, when looked at rationally, dubious or difficult to support.

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<sup>83</sup> Hyp. 6.15: ‘And let no one imagine that in making this speech I am ignoring the other citizens, and praising Leosthenes alone. Praise of Leosthenes for these battles happens also to be praise of the other citizens. While a general is responsible for a good strategy, those willing to risk their lives are responsible for the victory in battle. So whenever I praise the victory which has been gained, together with the leadership of Leosthenes I shall also praise the excellence of the rest.’

Mythology could be narrated in an uncomplicated manner, in which all praise was due to Athens, and an intellectually questionable official ideology such as autochthony could be used to both prove and demonstrate the Athenians' purity, nobility and unity.<sup>84</sup>

### 3.2 (b) Autochthony in the Funeral Orations

This is the context, then, in which we should read the funeral orations. I shall now turn to how they deal with the idea of autochthony, the myth which most completely excluded the possibility of outsiders joining the Athenian *dêmos*. Lysias refers to it as follows:

Πολλὰ μὲν οὖν ὑπῆρχε τοῖς ἡμετέροις προγόνοις μιᾷ γνώμῃ χρωμένοις περὶ τοῦ δικαίου διαμάχεσθαι. ἢ τε γὰρ ἀρχὴ τοῦ βίου δικαία· οὐ γάρ, ὥσπερ οἱ πολλοί, πανταχόθεν συνειλεγμένοι καὶ ἑτέρους ἐκβαλόντες τὴν ἀλλοτρίαν ᾤκησαν, ἀλλ' αὐτόχθονες ὄντες τὴν αὐτὴν ἐκέκτηντο μητέρα καὶ πατρίδα.<sup>85</sup>

The idea of Athenian unity is clearly stressed – their ancestors were of one mind, and by referring to them Lysias draws a connection between current Athenians and previous generations, an essential requirement to achieve the timeless quality of the performance as interpreted by Loraux and Carter. There is also an explicit contrast between the Athenians and all other peoples, which is given a moral aspect. As an autochthonous people, the Athenians did not have to expel other inhabitants from their place of dwelling,<sup>86</sup> which resembles and explains the righteous conduct of later generations, who fought for justice. It is in argument which, on reflection, does not seem compelling, and no doubt benefited from the privileged, sacred context of the funeral. The argument is returned to when Lysias discusses the *xenoi* who have died for Athens – they regarded virtue as their fatherland, and therefore

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<sup>84</sup> The extent to which this model actually played out will be addressed in sections 3.3 (b) and (c).

<sup>85</sup> Lys. 2.17: 'In many ways it naturally fell to our ancestors, being as of one mind, to fight on behalf of justice. For the origin of their life was just – they were not, as are many others, collected together from all over the place, and they did not live in an alien country only after driving out others. No, they were born of the earth, and had the same land as mother and fatherland.'

<sup>86</sup> Todd 2007: 228, who also notes the resemblance to 'Athenian legal thinking on citizenship and land', which they preferred to be held by inheritance rather than bought.

came as close as possible to the Athenians. Justice, virtue and autochthony are linked; others might achieve the first two, but the third is the exclusive property of Athenians.

Lape argues that Lysias is saying that virtue and justice are qualities that are actually inherited,<sup>87</sup> citing as an example the passage which reads *καὶ γὰρ τοὶ καὶ φύντες καλῶς καὶ γνόντες ὅμοια, πολλὰ μὲν καλὰ καὶ θαυμαστὰ οἱ πρόγονοι τῶν ἐνθάδε κειμένων εἰργάσαντο.*<sup>88</sup> This seems an overstatement; the possibility is certainly there, but Lysias does not argue for it explicitly. He puts forth the evidence (which amounts to a collection of stories of great Athenian deeds) but does not articulate a full explanation. The idea is certainly there implicitly, however, and could naturally be read into the words. An advantage of leaving it at that implicit level could be that it avoided a sense of complacency; the standard of the dead was one that the living should strive to emulate, to prove that they are worthy of their ancestors. A simple statement of belief in inherited virtue could make it seem as though it did not have to be earned in this way.

Similar themes are deployed by Demosthenes, who discusses the topic this way:

Ἡ γὰρ εὐγένεια τῶνδε τῶν ἀνδρῶν ἐκ πλείστου χρόνου παρὰ πᾶσιν ἀνθρώποις ἀνωμολόγηται. οὐ γὰρ μόνον εἰς πατέρ' αὐτοῖς καὶ τῶν ἄνω προγόνων κατ' ἄνδρ' ἀνενεγκεῖν ἐκάστῳ τὴν φύσιν ἔστιν, ἀλλ' εἰς ὅλην κοινῇ τὴν ὑπάρχουσαν πατρίδα, ἧς αὐτόχθονες ὁμολογοῦνται εἶναι. μόνοι γὰρ πάντων ἀνθρώπων, ἐξ ἧσπερ ἔφυσαν, ταύτην ὤκησαν καὶ τοῖς ἐξ αὐτῶν παρέδωκαν, ὥστε δικαίως ἂν τις ὑπολάβοι τοὺς μὲν ἐπήλυδας ἐλθόντας εἰς τὰς πόλεις καὶ τούτων πολίτας προσαγορευομένους ὁμοίους εἶναι τοῖς εἰσποιητοῖς τῶν παιδῶν, τούτους δὲ γνησίους γόνῳ τῆς πατρίδος πολίτας εἶναι.<sup>89</sup>

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<sup>87</sup> Lape 2010: 142-143.

<sup>88</sup> Lys. 2.20: 'For being of good birth, and having minds with the same quality, the ancestors of those who lie here did many great and wonderful deeds'. Todd 2007: 230 prefers 'because of the nobility of their nature and the harmony of their thoughts' to Lamb's (and Lape's) 'being of noble stock and having minds as noble'.

<sup>89</sup> Dem. 60.4: 'The nobility of these men has been agreed upon by all people from the earliest of times. For not only can each one, going right back to their ancestors, man by man, trace their birth back to a father, but also to the original, commonly shared, entire fatherland, of which they are agreed to be born autochthonous. For they alone among all people settled the land from which they were born and passed it on to their own descendants, so that one could fairly say that those who come to cities as immigrants and are called citizens of those places are like adopted children, whereas these men are legitimate citizens of their fatherland by birth.'

The purity of the Athenian people is given a special emphasis – each individual can trace back his genealogy to the fatherland itself, establishing an unbroken, timeless chain reaching back, a chain whose existence has apparently been acknowledged by everyone since time immemorial. Just as in Lysias’ speech, Athenian exceptionalism is also stressed, as they alone possess their original land, and have passed it down the generations; this gives them a true legitimacy to the point where all other peoples are like adopted children only. The effect is not only to set Athens and the Athenians apart from other peoples and *poleis*; it is also to lump together all foreigners as an undistinguished mass, a conception which parallels the status of the metic, which does not privilege or differentiate between different nations, *poleis* or peoples.

Demosthenes uses the term *eugeneia*, which goes together with autochthony; in Loraux’s view, the terms are in effect synonymous, and used ‘interchangeably’.<sup>90</sup> The rationale for this appears to have been multifaceted; Lysias stressed the moral aspect of autochthony, and Demosthenes the age and legitimacy which it brought, which are also key concepts in the idea of ‘good birth’. In the context of a ritual and speech which draws so heavily on tradition, the fit is natural. Most attendees will have been there precisely because they wished to witness a ceremony that was illustrious due to its age, tradition and links to the past; the supposed great age and unbroken character of the Athenian *dêmos* will therefore automatically have become a positive attribute.

Autochthonous *eugeneia* cuts across social classes, since all Athenians possess it. This is a point made clear by Hyperides in his funeral oration, in which he claims that Athenian *eugeneia* is unrivalled:

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<sup>90</sup> Loraux 1986: 149.

νῦν δὲ πόθεν ἄρξωμαι λέγων, ἢ τίνος πρῶτον μνησθῶ; πότερα περὶ τοῦ γένους αὐτῶν ἐκάστου διεξέλθω; ἀλλ' εὐθες εἶναι ὑπολαμβάνω· τὸν μὲν γὰρ ἄλλους τινὰς ἀνθρώπους ἐγκωμιάζοντα, οἱ πολλαχόθεν εἰς μίαν πόλιν συνεληλυθότες οἰκοῦσι γένος ἴδιον ἕκαστος συνεισηνεγκάμενος, τοῦτον μὲν δεῖ κατ' ἄνδρα γενεαλογεῖν ἕκαστον· περὶ δὲ Ἀθηναίων ἀνδρῶν τοὺς λόγους ποιούμενος, οἷς ἢ κοινὴ γένεσις αὐτόχθοσιν οὖσιν ἀνυπέμβλητον τὴν εὐγένειαν ἔχει, περιέργον ἡγοῦμαι εἶναι ἰδία τὰ γένη ἐγκωμιάζειν.<sup>91</sup>

There is something of a difference between Hyperides' treatment of the idea and Demosthenes', who described each individual's having both a personal ancestry and a greater connection to the land itself. For Hyperides, the latter completely removes the need for the former.<sup>92</sup> In spite of certain differences, however, the idea of autochthony retains its connection with *eugeneia* and unity – autochthony is the common genesis of the Athenians.

Taking these passages together, one thing which will be noticed is that while all three orators use autochthony to make significant points, the actual time they spend on the myth is very short. It seems to be something which is acknowledged, performed and then swiftly moved on from. This may be because, ultimately, there is not that much to say about it – it is certainly a less intrinsically interesting topic than a tale of military exploits. But it is also true that, intellectually, autochthony was a problematic concept if given thought. While, as Lape argues, it could be used to justify actions, privileges and social norms, it was unsatisfactory when examined closely. Edward Cohen went as far as to deride its presentation in the funeral

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<sup>91</sup> Hyp. 6.6-7: 'Now, from where should I start to speak, and what should I mention first? Should I go through the ancestry of each of them? I realise that it would be silly. He who is praising some other people, who have been joined together from many places and then live in one city, each contributing his personal ancestry to the common pool, should give a genealogy of each man; but when making a speech about the men of Athens, who have a common origin unrivalled in nobility due to their autochthony, I think it is unnecessary to praise the ancestry of each.'

<sup>92</sup> This may be a deliberate change in emphasis – if Hyperides had access to the text of Demosthenes' oration (or another which made a similar argument) he might have wished subtly to oppose it, putting his own stamp on the occasion and engaging in a game of oratorical one-upmanship. Frangeskou argues that the aim of each orator was to 'imprint upon a traditional genre an authentic personal seal' (Frangeskou 1999: 315). Loraux suggests that there is another, wider element beyond this, arguing that every orator 'sought renown by erasing the previous orator from people's minds' (Loraux 1986: 243) – the last oration, ideally, would become the definitive one, and the one that would be best remembered.

orations as ‘platitudinous banalities’,<sup>93</sup> and his is a view which inspires a degree of sympathy – the story seems so absurd that it can be hard to imagine how it was taken seriously. But as we have seen, its context protected it, even when it did not accord with the reality of actual life in Athens, or its history. The social, historical and political facts which blatantly contradicted it, and their implications, will be discussed in the next chapter; first, I shall examine some of the complexities which went with it, and then the evidence for doubts held about its truth, and the possibility that its effectiveness was not as great as might be imagined.

### 3.3 (a) Exploring Autochthony – Euripides’ *Ion*

Euripides’ *Ion*, performed during the 410s<sup>94</sup> has been said by Lape to ‘recapitulate Athenian racial ideology as a family romance’.<sup>95</sup> In accordance with its relatively early date, however, the myth as portrayed in the play does not precisely resemble the theme as described in the funeral orations. In *Ion*, autochthony is focused on the individual royal house descended from Erichthonius; looked at logically, it is hard to see how it can have extended to the rest of the Athenians (represented in the play by the chorus of *therapainides* and the *presbutês*), unless we imagine that their descent comes from the earlier, and also autochthonous, Cecrops.<sup>96</sup> This difficulty, however, may be merely an unfortunate plot-hole, an inevitable result of setting a story in the time of the origins of peoples and *poleis*. It seems to be ignored in the play;

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<sup>93</sup> E. Cohen 2000: 83.

<sup>94</sup> Speculatively dated by some more precisely, on stylistic grounds, to c.413 (Lee 1997: 40).

<sup>95</sup> Lape 2010 : 95.

<sup>96</sup> Shapiro 1998: 130-131 argues that not all Athenians claimed descent from the autochthonous kings Cecrops and Erechtheus, but rather that ‘in a collective sense, all historical Athenians are descended from the two founding heroes, even if (or perhaps because) no one Athenian family is directly descended from them’. I am not sure how that is supposed to work as an explanation; it certainly falls apart when a story like *Ion*’s is set so close to these mythical events. We should not really be surprised, however, that an origin myth does not make sense when examined closely. Blok 2009c: 264-271 likewise attempts to rationalise the myth on the Athenians’ behalf, suggesting that before the late fifth century descent actually referred to being the ‘heirs’ of cults, and purity only truly applied to certain *gennêtai* and their priests, since these were always required to marry within the Athenian group, even before the Periclean citizenship law. This would not, however, make them ‘purer’ than any other Athenians, as obviously the Athenians they intermarried with had not been bound by the same rules. More importantly, the Athenians never said anything of the kind, at least in the evidence which we have.

certainly the chorus and the Old Man speak and act as though autochthony were bound up with being Athenian.

Euripides treats the idea of autochthony realistically and with some sense of irony. The play is not necessarily a critique of it, but it does raise some interesting questions about what it would mean if treated seriously.<sup>97</sup> This is done through manipulating the knowledge which characters have at various points, while the audience knows the real story throughout thanks to Hermes' introduction.<sup>98</sup> The clearest example comes towards the end of the play: Ion and Creousa set out to kill each other – Creousa because of her outrage at what she sees as Ion's duplicitous plan to worm his way into control of Athens, and Ion when he discovers her murderous scheme – but when the truth is revealed all is resolved happily. In the words of Creousa, ἄπαιδες οὐκέτ' ἐσμὲν οὐδ' ἄτεκνοι / δῶμ' ἐστιοῦται, γὰρ δ' ἔχει τυράννουσ, / ἀνηβῆαι δ' Ἐρεχθεύς / ὅ τε γηγενέτας δόμος οὐκέτι νύκτα δέρκεται, / ἀελίου δ' ἀναβλέπει λαμπάσιν.<sup>99</sup> The happy ending, which resembles the plot resolutions of the later New Comedy,<sup>100</sup> depends on coincidences and revelations that would not happen in real life; the knowledge that Ion is 'really' an Athenian defuses the tension which had built up. As Lee notes, it also 'requires no change to the xenophobia expressed earlier'.<sup>101</sup> The anxieties which the characters reflected, however, continue to exist in the audience's world, where there is no simple divine intervention or revelation.

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<sup>97</sup> Lape 2010: 95; cf. Saxonhouse 1986: 254, for whom the purpose of the play is not to question whether autochthony was true, 'but rather to make them [the Athenians] reflect on the implications of such a myth'.

<sup>98</sup> Eur. *Ion* 1-81.

<sup>99</sup> Eur. *Ion* 1463-1467: 'We are no longer childless and without an heir; the home's hearth is established; the land has its rulers; Erechtheus is grown young again. The earth-born house no longer lives in night, but looks up at the sun's light'.

<sup>100</sup> Lape 2010: 133-134. See also Konstan 1994: 222-223 for an analysis of Menander's *Epitrepontes*.

<sup>101</sup> Lee 1997: 36.

These anxieties include fear and resentment of outsiders, as articulated by the Old Man, who is appalled that μεμηχανημένως / ύβριζόμεσθα δωμάτων τ' Ἐρεχθέως / ἐκβαλλόμεσθα.<sup>102</sup> He describes Xouthus as ὅστις σε γήμας ξένος ἐπεισελθὼν πόλιν καὶ δῶμα καὶ σὴν παραλαβὼν παγκληρίαν.<sup>103</sup> Such a foreigner is an 'alien threat',<sup>104</sup> which would be a relatively straightforward concern were it not for the fact that Xouthus has been established as a valuable ally of the polis, who was given Creousa as a reward for his services – and is himself a grandson of Zeus.<sup>105</sup> Indeed, the very purpose of the couple's visit to Delphi is their desire to have children.<sup>106</sup> This conflicts with the desire to keep the ruling house of Athens pure,<sup>107</sup> which is also expressed by the chorus – μηδέ ποτ' ἄλλος ἦκων πόλεως ἀνάσσοι πλὴν τῶν εὐγενετῶν Ἐρεχθειδῶν.<sup>108</sup> Creousa comes down on the side of the chorus when angrily discussing the matter with Ion while under the protection of the altar, her murderous plan having been exposed. At this point, Ion believes that Xouthus is his father and claims that this gives him the right to rule Athens: πατρός γε γῆν διδόντος ἦν ἐκτήσατο... ὄπλοισιν αὐτήν οὐ λόγοις ἐρρύσατο.<sup>109</sup> Creousa's response is that ἐπίκουρος οἰκήτωρ γ' ἂν οὐκ εἶη χθονός,<sup>110</sup> denying that his services give him any right to be part of the city. This sentiment has been seen as demonstrating the fact that an 'autochthonous society... must also be xenophobic and aristocratic'.<sup>111</sup>

<sup>102</sup> Eur. *Ion* 809-811: 'We are insulted by design, and are being thrown out of the palace of Erechtheus'.

<sup>103</sup> Eur. *Ion* 813-814: 'Someone, a foreigner, who married you after coming into our city, and then seized your house and whole inheritance'.

<sup>104</sup> Isaac 2004: 118.

<sup>105</sup> Eur. *Ion* 61-64, 290-298.

<sup>106</sup> Eur. *Ion* 65-67, 303-304.

<sup>107</sup> Lape 2010: 106.

<sup>108</sup> Eur. *Ion* 1058-1060: 'May no other incomer ever be master of the city than one of the house of the noble Erechtheidae'.

<sup>109</sup> Eur. *Ion* 1296, 1298: 'Since my father gives me the land which he acquired... He saved it with arms, not with words'.

<sup>110</sup> Eur. *Ion* 1299: 'A mercenary would not be an inhabitant of the land'.

<sup>111</sup> Saxonhouse 1986: 256.

The ultimate revelation about Ion's true identity thus leaves us with the potentially awkward conclusion that it is not action or service which entitles one to a share in the city, but simple descent<sup>112</sup> – there is no morality in what the Old Man, the chorus, and Creousa believe and are defending. The Old Man, in particular, is an advocate of immorality, although Saxonhouse goes too far when describing him as 'a mindless instigator of evil actions'.<sup>113</sup> He is hardly mindless, since his motive is loyalty to the Athenian royal house and this provides a rationale for his actions, however evil they may be. Lee goes to the other extreme in describing him as 'not evil but the effective tool of a plot which, for purposes of dramatic tension, must be as truly threatening as it is wrong-headed'.<sup>114</sup> This assessment seems to deny the significance of the words he speaks, which appear to reflect a very believable concern over the infiltration of the polis by outsiders, albeit one put in extreme terms.

The character of Ion and his happy ending also raise some intriguing moral questions. He is still the same man, and has done the same things, when the Athenians wish to kill him and when they happily welcome him into their ruling house at the end of the play. Similarly, Ion is reconciled with a woman who has attempted to murder him and his supposed father simply because, as it turns out, she is really his mother. He had earlier called for her to be thrown from the heights of Parnassus,<sup>115</sup> and described her as a viper with the nature of Gorgon's blood.<sup>116</sup> The happy ending thus only imperfectly masks some interesting moral questions about the basis of Athenian citizenship and the implications of their autochthony ideology.

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<sup>112</sup> An argument later made in a forensic speech (Dem. 57) delivered by a former Athenian citizen who was appealing against being stripped of his status – see section 5.2 (c).

<sup>113</sup> Saxonhouse 1986: 268.

<sup>114</sup> Lee 1997: 30.

<sup>115</sup> Eur. *Ion* 1266-1268.

<sup>116</sup> Eur. *Ion* 1261-1265.

Earlier, Euripides uses the character of Ion to express the anxiety of the outsider. When Xouthus has (mistakenly) recognised Ion as his son, and invited him to return to Athens with him,<sup>117</sup> the younger man is worried: εἶναί φασι τὰς αὐτόχθονας / κλεινὰς Ἀθήνας οὐκ ἐπέισακτον γένος, / ἴν' ἐσπεσοῦμαι δύο νόσω κεκτημένος, / πατρός τ' ἐπακτοῦ καυτὸς νοθαγενής.<sup>118</sup> He hopes that through his mother, at this time unknown to both him and Xouthus, he will discover that he has a connection with Athens through descent: εἰ δ' ἐπεύξασθαι χρεῶν, / ἐκ τῶν Ἀθηναίων μ' ἢ τεκοῦσ' εἶη γυνή, / ὥς μοι γένηται μητρόθεν παρρησία. / καθαρὰν γὰρ ἦν τις ἐς πόλιν πέση ξένος, / κὰν τοῖς λόγοισιν ἄστος ἦ, τό γε στόμα / δοῦλον πέπαται κούκ ἔχει παρρησίαν.<sup>119</sup> This imagined position of the *xenos* is similar to that of the metics, particularly the immigrants to Athens and their descendants, who, as we have seen, also lived with restricted rights.<sup>120</sup>

By using the character of Ion as the mouthpiece for these views, Euripides encouraged the audience to sympathise with them, by means both of the unfortunate circumstances of his birth and his real status as a key figure in Athens and its mythology. The fact that he is really an Athenian may have encouraged them to take this further – a citizen audience member could reflect on the fact that his own position depended, to an extent, on chance and recognition by others. There is a parallel for this in the play in the character of Xouthus, who is completely fooled about his connection to Ion. Proceeding from this ignorance, his actions ultimately end up contributing to the happy resolution, but of course this only applies in the world of the play. Saxonhouse suggests that his ignorance ‘is parallel to the ignorance and

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<sup>117</sup> Eur. *Ion* 576-577.

<sup>118</sup> Eur. *Ion* 589-592: ‘They say that the famous, autochthonous Athenians are not a people brought in from outside, and I will burst in there possessing two sicknesses, being the son of a foreign father and myself born a bastard’.

<sup>119</sup> Eur. *Ion* 669-675: ‘If it be right to pray for this, let the woman who bore me be of Athens, so I might have freedom of speech from my mother’s side. For if a foreigner falls into a pure city, even if he is a citizen in word, he gets the voice of a slave and does not have freedom of speech’.

<sup>120</sup> The reference to a ‘citizen in word’ who still lives under such restrictions in practice would be paralleled in forensic speeches delivered by and on behalf of naturalised citizens in the fourth century – see section 5.2.

susceptibility to deception with which all men must function, the uncertainty of paternity, the uncertainty of who it is who fathered the children they think to be their own'.<sup>121</sup> It is true that he is deceived, and that his simple faith is proven to be misplaced, but there is no hint of any anxiety in him over this issue – he is certain, once the god's message has reached him, that it is true. This would seem to parallel the confident way in which autochthony could be asserted by the Athenians, even if there were numerous problems with it when looked at rationally.

Euripides' implication appears to be that the assumptions we have about our identities can be wrong and lead us to do immoral things, but he does not offer any answers to deal with this. We are left to decide whether we should accept the stories we tell about our origins without examination, though the message that we should not act on their basis unthinkingly is supported by the play. It is difficult to see, then, how the play can amount to an actual critique of autochthony as a concept. It is true, as Farrington points out, that the Athenians often act appallingly in the play.<sup>122</sup> The violent xenophobia of the Athenians, however, is not presented as an inevitable consequence of the ideology, but as a possible one. Equally, for all the difficulties with the concept which Euripides points out, the opportunity is not taken to elaborate on them; they are raised and then left hanging, ostensibly resolved by the revelation and reconciliation. When it comes to the treatment of outsiders, the Athenian audience member might sympathise with Ion's plight, and feel for him as an individual, but not necessarily conclude that this meant the system was wrong, or the position of foreigners unjust. Autochthony can still be used to justify 'keeping immigrants in an inferior status',<sup>123</sup> even if taking this logic to violent extremes is implicitly criticised. The play is thus an exploration of a concept rather than an attack on it.

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<sup>121</sup> Saxonhouse 1986: 272.

<sup>122</sup> Farrington 1990: 130-131.

<sup>123</sup> Isaac 2004: 118.

### 3.3 (b) Alternatives, Doubts and Dissent

When it comes to the funeral orations, it has been fairly straightforward to examine what the performance of autochthony as ideology was intended to achieve, and what its potential effect and influence on the audience was. It is much more difficult to establish the extent to which the performance actually reached this potential. The continuation of the genre, and its ability to attract orators of reputation and importance, suggests that the ritual was hitting some kind of chord with its audience. But was the content actually reaching the citizens and foreigners who attended and heard it, or did they simply take it as a fine-sounding but essentially hollow part of the ritual?

Obviously, different audience members will have taken it in different ways,<sup>124</sup> and we cannot expect to be able to recreate audience reactions in anything like a representative manner. There is, however, evidence that the autochthony myth was not accepted by some, and did not go unchallenged outside of its ritual context. First I shall examine the histories of Thucydides and Herodotus, with the proviso that their early dates make them of only limited use; it is unclear how developed and prevalent the autochthony myth was in the fifth century. I shall then move onto the more relevant (but also more difficult) case of Plato's *Menexenus*.

Thucydides' account of Pericles' oration is the only one which does not mention autochthony. He does, however, stress the same ideas of unity and succession, discussing the ancestors as follows:

Ἄρξομαι δὲ ἀπὸ τῶν προγόνων πρῶτον· δίκαιον γὰρ αὐτοῖς καὶ πρέπον δὲ ἅμα ἐν τῷ τοιῷδε τὴν τιμὴν ταύτην τῆς μνήμης δίδοσθαι. τὴν γὰρ χώραν οἱ αὐτοὶ αἰεὶ

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<sup>124</sup> If we look at modern equivalents, any atheist who has attended a religious wedding or funeral will have experienced the dissonance between an occasion which has a real and powerful effect and words which, to them, sound like nonsense. This can be experienced in a particularly jarring fashion at the time, or on reflection afterwards.

οἰκοῦντες διαδοχῇ τῶν ἐπιγιγνομένων μέχρι τοῦδε ἐλευθέραν δι' ἀρετὴν παρέδοσαν.<sup>125</sup>

In this conception the Athenians are indigenous – they have always inhabited the same land – but no mention is made of any earth-born origin.<sup>126</sup> The special mystical connection with the land is thus absent. Loraux attempts to explain Thucydides' avoidance of the term in general by suggesting that 'it is too rhetorical'.<sup>127</sup> He only uses it once, with irony, to describe the pretensions of the Sicanians, who claimed to be the original, 'autochthonous' inhabitants of Sicily but were really displaced Iberians.<sup>128</sup> But presumably there was a conscious decision to avoid using it in his version of Pericles' oration, and it is hard to see how its being 'too rhetorical' would have been a problem, given that Thucydides was writing a version of a speech. He decided not to have Pericles use the term. The reason could simply be that Pericles did not use it in his actual speech, which would support the idea that autochthony as an official myth developed late. But if we look at what Thucydides himself says about the origins of the Athenians the matter becomes clearer. When describing the condition of Attica at the start of his history he says the following:

τὴν γοῦν Ἀττικὴν ἐκ τοῦ ἐπὶ πλεῖστον διὰ τὸ λεπτόγεων ἀστασίαστον οὔσαν ἄνθρωποι ᾤκουν οἱ αὐτοὶ αἰεὶ. καὶ παράδειγμα τόδε τοῦ λόγου οὐκ ἐλάχιστόν ἐστι διὰ τὰς μετοικίας ἐς τὰ ἄλλα μὴ ὁμοίως αὐξηθῆναι. ἐκ γὰρ τῆς ἄλλης Ἑλλάδος οἱ πολέμῳ ἢ στάσει ἐκπίπτοντες παρ' Ἀθηναίους οἱ δυνατώτατοι ὡς βέβαιοι ὄν ἀνεχώρουν, καὶ πολῖται γινόμενοι εὐθὺς ἀπὸ παλαιοῦ μείζω ἔτι ἐποίησαν πλήθει ἀνθρώπων τὴν πόλιν, ὥστε καὶ ἐς Ἴωνίαν ὕστερον ὡς οὐχ ἰκανῆς οὔσης τῆς Ἀττικῆς ἀποικίας ἐξέπεμψαν.<sup>129</sup>

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<sup>125</sup> Thuc. 2.36.1: 'I will start first from our ancestors, for it is right and proper to give them this honour of remembrance on such an occasion. The same people have always lived in this land, in succession of their generations, right up to this day, and have handed it down as a free country through their excellence.'

<sup>126</sup> Saxonhouse 1986: 257.

<sup>127</sup> Loraux 2000: 54.

<sup>128</sup> Loraux 2000: 60, Thuc. 6.2.2.

<sup>129</sup> Thuc. 1.2.5-6: 'The same people always lived in Attica, which has, from the remotest time, seen the least civil strife on account of the poverty of its soil. And this is not the least illustration of the argument that it is because of migrations that development did not occur in the same way elsewhere – for of those fleeing the rest of Greece due to war or civil strife, the strongest sheltered with the Athenians, as was safest. Becoming citizens, they immediately made the city still greater than before in population, so that later, as Attica was not large enough for them, the Athenians sent out colonies to Ionia.'

In this passage the historian appears to reject the key elements of the autochthony hypothesis.<sup>130</sup> He is happy to assert that Attica has always been inhabited by the same people, and that it had avoided civil strife – a statement which may well have turned out to contain some irony had the histories been completed, and extended up until the civil war of 403. But he adds that this is because of the poverty of the land's soil, and makes no mention of its imparting any intrinsic virtue into the inhabitants. Furthermore, and significantly, any suggestion of ethnic purity is immediately countered by his statement that Athens had always been a place for refugees, who later became citizens and swelled its population.<sup>131</sup> It is reasonable to ask, then, what exactly he means when he says that the same people always lived there. Presumably he means there is some connection of descent between his contemporary Athenians and their remote ancestors, albeit not one that remained unmixed.<sup>132</sup> As to the first origin of the Athenians, he offers no opinion. If he believed that they were in fact born from the earth he makes no mention of it; presumably he regarded it as unknowable.

Thucydides does seem to have had considerable doubts about the ideas of inherent group characteristics and national character. As Lape has demonstrated, while some characters in the history make claims about national character these are undercut by the events which then take place – for example, the Athenians' supposed tendency towards decisiveness is proved to be a sham by the events of the Sicilian expedition.<sup>133</sup> He is also prepared to let his characters doubt or deny such a view, as he does when he has the Spartan king Archidamus

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<sup>130</sup> Connor 1994: 35.

<sup>131</sup> Thuc. 1.2.

<sup>132</sup> Isaac 2004: 114-115 suggests that 'joint descent from "common ancestors"' was the original meaning of autochthony, and that it only later acquired its 'birth from the earth element' – his citations of Pindar's second Isthmian and *Iliad* 2.546-549, however, do not give much support to this, and the *Iliad* lines actually refer to Erechtheus' birth from the earth (τέκε δὲ ζεΐδωρος ἄρουρα).

<sup>133</sup> Lape 2010: 175.

say πολύ τε διαφέρειν οὐ δεῖ νομίζειν ἄνθρωπον ἀνθρώπου, κράτιστον δὲ εἶναι ὅστις ἐν τοῖς ἀναγκαιοτάτοις παιδεύεται.<sup>134</sup> There is no idea of inborn nobility here.

To return to the Periclean funeral speech, there is also, when compared to the treatment in the other orations, a notable absence of differentiation from other peoples when it comes to discussing origins. Pericles does not claim that the Athenians have an exclusive claim to the honour of constant occupation of a land; he does not use it to suggest that there is a qualitative difference between them and others, as later did Lysias, Demosthenes and Hyperides. Nor does he use it as an explanation for the greatness of the Athenians and their polis, which is naturally the oration's theme. The Athenians are certainly portrayed as superior to others, but this is because of their actions and the organisation of their polis, not their origin. Culture is what counts, not nature.<sup>135</sup> Whether this difference is to be attributed to Pericles, Thucydides, or simply the date of the oration, is impossible to tell.

As noted above, there are problems with how far to take what Thucydides says on this matter; he was hardly a typical Athenian. Herodotus, not being Athenian at all, and in terms of date even further removed from the fourth-century orations which we possess, is a similar case. His rejection of the autochthony myth, or at least the connotations which go with it, is simpler and more blatant than is Thucydides'. He states that the Athenians were originally Pelasgians, instantly throwing out the idea of *eugeneia* as presented in the myth; the Athenians are not, by descent, even Greeks at all.<sup>136</sup> This does leave open the possibility that the Athenians' ancestors, even if they were not Greek, were still autochthonous and born of the Attic earth, but Herodotus does not say as much. Since he is willing to claim that other peoples were

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<sup>134</sup> Thuc. 1.84.4: 'We shouldn't think that one person differs greatly from another, but that the most powerful is whoever is brought up with the hardest discipline.'

<sup>135</sup> Lape 2010: 181.

<sup>136</sup> Hdt. 1.57.3, Lape 2010: 152-153.

autochthonous<sup>137</sup> the implication of his silence is that the Athenians were not. As with Thucydides, it is unclear exactly what he means by the term, which he could be using simply to mean something like ‘indigenous’ or ‘the first to settle’.

Even when he has an Athenian messenger describe his people’s own origins, he does not use the term ‘autochthonous’, but says ἀρχαιότατον μὲν ἔθνος παρεχόμενοι, μόνου δὲ ἔόντες οὐ μετανάσται Ἑλλήνων.<sup>138</sup> Blok argues that ‘Herodotus does not use the word *autochthones* here but clearly does mean it’,<sup>139</sup> but in that case why does he avoid it? It must be either because the word was not yet commonly used by the Athenians or because he did not want to endorse its connotations. When coupled with his earlier subversion of Athenian origin stories, and use of autochthony when referring to others, the latter option seems more likely – Herodotus’ aim when talking about Athenian origins is, as Lape argues, ‘to demolish once and for all Athenian racial pretensions’.<sup>140</sup> With his belief in the overarching power of *nomos* it is unsurprising that he has little time for Athenian autochthony’s grand claims.<sup>141</sup>

### 3.3 (c) Autochthony and Plato’s *Menexenus*

It is Plato, however, who gives us the best evidence for sceptical and hostile reactions to autochthony, as he produced the *Menexenus* as a direct response to the ideology’s classic and repeated ritual context – the funeral oration. The text has been interpreted in various ways by

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<sup>137</sup> Of the Caunians at 1.172.1, of the Boudini at 4.109.1, and of the Libyans and Ethiopians at 4.197.2. He also uses the term ‘autochthonous’ to refer to mythical characters – an individual woman, from whom Libya is said to have got its name (4.45.3), and the Attic deme hero Titacus, who is said to be one of the ‘*autochthones*’ at 9.73.2.

<sup>138</sup> Hdt. 7.161.3: ‘Demonstrating that we are the oldest nation, being the only ones of the Greeks not to have migrated’.

<sup>139</sup> Blok 2009c: 254.

<sup>140</sup> Lape 2010: 154.

<sup>141</sup> See Zacharia 2008 for Herodotus’ presentation of Greek identity.

scholars, and there is no consensus on which, if any, parts of it are meant to be taken seriously.

The text's authenticity at least is no longer doubted.<sup>142</sup> Most scholars have seen a strong parodic strain to it. Loraux rejects 'all the serious readings of the *Menexenus*',<sup>143</sup> suggesting that Plato 'wanted to dissipate the mirage of the funeral oration by turning the speech against itself'.<sup>144</sup> The history of Athens it gives is so obviously false and distorted, and the praise of Athens so exaggerated, that others have reached similar conclusions, such as Bloedow,<sup>145</sup> who argued that it was aimed at sophistic rhetoric generally.<sup>146</sup> Others have reached entirely different conclusions. Kahn is most diametrically opposed, interpreting it as a deliberate response to the Periclean oration of Thucydides.<sup>147</sup> For Kahn, 'Plato is not interested in parodying the Thucydidean oration, but in answering it' by 'praising Athens *as she should be praised*' (original emphasis);<sup>148</sup> he offers an alternative Athens which acts as Athens should have acted.<sup>149</sup> The final part of the oration, in which the dead address their living sons, shows 'unmistakeable earnestness';<sup>150</sup> Kahn goes as far as to call the text 'perhaps the finest work of Greek oratory before Demosthenes'.<sup>151</sup>

Salkever does not go as far, seeing it as a mixture of the comic and the serious which serves as 'a Socratic critique of Athenian self-understanding' and 'an alternative to that self-

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<sup>142</sup> See e.g. Tsitsiridis 1998: 21-41; Ledger 1989: 163-164, using computer analysis; Loraux 1986: 9.

<sup>143</sup> Loraux 1986: 325.

<sup>144</sup> Loraux 1986: 10.

<sup>145</sup> Bloedow 1975: esp. 36ff.

<sup>146</sup> Bloedow 1975: 47-48.

<sup>147</sup> Kahn 1963: 220-222. Monoson 1998: 489 interprets it as Plato's attack on 'his contemporaries' recreation of Pericles'.

<sup>148</sup> Kahn 1963: 224.

<sup>149</sup> Kahn 1963: 225. Richter 2011: 95-100 reaches the same conclusion.

<sup>150</sup> Kahn 1963: 229.

<sup>151</sup> Kahn 1963: 232.

understanding'.<sup>152</sup> Specifically, he sees the section where the living are exhorted to exceed the achievements of the dead by focusing on their *eudaimonia* (247e5-248c2) as 'thoroughly Platonic', the point being that the audience should focus on themselves and not on glory.<sup>153</sup> Collins and Stauffer are less convinced that there is a relatively straightforward message to be found, arguing that the dialogue provides no easy answers, but urges the audience to question and doubt simple models like that of the funeral oration, turning to philosophy instead.<sup>154</sup> They agree with Kahn in seeing it as a specific response, at least in part, to the Periclean funeral oration of Thucydides, and to Periclean politics in general.<sup>155</sup> Henderson, on the other hand, considers the parallels to be overdrawn, being too general to be convincing;<sup>156</sup> there are closer parallels with Lysias' speech, but 'even if Lysias was one of Plato's targets he was not the only one'.<sup>157</sup> He sees the majority of the speech as a 'reductio ad absurdum', 'destroying the clichés and tricks of rhetoric by overdoing them',<sup>158</sup> but does see some 'genuine Socratic and Platonic ideas' in the address of the dead at the end of the speech.<sup>159</sup>

There is thus a great deal of subjectivity in analysing the meaning of the text and individual passages in it. One reader's over-the-top parody is another's heartfelt exhortation. Whatever its original meaning, it was, according to Cicero, interpreted by later Athenians as a great patriotic effort, being read out annually.<sup>160</sup> My own view is that the text is, indeed, a parody throughout. My conclusion is not dissimilar from that of Collins and Stauffer, in that I interpret Plato as attacking the uncritical acceptance of the funeral speech and the ideas it

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<sup>152</sup> Salkever 1993: 134.

<sup>153</sup> Salkever 1993: 140.

<sup>154</sup> Collins and Stauffer 1999: 109-115.

<sup>155</sup> Collins and Stauffer 1999: 92-93.

<sup>156</sup> Henderson 1975: 27-29.

<sup>157</sup> Henderson 1975: 30-31. See also Todd 2007: 154-157.

<sup>158</sup> Henderson 1975: 35.

<sup>159</sup> Henderson 1975: 45; Monoson 1998: 502 concurs.

<sup>160</sup> Cicero, *Orator* 44 (151). Hariman 2008: 252 suggests that the Athenians recited it knowing full well that it was a parody, and enjoying it for precisely that reason, finding it hard to believe 'that the Athenians were so obtuse that they missed the parody'. Modern scholars who are far from obtuse, however, have taken it seriously, and I do not see why the Athenians should have been any different.

contains. This acceptance is fostered by the privileged and ritual nature of the funeral occasion. My focus, however, is on the theme of autochthony as presented in the speech, rather than on Plato's critique of Athenian politics and policy. Plato attacks the specific idea of autochthony as imagined and employed by the Athenians as well as the context which encourages its uncritical acceptance. I shall also examine the hints which the dialogue gives about the sincerity of composition and audience response.

The dialogue opens with Menexenus, having just left the Bouleuterion, meeting Socrates and telling him the news that the councillors are about to choose the orator for the public funeral.

Socrates replies by describing the style and effects of the orations:

Καὶ μὴν, ὦ Μενέξενε, πολλαχῆ κινδυνεύει καλὸν εἶναι τὸ ἐν πολέμῳ ἀποθνήσκειν. καὶ γὰρ ταφῆς καλῆς τε καὶ μεγαλοπρεποῦς τυγχάνει, καὶ ἐὰν πένης τις ὢν τελευτήσῃ, καὶ ἐπαινοῦ αὖ ἔτυχεν, καὶ ἐὰν φαῦλος ᾖ, ὑπ' ἀνδρῶν σοφῶν τε καὶ οὐκ εἰκῆ ἐπαινούντων, ἀλλὰ ἐκ πολλοῦ χρόνου λόγους παρεσκευασμένων, οἳ οὕτως καλῶς ἐπαινοῦσιν, ὥστε καὶ τὰ προσόντα καὶ τὰ μὴ περι ἐκάστου λέγοντες, κάλλιστα πῶς τοῖς ὀνόμασι ποικίλλοντες, γοητεύουσιν ἡμῶν τὰς ψυχάς, καὶ τὴν πόλιν ἐγκωμιάζοντες κατὰ πάντας τρόπους καὶ τοὺς τετελευτηκότας ἐν τῷ πολέμῳ καὶ τοὺς προγόνους ἡμῶν ἅπαντας τοὺς ἔμπροσθεν καὶ αὐτοὺς ἡμᾶς τοὺς ἔτι ζῶντας ἐπαινοῦντες, ὥστ' ἔγωγε, ὦ Μενέξενε, γενναίως πάνυ διατίθεμαι ἐπαινούμενος ὑπ' αὐτῶν, καὶ ἐκάστοτε ἐξέστηκα ἀκροώμενος καὶ κηλούμενος, ἡγούμενος ἐν τῷ παραχρῆμα μείζων καὶ γενναίτερος καὶ καλλίων γεγονέναι.<sup>161</sup>

The sentiment is obviously sarcastic – Plato will hardly have approved of false praise, or praise given indiscriminately, as when the city is praised 'in every way', and 'all' the ancestors are praised. This would still, of course, leave the door open for the speech which Socrates recites to be an example of the sort of things an orator *should* say, either in whole or

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<sup>161</sup> Plato *Menex.* 234c-235b: 'Well, Menexenus, it may well be that to die in battle, in many ways, is an excellent thing. For the dead man gets a magnificent burial, even if he's poor when he dies, and furthermore he gets praise, even if he's actually useless, from wise men who don't give praise off the cuff, but with words prepared long in advance. And they give praise so well, by describing in the case of each man both the qualities which he has and those which he has not, and somehow adorning them so beautifully with their phrases, that they bewitch our souls. And they praise the city in every way possible, as well as praising those who have died in battle, and our ancestors, all of them, of former times, and we ourselves as well, who are still living – so that, Menexenus, when I am praised by them, I myself feel greatly ennobled. And every time, I am beside myself as I listen and am enchanted, imagining on the spot that I have become greater, and nobler, and finer'. My translation follows Tsitsiridis in reading ἐξέστηκα; others prefer ἔστηκα, 'I stand listening, enchanted'. See discussion at Tsitsiridis 1998: 150-151.

in part. There is more of a question when we come to the effects of the orations as Socrates describes them. His remarks on the brilliance and efficacy of the orators' words in terms of their ability to 'bewitch' the audience could be meant sarcastically as well, and certainly seem to be in the case of their effect on Socrates himself. There could, however, be a genuine concern that the other citizens are enchanted and fooled by them. The next passage sheds some further light:

καὶ οἷα δὴ τὰ πολλὰ ἀεὶ μετ' ἐμοῦ ξένοι τινὲς ἔπονται καὶ συνακροῶνται πρὸς οὓς ἐγὼ σεμνότερος ἐν τῷ παραχρῆμα γίγνομαι· καὶ γὰρ ἐκεῖνοι ταῦτα ταῦτα δοκοῦσί μοι πάσχειν καὶ πρὸς ἐμὲ καὶ πρὸς τὴν ἄλλην πόλιν, θαυμασιωτέραν αὐτὴν ἡγεῖσθαι εἶναι ἢ πρότερον, ὑπὸ τοῦ λέγοντος ἀναπειθόμενοι. καὶ μοι αὕτη ἡ σεμνότης παραμένει ἡμέρας πλείω ἢ τρεῖς· οὕτως ἔναυλος ὁ λόγος τε καὶ ὁ φθόγγος παρὰ τοῦ λέγοντος ἐνδύεται εἰς τὰ ὦτα, ὥστε μόγις τετάρτη ἢ πέμπτη ἡμέρα ἀναμιμνήσκομαι ἐμαυτοῦ καὶ αἰσθάνομαι οὗ γῆς εἶμι, τέως δὲ οἶμαι μόνον οὐκ ἐν μακάρων νήσοις οἰκεῖν· οὕτως ἡμῖν οἱ ῥήτορες δεξιοὶ εἰσιν.<sup>162</sup>

This makes the hyperbole and irony yet clearer, and is underlined by Menexenus' reply: Ἀεὶ σὺ προσπαίζεις, ὦ Σώκρατες, τοὺς ῥήτορας.<sup>163</sup> Wickkisser argues that while the effects of the orators are described 'in humorous detail', they are nevertheless supposed to be taken seriously: 'irony by nature cradles at its basis a kernel of truth. Socrates' humour depends upon a recognition of the very real effects of speech'.<sup>164</sup> This, however, depends on the target of the irony. Wickkisser suggests that Socrates has a real concern with the corrupting effects of the funeral oration; if, however, he is targeting the quality of the speeches, and the speakers' pretensions, then we can take his description of their effects as pure exaggeration.

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<sup>162</sup> Plato *Menex.* 235b-c: 'And usually foreigners follow and listen with me, and I instantly become more majestic in relation to them – and they seem to have the same feelings as I do as regards both me and the rest of the city, thinking it to be more wonderful than before, as they are persuaded by the speaker. And the same majesty remains in me for more than three days – the meaning and tone of the speaker ring in my ears in such a way that it is scarcely on the fourth or fifth day that I remember myself, and realise that I am on the earth, thinking until then that I almost lived in the Isles of the Blessed. That's how skilful our speakers are.'

<sup>163</sup> Plato *Menex.* 235c: 'You're always mocking the orators, Socrates'.

<sup>164</sup> Wickkisser 1999: 69.

This is at least partly supported by the fact that Socrates also brings in the matter of foreigners in the audience. He claims that they too are overcome with wonder at the words and delivery of the speakers, after remarking that he himself seems far superior to them when the speech is made. Here at least, as with the supposed effects on Socrates himself, the tone seems sarcastic. The idea that such a speech would actually prove convincing to non-Athenians is absurd, particularly in the light of the content of the oration which follows in the dialogue. This is underlined by the equally absurd suggestion that hearing these words makes the foreigners marvel at Socrates himself, thinking him far greater than before. The question then becomes one of whether we can extend this absurdity to the alleged reaction of the Athenian audience in general.

This is an extremely difficult question to answer. The actual purpose of the irony is hard to discern – is it aimed at the pretensions of the orators, and/or of the Athenian audiences who like to believe that the words spoken are so impressive to foreigners, or is it supposed to mock by exaggeration the speeches' actual ineffectiveness? The first does not preclude the second, and perhaps both are involved. Even the citizen part of the audience was not in reality homogenous, and we would naturally expect a variety of opinions to be held and reactions to be experienced. The funeral occasion and ritual context, however, must have made it difficult to articulate criticism or dissent publicly, even if the speech delivered was deemed to be of poor quality. In private discussion, it would of course be a different matter.

It is possible, then, that sometimes the illusion was created not so much by the words of the speaker as by the occasion, and a willing desire on the part of the audience to pretend that what they were hearing was rather more moving than they honestly believed. Just as the speaker heaped indiscriminate praise on the dead, whether it was deserved or not, so the

audience publicly praised the speaker and the power of his speech, whether it was good, bad or indifferent.<sup>165</sup> This would certainly add to the untruthful and hypocritical nature of the occasion, which appears to be a major part of Plato's criticism. It can hardly be the whole point of the dialogue, however, since it cannot be the case that no speeches were genuinely effective, or that the whole audience remained unmoved at heart. Furthermore, Socrates goes on to say how easy it is to win the crowd's (presumably heartfelt) approval when praising their own polis in front of them. I would therefore regard this as a possible and attractive reading, but not one which should necessarily supplant others.

In the main, the target appears to be the orators themselves, as suggested by Menexenus' reply. He goes on to remark that, in this case, as the appointment is to be made at such short notice, the speaker cannot rely on prepared material, and will have to improvise. Socrates' reply is instructive:

Πόθεν, ὦγαθέ; εἰσὶν ἑκάστοις τούτων λόγοι παρεσκευασμένοι, καὶ ἅμα οὐδὲ αὐτοσχεδιάζειν τά γε τοιαῦτα χαλεπὸν. εἰ μὲν γὰρ δέοι Ἀθηναίους ἐν Πελοποννησίοις εὖ λέγειν ἢ Πελοποννησίους ἐν Ἀθηναίοις, ἀγαθοῦ ἂν ῥήτορος δέοι τοῦ πείσοντος καὶ εὐδοκιμήσοντος· ὅταν δέ τις ἐν τούτοις ἀγωνίζηται οὔσπερ καὶ ἐπαινεῖ, οὐδὲν μέγα δοκεῖν εὖ λέγειν.<sup>166</sup>

Socrates underlines further the insincere nature of the praise given in the oration, which does not amount to more than a stock speech which can be delivered on any funeral occasion – the actual deeds or qualities of the dead are irrelevant. The crowd is the easiest imaginable, being the very objects of the praise that is to be given (this, of course, ignores the foreigners whom he has just mentioned – presumably they are envisaged as a silent minority). It is thus an empty achievement to win them over.

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<sup>165</sup> This provides an interesting contrast to those modern readers who deal with the alleged substandard quality of the Lysianic and Demosthenic speeches by rejecting their authenticity.

<sup>166</sup> Plato *Menex.* 235d: 'What for, my good man? Each of them has pre-prepared speeches, and anyway, it's not really a difficult task to improvise such things. If it were a case of speaking well about the Athenians before an audience of Peloponnesians, or Peloponnesians before Athenians, then you'd need a great orator to win them over and gain their esteem – but when someone's contending in front of the very people he's praising, it's hardly a great thing to be thought of as speaking well'.

Menexenus challenges Socrates over this claim, asking if he, then, could deliver a speech if he were chosen. Socrates replies that he could, because of his teacher – διδάσκαλος οὗσα οὐ πάνυ φαύλη περὶ ῥητορικῆς, ἀλλ’ ἤπερ καὶ ἄλλους πολλοὺς καὶ ἀγαθοὺς πεποίηκε ῥήτορας, ἓνα δὲ καὶ διαφέροντα τῶν Ἑλλήνων, Περικλέα τὸν Ξανθίππου.<sup>167</sup> This teacher is Pericles’ *hetaira* Aspasia, who, according to Socrates, not only taught the orator but wrote the funeral speech which he delivered. ‘Yesterday’ Socrates heard her composing the sort of speech which the present orator should deliver, made up partly of material recycled from Pericles’ speech, and learned it from her.<sup>168</sup> After a little persuasion, he agrees to recite it for Menexenus.<sup>169</sup>

Salkever appreciates Plato’s ascription of the speech to Aspasia, enjoying the irony of a ‘female foreigner’ writing patriotic speeches,<sup>170</sup> but seeing its real point lying in Plato’s urging of his readers to focus on the private life, traditionally the women’s sphere.<sup>171</sup> Todd notes that in ascribing to her the authorship, Plato could be aiming a subtle attack at Lysias, an outsider who wrote a funeral oration in which he praised the Athenians of the past as ‘our’ ancestors; there could also be the implication that ‘his activity as an orator is itself a form of prostitution’.<sup>172</sup>

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<sup>167</sup> Plato *Menex.* 235e: ‘a teacher who is no slouch when it comes to rhetoric, but rather one who has made many and fine orators, including one who surpasses all Greeks, Pericles son of Xanthippus’.

<sup>168</sup> Plato *Menex.* 236b.

<sup>169</sup> Plato *Menex.* 236d.

<sup>170</sup> Salkever 1993: 135.

<sup>171</sup> Salkever 1993: 140.

<sup>172</sup> Todd 2007: 156. More precisely, however, in that case the attack would be against his profession as a logographer rather than as an orator. Richter 2011: 94 and n.30 makes the broader point that what Plato may be getting at is that an orator gives pleasure, just like a courtesan.

Bloedow sees Aspasia as the key to understanding the dialogue, pointing out that she is mentioned at both the beginning and the end of the speech,<sup>173</sup> and suggesting that she is thus given too much importance to be ignored when interpreting the text.<sup>174</sup> The reference to her at the end does seem to indicate her importance, which must go beyond what Loraux grants her; she regards Aspasia as a comic element, but ‘of course, as Socrates is delivering the epitaphios Aspasia is completely forgotten’.<sup>175</sup> We would not, however, expect any overt reference to her during the speech, which was supposed to be written for someone else to deliver, and as soon as Plato can mention her outside of it, he does – in the first sentence after the speech.<sup>176</sup> More significantly, given the exaggeratedly patriotic nature of the content of the speech, the fact that the putative author was actually a foreign woman is always relevant – it gives a particular irony to what is being said,<sup>177</sup> but underlines as well how insincere it is. The one who actually wrote the words was outside of the group, in terms of nationality and gender, which was being praised, and can hardly have actually believed them.

The point Plato was making was that the rhetoric of the funeral oration was hollow and not necessarily believed by those producing it. Additionally, the speaker did not necessarily live up to the ideals being espoused. Aspasia served as a particularly striking example of this, but it is a point that relates to what Demosthenes says about his own appointment as funeral speaker. Attacking Aeschines, he explains that the Athenians preferred him to his opponent because the speaker had to be loyal; but Aeschines and his friends were traitors.<sup>178</sup>

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<sup>173</sup> Bloedow 1975: 33.

<sup>174</sup> Bloedow 1975: 43-44.

<sup>175</sup> Loraux 1986: 323.

<sup>176</sup> Plato *Menex.* 249d: Οὗτός σοι ὁ λόγος, ὃ Μενέξενε, Ἀσπασίας τῆς Μιλησίας ἐστίν (‘There you have the speech, Menexenus, of Aspasia the Milesian’).

<sup>177</sup> Gruen 2011: 238.

<sup>178</sup> Dem. 18.286-287.

This extreme example reflects the fact that not all orators will have been irreproachable, or will not have gone on to be disgraced (Demosthenes himself being a good example). We are familiar with somewhat contradictory views of Athens' leading citizens being displayed in different contexts, for example in the case of Cleon in the fifth century, who was savagely lambasted in the theatre and yet able to win support for his policies and leadership in the assembly. In the case of the funeral oration, however, the ritual elements appear to have demanded a particularly blameless speaker – something difficult to achieve in a city where such attention seems to have been paid to the leaders, and individuals were not shy of spreading scurrilous rumours about their enemies. The simple way around this problem is to privilege the speaker by suspending knowledge of their individuality and character, and treating them as the neutral voice of the people. Clearly, however, this did not reflect the truth, and Plato's use of Aspasia flags this up strongly. The speakers were fallible, and perhaps dishonest and incompetent, and yet they were treated as beyond criticism, at least for the duration of the speech. Again, this resembles the one-eyed, uncritical praise of the dead and the polis served up by the speaker himself; it also precluded the questioning which underpinned philosophy.

Plato, then, had his reasons for depicting Aspasia as the author of the oration;<sup>179</sup> the framing of the epitaphios gives us good reason to suppose that the speech itself will contain much irony. As Richter points out, however, this is not necessarily the case; the speech could still

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<sup>179</sup> It is true, as Coventry 1989: 5 suggests, that there is some ambiguity about this, as expressed by Menexenus at 236c and 249d. This has led some to claim that Aspasia is not the 'real' author of the speech – thus Loraux claims that Aspasia 'was content to repeat Pericles' epitaphios' (Loraux 1986: 323). This seems to give too much weight to Menexenus' words, which could be there to represent the delusion of an audience that cannot help but ascribe a noble-sounding speech to a noble sounding author, judging him by his words and therefore being misled about his character. Be that as it may, Socrates' ascription of the speech to Aspasia still makes the points which I have outlined, and is part of Plato's design. Even if Menexenus' comments are supposed to suggest that this was a fiction (within, of course, the broader fiction of the dialogue), and that Socrates 'really' wrote it, the points still stand, albeit at a remove – they would become the character of Socrates' design rather than Plato's directly. In this dialogue, I do not think that it makes much of a difference.

be meant seriously, even within an ironic frame.<sup>180</sup> Nevertheless, an examination of key passages will demonstrate that an ironic reading should extend to the content of the oration itself. Autochthony has a very important role – more so, in fact, than in any of the other funeral orations which we possess. The importance of ancestry is introduced early on, with the priority of birth made clear – it is from this that everything flows.<sup>181</sup> It is the autochthonous nature of this birth which is most important, and on which everything comes to depend:<sup>182</sup>

τῆς δ' εὐγενείας πρῶτον ὑπῆρξε τοῖσδε ἢ τῶν προγόνων γένεσις οὐκ ἔπηλυσ οὔσα, οὐδὲ τοὺς ἐκγόνους τούτους ἀποφηνάμενη μετοικοῦντας ἐν τῇ χώρᾳ ἄλλοθεν σφῶν ἠκόντων, ἀλλ' αὐτόχθονας καὶ τῷ ὄντι ἐν πατρίδι οἰκοῦντας καὶ ζῶντας, καὶ τρεφομένους οὐχ ὑπὸ μητριᾶς ὡς οἱ ἄλλοι, ἀλλ' ὑπὸ μητρὸς τῆς χώρας ἐν ἧ ὄκουν, καὶ νῦν κείσθαι τελευτήσαντας ἐν οἰκείοις τόποις τῆς τεκούσης καὶ θρεψάσης καὶ ὑποδεξαμένης. δικαιοτάτον δὴ κοσμηῆσαι πρῶτον τὴν μητέρα αὐτήν· οὕτω γὰρ συμβαίνει ἅμα καὶ ἡ τῶνδε εὐγένεια κοσμουμένη.<sup>183</sup>

The theme clearly resembles that of the other orations, with a particular connection to the land of Attica. As before, there is a strong contrast between the Athenians and others, whose legitimacy is inferior and like that of step-children – there is a particular and overt contrast between them and metics. It is in the next section that the elements of parody become strong, as the topos of the earth-as-mother is actually explored and argued for, rather than simply asserted. A selection of flattering myths about Attica is given, which do not prove anything about Attica or the Athenians.<sup>184</sup> It may be objected that Plato himself was not above telling ‘noble lies,’ and backing them up with spurious mythology. As Coventry points out, however, the difference is that Plato’s noble lie was supposed to justify inequality that was based on

<sup>180</sup> Richter 2011: 95. An apt example would be Byron’s *Isles of Greece*, which was embedded in his *Don Juan* and delivered, according to the poem’s conceit, by an unscrupulous speaker for hire, but nevertheless appears to express the author’s genuine feelings. When the poem is anthologised the frame is invariably dispensed with.

<sup>181</sup> Plato *Menex.* 237a.

<sup>182</sup> Henderson 1975: 36.

<sup>183</sup> Plato *Menex.* 237b-c: ‘To begin first with their noble birth, the genesis of their ancestors was not that of immigrants, and it did not produce these men, their descendants, to be metics in the land, born of people who came from elsewhere – they are autochthonous, and live and inhabit their true fatherland. They were not brought up by a stepmother, as are other men, but by the true mother that is the land in which they live, which bore them and raised them and, now that they have died, receives them to rest in the places of their own family. It is right, then, to honour first this mother herself, for in doing so their noble birth will be honoured as well’.

<sup>184</sup> Plato *Menex.* 237c-e.

real, innate differences in ability and virtue;<sup>185</sup> the autochthony myth, on the other hand, is used to justify an equality of birth (among Athenians) that is not real, and a superiority over other nations that in turn can be used to justify immoral political action.

This is a point which is developed as the speech goes on. Socrates turns next to the Athenian *politeia*, which he describes as a true aristocracy, since it is government of the best with the support of the many. The Athenians' equal birth is the basis of their government – *αἰτία δὲ ἡμῶν τῆς πολιτείας ταύτης ἢ ἐξ ἴσου γένεσις*.<sup>186</sup> Other cities are divided, as they are made up of people of different sorts, and therefore succumb to tyranny or oligarchy, whereas the Athenians are each other's brothers, and thus seek equality, seeing superiority only in *arête* and *phronêsis*.<sup>187</sup> The irony of such a conception is obvious, when the actual nature of some of Athens' leaders is considered, particularly in terms of Plato's view of them. The irony is not targeted purely at the 'new' politicians; Socrates also says that *οὔτε ἀσθενεῖα οὔτε πενία οὔτ' ἀγνωσία πατέρων ἀπελήλαται οὐδεις οὐδὲ τοῖς ἐναντίοις τετίμηται, ὥσπερ ἐν ἄλλαις πόλεσιν, ἀλλὰ εἷς ὅρος, ὁ δόξας σοφὸς ἢ ἀγαθὸς εἶναι κρατεῖ καὶ ἄρχει*.<sup>188</sup> It is hard to square this with the prominence of the aristocratic citizens in Athens, including Pericles himself.

The divisions which had played out in living memory also make the words of the speech seem highly ironic. Athens' civil war had taken place less than twenty years before the dramatic date of the dialogue, and of course Socrates, the man reciting the speech, had in reality been put to death by his Athenian 'brothers'. The amnesty which followed the civil

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<sup>185</sup> Coventry 1989: 12.

<sup>186</sup> Plato *Menex.* 238d: 'The cause of this, our *politeia*, is equality of origin'.

<sup>187</sup> Plato *Menex.* 238e-239a.

<sup>188</sup> Plato *Menex.* 238d: 'No one is excluded for his weakness or poverty or obscure parentage, or esteemed for the opposite reasons, as in other cities – there is rather one standard, that he who seems to be wise or good rules and holds office'.

war came to be remembered as a uniquely successful reconciliation,<sup>189</sup> but the terms in which Socrates describes it in the speech are so effusive that, again, the irony is clear:

μετὰ δὲ ταῦτα ἡσυχίας γενομένης καὶ εἰρήνης πρὸς τοὺς ἄλλους, ὁ οἰκεῖος ἡμῖν πόλεμος οὕτως ἐπολεμήθη, ὥστε εἴπερ εἰμαρμένον εἶη ἀνθρώποις στασιάσαι, μὴ ἂν ἄλλως εὐξασθαι μηδένα πόλιν ἑαυτοῦ νοσήσαι. ἔκ τε γὰρ τοῦ Πειραιῶς καὶ τοῦ ἄστεως ὡς ἀσμένως καὶ οἰκειῶς ἀλλήλοις συνέμειξαν οἱ πολῖται καὶ παρ' ἐλπίδα τοῖς ἄλλοις Ἑλλησι, τόν τε πρὸς τοὺς Ἐλευσίνοι πόλεμον ὡς μετρίως ἔθεντο· καὶ τούτων ἀπάντων οὐδὲν ἄλλ' αἴτιον ἢ ἡ τῶ ὄντι συγγένεια, φιλίαν βέβαιον καὶ ὁμόφυλον οὐ λόγῳ ἀλλ' ἔργῳ παρεχομένη. χρὴ δὲ καὶ τῶν ἐν τούτῳ τῶ πολέμῳ τελευτησάντων ὑπ' ἀλλήλων μνείαν ἔχειν καὶ διαλλάττειν αὐτοὺς ᾧ δυνάμεθα, εὐχαῖς καὶ θυσίαις, ἐν τοῖς τοιοῖσδε, τοῖς κρατοῦσιν αὐτῶν εὐχομένους, ἐπειδὴ καὶ ἡμεῖς διηλλάγμεθα. οὐ γὰρ κακία ἀλλήλων ἦσαντο οὐδ' ἔχθρα ἀλλὰ δυστυχία. μάρτυρες δὲ ἡμεῖς αὐτοὶ ἐσμεν τούτων οἱ ζῶντες· οἱ αὐτοὶ γὰρ ὄντες ἐκείνοις γένει συγγνώμην ἀλλήλοις ἔχομεν ὧν τ' ἐποίησαμεν ὧν τ' ἐπάθομεν.<sup>190</sup>

Again, the vital importance of shared origin is stressed, explaining the alleged friendliness with which the war and reconciliation were carried out and justifying the current generation's ability to forgive wrongs that were done in the past. The unbroken chain of descent and commonality of birth makes this possible. The interpretation which Socrates recites, however, is very different from what we find in other sources, where the evil of the Thirty Tyrants (who are not even mentioned by Socrates)<sup>191</sup> is invariably stressed as well as the tolerance of the democrats in the aftermath.<sup>192</sup>

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<sup>189</sup> See Wolpert 2002a, 2002b.

<sup>190</sup> Plato *Menex.* 243d-244b: 'After this, when our foreign affairs were quiet and peaceful, our civil war was fought in such a way that, if people are destined to enter into civil strife, no one would pray for his own city to suffer it differently from ours. The citizens from both the Piraeus and the city conversed so gladly and affectionately with each other, and – as was beyond hope – even with the other Greeks, and so moderately did they carry out the war against those in Eleusis! And there was no other cause for all this than their genuine kinship, which gave them a friendship which was firm and based on their common race, not in word but in fact. We must remember those who died in that war at each other's hands, and reconcile them in such a way as we can in these circumstances, with prayers and sacrifices, praying to those who have power over them, since we too have been reconciled. For they did not struggle against each other because of wickedness or enmity, but because of misfortune. We ourselves, the living, are witnesses of this – for we who are the same as them by birth forgive each other both for what we have done and what we have suffered.'

<sup>191</sup> Richter 2011: 97.

<sup>192</sup> Lyc. 1.124, for example, claims that the victorious democrats passed a law that allowed the pre-emptive punishment of those conspiring against the democracy πεπονθότες ὑπὸ τῶν πολιτῶν, οἷα οὐδεὶς πρόποτε τῶν Ἑλλήνων ἠξίωσε ('having suffered from citizens things which none of the Greeks had ever yet thought acceptable'); when praising the forgiveness of the Athenians after the war, Aeschines 3.208 acknowledges also the evils which had been perpetrated by the oligarchs (μεγάλων κακῶν συμβάντων).

In Plato's own time there were many people who had suffered at the hands of the oligarchs, including Lysias,<sup>193</sup> and numerous forensic speeches from the early fourth century touch on behaviour allegedly carried out by litigants during the war, or how those who remained in the city ought to be treated.<sup>194</sup> This passage of the *Menexenus*, then, ironically deflates both the pretensions to a special, autochthony-derived unity which Plato has been satirising and the tendency of the funeral orators to exaggerate and distort the truth. The reference to Eleusis may be a particular case of the latter – it was where the supporters of the oligarchs were allowed to live separately from the other Athenians by the terms of the original peace agreement, but it was marched on by the democrats shortly afterwards, who killed the opposing generals when they came for a conference.<sup>195</sup> For Plato to describe this as *metriôds* is, at first glance, a simple irony, but since it was apparently only the generals who were killed, with the rest invited to come to terms peacefully, it has a kind of grim validity as well<sup>196</sup> – the attack was carried out 'moderately' since it only involved murdering a few people.

Socrates also describes the historical events of the Persian wars and afterwards, down to the present day. These actions are introduced and explained as follows:

Ὅθεν δὴ ἐν πάσῃ ἐλευθερίᾳ τεθραμμένοι οἱ τῶνδὲ γε πατέρες καὶ οἱ ἡμέτεροι καὶ αὐτοὶ οὗτοι, καὶ καλῶς φύντες, πολλὰ δὴ καὶ καλὰ ἔργα ἀπεφάναντο εἰς πάντας ἀνθρώπους καὶ ἰδία καὶ δημοσία, οἴομενοι δεῖν ὑπὲρ τῆς ἐλευθερίας καὶ Ἑλλησιν ὑπὲρ Ἑλλήνων μάχεσθαι καὶ βαρβάροις ὑπὲρ ἀπάντων τῶν Ἑλλήνων.<sup>197</sup>

Noble birth combines with a totally free upbringing to explain that it is freedom that the Athenians have always fought for. This has sometimes required fighting against Greeks and sometimes against barbarians, but freedom was always the beneficiary; a sophistic way

<sup>193</sup> See Lys. 12, esp. §§21, 52.

<sup>194</sup> Lys. 12, 13, 16, 25, 26, Isoc. 18. Plato himself has Socrates remark on the many injustices which were carried out by the Thirty in his *Apology* (32c-d).

<sup>195</sup> Xen. *Hell.* 2.4.43.

<sup>196</sup> Tsitsiridis 1998: 332.

<sup>197</sup> Plato *Menex.* 239a-b: 'From which, having been brought up in total freedom and nobly born, the forefathers of these men and of us, and these men themselves, demonstrated their many and great deeds to other people, individually and publicly, thinking that they should fight for freedom both against Greeks on behalf of Greeks and against barbarians on behalf of all the Greeks.'

around the problem of explaining all the Athenians' wars against other Greek states. Socrates discusses the Persian wars, praising first those Athenians who fought at Marathon and then those at Salamis, whose influence he sums up with this description: ὑπ' ἀμφοτέρων δὴ ξυμβαίνει, τῶν τε Μαραθῶνι μαχεσαμένων καὶ τῶν ἐν Σαλαμῖνι ναυμαχησάντων, παιδευθῆναι τοὺς ἄλλους Ἕλληνας, ὑπὸ μὲν τῶν κατὰ γῆν, ὑπὸ δὲ τῶν κατὰ θάλατταν μαθόντας καὶ ἐθισθέντας μὴ φοβεῖσθαι τοὺς βαρβάρους.<sup>198</sup> In this case it is difficult to see irony, and it seems likely that the praise was meant sincerely, although it is followed by a rather chauvinistic reference to the battle of Plataea, which the orator places third in importance, adding the remark that κοινὸν ἦδη τοῦτο Λακεδαιμονίων τε καὶ Ἀθηναίων<sup>199</sup> – only then, the Spartans shared in the achievement with the Athenians.

Similarly, when discussing Marathon, the orator says that only the Spartans were willing to help, but turned up too late to do so, and οἱ δ' ἄλλοι πάντες ἐκπεπληγμένοι, ἀγαπῶντες τὴν ἐν τῷ παρόντι σωτηρίαν, ἡσυχίαν ἤγον.<sup>200</sup> In Plato's version of the funeral speech, it seems that often Athens cannot be praised without denigrating others. In this he goes beyond what we find in the speech of Lysias, who is happy to give credit to the Spartans and Tegeans at Plataea, although he too denigrates the rest of the allies,<sup>201</sup> and takes the opportunity to point out the cowardice of the Peloponnesians' original plan to defend only the Isthmus.<sup>202</sup> One striking and significant difference between the two orations is that Plato's completely ignores the battle of Thermopylae, whereas Lysias' mentions it and praises the bravery of the fallen,

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<sup>198</sup> Plato *Menex.* 241b-c: 'So it happened that the other Greeks were educated by both those who fought at Marathon and those who fought at sea at Salamis – they learned and became accustomed not to fear the barbarians on land or on sea.'

<sup>199</sup> Plato *Menex.* 241c.

<sup>200</sup> Plato *Menex.* 240c: 'All the others were panic-stricken and, being satisfied with their present safety, kept quiet.' Tsitsiridis 1998: 276 notes that a rather different perspective is given in Plato's *Laws*, where the Athenian says the news of the Persian capture of the Eretrians τοὺς τε ἄλλους Ἕλληνας καὶ δὴ καὶ Ἀθηναίους ἐξέπληττεν (698d).

<sup>201</sup> Lys. 2.46.

<sup>202</sup> Lys. 2.44-45. Todd 2007: 246 says of §§ 44-47 that 'the key theme of this passage is cowardice on the part of the other Greeks'.

blaming their defeat on bad fortune.<sup>203</sup> Even then, however, he gives first place to the action of the Athenians at Artemision.<sup>204</sup>

In this part of the speech, then, Plato satirises the tendency of the Athenians to emphasise their own achievements while ignoring and diminishing those of others – it is not enough for the orators to praise Athens, they must criticise its rivals as well. This seems to be a problem for those (e.g. Kahn and Richter) who suppose that Plato is depicting what an ideal Athens would have done – their theory does not explain why the other Greeks are (sometimes falsely) denigrated. It does not, however, contradict Loraux's argument that Plato is parodying the tendency of the orators to create idealised versions of Athens which, on closer inspection, are not ideal at all.

As the historical narrative moves on to the more recent past, the distortions become more flagrant and obviously biased.<sup>205</sup> The Athenians' battles with other Greek states are explained by envy,<sup>206</sup> the Sicilian expedition described as a fight for freedom defeated by misfortune.<sup>207</sup> The speech's hypocrisy is apparent when it savagely criticises the city's enemies' appeal to the Persian king for help, then goes on to describe the assistance the Athenians later gave to him as proof of their great mercy.<sup>208</sup> Indeed, the orator sums it up like this: καὶ δὴ καὶ εἴ τις βούλοιο τῆς πόλεως κατηγορῆσαι δικαίως, τοῦτ' ἂν μόνον λέγων ὀρθῶς ἂν κατηγοροῖ, ὡς

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<sup>203</sup> Lys. 2.31-32.

<sup>204</sup> Todd 2007: 237-237.

<sup>205</sup> See Henderson 1975: 36-44, Hariman 2008: 252-253.

<sup>206</sup> Plato Menex. 242a.

<sup>207</sup> Plato Menex. 243a. Kahn 1963: 225 argues that Plato's point is that this is the motive the Athenians *should* have had.

<sup>208</sup> Plato Menex. 243b, 244d. The apologia for assisting the king would be unnecessary if the speech were describing the policy of an 'idealised Athens', as the fact could simply be ignored; Plato evidently chose to mention it to demonstrate the hypocrisy of funeral oratory. Similarly, when the orator says (244c) διανοουμένη δὲ ἡ πόλις μὴ ἂν ἔτι ἀμύνηι μῆτε Ἑλλησι πρὸς ἀλλήλων δουλουμένους μῆτε ὑπὸ Βαρβάρων, οὕτως ᾄκει ('The polis intended not to continue aiding Greeks who were being enslaved, either at the hands of each other or by barbarians, and went on in that way') it is hard to see how this could be viewed as an 'ideal' course of action, particularly as the next sentence explains that because of it the Spartans went on to enslave the other Greeks.

ἀεὶ λίαν φιλοκτίρμων ἐστὶ καὶ τοῦ ἥττονος θεραπείς.<sup>209</sup> Given the total lack of any reference to the Athenian empire in the speech,<sup>210</sup> the irony is obvious. Here Plato is not merely attacking the tendency of the orators to omit difficult or embarrassing details, or of the Athenians in general to gloss over such matters, but also ‘condemning by silence’ their actions in recent history.<sup>211</sup> His description of the Athenians’ pity for and tendency to help the weak is, however, supported if mythology is used as evidence, and was a well-known theme.<sup>212</sup> This highlights both the difference between the myth and the reality and the dishonesty of judging the Athenians by what their myths alone say – a criticism which mirrors Plato’s treatment of autochthony in the speech.

After this distorted historical account, Socrates returns to the reasons for the Athenians’ greatness. This is his explanation:

οὕτω δὴ τοι τό γε τῆς πόλεως γενναῖον καὶ ἐλεύθερον βέβαιόν τε καὶ ὑγιές ἐστὶν καὶ φύσει μισοβάρβαρον, διὰ τὸ εἰλικρινῶς εἶναι Ἑλληνας καὶ ἀμιγεῖς βαρβάρων. οὐ γὰρ Πέλοπες οὐδὲ Κάδμοι οὐδὲ Αἴγυπτοὶ τε καὶ Δαναοὶ οὐδὲ ἄλλοι πολλοὶ φύσει μὲν βάρβαροι ὄντες, νόμῳ δὲ Ἑλληνες, συνοικοῦσιν ἡμῖν, ἀλλ’ αὐτοὶ Ἑλληνες, οὐ μειξοβάρβαροι οἰκοῦμεν, ὅθεν καθαρὸν τὸ μῖσος ἐντέτηκε τῇ πόλει τῆς ἀλλοτρίας φύσεως.<sup>213</sup>

Purity is once again stressed as the key element – it is the pure Greekness of the Athenians that makes them so noble and free, and that leads them to an especially pure hatred of barbarians. That this latter point can be a good thing is somewhat surprising. It is true, as Tsitsiridis points out, that later Plato would have Socrates say that when Greeks and

<sup>209</sup> Plato *Menex.* 244e: ‘And in fact, if someone wished to accuse our city justly, he could do so only by saying this, that it is always too prone to pity, and favouring the weak.’

<sup>210</sup> Collins and Stauffer 1999: 99.

<sup>211</sup> Collins and Stauffer 1999: 101.

<sup>212</sup> Tsitsiridis 1998: 341-342.

<sup>213</sup> Plato *Menex.* 245c-d: ‘The nobility and freedom of our city is so firm and healthy, and by nature barbarian-hating, because we are purely Greeks, and unmixed with barbarians. For none of Pelops’ kind, no Cadmeans, no Egyptians or Danaans, nor any of the many others who are barbarians by nature, though Greeks by custom, live with us. We are only Greeks, not half-barbarians, who live here, from which a pure hatred of foreign nature has been sunk deep into our city.’ Others translate αὐτοὶ as ‘pure’; see Tsitsiridis 1998: 360.

barbarians fight φήσομεν καὶ πολεμίους φύσει εἶναι.<sup>214</sup> There does seem, however, to be a qualitative difference between natural enmity and actual hatred. Is the point that the belief in autochthony, as articulated by the Athenians' orators, leads ultimately to hatred rather than to good? The fact that it is hatred of barbarians might give reason to doubt this, but the second part of the passage heavily implies that, really, the other Greeks are so by convention only. As they are not true Greeks, they are half-barbarians at best, which of course opens the door for the Athenians' hatred to extend even to them. Athenian chauvinism is such that it can lead them to hate anyone outside of their own group, and their autochthonous origin can be used to support it.

Plato, then, demonstrates how a false and unjust belief like the Athenian version of autochthony can be used to justify immoral action. That Athenian autochthony is false is made clear by the inaccuracy of at least one of its premises. The actual origin of the first people in Attica could hardly have been commented on, but the claim to purity certainly could be. It depends on the claim that the Athenians do not συνοικεῖν with others. This is clearly false if taken simply to mean 'live with' – Athens of course contained many metics, both Greek and barbarian. It is also false if given the more specific connotation of 'marry';<sup>215</sup> we should in that case take it to mean something like 'intermarry with' or 'interbreed with'. If so, the claim is disproved by the legal introduction of the Plataeans into the Athenian citizen body, let alone the fraudulent intrusions by foreigners and the apparent breakdown of the Periclean citizenship law during the Peloponnesian war.<sup>216</sup> Not only is the premise untrue, but it also fails to serve a good purpose, since it is used to claim that the Athenians are both qualitatively equal with each other and superior to other peoples, including the other Greeks.

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<sup>214</sup> Plato *Rep.* 470c, Tsitsiridis 1998: 357, also citing for comparison Isoc. 4.158, 184, 12.163 and later texts.

<sup>215</sup> See section 2.2 (b).

<sup>216</sup> See section 4.1 (b).

The cause of the ‘nobility’ of the Athenians, ironically, leads to and justifies their basest actions.

If this is Plato’s critique of autochthony, there still remains his critique of the form in which it is couched, the funeral oration as genre. To the extent that it is actually persuasive, it is of course a corrupting influence if what it contains is incorrect or immoral. But the broader point is that its privileged position does not allow whatever it contains to be challenged. We can see this in the speeches-within-the-speech towards the end, when the orator claims to be reciting the last words of the dead:

ἐν δὲ τῷ παρόντι δίκαιός εἰμι εἰπεῖν ἃ οἱ πατέρες ἡμῖν ἐπέσκηπτον ἀπαγγέλλειν τοῖς ἀεὶ λειπομένοις, εἴ τι πάσχοιεν, ἠνίκα κινδυνεύσειν ἔμελλον. φράσω δὲ ὑμῖν ἃ τε αὐτῶν ἤκουσα ἐκείνων καὶ οἷα νῦν ἡδέως ἂν εἴποιεν ὑμῖν λαβόντες δύναμιν, τεκμαιρόμενος ἐξ ὧν τότε ἔλεγον. ἀλλὰ νομίζειν χρὴ αὐτῶν ἀκούειν ἐκείνων ἃ ἂν ἀπαγγέλλω· ἔλεγον δὲ τάδε...<sup>217</sup>

Whether Aspasia or Socrates is supposed to be the author, neither would have been there to hear these words. The speech was in any case supposed to be made up of fragments and leftovers of another, written for Pericles.<sup>218</sup> The authority which the words of the dead have, then, is spurious; the speaker falsely claims to be reporting words that are, in fact, his own. The point can be extended to apply to the oration as a whole. Simply because someone has been selected by the people, it does not follow that what they say will be beneficial. Crucially, what they say should not be privileged to the extent that it is beyond criticism. In the case of the speech of the dead, because the words are supposedly those of the fallen, they are removed from the realms of criticism; there is no place to argue with them, either in favour or against. Similarly, as the funeral orator becomes the voice of the city, he too is removed from

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<sup>217</sup> Plato *Menex.* 246c: ‘On the present occasion I am right to say what your fathers commanded us to tell the survivors, if something happened, when they were about to risk their lives. I will tell you both what I heard from them personally, and what, judging by what they said then, they would gladly say to you now if they were able. But you must imagine that you are hearing what I say from the men themselves. What they said was this...’

<sup>218</sup> Plato *Menex.* 236b.

criticism, and whatever he says is accepted. Regardless of the content of what he says, this cannot be a good thing.

Plato thus criticises most of all the unthinking acceptance of doctrines which is encouraged by the funeral oration. He also seems to disapprove of the specific doctrine of autochthony, at least as the Athenians employed it, since it is both untrue and has negative consequences – it is a lie that is not even noble. It is not simply the persuasive power that he is criticising, but also the context which puts it above dissent. It is very difficult to interpret what he says about its reception by the Athenian audience. The sarcastic remarks which he has Socrates make at the beginning of the dialogue, however, imply that it was not necessarily as powerful and persuasive as we might expect.

### **3.4 Conclusions**

Autochthony's position as the official and public ideology of Athenian identity was recreated and reinforced through the funeral oration. The ritual context in which the orations took place added authority to the concept, protected it from criticism and rational analysis at least during the ritual itself, and gave it a receptive audience that wanted to believe in it. This does not mean, however, that outside of this context it went unchallenged or was believed wholeheartedly. On the contrary, there is some evidence for scepticism, at least from intellectuals such as Thucydides and Plato. Euripides' *Ion* and Plato's *Menexenus* explore the potential dangerous consequences of belief in autochthony (and acting on those beliefs), and Plato comes down heavily against both it and the funeral oration as they were formulated by his fellow Athenians. His dialogue also suggests that the audience response was less genuine

and heartfelt than we might otherwise suppose, although this is very difficult to be sure about due to the text's complex layers of irony.

With these provisos, however, autochthony-as-ritual functioned as an ideology which united the Athenians and made clear the inferior and excluded position of outsiders, such as the metics. It gave to the Athenians a conception that they were purer and more noble than other peoples. Those metics who attended the ritual were thus effectively and publicly put in their place; those Athenian citizens who attended were likewise given reassurance about their own superiority. How this compared to the actual events and circumstances of real life will be examined in the next chapter.

## CHAPTER FOUR: THE BOUNDARY IN PRACTICE

### 4.1 (a) Athenian Citizenship Law

The Athenians attached great importance to their identity, to the idea of ‘being Athenian’. Ideologically this was based on descent and purity, which at least in some contexts they imagined gave them a certain nobility and superiority over others. These ideas were buttressed by the laws, which set out who could be Athenian. By the time of the *Athênaiôn Politeia* this was considered important enough for the writer to put the qualification for citizenship first in his description of the contemporary constitution. He defined it as follows: μετέχουσιν μὲν τῆς πολιτείας οἱ ἐξ ἀμφοτέρων γεγονότες ἀστῶν, ἐγγράφονται δ’ εἰς τοὺς δημότας ὀκτωκαίδεκα ἔτη γεγονότες.<sup>1</sup>

This two-Athenian parent formulation, if not perhaps the exact words of the *Ath. Pol.*,<sup>2</sup> goes back to 451/0, and Pericles’ citizenship law.<sup>3</sup> Much of the debate has focused on what the intention behind this law was, with suggestions including a desire to prevent aristocratic marriage with foreigners, a desire to preserve the purity of the Athenian citizen body, and a concern that Athenian women would be left without husbands.<sup>4</sup> Patterson, however, argued that its purpose was to ‘set forth a minimum necessary condition’ for citizenship, which had previously been decided on at deme and phratry levels.<sup>5</sup> It is unnecessary here to examine the situation pre-451, and the actual motives for limiting citizenship to those born of two

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<sup>1</sup> *Ath. Pol.* 42.1: ‘Those born of citizens on both sides share in citizenship, and they are registered in the demes when they have turned eighteen years old’.

<sup>2</sup> Blok 2009a: 144-146 argues that μετέχειν τῆς πολιτείας is fourth-century terminology and not the original form of the Periclean law.

<sup>3</sup> Described at *Ath. Pol.* 26.3, *Plut. Per.* 37.2-5.

<sup>4</sup> Listed by MacDowell 1978: 67. Cf. Boegehold 1994: 57-59, who considers these explanations insufficient, proposing instead that lack of land was a key cause (1994: 60-62), along with the suggestion that it simply gave official recognition to what was already being set as a precedent in Athenian courts (1994: 62-65).

<sup>5</sup> Patterson 1981: 8, 2005: 279.

Athenians are unknowable at this remove. The *Athênaiôn Politeia* says the law was passed διὰ τὸ πλῆθος τῶν πολιτῶν,<sup>6</sup> but it is impossible to say whether this was an informed assertion or conjecture on the part of the writer or his source.<sup>7</sup>

Patterson is keen to eliminate the possibility that racial purity was involved, seeing it as ‘a complete “red herring”’,<sup>8</sup> yet concludes that it is ‘probable that this law was both the result of the increasing consciousness of an Athenian identity and the cause of further development of the belief that being Athenian was a distinct and distinctly valuable status.’<sup>9</sup> If we use a definition of race based on skin colour, Patterson is right, stressing that it is a ‘modern invention’.<sup>10</sup> Simply to dismiss the idea of racial purity as a reason for the law on this basis, however, seems excessive. A more flexible definition of the term allows us to apply it productively. Thus Lape defines the term ‘race’ broadly, preferring it to ‘ethnicity’ because

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<sup>6</sup> *Ath. Pol.* 26.3.

<sup>7</sup> Any explanation based on physical overcrowding faces the problem that the law did not in any way stop people moving to Athens; it simply made it more difficult for them, or their descendants, to become citizens (Kapparis 2005: 72-73). A high *citizen* population, however, would limit the amount of land per citizen, resulting in there being a greater number of Athenians without land (Boegehold 1994: 60-62). Patterson 1981: 70-71 argues that it was the result of a citizen population that had been growing due to immigration since the Persian wars; Pericles’ law ended the (legal) opportunity for this to happen, and thus limited the citizen population’s growth to natural increase (1981: 102). Rhodes 1981: 333-334 rejects the *Ath. Pol.*’s explanation on the grounds that the law would not have resulted in a fall in the number of legitimate sons fathered by Athenian men, instead merely limiting their choice of wife to citizen rather than metic women – Rhodes assumes that illegitimate children could not be citizens, and that ‘a foreign man could not become a citizen, acquire property in Attica or beget citizen sons, by marrying an Athenian woman’ even before 451 (1981: 332).

<sup>8</sup> Patterson 1981: 97-98, arguing that that the law would have had practical impact on non-Athenian Greeks rather than barbarians, who would not have even tried ‘to become (or pass themselves off as) Athenians’. With law, however, perception is likely to be more important than reality, particularly in a context like democratic Athens’, where there was no access to relevant statistics; we cannot, therefore, assume that the reasons for passing a law were well-founded or based on actual facts (cf. Isaac 2004: 2, who explicitly states that his investigation of *The Invention of Racism* ‘is not concerned with the actual treatment of foreigners in Greece and Rome, but with opinions and concepts encountered in the literature’).

<sup>9</sup> Patterson 1981: 133. Ogden 1996: 66 suggests that the law’s purpose was ‘to assert “autochthonous pride”’, but admits that there is very little evidence for the concept before the 420s (169-170), so this seems an unjustified inference. The citizenship law and autochthony undoubtedly became linked over time, however.

<sup>10</sup> Patterson 1981: 123-124. Isaac 2004: 19 points out that in Europe in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries racism was usually directed at groups ‘physically largely indistinguishable from the majority’; it was ‘presumed physical differences’ rather than visible ones that gave it its basis.

of its specificity and what she sees as historical parallels between the development of Athenian citizen identity and racial ideologies in the modern world.<sup>11</sup>

In line with her analysis of racial identity as a development over time, Lape does not see it only as a motive for the Periclean law, but also as a consequence of it;<sup>12</sup> the law encouraged Athenians to marry within the Athenian group, made it the norm for Athenian citizens to be born of two citizen parents, and thus ‘created a context in which ideas about bilateral Athenian birth could be developed and annexed for identity-making purposes’.<sup>13</sup> Whatever the actual reasons for passing the law were, its effect would be both more significant than and, possibly, independent of its origins.<sup>14</sup>

#### **4.1 (b) Relaxation and Re-enactment – the Peloponnesian War and Nicomenes’ Decree of 403/2**

In 445/444 a donation of grain from Egypt was distributed among the Athenian citizens; the sources claim that a significant number lost their citizenship as a result of this, but seem to be based on a misunderstanding of what occurred – certainly the figure of c.5000 being struck off the rolls is worthless.<sup>15</sup> What later seemed to have been a major incident concerning

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<sup>11</sup> Lape 2010: ix-x. See further my review (Kears 2011a). McCoskey’s recent book (2012) takes a stronger line, in which she ‘seeks specifically to revive the use of “race” in the study of Greek and Roman antiquity by tracing its recurrence throughout ancient thought and practice’ (2012: 32), preferring it to ‘ethnicity’ because of its connotations of power (2012: 31).

<sup>12</sup> Lape 2010: 23-24.

<sup>13</sup> Lape 2010: 24.

<sup>14</sup> The search for the reasons behind the law is fundamentally futile – the sources simply do not give us enough information to go on – and it also ignores the fact that even at the time there would not have been one reason, or even a collection of reasons, that could explain it. As with any democratically-made decision, each voter would have had his own reasons for voting as he did, and it would be an impossible task to establish precisely why the decision went one way or another.

<sup>15</sup> Plut. *Per.* 37.3-4, Philochorus fr.119 (Jacoby) = schol. *Wasps* 718. Plutarch claims that as a result of the distribution, c.5000 fraudulent citizens were discovered, prosecuted under Pericles’ law and sold into slavery (ἐπράθησαν... ἀλόντες), leaving a total of 14040 citizens; Philochorus that 14240 received grain, and 4760 were found to be παρέγγραφοι. As Jacoby noted in his commentary on the fragment, Plutarch’s idea of their being sold is probably based on an erroneous understanding of the law described at *Ath. Pol.* 42, which says only that

citizenship thus seems likely to have been exaggerated out of all proportion. In the next instance, however, the opposite seems to be the case – there is something which is reported in a matter-of-fact way but which may have serious and important implications. This is the ‘reenactment’<sup>16</sup> of Pericles’ citizenship law in 403, described in Eumelus’ work on comedy. He stated that Νικομένη τινὰ ψήφισμα θέσθαι μηδένα τῶν μετ’ Εὐκλείδην ἄρχοντα μετέχειν τῆς πόλεως, ἂν μὴ ἄμφω τοὺς γονέας ἀστοὺς ἐπιδείξῃται, τοὺς δὲ πρὸ Εὐκλείδου ἀνεξετάστως ἀφείσθαι.<sup>17</sup>

The Periclean law had clearly, then, been relaxed in some way during the Peloponnesian War.<sup>18</sup> It is possible that it had been formally repealed at some time, but there is no explicit mention of this happening;<sup>19</sup> the likelihood is therefore that it was simply ignored when it became inconvenient to stick to it.<sup>20</sup> This would have taken place at a deme level and not required a decree to be passed, or indeed any central decision-making whatsoever.<sup>21</sup> It would certainly have been inconvenient to stick to the law during the later war years, given the extent of the losses the Athenians suffered.<sup>22</sup> As a result of these losses there must have been a gender imbalance in the citizen body, with more women living than men.

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those who appealed against being deprived of their citizenship would suffer this fate, and Philochorus has clearly got his figures by subtracting one number from 19000 (possibly because that is what he believed Athens’ male citizen population was?) – it is far more likely that the number of recipients was recorded, and so the 4760 is useless. So we have no idea how many (if any) were deprived of their citizenship.

<sup>16</sup> Blok 2009a: 143-144 refers to it both as a ‘reinforcement’ and a ‘reenforcement’.

<sup>17</sup> Eumelus, FrGrHist 77 F2 (=schol. Aeschines 1.39): ‘Nicomenes established a decree that no one, after the archonship of Eucleides, should have a share in the polis, unless he could show that both his parents were *astoi*, but that those before Eucleides should be left unexamined’. Eucleides’ archonship was in 403/2.

<sup>18</sup> Rhodes 2003: 60. Wallace 2011: 41 describes this as a ‘bright spot’ in an otherwise ‘gloomy’ picture for foreigners in fifth-century Athens.

<sup>19</sup> Ogden 1996: 77-78 suggests that the oligarchic regime of 411 revoked it, but this is no more than a guess, albeit one that accords with the idea that it is hard to imagine the democratic assembly taking such a decision.

<sup>20</sup> As argued by e.g. Humphreys 1974: 94.

<sup>21</sup> Patterson 2005: 284.

<sup>22</sup> In the long run, however, a reduced population may not have been a bad thing – Akrigg 2007 analyses the implications of a large population (c.300000 inhabitants) in Attica around 431 and a subsequent decline, suggesting that it would have led to higher wages, an increased standard of living, and a decline in inequality.

According to Diogenes Laertius, citing Aristotle, an attempt to counteract this by legal means was made: φασὶ γὰρ βουλευθέντας Ἀθηναίους διὰ τὸ λειπανδρεῖν συναυξῆσαι τὸ πλῆθος, ψηφίσασθαι γαμεῖν μὲν ἀστὴν μίαν, παιδοποιεῖσθαι δὲ καὶ ἐξ ἑτέρας.<sup>23</sup> The last two words must mean ‘by another *astê*’, though Carawan has argued that actually the law may have meant foreign women as well. He suggests that, as the information is given as part of an anecdote about Socrates, who apparently had two citizen wives, Diogenes may have mistakenly extrapolated a general rule from an example.<sup>24</sup> This is unconvincing, however, as there was no need to bring foreign women into the picture – due to military losses there were already more Athenian women than men, so it would make sense to use them to increase the population rather than metic women. By παιδοποιεῖσθαι the text must surely mean ‘legitimate children’, since there was never a law which forbade an Athenian from simply fathering them with an unmarried woman who was not his wife, whatever her status.<sup>25</sup> Whether the law allowed actual, formal bigamy, with a man going through a marriage ceremony while still married to another woman, is not clear; according to Diogenes some writers claimed Socrates was actually married to two women at the same time, but this may be an assumption on their part.<sup>26</sup> The passing of this law could imply that a number of Athenian women were deciding (or having it decided for them) that it was better to enter into marriage with a metic than either to have no partner at all or to live as a citizen Athenian’s *pallakê*,<sup>27</sup> either for prestige or for any other reason.

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<sup>23</sup> Diog. Laert. 2.26: ‘They say that the Athenians, because of their loss of men, wanted to increase their number, and so decreed that they could marry one *astê* but have children by another’.

<sup>24</sup> Carawan 2008: 400-401.

<sup>25</sup> Ogden 1996: 74.

<sup>26</sup> The implications of this change would depend on what the status of illegitimate children of two Athenians was under the existing law. Clearly, if such *nothoi* were ordinarily excluded from citizenship this would be a great change, and give a clear incentive to women (and their families) to enter into such relationships. Even if this was not the case, however, and *nothoi* were citizens, there would still be an incentive because these children would now be able to inherit their father’s wealth and enter phratries.

<sup>27</sup> Ogden 1996: 157-159 argues that there were few, if any, citizen *pallakai*, on the grounds that there would be no incentive for them to enter into such relationships, and that there are no genuine examples of them in the sources – he points out that when they are mentioned in speeches this is an allegation that may well be untrue. I cannot accept this argument, as there clearly could and would have been incentives in individual cases

This law is usually dated to c.413, on the basis that it was after the Sicilian disaster that the shortage of male citizens would have seemed most acute.<sup>28</sup> Be that as it may, the passing of the ‘re-enactment’ decree in 403 implies that the two Athenian parent citizenship qualification system had broken down by that point; otherwise, it is difficult to see why an effective amnesty was offered. An amnesty is what it was<sup>29</sup> – anyone who had got onto the deme lists before that time, no matter by what means, would be a legitimate citizen from then on.

It is true that in a speech delivered in 346/5,<sup>30</sup> when discussing his father’s claims to citizenship, Euxitheus says that τοῖς χρόνοις τοίνυν οὕτω φαίνεται γεγονώς, ὅστ’ εἰ καὶ κατὰ θάτερ’ ἀστος ἦν, εἶναι πολίτην προσήκειν αὐτόν· γέγονεν γὰρ πρὸς Εὐκλείδου.<sup>31</sup> This could be read as implying that there was still a requirement to prove a one-parent Athenian connection, even for those born before 403, but that is not what the law, as Eumelus describes it, says; it specifies that citizens from before Eucleides’ archonship should be ‘left unexamined’ (ἀνεξετάστως ἀφεῖσθαι). Furthermore, Euxitheus says his father had the ‘right’ to be a citizen, not that he would have been required to demonstrate it. Indeed, while the speaker trumpets the fact that no one ever accused his father of being a foreigner or

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(particularly if the man in question was wealthy), and the accusations in the speeches, even if they are not true, depend on the fact that such behaviour was far from unthinkable. There is also one definite case of a citizen *pallakê* in Plangon, Mantias’ erstwhile mistress in Dem. 39 and 40. Even if scholars are right in supposing that she had been married to Mantias at an earlier point, the relationship is explicitly stated to have continued while he was married to someone else (e.g. Dem. 40.27). Ogden describes this as ‘an effective state of bigamy’ (1996: 192); I fail to see how that would mean she was not a *pallakê*. Beyond this, a speech of Isaeus (3.39) refers to men who give their daughters to be *pallakai* with conditions attached; Ogden (1996: 158) discounts this, suggesting that it may not refer to citizens and arguing that it does not fit with the picture we see in New Comedy. The natural reading, however, would certainly seem to include citizens, and New Comedy is hardly a reliable guide to real social behaviour.

<sup>28</sup> Ogden 1996: 75-76.

<sup>29</sup> As noted by M.J. Osborne 1981-1983: 56.

<sup>30</sup> Dem. 57, discussed in section 5.2 (c).

<sup>31</sup> Dem. 57.30: ‘Well then, it is shown that he was born in those times when, if he was an *astos* on one side, he would rightly be a *politês* – for he was born before Eucleides’ [archonship]’.

fraudulent citizen during his lifetime,<sup>32</sup> his opponents could have explained this by saying that the re-enactment law prevented anyone from doing so. It is interesting, however, that Euxitheus presents the period before the law was passed as one in which one Athenian parent was required, which may reflect how the Athenians of the next generation came to understand it; alternatively, it could accurately reflect the actual situation, if the Periclean law had been formally revoked or modified.

Nevertheless, the law did make those who did not match the Periclean definition of citizens safe from prosecution. The logical explanation would be that there was an acceptance that abuses had gone on over recent years, but that they were too widespread to be satisfactorily rectified; the best option, moving forward, would be simply to accept the status quo but insist on rigorous application of the criteria in the future. This was no doubt something of a compromise measure, as there must have been divisions in opinion about such an important and emotive issue. Two other measures may be of relevance here. One was a proposal mentioned by Athenaeus: Ἀριστοφῶν δ' ὁ ῥήτωρ ὁ τὸν νόμον εἰσενεγκὼν ἐπ' Εὐκλείδου ἄρχοντος, ὃ ἂν μὴ ἐξ ἀστῆς γένηται νόθον εἶναι.<sup>33</sup> Especially since this derives from a comic play,<sup>34</sup> it is unclear what we should take the word *nothos* to mean here, but we can speculate – could it have been an attempt to disfranchise those of mixed parentage, or prevent them from inheriting property? Unlike the Nicomenes decree, there is no indication that it was not retroactive; it was simply proposed when Eucleides was archon. We do not know if it was passed.

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<sup>32</sup> Dem. 57.26.

<sup>33</sup> Carystius Fr. 11 (Müller) = Ath. 577b: 'The rhetor Aristophon proposed a law in the archonship of Eucleides, that whoever was not born of an *astê* should be a *nothos*.'

<sup>34</sup> Apparently by Calliades (Ath. 577c), a writer of New Comedy active in the late fourth century (BNP s.v. Calliades).

Another measure certainly did pass, as it is recorded in two speeches as an active law; it reads as follows: νόθῳ δὲ μηδὲ νόθῃ μὴ εἶναι ἀγχιστεῖαν μήθ' ἱερῶν μήθ' ὀσίων, ἀπ' Εὐκλείδου ἄρχοντος.<sup>35</sup> In both cases it is cited as part of ordinary inheritance law, with apparent reference to property rather than with any connotations of rights to citizenship (or indeed cults or religion), but presumably reflects a similar desire to have a clean slate, with previous wrongdoings accepted on the proviso that they will be policed in the future. The same could be said about the amnesty offered to the supporters of the Thirty Tyrants.<sup>36</sup>

#### 4.2 Mass Enfranchisements

There is evidence for divisions when it comes to other key questions to do with citizenship at the time. These are most noticeable in the case of the controversy over rewarding the non-citizens who had fought on the side of the democrats during the civil war, which should be understood with reference to the porous nature of the citizen-foreigner boundary during the Peloponnesian War; there had also been cases of mass enfranchisements, where groups of non-citizens had been naturalised *en masse*. The two cases about which we are best informed are the naturalisation of the Plataeans, and of the foreigners and even slaves who fought for the Athenians at Arginusae.

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<sup>35</sup> Dem. 43.51, Isaeus 6.47: 'A female or male *nothos* may not have rights of family inheritance in sacrifices or the divine, from the archonship of Eucleides'. It is not at all clear what this actually means; Blok's view of the *hiera kai hosia* is outlined in section 1.2.

<sup>36</sup> See Wolpert 2002b, Loening 1987.

## 4.2 (a) Foreign Fighters in the Civil War

The democratic forces in the civil war contained many foreigners as well as Athenians. Thrasybulus proposed enfranchising them as citizens,<sup>37</sup> and apparently his decree passed in the assembly, but was struck down as an illegal proposal at the instigation of Archinus; according to one source, the jurors fined Thrasybulus a single drachma as his punishment.<sup>38</sup> The actual grounds for the proposal's rejection were technical – it had not been presented before the *boulê*<sup>39</sup> – but this is generally regarded as a pretext, with the real motive being unease at admitting outsiders. According to the author of the *Ath. Pol.*, some of the enfranchised individuals were 'clearly' slaves (ὄν ἔνιοι φανερώς ἦσαν δοῦλοι), and it is for this reason that he, at least, approved of Archinus' actions (it was one of three occasions which the author flags up as his having seemed to πολιτεύσασθαι καλῶς).<sup>40</sup>

Thrasybulus, then, was given at least a token punishment for his troubles. It was not the case, however, that his opponents disapproved of honouring the democrats' allies at all – Archinus himself proposed and carried a decree which honoured those who fought at Phyle,<sup>41</sup> in which it is likely that at least some foreigners were included.<sup>42</sup> This did not, however, extend as far as citizenship, and indeed the inscription's epigram said the honours were bestowed by the

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<sup>37</sup> *Ath. Pol.* 40.2, Aesch. 3.195 (w. schol.), [Plut.] *Lives of the Ten Orators* 835-836, Tod 100. See Rhodes 1981: 474-477. According to Xenophon (*Hell.* 2.4.25), the democrats had sworn to grant *isoteleia* to the foreigners who fought with them while they were in the Piraeus; see below.

<sup>38</sup> Schol. on Aesch. 3.195.

<sup>39</sup> Presumably because it was passed during what pseudo-Plutarch calls the 'anarchia' of the immediate aftermath of the civil war (Rhodes 1981: 476).

<sup>40</sup> *Ath. Pol.* 40.2. Rhodes 1981: 474 suggests that the author 'is repeating with his own agreement praise which he found in his source, rather than commenting spontaneously on what he found presented as bare fact'. We cannot be sure that the text accurately records the reasons for the original decision; there was, however, a speech extant in antiquity which purported to be written by Lysias for this trial, in defence of Thrasybulus and his proposal ([Plut.], *Lives of the Ten Orators* 835), and it is therefore possible that the *Ath. Pol.*'s writer had access to it, assuming it was genuine, and was thus relying on first-hand evidence.

<sup>41</sup> Aesch. 3.187-191; the fragments of the inscription are Agora Inv. I 16, 16b, 17, 18, 93.

<sup>42</sup> See M.C. Taylor 2002.

παλαίχθων δῆμος Ἀθηναίων,<sup>43</sup> which may have been a deliberate attempt to show that Athens was still pure as ever, even when honouring foreigners alongside its own.<sup>44</sup> This would, again, seem to indicate that the issue was controversial and had to be negotiated carefully.

Other relevant measures of the time include Theozotides' decree offering support to the orphans of those who died in the civil war, as long as their parents were Athenian and they were born legitimate,<sup>45</sup> and the decree (*IG ii<sup>2</sup> 10*) which finally honoured all of the foreign fighters. This latter decree was probably not passed until 401/0,<sup>46</sup> indicating that the dispute over how to honour them went on for a considerable time. Unfortunately the inscription is poorly preserved, and any interpretation is heavily reliant on restorations. Three groups are mentioned separately, first those who came down from Phyle, then those who fought at Munichia, and then those who stayed in the Piraeus with the *dêmos*.<sup>47</sup> M.J. Osborne, in what is still the most comprehensive work on naturalisation at Athens, argued that the first group formed a 'nucleus' of supporters of the democracy who received citizenship, with the others gaining *isoteleia*;<sup>48</sup> Whitehead argued that in fact all of the recipients became citizens;<sup>49</sup> and Krentz that none did.<sup>50</sup> As the names of the recipients are given tribal affiliations, whatever they received must have required registration with a tribe, but it does not really prove any

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<sup>43</sup> Aesch. 3.190.

<sup>44</sup> M.C. Taylor 2002: 396.

<sup>45</sup> Published with commentary by Stroud 1971, who describes it as 'a large and impressive monument' (1971: 285). Lysias' fragmentary speech *Against Theozotides* (delivered before the decree had come into force – 1971: 297) attacked the proposal for excluding *nothoi* and *poiêtoi* from its provisions. Stroud concluded that the objection failed, since the inscription proves that the decree was passed, but as Ogden 1996: 79 notes, what survives of the inscription itself does not say anything about the exclusion of *nothoi* and *poiêtoi*, specifying only that they need to be children of an Athenian. It is therefore possible that the final version took account of the objections of Lysias' client.

<sup>46</sup> Based on restoring the archon as Xenainetos. Only the '-os' survives in the inscription, so it must be him or Pythodoros, the archon during the oligarchy of 404/3, who was swiftly struck from the record. Krentz 1980: 299-300 suggests that it could preserve the demotic of Eucleides, and thus date from 403/2, but this would be a very unusual formula. The only reason Krentz gives for doubting [Xenainet]os is that 401/0 seems too late, but as the honouring of the allies was evidently controversial this is not really surprising. He does not repeat the claim in his follow-up article (Krentz 1986).

<sup>47</sup> Rhodes and Osborne 2003: 25.

<sup>48</sup> M.J. Osborne 1981-1983: 32-33.

<sup>49</sup> Whitehead 1984.

<sup>50</sup> Krentz 1980, 1986.

more than that.<sup>51</sup> In the case of the first group, their honouring is described in the following, partially restored way: ἐ]ψηφίσθαι Ἀθηναίοις· εἶναι αὐτοῖς καὶ ἐκγόν[οις πολιτεία]-[v. Krentz, however, has made the point that this ‘formula’ for naturalisation does not otherwise appear before 229 BC, with the classical period exclusively using εἶναι αὐτὸν Ἀθηναῖον.<sup>52</sup> The restoration of πολιτεῖαν is not, then, very secure.

As concerns the second group, the crucial reference appears to be the word ἐ]γγύησιν, which has been interpreted as a reference to the pledge made to the foreign fighters when they were in the Piraeus;<sup>53</sup> according to Xenophon, they were promised ἰσοτέλειαν ἔσεσθαι.<sup>54</sup> Whitehead argued that this was metaphorical, meaning equality in all things and therefore citizenship.<sup>55</sup> That is something of a stretch, to say the least, and I agree with Krentz that if citizenship had been meant, citizenship is what would have been specified.<sup>56</sup> I am not, however, convinced that Xenophon should be taken uncritically here. My suspicion is that he describes the pledge based on what the foreigners eventually received, rather than any original or separate information he may have had. As we have seen, Thrasybulus attempted to enfranchise them in the aftermath of the democratic victory; it would have been strange for him to offer them more than had been promised, or conversely to promise only *isoteleia* when he was happy to make them citizens. Admittedly, the terms of the pledge may not have been entirely his decision to make, and his soldiers may not have been prepared to go as far as he was. Given the difficult circumstances the democrats were in, however, it seems unlikely that they would have quibbled. After the democracy was restored, and it turned out that the enfranchisement was controversial, it could well have been the case that arguments arose

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<sup>51</sup> Krentz 1986: 203.

<sup>52</sup> Krentz 1986: 201-202.

<sup>53</sup> Whitehead 1984: 8-9.

<sup>54</sup> Xen. *Hell.* 2.4.25.

<sup>55</sup> Whitehead 1984: 9.

<sup>56</sup> Krentz 1986: 202-203.

about what had been promised, and whether those who promised it had the right to do so. Xenophon, in line with a narrative which at this point was stressing the tolerance of the Athenians, and knowing that in the end the foreigners only got *isoteleia*, may have chosen to smooth over the difficulty by preferring a version of the story in which the promise and the reward matched. Looked at another way, if they did eventually receive citizenship, it is odd that Xenophon did not mention the discrepancy.

In sum, however, it seems most likely that the bulk of the foreign fighters received *isoteleia*, in line with what Xenophon says, though not necessarily because he preserves an accurate version of the pledge that was actually given. The first group must have received something more; it is possible that this was citizenship, but given Krentz's objections to the formula used this does not seem especially likely. The whole episode, it must be said, does not cast the Athenians in a particularly attractive light;<sup>57</sup> and one can imagine that it must have been particularly galling for the recipients given the better treatment meted out to outsiders who had fought with the Athenians during the Peloponnesian War.

#### **4.2 (b) The Plataeans**

It must have been an inescapable fact in the background that the Athenians had, during the war years, expanded their citizen body by mass grants of citizenship to the Plataeans and the Samians.<sup>58</sup> The Plataeans were naturalised as Athenians in 427, after the Spartans destroyed their city.<sup>59</sup> Those who had escaped the siege in the winter of 428/7 and reached Athens numbered 212, according to Thucydides.<sup>60</sup> Lape gives the same figure as the number of

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<sup>57</sup> As noted e.g. by Wallace 2010: 150.

<sup>58</sup> Plataeans: Dem. 59.104; Samians: Xen. *Hell.* 2.2.6, *IG* ii<sup>2</sup> 1.

<sup>59</sup> The destruction of Plataea is described at Thuc. 3.52-68.

<sup>60</sup> Thucydides 3.24.

Plataeans naturalised,<sup>61</sup> but this ignores the likely presence of extra Plataeans already living in Athens as metics;<sup>62</sup> there is thus scope for the figure to be somewhat higher.<sup>63</sup>

According to the decree as preserved in Dem. 59, the Plataeans were distributed among various demes, and a specific provision was made that after this distribution no Plataean could become Athenian other than by the normal way of a specific decree enfranchising them.<sup>64</sup> The authenticity of the decree as quoted in the text is extremely doubtful,<sup>65</sup> most obviously since in the passages that follow Apollodorus refers to provisions that are not made in the text as it stands, but we know from Lysias' speech *Against Pancleon* that the Plataeans were indeed divided among a number of demes,<sup>66</sup> and Apollodorus himself says that a time limit was placed on registration.<sup>67</sup> He adds that those who were enfranchised by the decree were examined individually as to whether they were a Plataean and one of the 'friends' of the polis; the names of those so honoured were inscribed and set up near the Acropolis.<sup>68</sup>

Apollodorus says that the motive for both the scrutiny and the cut-off point was concern that 'many' would attempt to use the Plataean naturalisation as a way of getting themselves into

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<sup>61</sup> Lape 2010: 254. Lape does not cite Thucydides here, but presumably that is where the figure comes from.

<sup>62</sup> At Dem. 59.103 Apollodorus also claims that some Plataeans were able to escape to Athens when they saw the Spartans approaching at the end of the siege, though Thucydides does not mention them, claiming instead that the city was handed over by surrender, induced by the dire straits the defenders found themselves in (Trevett 1990: 413-414. Thuc. 3.52). There are a number of discrepancies between the two accounts; notably, Apollodorus claims that those attempting to escape in the winter were selected by lot, while Thucydides says that those who remained did so because they thought the plan too risky (Trevett 1990: 413. Dem. 59.103 Thuc. 3.20). Apollodorus seems to have used Thucydides as a source (Trevett 1990: 413-414); it is possible that he had access to another, pro-Plataean writer (Trevett 1990: 416 suggests Daimachus of Plataea as a possible candidate), that he drew on oral memory, or that he invented the story – it was in his interests to present the Plataeans in a positive light.

<sup>63</sup> Blok 2009a: 166 gives the figure as 'several hundred', which is probably vague enough to cover all likely eventualities.

<sup>64</sup> Dem. 59.104.

<sup>65</sup> Its authenticity is attacked most recently by Canevaro 2010; Kapparis 1995 argues in its favour.

<sup>66</sup> Lys. 23.2.

<sup>67</sup> Dem. 59.105-106.

<sup>68</sup> Dem. 59.105.

the citizen body.<sup>69</sup> This is surely his own spin on the decree (his purpose in bringing it up is to show how precious, honourable and exclusive citizenship is, and therefore how outrageous was Neaera's alleged involvement in its usurpation)<sup>70</sup> but it is likely to reflect accurately the concerns of the time – the Athenians must have been aware that an open-ended naturalisation was open to abuse, and the steps they took are consistent with a desire to avoid this.<sup>71</sup> If this is right, it is interesting that the possibility of fraudulent 'Plataeans' coming forward was considered so early on, and also that latecomers might attempt to get in likewise; it would suggest that the problem was perceived and anticipated before it existed, if indeed it ever did come to exist in reality. This would mean that the Athenians were aware of and concerned with the problem of fraudulent citizens as early as 427. This conclusion can hardly be insisted on, however, because we cannot be certain exactly what Apollodorus was quoting; it is conceivable that he cited a text which included later additions to the original decree. We can be sure, however, that by Apollodorus' own time these concerns were prevalent enough for him to exploit in his speech.

The Plataeans are also mentioned in Lysias' speeches *Against Simon* and, in more detail, *Against Pancleon*. In the first speech, the speaker tells the jury that his boyfriend Theodotus is a Plataean, and the assumption would therefore be that he was a citizen.<sup>72</sup> This is hard to square, however, with the claim later in the speech that he could have been tortured if he had given evidence; this would not be possible for a citizen, and would only be expected in the case of a slave.<sup>73</sup> It is not necessary to go into the question of what his status actually was here; it is more important to note that there was evidently a good degree of ambiguity in the

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<sup>69</sup> Dem. 59.105, 106.

<sup>70</sup> Trevett 1990: 408. See Dem. 59.107 and section 5.1 (c).

<sup>71</sup> Kapparis 1995: 365.

<sup>72</sup> Todd 2007: 279, who specifies 'naturalised Athenian citizen', although given his young age he would presumably have been a citizen child from birth.

<sup>73</sup> Todd 2007: 279-280. See section 2.2 (d).

status of someone who was (purportedly) a Plataean. As we have seen, under the terms of the decree which granted them citizenship, only those who were registered within a certain space of time were to be enfranchised. There will thus have been Plataeans – the survivors of the siege and their descendants,<sup>74</sup> and those Plataeans who had been living in other cities – who came to Athens after that time, and would not legally have a claim to citizenship but could perhaps lay claim to a kind of morally superior status to the average metic.<sup>75</sup> We have inscriptions from the late fourth century recording honours given to non-citizen Plataeans,<sup>76</sup> who would presumably have been part of this group, though it is possible that by that time the status of Plataeans in Athens had changed.<sup>77</sup>

We should not rule out the possibility that some Plataeans actually chose not to become Athenian citizens – they might have looked on their current circumstances as a temporary exile and not wished to risk being subsumed into the Athenian citizen body. This would hardly seem to be a rational decision, given the many advantages that came with citizenship, but decisions to do with identity are rarely made entirely on the basis of rational assessments of costs and benefits. In any case, the existence of this non-citizen Plataean group enabled the speaker to portray Theodotus as slightly more respectable than would have been the case if he was an ordinary metic or slave. One could claim to be Plataean and thereby gain social standing, yet as long as one did not claim to be part of the naturalised group (or their descendants) there was no risk of falling subject to a *graphê xenias*. This shadowy identity would naturally have particular appeal to those metics who did not have a claim to citizenship elsewhere, particularly freedmen, and who were able to pass as Greeks.

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<sup>74</sup> Thuc. 3.68.3 mentions pro-Theban (or pro-Spartan, if the word Θηβαῖοι is deleted) individuals ‘of the Plataeans’ who were allowed to remain in their city for a year afterwards.

<sup>75</sup> Davies 1978: 107 refers to being Plataean as a ‘sort of favoured metic status’, even for those who had been naturalised.

<sup>76</sup> E.g. *IG ii*<sup>2</sup> 351, Agora 16 96.

<sup>77</sup> Whitehead 1977: 24 n.74.

To what extent this possible strategy was acted on, we cannot know. The Plataeans will not have been a particularly large group, and it might thus have been difficult to pass oneself off as a member of it. That it, or something rather similar, was at least conceivable, however, is demonstrated by Lysias' speech *Against Pancleon*. The speaker alleges that his opponent pretended to be Plataean in order to avoid prosecution on procedural grounds – the speaker brought his first suit (the details of which are not clear) before the polemarch, thinking that Pancleon was a metic, which in turn enabled his opponent to claim that, as a Plataean and a citizen, the prosecution was invalid. After being told that Pancleon's deme was Decelea, the speaker went to a barber's shop near the agora (παρὰ τοὺς Ἑρμᾶς, to be precise) where οἱ Δεκελειεῖς προσφοιτῶσιν and asked some of the Deceleans if they had heard of his opponent.<sup>78</sup> These Deceleans he then produced as witnesses.<sup>79</sup>

That this could be considered an acceptable way of pursuing such an investigation is surprising, but it should be noted that the deme itself was in the north of Attica, some distance from the *astu*.<sup>80</sup> In any case, the speaker stresses that he also found witnesses to Pancleon's having been subject to litigation before the polemarch on previous occasions, and evidently felt that together the two pieces of evidence were sufficient to prove that he was a metic. Acting on this information, he prosecuted Pancleon before the polemarch, and was served in turn with an *antigraphê* denying the court's jurisdiction. This time, the speaker's response was to speak to the oldest Plataean he knew of, and then all the others, before finally going to a cheese market where the Plataeans gathered; from all this he was apparently able to establish, at least to his own satisfaction, that Pancleon was a runaway slave who had

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<sup>78</sup> Lys. 23.3.

<sup>79</sup> Lys. 23.4.

<sup>80</sup> See e.g. the map at Whitehead 1986a: xxiii.

belonged to a Plataean.<sup>81</sup> The story then gets even more complicated, as his purported master attempted to seize him; upon this Pancleon claimed to have a brother who would vindicate him, but actually a woman turned up claiming that she, in fact, was his owner. Pancleon ultimately avoided being taken by either, apparently through the ‘violence’ of his and his supporters’ actions.<sup>82</sup>

What Pancleon’s status actually was is impossible to determine. Presumably he too could produce witnesses, who would swear that he was a Plataean and Deceleian; it is possible that he gained entry to the deme through unscrupulous means of the kind decried in Demosthenes 57.<sup>83</sup> His case does show, however, that in practice there was flexibility when it came to identity and status, or at least that a jury could be persuaded that there was. This implies that there was a degree of doubt and scepticism about the efficacy of the measures which were supposed to separate citizens and metics (or even slaves). This was one of the complaints of the ‘old oligarch’ a generation or so before.<sup>84</sup> He was coming from a different perspective, and with different aims, but both he and Lysias aimed to exploit the reality that differences in status were not as marked in practice as they were in the theorised, imagined city.

In balance with this, however, the speech also reveals that a community such as the Plataeans was felt to have persisted with its own identity, even after naturalisation – the speaker could talk of what ‘the Plataeans’ did in the same way as he could about the Deceleans. The difference was that the Deceleans, as a deme community, were a constituent part of the Athenian *dêmos*, whereas the Plataeans cut across the demes and formed a kind of separate nucleus. As with immigrant groups in other societies, we can imagine that there was a degree

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<sup>81</sup> Lys. 23.5-8.

<sup>82</sup> Lys. 23.11.

<sup>83</sup> See sections 4.3 (a), 5.2 (c).

<sup>84</sup> Old Oligarch 1.10.

of tension between a desire to assimilate and a desire to maintain a separate and distinct identity. This may well have extended to the Athenian perspective as well. The original decision to split them among the demes was surely mainly intended to prevent their numbers ‘swamping’ any individual deme,<sup>85</sup> but it may also have been partly intended to encourage their assimilation by making it harder for them to form their own united community. If so, however, it came up against the desire to keep the Athenian citizen body pure, and mark naturalised citizens as outsiders even when, formally speaking, they had the status of Athenian citizens; individual cases of this are discussed in the next chapter. Leaving intentions aside, however, the case of Pancleon seems to suggest that the Plataeans did not assimilate, and retained their own separate identity.<sup>86</sup> This was the case at least (or perhaps especially) in the minds of the native Athenian citizens. In practice, the Plataeans’ status might have given them considerable scope to choose whether, to what extent, and in what circumstances they would assimilate,<sup>87</sup> but this was always conditional on the acceptance and response of the Athenians.

#### **4.2 (c) The Fighters at Arginusae**

The Plataeans were free, Greek allies of the Athenians who had lost their city due to their loyalty; relatively speaking, they were thus an unproblematic group to admit to the citizenship body. Towards the end of the Peloponnesian War, however, the Athenians expanded citizenship to a disparate group whose background was very different, although Aristophanes drew an overt comparison between the two. The sea battle of Arginusae saw citizenship offered to metics and even slaves who would fight for Athens, as reported in the play *Frogs* and by a number of historians. A fragment of the work of the Attidographer

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<sup>85</sup> Osborne 1981-1983: 14-15.

<sup>86</sup> Osborne 1981-1983: 15; Kapparis 1995: 376.

<sup>87</sup> Kapparis 1995: 378.

Hellanicus specifies that slaves who fought were enfranchised with the same rights as Plataeans;<sup>88</sup> that their numbers were substantial is indicated by Xenophon;<sup>89</sup> and Diodorus says that they ἐποίησαντο πολίτας τοὺς μετοίκους καὶ τῶν ἄλλων ξένων τοὺς βουλομένους συναγωνίσασθαι· ταχὺ δὲ πολλοῦ πλήθους πολιτογραφηθέντος, οἱ στρατηγοὶ κατέγραφον τοὺς εὐθέτους εἰς τὴν στρατείαν.<sup>90</sup>

The bare fact thus seems quite clear<sup>91</sup> – due to the extremities of the situation, there was a mass and indiscriminate naturalisation of any man who was in Athens and fit to take part in the battle. How large this group was is not known.<sup>92</sup> The only source which gives us more than a bare-bones description of the event is Aristophanes' *Frogs*. There are numerous references to this event in the play,<sup>93</sup> but the most substantial are two speeches made by the chorus leader. At this point we are dealing with the play's second chorus, the titular chorus of *Frogs* having departed relatively early in the play. The second chorus is made up of initiates who are now enjoying the benefits of their initiation (which took place while they were alive) in the afterlife.<sup>94</sup> Shortly after they enter, the chorus leader introduces them with a speech whose form Dover describes as being 'modelled on a proclamation debarring the "impure"

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<sup>88</sup> Hellanicus F25 = schol. *Frogs* 694.

<sup>89</sup> Xen. *Hell.* 1.6.24: οἱ δὲ Ἀθηναῖοι... ἐψηφίσαντο βοηθεῖν ναυσὶν ἑκατὸν καὶ δέκα, εἰσβιβάζοντες τοὺς ἐν τῇ ἡλικίᾳ ὄντας ἅπαντας καὶ δούλους καὶ ἐλευθέρους ('The Athenians... voted to send assistance in the form of 110 ships, putting aboard all those who were of the right age, both slaves and free men').

<sup>90</sup> Diod. 13.97.1: 'They made the metics citizens, and those of the other foreigners who were willing to fight with them – and when a large number had quickly been enrolled as citizens the generals continued to call up those who were fit for the campaign'. Cf. Justin 5.6.5-6, who rather rhetorically says that due to their desperate plight they 'peregrinis ciuitatem, seruis libertatem, damnatis inpunitatem darent'.

<sup>91</sup> Harding 2008: 136 argues that it is not entirely clear whether the slaves and foreigners received citizenship before or after the battle; he reasonably argues that given the extent of the registration formalities and the urgency of the situation it is likely that the process was carried out afterwards. M.J. Osborne 1981-1983: 36 suggests that the enfranchisement cannot have happened until after 405/4, as crew lists at that time still contain slaves and foreigners.

<sup>92</sup> M.J. Osborne 1981-1983: 34 has calculated a possible figure of 13000, on the basis that 110 ships were put to sea, which would mean a force of 22000 men was required; since the names in the naval catalogue *IG ii<sup>2</sup> 1951* are no more than 40% citizen, we might expect at least 60% of those fighting at Arginusae to be foreigners. The figure could, however, be much lower. It is far from necessarily the case that on the occasion of *IG ii<sup>2</sup> 1951* all of the capable citizens had been called up for naval service, as they were for Arginusae. It is quite possible, then, that at Arginusae the proportion of citizens fighting was actually higher than 40%.

<sup>93</sup> E.g. ll.33-34, 191.

<sup>94</sup> Dover 1993: 56-57.

from a religious ritual, and the choice of words and phrases in its opening and closing lines impresses that model upon us'.<sup>95</sup> Their exclusive nature is made very clear – the leader calls on non-initiates to be silent, and twice to stand aside.<sup>96</sup>

While Dover argues that this characterisation is totally abandoned after lines 440ff., and it becomes a stock chorus 'divested of any distinctive character',<sup>97</sup> it would be strange for Aristophanes to set up the chorus in this way and then make references to the question of the purity of the Athenian citizen body without any intention of the two being connected. Indeed, the first lengthy passage which will be examined is introduced by a reference to τὸν ἱερὸν χορὸν.<sup>98</sup> While, as Dover argues, it is true that this could be a reference to a chorus' function as a sacred 'offering' to the gods,<sup>99</sup> it is hard to believe that there was no intention to reference the fact that the chorus was representing initiates.<sup>100</sup>

The key part of the speech runs as follows:

εἴτ' ἄτιμόν φημι χρῆναι μηδέν' εἶν' ἐν τῇ πόλει·  
καὶ γὰρ αἰσχροὺς ἐστὶ τοὺς μὲν ναυμαχῆσαντας μίαν  
καὶ Πλαταιᾶς εὐθύς εἶναι κἀντὶ δούλων δεσπότας—  
κοῦδὲ ταῦτ' ἔγωγ' ἔχοιμ' ἂν μὴ οὐ καλῶς φάσκειν ἔχειν,  
ἀλλ' ἐπαινῶ· μόνα γὰρ αὐτὰ νοῦν ἔχοντ' ἐδράσατε.  
πρὸς δὲ τούτοις εἰκὸς ὑμᾶς, οἳ μεθ' ὑμῶν πολλὰ δὴ  
χοῖ πατέρες ἐναυμάχησαν καὶ προσήκουσιν γένει,  
τὴν μίαν ταύτην παρεῖναι ξυμφορὰν αἰτουμένοις.  
ἀλλὰ τῆς ὀργῆς ἀνέντες, ὧ σοφώτατοι φύσει,  
πάντας ἀνθρώπους ἐκόντες ξυγγενεῖς κτησώμεθα  
κἀπιτίμους καὶ πολίτας, ὅστις ἂν ξυνναυμαχῇ.  
εἰ δὲ ταῦτ' ὀγκωσόμεσθα κἀποσεμνυνούμεθα,  
τὴν πόλιν καὶ ταῦτ' ἔχοντες κυμάτων ἐν ἀγκάλαις,

<sup>95</sup> Dover 1993: 60.

<sup>96</sup> *Ar. Frogs* 354, 370.

<sup>97</sup> Dover 1993: 68.

<sup>98</sup> *Ar. Frogs* 686.

<sup>99</sup> Dover 1993: 68-69.

<sup>100</sup> Sommerstein 1996: 215-216 argues that its sacred function and characterisation are complementary – 'it is implied that their words have a measure of religious authority and ought to be carefully listened to'. Sidwell 2009: 284 also argues that the chorus 'remains in character' for the parabasis, partly on the basis that it never claims to speak for the poet, but 'always refers to itself as the originator of the thoughts'.

ὕστέρῳ χρόνῳ ποτ' αὖθις εὖ φρονεῖν οὐ δόξομεν.<sup>101</sup>

The actual argument being made is that those who were disfranchised for their involvement in the oligarchic regime of 411 should be forgiven, and the case of the enfranchised fighters at Arginusae is an illustration of this. If they were so honoured, it must be right to restore the same privileges to men who gave service to the polis in the past, in spite of their mistake in 411. That the proposal to restore the rights was meant seriously by Aristophanes has been almost universally accepted,<sup>102</sup> as it is supported by ancient testimony which records the poet's being honoured with an olive wreath<sup>103</sup> and the play's receiving an unprecedented second performance because of the parabasis.<sup>104</sup>

Sidwell, however, has argued that the advice was not meant sincerely, and that it was Aristophanes' 'intention to *ridicule* the idea that the re-enfranchisement of the oligarchs was the answer to the city's current dilemma'.<sup>105</sup> He explains the testimony about the honours the poet received as a misunderstanding; Aristophanes was actually honoured for 'advice' given in the final scene of the play, not in the parabasis.<sup>106</sup> Sidwell's views are determined by his wider argument that Aristophanes was engaged in an extensive, intertextual 'poet's war' with the other comic poets, in which each was associated with a political faction, Aristophanes'

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<sup>101</sup> Ar. *Frogs* 692-705: 'Then, I say that no one in the city should be deprived of his rights – for it's a disgrace that while those who fought just a single sea-battle are now citizens, and masters instead of slaves – not that I'd have anything bad to say about that – actually I praise it, as it's the only thing you've done with any sense. But I mean it's only fair that as well as that, you should, in the case of those who have fought with you at sea many times, and whose fathers did as well, and who are relatives by birth, you should let this one unfortunate mistake go by when they ask. Let go of your anger, you wisest of men by nature, and let's willingly make all men our relatives and fully-qualified citizens who fought at sea. If we puff ourselves up, and are over-proud, especially as our city is in the grasp of the waves, in time to come we'll seem to be thoughtless again.'

<sup>102</sup> Arnott 1991: 19, remarking that 'nobody' up until that time had denied it.

<sup>103</sup> *Life of Aristophanes* (4158.001 TLG), 39-41.

<sup>104</sup> According to Dicaearchus, as recorded in the play's first hypothesis. Such a proposal was, in fact, put into practice after the battle of Aegispotomae (Dover 1993: 73, citing Andoc. 1.77-79; cf. Arnott 1991: 22, who describes the advice as 'a recipe for disaster'), though whether this had anything to do with Aristophanes' play is not clear. Dover 1993: 74 notes that his honour probably dated from after its enactment, and how well it went down at the time of the performance is hard to determine, other than so say that he evidently did not suffer 'vilification as a traitor'.

<sup>105</sup> Sidwell 2009: 285.

<sup>106</sup> Sidwell 2009: 293.

being the radical democrats. His argument is complex and lengthy, but essentially highly speculative and in my view unconvincing,<sup>107</sup> and divorced from it his claims about the parabasis in *Frogs* are not compelling.

In my view, then, there is no reason to suppose that Aristophanes' proposal was not meant sincerely; the terms in which the proposal is couched, however, indicate that he was very careful about what he was saying. The passage should not be taken as Aristophanes simply speaking his own mind, as it is full of contradictions which imply that a good degree of characterisation is taking place, as well as some deliberate challenging of the audience's expectations and assumptions. Thus when discussing the enfranchisement of Arginusae, the chorus leader takes a somewhat ambiguous line; he first refers to it as a 'disgrace' that those fighting in one sea-battle should 'be Plataeans', but adds that rather than wanting to say anything bad about it, he praises the action, describing it as the only thoughtful thing the Athenians had done.<sup>108</sup> The initial description of the act as a disgrace, however, would seem to draw on what would be the usual reaction to such a transgression of the citizen-foreigner and, particularly, slave-free boundaries, as is flagged up by the reference to their becoming 'masters instead of slaves'.

This was no doubt a paradox with comic intentions, but considerable bite as well, and was probably intended to manipulate the audience's reactions, with an initial disturbance at the insult aimed at their policy being followed by a relieved realisation that it was merely a relative criticism. But because the initial criticism had some validity, in that it appealed to the Athenians' ordinary prejudices (and had very likely been articulated during the formal and informal debate over the enfranchisement proposal), it was therefore particularly challenging

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<sup>107</sup> See my review (Kears 2011b).

<sup>108</sup> Ar. *Frogs* 693-696.

to the audience. It also serves to add some character to the role of the chorus leader, who is supposed to be giving advice to the audience – he lets slip a harsh criticism of the *dêmos*’ policy which is only imperfectly covered up by his clarification.<sup>109</sup>

Indeed, he arguably goes too far in attempting to get off the hook, and ends up arguing that all who had fought for the Athenians should become citizens with full rights and, significantly, *ξυγγενεῖς*, kinsmen. Here he urges that the boundary collapse altogether, and the new arrivals be absorbed entirely into the citizen body; the Athenian audience is once again potentially left uncomfortable. The chorus leader’s statement does, however, accurately describe the legal position of the newcomers, even if in reality considerable prejudice remained against them. This would later be further stressed by the ‘re-enactment’ of the Periclean citizenship law in 403, since it specifically excluded those who were already citizens from its provisions, whether they attained their status by fair means or foul.<sup>110</sup> Lape’s interpretation of this passage is somewhat different, as she argues that the chorus leader ‘is speaking from an aristocratic and elitist perspective and is consequently not concerned with the racial boundary per se’.<sup>111</sup> This does not seem to be borne out by what he says, however, particularly when we examine his speech in the next relevant passage, where he builds on the line of argument and character already portrayed. He refers to the city’s use of new citizens and neglect of the older ones:

πολλάκις γ’ ἡμῖν ἔδοξεν ἢ πόλις πεπονθέναι  
ταῦτόν εἰς τε τῶν πολιτῶν τοὺς καλοὺς τε κάγαθοὺς  
εἰς τε τὰρχαῖον νόμισμα καὶ τὸ καινὸν χρυσίον.  
οὔτε γὰρ τούτοισιν, οὔσιν οὐ κεκιβδηλευμένοις  
ἀλλὰ καλλίστοις ἀπάντων, ὡς δοκεῖ, νομισμάτων  
καὶ μόνοις ὀρθῶς κοπεῖσι καὶ κεκωδωνισμένοις  
ἔν τε τοῖς Ἑλλησι καὶ τοῖς βαρβάροισι πανταχοῦ,

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<sup>109</sup> Sommerstein 216-217 notes that the *men* clause in lines 694-695 is interrupted, and never followed by a *de*. He states that this is to make it ‘quite clear that the speaker is not condemning the enfranchisement of the ex-slaves’, but that is presumably not what he was originally going to say – in my view he is backtracking.

<sup>110</sup> See section 4.1 (b) above.

<sup>111</sup> Lape 2010: 257.

χρώμεθ' οὐδέν, ἀλλὰ τούτοις τοῖς πονηροῖς χαλκίοις,  
 χθές τε καὶ πρόην κοπεῖσι, τῷ κακίστῳ κόμματι.  
 τῶν πολιτῶν θ' οὐς μὲν ἴσμεν εὐγενεῖς καὶ σόφρονας  
 ἄνδρας ὄντας καὶ δικαίους καὶ καλοὺς τε κάγαθοὺς  
 καὶ τραφέντας ἐν παλαίστραις καὶ χοροῖς καὶ μουσικῇ,  
 προυσελοῦμεν, τοῖς δὲ χαλκοῖς καὶ ξένοις καὶ πυρρῖαις  
 καὶ πονηροῖς κακ πονηρῶν εἰς ἅπαντα χρώμεθα,  
 ὑστάτοις ἀφιγμένοισιν, οἷσιν ἢ πόλις πρὸ τοῦ  
 οὐδὲ φαρμακοῖσιν εἰκῇ ῥαδίως ἐχρήσατ' ἄν.<sup>112</sup>

This passage is usually taken as referring to the leaders of the polis, with the call being to return to the aristocratic, Periclean-style leaders rather than the ‘demagogues’.<sup>113</sup> Cleophon has already been decried by the chorus as having a ‘Thracian swallow’ on the ‘barbarian leaf’ of his lips;<sup>114</sup> since then, however, the audience has heard the appeal to forgive the oligarchic sympathisers and an insulting song about Cleigenes, evidently a well-known but not necessarily political figure.<sup>115</sup> We should not simply assume that this is a return to the attack on Cleophon and his ilk; the language of this passage seems to have a wider application than just that, and seems very relevant to the question of disfranchised native citizens lacking rights newly acquired by the naturalised fighters at Arginusae. Lape accepts that his speech ‘might also seem to target the newly enfranchised slaves’, but concludes that actually the chorus leader ‘does not object to including supposed foreigners in the citizen body but rather to allowing such men to rise to positions of political leadership’.<sup>116</sup> This, however, surely underestimates the virulence of the language used; I would argue instead that

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<sup>112</sup> Ar. *Frogs* 718-733: ‘The city has often seemed to us to have been affected in the same way when it comes to the good and noble citizens as with the old coins and new gold. For we don’t make use of these, which are not adulterated, but the best of all coins, as is generally agreed, and the only ones struck and tested correctly anywhere among Greeks and barbarians – no, instead we use these poor ones of bronze, which were struck just yesterday with the worst stamp. Those of the citizens who we know are well-born, and wise men, and just, good and noble, and educated in wrestling-schools, choruses and the arts, we insult, and use for everything the bronze, the foreigners and red-heads, scum born of scum, our latest arrivals, whom the city before would not lightly have used even as scape-goats’.

<sup>113</sup> E.g. Dover 1993: 69, 281-283.

<sup>114</sup> Ar. *Frogs* 678-682.

<sup>115</sup> Ar. *Frogs* 706-717, Dover 1993: 280-281.

<sup>116</sup> Lape 2010: 258

Aristophanes is deliberately referencing the enfranchisement and drawing a connection between the ideology of purity and that of aristocratic superiority.

In his speech the chorus leader takes the rhetoric of purity to extremes, and binds it to an aristocratic snobbery that extends beyond the Athenian-foreigner divide. Looking at lines 727ff., and the reference to the ‘well-born’ (*eugeneis*), while all Athenians might be able to claim *eugeneia* due to their supposedly common, autochthonous ancestry,<sup>117</sup> here Aristophanes has his speaker add to it first the quality of moderation, then justice and the typically aristocratic *kaloï kagathoi* formula. These might be ironically humorous enough, given the sorts of citizens Aristophanes was used to portraying, but he then brings in the factors which made up a specifically elite upbringing, i.e. accomplishment in pursuits which required leisure time and money.<sup>118</sup> By doing so he shifts the perspective from that of a put-upon and disgruntled ordinary citizen to that of an aristocrat resentful at his inferiors’ sway in the city. It turns out, of course, that he is referring to the foreigners who have entered the city (and presumably the citizen body), although his reference to *πονηροῖς καὶ πονηρῶν* may well have resembled the sort of elitist sneers which could be applied to poorer Athenians.

It is tempting to suppose that Aristophanes aimed at creating a moment where an aristocratic but purportedly democratic individual’s mask slips, and his true thoughts are accidentally revealed as his rhetoric carries him away. The real world equivalent would be anti-democratic critics who dressed up their crypto-oligarchic views as appeals to the ‘ancestral’ or ‘moderate’ form of democracy.<sup>119</sup> Given that the argument the chorus leader is making is that the supporters of the earlier oligarchic regime should be pardoned, this was powerful stuff; it

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<sup>117</sup> See chapter 3.

<sup>118</sup> Sommerstein 1996: 220.

<sup>119</sup> See Rhodes 2011: 22-24, and de Ste. Croix 1981: 301 on fourth-century literature, who amusingly describes the works of the ‘odious’ Isocrates as ‘disguised right wing propaganda’. Such writers generally look to the Areopagus, but see Zelnick-Abramovitz 2011 for that body’s democratic credentials.

could also be seen as grimly prescient, considering the elitist and xenophobic policies enacted by the Thirty and their supporters just a few years after the play's performance.

While, according to this interpretation, Aristophanes uses the Athenians' normal prejudices against foreigners and slaves becoming citizens for comic effect, setting up a comparison which could be seen as undercutting them, the challenge is brief and not sustained or articulated seriously. The main target of the joke would essentially be the character of the self-righteous but ultimately disingenuous chorus leader, and the jibe at the Athenians' shared pretensions no more than an aside. Likewise, the policy which the chorus leader was urging was not necessarily being ridiculed (as we have seen, it apparently won Aristophanes great acclaim); on the contrary, a genuinely favoured policy might actually add to the incongruity and humour of the situation. It is the motives that some supporters of such a policy might have had that are under attack.

It would seem, then, that Aristophanes was very happy to use the enfranchisement for comic effect, and even, albeit briefly, to point out some of the contradictions and hypocrisies of the Athenians which it revealed. It is hardly safe to conclude much from this about how the policy was received or treated afterwards, however; to judge from his earlier plays, the poet had evidently never been afraid to attack the fundamental institutions of the democracy. It is perhaps telling that he only touches on issues of identity in this tangential way – maybe to treat it more extensively would have been a bit too close to home even for an Athenian comic audience – but we are not well informed enough about the reception of Old Comedy to say for certain.

The fact that these enfranchisements had occurred relatively recently makes the controversy over granting citizenship to the foreign fighters of the civil war even more remarkable. The decisive factor must have been the political and military context in each case; as soon as the Athenians felt that their polis was secure, the desire of giving just rewards to their allies, consistent with how they had rewarded others when times were more difficult, was overmatched by the chauvinistic desire to keep the citizen body as pure as possible. In accordance with the clean slate principle represented by the re-enactment of the citizenship laws, the polis' actions taken in wartime were now seen as irrelevant, and preserving citizen privilege and exclusivity trumped what seems to have been a straightforward moral question.

It was thus a complex response to the pressures of war and defeat which the Athenians came up with. On the one hand, there was a tacit and pragmatic acceptance that the ideal of descent-based citizenship had not been achieved in practice, but on the other a refusal to abandon or modify the system because of this. On the contrary, the citizenship requirements were to be as stringent as ever, and as we saw in the last chapter the ideology of autochthony continued to be expressed, unabated, in the form of the funeral oration. In fact, it is perfectly possible that it became more prominent after the restoration of the democracy; the breakdown of the system in practice may have required a compensatory bolstering of it in theory.

#### **4.3 (a) The Scrutiny of 346/5**

If the Athenians wished through re-enacting the Periclean law to wipe the slate clean and establish citizenship on a sound and secure basis from then on, however, there are strong indications that in the long run they failed. By 346/5 the situation had got so bad – at least in their own perception – that they decided to perform a scrutiny of the entire citizen body. The

aim was purging fraudulent citizens from the lists. The precise reasons for carrying this out are, as usual, difficult to reconstruct, and we are heavily reliant on a speech (Dem. 57) written for someone who was rejected by his fellow demesmen during his scrutiny and was appealing to a court against their verdict. The implications of this speech for the understanding of what citizenship meant (or could mean) are examined in section 5.2 (c). Here, I will look at what it, and the general scrutiny of which it was a part, can tell us about how the Athenians felt citizenship was operating and holding up as an institution.

The evidence strongly points to grave concerns. In the first place, to take such drastic action – which required the assent of the *dêmos* through a vote in the assembly – must have meant that substantial numbers of Athenians were persuaded that there was, at the very least, an immediate problem that needed to be rectified.<sup>120</sup> We can only speculate as to whether the scrutiny was inspired by a gradual build-up of concern at abuses of the system and resentment at fraudulent individuals, or if a particularly notorious case fired up the *dêmos* enough to take such a course of action.<sup>121</sup> A question worth considering, however, is whether this concern about fraudulent citizens extended to a loss of faith in the robustness of the deme-based citizenship system as a whole; but if it did, it did not lead to any reform as far as we can tell – the system as described in the *Ath. Pol.* of the 320s does not differ from what we find in speeches of the earlier fourth century.

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<sup>120</sup> Whitehead 1986a: 299 describes it as ‘an atmosphere more appropriate to a witch hunt’, though as we shall see that is understandably not quite how it is described by its victims.

<sup>121</sup> In the background, Athens’ position in relation to foreign affairs may have indirectly encouraged the move – Kapparis 2005: 94-95 suggests that the city’s strong position at the time might have led the Athenians to want to strengthen their separation from others, though Lape 2010: 215 gives the opposite interpretation, arguing that ‘the Athenians were desperately seeking to explain the downturn in their military and diplomatic fortunes’. It is actually very hard to say what the ‘mood’ in Athens was regarding the city’s fortunes, so it would be risky to draw any conclusions about how it might have impacted their domestic affairs.

It is possible that this was simply because nothing better was available, but it seems more plausible that at least part of the reason was an unwillingness to admit that the system was at fault. It is generally easier, and less threatening, to blame individual incompetence and dishonesty than to conclude that abuses are endemic in a system. The deme system had tradition on its side, and was closely bound up with the idea of democracy, since it dated back to Cleisthenes. It also served many other very important functions besides monitoring citizenship, and in many cases will have carried them out well.<sup>122</sup> Many Athenians will have served their deme, either as officials at a local level or as representatives on the *boulê*, and the demes will still have served as a community hub in many cases, even if by this time many members no longer lived in the territory their deme covered.<sup>123</sup>

The demes will thus have retained a practical and sentimental connection with their members, and it will naturally have been difficult to blame them as institutions for the problems which were seen, let alone to countenance abolishing or changing the structure which they constituted. At any event, the process of the scrutiny was itself entirely dependent on the deme system, as it involved each deme meeting and voting on whether each individual was rightfully a member; only if someone was rejected was there the possibility of an appeal reaching the separate and higher authority of the law courts.<sup>124</sup> This amounted to charging the same people who had overseen whatever abuses had led to the current situation with the task of rectifying them – it also relied on the efficacy of the same system which had allowed them to occur. As an unintended consequence, it additionally allowed unscrupulous individuals to

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<sup>122</sup> Whitehead 1986a: 301.

<sup>123</sup> See Whitehead 1986a and Ober 2008, esp. 134-159. See R. Osborne 2011 for the importance of the demes' landscape and physical structures to their members and residents.

<sup>124</sup> Whitehead 1986a: 106-107.

engineer the expulsion of legitimate citizens who were their enemies, potentially reigniting old feuds.<sup>125</sup>

In the speech *Against Eubulides* the speaker refers to τὸν καιρὸν δὲ καὶ τὸ παρωξύνθαι τὴν πόλιν πρὸς τὰς ἀποσηφίσεις,<sup>126</sup> and the fear which it engenders even in innocent men like himself who have wrongly been expelled. There is, naturally, a self-serving element to this, but the speaker is also keen to stress that many have ‘justly’ been expelled, and praises the harsh treatment (χαλεπαίνειν) meted out against them.<sup>127</sup> There is no protest that the scrutiny amounted to a witch-hunt, only that in this case an innocent man had been caught up in an otherwise admirable action. The claim is not, however, that he was involved inadvertently; on the contrary, the speaker claims that it was the result of a deliberate set up on the part of his enemies within the deme. He also lists abuses that had been carried out in the past, remarking that ἐν οὐδενὶ τοίνυν εὐρήσετε τῶν δήμων δεινότερα γεγενημένα τῶν παρ’ ἡμῶν.<sup>128</sup> That such allegations could be made (and they are simply asserted – no witnesses are provided to them) and expected to stick, or at least put a certain impression in the minds of the jurors, is unsurprising if the speaker accurately captured the mood among Athenians at the time. If there was an assumption that corrupt practices had been in operation in the demes,<sup>129</sup> he was simply pandering to this by offering up his opponents as particularly egregious examples. It was, of course, open to his opponents to do the same to him, and indeed his background appears to have required some explaining.<sup>130</sup>

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<sup>125</sup> Whitehead 1986a: 108, Kapparis 2005: 93.

<sup>126</sup> Dem. 57.2: ‘this particular occasion, and the city’s anger in cases of disfranchisement’.

<sup>127</sup> Dem. 57.2-3.

<sup>128</sup> Dem. 57.58: ‘In none of the demes will you find that more terrible things have happened than in ours.’

<sup>129</sup> There were certainly jokes about the ease of foreigners getting into the demes Potamos and Sounion – see Harpocration s.v. *Potamos*, and Anaxandrides F 4 (Kock): πολλοὶ δὲ νῦν μὲν εἰσιν οὐκ ἐλεύθεροι, εἰς αὔριον δὲ Σουνηῖς.

<sup>130</sup> See section 5.3 (c).

Ironically, to judge from this case, the purge of the fraudulent citizens brought to light the sometimes sordid and self-interested nature of deme politics, which was clearly wanting when compared to the ideal form of honest operation. The practices which the speech, and no doubt many others like it<sup>131</sup> revealed would hardly have engendered greater faith in the system, but, again, it would always have been possible to blame individuals rather than institutions. I cannot agree with Whitehead that ‘the community as a whole was evidently satisfied, thereafter, that any individuals illegally enrolled in the demes could be efficaciously caught by a line and hook rather than by a seine’<sup>132</sup>, since it seems very possible that the Athenians were *not* generally satisfied, but had no other form of action to take. The whole episode illustrates quite nicely an interesting paradox: the Athenian citizenship system, which was supposed to safeguard the citizen body’s purity, worked best as a purely ideological construct; but any concerns about its efficacy in practice were likely to be exacerbated by actually acting on them, and would thus in turn undermine the feasibility of the whole construct. Any attempt to clean up the system would inevitably risk undermining faith in it.

#### **4.3 (b) The Aftermath of Chaeronea**

Less than a decade after this, the battle of Chaeronea threw up another crisis moment, in the face of which necessity appeared to compel the Athenians to relax drastically the qualifications for citizenship, by offering it to anyone who would fight for the city.<sup>133</sup> This proposal came from Hyperides,<sup>134</sup> whose later contribution to the literature glorifying Athens’ autochthonous glory was examined in the last chapter. He, like Thrasybulus before him, was prosecuted once the crisis was over. Unfortunately we possess only fragments of his defence

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<sup>131</sup> The fragmentary Isaeus 12 was delivered in identical circumstances to Dem. 57, and what we have of it is similar – see section 5.2 (c).

<sup>132</sup> Whitehead 1986a: 109.

<sup>133</sup> Lyc. 1.41.

<sup>134</sup> Worthington 1999: 29.

speech, but what we do have is extremely interesting. Apparently his argument was that ἐπεσκότει μοι τὰ Μακεδόνων ὄπλα. οὐκ ἐγὼ τὸ ψήφισμα ἔγραψα, ἢ δ' ἐν Χαιρωνείᾳ μάχῃ.<sup>135</sup> We cannot be sure that it represented the thrust of most of the speech; nevertheless, it strongly suggests that an argument from pragmatism was heavily employed.

In another fragment<sup>136</sup> the orator asks and answers the questions which he faced, admitting that he freed slaves and made metics citizens, but in each case with the clarification that it was done in order to preserve the liberty of the Athenians and their city. Doubtless the orator made it clear that enfranchising slaves and foreigners was something that he abhorred, but that there was simply no other option at the time. Evidently he was persuasive enough to win over the jurors, and as far as we can tell his career suffered no ill consequences in the long run. The proposal was, however, brought up by Lycurgus in his prosecution of Leocrates: μάλιστ' ἂν τις ἤλγησε καὶ ἐδάκρυσεν ἐπὶ ταῖς τῆς πόλεως συμφοραῖς, ἢ νίχ' ὄραν ἦν τὸν δῆμον ψηφισάμενον τοὺς μὲν δούλους ἐλευθέρους, τοὺς δὲ ξένους Ἀθηναίους, τοὺς δ' ἀτίμους ἐπιτίμους.<sup>137</sup>

Hyperides' success indicates that there was a good degree of flexibility in how the Athenians considered such matters. It will have helped, of course, that a democratic jury was made up of citizens who would have remembered the situation and the constraints and fears which it put on them. Some of them will have supported Hyperides' proposal at the time. This pragmatic understanding, however, might have extended to making allowances during a crisis, but it did

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<sup>135</sup> [Plut.] *Lives of the Ten Orators* 849a = Hyp. *Against Aristogeiton* Fr. 28 (Jensen): 'The shields of the Macedonians cast a shadow over me. It was not I that introduced the decree, but the battle at Chaeronea'.

<sup>136</sup> Fr. 27 (Jensen).

<sup>137</sup> Lyc. 1.41: 'The thing which most would have pained someone, and brought tears to his eyes at the polis' disasters, was to see the time when *demos* voted for slaves to be free men, foreigners to be Athenians, and the dishonoured re-enfranchised'. While he did not refer to Hyperides by name, it seems safe to assume that everyone knew he was the measure's instigator.

not mean that ideas of what constituted Athenian identity were relaxed in ordinary circumstances.

#### **4.4 Setting Athenians Apart**

Thus far we have seen that the citizen-metic boundary came under severe pressure during the Peloponnesian War, and that during the fourth century there evidently continued to be problems with maintaining the boundary, which came to a head with the scrutiny of 346; far from clearing things up, however, that process can only have exposed yet more abuses and illegal activity that had taken place. There was, and most likely always had been, a problem with differentiating between citizens and metics, which no doubt became particularly acute in the case of second and third generation immigrants, who had been brought up in Athens and in many cases must have been indistinguishable from their citizen counterparts. The solution which was adopted during most of the fourth century appears to have been to attempt to shore up the boundary through the institutions of the demes, with the hope that the Periclean provisions could be enforced more rigorously. There was, however, an alternative; if it was difficult to tell citizens and metics apart, instead of attempting to look more closely, it was theoretically possible to change the citizens. This could be achieved through various means, indirectly by encouraging citizen unity and identification with the polis, and more directly through education. The first method appears to have focused on the ten tribes of Athens, whereas the perfect institution to use for education was the *ephêbeia*.

#### 4.4 (a) The Athenian Tribes

Every adult male Athenian citizen, as well as being a citizen of the polis as a whole and a demesman,<sup>138</sup> was a member of a tribe. These were used for administrative and military purposes, yet with this there was considerable ideological weight, as the Athenians were invited to use their tribes as identifying markers. Each tribe was represented by an eponymous hero,<sup>139</sup> and at different times two monuments made up of statues of this group of ten stood in the agora.<sup>140</sup> Underneath this monument the polis displayed, by tribe, lawsuits, proposed legislation, lists of new ephebes, and the ‘muster rolls’ calling up citizens in times of war.<sup>141</sup> It thus served as hub of polis business; but, notably, it was located in the heart of the agora, where the inhabitants of Attica, both citizens and non-citizens, carried out their personal and private business.

Julia Shear has argued that from 410 to 390 there was a deliberate attempt to switch the city’s imagined centre from the Acropolis to the agora, which ‘suddenly became the focus of attention and was remade into the space of the democratic citizen’.<sup>142</sup> This involved a construction programme that included a new Bouleuterion,<sup>143</sup> and the inscribing of key pieces of Athenian law such as Draco’s homicide law and Demophantus’ decree, which set out how citizens should act in the event of the democracy’s being overthrown.<sup>144</sup> Honours bestowed on non-citizens seem to have continued to be celebrated by display on the Acropolis, with

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<sup>138</sup> On the demes and their role see e.g. Whitehead 1986a, Stanton 1994, R. Osborne 1985, 2011.

<sup>139</sup> On which see generally Kron 1976, Kearns 1989.

<sup>140</sup> According to T.L. Shear 1970, the first had been constructed by the 420s, possibly around 430, and was replaced during the mid-fourth century by a slighter larger one in a different location, possibly because the older one was blocking one of the main approaches to the agora. The statues of the heroes were bronze and arranged in a row; the second monument was longer, with more spaced-out statues and tripods at each end.

<sup>141</sup> T.L. Shear 1970: 145, Christ 2001: 402.

<sup>142</sup> J.L. Shear 2007: 91.

<sup>143</sup> J.L. Shear 2007: 96-97.

<sup>144</sup> J.L. Shear 2007: 98-99.

those inscriptions in the agora being concerned with citizens.<sup>145</sup> One example was the honouring of the citizen democrats who had gathered at Phyle during the civil war, whose names were inscribed outside the Bouleuterion.<sup>146</sup> There were also statues, of the eponymous heroes as we have seen, but also of the ‘tyrannicides’,<sup>147</sup> who could be seen by people leaving the court buildings in the northeast corner of the agora.<sup>148</sup>

There were also statues of the general Conon and Euagoras, the king of Salamis in Cyprus, whose (mythical) Athenian lineage is stressed by Pausanias.<sup>149</sup> J.L. Shear speculates that mention of his ‘citizenship’ was recorded on the statue’s base, and that the pair were ‘clearly identified as democratic Athenians who had imitated the earlier Tyrannicides and had subsequently been suitably honoured. They would then serve as models for future generations of (democratic) citizens’.<sup>150</sup> This ignores a key difficulty, which is the rather obvious fact that Euagoras was neither Athenian nor a democrat; he was, however, an ally.<sup>151</sup> This demonstrates that the Athenians did not let worries about the ideological message being displayed in the agora prevent them from giving prominence to non-Athenians when it was diplomatically beneficial. Shear also, by claiming that during the fifth century the agora was merely ‘default public space’,<sup>152</sup> overstates her case somewhat; as T.L. Shear had earlier pointed out, the laws had been displayed in the agora since the time of Ephialtes,<sup>153</sup> and already contained ‘the stone’ (ὁ λίθος) on which the archons, arbitrators and witnesses

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<sup>145</sup> J.L. Shear 2007: 99-100.

<sup>146</sup> J.L. Shear 2007: 98-99, 106.

<sup>147</sup> T.L. Shear 1994: 225 points out that they did not in fact, kill the tyrant, or end the tyranny, which apparently became harsher after their actions. Nevertheless, as Shapiro 1994: 123-124 makes clear, this was an important political monument, and theirs was an important cult.

<sup>148</sup> J.L. Shear 2007: 101, 103-104.

<sup>149</sup> J.L. Shear 2007: 107, citing Paus. 1.3.2-3, Isoc. 9.56-57, Dem. 20.69-70. There were also three herms commemorating Cimon’s victory at Eion in Thrace – see Shapiro 2012.

<sup>150</sup> J.L. Shear 2007: 108.

<sup>151</sup> We might wonder if this meant his statue had particular appeal to metics.

<sup>152</sup> J.L. Shear 2007: 91.

<sup>153</sup> T.L. Shear 1994: 240-241.

swore.<sup>154</sup> There was thus already a certain degree of an overtly Athenian and democratic presence in the agora.

Nevertheless, it seems fair to say that around the end of the fifth century, and afterwards, the agora was specifically claimed as democratic, polis space. Shear is keen to stress that this was in response to the oligarchic regimes of 411 and 404, which had demonstrated that the democracy needed better defending; prior to this time, the agora had been ‘associated with no single ideology’.<sup>155</sup> She is surely right about the influence of the oligarchies, but Athenian ethnic, as well as political, identity had come under pressure during the war years, and may also have been a factor. The agora was being marked as *Athenian* space; this was important because, as a trading area, it would have been frequented by individuals of all types who lived in the city, citizens, metics, and slaves, plus visitors. Many of the traders would have been metics themselves. It was thus a very public arena, and there was also the risk of it becoming cosmopolitan, as opposed to Athenian, space if the polis did not put its stamp on it; as Vlassopoulos has demonstrated, the polis seems not to have been entirely successful in this.<sup>156</sup> Shear concludes her study by saying that the message of the monuments in the agora ‘was simple. Anyone could go shopping, but only Athenian citizens could take part in political life in the democratic city’.<sup>157</sup> To this we can add that anyone could live in the city, and use its markets, but that did not make them Athenian.

This was made most obvious in the case of the statues of the eponymous tribal heroes. No description of the monument differentiates between the statues, and early representations of them on pottery show them as an undifferentiated group; it is thus thought that were a

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<sup>154</sup> T.L. Shear 1994: 242-244, citing Ath. Pol. 7.1, 55.5, Plut. *Solon* 8.1-2, 24.1-2, Dem. 54.26, Pollux 8.86.

<sup>155</sup> J.L. Shear 2007: 114-115.

<sup>156</sup> Vlassopoulos 2007; see section 2.3.

<sup>157</sup> J.L. Shear 2007: 115.

‘generic type figure’.<sup>158</sup> This (apparent) uniformity has often led scholars to think that the heroes are represented on the Parthenon by a group of figures on the east frieze.<sup>159</sup> Referring to the monument statues, Mattusch has suggested that ‘the point... was not individuality: on the contrary, it was their close resemblance to one another’.<sup>160</sup> They can be seen as serving as intermediary figures between citizen and polis, with their uniformity ensuring equality and unity.

This is not a particularly satisfying conception, however, for two main reasons. First, while there was a common monument in the agora, the tribal heroes had their own individual shrines as well, two of which were outside Athens.<sup>161</sup> Each could serve, as Kearns puts it, as ‘a kind of centre for the whole tribe’,<sup>162</sup> and at least in the case of the Pandionidae there was a public festival at the shrine.<sup>163</sup>

Second, the tribes were also the basis for a considerable amount of competition between citizens. Inter-tribal competitions took place at the Panathenaea, and included the *purhichê* (a dance in armour), a competition in *euandria*, a torch race and a competition of ships.<sup>164</sup> These would naturally involve ideas of masculinity and individual competition.<sup>165</sup> Beyond this, however, drawing an analogy with modern team sports, which ‘bring out patriotic feelings and strong civic identification’, Neils suggests the competitions ‘must have promoted

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<sup>158</sup> Mattusch 1994: 76-77, 79, who also points out that by the late fifth century pottery depictions had begun to vary the age of the heroes, though not the type.

<sup>159</sup> Mattusch 1994: 76-77; Jenkins 1985 argues that only nine of the figures form a group, and probably represent the nine archons.

<sup>160</sup> Mattusch 1994: 80. Cf. Rotroff 1978 on the (slim) evidence for the existence of a common cult of the *eponymoi*.

<sup>161</sup> The shrine of Ajax was at Salamis, and Hippothoön at Eleusis. Kearns 1989: 80-81.

<sup>162</sup> Kearns 1989: 80.

<sup>163</sup> Kearns 1989: 81.

<sup>164</sup> Neils 1994: 151, based on *IG ii<sup>2</sup> 2311*. It is not clear what exactly the ‘euandria’ was – Neils speculates that it is represented in certain scenes on pottery (154-159).

<sup>165</sup> Fisher 1998: 69-70.

group solidarity and tribal loyalty'.<sup>166</sup> While we would certainly expect such competitions to encourage tribal identification and loyalty, it is not at all clear (certainly if the modern sports analogy is followed) that this would translate into polis unity, though that was surely the intention.<sup>167</sup> Another obvious analogy would be with the house system used in some schools, where the subsidiary structure is deliberately created to foster healthy competition and cohesion. It should also be noted, however, that similar subdivisions can be generated informally and spontaneously in other contexts. The Athenians might have attached certain qualities to particular tribes; it would not be unexpected, given the amount of competition which went on between them.<sup>168</sup>

We should not, then, suppose that the tribal system necessarily led to the results that it was intended to have; in many ways it may actually have divided, rather than united, the Athenian citizen body.<sup>169</sup> It must, however, have served as a visible dividing line between citizens and metics, who could not be members of tribes. The competitions will have been obvious reminders of the outsider status of non-citizens, and deprived them of the chance to excel in a public context. The training, likewise, would presumably have been citizen only, though there might not have been a rule specifically preventing anyone from participating.<sup>170</sup> Some of the key aspects of community life in the polis were thus denied to metics, and they will have

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<sup>166</sup> Neils 1994: 159.

<sup>167</sup> The importance which Greeks could attach to tribes as points of unity and identity is demonstrated not only by Cleisthenes' reforms at Athens, but also by his namesake's at Sicyon, where according to Herodotus (5.68) three of the traditional tribes were renamed 'pigmen', 'donkeymen' and 'swinemen' in a deliberate attempt to humiliate their members.

<sup>168</sup> The closest we come to having evidence of this is Demosthenes' *Funeral Oration* (Dem. 60.27-31), when the orator lists the tribal heroes and mentions a mythical exploit or story and describes how it supposedly inspired the relevant tribesmen (Kearns 1989: 86-87). This would have been rather apt, as the dead were listed and placed in coffins according to their tribe (Herrman 2009: 15).

<sup>169</sup> Connor 1994: 40 points out that being an 'Athenian citizen' was only one of many identities and ties which an individual could have. Epstein 2011: 91-92 argues that these were countered by the development of 'new pan-Athenian loyalties'; but this, as Frost 1994: 51 points out, had been going on since at least the time of the Peisistratids.

<sup>170</sup> At Dem. 39.23-24 Mantitheus attempts to use his opponent's training in the boys' chorus for the tribe Hippothontis as proof that his claim to belong to Acamantis was based on lies. He says that his opponent's mother could have sent him to be trained at Acamantis if she had desired to demonstrate his connection to that tribe, which indicates that it was feasible, at least for a citizen, to train with a tribe to which he did not belong.

been deprived of the benefits which participation in such events is supposed to bring – physical fitness, discipline, and so on – and which, when done by the young, are often regarded as important, formative parts of growing up. There was, however, nothing to stop metics from taking part in such activities outside of the official structure, and they could be ‘supporters’ of any tribe they chose (presumably they would usually select the one to which the deme they lived in belonged). Nevertheless, the structure of the Athenian polis, and its application through tribal competitions, evidently excluded them.

#### **4.4 (b) The Lycurgan Era and the Reformed *Ephêbeia***

Lycurgus rose to prominence in the later fourth century, and has generally been seen as responsible for a massive upturn in Athens’ economic fortunes, as well as pursuing policies aimed at reviving public religion and civic pride.<sup>171</sup> His programme, if that is the right word for it,<sup>172</sup> included what appear to have been exemplary trials of individuals; his only completely surviving speech is targeted at a man who left Athens in the aftermath of Chaeronea, only to return a number of years later.<sup>173</sup> In this section I shall examine the *ephebeia* as reformed during his time, when it was publicly funded, open to all citizens, and included ceremonial and public aspects which stressed Athenian identity. It thus appears to have been aimed in part at remaking Athenian citizens and inculcating in them patriotism, unity, and hoplite virtues, things which would have separated them from the metics, who could all too easily blend in with the citizen body.

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<sup>171</sup> See Burke 2010, Humphreys 2004. Lambert 2012: 255 notes that in the fourth century ‘a culture developed of searching out, discovering and indeed inventing “documents” of the past’ as typified by the ephebic oath, which Lycurgus quotes at Lyc. 1.77. Lambert sees Lycurgus as fostering a ‘backward-looking culture’ after Chaeronea (2012: 265).

<sup>172</sup> On the question of whether we can speak of a ‘Lycurgan Athens’ see Faraguna 2011.

<sup>173</sup> Discussed in detail in section 5.2 (b).

It is not necessary to place a particular philosophical influence on Lycurgus' policies;<sup>174</sup> that such ideas about transforming citizens is current is demonstrated by Xenophon's *Poroi*,<sup>175</sup> which overtly aims at real reforms to take place in Athens. Some of them, such as the public funding of the *ephêbeia*,<sup>176</sup> resemble the Lycurgan reforms even if they did not inspire them.<sup>177</sup> Its aim is to increase Athens' revenues,<sup>178</sup> in order that Athens might support itself independently and avoid treating other *poleis* unjustly.<sup>179</sup> The plan is, eventually, to turn the Athenians into a 'population of rentiers'<sup>180</sup> – state-owned enterprises and investments will provide enough income for Athenians to live off, and therefore not be compelled to work for a living.<sup>181</sup> Labouring and trade would be left to the metics (and presumably slaves). Xenophon was keen to attract rich ones through *enkêtêsis*<sup>182</sup> and by opening up the cavalry to them,<sup>183</sup> but also wanted to make Athens attractive to all those without a polis,<sup>184</sup> and to remove those *atimiai* which they suffered which provided no benefit.<sup>185</sup> He would, however, prevent metics from serving as hoplites alongside the citizens, as this would relieve the metics of danger and disadvantage, and it would be to the citizens' credit to rely only on

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<sup>174</sup> Allen, however, argues for a strong Platonic influence on *Against Leocrates*, seeing a desire to change the goal from the prevention of harming others to 'improv[ing] people in some intrinsic fashion' (2000: 23). Allen points to Plato's wish for punishment to educate, improve and reform the wrongdoer (2000: 21-22, Plato *Laws* 731d, *Gorg.* 476d-478d), but Lycurgus hopes to improve the polis by example, not to reform Leocrates.

<sup>175</sup> Written in 355/4 (Gauthier 1976: 4-6, Jansen 2007: 50-56).

<sup>176</sup> Xen. *Poroi* 4.52.

<sup>177</sup> More generally, Xenophon urges a policy of peaceful relations, encouraging trade and boosting state revenues; as Burke 2010 demonstrates, these did come about after Chaeronea, though admittedly the peace which led to an 'economic bonanza' was 'imposed' by the Macedonians (2010: 411-412).

<sup>178</sup> Much of the debate surrounding it has focused on the nature of Xenophon's understanding of economics; Doty 2003: ii, for example, states that 'In considering how Athens may best increase its revenue, Xenophon examines the meaning of prosperity and its relationship employment, consumption, and expenditure in a way that no one else would until John Maynard Keynes... The observations of Xenophon and Keynes agree on many points; I hope to clarify Xenophon's importance as an economic thinker and the originator of the study of macroeconomics'.

<sup>179</sup> Xen. *Poroi* 1.1.

<sup>180</sup> Doty 2003: 8.

<sup>181</sup> Xen. 4.33, referring to there being sufficient *trophê* for all Athenians. Doty 2003: 5-7 argues that by this we should understand 'maintenance' rather than 'pay' or a 'wage' provided for work.

<sup>182</sup> Xen. *Poroi* 2.6. See section 2.2 (a).

<sup>183</sup> Xen. *Poroi* 2.5.

<sup>184</sup> Xen. *Poroi* 2.7.

<sup>185</sup> Xen. *Poroi* 2.2. By *atimiai* he means those which applied to all metics, regardless of wealth (Gauthier 1976: 59).

themselves.<sup>186</sup> Citizenship and how it could be improved were current issues at the time, then, at least among elite and educated circles. The reforms and institutions of Lycurgus' time, such as the *ephêbeia*, should be understood in this light.<sup>187</sup>

The *Ath. Pol.* describes in detail its contemporary *ephêbeia*, dating to the 320s. There is no equivalent description of it before the period of Lycurgus, and it is thus difficult to establish what was an innovation of that time, and when each element was introduced. The ephebic oath, preserved in literary sources and in a fourth-century inscription found at Acharnae, appears to date back far beyond Lycurgus' time, possibly even to the Athens of Solon.<sup>188</sup> It appears not to be the case, however, that the *ephêbeia* existed as a formalised institution before the fourth century.<sup>189</sup> Xenophon's indicates that in the 350s the *ephêbeia* was limited to those who could afford their own equipment and pay their own way, as he introduces as a new proposal that the ephebes be kept at public expense.<sup>190</sup>

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<sup>186</sup> Xen. *Poroi* 2.2-4. Such a society would look rather like a hoplite-dominated oligarchy, since the government would have no poor members; they could devote their time to whatever education and lifestyle was deemed appropriate. Wealth alone, however, would not be a determinant of membership; the rich mercantile class, inasmuch as it comprised metics, would be excluded along with the trading and working poor. The citizens could avoid participating in activities which were traditionally considered inimical to independent, hoplite values. The obvious parallel to this model would be Sparta, with its full citizens, *perioikoi* and helots. The improvement of Xenophon's model would be that public revenues would guarantee the wealth of the citizens and prevent poverty from reducing them in status – Athens would thus avoid the problem of a collapse in citizen population.

<sup>187</sup> For other 'Lycurgan' changes see Faraguna 1992; there was also, from the mid-fourth century onwards, the tendency for inscribed honorific decrees to include clauses explaining their purpose, and an increasing number giving honours to Athenian citizens – see Lambert 2011b. This should probably not, however, be viewed entirely separately from the trend towards larger and grander funerary monuments which went on during the fourth century throughout the Greek world (Morris 1994).

<sup>188</sup> Siewert 1977: 109-111. Kellogg 2008: 357, however, notes that it is 'a citizenship oath, not a military one', and therefore does not prove anything about the origins of the *ephêbeia* as an institution.

<sup>189</sup> For a summary of older views see Pélékidis 1962: 8-13. Van Wees 2004: 94 lists the early evidence: Thucydides (1.105.4 and 2.13.7) refers to young hoplites serving separately, but calls them οἱ νεώτατοι, and Xen. *Mem.* 3.12.5 has Socrates claim there was no public military training. Things had moved on by the fourth century – Aesch. 1.49, 2.167 refers to his own two-year period of service, during which he patrolled Attica with his συνεφήβοι. Van Wees (2004: 94) believes this was voluntary; Hansen 1991: 89, and Faraguna 1992: 278 think it was compulsory.

<sup>190</sup> Xen. *Poroi* 4.52.

A reform of some kind must have taken place shortly before 335, since from that date the ‘ephebic inscriptions’ appear; since Lycurgus mentioned a law ‘about the ephebes’<sup>191</sup> introduced by a man named Epicrates it seems likely that these inscriptions reflect some of its provisions.<sup>192</sup> The inscriptions cover a range of purposes, and are united only in that they feature lists of the ephebes in a single year-group of a certain tribe.<sup>193</sup> The key element of the reforms, however, appears to be that, in line with Xenophon’s proposals even if not inspired by them, the polis took responsibility for funding the ephebes’ living expenses and provided them with equipment, which opened the institution up to all citizens, no matter their financial situation. This surely indicates that one of the intentions behind the reform was to extend the *ephêbeia* to those who were below the traditional hoplite status.<sup>194</sup>

There was an obvious military reason for reform, given the disaster of Chaeronea, but Burke has pointed to the ‘contradiction between a constructed political ideology, vigorous in democratic ideal and bristling with military display, and an economic reality that demanded accommodation to the Macedonian peace’;<sup>195</sup> the development of military training and bolstering of civic ethos may actually have been in part to compensate for the declining power and influence of Athens in foreign affairs. In any case, alongside the military aspect there was a civic and educational element which was also of considerable significance.

The *Ath. Pol.*’s description goes as follows:

ἐπὶ δὲ δοκιμασθῶσιν οἱ ἔφηβοι, συλλεγέστες οἱ πατέρες αὐτῶν κατὰ φυλάς, ὁμόσαντες αἰροῦνται τρεῖς ἐκ τῶν φυλετῶν τῶν ὑπὲρ τετταράκοντα ἔτη γεγονότων, οὓς ἂν ἠγῶνται βελτίστους εἶναι καὶ ἐπιτηδειοτάτους ἐπιμελεῖσθαι τῶν ἐφήβων, ἐκ δὲ τούτων ὁ δῆμος ἕνα τῆς φυλῆς ἐκάστης χειροτονεῖ

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<sup>191</sup> Harpocration s.v. *Epicratês* = Lyc. Fr.5.3.

<sup>192</sup> Faraguna 1992: 275.

<sup>193</sup> Sekunda 1992: 334-335. On the inscriptions see also Reinmuth 1971, Clinton 1988.

<sup>194</sup> Faraguna 1992: 277.

<sup>195</sup> Burke 2010: 414. Cf. Roisman 2003 on the contradictory nature of *andreia* as employed in the rhetoric of the orators.

σωφρονιστήν, καὶ κοσμητήν ἐκ τῶν ἄλλων Ἀθηναίων ἐπὶ πάντας. συλλαβόντες δ' οὗτοι τοὺς ἐφήβους, πρῶτον μὲν τὰ ἱερά περιῆλθον, εἴτ' εἰς Πειραιαία πορεύονται, καὶ φρουροῦσιν οἱ μὲν τὴν Μουνιχίαν, οἱ δὲ τὴν Ἀκτὴν. χειροτονεῖ δὲ καὶ παιδοτρίβας αὐτοῖς δύο καὶ διδασκάλους, οἵτινες ὄπλομαχεῖν καὶ τοξεύειν καὶ ἀκοντίζειν καὶ καταπάλην ἀφιέναι διδάσκουσιν. δίδωσι δὲ καὶ εἰς τροφήν τοῖς μὲν σωφρονισταῖς δραχμὴν ἀ' ἐκάστῳ, τοῖς δ' ἐφήβοις τέτταρας ὀβολοὺς ἐκάστῳ· τὰ δὲ τῶν φυλετῶν τῶν αὐτοῦ λαμβάνων ὁ σωφρονιστὴς ἕκαστος ἀγοράζει τὰ ἐπιτήδεια πᾶσιν εἰς τὸ κοινόν (συσσιτοῦσι γὰρ κατὰ φυλάς), καὶ τῶν ἄλλων ἐπιμελεῖται πάντων. καὶ τὸν μὲν πρῶτον ἐνιαυτὸν οὕτως διάγουσι· τὸν δ' ὕστερον ἐκκλησίας ἐν τῷ θεάτρῳ γενομένης, ἀποδειξάμενοι τῷ δήμῳ τὰ περὶ τὰς τάξεις, καὶ λαβόντες ἀσπίδα καὶ δόρυ παρὰ τῆς πόλεως, περιπολοῦσι τὴν χώραν καὶ διατρίβουσιν ἐν τοῖς φυλακτηρίοις. φρουροῦσι δὲ τὰ δύο ἔτη χλαμύδας ἔχοντες, καὶ ἀτελεῖς εἰσι πάντων· καὶ δίκην οὔτε δίδασιν οὔτε λαμβάνουσιν, ἵνα μὴ πρόφασις ᾗ τοῦ ἀπιέναι, πλὴν περὶ κλήρου καὶ ἐπικλήρου, κἄν τι κατὰ τὸ γένος ἱερωσύνη γένηται. διεξελθόντων δὲ τῶν δυεῖν ἐτῶν, ἤδη μετὰ τῶν ἄλλων εἰσίν.<sup>196</sup>

The first question to be addressed is who these epebes were. Rhodes notes that the text's implication is that 'all newly registered citizens' became epebes, yet believes that in fact the thetes were excluded, as well as those not physically fit for the training.<sup>197</sup> His reasoning is that, as there is a clear hoplite element to the training, and no mention of any practice in sea warfare or rowing, they would not have been 'required to take part in this course of training'.<sup>198</sup> Rhodes does not explicitly say whether he believes they *could* have been entered as epebes if they so desired, but surely this was possible.

<sup>196</sup> *Ath. Pol.* 42.2-5: 'When the epebes have been examined, their fathers meet by tribe, and after taking oath they choose three of their tribesmen who are over forty years old, whom they consider to be the best and most suitable to take charge of the epebes, and of these the *dêmos* elects one disciplinary officer from each tribe, and from the other Athenians one director, who is over them all. When they have gathered the epebes together, first they go around the temples, then they march to the Piraeus, and some guard Munichia, others the Point. The *dêmos* also elects trainers and two teachers for them, who teach them to fight as hoplites, archery, to throw the javelin, and to fire a sling. It also provides for daily rations one drachma each for the disciplinary officers, and four obols each for the epebes – each disciplinary officer takes the money for his tribesmen and buys provisions for everyone in common, since they mess together by tribe, and takes care of everything else. They go on like this for the first year; in the next an assembly takes place in the theatre, and after displaying their drills before the *dêmos* and receiving their shields and spears from the city, they patrol the land and spend their time in their guard posts. They serve for two years, wearing the chlamis, and are exempt from all taxes; they can neither bring nor defend lawsuits, so that they have no pretext for leaving, except in matters of inheritance, the marriage of heiresses, or if they should inherit a priesthood. When they have gone through two years, they join the other citizens.'

<sup>197</sup> Rhodes 1981: 503.

<sup>198</sup> Rhodes 1981: 503.

Aside from the general point that education includes ideological elements as well as practical ones – if the desire was to inculcate hoplite virtues then hoplite training is what would have been given, even if it was not actually to be employed by all the ephebes – Rhodes’ argument ignores a number of specific details. First, the reference to their receiving a shield and spear from the polis suggests that equipment was, or could be, provided for them by the city; even if this was returned at the end of their service, more equipment could be issued to poorer citizens in the future when needed, and they would still (hopefully) have the ability to use it. Second, the training included practice in archery, suggesting that the ephebes would be expected to include individuals who would not necessarily fight as fully-armed hoplites.<sup>199</sup> Third, it must be remembered that after Chaeronea even slaves had been called upon to fight; the possibility that another crisis might arise must have been considered, and in such a situation it would be to the polis’ advantage to have as many citizens as possible trained in all types of fighting. As noted above, it seems likely that the polis’ provision of equipment for those undergoing the *ephêbeia* was brought in as part of Lycurgus’ programme after 338, which would fit well with this consideration.

Fourth, elsewhere in the *Ath. Pol.* the author mentions the still technically current status requirements for certain offices, which excluded thetes. We are told that διὸ καὶ νῦν ἐπειδὴν ἔρηται τὸν μέλλοντα κληροῦσθαί τιν’ ἀρχὴν ποῖον τέλος τελεῖ, οὐδ’ ἂν εἷς εἴποι θητικόν.<sup>200</sup> This evidently means that in such cases the law had not been changed, but was a ‘dead letter’.<sup>201</sup> Similarly, when explaining the selection by lot of the treasurers of Athena he says that they are chosen ἐκ πεντακοσιομεδίμων κατὰ τὸν Σόλωνος νόμον – ἔτι γὰρ ὁ νόμος

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<sup>199</sup> Van Wees 2004: 94-95.

<sup>200</sup> *Ath. Pol.* 7.4: ‘On account of this, nowadays when someone who is going to enter the lottery for an office is asked what tax rate he pays, no one would say he paid at the thete’s level’.

<sup>201</sup> Rhodes 1981: 146.

κύριός ἐστιν, yet ἄρχει δ' ὁ λαχὼν κἂν πάνυ πένης ἦ.<sup>202</sup> Given that in those cases the exclusion is mentioned and then shown to be non-binding in practice, it would be strange for the text not to mention any restriction that applied to the *ephêbeia*. Indeed, the natural conclusion is that by the time of the *Ath. Pol.* the formal property classes had become irrelevant in practice.<sup>203</sup> Fifth and finally, there is no reference to poverty as an excuse for not serving, and the state provision of food and lodgings would mean that a lack of finances would be no impediment to completing the term of service.

It is possible to make an objection to this on demographic grounds, since the ephebic inscriptions contain tribal contingents which, arguably, are too small to be drawn from the entire Athenian citizen body.<sup>204</sup> There are some serious problems here, however, because our overall population figures are in part drawn from these very inscriptions, with certain assumptions having been made – one being that the four tribes for which we have figures are representative of the total of ten.<sup>205</sup> We are probably better off, then, to rely on the textual evidence which we have, from which it seems likely that all of the newly of age citizens were supposed to enrol and serve their term; at least at first, to judge from the inscriptions, they did

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<sup>202</sup> *Ath. Pol.* 47.2: ‘out of the 500 *medimnoi* class, according to the law of Solon – for the law is still valid – and whoever is selected serves even if he is a very poor man’.

<sup>203</sup> Burke 2010: 405. See E. Cohen 2005 on the unintended incentive generated by the Athenian tax system for the rich to keep their wealth ‘invisible’ by investing it in markets rather than property.

<sup>204</sup> Van Wees 2011: 99, calculating that 400 ephebes a year (which is what our inscriptions imply in the 330s, though the figure seems to rise to c.600 in the 320s) would indicate that they were taken from a population of just c.13500 adult males, assuming 10% of 18 year olds were exempt for being physically unfit to serve.

<sup>205</sup> Sekunda 1992: 341. The key issue is which model life tables are used for the demographic structure of fourth-century Athens. Hansen has consistently argued for c. 30000 adult male citizens, which he sees as fitting with the ephebic inscriptions if all classes of male citizens were intended to go through the process, but there was some shortfall (Hansen 1991: 108-109); Sekunda argued for c.20000, which he sees as consistent with the inscriptions if all went through the *ephêbeia* (Sekunda 1992: 341-342). Sekunda argues that, as a privileged group, the Athenian citizens can be expected to have had significantly longer life expectancies than we would find for an ancient society as a whole, thus making their population distribution by age rather different (Sekunda 1992: 342-343); Hansen denies this, arguing that historical studies do not back Sekunda’s assumption up (Hansen 1994: 305). Other relevant evidence includes the lists of arbitrators (see Lewis 1955) and the ‘census’ (ἐξετασμός) of Demetrius of Phaleron (reported by Ctesicles FrGrHist 245 F1 = Athenaeus 6.103), indicating a population of 21000 Athenians. Sekunda takes this as the adult male total (Sekunda 1992: 315-320), whereas Hansen thinks it is a military review and therefore only represents those ‘fit for the call up’, on the grounds that this is the usual meaning of ἐξετασμός (Hansen 1994: 302). See Akrigg 2011: 48-59 for a critique of Hansen’s methods, though his conclusions about the adult population of Athens are endorsed (2011: 55).

not all do it, but the uptake increased over time.<sup>206</sup> It is true that the text of the *Ath. Pol.* does not explicitly say ‘even the poor are required to serve’, but we should hardly expect it to; the implication is clear enough.

The question is of considerable importance, since if only certain classes went through the process we would expect it to have a divisive effect on the citizens; if, on the other hand, all of the citizens – and only the citizens – went through it, it could serve as a very effective and formative divider between citizen and metic in Athens. In the light of how I have presented the difficulties of maintaining the barrier between the two groups so far in this chapter, and the intellectual background of which Xenophon’s *Poroi* is an example, I would go as far as to say that this was one of the intentions behind the reform of the institution, and not merely one of its inevitable consequences.

In any case, looking at the description in the *Ath. Pol.*, there is clearly a strong ritualistic and symbolic element in the process, as well as a distinctly public aspect; it was not just military training,<sup>207</sup> and had a moral component as exemplified by the *sôpronistês*.<sup>208</sup> As the ephebic inscriptions make clear, the tribes were very important when it came to the organisation of the trainees, and as ephebes they gained another heroic representative in the form of their year-group hero.<sup>209</sup> There were forty two of these, and when one year reached the age where they were no longer liable to be called up<sup>210</sup> their hero was recycled and given to the first year ephebes.

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<sup>206</sup> Van Wees 2011: 99 believes there was a gradual increase in the numbers taking part, as a result of the introduction of public funding; Hansen 1991: 109 suggests that ‘it took a fair while for the principle [of service for all] to have effect’.

<sup>207</sup> Steinbock 2011: 295.

<sup>208</sup> Farenga 2006: 356.

<sup>209</sup> Steinbock 2011: 299.

<sup>210</sup> I.e. when they were fifty nine or sixty, and became arbitrators.

The ephebes' first act was to circle the temples – Steinbock suggests that these included the shrines of the tribal heroes, and may have taken a number of days<sup>211</sup> – and at the end of their first year they displayed their skills publicly in the theatre,<sup>212</sup> before an audience, and received spears and shields as markers of their service. These occasions would naturally have constituted rites of passage, and thus been important to the individuals concerned, their families, and the wider polis community which came to observe them. They were also, significantly, exclusively citizen and male rituals. This would apply not only to these specific occasions, however; it also held true for the entire period they spent as ephebes. The young men went through a lengthy period of living apart from the rest of society – they were even excluded from almost all court proceedings<sup>213</sup> – leading a life that was dedicated to protecting the polis and military training, and limited exclusively to male citizens. It gave the ephebes a shared experience which was denied metics and others. Even if a metic had been born in Athens, and looked, sounded and worked like an Athenian, he could not share in this experience, and was thus essentially different. The nature of the experience was also important – the *ephêbeia* embodied many of the essential characteristics which made up Greek ideas of masculinity.

It is open to question, of course, whether these effects were borne out in reality. The separation was hardly complete or radical; for the first year, the ephebes were stationed around the busy area of the Piraeus, which would hardly have constituted a break from the rest of society. On the contrary, for ephebes who had grown up in the smaller, rural demes, accessing the port's cosmopolitan atmosphere and opportunities to indulge in sensual

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<sup>211</sup> Steinbock 2011: 297-298.

<sup>212</sup> Dillery 2002: 462-464 points out that τὰ περὶ τὰς τάξεις should mean they carried out manoeuvres, but there would not be room in the theatre for them to do this, even if they performed them a tribe at a time. His solution (2002: 464-466) is that the theatre being referred to is 'the closed, theatre-shaped end of the Panathenaic stadium'. Either location would meet the criteria of being public, civic and specifically Athenian.

<sup>213</sup> Farenga 2006: 356.

pleasures may well have been an eye-opening and mind-broadening experience, albeit perhaps not one which accorded well with ideas of moderation and military discipline.<sup>214</sup> Likewise in their second year, even if ephebes were posted to more remote areas of Attica, they would still most probably have been no more than a day away from home, or the town of Athens.

The reality may not have lived up to the ideal experience in other ways, as well. It is likely that there was a good degree of cynicism on the part of many ephebes, since their daily routine of training was probably rather dull and repetitive most of the time. Besides this, as with any form of conscription, their numbers will have included individuals unsuited to the role either physically and temperamentally; if exemptions were granted on physical grounds<sup>215</sup> they will presumably have been for extreme cases only. This is not to suggest that the term of service was not ever an influential or life-changing one, but merely to point out that it will not have been experienced in a uniform way. Equally, there will naturally have been divisions between ephebes based on background, ability and the favouritism of their overseers.

Things are rather clearer when it comes to the ideology behind the *ephêbeia*, however. It is generally a simple matter to assert that the younger generation needs discipline and patriotism, and therefore should do some form of national service (particularly when the ones suggesting it are at no risk of having to participate themselves); in the case of Athens, we can add concerns about the exclusivity of citizenship and the fragility of the boundary between citizen

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<sup>214</sup> For the atmosphere of the Piraeus see Von Reden 1995. Cf. R. Osborne 2011 for the experience of inhabitants of demes outside the city visiting it for the first time.

<sup>215</sup> As assumed by e.g. Rhodes 1981: 503, Faraguna 1992: 278. Sekunda 1992: 330-331 points out that there is no evidence that disability could exclude someone from undergoing training, only from active service. It is difficult to imagine what such individuals would actually have done during their ephebic service, however, if they were unfit to participate in the military aspects. It is possible, however, that the threshold for exemption was set at a more extreme level for training than for service.

and foreigner. Another important factor was the cohesion of the citizen body,<sup>216</sup> which would have been fostered (at least in theory) by the habit of messing together and living off equal rations – assuming, of course, that all classes entered the *ephêbeia*. Again, it would be rather naïve to suppose that this necessarily worked, and that class distinctions collapsed during the term of service,<sup>217</sup> but the system would at least offer the opportunity to live and train together as equals. It is worth remembering that even if many of those who went through it did so with a sceptical or cynical eye, the experience would still be a shared one which created common ground between young male Athenians and a point of shared reference with those in previous year-groups. It would also extend, at least in some degree, to the experience of previous generations, though it is unclear precisely how much the institution was altered during the Lycurgan period.

Whatever the nature of each young Athenian's experience, he would return home after the two year period of service with memories and a sense of identity which separated him from metics whose lives up until that point may have been essentially similar to his own. While there were of course a series of exclusively Athenian rites of passage which took place in childhood, and opportunities to be involved in festivals, games and the like which were denied to non-citizens, these tended to be one-off events,<sup>218</sup> and in many cases were probably paralleled by traditional occasions and rituals celebrated by the various communities which made up the metics of Athens. In the absence of civic institutions, these probably had a religious flavour, though at least in the case of Greek communities it seems likely that they would have wished to emphasise their continuation of the citizenship which they (at least in theory) could claim in their polis of origin.

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<sup>216</sup> Faraguna 1992: 279.

<sup>217</sup> On the persistence of economic inequality and its relationship to 'political egalitarianism' in classical Athens see e.g. Foxhall 2002. Potts 2011, examining the operation of the Athenian navy, argues that there was both co-operation and competition within a trireme, and we would expect the same with an ephebic cohort.

<sup>218</sup> See section 2.2 (c).

The difference with the *ephêbeia* was that it separated the Athenians for a long (and formative) period of time, and featured instruction in the key attributes of male citizenship; the aim was to inculcate courage, discipline and skill in battle, all of which were characteristics of the prototypical Athenian citizen, the idealised hoplite. That this had a certain class bias is unavoidable – all male Athenians went through it, but the alternative types of warrior, the cavalryman and the rower in the navy, were not emphasised or trained for as far as we can tell. The idea seems to have been to extend hoplite values and identity to the whole male citizen population, regardless of economic circumstance, down the social scale to the landless labourers and up it to the aristocrats who might have preferred to identify with cavalry fighting and its ethos;<sup>219</sup> this bears certain resemblances to some of the political thought which was going on in the fourth century.

#### **4.5 Conclusions**

At least from the time of the Peloponnesian War, the boundary between citizen and metic came under considerable strain. In times of crisis, it could be simply ignored, either by decrees which overtly circumvented it (as in the case of the Plataeans and the fighters at Arginusae, and as proposed by Hyperides after Chaeronea) or a general failure to enforce it (as seems to have been the case in the latter years of the Peloponnesian War). In more stable times there were still individuals who crossed the boundary illegally, sometimes with the aid of unscrupulous citizens – we do not know how many, but we can say that their existence was a preoccupation for the Athenians which they attempted to counter through legislation allowing individual prosecutions (the *graphê xenias*) and, in the most extreme instance, a

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<sup>219</sup> Burke 2005: 36-37 sees the extension of hoplite service to the thetes as part of the ‘unalterable erosion’ of ‘the ideology of the Athenian hoplite farmer’.

scrutiny of the credentials of the entire citizen body. Ironically, however, this latter attempted remedy actually made the endemic failings of the Athenian system even more obvious. Another strategy to shore up the boundary was to try to create actual differences between citizen and metic, which was exemplified by the institution of the *ephêbeia* as constituted in the later fourth century.

As we saw in the last chapter, however, none of this was reflected in the rhetoric used to describe and celebrate the Athenians' unique origins and pure descent. Many of the same orators who delivered funeral speeches will have weighed in on the question of what to do about the infiltration of the citizen body by fraudulent individuals; Hyperides, as we have seen, had himself proposed to enfranchise thousands because under the circumstances he thought it necessary, and successfully defended himself on that basis. Such ironies and inconsistencies were ignored when it came to the official, public ideology. The tension between the theoretically accepted rigid division between citizens and foreigners and the messy, porous reality was doubtless one of the reasons the Athenians repeatedly attempted to rectify the situation. In the case of the re-enactment of the Periclean citizenship laws, this was with a tacit acceptance that abuses had gone on in the past, but also with the hope that with a clean slate they could be avoided in the future.

The Athenians, then, dealt with the problem of the boundary with a combination of tacit acceptance, and, periodically, extreme action; neither of these, however, seemed to have any impact on the utter denial of the problem that the funeral orations represented. It remains to investigate how they dealt with individuals who crossed the boundary: metics who became citizens, and Athenians who in some sense failed to live up to the Athenian ideal, leaving the polis to settle as metics elsewhere or being stripped of their citizenship.

## **CHAPTER FIVE: CROSSING THE BOUNDARY**

As we have seen, the Athenians do not seem to have been particularly concerned about the metic experience, other than as it affected them; they were happy to define them as metics, and under normal circumstances were keen to stress their inferiority and separateness by erecting and attempting to maintain a theoretical and practical boundary. They were troubled by individuals crossing this boundary, and dealt with it either by denial or taking steps to rectify the situation; in these ways they attempted to reconcile their exclusive ideology with the messy reality. There were cases, however, when things were more complicated. When a metic became a citizen legitimately, there was a logical difficulty; quite obviously, a naturalised citizen could not be of autochthonous Athenian descent. Equally, the new citizen cannot have fit the requirements of descent which being Athenian supposedly required, i.e. having two citizen parents. As discussed in the introduction, any group will have to deal with such contradictions; what is significant is how this was done. The boundary crossers themselves often respond by embracing the group's values and policing its boundaries even more zealously than the less marginal members.

### **5.1 From Slaves to Citizens – Apollodorus and his family**

What is particularly interesting is that rather than claim to be full and uncontroversial members of the Athenian group, at least some of these naturalised citizens reminded the Athenians of their origins in public contexts. They consciously and publicly positioned themselves as marginal or qualified group members, not so much as prototypical insiders as outsiders accepted with conditions. This will be seen in two case studies: Apollodorus, the son of the freedman and banker Pasion, and Phormion, who was also a former slave who

worked in Pasion's bank. Both were naturalised Athenian citizens – Apollodorus' father had been granted citizenship for his services to the polis, as later was Phormion himself. Apollodorus delivered seven of the speeches in the Demosthenic corpus.<sup>1</sup> The scholarly consensus is that one of them (Dem. 45) is a genuine work of Demosthenes, and the others were written by one man, most likely Apollodorus himself.<sup>2</sup> The most recent full-length study of the life and speeches of Apollodorus has endorsed this, and come down firmly on the side of Apollodorus himself as author of the six pseudo-Demosthenic speeches which he delivered.<sup>3</sup> Phormion, after he was naturalised, ended up in a feud with Apollodorus, part of which is demonstrated by the speech Demosthenes 36.

There is thus a considerable amount of evidence for how these individuals displayed their identity in a courtroom context. Before turning to the speeches themselves, I will briefly discuss the background of Apollodorus and his family, since it is important to understand as much as possible about the personal context of the individuals examined.

### **5.1 (a) Background and Chronological Issues**

The standard reference work on the life and speeches of Apollodorus is Trevett's *Apollodoros the Son of Pasion*, an extremely useful book in terms of factual data about Apollodorus and his family, and questions of authorship and style in the speeches.<sup>4</sup> The key points which are securely attested are as follows:

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<sup>1</sup> Dem. 45, 46, 49, 50, 52, 53, and 59.

<sup>2</sup> See Trevett 1992: 51 & n.8.

<sup>3</sup> Trevett 1992: 50-76, esp. 73-74; Carey 1992: 17-18 concurs.

<sup>4</sup> The evidence is also presented, more succinctly, by Davies 1971: 427-442 (#11672 Πασίων (I) Ἀχαρνεύς) and Scafuro 2011: 219-221.

- Pasion was a slave who worked in a bank owned by two Athenians, Antisthenes and Archestratus;<sup>5</sup> the latter manumitted him<sup>6</sup> and he became a banker in his own right, and was evidently well-established by the time of the events described in Isocrates 17, i.e. c.394.<sup>7</sup> His origin is unknown.<sup>8</sup>
- Pasion was later naturalised as an Athenian citizen, at some point between the time of Isocrates 17 (when he was still a metic)<sup>9</sup> and his retirement in around 371.<sup>10</sup> He died in 370/369.<sup>11</sup>
- His eldest son, Apollodorus, was twenty four when Pasion died,<sup>12</sup> and therefore born between 395 and 393,<sup>13</sup> at a time when his father had either acquired or was about to acquire ownership of the bank which had belonged to his former masters.<sup>14</sup> He would therefore have been born and bred in Athens. The same decree which naturalised Pasion made his descendants citizens as well.<sup>15</sup> Unless his father was naturalised very shortly after 394, Apollodorus will have been a metic child for at least some time, but become an Athenian at some point before his early adulthood. Pasion's second son, Pasicles, was born in 380.<sup>16</sup>
- Pasion owned a slave, named Phormion, who worked for him in his bank; at some point he was manumitted and was eventually naturalised in 361/360.<sup>17</sup> After Pasion's

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<sup>5</sup> Dem. 36.43.

<sup>6</sup> Dem. 36.48.

<sup>7</sup> Davies 1971: 428; Isoc. 17.36.

<sup>8</sup> The suggestion that he was of Phoenician origin is very uncertain, relying merely on the association he had with the Phoenician Pythodorus (Isoc. 17.4). See Diller 107-108, Trevett 1992: 17-18.

<sup>9</sup> Isoc. 17.33, 41, cited by Davies 1971: 429; see also Trevett 1992: 20-21 n.8.

<sup>10</sup> Davies 1971: 429-430.

<sup>11</sup> Dem. 46.13.

<sup>12</sup> Dem. 36.22.

<sup>13</sup> Trevett 1992: 19 n.5.

<sup>14</sup> Trevett 1992: 2, 19.

<sup>15</sup> Dem. 59.2. The enfranchisement of descendants appears to have become automatic at some point between 388 and 370 (Osborne 1983: vol. 3 & 4, 151-152), and from 369/368 it is regularly stated as part of the decree formula (Whitehead 1986b: 110; Osborne 1983: vol. 3 & 4, 150-154).

<sup>16</sup> Trevett 1992: 6, 38 n.21; Davies 1971: 429.

<sup>17</sup> Dem. 46.13, Davies 1971: 436.

death, according to the terms of his will Phormion married his widow, Archippe, the mother of Apollodorus and Pasicles.<sup>18</sup>

The most interesting question for my purposes is the date of Pasion's (and hence Apollodorus') naturalisation. A number of scholars have attempted to narrow the range down, but none has been particularly convincing, as the arguments are necessarily highly speculative.<sup>19</sup> Apollodorus, then, could just about have been born a citizen, if he was born in 393 and Pasion naturalised very shortly after the events of Isocrates 17. He does frequently speak of himself as a naturalised citizen, but this could be more a reference to his father's naturalisation than his own. At the other end of the spectrum, he could have been in his early twenties, on the assumption of a birth in 395 and a naturalisation towards the end of Pasion's career. Some point in between is naturally more likely than an extreme, but we have no way of determining where this point was. This less-than-helpful conclusion is particularly frustrating because it would make a great difference to our understanding of Apollodorus' character if we could be more precise; we would naturally expect an individual's experience of (and attitude towards) his status to vary depending on the age at which he acquired it.

Assuming, however, that the naturalisation took place at least a few years after 391, we are faced with the question of whether he grew up with the expectation of being naturalised.

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<sup>18</sup> The will is quoted (by Apollodorus) at Dem. 45.28.

<sup>19</sup> Davies 1971: 430 argues that the most probable date is either before 386 or after 377, on the grounds that it is during these periods that Pasion is most likely to have contributed the military and naval *epidoseis* which Dem. 45.85 could imply were the reason for his naturalisation. In the speech, however, Apollodorus is simply stressing the contribution which his family made to the polis; the specific examples he mentions could have taken place at any time and in any context. Trevett 1992: 22 notes that the references in the passage to trierarchies could mean Apollodorus was referring to benefactions given after his father's naturalisation, but again this is not certain; and in any case Apollodorus could be using the term loosely, applying it to the provision of triremes rather than the role of official commander. Carey 1991 argues for a date before 380, on the basis that the decree which naturalised a foreigner extended citizenship to all of his existing legitimate descendants; any children who might be born in the future, however, would only be citizens if their mother was also. Assuming that Pasion's wife Archippe was not a citizen, this would mean that his naturalisation must have taken place before the birth of their younger son, Pasicles. This, however, is extremely speculative, as Carey acknowledged (1994: 181).

Certainly his father's wealth and connections must have made it seem a possibility, but there were always the other possibilities that financial reverses might have changed the situation, or that Pasion might have died, in which case Apollodorus would have had to acquire his own naturalisation decree. Apollodorus' own comments on the matter would imply that the honour was not expected. He presents it very much as a gift which he was still repaying many years later, for example in his first speech against Stephanus: οὐ γὰρ ἀγνοῶ τοῦθ' ὅτι τοῖς μὲν γένει πολίταις ὑμῖν ἰκανόν ἐστι λητουργεῖν ὡς οἱ νόμοι προστάττουσι, τοὺς δὲ ποιητοὺς ἡμᾶς ὡς ἀποδιδόντας χάριν, οὕτω προσήκει φαίνεσθαι λητουργοῦντας.<sup>20</sup> This is problematic, however, because Apollodorus is clearly saying what he believes the jurors want to hear; we cannot take it as evidence for what he actually believed about his naturalisation. The image which he puts across is idealised, and not entirely supported by other evidence. Zelnick-Abramovitz has gathered a body of evidence which points to a very different conception, in which naturalisation was a response to a request from the 'benefactors' (*euergetai*) of the polis. Thus in Dem. 23 we hear of Python, who πολιτείαν ἤτησεν.<sup>21</sup> Nevertheless, a naturalisation could not be guaranteed, required a lengthy procedure, and could be reversed at a second hearing; it therefore seems reasonable to suppose that it was a hope rather than an expectation on Apollodorus' part.

### 5.1 (b) Phormion and his Presentation in Demosthenes 36

Before discussing Apollodorus' self-presentation before the Athenian jurors, it will be useful to examine another naturalised citizen in court. Phormion, mentioned above, was naturalised

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<sup>20</sup> Dem. 45.78: 'For I'm not unaware that for you who are citizens by birth it is enough to perform liturgies as the laws command, whereas we who are made citizens should show that we perform them as grateful repayments'.

<sup>21</sup> Dem. 23.127. Zelnick-Abramovitz 1998: 555.

in 361/360.<sup>22</sup> There are key differences between his position and that of Apollodorus, however. Firstly, he was a freedman, and before his manumission had been the property of Pasion. He thus had personal experience of working as a slave, whereas Apollodorus merely had the taint of servile origins through his father. Secondly, he was of barbarian birth and did not speak Greek as a first language – Apollodorus says ὑμεῖς δ’ ἴσως αὐτὸν ὑπελήφατε, ὅτι σολοικίζει τῆ φωνῆ, βάρβαρον καὶ εὐκαταφρόνητον εἶναι,<sup>23</sup> and refers to him as a barbarian on two other occasions, saying that βάρβαρος γὰρ ἐωνήθης<sup>24</sup> and referring to τοὺς Ἑλληνα μὲν ἀντὶ βαρβάρου ποιήσαντας.<sup>25</sup> Scafuro has suggested that the references to him as a barbarian could be mere invective, and that he might therefore have been of Greek origin,<sup>26</sup> but this is hard to credit. Firstly, the word σολοικίζει generally refers to mistakes made by foreign (i.e. non-native) speakers of Greek.<sup>27</sup> If he were a native speaker, whatever his family origin, there is no reason to suppose that he would have made such errors; and a speaker of a different dialect of Greek would hardly be confused with a barbarian. Secondly, the reference to Phormion’s having been made ‘a Greek instead of a barbarian’ could hardly have been made without some further explanation if he was, in fact, Greek. The usual interpretation that he was a barbarian thus seems secure.

Unfortunately we cannot be more precise about his origin, but it can be said that he was a ‘visible’ (or rather ‘audible’) foreigner in a way that Apollodorus was not – whatever Pasion’s origins, his son was born and bred in Athens, and therefore we can safely assume that Apollodorus spoke Greek as a native language, in the Attic dialect and, whatever such a thing may have sounded like, with an Athenian accent. Specifically, given his education, he

<sup>22</sup> Davies 1971: 436, based on Dem. 46.13: ‘ὁ δὲ Φορμίων Ἀθηναῖος ἐγένετο ἐπὶ Νικοφίμου ἄρχοντος’.

<sup>23</sup> Dem. 45.30, discussed further at p. 225 below: ‘Perhaps you have supposed, because he doesn’t speak the language properly, that he’s a barbarian and someone contemptible’.

<sup>24</sup> Dem. 45.81: ‘for you were bought as a barbarian’.

<sup>25</sup> Dem. 45.73, discussed further below: ‘those who made him a Greek instead of a barbarian’.

<sup>26</sup> Scafuro 2011: 220.

<sup>27</sup> See Sandys’ note on this passage.

will presumably have spoken in something of an upper class accent, or at least manner of speech; that such a thing existed is indicated by a fragment of Aristophanes, which mentions a man *διάλεκτον ἔχοντα μέσην πόλεως / οὔτ' ἀστείαν ὑποθηλυτέραν / οὔτ' ἀνελεύθερον ὑπαγροικότεραν*.<sup>28</sup>

Phormion's feud with Apollodorus involved a number of court cases. We have a speech from one of these cases which was delivered on his behalf, namely Dem. 36, *For Phormion*. The speech was a response to an attempt by Apollodorus to gain money which, he alleged, had been appropriated by Phormion from Pasion's estate.<sup>29</sup> Apollodorus prosecuted Phormion, who responded with a *paragraphê*, arguing that Apollodorus' suit was inadmissible due to his having given up his claims on two prior occasions.<sup>30</sup>

The speech is considered a genuine work of Demosthenes<sup>31</sup> and was delivered by one of Phormion's friends on his behalf. The speaker says that there were a number of Phormion's *epitêdeioi* involved,<sup>32</sup> but he seems to have been the only one who made a speech at the trial, to judge from his final request: *ἐξέρα τὸ ὕδωρ*.<sup>33</sup> The question of how much input the litigant had into the content of the speech is thus more complex than usual, since there were three parties involved: Phormion, as the litigant proper, whose wealth and reputation were on the line; his friend, as the one who actually delivered the speech; and Demosthenes, as the logographer who wrote it. The question is of particular interest because it will determine whether we are dealing with self-presentation (i.e. how Phormion wished to present himself

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<sup>28</sup> Aristophanes Fr. K-A 706 = 685 Kock. Cited by Colvin 2000: 290, who translates 'his is the normal dialect of the city, not the fancy high-society accent, nor uneducated, rustic talk'.

<sup>29</sup> Apollodorus' version of events is given at Dem. 45.3 ff.

<sup>30</sup> Dem. 36.23-24.

<sup>31</sup> The earliest direct evidence is that of Aeschines, who, addressing Demosthenes, claims that *ἔγραψας λόγον Φορμίῳ τῷ τραπεζίτῃ χρήματα λαβῶν* (2.165); see also Plut. *Dem.* 15.1.

<sup>32</sup> Dem. 36.1.

<sup>33</sup> Dem. 36.62.

to an Athenian jury, given his desire to win their sympathy and persuade them of his case) or the presentation of another (i.e. how the speaker, Phormion's other friends, and/or Demosthenes wished to present him in order to do the same).

Collaboration in forensic speeches is discussed in general in the introduction. The likelihood in this case is that while the words were composed by Demosthenes in isolation from the other interested parties, there would have been a good deal of influence on him at the stage of consultation (and conceivably revision as well, if Phormion and the speaker were not satisfied with the first version). It is hardly conceivable that Phormion would have handed the case in its entirety over to others and had no personal say in the content of the speech, in spite of his alleged helplessness.<sup>34</sup> He was shrewd and able enough to have risen to the top of a bank, and run it successfully enough to earn and keep a large fortune;<sup>35</sup> in order to do this he must surely have acquired considerable expertise in dealing with (and manipulating) prominent and wealthy members of Athenian society. Pasion evidently trusted his abilities enough to place him in charge of the bank and make him guardian of his younger son.<sup>36</sup>

The speaker himself, however, would also want some input, since he too was subject to the judgement of the jury and spectators, albeit in a social rather than a legal sense. We do not know his identity, but it seems safe to assume that he would have been an able and experienced speaker, and possibly therefore someone well-known in the legal and perhaps political arena. He would have had something to gain or lose from the outcome of the trial in terms of his reputation. The probability, then, is that a collaboration of Phormion, the speaker, and presumably the other friends referred to in the speech had some influence on the content.

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<sup>34</sup> Dem. 36.1.

<sup>35</sup> See Davies 1971: 435-437, where Phormion the banker is identified with the Phormion of Dem. 35.13-14, *IG* ii<sup>2</sup> 1622 l.472 and *IG* ii<sup>2</sup> 1623 l.245, which would indicate that his son Archippus was undertaking trierarchies in the late 320s.

<sup>36</sup> Dem. 36.8.

The nature and extent of this influence, however, is difficult to pin down. There must have been conversations between Phormion, his associates and Demosthenes at an initial stage simply to describe the facts – the ‘consultation’, as Usher put it.<sup>37</sup> Possible lines of argument would naturally also have been raised and discussed at this stage, and perhaps at later stages as well. It is impossible to tell whether the ideas of Phormion and his friends were incorporated into Demosthenes’ speech. Quite conceivably, Demosthenes could have ignored them and produced something completely different – but whatever he came up with must have met with their approval. They had the option to veto anything which he produced, and it should be noted that Demosthenes was still a relatively young man at this point – he was born between 385 and 383<sup>38</sup> and the speech was delivered c.350,<sup>39</sup> only a few years after he had begun his political career.<sup>40</sup> He may not, therefore, have had a great enough reputation for Phormion and the speaker to accept his speech if they had misgivings about it.

The speech, then, is an attempt to present a naturalised citizen to the jurors in a way that would win their sympathy. It is also an attempt to represent the speaker’s relationship with Phormion in a way that would bring credit to both, or at least avoid any dishonour. There remains the question of how successful it was, but fortunately this is one of the few occasions where we are well informed about the outcome. In Dem. 45 Apollodorus describes his utter defeat in the previous action:

προλαβὼν δέ μου ὥστε πρότερος λέγειν διὰ τὸ παραγραφὴν εἶναι καὶ μὴ εὐθυδικία εἰσιέναι, καὶ ταῦτ’ ἀναγνοὺς καὶ τᾶλλ’ ὡς αὐτῷ συμφέρειν ἡγεῖτο ψευδάμενος, οὕτω διέθηκε τοὺς δικαστάς, ὥστε φωνὴν μὴδ’ ἠντινοῦν ἐθέλειν ἀκούειν ἡμῶν· προσοφλῶν δὲ τὴν ἐπωβελίαν καὶ οὐδὲ λόγου τυχεῖν ἀξιοθεῖς,

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<sup>37</sup> Usher 1976: 36.

<sup>38</sup> Davies 1971: 125-126.

<sup>39</sup> Trevett 1992: 48.

<sup>40</sup> BNP s.v. Demosthenes.

ἀλλ' ὑβρισθεὶς ὡς οὐκ οἶδ' εἶ τις πώποτ' ἄλλος ἀνθρώπων, ἀπήειν βαρέως, ὃ  
ἄνδρες Ἀθηναῖοι, καὶ χαλεπῶς φέρων.<sup>41</sup>

The claim that the jurors refused to hear ‘any speech whatsoever’ from Apollodorus may be a somewhat self-serving interpretation on the speaker’s part<sup>42</sup> – it would certainly be preferable to claim that than to admit to having been defeated after a full hearing. Given the opportunities provided in the courts for heckling and interrupting speeches it would be easy to exaggerate an unfavourable reception into a complete shouting down. It is nevertheless clear that Apollodorus was heavily defeated, as his having to pay the *epôbelia* indicates. It is thus reasonable to infer that Dem. 36 struck a powerful chord with the jury. What precisely it was that achieved this, however, is more difficult to determine. The speech appears to be strong on a number of levels, in terms of its legal and factual arguments as well as its emotional appeal.<sup>43</sup>

The strategy adopted was to present Phormion very much as an inferior – in terms of social identity, not a member of the Athenian citizen in-group at all. The speech begins with the following characterisation of Phormion: Τὴν μὲν ἀπειρίαν τοῦ λέγειν, καὶ ὡς ἀδυνάτως ἔχει Φορμίῳ, αὐτοὶ πάντες ὁρᾶτ', ὃ ἄνδρες Ἀθηναῖοι.<sup>44</sup> His *apeiria* conforms to the familiar trope of the inexperienced litigant, which we see, for example, in the proem of Lysias 19, in

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<sup>41</sup> Dem. 45.6: ‘He had the advantage of me in that he spoke first, since it was a *paragraphê* that did not go into the real merits of the case, and after reading these documents [i.e. testimony to a release, a lease and a will, all of which, according to Apollodorus, were invented or forged by his opponents] and telling other lies which he thought would be to his advantage he so affected the jurors that they refused to hear any speech whatsoever from us. Having been fined the one-sixth [for gaining less than a fifth of the votes], and thought unworthy of having a speech, and humiliated as I do not think anyone else ever was, I went away disgusted, men of Athens, and taking it badly.’

<sup>42</sup> Carey 1994: 177 notes that Apollodorus ‘may be lying’; other scholars are satisfied to take Apollodorus’ assertion at face value: see e.g. Murray 1939a: 173, Trevett 1992: 15.

<sup>43</sup> Its high reputation is endorsed by e.g. Usher 1999: 249, who praises its ‘turning defence into attack’ and ‘great intensity’, and Scafuro 2011: 8, for whom it ‘brilliantly and mercilessly’ attacks Apollodorus.

<sup>44</sup> Dem. 36.1: ‘Phormion’s inexperience in speaking, and utter helplessness, you can all see for yourselves, men of Athens’.

which the speaker explains that ἀνάγκη οὖν, εἰ καὶ μὴ δεινὸς πρὸς ταῦτα πέφυκα, βοηθεῖν τῷ πατρὶ καὶ ἑμαυτῷ οὕτως ὅπως ἂν δύνωμαι.<sup>45</sup>

Matthew Christ has described the related practice of litigants' appealing to the jury for help, through 'advancing a view of themselves as victims'.<sup>46</sup> The aim was to draw on the idea of the Athenian *dêmos* as 'a unified community with common interests and shared values and ideals'<sup>47</sup> and to cast the speaker as a member of this community who needed its help; this in turn drew on 'the idea that heroic helping was a national trait', as depicted in myths such as the Athenian intervention on behalf of the dead champions in the Seven Against Thebes stories.<sup>48</sup> Christ treats this as a phenomenon connected with citizenship, and stresses that 'litigants... appear to take little for granted about this helping community... Community, in the context of the courts, was not a pre-existing, static idea, but one that had to be created anew by litigants in forging bonds with the strangers before them on the basis of shared social norms and common interests'.<sup>49</sup> This recreation of an imagined community involved a flexibility that is exploited in Dem. 36 to account for, and take advantage of, Phormion's unusual and anomalous identity as a naturalised citizen of barbarian origin and a former slave. Demosthenes could draw on familiar tropes but, because of his client's position (and that of his opponent, Apollodorus), give them a twist which improved his chances of swaying the jury.

Phormion's helplessness and inexperience, then, do not in themselves signify his inferior status, as this was a trope often used by citizens as well. The specific reference to his speech,

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<sup>45</sup> Lys. 19.1: 'So it is necessary, even if I am not naturally skilled in these things, to assist my father and myself to the extent that I can'. Usher 1999: 95 notes this 'topos of inexperience' and points to Carey's (1989: 9) opinion that it is a 'stock proem'. Other examples of the topos are Lys. 7.1, 17.1.

<sup>46</sup> Christ 2010: 210.

<sup>47</sup> Christ 2010: 205.

<sup>48</sup> Christ 2010: 212.

<sup>49</sup> Christ 2010: 230.

however, would have flagged up his foreign upbringing and accent. This would have been obvious to the jury in any case (indeed the speaker actually invites the jurors to look at Phormion and see for themselves)<sup>50</sup>, so the issue could hardly have been ignored; but the speaker does more than this, and actually turns it to his advantage. He uses Phormion's barbarian origin to link him to Apollodorus' father, and provide an explanation for the behaviour which Apollodorus is apparently claiming was out of character. Thus when addressing Pasion's decision to give his widow to Phormion in marriage he says:

ὕμῖν μὲν γάρ, ὧ ἄνδρες Ἀθηναῖοι, τοῖς γένει πολίταις, οὐδὲ ἐν πλῆθος χρημάτων ἀντὶ τοῦ γένους καλὸν ἐστὶν ἐλέσθαι: τοῖς δὲ τοῦτο μὲν δωρεὰν ἢ παρ' ὑμῶν ἢ παρ' ἄλλων τινῶν λαβοῦσιν, τῇ τύχῃ δ' ἐξ ἀρχῆς ἀπὸ τοῦ χρηματίσασθαι καὶ ἐτέρων πλείω κτήσασθαι καὶ αὐτῶν τούτων ἀξιοθεῖσιν, ταῦτ' ἐστὶν φυλακτέα. διόπερ Πασίων ὁ πατὴρ ὁ σὸς οὐ πρῶτος οὐδὲ μόνος, οὐδ' αὐτὸν ὑβρίζων οὐδ' ὑμᾶς τοὺς υἱεῖς, ἀλλὰ μόνην ὄρων σωτηρίαν τοῖς ἑαυτοῦ πράγμασιν, εἰ τοῦτον ἀνάγκη ποιήσειεν οἰκεῖον ὑμῖν, ἔδωκε τὴν ἑαυτοῦ γυναῖκα, μητέρα δ' ὑμετέραν τούτῳ.<sup>51</sup>

The speaker positions Pasion – and therefore Phormion, who was also a citizen ‘by gift’ – on a quite different level from that of the *genei politai* who made up the jury. This, he says, makes behaviour that would be reprehensible from a born citizen acceptable and understandable from a naturalised one. Apollodorus himself, of course, was also a naturalised citizen, albeit one who must have spoken and acted like a native; the speaker deliberately stresses this by switching his address from the *andres Athēnaioi* of the jury to Apollodorus himself (‘Pasion, your father’) in the second sentence, which one might imagine was delivered with particular emphasis.

<sup>50</sup> Dem. 36.1, quoted above.

<sup>51</sup> Dem. 36.30: ‘For you, men of Athens, who are citizens by birth, to choose any amount of money over your descent is no good thing; but for those who receive citizenship as a gift, either from you or from any others, and who through good fortune were originally considered worthy of the same privileges because of their money-making and possession of more than others, these advantages are things to be guarded. On this account your father Pasion, being neither the first nor the only one to do so, and bringing disgrace neither on himself nor on you his sons, saw that the only way to preserve his business was if he made this man part of your household by family tie, and gave to him his own wife, and your own mother’.

This link to Apollodorus' origins puts him, Pasion and Phormion on the same level – none of them is a member of the citizen in-group. This is not merely a matter of formal status, as it supposedly affects their behaviour as well; they are not expected (or required) to conform to prototypically Athenian standards or norms. They have gained their position because of their ability in making money and the wealth which this has given them, and they must (according to the speaker) keep this advantage, to the point where they may act differently from the citizens by birth.

This is an interesting strategy to pursue, since it provides a different interpretation from what we hear elsewhere about naturalisation and how it should be earned. In theory, the Athenians demanded that recipients of citizenship, as well as undergoing a process which gave numerous occasions for objections, had to have shown *andragathia* towards the Athenian *dēmos*. This is actually described by Apollodorus in his speech *Against Neaera*: πρῶτον μὲν γὰρ νόμος ἐστὶ τῷ δήμῳ κείμενος μὴ ἐξεῖναι ποιήσασθαι Ἀθηναῖον, ὃν ἂν μὴ δι' ἀνδραγαθίαν εἰς τὸν δῆμον τὸν Ἀθηναίων ἄξιον ἢ γενέσθαι πολίτην.<sup>52</sup> This terminology is shared in the text of surviving naturalisation decrees.<sup>53</sup> The speaker of Dem. 36, however, limits it to a matter of wealth. He avoids using the term *andragathia*, merely claiming instead that Φορμίων χρήσιμος γεγωνῶς καὶ τῇ πόλει καὶ πολλοῖς ὑμῶν, καὶ οὐδέν' οὔτ' ἰδίᾳ οὔτε δημοσίᾳ κακὸν οὐδέν εἰργασμένος, οὐδ' ἀδικῶν Ἀπολλόδωρον τουτονί, δεῖται καὶ ἰκετεύει καὶ ἀξιοῖ σωθῆναι, καὶ ἡμεῖς συνδεόμεθ' οἱ ἐπιτήδειοι ταῦθ' ὑμῶν.<sup>54</sup>

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<sup>52</sup> Dem. 59.89: 'First, the *dēmos* has a law which establishes that it is forbidden to make anyone Athenian unless he is worthy of becoming a citizen on account of his *andragathia* towards the Athenian *dēmos*.'

<sup>53</sup> Carey 1992: 130.

<sup>54</sup> Dem. 36.57: 'Phormion, who has been useful both to the polis and to many of you, and has done no wrong either in private or in public, and did Apollodorus no injustice, needs, begs and claims to be protected, and we his friends join in begging this of you'.

He has thus been useful to the polis (and, apparently, many of its citizens on an individual basis), and has done no wrong to anyone. This naturally brings to mind the ‘ideal’ metic behaviour of Parthenopaeus, as described in Euripides’ *Suppliants*.<sup>55</sup> There is no question of the naturalised citizen adopting the role or behaviour of the natural born citizens who are now, formally speaking, his peers. In the passage the speaker also implicitly demystifies the process, stripping it of the ideological significance which is rhetorically attached to it by other speakers when it suits their purpose. While naturalisation should still appear *καὶ τοῖς δοῦσιν ὡς εὐσχημονέστατ’... καὶ τοῖς λαβοῦσιν ὑμῖν*,<sup>56</sup> it is also a reward for services rendered, with limited impact. Its recipients have not demonstrated any great virtue beyond that. There is a similar demystification of citizenship ideology in cases of Athenians whose citizenship came under threat.<sup>57</sup>

The terms in which the speaker calls on the jurors for aid are also worth considering. It is through his Athenian *epitêdeioi* that Phormion seeks help – they do not simply relay the message to the jurors, but join in exhorting them to action. Phormion’s past behaviour has proved him worthy of the jurors’ help, but his friends’ intercession is presented as the necessary link between him and them. It is because he is a friend and useful benefactor of the polis that Phormion is worthy of its assistance, not because he is a part of the citizen community. In this way, the speaker can draw on the helping community of the polis without running the risk of having Phormion appear as an interloper – he remains outside the Athenian group.

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<sup>55</sup> See section 1.1.

<sup>56</sup> Dem. 36.47: ‘a most noble thing, both to those who give it and you who receive it’, the ‘you’ referring to Apollodorus and his fellow naturalised citizens.

<sup>57</sup> See section 5.2 (c).

Turning again to Phormion's opponent, the speaker has already identified Apollodorus as a member of the same out-group of which Phormion is a part, and goes on to expose his hypocrisy explicitly. He attacks the argument which (he claims) Apollodorus will use, as follows:

καὶ δῆτα θαυμάζω πῶς οὐ λογιζει πρὸς σεαυτόν, ὅτι ἔστιν Ἀρχεστράτῳ τῷ ποτὲ τὸν σὸν πατέρα κτησαμένῳ υἱὸς ἐνθάδε, Ἀντίμαχος, πρᾶττων οὐ κατ' ἀξίαν, ὃς οὐ δικάζεται σοι, οὐδὲ δεινά φησι πάσχειν, εἰ σὺ μὲν χλανίδα φορεῖς, καὶ τὴν μὲν λέλυσαι, τὴν δ' ἐκδέδωκας ἐταίραν, καὶ ταῦτα γυναῖκ' ἔχων ποιεῖς, καὶ τρεῖς παῖδας ἀκολούθους περιάγει, καὶ ζῆς ἀσελγῶς ὥστε καὶ τοὺς ἀπαντῶντας αἰσθάνεσθαι, αὐτὸς δ' ἐκεῖνος πολλῶν ἐνδεής ἐστιν. οὐδὲ τὸν Φορμίων' ἐκεῖνος οὐχ ὀρᾷ. καίτοι εἰ κατὰ τοῦτ' οἶει σοι προσήκειν τῶν τούτου, ὅτι τοῦ πατρὸς ποτ' ἐγένετο τοῦ σοῦ, ἐκείνῳ προσήκει μᾶλλον ἢ σοί· ὁ γὰρ αὖ σὸς πατὴρ ἐκείνων ἐγένετο, ὥστε καὶ σὺ καὶ οὗτος ἐκείνου γίγνεσθ' ἐκ τούτου τοῦ λόγου.<sup>58</sup>

A contrast is drawn between the lifestyle and behaviour of Apollodorus and Antimachus, the son of his father's erstwhile master. Apollodorus lives so extravagantly that those passing in the street notice it, whereas Antimachus lives in want of many things; this has not, however, driven Antimachus to prosecute out of envy. The contrast between the two predicts and ridicules Apollodorus' suggestion that Phormion has acted in a way that exceeds his station, since it is in fact Apollodorus who has done so. The illogical and hypocritical nature of Apollodorus' argument (as predicted by the speaker) is described in yet stronger terms shortly afterwards, when the speaker says that

εἴτ' εἰς τοῦθ' ἤκεις μανίας (τί γὰρ ἂν ἄλλο τις εἶποι;) ὥστ' οὐκ αἰσθάνει ὅτι καὶ νῦν ἡμεῖς μὲν ἀξιούντες, ἐπειδήπερ ἀπηλλάγη Φορμίων, μηδὲν ὑπόλογον εἶναι εἴ ποτε τοῦ σοῦ πατρὸς ἐγένετο, ὑπὲρ σοῦ λέγομεν, σὺ δὲ μηδέποτ' ἐξ ἴσου σοι γενέσθαι τοῦτον ἀξιῶν κατὰ σαυτοῦ λέγεις· ἂ γὰρ ἂν

<sup>58</sup> Dem. 36.45-46: 'And I'm amazed that you don't think about yourself, how Archestratus, who once owned your father, has a son here, Antimachus, who's not doing as he deserves, but does not use the law against you, nor say that he has suffered terribly because you wear a fine woollen shirt, and have redeemed one *hetaira* and given another away in marriage, and done all this while having a wife of your own, and you lead around three attendant slaves, and live so licentiously that anyone who happens to meet you notices it, while he himself is in want of many things. And he doesn't fail to see Phormion, either. And if you think you have a right to Phormion's property on the basis that he once belonged to your father, Antimachus has a yet greater claim than you – for your father in turn belonged to those men, so both you and Phormion belong to him according to this argument.'

σὺ δίκαια σαυτῷ κατὰ τούτου τάξης, ταῦτα ταῦθ' ἤξει κατὰ σοῦ παρὰ τῶν  
τὸν σὸν πατέρ' ἐξ ἀρχῆς κτησαμένων.<sup>59</sup>

Apollodorus is thus said to have reached the point of *mania*, a judgement with which scholars are inclined to agree – Trevett, for example, remarks that ‘insanity indeed hardly seems too strong a word’.<sup>60</sup> The speaker makes clear the logical consequence of Apollodorus’ argument – if Phormion should always be Apollodorus’ inferior, then Apollodorus himself should always be inferior to his father’s former masters.

It is also important to note that the speaker does not make an effort to define Phormion as a ‘real’ citizen; his point is rather that Apollodorus is no better than the freedman. In both cases their servile and foreign origins keep them from being a full part of the citizen body, in spite of the great gift they have received. The speaker argues that Apollodorus’ behaviour has proved that he is an ungrateful recipient:

καὶ ὑβρίζεις μὲν σαυτὸν καὶ τοὺς γονέας τεθνεῶτας, προπηλακίζεις δὲ τὴν πόλιν, καὶ ἂ τῆς τουτωνὶ φιλανθρωπίας ἀπολάυσας ἠὔρεθ' ὁ σὸς πατήρ καὶ μετὰ ταῦτα Φορμίον οὐτοσί, ταῦτ' ἀντὶ τοῦ κοσμεῖν καὶ περιστέλλειν, ἵνα καὶ τοῖς δοῦσιν ὡς εὐσχημονέστατ' ἐφαίνετο καὶ τοῖς λαβοῦσιν ὑμῖν, ἄγεις εἰς μέσον, δεικνύεις, ἐλέγχεις, μόνον οὐκ ὀνειδίζεις οἷον ὄντα σ' ἐποιήσαντ' Ἀθηναῖον.<sup>61</sup>

Whereas Phormion has fulfilled the role of the naturalised citizen well, and striven to repay the gift, Apollodorus has belittled it through his invective, ironically showing *hubris* against himself and his parents as well as ‘all but taunting’ the Athenians for making someone like himself a citizen. He is thus the ungrateful recipient of the gift of citizenship – a

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<sup>59</sup> Dem. 36.48: ‘You have reached such a point of madness (for what else could one call it?) that you do not realise that now we who claim, since Phormion has been freed, it should not be held against him that he once belonged to your father are speaking in your favour, whereas you, claiming that he can never be equal with you, are arguing against yourself – for the same argument you would set out as right for yourself against Phormion will come back against you from those who originally owned your father.’

<sup>60</sup> Trevett 1992: 176.

<sup>61</sup> Dem. 36.47: ‘You are disgracing yourself and your dead parents, you are dragging the city through the mire, and as for what your father gained through the benefit of kindness, as also afterwards did Phormion – instead of adorning and cherishing it, so that it might appear the most honourable of benefits both to those who give it and you who receive it, you drag it into public, you show it off, you treat it with contempt, you all but taunt them that they made a man such as you an Athenian.’

characterisation which ironically mirrors Apollodorus' own depiction of Phormion as the ungrateful freed slave.<sup>62</sup>

This gift, as we have seen, is contrasted with the inborn citizen status of the members of the jury, as they are represented and addressed by the speaker. The possibility that some of them were naturalised or of foreign origins is not brought up, as it might have been under a different strategy; while it is theoretically possible to imagine a litigant arguing that the alleged purity of the Athenian citizen body was not borne out in reality, and that therefore naturalised citizens have as much honour as any of them, this does not happen. The speaker of Dem. 36 instead plays up to the myth, and invites the jury to share in imagining that they are a unified and similar body, rather than what must have been the varied and disparate reality.<sup>63</sup> This approach mirrors the treatment of cases concerning the rule of the Thirty Tyrants, when litigants routinely speak as though all of the jurors had been on the side of the democratic 'men of Piraeus', which cannot have been literally true.<sup>64</sup> The point is to characterise the opponent as deviant and outside of the normal, idealised citizen group. The speaker of Dem. 36 has a particular reason for doing so, since the man he is defending is clearly and obviously in many ways an outsider; rather than claim otherwise, he argues that Apollodorus is in essentially the same position. Any attempt by Apollodorus to contradict this would leave him seeming presumptuous, claiming to have a status and identity as a true citizen which he does in fact possess.

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<sup>62</sup> See section 5.2 (c).

<sup>63</sup> On this common tactic see e.g. Wolpert 2003: 545, Blanshard 2004: 37-38.

<sup>64</sup> E.g. Lys. 12.30, 13.1.

### 5.1 (c) Apollodorus and his Arguments in Demosthenes 45 and 59

Of course, in the case of Dem. 36 we are dealing with what the speaker *claims* was Apollodorus' argument rather than the argument itself. Fortunately for us, however, this was not the end of the matter. The speech was extremely successful, and because he lost so heavily Apollodorus was forced to drop the case. His response was to prosecute one of the witnesses for giving false testimony in an action from which two speeches have survived in the Demosthenic corpus, namely *Against Stephanus I* and *II* (Dem. 45 and 46). The first is the longer, and the only speech delivered by Apollodorus which is generally considered to be a genuine work of Demosthenes.<sup>65</sup> This is based first on the stylistic differences between it and the other speeches delivered by Apollodorus, which indicate that it is the work of a skilled (and presumably professional) logographer, and second on stylistic similarities with the genuine Demosthenic speeches; it is also attributed to Demosthenes by Plutarch in his *Life of Demosthenes*<sup>66</sup> and his comparison of the orator with Cicero.<sup>67</sup> Trevett's is the fullest investigation of the matter, and his conclusion is that 'Demosthenes almost certainly wrote 45'.<sup>68</sup>

If this is so, it raises some fascinating questions concerning Demosthenes' character, politics and literary artistry.<sup>69</sup> What makes these questions particularly interesting is that in many respects Dem. 45 makes the arguments which the speaker of Dem. 36 predicted and ridiculed. While not vital for the purposes of the present analysis, it is tempting to imagine

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<sup>65</sup> Scafuro 2011: 229.

<sup>66</sup> Plut. *Dem.* 15.1.

<sup>67</sup> Plut. *Comp. Cic. & Dem.* 3.5.

<sup>68</sup> Trevett 1992: 73; Usher 1999: 257 agrees that there is a strong probability of this being the case.

<sup>69</sup> Mirhady 2000: 182. Wolff 2007 [1967]: 112 argues that the Athenians saw no problem with writing speeches for both sides, since Aeschines 2.165 accuses Demosthenes 'of *betraying the confidence* of his client (Phormio) in the first case, but not of composing speeches for both sides' – if there had been any shame in the latter he would have brought that up as well.

Demosthenes deliberately rising to the challenge set in his earlier speech, turning what appeared to be hypocritical, even ‘insane’ arguments into effective and persuasive rhetoric. Scafuro has even speculated that Demosthenes might have agreed to write this speech for Apollodorus while still preparing Dem. 36 for Phormion; if Apollodorus came to realise that his case was doomed to fail, he might have pre-emptively hired Demosthenes for the planned follow-up lawsuit.<sup>70</sup> Alternatively, of course, it is possible that the main thrust of the argument was dictated by Apollodorus. In the discussion that follows I refer to the speech and its arguments as Apollodorus’ for the sake of convenience, on the grounds that he approved of them even if he did not generate them. In any case, what the later speech shows is that a very different interpretation from that produced on Phormion’s behalf could be made.

Dem. 45 presented to the jury a narrative in which there was a clear difference in status and quality between someone like Apollodorus and someone like Phormion – but, crucially, this is done without putting Apollodorus on an equal footing with the *genei politai* of the idealised citizen body. He remains outside of the Athenian in-group, but is nevertheless not in the same category as Phormion. This is a significant reformulation of Trevett’s view that Apollodorus sought to be ‘more Athenian than the Athenians’,<sup>71</sup> and that this created tension with an Athenian desire to put him in his place. This view has recently been expanded on by Deene, who argued that ‘his case against both Neaira and the former slave Phormio clearly give the impression of a patriotic Athenian defending the highest civic values and sacred laws of his ancestral polis’.<sup>72</sup> Deene explains this as reflecting a desire of naturalised citizens to differentiate themselves from ‘the metic or foreign community to which they previously belonged’ through practising archetypal citizen behaviour.<sup>73</sup> A close reading of the speeches

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<sup>70</sup> Scafuro 2011: 229-230.

<sup>71</sup> Trevett 1992: 178.

<sup>72</sup> Deene 2011: 173.

<sup>73</sup> Deene 2011: 169.

from the two cases, however, will demonstrate that this is not accurate. It is relatively easy to find statements made by Apollodorus which propagate and endorse exclusive Athenian citizen values, but he carefully positions himself as an outsider when he does so. His identity as an Athenian is limited and qualified – in fact, he takes pains to demonstrate that he is *less* Athenian than the Athenians. It does not follow, of course, that Apollodorus projected his identity in the same way outside of the courtroom – but it is significant that when he was in such an environment he chose to present himself with such a qualified type of Athenian identity.

Turning to Dem. 45, the key way in which Apollodorus differentiates himself from Phormion is by attacking him on the grounds that he was a slave – the clear implication is that this stain has not left the freedman (and nor should it), and that he continues to act in a manner befitting a slave. This point is explicitly made when he claims that the purported will of Pasion φανήσεται γὰρ οὐ πατρὸς ὡς ὑπὲρ υἱῶν γράφοντος εἰκυῖα διαθήκη, ἀλλὰ δούλου λελυμασμένου τὰ τῶν δεσποτῶν, ὅπως μὴ δώσει δίκην σκοποῦντος.<sup>74</sup> Apollodorus also attacks Phormion on account of his poor Greek, which he claims will lead the jury to assume that he is despicable and a barbarian; and this apparently natural prejudice, Apollodorus assures the jury, is backed up in reality: ὑμεῖς δ' ἴσως αὐτὸν ὑπειλήφατε, ὅτι σολοικίζει τῆ φωνῇ, βάρβαρον καὶ εὐκαταφρόνητον εἶναι. ἔστι δὲ βάρβαρος οὗτος τῷ μισεῖν οὓς αὐτῷ προσῆκε τιμᾶν· τῷ δὲ κακουργῆσαι καὶ διορύξαι πράγματ' οὐδενὸς λείπεται.<sup>75</sup>

Phormion's lack of speaking skill, which at the beginning of Dem. 36 was used to gain the jury's sympathy by casting him as the familiar inexperienced litigant, is here used as the basis

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<sup>74</sup> Dem. 45.27: 'will seem not like the will of a father writing on behalf of his sons, but of a slave who has misused his masters' property and is now looking how to avoid punishment'.

<sup>75</sup> Dem. 45.30: 'Perhaps you have supposed, because he doesn't speak the language properly, that he's a barbarian and someone contemptible. He *is* a barbarian in that he hates those he ought to honour – and in wrongdoing and ruining matters he comes behind no one.'

for playing on the jury's xenophobic prejudices, just as (Apollodorus claims) Pasion's purported will betrays its writer's slavish nature. The passage serves another function, however, in that any jurors who do not imagine that his poor Greek necessarily makes him contemptible are assured that he does, in fact, live up to the barbarian stereotype, and has besides proven himself to be a wrongdoer in an individual capacity as well.

This strategy of attacking his barbarian origin seems to fit very well with what the speaker of Dem. 36 claimed would be Apollodorus' argument; it is therefore at risk of being countered by precisely the objections which were raised in that speech. The jury must have been aware of Apollodorus' father's status, and he could certainly count on his opponent, Stephanus, bringing it up as well. Another section of the speech must have virtually invited such reflections to be made – while discussing the eleven talents which the will stated were owed by Pasion to the bank, he makes the aside ἴστε γὰρ πάντες, καὶ ὅτ' ἦν ὁ πατήρ ἐπὶ τοῦ τραπεζιτεύειν, τοῦτον καθήμενον καὶ διοικοῦντ' ἐπὶ τῇ τραπεζῇ, ὥστ' ἐν τῷ μύλωνι προσῆκεν αὐτὸν εἶναι μᾶλλον ἢ τῶν λοιπῶν κύριον γενέσθαι.<sup>76</sup> Phormion, as merely 'managing' the bank, ought to have remained in such a role, and it would therefore be more appropriate for him to be 'in the mill' than master of the rest of the property. But the same would logically apply to Pasion himself, of course. Later on, Apollodorus says that οἶμαι γὰρ ἅπαντας ὑμᾶς εἰδέναι, ὅτι τοῦτον, ἠνίκ' ὄνιος ἦν, εἰ συνέβη μάγειρον ἢ τινος ἄλλης τέχνης δημιουργὸν πρίασθαι, τὴν τοῦ δεσπότου τέχνην ἂν μαθὼν πόρρω τῶν νῦν παρόντων ἦν ἀγαθῶν.<sup>77</sup> This attribution of Phormion's position to chance (the word *tuchê* is used in the next sentence) would naturally have led the jurors to consider the basis of Apollodorus' own elevated position.

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<sup>76</sup> Dem. 45.33: 'You all know that while my father was in banking, this man sat there and managed the bank, so that he ought rather to be in the mill than to become master of the rest of the property'.

<sup>77</sup> Dem. 45.71: 'I think you all know that if, when he was for sale, it had happened that a cook or worker in some other trade had bought him he would have learned the skill of that master, and be far from his current happy situation'.

This problem is not something which Apollodorus addresses directly in his speech. He does, however, make a deliberate effort to define his social status as far removed from that of Phormion, while, significantly, remaining very separate from that of the Athenians. This is made explicit towards the end of the speech, when he says that ἐγὼ γάρ, εἰ πάντων τῶν ἄλλων ὑμῶν ἔλαττον προσήκει μοι φρονεῖν, τούτου γε μείζον οἶμαι, καὶ τούτῳ γ' εἰ μηδενὸς τῶν ἄλλων ἔλαττον, ἐμοῦ γ' ἔλαττον· ὄντων γὰρ ἡμῶν τοιούτων ὁποίους τινὰς ἂν σὺ κατασκευάσης τῷ λόγῳ, σὺ δοῦλος ἦσθα.<sup>78</sup> Apollodorus is thus keen to make it clear that he *himself* is not really a true citizen in the way that the others are. He shores up the boundary between citizen and non-citizen, and effectively puts himself on the wrong side of it by qualifying his status. He is an ‘adopted’ or ‘made’ Athenian, and thus in all but a technical (and legalistic) sense, not really an Athenian at all; he remains effectively a highly honoured outsider. What he does have in common with the Athenians, however, is his status as a master. He invites them to consider the case as if it were a matter rising within their own households:

ὡς οὖν μάλιστ' ἂν ἅπαντας ὑμᾶς ἡγοῦμαι γινῶναι τὴν ὑπερβολὴν ὣν ἡδικήμεθ' ἡμεῖς, φράσω· εἰ σκέψαιτο πρὸς ἑαυτὸν ἕκαστος ὑμῶν τίνας οἴκοι κατέλιπεν οἰκέτην, εἴθ' ὑπὸ τούτου πεπονθόθ' ἑαυτὸν θείη ταῦθ' ἅπερ ἡμεῖς ὑπὸ τούτου. μὴ γὰρ εἰ Σύρος ἢ Μάνης ἢ τίς ἕκαστος ἐκείνων, οὗτος δὲ Φορμίων· ἀλλὰ τὸ πρᾶγμα ταυτό· δοῦλοι μὲν ἐκεῖνοι, δοῦλος δ' οὗτος ἦν, δεσπότης δ' ὑμεῖς, δεσπότης δ' ἦν ἐγώ.<sup>79</sup>

This is an attempt to recast the impression given by Dem. 36, where the intention was to place Apollodorus alongside Phormion. In Dem. 45, the aim is to create a vivid illustration of

<sup>78</sup> Dem. 45.82: ‘For if it’s right that I think myself inferior to all of you others, I think at least that I am superior to him, and if he is inferior to no one else, he is at least inferior to me – for even if we are such people as you made out in the speech, *you* were a slave.’

<sup>79</sup> Dem. 45.86: ‘So I will show how I think you can best find out the extent of the wrongs we have suffered – if each of you would consider for himself what slave he has left at home, and then imagine yourself having suffered from him what we have suffered from Phormion. You must not think that each of them is Syros, or Manes or whatever, whereas this is Phormion – the point is the same. They are slaves, and he was a slave; you are masters, and I was a master’.

the opposite, with Apollodorus at the free end of the spectrum, *despotês* as opposed to *doulos*. The words would be underscored by the visible and audible differences between the Athenian-born and raised Apollodorus and the plainly foreign Phormion. The argument might also undercut the attacks made against Apollodorus on the grounds of his extravagant lifestyle, since that sort of excess would at least mark him out as a wealthy member of the upper classes rather than a humble slave or freedman (although it should be noted that in fact Apollodorus claims that his own habits are far less extreme than Phormion's).<sup>80</sup> The crucial point of the passage, however, is that it enables Apollodorus to place himself alongside the jurors without threatening to exceed his station as a naturalised citizen, or imply that he is a member of the Athenian in-group; he can maintain the boundary in that area while claiming commonality of interest in another sense.

This still leaves the problem of Apollodorus' father and his status as a slave, a point which must have been felt in the background throughout. Apollodorus deals with it by painting Phormion as the very worst kind of slave – the ungrateful one. The desired implication, presumably, was that while Pasion had also been a slave, he was at least one who was grateful for his freedom and naturalisation, and acted accordingly, unlike Phormion. His ingratitude is put in strident terms:

οὐκοῦν δεινόν, ὧ γῆ καὶ θεοί, καὶ πέρα δεινοῦ, τοὺς Ἕλληνα μὲν ἀντὶ βαρβάρου ποιήσαντας, γνώριμον δ' ἀντ' ἀνδραπόδου, τοσοῦτων δ' ἀγαθῶν ἡγεμόνας, τούτους περιορᾶν ἐν ταῖς ἐσχάταις ἀπορίαις ὄντας ἔχοντα καὶ πλουτοῦντα, καὶ εἰς τοῦθ' ἤκειν ἀναιδείας ὥστε, ἧς παρ' ἡμῶν τύχης μετέσχε, ταύτης ἡμῖν μὴ τολμᾶν μεταδοῦναι.<sup>81</sup>

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<sup>80</sup> Dem. 45.77.

<sup>81</sup> Dem. 45.73: 'So it is terrible, oh earth and gods, and worse than terrible, that he leaves those who made him a Greek instead of a barbarian, a man of worth instead of a slave, who brought him to such great advantages, in dire straits while he is rich, and has reached such a point of shamelessness that he cannot bear to give a share to us of the fortune which we shared with him'. Note the parallel with the 'point of madness' which Apollodorus was said to have reached in Dem. 36.48.

The transformative nature of manumission and naturalisation is ironically undercut by Apollodorus' attack – Phormion has not changed at all in terms of character. He acts rather in the way that any master would fear, taking advantage of a change in circumstances to turn the tables on his master, a point made clearly by Apollodorus: καὶ τοὺς μὲν ἄλλους ἂν τις ἴδοι τοὺς οἰκέτας ὑπὸ τῶν δεσποτῶν ἐξεταζομένους· οὗτος δ' αὖ τούναντίον τὸν δεσπότην ὁ δοῦλος ἐξετάζει, ὡς δῆτα πονηρὸν καὶ ἄσωτον ἐκ τούτων ἐπιδείξων.<sup>82</sup> This type of fear manifests itself in general statements about what slaves would do to their masters if only they had the chance, as for example in Plato's *Republic*, where Glaucon says, with Socrates' approval, that the slave-owners of a polis live without fear ὅτι γε πᾶσα ἡ πόλις ἐνὶ ἐκάστῳ βοηθεῖ τῶν ιδιωτῶν – without support, however, the master would be terrified.<sup>83</sup> Apollodorus likewise urges the free men of the city to support him, a fellow master, and show unity against a slave who has perverted the social order. This forms the basis of one of his attacks on Stephanus, who was the actual man he was prosecuting, and about whom he asks the jury the following question:

εἴθ' ὅς εὐτυχούντων ἐστὶ κόλαξ, κἂν ἀτυχῶσι, τῶν αὐτῶν τούτων προδότης, καὶ τῶν μὲν ἄλλων πολιτῶν πολλῶν καὶ καλῶν κάγαθῶν ὄντων μηδενὶ μηδ' ἐξ ἴσου χρῆται, τοῖς δὲ τοιούτοις ἐθελοντῆς ὑποπίπτει, καὶ μήτ' εἴ τινα τῶν οἰκείων ἀδικήσει μήτ' εἰ παρὰ τοῖς ἄλλοις φαύλην δόξαν ἔξει ταῦτα ποιῶν μήτ' ἄλλο μηδὲν σκοπεῖ, πλὴν ὅπως τι πλεον ἔξει, τοῦτον οὐ μισεῖν ὡς κοινὸν ἐχθρὸν τῆς φύσεως ὅλης τῆς ἀνθρωπίνης προσήκει,<sup>84</sup>

Stephanus is thus presented as a traitor to his fellow-citizens and, in the context of the master-slave division which Apollodorus is careful to establish, to the slave-owning class. He *hupopiptei*, cringes and fawns on the likes of Phormion while refusing to treat his fellow

<sup>82</sup> Dem. 45.76: 'You might see other slaves called to account by their masters, but this man does the opposite – the slave calls his master to account, in order, of course, to show from this that the master is a profligate and wicked man'.

<sup>83</sup> Plato, *Rep.* 578d-e: 'because the whole polis would aid each one of the private citizens'.

<sup>84</sup> Dem. 45.65: 'A man who is a flatterer of the rich, but who would be a traitor to the same men if they fell into misfortune, and who does not treat any of the many good and worthy citizens on an equal basis, but willingly cringes and fawns on people like Phormion, and does not consider whether by his actions he will wrong any of his family, or whether he will acquire a bad reputation among other people, or anything else whatsoever other than how he can be richer – isn't it right to hate this man as the common enemy of the entire human race?'

citizens fairly. This attitude, Apollodorus claims, is such an affront that he affects to doubt his own brother Pasicles' legitimacy because of his support for Phormion's cause:

Τάχα τοίνυν ἂν ἴσως καὶ τοῦτό τις αὐτῶν εἴποι, ὡς ἀδελφὸς ὢν ἐμὸς Πασικλῆς οὐδὲν ἐγκαλεῖ τῶν αὐτῶν τούτω πραγμάτων. ἐγὼ δ', ὧ ἄνδρες Ἀθηναῖοι, καὶ περὶ Πασικλέους, παραιτησάμενος καὶ δεηθεὶς ὑμῶν συγγνώμην ἔχειν, εἰ προεληλυθὼς εἰς τοῦθ' ὥσθ' ὑπὸ τῶν ἐμαυτοῦ δούλων ὑβρισθεὶς οὐ δύναμαι κατασχεῖν, ἃ τέως οὐδὲ τῶν ἄλλων λεγόντων ἀκούειν ἐδόκουν, ἐρῶ καὶ οὐ σιωπήσομαι. ἐγὼ γὰρ ὁμομήτριον μὲν ἀδελφὸν ἐμαυτοῦ Πασικλέα νομίζω, ὁμοπάτριον δ' οὐκ οἶδα, δέδοικα μέντοι μὴ τῶν Φορμίωνος ἀμαρτημάτων εἰς ἡμᾶς ἀρχὴ Πασικλῆς ἦ. ὅταν γὰρ τῷ δούλῳ συνδικῆ τὸν ἀδελφὸν ἀτιμῶν, καὶ παραπεπτωκῶς θαυμάζη τούτους ὑφ' ὧν αὐτῷ θαυμάζεσθαι προσῆκεν, τίς ἔχει δικαίαν ταῦθ' ὑποψίαν; ἄνελ' οὖν ἐκ μέσου μοι Πασικλέα, καὶ σὸς μὲν υἱὸς ἀντὶ δεσπότου καλεῖσθω, ἐμὸς δ' ἀντίδικος (βούλεται γὰρ) ἀντ' ἀδελφοῦ.<sup>85</sup>

As the first sentence implies, Apollodorus is compelled to provide some explanation for his brother's support for Phormion (though he does not venture to mention the close ties which he himself evidently had with Phormion, who supported him as a witness in his prosecution of Timotheus in 362)<sup>86</sup> – Pasicles' failure to prosecute Phormion had in fact been used in Dem. 36 to argue against Apollodorus.<sup>87</sup> The one he chooses is interesting because of the assumption behind it that the true origins of the illegitimate son will be displayed in his behaviour.<sup>88</sup> Apollodorus' point, however, is presumably to demonstrate how disloyal and unnatural Pasicles' behaviour is – he is acting *as though* he were the illegitimate son of Phormion – rather than a serious attempt to convince the jurors of a very shaky hypothesis which is couched in doubt (e.g. ὁμοπάτριον δ' οὐκ οἶδα). The final sentence urges him to be 'called' Phormion's son rather than his master, and Apollodorus' opponent instead of his

<sup>85</sup> Dem. 45.83-84: 'Perhaps one of them will say this, that my brother Pasicles brings no charge against him [Phormion] in these matters. Men of Athens, about Pasicles as well, after begging and requiring that you pardon me if I have reached the point where I cannot restrain myself, since I have been outraged by my own slaves, I will speak, and not be silent about what I pretended not to hear from others before now. I myself believe that Pasicles is my brother on my mother's side, but do not know if he is on my father's side. Indeed, I fear that Pasicles was the beginning of Phormion's crimes against us. For when he dishonours his brother, and acts as an advocate of the slave, and fawns before and admires those by whom he ought to be admired, what natural suspicion does this lead to? So away with Pasicles, and let him be called your son instead of your master, and my opponent (for so he wishes) instead of my brother'.

<sup>86</sup> Dem. 49.18, 44.

<sup>87</sup> Dem. 36.22.

<sup>88</sup> In other contexts it was possible for litigants to argue that blood kinship had nothing to do with affection, which was based only on contact and upbringing – this appears to be one of the arguments in Hyperides' fragmentary *Against Timandrus*, where the opponent's removal of a young girl from Athens is attacked, it would seem, because it alienated her from her family's affections. See Tchernetska et al. 2005, 2007.

brother because that is what Pasicles ‘wishes’. This casts Pasicles as a traitor to his family origins and class in the same way as Stephanus was to his Athenian background.

The fact remained, however, that in spite of his earlier life as a slave, Phormion had also been ‘made’ a citizen. Apollodorus deals with this regrettable reality by comparing the two of them, starting with an assessment of his own contribution to the polis:

τὰ δ' εἰς τὴν πόλιν καὶ ὅσ' εἰς ὑμᾶς, ὡς δύνάμει λαμπρότατα, ὡς ὑμεῖς σύνιστε, ποιῶ. οὐ γὰρ ἀγνοῶ τοῦθ' ὅτι τοῖς μὲν γένει πολίταις ὑμῖν ἰκανόν ἐστι λητουργεῖν ὡς οἱ νόμοι προστάττουσι, τοὺς δὲ ποιητοὺς ἡμᾶς ὡς ἀποδιδόντας χάριν, οὕτω προσήκει φαίνεσθαι λητουργοῦντας. μὴ οὖν μοι ταῦτ' ὀνειδίξει, ἐφ' οἷς ἐπαίνου τύχοιμ' ἂν δικαίως.<sup>89</sup>

Here he establishes that his own services to the polis are generous, as they should be – ‘made’ citizens ought to make contributions as repayments for their debt. The opposition is once again made between his ‘made’ status and that of the *genei politai*; there is no question of his placing them on an equal footing, or blurring the boundary between the two. The aim is to avoid accusations of arrogance and exceeding his own station; this is achieved by claiming that different rules of behaviour apply to natural born and naturalised citizens (a strategy also adopted in Dem. 36, as discussed above). Having established this, Apollodorus moves on to describe Phormion in contrast to himself:

ἀλλὰ τίς, ὃ Φορμίων, τῶν πολιτῶν ἔταιρεῖν, ὥσπερ σύ, μεμίσθωμαι; δεῖξον. τίνα τῆς πόλεως, ἧς αὐτὸς ἠξιώθη, καὶ τῆς ἐν αὐτῇ παρρησίας ἀπεστέρηκα, ὥσπερ σὺ τοῦτον ὃν κατήσχυνας; τίνας γυναῖκα διέφθορα, ὥσπερ σὺ πρὸς πολλαῖς ἄλλαις ταύτην, ἧ τὸ μνημ' ἠκοδόμησεν ὁ θεοῖς ἐχθρὸς οὗτος πλησίον τοῦ τῆς δεσποίνης, ἀνηλωκῶς πλέον ἢ τάλαντα δύο; καὶ οὐκ ἠσθάνετο, ὅτι οὐχὶ τοῦ τάφου μνημεῖον ἔσται τὸ οἰκοδόμημα τοιοῦτον ὄν, ἀλλὰ τῆς ἀδικίας ἧς τὸν ἄνδρ' ἠδίκηκεν ἐκείνη διὰ τοῦτον.<sup>90</sup>

<sup>89</sup> Dem. 45.78: ‘What concerns the polis and yourselves, as you know, I perform as lavishly as I can – for I’m not unaware that for you who are citizens by birth it is enough to perform liturgies as the laws command, whereas we who are made citizens should show that we perform them as grateful repayments. So do not reproach me with these things, for which I should rightly obtain praise’.

<sup>90</sup> Dem. 45.79: ‘But which of the citizens, Phormion, have I hired as a prostitute, as you have? Show me. Whom have I robbed of the rights of the city, of which I myself was considered worthy, and of free speech within it, as you did the man whom you dishonoured? Whose wife have I corrupted, as you have in the case of many women – including the one to whom this god-hated man built a memorial near that of his mistress, spending more than two talents? And could he not see that a structure of that kind would not be a memorial of her grave, but of the injustice which she did to her husband because of him?’

Just as the speaker of Dem. 36 had drawn a contrast between Phormion's humility and Apollodorus' arrogance, so here Apollodorus himself contrasts Phormion's outrages with his own behaviour. He does not claim that he has shown any particular virtue, but merely lists Phormion's disgraces and challenges his opponent to show that he has done anything so reprehensible. He thus presents himself as the quiet and dutiful servant of the polis rather than an active participant, and in direct opposition to Phormion. The specific accusations which he flings at him are noteworthy: first, that he hired a citizen as a prostitute; second, that he was responsible for depriving a citizen of his rights; and third, that he committed adultery with the wives of many, and in one case chose to honour her with a monument.

In each case Phormion has crossed unacceptable boundaries, acting in ways that are not only intrinsically reprehensible, but are also specifically performed against citizens. Through hiring a citizen as a prostitute he has inverted sexual norms; the 'slave' has taken the role normally enjoyed by the master, and his actions have led to a citizen losing the privileges which define him in the democratic city. This, of course, would be a punishment applied by the polis, but the point is that Phormion should not be the one behind it. His adultery is an attack on the principles of citizenship itself, since it undermines the legitimacy and dual descent that are the basis of the Athenian citizenship laws. Again, this is particularly galling because of Phormion's position as a slave, as Apollodorus presents him, and feeds into anxieties about what slaves might do when their masters are not around (it is shortly after this passage that Apollodorus encourages the jurors to imagine the case as if it occurred within their own households, discussed above). Such anxieties are also addressed in the next passage:

εἴτα τοιαῦτα ποιῶν καὶ τηλικαύτας μαρτυρίας ἐξενηνοχῶς τῆς ὕβρεως τῆς σουτοῦ

σύ, τὸν ἄλλου του βίον ἐξετάζειν τολμᾶς; μεθ' ἡμέραν εἶ σὺ σώφρων, τὴν δὲ νύκτ' ἐφ' οἷς θάνατος ἢ ζημία, ταῦτα ποιεῖς. πονηρός, ὃ ἄνδρες Ἀθηναῖοι, πονηρὸς οὗτος ἄνωθεν ἐκ τοῦ Ἀνακείου καὶ ἄδικος.<sup>91</sup>

The difference is stressed between how Phormion acts by day and by night; he is a dissembler who attempts to appear orderly but unleashes his true nature under cover of darkness. The last sentence stresses his villainy and its connection with his slavish status and origin.<sup>92</sup>

The attacks on Phormion, then, are predicated on his status as a freedman – or, rather, as a ‘slave’, since Apollodorus never describes or addresses him as an *apeleutheros* or *exeleutheros*. This enables him to differentiate his own position from that of Phormion without presuming to present himself as on a level with the *genei politai*. He takes pains to show that he believes in the boundary between these citizens and ‘made’ citizens like himself (and, of course, Phormion). He attempts to deflect the obvious line of attack that his own origins are no better than his adversary’s by characterising Phormion as a particularly egregious example of the treacherous, presumptuous and jumped-up slave, in contrast to Pasion’s apparently grateful and appropriate behaviour. Similarly, he stresses that Phormion is a barbarian by birth and by nature.

One interesting implication of Apollodorus’ argument seems clear, although he never articulates it explicitly – it must be nurture rather than nature (or descent) which causes someone’s slavish character. Apollodorus may not be a full Athenian, but he certainly depicts himself as a real member of the free, slave-owning population, and logically he cannot therefore have inherited slavish characteristics from his father. Benjamin Isaac’s work on

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<sup>91</sup> Dem. 45.80: ‘Do you then, having done such things – and carried them out before so many witnesses to your own hubris – dare to scrutinise the life of another? By day you are temperate, but by night you do things for which the penalty is death. A villain, men of Athens, this man is a villain as of old, and a wrongdoer since he left the temple of the Anakes’.

<sup>92</sup> The Anakeion was a place where slaves were sold as well as a temple of the Dioscuri; see Sandys’ note on Dem. 45.80 for references.

racism (or ‘proto-racism’, as he terms it)<sup>93</sup> discusses at length ‘the principle of the heredity of acquired characteristics’ and how it ‘is only stated explicitly in relatively few sources, but once it is clear that the idea existed, it is obvious that it was, in fact, commonly assumed to operate in practice’.<sup>94</sup> As regards slavery, this principle amounts to the idea that slaves become used to servility, and pass its characteristics onto their children.

The argument which Apollodorus implies contradicts this idea – there is, unsurprisingly, no suggestion that any of his father’s slavishness was passed on to him. But the fact that the argument is not articulated must have bearing here – he could have made it explicit had he so wished, and indeed, if the jury had found it persuasive, it would have aided his case. Presumably, then, it was deemed unwise to make such an argument, even if it was a necessary condition for the picture which he presented to make sense. It is possible that Isaac is right, and that the common view was that slavish characteristics were inherited; if so, Apollodorus perhaps simply did not wish to contradict this too plainly. If that was the common opinion, however, it seems likelier that he would have had to confront it somehow. This may well be a situation where there was no firmly fixed common opinion, and where either nurture or nature could be held responsible (or the question not considered at all). This would have enabled Apollodorus to make his argument without worrying about entering into its potentially controversial implications and underpinnings.

Alternatively, we could accept that the implication of his argument *was* accepted, and did not need to be articulated because it, quite literally in this case, went without saying. The problem is that this appears to be contradicted by the evidence for lasting prejudice and genetic determinism as gathered by Isaac and demonstrated by the Athenians’ own treatment of the

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<sup>93</sup> Isaac 2004: 1.

<sup>94</sup> Isaac 2004: 81; cf. p.76, where ‘there can be little doubt that it was generally assumed to be a matter of course’.

autochthony myth. The speech does, however, cast doubt on how widely (or, perhaps more relevantly, how *consistently*) the ‘proto-racist’ ideas described by Isaac were held.

The balance between denigrating an opponent’s status without seeming to overstate his own was also of importance to Apollodorus in another of his court cases, represented by the speech *Against Neaera*. The speech was not written by Demosthenes, and is widely considered to be the work of Apollodorus himself; the alternative is that it was written by another logographer. It has close stylistic similarities to the other speeches delivered by Apollodorus (with the exception of Dem. 45, as noted above), which are therefore very likely to be the work of one writer. I follow Trevett and others in their conclusion that Apollodorus himself is the writer, on the grounds that it is unlikely that Apollodorus would employ a single speechwriter over such a great number of years, when he, as an active political figure, would presumably have been able to do the job himself; equally, the relatively low quality of the speeches would imply that they were not written by a professional.<sup>95</sup> It is also difficult to see why Apollodorus would have hired Demosthenes (or at any rate someone who was a far better speechwriter than his usual one) to write *Against Stephanus I*, and then return to his regular logographer, unless the latter was Apollodorus himself.

The speech has been the subject of considerable attention over the last two decades.<sup>96</sup> Besides the identity-based work of Deene and Trevett, already discussed in relation to Apollodorus’ Stephanus speeches, more specialised scholarship has tended to focus on the speech’s treatment of family, women, gender and status, as demonstrated by Cynthia Patterson and

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<sup>95</sup> Trevett 1992: 74. Kapparis 2005: 81 describes Dem. 59 as ‘legally and factually feeble’.

<sup>96</sup> Carey’s edition was published in 1992 and Kapparis’ in 1999 (both contain Greek texts with translation and commentary; see also Carey 2001 and Harris 2001 for reviews of Kapparis). The relevant volume of Dilts’ OCT text appeared in 2009. Bers 2003 is an English translation (part of the University of Texas’ *Oratory of Classical Greece* series), Hamel 2003 examined the case in some depth.

David Cohen.<sup>97</sup> The speech also features heavily in the evidence presented by Kapparis in his examination of the legal approach the Athenians took to immigration and citizenship.<sup>98</sup> The focus of what follows will be on how Apollodorus' statements must be read in terms of his own status and identity as a naturalised citizen.

The charge against Neaera was that she, a *xenê*, had lived as a wife with an Athenian citizen, named Stephanus.<sup>99</sup> A substantial portion of the speech, however, is taken up with lurid descriptions of her life as a prostitute, at first in Corinth and later in Megara and Athens itself;<sup>100</sup> it is claimed that she hired her body out to anyone who desired her.<sup>101</sup> The charge was formally brought by Theomnestus, who delivered sections 1-16 before Apollodorus himself took over. Theomnestus brings up the issue of Apollodorus' status directly, reminding the jury of the decree which naturalised his father on account of his services to the polis.<sup>102</sup> Apollodorus himself chooses to hold forth on the subject of naturalisation (it is in fact this speech which gives us a great deal of the information we have about the process), using it as a counterpoint to the underhanded way in which, he claims, Stephanus has passed off Neaera and her children as citizens:<sup>103</sup>

ὁ γὰρ δῆμος ὁ Ἀθηναίων κυριώτατος ὢν τῶν ἐν τῇ πόλει ἀπάντων, καὶ ἐξὸν αὐτῷ ποιεῖν ὅ τι ἂν βούληται, οὕτω καλὸν καὶ σεμνὸν ἠγήσατ' εἶναι δῶρον τὸ Ἀθηναῖον γενέσθαι, ὥστε νόμους ἔθετο αὐτῷ καθ' οὓς ποιεῖσθαι δεῖ, ἐάν τινα βούλωνται, πολίτην, οἳ νῦν προπεπηλακισμένοι εἰσὶν ὑπὸ Στεφάνου τουτουὶ καὶ τῶν οὕτω γεγαμηκότων.<sup>104</sup>

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<sup>97</sup> Patterson 1994, D. Cohen 2005; see also the response in the same volume of Foxhall 2005.

<sup>98</sup> Kapparis 2005.

<sup>99</sup> Dem. 59.16. The law and its implications are discussed in section 2.2 (b).

<sup>100</sup> Dem. 59.18-49.

<sup>101</sup> Dem. 59.20.

<sup>102</sup> Dem. 59.2: 'When the Athenian *dêmos* voted that Pasion should be an Athenian, and his descendants, on account of his services to the polis...'

<sup>103</sup> Carey 1992: 129-130.

<sup>104</sup> Dem. 59.88: 'For the Athenian *dêmos*, which has absolute power over everyone in the polis, and can do whatever it wishes, thought this gift of becoming Athenian to be so good and noble that it set up laws governing itself, which must be followed if they desire to make anyone a citizen, and which are now being treated with contempt by this man Stephanus and those who have married like him.'

This general contrast between the attitude of the *dêmos* and of Stephanus mirrors a more tangible comparison made earlier in the speech, when Apollodorus mentions the poet Xenocleides. He was apparently one of Neaera's clients; he was unable to give evidence, however, because he had been successfully prosecuted for *astrateia* by Stephanus<sup>105</sup> and disfranchised. Apollodorus asks the jurors the following rhetorical question:

καίτοι πῶς οὐκ οἴεσθε δεινὸν εἶναι, εἰ τοὺς μὲν φύσει πολίτας καὶ γνησίως μετέχοντας τῆς πόλεως ἀπεστέρηκε τῆς παρρησίας Στέφανος οὕτως, τοὺς δὲ μηδὲν προσήκοντας βιάζεται Ἀθηναίους εἶναι παρὰ πάντας τοὺς νόμους;<sup>106</sup>

Here the terminology is *phusei politai*; the affront is that while they lose their privileges, Stephanus has unlawfully obtained them for those who are not deserving. This idea of the 'deserving' naturalised citizen is something which Apollodorus is eager to bring up. Returning to his discussion of the naturalisation laws, he says that *πρῶτον μὲν γὰρ νόμος ἐστὶ τῷ δήμῳ κείμενος μὴ ἐξεῖναι ποιήσασθαι Ἀθηναῖον, ὃν ἂν μὴ δι' ἀνδραγαθίαν εἰς τὸν δῆμον τὸν Ἀθηναίων ἄξιον ἦ γενέσθαι πολίτην*.<sup>107</sup> This is a somewhat different formulation from that in Dem. 45, where the focus was on naturalisation as a gift to be repaid later. There are strategic reasons for this – in the earlier speech Apollodorus would hardly want to stress the fact that the *dêmos* had evidently deemed Phormion to be a worthy recipient of its highest honour. In particular he would wish to avoid the subject of the *andragathia* which the freedman had shown, since it would fly in the face of all his claims about Phormion's base and slavish nature and behaviour.

<sup>105</sup> διαβληθεὶς τῷ λόγῳ ἐν τῷ δικαστηρίῳ, 'having been slandered in court', according to Apollodorus (Dem. 59.27).

<sup>106</sup> Dem. 59.28: 'So how could you not think it terrible that this man Stephanus has robbed natural born citizens who legitimately share in the polis of their freedom of speech, while he forces in as Athenians those who have no right, contrary to all the laws?'

<sup>107</sup> Dem. 59.89: 'First, the *dêmos* has a law which establishes that it is forbidden to make anyone Athenian unless he is worthy of becoming a citizen on account of his *andragathia* towards the Athenian *dêmos*'. Cf. p.218 above.

In Dem. 59, however, Apollodorus does not face this problem, and can present a relatively simple opposition between the lawfully naturalised and those who have attempted to gain citizenship through fraud. What makes these fraudulent citizens an especial affront to the Athenians is not merely that they are undeserving, but also that they will purport to be citizens by birth. Whereas the naturalised citizens will be known as such, and placed under certain restrictions, the fraudulent citizens will pass for Athenians plain and simple, and be able to take advantage of opportunities denied their counterparts.

One example of such a situation is brought up in the speech, when Apollodorus describes how Neaera's daughter, Phano,<sup>108</sup> was passed off as an *astê* and married to Theogenes of Coironidae, an ἄνθρωπον εὐγενῆ μὲν, πένητα δὲ καὶ ἄπειρον πραγμάτων who had drawn the position of *basileus*.<sup>109</sup> By this point Apollodorus has already described her as having followed in her mother's footsteps in terms of her way of life,<sup>110</sup> having passed herself off as an Athenian once before,<sup>111</sup> and having been involved, along with Neaera and Stephanus, in a fraudulent and criminal scheme aimed at extorting money from an old friend of Neaera's.<sup>112</sup> The fraud perpetrated against Theogenes (and, because of his position, against the polis itself), however, is criticised in an especially savage way by Apollodorus, who treats Stephanus as the author of the deception, and speaks with outrage of what it enabled his purported daughter to do:

οὕτω πολὺ τῶν νόμων καὶ ὑμῶν κατεφρόνησεν. καὶ αὕτη ἡ γυνὴ ὑμῖν ἔθυε τὰ ἄρρητα ἱερὰ ὑπὲρ τῆς πόλεως, καὶ εἶδεν ἅ οὐ προσῆκεν αὐτὴν ὄραν ξένην οὖσαν, καὶ τοιαύτη οὖσα εἰσῆλθεν οἷ οὐδεὶς ἄλλος Ἀθηναίων τοσοῦτων ὄντων εἰσέρχεται ἀλλ' ἢ ἡ τοῦ βασιλέως γυνή, ἐξώρκωσέν τε τὰς γεραρὰς τὰς

<sup>108</sup> Named at Dem. 59.38, 50 and 121. This is one of the examples Schaps (1977: 326) gives of 'women of low repute' being named to show disrespect.

<sup>109</sup> Dem. 59.72: 'A man of good birth, but poor and inexperienced in such matters'.

<sup>110</sup> Dem. 59.50.

<sup>111</sup> Dem. 59.50 ff. where she is passed off as Stephanus' daughter and given in marriage to Phrastor of the deme Aegilia.

<sup>112</sup> Dem. 59.64-65, where Epainetus of Andros is entrapped in adultery with Phano and forced to pay thirty minas.

ὑπηρετούσας τοῖς ἱεροῖς, ἐξεδόθη δὲ τῷ Διονύσῳ γυνή, ἔπραξε δὲ ὑπὲρ τῆς πόλεως τὰ πάτρια τὰ πρὸς τοὺς θεοὺς, πολλὰ καὶ ἅγια καὶ ἀπόρρητα. ἃ δὲ μὴδ' ἀκοῦσαι πᾶσιν οἷόν τ' ἐστίν, πῶς ποιῆσαι γε τῇ ἐπιτυχούσῃ εὐσεβῶς ἔχει, ἄλλως τε καὶ τοιαύτη γυναικὶ καὶ τοιαῦτα ἔργα διαπεπραγμένη;<sup>113</sup>

The aim, of course, is to anger the jurors and get them to share Apollodorus' sense of outrage.<sup>114</sup> The important role which she took on put her in a position of esteem and great symbolic and religious importance – and, as is particularly significant, she acted ὑπὲρ τῆς πόλεως in these fields. The alien, the *xenê*, had usurped a position that went to the heart of what the polis did and meant – its ancestry and gods. As Patterson has noted, there is also a very strong personal contrast present in the opposition between Phano, who has allegedly acted in such a shameless fashion, and 'the pure Athenian wife' as represented by the bride of the god in this ritual.<sup>115</sup> This is all, of course, according to Apollodorus, who has a clear motive for exaggerating the importance of the role and the consequences of its usurpation. It is possible that a less reverent view was taken by other citizens; a parallel could be the 'dead letter' status of the law which banned *thêtes* from holding office.<sup>116</sup> But that was a matter concerning class divisions between citizens, whereas in Neaera's daughter's case it was a question of the division between citizen and non-citizen. Apollodorus highlights it because it shows the extent to which her deception went. In Apollodorus' formulation the functions which she usurped are so important that the Athenians did not allow legally naturalised citizens or their descendants to perform them, unless they were born of an *astê*. In Apollodorus' words:

οὕτως τοίνυν καλῶς καὶ ἰσχυρῶς τῶν νόμων κειμένων ὑπὲρ τῆς πολιτείας, δι' ὧν δεῖ Ἀθηναῖον γενέσθαι, ἕτερός ἐστιν ἐφ' ἅπασι τούτοις κυριώτατος νόμος

<sup>113</sup> Dem. 59.72-73: 'So much did he despise the laws and yourselves. And this woman offered the secret and holy sacrifices for you on behalf of the city, and saw what it was not fitting for her to see, since she was a foreigner, and being so she entered where no other Athenian whatsoever can enter, other than the wife of the *basileus*, and she administered the oath to the elder women who serve in the sacrifices, and she was given as wife to Dionysus, and she performed on behalf of the city the ancestral ceremonies to the gods, which are many, sacred and secret. As no one can even hear of them, how can it be right for some random woman to perform them, especially a woman like this, who has done such things?'

<sup>114</sup> D. Cohen 2005: 39.

<sup>115</sup> Patterson 1994: 208-209.

<sup>116</sup> *Ath. Pol.* 7.4.

κείμενος· οὕτω πολλήν ὁ δῆμος πρόνοιαν ἐποιεῖτο ὑπὲρ αὐτοῦ καὶ τῶν θεῶν ὥστε δι' εὐσεβείας τὰ ἱερά θύεσθαι ὑπὲρ τῆς πόλεως. ὅσους γὰρ ἂν ποιήσῃται ὁ δῆμος ὁ Ἀθηναίων πολίτας, ὁ νόμος ἀπαγορεύει διαρρήδην μὴ ἐξεῖναι αὐτοῖς τῶν ἐννέα ἀρχόντων γενέσθαι, μηδὲ ἱερωσύνης μηδεμιᾶς μετασχεῖν· τοῖς δ' ἐκ τούτων μετέδωκεν ἤδη ὁ δῆμος ἀπάντων, καὶ προσέθηκεν 'ἐὰν ὣσιν ἐκ γυναικὸς ἀστῆς καὶ ἐγγυητῆς κατὰ τὸν νόμον.'<sup>117</sup>

The positions which are most tied up with the symbolic and ideological polis – its oldest and most revered offices – are thus denied to the naturalised citizen. There is a limit to what the gift of citizenship can allow, or to what the worthy recipient deserves. The contrast with the actions of the undeserving fraudulent citizen is clear; mentioning these distinctions is also a way for Apollodorus implicitly to put limits on his own status, taking a position separate from and inferior to that of the jurors. This matches the strategy of self-presentation adopted in the first speech *Against Stephanus*.

As David Cohen has pointed out, there is an irony here – the behaviour which Apollodorus castigates is only wrong because it is performed by a fraudulent citizen, but if Phano were an *astê* there would be no problem, and her behaviour could actually be used to support this contention. According to Cohen, the argument could have run as follows: ‘is it plausible that a woman like Neaera and Phano could have led such notorious life... and no one of the Athenians would have objected when they saw her performing these rites?’<sup>118</sup> In other words, the very outrages which Apollodorus describes could be used as proofs of citizenship by his opponents – ‘because of the lack of formal proof of citizenship the argument boils down to a catalogue of the base activities that this person has engaged in, followed by the question “Do

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<sup>117</sup> Dem. 59.92: ‘So while the laws which must be followed to become Athenian are established so well and strongly concerning citizenship, there is another most powerful law established in addition to them all. The *dêmos* took such great precautions for itself and the gods that the sacrifices on behalf of the city are offered in accordance with piety. For the law explicitly forbids those whom the Athenian *dêmos* makes citizens from being eligible to become one of the nine archons, or to hold any priesthood; but the *dêmos* allows their descendants to share in everything, and adds “if they are born of a woman who is an *astê* and married according to the law”’.

<sup>118</sup> D. Cohen 2005: 39.

you want such a person to be an Athenian citizen?”<sup>119</sup> Foxhall, in her response to Cohen’s paper, saw the idea that Neaera and Phano were actually *astai* as an overlooked but ‘real possibility’,<sup>120</sup> and the sheer amount of time Apollodorus spends attempting to prove that Neaera was a foreigner may imply that his opponent contested his assertion. Alternatively, this could simply be a pretext to bring in embarrassing material that would denigrate his opponent.

It is also true, however, that the closest the evidence (as opposed to his unsupported assertions and innuendo) which he provides comes to attesting directly to Neaera’s being a foreigner is the witness statement given by Philostratus that Νέαιραν Νικαρέτης οὔσαν, ἥσπερ καὶ Μετάνειρα ἐγένετο, καὶ κατάγεσθαι παρ’ αὐτῶ, ὅτε εἰς τὰ μυστήρια ἐπεδήμησαν ἐν Κορίνθῳ οἰκοῦσαι...<sup>121</sup>, together with the claims that she was later bought by Timanoridas and Eucrates αὐτῶν δούλην εἶναι<sup>122</sup> and then manumitted using funds provided by the Athenian citizen Phrynion.<sup>123</sup> The actual testimony which supports the latter two assertions, however, merely consists of a statement by Philagrus of Melite that he was present in Corinth when Phrynion paid twenty minas for Neaera to Timanoridas and Eucrates.<sup>124</sup> Whether this represents a formal condition of slavery is not made clear, other than by Apollodorus’ self-serving rhetoric. We cannot rule out the possibility that an Athenian citizen woman worked as a prostitute in Corinth, and that the payments to which Apollodorus alludes were informal or contractual; equally, it was possible for an Athenian citizen to be reduced to a condition of slavery.<sup>125</sup> Our reasons for rejecting this hypothesis would, presumably, be that we find it

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<sup>119</sup> D. Cohen 2005: 39.

<sup>120</sup> Foxhall 2005: 48.

<sup>121</sup> Dem. 59.23: ‘that Neaera belonged to Nicarete, to whom Metaneira also belonged, and that they stayed with him when they visited for the Mysteries, as they lived in Corinth’.

<sup>122</sup> Dem. 59.29: ‘to be their slave’.

<sup>123</sup> Dem. 59.30-32.

<sup>124</sup> Dem. 59.32.

<sup>125</sup> Scholars do not seem to have had difficulty believing the claim made by the speaker of Dem. 57 *Against Eubulides* that his father was enslaved and spent years in Leucas (57.18) – see section 5.3 (c).

unlikely or impossible for an Athenian citizen woman to have behaved in such a way – which is precisely what Apollodorus hoped his audience would believe.

As usual, we cannot expect to recover the true circumstances which were behind the case. Noy has recently provided an alternative scenario, examining the possibility that the original Phano was a daughter of Stephanus who had died in infancy; Neaera's daughter, originally called Strybele,<sup>126</sup> later usurped her identity in order to pass herself off as a citizen.<sup>127</sup> Again, this is no more than a possibility, but Noy uses it to illustrate the point that identity could easily be open to question. Regarding Phano, Noy points out that while Apollodorus' claims about her may be doubtful, 'he did not invent the underlying point that her identity (and therefore her legal status) could be disputed'.<sup>128</sup> Ultimately, proving identity came down to what the jury would believe – a balance of probabilities based on the behaviour of the individual (as presented by themselves and their opponent) and the number and quality of witnesses who would swear to it.<sup>129</sup> In this case, Apollodorus places great emphasis on behaviour, but as we shall see when we come to Demosthenes' speech *Against Eubulides*, when an individual's status came under threat a rather different approach could be employed.

Apollodorus returns to the contrast between the lawfully naturalised citizen and the fraudulent impostor, with a somewhat different emphasis, when he contrasts Neaera with the Plataeans. After a lengthy description of the services the Plataeans had rendered to the Athenians, and their loyalty,<sup>130</sup> he discusses the decree granting them citizenship and the

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<sup>126</sup> Apollodorus claims that this was her original name at 59.50 and 121, but does not elaborate on when or precisely why the name was supposedly changed. See Noy 2009: 398-399 for some explanations suggested by modern scholars.

<sup>127</sup> Noy 2009: 408-409.

<sup>128</sup> Noy 2009: 402.

<sup>129</sup> D. Cohen 2005: 39, Noy 2009: 403-404.

<sup>130</sup> Dem. 59.93-103.

restrictions and safeguards which were placed on it.<sup>131</sup> The decree as presented in the text has usually been considered genuine,<sup>132</sup> but Canevaro has recently convincingly demonstrated the opposite, arguing that it is an interpolation produced by a later ‘forger’.<sup>133</sup> Regardless, the summary given by Apollodorus in his own voice<sup>134</sup> is sufficient for the present purposes, since it is how he chooses to present the decree that is of importance. He says that the *rhêtôr* who produced the decree insisted that each recipient be examined individually by a court, and that the names of those who were accepted be recorded in stone on a stele, and insisted further that no-one claiming to be Plataean at a later date was to be covered by the decree’s provisions. He also put in place the same restrictions on being appointed one of the nine archons and holding a priesthood which were mentioned earlier; according to Apollodorus, this was done ὑπέρ τε τῆς πόλεως καὶ τῶν θεῶν,<sup>135</sup> which stresses again how vital he wished to make these positions seem. This is followed by another savage comparison in the form of a rhetorical question:

Οὐκ οὖν δεινόν; πρὸς μὲν τοὺς ἀστυγείτονας καὶ ὁμολογουμένως ἀρίστους τῶν Ἑλλήνων εἰς τὴν πόλιν γεγενημένους οὕτω καλῶς καὶ ἀκριβῶς διορίσασθε περὶ ἐκάστου, ἐφ’ οἷς δεῖ ἔχειν τὴν δωρεάν, τὴν δὲ περιφανῶς ἐν ἀπάσῃ τῇ Ἑλλάδι πεπορνευμένην οὕτως αἰσχρῶς καὶ ὀλιγῶρως ἐάσετε ὑβρίζουσας εἰς τὴν πόλιν καὶ ἀσεβοῦσας εἰς τοὺς θεοὺς ἀτιμώρητον, ἣν οὔτε οἱ πρόγονοι ἀστὴν κατέλιπον οὐθ’ ὁ δῆμος πολῖτιν ἐποιήσατο;<sup>136</sup>

Here the opposition is intensified by the gender of the parties (which would feed in to the concept of *andragathia* already mentioned by Apollodorus), the contrast between the honourable military exploits of the Plataeans and Neaera’s prostitution, and the loyalty implied in the services specifically rendered to the polis as opposed to Neaera’s prostitution

<sup>131</sup> Dem. 59.104-106.

<sup>132</sup> E.g. Carey 1992: 139, Kapparis 1999; but cf. the doubts expressed by Harris 2001: 441.

<sup>133</sup> Canevaro 2010.

<sup>134</sup> Dem. 59.105-106.

<sup>135</sup> Dem. 59.106.

<sup>136</sup> Dem. 59.107: ‘Is it not terrible? When, with people of a neighbouring city, who are also commonly considered to have been the best of the Greeks towards our city, you have defined so well and precisely in each individual’s case the conditions on which they should have this gift [of citizenship], will you now leave unpunished a woman who has openly prostituted herself in all Greece so shamefully and contemptuously, outraging the polis and committing sacrilege against the gods, whose ancestors did not leave her citizen status by inheritance, and whom the *dêmos* has not made a citizen?’

‘in all Greece’; the next section lists some of the locales where she supposedly lived and worked. In spite of this, Neaera has conspired to exceed the position of the Plataeans by passing off her daughter as an *astê*. As Patterson put it, ‘Neaira’s behaviour strikes at the heart of Athenian privilege... [she and Phano] have taken what even the *demos* does not allow itself to give, the privilege of native birth’.<sup>137</sup>

In the customary style of Athenian forensic oratory,<sup>138</sup> Apollodorus goes on to predict dire consequences in the event of her acquittal, asking the jury τί δὲ καὶ φήσειεν ἂν ὑμῶν ἕκαστος εἰσιῶν πρὸς τὴν ἑαυτοῦ γυναῖκα ἢ θυγατέρα ἢ μητέρα, ἀποψηφισάμενος ταύτης, ἐπειδὴν ἔρηται ὑμᾶς ‘ποῦ ἦτε;’<sup>139</sup> The tactic of bringing the case directly into homes of the jurors was also used in Dem. 45, but as in that case the point being made has wider social implications as well. Apollodorus says that once they have told their female relatives of the acquittal the following will occur:

οὐκοῦν ἤδη αἱ μὲν σωφρονέσταται τῶν γυναικῶν ὀργισθήσονται ὑμῖν, διότι ὁμοίως αὐταῖς ταύτην κατηξιούτε μετέχειν τῶν τῆς πόλεως καὶ τῶν ἱερῶν· ὅσαι δ’ ἀνόητοι, φανερώς ἐπιδείκνυτε ποιεῖν ὅ τι ἂν βούλωνται, ὡς ἄδειαν ὑμῶν καὶ τῶν νόμων δεδωκότων· δόξετε γὰρ ὀλιγώρως καὶ ῥαθύμως φέροντες ὁμογνώμονες καὶ αὐτοὶ εἶναι τοῖς ταύτης τρόποις. ὥστε πολὺ μᾶλλον ἐλυσιτέλει μὴ γενέσθαι τὸν ἀγῶνα τουτονὶ ἢ γενομένου ἀποψηφίσασθαι ὑμᾶς. κομιδῆ γὰρ ἤδη [παντελῶς] ἐξουσία ἔσται ταῖς πόρναις συνοικεῖν οἷς ἂν βούλωνται, καὶ τοὺς παῖδας φάσκειν οὗ ἂν τύχωσιν εἶναι· καὶ οἱ μὲν νόμοι ἄκυροι ὑμῖν ἔσονται, οἱ δὲ τρόποι τῶν ἐταιρῶν κύριοι ὅ τι ἂν βούλωνται διαπράττεσθαι.<sup>140</sup>

This extrapolation, which to modern eyes seems extremely fanciful, has at least a rhetorical force, and would remind jurors of their position as upholders of the laws. It suggests that an

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<sup>137</sup> Patterson 1994: 210.

<sup>138</sup> See e.g. Lanni 2006: 126-127.

<sup>139</sup> Dem. 59.110: ‘What would each of you say, when you go in to your wife or daughter or mother after acquitting this woman, when she asks you “Where were you?”’

<sup>140</sup> Dem. 59.111-112: ‘So now the most temperate of women will be angry with you, because you thought it right for this woman to share equally with them in the affairs of the polis and religion; and to those women who are without sense, you will clearly show that they can do anything they want, since you and the laws have given them so much freedom. For you yourselves will seem, caring so little about this and taking it so lightly, also to approve of this woman’s behaviour. So it would be far better for this trial never to have happened, than that you should vote to acquit now that it has. For now there will be total freedom for prostitutes to live with any man they want, and to claim that anyone is the father of their children. And your laws will be powerless, while the ways of courtesans will have the power to accomplish anything they want.’

invasion of one *oikos* is an invasion of ‘the collective identity of all Athenian *oikoi*’,<sup>141</sup> since through Neaera the whole city will be corrupted. The polis as a whole is itself brought in, alongside the women of Athens, shortly afterwards:

ὥστε εἷς ἕκαστος ὑμῶν νομιζέτω, ὁ μὲν ὑπὲρ γυναικός, ὁ δ’ ὑπὲρ θυγατρός, ὁ δ’ ὑπὲρ μητρός, ὁ δ’ ὑπὲρ τῆς πόλεως καὶ τῶν νόμων καὶ τῶν ἱερῶν τὴν ψῆφον φέρειν, τοῦ μὴ ἐξ ἴσου φανῆναι ἐκείνας τιμωμένας ταύτη τῇ πόρνη, μηδὲ τὰς μετὰ πολλῆς καὶ καλῆς σωφροσύνης καὶ ἐπιμελείας τραφείσας ὑπὸ τῶν προσηκόντων καὶ ἐκδοθείσας κατὰ τοὺς νόμους, ταύτας ἐν τῷ ἴσῳ φαίνεσθαι μετεχούσας τῇ μετὰ πολλῶν καὶ ἀσελγῶν τρόπων πολλακίς πολλοῖς ἐκάστης ἡμέρας συγγεγεννημένη, ὡς ἕκαστος ἐβούλετο.<sup>142</sup>

It is thus on behalf of family, polis, the laws and the gods that the jurors must convict Neaera; her acquittal would undermine the status differences which, it would seem, underpin the social order of the polis. Essentially, the opposition is a relatively simple one; these statements could have been made by any citizen, and indeed are what make the idea of Apollodorus striving to be ‘more Athenian than the Athenians’ seem plausible. What gives the opposition more colour is the status of Apollodorus himself – Patterson, for example, has described the irony of a naturalised citizen, the son of a freedman, urging the Athenians to preserve the ‘sacred purity’ of the citizen body.<sup>143</sup> But as we have seen, Apollodorus has already taken pains to describe deserving naturalised citizens, and approved of the restrictions placed on them, which keep them separate, in terms of identity, from the *genei* (or *phusei*) *politai*. He himself, naturally, would be among this honoured, but still in an ideological sense excluded, group of naturalised citizens. There remains, however, always the risk of appearing to lecture the citizen jury, which is problematic given the speaker’s own origins and status as

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<sup>141</sup> Patterson 1994: 200.

<sup>142</sup> Dem. 59.114: ‘So let each one of you acknowledge that he is casting his vote – one for his wife, another for his daughter, another for his mother, and another for the city and its laws and religion – so that these women shall not appear to be of equal standing with this prostitute, and nor shall those women who are brought up by their relations with great and good prudence and care, and given in marriage according to the laws, appear to share equal rights with a woman who has, in many lascivious ways, slept with many men many times a day, as each man desired.’

<sup>143</sup> Patterson 1994: 199.

a naturalised citizen. This is something which is addressed in the next passage, as he urges the jury as follows:

ἡγεῖσθε δὲ μήτ' ἐμὲ τὸν λέγοντα εἶναι Ἀπολλόδωρον μήτε τοὺς ἀπολογησομένους καὶ συνεροῦντας πολίτας, ἀλλὰ τοὺς νόμους καὶ Νέαιραν ταυτηνὶ περὶ τῶν πεπραγμένων αὐτῆ πρὸς ἀλλήλους δικάζεσθαι. καὶ ὅταν μὲν ἐπὶ τῆς κατηγορίας γένησθε, τῶν νόμων αὐτῶν ἀκούετε, δι' ὧν οἰκεῖται ἡ πόλις καὶ καθ' οὓς ὁμωμόκατε δικάσειν, τί κελεύουσι καὶ τί παραβεβήκασιν· ὅταν δὲ ἐπὶ τῆς ἀπολογίας ἦτε, μνημονεύοντες τὴν τῶν νόμων κατηγορίαν καὶ τὸν ἔλεγχον τὸν τῶν εἰρημένων, τὴν τε ὄψιν αὐτῆς ἰδόντες, ἐνθυμεῖσθε τοῦτο μόνον, εἰ Νέαιρα οὕσα ταῦτα διαπέπρακται.<sup>144</sup>

The words εἶναι Ἀπολλόδωρον are deleted by some editors, including Dilts in the latest OCT, who breaks with the precedent set by Rennie in the 1939 edition. Kapparis also deletes the words, translating ‘Consider that the dispute is not between myself, the speaker, and the citizens who will defend and support her, but between the laws and Neaira here, concerning her actions.’<sup>145</sup> The deletion dates back to Herwerden.<sup>146</sup> Carey, who in reviewing Kapparis’ edition considered the deletion ‘unnecessary in my opinion’<sup>147</sup> translates ‘Imagine that the speaker is not I, Apollodoros, nor those citizens who will defend and support her, but that it is the laws and Neaira here who are in dispute with each other over her actions’.<sup>148</sup> The opposition between Ἀπολλόδωρον and πολίτας<sup>149</sup> is given greater strength in the older translations of Kennedy (‘Don’t look upon me, the speaker, as Apollodorus, and these who will support and plead for the defendant as Athenians...’)<sup>150</sup> and Murray, whose Loeb

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<sup>144</sup> Dem. 59.115: ‘Think not that I, the speaker, am Apollodorus, and those who will support and speak in her defence citizens, but that the laws and Neaera are contesting with each other over what she has done. And when you come to the accusation, listen to the laws themselves, through which the city is managed and according to which you have sworn to make your judgment, and hear what they command and how they [the defendants] have broken them. And when you come to the defence, remember the laws’ accusation and the refutation of the words spoken, look at her appearance, and consider only this – whether Neaera has done these things.’

<sup>145</sup> Kapparis 1999: 157.

<sup>146</sup> Herwerden 1875: 358.

<sup>147</sup> Carey 2001: 176.

<sup>148</sup> Carey 1992: 77.

<sup>149</sup> Noted e.g. by Dindorf 1849: 1389.

<sup>150</sup> Kennedy 1902: 270.

translation reads ‘Forget that I, the speaker, am Apollodorus, and that those who will support and plead for the defendant are citizens of Athens...’<sup>151</sup>

The deletion does seem unnecessary, and robs the passage of an important aspect, namely the difference it creates between Apollodorus and the citizen supporters of Neaera. The opposition is a telling one – during a passage in which he apparently urges the jurors to disregard the status of the litigants and their supporters, Apollodorus is in fact reminding them of his own inferiority to the (real) *politai*. He can thus combine a conventional plea for the jurors to judge in accordance with the laws, countering a possible attack on him on the grounds of his own status and background, with a careful positioning of his own identity in a way which, he would hope, would produce the best impression on the jury. The aim is to achieve a balance, whereby Apollodorus sits between his adversary, whom he attacks savagely, and the citizen jurors.

*Against Stephanus* and *Against Neaera* are the speeches delivered by Apollodorus in which questions of status are most vital, but the subject comes up in others as well. In his speech *Against Nicostratus* (Dem. 53), who was a former friend, he mentions a previous victory which he had in court over his opponent’s brother Arethousius. He describes what happened next:

καὶ ἐν τῇ τιμῇσει βουλομένων τῶν δικαστῶν θανάτου τιμῆσαι αὐτῶ, ἐδεήθην ἐγὼ τῶν δικαστῶν μηδὲν δι’ ἐμοῦ τοιοῦτον πρᾶξιαι, ἀλλὰ συνεχώρησα ὅσουπερ αὐτοὶ ἐτιμῶντο, ταλάντου, οὐχ ἵνα μὴ ἀποθάνῃ ὁ Ἀρεθούσιος (ἄξια γὰρ αὐτῶ θανάτου εἴργαστο εἰς ἐμέ), ἀλλ’ ἵνα ἐγὼ Πασίωνος ὢν καὶ κατὰ ψήφισμα πολίτης μηδένα Ἀθηναίων ἀπεκτονῶς εἶην.<sup>152</sup>

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<sup>151</sup> Murray 1939b: 441.

<sup>152</sup> Dem. 53.18: ‘And when it came to deciding the penalty, when the jurors wanted to sentence him to death, I begged the jurors not to do such a thing because of me, and agreed to what they [my opponents] proposed as a penalty, a fine of one talent, not so that Arethousius should not die (he deserved death because of what he had done to me) but so that I, the son of Pasion and a citizen by decree, should have condemned no Athenian to death.’

It is not necessary to take his assertion as to his motives at face value; what is important is that he tells this story in order to create a positive impression on the jury. Partly he is perhaps explaining that his desire for revenge (which he frankly admits is his motive for bringing the case to court at the beginning of his speech, opening with the words Ὅτι μὲν οὐ συκοφαντῶν, ἀλλ' ἀδικούμενος καὶ ὑβριζόμενος ὑπὸ τούτων καὶ οἴομενος δεῖν τιμωρεῖσθαι τὴν ἀπογραφὴν ἐποίησάμην)<sup>153</sup> is not excessive, but while doing so he also makes the point that he regards himself as an inferior who ought only to go so far in causing harm to an Athenian. His thinking might be that there is a risk of the jury regarding his prosecution as an affront to the citizen body out of a sense of solidarity; it is also possible that his opponent attacked him in a similar way to Apollodorus' own attacks on Phormion in Dem. 45., and he wishes to counter accusations of hubris and exceeding his station.

It would appear thus far that Apollodorus' status as a naturalised citizen was something which had always to be carefully handled. He seems acutely aware of the need to position himself as someone who is of lower status than the jurors, particularly when making savage attacks against his opponents; he must balance this invective with a degree of self-deprecation. But while these necessities are in a sense constraints upon him, they also give him the opportunity to use narratives that are unusual and inaccessible to natural born citizens. He can also use his status to elicit sympathy, as he does in his prosecution of Polycles, telling the jury of how his opponent laughed at his demands and said ἄρτι μῶς πίττης γεύεται· ἐβούλετο γὰρ Ἀθηναῖος εἶναι.<sup>154</sup>

Apollodorus' position is thus a complex one; he must take on the persona of a social inferior, but this does not mean he cannot use this position to his advantage on occasion. His position

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<sup>153</sup> Dem. 53.1: 'It is not acting as a *sykophantês*, but having been wronged and outraged by these people, and thinking I must be avenged, that I bring this suit'.

<sup>154</sup> Dem. 50.26: 'the mouse has just tasted pitch – for he wanted to be an Athenian'.

outside of the citizen in-group can have advantages, and not just in gaining sympathy for ill-treatment; behaviour which is not accepted or approved of for citizens may be tolerated (and expected) in those outside of the group.<sup>155</sup>

Examination of the speeches delivered by Apollodorus and delivered on behalf of Phormion suggests that, in a courtroom setting, these naturalised citizens and their speechwriters felt it best to position themselves as outsiders. They were keen to stress the difference between themselves and the *genei politai* of the jury; when they did attempt to show that they shared common interests and values with the jurors it was based on social class rather than national identity. It is not possible to say to what extent this strategy was shared by other naturalised citizens when they came into court, but given that two of the speeches examined were written by someone as experienced and skilled as Demosthenes, and Apollodorus was also a very experienced litigant, whatever the defects in his composition of speeches, it seems safe to assume that this was an effective strategy that was attractive to litigants and likely to appeal to the jurors.

This gives rise to the question of whether (or, perhaps more pertinently, to what extent) this was replicated outside of the courts, in everyday life. This essentially remains unanswerable, but it can be said that if this style of self-presentation was useful in the courts it would have been a possible option in other situations. When the special factors affecting courtroom scenarios were removed, however, there was less of a need to overtly position oneself in this way. Litigation was an activity which involved an unusual examination, given its adversarial nature and the vicious personal attacks which it could involve, as we have seen from the examples discussed so far – although evidently this did not put off Apollodorus. Litigation

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<sup>155</sup> See E. Cohen 2002b.

was, nevertheless, also an event in which ideology came to the fore; it can therefore be used for gaining insight into what the idealised position of naturalised citizens was. On this basis, it can be said that on an ideological level naturalised citizens were not regarded as true citizens, but remained essentially outside of the Athenian citizen in-group.

Their descendants, however, may have found themselves being assimilated more fully, particularly when a number of generations separated them from their naturalised forefathers. Any attacks or jibes against them because of their ancestry may have had no more real impact than the attacks on Demosthenes for his alleged Scythian origin.<sup>156</sup> The fate of the descendants of naturalised citizens, who logically speaking must have called into question ideas of Athenian ‘purity’, is not really addressed by Apollodorus – it suited his purpose better to focus on the naturalised citizens themselves, who were easily differentiated from the *genei politai* and did not therefore raise uncomfortable questions about Athenian identity and origins. As with the implications of the nature-nurture question when it came to slaves, discussed above, he apparently thought it better not to articulate the logical consequences of an argument which, in its more limited terms, he hoped the jury would find persuasive.

## **5.2 Crossing the Other Way – Unworthy, Dubious and Doubtful Citizens**

The boundary crossing experienced by naturalised citizens, then, appears to have been incomplete and subject to qualifications. But this was not the only direction in which the boundary between citizen and metic could be crossed. It was also possible for Athenians to lose their status if their parentage was deemed to be doubtful, or effectively give it up by leaving Athens and living as a metic elsewhere; in the latter case they would formally retain

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<sup>156</sup> Aesch. 2.78, 180; 3.172.

the status of citizens, and be able to reclaim their privileges if they returned, but during their time abroad they would be living as metics. This created something of a difficulty for Athenians, since their ideological conceit was that their polis was the best and most attractive to live in. This informed the paradoxical difference between what it was acceptable for metics from other cities to do (i.e. abandon their home and embrace Athens instead) and how an Athenian should behave – an Athenian’s emigration would not be celebrated, but seen as a sign of disloyalty.<sup>157</sup>

## **5.2 (a) Athenian Citizens as Metics Elsewhere – Shorter Absences in Lysias 3 and Lysias**

### **31**

When an Athenian did leave Athens it therefore created a number of challenges to Athenian assumptions. First, it suggested that the idea that Athens was the greatest polis, inhabited by the greatest people, was not necessarily backed up in fact. Second, the concept of Athenians as an autochthonous and unified group of good and loyal men was undermined when individuals apparently rejected the polis as a community. Together, these two factors challenged the basis of the Athenian citizens’ special status and privileges within the polis, for which the theory of autochthony was partly used as a justification.<sup>158</sup> Again, these challenges were not unique or particularly threatening, since such contradictions are dealt with all the time in matters of identity. But *how* such challenges are dealt with can be particularly interesting and provide insight into wider concepts of identity.

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<sup>157</sup> Cf. Low 2011, who discusses concerns about the behaviour of Athenian generals and ambassadors when outside of the city (2011: 68-69) and Athenian mercenaries when fighting abroad (2011: 72-73).

<sup>158</sup> See Lape 2010.

The concept of the ‘ideal metic’, as described in Euripides’ *Suppliants*, has already been discussed in section 1.1. To this we can add the claims made by the speaker of the Demosthenic speech *Against Aristocrates*:

Ἐγὼ νομίζω, ὧ ἄνδρες Ἀθηναῖοι, ὅσοι μὲν τῶν ἡμετέρων ἐθῶν καὶ νόμων ἐπιθυμηταὶ γενόμενοι πολῖται γενέσθαι ἐσπούδασαν, ἅμα τ’ αὐτοὺς ἂν τυγχάνειν τούτων καὶ παρ’ ἡμῖν οἰκεῖν καὶ μετέχειν ὧν ἐπεθύμησαν· ὅσους δὲ τούτων μὲν μηδενὸς μήτ’ ἐπιθυμία μήτε ζῆλος εἰσέρχεται, τὴν πλεονεξίαν δ’ ἀγαπῶσιν ἦν διὰ τοῦ δοκεῖν ὑφ’ ὑμῶν τιμᾶσθαι καρποῦνται, τούτους δ’ οἶομαι, μᾶλλον δ’ οἶδα σαφῶς, ὅταν ποτὲ μείζονος πλεονεξίας ἐτέρωθεν ἐλπίδ’ ἴδωσιν, οὐδ’ ὀτιοῦν ὑμῶν φροντίσαντας ἐκείνην θεραπεύσειν.<sup>159</sup>

The sentiment is clear – anyone who has been honoured by naturalisation should make his home in Athens, and devote himself to it; those who do otherwise are interested only in their own advantage. When Athenians have gone abroad, however, they tend to explain it on their return in terms that would fit with the ‘disloyal’ immigrant model. Thus when the speaker of Lysias’ *Against Simon* describes his flight from the polis he explains it as follows:

οὕτω δὲ σφόδρα ἠπορούμην ὅ τι χρησαίμην, ὧ βουλή, τῇ τούτου παρανομία, ὥστε ἔδοξέ μοι κράτιστον εἶναι ἀποδημῆσαι ἐκ τῆς πόλεως. λαβὼν δὲ τὸ μεираκιον (ἅπαντα γὰρ δεῖ τᾶληθῆ λέγειν) ὠχόμεν ἐκ τῆς πόλεως. ἐπειδὴ δὲ ὦμην ἱκανὸν εἶναι τὸν χρόνον Σίμωνι ἐπιλαθέσθαι μὲν τοῦ νεανίσκου, μεταμελῆσαι δὲ τῶν πρότερον ἡμαρτημένων, ἀφικνοῦμαι πάλιν.<sup>160</sup>

The use of another polis as a refuge is stated in a quite matter of fact and unproblematic fashion, although the speaker is careful to justify it on the grounds of Simon’s lawlessness; this was presumably an attempt to deflect any attempt by his opponent to characterise the flight as evidence of guilt. As Carey notes, it seems extreme as a reaction to the events as described, suggesting that an ulterior motive may have been involved.<sup>161</sup> At any rate, the passage suggests that such an absence was something that required an explanation, and that

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<sup>159</sup> Dem. 23.126: ‘I think, men of Athens, those who have become lovers of our character and laws and worked hard to become citizens will, at the same time as they obtain citizenship, live among us and take their share in what they desired; but those with no desire or zeal for them, they love the advantage which they enjoy through appearing to be honoured by you, and I think, or rather know full well, that when they see hope of a greater advantage from somewhere else they will ignore you completely and attend to the other.’

<sup>160</sup> Lys. 3.10: ‘I was at so great a loss as to what to do, Council, in the face of his law breaking, that I decided it would be best to go abroad, out of the city. So I took the boy (for I must tell the whole truth) and left the city. When I thought sufficient time had passed for Simon to have forgotten about the youth, and to have repented of his former reprehensible actions, I came back again.’

<sup>161</sup> Carey 1989: 98.

an attractive explanation was the use of the foreign polis as a refuge; another possible explanation would be trading. There is, understandably, no mention of any loyalty to the foreign polis, as this would hardly go down well with a jury of Athenians. The details of what occurred abroad are glossed over. This naturally limits the usefulness of such evidence. When we examine speeches attacking those who lived abroad, however, the picture is very different, since the litigants could bring into play all manner of ideological assumptions and prejudices to back up their attacks.

One such example is Lysias' speech *Against Philon*, delivered on the occasion of Philon's *dokimasia* upon being selected to serve as a member of the *boulê*. The importance of the *dokimasia* has recently been stressed by Todd, who has connected it with ideas of identity – in his terms, the formal questions as recorded in the *Athênaiôn Politeia* 'represent... an ideological construction of what it was to be a citizen, not least in a world where citizenship was something to be inherited from your parents'.<sup>162</sup> The questions ask the candidate to state his father and grandfather's names and their deme, and his mother and her father and his deme, followed by questions about his family gods and tombs, his payment of taxes, and his military service, to which witnesses had to be provided.<sup>163</sup> As Todd says, these are crucial questions, and they are evidently designed to test the individual's right to be a citizen and his contribution to the polis. In the case of members of the *boulê*, an added element is that they will themselves be assessing the credentials of prospective officials when they assume office, including the members of the following year's *boulê*.<sup>164</sup> The importance of the role meant it could be regarded as sitting at the heart of the polis, which is certainly where Lysias attempts

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<sup>162</sup> Todd 2010: 90. Gagliardi 2010: 99 lists the many officials, age groups and objects which underwent a *dokimasia* at Athens, ranging from magistrates to priests and soldiers, horses, and public buildings – see *Ath. Pol.* 49.

<sup>163</sup> *Ath. Pol.* 55.3.

<sup>164</sup> *Ath. Pol.* 45.3.

to place it – Philon’s supposedly un-Athenian behaviour is said to disqualify him from holding such a vital and significant position.

It is also worth noting that the speaker of *Against Philon* was himself a member of the outgoing *boulê*,<sup>165</sup> though not necessarily one who had been an active speaker during his time on it; he says that he is οὐδὲ τῷ δύνασθαι καὶ εἰωθέναι λέγειν ἐν ὑμῖν ἐπαρθείς.<sup>166</sup> Whitehead interprets this as a claim to be poor and inexperienced at speaking, and suggests that the claim was not yet clichéd, as it would become by the later fourth century;<sup>167</sup> it is possible, however, that the speaker is merely disavowing this as a motive rather than denying any proficiency.<sup>168</sup> Whitehead is certainly right, however, when he describes the speaker’s persona as an ‘honest, average Athenian citizen’.<sup>169</sup> This, coupled with the moral authority which he derived from his position on the *boulê*, was intended to give his perspective weight and legitimacy.

The central argument of the speech is that Philon’s character, and particularly his actions during the regime of the Thirty Tyrants, rendered him unsuitable for the position.<sup>170</sup> He had not actually fought against the democrats, however. Rather than siding with the oligarchs, he had fled the city and stayed in Oropus during the conflict. The speaker addresses such behaviour as follows:

Ἐγὼ γὰρ οὐκ ἄλλους τινὰς φημι δίκαιον εἶναι βουλευεῖν περὶ ἡμῶν, ἢ τοὺς πρὸς τῷ εἶναι πολίτας καὶ ἐπιθυμοῦντας τούτου. τούτοις μὲν γὰρ μεγάλα τὰ διαφέροντά ἐστιν εὖ τε πράττειν τὴν πόλιν τήνδε καὶ ἀνεπιτηδείως διὰ τὸ ἀναγκαῖον σφίσι αὐτοῖς ἡγεῖσθαι εἶναι μετέχειν τὸ μέρος τῶν δεινῶν, ὥσπερ καὶ

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<sup>165</sup> Lys. 31.1: ‘ἐγὼ δὲ ὁμόσας εἰσηλθὼν εἰς τὸ βουλευτήριον τὰ βέλτιστα βουλευέσθαι τῇ πόλει...’, ‘I myself swore before I entered the *bouleutērion* to give the best counsel to the polis’.

<sup>166</sup> Lys. 31.2: ‘not encouraged by ability or practice in speaking before you’.

<sup>167</sup> Whitehead 2006: 137.

<sup>168</sup> Cf. Carey 1989: 185, ‘a βουλευτής cannot claim complete inexperience of speaking... but he can give a pleasing impression of modesty by showing lack of confidence in his eloquence’.

<sup>169</sup> Whitehead 2006: 138.

<sup>170</sup> Whitehead 2006: 135.

τῶν ἀγαθῶν μετέχουσι· ὅσοι δὲ φύσει μὲν πολῖται εἰσι, γνώμη δὲ χρῶνται ὡς πᾶσα γῆ πατρις αὐτοῖς ἐστὶν ἐν ἧ ἂν τὰ ἐπιτήδεια ἔχωσιν, οὗτοι δῆλοί εἰσιν ὅτι κἂν παρέντες τὸ τῆς πόλεως κοινὸν ἀγαθὸν ἐπὶ τὸ ἑαυτῶν ἴδιον κέρδος ἔλθοιεν διὰ τὸ μὴ τὴν πόλιν ἀλλὰ τὴν οὐσίαν πατρίδα ἑαυτοῖς ἡγεῖσθαι.<sup>171</sup>

In this conception, it is not sufficient merely to hold citizenship, or to be a *phusei politês*; one must also share in its successes and reversals. Those who leave it prove that their allegiance is not really to the polis at all, but to their own advantage; as Lysias puts it, their property, and not their polis, is their fatherland. This fits with the idea of disloyal metics, a stereotypical group ‘for whom possessions trump polis’, in Bakewell’s words.<sup>172</sup> But here the implication is that the citizens should never have left Athens; this is a clear contrast to the ideal of the metic *in* Athens, who should embrace his new polis. The speaker also creates a difference between how Philon has acted and how Athenians are supposed to behave. The speaker explains this by depicting his opponent as a deviant and atypical individual who stands in stark contrast to the rest of the citizens:

Οὗτος γάρ, ὃ βουλή, ὅτε ἡ συμφορὰ τῆ πόλει ἦν (ἧς ἐγώ, καθ’ ὅσον ἀναγκάζομαι, κατὰ τοσοῦτον μέμνημαι), ἐκκεκηρυγμένος ἐκ τοῦ ἄστεως ὑπὸ τῶν τριάκοντα μετὰ τοῦ ἄλλου πλήθους τῶν πολιτῶν τέως μὲν ᾔκει ἐν ἀγρῶ, ἐπειδὴ δὲ οἱ ἀπὸ Φυλῆς κατῆλθον εἰς τὸν Πειραιᾶ, καὶ οὐ μόνον οἱ ἐκ τῶν ἀγρῶν ἀλλὰ καὶ οἱ ἐκ τῆς ὑπερορίας οἱ μὲν εἰς τὸ ἄστυ οἱ δ’ εἰς τὸν Πειραιᾶ συνελέγοντο, καὶ καθ’ ὅσον ἕκαστος οἷός τ’ ἦν, κατὰ τοσοῦτον ἐβοήθει τῆ πατρίδι, τὰ ἐναντία ἅπανι τοῖς ἄλλοις πολίταις ἐποίησε· συσκευασάμενος γὰρ τὰ ἑαυτοῦ ἐνθένδε εἰς τὴν ὑπερορίαν ἐξώκησε, καὶ ἐν Ὀρωπῶ μετοίκιον κατατιθεὶς ἐπὶ προστάτου ᾔκει, βουλευθεὶς παρ’ ἐκείνοις μετοικεῖν μᾶλλον ἢ μεθ’ ἡμῶν πολίτης εἶναι.<sup>173</sup>

<sup>171</sup> Lys. 31.5-6: ‘I say that it is not right for any to be Councillors in our affairs other than those who, in addition to being citizens, also have their hearts set upon citizenship. For them it makes a great difference whether the city does well or badly, because they think it necessary for them personally to share in its dangers, just as they also share in its prosperity. But as for those who are citizens by nature, yet consider every land in which they have an interest to be their own fatherland, well, they would clearly disregard the common good of the city and turn to their own private gain, because it is not the city, but rather their own property that they regard as their fatherland.’

<sup>172</sup> Bakewell 1999: 9-10.

<sup>173</sup> Lys. 31.8-9: ‘For this man, Council, when the disaster befell the city (which I only mention to the extent that I am forced to) and he had been banished from the town by the Thirty along with many other citizens, lived for a time in the countryside; but when the exiles came down from Phyle to the Piraeus, and not only the people from the countryside, but also those from beyond the border gathered together, some in the town and others in the Piraeus, and each one aided his fatherland as much as he was able, he did the opposite to what all the other citizens did – he packed up all his belongings there and fled across the border, and in Oropus paid the *metoikion* and lived under a *prostatês*, wishing to live among them as a metic rather than to be a citizen with us.’

Philon thus behaved in the opposite way to all the rest of the citizens; the speaker marks his behaviour as aberrant. The fact that he chose metic status over his life as a citizen is reprehensible, and ‘supposed to disgust and alienate [his] fellow citizens’.<sup>174</sup> It is emphasised by the references to paying the *metoikion* and living under a *prostatês*; notably, as Whitehead has pointed out, Lysias uses the term ἐπι προστάτου ὄκει rather than the usual *prostatên echein, nemein* or *epigraphain*. Whitehead argues that Lysias’ terminology, which he appears to have coined, was ‘more emotive’ and implied ‘pathetic reliance on someone’.<sup>175</sup> All this supplements the charge of disloyalty to his polis; but Lysias is also careful to show that Philon’s was an extreme and even, if the speech is taken literally, unique decision (τὰ ἐναντία ἅπασιν τοῖς ἄλλοις πολίταις ἐποίησε).<sup>176</sup> This is done partly to prevent sympathy from developing, and also to maintain the myth of Athenian same-mindedness and unity in order to make the councillors more likely to reject the candidate, on the grounds that Philon’s behaviour is both ‘un-Athenian’ and a threat to the norms of the polis. He has, in fact, acted even worse than the metics at Athens, with whose behaviour his is unfavourably compared:

τίς δ’ οὐκ ἂν εἰκότως ἐπιτιμήσειεν ὑμῖν, εἰ τοὺς μετοίκους μὲν, ὅτι οὐ κατὰ τὸ προσῆκον ἑαυτοῖς ἐβοήθησαν τῷ δήμῳ, ἐτιμήσατε ἀξίως τῆς πόλεως, τοῦτον δέ, ὅτι παρὰ τὸ προσῆκον ἑαυτῷ προὔδωκε τὴν πόλιν, μὴ κολάσετε, εἰ μὴ γε ἄλλῳ τινὶ μείζονι, τῇ γε παρουσίᾳ ἀτιμίας;<sup>177</sup>

Bakewell, accepting that the point is that Philon has acted in an even worse way than the metics, argues that ‘the comparisons here also have the effect of ennobling metic behaviour’,<sup>178</sup> pointing also to the contrast Lysias gives between his family’s behaviour and that of the Thirty.<sup>179</sup> But this is still within the bounds of what is allowed to metics – there is

<sup>174</sup> Whitehead 2006: 134-135.

<sup>175</sup> Whitehead 2006: 135 & n.12.

<sup>176</sup> Carey 1989: 188-189 notes that Isoc. 16.14 and 18.49 suggest that in reality Philon was not alone in this.

<sup>177</sup> Lys. 31.29: ‘Would someone not reasonably censure you, if you honoured the metics in a manner worthy of the polis, because – going beyond their duty – they aided the *dêmos*, but would not punish this man, because – falling short of his own duty – he betrayed the polis? If not with some other greater dishonour, at least with this present one?’

<sup>178</sup> Bakewell 1999: 9.

<sup>179</sup> Bakewell 1999: 6-9.

no problem with their serving the polis in any way, as long as they know their place and do not attempt to infringe on citizen privileges. Their behaviour, while it apparently goes ‘beyond their duty’, is thus not a threat to the norms of the polis. Philon’s behaviour, however, is, as is made explicit towards the end of the speech, first by an apparently general comment on the purpose of honouring and dishonouring citizens:

ἀναμνήσθητε δὲ δι’ ὅ τι ποτὲ τοὺς ἀγαθοὺς ἄνδρας γενομένους περὶ τὴν πόλιν τιμᾶτε καὶ τοὺς κακοὺς ἀτιμάζετε. ἐδείχθη γὰρ ἀμφοτέρωτα ταῦτα οὐ τῶν γεγενημένων μᾶλλον τι ἔνεκα ἢ τῶν γενησομένων, ἵν’ ἀγαθοὶ προθυμῶνται γίγνεσθαι ἐκ παρασκευῆς, κακοὶ δὲ μηδὲ ἐξ ἑνὸς τρόπου ἐπιχειρῶσιν.<sup>180</sup>

The council’s decision is thus invested with an importance beyond the parameters of the case itself, as it is the character of future generations of Athenians that is at stake. In the light of this, the speech is concluded with the following passage:

Ἰκανά μοι νομίζω εἰρηῆσθαι, καίτοι πολλά γε παραλιπῶν· ἀλλὰ πιστεύω ὑμᾶς καὶ ἄνευ τούτων αὐτοὺς τὰ συμφέροντα τῇ πόλει γνώσεσθαι. οὐ γὰρ ἄλλοις τισὶν ὑμᾶς δεῖ περὶ τῶν ἀξίων ὄντων βουλευεῖν τεκμηρίοις χρῆσθαι ἢ ὑμῖν αὐτοῖς, ὁποῖοί τινες ὄντες αὐτοὶ περὶ τὴν πόλιν ἐδοκιμάσθητε. ἔστι γὰρ τὰ τούτου ἐπιτηδεύματα καινὰ παραδείγματα καὶ πάσης δημοκρατίας ἀλλότρια.<sup>181</sup>

Philon’s actions are a ‘new standard’ that is foreign to the democracy, a formulation which serves to alienate him from the councillors, whom the speaker pressures to show their disapproval by voting against him. In urging them to look to the standards of their own behaviour he implies that by accepting Philon they will be admitting a degree of commonality with him.<sup>182</sup> He is effectively suggesting that for them to show approval of Philon is to admit that they too would have acted as he did in similar circumstances.

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<sup>180</sup> Lys. 31.30: ‘Remember why you honour men who have been good to the city and dishonour those who have been bad. In both cases it is apparent that it is not so much for the sake of those who have been born, but for those who have yet to be born, so that they will strive to become good men through their efforts, and to become bad through no individual behaviour.’

<sup>181</sup> Lys. 31.34: ‘I think I have said enough, yet there are many things I have left out; but I am confident that you will come to the decision that is profitable for the city even without them. For you should not use any other standard to decide about anyone’s worthiness to sit on the Council than your own selves, and the conduct towards the city which enabled you to pass your own scrutinies. For his conduct is a new standard that is foreign to all democracy.’

<sup>182</sup> Carey 1989: 204.

## 5.2 (b) A Citizen in Word but not in Deed – Lycurgus *Against Leocrates*

The context of the Philon case, which is bound up with the civil war, makes it perhaps an atypical example. It is also true that his absence was apparently limited to the length of the conflict rather than a long-term or permanent emigration. Lycurgus' prosecution of Leocrates, however, concerns a rather different situation, in which the intended permanence of the move is treated prominently. It is also, however, connected to ideas of loyalty and behaviour during wartime, since Leocrates' flight from the city took place in the aftermath of the battle of Chaeronea. After spending time in Rhodes and then a number of years in Megara, he returned to Athens and, shortly afterwards, was prosecuted by Lycurgus for treason (*prodosia*) through the *eisangelia* process,<sup>183</sup> though the definition of treason seems somewhat stretched by the orator.<sup>184</sup> This required a hearing before the assembly, which could then order a trial to be held before the *boulê*, or in a regular court; alternatively the trial could be held before the assembly itself. There was thus a particularly public aspect to the procedure, and large audience,<sup>185</sup> which in the case of Leocrates accords well with the speech's context.

Lycurgus' period of influence had seen the introduction of reforms of institutions such as the *ephêbeia*, which had important implications for Athenian identity.<sup>186</sup> A counterpart to these policies aimed at bolstering Athenian civic and religious identity was his practice of prosecuting individuals for behaviour that, he claimed, harmed the polis or set a bad example to its citizens. Humphreys has described this (self-appointed) role as 'the moral voice of the

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<sup>183</sup> For the *eisangelia* see MacDowell 1978: 183-186; Hansen 1975, 1980; Rhodes 1979. For Lycurgus' 'extension' of the process see Azoulay 2011: 197-204.

<sup>184</sup> Worthington et al 2001: 160.

<sup>185</sup> Humphreys 2004: 107.

<sup>186</sup> See section 4.4 (b).

city’, and a sort of ‘public prosecutor’.<sup>187</sup> Leocrates was on the receiving end of one such prosecution, as was Lycophron, whose defence speech has come down to us as Hyperides 1,<sup>188</sup> and the general Lysicles.<sup>189</sup>

Scholars’ views on this policy, and indeed on the quality of the speech against Leocrates, have varied widely. For Jebb, writing in the 1870s, the speech is ‘a solemn and earnest protest on behalf of public spirit’;<sup>190</sup> Dobson, writing in 1919, describes the orator as ‘an ardent patriot by conviction, [who] thought it his duty to undertake the ungrateful part of a public prosecutor, pursuing all who failed in their sacred duty towards their country’,<sup>191</sup> although he considers the effect of the speech partly ‘spoiled’ by a couple of its rhetorical flourishes.<sup>192</sup> Kennedy takes a quite different view. Initially noting that Lycurgus ‘was clearly an Athenian Cato’ whose prosecutions ‘seem to have issued from no personal malice, but to have been intended to unite his countrymen against moral weakness or corruption and to inflame their love of country’,<sup>193</sup> he goes on to catalogue its ‘rhetorical irresponsibility’, concluding that ‘Lycurgus’ only basis for prosecution was his own exaggerated indignation, and his only weapon his rhetorical ability... The speech... is a fine example of unreasonable prosecution encouraged by confidence in rhetorical technique’.<sup>194</sup>

More recently, Phillips has described the prosecution of Lycophron as ‘a test case for Lycurgus’ efforts to transform the impeachment procedure into a quasi-catch-all remedy for

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<sup>187</sup> Humphreys 2004: 107.

<sup>188</sup> For discussion of this case see Phillips 2006.

<sup>189</sup> Diod. Sic. 16.88.1-2.

<sup>190</sup> Jebb 1876: 376.

<sup>191</sup> Dobson 1919: 272-273; Burt 1962: 6 stresses Lycurgus’ ‘power to impress his hearer with the seriousness of a particular crime’.

<sup>192</sup> Dobson 1919: 279, citing §51, and 281, criticising the inclusion of a lengthy quote from Euripides.

<sup>193</sup> Kennedy 1963: 249-250.

<sup>194</sup> Kennedy 1963: 250-251. MacDowell 1968: 43 also makes the Cato comparison, and remarks that the speech ‘contains all sorts of faults... yet, once one begins reading it, one’s attention seems gripped by force’.

“un-Athenian” activities’,<sup>195</sup> a phrase which presumably reflects Phillips’ own view of the policy. At least two scholars have drawn overt parallels with events and figures of their own time. Smith, writing during the Second World War, depicted Lycurgus as part of a ‘succession of statesmen in the rôle of teacher’<sup>196</sup> at Athens that was mirrored by Roosevelt’s radio broadcasts;<sup>197</sup> Humphreys, in the afterword to a new version of an article originally published in 1985, states that at the time she ‘saw an analogy between Lycurgus and Margaret Thatcher in that both combined a patriotic and ostensibly democratic rhetoric with undemocratic practice’.<sup>198</sup>

We are fortunate enough to have some insight into what the Athenians themselves made of the speech against Leocrates, as we know the result – Aeschines reported in his speech *Against Ctesiphon* that ἕτερος δ’ ἐκπεύσας ιδιώτης εἰς Ῥόδον, ὅτι τὸν φόβον ἀνάνδρως ἤνεγκε, πρώην ποτὲ εἰσηγγέλθη, καὶ ἴσαι αἱ ψῆφοι αὐτῷ ἐγένοντο: εἰ δὲ μία ψῆφος μετέπεσεν, ὑπερώριστ’ ἄν.<sup>199</sup> The point which Aeschines was making was that Demosthenes’ betrayal far exceeded that of Leocrates, and was therefore even more deserving of punishment; in Lycurgus’ speech, however, the significance of his flight from the city is magnified, for the obvious purpose of encouraging the jury to convict. A moralising tone prevails throughout – Whitehead calls it a ‘moral lecture’ and a ‘sermon’<sup>200</sup> – and, interestingly, the length and intended permanence of his emigration from the city is treated as an important factor. It should be noted, however, that when recalling the speech Aeschines describes Leocrates as a

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<sup>195</sup> Phillips 2006: 393.

<sup>196</sup> Smith 1943: 263.

<sup>197</sup> Smith 1943: 265.

<sup>198</sup> Humphreys 2004: 128.

<sup>199</sup> Aesch. 3.252: ‘Another private citizen who had sailed off to Rhodes was prosecuted recently because of his cowardice, and the vote was tied – if a single vote had gone the other way he would have been exiled.’

<sup>200</sup> Whitehead 2006: 147.

man who sailed to Rhodes, rather than one who lived in Megara.<sup>201</sup> The initial abandonment of the polis appears to have been what stuck in the mind of at least this one Athenian.

The taint of his abandonment of the polis, and the affront to Athens and its democracy which his eventual return and continued presence created, is claimed to be the reason for the prosecution:

ἐγὼ δ' ὦ Ἀθηναῖοι, εἰδὼς Λεωκράτην φυγόντα μὲν τοὺς ὑπὲρ τῆς πατρίδος κινδύνους, ἐγκαταλιπόντα δὲ τοὺς αὐτοῦ πολίτας, προδεδωκότα δὲ πᾶσαν τὴν ὑμετέραν δύναμιν, ἅπασι δὲ τοῖς γεγραμμένοις ἔνοχον ὄντα, ταύτην τὴν εἰσαγγελίαν ἐποίησάμην, οὔτε δι' ἔχθραν οὐδεμίαν, οὔτε διὰ φιλονικίαν οὐδ' ἠντιοῦν τοῦτον τὸν ἀγῶνα προελόμενος, ἀλλ' αἰσχρὸν εἶναι νομίσας τοῦτον περιορᾶν εἰς τὴν ἀγορὰν ἐμβάλλοντα καὶ τῶν κοινῶν ἱερῶν μετέχοντα, τῆς τε πατρίδος ὄνειδος καὶ πάντων ὑμῶν γεγενημένον.<sup>202</sup>

Lycurgus thus claims that it was not a personal enmity or antagonism that induced him to bring the prosecution, but rather the shame and disgrace (*aischron* and *oneidos*) which his involvement in the agora and public sacrifices brought.<sup>203</sup> This public element is important, given the usual legal discourse which we have seen presenting litigants as examples to the community, and imagining the potential consequences of a jury's verdict for the polis' social life and values. In characterising his opponent Lycurgus must therefore show, as did Lysias in the speech against Philon, that he is an aberrant citizen who has reneged on his duties to the polis. This is brought out in the orator's references to avoiding the dangers he ought to have risked on behalf of the polis, and abandoning his fellow citizens. Lycurgus must also show

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<sup>201</sup> Whitehead 2006: 134.

<sup>202</sup> Lyc. 1.5: 'I, Athenians, knew that Leocrates had fled his fatherland's dangers, abandoned his own fellow-citizens, ignored all of your authority, and was guilty of all charges, and so brought this *eisangelia*. Not out of any enmity, nor through any love of victory, did I undertake this trial, but because I thought it shameful to allow this man to push into the agora and share in our common sacrifices when he had been a disgrace to his fatherland and to you all.'

<sup>203</sup> Allen 2000: 12-17 has regarded this depersonalisation of the prosecution as a novel feature of this speech, through which Lycurgus 'redefines personal interest' as 'an interest in the good of the community' (2000: 17); it is not anger that motivates him, but concern for the polis. We are not, however, in a position to comment on how new or original the application of these ideas to oratory was, simply because we only have a small selection of the speeches delivered in Athens; and, as Allen herself notes (2000: 9), Lycurgus had recently carried out at least one other, successful prosecution of an apparently inadequate citizen, namely Autolyclus (Lyc. 1.53, [Plut.] *Lives of the Ten Orators* 843e). In the course of that prosecution the same approach may have been used. Also, the little we know of his speech against Lysicles appears to fit the idea that there was a strong communal aspect to that prosecution (Diod. Sic. 16.88.2).

that this behaviour is totally different from the norm, making Leocrates' actions seem exceptional and even incomprehensible other than as the result of severe, even unnatural moral failings. To do so, he uses some terms that are familiar:

Μετὰ ταῦτα τοίνυν ὃ ἄνδρες, ἐπειδὴ χρόνος ἐγένετο, καὶ ἀφικνεῖτο Ἀθήνηθεν πλοῖα εἰς τὴν Ῥόδον, καὶ φανερὸν ἦν ὅτι οὐδὲν δεινὸν ἐγεγόνει περὶ τὴν πόλιν, φοβηθεὶς ἐκπλεῖ πάλιν ἐκ τῆς Ῥόδου καὶ ἀφικνεῖται εἰς Μέγαρα· καὶ ὄκει ἐν Μεγάροις πλείω ἢ πέντε ἔτη προστάτην ἔχων Μεγαρέα, οὐδὲ τὰ ὄρια τῆς χώρας αἰσχυρόμενος, ἀλλ' ἐν γειτόνων τῆς ἐκθρεψάσης αὐτὸν πατρίδος μετοικῶν.<sup>204</sup>

The reference to his *prostatês* is similar to the use of the term in the speech against Philon, which is one reason why it has been suggested that Lycurgus had read and used that speech (in section 145 Lycurgus uses the formulation *oikein epi prostatou*, as did Lysias).<sup>205</sup> More colour is added by the vivid detail of his living on the very borders of his homeland, which, it is stressed, raised him. The metaphor suggests ideas of kinship and family, personalising the relationship between polis and *politês* and making the betrayal appear more vivid. Equally, the more permanent nature of the departure enables Lycurgus to exaggerate the importance of Leocrates' emigration far more than Lysias could Philon's. Whereas in the earlier speech it was the opportunistic and shallowly self-interested aspect that was focused on, here it is the depth of the abandonment that is stressed, as can be seen in the next section of the speech:

καὶ οὕτως αὐτοῦ κατεγνώκει αἰδίου φυγῆν, ὥστε μεταπεμψάμενος ἐντεῦθεν Ἀμύνταν τὸν τὴν ἀδελφὴν ἔχοντα αὐτοῦ τὴν πρεσβυτέραν καὶ τῶν φίλων Ἀντιγένην Ξυπεταιόνα, καὶ δεηθεὶς τοῦ κηδεστοῦ πρίασθαι παρ' αὐτοῦ τὰνδράποδα καὶ τὴν οἰκίαν, ἀποδόσθαι ταλάντου, κάποι τούτου προσέταξε τοῖς τε χρήσταις ἀποδοῦναι τὰ ὀφειλόμενα καὶ τοὺς ἐράνους διενεγκεῖν, τὸ δὲ λοιπὸν αὐτῷ ἀποδοῦναι.<sup>206</sup>

The language serves to stress how unusual and, for a conventional Athenian, incomprehensible his behaviour was – he is said to have ‘condemned himself’ to exile. The

<sup>204</sup> Lyc. 1.21: ‘And so after this, when some time had passed, ships started to arrive in Rhodes from Athens, and it was clear that no disaster had occurred in the city; so he grew afraid and sailed away again, this time from Rhodes, and reached Megara. He lived in Megara for more than five years with a Megaran *prostatês*, living unashamed on the boundaries of his land, a metic on the borders of the country which raised him.’

<sup>205</sup> Carey 1989: 183. The many similarities between the speeches are listed by Whitehead 2006: 134-135.

<sup>206</sup> Lyc. 1.22: ‘He had condemned himself to such final exile that he sent for Amyntas, the husband of his elder sister, and his friend Antigeneis of Xypete, and asked his brother in law to buy from him his slaves and his house, which he sold for a talent, and from this amount he arranged to pay back the debts he owed his creditors, to discharge his loans, and to return the rest to himself.’

sale of his property, depicted here as proof of his intention to leave permanently, leads into the far more emotive removal of his family's sacred images:

ἄξιον δ' ἐστὶν ἐφ' οἷς μέλλω λέγειν ἀγανακτῆσαι καὶ μισῆσαι τουτονὶ Λεωκράτην. οὐ γὰρ ἐξήρκεσε τὸ σῶμα τὸ ἑαυτοῦ καὶ τὰ χρήματα μόνον ὑπεκθέσθαι, ἀλλὰ καὶ τὰ ἱερὰ τὰ πατρῶα, ἃ τοῖς ὑμετέροις νομίμοις καὶ πατρίοις ἔθεσιν οἱ πρόγονοι παρέδοσαν αὐτῶ ἰδρυσάμενοι, ταῦτα μετεπέμψατο εἰς Μέγαρα καὶ ἐξήγαγεν ἐκ τῆς χώρας, οὐδὲ τὴν ἐπωνυμίαν τῶν πατρῶων ἱερῶν φοβηθεὶς, ὅτι ἐκ τῆς πατρίδος αὐτὰ κινήσας συμφεῦγειν αὐτῶ, ἐκλιπόντα τοὺς νεῶς καὶ τὴν χώραν ἦν κατεῖχεν, ἠξίωσε, καὶ ἰδρῦσθαι ἐπὶ ξένης καὶ ἀλλοτρίας, καὶ εἶναι ὀθνεῖα τῇ χώρᾳ καὶ τοῖς νομίμοις τοῖς κατὰ τὴν Μεγαρέων πόλιν εἰθισμένοις.<sup>207</sup>

This particular facet of Leocrates' emigration enables Lycurgus to intensify the extent of his betrayal, bringing in a religious and ancestral aspect. The importance of these images was recognised in the *dokimasia* questions which were discussed above – evidently they were regarded as a key part of Athenian identity. Leocrates made the images share his exile, and by moving them to Megara rendered them 'strangers to the soil'. Here Lycurgus has used the idea of a strong connection between the Athenian *dêmos* and the land of Attica, using the image of its soil. This shows obvious parallels with the 'born of the earth' autochthony myth, giving it perhaps a strong resonance.

Steinbock has pointed to another parallel which these ancestral images had, namely the ephebic oath, which the jurors themselves would have sworn in their younger days,<sup>208</sup> and which Lycurgus specifically brings up later in the speech, along with a description of how Leocrates has broken it.<sup>209</sup> In this instance, the reference is to the clause which reads *τιμήσω ἱερὰ τὰ πάτρια*,<sup>210</sup> which also has resonances with a passage which reads *τί γὰρ χρηὶ παθεῖν*

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<sup>207</sup> Lyc. 1.25: 'I will now say something which will give you a good reason to feel angry with and hate this man Leocrates. For it was not enough for him to take only his own body and property to safety – he also took the sacred and ancestral images which, in accordance with your customs and ancestral habits, his forefathers set up and handed down to him. He sent these to Megara and took them out of their land, not fearing the name of "ancestral images" or caring that he had caused them to share his banishment from his fatherland with him, abandoning their temples and the land which they inhabited, to be established in a strange and foreign land, strangers to the soil and the traditional customs which were observed in Megara.'

<sup>208</sup> Steinbock 2011: 306-308.

<sup>209</sup> Lyc. 1.76-78. For the text of the inscribed version of the oath see Kellogg 2008: 373-375.

<sup>210</sup> Lyc. 1.76: 'I will honour the ancestral shrines'.

τὸν ἐκλιπόντα μὲν τὴν πατρίδα, μὴ βοηθήσαντα δὲ τοῖς πατρώοις ἱεροῖς.<sup>211</sup> For Steinbock, this parallel underpins the ‘relative success’ of the whole speech, and relied on the speech’s ‘ability to conjure up the jurors’ memories of their own ephebate and, by doing so, tap into emotions and values that lie at the heart of Athenian collective identity’.<sup>212</sup> Steinbock has made the resonances clear, but in my view extends them too far – our knowledge of the *ephebeia* before the Lycurgan reforms (dated to 335 by Steinbock)<sup>213</sup> is too vague to assume that Lycurgus’ references evoked personal experiences and memories in jurors who may have gone through a very different system.<sup>214</sup> Equally, if the whole speech was designed around the *ephebeia*, it is rather strange that it took so long for Lycurgus to mention the oath explicitly. Nevertheless, Steinbock is right to mention the emotions and values of Athenian identity – but I would regard these as being reflected by both the *ephebeia* and the speech rather than the latter drawing purely or mainly on the former.

Lycurgus’ view of Leocrates’ actions, of course, is not the only interpretation possible. The personal and individual connection with ancestors and family images could also be stressed, and Leocrates might, conceivably, have been able to argue that it was his duty to keep possession of them; a true betrayal would have been to leave them behind in Athens. It is possibly in part to counter such an explanation that Lycurgus goes on to claim that Leocrates’ actions harmed the entire community of Athens:

καὶ οἱ μὲν πατέρες ὑμῶν τῇ Ἀθηνᾷ ὡς τὴν χώραν εἰληχία {ὁμώνυμον αὐτῇ} τὴν πατρίδα προσηγόρευον Ἀθήνας, ἵν’ οἱ τιμῶντες τὴν θεὸν τὴν ὁμώνυμον αὐτῇ πόλιν μὴ ἐγκαταλίπωσι· Λεωκράτης δ’ οὔτε νομίμων οὔτε πατρίδος οὔθ’ ἱερῶν φροντίσας τὸ καθ’ ἑαυτὸν ἐξαγωγίμων ὑμῖν καὶ τὴν παρὰ τῶν θεῶν βοήθειαν ἐποίησε. καὶ οὐκ ἐξήρκεσεν αὐτῷ τοσαῦτα καὶ τηλικαῦτα τὴν πόλιν ἀδικῆσαι, ἀλλ’ οἰκῶν ἐν Μεγάροις, οἷς παρ’ ὑμῶν ἐξεκομίσατο χρήμασιν ἀφορμῇ χρώμενος,

<sup>211</sup> Lyc. 1.8: ‘For what should the man suffer who abandoned his fatherland, and did not come to the aid of his ancestral shrines?’ Steinbock 2011: 307.

<sup>212</sup> Steinbock 2011: 282.

<sup>213</sup> Steinbock 2011: 294.

<sup>214</sup> See section 4.4 (b).

ἐκ τῆς Ἠπείρου παρὰ Κλεοπάτρας εἰς Λευκάδα ἐσιτήγει καὶ ἐκεῖθεν εἰς Κόρινθον.<sup>215</sup>

His actions are represented as deliberate attempts to harm the polis. His disregard for custom, country and sacred images amounted to an attempt to make the city's divine protection 'exportable',<sup>216</sup> even the removal of his own property is seen as a betrayal, since it was used to ship corn to other poleis. The clear implications are that this is not how a real Athenian should behave, and that an Athenian owes an ongoing debt to the polis and is duty bound to serve it. Having established this, and Leocrates' failure to live up to this standard, Lycurgus returns to the subject of his opponent's actions during the aftermath of Chaeronea, showing how extreme was his failure to assist the polis:

καίτοι κατ' ἐκείνους τοὺς χρόνους ὃ ἄνδρες τίς οὐκ ἂν τὴν πόλιν ἠλέησεν, οὐ μόνον πολίτης, ἀλλὰ καὶ ξένος ἐν τοῖς ἔμπροσθεν χρόνοις ἐπιδεδημηκῶς; τίς δ' ἦν οὕτως ἢ μισόδημος τότε ἢ μισαθῆναιος, ὅστις ἐδυνήθη ἂν ἄτακτον αὐτὸν ὑπομεῖναι ἰδεῖν; ἠνίκα ἢ μὲν ἦττα καὶ τὸ γεγονός πάθος τῷ δήμῳ προσηγγέλλετο, ὀρθῇ δ' ἦν ἢ πόλις ἐπὶ τοῖς συμβεβηκόσιν, αἱ δ' ἐλπίδες τῆς σωτηρίας τῷ δήμῳ ἐν τοῖς ὑπὲρ πενήκοντ' ἔτη γεγονόσι καθειστήκεσαν...<sup>217</sup>

Even a *xenos* who had spent only a short time in the city (i.e. not enough time to have been required to register as a metic, assuming that Harpocration's use of the term ὡς ξένος ἐπιδημῶν to describe such people accurately reflects the Athenian terminology – see section 1.3) would have felt for the city, and only hatred of Athens and its *dēmos* could explain a refusal to fight in the army. Leocrates is thus even worse than a passing visitor; his failure to

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<sup>215</sup> Lyc. 1.26: 'And your fathers called their country Athens for Athena, as she was the god who had been allocated their land, so that those who honoured the god should not abandon the city which shared her name; but Leocrates ignored customs, country and religion and did what he could to make the protection the city receives from the gods an exportable commodity. And it was not even enough for him to wrong the city to that great extent – when living in Megara, using the money which he had carried away from you as capital, he shipped corn bought from Cleopatra from Epirus to Leucas, and from there to Corinth.'

<sup>216</sup> The religious aspect of the speech is stressed particularly by Whitehead 2006: 144-146.

<sup>217</sup> Lyc. 1.39: 'And yet at that time, men of Athens, who would not have pitied the city, not just a citizen but even a foreigner who had been living there in former times? Who was there who so hated either the *dēmos* or Athens that he could bear to see himself remain out of the army? When the defeat and the disaster which had occurred had been announced to the *dēmos*, and the city was excited at what had happened, and the *dēmos*' hopes of salvation had been placed on those over fifty years of age...'

assist the polis is presented as virtually inhuman. His behaviour's contrast to that of the rest of the polis is soon given further metaphorical embellishment, as Lycurgus continues:

καίτοι κατ' ἐκείνους τοὺς χρόνους οὐκ ἔστιν ἥτις ἡλικία οὐ παρέσχεν ἑαυτὴν εἰς τὴν τῆς πόλεως σωτηρίαν, ὅθ' ἢ μὲν χώρα τὰ δένδρα συνεβάλλετο, οἱ δὲ τετελευτηκότες τὰς θήκας, οἱ δὲ νεῶ τὰ ὅπλα. ἐπεμελοῦντο γὰρ οἱ μὲν τῆς τῶν τειχῶν κατασκευῆς, οἱ δὲ τῆς τῶν τάφρων, οἱ δὲ τῆς χαρακώσεως: οὐδεὶς δ' ἦν ἀργὸς τῶν ἐν τῇ πόλει. ἐφ' ὧν οὐδενὸς τὸ σῶμα τὸ ἑαυτοῦ παρέσχε τάξαι Λεωκράτης.<sup>218</sup>

Again, the land of Attica itself is said to lend its support to the Athenians' cause, and of the entire population present in the polis it is only Leocrates who does not help. In the next section of the speech Lycurgus reiterates that in the aftermath of the battle he did not make any further effort:

ὧν εἰκὸς ὑμᾶς ἀναμνησθέντας τὸν μηδὲ συνεξενεγκεῖν μηδ' ἐπ' ἐκφορὰν ἐλθεῖν ἀξιόσαντα τῶν ὑπὲρ τῆς ἐλευθερίας καὶ τοῦ δήμου σωτηρίας ἐν Χαιρωνείᾳ τελευτησάντων θανάτῳ ζημιῶσαι, ὡς τὸ ἐπὶ τούτῳ μέρος ἀτάφων ἐκείνων τῶν ἀνδρῶν γεγενημένων· ὧν οὗτος οὐδὲ τὰς θήκας παριῶν ἠσχύνθη, ὀγδόῳ ἔτει τὴν πατρίδα αὐτῶν προσαγορεύων.<sup>219</sup>

The striking image of Leocrates returning and passing the graves, unashamed, when he would have left the fallen unburied is another attempt to load his actions with significance. Having thus depicted his opponent in a thoroughly negative, shameless light, Lycurgus throws him into relief by going on to praise the fallen Athenians, implicitly contrasting their heroism and worthiness with Leocrates' base betrayal and cowardice. The contrast is explicitly raised as a justification for what might be seen as an unnecessary digression:

Περὶ ὧν ὃ ἄνδρες μικρῶ πλείω βούλομαι διελθεῖν, καὶ ὑμῶν ἀκοῦσαι δέομαι καὶ μὴ νομίζεῖν ἀλλοτρίους εἶναι τοὺς τοιοῦτους λόγους τῶν δημοσίων ἀγώνων· αἱ

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<sup>218</sup> Lyc. 1.44: 'And yet at that time those of every age gave themselves over to the city's preservation, when the land was contributing its trees, the dead their graves, and the temples their arms. For some took care of preparing the walls, others ditches, and others fortifications – none of those in the city was idle. But Leocrates did not offer himself to be appointed to any of these.'

<sup>219</sup> Lyc. 1.45: 'It is fair that you remember this, and punish with death this man who did not deign to carry out the bodies or go to the funerals of those men who died for freedom and the preservation of the *dêmos* at Chaeronea, as it would have been the fate of those men to stay unburied, if it had been down to him. He was not even ashamed at passing by their graves when he greeted their fatherland after eight years.'

γὰρ τῶν ἀγαθῶν ἀνδρῶν εὐλογίαὶ τὸν ἔλεγχον σαφῆ κατὰ τῶν τάναντία ἐπιτηδευόντων ποιοῦσιν.<sup>220</sup>

In the course of praising these men, then, Lycurgus overtly sets them up as a paradigm of good behaviour – but rather than establish them as exceptionally good, he implies that every Athenian should act in this way. Their conduct is treated as the norm, with the logical consequence that Leocrates’ was aberrant and unnatural. This can be seen in the next section, when Lycurgus comments on their attitude towards their homeland:

οὐκ ἐν τοῖς τείχεσι τὰς ἐλπίδας τῆς σωτηρίας ἔχοντες, οὐδὲ τὴν χώραν κακῶς ποιεῖν προέμενοι τοῖς ἐχθροῖς, ἀλλὰ τὴν μὲν αὐτῶν ἀνδρείαν ἀσφαλεστέραν φυλακὴν εἶναι νομίζοντες τῶν λιθίνων περιβόλων, τὴν δὲ θρέψασαν αὐτοὺς αἰσχυρόμενοι περιορᾶν πορθουμένην, εἰκότως· ὥσπερ γὰρ πρὸς τοὺς φύσει γεννήσαντας καὶ τοὺς ποιητοὺς τῶν πατέρων οὐχ ὁμοίως ἔχουσιν ἅπαντες ταῖς εὐνοίαις, οὕτω καὶ πρὸς τὰς χώρας τὰς μὴ φύσει προσηκούσας, ἀλλ’ ὕστερον ἐπικτήτους γενομένας καταδεέστερον διάκεινται.<sup>221</sup>

Such sentiments are, according to Lycurgus, natural – they are held by everyone, within the *oikos* towards their parents and on a wider scale towards their fatherland. Everyone, that is, apart from the likes of Leocrates, whom Lycurgus has already depicted as a man who preferred another polis to his own. Given this, the jury can then convict him safe in the knowledge that he is not like them, and that they themselves would never have acted in such a way. In the customary fashion, Lycurgus goes on to claim that precedent also binds the jurors to convict:<sup>222</sup>

ἀλλὰ μὴν Αὐτολύκου γε ὑμεῖς κατεψηφίσασθε, μείναντος μὲν αὐτοῦ ἐν τοῖς κινδύνοις, ἔχοντος δ’ αἰτίαν τοὺς υἱεῖς καὶ τὴν γυναῖκα ὑπεκθέσθαι, καὶ ἐτιμωρήσασθε. καίτοι εἰ τὸν τοὺς ἀχρήστους εἰς τὸν πόλεμον ὑπεκθέσθαι αἰτίαν ἔχοντα ἐτιμωρήσασθε, τί δεῖ πάσχειν ὅστις ἀνήρ ὢν οὐκ ἀπέδωκε τὰ τροφεῖα τῆ πατρίδι;<sup>223</sup>

<sup>220</sup> Lyc. 1.46: ‘I want to say a little more about them, men of Athens, and I ask you to listen and not to regard such words as a digression in a public trial; for praise of good men makes a clear proof against those whose behaviour is the opposite.’

<sup>221</sup> Lyc. 1.47-48: ‘They had no hope of safety from city walls, nor did they abandon their land for the enemy to devastate, but regarded their own courage as more trusty protection than stone battlements, and thought it disgraceful to see the land which raised them ravaged – and rightly so. For just as people do not regard natural parents and adopted parents with the same affection, so also are they worse disposed towards countries that are not theirs by birth, but have been adopted in their lifetimes.’

<sup>222</sup> For the use of precedent by Attic orators see Rubinstein 2007.

<sup>223</sup> Lyc. 1.53: ‘You convicted Autolycus, since although he himself remained in the city, he was guilty of sending away his children and wife, and you punished him. And yet if you punished him for sending away those

Even someone whose crime was the understandable decision to send away others deserved and received punishment; Leocrates' greater crime must, therefore, also be punished. Lycurgus glosses over the fact that Autolycus' actions had actually broken an order of the polis, whereas Leocrates' must not have – he must have made his escape before the restrictions were passed, or else Lycurgus would certainly have mentioned his legal transgression explicitly.<sup>224</sup> But the key point of the passage is that the personal relationship between the man and his country is again brought up – military service was required to repay the upbringing which he received from his *patris*. Lycurgus goes on to list various other examples of exemplary decrees and punishments enacted in the past, in each case arguing that Leocrates' crime is even worse.

Leocrates, then, by shirking his duty, fleeing his home polis, and residing in (and contributing to) another has proven that, in the words of Euripides as quoted by Lycurgus, he was a citizen in word but not in deed. The relevant part of the quotation runs as follows:

ἢ πρῶτα μὲν λεῶς οὐκ ἐπακτὸς ἄλλοθεν,  
 αὐτόχθονες δ' ἔφυμεν· αἱ δ' ἄλλαι πόλεις  
 πεσσῶν ὁμοίως διαφοραῖς ἐκτισμέναι  
 ἄλλαι παρ' ἄλλων εἰσὶν εἰσαγώγιμοι.  
 ὅστις δ' ἀπ' ἄλλης πόλεος οἰκῆσθαι πόλιν,  
 ἀρμὸς πονηρὸς ὥσπερ ἐν ξύλῳ παγεῖς,  
 λόγῳ πολίτης ἐστί, τοῖς δ' ἔργοισιν οὔ.<sup>225</sup>

Leocrates has thus, in effect, placed himself outside of his natural place and squandered his birthright as an autochthonous Athenian citizen. The consequences of this are brought up by Leocrates at the end of his speech, when he asks the jury a sequence of rhetorical questions:

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who were useless in war, what penalty should he pay who, though a man, did not pay the price of his upbringing to his fatherland?

<sup>224</sup> Whitehead 2006: 144.

<sup>225</sup> Lyc. 1.100: '[Athens,] in which there is no foreigner from another place; we were born autochthonous, while other cities, formed in the same way as moves in a game of draughts, are imported from elsewhere. Someone from one city who settles in another is like a bad peg in a piece of wood, a citizen in word but not in deed.'

καὶ αὐτίκα μάλ' ὑμᾶς ἀξιώσει ἀκούειν αὐτοῦ ἀπολογουμένου κατὰ τοὺς νόμους· ὑμεῖς δ' ἐρωτᾶτε αὐτὸν ποίους; οὐς ἐγκαταλιπὼν ὄχητο; καὶ ἐᾶσαι αὐτὸν οἰκεῖν ἐν τοῖς τείχεσι τῆς πατρίδος· ποίοις; ἅ μόνος τῶν πολιτῶν οὐ συνδιεφύλαξε; καὶ ἐπικαλέσεται τοὺς θεοὺς σώσοντας αὐτὸν ἐκ τῶν κινδύνων· τίνας; οὐχ ὧν τοὺς νεῶς καὶ τὰ ἔδη καὶ τὰ τεμένη προὔδωκε; καὶ δεήσεται καὶ ἰκετεύσει ἐλεῆσαι αὐτόν· τίνων; οὐχ οἷς τὸν αὐτὸν ἔρανον εἰς τὴν σωτηρίαν εἰσενεγκεῖν οὐκ ἐτόλμησε; Ῥοδίους ἰκετευέτω· τὴν γὰρ ἀσφάλειαν ἐν τῇ ἐκείνων πόλει μᾶλλον ἢ ἐν τῇ ἑαυτοῦ πατρίδι ἐνόμισεν εἶναι.<sup>226</sup>

His betrayal means that Leocrates should not now call on the laws to defend him; he did not defend them, and thus no longer deserves their protection. The implication is that citizenship, while conferred purely by birth, must be paid for in action at certain times; a failure to do so can result in the forfeiture of citizen status in the eyes of the community if not in a strict legal sense. This, naturally enough, accords well with other socially-targeted policies of the Lycurgan era, such as the development of the reformed *ephebeia* as described in the *Athênaiôn Politeia*.<sup>227</sup>

The question of how influential such views were on the Athenian public at large is a different matter, although the fact that half of the jurors voted to convict in a case where the actual legal justification for doing so appears so thin suggests that they had a certain degree of resonance.<sup>228</sup> Allen speculates that the military background of the case was important – if the citizens felt that Athens was still under threat they would be more likely to listen to Lycurgus' extra-legal arguments.<sup>229</sup> Steinbock, as we have seen, has argued that it was the resonance with the jurors' own experience as ephebes that led to its 'relative success'.<sup>230</sup> Alternatively,

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<sup>226</sup> Lyc. 1.143: 'Very soon he will beg you to listen to his defence according to the laws. But you ask him – what kind of laws? The ones he abandoned and fled? And he'll beg you to allow him to live within the walls of his fatherland – which walls? Those which he alone of the citizens did not protect? And he'll call on the gods to save him from danger – which gods? Surely not those whose temples and statues and sanctuaries he deserted? And he will beg and pray for mercy – but from whom? Is it not from those whose common contribution to the city's safety he did not have the courage to match? Let him look for mercy from the Rhodians, since he thought he would be safer in their city than in his own fatherland.'

<sup>227</sup> *Ath. Pol.* 42.2-5.

<sup>228</sup> Edwards 1994: 59 sees this as a testament 'to the effect Lycurgus' earnest eloquence had'; cf. Jebb 1876: 280-381.

<sup>229</sup> Allen 2000: 29.

<sup>230</sup> Steinbock 2011: 282.

one could suggest that personal and political support of Lycurgus inflated his success; those jurors who approved of him might have voted his way even if they were unconvinced by the legal case, since, as Carey has noted, he ‘threw his enormous prestige into the prosecution’.<sup>231</sup>

Whitehead, on the other hand, has approached the question from the opposite direction, asking why the prosecution failed<sup>232</sup> rather than why it did relatively well, suggesting that, on the face of it, it is surprising that ‘so many of his fellow citizens disagreed’, given Lycurgus’ position and prestige. He accepts that there is no ‘single or simple answer’,<sup>233</sup> but suggests that one aspect was ‘the chilly psychological distance between speaker and audience’.<sup>234</sup> His view is that the speech came across as a lecture – ‘he tells [his audience] what they should be feeling, rather than harnessing the feelings they are likely to be experiencing already’.<sup>235</sup>

In my view Whitehead overestimates the ‘failure’ of the speech. Presumably Lycurgus expected to win, and therefore the final result fell short of his hopes, but a 50/50 split vote does not seem to require an explanation as extreme as the one Whitehead offers. If there was such a disconnect as he posits, we might have expected an outright defeat, perhaps by a significant margin; a tied decision would have been disappointing but not necessarily indicative of a great failure. Whitehead’s description of the speech as a lecture seems fair, but it does not follow that Lycurgus did not capture the feelings of many of the audience. Indeed, if the form of presentation was one which was not likely to engage their sympathies, it would suggest that the content must have played a role in gaining as many votes as Lycurgus did.

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<sup>231</sup> Carey 1994: 183.

<sup>232</sup> As does Hesk 2012: 211.

<sup>233</sup> Whitehead 2006: 150.

<sup>234</sup> Whitehead 2006: 151.

<sup>235</sup> Whitehead 2006: 148.

All of this, of course, must be speculation; we cannot really know why the vote was so close, especially given our lack of knowledge about the other relevant factors in the case (the most obvious being how Leocrates conducted his defence).<sup>236</sup> We can, however, use Lycurgus' speech as an example of a way of dealing with individual, real-world failures to live up to the Athenian ideal. The central argument underpinning it appears to be that 'no true Athenian' would act as Leocrates did, and that therefore he was effectively not an Athenian at all.

### 5.2 (c) Attempting to Cross Back – Demosthenes 57

The final example of boundary crossing which I will discuss involves a rather different narrative. Whereas Lycurgus' task was to show why an Athenian deserved to be effectively ejected from the citizen body, the speech *Against Eubulides*, written by Demosthenes (Dem. 57), is an attempt to achieve the opposite; his client, Euxitheus, had lost his citizenship by the vote of his fellow demesmen during the purging of the citizenship lists which took place in 346,<sup>237</sup> and the speech is from the trial at which he appealed against the decision. The stakes were high – the initial decision had reduced him to metic status, but a defeat in court would have rendered him liable to being sold into slavery.<sup>238</sup> He had thus taken a considerable risk, which he perhaps unsurprisingly explains as due to the importance of being an Athenian citizen and his love of his polis. The strategy employed is to represent himself as an ordinary man who has been the victim of corrupt, powerful enemies within his deme.

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<sup>236</sup> Hesk 2012: 217-218 suggests that he attacked the relevance of Lycurgus' historical examples.

<sup>237</sup> See section 4.3 (a). Other sources are Aesch. 1.77-78 (w. schol.), 86, 114; Dion. Hal. *Din.* 11; Harpocration s.v. *Diapsêphis*; Hypotheses of Dem. 57 (Libanius) and Isaeus 12 (= Dion. Hal. *Isaeus* 16-17).

<sup>238</sup> Dion. Hal. *Isaeus* 16.

There are hints, however, that this is not the whole story, in the fact that he himself had been demarch in the past,<sup>239</sup> during which time, he claims, his rigorous pursuit of rents owed for sacred lands and the repayment of embezzled money led to the enmity which caused his present predicament<sup>240</sup> – although he also asserts that Eubulides had been ἐχθρὸς τῷ ἐμῷ πατρὶ, this time without being specific as to the reasons why.<sup>241</sup> Earlier in the speech he gives a different explanation, claiming that it was testimony he had given against Eubulides in a previous trial that had been the cause of his hatred.<sup>242</sup> Euxitheus' prominence is also indicated by the fact that he had been elected *phratriarchon* by the members of his phratry.<sup>243</sup> As Todd notes, we are dealing with 'a feud between two leading members of the deme Halimous, both of them active in deme politics'.<sup>244</sup> Perhaps most strikingly, however, there is also the fact that he evidently had the money or connections to get such a prominent logographer to write his speech. As with the other speeches I have examined, however, I am here concerned with the narrative as presented, and what it can tell us about strategies to deal with issues of identity, rather than with its truthfulness. It is worth noting, nevertheless, that while the case concerned figures who were prominent within their deme, there is no reason to suppose that the majority of jurors would have had any knowledge of them; they were not, as far as we can tell, prominent on a polis-wide level.<sup>245</sup> This would have given the litigants more freedom to distort the truth, or even tell outright lies, as long as they could persuade witnesses to back them up, than in cases concerning figures and events that were in the realm of common knowledge around the polis.

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<sup>239</sup> R. Osborne 1985: 87 describes demarchs as 'big fish' in 'rather small' ponds.

<sup>240</sup> Dem. 57.63-64.

<sup>241</sup> Dem. 57.61.

<sup>242</sup> Dem. 57.8.

<sup>243</sup> Dem. 57.23.

<sup>244</sup> Todd 1994: 134; see also Whitehead 1986a: 296-300.

<sup>245</sup> Though Whitehead 1986a: 298 speculates that Eubulides may have had 'hopes of influence at city level'.

The strategy pursued by Euxitheus (and Demosthenes) involves the careful balancing of a couple of factors. On the one hand, given the political climate which had led to the purging of the lists in the first place, he could not afford to trivialise the matter, or imply that there was no problem of fraudulent citizens; in the light of this, he could not rely on a simple claim that he should be given the benefit of the doubt. On the other hand, he of course had to prove that in his case the decision to reject him had been wrong. In other words, the general principle behind the investigation and rejection of fraudulent citizens was right, but the particular conduct of his case had been wrong. He expressly addresses this issue at the beginning of his speech:

συμβαίνει δέ μοι τὸ μὲν καθ' ἡμᾶς, ὃ ἄνδρες δικασταί, καὶ τὸ προσήκει μοι τῆς πόλεως, θαρρεῖν καὶ πολλὰς ἔχειν ἐλπίδας καλῶς ἀγωνιεῖσθαι, τὸν καιρὸν δὲ καὶ τὸ παρωξύνθαι τὴν πόλιν πρὸς τὰς ἀποψηφίσεις φοβεῖσθαι· πολλῶν γὰρ ἐξεληλαμένων δικαίως ἐκ πάντων τῶν δήμων, συγκεκρισινώκαμεν τῆς δόξης ταύτης οἱ κατεστασιασμένοι, καὶ πρὸς τὴν κατ' ἐκείνων αἰτίαν, οὐ πρὸς τὸ καθ' αὐτὸν ἕκαστος ἀγωνιζόμεθα, ὥστ' ἐξ ἀνάγκης μέγαν ἡμῖν εἶναι τὸν φόβον. οὐ μὴν ἀλλὰ καίπερ τούτων οὕτως ἐχόντων, ἃ νομίζω περὶ τούτων αὐτῶν πρῶτον εἶναι δίκαια, ἐρῶ πρὸς ὑμᾶς. ἐγὼ γὰρ οἶομαι δεῖν ὑμᾶς τοῖς μὲν ἐξελεγχόμενοις ξένοις οὖσιν χαλεπαίνειν, εἰ μῆτε πείσαντες μῆτε δεηθέντες ὑμῶν λάθρα καὶ βία τῶν ὑμετέρων ἱερῶν καὶ κοινῶν μετεῖχον, τοῖς δ' ἠτυχηκόσι καὶ δεικνύουσι πολίτας ὄντας αὐτοὺς βοηθεῖν καὶ σώζειν, ἐνθυμουμένους ὅτι πάντων οἰκτρότατον πάθος ἡμῖν ἂν συμβαίῃ τοῖς ἡδίκημένοις, εἰ τῶν λαμβανόντων δίκην ὄντες ἂν δικαίως μεθ' ὑμῶν, ἐν τοῖς διδοῦσι γενοίμεθα καὶ συναδικηθῆμεν διὰ τὴν τοῦ πράγματος ὀργήν.<sup>246</sup>

The principle is thus admitted, but with a warning not to allow the justified zeal to punish the malefactors to spill over into the indiscriminate charging of the innocent. The theme of the

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<sup>246</sup> Dem. 57.2-3: 'It happens, men of the jury, that while for my part I am confident about my citizenship, and have high hopes that I will do well in court, this particular occasion, and the city's anger in cases of disfranchisement, make me afraid. Since many have been justly expelled from all demes, we who have been victims of factional strife have been caught up in this feeling against them, and have to fight the charge brought against them, and not just the individual charge against each of us, so that our fear must necessarily be great. But in spite of circumstances being as they are, I will tell you first what I think is right and just about them. I myself actually believe that you should treat those convicted of being foreigners harshly, since they have, without persuading you or asking your consent, by stealth and by force taken a share in your religious rites and communal activities – but those who have been unfortunate, and can demonstrate that they are citizens, you should help and protect, considering that, more than any other, the situation would be most pitiable for us who have been wronged, if, when by rights we should be handing out punishment with you, we found ourselves among those on the receiving end, unfairly condemned along with them because of the passion involved in this matter.'

poor and defenceless innocent is already seen, as he exhorts the jurors to ‘help and save’ those unjustly accused, such as himself, who can prove their rightful claim to citizenship.

This naturally raises the question of how someone’s citizen status can, in fact, be proved. The answer turns out to be quite simple. Most of what follows consists of attempts to discredit Eubulides and his allies, and the process by which Euxitheus was voted out of the deme, supplemented by attacks on what, Euxitheus claims, are his opponents’ arguments. The actual positive evidence for his citizenship which he offers, however, is summed up in the following passage:

Οὐκοῦν ὅτι μὲν καὶ τὰ πρὸς μητρός εἰμ’ ἀστὸς καὶ τὰ πρὸς πατρός, τὰ μὲν ἐξ ὧν ἄρτι μεμαρτύρηται μεμαθήκατε πάντες, τὰ δ’ ἐξ ὧν πρότερον περὶ τοῦ πατρός. λοιπὸν δέ μοι περὶ ἐμαυτοῦ πρὸς ὑμᾶς εἰπεῖν, τὸ μὲν ἀπλούστατον οἶμαι καὶ δικαιοτάτον, ἐξ ἀμφοτέρων ἀστῶν ὄντα με, κεκληρονομηκότα καὶ τῆς οὐσίας καὶ τοῦ γένους, εἶναι πολίτην· οὐ μὴν ἀλλὰ καὶ τὰ προσήκοντα πάντ’ ἐπιδείξω μάρτυρας παρεχόμενος, ὡς εἰσήχθην εἰς τοὺς φράτερας, ὡς ἐνεγράφημ εἰς τοὺς δημότας, ὡς ὑπ’ αὐτῶν τούτων προῦκρίθην ἐν τοῖς εὐγενεστάτοις κληροῦσθαι τῆς ἱεροσύνης τῷ Ἡρακλεῖ, ὡς ἦρχον ἀρχὰς δοκιμασθεῖς. καὶ μοι κάλει αὐτούς.<sup>247</sup>

It is essentially through the word of others, then, as concerns an individual’s birth and ancestry, and the fulfilling of rituals and rites of passage, that a citizen’s status is ‘proved’.<sup>248</sup>

The problem is obvious – the latter evidence merely proves that one has acted like a citizen, not that one actually rightfully is one, whereas the former relies purely on the word of others.

In Isaeus’ speech *For Euphiletus*, which is also an appeal against a loss of citizen status, this problem is addressed directly, when the speaker speculates on how someone could prove his status:

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<sup>247</sup> Dem. 57.46: ‘Well then, that I am a citizen on both my mother’s and my father’s side you have all learned, from what has just been testified and what was testified before about my father. What’s left is for me to tell you about myself, which I think is most straightforward and reasonable: because I am born of citizen parents on both sides, and am the heir to both the property and the family, I am a citizen. Nevertheless, I will provide witnesses to show all the proper requirements – how I was introduced to the members of my phratry, how I was enrolled in the list of demesmen, how I was selected among the noblest-born by these same men to draw lots for the priesthood of Heracles, and how I passed my scrutiny and held offices. Please summon them.’

<sup>248</sup> D. Cohen 1998: 58.

Ὡστε ἡδέως κἂν τῶν ἀντιδικούντων ἡμῖν τοῦ σεμνοτάτου πυθοίμην εἰ ἄλλοθεν ποθεν ἔχοι ἂν ἐπιδείξει αὐτὸν Ἀθηναῖον ἢ ἐκ τούτων ὧν καὶ ἡμεῖς Εὐφίλητον ἐπιδείκνυμεν. Ἐγὼ μὲν γὰρ οὐκ οἶμαι ἄλλο τι ἂν αὐτὸν εἰπεῖν ἢ ὅτι ἡ μήτηρ ἀστή τέ ἐστι καὶ <γαμετὴ καὶ ἀστὸς> ὁ πατήρ, καὶ ὡς ταῦτ' ἀληθῆ λέγει, παρέχοιτ' ἂν αὐτῷ τοὺς συγγενεῖς μάρτυρας.<sup>249</sup>

Unfortunately, we possess only an extract from the speech, so we do not know the full extent of the argument made on Euphiletus' behalf. This section shows, however, that at least part of it involved raising the essentially weak basis of proofs of citizenship. While the speaker wonders how else his opponents might prove their status, the point would apply to any Athenians, including those on the jury. The idea of a single autochthonous group, secure in their identity, is implicitly undermined by this admission of the flimsy nature of its basis in practice. Euxitheus states it just as plainly as this in Dem. 57, when he addresses the jurors as follows:

καὶ νῦν πῶς ἂν τις ὑμῖν σαφέστερον ἐπιδείξειεν μετὸν τῆς πόλεως αὐτῷ; ἐνθυμείσθω γὰρ ἕκαστος ὑμῶν, ὃ ἄνδρες Ἀθηναῖοι, τοὺς ἐαυτῷ προσήκοντας τίν' ἄλλον ἂν δύναιτ' ἐπιδείξει τρόπον ἢ τὸν αὐτὸν ἐμοί, μαρτυροῦντας, ὁμνύοντας, πάλαι τοὺς αὐτοὺς ἀπὸ τῆς ἀρχῆς ὄντας.<sup>250</sup>

The essential weakness of the Athenian system for establishing identity has been examined by Scafuro, who stressed a point which underlies what the speakers are saying in these two extracts – ‘witnessed participation in communal events as a function of being born Athenian was perceived by Athenians as tantamount to “being Athenian”’.<sup>251</sup> At least for male citizens, these events began with a purification ritual five days after birth, and included naming, acceptance into the *oikos* and phratry, and a marriage sacrifice, plus the civic *dokimasia*

<sup>249</sup> Isaeus 12.7: ‘I would love to hear from the most revered of our opponents if he has anything to prove that he is an Athenian, other than what we are providing for Euphiletus. For I personally don’t think there is anything he could say, other than that his mother was a citizen and married, and his father a citizen – and he would provide his own kinsmen as witnesses that he was speaking the truth.’ The words *γαμετὴ καὶ ἀστὸς*, however, are editor’s additions which are not essential; I would delete them, given the uncertainty about whether or not illegitimate children of two Athenian parents were citizens.

<sup>250</sup> Dem. 57.55-56: ‘And now, how could anyone demonstrate to you more clearly that he had a claim to citizenship? Let each of you consider, men of Athens, in what other way he could prove that his own relatives were genuine than the way I have, by their testifying and swearing by oath that they have been so since the beginning?’

<sup>251</sup> Scafuro 1994: 158.

undergone at the age of eighteen.<sup>252</sup> In normal, everyday circumstances, this was likely not a problem or difficulty – the assumption that those who appeared to be Athenians were really Athenians was, no doubt, easy, practical and comforting. It must be remembered, however, that this was not sufficient to meet the requirements of Athenian ideology, according to which it mattered whether someone actually *was* a citizen, descended from citizen parents.

The fact that this could only be demonstrated by witnesses and witnessed actions was an underlying difficulty which would come to the fore only when someone's identity was questioned. In Euxitheus' case, Scafuro notes that 'everything depends on the credibility of the witnesses – and the discrediting of the motives of the opponent'.<sup>253</sup> This is true; if Euxitheus' witnesses are believable, and he can reasonably suggest that Eubulides had a nefarious purpose, he will have made a plausible argument, though not necessarily a successful one. But the wider point is that no citizen is really in a better position to prove his citizenship than Euxitheus – the Athenian system did not allow for anything other than a weak and dubious basis for establishing identity. Such reflections can hardly have given comfort to the jurors, but the logic of Euxitheus' argument must have been intended to seem inescapable – to reject him as a citizen would be to doubt the validity of all citizenship. Indeed, Euxitheus seems aware of the possibility of disturbing his audience in this way when he tells them the following:

ἐγὼ δ', ὃ ἄνδρες δικασταί (καί μοι πρὸς Διὸς καὶ θεῶν μηδεὶς θορυβήσῃ, μηδ' ἐφ' ᾧ μέλλω λέγειν ἀχθεσθῆ), ἐμαυτὸν Ἀθηναῖον ὑπέιληφ' ὥσπερ ὑμῶν ἕκαστος ἐαυτόν, μητέρ' ἐξ ἀρχῆς νομίζων ἦν περ εἰς ὑμᾶς ἀποφαίνω, καὶ οὐχ ἑτέρας μὲν ὦν ταύτης δὲ προσποιούμενος· πατέρα πάλιν, ὃ ἄνδρες Ἀθηναῖοι, τὸν αὐτὸν τρόπον.<sup>254</sup>

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<sup>252</sup> Scafuro 1994: 159-160; Davies 1978: 110.

<sup>253</sup> Scafuro 1994: 168.

<sup>254</sup> Dem. 57.50: 'I myself, men of the jury – and let no one, by Zeus and the gods, raise an uproar or be annoyed at what I'm about to say – believe myself to be Athenian for the same reasons as each of you does himself, having from the beginning regarded as my mother she who I present to you as such, and not merely pretending to be her son while really being another's. And again, men of Athens, it's the same with my father'.

Euxitheus raises another salient and related point when discussing his father, by noting that he was born before the law passed in 403 which re-enacted the Periclean requirement that citizens had to be born of parents who were themselves both citizens.<sup>255</sup> This means that he would have to demonstrate that his father was a citizen on one side only.<sup>256</sup> This must have reminded the jurors of the fact that, in times past, the supposedly unified Athenian descent group had admitted outsiders into it. Implicitly, the comforting and unifying fiction of Athenian common descent was questioned.

Euxitheus claims, in fact, that his father was of pure Athenian descent, and the reference to the law is simply to further support his case – even if his father had not been of pure descent, the laws would still compel the jurors to find in his favour. It also, however, reflects a prominent difficulty with Euxitheus’ case, which, it would seem, was a key element in his opponents’ arguments. Euxitheus’ father spoke with a foreign accent – he ἐξένιζεν.<sup>257</sup> Euxitheus’ explanation is that he was captured during the Decelean war, and was then sold into slavery, living for ‘a long time’ in Leucas; his ‘foreign’ speech must thus have been Greek with a Leucadian accent.<sup>258</sup> The phrase used for his time there is πολλοστῶ χρόνῳ, which must be intended to mean a significant number of years if the story is to be believed. Euxitheus proves this by calling witnesses to the facts that his father was taken prisoner and ransomed, that he received family property when he returned to Athens, and ὅτι οὐτ’ ἐν τοῖς δημόταις οὐτ’ ἐν τοῖς φράτερσιν οὐτ’ ἄλλοθι οὐδαμοῦ τὸν ξενίζοντ’ οὐδεὶς πάποτ’ ἠτιάσαθ’ ὡς εἴη ξένος.<sup>259</sup> Again, his argument depends, as it must, on the word of others and the observation that his father had passed unquestioned as a citizen for his whole life.

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<sup>255</sup> See section 4.1 (b).

<sup>256</sup> Dem. 57.30.

<sup>257</sup> Dem. 57.18.

<sup>258</sup> Isaac 2004: 120.

<sup>259</sup> Dem. 57.19: ‘That no one ever claimed he was a foreigner, neither among the demesmen, nor among the members of the phratry, nor anywhere else, in spite of his foreign accent.’

The possibility that the witnesses were paid to offer false testimony is dismissed on two grounds: first, because there were so many of them, and second because Euxitheus' father's poverty (apparently he was *penês*) meant it would have been impossible for him to bribe anyone.<sup>260</sup> This neatly adds to the 'poor innocent' topos, which is further bolstered when, in a fascinating passage, he moves on to discuss his mother. Euxitheus claims that Eubulides had cast doubt on her citizen status because she had worked selling ribbons and as a nurse.<sup>261</sup> He turns the meaning of these accusations around effectively, first by citing the laws:

καίτοι, ὧ ἄνδρες Ἀθηναῖοι, οὐ μόνον παρὰ τὸ ψήφισμα τὰ περὶ τὴν ἀγορὰν διέβαλλεν ἡμᾶς Εὐβουλίδης, ἀλλὰ καὶ παρὰ τοὺς νόμους, οἱ κελεύουσιν ἔνοχον εἶναι τῇ κακηγορίᾳ τὸν τὴν ἐργασίαν τὴν ἐν τῇ ἀγορᾷ ἢ τῶν πολιτῶν ἢ τῶν πολιτῶν ὄνειδίζοντά τι. ἡμεῖς δ' ὁμολογοῦμεν καὶ ταινίας πωλεῖν καὶ ζῆν οὐχ ὄντινα τρόπον βουλόμεθα. καὶ εἴ σοί ἐστιν τοῦτο σημεῖον, ὧ Εὐβουλίδη, τοῦ μὴ Ἀθηναίου εἶναι, ἐγὼ σοι τοῦτου ὅλως τοῦναντίον ἐπιδείξω, ὅτι οὐκ ἔξεστιν ξένῳ ἐν τῇ ἀγορᾷ ἐργάζεσθαι.<sup>262</sup>

He has thus cast his opponent as a law breaker (a law 'of Solon' is read out, followed by the law of Aristophon which re-enacted it, presumably intended to stress how serious a matter this was) and, crucially, decoupled the concept of Athenian identity from an individual's social standing. Euxitheus and his family are Athenian in spite of the low occupations to which they were brought, and this is endorsed by laws sparing their dignity from reproach. This is a somewhat different conception from that found in, for example, funeral speeches, where the 'nobility' of the Athenians is stressed, and *eugeneia* given to all by virtue of descent and the honourable actions of ancestors. Euxitheus frankly admits that his family's position is not what he would have wished, when discussing his mother's work as a nurse:

<sup>260</sup> Dem. 57.24-25.

<sup>261</sup> Dem. 57.31, 34-35.

<sup>262</sup> Dem. 57.30-31: 'And yet, men of Athens, Eubulides was not only acting against your decree when he attacked us for working in the agora, but also acting against the laws, which make subject to the penalties for abusive language anyone who reproaches a citizen, either male or female, for working in the agora. We ourselves admit to selling ribbons and not living in the way we would wish – and if to you, Eubulides, that is a sign of our not being Athenians, I will prove to you the absolute opposite, that it is not allowed for a foreigner to trade in the agora.' In the last clause the speaker must mean 'without being subject to the restrictions placed on metics', as referred to in section 34.

ἐπεὶ κάκεῖνο περὶ τῆς μητρὸς εἴρηκεν, ὅτι ἐτίθειυσεν. ἡμεῖς δέ, ὅθ' ἡ πόλις ἠτύχει καὶ πάντες κακῶς ἔπραττον, οὐκ ἀρνούμεθα τοῦτο γενέσθαι· ὃν δὲ τρόπον καὶ ὧν ἔνεκ' ἐτίθειυσεν, ἐγὼ σαφῶς ὑμῖν ἐπιδείξω. μηδεὶς δ' ὑμῶν, ὧ ἄνδρες Ἀθηναῖοι, δυσχερῶς ὑπολάβη· καὶ γὰρ νῦν ἀστὰς γυναῖκας πολλὰς εὐρήσετε τιθειούσας, ἃς ὑμῖν καὶ κατ' ὄνομα, ἐὰν βούλησθε, ἐροῦμεν. εἰ δέ γε πλούσιοι ἦμεν, οὔτ' ἂν τὰς ταινίας ἐπωλοῦμεν οὔτ' ἂν ὅλως ἦμεν ἄποροι. ἀλλὰ τί ταῦτα κοινωνεῖ τῷ γένει; ἐγὼ μὲν οὐδὲν οἶμαι. μηδαμῶς, ὧ ἄνδρες δικασταί, τοὺς πένητας ἀτιμάζετε (ἱκανὸν γὰρ αὐτοῖς τὸ πένεσθαι κακόν), μηδέ γε τοὺς ἐργάζεσθαι καὶ ζῆν ἐκ τοῦ δικαίου προαιρουμένους.<sup>263</sup>

Descent is separated from an individual's way of life and behaviour; it makes one Athenian regardless of anything else. This contrasts with the idea put forward in Lycurgus' speech against Leocrates that citizen status can be compromised through un-Athenian behaviour. It also deprives Athenian citizenship as a concept of the fine, almost mystical connotations which it is given in other contexts. Euxitheus reiterates the point later on:

καὶ γὰρ εἰ ταπεινὸν ἢ τιθή, τὴν ἀλήθειαν οὐ φεύγω· οὐ γὰρ εἰ πένητες ἦμεν, ἠδικήκαμεν, ἀλλ' εἰ μὴ πολῖται· οὐδὲ περὶ τύχης οὐδὲ περὶ χρημάτων ἡμῖν ἐστὶν ὁ παρὼν ἀγὼν, ἀλλ' ὑπὲρ γένους. πολλὰ δουρικὰ καὶ ταπεινὰ πράγματα τοὺς ἐλευθέρους ἢ πενία βιάζεται ποιεῖν, ἐφ' οἷς ἐλεοῖντ' ἂν, ὧ ἄνδρες Ἀθηναῖοι, δικαιότερον ἢ προσαπολλύοιντο. ὡς γὰρ ἐγὼ ἀκούω, πολλὰ καὶ τιθαὶ καὶ ἔριθοι καὶ τρυγήτριαι γεγόνασιν ὑπὸ τῶν τῆς πόλεως κατ' ἐκείνους τοὺς χρόνους συμφορῶν ἀστὰι γυναῖκες, πολλὰ δ' ἐκ πενήτων πλούσιαι νῦν.<sup>264</sup>

It is generally assumed that Euxitheus is responding to genuine accusations, which had actually been made by his opponents, based on his background and mother's occupation. David Cohen, for example, regards the fact of his mother's selling ribbons as strong evidence for her status, and a charge which thus needed strong opposition (or explanation) in

<sup>263</sup> Dem. 57.35-36: 'And then he has said this as well about my mother, that she worked as a nurse. We do not deny that, when the city was suffering misfortune and everyone was doing badly, this happened, but I will explain to you clearly the way it happened and the reasons why. None of you, men of Athens, should hold it against us, for even now you will find many citizen women working as nurses, whom I will mention by name if you want. If we were rich, we would not be selling ribbons, and nor would we be in want at all. But what does this have to do with descent? Nothing, as far as I am concerned. Don't in any way, men of the jury, dishonour the poor (for them their poverty is enough of an evil), or those who choose to work in trade and live by honest means.'

<sup>264</sup> Dem. 57.45: 'And even if a nurse is a lowly thing, I do not flee from the truth; for it is not through being poor that we would be criminals, but through not being citizens. The present trial is not about our fortune or our money, but about descent. Poverty forces free men to do many servile and lowly things, for which they would more rightly be pitied, men of Athens, than ruined. For, so I hear, many citizen women became nurses and laboured as weavers and grape gatherers because of the city's misfortunes in those days, many who have now come out of poverty and into wealth.'

Euxitheus' speech.<sup>265</sup> We should be aware, however, of the possibility that he has twisted the accusations – as, for instance, is Lape when she suggests that originally an accusation of being a slave may have been behind the comments about his mother, and that Euxitheus turned it around by treating it as an accusation of poverty.<sup>266</sup>

There is also the possibility that it formed only a minor part of the case against him; or, conceivably, no part at all – it is not beyond possibility that this is pure straw-manning on Euxitheus' part, and he is bringing the story up in order to imply that Eubulides is the sort of arrogant, elitist snob who would doubt a citizen's status based purely on his wealth or occupation.<sup>267</sup> It is true that Euxitheus *claims* that the nursing was the origin of all the slander against him,<sup>268</sup> but he may be lying; we do not really know the details of Eubulides' case, and it is risky to take what Euxitheus says about it as accurate or fair. My own, entirely speculative suggestion is that Eubulides' argument might have run as follows: Euxitheus' mother was a genuine Athenian who was poor, as demonstrated by her servile occupations – this induced her to marry a wealthy foreigner from Leucas, Euxitheus' father, who was passed off as an Athenian by assuming the identity of a real citizen who had gone missing in the Deceleian war. His money enabled him to win over the necessary witnesses. If this is right, Euxitheus' argument is part deflection, and part distortion, of his opponent's case.

In any case, Euxitheus takes the opportunity to make his point; whereas Lycurgus sought to broaden the scope of the Leocrates trial, Euxitheus seeks to narrow it down to the matter of descent pure and simple, confident, we must assume, in the effectiveness of the proofs which

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<sup>265</sup> D. Cohen 2005: 34-35, 1998: 58.

<sup>266</sup> Lape 2010: 205-206.

<sup>267</sup> D. Cohen 1998: 58 points out that 'on Eubulides' view inferences from economic activity are themselves sufficient to establish social status and, hence, civic identity' – but this is Eubulides' view as presented (and criticised) by Euxitheus, so it should not necessarily be taken as typical or uncontroversial.

<sup>268</sup> Dem. 57.43.

he provides.<sup>269</sup> These, as we have seen, are as much as any citizen could provide. He goes further, however, when, as part of an attack on his opponents, he raises the abuses which have been carried out in his own deme:

ἐν οὐδενὶ τοίνυν εὐρήσετε τῶν δήμων δεινότερα γεγενημένα τῶν παρ' ἡμῖν. οὗτοι γὰρ ἀδελφῶν ὁμομητρίων καὶ ὁμοπατρίων τῶν μὲν εἰσιν ἀπεψηφισμένοι, τῶν δ' οὐ, καὶ πρεσβυτέρων ἀνθρώπων ἀπόρων, ὧν τοὺς υἱεῖς ἐγκαταλελοίπασιν· καὶ τούτων ἂν βούλησθε, μάρτυρας παρέξομαι. ὁ δὲ πάντων δεινότατον οἱ συνεσθηκότες πεποιήκασιν (καὶ μοι πρὸς Διὸς καὶ θεῶν μηδεὶς ὑπολάβη δυσκόλως, ἐὰν τοὺς ἡδικηκότας ἐμαυτὸν πονηροὺς ὄντας ἐπιδεικνύω· νομίζω γὰρ ὑμῖν τὴν τούτων πονηρίαν δεικνὺς εἰς αὐτὸ τὸ πρᾶγμα λέγειν τὸ γενόμενόν μοι)· οὗτοι γάρ, ὧ ἄνδρες Ἀθηναῖοι, βουλομένους τινὰς ἀνθρώπους ξένους πολίτας γενέσθαι, Ἀναξιμένην καὶ Νικόστρατον, κοινῇ διανεμῶμενοι πέντε δραχμὰς ἕκαστος προσεδέξαντο.<sup>270</sup>

This appears to be a somewhat dangerous strategy to pursue, since by admitting that such abuses had gone on in his deme he risks creating the impression that the ritual affirmations of citizenship carried out in Halimous were also suspect. The answer might be that if even they are tolerated as citizens, surely Euxitheus must be as well; and in any case, evidently the risk was thought to be worth taking for the ammunition which it gave him in attacking his opponent. The effect, however, is to remind the jurors again that the basis of Athenian identity is not as secure as the myths of autochthony and unity would suggest. Euxitheus, with his foreign-accented father and self-described penury, hardly fits into the mould of the idealised, prototypical Athenian, but he demonstrates to the jury that in many respects the Athenian system of citizenship does not live up to its idealised form. He remains as Athenian as any of them, however dubiously or flimsily this can actually be proved. His speech shows how individuals could create narratives that undercut the myths of citizenship to their own

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<sup>269</sup> Modern scholars at least have generally found the weight of testimony he provides conclusive – see e.g. Kapparis 2005: 84.

<sup>270</sup> Dem. 57.59: 'In none of the demes will you find that more terrible things have happened than in ours. For in cases of brothers born of the same mother and the same father they have expelled some, but not others, and they have expelled older men without resources, whose sons they have left alone – and I will provide witnesses to these things should you so wish. But this is the most terrible thing they have done – and by Zeus and the gods let no one hold it against me if I show the wretchedness of these men who have wronged me, for I think that in showing you their villainy I am speaking about the very point of what has happened to me – they, men of Athens, when the foreigners Anaximenes and Nicostratus wished to become citizens, accepted them for five drachmas each.'

advantage, inviting audiences (in this case an audience of jurors) to consider the differences between the ideology of citizenship and the actual concept as it was lived in the real polis.

### **5.3 Conclusions**

Crossing the boundary between citizen and metic, or in-group and out-group, was a move which required careful handling in the public context of the lawcourt. Apollodorus and Phormion both chose to qualify their status and identity when their cases were presented to Athenian jurors, limiting their position and clearly defining themselves as different from the native Athenians. In this way they were able to negotiate the contradiction between the public ideology of unity and common descent and the more disparate reality, which they, as naturalised citizens, could be said to embody. They reassured the jurors that they were no threat to the Athenian group identity by marking themselves as, fundamentally, highly honoured outsiders. Apollodorus was able to espouse patriotic and exclusionary citizen rhetoric, but only after positioning himself as no more than this kind of qualified, marginal citizen. Having done so, he was able to depict his opponents as corruptors of the polis, and threats to its cohesion and values; in his prosecution of Neaera, an especial threat was that fraudulent citizens were not marked and limited in status in the way that legally naturalised ones were.

Similarly, prosecutors were keen to bring in an idealised version of Athenian identity so that they could argue that citizens had fallen short of its standards. Lycurgus' prosecution of Leocrates, in particular, draws on an almost mystical version of citizen identity to portray Leocrates as an aberrant and dangerous individual whose behaviour was, again, a threat to the polis' cohesion, values and future.

This was not, however, the only type of narrative which could be used. The speech *Against Eubulides* adopts the opposite tack, depicting its speaker as far from the prototypical Athenian ideal but still, nevertheless, an Athenian. Citizenship is reduced to descent and no more, and the difficulties of proving it are frankly admitted; the weak foundations of an Athenian's identity, and the inadequacy of the safeguards against infiltration, are also raised. Whereas Apollodorus and Lycurgus appealed to their audience's idealised image of Athens, Euxitheus brought home the reality that fell short of it. He reminded the jurors of the individual, everyday experience which went against the high-minded ideology which they, no doubt, professed to believe when it suited them. Both strategies, it would seem, could be effective and succeed in winning the assent of a jury. We can thus see the contradictions which Athenian ideas of identity contained writ large; they were brought to the fore in situations where individuals had an incentive to do so, such as high-stakes, agonistic context of the courtroom.

## CONCLUSION

This study of the metics in democratic Athens has demonstrated that their presence, diversity and behaviour had important effects on Athenian ideas about their own identity. They served as a contradiction of and challenge to Athenian ideas about who they were and what made them different from others. This challenge was met with a variety of responses. These involved creating and maintaining a barrier which was symbolic, theoretical and practical, but which was not impassable. It could be and was relaxed when it seemed necessary or advantageous, either to individuals and informally (as in the small-scale acceptance of dubious citizens into the demes) or to the citizens as a group when they made democratic decisions (as in the mass grants of citizenship). These breaches of the barrier did not, however, prevent the Athenians from re-erecting it on a clean-slate principle, or affect the propagation of their official, public ideology of autochthony, though they had good cause to doubt it.

Identity in Athens, then, was far from a monolithic construct. There was a great deal of room for variety, reinvention and contradiction. Citizens could argue and imagine that 'being Athenian' had a special, exclusive, even mystical quality which was worthy of pride but required living up to, or that it was no more than an accident of birth, and even then based on rather shaky foundations. Similarly, they could form close friendships, relationships and business partnerships with metics, or draw on widely held prejudices to get the better of them. The metics themselves could also adopt very different personas. When faced with a powerful jury of Athenians they might play the part of the dutiful and grateful immigrant, but they could also win honours which they esteemed. In business or in private they could live integrated lives, gain personal prestige and form their own communities and networks of

support; in the background, however, they must always have been aware of the Athenian ideology which made them inferiors and outsiders, and could be used against them at any time.

If one individual sums up these contradictions it is surely Apollodorus, the boundary crossing naturalised Athenian who had wealth, education, influence and the highest honour a metic could receive, citizenship. When in court, however, and faced with a jury of real Athenians, the strategy he adopted was to accept and endorse his inferiority and qualified status in order to win them over; this was all done, however, with his own advantage in mind.

Given the significance and variety of the impact which metics had on identity in Athens, as demonstrated by this thesis, it seems insufficient to look at citizenship and Athenian identity alone and in isolation from them. Future research should examine the Athenians as part of a disparate, challenging and contradictory society made up of many groups, and not neglect the influence which this had. While the subject of this investigation has been metics, there seems to be scope for similar readings of the position of slaves, particularly those, such as public slaves, who did not fit comfortably into a simple oppositional scheme.

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