CONFLICT AND RECONCILIATION

CONFLICT AND RECONCILIATION:

MASS AND ELITE RELATIONS IN ATHENS

411-399 BC

By GRAEME EPPS, B.A., B.SC.

A Thesis

Submitted to the School of Graduate Studies

in Partial Fulfillment of the Requirements

for the Degree

Master of Arts

McMaster University

Descriptive Note

MASTER OF ARTS — McMaster University

(Classics) — Hamilton, ON

TITLE: Conflict and Reconciliation: Dynamics of the Athenian Mass and Elite 411-399 BC

AUTHOR: Graeme Epps, B.A. (University of Waterloo), B.Sc. (University of Guelph)

SUPERVISOR: Professor Sean Corner

NUMBER OF PAGES: v, 64

Abstract

At the end of the 5th century BC, the social contract between the mass and elite in Athens broke down, resulting in two oligarchies in the span of a decade. Despite this, the strength of the ideology of democracy, in contrast to the weakness of oligarchic ideology, ultimately resulted in the restoration of democracy. This study investigates the question of how this restoration and reconciliation came about, looking at the speeches of the late 5th and early 4th centuries as artifacts of this process. The study focuses on the sequence of events between 415 and 399 and the social and ideological dynamics that lay behind them, examining stresses in and the rupturing of the democratic social contract, yet its ultimate strength. Particular attention is paid the unprecedented amnesty of 403. The role of democratic ideology in the process of reconciliation following the restoration of democracy in 403 is central to understanding the relationship of mass and elite in this period of stress. A remarkable resilience existed on the part of democratic ideology, which held in all levels of Athenian society, and the principles of this ideology brought all the citizens of Athens together in a collective dedicated to reconciliation and restoration, which allowed them to overcome the tensions which the oligarchies had created.

Acknowledgements
Above all, thanks to Professor Sean Corner, without whom this thesis would not exist. Thanks also to the other members of my committee, Profs. Daniel McLean and Claude Eilers, for their help, and to all the Classics Department at McMaster for providing me with a supportive environment for my work.

Table of Contents

Introduction

Classical Athenian democracy is a complex and controversial topic. One of the principle areas of debate is over the nature of the relationship between the lower (mass), and upper classes (elite). How this relationship worked is crucial for our understanding of the balance of power in the Athenian democracy and the way in which the democracy managed to remain relatively stable throughout the fifth and fourth centuries. Two key questions present themselves: how, in order to reconcile the socio-economic inequality to the democratic commitment to political equality, did the Athenians negotiate the inequalities within their society, and how, more particularly, did the democracy reconcile popular rule with the need for political leadership?[1]

Josiah Ober, in *Mass and Elite in Democratic Athens*, addressed these questions, seeking answers in the interaction between mass and elite as evidenced in the speeches recorded in the late fifth century and throughout the fourth. Ober's analysis explains how the balance of power was negotiated in Athens, allowing for simultaneous elite leadership and true mass rule: how the elite was able to provide the expertise for guiding the decisions of the democratic Assembly, without diminishing the power of the *demos*, as well as the ways in which the wealth and consequent financial power of the elite was handled without arousing significant jealousy amongst the lower classes. In effect, the social power of the elite was balanced by the political power that the masses held, such that the elite were able to translate their social standing into political position, but only under terms that subjected them to the political power of the people and channeled elite resources and social privilege towards the people's political ends. It was crucial for the success of the democracy that this balance be maintained, and this required an ongoing negotiation of the positions of mass and elite within Athenian society and resolution of the tensions between these two elements of the citizen body.[2]

It is not merely that the speeches of the *rhetores* are good evidence for the negotiation between mass and elite on which Athenian democracy depended. Rather, the speeches themselves were the key vehicle for this process of negotiation. In the courtroom, elite speakers were obliged to bridge the gap between social inequality and political equality through a series of ideological tactics which showed the jury that despite elite privileges of wealth, the interests of the speaker and the jury were the same. This process of negotiation evolved over time and created a "vocabulary of social mediation".[3] In the courtroom, a central tactic was the dramatic fiction whereby the elite speaker presented himself as being simply part of the lower class, lacking in wealth and other elite

---

1 See Josiah Ober, *Mass and Elite in Democratic Athens*, 18-20 for a more detailed layout of these questions.

2 Ober, *Mass and Elite*, 304-305.

3 Ober, *Mass and Elite*, 306.

characteristics.[4] In the deliberative context, there was a more complex dynamic whereby public speakers were expected to be at one with the people and yet at the same time possessed of elite characteristics that were useful for their role as an advisor to the *demos*. The public orator therefore had to express both elite and egalitarian attributes at the same time, representing himself as being both of the mass and of the elite.[5]

While Ober's approach to the subject provides a broad synchronic picture of the relationship between mass and elite effected through public speech, it does not provide a closer view of the development of this relationship over time. In particular, the period of 411 to 399 BC requires particular elucidation, being a time when this relationship faced its most severe test with the breakdown of the social contract between mass and elite brought about by the oligarchies of 411 and 404. The remarkable endurance of democratic ideology in the face of this trial, which resulted in the restoration of democracy and the extraordinary reconciliation of 403, is revealing of the ideological resources of the Athenian democracy that made the social contract surprisingly resilient even in the face of adversity. It is therefore my intention to focus on this one specific and crucial time period in the history of the dynamics of mass and elite interaction in Athens, when the symbiosis of elite *rhetores* and the sovereign mass audience broke down, but was then restored. The speeches of this time are artifacts of the interaction of mass and elite and so offer us insight into the social and ideological process at work in the reestablishment of Athenian society in the wake of oligarchy and civil conflict. In particular, we stand to learn much about the amnesty of 403, an historically unprecedented resolution of *stasis,* and how it was integral to the way in which Athens resolved the problems caused by the oligarchies.

In order to effectively address this subject, it will be necessary to first explore the surrounding time period and the specific tensions and problems that affected the balance of mass and elite relations. Thus the first chapter will provide a narrative of events, from the situation leading up to the first oligarchic overthrow of the democracy in 411 to the aftermath of the second restoration of the democracy in 403, focusing on the reasons behind the outbreaks of oligarchy at Athens and the breakdown of the ideological social contract that had prevailed until this point, as evidenced particularly by Thucydides, Xenophon and the speeches of the time. The first chapter will address in turn the reasons behind the failure of the oligarchies to establish a lasting hold on Athens and the ultimate success of the democratic system as evidenced by its restoration both in 411 and in 403.

After establishing the social and ideological dynamics that lay behind the course of events from 411 to 403, I will turn to the issue of the ways in which the Athenians went about restoring the delicate balance of mass and elite that was

---

4 See in particular Ober, *Mass and Elite*, 174-177 and 221-226.

5 Ober, *Mass and Elite*, 311.

necessary for the functioning of the democracy. Thus the second chapter will deal more directly with the speeches from the time period immediately following the restoration of the democracy in 403 as evidencing how the tensions created by the oligarchies were mediated and how balance was restored. We will see the profound tensions that existed between the men of Piraeus and the men who had remained in Athens under the Thirty, and how the Athenians nevertheless managed the reintegration of former oligarchs into the restored democracy. The amnesty of 403 prevented a return to *stasis* such as often occurred in other *poleis*. That the amnesty held, and reconciliation and re-integration were achieved beyond the provisions of the amnesty, require elucidation and explanation. The speeches are direct evidence of these dynamics of conflict and reconciliation.

Finally, I will conclude with an examination of the South African Truth and Reconciliation Commission as a landmark example of modern post-conflict resolution. The TRC, as it is commonly known, was set up in 1995 as a process for dealing with the political violence and human rights abuses committed by the various factions in South Africa. It provided amnesty to those who confessed to politically motivated human rights abuses in order to promote peace and reconciliation in the newly democratic state. I am interested in exploring how this modern case compares to the Athenian amnesty, with particular attention to the different contexts of representative and participatory democracy, and how the ancient and modern experiences illuminate one another.

Chapter 1 – Oligarchy and Democracy

The oligarchies that were established in Athens in 411 and 404 were of course products of the pressures created by the extraordinary circumstances of the Peloponnesian War. However, straightforward war-weariness, desperation, or the willingness to try new things in order to end the war, were only the immediate causes. These contingencies have to be understood as playing out in the context of the deeper ideological conditions of mass and elite interaction at Athens. This chapter will explore the causes of the outbreaks of oligarchy at Athens, of their failure, and of the subsequent restorations of democracy, as representing ruptures and restorations of an ideological social contract between mass and elite.

Even before the disaster in Sicily and the pressures that great calamity put on the Athenians, we can see the beginnings of a movement towards oligarchic thinking in certain sections of the upper class, in particular the younger generation. Certain members of this group showed a tendency towards admiration of Sparta and its customs, as can be seen throughout the works of Xenophon, as well as in the fragments of Critias and in Aristophanes' *Wasps*.[6] Such sentiment went hand in hand, as exemplified by Pseudo-Xenophon's *Constitution of the Athenians,* and as evidenced by Aristophanes' *Wasps* and *Knights*, with opposition to the democratic system.[7] These factors created a mounting rift between the laconizing youths and the democratic mass, as their interests began increasingly to be at odds with one another. This tension resulted in a certain level of suspicion on the part of the *demos* towards these elements of the elite, which can be clearly seen in Aristophanes' plays. The suspicion towards the elite youth is illustrated particularly in the interaction between Bdelycleon and his father and the wasp jurors in *Wasps*, performed in 422.[8] It is also expressed in the depiction of the upper class cavalry, to which many of the youth in question belonged, in Aristophanes' earlier *Knights*, performed in 424. The knights are described as being ἀνδρῶν ξυνωμοτῶν, οἱ ξυνωμόται and ξυνωμότας by the Paphlagonian.[9] While this might be only a demagogic ploy to discredit the knights in the play, it nevertheless reflects at least to some degree the real sentiment of the *demos* towards the upper class *hetaireiai* of the time.[10] The knights are portrayed as being aligned together against the demagogue represented by the Paphlagonian, and as a group apart from old man Demos. Then, in 415, Athenians were shocked

---

6 Xenophon: *Constitution of the Lacedaemonians, Agesilaus, Anabasis*; Critias: Diels (5th ed.) 88 Fr. 6-9, 32-37: Aristophanes *Wasps*, 473ff, 1069-70.

7 This is particularly seen in *Wasps* in Bdelycleon's hatred of the lawcourts. See L.B. Carter, *The Quiet Athenian*, 63, 72 and W. Robert Connor, *The New Politicians of Fifth-Century Athens,* 101-102.

8 Especially *Wasps* 486ff, See also Andrew Lintott, *Violence, Civil Strife and Revolution in the Classical City*, 130; Carter, 64.

9 Aristoph. *Knights* 255, 453, and 630.

10 For the association of *hetaireiai* and conspirators, see Connor, *New Politicians,* 197-198 and Lintott, 131.

by the overnight mutilation of most of the herms in the city, just before the departure of the fleet for Sicily, and further evidence was discovered that linked these mutilations to profanations of the Mysteries by young, upper class men, of whom Alcibiades was the foremost figure. [11] As described by Thucydides, "τὸ πρᾶγμα μειζόνως ἐλάμβανον· τοῦ τε γὰρ ἔκπλου οἰωνὸς ἐδόκει εἶναι καὶ ἐπὶ ξυνωμοσίᾳ ἅμα νεωτέρων πραγμάτων καὶ δήμου καταλύσεως γεγενῆσθαι."[12] The *demos* reacted by arresting a number of individuals accused of participation in one or both of these events, while others fled into exile to avoid the same fate.[13] With the evidence given by Andocides, the people of Athens thought they had got to the bottom of the matter, and after executing those they found responsible, were satisfied that the problem had been dealt with.[14] While they may not have been actual plots[15], events such as these served to bring together groups of elite youth in the common cause of shared criminality, thereby strengthening their ties to one another and removing themselves to a certain extent from the larger body of the citizens as a whole.[16] Thus an oligarchic tendency, and perhaps even plots, can already be seen at this stage. The cause of this shift in thinking on the part of the young elite in particular can in part be attributed to the war, but resulted even more from an increasing dissatisfaction in the institutions and processes of democracy. This younger generation saw the elite as bearing much responsibility for the state, and yet receiving little respect for their achievements while being liable to prosecution for failure.[17] It is therefore unsurprising that, given a chance to act, many Athenians with an oligarchic mindset would take advantage of the opportunity to bring about change.

The Oligarchy of the Four Hundred

With the disaster in Sicily and the subsequent panic and fear spreading amongst the population of Athens, the oligarchs found their chance. The Athenians were soon confronted by widespread revolt amongst their allies, as the following winter, οἱ Ἕλληνες πάντες took advantage of Athens' weakened position.[18] While in fact Athens managed to perform much better than her enemies had anticipated and avoided outright defeat, the situation was still grave

---

11 Thuc. 6.27-28

12 Thuc. 6.27.3

13 Thuc. 6.60

14 Thuc. 6.60. Note that Thucydides does not actually name Andocides as the one who came forward with evidence, but based on his own speech *On the Mysteries*, we know that it was he (see And. 1.59-61 in particular).

15 Note that Thucydides himself did not believe that there was any real plot behind these events and sees it rather as an overreaction by the *demos*: see 6.28 and 6.60-61 in particular.

16 Andocides gives the impression that this was in fact the case for the mutilation of the Herms in his description of his own involvement: And. 1.62-64. See also Oswyn Murray 'The Affair of the Mysteries' in Oswyn Murray, ed. *Sympotica*, 153, 157-158.

17 Carter, 70-71. Connor, *New Politicians,* 196-198.

18 Thuc. 8.2.1

and pressure on the Athenians to find finances for their new fleet was a growing concern.[19] The people of Athens, while devastated by their loss of the expedition, nevertheless resolved to continue with the war and drew up new plans in order to consolidate their position. As Thucydides tells us, they decided to equip a fleet, raise more money, and make sure that their allies remained loyal, and executed these plans as quickly as possible.[20] In addition, after blaming the *rhetores*, prophets and soothsayers who had convinced them to undertake the expedition, the Athenians implemented a body of 10 elders (the *probouloi)* who would serve as an advisory council "whenever the occasion arose."[21] While Thucydides does not provide us with any detail into the precise nature and role of this group, beyond the facts of its creation, its mere presence indicates a change in the normal function of the democratic state. Whatever their actual powers were, they were given unprecedented influence and authority over Athens.[22] The only two names of the *probouloi* that come down to us are Hagnon and Sophocles (the tragic poet).[23] While conservative, both of these men had been associated with Pericles, which made them unlikely enemies of the democracy or supporters of oligarchy.[24] However, the *demos* had showed its disfavour towards the demagogic *rhetores* who had supported the Sicilian expedition, and was clearly wary of its own ability to effectively govern amid the hysteria created by each new report of setbacks following the loss of their fleet.[25] As Aristotle notes, "A preliminary council or body of *probouloi* is not democratic... but oligarchic", regardless of the political position of its members.[26] This shift in the nature of the democracy provided an opportunity for the oligarchs, who saw their chance to introduce the idea of oligarchy to Athens.

Into this situation of anxiety stepped Alcibiades and provided the oligarchs with their approach. He had recently lost favour with the Peloponnesians, and, taking refuge at the court of Tissaphernes, was working against them wherever possible.[27] At the same time, according to Thucydides, by holding out the prospect of the friendship with Tissaphernes and thus the financial backing of Persia, he was manoeuvring to be restored to Athens.[28] His offer was well received by the elite leadership of the Athenian forces on Samos, who then set about forming plans to get rid of the democracy and to implement an oligarchy,

---

19 See Mark Munn, *The School of History*, 129-131.

20 Thuc. 8.1.3

21 Thuc. 8.1.1-3, see also Aristotle *Ath. Pol.* 29.2

22 Donald Kagan, *The Peloponnesian War*, 328.

23 Hagnon: Lysias 12.65. Sophocles: Aristotle *Rhetoric* 1419a

24 Kagan, 329.

25 Munn, 134.

26 Aristotle *Politics* 1299b 30ff.

27 Thuc. 8.45-46

28 Thuc. 8.47.1

which were the conditions set by Alcibiades for his return and for friendship with Persia.[29] As Thucydides tells us:

> τὰ μὲν καὶ ᾽Αλκιβιάδου προσπέμψαντος λόγους ἐς τοὺς δυνατωτάτους αὐτῶν ἄνδρας ὥστε μνησθῆναι περὶ αὐτοῦ ἐς τοὺς βελτίστους τῶν ἀνθρώπων ὅτι ἐπ᾽ ὀλιγαρχίᾳ- βούλεται καὶ οὐ πονηρίᾳ οὐδὲ δημοκρατίᾳ τῇ αὐτὸν ἐκβαλούσῃ κατελθὼν καὶ παρασχὼν Τισσαφέρνην φίλον αὐτοῖς ξυμπολιτεύειν,τὸ δὲ πλέον καὶ ἀπὸ σφῶν αὐτῶν οἱ ἐν τῇ Σάμῳ τριήραρχοι τε τῶν᾽ Αθηναίων καὶ δυνατώτατοι ὥρμηντο ἐς τὸ καταλῦσαι τὴν δημοκρατίαν.[30]

What is important to note here is that Alcibiades' offer provided only further reason for these men to do what they already wished to do. As Thucydides goes on to say: "πολλὰς ἐλπίδας εἶχον αὐτοί θ᾽ἑαυτοῖς οἱ δυνατώτατοι τῶν πολιτῶν τὰ πράγματα, οἵπερ καὶ ταλαιπωροῦνται μάλιστα, ἐς ἑαυτοὺς περιποιήσειν καὶ τῶν πολεμίων ἐπικρατήσειν."[31] At the same time, Alcibiades' promises would have had appeal for members of the elite who were not committed oligarchs, but who similarly felt the burden of the war due to the ravaging of their Attic property by the Peloponnesians and the financial burdens imposed on them by the *demos*.[32] The chance of Persian aid and with it the hope of actually winning the war would surely have appealed to many of the upper classes who saw they had little hope of relief as things stood. Understandably, many of the elite must have felt that it did not make sense to maintain the democracy at any cost, especially if that cost was the Athenian empire.[33]

For all their apparent opportunism, it appears that the oligarchs did at least initially believe that this offer of Persian aid was genuine. Phrynichus, an enemy of Alcibiades, was the only person to voice any real objections to the plan. He maintained, correctly according to Thucydides[34], that oligarchy and democracy didn't really matter to Alcibiades and that all he wanted was an excuse to return. In addition, Phrynichus felt that the Persians wouldn't come to the aid of Athens just because she was an oligarchy, and that Athens should in fact be guarding against this very sort of thing, which would result in internal struggles.[35] Despite this, the rest of oligarchs stuck by their original plan and sent Peisander to Athens to convince the *demos* of the need to change governments. He met with considerable anger and oppostition, not only from the *demos* but also from some members of the elite. Thucydides says that not only was the proposal to alter the

---

29 Thuc. 8.47.2

30 Thuc. 8.47.2

31 Thuc. 8.48.1

32 Thuc. 8.48.1. See also Kagan, 328 and Munn, 131.

33 Munn, 131.

34 Thuc. 8.48.4

35 Thuc. 8.48.4

constitution badly received by the people, as would be expected, but additionally that the enemies of Alcibiades and the members of the priestly families, the Eumolpidae and the Ceryces, all members of the elite, were against any change to the democracy.[36] Both groups were only persuaded to consent because it seemed necessary to the city's very survival: "ὁ δὲ δῆμος τὸ μὲν πρῶτον ἀκούων χαλεπῶς ἔφερε τὸ περὶ τῆς ὀλιγαρχίας· σαφῶς δὲ διδασκόμενος ὑπὸ τοῦ Πεισάνδρου μὴ εἶναι ἄλλην σωτηρίαν, δείσας καὶ ἅμα ἐπελπίζων ὡς καὶ μεταβαλεῖται, ἐνέδωκεν."[37] It was decided that he and ten others should be sent to deal with Alcibiades and Tissaphernes.[38] Peisander also made sure to contact "τάς ξυνωμοσίας" which already were in place for mutual support in lawsuits and elections, telling them to unite in planning to overthrow the democracy.[39] The embassy to Tissaphernes did not go as planned, however, and the Athenians were forced to give up and returned to Samos empty-handed.[40] Having come to the conclusion that in fact no Persian aid was ever likely to be provided, the oligarchs nevertheless were determined to continue with their coup.[41] Peisander and some of the other oligarchs set out for Athens, where they found events were already in motion. Opponents of the plotters had been murdered, and proposals put forth that ended state pay except for the army and limited the government to five thousand.[42] Peisander and the others from Samos then did what they needed to get rid of the democracy: they coerced the Assembly into appointing a committee of ten men with full powers who would put forth proposals for the best system of government, and then, at a subsequent meeting convened at Colonus, had the Assembly create a body of four hundred: "ἐλθόντας δὲ αὐτοὺς τετρακοσίους ὄντας ἐς τὸ βουλευτήριον ἄρχειν ὅπῃ ἂν ἄριστα γιγνώσκωσιν αὐτοκράτορας, καὶ τοὺς πεντακισχιλίους δὲ ξυλλέγειν ὁπόταν αὐτοῖς δοκῇ."[43] The Four Hundred then entered the Council accompanied by armed youths, and, having forced the existing Council members to leave, took over the functions of government, ending the democracy.[44]

The opposition of the mass was also countered by the holding of the Assembly at Colonus, instead of on the Pynx. First of all, the change of surroundings must have only increased the confusion of those attending, as well as removing the proceedings from the centre of Athens and thus the centre of democratic symbolism and sentiment. The "narrow space" also would have

---

36 Thuc. 8.54.1 and 8.53

37 Thuc. 8.54.1

38 Thuc. 8.54.2

39 Thuc. 8.54.4

40 Thuc. 8.56

41 Thuc. 8.63.4

42 Thuc. 8.65

43 Thuc. 8.67.3

44 Thuc. 8.69-70

limited the number of people attending, favouring the less numerous oligarchs.[45] Secondly, the composition of the Assembly would have been mostly older men not serving in the army, who would be less prone to active resistance, while many of the traditionally democratic hoplites and thetes were on Samos.[46] While the people clearly did not approve of what was going on, there was nonetheless a need for decisive leadership and action in the wake of the Sicilian disaster, and the program of the oligarchs made a show of addressing these issues.

Moreover, Thucydides makes it clear that during all these proceedings the majority of the people at Athens were constantly deceived by the oligarchs and kept in a state of fear and uncertainty. Already, when Pesiander first approached the people with Alcibiades' terms, he sought to overcome their reluctance by claiming that these were only temporary measures and they could always change the constitution back once they got the Persians on their side.[47] The people held to their belief in democracy, and its legitimacy, seeing this constitutional change as only a minor detour rather than a permanent state of affairs. Following the failure of the embassy to Tissaphernes, the people were again deceived by the promise that five thousand were to share in the government, which "ἦν δὲ τοῦτο εὐπρεπὲς πρὸς τοὺς πλείους, ἐπεὶ ἔξειν γε τὴν πόλιν οἵπερ καὶ μεθίστασαν ἔμελλον."[48] As for the upper class, those who were not included in the Four Hundred would nevertheless have had the motivation to support the oligarchs based on the promise that the Five Thousand would eventually be convened and that they would be included in this number. At the same time, the cultivation of a climate of fear, mistrust and secrecy prevented the majority, who still supported the democracy, from acting in concert with each other, for fear that anyone they confided in might actually be involved in the plot. There was on the part of each individual a loss of trust in democratic like-mindedness of other citizens, despite the fact that in reality most did remain democratic in their convictions. This mistrust also prevented many of the Athenians from learning the facts about what was actually going on, as no one trusted anyone else to tell the truth.[49] Thus there was no real way an effective opposition to the oligarchs could have been put together, because, while they may not have been persuaded by the claims of the oligarchs, the *demos* was effectively paralyzed by fear and ignorance.

It is of interest that the oligarchs at Athens, in the absence of Peisander and his delegation, took action largely of their own accord in order to put an end to the democracy, including the murder of Androcles, a leading demagogue.[50] This presumably was the action of the groups whom Peisander had approached when he first came to Athens, the pre-existing 'clubs' for mutual support and

---

45 Thuc. 8.67.2

46 See Munn, 140, for possible additional reasons behind the assembly at Colonus.

47 Thuc. 8.53.3

48 Thuc. 8.66.1

49 Thuc. 8.66

50 Thuc. 8.65.1

protection referred to by Thucydides, using the same language as Aristophanes' Paphlagonian used to accuse the knights.[51] Although there is no evidence that these groups had been previously planning to overthrow the democracy, they wasted no time in doing so once the opportunity presented itself.[52] Additionally, upon the return of Peisander, the Council was forced out of office by threat of violence, although they were paid their full wages for their term, and the Four Hundred took over their position.[53] In using the tactics described above to disrupt the democrats, the oligarchs had rapidly descended into the use of force and tyranny, abandoning any attempt to build a legitimate consensus for oligarchy, which ultimately would be a factor in their downfall.

Although the oligarchs had succeeded in getting the democracy at Athens abolished and had set up their own government under the Four Hundred, there was, as Phrynichus feared, dissent amongst the Athenians over this change. While the democrats in Athens itself were effectively paralyzed by fear and doubt, those in the fleet at Samos were not. When an attempted oligarchic *coup* was defeated on Samos, and the *Paralus* sent to Athens to relate what had happened, the Four Hundred seized its crew in order to prevent them returning to Samos with news before their own delegation to the army arrived to settle matters. However, one of the crew, Chaereas, escaped and brought back an exaggerated account of the takeover of the city by the oligarchs, alleging outrages against the families of those on Samos.[54] This prompted the fleet, led by Thrasylus and Thrasybulus, to swear loyalty to the democratic constitution and to become steadfast opponents of the Four Hundred.[55] The oligarchs back in Athens were thus almost immediately put in a very awkward position, having lost the support of the army at Samos and essentially the entire Athenian fleet. The democrats on Samos further strengthened their position by bringing Alcibiades over to their side, with his promises of Persian aid, which the oligarchs could no longer claim they had any hope of obtaining.[56] Although the delegates from the oligarchs arrived on Samos to refute the claims of Chaereas, the democrats refused to listen, and were only dissuaded from sailing against Athens by Alcibiades, who urged them instead to remain committed to their war with the Peloponnesians. Alcibiades then sent a message back to Athens, saying that if the Four Hundred were deposed and the intended government of the Five Thousand was established, the two parties of the Athenians would be able to reach an agreement.[57]

---

51 τάς ξυνωμοσίας in Thucydides; ἀνδρῶν ξυνωμοτῶν, οἱ ξυνωμόται and ξυνωμότας in Aristophanes, see notes 39 and 9.

52 See Lintott, 131, 136.

53 Thuc. 8.69

54 Thuc. 8.74

55 Thuc. 8.75

56 Thuc. 8.81

57 Thuc. 8.86

This message caused considerable dissent amongst the oligarchs, a large number of whom began to call for the actual establishment of the Five Thousand and thus a broader oligarchy. The appearance of a Spartan fleet at Las, off Laconia, also brought about the suspicion that some of those in power were plotting to surrender the city to Sparta, using a wall that they were building at Eetonia, which, according to Thucydides, was in fact the case.[58] Phrynicus, at this point one of the leaders of the committed oligarchs, was then assassinated, and Theramenes, one of the leaders of the other party of oligarchs, began to take action. He succeeded in getting the wall at Eetonia pulled down, and the hoplites stationed there and in Piraeus also began to demand the naming of the Five Thousand.[59] The threat of the Spartan fleet was met with a hastily equipped force of triremes from Athens, which, unsurprisingly, met with defeat. This loss meant that the Athenians had no fleet in Piraeus for its defense should the Spartans attack, and this above all else prompted the revival of assemblies (as Thucydides notes, "μίαν μὲν εὐθὺς τότε πρῶτον ἐς τὴν Πύκνα καλουμένην, οὗπερ καὶ ἄλλοτε εἰώθεσαν"),[60] the deposition of the Four Hundred and the appointment of the Five Thousand to govern the state, as well as the recall of Alcibiades and the fleet at Samos.[61] Antiphon, one of the most prominent of the Four Hundred, was arrested (and later put on trial).[62] Following this, Peisander and "ὅσοι ἦσαν τῆς ὀλιγαρχίας μάλιστα" fled to Decelea, with the exception of Aristarchus, who led some forces to Oenoe and through deceit had the Athenian forces there hand it over to the Boeotians, the final act of treachery on the part of the oligarchs in 411.[63]

Throughout most of the time in which the Four Hundred were in power, the *demos* at Athens itself remained passive and did little to oppose the oligarchy, for the reasons stated previously. However, the portion of the *demos* that was with the fleet at Samos almost immediately took up a position of opposition to the oligarchs, and remained committed to this course until the Four Hundred were eventually brought down. The democrats at Samos were beyond the reach of the tactics of fear and intimidation practiced at Athens, and had the benefit of elite leadership, in the persons of Thrasylus and Thrasybulus, as well as Alcibiades later on. The steadfast determination of the fleet and the involvement of these elite leaders in the resistance to the oligarchs further shows the endurance of democratic values and commitments amongst all the levels of Athenian society. Thus, even from the start of the oligarchic takeover, the lower classes of Athens

---

58 Thuc. 8.91

59 Thuc. 8.92-93

60 Thuc. 8.97.1

61 Thuc. 8.95-97

62 Thucydides (8.68) mentions Antiphon being brought to trial after the restoration of the democracy. Although his defence speech is praised by Thucydides, he apparently was put to death, as noted by Lysias (12.67)

63 Thuc. 8.98

were not entirely without hope of effective opposition, as long as the fleet remained committed to democracy.

At Athens, division among the oligarchs and the emergence within their ranks of opposition to the Four Hundred, led by Theramenes, gained the immediate support of the hoplites as well as the people of the Piraeus, who still embraced democracy. This can be seen most clearly when Aristocrates, a commander of the hoplites building the wall at Eetonia, arrested Alexicles, a general of the oligarchy.[64] This action was supported by the commander of the militia at Munichia, but more importantly, as Thucydides himself says "τῶν ὁπλιτῶν τὸ στῖφος ταῦτα ἐβούλετο."[65] When the hoplites proceeded to tear down the wall at Eetonia,

> ἦν δὲ πρὸς τὸν ὄχλον ἡ παράκλησις ὡς χρή, ὅστις τοὺς πεντακισχιλίους βούλεται ἄρχειν ἀντὶ τῶν τετρακοσίων, ἰέναι ἐπὶ τὸ ἔργον. ἐπεκρύπτοντο γὰρ ὅμως ἔτι τῶν πεντακισχιλίων τῷ ὀνόματι, μὴ ἄντικρυς δῆμον ὅστις βούλεται ἄρχειν ὀνομάζειν, φοβούμενοι μὴ τῷ ὄντι ὦσι καὶ πρός τινα εἰπών τίς τι ἀγνοίᾳ σφαλῇ.[66]

Thucydides makes it clear here that the hoplites were democratic in their intentions. When the true Five Thousand were in fact established and the Four Hundred were overthrown, it was the hoplites who made up the body. They then showed themselves to have no real identity apart from the *demos*.[67] In fact, Thucydides does not note the change to full democracy from the rule of the Five Thousand, and Aristotle merely remarks "τούτους μὲν οὖν ἀφείλετο τὴν πολιτείαν ὁ δῆμος διὰ τάχους" without any indication of how this came about.[68] Many of the more extreme of the oligarchs indeed had thought of the idea of the Five Thousand as too close to a full democracy, according to Thucydides, citing that as a good reason for not expanding their government.[69]

The idea that the hoplites were seen as a separate group by those who envisioned the creation of the Five Thousand, but that they saw themselves as a part of the *demos* and not as a separate group, deserves more analysis. It essentially breaks down to a distinction in the view of what constitutes the *demos* on the parts of the groups involved. For the oligarchs, the *demos* was the poorer lower classes, rather than all the people. In this view, the elite as well as the 'middling' hoplites formed distinct groups apart from the rest of the citizens, and therefore a government based on these distinctions was needed to avoid the

---

64 Thuc. 8.92.4. Thucydides describes Alexicles as "μάλιστα πρὸς τοὺς ἑταίρους"

65 Thuc. 8.92.5

66 Thuc. 8.92.11

67 Thuc. 8.97, see also Munn, 150.

68 Aristot. *Ath. Pol.* 34.1

69 Thuc. 8.92.11

tyranny of the masses over them.[70] However, in the democratic view that underpinned the Athenian social contract, the *demos* was all the people united in a collective identity in which all citizens were effectively 'middling men', a view which the hoplites held.[71] Therefore what we see here is that while those involved in the Four Hundred, particularly the youth who had already formed their own groups as members of *hetaireiai*, saw themselves as an interest group apart from the rest of the Athenians, the hoplites did not. That the hoplites considered themselves as a part of the *demos* rather than as a separate group led to the rapid dissolution of the Five Thousand and the restoration of full democracy.

In the case of both the fleet at Samos and of the hoplites at Athens, we have seen that elite leadership was important as a focus for and in organizing popular resistance to oligarchy. While there was certainly opposition among some of the elite to the plan to remove the democracy and recall Alcibiades, as noted previously, there was no real attempt at Athens to block the takeover by the oligarchs from any of the democratic elite. To a certain extent, the same fear and suspicion must have plagued them as did the democratic masses. Certainly, the Four Hundred used violence on their more prominent opponents, as in the case of Androcles. By contrast, those at Samos almost immediately took up arms against the oligarchy and remained committed to bringing down the Four Hundred until this goal was eventually accomplished. Thus we can see that, as among the hoplites, so among many of the elite, the social contract created by democratic ideology continued to hold sway.

Conversely, the weakness of the oligarchic ideology was quickly shown by the rapid loss of control on the part of the Four Hundred over the situation at Athens. Thucydides notes that even before Alcibiades' message was received at Athens, most of those involved in the oligarchy wanted to put an end to it if they could do so safely.[72] When Theramenes and his associates began to oppose the Four Hundred, by demanding that the Five Thousand be named, they did so only out of personal ambition, rather than any real desire to see the Five Thousand in power. This desire for personal power, according to Thucydides, is what is most destructive to oligarchies when they take over from democracies, promoting infighting and reflecting a lack of serious commitment to a real political vision or principle.[73] Initially there was an attempt to promote the oligarchy as a sort of return to an 'ancestral constitution', that of Cleisthenes and Solon, which was "οὐ δημοτικὴν".[74] The result of this was to be the elimination of state pay for all offices except the archons and the *prytanies* and the diversion of all funds to the

---

70 For a brief summary of what constitutes the 'middling' class and its values, see Josiah Ober, *Athenian Legacies*, 102-103.

71 See Ober, *Athenian Legacies*, 104 and Ian Morris, *Archaeology as Cultural History*, 113-116.

72 Thuc. 8.89.1

73 Thuc. 8.89.3

74 Aristot. *Ath.Pol.* 29.3

war effort, and the establishment of a government of at least five thousand of the most capable Athenians.[75] This was a clear attempt by the oligarchs to provide a semblance of legitimacy to their actions, by invoking the idea that the democracy was a radical departure from the *patrios politeia* of Cleisthenes, and that their new government was really just a return to the traditions of Athens.[76] However, the failure of the Four Hundred to actually appoint the Five Thousand actually resulted in a situation of illegitimacy, since they were not really supposed to be governing even according to their own decree. Internal division and a lack of legitimacy, together with a failure in effectiveness, above all in dealing with the threat of the Spartan fleet, meant that the oligarchs could not maintain a stable government. The ability of the mass to unite under elite leadership and the strength of the democratic ideology that allowed this to take place were factors that the oligarchs could not cope with, afflicted as they were by the weakness of oligarchic ideology as a basis for consensus and collective action, and as a result their rule collapsed and democracy was quickly restored.[77]

The Restored Democracy and the Defeat of Athens

Athens was now able to renew its efforts in the Peloponnesian War, and under the leadership of Alcibiades, achieved a number of victories. The Athenians also recognized the need for a sort of reconciliation between those in Athens and those in the fleet at Samos, and thus the members of the Four Hundred, except for the most steadfast of oligarchs, were not put to trial, and in fact some were appointed to various offices, although there does not appear to have been any sort of formal amnesty.[78] Those who were put on trial were accused of plotting to betray Athens to Sparta, rather than of overthrowing the democracy, which allowed many of the oligarchs, such as Theramenes, to remain in Athens unharmed.[79] This reinforces the idea that democratic ideology was capable of forging unity within Athens, even in the face of potential recriminations, as opposed to the divisiveness promoted by the oligarchy. Additionally, in response to the issue of the *patrios politeia* raised by the oligarchs, the Athenians appointed *nomothetai* to draw up the constitution through the collection of the laws of Athens.[80] The main goal of this endeavour was to examine the laws of Solon and Draco, so that "πολιτεύεσθαι Ἀθηναίους κατὰ τὰ πάτρια, νόμοις δὲ χρῆσθαι τοῖς Σόλωνος, καὶ μέτροις καὶ σταθμοῖς, χρῆσθαι δὲ καὶ τοῖς Δράκοντος

---

75 Aristot. *Ath.Pol.* 29.5

76 Munn, 137.

77 Unfortunately it is not clear from the sources how long the Five Thousand actually governed before being replaced by a full democracy. The best we get is Aristotle's brief summary: "τούτους μὲν οὖν ἀφείλετο τὴν πολιτείαν ὁ δῆμος διὰ τάχους" (*Ath. Pol.* 34.1).

78 Kagan, 422.

79 Munn, 151.

80 Thuc. 8.97.2

θεσμοῖς, οἷσπερ ἐχρώμεθα ἐν τῷ πρόσθεν χρόνῳ."[81] To this were to be added the subsequent laws of the democracy, which would be published in the Stoa alongside the *axones* of the ancestral laws.[82] Although this process was not actually completed until well after the end of the war and the fall of the Thirty, it was an important step in affirming democracy as the ancestral constitution of Athens.[83]

However, Alcibiades eventually fell out of favour, and withdrew to his home on the Chersonese, leaving the Athenians once again without his remarkable talents.[84] The leadership of the Athenians was then subject to further loss in the aftermath of the battle of Arginusae in 406. Although a victory for the Athenians, the generals in command, a number of whom were leaders in the democratic counter-revolution, ended up on trial for not conducting a rescue of the wrecked ships, whose crews were thus lost.[85] Although the generals were initially successful in their defence, Theramenes managed to get public sentiment stirred up against them by emphasizing the loss of life and the suffering of the common people brought about by the loss of the crews.[86] The result was a procedurally irregular mass trial for the generals, who were found guilty and condemned to death.[87] The people of Athens later regretted their decision and felt that they had been deceived by Callixeinus, the man largely responsible for the illegal trial, and intended to bring him and four others they thought to be responsible to trial. However, these men escaped, although Xenophon tells us that Callixeinus later returned to Athens, and starved to death due to his being hated by everyone.[88] Despite their later protests of being misled, it was in fact the will of the people that brought about the guilty verdict, emphasized by their objection to the motion that Callixeinus had put forward an illegal proposal in asking that the generals be tried together: "τὸ δὲ πλῆθος ἐβόα δεινὸν εἶναι εἰ μή τις ἐάσει τὸν δῆμον πράττειν ὃ ἂν βούληται."[89] The supremacy of the will of the *demos* was once again at its height, but with actions like this, the people of Athens were only setting the stage for further trouble. With the departure of Alcibiades and the executions of the generals, the Athenians had lost many of their most capable

---

81 Andoc. 1.83

82 See Andoc. 1.82-5. Note however that Andocides is describing the efforts undertaken after 404/3, although there is no reason to assume the goal of the *nomothetai* had changed by this point. See also Munn 261-272 for an in depth discussion of the legal reforms of this time.

83 See Munn, 149-150, for a brief discussion of the ongoing process of codifying the laws.

84 Xen. *Hell.* 1.5.16-17

85 Of the the generals put on trial, Diomedon and Thrasylus were leaders in the events on Samos (Thuc. 8.73) and Aristocrates had led the hoplites in Piraeus in their resistance to the Four Hundred (Thuc. 8.92.4)

86 Xen. *Hell.* 1.7.8-11. Theramenes, along with Thrasybulus, had been actually tasked with recovering the wrecks and their crews.

87 See Munn, 181-187, for a detailed account of the origins of the trial and its proceedings.

88 Xen. *Hell.* 1.7.35

89 Xen. *Hell.* 1.7.12

leading men, including those who had supported the democracy. In addition to the six generals who were put to death and the other two who were condemned in exile, neither Thrasybulus not Theramenes ended up with a command the following year, no doubt due to their involvement in the affairs of Arginusae. Moreover, the execution of leaders for what was essentially a victory could not have inspired confidence in those appointed to replace them.[90] It comes as no surprise, therefore, that Athens was soon completely defeated at Aegospotami in 405, losing essentially her entire fleet in one disastrous engagement.[91] Unable to continue in the war without a fleet, and having lost all her allies with the exception of Samos, Athens was forced to come to terms with the Peloponnesians, and with defeat came the second change from democracy in less that a decade.

Although the relationship between mass and elite seems to have quickly stabilized once the democracy was restored, particularly with the continued success of Athens in pressing the war, the goodwill of the *demos* towards the elite began to disappear in the wake of setbacks. The rapid reestablishment of members of the elite, even some of those who had been included in the Four Hundred, as leaders of a restored *demos*, attests to the resilience of the democratic social contract. The people of Athens, although they had but recently suffered at the hands of oligarchs, nevertheless realized the continuing need of suitable leadership to guide them through the ongoing war. Despite this reconciliation, however, the failure of Alcibiades in particular to provide victories on every occasion began to raise doubts in the minds of the people over their choice of commanders. With the losses sustained at Notium and Cyme, Alcibiades came under criticism for his methods, and his enemies attacked him with accusations of plotting to become tyrant and favouring the Spartans.[92] With the sovereignty of the *demos* in apparent peril, the Athenians were easily persuaded to remove not only Alcibiades from command, but also all the other generals who had been appointed on his advice.[93] In this, and the events that followed, we can see the fragility and tension in the relationship between mass and elite at this time. The *demos* had initiated reforms of the legal system which allowed for more rigourous discipline of the elite, and put this to use especially in light of the failure of the Sicilian expedition and the oligarchy of 411.[94] This resulted from the suspicion on the part of the *demos* of the ability of the elite to influence the people in their decisions. While the democracy on the one hand created consensus, the fact that the *demos* held the supreme power also meant that if it was given bad advice, bad decisions could follow. This fact was not lost on the Athenians, and this therefore caused them to increase their vigilance with respect to the elite.[95] Unfortunately,

---

90 Kagan, 466.

91 Xen. *Hell.* 2.1.27-29

92 Diod. 13.73.6

93 See Munn, 179.

94 Sean Corner, *How to Do Things With Alcibiades* (unpublished), 23.

95 Corner, 25.

while these new measures may have curbed the influence of the elite, they also dramatically increased the tension between mass and elite and deprived Athens of many of its most successful leaders. Although victorious at Arginusae, they were made victims of the will of the people, who insisted on asserting their power as the supreme governing body. Any attempt made to block the trial of the generals was met with opposition from the Assembly, and despite any reasonable arguments put forth, the *demos* would not be swayed. Both Euryptolemus and the *epistates* of the prytany, which happened to include Socrates, were forced to yield or face the same charges as the generals.[96] There could be no denying the sovereignty of the mass at this time.

While the *demos* was exerting its restored power, the elite were attempting to fit themselves back into the role they had played prior to 411. With the appointment of Theramenes and others who had been involved in the oligarchy to various offices or commands, this reintegration was initially successful. When affairs began to take a turn for the worse, the elite struggled not only to maintain their positions of importance, but also their personal safety. Some failed to do so despite their services to Athens, not least of which were of course the generals of Arginusae, and others such as Alcibiades and Critias, who were forced into exile.[97] Others, such as Cleophon and Callixeinus, sought to gain the support of the *demos* by encouraging their actions and accusing other members of the upper class.[98] Even Theramenes was forced to bring charges against the generals of Arginusae in order to deflect blame from himself and Thrasybulus.[99] None of the elite could afford to get on the wrong side of the mass, and success and admiration were no guarantee of safety, as many found out to their detriment. Not only did this situation weaken the position of Athens by compromising her leadership, but it also could not have helped encourage trust in the decisions of the *demos* on the part of the elite. Following 411, those of an oligarchic mind who had not sided with Theramenes had gone into exile, and were joined by others such as Critias as time went by. While they do not appear to have undertaken any sort of action prior to the defeat of Athens in 405, they were more than ready to take action again when the opportunity was provided to them by the conditions of Athens' surrender to Sparta in 404. Those who had remained in Athens also saw the same chance.

Although Athens held out under siege after the loss of her fleet at Aegospotami, surrender was inevitable on account of the complete Spartan blockade. Within a short period of time, food supplies ran out and the Athenians

---

96 Xen. *Hell.* 1.7.12-15

97 It is not entirely clear under what circumstances Critias was exiled, but he was prosecuted by Cleophon and exiled by the Athenians, likely after Alcibiades' own fall from favour: Aristot. *Rhet.* 1375b, Xen. *Hell.* 2.3.15, see also Peter Krentz, *The Thirty at Athens*, 46.

98 Cleophon, a noted demagogue, was responsible for the exile of Critias, and possibly also of Alcibiades (see Munn, 179).

99 See Kagan, 461-463 for a brief summary of the laying of blame after the battle.

were forced to consider terms of surrender to Sparta.[100] Unfortunately, what occurred after this is not entirely clear as the sources we have, primarily Lysias and Xenophon, are not in complete agreement with each other, especially in terms of the precise order of events. It is still possible to piece together most of what happened, but there is nevertheless some doubt as to which account is the more accurate. With this in mind, I will present the sequence of events in the manner that seems to be the most logical based on what can be learned by comparing the sources.

After Aegospotami, the oligarchs began once again to plot an overthrow of the democracy. As Lysias tells us, "ἐν δὲ τῷ χρόνῳ τούτῳ οἱ βουλόμενοι νεώτερα πράγματα ἐν τῇ πόλει γίγνεσθαι ἐπεβούλευον, νομίζοντες κάλλιστον καιρὸν εἰληφέναι καὶ μάλιστ' ἐν τῷ τότε χρόνῳ τὰ πράγματα, ὡς αὐτοὶ ἐβούλοντο, καταστήσασθαι."[101] The only obstacle that they saw were "τοὺς τοῦ δήμου προεστηκότας καὶ τοὺς στρατηγοῦντας καὶ ταξιαρχοῦντας", and thus they resolved to take steps to get rid of their opposition.[102] With the situation in Athens becoming desperate, Theramenes stepped forward and declared that he would go and procure a favourable treaty for Athens, if given the powers to do so.[103] However, he remained away from Athens for three months, and returned only to say that he had been detained by Lysander, the commander of the Spartan blockade, and thus was unable to make any sort of treaty. Following this, Theramenes, along with nine others, was sent to Sparta to negotiate with full powers.[104] Both Lysias and Xenophon make it clear that they believe Theramenes had not in fact been detained by Lysander, but rather had stayed with him of his own free will in order to force the people of Athens to be ready to agree to any terms due to the desperate situation they found themselves in.[105] At some point around this time, and certainly while Theramenes was away, the oligarchs conspired to get rid of Cleophon, the leading demagogue, who was against any peace terms that involved destroying the walls, and encouraged the Athenians to hold out.[106] Cleophon was accused of abandoning his post during the siege, and when brought to trial by "οἱ βουλόμενοι ὀλιγαρχίαν" he was found guilty and thus was executed.[107] After this, Theramenes and the other

---

100 Xen. *Hell.* 2.2.10-15

101 Lys. 13.6

102 Lys. 13.7

103 Lys. 13.9. Xenophon's account (*Hell.* 2.2.16) differs slightly from that of Lysias. I agree with Krentz (34-35) that Lysias' version is probably the more accurate one.

104 Xen. *Hell.* 2.2.17

105 Lys. 13.11, Xen. *Hell.* 2.2.16. Krentz (36-37) presents an interesting alternative which puts Theramenes in a more favourable light.

106 Lys. 13.8. A precise chronology of Cleophon's trial and execution is hard to determine, see Krentz, 36 n23.

107 Lys. 13.12. Xenophon merely notes that Cleophon was put to death during a period of *stasis*, some time after Aegospotami (*Hell.* 1.7.35).

ambassadors returned to Athens and presented the terms of surrender: the Long Walls and the defences of Piraeus had to be demolished; the exiles recalled (primarily pro-Spartan oligarchs); the fleet reduced to twelve ships; and Athens was henceforth to follow Spartan leadership.[108]

The Thirty Tyrants

There was opposition to the treaty with Sparta, which came mostly from some of the generals and *taxiarchs*, who saw it as, in effect, an end to the democracy.[109] On the evidence of a certain Agoratus, who was apparently involved with the generals and *taxiarchs*, the oligarchs got a list of those who opposed the peace, and arrested them at the altar in Munichia where they had taken refuge.[110] The Assembly was then convened at Munichia and decided to imprison those named by Agoratus and put them on trial for "intriguing against the people".[111] Before this trial could occur, however, the Spartans under Lysander, and the Athenian exiles, arrived at Athens and the democracy was brought to an end.[112] The sources present the abolition of the democracy and the appointment of the Thirty who were to govern Athens in different ways. In Xenophon's account, the Thirty were appointed by the Assembly in order to codify the ancient laws and restore the 'ancestral' constitution, directly after the walls of Piraeus and the Long Walls were torn down.[113] Xenophon goes into no further detail than this about the way in which the Thirty came to power. Lysias, on the other hand, presents the Thirty as a proposal of Dracontides to the Assembly, which rejected the proposal, realizing that they "had to choose between freedom and slavery."[114] Despite their protests, Lysander said that if the Athenians did not accept the proposal, their lives would be in danger, and thus the people were forced into voting for the oligarchy.[115] Our other main accounts of this event, Aristotle's and Diodorus', both agree with Lysias that it was Spartan intervention that forced the Thirty on Athens.[116] To complicate matters further, Diodorus presents the proposal of Dracontides as initially opposed by Theramenes, who only agreed to recommend it to the *demos* when he was threatened with death by Lysander.[117] Lysias instead has Theramenes as the main

---

108 Xen. *Hell.* 2.2.20

109 Lys. 13.15

110 Lys. 13.18-30. It is not entirely clear how Agoratus was involved with the others in this so-called plot.

111 Lys. 13.32-33, 48

112 Lys. 13.34

113 Xen. *Hell.* 2.3.2,11

114 Lys. 12.73

115 Lys. 12.75-76

116 Aristot. *Ath. Pol.* 34.3, Diod. 14.3.5-7

117 Diod. 14.3.6

supporter of the motion before the Assembly, backed by Lysander.[118] What is clear is that the Thirty came to power in 404, and once they did they made it clear that they were in charge of the city. Their first act was to bring to trial the men accused by Agoratus, a trial which took place before the Council, itself packed with friends of the Thirty, instead of before the court of two thousand which had been decreed by the Assembly.[119]

Following this, the Thirty began to put to death people whom they wished to get rid of, beginning with sycophants and informers, but eventually expanding to include anyone they thought might be trouble.[120] A Spartan garrison was also brought in at the request of the Thirty, and a group of three thousand men were set up as the only Athenians allowed to have weapons, essentially a personal army for the oligarchs.[121] These Three Thousand were also the only Athenians with any sort of legal protection, as the Thirty could condemn anyone outside this group without trial.[122] As the rule of the Thirty became progressively more violent, opposition began to surface. The Thirty had already tried to eliminate those who posed a serious threat to their rule, either by execution, or by exile, as befell Alcibiades and Thrasybulus.[123] This did not stop the opposition, and eventually Theramenes, himself a member of the Thirty, spoke out against their actions, and in favour of a more moderate and broad oligarchy.[124] In this he was opposed chiefly by Critias, who had taken up a position of leadership within the Thirty. Critias then accused Theramenes of plotting against the Thirty, and despite the favourable reception Theramenes' defence speech received in the Council, had him removed from the list of citizens and condemned to death.[125]

After his death, a more serious challenge to the Thirty arose from the exiled Thrasybulus, who assembled a group of fellow exiles at Phyle.[126] Despite armed opposition from the Thirty and the Three Thousand, the exiles managed to hold their own and, their numbers increasing steadily, moved to occupy Piraeus. In a pitched battle in which their hoplites were outnumbered approximately five to one, the exiles defeated the forces of the Thirty, and in fact managed to kill Critias as well as Hippomachus, another member of the Thirty.[127] The Thirty were then deposed, and appealed to Sparta for help. The Spartans, led by their king

---

118 See Krentz, 49 n21. I agree that Diodorus' version is probably closer to the truth.

119 Trial: Lys. 13.35; composition of the Council: Xen. *Hell.* 2.3.11. Note that neither Xenophon or Diodorus mention the trial and execution. I agree with Lintott (162) that this event probably occurred before the execution of the sycophants.

120 Xen. *Hell.* 2.3.12-14

121 Garrison: Xen. *Hell.* 2.3.13-14; Three Thousand: 2.3.18,20

122 Xen. *Hell.* 2.3.50

123 Xen. *Hell.* 2.3.42

124 See Theramenes' speech in Xenophon (*Hell.* 2.3.35-49)

125 Xen. *Hell.* 2.3.50-51

126 Xen. *Hell.* 2.4.2

127 Occupation of Piraeus: Xen. *Hell.* 2.4.10; Battle: 2.4.11-19

Pausanias, arrived at Athens, and after a series of largely indecisive encounters, an agreement was made in which their would be peace between the party in Piraeus and the party in the city, excluding only the Thirty and their direct underlings.[128] The democracy was reestablished, and put down an attempt by the remaining oligarchs, who had withdrawn to Eleusis, to return to power. Finally, oaths were sworn to establish an amnesty for everything that had happened and peace was restored to the city.[129]

Even after the defeat of Athens at Aegospotami and the besieging of the city, the commitment of the *demos* and many of the elite to democracy remained strong. The people were committed to the idea of retaining the Long Walls and Piraeus, their connection to the sea and in fact a large part of the basis of democracy in Athens.[130] Although Athens was forced into surrender by the siege, and its Long Walls and the fortification of Piraeus torn down, "among scenes of great enthusiasm and to the music of flute girls," the Athenians continued to hold out hope of retaining their constitution.[131] The peace terms with Sparta apparently included a provision that Athens was to be governed by her *patrios politeia*, and as a result,

> οἱ μὲν δημοτικοι διασῴζειν ἐπειρῶντο τὸν δῆμον, τῶς δὲ γνωρίων οἱ μὲν ἐν ταῖς ἑταιρείαις ὄντες καὶ τῶν φυγάδων οἱ μετὰ τὴς εἰρήνην κατελθόντες ὀλιγαρχίας ἐπεθύμουν, οἱ δ' ἐν ἑταιρείᾳ μὲν οὐδμιᾷ συγκαθεστῶτες ἄλλως δὲ δοκοῦντες οὐδενὸς ἐπιλείπεσθαι τῶν πολιτῶν τὴν πάτριος πολιτείαν ἐζήτουν.[132]

Here again we see the issue of the ancestral constitution, and competition over what that actually meant for Athens. Ulitmately, the oligarchs were triumphant with the eventual intervention of the Spartans, and the Thirty were appointed to restore the *patrios politeia.*[133] That the Thirty never actually undertook this, but rather immediately established themselves as an autocracy, immediately undermined their legitimacy. Even when the Spartans arrived to set up an oligarchy, protests were made by Theramenes and the *demos* that Athens was supposed to be governed by the *patrios politeia* according to the peace terms, and that Lysander had no right to break these terms. As Lysias says, in addressing the Athenians themselves, "ὑμεῖς δ' ὅμως καὶ οὕτω διακείμενοι ἐθορυβεῖτε ὡς οὐ

---

128 Xen. *Hell.* 2.4.28-38

129 Xen. *Hell.* 2.4.43

130 See Munn, 202.

131 Xen. 2.2.23. Presumably the enthusiasm was on the part of the returned exiles and other friends of Sparta, for to attribute it to the *demos* seems somewhat absurd, particularly in light of the fact that the Athenians took too long to tear down their walls (Diod. 14.3.6). See also Kagan, 484.

132 Aristot. *Ath. Pol.* 34.3; See also a similar account in Diod. 14.3.2-3.

133 Xen. *Hell.* 2.3.2

ποιήσοντες ταῦτα· ἐγιγνώσκετε γὰρ ὅτι περὶ δουλείας καὶ ἐλευθερίας ἐν ἐκείνῃ τῇ ἡμέρα ἠκκλησιάζετε."[134] Though vocal in their continued support of democracy, the Athenians were forced to abolish their government in the Assembly by the threats of Lysander. The Thirty were then appointed through a decision of the Assembly, and the *demos* was effectively once again stripped of all its power.

The majority of the people of Athens were thus subjected to the autocratic rule of the Thirty, with little opportunity to oppose the new regime. Again fear was employed to keep the Athenians in line, but through greater violence and coercion. Not only was there the presence of the Spartans to contend with, both at the initial Assembly and later in the form of the garrison under Callibius, but there was also the Three Thousand, which the Thirty formed as a sort of personal army.[135] In fact, Xenophon tells us that the Three Thousand were formed in response to the fact that "πολλοὶ δῆλοι ἦσαν συνιστάμενοί τε καὶ θαυμάζοντες τί ἔσοιτο ἡ πολιτεία", and thus obviously intended as a check on any sort of stirring amongst the populace.[136] All but the Three Thousand were expelled from the city, further limiting the ability of the lower classes to oppose the government.[137]

One must ask what motivated the Thirty to pursue such an openly tyrannical path, in view of the fact that they must have been sure that they would alienate a large part of the Athenian population. One view is that the Thirty were motivated purely by greed, which accounts for their execution of wealthy Athenians and metics and the seizing of their property.[138] This however cannot account for all the changes they made to Athens, including the mass banishment of those not included on the list of the Three Thousand. Another view presents the motives of the Thirty as being designed towards reshaping Athens in the image of Sparta. We know that Critias was a great admirer of the Spartan way of life, and declares, in Xenophon's account, "καλλίστη μὲν γὰρ δήπου δοκεῖ πολιτεία εἶναι ἡ Λακεδαιμονίων·"[139]As Krentz points out, the Thirty themselves were the same size as the *gerousia* in Sparta, and the Three Thousand roughly corresponded to the number of *homoioi* in 404.[140] The rest of the Athenians would then be classified as either *perioikoi*, having been banned from living in the city, or even as helots, if we are to believe Xenophon's assertion that the exiles were

---

134 Lys. 12.73

135 Spartan garrison: Xen. *Hell.* 2.3.13-14; Three Thousand: 2.3.18-20

136 Xen. 2.3.17

137 Xen. 2.4.1. Note that many of those forced out of Athens fled to Piraeus, and some were driven out from there as well. This resulted in Piraeus being occupied by a large number of people opposed to the Thirty.

138 See Lintott, 163; see also Krentz, 80-81, for a counter-argument to this view.

139 Xen. *Hell.* 2.3.34

140 Krentz, 64-65.

also forced off their land in order that the Thirty and their friends might have it.[141] Additionally, as the Three Thousand were the only people with any real legal standing, the remainder of the Athenian population was effectively at the mercy of the Thirty and could be killed without trial, as was the case for helots. However, this was a perverse imitation even of the Spartan constitution, since the people they turned into helots were not a conquered foreign population, but rather the native Athenians, deprived of citizenship and freedom. Thus the Thirty sought to radically alter the constitution of Athens in order to pull out the roots of democracy yet what they sought to put in its place could have little legitimacy from any normal Greek perspective, but rather could be counted only as a tyranny.

While it appears that the majority of the populace was sufficiently cowed by force to prevent any sort of action, the real threat to the Thirty, which they themselves recognized, was in the form of other members of the elite. The fear for the Thirty was not that the democratic masses would rise up against them on their own, but rather that some influential men would gain the support of the people and move against them. Thus the Thirty feared Theramenes because they thought the citizens might turn to him for leadership.[142] Theramenes' oppostion to the methods of Critias, however, was itself mainly prompted by fear that many in the elite were being alienated and might become leaders of popular resistance. The speech of Theramenes in Xenophon stresses this fact, stating that with good, upstanding members of the elite such as Leon and Niceratus being put to death for having done nothing against the Thirty, others like them would hate the government and turn against them. He then goes on to point out the error of exiling people like Thrasybulus and Alcibiades, since it would only strengthen their opponents "εἰ τῷ μὲν πλήθει ἡγεμόνες ἱκανοὶ προσγενήσοιντο, τοῖς δ' ἡγεῖσθαι βουλομένοις σύμμαχοι πολλοὶ φανήσο ιντο."[143] In contrast to 411, it appears that the majority of the elite did not support the dissolution of the democracy or the establishment of the oligarchy. This is immediately evident in the case of the generals and *taxiarchs*, who, when presented with the plan to demolish the walls, "ὁρῶντες δὲ οὗτοι οἱ ἄνδρες ὀνόματι μὲν εἰρηνην λεγομενην, τῷ δ' ἔργῳ τὴν δημοκρατίαν καταλυομένην, οὐκ ἔφασαν ἐπιτρέψειν ταῦτα γενέσθαι."[144] What is important to note here is that these men were more concerned with the threat that demolishing the walls posed to the democracy than with the security of the city. As Lysias is careful to point out, they still wanted peace, but not a peace that involved the dissolution of the democracy.[145] The Thirty were also unable to count on the support of many

---

141 Xen.*Hell.* 2.4.1; see Krentz, 65-66, for his argument as to why the exiles should be seen only as *perioikoi*. I prefer the view that the exiles should be seen as closer to helots.

142 Xen. *Hell.* 2.3.18

143 Xen. *Hell.* 2.3.39, 42

144 Lys. 13.15

145 Lys. 13.15-16

people outside of their immediate circle. They depended more frequently on the cavalry than on the broader group of the hoplites, not all of whom were even included in the Three Thousand.[146] Thus we can see once again the ability of the democratic social contract to mobilize broad commitment across classes in contrast to the problems the oligarchs experienced in attracting support and establishing legitimacy.

Although there was initially understandable reluctance to take on the well-armed Three Thousand and Spartan garrison, Thrasybulus' victories quickly attracted democrats to the struggle.[147] When the rebels entered Piraeus, always a democratic bastion, they found an excellent base of support amongst not only the Athenian exiles who were living there, but also from the metics, who had suffered under the rule of the Thirty.[148] Despite the victory of the forces led by Thrasybulus, however, not all the elite sided with the democrats, even after the withdrawal of the Thirty and their most direct supporters to Eleusis. Thrasybulus made a speech directed at the men of the city who had opposed him in the battle in Piraeus, asking them to abide by their promise to be at peace with the democrats, obviously implying that there were those who still were in favour of oligarchy.[149] He also questions the moral position of the oligarchs: "πότερον δικαιότεροί ἐστε; ἀλλ' ὁ μὲν δῆμος πενέστερος ὑμῶν ὢν οὐδὲν πώποτε ἕνεκα χρημάτων ὑμᾶς ἠδίκηκεν· ὑμεῖς δὲ πλουσιώτεροι πάντων ὄντες πολλὰ καὶ αἰσχρὰ ἕνεκα κερδέων πεποιήκατε."[150] Important to note here are the ideological tactics of Thrasybulus: he emphasizes the immorality and greed of the oligarchy, which is on the side of factionalism and private interest. This is contrasted with the ideals of democracy: the *demos* was all of the citizens together, united by common interest and consensus.

The Restoration of Democracy

Following the overthrow of the Thirty, those of the elite who still held oligarchic views proposed that the citizenship be limited to only people who held land, a sort of broad oligarchy. Lysias contributed a speech to this debate. It is unclear who actually delivered the speech, or in fact whether it was delivered at all, but the surviving portion makes it clear that it is written in the voice of a member of the elite, and that the speech was aimed at an assembly that consisted largely of the elite.[151] The fact that democracy was actually restored and that the proposal of limiting the franchise was defeated once again reinforces the commitment of a large section of the elite to democracy. Nevertheless, the

---

146 For the association of the Thirty with and their dependence on the cavalry, see Xen. *Hell.* 2.4.2, 4, 7, 8, 9, 24 and 26.

147 See Krentz, 83-84, 90.

148 See Paul Cloché, *La Restoration Démocratique à Athènes en 403 avant J.-C.*, 48.

149 Xen. *Hell.* 2.4.42

150 Xen. *Hell.* 2.4.40

151 See W.R.M. Lamb trans., *Lysias*, 691-693, and Lys. 34.

proposal to limit the franchise itself shows us that despite the tragedy of the Thirty, there were still at least some of the elite who continued to support the ideals of oligarchy. However, any differences that might have existed appear to have been overcome by the defeat of the oligarchs at Eleusis and the subsequent Amnesty, as democracy, once restored, proved remarkably and lastingly stable.

This stands in stark contrast to the ability of the oligarchy to establish itself. The oligarchs moved first against those they saw would be their chief opponents, that is the popular leaders and the commanders of the army.[152] Although they initially used the processes of democracy against their opponents, both in the arrest of the generals and *taxiarchs* and in the Assembly which voted the Thirty into power, once established, the Thirty immediately abandoned any sort of lawful process and began to rule autocratically.[153] When the trial of the generals and *taxiarchs* actually occurred, instead of being held before the proper jury of two thousand, as had been decreed by the Assembly, they were tried in front of the Council, in a clear subversion of the normal judicial process.[154] They had been appointed officially to draw up a new constitution, and like the Four Hundread and their promises of the Five Thousand, never actually undertook this task.[155] Unlike the Four Hundred, however, they do not seem to have even made a show of doing what they were supposed to, and instead acted however they wished. Xenophon uses the word "τυραννεῖν" when describing their rule: these were not really oligarchs, but tyrants who ruled as they saw fit.[156] There was no basis of legitimacy for the rule of the Thirty, nor did they really try to establish any, unlike their predecessors. The Athenians in fact rejected all the decisions made by the Thirty in 404, including the appointment of the archons, referring to the year as "ἀναρχίαν τὸν ἐνιαυτὸν" instead of by the name of Pythodorus.[157] This is also seen in Thrasybulus' speech in the restored Assembly, in which there is a strong rejection of any claims that the oligarchs might have made concerning the legitimacy and justice of oligarchy or the qualifications of the few to rule:

> μάλιστα δ' ἂν γνοίητε, εἰ ἀναλογίσαισθε ἐπὶ τίνι ὑμῖν μέγα φρονητέον ἐστίν, ὥστε ἡμῶν ἄρχειν ἐπιχειρεῖν. πότερον δικαιότεροί ἐστε; ἀλλ' ὁ μὲν δῆμος πενέστερος ὑμῶν ὢν οὐδὲν πώποτε ἕνεκα χρημάτων ὑμᾶς ἠδίκηκεν· ὑμεῖς δὲ πλουσιώτεροι πάντων ὄντες πολλὰ καὶ αἰσχρὰ ἕνεκα κερδέων πεποιήκατε. ἐπεὶ δὲ δικαιοσύνης οὐδὲν ὑμῖν προσήκει, σκέψασθε εἰ ἄρα ἐπ' ἀνδρείᾳ ὑμῖν μέγα φρονητέον. καὶ τίς ἂν καλλίων κρίσις τούτου γένοιτο ἢ ὡς ἐπολεμήσαμεν πρὸς ἀλλήλους; ἀλλὰ γνώμῃ φαίητ' ἂν προέχειν, οἳ

152 See above, notes 101 and 102.

153 See Lintott, 160.

154 See above, note 119.

155 Lintott, 162.

156 Xen. *Hell.* 2.4.1

157 Xen. *Hell.* 2.3.1

ἔχοντες καὶ τεῖχος καὶ ὅπλα καὶ χρήματα καὶ συμμάχους Πελοποννησίους ὑπὸ τῶν οὐδὲν τούτων ἐχόντων περιείληφθε;[158]

Following this, the old laws and government were reasserted. The oligarchy was reduced to merely an illegitimate interregnum between democracies. The supporters of democracy, as well as those who simply did not believe in the extreme oligarchy promoted by the Thirty, successfully prevented the Thirty from continuing to hold power, and their downfall was testimony to their inability to significantly alter the mass and elite relationship.

From what has been described in this chapter, it is clear that many factors were playing out in the late 5th century which resulted in the rise and fall of the oligarchies of 411 and 404/3. Of particular interest was the relative difficulty with which the oligarchies were established and maintained, and conversely the resilience of democracy. This was facilitated not only by the general unpopularity of the oligarchies, particularly in the case of the Thirty, but also, perhaps more interestingly, by the adherence to democratic ideals by many among the elite, as well as the mass. The strength of democratic ideology amongst the Athenians, seen especially in the commitment of individuals such as Thrasybulus to the cause of democracy, demonstrates the viability of the social contract between mass and elite created by democracy in Athens, in contrast to the relative weakness of the ideology of the oligarchs. In the next chapter, the role of rhetoric will be explored in order to glean how democratic ideology was able to provide for reconciliation and restore social cohesion after 403.

158 Xen. *Hell.* 2.4.40-1

Chapter 2 – Reconciliation and Democratic Ideology

The work of Josiah Ober has demonstrated how the ideology of the democracy was used to maintain the egalitarian ideals of the democratic masses and yet to accommodate the elite's desire for personal power and recognition of status. [159] The subject of this chapter is the way in which this same ideology was crucial to the restoration of this balance of mass and elite interests after the unbalancing that occurred during the civil conflicts of the Peloponnesian War. This chapter will offer an analysis of how, as evidenced in the speeches of the period, post-conflict tensions were negotiated and claims to inclusion or exclusion arbitrated in the context of democratic ideology. This will provide a framework for answering the central question of how democracy was restored in Athens in a way that allowed for both the men of the Piraeus, representing the democrats, and the men of the city, representing the oligarchs, to continue to live together as citizens after such a violent rift in the social fabric.

Central to this was the swearing of oaths on the part of all Athenians "μὴ μνησικακεῖν", which is generally termed "the amnesty" by modern scholars. According to Andocides, the terms of the amnesty consisted of separate oaths sworn by the *boule*, the dikasts and the citizens in general[160]. After the reconciliation, all the citizens took the oath "I will not revive accusations against any citizen except the Thirty and the Eleven, nor against any of them who are willing to undergo examination of their conduct in office."[161] Additionally, when entering office, the *boule* swore "I will not accept any indictment or arrest for what happened earlier, except against those who fled into exile," and citizens, before sitting in a jury, likewise swore an oath: "and I will not revive accusations nor accept those revived by anyone else, but I will vote in accordance with the laws in force."[162] While the amnesty was initially imposed by Sparta as part of the negotiated peace, the Athenians nevertheless choose to uphold it, when they could just as easily have played down its significance and essentially ignored it, as they did many of the other conditions of the peace.[163] The amnesty provided the basis for reconciliation; however, there naturally continued to exist tension between the men of Piraeus and the men of the city. This tension was the focus of many of the speeches of the time, and the ideological dynamics of conflict and reconciliation were frequently played out in the courts and assemblies. These dynamics can, as

---

159 See in particular Ober, *Mass and Elite*.

160 And. 1.90-91

161 "καὶ οὐ μνησικακήσω τῶν πολιτῶν οὐδενὶ πλὴν τῶν τριάκοντα" καὶ τῶν ἕνδεκα· οὐδὲ τούτων ὃς ἂν ἐθέλῃ εὐθύνας διδόναι τῆς ἀρχῆς ἧς ἦρξεν." And. 1.90. Translation of this and the following two passages: Douglas M. MacDowell, *Anitphon & Andocides*.

162 "καὶ οὐ δέξομαι ἔνδειξιν οὐδὲ ἀπαγωγὴν ἕνεκα τῶν πρότερον γεγενημένων, πλὴν τῶν φυγόντων" and "καὶ οὐ μνησικακήσω, οὐδὲ ἄλλῳ πείσομαι, ψηφιοῦμαι δὲ κατὰ τοὺς κειμένους νόμους." And. 1.91

163 For example the rebuilding of the Long Walls and the fleet.

they play out in the speeches, be analyzed under the heading of five basic categories. The categories represent key democratic norms according to which accusations against men of the city were assessed and inclusion in or exclusion from Athenian society and the restored democracy decided. These categories are Participation, Privacy, Loyalty to Democracy, Obedience to the Law and Consensus, which of course overlapped and were interlinked.

The corpus of Lysias in particular provides much evidence. Speeches 16, 25, 26 and 31 are all *dokimasia* speeches, two of which, 16 and 25, are made by those under scrutiny. Mantitheus in 16 and an unknown citizen in 25 are defending themselves against being labeled as oligarchic sympathizers and thus denied office. The speaker in Lysias 26 accuses his opponent, Evandros, of participation in the government of the Thirty and thus of lack of fitness to hold office under the democracy. Finally, the speaker in 31 accuses Philon, his opponent, not of oligarchic tendencies but rather of acting against the democracy, similar although slightly different charges. In all four of these speeches, the dynamics of conflict are evident in the hostility of the accusers towards those under scrutiny on the basis of their actions during the civil conflict, while the accused attempt to foster reconciliation through assertion of their commitment to democratic ideals.

Lysias 13, *Against Agoratus*, involves the accusation of helping the Thirty to bring about the deaths of loyal democrats, and 30 likewise is aimed at an alleged helper of the Thirty, Nicomachus. In both cases, the existence of such speeches shows the ongoing tension between democrats and oligarchs, despite the amnesty. Lysias 6, and its opposing speech, Andocides 1, deal with the question of how far reconciliation extended, as Andocides in his speech seeks to maintain his rights as a citizen by virtue of the amnesty, despite not actually having been involved in the civil conflict, and his opponent in Lysias 6 attempts to refute his claims. The other speeches discussed in this chapter do not deal with the conflict and post-conflict settlement as their specific subject matter, but nevertheless illuminate the questions, values, and norms at play at the time.

Pericles' Funeral Oration

Before proceeding to the speeches that most closely follow the restoration of the democracy in 403 BC, there is one important piece of oratory which it is necessary to discuss. This is the famous Funeral Oration attributed to Pericles by Thucycides, which is an ideal starting point for any discussion on Athenian ideology, being a classic statement of democratic ideals and therefore serving as a background against which the other speeches can be read. It clearly outlines the five key areas in civic ideology with which this chapter is concerned. These norms are presented in the speech as interlocking ideals which group around the central concept of a balance between individual and community. This balance is crucial to the issues of reconciliation and conflict, as the successful integration of private interests with the greater public interests is at the heart of resolution of the tension created by the civil conflicts. Many scholars have noted the highly

idealizing nature of the portrait of Athens in this speech. Naturally, reality did not conform all the time, particularly as the stresses of war took their toll.[164] Pericles' speech extols a balance that is by nature extremely fragile.

After his explanation for the nature of his speech, Pericles characterizes the Athenian system of government and its virtues, as contrasted especially to the Spartan system[165]. The city he presents is one that draws its strength from its civic ideals, encouraging the Athenians to continue to stick by the principles of democracy even in times of trouble.[166] Dealing first with the concept of the law, Pericles initially states "μέτεστι δὲ κατὰ μὲν τοὺς νόμους πρὸς τὰ ἴδια διάφορα πᾶσι τὸ ἴσον", followed soon after with "ἀνεπαχθῶς δὲ τὰ ἴδια προσομιλοῦντες τὰ δημόσια διὰ δέος μάλιστα οὐ παρανομοῦμεν, τῶν τε αἰεὶ ἐν ἀρχῇ ὄντων ἀκροάσει καὶ τῶν νόμων, καὶ μάλιστα αὐτῶν ὅσοι τε ἐπ' ὠφελίᾳ τῶν ἀδικουμένων κεῖνται καὶ ὅσοι ἄγραφοι ὄντες αἰσχύνην ὁμολογουμένην φέρουσιν."[167] The law is set as a standard for both the private sphere, in which disputes are settled by the laws, under which all are equal, and the public sphere, in which obedience to the law is emphasized. The laws provided for the equal claims of all individuals in private life, and in public life, the obedience to the law by the individual represented the integration of the private citizen into the collective consensus of the community.

According to Pericles, the Athenians are not concerned with what anyone else does in his private life, as long as it does not interfere with their own life, and even if it does, the law is there to resolve such issues.[168] However, this respect for privacy extends only so far, and there is a limit to how private an individual can be. Although permitted freedom in their private lives, citizens are nonetheless required to participate in the community of the polis as a whole: "ἔνι τε τοῖς αὐτοῖς οἰκείων ἅμα καὶ πολιτικῶν ἐπιμέλεια, καὶ ἑτέροις πρὸς ἔργα τετραμμένοις τὰ πολιτικὰ μὴ ἐνδεῶς γνῶναι."[169] Each individual is not merely interested in his own affairs, but also, and more importantly, the affairs of Athens. The ambition of individuals is subsumed into this, with those who earn distinction doing so not through pursuit of their own self-interest but instead by service to the city and the *demos*. Crucially, Pericles points out that the Athenians do not call someone who is not interested in the affairs of the city ἀπράγμων, but rather ἀχρεῖος.[170] Thus participation is an obligation, yet it is also an entitlement, one that in democracy is enjoyed equally by all citizens regardless of

---

164 See W.R. Connor, *Thucydides*, 63-75, where the contrast between the ideal Athens in the Funeral Speech and the harsh reality of Pericles' last address to the Athenians, following the plague, is thoroughly discussed.

165 Kagan, 74.

166 Connor, *Thucydides*, 64; Kagan, 74.

167 Thuc. 2.37.1, 3.

168 See Thuc. 2.37.3 quoted above, note 167.

169 Thuc. 2.40.

170 Thuc. 2.40.2

class. The point is made in this speech that as long as a citizen is of service to the state, poverty is no obstacle to political involvement.[171] Additionally, it is ability that places one citizen above another in terms of fitness for office, not class.[172] This indicates that degree of wealth or class is not what is important in determining a citizen's value, but rather individual merit.[173]

The importance of consensus to the success of Athens as a democracy is evident in Pericles' words, in the context of law, privacy and participation. Democracy, as Pericles notes, is power in the hands of all the people, not just οἱ ὀλίγοι.[174] Therefore, as all the citizens share in making decisions, so they must follow the laws and decisions commonly agreed upon by all. Therefore participation is not only an entitlement, allowing the citizens the freedom to govern themselves through collective decision-making, but it is also an obligation, requiring all to be a part of and contribute to the whole, and thus respect for the common consensus is both obedience and agency, since the citizens themselves make and execute the decisions which they follow. Discussion of and deliberation on issues is not, in the eyes of Pericles, a hindrance but a means to action.[175] Consensus is necessary to ensure that decisions are reached and carried out, by and for the individual as part of the greater whole.

Loyalty to the democracy is stressed in the speech through the theme of individual sacrifice for the common good, which is also a form of self-interest since as a part of the city, the individual shares in the common good.[176] This is best demonstrated in Pericles' praise for the war dead. The value of fighting and dying in defence of Athens, and therefore in defence of the democracy, is made abundantly clear throughout the latter part of the speech.[177] It is not simply enough to be an individual in the city, but rather it is necessary to rise above this and become part of a greater whole. One must become a lover of the city and her greatness, both possessing and being possessed by her, and in so doing realize that greatness comes from the fulfillment of the duty of citizens to the city.[178] As Pericles says, "κοινῇ γὰρ τὰ σώματα διδόντες ἰδίᾳ τὸν ἀγήρων ἔπαινον ἐλάμβανον καὶ τὸν τάφον ἐπισημότατον, οὐκ ἐν ᾧ κεῖνται μᾶλλον, ἀλλ' ἐν

---

171 "οὐδ' αὖ κατὰ πενίαν, ἔχων γέ τι ἀγαθὸν δρᾶσαι τὴν πόλιν, ἀξιώματος ἀφανείᾳ κεκώλυται" Thuc. 2.37.1

172 "κατὰ δὲ τὴν ἀξίωσιν, ὡς ἕκαστος ἔν τῳ εὐδοκιμεῖ-, οὐκ ἀπὸ μέρους τὸ πλέον ἐς τὰ κοινὰ ἢ ἀπ' ἀρετῆς προτιμᾶται" Thuc. 2.37.1

173 See Josiah Ober, *Political Dissent in Democratic Athens*, 87, for a discussion of merit as the basis of the value of a citizen.

174 Thuc. 2.37.1

175 Thuc. 2.40.2

176 See Connor, *Thucydides*, 65-69.

177 Thuc. 2.42-43 in particular.

178 "ἀλλὰ μᾶλλον τὴν τῆς πόλεως δύναμιν καθ' ἡμέραν ἔργῳ θεωμένους καὶ ἐραστὰς γιγνομένους αὐτῆς, καὶ ὅταν ὑμῖν μεγάλη δόξῃ εἶναι, ἐνθυμουμένους ὅτι τολμῶντες καὶ γιγνώσκοντες τὰ δέοντα καὶ ἐν τοῖς ἔργοις αἰσχυνόμενοι ἄνδρες αὐτὰ- ἐκτήσαντο" Thuc. 2.43.1

ὧ ἡ δόξα αὐτῶν παρὰ τῷ ἐντυχόντι ἀιεὶ καὶ λόγου καὶ ἔργου καιρῷ ἀιείμνηστος καταλείπεται."[179] The men who gave their lives for the common good are the ones who earned the greatest individual praise, which points out how service to the collective is in the best interest of the individual. Thus death in service to the city is part of the larger picture of gain: the men gave their lives to protect the city, as those possessed by the city, but also, as possessors of the city, risked their lives for their own wellbeing, and by their deaths defended the wellbeing of their families and indeed achieved a good for themselves in the immortal praise bestowed upon them by the city.

The preference for service to Athens over personal wealth or private interest is emphasized by Pericles: "τῶνδε δὲ οὔτε πλούτου τις τὴν ἔτι ἀπόλαυσιν προτιμήσας ἐμαλακίσθη οὔτε πενίας ἐλπίδι, ὡς κἂν ἔτι διαφυγὼν αὐτὴν πλουτήσειεν, ἀναβολὴν τοῦ δεινοῦ ἐποιήσατο."[180] This shows the ideal of identification of private with public interests rather than the separation of the two, emphasizing the importance of service and sacrifice for the benefit of Athens over private goals. The values conveyed in this speech as a whole are geared towards showing that the greatness of the polis is more important than narrow self-interest and is in fact equivalent to long-term self-interest.[181] Thus service to Athens does not mean that an individual has no freedom, as is the case in Sparta, but instead it is the very lack of coercion and willing dedication of the citizens to the democracy that defines the city.[182] Happiness comes out of freedom, and freedom comes from the courage to act on behalf of the city and the democracy.[183] Thus loyalty to the democracy encompasses privacy as well as participation, consensus and respect for the law, with all citizens free to help uphold the values which allow them to be free.

The law provided for private protection, but also enforced public obedience, creating a stable democratic environment. Consensus was required in order to make and to uphold these laws, since as the Athenians recognized, the laws were only effective if the *demos* whose will they represented was willing to act in their defense and enforce them.[184] As consensus implied both self-determination and obedience, so it entailed free dedication of oneself to the city, requiring that individuals recognize that their own private interests would be best served by performing public services in the common interest.[185] Additionally, distinction was given to those who showed exceptional service to the public in order to encourage individuals to act in the best interests of both themselves and

---

179 Thuc. 2.43.2

180 Thuc. 2.42.4

181 Ober, *Political Dissent,* 84.

182 Thuc. 2.39.1 and 3

183 "τὸ εὔδαιμον τὸ ἐλεύθερον-, τὸ δ' ἐλεύθερον τὸ εὔψυχον κρίναντες" Thuc. 2.43.4

184 Ober, *Athenian Legacies*, 96-97, see also Ober, *Mass and Elite,* 300 and Matthew Christ, *The Litigious Athenian,* 22-23.

185 Peter Liddel, *Civic Obligation and Individual Liberty in Ancient Athens,* 236-250.

the city.[186] It was not a rejection of either private or public interests, but an ideology aimed at a balance of both. *Koinon* and *idion* were balanced in a way to create space for both private and public interests, allowing for privacy and distinction within the belonging and commonality necessary for democracy. This balancing of the claims of the individual with the claims of the community provided the ideological field within which reconciliation after 403 was negotiated.

Participation

The first element of Athenian democratic ideology that I will turn to is the concept of participation. This really breaks down into three categories: participation in the democracy, participation in the oligarchies (or opposition to democracy), and non-participation. The obligation to participate, at least to the extent of one's ability, prompted those who spoke before the people to make certain to demonstrate their level of involvement in the affairs of the city. This resulted in a predictable and consistent theme in most of the speeches, that is, of relating to what extent Athens had benefited from the contributions of the speaker. Most often this came in the form of a listing of the liturgies performed by the speaker, either in brief summary or in a more detailed enumeration.[187] This was an effective way of not only showing participation, but also of providing an easily quantifiable degree of participation which the audience would be able to recognize immediately. Liturgies also served as a way for the elite to display their wealth and receive honours in a way that was not disruptive to the democratic ideology of Athens but which strengthened the city as a whole.[188] Such participation also served to establish the character of the individual in the minds of his listeners, providing a model which he could claim would equally apply to his future behaviour.[189] Additionally, it provided the opportunity for the speaker to ask for sympathy from his audience in return for all the service he had provided over the years.[190] While most of the time this notion of gratitude, or *charis*, was more or less implicitly sought after by speakers through their listing of services to Athens, occasionally the speaker would go so far as to state that he had performed the services in the hopes of being viewed in a better light should he ever be in

---

186 See Ober, *Mass and Elite*, 231-232 on public gratitude for service (particularly financial) to the democracy.

187 The frequency of this makes listing all the instances in the speeches impractical, however, for some examples, see Lys. 25.12, Is. 5.41-42, and Lys. 21.1-10; See also Ober. *Mass and Elite*, 226-227.

188 See Ober, *Mass and Elite*, in particular 199-200 and 231-233; Carter, *The Quiet Athenian*, 103-104. Compare, for contrast, the behaviour of Meidias in Dem. 21 (Ober, *The Athenian Revolution*, 97-98).

189 Andrew Wolpert, *Remembering Defeat*, 57; See also Ober, *The Athenian Revolution*, 96-98 on models of elite behaviour as seen in Dem. 21.

190 See Ober, *Mass and Elite*, 226-230 for a more extensive discussion of the nature of this concept.

some sort of trouble. The speaker in Lysias 25 says specifically "καίτοι διὰ τοῦτο πλείω τῶν ὑπὸ τῆς πόλεως προσταττομένων ἐδαπανώμην, ἵνα καὶ βελτίων ὑφ' ὑμῶν νομιζοίμην, καὶ εἴ πού μοί τις συμφορὰ γένοιτο, ἄμεινον ἀγωνιζοίμην."[191] Likewise, Andocides, after pointing out the services of his ancestors, claims that these were done in part in the hopes that if anyone in his family were in distress, they would find sympathy from the *demos*.[192] While this might seem to indicate merely selfish reasons for the speakers' services to Athens, the fact that anyone would say this and expect a positive reaction points to a different interpretation. The speaker who made this type of claim showed that he respected the power of the *demos* both legally and ideologically over himself, and that he was dependant on their goodwill.[193] While participation in the form of liturgies was one thing that most speakers made claim to, others added more evidence of their involvement in the affairs of the city to the list of their contributions. The holding of offices was certainly of value, as was military service. Much as with the liturgies presented in other speeches, Mantitheus, in his defence, states that he served as a hoplite rather than in the cavalry in order that the people would have a better opinion of him, should he face unjust prosecution.[194]

Participation in the democracy was obviously seen as a positive accomplishment, and on the opposite side of the spectrum lies participation in the oligarchies. Any sort of involvement in the government of the Four Hundred, or even worse, the Thirty, was of obvious detriment to any Athenian. To my knowledge, there is only one speech in which the accused was actually directly involved in the government of the oligarchs: Lysias' speech against Eratosthenes, a member of the Thirty.[195] However, there are a number of other speeches in which one party was accused of being linked in some way to the oligarchs. Agoratus was accused of playing a part in the deaths of a number of loyal democrats by helping the Thirty capture them, and Evandros was in some way involved in the oligarchic takeover in 404, although since the actual charges are lost, it is not entirely certain what he actually did.[196] Likewise, as seen in the case of Mantitheus, speakers would often be forced to defend themselves against the accusation. This is especially clear in the case of military service, where service in the fleet or the hoplites was seen as participation in the proper democratic order, while service in the cavalry was viewed with suspicions of oligarchic sympathy. Mantitheus, in his defence at his *dokimasia*, goes to great lengths to show that he had not served in the cavalry under the Thirty, and therefore should not be

191 Lys. 25.13

192 And. 1.141

193 Ober, *Mass and Elite*, 228.

194 Lys. 16.17

195 Lys. 12

196 Lys. 13 and 26

suspected of oligarchic sympathies.[197] Additionally, he points out that although later given the opportunity to serve in the cavalry, he chose instead to face real danger with the πλῆθος and serve as a hoplite in the front ranks.[198]Although Mantitheus claims that being enrolled in the cavalry was not in and of itself a crime, he does qualify his statement with the point that, had he served in the cavalry, he would have to show that he had not harmed any citizens.[199]

This raises the question of whether those who served in the cavalry and actively opposed the democratic exiles in 404 were treated as criminals of some sort. The speaker in Lysias 26 certainly implies that this was the case, stating that those who served in the cavalry under the Thirty would be rejected from admission to the *boule* on those grounds alone.[200] Given the amnesty declared in 403, this statement is quite interesting. According to the various sources on the amnesty the terms forbade the prosecution for past wrongs, with the exception of direct murder, for anyone other than the Thirty and their immediate subordinates.[201] Based on this, membership in the cavalry, whether or not a person inflicted harm on another citizen, should not have been a reason for disqualifying a person from office. Perhaps the speaker in Lysias 26 was simply trying to evoke hostile feelings towards the subject of the *dokimasia*. In any case, his arguments against Evandros were not successful since we know that he was elected the eponymous archon for the year following this speech.[202] Certainly the speaker does make the claim that the process of *dokimasia* existed to prevent former oligarchs from taking office.[203] This claim appears to be a somewhat liberal interpretation of the facts, and is not made in any of the other *dokimasia* speeches, leading me to believe that it was not the standard interpretation of the process.

Nevertheless, the fact that these statements were made at all indicates that participation in the affairs of the oligarchs could be a hindrance to an individual, particularly a public figure. Therefore, while prosecutors were quick to make the accusation of participation in the oligarchies, to whatever degree was feasible, defendants were quick to deny their involvement. Andocides, whose involvement in the mutilation of the herms in 415 might have indicated complicity in an oligarchic plot, made sure to indicate that he had no part in the plans of the oligarchs, both in 411 and in 404.[204] This denial was especially important in the cases of those who remained in the city under the Thirty or who returned prior to

---

197 Lys. 16.1-8

198 Lys. 16.13-15

199 Lys. 16.8

200 Lys. 26.10. See Wolpert, 51-52 for a comparison of this statement to that of Mantitheus.

201 Xen. *Hell.* 2.4.38, Arist. *Ath. Pol.* 39.5-6. See Wolpert, 30-35, for an extended discussion of the terms of the amnesty.

202 Wolpert, 70.

203 Lys. 26.9-10

204 And. 1.101

the return of the exiles and the overthrow of the oligarchs. In the case of the speaker in Lysias 25, who had in fact remained in the city during the rule of the Thirty, he makes it clear that he did not do anything to harm the democrats, despite being given the opportunity to do so by the lawlessness of the time.[205] However, while not taking part in the crimes of the oligarchs was certainly something to make sure the audience was aware of, non-participation in the democratic resistance to the oligarchs was still a problem for such speakers.

The issue raised by the non-participation of many Athenians primarily comes down to the question of what degree of participation was necessary for citizenship. As Ober points out, for the Athenians, citizen rights were in principle only enjoyed by those who deserved them and were willing to act in their defense.[206] Liddel also discusses extensively the pressures which compelled Athenians to participate and how this participation was seen as an obligation for any citizen.[207] Based on this, it is easy to see why those who did not act in defense of the democracy would have their rights as citizens questioned. In some cases the speaker would simply attempt to show that his opponent had never really taken part in the democracy to the full extent of his abilities, particularly with respect to liturgies. As the speaker in Isaeus 5 points out, his opponent Dicaeogenes had performed almost no liturgies, despite his great wealth, and even those few that he had reluctantly undertaken had been done without any really effort.[208] Therefore, according to the speaker, Dicaeogenes "οὔτ' ἐλεειν ἐστε δίκαιοι κακῶς πράττοντα καὶ πενόμενον, οὔτ' εὖ ποιεῖν ὡς ἀγαθόν τι εἰργασμένον τὴν πόλιν."[209] This is especially true because Dicaeogenes only received his fortune through a court decision, and therefore should have been indebted to the *demos* even further on account of this.[210] Dicaeogenes' lack of participation therefore deprives him of any sort of *charis* from the people, in addition to calling into question his fitness to be a citizen.

Even more of an issue were the individuals who did not participate in the defense of democracy to at least some extent when the oligarchies were in power, particularly the Thirty. As the speaker in Lysias 31 claims, those such as his opponent Philon who did nothing to help the democracy, despite being exiled, are guilty of betraying the democratic ideals by which they ought to live. In his argument, merely holding citizenship is not enough: "ἐγὼ γὰρ οὐκ ἄλλους τινάς φημι δίκαιον εἶναι βουλεύειν 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

---

205 Lys.25.14-17

206 Ober, *Athenian Legacies*, 96.

207 See Liddel, especially 236-250.

208 Is. 5.35-38

209 Is. 5.35

210 Is. 5.37

ἀναγκαῖον σφίσιν αὐτοῖς ἡγεῖσθαι εἶναι μετέχειν τὸ μέρος τῶν δεινῶν."[211] The speaker sets up Philon as being a man who neither belongs to the party of the Piraeus, the democrats, nor to the party of the city, since he was exiled, and therefore as someone who failed to participate in any way. Due to this lack of participation, Philon, and others like him, deserve no part in the affairs of the city which they refused to be a part of. As the speaker says, "ἔστι γὰρ τὰ τούτου ἐπιτηδεύματα καινὰ παραδείγματα καὶ πάσης δημοκρατίας ἀλλότρια."[212] This is contrasted to the civic character of the jurors themselves, which the speaker declares should be the standard to which those admitted to the *boule* should be held.[213] The way Philon acted was not the way a true democrat was expected to behave. Philon's case seems to have been somewhat uncommon, given the way in which his accuser describes his conduct, but there were many other Athenians who fell into a questionable position with regards to participation. These were the individuals who had remained in the city under the reign of the Thirty. Although, as discussed above, they were quick to deny any involvement in the actions of the oligarchs, they were still in the position of having to defend the fact that they did not participate in the struggle to restore democracy to Athens.

In response to this, the speaker in Lysias 25 makes a number of claims regarding the nature of citizenship in respect to participation. He claims in fact that it is the business of the *demos* to allow those who have done no wrong to enjoy equal rights.[214] Therefore, by his argument, having done no wrong is enough to be a citizen, and direct participation in the resistance to the oligarchs is not necessary. He goes on to claim that the resentment against the Thirty that exists amongst the *demos* should not be grounds for bringing about the ruin of those who, although they stayed in the city, did nothing wrong.[215] In fact, since he had the opportunity to do great harm to the democracy and the loyal citizens under the lawless rule of the Thirty, and did not do so, he says "... μεγίστην ἡγοῦμαι περὶ ἐμαυτοῦ τῇ δημοκρατίᾳ πίστιν δεωκέναι"[216] By this logic, doing nothing was actually a good thing. The speaker then asserts "ἦ που νῦν σφόδρα προθυμηθήσομαι χρηστὸς εἶναι, εὖ εἰδὼς ὅτι, ἐὰν ἀδικῶ, παραχρῆμα δώσω δίκην."[217] Since under democracy there are consequences to actions which he could have freely committed under the oligarchy, there is no

---

211 Lys. 31.5

212 Lys. 31.34

213 "οὐ γὰρ ἄλλοις τισὶν ὑμᾶς δεῖ περὶ τῶν ἀξίων ὄντων βουλεύειν τεκμηρίοις χρῆσθαι ἢ ὑμῖν αὐτοῖς, οἱοῖοί τινες ὄντες αὐτοὶ περὶ τὴν πόλιν ἐδοκιμάσθητε." Lys. 31.34

214 "...ὑμέτερον δὲ τοῖς μηδὲν ἀδικοῦσιν ἐξ ἴσου τῆς πολιτείας μεταδιδόναι." Lys. 25.3

215 "νῦν δὲ νομίζουσι τὴν πρὸς ἐκείνους ὀργὴν ἱκανὴν εἶναι καὶ τοὺς μηδὲν κακὸν εἰργασμένους ἀπολέσαι... εἴ τινες πολλὰ κακὰ εἰργασμένοι εἰσίν, εἰκότως ἂν δι' ἐκείνους τοὺς μηδὲν ἀδικοῦντας ὀνείδους καὶ διαβολῆς τυγχάνειν." Lys. 25.5-6

216 Lys. 25.17

217 Lys. 25.17

reason for him to misbehave, and in fact there are strong incentives for continuing to be a good citizen. In addition, the speaker makes the point that the best citizen of the Piraeus would have acted in the same way, had they remained in the city.[218] With this, he attempts to bridge the gap between the members of the jury, all presumed men of the Piraeus, and himself as a member of the men of the city. This is an important step towards trying to fold himself, and others in his situation, back into the collective of the *demos* and reestablishing himself as a contributing member of Athenian society.

Finally, the issue of non-participation may have been in part a tactic used to try and get around the terms of the amnesty which forbade prosecution for past wrongs. In cases such as those of Philon or of Andocides, the fact that the accused did not participate in either side during the civil conflicts could be seen to put them outside of the amnesty, which specifically applied to the men of the city and the men of Piraeus.[219] By excluding them from the groups which were covered by the amnesty, the speakers sought to present their opponents as outsiders, who through their lack of participation, belonged to no group and therefore were not deserving of a place amongst the rest of the citizen body. Participation, how much and in what context, was a key factor in determining a person's value as a citizen and their place in Athens following the restoration of democracy.

The ethic of participation was basic to citizenship and to the balance struck between mass and elite in democracy, providing terms by which elite political ambition could be accommodated, as channeled to fulfillment of popular will and public service. Post-403 elite individuals could find themselves more than ever in need of recourse to such claims, to justify themselves and their inclusion in the civic body, especially those who did not take part in the democratic resistance to the oligarchs. Those who had actually participated in the oligarchy were open to attack despite the amnesty: the hostility felt toward their breaking the bond of common, democratic belonging was now naturally an obstacle to their re-integration into the *demos* and often overshadowed the desire for reconciliation felt by the citizens. More problematic still for reconciliation was similar feeling for the 'men of the city' who, while not actively participating in the oligarchy, had nevertheless failed in their duty of active participation in defense of the democracy. Whether they could be accepted by the 'men of the Piraeus' as their fellows in the restored *demos* was therefore questioned. Thus the success of reconciliation would depend on what the Athenian people were and were not willing to accept vis-à-vis the participatory obligations of citizenship, as played out, tested, and negotiated in the conflicting rhetorical claims of defense and prosecution. What space could democratic ideology provide for reconciliation? This would depend on how norms of participation were weighed against norms of privacy.

---

218 Lys. 25.2

219 See Lys. 31.13-14 and 6.38-39

Privacy

As characterized in the funeral speech of Pericles, the Athenians were content to leave each other alone in terms of private affairs, as long as this did not interfere with the affairs of state. This resulted in a sort of balance being struck between the private affairs of individuals and the public affairs of the city in which everyone was expected to participate to some degree. Many among the elite in particular preferred a great deal of privacy, a fact which was exploited by various informers who used their target's desire to stay out of the public eye to extort money from them.[220] That is not to say that these 'rich quietists,' as Carter terms them, did not contribute to Athens in the way which was expected of them, but rather that they preferred to mind their own business and keep to themselves as far as possible. These men portrayed themselves as harmless citizens who wished merely to have their private lives respected, a common enough trope that it must have been well received by juries.[221] In particular, this plea for the respect of private interest was used as a point of defence by the speaker in Lysias 25, who claims that his remaining in the city was motivated by his desire to preserve his estate, and not in order to participate in the government of the Thirty.[222] Not only this, but he points a finger at his accusers, labeling them as busybodies for prying into the private affairs of others: "ἀμελοῦντες τῶν οἰκείων τῶν ἀλλοτρίων ἐπιμέλονται".[223] This accusation has in fact two levels, first that the speaker's opponents are violating the tradition in Athens of leaving others to enjoy their private lives in peace, and second that his accusers are motivated not by interest in the public good, but rather by private, self-serving interests. This second part he makes clear in his description of his opponents as slanderers whose rapid rise in wealth and social station is attributable to their attacks on other citizens.[224] Those who pry into the affairs of others, he claims, are the real privately interested individuals who harm civic cohesion, as opposed to those like himself whose private interests are in no way detrimental to the city.

Of course, not all members of the elite were content to merely live out their lives as private individuals and contribute to the state only when called upon, and the nature of the democracy in fact encouraged elite participation and ambition, as long as it was channeled towards the greater goals of the *demos* as a whole.[225] A clear distinction of these two types of wealthy elite is seen in Lysias 19, in which the speaker contrasts his father and his brother-in-law, saying "ἐκείνου μὲν γὰρ ἦν τὰ ἑαυτοῦ πράττειν, Ἀριστοφάνης δὲ οὐ μόνον τῶν ἰδίων ἀλλὰ καὶ τῶν κοινῶν ἐβούλετο ἐπιμελεῖσθαι, καὶ εἴ τι ἦν αὐτῷ

220 See Carter, 105-106.

221 Carter, 106-110.

222 Lys. 25.18

223 Lys. 25.1

224 Lys. 25. 25-26, 29-31

225 Ober, *Mass and Elite,* 85-86; see also Ober's interpretation of Demothenes' self-characterization as noted in *Athenian Revolution*, in particular p.97.

ἀργύριον, ἀνήλωσεν ἐπιθυμῶν τιμᾶσθαι."[226] The desire for *time*, as indicated in this passage, no doubt encouraged members of the elite to become public figures and to channel their energies towards the public good. However, once the transition from private to public figure had been made, a different sort of standard seems to have been applied. As Davidson notes, "The gaze of the citizens was turned with even greater intensity on those among them who became public figures."[227] These public figures were subjected to a more intense scrutiny of their actions, and while something might have been tolerated in the case of a citizen who kept to himself, this same thing could become an issue for a public figure. A good example of this can be seen in the case of Andocides, where one of his opponents makes the case that a large part of the offense that Andocides has committed against the city has to do with the fact that he is attempting to enter a public career.[228] Although it is not explicitly stated, this implies that had Andocides been content to remain a private individual, his past actions would not be as objectionable, which is presumably part of why charges were not brought against him earlier.[229]

This more demanding standard for public figures also comes out in the process of *dokimasia*, both for the various public offices and for those addressing the Assembly (*dokimasia rhêtorôn*). By this process, the private lives of individuals were subjected to scrutiny in order to determine the fitness of a citizen for involvement in public affairs. Public roles carried with them the potential for greater rewards, but also greater risk.[230] In the aftermath of the oligarchies the process of *dokimasia* became much more antagonistic, with accusations of oligarchic sympathies tending to be made against those undergoing the scrutiny.[231] The process allowed for any objection to be made against an individual undergoing *dokimasia*, however, in most cases it was simply a formality.[232] Following the oligarchies, however, we see the accusation of oligarchic sympathy being brought up in the four *dokimasia* speeches of Lysias, with one speaker even going so far as to claim that the process of *dokimasia* was set up in order to prevent suspected oligarchs from entering into any office.[233] Whether or not this was in fact the case is difficult to determine, as we have no

---

226 Lys. 19.18; See also Carter, 108-109.

227 James Davidson, *Courtesans and Fishcakes*, 250. See also J.J. Winkler, "Laying Down the Law", in *Before Sexuality*, 187-188.

228 Lys. 6.33-34, in particular "εἰς τοσοῦτον δὲ ἀναισχυντίας ἀφῖκται, ὥστε καὶ παρασκευάζεται τὰ πολιτικὰ πράττειν καὶ ἤδη δημηγορεῖ καὶ ἐπιτιμᾷ καὶ ἀποδοκιμάζει τῶν ἀρχόντωϋ τισι."

229 Andocides returned to Athens in 402, and was not brought to trial until 399.

230 Ober, *Mass and Elite*, 108-112.

231 Davidson, 251.

232 Davidson, 250-253 and Christ, 134-135.

233 The four speeches are Lysias 16, 25, 26 and 31; See Lysias 26.9 for the claim that the *dokimasia* was created to keep oligarchs out of office.

other evidence of any laws being set up to this effect and no other speeches make reference to this. In either case, it is clear that the process of *dokimasia* was used as an opportunity for accusations of oligarchic sympathies and perhaps also as a chance to exact vengeance for actions which took place under the oligarchies without fear of violating the amnesty.[234] Although individuals could not be prosecuted for their actions in the past, their opponents could apparently still point to their conduct as a reason for preventing them from taking office. Thus a citizen's private affairs were really only private when they did not interfere with the lives of other citizens or the public life of the city.

As tensions post-403 were manifested in rhetorical contests arguing for inclusion or exclusion on the basis of claims about participation, so in turn these were also bound up in claims about privacy: the proper extent and limits of one being bound up in those of the other. Here, Athenian respect for privacy and legitimate private interest afforded some protection for the men of the city, at least as far as their inclusion as *idiotai* was concerned. Indeed, it could be their accusers who were claimed to be acting from destructive private self-interest in molesting private citizens and thereby threatening the restored common peace. But different standards applied to *politeuomenoi*, whose private self-interest in the form of political ambition had much greater implications for the common good. While the amnesty held and provided for inclusion as *idiotai*, those tarnished by association with oligarchy could be excluded from active political participation, and post-403 politically ambitious members of the elite faced a higher bar to be able fully to realize their civic prerogatives, confronting increased scrutiny of their loyalty to democracy.

Loyalty to the Democracy

The issue of loyalty was linked both to privacy and to participation. Participation in service of the public interest could of course be used to demonstrate loyalty, but if a citizen's participation was seen to be motivated by narrow, private self-interest, their loyalty to the democracy could certainly be called into question. Thus many speakers make sure to attempt to show that their actions were motivated by loyalty to the city, or, conversely, that their opponents were motivated merely by self-interest and did not have the interests of Athens at heart. Andocides claims that he did a service to the city when he outbid his opponents for the collection rights of the two percent tax, thereby gaining for the city six talents.[235] This not only implies that Andocides' actions were for the good of Athens, but also that his opponents were acting only out of their own interests, and not for the benefit of the city, as a properly loyal citizen would. As Andocides says, he hopes that all citizens would be like him and oppose those like his opponents, and "οἷς καὶ προσήκει ἀνδράσιν εἶναι καὶ ἀγαθοῖς καὶ δικαίοις

234 See Wolpert, 67-70

235 And. 1.133-134

περὶ τὸ πλῆθος τὸ ὑμέτερον, καὶ βουλόμενοι δυνήσονται εὖ ποιεῖν ὑμᾶς."[236] In other words, a citizen should act in a way that serves the interests of the *demos*, rather than acting simply for their own benefit.

The most prominent issue involving loyalty, however, was the question of how a citizen conducted himself during the oligarchies. There were few of the elite who could claim that they had whole-heartedly supported the democracy against the oligarchs. As the speaker in Lysias 25 notes, many of those who had been involved in the Four Hundred joined with the Piraeus party, and some of those who had stood against the Four Hundred were in fact involved in the government of the Thirty.[237] Oddly, the speaker concludes this section with the statement that what motivates men to act is not politics, but personal advantage, which flies in the face of the standard democratic concept of loyalty discussed above.[238] Additionally, the Athenians appear to have quickly associated the concept of the 'men of Piraeus' with the *demos* as a whole, rather than with specific individuals, which meant that while the juries inevitably became the formerly exiled democrats, those under investigation could not automatically claim membership in this group.[239] Individuals would have to associate themselves somehow with the men of Piraeus, either through demonstrating that they had in fact played a role in the democratic resistance, which was unsurprisingly rare, or in some other way.[240] Likewise, speakers frequently made sure to point out how their opponents should not be included as loyal democrats and men of Piraeus.

The speaker in Lysias 25 attempts both of these, and thus this speech serves as an excellent example of this practice. The speaker, although very clearly a man of the city, which is in fact largely what he is being accused of, attempts to associate himself with the Piraeus party immediately by describing his actions as being no different from what the best men of the Piraeus would have done, had they remained in the city.[241] By this, the speaker hopes to show that he is a loyal democrat, like those of the Piraeus party, the only difference being that his circumstances were different. To this he adds that one should look to the conduct of an individual when the opportunity for mischief without retribution exists, rather than how they behave when unjust actions would be punished by the law.[242] By this reasoning, loyalty to the democracy is not only proven by direct action, but also by not acting in opposition to the democracy. Thus, he argues that although he did not act in defense of the democracy, the fact that he did not act in

---

236 And. 1.136

237 Lys. 25.9

238 Lys. 25.10

239 See Wolpert, 101-110 for an extended discussion of the concept of the men of Piraeus.

240 To my knowledge, the only speech in which the speaker identifies himself as one of the exiled democrats is Lysias 13.

241 Lys. 25.2

242 Lys. 25.15-17

support of the opponents of democracy proves his loyalty. Additionally, since the speaker points out that men act in their own best interests, the logical conclusion to this is that if his best interest had been served by working with the oligarchs, he certainly would have done so, and the fact that he did not shows that his personal interest is served by not betraying the democracy, as best he could given the circumstances, while also preserving his own property and well-being, as any other reasonable person would have done. Conversely, the speaker points out that while his opponents apparently were amongst the exiles in Piraeus, since the restoration of the democracy they have acted only as sycophants, and that they believe that having been amongst the exiles gives them license to behave however they wished.[243] He attacks "οἳ φεύγοντες μὲν δι' ἑτέρους ἐσώθησαν, κατελθόντες δὲ συκοφαντεῖν ἐπιχειροῦσιν," who "ταχέως μὲν ἐκ πενήτων πλούσιοι γεγένηνται, πολλὰς δὲ ἀρχὰς ἄρχοντες οὐδεμιᾶς εὐθύνην διδόασιν, ἀλλ' ἀντὶ μὲν ὁμονοίας ὑποψίαν πρὸς ἀλλήλους πεποιήκασιν."[244] Thus the speaker attempts to show that his opponents, rather than being true loyal democrats, merely seek to use their exile to further their own selfish goals, and based on this, they should not be included as members of the Piraeus party.

On the other hand, the speaker in Lysias 31 argues that being an exile under the oligarchy should not count as proof of loyalty to the democracy, for his opponent Philon, although exiled, did not join up with the democrats at Phyle or in Piraeus, but rather used the civil conflict to further his own interests.[245] Philon, the speaker says, "περὶ πλείονος ποιησάμενον τὴν ἰδίαν ἀσφάλειαν ἢ τὸν κοινὸν τῆς πόλεως κίνδυνον, καὶ ἡγησάμενον κρεῖττον εἶναι αὐτὸν ἀκινδύνως τὸν βίον διάγειν ἢ τὴν πόλιν σῴζειν ὁμοίως τοῖς ἄλλοις πολίταις κινδυνεύοντα."[246] Philon has valued his private (ἰδίαν) interests above the public (κοινὸν) good, and therefore he has clearly set himself apart from the rest of the citizens, who are all of course loyal democrats. A similar point is made by the younger Alcibiades in his defense of his father, where he claims that his father was a democrat not simply because he refused to join the oligarch when invited to do so, but because he chose to suffer injustice rather than betray the constitution.[247] Thus being an enemy of the oligarchs was not what made a man a democrat, but rather his actions in favour of the democracy. Related to this is the point made by the speaker in Isocrates 18, who states "καίτοι χρὴ τούτους δημοτικοὺς νομίζειν, οὐχ ὅσοι κρατοῦντος τοῦ δήμου μετασχεῖν τῶν πραγμάτων ἐπεθύμησαν, ἀλλ' οἳ δυστυχησάσης τῆς πόλεως προκινδυνεύειν ὑμῶν ἠθέλησαν."[248] It is one thing to perform liturgies and

243 Lys. 25.28-33

244 Lys. 25.29 and 30

245 Lys. 31.8-14,17-20

246 Lys. 31.7

247 Isoc. 16.36

248 Isoc. 18.62

participate in public affairs when it is safe to do so, but those who are truly loyal to the democracy are those who not only do that, but also continue to support the democracy in times of trouble. Strangely enough, the speaker who made this point does not appear to have actually helped in the struggle to restore the democracy, or at least he makes no mention of it, although he does point out that he stood by Athens and continued to resist the Spartans even after the defeat at Aegospotami, when others "νομιζόντων τὰ μὲν κοινὰ διεφθάρθαι, τὰ δ'ἴδια σκοπουμένων."[249]

Thus quite different normative claims could be made. Where some argued that exile under the oligarchy did not constitute loyalty to the democracy, others argued that remaining in the city did not constitute disloyalty. Thus the speaker in Lysias 25 argues that one should look to behaviour under the Thirty as an indication of a man's loyalty.[250] The latter position was supported by the amnesty, which fairly effectively protected those who had remained in the city, particularly those who showed by their subsequent behaviour that they were committed to the democracy. Another part of this, as Wolpert rightly points out, is the use of a dramatic fiction, whereby the denial of involvement in the government of the Thirty was at least a rejection of oligarchy and an act of submission to democratic norms.[251] Of course, the *demos* could hardly be expected to actually believe that all the oligarchic supporters who had remained in the city had simply vanished, but the fiction made it much easier to abide by the amnesty and accept that the men of the city were now committed to upholding the principles of democracy. By accepting the idea that the men of the city who denied any connection with the Thirty were innocent, the *demos* could avoid violating the amnesty in punishing the men of the city while still affirming the principle that the guilty should be punished.[252] Thus the speaker in Lysias 26 asserts that only those such as his opponent Evandros who actually committed crimes under the Thirty deserve to be punished, while the majority of the men of the city, who behaved equally well under the oligarchy and the democracy, deserve to be considered as loyal as the men of Piraeus.[253] Additionally, the *demos* was motivated to accept the dramatic fiction of innocence as to do otherwise would be to admit that oligarchs remained in the city and thus that the reconciliation was not really a victory for democracy but instead a compromise with oligarchs.[254] This would destroy any chance of consensus in the city, and would leave open the possibility of further *stasis*, thus defeating the purpose of the amnesty and the reconciliation altogether. By accepting the fiction, therefore, the Athenians could maintain both the laws of the

---

249 Isoc. 18.61

250 For similar arguments, see also Lys. 7.27 and Isoc. 15.27.

251 Wolpert, 95-97, 101, 116.

252 Wolpert, 96.

253 Lys. 26.17-18

254 Wolpert, 116-117.

city and the necessary consensus required for the continuing success of democracy.

Obedience to the Law and the Amnesty

Adherence to the law was an important part of democratic ideology. Pericles' speech points to the importance of the law in Athens as something which all the citizens are subject to and are respectful of. As Ober further clarifies, "the Athenian citizens depended directly and immediately upon one another to enforce and to reify, in action, the values on which the laws were predicated."[255] The citizens themselves were the agents of the law, and therefore it was to each individual's best interest to remind each other of their responsibilities for upholding the laws.The laws were not only something outside of the individual which required obedience, but were also reflections of the self-determining will of each citizen as a member of the *demos* that enacted the laws. Thus the citizens respected not only the external aspect of the law, but also the underlying democratic moral and political principles of the law, which still held even in the absence of law. Speakers could therefore claim that their lawful behaviour in the absence of laws reflected their general disposition: why would they now behave in a manner that would result in punishment under the law when they did not do so when there were no laws preventing that kind of action?

The codification of the laws as the *patrios politeia* during the restoration of the democracy not only served to remind the citizens of the importance of the laws by displaying them prominently in the *stoa*, but also affirmed that the laws of the democracy represented the original constitution of the city. Tying the laws to the ancestral constitution therefore tied reconciliation to restoration: vengeance and exclusion of the men of the city was not the way to restore democracy and was indeed not lawful. Instead, reconciliation and amnesty were what reflected adherence to the ancestral and democratic ways of Athens. The amnesty of 403, though not a law itself, was closely tied to the laws, with the oaths involving pledges to act in accordance with the existing (and thus democratic) laws, as we have seen. Thus the newly inscribed laws played an integral role in the process of reconciliation.

Since the amnesty forbade the recalling of past wrongs, it supposedly prevented anyone from bringing charges against another citizen for something that had happened in the past. By all accounts the Athenians in general felt that the amnesty was an important part of the reconciliation within the city and the successful continuation of the democracy. The speaker in Lysias 25 refers to the amnesty as "δημοκρατίας... φυλακήν" and others also stress its importance to Athens.[256] The seriousness of this view is shown by Aristotle, who notes that after a citizen began to stir up grudges against those who were protected by the amnesty, Archinus had him executed without trial to serve as an example to

255 Ober, *Athenian Legacies*, 97.

256 Lys. 25.28; see also And. 1.81 and Isoc. 18.44.

others. After this, apparently, no one broke the amnesty.[257] Despite this, to some Athenians, it may have seemed like the amnesty gave too much forgiveness to the oligarchs, or suspected oligarchs, and therefore charges were still brought against individuals for actions that occurred under the Thirty. The initiators of this type of charge, however, had to argue that in fact the amnesty was not being violated. Typically hey argue that the amnesty did not apply to their opponents for some reason, while often simultaneously affirming that the amnesty in general was still of great value. This could be accomplished in a few different ways, one of them being to bring about charges against someone for crimes allegedly committed after the amnesty. This is the case, at least in part, for the trial of Andocides as well as that of Nicomachus. Andocides was accused of acts of impiety in 399, and Nicomachus was accused of not giving up his position as transcriber of the laws and rendering an account of his office after the time allotted to him, also in 399.[258] In both of these cases, however, much of the case also involves the actions of the individual prior to the amnesty. Therefore even though the crimes themselves were committed outside of the application of the amnesty, the earlier events which are involved in the cases forced the prosecutors to deal with the amnesty.

In the case of Andocides, his claim was that his past crimes should be forgiven under the terms of the amnesty, and if he was no longer barred from religious affairs due to this forgiveness, the current case against him had no merit.[259] The prosecution countered with the argument that the amnesty did not apply to Andocides since it was strictly an agreement between the men of the city and the men of Piraeus, and that Andocides was clearly a member of neither.[260] MacDowell, in his appraisal of the arguments for and against Andocides' case, reaches the conclusion that although Andocides might appeal to the spirit of forgiveness invoked by the amnesty, the general feeling to let bygones be bygones, his arguments had no real solid legal basis and the amnesty did not strictly apply to his case.[261] In the case of Nicomachus, although the prosecutor does in fact bring up the past conduct of the accused, he claims that it is acceptable and not in violation of the amnesty since Nicomachus himself had resorted to recalling past wrongs, and was going to attempt to pass himself off as a loyal democrat, despite the fact that he had actually worked towards subverting the democracy.[262] While this certainly seems like a fairly flimsy argument, it serves to show the difficulty which faced prosecutors who were attempting to bring charges against someone who had in fact committed crimes under the oligarchies. The introduction of evidence such as was presented against

---

257 Arist. *Ath.Pol* 40.3

258 See And. 1 and Lys. 6; Lys. 30

259 And. 1.90-91, 103-104

260 Lys.6.38-41

261 Douglas MacDowell, *On the Mysteries*, 200-203.

262 Lys. 30.9-15

Nicomachus would certainly make him appear that much more guilty; however, it also might be seen by the jury as a violation of the amnesty.

While it was difficult to prosecute someone for crimes which were in some way connected to the actions of their past, even more difficult was the task of bringing about charges relating directly to crimes committed under the oligarchies. Particularly illustrative of this are the two speeches of Lysias, 12 and 13, which both deal with the charges of willful murder. According to Aristotle, the amnesty allowed for charges of murder to be brought without violation of its terms, if the murder was committed with the accused's own hands.[263] In the case of Lysias 12, this charge is only one amongst many which Lysias himself, as the speaker, brings against his opponent Erastothenes. While it is not entirely convincing that Erastothenes committed murder with his own hands, the primary charge being that he was responsible for the death of Lysias' brother, Erastothenes was anyway one of the Thirty and therefore excluded from the terms of the amnesty on those grounds. [264] What is striking is that even in a case such as this, where the amnesty clearly did not apply to the defendant, Lysias nevertheless felt the need to bolster the fact by overdetermination. Less concrete is the case against Agoratus presented in Lysias 13, where the speaker makes the case that Agoratus was 'caught in the act' of committing murder due to his deposition of the names of his victims before the people.[265] Crucially, in addition to this, the speaker makes the claim that Agoratus should also not be protected under the amnesty because it applied only to the forgetting of past wrongs between the party of Piraeus and the party of the city, but not to wrongs between members of the same party, as both he and Agoratus were men of Piraeus.[266] Thus in both cases, for multiple reasons, according to the accusers, the defendants are not protected by the amnesty and deserve proper punishment.

On the opposite side of things, the defendants in the speeches of this time period were careful to make sure that their audience was reminded of the importance of the amnesty and its proper application. Given the arguments that could be made in attempts to exclude those facing charges from the amnesty, defendants felt it necessary to show their audience that it did indeed apply to them and appeal to the jurors' respect for the amnesty and recognition of its importance. Andocides argues that whether or not the jury is seen in his case to uphold the amnesty will have great consequences for the future of Athens. If the amnesty is not respected, then those who might face prosecution in its absence would be forced to flee, and the city would be put into the hands informers and

---

263 Arist. *Ath.Pol.* 39.5

264 Despite the fact that Erastothenes was not protected by the amnesty, it appears that he escaped conviction; See Wolpert, 59-60.

265 Lys. 13.85-87; See also Wolpert, 60-61 for the potential difficulties faced by Agoratus' prosecutor.

266 Lys. 13.90

others who would seek to use the disregard of the law to their own benefit.[267] Therefore the amnesty represents the whole of Athenian law to a certain extent: whether or not the citizens were willing to abide by it was indicative of their willingness to follow all the laws of Athens. The amnesty, in conjunction with the laws, was a source of cohesion and consensus for the Athenians, provided that it was followed. To abide by it was to promote *homonoia*, and to violate it was to invite *stasis*.[268]

One tactic that was sometimes used to circumvent the amnesty was to appeal to the higher law of the gods. Although it is difficult, if not impossible, to determine whether or not there was an increase in the number of impiety trials following 403, the fact that Socrates, Andocides and Nicomachus were all accused of some form of impiety in 399 indicates that something was going on.[269] Two other speeches of Lysias, 5 and 7, also deal with matters relating to impiety and occurred shortly after 399. This would seem to point towards the idea that impiety trials were fairly prominent beginning in 399. Wolpert suggests that this may have been an attempt by the Athenians to account for the recent civil upheavals. The violation of the laws of the gods and the subsequent pollution incurred could have explained the misfortunes that befell Athens at the end of the Peloponnesian war.[270] At the same time, it may have been appealing as a way of getting around the amnesty. As the speaker in Lysias 6 argues, the unwritten laws of Athens take precedence over the terms of the amnesty. Following the advice of Pericles, the jury should enforce not just the written laws, such as the amnesty, but also those unwritten laws which no one has the authority to ignore.[271] Going even further, he claims that these laws hold sway over even the sovereign power of the *demos*, and that they would be as guilty of offending the gods as is Andocides should they allow him to go free.[272] Moreover, the speaker claims "ὅτι οὐχ οἷόν τε ὑμῖν ἐστιν ἅμα τοῖς τε νόμοις τοῖς πατρίοις καὶ Ἀνδοκίδῃ χρῆσθαι, ἀλλὰ δυοῖν θάτερον, ἢ τοὺς νόμους ἐξαλειπτέον ἐστὶν ἢ ἀπαλλακτέον τοῦ ἀνδρός."[273] The unwritten laws encompass the law of the gods and the ancestral law, the *patriois nomois*, and so it is the ancient laws of

---

267 "οὐ τὴν αὐτὴν γνώμην ἔχοντες ἀλλήλοις, ἀλλ' οἱ μὲν εἰσόμενοι εἰ χρὴ πιστεύειν τοῖς νόμοις τοῖς κειμένοις καὶ τοῖς ὅρκοις οὓς ὠμόσατε ἀλλήλοις, οἱ δὲ ἀποπειρώμενοι τῆς ὑμετέρας γνώμης, εἰ αὐτοῖς ἐξέσται ἀδεῶς συκοφαντεῖν καὶ γράφεσθαι, τοὺς δὲ ἐνδεικνύναι, τοὺς δὲ ἀπάγειν. οὕτως οὖν ἔχει, ὦ ἄνδρες· ὁ μὲν ἀγὼν ἐν τῷ σώματι τῷ ἐμῷ καθέστηκεν, ἡ δὲ ψῆφος ἡ ὑμετέρα δημοσίᾳ κρινεῖ, πότερον χρὴ τοῖς νόμοις τοῖς ὑμετέροις πιστεύειν, ἢ τοὺς συκοφάντας παρασκευάζεσθαι, ἢ φεύγειν αὐτοὺς ἐκ τῆς πόλεως καὶ ἀπιέναι ὡς τάχιστα." And. 1.105

268 See Gabriel Herman, *Morality and Behaviour in Democratic Athens*, 398.

269 See W.R. Connor, "The Other 399: Religion and the Trial of Socrates." In M. Flowers and M. Toher, eds., *Georgica: Greek Studies in Honour of George Cawkwell*, 50.

270 Wolpert, 62-63.

271 Lys. 6.10

272 Lys. 6.13

273 Lys. 6.8

Athens recently restored as the official law code of the democracy that are at stake in this case. We have seen that respect for the amnesty was attached to respect for the new codification of the laws and the ancestral constitution. This is confirmed here precisely in the speaker's tactic for de-emphasizing the amnesty, which is to appeal to the unwritten laws as the embodiment of the *patrios nomos*. Still, this line or reasoning was not successful as Andocides was not convicted.

Adherence to the law was crucial for the functioning and continuation of the democracy, as well as for establishing and maintaining consensus, particularly in light of the amnesty. Former lawbreakers could appeal to their protection under the amnesty as essential for the proper functioning of the law, and the establishment of an atmosphere of reconciliation and reintegration. If the amnesty was ignored in some cases, it could be ignored in all cases, thereby opening the door to further recrimination and preventing the city from becoming stable again. On the other hand, the prosecutors argued that the laws themselves were at risk of being violated by allowing the guilty to go free, which would undermine the authority of the law and therefore the authority of the people themselves, whose collective will the laws represented. The jurors therefore faced a tough choice, having to attempt to both uphold the laws and respect the amnesty. This was facilitated by the dramatic fiction of innocence discussed earlier, since if the accused was innocent anyway, neither the amnesty nor the law would be violated.[274] This allowed the authority of the law, and thus of the citizens, to remain supreme, and fostered consensus and reconciliation within the city.

Consensus

The inscribed laws, together with the amnesty, were representative of the collective will of the *demos* in Athens. Consensus, or *homonoia*, in fact can be seen as the culmination of all the issues discussed so far in this chapter. The value of *homonoia*, as seen in the speeches, is all about bringing together the self-determining, independent citizens of Athens to form a collective, common mind, dedicated to restoring the democracy and creating an atmosphere of reconciliation and a reintegration of all the parts of Athenian society. The speeches were thus an essential part of the social and ideological process by which the post-conflict tensions were arbitrated and the terms of inclusion and exclusion settled.

The consequences of a lack of consensus and unity among the citizens was demonstrated in the previous chapter in the context of both the oligarchies. In both cases, discord and mistrust allowed the oligarchs to take power with very little resistance. Having learned lessons from these events, the democrats saw the need to remain united and eliminate any sources of division within the city. This was the primary aim of the amnesty, which sought to promote the reunification of the city and the consensus of all citizens. At the very least it did succeed in preventing any further civil conflict and allowed for the lasting nature of the democratic constitution. While Shrimpton makes the argument that the amnesty,

274 Wolpert, 96.

as a formal oath, was not strictly necessary for the success of the democracy, pointing to the rather bloodless restoration of democracy in 411, I would argue that this is not in fact the case.[275] As I demonstrated in the previous chapter, while the transition back to democracy in 411 may have been relatively peaceful, it did not fully resolve the lingering distrust of the democrats for those they saw as potential oligarchs, and this in fact resulted in the loss of the most competent Athenian leaders through various means. Therefore, in 403, mindful of these previous problems, the amnesty was created in order to prevent such a thing from happening again through the promotion of harmony. As Shrimpton says, "the cooperation that made democracy work necessitated the forgetting of violent civil strife."[276] In order for democracy to function, the divisions of the past had to be forgotten, even in a somewhat forced manner.[277] Thus Andocides, for example, makes the point that the citizens were willing to forget past wrongs because they considered the safety of the city to be more important than the settling of private scores.[278] The speaker in Lysias 25 goes even farther, saying that by harbouring no ill feeling towards the men of the city, the democrats will not only produce the greatest *homonoia* amongst the citizens, but also that this will be the greatest blow to the enemies of the city.[279] To this he adds: "χρὴ τοίνυν...τούτους ἡγεῖσθαι δημοτικωτάτους, οἵτινες ὁμονοεῖν ὑμᾶς βουλόμενοι τοῖς ὅρκοις καὶ ταῖς συνθήκαις ἐμμένουσι, νομίζοντες καὶ τῆς πόλεως ταύτην ἱκανωτάτην εἶναι σωτηρίαν καὶ τῶν ἐχθρῶν μεγίστην τιμωρίαν."[280] The point is clear: the strength of democracy lies in the consensus of all citizens, and this unity is the best way to oppose oligarchy. Slanderers, and others like them who would disregard the amnesty, only promote discord and mutual suspicion, such as the oligarchs used to hinder the democrats. As the speaker says, it is in fact the trade of the slanderers under the democracy which led both times to the establishment of the oligarchies.[281]

On the other side of this are the arguments for the necessity of the expulsion of certain individuals in order to allowed for *homonoia*. The most obvious example of this is in the case against Andocides, where, as mentioned above, he is described as being incompatible with the laws of Athens, and therefore as a hindrance to concord. Consensus in this case means that all citizens must support and be subject to all the laws of the city, and anyone who, like Andocides, cannot possibly fit inside these laws cannot remain. The polis is a collective and cannot function properly unless it reestablishes itself as this collective, and those such as Andocides, by the speaker's arguments are not

---

275 Gordon Shrimpton, "Oh, Those Rational Athenians!", *Mouseion*, L-Series III, vol 6, 300.

276 Shrimpton, 308.

277 For example through the actions of Archinus in enforcing the amnesty.

278 And. 1.81

279 Lys. 25.20

280 Lys. 25.23

281 Lys. 25.27

compatible with this. Andocides is described as a man who "ὃς τέχνην ταύτην ἔχει, τοὺς μὲν ἐχθροὺς μηδὲν ποιεῖν κακόν, τοὺς δὲ φίλους ὅ τι ἂν δύνηται κακόν."[282] Andocides therefore is essentially *stasis* in human form, and based on this cannot be allowed to remain in a city which requires *homonoia* in order to be successful.

In conclusion, it is clear that the democracy which existed after 403 was predicated on a number of principles, all of which were necessary for its continued functioning. The dynamics of reconciliation not only had to deal with the need for peace and stability, but also with how to reconcile the fundamentals of democracy with the restoration of the social contract of mass and elite. The amnesty went a long way towards solving this, as it allowed the democracy to continue while simultaneously folding the potentially alienated elite back into society. The same principles of participation, privacy, loyalty to the democracy, obedience of the laws and consensus which had sustained the democracy prior to the oligarchies, continued to dictate the interaction of mass and elite, and together with the amnesty allowed for a restoration of balance to the city. Based on the evidence, it is clear that the Athenians, for the most part, agreed that *homonoia* was necessary for the survival of the democracy, and the any measures needed to prevent a return to *stasis* were welcome, even if it meant the acceptance of former oligarchs back into the greater collective of the democracy.

282 Lys. 6.7

Conclusion

Analysis of the rise and fall of oligarchy in Athens in the late fifth century first involved a detailed look at the events themselves, focusing on the social and ideological dynamics that underlay them. In the case of both oligarchic interregna, democracy demonstrated a remarkable resilience, in contrast to the weakness of oligarchy. In both 411 and 404, democracy continued to be able to inspire commitment across a broad swathe of society. In particular, the hoplites showed themselves unwilling to be pried apart as an interest group from the *demos*, but rather identified themselves with other Athenians as all together a *demos* of middling men. Also, a section of the elite remained committed to democracy, and their leadership proved an important factor in organizing popular resistance to the oligarchies. This is testimony to the resilience and effectiveness of the democratic social contract between mass and elite.

For their part, the oligarchies depended on force, fear and intimidation. Despite efforts to represent their regimes as a restoration of the ancestral constitution, and, in the case of the Thirty, as an imitation of the Spartan *politeia*, the oligarchs struggled to establish their legitimacy. Instead, they tended quickly to abandon such efforts, and failed to fulfill their own promises of establishing themselves on a broader and more moderate basis, resorting instead to naked violence and coercion. Unable to mobilize support beyond narrow, extremist sections of society, and unable effectively to mobilize the city for common action, they were seen to fall back on and betray the city to Athens' enemy, Sparta. Thus the oligarchies gave the appearance of being little but self-interested tyrannical factions, and the lack of a coherent principled vision contributed to destructive infighting among the oligarchs.

Democracy, on the other hand, showed itself able to a remarkable degree, even after such a violent rupture, to generate consensus and promote reconciliation. This being said, the tensions and suspicions that remained after 411 did contribute to strain in the relationship between mass and elite, which contributed to Athens' defeat in the war and a second overthrow of democracy. Thus after the second restoration of democracy, and its affirmation of the 'true' *patrios politeia*, there was need of a more thorough reconciliation.

With the restoration of democracy in 403, the issue of how to deal with the consequences of the recent oligarchies became crucial to the future of Athens. To a large extent, the provisions of the amnesty oaths, "μὴ μνησικακεῖν", allowed for a basis of reconciliation rather than recrimination or retribution. Nevertheless, there continued to exist strong tensions between mass and elite in Athens, particularly along the lines of the men of Piraeus against the men of the city. While many of the elite were in fact constantly committed to the democracy and were prominent among the men of Piraeus, the fact that a number of them had not shown such loyalty and had remained in the city, perhaps in support of the Thirty, naturally raised the issue of whether or not the men of the city could be trusted to be loyal democrats in the future. This tension was naturally the focus of many of

the speeches of the period following the restoration of democracy, and therefore these speeches provide us with valuable evidence of the ways in which these tensions were dealt with in order to bring Athens back into balance. These speeches themselves served as a medium for the playing out of the ideological dynamics of conflict and reconciliation, and thus were a key part of the process. I grouped these dynamics into five categories for analysis, all of which are key democratic norms expressed in Pericles' funeral speech. The categories are Participation, Privacy, Loyalty to Democracy, Obedience to the Law and Consensus, according to which accusations against the men of the city were assessed and inclusion in or exclusion from Athens as a democratic society decided.

As I described it, participation can be thought of in three categories: participation in the democracy, active participation in the oligarchies and hence opposition to democracy, and non-participation. The first, participation in the democracy, was of course what was expected of all citizens, and those whose inclusion in the restored democracy was under question frequently sought recourse in claims of having channeled their ambition and wealth towards the public good. Those who had actually participated in the oligarchies, while they could often claim that they had previously acted on behalf of the democracy, by virtue of their actions in favour of oligarchy opened themselves up to attack despite the amnesty. The general desire for reconciliation and re-integration was tested in these cases by the hostility created through the breaking of the common democratic bonds, and proved a significant obstacle for these men. Reconciliation also faced a challenge in the similar feelings of hostility towards the men of the city, who had failed in their obligation to uphold democracy by not acting in its defense. The success of the reconciliation depended on what the Athenians were willing to accept in terms of the obligation of participation. This in turn depended on how participation was weighed against the value of privacy, on the balance between the private affairs of the individual and the public affairs of the city. The men of the city were afforded some protection from accusations of non-participation through asserting that there were limits on how far the interests of the *koinon* could intrude on their private lives. Those who attacked the men of the city could even be accused of the pursuit of harmful self-interest in accosting private citizens and thereby threatening the restoration of peace. However, this only really applied to the inclusion of the men of the city as *idiotai*. Those who wished to take up or continue in political careers were held to a different standard, insofar as the private interest of political ambition had much greater implications for the city. Therefore those upon whom the stain of the oligarchies existed could be excluded from political participation, and others were required to meet higher standards and faced a much more rigourous scrutiny of their loyalty to the democracy.

Loyalty to the democracy was closely tied to both participation and privacy, in that one's loyalty could often be demonstrated by how one participated in the affairs of the city and whether or not one acted out of narrow private

interest. One interesting argument, put forth by the speaker in Lysias 25, claims that it is sufficient to have not helped the oligarchs during the rule of the Thirty to be considered loyal to the democracy. This is based on the assumption that a man acts in his own best interest, and therefore if siding with the oligarchs had been in his interest, he surely would have done so, and since he did not, this proves that he acted as best he could as a loyal democrat, given his circumstances. On the other hand, he claims, his accusers, although men of the Piraeus, once democracy was restored, acted in a manner that showed that they did not have the best interests of the democracy at heart, which shows them to be not truly loyal, but rather opportunists. Equally, opponents argued that simply being an exile during the oligarchies or not actively participating in them was not sufficient proof of loyalty to the democracy, but rather than one's actions, including participation and adherence to the laws, were better indicators.

The *demos* accepted a dramatic fiction of innocence as a proof of commitment to democracy, and thus as a sign of loyalty. This dramatic fiction allowed the democrats to see the reconciliation as a victory for democracy, rather than as a compromise with the oligarchs. This avoided a breakdown of consensus as well as maintaining the sovereignty of the law, which would have been threatened if it was perceived that the guilty had escaped punishment and were being re-integrated without consequence. The space provided by Athenian democracy was crucial to this entire process, by allowing individuals to claim membership in the democracy, but to still be granted a certain amount of freedom to conduct their private affairs. Thus a speaker could claim that he had remained in the city, innocent of wrongdoing, in order to protect his private interests, and at the same time affirm the norms of collective belonging and obligation by claiming to be loyal democrat committed to upholding the principles of democracy, not merely a person interested only in his own affairs.

Adherence to the law was a key part of democratic ideology. This was because the laws not only represented something to be obeyed, but also were representative of the self-determining will of each citizen, as a member of the collective *demos* which enacted and enforced the laws. The legitimacy of the democracy depended on the perceived legitimacy of the law. Thus citizens had to respect not only the external aspect of the laws, but also their underlying democratic principles in order to maintain this legitimacy. The legitimacy of the laws was also demonstrated by their affirmation as the democratic *patrios politeia*, and thus the ancient democratic traditions of the city. By tying the laws to the ancestral constitution, the Athenians also tied reconciliation to restoration. Acting outside of the law in pursuing vengeance or in excluding the men of the city was therefore not part of the process of restoration of democracy, nor indeed in the spirit of the amnesty. The amnesty oaths, although not laws themselves, were taken as a very serious matter, especially if we are to believe Aristotle's account of the actions of Archinus. Therefore those who wished to use the law to punish people who they thought of as guilty had to either prove that the amnesty was not valid in that specific case, or appeal to a higher law, that of the gods. If

the amnesty did not apply, then nothing prevented the enactment of justice according to the laws. Likewise, if the laws of religion were seen to be above the sovereign power of the *demos*, these laws would have to be followed, but would also not disrupt the legitimacy of the democracy. On the side of the defence, the argument was that ignoring the amnesty, or going above the laws of the people, for specific cases could result in their total disregard in all cases. Making exceptions could only hurt the city by opening the door to further recriminations which would prevent successful reconciliation and stability. The dramatic fiction of innocence helped to ease this tension by rendering it so that there were no truly guilty men who avoided punishment, but instead only citizens who deserved re-integration into the democracy as loyal supporters. This allowed the authority of the law, and thus of the citizens, to remain supreme, and fostered consensus and reconciliation within the city.

Despite all these other ideological values being expressed in the speeches, without consensus, there could have been no successful restoration of democracy. Consensus, *homonoia*, brought together all the loyal, lawful, involved private citizens and allowed them to form a collective, common mind dedicated to reconciliation and to the restoration of an inclusive, democratic Athens. Lack of consensus had led Athens into the hands of the oligarchs, and lack of consensus had proven likewise to be the weakness of the oligarchies. Therefore, in order to avoid any future departures from democracy, the whole of Athens had to be brought into a state of *homonoia*, even if this meant accepting into the collective those who had not always upheld the principles of democracy.

The South African Amnesty

I would like to turn briefly to a modern example of post-conflict resolution. The negotiation of terms following periods of conflict is a regrettably common feature of our modern world. I will focus on one example in particular, the South African Truth and Reconciliation Commission. As an example not only of post-conflict resolution, but also where this was a part of a larger process of the establishment of democracy, this example shares many features with the Athenian amnesty and democratic restoration of 403 and therefore will be the most useful in illustrating how the ancient and modern cases illuminate one another, through their similarities and differences.

The Truth and Reconciliation Commission (TRC) in South Africa was created in 1995 following the establishment of free elections, and thus true democratic process, and was largely a result of negotiations between the various political parties of South Africa.[283] In this respect, the setup of the TRC was not as much a decision on the part of the people as a political compromise agreed upon by the parties.[284] However, steps were taken in order to involve the public in

283 Lyn S. Graybill, *Truth and Reconciliation in South Africa*, 2-3.

284 Ian Liedenberg and Abebe Zegeye, "Pathway to Democracy?" *Social Identities* 4 (1998): 551.

the process and therefore maintain the interest of the citizens in following through on the TRC. The nominees for the TRC panel were submitted by churches and Non-Government Organizations, which frequently had input from their respective communities.[285] The public was also invited to submit questions to the 25 short-listed candidates before the final decision on the makeup of the panel was made by President Mandela.[286] The chief mandate of the TRC, as its name implies, was to promote reconciliation between the various factions in South Africa and simultaneously to discover the truth regarding the violent events that had taken place for the thirty years leading up to the end of apartheid.[287] The TRC was charged with considering granting amnesty to those individuals who committed politically motivated crimes and who were willing to give a full account of their actions in the interests of a process of general reconciliation.[288] The TRC considered 7116 individuals, of which 1167 were granted amnesty, with the majority of the cases being rejected without a hearing on the grounds of failing to meet one or more of the criteria for amnesty.[289] No one was forbidden from applying for amnesty, and in fact individuals were encouraged to come forward, with the government extending the deadline for application twice in order to accommodate more applications.[290]

While the mandate of the TRC was to grant amnesty to those who admitted to serious crimes committed in the political conflicts that had preceded the establishment of democracy, its scope was not without limits. Many of the thousands of cases rejected outright by the TRC were rejected on the basis that the crimes of the applicants had nothing to do with the political conflicts for which amnesty was being given, and even some of those brought before the committee were dismissed on similar grounds.[291] The TRC was not prepared, nor in fact permitted, to grant amnesty to those who simply tried to take advantage of the process to have their privately-motivated crimes forgiven. Furthermore, the TRC was charged specifically with digging in to the past to uncover the truth, and only those who were willing to divulge the full extent of their crimes were considered for the amnesty. No one was excluded from the terms on the basis of political affiliation or position, but nor was anyone automatically included. Inclusion in the South African amnesty involved direct participation in the TRC itself, and a willing admission of guilt.[292]

---

285 Graybill, 3.

286 Graybill, 4.

287 Graybill, 6.

288 See Jeremy Sarkin, "An Evaluation of the South African Amnesty Process" in Chapman and van der Merwe, eds., *Truth and Reconciliation in South Africa*, 102-114.

289 Sarkin, 94.

290 Graybill, 60.

291 Graybill, 63-64.

292 Sarkin, 102.

One of the main issues that challenged the success of the TRC was that of dealing with the guilty parties. Instead of forgetting the actions of the past or denying the involvement of individuals, the TRC sought to provide forgiveness for those who admitted to politically motivated human rights abuses. Those testifying before the TRC were required to produce the truth in order to be protected by the amnesty.[293] The goal of this was to prevent recrimination and promote reconciliation by forgiving the actions of the past. However, this also meant that those who were granted amnesty were effectively avoiding being punished for crimes that they had admitted to committing. This has, understandably, created a great deal of resentment from the victims of the crimes for which amnesty was granted. Many people in South Africa felt that justice was not being served by allowing criminals to avoid suffering any sort of real consequences for the crimes they committed.[294] Even allowing for the freedom granted by the amnesty process, a frequent complaint of the victims is that the people who wronged them were not even forced to repent in any way for their actions, and they opposed the granting of amnesty on this basis.[295] Although the amnesty recipients were encouraged to apologize for their actions, and in fact numbers of them did, remorse was not a formal requirement for amnesty.[296] Obviously, forcing people to apologize does not always produce any level of sincerity in the apology, and for this reason it was not made a requirement. However, the fact that the amnesty essentially forced the victims into forgiving those who had wronged them has produced harsh criticism. Some have even argued that reconciliation cannot take place without remorse, and that the reconciliation provided by the TRC is really just a one-sided case of the victims' forgiveness, and not true reconciliation.[297]

Following upon this, another problem facing the TRC was the criticism that its lack of punishment for those guilty of severe crimes undermined the legitimacy of the South African government. By refusing to punish the guilty, the message would be sent that the system of justice in the democracy was ineffective and that crime and punishment would no longer be linked. The people would then cease to believe in the rule of law.[298] Thus the democracy would no longer be seen a legitimate government. Fortunately for South Africa, this loss of legitimacy for the democracy has not occurred. In general, the TRC has been viewed as a necessary evil for the promotion of peace and stability in South Africa. While many people, including a majority of South Africans, felt that the amnesty

---

293 Unsurprisingly, one of the difficulties that faced the TRC was determining whether an individual had disclosed the full truth about their involvement in human rights abuses. For a discussion of some of the problems involved, see Sarkin, 102-105.

294 James L. Gibson, *Overcoming Apartheid*, 266-267.

295 Graybill, 40, 53.

296 Graybill, 40.

297 Graybill, 42-43.

298 Gibson, 261-262.

provided by the TRC was not really a just resolution of the situation, the majority felt that it had been necessary for the country to move forward.[299] Additionally, although it has not resulted in the punishment of human rights offenders, it has allowed the stories of many of the victims of abuses to be heard, and allowed for the offenders to apologize for their actions without fear of retribution, both of which have helped people to see past the inherent unfairness of the amnesty itself.[300] The clause of amnesty was also a crucial part of the interim constitution that preceded the general elections in 1993, without which the establishment of democracy could not have proceeded, and therefore is seen as being an essential part of the political process.[301]

Arising out of the concerns over the potential loss of legitimacy of the government is the important concept of democratic consensus. It is the consensus among South Africans that the amnesty was necessary, despite its inherent injustice, and the realization of this consensus in broad participation in the TRC, that has allowed the country to avoid the undermining of the legitimacy of the democratic government. The cultivation of such consensus was an explicit goal of the TRC, as indicated by this statement from the *Report of South Africa's Truth and Reconciliation Commission:* "Reconciliation requires that all South Africans accept moral and political responsibility for nurturing a culture of human rights and democracy."[302] Unlike under the oligarchic apartheid regime, all the citizens of South Africa are responsible for maintaining consensus by acting in accordance with the reconciliation and also by taking part in the political system.[303] Thus reconciliation requires consensus, but consensus requires reconciliation. However, it is important that consensus comes first in this equation. Indeed, the TRC and its amnesty were themselves a product of the consensus among the political parties of South Africa, as representatives of the people, that peace was what was needed. The consensus of the parties was legitimated by popular consensus as expressed in the people's participation in the process of reconciliation. The amnesty in turn created the circumstances under which consensus could then be sustained, by providing for reconciliation and reintegration. Thus the amnesty was important not only as an act of consensus, but also as means of allowing South Africa to maintain the consensus it required in order to function as a democracy.

On the surface, the political situation that preceded both the TRC and the Athenian amnesty are very similar. South Africa had been essentially an oligarchy under the apartheid regime, with the majority of the population effectively removed from the political process. The country was ruled by an elite (in this case, racial), with the rest of the population eventually even being denied

299 See in particular Gibson, 266-267.

300 Gibson, 284-285.

301 Graybill, 59.

302 As quoted in Philippe-Joseph Salazar, *An African Athens*, 80.

303 Salazar, 80-81.

citizenship in their own country.[304] Because of the social and racial tensions created by this oligarchy, the South African amnesty was necessary to bring about peace in the wake of oligarchic tyranny as well as to establish democracy following the end of the apartheid regime. The process of reconciliation created by the TRC meant the acceptance of political opponents and the forgoing of retributive justice against many individuals who were guilty of horrific crimes.[305] While this may not have been entirely agreeable to all South Africans, it was nevertheless the necessary step towards preventing a return to *stasis*. By fostering stability in an otherwise potentially volatile situation, the TRC effectively paved the way for the creation of the first real democratic government in that country's history following the elections in 1994.[306]

Yet, while dealing with similar issues and circumstances, the Athenian amnesty was of course fundamentally different in many ways from the South African TRC. In Athens, like in South Africa, provisions within the amnesty agreements allowed for a forgiving of past actions under the conditions of rendering accounts of said actions. In the case of the TRC, amnesty could only be granted to those who fully disclosed their crimes before the committee, as described above. The Athenian amnesty, as we have seen, did not in general require any sort of disclosure. However, in the clauses of the Athenian amnesty, as described by Andocides, revival of accusations was permissible against the Thirty and the Eleven, unless they underwent an examination of their conduct in office.[307] Thus disclosure of their deeds could potentially save even those considered to be the greatest criminals in Athens. Unfortunately, we do not have evidence of what sort of repercussions, if any, the Thirty or the Eleven might have faced when giving account of their office, but presumably confession of serious crimes would not have been merely dismissed. However, the notion that part of the process of amnesty consists of accountability is clearly shared between the Athenians and the South Africans.

In both cases, individuals who were outside of the terms of the amnesties sought nevertheless to use them in their defence. In some Athenian speeches, such as Lysias 6 and 31, the argument was made that the accused in question could not apply the amnesty to their case, as they were not included in its terms, similar to the cases rejected by the TRC on the basis that the applicants did not fit the criteria for amnesty.[308] However, in South Africa, the basis for exclusion was that acts of private malfeasance were not within the scope of the amnesty. In Athens, it was rather that some individuals were excluded from the amnesty because they did not belong to the groups to whom the amnesty applied. Beyond this, and the limitation of the amnesty in the case of the Thirty and the Eleven, the Athenian

304 Gibson, 30-31.

305 Salazar, 80.

306 Gibson, 32.

307 And. 1.90

308 The accused in these speeches are Andocides and Philon.

amnesty represented and unspecific forgiveness of acts committed during the *stasis*. This reflects an important difference in the nature of the two amnesties, and in fact a deeper difference between the Athenian and South African situations.

The South African amnesty was detailed and defined in its scope, and explicitly laid out the criteria for the granting of amnesty, making provisions for the consideration of each case.[309] The Athenian amnesty, on the other hand, did not define and detail its terms. This reflected Athenian law as being procedural rather than substantive. The Athenian democratic government was the people, not a separate representative element as in South Africa, and in the absence of a distinct legislature and judiciary, just as the *demos* made the laws, so too did it interpret them. There was no distinction between popular values and the values of the law, with the *demos* as both judge and jury.[310] The important point here is that the Athenians were not simply bound by the amnesty, like their South African counterparts, but also agents of the amnesty through their interpretation of it and its limits. Since they determined what the amnesty meant, in reality they were only bound to it as much as they chose to be in each case. This can be seen clearly in the speeches that I have looked at, where the speakers do not so much tell their audience what the laws or the amnesty mean, but rather encourage them to see the laws in a certain light. Thus we can see an important distinction between the two amnesties, in that the South African one was a highly externalized law, which the people were consulted on and consented to, but did not themselves define, while the Athenian amnesty was something that the Athenian people themselves enacted.

The Athenian oaths of amnesty revolved around the key concept of "μὴ μνησικακεῖν", that is, the deliberate forgetting of the past. This is the very opposite of the aims of the TRC, of which a crucial part was the recalling of past actions in order to determine the truth. The Athenians, by contrast, were encouraged simply not to bring up the actions of the past, to essentially move on and not mention the crimes that had occurred during the rule of the Thirty. Excepted from this were those who had been behind the real harm done to the Athenians, namely the Thirty themselves and their direct underlings. As we have seen in the previous chapter, this policy of letting bygones be bygones was much easier said than done, but it was nevertheless the spirit of the amnesty. This policy of deliberately forgetting was an approach that also deeply affected the perception of guilt in those who were included in the terms of the amnesty.

The Athenians took a very different approach to the issue of guilt than the South Africans. In the Athenian case, the only truly guilty individuals were those excluded from the amnesty. Others, while they may have committed offenses, were deemed not guilty by the virtue of having their crimes forgotten. As we have

309 See Sarkin, 101-102 for the criteria used to determine whether an individual could be considered for amnesty.

310 See Ober, *Mass and Elite*, 144-147 and 299-304.

seen, a strategy employed by the *rhetores* was the denial of involvement in the government of the Thirty. This created a dramatic fiction of innocence which the *demos* readily accepted as a sign of loyalty to the democracy, and which also allowed the *demos* to avoid violating the amnesty through the punishment of the guilty, since there were no guilty parties to be punished. This dramatic fiction spoke especially to the shared innocence of the juries, as representatives of the men of Piraeus, and perhaps even to any member of a jury who was himself not entirely blameless. While of course it was not realistic to believe that no one was guilty, by professing innocence a defendant could not only express loyalty to the democracy, but also create for himself a place in the greater whole of the *demos*. In fact, in none of the surviving speeches does anyone ever admit to being guilty of something related to the oligarchies and yet claim that they are covered by the amnesty.[311] Thus the Athenian approach to forgiveness was through a denial and forgetting of guilt, rather than through any sort of admission of guilt. Despite the differing approaches to the issue of guilt, the end result was nominally the same: those who were protected by the amnesties and had committed crimes were not punished for those crimes. The differences in the treatment of guilt, however, caused the granting of amnesty to play out differently in the two societies.

The fact that the Athenians took a different approach to amnesty than the South Africans helped to avoid their amnesty being seen as unfair. By accepting the fiction that no one who was guilty was in fact being forgiven, the Athenians were perhaps better able to ignore the lack of retributive justice. And since it was then not a case of those who were guilty not receiving the punishment they deserved, the authority of the laws was not undermined: the Athenians could still readily believe that their laws would be upheld. This was not a perfect system, as from the evidence of the speeches it is clear that some citizens still felt that there were guilty people deserving of punishment in one form or another. Likewise, it required that the citizens in general accept the fiction of innocence and simply forget the actions of the past, an option that to many victims might not really be acceptable. For the Athenians, the legitimacy of democracy was crucial, and thus they could not afford to have the authority of the democratic laws questioned or weakened through a lack of punishment of the guilty. At the same time, that the Athenian system led to cases being brought to court, or accusations brought in the *dokimasia*, despite the amnesty, allowed victims to be heard and wrongs publicized, and in as much as the Athenians judged if and how to apply the amnesty, the choice to suspend their disbelief remained theirs. Thus we can appreciate through comparison of the two cases the universality of the questions and problems of amnesty and reconciliation — justice, the authority of law, the legitimacy of forgiveness, the forging of public consensus, public memory — but we can also appreciate how complex these questions are and how complicatedly and particularly they play out in the context of different societies.

---

311 Wolpert, 115.

Bibliography:

Andocides
On the Mysteries

Aristophanes
Knights
Wasps

Aristotle
Athenaion Politeia
Politics
Rhetoric

Diodorus Siculus

Isaeus
On the Estate of Dicaeogenes

Isocrates
Antidosis
On the Team of Horses
Against Callimachus

Lysias
Against Andocides
On the Olive Stump
Against Eratosthenes
Against Agoratus
For Mantitheus
Defence Against a Charge of Taking Bribes
Defence Against a Charge of Subverting the Democracy
On the Scrutiny of Evandros
Against Nicomachus
Against Philon
Against the Subversion of the Ancestral Constitution

Thucydides

Xenophon
Anabasis
Hellenica
Agesilaus
Constitution of the Lacedaemonians

Carter, L.B. *The Quiet Athenian.* Oxford: Clarendon Press, 1986.

Cloché, Paul. *La Restauration Démocratique à Athènes en 403 avant J.C.* Paris: "L'Erma" di Bretschneider, 1968.

Connor, W. Robert. *The New Politicians of Fifth Century Athens.* Princeton: Princeton University Press, 1971.

-----. *Thucydides.* Princeton: Princeton University Press, 1985.

-----. "The Other 399: Religion and the Trial of Socrates" In Flower and Toher, eds. *Georgica*, 49-56.

Corner, Sean. *How to do Things with Alcibiades.* (unpublished)

Chapman, Audrey R. and Hugo van der Merwe, eds. *Truth and Reconciliation in South Africa: Did the TRC Deliver?* Philadelphia: University of Pennsylvania Press, 2008.

Christ, Matthew R. *The Litigious Athenian.* Baltimore: The Johns Hopkins University Press, 1998.

Davidson, James N. *Courtesans and Fishcakes: The Consuming Passions of Classical Athens.* New York: St. Martin's Press, 1998.

Flower, M. and M. Toher. *Georgica: Greek Studies in Honour of George Cawkwell.* London: University of London Institute of Classical Studies, 1991.

Graybill, Lyn S. *Truth & Reconciliation in South Africa: Miracle or Model?* Boulder: Lynne Rienner Publishers, 2002.

Gibson, James L. *Overcoming Apartheid: Can Truth Reconcile a Divided Nation?* New York: Russell Sage Foundation, 2004.

Halperin, D.M., J.J. Winkler and F.I. Zeitlin, eds. *Before Sexuality: The Construction of Erotic Experience in the Ancient Greek World.* Princeton: Princeton University Press, 1990.

Herman, Gabriel. *Morality and Behaviour in Democratic Athens: A Social History.* Cambridge: Cambridge University Press, 2006.

Kagan, Donald. *The Peloponnesian War.* New York: Viking, 2003.

Krentz, Peter. *The Thirty at Athens.* Ithaca: Cornell University Press, 1982.

Lamb, W.R.M. trans. *Lysias*. London: W. Heinemann Ltd., 1930.
Liddel, Peter. *Civic Obligation and Individual Liberty in Ancient Athens*. Oxford: Oxford Univesity Press, 2007.

Liedenberg, Ian and Abebe Zegeye. "Pathway to Democracy? The Case of the South African Truth and Reconciliation Process." *Social Identities* 4 (1998): 541-557.

Lintott, Andrew. *Violence, Civil Strife and Revolution in the Classical City: 750-330 BC.* London: Croom Helm, 1982.

MacDowell, Douglas M. *Andocides: On the Mysteries*. Oxford: Claredon Press, 1962.

MacDowell, Douglas M. and Michael Gagarin, trans. *Antiphon & Andocides*. Austin: University of Texas Press, 1998.

Morris, Ian. *Archaeology as Cultural History: Words and Things in Iron Age Greece*. Malden: Blackwell, 2000.

Munn, Mark. *The School of History: Athens in the Age of Socrates.* Berkeley: University of California Press, 2000.

Murray, Oswyn. "The Affair of the Mysteries: Democracy and the Drinking Group" In Murray, ed. *Sympotica* 149-161.

Murray, Oswyn, ed. *Sympotica: A Symposium on the Symposion*. Oxford: Clarendon, 1990.

Ober, Josiah. *Mass and Elite in Democratic Athens: Rhetoric, Ideology, and the Power of People.* Princeton: Princeton University Press, 1989.

-----. *The Athenian Revolution: Essays on Ancient Greek Democracy and Political Theory.* Princeton: Princeton University Press, 1996.

-----. *Political Dissent in Democratic Athens: Intellectual Critics of Popular Rule.* Princeton: Princeton University Press, 1998.

-----. *Athenian Legacies: Essays on the Politics of Going On Together.* Princeton, Princeton University Press, 2005..

Salazar, Philippe-Joseph. *An African Athens: Rhetoric and the Shaping of Democracy in South Africa.* Mahwah: Lawrence Erlbaum Associates, Publishers, 2002.

Sarkin, Jeremy. "An Evaluation of the South African Amnesty Process" In Chapman and van der Merwe, eds. *Truth and Reconciliation in South Africa*: 93-115.

Shrimpton, Gordan. "Oh, Those Rational Athenians! Civil War, Reconciliation and Public Memory in Ancient Athens." *Mouseion* L-Series III 6 (2003): 293-311.

Winkler, John J. "Laying Down the Law: The Oversight of Men's Sexual Behavior in Classical Athens" In Halperin, Winkler and Zeitlin, eds. *Before Sexuality*, 171-209.

Wolpert, Andrew. *Remembering Defeat: Civil War and Civic Memory in Ancient Athens*. Baltimore: Johns Hopkins University Press, 2002.