

Lysias 18 and Athenian Memory of Civil War*

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SUMMARY: Attempts to explain the success of the Athenian reconciliation in 403 B.C.E. are easily frustrated because the evidence is incomplete and because the conditions of postwar Athens were not exceptional. Peace was not imposed on the Athenians through rules and regulations; rather, it was constructed in civic discourse. The Athenian reconciliation can, therefore, be better appreciated if studied as a cultural construct that was ultimately negotiated on the plane of ideology. Using Lysias 18 as a case study, the author shows how civil war confounded the identity of Athenian citizens. Although discursive analysis cannot explain why the Athenians avoided further civil war, it does allow us to contextualize the disputes of the restored democracy, to appreciate how Athenians remembered defeat and civil war, and to understand how the past either united or divided them.

INTRODUCTION

AFTER THE BRIEF BUT SAVAGE RULE of the Thirty, the democratic exiles came to terms with the oligarchs, their supporters, and those Athenians who, by remaining in the city during the civil war of 404/3 B.C.E., were complicit in the atrocities.¹ An amnesty was extended to practically all citizens for offenses committed during the civil war.² Unanimous in its praise of the democrats

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¹ All dates are B.C.E unless otherwise noted. For the chronology of the civil war, see Munro, Hignett 378–89, Lotze, Rhodes 436–37, 462–63, Krentz 131–52, Loening 21–22, Green, Munn 340–44. Given the discrepancies and contradictions in the sources, it is impossible to establish a definitive chronology for all events. Krentz, however, has offered the most plausible reconstruction, except perhaps on the installation of the Spartan gar-

for their moderation, ancient testimony suggests that the Athenians adhered to the terms of the agreement.³ And from what is known about civil war elsewhere in Greece, the Athenian outcome was, in fact, extraordinary. Athens did not experience further civil war, and the restored democracy remained in place until it was dissolved nearly a century later by Macedon. Yet attempts to explain why the Athenian experience differed from that elsewhere in Greece are easily frustrated not only because our evidence is incomplete, but also because the conditions of postwar Athens and the circumstances that the Athenians faced were not exceptional. Athens could just as easily have reverted to a state of civil unrest and could just as easily have experienced a new cycle of bloodshed, which is why the outcome of the civil war was so extraordinary. For every explanation for the success of the reconciliation, the question still remains why the desire for revenge did not disrupt the peace. Perhaps Athens would have faced dire consequences had the agreement failed. But why did the long-term interests of the city prevail over the short-term interests of private individuals? Attempts to answer this question result in explaining away what was extraordinary about the Athenian experience.

But once we stop asking *why* the reconciliation succeeded and consider instead *how* the Athenians explained to themselves the troubling period of civil unrest, we can begin to appreciate the significance of the reconciliation

rison, which he dates to February 403 after Thrasybulus had seized Phyle. If we accept the sequence of events in Xenophon (*HG* 2.3.11–15, 4.1–2), which has as much merit—if not more—as that in the *Ath. Pol.* (34.3–37.2), then installation of the garrison could be conceivably dated as early as September 404; see Wolpert 15–24.

² The most notable exceptions to the Amnesty were murder and attempted murder ἀντοχερίῳ, probably to protect the citizens from pollution; see Bonner. In addition, immoveable property confiscated during the civil war reverted to the original owner, but moveable property, if sold, remained with the purchaser. The Amnesty was even extended to those members of the Thirty, the Ten, the Eleven, and the governors of Piraeus who were willing to submit to a εὔθυνα. For the terms of the reconciliation agreement see Cloché 1915: 251–77, Dorjahn 24–33, Kühn, Krentz 1982: 102–8, Loening 19–58, Sakurai, and Carawan 1998: 126–33. Carawan 2002 argues against the traditional interpretation of μὴ μνησικακεῖν, suggesting that it was a rule of estoppel rather than a general amnesty, but he concludes that additional legislation produced a working approximation to “amnesty.”

³ E.g., And. 1.140; Lys. 2.61–65; Isoc. 7.62–70, 18.44, 46, *Ep.* 8.3; X. *HG* 2.4.43; Pl. *Ep.* 325b, *Mx.* 243e–244b; D. 40.32; Arist. *Ath. Pol.* 40.2–4; Plu. *Mor.* 814b. Although I find Ostwald’s arguments (xx–xxi n. 1) convincing for attributing the *Ath. Pol.* to Aristotle, it does not matter for my purposes whether he or a member of his school was the author. For the debate on authorship see Rhodes 58–63 and Keaney 1–19.

as a lived experience regardless of whether the Athenians actually adhered to the Amnesty and regardless of their reasons for doing so. The reconciliation of 403 was not simply the beginning of a chain of events, propelled forward by a series of causes and effects beyond Athenian control, until the Athenians were ultimately compelled to suppress the desire for revenge and retribution and forced to let bygones be bygones. Instead, it was an ongoing dialogue that changed over time as the Athenians attempted to make sense out of the civil war and as the victims of the Thirty sought to hold accountable those responsible for atrocities committed during the civil war. By shifting our focus, we can see that reconciliation and recrimination were far from incompatible and that reconciliation was often used to justify recrimination. But since so many were either complicit in the atrocities of the Thirty or failed to rally behind the democratic exiles, it was actually easier for the Athenians to imagine the *dêmos* to have been united in its opposition to the Thirty than for them to acknowledge their own failings or to recognize the divisions that still existed in the community after the reconciliation, divisions that threatened the stability of the restored democracy. The Thirty came to symbolize the utter depravity of oligarchy, which in turn legitimized the restored democracy, but only because the Athenians were willing to dissociate the “men of the city” from the Thirty. I begin by discussing why causal explanations cannot account for the success of the reconciliation. Next, I explain the benefits of examining the reconciliation as a cultural construct rather than as a series of rules and procedures that the Athenians either observed or violated. Then, using Lysias 18 as a case study, I discuss the rhetorical arguments of this speech to illustrate how a discursive analysis helps us understand the process by which the Athenians confronted their past.

CAUSAL EXPLANATIONS AND THEIR LIMITS

The speeches delivered in public shortly after the civil war reveal quite forcefully that the Athenians could not simply forget the recent past and live together once again in one community as if nothing had happened. Practically every speech in the corpus of Lysias alludes to the period of civil unrest, and many speeches focus on the rule of the Thirty. The civil war also appears prominently in the deliberative and forensic speeches of Andocides and Isocrates, although only a few have survived. The irony is inescapable since, by the terms of the agreement, the Athenians were literally required “not to remember past wrongs” (μὴ μνησικακεῖν).⁴ Trapped between a past that could not be forgotten and a future that depended on their abandoning le-

⁴ E.g., And. 1.90; X. *HG* 2.4.43; Arist. *Ath. Pol.* 39.6; D. H. *Lys.* 32. For μὴ μνησικακεῖν in Athenian social memory see Loraux.

gitimate grievances, the Athenians recounted over and over again the horrors they had endured. And yet, Athens did not return to a state of civil war. Historians have turned to the political conditions of the Greek world, to the social and economic problems of Athens, and to the agreement itself to explain why the public airing of the past never disrupted the peace. Yet, as I show below, causal explanations cannot answer this question.

Sparta is, perhaps, the simplest explanation. There was the real danger that Sparta would have intervened had the Athenians violated the Amnesty. Nevertheless, the Athenians were willing to take their chances and break from Sparta. Funke suggests that the “men of the city” would never have permitted Athens to regain its autonomy unless they were confident that the Athenians would adhere to the terms of the agreement even without Sparta to act as arbitrator. In his view, then, the Athenians were forced in 395 to abandon revenge in order to gain their independence from Sparta.⁵ It is true that Andocides, Eratosthenes, and Socrates all appeared as defendants in trials before the Corinthian War.⁶ Yet the extant orations show that conflicts between the “men of the city” and the “men of Piraeus” did not end in 395 but took on new forms.⁷ Perhaps the Athenians pursued an independent foreign policy not once the democrats were willing to adhere to the agreement, but once Spartan intervention was no longer a serious concern. The Persian expedition, dissatisfaction among its allies over Sparta’s involvement in Elis, or even the death of Agis may have prevented Sparta from intervening in Athens after 395.⁸ Although the Athenians had to take Sparta into account, Sparta seems to have had sufficient problems of its own that Athens could pursue an independent course of action.

Others suggest that the social and economic condition of Athens at this period prevented political strife. As Mossé argues, Athens was stable, in spite of the deep divisions that existed between the rich and poor, because many Athenians withdrew from civic life, worn out by the intense political struggles and the endless fighting of the fifth century.⁹ However, the Athenians were able to muster enough energy shortly after the restoration of the democracy to join the anti-Spartan alliance and to confront Spartan forces once again.

⁵ Funke 12–14, 69.

⁶ We do not have evidence of similar trials after 395, but this proves only that the democrats went after the easy targets first.

⁷ Cloché 1919, Strauss 3–4.

⁸ See Todd 1985: 196–99.

⁹ Mossé 1973: 16–20, 30; cf. Cloché 1915: 476. For the decline in civic spirit in Athens see Lévy 223–52.

Moreover, as recent studies of forensic and deliberative speeches have shown, politics remained important and the Athenians remained active in civic affairs during the fourth century.¹⁰ Strauss, for his part, suggests that the divisions between rich and poor never seriously threatened the stability of Athens because of the decline in the population of thetes. The thetes, as a result, never vigorously pressed their demands for revenge.¹¹ But if they had failed to achieve their goals in the assembly and courts, why then did they not resort to violence? Why were they willing to accept yet another defeat after all that had happened?

Finally, some conclude that the reconciliation agreement itself prevented further civil war: by prohibiting prosecution for many offenses committed during the rule of the Thirty, the agreement effectively contained the hostilities that existed between the “men of the city” and the “men of Piraeus.”¹² The Athenians even, it is argued, strengthened the Amnesty by creating the new legal procedure of *παράγραφη*, which made it more difficult to violate the terms of the agreement.¹³ Yet Athenian law, as many have shown, was sufficiently elastic that those who wanted revenge had plenty of opportunities to prosecute, the Amnesty notwithstanding.

Since the Amnesty, like most Athenian laws, lacked definitions, each jury had to decide for itself whether an interpretation offered by a particular litigant was sensible, and it is very likely that juries interpreted Athenian law quite differently.¹⁴ The prosecutor of Lysias 13, for example, maintained that the Amnesty concerned only offenses committed by members of the “men of the city” against the “men of Piraeus” and vice versa, and not offenses committed by one member against another member of the same party (88–90).¹⁵ Given that even modern commentators disagree about the validity of the prosecutor’s argument, we should not be surprised if Athenian courts also reached different conclusions.¹⁶ “In theory,” Todd states, “the Amnesty guaranteed them [the oligarchic supporters] statutory protection; but where the immediate as well as the ultimate source of law is public opinion, that statu-

¹⁰ E.g., Ober 1989, Hunter, Christ, Johnstone, Allen.

¹¹ Strauss 70–114, 173–74.

¹² Dorjahn 53, Loening 149; cf. Ostwald 497.

¹³ For discussion on the *παράγραφη* see Kühn, Wolff, Isager and Hansen 123–31, Todd 1993: 136–38.

¹⁴ See Bateman 279, Cohen 1991: 209, Todd 1993: 54–62.

¹⁵ Cf. Lys. 6.37–41, Lys. 26.16–20.

¹⁶ Loening 100–101 and Todd 2000: 158 n. 57 find the argument to be specious while Carawan 1998: 367–69 and Usher 67–68 believe that it cannot be dismissed out of hand.

tory protection can only be valuable so long as it remains popular to keep the Amnesty.¹⁷ The Athenian courts were only able to prevent the Amnesty from becoming a source of conflict if the Amnesty was consistently interpreted in the same way by the various juries that heard these disputes. But since the courts lacked any formal legal mechanism to ensure consistent rulings, it is more likely that they in fact fueled animosity and became a source of new conflicts.

Furthermore, the victims of the Thirty had at their disposal procedures for prosecution that did not violate the Amnesty. On at least six occasions, candidates were forced to answer questions at their δοκιμασία about their conduct during the civil war, and at least one candidate was rejected.¹⁸ Perhaps the challengers misused the δοκιμασία, or perhaps the kinds of questions the candidate answered invited a general probe into his entire life.¹⁹ Since the extant speeches may have been exceptional, they cannot help us determine the purpose of the δοκιμασία. Nevertheless, they show clearly enough that the δοκιμασία, whether intentionally or unintentionally, provided Athenians with an excellent forum in which to recall what their enemies had done during the civil war. Even if the challengers failed, the δοκιμασία at least gave them the opportunity to embarrass their enemies publicly. And since the candidates were not formally charged with an offense, it is unlikely that the challengers violated the Amnesty.²⁰

Finally, a victim of the Thirty could always retaliate against a collaborator by waiting for him to commit a new violation of an Athenian law, and then he could use the new violation as a pretext for indicting the collaborator and recall at his trial what had happened during the civil war. The agreement, therefore, could only promote reconciliation if the Athenians who appeared in the courts as prosecutors, defendants, and jurors espoused the principles of reconciliation.

Quillin (in this volume) offers perhaps the most comprehensive argument for the success of the reconciliation. Taking into account the political events that took place before and after the restoration of the democracy, the social dynamics of the courts, and the rhetorical strategies of the litigants, he sug-

¹⁷ Todd 1993: 91.

¹⁸ Lys. 16, 25, 26, 31, *P. Ryl.* 489. In addition, Leodamas was accused of having supported the Thirty at his δοκιμασία for archon and was apparently rejected (Lys. 26.13–15, Arist. *Rh.* 1400a32–36); see Loening 113 and Todd 2000: 273.

¹⁹ For the purpose of the δοκιμασία see Lipsius 269–85, Headlam 96–102, Harrison 2: 200–207, MacDowell 1978: 167–69, Adeleye, Weissenberger 14–23, Hunter 106–7.

²⁰ *Pace* Todd 1993: 288–89.

gests that defendants were successful at persuading juries to adhere to the Amnesty. Since oligarchy was no longer a serious threat to the democracy once the oligarchic stronghold of Eleusis was destroyed, prosecutors had insufficient grounds for supporting their claims that the defendants had to be convicted in order to prevent further oligarchic uprisings. Defendants, in contrast, had legitimate reasons for arguing that any violation of the reconciliation would recreate the conditions that had caused the civil war in the first place. The courts, as a result, became a forum for Athenians to put aside their past differences. So, for Quillin, a conjunction of events, institutions, and ideas made reconciliation possible. Much of this argument is sensible and quite convincing: the Amnesty prevailed because it was the best way to prevent further civil war. However, Quillin depends on two assumptions that are, in my view, questionable.

First, he takes at face value subsequent statements about Athenian adherence to the terms of the agreement. However, the reliability of the ancient testimony on this point has been called into question.²¹ Given the number of extant speeches concerning the period of civil unrest, it is difficult to believe that the Athenians were as scrupulous as the sources maintain. Perhaps they exaggerated the degree to which the Athenians observed the reconciliation because the outcome of the Athenian civil war, even if not completely harmonious, differed so greatly from outcomes elsewhere in Greece. Moreover, elite writers clearly praised Athenian adherence to the agreement so that they could voice criticism without appearing hostile to democracy. The Thirty had so discredited oligarchy that critics of democracy needed to distance themselves from the Thirty in order to gain legitimacy. By praising the democrats for their restraint, elite writers could then criticize them for their excesses without appearing to favor oligarchy.²² Although we should not conclude that their statements were false, it is possible that they were hyperbolic. And we certainly cannot trust the statements of those defendants who insisted that the Athenians never violated the agreement, since they benefited if the jury accepted their version of the reconciliation.

If we accept the ancient testimony, we must inevitably conclude that peace depended on hindering the victims from airing their complaints. According to Aristotle, the reconciliation succeeded because Archinus intimidated those seeking revenge (*Ath. Pol.* 40.2):

²¹ Todd 1985: 36–56, 117–28, Mossé 1997.

²² See Ober 1998: 281.

ἐπεὶ τις ἤρξατο τῶν κατεληλυθότων μνησικακεῖν ἀπαγαγὼν τοῦτον ἐπὶ τὴν βουλὴν καὶ πείσας ἄκριτον ἀποκτείνειν, λέγων ὅτι νῦν δείξουσιν εἰ βούλονται τὴν δημοκρατίαν σφῆζειν καὶ τοῖς ὅρκοις ἐμμένειν· ἀφέντας μὲν γὰρ τοῦτον προτρέψειν καὶ τοὺς ἄλλους, ἐὰν δ' ἀνέλωσιν, παράδειγμα ποιήσιν ἅπασιν. ὅπερ καὶ συνέπεσεν· ἀποθανόντος γὰρ οὐδεὶς πώποτε ὕστερον ἐμνησικάκησεν.

When one of those who had returned began to “remember past wrongs,” Archinus led²³ him before the council and persuaded the councilors to execute him without a trial. Archinus told them that they would now show whether they wanted to preserve the democracy and adhere to their oaths: if they let this man go, they would encourage others to do the same; while if they killed him, they would make an example out of him to all. This is what happened, for after he was killed, no one ever again “remembered past wrongs.”

If taken literally, this statement is problematic because, as the extant speeches shows, the Athenians did, in fact, “remember past wrongs.” To make sense out of Aristotle, we must infer that he meant only that no one succeeded in violating the terms of the agreement after Archinus had the unnamed democrat killed.²⁴ Thus, for Aristotle, the reconciliation succeeded because the Athenians faithfully observed the Amnesty. But since, as has been shown above, victims could seek revenge without violating the letter of the agreement, the Amnesty cannot explain the success of the reconciliation.

This brings us to the second assumption of Quillin, which is also derived from the ancient testimony. Although he acknowledges the problems of a functionalist approach, he begins with functionalist assumptions about the reconciliation, namely that its success depended upon adherence to the Amnesty, and then sets out to explain why the Athenians did not violate the Amnesty. It is quite possible that the reconciliation prevailed for the reasons Quillin suggests, but his model precludes the possibility that the reconciliation succeeded not because of unity, but rather because of disunity. Perhaps the Athenian people were so divided after the civil war that it was impossible for them to revert to a state of civil unrest with the community divided into

²³ Hansen 1976: 126 believes that Archinus formally prosecuted the returning exile by the procedure of ἀπαγωγή; Rhodes 477 suggests, “here ἀπαγαγὼν is used in a natural sense very close to the technical.” Although Archinus may have acted properly, one cannot rule out the possibility that he should have brought an ἀπαγωγή before the Eleven rather than the council (see Hansen 1976: 127) or that he led the returning exile into the council without initiating a formal legal proceeding. Hence, it is best to keep the sense of ἀπαγαγὼν open in the translation.

²⁴ Rhodes 478; *contra*: Carawan 1998: 131.

two (and only two) warring factions. In fact, some, including Andocides, either lived in exile before the civil war and did not return until after it ended or, like Diognetus (Lys. 18.9–10), returned to Athens under the rule of the Thirty. Others, including the prosecutor of Agoratus (Lys. 13.90), were driven out by the Thirty, but did not assist the democratic exiles until they had finally gained control of the Piraeus.

Since the outcome of most of the extant speeches that either directly or indirectly concern the reconciliation is unknown, and since we do not know whether they represent the kinds of disputes that were frequently heard or whether they are exceptional, it is risky to use the extant speeches to corroborate other ancient testimony. Certainly, as previous studies have shown, the political conditions of the Greek world, the social and economic problems of Athens, and the terms of the agreement restricted the Athenians' course of action. If the Athenians had violated the agreement, serious repercussions might have followed. But other Greek cities faced similar situations, and yet they were not as fortunate as Athens. Even if we accept the ancient testimony about Athenian adherence to the terms of the Amnesty, the question still remains why the victims of the Thirty did not disregard the city's long-term interests (whether they be political, social, or cultural) in order to obtain immediate personal satisfaction for what had happened to them in the civil war.

RECONCILIATION AS A CULTURAL CONSTRUCT

I argue that the reconciliation was first and foremost a dialogue between the Athenians about their past conflicts and about the future of their community.²⁵ This does not mean that reconciliation succeeded because the Athenians promoted representations of the civil war that were conciliatory. Many images of the warring factions had the opposite effect, and, as the extant speeches show, reconciliation and recrimination often operated simultaneously. It is therefore doubtful that we will ever know why Athens avoided a renewal of civil war at this juncture. Rather, I suggest that we can better appreciate the reconciliation if we study it as a cultural construct that was ultimately negotiated on the plane of ideology. Regardless of the reasons for ending the civil war, the Athenians still had to explain to themselves what had happened and how they could best preserve the restored democracy. Since this approach does not depend on our knowing the outcome of specific disputes or require us to explain why a given jury voted the way it did, we can examine the extant speeches more effectively.

²⁵ For a fuller treatment see Wolpert.

Litigants recounted what had happened during civil war to defend themselves against the charge of having oligarchic sympathies, to prove that their opponents had sided with the Thirty, to win the jury's sympathy because of their assistance to the exiles or because of their suffering, and to call into question their opponents' claims of having helped restore the democracy. Since the juries were fairly representative of the Athenian citizenry, litigants recounted what happened in ways that, they believed, would persuade most Athenians.²⁶ And since the same arguments were used in many of the speeches, they must have been effective on some occasions; otherwise, litigants would not have continued to use them.²⁷ But one cannot infer from the use of a given argument that the litigant won his case, since a jury might have to choose between contradictory arguments that it found equally persuasive.

Likewise, a jury could hold contradictory views about the past. A jury could doubt the litigant's statements about his own conduct or that of his opponent, even as it accepted his representation of the civil war. Or it could accept the litigant's representation of the civil war, even as it rejected his views about the consequences. Prosecutors and defendants, for example, agreed that the restoration of the democracy was partially due to dissension among the "men of the city," even though this was clearly not the case.²⁸ At the same time, litigants often drew conflicting conclusions about the civil war. Defendants argued that the past illustrated why the Amnesty had to be preserved, while prosecutors insisted that it showed why the defendants had to be punished.²⁹ Although it is impossible to determine which of these arguments the juries found most persuasive, the arguments do show that even when the Athenians agreed about what had happened they could disagree about the lessons to draw from the civil war.

Below, I provide a close study of Lysias 18 in order to illustrate the benefits of a discursive analysis of the reconciliation. I have chosen this speech in part because it concerns the family of Nicias and therefore helps us understand what happened to Athenian leadership during the civil war. The speech is also helpful because the defendant tells the jury about the actions of members of

²⁶ For the composition of the Athenian jury see Markle 1985, 1990, Ober 1989: 143–44, Todd 1990, Hansen 1991: 183–86. For forensic oratory as a source of popular ideology see Dover 5–6 and Ober 1989: 43–45.

²⁷ Lateiner shows how litigants accused of oligarchic sympathies used similar rhetorical strategies in their defense. One could draw a similar conclusion about the strategies of prosecutors.

²⁸ See Cloché 1916.

²⁹ E.g., defendants: And. 1.104–5, Lys 25.25–28, Isoc. 18.42–44; prosecutors: Lys. 13.92–95, 28.13–15, Isoc. 20.10–11.

his family, some of whom were aligned with the democrats, while others had more doubtful loyalties. As a result, it shows how the civil war confounded the identity of the citizen and reveals the arguments which both the “men of Piraeus” and the “men of the city” used. Thus, it is an ideal speech on which to focus. On the other hand, *Lysias 18* is a defense speech, and the defendant insists that the Athenians had to preserve the Amnesty at all costs. Therefore, to avoid overemphasis on the appeals of the defendant, it will be necessary to discuss the counter-arguments available to the prosecutor.

LYSIAS 18

The dispute concerns the property of Eucrates, a brother of Nicias. Eucrates was elected general shortly after Aegospotami and was killed before the surrender of the city to Sparta (4). His sons inherited his property, and they were subsequently forced to defend their right to the property on at least two occasions. The first attack on their property failed, and the individual responsible for it paid a fine of 1000 dr. for having made an illegal proposal (14). Although the text is uncertain, it is possible that a man named Poliochus was behind the first attempt.³⁰ It was certainly Poliochus who made the second attack (13). It is this attack to which *Lysias 18*, spoken by one of Eucrates’ sons on his own behalf and on that of his brother, is a response. Only the epilogue survives, so it is unclear what the charge against them was.³¹ The speaker of *Lysias 18* says that a conviction would have resulted in the loss of their inheritance as well as their civic rights (1); Todd suggests that the charge might have concerned Eucrates’ financial activities while in office.³² Whatever the precise charge, it is perfectly clear that Poliochus attacked Nicias’ family for supporting the oligarchy, since the speaker devotes much attention to the activities of his relatives during the civil war.³³ Internal evidence indicates that the speech was delivered shortly before 395.³⁴ The sons of Eucrates were children during the civil war (10), but they had already performed liturgies and paid the εἰσφορά by the time of the trial (21).

³⁰ See Todd 2000: 196 n. 11.

³¹ Usher 83.

³² Todd 2000: 192.

³³ Usher 83–84.

³⁴ The speaker refers to the trial as having taken place long after the civil war (*Lys.* 18.19) and states that the Athenians viewed themselves to be more loyal to Sparta than any other of the Greeks (15), which he surely would not have said during the Corinthian War of 395–387/6.

The speaker begins with the typical ethical and emotional arguments that one finds in an epilogue,³⁵ but the military defeats suffered by this speaker's relatives both heightened and complicated these appeals. Beginning with his most famous relative, Nicias, the speaker discusses his uncle's involvement in the Sicilian expedition, but he refers to it obliquely as *συμφορά* (2). Next, the speaker tells the jury how his father was elected general after Aegospotami. Again, he does not mention the defeat by name. Instead he calls it "the last sea battle" (4). As Lévy notes, litigants frequently referred to this defeat and the subsequent civil war as *συμφοραί* so that the Athenians could imagine these events to have been beyond their control, thereby allowing them to deny responsibility for Athenian failures.³⁶ Similarly, the speaker of Lysias 18 avoided naming the Sicilian expedition and Aegospotami in order to buffer the jury from the embarrassment of these defeats.

Even though Eucrates was invited to become one of the Thirty, the speaker claims that his father preferred to remain loyal to the democracy and that he died while trying to prevent the destruction of the walls, the surrender of the ships, and the enslavement of Athens (4–5).³⁷ On the surface, Eucrates' loyalty to the democracy appears indisputable, but the speaker fails to explain why the Thirty would have trusted Eucrates. It cannot be the case that they thought he would be an ally simply because he was from a distinguished family. In fact, the oligarchs killed Niceratus, cousin of the speaker and son of Nicias, shortly after they seized power because they were convinced that Niceratus was a threat to them since his family was loyal to the *dêmos* (6). Why then did they trust Eucrates when he was the brother of Nicias and the uncle of Niceratus?

The speaker also fails to explain how Eucrates died. Although he associates his father's death with the rise of the oligarchy, Eucrates died before the surrender in 404, which means that he died before the Thirty gained control of Athens. Thus, the speaker collapses the time between the surrender of Athens and the overthrow of the democracy.³⁸ This temporal confusion cannot be accidental.³⁹ By associating the surrender with the Thirty, he depicts the

³⁵ For appeals to liturgies in the Attic orators see Adkins 1960: 195–219, 1972: 119–25, Davies 1981: 92–97, Roberts, Ober 1989: 226–36, Missiou 32–40, Johnstone 93–108.

³⁶ Lévy 40–43. For the defeat and civil war as *συμφοραί* see Isoc. 16.14, 20.10; Lys. 2.62, 6.41, 7.6, 12.92, 13.44, 14.16, 14.35, 16.10, 18.18, 18.25, 21.18, 25.15, 25.16, 25.25, 25.26, 30.3, 31.17, 34.1.

³⁷ Cf. Lys. 24.25.

³⁸ Cf. Lys. 12.68–76, 13.17–20, 34; see Lehmann 208–12 and Bommelaer 143–44; *contra*: Krentz 43 with n. 35.

³⁹ Cf. D. 58.66; see Thomas 132–38.

oligarchs as responsible for the surrender: they forced Athens to surrender in order to overthrow the democracy. This telescoping of the surrender of Athens and overthrow of the democracy allows the speaker to present his father as an opponent of the oligarchs: by working to prevent the surrender, Eucrates was also trying to stop the oligarchic conspirators. Athens surrendered and the oligarchs gained control of Athens only after Eucrates was killed. Hence, his death was proof of his loyalty to the democracy.

The loyalties of the speaker's other uncle, Diognetus, are even more uncertain. He was in exile before the civil war because of the slander of sykophants. But the speaker is careful to point out that, unlike other exiles, Diognetus did not fight against the city, join the Spartans at Decelea, or hold any offices under the oligarchy (9–10). However, Diognetus did apparently return to Athens during the civil war, which raises many questions.⁴⁰ What did he do once he returned? If he was in the city, how did he avoid collaborating with the Thirty and becoming complicit in their atrocities? Why didn't he join the democratic exiles when they were at Phyle or when they had seized Piraeus? But the jury did not have much time to reflect on gaps in the speaker's story since the emotional appeal intensified as he described the meeting of Diognetus and Pausanias. The passage deserves to be quoted in full (10–12):

ἐπειδὴ δὲ τάχιστα ἦλθον εἰς τὴν Ἀκαδήμειαν Λακεδαιμόνιοι καὶ Παυσανίας, λαβὼν τὸν Νικηράτου καὶ ἡμᾶς παῖδας ὄντας, ἐκείνῳ μὲν κατέθηκεν ἐπὶ τοῖς γόνασι τοῖς Παυσανίου, ἡμᾶς δὲ παραστησάμενος ἔλεγε πρὸς ἐκείνῳ καὶ τοὺς ἄλλους τοὺς παρόντας ὅσα εἶμεν πεπονθότες καὶ οἷαις τύχαις κεχρημένοι, καὶ ἡξίου Παυσανίαν βοηθῆσαι καὶ διὰ τὴν φιλίαν καὶ διὰ τὴν ξενίαν τὴν ὑπάρχουσαν, καὶ τιμωρὸν γενέσθαι τῶν εἰς ἡμᾶς ἡμαρτηκότων. ὅθεν Παυσανίας ἤρξατο εὖνους εἶναι τῷ δήμῳ, παράδειγμα ποιούμενος πρὸς τοὺς ἄλλους Λακεδαιμονίους τὰς ἡμετέρας συμφορὰς τῆς τῶν τριάκοντα πονηρίας· δῆλον γὰρ ἅπασιν τοῖς ἐλθοῦσι Πελοποννησίων ἐγγένητο, ὅτι οὐ τοὺς πονηροτάτους τῶν πολιτῶν ἀπέκτεινον, ἀλλ' οἷς μάλιστα προσῆκον καὶ διὰ γένος καὶ διὰ πλοῦτον καὶ διὰ τὴν ἄλλην ἀρετὴν τιμᾶσθαι. οὕτω δ' ἡλεούμεθα καὶ πᾶσι δεινὰ ἐδοκοῦμεν πεπονθέναι, ὥστε Παυσανίας τὰ μὲν παρὰ τῶν τριάκοντα ξένια οὐκ ἠθέλησε λαβεῖν, τὰ δὲ παρ' ἡμῶν ἐδέξατο. καίτοι δεινόν, ὃ ἄνδρες δικασταί, ὑπὸ μὲν τῶν πολεμίων παῖδας ἡμᾶς ὄντας ἐλεεῖσθαι, οἱ τῇ ὀλιγαρχίᾳ βοηθήσοντες ἦλθον, ὑπὸ δ' ὑμῶν, ὃ ἄνδρες δικασταί, τοιούτους γεγενημένους τῶν ὄντων ἀποστερεῖσθαι, ὧν οἱ πατέρες ὑπὲρ τῆς δημοκρατίας ἀπέθανον.

⁴⁰ Cf. Lys. 16.4. Adams 138 concludes that Mantitheus must have sympathized with the oligarchs since he chose to return to Athens when they were in power.

As soon as the Spartans and Pausanias came to the Academy, Diognetus took the son of Niceratus and us, who were children. Placing the son of Niceratus on the knees of Pausanias and setting us beside him, he told Pausanias and the others present what we had suffered and what misfortunes had befallen us, and he asked Pausanias to help us because of our friendship and our existing *xenia* and to punish those who had wronged us. Afterwards, Pausanias began to favor the *dêmos*. He used our misfortunes to illustrate the depravity of the Thirty to the rest of the Spartans. Thus, it became clear to all the Peloponnesians who were present that the Thirty killed not those citizens who were the worst criminals, but those who deserved most of all to be honored because of their birth, their wealth, and their other fine qualities. We were so pitied and we were thought by all to have suffered such terrible things, that Pausanias refused to receive gifts of friendship from the Thirty, and he accepted them from us. It would be outrageous, men of the jury, that we were pitied by the enemy who came to assist the oligarchy when we were children, if we are to be deprived of our property by you, men of the jury, after we have become such men and after our fathers died on behalf of the democracy.

Through this account of the meeting between Diognetus and Pausanias, the speaker both defends his right to his father's property and justifies the reintegration of his family into the democracy after the overthrow of the Thirty.⁴¹ Nicias' relatives were of the same social background as the Thirty, but they suffered just as much as the *dêmos*, if not more, at the hands of the oligarchs. Although the speaker only asks the jury to allow him to keep his property, he implies that he deserved to be honored for his part in the restoration of the democracy. He had lost his father in the cause of the democracy and had even won sympathy from Athens' enemies.

In addition, the speaker defends his right to his father's property by depicting the Thirty as a negative paradigm for the restored democracy: whatever the oligarchs had done should not be repeated under the restored democracy.⁴² Since he lost his father under the Thirty, he should not suffer further under the restored democracy but ought instead to receive benefits (8, 22, 25). So those who remained in the city during the civil war and who did not share in the dangers of exile should not now prosper (19). The speaker does not specify who these people were, but he seems to be attacking the prosecutor indirectly, perhaps because he had no evidence against Poliochus. It is even possible that Poliochus had supported the democratic exiles. But given that the civil war had compromised so many Athenians, with some supporting the oligarchs and others either failing to help the exiles or helping only

⁴¹ Morris 123.

⁴² See Dillery 147 for a similar depiction of the Thirty in Xenophon.

after the democrats had the upper hand, it was easier to raise suspicions against another than to disprove them. Furthermore, by making this accusation against the “men of the city” rather than against the “men of Piraeus,” he avoids the appearance of being at odds with the democratic exiles. Although the speaker does not rely directly on the Amnesty for his defense, he alludes to it by suggesting that the Athenians could only restore *ἁμόνοια* and prevent further *stasis* if they avoided seeking vengeance for what had happened (18). This negative paradigm, however, could just as easily be used to justify recrimination. In his speech against Eratosthenes, Lysias says that an acquittal would serve to convict those whom the Thirty had executed (Lys. 12.100). Likewise, the prosecutor of Agoratus argues that the jury should convict Agoratus since the Thirty acquitted him (Lys. 13.96).

Finally, the speaker refers to the jury several times as though it was composed entirely of Athenians who had either lived in exile during the civil war or who had returned to Athens with Thrasybulus (Lys. 18.18–19).⁴³ It is hard to believe that none on the jury had remained in the city during the civil war. Therefore, we should avoid using such references to draw conclusions about the composition of the court. Perhaps the “men of the city” were flattered to be addressed as democratic exiles, or perhaps the speaker avoided pointing out that some on the jury had remained in the city so as not to embarrass them. Either way, this address shows that the Athenians preferred to identify themselves as the “men of Piraeus.” But more importantly, it is a statement about authority and power after the restoration of the democracy. Ober suggests that speakers employed dramatic fictions when speaking before the courts and assembly—sometimes presenting themselves as though they were poor or the members of their audience as though they were rich—in order to mitigate social tensions.⁴⁴ Addressing the jury as “men of Piraeus” served a similar function. But far from easing social conflict, this address served to present the reconciliation as a victory for the “men of Piraeus” and to deny that it was a compromise between the two warring factions. The “men of the city” were allowed to participate in the restored democracy provided that they gave up their former allegiances and presented themselves as democratic exiles.

CONCLUSION

In sum, Lysias 18 reveals how the civil war confounded the identity of the Athenian citizens. Although the Athenians imagined the civil war to have

⁴³ Cf. And. 1.81; Isoc. 16.12–14, 50, 18.2, 48–49; Lys. 10.4, 12.57–58, 13.47–48, 14.32–33, 16.6, 24.25, 25.18, 20–22, 26.2.

⁴⁴ Ober 1989: 152–55, 190–91, 306–9.

divided the community into two factions, it is clear that they were splintered into many more groups and sub-groups. Such divisions made it easy for citizens to identify themselves with the “men of Piraeus.” After all, many could show how they had suffered during the civil war, which was the greatest proof of their loyalty to the democracy. But it was also easy to raise suspicions against one’s enemies through innuendo and unsubstantiated charges. Even as speakers agreed that the Thirty were utter villains, they disagreed about the lessons to be learned from civil war and how best to prevent further civil unrest. Lysias 18 also shows that the past was far from settled and that serious conflicts and disagreements remained in the community, conflicts that could easily have disrupted the peace. And yet, Athens did not experience more civil war. Attempts to explain why the reconciliation prevailed only downplay the divisions evident in the extant orations. Although a discursive analysis does not provide the solution, it at least allows us to contextualize the disputes that had occurred under restored democracy, to appreciate how the Athenians came to terms with their past and how they suppressed troubling memories, and to understand how the past either united or divided them.

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