ARISTOTELIAN TOPICS FOR PLURALIST DEMOCRACY

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by
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ABSTRACT

Rhetorical scholars distrust topoi theory, fearing that attention to argumentative “spaces” will produce an overly formalized image of rhetoric. This anxiety can be attributed to Aristotle, whose Rhetoric claims that common topoi are preferable to specific topoi as premises for rhetorical argument. By reading Aristotle in conversation with the Athenian civil war (415-403 BCE), rhetorical scholars can recognize this preference as a prescriptive response to Athens’ political history.

Three rhetorical texts from the period of civil war display the rhetorical capacity to build toward a position of commonality from one of particularity. The three texts attribute the discord of civil war to this particular-to-common rhetorical mode. Aristotle, attempting to correct the perception that rhetoric necessarily produces civic strife, privileges arguments premised on already existing commonality. Decoupling Aristotle’s preference for common premises from topoi theory opens space for rhetorical scholars to address some twenty-first century CE problems in argumentation theory and pluralist democracy.
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Chapter 1. INTRODUCTION

Rhetoricians who study *topoi* often seem anxious about doing so. In Aristotle’s *Rhetoric*, a *topos* (meaning “space” or “place”) is a constituent part of an argument, the ground covered by the movement from evidence to claim.¹ *Kainē topos* (“common places”) maintain their probative force in all rhetorical situations. *Idia topos* (“specific places”) rely on context for their soundness and validity; a symposium of physicists, a law court, and a religious congregation all accept different kinds of evidence and justify claims differently. The anxiety among rhetoricians is that *topos* theory tends toward abstraction and formalization. Studying and teaching patterns of discursive repetition, the scholars of the *topos* caution, mutes rhetoric’s stochastic and contingent aspects.

I share these scholars’ aversion to the image of rhetoric as a static and orderly system, one capable of compelling assent. This thesis contends, though, that the trajectory toward formal abstraction is not inherent to *topos* theory. This trajectory is certainly present in Aristotle’s *Rhetoric*, but as a preference, not a description. Aristotle’s treatment of *topoi* rules out arguments that move from specific premises to common conclusions, a discursive faculty he claims is unique to rhetoric.² Reading Aristotle in conversation with his historical context shows his preference to be a prescriptive response to the particular historical challenges presented by rhetorical practice in ancient Athens.

This thesis recognizes that Aristotle makes a critical judgment about the appropriate use of rhetoric, attempting to correct for its apparent misuse. The intellectual culture of fourth-century Athens arose in the wake of a vicious civil war over the extent of popular participation in government. Aristotle suggests that rhetorical enthymemes should model dialectical syllogisms,

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² Ibid., I.ii.14-18, 1357a-1357b.
applying already existing agreement to specific situational claims. He lends precedence to the common *topoi* because rhetorical actors during the civil war blamed discord on the particularity and uncertainty of probabilistic rhetorical argument.

Identifying the points where Aristotle’s account of the *topos* corresponds to ancient Athenian discursive practice shows how Aristotle places his thumb on the scale of *topos* theory. This thesis suggests removing the figurative thumb, instead portraying common-to-specific and specific-to-common arguments as equally legitimate. Doing so would open space for a theory of the *topos* that remains sensitive to the fluidity of living practice. A more robust articulation of the *topos* in rhetorical studies can then buttress the nascent recognition of rhetoric in argumentation theory.

**Rhetorical Scholars on the *topos***

Carolyn R. Miller (1987) considers the specific *topoi* to have been eclipsed in the modern academy. She charges that scholars prefer the common *topoi* because they keep the situational particulars of rhetoric-in-practice at a comfortable distance. Michael Leff (1996) warns about the temptation to view the common topics “...as an isolated system and to characterize and evaluate this system in respect to [one’s] own presuppositions about heuristics.” As remedy, he suggests “giving pride of place to argument as social practice...as a set of strategies for discovering material relevant to a case at hand.” Leff echoes Miller’s concern about a scholarly disconnect between rhetoric’s natural resistance to form and an imposed artificial system. Leff’s 2006 article returns to the subject, again condemning an abstract theory of the common *topoi* that corrals the living, public art of rhetoric into the pen of the academy. 

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Rosa A. Eberly (2006) also decries the disciplinary enclosure of knowledge and attributes to it a degenerative effect on pluralist democracy. She sees the university paying undue attention to the specific *topoi*, erecting and maintaining rigid walls that define necessary certainty within specific disciplines. She identifies these walls—their lack of portals in particular—as “methodological, definitional, and policy problems facing higher education, problems that can prevent colleges and universities from playing a more central role in addressing public issues and sustaining democratic culture.” She calls for public ways of knowing able to acknowledge plurality as other than error. By accommodating probability, fallibility, and contingency, these approaches to knowledge “offer alternatives to totalizing epistemologies that leave no common space for interdisciplinarity or deliberation of ideas and methods.”

Eberly seems to contradict Miller and Leff in her appreciation for the common *topoi*, but the apparent contradiction arises from an irregularity of terminology. All three scholars warn of the tendency to manufacture inaccurately static order in arguments with common premises and specific conclusions. Miller and Leff refer to common-to-specific topical arguments by their premises and, as a result, decry the overuse of the *koinē*. Eberly’s article is concerned with consequences, and sees the *idia* as a concretizing force that fossilizes the blood and marrow of rhetorical practice in the stony impression of once living bones.

More recently, Michele Kennerly (2013) defines a *topos* as a heuristic schema for organizing and understanding a strain of argument and assessment across various texts. This definition recognizes that the scholar assembles a theoretical form of the *topos* and deploys that form to

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7 Ibid.
8 Ibid., 32.
9 Ibid.
10 Ibid., 34.
enhance her understanding of the multiple texts in question. Although Kennerly does not seem to share the distrust displayed by other scholars, this notion of the *topos* maintains Miller’s, Leff’s, and Eberly’s sense of artificial academic organization. Finally, Barbara Cassin (2014) argues that the stagnation of rhetorical practice is not an unfortunate misuse of *topos* theory, but its very purpose. In Cassin’s telling, Plato and Aristotle invented the *topos* to lend primacy to considered, planned discourse at the expense of sophistic extemporaneous speaking.\(^{12}\) Cassin suggests that conceiving of arguments as the simultaneous interaction of “places” rather than a temporal sequence of individual utterances is a necessary precondition for refutation based on contradiction. Although I am skeptical of many of Cassin’s points, she is right to lay the trajectory toward formal abstraction in *topos* theory at Aristotle’s peripatetic feet.

**The Account of the *topos* in Aristotle’s *Rhetoric***

The *topos* is accompanied by a slide into abstraction even in Aristotle’s *Rhetoric*. He first introduces *topoi* as a metaphor to distinguish among different types of enthymemes. Aristotle, playing the eager showman, advertises his *topoi* as part of a “very great difference that has escaped the notice of nearly everyone.”\(^{13}\) The astounding news is that enthymemes—arguments in the rhetorical mode—can either progress from general premises to specific conclusions (as dialectical syllogisms must) or from specific premises to general conclusions. Aristotle uses the common and specific *topoi* to explain in greater detail that—although both types of argument are possible in rhetoric—proving a specific conclusion from common premises is more proper to the art.


\(^{13}\) Aristotle, *Rhetoric*, I.i.20, 358a.
In *Rhetoric*, those who develop an enthymeme from particular premises “are unwittingly tied down to a habit [*tropon*] and cross over [*metabainousin*] out of these [enthymemes].”¹⁴ Aristotle situates this kind of enthymeme not in rhetoric itself, but in the particular situation that validates its specific *topoi*. Building to commonality out of particularity is considered trespassing beyond the boundaries of the specific. Referring to the specific topics, he writes, “however well one might choose out the premises, they will unwittingly make another knowledge [*allēn epistēmēn*], separate from dialectic and rhetoric. After all, one might happen upon first principles, but they will no longer be dialectic or rhetoric but something else that has these first principles.”¹⁵ Aristotle categorizes enthymemes by the origin of their premises, not by their conclusions. If the premises of an enthymeme originate in a space of particularity—from specific *topoi*—and support a more common conclusion, the enthymeme belongs to that class of knowledge and not to a legitimate and proper rhetoric.

Although enthymemes can be premised on either specific or common *topoi*, Aristotle privileges the latter type. Rhetorical arguments that begin from a place of common agreement and derive judgment about a particular case remain proper to rhetoric itself. Arguments premised on common topics “will not make any class of reasoning [*genos emphrona*].”¹⁶ Aristotle’s concern in this passage is that rhetorical arguments not originate in one particular *genos emphrona*, a tribe in the mind. The *genos*, the tribal subdivision of Athens’ citizen population, is Aristotle’s metaphor for the mental subsets of reasoning in which specific *topoi* are appropriate. It is possible, in his view, for rhetorical arguments to begin from the position of the *genos* and speak outward to the larger *polis* (“city-state”), but they should not do so. If one intends to speak to the concerns of the whole, one’s enthymemes should be derived from common *topoi*.

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¹⁴ Ibid.
¹⁵ Ibid., I.ii.21.
¹⁶ Ibid.
Case Studies in Rhetorical Practice

It is one thing to echo theorists of the topos as they caution against an overly formalized and abstract approach to rhetoric. It is quite another to take that advice to heart. To engage Aristotle alone on questions of commonality and specificity would be an act of mere philosophy—and an insufficient and misguided one at that. Rhetorical methods of inquiry, with their concern for the interplay of context and content, suggest that any discourse should be considered according to the historical particularities in which it is embedded. Reading Aristotle in conversation with the larger discursive culture of ancient Athens lends crucial insight into his prescription that rhetorical argumentation is properly derived from common topos.

The specific historical circumstances of the Athenian civil war (415-403 BCE) called for radical renegotiations of political participation and civic value. The public discourse of the period was marked by a suspicion of rhetoric as a legitimate mode of decision-making. Aristotle’s theory of topos appears to be a corrective measure, an attempt to save the polis from the abuse of rhetoric. To understand his Rhetoric as a response to political strife, this thesis examines three cases of rhetorical practice from the civil war period. In each case, persuasive communication is associated with the transgressive specific-to-common mode of argument. What Aristotle later identifies as the uniquely rhetorical faculty appears as a source of discord, creating separate tribes of thought where there might otherwise be concord and community. The three case texts each offer a definition of civic commonality: what constitutes the whole, what is a part of that whole, and what is excluded from the whole.

The first case is Aristophanes’ comedic play Birds, written for the City Dionysia festival in 414 BCE. This play is a ritualized song-and-dance that performs the founding of a satirical polis. The action of the play critiques the notion of civic commonality, claiming that it is manufactured by excluding the uncommon and the uncertain. The second case, Andocides’ 409/408 BCE speech On
*His Return,* is a plea from a standpoint of exclusion that the audience should recognize the speaker’s stake in the city. Andocides bases his argument on the commonality of direct experience, and attempts to limit severely the influence of rhetorical disputation in his speech. Finally, Lysias, in his 404/403 BCE speech *Against Eratosthenes,* attempts to reform Athens’ civic wholeness and moral certainty by concentrating all guilt for the civil war in one part of the community, and then excising that part.

These texts are uniquely suited as case studies for this project. All three were composed around the same time and in the same place. Restricting this thesis’ texts to the discursive culture of the city of Athens within the twelve year window of 415-403 BCE narrows the scope to a manageable level. These texts were formed in similar contexts, and there was likely significant overlap in their audiences. In addition, the texts are all primarily concerned with the same constellation of *topoi.* Each adds a voice to the continuous conversation concerning relationships between political communities and their participants, as well as relationships among political participants. Aristophanes, Andocides, and Lysias can each be heard defining civic commonality and evaluating the good and bad qualities of those who share in it.

In addition to their conceptual consistency, the *topoi* common to these texts have a fluidity that makes the rhetorical processes described by Aristotle more visible. Between 415 and 403, the governing structures of the city changed hands four times in twelve years, and each regime transformed political inclusion along lines variously democratic or oligarchic. In this context, questions of political community and participation therein would have been drastically unsettled. These speakers were afforded relative mobility, able fluidly to make or break discursive and civic connections. The circumstances of civil war mean that questions of political identity are inescapably concerned with commonality and specificity. It is an extreme example of a society disputing what is
shared in common, what is unique to a part, and what is excluded from the common. As a result, the actual rhetorical practices described by Aristotle can be identified clearly in these texts.

Further, the nature of a civic whole and the roles of its parts are central considerations for the prospect of participation in any political community. Discussing how these topics were articulated in the past facilitates self-reflection and social conscience in the present. By committing to a dialogue with others (even long-dead others), we might evaluate the thoughts and behaviors presented and represented in that dialogue. Only by collaboratively judging what sort of mindsets and habits are helpful and which harmful can we hope to make the terms of living in future political communities more tolerable.

**Translation and Method**

Each case is analyzed as a text. The closeness of this analysis is determined by the process of translating the text from ancient Attic Greek to modern American English. In the interest of a faithful reading, I pay close attention to the semantic and syntactic detail of the Greek prose and poetry. The struggles to make these Greek nuances legible in English provide the basis for many of my interpretive insights in these case studies. For this reason, the translations are my own unless otherwise noted, and the original Greek words are provided in parenthetical transliteration when they are of theoretical importance to my argument.

**On the Antiphontic Epigrams**

Each chapter is headed by a short passage translated from fragmentary texts attributed to Antiphon of Rhamnus. Antiphon was a central figure in both the intellectual struggles over the nature of rhetoric and the political struggles over the government of Athens. He was a teacher of public speaking who is recorded to have written a textbook on the subject.¹⁷ Antiphon’s courtroom

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speeches are the earliest systematic use of koinē topoi on record, and he was the first orator to write his speeches down for distribution. Despite his innovative facility with words, he rarely spoke in public himself. Nonetheless, the instruction he offered and the dissemination of his written speeches allowed Antiphon to wield outsized influence in the discursive community of the Athenian aristocracy.

As a committed opponent of the imperial democracy, Antiphon leveraged his rhetorical influence to advance his political goals. In 411 BCE, he became a prominent leader in the Council of Four Hundred, the first oligarchy to subvert the democratic regime during the civil war. When that government dissolved, Antiphon was either unwilling or unable to flee the city with the other oligarchs. Despite his rhetorical strength and agility, the popular court found Antiphon guilty of treason and confiscated his extensive wealth for the public treasury. The man was executed, with his body forbidden to be laid to rest within the borders of Athens. He was disenfranchised, his family was disenfranchised, and anyone who adopted his children would also be disenfranchised. Finally, the state burned his house to the ground and raised a monument over the ashes that read: “Property of Antiphon the Traitor.”

The fragments of Antiphon the rhetorician, Antiphon the partisan, and even Antiphon the traitor offer a chilling counterpoint to the texts analyzed in this thesis. His story is inextricably entwined with the history of the Athenian civil war, and it seems only fair that I should include his received words here.

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ei tis etheloi katabalein eis polin tous ornithas, oichēsontai anaaptomenoi. ean de tōn pterugōn apotemē, to kallos aphairēsetai. ta ptera gar autōn to kallos estin, all’ on to sōma.

If anyone might want to bring the birds into the city, they would fly off. But should one clip their wings, their beauty would be taken away. For their feathers—not their bodies—are their beauty.

From Antiphon Fr. B 12.1 In Reply to Erasistratos, Concerning the Peacocks.22

The peacocks in question belonged to Pyrilampes, Plato’s stepfather

Chapter 2. ARISTOPHANES’ BIRDS

In Earth’s temperate zones, there are two days per year on which the sun appears to rise directly in the east and to set directly in the west, rather than at a slight northern or southern angle. Of these two days, one corresponds to a lengthening of daylight hours, new growth in plant life, and the return of migratory birds from their sub-tropical wintering homes. Modern English-speakers refer to this event as the equinox of spring, but ancient Athenians observed it as a festival: the City Dionysia. The City Dionysia that was celebrated 2,429 vernal equinoxes prior to the writing of this thesis marked the theatrical performance of a comedy called Birds.

Written by the seasoned playwright Aristophanes, Birds is a scathing rebuke of the democratic government of Athens. It contends that the commonality and equality of the polis are illusions, carefully constructed by those with persuasive talent to mask their personal interest. The fictional city, Cloudcuckooland, achieves commonality by selectively redefining the limits of inclusion so that the uncommon and particular are excluded. The avian democracy is managed not as a commonwealth of equals, but with the compulsive force of a dominant-enslaved relationship. Aristophanes’ Birds displays the mistrust of rhetoric so characteristic of this period: as a sycophantic art, a way of creating commonality from one part at the expense of other parts.

22 Translation original, Greek text from Minor Attic Orators I: Antiphon and Andocides, 302.
Athenian Theatre and the City Dionysia

Despite being a work of fiction, *Birds* makes for an excellent window into the public values of fifth-century BCE Athens. Greek drama occupied a place of prominence in the self-conception of a *polis*. Josiah Ober (1998), investigating the role of rhetoric in classical Athenian democracy, contends that the Athenian theatre was always political; the space where the legislative Assembly met and the main theatre of Athens were laid out along the same design.23 “Athenian tragedy and comedy,” Ober writes, “were written and performed as integral parts of a sophisticated and complex civic ritual.”24 Drama in Athens was not bricked up behind a fourth wall, separating the symbolic action of the stage from the real action of the state. The performance was fully integrated with other rituals that reaffirmed and reconstructed the significance of the *polis* and its citizens. “The audience watched dramatic productions as part of a religious festival that had much to do with civic self-representation.”25 The spheres of an ancient Athenian’s life could not be easily separated from each other. The theatrical experience was at once artistic and political, spiritual and martial, agrarian and didactic.

Comedy held a particular and peculiar role as an educative form of civic drama. For a comic poet to occupy the role of social critic was not transgressive, but entirely typical. Ober reports that writers of comedy were “…expected to expose the ideological framework of political life—to reveal the inner workings of democratic knowledge itself.”26 Athenian comedy rested on a faithful, if somewhat distorted, image of the audience’s habits and beliefs. For a comedy to be successful as a civic commentary, it had to present a recognizable political truth in a novel way, “…to expose the demos’ tendency to self-deception.”27 In their expository function, comic plays can be considered

24 Ibid.
25 Ibid., 123.
26 Ibid., 125.
27 Ibid., 126.
rhetorical and argumentative. Although comedies do not assert an explicit claim or policy, performing a model of the external world prompts the audience to recognize that model in their own experience.

The City Dionysia was just one of the festivals at which comedies and tragedies were performed, but Dionysiac rituals underscored theatre’s civic purposes even further. Three processions wound their ways through the city and its environs. The first was a parade of young men in full hoplite armor, bearing their weapons of war. These soldiers were exclusively chosen from among those whose fathers had died in battle and whose upbringing had been supported by the public treasury. The next day saw a solemn religious march to commemorate one of the city’s founding myths. This ceremony was accompanied by a raucous revel, in which participants carried enormous symbolic phalluses. The year’s tribute from Athens’ colonial holdings was heaped up on the stage of the theatre for convenient display. The rituals of the City Dionysia were a testament to the power of the polis.

The City Dionysia was unique among Athenian religious festivals in that it was open to people other than male citizens. The dramatic competitions were one of the few public events in which women appeared in the audience alongside men. People of foreign lineage living in Athens, as well as those visiting from the colonies, were welcome as spectators and participants in the dramatic competitions. Despite this diverse audience, the competitions were judged by a panel of military generals chosen by the Athenian chief executive. In 414 BCE, the generals awarded *Birds* second place out of three comedies. Aristophanes’ play placed behind Ameipsias’ *Revellers (Komastai)*, a play featuring the City Dionysia’s raucous procession of phalluses. Ameipsias was no stranger to

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29 Ibid., 61.
Aristophanes, having bested Aristophanes’ *Clouds* nine years before. Phrynicus, whose play *Solitary Habit (Monotropos)* took third place, was regularly derided in Aristophanes’ other plays for his blue humor and populist political leanings.

**A polis for Private Benefit**

The play *Birds* opens on a crow and a jackdaw, under whose tacit guidance a pair of Athenian men are wandering back and forth. The men can find neither the way back nor the path forward, having come to a place beyond any paths at all. Dissatisfied with Athens, the pair are in search of Tereus, a mythic king whom the gods transformed into a bird. Tereus was exiled from humanity after raping Philomela and cutting out her tongue to prevent her from reporting the outrage. Philomela wove her story into a tapestry for her sister—Procne, wife of Tereus—to read. Procne responded by tricking Tereus into eating their son. When Tereus pursued Procne for vengeance, the divines thought it best to change each of their shapes: Philomela into a swallow, Procne into a nightingale, and Tereus into a hoopoe. Philomela does not appear in Aristophanes’ play, although Procne is briefly depicted in an interlude of sexual spectation. The pair of Athenian men expect that Tereus’ wide-ranging flights might give him knowledge of a more suitable city than their own.

At the height of their desperation, the pair of humans discover that they have already reached their destination unawares. Tereus, surprised by his human visitors, asks them identify their *genos*, their tribe. The Athenians do not answer directly, but do so by metonymy. One says that they

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34 Ibid., ln. 10 and 22.
38 Ibid., ln. 108.
come from the place where the triremes are *kalai*—“fine,” “noble,” “beautiful,” or “good.”³⁹ In the fifth century BCE, the trireme was the symbol of Athenian military power.⁴⁰ It was the trireme that repelled the Persian incursions. It was the trireme that allowed Athens to dominate the Delian League. It was the trireme that enforced Athenian policy on the subject states of the empire. The two men need say no more than that they are from the same place as the sleek, beautiful triremes. In this passage, Aristophanes blurs the distinction between the common and the particular. Fifth-century BCE Athens was divided into ten tribes, but these men claim the whole city as their *genos*. They define the common not in a heterogeneous sense, but as an extension of their own particular part.

Having found out that the pair share a *genos* with the noble trireme, Tereus asks with alarm whether they are jurors.⁴¹ For Aristophanes to characterize Athens, it is enough for him to name the triremes and the courts. Specifically, Tereus asks whether the men are participants in the largest court constituted in Athens, the *hēliaia*, so-named because it met under the sun (*hēlios*).⁴² The *hēliaia* gathered so many citizens that it could not fit between the walls of any building in Athens. This open, roofless court was the most plural governmental gathering of citizens in ancient Athens and served as an institutional symbol of common participation in the *polis*. The humans are quick to reassure Tereus that they are *apēliastai*, the sort of Athenians who avoid the courts.⁴³ An *apēliastēs* has no interest in being part of the heterogeneous common, whether as a juror, a claimant, or a defendant.

Content with the men’s explanation, Tereus investigates the purpose of their visit. Their primary motivation in leaving Athens is to avoid repaying their debts.⁴⁴ They deny that they hate the

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³⁹ Ibid.
⁴⁰ “Trireme,” in *The Oxford Classical Dictionary*.
⁴² “*Hēliaia*,” in *The Oxford Classical Dictionary*.
⁴⁴ Ibid., ln. 115-116.
polis itself, but they resent the expectation that they “pay money back into the common [koinēn].” Tereus asks for clarification, and the humans express their private interests more strongly. One of the men says that he is looking for the kind of city where being invited to a wedding feast is the worst of his troubles. The other adds that, in his favored city, his neighbors would take offense if he didn’t proposition their sons sexually. The men’s motivations for pecuniary, gustatory, and prurient satisfaction become their motivations for creating a polis. Their resistance to the common and their attachment to their specific self-interest become their justification to form a new common.

From “Swivel” to “Civil:” Fixing Motion to Unify a polis

Unable to locate a human city that suits them, the pursuit of private interest leads the two men into founding a polis. One of the pair suggests that they might live among the birds, pending a few alterations to the avian society. This man suggests, “First, then, don’t fly around everywhere with your mouths open [kechēnotes].” Aristophanes’ specific mention of the birds’ open mouths is ambiguous; the word kechēnotes could denote either a dumbfounded gaping or a mouth open in speech or song. The yet unidentified man goes on to call this atimon tourgon, a dishonorable act. The adjective atimon carried civic weight in fifth-century BCE Athens. A citizen in a state of atimia was not only dishonored, but disenfranchised. Utterly stripped of access to public life, the atimos could neither speak nor vote in any governmental body. Atimoi could not participate in religious ceremonies or appear in the agora. Antiphon, for instance, was atimos after he was found guilty of

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46 Ibid., ln. 128-134.
47 Ibid., ln. 137-142.
48 Ibid., ln. 155.
49 Ibid., ln. 164-165.
treason. The birds, on account of their mobility and open mouths, are *atimoi* and unfit for inclusion in a *polis*.

The man elaborates on the civic insufficiencies of the birds. He quotes a human he knew in Athens who, as a harsh critic of birdlike behavior, would say, “The man’s a bird: unruled [astathmētos], flighty, unbounded [atekmartos], never staying in one place.” The adjective *astathmētos* borrows metaphorical meaning from the technical craft of carpentry. The *stathmē* was the line traced with chalk from a *kanōn* (“ruler,” “straight edge”) to ensure that the woodworker’s cut was straight. To cut without drawing a *stathmē*, or to draw a line but ignore it in cutting, might produce a wobbly, loose-jointed table, a table worthy of the description *astathmētos*, “unstable,” “uncertain.” A similar sense defines *atekmartos*. A *tekmar* was a boundary, a fixed mark separating two distinct spaces. *Atekmartos* corresponds well with the description that the birdlike human is “never staying in one place.” Its location is not fixed by boundary markers that render some spaces accessible and others inaccessible. The birds move within and among spaces freely and fluidly. They do not recognize some spaces as permanently habitable and others as excluded from access. Without this fixity, they cannot have a *polis*.

Tereus concedes to the criticism, and asks how the situation might be remedied. The man’s reply is simple. “*Oikisate mian polin,*” he says, “Settle a single city.” This line, a succinct statement of the play’s plot, illustrates the creation of a *polis* as the creation of a totalized home. *Oikisate*, the imperative verb by which Aristophanes founds the *polis*, shares a clear etymological connection to *oikos*, or “house.” The human’s advice to the birds is that they domesticate themselves, that they make a home in the same moment as they make a city. In Aristophanes’ comedy, to make a *polis* is to make an *oikos* on a larger scale. This is not an expansive, inclusive commonality, but a city-wide

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particularity. Moreover, the only other word in this sentence is *mian*, or “one.” Aristophanes emphasizes that the birds should found *one* city. The *polis* portrayed here is unaccompanied by other avian cities and undivided internally. It is *mian polin*: homogenous and whole.

Although Tereus sees truth in his visitor’s diagnosis, he balks at the cure. “But what sort of city might we birds settle?” he sputters. Rather than answering directly, the human instructs Tereus to look around him. First below him, then above, and finally around and around, Tereus swivels his head in all directions, complaining about neck sprain all the while. One could imagine a bit of hyperbolic “stage business,” with the actor exaggerating his motions, bending over or whirling around to amplify the comedic effect. Although Tereus claims to see only the clouds and the sky, this passage is more than just slapstick. By pitching and turning in different directions, Tereus preemptively illustrates his interlocutor’s point.

“Then is this not the very swivel [polos] of birds?” The man playfully asks. A *polos* is a place of turning, as with a hinge or axel. Aristophanes describes the sky as a *polos* in that it is a site of motion. The sun and moon make visible transit through the sky, while the stars appear to whirl in a circle around Polaris. Tereus performs the role of a *polos* himself by turning his head in various different directions. The ability to turn around, to change the angle of one’s viewing, to see from different perspectives, is characteristic of the birds’ position (*topos*). The birds are unruled, unbounded, and mobile, and the space that they occupy lacks fixity or certainty. At Tereus’ prompting, the man explains what he means by calling the *topos* of the birds a *polos*. A *polos* is a place where “everything wanders about [poleitai] and passes through [dierchetai].” The two verbs signify two different kinds of mobility. *Poseitai* denotes a capacity for movement within the *polos*, while

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53 Ibid., ln. 173.
54 Ibid., ln. 175-178
55 Ibid., ln. 179.
56 Ibid., ln. 180.
57 Ibid., ln. 181-182.
dierchetai refers to a transfer across a border. The boundaries of Aristophanes’ polos are permeable (perhaps even to the extent that they don’t exist at all), and there is room for relatively unrestricted maneuverability within it.

According to the human arriviste, the birds are foolish and dishonorable to keep their topos as a polos. To make full use of their potential, they should turn their polos into a polis. Their swivel must become civil. Just as the polos is defined by the pair of verbs poleitai and dierchetai, two actions must be accomplished to turn the polos into a polis. First, it must be settled (oikisēte) or domesticated; a polis is created by making it suitable as a home. Second, it must be fenced in (phraxēth’). Some kind of wall or boundary must be established, to determine what is included and what is excluded. In a polos, one can see many things at once and can turn about to gain different perspectives and angles. Walls are necessary to restrict movement and vision. They render certain objects visible and others invisible, certain positions accessible and others inaccessible. This narrowing of vantage points allows for the fixity and certainty on which the “single city” is based.

Tereus is enthusiastic after hearing in more detail the human plan to settle and fortify the polos of the birds. He agrees to gather the other birds to gage their consent. The man is surprised and confused, wondering aloud how the other birds could understand the plan. Tereus explains that he brought the birds out of barbarism by teaching them language (ten phōnēn). In addition to establishing walls and fixing motion, Aristophanes predicates the polis on language. Tereus was in a position to teach language to the birds because he “lived with them for a long time [xunōn polun chronon].” Xunōn, literally “being with,” underscores the commonality on which language and a polis depends. In addition, Tereus has “been with” the birds for the extended time indicated by polu

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58 Ibid., ln. 183-184.
59 Ibid., ln. 199-200.
chronon. It is duration and sequence, not momentary points in time, which allow Tereus to lay the discursive groundwork for the founding of the polis.

Tereus summons a vast flock of birds, all of different species, to attend to the emissaries from the human world. The human emissaries comment on the various birds that appear on stage. One of the men asks with alarm, “Who is this Muse-prophet, this landless [atopos], mountain-trekking bird?”60 This bird represents mobility in its extreme. The other birds have a topos, even if their topos is a polos. This bird is atopos, without any space at all. It may be atopos due to its nomadic, mountain-trekking character. It ranges over even the difficult terrain of mountains, but it is also atopos as a Muse-prophet. The atopos bird is a mouthpiece for the divine patrons of poetry, music, and dance. It is at once the exemplar of mobility and of vocality.

The Totalizing Part

The curious birds crowd around, asking Tereus about his reasons for summoning them. First they ask his position (topon), then they ask what speech (logon) he wants to relay to them.61 Tereus attempts to soothe them with a string of adjectives: “koinon, asphali, dikaion, hēdun, ōphelēsimon. Common, safe, just, sweet, helpful.”62 Although Tereus just heard the two humans admit that they are motivated by their self-interest, his first word of introduction is an assurance that his topos is koinos. Although the audience of birds cannot know the disservice Tereus is doing them, the theatrical audience could observe the earlier conversation and understand the depths of Tereus’ duplicity. From the position of the spectator, the birds appear as though they are about to be duped into serving the interests of the humans with a specious appeal to the koinē.

60 Ibid., ln. 275-276.
61 Ibid., ln. 310-315.
62 Ibid., ln. 316.
Tereus continues his recommendation by telling the birds that “a pair of narrowly reasoning [leptο logista] men have come to visit me.” This is a more truthful appeal for Tereus to make, for the men reason narrowly in two senses. The adjective leptos can refer to finely ground flour, delicately spun thread, or wine diluted with water. Aristophanes uses this term as a metaphor to characterize the tightness with which the two men compose their arguments. Their words are joined together with the careful attention of a carpenter lathing along a stathmē. In another sense, though, the men deploy these arguments for a narrowing purpose. They reason narrowly in that their calculations lead to the proposition that the birds should build a wall. Building a wall straightens and refines the topos of the birds, narrowing the accessible set of positions and the visible set of viewpoints. These topical constraints create a commonality, but a commonality based on restricting everything beyond a specific part.

Even after the endorsement of their longtime friend Tereus, the birds remain skeptical. They prepare to attack the interlopers. Tereus unflinchingly defends the humans and suggests that, although they might be enemies by nature (phusin), the humans could be friends by thought (noun). Tereus is suggesting that the commonality of the polis can be extended even to those who are natural enemies. This is accomplished through thought and through discourse that appeals to the mind.

This section of the play focuses heavily on persuasion through language: the visitors persuade Tereus, Tereus persuades the birds, the visitors persuade the birds. The language that the birds learned from Tereus allows them to become “friends by thought” with the humans, despite their natural animosity.

The birds are not quite convinced, so Tereus reminds them that many lessons are learned not from friends, but from enemies. Specifically, he mentions that cities learn to build walls from

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63 Ibid., ln. 317-318.
64 Ibid., ln. 371-372.
their enemies. Tereus, quick thinker that he is, has chosen a particularly apt example; this is the very lesson that the visiting humans hope to impart. After all, the man just finished explaining that he would like to found a *polis* of the birds, and that a *polis* is defined by its fortifications. Tereus continues with his example, saying, “This lesson [wall-building] secures children, household [*oikon*], and wealth.” According to Tereus’ argument to the birds, building walls—the act that defines the *polis*—guarantees the existence of the *oikos*, as well as the intensely private concerns of family and property. Tereus does not advocate for the *polis* on its own terms; he does not suggest that commonality is worthwhile in itself. Instead, the *polis* precedes and secures the existence of the *oikos*.

As the birds’ tempers begin to soften, they inquire again as to why the Athenians have come to them. Tereus repeats the lie he told before, emphasizing the men’s desire to share the birds’ way of life, to live in common with them. At this repetition, he is more explicit, claiming that their purpose is “to cohabit [*xunoikein*] with you and to be with you in all things.” The verb used here bears a strong resemblance to the one Aristophanes uses to describe the founding of a city. It is the same root, the root shared with *oikos*, but with the prefix *xun-* attached. This prefix could be translated as “with,” but, when not attached to a verb, the free particle can be a synonym for *koinē*. This amplifies Tereus’ appeal to create a commonality out of a totalizing part. The humans do not merely want to settle among the birds, they want to share a home with them. The verbal form of *oikos*, modified with a prefix of withness, does not suggest the *polis* as a site of commonly unified difference. The proposed city of the birds is a home exploded, a part made into the whole by removing everything beyond its walls.

The skeptical birds ask Tereus directly: “Does he see some worthy profit in staying here, convinced that by being with [*xunōn*] me, he might rule [*kratein*] his enemy or assist his friends?”

65 Ibid., ln. 379.
66 Ibid., ln. 413-414.
67 Ibid., ln. 417-420.
The birds here show the acuity of their political judgment. This is precisely the humans’ plan: to use the city of birds as a political weapon in service of the men’s particular interests. Despite the uncanny accuracy of the birds’ request for reassurance, Tereus rebuffs them again, insisting that the humans’ plan will provide an enormous benefit to all the birds. For the theatrical audience, the contrast could scarcely be clearer. The Athenian emigres are governed by extreme self-interest, but Tereus insists repeatedly that their plan is in the common interest.

The birds are satisfied with the credibility and goodwill of Tereus’ human visitors, and they move quickly into excited anticipation, shouting, “Legein! Legein! Speak! Speak!”68 They insist, now, that the man speak (leg’) his vision into the common (eis koinon).69 If he is liable to bring about some good, the birds explain, they want this to be a common (koinon) good.70 The Athenian who came up with the plan, satisfied that he is now addressing a favorable audience, obliges the birds with a flattering history. The birds, in his telling, preceded both humans and gods, and were the original royalty of a number of human nations. Feeling acutely an injury they never knew they had, the birds ask the man to teach them how to reclaim their lost station of pride.

For once, the man is consistent, telling the birds what he told Tereus, that there should be a “single city of birds [mian ornithôn polin].”71 To the birds, he frames the polis as necessary for political action against an external enemy, the gods. By walling up the space between the earth and sky, the man hopes to deploy the unified polis against the gods.72 The wall is intended to restrict the gods’ movement and to deprive them of nourishing sacrifices from earthbound worshippers. Although the Athenians’ plan is laid out according to its common benefits, the polis achieves this commonality by separating off an external enemy.

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68 Ibid., ln. 431.
69 Ibid., ln. 457.
70 Ibid., ln. 459.
71 Ibid., ln. 550-552.
72 Ibid., ln. 557-560.
Naming and Political Satire

The birds, acclaiming the wisdom of their new Athenian friends, now express their commitment to founding a polis. As the two men exit to get fitted for their wings, Tereus insists that they reveal their names. Aristophanes waits about a third of the way through the play to name two of his main characters, and finally does so at a pivotal and climactic moment. This suggests that the characters’ identities are significant to the development of the plot. The man who came up with and talked through the plan to civilize the birds declares triumphantly, “My name is Peisetairos, and this is Euelpides, from Croia.” These names are politically charged references to figures from Athens’ history.

Mark Munn (2000), historian of Athenian politics, notes that the name Peisetairos appears to be a reference to Peisistratus, a tyrant who ruled in Athens over a century before the performance of Birds. Peisistratus’ political power rested on the support of the upland tribes, who owned no property and went largely unrecognized by the political institutions of Athens. He established a traveling circuit of judges and oversaw the construction of public wells. His government sponsored drama and poetic recitals, as well as the transcription of the oral Homeric epics. The tradition of the City Dionysia itself began during the reign of Peisistratus as an attempt to unify the various rural Dionysiac festivals. His sons were deposed by a coalition of aristocrats (including Andocides’ great-grandfather) in 508 BCE. These aristocrats then reorganized the tribes to dilute the political cohesion of Peisistratus’ constituency.

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73 Ibid., ln. 644-655.
77 Andocides, On His Return, 2.26, Greek text from Minor Attic Orators I: Antiphon and Andocides, 478.
78 Stockton, The Classical Athenian Democracy, 24-25.
Peisistratus was considered the paradigm of the Athenian tyrant. Indeed, Aristotle uses Peisistratus as an example of the argument from example. That Peisistratus assembled a personal bodyguard (of which Antiphon’s grandfather was a member) is taken as proof that someone assembling a bodyguard aspires to tyranny. When Aristophanes names his main character Peisetairos, he evokes Peisistratus, the figure in Athenian history most associated with tyranny.

The name Euelpides follows a similar pattern of wordplay as Peisetairos. It refers to Ephialtes, a politician of the mid-fifth century BCE. He was chiefly responsible for a number of reforms that curbed the power of the nobility and increased the influence of the non-propertied classes in government. In addition, he was an Athenian chauvinist, calling for a hawkish stance to the city’s external rivals. When he was assassinated in 461, the leadership of the democratic faction passed to his protégé Pericles, under whose leadership Athens dominated the Aegean at the head of the quasi-imperial Delian League. While Peisetairos evokes the tyranny of Peisistratus, Euelpides evokes Ephialtes’ expansion of democratic institutions. The strong similarity between the fictional and historical names—along with the pivotal moment at which the names are revealed—suggests that the democratic government is the specific target of Aristophanes’ comedic commentary.

After deciding to name the city Nephelokokkugia, or “Cloudcuckooland,” Peisetairos sends Euelpides off to oversee the construction of the wall. “Go, my good man, where I send you,” Peisetairos says to the departing Euelpides, “for, without you, nothing I say would get done.” As analogues for historical politicians, the relationship between Peisetairos and Euelpides takes a more sinister turn. If Peisetairos represents Peisistratid tyranny, and Euelpides represents the democratic regime of the late fifth-century, democracy appears as the servile instrument of tyranny. Institutions

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82 “Ephialtes (4),” in *The Oxford Classical Dictionary*.
that call for broad participation do not serve the common interest at all, but are a mask by which would-be tyrants serve their private, personal interests. This is the last that the theatrical audience sees of Euelpides; he disappears, eclipsed by Peisetairos for the rest of the play. Once the polis is established, tyranny has unrivaled command of the stage, and democracy is off in the wings, digging clay for bricks.

**Limiting the Uncommon**

As the wall rises offstage, the visible action centers on Peisetairos, who fields requests from people who would like to join the polis of the birds. In all, Peisetairos is approached by nine of these sojourners from the human world, spread over two scenes. The first is a priest who presides over a ceremonial sacrifice dedicated to the polis. Initially, Peisetairos delights in the deft creativity with which the priest replaces gods with types of birds. But as the priest grows expansive, invoking more and more bird-gods, Peisetairos gets frustrated and puts a stop to the ritual. He insists that the sacrifice is too small to share with so many gods, and sends the priest away. By excluding the priest for extending the share in the ceremony too far, Peisetairos demonstrates his interest in restricting commonality. “For I myself,” Peisetairos decides, “will perform this sacrifice alone.”

But before he can get the ritual underway, Peisetairos is interrupted by a poet composing hymns to Cloudcuckooland. Quoting Homer all the while, the poet explains that he expects to be remunerated for glorifying this newly formed polis. More out of annoyance than grace, Peisetairos commands a nearby servant-bird to remove his clothes and give them to the poet. Now clad in the costume of an enslaved person, the poet joyfully agrees to leave Cloudcuckooland so that he can sing its praises in other cities. This polis is built on the dominant-enslaved relationship characteristic

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84 Ibid., ln. 889-894.
85 Ibid., ln. 894.
86 Ibid., ln. 931-935.
of the ancient *oikos*. This passage repeats Aristophanes’ case against democracy, that its pretension to commonality and equality masks its partisan nature. In addition, the poet is immediately sent abroad, serving the interests of the city without actually living among the birds. The poet’s hymns are an extension of the city’s walls, defining the common by denying that which is external to it. Peisetairos’ blessing might be the most the poet receives, but it is far more than the other visitors get.

Hardly has Peisetairos returned to the ceremony than is he interrupted by another hopeful joiner. This is a *chrēsmologos*, someone who compiles and interprets oracular sayings. The *chrēsmologos* happens to know a number of predictions that apply to Cloudcuckooland, and his interpretations imply that the he is entitled to a portion of the sacrifice.87 Peisetairos offers his own interpretation of the oracle, that an *alazōn* who shows up for a free lunch should be rewarded with a blow to the ribs.88 The term *alazōn*, with which Peisetairos denigrates the *chrēsmologos*, means “wanderer,” “vagabond,” or “nomad.” If the *polis* was founded to arrest the birds’ motions and fix them in a certain spot, an *alazōn*, a ceaseless wanderer, would be the *polis*’ direct antagonist. While the priest was ejected for attempting to spread the sacrifice too far, the *chrēsmologos* wishes to take a part of the sacrifice, thereby dividing its unity. As a partisan and an *alazōn*, he is more dangerous to Peisetairos than the priest was. The *chrēsmologos* is driven out with violence, not simply commanded to leave. Of all those who hope for inclusion in Nephelokokkugia, Peisetairos reacts most strongly against those who would divide the internal unity of the *polis*.

One such partisan is a mathematician by the name of Meton, who comes fast on the heels of the *chrēsmologos*. The historical Meton was an astronomer who, eighteen years prior to the production of *Birds*, devised a cyclical calendar that coordinated solar years with lunar months.89 On the Pnyx,

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87 Ibid., ln. 975-976.
88 Ibid., ln. 983-985.
where the democratic Assembly met, Meton erected a *heliotropion*, a device for calculating solstices.\(^90\)

The solstice day is when the sun reaches the northern or southern limit of its apparent wandering across the sky. After reaching this limit point (called the “tropic”), the sun seems to turn back toward the latitudinal center. The City Dionysia, though, honored the spring equinox, when the sun reaches the latitudinal center, equidistant from either tropic. Since the Acropolis (“High City”) lies true east of the Pnyx, an observer on the Assembly hill during the equinox would see the sun rise directly over Athens’ citadel, illuminating its civic shrines and public treasury. The historical Meton, studying solstices from his observatory there, specialized in the solar positions farthest from this symbol of Athenian power.

The fictional Meton is, like the oracle-collector, an advocate of partition. He offers his knowledge of geometry to Peisetairos so that Cloudcuckooland can be divided up into separate lots.\(^91\) He comes bearing *kanones aeros*, “air-rulers,” the tools necessary for drawing *stathmai*.\(^92\) He suggests using these straight-edges to “square the circle” and straighten the sky-roads leading to the center of the city.\(^93\) Although Peisetairos derides the birds for being *astathmētos*, Meton’s lines serve to divide the *polis* internally. The partition of something that might otherwise be singular is the only quality Meton shares with the *chrēsmologos*. This is enough for Peisetairos to paint Meton with the same brush, naming him an *alazōn*.\(^94\)

Feigning friendly advice, Peisetairos warns Meton to get out of town, because people are attacking each other, and the Cloudcuckoolanders have started expelling foreigners. Justly alarmed, Meton asks Peisetairos if the city is suffering a civil war (*stasizētē*). Peisetairos assures him that this is not the case. Rather, “it seems to be a unanimous decision [*homothumadon*] to crush all the wanderers

\(^{90}\) Ibid., 53.
\(^{92}\) Ibid., ln. 999
\(^{93}\) Ibid., ln. 1004-1009.
\(^{94}\) Ibid., ln. 1012-1016.
[alazonas].” In addition to underscoring the importance of fixing aimless motion, Peisetairos demonstrates a second point about the nature of commonality. The difference between a civil war and a unanimous attack against an external enemy appears to be one of definition. Unanimity could be achieved by building agreement, but here Peisetairos reaches commonality by simply excluding anyone who does not already agree with the “unanimous” decision.

This set of inclusions and exclusions end, but Aristophanes writes a nearly identical scene later in the play. This time, Peisetairos sets up shop to distribute wings to humans who wish to join Cloudcuckooland. The first to arrive is a father-beater. To attack one’s own parents, one’s own father especially, was a flagrant violation of Athenian custom. Like the hymnal poet, Peisetairos accepts this newcomer, on the condition that he direct his talents outward.95 The father-beater’s aggression is welcome in Cloudcuckooland, as long as he fights against the enemy on a distant front and not against authority at home.

A second poet, named Cinesias, arrives on the heels of the father-beater. Like Meton, Cinesias is based on a real historical person. The character in Birds is a poet of a very different stripe than the hymnal poet, whom Peisetairos sent off in slave’s garments. That one quoted the traditional lines from Homer and Pindar, but Cinesias aspires to compose fresh dithyrambs in his own melodic style.96 While the Homeric imitator draws on a body of knowledge common to all Greeks, the dithyrambic poet is representative of particularity. At the City Dionysia, dithyrambic contests were held on the basis of genos.97 In contrast to the dramatic competitions, composers of dithyrambs worked for a specific tribe. In a festival dedicated to the wholeness of the city, the dithyrambic recitals were testaments to its individual parts. The dithyrambic Cinesias, whose name means

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95 Ibid., ln. 1367-1369.
96 Ibid., ln. 1384-1385.
“Mover,” leaps about the stage in circles.\(^98\) His pirouettes are more suited to the bygone whirling polos than to the founded and grounded polis. Although Peisetairos never names him as an alazón, the airy Cinesias is given the same violent treatment as the other wanderers.

The third in this set of newcomers proves the direst of all. A sycophant arrives in Cloudcuckooland, hoping for a fast pair of wings. He gets his livelihood prosecuting against the denizens of the colonial islands. He hopes that wings would allow him to get back to Athens and win the case before the defendant could even show up.\(^99\) Like Cinesias, the sycophant is said to travel in a circle and spin like a top.\(^100\) Initially, Peisetairos attempts to talk this profiteering alazón out of his lifestyle. The sycophant insists that he works in words because he doesn’t have sufficient skill to dig in the earth.\(^101\) Instead, he uses his proficiency at spinning arguments for his own personal benefit. When the sycophant refuses to change his ways, Peisetairos turns from persuasion to violence, driving him off with a whip and a curse on his “law-twisting double-dealing \([\text{strepsodikopanourgian}].\)”\(^102\) While Cinesias turns his body in cyclical dance steps, the sycophant turns his words with circuitous reasoning. The sycophant, like the other alazones, traffics in uncertainty, mobility, and particularity, and Peisetairos ultimately treats him with the same violent force.

**Political cannibalism**

The final scene describes Peisetairos’ negotiations with an embassy from the gods. To improve his bargaining position, Peisetairos arranges to receive the starving ambassadors while preparing a succulent meal. This scenario would have been felt acutely by the Athenian audience, who were often subjected to famine by the Spartan sieges of the late fifth-century BCE.\(^103\) One of

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\(^98\) Aristophanes, *Birds*, ln. 1379 and 1403.
\(^99\) Ibid., ln. 1457-1458.
\(^100\) Ibid., ln. 1452 and 1461.
\(^101\) Ibid., ln. 1432.
\(^102\) Ibid., ln. 1468.
the divine ambassadors asks Peisetairos what kind of meat he's cooking. Peisetairos replies, “Some birds who seemed to commit an injustice, rising up against the populist [démotikoisin] birds.” Many of the plays’ major themes dovetail in this grotesque tableau. Up to this point, most of the characters seen on stage have been anthropomorphized birds. They are rendered with touchingly human detail: they aspire to improve the lives of their chicks, they labor tirelessly to build their city, and they express a deep phobia of nets, traps, and the bird vendors who use them. This scene, though, confronts the audience with a powerful juxtaposition, showing the birds as lower animals to be killed and eaten.

For one, it underscores Peisetairos’ bald self-interest, that he takes elaborate delight in preparing the meal. One does not get the sense that he feels any guilt or internal struggle over using his one-time companions in this way. For another, the cooking birds demonstrate vividly the consequences of achieving commonality through exclusion. Peisetairos mentions explicitly that these birds are the ones who rose up against the populist birds. The term translated here as “populist,” démotikoisin, could also be rendered as “common,” in the sense of what is proper to the people as a whole.

Dissent against the democratic faction and dissent against the whole city is conflated here due to the political culture of fifth-century BCE Athens. The central point, though, regards exclusion. Cloudcuckooland was at some point faced with a multiplicity of opinion, a dissenting faction who maintained that the situation could or should be other than it was. Peisetairos’ response was neither to accommodate plurality nor to reach unity through agreement, but to manufacture commonality by cutting the dissenters off from the rest of the polis. Moreover, Peisetairos is cooking

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104 Aristophanes, Birds, ln. 1583-1585.
105 Ibid., ln. 546-547.
106 Ibid., ln. 1133-1141.
107 Ibid., ln. 1076-1086.
and eating the rebel-birds. More than exile, more than execution, Aristophanes has the main character end the play with an act of political cannibalism. Peisetairos first excises the dissenting birds from the polis, but then turns them into food, taking them into his body. He performs the community consuming itself, gathering strength through subtraction, as his famished rivals for sovereignty watch greedily.

Conclusion

Aristophanes’ comedy, Birds, offers a civic lesson to its primary audience in 414 BCE. It warns that democracy merely serves to ease the ascent of tyrants. The paradigmatic tyrant, Peisetairos, uses his rhetorical skill to mask his own self-interest. He defines commonality in a way that excludes anything beyond or contrary to his particular position. In this play, the common is not achieved by uniting various different parts, but by building a wall around one part and calling it the whole. The wall and the indivisible unity it creates are crucial to the existence of the polis. The birds, with their constantly changing perspectives, are too fluid and uncertain to be fit for civic life. They are ripe for domestication, ready settle down and live together under Peisetairos’ city-wide roof.

This thesis is not a celebration of the political theory implicit in Aristophanes’ works. This play, whether read within or without its ancient context, is a vicious screed against the legitimacy and wisdom of democratic government. Nor do I pine for the dissolution of the polis in favor of an avian polos, a collection of wall-less wanderers with no cohesion or coherency. Some limits appear unavoidable and occasionally practical. But that does not mean we can be cavalier about where we choose to build walls and how we choose to maintain them. We should attend carefully and fairly to these walls and whether they might need to be altered, rebuilt, or demolished. It is not ethically or politically sustainable to achieve unity or equality by redrawing the boundaries of our community to exclude inconvenient people. In fact, I would suggest that it is not a true commonality; merely
deciding we have no responsibility to or for others does not make it so. Whether read as tragedy or comedy, the grim spectacle of Athens’ civil war teaches that the end of commonality cannot trump the means by which it is obtained.
hoi gar anthrōpoi hatta an horai tē apsei pistoterai begountai ē bois ēis aphanes bēkei ho elenchos tēs ałtheias.

People consider whatever they see with their eyes to be more credible than those unseen things which argument makes true.

From Antiphon Fr. B 15.2 On Behalf of Myrhrus

Chapter 3. ANDOCIDES’ ON HIS RETURN

In Aristophanes’ Birds, while Peisetairos and Euelpides are offstage getting their wings, the chorus reels off the benefits of life in Cloudcuckooland. Nestled among these benefits is a timely political jab: “If Peisias’s son wants to betray the gates to the expatriates [atimoi], let him become a partridge [perdix], his father’s fledgling. To us, there’s nothing shameful in chickening out [ekperdikias].” The atimoi that Aristophanes refers to were a group of aristocrats who had been implicated in a subversive plot just a year prior to the performance of Birds. Like partridges, they fled the city in a startled flock before their trials could be held. About five years after Birds, one of these partridges came back to Athens to plead for inclusion in the polis.

This particular partridge, Andocides, had to plead with a very different city than the one he fled. In the year before Andocides delivered his speech, titled On His Return, the Athenian democracy was overthrown by Antiphon and his co-conspirators. Their oligarchy was quickly replaced with a limited, compromise democracy, but the episode demonstrated to the Athenians the existence of a part hostile to their civic whole. Pushed to justify the legitimacy of his citizen rights, Andocides responds to this rhetorical situation by denying the rhetorical characteristics of his speech. He claims that his inclusion in the polis follows by necessity from directly observable facts.

108 Translation original, Greek text from Minor Attic Orators I: Antiphon and Andocides, 304.
109 Aristophanes, Birds, ln. 766-768.
Andocides expects these necessary signs to be beyond refutation and to compel common agreement from his whole audience.

George A. Kennedy (1958) insists that Andocides is neglectful of reasoning and cannot distinguish between necessary and probabilistic arguments. On the contrary, this thesis contends that Andocides grounds his case in this very distinction. His speech defines a set of *topoi* to be held in common by his audience based on indisputable direct experience. The *polis* of Athens is, for Andocides, composed of the people willing to set the same limits on their utterances, willing to restrict themselves to the same viewpoint.

He considers that which can be proved through direct experience to be superior to that which can be proved through probability-based reasoning. Probabilistic reasoning is the same argumentative mode claimed by Aristotle to be uniquely rhetorical. Andocides, though, is not comfortable with rhetorical standards of judgment, based as they are on an audience’s assent. In *On His Return*, civic unity is the product of true judgment, and true judgment is the product *koinē topoi*. Commonly shared premises compel mental adherence, leaving no room for differing viewpoints or positions. Rhetorical argument, in which audience members in uncertain circumstances choose among multiple potential *topoi*, leaves refutation and dissent too much room for Andocides’ taste. In *On His Return*, the path to sedition is paved with specific topics.

**The Mutilation of the Herms**

Andocides’ distrust of audience-based, rhetorical argumentation may have been a product of his staunchly aristocratic background. Born around 440 BCE, Andocides’ family had the reputation for wealth, political activity, and decadent leisure that was the mark of Athenian nobility. As a

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member of the upper class, Andocides’ education would have included oratory, but he never made a professional study of it as an art.\textsuperscript{112}

Before he was twenty-five, he had enrolled in a kind of private club for aristocrats. These were the \textit{hetaireiai},\textsuperscript{113} or “fellowships,” comradely associations equally devoted to crude entertainment, financial co-dependency, and political union. They were spaces open only to aristocratic adult men. They aspired to subvert the democratic regime and supported narrowing the institutional participation of the lower classes. Andocides was an active enough member to deliver speeches for his faction; the fragmentary text of one such speech denigrates the democratic government and contemns laborers.\textsuperscript{114}

In 415 BCE, the Peloponnesian War had recently resumed and Athens was faring poorly. The navy, preparing an excursion against Spartan-allied Syracuse, was eager to defend Athenian imperial holdings and to capture resources for the war effort. One night, just before the expedition was launched, a number of \textit{hetaireia} partisans defaced the statues of Hermes that peppered the city as neighborhood shrines.\textsuperscript{115} These roadside columns were mostly quadrilateral, displaying only the head and phallus of the god of wayfarers and wit. The vandals chipped the mouths and genitals off of dozens of idols.

To blaspheme against Hermes in particular, whose domain included pathways and boundaries, implies a political motive. The mutilators were understood to have undermined the

\textsuperscript{112} Samuel Shipman Kingsbury, “A Rhetorical Study of the Style of Andocides,” PhD. Diss. 1899, 9.
\textsuperscript{113} The sharp-eyed reader might note the similarity with another Greek term: \textit{hetaira}. This similarity lies in the shared meaning of “companion,” which in the masculine gender denoted a close friend and in the feminine a type of well-paid and influential sex worker. The historical record of the \textit{hetaira} is simultaneously a memorial to the cost in human suffering of a society that tolerates exploitation and a testament to the ingenuity of the women who were able to maneuver to relative advantage within an oppressive and repugnant social structure. For an impressively thorough, nuanced survey of the term \textit{hetaira}, please see Rebecca Futo Kennedy’s article “Elite Citizen Women and the Origins of the \textit{Hetaira} in Classical Athens” in \textit{Helios} 42, no. 1 (Spring 2015).
\textsuperscript{114} Kingsbury, 10.
\textsuperscript{115} “Hermes,” in \textit{The Oxford Classical Dictionary}. 
success of the mission and the safety of the Athenian soldiers.\textsuperscript{116} Outrage gave way to panic, and panic gave way to inquisition. During the investigations, it came to light that another act of brazen impiety had occurred. Several political and economic elites were accused of hosting parties in which the rituals of the cult of Eleusis were performed in parody.

Andocides was among the accused, but his guilt or innocence is unclear.\textsuperscript{117} Accusations in Against Andocides (attributed spuriously to Lysias) and Andocides’ own refutations in On the Mysteries suggest he was largely perceived to have been condemned but unpunished.\textsuperscript{118} Andocides insists he was only tangentially involved, and did not himself take chisel to stone. In his version of the events, he not only spoke against the conspiracy and left the meeting but, later that night, suffered an accident that physically incapacitated him.\textsuperscript{119}

In any case, Andocides and a number of his relatives were swept up in the undertow of denunciations, imprisoned, and charged with the capital offense of impiety. Andocides admitted firsthand knowledge of the crimes and agreed to divulge the identities of the perpetrators on the condition of his immunity from prosecution. After Andocides turned stool pigeon, one Isotimides introduced a motion stating that anyone who had confessed to impiety would be \textit{atimos}, prohibited from the \textit{agora} and from places of worship or government.\textsuperscript{120} Since all others implicated had either fled the city or been executed, the decree of Isotimides was specifically directed against Andocides. Although spared from execution, Andocides was now excised from participation in Athenian public life. He chose a transient exile, albeit a comfortable and successful one. \textit{On His Return} mentions his business ventures in Macedonia, Cyprus, and Samos, but his anonymous detractor writes in Against

\textsuperscript{118} Ibid., 335.
\textsuperscript{119} Andocides, 1.61.
\textsuperscript{120} Gagarin and MacDowell, 97.
Andocides, “And then he annoyed [diovleke] many cities during his exile [apodemia], in Sicily, Italy, the Peloponnese, Thessaly, the Hellespont, Ionia, and Cyprus.”

The Oligarchy of Four Hundred

Shortly after Andocides flew the coop, the betaireiai took part in a clandestine project on a much greater scale than symbolic castration: a coup to replace the democratic government with an oligarchic Council of Four Hundred. In 412 BCE, exiled Alcibiades, Athens’ most prodigal son, sent word to the Athenian navy, then stationed at the island of Samos, that he had arranged for the Persians to throw their weight behind Athens. The Persians set a condition on their diplomatic swing away from Sparta. The Athenians had to renounce their democratic system of government, which their neighbors saw as rapacious and volatile. One Peisander, a trireme commander, was dispatched to carry the proposal to Athens.

Peisander was then known as a stalwart demagogue and had been a vocal prosecutor of Aristophanes’ partridges four years before. He is mentioned, also, during a choral interlude in Birds. The bizarre poem has Peisander sacrificing a camel at the swamp where “unwashed Socrates guides souls [psuchagoge].” When the historical Peisander arrived at Athens in early 411, he introduced a legislative motion that the ancestral laws needed restoration and the government needed to be sensible. He then visited with various betaireiai, urging them to coordinate a network of revolutionary cells in preparation for the overthrow of the democracy. Over the spring, Peisander sailed to one after another of Athens’ imperial holdings. He met with the colonial upper

121 Andocides, 2.11, 2.12, and 2.21; Lysias, 6.6.
122 Kagan, The Fall of the Athenian Empire, 158.
123 Ibid., 113.
124 Ibid., 123.
125 Ibid., 118, 132, & 151.
126 Aristophanes, Birds, ln. 1553-1564.
127 Kagan, 133.
128 Ibid., 135.
class, many of whom would have watched *Birds* when they came to Athens three years before to deliver the Dionysiac tribute. At each port, he instigated the local landlords to form an oligarchy, dissolve the democracy, and designate a contingent of loyal soldiers to accompany him back to Athens.¹²⁹

During this time, the *betaireiai* were not idle; they executed Peisander’s plan on both legal and extralegal fronts.¹³⁰ In the guise of restoring the ancestral laws, they repealed the democratic reforms of Ephialtes. Payment was no longer to be offered to less wealthy citizens for their participation in the courts or the Assembly. Government service was restricted to a pool of five thousand citizens of the middle and aristocratic classes. Prominent democratic politicians who opposed these motions were intimidated or assassinated. When Peisander returned in May with his colonial auxiliary troops, they found Athens in the grips of a reign of terror.¹³¹

Athens was reconstituted into an oligarchy in early June using a bit of legislative legerdemain.¹³² The *betaireiai* gained enough support among the Assembly’s administrators to organize a secret session out in Colonus, a village about a mile from Athens where stood a sundial built by Meton.¹³³ The secluded location meant that quorum could be reached with only those same conspirators in attendance. This convention, correct in the letter of parliamentary procedure but not the spirit, repealed the ban on unconstitutional motions. The powers to approve decrees and to elect executives was transferred from the Assembly—composed of 6000 adult men from all citizen classes—to a subcommittee of oligarchic partisans.¹³⁴ The newly formed Council of Four Hundred,

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¹²⁹ Ibid., 141.
¹³⁰ Ibid., 142.
¹³² Kagan, 147.
¹³³ Aristophanes, *Birds*, ln. 999.
carrying long knives and heaps of cash, paid the sitting Council the remainder of their annual salary to resign their posts.\textsuperscript{135}

Andocides decided to try his luck with the new rulers, but the reception was less than warm; the oligarchs arrested him, sought his execution, and ultimately sent him back into exile.\textsuperscript{136} Despite their emphasis on stability and continuity, the Four Hundred could not maintain their coalition for much longer after this. The alliance between moderates who had opposed the hawkish policies of the democratic regime and extremists with an ideological commitment to oligarchy soon dissolved into infighting.\textsuperscript{137} The regime of the Four Hundred crumbled after four months, and the government reverted to a moderate interim democracy.\textsuperscript{138} The pre-412 government was restored in 410 BCE, and it is to this Assembly that Andocides addresses \textit{On His Return} the following year.\textsuperscript{139}

\textbf{Limits on the Common Good}

Andocides opens this speech with his disbelief that there should be any necessity for him to speak at all. He admits that, for any other matter that might come before the Assembly, it is perfectly understandable that speakers should be divided in their interests and advance arguments against each other.\textsuperscript{140} Andocides insists, though, that this speech is different. It is “the strangest of all things” that there is anything other than unanimity when the \textit{topos} under discussion is Andocides’ willingness and ability to provide a benefit to the city.

The entire introduction to \textit{On His Return} is devoted to establishing what is and is not worthy of contestation. In registering his surprise that there are any who would speak against him, Andocides seeks to limit his audience’s ability to envision disputation on two \textit{topai}. The first \textit{topos} is

\begin{itemize}
\item Kagan, 157.
\item Andocides 2.13.
\item Kagan, 185.
\item Kagan, 202.
\item Maidment 1982, 458.
\item Andocides, 2.1.
\end{itemize}
that he himself is a source of good for the city. This premise must be accepted for his argument to obtain. His purpose is to affect the repeal of the decree of Isotimides, which barred him from participation in Athenian public life. His entire argument depends on the audience assenting that it would be a benefit to the city for him to rejoin the political community.

The second *topos* that Andocides attempts to frame as indisputable goes a step further. He denies that there can be legitimate dispute over the nature of the good. “For if the city is common [koînē] to all who participate in government, I suppose that the benefits to the city are also common.” Because the political community is held in trust by all those with citizen rights, an improvement in the conditions of the city is an improvement in the life of each constituent member of the city. Insisting that what is good for the whole is good for each part, Andocides does not admit the possibility that any two given parts could hold different—let alone mutually exclusive—understandings of the good. Andocides supposes that there is a universally shared experience of the good, and that this shared experience makes the nature of the good a certainty. A universally shared experience can be proved merely by bringing its existence to the audience’s attention. If this were true about the commonality of what benefits the city, rhetorical argumentation’s only role would be to obscure the real experience.

**Sedition and Stupidity**

Andocides goes on to speculate how it is possible for such a firmly self-evident good to be a matter of dispute before the Assembly. Those who speak against Andocides “...must either be the stupidest men in the world [amathestatous einai pantôn anthrōpōn] or the city’s worst enemies [tē polei tautē

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141 Ibid.
142 Meaning, of course, the adult males with a tribal inheritance of citizen rights, a definition which excludes the majority of the population interested in and affected by Athens’ collective decision-making and action-taking.
Andocides sets up a disjunctive syllogism for categorizing his antagonists. They either do or do not recognize that the common good is also good for them, as individual members of the city. If they do recognize their share in the common good, they are acting against their own interest when they oppose Andocides’ position. This, he suggests, must be a product of their being amathestatôs, having the most ignorance and least learning of all humanity.

Even worse, it may be that those speaking against Andocides are sharp-witted enough to act in their own self-interest, but reject the premise that their interest is aligned with the common good. This alone is enough for Andocides to name them as enemies of the common, as men motivated by ill will toward the city. “If they consider that their own interests are not the same as the common interest [tó humeterô koinô], they must be enemies of Athens.”

They oppose Andocides out of a desire to hinder anything that might contribute to the wellbeing of the city. They acknowledge no share in the common good and are not interested in promoting it. Although Andocides lays this seditious-or-ignorant dichotomy upon those who speak against his proposition, he indirectly prompts his critics in the Assembly to judge themselves on these same lines. An audience member, considering how he might vote on this matter, is invited to prove his patriotic and discerning character by assenting to Andocides’ position. Andocides constructs a moral universe in which his own capacity to render service to the city makes opposition to his personal interest synonymous with opposition to the common good.

Andocides then elaborates on the particular mechanisms by which these seditious conspirators fabricate contention where it does not naturally exist. At a previous audience before the Council of Five Hundred (an administrative body chosen by lot), Andocides introduced his proposition to render service to the city and, according to his own account, no one then present

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143 Ibid., 2.2; trans. Gagarin and MacDowell, 142.
144 Ibid., 2.3; trans. Gagarin and MacDowell, 142.
successfully argued against it.\(^{145}\) Andocides describes that, in this past discursive situation, the question of his benefit to the city was commonly accepted. Although his points were initially disputed, none of his interlocutors (\(boi\ paragenomenoi\ \textit{elenchontes}\)) could prove that he “...was not speaking straightly [\textit{orthōs}].” The common good and his contribution to it were, within the discursive space of that meeting of the Council, not subject to legitimate contestation.

In the present time of \textit{On His Return}, however, these premises have returned to the sphere of disputable \textit{topoi}. Andocides takes the dissolution of his claims’ common acceptability as a sign (\textit{sēmeion}) of traitorous conspiracy. Because his good influence is observable and self-evident, his antagonists at the Assembly cannot be opposing him in good faith. They are merely shills, men “...who are accustomed to behaving shamefully, who are unconcerned both to utter [\textit{eipein}] and to hear [\textit{akousai}] the greatest of evils [\textit{kakōn}].”\(^{146}\) These discursive mercenaries are in the employ of Andocides’ real opponents, who wish to deprive the city of the good services Andocides offers. They fear that, by giving arguments (\textit{elenchon didonai}) against Andocides, they will reveal their anti-Athenian sympathies (\(mē en phronountes\)—“they don’t think well”). Andocides expects unanimity because of the directly observable nature of his contributions to the \textit{polis}. Where he finds difference of opinion, he attributes it to the abnormal hatred of a seditious cabal.

Andocides continues to lean on the common experience as a standard of judgment when attempting to refute his disingenuous abusers. He asks his audience to remember that it is common in all humanity (\textit{estin en tō koinō pasin anthropōi}) to make mistakes and to do evil (\textit{kakōs praxai}).\(^{147}\) When deciding what weight to confer on Andocides’ past misdeeds, the Assembly should form their judgment within the inescapable reality that no human can completely avoid failure. Andocides suggests that no member of the audience could deny personally committing an error. He then

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\(^{145}\) Andocides, 2.3.

\(^{146}\) Ibid., 2.4.

\(^{147}\) Ibid., 2.6.
constructs a necessary argument out of the directly observable nature of this claim. Having established a common limit to disputation, he advises the audience that they would be more considerate men if they use this shared experience of error as the basis of their judgment. They should not focus on the particulars of Andocides’ crimes, but take any person’s capacity to misstep as a given to be written off.

**An Instrumental Model of Citizenship**

*On His Return*’s introduction primes the audience to conceive of a certain world in which the good can be unambiguously demonstrated to all observers. Next, Andocides proceeds to list off the various ways that he has provided a benefit for the city. This catalogue of evidence is necessary for him to establish himself as a good member of the political community. His case is an elaborate quid pro quo. He claims that the Assembly ought to repeal the decree that stripped him of membership in the Athenian public. To support that claim, he wants “…to work such a benefit to this city that you would be willing at this time for me to live among you as a citizen [*politēsasthai meth’ humōn*].”¹⁴⁸ The suppressed warrant, the unstated assumption that connects his claim of citizenship to his evidence of service, is that access to the political community is a function of utility to the city. He suggests that if he makes himself useful to Athens, if he pays a large enough indulgence, he ought to be reimbursed with recognition of his good standing in the *polis*.

It is not sufficient evidence for Andocides to reference vague and generalized services he has performed for Athens. He catalogues the exact material resources he supplied to the Athenian navy: grain, bronze, and lumber.¹⁴⁹ Not only did he provide these supplies, but he asked as payment no more than it cost himself to procure them. Andocides establishes that he sacrificed his immediate

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¹⁴⁸ Ibid., 2.10.
¹⁴⁹ Ibid., 2.11.
self-interest in profit to support the Athenian military in their time of dire constraint. This is in
direct contradiction to his account of his opponents, whom he claims are motivated by their
particular interest at the expense of the common good.

Andocides, on the other hand, is a crucial contributor to the wellbeing of Athens. “The navy,
equipped from those supplies, later defeated the Peloponnesians at sea, and this city was saved by
them alone at that time. So if their actions were of great benefit to you, I deserve not a little of the
credit.”150 The navy did a great service to the city in routing the Spartan fleet at Cyzicus in 410 BCE.
It was the grain Andocides provided that filled the rowers’ bellies, allowing them to pull the oars
made from Andocides’ wood. For this reason, he argues that he is at least partly responsible for any
advantage the city received.

Andocides performs surprise to suggest to his audience the correct perspective on the polis.
His expectation, after the victory at Cyzicus, was that his contribution to the war effort would be
celebrated in Athens. Instead, he was met not with acclamation, but accusation. “I sailed back
expecting to be praised by people in Athens for my energy and patriotism. But when some of the
Four Hundred heard I’d arrived, they looked for me at once, arrested me, and brought me before
the Council.”151 He was publically denounced as a traitor to Athens for having supplied grain and
oar-spars to the heroic navy who had just saved that same city.152 Andocides describes a city-state
turned on its head by the flagrant particularity of the oligarchs. He seeks to lay bare the drastic
disconnect between his role as a contributor to the common good and his antagonists’ resistance to
that good. Andocides, in relating his arrest by the Four Hundred for supporting the victorious
Athenian navy, makes an implicit argument about his current opponents. It took a departure from
Athenian commonality as radical as that of the Four Hundred to deny Andocides’ beneficial

150 Ibid., 2.12; trans. Gagarin and MacDowell, 144.
151 Andocides 2.13; trans. Gagarin and MacDowell, 144.
152 Andocides 2.14.
influence on Athens. It is, he suggests, these same seditious elements that now speak out against his readmittance.

After relating his abuse at the hands of the recently deposed regime, Andocides describes the extraordinary quality of his beneficial influence. He contrasts his position with those typically acclaimed for their good citizenship, like responsible public officials and victorious generals. He does not dispute the justice of praising such people, but claims that they render service with very little personal risk of failure.\(^\text{153}\) Andocides, though, has done great good for the city, while risking the comfort of his homeland by living in exile, the potential for profit by donating materiel to the war effort, and his life by confronting the oligarchs. He describes “the most deserving man [polu pleistou axios anēr]” as one who would “dare to risk both his money and his body.”\(^\text{154}\) Andocides stakes his place in the polis—his status as a man deserving the rights of citizenship—on his willingness to make his person and his possessions available for the use of Athens. He moves the question of his own good citizenship beyond disputation. Having determined that the common good is indisputable because it is distributed among all of the parts of the city, Andocides makes his status in the polis unquestionable. His relationship to the common good is both necessary and causal.

**The Shared Experience**

He does not, however, let his case rest on his past services. After reminding his audience that the worthiest man is the one who does good for the city at his own risk, he reveals yet another plan to render service to Athens. He informs the legislative Assembly that he has arranged with the administrative Council of Five Hundred for “...fourteen grain ships which will be putting into Piraeus at any moment, and the rest of the ships that sailed from Cyprus will arrive together soon

\(^\text{153}\) Ibid., 2.17.
\(^\text{154}\) Ibid., 2.18.
If good citizenship is accepted to be a function of service to the city, anyone who remains doubtful can measure Andocides’ civic worth bushel by bushel as sacks of his grain are heaped up on the docks. All that is left to determine is how many pounds of wheat are sufficient to outweigh the stain on his character.

He admits openly to the Assembly that he made these arrangements in relative secrecy with the Council, rather than bring it up for debate in the Assembly. He explains that members of the Council not only have the leisure for well-rounded deliberation, but also may be held accountable for their decisions. In contrast, he tells the Assembly, “It is justly on you to dispose of your affairs well or wickedly [kakōs], as you please.” Already resting his claim of good citizenship on his capacity to benefit the city, he avoids subjecting that benefit to rhetorical disputation. He prefers to establish his good services by gesturing to their physical manifestation, in sailcloth and rope and living seeds of barley, rather than justify their truth by recourse to probabilistic argumentative proof.

Instead, he tells his audience, “you will now know about those matters when they are completed and you are aided by them.” Public knowledge of his service to the city—and, by extension, of his good citizenship—is simultaneous with the common reception of benefit, both of which are consequences of the service’s full completion. Andocides renders a service, and that service positively influences the city. The good influence on the whole city distributes itself to each constituent part of the city. At the instant that each part of the city experiences the impact of that beneficial service, each part recognizes as true that Andocides is useful to the common good. This process happens outside of time and without any human cognition. There is only one site of argument at which Andocides’ claims must be supported or refuted with evidence and reasoning.

The lack of movement in argumentative space or time precludes the probabilistic judgment and

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155 Ibid., 2.20.
156 Ibid., 2.19.
157 Ibid., 2.22.
uncertain choice characteristic of rhetoric. Adherence to one proposition is simultaneous with and necessary to adherence to the other.

For the benefits he has unquestionably brought to Athens, Andocides considers the restoration of his public privileges a minor remuneration and a major act of justice. He has portrayed his civic worth in such a way that it exists regardless of the Assembly’s judgment, just as much as the oars existed in the logs he brought for the navy before the lathe so much as touched them. Concerning the restoration of his citizenship rights, Andocides admonishes the Assembly, “If you will it, I request [aitō] these things of you; if you do not, I demand [apaitō] them.” For Andocides, the actual decision of the Assembly does not affect the outcome. He has walled off his argument’s topics in such a way that he cannot be legitimately refuted. His benefit to the city and the good citizenship that follows from it must be commonly recognized as beyond question. If the Assembly will acknowledge his rights, he is content humbly to beseech them. But a denial of his truth would only redouble his commitment to it, forcing him to demand what he might happily have begged for.

He reminds his audience that they are in the habit of bestowing both citizenship rights and material gifts on “all manner of enslaved people and foreign visitors” that do good for Athens. Despite being an aristocrat and native son who has benefited the city, Andocides does not resent these motions, but praises their wisdom. “And, of course, you are thinking straightly [orthōs] when you bestow these gifts,” he says, “for you receive benefits in turn from a great many people [pleistōn anthrōpōn] in this way.” By describing the transactional nature of service and political agency, Andocides makes two significant implications in this passage. First, since Andocides has donated so many gifts to the common good, Athens has a responsibility to reciprocate by recognizing his right of public participation. Second, if the Assembly does him this kindness, he will be in a position to

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158 Ibid.
159 Ibid., 2.23.
render further service in the future. In fact, because he has access to more resources than
enfranchised slaves do and more affection for the city than foreign dignitaries do, his services will be
even more substantial than theirs, and his rights more worthy of recognition.

As Andocides moves from his evidentiary section to his conclusion, he draws on the very arguments deployed against him as further demonstration that he is beyond reproach. He recalls for his audience the opposition he faced at the time of his exile in 415 BCE. His good standing in the community was first called into question by reference to his observable deeds. “At the time of my error [hamartias] you said you must treat my actions [ergón] as the most reliable [pistotata] signs [sêmeia], and concluded that I was a bad man [kakon me andra].” His errors were taken as the visible representation of his corrupt moral character. Although he uses the term sêmeion, there is little room for cognitive connection-making to take place. One could really only object at a few points: whether he had committed the action, whether it is proper to ascribe that action with a negative valence, and whether intention can be accurately surmised from action. Andocides does nothing to trouble the first two points and, indeed, affirms them in calling his action an error (hamartias). He takes up the last point, though, with vigor and returns it to the audience as a warrant of his current appeal. “So now,” he cries, “don’t look for any other proof [basanon, a touch-stone for testing the purity of gold] of my good intentions [eunoia] but the signs [sêmeia] you have of my present actions [ergón].” Actions most certainly do indicate intention, according to Andocides, and he advises the Assembly to perceive in his generosity a genuine goodwill.

The Precarious Common

He closes his speech with a reminder to his audience of the late oligarchy’s role in oppressing both Andocides himself and the city as a whole. Although he was exiled under the

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160 Ibid., 2.25; trans. Gagarin and MacDowell, 147.
democracy, Andocides credits the secret agents of the Four Hundred with provoking his exile.\textsuperscript{161} These men were tireless in leading the Athenians away from any good that they might come into: “After all, you were persuaded by those men to do yourselves the greatest wrong, exchanging empire for slavery and turning democracy into dictatorship; so why should any of you be surprised that you were persuaded to do me wrong too?” Andocides’ membership in the community is just another benefit, alongside democracy and empire, of which the oligarchs sought to deprive the city. That the Four Hundred were able to come to power constitutionally (despite the idiosyncrasies of the situation) is proof for Andocides that the people of Athens are capable of being persuaded against their best interest.

Further, if the seditious element could undermine such magnificent and indisputable goods as democracy and imperial command, they must still be at work in those who continue to oppress Andocides, that friend to all. He implores his audience that to vote in his favor is to spit in the eye of all those who would dissolve the democracy and sell away the empire. “I should like you to make their decision ineffectual, and neither in this nor in anything else ever to vote on the same side as your own worst enemies.”\textsuperscript{162} The Assembly can prove their dedication to their native land and their democracy, Andocides concludes, by deciding in their own favor and welcoming their suffering servant back from exile.

**Conclusion**

Despite Andocides’ claims to indisputability, he was not readmitted to the city. The Assembly voted against Andocides, and he returned to exile. Despite constructing the defense of his good citizenship around the indisputability of his *koinē topoi*, the audience rejects them. This

\textsuperscript{161} Andocides, 2.27; trans. Gagarin and MacDowell, 147.  
\textsuperscript{162} Andocides, 2.28; trans. Gagarin and MacDowell, 147.
documents in sharp contrast how the boundary between what can and what cannot be contested is itself subject to negotiation and argument. Andocides suggests that certain claims can be proved merely by displaying their existence, and that this kind of demonstration is superior to the uncertain probabilities of rhetorical argumentation. That he must expend so much rhetorical effort on his demonstration shows that the categories of disputable and indisputable are themselves constructed by rhetorical argument. This is doubly affirmed in the Assembly’s decision to keep Andocides’ so-called necessary arguments subject to probabilistic judgment.

While we do know that Andocides’ motion did not carry the day, there is no way of knowing what topoi failed to resonate with any given member of the audience. At any point, the audience might have had reason to question the soundness, the factual accuracy, of Andocides’ premises. I would like to focus, though, on two sites where his validity, the relevance of his reasoning, is significantly weak. First, it is not necessarily so that what affects the whole city should affect each constituent part equally. Andocides argues from uniform commonality with too much haste and can easily be accused of the fallacy of division. The fallacy of division describes an error in a categorical argument in which the members of a class are sufficiently different from each other or from the class as a whole to ascribe them with common characteristics. For example, it is the case that an airplane is capable of flight, but it is not the case that a tray-table in isolation is capable of flight, upright position or not. Although a tray-table is part of an airplane and can fly when integrated into the total machine, the part by itself has not the qualities of the whole. The fallacy of division represents a resilient tension in pluralist democracy.

This partitive fallacy can be found in the topos that a benefit rendered to the whole city is felt by each citizen. I, embedded as am in the 21st-century CE, find it worth noting that Andocides ignores the majority of the participants in the community when he confines himself to those who enjoy citizen rights. Surely, the women, the youths, the resident foreigners, the enslaved people,
those who had been disenfranchised and dishonored for legal transgressions, and those without the material comforts, the able bodies, or the geographical proximity to the city to exercise their rights, surely they are members of the community, even if they are barred from institutional participation in politics. It is unlikely that these groups benefited in the same way or in equal portions from a good done for the city as a whole.

Moreover, even if one assents to Andocides’ limited definition of the citizenry, heterogeneity is still to be expected. Even the most just and egalitarian society is more complicated and more internally differentiated than an airplane. This diversity provides for any number of reasons why Andocides cannot validly associate the parts to the unified whole. A corn-dealer, for instance, or a farmer might be as well-informed and loyal as the next citizen, but still have a legitimate reason to resent Andocides’ barges full of inexpensive grain. From the vantage point of the globalist and technological modern era, fifth-century Athens may seem quaint in its homogeneity. The city’s ancient denizens, though, considered even the differences among citizen tribes and wealth classes to be vast.163

The second *topos* that weakens Andocides’ argument is the model of citizenship as an instrumental transaction. He describes access to collective decision-making in the political community as a product of how useful the citizen is to the *polis*. If we allow citizenship to be understood in this way, it follows that citizenship is quantifiable. Presumably, one who is able to donate ten oak-spars to the navy is twice as much a citizen as one who can provide five. Further, one who cannot afford to render any service to the community is not worthy of citizen rights. And what, then, is to be done with those who require more assistance from the *polis* than they can give back (a group, I would add, that might very well include *every* community participant)?

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This model perhaps implies a threshold for service, a critical mass after which point citizenship is attained. If so, how can that threshold possibly be fairly set? Are we to accept that Andocides’ case would have been successful if only he had arranged for the arrival of fifteen grain ships instead of fourteen? More disturbingly, this model creates the need for another class of political participants, one with the power to determine the material threshold of citizenship, enforce it, and interpret under what conditions it can be met.

Finally, Andocides does not suggest how services of different kinds are to be treated. Although this speech focuses on material gain, doing good for the community can be interpreted in any number of ways. One would have to determine the relative values of, say, taxation, military service, and neighborliness. Each could straightforwardly be considered a useful service to the community, but in radically different modes. Some might be acceptable proof of good citizenship and others might not be. Some might be valued more highly, so some sort of standard of translation would have to be calculated. As with the question of threshold, these complications imply the existence of a superior class, empowered to discern everyone else’s civic utility.

These troubling considerations show that the instrumental model of citizenship cannot escape from the corrosive influences of injustice and inequality. Anyone who is concerned about fair access to collective decision-making and the responsible direction of collective action-taking must resist thinking of political participation in these terms. If pluralist democracy is to be sustainable and responsive, it is necessary (if not sufficient) to acknowledge and to accommodate the inherent and inextricable worth of each person as a potential political agent.
But my accusers say that I wrote speeches for others’ trials, and that the Four Hundred profited by this. On the contrary, under the oligarchy I couldn’t do this, but under the democracy specifically, I am the ruler. No one intended speaking to be worthwhile in the oligarchy, but in the democracy it is worth much.

From Antiphon Fr. B 1.2 *About the Revolution* 164
Speech of defense against the charge of treason

Chapter 4. LYSIAS’ *AGAINST ERATOSTHENES*

Lysias 12 *Against Eratosthenes* presses an Athenian jury to hold an ousted oligarchic leader responsible for the political abuses of his regime. The speaker, a renowned teacher and practitioner of rhetoric, might have drawn on the residual animosity and military superiority of the victorious democratic faction. Instead, Lysias asks former oligarchic sympathizers and collaborators to reaffirm their own place in the *polis* by denying their commonality with the deposed and disgraced Thirty Tyrants, of which Eratosthenes was a member. The argument limits the discursive space of commonality so that Eratosthenes and his fellows are excluded. They are instead cast as an aberration, a lawless gang so uncommon and extraordinary that they cannot be considered as members of the *polis*. The textual analysis of the speech, in which this line of argument is described in full, follows after an overview of the speech’s political and legal context.

164 Translation original, Greek text from *Minor Attic Orators 1: Antiphon and Andocides*, 294.
The Thirty Tyrants

Lysias, the speaker of the text, was born in Athens in the middle of the fifth century BCE. His father was a metic—a resident foreigner—invited by Pericles to immigrate to the city from Syracuse about ten years before Lysias’ birth. The family was comfortably wealthy, managing a shield factory in the Peiraeus, the port district of Athens. At the age of 15, Lysias moved with his older brother, Polemarchus, to the Athenian colony of Thurii in southern Italy. Between 427 and 412 BCE, an anti-Athenian and anti-democratic faction rose to power in Thurii, and the two brothers either fled or were exiled.

Upon their father’s death, Lysias and Polemarchus took over his shield business and became active in Athens’ intellectual culture. Polemarchus involved himself in Socrates’ philosophical circle, while Lysias turned to rhetoric. He took work as a logographer, Antiphon’s trade, accepting payment for composing speeches that litigants would memorize and deliver themselves. His return to Athens coincided with a very profitable time for the business of logography. After the Council of Four Hundred dissolved in 410 BCE, there was an increased legal scrutiny of both applicants for administrative office and the conduct of outgoing officials. Lysias’ earliest extant speech defends one of these deposed oligarchs against charges of treason.

During the next five years, Athens perennial war with Sparta took a severe turn for the worse. Already besieged and wracked by famine and disease, Athens lost nearly its entire navy at the

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166 Dover, 42; Lamb, ix.
167 Dover, 30.
168 Dover, 42; Lamb, x.
169 Dover, 43; Lamb, x.
170 Dover, 29; Lamb, xi.
171 Dover, 37.
173 Dover, 44; Todd, 217.
battle of Aegospotami in 405 BCE.¹⁷⁴ Lysander, the Spartan general, took a victory lap around the Aegean, capturing Athens’ imperial holdings and installing oligarchies modeled on the Spartan system of government.¹⁷⁵ After prolonged diplomatic wrangling, the Athenians sued for peace, the terms of which included the destruction of the city’s walls and the dissolution of the democracy.¹⁷⁶

Power was transferred to the Thirty Tyrants, whose authority was enforced by a Spartan garrison. They executed or exiled their political opponents and disarmed the citizen body.¹⁷⁷ Having confiscated the city’s weapons, the Thirty turned their attention to metics, like Lysias and Polemarchus, who had great wealth and no means of political or legal redress. Eager to replenish the city’s treasury, the Thirty seized the family’s property and arrested the brothers.¹⁷⁸ Polemarchus was executed without trial, but Lysias escaped, by a combination of bravery and bribery, to the nearby city of Megara.¹⁷⁹

After liquidating his remaining assets, Lysias began funding the growing counter-revolutionary army gathering under Thrasybulus at Thebes.¹⁸⁰ Although their ranks would swell to about one thousand over the summer of 404, only one tenth of the army was composed of exiled Athenian democrats.¹⁸¹ The great majority was a mixture of mercenaries, metics, and enslaved people who fled their bondage. As autumn arrived in Attica, Thrasybulus’ army took Athens’ hinterland fortress of Phyle and routed the Spartan regiment. From there, they advanced toward the city and camped on the nearby hill of Munichia. At the head of a combined force of Spartans and Athenians, the Thirty attempted to dislodge the army of exiles and were met with a stunning defeat.
Several leading oligarchs were killed in action, and Thrasybulus was able to occupy the Peiraeus, the district that Lysias had called home just a year before. What remained of the oligarchic faction retreated to the neighboring town of Eleusis, while the city of Athens scrambled for leadership to repel Thrasybulus. In the summer of 403, reinforcements arrived from Sparta and, instead of dislodging the Peiraean democrats, facilitated negotiations between that faction and a pair of private citizens from Athens.

The Text’s Disputed Genre

The treaty contained two main provisions. First, anyone who so desired was free to immigrate to Eleusis, which would be maintained as a safe haven for the oligarchs, outside of the jurisdiction of Athens. The second provision ceded control of Athens to Thrasybulus’ army, on the condition that all parties swear an oath of amnesty. Anyone living in Athens was obligated not to remember the events of the civil war, that peace might not be broken by spiteful prosecution and revenge killings. The leaders of each faction would be protected by the amnesty only after submitting to a euthyna, an accounting of one’s conduct at the end of one’s term of office. The only criminal transgression to be excepted from this amnesty was the dikē phonou; a person could still be brought to court for murder or wounding with intent to kill.

These legal motions were tried within different bodies of government. A euthyna fell under the jurisdiction of the Council of Five Hundred. The members of the Council served for one year and were chosen by lot from among the male citizens above the age of thirty who belonged to any of the three property-owning classes. Cases of dikē phonou were held before the Areopagus, a

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182 Ibid., 30-32.
185 Aris., Ath. Con., 43.2; Sinclair, 66.
council composed of about 200 men who served for life.\textsuperscript{186} The Areopagites were drawn from those who had previously held high executive office, positions that were open only to the aristocratic classes.\textsuperscript{187}

In late 403 or early 402 BCE, Lysias wrote a thundering excoriation of one particular member of the Thirty, Eratosthenes, for either a \textit{euthyna} or a \textit{dikē phonou}.\textsuperscript{188} Scholars, after their fashion, disagree on the type of case for which the speech was written. The argument in favor of its being a \textit{euthyna} points out that Lysias does not attempt to prove that Eratosthenes killed Polemarchus with his own hand.\textsuperscript{189} Personal action was necessary for classification as a \textit{dikē phonou}; the defendant had to be directly responsible for the death. Planning or being accessory to a murder was a separate infraction and would have been protected by the amnesty. However, Lysias does insist that Polemarchus was murdered and that Eratosthenes killed him; the speech obscures the government apparatus that facilitated the death. Further, it is unlikely that a non-citizen would have been allowed to bring suit in a matter of state business, let alone for a case of such importance as the \textit{euthyna} of a member of the Thirty.\textsuperscript{190} Metics were allowed to prosecute for \textit{dikē phonou}, though, subject to the approval of the \textit{polemarch}, one of the executive officers of the government.\textsuperscript{191}

**Insufficient Words and Fractal Evil**

Lysias begins by denying that speaking could adequately represent the crimes for which Eratosthenes deserves to be punished. “My difficulty does not seem to be in beginning the accusation, oh gentlemen of the jury, but in ceasing to speak.”\textsuperscript{192} This lends his speech an expansive

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\begin{itemize}
  \item \textsuperscript{186} Aris., \textit{Ath. Con.}, 57.3; Sinclair, 69.
  \item \textsuperscript{187} Aris., \textit{Ath. Con.}, 26.2; Sinclair, 19.
  \item \textsuperscript{188} Dover, 44; Todd, 113.
  \item \textsuperscript{189} Todd, 113-114.
  \item \textsuperscript{191} Aris., \textit{Ath. Con.}, 58.2-3.
  \item \textsuperscript{192} Lys. 12.1
\end{itemize}
quality, as if he is merely a conduit for a flow of words that would fill the entire discursive space if it could. The pressure of his exigency is so enormous that it bursts forth from him, as a reservoir bursts from a dam without the structural integrity to hold it.

He then explains that the compelling force behind his speech is the sheer overabundance of evidence he could draw on. “Their actions have been so great in quantity and so dire in kind that lying could not produce accusations more terrible than their existing crimes, and a preference for the truth could not enable one to relate everything. Rather, by necessity, either the accuser would give up in exhaustion or the time would run out.” Lysias’ central claim is that Eratosthenes is criminally responsible for his actions during the regime of the Thirty, but there is so much evidence of wrongdoing that no amount of speaking, in truth or in falsehood, could produce a comprehensive enthymeme. In this passage, Lysias is performing the very speaking situation that Aristotle describes as the province of rhetorical argument. It is impossible for the audience to “…take a general view of many things nor follow lengthy reasoning”193 because there are physical and temporal constraints that prevent Lysias from presenting the syllogism in total.

A complete account of Eratosthenes’ crimes is beyond Lysias’ ability to put into words. Such a catalogue of evidence could be shown, point by point, to transgress specific statutes, lending Lysias’ case an air of deductive certainty. Instead, his first topos in the speech is an admission that this kind of totality is beyond him, and he must operate in the rhetorical space of the incomplete and the probable. In fact, he claims that the evidence against Eratosthenes is so extensive and well-known that a case formed in the customary way would seem inappropriate. “Indeed, I do not make these arguments because I do not have private [oikeias] hostilities and misfortunes, but because everyone has a great abundance of reasons to be angry over specific matters or over public matters [huper tôn

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Lysias' definition of the common invites the Athenians to reaffirm their own civic inclusion by repudiating and excluding Eratosthenes.

The Parts of a Democracy

Having associated opposition to Eratosthenes with inclusion in the Athenian whole, Lysias defines the virtues evinced by these participants in the community. “Neither [my father] nor the rest

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194 Lys. 12.2.
of the family was ever involved in any litigation, either as prosecutor or as defendant. We lived our lives under the democracy [démarkratomenos] in such a way as to do no wrong [examartanein] to others and to suffer no harm [adikeistai] from others." Lysias cannot talk about the virtues of the good citizen because he and his family were not citizens. Their Sicilian ancestry barred them from that political class and the rights pertaining therein. Nonetheless, he defines proper civic conduct in the figure of the démokratomenos, meaning “one who consents to live in a democratic community.” This category allows him to speak of participation in the political community not only by Athenian citizens, but also by resident foreigners such as himself.

He provides an image of democratic virtue predicated on two qualities: to do no wrong and to suffer no harm from others. His family fulfills these civic values by keeping out of the courts. A proper démokratomenos must be not merely without blame but also must refrain from spuriously prosecuting others. This definition places further stumbling blocks in Eratosthenes’ path to refute his exclusion from the Athenian community. In addition, it makes the experience of Lysias and his family the paradigm case of innocent people who suffered under the oligarchy.

Lawless Aristocrats

Immediately following this passage, Lysias contrasts the image of his family as the paragons of democratic virtue with that of the Thirty Tyrants. The oligarchic leaders “...who were criminals [poneroi] and sykophants [sukophantai], established themselves in office, claiming that they needed to cleanse the city of wrongdoers [adikon] and redirect the remaining citizens toward goodness [aretèn] and justice [dikaiosunèn].” The aretn and dikaiosunèn of this passage correspond to the examartanein (“to err”) and adikeistai (“to be the object of injustice”) of the previous passage. The Thirty

195 Ibid., 12.4.; trans. from Todd, 116-117.
196 Ibid., 12.5.; trans. from Todd, 117.
dubiously claim to encourage goodness and justice in the body politic by persecuting the very members of the community who, like Lysias’ family, live by goodness and justice. This serves to dissociate the Thirty, Eratosthenes included, from the city as criminals and concentrate blame for their rule in them alone. This argumentative move solidifies Lysias’ claim that the Thirty ought to be considered beyond the limit of inclusion within the common.

Of particular note is Lysias’ explicit condemnation of the Thirty as criminals and sycophants. Sycophants were characterized as extraordinarily skilled orators who were so confident in their ability to manipulate juries that they would solicit bribes from wealthy men by threatening to bring expensive lawsuits against them. They were the bugbear of the upper class, frequently cited as the hazard of democratic excess. The Thirty, who ruled on the authority of a Spartan military garrison, could not be easily characterized as demagogues and panderers. Indeed, the first action of the Thirty upon assuming power was to execute several citizens for sycophancy. When Lysias uses the pejorative “sycophant” to describe the Thirty, he evokes them as unrestrained pikers who took advantage of the loss of just authority to exploit the common good for their own individual profit. For this reason, their government was drastically unlike the legally constituted regimes of Athens.

After relating the narrative of his arrest and escape, Lysias lays out his formal accusation:

“Like I said before, Eratosthenes killed my brother, not while suffering a specific [idia] injustice [adikonumenos] himself nor observing wrongdoing [examartanonta] against the city, but while eagerly advancing his own subversive designs.” In this passage, Lysias repeats the pairing of injustice and error that is first introduced in section 4. In that earlier passage, a demokratoumenos is defined as one who avoids these two qualities, implying that Polemarchus was being a good democratic subject

200 Lys. 12.23.
when he was killed. Here, though, Lysias evokes his own introduction, affirming that Eratosthenes was not responding to a personal injustice or a common offence. Polemarchus was a thoroughly good dēmokratoumenos, guilty of affronting neither Eratosthenes in specific nor the city as a whole. By undermining the justification of Polemarchus’ murder as the removal of someone civically undesirable, Lysias expands the gulf between the virtuous interior community of Athens and the flagrantly offensive exterior faction of the Thirty.

Having dispensed with the charge that Polemarchus’ execution may have been legal and just, Lysias supplies an alternative reason for his execution: that Eratosthenes was “eagerly advancing his own subversive designs [paranomia prothumōs exupēretōn].” This is a remarkably emphatic and forceful phrase, even for Lysias’ vivid style. Exupēretōn is an expansive and mobile verb that might be translated as “going above and beyond” or “going all out.” It is further amplified by the adverb prothumōs, which means “spiritedly” or “zealously.” Eratosthenes is portrayed as animated by a passion for paranomia—“beyond the law.” Paranomia has more diverse connotations, including “lawless,” “criminal,” “anarchic,” and “degenerate.” The intensity makes Eratosthenes seem not to be an official of the government who is abusing his office, but a thug taking advantage of the collapse of civic authority. This passage reinforces the charge that the Thirty are analogous to criminals and sycophants, undeserving of any political sympathies. Eratosthenes and his fellow oligarchs, motivated by a disdain for the laws upheld by the rest of Athens, are isolated from the polis by their extraordinary failures of character, both specific and common.

An Atom of Guilt

There follows a short interrogation, in which Lysias asks Eratosthenes directly to justify his actions during the arrest.201 A reminder is necessary at this point that this speech is in no way a court

201 Ibid., 12.25.
transcript, and doesn’t record any of Eratosthenes’ own words. Rather, it represents what sort of defense Lysias expects from him. Eratosthenes claims that he argued against the order to arrest the brothers, but was coerced to obey by his fear of the other oligarchs. Lysias dismisses this argument as a ridiculous attempt to avoid blame. “Do you really deserve to be regarded as an honorable man [chrēstos],” he asks, “because (so you say) you spoke against the proposal without achieving anything, but do not deserve to pay the penalty to me and to the jury for having arrested and murdered him?”

Lysias interprets this argumentative move as asking to be praised for trying and failing to do good, but not to be punished for successfully doing evil. It is here that Lysias begins an argument against the idea of moderate oligarchy that he will develop throughout the speech. While the speaker doubts that there were those within the Thirty acting to restrain the radical faction, he asserts that this would fail to exculpate them even if true. He attacks Eratosthenes as the wickedest of all men for being so easily persuaded to disregard the dictates of his conscience. Lysias condemns Eratosthenes’ choice of topos, implying that to disobey unjust orders or to believe sincerely in the justice of Polemarchus’ execution would have made for more consistent and defensible positions.

Instead, Lysias casts the defendant himself as admitting to wrongdoing. This would make the injustice of Polemarchus’ execution a point of common agreement, a limit on the topos subject to contention. If the audience accedes to framing the case in this way, Lysias may maintain that the subject of the trial is not whether an unlawful murder had taken place, but where to draw the line between the guilty and the innocent. “Yet, it seems to me that the other Athenians have an adequate excuse to pass on the blame for what happened to the Thirty. But if the Thirty pass it onto

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202 Ibid., 12.26; trans. from Todd, 121.
themselves, how can you accept that as probable [eikas]?...Where will you ever get justice, if the Thirty are allowed to say that they were doing what the Thirty commanded?203

Lysias creates in the Thirty an atom of guilt beyond consideration within the Athenian political community. By defining inclusion in the common in terms of innocent suffering and avoidance of injustice, Lysias makes it beyond question that a member of Thirty is not a legitimate member of the polis. The oligarchic leaders cannot be divided within themselves into innocents and perpetrators. Guilt must be shared uniformly among all members of the Thirty, no matter how radical or moderate. They are taken to constitute an indivisible body whose internal dynamics have no bearing on the distribution of wrongdoing.

Conceiving guilt in this way exculpates all those outside the set of people defined within the Thirty. Lysias approaches the civic uncertainty of post-revolutionary Athens with a Solomonic solution. He defines the limits of argument in such a way that the city is conceived of having two internally homogeneous parts: the Thirty, in which all blame and wrongdoing is concentrated, and the rest of the Athenians, who are uniformly innocent victims. This is a bid directly to oligarchic collaborators, offering a potential justification of their civic worth if they adhere to Lysias’ argument. Their ship will ride higher on the political tide if they agree to jettison Eratosthenes, with all his morally ambiguous ballast.

Lysias concludes this section of the case, moving from Eratosthenes’ responsibility for the crime in question and onto a general attack on the man’s character. He echoes Andocides in On His Return when he refers to a habit among defendants to enumerate the services they have performed on behalf of the city. Lysias, however, seeks to render this topos beyond Eratosthenes’ use. For one of the oligarchs to calculate his contributions to the city, though, “you must insist that he show you where they have killed as many of the enemy as they have betrayed, or what city they have won over

203 Ibid., 12.28-29.
to match their enslavement of yours, or that they have stripped as many shields from the enemy as
they stole from you, or that they have captured walls as good as those they tore down in their own
fatherland.” It is, of course, ridiculous that such a threshold could be met; Lysias does not admit
the possibility that Eratosthenes could make such an argument. Salvation is out of the question for
Eratosthenes not because of the quality of his unjust actions, but because they are of such quantity
as to be irredeemable.

“Your plēthos:” Political Legitimacy in Democracy and Oligarchy

Lysias continues to denigrate Eratosthenes’ character by reciting what amounts to the
defendant’s oligarchic resume. “For this is not the first time,” he begins, “he acted in opposition to
your general will [plēthei].” The term here translated as “general will” is key to the political narrative
presented in this speech, and its centrality calls for a brief digression on Lysias’ perspective on the
role of the plēthos in Athenian politics. In these passages, the speaker takes issue not with the
dissolution of the democracy itself, but that the oligarchic regime was maintained by force, not by
common consent. This characterization of the civil war faults the oligarchs not for excluding citizens
from institutional participation, but for destabilizing the legal and traditional authorizing basis of
Athenian government. In fact, in a later passage indicting the moderate oligarch Theramenes, the
plēthos is said to have been functional and active even under the oligarchy of 411 BCE. This further
divides the Thirty Tyrants from the rest of the Athenian community—even the previous oligarchy—as
an unprecedented anomaly.

204 Ibid., 12.39-40; trans. from Todd, 123.
205 Ibid., 12.42.
206 Ibid., 12.66.
Lysias makes a careful distinction between *dēmokratia* and *plēthos* when he is discussing Eratosthenes’ role in preparing the Thirty’s rise to power.²⁰⁷ The *dēmokratia* is mentioned as the specific system of governance in existence at that time. Eratosthenes’ assignment was “...gathering the citizens, leading the conspirators, and acting in opposition to your general will *[plēthes]*.” *Plēthos* is not synonymous with *dēmokratia*, but a quality of the political community on which the stability of the government depends. Additionally, the *plēthos* is combined with the possessive pronoun “your *[humetero]*,” while the *dēmokratia* exists independently. This reading of *dēmokratia* is consistent with Lysias’ other uses of the term in this speech. It refers to the popularly accessible institutions of a particular regime, opposed to an oligarchic government²⁰⁸ and advocated by a specific faction within the city.²⁰⁹

The *plēthos* is a more permanent political force and survived undiminished under the authority of the Four Hundred, the aristocratic council that assumed power in the coup of 411 BCE. Describing the events during this first period of oligarchy, Lysias claims that the Four Hundred feared the displeasure of the *plēthos* and required its obeisance for them to maintain power.²¹⁰ It is significant that the authority of “your *plēthos*” is maintained even under the Council of Four Hundred. The citizenry, even construed as narrowly as ancient Athenians recognized it, could hardly have been said to wield much institutional power during the oligarchic regime.²¹¹ Only the wealthiest class maintained its enfranchisement during this period,²¹² so the *plēthos* must be referring to a kind of general will that need not be expressed through a governmental apparatus.

Once the Thirty came into power, however, the distribution of social authority changed. Concerning those who would act as witnesses for the defense, Lysias writes, “They must think that

²⁰⁷ Ibid., 12.43.
²⁰⁸ Ibid., 12.78.
²⁰⁹ Ibid., 12.42.
²¹⁰ Ibid., 12.66
²¹¹ Munn, *The School of History: Athens in the Age of Socrates*, 140.
²¹² Kagan, 149.
you are extraordinarily forgetful and stupid [enētheis], if they believe they can rescue the Thirty without fear under your πλήθος, when under Eratosthenes and his colleagues it was dangerous even to attend a funeral.” By parallel construction, Lysias contrasts the current, restored democracy with the oligarchic regime, for which “under Eratosthenes and his colleagues” replaces “under your πλήθος.” The speaker is elaborating on the charge that the Thirty were starkly separate from and opposed to traditional civic authority by failing to rule in accordance with the πλήθος. While democratic government is properly authorized by the πλήθος, the regime of the Thirty was authorized by the coercive power concentrated in the oligarchs. Lysias uses the distinction between πλήθος and δημοκρατία to dissociate the Thirty from the larger political culture that forms the basis of legitimate civic authority. He is not a democrat abusing an oligarch, but a δημοκρατομένος abusing a criminal.

Building Commonality from Particular Premises

Returning from our digression to the text’s progression, Lysias’ narrative culminates with Eratosthenes’ role in establishing the oligarchy of the Thirty. He describes Eratosthenes serving as an agent provocateur, seeding the ground for the treaty with Sparta that would give the oligarchy formal power. “As a result, you were the victims of a plot not simply by the enemy but by these men, your fellow citizens, to prevent you from voting through any good proposal and to ensure that you would suffer serious shortages.” In this passage, Lysias reveals his purpose in recounting Eratosthenes’ history in the oligarchic movement. He is not merely denigrating Eratosthenes’ character; he is also providing evidence in refutation of an argument that the Spartans, not the Thirty, are to blame for the civic strife.

213 Lys. 12.87; trans. from Todd, 134.
214 Ibid., 12.44; trans. from Todd, 125.
This is a plausible defense for someone in Eratosthenes’ position to make. It was the terms of surrender dictated by the victorious Spartan military that set up the oligarchy. Those Athenians who took positions in this government might claim to be serving their city as best they could under the circumstances. This argument not only associates the Thirty more closely with the Spartan enemy than with the Athenian citizens, but also shifts responsibility away from anyone else who stayed in the city and benefited from the oligarchy. Lysias obscures the heterogeneity in his audience and constructs them in unified commonality, retroactively allied with the democratic faction, while the Thirty are shown to be uniformly opposed to the polis.

Lysias explains that the witnesses he will produce to corroborate his claims are not Eratosthenes’ former allies, as he could not induce those to testify for the prosecution. It may be that his witnesses were in fact accomplices to the Thirty, and that Lysias does not want to be seen cooperating with the enemy. In any case, he pauses before introducing their testimony to admonish those conspirators who are in his audience. “And yet if the accomplices were wise, they would act as witnesses against those men and would harshly punish the teachers of their own crimes [hamartēmatōn]; if they were wise, they would not regard as trustworthy the oaths that were designed to harm the citizens, and they would willingly break them for the good of the city.”[^215] In this passage, Lysias appeals directly to those in his audience who worked to overthrow the democracy. He uses their subversive background as evidence that they should condemn Eratosthenes. It would be an act of patriotic redemption for them to “punish the teachers of their own crimes.” Although this argument appeals to only a particular subset of his audience, it allows even those who actively supported the oligarchs to establish themselves in the common.

[^215]: Ibid., 12.47; trans. from Todd, 125.
Conclusion

When the army of the democratic faction removed the oligarchy from power, there was a commonly held sentiment that they had rightfully supplanted the usurping pawns of the Spartans. Lysias admits in the introduction that he might have made use of this *koinos topos* to support his particular case against Eratosthenes. Instead, however, he appeals to the oligarchic remainder, those for whom questions of community participation and political responsibility were most uncertain. He deploys argumentative limitations on civic inclusion to associate a vote in his favor with an affirmation of Athenian identity. Having defined Athenian commonality so that it is out of Eratosthenes’ reach, Lysias asks his audience to prove their commitment to patriotism and justice by expunging the anomalous cause of their recent communal trauma. In any society, particularly one like that of Athens in 403 BCE, guilt cannot be so neatly distributed. Lysias’ claim that a subversive enclave was uniquely responsible for the complete breakdown of political goodwill and competence would appear most attractive to a jury anxious to avoid responsibility themselves.

The historical record does not report whether or not the jury voted to eject Eratosthenes from the *polis*, nor whether Against Eratosthenes had any effect on their judgment at all. One place where Lysias’ speech does apparently resonate is in the treatise written by his fellow metic. Aristotle closes his *Rhetoric* by drawing directly from Lysias’ *Against Eratosthenes* for an example of the most fitting style for a conclusion. Lysias may not have invented the *topos* “Eradicate the Transgressive Influence,” but he found it accessible and occupied it for a time. Together with a greater or lesser part of the Athenian citizens, he might even have extended its limits, marking the trail for the next wanderer to pass through.

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216 Wolpert, 91.
217 Compare Lysias, *Against Eratosthenes*, 12.100 (“I shall cease my accusation. You have heard, you have seen, you have suffered, you understand, and you judge [dikazete].”) to Aristotle, *Rhetoric*, III.xix.6, 1420a, (“I have spoken, you have heard, you understand, and you decide [krinate].”).
Chapter 5. CONCLUSION

Theoretical study of the topos tends to be accompanied by an anxiety about its consequences. Rhetorical scholars worry that analyzing arguments for the “spaces” they move through or skirt around creates an overly formalized image of rhetoric. Aristotle, in Rhetoric, articulates a preference for topoi that retain persuasive force regardless of the particular context in which they are expressed. He asserts that arguments premised on those specific circumstances are not strictly rhetorical, but belong to the mental tribe from which they are derived. Following Aristotle’s prescription that abstracted topoi are superior to their particular expression results in criticism and pedagogy that portrays rhetoric as a formal technique with generalizable rules.

Since scholars consistently warn against this model of rhetoric, topos theory should be decoupled from Aristotle’s value preference. This is crucial to analyzing topoi while remaining sensitive to the embedded actualities of living rhetorical practice. Rather than a descriptive claim of rhetoric’s universal characteristics, Aristotle’s preference for arguments that move from common to specific topoi is a response to the discursive culture of ancient Athens.

At the turn of the fourth-century BCE, political conflict in Athens reached a fever pitch. The imperial democracy, beleaguered by an attritive war with Sparta, was overthrown by an aristocratic oligarchy. The city spent ten years wracked with counterrevolutions, mass exiles, and revenge killings. Texts composed during this period attribute civic discord to rhetorical argumentation.

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218 Translation original, Greek text from Minor Attic Orators I: Antiphon and Andocides, 308.
Rhetoric appears in its capacities to create and promote dissent where there might otherwise be agreement. The three pieces analyzed in this thesis are exemplary cases of this pervasive viewpoint. Aristophanes’ *Birds* attacks Athenian democracy as a tyranny of the rhetorically inclined, who deploy the language of commonality to serve their personal interests. Andocides’ *On His Return* proposes a definition of civic virtue that moves the speaker’s inclusion in the common beyond rhetorical disputation. Lysias’ *Against Eratosthenes* appeals to those whose civic inclusion was most uncertain, offering to atomize moral culpability in one part of the city and then to excise that part.

Given the ways that rhetoric’s legitimacy was challenged in ancient Athenian discourse, Aristotle’s preference for common agreement appears starkly as a prescription. During the civil war, rhetoric was essentialized to its capacity for manufacturing commonality out of partisan interest. When Aristotle claims that rhetorical arguments can be derived from either common or specific premises, he is attempting to reanimate rhetoric as a legitimate kind of practical judgment. If Aristotle is making a prescriptive response to his own historical circumstances, it is fair and appropriate for scholars in different historical circumstances to adjust *topos* theory to their own. A more flexible, responsive approach to the *topos* has productive potential for rhetorical education, practice, criticism, and theory.

**Implications for Rhetorical Education and Practice**

This thesis suggests that teachers and practitioners of rhetoric would be well-served in considering it as being composed of two subtypes. Rhetoric that models the dialectical syllogism, starting from a place of already existing commonality and applying this commonality to a particular case, is one type, requiring certain skills and useful in certain circumstances. To begin from particularity—to address an audience with differing experiences, knowledge, or values—and to construct commonality out of this difference would be another act entirely. The traditional reading
of Aristotle’s *Rhetoric* dismisses the latter as something other than rhetoric or merely a discovery of commonality that existed all along. If common-to-particular and particular-to-common arguments are both legitimate and productive rhetorical categories, rhetoricians might compose and teach them as such. The two types of rhetorical acts are different in substance and evoked by very different rhetorical situations. Centering rhetorical invention on the movement between and among *topoi* keeps the speaker mindful of what kind of work needs to be performed and offers greater discursive flexibility in accomplishing that work.

**Implications for Rhetorical Theory and Criticism**

In addition to the benefits for teaching and practice, this understanding of the *topos* has theoretical and critical applications. This thesis performs some key labor at the frontier of argumentation theory. Scholars of argumentation and reasoning, typically reared in dialectics and formal logic, approach rhetoric only hesitantly and from those disciplinary backgrounds. Argumentation theorists have only recently sought to discern the relationship between rhetoric and argumentation on rhetoric’s own terms. Christian Kock (2013) argues “for a definition of rhetorical argumentation based on its *theme.*” Theme is Kock’s term for the issue in dispute in an argument, or “that which the argumentation is ‘about.’” By using this term, he emphasizes how rhetorical argumentation differs from logical and dialectical argumentation, traditions that assume arguments to be about claims of truth or falsehood. Rhetorical argumentation, on the other hand, “has essentially to do with *choice,*” making a practical judgment in a situation of uncertainty. Kock’s conception of rhetorical argumentation emphasizes the good and bad consequences of action over verifiable assertions of truth or falsehood.

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220 Ibid., 444.
My reading of Aristotle’s Rhetoric affirms many of Kock’s own conclusions, but suggests that topos may be preferable to “theme” as the operative term in rhetorical argumentation. For one, Kock defines the theme as “that which the argumentation is about.” This language appears to be derived directly from Aristotle’s definition of the topos: “For I say that dialectical and rhetorical syllogisms are about that which we call topos.” Kock’s article draws extensively on passages in Aristotle’s Rhetoric immediately before and after this definition of the topos, but doesn’t address this specific passage. Using Aristotle’s own term lends Kock’s definition of rhetorical argumentation some additional consistency and clarity.

Further, if rhetorical argumentation is to be a useful mode of critique, topos is a bit finer of a tool than theme. Kock’s article explains that rhetorical argumentation’s relationship to rhetoric is itself an issue of scholarly dispute. Some argumentation theorists consider rhetorical argumentation to be coextensive with rhetoric; Kock and others claim that rhetoric is a broader category of which rhetorical argumentation is a subtype. The account of the topos in this thesis allows a critic to identify the arguments in a text that are specifically rhetorical. Kock’s definition of rhetorical arguments corresponds to Aristotle’s specific-to-common enthymemes, in which a probabilistic judgment must be made based on uncertain circumstances. Aristotle allows that common-to-specific arguments—based on necessary certainty—can be used in rhetoric, but are an adaptation of the dialectical syllogism. The topos, and not the theme, carries with it an existing theory for distinguishing specifically rhetorical argumentation from the other parts of a rhetorical text.

In the same issue of Philosophy and Rhetoric, Emmanuelle Danblon (2013) offers another account of the relationship between rhetoric and argumentation theory. She contends “that rhetoric has to be an integral part of argumentative models if such models are to be considered rational.”

221 Aristotle, Rhetoric, I.ii.21, 358a.
222 Kock, 440.
For Danblon, a theory of argument that does not make a legitimate account of rhetoric is fundamentally incomplete. The flaw of current scholarship on rhetorical argumentation is to subsume rhetoric to dialectical terminology, methods, and goals. Danblon writes that “the dominant view today is to ‘accept’ rhetoric if (and only if) it may explicitly be related to philosophy and/or logic.” My own thesis identifies this dominant view as sprouting in part from Aristotle’s preference for common-to-specific certainty. Recognizing this preference as a prescriptive suggestion opens theoretical space for developing rhetorical argumentation without privileging logic or dialectic.

Danblon sees powerful political stakes in a more robust account of rhetorical argumentation. The logical and dialectical modes, based as they are on truth, do not adequately accommodate disagreement. They treat disagreement as a sign of error in judgment and not as the product of a variety of legitimate viewpoints. “Therefore,” she writes, “the multiplicity of audiences always threatens concord and poses a risk of discord.” Coming to terms with the rhetorical dimensions of argumentation holds significant promise for pluralist democracy in the twenty-first century.

Rhetoric for Pluralist Democracy

Applying already existing commonality to specific cases and reaching for commonality out of existing difference are both necessary rhetorical activities in a community that aspires to pluralist democracy. Aristotle’s prescription in favor of common-to-particular enthymemes has left probabilistic argument from particular premises drastically undertheorized. Danblon’s article instructs rhetorical scholars to attend to this out of pressing political need. Recognizing the historically embedded evaluation in *Rhetoric* is a preliminary step for reconciling a multiplicity of

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224 Ibid.
225 Ibid., 504.
audiences with civic concord. Pluralism appears as a formidable challenge to the political communities of the twenty-first century, and concord is an ever shifting, often attractive aim.

Rhetoric, with fair and responsible attention to all of its faculties, is uniquely suited for navigating the necessary tensions of living in human community.
And I, a suffering wretch who ought to have died, live on to be laughed down by my foes.

From Antiphon Fr. C 2.3 Proems and Epilogues
Entry in an anthology of koinē topoi for composition instruction

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Translation original, Greek text from Minor Attic Orators I: Antiphon and Andocides, 308.


