BOUNDARIES AND LIMITATIONS: THE FEATURES OF INVECTIVE IN ATTIC FORENSIC PUBLIC AND PRIVATE SPEECHES*

By Andreas Serafim

Summary: This paper examines two forms of constraint that affect each other in the corpus of surviving speeches of Attic forensic oratory: the legal boundaries between speeches, i.e. those delivered in public and private cases, and what limitations these impose on an orator's ability to use features and forms of invective.

Classical scholarship on orators has so far suggested that the distinction between public and private speech had implications for the use of arguments and rhetorical techniques for persuasion – what I call 'rhetorics.' Although there is no consensus on how and to what extent this distinction truly differentiates 'rhetorics', important works argue persuasively in favour of some kind of differentiation. Students of oratory, for example, will benefit from the work of Rubinstein, who points out that the way in which the cognitive, and especially the emotional, state of the audience is established or changed depends, among other things, on the rhetorical character of speeches.[1] I myself argue that the legal character leads to a different frequency – but not different techniques – in the use

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1 Rubinstein 2004: 187-203; 2005: 129-45.

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of patterns of comic invective,[2] religious discourse,[3] and imperatives and subjunctives, which, as noted in a recent article, are used in the same way in two types of generic dichotomy, i.e. public/private speech and defence/prosecution, albeit with different frequency.[4] In *Religious Discourse in Attic Oratory and Politics*, I put forward the argument that "orators use [religious discourse] in accordance with the rules and norms of the institutional context in which they give a speech because it is thought that the Athenians voted differently, according to the speaking context and institutional setting in which they were called to make decisions."[5]

The scholarly studies that emphasize the different techniques that are the result of different rhetorical matrices of the genre draw on the principles of New Institutionalism theory: different institutions have different 'logics of appropriateness' that determine the way discourses interact and influence society. Socio-cultural structures called 'institutions' create the framework within which the actions of individuals and groups take place, in accordance with the label of extroverted behaviour (i.e. both speech and action) that this framework entails. An institution, to put it another way, is

> a relatively enduring collection of rules and organized practices, embedded in structures of meaning and resources that are relatively invariant in the face of turnover of individuals and relatively resilient to the idiosyncratic preferences and expectations of individuals and changing external circumstances. There are structures of meaning, embedded in identities and belongings: common purposes and accounts that give direction and meaning to behaviour, and explain, justify, and legitimate behavioural codes. Institutionalism emphasizes the endogenous nature and social construction of political institutions. Institutions are not simply equilibrium contracts among self-

2 Serafim 2021c: 65-79.

3 Serafim 2020: 23-42; 2021: 65-79; 2021a, chapters 1 and 2. On the different uses of religious discourse, depending on the character of the speeches, see also Martin 2009: 135-36, 211.

4 Serafim 2021b: 388-417 on the use of imperatives; and Serafim 2022: 299-317 on subjunctives in public and private court speeches.

5 Serafim 2021a: 64.

> seeking, calculating individual actors or arenas for contending social forces. They are collections of structures, rules, and standard operating procedures.[6]

To act appropriately is to act according to the institutionalized practices that result from a collective and mutual understanding of what is true, reasonable, natural, right, and good in a particular context, i.e. in a designated venue where any kind of behaviour and action takes place; an occasion that may have a temporal, procedural (e.g. a ceremony or a speech delivered in court), and cultural-ethical character. Rules and practices define what is normal, what is expected, what can be relied upon, and what is appropriate in a particular context or community.[7]

But we need not overdo it with the observance of boundaries in ancient literature, as I think E.M. Harris does when he fervently argues that "the Athenians took the boundaries between genres very seriously and expected them to be respected."[8] The sharp difference in style between poetry and prose/rhetoric described by Aristotle and Quintilian may not have been so sharp, definitive, and crystal clear in practice, as the ancient sources mention that an orator is always successful when he uses acting techniques to captivate and win over the target audience. This seems to indicate that acting skills and talents were not limited to the theatre.[9] I argue that the theorists of antiquity do not always accurately describe practice. A notable example of this failure can be found in the *Rhetoric to Alexander* 1441b24-29, where orators are admonished to use humour and laughter-inducing techniques only in public speeches. However, the surviving scripts of the public speeches show how widespread the use of these techniques was in the courtroom. As I argue elsewhere, "it is true that public speeches are about major issues that concern the *polis*, and this creates the necessary conditions for using prayers in them,

6 March & Olsen 2005: 4.

7 Further on New Institutionalism: Merton 1938: 672-82; Simon 1965; Pitkin 1967; Meyer & Rowan 1977; Kratochwil 1984: 695-708; Apter 1991: 463-81; Weaver & Rockman 1993; March & Olsen 1995; Egeberg 2003.

8 Harris 2017: 238-39.

9 Serafim 2017: 81-82 with references to important scholarly discussions on this topic.

with the aim of functioning as a means of engaging the divine in the enterprise of protecting the *polis*. But private cases are equally connected with public interests – thus, acquiring a heightened level of significance for the civic/political community. We should also bear in mind that public speeches (as Dem. 18 is) are also about personal matters that are inextricably woven with civic/collective affairs. As C. Ando and J. Rüpke point out in their important volume *Public and Private in Ancient Mediterranean Law and Religion*, the level of interconnectivity between public and private is heightened in antiquity."[10]

Before turning to the topic of this article, namely the way and the extent to which the distinction between public and private speech affects the means of invective available to an orator in court, it is essential to define the notion of *invective*, i.e. what it is and what characteristics scholars believe it had in the extensive corpus of ancient Greek and Roman literature. Invective is a cultural phenomenon. Invective is more than a rhetorical practice intended to serve the aims of speakers in court or in the assembly. It is an adversarial mode of behaviour with a significant cultural cache when it comes to contrasting values, norms, ideas, even civic/ethnic communities and groups of people. In my view, there is a subtle difference between *psogos* and (what is called in the international bibliography) invective, at least for the period this paper examines, i.e. Classical Athens of the fourth century BCE: the former can have an 'innocent', pedagogical, and instructive character, as when Attic orators criticize the *demos* on how to think of and act for the best interests of the *polis*.[11] A similar semantic distinction is found in Thucydides between αἰτία and κατηγορία ('accusation'), both of which are roughly translated as 'accusation' or 'blame'. The first refers to friends who err and aims to admonish them; the second refers to enemies who do wrong. That αἰτία has the tone of benign criticism instead of an authoritative or abrasive accusation against a recipient of speech is clear from Thucydides 1.69.6, where the Corinthians want to constructively criticize the

10 Serafim 2022: 98-99. Cf. Ando & Rüpke 2015; Harris 2015: 419-54 – his contribution to the volume by Ando & Rüpke.

11 Scholarship supports the idea that *psogos* corresponds to invective, or that it is actually a term used to denote and refer to invective. See e.g. Barker 2009: 1-19; Quiroga Puertas 2022: 170-91.

Spartans, saying that "and none of you should assume that these words are spoken out of hostility (ἔχθρᾳ) rather than rebuke (αἰτίᾳ). For on the one hand αἰτία is for friends who make mistakes, while on the other hand κατηγορία is for enemies who commit injustice."

A pointed distinction between *psogos* and invective, or admonition and insult, as they are referred to in the text, is offered in the treatise *On Friendship* 277 by Themistius, "not only in speaker's intent, but also in what he actually says. Stern, truthful, and frank words admonish rather than abuse, correct rather than insult. In giving admonition, you must be careful not to apply to the patient biting words that have not been tempered. You must mix into those words something soothing and mild." *Psogos* may indeed contain references to vices and accusations, as Aphthonius argues in *Progymnasmata* 10.27, but its aim is fundamentally different from that of invective. Demosthenes sounds biting when he rebukes the *demos* for his inaction against Philip II of Macedon (e.g. in 3.9, 14, and even more forcefully in 16),[12] but let us not quibble about his incentives here: let us accept that he is doing this, as he claims, to protect Athens' leading role in Greek affairs. Let us accept his claims that he is speaking freely, even if the *parrhesia* mentioned in 3.3 and 8.32 is more

12 Dem. 3.9: "But surely if anyone of you would postpone the necessary action till then, he must prefer to see danger at his very doors, rather than hear of it far away, and to beg help for himself, when he might be lending help to others now; for I suppose we all realize that that is what it will come to, if we throw away our present chances." §14: "At the same time, Athenians, you must not forget this, that a mere decree is worthless without a willingness on your part to put your resolutions into practice. If decrees could automatically compel you to do your duty or could accomplish the objects for which they were proposed, you would not have passed such an array of them with little or no result, and Philip would not have had such a long career of insolent triumph. Long ago, if decrees counted for anything, he would have suffered for his sins." §16: "Why, what better time or occasion could you find than the present, men of Athens? When will you do your duty, if not now? Has not your enemy already captured all our strongholds, and if he becomes master of Chalcidice, shall we not be overwhelmed with dishonor? Are not those states actually at war which we so readily engaged in that event to protect? Is not Philip our enemy? And in possession of our property? And a barbarian? Is any description too bad for him?" Unless otherwise indicated, the translations of ancient passages are taken from the Loeb Classical Library.

than that.[13] Free speech is not necessarily synonymous with outspoken speech;[14] it is tailored to the environment of fierce antagonism between (legal and socio-political) opponents in the Athenian public sphere and may also include profanity, bitter personal attacks, and the dissemination of lies or half-truths.

Demosthenes repeatedly emphasizes frankness as one of the characteristics that define *parrhesia*, as in 9.4 (*Third Philippic*), where he implies that he will formulate words without flattery.[15] Frankness is a fundamental quality of *parrhesia* when the relationship between the speaker and the audience is one centred on power: Demosthenes' conversation with the *demos*, who had the power to end his political career in disgrace, strip him of his political rights, or send him into exile if he was insulted, is a good example of such a relationship, as is the conversation between a servant and his master. Socrates speaking to the judges in the courtroom (as in the Platonic *Apology*) and Tiresias revealing to Oedipus (as in the Sophoclean *Oedipus Tyrannus* 341-708) that he is the cause of the destruction of the *polis* are good examples of the first and second kinds of power

13 Dem. 3.3: "I must ask you to bear with me if I speak openly (μετὰ παρρησίας ποιῶμαι τοὺς λόγους), considering only whether I am speaking the truth, and speaking with the object that things may go better in the future; for you see how the popularity-hunting of some of our orators has led us into this desperate predicament." 8.32: "But as to the reason for this – and in Heaven's name, when I am pleading for your best interests, allow me to speak freely (καί μοι πρὸς θεῶν, ὅταν εἵνεκα τοῦ βελτίστου λέγω, ἔστω παρρησία) – some of our politicians have been training you to be threatening and intractable in the meetings of the assembly, but in preparing for war, careless and contemptible."

14 There is also a matter about how we translate ancient texts: we should not invariably understand and translate *parrhesia* as "frank speech." Translation should inevitably be tailored to the expectations of the immediate context the term *parrhesia* is placed into. For Riu, for example, *parrhesia* in Isocrates' *To Demonicus* 34 means 'to speak openly', whereas in *Busiris* 1 it means 'to speak openly and frankly'. Riu 2022, online: https://brewminate.com/parrhesia-comedy-and-freedom-of-speech-in-ancient-greece/ (last access: June 2023).

15 Dem. 9.4: "Hence the result is that in the assembly your self-complacency is flattered by hearing none but pleasant speeches, but your policy and your practice are already involving you in the gravest peril. Therefore, if such is your temper now, I have nothing to say; but if, apart from flattery, you are willing to hear something to your advantage, I am ready to speak" (εἰ δ' ἃ συμφέρει χωρὶς κολακείας ἐθελήσετ' ἀκούειν, ἕτοιμος λέγειν).

relationships. But sincerity and frankness in *parrhesia* are not inevitable in power relations either. Finally, the quarrel between Aesop, the slave, and his master Xanthus, the philosopher, in which the former reviles and ridicules the latter, is an example of the reversal of the known and expected imbalance of power between higher and lower social and economic classes. As A. J. Quiroga Puertas also notes, "late antique cultural elites needed to find a balance between the outspokenness that their status and ethos entitled them to and the potential retaliations of the emperors or governing figures to whom the invectives were addressed."[16] Frankness is not Aesop's most remarkable quality and ability; mischief is, which means, among other things, that he twists the truth about what others have said and done in order to ridicule Xanthus. I will return to the *parrhesia* below.

So while *psogos* can be a harsh and biting criticism, it can be noble, even educational, depending on the target audience (e.g. if it is made up of the speaker's peers in court or in the Assembly and aims to persuade them), invective is always aggressive, a violent series of attacks against individuals or groups of rivals aimed at destroying the targets by undermining, belittling, stigmatizing, and devastating the perception that others have of them. What Aphthonius defines as *psogos* in *Progymnasmata* 10.27 is, in my opinion, the most accurate definition of invective: "a discourse that expounds bad attributes. It differs from the common topic in that the topic invites punishment, while invective contains pure disparagement alone." It is not entirely clear to me why this distinction is made between punishment and disparagement; at the Athenian court the latter almost always aims to provoke the former. But in any case, the awareness of the effort to turn bitingly against a person in order to enable 'identity murder' succinctly describes the inherent nature of invective. If we pin down its definitions that have been proposed not only in classical scholarship, but also in interdisciplinary theory, we find that one characteristic recurs: violence. Invective is inherently violent, polemical, and immeasurably aggressive.

16 Quiroga Puertas 2022: 171.

For Kennedy, "invective is a statement expressive of inherent evils."[17] Dussol understands invective as a means of demolishing the image of individuals, institutions, and social groups through an act of verbal violence.[18] Schutz eloquently argues that "invective, ridiculing or insulting someone, becomes the substitute for violence. Political adversaries can express their anger, contempt, sense of difference without disrupting the fragile peace of political societies."[19] Arena defines invective as "a literary genre whose goal is to denigrate publicly a known individual against the background of ethical societal preconceptions, to the end of isolating him or her from the community."[20] The last brief definition and explanation of the concept of invective, which relies heavily on Koster's definition, is, in my opinion, flawed in one respect: by ascribing to invective the status of a genre and thus unnecessarily limiting its meaning, application, and function in the literatures of the whole world and in different times and cultural environments (e.g. ancient and contemporary literature; ancient Greek, Roman, Christian, European, Chinese). Rather, invective is a technique that can be used in various genres to denigrate individuals or groups, undermine their credibility, and cognitively (i.e. through thoughts and emotions) turn the audience against the target.[21]

The overarching nature of invective – its wide-ranging features, its integration into a variety of texts, and the multiplicity of purposes it serves – is underlined by the research findings of an ambitious, large-scale, transcultural, and intertextual project funded by the National Science Centre of Poland (grant number 2021/41/B/HS2/00755) and conducted at Nicolaus Copernicus University in Toruń. The project builds on and utilizes the findings of several multidisciplinary theories. It redefines invective as a cultural phenomenon that draws its meaning from the general cultural context of a given epoch (i.e. moral, legal, aesthetic, socio-economic, political, religious, and others) and examines it across a

17 Kennedy 2003: 10.

18 Dussol 2006: 164. In a similar vein, Powell 2007: 1-2; Novokhatko 2009: 12.

19 Schutz 1977: 67. On invective as a means of interpersonal violence, see also Riess 2012.

20 Arena 2007: 149.

21 There are still debates about whether invective should be considered a genre or a form of discourse, e.g. Powell 2007: 1-23.

broad spectrum – broader than in any other known project on the same topic – from extant verse and prose texts, fragments, and scholia from Homer to early Christian literature up to the fifth century AD. The project understands invective to be any form of argumentation aimed at denigrating the target and destroying identity, resulting in 'triangulation', a term that refers to how invective maintains communication between the speaker, their opponent(s) and the audience. For invective to work, a contract must be made between two parties: one who accepts the values and norms of the community the speaker is advocating in collaboration with the audience, and the other who flouts or violates them. The accusation that someone is impious capitalizes on the general hostility towards that person and the real fears people have of impiety, with the aim of turning judges and other audience members negatively against the speaker's opponents who are portrayed as impious.[22]

Several scholars have attempted to define the basic characteristics of invective. To my knowledge, Süss was the first to compile a list of these features: "servile heritage; barbarian (non-Roman) background; having a non-elite occupation; thievery; non-standard sexual behaviour; estrangement from family and community; melancholy disposition; unusual appearance, clothing, or demeanour; cowardice; bankruptcy."[23] For Craig, (Ciceronian) invective comprises the following features: embarrassing family origin; being unworthy of one's family; physical appearance; eccentricity of dress; gluttony and drunkenness, possibly leading to acts of *crudelitas* and *libido*; hypocrisy for appearing virtuous; avarice, possibly linked with prodigality; taking bribes; pretentiousness; sexual misconduct; hostility to family; cowardice in war; squandering of one's patrimony/financial embarrassment; aspiring to regnum or tyranny; cruelty to citizens and allies; plunder of private and public property; oratorical ineptitude.[24] More recently, Papaioannou & Serafim have re-examined how (Old) comedy is used in ancient Greek and Roman oratory to support attacks, focusing on particular patterns of *onomasti komoidein*,

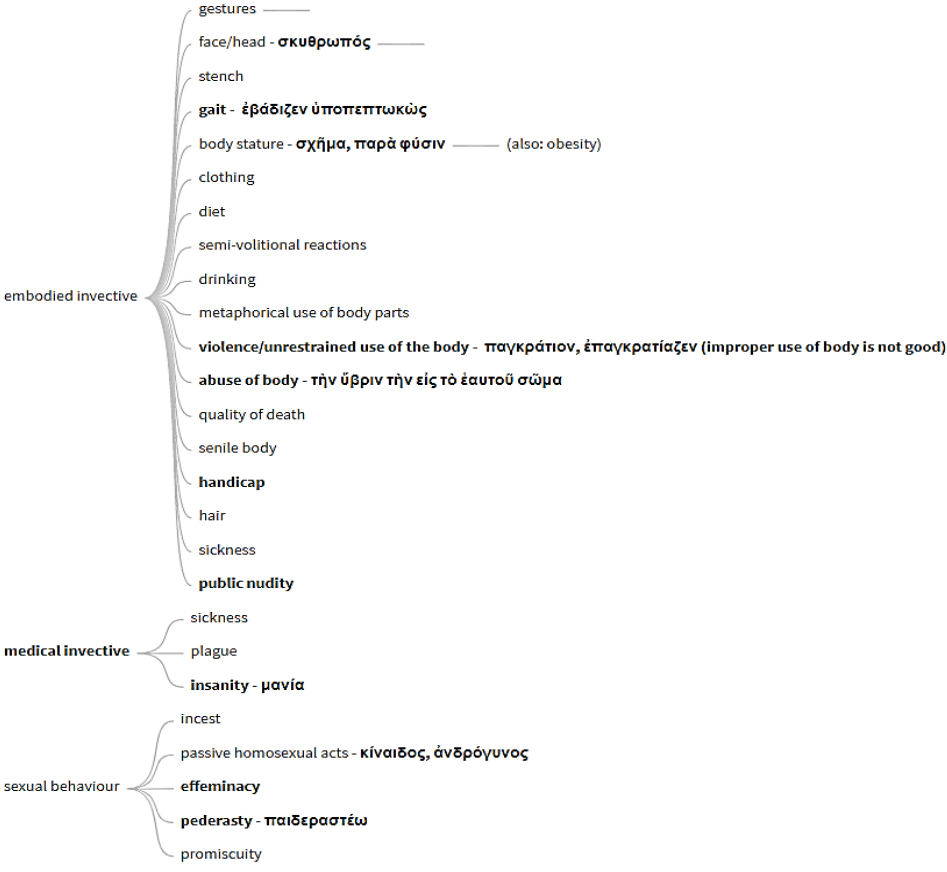
22 On impiety and the (legal, moral, and religious) reaction of the community: Serafim 2021.

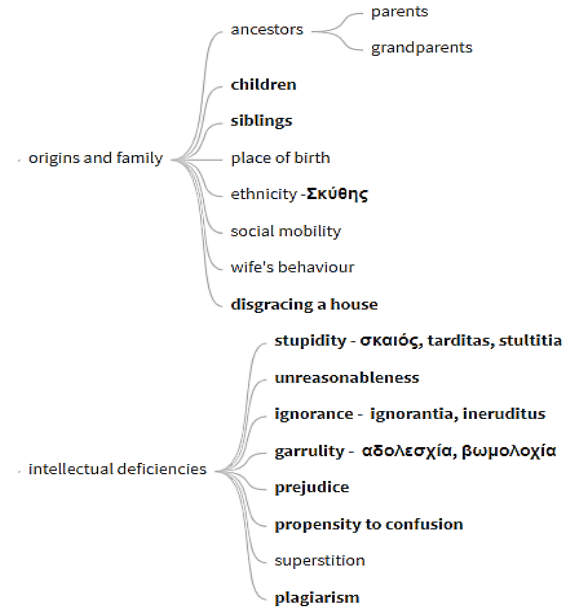
23 Süss 1920: 247-54. Also, Opelt 1965: 129; Corbeill 2002: 201.

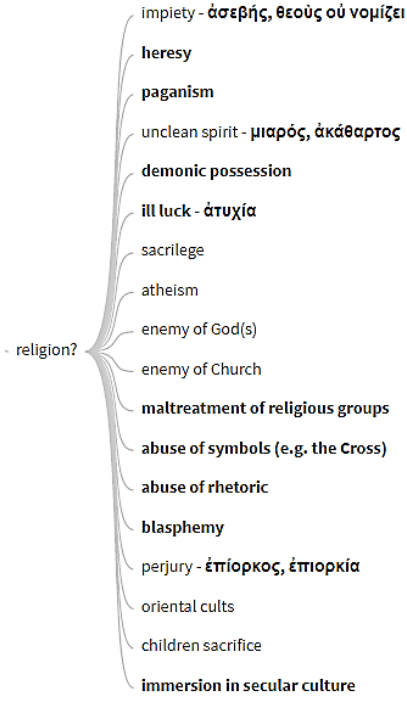
24 Craig 2004: 190-91.

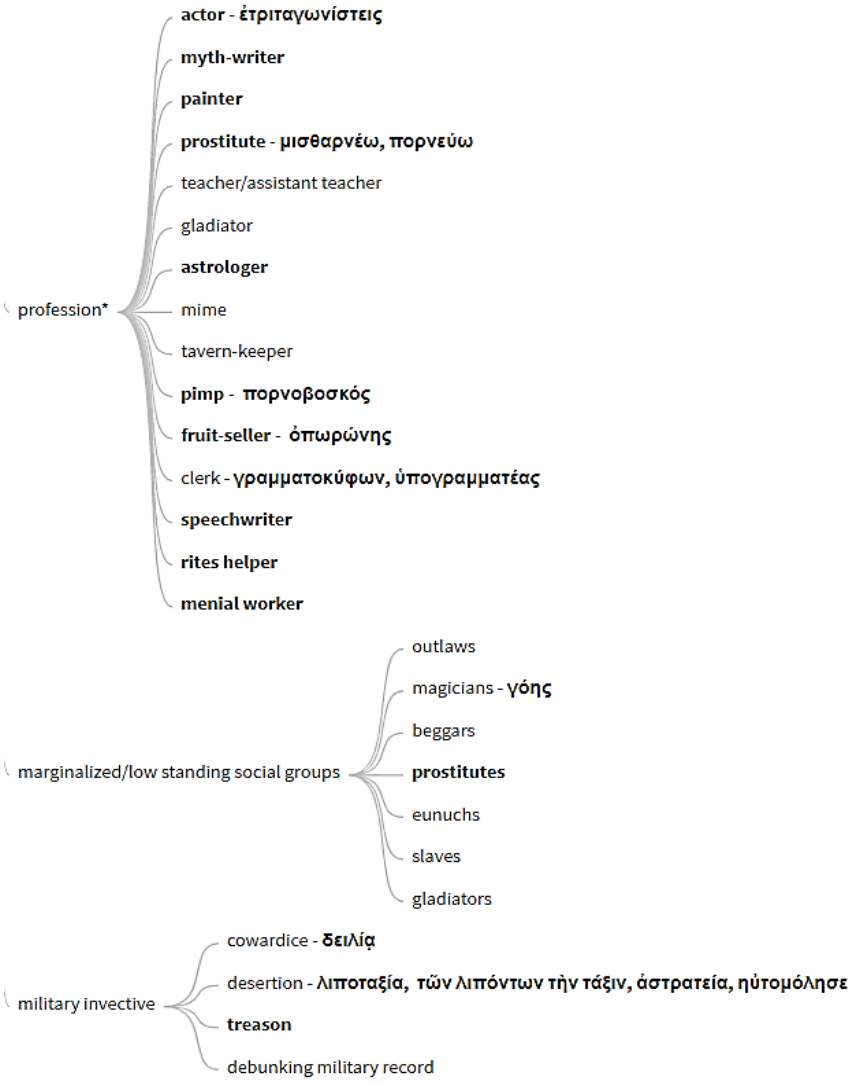
especially incongruity, language and imagery related to comedy, and stock comic characters.

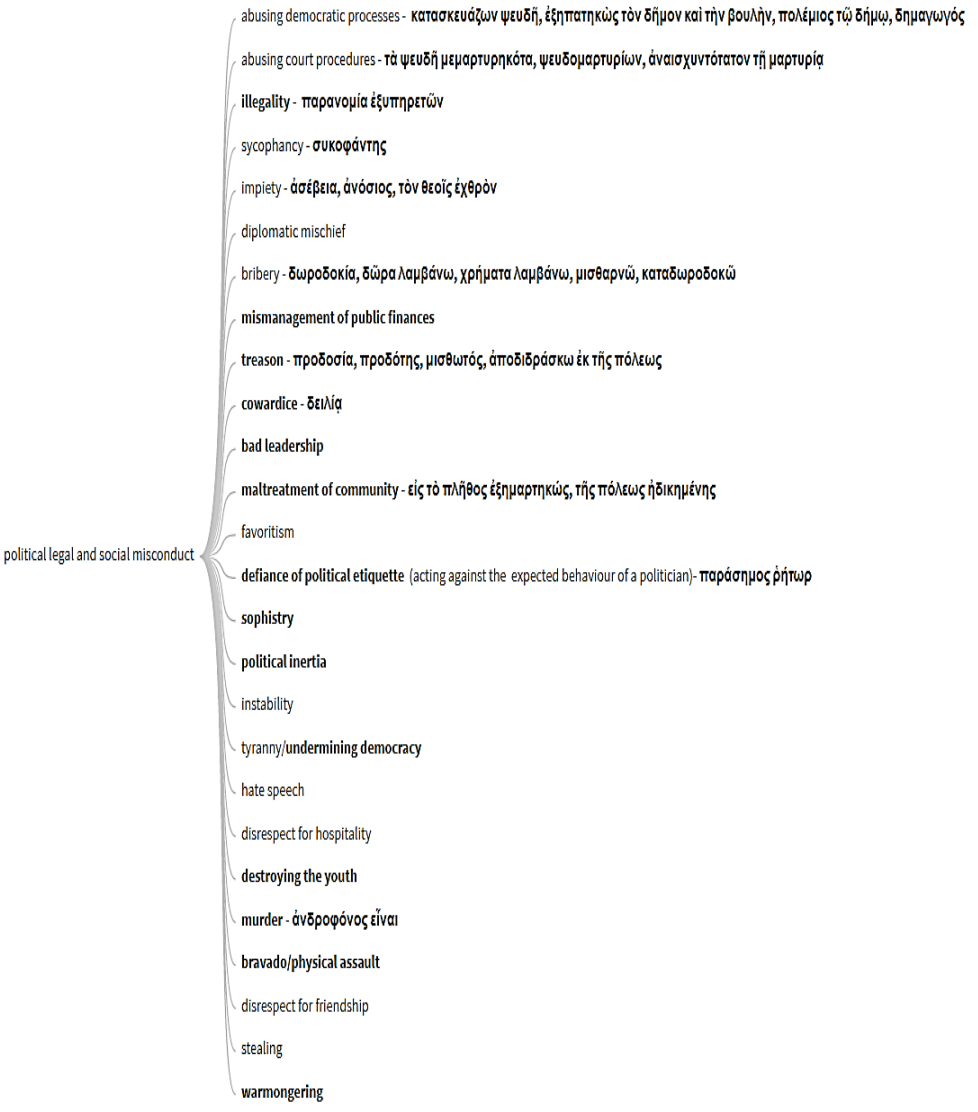
The Toruń project presents a more systematic and comprehensive list of features that fall into two overarching categories: content-based and form-based invective. The first category consists of and refers to cognitive/emotional themes and topics of invective, specifically sixteen subcategories that lead to numerous other patterns; the sixteen subcategories are, namely: embodied invective, medical invective, sexual behaviour, moral deficiencies, intellectual deficiencies, origins and family, religion, profession, marginalized/low standing social groups, military invective, political, legal and social misconduct, public perception of a person, economic invective, oratorical ineptitude, historical and mythological invective, and nature-based invective.




origins and family
ancestors
parents
grandparents
children
siblings
place of birth
ethnicity -Σκύθης
social mobility
wife's behaviour
disgracing a house
intellectual deficiencies
stupidity - σκαιός, tarditas, stultitia
unreasonableness
ignorance - ignorantia, ineruditus
garrulity - αδολεσχία, βωμολοχία
prejudice
propensity to confusion
superstition
plagiarism


religion?
impiety - ἀσεβής, θεοὺς οὐ νομίζει
heresy
paganism
unclean spirit - μιαρός, ἀκάθαρτος
demonic possession
ill luck - ἀτυχία
sacrilege
atheism
enemy of God(s)
enemy of Church
maltreatment of religious groups
abuse of symbols (e.g. the Cross)
abuse of rhetoric
blasphemy
perjury - ἐπίορκος, ἐπιορκία
oriental cults
children sacrifice
immersion in secular culture


profession*
actor - ἐτριταγωνίστεις
myth-writer
painter
prostitute - μισθαρνέω, πορνεύω
teacher/assistant teacher
gladiator
astrologer
mime
tavern-keeper
pimp - πορνοβοσκός
fruit-seller - ὀπωρώνης
clerk - γραμματοκύφων, ὑπογραμματέας
speechwriter
rites helper
menial worker
marginalized/low standing social groups
outlaws
magicians - γόης
beggars
prostitutes
eunuchs
slaves
gladiators
military invective
cowardice - δειλία
desertion - Λιποταξία, τῶν λιπόντων τὴν τάξιν, ἀστρατεία, ἠὐτομόλησε
treason
debunking military record


political legal and social misconduct
abusing democratic processes - **κατασκευάζων ψευδῆ, ἐξηπατηκὼς τὸν δῆμον καὶ τὴν βουλὴν, πολέμιος τῷ δήμῳ, δημαγωγός**
abusing court procedures - **τὰ ψευδῆ μεμαρτυρηκότα, ψευδομαρτυρίων, ἀναισχυντότατον τῇ μαρτυρίᾳ**
illegality - παρανομία ἐξυπηρετῶν
sycophancy - **συκοφάντης**
impiety - **ἀσέβεια, ἀνόσιος, τὸν θεοῖς ἐχθρὸν**
diplomatic mischief
bribery - **δωροδοκία, δῶρα λαμβάνω, χρήματα λαμβάνω, μισθαρνῶ, καταδωροδοκῶ**
mismanagement of public finances
treason - προδοσία, προδότης, μισθωτός, ἀποδιδράσκω ἐκ τῆς πόλεως
cowardice - δειλίᾳ
bad leadership
maltreatment of community - εἰς τὸ πλῆθος ἐξημαρτηκώς, τῆς πόλεως ἠδικημένης
favoritism
defiance of political etiquette (acting against the expected behaviour of a politician)- **παράσημος ῥήτωρ**
sophistry
political inertia
instability
tyranny/**undermining democracy**
hate speech
disrespect for hospitality
destroying the youth
murder - ἀνδροφόνος εἶναι
bravado/physical assault
disrespect for friendship
stealing
warmongering

The second overarching category of invective, the form-based one, consists of references to the stylistic, grammatical, and syntactic tropes through which cultural practice manifests itself in speech; the following table shows not only specific patterns of invective that lie within the broad category, but also key words that help to identify invective:

It is clear from the above that invective is inherently biting against people and has all kinds of evil intentions. It is therefore reasonable to think that despite the purely adversarial spirit of the community, as in fourth-century Athens where political and rhetorical disputes abounded in the context of public speaking, there should be limits to the practice to avoid interpersonal friction due to dishonouring individuals, which in turn would lead to general socio-political disorder. After all, *time*, roughly

translated as 'honour', was an important value in the Greek world: the opposite, 'shame', is an aversive experience that involves feelings of humiliation, inferiority, and worthlessness, and the transgression is interpreted as a reflection of a 'bad self' rather than a trivial incident."[25] *Atimia*, literally 'the lack of honour', was also "a penalty imposed on male Athenian citizens, principally if they were debtors to the state or had neglected their civic duties."[26] *Time* and the opposites are bestowed on people by others in different social contexts, from the *oikos* to the military camp and the battlefield.[27] As Mayer et al. point out, "shame [is] thought to serve as an 'emotional moral barometer' that provides feedback on one's social and moral acceptability,"[28] or, as other researchers put it just as eloquently, as "social pain" – just as severe physical pain indicates a medical condition that may threaten a person's life, social pain indicates that their social life is threatened by the anger, devaluation, and possible rejection of the population.[29] The *social identity theory* of Tajfel & Turner explains the power dynamics and effectiveness of this (and any other) technique of excluding individuals from a group or community by manipulating the cognitive/emotional response of the target group against them.[30]

So was it acceptable for an orator to make dishonourable accusations against his opponents, of the sort that Demosthenes does in 18.130, where it is implied that Aeschines' mother is a whore,[31] or of like Aeschi-

25 Mayer et al. 2021: 110.

26 Hansen 1991: 387; also: MacDowell 1978: 73-75.

27 Cairns 2021: 703-706. Cf. Cairns 1993; Konstan 2003: 601-30.

28 Mayer et al. 2016: 113.

29 Eccleston & Crombez 1999; Eisenberger et al. 2003; Miller 2007.

30 Tajfel & Turner 1979. Also: Miller et al. 1981: 494-511; Conover 1984: 760-85; Lau 1989: 220-23; Carey 1990: 49; Huddy 2003: 511-58; Hall 2006: 388; Arena 2007: 151.

31 Dem. 18.130: "Why it was only the day before yesterday when he became simultaneously an Athenian and an orator, and, by the addition of two syllables, transformed his father from Tromes to Atrometus, and bestowed upon his mother the high sounding name of Glaucothea, although she was universally known as Empousa, a nickname she owed to the pleasing diversity of her acts and experiences (ἐκ τοῦ πάντα ποιεῖν καὶ πάσχειν) – it can have no other origin." The name of Aeschines'

nes in speech 1, *Against Timarchus*, where the tables are turned on Demosthenes, the notorious, effeminate, and lewd Batalus, a *kinaidos* whose clothing is indistinguishable from that of a woman (1.131).[32] Timarchus lost his political rights in the trial of 343 BCE because of similar accusations. Were these extremely vile and insulting accusations acceptable or perhaps even tolerable in court, and where exactly, when public or private cases were heard? Was severe invective considered an example of *parrhesia*, and if so, were they unlimited?

The discussion about (positive and negative) free (and frank) speech in antiquity – *parrhesia* – and possible limits to this right,[33] or, as Konstan calls it, the "expectation" of a recurring socio-cultural phenomenon, which was fundamental to Athenian democracy, is not new in the study of antiquity. In an interesting parallel reading of sources that has led to different views being articulated and exchanged, Halliwell and Sommerstein present data in ancient sources on this complicated and fascinating topic in the memorable volume *Free Speech in Classical Antiquity* by Sluiter & Rosen (2004). Halliwell argues that comic theatre was the only ancient context in which performers enjoyed legal immunity from the charge of *kakegoria*, 'slander', a term similar to invective not only in terms of its aggressive and violent nature, but also in terms of its purpose, i.e., the purposeful insult and humiliation of others.[34] Sommerstein rejects this

mother is Glaucis; Glaucothea is a construction by Aeschines himself, who wanted probably to avoid the accusation that names of his parents are stock for lowly socio-economic classes in classical Athens. Empousa is a mythological monster of the underworld that changes form and, as a nickname, is usually used by prostitutes. As the monster changes form, so Aeschines' mother shows versatility in "doing and suffering everything" (ποιεῖν καὶ πάσχειν). See Yunis 2001: 187.

32 Aeschin. 1.131: "And well did common report name him Batalus, for his effeminacy and lewdness (Βάταλος προσαγορεύεται, ἐξ ἀνανδρίας καὶ κιναιδίας ἐνεγκάμενος τοὔνομα). For, Demosthenes, if anyone should strip off those exquisite, pretty mantle of yours, and the soft, pretty shirts that you wear while you are writing your speeches against your friends, and should pass them around among the judges, I think, unless they were informed beforehand, they would be quite at a loss to say whether they had in their hands the clothing of a man or of a woman." On sexual invective in oratory and allegations of *kinaidia*: Serafim 2016: 1-30; 2025: 37-45.

33 See Momigliano 1973: 259.

34 Halliwell 2004: 135.

argument of legal immunity and instead points to the socio-cultural tolerance of the Athenians as a reason for avoiding lawsuits against comic poets.[35] Essentially, both agree that the poets of comedy received no legal or other threats for uttering invective against (prominent) Athenian citizens in order to ridicule and belittle them in the eyes of their fellow citizens. The freedom of comedians to speak without legal or other cultural barriers thus seemed to be unlimited.

There is a point of caution here that scholars surprisingly ignore: *parrhesia* as a word is not used in comic texts or in other classical literature to describe the freedom of the comic poet to speak openly and frankly. The only classical source that makes the connection between *parrhesia* and comedy is Isocrates, *On the Peace* 14.[36] For Isocrates, *parrhesia* is a negative aspect of Athenian democracy, abused by reckless politicians and public speakers, and invoked by comic poets as a justification when accused of revealing the failure of the Athenian cultural system (this has the broadest meaning, encompassing everything that takes place in the city as a matter of constitution and general practice). In fact, Halliwell, Sommerstein, and Sluiter & Rosen should not refer to *parrhesia*,[37] but rather to 'comic license'. I am on the side of Riu when arguing "there is no indication that [the] Athenians of the classical period saw comic speech as an example of *parrhesia*, [which] does not pertain to comedy, it pertains to daily life (politics, social relations)."[38] The caricature of the divine and the use of profane and foul language is thus not an example of (socio-legal) *parrhesia*; it is the license that the comic dramatist has to

35 Sommerstein 2002: 154.

36 Isocrates, *On the Peace* 14: "But I know that it is hazardous to oppose your views and that, although this is a free government, there exists no 'freedom of speech' except that which is enjoyed in this assembly by the most reckless orators, who care nothing for your welfare, and in the theater by the comic poets. And what is most outrageous of all, you show greater favor to those who publish the failings of Athens to the rest of the Hellenes than you show even to those who benefit the city, while you are as ill-disposed to those who rebuke and admonish you as you are to men who work injury to the state."

37 In contrast, for example, to Rosen 2013: 13-28 referring to the notion of "comic *parrhesia*."

38 Riu 2022: online: https://brewminate.com/parrhesia-comedy-and-freedom-of-speech-in-ancient-greece/ (last access: June 2023).

exaggerate and distort reality and myth, a license conditioned by the character and etiquette of comedy as a genre. Even in Aristophanes' *Women at the Thesmophoria* 541, where the word *parrhesia* is used literally, this is merely an allusion to the absence of political codes and mores in women's speech. Riu successfully refutes scholastic claims about the connection between *parrhesia* and comedy, claiming that these are based primarily on the use of late sources, e.g. Demetrius, *On Style* 229, where 'outspokenness' is mistakenly understood as a reference to comedy.

What is certain is that *parrhesia* was not unlimited in public contexts of adversarial competition (including comic theatre).[39] *Parrhesia* etymologically means that one could 'say everything', but 'omni-spokenness' was limited by various exceptions and restrictions. It is Demosthenes, in the *Third Olynthiac* 4, who claims that the Athenians preferred 'pleasant speeches' (πάντα πρὸς ἡδονὴν ἀκούουσιν) to frank assessments of a deplorable situation (πάνυ φαύλως τὰ πράγματ' ἔχει); similarly, in *On the Peace* 14, Isocrates claims that there is no freedom of speech in the assembly except for the most foolish, and in the theatre for the comic poets. There were two major categories of constraint: *contextual* (in accordance with the performative contexts in which public speaking takes place and the values of the community) and *legal/constitutional*.

The *contextual constraint* on *parrhesia* corresponds to the reaction of the audience itself: both judges and audiences responded when speakers tried to explain their arguments – so said speakers on forensic and political platforms (e.g., Dem. 3.3 and 8.32, both mentioned above; Plato's *Apology of Socrates* 30c,[40] and elsewhere). That the Athenians habitually reacted negatively to the speakers whether at court (especially after incitement by the orator himself, as in Dem. 18.52)[41] or in the theatre (as in

39 See Kamen 2020: 39-41.

40 Plato, *Apology of Socrates* 30c: "Do not create a disturbance, gentlemen, but abide by my request not to cry out at what I say but to listen, for I think it will be to your advantage to listen, and I am about to say other things at which you will perhaps cry out. By no means do this."

41 Dem. 18.52: "But it is not so. How could it be? Far from it! I call you Philip's hireling of yesterday, and Alexander's hireling of today, and so does every man in this assembly. If you doubt my word, ask them; or rather I will ask them myself. Come, men of Athens, what do you think? Is Aeschines Alexander's hireling, or Alexander's friend?

Dem. 18.262)[42] is known as *thorybos*.[43] *Thorybos* is presumably what Demosthenes seems to be afraid of in 15.1, when he asks people to grant unrestricted *parrhesia* to speakers when they deliberate on measures that the *polis* should have taken: in political forums where public speaking were made, a speaker had little or no need to fear being sued, but there was a high probability that he would be booed and no longer able to explain and advise.[44] After all, as Demosthenes himself pointed out, it was the *demos* that assessed a speaker's reputation – if he was interrupted and his *parrhesia* was thus restricted, he would be considered dishonourable and would no longer be able to stand forward and speak again.[45] Heckling

You hear what they say." As the *Scholia Demosthenica* 104a-c report, the final period refers to the response of the audience: when Demosthenes mispronounced the word μισθωτός by putting the accent on the antepenult (μίσθωτος) the audience corrected him by uttering the right form of the word. Another anecdotal story about Demosthenes' strategic mispronunciation of words is recorded in Plutarch, *Lives of the Ten Orators* 845b, where we are told that the speaker mispronounced the name of the god Asclepius to note that this god is benign (Ἀσκλήπιος instead of Ἀσκληπιός). See further Couch 1944: 173-74; Tacon 2001: 178-79; Yunis 2001: 140; Serafim 2017.

42 Dem. 18.262: "You entered the service of those famous players Simylus and Socrates, better known as the Growlers. You played small parts to their lead, picking up figs and grapes and olives, like an orchard-robbing costermonger, and making a better living out of those missiles than by all the battles that you fought for dear life. For there was no truce or armistice in the warfare between you and your audiences, and your casualties were so heavy, that no wonder you taunt with cowardice those of us who have no experience of such engagements."

43 Bers describes *thorybos* as any vocal utterance (e.g. the cries of praise or censure) addressed to the speaker by the judges (*dicastic thorybos*) or by the bystanders (*coronal thorybos*). See further Bers 1985: 1-15; Thomas 2011: 175-85.

44 Dem. 15.1: "Your duty, men of Athens, when debating such important matters, is, I think, to allow freedom of speech to every one of your counsellors (διδόναι παρρησίαν ἑκάστῳ τῶν συμβουλευόντων). Personally, I never thought it a difficult task to point out to you the best policy – for, to speak plainly, you all seem to me to have discerned it already – but rather to induce you to put it into operation; for when a resolution has been approved and passed, it is no nearer accomplishment than before it was approved."

45 Dem. 18.277: "But I am sure you all know him well and will regard those epithets as more appropriate to him than to me. I am also sure that my artfulness – well, be it so; although I notice that in general an audience controls the ability of a speaker, and that his reputation for wisdom depends upon your acceptance and your discriminating favour."

seemed to be a serious problem, because not only the *demos* but also listeners who were hostile to the speakers may have reacted violently against them in order to deprive them of the opportunity to speak at all, e.g. Dem. 19.23.[46]

Another important aspect of the contextual category of the constraints of *parrhesia* is the etiquette of the performative context that the 'parrhesiastes' must follow – an etiquette defined and determined by the incentives and goals of the performers and the socio-cultural values held by the community as a whole. Demosthenes, for example, repeatedly assumes the role of counsellor to the *demos* in his speeches, claiming that his interest lies solely in advising the Athenians on how to overcome a challenge in political affairs and preserve their city's hegemonic role in Greece, especially when it came to persuading his fellow Athenians to defend themselves against foreign threats, as Philip and the kingdom of Macedon were posing. In 18.172-73, to cite just one passage that illustrates Demosthenes' tactics, he described the panicked reactions of the Athenians when the news of Philip's capture of Elatea was announced, claiming that he was the only one capable of standing up in the Assembly and advising the Athenians on how to deal with their enemy.[47] Therefore, the audience should not accuse the speaker of malice or habitual indulgence in blame and abuse. This is why Demosthenes emphatically ascribes frankness to *parrhesia*, as mentioned above: to dispel any worries and accusations of malice and to minimize the risk that *psogos* entails – it

46 Dem. 19.23: "And so, in all the glory of these disclosures, with everybody regarding him as a grand speaker and a marvellous man, he descended from the tribune in his most majestic manner. Then I rose and said that the whole story was news to me. I attempted to repeat the statement I had made to the Council; but Aeschines and Philocrates posted themselves one on either side of me – shouting, interrupting, and finally jeering. You were all laughing; you would not listen to me, and you did not want to believe anything except what Aeschines had reported."

47 Dem. 18.172-73: "But, it seems, that day and that crisis called not only for the patriot and the rich man, but for the man who had followed the course of events from the beginning and had calculated correctly the reason and purpose of Philip's actions. For anyone who had not grasped those purposes, or had not studied them long beforehand, however patriotic, and however wealthy he might be, was not the man to appreciate the needs of the hour, or to find any counsel to offer to the people. Well, I was the man who came forth on that day and addressed you." On this passage and the role of Demosthenes as an advisor to the Athenians: Serafim 2015: 103-5.

is not vituperation but pedagogical criticism, a biting speech that makes the *demos* wiser when it comes to thinking about his interests and making better decisions. But as the preceding discussion of the issue of frankness (p. 107) shows, this is not necessarily an aspect of *parrhesia*, not least because it is served up to the *demos* through rhetoric, the usual suspect when it comes to distorting truth and manipulating people for the purpose of persuasion.

The key to a proper understanding and full appreciation of *parrhesia* is the balance between what can be perceived as 'harsh sincerity', as I call it, which risks causing offence and stirring up hostility against the source, and flattery. This is what Plutarch underlines in *How to Tell a Flatterer from a Friend*: a 'parrhesiastes' should preserve his character against the malleability of a flatterer, who changes his behaviour according to the audience he wants to attract through flattery, while a friend can be both agreeable and the opposite, depending on the interests of his counterpart that he wants to protect and promote.[48] Personal incentives and goals are again important in making this clear distinction: a friend, even when criticizing his audience, is never insulting or trying to undermine, embarrass, and over-accuse anyone; he exercises *psogos* when necessary, but never invective, in other words. References to *parrhesia* in oratory, such as those mentioned above, show that speakers were aware of the nature of socio-political and cultural practice and the risks involved, and therefore carefully weighed and articulated invective – essentially limiting *parrhesia* (to themselves) – so as not to offend and alienate the audience. Saxonhouse argued in *Free Speech and Democracy in Ancient Athens* that *parrhesia* coincides with *aidos*, 'shame', which causes people, especially public speakers, to respect the values and mores of the community that produce and manifest in public opinion.[49] So, it is the speaker and

48 Konstan 1997 offers a detailed and careful description of the behaviour and attitude of friends as opposed to flatterers.

49 Saxonhouse 2006. Cf. Tarnopolsky 2010: 99: "The recognition inherent to the feeling of being ashamed before another can consist in the acknowledgment that a deserved rebuke or reproach has been given by the other. And this kind of respectful shame is manifested in both the democratic ideal of *parrhesia* and the Socratic shaming *elenchus*."

how he understands himself in the community that contextually determines the character, the forms, and the limits of *parrhesia*.

On the legal/constitutional side, we have cases such as Lys. 10, *Against Theomnestus* (403 BCE), which conceptualize the law of *kakegoria*: the case is an accusation against Theomnestus, who had slandered the speaker by accusing him of patricide. Attic law incriminated certain sayings and gave the targets of invective and slander the right to protect themselves: accusations of murder, forms of *hybris* (including physical assault) in public places, the slander of the dead, the abuse of parents, even biting comments against those working in the agora (at least according to an obscure and enigmatic reference in Dem. 57.30).[50] The law of *kakegoria* is also mentioned in Dem. 21.32, where it is stated that assault or slander against private individuals would lead to an indictment (γραφὴν ὕβρεως καὶ δίκην κακηγορίας), while slander against a magistrate would also lead to the complete cancellation of political rights (ἄτιμος ἔσται καθάπαξ). Kamen, in a recent book on insults in classical Athens, argues that not all insults are offensive. She points out that there are "benign insults," especially those that were used in the agora between Athenians without legal consequences, and those that relate to religious and ritual customs – the so-called *aporrheta*,[51] or, in the Demosthenic language, the *arrheta*, "things that should not be uttered" (22.61). This is in line with Aeschin. 1.37-38, [52] where the speaker complains that by describing

50 Dem. 57.30: "With regard to my mother (for they make her, too, a reproach against me) I will speak, and will call witnesses to support my statements. And yet, men of Athens, in reproaching us with service in the market Eubulides has acted, not only contrary to your decree, but also contrary to the laws which declare that anyone who makes business in the market a reproach against any male or female citizen shall be liable to the penalties for evil speaking."

51 Kamen 2020.

52 Aeschin. 1.37-38: "And I beg you to pardon me, fellow citizens, if, compelled to speak about habits which by nature are, indeed, unclean, but are nevertheless his, I be led to use some expression that is as bad as Timarchus' deeds. For it would not be right for you to blame me, if now and again I use plain language in my desire to inform you; the blame should rather be his, if it is a fact that his life has been so shameful that a man who is describing his behavior is unable to say what he wishes without sometimes using expressions that are likewise shameful. But I will try my best to avoid doing this."

Timarchus' profanities, he runs the risk of being defamed himself (cf. *Rhetoric to Alexander* 1441b20-23; Dem. 21.79).

There are, however, notable departures from what scholars generally consider falling into the broad category of *aporrheta/arrheta*. If accusing an opponent of mistreating his parents is an aspect of the 'non-told', why do speakers include such accusations in their speeches? In the case of Dem. 18.130, quoted above, there is a (tacit, but nevertheless easily recognizable) reference to the (alleged) profession of Aeschines' mother, who was a prostitute. In Dem. 25.54-55 there is also a reference to the person concerned abusing his father, mother, and other family members.[53] And why was it offensive to refer to those who worked in the agora and not to a woman who is presented as a prostitute? The answer, which may indicate how the Athenians adjusted the degree of harshness attributed to the cultural phenomenon of invective, probably centres on two variables: the target and the audience. Invective seems to be (at least partly) an individual process: it depends on the extent to which the victim of invective found it dishonouring, not on the language or the nature of the attack itself; and on how the audience perceives it – whether it is persuasive or not, i.e. whether it helps the judges and spectators to form or change their opinions about the speakers and opponents. If the target was a woman, as in Dem. 18.130, she would not have been able to listen to the slanderous sayings, let alone defend herself, as there were no female political rights or voice in the Attic rule of law. Even in a male-dominated audience, no one would have felt offended by such a reference and demanded that the *kakegoria* be tried in court. Only Aeschines, the son of

53 Dem. 25.54-55: "The sequel too, men of Athens, is worth hearing. What you have just heard from Lycurgus is serious, or, rather, impossible to exaggerate, but the rest will be found to rival it and to be of the same character. Not content with abandoning his father in prison when he quitted Eretria, as you have heard from Phaedrus, this unnatural ruffian refused to bury him when he died and would not refund the expenses to those who did bury him but actually brought a lawsuit against them. Not content with offering violence to his mother, as you have just heard from witnesses, he actually sold his own sister – not indeed a sister by the same father, but his mother's daughter, whatever her parentage (for I pass that by) – yes, sold his sister for export, as is stated in the indictment of the action which was brought against him on these grounds by his good brother here, who in the present action will help to defend him."

Glaucis or Glaucothea, would have felt ashamed, but that was the purpose of Demosthenes in speech 18 anyway. He would supposedly have been able to bring a charge of *kakegoria* against Demosthenes, but after the end of the crown trial, in which he had lost overwhelmingly to his opponent, he had strength and will for nothing other than self-exile. The fact that women were not recognized as legal and political persons would greatly discourage Aeschines from taking legal action against his foul-mouthed accuser. Demosthenes rightly regards the verbal attacks against his mother as insulting and dishonouring, as Meidias' outburst in 21.79 also clearly shows (ῥητὰ καὶ ἄρρητα κάκ' ἐξεῖπον), but I doubt that he can do anything other than express his dissatisfaction or indignation at these attacks.[54] For the law of *kakegoria*, as quoted in Dem. 57.30, indicates that the right to complain is given when the accusation against men and women alike is merely the specific one of labour in the *agora*.[55]

The same applies to Androtion's fellows, who are portrayed in Dem. 22.61 as being humiliated by him and even accused of being married and fathering children with a prostitute.[56] Invective in this text is superbly

54 Dem. 21.79: "And first they forced the doors of the apartments, assuming that these became their property by the terms of the challenge; next in the presence of my sister, who was a young girl still living at home, they used foul language such as only men of their stamp would use – nothing would induce me to repeat to you some of their expressions – and they uttered unrestrained abuse of my mother and myself and all my family. But what was more shocking still, from words they proceeded to deeds, and they were going to drop the lawsuits, claiming them as their own, to oblige my guardians."

55 Dem. 57.30: "With regard to my mother (for they make her, too, a reproach against me) I will speak, and will call witnesses to support my statements. And yet, men of Athens, in reproaching us with service in the market Eubulides has acted, not only contrary to your decree, but also contrary to the laws which declare that anyone who makes business in the market a reproach against any male or female citizen shall be liable to the penalties for evil speaking."

56 Dem. 22.61: "Then do you suppose that all these men are his inveterate enemies merely because he collected this money from them? Is it not rather because he said of one of them, in the hearing of all of you in the assembly, that he was a slave and born of slaves and ought by rights to pay the contribution of one-sixth with the resident aliens; and of another that he had children by a harlot; of this man that his father had prostituted himself; of that man that his mother had been on the streets;

formulated: the attack against the target is severely dishonouring because it casts doubt on his origins, as do the accusations that Aeschines makes against Demosthenes that he is Scythian. These attacks cast doubt on the target's ethnicity, not least because of Pericles' citizenship law (451/0 BCE), according to which "a person should have citizenship only if both parents had been citizens" (*Constitution of Athens* 26.4; cf. Plutarch, *Pericles* 37.3). In view of the reference to his own mother, however, the attack was possibly unobjectionable in terms of the rule of law. Attacks against male siblings of the speakers, and even against their father, have legal consequences. The speaker in Dem. 22.2, for example, accuses Androtion of slanderously accusing him of having killed his father.[57] In §3 it is mentioned that the indictment is being judged and that Androtion did not even manage to obtain one fifth of the dicastic votes.[58]

Other suable accusations would have been those against the military records of individuals, e.g. the accusation against individuals of having thrown away their shields in battle. I echo Kamen, who argues in her book on insults that speakers are clever enough not to frame the accusation with this overly insulting wording but rather accuse their opponents of abandoning the front line. An example of this skillful rephrasing is the accusation against Demosthenes in Aeschin. 2.148.[59] Aeschines is

that he was making an inventory of one man's peculations from the start of his career, that another had done this or that, and that a third had committed every conceivable crime – slandering them all in turn?"

57 Dem. 22.2: "He accused me of things that anyone would have shrunk from mentioning, unless he were a man of the same stamp as himself, saying that I had killed my own father."

58 Dem. 22.3: "Of these charges, then, I cleared myself in your court, not by a narrow margin but so completely that my accuser failed to obtain a fifth of the votes; and upon Androtion I shall endeavor, with your help, to avenge myself today and on every other occasion."

59 Good examples of subtle phrasing of the accusation against people of being throwing shields away can also be found in comedy, particularly in Aristophanes. In *Birds* 1478-1481, for example, Cleonymus, who is said to have thrown away his shield, is described as a tree that sheds shields instead of leaves in winter (τὰς ἀσπίδας φυλλορροεῖ).

probably referring to the battle in Euboea in 350 BCE, at which his opponent was not present.[60] As Demosthenes himself reports (*Against Meidias* 103), Euctemon was instructed by Meidias to bring a trumped-up charge against him and accuse him of not having taken part in a campaign to Euboea. Demosthenes would theoretically have been able to take legal action against Aeschines, but the case would have been very risky for himself if he had been investigated; if he had been convicted of desertion, he would have lost his political rights (γραφή λιποταξίου). He himself mentions the accusation of desertion, which Meidias allegedly levelled against him, only in passing, as in 21.103.[61] It can therefore be said that the attacks on opponents were carefully articulated by the speakers, either by attacking people (e.g. women) who had no political or legal rights, or by focusing on accusations that the accused did not wish to mention further or investigate publicly. The insults thus served the speakers' purposes without the risk of being brought to court for *kakegoria*.

The case of a physical attack on the producers of insults cannot, of course, be ruled out, as Demosthenes himself informs us in 21.71.[62] The speaker in Isoc. 16.22 would be so indignant at those who dared to insult his dead father's private life and affairs that the judges would be lenient with him if he were put on trial for attacking his accusers – this is no mere act of fantasy, given what other sources tell us, e.g. Aristophanes'

60 This is not the only time that Demosthenes was accused of failing to fulfil his military duties properly: Aeschines and Dinarchus also accused him of deserting during the battle of Chaeronea (cf. Aeschin. 3.148, 152, 159, 175-176, 187, 244, 253; Din. 1.12, 71, 79, 91).

61 Dem. 21.103: "How he trumped up a charge of desertion against me and bribed another to bring the action – a scoundrel ready for any dirty job, the filthy Euctemon – that I shall pass over."

62 Dem. 21.71: "You cannot retort that such acts have never had any serious consequences, but that I am now exaggerating the incident and representing it as formidable. That is wide of the mark. But all, or at least many, know what Euthynus, the once famous wrestler, a youngster, did to Sophilus the prize-fighter. He was a dark, brawny fellow. I am sure some of you know the man I mean. He met him in Samos at a gathering – just a private pleasure-party-and because he imagined he was insulting him, took such summary vengeance that he killed him.1 It is a matter of common knowledge that Euaeon, the brother of Leodamas, killed Boeotus at a public banquet and entertainment in revenge for a single blow."

Clouds 1373-76.[63] Fear may have limited the orators' freedom to *parrhesia*, but its influence cannot be measured and recalled with certainty and universally, as it is mostly circumstantial – it is tailored to one-off (not necessarily repeated) circumstances of one-off occasions. The rule was – and rightly should be – to bring the *hybristes* before the court, as stated in Dem. 21.76 and 54.18;[64] after all, the speaker in Isoc. 16.22 would have known well himself that to insult the dead was a severe breach of the Attic law that he could exploit to the best benefit.

In what follows, I examine selective texts from forensic public and private court speeches to recognize the patterns and aims of invective and to examine whether there are strong differences that can be attributed to the different character and content of the speeches. My examination of the use of comic invective in public and private forensic speeches of Attic oratory suggests two conclusions: that the patterns and techniques are the same, unaffected by the distinction between public and private speeches, even if the examples of comic invective in private cases are somewhat more implicit and allusive than those in public cases; and that the frequency is different – higher in the former contexts and

63 Isoc. 16.22: "But my father's private life they revile with excessive indecency and audacity (λοιδοροῦσι δὲ λίαν ἀσελγῶς καὶ θρασέως), and they are not ashamed, now that he is dead, to use a license of speech concerning him which they would have feared to employ while he lived." Aristophanes, *Clouds* 1373-1376: [Strepsiades] "And he immediately sang a passage of Euripides, how a brother, O averter of ill! Debauched his uterine sister. And I bore it no longer but immediately assailed him with many abusive reproaches. And then, after that, as was natural, we hurled word upon word. Then he springs upon me; and then he was wounding me, and beating me, and throttling me."

64 Dem. 21.76: "I think that you should set up a precedent for all to follow, that no one who wantonly assaults and outrages another should be punished by the victim himself in hot blood, but must be brought into your court, because it is you who confirm and uphold the protection granted by the laws to those who are injured." 54.18: "And I am told that these [actions for evil-speaking] are instituted for this purpose – that men may not be led on, by using abusive language back and forth, to deal blows to one another. Again, there are actions for battery; and these, I hear, exist for this reason – that a man, finding himself the weaker party, may not defend himself with a stone or anything of that sort, but may await legal redress. Again, there are public prosecutions for wounding, to the end that wounds may not lead to murder."

lower in the latter.[65] In contrast to the chapter on the features of comic invective (e.g. incongruity, parody of tragic forms and patterns, use of comic characters, allusions to sexuality, body stature, origin and family), this paper offers a more comprehensive examination of the sixteen categories of invective I have mentioned above – which of them are used, where, how, and for what purpose.

Invective is very much tailored to the specific legal and historical (e.g. political, economic, or military) circumstances that each speech or group of speeches (e.g. Dem. 18 and 19 factually revolve around the same political background) have. It is noticeable, however, that in public and private forensic speeches, invectives are articulated in the same rhetorical manner, which falls into the next two broad categories:

(1) *political, legal, and social misbehaviour*: references to mistreatment of the civic/ethnic community by the speaker's opponents through actions involving bad leadership or political operations; accusations of sycophancy, treason, bribery, undermining democracy or attempting to impose oligarchy; and illegality in general; and harsh criticism of abuse of legal and democratic processes and the commission of diplomatic mischief;
(2) *moral failings:* falsity/trickery, malice, shamelessness and impudence, corruption, belligerence, selfishness, i.e. acting as a private individual rather than as *polites*, and forms of lawlessness, e.g. theft.

Other less frequently used patterns include *religion* (i.e. irreverence and hostility towards the gods, blasphemy and perjury); *origin and family* (especially references to parents' abuse); *military invectives* (especially when speakers expose the alleged military misdeeds of their opponents); *professions* (especially when allegations of menial and degrading jobs are made); *economic invectives* (i.e. greed for profit, excessive wealth, luxurious consumption, or debt to the city and mismanagement of public finances); *embodied invective* (e.g. references to face, gait, and dress, and violence/unrestrained use of the body); *historical and mythological invective* (e.g. assimilation to evildoers of the past); *intellectual deficiencies* (e.g.

65 Serafim 2021c: 65-79.

ignorance); and *nature-based imagery* (especially when opponents are compared to wild beasts or animals).

Despite remarkable similarity in the use of themes and topics of invective in both public and private forensic contexts (with a few occasional differences), the frequency varies: it is higher in the first genre category (with a rate of 35.54%) and lower in the second (33.89%). The frequency is calculated by the quotient of the number of paragraphs containing examples of invective and the total number of sections in public and private speeches: I counted 606 sections with patterns of invective out of the 1705 sections containing all of Demosthenes' public speeches and 540 examples of invective in the 1593 sections comprising the private speeches. Of course, patterns and examples of invective are not used with equal frequency in all of Demosthenes' public speeches: *On the Crown*, *On the False Embassy*, and *Against Timocrates* are the speeches in which expletives are used more frequently, almost in every single section of the surviving manuscript. However, in *Against Leptines*, the first public speech Demosthenes delivered as a secondary speaker (*synegoros*), invective is used less frequently than in any other of the public speeches. This is due to the special circumstances of the speech: the speaker is asking for the repeal of a law proposed by the defendant so that no one has the right to a special exemption from paying public dues, the so-called liturgy. Because Leptines had proposed the law in 356/5 BCE, and more than a year had passed since then until the trial in 355/4, he no longer had to answer for the accusation of having proposed an unconstitutional and inexpedient law (the trial was based on a *graphe nomon me epitedeion theinai*). This made the invectives against Leptines rather pointless, scholars argue.[66]

However, this is not entirely correct. I have found that personal insults are only used in a limited number of passages:

66 See, for example, Canevaro 2016: 19.

102	intellectual deficiencies	ignorance
104	moral deficiencies	insulting the dead
113, 119	invective is not directed specifically against Leptines (abstract subject, e.g. someone, some people)	
134	political legal and social misconduct	maltreatment of community
142	moral deficiencies	belligerence
143	intellectual deficiencies	ignorance

Invective in §104 is interesting because it falls into the general category of harsh, insulting, and deeply intolerable invective: against the dead. Let us read the text:

> καὶ μὴν κἀκεῖνος τῶν καλῶς δοκούντων ἔχειν νόμων Σόλωνός ἐστι, μὴ λέγειν κακῶς τὸν τεθνεῶτα, μηδ' ἂν ὑπὸ τῶν ἐκείνου τις ἀκούῃ παίδων αὐτός· σὺ δὲ ποιεῖς, οὐ λέγεις κακῶς τοὺς τετελευτηκότας τῶν εὐεργετῶν, τῷ δεῖνι μεμφόμενος καὶ τὸν δεῖν' ἀνάξιον εἶναι φάσκων, ὧν οὐδὲν ἐκείνοις προσῆκεν. ἆρ' οὐ πολὺ τοῦ Σόλωνος ἀποστατεῖς τῇ γνώμῃ;
>
> Again, there is another excellent law of Solon, forbidding a man to speak ill of the dead, even if he is himself defamed by the dead man's children. You do not speak ill of our departed benefactors, Leptines; you do ill to them, when you blame one and assert that another is unworthy, though these charges have nothing to do with the dead men. Are you not very far from the intention of Solon?

The focus of this passage is on Leptines himself, not on the unconstitutional law that he proposed. Demosthenes claims quite grandly that it was he who unjustly and unjustifiably insulted the dead. The fact that Leptines is an unknown figure – at least to modern students of oratory – gives the orator the freedom to attack him as harshly as he thought this attack would be persuasive. The anonymity made it necessary for the speaker to put the person in the spotlight by making him acting and active subject of the sad consequences that his law allegedly causes. This attack need not be evenly articulated, from the exordium to the peroration of the speech, to convince the judges of the inappropriateness of the

law. Invectives, if they are pointed out and well formulated, as is this case here, achieve their purpose very well. The antithesis between Leptines and Solon, and metaphorically also between present decadence and past splendour, reinforces the focus on the person of the former that Demosthenes is trying to achieve. The antithesis is probably fuelled by the fact that there were laws in Athens attributed to Solon, which forbade speaking ill of the dead (cf. Dem. 20.104, 40.49; Plut. *Sol.* 21.1). The dead were considered sacred (Plut. *Sol.* 21.1: τοὺς μεθεστῶτας ἱεροὺς νομίζειν).

Accusations against opponents of mistreating parents are not uncommon in Attic oratory. What strikes me is the accumulation of this accusation in four consecutive passages in Demosthenes' *Against Boeotus* 2 (speech 40).

Against Boeotus 2	Boeotus/ Mantitheus	Demosthenes	46	moral deficiencies	insulting the dead
Against Boeotus 2	Boeotus/ Mantitheus	Demosthenes	47	moral deficiencies	insulting the dead
Against Boeotus 2	Boeotus/ Mantitheus	Demosthenes	48	moral deficiencies	insulting the dead
Against Boeotus 2	Boeotus/ Mantitheus	Demosthenes	49	moral deficiencies	insulting the dead, shamelessness

The accumulation helps to convey a consistent and forceful message to the audience that the defendants are guilty of a devastating legal offence. In §47 and §49, note that the verb βλασφημέω is used to refer to the illegal act of insulting dead parents: "but in truth are not children of their supposed fathers, quarrel with them without scruple while they live, and think nothing of slandering them when they are dead" (περὶ τεθνεώτων αὐτῶν βλασφημοῦντες). Although the verb generally means 'to speak ill of' and 'to slander' (as in Dem. 18.10), it also has a religious dimension, as in Pl. *Resp.* 381e: εἰς θεοὺς βλασφημῶσιν. Religious undertones accompany, if only tacitly, the word in the context of Dem. 40.47. In principle, invectives with a religious flavour take all kinds of forms and are omnipresent in speeches, such as references to one's impiety. In Andocides, *On the Mysteries* 33, it is mentioned that punishment in an impiety trial leads to the revocation of the right to enter the temples of the gods. Legal

offences or crimes, such as insulting the dead for sure, are often presented as serious religious crimes.[67] This is to emphasize that the targets of criticism are destined to be punished by the gods for the offence, and that people should do their best to comply with the divine will within the framework of their rule of law. An offence, even if committed by an individual, risks the punishment of the entire community. There were therefore serious legal consequences for offenders, ranging from the death penalty to banishment, loss of political rights (*atimia*) and confiscation of property. The Athenians considered it not only their right but also their duty to punish (individual) impiety offences if they did not want to anger the gods or turn them against the entire community (Antiph. 4.1.3; Isoc. 16.6; Lys. 6.3, 10, 53; Eur. *Phoen.* 69-74; Hdt. 7.133-137; Xen. *Hell.* 5.2.32, 5.4.1).[68]

The fact that accusations of impiety are levelled against the speakers' opponents in both public and private speeches, as Dem. 40 indicates, means that, as mentioned earlier in this paper, the same patterns of invective are used in public and private speeches without any drastic distinction. This also applies to the other categories of invective that I have already mentioned in this article. The attribution of sycophantic practices to opponents is an example of invective used in both the public and private spheres, as are references to moral accusations such as the spreading of lies, the propensity for immoral company, excessive consumption, debt to the city, origin, family and disregard for familial ties, the unrestrained use of the human body as a means of physical assault, nature, and examples of formal invectives such as the use of insulting epithets. Even bad or failed leadership, which at first sight seems to fit more in the context of public speeches, also appears in private speeches, e.g. in 50.29, 37, 58, 66, where Polycles is presented as refusing to take a vessel from the speaker and fulfil his duties concerning the liturgy. The considerable overlap in the thematic features of invective suggests that,

67 The connection between legality and religiosity is particularly evident in the case where impiety is caused by the murder of a person, as in Dem. 23.40; according to Draco's homicide law (cf. *IG* I^3 104), the punishment is the cancellation of the right to enter the temples of the gods.

68 Serafim 2021a: 38.

as mentioned at the beginning of this article, the cultural differences between public and private life are not as pronounced as modern scholars claim – and this is inevitably reflected in literature.

A small and partial difference in the articulation of invective centres on the techniques used to give concrete form to the abstract accusation that opponents 'mistreat the community'. This involves a broad category of techniques; I call it protean because, like Proteus, it has many faces, depending on the context and the purpose the speaker wishes to pursue with it. It is used in both public and private speeches, but with a slight differentiation in form: in public court speeches it usually refers to legal and political matters (as in Dem. 19.284, 302, 310), as well as in private cases (e.g. 43.71-72; cf. Lys. 30.9, where the extraordinary accusation of subversion of democracy is made, which occurs frequently in public cases). In private contexts, however, it also refers to economic issues, as in Dem. 38.26 (and implicitly in other private speeches, as in Lys. 29.10). This is of course not surprising, since in private speeches economic matters between private individuals are addressed and legalized. The references to debts to the city, which occur in both public and private court speeches, may of course suggest mistreatment of the community, but in private speeches the mistreatment is even more clearly expressed, as in 38.26: "those who, while performing public services, have squandered their own property, bring the city into disrepute instead of rendering her service."

Another difference in technique concerns the way in which reference is made to people suffering from madness: in both categories of speeches, they are rarely used, but only in private speeches are they more explicit and pronounced. In public speeches, I have found only two examples of such accusations: 18.324 and 25.32. Neither of them is as emphatic and forceful as the two examples in private speeches: 36.48 and 48.52-56. The difference in the way these accusations are made arises from the use of language: in the public speeches, madness is either made implicit, as in 18.324, or not in strongly biting terms, as in 48.52-56, where the term ἀπόνοια is used, which does not necessarily mean 'madness' as such, but literally 'lack of sense' or 'loss of perception'. In private speeches, stronger and more explicit terms are used: μαίνομαι and the cognitive

noun μανία, παραφρονέω, and μελαγχολάω. In Attic law there were *graphe/dike paranoias* – so, both public and private cases in which a (usually senile) person was accused of squandering his wealth due to mental disorder. Whether the difference in the drafting and uttering of invective is due to the specific historical circumstances relating to each of the speeches, the specific contexts within the speeches in which the references are embedded, or the generic dichotomy between public and private court speeches is difficult to say. This could equally well be a topic for further and future research: how invectives that take the form of allegations of madness or mental insanity occur throughout the corpus of surviving Attic speeches.[69]

It may hopefully have become clear that the boundaries between public and private speech do not impose any significant restrictions on the rhetoric available to speakers to attack their opponents in court. Despite the differences in frequency – invectives are used more often in public speeches than in private ones – the techniques are largely the same and serve a single purpose: to castigate opponents, destroy their socio-political credibility, exclude them from the general group of Athenians and other Hellenes, marginalize them, and make the judges vote against them. The similarities in the techniques of using invective in the court speeches also extend to the specific articulation of comic invective: no noticeable difference can be identified based on the legal nature of the speeches. This means that the rhetoric is the same when it comes to persuasion through invective. And apart from the specific discussion of invective, the distinction between public and private speeches leads to some differentiation, for example in the way emotional appeals are made and how religious discourse is used, but this is not as noticeable and pronounced as scholars tend to argue. It is not even possible to distinguish between public and private speech, especially in the case of Lysias,[70] let alone to overemphasize the differences between the two worlds.

69 On paranoia and mental illness in general: Lewis 1970; Ahonen 2014; Thumiger & Singer 2018. On comic and tragic tropes of madness: Padel 1995. On mental illness in oratory and comedy: Kazantzidis 2021: 107-23.

70 Blass, for example, proposes to look at the substance of each case to determine whether it is public or private, a method that Jebb – and I agree with him – considers

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unsafe. Blass 1868: 445-660. Blass' proposed categorization contains some highly contestable suggestions, such as his argument that two speeches by Lysias, *For the Invalid* and *To His Companions*, should be regarded as "Bagatelle."

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