

NOMOS, ΦΥΣΙΣ AND ΚΟΣΜΟΣ IN THE DEMOSTHENIC AGAINST ARISTOGEITON 1

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Summary: Ancient literary critics remarked on the peculiarly ‘philosophical’ character of the lawcourt speech known to us as *Against Aristogeiton* 1, preserved as number 25 in the Demosthenic corpus. In the course of his attack on Aristogeiton, the speaker articulates a remarkable vision of the relation between *phusis* (nature), *nomos* (law), and *kosmos* (order) in the democratic city-state. The aim of the article is to explore the intellectual background to the philosophical ideas contained in the speech and to suggest a set of parallel texts that may help elucidate those ideas. The first part introduces the speech itself and lists the many ways in which it stands out from the rest of the Demosthenic corpus. In addition to peculiarities of style and content, these include aspects of the textual transmission of the speech within the corpus (stichometry). Siding with the majority of scholars who are skeptical about its attribution to Demosthenes, I suggest that we view the speech as a Hellenistic imitation, arguing that rhetorical ‘exercises’ (*meletai*) from the same period offer a helpful model for thinking about its original cultural and literary context. Proceeding on this assumption, the second part of the article explores the possible sources of inspiration in the ‘philosophical’ sections of the speech. I identify close similarities in thought and formulation in two texts that have not previously been brought into conversation with *Against Aristogeiton* 1: the Derveni papyrus and the pseudo-Aristotelian *De mundo*. Much work remains to be done in reconstructing the relation of *Against Aristogeiton* 1 to these other texts and the traditions they represent. But in identifying some of the intellectual resources on which the author drew in his retrospective portrayal of the trial against Aristogeiton, the article hopes to contribute not only to our understanding of the speech itself, but also more broadly to our understanding of the reception of Classical Athenian democracy in Hellenistic literary culture.

The speech and its background

Against Aristogeiton 1 – preserved as speech 25 in the Demosthenic corpus – is a strange and fascinating text.¹ The legal setting is a prominent Athenian *endeixis* trial conducted in 324 BCE against the controversial demagogic *rhetor* Aristogeiton, who despite being registered as a public debtor, and thus temporarily deprived of full citizen rights, had been taking the word in the assembly and taking part in multiple legal processes.² *Against Aristogeiton* 1 purports to be the second speech for the prosecution, the *deutorologia*, held by Demosthenes and following upon the first and main speech by his co-prosecutor Lycurgus.

Since antiquity critics have noted the peculiar character of the speech, which was seen to stand out from the rest of the Demosthenic corpus in virtue of both content and style. Libanius, in his hypothesis to the speech, reports the views of his predecessors:

Dionysius of Halicarnassus does not accept these speeches [Dem. 25 and 26] as being by Demosthenes; he adduces their style as evidence. Some say that the orator purposely used this sort of stylistic character in imitation of Lycurgus, who at that time was highly esteemed at Athens; but others say that, since Lycurgus waited until this point in his life to speak first and so used all the main points himself, Demosthenes was forced to follow up more philosophically and in a highly periodic style.

(Libanius *Arg.* XXV.11, VIII 644 Foerster; trans. Gibson)

- 1 I am grateful to the editors for inviting me to contribute to this memorial volume to Mogens. The paper was first presented at the conference *Democracy After Athens: Theoretical Approaches in Antiquity*, organised by Phillip Horky and Andrea Giannotti (September 2023, Durham University). Jakob Fink, George Boys-Stones and Pavel Gregorić read later versions of the paper and offered helpful comments and suggestions.
- 2 On the legal and political aspects of the trial: Pohlenz 1924: 19–20; Sardone 2022: 135 (with references). On the historical Aristogeiton: Blass 1880: 247–52. Deinarchus (2.1) describes him as ὁ ... πονηρότατος τῶν ἐν τῇ πόλει, μᾶλλον δὲ καὶ τῶν ἄλλων ἀνθρώπων.

It is not difficult to see why readers, ancient and modern, have found the speech to be “more philosophical” (φιλοσοφώτερον). It contains extensive passages devoted to abstract political themes that seem to belong more naturally in a philosophical treatise than in a law court speech: the celebrated antithesis between *nomos* and *phusis* (15-16), the nature and purpose of law itself (17; 20-23), the analogy between a political community and a private household (88-89). This distinctively intellectual orientation is reflected also in the vocabulary, which includes a number of philosophical abstract nouns that are otherwise very rare in the orators (σωφροσύνη, 24; εὐδαιμονία, 33; κακοπραγμοσύνη, 101), as well as technical terms such as φυσιογνωνομεῖν (98). Less often noted, but equally significant I think, are the instances of nominalization (τὸ δίκαιον, τὸ καλόν, τὸ συμφέρον, 16; cf. 75 τὸ ποιοῦν, 20; τὸ τεταγμένον, 26), which, as scholars of Greek prose style teach us, are characteristic of philosophical and scientific literature but generally avoided in legal oratory.³ Add to this the list of poetic echoes from Athenian drama identified by Schläpke in his 1913 dissertation, the bold use of metaphor, and the uncharacteristically pompous religious tone, unique in law court oratory, which recalls, in particular, the language of Hesiod and Orphic literature.⁴

As Libanius’ hypothesis reports, the authenticity of *Against Aristogeiton* 1 was defended by some ancient critics, but most scholars nowadays follow Dionysius and lean towards scepticism. In addition to considerations of style and content, such as those just mentioned, the sceptic can point to a series of apparent mistakes or misunderstandings about details of Athenian legal procedure, suggesting that the author, while well-informed about the circumstances of the particular trial, was not

3 See Denniston 1952: 36-37.

4 On dramatic echoes: Schläpke 1913: 92-93. Schläpke notes that such allusions are rare in Demosthenes’ speeches. The comparison of Aristogeiton with a series of aggressive animals (snake, scorpion, tarentula) recalls Attic comedy: Spatharas 2013. On the author’s use of metaphor: Schläpke 1913: 82-83. On the extraordinarily intense religious language of the speech, see Martin 2009: 182-202, who points specifically to the use of religious invective and divine personification. I will return to the topic of Orphic literary influence later in the article.

wholly familiar with the judicial context.⁵ Defenders of the speech's authenticity have been hard at work trying to overcome these problems, but a handful of serious issues remains.⁶ The most striking is perhaps the author's description, at 23, of the Areopagus council convening in the Royal Stoa. This description is hard to square with contemporary sources, which all report that the council met on the Areopagus and never mention any alternative venue. Indeed, as Edward Harris points out in a footnote to his 2018 translation, it is difficult to see how the Stoa, which measured around 18 by 7 meters, could have accommodated the more than hundred members of the council.⁷ The speech also contains references to the election of prosecutors (13) and duration of *atimia* punishments (30 and 42) that are likewise at odds with what we believe we know about this aspect of Athenian law.⁸

The resulting suspicion is that we are dealing with a Demosthenic imitation dating from the post-Classical period, and this suspicion is further strengthened by considerations of stichometry, the ancient method of measuring texts by the number of lines.⁹ Stichometric marks – i.e. marks indicating one-hundred lines and a total line count at the end – were added to a very early version of the Demosthenic corpus, and they were subsequently transcribed from copy to copy next to the very same passages in the speeches, without regard for the length of lines in the new copy. Not all the speeches in the corpus preserve these original line counts. The stichometric marks sometimes appear to have been lost in

5 Lipsius 1883; Schläpke 1913 (style and vocabulary); and Sealey 1993: 337–39, with further points added by Harris (in the footnotes to his 2018 translation). Dilts, in his recent OCT edition, brackets the name of Demosthenes over speeches 25 and 26, as did Vince in his 1935 Loeb edition. Note that stylometric analysis of the speech, focusing on the use of hiatus and tribrach, does not in themselves offer grounds for rejecting authenticity (for a summary, see Martin 2009: 184–85).

6 Most prominent among the defenders is Mogens Hansen himself (1976: 144–52), who refines and supplements the arguments of Weil 1887; cf. also Schläpke 1913: 10–30, who however judges the speech to be inauthentic on grounds of style and vocabulary.

7 Harris 2018: 204 n. 41.

8 See Sealey 1993: 38.

9 This paragraph draws heavily on recent work by Mirko Canevaro on the textual history of the Demosthenic corpus (Canevaro 2013). I am grateful to Prof. Canevaro for elaborating on his views *per litteras*.

the course of transmission, and when they did so, no new line count was made. But those speeches that have lost their stichometry tend to belong together, from a textual-historical point of view. Most scholars believe that it is possible to identify and isolate discrete subsections of the corpus, clusters of speeches that went together in the earliest stages of the textual tradition.¹⁰ Those speeches that have lost their stichometry generally belong to the same subsection: at some point, all the speeches in this particular cluster lost their stichometries together and never recovered them. This standard pattern is important for thinking about the authenticity of the two speeches against Aristogeiton. Neither of these speeches preserve stichometric marks in our manuscripts, yet they belong at the tail end of a cluster of speeches, the public speeches 18-24, that do preserve such marks, and where the stichometric sizes are roughly the same. There is therefore some reason to think that the early textual history of the Aristogeiton speeches is different from that of the rest of the cluster. An attractive hypothesis is that the two speeches were appended onto an existing group of authentic Demosthenic speeches at a later stage, after the stichometric marks had been added to these original members.

If *Against Aristogeiton* 1 is a later imitation, it must have entered the corpus relatively early, sometime in the third century: papyrological evidence shows that the speech was known and considered authentic by Satyrus of Callatis, a Peripatetic author standardly dated to the latter part of that century or the beginning of the next, who cited it in his *Life of Euripides* (P.Oxy. IX 1176, fr. 39 col. VIII).¹¹ This *terminus ante quem* is not incompatible with viewing the speech as a post-classical addition to the corpus.¹² In the mid-third century, “the corpora of the Attic orators were becoming progressively consolidated, yet were still permeable to intrusions”¹³, and as recent work on Hellenistic oratory has shown, Demosthenes was a popular model for imitation in rhetorical schools already in this early Hellenistic period. A helpful model for thinking about the likely

10 See the discussion in Canfora 1974: 65-98.

11 For Satyrus' date, see Schorn 2004: 6-10.

12 Pace Sardone 2022: 140.

13 Canevaro 2018: 89.

provenance of *Against Aristogeiton* 1 is offered by the fragments of a Hellenistic rhetorical exercise, a μελετή, preserved in P. Berl. 9781 from Egypt and carefully studied by Kremmydas.¹⁴ The speech, which is dated by Kremmydas to the mid-third century, purports to be the defense speech held by Leptines, defending his proposed law against the charges of Demosthenes, as they are known from the *Against Leptines*. It is an impressive exercise in historical fiction: the author is well-versed in Athenian history and the circumstances of the trial, and he betrays an intimate familiarity with, and mastery of, Demosthenes' style and diction. Indeed, the speech could potentially be mistaken for a genuine Athenian speech, were it not for occasional mistakes with regard to chronology and legal details, and for the fact that the speaker ('Leptines') comes across as excessively obsessed with the person of Demosthenes himself (who was, after all, only one of several accusers at the actual trial). Kremmydas concludes that the author was probably a Hellenistic teacher of rhetoric who, lured by the high demand for canonical Greek literature created by the establishment of the library in Alexandria and similar institutions in other Hellenistic kingdoms, intended his work to be circulated alongside *Against Leptines*, as the counterpart to this famous speech by the famous orator.¹⁵

It has long been recognized that later imitations or forgeries of this kind have occasionally found their way into the *corpora* of the famous orators alongside authentic speeches. Dionysius of Halicarnassus rejected a speech traditionally attributed to Dinarchus on the grounds that "one finds in it much that is silly and sophistical" (*Din.* 11), and Plutarch reports that speeches attributed to Pericles were circulating in his time, though widely recognized to be false since he had left no written work behind (*Plut. Per.* 8). The single surviving speech preserved in Demades' name, *On the Twelve Years*, which is universally recognised to be spurious, likely originated as a rhetorical exercise that came, in the course of time,

14 Kremmydas 2007. The usefulness of P. Berl. 9781 as a helpful *comparandum* was suggested already by Pohlenz 1924: 21; more recently Canevaro 2018: 89-90.

15 Kremmydas 2007: 28.

to be attributed to the famous orator whom it had been trying to imitate.¹⁶ Lysias 2 has sometimes been explained along similar lines.¹⁷

One reason the content of such spurious speeches could be labelled ‘sophistical’ by critics had to do with the intellectual world they were inhabiting. In his comments on the language and style of the pseudo-Leptinic speech from the Berlin papyrus, Kremmydas notes the influence of other genres of Attic prose, especially philosophical literature. This is not surprising. Hellenistic students of rhetoric were trained on a select canon of classical texts and authors that included not only exemplary orators such as Demosthenes, but also works from the other key genres of Greek literature: epic, drama, history, philosophy. Judging from the evidence of rhetorical treatises and the later tradition of Greek *meletai*, this broad literary education appears to have lend a distinctively bookish flavor to the speeches produced in the schools of rhetoric, which often abound in poetic references and historiographical echoes, and which display, in D. A. Russell’s words, “a theoretical and philosophical strain in [their] make-up.”¹⁸ The historical setting of many of the rhetorical exercises is democratic Athens in the Classical period, but it is an Athens in which oratory, poetry, and philosophy are not distinct genres or traditions with their separate literary and institutional contexts, but intermingled voices belonging to the same conversation. To adapt a metaphor from Peter Brown, when viewed from the distance of the third century or later, the canonical authors and genres of Classical Athens blend into a holistic vision, like distant peaks in the horizon that come to seem like one single mountain range even though, in reality, they lie dispersed and are only loosely connected: a retrospective Athenian ‘Sophistopolis’, as Russell has dubbed it, or a version of Reviel Netz’ ‘*Polis of Letters*’, the imagined intellectual community of select Athenian authors that became the bearer of the Greek canon in the post-Classical period.¹⁹

16 Worthington 1991.

17 See references in Todd 2007: 158.

18 Russell 1983: 37.

19 Netz 2020: 174-76 and *passim*. On the “generic and idealized Athens” in Hellenistic literary culture, see also Canevaro and Gray 2018: 6-7. Luraghi 2018 explores the ways in which Athenians themselves, following upon the death of Alexander, contributed to fashioning this vision of their own past.

This idea offers, I think, a promising framework for thinking about the many peculiarities of *Against Aristogeiton* 1 that we noted above. The speaker's fondness for theoretical abstraction, religious bombast, and literary allusion stands out in the practical context of a fourth century political trial over procedural malfeasance. It is much more at home in the Hellenistic vision of an over-intellectualized Athens, an Athens where the rhetorical clashes between rival politicians are conducted not just by means of standard oratorical tropes and legal arguments, but also in the language and ideas associated with other canonical genres and literary traditions.²⁰ In the second half of the paper, I propose to take a closer look at some of the intellectual resources the author may have been drawing on in constructing his retrospective portrayal of Demosthenes in an historical Athenian law court drama. In particular I wish to examine some of the more philosophical ideas contained in the speech. Investigating what is distinctive about the author's use of such philosophical *Gedankengut* in the speech will – I hope to show – allow us to make a couple of more specific suggestions regarding the author's literary and intellectual inspiration. The benefit is not just a better grasp of the ideas contained in the speech. It is also a contribution to the larger project of understanding the ways in which Classical Athenian democracy was being remembered, reimagined and reenacted in Hellenistic literary culture.

Nomos and phusis

The first passage I would like to discuss is found early in the speech. After his opening appeal to the judges and a preliminary denunciation of Aristogeiton as a shameless sycophant, the author announces his intention to address “those points which must always be considered and examined by those who are deliberating on behalf of the *polis* and the laws” (14). He

20 Sardone 2022: 138-39 highlights the author's engagement with abstract philosophical themes associated with fifth and fourth century Athenian intellectual culture as indicative of the speech's authenticity, on the grounds that the introduction of such elements is more likely to be the work of Demosthenes himself than some Hellenistic imitator. The opposite seems to me to be the case.

then launches into an account of the fundamental principles governing human life and human society:

Ἄπας ὁ τῶν ἀνθρώπων βίος, ὃ ἄνδρες Ἀθηναῖοι, κἄν μεγάλην πόλιν οἰκῶσι κἄν μικράν, φύσει καὶ νόμοις διοικεῖται. τούτων δ' ἡ μὲν φύσις ἐστὶν ἄτακτον καὶ κατ' ἄνδρ' ἴδιον τοῦ ἔχοντος, οἱ δὲ νόμοι κοινὸν καὶ τεταγμένον καὶ ταὐτὸ πᾶσιν. ἡ μὲν οὖν φύσις, ἃν ἢ πονηρά, πολλάκις φαῦλα βούλεται· διόπερ τοὺς τοιούτους ἐξαμαρτάνοντας εὐρήσετε. οἱ δὲ νόμοι τὸ δίκαιον καὶ τὸ καλὸν καὶ τὸ συμφέρον βούλονται, καὶ τοῦτο ζητοῦσιν, καὶ ἐπειδὴν εὐρεθῇ, κοινὸν τοῦτο πρόσταγμ' ἀπεδείχθη, πᾶσιν ἴσον καὶ ὅμοιον, καὶ τοῦτ' ἔστι νόμος. ὃ πάντας πείθεσθαι προσήκει διὰ πολλά, καὶ μάλισθ' ὅτι πᾶς ἐστὶ νόμος εὖρημα μὲν καὶ δῶρον θεῶν, δόγμα δ' ἀνθρώπων φρονίμων, ἐπανόρθωμα δὲ τῶν ἐκουσίων καὶ ἀκουσίων ἀμαρτημάτων, πόλεως δὲ συνθήκη κοινή, καθ' ἣν πᾶσι προσήκει ζῆν τοῖς ἐν τῇ πόλει.

Whether one inhabits a large or a small city, the whole of human life, men of Athens, is governed by nature and by laws. Of these two, nature is disorderly and irregular and peculiar to each individual, whereas the laws are something common and ordered and the same for all. Nature, if it is depraved, often desires what is bad. That is why you find such persons committing offences. But the laws desire what is just and good and advantageous. This is what they seek, and when it is discovered, it is declared a common ordinance, equal and the same for all, and this is law. There are many reasons why it is fitting for all men to obey the law, but they should do so above all because of this: every law is a discovery and a gift of the gods, a decision of wise men, a corrective of voluntary and involuntary offences, a common agreement of the city, specifying how all those who live in the city should conduct themselves.

([Dem.] 25.15-16; my trans.)

Scholarly interest in this passage has tended to be directed at the last part, where the author offers a series of definitions of law. In antiquity,

the passage caught the attention of the Roman jurists and was later reproduced in Justinian's *Digest*.²¹ In modern scholarship, focus has been on the question of whether the manifold definitions of law offered in the passage are mutually incompatible with each other or whether they can be viewed as complementary accounts.²² But of no less interest is the first part of the passage, where the author articulates a version of the antithesis between *phusis* ('nature') and *nomos* ('law' and 'convention'). While otherwise absent from legal oratory, the conceptual pair is well-known from philosophical literature of the Classical period: in addition to Plato's famous portrayals of the 'sophists' one can point to the fragments of Antiphon, Democritus, and 'Anonymus Iamblichi', as well as the more philosophically inflected passages of Thucydides and Euripides.²³

However, the version of the *nomos-phusis* opposition developed in *Against Aristogeiton* 1 differs in important ways from the one we find in most of these other texts. While the thinkers and authors mentioned above often disagree on the relative value they attach to the two terms in the opposition, they agree on the basic way the opposition itself is conceptualised. Key to this standard construal of the opposition is, as Kerferd puts it, the notion of *phusis* as "the static concept of 'the way things are'" (1981: 111): *phusis* is what holds everywhere and for all time, what is universal and shared by all. By contrast, *nomos* is what is contingent and man-made and particularistic, what holds merely for some people at some time and place. The author of *Against Aristogeiton* 1 turns this standard construal on its head. For him, it is *nomos* that represents what is the universal and common in human life, whereas nature is understood as the bearer of the particular and idiosyncratic, the irregular individualistic traits that threaten to put us at odds with *nomos*. Later in the speech, the author tellingly associates this conception of *phusis* with the individualistic slogan of 'doing whatever one wants', in contrast with submitting to the order and regularity, *kosmos*, imposed on human society by *nomos*: 19-23 and 25-26. There are some superficial linguistic resemblances in 15-16 with the story related by Critias in the famous *Sisyphus* fragment, where the original state of humanity is likewise described

21 Marcian *Dig.* 1.3.2.

22 E.g. Pohlenz 1924: 28-29; Kerferd 1981: 128.

23 The classic account is Heinimann 1945 but see also Bonazzi 2020.

as ἄτακτος, ‘disordered’, and contrasted with a state of lawfulness (88 B25 Diels-Kranz). But in Critias, what is disordered is not so much human nature itself as the condition that obtains when human nature, which is generally inclined towards *bia* and *hybris*, is allowed to express itself freely. Someone like Callicles, who identifies the desire for *pleonexia* as the universal constant of human nature, would presumably agree with this vision. For our author, by contrast, it is *phusis* itself that is ἄτακτον and ἀνώμαλον: it represents the individualistic, not the universal, aspect of human life. This accounts for the curious double role played by the concept in the rhetorical strategy of the speech as a whole: it is *phusis* that explains why a depraved individual like Aristogeiton can never be reconciled to lawful human society (30; 32; 48; 50; 96); but it is also the (hopefully) righteous *phusis* of the individual Athenian judges that is repeatedly appealed to as the guarantee of a just outcome of the trial (2; 35; 81; 93). In this latter case, then, *phusis* serves to ground *nomos*.²⁴

What, if anything, can we say about the intellectual influences behind this conceptualization of the *nomos-phusis* opposition? Gigante compares the author’s notion of *phusis* with the critique of democratic individualism found in Plato and Xenophon, who both reject, as socially subversive, the freedom ‘to do whatever you want’ (cf. Pl. *Resp.* 7; Xen. *Mem.* 3.5).²⁵ Our author clearly taps into this same critical tradition when he casts Aristogeiton’s slogan of ‘doing whatever you want’ as expressive of a form of democratic ideology (25).²⁶ But the differences are here as important as the similarities: while both Plato and Xenophon contrast democratic freedom with a state of lawfulness (*nomos*), there is no indication that the disorder that results from such freedom is understood by them

24 In 14, the speaker even ascribes his own idiosyncratic style of argument to personal *phusis*.

25 Gigante 1993 [1956]: 290.

26 Cf. Filonik 2019: 15–17. As Filonik notes, the explicit association of the unlimited right to do as one wants with democracy in [Dem.] 25.25 is unparalleled in Attic oratory. Unlike philosophers and historians, Athenian public speakers typically emphasise the democratic respect for law and tradition, within which personal freedom is carefully circumscribed. If the speech is a later rhetorical exercise, as I have suggested, this allows for a plausible explanation: the author is influenced less by authentic democratic ideology than by the caricatures of that ideology in hostile writers such as Plato and Aristotle.

as an expression of *phusis*. They do not appear to conceive of their social criticism in terms of this specific conceptual antithesis. Pohlenz points in another direction, towards the Pythagoreans and their foundational opposition between ἄπειρον and πέρας (*apud* Arist. *Met.* 986a).²⁷ This suggestion gains in attraction when we remind ourselves of the many allusions throughout the speech to Orphic literature, an intellectual tradition that was often associated with Pythagoreanism in antiquity.²⁸ Most conspicuously, in 10–11, the description of Dike as sitting next to Zeus and observing human conduct, is explicitly attributed to Orpheus, “who introduced your most holy initiatory rites” (11). Other passages, though less explicit, have also been taken to reflect an interest in the Orphic literary tradition: the reference to Adrasteia, goddess of necessity, in section 37 and to vivid punishments for wrongdoers in the underworld in 52.²⁹ Of particular interest is section 8, where Aristogeiton is denounced as “the middle, the end, and the beginning” of political beastliness (πάντα τὰ τοιαῦτα θηρία, ὧν μέσος καὶ τελευταῖος καὶ πρῶτός ἐστιν οὗτος). The phrase echoes a key verse in the Orphic *Hymn to Zeus*: Ζεὺς κεφαλὴ, Ζεὺς μέσσα, Διὸς δ’ ἐκ πάντα τέτυκται (Orph. fr. 6.13 21a, 2 Kern = 14 F Barnabé).³⁰ Dieterich concluded on the basis of these passages that the author must have been a card-carrying ‘Orphic’ himself.³¹ But the last-mentioned allusion in section 8 suggests a freer literary usage of the Orphic material; after all, the pompous phrase used of Zeus in the hymn is here applied to none other than Aristogeiton, the arch-villain. I suspect a similar literary appropriation is behind the denunciation of Aris-

27 Pohlenz 1924: 36.

28 See Betegh 2014 on the historical relation between the two traditions.

29 Dieterich 1893: 136–37, who notes that the appeal to postmortem punishment is not otherwise found in Attic oratory.

30 Another possible echo can be found in Aristotle’s reference in *De caelo* 1.1 to Pythagorean number theory: “For, just as the Pythagoreans say, the whole and all things are delimited by the three; for end, middle, and beginning [τελευτή γὰρ καὶ μέσον καὶ ἀρχή] have the number of the whole, which is that of the triad. Wherefore, we use this number also in the worship of the gods, taking it from nature, as a law of it” (268a10–15; trans. Betegh). For discussion, see Betegh 2014: 160–62. On the hymn, see Hladký 2021: 218–25.

31 Dieterich 1893: 137.

togeiton in section 82 as τρισκατάρατος, ‘thrice-cursed’: the term is a hapax in Attic oratory, but the τρις- prefix seems to have had a particular significance in Orphic religiosity: “the thrice-born” Dionysus in the Orphic Hymns (30.2); and τρισόλβιος, “thrice-blessed”, which is found in the Pelinna gold leaves (485 and 486 Bernabé) and in a fragment of Sophocles (fr. 837 Radt) on the Eleusian mysteries.³²

Against this background, it should not come as a surprise that what is perhaps the closest parallel to the *nomos-phusis* antithesis offered by our author is found in another Orphic text. I am referring to the Derveni papyrus, discovered in a late fourth century tomb near Thessaloniki and published in an authoritative version only in 2006.³³ Most of the preserved lines in the papyrus are devoted to a careful allegorical exegesis of an Orphic poem on the origin of the gods – in fact, it seems to be a version of the same poem that our Demosthenic author alludes to in section 8. The Derveni author aims to show that the poem, which on the surface appears to tell a salacious story about primeval gods behaving badly, is in reality an account of the true workings of the cosmos, understood in broadly Presocratic terms.³⁴ Central to this interpretative strategy is a distinction between the common human use of language and the deeper meaning attached to words by Orpheus. The Derveni author explains the distinction in terms of human *phusis*:

Παν[τ’ οὔ]ν ὁμοίω[ς ὦ]νόμασεν ὡς κάλλιστα ἡ[δύ]νατο, γινώσκων
τῶν ἀνθρώπων τὴν φύσιν, ὅτι οὐ πάντες ὁμοίαν ἔχουσιν οὐδὲ
θέλουσιν πάντες ταῦτά. κρατιστεύοντες λέγουσι ὅ τι ἂν αὐτῶν
ἐκάστωι ἐπὶ θυμὸν ἔλθῃ, ἅπερ ἂν θέλοντες τυγχάνωσι, οὐδαμὰ ταῦτά,
ὑπὸ πλεονεξίας, τὰ δὲ καὶ ὑπ’ ἀμαθίας.

So he named everything in the same way as best he could knowing the nature of men, that not all have the same (nature) nor all want the

32 Barnabé *ad* 485 F: “fort. τρις- doctrinam religiosam redolet”. On the significance of the number three in Orphic and Pythagorean thought: Betegh 2014: 160-62. Another possible source of inspiration is Menander (*Epit.* 1080); but the two need not perhaps be mutually exclusive.

33 Kouremenos, Parássoglou and Tsantsanoglou 2006.

34 See Betegh 2004.

same things. When they possess power, they say whatever happens to come into the heart of each of them, whatever they happen to desire, never the same things, since they are induced by greed and to some extent by ignorance as well.

(PDerv col. XXII.1-6; trans. Tsantsanoglou and Parássoglou)

There are similarities here, in both language and ideas, with the account of *phusis* we found in *Against Aristogeiton* 1. Human nature is associated with individuality and arbitrariness, with doing whatever one wants, though we note that the Derveni author also mentions underlying principles, *πλεονεξία* and *ἀμαθία*, as causes of this arbitrariness. There is no explicit contrast with *nomos* in this part of the papyrus. However, if the plausible reconstruction by Tsantsanoglou is accepted, Orpheus' act of esoteric name-giving is referred to earlier in the text as an act of *νομοθεσία* (col. VII): it brings order and meaning into the linguistic arbitrariness caused by human nature by imposing on words a deeper significance, a significance however which is accessible only to those with understanding. Many details admittedly remain unclear about how precisely to understand this idea and its place in the Derveni author's project. But it seems that the papyrus does provide us with at least the outlines of a *nomos-phusis* opposition comparable to the one we find in *Against Aristogeiton* 1.

Nomos and kosmos

The other passage I want to look at is part of the same general section of the speech as 15-16. In 18-19 the author offers a common rhetorical trope from Attic legal oratory: the otherwise admirable virtue of leniency should be restrained when it comes to this most wicked of criminals. But he then shifts gears again and announces a larger theme: "that the entire *kosmos* of the city and the laws is thrown into confusion and destroyed on account of this man – this too I intend to show you clearly" (19). He continues:

(20) Λέξω δ' οὔτε καινὸν οὔτε περιττὸν οὐδὲν οὔτ' ἴδιον, ἀλλ' ὃ πάντες ὑμεῖς ἴσθ' ὁμοίως ἐμοί. εἰ γάρ τις ὑμῶν ἐξετάσαι βούλεται τί ποτ' ἐστὶ

τὸ αἴτιον καὶ τὸ ποιοῦν τὴν βουλὴν συλλέγεσθαι, τὸν δῆμον εἰς τὴν ἐκκλησίαν ἀναβαίνειν, τὰ δικαστήρια πληροῦσθαι, τὰς ἑνας ἀρχὰς ταῖς νέαις ἐκούσας ὑπεξίεναι, καὶ πάντα δι' ὧν ἡ πόλις οἰκεῖται καὶ σῶζεται γίγνεσθαι, τοὺς νόμους εὐρήσει τούτων αἰτίους καὶ τὸ τούτοις ἅπαντας πείθεσθαι, ἐπεὶ λυθέντων γε τούτων, καὶ ἐκάστῳ δοθείσης ἐξουσίας ὅ τι βούλεται ποιεῖν, οὐ μόνον ἡ πολιτεία οἴχεται, ἀλλ' οὐδ' ὁ βίος ἡμῶν τοῦ τῶν θηρίων οὐδὲν ἂν διενέγκαι. [...] (23) ὧν ἓν ἡ δὴ ἐρῶ παραδείγματος ἕνεκα, τὰ γνωριμώτατα. τὸ τὴν βουλὴν τοὺς πεντακοσίους ἀπὸ τῆς [ἀσθενοῦς]* τοιαυτησὶ κιγκλίδος τῶν ἀπορρήτων κυρίαν εἶναι, καὶ μὴ τοὺς ἰδιώτας ἐπεισιέναι· τὸ τὴν ἐξ Ἀρείου πάγου βουλὴν, ὅταν ἐν τῇ βασιλείῳ στοᾷ καθεζομένη περισχοινίσηται, κατὰ πολλὴν ἡσυχίαν ἐφ' ἑαυτῆς εἶναι, καὶ ἅπαντας ἐκποδῶν ἀποχωρεῖν· τὸ τὰς ἀρχὰς ἀπάσας, ὅσας οἱ λαχόντες ἄρχουσιν ὑμῶν, ἅμα τῷ τὸν ὑπηρέτην εἰπεῖν 'μετάστητ' ἕξω' τῶν νόμων κρατεῖν ἐφ' οἷς εἰσεπέμφθησαν, καὶ μηδὲ τοὺς ἀσελγεστάτους βιάζεσθαι· ἄλλα μυρία.

* del. Weil

(20) What I will say is neither new nor extraordinary or unusual, but only what you all know just as well as I. If one of you wishes to examine what it is that causes and brings about that the council is convened, that the people come up to the assembly, that the law courts are filled, that the outgoing magistrates voluntarily yield their office to the new, in short that all those things come to pass by means of which the city is managed and preserved, he will find that the laws are responsible, and the fact that those laws are obeyed by everyone. For indeed if the laws are dissolved and everyone is given license to do as he wishes, not only is the city destroyed but our life would be no different from that of wild beasts. [...] (23) I will give you one or two examples, those that are most well-known. The Council of Five Hundred is master over its secrets as a result of this barrier here, and private citizens do not enter. The Council from Areopagus enjoys complete peace and quiet by itself whenever it sits in Stoa Basileios and is parted off by means of a rope, and everybody leaves and departs. All the offices that those of you who are selected by lot hold, as soon as the assistant says 'Rotate!', exercise legal authority over the duties

over which they have been assigned, and not even the most licentious resort to violence. There are countless others.

([Dem.] 25.19-23; my trans.)

What is striking about this passage is the author's strong and exclusive emphasis on institutional order and procedural regularity as the key manifestation of *nomos* in the city: the convening of council and assembly meetings; the selection and rotation of magistrates and judges; the physical framework that ensures institutional integrity and due process. Of course, this choice of emphasis makes some sense in the legal context of the trial – the opponent is Aristogeiton, whose alleged crime is to have broken procedural regulations by speaking public without full citizen rights (see esp. sections 26 and 28). But the historical legal context alone hardly suffices to explain the massive attention devoted by the author to this particular idea. Other passages recall and supplement the themes in 19-23 with their focus on the close link between lawfulness and the proper functioning of political institutions and offices (9; 90). What emerges from all this is an impression of the author as positively obsessed with institutional order and regularity.

There is a clear conceptual link here with the account of the *nomos-phusis* antithesis we discussed above: the order and regularity of *nomos* as opposed to the disorder and arbitrariness of *phusis*. But I think it is also worth examining the author's distinctive vision of *nomos* and *kosmos* in its own right. Echoes of the idea is found in philosophical texts from the Classical period. In a passage from Aristotle's *Politics*, the rule of law is equated with the rotation in political offices: "for the order is law" (ἡ γὰρ τάξις νόμος, 3.16 1287a16-18). But the text that springs to mind when first reading these sections of *Against Aristogeiton* 1 is Plato's *Laws*. As Luc Brisson has stressed, in the imaginary Cretan *polis* of Magnesia the institutional order and physical movement of magistrates is presented as expressive of an ideal of political *kosmos*.³⁵ The link between procedural *nomos* and political *kosmos* is never stated as explicitly and emphatically in the *Laws* as in our pseudo-Demosthenic speech, but a similar underlying vision can be discerned. It is therefore interesting to note that there is also another reason for linking the two texts: in his opening address to

35 Brisson 2019.

the new colonists of Magnesia, the Athenian begins by quoting a version of the same Orphic material that we found in the speech:

“Ἄνδρες” τοίνυν φῶμεν πρὸς αὐτούς, “ὁ μὲν δὴ θεός, ὥσπερ καὶ ὁ παλαιὸς λόγος, ἀρχὴν τε καὶ τελευτὴν καὶ μέσα τῶν ὄντων ἀπάντων ἔχων, εὐθείᾳ περαίνει κατὰ φύσιν περιπορευόμενος· τῷ δὲ αἰὲ συνέπεται δίκη τῶν ἀπολειπομένων τοῦ θεοῦ νόμου τιμωρός [...]”

“Gentlemen”, let us say to them in that case, “it is God, according to an ancient account, who holds the beginning and end and middle of all things in his hands. Straight is his course, so nature ordains, and behind him ever follows Dike, taking vengeance on those who depart from divine law.”

(Pl. *Laws* 715e-716a; trans. Griffith)

Here we have two of the Orphic reminiscences in *Against Aristogeiton* 1 (8 and 10-11) juxtaposed within a single short passage. So we might be tempted to stop here and speculate about some more or less direct influence of Plato on our author. But I want to suggest that we can go one step further and a bit more precise. As Des Places’ work on the indirect tradition of the *Laws* has shown, the above-cited passage from Book 4 became one of the most popular passages of Plato in later authors.³⁶ One of these later citations is particularly interesting for our purposes. It is found at the end of the pseudo-Aristotelian *De mundo*, a text of uncertain date – suggestions range from mid-third century BCE to second century CE.³⁷ That the pseudo-Aristotelian author was not relying Plato alone as a source for his Orphic material is shown by other passages in the text: a few lines above he offers an extended citation of the Orphic *Hymn to Zeus* that we have seen both Plato and Pseudo-Demosthenes paraphrase ([Arist.] *Mund.* 401a28-b7). Other details catch the eye of a reader who has just been studying *Against Aristogeiton* 1 and the Derveni papyrus: the ref-

36 Des Places 1944: 34-35 (cf. 1951: 65 n. 2). He identifies no less than 32 citations and allusions in later authors.

37 Thom 2014: 7 (with references); cf. Gregorić and Karamanolis 2021: 8 (“between second half of third century BCE and the first half of the first century BCE”).

erence to Adrasteia in the same part of the treatise (401b13), and the author's remark that his allegorical reinterpretation of divine names has reached its end οὐκ ἀτάκτως, "in a not disorderly fashion" (401b22-23).

However, what is most striking about *De mundo* is that it is the only text (known to me) that offers a comparable account of the role of *nomos* in political *kosmos*. A bit of background to the text and its argument is necessary here. In chapter 5, the author introduces what will be the key question for the second half of the treatise:

Some have indeed wondered how the cosmos, consisting of opposite principles, I mean dry and wet, cold and warm, has not long ago been destroyed and perished – just as one would wonder how a city endures, since it consists of opposing classes, I mean of poor and rich, young and old, weak and strong, bad and good. They fail to recognize that this was the most wonderful thing about civic concord, I mean that it accomplishes one disposition out of many and a similar disposition out of diversity, a disposition allowing for every nature and fortune.

([Arist.] *De mundo* 396a33-b7; trans. Thom)

Chapter 6 consists in an elaborate attempt at explaining the ultimate cause that accounts for such harmony and concord in the *kosmos* (397b9-13). The author agrees with the traditional view that the ultimate cause should be identified with God, but he disagrees with those philosophers, such as the Stoics, who claim that God functions as a cause of order by being present in the material world itself. By contrast, he argues for a version of the Aristotelian position that God controls and orders the world while remaining distinct and separate from it (397b13-24). His argument proceeds by way of a long series of analogies intended to show how it is possible for an ordering cause to function in this way. At the end of the series, he returns to the analogy between *polis* and *kosmos* and specifically identifies the internalization of law as the cause of political order:

καθόλου δὲ ὅπερ ἐν νηὶ μὲν κυβερνήτης, ἐν ἄρματι δὲ ἡνίοχος, ἐν χορῷ δὲ κορυφαῖος, ἐν πόλει δὲ νόμος*, ἐν στρατοπέδῳ δὲ ἡγεμῶν,

τοῦτο θεὸς ἐν κόσμῳ, πλὴν καθ' ὅσον τοῖς μὲν καματηρὸν τὸ ἄρχειν πολυκίνητόν τε καὶ πολυμέριμον, τῷ δὲ ἄλυτον ἄπονόν τε καὶ πάσης κεχωρισμένον σωματικῆς ἀσθενείας· ἐν ἀκινήτῳ γὰρ ἰδρυμένος δυνάμει πάντα κινεῖ καὶ περιάγει, ὅπου βούλεται καὶ ὅπως, ἐν διαφόροις ἰδέαις τε καὶ φύσεσιν, ὥσπερ ἀμέλει καὶ ὁ τῆς πόλεως νόμος ἀκίνητος ὢν ἐν ταῖς τῶν χρωμένων ψυχαῖς πάντα οἰκονομεῖ τὰ κατὰ τὴν πολιτείαν· ἐφεπόμενοι γὰρ αὐτῷ δηλονότι ἐξίσιν ἄρχοντες μὲν ἐπὶ τὰ ἀρχεῖα, θεσμοθέται δὲ εἰς τὰ οἰκεῖα δικαστήρια, βουλευταὶ δὲ καὶ ἐκκλησιασταὶ εἰς συνέδρια τὰ προσήκοντα, καὶ ὁ μὲν τις εἰς τὸ πρυτανεῖον βαδίζει σιτησόμενος, ὁ δὲ πρὸς τοὺς δικαστὰς ἀπολογησόμενος, ὁ δὲ εἰς τὸ δεσμωτήριον ἀποθανούμενος. γίνονται δὲ καὶ δημοθoinαὶ νόμιμοι καὶ πανηγύρεις ἐνιαύσιοι θεῶν τε θυσίαι καὶ ἡρώων θεραπείαι καὶ χοαὶ κεκμηκότων· [...] οὕτως ὑποληπτέον καὶ ἐπὶ τῆς μείζονος πόλεως, λέγω δὲ τοῦ κόσμου· νόμος γὰρ ἡμῖν ἰσοκλινὴς ὁ θεός, οὐδεμίαν ἐπιδεχόμενος διόρθωσιν ἢ μετάθεσιν, κρείττων δέ, οἶμαι, καὶ βεβαιότερος τῶν ἐν ταῖς κύρβεσιν ἀναγεγραμμένων.

*νόμος mss : νομο-θέτης> Lorimer.

And in general, what the helmsman is on a ship, and the driver in a chariot, and the leader in a chorus, and the law in a *polis*, and a commander in an army, this god is in the cosmos, except as so far that for them to command is exhausting, restless and full of care, but for him it is without pain, without toil and removed from all physical weakness. For he, established in the unmovable, moves all things with power and leads them around, where and how he wills, in different forms and natures, just as, for instance, the law of the *polis*, being immovable in the souls of those who use it, administers all things in public life. For it is clear that in obedience to the law the archons go to their offices, the thesmothetai to the appropriate courts, and the councilors and members of the assembly to their respective meeting-places; one man walks to the prytaneum to eat, another to the courts to defend himself, still another to prison to die. Ordained by law there are also public feasts and annual festivals, sacrifices to the gods, cults of heroes, libations to the deceased. [...] So we must also think about

the greater *polis*, I mean about the cosmos: for god is an evenly-balanced law to us, admitting no correction or change, but stronger, I think, and surer than those inscribed on the triangular tablets.

([Arist.] *Mund.* 400b6-3; trans. Thom)

There are some minor differences here from what we saw in *Against Aristogeiton* 1. Whereas the Demosthenic author focuses exclusively on the order and regularity of political bodies and office-holders, the author of *De mundo* takes a broader view and includes in his portrayal of a well-regulated *polis* the orderly progress of the ritual and cultic calendar – and even what looks like a veiled reference to Socrates’ trial and death. But these divergences are insignificant in comparison with the similarities that link the two accounts: the authors clearly share a very specific vision of the role of *nomos* in creating a political *kosmos*, manifesting itself in the orderly workings of public life, the institutions and offices of the *polis*. Moreover, both authors emphasise, as a precondition for this *kosmos*, that *nomos* needs to be anchored in the souls of the citizens themselves: compare the above passage with [Dem.] 25.34-35, where altars of Dike, Eunomia, and Aidos are said to be erected “in the very soul and nature of each individual” (ἐν αὐτῇ τῇ ψυχῇ ἐκάστου καὶ τῇ φύσει).

My sense is that the parallels between *De mundo* and *Against Aristogeiton* 1 are too many and too specific to be coincidental. But any concrete suggestions with regard to patterns of influence and the identity of common sources are bound to be very speculative, at least at this stage of my research. I want to end by offering a few provisional reflections. It seems to me that the direction of influence is unlikely to go from *Against Aristogeiton* 1 to *De mundo*. While the Demosthenic author’s account of *nomos* and *kosmos* strikes the reader (ancient and modern) as artificial and out of proportion in its rhetorical and legal context, the corresponding account in *De mundo* is perfectly appropriate for its function in the author’s overall argument against Stoic theories of God and universe.³⁸ This suggests that the idea is more likely to have originated in a philosophical context than in a legal-rhetorical context. It is perhaps also worth mentioning here that the author of *De mundo* writes from the point of view of

38 See the careful analysis of the structure of Pseudo-Aristotle’s long series of analogies in Betegh and Gregorić 2020.

the Peripatetic school, which, going back at least to Demetrius of Phaleron, often displays a strain of hostility towards Demosthenes and his political legacy.³⁹ This makes it unlikely (though of course not impossible) that the author of *De mundo* would have been turning for inspiration to a speech included in corpus of Demosthenes' works. More plausibly, the author of *Against Aristogeiton* 1 – who need not have shared Demosthenes' political sympathies – looked to philosophical literature when composing his fictive speech against Aristogeiton and stumbled across an idea that he could use: the idea that institutional and procedural regularity is not just a matter of legal technicalities, as someone in Aristogeiton's situation might argue, but an expression of something deep and important, the very *kosmos* of the city.

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39 Canevaro 2018: 75-76.

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