

# EMOTIONS AND THE LEGAL SYSTEM OF CLASSICAL ATHENS: EMBODIED APPRAISAL AND HOMICIDE LAW IN LYSIAS 1

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Scholars who focus on the rhetorical aspect of Attic oratory stress the role of emotions in influencing the judges by appealing to shared, but often legally irrelevant cultural norms. Legal scholars instead highlight the rarity of theatrical appeals to anger or pity or view them as only appropriate in public procedures. This article seeks to overcome this dichotomy by drawing on recent studies which view emotions as characterised by embodied appraisal and stress the importance of emotion scripts and cognitive metaphors for conceptualising emotions. By applying these notions to Lysias 1, I demonstrate that emotions in forensic narrative were meant to reinforce the speaker's legal interpretation of the relevant events rather than distract the judges from them, and that there was no gulf between rhetoric, emotions and the rule of law in the Athenian legal system.

*Per gli studiosi di retorica, gli oratori attici utilizzavano le emozioni per influenzare i giudici facendo appello a norme culturali condivise ma spesso legalmente irrilevanti. Altri, interessati agli aspetti giuridici dell'oratoria, sottolineano invece la poca teatralità degli appelli a rabbia o pietà, o li considerano appropriati solo alle procedure pubbliche. Questo articolo cerca di superare questa dicotomia attingendo a studi recenti che vedono le emozioni come caratterizzate da "embodied appraisal" ed espresse attraverso "emotion scripts" e metafore cognitive. Applicando queste nozioni a Lisia 1, intendo dimostrare che le emozioni nella narrativa forense avevano lo scopo di rafforzare l'interpretazione giuridica degli eventi rilevanti piuttosto che distrarre i giudici da essi, e che non c'era alcun divario tra retorica, emozioni e "rule of law" nell'ordinamento giuridico ateniese.*

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Aristotle's view of emotions in the *Rhetoric* is (at least at first glance) contradictory. In the first chapter of Book 1, Aristotle criticises previous authors of rhetorical handbooks for providing a partial picture of the art of rhetoric: «they say nothing about enthymemes which are the body of proof, but chiefly devote their attention to matters outside the subject (περὶ δὲ τῶν ἔξω τοῦ πράγματος); for the arousing of prejudice, compassion, anger, and similar emotions (διαβολὴ γὰρ καὶ ἔλεος καὶ ὀργὴ καὶ τὰ τοιαῦτα πάθη τῆς ψυχῆς) has no connection with the matter in hand, but is directed only to the dicast». The philosopher explains that the laws should forbid speaking outside the subject and in some cases, as in the Areopagus, they already do so, and concludes that «it is wrong to warp the dicast's feelings, to arouse him to anger, jealousy or compassion (οὐ γὰρ δεῖ τὸν δικαστὴν διαστρέφειν εἰς ὀργὴν προάγοντας ἢ φθόνον ἢ ἔλεον)»<sup>1</sup>. In the second chapter of Book 1, however, Aristotle lists the arousal of emotions among the technical proofs (πίστεις ἔντεχνοι) available to orators. These can be of three kinds: those based on the moral character of the speaker, those consisting in placing the hearer in a certain disposition (αἰ δὲ ἐν τῷ τὸν ἀκροατὴν διαθεῖναι πῶς), and those relative to the speech itself. Aristotle explains that emotions belong to the second kind: «The orator persuades by means of his hearers, when they are roused to emotion (εἰς πάθος) by his speech; for the judgements we deliver are not the same when we are influenced by joy or sorrow, love or hate (λοπούμενοι καὶ χαίροντες, ἢ φιλοῦντες καὶ μισοῦντες); and it is to this alone that, as we have said, the present-day writers of treatises endeavor to devote their attention»<sup>2</sup>. Aristotle, in other words, seems to have changed his mind concerning the irrelevance of emotion arousal to the art of rhetoric, to the extent that he devotes a substantial section of Book 2 to the discussion of specific emotions relevant to oratorical practice, such as anger, pity, and envy<sup>3</sup>.

Scholars have picked up on this contradiction and offered conflicting explanations<sup>4</sup>. Some have argued that Aristotle, when claiming that emotions are extraneous to rhetoric, was providing an ideal picture of how rhetoric should be, while later in the treatise he acknowledged emotion arousal as a component of real-life oratorical practice<sup>5</sup>. Others believe that the inconsistency reflects two different phases in Aristotle's thought<sup>6</sup>. Yet, the view that the two passages contradict each other has been challenged by Jamie Dow. He has argued that, when he complained about handbook writers focusing on «compassion, anger, and similar emotions» (ἔλεος καὶ ὀργὴ καὶ τὰ τοιαῦτα πάθη τῆς ψυχῆς), Aristotle referred to the practice of inducing prejudice in the judges through emotional set-pieces or strategies, such as arousing pity by displaying one's children on the *bema*. According to Dow, this is what Aristotle meant by διαβολή and considered irrelevant, while he viewed emotional proofs bearing on the legal issue as appropriate<sup>7</sup>.

Whatever we make of Aristotle's views about emotion in rhetorical theory, the place of emotions in the oratorical practice of classical Athens has remained equally problematic in the scholarly debate on Attic oratory. One approach has been to focus on the rhetorical and performative

1. Arist. *Rhet.* 1.1, 1354a11-24. Unless otherwise stated, all translations from Aristotle's *Rhetoric* are by J. H. Freese.

2. Arist. *Rhet.* 1.2, 1356a13-18. On Aristotle's πίστεις ἔντεχνοι, see PEPE 2013, pp. 185-90.

3. Arist. *Rhet.* 2.1-11.

4. See KONSTAN 2006b, p. 414 for a brief outline.

5. SPRUTE 1994; KENNEDY 2007, p. 29.

6. BARNES 1995, pp. 260-4; FORTENBAUGH 2002 [1975], pp. 117-18.

7. DOW 2015, pp. 11-16. See also KONSTAN 2001, pp. 43-7, who argued that, in criticising appeals to pity in the opening chapter of the *Rhetoric*, Aristotle was only advising against eliciting pity regardless of desert.

nature of the works of the orators and stress the role of emotion in affecting the disposition of the judges towards the speaker and his opponent. Among the most recent advocates is Dimos Spatharas, who, in a series of publications, has argued that orators deployed emotion scripts to appeal to the shared cultural and social norms of the judges<sup>8</sup>. Scholars such as Edith Hall and Andreas Serafim, in pursuing the analogies between oratory and theatre, have similarly favoured delivery over legal relevance and stressed the importance for orators to arouse emotions to create a rapport with the judges in what they ultimately perceive as a competition in public performance<sup>9</sup>. Another set of scholars have instead prioritised the legal and institutional context of Attic oratory in their analyses of emotions. Lene Rubinstein, for example, has demonstrated that the extent to which speakers openly called for the anger of the judges was influenced by the legal setting, such as appeals featuring more extensively in public as opposed to private procedures<sup>10</sup>, and Edward Harris has shown that litigants rarely expressed their own emotions and couched their appeals to anger and pity in such a way as not to distract the judges from the legal issue<sup>11</sup>.

Both approaches have some shortcomings. Scholars who focus on rhetoric tend to be excessively concerned with delivery and narrative to the detriment of legal relevance. Spatharas, for example, overestimates the extent to which the orators elicited emotions in the judges through narratives which provided them with a “wide angle” on the case beyond the strict legal confines of the trial<sup>12</sup>. While he rightly resorts to the concept of emotion scripts and stresses the relationship between emotions and the socio-cultural values of the community<sup>13</sup>, his reliance on the notion of wide angle overlooks the role of the Judicial Oath in upholding the rule of law in democratic Athens. The oath bound Athenian judges to cast their votes in accordance with the laws and decrees of the Athenians<sup>14</sup> and only on matters included in the written plaint produced by the accuser when initiating the lawsuit<sup>15</sup>. The orators often alluded to the Judicial Oath, and their speeches tend to show a high degree of relevance to the legal issue at hand<sup>16</sup>. The importance of the oath is generally appreciated by scholars who focus on the legal and institutional setting of Attic oratory. These, however, tend to hold too narrow a view of emotions. Their studies mostly focus on emotion labels and explicit appeals to emotion and overlook other conceptual and linguistic tools through which the orators appraised, expressed or elicited emotions, such as emotion scripts and conceptual metaphors<sup>17</sup>.

I intend to provide a more nuanced picture of emotions in Attic oratory which considers both the most recent findings in emotion research and the institutional impact of the Judicial Oath on legal relevance. I shall focus on how speakers voiced their own emotions through means other than emotion labels and will argue that the expression of emotions in oratory was compatible

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8. SPATHARAS 2017a; 2019; 2020; see also SANDERS 2012 and SERAFIM 2017a.

9. HALL 2006, pp. 353-92; SERAFIM 2017b.

10. RUBINSTEIN 2008.

11. HARRIS 2017.

12. For the notion of “wide angle”, see LANNI 2009.

13. See also SANDERS 2012.

14. Aeschin. 3.6; And. 1.2; Dem. 18.121; Lys. 15.9.

15. Aeschin. 1.154; Dem. 45.50.

16. On the importance of the Judicial Oath for legal relevance, see RHODES 2004; HARRIS 2013, pp. 101-37; HARRIS - ESU 2025.

17. But see RUBINSTEIN 2014, who analyses litigants’ indirect appeals to anger through other emotions such as pity.

with a legal system based on the rule of law such as we find in classical Athens<sup>18</sup>. I shall first introduce the scholarly debate in emotion research. Studies in this field now tend to view emotions as multidimensional phenomena encompassing cognitive and bodily components which are not entirely distinct on a neuro-psychological level. I shall then expound on the implications of these principles for our understanding of emotions in Attic oratory, introduce the notions of emotion script, conceptual metaphor, and metonymy, and illustrate their use according to legal relevance in Attic oratory. Finally, I shall focus on Lysias 1 (*On the Murder of Eratosthenes*) as a case study and analyse Euphiletus' deployment of emotions scripts and conceptual metaphors to express his own emotions. I will demonstrate that Euphiletus voiced his emotions to strengthen his weak defence, according to which he had killed Eratosthenes in accordance with the statute of lawful homicide, and to support it against legal counterarguments.

### EMOTION RESEARCH AND THE MULTIDIMENSIONAL NATURE OF EMOTIONS

The nature of emotions is a hotly debated topic in emotion research. Different schools of thought provide more or less inclusive definitions which prioritise different features of emotions<sup>19</sup>. A popular trend in emotion research is Basic Emotion Theory, which focuses on emotion as a physiological phenomenon happening mainly within the body. The most notable example is the work of Paul Ekman and his associates. These have categorised a series of basic emotions through experiments where respondents were asked to recognise emotions by associating pictures of facial expressions to emotion labels or short stories which they believed best described the relevant pictures. The experiments found a good degree of agreement among subjects from different cultures and led Ekman to conclude that facial expressions are universal and more appropriate than language for studying emotion across cultures<sup>20</sup>. Yet, in using short narratives to enable respondents to identify emotions, Ekman and his associates implicitly acknowledged that emotions also have a cognitive component<sup>21</sup>. Such a component is the main object of investigation of appraisal theory. Scholars in this trend tend to downplay the biological aspects of emotions and emphasise their connection to socio-cultural and psychological factors. They believe that emotions are determined by our appraisal of a given situation in accordance with our own inclinations and the shared values of the society in which we live<sup>22</sup>. For me to be angry at someone, for example, it is necessary for me to evaluate whether their actions are offensive, and whether these actions will be deemed offensive will depend on the meaning they are attributed according to the socio-cultural norms of my community.

But should we take body and cognition as separate, even mutually exclusive components of emotions? Are we justified in prioritising either of these features as the necessary and sufficient conditions for an emotion episode to occur? As noted by Douglas Cairns, one may experience

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18. See KONSTAN 2001, pp. 27-48, who makes this point about appeals to pity in court.

19. For an outline of emotion research and its application to the ancient world, see CHANIOTIS 2012; CAIRNS - NELIS 2017; CAIRNS 2022a and 2022b.

20. See e.g. EKMAN - FRIESEN 1971; EKMAN 1972; EKMAN - CORDARO 2011. See also GRIFFITHS 1997, who distinguishes between "basic emotions" (or "affect programme responses"), i.e. short-term, spontaneous bodily reactions, and "higher cognitive emotions". For a criticism of Basic Emotion Theory, see COLOMBETTI 2014, pp. 26-40.

21. See CAIRNS - FULKERSON 2015, p. 3.

22. See e.g. ARNOLD 1960; FRIJDA 1986; LAZARUS 1991.

physiological arousal without an eliciting condition, for example when one feels angry without knowing why, but one may equally appraise a situation through an emotion script without implying the presence of bodily symptoms, such as when one construes a colleague's hostile behaviour as indicative of envy without necessarily believing that said colleague is experiencing the distressing feelings associated with envy – these may be more or less prototypical emotional episodes but constitute legitimate uses of emotion concepts nevertheless<sup>23</sup>. Indeed, emotion research now increasingly views emotions as multidimensional, event-like phenomena which tend to encompass both cognitive and physiological components as well as pragmatic responses<sup>24</sup>. Scholars adhering to enactivist theory have gone ever further. Based on neuroscientific studies which show that cognition and physiological components of emotions cannot be traced back to different areas of the brain<sup>25</sup>, Giovanna Colombetti has stressed the embodied nature of appraisal in emotional episodes<sup>26</sup>. Accordingly, the organism as a whole contributes to appraisal as it makes sense of the world around it according to its aims and values, and the bodily feelings which accompany a given emotions are not simply a reaction to the appraisal but participate in the appraisal itself. So, to use an example deployed by Colombetti, if I get angry upon receiving a criticism which I judge as unfair, my bodily feelings, such as the clenching of my fists, are part of my experience of appraising said criticism as unfair<sup>27</sup>.

The multidimensional nature of emotions was already acknowledged by Aristotle. In the *Rhetoric*, the philosopher defines the emotions (τὰ πάθη) as «those things through which, by undergoing change, people come to differ in their judgments (τὰς κρίσεις) and which are accompanied by pain and pleasure (λύπη καὶ ἡδονή)»<sup>28</sup>. Such a definition is sometimes taken as a sign that Aristotle was a precursor of appraisal theory<sup>29</sup>. To some extent this is true, as Aristotle does stress how emotions are something which has to do with one's judgment of a given situation. The philosopher, however, is also aware that emotions are something which involves physiological feelings, namely pain and pleasure. The bodily nature of such feelings is clarified in Aristotle's *On the Soul*. Here it is stated that, in most cases, emotions are not experienced nor produced without the body (οὐθὲν ἄνευ σώματος πάσχειν οὐδὲ ποιεῖν) and that the two domains are inseparable in practice<sup>30</sup>. Aristotle, in other words, views bodily feelings as participating in appraisal. His discussion of anger is a telling example. In the *Rhetoric*, Aristotle defines anger (ὀργή) as «a longing, accompanied by pain (μετὰ λύπης), for a real or apparent revenge for a real or apparent slight, affecting a man himself or one of his friends, when such a slight is undeserved»<sup>31</sup>. The experience of anger, in other words, depends on one's belief to

23. CAIRNS 2022a, pp. 20-4; see also PESMATZOGLOU 2020, pp. 18-19.

24. See e.g. RUSSELL 1991; SCHERER 2009.

25. See e.g. PESSOA 2008.

26. See also PRINZ 2004, whose notion of “embodied appraisals” differs from Colombetti's in that it views emotions as perceptions of bodily changes which allow the organism to represent features of the world, such as loss, danger or offence, which exist independently from the organism's goals or values, with cognition playing no significant role: see COLOMBETTI 2014, pp. 109-11.

27. COLOMBETTI 2014, pp. 101-109.

28. Arist. *Rhet.* 2.1, 1378a20-3; trad. Kennedy.

29. See e.g. SPATHARAS 2017a, p. 5.

30. Arist. *De an.* 1.1, 403a3-12. On Aristotle's view of emotion as embodied cognition, see CAIRNS 2019, pp. 9-13; PESMATZOGLOU 2020, pp. 22-6.

31. Arist. *Rhet.* 2.1, 1378a30-32.

have suffered a slight and on the appraisal that such a slight is undeserved. These judgments in turn are relative to the value system of a given society, where a given action is perceived as offensive. At the same time, Aristotle alludes to the bodily aspect of anger when stressing the pain which accompanies said emotion and contributes to the appraisal of the anger-eliciting situation. A comparison with *On the Soul* is again instructive. Aristotle states that, whereas the scholar of dialectic defines anger as a desire to cause pain in retaliation (ὄρεξιν ἀντιλυπήσεως), the natural philosopher defines it as a boiling of the blood and heat around the heart (ζέσιν τοῦ περὶ καρδίαν αἵματος καὶ θερμοῦ), but the distinction only exists at the level of theoretical analysis rather than lived experience<sup>32</sup>.

### EMOTION SCRIPTS, CONCEPTUAL METAPHORS, AND ATTIC ORATORY

Acknowledging the multidimensional nature of emotions has significant consequences on how we analyse their use in Attic oratory. One such consequence is that we should pay attention not only to emotion labels, such as ὀργή, φθόνος or ἔλεος, but also to other means through which the orators (and Greeks in general) conceptualised, expressed or elicited emotions. One such means are emotion scripts. These are mini-narratives which account for the event-like structure of emotions, in that they express the sequence of sub-events which constitute an emotion, such as its causes and targets, the beliefs and judgments involved, and the bodily, psychological, expressive or pragmatic responses they elicit<sup>33</sup>. This is how Aristotle himself conceptualises individual emotions in the *Rhetoric*. To go back to the example of anger, Aristotle describes this emotion through an emotion script. As we have seen, the philosopher identifies the cause of anger, namely a perceived slight, the appraisal of such slight and the bodily pain which accompanies such an appraisal, and its possible pragmatic response, namely revenge. Moreover, Aristotle illustrates several scenarios which can elicit anger and the respective targets of said anger. For example, men are angry when someone mocks or insults them for no reason, or when they despise the things that they hold dear or take pride on<sup>34</sup>.

Other means through which people conceptualise and express emotions are metaphors and metonymies. As argued by Lakoff and Johnson, metaphors consist in «understanding (sic) and experiencing one kind of thing in terms of another»; in other words, we use one conceptual domain – usually the concrete or known – to understand another – usually the abstract or unknown. A common conceptual metaphor is ARGUMENT IS WAR. When we say things like «I demolished his argument» or «he attacked every weak point in my argument», we are not just talking about arguments through the language of war; we are actually thinking of an argument as something we can win or lose and perceiving our interlocutor as an opponent. According to Lakoff and Johnson, therefore, conceptual metaphors are not just a matter of language but are intrinsic to the way we think and act<sup>35</sup>. As shown especially by Kövecses, metaphors are central to how we

32. Arist. *De an.* 1.1, 403a29-403b2. On anger in Aristotle, see KONSTAN 2006a, pp. 41-8, who, however, paid more attention to the strictly cognitive side of emotion appraisal.

33. See RUSSELL 1991, pp. 442-4; on emotion scripts in the ancient world, see KASTER 2005, p. 63; CAIRNS 2008, pp. 43-62; SANDERS 2014, pp. 5-7; SPATHARAS 2019, p. 12.

34. Arist. *Rhet.* 2.1, 1379a28-36.

35. LAKOFF - JOHNSON 1980, pp. 3-7; THEODOROPOULOU 2012, p. 451. On conceptual metaphors in ancient and contemporary rhetoric, see recently FILONIK 2021.

conceptualise and express emotions. Conceptual metaphors allow us to understand emotions through reference to our experience of them, which is cognitive as well as physical, and can express several aspects of emotions such as their intensity, cause, control or lack thereof. For example, when we say that we are boiling with anger, we understand anger through the conceptual metaphor ANGER IS A HOT FLUID<sup>36</sup>. Akin to metaphors are metonymies. As stressed by Theodoropoulou, like metaphors, metonymies allow us to conceptualise a mental entity through another; unlike metaphors, however, metonymies draw from within the same conceptual domain rather than from two separate domains. In the case of emotions, conceptual metonymies usually draw from our bodily experience of emotions, based on the principle EFFECT FOR CAUSE, and specifically PHYSIOLOGICAL REACTION STANDS FOR EMOTION<sup>37</sup>. So when we say that we have cold feet, we conceptualise fear through its bodily reaction, according to the metonymic principle DROP IN BODY TEMPERATURE STANDS FOR FEAR<sup>38</sup>.

As shown by Cairns in a series of publications, conceptual metaphors and metonymies are commonly used in ancient Greek literature to express emotions, often by drawing from the bodily domain<sup>39</sup>. A passage in Plutarch's *Life of Aratus* provides a telling example. The biographer recounts how the Aetolians had captured the Achaean city of Pellene, only to then be defeated by the Achaean general Aratus. During the battle, one of the captive women of Pellene, conspicuous for her beauty, appeared up high before the gate of the temple of Artemis. The Aetolians believed her to be a divine apparition (φάσμα θεῖον ὄραν δοκοῦσι), and she put shivers and amazement in them (τοῖς πολεμίοις ... φρίκην ἐνέβαλε καὶ θάμβος)<sup>40</sup>. As noted by Cairns, the reference to shivers does not merely express the physiological reaction to fear but metonymically designates the total experience of fear. This in turn depends on an appraisal of the situation in accordance with a society's cultural norms, in this case shared ideas about the interaction between humans and gods. At the same time, this embodied metonymy is embedded in a container metaphor, whereby a person, activity or state is viewed as a container with physical boundaries that delimit what is inside and outside. In this case, the Aetolians are conceptualised as containers, as the appearance of the woman causes shivers to enter their bodies<sup>41</sup>.

Emotion scripts and cognitive metaphors increasingly feature in rhetorical studies of Attic oratory, which have also rightly downplayed the "reason vs emotion" dualism which has long been common in scholarship and popular thought<sup>42</sup>. As David Konstan put it, emotions are «anything but raw, irrational feelings»; since they involve embodied appraisals which have to do with cognition as much as bodily feeling, they belong in rational argumentation.<sup>43</sup> While scholars of rhetoric, however, tend to believe that orators deployed emotions to distract the judges from the matter at hand or, at the most, provide them with a wide angle on the case through ref-

36. KÖVECSES 2000, pp. 4-5; THEODOROPOULOU 2012, pp. 452-6; CAIRNS 2016a.

37. THEODOROPOULOU 2012, pp. 450-1; CAIRNS 2016a.

38. KÖVECSES 2000, p. 5.

39. See e.g. CAIRNS 2016a; 2016b; 2016c. See also SPATHARAS 2019, p. 159.

40. Plut. *Arat.* 32. 1-2.

41. CAIRNS 2016a, esp. n. 14. On container metaphors, see LAKOFF - JOHNSON 1980, pp. 29-32, 58-60, 73-5, 92-6, 98-105, 161, 148; KÖVECSES 2000, pp. 141-63.

42. See SPATHARAS 2017a and 2019; also, less effectively, SERAFIM 2017a, pp. 144-51.

43. KONSTAN 2006b, p. 421. On the "reason vs emotion" dualism in legal thought, see ELLSWORTH - DOUGHERTY 2016.

erence to shared social and cultural norms, I view emotions as aligned rather than detrimental to legal relevance and the rule of law.

Demosthenes' *Against Conon* provides an instructive example. The speech belongs to a private suit for battery (*dike aikeias*) brought by Ariston against Conon. Spatharas has rightly stressed Ariston's use of the rhetorical tool of *enargeia* to enable the judges to visualise Conon's violent behaviour towards him and the panicked reaction of the women in Ariston's house when seeing his wounds. Conon's gestures, especially his acting like a triumphant cock flapping his wings<sup>44</sup>, as well as the drinking and violent habits of his sons<sup>45</sup> are suggestive of their *hybris* and aggressive sexuality and construct a script of anger against Conon and pity towards Ariston<sup>46</sup>. Legal considerations suggest that these emotion scripts are relevant to the issue at hand<sup>47</sup>. From other speeches, we know that the substance of the *dike aikeias* revolved around determining who had delivered the first unjust blow<sup>48</sup>. Ariston, therefore, needs to prove that he was beaten up and that Conon had struck first. Ariston's stress on the screaming and crying (κραυγή καὶ βοή) of his female relatives and on the physical injuries he had received<sup>49</sup>, in addition to eliciting pity towards him, is legally relevant in that it contributes (together with the testimony of his doctor<sup>50</sup>) to prove that he had been beaten up<sup>51</sup>. Most crucially, the plaintiff's insistence on Conon's and his sons' hubristic behaviour, in constructing a script of anger against the defendant, does not merely raise hostility against the defendant on the part of the judges. In the absence of witnesses and concrete evidence proving that Conon had indeed struck the first blow<sup>52</sup>, it characterises Conon as the kind of person who, because of his disposition for *hybris*<sup>53</sup>, would be very likely to commit the kind of unprovoked assault which fell under the statute of the *dike aikeias*<sup>54</sup>.

Another interesting example of the compatibility of emotions and legal relevance is Demosthenes' *On the False Embassy*. The speech is an accusation of misconduct of an embassy (*parapresbeia*) against Aeschines in the context of the latter's *euthyna* after the second embassy to Macedon concerning the Peace of Philocrates<sup>55</sup>. Demosthenes moves five charges

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44. Dem. 54.9.

45. Dem. 54.3-5; 14-17.

46. On *hybris* as a possible cause of anger, see discussion below. On *enargeia*, see WEBB 2009, pp. 87-106 and 2020.

47. Pace SPATHARAS 2019, pp. 103-9, who argues that they aimed to provide a wide angle on the case to induce the judges to react against the threat posed by Conon's anti-social behaviour. HARRIS 2017, p. 230 rightly views the emotional reaction of Ariston's mother at his wounds as a means to elicit pity but goes too far when claiming that Ariston «never describes his own sense of humiliation». In fact, Ariston's description of Conon's hubristic gestures towards him is meant exactly to convey the humiliation to which the plaintiff had been subjected.

48. Cfr. [Dem.] 47.40: ὃς ἂν ἄρξη χειρῶν ἀδίκων πρότερος; Dem. 23.50: ἂν τις τύπτῃ τινά ... ἄρχων χειρῶν ἀδίκων; Isoc. 20.1: ἄρχων χειρῶν ἀδίκων; Lys. 4.11: εἰ οὗτος ἦρχε χειρῶν ἀδίκων ἢ ἐγὼ πρότερος τοῦτον ἐπάταξα. See HARRIS 2016, pp. 206-209.

49. Dem. 54.9-10.

50. Dem. 54.11-12.

51. See HARRIS 2017, p. 233.

52. See CAREY 2004, p. 117.

53. On *hybris* as a disposition to overvalue one's own honour and potentially impinge on the honour of others for one's own pleasure, see CAIRNS 1996 and CANEVARO 2018. See also FISHER 1992, pp. 11 and 148.

54. See now ROCCHI 2025.

55. On the historical and legal setting of the speech, see HARRIS 1995, pp. 107-16; MACDOWELL 2000, pp. 14-22; ORANGES 2021, pp. 138-46.

against Aeschines, namely that he lied in his reports to the Assembly, gave advice detrimental to Athenian interests, disregarded the orders of the Assembly, delayed diplomatic operations to Philip's advantage, and did all this because he was bribed by the Macedonian king<sup>56</sup>. Demosthenes, however, lacked concrete evidence for these charges, especially that of corruption, and had to rely on rather weak, circumstantial proof<sup>57</sup>. In some cases, Demosthenes deployed emotions to strengthen his arguments, but these were still relevant to the charges. Two instances in particular stand out. One is the recollection of the dreadful and pitiful spectacle (θέαμα δεινόν ... καὶ ἔλεινόν) of the destruction brought by Philip upon Phocis, which Demosthenes experienced while travelling through the region<sup>58</sup>. Demosthenes uses *enargeia* to enable the judges to view such a terrible sight through his eyes and creates a script of pity and indignation<sup>59</sup>. The vivid evocation of the Phocians' fate substantiates the charge that Aeschines had recommended inexpedient policies, since Demosthenes paints Aeschines' advice to the Assembly as causing the betrayal of Phocis to Philip and forfeiting Athenian interests in central Greece<sup>60</sup>. The other passage discusses Aeschines' hubristic behaviour at a symposium he attended during the embassy to Macedonia. On that occasion, an Olynthian woman was requested to sing; when she refused, a drunken Aeschines ordered a servant to flog her, causing her to jump up, knee in supplication and push the table over<sup>61</sup>. The passage constructs a script of pity towards the woman and anger towards Aeschines<sup>62</sup>, and Demosthenes claims to choke (ἀποπνίγομαι) at the thought of Aeschines boasting about his life despite this kind of behaviour<sup>63</sup> – a metonymy which voices his disgust toward the defendant<sup>64</sup>. The story is relevant to the charge of corruption. In the absence of any evidence, Demosthenes paints a picture of Aeschines as acting hubristically as a result of Philip's gifts; since Olynthus had been conquered by the Macedonians against Athenian interests, his vivid description of Aeschines' disrespect for the Olynthian woman serves to stress that his allegiances lied with Philip rather than Athens<sup>65</sup>.

56. Dem. 19.4-8. See HARRIS 1995, pp. 116-117 on Demosthenes' legal strategy.

57. See HARRIS 1995, pp. 85-6, 116; MACDOWELL 2000, pp. 27-28.

58. Dem. 19.65-6.

59. See WEBB 2009, pp. 152-4.

60. Dem. 19.29-50.

61. Dem. 19.196-9.

62. On pity in ancient Greece, see KONSTAN 2001. As noted by SPATHARAS 2019, pp. 115-16, Demosthenes glosses over the woman's slave status, which made her participation to the symposium appropriate, and highlights her free birth to stress Aeschines' outrageous behaviour and elicit the judges' pity towards her.

63. Dem. 19.199.

64. See SPATHARAS 2019, pp. 109-16. HARRIS 2017, pp. 234-6 views this passage as unusually crude in describing details of violent actions and as a breach of the decorum expected from forensic orators. On disgust in Attic oratory, see FISHER 2017 and SPATHARAS 2017a.

65. See SPATHARAS 2019, pp. 110-13, who, however, views the story of the Olynthian woman as «relevant to the wider scope of the speech». It is also worth noting how the digression is introduced. Demosthenes states that, despite his many actions against the Athenians while on the embassy (αισχρὰ καὶ πολλὰ καὶ πάντα καθ' ὑμῶν πεπρεσβευκῶς), Aeschines will construct Demosthenes' charges against his fellow ambassadors as a betrayal of the salt, table and libations (ποῦ δ' ἄλες; ποῦ τράπεζα; ποῦ σπονδαί;) which bound them together (Dem. 19. 188-9). These are «symbols of fellowship at dinner and symposium» (MACDOWELL 2000, p. 284), and allow Demosthenes to illustrate Aeschines' behaviour in the context of a Macedonian feast to stress that Aeschines was in fact the real traitor.

EMOTIONS, NARRATIVE AND LEGAL RELEVANCE IN *LYSIAS 1*

So far, I have shown that emotion research now tends to view emotions as complex, event-like phenomena characterised by embodied appraisal, and that scholars of rhetoric have been increasingly appreciating the role of emotion scripts and cognitive metaphors (alongside emotion labels) in enabling the orators to conceptualise, express and elicit emotions. I have also provided some examples illustrating how such a multidimensional approach to emotions can allow us to overcome the dualism between emotions and legal relevance. Such a dichotomy is especially evident in studies of narrative in Attic oratory. These tend to view forensic narratives as largely meant to expound on the community's social and political norms, often to the detriment of legal relevance, and emotions as engaging the judges by appealing to such norms<sup>66</sup>. I am of course not denying that cultural norms are significant in emotion appraisal, but I argue that the deployment of emotions (and the shared values relevant to their appraisal) in forensic narrative was in fact meant to strengthen arguments relevant to the legal issue of the trial. To prove this point, I shall concentrate on *Lysias 1 (On the Murder of Eratosthenes)*. This speech includes a significant, first-person narrative component which largely relies on *enargeia* to emotionally influence the judges and make them feel as if they themselves witnessed the events described<sup>67</sup>. This had led some scholars to question the relevance of *Lysias*' narrative<sup>68</sup>, which makes it an ideal case study for investigating emotions and the rule of law. I will thus show that the speaker, Euphiletus, voiced his own emotions through emotion scripts and cognitive metaphors and did so in a way which was directly relevant to the legal issue at hand.

*Lysias*' *On the Murder of Eratosthenes* is the defence speech in a private prosecution for homicide (*dike phonou*). The defendant, Euphiletus, was accused of having killed a man named Eratosthenes. He did not deny the murder but claimed that he had committed lawful homicide<sup>69</sup>. Athenian law set out a series of circumstances under which someone accused of murder was to go unpunished. This was prescribed if one killed another unintentionally during an athletic contest, killed one's own aggressor on a highway, accidentally slayed someone in battle, or killed a man found having intercourse with one's one wife, mother, sister, daughter, or concubine. Such cases were tried by the *ephetai* in the homicide court of the Delphinion. If found innocent, the killer would walk away free; if found guilty, he would be punished with death or exile and loss of rights<sup>70</sup>.

Euphiletus alleged that he had killed Eratosthenes because he had caught him in bed with his wife, and claimed to be exempt from punishment. He summarises the legal issue of the trial at the beginning of the speech. Euphiletus states that he must show that Eratosthenes had an affair with his wife (ἐμοίχευεν Ἐρατοσθένης τὴν γυναῖκα τὴν ἐμήν), that there was no pre-

66. See e.g. KAPPARIS 2017, pp. 293-5 (but see FISHER 2020); SPATHARAS 2020, pp. 5-8; PLASTOW 2020a, pp. 106-9 and 2020b. On narrative in ancient rhetorical theory, see PEPE 2012, pp. 227-30.

67. On *enargeia* in *Lysias 1*, see WEBB 2020.

68. See e.g. PLASTOW 2020a, pp. 107-9 and 2020b, pp. 48-50.

69. On whether the speech was intended for delivery in court or was rather some sort of rhetorical exercise, see TODD 2007, pp. 56-60.

70. Dem. 23.53-5, 74; Lys. 1.30-1; [Arist.] *Ath. Pol.* 57.3. See CAREY 1989, pp. 59-64; HARRIS 200, p. 285; TODD 2007, pp. 43-6 and 148. The text of the statute on lawful homicide preserved in Dem. 23.53 has been shown to be mostly reliable by CANEVARO 2013, pp. 64-70. The statute on lawful homicide (together with that on involuntary homicide) had been introduced by Draco to distinguish it from intentional homicide, but it is not preserved on the surviving section of Draco's law republished on stone in the late fifth century (*JG I<sup>3</sup> 104*): see now HARRIS - CANEVARO 2023.

existing enmity between the victim and himself, and that he did not kill Eratosthenes for the sake of money<sup>71</sup>. The first point was important because it qualified Euphiletus' actions as lawful homicide but might have been difficult to prove. Apart from Euphiletus' friends<sup>72</sup>, the crucial witnesses of the adultery were an old woman and Euphiletus' female servant, who could not be called to testify in court without the approval of the opposition<sup>73</sup>. Moreover, the prosecution could argue that Eratosthenes was an innocent passer-by whom Euphiletus had dragged into his house, which Euphiletus briefly rebuts after his narrative of the murder<sup>74</sup>. Euphiletus' second and third points, that he had no previous enmity with Eratosthenes nor killed him for the sake of money, are also meant to disprove a possible, legally relevant counterargument. If Euphiletus had any motive beyond catching his wife's seducer in the act, his plead of lawful homicide would have been endangered. He therefore devotes a few paragraphs to refuting this hypothesis<sup>75</sup>, whereas another section of his speech is intended to dispel any doubts that he may have plotted Eratosthenes' killing<sup>76</sup>.

As several commentators have noted, Euphiletus' rhetorical strategy is characterised by legal chicanery. Despite being the defendant on a trial for homicide, Euphiletus acts as if he were prosecuting Eratosthenes for seduction (*moicheia*)<sup>77</sup>. He also falsely implies that the statute on lawful homicide imposed a legal obligation on the husband to kill his wife's seducer caught in the act<sup>78</sup>, and makes the controversial claim that the lawgiver viewed seduction as a more serious crime than rape<sup>79</sup>. While certainly dishonest, Euphiletus' strategy is relevant to the legal issue at hand. To prove that his actions qualified as lawful homicide, it is essential for Euphiletus to show that Eratosthenes seduced his wife, and pretending to prosecute him for *moicheia* enables him to carry this point very effectively. In a similar way, implying that he was legally bound to kill his wife's seducer allows Euphiletus to reinforce the point that the murder was justifiable.

As I shall argue, Euphiletus' narrative of the events leading to the murder is equally relevant to the legal issue of the trial<sup>80</sup>, and so is his deployment of his own emotions within such narrative. Euphiletus recounts how his marriage was at first happy and his wife faithful. At the funeral of Euphiletus' mother, however, Eratosthenes laid eyes upon his wife and, through the mediation of a servant girl, started an affair with her. This went on for a long time, until an old woman, sent by Eratosthenes' former lover, informed him of the adultery. Euphiletus interrogated the servant girl, who confirmed the affair and agreed to help him catch Eratosthenes in the act. When Eratos-

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71. Lys. 1.4.

72. Lys. 1.29.

73. See TODD 2007, p. 115 n. 48; WEBB 2020, p. 159. See also CAREY 1989, p. 63, who notes how speakers usually make much of their opponents' refusal to allow the interrogation of a slave and suggests that Euphiletus' silence on the matter may be an indication that he had not asked for his female servant to be questioned.

74. Lys. 1.27. See TODD 2007, p. 122.

75. Lys. 1.43-6. See TODD 2007, p. 143.

76. Lys. 1.37-42. See PLASTOW 2020, p. 122.

77. See CAREY 1989, pp. 60-4; 1995, pp. 408-10; HARRIS 2006, pp. 283-91; TODD 2007, 44; SPATHARAS 2020, p. 8; PLASTOW 2020, p. 108. On *moicheia* in Athenian law, see CAREY 1995; HARRIS 2006, pp. 283-91; TODD 2007, pp. 46-9; CANEVARO 2013, pp. 190-6; KAPPARIS 2019, pp. 190-3.

78. Lys. 1.33, 47-50. See COHEN 1984, pp. 149-50; HARRIS 2006, p. 285; PLASTOW 2020, p. 122.

79. Lys. 1.30-5. For a convincing refutation of this claim, see HARRIS 2006, pp. 283-98, *pace* CAREY 1995.

80. *Pace* PLASTOW 2020, pp. 108-9, who argues that Euphiletus' rhetorical strategy includes material which approaches irrelevance.

thenes next entered his house, Euphiletus gathered some friends, surprised him in bed with his wife, and killed him despite Eratosthenes offering monetary compensation<sup>81</sup>.

This vivid narrative, performed from Euphiletus' point of view as he gradually comes to learn the truth, allows the judges to watch Eratosthenes' seduction of his wife as if unfolding in front of their eyes<sup>82</sup>. This makes up for Euphiletus' inability to question the servant girl and the old woman, who would have been precious witnesses of the affair between Eratosthenes and Euphiletus' wife. At the same time, providing details on the development of the adultery also allows Euphiletus to clear possible doubts about any ulterior motives he may have had for killing Eratosthenes, in particular concerning the possibility that Euphiletus may have colluded with his wife to set Eratosthenes up and settle a previous enmity. In a similar way, Euphiletus constructs his own persona as a simple-minded, gullible, even slow-witted man who is repeatedly fooled by his wife. This allows him to show that he would not have been able to plot the murder of Eratosthenes and that he had only acted upon discovering the affair compatibly with the statute on lawful homicide.

But what about the way Euphiletus conveys his own emotions within the narrative? As rightly stressed by Harris through comparison with tragic delivery, Euphiletus' tone is relatively neutral and restrained in the expression of emotions even at the most intense stages of his narrative such as the discovery of his wife's affair<sup>83</sup> and his showdown with Eratosthenes<sup>84</sup>. Lysias' prose in these instances is not replete with emotion words, as Euphiletus' focus is on the wrongs he has suffered and the punishment he has lawfully inflicted on his wife's seducer<sup>85</sup>. This, however, does not mean that Euphiletus did not convey his own emotions. In fact, the two passages are instructive in that they show how he expressed them through emotion scripts and conceptual metaphors, yet in a way which was relevant to the legal issue of lawful homicide.

Let us start with Euphiletus' discovery of his wife's affair with Eratosthenes. Upon hearing about the adultery from the old woman, Euphiletus expresses his bewilderment at the news of his wife's infidelity<sup>86</sup>:

At once I became alarmed (ἐγὼ δ' εὐθέως ἐταραπτόμην). Everything came back into my mind, and I was filled with suspicion (πάντα μου εἰς τὴν γνώμην εἰσήει, καὶ μεστὸς ἦ ὑποψίας). I recalled how I had been locked in my room, and I remembered how on the night in question both the door of the house and the outer door had made a noise (a thing which had never happened before), and how I had noticed that my wife had used make-up. All these things flashed into my mind, and I was full of suspicion (ταῦτά μου πάντα εἰς τὴν γνώμην εἰσήει, καὶ μεστὸς ἦ ὑποψίας)<sup>87</sup>.

The verb *ταράσσω* at the beginning of the passage conveys Euphiletus' fear. Aristotle defines fear (φόβος) as «a painful or troubled feeling (*ταραχή*) caused by the impression (ἐκ φαντασίας) of an imminent evil that causes destruction or pain»<sup>88</sup>. Poetic texts often couple

81. Lys. 1.6-26.

82. On the vividness of Euphiletus' narrative, achieved through the technique of *enargeia*, see WEBB 2020 and WOHL 2020.

83. Lys. 1.17.

84. Lys. 1.25-6.

85. HARRIS 2017, pp. 223-4; see also TODD 2007, p. 51.

86. See HARRIS 2017, p. 224.

87. Lys. 1.17; trad. Todd.

88. Arist. *Rhet.* 2.5, 1382a21-5. See KONSTAN 2006a, pp. 130-5.

fear with *ταραχή*. In Aeschylus' *Libation Bearers*, for example, Orestes dreads the upsetting effect of the fear raised by the Erinyes (μάταιος ἐκ νυκτῶν φόβος ... *ταράσσει*)<sup>89</sup>, and fear is clearly implied when the slave Demosthenes, in Aristophanes' *Knights*, laments that the Paphlagonian has been causing agitation (*ταράττει*) to him and his fellow slaves with his constant threats and calumnies<sup>90</sup>. The terms *ταράσσω* and *ταραχή*, whether or not used in the context of emotions, are also associated with the body. In Aristophanes' *Clouds*, for example, to explain to Strepsiades how clouds produce thunder, Socrates asks him whether he has ever been disturbed in his belly (*ἐταράχθης τὴν γαστέρα*) after filling up with soup and experienced agitation thundering inside him<sup>91</sup>.

In our passage, *ἐταραπτόμην* is to be taken as an inchoative imperfect («I started to feel disturbed»). Coupled with the adverb *εὐθέως* («immediately»), it indicates both fear's sudden distressing outburst and its durative nature. The latter is made even more evident by a double container metaphor which allows us to witness Euphiletus' *φαντασία* of his impending evils as an embodied process of appraisal: «Everything came back into my mind, and I was filled with suspicion» (*πάντα μου εἰς τὴν γνώμην εἰσήει, καὶ μεστὸς ἦ ὑποψίας*). The events recounted by the old lady as well as Euphiletus' own memories of his wife's recent behaviour are conceptualised as physical entities which enter Euphiletus' mind, allowing him to perceive his wife's infidelity, whereas the phrasing *μεστὸς ἦ ὑποψίας* provides an embodied expression of the psycho-physiological arousal of fear as Euphiletus appraises the situation and his feelings. That the emotional state alluded to by Euphiletus is fear is also suggested by a parallel passage in Plato's *Republic* where the thought of one's own impending death is understood through the same container metaphors. Plato writes how fear and concern come into said man (*εἰσέρχεται αὐτῷ δέος καὶ φροντίς*) and how he becomes filled with apprehension and fear (*ὑποψίας δ' οὖν καὶ δειμάτος μεστὸς γίγνεται*) when remembering the tales about the underworld<sup>92</sup>.

Euphiletus, therefore, vividly expresses his fear upon discovering the affair and reinforces his sense of agitation through the repetition of the container metaphors at the end of the passage. Euphiletus' emotions, however, are relevant to lawful homicide. They highlight his cluelessness and, consistently with the naïve persona he has constructed for himself, they help him demonstrate that the murder could not have possibly been premeditated but was the direct consequence of his unexpected discovery of the adultery<sup>93</sup>. This result is achieved through repeated allusions in the previous part of the narrative to the fact that Euphiletus suspected nothing of the affair despite his wife's unusual behaviour<sup>94</sup>, and prevents the prosecution from effectively accusing Euphiletus of entrapment and undermine his claim of lawful homicide<sup>95</sup>.

89. Aesch. *Cho.* 285-9.

90. Ar. *Eq.* 62-70.

91. Ar. *Nub.* 386. On the term *ταραχή* as indicative (also) of emotional physiological arousal, see CAIRNS 2019, p. 9.

92. Pl. *Resp.* 330d-e. On differences and similarities between the fear terms *δέος* and *φόβος*, see KONSTAN 2006a, pp. 153-4.

93. Cfr. Lys. 1.37.

94. Lys. 1.10: *ἐγὼ οὐδέποτε ὑπόπτευσα*; 13: *κἀγὼ τούτων οὐδὲν ἐνθυμούμενος οὐδ' ὑπονοῶν*; 15: *ἐμοῦ πολὺ ἀπολελειμμένου τῶν ἐμαντοῦ κακῶν*.

95. See TODD 2007, pp. 110-11, who rightly notes that Lysias' use of repetition and the pacing of the paragraph convey Euphiletus' thinking process, which starts abruptly after hearing the old woman's account, slows down as he remembers his wife's suspicious behaviour, and ends with Euphiletus' quickly jumping to conclusions about his wife's affair. As stressed by Todd, «this is crucial to the defence, since Lysias needs to portray Euphiletus as a man

We can now move to the second piece of evidence for Euphiletus' expression of his own emotions: the account of his final showdown with Eratosthenes. Euphiletus has just told how, tipped off by his female servant about Eratosthenes' presence in the house, he hastily gathered some friends and surprised Eratosthenes naked in bed with his wife<sup>96</sup>. Euphiletus recounts how he punched Eratosthenes, tied him up and killed him. No narrative of the killing is provided; instead, Euphiletus reports his own response to Eratosthenes' offer of financial compensation, in which he takes on the role of agent of the law<sup>97</sup>. As rightly noted by Stephen Todd, Euphiletus stops short of using strong emotional expressions such as «anger flowed over me and I lost control»<sup>98</sup>. Yet, the passage still constructs an emotion script for anger<sup>99</sup>. When asking Eratosthenes why he had committed *hybris* by entering his house (διὰ τί ὑβρίζει εἰς τὴν οἰκίαν τὴν ἐμὴν εἰσιῶν), Euphiletus voices his anger at the wrong he has suffered<sup>100</sup>. According to Aristotle, *hybris* was one possible cause of anger. As we have seen, Aristotle defines anger as a longing for revenge due to an undeserved slight (ὀλιγωρία). He distinguishes three kinds of slight: disdain, spitefulness and *hybris* (καταφρόνησις τε καὶ ἐπηρεασμὸς καὶ ὕβρις). *Hybris* causes anger by inflicting dishonour on the victim, as Aristotle illustrates through the example of Achilles' anger at being dishonoured by Agamemnon<sup>101</sup>.

Together with the cause of his anger, namely Eratosthenes' *hybris* against him, Euphiletus describes his own response to this emotion. This is most evident in his pragmatic reaction, as he punches Eratosthenes and knocks him down, but also in his (presumably fictitious) speech to the victim. In stating that the city's law rather than himself will kill Eratosthenes and citing Eratosthenes' transgression of the law as the cause of his impending death<sup>102</sup>, Euphiletus implies that he will exact his τιμωρία in the form of punishment in accordance with the statute of lawful homicide. This too is consistent with Aristotle's description of anger as a desire for τιμωρία, a concept which in ancient Greek covered the meaning of both «revenge» and «punishment» through legal means<sup>103</sup>, and is a further indicator that the passage deploys an emotion script for anger. Yet, Euphiletus' expression of his anger is relevant to the legal issue at hand. While Todd is probably right not to view Euphiletus' presentation of his case as a crime of passion<sup>104</sup>, his subtle use of emotion not only conveys his legitimate anger, as a conscientious Athenian citizen, at Eratosthenes' disregard of the laws concerning the

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slow to the uptake, but thereafter utterly convinced of the rightness of what he has to do». See also WOHL 2020, p. 180. On the charge of entrapment, see TODD 2007, pp. 136-43.

96. Lys. 1.23-4.

97. Lys. 1.25-6. See CAREY 1989, p. 75; TODD 2007, p. 121.

98. TODD 2007, p. 51; see also HARRIS 2017, pp. 223-4.

99. On Euphiletus' anger, see USHER 1965, pp. 101-105; *pace* CAREY 1989, p. 62 n. 9.

100. Since we lack indications about Euphiletus' delivery in this instance, we cannot tell whether his tone of voice conveyed his anger. Yet, I would hardly imagine Euphiletus keeping a calm stance while describing his clash with Eratosthenes and reporting his questioning of the seducer in indirect speech (Lys. 1.25: «I asked him why he committed *hybris* by entering my household», ἡρώτων διὰ τί ὑβρίζει εἰς τὴν οἰκίαν τὴν ἐμὴν εἰσιῶν). On delivery and emotions, see SERAFIM 2017, pp. 114-17, whose account of emotions, however, is rather under-theorised. On *hybris* and anger in Attic oratory, see SANDERS 2012, pp. 364-7.

101. Arist. *Rhet.* 2.1, 1378a30-b35.

102. Lys. 1.26.

103. On τιμωρία in Athenian homicide law, see CAIRNS 2015.

104. TODD 2007, p. 51.

family, but also stresses how his murder of Eratosthenes was a lawful, immediate reaction to the adultery rather than a well-thought plot he had devised<sup>105</sup>.

#### CONCLUSIONS: EMOTIONS AND LEGAL NARRATIVE

The analysis of emotions in forensic rhetoric requires us to understand emotions as complex, multidimensional phenomena which involve a process of embodied appraisal. Emotions, moreover, can be conceptualised, expressed and elicited not only by means of emotion labels but also through emotion scripts as well as conceptual metaphors and metonymies. The use of such means in Attic oratory has been illustrated by Euphiletus' expression of his own emotions in Lysias 1. In recounting his discovery of Eratosthenes' affair with his wife, Euphiletus conveys his emotions through a double container metaphor which expresses his fear and anguish at learning the truth. When describing his encounter with Eratosthenes, he instead voices his anger through an emotion script that stresses the causes of such emotion and his responses to it. As I have shown, however, Euphiletus' deployment of his own emotions is relevant to the legal issue of lawful homicide. Rather than contributing to providing the judges with a wide angle on the case, Euphiletus' vivid narrative and the emotions he voices within it allow him to address important aspects of the charges and pre-empt potential legal counterarguments. As we have seen, Euphiletus' fear at discovering the affair and his anger when facing Eratosthenes support his self-portrait as a clueless man who could not have planned the murder but instinctively reacted to the seduction of his wife. This in turn thwarted any attempt by the prosecution of charging him with entrapment and reinforced his defence according to which he had committed lawful homicide when catching Eratosthenes in bed with his wife.

Forensic narrative, therefore, is best understood as *legal* narrative. The Attic orators did resort to expressing or arousing emotions (which in turn resonated with the cultural, social and political norms of the community), but these were expected to reinforce the speaker's legal interpretation of the relevant events rather than distract the judges from them<sup>106</sup>. Such a view of emotions and the law also chimes with Aristotle's, if we believe Dow's interpretation<sup>107</sup>. While "cheap" techniques for arousing emotions such as displaying one's crying children to move the judges to pity were problematic in that they laid outside both rhetorical τέχνη and legal relevance<sup>108</sup>, emotions were in fact among the technical proofs available to the orators as long as they bore on the legal issue at hand. Just as there appears to be no gulf between rhetorical theory and oratorical practice on the use of emotions, so should we abandon any strict dichotomies between body and cognition, emotion and rationality, and rhetoric and the rule of law in the Athenian legal system.

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105. As noted by PLASTOW 2020, p. 122, Euphiletus' narrative indicates that he had been aware of the adultery for at least a couple of days before catching Eratosthenes in the act. Due to this time gap, which could endanger his case for lawful homicide, Euphiletus has to frame the scene of the killing through an emotion script for anger so as to increase the sense of immediacy between discovery and killing.

106. See KONSTAN 2001, pp. 27-48, who made this point about appeals to pity, though his analysis focused on emotion labels and understood emotions in primarily cognitive terms.

107. See p. 2 above.

108. See KONSTAN 2001, pp. 42-3.

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