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Andreas Serafim, PhD*

CONSTRUCTING IDENTITIES: RELIGIOUS ARGUMENTATION, SEXUALITY AND SOCIAL IDENTITY IN ATTIC FORENSIC ORATORY

This paper explores how religious argumentation is used in the construction of sexual and social identities, and the impact this may have had on the audiences in Athenian courts. There are only a few references to religion in Attic oratory that point to and undermine an individual's sexuality and/or social standing. These references fall largely into two related categories: aggressive references that denote morally, socially, legally and sexually condemnable identities; and occupational references that describe the social occupation of people in relation to religious duties and obligations. It has been argued that orators' use of religious discourse for identity construction is designed to sustain a close bond between the speaker and the audience, while also estranging their opponents from the group.

Key words: *Identity. – Impiety. – Religious argumentation. – Sexuality. – Social identity.*

The purpose of identity construction in Attic forensic oratory is to influence the audience's attitude towards the speaker and his opponent. This paper explores specifically how religious argumentation is used to shape sexual and social identities. The use of religion allows the speaker to harness the unifying effect of shared beliefs to provoke the audience's antipathy towards the opponent, whom they now see as an outsider. The paper comprises two sections: in the first, "Identity: Definition and Constructions", I offer a theoretical exploration of the notion of identity – what this is and how religious and sexual identities are constructed to achieve persuasive ends. In the second section, "Religious Argumentation,

* Adjunct Lecturer in Ancient Greek, B.A. Programme in Hellenic Culture, Open University of Cyprus, Cyprus, andreas.serafim@ouc.ac.cy.

Sexuality and Social Identity”, I explore manifestations of the synergetic use of religious argumentation, sexuality and social identity for the construction of the identity of the speaker’s opponents, and the impact this construction is designed to have upon the audience in the Athenian courts.

1. IDENTITY: DEFINITION AND CONSTRUCTIONS

First introduced by psychologists in the 1950s, the notion of “identity” has long been one of the major fields of interest for researchers across a range of disciplines, especially in social studies, history and humanities. The most influential attempts to define the notion have two common features: first, the emphasis placed on identity as having both an individual and a collective nature; and second, the fact that all definitions refer to a sense of *recognition* or *identification*, i.e. how one is perceived to be by oneself or by others, or perhaps better, what features are attributed to an individual or a group of individuals, i.e. a community, by themselves or others (see, for example, Clifford 1988, 344; Hall 1989; Wendt 1992, 397; Deng 1995, 1; Jenkins 1996, 4). Identity, in other words, consists of two pillars: identifier and identified (see, for example, Taylor 1994, 25–73; İnaç, Ünal 2013, 223). Gee (2000, 99–125) is right to note that:

“One cannot have an identity of any sort without some interpretive system underwriting the recognition of that identity. The interpretive system may be people’s historically and culturally different views of nature; it may be the norms, traditions and rules of institutions; it may be the discourse and dialogue of others; or it may be the workings of affinity groups. What is important about identity is that almost any identity trait can be understood in terms of any of these different interpretive systems. People can actively construe the same identity trait in different ways, and they can negotiate and contest how their traits are to be seen (by themselves and others) in terms of the different perspectives on identity.”

Seen from this angle, *identity* may refer to character, goals, actions, words and origins – everything that characterises an individual or a community. *Identity*, in this paper, is taken as a sort of *predicate* that is attached to and describes the nature and characteristics of individuals or collectives.

The *social identity* of individuals relates to the role(s) they undertake in social structures. Social structures pre-date individuals and provide the framework in which we interact in the world, yet individual social agents are able to act in the world, sometimes following the rules of the social structure, but also redefining social structures through social

action. Bourdieu ([1987] 1994) attempted to reconcile the push and pull of structure and agency in everyday life through the concept of *habitus*, or else *social category*. According to Bourdieu ([1980] 1990), social agents possess *habitus* as a way of being, or disposition, which can be economic, cultural, social and symbolic. A social category is a set of people designated by a label (or labels) commonly given to, or used by, that set of people. As Fearon (1999, 13–14) points out, “social categories have two distinguishing features: first, they are defined by implicit or explicit rules of membership, according to which individuals are assigned, or not, to the category. Second, social categories are understood in terms of sets of characteristics – for example, beliefs, desires, moral commitments or physical attributes – thought typical of members of the category, or behaviour expected or obliged of members in certain situations”.

The construction of any particular identity is an inclusive process involving the internalisation of identities that have the same features and espouse the same values, but it is also an exclusive process in the sense that it entails the elimination of deviant identities. I term this potential of identity construction “the rhetoric of community”: this reflects the conscious, psychological attachment to a group and the belief that this group has shared interests, to which the non-members of the group are alien. The social identity theory of Tajfel and Turner (1979) indicates that the activation of this binary set of reactions, as interdisciplinary scholarship indicates, has a significant impact upon behaviours and attitudes in target audiences (see also Miller et al. 1981, 494–511; Conover 1984, 760–785; Lau 1989, 220–223; Carey 1990, 49; Huddy 2003, 511–558); Hall 2006, 388; Arena 2007, 151). The central hypothesis of social identity theory is that members of an in-group will seek to find negative aspects of an out-group, thus enhancing their self-image. This is exactly how references to religious discourse and identity, especially in the forms that are discussed in this chapter, work in Attic oratory: they are a means for the speaker to artfully construct the audience’s frame of mind, by associating himself with them, while simultaneously estranging his opponent from the group.

A specific type of identity formation, which carries the potential for both inclusion and exclusion, is *religious identity*, i.e. the identification of an individual with religious traditions, beliefs and practices. It has been argued in modern scholarship that religion provides the strongest kind of identity for individuals and groups. It is a way of defining one’s identity by excluding the other from the religious group – thus, defining oneself as the opposite of the other (see especially Mol 1976; 1979, 11–38; Seul 1999, 553–568). An increasing number of studies indicate the mechanisms through which religion, and religious discourse in particular, is correlated with identity formation (see, for example, Lee 2002, 369–384; King 2003, 196–203; King, Boyatzis 2004, 2–6; Arweck, Nesbitt

2010, 67–87). Another type of inclusive/exclusive construct is sexuality, which is meant to include all the aspects of self, character, actions, words and traits that indicate, explicitly or implicitly, one’s sexuality. For, as scholars argue, sexuality is a cultural construct attached to and defined by attire and clothing style (see especially Holman 1981; Lurie 1981; Tselon 1989; 1995; Davis 1992; Entwistle 2000; Arvanitidou, Gasouka 2013, 111–115), jewellery, facial expressions, posture, body type, walk or gait, and both the type and frequency of gestures (see especially Fasoli *et al.* 2017, 1261–1277; also: Dunkle, Francis 1990, 157–167; Gaudio 1994, 30–57; Shelp 2002, 1–14; Munson *et al.* 2006, 202–240; Munson 2007, 125–142); Rieger *et al.* 2010, 124–40; Barton 2015, 1615–1637). It is the interconnection between religion and sexuality as manifested in Attic forensic oratory that this paper aims to explore.

2. RELIGIOUS ARGUMENTATION, SEXUALITY AND SOCIAL IDENTITY

This section aims to explore the ways in which speakers castigate the (alleged) religious allegiances, behaviour or practices of their opponents, and use them to undermine the social status and sexuality of individuals. There are only a few references to religion in Attic oratory that denote and undermine the sexual status and/or the social standing of people. These references can fall largely into two interrelated categories: *aggressive* references that denote morally, socially, legally and sexually condemnable identities; and *occupational* references that describe the social occupation or the magistracy of people in relation to religious duties and obligations.

Prominent examples of the first category of references, *aggressive*, can be found in the speeches describing or relating to the political feud between Aeschines and Demosthenes. This feud was so acrimonious that the two rivals often used specific forms of religious argumentation (such as, for example, references to apocryphal rituals) to undermine the social identity and sexuality of those involved. A telling passage is in Demosthenes 18.259–260:

“οικέτου τάξιν, οὐκ ἐλευθέρου παιδὸς ἔχων, ἀνὴρ δὲ γενόμενος τῇ μητρὶ τελοῦση τὰς βίβλους ἀνεγίνωσκες καὶ τᾶλλα συνεσκευωροῦ, τὴν μὲν νύκτα νεβρίζων καὶ κρατηρίζων καὶ καθαίρων τοὺς τελουμένους καὶ ἀπομάττων τῷ πηλῷ καὶ τοῖς πιτύροις, καὶ ἀνιστὰς ἀπὸ τοῦ καθαρμοῦ κελεύων λέγειν ἔφυγον κακόν, εὖρον ἄμεινον,” ἐπὶ τῷ μηδένα πάποτε τηλκοῦτ’ ὀλολύξαι σεμνυνόμενος (καὶ ἔγωγε νομίζω: [260] μὴ γὰρ οἴεσθ’ αὐτὸν φθέγγεσθαι μὲν οὕτω μέγα, ὀλολύζειν δ’ οὐχ ὑπέρλαμπρον), ἐν

δὲ ταῖς ἡμέραις τοὺς καλοὺς θιάσους ἄγων διὰ τῶν ὁδῶν, τοὺς ἐστεφανωμένους τῷ μαράθῳ καὶ τῇ λεύκῃ, τοὺς ὄφεις τοὺς παρείας θλίβων καὶ ὑπὲρ τῆς κεφαλῆς αἰωρῶν, **καὶ βοῶν ‘εὐοῖ σαβοῖ,’ καὶ ἐπορχούμενος ‘ὕης ἄττης ἄττης ὕης,** ἔξαρχος καὶ προηγμένων καὶ κιττοφόρος καὶ λικνοφόρος καὶ τοιαῦθ’ ὑπὸ τῶν γραδίων προσαγορευόμενος, μισθὸν λαμβάνων τούτων ἔνθρυπτα καὶ στρεπτούς καὶ νεήλατα, ἐφ’ οἷς τίς οὐκ ἂν ὡς ἀληθῶς αὐτὸν εὐδαιμονίσειε καὶ τὴν αὐτοῦ τύχην;”

“On arriving at manhood you assisted your mother in her initiations, reading the service-book while she performed the ritual, and helping generally with the paraphernalia. At night it was your duty to mix the libations, to clothe the catechumens in fawn-skins, to wash their bodies, to scour them with the loam and the bran, and, when their lustration was duly performed, to set them on their legs, and give out the hymn: ‘Here I leave my sins behind, Here the better way I find’; and it was your pride that no one ever emitted that holy ululation as powerfully as yourself. I can well believe it! When you hear the stentorian tones of the orator, can you doubt that the ejaculations of the acolyte were simply magnificent? [260] In day-time you marshalled your gallant throng of bacchanals through the public streets, their heads garlanded with fennel and white poplar; and, as you went, you squeezed the fat-cheeked snakes, or brandished them above your head, now shouting your *Euoi Saboi!* Now footing it to the measure of *Hyes Attes! Attes Hyes!*—saluted by all the old women with such proud titles as *Master of the Ceremonies, Fugleman, Ivy-bearer, Fan-carrier;* and at last receiving your recompense of *tipsy-cakes, and cracknels, and currant-buns.* With such rewards who would not rejoice greatly, and account himself the favourite of fortune?”

What is described in 18.259–260 is the rhythmic cry and dance of Aeschines during the ecstatic cries in honour of Dionysus: εὐοῖ σαβοῖ is a shout that the majority of scholars associate with the worship of Bacchus and ὕης ἄττης ἄττης ὕης is associated with Sabazius. The cult of Dionysus/Bacchus displayed a good deal of syncretism with the cult of Sabazius, and that two were sometimes considered to be the same god (see Yunis 2001, 254; on the cult of Sabazius: Gasparro 1985, 67–68; Burkert 1993, 259–275; McClure 2017, 304; Berndt 2018, 172–193). Dionysus/Bacchus and Sabazius were both gods whose cultic worship and festivals typically surrounded the event of the epiphany of the god and his band of animalistic male and wild human female attendants among the people, associated with ritual cries announcing the god’s coming.

Despite scholars mostly advocating the idea that Demosthenes refers to Bacchic and Sabazian rituals, Martin (2009, 109–11) questions this, and argues that Demosthenes may have made up a fusion of several

cults in his description of the rituals in 18.259–260.¹ The creation of a hotchpotch of references to several rituals indicates that the aim of Demosthenes is not to provide the audience with accurate information about the rites in which Aeschines allegedly participated. If the judges recognised correctly what the rites were and had the (wrong) impression that Demosthenes talks about them in negative terms, there would have been a risk of alienating the judges, who might have been initiated in these cults. We should not forget that these cults are not inherently negative or detestable. After all, the Athenians, according to Strabo (10.3.18), were known for their tolerance of rites with foreign roots: “for they welcomed so many of the foreign rites that they were ridiculed by comic writers” (see also Eidinow 2016, 52ff.). Demosthenes’ purpose, I argue, is not to refer to the rites themselves, let alone to reflect accurately any disposition the Athenians may have had towards them. What he is trying to do in 18.259–260 is to undermine the authority of Aeschines in the eyes of the court audience by focusing on three dimensions of his opponent’s involvement in the rites.

The first dimension, which has the potential to offend and irritate the (male) Athenian judges, thus undermining Aeschines’ authority and isolating him from the group of Athenians, is the implied mingling of sexes in the description of the rites. Both male and female worshippers are presented as co-acting in the rites, with Aeschines being merely an assistant to a female. As Martin (2009, 112) argues, “even if the unrestricted mingling of both sexes was not offensive, it confirmed the impression of the cult’s being somewhat obscure and odd, and its remoteness from the regulations of a group of worshippers accepted by society. One apparently common suspicion against the private cults without separation of men and women was that of orgiastic sexuality”.

Demosthenes’ presentation of Aeschines’ performance of the ritualistic cries of ὀλολυγμός or ὀλολυγή also intended to put the latter into a corner: thinking that this cry was uttered almost exclusively by women, as Pulleyn (1997, 178–181 n. 55); McClure (1999, 52–56); Willi (2003, 168) argue, Demosthenes’ description aims arguably to ridicule Aeschines’ sexuality, that of an effeminate, or unmanly, male. While male-to-male sexuality would not have been viewed as abnormal or distorted by an ancient Greek audience, the presentation of an effeminate male was perceived negatively and was frequently a target of criticism. In his speeches 1, *Against Timarchus*, and 2, *On the False Embassy*, for example, Aeschines refers five times to Demosthenes as being a *kinaidos*

¹ Martin argues that elements of the description of the cults by Demosthenes belong to Dionysus (as, for example, the fawnskin that is attested on Attic vases), some others point to Orphism (as do both the reference to the reading of sacred books and the wearing of crowns made of white poplar), while the ritualistic cry “Hyes Attes! Attes Hyes!” may point to the cult of the Mother.

(see Winkler 1990, 178–86; Davidson 2001, 23), an unmanly male, because of his lack of restraint in using luxurious garments which are indistinguishable from those of females (1.131, 181), and because of his effeminate physique and lack of martial prowess (2.88, 99, 151).² Criticism and ridicule of Aeschines are apparently the purposes of Demosthenes, since in oratory, as indeed in (Old, Aristophanic) comedy, effeminate men, like Agathon in *Thesmophoriazousae* 249–60, are frequently targets of ridicule.

The attack against Aeschines as being sexually debased is underlined by the reference to the young age at which he took part in the rites. These rituals, where the θίασοι of tipsy men roamed around the streets of the city, were, as MacDowell (2000, 289) argues, “morally corrupting and a child ought to have been protected from them” (see also Martin 2009, 63–64). It is worth mentioning here that one of the accusations against Phryne, the hetaira, was that she was assembling improper religious groups of men and women (Anonymus Seg. Ars Rhet. 215 Hammer: θιάσους ἀνδρῶν καὶ γυναικῶν συνήγαγεν “she put together groups of men and women”).³ The image of a boy being in the company of drunken older men seems to have implications for pederastic seduction (see Dover 1979, 23–49). Despite, or perhaps because of, a widespread recognition of the sexual attractiveness of young males, the Athenians were very protective of boys: besides moral codes described in sources regarding acceptable boyish deportment (see Dover 1979, 84–85; Cohen 1991, 195),⁴ a series of legal prohibitions also aimed to protect boys. If we believe Aeschines (serious doubts are expressed by Fisher 2001, 68),⁵

² These five references to Demosthenes as being a *kinaidos* are the only attestations of that term in oratory; and *kinaidos* is used only rarely elsewhere: Plato *Gorgias*. 494c–e; Aristotle *Physiognomics* 808a, 810a, 813a. This limited use makes it hard to pin down the traits of a *kinaidos*. In Aristotle’s *Physionomica kinaidia* is almost synonymous with a physical abnormality and bodily oddities, with gait, stature and movements, especially of neck, head and knees, and facial expressions (especially eyes) being characteristic aspects of a *kinaidos*’ physicality. In Plato’s *Gorgias* a *kinaidos* is defined by his moral failings, a lack of (sexual) restraint, and rampant desires.

³ Anonymus Seg. *Ars Rhet.* 215 Hammer: ἀσεβείας κρινομένη ἡ Φρόνη· καὶ γὰρ ἐκόμασεν ἐν Λυκείῳ καὶ καινὸν εἰσήγαγε θεὸν καὶ θιάσους ἀνδρῶν καὶ γυναικῶν συνήγαγεν· ἐπέδειξα τοῖνυν ὑμῖν ἀσεβῆ Φρόνην, κομάσασαν ἀναιδῶς, καινοῦ θεοῦ εἰσηγήτριαν, θιάσους ἀνδρῶν ἐκθέσμιους καὶ γυναικῶν συναγαγοῦσαν· ψιλὰ γὰρ νῦν τὰ πράγματα διγείτα. “Phryne is on trial for impiety, because she was carousing in the Lycaeum and introduced a new god, and put together groups of men and women. ‘I have demonstrated to you that Phryne is impious, and that she was shamelessly carousing, and introduced a new deity, and gathered together illicit groups of men and women’. At this point he is only providing the mere facts of the case”.

⁴ Aristophanes, *Clouds* 963ff. refers to the virtues of boys; 979–983 where there is a negative description of damnable boyish deportment.

⁵ There are serious doubts about the historical validity of what Aeschines mentions in 1.9–14 as being Athenian school rules and laws that regulate who could get

there were regulations about the work of schools, their opening hours, and the behaviour of teachers, also providing strict criteria for the people who could enter the schools under specific circumstances (1.9–14). Families were also expected to protect boys from the sexual attention of older men by appointing, for example, slaves called παιδαγωγοί to protect the boys from seduction (cf. Plato, *Symposium* 183c–d; *Phaedrus* 231e, 240, 255a). As Aeschines also informs us, in 1.15–16, the law of ὕβρις punished anyone who insulted a boy (see Fisher 1992, 36–85; Todd 1993, 107, 187, 189, 270–271; Cairns 1996, 1–32).

Demosthenes' references to the morally questionable upbringing of Aeschines may reflect the Athenian disposition towards the importance of nurturing boys well and the negative impact that any misconduct may have had upon Athens: "it is the boy who has been well-brought-up that will be a useful citizen when he becomes a man. But when the boy's natural disposition is subjected at the very outset to vicious training, the product of such wrong nurture will be (...) like this man Timarchus" (Aeschines 1.11). Similarly, Demosthenes pays particular attention in his speeches not only to the actions of the potential seducers, but also to Aeschines' very presence amongst them, along with his mother, who allowed him to be there. Both are (implicitly) presented as wilfully damaging the honour of Aeschines' family. The emphasis placed here on the immorality and shamelessness of Aeschines invites the audience to think that his malfunction as an adult in the *polis* was not due to his ignorance, but due to his insolent character that was debased further by the environment in which he was nurtured.

The second dimension of Aeschines' (alleged) involvement in the rites that would potentially harm him has to do with the attention paid to Aeschines' low economic status and marginalised social standing. Demosthenes gives a new twist to the accusation that Aeschines carried out petty jobs by focusing on the religious scenery in which these menial tasks take place. This is used to emphasise that Aeschines' family was in such desperate need of money, because of shameful poverty and the lack of opportunities, that Aeschines was obliged to work from his boyhood even in mystery cults with women and drunk men. As Eidinow (2016, 54) eloquently puts it, "this [description] is not about Aeschines' religious activities being dubious, but their role in marking him as a young man of no account". The low social standing of Aeschines is indicated by the description of the duties that the man had to carry out in the rituals: Demosthenes claims that Aeschines read out the books at the initiation rites and that he was concerned with paraphernalia and a series of other petty menial actions.

into a school. Fisher argues that "all the documents included are universally and rightly condemned as spurious".

This is not the first time Demosthenes refers to Aeschines allegedly carrying out menial tasks. In §258 we read that “as a boy raised in great poverty, serving at the school alongside your father, you rubbed the ink, wiped the benches, and swept the schoolroom, relegated to the status of a household slave, not that of a freeborn youth”. A harsh diatribe in speech 18 also includes references to Aeschines being §209: “hunchbacked clerk” (γραμματοκόφων), §261: “scribe and errand boy to minor officials” (γραμματεύειν καὶ ὑπηρετεῖν τοῖς ἀρχιδίοις), §265: “you served as a public scribe” (ἐγγραμμάτευες) and “you played bit parts on stage” (ἐτριταγωνίσταις) (see Csapo, Slater 1994, 222–223; Haigh 1907, 221).⁶ The wording in these attacks against Aeschines is arguably redolent of comedy. A common ingredient of the diatribes made against one’s opponent in comedy and oratory is that “the opponent and his kin have followed menial callings, e.g. as clerks, or have made a living by manufacture or retail trade”, Dover (1974, 32) rightly points out (see also Rowe 1966, 398). Language is used as a means of attacking, denigrating and ridiculing Aeschines, who is associated with the vulgar and petty characters of comedy. The purpose of Demosthenes is to underline the low social and economic standing of Aeschines’ family, challenging its place within and its contribution to the *polis*. We cannot fully trust Demosthenes’ partisan description, however, since we know that Aeschines’ family had hoplite status, and so was not doomed to utter poverty (see especially Lane Fox 1994, 139–140; Harris 1995, 26; Martin 2009, 105).

Demosthenes’ references to Aeschines’ participation in mystical rituals may, thirdly and finally, have been intended to cast doubt on Aeschines’ origins, seeking to alienate him from the law-court audience by implying that he was of foreign birth. The Sabazian rites described in the passage above were imported to Athens from barbaric places, Phrygia or Thrace.⁷ Demosthenes himself was the target of various accusations levelled by Aeschines that he was a foreigner by birth (as in Aeschines 2.22–23), and it may be that Demosthenes, in the passages cited above, was in part trying to turn the tables on his rival. This is perhaps more possible if we bear in mind that Aeschines never ceases

⁶ Demosthenes may have coined the notion of τριταγωνιστής, since it is always attached to direct references to Aeschines. There is a tendency in literary criticism to consider terms like δευτεραγωνιστής or τριταγωνιστής as having negative meaning: protagonist is used for “star”; δευτεραγωνιστής for “adjutant”, “second-fiddle”, and “sidekick”; and tritagonist is a term of abuse meaning something like “third-rate”. Although it is not feasible to know the precise meaning of the term τριταγωνιστής outside Demosthenes’ speeches, nonetheless, in Demosthenes 19 it is undoubtedly negative because it invariably refers to Aeschines’ poor acting.

⁷ For Aristophanes (Scholia in *Birds* 874) the Phrygian origins of Sabazius are undisputable. Some other sources refer to Dionysus being the same person as Sabazius, according to Thracians (e.g. Scholia in *Wasps* 9b).

boasting about his purely Athenian origins (as he does, for example, in 2.23).⁸ Demosthenes might have wanted to undermine or diminish the impact that these self-promoting references of Aeschines would have upon the audience. We do not have any information from ancient sources to indicate whether or not the judges and the onlookers recognised and believed these subtle aspersions about Aeschines' civic identity. It is certainly true that Demosthenes' credentials as an Athenian citizen are weaker than Aeschines' – that is presumably why he does not challenge his rival openly and forcibly in his speeches. But he could have made innuendoes of the sort we can find in 18.259–260, which, despite being false or inaccurate, may still have had an impact on some (of the most gullible) members of the audience.

Religious argumentation can also be exploited aggressively in other speeches of Attic forensic oratory, with the aim of stigmatising individuals by assigning or highlighting particular aspects of their identity that would be perceived negatively by the audience. In Antiphon 1.19, for example, we are told that a woman, Philoneos' mistress, was tricked by the stepmother of the speaker, who planned the murder of his father, and poured poison into the wine for the libation, thinking it was a love potion (on the stepmother as being guilty of cheating the woman who poured the poison into the wine, see Gagarin 2002, 148–151).⁹ This passage assigns the morally debased identity of a female murderer to the stepmother. Murder was considered an act of impiety, as extant oratorical sources indicate (e.g. Antiphon 6.5). The stepmother is stigmatised, therefore, by the murder she committed and the serious offence of impiety that is attached to that act (see Gagarin 1997, 116). I also argue that behind the lines in Antiphon 1.19 lies an innuendo about sorcery, implied by the reference to love potion, which can also be found elsewhere in Antiphon 1, such as in §9.¹⁰ As Gagarin (2002, 150) argues,

⁸ Aeschines 2.23: “and we who have shrines and ancestral tombs in our homeland and share with you the pastimes and dealings that befit free men and have legally valid marriages and in-laws and children, deserved your trust in Athens (or you would never have selected us), but on arriving in Macedonia we suddenly turned traitor”.

⁹ Antiphon 1.19: “but Philoneos' mistress, who poured the wine for the libation, while they offered their prayers – prayers never to be answered, gentlemen – poured in the poison with it. Thinking it a happy inspiration, she gave Philoneos the larger draught; she imagined perhaps that if she gave him more, Philoneos would love her the more: for only when the mischief was done did she see that my stepmother had tricked her. She gave our father a smaller draught”.

¹⁰ Antiphon 1.9: “In the first place, I was ready to torture the defendants' slaves, who knew that this woman, my opponents' mother, had planned to poison our father on a previous occasion as well, that our father had caught her in the act, and that she had admitted everything – save that it was not to kill him, but to restore his love that she alleged herself to be giving him the potion”.

the figure of a man-destroying woman implies notorious sorcerers such as Circe and Medea.

More direct and explicit criticism against opponents for engaging in sorcery can be found in other speeches of the Ten Attic orators, as, for example, in Aeschines 2.124, 153 and Dinarchus 1.95 (a speech delivered against Demosthenes) – cited in order below:

“Τίνες οὖν ἦσαν αἱ ἀπάται, ταῦτα γὰρ τοῦ γόητος ἀνθρώπου, ἐξ ὧν εἶρηκε λογίσασθε.”

“See from his own statements the lies he has told. These are the mark of a sorcerer”.

“Συμπέπλεγμαι δ’ ἐν τῇ πολιτείᾳ καθ’ ὑπερβολὴν ἀνθρώπῳ γόητι καὶ πονηρῷ, ὃς οὐδ’ ἂν ἄκων ἀληθὲς οὐδὲν εἶποι.”

“In my political life, I have become enmeshed to an extreme degree with a sorcerer and a criminal, a man who could not speak the truth even by accident”.

“γῆς οὗτος, ἄνδρες Ἀθηναῖοι, καὶ μιὰρὸς ἀνθρώπος ἐστὶ, καὶ οὔτε τῷ γένει τῆς πόλεως πολίτης οὔτε τοῖς πεπολιτευμένοις αὐτῷ καὶ πεπραγμένοις.”

“Gentlemen of Athens, this man is a sorcerer and an abomination, unworthy by either his birth or his administration and actions of being a citizen of the city” (translation: Worthington 1992, 102–03).

Dickie (2001, 12–16, 30–43) examines several uses of the term γῆς in a range of primary sources, from tragic plays to medical writings and philosophical treatises (especially Plato, *Laws* 933a–e), highlighting its pejorative sense. To accuse someone of being a sorcerer was to accuse him/her of being dishonourable and engaging in morally questionable and legally punishable activities (see Dickie 2001, 36–46; Eidinow 2016, 55). Plato notes that sorcery was a hateful practice that was repressed by severe legal penalties (*Laws* 933a–e). Plato’s *Laws* is not necessarily the most reliable source for Athenian law; but what the *Laws* has to say here is supported by the evidence of Demosthenes in *Against Aristogeiton* 79–80, where the speaker refers to Theoris, a sorcerer from Lemnos, who was sentenced to death along with her family under the law of ἀσέβεια “impiety”.

The accusation levelled against individuals of being sorcerers was also a way of referring to their foreign genealogical roots and marginalised social standing. A particularly potent aspect of Greek magic was its presence in the fringes of society, which were most drastically divided from official state religion. Dionysus is presented in Greek literary texts, most fondly in Euripides’ *Bacchae* 234–5, as a sorcerer

from a barbaric land.¹¹ Sorcery itself was considered to have ancient roots, Eastern provenance and social marginalisation (see Maxwell-Stuart 2004, 14). The conclusion we can draw, therefore, is that the identification of Demosthenes, in the speeches of Aeschines and Dinarchus, with the scare-figure of the sorcerer aims to capitalise on the Athenians' negative sentiments for sorcerers.

Religious argumentation can also be used to reinforce the stigma of the alleged female immorality, as in [Demosthenes] 59, *Against Neaera*. Phano, the daughter of Neaera, is attacked because of the alleged adultery she committed, but this attack is couched in religious as well as in moral/legal terms.

“§85: λαβὲ δὴ μοι τὸν νόμον τὸν ἐπὶ τούτοις τουτονὶ καὶ ἀνάγνωθι, ἵν' εἰδῆτε ὅτι οὐ μόνον προσῆκεν αὐτὴν ἀπέχεσθαι τῶν ἱερῶν τούτων τοιαύτην οὖσαν καὶ τοιαῦτα διαπεπραγμένην, τοῦ ὄραν καὶ θύειν καὶ ποιεῖν τι τῶν νομιζομένων ὑπὲρ τῆς πόλεως πατριῶν, ἀλλὰ καὶ τῶν ἄλλων τῶν Αθήνησιν ἀπάντων. ἐφ' ἣ γὰρ ἂν μοιχὸς ἀλῶ γυναικί, οὐκ ἔξεστιν αὐτῇ ἐλθεῖν εἰς οὐδὲν τῶν ἱερῶν τῶν δημοτελῶν, εἰς ἃ καὶ τὴν ξένην καὶ τὴν δούλην ἐλθεῖν ἐξουσίαν ἔδοσαν οἱ νόμοι καὶ θεασομένην καὶ ἰκετεύουσαν εἰσιέναι:”

“A woman of her character, who has done what she has done, ought not only to have kept aloof from these sacred rites, to have abstained from beholding them, from offering sacrifices, and from performing on the city's behalf any of the ancestral rites which usage demands, but that she should have been excluded also from all other religious ceremonials in Athens. For a woman who has been taken in adultery is not permitted to attend any of the public sacrifices, although the laws have given both to the alien woman and the slave the right to attend these, whether to view the spectacle or to offer prayer”.

“§86: ἀλλὰ μόναίς ταύταις ἀπαγορεύουσιν οἱ νόμοι ταῖς γυναιξὶ μὴ εἰσιέναι εἰς τὰ ἱερὰ τὰ δημοτελεῖ, ἐφ' ἣ ἂν μοιχὸς ἀλῶ, ἐὰν δ' εἰσιώσει καὶ παρανομῶσι, νηποίνει πάσχειν ὑπὸ τοῦ βουλομένου ὅτι ἂν πάσχη, πλὴν θανάτου, καὶ ἔδωκεν ὁ νόμος τὴν τιμωρίαν ὑπὲρ αὐτῶν τῶ ἐντυχόντι, διὰ τοῦτο δ' ἐποίησεν ὁ νόμος, πλὴν θανάτου, τάλλα ὑβρισθεῖσαν αὐτὴν μηδαμοῦ λαβεῖν δίκην, ἵνα μὴ μιάσματα μὴδ' ἀσεβήματα γίγηται ἐν τοῖς ἱεροῖς, ἱκανὸν φόβον ταῖς γυναιξὶ παρασκευάζων τοῦ σωφρονεῖν καὶ μὴδὲν ἀμαρτάνειν, ἀλλὰ δικαίως οἰκουρεῖν, διδάσκων ὡς, ἂν τι ἀμάρτη τοιοῦτον, ἅμα ἐκ τε τῆς οἰκίας τοῦ ἀνδρὸς ἐκβεβλημένη ἔσται καὶ ἐκ τῶν ἱερῶν τῶν τῆς πόλεως.”

¹¹ Euripides' *Bacchae* 234–235: “And they say that some stranger has come, a sorcerer, a conjuror from the Lydian land, fragrant in hair with golden curls, having in his eyes the wine-dark graces of Aphrodite”.

“No; it is to these women alone that the law denies entrance to our public sacrifices, to these, I mean, who have been taken in adultery; and if they do attend them and defy the law, any person whatsoever may at will inflict upon them any sort of punishment, save only death, and that with impunity; and the law has given the right of punishing these women to any person who happens to meet with them. It is for this reason that the law has declared that such a woman may suffer any outrage short of death without the right of seeking redress before any tribunal whatsoever, that our sanctuaries may be kept free from all pollution and profanation, and that our women may be inspired with a fear sufficient to make them live soberly, and avoid all vice, and, as their duty is, to keep to their household tasks. For it teaches them that, if a woman is guilty of any such sin, she will be an outcast from her husband’s home and from the sanctuaries of the city”.

It is notable that the speaker not only accuses Phano of committing illegal actions, as adultery was punishable in the Athenian legal system (see Dover 1974, 209; Harris 1990, 370–377; Carey 1995, 407–417),¹² but he associates the accusation of illegality with impiety (as he also does elsewhere when associating bribery, treason and other offences against the *polis* with crimes against the gods; e.g. in Demosthenes 19.268). It is this impiety, in fact, that underpins the explicit call for the audience to treat Phano (and her father, Stephanus) as not a part of the Athenian community. The centrality of piety and impiety in the Athenian legal system is well-established in ancient sources and modern scholarship. Piety, “a broad term which comprised showing reverence in accordance with tradition towards the gods, one’s parents, the dead, or even the fatherland”, as Filonik (2013, 13) argues, was fully entangled with secular matters in classical Athens. According to Filonik (2013, 14), acts of impiety “usually signify the lack of reverence towards and profanation of the ‘sacred matters’ (sacred places; monuments of the gods; religious festivals, functions, or rituals, etc.)”, and were considered a twofold offence, against both human and divine law.

Demosthenes’ aim in associating illegality with impiety is to maximise the negative impact that the accusation against Phano (and the defendant Stephanus) may have on the law-court audience; asking the judges to vote against the impious family. As scholars argue, impiety

¹² Unlike in many modern Western legal systems in which adultery is considered mostly as a private moral issue that has little legal consequence, the Athenian legal system severely punished those involved in adultery. One of the statutes cited by Demosthenes on justifiable homicide in 23.53 (which has been regarded as providing the definitional foundation of the law of adultery) makes it clear that it was *μοιχεῖα* to seduce the wife, or any other woman related to the offended head of the household, and that the adulterer could be killed by him if caught in the act. Aeschines 1.90 and Lysias 1.32 are also useful sources of information about the legal consequences of adultery.

risks punishment from the gods, and thus it behoved a city to extirpate it by legal processes (see, for example, Rudhardt 1960, 87–105). Because impiety imperils the entire community, its punishment is a responsibility shared by the entire community. Just as the authoritative decision-making bodies of the community duly exercise their authority in managing the community's positive reciprocity with the gods (i.e. cult life), so with negative reciprocity they have the competence to respond to impiety. I agree with Filonik (2013, 15) that, according to the existing legal sources, “the regular forensic procedure in prosecuting impiety would be the *γραφή* (‘public indictment’ or a written plaint in it), a procedure employed ordinarily in ‘public’ cases, which could be initiated by anyone, not only a party of the dispute”. The punishment of those who had committed irreligious and impious actions would have been very severe, ranging from capital punishment to exile, fines, confiscation of property and disfranchisement.

This punishment was not simply a *choice* that the members of the Athenian community could have made: it was their *obligation* under the rule of law. The speaker of *Against Neaera*, for example, casts himself and the judges as the avengers of the gods whom the family of Stephanus has offended; the speaker declares that “it is your duty to punish those who have shamelessly committed impiety against the gods for two reasons, first in order that they are punished, and second so others take care and may be too afraid to do wrong to the gods and the city” (59.77). In a similar vein, Isocrates in 16.6, and Lysias in 6.10, also point out that the *polis* should punish individuals if they commit impiety. Lysias, in particular, claims that this was Pericles’ advice to the Athenians.¹³ Antiphon refers to a similar idea several times in his Second Tetralogy, when he urges the judges not to acquit the javelin-thrower (3.3.11).¹⁴ If people allow the impious to go unpunished, a community is thought

¹³ Isocrates 16.6: “and since they knew that in matters pertaining to the gods the city would be most enraged if any man should be shown to be violating the Mysteries, and that in other matters if any man should dare to attempt the overthrow of the democracy, they combined both these charges and tried to bring an action of impeachment before the senate”. Lysias 6.10: “yet Pericles, they say, advised you once that in dealing with impious persons you should enforce against them not only the written but the unwritten laws also, which the Eumolpidae follow in their exposition, and which no one has yet had the authority to abolish or the audacity to gainsay – laws whose very author is unknown: he judged that they would thus pay the penalty, not merely to men, but also to the gods”.

¹⁴ Antiphon 3.3.11: “The accused have themselves proved by their defence that the lad had a share in the slaying. So, as just and god-fearing men, you cannot acquit him. If we, who have lost our life through the defendants’ error, were found guilty of having taken it ourselves, it would be an act not of righteousness but of wickedness on your part: and if those responsible for our death were not prohibited from setting foot where they should not, [it would be an outrage against heaven:] you would have acquitted persons stained with guilt”.

to bring the guilt and retribution for the impiety on itself, as attested in literary (e.g. Euripides, *The Phoenician Women* 69–74), oratorical (e.g. Antiphon 4.1.3)¹⁵ and historical sources (e.g. Herodotus 7.133–137; Xenophon, *Hellenica* 5.2.32, 5.4.1). In a similar vein, Lysias, in 6.3, 53, underlines the obligation the Athenians, especially the judges in the law court, have to punish wrongdoers and protect the whole community.

Beyond these attacks on aspects of individuals' religiously, socially and morally aberrant identities, there are also references to *occupational* identities, which describe the social occupation or the magistracy of people. Apart from the numerous references to the judicial/dicastic or "bouleutic" oath, i.e. the oath that the judges and the members of the Council would have sworn before taking over their posts (the term belongs to Kapparis 1999, 171), and the ephebic oath (Lycurgus 1.76–77, 79), there are also references to statutes that regulate the duties of religious magistrates in Athens. In [Demosthenes] 59.76, for example, the speaker provides topographical information about the sanctuary of Dionysus by the altar in Limnae (a district in the southern part of Athens), where there was still, in the days of the speech, a law inscribed on a pillar of stone. This law canonised the behaviour, morality and identity of any woman who deserved to become a priestess. "Thus the people testified to their own piety toward the god, and left it as a deposit for future generations, showing what type of woman we demand that she shall be who is to be given in marriage to the god, and is to perform the sacrifices. For this reason they set it up in the most ancient and most sacred sanctuary of Dionysus in Limnae". A similar reference to the appropriate behaviour of a priestess can also be found in [Demosthenes] 59.78 with a full citation of an oath that a priestess should take: "I live a holy life and am pure and unstained by all else that pollutes and by commerce with man,¹⁶ and I will celebrate the feast of the wine god and the Iobacchic feast in honour of Dionysus in accordance with custom and at the appointed times". These two references indicate how legality mingles with religion to canonise the function of institutions in Athens and determine the identity of the individuals who are protecting them.

¹⁵ Antiphon 4.1.3: "for the victim, robbed of the gifts bestowed by God upon him, naturally leaves behind him the angry spirits of vengeance, God's instruments of punishment, spirits which they who prosecute and testify without giving heed to justice bring into their own homes, defiling them with the defilement of another, because they share in the sin of him who did the deed".

¹⁶ Cf. Aeschines 1.19 and 188 where it is mentioned that anyone guilty of prostitution should not become a priest.

3. CONCLUSIONS

After surveying the most influential theories about identity and how it is constructed in several contexts, this paper explores a range of passages from Attic orations, in which references to or connotations of religion are used as a means of undermining the sexuality and social status of the speaker's adversaries. It has been argued that orators' use of religious discourse for identity construction is designed to sustain a close bond between the speaker and the audience, while also estranging their opponents from the group. The capacity of rhetoric to create one *persona*, of the speaker, oriented to the expectations of the audience and another, of the opponent, from which the audience is invited to detach cognitively, emotionally and by voting, illuminates the impact that the activation of group attitudes and identities and inter-group relations – i.e. in-group solidarity and out-group hostility – has upon behaviours and attitudes in target audiences.

An overarching observation can be made about the uneven distribution of references. It is notable that references to religious discourse, sexuality and social status, both aggressive and occupational, are only made in forensic oratory. The use, in forensic speeches, of aggressive references – i.e. those that denote morally, socially, legally and sexually aberrant identities – is not at all surprising. Bearing in mind that this kind of oratory allows the examination of past misdeeds, offences or crimes by individuals, it would be easy to understand why references to the punishment of god-hated murders and impious individuals are made in the corpus of the extant forensic speeches. Occupational references – i.e. those to the criteria for being selected as a priest or priestess and the duties that religious magistrates have to carry out – are also suitable in forensic oratory, if made in the context of attacking people for not fulfilling their occupational mission, according to the Athenian system of values. References to the interconnection between religious discourse and civic spirit/patriotism can be found both in forensic and in epideictic oratory.

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