

TRIBAL AND CIVIC CODES OF BEHAVIOUR IN LYSIAS I¹

I

A reiteration of the main details of the case may be helpful. Euphiletus killed Eratosthenes and was prosecuted for premeditated homicide by Eratosthenes' relatives. The present speech, our sole source of information concerning the case, was written for the defendant, partially or totally, by a professional speechwriter, presumably Lysias.² In this speech Euphiletus admits killing Eratosthenes. He pleads, however, that, since he killed Eratosthenes after catching him in the act of adultery with his own wife, this was a case of justified homicide. At the same time, he denies a charge of the prosecution that he had killed Eratosthenes for reasons unrelated to the adultery.³ The speech was delivered before a court of fifty-one judges especially set up to judge such cases, as is attested elsewhere:

T1

Arist. *Ath. Pol.* 57.3: 'If... a person admits that he has killed someone but claims that he had a right to do so, as, for instance, when he has surprised an adulterer in the act,... then the trial takes place in the Delphinion' (cf. *Dem.* 23.74).

If found guilty, Euphiletus would be executed and his property confiscated.⁴

Thus far, the case might appear to be trivial. The killing of a paramour by a deceived husband is, in Mediterranean societies, past and present, a commonplace occurrence, and *prima facie* there is nothing in the speech to suggest that Euphiletus' case diverged from this pattern. Nor have modern scholars noticed anything peculiar about it. Lysias I has normally been cited as evidence for such legal matters as homicide and adultery. The apparent oddities which its arguments evince concerning

¹ An abridged version of the principal argument of this paper is forthcoming as section IV of 'Honour, revenge and the state in fourth-century Athens', in W. Eder (ed.), *Democracy in Fourth-Century Athens: Zenith or Nadir of a Constitution?*, 1993, Steiner Verlag. Since both articles were written as independent entities, I have found it impossible to eliminate some overlapping. For remarks which have greatly improved the present article I am grateful to the Editors and the anonymous referee.

² For the question of authenticity, see C. Carey (ed.), *Lysias. Selected Speeches* (Cambridge, 1989), pp. 11–12, summarizing earlier literature on the subject, and p. 64. For the manner of the composition which seems to me most likely (i.e. close collaboration between Lysias and Euphiletus in writing the speech), see K. J. Dover, *Lysias and the Corpus Lysiacum* (Berkeley, 1968), p. 2 and 148ff.

³ The fragmented allusions Euphiletus makes to the prosecutors' allegations contain at least three irreconcilable contradictions: that Euphiletus killed Eratosthenes for adultery but not in a fashion justifiable by the law; that Euphiletus enticed Eratosthenes into his house and killed him for motives unrelated to the love affair; that Euphiletus dragged Eratosthenes in from the street (in this case no motive is given). See further Carey (ed.), *Lysias*, pp. 81–2.

⁴ Of course, he had the option of going into exile after delivering the first speech to which he was entitled at the trial, cf. W. T. Loomis, 'The nature of premeditation in Athenian homicide law', *JHS* 92 (1972), 86–95. For the treatment given to adulterers in other Greek cities, see E. Cantarella, *Pandora's Daughters* (Baltimore and London, [1987] Ital. orig. [1981]), pp. 43ff.

social values have at best been brushed aside; at worst, they have been processed and assimilated into the interpreter's own values. This article is an attempt to make sense of these seemingly odd arguments and to unravel the underlying scale of values.

First, a caveat is in order. It should be stressed that Lysias I is *sui generis*. No other Athenian document from the Classical age seems to contain similar kinds of information; no other document seems to cast light from a similar vantage point on the subtle interplay between the internal workings of the democratic *polis* and the internal universe of the Athenian citizen. It is the uniqueness of this speech which makes it difficult to assess its evidential value. Does *On the Killing of Eratosthenes* reflect values to which the people of Athens commonly subscribed, or values which were rare, occasional and held only by an eccentric minority?

I shall proceed on the assumption that the speech reflects values which were shared by the jury in particular, and by the people of Athens in general. This assumption is reinforced by two considerations. First, Euphiletus was desperate to win the sympathy of the jury. It was, for him, a matter of life and death to be closely attuned to their minds, successfully to appeal to their emotions, and to assign to himself a role – and a pattern of action – of which they would approve. It is unlikely that he would have given expression to views which were totally out of tune with their implicitly held norms.⁵

Secondly, as I have shown elsewhere,⁶ the scale of values revealed in Euphiletus' speech with respect to adultery accords well with the scale of values revealed regarding offences other than adultery in late fifth- and fourth-century orations – and indeed, in other types of contemporary literary evidence. On the other hand, this scale of values is surprisingly at variance with the scale displayed in these respects by comparable Mediterranean societies past and present. It is the convergence with the Athenian pattern of expected behaviour, and the divergence from the Mediterranean one, which suggests that Euphiletus' arguments may have been not unrepresentative of the people of Athens.

Here are some of the problems which await solution. It has been recognized that Euphiletus is claiming that his act was justified under the law. However, two passages indicate that he actually claims far more than that:⁷

T2

Lys. 1.25–6: 'And he [i.e. Eratosthenes] admitted his crime, but begged and beseeched me not to kill him but to negotiate a monetary settlement. But I replied: "It is not I who shall be killing you, but the law of the city, which you are flouting: you thought it less important than your pleasures, and chose to commit this crime against my wife and my children rather than obey the laws and behave decently".'

T3

Lys. 1.29: 'He did not argue, gentlemen, but admitted his guilt, and begged and pleaded not to be killed; and he was ready to compensate me with money. But I would not agree to his valuation, and demanded that the city's law should take precedence. I exacted the penalty which you considered the most just when you prescribed it for those who engage in such practices.'

What was, in fact, Euphiletus claiming, and how could he expect his arguments to be accepted by the jury?

⁵ The question of the exact relationship between Euphiletus' rhetoric and the actual letter of the law, however important it may be in other contexts (cf. E. M. Harris, 'Did the Athenians regard seduction as a worse crime than rape?', *CQ* 40 [1990], 370–77), is immaterial for my purposes. What matters is the interplay between the speaker and the audience, i.e. the way in which Euphiletus hoped to bewitch the jury – *even if* he resorted to false arguments and misrepresentations of the law.

⁶ 'Honour, revenge and the state' (n. 1 above).
⁷ Generally, but not without exception, I follow Usher's translation of Lysias I in M. Edwards and S. Usher (edd.), *Greek Orators – I. Antiphon and Lysias* (Warminster, 1985).

The second problem concerns Euphiletus himself. It has been recognized that Lysias pictures Euphiletus as a slightly comic figure. But the question of the rationale underlying this characterization has not, in my view, been satisfactorily answered. Thirdly, in two concluding sentences, Euphiletus insists that the killing of Eratosthenes may better be regarded as an act of punishment than an act of revenge (Lys. 1.34 and 1.47 = T13 and T14 below). This runs contrary to our expectations, since the most obvious justification which springs to our mind in a situation such as this is that of *crime passionnel*. Fourthly, on breaking into the lovers' room, Euphiletus accused Eratosthenes in the first place of intrusion into his house, not adultery (T5, T9 and T10 below). How are we to account for this?

I shall try to resolve these and some other difficulties which bedevil the text by exploring the mechanisms and mentalities which regulated behaviour in Athenian society with respect to five closely interrelated themes: self-help, honour, revenge, adultery, and territoriality. It is the purpose of this paper to show that, with respect to these themes, *On the Killing of Eratosthenes* displays a much higher degree of sophistication than is allowed in modern research. Euphiletus draws a subtle contrast between two antithetical codes of behaviour. The one which he implicitly rejects belongs to the tribal, de-centralized and uncivilized world which prevailed before the emergence of the *polis* (and prevails still in the periphery of the Greek world and in the world of the *barbaroi*). The other, which he explicitly and self-righteously – but not entirely consistently – endorses belongs to the fully-fledged, centralized, democratic *polis* of Athens. The speech draws its uncommon rhetorical force from the exploitation of the tensions that existed in the mind of the audience between these rival codes of behaviour – between a code which has evidently had the upper hand and was formally considered just, true and legitimate, and another, which was abandoned and discarded but remained nonetheless in some deep sense to be thought of as even juster, truer and more legitimate.

II

It has to be established at the outset that, in his endeavour to induce the jury to acquit him, Euphiletus is presented as assuming the role of victim rather than offender. Further, he is presented as speaking in the name of the supra-personal values of the city-state, arguing that the killing of Eratosthenes was perfectly in tune with these values. It was the act of adultery committed by Eratosthenes which constituted, in fact, a breach of these values (cf. T2, T3 above and T6, T13 and T14 below).

Every emphatic positive statement implies a negation, and the question arises of the precise idea which Euphiletus wanted so keenly to refute. A close examination of the details of the speech leaves no doubt: by posing as the victim rather than the offender, by claiming to impersonate the values of the city-state rather than infringing them, Euphiletus had one purpose in mind: to dispel the impression that the killing of Eratosthenes was an act of private vengeance. At the same time, he wanted to prepare the ground for the central paradox of his rhetoric, namely, that *he did not, in fact, kill Eratosthenes; he executed him*. A whole series of rhetorical tricks were tapped in attempting to validate this extraordinary claim.

Throughout the presentation, Euphiletus skilfully avoids the obvious image of the betrayed husband burning with desire to redeem his wounded pride: instead he casts himself in the role of an impartial agent of civic justice, whose sole concern is that communal norms should be observed and their violators be punished. We may observe some details of this demonstration at close quarters.

The fiction of Euphiletus as a dispenser of civic justice makes its first appearance in the episode involving the slave-girl (Lys. 1.18–20). After the secret of the love affair is revealed, Euphiletus is pictured as a hurt human being who is carried away with emotions:

T4

Lys. 1.17: ‘... but I was at once thrown into confusion, and every detail came into my mind, and I was full of suspicion as I recalled how I had been shut in the room, and I remembered the inner and outer doors banging during that night, which had never happened before, and I had thought my wife was wearing make-up. All these things came into my mind, and I was full of suspicion.’

But then a brusque change in tone sets in. Euphiletus is suddenly made to metamorphose into a stern, dignified civic official whose sole concern is to find out the absolute truth. He examines the slave-girl with ruthless efficiency, inducing her, by means of an astute combination of threats and promises, to co-operate. Even the dialogue between the two is seasoned with phrases suggestive of an impartial judicial inquest: ‘Do not lie at all, but tell the truth’ (Lys. 1.18); ‘she accused him’ (*κατηγόρει*) [i.e. Eratosthenes] (Lys. 1.20); ‘And I expect you to show me their guilty act as they commit it (*ἐπ’ αὐτοφώρῳ*), for I have no use of mere words, but want a clear exposure of the deed, if it is really happening’ (Lys. 1.21).

The fiction is followed up in the scene preceding the execution. The love-nest, as soon as Euphiletus and his companions burst in, is transformed into an impromptu court-of-justice. Here Euphiletus enacts with solemn gravity a set of roles which in our terms would constitute that of a coroner, a judge and an executioner.

T5

Lys. 1.24–5: ‘Pushing the bedroom door open, those of us who entered first saw him still lying beside my wife, and those following saw him standing naked on the bed. I struck him and knocked him down, gentlemen, and pulling his hands behind his back, tied them and asked him why he was committing the outrage of entering my house.’

He then reveals that in the process he had pinioned Eratosthenes’ arms, had the law read out for him,⁸ and had discussed the option of monetary compensation. However, with a nice euphemistic touch, he glosses over the gruesome details of the execution:

T6

Lys. 1.29: ‘I exacted the penalty (*τὴν δίκην*) which you considered the most just when you prescribed it for those who engage in such practice.’

So here is the next piece of demagoguery: Euphiletus comes very close to saying that, as a matter of fact, he executed Eratosthenes by non-violent means.

To be sure, this statement needs to be qualified. After all, Euphiletus did knock Eratosthenes down, did pinion his arms, and, after interrogating him, reading him the law, and discussing the compensation affair, did kill him. There is, however, something peculiar about these acts, a detail which Euphiletus goes out of his way to stress. It is that they are not ends in themselves but means to other, higher ends – ends which transcend the realm of Euphiletus’ personal involvement. Euphiletus, in other words, did not treat Eratosthenes violently merely to vent his anger; quite the contrary, he applied controlled violence in a dispassionate effort to enforce civic justice – and communally sanctioned violence is no violence at all.

Indeed, the motif of non-aggression runs through the speech right from the discovery of the liaison down to Eratosthenes’ execution. It is almost as if Euphiletus were saying, ‘Look, in all these instances, rather than preferring the violent, impulsive

⁸ This may be inferred from Lys. 1.26 and 29.

option, I exercised self-restraint'. That is the explanation for one of the striking effects produced by the narrative. A whole series of acts which, according to our expectations, should have been charged with burning passion, are here assigned a kind of mechanistic instrumentality. When the slave-girl informed Euphiletus that Eratosthenes was in the house, Euphiletus did not recklessly break into the lovers' room, nor did he then kill Eratosthenes, overwhelmed by uncontrollable emotions; and the idea of killing his unfaithful wife had not even crossed his mind. No, he would not allow his passion to prevail over his reason: Euphiletus was no Othello, and the murder of Eratosthenes no *crime passionnel*.⁹

Quite the contrary, upon finding his wife in the arms of her lover, Euphiletus slipped quietly out of the house, calling on his friends one by one. We cannot but admire his self-control, the prudent and calculating spirit in which he attended even to minute detail: although he knew his wife was in bed with another man, Euphiletus remembered going to the nearest shop to provide himself and his friends with torches; before leaving his own house, he had the self-possession to instruct the slave-girl to wait by the door and to open it at the appropriate moment; as soon as he took the lovers by surprise he, as we have seen, did not kill Eratosthenes but started making preparations for the makeshift trial; and finally, right before the execution, he dutifully tried out the option of monetary compensation prescribed by the law (T2 and T3 = Lys. 1.25–5, 29). A curious lack of spontaneity marks Euphiletus' moves.

We may gain a better understanding of this feature by considering the following distinction.

Students of human aggression find it useful to differentiate affective from instrumental aggression. Affective aggression is aroused by provocation, is guided by anger, and is accompanied by distinctive patterns of activity of the central and autonomic nervous systems (such as heightened blood pressure and pulse rate). Affective aggression is thus an emotional state which aims at inflicting injury at the provocateur. Instrumental aggression, on the other hand, is to a large extent exempt from emotional symptoms. It takes place when a man attacks another man 'in cold blood', without feeling any malice toward him – a hired murderer is a good case in point. The main difference between affective and instrumental aggression is that the latter does not primarily aim at inflicting injury to the victim; the aggression merely serves as a means to some other desired end.¹⁰

Bearing this distinction in mind, we return to Euphiletus. The unusual feature is this. Whereas according to our own expectations the most likely reaction in a situation such as this would be affective aggression, Euphiletus went out of his way to stress the instrumental nature of his acts.

With this observation we depart from the text for a while. Proceeding on the assumption that every rhetoric, however wild, retains some kind of relationship with reality, I propose to examine the details of Athenian life which could make possible this specific rhetoric.

III

A good starting point is a remark made by Demosthenes in the speech against Meidias. The context is the self-restraint of Demosthenes in the Meidias affair, as opposed to the impulsive reactions to provocations of some other people.

⁹ As argued, e.g. by S. Usher, 'Individual characterization in *Lysias*', *Eranos* 63 (1965), 99–119, esp. at 102–4. Usher's error has been noted by Carey (ed.), *Lysias*, p. 62 n. 2, but a more systematic refutation seems to be necessary.

¹⁰ Cf. R. G. Geen, *Human Aggression* (Milton Keynes, 1990), pp. 5–6.

Demosthenes' remark has been translated in the Loeb series as follows: 'a man should not, upon being provoked, take the law into his own hands' (εἴ τις αὐτῷ βεβοήθηκεν ἀτιμαζόμενος, Dem. 21.74). The question which begs itself is this: How does this remark, if at all, relate to Euphiletus' case? Did Euphiletus really take the law into his own hands?

It will soon become clear that the answer is an emphatic 'no'. Euphiletus did not commit the ancient equivalent of the modern felony of redressing a grievance by force; he 'helped himself', so to speak, without taking the law into his own hands. To put it another way, he did not arrogate to himself a role which effective and centralized states customarily entrust to specialized enforcement agencies. Fourth-century Athens was no such state, as the conspicuous absence of anything resembling a police-force shows. Nor was it a primitive society of the type known to anthropologists, in which, in default of any 'public' authority to punish an offender, the victim and his relatives must take vengeance – or the offender gets away scot-free. Fourth-century Athens had worked out a strange compromise between these extremes: it neither entirely arrogated to itself the right to punish an offender, nor did it entirely eliminate the primitive custom of private vengeance. What it did do was, characteristically, to amalgamate these practices, delegating upon the victim – or his relatives – both the right of taking action against the offender prior to bringing the case to court, and the right of enforcing certain legal decisions after the case had been adjudicated. There was, however, one important stipulation attached to these concessions: that the individual dealing with the offender should act in the name of the state and in pursuit of rights recognized by the state – not by way of private vengeance, to redress an injury or to redeem an affront to the honour of the individual, the family, clan, or tribe.¹¹

Thus it came about that, for a wide range of activities for which it laid down rules, the Athenian state lacked coercive organs to enforce these rules.¹² In a way which often strikes modern readers as improbable, these coercive powers were left to individual initiative. As Lintott has put it, 'a man was expected to execute through private means many acts which are now done for him by the state'.¹³ And it is amazing just how wide the scope of this initiative was. For example, in a whole series of criminal offences it was the duty of the accuser to arrest the accused.¹⁴ The enforcement of the payment of damages ruled by a law-court was often left to the party to whom the damages were awarded.¹⁵ Furthermore, in sharp contrast to the modern ideal of 'mind your own business', the individual in ancient Athens was constantly required to take sides, to fulfil an active role in whatever was taking place in his surroundings, so as to further what he was instinctively supposed to recognize as state interest. In street-fights, for example, the passers-by were expected on the spur of the moment to distinguish legal from illegal courses of action and support the legal. More importantly still, in a law from 336 B.C. the state granted every Athenian licence to kill pre-emptively whomsoever he suspected of attempting to subvert the democracy (SEG XII.87).

¹¹ On self-help see A. Lintott, *Violence, Civil Strife and Revolution in the Classical City* (London, 1982), pp. 15–17, 21–4, and 26–28, incorporating earlier literature on the subject, and more recently J. Ober, *Mass and Elite in Democratic Athens* (Princeton, 1987), 293ff.

¹² Cf. M. I. Finley, *Politics in the Ancient World* (Cambridge, 1983), p. 18ff.

¹³ Lintott, *Violence* p. 26.

¹⁴ Cf. M. H. Hansen, *Apagoge, Endeixis and Ephegesis against Kakourgoi, Atimoi and Pheugontes* (Odense, 1976).

¹⁵ D. M. MacDowell, *Athenian Homicide Law* (Manchester, 1963), p. 12.

It is against this background that Euphiletus' rhetoric should be examined. Euphiletus could certainly plead that his act was carried out in accordance with the legally defined specifications of a justifiable homicide.¹⁶ However, there was a serious aggravating circumstance; namely, that few aggrieved husbands apparently availed themselves of this right. Most husbands resorted to a procedure known in Athenian law as *apagoge*, 'leading away', whereby the adulterer caught in the act was taken to the responsible magistrates, who, if he acknowledged his guilt, put him to death instantly, or, if he denied it, took him to trial. What is more, there was a whole range of additional, informal courses of action open to a betrayed husband, none of which necessitated the setting in motion of the city's judicial machinery: he could simply keep quiet; he could attempt to extort money from the adulterer;¹⁷ he could, most ignominiously, pimp his wife, demanding a price.

It is thus clear that Euphiletus reacted with utmost severity, and it is precisely the harshness of his reaction which aroused the suspicion that Euphiletus effectively resorted, in a manner unbecoming an Athenian citizen, to what Plato once labelled an act of 'mindless vengeance', characteristic of 'a savage brute' (Pl. *Pr.* 324A). We may thus nuance our initial proposition: the rhetoric of Lysias 1 was designed to present a case of private vengeance in the guise of a public execution; in this endeavour, it conveniently enlisted in its service the practice of self-help, which would set on the private act of vengeance the 'stamp of legitimacy' of public authority. In other words, Euphiletus' pretence was that in killing Eratosthenes he was acting in the interest of the state. It is, incidentally, this pretence which accounts for the frequent shift between Euphiletus' two capacities – Euphiletus the aggrieved private person, and Euphiletus the dignified civic official.

But what, precisely, we may ask, were the attributes of that 'mindless revenge', from which Euphiletus wanted so desperately to distance himself? Scattered lines in Athenian authors and modern studies of 'primitive' societies may help us build up a more or less accurate picture.

IV

In societies lacking a central authority able to enforce decisions, the potential of the wronged party to do harm is given free rein: society provides no instrumentalities whatsoever to inhibit his passionate desire for revenge. Here the practice of harming an offender is subordinated to behavioural codes diametrically opposed to those of democratic Athens. The main tenets of these codes display everywhere a striking resemblance, and can be summarized as follows: *upon being provoked, dishonoured, or injured, the aggrieved party should react impulsively, violently, and at all costs, so as to inflict upon the offender an injury much graver than the one suffered*.¹⁸

Genesis 4.23–4 is a good case in point. Lamech, one of the antediluvian patriarchs, here prides himself in front of his two wives of having killed a man and a boy in retaliation for a wound. He unashamedly declares the ideal which guided his actions: 'If Cain be avenged sevenfold,/ Then Lamech seventy-sevenfold'. In other words,

¹⁶ Provided he was taken in the very act (*ep'autophoroi*) and acknowledged his guilt (*homologeî*), cf. D. Cohen, *Law, Sexuality and Society. The Enforcement of Morals in Classical Athens* (Cambridge, 1991), p. 112.

¹⁷ Cf. the fragment by the comic poet Callias: 'Profit is better than shame; off with the adulterer to the inner room!', Kock, *CAF* p. 693. See also Dem. 59.64ff., where the extortion of compensation money for *moicheia* is cited as evidence for the extortionist's *poneria*.

¹⁸ This point has been elaborated in 'Honour, revenge, and the state' (above, n. 1).

Lamech's social world encouraged him to retaliate by inflicting injuries far greater than the ones sustained. A long list of concrete examples can be produced which illustrate this pattern. We hear, for instance, of the Lebanese man who ceremonially slaughtered his son-in-law just because the latter had struck out an eye of his cow. Salwa, the thirteen-year-old Bedouin girl, upon being observed holding hands with a boy of her age, was mercilessly killed by her father, dying a virgin. Miss Durham relates the story of the shepherd who, in the course of her unprecedented journey through the tribes of the North Albanian mountains, killed an eight-year-old boy from the tribe of a man whose only sin was to have thrown at him a burning brand.¹⁹

The roots of this uncompromising behaviour must be looked for in that instinct of self-defence which various societies have gradually elaborated, shaped, refined and modified, and, under the name of 'honour', elevated to the level of a cultural norm. It remains a truism, susceptible to empirical verification, that people everywhere seek honour and avoid humiliation and shame; that, upon being humiliated and shamed, people everywhere attempt to redeem the offence and to restore the honour diminished or lost. Nonetheless, the nature of honour is not everywhere nor always the same. Rather, it may be said to vary in quality and intensity from one region to another, from one period to another, and even from one social class or circle to another. Some people simply appear to be more honourable than others. Homeric heroes, French noblemen of the *ancien régime*, Italian *gentiluomini*, Prussian *Junkers*, Japanese *Samurai*, Sicilian *mafiosi*, Bedouin males, to name just a few examples, are notorious for their enormously inflated sense of honour; slaves, serfs, beggars, prostitutes, court-jesters, and the poor, on the other hand, seem to be considered wanting in honour in most historical societies. The question thus arises: how do Athenian society in general, and Euphiletus in particular, fit into this picture?

Societies are known in which defendants accused of offences of the type committed by Euphiletus justify their deeds with the necessity to redeem their own – or their family's – honour. This is, in fact, the case of most non-Westernized Mediterranean societies studied by the anthropologists. Here, public opinion, and even the tribunals of justice, show more than a measure of understanding. For example, in the Arab villages of the Ottoman empire, the killing of an adulteress, or of a daughter suspected of premarital sex, was classified as 'a case of honour', rather than murder. To such an extent did public opinion approve of the deed that 'the murderer would sprinkle his victim's blood on his clothes and parade through the streets displaying the bloody murder weapon (usually an axe or knife) to increase his honour. He was considered a 'purger', one who restored honour, ... not a murderer'.²⁰

One must, of course, distinguish between one's narrow social circle and the wider, mostly Westernized, political units in which the latter is encapsulated. One's narrow circle concurs for the most part unconditionally with this deadly game of honour. The Sarakatsani shepherd, for instance, is actively encouraged to react immediately to any attack made on his family's honour: 'Failure to respond fatally damages the prestige of the outraged group and all its members'. Of the 19th-century Montenegrin, it is said that he 'would rather die than live shamefully ... he must take blood [i.e. exact vengeance] ... otherwise he has no place of honour among the Montenegrins'. The

¹⁹ Lebanese man: reported by the media world-wide in June, 1992; Salwa: see G. M. Kressel, 'Soricide/Filiacide: Homicide for family honour', *Current Anthropology* 22 (1981), 141–58; Albanian shepherd: M. E. Durham, *High Albania* (London, 1909, repr. 1985), pp. 111–12.

²⁰ Kressel, 'Soricide' 143. Cf. Campbell, *Honour, Family and Patronage* pp. 199–200 for comparable conceptions among the Sarakatsani.

early 20th-century Albanian must cleanse his honour whenever it has been soiled, for 'until he has done so he is degraded in the eyes of all – an outcast from his fellows, treated contemptuously at all gatherings'.²¹

The situation is different when such offenders are brought before Westernized courts. The dictates of the tribal code of honour then clash with the penal code of the state. Judges here show no mercy: they accept honour neither as a justification, nor as an attenuating circumstance, for murder. However, even in these circumstances, some of the defendants remain steadfast, pleading that the killing was a 'matter of honour'. When committed to long-term imprisonment, they tend to endure their punishments with contrite resignation, considering themselves to be the victims of ineluctable circumstances. Writing on Albanian society, Durham has captured the spirit of this fatalistic mentality clearly, if somewhat melodramatically: 'The unwritten law of blood is to the Albanian as is the Fury in Greek tragedy. It drives him inexorably to his doom'.²²

It is now time to return to Euphiletus and pose the problem in the sharpest possible terms. Why did Euphiletus not adopt a similar line of defence? After all, it cannot be doubted that both he and his family were greatly dishonoured: Eratosthenes was regularly sleeping with his own wife, and the affair had probably become a matter of common knowledge.²³ Why, upon appearing before the jury, could Euphiletus not justify his deed by reference to his trampled-upon manly honour? After all, the jury was made up of men in every respect like himself, sharing the same values – men who could easily find themselves involved in a situation such as this. Could they not be expected to sympathize?

V

We may elaborate on this. For not only does Euphiletus fail to evoke his slurred honour as a motive for killing Eratosthenes. There is much more to it than that. Euphiletus is at pains to suppress as much as possible the issue of honour. For it will have been observed that most of the details mentioned so far – Euphiletus' pretence to a non-violent character, his lack of spontaneity – serve a further important purpose: to demonstrate that Euphiletus was *not* unduly concerned with his pride; he was not the kind of person who sets honour above all other things; he was willing to compromise. Thus we have reached yet another paradox: Euphiletus admittedly killed Eratosthenes; however, he did not do so in attempting to vindicate his wounded masculine pride.

It is worth analysing some further rhetorical tricks designed to reinforce that impression.

Throughout the speech, Lysias pictures Euphiletus as a 'gullible, almost comic figure'.²⁴ In particular, he stresses his incompetence at discharging his marital duties. True, until a child was born to him, Euphiletus had somehow managed to control his wife's behaviour. Thereafter, however, he utterly failed in his attempt to shield her from the advances of Eratosthenes and to ensure her chastity. What is remarkable in this respect is Euphiletus' insensitivity. Lysias illustrates this trait by a skilful

²¹ Sarakatsani shepherd: Campbell, *Honour, Family and Patronage*, p. 273; 19th C. Montenegrin: M. E. Durham, *Some Tribal Origins, Laws and Customs of the Balkans* (London, 1928), p. 163; 20th C. Albanian: M. E. Durham, *High Albania* (London, 1909), p. 41.

²² Durham, *High Albania* 41.

²³ This may be inferred from the complicity of the slave-girl; from the intelligence the old crone and her mistress had of the affair (T11 = Lys. 1.16); and from the fact that Euphiletus' wife went off to the temple with Eratosthenes' mother to attend the Thesmophoria (Lys. 1.20).

²⁴ Carey (ed.), *Lysias* p. 61.

juxtaposition of objective and subjective realities. The love affair was already in full swing, the lovers meeting regularly in his home – but Euphiletus did not register any suspicion, assuming rather simple-mindedly that his own wife was the chastest wife in the city (Lys. 1.10). When, somehow or other, his suspicions were aroused again, he was naively taken in by his wife's transparent excuses. Once he even consented to being locked in his room – not suspecting this to be a trick designed to allow the lovers to pursue their business undisturbed (Lys. 1.13). When, once, the doors banged at night, he accepted his wife's explanations, even though she was wearing make-up while still in mourning. Euphiletus, in other words, is portrayed as falling sadly short of the traditional image of the domineering, self-assertive, jealous husband.

This undignified image is underscored by an untypical acknowledgement of Eratosthenes' superior sexual prowess:

T7

Lys. 1.16: 'The man doing this, [the old crone is made to say] is Eratosthenes of Oe, who has corrupted not only your wife but many others besides; he makes an art of it.'

An acknowledgement such as this could raise doubts about his own sexual capacity. It could even suggest impotence on his part, which might in turn imply that the murder of Eratosthenes may have been fuelled by the frustrations of an undersexed husband. To avoid that undesired implication, it was necessary to counterbalance the statement – to make it clear, however modestly, that he was still active sexually.²⁵ That may precisely be the function of the remark concerning the slave-girl, attributed to Euphiletus' wife:

T8

Lys. 1.12: 'So that you can try your hand here with the little maid; once before, when you were drunk, you pulled her about.'

In every piece of good rhetoric, individual arguments serve several purposes, resonating, so to speak, on a multiplicity of levels, and appealing, at one and the same time, to reason and emotions. The issue of the compensation money – it will have been remembered that, right before being executed, Eratosthenes had allegedly offered to compensate Euphiletus for his offences (cf. T2 and T3) – was, in one respect, yet another device to keep up the fiction of legitimate execution. Compensation, as we have seen, rather than murder, was both a legal requirement and a standard method of dealing with adulterers, and the demonstration that he did not skip this option would serve admirably Euphiletus' purposes. At the same time, however, the incident would shed some further light on the same trait of Euphiletus which has been hammered on so far. After all, a man who adduces civic morality, rather than personal honour, as the motive for rejecting the money offered by the seducer of his wife – could hardly be suspected of excessive machismo.

The first accusation which Euphiletus hurled at Eratosthenes upon catching the lovers *in flagrante delicto* creates a very similar effect. It requires an effort of the imagination to comprehend the absurdity of the situation: just a little while before Euphiletus had discovered Eratosthenes in bed with his own wife, but now accused him in the first place *not* of adultery (i.e. the obvious question 'I asked him why he was committing the outrage of sleeping with my wife') *but* intrusion into his territory:

T9

Lys. 1.25 'I asked him why he was committing the outrage of entering my house (διὰ τί ὑβρίζει εἰς τὴν οἰκίαν τὴν ἐμὴν εἰσάων).'

²⁵ I therefore have to disagree with Carey that the function of the comment was to admit to a flaw in Euphiletus' character (op. cit., p. 62).

One might of course object that this is an unlikely inference, based, as it is, on some kind of misunderstanding, a slip or perhaps a textual error. But precisely the same hierarchy of importance is reflected in the opening section of the speech. Here Euphiletus states his intentions in a summary fashion:

T10

Lys. 1.4: 'my task is to show that Eratosthenes seduced (ἐμοίχευεν) my wife and corrupted (διέφθειρε) her, and also brought disgrace (ἥσχυνε) upon my children and insulted (ὕβρισεν) me by entering my house (εἰς τὴν οἰκίαν τὴν ἐμὴν εἰσιών).'

Again, one might argue that the act of adultery is implied in the very phrase 'entering the house'; that, in other words, Eratosthenes was, after all, accused in the first place of adultery. However, a long list of parallels suggests that this is not the case.²⁶ 'Entering the house' was in itself considered a sufficiently grave offence – an offence, moreover, which was usually devoid of sexual overtones. And it is also clear that the linguistic usage is intentional: when describing the act from the point of view of the old crone, Euphiletus did not fail to apply the appropriate terminology:

T11

Lys. 1.16: 'the man who is dishonouring (ὁ ὑβρίζων) both yourself and your wife happens to be our enemy.'

Euphiletus could not, therefore, have been unaware that adultery was deemed a more formidable form of *hubris* than trespass. It is thus hard to avoid the conclusion that he, like the Marquis in a well-known joke,²⁷ was presented as farcically misreacting to his wife's disloyalty.

This feature reinforces the conclusion reached earlier. On the legal plane, Euphiletus may have scored an important point by stressing the issue of territorial intrusion. The analogy of the Law Code of Gortyn, for example, may suggest that in Athens, too, an act of adultery was regarded as a more serious offence when committed in the house of the husband:²⁸

T12

'If someone be taken in adultery with a free woman in a father's, brother's or the husband's house, he shall pay a hundred staters; but if in another's fifty.'

There was, however, for Euphiletus a price to pay: he could 'prove' that Eratosthenes' crime was worse than 'simple' adultery only at the cost of casting himself in the role of an undignified 'wimp' – a person not cognizant of the proper hierarchy of masculine values.

In summary, it is not only that Euphiletus is portrayed as lacking in honour. Far more than that, Euphiletus is portrayed in such a way as to fall neatly into the most humiliating of all social roles, that of the cuckold – that 'paragon of dishonour'²⁹ which was consistently derided at Athens, and in other Mediterranean societies, as a figure of ridicule.³⁰ We may now spell out the associative pattern which Lysias'

²⁶ Dem. 21.78; Dem. 47.53; Lys. 3.6; Lys. 12.30–31.

²⁷ The joke, recorded by Chamfort, tells of a Marquis at the court of Louis XIV who, on entering his wife's boudoir and finding her in the arms of a Bishop, walked calmly to the window and went through the motions of blessing the people in the street. 'What are you doing?' cried the anguished wife. 'Monseigneur is performing my functions,' replied the Marquis, 'so I am performing his' (Cited from A. Koestler, *The Act of Creation*, London, 1964, p. 33).

²⁸ R. F. Willetts, *The Law Code of Gortyn* (Berlin, 1967), p. 40, Col. II, 11.20–24.

²⁹ J. Pitt-Rivers, 'Honour', *The Encyclopaedia of Social Sciences*.

³⁰ For the motif of the cuckold in ancient Athens see C. Carey (ed.), *Lysias*, pp. 61–2; for the same motif in Mediterranean cultures, see A. Blok, 'Rams and billy-goats: a key to the Mediterranean code of honour', *Man* (N.S.) 16 (1981), pp. 427–40. Two additional works by J.

rhetoric was obliquely intended to convey: a man as indifferent to honour as Euphiletus could hardly be imagined to have shed blood merely in order to vindicate it.

That this is, indeed, the central idea around which the entire speech revolves can be shown by Euphiletus' denial of any kind of obvious causal connection between the act of adultery and the act of homicide. Indeed, Eratosthenes had seduced and corrupted Euphiletus' wife, had brought disgrace upon his children, and had outraged him by entering his house (Lys. 1.4 = T10 above). But, however serious the insult may have been, it did not become the motive for the homicide. For that, we must be looking elsewhere. The motive for killing Eratosthenes was grounded in a sober desire to implement civic justice. It was a manifestation of rational, utilitarian calculation, not the outcome of uninhibited, blind passion. It may thus more fittingly be categorized as 'punishment' rather than 'revenge'. Euphiletus in fact makes this point explicitly in two passages which may be regarded as a clue to the hypothesis of the entire speech:

T13

Lys. 1.34: 'Therefore, gentlemen, the laws not only acquit me of my crime, but actually command me to exact this punishment (τὴν δίκην λαμβάνειν).'

T14

Lys. 1.47: 'I consider this punishment (τιμωρίαν) not to have been a private one exacted on my own behalf, but on behalf of the whole city.'

VI

In assuming before the jury the role of an ineffectual victim, Euphiletus was by no means exceptional. Litigants in Athenian courts were consistently at pains to play down their sense of honour and to minimize their desire for revenge.³¹ In this respect they contrast markedly with the heroes depicted in the Homeric poems, whose enormously inflated sense of honour permeates all their existence, and whose unflinching passion for revenge constitutes the *leitmotif* of the poems' plots. The process whereby the transition from the latter type of behavioural pattern to the former may have taken place has been brilliantly traced by M. I. Finley:³²

'The fact is that [the] notion of social obligation is fundamentally non-heroic. It reflects the new element, the community, at the one point at which it was permitted to override everything else, the point of defence against an invader. In the following generations, when the community began to move from the wings to the centre of the Greek stage, the hero quickly died out, for the honour of the hero was purely individual, something he lived and fought for only for its sake and his own sake... The honour of a community was a totally different quality, requiring another order of skills and virtues: in fact, the community could grow only by taming the hero and blunting the free exercise of his prowess, and a domesticated hero was a contradiction in terms.'

Indeed, upon examining the organizational and ideological frameworks in which the people of Athens operated it appears that the system presented in every corner obstacles to the uninhibited display of one's honour. It is not only that, as suggested by Finley, heroic behaviour and social obligation were mutually exclusive. It is that the necessity to avoid the course of action which, in heroic terms, would have

Pitt-Rivers, 'Honour and social status', in J. G. Peristiany (ed.), *Honour and Shame. The Values of Mediterranean Society* (London, 1965), pp. 21–77, and *The People of the Sierra* (Chicago, 1971, 2nd ed.) and one by J. K. Campbell, *Honour, Family and Patronage* (Oxford, 1964), pp. 152 and 199–200, also bear on the subject.

³¹ For the documentation of this generalization, see my 'Honour, revenge and the state' (above, n. 1).

³² M. I. Finley, *The World of Odysseus* (Harmondsworth, 1978, 2nd ed.), pp. 118–19.

constituted the honourable option, was built into the very structure of the democratic *polis*. A political scientist has remarked that 'All forms of political organisation have a bias in favour of the exploitation of some kinds of conflict and the suppression of others, because *organisation is the mobilisation of bias*. Some issues are organised into politics while others are organised out.'³³ Applying the remark to the case of Classical Athens, it may be said that the issue of honour was here 'organised out'.

This point can most readily be demonstrated with regard to a practice which has been discussed earlier, namely, self-help. The citizens of democratic Athens were expected to carry out on behalf of the state a whole series of coercive acts which in modern states are entrusted to specialized enforcement agencies. Now, there can be no doubt that they were extremely successful in carrying out these acts: Athens between the establishment of democracy by Cleisthenes (508 B.C.) and its dissolution by Antipater (322 B.C.) can safely be classified as an effective political system. But how was this effectiveness achieved? The practice of self-help would seem in every single respect to militate against it. For self-help could easily become the breeding ground for the most explosive of all situations. An attempt at legitimate coercion by one party could be met by the illegitimate aggression of another; a progressive escalation of the conflict would then ensue, which, in turn, would degenerate into inter-family feud, tribal war, civil strife, and finally into the total breakdown of the political order. Introduced into a tribal society, the practice of self-help would be tantamount to a declaration of war of all against all.

The fact that, in democratic Athens, it had no such effect can be accounted for only by the spirit of self-restraint, moderation, compromise and toleration which the Athenians have imposed upon themselves. In stark contrast to the injunctions of the 'tribal' code of behaviour, the Athenian code enjoined that upon being provoked, dishonoured, or injured, *one should exercise self-restraint, should avoid violence, should compromise, and should attach as little importance as possible to the traditional code of honour*. More important still, one should separate the reaction from the provocation. As Demosthenes once remarked,

T15

Dem. 21.76: '...no one who wantonly assaults and outrages another should be punished by the victim himself in hot blood (*μετὰ τῆς ὀργῆς*), but must be brought into your courts...' (LCL trans.)

That is to say, the victim should separate the reaction from the provocation by an appeal to the courts – or, at least, by a short pause during which he can orient his reaction to the anticipated intervention of the courts.³⁴

The appeal to the courts has important consequences. The retaliation meted out to the offender constitutes an act of private vengeance if administered by the victim; it constitutes an act of public punishment if administered by the law court. The principal difference between private vengeance and public punishment lies therein, that private revenge invites violence, which in turn breeds counter-violence *not only* on the part of the victim himself but also on the part of his family, clan or tribe. Every aggressive act supplies cause for fresh revenge, which gives rise to an incessant war between the groups. Punishment administered by the law courts, by contrast, puts an end, once and for all, to the possibility of such chain reaction.

³³ E. E. Schattschneider, *The Semi-Sovereign People: A Realist's View of Democracy in America* (New York, 1960), p. 71, his italics.

³⁴ It is in conformity with this principle of delayed reaction that a client of Demosthenes relates how, upon being struck on the mouth by a man into whose house he went to seize goods as security, he *first called upon those who were present to bear witness* – and only then did he return the blow (!) (Dem. 47.38).

It is at this point that the necessity to 'organize out' the issue of honour becomes evident. The whole system would have collapsed if the participants had rated their honour highly, if they had perceived an offence against a relative or an intimate friend as an affront against their own honour, or if their reactions to an offence had been guided by the fatalistic avenging spirit. An Achilles would have been out of place in such a system. For, as the passage cited above shows (a statement made by a client of Demosthenes who had allegedly been attacked while trying to implement a decree of the assembly), an affront in Athens was conceived as defiling not so much the honour of a single person than the honour of the 'fiercely egalitarian spirit'³⁵ of the entire citizen-body:

T16

Dem. 47.41: 'I went to the council and showed them the marks of the blows, and told them how I had been treated, and also that it was while I was seeking to collect for the state the ship's equipment. The council, angered at the treatment which I had received and seeing the plight that I was in, thinking, too, that the insult had been offered, not to me (*ὕβρισθαι οὐκ ἐμέ*), but to itself and the assembly which had passed the decree and the law which compelled us to exact payment for the equipment, – the council, I say, ordered me to prefer an impeachment ...'

It is the essence of this phenomenon which Finley has captured prospectively, from the Homeric hero's standpoint, and expressed in the following aphorism: 'It is the nature of honour that it must be exclusive, or at least hierarchic. When everyone attains equal honour, then there is no honour for anyone.'³⁶

VII

Having traced the institutional and ideological constraints within which Euphiletus was operating, we are in a position to summarize our findings. Euphiletus in his speech *On the Killing of Eratosthenes* draws a subtle contrast between two antithetical codes of behaviour. The one which he implicitly rejects belongs to the tribal, de-centralized and uncivilized world which prevailed before the emergence of the *polis*. The other, which he explicitly and self-righteously endorses, belongs to the fully-fledged, centralized, democratic *polis* of Athens. The relevant injunctions of the antagonistic codes can conveniently be tabulated as follows:

code a: 'tribal'	react impulsively	react violently	do not compromise	have a high regard for honour	revenge	→ murder
code b: civic	exercise self-restraint	avoid violence	compromise	have a low regard for honour	punish	→ execution

The rationale underlying the rhetoric is that, since Euphiletus in every possible respect fulfilled the injunctions of code b, and ignored those of code a, the killing of Eratosthenes can only be classified as an act of punishment rather than revenge – execution rather than murder. Supposing Euphiletus were acquitted – of course, we do not know whether or not he was – his action would have to be transferred from the category of anti-social acts perpetrated by criminals to the category of legitimate acts of violence performed by the state.

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³⁵ The phrase is borrowed from D. M. Halperin, *One Hundred Years of Homosexuality* (New York and London, 1990), p. 96.

³⁶ Finley, *The World of Odysseus* 118.