

# Lysias 12 and Lysias 31: Metics and Athenian Citizenship in the Aftermath of the Thirty

Geoff Bakewell

THE SPEECHES LYSIAS 12 Κατὰ Ἐρατοσθένους and Lysias 31 Κατὰ Φίλωνος date to roughly the same time period, 403–401 B.C.<sup>1</sup> The former was likely delivered at the accountability proceeding (εὔθυνα) of Eratosthenes, one of the Thirty who sought to remain in Athens under the terms of the reconciliation agreement of 403.<sup>2</sup> The latter formed part of the competency hearing (δοκιμασία) for Philon, a man selected by lot to serve on the reconstituted *boulê*.<sup>3</sup> Both speeches fault the defendants for their actions during the tyranny.<sup>4</sup> Moreover, they

<sup>1</sup>K. J. Dover, *Lysias and the Corpus Lysiacum* (Berkeley 1968), holds that most Lysian speeches apart from 12 were products of consultation and collaboration between logographer and client. S. Usher, "Lysias and His Clients," *GRBS* 17 (1976) 31–40, defends the traditional view of independent composition by Lysias. M. Weissenberger, *Die Dokimasiereden des Lysias* (orr. 16, 25, 26, 31) (*Beitr.z.klass.Phil.* 182 [Frankfurt 1987]) 149–152, accepts Lysias as the author of 31. S. Usher and M. Najock, "A Statistical Study of Authorship in the Corpus Lysiacum," *Computers and the Humanities* 16 (1982) 85–105, at 104, are less certain, assigning it "a marginal position" in this regard. The rhetorical similarity between speeches 12 and 31 addressed below constitutes another argument for the authenticity of the latter.

<sup>2</sup>T. Murphy, "The Vilification of Eratosthenes and Theramenes in Lysias 12," *AJP* 110 (1989) 40–49, at 40, places the speech in the "twenty-day period following 12 Boedromion, 403."

<sup>3</sup>Weissenberger (*supra* n.1) 401 argues for a date shortly before 401/0 B.C. "spätestens zur Dokimasie des Frühjahres 401."

<sup>4</sup>Under the terms of the reconciliation agreement, Athenians were not to pursue grievances against one another which dated to the rule of the Thirty. On orators' frequent disregard of this principle of μὴ μνησικακεῖν (*Ath.Pol.* 39.6), see P. J. Rhodes, *A Commentary on the Aristotelian Athenaion Politeia*<sup>2</sup> (Oxford 1993) 472.

employ a similar rhetorical gambit: they use metics as a point of reference in evaluating the deeds of the accused, who were citizens. In particular, the speeches note that some metics acted better than did some citizens.<sup>5</sup> One implication of this argument is that from the point of view of the polis, good μέτοικοι are preferable to bad πολῖται. Lysias takes this good metic/bad citizen comparison one step further. In casting Eratosthenes and Philon as individuals devoted to money and inclined to place their own good above that of the polis, he assimilates them to the worst of metic stereotypes. These speeches of Lysias provide valuable evidence for Athenian attitudes towards citizenship during the restoration of the democracy. In particular, they suggest that at least some Athenian citizens saw shortcomings in distinctions based solely on heredity. The fact that the city subsequently reinstated Perikles' citizenship law of 451/0 should not obscure the importance of Lysias' claim that birth alone is insufficient for citizenship. Indeed, the orator's explicit formulation that people must also want to be citizens, and the apparent willingness of some of his citizen listeners to countenance it, deserves just as much notice as Athens' famed political moderation after the overthrow of the Thirty.

#### 1. Bad citizens and good metics

One prominent claim of both Lysias 12 and Lysias 31 is that in the turbulent times of the rule of the Thirty, civic status was an unreliable predictor of men's behavior. He argues that under the circumstances, some metics proved to be better Athenians than did some citizens. In Lysias 12, the orator says that his father Kephalos was persuaded to immigrate to Athens by

<sup>5</sup>Lysias' speech Πρὸς Ἰπποθέρσῃν employs the same gambit (fr.1.135–206 Gernet-Bizos), but is not treated in this article because its date may be substantially later (e.g., after 394). If T. Loening, "The Autobiographical Speeches of Lysias and the Biographical Tradition," *Hermes* 109 (1981) 287–289, is correct that it dates to 403 or 402, this further strengthens the arguments advanced here.

Perikles, and that his family lived there quietly for many years. They were supporters of the democracy and stayed out of the law courts, neither harming anyone nor being harmed. The advent of the Thirty changed all that. The oligarchs executed his brother Polemarchos and would have done the same to Lysias had he not escaped. He fled to Megara, and his family's property was confiscated. He summarizes this period in his family history thus (12.20):

ἀλλ' οὕτως εἰς ἡμᾶς διὰ τὰ χρήματα ἐξημάρτανον, ὥσπερ ἂν ἕτεροι μεγάλων ἀδικημάτων ὀργὴν ἔχοντες, οὐ τούτων ἀξίους γε ὄντας τῇ πόλει, ἀλλὰ πάσας (μὲν) τὰς χορηγίας χορηγήσαντας, πολλὰς δ' εἰσφορὰς εἰσενεγκόντας, κοσμίους δ' ἡμᾶς αὐτοὺς παρέχοντας καὶ τὸ προσταττόμενον ποιοῦντας, ἐχθρὸν δ' οὐδένα κεκτημένους, πολλοὺς δ' Ἀθηναίων ἐκ τῶν πολεμίων λυσαμένους· τοιούτων ἠξίωσαν οὐχ ὁμοίως μετοικοῦντας ὥσπερ αὐτοὶ ἐπολιτεύοντο.

But they were wronging us on account of money, in the way that others might who are angry at great injustices. We did not deserve these things with respect to the city, but had fulfilled all our choregic duties, and had paid many special taxes; we were orderly and did what was assigned us, made no enemies, and ransomed many Athenians from our foes. They deemed us worthy of such treatment, and as citizens conducting the government behaved far differently than we who were metics.<sup>6</sup>

Throughout the passage Lysias emphasizes the differences between his family and the Thirty. He and his relatives acted like the best sort of citizens; their civic virtue shone all the more brightly when viewed against the actions of Eratosthenes and his cohorts. The final phrase sums up these differences in conduct: the opposition between *μετοικοῦντας* and *ἐπολιτεύοντο* is pronounced, and is strengthened by the *οὐχ ὁμοίως ... ὥσπερ* construction. The conduct of Lysias and his family, who were *μέτοικοι*, was unlike, *i.e.*, superior to, that of the Thirty, who were *πολίται* governing Athens.

<sup>6</sup>The text is that of Hude. All translations are my own.

Lysias 31 adopts the same tactic, attacking Philon by comparing his conduct with that of the metics who fought alongside Thrasyboulos. While they risked life and limb to help the *demos*, Philon took no side in the struggle, fleeing to Oropos. At one point in the trial, the unnamed accuser urges the jurors to punish Philon on the following grounds (31.29):

τίς δ' οὐκ ἂν εικότως ἐπιτιμήσειεν ὑμῖν, εἰ τοὺς μετοίκους μὲν, ὅτι οὐ κατὰ τὸ προσήκον ἑαυτοῖς ἐβοήθησαν τῷ δήμῳ, ἐτιμήσατε ἀξίως τῆς πόλεως, τοῦτον δέ, ὅτι παρὰ τὸ προσήκον ἑαυτῷ προὔδωκε τὴν πόλιν, μὴ κολάσετε, εἰ μή γε ἄλλω τινὶ μείζονι, τῇ γε παρούσῃ ἀτιμίᾳ;

Who would not rightly blame you, if you honored in a fashion worthy of the city the metics because they assisted the people out of proportion to their obligation, but will not punish this man because he betrayed the city contrary to his obligation, if not with some greater penalty, then at least with the present dishonor?

As in the passage from Lysias 12, antitheses drive home the point. The τοὺς μετοίκους μὲν is balanced by the τοῦτον δέ: on the one hand the metics, on the other this man Philon (who as a prospective βουλευτής was a citizen). The metics helped the people, the citizen betrayed the city; the metics acted out of proportion to their obligation, Philon acted contrary to his obligation.

Whitehead has categorized remarks of this sort as an a fortiori topos resting on a largely negative stereotype of metics at Athens: "if (mere) metics do or suffer something, then surely citizens ..."<sup>7</sup> According to him, such comparisons focus attention primarily on citizen behavior; Lysias is urging his listeners to raise their expectations for citizens. Yet the comparisons here also have the effect of ennobling metic behavior. In Lysias 12.20, for instance, the lines leading up to the metic/citizen compari-

<sup>7</sup>D. Whitehead, *The Ideology of the Athenian Metic* (Cambridge 1977: hereafter WHITEHEAD) 55. While he specifically includes Lys. 31.29 in this topos, he does not mention Lys. 12.20.

son stress that the orator and his family served as *choregoi*, paid taxes, were orderly,<sup>8</sup> made no private enemies, ransomed Athenian prisoners. In a phrase, they did what was assigned to them by the city, τὸ προσταττόμενον ποιῶντας.<sup>9</sup> Likewise, Lysias 31.29 reminds the audience that metics comprised a substantial portion of Thrasyboulos' support.<sup>10</sup> In fighting for the city, these men went beyond the call of duty (οὐ κατὰ τὸ προσῆκον ἑαυτοῖς). Thus even though the primary thrust of Lysias' metic/citizen comparisons was to cast the defendants in a bad light, they also contained an important implication which stood conventional civic wisdom on its head: with regard to the πόλις, good metics were preferable to bad citizens.<sup>11</sup>

## 2. Eratosthenes and Philon: metaphorical metics

The primary effect of these metic/citizen comparisons was to contribute to the negative portraits of Eratosthenes and Philon.<sup>12</sup> Yet Lysias does more than suggest that these two failed to live up to what was expected of citizens. With the metic/citizen comparison hanging in the air, Lysias goes one step further: he shrewdly recasts the defendants as metics of

<sup>8</sup>Whitehead 58 notes that the word κόσμος is frequently applied to metics in honorific decrees. On Lysias' use of the term see R. Seager, "Lysias Against the Corndalers," *Historia* 15 (1966) 179.

<sup>9</sup>Lysias' language here recalls that of IG II<sup>2</sup> 10.8 in which rewards are assigned to those who assisted the *demos* in the Piraeus καὶ ἐποίον τὰ προστατ[τόμενα]. Many of those referred to in the inscription were of course metics.

<sup>10</sup>On metic support for Thrasyboulos see P. Krentz, *The Thirty at Athens* (Ithaca 1982: hereafter KRENTZ) 84, and 73 on Lysias' own involvement in supplying the forces at Phyle with mercenaries and shields.

<sup>11</sup>On the evolution of Athenian notions of citizenship see P. B. Manville, *The Origins of Citizenship in Ancient Athens* (Princeton 1990). On Athenian civic ideology see A. L. Boegehold and A. Scafuro, *Athenian Identity and Civic Ideology* (Baltimore 1994).

<sup>12</sup>For the thorough-going way Lysias set about this in the case of Eratosthenes see Murphy (*supra* n.2). Lysias went to similar lengths against Philon, claiming that his mother had not even trusted him to bury her properly. See Weissenberger (*supra* n.1) 178: "auch in diesem Abschnitt demonstriert der Logograph seine Meisterschaft, mit einem Minimum an Beweismaterial ein Maximum an Wirkung zu erzielen."

the worst sort. According to him, both men are devoted to money, and place their own good above that of the city. The orator lays great stress on the fact that at one point Philon actually took his possessions and, fleeing, chose to live as a metic at Oropos rather than as a citizen at Athens. Lysias 12 and Lysias 31 thus portray Eratosthenes and Philon as stereotypical metics, men for whom possessions trump polis.

In the popular imagination, metics were strongly linked with money. Several things contributed to this reputation. First and foremost, economic factors prompted many men to leave their native lands and immigrate to Athens.<sup>13</sup> Second, metics were often artisans and traders rather than farmers, and as such had more frequent dealings with money.<sup>14</sup> Legal restrictions comprised a third factor. Metics at Athens were barred from ἔγκτησις, the ownership of land and houses.<sup>15</sup> They were thus denied some of the most significant investment opportunities open to Athenian citizens, and forced to store their assets in forms that tended to be more portable, less visible, and more easily concealed.<sup>16</sup> The fact that metics held so many of their resources in this form of ἀφανῆς οὐσία<sup>17</sup> undoubtedly prompted

<sup>13</sup>Whitehead 18: "the fact that so many did choose τὸ Ἀθηνέσι μεταικεῖν cannot plausibly be attributed to the attractions of metic-status as such but the more general assets of Athens—which, for the majority, meant the economic activities of a large city and major port."

<sup>14</sup>P. Krentz, "Foreigners Against the Thirty: IG II<sup>2</sup> 10 Again." *Phoenix* 34 (1980) 298–306, at 305, notes that of the 69 identifiable professions listed for the (non-citizen) honorees of IG II<sup>2</sup> 10, 31 were "in handicrafts or small manufacturing, and 19 in trade and selling." R. Randall, "The Erechtheum Workers," *AJA* 57 (1953) 203, notes that 39% of the workers listed in the Erechtheum building inscriptions were metics.

<sup>15</sup>D. Hennig, "Immobilienwerb durch Nichtbürger in der klassischen und hellenistischen Polis," *Chiron* 24 (1994) 305–344.

<sup>16</sup>T. Figueira "Sitopolai and Sitophylakes in Lysias' "Against the Grain-dealers": Governmental Intervention in the Athenian Economy," *Phoenix* 40 (1986) 149–171, at 168. For the impressive contents of Lysias' own strongbox (κιβωτός) see Lys. 12.10.

<sup>17</sup>I use the term in a loose, descriptive sense here. V. Gabrielsen, "ΦΑΝΕΡΑ and ΑΦΑΝΗΣ ΟΥΣΙΑ in Classical Athens," *CIMed* 37 (1986) 103–104, suggests that the distinction between φανερά οὐσία and ἀφανῆς οὐσία had more to do with an owner's attitude towards his possessions than their nature *per se*.

popular speculation about the extent of their wealth, particularly in a community the size of ancient Athens.<sup>18</sup> This combination of factors led to a linkage between metics and money in the popular mind. Indeed, when in 403 the Thirty decided that they wanted money, their thoughts turned to metics as a group. According to Lysias 12.6–7,

Θεόγνις γὰρ καὶ Πείσων ἔλεγον ἐν τοῖς τριάκοντα περὶ τῶν μετοίκων, ὡς εἶέν τινες τῇ πολιτείᾳ ἀχθόμενοι· καλλίστην οὖν εἶναι πρόφασιν τιμωρεῖσθαι μὲν δοκεῖν, τῷ δ' ἔργῳ χρηματίζεσθαι·

Theognis and Peison were speaking among the Thirty about the metics, that some of them were hostile to the government. They said that there was a wonderful pretext for seeming to take revenge, but in fact to make money.

The Thirty's desire to settle political scores is described as a convenient excuse concealing the real motive: profit.<sup>19</sup> The fact that metics were marginal figures less capable of resistance (both legally and otherwise)<sup>20</sup> undoubtedly played a part in their selec-

<sup>18</sup>Plato's portrait of Cephalos in *Republic* I contains a vivid example of both the visibility of metic wealth and the public comment it occasioned. At 329E Cephalos has claimed that he bears the trials of old age well because of his good character—he notes that he is both κόσμιος (see *supra* n.8) and εὐκόλος (having a good disposition). Sokrates responds: "Ὁ Cephalos, I think that most people do not believe you when you say this, but think that you bear old age easily not on account of your character but because you have amassed a great fortune' (διὰ τὸ πολλὴν οὐσίαν κεκτήσθαι). 'You speak the truth', said Cephalos."

<sup>19</sup>Some scholars have challenged the accuracy of this account of the metic proscriptions. Krentz 80–82 sees them as genuinely politically motivated. So does D. Whitehead, "Sparta and the Thirty Tyrants," *AncSoc* 13–14 (1982) 105–130, who notes the ways in which the Thirty sought to reshape Athens along the lines of Sparta. He sees in the metic proscriptions an interesting parallel with the Spartan *krypteia's* attacks on helots: "The issue was fundamentally one of principle—of nerve, indeed ... Could the Thirty themselves, each and every one of them, pick out a victim and kill him? As the regime met mounting opposition, unflinching resolve was vital, and such a *rite de passage* would certainly sort the men from the boys" (128). It seems likely that all three motives (financial, political, and initiatory) were involved. For the purposes of the argument here, however, what matters is that Lysias could plausibly claim to a citizen audience that the proscriptions were motivated by metics' money.

<sup>20</sup>For the disadvantages metics faced in legal actions see Rhodes (*supra* n.4) 654–655.

tion as victims. Yet their suitability as a target for confiscations only makes sense if they had, broadly speaking, a reputation for wealth.<sup>21</sup>

Thus Lysias locates the persecution of his family within the broader context of the Thirty's desire for money. In particular, he focuses on why the Thirty wanted money. According to him, Theognis and Peison claimed the government was in tight financial straits (12.6): ἔλεγον ἐν τοῖς τριάκοντα ... πάντως δὲ τὴν μὲν πόλιν πένεσθαι, τὴν (δ') ἀρχὴν δεῖσθαι χρημάτων ("they were saying among the Thirty ... that the city was extremely short of money, and their government lacked funds").<sup>22</sup> One possibility is that the Thirty needed this money to pay Sparta in return for the hoplite garrison sent to Athens to bolster their regime.<sup>23</sup> Yet according to Lysias, the Thirty's desire for money sprang less from political necessity than common venality. Indeed, he immediately follows the *oratio obliqua* reporting the speech of Theognis and Peison with a set of editorializing remarks. He claims that these two easily persuaded the rest of the Thirty because they thought nothing of killing men, but set great store by seizing money (12.7): ἀποκτινύοναι μὲν γὰρ ἀνθρώπους περὶ οὐδενὸς ἡγούντο, λαμβάνειν δὲ χρήματα περὶ πολλοῦ ἐποιοῦντο. For oligarchs like Eratosthenes, the value of money exceeded that of men.

The venality of the Thirty is the point of detail after damning detail in Lysias 12. Peison's rapturous gaze upon Lysias'

<sup>21</sup>The sources disagree about how many metics were targeted by the Thirty. Lysias (12.7) mentions ten, Xenophon (*Hell.* 2.3.21) thirty, and Diodorus Siculus (14.5.6) sixty. According to Lysias, Theognis and Peison were speaking about metics as a group (περὶ τῶν μετοίκων, 12.6).

<sup>22</sup>Krentz 81 rightly asks how Lysias would have known what was said at this meeting. Here too what Lysias claims is more important than its truth value.

<sup>23</sup>Xen. *Hell.* 2.3.21: ἔδοξε δ' αὐτοῖς, ὅπως ἔχοιεν καὶ τοῖς φρουροῖς χρήματα διδόναι, καὶ τῶν μετοίκων ἕνα ἕκαστον λαβεῖν, καὶ αὐτοὺς μὲν ἀποκτείνειν, τὰ δὲ χρήματα αὐτῶν ἀποσημήνασθαι ("And they decided, so that they might be able to pay the garrison, for each of them to seize one of the metics, and to kill the men, and to confiscate their possessions"). Krentz, *Xenophon Hellenika II.3.11–IV.2.8* (Warminster 1995) 129, is skeptical of this claim.

wealth (12.10), the catalogue of assets he seizes (12.11), even Melobios' theft of the earrings from the ears of Polemarchos' wife (12.19) all serve to emphasize the Thirty's greed. In his description of Peison's behavior at chapters 8–10 Lysias provides a convenient distillation of his view of the motivations of the Thirty as a whole. Lysias was at home entertaining foreigners (ξένοι) when the oligarchs burst in. The intruders drove out his guests and handed Lysias himself over to Peison. Here Lysias, fearing the worst, bribed Peison to let him escape (12.8): ἐγὼ δὲ Πείσωνα μὲν ἡρώτων εἰ βούλοιτό με σῶσαι χρήματα λαβών· ὁ δ' ἔφασκεν, εἰ πολλὰ εἶη ("I asked Peison if he would be willing to save me in return for money. He agreed, if it was a lot"). Peison seems to employ a sliding scale in which every favor has its price. Lysias promised to give him a talent of silver and, doubting Peison's trustworthiness, made his captor swear an oath (12.9) This Peison did, calling down destruction upon himself and his children should he betray Lysias (12.10). Yet just moments later he reneges, seizing three talents of silver, four hundred Cyzicene staters, one hundred Darics, and four silver phialae (12.11). Peison values money so much that he stains his honor, endangers the lives of his children, and insults the gods. Lysias' reason for describing Peison's behavior at such length is of course to tar Eratosthenes with the same brush. In their devotion to lucre, Eratosthenes and his friends fit popular stereotypes about metics.

Another reproach commonly directed against metics at Athens was that they put their own desires ahead of the good of the polis.<sup>24</sup> In the idiom of late fifth-century political invective, metics were often suspected of doing whatever they wanted, ποιεῖν ὅ τι ἂν βούλωνται. This charge was an all-

<sup>24</sup>Eur. *Supp.* 888–900 explicitly describes one of the seven attackers of Thebes, Parthenopaios, as a metic whose interests coincided fully with his city's. Yet as Whitehead 37 notes, this idealizing description implies that the opposite was more likely true: metics' interests were generally thought to diverge from those of their host polis.

purpose bludgeon that could also be applied to citizens.<sup>25</sup> Yet it may have been thought to have a special application to metics. In Lysias 22 *Κατὰ τῶν σιτοπόλων*, for instance, the following exchange takes place between a citizen accuser and a metic defendant (22.5):

Εἰπέ σὺ ἐμοί, μέτοικος εἶ; Ναί. Μετοικεῖς δὲ πότερον ὡς πεισό-  
μενος τοῖς νόμοις τοῖς τῆς πόλεως, ἢ ὡς ποιήσωσιν ὅ τι ἂν βούλῃ;  
“Tell me, are you a metic?” “Yes.” “And do you live as a metic  
in order to obey the laws of the city, or to do whatever you  
want?”

Here the accuser posits a dichotomy: a metic either obeys the laws or does what he wants. However, the accuser has not offered the defendant a neutral choice here; he has stacked the deck. For elsewhere we find obedience to the laws strongly linked to citizenship. In *Crito*, for instance, the Laws tell Sokrates that they offer all Athenians a clear choice upon coming of age: take their property and emigrate (μετοικεῖν) elsewhere, or remain in Athens and obey the laws (51D–E). Thus the citizen accuser in Lysias 22 puts the accused metic in a hard place. Of course he must say that he resides in Athens to obey the laws, but the pointed mention of his metic status calls into question his claim.

Lysias has recourse to this ποιεῖν ὅ τι ἂν βούλωνται formula when he begins his final summation for the jurors against Eratosthenes (12.84–85). He urges them to convict the man, and marvels at his audacity in even presuming to defend his conduct at an εὐθυνα. Eratosthenes must either be contemptuous of the jurors, or be relying on the assistance of unnamed oligarchic accomplices who have come to the court as spectators to influence the jury.<sup>26</sup> Lysias notes their presence, and urges the jurors to

<sup>25</sup>Seager (*supra* n.8) 179: “for individuals to do ὅ τι ἂν βούλωνται is in democratic Athens an unfailing sign of sedition.”

<sup>26</sup>On the phenomenon see A. Lanni, “Spectator Sport or Serious Politics? οἱ περιεσθηκότες and the Athenian Lawcourts,” *JHS* 117 (1997) 187 n.58.

consider the deterrent effect of their vote. He claims that the oligarchic audience has not come so much to help Eratosthenes, but

ἠγούμενοι πολλὴν ἄδειαν σφίσι ἔσσεσθαι τῶν (τε) πεπραγμένων καὶ τοῦ λοιποῦ ποιεῖν ὅ τι ἂν βούλωνται, εἰ τοὺς μεγίστων κακῶν αἰτίους λαβόντες ἀφήσετε.

thinking that they will enjoy much amnesty for their deeds and have much freedom to do whatever they want in the future, if you [jurors] will acquit those guilty of the greatest evils now that you have them in hand (12.85).

Here Lysias tries to tie Eratosthenes to his oligarchic brethren, who (like him) await the opportunity ποιεῖν ὅ τι ἂν βούλωνται.<sup>27</sup> Thus in his speeches Lysias often turns to a truism of civic ideology: citizens live in the city intending to obey the laws, whereas non-citizens do not. Against Eratosthenes, the orator employs this “truth” in a novel way: he claims the oligarchs put their own desires ahead of obedience to the laws, and as such are more akin to metics than citizens.

Lysias adopts a similar approach in the case against Philon. At 31.5–6 he attacks his opponent’s suitability to serve on the *boulê*, and describes at some length the class of people to which he belongs:

ἐγὼ γὰρ οὐκ ἄλλους τινὰς φημι δίκαιον εἶναι βουλευεῖν περὶ ἡμῶν, ἢ τοὺς πρὸς τῷ εἶναι πολίτας καὶ ἐπιθυμοῦντας τούτου. τούτοις μὲν γὰρ μεγάλα τὰ διαφέροντά ἐστιν εὖ τε πράττειν τὴν πόλιν τήνδε καὶ ἀνεπιτηδείως διὰ τὸ ἀναγκαῖον σφίσιν αὐτοῖς ἠγεῖσθαι εἶναι μετέχειν τὸ μέρος τῶν δεινῶν, ὥσπερ καὶ τῶν ἀγαθῶν μετέχουσι· ὅσοι δὲ φύσει μὲν πολῖταιί εἰσι, γνώμη δὲ χρῶνται ὡς πᾶσα γῆ πατρὶς αὐτοῖς ἐστὶν ἐν ἧ ἂν τὰ ἐπιτήδεια ἔχωσιν, οὗτοι δηλοῖ εἰσὶν ὅτι κἂν παρέντες τὸ τῆς πόλεως κοινὸν ἀγαθὸν ἐπὶ τὸ ἑαυτῶν ἴδιον κέρδος ἔλθοιεν διὰ τὸ μὴ τὴν πόλιν ἀλλὰ τὴν οὐσίαν πατρίδα ἑαυτοῖς ἠγεῖσθαι.

For I say that it is unjust for any others to serve on our council

<sup>27</sup>Xenophon (*Hell.* 2.3.23) notes that the Thirty got rid of Theramenes because they considered him an obstacle to doing whatever they wanted to (τῷ ποιεῖν ὅ τι βούλοιντο).

except those who, in addition to being citizens, also want to be citizens. For it makes a great difference to them that this city fares well and suitably, because they think it is necessary for them to have a share of its horrible fortunes, just as they also share its good things. But all those who on the one hand are citizens by birth, yet on the other are of the opinion that every land in which they have their daily needs met is their homeland, these clearly would pursue their own private gain even if it meant abandoning the city's common good, because they think their homeland is not their polis but their possessions.

There are several things to note about this passage. First, Philon is ranked among those who are citizens by birth (φύσει) yet think that every land in which their necessities are met is their homeland. Moreover, the strong possibility exists that the interests of such people will diverge from those of the city. While true citizens cannot fare well when Athens fares poorly, this is not true for the likes of Philon: when the going gets tough, they truly get going. In this regard Philon and his ilk are cast as stereotypical metics with no lasting attachment to any particular land. For them, πατρίς means not polis but possessions: home is where the οὐσία is.

Here again Lysias uses powerful antitheses to stress the contrast. According to him, Philon and friends would sacrifice the good of the city for their own private well-being. They pursue τὸ ἑαυτῶν ἴδιον κέρδος while eschewing τὸ τῆς πόλεως κοινὸν ἀγαθόν. τὸ κέρδος, financial gain, outweighs τὸ ἀγαθόν, a less tangible good. The former is described as ἴδιον, a private possession, the latter as κοινόν, belonging to the public. ἑαυτῶν points out that such men are concerned above all with themselves; their interest in the πόλις is minimal. In many ways, then, this passage is an expanded description of men who do ὅ τι ἂν βούλωνται. In this regard Philon seems a stereotypical metic. Lest anyone miss the point, Lysias pounds it home moments later. Philon did more than resemble the average metic: he actually became one. After Thrasyboulos and his forces moved from

Phyle to the Piraeus, Philon acted differently from all other citizens (τὰ ἐναντία ἅπασι τοῖς ἄλλοις πολίταις ἐποίησε, 31.8). Lysias describes his departure from Attica thus (31.9):

συσκευασάμενος γὰρ τὰ ἑαυτοῦ ἐνθένδε εἰς τὴν ὑπερορίαν ἐξῴκησε, καὶ ἐν Ὀρωπῷ μετοίκιον κατατιθεὶς ἐπὶ προστάτου ῥκει, βουλευθεὶς παρ' ἐκείνοις μετοικεῖν μᾶλλον ἢ μεθ' ἡμῶν πολίτης εἶναι.

Having collected his things, he emigrated from here beyond the border, and paying his metic fee in Oropos was living under the supervision of a *prostates*, wanting to be a metic among them rather than a citizen with you.

Lysias' description stresses several demeaning elements of Philon's life as a metic in Oropos. First of all, he had to pay the fee charged by the community for the right to reside there.<sup>28</sup> Moreover, he was forced to live under the supervision of an Oropian citizen who served as his legal representative.<sup>29</sup> Lysias' citizen audience would likely have found the choice of such a life unbecoming.<sup>30</sup> Thus as in the case against Eratosthenes, Lysias portrays Philon as a stereotypical metic whose possessions and private interests mean more to him than his citizenship.

3. A new criterion for citizenship: τοὺς πρὸς τῷ εἶναι πολίτας καὶ ἐπιθυμοῦντας τούτου

For much of the second half of the fifth century the Athenian democracy strictly enforced Perikles' law of 451/0 restricting citizenship to those born of two Athenian parents.<sup>31</sup> However, the strategic and tactical necessities of the Peloponnesian War led to a blurring of the distinctions between Athenians and non-

<sup>28</sup>For arguments that metics likely found this unpalatable see Whitehead 76.

<sup>29</sup>For a detailed summary of the various views on the nature of the *προστάτης* see Whitehead 90–92.

<sup>30</sup>S. C. Todd, *The Shape of Athenian Law* (Oxford 1993) 197.

<sup>31</sup>On Perikles' citizenship law see C. Patterson, *Pericles' Citizenship Law of 451–50 B.C.* (New York 1981).

Athenians.<sup>32</sup> Upon assuming power, the Thirty reacted by re-establishing and strengthening the distinction between citizens and non-citizens. They restricted the franchise to 3,000 and expelled many non-citizens from the ἄστυ proper.<sup>33</sup> The Thirty were in turn toppled by Thrasyboulos and his supporters, who included many non-citizens. Thus as the Athenians went about restoring the democracy in 403, they had several significant decisions to make regarding citizenship. The most important of these concerned which criteria to employ, and how (if at all) to address any resulting inequities.

The metic/citizen comparisons in Lysias 12 and Lysias 31 contain evidence for Athenian attitudes towards citizenship during this important period. Beneath the speeches' rhetorical surface lie at least three important propositions. The first is that the citizen/metic distinction was to a certain extent arbitrary and unfair. While some metics (such as Lysias' family and the supporters of Thrasyboulos) deserved to be citizens on the basis of their devotion to Athens, some citizens (such as Erasthenes and Philon) did not, given their pursuit of money and self-interest.<sup>34</sup> A second proposition is that the rigid separation of metics and citizens based solely on heredity was not in the best interests of the city. The remarks at Lysias 31.5 are particularly suggestive here. Lysias argues that it is not enough

<sup>32</sup>On the grant of citizenship to the Plataians see [Dem.] 59.104. On the enfranchisement of those who fought at Arginusae see *Ar. Ran.* 190–191, 693–694, and Hellanikos *FGrHist* 323a F 25. On the conferral of Athenian rights on the Samians see *IG I<sup>3</sup>* 127. For the privileges the Euboeans received see *Lys.* 34.3. [Xen.] *Ath. Pol.* 1.10–12 links the difficulty in distinguishing among citizens, metics, and slaves on the streets of Athens to the military importance of the latter groups. On the difficulties in determining the civic status of some of those listed on polis casualty lists see N. Loraux, *L'invention d'Athènes* (Paris 1981) 32–37. E. Cohen, *The Athenian Nation* (Princeton 2000), argues that the blurring of political distinctions was in fact broadly characteristic of fifth- and fourth-century Athens. On his view many metics “became fully involved in Athenian life, and physically and culturally indistinguishable from the mass of *politai*” (72).

<sup>33</sup>Krentz 64–66. See also Whitehead (*supra* n.19).

<sup>34</sup>Their actions under the Thirty proved a decisive test of their worth; on the importance of such moments in defining a man *cf.* *Thuc.* 2.42.1–3.

to be born a citizen; one should also want to be a citizen. The only ones who belong on the council (or in the *demos* for that matter) are τούς πρὸς τῷ εἶναι πολίτας καὶ ἐπιθυμοῦντας τούτου. Citizens should thus have an affective attachment to their πόλις, and be willing to put its good above their own. Lysias' description of those who fail to meet this standard begins with the phrase ὅσοι δὲ φύσει μὲν πολῖταί εἰσι. This reference to φύσει calls to mind the Sophistic νόμος/φύσις debate of the late fifth century; Lysias' suggestion that φύσις in and of itself should not suffice for citizenship hints at a role for νόμος.<sup>35</sup> In political terms, it suggests the possibility of enfranchising deserving non-citizens by legal means. Finally, a third proposition is that there are those who fit the metic stereotype: some people really do place their own interests before those of the polis. Given this fact, the indiscriminate bestowal of citizenship should be avoided.

Lysias' metic/citizen comparisons and their underlying propositions should not be interpreted as isolated views or special pleading by the orator on behalf of his fellow metics.<sup>36</sup> On the contrary, they seem to have had at least a modicum of support among Athenian citizens. For Lysias was first and foremost a successful logographer:<sup>37</sup> as such, his primary goal was to win cases. And this in turn meant playing to the views of his audience. Lysias would certainly have been hesitant to put forward notions known to be offensive to his citizen listeners. Lysias 12 is particularly noteworthy in this regard because its audience was probably a jury of citizens drawn exclusively from the

<sup>35</sup>On the νόμος/φύσις distinction see M. Ostwald, *From Popular Sovereignty to the Sovereignty of Law* (Berkeley 1986) 260–266.

<sup>36</sup>For Lysias' own fortunes as a metic see [Plut.] *Mor.* 835C–836D. The strong probability that speech 31 was not delivered by Lysias makes the claim of special pleading even less likely in that instance.

<sup>37</sup>His track record was such that he is said ([Plut.] 836A) to have lost his case with only two of the hundreds of orations he authored.

upper classes.<sup>38</sup> Lysias 12 and Lysias 31 thus suggest that at least some Athenian citizens were sympathetic to redressing inequities created by the traditional Periklean citizenship criteria. Indeed, before it was blocked by Archinos on a charge of γραφή παρανόμων, Thrasyboulos' proposal to enfranchise his supporters (including metics and slaves) passed the Athenian *ekklesia*.<sup>39</sup>

In the end, however, Athens' response to questions involving citizenship proved to be conservative. With regard to criteria, the city voted down Phormisios' proposal to restrict the franchise on the basis of both birth and land ownership,<sup>40</sup> adopting instead the measures of Aristophon and Nicomenes to reinstate Perikles' citizenship law.<sup>41</sup> With regard to specific individuals, Thrasyboulos' decree failed. And while a subsequent similar measure, *IG II<sup>2</sup> 10*, again sought to reward his supporters, its provisions are unclear; as David Lewis recently noted, in the absence of new fragments "there can be no certainty about the date or nature of the awards."<sup>42</sup> Thus the prevailing post-Thirty attitude towards non-citizens was ultimately stingy.<sup>43</sup> Archinos, the blocker of Thrasyboulos' decree, had his own proposal enacted. Men who claimed to have accompanied the *demos* back

<sup>38</sup> *Ath. Pol.* 39.6 states that εὐθυναί for those of the Thirty, the Ten, and the Eleven who chose to remain in Athens were to be held ἐν τοῖς τὰ τιμήματα παρεχομένοις. See Rhodes (*supra* n.4) 470.

<sup>39</sup> [Plut.] *Mor.* 835F; *Ath. Pol.* 40.2.

<sup>40</sup> According to Dion. Hal. *Lysias* 32, Phormisios proposed τὴν δὲ πολιτείαν μὴ πᾶσιν ἀλλὰ τοῖς [τὴν] γῆν ἔχουσι παραδοῦναι.

<sup>41</sup> Ostwald (*supra* n.35) 507–508.

<sup>42</sup> D. Lewis, "The Epigraphical Evidence for the End of the Thirty," in *Aristote et Athènes*, ed. M. Piérart (Paris 1993) 223. For the text of the decree see M. J. Osborne, *Naturalization in Athens* (Brussels 1981–82) I 37–41. For an overview of the issues involved see Osborne II D6, 26–43. For a somewhat representative sampling of other views see Krentz (*supra* n.14) (decree concerned primarily with ἰσοτέλεια); Whitehead, "A Thousand New Athenians." *LCM* 9 (1984) 8–10 (decree a grant of citizenship); and P. Harding, "Metics, Foreigners, or Slaves? The Recipients of Honours in *IG II<sup>2</sup> 10*," *ZPE* 67 (1987) 176–182 (most of those honored were slaves rather than metics).

<sup>43</sup> By contrast, Cohen (*supra* n.32) 68 characterizes the reenactment of the Periklean measure as an "extraordinary liberalization." His view, based largely on Nicomenes' rider, does not take into account the restrictive tenor of the other measures described above.

from Phyle were vetted by the council; those surviving this scrutiny received a block grant of a thousand drachmas to perform sacrifices and dedications. As Aeschines notes, this left each man an olive wreath and the sorry sum of less than ten drachmas.<sup>44</sup> A proposal of Theozotides was likewise adopted. This measure provided state support for the orphans of those who died fighting to restore the *demos*. However, it was careful to limit this support to children of γνήσιοι citizens who died; metic children were passed over.<sup>45</sup> Non-citizens even received little when it came to reversing the expropriations of the Thirty. While lands and houses were restored to their previous (citizen) owners, holders of moveable property were not so lucky: they had to repurchase their belongings from the current possessors.<sup>46</sup> (As noted above, metics were barred from owning land or houses.) Only in death, it seems, did Athens make no distinctions between citizens and metics in rewarding the valorous. According to [Lysias] 2 Ἐπιτάφιος, those ξένοι who died fighting for the restoration of the *demos* were mourned and buried at public expense along with the citizens.<sup>47</sup>

In the fourth century Athens was repeatedly praised for its political moderation and consequent success in implementing the reconciliation agreement.<sup>48</sup> Indeed, the encomia continue to this day. According to Ostwald, “the nexus of events that ended the war between Athens and the Lacedaemonians and at

<sup>44</sup>Aeschin. 3.187. Scholars now associate this measure with the remains of the decree published by A. Raubitschek, “The Heroes of Phyle,” *Hesperia* 10 (1941) 284–295. Note however that in the context of the speech it is in Aeschines’ interest to minimize the award made to the returnees.

<sup>45</sup>R. Stroud, “Greek Inscriptions: Theozotides and the Athenian Orphans,” *Hesperia* 40 (1971) 280–301.

<sup>46</sup>Lys. fr.1.34–47. Some metics were probably de facto property owners, concealing their ownership through citizen middlemen. (For a later example of the phenomenon see M. Leimo and P. Remes, “Partnership of Citizens and Metics: The Will of Epicurus,” *CQ* 49 [1999] 161–166.) Such metics would have been particularly harmed by the terms of the reconciliation.

<sup>47</sup>Lys. 2.66. Note that the orator describes these men as πατρίδα τὴν ἀρετὴν ἠησάμενοι (“believing that excellence was their homeland”).

<sup>48</sup>E.g. Aeschin. 2.176, *Ath. Pol.* 40.3, Dem. 24.135.

the same time terminated the hostilities between the oligarchical remnant in the city and its opponents in the Piraeus constitutes one of the most inspiring episodes in Athenian history, if not even in human history."<sup>49</sup> While Athens' reputation for even-handedness between oligarchs and democrats is deserved, we should not forget those to whom the reconciliation was less kind: metics. Indeed, it is unclear that even the metics who fought alongside Thrasybulos ever received much in the way of tangible gratitude from the city.<sup>50</sup> Thus in praising the democratic restoration we should at the same time remember Lysias and those Athenians sympathetic to the notion that civic merit was not necessarily linked to birth. Although their voices did not carry the day during the period 403–401, they made an important if fleeting statement. In claiming that only τοὺς πρὸς τῷ εἶναι πολίτας καὶ ἐπιθυμοῦντας τούτου should be citizens, Lysias provided one of the first explicit formulations of the "consent" principle of citizenship.<sup>51</sup>

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Classical & Near Eastern Studies  
Creighton University  
Omaha, Nebraska 68178  
gbakewe@creighton.edu

<sup>49</sup>Ostwald (*supra* n.35) 497. Krentz 120 comments that "overall, the Athenians earned the congratulatory words of Aristotle ... [the reconciliation] must be judged a triumph—a brilliant one, for a Greek polis."

<sup>50</sup>To interpret IG II<sup>2</sup> 10 as a grant of citizenship to these metics (Ostwald [*supra* n.35] 508–509; Whitehead [*supra* n.42]) seems to go beyond the current evidence. See *supra* 20.

<sup>51</sup>On the continuing legacy of the "consent" principle in U.S. citizenship law see P. Schuck, *Citizens, Strangers, and In-Betweens: Essays on Immigration and Citizenship* (Boulder 1998) 207–216.

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