

Envy, Poison, and Death

Women on Trial in Classical Athens

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1.1

Introduction: Overview and Approach

Politics ‘happens’ where one may be led to least expect it—in the nooks and crannies of everyday life, outside of institutionalized contexts that one ordinarily associates with politics.¹

The events that form the kernel of this book took place in Athens, in the middle years of the fourth century BCE. They comprise a number of intriguing trials in which the defendants were all women—puzzling targets for a society like Athens, where the law courts are largely regarded as the domain of the male political elite. These cases are *graphai*, or public cases, but just what kind of charges they included is debated: the evidence for each trial is multiple, various, and sketchy. It seems likely that at least two of them were *graphai asebeias* or trials for ‘impiety’; the implication that these women were involved in magical activities is a consistent theme throughout the ancient sources and the modern scholarship. It is hard to say more than this: the sources are either too brief, or too late, or simply too contradictory to provide clarity. Little is known about the three women in question, the sparse historical evidence throwing only the faintest of silhouettes down through time.

These are obviously not novel problems: in general, the evidence for the lives of ancient women is usually voiced by others, and inextricably entangled in the conventions of different genres. There is now a burgeoning field of scholarship grappling with the problems of identifying and exploring the roles played by women in ancient communities. Marilyn Katz’s analysis of over twenty years ago offers a useful framing of the ways in which these explorations have moved from consideration of ‘women’ to a more comprehensive exploration

¹ Besnier 2009: 11.

of gender, and from writing a history of women to writing 'a history of women in society'.² In line with these approaches, most scholarly studies of these trials have focused on the question of the nature of the charges, in the process of which these women fall into familiar, static social categories—be those sexual, magical, religious, or legal. The danger of such analyses is that we cease to see these women as anything more than cyphers for a kind of male violence understood to be endemic in Athenian society, the inadvertent victims of political struggles, their appearance in court the by-product of an attack by one elite male on another, a spin-off of episodes of religious intolerance, a side effect of the struggles of an elite patriarchy.³

And yet, the little evidence we have alludes to both the agency and power of these women; indeed, it was this that brought two of them to their deaths. Moreover, the extent of their influence may be inferred by the role they appear to have played in the cultural imaginary⁴: we can glimpse it in a number of stories or anecdotes that relate crimes and legal cases that seem remarkably similar to these trials.⁵ A fable from Aesop's collection, a model speech for the law courts, a philosophical exemplum: each of them relates how a woman's ritual

² Katz 1992 (quotation, p. 96). The field of scholarship on ancient women is too great to cite here. However, the question of how and why women's lives may have changed has not been much explored. Exceptions include Osborne (1997), who raises the question of how changes in Athenian legislation prompted shifts in the social attitudes to, and representations of, women, with repercussions for lived experience of both genders; also van Bremen (1996), who considers the role of women as benefactors in Greek cities of (predominantly) Asia Minor, over a period of four centuries.

³ Filonik (2013: 83) argues that there was no systematic religious repression at Athens and that 'the historical record cites a handful of individual trials for impiety out of nearly two centuries of Athenian democracy, more often than not placed in a very particular political context. Those individual trials or sometimes groups of trials reflect important turning points in the life of the community, more often than not being linked to various periods of instability, crisis, anxiety, sometimes even coups d'état, war, and, last but not least, either a threat of falling under foreign domination or frustration at the defeat.' However, he does not attempt a closer analysis than this, nor does this seem to account for the list of trials and potential trials he provides (82); he also does not explain those trials that do not fall into such an obvious category, such as the trials of these women.

⁴ By this term I am referring not to the imagination of the individual, but to the set of shared ideas and images, narrative structures, and symbolologies that members of a culture or society draw upon to organize their world view, and which gives shape and boundaries to their imaginations. For a useful discussion, see Dawson 1994: 48.

⁵ Other scholars have suggested that one or other of these fictional characters be directly identified with the historical women, but have not raised the possibility that these characters indicate the development of a common cultural narrative.

actions led to her death. For us, looking back over time, fact and fiction seem to be converging in a larger cultural narrative of a particular kind of risk. When we approach these women from this perspective—asking what risks they represented, how they developed, and why these women played such a key role in their expression—these trials start to assume greater significance, raising questions about the social and political environment of fourth-century BCE Athens. In this light, the complexity and confusion of the evidence is not so much a riddle to be resolved, but may rather be seen as articulating multiple dynamics. This study suggests that it forms the starting point for a historical investigation, one that places these women and their trials at its heart, and explores the changing factors—material and ideological—that may have provoked these events.

Rather than writing a history of these women in society, this study sets out to build on previous approaches to recover a history of society through the experiences of these women. The most obvious dimension of this is the larger changing political and economic situation of Athens—and this will be the focus of part 4 of this book. But the approach of this study is based on a sense that ‘large-scale processes such as state formation, subsistence change and population movements need to be understood in locally meaningful contexts of feeling and understanding’.⁶ Thus, before exploring events at the macro-level, this study will pursue some more everyday expressions of feelings, focusing on the emotion of *phthonos*, or envy. It will examine first the role of *phthonos* in local social dynamics, and then how these dynamics may have interacted with the larger civic processes of the law courts. It is a truism that the detailed information needed to assemble an account of local circumstances rarely survives; nevertheless, by bringing together a wide variety of different kinds of evidence from across the ancient world, as well as by drawing on resources from other periods and disciplines, it may be possible to assemble an alternative account that allows us to suggest, if not fully describe, more local or individualized events.

⁶ Tarlow 2000: 719. Recent scholarly approaches offer helpful tools. In particular, research into the role and power of the emotions and connected work on cognition raise key questions about, and offer insights into, the nature and development of social relations. See Chaniotis (2012: 14–16), who provides a seminal overview of the role of ‘emotions history’, as well making a similar point about the connection between emotion and cognition.

Underpinning this analysis is an assumption that there are cross-cultural, and diachronic similarities between emotions. This book does not attempt to explain how this occurs, or in what ways vernacular emotion concepts connect across cultures, which categories they belong to, or the ways in which they have evolved.⁷ However, it also does not assume that those similarities are absolute and that the modern concept can simply be mapped onto its ancient counterpart. Quite the contrary: the argument made here is that whatever element of emotions can be held to be universal, crucial aspects are culturally specific. We must take careful account of these aspects in any description of a culture and/or events affecting or affected by members of that culture. This means that rather than arguing for either a universal or a cultural-relativist point of view of emotions, this study embraces both approaches, treating emotion as inseparable from cultural context, and emphasizing its role as a social phenomenon, that is, the ways in which our knowledge and expression of an emotion are crucially affected by social relations, and how in turn social interactions are shaped by emotions.⁸ This is not to deny the intrapsychic or physiognomic experience of emotion, but the focus of this study is on the ways in which social interactions give those experiences significance and meaning, and lead, in turn, to action. It is attempting to delineate not so much what an ancient emotion comprises, so much as what it might do.

This approach can perhaps be summed up by regarding emotions as cultural models or schemas: this incorporates not only their responsive mode, but also their expressive and creative roles,

⁷ For an examination of these questions, a useful start is Griffiths 1997.

⁸ In general, the focus of existing studies in this area has been on trying to distil the individual's experience of an emotion from our evidence. See, for example, Braund and Most 2003; Cairns 1993, 2003a and 2003b, 2008, 2009, and 2011; Harris 2001; Konstan 2001; Konstan and Rutter 2003; Kaster 2005; and Sanders 2014. Chaniotis (2012: 16) emphasizes how perceptions of, and responses to, emotions are to a great extent socially and culturally determined.

The approach used here is based on research on the emotions in both cultural anthropology and psychology that highlights the social and psychological construction of emotions. Although emotions may feel like private personal experiences—and certainly involve multiple, complex, probably iterative mental processes—they are also profoundly shaped by an individual's interactions with the world at interpersonal, group, and broader cultural levels (see especially Parkinson 1996). The question of the extent to which personal and social factors interact in this context is a source of much debate, especially in the field of psychology: see further part 2, section 2.

encompassing the ways in which emotions appear to help us organize and evaluate our experiences. It offers a way to contemplate how emotions participate in both individual and group experience; and it grounds a method for their examination, through the analysis of the varieties of cultural discourse or 'emotion talk'. Part 2 uses this approach as the basis for examining some of the different cultural schemas of *phthonos*, revealing how narratives of *phthonos* differ across contexts and genres. It examines the power of '*phthonos* talk' for creating explanations for events and experiences, and how it was used to elicit meaning from otherwise inexplicable events or experiences.⁹ In particular, it highlights the ways in which attributions of *phthonos* relate to the reciprocal relationships that structured many aspects of ancient Greek society, specifically the darker emotions arising from the process of giving gifts and all the responsibilities and attendant risks that come from being socially interdependent. This approach can, I suggest, help to explain not only the dynamics of mortal *phthonos*, but also the puzzling ancient phenomenon of the *phthonos* of the gods.

As this analysis will illustrate, *phthonos* talk includes both formal and informal discourses, and part 3 examines one of the more informal genres, namely gossip. Its informality increases its social potency: not just a vehicle for narrative, gossip is rather a 'reconstructive genre' from which an account of events will emerge.¹⁰ This study explores how this aspect of gossip creates, supports, and develops the power of *phthonos* across different contexts, public, private, and secret.¹¹ Gossip as a discourse may offer us an insight into those

⁹ See Eidinow (2011a) for use of cultural models to analyse ancient Greek discourse about fate, luck, and fortune.

¹⁰ See Eidinow (2011b) for the ways in which narratives are crucial creative forces in social networks: the stories that we tell are shaped by, but also help shape, the context—the relationships and institutions—in which we tell them.

¹¹ Riess (2012) has indicated envy as a link between courtroom and binding spells (citing Eidinow 2007: 204 and 231, but rather misstating her approach, which turns on risk management). He asserts (169) that 'many forensic speeches must have been motivated by envy' and that 'although envy could not be openly expressed in court and was literally driven underground through the use of curse tablets, it still lingered in the background of many lawsuits'. It is not clear why he argues that binding spells had this effect. He does not examine the use of *phthonos* in forensic speeches; nor does he provide analysis of the ways in which envy may be connected to magical action, beyond mention of the evil eye (29, 165, 169, 177) and as a ritual to frame negative emotions (177). The argument that 'one could at least wish in malign magic what one could not openly say in court' (230) does not seem to take into account the substance

whose voices are rarely heard; but even when those voices are familiar, the presence of gossip deepens our understanding of the dynamics that lurk beneath the surface of our usual historical documents. Gossip provides a lead into 'the interstices of respectability' by following 'exactly the contours of local and regional concerns'.¹² This approach goes beyond arguing that gossip reveals values and the formation of values—the context for social action—to assert that gossip *is* social action. Thus, in our attempt to understand the historical past, it is important to see how, why, where, and when particular nuggets of gossip became credible, powerful—and, finally, acted upon.¹³

In doing so we gain insights into the ways in which people were actively making sense of their surrounding environment. As demonstrated by anthropological and historical work concerning other times and places, gossip (with envy) is a 'sense-making technique', and it frequently encompasses cosmological elements. Thus, local explanations of otherwise inexplicable events within communities, particularly misfortunes and suffering, though rooted in social tensions, may include accusations of supernatural violence.¹⁴ Sometimes such accusations, like gossip, identify people—not fate, or luck, or accident—as the agency behind unfortunate experiences; sometimes they seek out the role of the divine; often, the two are inextricable.¹⁵ This study similarly argues that the relationship between *phthonos*, gossip, and the menace of supernatural power is inextricable. The book's fourth part, 'Death', examines the larger political and

and intent of forensic speeches, and is contradicted by his own argument that (228) 'the new discourse on moderation and self-control had a profound impact on the language inscribed on the early tablets by making them sound temperate and restrained'.

¹² White 1994: 78.

¹³ See Tonkin 1992: 89, as White 1994: 79. See Stewart and Strathern (2004: ix–x) for the relationship between gossip and witchcraft in terms of a processual model of social action.

¹⁴ Favret-Saada (1980: 6): 'An onslaught by witchcraft, on the other hand, gives a pattern to misfortunes which are repeated and range over the persons and belongings of a bewitched couple.' See also and perhaps most famously, Evans-Pritchard (1937: 63): 'the concept of witchcraft provides a natural philosophy by which the relations between men and unfortunate events are explained and a ready and stereotyped means of reacting to such events. Witchcraft beliefs also embrace a system of values which regulate human conduct.'

¹⁵ This is a topic of much ethnographic research: for example, see Evans-Pritchard 1937: 63–83 and 99–106. There is discussion in Stewart and Strathern 2004: *passim*, but see especially 1–28, and Ashforth 2005: *passim* and especially 20–5.

economic situation of Athens in which such micro-social forces might gain deadly traction. Finally, in the Epilogue the book explores an additional psychoanalytical interpretation, introducing the idea of social trauma to explain how individual concerns might be transformed into group and/or civic action.

In making these connections, I am building on the insights of other ancient scholars, who have noted the role of gossip in accusations of magic;¹⁶ and, in a broader historical context, this is drawing on studies of other times and places that have linked envy, gossip, and supernatural power. In particular, one of the influences on this study has been the approaches used in cross-cultural studies of the phenomenon of witchcraft. This is, of course, not an argument for the precise replication of historical or cultural circumstances across time and place, and this book is certainly not claiming that these trials are simply identifiable as the pursuit of ‘witches’ for ‘witch-craft’.¹⁷ Nevertheless, this book does explore the idea that these trials reveal some familiar societal response, of a sort that has occurred within other cultures within a certain pattern of circumstances: in some ways the evocation of what has been called a synthetic image.¹⁸ It might also be argued that witch-hunts offer one example, and the trials of

¹⁶ See, for example, Gordon 1999, Versnel 1999, and more recently Graf 2010. In the same volume Edmonds III (2010) uses similar material to emphasize the uncertainty of such accusations, also noted by Versnel (1999: 133). See also Salvo (2012: 260), whose analysis follows Versnel (2002: 73 and 37–40) in arguing that one manifestation of these accusations (prayers for justice) was a form of social control, and was intended to calm tensions (further discussed on pp. 221–3); and Sanders (2014: 30) who mentions the link between gossip and *phthonos* and the evil eye, and (45) briefly examines the link between envy and gossip.

¹⁷ Nor is this the approach of the work done in different disciplines on the phenomenon of witchcraft across the world, which has stressed the crucial importance of exploring this phenomenon against its cultural background, and helped to clarify the wide variety and differences that emerge in the spaces between particular cultural manifestations of a concept that may, at first, look very similar. Scholars in this area have argued that a detailed reading of the social, political, legal, and religious forces at work in the trial of any particular individual or coven is necessary. See, for example, Roper 1994, Purkiss 1996, and Rowlands 2003. Stewart (2014 [2008]: 9) notes the context of beliefs about the devil in Greece, which ‘never experienced a phase of witchcraft persecutions during the late middle ages and renaissance’.

¹⁸ See Needham (1978: 41), who describes the make-up of synthetic images (they comprise ‘primary factors’ such as certain numbers and colours) which capture the imagination and persist across time, place, and culture, but importantly with specific modifications. Galt (1982: 669) uses this to describe the cultural ubiquity of the concept of the evil eye; Ostling (2011: 6) uses it to think about ‘the imagined witch’.

these ancient women another, of a moral panic, ‘a scare about a threat or supposed threat from deviants or “folk devils”, a category of people who, presumably engage in evil practices and are blamed for menacing a society’s culture, way of life, and central values. The word “scare” implies that the concern over, fear of, or hostility toward the folk devil is *out of proportion* to the actual threat that is claimed.’¹⁹ The important aspect here is not the specific activities or social categories that are represented (although these play their part), but the perceived threat that they present.

In reflecting on the nature of a society’s objects of fear, this book picks up on some of the themes of a previous publication, *Oracles, Curses, and Risk*, including the social construction of risk, explanations of misfortune, the overlap between those social dynamics and the search for responsibility and blame, and, finally, the point where the fear of risk prompts action. In that earlier book, I examined the selection of, and response to, risk at the level of the individual; in this book I am interested in group selections and responses. Of course, the two are inextricable, but it is precisely the nature of the interface, and subsequent interaction, between individual and group that is of interest here: why do individual emotions become so powerful? What are the wider circumstances in which that occurs? And how and why does a private feeling become a public action?

¹⁹ Goode and Ben-Yehuda 2009: 2, their italics. This is a debated topic in sociology, but as the authors emphasize, this is not about panic in the sense of a headlong stampede, but moral panic, although they regard both as (3) ‘emotionally charged social phenomena entailing fright and anxiety.’

1.2

The Evidence

To begin this inquiry we will first lay out the evidence for the historical trials of Theoris, Ninon, and Phryne, and then examine the concomitant (fictional) stories about similar trials.

THEORIS OF LEMNOS

Of the three women, we have most information about the trial of a woman called Theoris, who appears briefly in three sources, reproduced below. These are a law-court speech by the fourth-century BCE orator Demosthenes against a certain Aristogiton; a biography of Demosthenes, written four hundred or so years later by the essayist Plutarch; and a brief reference by a second-century CE lexicographer, Harpocration, to the work of a Hellenistic historian, Philochorus.

*οὐτοσί—τὰ μὲν ἄλλα σιωπῶ, ἀλλ' ἐφ' οἷς ὑμεῖς τὴν μιαν Θεωρίδα, τὴν
Λημνίαν, τὴν φαρμακίδα, καὶ αὐτὴν καὶ τὸ γένος ἅπαν ἀπεκτείνετε,
ταῦτα λαβὼν τὰ φάρμακα καὶ τὰς ἐπωδὰς παρὰ τῆς θεραπαίνης αὐτῆς,
ἢ κατ' ἐκείνης τότε ἐμήνυσεν, ἐξ ἧσπερ ὁ βάσκανος οὗτος πεπαιδοποιῆται,
μαγγανεύει καὶ φενακίζει καὶ τοὺς ἐπιλήπτους φησὶν ἰᾶσθαι, αὐτὸς ὢν
ἐπίληπτος πάσῃ πονηρίᾳ.*

Demosthenes 25.79–80

It was this man [Eunomus]—the other matters I will not mention—who took the potions and incantations from the maidservant of Theoris of Lemnos, the filthy sorceress whom you executed for those things, both her and all her family.¹ The maidservant informed against her mistress, and

¹ See n. 13 for discussion of *miaros*, here translated as ‘filthy’.

this evildoer has had children by her, and with her help performs his tricks and acts of deceit, and says he treats those who are seized by fits, when he himself is caught in acts of wickedness of every kind.²

This first passage mentions Theoris in passing, during the trial of one Aristogiton, a politician in Athens on trial as a state debtor.³ It has been argued that the speech was given sometime in 325/4 BCE, on the basis of a reference made by the orator Dinarchus to the trial's initial speech for the prosecution (made by Lycurgus), in which his use of the term 'lastly' is taken to indicate that the speech was fresh in his audience's minds.⁴ Dinarchus was speaking against Aristogiton after the Harpalus affair in 323, and thus, it is argued, it is likely that this speech dates to just before that time. This, of course, only gives us a *terminus ante quem* for the events relating to Theoris that it describes. Throughout this speech, Demosthenes is painting, in broad and colourful strokes, a picture of Aristogiton's family background as shameful and chaotic. This description of Aristogiton's twin brother Eunomus, the man being discussed here, is intended to add to this impression. Eunomus, we have been told earlier, has prosecuted his brother for selling his sister (whose father, it is implied, was a slave, 25.55); his connection with Theoris, through her maidservant and her magical paraphernalia, is clearly meant to imply the worst.

Theoris' appearance is brief but vivid. Demosthenes describes her as a *pharmakis* from Lemnos, which, since this trial takes place after 390, could still indicate that Theoris was an Athenian citizen rather than marking her as foreign.⁵ The term *pharmakis* can be translated as 'witch', but with a particular emphasis on the use of drugs.⁶ But the meaning is more complex than this suggests, involving a significant double ambiguity, also present in the related noun *pharmaka*, which can be used to mean 'drugs' or 'spells' that may be either harmful or healing (or both), and which may be either natural or supernatural (or both).⁷ In this passage, *pharmaka* appear as one of the reasons for

² Tr. Vince 1935.

³ Following MacDowell 2009: 300–1.

⁴ Ibid.: 298.

⁵ Since this is the date when it is thought that the Athenians regained control over the island after losing it in the Peloponnesian War; see Salomon 1997: 76ff. and Cargill 1995: 13–14. Albeit, she could have been one of the 'dispossessed' of the island (see Zelnick-Abramowitz 2004 and for further discussion on this aspect, pp. 14 and 64).

⁶ See, for example, Ogden 2002a: 98.

⁷ Scarborough (1991: 139) notes the use of *pharmakon* in Homer to mean magic, charm, or enchantment, with appropriate adjectives to indicate what kind of effect it is meant to elicit in each case. He argues that drugs were understood to comprise both

Theoris' execution: it seems that when Demosthenes says to the jurors 'whom you executed *for those things*', he is referring back to *ta pharmaka kai tas epoidas*, 'drugs/spells and incantations'. This is the first appearance of this hendiadys; it will stay in use for some time, coming to express a complex idea of secret knowledge and supernatural power.⁸

Was Theoris practising harmful spells, and was that why she was taken to court? She may have been engaged in such activities, but it is difficult to establish that they were illegal in ancient Athens. Drawing on evidence for such legislation from later periods risks overlooking the very different context in which it emerged, and the changing profile of 'magic' as a category of ritual activity separate from 'religion'.⁹ The details that Demosthenes supplies about Eunomus' activities may help to position Theoris in a professional context: he notes that Eunomus claims to be able to cure the falling sickness, or epilepsy.¹⁰ This sets him, and perhaps therefore also her, in the realm of the self-proclaimed experts in healing whom we find criticized by, for example, the author of the Hippocratic treatise *On the Sacred Disease*.¹¹ The author of that text uses a list of abusive terms—*magoi*, *kathartai*, *agurtai*, *alazones*—to describe those who, in his opinion, wrongly attribute the disease (among others) to divine intervention, and thus prescribe *katharmous . . . kai epaoidas* [*sic*] ('purifications and incantations'), alongside other—as he sees it—pointless prescriptions.¹²

supernatural and agricultural elements, and that the power of drugs was a result of both their divine properties and the knowledge brought to bear by those who grew or used them (162). Derrida (1981) analyses the rich semantic ambiguity of the term *pharmakon* in the writings of Plato.

⁸ A 'hendiadys' is a figure of speech in which a single complex idea is expressed by means of two words joined by a conjunction. For the long-term influence of this hendiadys in the fourth century BCE 'through the trial of cases involving harm caused by magical means', and its continued use, see Gordon 1999: 251. It seems still to be potent in contemporary popular ideas about witchcraft (a Google search [02/05/2015] for 'witchcraft "spells and incantations"' produced 18,400 results). See pp. 167–8 for further discussion of this phrase in the context of Xenophon's recollections of Socrates.

⁹ As Hopfner 1928: 384. Ogden (1999: 83–4) argues 'that harmful magical practice was generally illegal throughout Graeco-Roman antiquity', but struggles to find evidence for Athens and has to admit that there was no 'comprehensive outlawing of magic'; for a more cautious consideration, see Phillips 1991.

¹⁰ Dem. 25.80.

¹¹ This point made by Scarborough (2006: 23).

¹² Hippoc. *Morb. sacr.* 2.3–4; he points out that they do this on the basis of claims to being pious (*θεοσεβέες*, literally 'god-honouring') and of having superior knowledge.

To return to Theoris, if the kinds of ‘magical’ activities she practised were illegal, it would surely have been enough for Demosthenes simply to point out that Eunomos practised this trade himself, without further qualifying his remarks by reference to Theoris. The fact that Demosthenes does not do this, and instead specifically calls this woman to mind, suggests there was something further about her practice that the audience was expected to find objectionable. This is reinforced by Demosthenes’ use of the adjective *miaros*, which can be translated as ‘filthy’, but can have the much stronger sense, ‘polluted’, indicating a metaphysical stain.¹³ But the reasons for its use remain unclear: it seems problematic to explain this as caused simply by her use of *pharmaka*, which Eunomos has inherited and is using.

It may be, as Kai Trampedach has suggested, that this term is associated with her description as ‘Lemnian’, and together these are intended metaphorically to associate Theoris with the mythical ‘women of Lemnos’ who murdered their husbands.¹⁴ Trampedach links this to the fact that, as Demosthenes observes, Theoris’ crime led to the execution both of her and of her *genos* or clan. However, this is not really equivalent to the killing of husbands that takes place in that myth, and there is nothing, at least at first sight, in the passage that suggests any similar crime. The term *miara* may be simply a term of opprobrium, one that condemns and isolates Theoris.¹⁵

¹³ LSJ s.v. *miaros*. Some further examples of its use in this speech will help define its area of meaning, and also help to illuminate the associations that the audience will have with this term before it is used of Theoris. Demosthenes is building the prosecution’s case by depicting Aristogiton as a thoroughly bad character. He uses the adjective repeatedly to describe Aristogiton in terms of crimes, such as being a state debtor, but still participating in civic activity (25.28); displaying unfit political conduct (25.32); sycophancy (25.41); abandoning his father (exiled in Eretria) and refusing to bury him (25.54); biting off a fellow prisoner’s nose, and swallowing it (25.62); as well as in reflection on the collective activities comprising non-burial of his father, sale of his sister, and the denunciation of Zobia (the metic woman who had looked after him) for not paying the metic tax (25.58—the adjective is repeated). The sense of *miaros* that emerges is of wrongdoing that (i) powerfully undermines the city, (ii) is repulsive to right-thinking fellow-citizens, and (iii) cannot be forgotten or forgiven. In Christian exorcisms and spells, the term is used as an adjective to describe the devil and demons (my thanks to Charles Stewart for this latter point).

¹⁴ Trampedach 2001: 147.

¹⁵ Similarly, it is worth noting here that any possible ‘contamination’ which might be thought to be the reason for Theoris being called *miara* does not seem to have attached in any way to her magical paraphernalia. It seems to have been quite acceptable for Eunomos to have inherited her tools and techniques and to go on to use them, even if Demosthenes treats him and his activities with contempt.

However, there may be a further reason that explains the introduction of Theoris' name here: she was, according to Plutarch's *Life of Demosthenes*, prosecuted by Demosthenes himself. If Demosthenes wanted to remind his audience of his devotion to ridding the city of evils, then introducing her name was a powerful interjection. The description that Plutarch gives is brief, but introduces some new material. The source of Plutarch's information is unknown: as he notes in the introduction to this 'Life', he used a variety of sources:¹⁶

κατηγόρησε δὲ καὶ τῆς ἱερείας Θεωρίδος ὡς ἄλλα τε ῥαδιουργούσης
πολλὰ καὶ τοὺς δούλους ἐξαπατᾶν διδασκούσης· καὶ θανάτου τιμησάμενος
ἀπέκτεινε.

Plutarch *Demosthenes* 14.4

He also accused the priestess Theoris of many other evil deeds, and in particular of teaching slaves to deceive and he had her killed by fixing the penalty as death.

There are a number of differences of detail with the preceding Demosthenic passage: first, use of the term *hierieia* or 'priestess' carries far more implicit respect than the description there. Moreover, as Plutarch's use of this word in other parts of his voluminous writings suggests, it indicates some role of leadership in a regular ritual activity: an externally granted office, rather than a claim to authority, with specific responsibilities towards a particular sanctuary and the rites carried out there.¹⁷ Plutarch usually employs the word with some indication of the goddess to which the priestess was attached; this reference to Theoris stands out because it lacks such an affiliation.¹⁸ New terms are also used to describe the

¹⁶ He cites over twenty names throughout the text, many of whom were writing between the late fourth and late third centuries, most of whom are lost, as well as alluding to oral sources at the end of the piece (*Dem.* 31.7); see Holden 1893: xi and MacDowell 2009: 11. Theopompus' name appears most closely to the detail about Theoris, in connection with a story about Demosthenes' refusal to conduct a certain impeachment (he would not act as a sycophant). He was prosecutor in both the examples that follow (a case against Antiphon, and the prosecution of Theoris); however, this does not mean they have the same origin.

¹⁷ See Flower 2008: 189. The term *hierieia* is not found in dedicatory inscriptions for portrait statues until the first half of the fourth century (see Connelly 2007: 135).

¹⁸ A selection: *Tim.* 8.1.2, a priestess of Persephone; *Rom.* 3.3.4, a priestess of Hestia (that is a vestal virgin); *Nic.* 13.6.3, a priestess of Athena. These are examples from other *Lives*, but there are further examples from across his other writings,

charges: ‘criminal deeds’ and ‘teaching slaves how to deceive’. The former is simply too vague to evaluate, while the latter is difficult to relate to Greek legal practice, and does not, at first sight, seem to be relevant to our questions here about Theoris’ ritual activities.¹⁹ Rather, this seems to be concerned with social control, a theme that is explored in a later section, and which may suggest a connection between slaves and particular kinds of religious practice, although none is mentioned explicitly here.

Finally, we turn to Harpocraton, who cites the passage given above from Demosthenes’ *Against Aristogiton*, but introduces a further set of terms to describe both Theoris and her crime.

ΘΕΩΡΙΣ Δημοσθένης ἐν τῷ κατ’ Ἀριστογείτονος, εἰ γνήσιος. μάντις ἦν ἡ
Θεωρίς, καὶ ἀσεβείας κριθεῖσα ἀπέθανεν, ὡς καὶ Φιλόχορος ἐν σ’ γράφει.

Philochorus *ap.* Harpocraton, s.v. *Theoris*
(Dindorf = FGrH 382 F 60)

THEORIS: Demosthenes in his speech *Against Aristogiton*, if legitimate. Theoris was a *mantis* and was put to death on a charge of impiety, as Philochorus writes in his sixth book.

First, the charge is here described as one of impiety (*asebeia*). Yet, although this was, at least officially, an offence tried in the Athenian courts, nevertheless, it is very difficult to define (and, probably for that reason, it has been argued, was often used in legal battles between political rivals).²⁰ This source also introduces a further term to describe Theoris: *mantis* is usually translated as ‘seer’, and customarily indicates the practice of foretelling the future. However, it has been argued that the appearance of a variety of terms for those who practised supernatural arts is typical of ancient Greek evidence.²¹ Although each term may once have been used to denote a specific skill, in general the ancient Greek market for such services does not seem to have demanded so much precision. A *mantis* might be involved in supernatural activities other than fortune-telling,

including *De mul. virt.* 257f1, a priestess of Artemis, and 262d2, a priestess of Demeter; *Para.* 314f5, a priestess of Hera; and *Quaest Rom.* 292a6, a priestess of Athena.

¹⁹ Ziehen (1934: 2238) urges caution in our use of this passage of Plutarch and suggests (2237) that this text indicates that Theoris taught her slaves how to poison.

²⁰ See Cohen 1991, ch. 8; Todd 1996: 115, with n. 23.

²¹ See Bowden 2003: 61; also Eidinow 2007: 26–30; cf. Dillery 2005: 169–70.

including the creation of *pharmaka*.²² Whether we agree or not, across these three sources the specific nature of Theoris' activities remains vague, perhaps reflecting the imprecise reality of her actual practice. However, it is the use of *hiereia*—indicating a more official role—alongside the more loosely used terms *mantis* and *pharmakis* that is most puzzling.²³ We may gain some insight from a comparison with our second case, that of Ninon.²⁴

NINON

Ninon's trial and execution is mentioned in passing by Demosthenes in three speeches, their very brevity suggesting that the case in which she was involved was well known to his audience. In the first passage, Demosthenes is discussing the behaviour of Glaucos, the mother of his political opponent Aeschines. He says that she brought together *thiasoi* in which Aeschines played an active, and somewhat embarrassing, role.²⁵ Demosthenes then goes on to mention that there was another *hiereia* or priestess who was executed for this kind of activity.

τὸν δ' Ἀτρομήτου τοῦ γραμματιστοῦ καὶ Γλαυκοθέας τῆς τοὺς θιάσους
 συναγωγῆς, ἐφ' οἷς ἑτέρα τέθνηκεν ἰέρεια, τοῦτον ὑμεῖς λαβόντες, τὸν τῶν
 τοιούτων, τὸν οὐδὲ καθ' ἑν χρήσιμον τῇ πόλει, οὐκ αὐτόν, οὐ πατέρα, οὐκ
 ἄλλον οὐδένα τῶν τούτου, ἀφήσετε;

Demosthenes 19.281

And then, when you have in your power a son of Atrometus the dominie, and of Glaucos, the fuglewoman of those bacchanalian routs for which another priestess suffered death, will you release the son of such parents, a man who has never been of the slightest use to the commonwealth, neither he, nor his father, nor any member of his precious family?²⁶

²² Pl. *Resp.* 364c.

²³ See the discussion in Henrichs (2008: 5–6) on the terms for *mantis* and *hiereus* in particular.

²⁴ Most scholars give her name as Ninos, except for Collins (2001), who gives Nino. In the sources her name appears in the accusative case: Ninon, so the nominative is unknown. In calling her Ninon, I have followed the appropriate entry in *LGP*N, ii, Attica.

²⁵ Dem.18.259–60.

²⁶ Tr. Vince and Vince 1926.

We learn the name of this priestess from one of the two ancient scholia on this passage: it was 'Ninon'. It seems that Ninon, like Glaucothea, was organizing some form of cultic group.²⁷ But the scholion that gives Ninon's name goes on to provide a very different explanation of her activities, and this, in turn, diverges from those given by a second scholion.²⁸ The first comment, which names not only Ninon, but also her prosecutor, goes on to link Demosthenes' phrase, 'what Glaucothea did', to a non-existent antecedent '*pharmaka*'. It then explains that Ninon was actually accused of making love potions (*philtera*) for young people.²⁹ In contrast, the second scholion, although it does not give a name for the priestess, reads the Greek correctly, and elaborates that it was her rituals (which mocked the Mysteries) which led to her prosecution. It also offers an explanation as to why her activities led to a court case, while Glaucothea was allowed to practise unharmed; some scholars have argued that this is a creation of the scholiast.³⁰

495a <ἐφ' οἷς ἑτέρα τέθνηκεν ἰέρεια>] ἐφ' οἷς φαρμάκοις καὶ ἄλλη ἰέρεια τέθνηκεν. λέγει δὲ τὴν Νῖνον λεγομένην. κατηγορήσε δὲ ταύτης Μενεκλῆς ὡς φίλτρα ποιούσης τοῖς νέοις.

495b ἐφ' ... ἰέρεια] ἐξ ἀρχῆς γέλωτα εἶναι καὶ ὕβριν κατὰ τῶν ὄντως μυστηρίων [ὅτι] τὰ τελούμενα ταῦτα (νομίζοντες) τὴν ἰέρειαν ἀπέκτειναν

²⁷ From the later fourth century onwards, the term *thiasos* appears to have been used more regularly and specifically of subgroups within a *phratry*, and of organized cultic groups. Earlier, there is evidence of its being used of gatherings or groups of revellers or cult worshippers, some, perhaps, spontaneous; it might also be used more generally to indicate a group or association. See discussions in Poland 1909: 16–22, and on *phratries* esp. Lambert 1993: 81–93 and Andrewes 1961: 9–12. Arnaoutoglou (2003: esp. 63–70) offers an overview of scholarship, and examines later use of terminology; he also argues that originally *thiasoi* were not necessarily Dionysiac, but simply convivial. Harp. and *Suda* s.v. *Thiasos* (theta 379 and 380, Adler) indicate it has a religious purpose; Hesych., s.v. *thiasos* (theta 573), discusses *choreutai*, but no specific religious setting. See *IG II²* 2343–61 for organized cult *thiasoi* dating mostly to the end of the fourth century BCE. Revellers: Ar. *Ran* 156 and Eur. *Bacch.* 680. Group or association: see Ar. *Thesm.* 41, Eur. *IA.* 1059, Eur. *Phoen.* 796.

²⁸ Scholia to Dem. 19.281: 495A and B (Dilts); see MacDowell 2000, esp. 327.

²⁹ Dickie (2001: 52) discards this charge on the basis that although it may still have been a part of Menecles' case, it is a quite unexpected spin on the story that does not emerge from the Demosthenic account. Hansen (1995: 26), albeit in a very brief account, appears to accept it (she 'was charged with having administered a potion, probably an aphrodisiac, to her devotees of young people').

³⁰ Parker (1996: 194–5 n. 152) describes the oracle giving Glaucothea permission as 'a transparent scholiast's invention to explain a supposed contradiction in the text'.

μετὰ τοῦτο τοῦ θεοῦ χρήσαντος ἑᾶσαι γενέσθαι τὴν Αἰσχίνου μητέρα
μυεῖν ἐπέτρεψαν.

Scholia to Demosthenes 19.281: 495A and B (Dilts)

495a <for which another priestess was executed> for which spells/
potions another priestess was executed. He says it is Ninon that is
spoken of. Meneclēs accused her of making potions for young men.³¹

495b for which another priestess was executed] First of all, believing that
her initiations/services brought ridicule and insult to the real mysteries, they
executed the priestess; then, once the god had given permission through an
oracle, they allowed the mother of Aeschines to conduct initiations.

Two further passages of Demosthenes, from two speeches made
Against Boeotus, reveal a little more about Ninon's accuser, Meneclēs.
In both he is given the epithet 'the man who secured the conviction of
Ninon' and described as one of the leaders of a gang of young
sycophants. In the first speech Demosthenes associates him with the
defendant of that case. But little further information is given about
Ninon in either of the speeches; rather, the case is referred to as if
everyone knew about it.³²

νῦν δὲ λαχὼν δίκην τῷ πατρὶ τῷ μῶ καὶ μεθ' ἑαυτοῦ κατασκευάσας
ἐργαστήριον συκοφαντῶν, Μνησικλέα θ', ὃν ἴσως γιγνώσκετε πάντες,
καὶ Μενεκλέα τὸν τὴν Νίνον ἐλόντ' ἐκεῖνον, καὶ τοιοῦτους τινάς, ἐδικάζεθ'
υἱὸς εἶναι φάσκων ἐκ τῆς Παμφίλου θυγατρὸς καὶ δεινὰ πάσχειν καὶ τῆς
πατρίδος ἀποστερεῖσθαι.

Demosthenes 39.2

But, as it is, he brought suit against my father, and having got up a gang
of blackmailers to support him—Mnesicles, whom you all probably
know, and that Meneclēs who secured the conviction of Ninon, and
others of the same sort—he went into court, alleging that he was my
father's son by the daughter of Pamphilus, and that he was being
outrageously treated, and robbed of his civic rights.³³

ἐπειδὴ δ' οὗτος αὐξηθεὶς καὶ μεθ' αὐτοῦ παρασκευασάμενος ἐργαστήριον
συκοφαντῶν, ὃν ἡγεμὼν ἦν Μνησικλῆς καὶ Μενεκλῆς ἐκεῖνος ὁ τὴν Νίνον
ἐλὼν, μεθ' ὧν οὗτος ἐδικάζετό μου τῷ πατρὶ φάσκων υἱὸς εἶναι ἐκεῖνου.

Demosthenes 40.9

³¹ See Dickie 2001: 51.

³² Dem. 39.2 and 40.9.

³³ Tr. Murray 1936.

But after Boeotus had grown up and had associated with himself a gang of blackmailers, whose leaders were Mnesicles and that Meneclis who secured the conviction of Ninon, in connexion with these men he brought suit against my father, claiming that he was his son.³⁴

These speeches, while giving us little information about the trial itself, do allow us to speculate about the date of the trial: Demosthenes 19 was delivered in 343 BCE, three years after the negotiations that it discusses, but the speeches against Boeotus were made in 348 and 347 respectively, giving a slightly earlier *terminus ante quem*.³⁵ The details of the latter speech may allow a possible further refinement: they tell us that Boeotus had brought together his gang of sycophants, including Meneclis, before he prosecuted his father Mantias (39.2 and 40.9), and we know that Mantias died before 358 BCE (when Mantiheus initiated a prosecution against Boeotus and his mother Plangon).³⁶ Demosthenes' phrasing does not make it certain that Meneclis had already charged Ninon by the time that Boeotus met him, but it is certainly possible from what he says, since the implication is that Boeotus was establishing connections with some disreputable characters. If this is the case, then the trial of Ninon could well have taken place before 358 BCE. If we want to narrow it down still further, we can work with the approximate age of the protagonist of these speeches: MacDowell argues that Mantiheus was born around 380 BCE.³⁷ If Boeotus demanded to be registered in the deme Thorikos after his brother had been registered, then that must have been soon after 362 BCE. This may mean, therefore, that the trial of Ninon can be located as occurring between 362 and 358 BCE.³⁸ This brings her a little closer in time to the case of Glaucothea, who, if Aeschines was born around 390 BCE, would presumably have required (oracular) permission sometime between

³⁴ Tr. Murray 1936.

³⁵ MacDowell (2009: 74) notes that trials were not held in the latter part of 349/8 BCE because there were insufficient funds to pay juries (citing Dem. 39.17).

³⁶ See Dem. 40.3 and 18.

³⁷ On the grounds that Mantiheus was a taxiarch in 349/8 (39.16–17) and that to hold that office it was necessary to be around 30 years old.

³⁸ Trampedach (2001: 138) states that the trial took place in 350 BCE, but most scholars do not try to identify a specific date: Dickie (2001: 52): in 'the 350s or 340s'; Parker (2005a: 163): the fourth century; Versnel (1999: 115): 'Somewhere in the fourth century, at any rate before 343 BCE'.

380 and 370 BCE—before her son reached manhood and began to assist her, as Demosthenes describes.³⁹

Further, but clearly unreliable information about what happened next is added by Dionysius of Halicarnassus writing about the orator Dinarchus, and the speech *Against Meneclēs* that was attributed to him: ‘For the defendant is the Meneclēs who successfully accused the priestess Ninon, and who was prosecuted by her son.’⁴⁰ However, he goes on to observe that this is a spurious attribution since Dinarchus would have been too young to deliver the speech:

Κατὰ Μενεκλέους ἀπαγωγῆς· ὧ ἄνδρες δικασταί, καὶ τῶν νόμων καθ’ οὓς· καὶ οὗτος εἴρηται παιδὸς ὄντος ἔτι Δεινάρχου. ὁ μὲν γὰρ κρινόμενός ἐστι Μενεκλῆς ὁ τὴν ἱέρειαν Νῖνον ἐλὼν, ὁ δὲ κατηγορῶν υἱὸς τῆς Νίνου. ἔστι δὲ ταῦτα πρεσβύτερα τῆς Δεινάρχου ἀκμῆς. ὁ μὲν γὰρ Δημοσθένους περὶ τοῦ ὀνόματος [δεδηλώκαμεν] λόγος, ἐν ᾧ τούτων μέμνηται, κατὰ Θεέλλον ἢ Ἀπολλόδωρον ἄρχοντα τετέλεσται, ὡς ἐν τοῖς περὶ Δημοσθένους δεδηλώκαμεν. εἰ δ’ ὡς τεθνηκότος ἤδη τοῦ Μενεκλέους ὁ Δημοσθένης ἐκεῖ μέμνηται λέγων· ἔωρᾶτε γὰρ πάντες αὐτὸν χρώμενον, ἕως ἔζη, Μενεκλεῖ, παλαιὸς λόγος τίς ἐστιν. ὅτι δὲ οὗτος ὁ Μενεκλῆς, ἐν αὐτῷ τῷ λόγῳ δεδηλώκεν ὁ κατηγορῶν.

Dionysius of Halicarnassus *Dinarchus* 11

Against Meneclēs, on his arrest: ‘Gentlemen of the jury, even of the laws by which . . .’ This too was delivered when Dinarchus was still a minor: for the defendant is the Meneclēs who secured the conviction of the priestess Ninon, and the prosecutor is the son of Ninon. These events are earlier than the prime of Dinarchus: for the speech of Demosthenes *On the Name*, in which he recalls these events, was completed during the archonship either of Theōllus or of Apollodorus, as we have shown in our work on Demosthenes. And if Demosthenes is referring to Meneclēs as already dead when he says ‘For you all observed his association with Meneclēs while Meneclēs lived’, the speech is an old one; and that this Meneclēs is the one in question the prosecutor has shown in the speech itself.⁴¹

Finally, the first-century Jewish historian and priest Josephus supplies us with a very specific charge: he gives a list of those put to death by the Athenians because they ‘uttered a word about the gods contrary to their laws’. Mostly consisting of men, the list includes

³⁹ Dem. 18.258; Harris 1988 and Trampedach 2001: 138.

⁴⁰ Dion. Hal. *Din.* 11; see Dickie 2001: 52.

⁴¹ Tr. Usher 1974; slightly adapted.

such famous characters as Socrates, Anaxagoras, Diagoras, and Protagoras. However, if we accept the emendation of *nun*, then the name of the woman may be 'Ninon'—otherwise it could be a reference to Theoris, or another unlucky priestess.⁴²

τί δὲ δεῖ θαυμάζειν, εἰ πρὸς ἄνδρας οὕτως ἀξιοπίστους διετέθησαν, οἳ γε μηδὲ γυναικῶν ἐφείσαντο; Νῖνον γὰρ τὴν ἱέρειαν ἀπέκτειναν, ἐπεὶ τις αὐτῆς κατηγορήσεν, ὅτι ξένους ἐμύει θεοῦς· νόμῳ δ' ἦν τοῦτο παρ' αὐτοῖς κεκωλυμένον καὶ τιμωρία κατὰ τῶν ξένον εἰσαγόντων θεὸν ὥριστο θάνατος.

Josephus *Against Apion* 2.267–8

Can one wonder at their attitude towards men of such authority when they did not spare even women? They put Ninon the priestess to death, because someone accused her of initiating people into the mysteries of foreign gods; this was forbidden by their law, and the penalty decreed for any who introduced a foreign god was death.⁴³

Along with the second scholion to Demosthenes' 19.281 cited above, Josephus' account suggests that there was a profound intolerance in Athens of religious innovations. However, this statement has been received by scholars with different degrees of scepticism. Some have dismissed it out of hand, arguing that it originates in Josephus' experience of his own Jewish culture and that there is no contemporary evidence that supports this, and only a very little from a later period.⁴⁴ Others have argued that although there may have been a law against the introduction of foreign gods, it is difficult to identify just what it comprised and/or how it developed;⁴⁵ moreover, for those

⁴² Dover (1975) argues that this is based on a tract written by Demetrius of Phaleron intended to describe how there has always been tension between Athenian people and intellectuals, and illustrating this with a description of the fifth-century trials for impiety.

The emendation that results in the identification of Ninon is adopted by St. J. Thackeray (1926), who attributes it to Weil; the emendation appears in Blum 1902.

⁴³ Tr. Thackeray 1926.

⁴⁴ See Trampedach 2001: 140; later supporting evidence for Josephus is found in Serv. *Aen.* 8.187: 'Among the Athenians, it was stipulated that no one be allowed to introduce religious cults [or 'objects']: for which reason Socrates was condemned to death' ('cautum fuerat apud Athenienses ne quis introduceret religiones: unde et Socrates damnatus est'). However, Krauter (2004: 237) argues that Servius worked from the same sources that we have and used these to come to his conclusion about the existence of a law (rather than the other way around).

⁴⁵ See Derenne 1930: 223–36; Rudhardt 1960; Versnel 1990: 123–30; Parker 1996: 214–17.

taking this position, the consensus seems to be that even if such a law was available, it was seldom used.⁴⁶ In the context of this discussion it is also important to note that the various sources draw attention to two different kinds of innovation. The scholion appears to condemn the introduction of new activities in light of existing practices, while Josephus' comments emphasize the crime of religious practice that introduced foreign gods. These two sources do not mention other ritual activities—for example spells of some description designed for young people—that the scholia interject; and none of our sources for Ninon's case uses the term *asebeia*. The question of Athenian intolerance will be considered in the next section, but, as we shall see, these charges against Ninon are echoed, to a certain extent, in those that were brought against the *hetaira*, Phryne.

PHRYNE

Represented in court by the renowned fourth-century orator Hyperides, Phryne was the only one of these three women to be acquitted. The date of her trial is uncertain, but it probably occurred between 350 and 340 BCE.⁴⁷ The case has received a great deal of attention, both ancient and modern, and it provides, at least in comparison with those of the other women discussed here, a wealth of evidence. The reasons for this are manifold, and touch on some of the themes discussed already in the introduction. In particular, the celebrity of the characters involved and especially their occupations, seem to have captured the imagination of commentators.

⁴⁶ e.g. Parker (1996: 216): 'In practice therefore individuals seem to have "introduced new gods" with some freedom . . . They were called to account only if they or their religious associations proved objectionable on other grounds.' And, despite a later description of the suspicions generated by foreign cults (1990: 102), Versnel also notes that (128) 'Many private cults of foreign gods must have passed unnoticed or were condoned.'

⁴⁷ Raubitschek (1941: 904) gives this date on the basis of the report that Anaximenes wrote Euthias' speech, and must have done this before Anaximenes' arrival in Macedonia, the date of which is uncertain. The *Suda*, s.v. *Anaximenes* (alpha 1989, Adler) describes Anaximenes tutoring Alexander (late 340s); on the basis of his dedication to Alexander of the *Rhetorica ad Alexandrum*, Berve (1926, ii: 35–6) suggests that Anaximenes knew Alexander before 342 BCE; Flower (1997: 21–3) suggests Anaximenes may have been at the court by 343/2 BCE.

The story of the trial that survives offers a beguiling blend of fact and fiction. Hyperides' speech, hugely admired in antiquity, became a victim of its own success.⁴⁸ Although only fragments survive, the speech is perhaps best known for what it was said to have achieved without words: a peroration in which Hyperides opened Phryne's clothing to reveal her breasts. But this startling scene in fact almost certainly never occurred. Plutarch and Athenaeus both provide a description of this moment, their respective versions each giving a slightly different emphasis:

ὁμιληκῶς δέ, ὡς εἰκός δῆ, καὶ Φρύνῃ τῇ ἑταίρᾳ ἀσεβεῖν κρινομένη συνεστάθη· αὐτὸς γὰρ τοῦτο ἐν ἀρχῇ τοῦ λόγου δηλοῦ μελλούσης δ' αὐτῆς ἀλίσκεσθαι, παραγαγὼν εἰς μέσον καὶ περιρρήξας τὴν ἐσθῆτα ἐπέδειξε τὰ στέρνα τῆς γυναικός· καὶ τῶν δικαστῶν εἰς τὸ κάλλος ἀπιδόντων, ἀφείθη.

Plutarch *Lives of the Ten Orators* 849e

And, as it is indeed reasonable to suppose, it was because he had been intimate also with Phryne the courtesan that when she was on trial for impiety he became her advocate; for he makes this plain himself at the beginning of his speech. And when she was likely to be found guilty, he led the woman out into the middle of the court and, tearing off her clothes, displayed her breasts. When the judges saw her beauty, she was acquitted.⁴⁹

ἦν δ' ἡ Φρύνῃ ἐκ Θεσπιῶν, κρινομένη δὲ ὑπὸ Εὐθίου τὴν ἐπὶ θανάτῳ ἀπέφυγεν· διόπερ ὀργισθεὶς ὁ Εὐθίας οὐκ ἔτι εἶπεν ἄλλην δίκην, ὥς φησιν Ἑρμιππος. ὁ δὲ Ὑπερείδης συναγορεύων τῇ Φρύνῃ, ὡς οὐδὲν ἦννε λέγων ἐπίδοξοί τε ἦσαν οἱ δικασταὶ καταψηφιούμενοι, παραγαγὼν αὐτὴν εἰς τοῦμφανὲς καὶ περιρρήξας τοὺς χιτωνίσκους γυμνά τε τὰ στέρνα ποιήσας τοὺς ἐπιλογικοὺς οἴκτους ἐκ τῆς ὕψεως αὐτῆς ἐπερρητόρευσεν δεισιδαίμονησάι τε ἐποίησεν τοὺς δικαστὰς τὴν ὑποφήτιν καὶ ζάκορον Ἀφροδίτης ἐλέω χαρισαμένους μὴ ἀποκτεῖναι.

Athenaeus *Deipnosophistae* 590d–e

Phryne was from Thespiiai, and when Euthias successfully indicted her, she escaped the death penalty; Euthias was so angry about this that he never argued another case, according to Hermippus.⁵⁰ Hyperides spoke in support of Phryne, and when his speech accomplished nothing, and

⁴⁸ For the fragments, see Jensen 1917, who provides ten (fr. 171–180); cf. Marzi 1977, who supplies only eight, but retains Jensen's numbering. O'Connell (2013) proposes a further fragment in Poll. 8.123–4 (see discussion on p. 30, n. 74). Ancient praise: Quint. *Inst.* 10.5.2; Dion. Hal. *De imit.* 5.6; [Longinus] *Subl.* 34.2–4.

⁴⁹ Tr. Fowler 1936.

⁵⁰ Hermippos *FGrH* 1026 F 46 (= 68a I Wehrli).

the jurors seemed likely to convict her, he brought her out in public, ripped her dress to shreds, exposed her chest, and at the conclusion of his speech produced cries of lament as he gazed at her, causing the jurors to feel a superstitious fear of this priestess and temple-attendant of Aphrodite, and to give in to pity rather than put her to death.⁵¹

Plutarch stresses the impact of her beauty, but Athenaeus gives the scene a distinctly religious tinge. His account describes her as the 'servant and devotee of Aphrodite' (which, it has been suggested, may be Hyperides' own formulation); moreover, we learn that the display of Phryne's body prompted in the jurors a profound sense of religious awe (*deisidaimonesai*).⁵² This story hints at others that make a similar divine association: for example, Athenaeus relates how Phryne removed her clothes and let down her hair in front of everyone at the Eleusinian festival, inspiring the artist Apelles to create his Aphrodite Anadyomene.⁵³ In relating this detail, Athenaeus does not condemn Phryne's behaviour; rather the implication is that this woman, in her body and behaviour, and above all in her beauty, teetered on the divine. And finally, according to Athenaeus, the plaintiff Euthias was apparently so upset by the outcome of the trial that he never prosecuted again. Across these two accounts there is surely some irony, and no little humour.

Although numerous modern scholars have accepted the account of the trial at more or less face value, it seems likely that its infamous culmination was an invention.⁵⁴ Athenaeus' patchwork of anecdotes enables us to pinpoint the timing of its creation when he quotes another version of the scene preserved in verses from the *Ephesian Woman* of Posidippus, a writer of comedies active from around 290 BCE. The extract describes how Phryne stood before the *Heliaia* on a capital charge, 'said to have corrupted all the citizens', but pleaded in tears with the judges, and so saved herself. Despite its comic potential, no mention is made of Hyperides or the infamous peroration.⁵⁵ It suggests that this memorable incident, far from providing a historical report, was developed sometime after 290 BCE. Scholars have

⁵¹ Tr. Olson 2010.

⁵² See Naiden 2006: 102.

⁵³ Ath. 13.591f.

⁵⁴ As Cooper (1995: 305–6) notes: see Cantarelli 1885: 465–82; Semenov 1935: 271–9; Foucart 1902: 216–18; Raubitschek 1941: 893–907; Kowalski 1947: 50–62; to which we can add Versnel (1990: 118), who refers to the 'unconventional methods of her counsel' and does not question it.

⁵⁵ Ath. 13.591e–f.

identified its originator as either Idomeneus of Lampsacus, who wrote a work on the Athenian demagogues, or Hermippus of Smyrna, or perhaps a combination of the two.⁵⁶ Moreover, this was not the only embellishment. These two accounts, prefaced as they are by descriptions of Hyperides' multiple relationships with a variety of prostitutes kept at a number of locations, draw on a biographical fiction that depicts Euthias and Hyperides going to court to fight over the famous *hetaira*.⁵⁷

These elaborations do not mean we should throw out the whole briefing with the biography. There is some historical evidence to support the idea that Hyperides and Phryne were known to be connected, since other enemies of Hyperides also brought cases against Phryne.⁵⁸ And a political motivation seems the most obvious explanation, especially since Hyperides apparently accused Euthias of being a sycophant.⁵⁹ In the end, whichever viewpoint we take, it is clear that we need to approach this material with some awareness of the ways in which the layers of storytelling have been assembled, and the strong appeal of such narratives to both ancient and modern imaginations.

Let us start with the original charges made against Phryne, which are summarized in an anonymous treatise on rhetoric (*technē tou*

⁵⁶ Bollansée (1999: 386 n. 22) gives a succinct overview of the different attributions; as noted there, Cooper (1995: 304 and 312–16) has suggested a combination of the two ancient authors.

⁵⁷ Cooper 1995: 303–18. Described in Ath. 13.590d and Plut. *X orat* 849e, who claim to be drawing on Hyperides' own speech, probably Hyp. fr. 172 (Jensen = Syrianus *Ad Hermogenem* 4.120 Walz). See Cooper 1995: 309–10: Idomeneus was probably the first to interpret the passage in this way, but it becomes part of the biographical tradition about the orator (e.g. see Alciphron 4.4.4 and 5).

⁵⁸ Other accusations made against Phryne by enemies of Hyperides: Aristogiton, described in Ath. 13.591e.

⁵⁹ Sycophant: Harpocration, s.v. *Euthias* (= *Suda* s.v. *Euthias*, epsilon 3497, Adler) reports that Hyperides accused Euthias of this (Hyp. fr. 176 Jensen); it was supported in antiquity by the tradition that Anaximenes of Lampsacus had been hired by Euthias to write his speech (see Hermippus *FGrH* 1026 F 67). Other motivations put forward by modern scholars include Raubitschek (1941: 904), who suggests that Euthias was trying to avoid paying Phryne her fee. This is based on Alciphron 4.3.1 (= Hyp. fr. 179) in which a *hetaira* called Bacchis complains to Hyperides that Euthias' prosecution of Phryne threatens any *hetaira* chasing a fee—and may mean a charge of *asebeia*; and Alciphron 4.5.3 (= Hyp. fr. 179), which depicts Bacchis scolding another *hetaira* called Myrrhine for turning to Euthias to revenge herself on Hyperides (see O'Connell 2013: 113–14).

politikou logou), and are followed by what is usually taken to be the actual epilogue of the prosecutor of the case, Euthias.⁶⁰

οἷον, ἀσεβείας κρινομένη Φρύνῃ· καὶ γὰρ ἐκώμασεν ἐν Λυκείῳ, καὶνὸν εἰσήγαγε θεόν, καὶ θιάσους ἀνδρῶν καὶ γυναικῶν συνήγαγεν. Ἐπέδειξα τοῖνυν ὑμῖν ἀσεβῆ Φρύνην, κωμάσασαν ἀναιδῶς, καὶνοῦ θεοῦ εἰσηγήτριαν, θιάσους ἀνδρῶν ἐκθέσμους καὶ γυναικῶν συναγαγοῦσαν.

Phryne charged with *asebeia*. For she held a *komos* in the Lyceum. She introduced a new god and she held *thiasoi* for men and women. (Euthias) 'So I have shown that Phryne is impious because she joined in a shameless *komos*, because she has organized the introduction of a new god, and unlawful *thiasoi* for both men and women.'

Phryne's impiety is linked here with what appear to be a list of three separate charges: the joining in of a 'shameless' *komos*, the introduction of a new god, and the assembly of mixed-sex *thiasoi*. The first and the third accusations are perhaps the most puzzling. Why should Phryne's *komos*—which is something like a religious festival or celebration—have been described as shameless?

One reason may be the reference in the summary to the public space where these gatherings took place. The Lyceum lay outside the walls of the city, to the south-east. Although it eventually became famous as a philosophical school, it was originally a sanctuary dedicated to Apollo Lyceus and it retained this association.⁶¹ This god was, as Michael Jameson has clarified, very much concerned with the hoplite citizens of the community, and the use of this space reflected this ideology.⁶² During the Archaic and Classical periods it was used for mustering troops, military drills, and exercise, with perhaps an Archaic gymnasium, and then under Pericles a more elaborate set of buildings; it may be that the gymnasium was part of a larger sanctuary space.⁶³ The Assembly also seems to have met there before the Pnyx

⁶⁰ Anonymous Seguerianus 215 = Euthias fr. 2 Baiter-Sauppe = Spengel 1.390.

⁶¹ According to Paus. 1.9.3, and see SEG 19.227.

⁶² See discussion in Trampedach 2001: 143, and Hintzen-Bohlen 1997.

⁶³ Kyle 1993: 78, and see Jameson 1980, Travlos 1980, and Lynch 1972. Harpocraton (s.v. *Lykaion*) notes the disagreement among the sources about the dates of the gymnasia (Theopompus *FGrH* 115 F136 attributes it to Pisistratus, while Philochorus *FGrH* 328 F 37 associates it with Pericles; Hesychius, s.v. *Lykaion kai Thumbraion* (lambda 1368), agrees with the latter). Xen. *Eq. mag.* 3.1.6–7 describes cavalry displays; Ar. *Pax* 353–7 marshalling troops; Xen. *Hell.* 1.1.33 military drills; a gymnasium structure and trainers are found in Pl. *Euthphr.* 272d–273b and Socratic Aeschines fr. 15 Krauss (see Lynch 1972: 15).

was established as a permanent location.⁶⁴ As well as gathering to exercise or for military and civic purposes, the Platonic dialogues also suggest that individuals would meet there to talk, perform, and debate.⁶⁵ Since this would mean the presence of a number of young men, it may be that the charge had connotations of the corruption of youth (recalling the charges made against Socrates). With the emendation of a word, this charge may also be traceable in the extract from Posidippus, quoted in Athenaeus: what reads now as corruption of 'all the citizens' (*tous bious*), may in fact be corruption of the youth (*tous neous*).⁶⁶

Another reason for the disapproval of the *komos* may lie in the nature of the groups assembled there; indeed, the *thiasoi* are described as 'unlawful'. However, the grounds for use of this term are not made clear. It seems unlikely that legal approval was needed to hold such a gathering, and a law attributed to Solon (from the far later *Digest*), suggests that a *thiasos* was recognized as legal so long as it did not infringe 'public law'; however, the date and thus the specific contextual concerns of this passage are much debated.⁶⁷ The presence of individuals of both genders may have been the problem. Women were certainly involved in *thiasoi* (think of Lysistrata's gripe at the beginning of Aristophanes' play of that name that her sisters are always ready to trot off to random religious festivals)—but were these usually single-sex events?⁶⁸ In general, the epigraphic evidence that could illuminate this question is available only for later periods. However, a few inscriptions survive that appear to be lists of *thiasotai* and these include both male and female names.⁶⁹ Other sources also

⁶⁴ IG I³ 105.

⁶⁵ End of fifth century: Socrates and his companions in *Euthyd.* 271a, *Euthphr.* 2a, *Symp.* 223d; Prodicus of Keos in [Plato] *Eryxias* 397c–d; and Protagoras in Diog. Laert. 9.54. Isocrates taught rhetoric in the Lyceum during the first half of the fourth century BCE, as did other sophists and philosophers. Performances of poetry are mentioned in Alexis fr. 25 K–A, Antiphanes fr. 120 K–A, and Isoc. 12.18–20 and 33.

⁶⁶ See Cooper 1995: 314 n. 28.

⁶⁷ Dig. 47.22.4 (= Solon fr. 76a Ruschenbusch); see Versnel (1990: 119 n. 92), who appears to interpret it as evidence that all gatherings had to be ratified by public law, but it seems more likely that it renders any association a legal person for the purpose of enacting agreements, provided those agreements are themselves legal in their terms (with thanks to Robin Osborne, priv. comm.).

⁶⁸ Ar. *Lys.* 1–5.

⁶⁹ See Jones 1999: 307–10 (App. 1). IG II² 2346, first half of the fourth century: *Aristola*, l.100 and *Agathokleia*, l.105, although the end of the word here is supplemented; IG II² 2347 (Salamis, second half of the fourth century, but see Threatte

offer some insight. For example, from Demosthenes' attacks on Aeschines it becomes apparent that the revels of Glaucotea—initiations into the mysteries of the god Sabazius—involved both men and women, while imagery from vases may indicate that both men and women could be present at ecstatic religious revels.⁷⁰

In another source, Harpocration, a different kind of disapproval of these gatherings is evinced. They are now described as single-sex, but comprise women of much lower status and, Harpocration suggests rather coyly, of doubtful virtue:

Ὑπερείδης ἐν τῷ ὑπὲρ Φρύνης. ξενικός τις δαίμων, ᾧ τὰ δημόδη γυναῖκα καὶ μὴ πάνυ σπουδαῖα ἐτέλει.

Harpocration, s.v. *Isodaites* (Dindorf)

Mentioned by Hyperides in his oration for Phryne. Some foreign *daimon* in whose honour women of the lower classes and particularly the ones that did not excel in virtue used to hold *teletai*.⁷¹

This brings us to the question of the god, according to Harpocration one called *Isodaites*. Described as 'foreign' in this definition, and as 'new' in the other extract, the name is nevertheless a Greek word, and was recognized as an epithet of Dionysus in later sources, although there is also evidence, from Hesychius, that the name was associated with Pluto, either as a name of that god, or as the name of his son.⁷² The name, meaning something like 'equal shares', may, at least at first, carry insinuations to modern ears of some kind of social programme, but as an epithet or name of Dionysus it more probably alludes to the joys (and pains?) of drinking wine.⁷³ The possible risks

1980: 661), face B right col. 2 includes (l.30–3) *Parthenion*, *Hesychia*, *Erotis*, *Aitherion*; see discussion in Ascough (2003: 55), who notes that these women were not identified with reference to fathers or husbands.

⁷⁰ Dem. 18.259ff. and see also 19.199 for Glaucotea; for the image of women and men celebrating what appears to be worship in honour of Cybele on the Ferrara krater (dated 440–430 BCE), see Dillon 2002: 160–1. Parker (2005a: 326 n. 126) doubts the arguments from iconography put forward by Moraw (1998: 199–200, 259) that mixed private *thiasoi* developed in the fifth century; however, these show Dionysiac revels involving satyrs and maenads.

⁷¹ Tr. Versnel 1990: 119.

⁷² Harp. s.v. *Isodaites*; Hyp. fr. 177; Plut. *De E* 398a; or Pluto (Hesych. s.v. *Isodaites* [iota 952]).

⁷³ As Versnel (1990: 119 n. 93) notes: Eur. *Bacch.* 421–3: 'In equal measure to rich and humble he gives the griefless joy of wine.'

of introducing worship of a new divinity into Athens will be discussed in more detail in the next section, but it should be noted here first that 'Isodaites' does not sound like a new god or even a foreign god; moreover, Harpocration's phrasing also suggests that such assemblies in honour of such a god were not, in fact, such a rare event.

Perhaps it was instead the way in which these meetings were being organized that contravened acceptable religious practice? Some indication of this may survive in fragments of the speech by Hyperides that include some terminology from the Eleusinian Mysteries referring to the revelatory aspect of the Mysteries' ritual: *anepopteutos* 'someone who has not experienced the *epopteia*' and *epopteukoton* 'the people who have experienced the *epopteia*'.⁷⁴ It has been suggested that these were references to the participants of Phryne's rites, but Peter O'Connell has argued that it seems more likely that these references to aspects of the Eleusinian Mysteries were part of Hyperides' rhetorical strategy, offering a way of ridiculing Euthias' attack on Phryne.⁷⁵ Instead, the *teletai* may bring with it associations with independent ritual practitioners, like those *agurtai* ('beggar-priests') and *manteis* described by Plato as knocking on rich men's doors and trying to sell a range of supernatural services.⁷⁶

We end this discussion of the evidence for Phryne's trial, as we did for those of the other women, trying to configure a scattering of vivid splinters of evidence. Anecdotes and arguments, assumptions and archetypes: the pieces can be assembled now one way, now another. In Phryne's case, perhaps, we can see the creative process most clearly at work, as the figure of the 'celebrity *hetaira*'—already a fabrication—is gradually muffled in further layers of fiction.

⁷⁴ Hyperides fr. 174 and 175 (Jensen) = Harp. *anepopteutos* and *epopteukoton*, respectively.

⁷⁵ Foucart 1902: 216–18 and Marzi 1977: 306–7; Raubitschek (1941: 905) argues that the terms refer specifically to the ritual bathing of the participants, but see O'Connell 2013: 111. O'Connell argues that Hyperides provided an extensive description of legal procedures for cases involving the Eleusinian Mysteries; he suggests that Poll. 8.123–4, which also includes these rare terms for participants, comprises a missing fragment from that speech. For ridicule as one of Hyperides' rhetorical weapons, see O'Connell 2013: 114–15, Cooper 1995: 301–12, Bartolini 1977: 118. O'Connell also suggests that Hyp. fr. 198 (Jensen) may indicate that another line of attack was to imply that Euthias was guilty of some misdemeanour with regard to the Mysteries.

⁷⁶ Pl. *Resp.* 365a.

FICTIONAL WOMEN

In addition to these historical cases, a number of fictional accounts of women being taken to court convey some more murderous stereotypes. These narratives bear a striking similarity to the historical cases: they each feature a woman who has been taken to court because she has used either *pharmaka* or incantations. They suggest that the figure of a woman standing trial for supernatural activities may have become a stock figure of the cultural imaginary of ancient Greek society.

The first is an Aesop's fable. From among the many manuscript variants, two versions of the story have been gathered: one, listed first below, is probably from the oldest rescension of the fables, the *Augustana*; the other from more recent rescensions.⁷⁷

a) *Γυνή μάγος*. Γυνή μάγος ἐπωδὰς καὶ καταθέσεις θείων μνημάτων ἐπαγγελλομένη διετέλει πολλὰ τελοῦσα καὶ ἐκ τούτων οὐ μικρὰ βιοποριστοῦσα. ἐπὶ τούτοις γραψάμενοί τινες αὐτὴν ὡς καινοτομοῦσαν περὶ τὰ θεῖα, εἰς δίκην ἀπήγαγον καὶ κατηγορήσαντες κατεδίκασαν αὐτὴν ἐπὶ θανάτῳ. θεασάμενος δέ τις αὐτὴν ἀπαγομένην ἐκ τῶν δικαστηρίων ἔφη· ὦ αὐτὴ, σὺ τὰς τῶν δαιμόνων ὀργὰς ἀποτρέπεις ἐπαγγελλομένη, πῶς οὐδὲ ἀνθρώπους πείσαι ἡδυνήθης; Τούτῳ τῷ λόγῳ χρήσαιτο ἂν τις πρὸς γυναιῖκα πλάνον, ἥτις τὰ μείζονα κατεπαγγελλομένη τοῖς μετρίοις ἀδύνατος ἐλέγχεται.

Aesop *Fables* no. 56 (Perry 1952)

A female *magos* who promised to make incantations that calmed the anger of the gods did a good trade and from these activities made a handsome living. On these grounds, certain people charged her with innovating in divine matters and they accused her and condemned her to death. A certain person, seeing her leaving the court, said to her: 'You claim to be able to calm the anger of the gods, how come you could not persuade ordinary mortals?' Someone might use this tale against a

⁷⁷ I have used the variants given by Chambry 1925/6: no. 91 (but using Perry 1952: no. 56 for the older version). See Perry 1936 and Kurke 2011: 43–5 for an overview of the complexity of the prose fable tradition. Perry (1952: 156) argues that although we cannot know the history of the *Augustana* before the tenth century, it is likely that it reflects 'an ancient recension or combination of recensions, dating from sometime between the death of Alexander and the third century after Christ'. It has been argued that Demetrius of Phaleron was the first to collect Aesop's fables, in the fourth century BCE, and that the *Augustana* has aspects that reveal an Athenian influence (see Diog. Laert. 5.80 with Perry 1936; also Keller 1862: 361; Perry 1959: 32–5.) Perry (1962: 340) suggests that we may have the text 'of Demetrius himself' in *PRyl*.

wandering woman, who although she promises greater things, proves incapable of ordinary achievements.

b) Γυνή μάγος. Γυνή μάγος καὶ θεῶν μηνιμάτων ἀποτροπιασμοὺς ἐπαγγελλομένη πολλὰ διετέλει ποιοῦσα καὶ κέρδος ἐντεῦθεν ἔχουσα. Γραψάμενοι δέ τινες αὐτὴν ἀσεβείας εἶλον καὶ καταδικασθεῖσαν ἀπῆγον εἰς θάνατον. Ἰδὼν δέ τις ἀπαγομένην αὐτὴν, ἔφη· Ἡ τὰς τῶν θεῶν ὀργὰς ἀποτρέπειν ἐπαγγελλομένη, πῶς οὐδὲ ἀνθρώπων βουλήν μεταπίσαι ἠδυνήθης; Ὁ μῦθος δηλοῖ ὅτι πολλοὶ μεγάλα ἐπαγγέλλονται, μηδὲ μικρὰ ποιῆσαι δυνάμενοι.

Aesop *Fables* no. 91 (Chambray 1925–6).

A female *magos* who promised to be able to turn away the anger of the gods by sacrifice did a roaring trade and from this made a good income. Certain people accused her and charged her with impiety. They found her guilty and led her to her execution. Seeing her being led away, one person said, ‘You claimed to be able to turn away the anger of the gods; how come you were unable to change the decision of a group of men?’ The story shows that many may boast of great things, and are not able to achieve even small things.

In the older version, the *gune magos* has an expertise in *epoidai* (incantations); in the more recent versions she makes a profit dispensing *epoidai* to quell the anger of the gods. In the older version, she is taken to court on a charge of ‘innovating in divine matters’; in the more recent version, this has become a charge of *asebeia*. In both versions, as she leaves the courtroom the *gune magos* is asked why, if she can control the gods, she was unable to persuade the jury. The content of the morals of these alternative versions is of some interest: neither mentions the legal machinery involved, or the role of justice (as a virtue or a judicial process);⁷⁸ rather, they both focus on more general conclusions. The newer version is banal, a general insight into the likely reality behind claims of greatness. The older version, however, gives slightly more social detail, and with it brings a heightened sense of personal interactions.⁷⁹ The story is positioned as being relevant to those women who wander and, presumably, offer similar supernatural services.

⁷⁸ As Zafiroopoulos (2001: 117) observes of this tale and of the fables in the *Augustana* in general.

⁷⁹ Zafiroopoulos (2001: 118) argues that ‘the presentation of interpersonal relationships in the *Augustana* usually supports the stronger protagonist’s demand for self-interest and his need for victory and survival’.

The accusations in each version, and the questions they raise, are, by now, familiar. The charge of innovation in the first version is one that we have already met in the cases of Ninon and Phryne. It has been argued that it is the procedure used by the woman that opens her to this charge.⁸⁰ However, the acts in question (using incantations to placate the gods) are scarcely innovative.⁸¹ In the second version, incantations have become sacrifice—again, hardly novel—and the case is referred to as one of *asebeia*. From the point of view of legal process, the use of different terms in these two accounts is unproblematic: *asebeia* can be seen as simply providing the general category of offence, while innovating could have been the content of the specific indictment. The two versions of the story could be said to be focusing on different aspects of the charge.⁸² This is not surprising. Philochorus the fourth-century historian apparently noted the charge against Theoris as being one of *asebeia* for practising similar activities. The parallel may extend beyond this. Although in referring to Theoris Demosthenes gives no indication that she was suspected of innovative religious ritual activities, nevertheless, he does mention that her servant was able to take on her ‘drugs/spells and incantations’, and in later evidence the term *hiereia* is used to describe her.

Both versions also lead us to reflect on the apparent difference between general opinion and legal charge. It is implicit in both accounts that while some people found the activities of the *gune magos* indictable, others were quite happy to employ her for the same reasons. Similarly, Theoris must have been doing business when she was arrested for her activities—and it has been suggested that this Aesopian woman may be Theoris. But the parallel does not quite work, since, as we have seen, Theoris is the only one of the women in the cases examined who does not seem to have been accused of religious innovation.⁸³

⁸⁰ Dickie (2001: 52): ‘The offence committed by the woman was not then sorcery, but attempting to placate the wrath of the gods by means that were felt to be at odds with Athenian tradition, presumably because they involved sorcery.’

⁸¹ Neither Versnel (1990: 117) nor Iles Johnston (1999: 113) suggests that this character was trying to invoke the dead (*contra* Dickie 2001: 330 n. 20).

⁸² Compare the indictment against Socrates (quoted in Diog. Laert. 2.40), which does not mention the general charge of *asebeia*, only ‘wrongdoing’ (*adikein*), and then lists the individual charges (see Gagarin 2012: 296).

⁸³ Gordon 1999: 274 n. 56.

We move to the final three examples in this section, which are perhaps the most straightforward of these accounts in the sense that they continue the themes of *pharmaka*, but make no mention of impiety. The first is a model forensic speech, the second a philosophical exemplum, the third, a biographical narrative. In each case, a woman stands accused of murder or attempted murder and defends herself by arguing that she thought she was restoring her victim's love, not taking his life; in the last example, we learn a little more about the social pressures that could be involved in such a situation.⁸⁴

The first example is found in a model speech by Antiphon: the infamous *Against the Stepmother for Poisoning*.⁸⁵ The case concerns the poisoning of one Philoneus and his friend during dinner at Philoneus' house in the Piraeus. The speech lays out the events leading up to their deaths (14–20) and fills in at least some of the background. Initially, the murderer was assumed to be a slave woman, the mistress of Philoneus, who had served the two men poisoned wine after dinner. She was arrested, tortured for information, and executed. But the case was reopened when an illegitimate son of Philoneus' friend, at the behest of his dying father, charged his father's wife, his stepmother, with the murders. He argues that the slave woman was merely an accessory to his stepmother's plot to kill her husband, and supplies the intriguing information that this was, in fact, her second attempt to kill her husband in this fashion. The first time, her husband had caught her slipping something into his drink, but she had denied that it was poison, pleading that it was, in fact, a love philtre. According to the stepson, this was also the line of argument she had used to persuade Philoneus' mistress to carry out her plan. Philoneus was threatening to discard this woman and place her in a brothel. The stepmother promised her that she had the means

⁸⁴ This story pattern is familiar from myth, but again shows interesting nuances: the story of Deianeira poisoning Hercules 'in ignorance' appears to be told in Hes. fr. 25.18–25 M/W; in Soph. *Trach.* the figure of Deianeira is a more domesticated character than her mythic heritage might suggest (see Dickerson and Williams 2009: 100–1). This might be thought to bear some connection to the story patterns and stereotypes apparent in Antiphon 1, but the date of the play is uncertain (see Easterling 1982: 19–23).

⁸⁵ Gagarin (2002: 139) suggests that this court speech was probably written around 419/18 (a secure date for Antiphon 6); he observes that this is 'likely to be later, or at most just a few years earlier'.

to ensure that this would not happen: the love philtre would restore his feelings for her.⁸⁶

It is likely that this case would have gone to the Areopagus. As Aristotle tells us, this court judged 'Trials for homicide and wounding, if the killing or wounding is committed deliberately . . . so are those for *pharmaka*, if one causes death by giving it, and arson'.⁸⁷ Arguments have been made for the Palladium, on the basis that the jury is addressed in the speech as *dikastai*; but the term appears to have been used across the different Athenian courts.⁸⁸ Moreover, the prosecution does not seem to respond to the speaker's argument that even if his stepmother only meant to seduce his father, she still deserved to die, which would suggest the context of the Palladium.⁸⁹ Quite the contrary, in fact: the plaintiff seems at pains to emphasize how his stepmother had *planned* the death of her husband, stating that 'she killed him intentionally, planning the death . . . by sending the drug and ordering [the slave] to give it to him to drink, she killed our father'.⁹⁰ The emphasis on intent here is surely intended to

⁸⁶ This case also brings to mind the story of Medea as portrayed by Euripides; this would have been performed around fifteen years before, as Gagarin (2002: 147) points out.

⁸⁷ [Arist.] *Ath. Pol.* 57.3, tr. MacDowell 1963: 44.

⁸⁸ *Dikastai* at Antiph. 6.1: This argument is made by Wallace (1989: 103–4), but see MacDowell (1963: 56), who suggests that it was possible that this term could be used of jurors across all the courts, including, he notes, the Twelve Gods themselves (e.g. Dem. 23.66).

⁸⁹ Parker 2005a: 133.

⁹⁰ Antiph. 1.26: ἡ μὲν γὰρ ἐκουσίως καὶ βουλευσασα τὸν θάνατον <ἀπέκτεινεν> . . . ἡ δὲ πέμψασα τὸ φάρμακον καὶ κελεύσασα ἐκείνῳ δοῦναι πιεῖν ἀπέκτεινεν ἡμῶν τὸν πατέρα (contra Gagarin 2002: 149–50), who quotes this sentence while at the same time arguing that the plaintiff 'is clearly not interested in her intent or state of mind when she provided the drug' and that the plaintiff 'is not concerned to show that she knew the drug was a poison, rather than a love potion' (150). Granted that the plaintiff only asserts that she is a murderer, it still does not seem to be the case that 'the speaker seems to have no interest in the question of whether his stepmother deliberately intended to kill or not' (149). The prosecutor repeatedly draws attention to the intention of the defendant not just to deliver the drug (as Gagarin argues), but to commit murder (Antiph. 1.26: ἐκουσίως καὶ βουλευσασα τὸν θάνατον; see also 1.22, stressing the forethought of the defendant: ὑμεῖς δ' οὐ τῶν ἀποκτεινάντων ἐστὲ βοηθοί, ἀλλὰ τῶν ἐκ προνοίας ἀποθνησκόντων, 'you are not here to champion the murderers, but those who were wilfully murdered' (tr. Maidment 1941), and for a similar contrast between those unwillingly murdered and those planning to commit murder, see 1.6). He contrasts this with the position of the defence (that she killed him ἀβούλως τε καὶ ἀθέως, 'without thought and without scruple', 1.23; similarly, see also 1.27, where he contrasts involuntary crimes with those committed ἐκ προνοίας, 'with forethought'). It is hard to see how this can be interpreted as indicating that (Gagarin 2002:

counteract the impression of the letter of the law, which mentions the 'giving' of poison. In this case, the stepmother is the will behind the act; the slave woman who gave it was purely instrumental.⁹¹ We do not know the imagined or intended outcome of this prosecution, but it is possible that a second example offers some insight.

This is found in the *Magna Moralia*, a treatise on ethics traditionally attributed to Aristotle, in which the writer explores the role of *hekousion*, 'the voluntary', in actions. In this example, he describes how an anonymous woman was brought before the Areopagus, charged with administering a fatal potion. She claims she had only meant her target to fall in love, not to die, and so had acted without an understanding of the consequences of her actions; as a result she is acquitted.

οἷόν φασί ποτέ τινα γυναῖκα φίλτρον τινὶ δοῦναι πιεῖν, εἴτα τὸν ἄνθρωπον ἀποθανεῖν ὑπὸ τοῦ φίλτρου, τὴν δ' ἄνθρωπον ἐν Ἀρείῳ πάγῳ ἀποφυγεῖν· οὐ παροῦσαν δι' οὐθὲν ἄλλο ἀπέλυσαν ἢ διότι οὐκ ἐκ προνοίας. ἔδωκε μὲν γὰρ φιλία, διήμαρτεν δὲ τούτου· διὸ οὐχ ἐκούσιον ἔδοκει εἶναι, ὅτι τὴν δόσιν τοῦ φίλτρου οὐ μετὰ διανοίας τοῦ ἀπολέσθαι αὐτὸν ἐδίδου. ἐνταῦθα ἄρα τὸ ἐκούσιον πίπτει εἰς τὸ μετὰ διανοίας.

[Aristotle] *Magna Moralia* 1188b35–8 (= 1.16.2)

We are told that a woman once gave a man a love-potion that proved fatal to him. She was put on her trial before the court of Areopagus; and was acquitted expressly on the ground that she acted without understanding the consequence. Affection prompted the deed; and she failed of her loving purpose. Because, then, the cup was given with no thought of the man's death, it was regarded as an involuntary homicide. In this case, then, the Voluntary falls under the head of Understanding.⁹²

As the narrative explains, the reasons for the woman's release were quite straightforward: the Areopagus was for deliberate, wilful planned acts of murder, so someone who did not intend to kill her victim could not be convicted there.⁹³ Some scholars regard this

150) 'Antiphon's strategy, in other words, is to portray the stepmother as the primary agent in a plot to give her husband a drug.' Rather, the text seems to draw particular attention to the stepmother as the primary agent in a plot to commit murder.

⁹¹ See the discussion in MacDowell 1963: 44–5, 62–4.

⁹² Tr. Tredennick and Armstrong 1935.

⁹³ Parker (2005a: 133) expresses surprise on the grounds that 'one might expect any unsolicited use of *pharmaka* against another for whatever motive to be highly objectionable', but this overlooks the role of intention in the remit of the Areopagus. Parker seems to accept Plato's legislation against *pharmakeia* as an Athenian

anecdote as offering further elucidation of the case described in Antiphon 1, explaining what would have happened to the woman on trial; others have argued that it may also connect directly with aspects of some of the historical cases discussed above, helping to cut through the confusion surrounding at least one of these cases.⁹⁴

But just before we turn to examine those charges, there is a final tale to set among this collection. In his treatise on the *Virtues of Women*, Plutarch gives an account of Aretaphila's attempt to kill the tyrant of Cyrene, Nicocrates. Aretaphila is caught red-handed and, in her defence, she claims she had created her own potions to make her husband love her more deeply. At first sight, this seems very similar to the stories we have already explored here, in which a woman fears the loss of her partner. However, Aretaphila offers a little more detail about the social context that prompted her actions, when she provides a further justification. She states that she created her potions because she herself feared the potions and devices of 'bad women' for whom she knew she was *epiphthonos*, that is, they felt *phthonos* towards her.⁹⁵ We will return to some of these details, especially the question of the associations between *phthonos* and accusations or actions relating to *pharmakeia*, later.

legislative reality (on this see further pp. 43–4), but does observe (133 n. 72) that since the stepmother's alibi (used twice) was that it was only a potion, there was little likelihood of such a charge.

⁹⁴ Parker (2005a: 133 n. 72) links the example in the *Magna Moralia* with the case discussed in Antiphon's speech. However, although he discusses these examples alongside the historical cases, he makes no mention of any association between them.

⁹⁵ Plut. *De mul. virt.* 256b–c: καρποῦμαι πολλαῖς ἐπίφθονος οὐσα κακαῖς γυναιξὶν ὃν φάρμακα δεδοικυῖα καὶ μηχανὰς ἐπέισθην ἀντιμηχανήσασθαι, μωρὰ μὲν ἴσως καὶ γυναικεῖα, θανάτου δ' οὐκ ἄξια· πλὴν εἰ κριτῇ σοι δόξειε φίλτρων ἔνεκα καὶ γοητείας κτείνειν γυναῖκα, πλεῖον ἢ σὺ βούλει φιλεῖσθαι δεομένην.

1.3

What Charges?

The Athenian law courts were an arena for displaying and disputing political, and so male, power: in such a context, why bother to put these women on trial? One answer may be that they were closely associated with (male) political figures, and their indictments were part of the ongoing feuding of the Athenian political class. We will look at further cases that illustrate this aspect as we proceed.¹ However, although this is possible (especially in the case of the well-connected Phryne), too little, if anything, is known of these women's families or friends, let alone the substance or context of the trials, to substantiate this claim. Besides, even if we prefer such an explanation, then the choice of charges against these women (taken individually and in combination) remains puzzling. From supernatural activities of various kinds, including introducing new gods, making religious innovations, casting spells, and brewing potions; to various social offences, such as illicit gatherings, teaching slaves how to deceive; to involuntary murder using drugs or potions, we are left wondering about the plausibility and significance of these accusations.

MURDER?

That the main charge was one of murder is possible in at least some of the cases discussed here. Mirroring the charges brought against the

¹ For example, see the case against Archias, described in [Dem.] 59.116; discussed on pp. 319–20 and 51, n. 51. We can draw a slightly indirect parallel with those women we find cursed in the texts of binding spells that target important political figures; see Eidinow 2013a: 177.

stepmother in Antiphon's speech, or the anonymous woman in the *Magna Moralia*, it could be argued that this is the implication of the references to love philtres or *pharmaka* in the cases of Theoris and Ninon. This is the conclusion that Derek Collins draws about the case of Theoris: focusing on the discrepancy between what we know of Athenian law and the charges described in the fullest account (the passage from *Against Aristogiton*), Collins argues that Theoris was brought to trial (and executed) simply for applying *pharmaka*, specifically with an intention to kill.

Collins's argument draws in part on an inscription from the island of Teos on the coast of Asia Minor which dates to the early fifth century (c.470 BCE).² The inscription recorded the public curses that the Teans required their magistrates to pronounce against those who would harm their community. The original stone is now lost, but the discovery of another similar inscription has helped to clarify the text.³ One of the clauses concerns 'whoever makes *pharmaka* against the Teans as a community or against an individual', and threatens death for them and their family.⁴ This parallel, Collins argues, not only provides an explanation why Theoris was executed for *pharmaka*, but could also illuminate the reasons for the execution of her family as well.⁵

However, this parallel needs to be treated with caution. The Tean curses may not indicate a straightforward legal penalty, but rather an invocation for divine punishment, which would work whether or not the malefactor was detected; although presumably it is possible that there was accompanying legislation that ensured mortal penalties if he was caught.⁶ More significantly, perhaps, is that fact that no

² Collins 2001: 486–7.

³ The second document, *SEG* 31.985, dates to c.480–450 BCE. It also demonstrates the close relationship between Teos and its colony Abdera; see Graham 1992: 54–6.

⁴ ML 30.

⁵ Collins (2001: 489, drawing on Harris 2001) argues that the family could possibly have been found guilty of being accomplices in the crime, perhaps charged with *bouleusis* of intentional homicide for a victim who had died.

⁶ Collins (2001: 486–7) discusses the Tean curses as part of his argument that Theoris was indicted for murder; he understands it literally as threatening public execution. But see the discussion in Parker (1983: 193–4 and again, 2005b: 77), who suggests that these were not legal provisions. Latte (1920: 76) argues that by 300 CE, if not earlier, the role of the curse in offering effective legal protection had played out in the Hellenistic world, although the formulae could still be seen in inscriptions. This decline is marked by the appearance of secular penalties alongside those of the supernatural at the beginning of the third century BCE.

similar example is known from ancient Athenian law. The closest parallel may appear in the curse uttered at the beginning of meetings of the Council and Assembly, as far as we can tell from our sources.⁷ These covered plotting against the people of Athens, negotiating with the Persians against the people of Athens, and attempts to become or restore a tyrant. The threatened penalty does appear to have been the destruction of the wrongdoer, along with his family, but there does not appear to have been a clause covering use of *pharmaka*.

Further support for a lack of legislation in this area may come from Plato's *Laws*, in which the philosopher himself advocates the need for legislation that distinguishes between harm caused by *pharmakeia* through, on the one hand, natural and, on the other, supernatural means. It may be that his suggestions arose from actual cases conducted in the fourth-century BCE courts, cases of harm or *dike blabes*, caused by objects that had no actual physical contact with their victim.⁸ Indeed, Richard Gordon has insightfully suggested that, in a context in which there was no charge for harm caused by supernatural means, Demosthenes' hendyadic phrase, 'drugs/spells and incantations', could have been understood as verbal shorthand for 'poisoning of an unnatural kind' by the jurors, perhaps because such a charge was not yet officially recognized in Athenian courtrooms.⁹ This is ingenious; nevertheless, it suggests that the reason for Theoris' execution, along with that of her family, requires a different explanation.

A further possibility may emerge from another of Demosthenes' speeches, a blatantly political confection, written for Diodorus in his legal feud with Androton. At the very beginning of that speech Diodorus describes the judicial machinations of his opponent: they have included not only indicting Diodorus for parricide, but also accusing his uncle of *asebeia* ('impiety') on the grounds that he associated with his nephew.¹⁰ He does not give us details of the charges made against him, but he does note that his opponent failed to get a fifth of the votes, implying that this was a *graphe* procedure.

⁷ The primary source for this is Ar. *Thesm.* 332–67 (with Sommerstein 1994, and Austin and Olson 2004, *ad loc.*); see also Isoc. 4.157, Dem. 18.30, 19.70 (with MacDowell *ad loc.*), and 23.97, Din. 2.16.

⁸ Plato *Leg.* 932e–933e.

⁹ Gordon 1999: 250. ¹⁰ Dem. 22.2–3.

He also uses the term 'asebeia' to refer to his crime when he proclaims to the jury that if he and his uncle had been found guilty, then 'who, whether friend or stranger, would have consented to have any dealings with me? What state would have admitted within its borders a man deemed guilty of such impiety?'¹¹ Diodorus tells us that his uncle escaped the charge, but the reason was that Diodorus himself was not convicted of parricide. This suggests that the two cases were being pursued, if not together, then at least in close temporal proximity.¹²

Could it be that, similarly, Theoris' family was indicted on a charge of impiety, on the grounds that they had associated with a woman accused of impiety, and that, therefore, when she was found guilty, so were they? Could we take this parallel even further to suggest that Theoris' original crime, whatever it was, had been *against* a member of her own family?¹³ This could then return us to the earlier comparison with the

¹¹ The case *Against the Stepmother for Poisoning* may provide another apposite example. Although the plaintiff does not accuse his stepbrother of impiety explicitly, he repeatedly brings up the idea, using terms such as *atheos* ('godlessly') and *anosios* ('profanely') to describe both the killing (21, 23, and 26), and the impropriety of his stepbrother's position (5). In turn, he emphasizes his own piety in bringing the case, and the piety of the jurors if they convict the defendant using terms that indicate piety (25), including the term *eusebeia* (25). Finally, he mentions the underworld gods (31), which Gagarin also takes as a hint of the 'idea of pollution'. He argues that the speaker's final remark here 'seems almost perfunctory' (1997, *ad loc.*), but this may be because Gagarin does not seem to place much emphasis on the other references to holy/unholy behaviour throughout the rest of the speech. If we take Gagarin's point that references to homicidal pollution are to be understood as rhetorical, this speech is interesting for the careful course that the speaker steers between an accusation of impiety and more general statements of unacceptable behaviour.

¹² MacDowell (1963: xx) argues that the charge was for associating with Diodorus and for not taking the legally required action in the law courts against his own brother's killer; the 'association' between Diodorus and his uncle refers to the time that has passed with the uncle taking no legal action. However, in *Demosthenes the Orator* (2009: 169 n. 54) he accepts Parker's correction (1983: 123 n. 72) that there was no legal requirement for a relative to prosecute, only a 'moral duty'. Parker argues that "'association" with the killer' is the key issue here, on the grounds of the pollution that thus arose; he points out that this would not normally be a problem in cases where the killing had occurred between families. He does not mention the case of Theoris and her family.

¹³ Murder cases were expected to be conducted by members of the victim's family (see Dem. 43.57 and Poll. 8.118, and *IG I*³ 104, with discussion in MacDowell 1963: 16–22 [where it is cited as *IG I*² 115]), so the plaintiff would not have been a family member employing the usual procedure. If this did not happen (as would be the case here, if the family is still associating with the murderer), then a non-family member would have to select an appropriate legal process. Examples of non-family members taking action occur in cases where slaves have been murdered, e.g. Pl. *Euthphr.* 3e–4b and [Dem.] 47.68–73. In both cases, religious guidance is sought from the *exegetai* or expounders of religious/unwritten law (see MacDowell 1963: 11–16).

women of Lemnos; it would also provide an implicit explanation of Demosthenes' use of the word *miaros* (discussed above, p. 14, n. 13), to describe Theoris, as well as his apparent reluctance to state the charge explicitly: both aspects suggest that Theoris was strongly polluted. In turn, memory of such a train of events could explain the disapproval that Demosthenes appears to be trying to draw down onto Eunomus. Thus, finally, it is not the tools as magical devices, or the activities related to those tools, which are meant to prompt condemnation, but an association, however indirect, with this woman.

But what then of the mention of *pharmaka kai epoidai*? Collins argues that the fact that the speaker mentions *epoidai*, the casting of incantations, would have been irrelevant to the original charge against Theoris. It was included by the speaker simply in order to sully those involved in the case by associating them with a woman who cast spells and uttered incantations. In particular, he hopes it would attach to Eunomus, who, it becomes clear, has a relationship with Theoris' maidservant and inherited Theoris' drugs and incantations, which he also uses. The 'magical features' of the case 'are rhetorical embellishments marshalled for the purpose of discrediting a witness' and the speaker may even have 'misremembered or deliberately embellished the facts of the case, while relying upon sensationalism and the lack of expertise of the jurors to make the point that Theoris had been executed for magic'.¹⁴

It is an ingenious argument, but in the end it begs—and raises—a number of questions. First of all, would the jurors fall for the kind of rhetorical embellishment that Collins describes? If the charge was intentional murder, then the case would have been held in the Areopagus, as the model from the *Magna Moralia* describes.¹⁵ The jurors there were experienced ex-magistrates: would they have been befuddled by slippery forensic rhetoric confusing magic or murder?¹⁶

¹⁴ Collins 2001: 477. Gordon (1999: 251) similarly ends his argument with the suggestion that society simply found Theoris unimpressive and tiresome (and the suggestion is not unrelated to her gender). He notes that the speaker knew how to 'smear her convincingly: by representing her as nothing more than a female sorcerer, of the sort that anyone would thankfully be rid of'.

¹⁵ MacDowell (1963: 60) suggests that the rule may have been that 'homicide was intentional whenever death resulted from an act which was intended to cause harm'. If Theoris' case were about an unpremeditated murder, then it would have been tried in the Palladium, in which case the penalty would have been exile (see Harrison 1968: 198).

¹⁶ On the process of presenting an *enklema* or *graphe* to the magistrate, and its likely content, see Gagarin 2012: 295–6 and Harris 2013: 115–16.

Collins's argument suggests that it was feasible—or that the jurors would have thought it so—to be executed on a charge of 'practising magic'. Presumably this is not intended to mean that this was the overall procedure, but is meant to be a reference to one of the charges recorded in the *enklema* against Theoris as part of a larger charge. But this still raises the question of the nature of the wrongdoing: it would not be enough to charge someone with using drugs/spells and incantations.¹⁷ If the answer is that these drugs/spells and incantations had been used to kill someone—and this was a charge of murder—then it raises the question of why Demosthenes does not simply refer to that crime. After all, in other similar cases, where *pharmaka* result in death, the crime is referred to as *phonos* or homicide, not a poisoning or bewitching.¹⁸ The explanation of murder can be applied most obviously to two of the fictional trials, but it is significantly more difficult to relate it to those historical cases that involve the creation of *pharmaka* but make no mention of harm caused or an intent to murder; nor does it help to resolve the role of the ritual aspects of those cases.

MAGIC?

As described above, there is little if any evidence that one could be taken to court simply for creating *pharmaka* or using incantations per se.¹⁹ The Teian curses do not provide evidence for Athens, and besides they focus on evidence for doing harm rather than simply the questionable activities themselves; similarly, Plato's discussion of legislation against those practising these arts is directed towards punishing the likely physical harm that these might effect, rather than the acts themselves.²⁰

¹⁷ As Gagarin (2012: 312) has argued in an analysis of relevance in Athenian forensic argument: 'For them, law was not just a matter of written statutes, but could include the broad set of customs or traditional rules that the Athenians generally accepted whether or not they were enshrined in statute.'

¹⁸ MacDowell (1963: 64) observes that in Antiphon 1 and 6, the crime is referred to by those involved as a *phonos*, although *pharmaka* are involved.

¹⁹ The difficulties of establishing the illegality of magical practice in ancient Athens are well illustrated by Ogden (1999: 83–4).

²⁰ Pl. *Leg.* 933b–e. Dickie (2001: 60) also makes this observation. He provides a succinct and compelling analysis of Plato's concerns: on the one hand, regarding the

Indeed, this also seems to be the point of the often-quoted observation in Plato's *Meno* that elsewhere Socrates would be arrested as a *goes* ('sorcerer') for the effect that he has on his audience (he is able to numb the soul and mouth of the speaker, so that he is unable to speak well on a subject [virtue] as he claims to have done many times before).²¹ This episode also appears to contrast Athens' tolerance for such activities with that of other cities, although that alone does not indicate that there was no specific legislation against magic-working in Athens.²²

Again, as above, it seems more likely that this charge would have accompanied other accusations, as part of a larger legal process. Scholars have argued that it was particularly likely to have accompanied the charge of introducing 'a new religion'.²³ That it was, as it were, an inseparable further dimension of a discourse of distrust that surrounded religious innovation, especially novel ideas introduced from abroad.²⁴ This might align with the periodic attempts by the Athenians to control the religious ritual activities taking place within their city, and the evidence for suspicion regarding the practitioners of supernatural services, especially those who lived off the proceeds or used them to garner political support.²⁵

However, the association of these two charges is not inevitable. Although there is ample evidence for it from later periods, especially under the Roman Empire, this does not mean that it was also the case in Classical Athens. To help us better understand not only the events

harm potentially caused by sorcery, and, on the other, the threat posed by the impious; as Dickie observes, the two should not be conflated.

²¹ Pl. *Meno* 80a.

²² As Dickie points out (2001: 329 n. 6, criticizing Iles Johnston 1999: 122 for making this assumption).

²³ Derenne 1930: 232–3, Reverdin 1945: 215–16, Dodds 1951: 204–5; see Versnel 1990: 115–18.

²⁴ The ideas of new religion and foreign religion are somewhat elided by Versnel. In his initial analysis (1990: 16) he argues that: 'the present two charges are not contradictory at all as they represent the two sides of one very current coin. The universal tendency to associate prophets of a new religion with sorcery or magic, so typical of various periods in classical antiquity and especially of the Roman imperial period, was not lacking in classical Athens either.' In a more recent work, the argument is made again in discussion of what he calls 'the three priestesses'. Here Versnel (2013: 139) narrows down 'new religion' to the idea of foreignness: 'Introducing foreign cults and the suspicion of practicing magic are, throughout antiquity, two sides of one medal and at Athens might provoke an *asebeia* process of which there were several in the 4th c.'

²⁵ Ar. *Pax* 1052–119 and 1061–86, *Av.* 987–8, *Eq.* 1085, *Vesp.* 380, for examples.

themselves, but also the processes of historical change over time, it is important to try to distinguish, where possible, between, say, association with foreign gods vs new rituals, and new rituals vs new performances of old rituals. As we have seen, the accusations against these women are far from simple. In Ninon's case, the scholia make the link between her and, in this case, *philtrā*, but this is based on a misunderstanding of the text that could well be born of associations frequently made at a later time. The most contemporary source, Demosthenes, mentions simply the bringing together of *thiasoi*, as part of the discussion of the activities of the mother of his enemy Aeschines. The brevity of this reference is puzzling: if Demosthenes wanted to raise suspicions against Glaucotea and Aeschines, then why did he not provide more details about Ninon's case? Although we are given to understand that her activities were like Glaucotea's initiations into the mysteries of the god Sabazius, no mention of the identity of Ninon's god is made here. If Demosthenes wanted to emphasize the alien nature of Glaucotea's activities and the dangers this posed to the city of Athens, why not reinforce this point with mention of the foreignness of Ninon's divinity? If this was because it was simply Sabazius again, then there would have been no harm in repeating the idea (although, we also have to observe that with at least twenty years separating the two events, this was hardly a new or foreign entity).²⁶ Although a later source, Josephus, argues that this case concerned the introduction of new gods, this demands cautious treatment, since he also tells us that such introductions were forbidden (which, as we shall see, is highly questionable).

One possibility for some resolution may lie in the scholion to this speech, which, rather than referring directly to new gods, mentions mockery of the Mysteries. This could mean new rituals, or existing rituals wrongly performed, perhaps in the wrong place (a problem that seems to have been at the heart of one of the most well-known impiety trials of the Classical period, the 'mocking of the Mysteries' in 415 BCE).²⁷ We will examine this possibility in more detail shortly. For

²⁶ Compare, in the case of Phryne, the description of Isodaites as 'foreign' by Harpocration, but only as 'new' in the quotation of the charge itself; the god has a Greek name, as Parker (1996: 163) observes and is 'not so new after all', as Versnel has noted (1990: 119).

²⁷ Similarly, the Aesopian parallel includes the accusation of introducing new things *peri ta theia*, 'regarding things divine', which need not necessarily mean a new god. 'In the wrong place' recalls the profanation of the Mysteries: see Murray 1990: 156.

now we can observe that, with regard to the associations that some scholars have made between magic and new ritual practice, this does not seem to be the case here. The argument that there is simply a 'universal tendency to associate prophets of a new religion with sorcery or magic' may be assuming a context that did not exist in fourth-century BCE Athens.²⁸

Similarly, we must be cautious with our assumptions about the identity of these women simply as magic-workers. To stay with the case of Ninon, one scholar has argued (with reference to the famous description by Plato in the *Republic* of itinerant *manteis*) that she 'must have belonged to that elusive lot of *agurtai kai manteis*' offering 'prophetism, charlatanism, bigotry and hocus pocus': a description that certainly recaptures the dismissive tone of the philosopher's original phrasing.²⁹ Indeed, Plato's own approach to these activities is rather more cautious. Although he clearly dislikes the profit motive of these characters, he is more cautious in his handling of what we might call their prophet motives, and careful not to dismiss the power (both actual and social) of the rituals that they offer: 'it is not easy to know the truth about these and similar practices, and even if one were to find out, it would be difficult to convince others'. Moreover, he appears to struggle to find the words to make a clear distinction: 'promising to persuade the gods by bewitching them, as it were, with sacrifices, prayers, and incantations'.³⁰ This may be because the clear distinction between 'magic' and 'religion', which an unqualified use of these two modern terms suggests, is not at play in the Classical

²⁸ Vernsel 1990: 116. We can note in passing here that they do not appear in the charges brought against Socrates in 399 BCE—although the highly reminiscent phrase *philtrai kai epoidai* does occur in descriptions (by his friends) of Socrates' powerful use of persuasion (see pp. 167–8).

²⁹ Vernsel is here bringing together the description of the itinerant *manteis* in Pl. *Resp.* 364b–c and the description of the more harmful type of atheist in *Leg.* 908d and 909b. His precis introduces aspects that are hard to find in the original Greek. Moreover, Vernsel's example of the suspicious attitude towards *manteis* (117; Soph. *OT* 386f., in which Oedipus berates Tiresias for being a *magos* and a *dolios agurtes* 'tricky beggar-priest'), is undermined by the fact that Tiresias, as the audience knows and Oedipus will come to know, is proved right in the end.

³⁰ Pl. *Leg.* 933b (tr. Saunders 1970). In his account in the *Republic* (364e), Plato quotes the wrongdoers themselves as they, in turn, quote Homer as support for their services.

material.³¹ Rather, those who were offering ritual services to the gods were not necessarily stepping so far outside a familiar ritual context.

This is borne out when we turn to Plato's proposed legislation against magic-working, where we find he also does not equate these activities directly with impiety. Rather, he is concerned about the impious nature of such practitioners, and the attitude they show towards the gods when they promise to be able to bend them to their will through these activities (as we will see, this focus on a mindset, rather than specific actions, also appears in other evidence). Plato's proposed punishment for these wrongdoers is physical isolation in order that their ideas cannot be transmitted.³² Indeed, it is for activities that are more recognizably 'religious' (the setting up of shrines on private or public ground, sacrificing to any god whatsoever, sacrificing in a state of impurity) that Plato reserves the penalty of death 'for their impiety'.³³

But what is also clear from his discussion of such activities is that Plato's view of impious action included activities that were common within the city of Athens. Plato himself tells us that,

ἔθος τε γυναιξί τε δὴ διαφερόντως πάσαις καὶ τοῖς ἀσθενοῦσι πάντα καὶ κινδυνεύουσι καὶ ἀποροῦσιν, ὅπη τις ἂν ἀπορῇ, καὶ τούναντίον ὅταν εὐπορίας τινὸς λάβωνται, καθιεροῦν τε τὸ παρὸν αἰεὶ καὶ θυσίας εὔχεσθαι καὶ ἰδρύσεις ὑπισχνέσθαι θεοῖς καὶ δαίμοσιν καὶ παισὶν θεῶν, ἐν τε φάσμασιν ἐργηγορότας διὰ φόβους καὶ ἐν ὀνείροις, ὥς δ' αὐτως ὄψεις πολλὰς ἀπομνημονεύοντας ἐκάσταισί τε αὐτῶν ἄκη ποιουμένους, βωμοὺς καὶ ἱερὰ πάσας μὲν οἰκίας, πάσας δὲ κώμας ἐν τε καθαροῖς ἰδρυομένους ἐμπιμπλάναι καὶ ὅπη τις ἔτυχε τῶν τοιούτων.

³¹ The cases of these women bring into sharp relief the difficulties of understanding the ancient perception of the relationship between (the modern categories) of magic and religion. Parker's approach over time illustrates these issues: in an earlier discussion of these women (1996: 163 with n. 34) he draws an implicit line between magic and religion. His discussion of the introduction of new gods brings up the 'prosecution of three "priestesses"', but only the case against Phryne is discussed in the text; the evidence for Theoris and Ninon is given in a footnote. His argument is that the case of Phryne along with that of Socrates reveals 'the Athenians... affirming their right of ultimate control over all the religious practices of Attica' (1996: 217). In contrast, in later work (Parker 2005a: 133), Ninon and Theoris are discussed without mention of Phryne, religious practice, or the introduction of new gods. They are described as 'two women cunning in spells', although other associations are also alluded to: 'in both cases, the expertise in spells or philtres may have been a symptom of a broader impiety rather than the core of the case'.

³² Pl. Leg. 907d4–909d2.

³³ Pl. Leg. 910d.

It is customary for all women especially, and for sick folk everywhere, and those in peril or in distress (whatever the nature of the distress), and conversely for those who have had a slice of good fortune, to dedicate whatever happens to be at hand at the moment, and to vow sacrifices [910a] and promise the founding of shrines to gods and demi-gods and children of gods; and through terrors caused by waking visions or by dreams, and in like manner as they recall many visions and try to provide remedies for each of them, they are wont to found altars and shrines, and to fill with them every house and every village, and open places too, and every spot which was the scene of such experiences.³⁴

This brings us to the question of the range, nature, and relative wrongdoing of independent, let alone innovative, religious activities. If ‘magical activities’ might be one of the constitutive charges of a larger general charge, then it was likely that the larger charge was one of impiety, or *asebeia*.

ASEBEIA

Before sifting through the details of the charges related to ritual activities, and the various ways in which they have been approached by different scholars, it is useful to examine one particular significant legal process: the *graphe asebeias*, which, in Athens, was one of a number of legal charges that concerned some kind of offence against the gods.³⁵ *Asebeia* can be translated variously as ‘impiety’ or more

³⁴ Pl. *Leg.* 909e–910a (tr. Bury); cf. *Men. Dys.* 260–3.

³⁵ We know most about those cases that were conducted in Athens—although, even here this information is relatively sparse—where, alongside the charge of impiety, such cases included ‘wrongdoing concerning a festival’ (usually conducted by means of a *proboule*), temple robbery (*hierosulia*), ‘theft of sacred money’ (*Dem.* 19.293 and *Antiph.* 2.1.6), and offences against olive trees (*Lysias* 7, although it does not mention *asebeia* at all). Not all such charges were equivalent: the *graphe asebeias* with some exceptions (see Harrison 1968: 82) appears to have been an *agon timetos*, that is, the penalty would be set by the prosecutor, with an alternative offered by the defendant if he was found guilty. In contrast, those found guilty of *hierosulia* were automatically punished with death or exile, along with property confiscation and loss of burial rights; there was no room for debate (see *Xen. Hell.* 1.7.22, and *SEG* 12.100 for the case of Theosebes of Xypete). On the impossibility of working out the attitude in the rest of Greece, and how this does or does not contrast with Athenian attitudes, see Krauter 2004: 235.

broadly as ‘religious offence’,³⁶ and a *graphe* was a ‘public’ charge, so any willing person could bring a *graphe asebeias* against an individual.³⁷ Indeed, in the Platonic dialogue the *Euthyphro*, which is set just before Socrates’ trial, Socrates mentions that he has never met the man who has brought the *graphe* against him.³⁸ This, of course, laid the charge open to abuse: the use of the *graphe asebeias* against political rivals has been well documented.³⁹ And if not attacked directly by their enemies, individuals might still be prosecuted by proxy, that is, by sycophants. Indeed, in the case of the women under consideration here, Ninon and Phryne were accused by individuals who had reputations for being sycophants. Of course, this does not negate the possibility that there may also have been genuine concern about religious matters among those who were involved in bringing these prosecutions.⁴⁰

In the process that followed, a preliminary hearing or *anakrisis* took place in front of a magistrate, the *archon basileus*, before the case went to a court with a jury of 500 or more.⁴¹ Beyond a straightforward decision between guilt and innocence, a *graphe* charge had potential

³⁶ Religionsvergehen, as Krauter (2004: 231) translates the Greek term.

³⁷ Procedures may have varied, as I have noted elsewhere (see Eidinow 2015: 66 n. 49).

³⁸ Pl. *Euthyphr.* 2b7–9.

³⁹ They include the fifth-century BCE ‘attacks on intellectuals’ associated with Pericles (although by now, it is well established that the historicity of a number of these cases is doubtful); the late-fourth-century proceedings against pro-Macedonian sympathizers (Demades in 324/3 and Aristotle in the following year; then in the period of democratic revival 318/17 BCE, Theophrastus, Demetrius of Phaleron, Theodorus the atheist, and Stilpo the Megarian). See a compelling discussion in O’Sullivan 1997; as she notes (145), there is evidence to suggest that the prosecution of Theodorus was, as Bauman (1990: 125) puts it, an ‘unequivocal case of “pure” asebeia’.

⁴⁰ Filonik (2013: 80) gives a stark statement of this approach (‘the use of religion in those trials appears as a purely instrumental measure, serving various forms of political agenda, even if feeding on existing superstition and fear’). A more nuanced view is found in Todd (1996: 115 n. 23): ‘It is a striking fact, and one which has never been adequately explained, that charges of impiety at Athens often seem to have been highly politicised.’ Todd gives as examples the trials of Socrates, Andocides, and the case of the sacred olive stump (Lysias 7, where the speaker appears to have retained his property under the regime of the oligarchs). Indeed, we see this demonstrated in the way that charges of impiety were themselves part of the great game of litigation: so in Lysias 21.20 it appears that the charge of taking bribes has been levelled by a group already on a charge of impiety. Janko (2001: 14) gives an overview of the mixed motives of those who prosecuted Socrates and points out that the fear of the intellectual was crucially mixed with fear of ‘atheism’; Connor (1991) argues that Socrates was killed on religious grounds, and see also Parker 1996: 202.

⁴¹ [Arist.] *Ath. Pol.* 57.2–3, Dem. 35.48. See MacDowell 1963: 33 ff., Harrison 1971: 9 and 48.

implications for both sides. For if the person bringing the charge failed to capture one-fifth of the votes at trial or abandoned his case, he would be fined 1000 drachmae and suffer at least partial *atimia*.⁴² Since the *graphe* was an *agon timetos*, it meant that the penalty was not fixed by law. Once the defendant was found guilty, the jurors had to choose between penalties proposed first by the prosecutor and then by the defendant—a process that Socrates, for one, did not appear to take seriously.⁴³

This leaves the question of what actions might come under the charge of *asebeia*—and here we meet with some greater uncertainty. At one level, we might argue that the general charge of *asebeia* might be held to include any smaller charge that could be made to sound relevant;⁴⁴ on the other hand, it is worth looking at which particular activities the Athenians themselves were likely to include. In terms of what the Athenians understood *asebeia* to mean, as Cohen has pointed out, the ‘unreflective ordinary language conception of the Athenian citizen’ is probably captured by Euthyphro’s response to Socrates in Plato’s dialogue of that name: he states that ‘impiety is that which is not pleasing to the gods’.⁴⁵ Aristotle offers us a more detailed definition that turns on the meaning of the term *plemmeleia*, which means ‘error’, but may also convey an element of impious offence. It can, as Aristotle explains, be committed against gods, *daimones*, the dead, parents, or the fatherland.⁴⁶ The cases brought or crimes referred to in the forensic corpus give some idea of the variety of misdemeanours that might be included under this heading. For example, as noted above, the speaker of Demosthenes’ speech *Against Androtion*, Diodorus, tells us that it was possible to bring an impiety charge for murder. The example in that speech is the murder of a kinsman (his father); but a puzzling fragment of a speech

⁴² On prosecutions with the potential for partial *atimia*, see Hansen 1975: 29 (and for exceptions MacDowell 1978: 64). The extent of the *atimia* is discussed by Harris (1992: 79–80), reviewing MacDowell (1990); Rubinstein (2000: 92 n. 43) offers an overview of the debate.

⁴³ See Todd 1993: 134.

⁴⁴ As one anonymous reader of this text has observed (pers. corresp.). For systematic listings of the evidence for trials in Athens and beyond, see Krauter 2004 and Filonik 2013.

⁴⁵ Pl. *Euthphr.* 7a. See Cohen (1991: 204–5), who notes (205) that ‘it is reasonable to suppose that the legal scope of the term is narrower’.

⁴⁶ Arist. *Virt. Vit.* 1251a30. The additional nuance is apparent also in the noun’s cognates; see entries in LSJ s.v. *plemmeles* (2).

by Hyperides suggests that the murder, or the mistreatment of the dead, need not be that of a kinsman.⁴⁷ Returning to Diodorus, we learn that it was also possible to prosecute under this charge if someone had not brought a homicide charge against the murderer of a kinsman.⁴⁸ These cases raise questions about the perceived sanctity of family ties, and may be explained by the pollution caused by murder.⁴⁹

However, the majority of crimes prosecuted through a *graphe asebeias* were what Hyperides elsewhere calls *peri ta hieria* (and he distinguishes these crimes from, for example, mistreating parents or making illegal proposals).⁵⁰ Again, law-court speeches offer some idea of the many different kinds of ‘errors’ the category might encompass: for example, offences against priests or private individuals ‘with a religious mission’, and the actions of officials who represented the people in religious activities but failed to fulfil the customary criteria.⁵¹ Two famous trials from 399 BCE supply examples that are particularly salient for this study. First, the trial of Andocides is itself a case of *asebeia*. Andocides was part of the prosecution against those who profaned the Mysteries, and this case was brought against him for breaking a law that banned those convicted of impiety from entering temples (Isotimides’ decree, passed shortly after the events of 415).⁵²

⁴⁷ Hyperides (fr. 70) suggests that after a number of wealthy Aeolians had been found dead at Rheneia, the Delians accused the Rheneians of impiety, followed by the Rheneians bringing the same charge, in turn, against the Delians, but we lack important contextual and detailed evidence to understand why this event seems to have resulted in these particular charges.

⁴⁸ Dem. 22.2; see discussion on pp. 40–1.

⁴⁹ *Tetralogies* I and III make these points at some length. It seems likely that there was a conception of *asebeia* by association for the kinsman—and perhaps for the city—but see Parker 1983: 130.

⁵⁰ Hyp. 4.5.

⁵¹ Examples of offence: *IG* II² 1635 (B, frg. a111).135–6 (= *IDēlos* 98 [B, frg. a1] ll. 26–7; see RO 28) (against Delians who had chased the Athenian representatives of the Amphictyony from the temple and beaten them). Cf. Versnel (1990: 123), who gives an overview of offences against religion, drawing on Derenne (1930: 9–12). Versnel (1990: 123–4) includes Dem. 21.1, 12, 20, 34, 51, 55 (but although Meidias’ offences were described as *asebeia* during the trial, this was not prosecuted as such; see the discussion in Eidinow 2015); and the case of Archias ([Dem.] 59.116), which he argues demonstrates that a priest who sacrificed at the wrong time and place would have ‘offended both state and gods’ (see further discussion on pp. 319–20).

⁵² For the original events: Thuc. 6.53.1 and Andoc. 1.10, 29–32, 58, and 71. On his return to Athens in 403 BCE, Andocides tried to bring a prosecution against one Archippus for mutilating his family’s herm (Lys. 6.11–12).

But his case also introduces three other types of *asebeia* relating to those events and the famous desecration of the herms in 415 BCE: the defacing of sacred objects, the revelation of the secrets of the Mysteries, and the mocking of the Mysteries.⁵³ The other example is the most well documented and thoroughly discussed of all impiety cases, that of the philosopher Socrates. The charges against Socrates famously included that he 'has broken the law by not duly acknowledging (*nomizein*) the gods whom the [Athenian] polis acknowledges [and] introducing other new divinities (*daimonia*). He has also broken the law by subverting/corrupting the young.'⁵⁴ These two cases together introduce some useful comparative material for reflection on the charges that we find in the cases made against these women: the question of the legality of introducing new gods, treatment of particular ritual activities, and, perhaps somewhat more surprisingly, the teaching of those of lower status. We turn to these next.

RELIGIOUS MISDEMEANOURS

The passage from Josephus relating to Ninon which was cited earlier indicates a society with no tolerance for the introduction of new gods; but from the same period, but in contrast, we find Strabo praising the Athenians for their tolerance, 'for they welcomed so many of the foreign rites that they were ridiculed by comic writers'.⁵⁵ These two

⁵³ Other examples of the defacing of sacred objects: *I Ephesos* 2; of revelations: (Aeschylus) Arist. *Eth. Nic.* 1111a10, Ael. *VH* 5.19; (Diagoras of Melos) Diod. Sic. 13.6.7, Schol. Ar. Av. 1071, Lys. 6.17; of mockery: the charge against Alcibiades is preserved in Plut. *Per.* 22 (it does not mention *asebeia* explicitly, but we are told he was charged with impiety in *Per.* 19; and see also Thuc. 6.27, 53, and 60, and Xen. *Hell.* 1.4.13, 14, and 20).

⁵⁴ Favorinus *ap.* Diog. Laert. 2.40; Xen. *Mem.* 1.1–2 and *Ap.* 10; Pl. *Ap.* 24b–c (tr. Parker 1996: 201). The verb, *nomizo*, translated here as 'acknowledge', straddles both the idea of 'customary practice' and 'belief' (see Derenne 1930, Fahr 1969, Versnel 1990: 125, Parker 1996: 201). Dover (1975) has argued that only Socrates can be taken to have been prosecuted for his attitudes towards the gods; in his edition of Aristophanes' *Clouds*, he translates *nomizo* as 'accept (or treat, practise) as normal', which captures both physical and mental attitudes. Yunis (1988: 62–6) provides a neat and effective analysis of the way in which *theous nomizein* (65) 'must be something distinct from worshipping gods, but must be a necessary concomitant of worshipping gods'.

⁵⁵ Strabo 10.3.18. He mentions specifically 'the Bendideian rites mentioned by Plato, and the Phrygian by Demosthenes when he casts the reproach upon Aeschines'

statements appear to illustrate two clear and contrasting positions—and, indeed, some scholars have adopted one or other, for example arguing that certain kinds of cults which smacked of ‘being foreign’ were more likely to be regarded with suspicion and intolerance by the Athenians.⁵⁶ However, the difference between them may not be as clear as first appears. In particular, the question of how to apply the terms ‘new’ or ‘foreign’ to either divinities or ritual practices poses significant problems.

In terms of gods, ‘new’ or ‘foreign’ could mean divinities known from other Greek communities, but not yet enjoying cult in Athens, as well as deities from further afield. If a god required civic space and funds, and all the trappings of institutionalization, there were regular procedures by which Council and Assembly would grant official sanction.⁵⁷ However, some gods designated as ‘new’ to the civic pantheon were already being worshipped in Athens by groups or individuals before they received this official recognition: the cults of Pan and Bendis are good examples. It was also possible to rent land on which to conduct worship, and to remain privately funded. Some cults did not even go this far: the cult of Adonis, for example, was famously celebrated by groups of women on their domestic rooftops, and its devotees do not seem to have arranged for or been designated a location of civic cult.

It has been described as ‘standard practice’ for Athenians to introduce new gods, but the details of this practice varied. Gods might be introduced by individuals or groups. They might stay the same or be transformed; remain the concern of subgroups or be absorbed into the pantheon of the city.⁵⁸ As this suggests, in terms of ‘new’ or ‘foreign’ ritual practice, evidence for myriad smaller cult activities indicates that individuals and groups could, and did, perform

mother and Aeschines himself that he was with her when she conducted initiations’ (tr. Jones 1928).

⁵⁶ e.g. Burkert (1985: 316), who states: ‘From the helplessness of those who wish to hold on to tradition there springs an irritation which can be dangerous, especially if political or personal motives are involved as catalysts.’

⁵⁷ Large cults needed a number of different resources: Garland 1992: 19–21, Parker 1996: 124–31 and 2005b: 61–2. Foreigners needed two permits to found a temple for their gods in Athens. These covered both the right to acquire a piece of land (*enktesis*) and permission to build a temple on it: for Bendis IG II² 1283; Egyptian devotees of Isis and the Cyprian ones of Aphrodite Ourania IG II² 337 = LSCG 34 333/332 BCE; see Pecírka 1966, Versnel 1990: 122, with Parker 1996: 216 and Purvis 2003: 9.

⁵⁸ See Parker 1996: 199 for the quotation and ch. 9 of that volume for evidence.

unregulated ritual acts of worship around the city—just as Plato portrays, with some anxiety, in the *Laws*.⁵⁹ Sometimes this took place in unoccupied land, sometimes on sacred land that had been rented, sometimes celebrants gathered unofficially.⁶⁰

However, little of this suggests that there was a wide diversity in the activities brought to bear in worship. Much has been made of the strangeness of ecstatic cult to Athenian sensibilities, but as Robert Parker has succinctly noted: ‘One can scarcely insist enough on the paradox that ecstatic dancing . . . was, in all seeming, indigenous in Greece.’⁶¹ We should bear in mind the nature of the sources from which any such impression arises. For example, Demosthenes is scarcely a neutral witness in his description of Aeschines’ participation in the cult of Sabazius under the direction of his mother, but even so, his partisan report does not, in fact, suggest that Aeschines should be regarded with suspicion.⁶² Rather, Demosthenes places emphasis on Aeschines’ shameful poverty and his lack of opportunity and experience. He ends the account with an ironic comment on Aeschines’ undoubted pride in his good fortune. This is not about Aeschines’ religious activities being dubious, but their role in marking him as a young man of no account.⁶³ With all this in mind, the next two sections set out some further aspects to consider as we explore the possible religious misdemeanours committed by these women, and the ways in which scholars have tried to understand them.

⁵⁹ Pl. *Leg.* 909d–910a.

⁶⁰ Archaeological evidence for individual shrines in Wycherley (1970), and Purvis (2003: 8) observes the random distribution of shrines to gods and heroes among private dwellings in Athens and (11) examines how use of the terms *demasia* and *idia* and *hiera* and *hosia* suggest that the category of ‘sacred’ encompassed both public and private. See Hdt. 5.66 and Ar. *Aves* 1534; also shrines built by nympholepts offer further examples (see Connor 1988). These unregulated examples may have been the focus of worship by individuals and/or small groups, if only families. A larger group example is the cult of Adonis, celebrated at the Adonia, which suggests that ecstatic cult activity did not per se receive regulation, nor, more specifically did it require a space of its own for celebration (see Ar. *Lys.* 3; and IG II² 1177, dating to the mid-fourth century, which forbids anyone from bringing together regular spontaneous revels in the Thesmophorium in the deme Piraeus; see Parker 1996: 162).

⁶¹ Parker 1996: 160.

⁶² Dem. 18.259–60.

⁶³ Krauter makes this point more generally about the evidence from law-court speeches for cases of *asebeia* (2004: 234): ‘Diese aber sind nicht in erster Linie Zeugnisse für das antike Recht, sondern für die antike Rhetorik.’

TRADITIONAL GODS: NEW APPROACHES

A number of scholars have argued that these women were prosecuted on charges of impiety because they had dared to play the part of priests in private religious ceremonies.⁶⁴ However, their likely offences are often left somewhat vague, in part, because, as we have seen, there are difficulties in giving a clear account of the nature of what was considered new or foreign, and, in part, because we are somewhat hampered by perceptions of what counted as innovatory activities.

Matthew Dickie argues that Ninon was probably condemned on a charge of impiety for the way she was conducting mysteries, and he sees the same offence as the basis for the accusation and execution of the *gune magos* in the first version of Aesop's fable for innovating in divine matters (*kainotomousan peri ta theia*). This he takes as implying that this woman's crime was 'attempting to placate the wrath of the gods by means that were felt to be at odds with Athenian tradition, presumably because they involved sorcery'.⁶⁵ This suggests it was the innovatory nature of what this woman was *doing*, apparently here the use of incantations, which was judged to be problematic. However, it is hard to find corroborating evidence that shows that the use of incantations was regarded with particular suspicion.⁶⁶ More generally,

⁶⁴ See discussion by Parker (1996: 158–63). Dickie (2001: 51) on Theoris, argues that Philochorus was likely to have got these kinds of details correct because he is a historian who was interested in cult. Parker (1996: 163 n. 34) by implication regards these women as 'priestesses' but does not try to distinguish between their likely offences (except for Ninon, where he indicates a slight preference for the charge of 'initiating in rites of foreign gods'). Garland (1992: 150) argues that Ninon was a priestess for a civic cult, and that was what prevented her from taking part in these rituals, but cf. Krauter 2004: 238 n. 36. Krauter (2004: 233 and 237–8) is reluctant to consider the trials of Theoris and Ninon as historical cases since the evidence is obscure.

⁶⁵ Dickie (2001: 51–2, quotation, p. 52), taking the older version of the fable as being closer to a fourth-century rendering; see also Gordon 1999: 249.

⁶⁶ Versnel (1990: 117) appears to suggest this, although the thrust of his argument is not wholly clear to me here. He notes the claims of the sorceress and her '*epoidas*', and observes that 'these practices were generally associated with professionals of foreign cults', but the further example that he gives (Max. Tyr. 19.3) concerns priests of Cybele who will *apothespizousin* ('give oracles') for 2 obols. He states that Pentheus in Euripides' *Bacchae* 'does not hesitate to expose the foreign prophet as a *goes epoidos*', but cites l. 234, where the phrase is one of a number of descriptions of Dionysus that Pentheus is reporting; the emphasis of his criticism seems to be on the stranger's seductive activities and allure. The additional citations, Pl. *Meno* 80a–b and

the glimpse of everyday religious creativity provided by Plato (described above, pp. 53–4) does not seem to portray a context of intolerance; similarly, his description of itinerant salesmen also suggests that there was, in actuality, something of a ‘market in magic’. And when we remember the sanctioned activities of Glaucothea, this appears even more puzzling. Innovation alone seems insufficient to condemn Ninon to death.

Two possible, and not necessarily mutually exclusive, routes to resolution are apparent. The first is to attempt to narrow down the nature of the activities that Ninon and her group may have been pursuing. With regard to the problems outlined above concerning the difficulties of identifying new gods and new activities, there is a notable exception—and we return to the possibility that Ninon was accused of profaning the Eleusinian Mysteries. The Athenians in the Classical period appear to have perceived a strong link between the preservation of the Eleusinian Mysteries and the well-being of the democracy; and it has already been noted how often the profanation of the Mysteries appears in trials for impiety.⁶⁷ Details of the fifth-century prosecutions for ‘the mocking of the Mysteries’ survive in the charges against Alcibiades preserved by Plutarch.⁶⁸ These offer an account of all the ways in which his activities were understood to be ‘mimicking the Mysteries’. These included where they happened, how he was dressed, what he called himself, and the way he distributed other official titles, including his ‘initiates’.

Is it possible then that Ninon’s misconduct—or that of any of the women here discussed—was somehow connected to a misrepresentation of Eleusis? In the case of Phryne, we know the name of the god in question, and this does not resonate with an Eleusinian context; nor is such a charge made explicitly in the summary of the case or the record of Euthias’ words that survive. However, as noted above, some of the language found in the fragments of Hyperides’ speech suggest that references to Eleusis may have been introduced into the case, either by Euthias as part of his argument, or, indeed, by Hyperides to

Hippoc. *Morb. sacr.* 1.9 (6.358ff.), are similarly given with little contextual discussion, e.g. the apparent comparative tolerance of Athens revealed by the Platonic comment, or the element of competition motivating the remarks of the Hippocratic author.

⁶⁷ Mylonas (1961: 224): ‘divulging the secrets of the cult was considered comparable to the destruction of the democracy’; see also Graf 2002 and Gagné 2009. Contemporary views of the significance of the Mysteries: e.g. Isoc. 16.6, Lys. 6.54.

⁶⁸ Plut. *Alc.* 22.

ridicule the charges. In the case of Theoris, despite some scholars' attempts to link her to such innovations, there is no mention of rituals of this kind.⁶⁹ Perhaps Demosthenes does not mention this aspect because it would undermine his arguments against Aeschines, since Glaucothea's activities were therefore fundamentally different; at the same time, however, the brevity with which he mentions Ninon suggests that her crimes were well known anyway. Returning to the scholiast's elaboration of this material, we have to ask whether or not the writer was drawing on specific knowledge of events or, alternatively, on general ideas of what was a possible charge.

'NEW' GODS?

An alternative possibility is that these women were, at least in part, taken to court because they had introduced the rites of gods that were, as yet, unknown in the city of Athens. In favour of this argument, the case against Socrates may confirm that there was a law against introducing new gods. It has been argued that the specific charge originates in a fifth-century decree by the diviner Diopeithes. This, according to Plutarch, provided for 'the public impeachment of such as did not believe in gods, or who taught doctrines regarding the heavens', and enabled the prosecution of the philosopher Anaxagoras as an indirect attack on Pericles himself.⁷⁰

The existence of this original decree—and trial—has been challenged on the grounds that the only evidence for Diopeithes is late and the account of the trial muddled.⁷¹ The nature of its relation to Socrates' trial is unclear. There are similarities of language between the two accounts, but, it has been objected, (i) it would be impossible for Socrates to be prosecuted by means of a decree of the mid-fifth century, and (ii) Socrates was prosecuted with a *graphe*

⁶⁹ Gordon (1999: 250) argues that she was taken to court on the grounds that she had perpetrated an 'undesirable religious innovation', but just what this was, and whose target this made her, remain opaque (see further below).

⁷⁰ Plut. *Per.* 32 (tr. Perrin 1916); supporting this we find Derenne 1930: 168ff. and Dodds 1952: 189. See also Burkert 1985: 467 and Versnel 1990: 124. Dover (1975: esp. 39–40) raises questions about the accuracy of this account.

⁷¹ Cohen (1991: 212–13) dismisses law and trial as inventions; cf. Parker (1996: 208–9), who comes to no 'confident conclusion'.

asebeias, whereas Diopeithes' decree introduced an *eisangelia*.⁷² In response it has been suggested that either a law was developed as part of the reforms of 403/2, or that the prosecution of Socrates was an interim 'improvisation of sorts' before a law was developed later in the fourth century BCE.⁷³ Presumably, it is also possible that the late account of the trial actually draws on the account of the trial of Socrates. In the end, however we analyse this material, the evidence of Socrates' own trial brings us to the undeniable conclusion that, although it seems to have been a rare occurrence, it was possible to be condemned on such a charge.⁷⁴

We can perhaps get some further help from Socrates' own attempt at analysing the charges made against him in the version of his defence given by Plato. He offers a range of possible implications of the different accusations and the ways in which they relate to each other.⁷⁵ This examination offers echoes of the accusations concerning innovation that were levelled at Ninon, Theoris, and Phryne: for example, Socrates was 'teaching them not to believe in the gods the state believes in, but in other new spiritual beings', while Ninon and

⁷² Dover 1975: 40; see Versnel 1990: 128–9. But a charge of impiety using *eisangelia* was brought by Lycurgus against Menesaechmus, probably after 324 BCE (Lycurg. fr. 14.1 [Berlin Papyrus 11748]). The case concerned the annual pilgrimage to Delos; the papyrus seems to suggest it was illegal to offer certain sacrifices unsupervised. The dating of the case assumes that Lycurgus had probably ceased to be responsible for Athens' finances (see *Plut. X orat.* 841b, 852b; *Diod. Sic.* 16.88.1 with Faraguna 1992: 197–205 and Harris 2001b: 156) after which Menesaechmus attacked him at his last *euthynai* (Harris 2001b: 216).

⁷³ See Versnel 1990: 128–9 (quotation, p. 129); the idea that a law—either the law that sanctioned the trials of Phryne, Ninon, etc., or a precursor of it—was developed during the archonship of Euclides draws on Derenne 1930 and Reverdin 1945: 213, 217.

⁷⁴ Cohen (1991: 213–15) examines the characterization of charges made against Socrates in the beginning of Plato's *Euthyphro* (3b–c) and *Apology* (23) and Xenophon's *Memorabilia* (1.1.9–16). The first depicts the charges as concerning religious innovation and not conforming to traditional beliefs and myths—and Cohen observes that this is never challenged as an inappropriate charge; the last two raise the question of speculation about the universe and natural phenomena—and it is denied that Socrates was interested in these topics. Krauter (2004: 239, citing also Garland 1992: 145–50) argues that it is not clear that *kaina daimonia* meant the introduction of a foreign god.

⁷⁵ *Pl. Ap.* 26a–c (tr. H. N. Fowler); *Xen. Mem.* 1.1.5 explains of Socrates, πιστεύων δὲ θεοῖς πῶς οὐκ εἶναι θεοὺς ἐνόμizεν ('And since he had confidence in the gods, how can he have disbelieved in the existence of the gods?'), where he seems to be drawing a distinction between a sense of trust or confidence and one of customary practice illustrating belief (see also the discussion in note 72 above).

Phryne were introducing new or foreign gods.⁷⁶ It also places emphasis on the significance of the spread of these ideas. In the case of Socrates, the charge of corrupting youth was underpinned, as later writers recalled and most scholars now argue, by Socrates' role as the teacher of Critias, a leader of the vicious revolution of the Thirty in 404 BCE.⁷⁷ Because of the Amnesty of 403/2, this material could not be introduced in the official charge. But it could apparently be brought up in the courtroom, even fifty years after the original trial.⁷⁸ In this regard, there are no direct parallels with any of the cases of the women who have been discussed. But some concern about the extent of these women's influence may still be apparent; for example, in the charge against Ninon that she was making *philtera* for young men and against Theoris that she was teaching slaves; while Phryne's pejorative social influence is surely shown by her assemblies of either men and women or women of a lower class and doubtful virtue. We can even, perhaps, link these three concerns to each other via the context of cult activity. There is no evidence that slaves were prohibited from being initiated into mysteries, and indeed some evidence that they were able to participate in the cult of Sabazius. Since initiations for Sabazius involved the gathering of men and women in *thiasoi*, and since Sabazius was worshipped with ecstatic rights, as was Isodaites, these different accusations may therefore be connected by ritual.⁷⁹ However, in none of these cases is this aspect highlighted, as it is in the case of Socrates. It seems less likely that these women were feared for the extent of their social or political influence. That said, perhaps it is most likely that these details appear in the sources as projections of the concerns of writers of later periods.

⁷⁶ Pl. *Ap.* 26b: διδάσκοντα μὴ νομίζειν οὓς ἡ πόλις νομίζει, ἕτερα δὲ δαιμόνια καινά.

⁷⁷ Aeschin. 1.173 for Critias, and see Xen. *Mem.* 1. 2. 9 and 12–46 (Alcibiades is included alongside Critias as someone who did the city great harm). The complexity of the motives behind the trial of Socrates is manifest in the range of emphases brought to bear in modern analyses: see, as a small selection, Taylor 1932: 104, Finley 1977, Rankin 1987, Connor 1991, Garland 1992: 136–51, Parker 1996: 201, Krauter 2004: 240–1, Waterfield 2009.

⁷⁸ Hansen (1995) has argued for a similar situation in the case made by Lys. 30, but see Todd 1996: 116 and 2000a: 297–8.

⁷⁹ Slaves: SEG 24.223, dated to the second half of the fourth century, shows *thiasoi* including slaves honouring gods at Eleusis; IG II² 2934 and IG II² 4650, from Attica, are both dedications to the nymphs, which appear to include slave names. For later evidence for *thiasoi* of Bendis on Salamis in five mid-third-century texts (Osborne 2004–9), see the discussion in Parker 2011: 237. For slaves in the cult of Sabazius, see Ar. *Vesp.* 9.

Nevertheless, we may be able to follow this trail a little further. It has long been claimed that the crime of *asebeia* was one that concerned the threat posed by what one thought alongside what one did.⁸⁰ Teaching implies a claim to knowledge, and its involvement in a charge of *asebeia* indicates a concern with the wrong kind of knowledge and its transmission.⁸¹ This is explicit in the accusations against Socrates, and we also see it realized in the physical isolation that Plato imposes on his impious practitioners of magic in the *Laws*; indeed, for Plato, the level of punishment is calibrated according to the psychological state of his wrongdoer. The knowledge that these women may have been thought to claim is not made explicit in the evidence for the historical cases, although we might see the potential to innovate tacitly attributed in the employment of particular paraphernalia. However, there is one fictional story that offers a different perspective. The Aesopian fable, although at first sight appearing to focus on innovation in terms of activities, makes a quite different point with its moral. This concerns not the woman's use of incantations or any other specific activity, but rather her claim to the power to placate the gods. This moves us away from the usual poles of religious debate to a different concern altogether: that of a claim to a particular private power, namely, a specific and personal relationship with the gods. As we will see, this could be viewed as posing a particular threat to the city and its inhabitants.

ASEBEIA REVISITED

What is profoundly clear here is the fluidity of the charge of *asebeia* and its apparently capacious nature.⁸² This impression lies partly in

⁸⁰ Cohen (1991: 210) gives an overview of this debate and some of the ancient evidence that suggests impious thought was as important as behaviour; cf. Krauter 2004: 236–40.

⁸¹ As Saunders (1996: 97) says: Plato 'calculates penalties on the assumption that the degree of the technical knowledge misused by the offender is a measure of his psychic vice'.

⁸² Scholars' opinions have varied: some have considered a fairly circumscribed set of charges; others have emphasized the greater fluidity of the charge. Rudhardt (1960: 91–3) argued that the law strictly defined impiety (even in the fifth century), but, as Cohen (1991: 207) points out, this has not been influential (and is not well supported by the evidence). Cf. Thalheim (1896: 1529), who described it as

the nature of Athenian law itself, which, it has been argued, offered litigants flexibility in both interpretation of law and procedure adopted.⁸³ In the case of *asebeia*, this would be supported by (and support) the perceived nature of the offence. Much of what we have already discussed is concerned with the protection and conservation of traditional ritual activity within the polis: this is the yardstick against which the charge of *asebeia* is measured out. The gods were 'sometimes benevolent and sometimes malign, with an unstable devotion to moral virtue', so, as observed earlier, the law of impiety dealt with 'a wide variety of acts supposed to be likely to attract the gods' hostility'.⁸⁴ However, as other scholars have argued, and, as we have seen, it is possible to gain some idea of the kinds of concerns that provoked prosecution.

The nature of *asebeia* meant that the potential danger of disrupting the relationship with the gods was one that the entire city had to confront.⁸⁵ Plato suggests that the judgement of what counts as impiety should turn on the opinion of the citizens about each other.⁸⁶ Something like this seems to have happened to Theoris, although it was her servant who denounced her. But some have argued that this makes it more likely that she was charged with *asebeia*; because *asebeia* was viewed as an offence that could draw down the wrath of the gods on the whole state, slaves would be encouraged to denounce their masters or mistresses.⁸⁷ Moreover, the term *asebeia* does seem to have been used in forensic oratory in a way that suggests the audience was expected to react to its appearance. There are plentiful examples of

exhibiting 'Unbestimmtheit und Dehnbarkeit' ('indeterminacy and extensibility'; repeated by Lipsius 1984: 359–60) but with clear central cases; cf. also Cohen 1991: 205. Ostwald (1986: 528–36) argues that the use of the *eisangelia* procedure in the fifth century intimates that the definition of the offence was left to the prosecutor; although there was a change of procedure in the fourth century, he doubts that this marks a stricter definition of the crime.

⁸³ See Osborne 1985 (and see the 2010 reprint for responses to critics of this view); this point is also made by Cohen (1991: 207–10).

⁸⁴ Saunders 1996: 91.

⁸⁵ On the question of whether or not impiety was connected to fear of wrath of gods, see Pl. *Leg.* 910b1–6, cited by Dickie (2001: 329 n. 13) as ordinary Athenian attitudes, but cf. Parker 2005b: 68. It is seldom found in other sources, but this could simply mean that it is taken for granted.

⁸⁶ Pl. *Leg.* 910d.

⁸⁷ See Dickie 2001: 51. Lys. 5.3–5 is a charge of sacrilege that prompts reflection by the speaker on the temptation for slaves to lay such charges in order to acquire their freedom (see also Lys. 7.16).

the term *asebeia* being introduced into a speech, and attached to a particular legal decision, even in a case that was not a *graphe asebeias* (and with no reference to an obvious religious misdemeanour) in order, it seems, to increase the sense of shared danger provoked by a particular offence.⁸⁸ Importantly, this need not mean that the ideas that were raised in these arguments reflected actual cult practice.⁸⁹ But these apparent attempts by speakers to infuse a situation or decision with a sense of danger appear to be intended to leverage an implicit understanding that confronting the risk of *asebeia* was a shared responsibility.⁹⁰ In at least some cases, then, the law of *asebeia* can be understood to have reflected understanding of a profound cosmological connection between the well-being of the city and the relationships of its citizens (both as individuals and as a group) with the gods.

SOCIAL CONTROL?

Attention to the incidental details of the charges has led some scholars to suggest that it was not simply the introduction of new gods or rituals that may have been perceived as problematic: there may have been other factors at play. Most generally, scholars have drawn attention to the need of the Athenian state simply to exercise control. Thus, Robert Parker has argued that the cases of Socrates and Phryne reveal ‘the Athenians . . . affirming their right of ultimate control over all the religious practices of Attica’. He suggests the problem was not that Isodaïtes was a new, foreign god, but that he was not approved by the Athenian state.⁹¹ With regard to these trials, Richard Gordon has suggested that there were individuals within the state dispensing discipline. In the case of Theoris, these were ‘the legitimate specialists’, who would consider her as ‘as aiming at untoward religious or “salvific” capital’. But the identity of these specialists is unclear; nor is it plain what or why this capital was perceived as

⁸⁸ See Eidinow 2015.

⁸⁹ As Krauter 2004: 234.

⁹⁰ See Eidinow 2015; cf. Cohen (1991: 205), who, in looking for the bases for actual legal prosecutions, sets these examples aside as simply ‘exaggerated usages’ of the term.

⁹¹ Parker 1996: 217.

dangerous.⁹² Moreover, there does not seem to be further evidence for this kind of concern, although we can trace the occasional attempt at local regulations.⁹³ Similarly, in this context of exerting order, Plutarch's comment on Theoris that she was 'teaching slaves how to deceive' may be taken as significant. However, there is little evidence to indicate concern with slave unrest at this time (and few, if any, stories of slave revolts from the time of this trial). The charge seems more likely to express fears appropriate to Plutarch's own time.⁹⁴

The gender of these three defendants has also been raised as a possible exacerbating factor in their trials. Frequently these explanations draw attention to the sexuality of these women: for example, some have assumed that all three women, not just Phryne, must have been *hetairai*. The argument is made solely on the basis that their names were mentioned in court, and this was not usual for respectable women.⁹⁵ But there are indications that their social status may have been higher than this implies: for example, the suggestion that Ninon's son may have hired a speech-writer so as to attack the man who took his mother to court. Even if the story is judged to be spurious, it suggests that Ninon was thought to have come from a family of some standing.⁹⁶ Moreover, it seems likely that women who had been condemned to death and executed were probably no longer considered 'respectable', whatever their status beforehand. But even were we to accept that these women were *hetairai*, the argument that follows is unconvincing, that is, that they were therefore considered dangerous because of their

⁹² Gordon: 1999: 250.

⁹³ See note 60 above on *IG II²* 1177.

⁹⁴ Versnel (1990: 118 n. 87) draws a parallel between this and a judicial prayer from Amorgos that features a slave who has run off with other slaves (*SGD* 60), but he does not elaborate on the implications. It suggests that the writer was unable to have recourse to a civic judicial process (he does not threaten this in his prayer). However, the text has been dated to between the second century BCE and second century CE (Gager 1992: 165; it is discussed further in this volume on pp. 226–9). The hero Drimacus, a leader of runaway slaves, seems specific to Chios; but even he occupied a middle ground, both in myth (he would send back runaway slaves) and in cult (both slaves and masters offered him dedications); see Nymphodorus of Syracuse *FGrH* 572 F 4 *ap.* Ath. 6.265c–266e (cf. Graf 1985: 121–5).

Arnaoutoglou (2007) analyses literary and epigraphic legal texts for evidence of the areas of life in which communities demonstrate a fear of slaves. His findings reveal concern with the behaviour of individuals, not groups. The areas of life that he notes receive legislation include non-performance of duties, betrayal of the family to which they belonged, conduct that might disrupt the hygiene of sacred and secular public places or disturb civic relations with the divine, uncontrolled sexual behaviour, and economic offences.

⁹⁵ e.g. Trampedach 2001: 148.

⁹⁶ See Dickie 2001: 53.

essential social ambiguity (neither prostitute, nor wife). Apart from imposing a distinctly modern analysis on lived ancient experience, it fails to account for how and why these three women/*hetairai* in particular became so dangerous that they had to be put on trial for their lives.

An alternative, but not unrelated approach posits links between these women and the various more dissipated aspects of ecstatic worship of 'foreign' cult and/or erotic magic; but as we have seen, such aspects alone cannot offer an adequate explanation for these events.⁹⁷ The foreignness of the women themselves is another aspect on which commentators have focused, but it is difficult to establish the identity of these women closely enough to understand what role it could have played in their trial.⁹⁸ It is true that Theoris is specifically described as a Lemnian: but at this point Lemnos was a possession of the Athenians, one that they had regained after the Peloponnesian War. The use of the term may indicate that Theoris was one of the 'dispossessed' of Lemnos (i.e. not from an Athenian settlement), but it could also be a rhetorical device by which Demosthenes distanced her from his Athenian audience—or, in the end, simply a way to identify her. For the other women, this aspect seems to have been irrelevant: although we know that Phryne was from Thespiiai in Boiotia, little seems to have been made of that in the trial, while we have no evidence of origin for Ninon.

⁹⁷ See e.g. the discussions of Hansen 1995: 26 and Parker 1996: 214–15.

⁹⁸ Not only as a characteristic that leads to suspicion, but also one that enabled innovation, at least in the case of Theoris (Gordon 1999: 250).

1.4

Conclusion: ‘If Anyone Has Cursed Me . . .’

Across the different cases examined here, certain charges, and the reasons for bringing them, appear more significant than others. But this does not mean that the details of the other, possible charges (including, for example, the creation of *pharmaka*) should be elided or dismissed as simply irrelevant.¹ The attempt to distinguish a single accusation may be an understandable legacy of our own court system (and, before that, of the Roman legal system). However, it does not necessarily help us to understand what went on in an Athenian courtroom, where a variety of accusations against the plaintiff may have been introduced into a case to elaborate the main charge.²

So, why bring those particular accusations to bear? We can gain some foothold on this question by turning again to the procedure of *graphe asebeias*: scholars have rightly noted that this seems often to have been employed with political as much as religious intent—and that this was appropriate to a culture characterized by the inextricable association of these two dimensions.³ The variegated nature of such cases is well illustrated by the trial of Socrates, where the minor or even unofficial indictments reveal the sociopolitical context of this event, and the nature and content of local popular feeling that

¹ The section title is from a *pharmakon* or binding spell discussed later in this section.

² Todd (1996: 108) goes so far as to argue that ‘in order to be found guilty in an Athenian court, you did not actually need to have done (or not done) anything in particular’.

³ Parker 1996: 207; Krauter 2004: 241 (cf. Garland 1992: 151). Connor (1991) provides a thought-provoking account of the ways in which religion and politics were integrated.

was working against the philosopher. More apposite to this study, perhaps, is the account given by Plutarch of the trial of Aspasia, wife of Pericles, who was accused of *asebeia*. The basis for the charge is unknown, but an additional accusation is also reported: the procurement of freeborn women for Pericles.⁴ After mentioning the decree of Diopeithes, and the case against Anaxagoras, the narrative observes the delight with which the people accepted these divisive stories (*tas diabolais*); the mention of *diabole* in this context is something to which we will return later in this book. Meanwhile, although the source is late and must be treated with caution as evidence for what actually happened, it does indicate, in parallel to the events of the trial of Socrates, the malicious dynamics that could surround and support a public charge of impiety.

These examples in turn suggest that the charges brought against Theoris, Ninon, and Phryne would somehow have resonated with a jury of Athenian citizens, and therefore reflect current social dynamics. To explore these more deeply, in particular those that might lead to accusations linking women and *pharmaka* being brought into the courtroom, I want to return now to the story of Aretaphila (mentioned in section 2).⁵ When she was discovered trying to kill the tyrant of Cyrene, Nicocrates, she argued that she had created her potions in part because she was aware of the *phthonos* of others. Although we know this was a fabrication (in the sense that Aretaphila intended to commit a murder), it was put forward as a credible excuse.

This association between *phthonos* and magic-making is one that we also find attested in epigraphic evidence. A binding spell dating to the fourth century BCE is one of very few that gives us explicit information about the motivations behind aggressive magical action:

Εἴ τις ἐμὲ κατέδεσεν | ἐ γυνή ἢ <ἀ>νὴρ ἐ δ<ο>ῦλος ἐ ἐ- | λεύθερος ἐ ξένος ἐ
 ἀσ- | ὅς τις ἐ οἰκεῖος ἐ ἀλλώτ- | ρτος[sic] ἐ ἐπὶ φθόνον τὸν | ἐμὲ ἐργασίαι ἐ
 ἔργοις, | εἴ τις ἐμὲ κατέδεσ- | ἐν πρὸς τὸν Ἑρμῆν τὸ- | ν ἐρίוניον ἐ πρὸς τὸν
 | κάτοχον ἐ πρὸς τὸν δό- | λιον ἐ ἄλλοθι πο, ἀντι- | καταδέσμεύω τὸς
 ἐχ'ρ'θ- | ὅς ἅπαντας.

If anyone has cursed me, whether woman or man or slave or free or stranger or citizen or household member or outsider, from envy (*phthonos*) of me, my work and deeds. If anyone has cursed me in the presence

⁴ Plut. *Per.* 32.2.

⁵ Plut. *De mul. virt.* 256b–c.

of Hermes the Erionios or in the presence of [Hermes] the Binder or in the presence of [Hermes] the Trickster or elsewhere, I curse, in turn all my enemies.

This is one side of a curse tablet dating approximately to the time of these trials, the early fourth century BCE, and known now by its catalogue entry as NGCT 24.⁶ Although its writer clearly suspected he had been the victim of supernatural attack, he did not know the identity of the perpetrator and in writing his own spell he took an all-encompassing approach. But just like Aretaphila centuries later, the motivation he identifies in his unknown aggressor is *phthonos*. We turn to an examination of this emotion next, in order better to understand its role in ancient Greek culture more generally, and, in particular, its links to accusations of *pharmaka*.

⁶ For text and dating, see Jordan 1999.