

# The rhetoric of the death penalty in the Classical Athenian Orators

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## 1. The language of the death penalty

(1a) *differentiation of expressions*

**Lys. 13. 45** αἰσχίστῳ καὶ ἀκλεεστάτῳ  
ὀλέθρῳ

**Lys. 13. 48** καὶ τῶν κοινῶν τῆς πόλεως  
τιμωρεῖσθε τὸν αἴτιον τούτων

**Din 1. 47** δώσει δίκην οὗτος ἐν τῇ  
τήμερον ἡμέρᾳ

(1b) *Lycurgus using κολάζειν for the death penalty*

**Lyc. 51** ταῖς ἐσχάταις τιμωρίαις  
κολάζειν

**Lyc. 67** τὸν αὐτὸν... τρόπον  
κολαστέον (referring to the  
death penalty)

## 2. The argument from the future

**Din. 3. 11** μὴ οὖν, ὦ Ἀθηναῖοι, τὴν  
τίμησιν ὑπὲρ τῶν γεγενημένων  
μόνον ὑπὸ Φιλοκλέους  
ἀδικημάτων ἠγεῖσθε μέλλειν  
ποιεῖσθαι, ἀλλὰ καὶ ὑπὲρ τῶν  
ἄλλων ὧν ἂν ἐπραξεν οὗτος  
κύριος γενόμενος.

“Therefore, Athenians, do not imagine that, in assessing the penalty, you are merely going to judge of the crimes which Philocles has actually committed; you will bear in mind those which he would have committed, had it been in his power.”

**Din. 1. 31** οὐκ ἐπειδὴ τῷ δήμῳ  
συμβουλευεῖν ἤρξατο...

ἀγαθὸν μὲν ἀπλῶς εἰπεῖν  
οὐδὲν γέγονε τῇ πόλει

“Is it not true that once this man began to advise the city... absolutely no good has befallen it”

**Din. 1. 65** <all honourable things are in  
danger if Demosthenes  
survives>

**Din. 2. 4** < πονηρία will take hold of the  
city if Aristogiton survives>

**Din. 3.9-10** οὗτος ἀποδώσεται τὸ καθ’  
αὐτὸν τὴν Μουνιχίαν, ἂν ἔχη  
τὸν ὠνησόμενον

“That man, in so far as he is able, will sell Munichia if he has a buyer”

**Lyc. 5** ἀλλ’ αἰσχρὸν εἶναι νομίσας  
τοῦτον περιορᾶν εἰς τὴν  
ἀγορὰν ἐμβάλλοντα καὶ τῶν  
κοινῶν ἱερῶν μετέχοντα

“I thought it monstrous to allow this man to push into the market place and share the public sacrifices”

## 3. The manipulation of the exempla

(3a) *Analogous cases from the past*

**Lyc. 113** καὶ ψηφίζεται ὁ δῆμος Κριτίου  
εἰπόντος τὸν μὲν νεκρὸν  
κρίνειν προδοσίας, κἂν δόξη  
προδότης ὢν ἐν τῇ χώρᾳ  
τεθάφθαι, τὰ τε ὅσα αὐτοῦ  
ἀνορύξαι καὶ ἐξορίσαι ἔξω τῆς  
Ἀττικῆς

“They decreed publicly, on the motion of Critias, that the dead man should be tried for treason, and that if it were found that this was a traitor who had been buried in the country, his bones should be dug up and removed from Attica”

(3b) *The greater man/lesser crime motif*

**Din. 1.23** ὑμεῖς ἔσθ’ οἱ διὰ πολλῶ τῶν  
ὑπὸ τούτου πεπραγμένων  
ἀδικημάτων ἐλάττω μεγάλας

καὶ ἀπαραιτήτους ἐνίοις  
ἐπιτεθηκότες τιμωρίας. ὑμεῖς  
Μένωνα μὲν τὸν μυλωθρὸν  
ἀπεκτείνετε, διότι παῖδ'  
ἐλεύθερον ἐκ Πελλήνης ἔσχεν  
ἐν τῷ μυλῶνι: Θεμίστιον δὲ  
τὸν Ἀφιδναῖον, διότι τὴν  
Ῥοδίαν κιθαρίστριαν ὕβρισεν  
Ἐλευσινίοις, θανάτῳ  
ἐζημιώσατε, Εὐθύμαχον δέ,  
διότι τὴν Ὀλυνθίαν παιδίσκη  
ἔστησεν ἐπ' οἰκίματος.

“You are the people who, **for crimes far smaller than those Demosthenes has committed**, have inflicted on men severe and irrevocable penalties. It was you who killed Menon the miller, because he kept a free boy from Pellene in his mill. You punished with death Themistius of Aphidna, because he assaulted the Rhodian lyre-player at the Eleusinian festival, and Euthymachus, because he put the Olynthian girl in a brothel.”

**Din. 1. 14** καὶ Τιμοθέῳ μὲν, ὃ Ἀθηναῖοι,  
Πελοπόννησον περιπλεύσαντι  
καὶ τὴν ἐν Κερκύρα ναυμαχίαν  
νικήσαντι Λακεδαιμονίους...  
**ἐκατὸν τάλαντων ἐτιμῆσατε**

“for Timotheus, Athenians, although he sailed round the Peloponnese and defeated the Lacedaemonians... **you fined him a hundred talents**”

**Hyp. 5. frg 6** καὶ Κόνων μὲν ὁ Παιανιεὺς,  
ὅτι ὑπὲρ τοῦ υἱοῦ ἔλαβεν τὸ  
θεωρικὸν ἀποδημοῦντος,  
πέντε δραχμῶν ἕνεκεν  
ἰκετεύων ὑμᾶς τάλαντον  
ᾧφλεν ἐν τῷ δικαστηρίῳ,  
τούτων κατηγορούντων

“Conon of Paeonia took theoric money for his son who was abroad. He was prosecuted for it by these men in court, and though he asked

your pardon, had to pay a talent, all for taking five drachmas.”

(3c) *Manipulation of the exempla*

**Lyc. 53** μείναντος μὲν αὐτοῦ ἐν τοῖς  
κινδύνοις, ἔχοντος δ' αἰτίαν  
τοὺς υἱεῖς καὶ τὴν γυναῖκα  
ὑπεκθέσθαι, καὶ  
**ἐτιμωρήσασθε.**

Moreover you condemned Autolycus and **punished him** because, though he himself had faced the dangers, he was charged with secretly sending his wife and sons away.

**Aesch. 3.252** ἐγένετό τις, ἄχθομαι δὲ  
πολλάκις μεμνημένος, ἀτυχία  
τῇ πόλει. ἐνταῦθ' **ἀνὴρ ιδιώτης**  
ἐκπλεῖν μόνον εἰς Σάμον  
ἐπιχειρήσας, ὡς προδότης τῆς  
πατρίδος ἀθημερὸν ὑπὸ τῆς  
ἐξ Ἀρείου πάγου βουλῆς  
**θανάτῳ ἐζημιώθη.**

There came—it pains me to call it to mind repeatedly—there came a certain disaster to the city. At that time **a certain private citizen** who merely undertook to sail to Samos was on the same day **punished with death** by the Senate of the Areopagus, as a traitor to his country.

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All translations of Lysurgus, Dinarchus and Hypereides are by J.O. Burt ( *Minor Attic Orators*, Harvard University Press 1954; translations of Aeschines are by C. Darwin Adams ( *The Speeches of Aeschines*, Harvard University Press 1919).

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